

SATURDAY REVIEW: ISSUES

Is Educating Your Own Child a Crime?

by Stephen Arons

DURING THE SUMMER OF 1977, Peter and Susan Perchemlides planned a home-instruction curriculum for their eight-year-old son, Richard. There was nothing unusual or difficult for them in this task, for these well-educated parents had taught their two oldest sons at home some years earlier. In early September of that year, the plan for Richard's home instruction was submitted for approval to the local superintendent of schools as required by state law. Eight months later, on April 6, 1978, complaints were issued in the District Court of Hampshire County in western Massachusetts against the Perchemlides for failure to send Richard to school. Dr. Perchemlides, a Ph.D. in biochemistry, had been accused of the crime of educating his own son.

The struggle between the Perchemlides family and the public school authorities of Amherst, Massachusetts, is not yet over; but the reactions of the parties, their attorneys, and the local press already show that the issue of state control over child-rearing practices touches the deepest feelings and values of American families and evokes the harshest of institutional reactions from the school system. In the narrowest sense, one economically poor but culturally advantaged family is simply seeking to educate their child within the family fabric and according to their perceptions of his needs. In a larger sense, however, the Perchemlides are asking whether there is room in America for dissent in the education of children.

The Perchemlides came to the Amherst area in 1975, drawn by the quiet beauty of the rolling hills and small farms spreading east from the Connecticut River. In their view, the academic institutions that set the tone for the area—the University of Massachusetts and Amherst, Hampshire, Smith, and Mt. Holyoke colleges—and the tolerant and progressive reputation of the schools and families in town would all contribute to the health and development of the family. This move was a substantial change from life in Boston where Peter had been first a research fellow at Massachusetts General Hospital and later a research associate at the Harvard University Medical School. Upon arrival in Amherst, Richard was enrolled in the second grade at a local elementary school, Mark's Meadow, run in conjunction with the University of Massachusetts' School of Education. The oldest two of the family's five children were enrolled in the public school system as well, and everything seemed promising.

But now the family is locked in a bitter battle with the Amherst School Department over Richard's education. Both sides claim they are acting in the child's best interest; and while neither side ascribes the actions of the other to self-interest or personal malice, there is apparently no compromise possible. At bottom, the struggle is over which side can justifiably express and seek to pass on to Richard its own values and world view, its own politics.

Looking back over the first year of what was to become a seemingly interminable controversy, Richard, now nine and a half, recalled his reactions to the one year he spent in the

public school. "If you did something wrong, everyone would laugh. You had to do it just so, and it was boring to do it that way." Perhaps this is the meaning of the story his mother, Susan, tells about Richard's reaction when asked at school to provide a caption for a drawing of a woman in fancy clothes waving at someone. Richard reportedly thought it was "a working-class woman all dressed up to go somewhere she didn't get to go to much," but was afraid that if he said this the school counselor "wouldn't like us and our family." He simply replied, "I don't know."

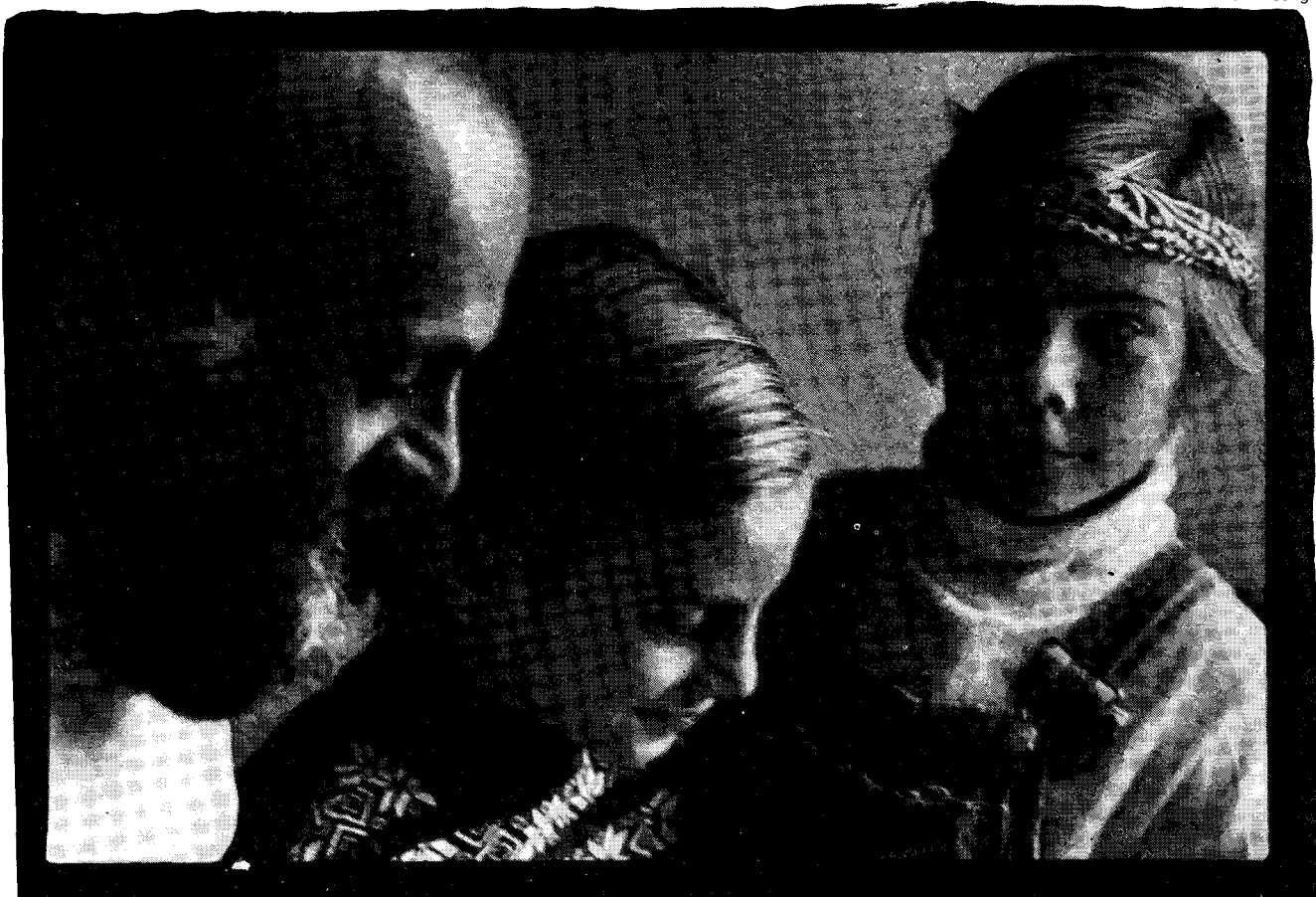
The home education plan drafted by the Perchemlides is based on not only their earlier experience in educating the older boys at home, but also on their own views of natural and social order, and most pointedly by their reaction against the values, philosophy, and practices of the Amherst School Department. The curriculum document itself is extensive, containing page after page of detailed plans in such areas as language arts, earth science, ecology, music, mathematics, nutrition and health, and physical education, including a two-mile jog each day. The document has been reviewed by numerous education experts and found to be sound. Dr. David Campbell of the University of Pittsburgh School of Education, a consultant to public and private schools on curriculum and methodology, and the author of several books and over 40 articles, found the Perchemlides' program to be "the equivalent of a first-rate private academy

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both in its tutorial system and in ... the curriculum."

When the family first raised the issue of home instruction with the Amherst Superintendent of Schools, Donald Frizzle, it apparently caught him by surprise. When asked later what his initial reaction had been, he commented, "I'd never been asked that before, and I had no particular procedures that I would normally just follow." Frizzle gave the family a form ordinarily used by the school department for private school approvals and told them to do the best they could with it. Meanwhile, he began a search for clarification of his legal powers and duties. Massachusetts compulsory attendance law requires that every child between the ages of six and 16 attend a public school or a private school approved by the local public school board, or be "otherwise instructed in a manner approved in advance by the local superintendent or school committee." The problem was not only that there were no prepared forms and procedures for the approval of home education plans, but that neither Frizzle nor the school committee had standards for making such approvals.

The Perchemlides' request for approval of home instruc-



Peter Perchemlides with Richard (center) and Keith—“Seeking to educate his children within the family fabric.”

tion is not, of course, the first time that a legal battle has been necessary to determine the relative power of government bureaucrats and individual families over the education of children. Over half a century ago, the U.S. Supreme Court declared unconstitutional one of the most blatant attempts by government to control value inculcation of children through schooling. In 1922, the state of Oregon had passed legislation requiring all children to attend public schools only. In declaring that the “child is not the mere creature of the state,” the high Court ruled it a violation of fundamental constitutional liberties for a state to seek to “standardize... children by forcing them to accept instruction from public teachers only.” Since 1925, the *Pierce* case has become a force for the maintenance of parental liberty in education, yet even in that case the Court implied that some regulation of education by the state was within constitutional bounds.

Two years later, the Supreme Court further narrowed the circumstances in which a state may restrict parental power over a child’s education. The government was prohibited from eliminating alternatives to public school and also from regulating those alternatives so extensively as to make them identical to the public school. In the 1927 case of *Farrington v. Tokushige*, the legislature of Hawaii had unsuccessfully defended a set of private-school regulations which encompassed teacher qualifications, the content of textbooks, and a teachers’ pledge to “direct the mind and studies of pupils in such schools as will tend to make them good and loyal American citizens.” As with the *Pierce* case, the Court in *Farrington* was quashing a kind of jingoistic know-nothingism that was common in the 1920s’ fear of diversity.

In the last 50 years there have been only two major cases

that further delineate the limits of government power to control education through regulation of alternatives to public schooling, both of which have had a religious basis. In 1972, members of the Amish community of Wisconsin refused to send their children to any school after the eighth grade, claiming that the worldly, competitive, materialistic values of school undercut the communal religious values embodied in the Amish society’s living church. The Court, in *Wisconsin v. Yoder*, upheld the Amish parents’ act of conscience and invalidated the Wisconsin compulsory attendance law as applied to them. The case made clear that the Amish definition of education as learning-through-doing was sufficient to meet any legitimate government interests in education.

The Perchemlides suit differs substantially from the Amish case in that the Perchemlides do not claim a religious basis for their convictions about family values and interpretation of the meaning of life, making them conscientious objectors without religious identification. It differs also in that rather than challenging the compulsory attendance law, the family seeks instead to comply with that part of its provisions in Massachusetts which makes home instruction a right. The crucial issue on this point is whether the government may so regulate a legislatively sanctioned alternative to public schooling that its distinctive quality is eliminated or conformed. Since 31 other states permit home instruction in fulfillment of compulsory education laws, the scope of legitimate government regulation is of central importance.

The second major school regulation case was *Whisner v. Ohio* in 1976. Although it, like *Yoder*, relied on religious claims, the federal court in *Whisner* ruled that the government may not use even a system of minimum standards in

the regulation of nongovernment schooling if the result is to effectively eliminate real alternatives to the public school. In spite of the negative view that both Court and Constitution have taken toward government monopoly on education, the desire to hang on to power seems to have prompted the Amherst school authorities to claim "absolute discretion" in passing upon home education plans and to dismiss the parents' plan and values as "pet educational theories."

Confronted with a unique local case and a body of legal doctrine that is forceful but not detailed, Superintendent Frizzle and his staff seem to have been genuinely confused about how to react. Perhaps it was beyond their experience to be confronted with a family that insisted on defining what was best for their child's education. But the kind of process that the school department established to deal with this situation is an indication that they perceive a threat to professional power and government control of education in the Perchemlides' request. From interviews, depositions, and internal memoranda, the picture emerges that the school authorities meant to avoid a straightforward conflict.

At the outset, the superintendent asked for the submission of a written home-education plan but did not give any standards which the parents would be required to meet. Considering that failure to meet the school department's criteria could expose the family to criminal sanctions and even, ultimately, to the seizure of their son by the State Welfare Department, this vagueness would itself be enough to merit legal condemnation as a denial of due process. Upon submission, the plan was turned over to the school department staff for evaluation. Later, the superintendent was to claim that the standards of judgment were those mentioned in the statute for the approval of private schools, namely, that the program "equals in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town." Just what this equivalence really meant has never been specified, but counsel for the family, Wendy Sibbison and James Disceglia, knew it could not literally mean "the same as" the public schools or the *Pierce*, *Farrington*, and *Whisner* cases would have to be overruled.

The school department offered a four-inch-thick sheaf of papers purporting to describe the curriculum of the school system. Was it this to which the parents had to make their plan equal? Frizzle replied, "The burden is on the person

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who wants to do this." But do the parents have to equal every detail of this curriculum? No, but the parents could not be told which aspects they had to match "because that would be an invasion of their values and policy." They must "do what they feel is proper"; then judgment would be passed.

As it turned out, that judgment was passed on the proposed program on October 7, 1977, when the Perchemlides were notified that their plan had been rejected. Although each of the four grounds on which the plan was denied was based on lack of information, the family was not asked for further details. Neither was the family ever confronted with the negative opinions of the school department's experts or given a chance to refute or counter them prior to the decision. The reasons themselves are part of the roller coaster of confusion created by the school department. Although the plan is for *home* instruction, and such instruction is a right under state statutes and court decisions, the superintendent

disapproved of the plan in part because it provides no "group experiences." The school department was unaware that a 1967 New Jersey case, *N.J. v. Massa*, dealt with just this issue, ruling that "to hold that the statute requires equivalent social contact and development would emasculate this alternative and allow only group education, thereby eliminating private tutoring for home education."

The superintendent also objected that the family had made no indication that they had the "training or background appropriate to the task you propose to undertake." Although Frizzle publicly admits his respect for the family's home life and for Peter's "immense intelligence" and "deep philosophical thinking," he notes that a Ph.D. does not necessarily know how to teach children. Yet the family had educated the two oldest sons, Greg and Steven, at home for four years; they were then enrolled in Amherst public schools where they received A's and B's their first year.

After their plan was rejected, the family sought a review of the case before the school committee, whose power is concurrent with that of the superintendent. Here the standards become still more confusing and contradictory, and the procedure becomes still more Orwellian. The school committee met five times to discuss the case. At the first meeting, the family was present with counsel, but no hearing was held because the school committee found it necessary to request additional curriculum information from the Perchemlides and to seek legal counsel on their powers in this matter. The committee subsequently received both sets of information, but never notified the parents or their attorneys of the meetings at which all the facts were to be considered, the expert opinions heard, and the witnesses examined. Considering that the parents might still suffer criminal penalties and lose their son to the state, proceedings before the school committee resembled the Star Chamber. The family had no notice of hearing, no counsel present, no opportunity to present its own expert witnesses about the quality or philosophy of the curriculum they proposed, no opportunity to cross-examine or even hear the witnesses who testified their plan was unacceptable, no knowledge of the standards being applied, and, ultimately, no statement of the reasons for the school committee's December 16, 1977 denial of their request.

During all this time, the Perchemlides continued to educate Richard at home, trying to undo what they viewed as the damage done by Richard's year in the Amherst public school. Richard, like the rest of the family, was under intense and increasing pressure as a result of the conflict with the school authorities. After a year in the spotlight, Richard would admit that he "liked being recognized." "But," he was quick to add, "I like even better just staying at home."

After the school committee's denial of the family's "appeal" and its refusal on January 30, 1978 to reconsider, the school department began to increase the pressure on the family. Up to this point, the superintendent had seen no need to "jam the law on them" and had never really questioned the sincerity of their teaching efforts or the adequacy of their home environment. In fact, in a deposition taken during this past summer, Frizzle admitted that he had implicitly approved the home instruction plan before.

Between threats, negotiations, and a general reluctance to set the wheels of the criminal law in motion, it was not until April 6, 1978, that criminal charges were finally brought against the Perchemlides under the state truancy statute. The family's lawyers, working virtually without pay because Peter was unemployed and Susan was a full-time student, immediately filed a civil suit seeking to halt the criminal prosecution, to force the school authorities to formulate standards for approval of home education plans, and to approve the family's plan pursuant to such standards.



Peter and Susan with (left to right) Matthew, Keith, and Richard—"An economically poor but culturally advantaged family."

The family's suit contends that the school committee's standards for approval of home education must be minimal. Since the family's rights of privacy, conscience, and belief are at risk in government regulation of education, the suit seeks to require that any regulation of the right of home education in Massachusetts be justified by a compelling state interest. Most important, the Perchemlides call for an end to the practice by which education standards and truancy laws are used to impose the educational philosophy and political and cultural values of the school bureaucracy upon individual families.

The case now rests before the Superior Court where, at this writing, the school authorities still seek to prevent a public hearing of the facts by taking the position that the parents have no claim and should therefore be dismissed from the court. The criminal charges have been dismissed because of the pending civil suit, but they could be renewed if the family is unsuccessful at trial. It seems unlikely that the matter will reach an out-of-court settlement or even end with the Superior Court.

It is ironic that this case should develop in the Commonwealth of Massachusetts, which considers itself the birthplace of universal education and the cradle of individual liberty in America. As the case moves beyond the personal struggle of one family and one school bureaucracy, it seems increasingly to ask whether something has happened in the development of public education to bring it into conflict with the principles of individual liberty and free and vigorous dissent upon which our Constitutional order rests.

One might have thought that this contradiction was put to rest in 1925 when the *Pierce* case denied the legitimacy of a government monopoly of schooling. One might also think

the matter was settled in Massachusetts in 1897 when the state's highest court interpreted the compulsory education statute to allow home education and enunciated the purpose of compulsory education to be "that all children shall be educated, not that they shall be educated in any particular way." The issue refuses to go away.

Perhaps it is the growth of government-operated schools as self-justifying bureaucracies which highlights the parents' perception of their differences from public school ideology and moves them to resist. And perhaps the absence of more such resistance is explained by the flattening of cultural diversity and personal individuality that is left in the path of the public school steamroller. At any rate, the Perchemlides have brought forth out of their personal life, and at substantial personal risk, a serious question. (See box, page 20.)

For over 100 years, Americans have assumed that education decisions are properly the province of the political majority. For 50 years, we have admitted the danger of such an assumption only when dissenters could ascribe their views to some organized religious theology. The Perchemlides seek nothing more than their due under a state statute which creates the right of home education. But their actions have turned our assumption into a question. Can a politically democratic and individually robust society afford to allow majority control of value inculcation in schooling, or does the freedom to learn, to form beliefs, and to develop personal consciousness free of government coercion need the same protections as the freedom of speech and religion?

Stephen Arons, an attorney and professor of legal studies, frequently contributes to Saturday Review.

Conformity in the Classroom

The Perchemlides family claims that the professional literature of education provides no empirical basis for preferring one educational philosophy or method over another. They claim that the family educational plan and the school educational plan are of equal professional worth. A choice between any two educational programs, from a professional viewpoint, may then mean that many of the differences between the parties are differences in values, values that influence a person's understanding of society, nature, and the meaning of human life and individual action.

Peter Perchemlides, after trying for 18 months to influence Richard's public school education, and serving on numerous public school planning committees, believes he sees the predominant values in the hidden curriculum of the Amherst public schools. They are conformity, anti-intellectualism, passivity, alienation, classism, and hierarchy. So far his struggle to reverse these values has taught him a lesson.

In Susan Perchemlides' view, the public schools "break down and categorize curriculum, and they break down and categorize children, too." It is tracking in disguise, a means of defining a child in a limited sphere and then working to internalize that image in the child's mind. After a few months at Mark's Meadow, she says, "Richard seemed to lose his openness and ease with adults and older children and retreat to shyness." Susan attributes this development not only to fear, but also to the imposition of the idea that a seven-year-old "is supposed to be into TV and games and not aware of the world around him, that he is most comfortable with kids his own age and has a developing consumer consciousness." Here is how Richard put the matter in an affidavit submitted to the court in mid-September:

I was embarrassed at school—at first because it was new, but later because I was laughed at. I was at a beginning level in some things and they didn't understand why. It made it hard for me to do the work even if I wanted to.

I like it better here, at home. My parents teach me some things that are really different. We do music, art, math, cooking, earth sciences, gardening, ecology, astronomy, reading, writing, spelling, and yoga. Reading is different from how it was at school. I'm reading some now—books that are more interesting...like *A Cranberry Thanksgiving*. I'm not embarrassed, and I like to check out the

other kids on the stuff I'm learning—they don't know it. Some of them called me dumb because I don't go to their school, but they found out I was learning a lot. Most of the kids think I'm lucky.

Forty-two and balding, his face framed by a full dark beard lined with traces of gray, Peter thinks the problem of "fit," of conformity, is central. "The school looks for behavioral patterns in kids and when the kid departs from what they expect and see the majority doing, then this represents to them some kind of problem and their function

then is to identify the problem and develop a program to deal with it." Richard's individuality and his family's individual values became a handicap rather than a strength in this setting.

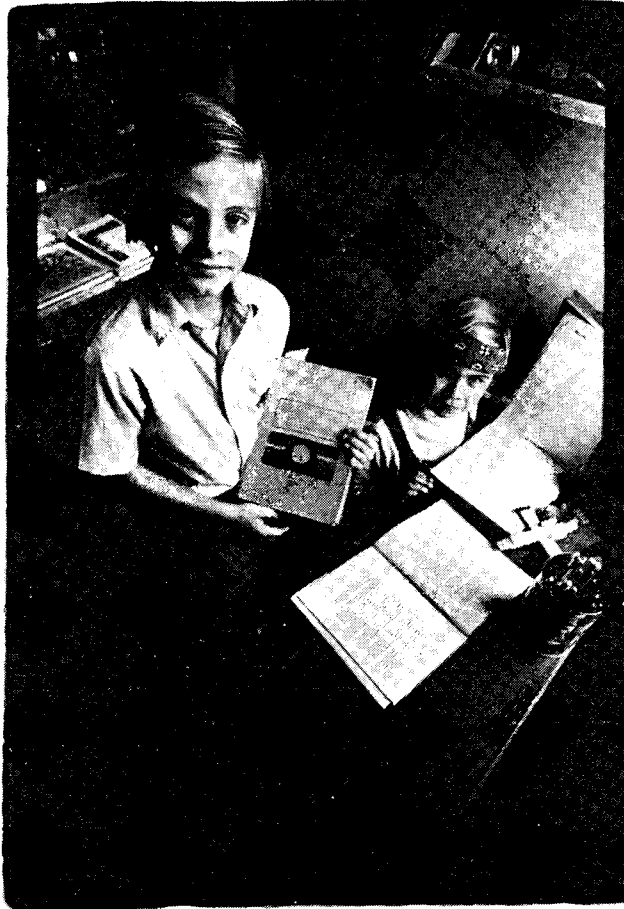
The family sees anti-intellectuality in the "school's failure to come to grips with differing and critical perspectives. The school impresses on kids in subtle ways that they do not have the potential to function in sophisticated ways at diverse things." The importance of social skills is stressed to the exclusion of any others, so that a child feels he must search for a role in life. This is reinforced by the child's seeing that janitors, students, teachers, administrators are arranged in a hierarchy of importance. The child becomes preoccupied with "Where in this hierarchy do I fit?" Passive acceptance of the existing order and an inability to think outside of self-interest result.

Susan, a strong blonde woman of 37 with a serene intellectuality, says she does not like the school's attitude that the family is "confusing" the child by teaching him on a

less simplistic level than he receives at school. She is a university student of social thought and political economy, but she was raised in Appalachia and she says she is insulted by the school's undercutting of the family's class-consciousness, its views on social justice, and its values about the relationship of man and nature. She does not think that "confirming Richard as an outsider" will aid in his critical thinking, but will instead be destructive.

Richard is like any other 9-year-old—active, bright, alternately self-absorbed and disarmingly frank. I asked him how he would explain the family's problems to someone who had never heard about it before. "You couldn't get it just right, 'cause it's so hard," he observed. What will happen if you lose your case? "If I had to go back to school now I'd be really angry."

S.A.

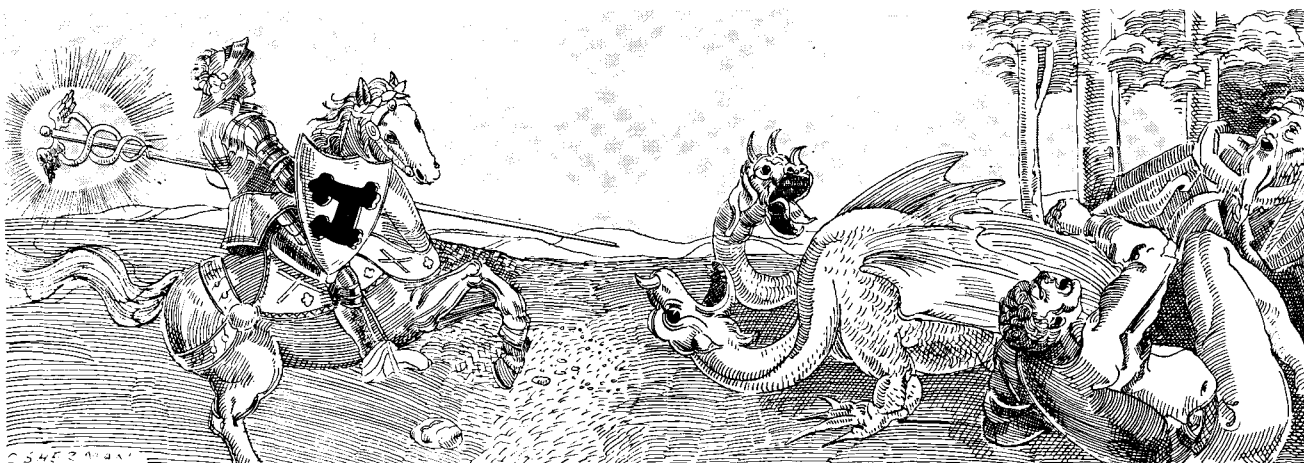


Richard and his ecology book—"It's better at home."

SCIENCE LETTER

Interferon: Medicine for Cancer and the Common Cold?

by Albert Rosenfeld



INTERFERON. A chemical that interferes. A mystery molecule made by the body itself to thwart the subversive intentions of invaders.

Because the American Cancer Society (ACS) has announced the launching of a \$2 million program to test it clinically, interferon is already being referred to as a "cancer drug"—which it may well prove to be. But those who have been studying interferon for its multiple other potential uses fear that, should it perform disappointingly in its cancer trials—if it is only marginally useful, for instance, as has been the case with so many other promising anticancer agents—then, as one scientist puts it, "Interferon may become a dirty word, because 'It was tried and didn't work.'"

In fact, interferon gives early promise of becoming one of the most versatile medications of all time—even if it should fail against cancer. It is by far our best hope, for example, for conquering the common cold. Indeed, in preliminary trials carried out in England in human volunteers, interferon in the form of a nasal spray has already demonstrated a significant protective capacity against cold and influenza viruses.

For a while, the principal hope for long-term relief from the common cold was a multivirus vaccine; but researchers have now virtually given up the vaccine project because colds may be caused by more than a hundred different strains of viruses. (The polio vaccine, by contrast, had only three strains of polio virus to contend with.)

But viruses are precisely what interferon interferes with. And its prospects lie in its ability to combat not merely one specific virus but a whole spectrum of viruses. It could prove to be an antagonist to almost all viruses. Virtually every cell in the body—except red blood cells, which, in mammals, have no nuclei—can produce interferon when challenged by a virus. Animal experiments have offered strong suggestive evidence that interferon may well serve as prophylaxis against, or therapy for, viral diseases ranging from shingles to eye infections, from encephalitis to hepatitis. It looks so promising in the case of rabies that even cautious investigators are predicting that it should at least enhance the effectiveness of the rabies vaccine; those less cautious believe it will supplant the vaccine altogether.

The whole updated story is told in a book-length special issue of *Texas Reports on Biology and Medicine*, published by the University of Texas Medical Branch (UTMB) at Galveston. Called "The Interferon System: a Current Review to 1978," the volume contains 76 articles by interferon investigators the world over.

INTERFERON was discovered back in 1957 by the late Alick Isaacs, the brilliant British investigator, and his Swiss colleague at Oxford, Jean Lindenmann. What spurred their curiosity was the well-known but puzzling fact that a patient rarely contracts two viral diseases at the same time. One might guess, through common sense and

logic, that a human body already weakened by a bout with one virus would fall prey all the more easily to the next viral invader. Yet, even in laboratory tissue cultures, it has proven difficult to infect cells with more than one virus at a time; and investigators have long since learned that two live-virus vaccines cannot be administered simultaneously at the same body-site without some degree of mutual interference.

Another puzzle for researchers and physicians alike was why, considering the way viruses work, so many viral diseases seem to be "self-limiting," carrying their depredations only so far and no further. The known facts about the body's normal immune defenses did not suffice to explain this viral containment. When a virus invades a cell, it usually takes over the cell's metabolic machinery, somehow shutting off the flow of genetic instruction from the cell's own DNA and instructing the cell to manufacture instead mainly viral proteins. Thus it may often effectively destroy itself and turn loose a host of new viruses ready to invade the surrounding cells. What no one knew, until recently, was what made the virus's takeover end of its own accord.

The careful studies of Isaacs and Lindenmann made history by providing answers to both these puzzles. They discovered that a cell, when first challenged by a virus—before that virus takes over completely—produces the protein they named interferon. Though interferon does not itself attack viruses, it triggers the production of another substance simply called antiviral pro-