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Whose child? The battle to legalize homeschooling in Iowa

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Whose child? The battle to legalize homeschooling in Iowa

by

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A thesis submitted to the graduate faculty
in partial fulfillment of the requirements for the degree of

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The student author, whose presentation of the scholarship herein was approved by the program of study committee, is solely responsible for the content of this thesis. The Graduate College will ensure this thesis is globally accessible and will not permit alterations after a degree is conferred.

Iowa State University

Ames, Iowa

2019

DEDICATION

In Memory of Craig Hastings
who started this work.
Until we meet again.

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ABSTRACT

Homeschooling was illegal in the state of Iowa until 1991. The conflict between school officials and homeschooling parents led to several court cases. Homeschooling was finally resolved in the Iowa legislature yet continues to be a challenge for the public school system. Iowa's children are caught in the middle.

CHAPTER 1. INTRODUCTION

“Education is an important part of God’s ministry. I believe that all parts of our society begin with the Christian church, including the education of our youth.”¹

Reverend T.N. Taylor

Any person having control of any child over seven and under sixteen years of age, in proper and physical and mental condition to attend school, shall cause said child to attend some public school for at least twenty-four consecutive school weeks in each school year... In lieu of such attendance such child may attend upon equivalent instruction by a certified teacher elsewhere.

*Iowa Code Section 299.1*²

There are fifty unique stories to tell of how homeschooling became legal in the United States. This is Iowa’s story. In February of 1987, Reverend T.N. Taylor went to jail in Mt. Pleasant, Iowa, serving a thirty-day sentence for the crime of not using a state-certified teacher to teach his children at a private school held in the basement of his church. When his thirty days were up, his wife Sharon served thirty days for the same crime. While in jail, Rev. Taylor shared a cell with Ralph Davis, the accused murderer of Mt. Pleasant Mayor Edd King. Taylor spent his time reading his Bible, writing and praying.³ Mrs. Taylor complained that the Iowa law was “vague...[because it did not]say how much time a certified teacher should be in the school.”⁴ On her way to jail, surrounded by two hundred “hymn-singing supporters” and photographed by the *New York Times*, Sharon Taylor vowed to keep fighting for the right to teach her own children.⁵ While the Taylors’ case featured their church school, homeschoolers fought the same requirement, that of teacher certification. The Taylors became the face of the Iowa homeschooling struggle for legalization.

¹ Scott Jones, “Bluebird: The Christian Alternative.” *Maroon Echoes*, Nov. 2, 1984.

² 1987 Iowa Code Section 299.1 www.legis.iowa.gov/docs/shelves/code/ocr/1987%20Iowa%20Code.pdf

³ Dena Bennett, “Only the Superintendent is Absent.” *The Hawk Eye*, March 5, 1987.

⁴ Bennett. “Superintendent.”

⁵ William Robbin, “Iowa Parents Symbolize Defiance on Schools.” *The New York Times*, March 25, 1987.



Figure 1. Sharon Taylor, accompanied by supporters, entered the Henry County jail to serve her thirty day sentence. (Robbin, *The New York Times*, 1987)

Homeschooling can be defined as children learning at home what they would otherwise be taught in a school building. By the late twentieth century, several variations of this principle had evolved. Some families had one or both parents doing the teaching, while other “child-led” approaches let children pursue their own interests with parental guidance. Families could obtain or purchase complete boxed sets of curricula, with a textbook and lesson plans for every subject included.⁶ Others adopted an approach called “unschooling,” using daily life as education;

⁶ Calvert, Abeka and Bob Jones are known to be the early founders of “whole” curricula. Today, this is a very competitive market as homeschoolers look for ways to make educating their children easier with one-stop shopping.

baking or building taught math, museum field trips taught history, and home-based experiments taught science. The digital age brought the option of online academies, with virtual classrooms. Other families organized co-ops, where parents took turns teaching their area of expertise to groups of children. There were also church schools, where a few families from the same church or with common religious beliefs joined together to establish private non-certified schools. They met at the local church for classes during the week. Every homeschool looked as different as the family doing it.

Families that chose homeschooling in the late twentieth-century and early twenty-first century cited a variety of reasons behind their decision. A vast majority claimed religious reasons. Others felt disappointed with the quality of education offered by the public school and valued the personal advantage they saw in homeschooling: having a more flexible daily schedule, giving children individual attention, safety from school shootings and a shield from drugs, bullying and other vices.⁷ Advocates of homeschooling cited numerous studies that showed the success of homeschooling.⁸ Homeschooling families also pointed to studies that showed the type of teacher, certified or not, had no bearing on student achievement.⁹ Of course, the measure of what counted for a successful student represented a question itself for study and debate among parents, educators, authorities and others.

See Adam Laats “Forging a Fundamentalist ‘One Best System’: Struggles Over Curriculum and Educational Philosophy for Christian Day Schools, 1970-1989” *History of Education Quarterly* (January 2010).

⁷ Numerous studies have been done on why families homeschool.

<https://nces.ed.gov/pubs2006/homeschool/parentsreasons.asp>, Bielick, S., Chandler, K., and Broughman, S.P. (2001). “Homeschooling in the United States: 1999” (NCES 2001-033). U.S. Department of Education. Washington, D.C.: National Center for Education Statistics, Mayberry, M. (1989). “Home-based education in the United States: Demographics, motivations, and educational implications.” *Educational Review*, 41(2), 171 -180.

⁸ <https://www.nheri.org/research-facts-on-homeschooling/> This website is run by Brian Ray, whose survey findings are often criticized for their small samplings and exaggerations. See <https://gaither.wordpress.com> for Milton Gaither’s numerous posts critiquing Mr. Ray.

⁹ Ray. <https://www.nheri.org/research-facts-on-homeschooling/> This site lists a myriad of studies on homeschooling success and the correlation between teacher certification and student success. A simple Google search also yields many viewpoints.

Over the past forty years, homeschooling has grown exponentially. However, there are few books on the history of homeschooling. While the historiography is growing, few historians have told the personal stories of those who chose to remove their children from public schools.¹⁰ Most academic work on homeschooling has been done by the social or educational side of academia. Those who do recount homeschooling history are most often homeschoolers themselves and are prone to a biased view of their findings. Also, almost no academic research has been done on how to homeschool. Most of the how-to field is written by homeschoolers.¹¹ Iowa in particular has few academic interpretations and historical documentation of homeschooling. The work done in Iowa by historians and academicians focuses more on assessing homeschooling itself, not the original court cases that paved the way for legalization.¹² This paper portrays the legalization of homeschooling in Iowa, detailing the intense conflicts between families that wanted to teach their children at home and school officials who thought public schooling was best.¹³ The battle was more than just the school districts against the parents, it was a fight for the children. To whom did Iowa's children and their education belong, the school or their parents?

¹⁰ See Robert Kunzman's *Write these Laws on your Children* Beacon Press 2009. He interviews several homeschooling families.

¹¹ J. Gary Knowles, Stacey Marlow and James Muchmore, "From Pedagogy to Ideology: Origins and Phases of Home Education in the United States, 1970-1990." *American Journal of Education* 100, no. 2 (1992): 195-235. <http://www.jstor.org/stable/1085568>.

¹² There are a few dissertations on Iowa's homeschoolers. Bonita Marie Winslow-Gavin (2008), David R. Babbitt (1991), Ann Marie Garcia-Santos (2005), Maria Gabrielle Trevino (2007), Tina Jorgensen (2011) and Ellen Elizabeth Fairchild (2002).

¹³ This author has been homeschooled and has homeschooled her children.

CHAPTER 2. THE BEGINNINGS OF COMPULSORY EDUCATION

During the colonial era, homeschooling was common.¹⁴ The rich hired in-home tutors, and those too poor simply went uneducated. After the Revolutionary War, the new Americans stressed the link between education and democracy, especially for sons of well-off families. Thomas Jefferson called for a “crusade against ignorance [that would] establish and improve the laws for educating the common people.”¹⁵ During the country’s early years, parents or siblings of middle-class families would teach their children. Alternatively, children attended “dame” schools, where a local mother would teach beginning literacy and numeracy to the neighborhood school children, as well as her own.¹⁶ “Fireside” education, a schooling alternative where children were taught by parents “by the home fire,” was offered during the 19th century, and many famous Americans received their education at home. What we recognize today as public schooling began in 1852, when Massachusetts started “common schools” and passed the first compulsory attendance laws.¹⁷

Between 1870 and 1920, when immigration swelled the population, public schools became the “vehicle for assimilating.”¹⁸ Mandatory attendance not only combatted child labor, it made sense to officials who thought education was the only way to improve society, teach English, make good Americans and unify society. Families saw the school as a way to continue

¹⁴ J. Gary Knowles, Stacey E. Marlow, and James A. Muchmore, "From Pedagogy to Ideology: Origins and Phases of Home Education in the United States, 1970-1990." *American Journal of Education* 100, no. 2 (1992): 195-235. <http://www.jstor.org/stable/1085568>.

¹⁵Gordon Lee, ed. *Crusade Against Ignorance: Thomas Jefferson on Education*. (New York: Teachers College, 1961).

¹⁶Wayne J. Urban and Jennings L. Wagoner, Jr. *American Education: A History Fourth Edition* (Routledge, NY, 2009), 25-26.

¹⁷W.M. Gordon, C. J. Russo and A. S. Miles, “The law of home schooling” (Report No. 52). (Topeka, KS: National Organization on Legal Problems of Education, 1994)

¹⁸David Tyack, “Ways of Seeing An Essay on the History of Compulsory School” *Harvard Educational Review* Vol.46 No. 3 (August 1976).

religious and moral training that children received at home.¹⁹ The first states to create attendance laws were home to large factories. As the parents worked long hours, their children had no supervision. Public schooling became the accepted way of education for the next one hundred years. In 1870, 65% of American school aged children were enrolled in public school, for an average annual instructional period of 78 days. By 1900, 72% of a much expanded population of school aged children were enrolled in public school; this time their school term averaged 99 days. Rural schools and urban schools with local control, parental oversight, and a nonsectarian religious philosophy kept the public school system in place.²⁰ Public schools, according to school officials, seemed to be the best way to assimilate children, mixing classes and ethnicities to produce good Americans. Catholics and Jews started schools nationwide to teach their own faith to their children, in response to the predominately Protestant dogma taught in public schools. To use one example, most teachers read the Bible out loud at the beginning of class time. They would use the King James Bible, a version not approved by the Catholic church.

There were few homeschooling court cases in the early 1900s because there were few homeschoolers. When that minority was taken to court, the courts usually decided in favor of the school district. In several key legal cases, including *State (of New Hampshire) v. Oscar*

¹⁹Milton Gaither, *Homeschool: An American History*, (Palgrave Macmillan, New York, NY 2008).

²⁰James C. Carper, "Pluralism to Establishment to Dissent: The Religious and Educational Context of Home Schooling." *Peabody Journal of Education*, Volume 75 1/2(2000), 8-19. Morgan, Joy Elmer, *Horace Mann His Ideas and Ideals*. Washington, D.C.: National Home Library Foundation, 1936.

Hoyt,²¹ *People (of New York) v. Hagbard Ekerold*²² and *State (of Illinois) v. Counort*²³ all decided between 1901 and 1929, the courts ruled against parents who objected to compulsory public education and wanted to teach their children at home.²⁴ The few who homeschooled often did so for academic reasons, dissatisfied with the quality of education and the “authoritarianism and rigid bureaucracy” of the public schools.²⁵ Overseas missionaries and military families, who could not send their children to American public schools, began to use workbooks published by the Calvert company at home for their children. This company was founded in 1903 through the Calvert School of Baltimore. The first headmaster of the school, Virgil M. Hillyer, started a non-profit distance learning curriculum for children quarantined at home during a series of epidemics.²⁶ These correspondence courses became more prevalent as the homeschooling movement grew.

In later years, the discussion shifted from academic quality to the ideologies promoted by public schools. Before John Dewey, most schools read the Bible and led in prayer at the beginning of each school day. Following the suggestions of Horace Mann in the 1850s, teachers followed a generic form of Protestantism that emphasized good morals. That changed when John

²¹ Constitutional Law—Due Process of Law—Compulsory Education Statutes, 15 St. Louis L. Rev. 094 (1929). Available at: http://openscholarship.wustl.edu/law_lawreview/vol15/iss1/11This 1929 case was brought as failure to attend public or approved private school even though the child was being taught by a private tutor in his own home. The court ruled in favor of the public school. See also *State of New Hampshire v. Bailey 1901*.

²²Michael Wilrich, “The Least Vaccinated of any Civilized Country” *Personal Liberty and Public Health in the Progressive Era*. Project Muse, Journal of Policy History, Volume 20, Number 1(2008). Hagbard Ekerold of New York refused to have his son vaccinated in hopes that his son would not be allowed to go to school. The court overruled his objections.

²³ The Counorts wanted to teach their child at home, the court ruled that home instruction was inadequate. “Private Tutoring, Compulsory Education, and the Illinois Supreme Court” *The University of Chicago Law Review*, Vol. 18, No. 1 (Autumn, 1950) 105-114.

²⁴Paula Abrams, *Cross Purposes: Pierce v. Society of Sisters and the Struggle over Compulsory Public Education*. Ann Arbor: University of Michigan Press,(2009), 245. For more court cases involving homeschooling from 1900-1950, see “Private Tutoring, Compulsory Education, and the Illinois Supreme Court” *The University of Chicago Law Review*, Vol. 18, No. 1 (Autumn, 1950) 105-114.

²⁵ Urban and Wagoner, 399-401.

²⁶ www.calverteducation.com <https://www.calvertschoold.org/page/about-us/our-history> Some of its former students include President Barack Obama, Supreme Court Justice Sandra Day O’Connor, and Pulitzer prize winner Pearl S. Buck.

Dewey and his progressive philosophies entered the school system in the 1920s. His vision was for the school to replace what the family and church used to teach. As a secular humanist, Dewey wrote, “There is no God and there is no soul. Hence there are no needs for the props of traditional religion. With dogma and creed excluded, the immutable truth is also dead and buried. There is no room for fixed, natural law or moral absolutes.”²⁷ Dewey also emphasized child-led learning, believing that the child learned best when left to themselves without the traditional rote-memory and fixed curriculum. Dewey believed that a child was an empty slate and naturally bent towards cooperation and imagination, ready to be guided by a learned adult.²⁸ To Dewey, public schools were the only way to change society and maintain democracy.²⁹ Another leading educationist, Ellwood Cubberley, in 1909 stated what conservatives later feared from progressive philosophy, that “each year the child is coming to belong more and more to the state and less and less to the parent.”³⁰

In the 1950s, private schools emerged, especially in the white South, in answer to desegregation as *Brown v Board of Education* did not apply to private schools. Whites who did not want to share their schools with African-Americans chose to start their own exclusive private segregated academies. When the schools lost their tax-exempt status for being discriminatory in 1983, many had to close. Did these closings lead to more homeschooling? Possibly. The historiography is incomplete and needs to be further explored.³¹ Still other private schools

²⁷John Dewey, “Soul-Searching,” *Teacher Magazine*, (September 1933), 33) Secular humanism holds to four basic tenets: denies a supernatural reality, sees man as a purely biological being, defines man’s purpose as seeking personal fulfillment, and denies that there is any divine purpose to the universe. (<https://secularhumanism.org/a-secular-humanist-declaration/>).

²⁸John Dewey, *The Child and the Curriculum* Chicago: University of Chicago Press 1902, *The School and Society* Chicago: University of Chicago Press, 1900.

²⁹John Dewey, *Democracy and Education*. Macmillan, 1916.

³⁰Ellwood Cubberley, “Changing Conceptions of Education in America” 1909.

³¹See Tal Levy, "Homeschooling and Racism." *Journal of Black Studies* 39, no. 6 (2009): 905-23.

<http://www.jstor.org/stable/40282606> for his interesting hypotheses concerning statistics of correlations between

opened across the United States as fundamental Protestants³² were dismayed over Supreme Court decisions in 1962 and 1963 banning school prayer and Bible reading.³³ According to author Campbell F. Scribner, “They (conservative religious parents) couldn’t get what they wanted from schools, administrators or school boards, so they became the persecuted minority and called for parental and individual rights.”³⁴ These conservative religious whites felt marginalized by the public school system.³⁵

Beginning in 1960 and up through 1990, private Christian schools opened at the rate of two per day. While some opened due to new segregation laws, others were founded by concerned parents who wanted their children to receive the Biblical instruction and moral training they used to receive in the public schools. They felt this teaching had been replaced by secular humanism. The 1970s saw the rise of the Christian Right. Many influential leaders in this movement called for families to remove their children from public schools, and thus homeschooling was born (again). In 1978, when popular talk show host Phil Donahue invited homeschooling pioneer John Holt and the Sessions family of Iowa onto his show to discuss homeschooling, the movement received significantly more publicity.³⁶ The Sessions were fighting the school system to educate their daughter at home. In 1979, Christian conservative spokesperson James Dobson invited another homeschooling pioneer Raymond Moore to his

racial segregation levels and homeschooling. See also Michelle Purdy’s work on Westminster Academy in Atlanta and how it desegregated. *Transforming the Elite*. The University of North Carolina Press (2018).

³² A Protestant, or Christian, fundamentalist believes that the Bible is true, therefore they reject the theory of evolution among other things. For more see John Sea’s article “[Understanding the Changing Facade of Twentieth-Century American Protestant Fundamentalism: Toward a Historical Definition](#),” *Trinity Journal* 5NS (Fall 1994): 181–99. And George Marsden’s *Fundamentalism and American Culture: The Shaping of Twentieth-Century Evangelicalism, 1870-1925* (New York: Oxford, 1980).

³³ *Engel v Vitale* 370 US 421 (1962), *Abington Township v Schemp* 374 US 203 (1963)

³⁴ Campbell F. Scribner, *The Fight for Local Control: Schools, Suburbs, and American Democracy* (Ithaca: Cornell University Press, 2016).

³⁵ Gaither, *Homeschool: An American History*.

³⁶ Episode shown December 11, 1978. *The Phil Donahue Show*.

Focus on the Family radio program to talk about homeschooling. These two events garnered more interest for families looking to give their children a different option for education.

School officials saw this early homeschooling movement as subversive. Contention between parents and their local school board led to confrontation with educators as parents pulled their children out of school. School districts began to take families to court.³⁷ In the 1970s, only 10,000 to 15,000 children were homeschooled. By 1999, the National Center for Education Statistics (NCES) estimated there were 850,000 homeschoolers. As of 2012, the NCES found that there were 1.8 million homeschoolers nationwide.³⁸ Advocates claim that Iowa had 15,581 homeschooled children in 2017.³⁹ However, these numbers may not be accurate. Homeschool advocates estimate their numbers at a higher count than those who oppose homeschooling.⁴⁰ Nevertheless, there seems to be a general consensus that between the 1970s and 2010s homeschooling grew at a rapid rate. There are many reasons why the actual number of homeschoolers is difficult to calculate. Not all states require that homeschoolers register their children. In other cases, parents refuse to participate in surveys or research projects because they are opposed to anything they see as government intrusion. Some states allow families to register as private schools or they enroll their children in cyber schools and thus miss the label of homeschooling.⁴¹

When public schools came into being in the 1850s, they were seen as the answer to a myriad of perceived societal problems. Very few families continued to homeschool.

³⁷Knowles, Gary, Stacey Marlow and James Muchmore “From Pedagogy to Ideology: Origins and Phases of Home Education in the United States, 1970-1990.” *American Journal of Education* 100, no. 2 (1992): 195-235.
<http://www.jstor.org/stable/1085568>.

³⁸ <https://nces.ed.gov/pubs2016/2016096rev.pdf>

³⁹ https://a2zhomeschooling.com/thoughts_opinions_home_school/numbers_homeschooled_students/

⁴⁰Again, see Milton Gaither’s critique of Brian Ray’s accounting skills.

⁴¹Joseph Murphy, *Homeschooling in America: Capturing and Assessing the Movement*. Sage Publications, Thousand Oaks, CA, (2012) 12.

Homeschooling grew as the school system became more progressive and less religious. As the movement grew, homeschoolers came into conflict with public school authorities.

CHAPTER 3. THE COURT CASES

Homeschoolers used three main court cases as precedent in their legalization fight in the 1980s. These cases, from 1922, 1923 and 1972 were decided by the Supreme Court in favor of the defendants against the state. While these cases did not specifically address homeschooling, they focused on letting the parents decide what education was best for their children. Before 1922, the U.S. court system had not set any precedent specifically addressing parental rights regarding childrearing and education.

After World War I, pro-Americanization sentiments ran high as did anti-Catholic sentiment in many circles. Private parochial schools were a perceived threat to public schools, roadblocks to a truly United States by their exclusivity, taking away needed public funds and removing dedicated parents from the school system.⁴² In 1922, with the *Pierce v. Society of Sisters* case, the state of Oregon's Board of Education sued one of Oregon's private Catholic schools.⁴³ The board sought to close all Catholic schools. The Ku Klux Klan and the Scottish Rite Masons, while differing ideologically in other areas, supported the compulsory public education bill, because of its pro-American symbolism.⁴⁴ However, the Catholic schools in Oregon, led by Father Edwin V. O'Hara, disagreed, stating that parents should "maintain the primary right and obligation of educating their children" and that disrespecting parental rights was anti-American, that "compelled public education [was] an unjustified interference with parental rights."⁴⁵ Catholics from Michigan rallied around the Oregonian defendants. Only two years earlier, in 1920 with *Hamilton v. Vaughan*, the Michigan Supreme Court had ruled against

⁴²Steven L. Jones, *Religious Schooling in America: Private Education and Public Life*. Santa Barbara: ABC-CLIO (2008). See also Paula Abrams *Cross Purposes*.

⁴³ *Pierce v Society of Sisters* 268 US 510 (1925)

⁴⁴Jones.3,41,16-18, 58-60.

⁴⁵Paula Abrams, *Cross Purposes: Pierce v. Society of Sisters and the Struggle over Compulsory Public Education*. University of Michigan Press, Ann Arbor, (2009) 16.

a state constitutional amendment to compel public education. The amendment had been condemned as anti-Catholic and anti-German immigrant. Not only did the law allegedly hurt the economic rights of Catholic schools, the court ruled that “it [took] from [the parents] the right to exercise any control over the education of their own offspring and [gave] such right to the state.”⁴⁶

Opponents of the Oregon compulsory school bill argued that it was wrong to view Catholic schools as anti-American and that a bill forcing children into public schools violated the fundamental rights of Americans to individual liberty and religious freedom. However, the attorney for the defense, William D. Guthrie, chose to use parental rights and economic hardship in his arguments instead of debating the nature of religious freedom. Guthrie relied on the Fourteenth Amendment which guaranteed that “no State shall make or enforce any law which shall abridge the privileges or immunities of citizens.” Educating one’s own children in his opinion was a privilege not to be tampered with.

Pierce v. Society of Sisters was unanimously decided in favor of the Catholic private schools and the parents who chose to send children there. The U.S. Supreme Court ruled that “the fundamental theory of liberty...excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state...”⁴⁷ This ruling gave parents a say in their child’s education.

The decision in *Meyer v. Nebraska* also helped homeschoolers. In 1923, teacher Robert Meyer was convicted of teaching German, in violation of the English-only law passed by Nebraska after World War I. Meyer was hired by parents to give their children German language

⁴⁶*Hamilton v. Vaughan* (1920) Ironically, Michigan in the 1980s became known, like Iowa, to be tough on homeschoolers.

⁴⁷Justice McReynolds in rendering the court’s decision. *Pierce v. Society of Sisters* (1925)
<https://constitutionallawreporter.com/2016/12/20/historical-pierce-v-society-of-sisters/>

lessons during recess. Citing the Fourteenth Amendment again, the United States Supreme Court ruled by a 7-2 margin that the English-only laws interfered with personal freedom. Justice James Clark McReynolds wrote, “it is the natural duty of the parent to give his children education suitable to their station in life.” The court also rejected the principle of “unlimited state authority over education, that could not be imposed by an American legislature without doing violence to both letter and spirit of the Constitution.”⁴⁸ Chief Justice William H. Taft later wrote to a friend that the court was concerned with the state trying to usurp parental freedom, interfering with the parents’ ability to hire a private teacher to teach their children.⁴⁹

Wisconsin v. Yoder, in 1972, helped set yet another important legal precedent for homeschoolers. The state took Amish families to court after they had refused to send their children to high school. The Supreme Court found that the Amish religious convictions were enough to compel them to avoid public school and that this did not harm either the general community or the Amish youngsters themselves. The court put the burden on the state to prove that “society is harmed if compulsory attendance laws are not followed.” Chief Justice Warren Burger stated that the state had failed to prove that “establishing and maintaining an educational system overrides the defendants’ right to the free exercise of their religion.”⁵⁰

In all three cases, the nation’s highest legal authority upheld the rights of parents, to educate their children as they saw fit. These cases served as precedent for the homeschooling movement in the 1980s.

⁴⁸*Meyer v. Nebraska* (1923)

⁴⁹Abrams, *Cross Purposes*, 123. William Howard Taft to George L. Fox, July 31, 1923, Taft Papers, reel 255, Library of Congress.

⁵⁰*Wisconsin v. Yoder* (1972). www.law.cornell.edu/supremecourt/text/406/205#

CHAPTER 4. THE MODERN HOMESCHOOLING MOVEMENT

Modern homeschooling originated from two different world views. Some families wanted freedom to raise their children without a fixed curriculum or schedule, while others wanted to teach their children Biblical doctrine. Both of these groups felt that the public school system was not meeting their desires. Homeschooling pioneers John Holt and Raymond Moore were able to provide what these families were looking for, and the emergence of the modern homeschool movement was connected to the efforts of these two men.

John Holt was a fifth-grade teacher in Colorado and Cambridge, Massachusetts at the beginning of his career. He began to research school methods in the 1960s and wrote *How Children Fail* in 1964 and *How Children Learn* in 1967. Holt believed that the school system would never change in the way he thought was best, that the public school system only served to “maintain the status quo of social class.”⁵¹ Like John Dewey, Holt thought that children were served best when they could choose what they wanted to learn. He appeared on television, was a popular speaker and wrote many articles for national magazines about school reform and homeschooling. He founded a magazine, *Growing Without Schooling*, that featured court cases involving families and school districts and tips on how to teach children, including readers’ letters with their own homeschooling stories. His followers became the first “unschoolers,” a deliberate method of using informal ways to educate children without compulsion or fixed curricula. Unschoolers, for the most part, let the child choose what they wanted to do. For some, this meant school days consisted of fort-building and imaginative play. For others, a garden became the curriculum. The parents let the child plan the plot from building the planters to deciding what plants grew best. This movement attracted liberal freethinkers, those who chose

⁵¹Ivan Illich, *Deschooling Society* (London: Marion Boyars Publishing, 1970).

not to be confined by a mandated curriculum or schedule. This also led to an “Underground Railroad” of families quietly removing their children from school or never entering in them in the first place. Holt often testified in court for families who were confronted by school authorities.⁵²

Dr. Raymond Moore was a teacher, a principal and then superintendent of Artesia, California public schools in the 1970s. He later became an academic dean and president of several Seventh-day Adventist colleges in the United States, Japan, and the Philippines and wrote or contributed to over sixty books. He and his wife, a reading specialist, had homeschooled their children throughout the 1940s. The Moores developed a formula combining daily study, manual labor and home or community service. As a Seventh Day Adventist, Moore believed in biblical training as the priority for families, suggesting that parents should delay putting children into formal schooling, even up to fourth grade. His book *Better Late than Early*, focusing on child development, discipline and Christianity appealed more directly to conservative religious parents than did the radicalness of Holt’s unschoolers. Moore’s philosophy of home education is credited with starting the conservative homeschooling movement. Moore became a leading expert on homeschooling, and he too, like Holt, interceded for homeschool families in court against school officials.⁵³

These two men appealed to different types of audiences but resonated with parents who wanted an alternative education for their children.⁵⁴ While unschoolers and conservative homeschoolers differed widely in their ideology, at the beginning of the homeschool movement

⁵²Scott W. Somerville, “The Politics of Survival: Homeschoolers and the Law” Purcellville: Home School Legal Defense Association. See Milton Gaither pp130-134. See also “Growing without Schooling.” www.issuu.com .Dr. Peter Gray has written an interesting book on unschoolers, *Free to Learn*, Basic Books (2015).

⁵³ <https://www.sdahomeschools.org/implementing-the-moore-formula/> See also Gaither. *Homeschool: an American History*

⁵⁴ Somerville. “Politics of Survival”

these two groups banded together against government interference with their children's education.⁵⁵

During the 1980s, another figure emerged as a highly-visible challenger to the public school system and became an ally of homeschooling families. Dr. Rousas Rushdoony, a leader in the Christian conservative movement, believed that it was not good to have Christian children attending public schools. In 1996, he wrote, "For Christians to tolerate statist education or to allow their children to be trained thereby, means to renounce power in society, to renounce their children and to deny Christ's lordship over all of life."⁵⁶ He called for all Christians to take back their lives from a secular government. He saw homeschooling as a way to change how children thought, to teach them biblical values and remove them from the "false faith of secular humanism."⁵⁷ Dr. Rushdoony influenced many conservative politicians and leaders by challenging them to make America a Christian country, with Biblical values and laws. This ideology persuaded many Christian families to homeschool.⁵⁸

Along with the increased awareness of a homeschooling option, families in the 1980s began to organize to express a growing resentment of perceived excessive state intervention in their private lives and religious convictions. While Protestant fundamentalists had embraced public schooling in the early part of the twentieth century, as a way to promote conservative Christian values, that sentiment changed as secular, progressive and humanist philosophies became an explicit part of the school system. Teachings on evolution prevailed, while bans on school prayer and Bible reading in the 1960s and 1970s further alienated conservatives who

⁵⁵ Gaither. *Homeschool: an American History*

⁵⁶Rushdoony, R. J. *The Philosophy of the Christian Curriculum* (Vallecito, CA: Ross House Books, 1981), 158.

⁵⁷Chris Smith <https://alumni.berkeley.edu/california-magazine/fall-2012-politics-issue/his-truth-marching>.

⁵⁸ See Michael J. McVicar "Reconstructing America: Religion, American Conservatism, and the Political Theology of Rousas John Rushdoony." Ph.D. diss.: The Ohio State University, 2010.

strove to teach their children from a biblical, conservative worldview.⁵⁹ Homeschool advocates also pointed to federal intrusion in schools with the newly created Department of Education and a perceived threat of new national standards and curriculum. They blamed William Bennett, Secretary of Education under President Ronald Reagan, for promoting anti-homeschool ideology. In an interview with *Washington Times* reporter John Lofton, Secretary Bennett described homeschooling as potential “educational abuse.” He suggested that homeschoolers needed to be under some type of state supervision to make sure that children were being taught and not abused.⁶⁰ Homeschoolers objected to this assumption and also feared that national standards might infringe on their freedom to choose their own curriculum.

In 1987, U.S. District Court Judge W. Brevard Hand in Alabama ruled that some of the textbooks used in the public schools promoted what he considered the religion of secular humanism and that requiring students to use the books was the same as asking them to read the Bible.⁶¹ These textbooks purportedly taught evolution, without a creationist alternative, and removed the “existence, history, contribution and current role of Christianity in the United States and the world.”⁶² Homeschoolers saw this ruling as a victory. The Eleventh Circuit overturned the case, disagreeing with Hand and stating that “the effect of the texts was to instill in... children values...(which was) an entirely appropriate secular effort.”⁶³ Parents began to think,

⁵⁹ *Engel v. Vitale* (1962), *Abington School District v. Schempp* (1963)

⁶⁰ John Lofton. Interview with U.S. Secretary of Education William Bennett. *Washington Times*. January 2, 1986, republished in *Congressional Record* March 7, 1987 p67-72.

⁶¹ *Smith v. Board of School Commissioners of Mobile County*(1987)

⁶² Leo Pfeffer, "The 'Religion' of Secular Humanism." *Journal of Church and State* 29, no. 3 (1987): 495-507. <http://www.jstor.org/stable/23916703> Excerpts from one of the textbooks stated, “Self-actualization is the highest level of human need.”

⁶³ www.nytimes.com/1987/08/27/us/court-reverses-a-ban-on-humanist-schoolbooks.html

based on the circuit court's decision, that it would be easier to remove their children from the schools and teach them at home, than to try to change what the schools taught.⁶⁴

As more families across the United States began to homeschool, it became clear that each state would have to legislate the practice or begin prosecution. Two fathers who were also attorneys founded the Home School League Defense Association (HSLDA) in 1983 in Washington. Michael Farris and Mike Smith established this national nonprofit organization to defend and advance the constitutional rights of parents to direct the education of their children and to protect their family freedoms. Families paid \$100 per year for membership, funds which the organization used to help pay the court costs of families on trial. HSLDA began providing free legal defense to homeschoolers across the United States who were taken to court by school districts or the state for teaching their children at home. They also began to take school districts to court to challenge the constitutionality of laws that interfered with homeschooling, rather than waiting to defend families.⁶⁵ Executive director for HSLDA Chris Klicka stated in 1987 that the 1st and 14th Amendments guaranteed “the fundamental right of parents to direct the education...of their children.” Countering attacks that emphasized the state’s need to ensure a child’s right to education, Klicka argued that “out of the 150 cases we have handled, we have not found one where the children were not being educated.”⁶⁶ Homeschoolers now had the legal help they needed to go on the offensive.

⁶⁴ The court’s ruling against the fundamentalists who brought the Alabama textbook lawsuit further angered Christian conservatives. This led to many non-certified church schools starting up, as well as more homeschooling.

⁶⁵ Hslda.org

⁶⁶ William Robbins. “Iowa Parents symbolize Defiance on Schools.” *The New York Times*, March 25, 1987.

CHAPTER 5. IOWA'S HOMESCHOOL BEGINNINGS

The battle to legalize homeschooling in Iowa was difficult from the beginning. Prior to 1953, the Iowa code stated that a teacher be “competent,” not certified by the state, but in 1953 the wording was changed. Now all children were required to be taught or supervised by a certified teacher. By 1987, that made Iowa one of only three states, along with North Dakota and Michigan, that still required certification. Several families found that requirement very troubling, since they believed that the process of certification controlled what the teachers learned and ultimately what those teachers taught in their classrooms. More specifically, all teachers were required to take a human relations course to maintain their certification. Conservatives objected to the content of these courses, claiming that the courses had a distinctive secular humanist bias that was against their Christian values.⁶⁷ The debate over the licensure question came to a head in the 1980s, as did the broader question of parental rights. Did the state have jurisdiction over education, or did the parents?

Why was the state of Iowa so against homeschooling? Perhaps it was the long tradition of the high standard of education. The 1857 constitution for the state of Iowa provided for education for all “youths of the state” through common schools.⁶⁸ Public schools were required to have a well-rounded curriculum for all students in kindergarten through twelfth grade. In later years, depending on the grade, this curriculum included social studies, language arts, math, science, foreign language, physical education, music and health.⁶⁹ In 1900, Iowa had one of the highest literacy rates in the United States but only one half of school age children attended

⁶⁷ Craig Hastings, lawyer for the defense in 17 of the 25 homeschooling cases in Iowa, outlines these concerns in a letter to Steve Klepfer of the Council Bluffs Community Christian School on August 16, 1982. See also *Fellowship Baptist Church v. Benton* for arguments against “a human relations component in a teacher’s education.” See www.boee.ia.gov for licensure requirements and www.iastate.edu for education curriculum.

⁶⁸ <https://www.legis.iowa.gov/docs/publications/ICP/1023054.pdf>

⁶⁹ <https://educateiowa.gov/about-iowas-education-system>

school.⁷⁰ A.C. Monahan, in his report to the Department of Education in 1913, reported that around 75% of Iowa school-aged children were enrolled in school, with an illiteracy rate of only 1.6%. In comparison, only six other states had enrollments of over 75%, yet their lowest illiteracy rate was 1.9% (Nebraska) and over 3% in others (Colorado and North Dakota).⁷¹ Iowa to this day consistently has higher ACT scores and high school graduation rates compared to the rest of the country.⁷²

Conservative homeschooling advocates worried that the state's emphasis on formal education actually reflected a deeper political and social agenda. Sarah Leslie, a homeschooling mother and advocate, in her 2004 speech to the Network of Iowa Christian Home Educators (NICHE), postulated that Iowa had a long history of "intolerance of religious diversity." Leslie alleged that "social reformers" believed that home education masked a sinister motive of child abuse. She claimed that many families had left Iowa, choosing to live in states where it was "easier" to homeschool, harming Iowa's future, chasing away perhaps the "best and brightest." She also pointed to the influence of John Dewey and the prevalence of his humanist philosophies in rural Iowa schools. Leslie reminded her audience of what had happened to the state's Amish population in the 1960s.⁷³ Before 1953, Iowa code allowed for a schooling by a "competent teacher." When the law was changed in 1953 to require certified teachers, Iowa's Amish residents in particular objected. Photographs from that era show Amish children running away from authorities who were trying to get them to school. When the photos were published by *Life* magazine and other news outlets, there was a national outcry. Governor Harold E. Hughes asked

⁷⁰Wayne E. Fuller, *The Old Country School*. University of Chicago: Chicago (1982) 130. Fuller also addresses the township vs. district system in Iowa.

⁷¹A.C. Monahan, *The Status of Rural Education in the United States* United States Bureau of Education, Bulletin, 1913, No. 8, Whole Number 515, Washington Government Printing Office

⁷² www.desertnews.com/top/777/50/Iowa-Which-state-has-the-highest-average-ACT-and-SAT-scores.html

⁷³Lynn and Sarah Leslie, "Homeschooling under fire: The Iowa Homeschooling Crisis of 1989-1990" www.crossroad.to/articles2/04/homeschooling_under_fire.html

the legislature for a moratorium on prosecutions of the Amish. In 1967, Senate File 785 passed into law, specifying that those Iowa families claiming religious beliefs that conflicted with the public school system could be exempted from mandatory childhood school attendance.⁷⁴



Figure 2. Amish children fled into nearby cornfields when confronted by authorities. (Thomas DeFeo, *The Des Moines Register*, 1965)

Just as homeschoolers feared, the state began to prosecute families. In 1978, the State of Iowa charged the Sessions family of Winneshiek County, who were not Amish, with failing to have their seven-year-old son attend school and “failing to obtain equivalent instruction elsewhere” by not using a certified teacher. The Sessions argued for religious exemption based on SF 785, alleging that their 1st and 14th Amendments had been violated. They also claimed that the law was vague on “standards of public instruction,” but they were found guilty. They were fined \$50 each. Their story captured national attention when they were guests on the Phil

⁷⁴Jason Clayworth and Rodney White. “1965 Amish school photo started rural revolution.” *The Des Moines Register*, May 12, 2015.

Donahue Show. Their conviction was then overturned by the District Court, which ruled that the state could not prove that homeschooling was not equivalent to instruction by a licensed teacher. The court further stated that having a certified teacher spend two hours a week with the Sessions' child was sufficient.⁷⁵

However, in another key case, a homeschooling family lost their right to homeschool. The Warren County District Court in Iowa found the Moorhead family guilty of truancy in 1979. They appealed, arguing that the state law's phrases specifying that children in public school must receive an "equivalent instruction" with the involvement of a "certified teacher" were unconstitutionally vague. The Iowa Supreme Court disagreed and upheld the Moorhead's conviction, stating that certified could only mean licensed by the state and that "the term should cause no difficulty for citizens who desire to obey the statute." The court also found that "equivalent instruction" could only refer to "instruction which was equal in kind and amount to that provided in public schools." The court added that the Iowa Code had already established "reasonable guidelines" for detailed curriculum requirements that applied to both public and nonpublic schools.⁷⁶

Although the Iowa Supreme Court declared that obeying the statute governing childhood education was straightforward, homeschooling families continued to disagree with the state over the definition of "equivalent instruction." In 1983, the state took the Shuler family from Muscatine County to court for not using a certified teacher for all instruction. The Associate District Court, finding that a certified teacher had spent four hours a week with the family, acquitted the Shulers.⁷⁷ Similarly, the Charles City Community Schools Board of Education

⁷⁵ <https://www.responsiblehomeschooling.org/histories-of-homeschooling/a-history-of-homeschooling-in-iowa/> *State of Iowa v. Sessions* (1978), John Holt "Growing without Schooling" Volume 7.

⁷⁶ *State of Iowa, Appellee, v. Moorhead* (1981).

⁷⁷ *State of Iowa v. Shuler* (1983).

brought the families attending the Calvary Baptist Church school to court in 1985 for not keeping the compulsory attendance law. The case found its way to the Iowa Supreme Court through appeals, where the court ruled in the school board's favor. The church school had asked to be included in the "Amish exception." The school was founded in 1980 by parents and church leaders who wanted a counter to the perceived threat of secular humanism pervading public schools. The pastor of Calvary Baptist Church, Reverend Randy Johnson, was the head of the school, and explained that he chose its teachers and curriculum after much prayer. Johnson and the parents argued that since the selections were God's will, the state could have no influence over the school. They asserted that the state had "no more authority to control or regulate the Monday through Friday church school than it has to regulate the Sunday church school." The court concluded that even though the school thought that its religious beliefs were not "subject to state oversight," it failed to prove that "their children's educational needs [were] significantly different from those of other children."⁷⁸

These court cases demonstrated the struggle between parental rights versus state rights. There was also the conflict between Christianity and secular humanism. Parents sought to teach their children what they believed to be true, while the state argued that parents were not qualified to give children a quality education. This battle was not just about the right to homeschool, but about who the child belonged to.

⁷⁸*Johnson v. Charles City Community Schools Board of Education* (1985).

CHAPTER 6. THE TAYLOR FAMILY

The Taylor family brought the homeschooling fight to a climax, garnering national attention and finally galvanizing the Iowa legislature into action. Their story starts out innocuously. In Mount Pleasant, Iowa, Reverend Taylor founded Bluebird Christian Academy in 1983, a school in the basement of his Assembly of God church, where he and his wife taught their own two children and one other child. They used a curriculum from the Accelerated Christian Education (ACE) program, a workbook approach to teaching. Rev. Taylor had gone to ACE training in Dallas, Texas. The Taylors took their daughter out of public school in the third grade for several reasons. She tested at a first-grade level in third grade, but the Taylors said the school was planning to move her onto the next grade regardless of whether that was appropriate.⁷⁹ They were also concerned about the teaching of evolution and other curricula that went against their religious beliefs, as well as talk by other students of drugs in the school.⁸⁰ They wanted to teach their children about God, using the ACE courses and the Bible. When the school first opened, Superintendent of Mt. Pleasant schools Richard Goodwin wrote a letter to the Taylors, informing them that because there were no certified teachers at the school, they were in violation of Iowa law. In 1984, local authorities charged the parents for their children's alleged truancy. The academy then hired a certified teacher to stop in once a week. Mrs. Taylor said that the nature of the curriculum required little teacher oversight and that the teacher was bored.⁸¹ However, the state further determined that the ACE courses were educationally weak and were "not being taught properly."⁸²

⁷⁹Dena Bennett, "Taylor: Wrong Choice could lead to Hell." *The Hawk Eye*, April 9, 1987.

⁸⁰"The state or teachers: who says who teaches children?" *Pentecostal Evangel*, April 12, 1987.

⁸¹ Bennett, "Only the Superintendent is Absent." *The Hawk Eye*, March 5, 1987.

⁸²Scott Jones, "Bluebird: The Christian Alternative." *Maroon Echoes*, Nov. 2, 1984.

At their trial, Rev. Taylor told the court that complying with state law would be a sin, as it would let the state and not God control the school. He also testified that he had thought the school would be exempted from state law for religious reasons.⁸³ He and his wife were found guilty of truancy. Henry County Magistrate Robert L. Hansen sentenced the Taylors to jail, stating that “the state has no greater responsibility to its citizens than to provide young people with the best education available.”⁸⁴ Their sentences were suspended, and the Taylors were given probation. When they restarted the school the next fall, they believed they were covered under Governor Terry Branstad’s 1985 proposed moratorium on homeschool prosecutions and that their probation had expired.⁸⁵ However, Judge Hansen had not filed their case immediately. Their probation had not technically begun at the end of their trial in May of 1984, but eight months later. When they started the school year, it was in violation of their probation and they were forced to serve their thirty days in jail.⁸⁶ Henry County Attorney Mike Riepe expressed his wish that the Taylors would realize that their children’s “best interest is to use a qualified teacher” for their education.⁸⁷ Riepe brought charges three times against the Taylors. “We do well because for over a century, our state has put a priority on education of our children,” he stated.⁸⁸ In 1989, the Taylors were again charged with violating the law and sentenced to eighty hours of community service.⁸⁹

The Taylors were one of the few families prosecuted. An estimated six hundred to eight hundred children were homeschooled in Iowa in the 1980s,⁹⁰ many without a state certified

⁸³ Bennett. “Taylor: Wrong Choice could lead to Hell.” *The Hawk Eye*, April 9, 1987.

⁸⁴William Ryberg, “Pastor, wife, found guilty.” *The Des Moines Register*, May 15, 1987.

⁸⁵ This moratorium will be addressed later in this paper.

⁸⁶ “The state or teachers: who says who teaches children?” *Pentecostal Evangel*, April 12, 1987.

⁸⁷Roger Munns, “Ready to prosecute.” *Mt. Pleasant News*, May 15, 1989.

⁸⁸Munns. “Ready to prosecute.” *Mt. Pleasant News*, May 15, 1989.

⁸⁹ Kurt Roghan, “Foes of state education laws serving community.” *Cedar Rapids Gazette*, November 24, 1988.

⁹⁰ www.responsiblehomeschooling.org “A history of homeschooling in Iowa.” Some have the number much higher, at 1,00 to 2,500 (*Pentecostal Evangel*).

teacher, but the families were seldom prosecuted. Over twenty church schools in Iowa also used the same ACE program, with no comment from school superintendents. In practice, not all Iowa districts or county attorneys felt compelled to prosecute non-compliant homeschooling families. Stratford school superintendent Wayne Larson acknowledged that he knew of a homeschooling family in his district but had not contacted them in two years, stating that he “just hadn’t gotten around to it.”⁹¹ Other school officials knew of non-compliant church schools around the state, but preferred to “live and let live.”⁹²

When the Taylors did have a teacher working at the Academy for four hours a week, it was more hours than a certified teacher spent supervising the state-sponsored homeschooling program.⁹³ The law did not say how many hours per week a teacher was to supervise. Mrs. Taylor believed the state “is not interested in how well we’re teaching the children. They’re interested in what we’re doing.”⁹⁴

In August of 1985, in response to the growing number of homeschoolers, prosecutions and the ensuing publicity, Governor Terry Branstad appointed a “Taskforce on Compulsory Education” to look into the teacher certification requirement. The three members were Robert D. Benton of Des Moines, the State Commissioner of Public Instruction for Iowa public schools, Attorney Robert Van Vooren of Davenport who had just completed his term as President of the Iowa Academy of Trial Lawyers, and Attorney Earl Hill of Kanawha. While acknowledging that Christian schools nationally were producing successful students and that parents had the constitutional right of freedom to teach their children, the taskforce’s members also noted that

⁹¹ *Mt. Pleasant News*. “Governor signs school law” May 17, 1988.

⁹² Mike Glover, Associated Press. *The Mt. Pleasant News* August 24, 1985.

⁹³ In 1984, 15 students were enrolled in the state’s Home Instruction Program, the only legal way to homeschool in Iowa at the time. Donna M. Johnson, “The Complicated Relationship between Homeschoolers and Government Schools” *Peabody Journal of Education* Volume 88, Issue 3 (2013) 298-308.

⁹⁴ “The state or teachers: who says who teaches children?” *Pentecostal Evangel*, April 12, 1987.

the State had a compelling interest in educating the children. The members deplored the prosecution of homeschooling families as polarizing and detrimental to both the state and homeschoolers. Dr. Raymond Moore was interviewed by the taskforce and gave evidence that homeschooling families across the nation were teaching their children successfully, without any teacher certification. Moore said he could not find “any difference in the educational achievements of children of parents who are not certified teachers, children of parents who are college graduates and children of parents who are not college graduates.”⁹⁵ However, the taskforce recognized that while certification did not necessarily guarantee a competent teacher, such licensure was necessary to establish “some level of comfort that the holder has been at least exposed to the knowledge that a competent teacher should possess.”⁹⁶ The taskforce recommended that for five years the state of Iowa drop its requirement for supervision of children by a certified teacher. Almost no other state required this certification and more states were enacting pro-homeschool legislation. After these five years, the taskforce suggested that the Iowa Department of Public Instruction reevaluate this decision.⁹⁷ At the beginning of the new legislative session in 1986, Senator Ray Taylor from Hardin County proposed a bill that would put the taskforce recommendation into law. The bill failed by four votes and the moratorium was not put into place.⁹⁸

Legal fights over homeschooling continued. In 1987, church schools in Marshalltown and Keokuk, in *Fellowship Baptist Church v. Benton*, challenged the compulsory attendance laws. The churches were appealing their appellate court case filed in 1985, brought by Commissioner

⁹⁵ Report from the Governor’s Task Force on Compulsory Education. The State Capital, Des Moines, IA. (November 20, 1985) 27. This taskforce convened on August 13, 1985 and rendered their findings to the governor on November 20, 1985.

⁹⁶ Governor’s Taskforce 31.

⁹⁷ Governor’s Taskforce.

⁹⁸ www.responsiblehomeschooling.org

Robert D. Benton, member of Governor Branstad's taskforce. The District Court ruled against the church, stating that the certification requirement was constitutional and did not violate "free exercise clause," and that the "Amish exception" was not applicable because the defendants were Baptist and not Amish. At the same time, the Court urged the appellate court to clarify the meaning of the phrase "equivalent instruction."⁹⁹ That same year another family, the Truckes, were charged with truancy. They were defended by HSLDA attorney Michael Farris. The case was dismissed on a technicality, because the charges had been brought in September, when it was impossible for their child to have been truant from school for 120 days.¹⁰⁰

As seen, some court rulings in Iowa upheld the state's right to mandate specific forms of childhood education, while others favored the rights of homeschooling families. By 1987, Iowa legislators were ready to take action. Not only had the Taylor case attracted national attention, homeschool families were crowding court rooms and school board meetings demanding change.¹⁰¹ They were also protesting at the state capitol building. Over 1,500 homeschool supporters gathered on March 6, 1987 to call for legislative action. Other states had legalized homeschooling, and they felt Iowa should follow. Sharon Taylor spoke at the rally, while her husband was still serving his 30-day jail sentence.¹⁰²

It was not until 1988 that a moratorium on prosecutions was put into place, that as long as parents provided notification to the school district that they were homeschooling that year, the state would not take families to court. The legislature then created another task force to study how to reach a compromise.¹⁰³ Doug Gross, a spokesman for the governor, warned that a replay

⁹⁹ *Fellowship Baptist Church v. Benton* (1985) Federal District Court (1987) 8th Circuit Court

¹⁰⁰ *State v. Trucke* (1987)

¹⁰¹ Jonathan Roos, "Irritated parents lead protest on home-teaching rules" *The Des Moines Register* August 23, 1985.

¹⁰² Linda Lantor, "500 at statehouse seek change in law" *The Des Moines Register* March 6, 1987.

¹⁰³ Associated Press. "Governor signs school law." *Mt. Pleasant News*, May 17, 1988.

of the 1960s Amish incidents was imminent if the legislature did not address the public and legal controversy surrounding Iowa homeschooling. “We have thousands of children out there in homeschool situations forced to go underground because they are violating the law,” he stated.¹⁰⁴ Most officials estimated the number of homeschooled children had increased from 600-800 in the early 1980s to be around 2,500 in 1988¹⁰⁵ and that there were an additional 700 non-compliant private schools.¹⁰⁶ Governor Branstad signed the moratorium into law, suspending prosecutions from July 1, 1988 until the following July.¹⁰⁷

However, not everyone in Iowa was in agreement about easing the rules governing state education. Opponents stated that eliminating the requirement for supervision by a certified teacher was “caving in to fundamentalists, who have openly defied state law.”¹⁰⁸ Others wanted clarification of the current laws to go along with consistent enforcement. Kathy Collins, attorney for the Iowa Department of Education, insisted that the requirements for homeschooling were minimal. “Parents must give the name and age of each child, how long they had been homeschooled, and details of the instruction plan. They must also identify the certified teacher that would be supervising the child.”¹⁰⁹ Without the moratorium, failure to comply could result in \$100 fine or thirty days in jail.

The following year, when the moratorium had expired, the Iowa legislature still had not moved to change the law eliminating the teacher certification requirement. Some blamed the

¹⁰⁴ Linda Lantor. “Teaching children at home gains favor despite Iowa law.” *The Des Moines Register*, February 15, 1987.

¹⁰⁵ *Mt. Pleasant News*. “Church school bill passes” April 15, 1988.

¹⁰⁶ Mike Glover, “Iowa church schools planning to defy state.” Associated Press, *The Mt. Pleasant News*, August 24, 1985.

¹⁰⁷ *Mt. Pleasant News*. “Governor signs school law” May 17, 1988.

¹⁰⁸ Associated Press. “Senate begins debate on homeschool bill.” *Mt. Pleasant News*, April 24, 1987.

¹⁰⁹ Linda Lantor, “Teaching children at home gains favor despite Iowa law.” *The Des Moines Register*, February 15, 1987

inaction on the election year cycle and felt that the homeschool debate was too divisive.¹¹⁰

Governor Branstad met with a group of ministers, including Taylor, in June of 1989 to express his support for stopping the prosecutions of homeschooling families and non-compliant schools.¹¹¹ In August, the director of the state Department of Education, William Lepley, asked for all officials to delay prosecutions until the Board of Education had met after the school year had begun. However, his request was not binding, and Henry County Attorney Riepe warned that if the Taylors continued to operate their school, he would charge them again with failure to comply.¹¹²

Sarah Leslie vividly recounted the 1989-1990 school year as a time of fear and crisis for homeschoolers, and according to Leslie, many families left the state. Two events precipitated the crisis: the Iowa Supreme Court ruled that a parent charged with truancy could be prosecuted as a child abuser, and Senate File 149 appeared to be ready to pass. SF 149 was championed by Dr. Warren Montgomery, a Sioux City school district official who cited concerns about truancy. The bill seemed to be a compromise for legalizing homeschooling while maintaining public oversight. However, homeschool advocates charged that Montgomery had a different agenda than legalization. According to them, Montgomery considered homeschoolers in his district to be “closet child-abusers” who needed to be found and prosecuted. Language in the proposed bill required a homeschool family to use a certified teacher for 180 days and specified that a truant child “shall” be reported to the county attorney who would then be required to investigate and file a petition with the Juvenile Court. Under such circumstances, the state’s child protective service authorities could become involved and even remove the child from the home.¹¹³

¹¹⁰ State Representative Delwyn Stromer (R-Garner) in a letter to the editor *Mt Pleasant News* May 26, 1989.

¹¹¹ *Mt. Pleasant News*. “Showdown on church schools ahead: Taylor met with Governor Wednesday” June 22, 1989.

¹¹² “Lepley seeks delay in prosecutions” *Mt Pleasant News* August 17, 1989.

¹¹³ <https://www.responsiblehomeschooling.org/histories-of-homeschooling/a-history-of-homeschooling-in-iowa/>

Montgomery's fears about homeschooling were echoed by Iowa Department of Education attorney Kathy Collins:

Children are not chattel; they are not personal property. They are not "owned" by their parents, nor do they "belong" to the state. The Christian fundamentalists who want the freedom to indoctrinate their children with religious education do not understand that the law that prevents them from legally teaching their kids prevents someone else from abusing theirs. Compulsory attendance laws are protectionist in nature. Their purpose is twofold: to protect the state by ensuring a properly educated citizenry; to protect the children by ensuring that their labor is spent attaining an education. Any law that would allow Christians to teach their children without oversight or interference from the state would also allow parents with less worthy motives to lock their children in a closet, use them to babysit for younger siblings, or have them work twelve hours a day in the family hardware store. Opening the door for the lamb allows the lion to enter as well... It has taken nearly two centuries to enact the many legal protections existing today for children. Abrogating the state's compulsory attendance laws or weakening them by allowing parents to teach children at home, is no less than a giant genuflection backward. The precarious balance of parents' rights versus children's rights should never be struck in favor of the parents. While the Religious Right carries the Christian flag into battle, the state must steadfastly hold high the banner of the child.¹¹⁴

Collins' mistrust of parents wanting to teach their children at home was reiterated by Henry County attorney Mike Riepe. In a 1987 letter to State Representative Arthur Ollie (Clinton-D), Riepe asked Ollie to "resist efforts to expand the exception to the compulsory education laws...(because) without standards...the right of each child to a quality public education...cannot be protected." He went on to state that although the Taylor case had helped to bolster pro-homeschooling efforts, Riepe said their case had also "opened my eyes to the inherent dangers of home instruction," and that it would be easier to "do nothing" and not pursue prosecuting the Taylors. However, he felt compelled in his position as county attorney to make sure that these children were not "cheated out of their right to a public school education or its equivalent...and (he could not) close my eyes to what really can go on in a home school

¹¹⁴ <https://www.responsiblehomeschooling.org/histories-of-homeschooling/a-history-of-homeschooling-in-iowa/>

setting.”¹¹⁵ In 1989, when Reverend Taylor again declared he would not use a certified teacher for his children, Riepe announced that not only would he file charges, he would remove the Taylor children from their home and put them in foster care.¹¹⁶ Leslie and other homeschoolers helped the Taylors move out of state before this could happen.¹¹⁷ Other officials said they worried about the lack of socialization and the potential for abuse. These attitudes and fears by officials shocked and angered homeschoolers, who felt unfairly targeted for simply doing what they thought was in the best interest of their children.¹¹⁸

Senate File 149 was brought to the floor in 1990 and moved to committee. The bill was amended to cover two types of homeschooling: private instruction by a certified teacher or private instruction by a non-certified parent. The language specified that children taught by non-certified parents would have to score above the 30th percentile on standardized tests to have the state consider their education adequate. It also had many provisions added that homeschoolers objected to, such as lowering the compulsory attendance age from 7 to 6, requiring mediation for truancy, and requiring district approval for learning disabled children to be homeschooled. However, homeschoolers objected most to the measure stating that families not providing compliant education might face a removal of the child by state social services. When SF 149 made it out of committee and passed in the House, it failed to pass in the Senate by one vote. Homeschoolers declared victory.¹¹⁹

¹¹⁵ Michael Riepe, Letter to State Representative C. Arthur Ollie, March 12, 1987. From Attorney Craig Hastings’ private collection.

¹¹⁶ Associated Press. “School opens in showdown over Iowa education law” *The Des Moines Register*, September 4, 1989.

¹¹⁷ <https://www.responsiblehomeschooling.org/histories-of-homeschooling/a-history-of-homeschooling-in-iowa/>

¹¹⁸ Linda Lantor, “Teaching children at home gains favor despite Iowa law.” *The Des Moines Register*, February 15, 1987.

¹¹⁹ <https://www.legis.iowa.gov/legislation/BillBook?ga=73&ba=SF%20149> Peter Schmidt, “Bill on Home Schooling Narrowly Killed in Iowa” April 18, 1990 <https://www.edweek.org/ew/articles/1990/04/18/09360028.h09.html>

The efforts of the homeschooling families are not to be underestimated. Sarah Leslie described how they would appear every day, in quiet attendance, during the 1989 session. It began, in her words, to wear on the legislators, who realized that any supposedly anti-homeschooling bill would be closely monitored. House File 455 came to the floor in May of 1991. While it still had some of the same provisions of SF 149, the bill eliminated the need for a certified teacher and removed the “truancy is child abuse” amendment.¹²⁰ It was met with the full approval of the homeschool constituency. It was now legal to homeschool in Iowa without a certified teacher supervising the children. Governor Branstad signed the law and the legal battle was over.

¹²⁰ <https://www.legis.iowa.gov/docs/publications/SOL/401759.pdf>

CHAPTER 7. CONCLUSION

From 1991 to 2013, the legislature in Iowa changed parties several times. In most cases, Democrats were known to vote against homeschooling, while Republicans were supportive of it. Governor Branstad kept his office until 1998, when Democrats won successive governorships until 2010. The Republicans kept control of the legislature for a few years, but in 2006, the Democrats held a trifecta. In 2010, Republicans retook the governorship and the house, but lost the senate by two seats.¹²¹ This slim majority helped the homeschool community.¹²² Homeschoolers had continued to request less state oversight every year and by 2013, they found a supporter in State Representative Matt Windschitl. Windschitl, from Missouri Valley, was a second-generation homeschooler and the assistant majority leader for the Republicans in the Iowa House. He added an amendment to the education funding bill in 2013.¹²³ This amendment added “Independent Private Instruction” (IPI) as an option for homeschoolers, which allowed parents to homeschool with little oversight from the state. Some House Republicans stated they would not vote for any education funding bill unless this amendment was included. The bill was aided by seven state representatives and three state senators who also homeschooled their children. IPI gave parents several options for complying with the state requirements for homeschooling. They could file a form with the school district that detailed the age and grade of each student along with a description of lesson plans and the name of the certified teacher that would check on the student eight to sixteen times throughout the school term. Alternately, parents could file a form that stated the parent’s intention to homeschool with no licensed teacher

¹²¹ www.legis.iowa.gov/docs/publications/BHT/861028.pdf

¹²² Tal Levy, "Homeschooling and Racism." *Journal of Black Studies* Volume 39, no. 6 (2009) 905-923. <http://www.jstor.org/stable/40282606>. Levy hypothesizes the effects of political control on homeschooling legislation.

¹²³ www.legis.iowa.gov/docs/publications/SOL/401759.pdf

supervision; under that option, their children would not be allowed to participate in any public school activities. Parents could also file a form that listed a standardized test assessment to record the student's progress. Or parents could file a form that simply stated that the parent was homeschooling, without giving any further details.¹²⁴ Because this bill was attached to the education bill for funding, it passed unanimously in the House and had only ten nays out of fifty in the Senate. The option to homeschool became much easier for parents.¹²⁵ Iowa's homeschooling law had become one of the most lenient in the United States.

Homeschoolers in Iowa remain vigilant against what they fear remains the potential for interference. Senate File 138, introduced by Senator Matt McCoy (D) in February of 2017, with an identical bill in the House, required that school officials question homeschooled children four times per year to check on their "health and safety." Advocates promoted the bill in response to the tragic deaths of Natalie Finn from West Des Moines and Sabrina Ray from Perry, two girls allegedly abused by their adoptive parents. Both the Finns and Rays claimed to be homeschooling the girls at the time of their deaths, which removed them from state supervision. Homeschoolers responded angrily to the bill, calling its requirements an unjust restriction against a majority for the horrific and abnormal actions of a few. They also pointed out that both girls had been on the Department of Human Services watchlist and had not been helped. The bill did not make it out of committee.¹²⁶ Senator McCoy introduced another bill in 2018, SF 2034, that would prohibit a foster child that was later adopted to be homeschooled. This bill did not make it out of the education committee.¹²⁷ Another bill, House File 100, that would require home visits

¹²⁴ Associated Press. "Iowa's homeschool rules part of education debate" *Globe Gazette* April 22, 2013.

¹²⁵ <https://www.legis.iowa.gov/legislation/BillBook?ga=85&ba=HF215>

¹²⁶ www.hsllda.org Senate File 138: "Independent Private Instruction and Private Instruction Families Must File 'Form A' and Assess Annually;" "Officials Must Enter Home and Question Homeschooled Kids 4 Times per Year, By Court Order If Necessary."

¹²⁷ <https://www.legis.iowa.gov/legislation/BillBook?ga=87&ba=SF%202034>

on homeschoolers for wellness checks, also did not make it out of committee.¹²⁸ Homeschoolers continue to lobby and alert other homeschoolers over any bill that mentions homeschooling.¹²⁹

In conclusion, homeschooling in Iowa and across the nation continues to grow. Though the numbers remain unclear and under dispute, advocates maintain that more and more families are choosing to remove their children from public schools, or not placing them in at all. Whether for religious or academic reasons, homeschooling families value the freedom they have to teach their children. On the other side, school officials in Iowa and nationwide maintain that the public school system remains the best option for children and continue to push for more regulation and oversight for homeschoolers. The fight to legalize homeschooling is also a struggle between government control and parental rights. Iowa is just one of fifty and the court cases in Iowa are echoed in other states. The historiography of homeschooling is growing, but more remains to be done. Several questions remain unanswered. New social agendas bring up potentially divisive ideologies. Will this lead to more homeschooling, if more families object to what is being taught in public schools? How can one make sure that children learn and are taken care of without intruding on parental rights? Who does the child belong to? Iowa's story is the story of struggle and the end is not yet written.

¹²⁸ www.legis.iowa.gov/legislation/BillBook?ga=88&ba=HF%20100

¹²⁹ www.homeschooliowa.org

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