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# The Voluntaryist

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Vol. 3, No. 2, Whole #14

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

February 1985

## An Introduction To Voluntaryist Strategy

by George H. Smith

Libertarians opposed to electoral politics are often criticized for failing to present alternative strategies to achieve a free society. This is false, of course, and it was false long before The Voluntaryists came along. Robert LeFevre, who has been warning against the hazards of electoral politics longer than any of us, has discussed strategy at length, as has Sam Konkin. But their ideas are sometimes dismissed not as simply wrong or inadequate but as non-strategies. A true strategy, we are told, has parties and cadres and platforms and campaigns and so on. In brief, the critics of Voluntarism often define strategy in a way such that nothing except a political party will qualify.

As the Libertarian Party continues its nose dive into political oblivion, this strategic elitism will lose even superficial plausibility. The strategic "vision" of Rothbardians in particular requires corrective surgery after the recent electoral disaster. Having purged Craniac deviationists from the Party, the Rothbardians lack scapegoats and so must explain the failure by other means. We eagerly await the issue of *Lib-Forum* wherein Murray Rothbard presents a Talmudic interpretation of how the dismal LP showing is really cause for optimism. (We suggest, however, that this issue be entitled *Ad-Lib Forum*.)

Meanwhile, it is back to square-one for many dissipated members of the Libertarian Party. This is the time to examine strategy anew and to decide whether options other than electoral politics are feasible. Here I wish to sketch the theoretical foundations of a Voluntaryist approach to strategy. But first a disclaimer.

Strategy is a realm so vague and uncertain that even the best of strategic theories are little more than educated guesses. Strategy is not a science, *i.e.*, a systematic body of knowledge. At best strategy is an *art*, *i.e.*, an application of theory to practice guided by our knowledge of principles, history, present circumstances, and ultimate goals.

All strategies must confront the dynamics of social and political change. Usually this change is gradual (except during revolution) and results from the unplanned coordination of many individuals. Libertarians should be especially sensitive to the role of *unintended consequences* in social change, because a theory of spontaneous order is central to our social theory. Just as unintended consequences wreak havoc with theories of social planning, so they wreak havoc with theories of strategic planning. For what is a strategic theory, in the final analysis, except a kind of social engineering? The strategist has a theory of social causation: put these causes in place, he argues, and certain effects should follow.

But between the seeming necessity of cause and effect, there stands the individual and his subjective evaluations. This unpredictable creature renders foolish an army of social planners with their phoney predictions, and he threatens to render equally foolish the libertarian strategist who, having correlated the "subjective conditions" with the "objective conditions," confidently foresees Liberty around the next bend.

A healthy respect for unintended consequences and their strategic implication — the impossibility of social forecasting — immediately rules out certain kinds of strategic theorizing. Any theory based on deterministic presuppositions (Leninism, for example) cannot be adapted to Libertarian purposes. But given the uncertainty haunting the strategic enterprise, is *any* coherent strategy *possible*? Yes, and we can look for guidance to the way economic theory deals with a similar problem.

Austrian economics begins with the subjective valuations of purposive human beings. Austrians concede that economic forecasting is impossible, owing to unknown and uncontrollable variables, but they do admit a kind of *qualitative* prediction. If we inflate the money supply, for example, we can generally predict a rise in prices. These qualitative predictions are based on an *institutional analysis* of the market. If we understand the basic mechanism of the free market, the dynamics of supply and demand, we can then "predict" distortions in the market caused by governmental intervention, although such predictions will lack quantitative precision.

Faithful readers of **The Voluntaryist** will recall that I discussed the subject of "institutional analysis" at length in early issues of this journal. I maintained that an institutional analysis of the State, leading to the conclusion that the State is invasive *per se*, is essential to the Voluntaryist case against electoral politics. I was especially critical of political anarchists who, seemingly afflicted with a kind of intellectual schizophrenia, railed against the State in theory while seeking its offices and power in practice. Surely, I argued, the anarchist analysis of the State should play a major role in developing a theory of libertarian strategy.

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# **The Voluntaryist**

## **Subscription Information**

Published bi-monthly by **The Voluntaryists**, P.O. Box 5836, Baltimore, Maryland 21208. Subscriptions are \$10 per year, \$18 for two years. Overseas subscriptions, please add \$5 for extra postage (per year).

Editor: **Wendy McElroy**

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**Please Note:** After this issue, rates increase to \$15 per year, \$25 for two years. Resubscribe now.

Why is this institutional understanding of the State so crucial to strategy? Because an institutional analysis of the State — an understanding of its structure, function, and basic goals — plays the same role in strategy that an institutional analysis of the market plays in Austrian economics. It allows us to frame a coherent theory in the face of unintended consequences and radical uncertainty. If we understand the dynamics of the State as thoroughly as we understand the dynamics of the market, then we can formulate some general principles whereby to predict the consequences when Libertarians attempt to “intervene” in the State in an effort to achieve their goals.

What does a libertarian say to a well-intentioned politician who wishes to impose a price ceiling? We tell him that his intentions are essentially irrelevant to the outcome, that his action will have unintended and detrimental side-effects. If he asks how we know all this, we refer him to our *theory of the market*. If he produces case studies which purport to show how price ceilings have not caused shortages in the past, we are unmoved. We refuse to abandon our theory to empirical data enshrouded in unknowable variables. In the long-run, we argue, the detrimental effects will come. We cannot say exactly when and to what degree, but they will come.

From our theory of the market there emerges a “strategy” of what to do. We respect justice in property titles and leave the market alone. Our theory “predicts” that this strategy will produce optimal results, but it cannot tell us precisely what these results will be. “Optimal,” in this context, is a relative term. It means that the results of nonintervention will be better than any other alternative.

Now, the parallel between economic theory and strategic theory should not be pressed too far, because the disciplines differ in significant ways, but how we use a theory of the market to overcome the uncertainty generated by unintended consequences contains an important lesson for libertarian strategy. The lesson, in a nutshell, is this.

When developing “strategy” which involves complex institutions (the market in one case, the State in the other case), libertarians should ground their policy recommendations in theoretical insights concerning the relevant characteristics of the institution(s) involved.

This proposition seems uncontroversial in economics. Why it is ignored by political anarchists when it comes to strategy remains a mystery, at least to me.

What does a Voluntaryist say to a well-intentioned LPer who wishes to join the State? We tell him that his intentions are essentially irrelevant to the outcome, that his actions will have unintended and detrimental side-effects. If he asks how we know

all this, we refer him to our (anarchist) theory of the State. If he produces case studies which purport to show how libertarians have used the State to further liberty in the past, we are unmoved. We refuse to abandon our theory to empirical data enshrouded in unknowable variables. In the long-run, we argue, the detrimental effects will come. We cannot say exactly when and to what degree, but they will come.

I maintain that a Voluntaryist strategy is optimal when compared to political strategies, because it flows from an anarchist theory of the State. Political strategies, on the other hand, fly in the face of these insights. No one can predict the results of Voluntaryist strategy (or any strategy), but we can use our theory of the State to “predict” which approach is *more likely* to produce the desired results. We use our principles not to eliminate uncertainty — clearly impossible — but to reduce it to a minimum.

## **Freedom School II**

**by Carl Watner**

The decade from 1957 through 1967 was unique in the history of individual liberty because it was witness to the existence of The Freedom School in Palmer Lake, Colorado. The school idea was the brainchild of Robert LeFevre. The reality of the school was made possible through his dedication, as well as the effort of four “pioneer” libertarians who assisted him: his wife, Loy, and three long-time friends, Ruth Dazey, Marji Llewellyn, and Edith Shank. The purpose of this paper is to briefly sketch the history of the original Freedom School and outline its successes and failures. The reason for doing this is the author’s belief that now is the time for the creation of a Freedom School II. An insight into the nature and operation of the earlier Freedom School should bolster such a project if undertaken today.

The idea of the first Freedom School originated with Bob in the very late 1940’s or early 1950’s, during the time that he was thinking through the issues of the relationship between limited government and human freedom. After World War II, he had been engaged in business in San Francisco. His confrontations with local government made him realize that no matter how limited government was there was still an irreconcilable contradiction between government coercion and taxation and the right of the individual to control his or her own property. During the 1950 primaries, Bob had run as a Republican candidate for Congressman in the 14th District in Los Angeles. His political career had been disillusioning. Eventually he came to the realization that all government and tyranny are grounded on general public acceptance. Thus public education and teaching people to think for themselves were the most crucial means of challenging governmental legitimacy.

Bob had discussed his ideas for a freedom school both with Leonard Read, the founder of the Foundation for Economic Education in New York, and F.A. “Baldy” Harper, a one-time Cornell University professor who worked with Read. They all agreed that the creation of such a school was desirable, but neither Read nor Harper believed that such a project would be financially feasible. Where would sufficient money come from to sustain such a school? Bob rejected their conclusion because he had a dream. That dream was to become reality in the years to come.

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In 1954 Bob's mother died, leaving him some \$4000 in her estate. With that money as down payment, in late Fall 1955, he purchased 320 acres of mostly mountainous land in the Rampart Range of the Rockies. Here he and his companions lived and began the work needed to create a modest but attractive school campus. His employer, Harry Hoiles, the publisher of the *Colorado Springs Gazette Telegraph*, permitted him to devote time to the school without a reduction in pay. His wife Loy became housekeeper and eventually facilities manager, while Marji, Ruth, and Edith held outside jobs to supplement the school's income. Eventually Marji was to become the school's full-time librarian, Ruth became the school's secretary and administrator, Edith, its bookkeeper and accountant. Bob, with no college degree or teacher training, became the school's premier instructor.

1956 was spent constructing the rustic log cabins used as permanent staff residences and classrooms. Bob never really had the money to create a school. The land was mortgaged from the start. Harry Hoiles graciously loaned him \$7000 to construct the cabins. In June 1957, the first official classes were conducted. Students, men and women over 16 years old, enrolled in two-week sessions throughout the summer and fall to study the nature of man and the nature of government. At first visiting teachers, many of them the outstanding libertarians of the late 1950's and early 1960's, were invited to spend weekends at the campus delivering lectures. Later, when the school and accommodations grew, week-long lectures by outside visitors were offered. Read, Harper, and others like Rose Wilder Lane, Frank Chodorov, and Percy Greaves were all associated with the school from its inception.

What made the school attractive and how did it draw students? First of all, the school's location in Colorado gave the impression that the stay at the school was to be something like a vacation at a dude ranch. As the school grew, it eventually acquired a string of 23 riding horses, which lent a romantic aura to the school's western image. As Bob has written elsewhere, "People came to enjoy themselves and they did so. The food was 'tops.' The surroundings were glorious. The staff was marvelous and well-trained." The library eventually housed nearly 10,000 books. The school had tests, personal interviews, personal evaluations — "the personal touch at all times to let each person grow aware of how important he or she was and how important their own self-control remained."

In short, the leisurely pace and school-like setting allowed time to understand the fundamentals of freedom. The amenities, the classroom discussions, the exams, the library, all enhanced the students' desire to think for themselves. "Without having been trained (except as an actor), LeFevre tuned in to where the minds of his students were when they came. He met them there. He employed the Socratic method (without knowing what it was), and offered illustrations and humor to make his points. To the extent possible, the tempo was relaxed. He encouraged discussion and debated with one and all. He was patient, always giving the other party plenty of time to climb on the bandwagon."

In his autobiography, LeFevre describes his early view of the school. He saw it as a ten-year experiment: to see if they could get 100 students a year for each of 10 years. At that time, LeFevre asked, "How many really consistent people are there in the country now favoring the position that I recommend?" Not many. Most people only want free enterprise at tax time and then demand government assistance the rest of the year. LeFevre's idea was to offer a logically consistent case for an all voluntary society, one where no coercive government existed. The voluntarist alternative, that people should be self-responsible, should exercise self-control, and provide either cooperatively or competitively all the protection services that they themselves required (without resort to taxation or theft) was the gospel according to LeFevre.

From its inception, the Freedom School exhibited success. As it slowly attracted students, its reputation grew and by its demise the school had exposed several thousand students to the idea of "liberty as the mother, not the daughter of order." Despite its growth, the school was never financially secure. For the most part it experienced a hand-to-mouth existence, that depended primarily on contributions which LeFevre raised himself. Only about one-third of the students paid their own way; the others were supplied with scholarships out of contributors' funds. As LeFevre describes it, "There was no money. There never was any. Certainly, I raised a great deal. (His efforts during the life of the school brought in close to two million dollars.) But the effort began by going into debt. Then we worked frantically to meet the payments on the debt and to bring in, additionally, all the funds necessary to keep the operation afloat. The financial sword of Damocles hung over my head every instant."

The turning point came during the summer of 1965. Within a few hours, a monstrous storm delivered some 14 inches of rainfall to the Colorado Springs area. Water damage and mudslides destroyed more than \$150,000 of improvements on campus. Although LeFevre was able to raise an emergency fund of \$80,000, he had to borrow the rest from a local bank. The school was rebuilt, bigger and better. At the same time, a number of operational decisions which LeFevre had made in the past conspired to pull the school down. First, LeFevre had reduced the two-week sessions to one week, in order to placate businessmen who protested they could not afford to send people to the school for two weeks. Secondly, LeFevre was faced with the tension of running a governmentally tax-exempt school which favored free enterprise in all areas. If the school could not run itself on free enterprise principles, how could it seriously advocate those principles for anyone else? [1] Thirdly, LeFevre began to believe that it was necessary to bring the school "into the 'main stream' of public interest by enlarging the curricula and offering courses in economics, history, philosophy and kindred disciplines so as to attract graduate students as candidates for advanced degrees. This (which took place during 1966 and the early part of 1967) was the final major error."

Consequently, the school was faced with a financial disaster because its costs were mounting, while its income plummeted. The graduate program had to be terminated, when the bank informed LeFevre that no further loans would be made. No matter how LeFevre figured it, the school had to cease operations in Colorado. It owed approximately half a million dollars on the land (some 200 acres adjacent to the school had been purchased in the mid 1960's) and on contingent liabilities and obligations. Eventually the campus was sold and all the bills were paid. In 1968, the Freedom School, which by that time was known as Rampart College, moved to Santa Ana, California, where it managed to barely exist in truncated form for another five or six years.

Now why does the author of this article believe that, 15 years after the demise of the Freedom School, it is time for Freedom School II? The answer to that question is largely premised on the view that education is the most moral and effective way to promote libertarian ideas. Politically speaking the last decade has been disastrous for libertarians because people were led to believe that electoral politics could change things around. No intellectual foundation was ever laid. Had the money spent on trying to win elections been spent on a Freedom School, the educational efforts would have resulted in many thousands of people becoming well-informed and self-disciplined individualists. The political process will never accomplish this; nor will violent revolutionary attempts to alter the structure of government or society succeed, because attitudes and ideas have to be changed first. When the Freedom School was operating it contributed enormously to the compre-

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hension that thousands of people had for the meaning, significance and implications of human liberty. "More persons were taught personal self-discipline, self-control, personal responsibility, and independence than at any other time in this century."

The existence and creation of an all-voluntary society depends on there being sufficient numbers of informed, thinking people who accept personal responsibility for their own existence and who refuse to resort to violence in any form. The person who convinces himself that voluntarism is humane, moral and practical remains convinced forever. As LeFevre has written, "From this procedure there can be no backlash. More and more persons, self-motivated and self-controlled, simply stop engaging in the existing social devices which impose on others. They break their ties with the existing political structures; not by violence, not by trying to obtain majorities or using force, but by understanding and then thinking differently about the whole area of human relationship."

The educational process is a very slow one because "the feedback loop in ideological endeavors is a very long one. But if the job is well done, the loop closes in time. Ideas grow best when they are allowed to flourish on their own. They often grow wild, but that never detracts from their value. Freedom is not an end to a great effort, it is the method that must be employed in all efforts." Freedom School II and other efforts that it would spawn are part of that method. If one takes care of the means, the end will take care of itself. There is no short cut to the fact that "freedom depends upon education and understanding. Each person frees him or herself. When that is done without inhibiting others, only then does that person add to the total amount of freedom in the world."

Carl Watner  
December 1984

#### Footnotes

[1] Competitive businesses do not usually ask their customers for contributions. They normally offer goods or services which their clients prefer instead of keeping their money. There was certainly nothing unlibertarian about the Freedom School asking for and accepting voluntary contributions. In fact people who made contributions were demonstrating that they would rather live in a country where a Freedom School existed, rather than in a country where one did not exist. Although LeFevre philosophically urged tax exemption for every person and business, the school found it difficult to survive in a governmentally distorted educational market without providing some way for its patrons to deduct or expense their support of their school from their tax liabilities.

## Business Keeps Business Honest

by William Vandersteel

We take it for granted that the ordinary business contract — perhaps the most vital element of modern commerce — would be completely ineffectual without the vigilance of our courts and legal system. But as George Gershwin once wrote, "It Ain't Necessarily So." How often have we heard the comment that a contract is no better than the integrity of its signers? Are businesspeople really kept honest by the threat of legal retribution, or are there other incentives at work that induce them to play the game by the rules?

A review of this subject suggests some surprising conclusions. Not only does our justice system serve little purpose in trade and commerce but its very presence is often counter-productive, as is shown by the many businesses and industries that thrive as though our justice system did not exist.

One striking example is the wholesale diamond industry, where the world's most valuable, easily concealed commodities move safely from hand-to-hand in neatly folded sheets of tissue paper carried in the pockets of dealers, traders and messengers in search of buyers.

The significant characteristic of the diamond industry is the mutual trust with which diamond merchants deal with one another. This trust is not so much motivated by a basic moral sense as each trader's realization of his or her own self-interest.

The diamond industry is not alone in operating on the premise of mutual trust. The New York Stock Exchange is another example, where contracts valued in the millions are committed with a simple telephone call. What these industries have in common is their recognition that dependence on our government's justice system is as impractical as it is counterproductive. Any attempt by these industries to operate under standard norms of contract law, administered by lawyers and enforced by courts, would bring the diamond industry and the New York Stock Exchange to a screeching halt.

A particularly noteworthy example of this phenomenon of mutual trust is the illegal numbers game (labeled the numbers "racket" by politicians) that flourishes in large cities like New York. No one ever questions the fact that winners always collect. In New York it is rumored that if someone is forcibly relieved of his or her winnings, the underground will promptly reimburse the loss for fear that some might think they were implicated in any way. This interesting phenomenon raises a curious philosophical question: "Why is it that a game run by known crooks should be scrupulously honest?"

The answer has little to do with moral values as it is presumed that crooks don't have any. It is obvious to those who run the numbers game that rumor of any failure to pay winners would spread like wildfire and in short order their business would wither and die. Even more interesting is the fact that anyone unable to collect would have no recourse to the justice system as it would be hard to imagine anyone appealing to State authorities to help them collect their illegal winnings.

The conclusion is inescapable that the very absence of "protection" afforded by our justice system, in and of itself, forces all participants to act honestly in their own selfish interest.

What is the purpose of our justice system in trade and commerce? Imagine for a moment trying to operate a business without the enforcement measures provided by our justice system. Two businesspeople drafting a contract for a certain business venture would be aware that its terms are wholly unenforceable and either party could walk away from the contract whenever it suited his or her purpose.

Some might say that all business would cease as no contract would be enforceable, but the diamond merchants and the stock exchange clearly prove the contrary. The fact is, business would thrive in the absence of our coercive justice system, but an enormous premium would be attached to the integrity of all participants. Before entering into any contract all parties would take great pains to ascertain the integrity of each participant, knowing full well that the performance of the contract rests solely on their reputation for honesty.

By the same token, individuals would strive always to act properly and with the highest integrity, knowing equally well that any blemish on their reputations would virtually bar them from participating in any future business ventures. All this leads to the inevitable conclusion that the very presence of a government

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justice system, along with the coercive enforcement measures, invites fraud and crime and tempts individuals to substitute force for integrity.

Businesspeople have long known that reliance on the courts to resolve contractual disputes is misplaced. Not only does it introduce unacceptable delays and unreasonable legal expenses, but the ultimate resolution may hinge on a legal technicality that is barely germane to the issue. As a result, most business contracts today provide for arbitration in the event of a dispute that the parties cannot resolve by negotiation.

The purpose of arbitration is to have a neutral third party who is familiar with both sides of the dispute make a reasoned judgement on an equitable settlement. The procedure is swift and efficient and almost invariably leads to settlements that satisfy all parties. The very growth of arbitration in recent years is mute testimony to the ineffectiveness of our court system.

Our system of justice instills in us a false sense of security. We tend to think it makes no difference with whom we trade because we can always depend on "the law" to make him or her toe the line. The fact that our guard is down invites the less scrupulous to operate, with the result that the incidence of contract breach and fraud is much higher than it otherwise would be. Not surprisingly, these violations are then cited as the justification for more stringent laws and regulation.

If voluntary arbitration was the only means to resolve contract disputes, businesspeople would be far more discriminating in selecting those with whom they deal. The free market still provides the greatest discipline for the orderly conduct of business affairs.

Thomas Jefferson was right when he said, "That government which governs least governs best." Our Constitution recognizes that "We the People" are basically self-governing and consequently limits the powers of our government. Under these terms, the government has no power to interfere with the freedom to trade, representing the voluntary exchange to mutual profit between free persons whose integrity is motivated by self-interest.

The United States Supreme Court once ruled in a sex-related case that behavior between consenting adults was none of the government's business. This ruling is correct in principle and should apply across the board. Trade is one form of behavior between consenting adults and, therefore, should also be none of the government's business.

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# What Does It Mean To Be An Individual?

## Self-Ownership Is Key To Abortion

By Wendy McElroy

*The abortion debate in America is no longer an honorable one. Recent bombings of abortion clinics have received the de facto sanction of the F.B.I. through their refusal to handle the bombings as terrorist acts. Even those anti-abortionists who distance themselves from the violence lend it support by appealing to the public to understand the noble motives of the bombers; namely, to prevent the murder of children.*

*It has become necessary for libertarians to take a firm, loud stand on the right of women to abort. We hope the following article provides intellectual ammunition.*

When I was 18, I chose to have an abortion. Accordingly, the question I am addressing here is nothing less than whether I have committed murder. If the fetus is a human being with individual rights, then I am among millions of women who have committed first degree, premeditated murder and I should be subject to whatever penalties are imposed upon that crime. The fact that I did not know I was killing a human being is irrelevant, just as the state of knowledge of a racist who kills blacks while believing them to be animals is irrelevant to the fact that he has committed murder. If you shy away from such prosecution, you are shying away from the anti-abortionist position.

Before advancing the pro-choice position — to which I subscribe — it is necessary to make an important distinction. It is necessary to distinguish between *morality* and *rights*, between the moral and the legal.

Peaceful activities may be moral or immoral, but they never violate rights. Taking drugs, gambling, or lying to a friend may or may not be immoral, but they are not a violation of rights. In libertarianism, the purpose of law is to protect rights, not to enforce virtue as such; the law does not concern itself with the morality of an action but asks only if it is invasive.

Many people oppose abortion on moral grounds without considering it to be a violation of rights which should be addressed by law. I have no argument with this particular anti-abortion position. My argument is with anti-abortionists who attempt to translate their personal moral convictions into laws restricting what I may do with my body . . . those who advocate mandatory motherhood.

Although libertarianism is often expressed as "the non-initiation of force" or "anything that's peaceful," there is a more fundamental theme running through libertarian thought. The Levellers in 17th Century Britain called it "self-proprietorship;" Josiah Warren, the first American anarchist, referred to "the sovereignty of the individual;" abolitionists in opposing slavery used the concept of "self-ownership" — that is, every human being simply by being a human being has moral jurisdiction over his or her own body. The principle underlying libertarianism — the reason it is wrong to initiate force against anyone — is that it violates that person's self-ownership. This moral jurisdiction is what I mean by the term individual rights.

The concept of rights is key to the abortion issue. Anti-abortionists claim that abortion violates the rights of the unborn fetus. Pro choice advocates contend that restricting abortion violates the rights of the pregnant woman. I also contend that the fetus is not a human being. It possesses no rights. Up until the point of birth, it is not a self-owner.

To say this is not to deny that the fetus is in some sense alive, or that the zygote is a *potential* human being. A potential is not an actual, however; it is a hypothetical possibility. To their credit, Libertarians for Life (the libertarian anti-abortionist organization) does not ascribe individual rights to the fetus on the basis of its potential, but on the assumption that at the *instant of conception* — at the moment there is a fertilized egg — there is a human being with individual rights.

The essential question becomes: "What does it mean to be an individual?" For only by being an individual can the fetus possess individual rights. When defining a thing, it is necessary to ascertain the fundamental characteristics, the characteristics without which it would be something else. With human beings, you subtract accidental characteristics such as race, sex, and hair color until you are left with the things which cannot be subtracted without destroying humanness itself. One such characteristic is a rational faculty.

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An essential characteristic — indeed, a prerequisite — of considering something to be an individual is that it be a discrete entity, a thing in and of itself. Until the point of birth, however, the fetus is not a separate entity; it is a biological aspect of the pregnant woman which possesses the capacity to become discreet. At birth, the fetus is biologically autonomous and is a self-owner with full individual rights. Although it cannot survive without assistance, this does not affect its biological independence; it is simply the dependence that any helpless individual experiences.

Let's rephrase this argument: having a DNA encoding, which is all that is provably present at the point of conception when rights are assigned, is *not* sufficient grounds to claim individual rights.

What is missing? The missing piece is individuality . . . autonomy . . . a biologically discreet person. As long as the fetus is physically within the woman's body, nourished by the food she eats, sustained by the air she breathes, dependent upon her circulatory system, it cannot claim individual rights because it is not an individual. It is part of the woman's body and subject to her discretion.

Birth is the point at which the fetus becomes an *actual human being*. There is no point, other than conception, at which such a clear, objective change occurs in the status of the fetus. All other changes are a matter of degree rather than of kind and, thus are, inadequate for legal theory which demands a definable point of enforcement.

Anti-abortionists often detail the physical development of the fetus, the development of toes and brainwaves, in order to give weight to the claim that it is human. But this development, by their own standards, is irrelevant, since they have already assigned individual rights to the zygote, which has no discernible features.

Therefore these features are beside the point. Moreover, this development actually *supports* the pro-choice position, i.e., that the fetus is a *potential* rather than an *actual* human being.

One means by which anti-abortionists attempt to load the issue of abortion against the woman and in favor of the fetus is by ascribing responsibility to the woman. But there are two senses in which you can use the word responsibility. The first is as an acknowledgement of an obligation to another person. This is the sense in which anti-abortionists use the word, and it begs the question. It assumes as a given the point in contention; namely, is the fetus an individual toward whom obligations can be incurred?

In contrast, the other sense of the word responsibility does not involve another person. It refers to the acknowledgement that a certain situation results from your actions and to the acceptance in terms of money, time and moral accountability of handling the situation. When a woman uses her own money to pay for an abortion, she has assumed full responsibility for the pregnancy.

There is something odd and inconsistent about the way anti-abortionists use responsibility. The pregnant woman is said to be responsible for the fetus because it resulted from her choice to have sex. How then does the anti-abortionist handle the rape pregnancy?

An individual is not morally responsible for a situation in which there was no choice. The consistent position is that the fetus is still a human being and abortion is still murder, in which case one wonders why the issue of responsibility has any relevance. Whether or not the woman is responsible, she is prohibited from having an abortion. On the other hand, if an exception is made in the case of rape pregnancies, anti-abortionists must explain how their libertarian theory can sanction willful, premeditated murder.

Similar problems exist in the contract model of pregnancy by which the woman is assumed to have contractual obligations to the fetus. This assumes that the fetus is not only an individual who can contract, but that it was present at the point of sex from which the obligation is said to have arisen.

In a more fundamental sense, however, the issue of contract is irrelevant. Individual rights are attributed to the fetus and the protection of rights is independent of contract. I do not have to contract with neighbors not to kill me or steal from me; my body and property are mine by right. Contract enters the picture only when I desire something to which I have no right, such as another's labor. Through contract, I acquire a negotiated claim over that person. If individual rights are being claimed for the fetus, no contract is necessary. If individual rights are *not* being claimed, then no contract is possible since a contract is a voluntary exchange between two human beings.

But what if, for the sake of argument, the fetus were acknowledged to possess individual rights? What consequences would this have for the pro-choice position?

The principle of self-ownership states that every human being, simply by being human, has jurisdiction over his or her own body. Thus, even if the fetus possesses rights, those rights could never include living within and off of the woman's body, for this would be tantamount to asserting that one human being could own the bodily functions of another . . . that two people can have rights in and to one body. The word used to describe a system in which one man has property rights in another is slavery.

One of the concepts upon which "rights" rest, from which the word derives meaning, is the concept of "a natural harmony of interest." This does not mean that all men feel benevolence toward each other and their desires never come into conflict. It means that the exercise of my self-ownership, my rights, in no way violates the similar exercise of your rights. My right to believe in God does not conflict with your right to be an atheist. If it did conflict, it could not be an inalienable right which all men possess; rather, it would be a privilege which I possessed at your expense. Two fundamental characteristics of individual rights are that all human beings have them and that they do not conflict.

Imagine a world in which the act of swallowing a pill (as in the "morning after" pill) murdered another human being. In what sense could I claim the right to swallow? On the other hand, in what sense could I claim the right to my own body when I cannot properly control what is put into it. This is the dilemma posed by the anti-abortionists who grant the fetus a right to control the woman's body which competes and conflicts with her own right. The result is not conflicting rights, but the destruction of the framework from which rights derive meaning. Unlike gray areas of libertarian theory in which disputes arise because rights are not well defined, the alleged rights are clear and in direct contradiction. The fetus' life requires a claim on a woman's bodily functions; the woman's right to her body requires the fetus' death.

In Randian terms, this is "the fallacy of the stolen concept." In this fallacy, a word is used while the conceptual underpinnings which are necessary to the definition of the word are denied. Thus, the anti-abortionists use the concept of "rights" without regard for the fact that the fetus is not a discrete individual, the alleged rights

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conflict, and the rights involve two people claiming control of one body. Whatever version of rights is being attributed to the fetus, it is not the natural rights championed by libertarianism.

Anti-abortionists often counter that the fetus should have a right to the woman's body because it is a matter of life and death. But rights are not based on how important it is to have them. Nor is there a cost/benefit chart giving us how much pain balances how much use of force. Rights are not granted or open to adjustment: they are inalienable. And they derive from only one source — the right to control your own body. The anti-abortionists are not depriving the pregnant woman of some percentage of her rights: they are denying the right of self-ownership altogether.

The important thing about the anti-abortionist position is not that it is wrong, but that it has disastrous consequences. Anti-abortionists dislike dealing with these consequences and consider such discussion to be "scare tactics." As long as the basic thrust of their position is "there ought to be a law," however, it is reasonable to ask what this law would look like.

If the fetus is a human being, then abortion is clearly first degree, premeditated murder and should be subject to whatever penalties that category of crime merits. Aborting women and doctors would be liable to punishment up to, and perhaps including, the death penalty. If this is "scary," the fault lies not with the person who points it out, but with the one who advocates it. Anti-abortionists sometimes backpedal on this issue by stating that, since abortion has not been subject to such penalties historically, there is no reason to suppose they would occur in the future. But this is evasion. The debate does not concern history, but moral theory. By anti-abortionist standards, abortion is premeditated murder and they should be decrying the tradition of slap-on-the-wrist penalties rather than using them to reassure us.

Moreover, if you admit the idea that the fetus is a human being for whom the woman is legally responsible, then the woman cannot take any action to imperial the life and well-being of the fetus. Almost everything she puts into her system is automatically introduced into the system of the fetus, and, if the substance is harmful, it constitutes assault upon the fetus on the same level as strapping me down and forcing drugs into my body. Moreover, life endangering acts, such as parachute jumping, would place the unconsenting fetus in unreasonable danger. If the woman has no right to kill the fetus, she can have no right to jeopardize its life and

well-being. Thus, if the fetus has rights, it is not merely a matter of prohibiting abortion; it means that the woman is criminally liable for harm befalling the fetus on the same level as she would be for harming an infant.

The important question about protecting the fetus is, of course, how will this be accomplished? There is no way this can be done short of massive interference with the pregnant woman's civil liberties. Again, anti-abortionists protest that enforcement problems are not properly part of the abortion issue, that we are simply investigating the right and wrong of the matter. But anti-abortionists, themselves, go beyond this line by advocating laws to remedy the situation. Pro-choice advocates merely insist that this solution be clearly defined, especially with regard to whether anti-abortion legislation can be enforced without violating rights. For even if the fetus merited protection, such protection could not be rendered at the expense of innocent third parties.

The impact of the anti-abortionist position on birth control is another unexplored implication of that argument. Since an individual with full human rights is said to exist at the moment of fertilization and since IUDs work by disrupting fertilized eggs, women who use these devices must be guilty of attempted murder, if not murder itself. Other forms of birth control which work not by preventing fertilization but by destroying the zygote would be murder weapons and doctors who supplied them would be accessories. As absurd as this sounds, it is the logical implication of considering a zygote to be a human being.

The anti-abortionist position is weak, riddle with internal contradictions and dangerously wrong. It is a sketchy argument which does not address key issues. It uses the word "rights" in a self-contradictory manner which denies the framework from which the concept derives meaning. Although the message is "there ought to be a law," anti-abortionists refuse to address the question of what this law would entail or how it would be enforced.

I believe this refusal serves a purpose. It permits anti-abortionists to argue on the side of compassion and children without having to face the truly inhumane and brutal consequences of their theory.

Self-ownership begins with your skin. If you cannot clearly state, "Everything beneath the skin is *me*; this is the line past which no one has the right to cross without permission," then there is no foundation for individual rights or for libertarianism.

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