

# FREE NEW YORK

## The Libertarian Alternative

WINTER-SPRING 1988

### 1988 State LP Convention Set for April 30 and May 1 in White Plains

The New York and Connecticut Libertarian Parties will hold their 1988 State Conventions in White Plains, New York on Saturday and Sunday of the weekend of April 30. The entire program of the convention is not final, but from the details that are available, plan for an exciting two days.

Saturday is reserved for speakers and an evening banquet. The joint NY-CT proceedings should begin about 9 a.m. Some of the speakers are known at this time, but their order is not.

The keynote speaker on Saturday morning will be the National LP chairman Jim Turney. Anti-draft activist Paul Jacob will speak on foreign policy, and financial newsletter editor Howard Katz will talk about market crashes and the gold standard. Andrew Melechinsky, a self-taught expert on the Constitution and noted gadfly, will speak on the Constitution in this bicentennial year.

Also on Saturday, there will be a panel discussion on juries, including notions of common law, the history of jury trials, and the need for reform. Panel members may include Melechinsky, Gary Greenberg, Mike Kessler, Margaret Fries, and (authorities permitting) Jim Lewis.

The Saturday night banquet speaker is not set at this date, but the chances are excellent that it will be the Libertarian Presidential candidate, Ron Paul.

The Sunday morning breakfast speaker is also not final, but the odds-on prospect is David Nolan, one of the co-founders of the Libertarian

Party.

The rest of Sunday morning and afternoon will be reserved for business meetings of both state parties. The New York meeting will include nominations for U.S. Senator and Congress.

The hotel for the convention is the White Plains Hotel in downtown White Plains. The convention rate for the weekend is \$50.00 per night, double or single occupancy. The convention registration fee has not been determined yet.

The Westchester County Airport in nearby Purchase serves White Plains, but connections to the New York Metro airports may be more convenient. La Guardia is about 35 minutes South, and there are scheduled limo services between the hotel and La Guardia. By car, White Plains is approximately seven hours from Buffalo, three hours from Albany, four hours from Binghamton, and forty-five minutes from Manhattan.

White Plains itself is the seat of upscale and uptax Westchester County. For those so inclined, the standard New York City department stores are convenient to the hotel. Not far away, along the Hudson River, there are 1700's historical restorations. For the really adventuresome, there is regular train service to Manhattan.

With all these enticements, what better way is there to spend a May Day weekend than with a bunch of rowdy and rousing Libertarians? Look for further details coming to your mail box soon.

## This Season's Victim of the State: E. Kevan Rowlee

Early on a cold January 1986 morning, twenty-four government agents invaded the Rowlee home. They descended on this quiet dwelling without invitation and remained well into the afternoon, photographing every room, rifling through personal belongings, and interrogating members of the family. Young Emily Rowlee, ill and at home from school, was awakened to find a number of armed men standing around her bed. When the government officials finally left, they took with them thirty cartons of property from the Rowlee home -- "evidence" necessary for the government's investigation into possible crimes against the state.

This incident did not occur in some Communist Eastern Block country, nor was it the work of a South American dictator. The invaders included eighteen employees of the United States government (both Federal Marshals and Special Agents of the Internal Revenue Service), along with six members of the local law enforcement community. The raid on the Rowlee home occurred in the small upstate New York town of Fulton, and the targets of this invasion were Kevan and Laura Rowlee and their children.

Kevan Rowlee turned to the courts to redress this invasion, and he was sent away because he "lacked grounds." No criminal charges had yet been filed, so he was held to have suffered no wrong; he had no standing to challenge the illegal search and seizure. It was nearly a year before the Federal Government was able to obtain an indictment, at which time the challenge to the intrusion was renewed and the motion denied without explanation.

The indictment, returned in December 1986, charged E. Kevan Rowlee, both as an individual and as an entity (The New York Patriot Society for Individual Liberty) with some sixty counts of Mail Fraud, Conspiracy to Defraud, and Aiding and Abetting the filing of false or fraudulent documents. The number of counts was later reduced to forty-four when certain government witnesses declined to deli-

ver the government's version of the facts while under oath. The alleged victim of this "fraud" is the United States Government. The criminal acts charged in the indictment are as follows.

Certain members of the Patriot Society for Individual Liberty wrote letters asking questions. The subjects covered many areas, one of which regarded the constitutionality of withholding. Members had written to their employers, IRS agents, the Secretary of Treasury, many members of Congress (including the current Libertarian Party presidential candidate; Ron Paul), the President, and local law enforcement officials. Certain members of the Society, after varying degrees of research into the matter, concluded that they were exempt from withholding (although not necessarily from taxation, per se), and they filed their W-4's to that effect. These people were named, but not charged in the indictment.

No letters written by Rowlee were included in the indictment. No charge that he had attempted to evade taxes were brought. He was charged with the responsibility for the actions of a few other individuals.

Rowlee was singled out for prosecution because he appeared to be the "leader" of the Patriot Society for Individual Liberty. He had written literally thousands of letters, published in local newspapers, discussing current events and objecting to the deterioration of the U.S. government into a socialist state. It was in an office attached to his home that an extensive library, including many legal reports and reference works, was found.

Up until two years prior to this incident, Kevan Rowlee had also conducted seminars on a wide variety of topics. Those weekly discussions covered American history, objectivist philosophy, Austrian economics, libertarian political solutions, the Bible, and morality. (Certainly, all topics of danger to the state.)



In 1984 he discontinued the seminars to run for political office as another means of bringing about change. He ran for Congress in the 29th district of New York, as a libertarian Republican. In spite of an unfinanced, one-man campaign, he managed to get twenty percent of the vote against the incumbent of twenty-two years, Frank Horton.

Unable to make his bail, and challenging the jurisdiction of the court, Rowlee was sent to the Oneida County Jail. In the short time he was there he helped the prisoners file petitions, filled the chapel on Sundays, and caused the provision of Spanish Bibles for Spanish-speaking inmates. When Jim Hanes came forward to meet the bail, the Federal Prosecutor commenced (with great fanfare) an investigation of the Fulton businessman on no more than a "suspicion" that since he supported Rowlee, he might be involved in some crime against the state himself. The investigation, of course, revealed nothing and appears to have been initiated only to harass and frighten anyone attempting to provide public support for Rowlee.

After a number of blocked attempts to retain counsel of his choice (one occasion of which resulted in the Federal Prosecutor attempting to have the attorney in question disbarred from federal practice) the court appointed a Syracuse attorney, John Rinaldi, as Rowlee's counsel. Mr. Rinaldi was at the time in debt to the IRS for nearly \$70,000, with a federal tax lien for that amount on his home. After having been appointed to represent Rowlee, Mr. Rinaldi executed an agreement with the IRS to turn over all his assigned counsel fees earned on the case, in partial satisfaction of the debt. This situation was unknown to Rowlee until November 1987, and although the documents were discovered in the court's file, both the prosecutor and the judge claimed to have been in ignorance of these facts prior to that time. After nearly one and one half years, with the trial scheduled to begin in two days, Mr. Rinaldi had not interviewed one witness, had prepared no trial memorandum or questions for

voir dire, and had not even examined the many cartons of evidence.

As more and more information became public, Mr. Hanes again came forward to finance an independent attorney for Rowlee. He retained Jersey Green, a trial lawyer from Denver, Colorado. At the motion hearing for a continuance, Mr. Green presented these facts surrounding Mr. Rinaldi to the court. Both the prosecutor and the court agreed that, in the words of Judge McCurn, the Rinaldi situation did "not present even the appearance of impropriety." Nevertheless, the court graciously granted the defense several more days to prepare for trial against a government prosecutor who claimed to have worked "night and day for the last eighteen months" preparing his case.

At the trial, the government presented two IRS agents (one from civil and one from criminal investigation) along with a few former Patriots. The agents testified the government's witnesses all had tax liabilities and had filed exempt W-4's. They further testified that absolutely no pressure was brought to bear on the prospective government's witnesses, nor were any deals or offers of leniency made.

The testimony of each government witness was similar and can be summarized as follows.

"Kevan Rowlee held classes in his home for which I paid money. Kevan was a 'false prophet.' He told me to file exempt, and I did. Yes, he told me to go to the law library, do my own research, ask the IRS, ask lawyers, but I did not do that. I relied on him, and I filed exempt. Yes, I thought it was reasonable to rely on him. I'm paying my taxes now."

Each witness was employed to introduce irrelevant and, as cross-examination revealed in each instance, inaccurate assertions that Rowlee was racist, or sexist, or anti-semitic, or ready to conduct a shoot-out with the government. Each had little or no memory of anything else about which they were cross-examined.

The defense had great difficulty introducing evidence or witnesses. One example of the evidence problem centered on the seminars. The prosecutor had created the impression that those discussions, which ran several hours per week for six week periods, were for the sole purpose of "teaching people how to fill out a W-4 to claim exempt."

The defense attempted to demonstrate that there were many seminars conducted, that the topics were diverse, and that the subject of W-4's was discussed only in passing during some of them. But the defense was blocked at almost every turn. The court would not allow Rowlee to demonstrate for the jury how the subject of taxation, which often constituted a small segment of each six-week course, was actually conducted.

Although the Constitution guarantees a defendant the right to call witnesses on his behalf, the testimony of important defense witnesses was excluded. One such witness had clear and incontrovertible evidence to rebut the assertions of every government witness that "no deals" had been given in return for testimony. In 1985, C. Michael Seibert, an Alabama attorney, had been representing eleven upstate New York Patriots attempting to negotiate a payment schedule and abatement of penalties with the IRS. These Patriots had decided at that time to settle up voluntarily with the IRS and to pursue their fight against the tax system in another manner.

Seibert had obtained reasonable arrangements for his clients, when the IRS civil division, with whom he had been working, abruptly withdrew from the negotiations and referred him to the Criminal Investigation Division (CID) for any further discussions. He taped the telephone conversations with the CID, wherein they offered to return those cases to the civil division if the clients would testify that they had been "duped" by Rowlee and that he had been a "false prophet." None of Seibert's clients took the deal. The agent who made this offer was the same man who had just testified that no such tactics had been employed.

Before Seibert left the stand the jury was dismissed, being told that the court and the attorneys would retire to listen to the tapes. When they returned they were told, without further explanation, that they were to disregard Mr. Seibert's testimony. (In fact, the tapes were confiscated by the court which promised to return them at the close of the trial. Mr. Seibert has still been denied the return of his property although the trial has been over for quite some time.) Seibert's testimony was excluded because the judge, in his discretion, deemed it "unduly prejudicial to the prosecution." The jury was left with the impression that the court had listened to the tapes and found that they did not support Mr. Seibert's testimony. In fact, the court had not listened to the tapes, which indeed did support the testimony, prior to striking the testimony.

The jury ultimately delivered a verdict of guilty on one half of the counts, not guilty on the other half. As the verdict was read, four jurors wept openly. Without going into extensive explanation, it is a mystery as to how the same body of evidence could result in a mixed result of this sort, or why the jury was so disturbed by their own verdict.

The case of E. Kevan Rowlee is not a simple tax case. This is a prosecution which stands the First Amendment on its head. The very rights which that amendment was intended to protect have shrunk increasingly over the last several decades. Even worse, the agents of the government, which nominally serve its citizens, are engaged in crimes of extortion, trespassing, robbery, perjury, et cetera against its citizens. There are surely other Kevan Rowlees now being persecuted by the state. There are surely other Kevan Rowlees in the future unless something is done to rein in the reign of a government out of control.

### **MARGARET FRIES**

The author is a third-year law student at Syracuse University. She was a libertarian candidate for the Town of Conklin Justice in 1987.



## 1988 State Budget: More Government, More Spending, More Taxes, Less Freedom Is Just More of the Same

Mario Cuomo's apparent decision not to run for President is one of those old good news, bad news situations. The good news is that we won't have to worry about Mario getting his hands on the federal printing press. The bad news is that New Yorkers are stuck with his prolific spending habits. Only the late, great spend-thrift, Nelson Rockefeller can rival the living, taxing Mario Cuomo.

And, Mario won't have to worry about the 1988 state budget tarnishing his reputation. At \$44.2 billion only California's \$51 billion budget is larger. This is an 8.3 percent increase over last year's budget. The state blithely proclaims that its revenues will increase by \$2 billion dollars in 1988, but there is no increase in your taxes. Is Mario Cuomo practicing supply-side economics?

More about taxes later, first, what are these billions of dollars going towards? Mostly those classic, failed social welfare programs, but it also takes quite a bit just to maintain the bureaucratic inertia of 170,000 state employees. Cuomo's big push this year centers around education and his grandiose plans for what he calls the "Decade of the Child."

State officials are not content with waiting until children reach the ripe age of five before they get them into their government schools. Cuomo states that "at the top of our educational agenda [is] prekindergarten education of all four year-olds." This is part of what he calls "early intervention programs," which will, "improve ... social attainment." One can not help but feel the foreboding chill that lurks behind these phrases. Is it that the state wishes to have your child's mind at an earlier age so that its programming may have a greater chance of success?

Another education program which has all the earmarks of a taxpayers' albatross is the inappropriately named Liberty Scholarship. This program would guarantee that "impoverished

seventh graders...who successfully graduate from high school will [have] ...sufficient funds for four years of college." Already, politicians who serve unimpoverished seventh graders are saying they would like some of this scholarship money. Cuomo then floated the suggestion that all schools in the SUNY system should be tuition free. (Hardly free to the taxpayers, however) Just when you thought the "free university" days of the sixties had ended.

Another major component of Cuomo's social welfare program is housing. New York State will spend nearly \$500 million in 1988 on housing programs: subsidies for renters, subsidies for buyers, subsidies for homeless, subsidies for millionaires, subsidies for almost anyone.

Cuomo wants to spend money on modernizing public housing, "investments in essential building systems that are needed if this valuable public resource is to be preserved." Someone should invite the governor to Buffalo where he can see that tens of millions of dollars poured into public housing, notably the Perry Street Projects, have been mainly wasted by incompetent management and tenant indifference. This is the legacy of public housing, and more money thrown into this black hole will change nothing. The only thing that can save public housing is making it private housing.

The big employment opportunity contained in the budget is for prison guards. Cuomo wants to add 3,300 prison spaces and 1,600 guards. It seems that the prison population has increased by forty-five percent, 13,000 inmates, since 1983. Why this sudden surge in the number of prisoners? Could it be that the last five years have increased the criminal tendencies of New Yorkers? Perhaps, the police have increased their effectiveness by forty-five percent? Maybe, judges have become more prone to giving out prison sentences? Or, is it that we have forty-five percent more laws that can send people to prison?

Even though the prisons are filled to the maximum, there has been no corresponding decrease in crimes against persons or property. We should be concentrating resources on real crimes and not imagined or life-style crimes.

We can expect to hear a lot about landfills and what to do with garbage in the next few years. People who live near landfills certainly have the right to demand that they be run in a safe manner. On the other hand, responsible operators of landfills should be allowed to operate them without fear of government intervention. Mario Cuomo is proposing a stiff tax on garbage dumped at landfills. Taxing something is a sure way to get less of it, but this is no solution to a real problem.

The state's politicians are certainly getting a lot of mileage out of their four year tax-cut program. The state has taken to putting full-page ads in newspapers bragging about the extent of the tax cut in 1991. Remember, though, that most (all, more than all?) of these cuts in the tax

rate are givebacks resulting from the change in federal tax laws. Moreover, Mario and friends hinted that we may have to forego some of the later year tax cuts (not before the election, of course) if revenues should falter. There is only one way to find out if your taxes have gone down -- look at your return. No matter what the verdict is, New York remains the highest taxed state in the country.

A short article can only scratch the surface of the state budget. (One can only guess, for instance, what goodies the legislators will add with their member items.) We close with a list of agencies and the increases they will receive in 1988: Social Services, 8.5; Education, 10.2; Transportation, 8.9; Labor, 10.2; CUNY, 10.4; Health, 10.6; General Services, 14.1; Parks, etc., 11.3; and the list goes on and on.

Yet, some still complain that they did not get enough. Republicans or Democrats, it makes no difference; the state government grows and its citizens' liberties shrink.

## Jim Lewis Found Guilty on Income Tax Charges

Jim Lewis, the 1984 Vice-Presidential candidate of the Libertarian Party, was found guilty on three counts of "willful failure to file" federal income tax returns. The verdict came on February 24 after a three-day trial in Federal Court in New Haven.

Lewis defended himself in the trial, and he never disputed that he did not file tax returns in the years in question. His defense was that there is no constitutional basis to the income tax.

Lewis was prevented from making these constitutional arguments, the judge ruling that such arguments were inadmissible. In the words of the judge, "the Constitution is irrelevant." (When one thinks of the many things that our government conducts its business, perhaps the judge's comment is more profound than she intended.) Lewis was allowed to give each member of the jury a pocket copy of the Constitution.

Lewis took the stand in his own defense, and he handled himself well in his dual role as witness and questioner. He conveyed his frustration with the IRS and the Treasury Department, brought on by his attempts to get them to explain to him his liability for paying taxes. These agencies ignored his arguments, and offered no counter arguments of their own. Their reply essentially was, "You see, Mr. Lewis, that everybody knows that you have to pay taxes."

In his forty-five minute summation to the jury, Lewis made several references to his reasoning for not filing taxes. The jury deliberated for two hours before returning with the guilty verdicts.

Sentencing is set for April 6. The traditional maximum sentence is five years and a \$10,000 fine on each count. It is not known at this time whether Lewis intends to appeal the decision.



## Vice Presidential Candidate Andre Marrou Tours New York State

The Libertarian Party's 1988 Vice-Presidential nominee, Andre Marrou, spent six days in New York State in February. He talked to groups of Libertarians and the media across the state.

His first stop was Western New York, where he talked to the Niagara Falls Gazette and two radio talk shows. His appearance on WWKB, a 50,000 watt AM station which can be heard on much on the Eastern Seaboard, lasted two hours.

The next day Marrou moved on to Rochester, after a brief stop in Batavia. In Rochester he talked with the Democrat and Chronicle, which featured him in an article the next day. He also was interviewed, via telephone, on several radio shows. That night Marrou talked to about thirty-five libertarians, and they raised a Marrou campaign record \$1700.

In New York City, Marrou talked at several schools in Queens and Manhattan. He also spent some time working the subways. On Long Island, Marrou appeared on a Cable TV broadcast. At night he talked to about thirty Nassau and Suffolk County libertarians.

He appeared on radio talk shows in both Westchester and Rockland Counties. His last day in New York was spent in the Capitol District. There, he was interviewed for a local TV newscast, and he was a feature story on the late night news.

The next day Marrou was on to Massachusetts for the next leg of his Eastern campaign swing. Those wishing to contribute to the Marrou campaign can do so by writing to: Andre Marrou for Vice President, 5143 Blanton Dr., Las Vegas, NV 89122. The Marrou campaign is financed separately from the Ron Paul campaign.

## New York State RON PAUL FOR PRESIDENT of Organization

If you haven't heard too much about the Ron Paul for President campaign in New York State, it is somewhat by design. At present, the campaign is focusing its effort in states with petition drives and primaries. It is a strategy of being where the media and the attention are.

New York has not been ignored, however. The New York State Coordinator of the campaign is Fran Parretto of Suffolk County. In addition, some area coordinators have been named. They are: Steve Candidas, Western New York; Dave Hoesly, Rochester; Kevin Dellaney, Syracuse; John Monteer, Capitol District; Mike North, Upper Hudson; Bob Gustafson, Lower Hudson.

As you can see there are holes in areas of the state. If you can fill a gap, or if you want to help in your area, please contact Fran Parretto at the following address: 679 Mt. Sinai-Coram Rd., Mt. Sinai, NY 11766.

The Paul campaign has established

three goals for New York State. First and foremost, is to get on the ballot. The exact start of the petition drive has not been, as it requires action by the state legislature to determine allowable petitioning dates. Traditionally, the starting date has been sometime in June, and the duration of the drive is seven weeks.

The other goals set for New York are 265,000 votes and \$265,000 in campaign contributions. If you would like more information about the Paul campaign, or you would like to contribute money, write to: Ron Paul for President, 1120 NASA Road, Suite 104, Houston, Texas 77058-9977.

Paul will emphasize four main themes: an end to entangling foreign involvements; a return to the gold standard; an end to income taxes; and an end to the welfare-warfare state. He has assembled an experienced and professional campaign staff, mostly veterans of his successful Congressional races.

## Still More on Taxes . . .

Remember the revenue neutral tax law that Congress passed in 1987? That great tax-cutter [sic], President Reagan, then braggadociously proclaimed that he would sign no tax bill which contained a tax hike.

One must wonder if the President suffers from the same affliction as the "The Lost Mariner," described in Oliver Sack's book The Man Who Mistook His Wife for a Hat. It seems that this patient's neurological disorder prevented him from remembering anything that happened more than five minutes ago.

The Iran-Contra Affair is one bit of evidence for this diagnosis, and now we have the 1989 federal budget. By its own calculations, the Reagan administration expects to collect \$1,687 per capita in income taxes in the 1989 fiscal year. That is an increase of \$65, or four percent over the 1988 fiscal year, in income taxes. This figure is greater than both the rate of inflation and the rate of economic growth predicted by the administration. There can be no hiding behind the cloak of "no 'real' increase" in taxes.

And what of revenue neutrality, Mr. President? Could the answer be that you do not recall anything about revenue neutrality?

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Free New York is a quarterly publication of the Libertarian Party of New York. Your support of this project is needed. Articles or letters of interest to libertarianism are welcome.

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