
The Voluntaryist

Whole Number 53

"If one takes care of the means, the end will take care of itself."

December 1991

"One of our Most Human Experiences": Voluntaryism, Marriage, and the Family

By Carl Watner
Introduction

As with my article on education a few issues ago, this essay is sparked by the fact that I am a husband and parent. References have been made in earlier issues of THE VOLUNTARYIST about my marriage (Whole No.20) and family (Whole Nos. 26 and 40). In the latter, I referred to my second son, Tucker, whose namesake, Benjamin Tucker (publisher and editor of LIBERTY, 1881-1908), was never legally married in the eyes of the State. Nevertheless, he and his wife, Pearl, were considered by their daughter to be "the most monogamous couple," she had ever seen, "absolutely devoted to each other to the end."

As these and other freedom-seekers have shown, marriage and the family can be respected institutions without involving either Church or State. Indeed, it is possible that a man and woman may fall in love with one another, marry, remain monogamous, raise a family, and lead honest, productive lives without seeking the permission or sanction of any civil or ecclesiastical authority. I believe that marriage and the family, if they are not coercively interfered with, are voluntary in nature. Just as the individual is the fundamental unit of society, so the family is the chief structural unit of society. The State only serves to disorganize and disrupt the family and kinship systems, which are the fundamental infrastructure of voluntaryist communities. Consequently, this article will review the origins, evolution, and history of our familial and marital institutions from a voluntaryist point of view.

Voluntaryism and Marriage

Anthropologists and social commentators have observed that, practically all—including even the simplest—human societies exhibit a complex system of "universal and primeval institutions." These include the incest taboo—the prohibition of marriage and/or sexual relations within the immediate family; exogamy—rules ensuring marriage outside a certain group, usually larger than the primary group; kinship—the recognition of various categories of kin who behave toward one another in prescribed ways; marriage—which universally legitimizes offspring and creates in-law relations; the family—the basic economic unit of society; a division of labor based on age and sex; and the notion of territory (which includes the concept of property). Although our discussion will primarily focus on marriage and the family, the point is that for untold centuries these patterns of group behavior have performed a wide range of valuable societal functions regardless of how the State or Church has interfered with them or regulated them.

Marriage, in all its various forms, has probably existed almost as long as men and women. For thousand of years, it has been recognized that "a permanent relationship between a man and a woman for the purpose of nurturing children, offers the best chance of human happiness and fulfillment." This union is necessitated by certain biological facts. Not only does it take both a man and a woman to have children, but the presence of a father is of considerable benefit, given the great length of infancy, and the hardships encountered by a mother raising young children by herself. The essence of marriage seems to be found in the living together (cohabitation) of a man and a woman, with some sort of solemn public acknowledgment of the two persons as husband and wife. Thus, it becomes a socially and culturally approved relationship between the two, which includes the endorsement of sexual intercourse between them with the expectation that children will be born of the union. The ultimate

societal purpose, of course, is to make provision for the replacement of its members.

George Elliott Howard in his three volume work, A HISTORY OF MATRIMONIAL INSTITUTIONS, noted that the primitive and medieval marriage was strictly a lay institution. "There was no trace of any such thing as a public license or registration; no authoritative intervention of priest or other public functionary. It [was] purely a private business transaction. Either the guardian gives away the bride and conducts the ceremony; or else the solemn sentences of the ritual are recited independently by the betrothed couple themselves. These formalities and the presence of the friends and relatives are only means of publicity. ... Rights and obligations growing out of the marriage contract are enforced... just as other civil rights and obligations are enforced." It was only gradually beginning around the 13th Century, that this ancient usage was superseded by the Church's claim to jurisdiction.

Due to its strictly personal nature, marriage has nearly always had to include the consent of the parties. In fact, in the theory of American law, no religious or civil ceremony is essential to create the marriage relationship. A common-law marriage may be defined as a contract which is created by the consent of the parties, just as they would create any other contract between themselves. A common-law marriage need not be solemnized in any particular way; rather it is based on mutual agreement between persons legally capable of making a marriage contract in order to become man and wife. It is an unlicensed and unrecorded affair from the State's point of view. Common-law marriages are based on the recognition of the fact that marriages took place prior to the existence of either Church or State. As an early advocate of free love put it, "a man and a woman who... love one another can live together in purity without any mummery at all—their marriage is sanctified by their love, not by the blessings of any third party, and especially not the blessing of any church or state."

Martyred for Marriage

The first couple in America to be "martyrized" by state marriage laws was Edwin C. Walker and Lillian Harman, of Valley Falls, Kansas. They attempted to assert their right to live as husband and wife without the benefit of the State's sanction. Instead of leaving them alone, the State of Kansas prosecuted them, and imprisoned them in the late 1800s. Both Walker and Harman were part of the radical tradition of free love and "free marriage," a term that epitomized for them "the freedom of the individual within an enlightened partnership in which neither partner would rule or be ruled." Edwin Cox Walker was born in New York in 1849. He had farmed, been a school teacher, and by the early 1880s became a noted speaker and writer on the topics of free-thought and free-love. It was during this time that he made the acquaintance of Moses Harman, editor and publisher of the KANSAS LIBERAL, which later became LUCIFER, THE LIGHT BEARER. LUCIFER took up the cudgel for anarchism and free love, but its "specialty (was advocating) freedom of women from sex slavery."

Moses' sixteen year-old daughter, Lillian, wed Walker, thirty-seven, on September 19, 1886, in what they both described as an "autonomistic marriage" ceremony. "The ceremony began with the reading of a 'Statement of Principles in Regard to Marriage' by the father of the bride," in which Moses Harman explained his opposition to male dominance in marriage. Conventional wedlock placed the man in power, even to the extent of merging the "woman's individuality as a legal person into that of her husband" by requiring her to surrender "her

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Voluntaryism, Marriage and the Family

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name, just as chattel slaves were required to take the name of their master." "Marriage being a strictly personal matter," Harman denied "the right of society, in the form of church or state, to regulate it or interfere..." "To acknowledge the right of outside "authorities" to dictate in these matters would be to "acknowledge ourselves the children or minor wards of the state, not capable of transacting our own business." He compared his stand on marriage to his position on temperance: "he practiced abstinence from liquor and he practiced monogamy in marriage, but he opposed state enforcement of his beliefs on anyone else; true morality, he believed, demanded liberty of choice in such matters." He rejected all laws which limited the solemnization of marriage to the civil or religious authorities. External regulation by the State or Church was "not only wrong in principle, but disastrous to the last degree in practice." Harman regarded "intelligent choice,—untrammelled voluntaryism,—coupled with responsibility to natural law for our act(ion)s, as the true and only basis of morality."

Walker made his pronouncement to the assembled family and friends, after Harman had finished reading his statement. He repudiated "all powers legally conferred upon husband and wives," by acknowledging "Lillian's right to the control of her own person, name, and property; he also specifically recognized her equality in the partnership, while recognizing his own 'responsibility to her as regards to care of offspring, if any, and her paramount right to the custody thereof should any unfortunate fate dissolve this union.'" Then he explained that "the wholly private compact is here announced not because I recognize that you or society at large, or the State have any right to enquire into or determine our relationship to each other, but simply as a guarantee to Lillian of my good faith toward her, and to this I pledge my honor." Lillian then acknowledged her agreement with the views of her father and husband-to-be, after which Moses Harman refused to "give away the bride," because he wished "her to be always the owner of her person, and to be free always to act according to her truest and purest impulse, and as her highest judgment may dictate."

The following day, the constable presented the couple a warrant charging them with flouting the peace and dignity of Kansas, by "unlawfully and feloniously living together as man and wife without being married according to statute." They were taken into custody, and spent their second night together under armed guard in Valley Falls. On September 21, 1886, they were jailed in the county jail at Oskaloosa, Kansas, but Lillian was permitted to return home pending the outcome of the trial. At the preliminary hearing, a week later, their attorneys argued that the observance of the statutory requirements (obtaining a license) violated their liberty of conscience, and therefore was unconstitutional. The county attorneys countered "that society had rights in the matter of marriage, that these rights had been ignored, and that the authority of the state had been defied."

The presiding judge held the couple over for a trial "on charges of violating Section 12 of the Marriage Act, which deemed 'any persons, living together as man and wife, within this state, without being married (as required by law),' guilty of a misdemeanor and subject to a fine of from \$500 to \$1000 and a jail sentence of from thirty days to three months."

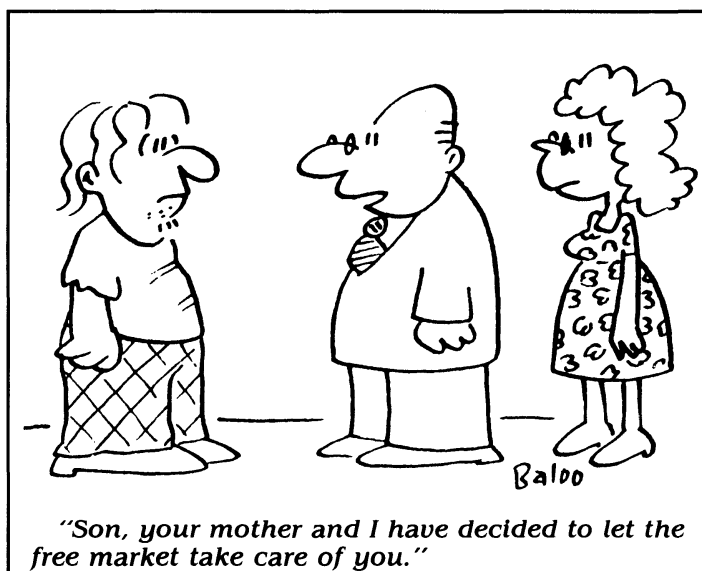
Lillian was returned to custody on October 6, when both she and Walker were taken to the Shawnee County jail in Topeka to await their trial, which commenced on October, 14. The trial ended when "the jury found the couple guilty of living together as man and wife without first having obtained a license and (without) being married by a legally prescribed officer." At their sentencing on the 19th, Walker was given 75 days in the Jefferson County jail, and Lillian 45. "In addition, both were to remain in jail until court costs were paid." Incarcerated pending appeal, their case reached the Kansas Supreme Court in January of 1887.

In a decision reached on March 4, the court refused to overturn their conviction. Although the court upheld the legal validity of their common-law marriage in the state of Kansas, it punished the defendants for not complying with the state's marriage statute which required a license. The Chief Justice noted that "the question... for consideration is, not whether Edwin Walker and Lillian Harman are married, but whether, in marrying, or rather in living together as man and wife, they have observed the statutory requirements." In other words, the court decided that "punishment may be inflicted upon those who enter the marriage relation in disregard of the prescribed statutory requirements, without rendering the marriage itself void." The Kansas Marriage Act of 1867, like marriage legislation in other states, provided punishment for ministers or magistrates who might marry a couple before they obtained a marriage license. Likewise it punished the couple themselves for failing to be married as prescribed by the law. Although they had already served their jail time, the couple refused to pay court costs until April 1887, when they were released (the impetus for their payment was the fact that the authorities had tried to close LUCIFER down by arresting Lillian's father and brother in February 1887, on charges of publishing obscenities).

The legal questions of the Walker-Harman union demonstrate the confusing and technical nature of 19th Century American law with regard to marriage. (Every state had its own marriage law, and these often differed from those of neighboring states.) The term "marriage license" found its origin in early English ecclesiastical practice, "in accordance with which a bishop's license or archbishop's license released candidates for marriage from the obligation of publishing banns in church." The banns were simply notice of the intent of marry, usually given three times in the parish church of each espoused. Maine became the first state in the union, in 1858, to invalidate a marriage contract unless the couple had been granted a state license. Adoption of the marriage licensing system came slowly in the United States; in 1887, there were still eleven states that had no laws requiring the issuance of a marriage license. Some states, like Kansas, prohibited unlicensed marriages, but then retreated from this position in finding that if such marriages occurred, they were not to be held invalid. Nevertheless, the marriage statutes sometimes penalized the couple (like Harman and Walker) or the officiant who married the couple without a license. Today, common-law marriages are recognized in 14 states. In the other states, there are statutes that explicitly nullify such non-state marriages.

Common-law Marriage

Judicial recognition and legitimation of common-law marriage in the United States found its legal roots in England. There, like many other places around the world, marriage customs were shaped by the development of cultural traditions, and ecclesiastical and civil law. Until 1753, when Parliament passed the Hardwicke Act, marriage in England had been governed by medieval customs and the Anglican Church. English canon law had always recognized the validity of a marriage without the benefit of clergy. The statute of 1753 required that marriage be solemnized by the publication of banns and take place before an Anglican clergymen. Although such marriages were recorded in the Church parish records, no civil registration of marriage



was required in England until 1836. Such laws worked great hardship against the dissenters and non-conformists. For example, the Quakers, who rejected the traditional ring ceremony and the Anglican Church observances, believed that marriage was a divine institution—"a matter between man and his own conscience and one in which the priest shall have nothing to do." It was probably out of respect for the sincerity of beliefs such as these that common-law marriages were held valid in England.

Since marriage by consent alone was legal in England while its settlers colonized much of North America, American courts generally held that common-law marriages were valid here, too. Such was the case in 1809, when Chief Justice James Kent of the New York State Supreme Court decided that no special form of marriage solemnization was required, since there had been no marriage statute in the New York colony or state since 1691. The existence of a marriage contract, the Chief Justice declared, may be proved "from cohabitation, reputation, acknowledgment of the parties, acceptance in the family, and other circumstances from which a marriage may be inferred." The strength of public sentiment in New York against any marriage licensing system can be gauged by the fact that a marriage statute of 1827 was repealed shortly after it went into effect in 1830. The repealed law had sought to place the responsibility for policing and recording all marriages upon the clergy and civil magistrates. Writing in 1832, Kent noted in his *COMMENTARIES* (Vol. 2, p. 88) that "these regulations were found to be inconvenient," and "they had scarcely gone into operation when the legal efficacy of them was destroyed and the loose doctrine of the common law was restored by the statute of 20th April 1830, declaring the solemnization of marriage need not be in the manner prescribed, and that all lawful marriages contracted in the manner in use before the Revised Statute could be as valid as if the articles containing those regulations had not been passed." The earlier decision of 1809 (*Fenton v. Reed*, 4 Johns., 52) continued to govern the policy of New York until common-law marriage was superseded by a statute of 1901.

Unlike the situation in New York, the courts in Massachusetts never recognized common-law marriage. Although early Separatists and Puritans regarded marriage as "purely a civil contractual relation," and therefore concluded that "the parties may marry themselves as they may make other contracts," they also held that marriage, like all other civil institutions must be regulated by municipal law. Marriage must be sanctioned by the civil authority, "and for that reason persons may be fined for marrying without observing the forms prescribed by statute." In actual practice, even though the Massachusetts settlers considered marriage to be a contract, they looked upon it differently than all other forms of contract, such as tenant-landlord or servant-master. "In these the parties may in general make their rights and duties what they please, the law only

intervening when they are silent" upon some point. In marriage, however, every right and duty was fixed by law. Nevertheless, this point of view was not universally accepted by all the colonists and "seems to have been resented by the more radical as an interference with individual liberty." Edward Perry, a resident of Cape Cod in 1654, was twice fined for self-marriage, and placed on "notice that his fine would be repeated every three months till he complied."

The position of the early Christian Church was not so far removed from this radical attitude. Marriage was already a well-established social institution when Christianity was founded. In the early Christian communities, marriage of the faithful was governed by local customs so long as they did not conflict with the tenets of the Church. Although the early Church "admonished its members to contract their marriages publicly under its officials in order to insure and preserve the integrity and dignity" of the marriage contract, "broadly stated, the canon law maintained the validity of all proper marriages solemnized without the priestly benediction, though spiritual punishment might be imposed for the neglect of religious duty." During the Thirteenth Century, the clergy began expanding its role in the marriage ceremony by "appropriating the right of the father or the guardian of the bride to officiate at wedding ceremonies." Its motives were to impart a more religious form to the nuptials, and to avoid the evils resulting from clandestine or secret unions. However, it was not until the Council of Trent in 1563, that there was an official church requirement that marriages be contracted in the presence of a bishop or parish priest, and two other witnesses. "The main object of the provision of the Council of Trent was to give publicity to marriage, and to bring the fact of marriage to the notice of the Church."

Church and State vs. Voluntarism and The Family

Like the institution of marriage, the family is clearly one of the most ancient forms of social bonding. For thousands of years, the family has been the center of all social structure. Apart from the individual, it is the lowest common denominator, and the very heart of all group organization and interaction. As Peden and Glahe have written, "the family, in its minimal nexus of parent and child, must be co-temporal with the origin of the human race and natural in its grounding in the biological relationship of a parent and child arising from procreation and nurturing." The "essence of the familial entity," as they see it, centers "on the responsibility for nurturing children until they reach self-sustaining autonomy," since it is biologically necessary that some adult care for the infant until "it can fend for itself." Thus, the family had its roots deep in the physiological conditions of human mating, reproduction, and education. The State, on the contrary, they point out, "is not a biological necessity. Men and women have survived and even flourished outside its purview and power."

Like marriage customs, the structure and characteristics of the family vary from culture to culture, and from era to era: most monogamous, some polygamous; most are patriarchal, others matriachical. Methods of child-rearing may vary widely, but the point is that this great diversity represents the enduring strength and voluntarist nature of the family. "This very diversity points to [its origin in the] spontaneous order!" Whatever or wherever the culture, the family is always voluntary. It begins in the mutual attraction of one sex for the other, expands to include some type of formal or informal contract, and always remains beneficial to the participants.

The State is always hostile to the family because it cannot tolerate rival loyalties. It must inevitably attempt to make itself more important than the family or kinship system, which it seeks to supersede. It establishes a coercive orthodoxy from which there is no escape except by emigration, death, or treason. Under all authoritarian governments, children are separated from their parents (at least part of the time, the most prominent example being schooling) because the State needs to weaken the child-

"If you want your children to keep their feet on the ground, put some responsibility on their shoulders."

parent relationship. In the more totalitarian societies, children often live apart from their parents, but if not, they are encouraged to report any signs of parental disloyalty or treason to the authorities. This pits the loyalty of the children to the State against the love of their parents. This conflict even exists in America today. Is a spouse or child to denounce one's partner or parent for violation of a political crime, like violating the income tax or drug laws? To whom is one loyal?

That voluntarism is at the heart of the family can be seen by observing what happens when the State enters the picture. "Many of the adverse consequences of social policy today can be described as the result of attempting to have the State function as father in the family." Family relations are invariably upset, controlled, perverted, distorted, or weakened by political interference. By claiming that nearly all forms of social activity have some sort of compelling state interest—an interest in the fate of children and civil society, the State attempts to involve itself in every marriage and every family. The State intervenes for the purpose of educating the young—more often by removing them from their parents for one-third of their waking hours and using state schools to indoctrinate them with statist attitudes; less often by placing them in foster-care homes. The obligation of caring for elderly parents is undermined with the introduction of welfare-state provisions like Social Security and Medicare. Rather than resorting to family first, people begin to focus on the State as their main source of "problem-solving and mutual aid."

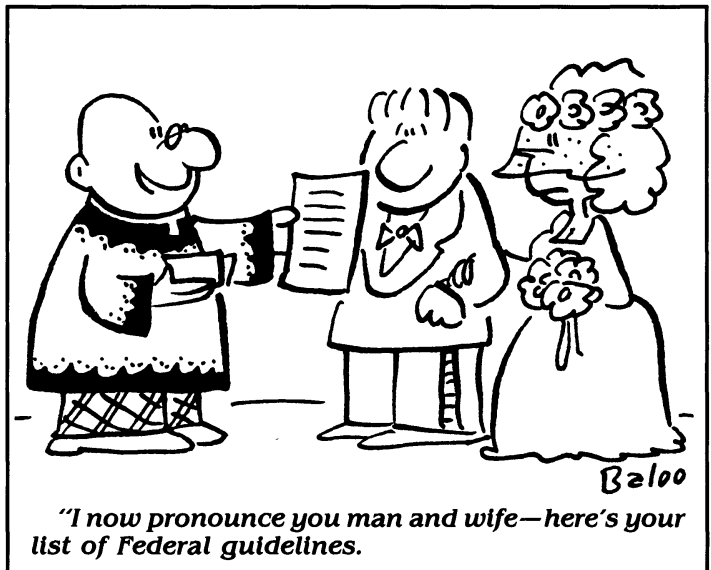
Although State power rests on conquest, coercion, and ideological persuasion, in an effort to legitimize themselves, political leaders describe the State in family-like terms ("Big Brother," "Führer," and even "Uncle Sam"). As Robert Nisbet has noted, the State invariably takes on the "trappings and nomenclature of the family and of religion." In fact he notes that the Church and State seem to have more in common with each other than with the economic realm—the market place. Although State and church have been arch-enemies over long periods of time, "it is a fact that in the succession of power that forms the greatest single pageant in Western history, the state has succeeded the church in the detailed and minute custodianship of the individual. (S)ince the eighteenth century, the state has ... taken over once-ecclesiastical functions." The Middle Ages represented the height of Church governance—"birth, marriage, death were all given legitimacy by the church, not the state. ... Much of modern ... history is the story of the gradual transfer ... of ecclesiastical absolutism" to the modern State. Nationalism and statism have replaced religion as the new State church.

Both the Church and the State attempt to exert their control over our "most human experience" in order that people might become accustomed to accepting the legitimacy of outside authorities intervening in their personal affairs. Although the institution of marriage obviously existed before "there were any legislatures to enact marriage laws, or any churches to ordain priests," for all practical matters both organizations work together to enforce the statist marriage licensing system. For example, the Catholic Church does not recognize common-law marriages (the couple are considered to be living in sin, even in those political jurisdictions where common-law marriages are legal), and will not bless a marriage unless the couple can provide a copy of their state marriage license.

Marriage Licenses

The offense of marrying without a license is just like the crime of practicing medicine without a license. The crime is created by fiat, not by the natural act of marrying or healing. Black's LAW DICTIONARY states that: "a license is the permission by a competent authority to do any act which, without such permission would be illegal." A license is something needed to keep the act in question from being illegal from the point of view of the State. For example, hunting and fishing are not wrong in and of themselves, but the State makes these activities illegal without a license. As John Kelso (a 19th Century advocate of "autonomistic marriages," like that of Walker and Harman) pointed out, the marriage licensing system creates a victimless crime because the act of marrying injures no third party.

State licensing systems (whether it be of marriage, fishing,



hunting, etc.) serve many purposes. First, they instill and legitimize the idea of State control over the activities of the individual. Second, they raise revenue for the State and provide jobs for state employees. Third, in commercial enterprises they tend to protect the "ins" from competition by restricting entry. In short, they deny the natural right of the individual to act without first obtaining permission from some authority. Licensing laws inculcate the idea that anything not authorized by law is illegal and may not be undertaken without permission.

Just as voluntarists oppose compulsory licensing laws in medicine, or barbering, or any other profession, they oppose coercive laws in the realm of marriage. There is no more reason to require or regulate the registration of real estate conveyances or mortgages than there is to require licensing of marriages. If there is a market demand for services to record or register such transactions (whether in real estate or family affairs), then private, voluntary registration bureaus will be forthcoming on the market. The marriage licensing system has been so long in existence, that the free and voluntary market has never been given an opportunity to show how it might operate in this area of our lives.

"Would society degenerate into promiscuous and homosexual debauchery in the absence of marriage laws?" Were we accustomed to government or church regulation of our eating habits, is it likely that we would stop eating if all outside interventions were removed? Hardly,—eating is as natural to us as marrying or raising a family. In fact, our marriage and family institutions would be stronger if third-party intervention ceased. A state marriage certificate, like a bank charter or some other official certification, provides a false sense of security. Possession of a marriage license certainly doesn't solve any of its possessor's marital problems, and probably helps induce a false sense of confidence in those who marry. In other words, dispensing with the legal licensing of marriage would strengthen respect for marriage; its absence would make people not less cautious, but more cautious concerning their marital affairs. For after all, how do marriage laws contribute toward making the parties true to each other? The large majority of those who are true to their partners base their fidelity upon love and honor, "not upon terrors of the law."

Prescription for Sound Living

Many of the social institutions of Western civilization are based on the Old Testament moral code, especially those rules found in the Ten Commandments. Theft, murder, adultery, covetousness, bearing false witness, and sexual promiscuity were all placed in the same prohibited category. The purpose of such a moral code was to help protect private property, the family, the integrity of marriage, and promote peaceful, harmonious social relationships in the community. Although often times the reasons for these rules are lost sight of, when one examines them "one finds in (them) the most reasonable and logical guide to

a healthy, happy life." They present "a moral code based on a profound understanding of human nature and human experience," and contain a prescription for sound living, regardless of where or how they originated. If one studies them and understands the operation of the free market, one perceives the connections between war, sexual decadence, inflation, and political corruption, which all collapsing civilizations (including ours) experience.

As James J. Martin once observed, "the family is the well-spring" of all social tendencies. The family is the place where we all ordinarily start, "where the fundamental ideas relating to self and mutual aid are first engendered, the incubation place where dedication to one's welfare and to that of one's closest associates is emphasized, and where respect or disrespect to the State is first seen, felt, and emulated." The family as an institution is one of the strongest bulwarks against the encroaching State and the disrespect for private property which statism engenders. A strong family is most likely to produce principled individuals who are spiritually and mentally prepared to withstand statist propaganda. And the State understands this as it consciously or unconsciously implements political policies which undermine and destroy the family. Many of the major changes which have taken place in the family during this century are not the result of unfettered individual or family decision-making. Rather they have been shaped by major statist wars, governmental legislation, and the often disastrous results of centralized economic planning.

Marriage and the creation of a family are one of the most important and most basic elements in the spontaneous order. As Wilhelm von Humboldt once wrote, such a relation cannot mold itself according to external, third-party arrangements, but depends wholly upon inclination and mutual satisfaction of all the immediately concerned parties. The introduction of coercion into such relationships can only divert them from the proper path. State intervention is as counter-productive in the family-marital realm as it is in the economic realm; and for all the same reasons. That is not to say that people will not make mistakes when they are left to their own devices, but it is surely better to suffer the "ills of freedom" than to attempt to cure them at the expense of restricting individual liberty. "To curtail that freedom is to cut away part of the foundation of further progress."

Or paraphrasing Albert Jay Nock, as he once so eloquently put it: Freedom is the only condition under which any kind of substantial moral fiber can be developed. Freedom means the freedom to marry as many partners as one wishes or the freedom to drink one's self to death, but it also means the freedom to be self-disciplined and be a life-long monogamist, or to never get married, or to never drink, or to drink in moderation. The voluntarist is not engaged by the spectacle of sots or polygamists or pornographers, but rather points to those who are responsible, responsible by a self-imposed standard of conduct. He asserts that the future belongs to them, not to those who engage in vicious conduct. He believes in absolute freedom in sexual relations, yet when the emancipated man or woman goes on the loose, to wallow along at the mercy of raw sensation, he is not interested in their panegyrics upon freedom. He turns to contemplate those men and women who are responsibly decent, decent by a strong, fine, self-sprung conscious of the Right Thing, and he declares his conviction that the future lies with them. The desire for freedom has but one practical object, i.e., that men and women may become as good and as decent, as elevated and as noble, as they might be and really wish to be. Under freedom they can, and rather promptly will, educate themselves to this desirable end; and so long as they are in the least dominated by statism, they never can.

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Why Schools Don't Educate

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W.R. Harper of the University of Chicago and Thorndyke of Columbia Teachers College and others to be instruments of the scientific management of a mass population. Schools are intended to produce, through the application of formulae, formulaic human beings whose behavior can be predicted and controlled.

To a very great extent schools succeed in doing this. But our society is disintegrating, and in such a society the only successful people are self-reliant, confident, and individualistic—because the community life which protects the dependent and the weak is dead. The products of schooling are, as I've said, irrelevant. Well-schooled people are irrelevant. They can sell film and razor blades, push paper and talk on telephones, or sit mindlessly before a flickering computer terminal, but as human beings they are useless—useless to others and useless to themselves.

The daily misery around us is, I think, in large measure caused by the fact that—as Paul Goodman put it thirty years ago—we force children to grow up absurd. Any reform in schooling has to deal with its absurdities.

It is absurd and anti-life to be part of a system that compels you to listen to a stranger reading poetry when you want to learn to construct buildings, or to sit with a stranger discussing the construction of buildings when you want to read poetry.

It is absurd and anti-life to move from cell to cell at the sound of a gong for every day of your youth, in an institution that allows you no privacy and even follows you into the sanctuary of your home, demanding that you do its "homework."

"How will they learn to read?" you say, and my answer is, "Remember the lessons of Massachusetts." When children are given whole lives instead of age-graded ones in cellblocks, they learn to read, write, and do arithmetic with ease if those things make sense in the life that unfolds around them.

But keep in mind that in the United States almost nobody who reads, writes, or does arithmetic gets much respect. We are a land of talkers; we pay talkers the most and admire talkers the most and so our children talk constantly, following the public models of television and schoolteachers. It is very difficult to teach the "basics" anymore because they really aren't basic to the society we've made.

Two institutions, television and school, at present control our children's lives, in that order. Both of them reduce the real world of wisdom, fortitude, temperance, and justice to a never-ending non-stop abstraction. In centuries past the time of a child and adolescent would be occupied in real work, real charity, real adventures, and the real search for mentors who might teach what one really wanted to learn. A great deal of time was spent in community pursuits, practicing affection, meeting and studying every level of the community, learning how to make a home, and dozens of other tasks necessary to becoming a whole man or woman.

But here is the calculus of time the children I teach must deal with:

Out of the one hundred sixty-eight hours in each week, my children sleep fifty-six. That leaves them one hundred twelve hours a week in which to grow up.

My children attend school thirty hours a week, use about eight hours getting ready, going and coming home, and spend an average of seven hours a week in homework—a total of forty five hours. During that time they are under constant surveillance, having no private time or private space, and are disciplined if they try to assert individuality in the use of time or space. That leaves twelve hours a week out of which to create a unique consciousness. Of course my kids eat, too, and that takes some time—not much, because we've lost the tradition of family dining. If we allot three hours a week to evening meals, we arrive at a net amount of private time for each child of nine hours.

It's not enough. It's not enough, is it? The richer the kid, of course, the less television he watches, but the rich kid's time is

"Literature is mostly about having sex and not much about having children; life is the other way around."

—READER'S DIGEST, May 1991

just as narrowly proscribed by a broader catalogue of commercial entertainments and his inevitable assignment to a series of private lessons in areas seldom of his choice.

And these things are, oddly enough, just a more cosmetic way to create dependent human beings, unable to fill their own hours, unable to initiate lines of meaning to give substance and pleasure to their existence. It's a national disease, this dependency and aimlessness, and I think schooling and television and lessons—the entire Chautauqua idea—have a lot to do with it.

Think of the things that are killing us as a nation; drugs, brainless competition, recreational sex, the pornography of violence, gambling, alcohol, and the worst pornography of all—lives devoted to buying things, accumulation as a philosophy. All are addictions of dependent personalities and that is what our brand of schooling must inevitably produce.

I want to tell you what the effect is on children of taking all their time—time they need to grow up—and forcing them to spend it on abstractions. No reform that doesn't attack these specific pathologies will be anything more than a facade.

1. The children I teach are indifferent to the adult world. This defies the experience of thousands of years. A close study of what big people were up to was always the most exciting occupation of youth, but nobody wants to grow up these days, and who can blame them? Toys are us.

2. The children I teach have almost no curiosity, and what little they do have is transitory; they cannot concentrate for very long, even on things they choose to do. Can you see a connection between the bells ringing again and again to change classes and this phenomenon of evanescent attention?

3. The children I teach have a poor sense of the future, of how tomorrow is inextricably linked to today. They live in a continuous present; the exact moment they are in is the boundary of their consciousness.

4. The children I teach are ahistorical; they have no sense of how the past has predestined their own present, limiting their choices, shaping their values and lives.

5. The children I teach are cruel to each other; they lack compassion for misfortune, they laugh at weakness, they have contempt for people whose need for help shows too plainly.

6. The children I teach are uneasy with intimacy or candor. They cannot deal with genuine intimacy because of a lifelong habit of preserving a secret self inside an outer personality made up of artificial bits and pieces of behavior borrowed from television, or acquired to manipulate teachers. Because they are not who they represent themselves to be, the disguise wears thin in the presence of intimacy, so intimate relationships have to be avoided.

7. The children I teach are materialistic, following the lead of schoolteachers who materialistically "grade" everything—and television mentors who offer everything in the world for sale.

8. The children I teach are dependent, passive, and timid in the presence of new challenges. This timidity is frequently masked by surface bravado, or by anger or aggressiveness, but underneath is a vacuum without fortitude.

I could name a few other conditions that school reform will have to tackle if our national decline is to be arrested, but by now you will have grasped my thesis, whether you agree with it or not. Either schools, television, or both have caused these pathologies. It's a simple matter of arithmetic. Between schooling and television, all the time children have is eaten up. That's what has destroyed the American family; it no longer is a factor in the education of its own children.

What can be done?

First, we need a ferocious national debate that doesn't quit, day after day, year after year, the kind of continuous emphasis that journalism finds boring. We need to scream and argue about this school thing until it is fixed or broken beyond repair, one

or the other. If we can fix it, fine; if we cannot, then the success of homeschooling shows a different road that has great promise. Pouring the money back into family education might kill two birds with one stone, repairing families as it repairs children.

Genuine reform is possible, but it shouldn't cost anything. We need to rethink the fundamental premises of schooling and decide what it is we want all children to learn, and why. For one hundred forty years this nation has tried to impose objectives from a lofty command center made up of "experts," a central elite of social engineers. It hasn't worked. It won't work. It is a gross betrayal of the democratic promise that once made this nation a noble experiment. The Russian attempt to control Eastern Europe has exploded before our eyes.

Our own attempt to impose the same sort of central orthodoxy, using the schools as an instrument, is also coming apart at the seams, albeit more slowly and painfully. It doesn't work because its fundamental premises are mechanical, anti-human, and hostile to family life. Lives can be controlled by machine education, but they will always fight back with weapons of social pathology—drugs, violence, self-destruction, indifference, and the symptoms I see in the children I teach.

It's high time we looked backward to regain an educational philosophy that works. One I like particularly well has been a favorite of the ruling classes of Europe for thousands of years. I think it works just as well for poor children as for rich ones. I use as much of it as I can manage in my own teachings; as much, that is, as I can get away with, given the present institution of compulsory schooling.

At the core of this elite system of education is the belief that self-knowledge is the only basis of true knowledge. Everywhere in this system, at every age, you will find arrangements that place the child *alone* in an unguided setting with a problem to solve. Sometimes the problem is fraught with great risks, such as the problem of galloping a horse or making it jump, but that, of course, is a problem successfully solved by thousands of elite children before the age of ten. Can you imagine anyone who had mastered such a challenge ever lacking confidence in his ability to do anything? Sometimes the problem is that of mastering solitude, as Thoreau did at Walden pond, or Einstein did in the Swiss customs house.

One of my former students, Roland Legiardi-Laura, though both his parents were dead and he had no inheritance, took a bicycle across the United States alone when he was hardly out of boyhood. Is it any wonder that in manhood he made a film about Nicaragua, although he had no money and no prior experience with film-making, and that it was an international award winner—even though his regular work was as a carpenter?

Right now we are taking from our children the time they need to develop self-knowledge. That has to stop. We have to invent school experiences that give a lot of that time back. We need to trust children from a very early age with independent study, perhaps arranged in school, but which takes place away from the institutional setting. We need to invent a curriculum where each kid has a chance to develop uniqueness and self-reliance. ...

We've got to give kids independent time right away because that is the key to self-knowledge, and we must reinvolve them with the real world as fast as possible so that the independent time can be spent on something other than more abstractions. This is an emergency. It requires drastic action to correct. Our children are dying like flies in our schools. Good schooling or bad schooling, it's all the same—Irrelevant. ...

Independent study, community service, adventures in experience, large doses of privacy and solitude, a thousand different apprenticeships—these are all powerful, cheap, and effective ways to start a real reform of schooling. But no large-scale reform is ever going to repair our damaged children and our damaged society until we force the idea of "school" open to include *family* as the main engine of education. ...

Family is the main engine of education. If we use schooling to break children away from parents—and make no mistake, that has been the central function of schools since John Cotton announced it as the purpose of the Bay Colony schools in 1650 and Horace Mann announced it as the purpose of Massachusetts schools in 1850—we're going to continue to have the horror show

we have right now.

The curriculum of family is at the heart of any good life. We've gotten away from that curriculum—it's time we return to it. The way to sanity in education is for our schools to take the lead in releasing the stranglehold of institutions on family life, to promote during school time confluences of parent and child that will strengthen family bonds. ...

I have many ideas to make a family curriculum, and my guess is that a lot of you will have many ideas, too, once you begin to think about it. Our greatest problem in getting the kind of grassroots thinking going that could reform schooling is that we have large, vested interests profiting from schooling just exactly as it is, despite rhetoric to the contrary.

We have to demand that new voices and new ideas get a hearing, my ideas and yours. We've all had a bellyful of authorized voices on television and in the press. A decade-long, free-for-all debate is called for now, not any more "expert" opinions. Experts in education have never been right; their "solutions" are expensive, self-serving, and always involve further centralization. Enough.

Time for a return to democracy, individuality, and family. I've said my piece. Thank you.

Editor's Note: Although there are parts of this article with which I disagree (particularly Gatto's belief that public education might be reformed rather than replaced with voluntaryist options), I chose to reprint it for several reasons. First, it is an interesting follow-up to my article on voluntaryism and educational statism in Whole No. 48 of THE VOLUNTARYIST. Gatto's insight that the family is "the main engine of education" ties in neatly with the theme of the lead article in this issue—namely the importance of family and community to voluntaryism. If State power disappears, it will only be because it is replaced with the social power of family and community. Without individuals who learn self-control and self-responsibility—both of which are predominantly learned in the context of the family—a voluntaryist society will never arise. Without self-disciplined individuals, there will always be a clamor for some politician to lead us to the "promised land." Second, Gatto's indictment of the public school, as operating from a central command center made up of social engineers and government bureaucrats, coincides with Milton Friedman's description of public schooling as the second "largest social enterprise in the United States," next "only to national defense." It has failed for the same reasons that collectivism will always fail. It is inefficient because it is not market-oriented, and it is immoral because it rests on the coercion of compulsory attendance laws and taxation (neither of which Gatto seems to oppose in principle.) Third, his realization that public education is basically authoritarian and doesn't teach "anything except how to obey orders" just reinforces the point made repeatedly in George Smith's newly published essay, "For Reasons of State: Public Education in America." (S)tate education exists primarily to serve the goals of the state, rather than the goals of the child." As he adds, "If the schools are intended as a boon to children and parents, if they are a great social service, then why must attendance be compulsory?"

While on the subject of schooling, I would like to make one correction to a statement I made in my earlier education article. On page 1 of Whole No. 48, I wrote that "as late as 1900, only

"Cooperation, not conflict," writes anthropologist Ashley Montagu, "has been the most valuable form of behavior for human beings taken at any stage of their evolutionary history. Without the cooperation of its members, society cannot survive."

—Dr. Thomas Lickona,
RAISING GOOD CHILDREN
(NY: Bantam, 1983, p.220)

10% of American children attended public school." As far as I can determine at this time the figure is just over 70% rather than 10%.

For a biting critique of public education and state schooling, contact The Gentle Wind School, Box 184, Surrey, Maine 04684. Ask for Volume I of REBOUND (send \$2 or more as a donation). They believe that "Modern education is so malignant that it is no less than a cancer to American society." ☒

An Answer to David Pearce: A Free Society Isn't an Unrealistic Goal

By David Danielson

THE VOLUNTARYIST of June 1991 carried a moving essay by David Pearce, titled "Why Not More Freedom?" It expressed the factors he believes account for the world's lack of freedom, and he concluded that "a true freedom, the absence of coercive authority in the lives of men, is a pipe dream." Nearly every freedom-lover can empathize with Mr. Pearce; his feelings of frustration are shared by all of us at times.

But he is mistaken. He claims two things are preventing a free society, and always will prevent it: human nature and majorities. In truth, neither of these is standing in freedom's way.

Why isn't there freedom? "Human nature," he writes, "simply won't allow it." But isn't Mr. Pearce human? A love of liberty seems to be part of *his* nature. And what about the freedom-loving writers to whom he turns for inspiration? He mentions, in this regard, Mencken, Rand, and others. Weren't *they* human?

Humans are by nature choicemakers. Choicemaking is an exercise in freedom. So whoever hates freedom, hates being human; he or she longs to be a vegetable or a robot. It is not human nature, but the hatred of human nature, which poses an obstacle to attaining a free society. ...

As to majorities, they are no obstacle to a free society, since the majority usually chooses to quietly, meekly go along with whatever society a minority of activists creates. Mr. Pearce mentions the American Revolution, but he seems unaware of one of the most important aspects of that event. Being an American Revolution buff, I've read enough about the subject to know that the vast majority of Americans neither actively supported nor actively opposed the revolution. The majority then, as now, didn't give a damn one way or the other. It is always minorities that make history. So, to Mr. Pearce and to all my fellow lovers of liberty, I say: Let's make some.

Here's a helpful hint about how we, in the minority, can make the future what we want it to be. When the government arrests someone for a victimless crime (prostitution, gambling, drug selling or consumption, etc.), it doesn't take a majority of jurors to free the state's victim. It takes only *one*. For more information about this power of a single juror, write to: Fully Informed Jury Amendment, P.O. Box 59, Helmville, Montana 59843.

Freedom will win out over statism, for the same reason chemistry won out over alchemy. As Rand pointed out, the advocates of freedom have the most powerful ally anyone could possibly have: reality. It is a fact of reality that the freer a society is, the better off the inhabitants are (compare the living conditions in what was socialist East Germany to the conditions in semi-free West Germany). It can take time for the facts to sink in—medical science didn't replace witchcraft in the wink of an eye—but eventually the facts usually do.

(David Danielson is a freelance writer who lives in Madison, Wisconsin. "When my good friend and long-time VOLUNTARYIST subscriber, Howard L. Glick, showed me Mr. Pearce's essay and expressed some agreement with it," writes Mr. Danielson, "I felt an urge to drop everything and pen an optimistic reply. I am no Don Quixote. I want no part in any futile enterprise. If I were to believe for one moment that Mr. Pearce is right, that a free society is an impossible dream, I would immediately abandon its pursuit and find an achievable goal for which to strive.") ☒

Why Schools Don't Educate

By John Gatto

The author, John Gatto, has taught in the public schools for over 25 years, and in 1990, was named New York City's Teacher of the Year. The following excerpts comprise the bulk of his acceptance speech for this award. It is reprinted from THE BLUMENFELD EDUCATION LETTER (Box 45161, Boise, ID. 83711), May 1991, where it was noted that this is "probably the most incisive and eloquent indictment of public education ever written."

... We live in a time of great social crisis. Our children rank at the bottom of nineteen industrial nations in reading, writing, and arithmetic. The world's narcotic economy is based upon our own consumption of the commodity. If we didn't buy so many powdered dreams the business would collapse—and schools are an important sales outlet. Our teenage suicide rate is the highest in the world—and suicidal kids are rich kids for the most part, not the poor. In Manhattan seventy percent of all new marriages last less than five years.

Our school crisis is a reflection of this greater social crisis. We seem to have lost our identity. Children and old people are penned up and locked away from the business of the world to a degree without precedent; nobody talks to them anymore. Without children and old people mixing in daily life, a community has no future and no past, only a continuous present. In fact, the name "community" hardly applies to the way we interact with each other. We live in networks, not communities, and everyone I know is lonely because of that. In some strange way school is a major actor in this tragedy, just as it is a major actor in the widening gulf among social classes. Using school as a sorting mechanism, we appear to be on the way to creating a caste system, complete with untouchables who wander through subway trains begging and sleeping on the streets.

I've noticed a fascinating phenomenon in my twenty-five years of teaching—that schools and schooling are increasingly irrelevant to the great enterprise of the planet. No one believes anymore that scientists are trained in science classes, or poli-

ticians in civics classes, or poets in English classes. This is a great mystery to me because thousands of humane, caring people work in schools as teachers and aides and administrators, but the abstract logic of the institution overwhelms their individual contributions. Although teachers do care and do work very, very hard, the institution is psychopathic; it has no conscience. It rings a bell, and the young man in the middle of writing a poem must close his notebook and move to a different cell, where he learns that man and monkeys derive from a common ancestor.

Our form of compulsory schooling is an invention of the State of Massachusetts around 1850. It was resisted—sometimes with guns—by an estimated eighty percent of the Massachusetts population, the last outpost in Barnstable on Cape Cod not surrendering its children until the 1880s, when the area was seized by militia and children marched to school under guard.

Now here is a curious idea to ponder. Senator Ted Kennedy's office released a paper not too long ago claiming that prior to compulsory education the state literacy rate was ninety-eight percent, and after it the figure never again reached above ninety-one percent, where it stands in 1990. I hope that interests you.

Here is another curiosity to think about. The home-schooling movement has quietly grown to a size where one and a half million young people are being educated entirely by their own parents. Last month the education press reported the amazing news that children schooled at home seem to be five or even ten years ahead of their formally trained peers in their ability to think.

I don't think we'll get rid of schools anytime soon, certainly not in my lifetime, but if we're going to change what's rapidly becoming a disaster of ignorance, we need to realize that the school institution "schools" very well, but it does not "educate"—that's inherent in the design of the thing. It's not the fault of bad teachers or too little money spent. It's just impossible for education and schooling ever to be the same thing.

Schools were designed by Horace Mann and Barnas Sears and
Continued on page 5

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