

PERSPECTIVES – News and Comments^{1,1}

A Review of the Book 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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ESTIMATES INDICATE INCREASED numbers of homeschooled students in the United States. With that growth, the mode of education that has flown under the radar of mainstream education policy and rebuffed regulation is bound to garner fresh notice. Indeed, as all forms of school choice expand and considerations of public funding abound, the question of state regulation will undoubtedly be considered anew. *Homeschooling: The History and Philosophy of a Controversial Practice* does just that.

While Dwyer and Peters' book provides an "analysis" of homeschooling in America, it also considers the regulation of private schools, and throws a few punches for good measure at what the authors term "quasi-public schools" or charter schools. To some degree, this book considers the bulk of school choice options available to Americans today, and calls into question the legality, and even constitutionality of those choices. The authors sold this book short with the restrictive title. People from all corners of the American education debate, not solely homeschoolers, would find it of interest.

Threat to democracy, or bulwark against tyranny? That harsh opening fairly prepares the reader for the book's tone. While the chapters are interesting, they are one-sided and biased

against both parents and Christians, who quickly become villains in this book. This bias continues and strengthens into abject vitriol in the final chapters. The book is divided into two distinct parts. Shawn F. Peters, writes an historical account of American education policy from its founding until today. Next, James G. Dwyer, pivots to philosophical considerations of not only homeschooling, but all K-12 schooling.

The first three chapters, written by Peters, are an "evolution of homeschooling." Shawn F. Peters, an historian and the author of several books that examine the crossroads of education and religion in America,² teaches in the Integrated Liberal Studies Program at University of Wisconsin--Madison. The remainder of the book, written by Dwyer, makes a sharp turn from historical accounts to philosophical considerations of homeschooling. James G. Dwyer is the Arthur B. Hanson Professor at the William and Mary School of Law, and has studied and written on the question of children and the law extensively.

On a personal note, while I have not homeschooled my own children, who attend public schools³, I have often considered it and know more than a few homeschool families personally. I am also a Christian and know many conservative

¹ The "Perspectives – News and Comments" section of this journal consists of articles that are not considered "peer-reviewed."

¹ Including a book on the famous Yoder Supreme Court case

² I exercised the middle-class option of "school choice by zip code," carefully choosing to buy a home in a good school district.

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Christians. I mention these facts to point out that in addition to my education policy and homeschool research experience, I also bring a differing personal perspective to this topic. While it is apparent that Dwyer and I come from vastly different locales,⁴ and have different beliefs, I believe it is important to respect our differences and attempt to find common ground. Here, that is found in the shared interest to advocate for children. It is clear from his writing that Dwyer is interested in preventing child neglect and abuse, and I appreciate that. I disagree with degrading parents to incompetents and to vilifying any one religion or religious group, but I understand that much of what he proposes comes from a place of seeking to prevent harm to what he categorizes as helpless children.

It is also fair to point out that Dwyer has worked on children's rights issues for decades. I am sure he has seen terrible injustices and has felt powerless to stop them within the laws as they are currently written. He sees public schools and state oversight of all schools as a way of "ensuring" some of these abuses are prevented. On the other hand, I too have seen some things. I have been in public schools across the country. Where Dwyer idealizes public schools as a refuge and a protector, providing the necessary "goods"⁵ needed for "flourishing"⁶, I see them often as failing, at least certainly failing many, and usually those most at risk. I have seen children in public schools neglected,⁷ abused,⁸ and humiliated.⁹ Nevertheless, we are both looking for solutions to the same problem; ensuring that children get what they need to flourish in life and are not unduly damaged in the process. From this common ground, I begin.

The first section of the book lays out what the authors describe as the "evolution of homeschooling." Peters includes rich detail about private schooling and Supreme Court cases involving compulsory education and the regulation (or lack thereof) of all schools; public, private, and home. Having studied and taught on the history of American education, I found these chapters riveting, truly. Many of the cases cited were familiar, but Peters does a wonderful job of digging deeper into the decisions, and quoting important pieces that apply to homeschooling in particular, but also more broadly to all schooling. Anyone seeking to review the historical education policy context on school regulation should read these chapters.

Peters makes three important points; first, that homeschooling has existed in some form since the founding of our nation; second, that what constituted an education in the 1700s is quite different from what is expected in our modern society; and third, that the tension between parent directed education and state directed education has a long and storied past. These chapters are an important addition to the literature on the history of education policy in America.

Unfortunately, this section of the book also takes a rather one-sided point of view. Parents are painted as incompetent teachers, with quotes cherry-picked to support the arguments to come later in the book. For instance, by page 6 the argument is made that parents were viewed as incompetent teachers even in the American colonies. As evidence the authors include this quote from Jeffery Shulman,

"The American colonies, and later states, developed a system of separating children from their underserving parents... from those not providing 'good breeding,' neglecting their formal education, not teaching a trade."

Of course, one can easily imagine who had their children removed from them in colonial times. Indeed, I challenge readers of these chapters to substitute the words "black parents," "poor parents," or any other disenfranchised group for the word "parents." Doing so illuminates the evolution of compulsory education policy in America, that could be used to force dissidents, any deviants from the norm, into submission upon threat of losing their children. According to a quote from Tyack (p14), "Much of the drive for compulsory education reflected an animus against parents considered incompetent to train their children." Upper- and middle-class WASP children were not compelled to attend school, because they were already there, likely in private schools or at home with tutors. It was the tired, the poor, the huddled masses who were "considered incompetent" and forced to part with their children.

It is curious, is it not, that if education serves as a "balance wheel of the social machinery" as Mann claimed (p.10), that people must be compelled, compelled, forced to go? "If the privilege of education is refused, the general safety requires that it be made compulsory(p13)." One thing is evident, since the country's founding the state has demanded schooling and parents have rebelled. Once compulsory education laws were passed, they were scantily enforced. So fiercely did parents protest compulsory education that there were riots and even deaths (p15).

"Parents resisted the gradual extension of the state into decisions of the household through legal challenges, organized protests, political lobbying, and most often, through evasion and rejection of school policies in practice (p16)."

The authors go on to cite extreme examples of child maltreatment at the hands of inept parents (p18) with little mention of the multitude of loving parents, or to children commonly beaten in public schools of the time. The nation's founders were cited in support of public education but little mention was given to the obvious contradiction that modern

⁴ I am born and raised, and for that matter educated, in the American Bible Belt where Christian values are a part of everyday life and are by no means outside the "mainstream."

⁵ Term the authors use for the key deliverable of education.

⁶ Term the authors use for the goal of education.

⁷ Schools where approximately 10% of students were on grade-level.

⁸ Schools where students were reportedly locked in "isolation rooms" amounting to a closet with a light and a window in the door. And where white teachers advocated for black students to be placed in ISS for days for acting out during lunch.

⁹ High minority schools where, in an effort to battle truancy, young elementary age students were made to wear 3x5 inch bright orange labels on their shirts all day that said "TARDY."

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homeschoolers are deemed radical because of their fundamentalist beliefs, while the founders were certainly also fundamentalists, sharing many of the same beliefs that the authors find repugnant. Even the ancient Greeks and Romans were brought into the argument to provide evidence of parental abuse to children (p18), but curiously were not summoned to testify as to the purpose of education and the acquisition of “goods” necessary for human “flourishing.”

Once the authors proved parents incompetent, even dangerous to children, they moved to arguments for state control of children, going so far as to say that parenthood is a privilege bestowed upon parents by the state. Indeed, according to Dwyer, a parent has no legal claims to a child except for the law, which is established by the state, thus GIVING legal claim to parents. The authors argue, that without the state, the role of parent fails to exist. This is a central argument of the book; parents have no *rights* to their children; children are individuals who hold rights unto themselves. However, as children they cannot be in control of their own rights, and therefore their rights must be held in trust for them by some fiduciary agent. The authors contend that this decision should, and must, be made by the state, and that any rights parents might have are held in trust for the child and are at the behest of the state. Following this argument, the state then may do what it wishes with all children, may give them to whomever it deems “fit” and may compel them to do what it likes. This point is of critical importance, because many homeschool parents stand upon their “right” as parents to raise their own children how they see fit. However, if they have no actual rights, then they cannot argue for homeschooling based on their own rights, but should do so based on protecting the rights of the child with which they have been entrusted by the state. To this point the authors bring two interesting facts to the fore; first, the Supreme Court has never directly ruled on whether states constitutionally must allow homeschooling (p51), and second, that it HAS indirectly ruled in *Turner* (p58) “that there is no parental constitutional right to homeschool (p58).” If true, this finding could be a game-changer.

If authors paint parents and Christians as villains, so too is the Homeschool Legal Defense Association (HSLDA) who unabashedly refutes all claims of the states’ right to regulate homeschooling in any way, and rebuffs offers of public funding that may come with unwelcome oversight like a wolf in sheep’s clothing. The authors call the HSLDA a “holy crusade (p63).”

“As a result of the homeschool crusaders’ relentless efforts, today in the vast majority of states there is no real

legal obstacle to parents’ withholding their children from school, and doing whatever they want in terms of instruction at home, including doing nothing (p67).”

While I support educational pluralism and marvel at what a small organization like the HSLDA has accomplished,¹⁰ the statement regarding a near complete lack of homeschool accountability is true¹¹. The remainder of the book is a lengthy and belabored argument for oversight.

Without getting into the weeds of the arguments for regulation of homeschooling, and also private schooling, suffice it to say that Dwyer charges that, despite all states’ constitutions containing some language meant to ensure the provision of education, “America has, one might say, stopped requiring that children receive an education (p108).” He claims this lapse opens states up to suit by students who are not receiving what the state guarantees in words but fails to deliver (p199)¹². He advocates that all homeschooling be prohibited and that all children (ultimately wards of the state) be required to go to “regular school.” Dwyer does, however, begrudgingly concede that unless it is impossible to prove that some homeschools are adequate (which it is not), while simultaneously ensuring that no public school is inadequate (which is unlikely), that highly regulated homeschooling must be allowed.

An outline of his proposed regulatory scheme includes a requirement for parent-educators to have a minimum high school diploma or GED,¹³ background checks of everyone living in the household,¹⁴ no one living in the household with a felony conviction,¹⁵ baseline IQ testing of preschool aged children,¹⁶ and proof of learning as evidenced by portfolios.¹⁷ All of these mandates would be administered by “professionals” and “experts” from the LOCAL SCHOOL DISTRICT, with checks made several times a year including an interview with the child without parents present, and paid for by mystery sources¹⁸(chapter 7). And what if these state mandates are not met? The district could intervene, and ultimately remove the child from the home or require the parents to “receive treatment for mental illness (p219).”

Finally, Dwyer concludes that, while homeschooling may have been adequate in colonial times, the demands of modern mainstream society are such that “it [is] much more likely that

¹⁰ A small grassroots advocacy group with strong political sway can no more be held accountable for the actions of all homeschoolers, most of whom are not even members of the group, than the AFT can be held accountable for the actions of all failing public schools.

¹¹ Private school across the United States is also largely unregulated.

¹² This could be equally true of public schoolers who similarly do not receive the promised goods.

¹³ He attributes the equivalent laziness or stupidity to the lack of such a minimum degree, but it is easy to imagine that people with few resources and little support might be less likely to have a degree than other people, all else equal.

¹⁴ This requirement could discriminate against low SES families who are more at risk for judgements against them due to life’s circumstances.

¹⁵ Again, discriminatory against people without the resources to defend themselves and who are therefore more likely to have a conviction, all else equal.

¹⁶ IQ testing is very controversial and is especially so for young children.

¹⁷ Dwyer does offer additional options such as standardized testing or part-time enrollment in public schools in lieu of portfolios. This is a partial list of proposed regulations.

¹⁸ Dwyer does mention that reviews of the portfolio could be paid for by the state.

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homeschooling today will be inadequate... (p225).¹⁹” Whatever the case, he asserts that “power on the side of unregulated schooling will only increase as the numbers of homeschoolers continues to swell (p226).” I disagree with this conclusion. As I stated earlier, with growth will come scrutiny. Homeschooling is tethered to changes in school choice policy overall, and these issues are of national interest, particularly in the current election cycle, and now with increased interest as millions of American families test out some form of home schooling in the wake of COVID school closures.

So, what is to be done? While Dwyer and I differ in, I dare say, most respects, I too am interested in protecting children from harm and providing them with the goods needed to flourish. While I will never support bashing people because of their religious (or non-religious) views, and believe that most parents are capable, our society must do all it can (without unduly infringing on individual liberty) to protect children. If people are using homeschooling to conceal child abuse, then something should be done. The problem is that no one knows to what extent this is true,²⁰ or whether regulation or public schooling is a cure. Despite what Dwyer asserts, no one knows how many homeschoolers there even are, much less how many of them are receiving adequate educations or are subjected to abuse. Making any assumptions, as this book chronically does, is as “disingenuous” as the authors claim homeschoolers are. Education policy cannot be based on thought experiments and biased logic. In order to make informed decisions, we need better information. While limited regulation, or at least a means of counting homeschooled children may be in order, imposing heavy regulations on home education seems unfair when private schools are equally unregulated (either in word or deed), and public schools are heavily regulated and still foundering.²¹

While this book is more of a persuasive argument for school regulation than an objective “analysis” of homeschooling, it is a valuable and thought-provoking addition to the literature on important questions about the regulation of education in America. It addresses, although with caustic bias, questions of rising importance to American education policy. Policy that should be aimed, ultimately, at providing children with the “goods” needed to become educated and engaged citizens with intact liberty and religious freedom.

Endnote

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

¹⁹ He fails to factor in advances like modern curriculum and technology into that equation.

²⁰ There is evidence of individual cases but there is no sense of whether it is more or less common than in the general population.

²¹ According to metrics like PISA 2015 (an international comparison) with 2019 released in December, and NAEP where 2019 national scores are flat in math and negative in reading for 4th and 8th graders, compared to 2017.