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Licensing Parents

In this essay I shall argue that the state should require all parents to be licensed. My main goal is to demonstrate that the licensing of parents is theoretically desirable, though I shall also argue that a workable and just licensing program actually could be established.

My strategy is simple. After developing the basic rationale for the licensing of parents, I shall consider several objections to the proposal and argue that these objections fail to undermine it. I shall then isolate some striking similarities between this licensing program and our present policies on the adoption of children. If we retain these adoption policies—as we surely should—then, I argue, a general licensing program should also be established. Finally, I shall briefly suggest that the reason many people object to licensing is that they think parents, particularly biological parents, own or have natural sovereignty over their children.

Regulating Potentially Harmful Activities

Our society normally regulates a certain range of activities; it is illegal to perform these activities unless one has received prior permission to do so. We require automobile operators to have licenses. We forbid people from practicing medicine, law, pharmacy, or psychiatry unless they have satisfied certain licensing requirements.

Society's decision to regulate just these activities is not ad hoc. The decision to restrict admission to certain vocations and to forbid some people from driving is based on an eminently plausible, though not

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often explicitly formulated, rationale. We require drivers to be licensed because driving an auto is an activity which is potentially harmful to others, safe performance of the activity requires a certain competence, and we have a moderately reliable procedure for determining that competence. The potential harm is obvious: incompetent drivers can and do maim and kill people. The best way we have of limiting this harm without sacrificing the benefits of automobile travel is to require that all drivers demonstrate at least minimal competence. We likewise license doctors, lawyers, and psychologists because they perform activities which can harm others. Obviously they must be proficient if they are to perform these activities properly, and we have moderately reliable procedures for determining proficiency.[1] Imagine a world in which everyone could legally drive a car, in which everyone could legally perform surgery, prescribe medications, dispense drugs, or offer legal advice. Such a world would hardly be desirable.

Consequently, any activity that is potentially harmful to others and requires certain demonstrated competence for its safe performance, is subject to regulation—that is, it is theoretically desirable that we regulate it. If we also have a reliable procedure for determining whether someone has the requisite competence, then the action is not only subject to regulation but ought, all things considered, to be regulated.

It is particularly significant that we license these hazardous activities, even though denying a license to someone can severely inconvenience and even harm that person. Furthermore, available competency tests are not 100 percent accurate. Denying someone a driver's license in our society, for example, would inconvenience that person acutely. In effect that person would be prohibited from working, shopping, or visiting in places reachable only by car. Similarly, people denied vocational licenses are inconvenienced, even devastated. We

1. "When practice of a profession or calling requires special knowledge or skill and intimately affects public health, morals, order or safety, or general welfare, legislature may prescribe reasonable qualifications for persons desiring to pursue such professions or calling and require them to demonstrate possession of such qualifications by examination on subjects with which such profession or calling has to deal as a condition precedent to right to follow that profession or calling." 50 SE 2nd 735 (1949). Also see 199 US 306, 318 (1905) and 123 US 623, 661 (1887).

have all heard of individuals who had the "life-long dream" of becoming physicians or lawyers, yet were denied that dream. However, the realization that some people are disappointed or inconvenienced does not diminish our conviction that we must regulate occupations or activities that are potentially dangerous to others. Innocent people must be protected even if it means that others cannot pursue activities they deem highly desirable.

Furthermore, we maintain licensing procedures even though our competency tests are sometimes inaccurate. Some people competent to perform the licensed activity (for example, driving a car) will be unable to demonstrate competence (they freeze up on the driver's test). Others may be incompetent, yet pass the test (they are lucky or certain aspects of competence–for example, the sense of responsibility–are not tested). We recognize clearly–or should recognize clearly–that no test will pick out all and only competent drivers, physicians, lawyers, and so on. Mistakes are inevitable. This does not mean we should forget that innocent people may be harmed by faulty regulatory procedures. In fact, if the procedures are sufficiently faulty, we should cease regulating that activity entirely until more reliable tests are available. I only want to emphasize here that tests need not be perfect. Where moderately reliable tests are available, licensing procedures should be used to protect innocent people from incompetents.[2]

These general criteria for regulatory licensing can certainly be applied to parents. First, parenting is an activity potentially very harmful to children. The potential for harm is apparent: each year more than half a million children are physically abused or neglected by their parents.[3] Many millions more are psychologically abused or

2. What counts as a moderately reliable test for these purposes will vary from circumstance to circumstance. For example, if the activity could cause a relatively small amount of harm, yet regulating that activity would place extensive constraints on people regulated, then any tests should be extremely accurate. On the other hand, if the activity could be exceedingly harmful but the constraints on the regulated person are minor, then the test can be considerably less reliable.

3. The statistics on the incidence of child abuse vary. Probably the most recent detailed study (Saad Nagi, *Child Maltreatment in the United States*, Columbia University Press, 1977) suggests that between 400,000 and 1,000,000 children are abused or neglected each year. Other experts claim the incidence is considerably higher.

neglected—not given love, respect, or a sense of self-worth. The results of this maltreatment are obvious. Abused children bear the physical and psychological scars of maltreatment throughout their lives. Far too often they turn to crime.[4] They are far more likely than others to abuse their own children.[5] Even if these maltreated children never harm anyone, they will probably never be well-adjusted, happy adults. Therefore, parenting clearly satisfies the first criterion of activities subject to regulation.

The second criterion is also incontestably satisfied. A parent must be competent if he is to avoid harming his children; even greater competence is required if he is to do the "job" well. But not everyone has this minimal competence. Many people lack the knowledge needed to rear children adequately. Many others lack the requisite energy, temperament, or stability. Therefore, child-rearing manifestly satisfies both criteria of activities subject to regulation. In fact, I dare say that parenting is a paradigm of such activities since the potential for harm is so great (both in the extent of harm any one person can suffer and in the number of people potentially harmed) and the need for competence is so evident. Consequently, there is good reason to believe that all parents should be licensed. The only ways to avoid this conclusion are to deny the need for licensing *any* potentially harmful activity; to deny that I have identified the standard criteria of activities which should be regulated; to deny that parenting satisfies the standard criteria; to show that even though parenting satisfies the standard criteria there are special reasons why licensing parents is not theoreti-

4. According to the National Committee for the Prevention of Child Abuse, more than 80 percent of incarcerated criminals were, as children, abused by their parents. In addition, a study in the *Journal of the American Medical Association* 168, no. 3: 1755-1758, reported that first-degree murderers from middle-class homes and who have "no history of addiction to drugs, alcoholism, organic disease of the brain, or epilepsy" were frequently found to have been subject to "remorseless physical brutality at the hands of the parents."

5. "A review of the literature points out that abusive parents were raised in the same style that they have recreated in the pattern of rearing children. . . . An individual who was raised by parents who used physical force to train their children and who grew up in a violent household has had as a role model the use of force and violence as a means of family problem solving." R. J. Gelles, "Child Abuse as Psychopathology—a Sociological Critique and Reformulation," *American Journal of Orthopsychiatry* 43, no. 4 (1973): 618-19.

cally desirable; or to show that there is no reliable and just procedure for implementing this program.

While developing my argument for licensing I have already identified the standard criteria for activities that should be regulated, and I have shown that they can properly be applied to parenting. One could deny the legitimacy of regulation by licensing, but in doing so one would condemn not only the regulation of parenting, but also the regulation of drivers, physicians, druggists, and doctors. Furthermore, regulation of hazardous activities appears to be a fundamental task of any stable society.

Thus only two objections remain. In the next section I shall see if there are any special reasons why licensing parents is not theoretically desirable. Then, in the following section, I shall examine several practical objections designed to demonstrate that even if licensing were theoretically desirable, it could not be justly implemented.

Theoretical Objections to Licensing

Licensing is unacceptable, someone might say, since people have a right to have children, just as they have rights to free speech and free religious expression. They do not need a license to speak freely or to worship as they wish. Why? Because they have a right to engage in these activities. Similarly, since people have a right to have children, any attempt to license parents would be unjust.

This is an important objection since many people find it plausible, if not self-evident. However, it is not as convincing as it appears. The specific rights appealed to in this analogy are not without limitations. Both slander and human sacrifice are prohibited by law; both could result from the unrestricted exercise of freedom of speech and freedom of religion. Thus, even if people have these rights, they may sometimes be limited in order to protect innocent people. Consequently, even if people had a right to have children, that right might also be limited in order to protect innocent people, in this case children. Secondly, the phrase "right to have children" is ambiguous; hence, it is important to isolate its most plausible meaning in this context. Two possible interpretations are not credible and can be dismissed summarily. It is implausible to claim either that infertile

people have rights to be *given* children or that people have rights to intentionally create children biologically without incurring any subsequent responsibility to them.

A third interpretation, however, is more plausible, particularly when coupled with observations about the degree of intrusion into one's life that the licensing scheme represents. On this interpretation people have a right to rear children if they make good-faith efforts to rear procreated children the best way they see fit. One might defend this claim on the ground that licensing would require too much intrusion into the lives of sincere applicants.

Undoubtedly one should be wary of unnecessary governmental intervention into individuals' lives. In this case, though, the intrusion would not often be substantial, and when it is, it would be warranted. Those granted licenses would face merely minor intervention; only those denied licenses would encounter marked intrusion. This encroachment, however, is a necessary side-effect of licensing parents—just as it is for automobile and vocational licensing. In addition, as I shall argue in more detail later, the degree of intrusion arising from a general licensing program would be no more than, and probably less than, the present (and presumably justifiable) encroachment into the lives of people who apply to adopt children. Furthermore, since some people hold unacceptable views about what is best for children (they think children should be abused regularly), people do not automatically have rights to rear children just because they will rear them in a way they deem appropriate.[6]

Consequently, we come to a somewhat weaker interpretation of this right claim: a person has a right to rear children if he meets certain minimal standards of child rearing. Parents must not abuse or neglect their children and must also provide for the basic needs of the children. This claim of right is certainly more credible than the previously canvassed alternatives, though some people might still reject this claim in situations where exercise of the right would lead to negative

6. Some people might question if any parents actually believe they should beat their children. However, that does appear to be the sincere view of many abusing parents. See, for example, case descriptions in *A Silent Tragedy* by Peter and Judith DeCourcy (Sherman Oaks, CA.: Alfred Publishing Co., 1973).

consequences, for example, to overpopulation. More to the point, though, this conditional right is compatible with licensing. On this interpretation one has a right to have children only if one is not going to abuse or neglect them. Of course the very purpose if licensing is just to determine whether people *are* going to abuse or neglect their children. If the determination is made that someone will maltreat children, then that person is subject to the limitations of the right to have children and can legitimately be denied a parenting license.

In fact, this conditional way of formulating the right to have children provides a model for formulating all alleged rights to engage in hazardous activities. Consider, for example, the right to drive a car. People do not have an unconditional right to drive, although they do have a right to drive if they are competent. Similarly, people do not have an unconditional right to practice medicine; they have a right only if they are demonstrably competent. Hence, denying a driver's or physician's license to someone who has not demonstrated the requisite competence does not deny that person's rights. Likewise, on this model, denying a parenting license to someone who is not competent does not violate that person's rights.

Of course someone might object that the right is conditional on actually being a person who will abuse or neglect children, whereas my proposal only picks out those we can reasonably predict will abuse children. Hence, this conditional right *would* be incompatible with licensing.

There are two ways to interpret this objection and it is important to distinguish these divergent formulations. First, the objection could be a way of questioning our ability to predict reasonably and accurately whether people would maltreat their own children. This is an important practical objection, but I will defer discussion of it until the next section. Second, this objection could be a way of expressing doubt about the moral propriety of the prior restraint licensing requires. A parental licensing program would deny licenses to applicants judged to be incompetent even though they had never maltreated any children. This practice would be in tension with our normal skepticism about the propriety of prior restraint.

Despite this healthy skepticism, we do sometimes use prior re-

straint. In extreme circumstances we may hospitalize or imprison people judged insane, even though they are not legally guilty of any crime, simply because we predict they are likely to harm others. More typically, though, prior restraint is used only if the restriction is not terribly onerous and the restricted activity is one which could lead easily to serious harm. Most types of licensing (for example, those for doctors, drivers, and druggists) fall into this latter category. They require prior restraint to prevent serious harm, and generally the restraint is minor—though it is important to remember that some individuals will find it oppressive. The same is true of parental licensing. The purpose of licensing is to prevent serious harm to children. Moreover, the prior restraint required by licensing would not be terribly onerous for many people. Certainly the restraint would be far less extensive than the presumably justifiable prior restraint of, say, insane criminals. Criminals preventively detained and mentally ill people forceably hospitalized are denied most basic liberties, while those denied parental licenses would be denied only that one specific opportunity. They could still vote, work for political candidates, speak on controversial topics, and so on. Doubtless some individuals would find the restraint onerous. But when compared to other types of restraint currently practiced, and when judged in light of the severity of harm maltreated children suffer, the restraint appears *relatively* minor.

Furthermore, we could make certain, as we do with most licensing programs, that individuals denied licenses are given the opportunity to reapply easily and repeatedly for a license. Thus, many people correctly denied licenses (because they are incompetent) would choose (perhaps it would be provided) to take counseling or therapy to improve their chances of passing the next test. On the other hand, most of those mistakenly denied licenses would probably be able to demonstrate in a later test that they would be competent parents.

Consequently, even though one needs to be wary of prior restraint, if the potential for harm is great and the restraint is minor relative to the harm we are trying to prevent—as it would be with parental licensing—then such restraint is justified. This objection, like all the theoretical objections reviewed, has failed.

Practical Objections to Licensing

I shall now consider five practical objections to licensing. Each objection focuses on the problems or difficulties of implementing this proposal. According to these objections, licensing is (or may be) theoretically desirable; nevertheless, it cannot be efficiently and justly implemented.

The first objection is that there may not be, or we may not be able to discover, adequate criteria of "a good parent." We simply do not have the knowledge, and it is unlikely that we could ever obtain the knowledge, that would enable us to distinguish adequate from inadequate parents.

Clearly there is some force to this objection. It is highly improbable that we can formulate criteria that would distinguish precisely between good and less than good parents. There is too much we do not know about child development and adult psychology. My proposal, however, does not demand that we make these fine distinctions. It does not demand that we license only the best parents; rather it is designed to exclude only the very bad ones.[7] This is not just a semantic difference, but a substantive one. Although we do not have infallible criteria for picking out good parents, we undoubtedly can identify bad ones—those who will abuse or neglect their children. Even though we could have a lively debate about the range of freedom a child should be given or the appropriateness of corporal punishment, we do not wonder if a parent who severely beats or neglects a child is adequate. We know that person isn't. Consequently, we do have reliable and useable criteria for determining who is a bad parent; we have the criteria necessary to make a licensing program work.

The second practical objection to licensing is that there is no reliable way to predict who will maltreat their children. Without an accurate predictive test, licensing would be not only unjust, but also a waste of time. Now I recognize that as a philosopher (and not a psychologist, sociologist, or social worker), I am on shaky ground if I

7. I suppose I might be for licensing only good parents if I knew there were reasonable criteria and some plausible way of deciding if a potential parent satisfied these criteria. However, since I don't think we have those criteria or that method, nor can I seriously envision that we will discover those criteria and that method, I haven't seriously entertained the stronger proposal.

make sweeping claims about the present or future abilities of professionals to produce such predictive tests. Nevertheless, there are some relevant observations I can offer.

Initially, we need to be certain that the demands on predictive tests are not unreasonable. For example, it would be improper to require that tests be 100 percent accurate. Procedures for licensing drivers, physicans, lawyers, druggists, etc., plainly are not 100 percent (or anywhere near 100 percent) accurate. Presumably we recognize these deficiencies yet embrace the procedures anyway. Consequently, it would be imprudent to demand considerably more exacting standards for the tests used in licensing parents.

In addition, from what I can piece together, the practical possibilities for constructing a reliable predictive test are not all that gloomy. Since my proposal does not require that we make fine line distinctions between good and less than good parents, but rather that we weed out those who are potentially very bad, we can use existing tests that claim to isolate relevant predictive characteristics—whether a person is violence-prone, easily frustrated, or unduly self-centered. In fact, researchers at Nashville General Hospital have developed a brief interview questionnaire which seems to have significant predictive value. Based on their data, the researchers identified 20 percent of the interviewees as a "risk group"—those having great potential for serious problems. After one year they found "the incidence of major breakdown in parent-child interaction in the risk group was approximately four to five times as great as in the low risk group."[8] We also know that parents who maltreat children often have certain identifiable experiences, for example, most of them were themselves maltreated as children. Consequently, if we combined our information about these parents with certain psychological test results, we would probably be able to predict with reasonable accuracy which people will maltreat their children.

However, my point is not to argue about the precise reliability of

8. The research gathered by Altemeir was reported by Ray Helfer in "Review of the Concepts and a Sampling of the Research Relating to Screening for the Potential to Abuse and/or Neglect One's Child." Helfer's paper was presented at a workshop sponsored by the National Committee for the Prevention of Child Abuse, 3-6 December 1978.

present tests. I cannot say emphatically that we now have accurate predictive tests. Nevertheless, even if such tests are not available, we could undoubtedly develop them. For example, we could begin a longitudinal study in which all potential parents would be required to take a specified battery of tests. Then these parents could be "followed" to discover which ones abused or neglected their children. By correlating test scores with information on maltreatment, a usable, accurate test could be fashioned. Therefore, I do not think that the present unavailability of such tests (if they are unavailable) would count against the legitimacy of licensing parents.

The third practical objection is that even if a reliable test for ascertaining who would be an acceptable parent were available, administrators would unintentionally misuse that test. These unintentional mistakes would clearly harm innocent individuals. Therefore, so the argument goes, this proposal ought to be scrapped. This objection can be dispensed with fairly easily unless one assumes there is some special reason to believe that more mistakes will be made in administering parenting licenses than in other regulatory activities. No matter how reliable our proceedings are, there will always be mistakes. We may license a physician who, through incompetence, would cause the death of a patient; or we may mistakenly deny a physician's license to someone who would be competent. But the fact that mistakes are made does not and should not lead us to abandon attempts to determine competence. The harm done in these cases could be far worse than the harm of mistakenly denying a person a parenting license. As far as I can tell, there is no reason to believe that more mistakes will be made here than elsewhere.

The fourth proposed practical objection claims that any testing procedure will be intentionally abused. People administering the process will disqualify people they dislike, or people who espouse views they dislike, from rearing children.

The response to this objection is parallel to the response to the previous objection, namely, that there is no reason to believe that the licensing of parents is more likely to be abused than driver's license tests or other regulatory procedures. In addition, individuals can be protected from prejudicial treatment by pursuing appeals available to

them. Since the licensing test can be taken on numerous occasions, the likelihood of the applicant's working with different administrative personnel increases and therefore the likelihood decreases that intentional abuse could ultimately stop a qualified person from rearing children. Consequently, since the probability of such abuse is not more than, and may even be less than, the intentional abuse of judicial and other regulatory authority, this objection does not give us any reason to reject the licensing of parents.

The fifth objection is that we could never adequately, reasonably, and fairly enforce such a program. That is, even if we could establish a reasonable and fair way of determining which people would be inadequate parents, it would be difficult, if not impossible, to enforce the program. How would one deal with violators and what could we do with babies so conceived? There are difficult problems here, no doubt, but they are not insurmountable. We might not punish parents at all–we might just remove the children and put them up for adoption. However, even if we are presently uncertain about the precise way to establish a just and effective form of enforcement, I do not see why this should undermine my licensing proposal. If it is important enough to protect children from being maltreated by parents, then surely a reasonable enforcement procedure can be secured. At least we should assume one can be unless someone shows that it cannot.

An Analogy With Adoption

So far I have argued that parents should be licensed. Undoubtedly many readers find this claim extremely radical. It is revealing to notice, however, that this program is not as radical as it seems. Our moral and legal systems already recognize that not everyone is capable of rearing children well. In fact, well-entrenched laws require adoptive parents to be investigated–in much the same ways and for much the same reasons as in the general licensing program advocated here. For example, we do not allow just anyone to adopt a child; nor do we let someone adopt without first estimating the likelihood of the person's being a good parent. In fact, the adoptive process is far more

rigorous than the general licensing procedures I envision. Prior to adoption the candidates must first formally apply to adopt a child. The applicants are then subjected to an exacting home study to determine whether they really want to have children and whether they are capable of caring for and rearing them adequately. No one is allowed to adopt a child until the administrators can reasonably predict that the person will be an adequate parent. The results of these procedures are impressive. Despite the trauma children often face before they are finally adopted, they are five times less likely to be abused than children reared by their biological parents.[9]

Nevertheless we recognize, or should recognize, that these demanding procedures exclude some people who would be adequate parents. The selection criteria may be inadequate; the testing procedures may be somewhat unreliable. We may make mistakes. Probably there is some intentional abuse of the system. Adoption procedures intrude directly in the applicants' lives. Yet we continue the present adoption policies because we think it better to mistakenly deny some people the opportunity to adopt than to let just anyone adopt.

Once these features of our adoption policies are clearly identified, it becomes quite apparent that there are striking parallels between the general licensing program I have advocated and our present adoption system. Both programs have the same aim—protecting children. Both have the same drawbacks and are subject to the same abuses. The only obvious dissimilarity is that the adoption requirements are *more* rigorous than those proposed for the general licensing program. Consequently, if we think it is so important to protect adopted children, even though people who want to adopt are less likely than biological

9. According to a study published by the Child Welfare League of America, at least 51 percent of the adopted children had suffered, prior to adoption, more than minimal emotional deprivation. See *A Follow-up Study of Adoptions: Post Placement Functioning of Adoption Families*, Elizabeth A. Lawder et al., New York 1969.

According to a study by David Gil (*Violence Against Children*, Cambridge: Harvard University Press, 1970) only .4 percent of abused children were abused by adoptive parents. Since at least 2 percent of the children in the United States are adopted (*Encyclopedia of Social Work*, National Association of Social Workers, New York, 1977), that means the rate of abuse by biological parents is five time that of adoptive parents.

parents to maltreat their children, then we should likewise afford the same protection to children reared by their biological parents.

I suspect, though, that many people will think the cases are not analogous. The cases are relevantly different, someone might retort, because biological parents have a natural affection for their children and the strength of this affection makes it unlikely that parents would maltreat their biologically produced children.

Even if it were generally true that parents have special natural affections for their biological offspring, that does not mean that all parents have enough affection to keep them from maltreating their children. This should be apparent given the number of children abused each year by their biological parents. Therefore, even if there is generally such a bond, that does not explain why we should not have licensing procedures to protect children of parents who do not have a sufficiently strong bond. Consequently, if we continue our practice of regulating the adoption of children, and certainly we should, we are rationally compelled to establish a licensing program for all parents.

However, I am not wedded to a strict form of licensing. It may well be that there are alternative ways of regulating parents which would achieve the desired results—the protection of children—without strictly prohibiting nonlicensed people from rearing children. For example, a system of tax incentives for licensed parents, and protective services scrutiny of nonlicensed parents, might adequately protect children. If it would, I would endorse the less drastic measure. My principal concern is to protect children from maltreatment by parents. I begin by advocating the more strict form of licensing since that is the standard method of regulating hazardous activities.

I have argued that all parents should be licensed by the state. This licensing program is attractive, not because state intrusion is inherently judicious and efficacious, but simply because it seems to be the best way to prevent children from being reared by incompetent parents. Nonetheless, even after considering the previous arguments, many people will find the proposal a useless academic exercise, probably silly, and possibly even morally perverse. But why? Why do most

of us find this proposal unpalatable, particularly when the arguments supporting it are good and the objections to it are philosophically flimsy?

I suspect the answer is found in a long-held, deeply ingrained attitude toward children, repeatedly reaffirmed in recent court decisions, and present, at least to some degree, in almost all of us. The belief is that parents own, or at least have natural sovereignty over, their children.[10] It does not matter precisely how this belief is described, since on both views parents legitimately exercise extensive and virtually unlimited control over their children. Others can properly interfere with or criticize parental decisions only in unusual and tightly prescribed circumstances–for example, when parents severely and repeatedly abuse their children. In all other cases, the parents reign supreme.

This belief is abhorrent and needs to be supplanted with a more child-centered view. Why? Briefly put, this attitude has adverse effects on children and on the adults these children will become. Parents who hold this view may well maltreat their children. If these parents happen to treat their children well, it is only because they want to, not because they think their children deserve or have a right to good treatment. Moreover, this belief is manifestly at odds with the conviction that parents should prepare children for life as adults. Children subject to parents who perceive children in this way are likely to be adequately prepared for adulthood. Hence, to prepare children for life as adults and to protect them from maltreatment, this attitude toward

10. We can see this belief in a court case chronicled by DeCourcy and DeCourcy in *A Silent Tragedy*. The judge ruled that three children, severely and regularly beaten, burned, and cut by their father, should be placed back with their father since he was only "trying to do what is right." If the court did not adopt this belief would it even be tempted to so excuse such abusive behavior? This attitude also emerges in the all-too-frequent court rulings (see S. Katz, *When Parents Fail*, Boston: Beacon Press, 1971) giving custody of children back to their biological parents even though the parents had abandoned them for years, and even though the children expressed a strong desire to stay with foster parents.

In "The Child, the Law, and the State" (*Children's Rights: Toward the Liberation of the Child*, Leila Berg et al., New York: Praeger Publishers, 1971), Nan Berger persuasively argues that our adoption and foster care laws are comprehensible only if children are regarded as the property of their parents.

children must be dislodged. As I have argued, licensing is a viable way to protect children. Furthermore, it would increase the likelihood that more children will be adequately prepared for life as adults than is now the case.

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