
FREE NEW YORK

The Libertarian Alternative

M A Y 1 9 8 7

V O U C H E R S

The following letter was printed in the March 18, 1987 New York Post.

Dear Editor:

"Sex Ed Troublesome? Pick Another School," an article by Gregory A. Fossedal in your 2/28/87 issue was a welcome sight. Fossedal lucidly discussed how a voucher system can provide for choices in the handling of religious and morally controversial issues. A voucher system to provide consumers a choice in the selection of schooling can bring to education the freedom of choice and the competition of the market place that has made this country great in so many other arenas.

Recent comparison studies have shown that throwing large amounts of money at education has not made NY State a leader on school performance. Ending the government school's virtual monopoly can reverse the spiral of higher costs and poorer results.

A voucher system can give parents a real voice in the education of their children and be a major step toward separating school and state, just as our forefathers insightfully called for separation of church and state.

Michael E. North

J U R Y D U T Y

Dear Editor:

"The Opportunity of Jury Duty" in your December, 1986 issue of Free New York struck home for me. As a member of a New York County grand jury, I repeatedly refused to vote for indictment on gun possession charges where no other crime was alleged. "That is not the criminal I fear," I told my colleagues repeatedly, "that's me!" Of course the grand jury's role is different

- to indict, by simple majority, based on a test of "probable cause" instead of "reasonable doubt," but no matter. My arguments scarcely delayed the proceedings, a majority defeating me each time. I stung the officials, who were not allowed to express their hatred, and got two or three people to think, I think.

However, my name did not reappear on the grand jury list.

Sincerely,
Leonard Rubin

THE DAY AFTER AMERIKA

by Jim Davies

Alone among the networks, ABC-TV has gotten its hands dirty twice in the last couple of years with blockbuster movies addressing hot real issues for the population at large: first in "The Day After" the horrors of a real but very limited nuclear war were portrayed, and last month "Amerika" graphically showed what our society might be like after a bloodless Soviet takeover.

Both fell short, in that they failed to drive home the lesson of how each disaster can and should be averted; but both did us a service by making a lot of people focus on the question instead of burying it.

In "Amerika" I found graphic the portrayals of life under Communism, here in the Land of the Free; both as to the terrible loss of wealth that creed has brought everywhere, and in its savage repression of individual freedom. It was fascinating to see a Resistance at work, not in 1942 Paris but in 1997 Chicago; and sobering that, when it did wake up in 1997, it was too late.

But I fear the threat of such socialism from Washington is far greater than the one from Moscow. Do nothing, and it will come.

ANOTHER THING YOU CAN'T DO IN WESTCHESTER

A charm that does not soothe
the savage beast

Once again our search for ways in which petty oligarches seek to impose their will on others brings us to the Code of the Town of Mount Pleasant. Reenter: the amusement law (remember the amusement games?).

Suppose a business person wishes to entertain his clients at his home by having a barbecue, a bridge party, or a similar affair. He decides that music would make a nice accompaniment for the party. He sends out the invitations and hires a quartet to play. A neighbor drops a hint to check out the town code. Sure enough, there in Chapter 3, Article 1, Paragraph 1 it says: "No persons . . . shall . . . give shows or other exhibitions or performances . . . without first obtaining a license therefor from the Town Clerk."

Paragraph 2 goes into filing an application for a license, and Paragraph 3 indicates a \$25.00 fee for such a license. The criteria for granting a license are not spelled out in the Code, but Paragraph 3 does state that the license is granted subject to the provisions of Section 137 of the Town Law.

The Town Law is not available at the Pleasantville or Valhalla Public Libraries. Apparently, the people who run the town do not want the citizens to know the law. My next stop was the Town Clerk's Office.

There I made believe that I was our hypothetical businessman, and I inquired about any necessary legal details. At first I was told to stay ignorant of the law. But, when I persisted, I was informed to obtain clearance from the Police Department. The police, in turn, told me that the Town Clerk could give me all the details.

Once more, I contacted the Town Clerk's office. I assured them I would keep the event within the limits of the noise ordinance, and that I would ensure that my guests parked in compliance with the Town Code. The Town Clerk wrote back saying, "a concert in a private residence is not permissible under our zoning code . . . Therefore, your request must be denied."

The businessman will have his barbecue without music, and four musicians have

one less gig, a little more unemployment. At home enjoyment of livemusic is yet another thing you can't do in Westchester.

A Footnote: A similar law in Stratford, Connecticut was declared unconstitutional when the defendant was a man who organized prayer meetings at his home. It was declared unconstitutional based on the separating of church and state guaranteed by the first amendment.

Bob Gustafson

UNFORTUNATELY, IT'S NOT JUST WESTCHESTER

I remember seeing recently a calculation that the poor American is staggering along under a burden of some two million laws; and obviously where there are so many laws, it is hardly possible to conceive of any items of conduct escaping contact with one or more of them.

Albert J. Nock, 1928

And who knows what the law really is?... no lawyer or judge pretends that he knows ten percent of them; yet the layman may be held to a strict obedience of any or all of them, and if he pleads that he did not know the law, he is told that ignorance of the law is no excuse. All this is good for government officials, but bad for the citizens.

Charles Sprading, 1913

GOVERNMENT ASSISTANCE ?

Following the guidance in IRS publications can cost you money. A taxpayer took a tax credit that an IRS publication said he was entitled to, but when the IRS later issued regulations it changed its mind. The credit was not allowed. The taxpayer went to Tax Court, but the court backed the IRS. Regulations and phone advice are not law, and the IRS is not bound by them.

(Tax Avoidance, Penthouse 11, 4853 Cordell Ave., Bethesda, Md. 20814)

Perhaps the term "taxpayer" should be changed to "victim." This sort of item shows how our society has changed to one ruled by men and not by law. (Editor)

LIBERTARIANISM ACCORDING TO THE IRS

The IRS gave this definition of libertarianism in the letter advising the Advocates for Self Government Inc. of their being granted tax exempt status.

"Libertarianism is a philosophy. The basic premise of libertarianism is that each individual should be free to do as he or she pleases so long as he or she does not harm others. In the libertarian view, societies and governments infringe on individual liberties whenever they tax wealth, create penalties for victimless crimes, or otherwise attempt to control or regulate individual conduct which harms or benefits no one except the individual who engaged in it."

VOLUNTARY TAXATION ?

"But suppose he did not vote for him; and on the contrary did all in his power to get someone holding opposite views - what then? The reply will probably be that by taking part in such an election he tacitly agreed to abide by the decision of the majority. And how if he did not vote at all? Why then he cannot justly complain of any tax, seeing that he made no protest against its imposition. So, curiously enough, it seems that he gave his consent in whatever way he acted - whether he said yes, whether he said no, or whether he remained neutral! A rather awkward doctrine."

Herbert Spencer, 1844

WITH A LITTLE HELP FROM MY FRIENDS

by Paul Jacob

During Ed Clark's campaign for president in 1980, a friend of mine introduced me to the slogan, "Don't vote - it only encourages them." Yes, the elections ARE used to legitimize the government's arbitrary power, no doubt about it. If everyone refused to vote it would be a strong signal that individual rights are not to be subject to the whims of democracy. But how likely is this to happen? How capable are we of making this happen? And, would the media cover it? Can we change things at the ballot box? Should we vote, or should we not vote?

Many people vote in self-defense. They don't desire to pick candidates for office or to impose new taxes or laws, but rather they desire to stop the most tyrannical aspirants

to power and to vote down new taxes, new laws and government's increasing power over their lives. As Lysander Spooner wrote in No Treason:

"... voting is not to be taken as proof of consent. ... On the contrary, it is to be considered that, without his consent having been asked, a man finds himself environed by a government that he cannot resist; a government that forces him to pay money, render service, and forego the exercise of many of his natural rights, under peril of weighty punishments. He sees, too, that other men practice this tyranny over him by use of the ballot. He sees further, that, if he will but use the ballot himself, he has some chance of relieving himself from this tyranny of others."

The action of voting is little different from calling a telephone poll or answering a survey. Like a telephone poll or a survey, there is no responsibility to respond and certainly if the questions or choices are such that all responses would be harmful, then refusing to participate would be best. But voting is one relatively easy way to voice your opinion. Thirty minutes to vote against three bond issues, or against a referendum to put AIDS victims in concentration camps, is time well spent.

Yet the decision to vote or not to vote, by itself, does very little for the cause of liberty. Urging others not to vote doesn't stop the government from exercising control over individuals. On the other hand, voting isn't going to launch a thousand ships either. As Thoreau said: "Even voting for the right is doing nothing for it. It is only expressing to men feebly your desire that it should prevail. A wise man will not leave the right to the mercy of chance Cast your whole vote, not a strip of paper merely, but your whole influence."

I agree with Thoreau that voting accomplishes little. Fight, resist, organize, and campaign for your rights! But, why not vote too?

There is a Marxist saying, "Every weapon of the bourgeoisie can be turned around and used against them." I say every weapon of the State can be turned around and used against it. The ballot box, the court system, and every method by which the government seeks legitimacy can be used to deny and destroy the false legitimacy of State tyranny.

The freedom movement needs you to do countless activities, every day of every year. And on election day, vote - for freedom.

AUTHOR Paul Jacob is a member of the Libertarian National Committee and former chair of the Arkansas Libertarian Party. He is the president of Volunteers for America, an anti-draft educational group located in Washington, D.C. Jacob spent almost 6 months in federal prison for resisting draft registration. He has traveled extensively throughout the United States speaking to college groups, business clubs and Libertarian groups and has also published numerous articles.

"Elections may reduce the bloodshed and enlarge the ruling group, but they do not change the principle that some people are ruling other people by force, and they do not reduce the exploitation of the weaker group by the stronger."

Alan Burris

ALLOWED TO WORK Continued from page 8.

The new rules require that job applicants complete and sign a government form providing biographical information and attesting to their citizenship status. This is an infringement of the constitutional right to privacy as embodied in the Fourth Amendment and of the protection against self-incrimination as embodied in the Fifth Amendment.

The Fourth Amendment states that "the right of the people to be secure in their persons shall not be violated...." This security is threatened when one must provide information that might one day be used to classify one's skills, parentage, ethnic origin, etc.

Soviet Russia and Nazi Germany are not the only examples of where the gathering of such information can lead. The U.S. Government has spied on its own citizens for political reasons and because citizens have exercised the constitutionally "protected" right to freedom of speech.

In 1942 Census information was used to carry out Executive Order 9066, the single most massive civil rights violation in U.S. history: the incarceration of 112,000 American of Japanese descent. Racial prejudice has

not disappeared from the American scene. When threatened, political leadership will find compelling reason to mirror such feeling. The American Japanese were not a threat to national security. Their jailing was a politically expedient response to the bombing of Pearl Harbor.

The entire battle against immigration is economic and political, lacking a resolution and seeking a scapegoat. It is prejudice, bigotry and ignorance that leads some all-American boys or girls to blame "foreigners" for taking jobs that "rightfully" belong to them. And the politicians pander to them, setting in motion steps that lead to the loss of freedom to all.

William P. McMillen, Chairman
Libertarian Party of New York

RON PAUL and RUSSELL MEANS Candidates for President

Two candidates for the Libertarian Party's nomination for President emerged at the recent Libertarian Party of California state convention.

Ron Paul, former U.S. Congressman from Texas and a nationally known advocate of sound money policy had been expected to announce his candidacy. The announcement by American Indian Movement leader Russell Means came as a surprise to many.

Andre Marrou, former Alaska state legislator, announced as candidate for Vice President.

While in congress, Ron Paul was widely regarded as the most libertarian member of the House. Now practicing medicine, Paul also directs the Foundation for Rational Economics and Education, and edits a political newsletter as well as a newsletter devoted to hard money economics.

In February, 1973, members of the American Indian Movement seized a trading post and church on the Sioux Indian Reservation in South Dakota. During the subsequent trial, it was determined by the Judge that the FBI induced witnesses to commit perjury, and the charges against Means, a leader of the movement, were dismissed. He has recently been active in seeking manpower and financial aid

for the Indian population of Nicaragua in resisting the tyranny of the Sandinista government. Means formally joined the Libertarian Party in February of this year.

Support of the Ron Paul candidacy comes from such renowned Libertarians as Ed Clark, Jim Lewis, and Murray Rothbard. It is reported that he has received assurances of widespread financial support. His status as a former congressman and his renown as a sound money advocate provide an opportunity for the party to grow in membership and in public recognition.

Support of the Means candidacy comes from Montana State Chairman Honey Lanham. Unknown to many Libertarians, Means plans to visit every state before the National Convention in Seattle and to speak at as many conventions as possible.

Questions concerning the Ron Paul candidacy have been raised by William Howell of Texas, who has researched the record on Paul's eight years in Congress. He claims that Ron Paul "disagrees with our platform and with our basic philosophy on far too many important issues."

A group known as "Pro-Choice Libertarians" is seeking to clarify Paul's position with regard to the Women's Rights plank of the national platform. As a physician Paul's personal views on abortion are seen as a relevant issue in the campaign. Paul has stated, "I believe that the laws should protect all viable life. . . such protection should come at the state and local level When asked about it, I would summarize my own view then summarize that of the Libertarian platform, and say that libertarians disagree on this

Whether this can be reconciled with his past support of a constitutional amendment protecting life from the moment of conception will be determined in the months ahead.

Russell Means is, to many, an unknown. There is little as yet available for Libertarians to assess. Questions concern his ability to be more than just an advocate of Indian rights and the degree of understanding of the wide range of issues to which libertarian principles apply.

by William P. McMillan

A NO-WIN ISSUE

The problem presented by Ron Paul's views on abortion illustrates the kind of mischief and damage this issue may bring to the Libertarian cause. Abortion is not a resolvable issue. From the unborn's point of view abortion certainly violates freedom, and the pregnant woman who does not wish to have the baby would have her freedom constrained by any success achieved by the Right to Lifers.

"Fashion" now resolves this issue by legalizing and even subsidizing abortion. A few years ago and, perhaps, a few years from now, fashion may again jail physicians who perform abortions.

Libertarians need not get involved with this. It is a no-win situation. Either the unborn or the woman will lose freedom -no middle ground, no hidden logic to reveal, no single truth - just passion on one side and the other. All libertarians agree that the government should stop subsidizing abortion, but beyond that, agreement breaks down. Libertarians have enough fish to fry without getting involved in this gut-rending debate.

Stanley Wolf

WOLF CANNOT LET THEM DO THAT

Some years ago I heard Ralph Nader and Co. on a talk show dealing with the issue of motorcycle helmets. This was either just before or just after the state passed the law requiring the use of helmets when riding a motorcycle.

One side of the debate contended that the rider who fails to wear a helmet is hurting no one but himself so should not be forced to wear a helmet. The other side, Nader and Co., had two arguments:

1. "The government has a responsibility to protect people from their own foolishness." OK, we've heard that many times before.

2. The other argument was more chilling - "Since we are subsidizing medical care, those who drive without the helmet present a social cost. We cannot let them do that." The chill was not so much the opening of the gate toward regulating anything with implications for personal health. This has hap-

pened and is happening so constantly and insidiously that it seems to lack the drama it deserves. The child is the "we" and the "them."

Libertarians do not wish to be the manipulated and constrained "them." And, libertarians are not usually members of the elite and powerful "we," the "we" that do good things for their fellow man, that assume responsibility for righting every wrong (and creating sweet jobs for their supporters in the process). The old "white man's burden" is now the burden of the "we" who are the illuminati, cognoscenti, public spirited, educated, smarter than others, etc.

Mario Cuomo's image of the public family is reminiscent of all this. He offers an attractive image with his talk of family. But who are the big daddy and big mommy controlling this family? The "we" again, Mario and company.

Stanley Wolf

A HEINOUS CRIME

From The New York Times, April 22, 1987, page A 18.

Minister's Wife is Released

MOUNT PLEASANT, Iowa, April 21 (AP)

A minister's wife was released from jail today after serving 30 days for violating a state law requiring children to attend schools with certified teachers. Sharon Taylor and her husband, the Rev. T.N. Taylor, had been jailed for violating the terms of a suspended sentence of a 1984 misdemeanor conviction. A magistrate found the Taylors had sent their daughter Stephanie to a school operated by Mr. Taylor's church, the First Assembly of God. The Taylors teach there, and neither is state certified.

What a fine idea! Education is too important to leave to the unqualified. We will certify teachers who pass these prescribed courses and our children will then be assured of a good education.

Libertarians know that many grotesque laws start with either chicanery or someone's "fine idea." Chicanery is easy to attack. The mischief caused by these fine ideas is more subtle and dangerous.

The rationale for these certification laws is easily demolished:

1. Most students exposed to the courses required by the state for certification call them "crap courses."
2. The failure of the public schools is a national scandal - despite fancy certification and ever increasing dollars thrown at the problems.
3. Many textbook publishers are forced to make their books conform to current edu-myths in order to sell them.
4. The science and technology of learning is far from mature and the few solid concepts that have emerged from the good researchers are almost totally ignored by the educationist establishment. This absence of a mature science and technology of how to teach and how people learn leaves a vacuum which is filled by one then another trend. Fashion and politics dictate in the absence of real knowledge.

Medical knowledge has replaced the witch doctors and modern meteorology has usurped the fear that "the gods are angry." But the state-protected educationists ignore whatever the science and technology of education offer while clinging to the pretense of special know-how, undocumented, but politically protected even to the point of jailing its opponents. It is one thing to be annoyed by the intrusion of state mandated seat belts. But we are here talking of jail!

Sharon Taylor sits in jail for her "offense" while generations of certified physical educators have abided flab and drugs; while the curriculum emphasizes human relations and racial tensions grow; while certified social studies teachers know little and care less about what Western civilization is all about.

The certified teachers, these creatures of the state, fight vouchers on the grounds that parents do not know how to evaluate schools and make good choices. These same creatures of the state then go on to select their own physicians, plumbers, drug stores, food, and psychotherapists - never questioning the rationale for these free choices. Their motivation for rejecting vouchers are clearly self-serving and may reflect contempt for parents.

But let us say that the foregoing is not true, and that certified educators really know the better way. Is this a reason to put good people in jail? Are the educationists that afraid of losing their state granted prerogatives? Can they point to specifics within the relationship between the non-certified teacher and her pupil that is destructive or even inefficient?

Stanley Wolf

(Among the author's credentials are three NYS teaching certificates, and author/editor credits on many educational texts.) Editor

The prerogative of nullification (jury lawlessness) is not only legitimate, but a praiseworthy right of the jury as well. Prerogative nullification is a mechanism that permits the jury as spokesman for the community's conscience to disregard the strict requirements of man-made law as well as the "judge's" instructions to the jury where it finds that those requirements cannot justly be applied in a particular case. The doctrine or prerogative of nullification "permits the jury to bring to bear on the criminal process a sense of fairness and particularized justice." (Dougherty, cited above, at 1142) These obviously are worthy objectives. Today in the courts this unassailable doctrine is concealed from the jury and is effectively condemned by the "judge" in the presence of the jury.

THE OPPORTUNITY OF JURY DUTY
WILL CONTINUE IN OTHER ISSUES
OF FREE NEW YORK

THE OPPORTUNITY OF JURY DUTY Part Two

(Part One appeared in the December 1986 issue of Free New York)

THE RIGHT OF THE JURY TO BE TOLD OF ITS POWER

Every jury in the country has the right to bring in a verdict based, not on whether the defendant's act or omission was merely contrary to a dictionary interpretation of the words or phrases used in some man-made statute recited to it by the trial "judge," but on the defendant's act or omission was truly blameworthy according to the jury's (and representatively, the community's) natural sense of morality and justice. It is a well-established principle in criminal jurisprudence that an act or omission does not make a man guilty unless he be so by intention.

The right of the jury to disregard either the law (as laid down by the trial "judge") or the facts (as permitted by the same trial "judge" to be placed in evidence) is referred to in legal terminology as the jury's prerogative of nullification (jury lawlessness) which means in ordinary language that where the jurors cannot in conscience impose blame, they cannot in conscience allow punishment.



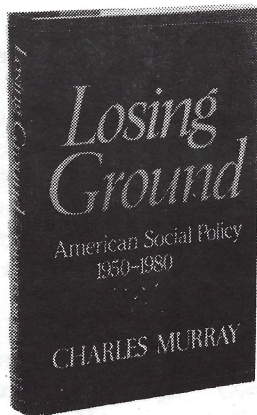
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ALLOWED TO WORK ?

Shortly after Joseph Stalin took power in Soviet Russia, the freedom to choose one's own employment virtually disappeared. Nazi Germany imposed upon workers the requirement that they carry a workbook substantiating their employment and detailing their employment and training history. Dictatorships throughout history have required some form of identity card to exercise what might otherwise be considered the right to work.

The U.S. Immigration and Naturalization service has taken a giant step toward abridging constitutional safeguards by instituting rules ostensibly designed to enforce laws prohibiting the hiring of illegal aliens.

Continued on page 4

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