

Carvell: This is Who We Are, a podcast by Ben and Jerrys and produced by Vox Creative. I'm Carvell Wallace.

In 2011 Jeffery Robinson's life changed permanently. He was a criminal defense lawyer in Seattle Washington. Four years later, he would become the Deputy Legal Director of the ACLU. Robinson -- who is Black -- had been working on civil rights cases, making sure that his Black clients were treated fairly under the law. He was no stranger to the myriad ways racism showed up daily in the lives of Black folks. But more than that, his knowledge was personal. Robinson had grown up in Memphis, Tennessee during the 1960s and 70s, in the shadow of the Civil Rights Movement. He had seen first hand the legacy of segregation and slavery. He knew everything there was to know about being Black in America. Or so he thought.

Things changed when Jeffery's sister-in-law died leaving behind a 13-year-old nephew, Matthew. Jeffery became Matthew's guardian and the teenager came from Queens to live with him in Seattle. Suddenly, for Jeffrey, the world looked very different.

You live in Seattle. Here's this kid from New York that, especially at that age of 13, you must have thought a lot about what it meant for him to be a 13-year-old Black man-slash-boy-slash-man, depending on how people treat him and see him in the world. What things did you feel like you had to impart to him in order to keep him safe? Because he's a young Black man, which is a gift, right? He has this culture, this, this energy, this like this place where he comes from. And it's also a gift that can get you killed in our society.

Jeffrey: Well, as you were talking about that, I was thinking of a photograph of Matt from his eighth grade graduation that many people have seen. And some people have said to me, gosh, he looks like he's about 18 or 19. He gets really angry and he's 13-years-old. His mother has just died. He knows he's about to move to Seattle and leave everything he knows. And when I look at that picture, what I see is a kid going, *what the hell is about to happen to me?* And as I started talking to Matthew, as you said, he was 13. He was going to be a ninth grader going into high school, going to parties, being in circumstances where I wouldn't be there and the police could show up. And the conversations that I started to have with him were mirroring the things that my father said to me. And I always said to myself, you know, I would never say some of the things my father said to me if I had a son. And I got surprised, because as we were talking about this topic, about how to survive as a young Black man in America, I found myself almost quoting my father.

Carvell: When he was suddenly entrusted with a son to look out for, Robinson found himself drawing from the past in order to make sense of the present. Growing up he had thought, maybe even hoped, that the things his father passed on to him in the 60's and 70's, things his father himself had learned in the 30s and 40s, would no longer be needed in the 2000's. But to his surprise, and perhaps dismay, they were. History was still present in Jeffery's living room with his child. Despite all the marches, and advancements, despite the Civil Rights Movement, despite Jeffery's own education and personal achievements, when he was confronted with the simple reality of preparing a Black child to be safe in the world, he found that at the very core of it, not much had changed from when he was a kid, or when

his father was a kid. The dismal and violent past of America's racism had not been overcome or escaped, or even substantially improved. It was still right there, sitting in his living room between him and his child. The past had become the present. Jeffery Robinson needed to know *why*. And *how*. And he also needed *you* to know.

If I asked you what white supremacy looks like, Klan hoods and Confederate statues are easy things to point to. But those images, that iconography, doesn't begin to tell the whole story, or even a significant portion of it. So much more frequently white supremacy looks like laws, statutes, traditions, regulations. It's not just what's done in the night, but what is written in offices, courtrooms, and the chambers of government every day. White supremacy was not only men on horseback, it was something enshrined in ink, in law, in very specific ways. For example, in 1662, a Virginia law declared that a child born to an enslaved mother was automatically a slave no matter who the father was¹. Or: in 1696, a law in South Carolina excused any white person who caused the death of a slave while carrying out a punishment. In other words it didn't matter if the enslaved person died. In the eyes of the law, no crime had been committed²³⁴⁵. These were the laws of the settler colonies that would become the United States of America. And the spirit of those laws has never really left us.

And if America is a country of laws, and the laws are themselves the vehicles of White Supremacy, then doesn't that mean that America is White Supremacy? Because who were these laws written by? Who were they written for? And how can we know where we're headed, or understand where exactly we are without understanding our past?

Most of the laws, statutes, charters, decrees, regulations and rulings that calcified White Supremacy into the American Landscape are not things I learned about in school. The same is probably true for you. And that's what led Jeffery Robinson to launch the Who We Are project, which inspired this podcast. Consider this a correction to an incomplete education. We'll walk through the history of racism in this country, uncover the white supremacy that is foundational in American law, not an accident, not an unfortunate side effect, but in many cases the very purpose, and we'll look at ways to turn that knowledge into action.

For Jeffrey, the journey began when he found himself repeating his father's words.

Jeffrey: My father was very, very specific. And he was a strict disciplinarian. So, you know, doing the right thing in, in his face was really important. And I remember my younger brother got arrested once and my father found out about it and he came into the house and my father was extremely angry at him. The first thing he said to him - and his jaw is going, and I can hear it, you know? So I'm like, Oh shit, this is not going to be good. The first thing he says to him in the softest voice I could imagine, did they

¹ See footnotes doc below

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do anything to you? And my brother said, no. And then my father was, you know, pissed off at him. And then we went and had that. But his *first* question, did they do anything to you?

My father was a high school principal. When he retired, he was the foreperson of the Shelby County grand jury for decades. He was a person who believed in the country. He believed in the legal system. He wanted to do things the right way, but he told me very specifically, You cannot be alone with a white girl on the streets of Memphis in a car. Don't do it. If the police stop you in a car, Put your hands on the steering wheel and don't move them unless you ask for permission and get it. An officer is to be referred to as "sir" and nothing else. And he would say, there are places I don't want you to go. And here they are. And I understood. I was listening because I understood what he was talking about. I understood that people went missing and never got found again. I understood that kids got shot. Few people remember, but the week before King was assassinated, there was a 15-year-old in Memphis named Larry Payne who just got fricking executed by the police. And my father was just keenly aware that any of that could happen at any moment. And he made me aware that any of that could happen at any moment and that I had to behave accordingly.

Carvell: What are the things that you found yourself saying to your son that you hope he doesn't have to say to his kids, if he has them?

Jeffrey: I think it was unfortunately the same things that I was saying that my father said to me. He went to a high school that was mostly white. I never said to him, don't be seen with a white girl, but I will tell you, I would get concerned at some events when I saw the reaction of different parents. And, it would make me both angry and sad that 50 years after I'm a teenager, this is still, this is still what America is like.

Carvell: So you grew up in that America, where you knew what some of these unwritten laws were. But when Matthew came to stay with you, you realized how many of the written laws you didn't know.

Jeffrey: I didn't read about the civil rights movement in a book. I was born in Memphis, Tennessee in 1956. My older brother and I integrated a Catholic school in Memphis in 1963, the civil rights movement was something we were living. And yet all of this information that I had never heard before was coming at me and coming at me really fast.

As I started reading this information and discovering it, -there were several reactions I had. I was angry at myself. I thought that I was ignorant.

And what I finally understood is that I didn't know these things because I hadn't been taught them? And then the question is, why wasn't I taught them because this information, it may be hidden, but it's hiding in plain sight. Every state that was a colony before America was formed has a historical society.⁶ And you

can go to that historical society and you can see the laws they enacted to maintain and develop the institution of slavery.

Carvell: What does that mean for us today? How might that information change what we're talking about today and how we're talking about it?

Jeffrey: We didn't get here by accident. We got here because America was formed on a pillar of white supremacy. It had the chance to go in a different direction when we came together and developed the constitution. But we put the principles of white supremacy directly into the constitution and named them very clearly.

So you can get taught slavery existed from 1619 to 1865. What you don't get taught is those first 20 and odd people that landed in Virginia, it took 169 years and 20 and odd people had become 700,000⁷⁸. You don't hear that there were slave breeding farms in the South. You don't hear that Virginia's number one export was not tobacco. It was human flesh.⁹ And so when you start hearing these details, all of a sudden, "Oh yeah, there were slaves, and they picked cotton, and that was kind of unfair. And then it ended." You know, that's America's view and that's not what it was.

And then we get into the 19th century where we're talking about separate but equal being¹⁰, not just the tradition of America, but the law of the land as written by the Supreme court¹¹. What our history demonstrates is that the American government and state and local governments have pursued racist policies¹². Some without any question intentionally, and some may be out of complete neglect, but policies that explain why we got to where we are in 2020.

I believe that the moment we are in is a significant one in my lifetime. I believe that the death of George Floyd has presented America with what may be our last and best chance. And what I mean by that is in order to undo 400 years of a system that was designed either deliberately or by indifference to create the society that we're in right now, in order to undo that it is going to take huge steps. We are not going to be able to nibble around the edges anymore.

Matthew was 13 when he came to live with me, he's 23 now. I don't have 50 years for him. So it's got to be something revolutionary.

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Carvell: A quick note: Jeff and I recorded this portion of the interview during the protests in response to the murders of George Floyd and Breona Taylor. But as it always happens in these cases, you can't even write and record the content fast enough to include all of the names. Even as I write this, protests are underway in Kenosha, Wisconsin following the shooting of Jacob Blake seven times in the back by Kenosha police. Who knows what names will be hashtags by the time you hear this? The predictability of this violence, the speed and frequency of this death, that is not happening because of the moment we are in. That is happening because of everything this country has built and sustained before this moment we are in. That is happening because of what this country is and has always been.

You probably know that the first slave ship landed in the colonies that would become America in 1619. But you could argue that truly *American* slavery began in 1637, in Boston, with the launch of a single ship.

That ship, the *Desire*, was the first slave ship built on what would become American soil.¹³ Two years later Massachusetts would pass a law, inspired by the Bible, stating that any Christian can enslave anyone who is a "stranger."¹⁴ And by "stranger" they meant Black and Native American people. In fact, the first human beings chained on the *Desire* were Pequot Indians who were sold into slavery in the West Indies, before the ship picked up and returned enslaved Africans to Boston.¹⁵

Today the Poet Laureate of Boston is African American, West African, Black, and queer. Porsha Olayiwola is everything this country has never learned to see clearly. And her poem -- about that ship, about America -- is called:

I Cannot Wade Through The Past Without Waking The Dead.
I Cannot Weigh Wailing,
Summoning The History
As The Present Of This Country Is Homing The Haunting
Honing The Howls
The Clang Of Cuffs
Calling Chains A Lineage.

Porsha: the power of the
tongue is the difference
between the new world and the
old a savage and savagery a
colonist and a killer manifest
destiny is the law of attraction
is conjuring under a different

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guise. language is a spell—wish
and curse—declare
independence and the war
ensues, declare the land your
country, and the soil gashes
crimson declare a human as
slave and no one asks how
bright the color clipping her
universe is. history is a complex
wordsmith the first slave ships
forged in this country were
named *desire, prosperity,*
fortune and hope. desire was
built on a summer lawn in
salem and set sail in 1637. the
ship, a vessel, a belly, a black
hole sold indgenious folks to the
caribbean in exchange for
africans to slave the colonies a
body for a body, a life for a lie,
cargo to carcass. *desire* from
the latin *desidero* meaning to
wish to obtain to long for; to
lust after what one loathes.
learn: one man can claim desire
and conquer all another man
desires, one can lust after
another once, and the thirst is
forever in drought. *america*
namesaked after a conqueror,
calls a slave ship 'hope' and
it becomes a blueprint for
the future, calls a boat a
'fortune' and all aboard
become possessed
possessions. history has a
way of repeating or history
itself is repeating or history
is a reaping. ghost gun shot
locking us in the open field
of an eye—the bodies policed
to pavement, the ballot
exchanged for bullet,

plantation for prison death
for life lie in lingo—what you
damn damns you. the
conqueror, america, labels
us a nigga and we reshape it
endearing builds us a ghetto
and we craft culture, label us
your desire and we say from
the latin phrase *de sidus*
meaning from the stars as in
emerging from the black
hole of a ships bowels. as in
them folks came from a dark
galaxy as in them folks a
heavenly body, celestial
beings shafted. shackled
constellations night-skying
the ground.

Porsha: History is definitely one of my muses. Really diving into history, like looking at it straight on, you know, not shying away. It is zooming in. And I think for me, what that means is looking directly into the truth, into the lens of the truth. And I think we have to understand, to get as close to the truth as possible: it is more than one narrative, right? It is more than one story, and specifically more than the main story. I cannot unthink history, the future, and the present as an entanglement of sorts. I think about *sankofa*, right? Go back and get it, right? In order to move forward, we need to go back. We forget that the first slave ship was built in those places we also call freedom. You know, those things are inherently tied. That is that ghost.

You know, as a Black person who writes about predominantly African American history, African queer theory, et cetera, it is sometimes heavy to do the kind of work. It was very heavy to read about it, to do the research around the ships, and to understand and comprehend what they think of the Black body. And I think, because I love history so much, I really had to infuse it with Afrofuturism. Because it would just be too sad, you know? And sometimes I just want to rewrite things or re-imagine these things and say, yes, it was this terrible, terrible thing - but my God look at me, you know? Look at me, living.

Carvell: There is a symbol that comes from the Akan people of what is present day Ghana. The symbol is that of a bird looking over its shoulder. It is called a *sankofa* and its name translates to: "it is important to retrieve what's left behind." Go back and get it.

This season, on this show, we will retrieve what has been left behind. Jeff and I will dive deep into the way this country wrote itself into being, and what's hiding in plain sight. We'll look at police violence, maternal mortality, the right to the ballot, and the continuously reinforced wealth gap. We'll reckon with this country's ugly past, and ask the question: what would it take to imagine a better future?

The past is never dead. It's not even past. It's present. It's now. Dr. Martin Luther King said that we are not makers of history, but rather we are made by it. And if that's true, then what has history made of you? What has history made of me? What has history made of this moment that we share right now, today, in this country, out your window, on your screens? Do you understand everything you need to understand to see a way forward? Because I don't think I do. What I do know is that Jeffery is right. We have been here before, and if we don't get it right this time, we may never have another opportunity to get it right.

Like a spiral, like history, the *sankofa* reaches back to bring the past into the present. We'll look at where we come from. We'll relearn what America has tried to forget. And in shining a light on the past, we'll see the present clearly. This is Who We Are.

Our production team at Cosmic Standard includes:
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Our Senior Producer Adwoa Gyimah-Brempong
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And our theme music is by Markus Hunt

From Vox Creative we have:
Director of Creative Strategy Amber Davis
Senior Creative Producer Annu Subramanian

And from The Who We Are Project we have
Executive Producer Jeffery Robinson

I'm Carvell Wallace. Thank you for listening.

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VOX V1 EDITS

<https://docs.google.com/document/d/1IPCuxgAflga0w5Ustn9o1TqmnF1TgZh6PAb3NXiK7Xg/edit?usp=sharing>

Footnotes:

1. 1662: Virginia law enacted: Negro womens children to serve according to the condition of the mother. WHEREAS some doubts have arisen whether children got by any Englishman upon a negro woman should be slave or free, Be it therefore enacted and declared by this present grand assembly, that all children borne in this country shall be held bond or free only according to the condition of the mother, And that if any christian shall committ fornication with a negro man or woman, hee or shee so offending shall pay double the ffines imposed by the former act. 1667: Virginia law enacted, declaring that baptism of slaves doth not exempt them from bondage.

WHEREAS some doubts have risen whether children that are slaves by birth, and by the charity and piety of their owners made partakers of the blessed sacrament of baptism, should by virtue of their baptism be made free; It is enacted and declared by this grand assembly, and the authority thereof, that the conferring of baptism doth not alter the condition of the person as to his bondage or freedom; that diverse masters, freed from this doubt, may more carefully endeavour the propagation of christianity by permitting children, though slaves, or those of growth if capable to be admitted to that sacrament

Source Link:

https://www.shsu.edu/~jll004/vabeachcourse_spring09/bacons_rebellion/slavelawincolonialvirginiatimeline.pdf

Source: https://www.shsu.edu/~jll004/vabeachcourse_spring09/bacons_rebellion/slavelawincolonialvirginiatimeline.pdf

2. "South Carolina, for example, passed an Act for the Better Ordering and Governing of Negroes and Slaves in 1696. This comprehensive code outlined severe penalties for a variety of offenses committed by blacks and excused any white who caused the death of a slave while carrying out a punishment. The South Carolina act was based upon the slave codes of Barbados and became the prototype for other American colonies writing black oppression into law."

Source: <https://www.thirteen.org/wnet/slavery/experience/legal/history.html>

3. "The Barbadian legislature enacted the first slave code in 1661, and it quickly spread throughout the British Atlantic island colonies. After 1750, the Barbadian slave code made its way to the British colonial mainland. Clause twenty of the Barbadian law gave masters the right to kill a slave who had run away or misbehaved. Killing a slave for any other reason could be punished with a fine."

"After independence, states attempted slave law reform, including the homicide laws. The tendency was to equate the murder of a slave with the murder of a free white man, but the practice allowed for so many exceptions that only a few masters were executed for killing their own slaves. Almost all of these men were outcasts in their own communities. Virginia, South Carolina, and Texas each executed one master. Tennessee executed two men who were not masters. As the nation expanded westward, the slave homicide laws of the new states were like those of the old. American slave law proclaimed in the books that slaves were entitled to the same protections as whites, but in practice the law operated to serve the master's economic interests."

Source: <https://digitalcommons.lsu.edu/cgi/viewcontent.cgi?article=3148&context=cwbr>

4. <https://www.thirteen.org/wnet/slavery/experience/living/docs1.html>
5. 1669 Virginia passes an act regarding the casual killing of slaves: "If any slave resist his master (or other by his master's order correcting him) and by the extremity of the correction should chance to die, that his death shall not be accounted felony."

Source:

<https://www.gilderlehrman.org/history-resources/teaching-resource/study-aid-slavery-and-law-seventeenth-century-virginia>

6. On Memphis' reputation leading up to the post WWII America:

Observing that "Memphis [was] the gateway to the cotton belt, the center of many railroads, [and] the headquarters of many important business concerns," the paper said that "for all of its modernity . . . [it was] culturally barbarous" and reflect[ed] all of the colorphobia of its next door neighbors . . . barbarous Arkansas and unspeakable Mississippi." Bordering Mississippi and larger than any metropolis in the Magnolia State, Memphis was, in effect, the capital of perhaps the most racially repressive state in the country. Like Crump, many white Memphians had Mississippi roots and hardened and paternalistic racial attitudes. The police, for instance, mainly hailed from the state and were known for their brutality, a fact that indicated why black Memphians pushed for black police officers in particular.

Source:

<https://www.bizthusiasm.com/press/pdf/files/Black%20Politics%20in%20the%20Age%20of%20Jim%20Crow%20Memphis%2C%20Tennessee%2C%201865%20to%201954%20Elizabeth%20Gritter%20A%20....pdf>

7. In 1790 there were fewer than 700,000 enslaved people in the United States; in 1830 there were more than 2 million; on the eve of the Civil War, nearly 4 million.

Source: <https://www.loc.gov/classroom-materials/immigration/african/africans-in-america/>

8. 1619 + 169 = 1788—The first U.S. census was conducted by 16 U.S. marshals and their 650 assistants. It took them 18 months to visit households and compile the final tally of 3.9 million people, including nearly 700,000 slaves.

Source: <https://www.prb.org/censustradition/>

9. Rapid expansion of cotton planting in the lower South generated its own great demand for slaves, and Richmond emerged as a center of the massive interstate slave trade. By the 1850s, that trade may have been the largest commercial business in the state. Traders annually sent eight to ten thousand Virginia men, women, and children to slave markets in other states. It is likely that sales of slaves brought more money into Virginia than any other exports.
Source: https://edu.lva.virginia.gov/online_classroom/union_or_secession/unit/2/slavery_in_virginia

"By the 1830s, Virginia's largest export was human property," says Stevan Deyle, associate professor of history at the University of Houston and author of *Carry Me Back: The Domestic Slave Trade in American Life*.

Slaves were worth more than the land and, unlike real estate, they were highly portable and easily sold. Many Virginia slaveholders, it seems, knew roughly how much each of their slaves was worth to the speculators who scoured the Virginia countryside offering quick cash for human assets

https://www.richmondfed.org/-/media/richmondfedorg/publications/research/econ_focus/2013/q2/pdf/economic_history.pdf

10. MA—<https://www.masshist.org/> | NH—<https://www.nhhistory.org/> | CT—<https://chs.org/> | RI—<https://www.rihs.org/> | DE—<http://dehistory.org/> | NY—<https://www.nyhistory.org/> | NJ—https://jerseyhistory.org | PA—<https://www.portal.hsp.org/> | VA—<https://www.virginiahistory.org/> | MD—<https://www.mdhs.org/> | NC—<https://historicalsocietyofnc.org/> | SC—<https://schistory.org/> | GA—<https://georgiahistory.com/>
11. In 1890 a new Louisiana law required railroads to provide "equal but separate accommodations for the white, and colored, races." Outraged, the black community in New Orleans decided to test the rule.

On June 7, 1892, Homer Plessy agreed to be arrested for refusing to move from a seat reserved for whites. Judge John H. Ferguson upheld the law, and the case of *Plessy v. Ferguson* slowly moved up to the Supreme Court. On May 18, 1896, the U.S. Supreme Court, with only one dissenting vote, ruled that segregation in America was constitutional.

Source: <https://americanhistory.si.edu/brown/history/1-segregated/separate-but-equal.html>

12. In the pivotal case of *Plessy v. Ferguson* in 1896, the U.S. Supreme Court ruled that racially separate facilities, if equal, did not violate the Constitution. Segregation, the Court said, was not discrimination.
Source: <https://americanhistory.si.edu/brown/history/1-segregated/separate-but-equal.html>
13. "During the year 1636 some enterprising merchants of Salem united, and built at Marblehead a vessel of one hundred and twenty tons for fishing and trade in the West Indies. She was named the "Desire" and William Pierce was appointed captain.

His first voyage, however, was with Endicott's expedition against the Indians at Block Island, sailing from Massachusetts Bay August 24 and returning September 14."

Early Boston Booksellers 1642-1711 By George Emery Littlefield — pg 58

Source: <https://books.google.com/books?id=q5w1AQAAIAAJ&pg=PA31&f=false#v=onepage&q=desire&f=false>

"Marblehead has many ties to slavery. The first American-made slave ship, *Desire*, was built in Marblehead in 1636. Its holds were divided into racks with leg irons and bars.

Many Marbleheaders owned slaves and sometimes brought them to church, including at St. Michael's, which opened in 1714. Church records show that one rector, Rev. George Pigot, baptized four of his own slaves at St. Michael's."

<https://marblehead.wickedlocal.com/news/20190821/commemorating-slavery-anniversary-amp-reflecting-on-marbleheads-role>

14. Re: bible + "stranger"

The Massachusetts General Court published the Body of Liberties.

Considered the first legal code created by European colonists in New England, the document consisted of 100 laws intended to guide the colony's General Court.

The Body of Liberties also established the legal status of slavery in the Bay Colony. While this document guaranteed civil rights to British colonists, paradoxically it also specified that slavery was allowed in cases where slaves were "taken in just wars, [or] as willingly sell themselves or are sold to us."

91. There shall never be any bond slaverie villinage or Captivitie amongst us, unles it be lawfull Captives taken in just warres, and such strangers as willingly belie themselves or are sold to us. And these shall have all the liberties and Christian usages which the law of god established in Israell concerning such persons doeth morally require. This exempts none from servitude who shall be Judged thereto by Authoritie.

Source: <https://oll.libertyfund.org/pages/1641-massachusetts-body-of-liberties>

15. "In New England the first slaves were native Americans, captured as war prisoners during the conflicts between the indigenous population and European settlers. [1]
The practice of enslaving captured peoples was well-established among the native population. In 1638, New Englanders began to import Africans, initially by exchanging native Americans captured in the Pequot War for black slaves in the West Indies. In 1638, William Pierce, a Boston ship captain, took several captive Pequot Indians to the West Indies to sell into slavery. In exchange for these captives, Pierce brought back salt, cotton, tobacco, and Africans. [2]"

Source: https://www.brown.edu/Facilities/John_Carter_Brown_Library/exhibitions/jcbexhibit/Pages/exhibAfricans.html

16. <https://digitalgallery.bgsu.edu/student/exhibits/show/race-in-us/laws-and-race>
<https://democracyjournal.org/magazine/46/racism-didnt-stop-at-jim-crow/>
<https://www.raceforward.org/sites/default/files/pdf/303pdf.pdf>
17. <https://www.goodreads.com/quotes/12124-the-past-is-never-dead-it-s-not-even-past>
18. <https://www.shmoop.com/quotes/not-makers-of-history-made-by-history.html>
19. <https://www.goodreads.com/quotes/374317-how-can-we-know-who-we-are-and-where-we>
20. <https://www.goodreads.com/quotes/113207-history-is-a-guide-to-navigation-in-perilous-times-history>