

University of Mississippi

eGrove

---

Electronic Theses and Dissertations

Graduate School

---

2011

## The American School Discipline Debate and the Persistence of Corporal Punishment in Southern Public Schools

David M. Hargrove

*University of Mississippi*

Follow this and additional works at: <https://egrove.olemiss.edu/etd>



Part of the [United States History Commons](#)

---

### Recommended Citation

Hargrove, David M., "The American School Discipline Debate and the Persistence of Corporal Punishment in Southern Public Schools" (2011). *Electronic Theses and Dissertations*. 24.

<https://egrove.olemiss.edu/etd/24>

This Dissertation is brought to you for free and open access by the Graduate School at eGrove. It has been accepted for inclusion in Electronic Theses and Dissertations by an authorized administrator of eGrove. For more information, please contact [egrove@olemiss.edu](mailto:egrove@olemiss.edu).

THE AMERICAN SCHOOL DISCIPLINE DEBATE AND THE PERSISTENCE  
OF CORPORAL PUNISHMENT IN SOUTHERN PUBLIC SCHOOLS

A Dissertation  
presented in partial fulfillment of requirements  
for the degree of Doctor of Philosophy  
in the Department of History  
The University of Mississippi

by

DAVID M. HARGROVE

December, 2011

Copyright David M. Hargrove 2011

ALL RIGHTS RESERVED

## ABSTRACT

The dissertation examines the history of American school discipline and corporal punishment in southern public schools. Pedagogical literature, court reports, and popular fiction show that school discipline was a controversial topic throughout American history. The conflict over corporal punishment in schools led to a 1976 Supreme Court decision, *Ingraham v. Wright*, affirming the power of educators to use corporal punishment. When the school discipline debate peaked late in the twentieth century, most American schools no longer used corporal punishment but southern educators continued to paddle students, especially African American school children. By the twenty-first century, southern city schools adopted non-violent forms of discipline but paddling persisted in rural southern schools, reinforcing images of the South as a violent region.

## ACKNOWLEDGEMENTS

The completion of this dissertation is due to the kindness of the staff and faculty at the Grisham Law Library at the University of Mississippi. I am most grateful to Dr. Ted Ownby for patient and expert guidance in every phase of the project. Thanks also to members of this dissertation committee and the faculty and staff at the University of Mississippi department of History.

## TABLE OF CONTENTS

ABSTRACT.....	iii
ACKNOWLEDGEMENTS	iv
INTRODUCTION	1
A LONG NINETEENTH CENTURY OF VIOLENT SCHOOL DISCIPLINE	12
TALES OF WOE – THE SCHOOLHOUSE PATRIARCHY IN AMERICAN FICTION	26
SCHOOL DISCIPLINE IN THE COURTS – THE LEGAL LIMITS OF SCHOOLHOUSE VIOLENCE	40
PROGRESSIVE TRENDS IN SOCIAL SCIENCE AND EDUCATION	59
<i>INGRAHAM v. WRIGHT</i> –PADDLING AND THE SUPREME COURT	77
SCIENCE, STASIS, AND SOCIAL CHANGE – PADDLING AND CONGRESS	115

THE PERSISTENCE OF CORPORAL PUNISHMENT IN SOUTHERN PUBLIC SCHOOLS	142
SOUTHERN CITIES – REGIONAL BEACONS OF SCHOOL DISCIPLINE REFORM	177
BIBLIOGRAPHY AND TABLE OF CASES	189

In the debut television commercial for his successful 1982 campaign to retake the Arkansas governor's office, Bill Clinton acknowledged mistakes he made in his first term as the youngest governor in state history, and said that he understood why the voters had rejected him 1980. Clinton reassured his audience that he would not repeat those mistakes, claiming that "(his) daddy never had to whip (him) twice for the same thing."<sup>1</sup> The image of a spanked but penitent child, Clinton knew, was familiar to Arkansans and other southerners who, in the 1980s, still favored corporal punishment for their children by a large majority.<sup>2</sup> Clinton sought to persuade Arkansas voters that, like a chastened child, he had learned from the punishment of his defeat, and if re-elected as governor, he would do what was necessary to avoid a similar fate.

President Clinton never met his biological father, but as a native Arkansan, he knew that corporal punishment was a common form of discipline in southern families and schools. Clinton never mentioned being spanked by family members in his autobiography. As a young southern politician smarting from rejection at the polls, however, he exploited the paddling motif. The young ex-governor (and his political consultant Dick Morris) tapped into Arkansans' familiarity with corporal punishment and conventional wisdom on parenting in the South. Governor Clinton successfully portrayed himself as a responsible son of Arkansas, who, once punished by his elders—the voters—would not fail to do the right thing. More typical of southern childhood was Clinton's experience in the public schools of Hope, Arkansas. His first grade teacher, though she

---

<sup>1</sup> Bill Clinton, *My Life, Volume 1: The Early Years*, (New York: Random House), 388.

<sup>2</sup> Murray A. Straus and Anita K. Mathur, "Social Change and Trends in Approval of Corporal Punishment by Parents from 1968 to 1994," in *Family Violence against Children*, ed. D. Frehsee et al. (Berlin and New York: Walter de Gruyter, 1996), 91-105.



only had one arm, “didn’t believe in sparing the rod, or, in her case, the paddle, into which she had bored holes to cut down on the wind resistance.” More than once, President Clinton recalled, he was “the recipient of her concern.”

The former president’s experience with corporal punishment in southern schools was not unique. Dolly Parton, a native of East Tennessee, recalled that her local teacher “was a big man, and he used to whip the boys with a razor strop...I could hear that razor strop slicing the air just over my head. That was my first experience with school, and it scared me to death.” One day, after the teacher grabbed and shook her for stealing crayons, her parents punished her harshly at home. “That whole experience,” she later reflected, “gave me a negative feeling toward school that I never really got over.”<sup>3</sup> Teachers whipped and paddled steadily fewer American schoolchildren throughout the twentieth century but, as these stories suggest, southern educators regularly subjected schoolchildren to corporal punishment.

In the history of American education, however, regional differences in school discipline are a relatively new development. Corporal punishment was accepted--and expected--by most parents and educators in American public schools from colonial times until the last decades of the twentieth century. A 1976 Supreme Court decision, reflecting divided public sentiments, narrowly affirmed the rights of school officials to use corporal punishment. In the 1980s and 1990s, a patchwork of state and local prohibitions on paddling steadily encircled southern states, where educators and statesmen maintained the practice despite the condemnation of scientific and professional communities and abundant evidence that they paddled African American children more often than whites. Most public schools in the United States had abandoned corporal punishment by the 1980s but southern educators, especially those in rural districts, continued to paddle students in the twenty-first century.

---

<sup>3</sup> Dolly Parton, *My Life and Other Unfinished Business*, (New York: HarperCollins, 1994), 29-30.

Since the 1980s, observers have linked corporal punishment in schools with the culture of violence in the South. State laws sanction paddling. Local conventions govern the practice, administrators and parents support it, and many southern teachers and school officials maintain its use. Southern courts, school boards, educators, and politicians have embraced the American tradition of violent school discipline in their public schools. School spanking distinguishes a culture of violence in the South, and southerners conserved the practice in their institutions, making it a salient feature of their regional culture. Many southerners see traditional biblical and behavioral justifications for corporal punishment as part of a conservative worldview that stresses Christianity, law and order, and respect for authority. American educators and social scientists nearly reached a consensus of opinion against school spanking in the twentieth century, but many southerners and southern educators continued to defend school spanking as a practical, bible-based disciplinary alternative.

Historians of southern public education have yet to treat corporal punishment as a distinct characteristic of schools in the region. It is possible, however, draw on familiar themes in southern historiography such as the “culture of honor,” paternalism, rural social mores and patriarchal religion to explain why many twentieth century southern educators and parents maintained corporal punishment in their schools. American public opinions on school discipline changed during the twentieth century, but education historians may ask why parents and educators in the southern United States largely resisted these trends.

Corporal punishment is physical punishment, administered to inflict pain, on the body.<sup>4</sup> Past forms of corporal punishment included mutilation, amputation, blinding, branding, and bodily restrictions to the pillory and the stocks. After several well publicized incidents of severe brutality in the merchant marine of the United States, Congress prohibited all forms of corporal

---

<sup>4</sup> *Black's Law Dictionary*, Eighth Edition, (Thompson/West: 2004), 1269.

punishment at sea in legislation known as the Seaman's Act, which President Woodrow Wilson signed into law in 1915.<sup>5</sup> In 1987, English lawmakers banned corporal punishment in schools, but school paddling has persisted in countries that are former English colonies.<sup>6</sup>

Corporal punishment in education occurs when a teacher or school official inflicts pain as punishment for an offense committed by a student. Older accounts usually refer to whippings or thrashings by a birch or hickory rod. In the last century, the most frequent instrument teachers used to administer corporal punishment was a wooden paddle, often manufactured by their potential victims in school woodworking shops. School boards in districts that sanctioned paddling sometimes specified the thickness, length, and width of the paddles. The list of weapons teachers have used on students is long, and without such items, teachers have slapped, kicked, and shaken students to get their attention. Corporal punishment is distinct from the use of force by teachers who are attacked by students. Accordingly, in states where corporal punishment is prohibited, legislators have recognized the rights of teachers to defend themselves and other students against student assaults.

Adherents of corporal punishment justify the practice with traditional wisdom. All some kids need, they maintain, is a good swift kick in the behind. Educators who paddle often argue that if they did not have corporal punishment, students would have nothing to fear, and would misbehave. Others claim that if parents spank their kids at home, corporal punishment is the only form of discipline they will understand at school. Mindful of the Old Testament, some paddling proponents claim that sparing the rod will spoil their children. Adults who condone corporal punishment often recall that they were spanked as children and it did them no harm. The

---

<sup>5</sup> Kay E. Gibson, *Brutality on Trial: "Hellfire" Pedersen, "Fighting" Hansen and the Seaman's Act of 1915*, (Gainesville: University of Florida Press, 2006)

<sup>6</sup> Irwin Hyman, *Reading, Writing, and the Hickory Stick: The Appalling Story of Physical and Psychological Abuse in the Schools*, (Lexington, Massachusetts: Lexington Books, 1990), 34.

venerable role of corporal punishment in American schools is memorialized in the old familiar children's ditty:

School days, school days  
Dear old golden rule days.  
Reading and writing and 'rithmetic,  
Taught to the tune of the hickory stick.<sup>7</sup>

School discipline has always been a source of conflict in American society. Parents and educators struggled over it in the development of the public schools, and it was a divisive subject for much of American history. "There is no phase of school or home discipline," wrote one educator, "that evokes as much discussion as that of corporal punishment."<sup>8</sup> Educator Lyman Cobb noted in 1847 that Americans had "taken sides" on corporal punishment in their homes and schools "as their practices or prejudices" had "influenced or swayed their minds." A professor of education wrote in 1903 that "corporal punishment has probably led to more discussion and to more violently antagonistic opinion than any other means of correction employed in school."<sup>9</sup>

This story of American school discipline, with its final chapter in the South, links to a universal discourse on corporal punishment. The subject often evokes visceral responses that make it difficult for many to discuss. In 1938, George Ryley Scott prefaced his History of Corporal Punishment with the observation that debate on the issue inevitably degenerated into "indignation or hatred" and fanaticism.<sup>10</sup> "Unfortunately," wrote one psychologist more recently, "the cultural debate over whether to spank or not to spank has devolved into a shouting match

---

<sup>7</sup> R. Murray Thomas, *Violence in America's Schools: Understanding, Prevention, and Responses*, (Westport, Connecticut: Praeger, 2006), 85.

<sup>8</sup> Lawrence Vredevoe, *Discipline*, (Dubuque, Iowa: Kendall/Hunt, 1971), 39.

<sup>9</sup> Joseph Landon, *School Management, 2<sup>nd</sup> Edition*, (Syracuse, New York: Bardeen, 1903), 350.

<sup>10</sup> George Ryley Scott, *The History of Corporal Punishment: A Survey of Flagellation in its Historical Anthropological and Sociological Aspects*, (London: T. Werner Laurie Ltd., 1938), v.

between extremists.”<sup>11</sup> The discourse on corporal punishment in schools has also been extremely passionate and charged with political connotations. The American debate over school discipline spanned centuries but reached a crescendo in the 1990s.

Researchers and professionals who studied corporal punishment in the schools assumed that it should, and will be, progressively eliminated in educational settings. Literature on the history, psychology, and legality of corporal punishment in schools followed the progressive perspective that the practice is running its course and will eventually be replaced with non-violent forms of discipline. Historians of the subject who questioned the progressive narrative of improving social conditions, like Scott, still implored authorities “to abolish for ever a form of punishment so barbaric, so brutal, so degrading, so psychologically and physically dangerous, and so deficient in reformatory, expiatory or reparative qualities.”<sup>12</sup> Opponents of corporal punishment in schools saw themselves as champions of modern educational methods. The progressive critique of corporal punishment in schools steered public debate on a path of reform that, by the end of the twentieth century, had reshaped the culture of discipline in American schools. A segment of southern educators, parents, and conservative political aspirants created a counter-narrative in defense of paddling in their schools, however, successfully resisting national trends.

There is a wide range of literature on corporal punishment in American schools. Much of it--tabloids, popular and editorial periodicals, and scholarly monographs and treatises--represented some form of advocacy. Religious conservatives who advocated the use of corporal punishment invoked paternal rights and responsibilities. Scholars and activists argued that paddlings are a form of child abuse and violate the human rights of children. All these perspectives on corporal punishment, despite individual differences in philosophy and practice, fall into two camps: most

---

<sup>11</sup> John Rosemond, “To Spank or Not to Spank Divides Parenting World,” *Northeast Mississippi Daily Journal*, July 4, 2008, 6A.

<sup>12</sup> Scott, *A History of Corporal Punishment*, xiii.

people believe in some form of physical punishment, but think its use should be limited, and a few renounce it altogether. During the twentieth century Americans increasingly concluded that, no matter how they disciplined their children at home, teachers should not have the power to hit their children.

Penal historians help form useful perspectives on corporal punishment in schools. Scott's History of Corporal Punishment (1938) and Michel Foucault's Discipline and Punish (1977) alert historians and social scientists to think of paddling as a form of cruelty and torture, and to recognize that punishment, under any circumstances, is a political act with a complex social function.<sup>13</sup> When school spanking cases entered the judicial system, the victims endured public scrutiny of the pain and injuries they suffered, and the offenses they allegedly committed. These proceedings exposed the disciplinary means and motives of teachers who were on trial, revealing details about the culture of physical punishment in their schools, but often they focused on the anatomy and personhood of injured students.

By the 1980s, researchers and advocates began to recognize the political aspects of paddling schoolchildren. Quantitative evidence showed that teachers were most likely to hit poor black schoolchildren, especially boys, who lived in rural areas of the South. Areas with high rates of poverty, high illiteracy, and low per pupil education expenditures had the highest rates of corporal punishment in schools. In current literature humanitarian advocates treat corporal punishment in education as a human rights violation. Susan H. Bitensky's Corporal Punishment of Children: A Human Rights Violation (2006) and a recent publication by the American Civil Liberties Union suggest that problems associated with paddling in schools will continue to merit the attention of social scientists.

---

<sup>13</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, (New York: Random House, Vintage Books Edition, 1979), See Introduction, "The Body of the Condemned."

Public attention to paddling as a social problem, along with pressure on schools to reform, never reached a panic but has persisted. Without an international or domestic crisis in the news, media outlets periodically report on the conflict over school spanking, with letters and editorial perspectives adding commentary. Media coverage of the topic recedes, however, in times of war, recession, or civil rights crises. Psychologist Irwin Hyman believed that “the efforts of child advocates have historically been drained by issues that seem more severe than a few million children being paddled or verbally assaulted in schools.”<sup>14</sup> Another scholar observed that “fluctuations in public interest in and use of corporal punishment in schools are dependent on perceptions of youth crime and singular incidents of crime and punishment that pique the U.S. psyche.”<sup>15</sup> Since the 1980s, as states and school districts around the country have adopted prohibitions against paddling, the focus of pressure groups and media attention has concentrated upon southern schools, school boards, courts and legislatures.

The terms people use for corporal punishment in schools vary with their perspectives. Common law euphemisms refer to the power of correction and restraint, or the power of a parent over the person of their child, as delegated by parents to teachers. Parents who physically punish their children commonly call it spanking. Americans usually refer to corporal punishment in schools as whippings, paddlings, or licks. Critics of corporal punishments in education treat them as beatings or assaults. It is ironic that many educators, while professing an interest in the well-being of their students, often spoke of corporal punishment as a “weapon” that deterred misbehavior.

People are quick to deflate the seriousness of corporal punishment with humor. “Despite the fact that spanking, swatting, and hitting, otherwise known as corporal punishment, are meant to

---

<sup>14</sup> Hyman, *Reading, Writing, and the Hickory Stick*, 29.

<sup>15</sup> Andrew P. Goldstein and Jane Close Conoley, *School Violence Intervention: A Practical Handbook*, (New York: The Guilford Press, 1997), 433.

inflict pain,” writes Irwin Hyman, “we somehow think it is jolly fun.”<sup>16</sup> Journalists often portray corporal punishment in a humorous vein. Puns on spanking and the use of alliteration convey a casual approach to the topic suggesting that controversies over corporal punishment do not merit serious consideration. “Spanking remains a stinging topic,” wrote a Mississippi editor in 2006.<sup>17</sup> One common wag refers to a paddle as the “board of education” and the buttocks of schoolchildren as “the seat of learning.” Teachers often inscribe their paddles with phrases like “board of corrections” or “the butt stops here.”

This history draws from a wide range of sources. In addition to the professional literature on school discipline from the last fifty years, it considers court records, teaching treatises and fictional accounts of school discipline that appeared in early American history. They show that modern ideas about corporal punishment, advanced by social scientists, eventually eclipsed patriarchal notions of school discipline as the new ideas were gradually accepted in the public culture of the twentieth century. Chapter One shows that most colonial, early republic, and postbellum American teachers whipped their students but educators were divided over the question. Early critics of the practice voiced their hopes that educators would eventually replace corporal punishment in schools with non-violent forms of discipline. Chapter Two locates school spanking in the popular fiction of the nineteenth and early twentieth centuries. The abundance of real and imagined stories about school discipline show that it was a consistent and significant source of drama and conflict in American communities. Court records, however, reveal details about real classroom catastrophes that involved corporal punishment. Chapter Three follows school discipline in American courts. The judicial system sanctioned corporal punishment in schools but the litigation that resulted eventually led many school officials to conclude that it

---

<sup>16</sup> Hyman, 10.

<sup>17</sup> “Spanking Remains a Stinging Topic,” *Clarion-Ledger*, March 6, 2006, 4E.



was counterproductive. Courts tried teachers for assault and battery, but corporal punishment cases had their own protocol and examination procedures that subjected students to extended public scrutiny and humiliation. Litigation recreated the drama, and the trauma, of schoolhouse beatings, and the involvement of multiple parties, in many cases, played host to a public spectacle. The history of American school discipline is, however, a triumph of modernization. Chapter Four shows how early twentieth century advancements in psychology and education undermined traditional methods of school government.

The debate over corporal punishment in American schools reached a climax in the final decades of the century. Litigants questioned its constitutionality, and in 1976, the Supreme Court of the United States agreed to hear claims that paddling was cruel and unusual punishment and violated the due process rights of students. Chapter Five takes a close look at the Court's decision in Ingraham v. Wright, its attempt to dispose of anti-corporal punishment claims that surfaced in the federal courts. In the wake of their ruling, the United States Congress briefly addressed school discipline problems, and legislators and officials in many state governments adopted reforms or amended their school discipline policies. Chapter Six revisits the congressional hearings on paddling, and details the changes in state education policies that ended corporal punishment in public schools outside the South.

The final chapters in the history of paddling take place in the South. The official response of southern state governments to the national debate over corporal punishment in schools was to embrace the institution. Chapter Seven shows how leaders in southern state governments responded to the problem of maintaining discipline in their schools, codifying their preferences for corporal punishment, and conferring additional legal protection upon school officials who paddled students. Urban school districts in the South, however, adopted school discipline

reforms. City school officials, struggling with weapons, gangs, and bullying, concluded that corporal punishment made their schools less safe. Chapter Eight examines the experience of two southern cities where educators abolished paddling.

Corporal punishment in American schools has diminished but it persists in many public school districts of the southern states. The history of its decline is a triumph of progressive educational methods over patriarchal notions of school discipline. That progress eventually faltered, however, in rural areas of the South.

## Chapter One: A Long Nineteenth Century of Violence in American Schools

Historians of American education have largely overlooked violent forms of school discipline. Grieder's American Public Education (1955), Callahan's Introduction to American Education (1960), Good and Teller's A History of American Education (1973) omit any discussion of corporal punishment or discipline. More recently, Pullium's History of Education in America (1987), Spring's The American School 1642-1990 (1990), and Rury's Education and Social Change (2009) all skipped the subject. Most American education histories focus on school foundations, changes in curriculum and student demographics, leaving quotidian aspects of school life for professors of pedagogy to discuss.

Historians who have addressed corporal punishment focused on early American schools. One scholar wrote that "when men were the teachers of all except the youngest tots, pupils habitually were punished with whippings and similar forms of cruel physical torture."<sup>18</sup> Like many of their early republican and nineteenth-century counterparts, educators, and education historians in the twentieth century were guided by a mantra of progress on the subject: corporal punishment of American school children was diminishing and will eventually disappear.

Most American public school teachers and administrators no longer use corporal punishment to discipline their students. Schoolhouse whippings are illegal in all but twenty-one states, and of those, educators in only eight states reported paddling more than one percent of

---

<sup>18</sup> Carroll Atkinson and Eugene Maleska, *The Story of Education*, (Philadelphia: Chilton Books, 1965), 245.

their students.<sup>19</sup> Educators in those states continue a tradition of violent punishments that governed most American schoolhouses and classrooms for nearly two centuries.

Until late in the twentieth century, however, an uneasy balance of power stood between teachers and their pupils in most American schools. “There was a constant struggle for power between teachers and students,” Irwin Hyman writes, “and the rod of correction was often the equalizer.”<sup>20</sup> The fictitious schoolmaster Ichabod Crane, created by Washington Irving in 1819, “sat enthroned on the lofty stool whence he usually watched all the concerns of his little literary realm. In his hand he swayed a ferule, that scepter of despotic power; the birch of justice reposed on three nails, behind the throne, a constant terror to evil-doers.”<sup>21</sup> Pedagogical literature, popular fiction, and court records tell of violent, and sometimes brutal, physical struggles between students and their teachers in American classrooms.

American parents and teachers who whipped children inherited a traditional mode of discipline with their religion. In Proverbs (13:24), King Solomon warned Hebrew fathers not to placate their children: “He that spareth his rod hateth his son; But he that loveth him chasteneth him betimes.” Again from Proverbs come further admonitions to correct children forcibly: “Withhold not correction from the child; For if thou beat him with the rod he will not die. Thou shalt beat him with the rod and shalt deliver his soul from hell.” (23:13-14) It is worth noting that these passages referred to male children and specified the use of a stick rather than bare hands. Hebrew scribes added, for justification, that children were not presumed innocent: “Foolishness is bound up in the heart of a child; But the rod of correction shall drive it far from him.”

---

<sup>19</sup> The American Civil Liberties Union, *A Violent Education: Corporal Punishment of Children in US Public Schools*, (Printed in the USA: Human Rights Watch, August, 2008), 42-43.

<sup>20</sup> Hyman, p. 9.

<sup>21</sup> Washington Irving, *The Legend of Sleepy Hollow and Rip Van Winkle*, (New Jersey: Watermill Press, 1980, 25.

(Proverbs 22:15)<sup>22</sup> The expression “spare the rod and spoil the child,” a common defense of corporal punishment, is not in the bible.<sup>23</sup> Whether it was with a birch rod, a leather whip or a wooden paddle, many early American teachers continued the tradition of whipping their male, and sometimes female, pupils.

Corporal punishment was common in early American homes and some parents were severe. “The enduring symbol of external authority and discipline by early American parents was the rod,” wrote historian Philip Greven, “the use of which is often thought to have been characteristic of discipline in evangelical families century after century. Severity did mark the conduct of some parents, of course, and the rod or physical punishment of various kinds were manifestations of discipline, sometimes even from infancy.” Most parents, Greven claims, were not brutal and whipped their children only when other methods of correction failed. Frequent whippings signified a disorderly household. “The use of the rod,” he continued, “usually testified to the failure of discipline rather than its success. The rod punished disobedience and external behavior which did not conform to the wishes of parents; but the actions themselves revealed a failure of parental discipline.” Greven concluded that the use of the rod by parents in early American history was “exaggerated” and was “probably the *least* effective method of all for the encouragement of self-discipline and conformity to the standards of behavior set by evangelical parents for their children.”<sup>24</sup> It would be a mistake, agreed Edmund S. Morgan, to assume that colonial and early republican parents were typically harsh toward their children. “It has sometimes been assumed that the birch rod constituted the Puritans’ only method of correction,”

---

<sup>22</sup> King James Bible.

<sup>23</sup> Ian Gibson, *The English Vice: Beating, sex, and shame in Victorian England and After*, (London: Duckworth, 1978). Gibson notes that the expression first appeared in “Hudibras,” a satirical poem by Samuel Butler, published in 1664.

<sup>24</sup> Philip Greven, *The Protestant Temperament: Patterns of Child-rearing, Religious Experience, and the Self in Early America*, (New York: Meridian Books, 1979), 49-50.

he wrote: “Many resorted to it, and it is safe to assume that some parents were excessively severe.” There was, however, nothing to suggest, in his estimation, “that seventeenth-century parents employed the rod more freely than twentieth-century parents.”<sup>25</sup>

From colonial times until the twentieth century Americans expected school teachers to administer corporal punishment. “Strict discipline for children,” writes historian Stephen Oates, “was not unusual in the United States in the early nineteenth century. Teachers employed the whip unsparingly.”<sup>26</sup> Of morally destitute pupils, a Massachusetts educator in 1849 had “no hesitancy in saying, that a resort to the rod, in such cases, will not unfrequently be necessary.”<sup>27</sup> Use of the rod by adults, whether rare or in excess, symbolized parental and educational authority. Like early American parents, however, most teachers were not sadists. Americans expected teachers to use the birch rod or the paddle, or the threat of it, to make their pupils fearful of dozing off, talking out of turn, or creating distractions.

Many nineteenth-century observers saw a decline in schoolhouse whippings as evidence of social progress. An Indiana judge wrote in 1853 that “public opinion” would “in time, strike the ferule from the hands of teacher...such is the only enlightened policy worthy of the state, and of her otherwise enlightened and liberal institutions.” It was, he believed, “the policy of progress.”<sup>28</sup> In 1859 another judge expressed similar optimism. The “tendency of public sentiment and the general tone of the decisions,” he concluded, made it “evident that this mode of punishment” would “disappear from the schools as it has already disappeared from the list of

---

<sup>25</sup> Edmund S. Morgan, *The Puritan Family: Religion & Domestic Relations in Seventeenth-Century New England*, (New York: Harper and Row, 1966), 103.

<sup>26</sup> Stephen B. Oates, *To Purge This Land with Blood: a Biography of John Brown*, (New York: Harper & Row, 1970), 23.

<sup>27</sup> The Massachusetts Teachers’ Association, P. W. Bartlett, editor, *The Massachusetts Teacher*, Volume 2, Number 9, (Boston: Coolidge & Wiley, September, 1849), 8.

<sup>28</sup> *Cooper v. McJunkin*, 4 Indiana Reports, 293 (May, 1853).

punishment of crimes.”<sup>29</sup> A Baltimore school official remarked in his 1875 annual report that while the school board allowed the “infliction of corporal punishment in cases of necessity,” he “hoped that the day” was “not distant when corporal punishment will be with us a thing of the past.”<sup>30</sup>

Others expected that authorities would eventually abolish school whippings. A Missouri judge wrote in 1901 that “enforcing authority by causing physical agony is, happily, fast diminishing in homes, schoolrooms, prisons, armies, navies, and every other institution of civilized communities.”<sup>31</sup> A professor of education, writing in 1905, concluded that “public sentiment” was “setting strongly against the use of the rod, and with the present century corporal punishment,” he believed, would “utterly disappear from our schools.”<sup>32</sup>

Most nineteenth-century Americans accepted corporal punishment in their schools but some educators, parents, and jurists doubted its effectiveness. In his widely published 1835 treatise The District School, J. Orville Taylor held that a teacher who loved his school and addressed his pupils “with a smiling countenance and a pleasant tone of voice, exerts a much happier influence than he does who governs by blows and punishments.”<sup>33</sup> An Indiana judge wrote in 1853 that “the tendency of the rod is so evidently evil, that it might, perhaps, be arrested on the ground of public policy.”<sup>34</sup> The Cyclopedia of Education (1877) noted that corporal

---

<sup>29</sup> *Lander v. Seaver*, 76 American Decisions, 166 (Vermont, May, 1859).

<sup>30</sup> Henry Kiddle and Alexander Schem, eds., *The Cyclopedia of Education: A Dictionary of Information for the use of Teachers, School officers, Parents, and Others*, (New York: Steiger, 1877), 189.

<sup>31</sup> *Haycraft v. Grigsby*, 88 Missouri Appeal Reports, 360 (March, 1901).

<sup>32</sup> Joseph Baldwin, *School Management and School Methods*, (New York: Appleton, 1905), 140.

<sup>33</sup> J. Orville Taylor, *The District School*, (Philadelphia: Carey, Lea, and Blanchard, 1835, re-published by the Arno Press & The New York Times, New York, 1969), 94.

<sup>34</sup> *Cooper v. McJunkin*, 291-294.

punishment had “the sanction of high authority and time-honored example; but in recent times has fallen considerably into disrepute and disuse.”<sup>35</sup>

The subject was divisive. In his 1845 lecture on school punishments, Massachusetts educator Horace Mann claimed that it was “undoubtedly true that most men have formed their opinions on the subject of punishment, more from feeling and less from reflection, than perhaps on any other subject whatever.” Opinions were often entrenched and visceral, and stemmed from early exposure to the practice. “The judgment of many a man,” Mann wrote, “has been decided, - if not enlightened – respecting the whole subject of punishment, by one vivid impression made, while a schoolboy, on his back or hand.” On “no other subject, pertaining to Education,” he observed, was “there so marked a diversity or rather a hospitality of opinion, as on this; nor on any other, such perseverance, not to say obstinacy, in adhering to opinions once formed.” Of his advocacy on the subject, he was in “despair of reconciling the conflicting opinions,” but hoped to “lessen the distance between the extremes of doctrine” in existence at the time.<sup>36</sup>

Lyman Cobb, an early nineteenth-century teacher in upstate New York and leading competitor to Noah Webster as an author of spelling books, penned a lengthy critique of corporal punishment for children. Cobb shared Webster’s belief that “moderation and mildness” could often effect what could “not be done by force.”<sup>37</sup> The Evil Tendencies of Corporal Punishment as a Means of Moral Discipline in Families and Schools (1847) publicized his objections to use of the rod and offered preventatives and substitutes for corporal punishment.

---

<sup>35</sup> Kiddle and Schem, *The Cyclopedia of Education: A Dictionary of Information For the Use of Teachers, School Officers, Parents, and Others*, 185.

<sup>36</sup> Horace Mann, *Lectures on Education*, (Boston: Ide and Dutton, 1855, reprinted by the Arno Press, New York, 1969), 303-306.

<sup>37</sup> Lyman Cobb, *The Evil Tendencies of Corporal Punishment as a Means of Moral Discipline in Families and Schools*, (New York: Newman and Company, 1847), frontispiece.



Cobb saw corporal punishment of children as a significant moral problem in public schools. He believed that “perhaps there (was) no question” that had “agitated the public mind, during the last eight or ten years, more than the subject of Corporal Punishment in Families and Schools.” That much had been said and written of its use “in bitterness of speech” was evidence to Cobb that the “expediency and propriety” of corporal punishment was “doubted, at least, by many.” Teachers, parents, and children, he believed, were endangered by corporal punishment. The “use of the rod,” Cobb noted, caused bodily injuries. Corporal punishment, he claimed, “very frequently, if not always,” produced “*physical injury* to the child on whom it [was] inflicted.”<sup>38</sup>

Other nineteenth-century pedagogues were conflicted about corporal punishment. While they questioned its effectiveness, and acknowledged widespread abuses of the practice, they also maintained it to be a legitimate and necessary component of school discipline. “I know,” declared J. Orville Taylor in 1835, “that with some scholars you must use *force*; but in the first place, try the influence of persuasion and reason.”<sup>39</sup> Another wrote in 1885 that if “kindness, moral suasion, and the inculcation of religious principle fail in reclaiming a boy, then as a last hope the master must of necessity have recourse to [corporal] punishment.”<sup>40</sup> A New Jersey professor of education held in 1901 that “every teacher knows that on some occasions the rod is the most natural, and a salutary means of securing obedience.” While their use of it should be “exceedingly seldom and rare,” he counseled, “that right should still rest with the teacher.”<sup>41</sup> Another pedagogue believed that corporal punishment could never be entirely abolished since

---

<sup>38</sup> Cobb, Frontispiece.

<sup>39</sup> Taylor, 94.

<sup>40</sup> T. Tate, *The Philosophy of Education; or The Principles and Practice of Teaching*, (Syracuse: C.W. Bardeen, 1885), 143.

<sup>41</sup> Levi Seeley, *The Foundations of Education*, (New York: Hinds and Noble, 1901), 84.

there were always “a few mischievous, tiresome, malevolent boys” who required it.<sup>42</sup> One educator held that as long as the practice remained in the home it was necessary in the classroom. “True teachers,” he wrote, “wish that corporal punishment could be abolished in the schools, but until it is less frequently used in the home...it will be useless for us to attempt to abolish this last remedy for restless incorrigibles.”<sup>43</sup> One widely published expert on teaching, when addressing corporal punishment, proclaimed he had “no hesitation (though others have) in placing this among the class of *proper punishments*.”<sup>44</sup>

Educators, like judges, recognized the problematic nature of corporal punishment: the inherent difficulty of administering whippings with restraint, moderation, and detachment at times that were inevitably charged with anger and emotion for pupils and teachers. One pedagogue observed that corporal punishment “led many teachers to chastise their own pupils more as the expression of their own irritation with the condition of things under their government than as a reasonable penalty for the offence of the sufferer.” As a result, he concluded, “it tended to harden, not to elevate, the scholars.”<sup>45</sup> The same educator recalled “miserable days spent under a teacher” who “seemed at times to lose all control of himself as he struck out wildly on all sides.” A state Supreme Court justice believed that corporal punishment had “an inherent proneness to abuse.” The “very act of whipping engenders passion,” he wrote, and “very generally” led to excess. “Where one or two stripes only were at first intended,” he added, “several usually follow, each increasing in vigor as the act of striking inflames the passions.” The basis of his belief, the judge claimed, was “a matter of daily observation and experience.”<sup>46</sup>

---

<sup>42</sup> Arthur Benson, *The Schoolmaster: A Commentary Upon the Aims and Methods of an Assistant-Master in A Public School*, (New York: The Knickerbocker Press, 1908), 28.

<sup>43</sup> S. M. Barrett, *Practical Pedagogy*, (Boston: Heath, 1908), 108.

<sup>44</sup> David Page, *Theory and Practice of Teaching*, (Milwaukee: Gillan, 1909), 91.

<sup>45</sup> Henry Calderwood, *On Teaching: Its Ends and Means*, Third Edition, (New York: Macmillan, 1881), 34.

<sup>46</sup> *Cooper v. McJunkin*, 292.

Corporal punishment, critics held, channeled the expression of anti-social emotions – malice, dominance, and desire for revenge.

Authorities on education admonished teachers to punish students with equanimity. Even in the act of punishment, one wrote, “the master should know that he is actuated by an earnest love for the transgressor.”<sup>47</sup> J. Orville Taylor affirmed “that the severest measures of discipline should be pervaded by a sentiment of tenderness and love, which chastises only to improve.”<sup>48</sup> Teachers, another warned, should not “consider this a privilege to be rushed into, but as an unpleasant duty that must be performed in order to save the child.”<sup>49</sup> Another held that it was “of the utmost importance” that teachers “*should never be under the excitement of angry passion*” when inflicting punishment. Teachers should “never strike for punishment,” he counseled, until they are “perfectly self possessed and entirely free from the bitterness” they felt when they discovered the offence.<sup>50</sup> “Corporal punishment administered in anger,” warned another professor of pedagogy, “will turn the tide of sympathy against the teacher.”<sup>51</sup>

Many teachers found it difficult, however, to achieve a dispassionate frame of mind while whipping their pupils. The “great objection to corporal punishment,” noted The Cyclopedia of Education (1877), was “the fact that it excites angry passions, not only in the child, but in the master, and more in the former than in the latter.” Punishment, the authors concluded, was “often inflicted in anger” and was “frequently excessive, sometimes administered without proper care and discrimination, or in an improper manner, or with unsuitable instruments.”<sup>52</sup>

---

<sup>47</sup> Tate, 144.

<sup>48</sup> Taylor, 98.

<sup>49</sup> Barrett, 109.

<sup>50</sup> Page, 96.

<sup>51</sup> Amos Kellogg, *School Management, 6<sup>th</sup> Edition*, (New York: E. L. Kellogg and Company, 1884), 69-70.

<sup>52</sup> Kiddle and Schem, *The Cyclopedia of Education: A Dictionary of Information*, 187.

Educators were aware that bodily punishments occasionally meant harsh or eccentric methods of inflicting pain on students. Several authorities on the subject prescribed guidelines for avoiding excesses. Without offering more specific suggestions, one widely published pedagogue declared that “a *proper instrument* should be used and a *proper mode of infliction*” should be employed.<sup>53</sup> Another lamented that “corporal punishment meant more than whipping, or strapping, or feruling. Jerking, or making (sic) to stand for a long time on the floor, or shaking, are forms of corporal punishment which may be far more dangerous than the use of the rod, and yet they are still practiced.”<sup>54</sup> The Cyclopedia of Education (1877) advised that corporal punishment should be “administered in strong doses,” and condemned the “whole system of slaps, pinches, and irritating blows.” A pupil’s head, it held, “should be sacred from all violence.” The editors likewise denounced the “pulling [of] the hair or the ears, rapping the head with a thimble or with the knuckles, boxing the ears,” or “slapping the cheeks or the mouth” as brutal.<sup>55</sup> Horace Mann, an opponent of school spanking, agreed that “blows should never be inflicted on the head.” Corporal punishment, he advised, “should be with a rod, rather than with a ferule, and below the loins or upon the legs, rather than upon the body or the hand.” He advised that the pain inflicted “must be a reality, and not a sham,” but warned that “the opposite extreme must be sedulously guarded against.”<sup>56</sup> His remarks show the tenuous position of teachers as they managed their charges with corporal punishment. Parents expected firm discipline at school while also believing that teachers should refrain from abusing their children.

Even as they sanctioned the practice, early American pedagogues acknowledged the abuses and harms of corporal punishment. “Much of the malignity of men,” J. Orville Taylor

---

<sup>53</sup> Page, 97.

<sup>54</sup> Seeley, 83.

<sup>55</sup> *The Cyclopedia of Education*, 189.

<sup>56</sup> Mann, 322.

believed, had “its origin in the injudicious punishment of children.” There was, he wrote in 1835, “a great deal of corporal punishment in our district schools,” and he feared “that but very little of it” answered “the end for which it should be given.” A hatred for the teacher and the school, he claimed, were, “too frequently, the results of corporal punishments.”<sup>57</sup> Another granted that “scholastic punishment in years not far past” was “undoubtedly anything but honorable to our educational skill and study of human nature.” Despite the quality of teaching “under the flogging *regime*, he continued, “the infliction of punishment was often strangely separated from reflection and justice.”<sup>58</sup> The Cyclopedia of Education (1877) noted that nothing had “been so grievously and shockingly abused by parents and teachers as corporal punishment, in all its various and loathsome forms.”<sup>59</sup> One educator linked the tendency of teachers to abuse the practice of whipping with the impulse for disciplinary reforms. It was “the abuse of children under the infliction of the rod,” he argued, “that first awakened the general opposition to its use.”<sup>60</sup>

A Texas professor of education, Joseph Baldwin, embodied the new pedagogy on school discipline. Baldwin, author of a popular treatise, School Management and Methods (1905), was a progressive who denounced whippings as a form of punishment, and applauded what he saw as their gradual disappearance. “Civilization,” he believed, had “outgrown debasing and cruel punishments.” The teacher, he claimed, was “no longer the master, but the friend.” Early in the nineteenth century, Baldwin averred, corporal punishment was “universal and popular.” At the close of the century, he enthusiastically declared, it was “amazingly unpopular” and had “virtually disappeared as a school punishment.” Baldwin claimed that corporal punishment was no longer used in colleges or high schools and dubiously asserted that it was not used in “the first

---

<sup>57</sup> Taylor, 98.

<sup>58</sup> Calderwood, 33.

<sup>59</sup> *The Cyclopedia of Education*, 185.

<sup>60</sup> Page, 95.

and second grades of our primary schools, nor in our kindergartens.” In “the four remaining grades,” he believed, “as in our rural schools,” the practice was “becoming rarer and rarer.”<sup>61</sup> Without furnishing any evidence to support his claims, Baldwin left his readers to wonder how many visits he actually made to Texas classrooms, possibly fostering their belief that professors of pedagogy were naïve about the practical necessities of school management.

Other education professionals also sensed a decline in school whippings. “A great change has been wrought in the methods of discipline in later years,” observed one professor in 1894. “It is clear,” he declared, “that with frequent and severe corporal punishment it is next to impossible to retain genuine respect.” Punishment that appealed to “the sense of honor,” he claimed, “superseded for the most part, in our best schools, the use of the rod.” In contrast, the professor submitted, consideration, gratitude, friendliness, benevolence, toleration, patriotism, tenderness, charity, and other “kindred virtues” would “swell the hearts of impressionable children” and be “mighty factors in the development of true men and women.”<sup>62</sup>

Like many of his contemporaries, Baldwin decried the evils of corporal punishment in schools, but did not support its prohibition. He advocated a transition period in which teachers avoided the use of the rod but retained the right to use corporal punishment. W.T. Harris, also a professor of education, warned in 1896 that “the absolute and unconditional prohibition of corporal punishment” could “produce evil effects at first.” It was better, he advised, that teachers to abolish corporal punishment “than for the laws of the city to prohibit it unconditionally.” Some students, they reasoned, were conditioned to physical force. “These pupils,” Harris cautioned, “will demoralize a school if the practice of corporal punishment is prohibited

---

<sup>61</sup> Baldwin, Introduction, 139-145.

<sup>62</sup> Robert King, *School Interests and Duties*, (New York: American Book Company, 1894), 186-187.

unconditionally.”<sup>63</sup> To make their case against school whippings, Baldwin and Harris took a position that defenders of corporal punishment used, then and now: certain recalcitrant pupils respond only to whippings, and without the right to threaten students with a whipping, teachers would face a rebellion.

Not all education professors, however, were conflicted about whipping schoolchildren. Earl Barnes of Stanford University saw physical punishments as a necessary tool for controlling children, “primitive peoples,” and “certain types of spoiled people.” Corporal punishment, Barnes believed, was vital to the British Empire. “The English people are a strong people,” he wrote in 1898, “their present empire is a sufficient proof of this statement.” Their “masterful quality,” he added, was “most simply expressed in their attitude toward corporal punishment.” Physical pain, the professor argued, was essential to imperial domination, noting that “law, with its accompaniment of physical pain, has been characteristic of the great conquering nations of all time.” History taught, Barnes claimed, that “primitive people” benefited from “strong paternal rule, backed by immediate physical pain.” Americans, he feared, tolerated a “lawless individualism that precociously ripens children, develops hoodlums, and leaves us powerless” against “social and political problems of the undeveloped peoples within and all about our borders.”<sup>64</sup>

With painful punishments, Barnes argued, white Americans might successfully assimilate children, African Americans, and other non-whites into the American nation. “An unprejudiced observer,” he wrote, “cannot be brought into immediate relations with the lower classes of our negro population without feeling that any one of them would find his best conditions for mental and moral growth in a state of immediate dependence on a wise and sympathetic superior.”

---

<sup>63</sup> Baldwin, 141.

<sup>64</sup> Earl Barnes, “Corporal Punishment as a Means of Social Control,” *Education*, Volume 28, no. 7, March, 1898, 387-395.

When children or “primitive peoples” skipped this “normal” stage of growth, Barnes judged, the result was “the hoodlums of our American cities, or the lower type of citizens in our Spanish-American republics.” For such wayward imperial subjects, however, all was not lost: “Better late than never,” he added, “spoiled people may find their salvation, even late in life, in a strong hand backed by immediate and painful penalties.”

Pedagogical and imperialistic preoccupations aside, teachers occasionally faced students who challenged their authority, with their livelihoods and reputations at stake. A Massachusetts judge interpreted struggles for power over the school house in grave terms: “Sometimes,” he wrote, teachers were “forced into a conflict *before the school*, with one or more” of their pupils, “and the struggle is for supremacy.” At these times, the judge advised, a teacher “*must conquer or be conquered*; and to secure the triumph of his authority, a more violent exertion of physical power may be necessary, than in cases of ordinary disobedience.”<sup>65</sup>

Corporal punishment, though controversial, was common in nineteenth century American schools. The practice required school officials manage their pupils with public displays of physical force and charged the atmosphere of school houses with the threat of violence. Education professionals, many of whom represented colleges in the northeast, questioned the effectiveness of schoolhouse whippings but tentatively sanctioned the practice. As a prominent characteristic of education culture in the United States from colonial times until late in the twentieth century, school spanking attracted attention from even the most creative and imaginative observers of American culture.

---

<sup>65</sup> *The Massachusetts Teacher*, 257-261.



## Chapter Two: Tales of Woe – The Schoolhouse Patriarchy in American Fiction

Nineteenth-century authors who wrote of rural school life often focused on corporal punishment. As they crafted descriptions of power struggles on the schoolhouse grounds between schoolmasters and their pupils, writers imagined deviant pupils and the disciplinary actions of teachers, and their scenes often climaxed with whippings and adolescent rancor. Popular depictions of the nineteenth century schoolhouse featured schoolhouse beatings as a typical drama of American childhood. Treating corporal punishment as a rite of passage that occasionally left students traumatized, writers often portrayed its effects as arbitrary and brutal. Some stories were morals of patriarchal governance, illustrated by a success or failure of class management, and others were merely farcical. Writers often portrayed teachers as poorly educated petty tyrants who projected their anger onto the most vulnerable pupils while sparing favorites or others whose parents had standing in the community. Their stories showed some sympathy for the bodies and minds of students, and usually less for their harried tutors, but the settings they created suggested that the balance of power in nineteenth century classrooms was usually determined by a struggle, and sometimes a physical conflict, between pupils and their teachers.

The rural school master was a common trope in nineteenth century American fiction. In The Legend of Sleepy Hollow (1819), Washington Irving told of Ichabod Crane, an itinerant school master who, depending on how readers interpret the story, was banished by a local bully who shared his fancy for a well-to-do local farm girl or the apparition of a headless horseman. Crane

“sojourned” or “tarried” in Sleepy Hollow to instruct the local children, was a “companion and playmate of the larger boys” and lived “successively a week at a time, thus going the rounds of the neighborhood, with all his worldly effects tied up in a cotton handkerchief.”

The plight of Ichabod Crane was common among rural school masters. While they often sought to settle within or marry into rural communities, just as often they were unable to manage an independent household in addition to discharging their teaching duties. Many deserted their charges in search of a better position, or worse yet, were forcibly run off by pupils and their parents. Crane, Irving’s ideal of the early American schoolmaster, shared in community responsibilities. Itinerant teachers who were useful and agreeable guests, wrote Irving, improved their material fare. Rural patrons were “apt to consider the costs of schooling a grievous burden, and schoolmasters as mere drones,” but the fictional Crane assisted farmers with “lighter labors,” and found favor with mothers by helping care for younger children. The schoolmaster, Irving told, was a notable presence among the women of the neighborhood, who regarded him as superior to “rough country swains” in his tastes and accomplishments. His efforts to win favor, however, failed to resolve what one biographer of Irving described as “the matter of belonging.”<sup>66</sup>

Irving depicted Crane as an ideal disciplinarian who was firm, but thoughtful, in governing the Sleepy Hollow school. A “conscientious” man, Crane “ever bore in mind the golden maxim, *Spare the rod and spoil the child.*” His scholars, wrote Irving, “certainly were not spoiled.” In crafting Crane the disciplinarian, Irving summarized the ideal of moderate chastisement, free of malice and excessive brutality:

I would not have imagined, however, that he was one of those cruel potentates of the school who joy in the smart of their subjects; on the contrary, he

---

<sup>66</sup> Andrew Burstein, *The Original Knickerbocker: The Life of Washington Irving*, (New York: Basic Books, 2007), 149.

administered justice with discrimination rather than severity; taking the burden off the backs of the weak, and laying it on those of the strong. Your mere puny stripling, that winced at the least flourish of the rod, was passed by with indulgence; but the claims of justice were satisfied by inflicting a double portion on some little tough wrong-headed, broad-skirted Dutch urchin who sulked and swelled and grew dogged and sullen beneath the birch. All this he called "*doing his duty by their parents*;" and he never inflicted chastisement without following it with the assurance, so consolatory to the smarting urchin, that "*he would remember it and thank him for it for the longest day had to live.*"<sup>67</sup>

Irving presented his fictional school master as a careful and just disciplinarian who left Sleepy Hollow in fear of the supernatural or his rival in love. His schoolmaster Crane was, without question, physically capable of dominating his pupils if necessary. His disciplinary style was masculine but honorable: he let the threat of a whipping suffice to manage the small children, reserved the use of force for older recalcitrants, all the while showing genuine concern for their well-being. Crane, Hawthorne's pedagogical ideal of physical and moral superiority, disciplined students with deliberation and without fear of retaliations.

Unlike Hawthorne, many other American writers were, at some time, classroom teachers. More idealistic individuals, however, struggled with the give and take of managing pupils. Walt Whitman struggled to keep order as a New England school teacher but refused to use corporal punishment. "To teach a good school, he wrote, it was "not at all necessary for a man to be inflexible in rules and severe in discipline." Some of his students remembered him fondly, but school examiners found Whitman too easy going, and his teaching appointments did not last. As an itinerant schoolteacher, he recalled low pay, coarse fare, and a lack of privacy when boarding with pupils and their families. Schoolteachers, Whitman reflected, were "apt to be eccentric specimens of the masculine race."<sup>68</sup>

---

<sup>67</sup> Washington Irving, *The Legend of Sleepy Hollow and Rip Van Winkle*, 7-8.

<sup>68</sup> Justin Kaplan, *Walt Whitman: A Life*, (New York: Bantam Edition, 1982), 82-83.

Other imaginary accounts of rural southern and midwestern schools portrayed schoolmasters as inept and malevolent. The most oppressive and brutal teachers in these accounts usually met with revenge at the hands of their pupils. Richard Malcolm Johnston (1822-1898), a southerner who authored tales of rural Georgia, wrote of the brutality of schoolhouse justice and the vengeance of schoolchildren against abusive schoolmasters in Dukesborough Tales: the Chronicles of Mr. Bill Williams (1871).<sup>69</sup> The son of a Georgia planter and Baptist minister, Johnston was a lawyer, professor of rhetoric, schoolmaster, and government clerk who penned nostalgic stories of the old south for post-bellum audiences.<sup>70</sup> In the first story from Dukesborough Tales, “The Goosepond School,” Johnston reflected on the occasionally peculiar and violent nature of rural schoolhouse discipline and justice in the nineteenth century. In “The Goosepond School,” Johnston offered a cynical portrayal of education and schoolmasters in the rural antebellum south as he sketched the characters that bore the brunt of physical abuse and those that escaped it. In his fictional schoolhouse only raw determination, courage, and sheer physical force could prevail against the abject tyranny and brutality heaped upon pupils by their schoolmasters.

Johnston developed his characters around their roles in the physical struggles between schoolmasters--whom he portrayed as inept, degenerate, and sadistic--and their earnest and naïve charges. His protagonist in “The Goosepond School,” Brinkly Glisson, was a widow’s son of fifteen inured to hard work, long walks to school, and regular beatings by the schoolmaster. A larger and older boy, Allen Thigpen, was envied by the other pupils “because he was too big to be afraid of any schoolmaster.” The antagonist, schoolmaster Israel Meadows, made a fetish of

---

<sup>69</sup> Richard Malcolm Johnson, *Dukesborough Tales: the Chronicles of Mr. Bill Williams*, (New Jersey: The Gregg Press, 1968, first published in 1871 by D. Appleton and Company).

<sup>70</sup> Thomas M. Inge, Volume Editor, *The New Encyclopedia of Southern Culture: Literature*, (Chapel Hill: University of North Carolina Press, 2008), 5-6, 27, 138. Critics of southern literature regard Johnston as representative of a “local-color” genre typified by romantic portrayals of agrarianism and the lost-cause.

“the most agreeable portion...of his new vocation, the punishment of offenders.” Under Meadows, that “element of the Goosepond establishment had been cultivated so much that it had grown beyond all reasonable proportion to the others.” If his pupils failed to misbehave, Meadows would, “in the plenitude of his power...put the vindictory first – punish an offender, *declare* what the latter had done to be an offense and then *direct* him that he had better not do so anymore.” Johnston raised tensions in the “Goosepond School” by describing a sadistic routine in which Meadows assembled his pupils “from eight to thirteen,” minus shoes and stockings, in a ring around himself, so he could whip them in rotation. After a brief rest, master Meadows of the Goosepond School punished a group of boys by forcing them to “go to horsin’,” with one mounting the back of the other while he lay on the blows.

Master Meadows managed his pupils, wrote Johnston, as a “showman” adapted himself to “the different animals of the menagerie.” Meadows delighted most in flogging Brinkly Glisson, aged fifteen, “one of the best boys in the world” and “the only son of a poor widow, who, at much sacrifice, had sent him to school.” The master “knew that the boy was not afraid of him,” and seeing it in his eye every time he beat him, “it was this which imparted such eagerness to continue.” Meadows “wished to subdue him, and he had not succeeded.” The boy never begged nor cried, and Meadows “often thought he was on the point of resisting him; but he knew the reason why he did not, and, while he hated him for it, he trusted it would last.” Nonetheless, the master “often doubted whether it would or not; and thus the matter became so intensely exciting that he continually sought opportunities for bringing it up.” Johnston made his teacher antagonist exceptionally sadistic and tantalized nineteenth-century American readers by depicting the violent and sometimes bizarre ways that teachers might torture and abuse their pupils. Americans with mixed memories of schoolhouse discipline could identify with an

earnest, but oppressed, pupil who bravely defied injustice perpetrated under the cloak of a school master's authority.

In the climax of the "Goosepond School," the young Glisson unleashed his long pent up resentment against the master, and vanquished him from the community. After a long brawl, in which the boy's stamina and righteous determination prevailed against the decadence and declining physical powers of the master, the figure of Brinkly Glisson, wrote Johnston, transformed himself before his fellow pupils: "He was a murderer! A REGICIDE!! Talk of the divine right of kings! There was never more reverence for it than the children in country schools felt for the kingly dignity of the schoolmaster of sixty years ago." Johnston may have exaggerated in his bleak portrayal of government in rural southern schools but his hyperboles reflected the reality that Americans, and especially southerners, accepted and expected that teachers maintain physical control over their charges. Schoolmasters who abused their disciplinary responsibilities might thus be similarly, and justly, abused. If a schoolmaster was a tyrant, his moral suggested, their reign over the schoolhouse might be overturned by the very methods they used to achieve domination.

In contrast to Johnston's cynical tale of beleaguered but triumphant schoolboys, Edward Eggleston (1837-1902) dramatized the struggles of itinerant schoolmasters to justly manage their pupils and safeguard their own reputations in tumultuous frontier communities. Eggleston authored two fictitious accounts of life in rural Indiana that explored the problem of discipline in rural schools from the perspectives of parents, teachers, and students, The Hoosier School-Master (1871) and its sequel, The Hoosier School-Boy (1882). If Johnston created schoolhouse tales with fantastic images of brutal teachers and their beleaguered pupils, Eggleston's stories

were more optimistic portrayals of school discipline and punishment, and the possible roles of the schoolmaster in rural community life.

Eggleston centered his drama on the physical struggles between male teachers and their pupils. The protagonist in The Hoosier School-Master, a prospective teacher, was warned by “old Jack Means,” the first trustee he met, that “the boys have driv off the last two, and licked the one afore them like blazes.” Eggleston’s scholars “had come to regard the whole world as divided into two classes, the teacher on the one side representing lawful authority, and the pupils on the other in a state of chronic rebellion.” To make mischief, he wrote, “was an evidence of spirit; to ‘lick’ the master was to be crowned hero of Flat Creek district.”<sup>71</sup> In The Hoosier School-Master, the teacher protagonist skillfully wins over the only pupil who outmatched him physically to help keep the others in check, solves a town mystery involving stolen property, and marries a local girl. Eggleston’s schoolmaster suggested that teachers who could not physically dominate their charges had to negotiate for power over their classrooms. For teachers, classroom discipline could be a physical contest, or a test of wit and ingenuity.

Mark Twain depicted struggles between schoolmasters and their pupils in The Adventures of Tom Sawyer (1876). Tom Sawyer, Twain noted, was drawn from the author’s own “experiences” and those of his “schoolmates.” Resourceful and mischievous school boys in his stories won notoriety and revenge by thwarting school masters who meant to beat them into strict obedience. Before “Examination” day, the master’s rod was seldom idle, “at least among the smaller pupils. Only the biggest boys, and young ladies of eighteen and twenty, escaped lashing.”

Mr. Dobbins’ lashings were vigorous one’s too (for) he had only reached middle age and there was no sign of feebleness in his muscle. As the great day approached, all the tyranny that was in him came to the surface; he seemed to take

---

<sup>71</sup> Edward Eggleston, *The Hoosier School-Master*, (New York: Sagamore Press, 1957), 1, 9.

a vindictive pleasure in punishing the least shortcomings. The consequence was, that the smaller spent their days in suffering and their nights in plotting revenge. They threw away no opportunity to do the master a mischief. But he kept ahead all the time. The retribution that followed every vengeful success was so sweeping and majestic that the boys always retired from the field badly worsted.<sup>72</sup>

Schoolboys who contested the physical domination of their schoolmasters could create a set of winning outcomes. If a boy subdued his teacher, the schoolmaster left in defeat, and the pupil won the admiration of his fellow schoolboys. If the boy took a beating, he acquired a reputation for toughness, and achieved the recognition of his peers for challenging school authorities. Contests for physical supremacy in the classroom might give older boys an advantage over their masters, but most teachers wisely avoided confrontations, and reserved physical chastisement for their less mature charges.

Laura Ingalls Wilder (1867-1957), perhaps the most widely published American author of fiction for children, made school discipline a regular feature of her popularly acclaimed series of books on rural nineteenth century American life. Ingalls Wilder, a Midwestern teacher, farm wife, and novelist born in rural Wisconsin, portrayed conflict between teachers and students as a physical struggle for mastery over rural schoolhouses that prized masculinity and challenged female teachers to manage their unruly male pupils.

In Farmer Boy (1933), a novel based on her husband's rural New York childhood, Ingalls Wilder dramatized the brutal violence and masculine virtues of rural school house discipline. The novel opens with the protagonist, Almanzo, aged nine, frightened by the "big boys from the Hardscrabble Settlement" on his first trip to school: "These big boys were sixteen or seventeen years old and they came to school only in the middle of the winter term. They came to thrash the teacher and break up the school. They boasted that no teacher could finish the winter term in that

---

<sup>72</sup> Mark Twain, *Mark Twain: the Adventures of Tom Sawyer*, (New York: Collier and Sons, 1920), preface, 177.



school, and no teacher ever had.” Almanzo liked his teacher, who “never whipped little boys because they forgot how to spell a word,” but feared for him because “Mr. Corse wasn’t big enough to fight them.”<sup>73</sup>

The teacher, so the plot ran, was put to the test. When the Hardscrabble boys talked, scuffled, and slammed their books in the back of the schoolroom, Mr. Corse asked them once to please be quiet: “For a minute they were quiet, then they began again. They wanted Mr. Corse to try to punish them. When he did, all five of them would jump on him.” Mr. Corse, however, kept his patience, and when the gang of boys came in late from recess, he waited until they were quiet, and said: “I will overlook your tardiness this one time. But do not let it happen again.” Mr. Corse boarded with Almanzo’s family that night, setting the stage for a showdown with the Hardscrabble boys in the days to come: “Everybody knew the big boys would be tardy again. Mr. Corse could not punish them because they could thrash him, and that was what they meant to do.”

That evening, after dinner, the plot thickened. Almanzo’s father, a member of the school board, remarked that the Hardscrabble boys were saying they would throw Mr. Corse out. “I guess they’ll be trying it,” acknowledged Corse. “They have driven out two teachers,” the father continued, and “Last year they hurt Jonas Lane so bad he died of his injuries later.” Corse replied that he knew this, as he and Lane went to school together, and they had been friends.

The following day, the gang again returned late from recess. “If it occurs again,” Corse warned, “I shall punish you.” When Almanzo returned home that night, wishing that he was big enough to fight the troublemakers, his father replied that Mr. Corse was hired out to teach the school, “the school trustees were fair and aboveboard with him; they told him what he was undertaking.” When Almanzo exclaimed that the boys might kill the teacher, his father replied

---

<sup>73</sup> Laura Ingalls Wilder, *Farmer Boy*, (New York: HarperCollins, first published in 1933), 1-50.

that “That’s his business. When a man undertakes a job, he has to stick to it till he finishes it. If Corse is the man I think he is, he’d thank nobody for interfering.”

The next day, at noon, Almanzo saw Mr. Ritchie, the father of Big Bill Rithchie, ringleader of the Hardscrabble gang. Mr. Ritchie, wrote Ingalls Wilder, “was a big, rough man, with a loud voice and a loud laugh. He was proud of Bill because Bill could thrash school-teachers and break up the school.”

Mr. Corse, however, bested the Hardscrabble boys with his wit and a whip. After they came in late from recess a third day, Corse called them to the front, and “Big Bill jumped up and tore off his coat, yelling: come on, boys!” Thus provoked, the teacher produced a fifteen foot blacksnake ox whip, and lashed Big Bill repeatedly. After Corse cut through his clothes, and bloodied his arms, “he began to bawl like a calf, He blubbered and begged.” After Corse whipped another member of the gang, the rest fled, and the afternoon lesson continued.

That evening, at home, Almanzo learned new details that completed the episode. When his father asked Corse if the boys had thrown him out, the teacher replied, “No, thanks to your blacksnake whip.” His father too had heard Bill’s father bragging about how his boy would break up the school again that afternoon, and how Mr. Ritchie thought it was a good joke, and Almanzo thought how surprised Mr. Ritchie must have been when he saw Bill at home. Almanzo, wrote Ingalls Wilder, “was sure that his father was the smartest man in the world, as well as the biggest and strongest.”

To dramatize schoolhouse struggles in Farmer Boy, Ingalls Wilder used stock characters and settings of rural America to construct morals for her young readers. She knew that some rural Americans, like Mr. Ritchie, did not value education and depicted them as coarse, profane, and sadistic. The schoolhouse episode ended with Almanzo reflecting on Mr. Ritchie’s surprise

to learn that it was the teacher who bested Bill, but the reader is left wondering, did Bill then suffer another beating at the hands of his father? Ingalls Wilder, like Edward Eggleston, portrayed schoolhouse troublemakers as the products of a violent environment reinforced at home and in school.

Her imaginary teacher, Mr. Corse, was a model of fair and firm school discipline. Unlike some teachers, he did not whip students for mistakes in their lessons, but instead held them in for recess. He gave the Hardscrabble boys three warnings, the schoolhouse equivalent of due process, before administering correction: first, to quiet down; second, not to be tardy again; and third, that if it happened again, he would punish them. Corse finally indicated his intention to punish the boys but only used his whip on them after they threatened him with violence. Model schoolmasters like Mr. Corse were gentle, patient, and only used corporal punishment as a last resort. When provoked, however, they were capable of meeting the most violent challenges to their authority and threats to their personal safety. Mr. Corse, unlike teachers who made peace with the biggest boys to insure their survival, was “man” enough assert his mastery over the schoolhouse albeit with help from a father figure and school board member.

As a contrast to the vicious Mr. Ritchie, Ingalls Wilder offered readers Almanzo’s father, an embodiment of masculine virtues: he was smart and strong. With his sage advice, Corse, though “slim” and “pale” was able to meet threats of violence with superior force. In addition, Ingalls Wilder’s portrayal of fatherhood shed light on the interplay of violence between rural American homes and schools. Taking comfort in the policy of Mr. Corse not to beat students for their spelling mistakes, Almanzo recalled what happened to his older brother: “When Royal had been in the primer class, he had often come home at night with his hand stiff and swollen. The teacher had beaten the palm with a ruler because Royal did not know the lesson. Then Father

said: If the teacher has to thrash you again, Royal, I'll give you a thrashing you'll remember."<sup>74</sup>

Ingalls Wilder portrayed the legitimacy of male violence in rural homes and schools as a matter of degree and intent. Good fathers, and teachers, were restrained and deliberate in their use of force and meant well for their children. Bad fathers, like Mr. Ritchie, reveled in unchecked violence and the chaos and suffering it produced.

In two other novels, Little Town on the Prairie (1941) and These Happy Golden Years (1943), Ingalls Wilder depicted the struggles of women teachers to manage rural schools. In Little Town on the Prairie, a new teacher in town asked students not to view her as a "taskmistress, but as a friend," declaring that no one would ever be "unruly, so there need be no thought of punishments here in our happy school." They would all "be friends together," she professed, "and love and help each other." Soon students misbehaved regularly but the new teacher, Miss Wilder, refused to punish anyone. One afternoon, she called the students to attention, and spoke about how good she was sure they meant to be: "She said that she did not believe in punishing children. She meant to rule them by love, not fear." Ingalls Wilder painted Miss Wilder as a weakling who could never gain the respect of the class. "Even the big girls," Ingalls Wilder wrote, "were embarrassed by her way of talking." Boys threw paper wads and spitballs, and the girls whispered and passed notes, requiring a visit from the school board to restore order. Miss Wilder left the school after one term. "The new teacher, Mr. Clewett," Ingalls Wilder wrote, "was quiet but firm, a good disciplinarian."<sup>75</sup> In Little Town on the Prairie, her portrayal of Miss Wilder's failures at discipline suggested that, for teachers, the respect of pupils was far more important than their friendship, and the episode could have been construed by readers as an indictment of new philosophies of school discipline that preached a warm

---

<sup>74</sup> Ingalls Wilder, *Farmer Boy*, 9.

<sup>75</sup> Laura Ingalls Wilder, *Little Town on the Prairie*, (New York: Harper and Row, 1941), 124-185.

pedagogical rapport. Successful teachers, ran her moral, were not afraid to punish students, and earned respect with steadfast discipline, not kind words.

In These Happy Golden Years (1943), Ingalls Wilder suggested that for women to succeed as teachers, they had to keep their composure and maintain a strong front, tactfully negotiating adversarial classrooms, where male teachers could resort to using force. When a “saucy” and defiant older boy challenged a new teacher, she faced the problem of maintaining her authority without force: “What could she do?” Ingalls Wilder asked readers: “She could not punish him; he was too big. She must not show any anger.” Ingalls Wilder’s teacher anxiously hoped that the boy would obey her, “for she did not know what she could do if he did not.”

A talk with her parents helped the novice teacher confront the problem of discipline. After confiding in her father that she was failing as a teacher because she was not big enough to whip an older boy who needed it, and refusing outside help because the school board would think her incapable of managing her class, he offered advice: “There you have it, Laura!” he said. “It’s all in the word, ‘manage.’ You might not get far with Clarence, even if you were big enough to punish him as he deserves. Brute force can’t do much... You better just manage.” Her father suggested that she be patient and not to try to force the boy to do anything. Her mother advised that she “give way” to the boy, paying no attention to him, because that was what he wanted: “Be pleasant and nice to him, but put all your attention on the others and straighten them out. Clarence’ll come around.”<sup>76</sup>

Ingalls Wilder’s fiction suggests that female teachers faced a different set of circumstances than men. They were expected by school boards and townspeople to manage their schools but, in some cases, were unable to force students to obey their commands. If they were too nice, like Miss Wilder, students ran roughshod over them. If they were too demanding,

---

<sup>76</sup> Laura Ingalls Wilder, *These Happy Golden Years*, (New York: Harper and Row, 1943), 11-54.

however, they risked exposing the physical inability to enforce their will. Ingalls Wilder's moral was that female teachers had to be more creative than men, using psychology in situations when physical force was not an option to manage, or master their pupils.

American authors had reason to believe that readers would identify with stories about school discipline. Schoolhouse struggles between teachers and students were a periodic source of conflict that spilled over into their homes, and occasionally, their courtrooms. Court reports from the nineteenth century show that fictional accounts of brutal schoolhouse beatings were, sadly, grounded in reality.

## Chapter Three: School Discipline in the Courts – The Legal Limits of Schoolhouse Violence

Brutal schoolhouse beatings have been a venerable source of litigation since the seventeenth century. An English opponent of school spanking wrote that there were “such *Stories* that might be told out of *Westminster* School...*Eaton* School, (and) *Pauls* School...that would make a Heart of Stone to Bleed. There have been *Masters* Arraigned at Bar for the Death of some *Boys*.”<sup>77</sup> Like their English counterparts, American educators who abused the traditional privilege of violent school discipline also faced criminal and civil penalties, if they severely injured pupils in the process.

English and American common law has long recognized the authority of schoolteachers to discipline their pupils. Writing in 1765 of the rights of parents and children, William Blackstone commented that a parent “may also delegate part of his parental authority, during his life, to the tutor or schoolmaster of his child; who is then *in loco parentis*, and has such portion of the power of the parent committed to his charge, viz., that of restraint and correction, as may be necessary to answer the purposes for which he is employed.”<sup>78</sup> James Kent, in his Commentaries on American Law (1873) noted that “the power allowed by law to the parent over

---

<sup>77</sup> *Lex Forcia: Being a Sensible Address to the Parliament for an Act to Remedy the Foul Abuse of Children at School. Especially in the Great Schools of this Nation*, (London: Printed for R.C. and to be sold by Elizabeth Whitlock, 1698), 15.

<sup>78</sup> George Chase, *Commentaries on the Laws of England; in Four Books, by Sir William Blackstone, Knight, One of the Justices of the Court of Common Pleas*, Third Edition, (New York: Banks and Brothers Law Publishers, 1898), 168.

the person of the child may be delegated to a tutor or instructor, the better to accomplish the purpose of education.”<sup>79</sup>

It was the judicial system, however, that determined the scope of teachers’ disciplinary powers in the place of parents.

Legal contests over what corporal punishment was appropriate—in the form of assault, battery, and trespass charges against teachers—reached American courts in the early nineteenth century. These early decisions elaborated on the common law prerogative of teachers to administer bodily punishments. In some cases, judges or juries in local courts sympathized with students and convicted the teachers that punished them, but those decisions were usually overturned by state courts of appeal. In others, appellate judges reversed acquittals of teachers who allegedly beat their students beyond the limits common law, ordering new trials for assault and battery. Precedents for adjudicating corporal punishment in schools resulted, providing jurists with guidelines to determine when educators overstepped their legal authority.

Nineteenth-century jurists struggled to articulate the scope of teachers’ disciplinary power over students. “It is not easy to state with precision,” a North Carolina judge observed, “the power which the law grants to schoolmasters and teachers, with respect to the correction of their pupils.”<sup>80</sup> Teachers enjoyed a strong presumption in common law that they would not administer corporal punishments excessively or with malice. The state always had the burden of proving that a teacher was guilty of assaulting a student.

The first American precedent limiting the power to discipline students was created in the South. In 1837, in his decision on State v. Pendergrass, Judge Gaston of the North Carolina Supreme Court instructed jurists to weigh the severity of injuries to students and gauge the intent

---

<sup>79</sup> James Kent, *Commentaries on American Law, Volume 2*, Twelfth Edition, Edited by O. W. Holmes Jr., (Boston: Little, Brown and Company, 1996), 205-206.

<sup>80</sup> *State v. Pendergrass*, 19 North Carolina Reports, 349-351(June, 1837).



of teachers who administered punishment. The court held that the law conferred on teachers a discretionary power to punish their pupils and would not hold them criminally responsible, unless the punishment caused permanent injury to the child, or the punishment was inflicted “merely to gratify their own evil passions.”

The previous year, a Caswell, North Carolina jury convicted Rachel Pendergrass on a charge of assault and battery. The defendant, who kept a school for small children, was unable to correct a little girl with “mild treatment.” Pendergrass then whipped her with a switch, causing marks upon her body, which disappeared in a few days. The circuit court judge also admitted as evidence two other marks, “on the arm and another on the neck, which were apparently made with a larger instrument, but which also disappeared in a few days.” Prior to their deliberations, the judge instructed the jury that the right of the defendant to chastise the child was “coextensive” with that of a parent, but “that they should be cautious in coming to a conclusion, that excessive treatment had been used.”

The Caswell circuit judge further advised the jury that since “the child was of tender years, if they believed that she had been whipped by the defendant, with either a switch or other instrument, so as to produce the marks described to them, the defendant was guilty.”

Pendergrass successfully appealed her conviction for assault and battery.

In a reversal of the lower court’s decision Judge Gaston of the North Carolina Supreme Court declared the lower court judge’s instruction, that the defendant was guilty of assault and Battery if she had caused marks upon the young pupil, to be an error. The bruises, Gaston noted, “were all temporary, and in a short time disappeared.” The judge held that “as a general rule, that teachers exceed the limits of their authority when they cause lasting mischief; but act within the limits of it, when they inflict temporary pain.” The bruises sustained by the plaintiff were, in his

view, “too equivocal to justify the Court in assuming, that they did threaten such mischief.” Lasting mischief, Judge Gaston reasoned, was punishment that disfigured students or seriously endangered their life, limbs, or health.

The decision in State v. Pendergrass affirmed the presumption of common law that teachers were invested with judicial authority over their charges. The judgment of the teacher, Judge Gaston elaborated, was “*presumed* to be correct because he is the *judge*.” Only when teachers “grossly” abused their powers and used their authority to act with malice would “the mask of the judge” be removed, with the teacher standing “amenable to justice, as an individual not invested with judicial power.” Decisions “less liberal” towards teachers, in Gaston’s view, interfered with “the authority necessary for preserving discipline, and commanding respect.” The judge acknowledged that the law empowered teachers “to commit acts of indiscreet severity, with legal impunity,” but he reasoned that such indiscretions would “find their check and correction, in parental affection, and in public opinion.” Gaston was resigned to the likelihood that occasionally such indiscretions “must be tolerated as a part of those imperfections and inconveniences, which no human laws can wholly remove or redress.”

To show that teachers committed assault, prosecutors needed physical evidence of a beating, which required examinations by public officials that subjected children to close physical scrutiny. It was in the best interest of the plaintiffs to document injuries without delay. When victims pursued charges against teachers, the trauma of the beating was followed by multiple inspections by community members and authorities, in anticipation of a possible trial where all their injuries would be recalled in detail with the utmost public visibility. The teachers may have been on trial for assault, an embarrassment that usually cost them their jobs, but victims of severe beatings endured pain and suffering, and their injuries were subject to examination as long as

their wounds were identifiable. Americans accepted school spanking, but there was always a chance schoolhouse conflicts could spill over into the community and create a spectacular public controversy.

When trial judges ruled in favor of teachers charged with assault, appellate courts had to protect the interests of pupils and check their abuse. We cannot know how much relations between local judges, teachers, and their accusers influenced circuit court decisions, but they occasionally overlooked evidence of severe violence, favoring defendant teachers with acquittals. Students and their families, at times, had to persist in seeking justice. The pursuit of their claims required extended financial support for lawyers, and additional costs if the pupil continued their tuition under another instructor, expenditures that were likely prohibitive for families with few means at their disposal.

Clark Hathaway of Burlington, Vermont, suffered multiple vicious beatings by his teacher but found no relief in Chittenden County Court. The 1845 school year began traumatically for Hathaway when, on the first of January school master George Rice fell upon him with a club and fists, striking him “a great number of violent blows upon his head and body.” Rice then “shook and pulled him about, and threw him down, and then harshly and brutally kicked him, and struck him other violent blows, and wounded him, and tore his clothing.”<sup>81</sup> Rice beat Hathaway again the same day. Four days later Rice attacked Hathaway with a raw hide, clubs, sticks, fists and feet, again wounding him and tearing his clothes. After a final beating ten days later, Hathaway charged Rice with four counts of assault and battery.

Eight months later Judge Bennett of Chittenden County heard the case. In response to all the counts against him, Rice pleaded “the general issue” that he was a teacher and master of a public school and claimed that the plaintiff had behaved “saucily and contumaciously” towards

---

<sup>81</sup> *Clark D. Hathaway v. George G. Rice*, 19 Vermont Reports, 101-109 (December Term, 1846).

him. Hathaway “there refused to obey his lawful commands, related to his duty” as a pupil, and Rice “moderately corrected him.” Although counsel for the plaintiff argued that Rice’s plea was not a sufficient response to each of the four counts of assault, nor did it allege that the defendant used no more force than was necessary to correct the plaintiff, Judge Bennett found “the plea in bar sufficient.” We do not know if Hathaway sought tuition elsewhere, but it is doubtful that he continued his studies under Rice, since he appealed Judge Bennett’s ruling to the Vermont Supreme Court.

More than a year later the court heard his appeal. Counsel for the plaintiff argued that one plea was not sufficient to answer the multiple counts against the defendant. Rice’s wounding and tearing of Hathaway’s clothes, they contended, went beyond a simple assault. The actions against the plaintiff, they claimed, could not “be justified by any relation to common law, without alleging some sufficient act of the plaintiff as an excuse for their commission.” The defense countered that Rice had the right to administer moderate correction *in loco parentis* for “the preservation of order and government in the schools.” The school master, they argued, was a “*quasi* public officer, having charge of a public interest,” and “every intendment” should be made in his favor.

Unlike Judge Bennett, Vermont Supreme Court Justice Charles Royce did not find George Rice’s plea sufficient to answer multiple counts of assault, battery, and trespass against his former pupil. While Royce acknowledged the right of the school master to correct his scholars, and sought to “look with all reasonable indulgence upon the exercise of this right,” he judged Rice’s actions “clearly excessive and cruel.” He reversed the county court ruling and remarked that “the chastisement was carried far beyond the limits of a moderate correction.” Royce noted that the record disclosed nothing to justify “such acts of severity.” His ruling

affirmed that school masters could not act with impunity under the guise of common law and reiterated the doctrine that corporal punishment in schools should not be severe or excessive. Winning the appeal may have consoled Clark Hathaway, but his case returned to county court where it began, two years earlier. Rice may have experienced difficulties finding employment in Chittenden or neighboring school districts after his treatment of Hathaway was retold locally. Nineteenth century American parents wanted teachers who were capable of firmly correcting, but not brutalizing, their children.

A Massachusetts Judge offered a strictly patriarchal interpretation of the common law. “It is the duty of the teacher,” he wrote in 1849, “just as it is of the father in the family circle, to maintain good government in the little community over which he presides, and secure proper subordination in all its members.” Without good government, he warned, schools were sure to fail. “No school can prosper,” he added, “where this end is not attained; disorder and misrule will triumph; and the teacher who fails in this point, ought to resign his trust.” Physical compulsion, he believed, was essential to an orderly school. “A resort to corporal punishment,” he declared, was “not only allowed and sanctioned by law” but “an *imperative duty*.”<sup>82</sup>

In 1853 the Indiana Supreme Court ruled in two alleged cases of assault by teachers that resulted from brutal school whippings. In Cooper v. McJunkin and Gardner v. The State, Judge Stuart attempted to establish, and apply a legal doctrine on the rights of teachers to chastise their pupils. Teachers, he held, must use reasonable judgment and discretion when administering corrections, and adjust the punishment to the nature of the offense, and to the age and size of the offender.

In deciding Cooper v. McJunkin, the Indiana judge inveighed against corporal punishment, but acknowledged that jurists were hard pressed to rein in its legality. “The law,”

---

<sup>82</sup> *The Massachusetts Teacher*, 257-261.

he lamented, “still tolerates corporal punishment in the school-room.” That “the person of the school-boy,” he reflected, was “less sacred in the eye of the law than that of the apprentice or the sailor,” was “not easily explained.” The public, he noted, clung to a “despotism in the government of schools” that had elsewhere been discarded. It was a problem, Judge Stuart believed, “worthy of serious consideration” but “not for us to discuss.” All that could be done, he wrote, “without the aid of legislation,” was to “hold every case strictly within the rule.” This “petty tyranny,” he opined, could not be “watched too cautiously nor guarded too strictly.”<sup>83</sup>

The law, Judge Stuart explained, required teachers to use judgment as they disciplined students but his opinion recognized the inherent conflict between correction and revenge that troubled many nineteenth century educators about corporal punishment.

The judge warned teachers against making “such power a pretext for cruelty and oppression” and advised that they proceed with “kindness, prudence, and propriety.” The courts, Judge Stuart concluded, should “discountenance a practice which tends to excite human passions to heated and excessive action, ending in abuse and breaches of the peace.”

In Gardner v. The State, Judge Stuart overturned a teacher’s conviction on a procedural error, but used the occasion to justify his doctrine of strictness against teachers who punished excessively. Teachers who abused their students, the Judge warned, risked “retaliation and breaches of the peace.” It was, he claimed, a “matter of public policy” for the courts to punish abusive teachers. If the law against excessive punishment was properly enforced, Stuart explained, outraged parents would have “no apology for taking redress into their own hands.” If the law was loosely or “indulgently” administered, he warned, “the tendency is to stimulate the aggrieved to seek personal redress.” Judge Stuart believed that in cases involving corporal

---

<sup>83</sup> *Cooper v. McJunkin*, 4 Indiana Reports , 290-294 (May Term, 1853).

punishment courts and juries should hold “a strong and stern hand” over teachers who abused their positions.<sup>84</sup>

The struggle for power in the classroom could extend, at times, on to the grounds of the surrounding community. In Lander v. Seaver a Vermont judge ruled in 1859 that teachers could punish pupils at school for misdeeds they committed when off of school property. After school hours, as he drove a cow past his teacher’s house, an eleven year old boy disrespectfully addressed school master “old Jack Seaver” in the presence of some fellow pupils. The next morning at school Seaver reprimanded the boy, whipped him with a rawhide, and a circuit court found him guilty of assault. Overturning the conviction, the state Supreme Court ruled that teachers had the right to punish students for acts that detracted from the “good order and best interest” of schools, whether committed during school or after a student had returned home.<sup>85</sup>

Students could also be the victim of conflicts between parents and teachers. In 1872 a Wisconsin boy, instructed by his father to study only reading, writing, and arithmetic, was whipped by his teacher for refusing to study geography. Forced to decide whom to obey, his father or his teacher, the boy heeded the former only to face the wrath of his teacher. The boy’s father, who had advised her of his wishes before the term began, then swore out an assault and battery complaint against the teacher.<sup>86</sup>

The circuit court judge had little sympathy for the plaintiff. At the motion of the defendant, Ms. Morrow, the court discontinued the case without his consent. Not letting the matter rest, she charged the boy’s father, Mr. Wood, with malicious prosecution. The circuit judge, as Morrow v. Wood went to trial, instructed the jury that “when a parent sent his child to a district school, he surrendered such authority over his child as is necessary to the proper

---

<sup>84</sup> *Gardner v. The State*, 4 Indiana Reports, 632-635 (November Term, 1853).

<sup>85</sup> *Lander v. Seaver*, 76 American Decisions 156-167 (May, 1859).

<sup>86</sup> *Morrow v. Wood*, 19 American Reports, 471-475 (June Term, 1874).

government of the school,” including “the classification and instruction of the pupils.” The jury was sufficiently impressed by the judge and Ms. Morrow’s complaint to convict Wood on the charge. Once a plaintiff in an assault case, then a defendant found guilty of malicious prosecution, Wood appealed his conviction to the Supreme Court of Wisconsin.

In 1874 Judge Cole of the state’s high court reversed the lower court ruling and ordered a new trial in Morrow v. Wood. He held that parents had “a right to make a reasonable selection from the prescribed studies” for their children. Cole regretted the dilemma placed on the boy by parent and teacher, concluded that Ms. Morrow “exceeded any authority which the law gave her, and ruled “the assault” on young Wood “unjustifiable.” Vindicating Mr. Wood, and his boy, Cole’s decision suggested that teachers might be liable for assault if they used corporal punishment to enforce rules that courts determined to be unreasonable.<sup>87</sup>

As courts established the limits of public school authority older students did not escape punishment. If the *in loco parentis* doctrine underpinned corporal punishment for children in public schools then what justification did teachers have to punish adult students who misbehaved? In 1847 a Maine judge ruled that a twenty one year old man who refused to leave a teacher’s desk was “lawfully removed by the master.”<sup>88</sup> In 1874, an Iowa woman charged her teacher with assault and battery, and a justice of the peace found him guilty. He then appealed to a district court, where he was tried by a jury, and was again convicted. The teacher took his case to the Iowa high court of appeals which, in 1876, reviewed the record and the lower courts’ decisions. The plaintiff, Ida Brummer, testified that she was twenty years old when she began attending school but was aged twenty-one when whipped by her teacher. Due to her majority the

---

<sup>87</sup> In an 1888 Indiana case, *State v. Vanderbilt*, the state Supreme Court reversed a lower court decision acquitting a teacher on assault charges who had whipped students that were unable to pay for school property they had broken. Teachers could not make unreasonable rules, the judge held, and enforce them by chastisement. 18 Northeastern Reporter, 266 (1888).

<sup>88</sup> *Stevens v. Fassett*, 27 Maine Reports 266-284 (May Term, 1847).



lower courts refused the defendant an opportunity to prove that the whipping was reasonable chastisement. Judge Day of the Iowa Supreme Court reversed their decisions and ruled that older students could not claim the privilege of attending school and be exempt from the liability to punishment. Older students who attended school, Day reasoned, created “a relation of teacher and pupil,” and by claiming “privileges and advantages belonging only to those under age,” they waived any privilege which their age conferred. The lower court decisions in State v. Mizner suggest that Iowans were uncomfortable with a school master whipping an adult female, enough so, that they denied Mizner a chance to prove that his punishment of Ida Brummer was reasonable. Judge Day, however, ruled that their discomfort with these circumstances was outweighed by the risk of creating a “privileged class of young ladies, between the ages of eighteen and twenty-one years, entitled to all the privileges of school, but not subject to the same discipline and authority as the other pupils.”<sup>89</sup>

If the law allowed moderate chastisement, it begged the question, who, or what principle, determined the limits of moderation? A Maine Supreme Court judge ruled in 1886 that courts should give teachers “considerable allowance” as they exercised their discretionary powers but faulted a lower court standard for rating penal severity that he saw as overly permissive. In Patterson v. Nutter the judge acknowledged that, even “reasonable” persons, “much difference prevails” as to what circumstances justified the infliction of punishment. Because “the manner, look, tone, gestures, and language of the offender” were “not always easily described,” the master, he held, “should have the benefit of the doubt” about whether or not punishment was excessive. The judge rejected, however, the standard used by the lower court to determine excessive punishment – “that all hands at once say it was excessive.” That rule, he feared, permitted a teacher to punish students until it “became so great as to excite the instant

---

<sup>89</sup> *State v. Mizner*, 24 American Reports, 769-773 (December Term, 1876).

condemnation of all men, - the stupid and the ignorant, as well as the rational and the intelligent.” The “true criterion,” he asserted, as expressed in Lander v. Seaver (1859) was “the general judgment of reasonable men.”<sup>90</sup>

A Texas judge ruled that teachers could whip students for refusing homework. In 1887 a Texas teacher, Alexander Murphree of DeWitt County, sent each of his students home with two math problems to work overnight. All the students, except one boy, completed their assignment. Murphree then assigned his students two more problems and warned he would whip anyone who did not comply. The following day, the same boy returned to school and claimed that he would work the problems at school if allowed, but again had refused to work them at home. Murphree then struck the boy one blow with a switch, “when the defendant drew a butcher knife, and stabbed the teacher under the shoulder blade, and in the thigh.” In Balding v. State, Judge Willson of the Texas high court upheld the boy’s conviction on a charge of assault with deadly intent and affirmed that teachers had the power to prescribe and enforce “reasonable rules and requirements, even while the pupils are at their homes.”<sup>91</sup>

Another 1887 ruling by Judge Willson gave teachers wide latitude to regulate student behavior, when in, or out of school. Another Texas teacher, who had prohibited students from fighting, whipped several boys for fighting although the fight had occurred away from the school house and outside of school hours. A Burnet County court convicted him of aggravated assault and battery on a nine year old boy. Judge Willson, noting that the teacher had used a “switch of reasonable size, and struck him about nine licks on the legs, inflicting no severe bruises, abrasions, or other serious injuries,” ruled that the facts did not sustain the conviction. “That the punishment was inflicted for an infraction of a rule of the school,” he wrote, “committed away

---

<sup>90</sup> *Patterson v. Nutter*, 7 Atlantic Reports, 273-275 (December, 1886).

<sup>91</sup> *Balding v. State*, 4 Southwestern Reporter, 579-580.

from the school-house, and not during school-hours, did not deprive the teacher of the legal right to punish the pupil.” Possibly still alarmed by the violent assault on school authority that came before his bench in Balding v. State, Judge Willson commented that the case at hand was “merely an ordinary whipping with a small switch, such as many parents inflict upon their refractory boys, and such as perhaps should be more common among parents and teachers.”<sup>92</sup>

An Indiana case established that an “ordinary whipping” by a teacher could leave cuts and bruises. On a winter day in 1887 a teacher, aged eighteen, instructed his pupil, aged sixteen, to fetch wood for the school-room stove. While near the stove the boy made “antic demonstrations” that broke up the class lesson. As punishment the teacher made the boy stand by the stove for the remainder of the day. When the boy left school, believing himself “liable to take cold,” he put on the teacher’s coat over his own and proceeded home. After consulting the school trustee, the teacher gave the boy the option to take a whipping or to leave school, and after consulting his family the boy chose the whipping. A few days after administering the punishment, which left marks and abrasions, the teacher was arrested and taken before a justice of the peace who tried and convicted him. The teacher appealed his conviction to the county court, which found him guilty, but fined him one cent. Despite the token punishment handed down by the court, the teacher appealed his conviction, and in 1888 the case was heard by the Indiana Supreme Court.<sup>93</sup> Representing the high court, Judge Niblack ruled that the evidence in the case did not justify an assault conviction, and reversed the lower court convictions. It did not “necessarily follow,” he wrote, “that because pain was produced, or that some abrasion of the skin resulted from a switch, a chastisement was either cruel or excessive.” Students whipped by

---

<sup>92</sup> *Hutton v. State*, 5 Southwestern Reporter, 122-123.

<sup>93</sup> *Vanvactor v. State*, 15 Northeastern Reports, 341-343.

their teachers, he noted, could not expect that “chastisement would be a merely formal and painless ceremony.”

Educators who helped and encouraged teachers to abuse their students were also liable to be prosecuted or sued for damages. In the winter of 1900, Dollie Grigsby taught school in Audrain County, Missouri. Court records suggest that she was tough on her pupils, particularly the younger ones, and had never held a teaching job for more than a one term. One January morning, while the school was at recess, Grigsby enlisted the support of two school administrators to discipline a student. She also insisted that Everat Haycraft, aged eleven, remain in the classroom to witness the proceeding. Grigsby stated to several witnesses that Haycraft was not guilty of any misbehavior at the time, claiming she had “conquered” him and he had since been well behaved, but she wanted him to hear the lecture by the school directors.

The episode that followed illustrated some of the troubling aspects of corporal punishment as the standard form of school discipline. During the lecture, when Grigsby noticed Haycraft talking to another student and scratching his desk, she told him to come forward for a whipping. He responded slowly, and as she started towards him, he brandished the handle of a broom and struck at her. She recoiled, and sent Haycraft home, but another student said he was too small to go home and stopped him at the door. An administrator then grabbed the boy and Grigsby whipped him severely. Minutes later, the class gave a recitation, and Grigsby told Haycraft to read what he had on his slate. At the time, she noted that he had his lesson “nicely written out,” showing that he had been studying. Haycraft, however, was unable to read and was “crying and sobbing.” Grigsby, who later claimed he was “sulky,” then struck the slate from his hand to the floor and broke it. She then gave him “an extremely severe flogging,” beating Haycraft as he huddled in his seat. Witnesses later testified that Grigsby reversed her switch and

used the heavy end to beat the boy, leaving him “badly striped and bruised” with blue and green marks that showed for over a week, and a lump on his head “the size of a walnut.” The administrators helped Grigsby assault Haycraft: One stopped him from leaving and brought him to be whipped, and the other exhorted the teacher “to give it to him,” and later swore that he “did not think she gave him enough.”<sup>94</sup>

At its worst corporal punishment created a sadistic culture in which teachers subjected their pupils to systematic psychological and physical abuse. After the Audrain County Circuit Court found in favor of the defendants, attorneys for the plaintiff sought damages before the Missouri Supreme Court in April, 1901. Judge Goode authored its reversal of the lower court’s ruling in Haycraft v. Grigsby, et al., holding that teachers and “all who encourage, aid, and abet” them were liable for damages, if they inflicted excessive punishments. The facts of the case, he observed, left “a strong impression that this lad was maltreated and that while he may have needed correcting the first time, unnecessary harshness was shown toward him afterwards.” Judge Goode appealed to the familiarity of his readers with the horrific fictional schoolhouse in Charles Dickens’ Nicholas Nickleby (1839), commenting that “the age of the child, the participation of one pupil in the affair and the punishment of two other boys” that same morning made “the occasion smack of Dotheboys Hall.” The facts in Haycraft v. Grigsby, et al. suggest, as one attorney for the plaintiff stated, that “this was as far as a teacher could go in the darkest and most barbarous day.” Dollie Grigsby’s itinerancy, her targeting of younger pupils, and her relentless attempts to dominate, or “conquer,” her pupils, despite their acquiescence, all characterized the atmosphere of violence in many nineteenth century American schools. Teachers who proved themselves able beat their pupils moderately, and with equanimity, commanded the respect (and fear) of their students and the community. Teachers like Dollie

---

<sup>94</sup> *Haycraft v. Grigsby*, 88 Missouri Appeal Reports (March Term, 1901), 354-363.

Grigsby, who lost her sense of fairness and moderation when punishing students, were unable to manage their classrooms and struggled in their careers. Older children recalcitrant to school authority might brag to their peers, or even their parents, of victory over their hapless tutors, but youngsters like Everat Haycraft were victims of school violence, prone to be scarred and traumatized by their experiences with formal education.

Teachers who administered whippings were not liable for any injuries sustained by students, unless there was proof the teacher acted with malicious intent. Even if they meant well, however, school officials were occasionally liable for damages if they caused severe injuries pupils when disciplining students. In a 1904 North Carolina case, for example, a teacher threw a pencil at a student who was not paying attention to the lesson. The pencil struck the pupil in the eye causing him extreme pain and partial, if not total, blindness. The teacher claimed that he was exercising his right of correction without intending to cause any injury, but the state Supreme Court judge ruled that he was liable for damages, reasoning that a prudent person should have known that injury or damage could result from such an act.<sup>95</sup>

Students who forcibly resisted abusive teachers could invoke the right to self-defense. Ray Dill, aged 14, of Parker County, Texas, claimed self-defense after he stabbed his teacher in 1919. His teacher, George Cooper, took Dill off the school grounds to whip him in the woods where Dill stabbed him once with a pocketknife. Cooper renewed his assault and Dill then hit him on the head with a rock. A few days later, Cooper died from his stab wound, and Dill was eventually convicted of manslaughter in county court and sentenced to two years in the state prison.

In 1920, Dill appealed his conviction to the Texas Supreme Court, and won a new trial. If Cooper had whipped Dill in a way that “showed revenge or malice,” a judge reasoned, he

---

<sup>95</sup> *Drum v. Miller*, 47 Southeastern Reporter, 421-426.

forfeited his “right of chastisement and the boy’s right of self-defense became an issue in his favor.” If students believed that a teacher meant to discipline them not for a violation of the rules but out of revenge, he ruled, their right of self-defense inured. The court gave Dill a new trial and specified that if he was convicted again, as a minor, he would be committed to a reformatory and not the state penitentiary.

Dill v. State, and other cases that involving retaliation by students, supported criticisms of corporal punishment that violence bred violence. At the very least, pupils who felt abused or picked on by their teachers restrained themselves from complaining or lashing out, and contained their frustration and resentment. Students who were less patient and tolerant, or less fearful, risked being drawn by their teachers into violent exchanges with uncertain outcomes.

By the early twentieth century, state courts had underpinned and refined the common law doctrine of *in loco parentis*: by the act of sending a child to school, parents delegated to teachers the power to discipline their children, in the interest of good conduct and order in the schools. Jurists agreed that teachers, acting in good faith, could inflict reasonable corporal punishment on students for offenses committed in the jurisdiction of educational authorities. That jurisdiction, they ruled, extended to offenses committed off the school grounds. No students, even those aged twenty-one or older, were exempt from punishment. It was the responsibility of teachers to adjust their punishments to the offenses of their students, as well as to the age and size of the offender, and teachers who whipped their pupils in excess could face civil liability or criminal action. As the century progressed, as more pupils and their parents challenged the legality of corporal punishment in schools, authorities increasingly called upon judges and juries to decide what violent acts of correction were lawful.

American courts left teachers responsible for keeping their punishments within legal limits. Unless students could demonstrate a permanent or lasting injury from their whippings, or that teachers punished them with ill will, they had no recourse to civil damages or the protection of criminal laws. Teachers enjoyed the presumption of educational and legal authorities that their conduct was just: “The assumption,” stated one treatise on education and law in 1955, was “always in favor of the teacher, and it must be affirmatively shown that the punishment was clearly excessive and unreasonable.” If there was “any reasonable doubt as to the reasonableness of the punishment,” its author added, “the teacher should have the benefit of the doubt.” If teachers whipped students, and injuries resulted that were not foreseeable by a careful person, teachers were not liable for damages. As long as teachers acted honestly, and in good faith, they could punish pupils as they saw fit. Courts did, however, hold that excessive or cruel punishments could, of themselves, be proof of malice.<sup>96</sup>

Students who challenged the legality of their punishments faced imposing obstacles. The high cost of litigation, and the risk of reprisals, could deter parents and their children from filing lawsuits and criminal complaints. To initiate the legal process, they needed parental support, neutral parties to substantiate their injuries and a law enforcement official willing act on their complaint. Litigation required courage and humility of aggrieved students to endure numerous examinations of their physical injuries. The involvement of parents, teachers, administrators, and other witnesses increased the likelihood that corporal punishment cases became a public controversy. The process jeopardized the careers of offending teachers and forestalled the education of the victims and schoolchildren on the periphery.

Litigation over school discipline, however, was a policy problem for educators. It drew attention to the risks of corporal punishment, and its potential financial liabilities, burdening

---

<sup>96</sup> Newton Edwards, *The Courts and the Public Schools*, (Chicago: U. of Chicago Press, 1955), 611-613.



school officials as much as questions about its morality and effectiveness. Administrators that spoke to why their schools ended the practice often mentioned the threat of litigation. Those who advocated changes in policy often did so in response to legal problems rather than moral concerns with the practice. Constitutional challenges eventually propelled corporal punishment cases into the federal courts, but throughout the era of corporal punishment in American schools, state courts had the task of interpreting the law (without the power to change it) and school administrators parried perpetual threats of litigation.

In 1941 an observer of education law attributed a decrease of corporal punishment cases to the “good sense and understanding” of educators who had “devised more effective and humane means of enforcing discipline.” Citing “progress in child psychology,” he concluded that “the necessity” for school spanking might soon “all but disappear.”<sup>97</sup> Despite such optimism, corporal punishment litigation, until late in the twentieth century, was a national problem that provoked educators and parents to question the efficacy of whippings and paddlings in American schools.

---

<sup>97</sup> Robert R. Hamilton and Paul R. Mort, *The Law and Public Education with Cases*, (New York: The Foundation Press, 1941), 473.

## Chapter Four: Progressive Trends in Social Science and Education

Early in the twentieth century professional opinions on corporal punishment in education had become polarized. A New York City principal observed in 1912 that the “majority” of people against corporal punishment were “educational theorists” or educators who were “not directly concerned with or responsible for the discipline of boys.” The “theorists,” appealing to “popular prejudices,” had won some legal prohibitions on spanking. “The practicalists,” in turn, with “technical insight and experience,” were “not on the popular side of the question” and had opposed prohibitions. The “practicalists,” he claimed, could show that “in most cities the education of hundreds of pupils” had been “seriously hampered” by the bans on spanking. “The opposition of these two forces, the theorists and the practicalists,” he concluded, “must eventually result, either in the defeat of the theorists or in the discovery of some more satisfactory substitute for corporal punishment.”<sup>98</sup> In 1917 an Illinois professor thought that while the “reaction against corporal punishment” had been “carried too far,” it had led to “sane restrictions” and showed “the necessity for curtailing the practice.” He advised that schools devise a “standard” method of spanking, with principals sanctioning and executing the punishments. Whether or not whippings were more effective inflicted in the presence of other students, he judged, teachers could decide. Exhibitions of brute strength, he reasoned, might

---

<sup>98</sup> Arthur C. Perry, *The Management of a City School*, (New York: Macmillan, 1912), 281.

“strike fear into the hearts of witnesses,” but “morbid interests” were aroused that tended to “brutalize the onlookers.”<sup>99</sup>

The “practicalists” had notable defenders. “Today,” opined H.L. Mencken in 1928, “the old pedagogy has gone out, and a new and complicated science has taken its place.” Mencken associated declines in corporal punishment with the growth of pedagogical science and the influence of teary-eyed female reformers. New practices, he complained, had undermined the mutual respect teachers and pupils and rendered school masters effeminate and spiritless. “I believe,” he wrote, “that things were better in the world before maudlin harridans, searching the world for atrocities to put down, alarmed the school boards into abolishing corporal punishment.” He believed that it “preserved the self-respect of the teachers, and so tended to make the boys respect them.” Mencken recalled from his school days that the right to whip students was a masculine prerogative: “The teachers in the school were not only respected by the boys, but more or less liked. The males among them seemed to be men, not milksops.” The idea that it was “degrading to boys,” he thought, was “silly.” Like many supporters of school house whippings, Mencken claimed that he benefited from them, and favored, with characteristic hyperbole, a return to the good old days: “I suggest hanging all the professors of pedagogy, arming the ma’am with a rattan, and turning her loose.”<sup>100</sup> Corporal punishment for teachers, Mencken suggested, was a socially purposeful expression of masculinity available to women and men.

“Theorists” drew their critique of corporal punishment in education from developments in social science. Modern psychological thinking held that painful punishments caused children

---

<sup>99</sup> William C. Bagley, *Classroom Management: Its Principles and Technique*, (New York: Macmillan, 1917), 129-130.

<sup>100</sup> Alistair Cooke, Editor, *The Vintage Mencken*, (New York: Random House, 1955), 183-185. Originally from the *Baltimore Evening Sun*, October 8, 1928.

to feel inferiority and low self-esteem. In 1936 a professor of psychology argued that a significant source of “inferiority attitudes” was the “pain-punishment technique of discipline by parents and teachers.” Painful punishments, scolding, criticism and threats, he claimed, made “the very sight of the material” a “stimulus for a disorganized emotional response.” The professor observed that the term “discipline” had been “perverted to mean an orderliness repressively imposed by authority.” Discipline, he noted, had become synonymous with “to punish.” Such a misconception, he believed, was a survival of “the mistaken medieval notion” that discipline could only be achieved through pain and deprivation. Though asceticism had “almost vanished from the philosophy of modern life,” the professor noted that “many schools perpetuate it unwittingly,” because “poorly trained teachers find it easier to suppress pupils than to guide them.” Most disciplinary infractions that plagued teachers, he believed, stemmed from the “inherent faults of the suppressive regime of the conventional classroom.” He recommended that “punishment for failure” be “discontinued at once and replaced by praise for accomplishment.”<sup>101</sup>

American ideas about education were changing in the twentieth century. Education theorists and psychologists, led by John Dewey (1859-1952), discovered that children learned more efficiently when teachers encouraged their innate curiosity rather than reinforcing rote memorization of static lessons with rigid discipline and corporal punishment. Traditional methods of learning, wrote Dewey, “achieved in the pain and toil of the ages,” risked the “suppression of individuality though tyrannical despotism.”<sup>102</sup> Dewey and other progressives believed that education was not an end in itself but a process that enabled children and adults to solve problems in everyday life. Widely regarded as a pioneer of progressive education, Dewey

---

<sup>101</sup> Frederick L. Schaffer, *The Psychology of Adjustment: An Objective Approach to Mental Hygiene*, (Boston: Houghton Mifflin, 1936), 151, 501-511.

<sup>102</sup> John Dewey, *The Child and the Curriculum*, (Chicago: University of Chicago Press, 1902), 10.

used games and other forms of play to achieve educational successes in his University of Chicago laboratory school that won him international acclaim, and shaped the basis of modern educational methods.

Other new scholarship examined the cultural contexts of physical punishment. In 1938, George Ryley Scott published The History of Corporal Punishment, and challenged readers to grasp the “historical, religious and anthropological aspects” of the subject. Books on the topic, he pronounced, were “often little more than collections of anecdotes dealing instances of spanking refractory children or religious fanatics.” Others, he claimed, were “frankly pornographic” and “sold at ridiculously high prices by dealers in erotica.” Corporal punishment could only be understood as a social phenomenon, Scott believed, by “linking up the psychological aspects with the religious and so-called punitive aspects.” Ryley focused on the sexual aspects of flagellation. “It would have been easy,” he wrote, “to ignore the sexual side and all its implications, as so many writers on the subject of corporal punishment have done before.” A “most pernicious” feature of the practice, he believed, was its “pandering to the sadistic element in mankind” and its awakening of the “sexual libido.” The corporal punishment of children, Ryley claimed, was “likely to be accompanied by unhealthy sexual excitation.” This alone, he concluded, made it “out of tune with modern scientific and reformatory educational trends.”<sup>103</sup>

While domestic issues like school discipline all but disappeared during wartime, school discipline reformers believed that changes in school discipline were a virtue of American democracy. In 1944 one educational psychologist, noting a contrast with “Nazi education” and “Nazi social philosophy,” advocated “democratic discipline.” Unlike discipline based on “obedience to a Fuhrer,” he recommended respect for humanitarian ideals and the “*inherent*

---

<sup>103</sup> George Ryley Scott, *The History of Corporal Punishment: A Survey of Flagellation in its Historical, Anthropological, and Sociological Aspects*, vii, p. 94.

*dignity and rights* of every human being, rather than discipline attained through humiliation of the undisciplined.” Americans, he believed, had moved from “primitive punitive concepts” to “concepts of correction,” whereas physical punishments had “naturally flared up under the Nazi philosophy.”<sup>104</sup> Like civil rights advocates during wartime, opponents of corporal punishment tied their reform movement to an ideological conflict between authoritarianism and democracy.

Not all psychologists, however, dismissed corporal punishment. In 1946 two condemned “extreme” methods but endorsed “milder” punishments administered by a “well-poised” and “unemotional” adult. They advised that only “*those children who do not resent it*” should be spanked.<sup>105</sup> Even as they endorsed spanking, the conditions in which psychologists recommended physical punishment was increasingly restricted.

Behaviorism, a philosophy of psychology that gained currency early in the twentieth century, rejected spanking as a form of reinforcement. Its best known advocate, B. F. Skinner, denounced all punishments in Walden Two (1948), a utopian novel that imagined a community based on principles of behavioral conditioning.

Skinner believed that a “critical stage in the evolution of society” was emerging that was distinguished by a “behavioral and cultural technology based on positive reinforcement alone.” Humans had learned that punishment did not decrease the chance that “an act” would occur. Subjects, he claimed, would “still *tend* to repeat it. He’ll *want* to repeat it.” Skinner named Jesus as “the first to discover the power of refusing to punish,” and in language that evoked conflict over social values, proclaimed that humans were “in the throes of a great change to positive reinforcement - from a competitive society in which one man’s reward is another man’s

---

<sup>104</sup> George V. Sheviakov, and Fritz Redl, Fritz, *Discipline for Today’s Children and Youth*, (Published by the Dept. of Supervision and Curriculum Development, National Education Association, 1944), 9.

<sup>105</sup> Luella Cole and John Morgan, *Psychology of Childhood and Adolescence*, (New York: Reinhart & Co., 1947), 143.

punishment, to a cooperative society in which no one gains at the expense of anyone else.”<sup>106</sup> It required no imaginary leap for Skinner’s readers to see his theory on the failure of punishment in the context of ideological conflicts over economic and social philosophy, or between the bible and behavioral science.

Another psychologist who questioned the use of force studied its effects on educators. In the same year that Skinner published Walden Two, Paul Reiwald observed “affective reactions” that arose when teachers used force. An educator’s “emotional outbreak,” he argued, was “inseparable” from the use of force. Teachers dropped their “well-balanced attitude,” met “affect with affect,” and were “dragged down to the level” of their subjects. This “emotional acting-out,” he claimed, was their “charge’s triumph.” Rather than questioning the use of force, Reiwald noted, educators searched for rationalizations to justify it and emphasize its developmental effects. “The crying need,” he believed, was “to investigate the effects of force on those who resort to it.” The answer was “unequivocal,” he concluded, that the effects were detrimental.<sup>107</sup>

The debate over discipline among educators heated up with the expansion of American primary and secondary schools after World War Two. Corporal punishment caused tensions between educators, at school, and in the education profession. In 1949 one New York state education official disabused “school folk” who “kid themselves that corporal punishment is a thing of the past” and “would like to believe that it no longer exists in the schoolroom except in isolated cases.” Frederick J. Moffit saw discipline problems on the rise, a result of overcrowded and inadequate facilities, overworked, underpaid, and unprepared teachers, “overzealous” administrators, “a lack of community understanding,” and the “be-bopation of the youngsters of

---

<sup>106</sup> B. F. Skinner, *Walden Two*, (New York: Macmillan, 1948), 244-5.

<sup>107</sup> Paul Reiwald, “Non-Violence and Self-government in Training Schools and Penitentiaries,” in *Searchlights on Delinquency: New Psychoanalytic Studies*, ed. K. R. Eissler, (New York: International Universities Press, 1949), 371-2.

the postwar period.”<sup>108</sup> Those conditions, Moffit regretted, insured that “undesirable pupil behavior and resulting strong-arm methods” were “increasing every day.” Moffit saw school spanking as “the expression of an unchanging, authoritarian system” that countered a “modern democratic approach to education.” Children could be forced, by blows, to learn “the multiplication table.” They would, he believed, “also learn to loathe the subject, the teacher, and the school; to fear, to hate, to lie, and to cheat.”<sup>109</sup> To progressives like Moffit, the decline of corporal punishment in schools was linked with the ascent of democratic values, in contrast with a “by-gone” and “completely foreign” system of education.

The school spanking reformers had detractors. In an era of larger schools, and in some cities increasingly diverse student bodies, male teachers who relied on whippings to discipline pupils struggled to adapt. With the threat of lawsuits, some administrators may have preferred women teachers whom they believed to be less violent with students than male veterans. In 1951 one California educator sympathized with men who were passed over for teaching positions and lashed out at principals “discriminating against men” with “six to one” ratios of “women to men” in their schools. J. R. Shannon of Sacramento State College believed that men were being left out of the state’s fast-growing elementary and secondary schools. “Teaching is a Man’s Job,” protested Shannon, and “when we say *men*, we mean MEN in capital letters. Strong men—strong in character, strong in character, strong in will, strong in understanding and kindness and self-control, and when it becomes necessary, strong in physical force and stamina.”<sup>110</sup>

Men, Shannon reasoned, were physiologically suited to administer corporal punishment. It was a mistake, he believed, to deny teachers that last resort, as it was “needed often enough to justify its retention.” Shannon jibed that administrators, “sitting in swivel chairs in their offices,”

---

<sup>108</sup> Frederick J. Moffit, “Hickory Stick Blues,” *The Nation’s Schools*, Vol. 43, February, 1949, 34-35.

<sup>109</sup> Frederick J. Moffit, “Lickin’ and Larnin,” *The Education Digest*, Vol. 14, February, 1949, 20-22.

<sup>110</sup> J. R. Shannon, “Teaching is a Man’s Job,” *American School Board Journal*, September, 1951, 39-40.



failed to “counsel with teachers, to know when corporal punishment is justifiable” or to “serve as a medium between the school board and the teachers to make sure that a flock of roughnecks are not running rampant in the schools...” Shannon vouched for generations of schoolmen who believed that they could only “succeed by more civil methods after” they “had once demonstrated” they “could succeed by the more primitive sort.”

Shannon’s “primitive” methods offended critics who thought they were undemocratic, inhumane, and out of step with modern thinking that punishments should rehabilitate. To sway young teachers or others who doubted its efficacy he offered a vignette that intended to convey the nobility, and the practicality, of physically dominating pupils. His story also summoned ethnological apologies for corporal punishment in American education. Americans of British ancestry, Shannon explained, had a tradition of corporal punishment and expected teachers to uphold it as they kept order in the classroom.

Shannon’s tale also tapped into the mythology of the frontier schoolhouse. At some point in a teacher’s career, he warned, they would face students who were not, by nature, “docile and studious.” His protagonist, a teacher with some experience, “Mr. Sherman,” struggled in a rural Indiana school where students defied authority, and the previous teacher was “run out.” A thoughtful pupil took Sherman aside and confided that he “didn’t ride” them enough. “Do you mean,” the teacher asked, “that I must manhandle you like the Hoosier Schoolmaster in the pioneer days?” The boy replied:

I don’t mean anything else. I suppose you know why Mr. Mundell left. That talk of his about re-entering the university the second semester to do graduate work was a blind. The real reason was that things got out of hand. In other words he was run out. He was too little or too scared to tackle us.

Another community member in Shannon’s story added that the pupils were of English and Scotch ancestry and the town was “famous” for its discipline problem. “The British don’t have a

background of tradition for public education,” she explained, and “they tend to regard our American system with too little appreciation.” As a result, she offered, the public had “grown to expect and respect corporal punishment, and the teacher who doesn’t use it is regarded as a pantywaist.” Men who abstained from striking students were effeminate, according to Shannon’s moral, and lacked strength and courage.

His tale sought to persuade teachers who were wary of corporal punishment. “It gave Mr. Sherman a strange feeling,” he wrote, “whipping his first victim.” As the year passed, and many pupils were whipped, “Mr. Sherman was safe in easing external pressures,” as they had “learned to respond to more civil measures.” Shannon believed that once spanking was an established deterrent, as Sherman’s story showed, respect from pupils and the surrounding community followed. After Sherman whipped a group of bullies, the school janitor--who cut a fresh supply of willows daily--exclaimed: “Boy, O boy! I’m glad I lived to see this day. At last, we have a man on the job.”<sup>111</sup>

Shannon and others lashed out at what they saw as the feminization of public education. “America is reaping the harvest of its folly,” he complained, “a generation of unspanked brats.” Misguided parents, he believed, took “comfort” from “soft-spined pseudo psychologists” who claimed that corporal punishment produced “inhibitions in Junior, utterly regardless of the rights of friends and neighbors over whom he romps roughshod.” The decline of masculinity in the schools, Shannon reasoned, eroded respect for authority in society. “Is it any wonder,” he asked, “that America is experiencing an unprecedented wave of juvenile crime?”<sup>112</sup> An Ohio school superintendent agreed: “Some people have their brains in the seat of their pants, and the only way to reach the brain is by means of a board. No wonder there is a teacher shortage, when all

---

<sup>111</sup> J. R. Shannon, “The School of 1,000 Birchings,” *The Clearing House*, Vol. 26, September, 1951, 46-49.

<sup>112</sup> J. R. Shannon, “Teaching is a Man’s Job,” *American School Board Journal*, September, 1951, 39-40.

the sob sisters, both male and female, weep their tears over whether or not a kid should be paddled.” Another superintendent was ready to “toss the child psychology books out the window.”<sup>113</sup>

In the education profession, however, proponents of physical force like Shannon were on the defensive in the 1950s. Two professors of education commended school officials that banned corporal punishment and claimed that teachers and students in their districts fared “very nicely.” Painful punishments, they argued, violated “the known requisites for producing a psychologically justifiable result,” yielded only “anger, or panic, or bravado,” and set an example that might was right. Corporal punishment, they concluded, was a “denial of everything an educator should stand for.”<sup>114</sup>

In the 1950s, American educators faced new problems with school discipline, and juvenile delinquency. In 1955, MGM studios released the film *Blackboard Jungle*, a social commentary on teachers in an inner-city school. Its soundtrack featured “Rock Around the Clock” by Bill Haley and the Comets, a record which had garnered tepid sales earlier that year, but rose to number one on the Billboard charts for eight weeks as teenagers flocked to see the movie.<sup>115</sup> The plot centered on a school teacher (played by Glenn Ford) who contended with the anti-social behavior of inner-city students. The teacher was subjected to violence and duplicitous schemes by his students but ultimately prevailed in a classroom showdown and, despite offers from a private academy, remained at the inner-city school. In the opening scene, as the teacher interviewed for his new job, the principal adamantly protested there was no “discipline problem” in his school. A few scenes later, however, a veteran teacher remarked that if “you take a ruler to

---

<sup>113</sup> *The Nation's Schools*, Volume 58, Number 1, July, 1956, 57.

<sup>114</sup> Fritz Redl, Fritz, and William Wattenburg, *Mental Hygiene in Teaching*, (New York: Harcourt, Brace, and Co., 1951), 309.

<sup>115</sup> Todd Leopold, “The 50 year-old-song that started it all,”

<http://www.CNN.com/2005/SHOWBIZ/Music/0707/haley.rock>. CNN.com, accessed on September 20, 2011

one of these delinquents, he'll beat you to death with it.”<sup>116</sup> When a colleague claimed he would “clobber” a deviant student, the teacher (played by Ford) retorted “Would you? They outnumber you, they outweigh you, and they outreach you, besides, they get clobbered at home and in the streets. They're used to it.” By the 1950s, most school officials regarded corporal punishment as inappropriate for high school students, and *Blackboard Jungle* depicted school spanking as an ineffectual and counterproductive method of managing urban classrooms.

As school discipline problems mounted there were declarations that social conditions warranted a return to corporal punishment. In 1957 two educators noted that several educational associations and a state bar association recommended that schools resume the practice of “old-fashioned whippings.” They countered, however, that it had “no good effect” as a deterrent whether used “rarely, or as a last resort, or brutally.” The general public, they claimed, was “ignorant of the fact that the history of the typical delinquent” revealed “frequent and severe corporal punishment” and believed in “a return to the woodshed type of discipline in home and school.” The scholars acknowledged that in “rare cases” when students struck teachers, they would be “tempted to hit back,” but advised that teachers summon an administrator or a custodian to remove the recalcitrant.<sup>117</sup> Maintaining good judgment in the classroom, they suggested, required teachers to de-escalate situations that might lead to a violent encounter.

Critics of newer forms of discipline like Professor Shannon linked the decline of corporal punishment with the rise of juvenile delinquency. “There is a great deal of current controversy over corporal punishment,” wrote one school administrator, “and there seems to be a growing trend throughout the country to regard a return to its use in our schools as a partial answer to the

---

<sup>116</sup>*Blackboard Jungle*, Written by Richard Brooks, first released March 19, 1955, Warnervideo.com (2005).

<sup>117</sup> Norma Cutts, and Nicholas Moseley, *Teaching the Disorderly Pupil in Elementary and Secondary School*, (New York: Longmans, Green and Co., 1957), 35, 113.

problems of delinquency.”<sup>118</sup> The “major cause” of delinquency, they contended, was “the advent of newer concepts of discipline in the 1930’s.” As teachers and schools abolished physical discipline, critics claimed, classroom conduct disintegrated. Reformers countered that newer forms of discipline were “supported by psychological and educational research.” The rise in delinquency, they claimed, was due to “a complex of social ills.”<sup>119</sup>

Child psychologists, however, sided with reformers. Corporal punishment, one argued, was “self-perpetuating because no learning takes place and the cycle of crime and punishment renews itself interminably.” She noted that talk of spanking created “unrest and discomfort” at PTA meetings, and claimed that “nearly all” parents who spanked their children felt guilty about it. Those who justified the practice, she thought, were “defensive and embarrassed” about it. “Deep in the memory of every parent,” she believed, were “the feelings that attended his own childhood spankings, the feelings of humiliation, of helplessness, of submission through fear.” Such a parent, she concluded, could not “dispel the ghosts of his own childhood and uneasily reflects to himself that he is doing something to his child that had caused him the deepest resentment in his own early life.”<sup>120</sup> One educator confessed his guilt about whipping students. A junior high principal, who had not spanked students for fifteen years, doubted that it reformed anyone and saw that “in many cases it made for hard feelings.” It bothered him that one student he paddled would no longer speak to him, others ended up in reform schools and the state penitentiary, and others became infamous criminals.<sup>121</sup> Another child psychologist gave a more disturbing account. In a “small town” high school, he reported, a principal “publicly paddled”

---

<sup>118</sup> Knute G. Larson and Melvin R. Karpas, *Effective Secondary School Discipline*, (New York: Prentice Hall, 1963), 146-9.

<sup>119</sup> *Research Bulletin of the National Education Association*, Vol. 25, Number 4, December, 1957, 152.

<sup>120</sup> Selma A. Fraiberg, *The Magic Years: Understanding and Handling the Problems of Early Childhood*, (New York: Scribner and Sons, 1959), 252-3.

<sup>121</sup> Cutts and Moseley, *Teaching the Disorderly Pupil in Elementary and Secondary School*, 34.

two “older” high school boys: “They offered him little resistance, and they accepted his decision that their self-esteem should be attacked - and defended - in physical terms.” Later in the afternoon, the therapist claimed, “they murdered his wife.”<sup>122</sup>

Education psychologists of the nineteen-sixties embraced Skinner’s theory that punishment was not valid reinforcement in any setting. Punishment, they held, was essentially a different process from reinforcement. Reinforcement, the authors of one textbook explained, presented a positive reinforcer or removed a negative reinforcer to induce a behavioral response. Punishment, however, introduced a negative stimulus or removed a positive reinforcer in an effort to weaken or stop a behavioral response. When a stimulus is involved in strengthening a response it was reinforcement, they wrote, but when a stimulus was presented or withdrawn in an attempt to weaken a response, it was punishment. Punishment, they observed, did not permanently reduce “a tendency to respond.” Behavioral experiments showed that rewards could “stamp behavior in; but the converse, that through punishment it (could) be stamped out, does not hold.” Reinforcement, they concluded, was effective but “in the long run” punishment worked “to the disadvantage of both the punished organism and the punishing agency.”<sup>123</sup> Advocates of corporal punishment like Shannon may have regarded the behavioral indictment of paddling as double-talk, but for educational psychologists of the 1960s, it was mainstream thinking.

Educators struggled with the challenges of abolishing physical punishments. An education historian wrote in 1965 that “some teachers argue that psychologists fail to appreciate the problem of . . . keeping order in the classroom.” Appeals to reason, they held, received “but

---

<sup>122</sup> Edgar Z. Friedenburg, *The Vanishing Adolescent*, (Boston: Beacon Press, 1959), 65.

<sup>123</sup> Morris L. Bigge and Maurice P. Hunt, *Psychological Foundations of Education: An Introduction to Human Development and Learning*, (New York: Harper & Brothers, 1962), 327-8.

scant attention unless backed by a little physical emphasis – or the threat of force.”<sup>124</sup> An education professor observed that “in schools, the infliction of pain is regarded with increasing disfavour,” but “the major problem” with its abolition was “not so much how to do without it once it is abolished, but the difficulty of weathering the period of withdrawal among children who have been accustomed to it.” The author recommended a “gradual withdrawal, progressing up the school over a period of years.” Teachers who abolished the practice, he warned, faced “a difficult task,” requiring “much patience and perhaps some compromise.”<sup>125</sup> School officials who abolished spanking almost always introduced prohibitions on an incremental basis.

The trend in favor of new disciplinary methods created friction in the education profession. The importance of discipline had been “belittled in professional literature by extreme adherents of the progressive education school of thought,” one educator observed in 1965. These “radicals,” he noted, “themselves have been under attack as responsible for students’ lack of respect for constituted law and order.”<sup>126</sup> In debates over school discipline, supporters of traditional methods often resorted to accusing reform advocates of undermining school morale with their cause, and inciting new breaches of discipline among students.

In 1968, Skinner published The Technology of Teaching, which criticized the state of teaching--and corporal punishment--from his perspective as a behaviorist. “The cane is still with us,” he observed, “and efforts to abolish it are vigorously opposed.” He acknowledged that the “viciousness” it bred in “both teacher and student” had “led to reform.” This meant, he regretted, a shift to non-corporal measures of ridicule, scolding, sarcasm, criticism, and detention, ostracism, forced labor, or fines. While Skinner saw these as less objectionable than physical

---

<sup>124</sup> Atkinson and Maleska, *The Story of Education*, 244.

<sup>125</sup> Lawrence Stenhouse, Editor, *Discipline in Schools: A Symposium*, (New York: Pergamon, 1967), 36-7, 83, and 151.

<sup>126</sup> Atkinson and Maleska, *The Story of Education*, 244.

punishment, the pattern remained: students spent most of their day doing things they did not want to do. Aversive techniques in teaching, he argued, led students to escapism, tardiness, truancy, vandalism, and attacks on teachers by students. Skinner believed that aversive classroom control techniques culminated in the refusal of alumni to support educational institutions, anti-intellectualism in society, and “a general attack on all that education represents.”<sup>127</sup>

Not all psychologists agreed with Skinner that all forms of punishment were ineffective. “Punishment is useful,” one argued, “in that the cessation of the painful stimulation is reinforcing.” Individuals could “learn from fear,” he believed, “as well as any other emotion.” The author recommended detention, extra work, visits with administrators and expulsion, but not paddling. “It would be difficult to find the printed work of psychologists and educators advocating physical punishment in the classroom,” he noted.” Social condemnation of the practice and its “uncontrolled effects,” he concluded, led teachers to favor other methods of managing classroom behavior.<sup>128</sup>

The success of *Up the Down Staircase*, a fictional account of an inner-city school first published in 1964, showed that problems with the public schools plagued the American popular conscience. Its author, Bel Kaufman, portrayed the experience of an idealistic young English teacher who hoped to interest her students in classical literature. Frustrated with bureaucracy, overcrowding, inadequate facilities and materials, indifferent colleagues and student apathy, she quickly became discouraged and considered departing for a less strenuous position at a private school. Like the teacher protagonist in *Blackboard Jungle*, she changed her mind upon realizing that she made a positive difference in the lives of her students, opting to remain in an inner-city

---

<sup>127</sup> B. F. Skinner, *The Technology of Teaching*, (New York: Appleton-Century-Crofts, 1968), 96-99.

<sup>128</sup> William F. White, *Psychosocial Principles Applied to Classroom Teaching*, (New York: McGraw-Hill, 1969), 22.



public school. By 1966, the novel had reached its thirteenth printing, a screenwriter adapted it for film and stage presentations and students frequently performed the play in high school drama classes.<sup>129</sup>

Many Americans of the nineteen sixties believed that “discipline” was the most serious problem in their public schools. More respondents to a 1969 Gallup Poll named discipline as the biggest problem in public schools, ahead of problems with facilities, teachers, finances, and desegregation. “The greatest complaint against the schools of the country,” pollsters proclaimed, was “lack of discipline.” Americans saw a lack of proper discipline, they noted, as evidence of a poor education. “From a public relations standpoint,” Gallup concluded, “the biggest problem at the present time for schools is the matter of discipline. This is the greatest criticism the public makes of the schools and the school officials.” Pollsters noted that “undoubtedly the present importance of discipline in the minds of the people” was “the result of the rash of disorders on the college campuses of the nation – and in some high schools” but their survey also showed that Americans, like American educators, often disagreed on the subject of school discipline.<sup>130</sup>

The Gallup pollsters avoided the specific question of corporal punishment. The group asked Americans how they felt about “the discipline in the local schools,” was it “too strict, not strict enough, or just about right?” Their blanket use of the term “discipline” had to be interpreted by respondents. Many Americans traditionally associated school discipline with corporal punishment but others likely regarded the question as a general one. However they read the question, more respondents than not believed that school discipline was not strict enough, and only two percent thought it was already too strict. More men than women thought it was not

---

<sup>129</sup> Bel Kaufman, *Up the Down Staircase*, (New Jersey: Prentice-Hall, 1966)

<sup>130</sup> George Horace Gallup, *How the Nation Views the Public Schools; a Study of the Public Schools of the United States*, (Princeton, New Jersey: Gallup International, Princeton, 1969), 10-45.

Stanley M. Elam, Editor, *The Gallup Polls of Attitudes Towards Education 1969-1984: A Topical Summary*, (Bloomington: Phi Beta Kappa, 1984).

strict enough and more women than men thought it “just about right.” Respondents with less education tended to think schools not strict enough while those with more usually thought them “just about right.” Those with higher incomes tended to think discipline was “just about right” but those with lower incomes were more likely to respond “not strict enough.” Older respondents, especially those over fifty, were somewhat more likely to say schools were not strict enough. Two other demographic indicators showed that “non-whites” were more likely than whites to conclude that schools were not strict enough, and more residents of urban areas chose “not strict enough” than rural respondents, who tended to think school discipline was “just about right.”

Most teachers in the 1960s, especially males, approved of corporal punishment. Discipline was a top administrative problem at many schools and teachers were anxious about keeping order in their classrooms. “The inability to control pupils,” concluded one professor in 1965, was “by far the greatest cause of teacher failure leading to loss of position(sic).”<sup>131</sup> At the end of the decade the Research Division of the National Education Association conducted a “nationwide” survey of public school classroom teachers that asked if they favored “judicious use of corporal punishment as a disciplinary measure in school?” Almost two thirds of the respondents approved of it in elementary schools and almost half approved of corporal punishment in secondary schools. In 1960, 71.6% of teachers surveyed favored corporal punishment in elementary schools, dipping to 65.7% in 1969. The survey showed that teachers disagreed over its use in secondary schools, but “a considerably higher percentage of secondary than of elementary teachers” still wanted corporal punishment in secondary school. Despite

---

<sup>131</sup> Atkinson and Maleska, *The Story of Education*, 244.

disagreements among educators about its place in high schools, high school teachers were reluctant to surrender their power to use physical punishments.<sup>132</sup>

Many teachers were loath to surrender their prerogative of physical punishment but a new perspective was evident in the education profession. Of corporal punishment as school discipline, surmised one scholar, “perhaps too many words have already been written on this subject.” Courts had supported teachers in the use of corporal punishment but “we all know now,” he wrote in 1972, “that the scene has changed.”<sup>133</sup> The professor urged educators to use the “American Democratic Tradition” as a basis for school discipline. Literature in the education field had been infiltrated by host of titles that reflected the desire of educators to model their mission on pluralism, humanitarianism and democratic ideals, such as The Democratic Classroom (1954); Democratic Education Theory (1960); Toward Positive Classroom Discipline (1971); Humanizing Classroom Discipline (1972); and A Peaceable Classroom (1977). The trend reflected the desires of many educators to dispense with autocratic notions of classroom authority and their growing concerns about the safety of schools. Corporal punishment, they were convinced, represented the old way of doing things.

---

<sup>132</sup> *National Education Association Research Bulletin*, Volume 48, Number 2, April, 1970, 46-49.

<sup>133</sup> Knute Larson, *School Discipline in an Age of Rebellion*, (New York: Parker Publishing, 1972), 98-99.

## Chapter Five: *Ingraham v. Wright* – Paddling and the Supreme Court

“Today,” wrote University of Mississippi professor of education Robert Phay in 1971, “almost constant crisis attends our public schools.” Demonstrations, vandalism, and illegal drugs, he noted, were as much a part of schools as pep rallies, graffiti, and cigarette smoking had been in previous years. Phay cited the Vietnam War, the draft, and school matters such as dress, appearance, and smoking codes as sources of unrest in public education. The judicial protection of student rights, he believed, would be regarded by school officials “at best as a mixed blessing and at worst as a serious interference with internal school discipline and affairs.” The primary concern of the courts, Phay reminded educators, was that they treat students fairly and accord them minimum standards of due process of law.<sup>134</sup>

Early in the 1970s corporal punishment in education also faced new legal challenges and gained attention as a national problem. In a 1971 Dade County, Florida case, petitioners challenged the constitutionality of Florida laws permitting corporal punishment of students. In 1972 the American Civil Liberties Union (ACLU) and the National Education Association (NEA) issued reports condemning physical punishment in public schools. Their conclusions drew support from the literature of psychologists, experts in education and law, and parental groups who opposed school paddlings. The reports signaled a new phase of public recognition for corporal punishment in schools as a national problem and showed that many in the education, health, and law professions believed it was time to reformulate the disciplinary policies in

---

<sup>134</sup> Robert E. Phay, *Suspension and Expulsion of Public School Students*, (Topeka: National Organization on Legal Problems of Education, 1971), 1-2, 41.

American schools. Many anti-paddling advocates hoped that the federal courts would soon declare corporal punishment in schools unconstitutional.

The most important school discipline case originated in the South. James Ingraham, aged fourteen, attended Drew Junior High School in Dade County, Florida. On October 6, 1970, he and several other students responded slowly after a teacher asked them to leave the school auditorium. Principal Willie J. Wright, Jr., then took Ingraham and the others to his office for “licks”. When Ingraham protested his innocence, Wright called in two assistant principals, Lemmie Deliford and Solomon Barnes.<sup>135</sup>

The principals then beat Ingraham repeatedly. After removing their coats and wrist watches, the principals ordered the boy to take off his coat and empty his pockets. When Ingraham refused and stood up, Barnes and Deliford forced him face down, on to a table. As the assistant principals held his legs and arms, Principal Wright hit the fourteen year-old over twenty times with a wooden paddle. When finished, Wright told the boy to put on his clothes, and wait outside the office. Ingraham later testified that he then told Wright he was going home, who replied that if he did, the principal would “bust” him on the side of the head.

Ingraham sustained severe injuries. After returning home the boy saw that his backside was “black and purple” and “tight and hot.” His mother took him to a hospital, where a doctor diagnosed Ingraham with a hematoma, or a severe bruise on the buttocks. The doctor prescribed pain medicine, a laxative, sleeping pills, and an ice pack, ordering the boy to remain home from school for at least a week. On October 9, and again on October 14, a different doctor found a hematoma six inches wide that was still purple, swollen, and tender. More than a week after the

---

<sup>135</sup> Testimony of James Ingraham, *Ingraham v. Wright*, 498 Federal Supplement, 248, case number 71-23, Relevant Docket Entries, United States District Court, Southern District of Florida, 70-72, in *Corporal Punishment in American Education*, ed. Irwin Hyman and James Wise (Philadelphia, PA: Temple University Press, 1979), 173-178.

beating, the doctor ordered that Ingraham stay home another three days, and the boy later testified that “it was painful even to lie on his back” and that “he could not sit comfortably for about three weeks.”<sup>136</sup>

Roosevelt Andrews and Rodney Williams attended Drew Junior the same year as James Ingraham. Andrews testified that, in that year, Assistant Principal Barnes paddled him approximately ten times. Barnes, he claimed, paddled him four times in twenty days, causing the boy to lose the use of his wrist and arm for a week. Williams, who allegedly misbehaved in the school auditorium, received a severe beating at the hands of Barnes. After Williams refused a whipping Barnes beat him across the head and back, and as the boy begged for mercy, Barnes removed his belt and hit Williams with the belt and the buckle. A few days later Williams saw a doctor who anesthetized him and lanced a protruberance on his head. Williams missed a week of school, bore a scar on his forehead, and later paddlings caused him to cough up blood.<sup>137</sup>

The event that led to the lawsuit was probably not the first time teachers paddled the boys. Ingraham and Andrews, at least, were not model students. Ingraham had a history of fighting and tardiness, and was also paddled for stealing a bicycle, a charge he denied. Andrews had been punished for fighting, running in the hallways, leaving class early, eating in class, and refusing to dress for gym class.<sup>138</sup>

On January 7, 1971, Ingraham and Andrews filed complaints with the United States District Court for the District of Florida. The first two counts sought individual damages for the injuries Ingraham and Andrews sustained in October 1970. The third count, on behalf of all Dade County students subject to corporal punishment, asked that the court enter a judgment finding the

---

<sup>136</sup> Stipulated Testimony of Dr. Carlos Gomez, *Ingraham v. Wright*, Relevant Docket Entries, 19.

<sup>137</sup> Testimony of Rodney Williams, *Ingraham v. Wright*, Brief for Petitioners, p. 14-15.

<sup>138</sup> See [http://www.sgsd.k12.wi.us/homework/hanssej/Amendments/CORPORAL\\_PUNISHMENT\\_IN\\_SCHOOLS.htm](http://www.sgsd.k12.wi.us/homework/hanssej/Amendments/CORPORAL_PUNISHMENT_IN_SCHOOLS.htm), Shawano Public Schools, Shawano, Wisconsin, Accessed on July 15, 2011.

county school board policy allowing corporal punishment unconstitutional. Students also asked that that court stop Dade County schools from paddling students and named school administrators Wright, Deliford, Barnes, and the county superintendent of schools as co-defendants in all counts.<sup>139</sup>

Over two years after the plaintiffs filed their complaints, in February of 1973, Ingraham v. Wright came before a federal judge. In a week-long trial, sixteen students, several parents and relatives of students, a professor of educational psychology and a number of teachers and administrators testified before Judge Joe Eaton. Evidence also included school records, medical reports, and a photograph. On counts one and two the defendants asked the judge to rule that the evidence was not sufficient to present to a jury. They asked that the judge dismiss count three on the grounds that, given the law and the facts in the case, the students had no right to relief from whippings. On February 23, 1973, Judge Eaton dismissed all three counts, concluding that a jury could not find that either of the plaintiffs sustained a deprivation of constitutional rights. The parents of the plaintiffs, led by Miami attorney Alfred Feinberg, appealed the district court ruling.<sup>140</sup>

As litigation in Ingraham v. Wright was pending, the National Education Association reported on corporal punishment in U.S. schools. The NEA report reflected growing concerns among educators who were active in the organization over problems associated with physical punishment. At the 1971 annual meeting, the representative assembly referred recommendations of its task force on student involvement to the executive committee and board of directors. One of its recommendations was for the appointment of a task force to study corporal punishment in schools, specifically the extent of its use and alternative forms of discipline. The task force also

---

<sup>139</sup> Virginia Lee, "A Legal Analysis of Ingraham v. Wright," in Hyman and Wise, *Corporal Punishment in American Education*, 1979, 178-179.

<sup>140</sup> Ingraham v. Wright, 248 Federal Reporter 2<sup>nd</sup>, 909.

requested “action programs and plan institutes” that showed how effective discipline could result from “relevant school experience fostered by highly qualified professional staffs, creative teaching strategies, and meaningful student-teacher-administrator communication.”<sup>141</sup>

Not all teachers, least of all southerners, agreed with their national organization that school discipline needed reformation. It seems possible, however, that a generational change had taken place among American teachers. Many teachers and principals that relied on traditional discipline, war veterans who took advantage of the G.I. Bill to get a post-secondary school diploma, were retiring in the 1970s. Their children, the Baby Boomers – possibly the most paddled American generation given the numbers of students in public schools and the absence of restrictions on paddling – were replacing them. The younger generation of educators, the NEA report suggests, opposed the traditional culture of school punishments and were ready to implement non-violent alternatives.

On the recommendation of the assembly, in January 1972, the NEA executives and board of directors appointed a national Task Force on Corporal Punishment. It consisted of thirteen members representing students and “many parts” of the education profession. That year, the group of six men and six women (and one high school student) made site visits in urban, suburban, and rural areas of the Midwest, the Southwest, the Southeast, and the East and Pacific coast regions to “get as many different viewpoints as possible.” They observed community and school board meetings, visited “innovative” schools, met with students, teachers, community and parent groups, administrators, “officials of administrative groups,” school boards, and college and university faculty members. The task force attended a “national conference” on corporal

---

<sup>141</sup> National Education Association, *Report of the Task Force on Corporal Punishment*, 1972, 2. The South was well represented on the NEA task force. Chairman Hudson of Charlottesville was joined by Angel Gonzalez of Crystal City, Texas, Edward Wright, an Owensboro, Kentucky superintendent, Cheryl Epling, a special education teacher from New Orleans, and Rio Rita Jackson, a Memphis reading teacher.



punishment, “studied literature on the subject,” and gathered “information, opinions, and reasoning” that “presented many sides of the issue.” To assist and coordinate the task force, the NEA provided two staffers, three consultants, a legal consultant, and a writer. Julian Hudson, a classroom teacher from Charlottesville, Virginia, was its chairman.

Task Force members were anxious to include the views of corporal punishment supporters. Their report presented a summary of sentiments held by educators that favored the existing system of school discipline. Some parents and educators claimed that paddling instilled self-discipline and built masculine character. Paddling proponents also claimed that students had more respect for teachers who paddled and added that corporal punishment was no worse than psychological humiliation. Parents spanked children at home, paddling supporters maintained, and expected teachers to paddle them at school.

The Task Force distanced itself and teachers, however, from traditional methods of school discipline. Members struck an apologetic tone regarding teachers who used corporal punishment, and failed to represent their colleagues who tried their best to paddle students with equanimity and deliberation. Teachers, according to the report, performed a “crushingly difficult” job in “stifling work conditions” that had “grown almost unmanageable.” Under such adverse conditions, members asserted, teachers were “driven to take actions toward students that they themselves do not approve.” Task force members believed that teachers opposed all physical violence “no matter what the form – alley fights, gang warfare, repression by law enforcement agencies, or war between nations.” No teacher, they assumed, wanted to inflict pain, either physical or psychological, upon a young person. Task force members suggested that teachers spanked students not because pupils misbehaved, and had to be corrected with punishment, but because their jobs were stressful.

Offering its assessment of “the present situation,” the task force blamed a lack of resources and alternatives to explain the use of corporal punishment. “Inequities and inadequacies,” they acknowledged, made a good education impossible in many schools. Educators, they believed, used “corporal punishment almost exclusively where conditions for dealing with disruptions” were “so poor” that the school staff had “reached a point of total frustration.” The “best efforts” of teachers, they contended, were no match for overcrowded classrooms, limited materials, and the absence of “psychological and social service support” for students with “severe emotional and social problems.” In addition, the task force reported that teachers were behind in identifying, developing, and practicing alternatives to the infliction of pain as a disciplinary approach. Teachers, the task force proclaimed, were eager to practice the best known methods of discipline.<sup>142</sup>

The task force reported its general conclusions about physical punishment. Corporal punishment was “detrimental” to educators, they held, because it had to be repeated “over and over” to maintain order, it was “often a symptom of frustration,” and its availability discouraged the use of “more effective” forms of discipline. It was bad for students, the task force concluded, because it taught that might was right, developed aggression and hostility, increased disruptions, and hindered learning. Task force members stated its opposition to the belief that corporal punishment was appropriate for some students according to their socioeconomic status and acknowledged that “limitations” on how it was used were “often regularly ignored.” The practice, they claimed, led “everyone in the school community” to treat students as “less than human” and considered the situation “dehumanizing.” They also observed that some students were noticeably inured to corporal punishment.<sup>143</sup>

---

<sup>142</sup> NEA Report, 3-4.

<sup>143</sup> NEA Report, 6.

The task force recommended an audacious plan to end physical punishments. Except for purposes of “restraint” or “protection,” it moved to “phase out, over a one-year period beginning with the 1972-1973 school year,” the “infliction of physical pain upon students.” It asked that the NEA take an “official position” against the practice and to call for “a time schedule for its elimination in all schools.” It recommended that state affiliates propose and support state legislation to “outlaw” corporal punishment and included a model act for that purpose.<sup>144</sup>

The group made other recommendations intended to help educators implement the task force plan. It suggested that the NEA, through its Center for Human Relations and Division of Instruction and Professional Development, assist state and local associations in developing “the minimal conditions necessary for dealing with disruption” and alternatives to inflicting pain on students. It suggested that the organization move, at national, state, and local levels “through negotiation or other means,” to secure a “released time during the school day” when they could “obtain the in-service education necessary to routinely utilize alternative methods of maintaining discipline.” It called for another NEA task force, “at least half of whose members” were students, to “develop packages presenting alternative methods” for “in-service” and “preservice” training in state and local affiliates, school systems, and teacher education institutions.

The NEA Report, published in the midst of federal corporal punishment litigation, was a valuable resource for anti-paddling advocates and provided timely support for their cause. Task force members voiced their awareness that no single group within the education system was “able to change that system,” or “set standards independently of that system,” but they believed that the organization had a responsibility to demonstrate educational leadership in the community. Their recommendation--that teachers negotiate for time during the workday to learn non-violent forms of discipline--was ambitious and probably unrealistic given time and resource

---

<sup>144</sup> NEA Report, 4.

constraints. The report was, however, a resolute show of opposition to paddling by the teaching profession.

Efforts by educators to ban corporal punishment met considerable resistance. “An organized effort to ban corporal punishment in schools is surfacing around the nation,” reported one observer, but was “being met head-on by counter demands for tougher discipline procedures.” Opponents of paddling were stalled in the courts, he noted, reporting that corporal punishment supporters had convinced lawmakers in 13 states to pass statutes permitting the use of physical force in the schools. “Although polls have shown that corporal punishment is favored by a majority of teachers, administrators and parents,” noted editors at Education U.S.A. in 1972, “the move to abolish it is gaining momentum.”<sup>145</sup> Conflict over school discipline in America rose fast in the early 1970s, with record numbers of American children attending public schools, and questions about the constitutionality of corporal punishment emerged in the federal courts.

The new generation of anti-paddling educators continued to gain momentum and attention. The NEA’s activities prompted some observers in the education profession to project immanent gains for modern methods in the school discipline debate. “Courts condone it. Principals wink at it. But the people who usually inflict corporal punishment on students,” reported Nation’s Schools in 1973, “have begun to revolt against it.” It was time to “get woodshed discipline out of the schools for good,” they added, and “for good it must be.”<sup>146</sup> The American School Board Journal pronounced that school spanking “simply doesn’t work” and predicted that the message from psychologists and researchers would “crumble the argument in

---

<sup>145</sup> National School Public Relations Association, *Education USA*, Washington, D.C., May 22, 1972, 211.

<sup>146</sup> *The Nation’s Schools*, Volume 90, November, 1972, 8-9.

favor of corporal punishment in the schools.” Teachers who still insisted on beating school children, the editor advised, had better check their “own psyche for hidden hangups.”<sup>147</sup>

As the NEA Task Force was underway, a smaller group from the American Civil Liberties Union (ACLU) published a report stating their opposition to corporal punishment in public schools. Founded as the National Civil Liberties Bureau during the First World War, in 1972 the organization published an *amicus curiae* (“friend of the court”) brief in Ingraham v. Wright, arguing that physical punishments were a “manifest denial of civil liberties of students.” Questioning the exercise of authority in educational institutions, the ACLU propounded the constitutional rights of students and its belief that corporal punishments harmed “the mental health, education, and quality or the future citizenship of children and young people.” The report was written by ACLU associate director Alan Reitman with the help of a staff member for civil liberties in education and a professor of education from Emory University. They meant to raise “the general awareness of how serious a problem” corporal punishment was in American public schools.<sup>148</sup>

In their summary of the status quo the authors took a progressive stance but recognized the divide between educators over disciplinary methods. With the growth of “humanitarianism” and “psychological knowledge,” they noted, “members of the education profession have been gradually abandoning the practice, and there are now many schools and school systems where its use would be unthinkable. Yet across the country most teachers and principals still favor keeping it as an option.” Corporal punishment in 1972, ACLU staffers noted, “while greatly diminished,” was “still common.” There was “abundant evidence that each year tens, if not hundreds of thousands of children, and to a lesser extent, adolescents,” were subjected to it. Worse, they

---

<sup>147</sup> *The American School Board Journal*, June, 1973, 19-21.

<sup>148</sup> Alan Reitman, Judith Follmann, Edward Ladd, “Corporal Punishment in the Public Schools: The Use of Force in Controlling Student Behavior,” *ACLU Reports*, (New York: American Civil Liberties Union, 1972), 1.

claimed, in many of the larger school districts, where it was heavily used, it was a violation of city school policies.<sup>149</sup>

The ACLU reported many harmful effects of corporal punishment. No “disinterested student of school discipline,” they claimed, “has concluded that it is of any great value even for the immediate, practical purpose of controlling misbehavior.” Bodily punishments were effective, they believed, “at best for a very short period of time and in a very restricted setting,” and soon had “after-effects” which were the opposite of what teachers intended. Physically assaulting a student, they held, was “an appealing way for the teacher or principal to extricate himself from an unpleasant situation at the cost of taking professionally defensible, individually-tailored measures.” Worst of all, the group contended, were the psychological and educational harms. “The most important fact about bodily punishment,” they claimed, “was “the high probability of its doing the victim an affirmative injury, psychological, educational, or both.” The practice produced fear and anxiety, they claimed, and when “stirred up in a child,” these emotions were “likely to interfere significantly with the learning process and decrease the effectiveness of the teacher-student interaction necessary for learning.” When students were humiliated, the report held, they became defensive, resentful, and hostile.<sup>150</sup>

Corporal punishment, the ACLU believed, was a cause of violence in American society. Adults who used it provided “young misbehavers and their peers with models of violence” and encouraged aggression, which, they argued, contributed to violent tendencies later in life. “In this connection,” the report noted, “one cannot but think of the early lives of a Lee Harvey Oswald, a James Earl Ray, and a Charles Manson.”<sup>151</sup>

---

<sup>149</sup> *ACLU Reports*, 4.

<sup>150</sup> *ACLU Reports*, 13.

<sup>151</sup> *ACLU Reports*, 17.

Corporal punishment, staffers suggested, could be linked with sexual immorality and abnormality. The report echoed George Ryley Scott's claim that bodily punishment led to sexual deviance. There was "substantial evidence," they claimed, "to suggest that the experience of violent bodily punishment in youth, particularly on the buttocks, strengthens tendencies toward sexual aberrations later in life."

The ACLU report argued that corporal punishment in education infringed on the right to due process. The Fifth and Fourteenth Amendments to the Constitution provided that no one shall be deprived of life, liberty, or property without due process of law. "The preservation of physical integrity against illegal intrusion," they noted, "has well established legal precedents." The right of the state "or its agents" to use physical punishments, they argued, was open to serious constitutional challenge. Corporal punishment in public schools, they noted, was a government action and subject to the restraints of the constitution. Schoolchildren, like adults, they contended, were entitled to fair and impartial justice and should be free of arbitrary and capricious government action. While schools could not "be expected to provide formal procedural due process whenever a classroom regulation is flouted," the group maintained that when administering school discipline, teachers should be guided by the requirements of due process.<sup>152</sup>

The ACLU held that schools were formative democratic institutions. The classroom, they argued, was "the ideal environment to inculcate in children the concept of democratic behavior within a framework of rules." It was their "first close continuing contact with formal authority," and they acquired "attitudes towards liberty and authority" that were "of lasting influence." As advocates of the constitution and "exponents of its principles," teachers, they imagined, had "a unique opportunity to exemplify the spirit and practice of fair play and procedures." Corporal

---

<sup>152</sup> *ACLU Reports*, 7-8.

punishment, they argued, was a “sweeping dispensation of summary justice by force” which deprived students of liberty without due process of the law and undermined respect for the democratic process.

The group also contended that corporal punishment was cruel and unusual punishment that violated the Eighth Amendment of the Constitution. It was, they believed, “startling to confront the fact” that schools were “the one remaining institution” in the country where it was legally inflicted. The report noted that the courts protected violent criminals from abuse, but not children, who could be beaten for “talking without permission or not dressing for gym.” The contrast between punishment in schools and prisons, a favorite among paddling opponents, presupposed fundamental similarities between the two institutions that the federal judiciary would soon examine.

Lawyers soon had a chance to argue the constitutional issues raised by paddling. A year and a half after the federal trial of Ingraham v. Wright, and nearly four years after the initial complaints, a Fifth Circuit judge reversed Judge Eaton’s decision to dismiss the Florida case. On July 29, 1974, Judge Richard Rives ruled that evidence from the trial court established that the use of corporal punishment at Drew Junior High violated the prohibition against cruel and unusual punishment and due process rights. Noting that the district court judge assumed, in error, that a constitutional violation had to occur throughout the Dade County school system, Rives held that one institution was sufficient, finding that the “pattern, practice, and usage” of corporal punishment at Drew violated the Eighth Amendment. Injuries to Drew students, he judged, were “severe” and suggested “real oppressiveness.” Judge Rives saw no need for a “full panoply” of judicial procedures to administer paddlings, but given the “shocking disparity” between student offenses and harsh punishments imposed by Drew officials, he held that school officials must



comport with “fundamental fairness.” The decision encouraged the plaintiffs, but attorneys for the Dade County School board appealed the decision, and Ingraham v. Wright awaited review by a panel of federal judges.<sup>153</sup>

On January 8, 1976, five years after the Drew Junior High students entered into litigation, the United States Court of Appeals, Fifth Circuit, ruled that the prohibition against cruel and unusual punishment did not apply to school discipline. The Eighth Amendment, it ruled, applied only to punishment of criminal conduct. The Fifth Circuit majority believed that the amendment did not apply to the administration of discipline, through corporal punishment, and that scrutiny of physical force used by teachers should be a function of state courts with their expertise in tort and criminal law questions. “We find it neither proper nor necessary,” they concurred, “to expand the Eighth Amendment beyond its intended and reasonable scope to encompass an action which is essentially based on the commission of a battery.”<sup>154</sup>

In addition, the court held, corporal punishment did not deprive students of their Fourteenth Amendment rights to due process. First, the majority opinion, written by Judge Lewis Morgan, rejected the plaintiffs’ allegation that they were deprived of their right to substantive due process, or the right to be free from arbitrary government action. Citing the statutory authority for corporal punishment in Florida schools, the justices sided with the district court’s finding that no evidence implicated the concept of corporal punishment, or showed that it was arbitrary, capricious, and unrelated to the purpose of education policy as it was applied throughout the school system. It was not their duty, they concurred, “to judge the wisdom of particular school regulations governing matters of internal discipline.” The tone of their ruling suggested that the justices regarded school matters as beneath them. Having judged the

---

<sup>153</sup> *Ingraham v. Wright*, 498 Federal Reporter 2<sup>nd</sup>, 248.

<sup>154</sup> *Ingraham v. Wright*, 525 Federal Reporter 2<sup>nd</sup>, 909-927.

disciplinary policy sound, they “refused to look at each individual instance of punishment” and thought it “a misuse of our judicial power” to determine, for example, “whether five licks would have been a more appropriate punishment than ten licks.” The justices added that “paddling of recalcitrant children” had “long been an accepted method of promoting good behavior and instilling notions of responsibility and decorum into the mischievous heads of school children” and again noted the adequacy of civil remedies and the potential for criminal action against teachers who excessively punished children.

Second, the justices addressed the plaintiffs’ complaint that school officials deprived Dade County students of procedural due process. The plaintiffs argued that the school should create a schedule of rules and punishments for their breach; that officials notify students of the offenses for which they are being punished; and that schools hold hearings (with examination, cross-examination, and a right to counsel) before they inflicted punishment. “The value of corporal punishment,” the majority countered, would be “severely diluted” by such an elaborate procedural process. A hearing process, they believed, would undermine the use of paddlings by teachers and administrators who had limited time to face disciplinary problems. Their opinion confirmed that the Fifth Circuit justices were loath to involve themselves with school policy. “We refuse to set forth,” they declared, “procedural standards for an activity which is not substantial enough, on a constitutional level, to justify the time and effort which would have to be expended by the school in adhering to these procedures or to justify further interference by federal courts into the internal affairs of public schools.” The majority of Fifth Circuit justices believed that public education policy was the domain of the state and local authorities and refused to intervene in their affairs unless basic constitutional values were “directly and sharply” implicated.

Justices in the minority offered two separate and sharp dissenting opinions. In the first, Chief Judge John R. Brown joined Judge John C. Godbold to argue that arbitrary and excessive corporal punishment deprived students of substantive due process rights. Brown and Godbold disagreed with the majority that it was an abuse of their power to judge whether individual cases exceeded constitutional limits. “This is a mere rule of convenience,” they believed, “made palatable by characterizing the issue as the difference between five and ten licks.” Judge Godbold accused his peers of disingenuousness, doubting “that the majority really means what it says,” and suspected that “if in a future case the punishment inflicted has broken the victim’s leg” they would find that due process had been violated.

In the second dissent, Judges Robert Ainsworth, Jr., and Irving Goldberg joined Judge Rives in a defense of the initial Fifth Circuit appellate decision. The majority’s view of the legislative history of the Eighth Amendment, they claimed, was “sketchy and inconclusive at best.” Citing several Supreme Court decisions that applied the amendment to non-criminal settings such as public schools, halfway houses, and mental institutions, and noting that its scope expanded after it became binding on the states through the Fourteenth Amendment, the dissenters argued that the administration of punishment was not limited to criminal justice. The judges could not “escape the conclusion” that school children had a constitutional right to freedom from cruel and unusual punishment and saw it as their “duty as federal judges to enforce that right.”

Rives, Ainsworth, Jr., and Goldberg also disagreed with the court’s analysis of Fourteenth Amendment claims in Ingraham v. Wright. The justices argued that despite the statutory framework that authorized corporal punishment in Florida, teachers and administrators who administered the beatings did so “under the color of state law,” and the fact that they

misused this power to inflict “more blows and blows more severe than prescribed” did not change “the basic fact that these beatings were clothed with state authority.” The dissenting judges were adamant that the beatings at Drew were arbitrary, excessive, severe, unrelated to legitimate educational purposes, and amounted to a denial of substantive due process of law.

The second dissent also faulted the majority’s finding that students had no right to procedural due process. Undisputed evidence, the justices maintained, showed a deprivation of liberty that probably caused severe physical injuries and psychological trauma. They noted that Drew officials punished students who protested their innocence and some who made no offense, harsher than their offenses warranted, all without notice or any kind of hearing. Judge Godbold “strongly” disagreed with the majority and feared it set the precedent that “school children have no federal constitutional rights which protect them from cruel and severe beatings administered under the color of state law, without any kind of hearing, for the slightest offense whatsoever.” The tone of the dissents demonstrated that the Fifth Circuit judges were sharply divided on the Eighth and Fourteenth Amendment questions presented by Ingraham v. Wright. When the plaintiffs exercised their appeal of last resort, Justices of the United States Supreme Court granted certiorari, and placed the case on their 1976 docket.

Constitutional questions about school discipline were not uncharted ground for the high court. When the Burger court decided to hear Ingraham v. Wright, the justices had recently decided one case involving school discipline, and had disposed of another. In Goss v. Lopez (1975) the court ruled that Ohio public schools had to observe minimum due process requirements before suspending students. In the same year, the justices affirmed the judgment of a United States District Court, in which federal justices had decided Eighth and Fourteenth Amendment questions involving corporal punishment in North Carolina schools.

In Goss v. Lopez the court addressed the question of due process for students. Ohio statutes had authorized principals to summarily suspend or expel students without a formal hearing. School officials, under the law, had only to notify parents within twenty four hours with the reasons for their decision. Dwight Lopez complained that his due process rights were violated when school officials suspended him without a chance to give his side of the story. Writing for the 5 to 4 majority, Justice Byron White held that the state law violated the Fourteenth Amendment, reasoning that it could not deprive students of their right to an education without observing minimum due process requirements. Minimum due process, they ruled, required that officials notify students of the charges against them, explain evidence implicating them, and give students an opportunity to give their side of the story. Justice Lewis Powell, in a dissenting opinion, argued that education was not a constitutional right and that the court's decision interfered with how schools ran their classrooms.<sup>155</sup>

After reviewing the facts and opinion in the second case, Baker v. Owen (1975), justices affirmed a federal district court judgment that had set some ground rules for administering corporal punishment in schools. A North Carolina sixth-grader, Russell Carl, was paddled in December of 1973 for throwing a kickball outside the play period designated by his teachers. His mother, Virginia Baker, had previously asked the boy's principal and teachers not to paddle him because she opposed corporal punishment on principle. Nonetheless, after his alleged misconduct his teacher gave Russell two licks with a paddle, witnessed by another teacher and his classmates. Virginia Baker complained that the punishment violated her parental right to determine disciplinary methods for her child, that the circumstances under which it was

---

<sup>155</sup> *Goss v. Lopez*, 95 Supreme Court Reports , 729 (1975).

administered violated his right to due process, and that the paddling was cruel and unusual punishment.<sup>156</sup>

The Bakers, arguing that they should have authority over how schools punished their children, appealed to a line of decisions that construed the Fourteenth Amendment to protect the rights of parents. In 1923, the court spoke of the right to “marry, establish a home, and bring up children” and “the right of parents” as part of the liberty protected by the Fourteenth Amendment as it struck down state legislation against certain foreign language instruction. Two years later, the court overturned a state statute that required public school attendance because it interfered with “the liberty of parents and guardians to direct the upbringing and education of children under their control.” These decisions formed the basis of judicial recognition that, under the constitution, the responsibilities of raising children principally resided with their parents.

The district court justices, however, chose not to “enshrine parental rights so high in the hierarchy of constitutional values.” Such rights were not absolute, they reasoned, and were outweighed by a countervailing interest of the state to maintain order in the schools. The parental interest in educational choice protected by earlier Supreme Court decisions, they noted, was “venerable” and “worthy of great deference” due to its “unquestioned acceptance” throughout American history. “Mrs. Baker’s opposition to corporal punishment,” they believed, enjoyed “no such universal approbation” at the time, “and certainly not historically.” The justices accepted Mrs. Baker’s claim that paddling was “discouraged by the weight of professional opinion,” but also thought that the issue would remain unresolved. “We simply cannot foresee,” the justices concluded, “a parent’s absolute disapproval of reasonable corporal punishment soon achieving the kind of societal respect that is clearly accorded the desire to expose one’s child to certain

---

<sup>156</sup> *Baker v. Owen*, 96 Supreme Court Reports, 210 (1975).

fields of knowledge, to send him to a private or parochial school, or to pass on one's religious heritage to him."<sup>157</sup>

The district court justices did, however, find that Russell Carl had an interest, protected by the concept of liberty in the Fourteenth Amendment, in avoiding corporal punishment. They noted that the concept of liberty included personal security and that the legal system had become less tolerant of physical punishment. "It seems incontrovertible," they wrote, "that a child has a legitimate interest in avoiding unnecessary and arbitrary infliction of a punishment that probably would be completely disallowed as to an adult." The panel held that North Carolina failed to provide any procedure to insure that school officials would follow state laws requiring them to punish students neither arbitrarily nor with unreasonable force.

"Our task," wrote Justice James Craven, Jr., for the panel, "is to fashion procedures that accommodate as best as possible the child's interest with the state's unquestioned interest in effective discipline." Elaborate and time-consuming procedures would fail, they held, "as the essence of corporal punishment" was "swift and tangible wages for one's transgression." The justices saw no need for formal notices, a right to counsel, or a right of confrontation and cross-examination.

Instead, justices suggested three minimal procedures that would satisfy the Fourteenth Amendment. First, "except for those acts of misconduct" that were "anti-social or disruptive in nature as to shock the conscience," corporal punishment should not be used unless students were first warned that certain behaviors would result in its use. The justices suggested that paddling should never be a "first line" of punishment. They reasoned that if teachers announced the possibility of corporal punishment--while attempting to modify behavior by other means--students would have clear notice that those behaviors subjected them to a paddling. Next, the

---

<sup>157</sup> *Baker v. Owen*, 395 Federal Supplement, 294-303 (1975).

court advised that school officials punish corporally in the presence of another teacher or principal, who should be told beforehand, in the presence of the student, the reason for the punishment. The justices believed that this requirement would allow students, in the absence of a hearing, to spontaneously protest “egregiously arbitrary or contrived” applications of punishment.

Finally, the court suggested that officials who administered corporal punishment should, upon parental request, provide a written explanation of their reasons, and name the official who witnessed the punishment.

The justices did not think Baker’s punishment was cruel and unusual. They acknowledged that the question of whether the Eighth Amendment protected school children was unsettled, but held that the paddling received by Russell Carl did not approach cruel and unusual punishment. “This record,” they noted, “does not begin to present a picture of punishment comparable to that in *Ingraham*...which we believe indicate the kinds of beatings that could constitute cruel and unusual punishment if the eighth amendment is indeed applicable.” Anti-school paddling advocates and many school officials anxiously awaited a disposition in *Ingraham*. It was possible that the severe abuses suffered by the plaintiffs might move the Court to find corporal punishment in schools unconstitutional or, at least, mandate due process safeguards as it had in Goss v. Lopez.

The Supreme Court heard oral arguments in Ingraham v. Wright on November second and third of 1976. Bruce S. Rogow, a Florida professor of law and Assistant Director of the Greater Miami Legal Services program, argued the cause for the petitioners. Rogow began his legal career in 1964 representing civil rights workers in Mississippi, Alabama, and Louisiana. He was assisted by Harold W. Dixon and Peter M. Siegel. The respondents were represented by



Frank A. Howard, Jr., a Harvard educated Miami lawyer who began his Florida practice in 1950 and specialized in administrative law. It was five years since the beatings that sparked the litigation.

Several organizations filed amicus curiae, or “friend of the court,” briefs intended to influence the justices. The National School Boards Association and the United Teachers of Dade County, Local 1974, AFT, AFL-CIO urged the Court to affirm the district court decision. The National Education Association and the American Psychological Association filed briefs urging a reversal.<sup>158</sup>

In conference, as the justices discussed the case privately, the Eight Amendment question was divisive. Chief Justice Warren Burger maintained, without reservation, that protection against cruel and unusual punishment was “limited to the criminal context.” Justices Harry Blackmun, William Rehnquist, and Potter Stewart agreed. Justice Lewis Powell did not think the amendment embraced school discipline, but conceded that if there was “confinement, as in mental institutions, it might be more troublesome.” Justice John Paul Stevens disagreed that confinement distinguished the settings in which the amendment applied, arguing that “there was a restriction of liberty while you inflict punishment” and that if it was “sufficiently severe,” it was cruel and unusual. Justice Thurgood Marshall did not believe that corporal punishment was “automatically cruel and inhuman,” and thought the amendment applied to criminal cases, but added that he “could reverse perhaps on the facts of this case.” Justices William Brennan and Byron White, however, believed that the amendment was not limited to criminal punishments.<sup>159</sup>

Justices also disagreed on the question of due process. Powell saw “nothing” and Rehnquist declared “there is no due process issue.” Blackmun also saw “no basis for procedural

---

<sup>158</sup> *Ingraham v. Wright*, 51 Supreme Court Reports, Lawyers’ Edition, 793.

<sup>159</sup> Del Dickson, Editor, *The Supreme Court in Conference (1940-1985) The Private Discussions Behind Nearly 300 Supreme Court Decisions*, (New York: Oxford University Press, 2001), 628-629.

due process.” Stewart saw “no life, liberty, or property deprivation,” but was “not at rest on that question. Burger thought it was hard to see how they would say “yes,” but perhaps, if the punishment was severe. White did not believe that the “mere fact” of corporal punishment warranted the same due process considerations as Goss v. Lopez, but if a “severe” punishment was planned, then “liberty” would be invaded. “I reverse only in part,” he added, “for the time being.”

After oral arguments, another five months passed, and the nine justices published their decision with opinions on April 19, 1977. In a five to four decision, the Supreme Court affirmed the Fifth Circuit Court’s judgment. Chief Justice Burger, joined by Stewart, Blackmun, and Rehnquist made up the majority. Justices White, Brennan, Marshall and Stevens were in the minority. After over six years of litigation, James Ingraham, Roosevelt Andrews, and their families, had finally lost their cause. The court dealt a significant blow to corporal punishment opponents who hoped that the practice would end by judicial fiat.

The majority of justices ruled that the disciplinary paddling of students was not cruel and unusual punishment. They believed that the Eighth Amendment protected suspected criminals, or those convicted of crimes, and not school children. Extending the cruel and unusual punishment clause to prohibit the paddling of students was not warranted, they reasoned, because schools, unlike prisons, were open to public scrutiny and received community supervision. The majority held that existing remedies under state laws were sufficient: school officials who punished students excessively or unreasonably were already subject to civil and criminal liability.

To craft the court’s written opinion in *Ingraham*, justices deferred to Lewis Powell, a southerner with a background in education policymaking. Born in Suffolk, Virginia in 1907, with undergraduate and law degrees from Washington and Lee University, Powell chaired the

Richmond School Board from 1952 to 1961, and was president of the American Bar Association (1964-1965) before his nomination to the Supreme Court in 1971 by President Richard Nixon. In the Court's conference on *Ingraham* Powell registered his belief that the courts were "already too deep into the schools." Asked by a journalist about the case in 1987, he acknowledged his deference to legislators in making education policy, and his belief that public schools were "quite public." If school officials abused their authority, he believed, organizations like the school board or parent – teacher associations could pressure them to make corrections. School discipline, he remarked, was "not a situation for the judicial system of our country to become involved in." Powell admitted that as a school boy he received spankings from his teacher, but added, "they did me no harm."<sup>160</sup>

The history of the Eighth Amendment and the decisions of the Court interpreting the prohibition against cruel and unusual punishment, Powell argued, confirmed that its framers meant it to protect individuals convicted of crimes. The parallel limitations against excessive bail and fines, he noted, suggested an intention to restrain the power of a prosecutorial criminal law system. The history of the amendment, Powell claimed, was well known: its framers adopted the text from the Virginia Declaration of Rights (1776) which, in turn, derived from the English Bill of Rights (1689). Americans, wary of judges acting beyond their authority and of legislation creating judicial powers, adopted proscriptions against excessive bail, fines, and punishments in their state constitutions. As the colonies ratified the Constitution, Massachusetts and Virginia delegates criticized its failure to protect persons convicted of crimes, and James Madison successfully proposed the amendment to Congress in 1789. With this history, Powell was not surprised that all prior decisions of the Court considering whether a punishment was "cruel and

---

<sup>160</sup> Bill Moyers, *In Search of the Constitution With Bill Moyers*, Tape Eleven, Interview with Justice Lewis Powell, Jr., (P.B.S. Video, 1987).

unusual” dealt with criminal punishments. “In the few cases where the Court has had the occasion to confront claims that impositions outside the criminal process constituted cruel and unusual punishment,” he noted, “it had had no difficulty finding the Eighth Amendment inapplicable.”<sup>161</sup>

Powell then addressed the contention of the petitioners that, without the extension of the Eighth Amendment to public schools, the courts afforded greater protection to hardened criminals than schoolchildren. The comparison was exploited by the ACLU and NEA reports on corporal punishment, and when *Ingraham* was tried, it had currency in discussions of education policy. The majority of justices, however, were not sympathetic. “Whatever force this logic may have in other settings,” they held, “we find it an inadequate basis for wrenching the Eighth Amendment from its historical context and extending it to traditional disciplinary practices in the public schools.”

The analogy of schoolchildren to convicts, Powell argued, was weak. “The prisoner and the schoolchild,” he observed, stood in “wholly different circumstances, separated by the harsh facts of criminal conviction and incarceration.” Schoolchildren, he countered, had no need for Eighth Amendment protection because public schools were “open” institutions; apart from the very young, children were not physically restrained from leaving school, and returned home at the end of the day. At school, Powell believed, children had the support of family, friends, teachers and other pupils who could observe and protest instances of abuse. “The openness of the public school and its supervision by the community,” he maintained, afforded “significant safeguards against the kinds of abuses from which the Eighth Amendment protects the prisoner.” The majority of justices held that the legal restraints of common law guarded against abuses. As long as schools were open to public scrutiny, they reasoned, there was no reason why common-

---

<sup>161</sup> *Ingraham v. Wright*, 51 Supreme Court Reports, Lawyer’s Edition, 727-728.

law constraints would not remedy and deter excesses such as those alleged by plaintiffs in *Ingraham*. “The pertinent constitutional question,” Powell asserted, was “whether the imposition was consonant with due process.”<sup>162</sup>

Justice Byron White, joined by Brennan, Marshall, and Stevens, authored a sharp and vigorous dissent. The Eighth Amendment, as he interpreted it, placed a “flat prohibition” on cruel and unusual punishments, reflecting a “societal judgment” that some punishments were so barbaric and inhumane that Americans would not allow them to be imposed on anyone, no matter how grievous their offense. If there were punishments that were so barbaric that they could not be imposed on criminals, he argued, similar punishments could not be imposed on schoolchildren. “Thus,” he reasoned, “if it is constitutionally impermissible to cut off someone’s ear for the commission of a murder, it must be unconstitutional to cut off a child’s ear for being late to class.” The record in *Ingraham*, White noted, revealed beatings so severe that if they were inflicted on a criminal “they might not pass constitutional muster.”<sup>163</sup>

White argued that the majority relied on a “vague and inconclusive” history of the Eighth Amendment and urged that school spankings, as “punishments,” fell within its meaning. He noted the plurality of the prohibition, against cruel and unusual *punishments*, and that nowhere was it modified or limited by the language of the Constitution. The fact that its framers did not choose to add the word “criminal” to the amendment, he asserted, was “strong evidence” that they meant to keep government officials from imposing any inhumane or barbaric punishments without regard to the status of the offender.

White called the Court’s distinction between non-criminal and criminal punishment was “plainly wrong.” The important question, he believed, was not whether the offensive act was

---

<sup>162</sup> *Ingraham v. Wright*, 51 Supreme Court Reports, Lawyers’ Edition, 730.

<sup>163</sup> *Ingraham v. Wright*, 51 Supreme Court Reports, Lawyer’s Edition, 738.

labeled criminal but whether the “purpose of deprivation” was commonly associated with punishment. Had the Court followed such a “purposive approach,” White argued, they could not have avoided the conclusion that paddling in the Florida public schools was punishment within the meaning of the Eighth Amendment. Moreover, he noted, the Court had never confined the amendment to criminal punishments.

White addressed Powell’s assertion that schoolchildren had no need for protection, because schools were “open” institutions. How policy considerations entered into their judgment, he wondered, “was difficult to discern,” for the Court had “never considered any of these factors in determining the scope of the Eighth Amendment.” White argued that public scrutiny was no guarantee that punishments would not be cruel or unusual. The fact that public hangings or floggings were available for all to see, he noted, did not render them constitutional if they were otherwise disallowed. If a punishment was so inhumane and barbaric that it exceeded the tolerance of a civilized society, he believed, its openness to public scrutiny should not affect its constitutionality.

Finally, White argued that the availability of common law remedies did not answer the petitioner’s constitutional claim. Assuming that remedies were adequate under Florida law – which he doubted – their existence had never determined the scope of Eighth Amendment protections. For example, White noted, the Court ruled that neglect for the medical needs of prisoners could be cruel and unusual punishment though a medical malpractice remedy was available under state law.

White clarified his belief that the clause against cruel and unusual punishments need not apply to *all* corporal punishment of schoolchildren. The issue in *Ingraham*, he noted, was

whether it could *ever* be prohibited by the Eighth Amendment. The majority, White objected, afforded students no protection regardless of how brutally school officials might punish them.<sup>164</sup>

Justice Powell, in a footnote to his opinion, offered a refutation of White's Eighth Amendment position. A "purposive analysis," he claimed, had "no support whatever" in the decisions of the Court. Granting that an imposition must be "punishment" for the amendment to apply, Powell insisted that the Court had never held that *all* punishments were subject to it. As to White's observation that a teacher might cut off a child's ear, the "rhetoric," he wrote, had no basis in reality, with state laws forbidding excessive punishments of schoolchildren. The logic of the dissent, Powell warned, would make it the business of the courts to settle, "in every case," whether punishments were reasonable or excessive.

On the second constitutional question in *Ingraham*, the majority of justices found that corporal punishment in schools implicated a "liberty interest" protected by the Fourteenth Amendment, but held that traditional common-law remedies were "fully adequate" to afford students due process. The Court undertook a familiar two-stage analysis: first, to determine whether the individual interests at hand affected "life, liberty, or property," and if so, to determine what measures constituted the "due process of law." "Liberty" historically meant freedom from bodily restraint and punishment. It was a basic constitutional right that the state could not hold and physically punish someone without the due process of law. When school authorities decided to punish students by restraint and infliction of pain, the justices concurred, Fourteenth Amendment liberty interests were implicated.<sup>165</sup>

The majority looked to traditional remedies for procedural safeguards. Without the common-law privilege of teachers to inflict moderate punishment, they believed, only a trial in a

---

<sup>164</sup> *Ingraham v. Wright*, 51 Supreme Court Reports, Lawyer's Edition, 740-743.

<sup>165</sup> *Ingraham v. Wright*, 51 Supreme Court Reporter, Lawyer's Edition, 731.

criminal or juvenile court would meet the procedural due process requirements for imposing corporal punishment. Justices noted that the “liberty interest” of children in public schools was, however, subject to historical limitations. Under common law, children who sustained a moderate correction from a teacher had no right to recover damages, as the use of force was justifiable. This concept, reflected in the laws of most states, represented a balance of schoolchildren’s right to personal security with traditional societal beliefs that corporal punishment was occasionally needed to enforce discipline in schools. “Under that longstanding accommodation of interests,” the majority held, “there can be no deprivation of substantive rights as long as disciplinary corporal punishment is within the limits of the common-law privilege.”

The justices reviewed Florida statutes and addressed specific instances of abuse alleged by the plaintiffs in *Ingraham*. The state’s law against degrading, severe, or malicious corporal punishment represented the common-law principle, they held, and added their belief that Justice White’s dissenting views as to the availability of tort remedies in Florida was “chimerical.” School officials were unlikely, in their view, to inflict excessive corporal punishment when faced with the possibility of civil or criminal proceedings. The justices had “every reason to believe” that the mistreatment of James Ingraham and his classmates was an “aberration.” The “uncontradicted evidence,” as they saw it, suggested that paddling in the Dade County Schools was “unremarkable in physical severity” with the exception of a few cases.<sup>166</sup>

The majority also saw no reason to require additional procedural safeguards. The cost, they believed, would outweigh the benefits. If the justices accepted the petitioners’ claims, it would cause a “transformation” in the laws of Florida and other states, and hearings would have to precede *any* paddling “however moderate or trivial.” Such hearings would “significantly

---

<sup>166</sup> *Ingraham v. Wright*, 51 Supreme Court Reporter, 734.



burden” the use of corporal punishment, requiring time, personnel, and diversions from ordinary school activities. Teachers, they feared, might be forced to use other means of disciplining students which they regarded as less effective. The justices acknowledged that such a change might “be welcomed by many as a societal advance,” but if it resulted from “this Court’s determination of an asserted right to due process, rather than from the normal processes of community debate and legislative action, the societal costs cannot be dismissed as insubstantial.” After a review of common law remedies, and weighing what they saw as the risks and the returns of mandating a new procedure, the majority concluded that the Due Process Clause did not require notice or a hearing by school officials before they used corporal punishment.

Justice White, mindful of the Court’s decision the previous year in Goss v. Lopez, also disagreed with the majority on the question of due process. The Constitution required states to observe “due process of law” when sanctioning individuals to protect against mistaken or erroneous punishments that they would otherwise not impose, he affirmed, and reminded the majority that the Court had recently applied this principle to the school disciplinary process. In *Goss*, the Court held that due process required not an “elaborate hearing,” but an “informal give-and-take between student and disciplinarian” which gave students a chance to explain their version of the facts. White noted that in *Ingraham*, however, the Court ruled against these “rudimentary precautions against unfair or mistaken findings of misconduct.” School officials who inflicted punishment, as White saw it, were under no legal obligations to insure that they were treating students fairly. The majority, he complained, concluded that students nonetheless had due process because they could later sue the teacher and recover damages if the punishment was “excessive.”<sup>167</sup>

---

<sup>167</sup> *Ingraham v. Wright*, 51 Supreme Court Reporter, Lawyer’s Edition, 744-748.

The common law remedies, White argued, were “utterly inadequate.” Students had no remedy if officials administered punishments on the basis of mistaken facts, he observed, as long as the punishments were reasonable and undertaken in good faith on the part of the disciplinarian. In addition, any recourse students had to due process was after the fact of punishment. “The infliction of pain,” White noted, was “final and irreparable” and could not be “undone in a subsequent proceeding.” There was every reason, he insisted, to mandate, as the Court did in *Goss*, a brief “informal give-and-take between student and disciplinarian” as a safeguard against mistaken impositions of punishments that officials could not retract. The damages remedy, he claimed, rested on the “novel theory”: the idea that states could punish individuals without giving them opportunities to present their version of events, as long as they could later recover damages from a state official, if they could prove their innocence. There was no authority for this theory, White protested, “nor does the majority purport to find any in the procedural due process decisions of this court.” He saw “no basis in logic or authority” for the majority’s belief that common-law remedies gave “substantially greater protection to the child than the informal conference mandated by *Goss*.” In short, White concluded, the Court allowed educators to punish students first and hear their side of the story later.

Bruce Rogow, the plaintiffs’ lead attorney, expressed his dissatisfaction with the Court’s decision. “It’s not right that there’s no legal recourse,” he commented, “the decision closed the federal courts to children seeking damages for being beaten by their teachers.” Rogow was “disappointed in the decision” and reminded Americans that teachers were still bound by state criminal and civil sanctions. “In no way,” he said, “does the ruling declare open season on children.”<sup>168</sup>

---

<sup>168</sup> Associated Press, *Jackson Daily News*, Wednesday, April 20, 1977, 10.

James Ingraham, the principal plaintiff against the Dade County Schools, was also disappointed. “It’s just a big letdown,” he said, “but there ain’t nothing I can do about it.” Ingraham, aged 20 at the time of the Court’s decision, said it was “rough” but that he had managed to graduate high school. “I really felt that since I was in grade 10,” he continued, “I caught hassles from every school I’ve ever been in.” His status as a plaintiff may have strained his educational experience but it also fueled his determination. “I had to be really cool in school,” he added, “I just wanted to show them I could do it.” Ingraham recalled that Dade County teachers beat him so badly that he “had fever and couldn’t sit right for two weeks.” His troubles with authority, sadly, did not end in high school. When reporters found him after the Supreme Court decision in his case, Ingraham was washing police cars as a prison trusty in Miami, serving three months in jail (with two years of probation) for three counts of aggravated assault on a police officer.<sup>169</sup> To opponents of paddling, James Ingraham’s story was a textbook case of corporal punishment in schools gone wrong. Skirting school authorities as a child, and growing inured to a culture violence in the schools and on the streets, Ingraham was incarcerated with an uncertain future.

Mississippi school officials expressed little surprise at the decision in *Ingraham*. “I think the ruling is one that many of us in school administration have anticipated,” said Superintendent M.R. Buckley of Newton County. Mantel Clay, principal of Louisville High School, added that “most school officials had the impression that the court would not rule against” paddlings. Superintendent E.L. Perritt of Rankin County schools thought the decision would “let the kids know that the Supreme Court thinks a little chastisement is proper for wrong conduct.”<sup>170</sup> Perritt believed that spanking was more effective than suspensions because “a child might do something

---

<sup>169</sup> Associated Press, *Jackson Daily News*, Wednesday, April 20, 1977, 10.

<sup>170</sup> Ron Harrist, Associated Press Writer, *Jackson Daily News*, April 20, 1977, 1E.

a little mischievous just to get sent home.” It was a “big decision” to paddle another person’s child, he claimed, “but in most instances the parents appreciate what is done.” Superintendent Buckley acknowledged that “from time to time physical abuse has occurred,” but assured Mississippians that “we have learned a great deal to protect not only ourselves but the child.” Southern teachers who paddled, the superintendent’s comment suggests, knew how to administer physical punishment lawfully and were mindful not injure students severely in the process. Buckley reminded the public school officials paddled students not for their “personal satisfaction” but for “the welfare of the child.”

Popular response to the Court’s decision showed pronounced regional differences of opinion on corporal punishment in American schools. Two researchers obtained editorials on *Ingraham* from a newspaper clipping service, graded them as positive, negative, or neutral, and presented their findings to a meeting of the National Association of School Psychologists in 1978.<sup>171</sup> In addition, the researchers correlated the responses with data on education expenditures, dropout rates, illiteracy, and the availability of school psychologists. Editorials from the New England and Mid-Atlantic regions were least supportive of the decision. In New England, 67% of responses were unfavorable, with 22% neutral and 11% favorable. In the Mid-Atlantic states, 53% approved, with 26% neutral and 21% favorable.

Moving west, approval of *Ingraham* increased. Mountain and Pacific regions registered a mixed response. They favored the decision, with 45% and 47% positive opinions (respectively), but were not polarized, with 36% and 27% neutral and 19% and 26% unfavorable. East North Central and West North Central regions showed greater favor for *Ingraham* (55% and 56%), with many undecided (19% and 20%), and unfavorable (26% and 24%).

---

<sup>171</sup> Robert Friedman and Eileen McDowell, “An Analysis of Editorial Opinion Regarding Corporal Punishment: Some Dynamics of Regional Differences,” in Hyman and Wise, *Corporal Punishment in American Education: Readings in History, Practice, and Alternatives*, 324-329.

In the southern regions the majority of newspaper opinions praised the decision. West South Central states of Arkansas, Louisiana, Oklahoma, and Texas registered 61% favorable, 13% neutral, and 26% unfavorable. South Atlantic states, including Virginia, Georgia, Florida, and the Carolinas were 62% favorable, 19% neutral, and 19% unfavorable. The East South region, comprised of Mississippi, Alabama, Tennessee, and Kentucky had the most favorable response to *Ingraham*, at 68%, with 26% unfavorable and only 5% neutral.

The researchers also showed a relationship between opinions about corporal punishment and overall attitudes toward education. As opposition to the Supreme Court decision increased, the percentage of individual incomes spent on education went up. They reasoned that paddling was inexpensive, as the transition to alternative disciplinary methods discipline required support personnel and other initial expenditures. Survey authors added their belief that adults who were paddled as schoolchildren were, based on their negative experiences, less likely to back education. Southerners who suffered at the hands of teachers, they implied, were cynical about the value of public schools. Opinions favoring the Court's decision also rose with the percentage of the population not completing high school. Conversely, in regions where editorials opposed paddling, children stayed in school longer. Support for the decision, they reported, also correlated with higher rates of illiteracy. Finally, regions where schools employed more psychological personnel as a percentage of total instructional services tended to produce editorials less favorable of paddling. School psychologists, they believed, helped provide viable alternatives to corporal punishment.

Litigation in *Ingraham v. Wright* did, however, prompt a number of state legislators and school boards to reset disciplinary policies. State boards warned district boards to set policies that insured physical punishment would be reasonable, respect the age, size, and condition of the

child, leave no permanent effects, and not be administered in anger. Paddling was still legal in most states, but Massachusetts legislators banned it in 1972.<sup>172</sup>

School boards in some states took action. In 1975, New Hampshire administrators allowed corporal punishment only in self defense or “very exceptional” conditions. On March 1, 1976, the Hawaii State Board of Education ordered that “until further notice,” teachers refrain from using corporal punishment. In 1978, the Idaho State Board of Education addressed the subject. Acknowledging its legality “in the absence of a state statute forbidding corporal punishment,” the board recommended against it and advised district authorities who allowed spanking to write a clear policy with the usual safeguards to “protect the board from liability” and “the children of the school district from abuse.”<sup>173</sup> These statements, however, were not binding prohibitions.

Some states let parents decide. In 1977 the Illinois State Board of Education required that districts using corporal punishment notify parents upon enrollment that they could submit a written request that it not be administered to their child.<sup>174</sup> California required school districts to obtain written approval from parents or guardians prior to paddling students.<sup>175</sup>

Southern state legislatures reaffirmed their support for corporal punishment in public schools. Many, however, allowed, and sometimes required, school districts to set their own policies. Arkansas legislators passed the “School Discipline Act of 1977,” requiring teachers to hold “every student accountable for any disorderly conduct,” and authorizing corporal

---

<sup>172</sup> Massachusetts General Laws Annotated, Chapter 71, Section 37H, West, 2009, 361.

<sup>173</sup> Ronald A. Paquet, *Judicial Rulings, State Statutes and State Administrative Regulations Dealing with the Use of Corporal Punishment in Public Schools*, (Palo Alto: E & E Research Associates, 1981), 75. The Idaho board ruled that “punishment” could not be used “to enforce an unreasonable rule.”

<sup>174</sup> Illinois State Board of Education, Illinois Program for Evaluation, Supervision, and Recognition of Schools, Document No.1, Section 2-8, 1977, cited in Paquet, 75.

<sup>175</sup> Paquet, 68, 74.

punishment in accordance with district policies.<sup>176</sup> The Louisiana state legislature mandated for 1977 that every parish or municipal school board adopt rules and regulations it deemed necessary to “implement and control any form of corporal punishment” in district schools.<sup>177</sup> Two years later Tennessee legislature also authorized teachers to paddle students but yielded local school boards the power to interpret the law. The Maryland statehouse abolished corporal punishment in 1970, but legislators gradually restored it in nineteen rural districts, leaving the ban in place for the five county units that served the majority of the state’s school population.<sup>178</sup>

Southern states that maintained school spanking buttressed its legality. Florida legislators required school principals to set guidelines that identified punishable offenses, conditions under which it was administered, and the specific personnel authorized to paddle students. Lawmakers also mandated that teachers paddle students only in front of adult witnesses -- who were informed beforehand, along with the student, of the reason for punishment -- and, upon request, to provide parents or guardians with written explanations of reasons for punishments and the name of the other adult present.<sup>179</sup> Georgia lawmakers adopted the same changes and added that students could not legally be paddled if their parents, upon the day of enrollment, filed a statement from a Georgia doctor stating that corporal punishment was detrimental the child’s mental or emotional stability.<sup>180</sup>

By the mid-1970s, as state lawmakers and school boards followed developments in the federal courts, the federal government began documenting corporal punishment in American schools. The Office of Civil Rights, a sub-agency of the Department of Health, Education, and

---

<sup>176</sup> Arkansas Code of 1987 Annotated: 6-10-505. Lexis Nexis Publishing, 58-59. In 1983 legislators added the requirement that paddlings be reasonable, “for a cause,” be preceded by warnings, and administered before a witness.

<sup>177</sup> Paquet, 77.

<sup>178</sup> Paquet, 79.

<sup>179</sup> West’s Florida Statutes Annotated: 232.27, West Group, 1998, 56-57. Derived from the session laws of 1976, 1977, and 1979.

<sup>180</sup> Official Code of Georgia Annotated: Title 20: Education, 20-2-731, 477-478.

Welfare, began a biennial survey of schools that received federal funding for the incidence of corporal punishment in 1976. That year, according to OCR data, over 1.5 million or 3.5% of American school children were corporally punished by educators.<sup>181</sup>

The results of the initial OCR surveys disclosed the prevalence of paddling in southern schools. Florida, Georgia, and Oklahoma educators reported paddling 11% of their students, with Mississippi (10%), Arkansas (10%), Texas (9%) and Tennessee (9%) close behind. Alabama and Kentucky schools reported paddling 7% of their students. Outside the South, Ohio and New Mexico educators paddled the highest percentage of students, at 5%. The 1978 and 1980 surveys reported that 3.4% of American schoolchildren received corporal punishment. The first three OCR surveys revealed a statistical abstract of corporal punishment in American schools that was problematic for educators: while black students comprised 17% of all public school students in the United States, they accounted for 29% of students struck by educators. The OCR surveys on paddling showed that southern educators wielded paddles most often and their blows fell disproportionately on black students.<sup>182</sup> At the time of the first OCR surveys, when paddling was legal in almost every state, southern educators already showed a marked preference for disciplining pupils with violence.

---

<sup>181</sup> Office of Civil Rights Statewide Survey of Reported Incidence of Corporal Punishment in Schools: 1976, published in Hyman, *Reading, Writing, and the Hickory Stick*, 234-236.

<sup>182</sup> From the Center for Effective Discipline, <http://www.stophitting.com>, see U.S. Statistics on Corporal Punishment by State and Race, accessed on 6/21/11.





## Chapter Six: Science, Stasis, and Social Change – Paddling in Congress

“No one,” wrote a social worker in 1978, “realistically expected the Supreme Court to outlaw corporal punishment.” Abolition of American school spanking was possible, he added, “only after setting forth the overwhelming evidence – medical, sociological, psychological – that corporal punishments damage not only the individual but the community.”<sup>183</sup>

As national polls showed rising anxieties about school discipline among Americans, with corporal punishment in schools at the center of the controversy, a new generation of social scientists examined the problem. “One of the greatest problems in rationally discussing corporal punishment in the schools,” a psychologist complained in 1978, was “the lack of hard research data.”<sup>184</sup> Another remarked that “while the debate over the use of corporal punishment in the schools has continued for years, it is clear that little scientific data have been used to resolve the issue.”<sup>185</sup> Professional educators and psychologists had addressed school whippings in the broader contexts of class management and experimental psychology, but in the 1970s, several scholars made corporal punishment of children their area of inquiry. As researchers and advocates, however, their findings reflected a commitment to the abolition of corporal punishment in American schools and households and the rights of children.

One psychologist linked delinquency in boys with corporal punishment. In 1976, Connecticut clinician Ralph S. Welsh published his “Belt Theory of Juvenile Delinquency.”

---

<sup>183</sup> James S. Wallerstein, “A Youth Worker’s Opinion on the Majority Decision in *Ingraham v. Wright*,” in Hyman and Wise, *Corporal Punishment in American Education*, 215.

<sup>184</sup> Hyman and Wise, *Corporal Punishment in American Education*, 349.

<sup>185</sup> Anthony Bongiovanni, “An Analysis of Research on Punishment and Its Relation to the Use of Corporal Punishment in the Schools,” in Hyman and Wise, *Corporal Punishment in American Education*, 351.

Alarmed to learn that an “unusual” number of delinquents reported severe parental punishment (SPP), he tracked parental punishment practices. Welsh defined severe punishment as “any kind of physical discipline utilizing an object capable of inflicting a physical injury.” This included “belts, boards, extension cords, fists, or the equivalent.” Aggression in males, he argued, was “a function of the severity of their corporal punishment histories.” Welsh placed severe beatings at home ahead of social class as a cause of delinquency. The effects of corporal punishment, he believed, were “no respecter of group, race, or social class,” and “so-called normal parents” had “aggressive children proportional to the severity of corporal punishment used on their offspring.”<sup>186</sup>

Other studies suggested that paddling did not curb student deviance and had negative side effects. In an analysis of research on punishment and how it related to corporal punishment in schools, one researcher reported that it failed to produce behavioral change, and could result in harm to students, school personnel, and property. “The potential for negative side effects, especially that of social disruption,” he concluded, “constitutes the greatest danger.” Paddlings produced aggressive behavior against school personnel in retaliation for the punishment, and “elicited aggression” against classmates who had no relationship to the punishment. “The safety and welfare of other students,” he warned, “should be a major concern of school personnel who use corporal punishment.”<sup>187</sup>

Child psychologists found praise to be more effective at changing behavior than punishment. Because punishment focused on inappropriate behavior (rather than rewarding good behavior), some children, they observed, sought out punishment to get attention. For these children, they believed, “physical punishment may potentially increase and not decrease the

---

<sup>186</sup> Ralph S. Welsh, “Severe Parental Punishment and Aggression: The Link between Corporal Punishment and Delinquency,” in Hyman and Wise, *Corporal Punishment in American Education*, 126-142.

<sup>187</sup> Bongiovanni, 365-368.

likelihood of future repetition of the punished behavior.” While rewards could shape new behaviors incompatible with misbehavior, they argued, punishment could only suppress misbehavior. “Typically,” they reported, “unacceptable behavior has been observed to return to its original unpunished level after punishment is discontinued.” Corporal punishment might stop misbehavior temporarily, they argued, but it did nothing to prevent problems from reoccurring. Advocates of paddling maintained that it was rarely used by teachers, and only as a last resort, but researchers showed that physical punishment tended to be episodic and cyclical in nature. Student misbehavior reached a crescendo, leading teachers to wield their paddles and restore order, but inevitably they had to repeat the process.

The infliction of pain, psychologists argued, had definite drawbacks. Rewards encouraged desire for attainment but punishment involved “avoidance” conditioning where physical discomfort motivated performance. Instead of embracing accepted behaviors, they believed, students coped with punishment by avoiding detection to maintain the bad behavior. Inflicting pain on students created hostility towards teachers but rewards led to positive feelings. Rewards, psychologists added, taught students that praise and rewards were effective tools for managing the behavior of others but punishment legitimated violence as a means of control. A rewards-based system of discipline required incentives, fun activities, and approving educators. Punishment, they regretted, required paddles, sticks, and “tough disapproving teachers.”

One psychologist offered a behavioral explanation for the moral (and legal) predicament of teachers who punished students in anger. Paddling, he observed, was a “cathartic release” for the pent-up frustration and anger of the punisher. It had, he reasoned, “specific reinforcing properties” for teachers that increased the likelihood of future whippings. This was a

“paradoxical problem” described by teachers and parents who reluctantly found themselves “hooked” on the paddle or the belt as a disciplinary method.<sup>188</sup>

The effort to reform school discipline was led by Irwin A. Hyman (1936-2005), a psychologist and children’s rights advocate, and founder of the National Center for the Study of Corporal Punishment and Alternatives in the Schools (NCSCPAS) at Temple University in 1977. As its director, Hyman advocated federal laws against spanking, and testified before Congress and state legislatures, calling for an end to corporal punishment in schools. Hyman was an expert witness in many cases of school-related student abuse, a frequent contributor to national press coverage of corporal punishment, with television appearances on “Donahue,” NBC’s “Today,” and “Oprah.” Hyman was president of the American Academy on School Psychology, received numerous awards from the American Psychological Association, and maintained a private practice in Bucks County, Pennsylvania.<sup>189</sup>

Hyman and other opponents of corporal punishment in schools rallied against the Supreme Court decision in *Ingraham*. At a meeting of the American Orthopsychiatric Association in 1978, Hyman contested Justice Lewis Powell’s assumptions that schools were open institutions, and paddling was effective, accepted, and rarely abused. He asserted that schools with active parent and community participation were exceptional and noted that ACLU files showed that many schools repeatedly violated the civil liberties of children. Hyman cited recent literature showing the undesirable consequences of paddling, correlating negative achievement with punitive teacher behaviors, and linked corporal punishment with school vandalism in schools.

---

<sup>188</sup> James H. Wise, “The Carrot and Not the Stick: Comparing the Use of Reward to Corporal Punishment in Promoting Discipline, Learning, and Human Relationships in the Classroom,” in Hyman and Wise, *Corporal Punishment in American Education*, 373-383.

<sup>189</sup> Barbara Baals, “In Memoriam: Irwin A. Hyman, Outspoken Children’s Rights Advocate,” *Temple Times: Online Edition*, February 17, 2005. [http://www.temple.edu/temple\\_times/2-17-05/hyman.html](http://www.temple.edu/temple_times/2-17-05/hyman.html), accessed on 7/15/2011

As a school psychologist, investigating the long term effects of mistreatment by educators, Hyman advanced a diagnosis that he called Educator Induced Post Traumatic Stress Disorder (EIPTSD). In litigation, he explained, compensation for damages was based on the availability of treatment. Hyman meant to show that school spanking caused measurable mental and physical harms. Research by NCSPAS staffers, he noted, showed that increased punitive damages led educators to give consider school spanking counterproductive. The long term symptoms of EIPTSD, Hyman claimed, were avoidance of school and fear of educators, loss of trust and fear of adults (especially educators), loss of interest in school, denial of traumatic events, nightmares and excessive crying.<sup>190</sup>

Hyman was anxious that the Court's political orientation threatened children. Historically, he acknowledged, the judiciary had helped recognize the rights of children, but the decision in *Ingraham* was part of a "backward spiral" making it "increasingly obvious that the Nixon appointees to the Supreme Court, in concurrence with earlier conservative appointees," had "moved away from the recognition of children's rights as citizens within the context of the public schools."

Paddling, however, did not escape the scrutiny of education policymakers. Yale University psychologist Richard Zigler, a member of the national planning and steering Committee of Project Head Start and President Nixon's choice to direct the Office of Child Development as chief of the U.S. Children's Bureau, saw it as an example of how Americans had institutionalized violence against children. "I point to that social institution that, after the family, is the most important socializing agent in America," he said accusingly: "the school." Most Americans in 1976, Zigler believed, were "now aware of how commonplace corporal punishment in the schools" had become. He noted that in the 1971-72 school year, educators in

---

<sup>190</sup> Hyman, *Reading, Writing, and the Hickory Stick*, 107-108.

Dallas, Texas, recorded 24,035 spankings, “some so severe as to need medical attention and in some cases, hospitalization.”<sup>191</sup>

Some Americans, as usual, favored greater use of corporal punishment by educators. One researcher noted that a “commonly suggested solution” was a return to the “good old days” when whippings were the standard punishment for pupil misbehavior. Like the critics of Horace Mann who championed the rod, and the “practicalists” who assailed pedagogical “theorists,” this “back to basics” movement advocated stern discipline for the advancement of learning and good character.<sup>192</sup>

The political climate of the 1980s affected the work of researchers and advocates. “Just when we began to elicit some interest and grant monies from the government,” Irwin Hyman wrote of the ACSCPAS, “President Reagan was elected.” The center lobbied for changes in school discipline policies, through direct contact with politicians and government officials, and the change of administration was difficult for opponents of corporal punishment. “The conservative, right-wing minions who descended upon the federal bureaucracy in the Reagan administration were hardly sympathetic to our efforts,” he continued, “since the president called for the return of “good old-fashioned discipline.”<sup>193</sup> In an emerging atmosphere of political conservatism advocates against corporal punishment found themselves on the defensive.

The issue of corporal punishment in schools did, however, continue to gain attention as a national problem. In the decade following the Supreme Court’s ruling in *Ingraham*, Congress investigated corporal punishment in American schools. On October 17, 1984, the Senate Subcommittee on Juvenile Justice of the Committee on the Judiciary conducted a hearing on the

---

<sup>191</sup> Edward Zigler, “Controlling Child Abuse in America: An Effort Doomed to Failure?” in *Critical Perspectives on Child Abuse*, eds. Richard Bourne and Eli Newberger, (Lexington Books, Lexington, Massachusetts, 1979), 198-199.

<sup>192</sup> Bongiovanni, 351.

<sup>193</sup> Hyman, *Reading, Writing, and the Hickory Stick*, xx.

topic of “Oversight on Corporal Punishment in Schools and what is an Appropriate Range of Discipline by School Officials.” The subcommittee convened at 9:35 a.m. in the Dirksen Senate Office Building with Senator Arlen Specter of Pennsylvania presiding as its chairman.<sup>194</sup>

Specter’s opening statement reflected changing public perceptions of paddling. As part of a series of hearings on the subject of violence against juveniles and the abuse of juveniles the Senate inquiry treated the issue of corporal punishment as a potential social problem. The Office of Juvenile Justice and Delinquency Prevention had “been looking into the problem of violence in schools generally” and school whippings, Specter noted, fell “under the ambit of those considerations.” Senator Specter questioned four witnesses during the day-long hearing: a student who claimed to have been injured by a paddling, accompanied by her mother; two school administrators, and Dr. Irwin Hyman of the National Center for the Study of Corporal Punishment and Alternatives in the Schools at Temple University.

Shelley Gaspersohn, aged 20, of Dunn, North Carolina, made the first statement. She testified that after skipping school one day in December, 1981, and Assistant Principal Glenn Varney ordered her to in-school suspension. There she was unable to keep up with her studies, and asked Varney if there was an alternative punishment, and he replied that she could receive corporal punishment: three “thrashes” for each day of suspension, a total of nine thrashes. Her parents opposed it, but as she fell further behind in her schoolwork, Shelley agreed to the whippings.<sup>195</sup>

Varney, who, according to Gaspersohn, was also a football coach whipped her and two other girls three times each, administering two licks each time. She claimed that she had “never,

---

<sup>194</sup> *Hearing Before the Subcommittee on Juvenile Justice of the Committee on the Judiciary*, United States Senate, 98<sup>th</sup> Congress, Second Session on “Oversight on Corporal Punishment in schools and What is an Appropriate Range of Discipline by School Officials,” October 19, 1984, U.S.G.P.O., Washington, 1985, 1. (hereafter referred to as Senate Hearing)

<sup>195</sup> Senate Hearing, 2.



ever been hit like that before,” and “felt violated.” Gaspersohn stated that she bled for two days and was bruised for nearly three weeks. She saw a physician--the county medical examiner for child abuse cases--who filed an abuse claim against the Assistant Principal Varney with the county social services office. The social services staff, Gaspersohn claimed, told the doctor that they did not intervene in school cases. She protested to the county school board, which investigated her abuse claim, and found no wrongdoing by the assistant principal.

Gaspersohn and her parents then sued Varney and the Harnett County School Board in May, 1982, for compensation for her injuries. Gaspersohn took over the litigation in October that year, when she turned eighteen, and in December, 1983, her case came before a circuit court jury. After a week-long trial, in which the judge did not allow the jury to hear the testimony of the medical examiner, the jury deliberated for ten minutes and found no wrongdoing by Varney or the school board. Gaspersohn’s mother testified that she felt “completely devastated.” The judge, she believed, was “very biased” in his treatment of the case.

The Gaspersohns’ experience was typical for almost all students and their parents who contested corporal punishment before school boards and in local courts. School boards, in defense of their employees, were not sympathetic. Local judges and juries also tended to support teachers and administrators. Students who alleged abuse faced the burden of proving that teachers acted with malice and that their injuries were severe. With limited choices of public schools to attend, the prospect of ongoing litigation with the school district could strain parent, teacher, and student relationships, and be a source of unwanted attention from fellow students. The long duration, and expense, of the legal process was a strong deterrent to students and families seeking recourse in the courts. Unlike most parents of children abused by teachers,

however, the Gaspersohns had the monetary and emotional resources to pursue litigation. They appealed their case to the North Carolina Supreme Court, which rejected it.

Gaspersohn's mother lamented that Shelley was emotionally scarred by the experience. "What she has not told you," Mrs. Gaspersohn testified, "is that right after this happened, she had a complete personality change. She did not want to go to school. She did not want to go to church." Shelley added that "as far as school goes, I just lost interest. I felt like it was not a learning place anymore, that it was more of a prison than it was education." She claimed that she had nightmares about school administrators chasing her and trying to kill her, and according to her mother, began having neck and back spasms that required medical attention.

Dr. Irwin Hyman, after evaluating Shelley, concluded that she suffered from post-traumatic stress disorder. His testimony in her case was the first time he appeared as an expert witness on corporal punishment and he later recreated the Gaspersohn's story as a tableau to illustrate the harms of the school spanking.<sup>196</sup>

Hyman, appearing on behalf of the American Psychological Association, next addressed the subcommittee. In 1984, the year of the hearing, he had almost thirty years of experience as a teacher, administrator, school psychologist, clinical psychologist, and professor of special education. As founder and director of the National Center for the Study of Corporal Punishment and Alternatives in the Schools at Temple University, Hyman was the leading national expert on corporal punishment in American education, and provided a unique perspective on the range of dehumanizing school punishments.

Corporal punishment, Hyman stated, was a "peculiar and archaic" practice in America. Abolished by European countries and in "the Communist bloc," he noted, it was prevalent in English-speaking countries: the United States, Canada, New Zealand, and Australia. Hyman

---

<sup>196</sup> Senate Hearing, 30.

estimated that American children were beaten by teachers two to three million times every year. Educators had hit schoolchildren, his center documented, with hands, fists, belts, tennis shoes, lacrosse sticks, ping-pong paddles, shaved-down bats, clipboards, cords, straps, pencils, boards, yardsticks and rulers, books, metal and steel pipes and even hammers.

“The issue,” to Hyman, was that violence, for some Americans, was a way of life. “As long as Americans accept hitting as a way to change behavior,” he testified, “we are going to have, I think, a high rate of child abuse and sexual abuse. Such acceptance implies that both parents and school personnel have a right to do what they wish with the bodies of children.” In his prepared statement, Hyman noted that southerners were more inclined to accept violence, and cited research showing that they directed it, most often, towards blacks, Hispanics, and poor whites.

Paul V. Armstrong, President of the West Virginia Association of Elementary School Principals, represented supporters of paddling at the Senate hearing. While he was “not prepared to debate necessarily the pros and cons” of the issue, he did offer his belief that the hearing was “a gun with four shots in it, and you have already shot three of them, and they have gone off, blank.” Armstrong doubted that “looking at the idea of abolishing corporal punishment will solve the ills of society,” and advocated against federal legislation, stating his belief that “it should be left to the local areas.”<sup>197</sup>

Armstrong spoke for educators who, without the threat of paddling, feared disorder in their classrooms. During a school year when the courts prohibited paddling in West Virginia, Armstrong saw “more and more attitudes” from students, telling teachers “I don’t have to do that,” or “you can’t make me.” When teachers asked students why they misbehaved, he claimed, they responded “because we knew we could not be paddled.” Though Armstrong acknowledged

---

<sup>197</sup> Senate Hearing, 48.

that ‘research may state otherwise,’ he did not believe that corporal punishment taught aggression any more than “receiving a speeding ticket teaches somebody to be a racecar driver.” Americans knew that smoking was dangerous, he noted, “but we still have tobacco.” His father, Armstrong testified, was killed by a drunk driver, “but we still have alcohol, and we still have automobiles.” The logic of Armstrong’s arguments was minimal, but his references were not lost on many Americans, especially southerners. Paddling children, Armstrong suggested, like reckless driving, and the abuse of alcohol and tobacco, was an unavoidable consequence of self-determination.

The Senate inquiry suggested that any relationship between paddling and sexual abuse was difficult to show. Testifying before congress, Dr. Irwin Hyman acknowledged that while his center had not discovered a relationship between sexual abuse and corporal punishment in schools, because schools were too open for sexual abuse to occur, “in some institutions” there was a sado-masochistic attitude toward sex and beatings.”<sup>198</sup> Testifying before a Senate Subcommittee about corporal punishment in schools, Dr. Frederick Green remarked that for “a number of deviant adults” spanking on the buttocks was a source of sexual gratification and arousal. Green added that it was “really intolerable for this type of activity to be aided and abetted by the policies and regulations of our society.”<sup>199</sup> An ACLU staffer later remarked that corporal punishment by teachers was “tinged with sexual undertones.”<sup>200</sup>

The Senate subcommittee hearing fostered little mutual understanding, and no new policies, but it showed that many Americans thought of paddling as a social problem. Toward the end of the hearing, Hyman was candid about the prospects of a change in policy. He favored a

---

<sup>198</sup> Senate Hearing, 34.

<sup>199</sup> Senate Hearing, 41.

<sup>200</sup> American Civil Liberties Union, *A Violent Education: Corporal Punishment of Children in US Public Schools*, (Printed in the USA: Human Rights Watch, 2008), 14.

prohibition on school spanking at the national level but was “pessimistic.” In some respects, the exchange in the Senate resembled the national discourse on corporal punishment: there was little agreement between the parties, and few Americans spent much time thinking through their position. Proponents of paddling were not influenced by science that questioned its efficacy and opponents but were not persuaded with anecdotes and similes used by educators to convey the wisdom of traditional classroom discipline. After one hour and twenty-five minutes of testimony, Senator Specter adjourned the first congressional inquiry into corporal punishment in American schools.

The education culture responded slowly to science on school discipline. In 1984 a graduate student who evaluated elementary school principals on their use of paddling found that the more they supported it, the less they knew about research on corporal punishment. Education, Hyman claimed, was more affected by social and religious traditions and political beliefs than research findings. “Much of what one might observe in a classroom,” he wrote, was “as shaped by local religious and political ideology as by the findings available in the massive body of research on human learning, personality, and teaching.”<sup>201</sup> Another scholar observed that the school discipline debate was “not yet resolved” in the 1980s. “While the traditionalists cling to the custom of spanking children,” he wrote, “there are others who question the wisdom of the practice, pointing out that massive evidence suggests it teaches children the wrong things.”<sup>202</sup> Southern school leaders, according to OCR data from the Department of Education, were the least interested in school disciplinary reforms.

Outside the South, however, state lawmakers reformed school discipline policies. In the 1980s more state legislatures banned corporal punishment in the public schools than in all other

---

<sup>201</sup> Hyman, *Reading, Writing, and the Hickory Stick*, 30.

<sup>202</sup> Hal Malehorn, *Elementary Teacher’s Classroom Management Handbook*, (New York: Parker, 1984), 63-4.

decades combined. Vermont legislators stopped school spanking in 1985.<sup>203</sup> In 1986, Californians prohibited teachers from using force on pupils, except in self-defense, to quell disturbances, or to obtain possession of weapons.<sup>204</sup> Nevada followed in 1987.<sup>205</sup> In 1988, Nebraska and Wisconsin prohibited corporal punishment in schools.<sup>206</sup> In 1989, Connecticut legislators excluded teachers from using force upon pupils, except to protect themselves or others from immediate physical injury and to confiscate weapons or illegal drugs. Iowa, Michigan, Minnesota, North Dakota, and Oregon followed that year, and in 1989, Virginia was the first southern state to outlaw corporal punishment in education.<sup>207</sup> Legislators made similar exceptions for the use physical force on students: self-defense or defense of others; to protect school property; or to confiscate contraband. Michigan legislators went a step further, requiring the state department of education to develop and publish a model list of alternatives to corporal punishment in consultation with school employees, school boards, school administrators, pupils, parents, teachers, and child advocates.

During the 1980s, as more states outside the South outlawed the practice, the numbers – and percentages – of students struck by educators fell. In the Department of Education’s 1984 Office of Civil Rights survey of corporal punishment, school officials reported paddling over 1.3 million students, or 3.3% of schoolchildren in the U.S. In 1984 Mississippi and Arkansas educators paddled the highest percentage of their pupils (12%) with Alabama, Florida, and

---

<sup>203</sup> Vermont Statutes Annotated (2004), Title 16, Section 1161a, LexisNexis Publishing, 2004, 268.

<sup>204</sup> West’s Annotated California Codes: Education: 49001, 174-175.

<sup>205</sup> Michie’s Nevada Revised Statutes Annotated: 392.4633, Lexis Nexis Publishing, 427.

<sup>206</sup> Revised Nebraska Statutes, Chapters 78 to 81, Article 9, section 79-295, Published by the Revisor of Statues, 2003, 52.

West’s Wisconsin Statutes Annotated, Sections 115.001 to 123-End, Thomson West, 2004, 344.

<sup>207</sup> Iowa Code Annotated, Vol. 13, Section 280.21, West Publishing Co., St. Paul, Minn., 314.

Michigan Compiled Laws Annotated, Sections 340.1 to 380.1620, Thomson/West, 2005, 603-605.

2009 Oregon Revised Statutes, Volume 9, Section 339.250, State of Oregon, Salem, OR, 2009, 216.

North Dakota Century Code Annotated, Vol. 3B, Titles 15 & 15.1, LexisNexis Publishing, 2003, 388.

Code of Virginia 1950, Vol. 5, Section 22.1-279.1, LexisNexis Publishing, 2006, 240-241.

Tennessee closest behind (9%). The 1986 OCR survey reported a lower percentage of students paddled by educators, down to 2.7%, with Arkansas and Mississippi teachers maintaining the highest paddling averages (11%). Alabama and Tennessee were close behind (10%). Texas, where educators paddled (by far) the greatest number of pupils, reported a decline from 9% to 6% between 1976 and 1986. Fewer American students received corporal punishment during the 1980s, but southern educators continued to wield their paddles, against disproportionate numbers of non-white students.<sup>208</sup> “The Southern states seem to be more lagging, because of a more conservative mindset,” noted a spokesperson for the Education Commission of the States.<sup>209</sup>

Congress continued to show interest in school discipline. On June 18, 1992, at 10:30 a.m., the Subcommittee on Select Education of the House Committee on Education and Labor met in the Rayburn House Office Building to conduct its hearing on corporal punishment. Representative Major R. Owens, a six-term Democrat from New York, presided as chairman. Three more of the ten subcommittee members were present: Donald M. Payne, a Democrat from New Jersey, Ed Pastor, an Arizona Democrat, and Cass Ballenger, a Republican from North Carolina.<sup>210</sup>

In his opening statement, Chairman Owens decried the “emotional and physical impact” of corporal punishment in schools and announced House Resolution 1522, legislation that would stop federal funding for education programs that continued the “barbaric practice.” Claiming that every year American school children were “beaten, pinched, slapped, punched,

---

<sup>208</sup> Office of Civil Rights Statewide Surveys of Reported Incidence of Corporal Punishment in Schools: 1984, 1986, published in Hyman, *Reading, Writing, and the Hickory Stick*, 237-242.

In 1984, 1986, and 1988, black students were 28%, 31%, and 28%, respectively, of students struck by educators. Center for Effective Discipline, <http://www.stophitting.com>, see U.S. Statistics on Corporal Punishment by State and Race. (Accessed on 6/21/2011)

<sup>209</sup> Reagan Walker, “Southern States Slower to Join National non-Paddling Movement,” *Clarion-Ledger*, July 15, 1990, 1.

<sup>210</sup> One Hundred Third Congress, *Congressional Pictorial Dictionary*, Final Edition, February, 1993, (United States Government Printing Office, Washington, 1993).

whipped, paddled, thrown against walls, stuck with pins, locked in closets, forced to eat noxious substances, and abused in countless other creatively sadistic ways,” Owens demanded that “violence against children must cease.” The federal government, he added with irony, had prohibited zoos and commercial animal trainers from using corporal punishment to discipline animals.<sup>211</sup>

Corporal punishment, Owens declared, was no “equal opportunity abuser.” Teachers and administrators, he claimed, abused the “least powerful and most vulnerable” pupils. These, Owens noted, were blacks, Hispanics, and other minority students in grades one through four, from low-income families, and often with disabilities. House Democrats, unlike their colleagues in the Senate, were prepared to discuss the politics of paddling.

Worse, Owens claimed, such “daily acts of cruelty” were “completely and utterly senseless” because corporal punishment did not work. “All of the research,” he insisted, showed that it failed to produce better discipline, orderly classrooms, or obedient children. Chairman Owens noted other restrictions and obligations imposed by the federal government on the recipients of its education funds, including protections against racial and gender discrimination, and proclaimed that the hearing marked “the beginning of the process to establish another fundamental protection for American schoolchildren; that is, physical safety in the classroom.” The congressman’s introduction marked a significant transition in the discussion of corporal punishment in schools. Linked with growing public concerns about safety in American schools, spanking by educators was no longer just a matter of disciplinary policy.

Dr. Irwin Hyman, accompanied by two physicians and Dr. George Batsche of the National Association of School Psychologists, made up the initial panelists. Hyman, in the five

---

<sup>211</sup> *Hearing Before the Subcommittee on Select Education of the Committee on Education and Labor, House of Representatives, 102<sup>nd</sup> Congress, Second Session, June 18, 1992, U.S.G.P.O., Washington, 1992, 1, (Hereafter referred to as House Hearing).*



minutes allowed to him by the Subcommittee, showed a series of slides that depicted the bodily harms of paddling. In the first slide, a Georgia boy aged nine showed deep red bruises, and the outline of a paddle. Hyman claimed that the boy had a learning disability, and for two years afterward experienced nightmares, withdrawal, and intense anger towards the teacher and the school. The boy dropped out of school, he reported, and received a diagnosis of “educator-induced post traumatic stress disorder.” When the case went before the Georgia Court of Appeals in 1989, Hyman added, the chief justice commented that it was “to be anticipated that corporal punishment will produce pain and potential for bruising.” Hyman proceeded to show the congressmen several more slides depicting abuse by educators: the injuries of a victim beaten by teachers who dropped out and was homeless, a photo of Washington boy with rope burns who was tied up for an entire school day, and a portrait of a Washington boy that teachers forced to do sprints until he had a fatal heart attack. Forced by time constraints to wrap up his statement, Hyman summarily concluded that there was “no pedagogical, psychological or moral reason” to continue hitting schoolchildren under the guise of discipline.<sup>212</sup>

Dr. George Batsche, a Florida school psychologist, next addressed the Subcommittee. He testified that corporal punishment in schools had reached “epidemic” proportions, not because teachers employed it more frequently, but because students had “changed significantly” in recent years. “Students today,” he asserted, “are products of a world of television, less parental supervision” and were “influenced by the peer group.” Consequently, Batsche observed, “we have educators hitting students and students hitting educators.” Such an environment, he added, was not a “safe haven” for education.<sup>213</sup>

---

<sup>212</sup> House Hearing, 3.

<sup>213</sup> House Hearing, 24.

For schools to be a “safe haven” for learning, Batsche argued, they had to ban teachers from paddling students. “We know firsthand,” he stated, “that increasing academic achievement can only be accomplished when students feel that their school and those who are responsible for them provide a safe haven, and they feel good about learning.” Batsche explained that in his “country,” paddling was the first line of discipline in most schools, a district that was “92 percent free lunch or federally reduced lunch” and “racially mixed.” For two years, he reported, the district banned corporal punishment and implemented alternatives. At that time, he claimed, disobedience, fighting, disruptions, and suspensions decreased dramatically. Educators would not use alternatives, Batsche believed, unless schools imposed a ban. “We know that unless it is banned,” he testified, “it will continue.” With alternatives, however, educators could increase academic achievement and return schools from “battlefields to safe havens.”

Next before the Subcommittee came Dr. Frederick Green, a professor of pediatrics at the George Washington University Medical Center, and immediate past president of the National Committee for the Prevention of Child Abuse. In a brief statement, Green linked corporal punishment in schools with child abuse, and thanked the staff of his organization, the Coalition Against Child Abuse, and the American Academy of Pediatrics for their support of H.R. 1522.

Cass Ballenger, a North Carolina Representative, spoke out against the resolution. Ballenger pronounced his belief that states and localities, not the federal government, should decide school disciplinary policies, and questioned the balance of opinions represented by the first panel. “I am a State’s rights fellow,” he proclaimed, “and I don’t see principals of schools testifying today – just psychologists.” Ballenger’s rambling declarations showed his misunderstanding of the legislation at hand and of the problems created by corporal punishment in schools: “The basic idea that the law, some Federal law that works beautifully in the areas of

real danger, shall we say, where students do assault their teachers, and I am speaking mostly of big city schools compared to – I have no big cities in my district. I have small school districts and I doubt seriously if they use corporal punishment to any great extent.”<sup>214</sup> The problems associated with paddling, as Hyman and the other expert witnesses knew, was created by teachers assaulting students, not the opposite, as Ballenger’s comments suggested. Panel members also knew that almost every metropolitan school district in America had prohibited corporal punishment, but the practice was common in rural areas, like Congressman Ballenger’s district.

Ballenger, like many defenders of corporal punishment in schools, referred to his own experiences with paddling and attempted to deflate the seriousness of the topic with humor. “My father didn’t believe in sparing the rod and spoiling the child,” he quipped, “and my schoolteachers didn’t either. And so I guess it probably warped my personality and it made me come to this fabulous place where I am located.” Congressman Ed Pastor, an Arizona Democrat, commented to Ballenger “I guess from that little comment it means that you enjoyed the bashing then and you enjoy it now,” to which Ballenger replied “I think it is worse now when there is no physical punishment.” Ballenger, with some assistance from his colleague, succeeded in lightening the mood of the hearing and making two points. First, the strict discipline instilled by his parents and teachers did not hinder, but possibly helped, his success in public life. Second, physical punishment was not really harsh or cruel, after all. “If my father had given me the choice of having a lecture or a whipping,” the congressman added, “I would have taken the whipping because the lecture, obviously, went on a lot longer...”

Congressman Donald M. Payne, a New Jersey Democrat, was exasperated with Ballenger. “I don’t know whether,” he exclaimed, “you and your colleagues (who) oppose this

---

<sup>214</sup> House Hearing, 48.

legislation either have not read it or don't understand it." Payne alluded to confusion Ballenger had showed about whether the H.R. 1522 would prevent educators from using force to disarm threatening students. Payne barbed his Republican colleagues that their opposition conflicted with the highly publicized Republican agenda promoting families. "I am confused and baffled by the Republicans on this committee," he said. "When I hear Dan Quayle running around the country talking about family values and talking about how you've got to have a family and what the right family is and all of that – of course, he can't spell either..."<sup>215</sup> The tension in the hearing reflected the political divisions in the school discipline debate of the late twentieth century: Democrats, in this case, African Americans from the Midwest and the East, were set to make a statement in favor of abolishing corporal punishment in American schools, but Republicans, led by white southerners, were determined to defend their traditional approach to school government.

Chairman Owens welcomed the second panel of the day. The first witness was Arlene Zielke, Vice President for Legislative Activity of the National Parent Teacher Association. Zielke thanked Chairman Owens for bringing the problem of hitting children and the use of violent force by educators on to the national agenda. "Fifty years of research," she reminded lawmakers, showed that corporal punishment was not effective in helping children control or change their behavior. An "increasing number" of local PTA activists, Zielke claimed, told the national office that a federal law banning corporal punishment was necessary for school policies to change. Addressing the North Carolina congressman, she acknowledged that the PTA advocates ordinarily favored local controls over education policies, but were frustrated with repeated setbacks when trying to pass state legislation to protect children from school spanking. In too many areas of the country, she claimed, parents seeking to eliminate corporal punishment

---

<sup>215</sup> House Hearing, 50.

met with “strong resistance.” Paddling supporters, Zielke added, labeled them troublemakers, and parents who filed grievances against the practice had reported harassment, name-calling, and social isolation.<sup>216</sup>

Next before the subcommittee was Jimmy Dunne, a former teacher, and president of People Opposed to Paddling Students, of Houston, Texas. Dunne was plain-spoken and sincere, addressing his remarks to Congressman Ballenger, whom he believed to be “a good example of our opposition on this issue.” Dunne had paddled students in his first year as a teacher but “soon learned that paddling did not work.” The same kids, he recalled, were back the next day doing the same things. It was up to teachers to have good lesson plans and class management skills, Dunne believed, and paddling was more of a reflection on teachers than students. He brought examples of paddles used on students to the hearing: a shaved down baseball bat from a Houston Middle School, and a typical paddle, made in school wood shops.<sup>217</sup>

Corporal punishment in schools, Dunne declared, was a national issue. Dunne linked school spanking with traditional American civil rights causes. “Just as we abolished slavery and have civil rights laws,” he contended, “the children should be protected at the highest level.” He advised congressman not to “pass this issue down” to states, school districts, principals and teachers. Dunne left the impression of a passionate and courageous, but practical, reformer. Outraged with violence committed by teachers in the name of discipline, and the school officials who condoned them, he did not shy away from challenging with Texas authorities who sanctioned paddling, raising awareness of abuses, and leading constructive efforts to change school policies. Jimmy Dunne was not intimidated by smug school officials or parents who harassed anyone that rocked the boat by standing up against traditional school discipline.

---

<sup>216</sup> House Hearing, 55-58.

<sup>217</sup> House Hearing, 61-63.

Paddlings were child abuse, he argued, and denigrated the schools. They signaled that it was fine to hit children, he said, encouraging parents to do so at home, causing child abuse, injury and death. When teachers hit students with boards, he reasoned, parents felt justified using belts and extension cords and children ended up bruised and battered. Schools should build self-esteem, Dunne contended, but paddling knocked it “down to the floor,” sending kids home humiliated, angry at their teachers, and afraid of school. Some became more aggressive and started fights, he said, and others felt suicidal. Dunne added that a survey by the Dallas Morning News showed that teachers were eleven times more likely to paddle black kids than white kids in Richardson, Texas, and in Plano, the ratio was 9 to 1, and in Garland, 3 to 1.

Dunne testified that abolition of corporal punishment, however, made schools peaceful. When teachers respected students, he claimed, they returned that respect to teachers and the school. Dunne cited Superintendent Jim Hensley of Austin, Texas, who said “we cannot motivate people effectively in an atmosphere of fear and punishment.”

Corporal punishment, Dunne held, was part of “American’s cycle of violence.” When teachers hit children, he argued, they taught them, in turn, to hit “just the same as when we cuss them we are teaching them to cuss.” When hitting no longer worked, he added, people used knives and guns. “We have got to set the example,” Dunne pleaded, “by showing our children that we can solve problems peacefully.” He challenged the congressmen to take responsibility for protecting American school children and not to “pass the buck down” to someone else.

Next to address the subcommittee was Dr. Robert Fathman, an Ohio psychologist, and chairman of the National Coalition to Abolish Corporal Punishment in Schools. His group was an umbrella for over thirty institutions and organizations like the NEA, the ACLU, the APA and the PTA, that opposed school paddling. He recalled the distress he felt when his daughter, aged

six, received three licks from her teacher for circling words she was instructed to underline. Addressing the southerners present at the hearing, Fathman commented that “those of you who live in states like North Carolina where this is not only allowed but is endemic, need to be concerned about the effect of that,” and asked them to imagine they would feel if their own children or grandchildren were beaten by a teacher.<sup>218</sup>

Fathman focused on justifying federal action. Like Dunne, Fathman cautioned committee members that deferring the decision on classroom discipline to states and localities was “to pass the buck.” Corporal punishment in schools, he added, legitimized and validated child abuse in America. Leaving the decision to others, Fathman believed, was the same as endorsing the practice. The states and the judiciary, he claimed, had “abrogated their ability to protect children.”

The psychologist again directed his remarks towards the North Carolina congressman: “Children in the South, Mr. Ballenger,” were “4,000 times more likely to be struck than a child in the Northeastern quadrant of this country.” He warned anyone who considered relocating to the south of the “one chance in 10” that their children would be “victimized” by corporal punishment that year. Fathman’s written statement was a more poignant critique of southern leadership. Old habits died hard, he maintained, and some states would never abolish corporal punishment in schools. Just as Americans needed federal laws to defeat “state’s rights” arguments “in favor of segregation 30 years ago,” he argued, they needed a federal law to “overcome the intransigence of cultural backwardness.” Congressman Ballenger, as the lone southerner on the subcommittee, was increasingly isolated as the hearing progressed. As Dr. Fredda Brown of the Association for Persons with Severe Handicaps testified against the use of

---

<sup>218</sup> House Hearing, 69-70.

aversive behavioral interventions by special education teachers, Ballenger had a chance to compose his defense.

When Brown finished, Ballenger took the floor in behalf of his state. “Just in defense of North Carolina,” he railed, “and the fact that we seem to be getting put down pretty badly here, I can understand why Mr. Dunne and Mr. Fathman – or Dr. Fathman, excuse me, are two leaders in this cause since (sic) your States rank worse than North Carolina, if I can understand that properly.” Fathman responded that, in percentages of students paddled, North Carolina was worse than Ohio. “No,” Ballenger replied, in reference to the total number of paddlings in Ohio, “Your population is greater than ours and our numbers are smaller than yours. This is not my sheet.” Fathman, seeking some common ground, acknowledged that both states were bad and should change. It did not matter, he said, who was worse. “I am just defending myself,” Ballenger protested, “I am trying to make you look as bad as I do.” Fathman, receding from the confrontation, again stated that he would not defend school spanking in Ohio. Ballenger, however, again added that “It was (out of) pure self-defense that I brought that forward.”<sup>219</sup> Like many southerners faced with criticism of segregation and other forms of discrimination, Ballenger responded by accusing critics of hypocrisy, and interpreting their message as an attack on his honor, and the honor of his state. Ballenger sought to ennoble his support for corporal punishment in southern schools by claiming that he was only defending himself against unfair attacks by outsiders.

Ballenger attempted to explain his position. “I am not one of these people,” he claimed, “that believes in walking around with a paddle and beating kids and all that kind of stuff.” Distancing himself from corporal punishment, Ballenger still asserted his belief that local authorities could be accountable for disciplinary abuses. “Somewhere along the line,” he

---

<sup>219</sup> House Hearing, 86-87.



continued, schools were “better run when they are run at the local level where people that allow the violence you speak of should be removed from office.” Ballenger also believed that day-care centers run by churches would have difficulty accepting that they could no longer paddle children. He added that “I am not the monster you think I am, but I am defending State rights.” As a politician, he concluded, he had to reach a compromise, “whereas if you are not in charge of making the ultimate decision you can be as pure as you want to be.” The panel of experts, Ballenger implied, did not have to reckon with political realities.

The congressional debate on school discipline did, however, feature more clash in the House of Representatives than in the Senate. The lack of a national consensus on corporal punishment, though it reflected clear regional differences about what was appropriate school discipline, led school spanking opponents to call for a uniform federal policy. Supporters of the current system, however, defended school spanking as an example of state’s rights. By the end of the morning at the Rayburn House Office Building, however, political posturing was all that the congressmen accomplished. Even if the House had passed H.R. 1522, banning federal funding for schools that used corporal punishment, the legislation had no binding force. Like the Senate hearing the House inquiry fostered no new policies or common ground, and like the Senate subcommittee, House members disposed of testimony without delay: after two hours and seven minutes, and in time for lunch, Chairman Owens adjourned the House hearing on corporal punishment.

The Supreme Court declined to restrain educators from paddling students, and Congress showed little real interest in the abuses of corporal punishment in schools, but more Americans were rejecting traditional school discipline at the grassroots level. State lawmakers outside the South continued to move against corporal punishment in schools. In 1991, Montana legislators

outlawed school spanking.<sup>220</sup> In 1992, Utah legislators prohibited corporal punishment in schools, but allowed it in cases where a student's parent or guardian gave written permission to spank their child.<sup>221</sup> In 1993, Illinois, Maryland, Nevada, and Washington banned paddling.<sup>222</sup> After years of debate, and a two-year experiment with non-violent alternatives, West Virginia abolished corporal punishment in 1994.<sup>223</sup> Consequently, throughout the 1990s, educators in the U.S. paddled fewer schoolchildren. When the Office of Civil Rights began tracking corporal punishment in schools, in 1976, 3.5% of students received paddlings. In 1990, educators reported paddling 1.5% of their students. In 1992, the average fell to 1.3%; in 1994 to 1.1%; on 1997 to 1%, and in 1998, to 0.8%.<sup>224</sup>

Significantly fewer American children experienced corporal punishment in school, a trend that followed state government abolitions of the 1980s and 1990s, but no laws prevented southern educators from exercising their right to paddle students. "Abolition efforts," noted one scholar in 1997, "have been frustrated by conservative politicians in the Southern and Southwestern states, despite overwhelming research that corporal punishment is an ineffective, unnecessary, counterproductive, and potentially harmful practice."<sup>225</sup> As a result, during the

---

<sup>220</sup> Montana Code Annotated, Vol. 4, Section 20-4-302, Montana Legislative Services Division, Helena, MT., 2009, 62-63.

<sup>221</sup> Utah Code Annotated 1953, Vol. 5C, Section 53A-11-802, Lexis Nexis Publishing, 2009, 253.

<sup>222</sup> Smith-Hurd Illinois Compiled Statutes Annotated, Chapter 105, 5/24-24, Thomson/West, 2006, 251.

Michie's Annotated Code of Maryland, Education, Section 7-306, Lexis Nexis Publishing, 2008, 351.

Michie's Nevada Revised Statutes Annotated, Vol. 11, Chapter 392.4633, Lexis Nexis Publishing, 2008, 427.

West's Revised Code of Washington Annotated, Titles 28 to 28A, Section 28A.150.300, Thomson/West, 2006, 133.

<sup>223</sup> Michie's West Virginia Code Annotated, Volume 7A, Chapter 18A-5-1, Lexis Nexis Publishing, 2007, 163.

<sup>224</sup> Office of Civil Rights Data, Department of Education, 1976, 1990, 1992, 1998.

<sup>225</sup> Andrew P. Goldstein and Jane Close Conoley, eds., School Violence Intervention: A Practical Handbook, 433.

1990s, black students received paddlings in higher numbers than before, at more than twice the rate of white students.<sup>226</sup>

In recent years, continuing the trend of the 1980s and 90s, more state legislatures have banned corporal punishment in schools. In 2003, Delaware outlawed paddling, Pennsylvania followed in 2005.<sup>227</sup> In 2009, Ohio prohibited corporal punishment in its public and private schools.<sup>228</sup> New Mexico legislators stopped paddling in 2011. New Mexico educators reported paddling 2,205 students in 2000 but in 2006 the number fell to 705. “The decision on whether or not to use corporal punishment,” declared Governor Susana Martinez, was “best left to a parent.”<sup>229</sup> After intense lobbying, the ban bills narrowly passed, clearing the New Mexico House on a 36-31 vote and the Senate on a 22-17 vote.

With the state prohibitions of the 1980s and 1990s, the numbers (and percentages) of students paddled by educators continued to decrease. In 2000, school officials reported paddling 0.7% of schoolchildren in the U.S., a total of 342,038 students. In 2003 and 2004, the percentage fell to 0.6% and 0.57%, respectively. In 2006, the national paddling average fell again to 0.48%, with a total of 223,190 students paddled by educators. Outside the South, Arizona, Idaho, Wyoming, Colorado, Kansas and Indiana laws permitted spanking in schools, but in 2006 the

---

<sup>226</sup> Center for Effective Discipline, <http://www.stophitting.com>, see U.S. Statistics on Corporal Punishment by State and Race. Accessed on 6/21/2011. Black students comprised 17% of public school students in the U.S., but accounted for 34% of students paddled in 1990, 39% in 1992, 39% in 1994, 39% in 1997, and 37% in 1998.

<sup>227</sup> Delaware Code Annotated, Volume 8A, Title 14, Section 702, Michie, Charlottesville, VA, 2007, 111

The Pennsylvania Code, <http://www.pacode.com>, Chapter 12 – “Students and Student Services”, Section 12.5, effective December 3, 2005.

According to the OCR, Delaware educators reported paddling 65 students in 2000, and Pennsylvania educators spanked 407.

<sup>228</sup> Page’s Ohio Revised Code, Title 33, Volume 1, Section 3319.41, LexisNexis Publishing, 2009, 795. According to OCR surveys, Ohio educators reported paddling 1,085 students in 2000, and 672 in 2006.

<sup>229</sup> Matthew Reichbach, “Martinez Signs Bill to End Corporal Punishment in Schools,” <http://newmexicoindependent.com>, 4/6/11, accessed on 7/14/11.

US Department of Education, Office for Civil Rights (OCR), 2000 and 2006 Office for Civil Rights Elementary and Secondary School Survey, Projected Values for the State of New Mexico, <http://ocrdata.ed.gov> (accessed on 7/19/11)

Department of Education reported that educators paddled fewer than one thousand students in any of those states.<sup>230</sup> From 2000 to 2006, the incidence of corporal punishment had declined in Indiana (2,221 to 577), Arizona (632 to 18), Colorado (260 to 8), Kansas (99 to 50), and Wyoming (8 to 0). Only Idaho educators reported paddling more students in 2006 (111) than in 2000 (23).<sup>231</sup>

---

<sup>230</sup> US Department of Education, Office for Civil Rights (OCR), “Civil Rights Data Collection 2006,” <http://ocrdata.ed.gov> . Arizona, Idaho, Wyoming, Colorado, Kansas, and Indiana allowed corporal punishment in schools as of 7/15/2011.

<sup>231</sup> US Department of Education, OCR, Elementary and Secondary School Survey, 2000, 2006, Projected Values for the States of Indiana, Arizona, Colorado, Kansas, Wyoming, and Idaho. <http://ocrdata.ed.gov>, accessed on 7/18/11.

## Chapter Seven: The Persistence of Corporal Punishment in Southern Public Schools

Like other early Americans, southerners who addressed the subject of corporal punishment saw its decline as evidence of social progress. South Carolinian army surgeon and Continental Congressman David Ramsey lauded one early republican campus for its enlightened disciplinary practices in his History of South Carolina (1808). He claimed that corporal punishment was “rarely inflicted,” since teachers secured the affections of their pupils through “judicious praise,” inspiring “an ardent love for improvement, and an eagerness to deserve and gain applause.”<sup>232</sup> Most antebellum southern children were not privy to academy life, however, even if opportunities for schooling were available.

The South was never known for progress in education. Early in the nineteenth century, focused on growing commodities and extracting raw materials, antebellum southern communities boasted few public schools. As a result, compared to eastern states, public education got a slow start in the South. In 1961, economic historian Douglas North wrote that “the structure of the southern economy played a critical role in the South’s policy toward education. The concentration on Cotton production, the lack of urbanization, and very unequal distribution of income were important factors.” For southern elites, who educated their own children at home or at boarding schools, building and supporting schools for the children of the middle and lower classes was never a priority. “Even more significant,” North continued, “were the attitudes of the dominant planter class, who could see little return to them in investment in human capital.” Southern elites, North wrote, “vigorously opposed” the cost of educating “the

---

<sup>232</sup> Edwin Alderman, Editor, *Library of Southern Literature*, Volume 10, (Atlanta: Martin and Hoyt, 1929), 4307.

large percentage of white southerners who were outside the plantation system,” and this “opposition carried over to Reconstruction days, when the effort to expand public education met formidable political and financial obstacles.”<sup>233</sup>

Southern education developed slowly after the Civil War. Historian Gavin Wright observed that rural landowners saw little benefit in providing education to their tenants. He argues that cynicism about public education persisted in southern mill towns as well: “Like capital inflows, investment in education was a two way sword. Providing some elementary education facilities could be useful in recruiting workers with families to the mill village or the steel mills of Birmingham, and a literate worker was potentially more productive. But a high school diploma was as good as a ticket to leave the mill village.” Wright concludes that South’s concentration on agriculture left few options for its unskilled workers. An education, he wrote, “greatly increased the probability that a young person would leave his home county and ultimately his home region.”<sup>234</sup> Southern planters and industrialists--who enjoyed opportunities to educate their own children in distant private schools--had economic motives to withhold support for public education.

With public support for education lacking, southern schoolteachers (and those who moved South to teach) struggled for a place in southern communities. Alabamian Daniel R. Hundley (1832-1899), who authored Social Relations in Our Southern States (1860) to debunk popular northern stereotypes of southern life, ranked teachers in the “middle classes” between “southern gentlemen” and “southern yeoman.” The most established schoolmasters may have considered themselves social equals to doctors, lawyers, merchants and clergymen, but with incomes limited to their salaries, their prospects for social mobility were comparably marginal.

---

<sup>233</sup> Douglas North, *The Economic Growth of the United States 1790-1860*, (New York: Norton, 1961), 133-134.

<sup>234</sup> Gavin Wright, *Old South, New South: Revolutions in the Southern Economy Since the Civil War*, (New York: Basic Books, 1986), 79.

These men, Hundley perceived, were “quite provincial in manners, speech, and opinions,” and “when educated at all, at third and fourth rate seminaries, where they imbibe a smattering knowledge of Greek and Latin, with the slenderest possible amount of the humanities, they yet fancy that they are cultivated in the highest degree.” Hundley’s observation that “Yankees who have gone South” often taught school underscored the transient and marginal status of southern school teachers.<sup>235</sup>

It is hard to know when observers first considered school spanking to be a characteristic of the South. Its martial traditions, dueling, and vigilantism, and the sparseness of state authority all suggest that rural southern culture had a rough edge that encouraged its inhabitants to seek direct resolutions of personal conflict and to endorse taking law enforcement, when they deemed necessary, into their own hands. “In a system without authority, wrote southern education historian William A. Link, “teachers had to impose their control, and the resulting conflict—frequently physical—often determined the length of their tenures.”<sup>236</sup> James L. Leloudis, in his study of southern school reform, noted that “schoolhouse discipline expressed the values of a society in which authority was personal and direct.” Southern teachers, he added, saw corporal punishment as “indispensable” and deviant students felt “the sting of the rod.”<sup>237</sup>

The first important school discipline precedent, State v. Pendergrass, came down from the North Carolina Supreme Court in 1837. States in other regions produced similar litigation throughout the nineteenth century, but frontier states like Indiana, Missouri, and Texas produced the most cases that involved corporal punishment in the schools. Whippings and paddlings in

---

<sup>235</sup> Daniel R. Hundley, *Social Relations in Our Southern States*, (Baton Rouge: L.S.U. Press, 1979, reprint of the 1860 edition published by H.B. Price, New York), 80.

<sup>236</sup> William A. Link, *A Hard Country and a Lonely Place: Schooling, Society, and Reform in Rural Virginia, 1870-1920*, (Chapel Hill: University of North Carolina Press, 1986), 34-35.

<sup>237</sup> James L. Leloudis, *Schooling the New South: Pedagogy, Self, and Society in North Carolina, 1880-1920*, (Chapel Hill: University of North Carolina Press, 1996), 16-17.

American schools, in the South more than other parts of the United States, created public spectacles that contributed to images of the region as excessively violent.

Literary observers of southern culture registered the extraordinary violence of rural southern schools. In The Hamlet (1940), William Faulkner briefly depicted two itinerant southern schoolmasters whose tenures were marked by violence. School in the fictitious rural community of Frenchman's Bend was first kept by "an old man bibulous by nature, who had been driven still further into his cups by the insubordination of his pupils." Girls, wrote Faulkner, had little regard for his ideas or his teaching ability and boys did not respect him "to make them obey and behave or even be civil to him – a condition which had long passed the stage of mere mutiny and had become kind of a bucolic Roman holiday, like the baiting of a mangy and toothless bear." The next "professor" of the school at Frenchmen's Bend was a university student, a football player, who ruled by physical force. In the first week of school "he had subdued with his fists the state of mutiny which his predecessor had bequeathed him." The school, wrote Faulkner, was a single room with "pupils ranging from the age of six to the men of nineteen whom he had had to meet with his fists to establish his professorship..."<sup>238</sup> Schools, in the agrarian South imagined by Faulkner, only existed between harvest and planting seasons (from mid-October through March) and only when community leaders could hire a man capable of subduing the older boys who matriculated in the absence of farm labors.

Historian Bertram Wyatt Brown linked school discipline in the South with masculine honor and class grooming. After clothing, Brown saw school as the second "major stage of socialization" for southern youth. Schoolmasters, he wrote, faced "parental and child defense of honor against outside authority." Disobeying teachers, reasoned Brown, readied a planter's son

---

<sup>238</sup> William Faulkner, *The Hamlet*, (London: Chatto and Windus, 1958, originally published in 1940), 95-103.



“to assume command over the social hierarchy, white and black.”<sup>239</sup> Students that were humiliated by their masters envied those who enjoyed the privilege of defying school authorities. Most southern teachers, dependent on the favor of established members of the community for their jobs, accepted class divisions among their students as they struggled to maintain their social position beneath established landowners and above poor farmers and day laborers. If teachers indulged certain students and their families, they could be accused of a lack of fairness, but a consistent disciplinary policy risked offending students, and their parents, who expected special treatment.

Early in the twentieth century, when teachers in most American public schools used corporal punishment, southerners expressed a preference for paddling. When a researcher surveyed Rotary Club members from around the country in the late 1930s, a “decidedly larger proportion” of southern Rotarians favored the corporal punishment in their homes and schools. Only 1 of 43 southerners who took the survey favored the idea of a law against corporal punishment in schools.<sup>240</sup>

Support for traditional school discipline was strong among the most conservative segments of southern society. Historian Nancy Maclean noted that members of the Georgia Ku Klux Klan saw school discipline reforms as a threat to filial authority. “While the professional middle class was turning to consensual models of child-rearing,” she observed, “Klansmen defended physical punishment.” When a proposal to abolish corporal punishment came before

---

<sup>239</sup> Bertram Wyatt Brown, *Southern Honor: Ethics and Behavior in the Old South*, (New York: Oxford University Press, 1982), 161-163.

<sup>240</sup> Herbert Falk, *Corporal Punishment, A Social Interpretation of its Theory and Practice in the Schools of the United States*, Teachers College, Columbia University, Contributions to education, No. 835, Bureau of Publications, (New York: Columbia University, 1941), 132.

the Athens, Georgia school board in the 1920s, a board member (who was also a klan member) spoke against the reform and successfully defeated the measure.<sup>241</sup>

Corporal punishment in southern schools sometimes provoked vigilantism. Court records show that conflicts over school discipline occasionally roused southern students and parents to violent defenses of their family honor. One evening in 1900, at the auditorium of the Fifth District Agricultural School in Wetumpka, Alabama, D.W. Walkley punched L.N. Duncan, a teacher at the school. Duncan had whipped Walkley's son, Earle, earlier in the day. Facing a charge of assault and battery, Walkley asked that the judge instruct the jury to consider, as a mitigating circumstance, the relationship between the parent, the teacher, and the pupil: whether they found "from all the evidence that (the) defendant honestly and candidly believed that his child had been cruelly or immoderately punished." The judge refused, reasoning that if a teacher whipped a child severely, it was not sufficient provocation to justify an assault on the teacher by the father of the child the following day. The jury agreed, convicting Walkley of assault and battery, with a fine of 150 dollars.<sup>242</sup>

Teachers, especially men, who whipped their pupils sometimes faced violent recriminations from parents and relatives. "Rarely in contact with school officials," wrote a southern school historian, "teachers occupied an uncertain position, carefully watched by inquisitive, searching, and frequently hostile parents."<sup>243</sup> The community expected them to maintain order in the schoolhouse, but if they punished some students too severely, they could find themselves feuding with students and their families. One November evening in 1906, while waiting for a mail train at the post office in Andrew County, Missouri, Principal Ellis Cook was

---

<sup>241</sup> Nancy Maclean, *Behind the Mask of Chivalry: The Making of the Second Klu Klux Klan*, (New York: Oxford University Press, 1995), 112-113.

<sup>242</sup> *Walkley v. State*, 31 Southern Reporter, 854 (Supreme Court of Alabama, April 17, 1902).

<sup>243</sup> Link, *A Hard Country and a Lonely Place*, 34.

assaulted by W. L. Neely and his son, Oren. Neely, who had six children attending the school, was also one of the directors of the school. On the day of the assault, Cook had whipped one of Neely's sons, and the Neelys retaliated with a vengeance. A "serious combat began," Oren attacking with a "slung-shot," and his father with a metal object. Cook fled into the post office but could not escape the pair. "The door flew open," and according to the postmaster, "they came in fighting." Neely then held Cook while Oren struck him over the head. Cook fought free, throwing Neely into a glass display case, and the postmaster and another man convinced the Neelys to leave. Cook asked for a gun but, fortunately, the postmaster did not have one.

The Neelys succeeded in severely wounding Principal Cook. In a "dazed condition" following the attack, Cook received attention from two doctors, who dressed cuts to his head, several to the bone, apparently caused by a blunt object. Helped home, Cook remained dazed the following day, but in less than two weeks resumed his school duties. The Neelys failed to impress local authorities, however, who convicted them of aggravated assault, and after years of litigation, Cook won a \$2400 judgment against the family.<sup>244</sup>

Parental vengeance against school officials could be extremely vicious. One May day in 1918, in the boot heel of Missouri, Kisie Jones of Caruthersville beckoned Principal William Brooks to her door. As he approached, she charged him with having whipped her daughter, leaving wounds across her back. Brooks denied that he was severe, saying that her daughter was "a bad girl," and that he had been "obliged to punish her" on several occasions. Witnesses testified that Jones then slashed at Brooks' throat with a large Barlow knife. In a struggle, he caught the knife, severely cutting his hands and fingers. Jones continued the assault, biting Brooks as the two fell to the sidewalk. After bystanders separated them, Brooks had the knife in his bleeding hand, held by the blade. A few months later, in her July trial for felony assault, Kisie

---

<sup>244</sup> *Cook v. Neely et al.*, 128 Southwest Reporter, 233 (Kansas City Court of Appeals, Missouri, May 2, 1910).

Jones pleaded her defense. Though she admitted having a knife, she denied any intention of cutting Brooks, and only meant to choke him. The judge, she argued, should allow the jury to hear evidence that Brooks had whipped her daughter for the purpose of mitigating her culpability. The judge disagreed, the jury found her guilty, and Jones got two years in the state prison.<sup>245</sup>

Some parents urged their children to undertake violent recriminations. In 1921, Bertha Hancock told school boy Tom Loftin to fetch a bucket of water for her rural southern Missouri school, but instead Loftin went home. There, his father sent him and his older brother, Earle Loftin, back to school, with the instruction that the older boy not permit the teacher to whip the younger boy. When Hancock saw that the boy had disobeyed her, she whipped him, but was struck in the face and thrown onto the floor by Earle Loftin. Hancock, who “was pretty well able to take care of herself,” administered some blows to Earle’s head with a stick and the boys went home. A jury found Earle Loftin and his father guilty of common assault, fined him \$5, and sentenced his father three months in jail.<sup>246</sup>

One early twentieth century Mississippi teacher, who later served as state superintendent of education, armed himself against parental recriminations. After whipping the son of a bootlegger more than once, Willard Bond was accosted after dark by the boy’s family members. A night marshal interceded, arresting Bond’s attacker, and found “brass knucks” in his coat. “If he had hit me with the knucks,” Bond later wrote, “I would have killed him at the first opportunity, which of course would have not been the right thing to do and would have been bad for me.” Conflicts over school discipline tested the manhood of students, their families, and male teachers. Bond “resented deeply being waylaid and threatened with the knucks.” The next day he

---

<sup>245</sup> *State v. Jones*, 217 Southwestern Reporter, 22 (Supreme Court of Missouri, Division No. 2, Dec. 4, 1919).

<sup>246</sup> *State v. Loftin et al*, 230 Southwest Reporter, 338 (Springfield Court of Appeals, Missouri, May 3, 1921).

bought a pistol and was soon “quick on the draw” and “deadly with the aim.” After a bout with paranoia, the incident subsided, and Bond had no more trouble with the family. Bond’s account shows that male teachers struggled to keep their self-respect and adhere to a masculine code of honor. He regretted that he “had gotten to the point where” he “really wanted this fellow to give (him) an excuse to shoot.” That was the only time in his life, Bond recalled, “when I was in a state of mental depression.”<sup>247</sup>

Some students resorted to extreme violence to protect themselves from aggressive teachers. One school day in 1916, Jay Wilson, a Texan aged seventeen, heard that his teacher meant to “beat him up and send him home in such shape that his parents would not recognize him.” When the teacher, J.G. Wright, next approached Wilson in his seat, the boy rose, pointed a pistol at him, and ordered him to stop. Wright came forward, and Wilson shot him, and fired again as they struggled. Later, despite his claim that Wright had previously expressed his intent to harm him, a jury convicted Wilson of murder. On appeal, a Texas Supreme Court judge reversed his conviction, deciding that Wilson had sufficient cause to be threatened by his teacher. “If (the) deceased had gone towards (the) appellant with a switch or other instrument used by teachers to administer corporal punishment,” the judge reasoned, “perhaps the issue might be the case, but the teacher is not authorized to use his fist in administering corporal punishment.”<sup>248</sup>

Since nineteenth century Americans left courts with the task of deciding which school punishments exceeded moderation (and if they were malicious), southern judges and juries often had to decide how much corporal punishment was too much. Southern school whippings, in cases that reached the courts, could be brutal and malicious. Judges could rule on what evidence what evidence they could see, but juries had the job of deciding if teachers were, in fact, guilty of

---

<sup>247</sup> Willard F. Bond, *I Had a Friend, An Autobiography*, (Kansas City: E. L. Mendenhall, 1958), 74-76.

<sup>248</sup> *Wilson v. State*, 190 Southwestern Reporter, 155 (Court of Criminal Appeals of Texas, Dec. 20, 1916).

assault and battery, or just faithfully discharging their obligations to the community. If a competent jury found a teacher guilty of assault and battery on a student, he or she had little chance of successfully appealing the decision.<sup>249</sup>

In school spanking assault cases that reached the courts, the question of guilt turned on the physical evidence of the whipping and testimony about the demeanor of the defendant. They might consider the age, size, attitude and alleged offense of the punished student, the intent, actions, and physical makeup of the teacher, whips or paddles used, and anything else relevant to the conflict. To convince a judge or jury that a whipping was unreasonable, or immoderate, plaintiffs had to describe their injuries in detail and, if possible, submit expert opinions that helped their cause.

Perhaps the most significant consideration in teacher-pupil assault cases was the demeanor of the school official. If teachers beat students severely, while remaining composed, juries might not have a reason to conclude that their actions were evil. When teachers lost their tempers, and beat students brutally, they had no legal defense for their actions. In 1890, Alabama Supreme Court judges upheld the conviction of schoolmaster Benjamin Boyd on assault and battery charges for severely beating a male pupil. Witnesses testified that after a “severe chastisement” in the schoolroom, Boyd followed eighteen year old Lee Crowder into the school yard, punching him in the face and striking several blows to his head with the butt of a stick. Boyd then angrily declared that he would “conquer him [Crowder] or kill him,” remarking “in an excited, angry voice,” that he “could whip any man in China Grove beat!” Crowder suffered a “considerably swollen” eye that remained closed for several days and the attending physician

---

<sup>249</sup> *Smith v. State*, 20 Southwestern Reporter, 360 (Court of Criminal Appeals of Texas, Oct. 15, 1892).  
*Spear v. State*, 25 Southwestern Reporter, 125 (Court of Criminal appeals of Texas, Feb. 10, 1894).  
*Howerton v. State*, 43 Southwestern Reporter, 1018 (Court of Criminal Appeals, Texas, Jan. 12, 1898).  
*Holmes v. State*, 39 Southern Reporter, 569 (Supreme Court of Alabama, June 30, 1905).

noted “marks on his head, made by a stick.”<sup>250</sup> The customary practice of corporal punishment in schools, southern jurists concluded, did not necessarily mean teachers could conquer or subdue their pupils with blows.

Teachers exceeded moderate punishment, southern juries held, when they ceased to restrain or punish pupils and instead pilloried them into abject submission. In 1894, Texas teacher F.A. Whitley whipped a boy, aged 17, who had brought brandy-soaked cherries to school and shared them with his fellow pupils. To insure that the boy was in extreme pain, Whitley made the boy count the blows out loud, until he could no longer keep count orally. The boy counted 63 blows, stopped counting, and Whitley hit him three more licks. The teacher later testified that “he whipped him with his right hand until it was numb, and then changed to his left, and intended to continue the whipping as long as the counting continued, or he was worn out.” The boy was “much bruised and stiff,” and a jury convicted Whitley of assault. A Texas Supreme court judge rejected his appeal and denied that Whitley had “the right to whip a pupil as long as he appears unsubdued.”<sup>251</sup>

Other decisions affirmed that beating students into submission necessarily exceeded moderate punishment. An assault against a student might be justified in self-defense, but occasionally teachers just lost their composure while punishing students, even when they initially meant to discipline their students with moderation. In 1917, after Max Larrieu, a Houston, Texas schoolboy, aged 13, left his seat repeatedly, Frances Harris warned him that if he did so again she would whip him. Larrieu then hid under his desk. When Harris discovered the boy, who claimed that he was looking for his pencil, she attempted to whip him with a large leather strap. Larrieu resisted, but with help from another teacher, Harris restrained him and took him to the

---

<sup>250</sup> *Boyd v. State*, 7 Southern Reporter, 268 (88 Alabama Decisions 169), 1890.

<sup>251</sup> *Whitley v. State*, 25 Southwestern Reporter, 1072 (Court of Criminal Appeals of Texas, April 14, 1894).

principal's office. With the principal holding him, Harris struck Larrieu (by her estimation) about 25 licks with a larger leather strap. After Harris left the office the principal hit Larrieu 5 or 6 more times. That evening, Larrieu saw an assistant district attorney, who observed markings all over his back, neck, and arms with blood coming to the surface in many places. The next day, the assistant county health officer counted 25 stripes on the boy, some bursting his skin.

The following week, Francis Harris faced assault and battery charges at the Harris County Court. She pleaded not guilty, claiming no malice towards Larrieu that previous week, nor any intent to injure him, but she did mean to "conquer" him. Before she whipped the boy, she said, she heard him tell the other teacher that he did not misbehave and that Harris was a liar. Larrieu still demanded a hearing, insisting that he missed her warning that she would whip him if he left his seat, and that he had, in fact, stooped down to get his pencil. When he attempted to escape their custody, he recalled, Harris twisted his arm painfully. After protesting that she was breaking his arm, he said, she only released it at the other teacher's suggestion. After they led him to the other teacher's office, he claimed, he managed to hide the larger leather strap. In the principal's office, he added, he briefly picked up a baseball bat to protect himself, but decided against it. He did his best to explain his case to the principal. Harris, Larrieu testified, "looked mad" on the day of the alleged assault. When the county health officer came to the stand, the judge ordered Larrieu to stand, strip to the waist, roll up his pants, and be examined by the court. Eight days after the whipping there were still bruises on his back, "which were yellowish green, and a number of places where blood was oxidizing." The wounds, he affirmed, were very painful and were clear evidence of a severe whipping. The jury agreed and convicted Harris of aggravated assault.



Harris fought her conviction but was undone by her own testimony and the culture of violent discipline at her school. “In this case,” wrote the appellate judge, “there was evidence that the idea of the appellant was that the measure of her duty was not to exercise moderate correction, but to continue the punishment until the pupil was conquered.” Her conduct was encouraged, he noted, by school officials: “This seems also to have been the view of the principal, who says that when appellant brought the boy into his room it was apparent that he was not conquered, and that he authorized further punishment, and continued the punishment until the child was conquered.”<sup>252</sup>

On rare occasions corporal punishment in southern schools was deadly. In 1911, Virginia schoolmaster Robert Johnson whipped seven-year old Mary Thompson with a switch “between two and three feet long and as large at the butt end as his third finger.” Johnson beat Thompson first on his lap, and then face down on the floor, after which she perspired, trembled, and began vomiting. She died within five days of ruptured bladder, and Johnson was convicted of second degree murder, with a sentence of eighteen years in the state penitentiary.<sup>253</sup>

If there was no evidence teachers acted in bad faith, southern jurists protected their presumption of innocence, even when they punished students severely. In 1907, after a rural Texas judge instructed that teachers could use no more force than was necessary to restrain their students, jurors convicted school teacher J. V. Greer of aggravated assault. Greer admitted that he had severely whipped eleven year old Marvin Tisdale, leaving stripes on his back, but insisted that Tisdale broke school rules, was “impudent and insulting” at the time, and that he showed no malice toward the boy. Greer appealed his conviction, citing the circuit judge’s charge that restricted his right to use force, and state Supreme Court justices agreed: “The burden of proof,”

---

<sup>252</sup> *Harris v. State*, 203 Southwest Reporter, 1089 (Court of Criminal Appeals of Texas, March 27, 1918).

<sup>253</sup> *Johnson v. Commonwealth*, 69 Southeastern Reporter, 1104 (111 Va. 877, 1911).

they wrote, “is never shifted to the defendant.” If there was no evidence that teachers inflicted acted in bad faith, or to injure their pupils, judges allowed teachers to punish pupils severely.<sup>254</sup> If there was no proof that a teacher was malicious or excessive brutal, and he or she was still convicted by a jury, their decision was unlikely to withstand the scrutiny of an appeals judge.<sup>255</sup>

Teachers who abused students sometimes faced community action to remove them from their jobs. In early 1946, a Louisiana teacher, Emmit Houeye whipped twelve year old Floyd Courtney with a sash cord for being away from school without permission. Two days later, Courtney’s parents exhibited his injuries to the school board and the district attorney, charging Houeye criminally for the beating. The ritual examination and inspection of victims by school board members, with their experienced opinions, was destined to be recounted and retold at the trial and in casual conversations. One school board member testified that Courtney “was as bad a whipped chap as I ever saw, it was as black as it could be. Way down his legs, you couldn’t cover it with your two hands. We had him take his clothes off. His mothers and sisters wanted us to do that and we did. I didn’t see the hide busted nowhere but it was black.” Another recalled that in all of his school experience he had never seen a child whipped so badly and a third witness said “it was awful. It was the worst whipped kid I ever seen.”<sup>256</sup>

With evidence of his brutality on public display, Houeye hatched a plan to get the charges dropped and hold on to his job, for a time. About two weeks after the beating, with threats of declaring Floyd a delinquent before the juvenile court, he convinced the Courtney’s to sign a statement withdrawing their charges for assault. Not long after that, 42 citizens of St. Helena Parrish and patrons of Woodland High School petitioned the school board, which voted to

---

<sup>254</sup> *Greer v. State*, 106 Southwest Reporter, 359 (Court of Criminal Appeals of Texas, Dec. 18, 1907).

<sup>255</sup> *Roberson v. State*, 116 Southern Reporter, 317 (Court of Appeals, Alabama, April 3, 1928).

<sup>256</sup> *Houeye v. St. Helena Parrish School Board*, 67 Southern Reporter, 2<sup>nd</sup>, 553 (Supreme Court of Louisiana, October 6, 1953).

discharge Houeye. Seven years later the ex-teacher got his day in court, suing for reinstatement and back pay, but the Louisiana Supreme court backed the school board and denied his claim.

The litigation of cases that involved corporal punishment could draw public attention to the most banal juvenile acts. Since courts allowed jurors to consider the nature of a pupil's offense when judging whether a punishment was reasonable, they recorded the plaintiff's actions, no matter how trite. Like the post-traumatic inspections that exhibited the injured bodies of schoolchildren, revelations of student misconduct could create a public spectacle of pupil deviance that dramatized nascent adolescent sexuality.

In 1901, Texas teacher A. J. Stephens, aged 29, beat a pupil severely, as punishment for what he saw as a grievous indignity to another of his students. Stephens had discovered Willy Thompson, aged 11, and another boy, with a note that read: "ada I have Fuck you and you had a cid and its name is bollie Jester. Wade Hampton." The day before, Willie Thompson had fought with another pupil, Wade Hampton. There was also a girl named Ada Jester, aged 14, who attended the school. When Stephens read the note, he later recalled, "such feelings came over him that he could not describe," and he was "outraged" that one of his pupils wrote a "such a note" about one of the girls in his school. After the boys all denied writing the note, Stephens dismissed the girls, and took samples of their handwriting. Willie Thompson, he concluded, was the author.<sup>257</sup>

Stephens sent for two mesquite switches and severely whipped Thompson. After a few strokes, the first switch broke. With the other, Stephens struck the boy 27 times on the legs, paused, then added six blows on his shoulders. As a result, Thompson had "striped, bruised, and blue places on him from just below the hips nearly down to the ankles, but the strokes across the shoulder left no marks." Two days later, Thompson's father brought his son to the district

---

<sup>257</sup> *Stephens v. State*, 44 Southwest Reporter, 281 (Court of Criminal Appeals of Texas, May 7, 1902).

attorney, and charged his teacher with aggravated assault. Claiming that he was not “actuated by anger,” Stephens was later careful to note that he was first “inclined to whip Hampton for the offense, but decided to make a full investigation of the matter first.” He thought “the boy deserved a good whipping, and I gave it to him.” A Llano, Texas, jury believed Stephens was too severe and found him guilty of a lesser charge, simple assault, with a fine of five dollars.

Stephens appealed his conviction to the Texas Court of Criminal Appeals. In early 1902, after examining the trial transcript and pleas, a panel of judges saw nothing to indicate that the whipping was excessive or malicious and exonerated the teacher. “It is a presumption in favor of appellant that in correcting the pupil he did so in the exercise and within the bounds of lawful authority,” an appellate judge reminded Texas jurists, and in the case of Stephens he “did not think the evidence support(ed) the verdict.” It is possible that knowing the details of the misconduct that led to the beating strengthened their belief that Stephens acted properly in exacting a painful retribution for Willie Thompson’s alleged insult to his female classmate’s honor. Legal authorities thought that the scenario divulged in the case was worthy of mention, annotating the Texas penal code with a comment that “a teacher who found one of his pupils reading an indecent note about one of the girls in the school could not be convicted of assault, where, after taking reasonable means to ascertain that the pupil wrote the note, he whipped him with a switch, though the whipping left marks on the boy’s legs.” The circumstances of pupil misbehavior that were often divulged in cases of whippings (that allegedly escalated to assaults) thrust judges and juries into the position of scrutinizing the actions of defendants and their victims. Occasionally creating a public spectacle, school spanking cases could affect the livelihoods and reputations of teachers, and the privacy of the victims, their families, and any other children or parents caught up in the milieu.

Some southerners may have believed that school desegregation was another reason to retain school corporal punishment in schools. “Punishment Remains Vital in Schools” opined the Jackson, Mississippi, newspaper in 1974. Applauding the Fifth Circuit ruling against students’ claims in Ingraham v. Wright, editors commented that “to have ruled otherwise would have opened the school doors to further increases in the kinds of disorder that have already led some concerned parents to remove their children from public schools and place them in private academies promising not to spare the rod.”<sup>258</sup> If the influx of black students increased misconduct in public schools, the editors implied, it was no time to deprive teachers of traditional tools for maintaining order in their classrooms. Southerners largely favored the Supreme Court ruling in Ingraham v. Wright that sanctioned paddling. When researchers condensed regional data from a study of newspaper editorials about the decision into northern and southern states, 76% of southern editorials were favorable, with only 30% of their northern counterparts in agreement. 70% of northern newspapers opposed the decision along with fewer than 30% of southern newspapers.<sup>259</sup>

More recently, southern courts have limited the kinds of force teachers could lawfully use on students, but affirmed their right to paddle pupils until they were bruised. In 1967, a New Orleans court held that a gym teacher who lifted a boy, shook him, and threw him to the ground, breaking his arm, was guilty of assault and libel for \$11,000 in damages.<sup>260</sup> A middle school football coach who injured a player, and later claimed that the incident was a disciplinary matter, was held libel for damages by his state supreme court. “We do not accept the proposition,” wrote a Texas judge in 1976, “that a teacher may use physical violence against a child merely because

---

<sup>258</sup> Editorial, Jackson Daily News, Sunday, August 18, 1974, 2H.

<sup>259</sup> Friedman and McDowell in Hyman and Wise, *Corporal Punishment in American Education*, 324-329.

<sup>260</sup> *Frank v. Orleans Parish School Board et al.*, 195 Southern Reporter 2<sup>nd</sup>, 451 (Court of Appeal of Louisiana, May 1, 1967).

the child is unable or fails to perform, either academically or athletically, at a desired level of ability...”<sup>261</sup> Teachers who injured their pupils by striking or restraining them in non-traditional ways had difficulty justifying their actions before judges and juries.

Southern educators who stuck to time-honored methods of discipline, however, usually enjoyed legal protection. In 1980, a Louisiana appeals court judge reversed a jury’s decision to convict a special education for paddling a pupil, even though “color” photos showed the bruises she left were “more than mild.” He cited a similar case from the state’s schools in which the victim’s buttocks were “sore and tender to touch for a few days” but not severe. “The bruises sustained on the posterior,” the judge commented, were “what this Court would expect from being struck with...the paddle.”<sup>262</sup> In two cases, a Georgia appeals judge ruled that a lower court was correct in awarding a teacher a summary judgment on an assault charge, noting in both that it was “to be anticipated that corporal punishment will produce pain and the potential for bruising.”<sup>263</sup> Bruises and marks made by teachers who paddled pupils, in case after case that came before southern judges, were never construed as a sign of lasting injury.

Just as other state governments were prohibiting corporal punishment in schools, southern lawmakers passed legislation to underpin its legality. In 1973 the Texas legislature authorized educators to use force on students.<sup>264</sup> That year South Carolina lawmakers specified that school districts could “provide corporal punishment for any pupil” they deemed “just and proper.”<sup>265</sup> In 1979, Tennessee lawmakers sanctioned “reasonable” corporal punishment, to

---

<sup>261</sup> *Hogenson v. Williams*, 542 Southwest Reporter, 2<sup>nd</sup>, 456 (Court of Civil Appeals of Texas, Texarkana, September 21, 1976).

<sup>262</sup> *LeBlanc v. Tyler*, 381 Southern Reporter 2<sup>nd</sup>, 908 (Court of Appeal of Louisiana, Third Circuit, March 5, 1980).

<sup>263</sup> *Maddox v. Boutwell et al.*, 336 Southeastern Reporter 2<sup>nd</sup>, 599 (Court of Appeals of Georgia, October 18, 1985).

*Mathis et al. v. Berrien County School District et al.*, 378 Southeastern Reporter 2<sup>nd</sup>, 505 (Court of Appeals of Georgia, April 6, 1989).

<sup>264</sup> Vernon’s Texas Penal Code Annotated, Penal, Vol. 1: Section 9.62, West group, 2003, 539.

<sup>265</sup> Code of Laws of South Carolina 1976, Title 59, Section 63-260, State of South Carolina, 2004, 589.

“maintain discipline and order” in the public schools.<sup>266</sup> Alabama lawmakers explicitly permitted paddling for educators in 1995.<sup>267</sup> Louisiana legislators amended their state code to provide for school spanking.<sup>268</sup>

Students who had previously attended schools in other regions struggled with the realities of southern school discipline. Shelley Gaspersohn, the young woman whose story was chosen by Dr. Irwin Hyman to show the harms of paddling, had moved to rural North Carolina from Michigan. After her lawsuit against North Carolina schools, Shelley’s sister publicly complained about religious classes taught in the Dunn County public schools, and their family received threats against their personal safety. The Gaspersohns gave up their business in the community and moved to Greensboro.<sup>269</sup>

Hyman, a leading critic of southerners who defended corporal punishment, and an expert witness in Gaspersohn’s case against school officials, evoked stereotypes of the South to describe his experience in North Carolina. “Judge Bailey,” he recalled, “was a rather rotund gentlemen with a distinct southern drawl and manner that suggested, despite the robes, that he was really just a good old boy.” Hyman was dismayed that Bailey was stern with the plaintiffs, showing distaste for their legal strategies and tactics, while expressing good humor and a friendly disposition toward the defendants.

Hyman attributed the attitudes of North Carolinians to rural social mores, patriarchal religion, and politics. “The problems we faced,” he wrote, were “typical of what is wrong with the justice system in many rural areas.” In his “typical scenario,” a de facto oligarchy of community leaders was linked by familial, social, and religious associations. Accordingly,

---

<sup>266</sup> Tennessee Code Annotated: Official Edition, Vol. 9, Title 49, Section 6-4103, 569.

<sup>267</sup> Michie’s Alabama Code 1975, Vol. 13, Chapter 16-28A1, LexisNexis Publishing, 2001, 570.

<sup>268</sup> Louisiana Revised Statutes, Vol. 13A, Section 17:223, West Group, 2001, 103.

<sup>269</sup> Hyman, *Reading, Writing, and the Hickory Stick*, 2-8.

judges, lawyers, educators and law enforcement officers predominantly influenced local affairs and policy. “Generally,” claimed Hyman, they followed a “conservative agenda” opposed to the rights of children. He assigned further blame for his poor reception to “the Helms Connection,” citing Judge Bailey’s connections with then Senator Jesse Helms, and the right-wing leadership of North Carolina. Hyman, with some justification, portrayed his battle against corporal punishment in North Carolina schools as an extension of a political and cultural war between enlightened liberals and the religious right. In the South, Hyman believed, the culture of school discipline was a by-product of religion. He attributed corporal punishment, “especially in the Bible Belt,” to southerners’ Hebrew heritage, and the old expression, “Spare the rod and spoil the child.”

Social scientists who studied the South saw its support for paddling as evidence that the region exhibited a culture of violence. “My own state of North Carolina,” observed sociologist John Shelton Reed in 1982, “still has a law protecting the rights of individuals to assault others; it forbids local school board interference with the right of teachers to use corporal punishment.” Reed argued that the persistence of school spanking, like other laws that sanctioned personal retribution, showed that southerners accepted, and required, more violence in their institutions than the majority of Americans believed was appropriate.<sup>270</sup> Other sociologists who examined southern violence, like historian Bertram Wyatt Brown, have linked discipline problems in southern schools with a “Culture of Honor” thesis that attempts to explain the psychology of violence in the region.<sup>271</sup>

---

<sup>270</sup> John Shelton Reed, “Below the Smith and Wesson Line: Southern Violence,” in *One South: An Ethnic Approach to Regional Culture*, (Baton Rouge: L.S.U. Press, 1983), 142.

<sup>271</sup> Richard E. Nisbett and Dov Cohen, *Culture of Honor: The Psychology of Violence in the South*, (Boulder: Westview Press, 1996), 67-68.



As the school discipline debate played out in the 1990s, a backlash against psychologists, social scientists and children's rights activists appeared among religious and political conservatives. As other traditional child-raising practices like spanking were increasingly scrutinized by academics, feminists, and other social critics, spanking and paddling advocates attempted to side-step, contest, and re-invent educational and psychological theory.

The leading advocate of spanking children in American homes, however, stopped short of endorsing corporal punishment in schools. John Rosemond, who claimed to be "America's most widely read parenting expert," defended the spanking of young children by their parents. His bible-based parenting philosophy, attacks on academic psychology, and political conservatism angered many in mental health professions, and made him a controversial figure. In To Spank or Not to Spank: A Parent's Handbook (1994), Rosemond challenged anti-spanking arguments, and coached parents on how to spank their children appropriately and effectively.

Corporal punishment in schools, Rosemond judged, was fraught with problems. "If individual school districts will not prohibit the use of corporal punishment," he wrote, "then it's high time state government stepped in and put the ban in place for them." School spanking, Rosemond argued, was ineffective and discriminated against black students. Noting that Texas and Mississippi educators administered nearly one of every four school spankings in the United States, he observed that neither state could claim the "Most Well-Behaved Students." It was "obvious to students," Rosemond asserted, that paddlings were a "last ditch, desperate measure." Effective discipline, he held, was never administered in desperation. Rosemond cited Department of Education data that showed teachers paddled blacks disproportionately and faulted the premise that corporal punishment could work in schools. "For a spanking to be effective" he wrote, "an intimate, trusting relationship must pre-exist between the spanker and the spankee. In

the absence of such a relationship, a spanking is likely to produce resentment and even more rebellion. Needless to say, principals and teachers don't qualify."<sup>272</sup> In 2006, Rosemond was anxious that his opposition to paddling in his home state of North Carolina might create the impression that he was "anti-spanking," and was dismayed that the National Coalition to Abolish Corporal Punishment was allied with "totalitarian" groups that advocated federal laws against all forms of spanking.

Southerners who shared Rosemond's hostility to social science were skeptical about the relevancy of research on corporal punishment to their school discipline concerns. A Mississippi man asked of a Columbia University study on the effects of paddling, "what could [an Ivy League] school possibly know about long-term results, criminality, anti-social behavior, depression and increased aggression in Jackson Public schools?"<sup>273</sup> Another Mississippian, frustrated with "scientific research" that condemned paddling, asked "has research been conducted to show that millions of children who were spanked turned out to be good citizens?"<sup>274</sup>

Lawmakers in some southern states—and Missouri—have sought to strengthen the legal grounds for corporal punishment in schools, adding due process requirements for educators who paddled their pupils. In 1977, Georgia lawmakers required that paddling not be a "first line of punishment," and mandated witnesses and parental notifications when teachers spanked students.<sup>275</sup> In 1993, North Carolina lawmakers authorized school officials to use corporal punishment, but required that students be informed beforehand what types of misconduct could be punished by paddling. Legislators also forbid educators from paddling pupils with other

---

<sup>272</sup> John Rosemond, "Spanking Remains a Stinging Topic," *Clarion-Ledger*, March 16, 2006, 4E.

<sup>273</sup> Letter to the Editor, *Clarion-Ledger*, August 22, 2007, 7A.

<sup>274</sup> Letter to the Editor, *Clarion-Ledger*, October 2, 2008, 7A.

<sup>275</sup> Official Code of Georgia Annotated, Vol. 17, Chapter 20-2-731, LexisNexis Publishing, 2009, 477.

students present, mandating that another school official witness paddlings, and required parental notification when teachers paddled a child.<sup>276</sup> In 1994, Arkansas legislators mandated that educators administer corporal punishment “only for a cause, be reasonable, follow warnings that misbehavior will not be tolerated...and only in the presence of...a teacher or administrator employed by the school district.”<sup>277</sup> Missouri lawmakers allow educators to spank, but require local school boards to publish their disciplinary policies to parents at the beginning of every school year, and school superintendents to make a copy available for public inspection.<sup>278</sup>

In Mississippi, rural southern culture and poverty produced a public school system that has relied on force, perhaps more than any other state, to govern its public schools. Many observers of American history think of Mississippi as the most intransigent of the southern states on civil rights, and it has resisted progress in its public policies, especially when such reforms were initiated by the national government or agents of change perceived by Mississippians to be from outside the region. Educators and civil rights who founded the Mississippi Freedom Schools, a civil rights era project to educate African American children, demanded in 1964 “that teacher brutality be eliminated.”<sup>279</sup> Southern legislators, especially Mississippians, have a long legacy of contesting national policies under the mantle of state and local autonomy and, with that pretext, successfully derailed congressional school discipline inquiries.

In the 1970s, at the peak of federal litigation over paddling, most Mississippi educators still believed that official guidelines for disciplining students were unnecessary. A doctoral student who requested policy statements from 150 Mississippi school districts in the mid-1970s

---

<sup>276</sup> General Statutes of North Carolina Annotated, Vol. 14, Chapter 115C-391, LexisNexis Publishing, 2009, 433.

<sup>277</sup> Arkansas Code of 1987 Annotated: Official Edition, Vol. 4B, Title 6, Chapter 18-503b.1, LexisNexis Publishing, 2009, 58.

<sup>278</sup> Vernon’s Annotated Missouri Statutes, Vol. 11, Section 160.261, Thomson Reuters, 2010, 21.

<sup>279</sup> 1964 Platform of the Mississippi Freedom Schools, [http://educationanddemocracy.org/FSCfiles/B\\_20\\_PlatformOfStudentConv.htm](http://educationanddemocracy.org/FSCfiles/B_20_PlatformOfStudentConv.htm), accessed on September 15, 2011

received only 24 responses. Most Mississippi schools, he concluded, had no written policies on corporal punishment.<sup>280</sup> In schools that produced them, educators meant for written policies on corporal punishment to protect them from potential liabilities, but they also revealed peculiarities about spanking practices and occasionally showed the frustration of school officials with the subject. One county school board required principals to decide who administered the punishment that it be witnessed by a school official. “If a strap is used,” officials provided, it had to be “soft and pliable and at least 2” wide.” A light weight rubber hose, they added, was “also suitable for a whipping device.” Another county, “after long discussion,” required a witness (preferably a principal) and deemed that paddling were “not to exceed five lashes.” Almost all the written policies required teachers to use corporal punishment as a last resort, involve an administrator or, at least, another teacher, and admonished educators not paddle children when angry.

As they crafted their discipline policies, some school officials betrayed mixed feelings about paddling. One warned that “paddling is an approved disciplinary measure but should be used with caution and only in cases where the teacher feels that a positive reaction and attitude will result.” It was wise, they suggested, to allow children a choice between a paddling and some other method of punishment. Written disciplinary policies showed the desire of some officials to mitigate the effects of racism in administering school discipline. “In the event that punishment is administered by a teacher of the opposite race of the child,” one county school provided, “the witness must be a member of the race of the child.” Another school had a “bi-racial” disciplinary advisory committee that included two students. One cynical Mississippi school, aggravated with the prospect of litigation that followed school spanking, remarked that “many people today have gotten upset over minor situations where they might have a chance to collect some money.”

---

<sup>280</sup> Willie Sidney Farmer, Sr., “The Legal Provisions Concerning the Use of Corporal Punishment in Pupil Discipline of the Public School Districts in the State of Mississippi,” (Thesis, University of Colorado, 1977), 72-80.

In the 1990s, like their peers around the South, state lawmakers strengthened the legal basis for paddling in Mississippi schools. “Corporal punishment administered in a reasonable manner,” they legislated, “does not constitute negligence or child abuse.” Lawmakers also conferred immunity to educators from civil suits resulting from corporal punishment and mandated that local school boards provide any necessary legal defense to school officials in any actions against them.<sup>281</sup> One state legislator was dismissive about the issue. “It simply has not been an issue for us,” said Chairman Jim Simpson of the Mississippi House Education Committee in 1990. “If schools are using it, they must not be abusing it,” Simpson remarked, adding that “the Legislature doesn’t fix anything that people aren’t screaming about being broke.”<sup>282</sup>

Mississippi students who believed teachers punished them unfairly, or excessively, had few options. In 1995, a federal district court in Mississippi dismissed a student’s claim that the Tate County, Mississippi schools violated her due process rights. The court, following the majority’s reasoning in Ingraham v. Wright, noted the availability of post-punishment remedies under Mississippi common law for excessive corporal punishment.<sup>283</sup> “In states that permit corporal punishment,” wrote Mississippi school administrator Hank Bounds in 2000, “Courts have general(sic) upheld the application of the punishment and have been reluctant to find that such punishment violates student due process rights.”<sup>284</sup>

The state Supreme Court’s disposition of a 1999 case shows that relief under Mississippi common law was difficult to obtain. A four justice majority rejected Ester Duncan’s claim that a

---

<sup>281</sup> Mississippi Code 1972 Annotated, Vol. 10, Title 37-11-57, LexisNexis Publishing, 2007, 390-391.

<sup>282</sup> Reagan Walker, “Southern States Slower to Join National Non-paddling Movement,” Clarion-Ledger, July 15, 1990, 1, 19A.

<sup>283</sup> *Harris v. Tate County School District*, 882 Federal Supplement, 99 (United States District Court, N.D. Mississippi, Western Division, April 5, 1995).

<sup>284</sup> Hank Mitchell Bounds, “Mississippi Educators’ and Prospective Educators’ Knowledge of School Law as it Relates to Selected Components of Student Rights and Tort Liability”, (Doctoral Thesis, University of Mississippi, 2000), 32. Digitized by the J. D. Williams Library. Accessed on August 15, 2011.

Leake County teacher severely beat her son on the grounds of sovereign immunity: the Mississippi Tort Claims Act provided that state employees could not be held personally liable for acts they committed as they discharged their duties. The justices faulted the plaintiff's litigation strategy, for dropping the state as a co-defendant, and for alleging gross negligence on the part of teacher and not assault and battery - a criminal offense that would have voided the immunity. The majority, without reference to the substantive facts of the case, dismissed the Duncan's claim for bad lawyering. A minority of three justices vigorously dissented, accused the majority of creating "a reason to dismiss" that was "not before the (trial) court," and insisted that the case should be reversed and remanded so as to allow Duncan 30 days he was due to amend his complaint on the issue of corporal punishment. "How the majority can hold that Duncan is entitled to no relief," wrote a dissenting justice, "astounds me."<sup>285</sup> The Supreme Court majority that rejected federal protection for due process rights in school spanking cases premised its ruling on the adequacy of state remedies provided by common law. The record of litigation in Mississippi, however, suggests that remedies under state law were unlikely. The courts, concluded Superintendent Bounds, "give educators a great deal of latitude in the area of corporal punishment."<sup>286</sup> Bounds later stated his policy that, as the schools chief, he held teachers accountable for discipline.<sup>287</sup>

In the Twenty-first century, Mississippi educators registered divisions on school discipline. John Jordan, interim state Superintendent of Education, recalled that "it embarrassed me because back in those days they paddled you in front of the whole class." Jordan, who opposed paddling, added that "they could really burn it on you." As the chief of Oxford public schools, Jordan worked with the school board to end paddling there in 1994. Mike Kent,

---

<sup>285</sup> *Duncan v. Chamblee*, 727 *Southern Reporter 2<sup>nd</sup>*, 946. (Supreme Court of Mississippi, June 3, 1999).

<sup>286</sup> Bounds, 36.

<sup>287</sup> Editorial, "Is Hitting Children Ever Good?" Clarion-Ledger, 6A.

superintendent of Madison County Schools, recalled when he was a student “it was brutal” but still supported the practice after entering the education profession. Kent noted that paddling got his attention, left no lasting scars, and noted that “paddles used then, in the 1960s, were much longer than the ones used today.” He added that in Madison County, school board policy required that black and white adults witness paddlings, to avert “potential outlandish charges...and speculation.”<sup>288</sup> One educator who continued to paddle students was realistic about its disciplinary value but resigned to the practice. “It’s not a silver bullet, but it is a bullet,” said the Mississippi school superintendent, “and it’s better to have five or six bullets rather than one or two.”<sup>289</sup>

Despite a paddling ban in the state’s largest city, Mississippi educators still paddled, on average, more students than any other state in the years 2000 through 2008. State educators, with about half a million students, reported spanking 48,627 pupils in 2000 and 38,131 in 2006. According to the state Department of Education, during the 2008-2009 school year, Mississippi school officials reported 57, 953 school spankings in 110 of the state’s 152 districts. DeSoto County paddled almost 5,000 students that school year, by far the most among Mississippi counties. State totals dropped slightly from 2007-2008 but were up from the 47,727 paddlings that state educators reported in 2006-2007. Nsombi Lambright, director of the Mississippi A.C.L.U., claimed that she received 20 to 30 calls annually from parents who believe their children were abused by educators.<sup>290</sup>

Apart from Mississippi, other predominantly rural southern states also had some of the highest paddling totals. Arkansas educators, with fewer than 500,000 students, paddled 48,627

---

<sup>288</sup> Marquita Brown, *Clarion-Ledger*, October 19, 2009, 1 & 3A.

<sup>289</sup> Gary Pettus, “Whipped Into a Frenzy: California Bill Renews Spanking Debate,” *Clarion-Ledger*, April 1, 2007, 2F.

<sup>290</sup> *Clarion-Ledger*, October 19, 2009, 1.

pupils in 2000 and 38,131 in 2006. Alabama school officials, with almost 750,000 in attendance, paddled 39,197 in 2000 and 33,716 in 2006.<sup>291</sup>

In other southern states, school spanking remained in a few schools, but declined overall. South Carolina school officials reported paddling 3,631 students in 2000, and 1,409 in 2006, out of about 600,000 in attendance. With an enrollment of over half a million, Kentucky schools reported paddling 2,797 students in 2000 and 2,209 in 2006. In southern states that showed strong declines in corporal punishment, educators reported more suspensions. North Carolina and Florida educators suspended about a million students from 2000 to 2006. In South Carolina, educators paddled 3,631 pupils in 2000, and 1,409 in 2006 (down from 33,322 in 1976) but suspended almost 200,000 from 2000 to 2006.

Corporal punishment also persisted in Texas, Missouri, and Oklahoma schools. Educators paddled the most schoolchildren in Texas, 73,994 out of almost four million students in 2000, falling to 49,197 out of almost five million students in 2006. Oklahoma school officials, with about 600,000 students, reported paddling 17,764 in 2000 and 14,828 in 2006. Missouri educators reported paddling 9,228 students in 2000, and 5,159 in 2006, out of about a million in attendance.<sup>292</sup>

The OCR data from the years 2000 and 2006 shows that educators in southern states paddled black students at significantly higher rates than white students. Black males made up 25% of Mississippi's elementary and secondary school enrollment, but reportedly received 43% of spankings by state school officials. Blacks were only 14% of students in Texas, but received 22% of reported paddlings. In Tennessee, 24% of students were black, but they received about 35% of the paddlings. In Georgia, 39% of the state's public school students were black, and

---

<sup>291</sup> Office of Civil Rights Data, Department of Education, 2000, 2006

<sup>292</sup> Office of Civil Rights Data, Department of Education, 2000, 2006



reportedly received almost 60% of corporal punishment. 46% of Louisiana students were black and received 60% of school spankings there. In South Carolina, blacks accounted for 41% of the state's enrollment, but received 70% of paddlings. Florida public school students were 24% black but they received 37% of reported corporal punishment. In states with the highest concentrations of black students, the OCR surveys show that educators paddled black students at disproportionate rates.

In states outside the South where educators still paddled, and in southern states with smaller black populations, paddling demographics were more evenly distributed. In Missouri, blacks made up 17% of the students, and 16% of students paddled by educators. In Oklahoma, 11% of the students were black, but they reportedly received only 7% of the corporal punishment. 10% of Kentucky students were black; they received 7% of reported paddlings. In North Carolina, where blacks students were just over 30% of the enrollment, they reportedly received 28% of paddlings.

In 2008, the ACLU published another report on corporal punishment in American education, which focused on southern public schools. Researchers interviewed 181 southern parents, students, teachers and administrators that were affected by corporal punishment. After examining data from the Office of Civil Rights, the study group chose to conduct their research in Mississippi and Texas, where educators paddled the most students. Many districts that paddled students were reluctant to discuss it. Of the forty school districts that the ACLU staff attempted to contact in Mississippi and Texas, only nine responded.<sup>293</sup>

The report concluded that corporal punishment in southern schools was abusive, ineffective, and discriminatory. Educators who responded violently to misbehavior damaged the school environment, researchers believed, by humiliating, degrading, and physically injuring

---

<sup>293</sup> Human Rights Watch: American Civil Liberties Union, *United States: A Violent Education*, 11.

students. As a result, they observed, students disengaged from school, reacted aggressively toward to their teachers and peers, and occasionally withdrew or dropped out altogether.

Paddling, researchers added, affected minority students disproportionately and made it harder for students “of color” to reach educational goals. It was “past time,” they declared, “for Mississippi, Texas, and other US states to ban corporal punishment and provide equal protection and a decent education for all students.”<sup>294</sup> The report did not speculate why southern educators favored padding but researchers did offer explanations for why schools retain corporal punishment. Poverty and a lack of resources, they claimed, enabled paddling to persist. Overcrowded classrooms and the absence of counselors to help with disruptive students, they argued, explained why teachers feel it is necessary to beat students.<sup>295</sup>

The second ACLU report had a host of recommendations for states and localities that sanctioned corporal punishment. Southern state legislators, the staff advised, should ban paddling and revoke the statutory immunity from lawsuits and prosecution for educators who paddled students. State governors and education leaders, they recommended, should support that legislation and issue their own directives against corporal punishment in schools. Researchers suggested that officials track every instance of corporal punishment and work with local child welfare agencies to investigate school spanking complaints like they would any other accusations of child abuse. The report staff also recommended, somewhat naively, that southern education leaders conduct campaigns to raise awareness among parents, school officials, and students about the harms of paddling. Southern police, district attorneys, and judges, they advised, should treat corporal punishment complaints like any other assault, take statements from victims without

---

<sup>294</sup> *United States: A Violent Education*, 118.

<sup>295</sup> *United States: A Violent Education*, 8.

initially requiring them to appear before a school board or superintendent, and pursue the cases in court.<sup>296</sup>

Researchers, despite the lack of interest in southern school discipline by federal authorities, held out hope for national reforms. The president, they believed, should propose and urge Congress to enact legislation abolishing corporal punishment in schools. Congress, they recommended, should withhold education funding from school districts that sanctioned spanking, increase funding for states that added counselors to administer non-violent behavioral interventions. The U.S. Department of Education, they hoped, would pursue sanctions and negotiations to end paddling in American education.<sup>297</sup>

The second ACLU report made specific recommendations to southern school officials. School boards, superintendents, principals and teachers, advised staffers, should stop spanking students in classes under their control, train teachers in non-violent methods of discipline, improve behavioral assessments for special education students, allow parents to opt out of traditional school disciplinary plans, and establish a review process to insure that educators did not paddle students who belonged to minority groups at disproportionate rates.

The most constructive recommendations in the report were to non-governmental agencies. Southern teachers' colleges, suggested staffers, should train teachers in positive disciplinary techniques and remind teaching candidates that school spanking was prohibited by international law. For teachers likely to be placed by school officials in paddling districts, they added, training programs should provide resources for managing the most disruptive pupils, so that teachers would not have to send those students to be paddled. The NEA, the National Association for State Boards of Education, and the National PTA, they suggested, should support

---

<sup>296</sup> *United States: A Violent Education*, 121.

<sup>297</sup> *United States: A Violent Education*, 122.

paddling bans, conduct advocacy campaigns, develop codes of conduct for their members that referred to corporal punishment prohibitions, and promote non-violent disciplinary methods by their members and constituencies. Private foundations, staffers advised, should make prohibitions of paddling a condition for grants, awards, and other support and fund academic research on the effects of corporal punishment in schools.<sup>298</sup>

Corporal punishment researchers, in the twenty-first century, often treat paddling in southern schools as a human rights violation. Susan Bitensky, in Corporal Punishment of Children (2006), argues that corporal punishment of children is inherently morally objectionable and violates international human rights laws. Article 28, Paragraph 2 of the United Nations Convention on the Rights of the Child, adopted in 1989, provided that “States Parties shall take all appropriate measures to insure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present convention.”<sup>299</sup> In its General Comment No. 1, “The Aims of Education,” the U.N. Committee on Children further specified that “Education must also be provided in a way that respects the strict limits in article 28(2) and promotes non-violence in school. The Committee has repeatedly made clear in its concluding observations that the use of corporal punishment does not respect the inherent dignity of the child nor the strict limits on school discipline.”<sup>300</sup> The Supreme Court ruling in Ingraham v. Wright, noted Bitensky, was a clear example of a domestic law that permitted corporal punishment. “*Ingraham*,” she believed, “has become a complete anachronism in the twenty-first century.”<sup>301</sup>

---

<sup>298</sup> *United States: A Violent Education*, 124.

<sup>299</sup> *Convention on the Rights of the Child*, November 20, 1989, General Assembly Resolution 44/25, UN GAOR, 39<sup>th</sup> Session, Supplement Number 49 (A/44/49), at 166, U.N. Doc. A/RES/44/25.

<sup>300</sup> *General Comment No. 1 of the Committee on the Rights of the Child: The Aims of Education*, Article 29(1), paragraph 8, U.N. Document CRC/GC/2001/1.

<sup>301</sup> Susan Bitensky, *Corporal Punishment of Children: A Human Rights Violation*, Transnational Publishers, New York, 2006, 281.

Southern educators who seek to change traditional discipline policies, however, may encounter resistance in their constituencies. “Our community is still pretty conservative,” said a Mississippi superintendent in 2007. “A great many of our parents support the use of corporal punishment,” he added, “They think it’s appropriate that, if a child misbehaves, they be paddled.” Some school patrons, especially evangelical conservatives, are spanking adherents and believe that social problems in America stem from a lack of discipline and biblical morals. They often equate schoolhouse discipline with corporal punishment. A Mississippian opined that “killing, robberies, rapes, child molestations, fraud, corruption and dope” resulted from a lack of discipline. The primary cause of “stagnation for the whole of society,” he wrote, was the “lack of discipline of unruly students.” Parents and teachers who spared the rod, he concluded, violated a “sacred trust,” an “ancient lesson from the old school.”<sup>302</sup>

Some parents, upon learning their children were whipped or paddled by teachers at school, punished them again at home. Vanessa Siddle Walker, a historian of African American schools prior to desegregation, wrote that parental attitudes about obedience “led students to believe that if they were punished at school by their teacher, they could expect additional punishment at home.”<sup>303</sup> Parents, one Mississippian believed, should “talk to their child’s teachers and help them if their child is giving teachers trouble.” Offering up her own experience, she stated: “I went to the school because my child was not doing her work in class and I took her to the office and told them to spank her while I stood there and watched; after that, the teacher did not have any more trouble out of her.”<sup>304</sup> A newspaper editor affirmed that “a lot of Mississippians remember that if they got a licking at school, they got one at home, too, and it did

---

<sup>302</sup> Letter to the Editor, *Clarion-Ledger*, August 9, 2007, 9A.

<sup>303</sup> Vanessa Siddle Walker, *Their Highest Potential: An African American School Community in the Segregated South*, (Chapel Hill: University of North Carolina Press, 1996), 81.

<sup>304</sup> Letter to the Editor, *Clarion-Ledger*, September 6, 2007, 7A.

affect their behavior in a positive, lasting way.”<sup>305</sup> A teacher from the Mississippi delta said in 2008 that paddling was “part of the culture of the school environment there.” Many parents, he claimed, told him “you can paddle them. You can send them home, and I’ll paddle them. Or you can have me come out to the school and we can both paddle them.”<sup>306</sup> By subjecting children to such “double jeopardy,” southern parents may have imparted firm discipline, but they also risked creating mutual support for child abuse at school and in their homes.

Evoking a golden age of school discipline, one southerner who attended elementary school in Jackson, Mississippi, remembered that all of the teachers “had the strap which had various names.” Corporal punishment “in those days,” he reflected, “really kept order.” The writer recalled that, in junior high, the eight-grade shop class made “boards of education” for all the teachers. In high school, he continued, “one coach’s board of education knew no boundaries and it kept students in line. We had fewer dropouts and the school at that time had very high standards.” He associated the Jackson schools’ prohibition on paddling, and the ascendancy of other disciplinary forms, with a decline of order in the schools and society. After the ban on paddling, he claimed, “All of a sudden, we had an alternate school for kids with behavior problems because the board was not there.” Time out, the writer believed, had led to more prisons. “This,” he wrote, “is the result of the times without the board of education.”<sup>307</sup> Another Mississippian attested to the deterrent effects of corporal punishment. On paddling in schools and the idea that it did no good, he argued, “I know better. One child paddled at the beginning of the school season will send a message to the other children that no foolishness will be tolerated during the school year.” It was not the act of paddling itself that produced school discipline, he claimed, but rather the “fear instilled by the paddling that will get across the idea that no

---

<sup>305</sup> Editorial, “Is Hitting Children Ever Good?” *Clarion-Ledger*, July 16, 2007, 6A.

<sup>306</sup> “Research: Paddlings Not Applied Fairly,” *Clarion-Ledger*, August 21, 2008, 5A.

<sup>307</sup> Letter to the Editor, *Clarion-Ledger*, August 22, 2007, 7A.

fighting, pulling pranks or pulling hair will be allowed in the schoolroom.” The writer, who stated his age as ninety-three, lamented the profusion of “goody-goody” ideas about child-rearing that muddled the message “that punishment is essential in all areas of life.”<sup>308</sup>

Some southerners who advocate spanking, like neo-conservative parenting guru John Rosemond, no longer see corporal punishment as a proper form of discipline in schools. A 2002 survey showed that while 73% of southern parents approved of spanking, only 35% supported the equivalent in the schools.<sup>309</sup> A Brandon, Mississippi, woman believed in spanking “in the right way and for the right reasons,” but only by a child’s parents, “not a teacher or principle or coach.”<sup>310</sup> In the South, where most parents still favor spanking their children, public awareness of the differences between spanking at home and corporal punishment in schools may be the most lasting influence of American efforts to abolish corporal punishment in schools. A Mississippi therapist commented that when she was in school, parents said, “yeah, tear them up. Now, they want to sue you.”<sup>311</sup>

School discipline in the form of paddling has continued to create spectacular local conflicts in the South. In 2007, a Mississippi student, aged 18, charged her school principle with simple assault after he paddled her--leaving bruises--for a dress code violation. “I feel that he poses a threat,” her mother said, “he’s a danger to every child in that school as long as he’s able to paddle them.” The Maben, Mississippi, woman hoped that the trial would push her county to abolish corporal punishment.<sup>312</sup>

---

<sup>308</sup> Letter to the Editor, *Clarion-Ledger*, August 22, 2007, 7A.

<sup>309</sup> *Clarion-Ledger*, April 1, 2007, 1-2F.

<sup>310</sup> Letter to the Editor, *The Clarion-Ledger*, September 3, 2007, 9A.

<sup>311</sup> *Clarion-Ledger*, April 1, 2007, 2F.

<sup>312</sup> Shelia Byrd, “Trial Set in Corporal Punishment Case Involving Educator,” *Clarion-Ledger*, November 19, 2007, 1 & 3B.

## Chapter Eight: Southern Cities - Regional Beacons of School Discipline Reform

Urban school districts were the first to ban corporal punishment in America and the pattern of reform continued in the South. Educators in urban school districts throughout America regularly faced threats of criminal activity and violence on their campuses that were not typically present in rural schools. School administrators and school board members led the movements to abolish corporal punishment in southern city schools, despite strong support for the practice among local parents and teachers, as they sought to enhance the safety of students and staff on their campuses.

In 1990, Jackson, Mississippi educators ended corporal punishment in their public schools. Earlier that year, Jackson parents, teachers, and administrators who opposed paddling formed a large committee to abolish it in their schools. Members visited Little Rock, Mobile, and New Orleans schools, southern cities that had paddling prohibitions, to view alternatives to paddling based on detention or “time out.”<sup>313</sup>

The committee had reason to expect opposition and some parents and teachers aired misgivings about the plan. At an early 1991 PTA conference, Jackson parents and teachers that were surveyed by committee members reacted strongly in favor of paddling: of the eight thousand parents who responded to their questionnaire, 85% supported corporal punishment. 86% of 1,723 teachers and 70% of the 70 principals supported spanking as a disciplinary option. “It has been necessary,” said Principal Ennis Proctor of Forest Hill High, “if we take it completely out of the schools, it may hurt in the long run.” One parent complained that teachers

---

<sup>313</sup> Reagan Walker, “Jackson School Superintendent Wants Paddling Banned,” *Clarion Ledger*, July 15, 1990, 1.



already felt that “they can’t discipline the children.” Several school board members wanted a public hearing before making their final decision. “It’s a big step, and it needs to be given careful thought,” said one, “but I would favor phasing it out.” In July, 1990, the committee announced its plan to ban paddling in Jackson schools. Assistant Superintendent for Jackson junior high schools Reuben Dilworth presented their findings to the public. Poor black males, he reported, were paddled the most. Corporal punishment, members concluded, was an emotional response that occurred when teachers lost control. Dilworth noted that twenty states and many nations had outlawed corporal punishment in schools and that educational, legal, and medical associations opposed it. The committee’s plan stopped paddling students in kindergarten through third grade in the fall of 1990, and over two years extended the ban to all other grades, phasing out paddling in all 57 Jackson public schools by 1994.

Jackson school superintendent Ben Canada, who had only been on the job for two weeks, supported the planned ban. “We want students to grow up with the idea firmly implanted that you don’t have to strike someone to change their behavior,” said Canada, who recommended that the Jackson School Board vote for the committee’s phase-out plan at its summer meeting. Deputy Superintendent for Instruction Dan Merritt added that a national trend against corporal punishment and a fear of lawsuits had led teachers and principals to find other types of punishment.

Corporal punishment in Jackson schools, many believed, was more trouble than it was worth. The Jackson school board policy allowed principals and teachers to paddle students in front of a witness, but not in the presence of other pupils, “as a last resort,” and required that school officials record the details of every paddling: the date, student, reason for punishment, the disciplinarian and the witness. “There are too many problems with it,” said a Jackson principal,

who preferred in school suspension. “If there was another way to get a person to change behavior without paddling,” asked Superintendent Dilworth, “then why paddle?” Eliza Westerfield, president of the Jackson Association of Educators, notified Superintendent Canada that her union would support the ban and undergo training sessions on alternative discipline. In the months that the committee assembled its plan, a Pearl Junior High teacher was convicted by a Rankin County judge of simple assault for paddling a student, a visible reminder of the litigation that resulted from school spanking.

On July 15, 1990, the Jackson school board unanimously voted to ban all paddling after the 1991-1992 school year. Superintendent Canada proposed that school officials work with parents and teachers in the meantime to develop discipline plans. For that fall, the board authorized a teacher training program, and the creation of in-school detention centers in the city’s eight high schools and junior highs. The committee recommended that officials phase out paddling over three years but Canada saw “no reason for the process to take that long” and suggested that staff, students, and parents begin developing alternatives.

One school board member, however, was anxious about the levels of support for corporal punishment and some parents opposed the ban. Board member Ann Jones was concerned about a public perception that banning paddling meant prohibiting punishment. “We are going to have to do a really good job,” she said, “of educating the public of our intent.” Principal Billie Ainsworth of Boyd Elementary said she did not oppose the ban but schools needed help setting up the new programs. A parent, who was allowed to speak only after the board voted, said that “punishment was just and necessary,” adding that a ban would “have an impact on public support and undermine the staff.”

Some Jackson educators and parents saw the ban as part of a strategy against school violence that emphasized school safety. “I hope others understand”, declared Superintendent Canada, “that we intend to have a sound, productive, healthy and safe environment in our schools.” In the 1990s, educators increasingly linked corporal punishment with violence in educational settings. “Corporal punishment,” wrote one school psychologist in 1997, “is a violent act that by its nature is inherently abusive.” He added that “countless” studies showed frequently paddled students were more angry and violent.<sup>314</sup> With nationwide concern about school shootings, and stories of fatal attacks at local schools, a Jackson newspaper insisted that “the safety of students should be the foremost concern in the Jackson Public schools.” The editors rallied parents, faculty, and administrators to prevent violence.<sup>315</sup>

The next year, as Jackson educators phased out the last school spanking in their schools, Canada was “glad to see it was gone.” Paddlings that year were down to 200 from 963 the previous year and Jackson schools had adopted “assertive discipline” with in-school suspensions: “assertive discipline” spelled out school rules clearly and the punishments for breaking them. That year, Canada hired full-time teaching assistants to monitor in-school suspension centers at 18 Jackson middle schools and high schools, where students could, ideally, do homework in isolation or get help from a counselor or a tutor. The Jackson prohibition on paddling was a first for Mississippi schools. Andy Mullins, an assistant to the state superintendent of schools, was unaware of any district in the state that had banned paddling.<sup>316</sup>

A few years after the ban, urged by a school board member, the Jackson school board checked into restoring corporal punishment. Members of the district’s disciplinary committee

---

<sup>314</sup> Andrew P. Goldstein and Jane Close Conoley, *School Violence Intervention: A Practical Handbook*, (New York: the Guilford Press, 1997), 432.

<sup>315</sup> Editorial, *Clarion-Ledger*, February 20, 1991, 10A.

<sup>316</sup> Reagan Walker, “No More Whippings: Jackson Schools Eliminate Paddling,” *Clarion Ledger*, Jackson, Mississippi, September 2, 1991, 1A.

who researched the question found no support for the effectiveness of school spanking except one South African study from the apartheid era. The committee surveyed students, parents, and staff about corporal punishment, and received few responses from parents and teachers, but a majority of those who did respond supported paddling. The committee was unable to locate any other school districts in the United States where authorities had reinstated the practice.<sup>317</sup>

A few Jacksonians commended the initiative to restore corporal punishment in their schools and a local poll showed support for such a plan. One wrote that school officials who were “in the trenches daily” needed all the “weapons” they could get to restore order in Jackson classrooms. Corporal punishment was still the policy in most Mississippi school districts and in twenty-two other states, he reminded readers, and a “lot of reasonable people” supported it. The Supreme Court, he added, had said paddling was “OK.” Jacksonians, he concluded, should “revisit a policy that once worked well and appears to be still working elsewhere.”<sup>318</sup> A local physician agreed: “‘Spare the rod and spoil the child’ was readily accepted in my mother and father’s household as a biblical mandate.” He added his belief that the “dropout rate, blatant disorder and low student performance would be lowered with the return of corporal punishment.” A local newspaper reported that, in a poll of its readers, 66% of the respondents favored paddling.<sup>319</sup> Its editor reminded readers that a majority of Jackson school employees thought discipline was a problem, and that “the threat of swift, sure physical punishment would act as a corrective and (a) deterrent” to misbehavior.<sup>320</sup>

Jackson school officials and school patrons defended the ban. A school board member had “no concept” why an adult would strike a child in a public school. “I don’t believe it will

---

<sup>317</sup> “Research: Paddlings Not Fairly Applied,” *Clarion-Ledger*, Jackson, Mississippi, August 21, 2008, 1 & 5A.

<sup>318</sup> Eric Stringfellow, “Corporal Punishment Deserves Legitimate Consideration,” *Clarion-Ledger*, June 26, 2007, 7A.

<sup>319</sup> Vicki Hartley, “Paddling in Schools,” *Clarion-Ledger*, June 28, 2007, 7A.

<sup>320</sup> Editorial, “JPS to Bring Back Spanking?” *Clarion-Ledger*, July 14, 2008, 6A

ever be appropriate,” she added. Another board member reminded Jacksonians that corporal punishment, in city schools, was discriminatory and sparked litigation. Superintendent Earl Watkins believed spanking was “the job of the parents.” Legal counsel for the city school board, David Watkins, noted that “many school board attorneys advise against corporal punishment because of the legal costs that can accrue in its wake.” He also feared that, with the return of paddling, Jackson children would fear going to school.<sup>321</sup> A Mississippi teacher, who hosted an internet blog on paddling, warned that its return would turn schools into “negative, coercive settings” where kids “worked the system” and “compliance” mattered more than “social competence, creativity or even academic achievement.”<sup>322</sup>

Educators in southern states with larger urban populations, where local prohibitions were in effect, paddled fewer students. Tennessee schools reported hitting 38,373 students in 2000, and 14,868 in 2006, out of about a million elementary and secondary school students. With 1.5 million in attendance, Georgia school officials reported paddling 25,189 pupils in 2000 and 18,249 in 2006. Louisiana schools, with an enrollment of about 700,000, reported paddling 18,672 in 2000 and 11,080 in 2006. The declines were significant. In 1976 Florida schools reported striking over 170,000 pupils. Educators at some Florida schools continued paddling, but of about 2.5 million in attendance, 11,405 students received corporal punishment in 2000, and 7,185 in 2006. North Carolina educators paddled 50,150 students in 1976, but reported 5,717 paddlings in 2000, and 2,705 in 2006.<sup>323</sup>

The abolition of corporal punishment in urban southern schools was, at times, a conflicted process. In 2004, the Memphis School Board banned paddling, but not without

---

<sup>321</sup> “Corporal Punishment: Should Schools Spank Your Kids?” *Clarion-Ledger*, June 22, 2007, 1 & 6A.

<sup>322</sup> Vicki Hartley, “Paddling in Schools,” *Clarion-Ledger*, June 28, 2007, 7A, (<http://www.clarionledger.com/misc/blogs/community/citizens/citizenblog.html>).

<sup>323</sup> Office of Civil Rights Data, Department of Education, 2000, 2006.

controversy. On November 22, 2004, after ten months of public debate, a “philosophically divided” Memphis school board met to determine whether to keep paddling in its public schools. The board had recently learned that in the previous year, some school officials had ignored its rules restricting corporal punishment for certain offenses, and paddled over a thousand students for cutting class, dress code infractions, and missing shots in basketball game. Officials at many city schools had already abolished spanking. Superintendent Carol Johnson, who supported the ban, saw it as part of an effort to prevent school violence. “It’s not about whether we keep corporal punishment or not,” she stated, “it’s about how we keep our schools safe, free of fights, gangs (and) weapons.” Johnson had a plan of disciplinary alternatives – peer mediation, counseling, training educators to cope with chronic problems – to help implement the ban and enhance its appeal before the board.<sup>324</sup> Johnson sought to win over board members that she called “swing voters.” She knew that some, like board member Hubon ‘Dutch’ Sandridge, staunchly opposed the ban. “I’m not going to change his mind,” she acknowledged, “or change the mind of those who have an opinion on this for religious reasons.” Johnson was courting several members who would abolish paddling if there were alternatives in place. One board member, whose constituents supported paddling, said she would attend the meeting with an open mind. A violent food fight at Geeter Middle school, where the principal had recently stopped spanking students, showed that officials needed “as many firm disciplinary measures in their arsenal as possible, including paddling.” Otherwise, she added, the children are “going to think they can just play.”

Supporters of abolition cited “quantifiable and overwhelming evidence” against corporal punishment, “which mounts with every passing school year,” and linked the ban with school safety. “Parents, teachers, the entire community,” wrote Kelli Grissom of the Memphis Child

---

<sup>324</sup> Banerji Kumar, “Time to Retire the Hickory Stick?”, *The Commercial Appeal*, November 22, 2004, 1.

Advocacy Center, “all have a duty to ensure that children are safe. Children must always be shown and taught respect for an individual’s body. They must receive the consistent message that no one has the right to touch their body parts, including the buttocks.” Teachers, she urged, had to show students that it was not acceptable for someone with power or authority to hit or touch someone smaller or powerless.<sup>325</sup>

In a dramatic “tense marathon” meeting, the board voted 5 to 4 against corporal punishment, and in favor of Johnson’s disciplinary package. A protester, who shouted that paddling was “racist and brutal,” was removed by security after he spoke without permission. After five hours, with the vote tied at 4 to 4, Chairman Patrice Robinson surprised fellow board members by voting for the ban. Board member Laura Jobe, who led the seven year fight to end corporal punishment in Memphis schools, declared that Memphians had “come to a place where we’re going to respect our children and treat them with decency.” A reporter noted mixed reactions from parents and teachers who packed the auditorium. The crowd, he observed, “appeared to favor the option of retaining the paddle.”<sup>326</sup>

The board’s decision caused some anxiety. A survey of Memphis parents had found that 70% favored corporal punishment. “I just see it causing situations in the long run where students believe (they) can no longer be disciplined” said a dissenting board member. A parent dourly added that “the kids are waiting up on this news, and there’s going to be fights, starting (today).” Charles New, president of the Memphis teachers’ union, was wary of Johnson’s new disciplinary plan. A local newspaper editor commented that “the majority of school board members showed

---

<sup>325</sup> Kelli Grissom, “Stop Corporal Punishment in Our Schools,” *The Commercial Appeal*, November 22, 2004, B5.

<sup>326</sup> Jody Callahan, “Schools Ban the Paddle,” *The Commercial Appeal*, November 23, 2004, 1.

some political courage by supporting Johnson,” and added that the rest of Memphis “should get behind her efforts, too.”<sup>327</sup>

Superintendent Johnson struggled to implement the new disciplinary policies. Her behavior initiative, the Blue Ribbon Plan, required all the city schools to reform their discipline plans, spelling out behavior expectations for students, and the consequences of not meeting them. Many principals and teachers spent part of the summer following the ban in training sessions on counseling, peer mediation, and in-school suspension. Administrators also wanted schools to avoid a rise in out-of-school suspensions and expulsions. At Lanier Middle High school, which corporal punishment in anticipation of the board’s decision and was a model for the plan, educators stressed parental involvement. Many Memphis schools had “family specialists,” who acted as liaisons between parent and teachers on matters like truancy or fighting, and were surrogate parents for kids whose parents would not or could not come to school.<sup>328</sup>

There was some uncertainty and confusion but initial responses to the plan were mostly positive. A surprising number of community members came forward to support the ban. An experienced middle school math teacher, while hopeful about the new approach, was “feeling overwhelmed” and nervous. Charles New, representing Memphis teachers, said many teachers were confused about what disciplinary alternatives were available, when to use them, and how many interventions or counseling sessions were needed before sending students to an administrator. “About 20 percent have a lot of questions about Blue Ribbon and what it will mean for them,” he said, “but we have a large group willing to give it a chance to see what develops.” New was sure there were “teachers out there who feel if we still had corporal punishment we wouldn’t have some things happen, but I haven’t heard from that group yet.” One

---

<sup>327</sup> Editorial, “School Board’s Vote was Brave,” *The Commercial Appeal*, November 23, 2004, C1.

<sup>328</sup> Ruma Banerji Kumar, “Paddle Me Not,” *The Commercial Appeal*, August 28, 2005, 1 & A10.



group of parents, however, still worried that taking paddling away was a mistake. “You can talk to some children until you are blue in the face and it won’t do any good,” said a former president of the Lanier Middle school parents’ group, but “sometimes you need to take out the rod.” A Memphis editor hoped that teachers and parents had the patience to give to the no-paddling policy some time. “Research has shown,” the writer claimed, “that the new way at Memphis City Schools is a better way.”<sup>329</sup>

Almost a year after the ban, results were mixed, and concerns abounded that some administrators failed to report instances of disciplinary action accurately, if at all. “Blue Ribbon has been a success in that there are fewer behavioral problems” claimed Suzanne Kelly, chief of staff for the district, but a group of teachers at one Memphis high school complained to the superintendent of “weak intervention” when students cursed at them, cited low morale, and claimed they felt chastised. “When a teacher is attacked,” their letter read, “we don’t want to hear about the ‘feelings’ of the perpetrator, we want to be supported. We want to see the perpetrator punished and removed from our school.” Some district officials were “disappointed and discouraged” with the Blue Ribbon initiative. Faced with a lengthy paperwork process, they claimed, some teachers passed on reporting altogether. Underreporting was “the worst thing that can happen to us in the initial stages of Blue Ribbon,” Kelly added, because “it’s the data that’s going to drive how we do things in the future.”<sup>330</sup>

Months later, the Memphis School Board gave Superintendent Johnson a shining review, but still had concerns about the Blue Ribbon plan. The board credited the schools chief with raising student proficiency, increasing qualified staff, and building community partnerships but criticized her implementation of discipline changes. “Blue Ribbon is still an unproven entity,”

---

<sup>329</sup> Editorial, “Sparing the Rod,” *The Commercial Appeal*, September 1, 2005, R6.

<sup>330</sup> Halimah Abdullah and Ruma Banerji Kumar, “Schools’ Discipline Program Posts Gains,” *The Commercial Appeal*, November 14, 2005, 1 & A7.

wrote one board member. “Must improve challenges with the Blue Ribbon plan,” admonished another. Johnson responded that “there were concerns about behavior and respect prior to my coming here,” and she did not expect to rid a large school district of behavior issues “overnight.” It would take years, she regularly reminded patrons, to change the culture of discipline in the city’s schools.<sup>331</sup>

The Blue Ribbon plan, like the Jackson, Mississippi, paddling prohibition was soon beset by critics. Some Memphians believed that behavior had worsened and a new school board member called for immediate reinstatement of corporal punishment as a “last-resort measure” for city school officials. “Before Blue Ribbon, there was a sense of respect for the teacher,” complained a local teacher. After Blue Ribbon, she added, some students told her “you can’t do anything to me.” A University of Memphis professor of education pronounced that “the city’s culture was not ready” for non-violent methods of school discipline. Paddling was “part of what people expected schools to do,” he noted, adding that he was “kind of surprised when they went cold turkey.”<sup>332</sup> In Memphis and Jackson, Mississippi, however, paddling proponents have failed, so far, to rescind the bans.

In the American debate over school discipline, progressive notions, mobilized by modern forces of professionalization and social science, finally eclipsed patriarchal traditions. Without any movement from the judicial system or the national government to end corporal punishment in the schools, American parents and educators pressured state and local officials to reform school disciplinary practices. Progress faltered, however, when corporal punishment came to rest in the public schools of the South. In the last decades of the twentieth century, southerners

---

<sup>331</sup> Ruma Banerji Kumar, “School Board Gives Johnson a Shining Review,” *The Commercial Appeal*, January 4, 2006, 1 & B5.

<sup>332</sup> Dakaraai Aarons, “Black Eye for Blue Ribbon,” *Commercial Appeal*, June 10, 2007, 1V & 3V.

embraced the otherwise dying institution, fostering images of the South as an exceptionally violent region.

To some Americans, and many southerners, the era of corporal punishment in education still reflected what was good about American schools, and, by implication, what later went wrong with public education. Politicians, like President Clinton, may continue to exploit those sentiments. A Republican candidate in the 2012 presidential race--a religious conservative with a background in education--reportedly recalled that one of her teachers “had a board hung up in the shop class with holes bored in it, and he would use that on the backside if somebody got out of line.” As she asked her audience rhetorically, if they remembered those days, she asserted “it worked really well.”<sup>333</sup>

---

<sup>333</sup> Ryan Lizza, “Leap of Faith: the making of a Republican front-runner,” *The New Yorker*, August 15 & 22, 2011, 60.

## **Bibliography**

## Books and Monographs

### **One Author:**

Alderman, Edwin, ed. *Library of Southern Literature*, Volume 10. Atlanta: Martin and Hoyt, 1929

Bagley, William C. *Classroom Management: Its Principles and Technique*. New York: Macmillan, 1917

Baldwin, Joseph. *School Management and School Methods*. New York: Appleton, 1905

Barrett, S.M. *Practical Pedagogy*. Boston: Heath, 1908

Benson, Arthur. *The Schoolmaster: A Commentary Upon the Aims and Methods of an Assistant-Master in A Public School*. New York: The Knickerbocker Press, 1908

Bitensky, Susan. *Corporal Punishment of Children: A Human Rights Violation*. New York: Transnational Publishers, 2006

Bond, Williard F. *I Had a Friend, An Autobiography*. Kansas City: E. L. Mendenhall, 1958

Wyatt Brown, Bertram. *Southern Honor: Ethics and Behavior in the Old South*. New York: Oxford University Press, 1982

Burstein, Andrew. *The Original Knickerbocker: The Life of Washington Irving*. New York: Basic Books, 2007

Calderwood, Henry. *On Teaching: Its Ends and Means*, Third Edition. New York: Macmillan, 1881

Chase, George. *Commentaries on the Laws of England; in Four Books, by Sir William Blackstone, Knight, One of the Justices of the Court of Common Pleas*, Third Edition. New York: Banks and Brothers, 1898

Clinton, Bill. *My Life*, Volume 1: The Early Years. New York: Random House, 2005

Cobb, Lyman. *The Evil Tendencies of Corporal Punishment as a Means of Moral Discipline in Families and Schools*. New York: Newman and Company, 1847

Cooke, Alistair, Ed. *The Vintage Mencken*. New York: Random House, 1955

- Dewey, John. *The Child and the Curriculum*. Chicago: University of Chicago Press, 1902
- Dickson, Del, Ed. *The Supreme Court in Conference (1940-1985: The Private Discussions Behind Nearly 300 Supreme Court Decisions)*. New York: Oxford University Press, 2001
- Edwards, Newton. *The Courts and the Public Schools*. Chicago: U. of Chicago Press, 1955
- Eggleston, Edward. *The Hoosier School-Master (1871)*. New York: Sagamore Press, 1957
- Eissler, K.R., Ed. *Searchlights on Delinquency: New Psychoanalytic Studies*. New York: International Universities Press, 1949
- Elam, Stanley M., Ed. *The Gallup Polls of Attitudes Towards Education 1969-1984: A Topical Summary*. Bloomington: Phi Beta Kappa, 1984
- Falk, Herbert. *Corporal Punishment, A Social Interpretation of its Theory and Practice in the Schools of the United States*, Teachers College, Columbia University, Contributions to Education, No. 835, Bureau of Publications. New York: Columbia University, 1941
- Faulkner, William. *The Hamlet*, (1940). London: Chatto and Windus, 1958
- Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. New York: Random House, Vintage Books Edition, 1979
- Fraiberg, Selma A. *The Magic Years: Understanding and Handling the Problems of Early Childhood*. New York: Scribner and Sons, 1959
- Friedenburg, Edgar Z. *The Vanishing Adolescent*. Boston: Beacon Press, 1959
- Gallup, George Horace. *How the Nation Views the Public Schools; a Study of the Public Schools of the United States*. Princeton: Gallup International, 1969
- Gibson, Ian. *The English Vice: Beating, Sex, and Shame in Victorian England and After*. London: Duckworth, 1978
- Gibson, Kay E. *Brutality on Trial: "Hellfire" Pedersen, "Fighting" Hansen and The Seaman's Act of 1915*. Gainesville: University of Florida Press, 2006
- Greven, Philip. *The Protestant Temperament: Patterns of Child-rearing, Religious Experience, and the Self in Early America*. New York: Meridian Books, 1979
- Hundley, Daniel R. *Social Relations in Our Southern States*. Baton Rouge: L.S.U. Press, 1979
- Hyman, Irwin. *Reading, Writing, and the Hickory Stick*. Lexington, Mass.: Lexington Books, 1990

Irving, Washington. *The Legend of Sleepy Hollow and Rip Van Winkle*. New Jersey: Watermill Press, 1980

Johnson, Richard Malcolm. *Dukesborough Tales: the Chronicles of Mr. Bill Williams*. New Jersey: The Gregg Press, 1968

Kaplan, Justin. *Walt Whitman: A Life*. New York: Bantam Edition, 1982

Kaufman, Bel. *Up the Down Staircase*. New Jersey: Prentice-Hall, 1966

Kellogg, Amos. *School Management, 6<sup>th</sup> Edition*. New York: E. L. Kellogg and Company, 1884

Kent, James. *Commentaries on American Law, Volume 2*, Twelfth Edition. O. W. Holmes Jr., Ed. Boston: Little, Brown and Company, 1996

King, Robert. *School Interests and Duties*. New York: American Book Company, 1894

Landon, Joseph. *School Management, 2<sup>nd</sup> Edition*. Syracuse, New York: Bardeen, 1903

Knute Larson, *School Discipline in an Age of Rebellion*. New York: Parker Publishing, 1972

*Lex Forcia: Being a Sensible Address to the Parliament for an Act to Remedy the Foul Abuse of Children at School. Especially in the Great Schools of this Nation*. Printed for R.C. and to be sold by Elizabeth Whitlock: London, 1698

Leloudis, James L. *Schooling the New South: Pedagogy, Self, and Society in North Carolina, 1880-1920*. Chapel Hill: University of North Carolina Press, 1996

Link, William A. *A Hard Country and a Lonely Place: Schooling, Society, and Reform in Rural Virginia, 1870-1920*. Chapel Hill: University of North Carolina Press, 1986

Maclean, Nancy. *Behind the Mask of Chivalry: The Making of the Second Klu Klux Klan*, New York: Oxford University Press, 1995

Malehorn, Hal. *Elementary Teacher's Classroom Management Handbook*. New York: Parker, 1984

Mann, Horace. *Lectures on Education*. Boston: Ide and Dutton, 1855, reprinted by the Arno Press, New York, 1969

Morgan, Edmund S. *The Puritan Family: Religion & Domestic Relations in Seventeenth-Century New England*. New York: Harper and Row, 1966

North, Douglas. *The Economic Growth of the United States 1790-1860*. New York: Norton, 1961

Oates, Stephen B. *To Purge This Land with Blood: a Biography of John Brown*. New York: Harper & Row, 1970

- Page, David. *Theory and Practice of Teaching*. Milwaukee: Gillan, 1909
- Paquet, Ronald A. *Judicial Rulings, State Statutes and State Administrative Regulations Dealing with the Use of Corporal Punishment in Public Schools*. Pala Alto: E. & E. Research Associates, 1981
- Parton, Dolly. *My Life and Other Unfinished Business*. New York: Harper Collins, 1994
- Perry, Arthur C. *The Management of a City School*. New York: Macmillan, 1912
- Phay, Robert E. *Suspension and Expulsion of Public School Students*. Topeka: National Organization on Legal Problems of Education, 1971
- Schaffer, Frederick L. *The Psychology of Adjustment: An Objective Approach to Mental Hygiene*. Boston: Houghton Mifflin, 1936
- Scott, George Ryley. *The History of Corporal Punishment: A Survey of Flagellation in its Historical Anthropological and Sociological Aspects*. London: T. Werner Laurie Ltd., 1938
- Seeley, Levi. *The Foundations of Education*. New York: Hinds and Noble, 1901
- Reed, John Shelton. *One South: An Ethnic Approach to Regional Culture*. Baton Rouge: L.S.U. Press, 1983
- Skinner, B.F. *The Technology of Teaching*. New York: Appleton-Century-Crofts, 1968
- Skinner, B.F. *Walden Two*. New York: Macmillan, 1948
- Stenhouse, Lawrence, Ed. *Discipline in Schools: A Symposium*, New York: Pergamon Press Ltd., 1967
- Tate, T. *The Philosophy of Education; or The Principles and Practice of Teaching*. Syracuse: C.W. Bardeen, 1885
- Taylor, J. Orville. *The District School*. Philadelphia: Carey, Lea, and Blanchard, 1835, re-published by the Arno Press & The New York Times, New York, 1969
- Thomas, R. Murray. *Violence in America's Schools: Understanding, Prevention, and Responses*. Westport, Conn.: Praeger, 2006
- Twain, Mark. *Mark Twain: the Adventures of Tom Sawyer*. New York: Collier and Sons, 1920
- Vredevoe, Lawrence. *Discipline*. Dubuque, Iowa: Kendall/Hunt, 1971
- Walker, Vanessa Siddle. *Their Highest Potential: An African American School Community in the Segregated South*. Chapel Hill: University of North Carolina Press, 1996



White, William F. *Psychosocial Principles Applied to Classroom Teaching*. New York: McGraw-Hill, 1969

Wilder, Laura Ingalls. *Farmer Boy*. New York: HarperCollins, first published in 1933.

Wilder, Laura Ingalls. *Little Town on the Prairie*. New York: Harper and Row, 1941

Wilder, Laura Ingalls. *These Happy Golden Years*. New York: Harper and Row, 1943

Wright, Gavin. *Old South, New South: Revolutions in the Southern Economy Since the Civil War*. New York: Basic Books, 1986

### **Two or More Authors:**

Atkinson, Carroll and Eugene Maleska. *The Story of Education*. Philadelphia: Chilton Books, 1965

Bigge, Morris L. and Maurice P. Hunt. *Psychological Foundations of Education: An Introduction to Human Development and Learning*. New York: Harper & Brothers, 1962

Nisbett, Richard E. and Dov Cohen. *Culture of Honor: The Psychology of Violence in the South*. Boulder: Westview Press, 1996

Bourne, Richard and Eli Newberger, eds. *Critical Perspectives on Child Abuse*. Lexington, Mass.: Lexington Books, 1979

Cole, Luella and John Morgan. *Psychology of Childhood and Adolescence*. New York: Reinhart & Co., 1947

Cutts, Norma and Nicholas Moseley. *Teaching the Disorderly Pupil in Elementary and Secondary School*, New York: Longmans, Green and Co., 1957

Frehsee, D., Horn, W., and K. Bussman, eds. *Family Violence Against Children*. Berlin and New York: Walter de Gruyter, 1996

Goldstein, Andrew P., and Jane Close Conoley. *School Violence Intervention: A Practical Handbook*. New York: The Guilford Press, 1997

Hamilton Robert R., and Paul R. Mort. *The Law and Public Education with Cases*. New York: The Foundation Press, Inc., 1941

Hyman, Irwin, and James H. Wise. *Corporal Punishment in American Education: Readings in History, Practice, and Alternatives*. Philadelphia: Temple University Press, 1979.

Larson, Knute G., and Melvin R. Karpas. *Effective Secondary School Discipline*. New Jersey: Prentice Hall, 1963

Redl, Fritz, and William Wattenburg. *Mental Hygiene in Teaching*. New York: Harcourt, Brace, and Co., 1951

Sheviakov, George V., and Fritz Redl, *Discipline for Today's Children and Youth*. National Education Association: Dept. of Supervision and Curriculum Development, 1944

### **Reference Works:**

*Black's Law Dictionary*, Eighth Edition. Thompson/West, 2004

Inge, Thomas M, Volume editor. *The New Encyclopedia of Southern Culture: Literature*. Chapel Hill: University of North Carolina Press, 2008

Kiddle, Henry, and Alexander Schem, Eds. *The Cyclopedia of Education: A Dictionary of Information for the use of Teachers, School officers, Parents, and Others*. New York: Steiger, 1877

### **Book Chapters from Anthologies**

Bongiovanni, Anthony. "An Analysis of Research on Punishment and Its Relation to the Use of Corporal Punishment in the Schools." In *Corporal Punishment in American Education*, edited by Irwin Hyman and James Wise, 351-372. Philadelphia: Temple University Press, 1979

Lee, Virginia. "A Legal Analysis of *Ingraham v. Wright*." In *Corporal Punishment in American Education*, edited by Irwin Hyman and James Wise, 178-195. Philadelphia: Temple University Press, 1979

Friedman, Robert, and Eileen McDowell. "An Analysis of Editorial Opinion Regarding Corporal Punishment: Some Dynamics of Regional Differences." In *Corporal Punishment in American Education*, edited by Irwin Hyman and James Wise, 301-328. Philadelphia: Temple University Press, 1979

Wallerstein, James S. "A Youth Worker's Opinion on the Majority Decision in *Ingraham v. Wright*." In *Corporal Punishment in American Education*, edited by Irwin Hyman and James Wise, 207-218. Philadelphia: Temple University Press, 1979

Welsh, Ralph S. "Severe Parental Punishment and Aggression: The Link between Corporal Punishment and Delinquency." In *Corporal Punishment in American Education*, edited by Irwin Hyman and James Wise, 126-142. Philadelphia: Temple University Press, 1979

Wise, James H. "The Carrot and Not the Stick: Comparing the Use of Reward to Corporal Punishment in Promoting Discipline, Learning, and Human Relationships in the Classroom." In

*Corporal Punishment in American Education*, edited by Irwin Hyman and James Wise, 373-383. Philadelphia: Temple University Press, 1979

### **Periodicals**

The American School Board Journal, June, 1973

Barnes, Earl. "Corporal Punishment as a Means of Social Control," *Education* 28, no. 7: (March, 1898)

Lizza, Ryan. "Leap of Faith: the making of a Republican front-runner," *The New Yorker*, August 15 & 22, 2011

The Massachusetts Teachers' Association, P. W. Bartlett, editor. *The Massachusetts Teacher*, Volume 2, Number 9. Boston: Coolidge & Wiley, September, 1849

Moffit, Frederick J. "Hickory Stick Blues," *The Nation's Schools* 43: (February, 1949)

Moffit, Fredereick J. "Lickin' and Larnin,'" *The Education Digest* 14: (February, 1949)

*National Education Association Research Bulletin* 48, Number 2: (April, 1970)

National School Public Relations Association, *Education U.S.A.* Washington, D.C.: (May 22, 1972)

*The Nation's Schools* 58, Number 1: (July, 1956)

*The Nation's Schools* 90: (November, 1972)

*Research Bulletin of the National Education Association* 25, Number 4: (December, 1957)

Shannon, J.R. "Teaching is a Man's Job," *American School Board Journal*: (September, 1951)

Shannon, J.R. "The School of 1,000 Birchings," *The Clearing House*, Vol. 26: (September, 1951)

### **Newspapers**

Aarons, Dakaraai. "Black Eye for Blue Ribbon." *Commercial Appeal*, June 10, 2007, 1V & 3V

Abdullah, Halimah, and Ruma Banerji Kumar. "Schools' Discipline Program Posts Gains." *The Commercial Appeal*, November 14, 2005, 1 & A7

Associated Press. *Jackson Daily News*, Wednesday, April 20, 1977, 10

“Corporal Punishment: Should Schools Spank Your Kids?” *Clarion-Ledger*, June 22, 2007, 1 & 6A

Brown, Marquita. *Clarion-Ledger*, October 19, 2009, 1 & 3A

Byrd, Shelia “Trial Set in Corporal Punishment Case Involving Educator.” *Clarion-Ledger*, November 19, 2007, 1 & 3B

Callahan, Jody. “Schools Ban the Paddle.” *The Commercial Appeal*, November 23, 2004, 1

Editorial. *Jackson Daily News*, Sunday, August 18, 1974, 2H

Editorial. *The Clarion-Ledger*, February 20, 1991, 10A

Editorial. “Is Hitting Children Ever Good?” *Clarion-Ledger*, July 16, 2007, 6A

Editorial. “JPS to Bring Back Spanking.” *Clarion-Ledger*, July 14, 2008, 6A

Editorial. “School Board’s Vote was Brave.” *The Commercial Appeal*, November 24, 2004, C1

Editorial. “Sparing the Rod.” *The Commercial Appeal*, September 1, 2005, R6

Grissom, Kelli. “Stop Corporal Punishment in Our Schools.” *The Commercial Appeal*, November 22, 2004, B5

Kumar, Banerji. “Time to Retire the Hickory Stick.” *The Commercial Appeal*, November 22, 2004, 1

Kumar, Ruma Banerji. “Paddle Me Not.” *The Commercial Appeal*, August 28, 2005, 1 & A10

Kumar, Ruma Banerji. “School Board Gives Johnson a Shining Review.” *The Commercial Appeal*, January 4, 2006, 1 & B5

Letter to the Editor. *Clarion-Ledger*, August 22, 2007, 7A

Letter to the Editor. *Clarion-Ledger*, September 3, 2007, 9A

Letter to the Editor. *Clarion-Ledger*, September 6, 2007, 7A

Letter to the Editor. *Clarion-Ledger*, October 2, 2008, 7A

Letter to the Editor. *Clarion-Ledger*, August 9, 2007, 9A

Harrist, Ron, Associated Press Writer. *Jackson Daily News*, April 20, 1977, 1E

Hartley, Vicky. “Paddling in Schools.” *Clarion-Ledger*, June 28, 2007, 7A

Pettus, Gary. "Whipped Into a Frenzy: California Bill Renews Spanking Debate." *Clarion-Ledger*, April 1, 2007, 2F

Rosemond, John. "Spanking Remains a Stinging Topic." *Clarion-Ledger*, March 6, 2006, 4E

Rosemond, John. "To Spank or Not to Spank Divides Parenting World." *Northeast Mississippi Daily Journal*, July 4, 2008

Staff writer. "Research: Paddlings Not Applied Fairly." *Clarion-Ledger*, August 21, 2008, 5A

Stringfellow, Eric. "Corporal Punishment Deserves Legitimate Consideration." *Clarion-Ledger*. June 26, 2007, 7A

Walker, Reagan. "Jackson School Superintendent Wants Paddling Banned." *Clarion Ledger*, July 15, 1990, 1

Walker, Reagan. "No More Whippings: Jackson Schools Eliminate Paddling." *Clarion-Ledger*, September 2, 1991, 1A

Walker, Reagan. "Southern States Slower to Join National Non-paddling Movement." *Clarion-Ledger*, July 15, 1990, 1 & 19A

### **Government Publications**

One Hundred Third Congress. *Congressional Pictorial Dictionary, Final Edition*, February, 1993. (United States Government Printing Office, Washington, 1993)

*Hearing Before the Subcommittee on Juvenile Justice of the Committee on the Judiciary*, United States Senate, 98<sup>th</sup> Congress. Second Session on "Oversight on Corporal Punishment in schools and What is an Appropriate Range of Discipline by School Officials," October 19, 1984. (U.S.G.P.O., Washington, 1985)

*Hearing Before the Subcommittee on Select Education of the Committee on Education and Labor*, United States House of Representatives, 102<sup>nd</sup> Congress, Second Session, June 18, 1992. (U.S.G.P.O., Washington, 1992)

### **United Nations Publications**

*General Comment No. 1 of the Committee on the Rights of the Child: The Aims of Education*, Article 29(1), paragraph 8, U.N. Document CRC/GC/2001/1

*Convention on the Rights of the Child*, November 20, 1989, General Assembly Resolution 44/25, UN GAOR, 39<sup>th</sup> Session, Supplement Number 49 (A/44/49), at 166, U.N. Doc. A/RES/44/25

### **Reports**

The American Civil Liberties Union. *A Violent Education: Corporal Punishment of Children in US Public Schools*. (Printed in the USA: Human Rights Watch, August, 2008)

National Education Association. *Report of the Task Force on Corporal Punishment*. 1972

Reitman, Alan, Judith Follmann, and Edward Ladd. "Corporal Punishment in the Public Schools: The Use of Force in Controlling Student Behavior." *ACLU Reports*, (New York: American Civil Liberties Union, March, 1972)

### **Unpublished Theses**

Bounds, Hank Mitchell. "Mississippi Educators' and Prospective Educators' Knowledge of School Law as it Relates to Selected Components of Student Rights and Tort Liability." (Doctoral Thesis, University of Mississippi, 2000)

Farmer, Sr., Willie Sidney. "The Legal Provisions Concerning the Use of Corporal Punishment in Pupil Discipline of the Public School Districts in the State of Mississippi." (Thesis, University of Colorado, 1977)

### **Websites**

Baals, Barbara. "In Memoriam: Irwin A. Hyman, Outspoken Children's Rights Advocate." Temple Times: Online Edition, February 17, 2005. [http://www.temple.edu/temple\\_times/2-17-05/hyman.html](http://www.temple.edu/temple_times/2-17-05/hyman.html), accessed on 7/15/2011.

Center for Effective Discipline. <http://www.stophitting.com>, see U.S. Statistics on Corporal Punishment by State and Race, accessed on 6/21/11.

Leopold, Todd. "The 50 year-old-song that started it all." CNN.com, <http://www.CNN.com/2005/SHOWBIZ/Music/0707/haley.rock>, accessed on September 20, 2011.

Reichbach, Matthew. "Martinez Signs Bill to End Corporal Punishment in Schools." <http://newmexicoindependent.com>, 4/6/11, accessed on July 14, 2011.

1964 Platform of the Mississippi Freedom Schools.

[http://educationanddemocracy.org/FSCfiles/B\\_20\\_PlatformOfStudentConv.htm](http://educationanddemocracy.org/FSCfiles/B_20_PlatformOfStudentConv.htm), accessed on September 15, 2011.

[http://www.sgsd.k12.wi.us/homework/hanssej/Amendments/CORPORAL\\_PUNISHMENT\\_IN\\_SCHOOLS.htm](http://www.sgsd.k12.wi.us/homework/hanssej/Amendments/CORPORAL_PUNISHMENT_IN_SCHOOLS.htm), Shawano Public Schools, Shawano, Wisconsin, accessed on July 15, 2011.

US Department of Education, Office for Civil Rights (OCR). Civil Rights Data Collection 2000, 2006. <http://ocrdata.ed.gov> , accessed on 7/15/11.

### **Video**

*Blackboard Jungle*. Written by Richard Brooks, first released March 19, 1955, Warnervideo.com (2005)

Moyers, Bill. *In Search of the Constitution with Bill Moyers*: Tape Eleven, Interview with Justice Lewis Powell, Jr. (P.B.S. Video, 1987)

### **State Codes**

Arkansas Code of 1987 Annotated: Official Edition, Vol. 4B, Title 6, Chapter 10-505: (Lexis Nexis Publishing, 2009)

Arkansas Code of 1987 Annotated: Official Edition, Vol. 4B, Title 6, Chapter 18-503b.1: (Lexis Nexis Publishing, 2009)

Code of Laws of South Carolina 1976, Title 59, Section 63-260: (State of South Carolina, 2004)

Code of Virginia 1950, Vol. 5, Section 22.1-279.1: (LexisNexis Publishing, 2006)

Delaware Code Annotated, Volume 8A, Title 14, Section 702: (Charlottesville, VA: Michie, 2007)

Iowa Code Annotated, Vol. 13, Section 280.21: (St. Paul, Minn.: West)

Louisiana Revised Statutes, Vol. 13A, Section 17:223: (West Group, 2001)

Massachusetts General Laws Annotated, Chapter 71, Section 37H: (West, 2009)

Michie's Alabama Code 1975, Vol. 13, Chapter 16-28A1: (LexisNexis Publishing, 2001)

Michie's Annotated Code of Maryland, Education, Section 7-306: (Lexis Nexis Publishing, 2008)

Michie's Nevada Revised Statutes Annotated, Vol. 11, Chapter 392.4633: (Lexis Nexis Publishing, 2008)

Michie's West Virginia Code Annotated, Volume 7A, Chapter 18A-5-1: (Lexis Nexis Publishing, 2007)

Michigan Compiled Laws Annotated, Sections 340.1 to 380.1620: (Thomson/West, 2005)

Mississippi Code 1972 Annotated, Vol. 10, Title 37-11-57: (LexisNexis Publishing, 2007)

Montana Code Annotated, Vol. 4, Section 20-4-302: (Montana Legislative Services Division, Helena, MT., 2009)

General Statutes of North Carolina Annotated, Vol. 14, Chapter 115C-391: (LexisNexis Publishing, 2009)

North Dakota Century Code Annotated, Vol. 3B, Titles 15 & 15.1: (LexisNexis Publishing, 2003)

Official Code of Georgia Annotated: Title 20: Education, 20-2-731: (LexisNexis Publishing, 2009)

Official Code of Georgia Annotated, Vol. 17, Chapter 20-2-731: (LexisNexis Publishing, 2009)

2009 Oregon Revised Statutes, Volume 9, Section 339.250: (State of Oregon, Salem, OR, 2009)

Page's Ohio Revised Code, Title 33, Volume 1, Section 3319.41: (LexisNexis Publishing, 2009)

The Pennsylvania Code, <http://www.pacode.com>, Chapter 12 – “Students and Student Services”, Section 12.5, effective December 3, 2005

Revised Nebraska Statutes, Chapters 78 to 81, Article 9, Section 79-295: (Lincoln, Reviser of Statutes, 1997)

Smith-Hurd Illinois Compiled Statutes Annotated, Chapter 105, 5/24-24: (Thomson/West, 2006)

Tennessee Code Annotated: Official Edition, Vol. 9, Title 49, Section 6-4103: (Lexis Nexis, 2009)

Utah Code Annotated 1953, Vol. 5C, Section 53A-11-802: (Lexis Nexis Publishing, 2009)

Vermont Statutes Annotated (2004), Title 16, Section 1161a: (LexisNexis, 2004)

Vernon's Annotated Missouri Statutes, Vol. 11, Section 160.261: (Thomson Reuters, 2010)

Vernon's Texas Penal Code Annotated, Penal, Vol. 1: Section 9.62: (West Group, 2003)



West's Annotated California Codes: Education: 49001: (West, 2008)

West's Florida Statutes Annotated: 232.27: (West Group, 1998)

West's Revised Code of Washington Annotated, Titles 28 to 28A, Section 28A.150.300:  
(Thomson/West, 2006)

West's Wisconsin Statutes Annotated, Sections 115.001 to 123-End: (Thomson West, 2004)

### Table of Cases

*Baker v. Owen*, 96 Supreme Court Reports, 210 (1975)

*Balding v. State*, 4 Southwestern Reporter, 579

*Boyd v. State*, 7 Southern Reporter, 268 (88 Alabama Decisions 169), 1890

*Clark D. Hathaway v. George G. Rice*, 19 Vermont Reports, 101 (December Term, 1846)

*Duncan v. Chamblee*, 727 Southern Reporter 2<sup>nd</sup>, 946. (Supreme Court of Mississippi, June 3, 1999)

*Cook v. Neely et al.*, 128 Southwest Reporter, 233 (Kansas City Court of Appeals, Missouri, May 2, 1910)

*Cooper v. McJunkin*, 4 Indiana Reports, 293 (May, 1853)

*Drum v. Miller*, 47 Southeastern Reporter, 421

*Frank v. Orleans Parish School Board et al.*, 195 Southern Reporter 2<sup>nd</sup>, 451 (Court of Appeal of Louisiana, May 1, 1967)

*Gardner v. The State*, 4 Indiana Reports, 632 (November Term, 1853)

*Goss v. Lopez*, 95 Supreme Court Reports, 729 (1975)

*Greer v. State*, 106 Southwest Reporter, 359 (Court of Criminal Appeals of Texas, Dec. 18, 1907)

*Harris v. State*, 203 Southwest Reporter, 1089 (Court of Criminal Appeals of Texas, March 27, 1918)

*Harris v. Tate County School District*, 882 Federal Supplement, 99 (United States District Court, N.D. Mississippi, Western Division, April 5, 1995)

*Haycraft v. Grigsby*, 88 Missouri Appeal Reports, 360 (March, 1901)

*Hogenson v. Williams*, 542 Southwest Reporter, 2<sup>nd</sup>, 456 (Court of Civil Appeals of Texas, Texarkana, September 21, 1976)

*Holmes v. State*, 39 Southern Reporter, 569 (Supreme Court of Alabama, June 30, 1905)

*Houeye v. St. Helena Parrish School Board*, 67 Southern Reporter, 2<sup>nd</sup>, 553 (Supreme Court of Louisiana, October 6, 1953)

*Howerton v. State*, 43 Southwestern Reporter, 1018 (Court of Criminal Appeals, Texas, Jan. 12, 1898)

*Hutton v. State*, 5 Southwestern Reporter, 122

*Ingraham v. Wright*, 498 Federal Reporter 2<sup>nd</sup>, 248

*Ingraham v. Wright*, 525 Federal Reporter 2<sup>nd</sup>, 909

*Ingraham v. Wright*, 51 Supreme Court Reports, Lawyers' Edition, 793

*Johnson v. Commonwealth*, 69 Southeastern Reporter, 1104 (111 Va. 877, 1911)

*Lander v. Seaver*, 76 American Decisions, 166, Vermont (May, 1859)

*LeBlanc v. Tyler*, 381 Southern Reporter 2<sup>nd</sup>, 908 (Court of Appeal of Louisiana, Third Circuit, March 5, 1980)

*Maddox v. Boutwell et al.*, 336 Southeastern Reporter 2<sup>nd</sup>, 599 (Court of Appeals of Georgia, October 18, 1985)

*Mathis et al. v. Berrien County School District et al.*, 378 Southeastern Reporter 2<sup>nd</sup>, 505 (Court of Appeals of Georgia, April 6, 1989)

*Morrow v. Wood*, 19 American Reports, 471 (June Term, 1874)

*Patterson v. Nutter*, 7 Atlantic Reports, 273 (December, 1886)

*Roberson v. State*, 116 Southern Reporter, 317 (Court of Appeals, Alabama, April 3, 1928)

*Smith v. State*, 20 Southwestern Reporter, 360 (Court of Criminal Appeals of Texas, Oct. 15, 1892)

*Spear v. State*, 25 Southwestern Reporter, 125 (Court of Criminal appeals of Texas, Feb. 10, 1894)

*State v. Jones*, 217 Southwestern Reporter, 22 (Supreme Court of Missouri, Division No. 2, Dec. 4, 1919)

*State v. Loftin et al*, 230 Southwest Reporter, 338 (Springfield Court of Appeals, Missouri, May 3, 1921)

*State v. Mizner*, 24 American Reports, 769 (December Term, 1876)

*State v. Pendergrass*, 19 North Carolina Reports, 349 (June, 1837)

*Stevens v. Fassett*, 27 Maine Reports 266-284 (May Term, 1847)

*Stephens v. State*, 44 Southwest Reporter, 281 (Court of Criminal Appeals of Texas, May 7, 1902)

*Vanvactor v. State*, 15 Northeastern Reports, 341

*Walkley v. State*, 31 Southern Reporter, 854 (Supreme Court of Alabama, April 17, 1902)

*Whitley v. State*, 25 Southwestern Reporter, 1072 (Court of Criminal Appeals of Texas, April 14, 1894)

*Wilson v. State*, 190 Southwestern Reporter, 155 (Court of Criminal Appeals of Texas, Dec. 20, 1916)

## **Vita**

David Hargrove received a bachelor of arts degree in history from the University of Nebraska at Lincoln in 1999. He received a master of arts degree in history from the University of Mississippi in 2003. Since 2004, while researching and writing his dissertation, In 2011, David was the circulation manager and acting archivist at the Grisham Law Library at the University of Mississippi school of Law.