

Libertarian Party of Michigan 1992

Nominating Convention

Courtyard Marriot
Ann Arbor, Michigan
April 10th, 11th & 12th

Convention Speakers:

Andre Marrou is the Libertarian candidate for President. He is an M.I.T. graduate and wilderness survivalist, and was the 1988 Vice-Presidential Candidate. He has also been elected as a Libertarian State Representative in Alaska. Eloquent and Persuasive, he has overcome media indifference and garnered wide support for his presidential bid.

Mary Gingell is a long time Libertarian activist in California, where she was the chair of the state party. She is presently the chair of the National Committee.

Don Ernsburger is one of the founders of the Society for Individual Liberty, and past vice-chair of the National Committee. He is a current member of the Nat Com, as well as the Ballot Access Committee. He teaches Political Science at a college in Warminster, PA.

Bruce W. Cain is the editor of the *New Age Patriot* and a drug law reform activist. He is an information systems specialist who works in his spare time for drug legalization. Mr. Cain also hosts the local television program, *America in the 90's*.

Richard Ebeling, Ph.D., is the Ludwig von Mises Professor of Economics at Hillsdale College, Hillsdale, Michigan. He serves as vice-president of academic affairs of The Future of Freedom Foundation.

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THE BILL OF RIGHTS

For those of you who were not able to attend the supper club on January 20th, I taped our discussion on the Bill of Rights led by Tim O'Brien. The following is a streamlined written transcript of the discussion.

Tim: Moving on to our main topic of the evening which is the very timely subject of the Bill of Rights. As we know the 200th anniversary of the Bill of Rights just passed on December 15th. I did a commentary on this subject on December 13th and I think I am going to use some of that in working with this discussion. Let me just get it started by asking a few questions. This is a question which didn't occur to me until after I had made the commentary and now I wish I'd included it. The question is this: of the ten amendments that form the Bill of Rights, how many of them deal with the rights of criminals?

Participant: One

Tim: Which one?

Participant: I don't remember the number, but it has to do with cruel and unusual punishment.

Tim: That is absolutely right. Normally when I ask this question I get answers like four, five or maybe six because they deal with self incrimination, trial by jury etc. These in fact do not relate to the rights of criminals. They relate to protecting the rights of accused which is a wholly different thing. This is a distinction which

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Karen Scarborough

To everyone who sent cards and flowers in regards to my surgery I wish to extend my sincere thanks. Your support was greatly appreciated.. Thank you for playing a part in my recovery.

THE BILL OF RIGHTS cont.

seems to elude even people like our friends Mark Scott and Tommy McIntyre. They will say these are the rights of criminals when actually only one of the amendments protects the rights of criminals. One thing I did include in the commentary on WDET is this: how many of the original ten amendments have remained throughout its entire 200 year history, inviolate, unbroken, still to this day.

Participant: One. The third one about putting soldiers in people's houses.

Tim: Right. That one has stood the test of time. I guess the federal government has never felt the need to quarter troops in people's houses or they would have found a way to do it. I think we have seen the rest of them go as result of the drug war. What has become of amendment number seven? It reads: In suits of common law where the value in controversy shall exceed \$20.00, the right of trial by jury shall be preserved. No fact tried by a jury shall be reexamined by any court in the United States according to the rules of the common law. We don't really have any of that left. The problem with the first part is that the time the constitution was adopted the dollar was very carefully and specifically defined. Twenty dollars was defined as 540 grains of standard gold which is equal to about \$240.00. Clearly the \$20.00 limit has been voided out. The

other half brings up point that has been gaining popularity in the libertarian movement. This the concept of jury nullification. These words make the verdict of the jury supreme. It cannot be overturned by a federal appeals court. This has been voided out by judges instructing jurors that their only function is to determine the facts. Unfortunately that takes the whole point of having a jury and stands it exactly on its head. The whole point of having a jury in the first place was to provide sort of a stop gap against unjust laws.

Participant: Not only are the judges informing the jurors of the law, but they also determine what evidence the jury will hear.

Tim: It would seem as though a jury ought to be given all the information and let the jury decide whether it's relevant. the other hand it doesn't seem fair to confront someone with something that happened many years ago which they are no longer in a position to respond to.

Participant: An excellent example of what the jury decides goes is the Marion Barry cocaine trial. There was immense criticism of the jury for only convicting him of a misdemeanor despite all the evidence. Nevertheless the jury verdict did stand.

Tim: I think the jury felt, and rightly so, that he was being singled out for prosecution and were it anybody else it would have been plea-bargained down to nothing. This issue of the jury being the final word goes back hundreds of years to the case of William Penn. He was charged with preaching an illegal religion, Quakerism, and he was clearly guilty. The judge instructed the jury that they ought to return a guilty verdict. Well they didn't because they found the law itself reprehensible. The judge went ballistic and put the jury foreman and three other jurors in jail for contempt. I wonder how many of us would be

willing to stay in jail rather than see an injustice perpetrated. Finally the Court of Appeals in England overruled the trial judge and said the jury's verdict was the final word.

Participant: I had a jury trial and I had no intention of being the jury foreman, but I was chosen as such. I found it was an excellent way to get libertarian ideas across without naming them as such.

Tim: We were talking about that before dinner. If you get chosen for jury duty, why blow it. Get some innocent people off.

Let's move on to the second amendment. This is the one about the people's right to bear arms. One point that needs to be made is that people are obsessed with the idea that if we can get rid of guns, we can keep them out of the hands of criminals, or kids, or the insane. The critical point that is missed by most of our fellow citizens is that the time the second amendment was put into the constitution, it was put there not because they mistrusted their fellow citizens, but because they mistrusted their government. And the idea of putting the second amendment in there was to make sure the citizens would always be armed so the government could never get out of hand. One of the first things Hitler did upon becoming chancellor of Germany, before he was able to seize control of the whole government, was to register all the guns in the country. When it came time for the brown shirts to take over, they went around and collected all the guns from the list that the obedient citizens had provided.

Participant: The only way for a police state to exist is by confiscating the guns. If you submit to that then you are submitting to the possibility of a police state.

Tim: One of the most effective strategies that was used in World War 2 in occupied Europe was the allies flying over at low levels and dropping hundreds of rifles

throughout the countryside. Suddenly the whole civilian population was armed and it created a lot of problems for the Nazis.

Well what about the first amendment. The first amendment says: Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof, or bridging the freedom of speech or of the press. Congress has made all kinds of laws about free speech. Congress says the founders said no laws about free speech but they really meant was political speech. They didn't mean commercial speech so we are perfectly free to regulate that. They also say they can regulate obscene speech because they didn't mean that either. The courts have currently held that the only speech that is protected is political speech. But that's not true either. The Internal Revenue Service now has a regulation which says that if you publicly encourage people not to file tax returns and they can show in court that even one person took your advice you can be prosecuted for tax resistance, for doing nothing nothing more than speaking clearly political speech. Freedom of religion? The Navajo Indians might have something to say about that. The Supreme Court held about a year ago that freedom of religion did not protect their right to use prohibited substances in their ceremonies because the government had this overwhelming interest in controlling peyote. The Mormons are a christian sect who just happen to be polygamists. This was unacceptable to the majority of other christian sects so they said it's illegal. I don't understand why. It's consenting adults.

What about the ninth and tenth amendments. A lot of libertarians like the ninth amendment. The ninth and tenth amendments read: the enumeration of certain powers in this constitution shall not be construed to deny or disparage others which are retained by the people or the state. The ninth is the people and the tenth is the state. The ninth and tenth amendments were included to include the concept of natural rights in the positive law of the constitution. The idea was to say that just because there were certain things listed that the govern-

ment can and cannot do, does not mean that the government can do anything that is not specifically forbidden.

Number four. Number four is the one that is supposed to protect us from unreasonable search and seizure, the one that's supposed to require probable cause for an arrest.

Participant: When did they throw that one out.

Second participant: About 200 years ago.

Tim: Yeah, 200 years ago basically, but it has been in really bad shape lately because of the drug war. We are seeing the fourth amendment go down in an attempt to get rid of contraband and essentially there is no way to do this. If you have a commodity which is trading hand voluntarily and you are going to try and stop it, you are going to have to throw out the presumption of innocence. There is really no such thing as unreasonable search and seizure anymore. Police can search virtually anything, you, your car, your home, without having to get a warrant. And all that evidence is now pretty much admissible. Probable cause. There was a case a year or two ago where an individual was stopped in an airport in a Miami based on the fact that he was hispanic, wearing a nice suit, bought a one way ticket with cash and had no luggage. The police said he fit their profile of a drug courier. That's probable cause in America and that's a frightening thing because they could say probable cause is these people hanging out in a Red Lobster. That gives us probable cause to think they're subversive. A profile could be people wearing glasses.

Participant: What about refusing to be voluntarily searched.

Tim: Yes. Refusing to voluntarily surrender your rights is probable cause to take your rights from you. How's that for a Catch-22.

Number eight: The eighth amendment is to protect criminals from cruel and unusual punishment and excessive fines.

There was a case that the Michigan Supreme Court just ruled on where a man was given mandatory life for possession of essentially plant material. This is so absurd it strains belief. Since we don't have the death sentence in Michigan, he is given the most drastic sentence we have, the same as for first degree murder, for possession of a prohibited commodity.

Participant: I figured out that if he lives to be 65, it will cost 2 million dollars to keep this guy in prison. I think that's terrible. I wrote a letter to my representative about this and he wrote back and said it sounds like you are part of the problem, not the solution.

Tim: The fifth amendment is the one that prohibits self incrimination. Everytime I get into a discussion with a lawyer, I ask, is it possible to file a form 1040 and yet retain my fourth and fifth amendment rights. The answer is that is not possible. You are required to file a tax return and you are required to waive your fourth and fifth amendment rights. If you strike out at the bottom that this is true to the best of your knowledge under penalty of perjury, or this is filed under protest, or I do not waive my fourth and fifth amendment rights your return will be sent back to you and you will be fined \$500.00 for filing a frivolous return. From what I have been told from different attorneys, the only hope you have of defending yourself is if you don't file a return at all. The other thing about the fifth amendment is the eminent domain clause which stinks by libertarian standards. It says: nor shall private property be taken for public use without just compensation. What is just compensation but whatever the person who owns it says it is. Taking someone's property from them against their will is an act of aggression, whether it's for public use or not. Accepting this notion of eminent domain has led to some bizarre situations. For example, the local government took property away from lifetime residents of the Poletown area to give General Motors. How is that public use? One final thing. Kevin and I went to a hearing of the Brighton Board of Education where an old retired lady owned a

place of property that the board wanted for a parking lot for a the local highschool football stadium. They had previously taken the rest of her farm to build the stadium. I got up and said, you people seem like decent, honorable, normal people. You wouldn't think of stealing a car. How can you just take a lady's property. They were absolutely clueless as to what I was talking about. Would anyone like to add anything?

Participant: Don't be too hard on the constitution. The constitution has a lot of flaws, but it's a damn sight better than what we've got now.

LPM CONVENTION cont.

David Friedman, Ph.D., is a Professor of law and economics at the University of Chicago. He has authored many Libertarian books and articles, including *The Machinery of Freedom*. He is the son of Nobel Prize winning economist Milton Friedman.

Mary Ruwart, Ph.D., became the highest vote-getter in the history of the LPM, when she ran for the board of education in 1990. She is a Senior Research Scientist at a major pharmaceutical company in western Michigan.

Jarret Wollstein was one of the founders of the Society for Individual Liberty in the late 60's. The SIL was one of the first libertarian organizations of the modern age. Mr. Wollstein has published over 300 articles. His issue papers, distributed through SIL, have sold over 1 million copies. Recently, he organized and moderated the Libertarian 200th Anniversary of the Bill of Rights Conference.

Bette J. Erwin, Ph.D., is a practicing clinical psychologist in Birmingham, Michigan. Dr. Erwin was a Libertarian candidate for the U.S. Senate in 1976 and 1980. In her practice, she has encountered many patients whose civil rights have been violated by the government.

Lawrence Reed is an economist and President of the Mackinac Center. Over the past ten years, he has authored over 400 newspaper columns, 150 radio commentaries, dozens of articles in journals and magazines, and has delivered more than 500 speeches in 40 states and 10 countries.

Ralph Mullinger is a long time Libertarian activist. He is a former Chair of the Pennsylvania LP, and is the present Chair of the Northwest Ohio LP. Mr. Mullinger has a master's degree in economics, and specializes in the economics of the environment. He is presently employed as an economist at a major oil company.

GOVERNMENT REGULATED HEALTH

by

KILEEN POUPARD

As a libertarian and a person who likes to take responsibility for my own health, I am very concerned about two bills being considered by the Committee on Energy and Commerce chaired by Representative John Dingell of Michigan. The first one, H.R. 3642, (formerly H.R. 2597) if passed would give the FDA broad new powers. Among them would be the power to impose warrantless electronic surveillance of healthcare businesses, to subpoena all company records including trade secrets and product formulas, to destroy health products brought by individuals into this country and to assess money penalties of up to one million dollars for each violation of this bill. Also, any district court would have the power to force recall of any health product the court doesn't like. H.R. 3642 would repeal the Proxmire Bill of 1976 which stopped the FDA from regulating vitamins as drugs. The FDA has in the past tried to restrict the sale of certain herbs and vitamins and to require prescriptions for vitamins and minerals that exceed 150% of the Recommended Dietary allowance. Without the Proxmire Bill the door would be wide open for such control.

The other bill H.R. 1662 would require the FTC to make sure product advertizing claims are in line with the opinions of the FDA. In other words a product cannot claim anything that the FDA says is not true despite evidence from expert scientists in the health field who may say otherwise.

I encourage everybody who is opposed to these bills to write John D. Dingell at 5465 Schaefer Ave. Dearborn, MI 48126 or phone 846-1276. The Energy and Commerce department can be reached at (202) 225-2927 to keep track of these bills and see if their numbers have changed. The Life Extension Foundation which is involved in protesting these bills can be contacted by writing 2490 Griffin Road, Fort Lauderdale, FL 33312 or by calling 1-800-841-LIFE.

I THINK
THEREFORE I AM...



...A LIBERTARIAN

Metro-Detroit Libertarians is an association of individuals committed to liberty. We are not an affiliate of any political party; but instead a multi-dimensional organization that promotes individual freedom, with emphasis upon community service, education, and social activities.

SUPPER CLUB SCHEDULE

April 27 RED LOBSTER - 6850 N Telegraph
Dearborn Heights

Guest Speaker: Don Slynn -
Pastor: Free Patriot Church

Topic: "Freedom - How We Lost
It/How We Can Get It Back"

May 18 - RED LOBSTER - 6850 N Telegraph
Dearborn Heights

Guest Speaker: Tom Shull -
Executive Director - Heartland
Institute

Topic: Privatization

TIME: 6:00 Cocktails
6:30 Dinner
8:00 Speech

For more information or to
offer speaker suggestions,
call Sue Brian at 542-9230.

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