



Written by [Joe Wolverton, II, J.D.](#) on May 8, 2017

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## The Founders and the Family

The Constitution holding our union together is under daily attack by those who would destroy our republican form of government. Perhaps more critical, though, is the fact that our society's most fundamental unit — the traditional family — is likewise a frequent target of a sustained direct and deadly assault by enemies of liberty.

As the family is the only reliable source of the teaching of virtue and that there is no liberty without virtue, it is easy to see why secular forces are always on the offensive against the family: Destroying the family is the surest and speediest way to abolish freedom and its blessings from the United States of America and the rest of the world.

“The only foundation of a free Constitution, is pure Virtue, and if this cannot be inspired into our People, in a greater Measure, than they have it now, They may change their Rulers, and the forms of Government, but they will not obtain a lasting Liberty,” John Adams declared.

Others of our Founding Fathers similarly identified virtue as the sine qua non of liberty and warned against its abandonment.

Patrick Henry declared, “Bad men cannot make good citizens. It is when a people forget God that tyrants forge their chains. A vitiated state of morals, a corrupted public conscience, is incompatible with freedom. No free government, or the blessings of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue; and by a frequent recurrence to fundamental principles.”

Similarly, the founder of the Sons of Liberty, Sam Adams, said, “The diminution of public virtue is usually attended with that of public happiness, and the public liberty will not long survive the total extinction of morals.”

“Only a virtuous people are capable of freedom. As nations become more corrupt and vicious, they have more need of masters,” Benjamin Franklin frankly declared.

The Father of the Constitution, James Madison, also advocated for the priority of the seeking of virtue in a republic. “To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical idea,” he wrote.

Finally, George Washington explained, “There is no truth more thoroughly established, than that there exists ... an indissoluble union between virtue and happiness.”

During the days of the Founding Generation, the contribution made by the family to the perpetuation of self-government was appreciated by everyone.

Paradoxically, perhaps, one clue as to the value assigned by our Founders to the strength of the traditional family is found in the fact that they spoke relatively little on the subject.

In a 2013 report for the Heritage Foundation entitled “The True Origin of Society: The Founders and the Family,” Scott Yenor provided an explanation for the dearth of praise for the family found among the writings of our Founding Fathers:

The American Founders did not speak overmuch about the principles of family life. Family life was not overly corrupted at the time, and there were other pressing issues to address (such as securing



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independence and writing and ratifying the Constitution). As Professor Nancy Cott explains, their political theory of marriage was “so deeply embedded in political assumptions that it was rarely voiced as a theory.”

It is, then, the contemporary corruption of the traditional family that causes us to seek wisdom from the words of the Founding Generation, men and women whose learning, virtue, and commitment to protecting the sanctity of the family make them particularly powerful allies in our effort to restore the traditional family to its fundamental place in our society.

To begin to figure out how to treat the wounds we have inflicted on the family, we must understand how deep and how potentially fatal those injuries are.

Using data as evidence of the evisceration, fewer people than ever are getting married, once married those unions produce fewer children, and whether those marriages produce offspring or not, about half of them will end in divorce, and there are few factors as fatal to the emotional well-being of a husband, wife, and children than divorce.

## **Divorce as an Agent of Big Government**

Beginning with Governor Ronald Reagan’s signing in 1969 of a bill, California became the first state to enact a “no-fault divorce” law. One state after another began following California’s lead, creating a legal scheme whereby marriages could be dissolved by one party over the objections of the other spouse.

Simply put, prior to the enactment of these “no-fault” statutes, divorces could only be enforced after an adversarial trial wherein one party would provide sufficient evidence that some “culpable act” had been committed by the other party. Qualifying acts would include adultery, abuse, neglect, abandonment, or some other similarly criminal deed. The spouse accused of the injury could present evidence exonerating or excusing the act, with a judge finally deciding whether the accusations were proven sufficiently to justify dissolution of the marriage.

No-fault divorce cleared the way for couples who could demonstrate no specific act worthy of having a third party declare their marriages to be over to nonetheless end the marriage simply by agreeing to do so and signing the necessary legal documents.

In his essay “Freedom and the Family: The Family Crisis and the Future of Western Civilization,” Dr. Stephen Baskerville describes the benefit Big Government derived from the enactment of no-fault divorce laws:

Few stopped to consider the implications of laws that turned the breakup of private households into an involuntary process. Unilateral divorce involves government agents forcibly removing legally innocent people from their homes, seizing their property, and separating them from their children. It inherently abrogates not only the inviolability of marriage but the very concept of private life.

If marriage is not a wholly private affair, as today’s marriage advocates insist, involuntary divorce by its nature requires constant government supervision of family life. Far more than marriage, divorce mobilizes and expands government power. Marriage creates a private household, which may or may not require signing some legal documents. Divorce dissolves a private household, usually with one spouse having done nothing legally wrong. It inevitably involves state functionaries — including police and jails



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— to enforce the divorce and the post-marriage order. Otherwise, the involuntarily divorced spouse will continue to enjoy the protections and prerogatives of private life: the right to live in the common home, to possess the common property, or — most vexing of all — to parent the common children. These claims must be expunged by force, using the penal system if necessary.

Given that 80 percent of divorces are unilateral, divorce today seldom involves two people simply parting ways. Under “no-fault” rules divorce often becomes a power grab by one spouse, assisted by people who profit from the ensuing litigation: judges, lawyers, psychotherapists, counselors, mediators, and social workers.

In other words, the people whose marriage is dissolved by divorce are forced, as an exchange for the ease offered by no-fault divorce laws, to submit themselves — and their children — to the control of numerous agencies of the state, none of which would have otherwise been able to assert such invasive authority over the private lives of those involved in the divorce or its aftermath.

Rarely do people, even otherwise well-meaning conservatives, consider the role no-fault divorce has had on the rapid expansion of the power and pervasiveness of government. As Baskerville notes, there is a direct and proportional relationship between the increase in divorce rates and the increase in the scope of government authority in the lives of Americans.

## **A Family Affair**

Our Founding Fathers would be confused by contemporary procedures and protocols of entering into a marriage. To them, the union of husband and wife was a private affair, influenced only by the betrothed, their families, and the church. The government was not a party to 18th-century marriages.

Renowned historian Edmund S. Morgan describes the simple steps our Founding Fathers and mothers took to go from courtship to marriage in his book *Virginians at Home: Family Life in the Eighteenth Century*: “For most young people getting married was simple enough. The couple discovered one another in the usual ways, obtained the consent of their parents, had the banns published in the parish church, and were married by the local minister.”

Notice it was the permission of parents that was required before a couple could marry, not the permission of the state!

Regarding divorce, Morgan writes that “there was no court in Virginia with the authority to grant one.”

Why would the courts be denied power to grant divorce? Because marriage, as has been shown, was a matter over which only the family and the church could exercise any degree of dominion.

In modern times, however, whether in the forming or the dissolving of marriage, Americans have granted government great sway over the family. In one way or another, there is not a single aspect of family life that is not overseen and administered by government.

For example, a couple must pay the state (in the form of a marriage license) for permission to marry. A couple must fill out federal Social Security forms upon the birth of their children. A husband (or wife) must obtain permission from the state (in the form of a business license or other certification) to practice his chosen vocation.

Should, tragically, one of the partners choose to terminate the marriage, the divorce must be approved by a judge, the plan for custody and care of the children must be likewise approved, and often, the non-



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custodial parent must submit to having his visits with his children supervised by a government agent from one department or another and his wages garnished to pay child support.

Marriage has gone from being a holy sacrament to just another government-administered activity. We have failed to understand G.K. Chesterton's statement regarding the correlation between liberty and family. "The family is the test of freedom; because the family is the only thing that the free man makes for himself and by himself," the English Christian apologist wrote.

If Chesterton is correct, then it becomes clearer why the United States of the 21st century is less and less free every generation.

The generation of our Founding Fathers, however, recognized the influence of the family on the freedom of our country, thus they praised and protected it.

## **The Founders on the Family**

Apart from their likely confusion at the contemporary methods and mayhem associated with marriage and family life, were our Founders to come among us today, they would likely praise marriage and speak out fervently for its protection and preservation. We will now examine a few examples of their strong sentiments about the sanctity of the family and the unparalleled role it plays in the peace and prosperity of a society.

In 1955, Christopher Dawson revealed that our earliest Puritan ancestors believed that family in America should be "nourished on the traditions of the Old Testament" and that it was the God-fearing families of New England that formed the "religious as well as the social basis of society."

Over one hundred years after the Puritans settled in New England, in his essay "Of the Natural Rights of Individuals," *Federalist Papers* co-author and Supreme Court Justice John Jay wrote the following about marriage and family:

Whether we consult the soundest deductions of reason, or resort to the best information conveyed to us by history, or listen to the undoubted intelligence communicated in holy writ, we shall find, that to the institution of marriage the true origin of society must be traced. By that institution the felicity of Paradise was consummated; and since the unhappy expulsion from thence, to that institution, more than to any other, have mankind been indebted for the share of peace and harmony which has been distributed among them.

There is little doubt about the immense value assigned to the family by this Founding Father. In his estimation, there is no society without marriage and family, and no "peace and harmony" without them either.

John Adams expressed a similar sentiment when he wrote in his diary in June 1778, "The foundations of national Morality must be laid in private families."

"The contract of marriage," he continues, "is not only a civil and moral engagement, but a sacrament, one of the most solemn vows and oaths of religious devotion."

James Wilson recognized that the welcome fruit of this sacrament was children. Children would learn to love and sacrifice at home. They would learn the source of authority and how to obey and respect authority that is exercised over them by those who love and care for them. They learn to love their fellow men "as themselves" and they learn the timeless value of hard work and devotion to timeless



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principles of faith and fidelity. Teaching these lessons is the obligation of parents.

“It is the duty of parents to maintain their children decently, and according to their circumstances; to protect them according to the dictates of prudence; and to educate them according to the suggestions of a judicious and zealous regard for their usefulness, their respectability, and their happiness,” Wilson declared.

Eminent jurist Joseph Story identified the family as “the parent, and not the child of society; the source of civility and a sort of seminary of the republic,” since it is in the home that the principles and the practice of self-government are taught and nurtured.

In fact, it is from Story that we get one of the fullest and most enlightened statements about the Founders’ belief in the sanctity of marriage, and of marriage as the glue that holds good societies together. Story wrote the following anonymous entry in the *American Encyclopedia* in 1836:

Marriage is an institution, which may properly be deemed to arise from the law of nature. It promotes the private comfort of both parties, and especially of the female sex. It tends to the procreation of the greatest number of healthy citizens, and to their proper maintenance and education. It secures the peace of society, by cutting off a great source of contention, by assigning to one man the exclusive right to one woman. It promotes the cause of sound morals, by cultivating domestic affections and virtues. It distributes the whole of society into families, and creates a permanent union of interests, and a mutual guardianship of the same. It binds children together by indissoluble ties, and adds new securities to the good order of society, by connecting the happiness of the whole family with the good behavior of all. It furnishes additional motives for honest industry and economy in private life, and for a deeper love of the country of our birth. It has, in short, a deep foundation in all our best interests, feelings, sentiments, and even sensual propensities; and in whatever country it has been introduced, it has always been adhered to with an unflinching and increasing attachment.

Although politically Story’s polar opposite, Thomas Jefferson agreed with him on the invaluable contribution of the family structure and function on the future success of society. Jefferson wrote the following in his commonplace book:

[In a republic, according to Montesquieu in *Spirit of the Laws*, IV, ch.5,] virtue may be defined as the love of the laws and of our country. As such love requires a constant preference of public to private interest, it is the source of all private virtue; for they are nothing more than this very preference itself.... Now a government is like everything else: to preserve it we must love it.... Everything, therefore, depends on establishing this love in a republic; and to inspire it ought to be the principal business of education; but the surest way of instilling it into children is for parents to set them an example.

Baskerville brings the works of several scholars to bear on the subject of the family as the primary locus of learning about virtue and devotion. He writes in his aforementioned essay:

Sacrifice for others begins in the family. The family is where both parents and children learn to love sacrificially, to put others’ needs before their own desires, and to sacrifice for the wellbeing and protection of the whole. If such responsibility does not begin in one’s own home among loved ones, it is not likely to begin at all. People unwilling to sacrifice for their own flesh and blood are not likely do so for the strangers who constitute their fellow citizens and country.



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Linda McClain writes that families are “seedbeds of civic virtue” and “have a place in the project of forming persons into capable, responsible, self-governing citizens.” For the American founding fathers, argues David Forte, “The bridge from reining in ‘private passions’ to producing a ‘positive passion for the public good’ was the family’s inculcation of public virtue.”

Next, Baskerville points to the pernicious effect of broken homes on the minds and mores of children so affected:

Children raised without intact families do not easily absorb concepts such as sacrificial love, family privacy, parental authority, limited government, or civic virtue. To begin with, their loyalty to their parents is divided and therefore diluted and morally ambivalent. Further, the rules and values whereby they live come to a large extent from government officials who assume ultimate sovereignty and control over their lives: courts, lawyers, social workers, forensic therapists, public school officials, public health workers, and police. These are the figures children learn to obey as much or more than their parents. Children whose authority figures are government officials cannot distinguish the private from the public and come to see the public sphere as a realm not of civic duty and community leadership but of abstract ideology, government funding, professional employment, career advancement, and state power, in whose growth they themselves acquire a vested interest.

To our Founding Generation, it wasn’t just that the family contributed to the rearing of good citizens through its microcosmic mimic of a republic. No, to that noble and virtuous lot, families were the seed beds of self-government because they provided permanent and personal examples of the differences between men and women and brought into close and clear focus the joy to be found in those differences and in the unique roles played by mother and father in the raising of children.

As described by Scott Yenor:

The Founders rely on the traditional family because they realize that mothers and fathers bring unique attributes to the practice of rearing children. This is why they endorse the idea that a husband and wife are essential to the upbringing of children toward the virtues of self-government. Several American Founders, notably Noah Webster and Benjamin Rush, describe characteristics of mothers and fathers in a way that reveals how each contributes to a complementary mixture of maternal welcoming and partisanship and paternal risk-taking and adventurousness that promotes independent self-government.

Yenor quotes Daniel Webster’s statement on this subject. The particular gifts and genius of women, Webster wrote, “enable them to implant in the tender mind such sentiments of virtue, propriety, and dignity as are suited to the freedom of our governments.”

Today, it seems that there are daily demonstrations wherein women are demanding “equal rights” and petitioning and rioting to achieve their definition of that status. These protests, however, are often dominated by graphic and vulgar scenes of homosexual and heterosexual licentiousness, void of any paean to motherhood or the role of wives in marriage.

Not only are the women who plan and participate in these demonstrations often disdainful of the traditional roles played by their mothers or grandmothers, but they constantly push for the acceptance by the American public of the many types of “families” that they claim deserve respect beyond that given by them or anyone to the traditional cast of father, mother, and children.

As is obvious to any unbiased observer of contemporary American culture, not only do the multi-





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pronged attacks on the family and the rejection of traditional concepts of marriage tear apart the fabric of our society, they also tear through the fabric of our Constitution, empowering government on all levels to intrude and rule in the home. By taking this tack, not only is marriage cast as old-fashioned and quaint, but the termination of marriage is considered quick, easy, and nobody's fault.

Through this and many other means, the enemies of liberty work to ensure that marriage is entered into later, children are delayed, and when the children do come, there are fewer of them, and the children will be raised in an environment hostile to the inculcation of virtue. And as has already been pointed out, when the virtue of a people has been abandoned, then the same can surely be said of the future fate of self-government.

## **Restoring Liberty by Restoring the Family**

As we noted, there is no liberty without virtue. The men of the Founding Generation universally believed and taught this timeless truth. When a society is torn free from the moorings of the morality of the traditional family, that society will eventually be unable to train its children to do good, to reject bad, and to cling to virtue as if their lives depended on it.

This societal shift plays into the hands of the enemies of liberty, thus they spend billions of dollars and thousands of hours devising and executing complex and comprehensive plans to accumulate absolute control over the marriage, education, and the family. Once these institutions are weakened, these foes of freedom need only wait for the certain crash that is bound to follow this rejection of personal virtue and marital fidelity.

As divorce rates rise, the power of the government does, too. A bull's-eye is placed on the traditional family, and the enemies of liberty never stop firing shots at it.

Our Founders warned us in very clear language what would happen should we reject virtue and accept the decline in family values, that is, values taught in the family and about the family. It is time we heed these warnings before it is the end of family, the end of virtue, and the end of self-government, as with the death of these priceless principles we do part from our past and our Republic.

Let us be found, then, friends of liberty, promoting strong families in our homes, in our communities, and in the laws passed by our local, state, and federal legislatures.



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