

Free NY

WORKING TO ACHIEVE LIBERTY IN OUR LIFETIME



THE OFFICIAL NEWSMAGAZINE OF THE LIBERTARIAN PARTY OF NEW YORK

VOL 4:ISSUE 2 - APR 2006

EMINENT DOMAIN A TRULY TRI-PARTISAN ISSUE

By Gary Treistman

Well the *Kelo*, (*Kelo v. New London*, 125 S. Ct. 2655 (2005)) decision has come and gone, bringing the issue to a head, popping that sociological pimple and gushing all its un-libertarian contents onto the American psyche.

In *Kelo*, the municipality of New London, Connecticut, laid an acquisitive eye upon the benign and working neighborhood of Fort Trumbull, an area of about 90 acres and containing 115 homes and private properties.

New London City didn't have a complaint that the properties were in violation of any zoning or state law, nor did it claim that any of the properties were in tax arrears, abandoned or blighted. In fact the residents of Fort Trumbull were archetypically

upstanding citizens of the community, literally minding their own business.

What New London did have however, was avarice for the property taxes that Fort Trumbull residents' *didn't* owe, the property taxes that it knew it could get from Pfizer Pharmaceutical Corporation, with whom they had pre-negotiated a manufacturing plant to be built within the Fort Trumbull area.

The presumption that the area could be taken, and resold at significant profit; the expectation that the land would provide far more tax revenue if it was owned by a large corporation who could posit an expensive factory on the land, instead of a few dozen peon residents, was more than the City Council could contain.

Cont'd on Page 17

REPORTS FROM A ROGUE CP OFFICER

By Nic Leobold

I am on the Crook Patrol, a special super-secret unit of the Libertarian Party, classified Above Top-Secret until now, which hunts down and "retires" enemies of the Constitution, by subjecting them to cruel and unusual speech, vicious writing, and the destruction of their "respectable establishment reputations". Because a new LP covert agency is now being formed, even more secret, classified and mysterious than the CP, I can presently share some of my recently declassified reports since I myself am being retired from this department (the type of retirement where I still get to collect LP junk mail, watch football, and order out).

Over the last several months on street patrol, searching for escaped Republicrats, I entered several items in my patrol book:

1. There is a restlessness in the air, as though people know something is amiss in the land. I guess this should be obvious--after all, it's now an established fact,

Cont'd on Page 20

THE FDA WAR ON CHERRIES

By Brian Auenj

As libertarians, we may have become jaded to stories about wrong-headed government actions. Even so, once in a while, a story comes along that makes one wonder if a new low has been reached. Today was one of those days for me.

The FDA has now decided that cherries are a drug and must be regulated. That's right. Cherries. Anyone caught growing, transporting or selling cherries may be guilty of various crimes and the FDA has warned that product seizures may occur.

Of course, there is a logic behind the madness -- there always is. It seems that making health claims about a given food turns said food into a drug. This rule of course was born out of the FDA's frustration with the rouge element within the dietary supplement industry who tout the slimmest of evidence to claim their product will prevent or cure disease. Instead of

Cont'd on Page 16



Free NY

NewsMagazine
of the New York
Libertarian Party

Editor:

Gary Treistman

Editor@FreeNY.info

Asst Editor

Bob Cotton

rcotton@hvc.rr.com

Pertinent FreeNY NY

Libertarian Party Officers:

John Clifton

NYLP Chair

johnclifton@netzero.com

Werner Hetzner

Treasurer

whetzner@mac.com

Blay Tarnoff

Telecommunication Ofc

LPNY@eblay.com

**Letters/Comments/
Articles/Notices/
Announcements, or
Advertising Inquiries,
should be sent to:**
Info@FreeNY.info

or to:

Editor

Free NY

POB 665

Bearsville, NY 12409

(845) 679-4770

*Submissions deadline is 20
days prior to the next issue
publication date.*

CONTENTS

Eminent Domain - A Truly Tri-Partisan Issue	1
Press Releases & News	3
Weld Interested in Running on LP Line	3
Abolish Child Protective Services In Light Of Nixzmary Case, Say Libertarians	3
Libertarians Call For Legislative Action To Stop Eminent Domain Abuse	3
New York Libertarian Party Convention of 2006	4
Proposed Amendments to the New York State Libertarian Party "Constitution"	4
Our Party Matters	4
LP Convention News	4
Convention Registration Form & Events Schedule	8
Overview from the Chair - No More Kelos	10
(Note: The following pages are available for viewing online only at www.FreeNY.info)	
Two potential NYLP nominees are endorsed by the Hudston Valley Libertarian Party	13
Please promote Tax Day outreach for local libertarians!	13
State Lawmakers Again Go For More Spending And Borrowing In State's Latest Budget	13
More Press Releases & News	13
Potential New York Libertarian Candidate Nominees	14
Judicial Accountability Initiative Reaches Voters in South Dakota.....	21

To View the Full Publication of this Issue of FreeNY

- Dec 4, 2003, the NYLP Committee voted to make all issues of FreeNY available to the public, w/o Membership or Subscription prerequisites, via the Internet.
- On August 27, the Committee voted to reduce the printed copy size of FreeNY from 24 pages to 8 pages.
- As the content of FreeNY often exceeds 8 pages, this hard copy is an abbreviated version of the full issue. To view the full publication (typically available 2 weeks prior to hard copy publication), please visit: www.FreeNY.info, or visit ny.lp.org/FreeNY. You may also opt out of receiving the hard copy of FreeNY at a link there or by contacting the Editor.

The opinions expressed in this publication do not necessarily reflect the official stance of the NYLP, and are otherwise the authors' responsibility. References made to the "NYLP" and "LPNY" are equivalent and stand for The Libertarian Party of New York.

Free NY is currently published 4 times a year. Complete Hard Copy subscriptions are \$15/Year;
© This work is copyrighted 4/2006, none of this copy or content may be redistributed w/o prior written permission from the Editor.

PRESS RELEASES & NEWS

WELD INTERESTED IN RUNNING ON LP LINE

Ronkonkoma, LI, 4/3/2006

Former Mass. Governor William Weld announced before a packed, standing room only audience in Long Island on April 3 that he is interested in running on the LP line for Governor of New York.

Speaking to the crowd at the "Third Party Club" event, Gov. Weld stated he was in discussions with the Libertarian Party about receiving its endorsement and nomination at LPNY's convention in Albany on April 29, although many details were still being worked out at press time.

Speaking to strong applause, Weld stated "I want to get government out of your pocket books, and out of your bedrooms," Weld expressed getting the LPNY nod as part of a general election strategy and outlined a 10 point policy agenda he would lead with in his campaign, among which tax reduction was a prominent theme emphasized.

Some of the LPNY State Committee and the Suffolk LP members, as well as senior officials for other third parties were present for the announcement, and the Green and Independence Party reps believed the LPNY would likely easily obtain permanent ballot status based on the strength of the message and candidate.

The announcement was paralleled by negotiations between the Governor's campaign and the LPNY just prior to Weld's announcement, and the following was specifically agreed upon to announce at press time:

1. **Governor Weld is interested in running on the LP line;**
2. **Weld plans to attend and to speak at the LPNY convention on April 29;**
3. **Upon acceptance of the LPNY nomination, the Weld campaign will share in the costs of the party's petition drive, including support for the legal defense in case the petitions are challenged;**
4. **Weld would prefer LP to hold the Lt. Governor line open pending his own decision as to a running mate.**

Alternatively, there have been discussions about his selecting Chris Garvey for Lt. Governor, based on talks between Weld, Garvey and LPNY Chair John Clifton (who confirmed the above four points in direct conversation with Weld on April 3).

Harmonization of Weld's general themes with LPNY priorities continues, based on ongoing communication between the campaign and Richard Cooper. Clifton gives thanks to the subcommittee who have worked on 'the Weld project' (Garvey, Cooper, and Audrey Pappaliou) since last fall, and encourages all members to attend the state convention to vote on the Gubernatorial nomination question on April 29.

ABOLISH CHILD PROTECTIVE SERVICES IN LIGHT OF NIXZMARY CASE, SAY LIBERTARIANS

Bellport, New York, 1/25/06:

In the wake of a recent child abuse case and its

botched investigation, Libertarian Party State Chair and social worker, John Clifton, denounced the NYC agency responsible for child protection and called for its abolition. New Yorkers have been transfixed by the torture and beating of 7 year-old Nixzmary Brown since the child was found dead in her Brooklyn apartment on January 11. Police allege she was tortured for weeks, sexually abused, starved and died after her head was repeatedly banged against the bathtub by her stepfather, who is in custody on murder charges.

Despite multiple reports going back to May 2005 pointing to a risk of immediate harm for the child, caseworkers declared the abuse to be unfounded, and later chose not to get a warrant or police assistance to gain access to the home to investigate. Clifton charges such cases show how Administration for Children's Services has become more of a threat to families and children than a protector of children's rights and family values. The current flap follows closely behind reports from last year exposing NYC ACS for its role in forcing experimental AIDS drugs on largely black and Latino children in its foster care system, raising concerns many feel the government has not fully answered.

"The shocking negligence displayed by ACS in following up on clear signs of child abuse in this case, along with fraudulent progress note entries admitted to by the case supervisor, underlines the basic structural unaccountability of the system" says Clifton, who currently works in foster care prevention. He previously worked as a drug counselor in Bedford-Stuyvesant. "Despite the countless regulations in place or which may be added, when the bureaucracy messes up, it just ends up getting more money and more power, to mess up even more next time. In the private sector when, say, a children's home is found negligent, or an accessory to child abuse, it gets shut down, not expanded. ACS presides over a system where children have often been abused in foster care, yet every scandal leads to more funding. It's completely backwards."

Clifton notes that with tens of thousands of active cases in ACS, many of which have only a peripheral connection to serious safety issues, but each carrying time-consuming paperwork requirements, it is nearly impossible for caseworkers to maintain focus on overt situations like Nixzmary's. "We would be better served if we junked the current agency, and organized a bureau of child abuse in law enforcement, with jurisdiction over physical harm only." Clifton holds that functions of CPS of a social nature should be returned to those social and community institutions which were displaced by government, when it monopolized the social functions of improving peoples' lives. He favors the approach formulated by other state parties (such as the Arizona LP) to "abolish Child Protective Services, and return its proper functions to law enforcement," while passing legislation mandating severe legal sanctions for child abuse.

"Ultimately, what we need is less centralized bureaucracy, coercion and intervention, and more choices and freedom," says Clifton. "State paternalism and omni-intervention doesn't work anywhere, whether it's interfering with the market, imposing shotgun democracy abroad, or breaking up families at home."

OUR PARTY MATTERS

LP CONVENTION NEWS

NEW YORK LIBERTARIAN PARTY CONVENTION OF 2006

The NYLP Annual Convention takes place on April 29, 2006 at the Best Western on Wolf Road near the Albany airport; it is suggested that NYLP members mark their calendar. Our 2006 statewide convention will be held Saturday, April 29 at the Best Western in Albany, NY, not far from the airport on Wolf Road.

We have a block of rooms reserved for attendees at \$79, so reserve soon! There is likely, to be

an event Friday night before the convention, perhaps even a rally in Albany during the day.

You can book your room now and print out a map and driving directions.

Members are invited to send us your comments on convention details and suggestions for agenda items.

More detail is at the NYLP website, with more to come--please check the NYLP website again closer in time to the convention!

The LPNY website is at ny.lp.org

PROPOSED AMENDMENTS TO THE NEW YORK STATE LIBERTARIAN PARTY "CONSTITUTION"

At every NYLP Annual Convention, Members of the NY Libertarian Party may be presented with the opportunity to vote upon proposed changes to the NYLP By Laws. The By Laws make up our Party's 'Constitution'. Such Amendments reach the convention floor via sponsorship of three or more members of the NYLP State Committee.

The current set of NYLP By Laws can viewed on the Internet at ny.lp.org/official/bylaws.htm

The proposed Amendments expected to reach the convention floor this year are detailed below:

Proposed Amendment #1

Authored by Gary Treistman

Article II:

B. Direct State Membership

1. Dues for Direct State Membership shall be set annually by majority vote of the Committee, at the NYLP Annual Convention.

In the event the Committee does not set dues amounts, the dues rate will remain the same as the previous year.

There shall be 5 levels of membership, each with its own dues rate:

- a. Amicus Member
- b. Student Members
- c. Regular members
- d. Lifetime Member

Member Levels Status Definitions:

A New York State Libertarian Party Member:

¶A legal entity that/who is associated and/or affiliated with the New York State Libertarian Party so as to publically express its/his/her concurrence with libertarian principles and Libertarian political goals, and who has one of the following status':

1. An Amicus Member
 - a. Shall be a resident in New York State.
 - b. Shall otherwise have no performance, financial, or notice duties owed from or to the New York State Libertarian Party.
2. A Student Member
 - a. Must currently attend or be actively enrolled in an education or training program
 - b. Shall be a resident of New York State.
 - c. Pays annual dues as set by the NYLP Committee
 - d. Is entitled to all NYLP benefits, privileges, and notices.
3. Regular Member
 - a. Pays annual dues as set by the NYLP Committee
 - b. Is entitled to all NYLP benefits, privileges, and notices.
4. Lifetime Member
 - a. Pays a single amount as set by the NYLP Committee
 - b. Is not required to pay further dues, and retains all entitlements of a Regular or Lifetime Member

A one-year membership in the LPNY shall be for the remaining part of the calendar year in which dues are paid; except that dues collected subsequent to September 1 will be in effect for the remainder of that year gh December 31 of the following year.

Proposed Amendment #2***Authored by Gary Treistman*****Article X: Quorums**

- A. At all State Conventions of the LPNY, a quorum shall consist of the greater of:
- (1) Twenty percent (20%) of the number of delegates registered for the Convention in accordance with Article IV, Section A;
 - (2) Forty percent (40%) of those delegates registered as being in attendance at the Convention.
- B. At all meetings of the State committee a quorum shall consist of one-half of the members in good standing of such Committee, exclusive of the Immediate Past Chair, and:
- (1) The Committee may hold meetings in any manner it may see fit, provided that:
 - (i) All Committee members are sent or provided affirmative notice of the meeting(s) by a method reasonably expected to be received by the respective members, and,
 - (ii) That an interactive forum is provided so that all Committee members may concurrently observe, discuss, move, give notice(s), generally partake, and vote pursuant to the proceedings occurring at such meeting(s). Such forum shall provide, at a minimum, Committee members access to the meeting by some interactive telepresence method, e.g., two-way telephone conferencing, effective interactive online text chat, effective interactive emailing, webcams. This clause shall not limit the Committee's ability or right to provide any other additional method of members' meeting access, such as a physical meeting location.
 - (2) The affirmative notice, paragraph 1(i), supra, must contain:
 - (i) The date and time of the meeting;
 - (ii) The location of the meeting, be it physical or virtual, and the means by which the Committee members may access the meeting in order to participate as per paragraph 1(ii), supra;
 - (iii) The purpose of the meeting and business expected to be entertained by the Committee.
 - (iv) Any motions intended or expected to be submitted to the Committee.
 - (3) For the purposes of motions resolution, all members of the Committee shall be considered to be in attendance at all State Committee meetings, whether or not they formally announce themselves at such meetings, provided such meeting was noticed to them respectively in accordance to sub-paragraphs 1(i) & 2, supra.
 - (4) Upon vote on all motions made at meetings of the State committee, all members of the Committee shall have a vote entered into the record of either Aye/Yes, Nay/No or Abstain, pursuant to the respective Committee members' affirmative vote.

- (5) Upon vote on any motion, any member who does not vote Aye/Yes or Nay/No shall automatically have his/her vote entered as Abstain; this entry shall be effective irrespective of whether an affirmative vote of Abstain was proffered by the subject Committee member. This provision will not apply to a Committee member if the member was not provided notice as detailed in sub-paragraph 2, supra, pursuant to which such member will not be counted toward Quorum.

Proposed Amendment #3***Authored by M Carling***

(Note: M Carling's proposed Amendment to the By Laws consists of a replacement of the existing By Laws with these proposed By Laws):

Bylaws of the Libertarian Party of New York

Article I. Purpose

The Libertarian Party of New York is a political organization which has as its primary objective the extension of individual freedom to its furthest limits.

To that end the Party affirms the following principles:

- A. That each individual possesses the inalienable right to life and liberty and to justly acquired property.
- B. That no person or institution, public or private, has the right to initiate the use of physical force against another.
- C. That all individuals are entitled to choose their own lifestyles, as long as they do not forcibly impose their values on others.
- D. That the only moral basis of politics is the preservation and protection of individual rights.
- E. That the voluntary and unrestricted exchange of goods and services is fundamental to a peaceful and harmonious society.

In recognition of the fact that the initiation of force by government has been the chief instrument for the expropriation of individual rights and freedom, the Libertarian Party of New York enters the political arena for the avowed purpose of eliminating the intervention of government in moral, social and economic affairs.

Article II. Scope

The Libertarian Party of New York shall elect Libertarians to public office in the state of New York, support or oppose ballot measures in the state of New York, and engage in any other activities that may be required by these bylaws or by the bylaws of the national Libertarian Party.

Article III. Membership

Section 1

Members of the Party shall qualify by one or more of:

- A. Paying dues as shall be set by the State Committee and agreeing to the non-initiation of force pledge, or
- B. Being a registered voter enrolled with the Party and holding public office in New York state.

Section 2

The Secretary shall terminate Party membership if a member requests in writing such termination or, except for elected officials, fails to remit prescribed dues by the renewal date.

Article IV. County Organizations

The State Committee shall charter County Organizations as provided for in this article.

A. Procedures for the Chartering of County Organizations

1. The State Committee shall charter any County Organization which meets all of the requirements stated in this article. No more than one County Organization may be chartered in any one county, but a County Organization of two or more contiguous counties, each of which has at least one LPNY member residing therein may be chartered. The State Committee may revoke the charter of any County Organization if and only if it fails to live up to its requirements under either the State By-Laws or its own County By-Laws.

2. Upon the request of any LPNY member residing in a county in which there is no chartered County Organization, the State Committee shall appoint some LPNY member residing in that county to take the

position of Temporary County Chairperson. The purpose of such appointment is to secure a contact person around whom a county Organization may be formed. The State Committee may replace any Temporary Chairperson whom it does not deem to be performing his or her function satisfactorily. Temporary County Chairperson appointments are renewed annually by the Executive Committee.

B. Requirements for Chartering of County Organizations

1. The geographical unit applying for a County Organization (whether a single county or a group of contiguous counties) must have held a Convention attended by at least seven (7) LPNY members residing therein, and a good faith attempt must have been made in advance to inform all LPNY members residing therein of the time and place of said Convention. No LPNY member residing in that geographical unit shall be denied the right to attend said Convention or join such County Organization should it be chartered except that each County Organization shall have the right to set dues as a requirement for membership.

2. A set of County By-Laws must be adopted at said Convention, which must cover the following matters:

- Membership requirements (if any);
- Provision for at least one annual Convention;
- Procedures for selecting County officers and positions;
- Procedures for amending the County By-Laws;
- Procedures for endorsing candidates for public office;

f. Provision for division of treasury and other pooled resources (if there are any) in the event of one or more counties' secession from a County Organization of more than one county to form a County Organization from a smaller included geographical unit.

C. Residence

In the case of multiple residences, the person who resides in more than one place shall be the only person to decide which place or residence to claim for purposes of joining, voting in a Convention of, or otherwise associating with a County Organization, except that no person shall claim more than one place of residence in the same ninety (90) day period.

D. Other Matters

1. A County Organization may continue in existence as long as it observes all requirements herein stated and in addition consists of at least four (4) LPNY members.

2. Any county included within an existing County Organization may secede therefrom and establish its own county Organization, provided that seven (7) or more LPNY members reside in it and provided that its secession will not reduce the membership of the original Organization below any requirement for continued existence set by these By-Laws. The procedure for obtaining a charter for the new Organization shall be the same as that for chartering any County Organization.

3. The chair of any County Organization must be a member of the LPNY.

4. Any decisions not forbidden to the county Organizations in the LPNY By-Laws shall be reserved to the County Organizations respectively, or to the individual LPNY members.

Article V. Officers

Section 1

The officers of the Party shall be a Chair, a Vice Chair, a Secretary, and a Treasurer. No member shall hold more than one office at a time. All officers must be Members of the Party, may not be enrolled with any other party, may not hold office in any political party other than the Libertarian Party, and shall be elected by ballot to serve for two year terms beginning in odd-numbered years by delegates at an annual convention or until their successors are elected and shall take office immediately upon the close of such convention. These officers shall perform the duties prescribed by these bylaws and by the parliamentary authority.

Section 2

The Chair shall be the Chief Executive Officer of the Party. The Chair shall preside at all Party conventions, all meetings of the State Committee, and all meetings of the Executive Committee.

Section 3

The Vice Chair shall act as an assistant to the Chair and shall preside in the Chair's absence or when requested to do so by the Chair.

Section 4

The Secretary shall be responsible for maintaining the Party membership list, and for receiving or sending formal notifications as may be specified in these Bylaws, and shall be responsible for recording and promptly distributing minutes of Party proceedings. The Secretary shall be responsible for the maintenance of all Party records.

Section 5

The Treasurer shall receive, disburse, and account for the funds of the Party under the supervision and direction of the Chair and the Executive Committee. The Treasurer shall compile a quarterly report which shall consist of a balance sheet and profit and loss statement prepared in accordance with Generally Accepted Accounting Principles. The balance sheet and profit and loss statement shall be available to Members of the Party from the Treasurer upon written request.

Section 6

An officer may be suspended for 30 days without previous notice by a two-thirds vote of the Executive Committee. An officer may be removed with previous notice by a two-thirds vote of the State Committee.

Article VI. State Committee

Section 1

The State Committee shall be composed of the four Officers, five at-large members, and one representative from each chartered county party organization.

Section 2

The at-large members must be Members of the Party and shall be elected by a single round of balloting (unless a second round be needed to break a tie) to serve for one year terms by delegates at an annual convention or until their successors are elected and shall take office immediately upon the close of such convention.

Section 3

The county party representatives shall be selected as provided in the respective bylaws of each county party organization.

Section 4

The State Committee may conduct business by mail ballot, including voting by means of the Internet. The Secretary shall issue a mail ballot upon the direction of the Chair, the Executive Committee, or the written request of one third of the members of the State Committee.

Section 5

A member may be expelled from the Party with previous notice by a two-thirds vote of the State Committee.

Section 6

An Officer, non-officer Executive Committee member, or at-large State Committee member may be removed with previous notice by a two-thirds vote of the State Committee. A county party representative may be removed with previous notice by a three-fourths vote of the State Committee.

Section 7

The State Committee shall appoint new officers and at-large State Committee members if vacancies occur, such appointees to complete the term of office vacated unless a convention meets sooner, in which case a new election shall be held for any officer position so filled.

Article VII. Executive Committee

Section 1

The Executive Committee shall be composed of the four Officers plus five non-officer State Committee members to be selected by the State Committee. The five non-officer Executive Committee members shall serve from the time of their selection until the close of the next convention.

Section 2

The five non-officer Executive Committee members shall each be selected to serve in one of the following capacities:

- * Fundraising Chair
- * Membership Chair
- * Candidate Recruitment Chair
- * Convention Chair
- * Database Chair

Section 3

The Executive Committee may not overturn any action of the State Committee.

Section 4

The Executive Committee may conduct meetings by teleconference, videoconference, or any other electronic means that allows each member to communicate with all other members. Otherwise, it shall follow all the procedures specified by the parliamentary authority as appropriate for small boards.

Article VIII. Judicial Committee

Section 1

The Judicial Committee shall be composed of three members. One shall be elected by the annual convention to a term starting at the close of that convention and ending at the close of the convention three years later. Vacancies shall be filled until the next convention by agreement of the two remaining members or, if the two remaining members cannot reach agreement within 30 days, by a vote of the Party Chair and the remaining member(s).

Section 2

A member of the Judicial Committee may not simultaneously be a member of the State Committee.

Section 3

The Judicial Committee shall hear a question if and only if requested to do so in writing by either one-third of the members of the State Committee or five percent of the membership.

Section 4

The Judicial Committee shall choose its own Chairman, who shall receive all petitions, verify that the petitioners are Party members in good standing, notify the Party Chair and Secretary and any other interested parties within 48 hours of the receipt of a petition and the validity thereof, and perform other administrative duties of the Committee.

Section 5

Upon the receipt of responses from all interested parties or the close of 7 days from notification, whichever comes first, the Judicial Committee shall have 48 hours to issue a ruling. Failure to issue a ruling closes the matter until the next convention.

Section 6

The Judicial Committee shall be the final body of appeal in all Party matters, subject to the provision that a decision of the Judicial Committee may be overturned by a three-fourths vote of a convention.

Article IX. Finance and Accounting

No loans shall be made by the LPNY to any member of the State Committee or to any officer.

The Treasurer, or the Treasurer's designated agent, shall receive and give receipts for all moneys paid to the LPNY and shall deposit same in such bank or banks as shall have been designated by the Executive Committee. The Treasurer shall, at the discretion of the State Committee, present the financial records of the LPNY for audit by such auditor(s) as the State Committee shall specify. Expenditures of funds shall be made only in accordance with regulations established by the Executive Committee.

Article X. Convention

Section 1

The Party shall hold an annual convention of delegates to conduct such business as may properly come before it, at a time and place set according to and in conformance with these Bylaws. It shall be the responsibility of the Executive Committee to set the time, place, and schedule of events for the convention of delegates. At least 60 days notice must be provided to the members.

Section 2

If the state of New York does not recognize the party status of the Party, then all Members and Associate Members of the Party shall be delegates.

Section 3

If the state of New York does recognize the party status of the Party, then delegates shall be selected as follows:

All Founding Members

All Life Members

All current State Committee Members

The current Chair of each chartered county Party organization All persons holding public office subject to election in the state of New York who are enrolled as a Libertarian.

From each chartered county Party organization, one delegate for every one hundred Members or fraction thereof, to be selected as prescribed by the bylaws of the county party organization not less than 30 days and not more than 90 days before the opening of the convention. Each county party organization shall notify the Secretary of the delegates chosen not less than 20 days prior to the start of the convention. Failure of a county party organization to notify the Secretary at least 20 days prior to the start of the convention shall cause no delegates to be seated from that county.

Article XI. Nominations

Section 1

Registered voters who are enrolled with the Party shall be eligible to vote on nominations for public offices that appear on the general election ballot.

Section 2

Nominations for statewide offices shall be voted upon during the annual convention by an assembly of all the registered voters enrolled with the Party.

Section 3

Nominations for public offices the districts of which exist entirely within one county having a chartered county party shall be made by the chartered county party.

Section 4

Nominations for public offices not covered by Section 2 or Section 3 shall be made by the State Committee.

Article XII. Platform

Consideration of any proposed LPNY platform shall be as follows:

A. Each plank of the proposed platform shall be considered separately by the Convention and must be approved by two-thirds (2/3) of those present and voting.

B. All those planks which have been approved individually and only such planks shall then constitute the proposed platform which shall take effect as the LPNY platform when approved, as a whole, by two-thirds (2/3) of those present and voting at the Convention.

Article XIII. Conflicting Authority

Section 1

In the event of any conflict between these Bylaws and the New York Election Code, the Federal Election Code, or any other law or regulation, these Bylaws shall govern the Party and its affairs.

Section 2

In the event that any authority should declare any portion of these Bylaws void or invalid, the remainder shall remain in full force and effect.

Article XIV. Amendment of Bylaws

A. Amendments to these By-Laws shall be initiated by one of two methods:

1. Petition by the membership, or
2. Request by the State Committee members.

B. Rules regarding initiation by Petition:

1. The petition must be signed by at least 2% of the membership of the LPNY. The individual petitioner may, at their cost, request the State Committee distribute his amendment to the membership for the purpose of collecting petition signatures.

2. The petition must be delivered to the Secretary along with the written text of the proposed amendments(s).

3. If the petition is received at least twenty (20) days prior to an Executive Committee meeting, it must be considered at that meeting. Otherwise, it must be considered at the next subsequent meeting.

C. Rules regarding initiation by State Committee request:

1. Consideration of the amendments(s) must be placed on the agenda if requested in writing to the Secretary by three (3) or more members of the State Committee.

2. The request to the Secretary must include the written text of the proposed amendments(s).

3. If the request is received at least twenty (20) days prior to an Executive Committee meeting, it must be considered at that meeting. Otherwise, it must be considered at the next meeting.

D. Rules regarding consideration by the State Committee:

1. The Secretary must provide all State Committee members the text of the proposed amendments at least seven (7) days before the Executive Committee meeting at which they will be considered.

2. Consideration by the Executive committee shall consist of the following:

a. If initiated by request of State Committee members, the request must be approved by majority of Executive Committee members voting.

b. If the next annual convention is expected to be more than six (6) months in the future, the Executive Committee shall decide whether to submit the amendments to a special convention or to conduct a referendum by mail of all members of the LPNY.

c. If the next annual convention is expected to be less than six (6) months in the future, the Executive Committee shall decide whether to conduct a referendum by mail of all members of the LPNY or to submit the amendments to the upcoming annual convention.

E. Rules regarding conduct of referendum by mail of members:

1. Within ninety (90) days of the Executive Committee's decision to conduct a referendum, the Secretary shall cause to be mailed to all members the text of the proposed amendment, the current By-Laws provisions proposed to be amended, a statement supporting the amendment, a statement opposing the amendment, and a ballot to be returned to the Secretary.

2. Within thirty (30) days after the mailing, the Secretary shall count the ballots received. The amendments(s) shall be effective immediately, provided that there is a 2/3 affirmative vote.

3. Notwithstanding provision 2, amendments shall fail if the affirmative votes are not at least 15% of total members eligible to vote.

F. Rules regarding submission to convention.

1. Not more than ninety (90) nor less than ten (10) days before the scheduled opening of the convention, the Secretary shall cause to be mailed to all LPNY members the text of the proposed amendment and the current By-Laws provisions proposed to be amended.

2. To take effect, amendments require a two-thirds (2/3) majority of those members voting.

Article XV. Parliamentary Authority

The rules contained in the most recent edition of Robert's Rules of Order Newly Revised shall govern the Party in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Party may adopt.

The Libertarian Party of New York Annual Convention

Come and meet fellow libertarians!

see schedule on reverse side

The Libertarian Party is *not politics as usual*.

Prices: Business sessions are free;
Lunch (menu selection) & speaker: \$30 per person
Dinner (menu selection) & speakers: \$60 per person

Complete this Registration Form and mail it in right away. It must arrive by 25 April.
Registrations may be purchased at the door, but food can no longer be guaranteed.

A block of 20 rooms is available at the event location (Best Western Albany Airport Inn, 200 Wolf Rd. , Albany; tel. (518)458-1000) for the nights of 4/28 & 4/29 @ \$79/night if reserved by **2 April** under the Group Master "*Libertarian Party of New York*". Reserve yours before they are gone. A number of other motels are nearby.

If you want to share a room, you can use <http://searchtheplace.com>; click *Sell or Tell it*; click on *Community*; enter *convention* as the category and provide your information. To find others in this community, click on *Search for it*; click on *Community*; enter *Albany* as the city and *convention* as the category.

You can also find updated convention related information and forms at our convention web page. Go to <http://ny.lp.org/official/convention/> Questions and requests can also be directed to Werner Hetzner 518-235-8331 or via e-mail whetzner@mac.com

Registration Form

Name: _____

Address: _____

City: _____ State: ____ Zip _____

tel# _____ e-mail _____

Number of **Business Only** tickets (free): _____

Number of **Lunch Event** tickets: _____ (\$30 each) = total \$ _____

No. of entree selection options: ____ Vegetarian ; ____ Fish; ____ Chicken; ____ Beef

Number of **Dinner Event** tickets: _____ (\$60 each) = total \$ _____

No. of entree selection options: ____ Vegetarian ; ____ Fish; ____ Chicken; ____ Beef

Please make checks payable to: **Libertarian Party of New York** and mail it with this form to:

Werner Hetzner, 125 Ontario Street, Cohoes, NY 12047

Schedule

Pre-convention event.

Friday, 28 April

Noon - 3 PM

There is work going on to organize a rally/demonstration against Eminent Domain abuses at the Capital steps. See the convention web page (<http://ny.lp.org/official/convention/>) for the latest.

7:00 drinks at the bar.

8:00 Discussion of Issues moderated by Bill McMillen.

Convention

Saturday, April 29

AM

9:00 Registration

Morning Business Session

10:00 Welcoming remarks: Bill McMillen & John Clifton

10:15 Annual Report

10:30 Statements by Candidates Seeking Nominations

11:00 Open Business Session and Adopt Agenda - John Clifton

PM

nonbusiness

Noon Lunch

12:40 Introduce Luncheon Speaker - Werner Hetzner

12:45 Luncheon Speaker - Thomas Carroll, founder *ChangeNY* and *Brighter Choice Foundation*

Afternoon Business Session

1:30

- nominations for Governor, Lt. Governor, Attorney General, Comptroller, and U.S. Senate.

- nomination of State Officers and At Large Representatives

- ByLaws and other issues

5:30 **Adjourn Business session**; First meeting of the new Committee.

Saturday Evening:

6:00 Cocktails

7:00 Dinner

8:00 Introduction of Candidates and Presentations by LP Candidates.

9:30 Various speakers and fundraising event.

An Overview from the NYLP Chair

By John Clifton

NO MORE KELOS BATTLEPLAN FOR 4/28 EDA RALLY IN ALBANY

Now is the time for all good lovers of Liberty in New York to stand up and be counted, as we try to make at least one bad development of 2005 go away: Eminent Domain Abuse. Most of you are aware of the Supreme Court's Kelo decision last June, which essentially codified and expanded (by setting a federal judicial precedent) a long-standing trend of government seizure of people's property for the subsidized benefit of other (usually corporate) private interests. LPNY members have been fighting this pernicious mixture of land grabbing and corporate welfare for years, from defending St. Luke's Pentecostal Church in New Cassel, or New Rochelle residents from IKEA, to more recent struggles against the New York Times and Bank of America's looting of Times Square area property owners, and opposing the Nets Stadium.

Acting on a recommendation from the Libertarian Party of Queens County in November, the State Committee voted for the LPNY to conduct a demonstration or rally against eminent domain abuse (working title, 'No More Land Grabs') in downtown Albany the weekend of the LPNY convention. I have assumed head organizer duties, and I plan for it to be held on Friday, April 28, from 12 noon to 3:00 pm at the Empire State Development Corporation offices at 30 S. Pearl Street. After the protest, activists can head to the Best Western hotel and check-in, and perhaps meet later that evening for an informal pre-convention reception. Some preliminary discussion about holding out Sunday morning as an alternative or rain date, or for holding a second EDA 'What Now?' briefing has occurred, but the Friday date is the target for now.

The object is to attract several outside groups interested in participating, using ourselves as the organizing hub. Surely an issue of mass interest like property rights, post-Kelo can hook in a wide range of concerned folks. There is as well pending (and generally piecemeal) legislation to curb EDA in Albany that this rally could impact. We want to bring together Libertarians, property rights supporters, eminent domain victims, good-government folks, and anti-Kelo advocates. Failing that (if the turnout is low) the project will serve as training for the party on a statewide basis in putting on a major event (other than the convention). Lastly is the consideration of gaining possible media exposure out of it as a lead-in to the convention, and to feature our prospective candidates high-profile podium time that LPNY would control.

Okay, that's the basics and the rationale. WHAT I NEED NOW IS HELP, AS IN:

Co-organizers: I have asked Gary Popkin (Brooklyn—get well Gary!) and John Procida (Queens) to assist in building up turnout for the rally, but others are welcome to join in. Others with large-event orga-

nizing experience are especially wanted. My contact for this effort is my mrjclifton@yahoo.com, and the web page wiki for planning the project is:

http://libertarianwiki.org/Eminent_Domain_Rally_NY

Capitol Set-up: I need somebody in Albany (Werner, Jeff, Bill?) to find out about securing the permits and other logistics for putting on the rally. Are there other prohibitions or limitations? Are there road access limitations or distractions (like construction work) at the proposed site? Are travel directions needed? Can press conferences be set-up before or on the day of the event? Can Albany media contacts be lined up for interviews, or to pitch them to cover the event? How much would it cost to run radio spots to promote the rally? Input from Capitol LP members on all these and other details would be welcome.

Media, Travel: This is envisioned as a traditional 'sign waving, speechifying' protest, so we need signs, slogans, literature, and even merchandise developed. If you've got clever ideas and writing ability, please add your resources and contact info to the wiki page above. A decision will be reached about whether LPNY can or should handle renting buses to get people to Albany for the rally from around the state, depending on how much turnout is expected.

Civic Group Recruitment: From John Procida, who came up with the rally idea:

"We can win a good bill that will assure the people of New York State strong property rights. Yes it will take work but let me assure you from past experience that it is do-able. It will take going to civic association meetings and making them realize that they must participate in preventing this miscarriage of our inalienable rights of property ownership. I believe that I could get my civic association to send two bus loads of protesters to Albany (at their expense). There are about 1200 civic associations in N.Y. State. A mailing list of all those associations should be one of our first efforts. A plan based on getting civic associations and other organization's support is, in my opinion, the way to go."

Local Affiliates: County LPs around the state should between now and March contact (or better, make personal appearances) at civic groups to talk up the rally, and to estimate interest. Counties can also work on their members for turnout purposes ("to come one day earlier to Albany" to participate in protesting EDA. Area advocacy groups concerned about the issue may also be best approached by local LP who are familiar with them, to get their representatives to attend, or to contact their email/ mailing lists to publicize it.

Candidates: All people who are seeking to be nominated by LPNY to run for statewide office are invited to attend, and will get to speak to the Kelo/ EDA issue at the rally. Already expected to speak are Joseph Dobrian, Jeff Russell and possibly former

Massachusetts Governor William Weld (a past victim of eminent domain, who is interested in running on the LP line for Governor of New York). Candidates for State Assembly or State Senate are also welcome, but they need to contact me to reserve their podium time.

Coalition Support: I and any co-organizers will be trying to do everything else, like the general announcements (like this article) and promotional efforts, and reaching leaders/lists of other property groups, or other third parties (e.g., the Greens) to fatten out the turnout or word of mouth about this event. Securing the

appearance of 'draws' like Weld or local Albany politicians and lobby groups will be attempted.

Finally, bringing as many actual victims of Kelo-like land grabs to the protest would put a strong, concrete human touch on the harm caused by EDA. If you know of any more recent or current homeowners or residents who've been 'kicked to the curb' who want to speak out, big time, on their plight, this is their shining moment. Let's get to work on all the above items, and rebuild momentum towards eliminating eminent domain abuse in New York!

We need your support now more than ever.

I'm writing again to let you know about some important changes regarding your membership in the Libertarian Party of New York.

In the past, the national Libertarian Party had a shared membership program with the state parties. Part of the membership dues you paid were sent to the Libertarian Party of New York.

The National Libertarian Party has ended its paid membership program and as of the end of September will no longer share dues with the state parties. They will still accept donations and subscriptions to their newsletter, but any money sent to the national party will not be shared with your state party.

We need your support now more than ever. Without your support, the state party can do nothing.

Many of you understand this from our recent fund raising mailing, and I thank you for your contributions. I appeal to those who have not yet opened their hearts to our appeal. Please use this reminder and commit to this important cause we all share. Use the form provided. Become a supporting member of LPNY.

Political change does not happen by itself. Nothing will happen without the support of people-- people like you. Please send back the enclosed remittance form with a payment. Only with your support can we continue this crucial fight for smaller and less intrusive government.

John Clifton
NYLP Chair

Cut, complete and return this form together with your check.

Name	
Address	
City, State, ZIP	
Phone (home)	
e-mail address	
Employer	
Government Mandated Notices: The Federal Election Commission requires political committees to report the name, mailing address, and occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year. The IRS requires us to print "contributions are not tax-deductible" on all fundraising appeals.	

\$_____/month Pledge \$____ Other ____ **\$50** Goal50K ____ **\$25** Basic

Please enclose a check or money order (no corporate checks, please) in the amount of your support level, payable to **"Libertarian Party of New York"**

Send this form and payment to:

Libertarian Party of New York

P.O. Box 728 Bellport, NY 11713

or Go to our web site (www.ny.lp.org) and use *Click and Pledge*™



**New York State
Libertarian Party
State Committee
P.O. Box 728
Bellport, NY 11713**

**NON PROFIT ORG
U.S. POSTAGE PAID
CRST.NET
12550**

**STOP THE
MADNESS**



***NO MORE LAND
GRABS***



**RALLY TO
PROTEST EMINENT
DOMAIN ABUSE**

April 28, 2006, 12-3 pm

**CAPITAL BUILDING
STEPS, ALBANY, NY**

**From Demolition Ball, to
New Mall---
Will YOUR Home Be
Taken Next???**

**Property rights groups, Eminent domain victims, Good-
government advocates, anti-Kelo-Decision Concerned Citizens
are Urged to Attend and Speak Out!**

**Speakers invited: Gov. WILLIAM WELD (Candidate for Governor),
Steve Greenfield, Jeff Russell (Candidates for U.S. Senate),**

**Note: This NewsMagazine is Continued on the
Internet at: www.FreeNY.info**

PRESS RELEASES & NEWS

Cont'd from Page 3

LIBERTARIANS CALL FOR LEGISLATIVE ACTION TO STOP EMINENT DOMAIN ABUSE

Albany, NY, 3/24/06:

Libertarian Party of New York officials, activists and concerned candidates, crying "No More Land Grabs," are launching a "spring offensive" to influence legislators towards amending state law to ban eminent domain abuse. Local Libertarians such as Eric Sundwall of Columbia County (running for Congress, 20th District) and Jeff Russell (of Clifton Park, candidate for U.S. Senate) have announced they will be emphasizing the misuse of eminent domain throughout their campaigns.

Representatives of groups who have been victimized by such property seizures have been contacted to participate, including African-Americans from the Park South community in Albany, and Develop-Don't-Destroy Brooklyn, where residents are threatened with being kicked out of their homes to build a new stadium for the NY Nets. A demonstration in the Capitol building area has been scheduled for Friday, April 28 to draw attention to stalled and piecemeal legislation currently pending on the issue.

"New Yorkers grow impatient that, nine months after the U.S. Supreme Court's widely criticized Kelo decision, no bill has yet emerged from the NY Legislature to prevent state or local government from using eminent domain to take property from homeowners, to benefit private developers," says LPNY Chair John Clifton. He asks: "Many states have already passed laws to halt this type of theft of land and housing, within weeks of the Kelo ruling. Why is New York lagging behind the country on this subject?"

Former Massachusetts Governor William Weld, now running for Governor of New York, opposes eminent domain abuse and has said giving broad leeway to local governments to seize property reminded him of "Communist China." Weld is himself a past victim of an eminent domain seizure of one of his properties. He has challenged would-be opponent and Attorney General Eliot Spitzer to define his position on the issue.

"This case stands as an example of government overreaching and constraining a fundamental liberty. Title to every property in this nation is now effectively clouded by the threat of a government taking and transfer in the name of increasing the value upon which government can levy imposts. This practice must stop," Weld said. Language to amend the current law was also drafted in 2005 by then-LPNY Legislative Director Jeff Shapiro, immediately following the Supreme Court decision. Clifton says the party prefers its "clean" version, to address the disruption of neighborhoods occurring across the state by way of the corporate demolition ball. "Eminent domain abuse for commercial and economic development purposes should be specifically outlawed, and the term 'blighted' needs to be very precisely defined in the law, before the designation is applied to deprive citizens or whole communities of their property."

Libertarians are determined to nominate a strong pro-property rights, anti-EDA candidate for Governor at

its state convention at the Best Western in Albany on Saturday, April 29.

TWO POTENTIAL NYLP NOMINEES ARE ENDORSED BY THE HUDSTON VALLEY LIBERTARIAN PARTY

New Paltz, NY, 4/4/2006

Candidates Eric Sundwel and Kim Dsouza received the official endorsement of the Hudson Valley Libertarian Party.

As their target NY Congressional districts overlaps two chapters of the NYLP, they must also obtain the endorsement of the Capital Region Libertarian Party to complete their regional endorsements.

**It is useless to attempt to
reason a man out of a thing
he was never reasoned into.**

Jonathan Swift

PLEASE PROMOTE TAX DAY OUTREACH FOR LOCAL LIBERTARIANS!

Tax Day is on April 15, unless that date falls on a weekend. If so, then the forms are due the following Monday.

Tax Day is an ideal day for outreach for Libertarians. For one thing, the weather is starting to get nicer. For another, it's a day when last-minute filers -- people most likely to be fed up with the process -- are coming out to their local post office to get the forms in the mail before the deadline.

You can hand out promotional 'Million Dollar Bills' or come up with your own ideas. See: ny.lp.org/activism/TaxDay or libertarianwiki.org/Tax_Day for more ideas -- and use the latter to add your own ideas, plans and fliers!

STATE LAWMAKERS AGAIN GO FOR MORE SPENDING AND BORROWING IN STATE'S LATEST BUDGET.

John Clifton, LPNY Chair, says it's just politics-as-usual in Albany.

\$113 billion dollars will go to buy votes next fiscal year. That is 6.6% more than the year before, or nearly 2.5 times the rate of inflation.

New York's tax burden has ranked first or second in the nation for at least 35 years, according to Tax Foundation calculations.

"Spending is also done on credit. This means more debt for children yet unborn," declares Clifton. According to figures from the Empire Center, "After nearly tripling under former governor Mario Cuomo, state-funded debt is on pace to nearly double during the three terms of Governor Pataki—including an increase of roughly 31 percent between fiscal 2002 and 2007."

"How long can this go on?", asks Werner Hetzner, party Treasurer. "Every tax dollar used to pay government bills is a dollar we can't use to pay our own. Every dollar taken by taxes makes life harder, encourages New Yorkers to vote with their feet, and discourages others from coming to bake the economic pie we need to improve our quality of life," adds Clifton.

POTENTIAL NEW YORK LIBERTARIAN CANDIDATE NOMINEES

SEVERAL POLITICAL CANDIDATES ARE EXPECTED TO SEEK NYLP NOMINATION FOR THEIR RESPECTIVE TARGET OFFICES, HERE, AT PUBLICATION DATE, THEY ARE:

William Weld, for Governor of New York

Mark Greenstein, for US Senate

Steve Greenfield, for US Senate

Kim Dsouza for the NY 41st State Senate seat

Eric Sundwall, NY 20th Congressional District

Jeff Russell, for US Senate

Donald Silberger for Governor of New York

THE FOLLOWING ARE INTROS AND INFOS THAT HAVE BEEN RECEIVED BY FREE NY ON/FROM THESE CANDIDATES:

MARK GREENSTEIN

Democrats.

Pragmatics:

1) a weaker Hillary Clinton helps all challengers in November.

2) emboldened challengers give more credibility to candidates outside the Republi-Crats,

3) an ideological friend who is campaigning within the Democrat party for five months for less government and less Hillary gives more weight to the LP message that will come for the final two months

4) someone who specifically can draw 10% - 25% of the Democrat vote away from Hillary who espouses Jeffersonian / libertarian values gives instant credibility to his ideological successor - the LP nominee.

I will likely be off the scene by November. NYLPers can comfortably vote for their nominee having given aid to the candidate who is directly fighting one of their biggest ideological enemies.

Now, should my candidacy gain enough strength to force Mrs. Clinton to withdraw, the prior support from LP members makes you also a winner.

Please check out the issue positions at www.greensteinforsenate.com and those at www.jeffersonians2008.org, the PAC I helped found.

I would relish your nominating me in Albany, and thus I am open to an e-mail covering your concerns.

Mark Greenstein -- For A Better U.S. Senator

877-464-6399 -- voters

203-682-0903 -- donors / media

877-786-7445 -- events / appearances

www.greensteinforsenate.com

Our Party Matters

I'd like to speak at the LPNY Convention and ultimately have my name in contention for the U.S. Senate nomination against Hillary Clinton.

As you may know, I am the NON-Liberal challenger running in the Democrat party. It's a serious challenge, meant to put Mrs. Clinton's irresponsible politics in front of voters throughout the summer, and to put the issues of regulation, taxation, intrusion, and free trade before voters. Many don't realize what the US was like before FDR, LBJ, Nixon, and liberal Congresses worked thier mischief. I am a "small d" democrat and a "small l" libertarian. I like to call myself "Jeffersonian" even though my (former) campaign manager thinks that term is dangerous.

So I'd like your support, anywhere from a formal nomination to an informal "meet some open-minded voters" across the state and at the Albany Convention. Please assess me based on both Principles and Pragmatics.

Principles:

A) No elected Democrat is closer to LP principles than I am. Less Federal government makes us more free, more wealthy, and more fulfilled. Government should do ONLY the functions that are necessary and which it does best. That basically means courts, the military, and the environment. I'll grudgingly accept the government doing more, so long as those activities are democratically embraced. For the last 40 years years we've had UN-democratic sell-outs, by Republicans and Democrats.

B) I'm pro-choice on virtually everything: taxes, social security, abortion, marriage, religion, and public service.

C) I voted for Harry Browne in 1996 and 2000. I continue to endorse his book to all open-minded

STEVE GREENFIELD, CANDIDATE FOR US SENATE

Steve Greenfield, who is running for Senate on a Peace and Freedom platform against incumbent Hillary Clinton, will be making three campaign stops up and down the eastern part of the state.

Greenfield is excited about the escalating pace of the race. Prior to his departure for Albany, he released the following announcement:

"Time's up, Senator Clinton.

The elections have come and gone. In their aftermath, there have been widespread charges of fraud, a delegitimization of Iraqi self-governance.

High ranking Iraqi resignations, assassinations, the largest escalations of deadly violence against both Iraqi authorities and United States troops since the onset of the invasion nearly three years ago, and a descent into sectarian civil war.

Greenfield called on all New Yorkers, regardless of where they stood at the time hostilities were initiated, to contact their pro-war Senators Clinton and Schumer immediately and demand an end to US involvement in Iraq. "Let them know that democracy starts at home. Tell them that if they believe, as we do, that our nation's government is by the people, for the people, and of the people, that the people of New York want our people brought home to safety, and we want it done now, as quickly as the safety of the troops themselves will allow."

Steve Greenfield will be present in Albany at the NYLP Convention on April 29, 2006 to seek your nomination.

For further information, contact greenfieldforsenate@earthlink.net or call

(845) 532-0280 and visit www.greenfieldforsenate.org.

JEFF RUSSELL

My name is Jeff Russell, and I am seeking the LPNY nomination for US Senate. Many of you already know me, but for those of you, who don't, let me tell you a little bit about myself and why I'm running.

I'm 55 years old and live in Clifton Park with my wife, son and daughter. I have been a member of the LP since 1980. I decided to run for US Senate because I am very disturbed by the stance that Senator Clinton has taken on many issues during her first term.

She has supported the war in Iraq, the Patriot Act and Homeland Security, and I am very much opposed to all of those things. These are the issues I plan to focus on during my campaign. By supporting these things she has helped to greatly erode the civil liberties of the American people,

and if she is elected to a second term, I expect her to continue her attacks on our liberties.

I expect the Republican candidate to try to prove that (s)he is even tougher on terrorism than Senator Clinton. I believe many voters will be looking for an alternative to these "get tough" stances. Many voters view Libertarians as ultra-conservatives. By concentrating on these issues, I hope to "out liberal" her. I hope to get every liberal in the state thinking about voting Libertarian.

I'll be attending many of the local chapter meetings between now and the LPNY convention in April.

Come and meet me and ask me any questions that you might have.

You can email me at
JRuss1776@aol.com

ERIC SUNDWALL

My name is Eric Sundwall and I'm running for NY's 20th Congressional District. I am a small business person with almost twenty years of experience in the Information Technology business.

I've lived in Columbia County almost all my life and I'm tired of how Washington and the two major parties treat the average law abiding American.

With your help spreading the idea of Liberty in our time will be possible this November. I believe that the Libertarian Party is the best way to promote real fiscal responsibility' and social tolerance.

If you are tired of undeclared wars, illegal wire taps, corporate and social welfare programs, please consider me as your next State Representative.

Free markets, less government and sensible defense policies are the only way not to burden the next five generations with unmanageable debt and irresponsible spending. The Republicans and Democrats have failed in all these respects. Let the Party of Principle try to fix it.

Why run for Congress'?

My original focus is to create a chapter for Libertarians in Columbia County. When people ask why Congress instead of Assembly or town council, I tell them these are the issues that can only be raised on a national basis.

Quite frankly I couldn't get elected locally. The possibility of an insurgency/protest vote is more my speed. If people can be empowered by 20 and 50 dollar donations to simply register their protest, I'm their man. Our volunteers will attend rallies, festivals and anyplace that will have us.

Maximizing the rights of an individual and minimizing the role of government is what I will fight for. The Platinum rule is that rights only extend in so far as another individual's rights are not abridged by one's own actions. Sometimes it can be couched as fiscally conservative and socially tolerant. It's frequently confused or derided as 'liberal'. In reality it should be considered a 'classical liberal', that is, favoring open government, free markets and non-interventionist foreign policies.

A recent poll suggested that 20% of Americans lean towards libertarian ideas.

If these Americans will vote with these ideas, then we all prosper from it.

I will see you all in Albany on April 29!

Sundwall for Congress
POB 503
889 Main Street
Niverville, NY 12130

Ph: 518-754-1023
Fax: 518-784-3603
email: Info@sundwall4congress.org

THE FDA'S WAR ON CHERRIES - CONT'D FROM PAGE 1

referring the offending companies to the Attorney General for prosecution for fraudulent advertising, the FDA sought and received legislation which is now being subverted to go after cherry vendors.

Since that law was passed, supplement manufacturers have spent money on attorneys to carefully word their products claims to avoid such confrontations with the FDA. Predictably, with a new law at its disposal, the FDA has found a way to expand its scope.

According to the FDA's own website, they sent out warning letters to 29 companies stating, "The labeling for your product [name of product] bears the following claims [specific claims] These claims cause your product to be a drug, as defined in section 201(g)(1)(B) of the [Federal Food, Drug, and Cosmetic] Act." The letter goes on to state that, "Enforcement action may include seizure of violative products."

In other words, because you claim cherries can relieve arthritis or gout, they are now a drug and the FDA can seize them.

It seems that the health claims referred to are not actually on the product labels themselves in most or all of the cases, but on the websites of the offending vendors. In at least one case the offending information seems to be an external link off of the company website to fruitinstitute.org where studies are summarized showing health benefits for a variety of fruits including cherries. Some of these studies were done by institutions such as Michigan State University, UC Davis, The University of Iowa and the federal government's own USDA.

The letter goes on to say, "Because this product is not generally recognized as safe and effective when used as labeled, it is also a new drug as defined in section 201(p) of the Act." Please let me know where I was when the story hit the news

that somebody overdosed on cherries, dried cherries, concentrated cherry juice or even the cherry tablets/capsules sold by 3 of the 29 targeted companies. I checked out the suggested uses at Amon Orchards and they recommend adding water to their concentrated juice, making it effectively reconstituted cherry juice.

The FDA will surely reply, if asked, that the claims that cherries cure cancer, as they allege in their letter to Amon Orchards, will lead people who have cancer to avoid effective mainstream treatments. I will concede that point but argue the remedy. If one could show that their loved one relied upon such claims and died of cancer, they might have a case for a civil suit. Such a suit would have the effect of warning other companies against such foolish claims.

Instead, the FDA's actions in this case, and others like it, tell consumers, "We're watching those labels for fraudulent claims so you don't have to." This lulls many into a false sense of security and deeper and deeper dependence on the government to make sure they are not exposed to false advertising. It tells libertarians what they already know -- The only good government is smaller government.

RELATED WEBSITES:

www.fda.gov/bbs/topics/news/2005/new01246.html
www.fruitinstitute.org/cherries.htm
www.sunrisedriedfruit.com/
www.fda.gov/foi/warning_letters/g5528d.pdf

(This last link I would take as an April Fool's publishing joke, if it wasn't so verifiable and directly on the FDA's website, Ed.)

Reality is that which, when you stop believing in it, doesn't go away

Philip K. Dick

EMINENT DOMAIN, A TRI PARTISAN ISSUE - CONT'D FROM PAGE 1

Rationalizing, and parlaying on the concept, New London proclaimed that such a transfer of title "was in the public interest", and would thus initiate its preemptive option of eminent domain jurisdiction, and seize by force what they could not negotiate, via Eminent Domain.

Eminent Domain is the legal means by which various sovereign governments of the United States are legally authorized to involuntarily seize private properties and convert them to public use; embodied into law via the "takings" clause of the 5th Amendment of the US Constitution, which reads:

"No person shall be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

As in all law however, the devil is in the judicial interpretation, particularly whenever some authority wishes to expand its power beyond the obvious terms that the law provides for.

(Examples: The preventative detention clause of the 8th Amendment commands simply that "Excessive bail shall not be required". Yet in 1984 Congress authorized the detention of criminal defendants without bail at all. Although this would appear to violate the 8th Amendment, since no amount of money or condition would be enough, the Supreme Court ruled that since no numbered bail amount was offered, it could not be considered excessive.

With capricious judicial latitude like this, we can easily see the Constitution's prohibition of "cruel and unusual punishment" being interpreted to permit cruel punishment - as long as it is not unusual. Don't think it can't happen. "Civilized" countries, like Saudi Arabia, routinely practice cruel, but quite usual, punishment, such as the chopping off of defendants' hands for petty thievery.)

The pivot point for abuse of this clause, was, and is, centering on the phrase "public use".

So, just what is public use?

Traditionally (that is, before the Supreme Court went insane), public use is just like what it sounds like - the use of the subject land/property by the public, e.g., public highways, dams, government buildings, airports, public parks or recreation areas - essentially, public works where the public would have access to, and directly benefit from the use of. The terms of the law seem unambiguous.

And yet, as unambiguous as it may be, the courts will always find (or make) a little wiggle room that serves the State at the expense of both the public and particularly the private individual.

When the government desires more jurisdiction, more power or more control, an inconvenient phrase or word will be folded, spindled and mutilat-

ed into something more amenable to expedience.

Inasmuch, somewhere along the precedential way, statist minded jurists ignored the plain language of the law, and began to expand on the concept of "public use".

The first salvo launched by the courts was to casually introduce the terms "public purpose" and "public welfare" as synonymous and interchangeable with the actual law's constrained mandate "public use", see **Berman v. Parker** 348 U.S. 26.

In **Berman** the question was whether a eminent domain could be imposed where a municipality planned to eliminate slums and urban blight, notwithstanding its ultimate usage. The Court ruled that it could.

(Being 1952, the **Berman** decision came down during the decade after World War II, a time of great optimism about the power of government. Utilizing federal funds, cities were embarking on massive urban renewal efforts. These plans, despite meeting the newly minted "public purpose" requirement, met more often with failure rather than success -- evidenced by the skeletons of many American cities ossified into the brutalist concrete ghost towns seen today.)

By committing Constitutional heresy, these substituted, less distinctive terms were canonized to be what the Constitution says. The rights that had been protected, and the prerequisites that had been required by the Constitution for asserting eminent domain, were mooted, and easily sidestepped from then on end.

Ergo, the legacy New London City could rely upon in their landgrab.

Outraged as anyone would be when a thug grabs your belongings at the point of a gun, some of the victims, headed by Susette Kelo, sued the city of New London, asserting that even if the town had the power to take their possessions, the target use of those properties should only be for "public use" as the Constitution commands. In order to not offend the precedential Berman, the distinction they made here was whether eminent domain could be applied where the municipality was not seeking to eliminate slums or urban blight, but rather for the sole purpose of "economic development".

They complained that taking it from them and selling it to large corporations and other private entities, who retain private property protections of use from the public, could not be considered "public use".

The case made its way all the way up to the US Supreme Court, where a bare majority, in a 5 to 4 decision, ruled that economic development was a legitimate takings under the "public purpose" test.

But of course the issue could past muster under such a standard; the only problem is that the Constitution does not provide such latitude. As Justice Thomas observed:

"This deferential shift in phraseology [from "public use" to "public purpose"] enables the Court to hold, against all common sense, that a costly urban-renewal project whose stated purpose is a vague promise of new jobs and increased tax revenue, but which is also suspiciously agreeable to the Pfizer Corporation, is for a 'public use.'"

After the Court's judgment in favor of New London, the city heaped insult upon injury, by demanding that *Kelo*, et al, pay rent for the time they occupied their homes during the civil case proceedings, some 5 years of culminated back rent equal to tens of thousands of dollars, dating from when the city initially attempted to seize their properties. (We can only presume they didn't also try to claim the property taxes paid for that time as well.)

Forced into the unconscionable circumstance of abandoning their homes, the residents were now only left with the hope and expectation that they would receive "just compensation" for the seizure of their properties. New London reportedly had allocated \$1.6M to purchase the 15 homes surviving the *Kelo* case, approximately \$107K per home on the average.

The courts have defined the Constitution's "just compensation" as meaning "market value", which of course itself is subject to interpretation. That valuation of course is kindly provided by the arrogating municipality. (In this case it is interesting to note that the median home cost in New London is \$226,700, about twice the value of New London's idea of "just compensation".) For context, consider the 'cash value' an insurance company covers when an older car is totalled. The misleading 'cash value' coverage does not ever actually pay for the replacement of a vehicle, it just pays what the car might have sold for on the open market.

Similarly, such a schemata does not replace the forfeited home for the worth it had to its owners, and it certainly does away with any opportunity of a forfeiting property owner to get the best price they could on the open market, and it certainly does not provide the property owner with a "replacement value" sufficient to make him/her whole again. And if the property owner cares to object to the price stuffed down his throat, he has to spend even more money to try to contest it.

Left with little choice, such a property owner must now spend effort and resources trying to find another home within a budget unprepared for, moving all possessions, and suffer the unavoidable disruption of his/her social and business life, all of which is not included in the "just compensation" calculation that s/he is paid.

With such political powers at stake is it any wonder why the court's consistently rule in the

statist's camp? A seizing municipality merely has to proclaim just about anything they want to do as being "in the public interest" and for a "public purpose", it can then forceably forfeit private owner's homes and land, oust them as trespassers, and then pay them what is unilaterally declared "just compensation"; it is then free to resell the property to the highest bidder. All in the "public interest" of course.

The protections that the Constitution was authored to have, to prevent governmental abuses like these, have been eviscerated by the changing term "public purpose" instead of the more constrained "public use".

It isn't an accident that the term Eminent Domain translates directly to Supreme Lordship (from the original Latin dominium eminens). Such power stems from the very core of national socialist mentality, that private interests must always yield to greater social need.

Notwithstanding the socialist presumption however, the application of which could still follow an honest purpose, the problem here is not so much one of actual social need, but rather who gets to interpret what society is in need of, and whether society, ostensibly, will be served by the seizure of private lands, to be disposed of in any way expedient to the government.

When such questions are unilaterally determined by a seizing power, well . . . several clichés come to mind - the liquor store run by the alcoholic, fox guarding the henhouse, absolute power corrupts absolutely.

(A typical case study: the Village of North Hills in Nassau County is eye-balling the Deepdale Golf Course, with the intent of municipalizing it for the exclusive use of village residents.

The mayor says this would increase the property values of its exclusive homes, already worth millions, and that the town will benefit from the property tax increases. Interestingly, North Hills doesn't have a firehouse, a library, or even a school for its residents' public use.)

The danger from such freewheeling pillaging is not theoretical, nor is it even handed in its application across socio-economic classes.

In a study conducted by Dana Berliner, an attorney for the Institute for Justice, the libertarian public interest law firm that represented the New London homeowners, it was found that certain categories of homeowners are at heightened risk to eminent domain abuse.

Based on her research on more than 10,000 abusive eminent domain seizures across the country, she compiled a recurring profile of targeted high-risk homeowners, which have been:

- **Residents of older neighborhoods in locations that make them attractive for a supposedly "higher and better use" -- for example, near a waterfront or in a low-density area**

adjacent to higher-density commercial areas.

- **Working-class and middle-income areas in general.**
- **Neighborhoods with high concentrations of lower-income minority residents.**

These findings are expected, those with little resources to defend newly coveted properties, are eagerly targeted as easy pickings.

But as per the *Kelo* case, it may appear that this total evisceration of private property rights could have a silver lining, if only by virtue of the naked, presumptive, audacity of it all.

Whereas most Americans generally ignore the political process, and may only have a passing idea of current Supreme Court cases, this one seems to have struck a nerve.

It seems to have united an overwhelming majority of the people and politicians toward the quotidian libertarian attitude about this practice; strangely because in most other socio-governmental arenas Americans on the whole have swallowed and accepted the Demopublican party line, insofar that you must ultimately sacrifice personal liberties and properties for the good of society.

Although in public debates we find many complaints about the evisceration of personal liberties, we rarely see the public actually vote out of office the very legislators and jurists that effect the loss of those liberties.

This is a result of the public's daily discomfort level still clocking in lower than their natural tropism to vote as they always have, due to tribalism and inertia. People simply don't vote on idealism, they vote first with their emotions, then with their personal inertia, then with their tribe. Even when their personal liberties are culled, unless they feel it directly, it has very little effect on their voting habits.

(It has been said that serfs of the middle ages would revolt when taxes began to exceed 10%. An interesting factlet, considering that modern Americans pay over 40% of their income in taxes.)

And yet, Eminent Domain assertion has surprisingly sparked the ire of the American people, so strongly so that politicians have had to grit their teeth, gone against their power snaffling, socialist grain, and force themselves to align with a heated populist rally.

Despite its onerous reincarnation since 1953 via **Berman**, Eminent Domain abuse is now a hot button topic that politicians suddenly have an opinion about; acting as if the **Berman** case was news to them, they are now bellowing about the sanctitude of private property rights, and the injustices of it all.

But this time, surprisingly, it is not just all talk; bills have been instituted in 8 states banning the

seizure of private property for the use of "economic development", and additional 6 states are considering voting such prohibitions into their constitutions. In US Senate, a bill entitled "Protection of Homes, Small Businesses, and Private Property Act of 2005" (the PoHSBaPP Act?) has been introduced, to limit the use of Eminent Domain for economic development from the federal government, and also upon the States (via that time tested federal coercion tool - withholding federal funding to states who refuse to play ball.) Similar bills have been put before the Congress as well.

Even private institutions have jumped into the sway; BB&T Bank announced that it refuses to lend money to commercial developers that intend to build upon land that has been taken away from private citizens via Eminent Domain proceedings.

(Our own New York Libertarian Party is hosting a protest rally in Albany on April 28 at the Empire State Development Corporation 30 S. Pearl St.)

To libertarians, of course, Eminent Domain is always abuse, for such activity strikes to the very core of libertarian precepts. It is perhaps the most bluntly socialist power retained by the government as a constitutionally protected act. This is made all the more abusive, when what passes for due process, is actually the legally sanctioned whim of governmental apparatchiks.

Libertarians vest first rights of property on the individual, and no other entity has the option to supercede those rights; it is only through voluntary negotiations or debt resolutions that a person's property can be taken from him/her.

Curiously, in light of the public's reaction, legislators have proposed another Amendment to the Constitution that makes explicit these expected limitations of Eminent Domain; considering that the original Amendment (5th) already makes explicit these limitations, this is almost comical.

But burdened by the rapacious interpretations of the Supreme Court, it may necessitate a redundant "No, Really" Amendment saying the same damn thing:

"Public use means PUBLIC . . . USE!"

One can only hope that similar outrages will combine to reach a critical mass, that Americans en bloc will wake up from the Demopublican stupor they have been Sired into, and begin to see the light of liberty recognized and coveted by libertarians.

It is only then that society and government will respect and protect the personal sovereign rights of private property and of personally retained liberties.

parroted in media and news circles, that the public considers Republicans and Democrats equally corrupt and dishonest. I feel I have played a part in this, in a small way, by talking down the bastards at every opportunity. First people may have dismissed the LP as an overly extreme or radical solution, but when they examine the "solutions" and fixes soon to be offered by the Republicrats, I think they will choose to come back and take a closer look at us. We have to be patient and keep working to explain the advantages of complete freedom to people. We cannot give up when we are so close to success. Hell, they're even talking on some news shows about how another party should be formed—maybe with John McCain as one of the leaders (please, don't make me puke on my uniform). Hey, people, we already have a third party—the LP! This is a time of great danger, I think, and great opportunity.

2. The gold market is in a bull market. Gold hit \$441 on Friday, silver passed \$9 an ounce. Gold doesn't lie. It's a harbinger of inflation, instability, and the consequences of fiscal mismanagement. What do the gold bugs know that the average schmoes eating at McDonald's and Taco Bell don't? Well, they know that no country has ever been in as much debt as the U.S. is now. No country has ever run trade deficits this big, and no country has ever run budget deficits as fat. Not in the history of the world. The savings rate in the U.S. is a negative figure, and the housing bubble, multiple-times larger than the large bubble preceding the tech wreck of 2000, is starting to tear and leak at the seams. Inflation is felt everywhere, from the price of heating our homes, to buying food, to just taking a cab. And meanwhile, the U.S. hardly produces anything anymore. All we do is buy Chinese goods with paper dollars, and then we buy the paper dollars back with more paper. It's a neat arrangement, a brilliant way to run a country, I must say, and very pleasurable too (kinda like smoking crack, I would imagine, although I never tried that). I wish I too could make a living doing this paper trading, but unfortunately the U.S. Government doesn't allow little people to manufacture money out of thin air like they do (see, that's because they're doing it for our own good, see, and for the children). Well, the price of gold is going up even on the days the dollar is rising, an unusual trend that tells us the smart money is predicting more economic crisis. Crisis is an opportunity, isn't it? I hope so.

3. I noticed we just entered 2006. It's a midterm election year. That means this is crunch time for us Libertarians in New York and around the country. I have to remember to ask my fellow party members some questions around this time: Have you made a personal Libertarian battle plan for the coming year? How are you going to work to advance freedom in 2006? Have you ordered LP literature to hand out this

Spring? Are you writing some letters to the editor? Are there any specific issues you can use to put your local legislators and your Congressional representatives in their metaphorical place? Have you made your contributions to LP, LPNY, The Advocates, CATO, IJ, ISIL, and other favorite pro-freedom causes? Have you thought of how LPNY can improve as a political party? What is the best way for us to attract good candidates, and how can we get 50,000 votes? Most important, how can we educate the most number of citizens about libertarianism?

As I write down these thoughts, my team is in a secret LP prison just outside of Calgary interrogating several suspects. We're using Canada as one of our "friendly safe house territories" to host our secret CP prisons for Constitutional enemies and subversives. Here we deny traitors to the Supreme Law all TV appearances and press interviews, all legislative voting opportunities, all political perks, power lunches, free barber shop, limousines and bodyguards, and most importantly, deny them all their snotty and arrogant legislative aids. We put them on a restricted diet of TV news-watching, newspaper reading, fundraising junk mail-opening, answering taped campaign phone calls, helping out former local elderly constituents, testing out new laws as our "laboratory rats", joining as many focus groups as possible, and tutoring community elementary school kids in reading. Plus we get them to try washing graffiti off of commuter trains, just for a few hours. We also re-educate them in the finer points of Constitutional Law, basic ethics, proper manners, and table etiquette. I can tell you, we've whisked away several hundred of these Constitutional and oath-of-office violators to our secret prisons all over North America just in the past six months. When we first get them in here, they're terrified of the idea of actually defending and advocating freedom. But after 48 hours of deprogramming and re-education, they're ready to begin their reparations to society and their new lives, and accept the principles and ethics of the original concept of a libertarian constitutional republic.

It's tough being an undercover Crook Patrol officer, but somebody's got to do it. Most of us will never be recognized for our sacrifices. While the members of the lpny_discuss Yahoo! group get all the attention and glory, we in the CP slave away in relative obscurity. But maybe soon more of our documents and exploits will be released to the public, and more officers will come out from the shadows of anonymity. It's all in a day's work, that's what I tell myself. Maybe someday we'll live in a truly libertarian society, and we won't have to do such messy and unpleasant things. That's our hope. For now, while the CP toils in dark, damp dungeons and on cold city street corners, we are hoping our LP brethren in the world of light and warmth do their part by making the LP a success.

JUDICIAL ACCOUNTABILITY INITIATIVE REACHES VOTERS IN SOUTH DAKOTA

By Gary Treistman

The grass roots coalition of judicial reform activists known as J.A.I.L. (Judicial Accountability Initiative Law), have managed against all odds to bring forth their Initiative directly to the voters in South Dakota.

The group seeks to pierce the veil of Judicial Immunity that judges in this country enjoy and often abuse. Such legal immunity shields judges from all civil and most criminal liability stemming from any decision(s) they may have issued pursuant to or in conclusion of legal proceedings before them. For more background, see *How the Courts Stole the Right to Petition for Grievance*.

This self-serving court-made law was first proclaimed by the courts in 1793, and is unsupported by any text in the Constitution. The rule prevents recovery of damages suffered by litigants proceeding before a judge where the judge violated the law; see Supreme Court's re-affirmation of the rule, ***Stump v. Sparkman***, 435 U.S. 349 (1978). (a case where a judge unilaterally ordered the involuntary sterilization of a 15 year old girl, w/o her knowledge or chance to object, solely on the verbal request of her mother who complained that her daughter was dating men too old for her.)

In practice, what this means is that the courts and the judges who run them have formed a united cabal that protects itself and its members from ever being liable for decisions and orders they issue, no matter how illegal.

The courts maintain that rule, irrespective of how egregious, or even admitted, the violations of law a judge's actions may have been. It makes no difference whether a judge's actions caused wrongful death, permanent injury, wrongful imprisonment, destruction of property, denial of rights or other offense. It makes no difference whether the judge even had jurisdiction or authorization of any kind under law, to do what he did, the rule says they are completely immune from legal redress from the aggrieved parties, and thus preempted from being sued for their otherwise unquestionably tortious acts.

In South Dakota, a private businessman subsidized the J.A.I.L. Initiative, obtaining 46,800 ballot signatures, and attaining the right to put forth directly to the SD voters whether to make the Initiative effective as State Constitutional Law, visit South Dakota Amendment E website for details and developments.

Such provisions, if they achieve enactment into law, would act as a people's safety net against judicial malpractice, and provide a civil remedy for those aggrieved by a judge's legal negligence.

Although considered revolutionary in legal circles, the law would be only effective after standard due process has been given a chance to correct any perceived breaches of judicial discretion.

Under the new law, judges still retain the benefit of the doubt when someone questions their judicial actions; a potential complainant against some judge must first exhaust all judicial remedies available under traditional due process, i.e., working within the court system, motions to reconsider, appeals, certioraris, mandamus', etc. . . . and giving the system a chance to police itself.

But if after all this, an unsuccessful complainant still feels justice is being subverted, he would have the right to petition a special grand jury, required by the law to be made up of citizens who are not attorneys, judges, police officers or judicially related employees.

The special grand jury would have the power to hear the complaint, review the evidence and the record, have subpoena powers as needed, and upon good faith consideration, would also have the power to formally strip the defendant judge of his presumptive entitlement to judicial immunity.

A complainant/plaintiff would then have the right to prosecute a civil suit against the judge for any legally wrongful and civilly liable acts the judge may have committed while presiding over the subject claimant's case. Such a suit would proceed like any other civil suit, with all other protections and due process' in place.

Legitimate causes of action provided by the new law, would be constrained to otherwise uncontroversial breaches of a judge's authority and scope of discretion, specifically:

- **Deliberate violations of statutory law, violation of non-discretionary court rules of procedure, or that of the state or federal constitutions.**
- **Fraud or conspiracy.**
- **Intentional violations of due process.**
- **Deliberate disregard of material facts.**
- **Judicial acts without jurisdiction.**
- **Acts that impede the lawful conclusion of a case, including unreasonable delay and willful rendering of an unlawful judgment or order.**

It is the acknowledged hope and motivation of the Initiative's proponents that the mere threat of appeal to such a special grand jury will act as a wake-up call to the judiciary, and without even being invoked, would induce the courts to clean up the judicial sloppiness and abuse that legal immunity allows to go unchecked.

It is expected that the quality of court administration and judicial determinations will increase significantly from the enactment of this law.

Proponents of the Initiative hope that if it meets with success in South Dakota, a precedent and example will be set for the rest of the nation, and enthusiasm for the new law will spread to other states.

The Initiative, having only qualified as an elective choice for SD voters, has already caused major official backlashes from those who stand to gain by maintaining the status quo, as almost all politicians, attorneys, judges and pro-government newsmedia in South Dakota have lambasted the Initiative, and implausibly argue that somehow judges should never be legally responsible when they break the law.

Furthermore instead of clear explanation in defense of judicial immunity, critics of the initiative resort to questioning the reputations and motivations of the its proponents, imputing some spurious or nefarious agenda.

The South Dakota legislature as a body even

went so far as to pass an official resolution urging the voters to vote against the initiative.

State officials have spent public funds convening hearings, lobbying the public with advertisements and official notices, threatening that anarchy and social chaos will occur if it succeeds at the ballot box. The media and statist pundits regularly misrepresent the terms of

the Initiative in editorials and articles to the public, claiming that convicted felons will be able to sue judges for the sheer fact they were found guilty,

(In fact, under the Initiative a judge would still be immune from such suit if s/he administered the proceedings pursuant to law)

Despite the fact that elected officials have neither the jurisdiction or authority to take an official stance on such ballot initiatives, they have used their official status and tax payer dollars to oppose this grass roots popular effort for reform; this is both a conflict of interest and usurps the public's discretion to make an independent choice.

In November 2006, hysterical South Dakota legislators and the legal community will find out if the voters choose to demand effective accountability from all employees of the government, or if they will let judges continue to proclaim that they can legally "Do No Wrong", a legal principle that they claim as their divine right and legacy, conferred directly from the social class of pre-Magna Carta Kings and Royalty.

"It is dangerous to be right in matters on which the established authorities are wrong. "

Voltaire