

PERSPECTIVES – News and Comments^{1,1}

A Book Review of Homeschooling: The History and Philosophy of a Controversial Practice by James Dwyer and Shawn Peters

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Abstract

This is a review of the book entitled *Homeschooling: The History and Philosophy of a Controversial Practice*, by James G. Dwyer and Shawn F. Peters, published by University of Chicago Press, Chicago, Illinois, in 2019.

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AS OF THIS writing, *Homeschooling: The History & Philosophy of a Controversial Practice*, published in 2019, is the sixth and latest installment of the University of Chicago's "History and Philosophy of Education Series," which seeks to consider questions of educational philosophy and practice through a unique collaboration of historians and philosophers. Thus, the book is divided into two distinct sections. Peters, a Lecturer at University of Wisconsin-Madison, surveys the history of the American homeschooling movement in the first three chapters of the book, and Dwyer, a Professor at the William & Mary School of Law, examine the philosophical questions surrounding home education in order to "generate a prescription for state policy" (Dwyer & Peters, 2019).

Paralleling the book, the historian (Favelo) will review Peters' historical survey of homeschooling, and then the philosopher (Bayer) will consider Dwyer's philosophical argument.

History

CHAPTER ONE, "EARLY Homeschooling," tracks home education from the colonial era to the middle of the twentieth century. Peters threads this national narrative through the social, cultural,

religious, and political/legal realms. The difficulties of telling a complete history are readily apparent: American culture changed rapidly over these centuries, and that holds true for educational practice. Compared to 1787, by the end of the nineteenth century Americans thought quite differently about the domestic sphere, the relationship between the state and the individual, and the nature of the state in general (consider the diction change that had taken place, from using the United States as a plural subject to a singular). Finally, the early twentieth century saw the development of more systematized home education systems, though they still remained a tiny percentage of the American educational scene.

Chapter Two, "The Birth of Modern Homeschooling," tackles the tumultuous second half of the twentieth century and beyond, which period saw the most significant fights over the legality of home education. The end of the era saw the rise of evangelicalism in politics, which corresponded to a similar growth in conservative efforts to defend home education. At the same time, Peters spends considerable time tracking the so-called liberal element of home education, championed by John Holt and others. A significant portion of the chapter is devoted specifically to the procession of United States Supreme Court and state cases; Peters folds those legal developments in with the

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various lobbies and interested parties (local, state, and federal) involved in home education.

Finally, Chapter Three, "Homeschooling Comes into Its Own," narrows in on the past two decades. It considers in more detail the nature of the modern home education movement, focusing particularly on modern defenders and practitioners, on the one hand, and concerns and critics on the other.

A history of even a small sliver of the educational experience in modern North America is a daunting task. Although home education today accounts for only perhaps 3% to 4% of the nation's K-12 educational experiences, such an investigation requires a diverse knowledge of history and law spanning centuries. Peters has amassed an impressive body of evidence: social commentaries, state and federal court cases, and anecdotal accounts from home educating families and educational and political officials alike. His efforts to craft a complete history of such a large movement (even if it is still a small percentage of the public education system) are praiseworthy.

However, there are significant historical errors in this survey, particularly errors of omission. While every historian has a right, one supposes, to start one's history whenever one chooses, it is rather curious that Peters begins sometime in the seventeenth century without even a nod to the educational history of Europe from which colonial education necessarily was born. No history is really a complete story without some kind of historical contextualization. The contextual omissions cascade to a number of other errors; as we shall see, the book ignores European developments throughout these three chapters, which makes for an incomplete story at times.

For example, Peters states, "Children's book learning in the colonial period was not for the sake of acquiring critical thinking skills or developing core competencies of democratic citizenship" (p. 5). This is inaccurate. Puritans and non-Puritans in the colonies alike saw right living as a necessary by-product of right government, and that could only come about through an educated polity. These were not strict democrats per se, though something similar was to be found, too, in seventeenth-century colonial America; the events of the English Civil War did reach the colonies. But because of their traditional classically-based education, English colonists in North America were just as interested in law, political theory, history, and the liberal arts, for the purpose of good *polis* governance, as their European counterparts. Young men in the colonies routinely matriculated at college at age seventeen (Jonathan Edwards attended Yale at age thirteen), and yet, to a Puritan, the responsibility to educate always lay with the parents in the home (it is to parents that most educational treatises and exhortations were addressed). Students certainly did not come to college to discover, for the first time, disciplines apart from theology. How could a young man navigate Plato, Aristotle, Plutarch, Augustine, and Aquinas if he had not already become quite familiar with them? These home-educated men continued in an education that was already vastly more rigorous than what the Ivy League offers today.

Similarly, Peters is incorrect in saying, "... [The scriptures were the] only written texts of real significance in colonial

homes." Puritans read Cromwell... but also Milton: "Fit for everything," though a Lutheran phrase, was dear to the Puritans (Ryken, 1986). After publication *Pilgrim's Progress* became almost as much of a literary staple as the Bible in colonial homes.² The Puritans also seemed to have been particularly fond of both reading and writing "economic manuals," in the Greek sense of *oikonomia*, i.e. how-to books on the logic of home governance. And the state was, to many, an extension of the family (*a la* Roman legal theory), so citizens were expected to be just that, educated in citizenship. Treatises from Rutherford's *Lex Rex*, to Hobbes, to Locke were read in the colonies. Indeed, how might we have received treatises such as Federalist Papers or *Common Sense* without such reading in the colonies? Perhaps more important, how could such treatises have made any impact whatsoever if home-educated colonial Americans had only been reading the Bible, without a thought toward critical thinking, core competencies, or democratic citizenship?

Chapter Two also sees several other historical errors. In dealing with Horace Mann, to many the founder of the American government school system, Peters omits Mann's own travels to Prussia, and his adoption of that rigid system. Critics of the public educational system have long worried about the dangers of importing Mann's Prussian system, with its significant restrictions of personal liberties and stifling of individualism (Gatto, 2003). Later Peters (p. 42) notes Paulo Freire's criticisms of public education as viewing children as knowledge receptacles into which teachers pour, even though Charlotte Mason (1989) had made that very criticism 100 years earlier.

More concerning is a failure to paint a complete picture of the changes happening in nineteenth-century America, and this is necessary to explain fully the trend away from colonial home education to state-sponsored education. It is well documented that with the death of Adams and Jefferson in 1826, Americans began rejecting classical education and the liberal arts in favor of a pragmatism-based education. Indeed, Benjamin Rush, perhaps the most classically-educated framer, fought hard against continuing the trend in the new republic (Carl, 1994; Nash, 2007). The Framers (some home educated, others privately tutored) grew up on Plutarch and his *Parallel Lives'* manifold examples of right polis living; after the Framers died, Americans sought a more practical education. Couple this with the systematization of life that emerged from the Enlightenment (Peters does briefly nod to Rousseau), and we can understand why the nineteenth century saw the nation slowly transform from home education being normative to a compulsory institutional educational model. This was the era of the establishment of the American Bar Association, the American Medical Association, and other organizations for organizing knowledge around professions (and controlling access). Universities began transferring History programs from the Humanities to Social Science departments (this battle still smolders, as the University of Chicago, one of the last holdouts for History as part of the Humanities, knows well). At the same time, Nationalism had risen with a fury in Europe, and America was not immune (though with its unique flavor known as patriotism). All this pointed to a triumphal, confident, orderly view of life that we

² His republic-apologetic literature, like the *Areopagitica*, was not unknown, either, besides his treatise *On Education*.

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know as the *Fin de Siècle*; this helps us understand why modern nation-states, even America, landed on state-sponsored schools as normative.

Throughout chapters two and three Peters attempts to trace the history of home education policy in the courts of the twentieth century. His conclusion is that home education lobbies and parents have failed on the federal (read: SCOTUS) level, but have "...had extraordinary success in creating a congenial legal environment" at the state level." The history becomes almost scornful and accusatory toward the states, which are depicted as rolling over in the face of powerful lobbies like the Rutherford Institute and Home School Legal Defense Association.³ This capitulation, according to Peters, birthed a so-called right: "On the whole, then, the current status of parents' constitutional rights to control children's upbringing appears quite weak... ." (p. 59). But this is not a complete picture. First, in the numerous state-court battles over home education rights, defenders have not just wielded state law to win in court; rather, invoking the fourteenth amendment has seen considerable success at the state level. Thus, it is not quite accurate to say home education rights are purely state-level. Second, home education rights cases have been argued (and won) at the federal appeals court level, just not at the Supreme Court.

Lastly, the tone of Peters' historical survey is somewhat concerning. Few historians today speak of absolute objectivity when doing history; we have long awakened to the reality that we historians live in the world, too, and come to an investigation with our own biases. However, there is at least a conscious understanding among us that while we historians have a right, even a responsibility, to come to conclusions about why things happened, and even if they were positive or negative, we should be charitable in our treatment.⁴

That seems lacking in Peters' survey at times. These three chapters fluctuate between a neutral view of homeschooling (to Peters' credit) to not-subtle antipathy. This is particularly apparent in the amount of space given to criticisms of one element of homeschooling in America, conservative evangelicals. They are, indeed, a large portion of the movement... but not the only one. To be sure, Peters (p. 93) spends several pages on John Holt and his legacy, but the emphasis is not really close, in spite of the fact that (as Peters notes) surveys indicate religious instruction is not currently the most common reason parents home educate (concerns over the safety of their children are).⁵ Peters includes anecdotal evidence for his narrative of the development of home education, but it is difficult to consider the treatment fair, given the number and qualitative treatment of negative or at least "concerning" examples. This holds true with the various statements by parents, officials, and lobbyists on all sides. The section on so-called home educating parents who have harmed their children is particularly egregious, primarily in what it does not present:

³ Curiously, Peters attributes the influential book *Home Education: Rights and Reasons* solely to John Whitehead even though it was co-authored with Alexis Crow (Dwyer, p. 63).

⁴ Though many history programs would challenge even that assertion as an "unwarranted value judgment."

Peters (p. 96) fails to mention that homeschooling advocacy organizations across the nation rightfully condemn unequivocally any such treatment of children.

Likewise, historians have to be extremely careful when compiling a historical narrative from "grass-roots" examples, and are required to have myriads of data examples before being confident that they have an accurate picture. It seems that a fair historical treatment of the home education picture, given the (now) millions who have been home educated, should include a wide swathe of (perhaps boring) examples. The book primarily offers (a few) "greatest hits" and (far more) "greatest misses," especially given the heavy emphasis on the rare-but-newsworthy example of child abuse in home educating families. The overall treatment is not one that strikes the reader as consistently attempting a fair and complete narrative.

In these three chapters Peters has attempted to survey 400 years of home education in America. Just for the courage to consider such a broad history, which spans numerous disciplines, is Peters to be commended. Unfortunately, the not-uncommon historical inaccuracies, combined with a generally negative disposition toward home education, do not lend the reader confidence that this is a comprehensive and accurate history of the home education movement.

Philosophy

THE AUTHORS OF *HOMESCHOOLING: The History and Philosophy of a Controversial Practice* have made a case for much stronger state supervision of homeschooling, but the broad sweep of their comments and the one-sided nature of their project is undermined by the lack of theoretical depth and analysis. The authors of this book make certain assumptions about the nature of the state, the individual, and the role of education, without ever explaining or defending them. The overriding assumption is that the interests of the child lie within the purview of the state. Yet the state itself, its administrative form, its justice, its conception of education, is never defended.

The book argues that families who homeschool do so because they want to control, if not abuse their children, and most certainly want to indoctrinate them in religious beliefs which do not prepare them for the real world. The accusation of child abuse is the strongest argument for state oversight. At one point they take evidence of abused children, who were clearly not being educated but rather abused, and use this as an argument against homeschooling as it currently exists. Yet, they do not address examples of children abused by teachers in public school,⁶ nor do they compare statistics. They take their examples and draw general conclusions that are not substantiated. But, it does not follow that because a few children are abused by their parents, under the guise of homeschooling, all homeschooled children are in jeopardy. Neither does the reverse hold true: that

⁶ Grant, Billie-Joe; Wilkerson, Stephanie B.; Pelton, deKoven; Cosby, Anne; & Henschel, Molly. (2017). *A Case Study of K-12 School employee sexual misconduct: Lessons learned from Title IX policy implementation*. National Criminal Justice Reference Service, United States Department of Justice. Retrieved July 30, 2020 from <https://www.ncjrs.gov/pdffiles1/nij/grants/252484.pdf>

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because some children are abused by schoolteachers, all children in public schools are in jeopardy. Examples do not rise to the level of an argument, and there is truth in an old saying: “hard cases make bad law.” Good policies do not presume all cases are worst case.

The safety and health of all children is an unquestionable basic good, universally acknowledged. Knowledge and education are also unquestionable goods for a flourishing life; they need no further justification, because they are good for their own sake. If we agree about the basic goods, then the means by which they are achieved require much more argument and discussion than this book allows.

James C. Dwyer and Shawn F. Peters frame the answer of how to achieve these basic goods as one that only an administrative state is qualified to answer. It is this claim, which they leave undefended, that necessitates serious criticism. The “ideal regime” is described as one in which the state makes ultimate decisions (p. 146). But it is precisely the nature of the “ideal regime” that is in dispute, and of concern to everyone because good government is another basic good. The purpose of good government is, as Aristotle put it, to participate in both ruling and being ruled. And it is the fact that citizens who homeschool their children seek all these basic goods for their children that has made homeschooling desirable. Ordinary people do not assume that the basic goods are determined by an administrative state “ideally.”

The fundamental way that political disputes ought to be resolved is through public discourse and political and legal action. Resolution of the place of homeschooling cannot be decided by administrative committees because the state, and here I mean the education establishment as found in various government agencies, is neither a neutral nor a disinterested actor. The lack of a point of neutrality from which to settle moral disputes lends arbitrariness to the debate as it now stands. The HSLDA is a necessary actor, not a blight on the educational landscape.

However, the authors take the *state to be the* manager, on the model of a business manager whose job is to manage workers so as to get certain outcomes. The book’s authors assume that the state must manage the education of all children. But why is the state omniscient? Why is it the only neutral actor? In matters of public policy, however, there is no view from nowhere. Always there are biases, schools of thought, ideologies at work, none of which are raised by Dwyer and Peters, but which must be outed, and ought to be identified.

There are theoretical flaws. At no point do the authors clarify their use of the terms “individual” or “society” or “state” with the precision necessary. From Alexis De Tocqueville to Max Weber, and more recently in the writings of Hannah Arendt, Phillip Rieff, and Alasdair MacIntyre, the characteristics of liberal individualism, and causes for the rise and development of the contemporary administrative and managerial state have been cautiously and carefully analyzed. Yet, in this book, the large-scale background in which administrative agencies operate, the blurring of the distinction between manipulative and non-manipulative social relationships, is never recognized or acknowledged. Yet that background is germane to the question of the right relationship of state to families.

The book moves within the paradigm that philosopher Hannah Arendt has identified as characteristic of the “conformism” of mass society, a conformism which blurs all distinctions between family and society in our modern polities. This is evident where *Homeschooling* treats the family as a legal construct, a contract between individual actors within the family and the state. Given this paradigm, how is the family distinguished from society at large? In some comments, the authors ignore the ordinary common-sense distinction between a genetically-related, natural family, and a family into which a child is adopted through legal fiat (p. 120-122). They talk of the state “choosing parents” for all children. They say that this process happens in the hospital after the child is born, when the state steps in, in order to determine that this child is a child of these particular parents, by legally recognizing this relationship. It is as if all children appeared in the world arbitrarily, and parents are only parents when so recognized by law because the only real tie between people is provided by administrative decision. In this model, only the state can act as a neutral adjudicator of relationships. Is this true? If so it is a most shocking claim.

It follows that in the eyes of these authors modern society has progressed beyond the idea of the family as a natural self-governing unity with claims upon its members, just as, it seems, is implied. So also it seems we have progressed beyond a representative republican system, chosen by, and responsible to families. It is as if the traditional family is an idea which has had its day, and has withered away and been replaced by social organizations within an administrative state. Care of individual persons is now the sole responsibility of certain agencies and experts in the behavioral sciences. One can only conclude that the model of the state with which they are working is not the liberal contractual state; it is what Arendt had called the “rule of nobody,” whose task is the “public organization of the life process.” (*Human Condition*, p. 38-46) Throughout the fifth chapter of this book it is assumed that the state makes a family a family, and ensures that the family conforms to the behavioral expectations of whoever stands in the role of manager of families.

According to their paradigm, disputes about homeschooling are only about how much control over children the state should give parents, because it has already been assumed as a fact that the state is necessarily “intensely involved in children’s lives” from birth (p. 123). In such a model, the homeschooling parent does not possess any natural rights in relation to their child except what the regime acknowledges.

The authors speak the language of rights, and suggest that the right of a child to well-being is a natural right. This is true from within the old liberal contract model of representative government, but these statements add much ambiguity to their overall thesis. Granted contract theory is itself somewhat conflicted, and varied, but this book does nothing to clear it up. We are told that the state exists because if people were left in the “state of nature,” presumably as described by Hobbes, there would be chaos (p. 121). Therefore, individuals escape the state of nature by contracting with the state for protection. Also we are told that there is a natural, pre-contractual right of nature to preserve one’s own life (p. 135). It follows by their reasoning that a child is a “nonautonomous” (needing care) person placed

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by the state into a family relationship for their care (p. 124). What happened to the pre-contractual natural family? What happened to the pre-contractual right of nature? Neither are taken seriously. What happened to the distinction between “society” and “state” known to the Framers, and from which they drew their understanding of natural right? This requires a much larger discussion.

But all serious questions about the genesis and meaning of rights, and distinctions between public life and private life, are unexamined. The only interesting questions raised are about determining *how* the state will intervene in education and establish rules for child-rearing which do not involve asking the adult parent (p. 126, 193). In any case, the language of rights is useful to the authors, because they want to claim that their book is written within this core tradition of rights-based individualism: there is a mention of the rights of the child, there is the positive reference to contract theory, and a couple of references to Hobbes and Locke to support a “right of nature” *jus naturale* (oddly enough misspelled *jur*) (p. 135). But, if the state constructs the family in law, and decides upon the most intimate and natural relationship between parent and child, are there now only legal, state-created rights? Apparently, this is the case (p. 192). The reference to Hobbes and Locke and natural right is deceptive. This is not the liberal theory of contract, as understood by the Framers at work.

This is why the managerial state is the real model at work. How it evolves out of liberal individualism is a larger question, but in any case, it has replaced it. Why and how has such power devolved upon the state? This requires further consideration beyond the scope of this book.

That the modern state is primarily bureaucratic was observed by the original sociologist of the administrative state, Max Weber. Weber observed convincingly that the modern state is primarily about force; its actions are defined as “legitimate” violence, and it is the only legitimate force, because no actor but the state has legitimate power. In this context, all politics are the striving between groups of people or individuals for a share in “legitimate” power. The assumption of Weber, as of modern social science, is that there exists no permanent knowledge to counterbalance the power of the bureaucratic state. This is the model from which this book is written. As is generally said in theories about contemporary democracy, people have no protection from the ways and means by which the power can be legitimately used, except when they are “recognized” as holding “status” by the power structure, or have become part of it. If the state does not choose to recognize families they will not be recognized, and when they are, it is only as an arm of the state.

The role of educational institutions in this context is to produce a cadre of trained experts, through universal examinations, who will serve this bureaucracy. Education becomes therapy, politics becomes manipulation, and this manager replaces the power of the voter and constitutional powers. This is why, despite all of Dwyer and Peters’ protests to the contrary (p. 134), it is precisely the modern administrative state with its agencies that are solely in the position, and with the power, to instrumentalize children and treat them as a resource. Hence, ACT and SAT testing is a necessary step to enter college, and preliminary training in test-taking at every stage of education to ensure conformity to a certain type of thinking

which is useful to the state, understood in the American context as a kind of state capitalism. Although such tests provide an equal point of entry into the power structure, they also create a new caste with social prestige. Those who attend certain universities have a monopoly on entrance into the caste system as Weber saw, making success at specialization desirable to the young and ambitious, much more desirable than general education.

The young and ambitious who succeed, and find themselves in top universities and afterwards in good jobs, have been trained in the science of power. It is one of the marks of the difference between the homeschool curriculum and institutionalized curriculum that whereas the former is consciously designed to teach people to think, to be reflective self-directed individuals, through being introduced to works written in past civilizations so as to create a broader framework by which to analyze our own situation, the latter state-run public education is designed to produce workers in the state through mass education, so as to conform to its rules. This is another underlying ground of contention between the homeschooling movement and institutional educators. This is why the authors of this book say that families who homeschool cannot satisfy the “educational demands that the modern economy and contemporary social and civic life impose” (p. 225). It is precisely because homeschoolers, and the small private schools they are creating, are reviving a non-technocratic education that the teaching establishment objects. When the education establishment say they want to end homeschooling or have the state control it more, it is necessary to ask of them: what kind of education do they want? And what is it that provides for the good of the child and the goods of human flourishing as a whole? Such questions must not be fudged. If an argument is made as to the superiority of institutional education to homeschooling, its defenders must give an account of what they think education and teaching are about, apart from preparing the most talented young for participation in the state elite and homogenization into mass society.

One last point goes to the justice of the situation in which we live: if the state is, as Dwyer and Peters make clear, the final power and the sole legitimate force to set education objectives, is this just? Is it *just* that the educational establishment have the right to close down homeschools and private schools, as is the presumption of this book? If, as they argue, there should be not only academic but psychological testing of the homeschooled child each year, who oversees the psychiatrists (*quis custodiet ipsos custodes*)? Why should the homeschooling community not regulate itself? Why should homeschool curricula look like those of public schools? Why cannot children have an education in classical literature and philosophy, a much richer education, as Dr. Favelo points out, one that served the American colonists and the Framers of this nation well? This book rules these questions out. In so doing the authors cannot reasonably claim to have made a serious attempt to examine the strengths and weaknesses of the homeschooling movement.

One last observation on the problem of objective standards of justice: Alasdair MacIntyre has argued, developing in some respects the observations of Max Weber, that in the modern bureaucratic state, with its false claims to neutrality, “No type of authority can appeal to rational criteria to vindicate itself except

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that of bureaucratic authority which appeals precisely to its own *effectiveness*. And what this appeal reveals is that the bureaucratic authority is nothing other than a successful power” (*After Virtue*, 26). This book fails to appeal to rational criteria to vindicate its argument. This makes this book appear as a power play typical of bureaucratic authority. The dispute between the homeschooling movement and the education establishment is therefore not about education, but power. It is for that reason that litigation and legislation in defense of homeschooling must continue because primary questions about the legitimacy of power are perennial questions, as are questions about human flourishing. They are certainly not settled by administrators and academic treatises which lay claim to a neutrality that they do not have.

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Endnote

1. The “Perspectives – News and Comments” section of this journal consists of articles that have not undergone peer review. *HSR*