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# FREE NEW YORK

## The Libertarian Alternative

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FALL 1987

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### RON PAUL IS THE LIBERTARIAN NOMINEE FOR PRESIDENT

In an often acrimonious contest, former Texas congressman Ron Paul won the Libertarian Party Presidential nomination by one vote on the first ballot. The selection of the Presidential nominee was the highlight of the four-day 1987 Libertarian Party national convention held in Seattle.

The theme of the convention was "The Culture of Freedom," and the keynote address by Don Ernsberger of Pennsylvania, the co-founder of the Society for Individual Liberty, emphasized this theme. Calling the announced Democratic-Republican candidates "The Seven Dwarfs and the Three Stooges," Ernsberger called on the Libertarian nominee to be "the representative of the 'Culture of Freedom'."

Ernsberger noted that an emerging middle class in some Third World and Communist countries was forcing some dramatic changes in their governments' attitudes. He claimed these changes to be a growing "cultural and political movement of freedom." Declaring that "Liberty works, and liberty is right," Ernsberger said it is the Libertarian Party's challenge to provide the ideas, organization and work necessary to achieve a global culture of freedom.

Moving on to the order of business of the convention, the consideration of the party platform was a sad display of egoism, parliamentary filibustering and an emphasis on the trivial. The only substantive change in the platform was the addition of a

plank on AIDS.

The main order of business was the selection of the LP nominee for President. There were four declared candidates: Paul, American Indian activist Russell Means, the 1984 LP Vice-Presidential nominee Jim Lewis and Harry Glenn (who cannot be pigeonholed with a simple phrase). Paul and Means waged an often bitter campaign which was marked by innuendo and personal attacks - not by the candidates themselves, but by some of their supporters.

The nomination process began with a mild surprise when the name of Andre Marrou (an announced Vice-Presidential candidate) was placed in nomination. Marrou quickly declined, which disappointed a segment of the convention.

Next, Ron Paul's name was placed in nomination by the 1980 LP Presidential candidate, Ed Clark, and seconded by the 1984 nominee, David Bergland, and draft resister Paul Jacob. The convention was then shown a slickly produced video which would form the basis of television commercials for the Paul campaign.

Russell Means was nominated by Ward Churchill, an activist in the American Indian Movement. The nomination was seconded by former Montana LP Chairman Larry Dodge and National LP Secretary I. Dean Ahmad. Jim Lewis was nominated by Allen Rickman and Margaret Fries, both from the New York delegation. Harry Glenn was nominated by Dave Myers of Ohio.

In contrast to the 1983 convention, which went to 7 ballots before a nominee was selected, Paul narrowly won on the first ballot. The vote totals were: Paul 193 votes, Means 120, Lewis 49, None of the Above 14, Glenn 3, and 5 abstentions. The number needed to nominate was 192. The New York State delegation was the only one to give a plurality to Jim Lewis. The vote totals for New York was Lewis 12, Paul 4 and Means 3.

After the celebration, the floor was opened to Vice-Presidential nominations. The first name placed in contention was Russell Means. Means used the opportunity to address the convention. He was greeted with an ovation that lasted several minutes. He very graciously declined the nomination, and he urged the convention to support Andre Marrou. As he left to a response that equaled his reception, more than one delegate remarked that the choice of the convention's head may have been Ron

Paul, but the choice of its heart was Russell Means.

Andre Marrou was nominated by David Bergland with a seconding speech by Toni Nathan, the 1972 LP Vice-Presidential nominee and the first woman to receive a vote in the Electoral College. There being no other nominees, Marrou was selected by acclamation.

The Presidential process closed out on Saturday night with a banquet in honor of the Party's new Presidential candidate. Paul promised to run a professional, well-financed campaign. As a start towards that goal, close to \$60,000 in contributions and pledges was raised at the banquet.

On Sunday, the convention elected the LP national officers and adopted a resolution in opposition to the confirmation of Robert Bork to the Supreme Court.

#### FIFTY STATES IN '88: BALLOT ACCESS STATUS

One of the promises of the Ron Paul campaign is to be on the ballot in all fifty states and the District of Columbia. Paul has pledged to lend financial support to the LP Ballot Access Fund in order to achieve this goal.

It is the strategic planning of the Ballot Access Committee that gives hope of success. Their master plan calls for a state-by-state drive over a two-year period. At present, the campaign is on track, and ballot access has been secured for the Paul candidacy in twenty states.

New York is not considered to be an overly difficult state in which to achieve ballot status. Petitioning cannot start in New York until 1988. The master plan of the Ballot Access

Committee foresees the start of the New York efforts in Spring, 1988.

These successes and efforts, however, do not come cheaply. The total cost is estimated to be \$500,000, and even then status in all fifty states is not assured.

State election laws that seek to protect and maintain the Democrat-Republican duopoly are the reason for this ransom. Moreover, this is only the ransom required for the Presidential ticket. To arrive at the full cost of political freedom you must add in the time and money required to get on the ballot for state and local elections. It would seem that the freedoms of speech and assembly "guaranteed" by the Constitution only apply to Democrats and Republicans.

For more information on the 1988 L.P. Ballot Access Drive contact:  
Libertarian Party Ballot Access Fund  
325 Pennsylvania Avenue, S.E.  
Drawer 315  
Washington, D.C. 20003.



## STATE LEGISLATURE ROUTS FREEDOM

The New York Legislature meets every year for about six months. The liberties of the state's citizens are never safe during these six months. The 1987 Legislative session was no exception.

In 1987 the legislature did not enact any victimless crime laws, but neither did it repeal any such laws passed in previous sessions. License suspensions were lengthened for DWI repeat offenders, but all-terrain vehicles that are used in agriculture will not be subject to licensing and registration requirements. After a court decision disallowed bureaucratic regulations on smoking in public places, the legislature failed to adopt similar restrictions, but advocates promise to press for the restrictions next year. However, the Legislature saw fit to maintain the illegality of sexual relationships for people who are legally separated.

A favorite pastime of legislators is telling businesspeople how to run their businesses. Legislation passed regarding: grace periods banks could offer credit card customers, labelling of kosher meats, the period of time ashes must be saved at a crematorium, posting of bonds by health clubs, directions on fire extinguishers, contracts by lawn-care companies, the handling of cancelled checks by banks. The legislature considered, but did not pass, regulations concerning where beer could be sold in sports arenas and to whom sports franchises could sell their broadcast rights.

When the central government tires of running the lives of individuals or businesses, it turns its attentions to the lesser (in terms of size and taxing power) governments. Upon the petition of the Town of Putnam Valley, the state benevolently permitted towns to designate a newspaper in an adjoining county as its official newspaper. Local school boards were prohibited from selling soda and snacks until

after the last lunch period.

In an action of interest to Libertarians, the legislature killed bills that would have eased the petitioning process required for ballot access. It is difficult to think of another example of a business that can design the rules that competitors must follow in order to enter the market.

The legislators, after surveying all the good things they had done, deemed that they were underpaid. Forthwith, they gave themselves a \$14,500 raise - to \$57,500 a year. You can add to this amount per diem payments when the Legislature is in session and various stipends for committee assignments. Where else can employees unilaterally determine their salaries?

The most onerous power of any legislative body is the ability to levy taxes. Ostensibly, the New York Legislature passed a(nother) three-year tax cut. The reality is that the cut merely gives back the windfall increase the state received from the new federal tax legislation. The additional reality is that when inflation is factored into the computation, taxes will increase.

Taxation is worse than theft. It is also the lifeblood of the state. By robbing you of your wealth the state violates your property rights. It then uses the proceeds of the robbery to finance further violations of your rights.

Is there a solution to the cycle of attacks on the citizens' liberties? The solution must start with a significant decrease in the size and expectations of government. This downsizing will not come from those who presently benefit from the munificence - the Democrats or Republicans. A new direction is needed - a Libertarian direction.

## REBUILDING NEW YORK?

On April 5, 1987, a New York State Thruway bridge collapsed into the swirling waters of the flooded Schoharie Creek, in upstate Montgomery County. The ten people in cars crossing the bridge plunged to their deaths. The disaster also had an economic impact: the trucking industry experienced delays, as did businessmen, commuters and travelers. Replacement costs for the bridge were set at \$33.5 million.

As rescue workers marched up and down the banks of the Schoharie attempting to determine the extent of the loss of life, transportation officials sought to address the inevitable Monday-morning traffic problems. Detours were arranged. Eastbound, a short five-mile stretch added about two miles and ten minutes to the trip from Syracuse to Albany. Westbound was a bit more difficult. A circuitous detour covered approximately thirty miles of country roads, adding about twelve miles and twenty minutes to the westbound trip. Particularly aggravating were the steep inclines that slowed trucks to a crawl.

Questions arose regarding the original design of the bridge, a design that directed waterflow through a channel narrowed by construction. There was also evidence that dangers discovered through inspections had been ignored. This has led ultimately to recriminations and lawsuits against the state. The "Rebuild New York" bond referendum, inaugurated after the collapse of a Connecticut bridge several years ago, was passed amid threats that without the bond issue there would be an untold number of bridge closings across New York State. Yet a bridge on a major east-west toll road, the safety of which had been questioned, was allowed to collapse, with resulting loss of life, law suits and recriminations.

Cost is a factor in any catastrophe. In this one, people lost their lives. The Thruway Authority also faced a political cost: how to remove the embarrassment of a

collapsed bridge as quickly as possible. The economic cost to the transportation industry eventually would have caused the price of goods transported along this corridor to rise slightly. This would have spread the cost of the catastrophe over a large population: all those who voluntarily purchase the products shipped over this route. Letting nature take its course in this manner, however, would have kept the officials of the Thruway Authority and the New York State Department of Transportation (D.O.T.) on the hot seat. So on April 7, Governor Cuomo signed an executive order declaring a disaster emergency for the affected area and directing "state agencies to take such actions as may be necessary to assist the affected areas in repairing, restoring and protecting private and public facilities and to provide such other emergency assistance to protect the public health and safety."

All the voyeurs and the lawyers  
who can pull a fountain pen,  
and put you where they choose  
with the language that they use,  
and enslave you till you  
work your youth away.

-Don McLean,  
"Bronco Bill's Lament"

In the early hours after the bridge collapsed, while emergency crews hunted for victims in the Schoharie Creek, D.O.T. officials began to take soundings to determine the composition of twenty-one acres of adjacent land eventually to be used to build a temporary detour. Walter Dufel, the sixty-year-old owner of that land and with his two sons the operator of a farm and farm stand, was selected to bear the Thruway's political cost.

Three days after the bridge collapse, on April 8, Walter Dufel became aware that the D.O.T. officials were using the rescue operation as a cover for taking these soundings on his land, and ordered them to leave.



They presented the executive order signed by Governor Cuomo as authorization for the soundings and refused to leave.

Walter Dufel then attempted to make a citizen's arrest for trespass, calling upon Sergeant Denton of the Montgomery Sheriff's Department for assistance. After Dufel called three times for assistance, Sergeant Denton showed up, accompanied by a carload of D.O.T. officials. It appeared to Dufel that Denton's orders were coming from these officials.

On April 10, the New York State Department of Transportation served condemnation papers on Walter Dufel: twenty-one acres of land to be taken for a period of two years, for \$12,600. In addition, fifteen acres of land that Dufel rents from a neighbor were to be taken. These land losses financially endangered the farm and farm stand.

It is not the first time the Dufel family has done battle with the state. Walter Dufel's father bought the property along the Erie Canal in 1920, and subsequently lost fifty-five acres when the Thruway was built in the early 1950s. Moreover, Walter Dufel says that at that time his father maintained that the force of Schoharie Creek was not properly reckoned with by the engineers. His father was also critical of the landscaping that altered the natural flood plain and forced the creek to flow through a narrower channel.

Walter Dufel is an avid reader, a student of history and the rights of man. His library contains volumes on the American Revolution, the Constitution, the Civil War, the American Indian campaigns. He has such titles as Bury My Heart at Wounded Knee, The Iroquois Confederacy and The Last Stand of the Nez Perce. Signs on the wall read "we want the right to use our home and our land as we choose, without state interference and control, as guaranteed under the U.S. Constitution" and "hands off our home, stop full-value assessment." There is also a picture of Walter Dufel with Iron Eyes Cody, the Indian

who did the "Keep America Beautiful" ads several years ago.

Construction on the temporary bypass began on May 4. At the end of that day, neighbors used their tractors to cancel the work done by the state construction crews. Subsequently, they used their tractors to block access to the site. State police were called out in force, but faced with the presence of the media and the popular sentiment supporting Dufel, the state took quieter action.

Lawyers for the state obtained an injunction against Walter Dufel preventing him from interfering with construction on his land. Dufel says that the state threatened to seize any equipment, such as the tractors, used to hamper the construction project. To further block construction efforts, on May 10th local children relocated a snow fence that the state had placed upon the Dufel property. Dufel calls this "vandalism" by the children "a spontaneous demonstration in support of individual property rights."

The battle continued in the courts. Walter Dufel raised questions about whether the Thruway would or even could restore the usefulness of his land after two years. State Supreme Court Justice James White postponed a hearing on an injunction sought by Dufel. The postponement, however, permitted the Thruway to continue with construction and had the effect, according to Dufel, of permitting irreparable damage to the character of the land. Like Sheriff Denton, the Judge had sided with the state. Flood Control Enforcement Officer for the Town of Glen, Donald Rose, sided with Dufel, not because of property rights, but because the construction violated federal laws of flood control. Judge McDermott of the New York State Supreme Court in Albany ruled that these flood control laws did not pertain in a state of declared emergency. Emerging from the courthouse after that ruling, Walter Dufel remarked to a television reporter, "Individual rights and the Constitution went down the toilet this afternoon."  
(Continued on back page.)

## LOCAL LIBERTARIAN RACES

### Margaret Fries: Conklin Town Justice

In November, the Town of Conklin, in Broome County, can elect a Libertarian. Margaret M. Fries, a third-year law student at Syracuse University, is running for Town Justice against a Republican opponent. Fries had the opportunity to be on the Democratic line, too, but she refused.

The focus of her campaign is legal qualifications. Her opponent, Jo-May Ives, was appointed to the Town Justice position earlier this year. Before her appointment Ives was the Court Clerk for the Town's two justices, and she continues to perform these duties both for herself and the other justice.

Of this arrangement Fries said, "This is a rather peculiar situation ... (it) can only create the perception that there is only one 'real' Town Justice in Conklin." Ives's courtroom has been a sham on occasion, according to Fries.

Fries is conducting a personal campaign in the largely rural community south of Binghamton. She personally gathered the signatures for her

election petition by going to the homes of registered voters. Using this technique, she said, "no one refused to sign the petition."

She has taken her personal approach to each of the four election districts in Conklin. She also is planning a mailing targeted at voters who have traditionally voted in off-year elections.

Fries characterized the response to her campaign as "positive." The news release announcing her campaign received mentions on two Binghamton television stations, the Binghamton regional paper, and the local Conklin paper.

Nonetheless, Fries is not optimistic concerning her chances in the predominantly Republican district. She has, however, demonstrated that a local race represents a viable alternative for advancing libertarianism. At a local level, effective planning and execution can overcome limited resources and time.

### Bruce Meckling: Monroe County Executive

Bruce Meckling, 34, of Webster, New York, is running as the Libertarian Party candidate for Monroe County Executive. Petitions with 5,212 signatures were filed with the election board (only 1500 were required). The Republican Party filed a general challenge but neglected to follow-up with specifics. However, they filed a petition to permit their candidate a second, "independent" line on the ballot. Dave Hoesly and the Rochester Libertarians have responded with a general challenge of their own.

The campaign will be a four-way race, with a Democrat and a Conservative participating as well. Meckling has spoken at many forums throughout September and October, and has released numerous white papers during his campaign.

The campaign staff has done battle with public-supported television station WXII, which declined to include Meckling in the debates. The campaign has included leafletting at shopping centers, direct mail and radio ads.

## ANOTHER COMMENT ON ELECTIONS

The one pervading evil of democracy is the tyranny of the majority, or rather of that party, not always the majority, that succeeds by force or fraud in carrying elections.

Lord Acton, 1907



## POLLUTION SOLUTION: NO TRESPASSING ALLOWED

[Editor's Note: The following statement about pollution is part of the proposed Libertarian Party Program, a ten-point statement of Libertarian stances on popular issues. The points in the program will be a regular feature of this newsletter.]

Pollution is a trespass. One person or company removes trash from his property and dumps it on the property of others without their consent. Where private property is involved, the solution is simple and obvious. The law already provides the necessary remedies. You can sue the polluter and require him to stop, and you can collect damages.

The main reason we have water pollution problems is because the government has taken over complete control of water and failed to properly care for it. It also fails to protect our person and property from air pollution and toxic waste. Bureaucratic methods and political decisions cannot solve the problem. Experience shows that people take better care of property if they own it. They are less concerned about what happens to so-called public property.

In today's bureaucratic system, private citizens cannot sue to correct most pollution problems because the Environmental Protection Agency and similar state bureaus are in control. Since pollution has been politicized, those with great political influence

tend to get their way. Many of them are the polluters. The path toward better solutions is to replace bureaucratic control with a free-market, private-property-based system. Following are some initial steps to take in this direction.

1. Establish a process for private citizens and companies to acquire traditional property rights in lakes, rivers, and streams so that a market in water rights can develop, and owners will have legal remedies against water polluters.

2. Establish a process for private citizens and companies to acquire traditional property rights in underground water resources for the same reasons.

3. Recognize that each person's body is his or her property and that air pollution is a trespass on that property. Victims of such trespass should have legal remedies against the responsible parties.

4. Give property owners traditional legal remedies against persons or companies who cause toxic-waste pollution on their property.

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Free New York is free to members of the Libertarian Party of New York. Mailings to nonmembers are made to the extent that funds are allocated. Your support of this project is needed. Advertisements will be accepted. A subscription payment of five dollars will reserve the next four issues.

In 1988, Free New York will appear quarterly. Articles or letters of interest to libertarianism are welcome.

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The Libertarian Alternative

Libertarian Party of New York  
William P. McMillen, Chairman  
P. O. Box 6276  
Albany, New York 12206

Membership in the Libertarian Party of New York also entitles one to participate in the business of the annual convention. All new members and renewals receive a copy of Liberty Reclaimed by Jim Lewis.

(Continued from page 5.)

Even though the immediate threat to human life had passed and traffic was flowing reasonably well along alternative routes, a political emergency necessitated seizing Dufel's property. The Department of Transportation and the New York State Thruway Authority have won their battle. The detour is now completed. It cuts across the Dufel property and crosses the Schoharie along the Route 5S bridge. However, on June 23, six days before the detour was to open, the Thruway Authority and the D.O.T. reneged on all their previous assurances by stating that the Route 5S bridge would be closed to local traffic. Dufel's Scho-Mo Farm and farmstand are now at the end of a five-mile dead end. Walter Dufel and his neighbors across the bridge are

now twenty-five miles apart. The people who regularly used the 5S bridge to get to work now must backtrack and pay a toll. Residents of the area expressed their outrage and staged two more protests on June 27 and June 29, stopping the flow of traffic for several hours. The Thruway reopened after eighty-six days.

Route 5S is severed for two years, but this is not considered an emergency. The four state policemen that sit guard in vehicles twenty-four hours-a-day insure that no one misuses the bridge: that all local traffic is detoured.

- William P. McMillen (from an interview with Walter Dufel, and television and newspaper accounts)

#### A STATE OF THE UNION MESSAGE

The United States is becoming one big Indian Reservation.

Russell Means, 1987.

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#### IN THIS ISSUE ...

Paul Gets LP Presidential Nod

Thruway Bridge Collapse Aftermath

1987 State Legislature Report

LP Position on Pollution

Local LP Candidates

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