

**CLINT BOLICK. *VOUCHER WARS: WAGING THE LEGAL BATTLE OVER SCHOOL CHOICE*. WASHINGTON, D.C.: CATO INSTITUTE, 2003. Pp. 277.**

*Voucher Wars: Waging the Legal Battle over School Choice* is the story of the twelve-year legal battle for school choice that culminated in the 2002 *Zelman v. Simmons-Harris* Supreme Court decision upholding the Cleveland school choice program. It is also the story of one libertarian's twelve-year crusade on behalf of a government program.

Clint Bolick, the author of several previous books on civil rights,<sup>1</sup> is the vice president and national director of state chapters at the Institute for Justice. He also has the dubious distinction of having worked for the federal government at the EEOC and the U.S. Department of Justice's Civil Rights Division.

*Voucher Wars* is the firsthand account of Bolick's litigation experiences on behalf of school choice programs (educational vouchers). The book is written chronologically, beginning in 1990 with the nation's first urban school choice program in Milwaukee, and ending in 2002 with the Cleveland school choice program. In between these two cities, there are also stops in Chicago and Los Angeles, and the states of Maine, Florida, Vermont, and Arizona.

Although the book was not written in defense of vouchers *per se*, it has that effect because the author writes from the perspective that vouchers are a good thing that all libertarians should support. Bolick is clearly a pragmatic libertarian who envisions vouchers as improving public schools by holding them more accountable, and also helping private schools without bringing increased government regulations. And although he does acknowledge that libertarians are divided on the issue, Bolick gives short shrift to the concerns of libertarian critics of vouchers.

Bolick characterizes the condition of public schools as not merely "defective" (p. 31), "inferior" (p. 61), "bad" (p. 63), and "inadequate"

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<sup>1</sup>E.g., Clint Bolick, *Unfinished Business: A Civil Rights Strategy for America's Third Century* (San Francisco: Pacific Research Institute, 1990); Clint Bolick, *The Affirmative Action Fraud: Can We Restore the American Civil Rights Vision?* (Washington, D.C.: Cato Institute, 1998); and Clint Bolick, *Transformation: The Promise and Politics of Empowerment* (San Francisco: Institute for Contemporary Studies, 2000).

(p. 201), but as “hellholes” (p. 19) and “abysmal” (p. 161). But even though he recognizes the problem with government schools, he fails to offer the correct solution: the complete separation of school from state. The Gordian Knot stays uncut. Besides that crucial point, there are also a number of other fallacies that underlie Bolick’s support of vouchers.

The bad guys in the fight against vouchers are always the teachers’ unions, Americans United for Separation of Church and State, the NAACP and its Legal Defense Fund, People for the American Way, the ACLU, and “special interest groups” (pp. 82, 83, 91, and 174). Therefore, to be opposed to vouchers is to be identified with these groups. Both “absolutist” libertarians and teachers’ unions are accused of being responsible for keeping children in government schools (pp. 7, 61). At one point, Bolick even implied that God would be on the side of the voucher supporters if the weather was good for a pro-voucher rally (p. 176).

Bolick uses the language of the free market in describing vouchers: “freedom” (p. xi), “consumers” (p. xiv), “choice” (p. 1), “the market” (p. 32), “competition” (p. 148), “deregulate” (p. 210), “educational marketplace” (p. 210), and “parental liberty” (p. 214). To those parents who would use vouchers to send their children to a private school, vouchers do seem like they empower parents and provide educational freedom.

But vouchers are not about educational freedom; they are an income transfer program from the “rich” to the poor. Those who send their children to private schools that don’t take vouchers must pay tuition *and* pay taxes to fund public schools. Poor people, who don’t pay taxes to fund public schools to begin with, can now receive a voucher for private education, courtesy of the rest of society. Bolick even admits that vouchers are “a form of income redistribution” (p. 63).

Bolick holds up the Milwaukee voucher program as “a model for the nation” (p. 147). But this program has been severely criticized even by voucher supporters such as John Merrifield, in his book *School Choices*.<sup>2</sup>

As a lawyer, Bolick can be forgiven for his claim that “litigation could in fact change the world” (p. 14), but as a libertarian he should know better.

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<sup>2</sup>For a review of Merrifield’s book, see *Journal of Libertarian Studies* 17, no. 3 (Spring 2003).

Bolick “idolizes” Milton Friedman, and considers Friedman and his wife “the godparents” of the school choice movement. Friedman or his educational foundation is mentioned about twenty-five times in the book (e.g., pp. 3, 8, 15, and 42), and the longest blurb on the back cover is written by Friedman. But, as Murray Rothbard showed: “In many ways, we have Milton Friedman to thank for the present monster Leviathan State in America.”<sup>3</sup>

Bolick attaches too much importance to court decisions in favor of vouchers. He equates favorable rulings with the Berlin Wall coming down and “a new era of freedom in our nation’s educational system” (p. xi). Not only does Bolick claim that the *Zelman* case “is the most important education case since *Brown v. Board of Education*” (pp. 173, 189), he frequently invokes the 1954 *Brown* case as a parallel to the fight for vouchers. Naturally, the NAACP disagrees, denouncing the analogy as “insulting to the thousands of courageous African-American parents and students.”<sup>4</sup> The trouble is that neither case really advanced educational freedom, since both left parents and children dependent upon government for their education.

Although Bolick argues that “for those of us who consider ourselves libertarians, the school choice movement is a textbook example of effectively reducing the scope and power of government” (pp. 217–18), many libertarians disagree. Hans Sennholz, the former president of the Foundation for Economic Education, argues that:

The very premise of the voucher system is identical to that of the present system of state education. It builds on the coercive powers of the state that raise and dispense the funds according to certain qualifications and conditions. It is neither a stepping stone to educational freedom nor offers a viable alternative.<sup>5</sup>

Bolick’s main problem is his acceptance of government involvement in education—especially in the funding of education. He maintains that “it is nothing less than criminal to fail to consider private

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<sup>3</sup>Murray N. Rothbard, “Milton Friedman Unraveled,” in Symposium: Chicago versus the Free Market, *Journal of Libertarian Studies* 16, no. 4 (Fall 2002), p. 41.

<sup>4</sup>Brief *Amicus Curiae* of the NAACP Legal Defense and Educational Fund in support of Respondents, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002).

<sup>5</sup>Hans Sennholz, “Competition and Higher Education,” *www.mises.org* (March 14, 2003).

options in a rescue mission” (p. 202) for children in failing public schools. But is it any less criminal to compel a citizen to pay for the education of someone else’s children? The ideal relation of the state to education was stated by Ludwig von Mises:

There is, in fact, only *one* solution: the state, the government, the laws must not in any way concern themselves with schooling or education. Public funds must not be used for such purposes. The rearing and instruction of youth must be left entirely to parents and to private associations and institutions.<sup>6</sup>

Because Bolick’s book is a firsthand historical account, a great deal of personal information about the author is mentioned. However, Bolick spends too much time on unrelated personal experiences concerning his kids, his wives, and his eating habits (e.g., pp. 17, 49, 114, 115, 127, and 178). And again, even though the author rubbed shoulders with many government officials and editors, there is excessive name-dropping, such as presidential brother and Florida Governor Jeb Bush (p. 132), *Weekly Standard* editor William Kristol (p. 81), John Fund of the *Wall Street Journal* (p. 167), former Wisconsin Governor and Secretary of Health and Human Services Tommy Thompson (p. 81), and former Delaware Governor and candidate for the GOP presidential nomination Pete DuPont (p. 34).

If you are looking for a comprehensive legal history of the school voucher movement, then by all means this is your book. However, if you are looking for a philosophical defense of school vouchers, or for interaction with conservative and libertarian opponents of vouchers, then this book will leave you sorely disappointed.

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<sup>6</sup>Ludwig von Mises, *Liberalism*, 4th ed. (Irvington-on-Hudson, N.Y.: Foundation for Economic Education, 1996), p. 115.