EIR Feature

The LaRouche case and the countdown to U.S. fascism

by Warren J. Hamerman

The following remarks were delivered to the National Caucus of Labor Committees conference, co-sponsored by the Schiller Institute, in Crystal City, Virginia on May 27, 1989. The NCLC is the philosophical association founded more than two decades ago by Lyndon H. LaRouche, Jr. Mr. Hamerman is a member of its Executive Committee.

I think that the size, composition, quality, and very existence of this conference four months after Lyndon LaRouche was unjustly imprisoned, is not only a historic political event but is a powerful monument to the power and indestructibility of the ideas and underlying method of Lyndon LaRouche which are the basis of our philosophical association. Natural Law will always be just to those who abide by her.

The LaRouche case is thoroughly intertwined with the central political question of our age: whether or not the ever-accelerating and indisputable economic, cultural, and strategic collapse of the United States solidifies into a full-scale fascist state. Since the United States is no isolated nation but the superpower central to the defense of civilization, were it to petrify into a totalitarian state it would plunge all of civilization into a Dark Age far more hideous than any previously faced by mankind.

The final outcome of the appeals on the LaRouche case over the next few months will also be the signal to whether or not the U.S. has become a full-fledged fascist state, the culmination of a several decades-long project by the Eastern Liberal Establishment to impose American-style "fascism with a democratic face" as a means to get through an otherwise ungovernable crisis.

Since the methods used to railroad LaRouche were so far outside the bounds of several millennia of legal norms in civilized societies, his case has become a world and national rallying point. There will be no such future battle around which to rally, and no such combination of cultural and political forces engaged in a

Freedom demanded for these political prisoners: the six co-appellants with Lyndon LaRouche, and their sentences, clockwise from upper left: Edward Spannaus, 5 years; William Wertz, 5 years; Dennis Small, 3 years; Joyce Rubinstein Fredman, 3 years; Paul Greenberg, 3 years; Michael Billington, 3 years.

similar battle for some other case.

Fascism has come to the United States without a Reichstag Fire or an emergency decree suspending the Constitution, but much more efficiently in large part as a "technocratic" or procedural method of "crisis management." This process has been encouraged and protected along the way by a sequence of amoral decisions of positive law in a court system which has increasingly flaunted its defiance of Natural Law.

The courts have overthrown the content of the Constitution by standing its language and moral substance on their head to *decriminalize* crimes while *criminalizing* the free practice of political, constitutional, and human rights. Among those formal crimes against the dignity of man which have now been decriminalized in America, are Satanism, euthanasia, drug use, pornography, and child abuse. At the same time, distorted interpretations and definitions of criminal acts and conspiracies have been zealously applied through the misuse of the RICO [racketeering], conspiracy, and white-collar-crime statutes against every grouping politically independent of the state, including: congressmen and senators, presidential candidates, scientific associations, anti-abortion activists, trade unions, constituency political machines, civil rights activists, political action committees and mass candidate slates, newspapers, and publishing companies.

All of the most ugly and repugnant features of Nazi justice are everyday occurrences in America today:

- judges in the mold of Nazi Judge Roland Freisler, such as Albert V. Bryan and Carleton Penn, who force convictions by aggressively becoming supra-prosecutors in the courtroom;
- the targeting of individuals for "thought crimes," having a propensity to conspire to act upon unorthodox ideas and policies even if they have committed no overt criminal act;
- pretrial convictions through vicious and incessant hounding and harassment by government police and intelligence agencies as well as media slanders;
- irrational legal opinions by courts which overtly defy all traditions of natural law and the dignity of man.

Over the abyss

How far along the road to fascism have we come? Two examples demonstrate that U.S. courts have tolerated the same twisted interpretations of the law to justify evil as the Nazis did:

1) the legalization of Satanism on the grounds of its being a so-called First Amendment-protected religion.

2) the justification of the Nazi crime of euthanasia on the grounds of "constitutional rights."

In 1985 a federal judge in Judge Albert V. Bryan's Eastern District of Virginia—the same Judge Bryan who ran the LaRouche railroad—ruled that the satanic Church of Wicca is "a religion protected by the First Amendment." The deci-

sion of the Judge Bryan-supervised court argued that Satanists:

> sincerely adhere to a fairly complex set of doctrines relating to the spiritual aspect of their lives, and in so doing so they have "ultimate concerns" in much the same way as followers of more accepted religions. Their ceremonies and leader structure, their rather elaborate set of articulated doctrine, their belief in the concept of another world, and their broad concern for improving the quality of life of others gives them at least some facial similarity to other more widely recognized religions. While there are certainly aspects of Wiccan philosophy that may strike most people as strange or incomprehensible, the mere fact that a belief may be unusual does not strip it of constitutional protection.

This case involved a 29-year-old inmate and self-proclaimed witch at the Powhatan Correctional Center in the Virginia state prison system who wanted to practice satanic rituals in prison. It was appealed by the Virginia State Department of Corrections to the same Fourth Circuit Court of Appeals which now has the LaRouche case before it. In fact, the very same 4th Circuit Court of Appeals judge, Judge Butzner, who summarily turned down two of LaRouche's requests for bond pending appeal, wrote the decision fully upholding the decision of the lower court. Judge Butzner affirmed the lower court on the grounds that the self-proclaimed witch was absolutely protected by the First Amendment guarantee to the free exercise of religion to practice his rites in prison.

Given these decisions, can one be surprised by the fact that John Markham, the chief prosecutor against LaRouche in both the Boston and Alexandria trials, was the "attorney of record" in 1973 who filed the incorporation papers of the satanic Process Church in New York and is confirmed to have been a "disciple" or member of the Process Church? Or that there is a pattern of previous involvement defending satanic groups by other prosecutors and judges from coast to coast who have gone after LaRouche and his associates?

In the area of legalizing the Nazi crime of euthanasia, American courts have also gone to shameless lengths.

In 1976 the New Jersey Supreme Court ruled in favor of euthanasia against Karen Anne Quinlan on what the court called "constitutional grounds"—they applied the right of personal privacy, the right against cruel and unusual punishment in the form of means of unnatural medical treatment, and the right to free exercise of religion.

How fast and how far toward fascism has the United States come? In comparison to the record in America, it took six years *after* Adolf Hitler came to power in 1933 and abolished the Constitution through decree, until October of 1939, for him to sign the infamous general euthanasia directive to Dr. Brandt.

Yet already 13 years ago, in the Quinlan case, the New Jersey Supreme Court ruled that it had "no doubt" that if Karen Anne herself were to become miraculously lucid, she herself could legally and effectively decide on the discontinuance of life support based upon her constitutional rights. Key to the court's decision was a shameless *amicus curiae* (friend of the court) brief submitted at the time by the "American Heresy" New Jersey Catholic Bishops Conference, which argued on supposed theological grounds that Karen had the "right to a natural death" and no right to "an extraordinary means of treatment."

Since the Quinlan case, in a shocking history which time does not permit me to review here, the courts throughout this country have made ever more bold rulings against the sanctity of human life. In the infamous Claire Conroy decision of 1983, a New Jersey judge ordered the removal of tubes to provide nourishment for the 83-year-old diabetic, despite an injunction gained to prevent the removal. That same year, the Second Appellate District Court of Appeals in California rejected the lower court's murder charges against Kaiser Permanente Hospital doctors who removed life support on the grounds that the "benefits" of death could outweigh the "burdens" of life.

In numerous other cases through the last few years, courts have ruled that members of the family could make "substituted judgments" to terminate life even in a patient who responds to commands.

Today, the issue of euthanasia has risen to the level of the U.S. Supreme Court through a Missouri case, just as the LaRouche case is simultaneously before that same court in the form of an emergency application to free the prisoners because of unjust imprisonment. The latter initiative was filed by a Philadelphia lawyer, formerly the attorney for Martin Luther King.

The Society for the Right to Die is currently seeking to have the U.S. Supreme Court reverse a beautiful decision against euthanasia by the Missouri Supreme Court, which had ruled that it refused to "eat of the same insane root" which countless other courts and judges had done in setting precedent after precedent to condone euthanasia. The U.S. Supreme Court will decide if it agrees with a Missouri lower court which condoned the starving-to-death of a brain-damaged woman, or whether it agrees with the strong anti-euthanasia ruling of the Missouri Supreme Court.

The answer from the U.S. Supreme Court is expected in roughly the same time frame as its final response to the LaRouche appeals.

Has an American Reichstag fire come?

In many respects, the court decisions legalizing euthanasia and Satanism have so distorted the content of the Constitution that we could argue that its substance has already been suspended even without an enabling law invoking a state of national emergency as Hitler did—after the German

Mass-circulation amicus brief for LaRouche

On May 25, attorneys for Lyndon LaRouche and his co-defendants filed an appeal before the Fourth Circuit of the U.S. Court of Appea s in Richmond, Virginia. That appeal brief was accompanied by a series of *amicus curiae* briefs from all over the world, reflecting the depth of international concern surrounding the U.S. descent into a fascist regime.

Among those briefs was a "mass-circulation" *amicus* brief signed by almost 150 American attorneys voicing their profound concern over the violations of human and civil rights in the LaRouche case. The signers represented a wide cross-section of the legal community, and included 17 law professors from 14 universities; three law school deans; a prominent member of the South Carolina State Senate; the former State's Attorney of the City of Baltimore; two former state circuit court judges; the former Secretary of State of Wisconsin; a former U.S. ambassador to the Republic of Ireland; representatives of virtually every major legal organization, including the former chairman of the International Human Rights Committee of the American Bar Association; the current state chairmen of four state chapters of the National Association of Criminal Defense Lawyers; the presidents of two state chapters of the American Civil Liberties Union; the chairman-elect of the Washington State Bar Association Criminal Law Section; the past chairmen of the Washington State Trial Lawyers Association and the Seattle Bar Association; and a wide array of prominent criminal and civil rights attorneys with clients as diverse as the "Chicago 7" and former Gov. Evan Mecham of Arizona.

The depth and breadth of the signers on the brief sends a clear message to the Fourth Circuit (particularly when combined with the international briefs and other domestic *amicus* briefs) that many eyes are upon them.

We quote from the "Summary of argument" section of the mass *amicus* brief:

"The trial judge denied any semblance of a fair trial to the Appellants in this case. The trial court rushed the Appellants to trial without adequate time to prepare their defense, denied them the right to a fair and impartial jury, and excluded essential areas of evidence which were critical to the defense case.

"If these convictions are allowed to stand, no defendant in the Eastern District of Virginia or any other district in the Fourth Circuit can be assured of a fair trial—especially a defendant, who as a public figure engaged in political life of the nation, is the subject of considerable controversy and adverse pre-trial publicity. Furthermore, such a precedent would be a potential threat to the rights of any accused anywhere in the United States, and would represent a dangerous erosion of the fundamental rights guaranteed by our Constitution and Bill of Rights."

parliament, the Reichstag, was burned down in February 1933, allegedly by a Dutch Communist who, if he did it, was certainly set up for the job by the Nazis. We could also suggest that the methods of the FBI in the Abscam frameups of Sen. Harrison Williams and others in the early 1980s, or the recent targeting of U.S. Speaker of the House Jim Wright, burn more legislatures and more efficiently than matches and gasoline. Yet there are those who would go even further.

The Iran-Contra scandals have dramatized the machinations of an apparatus known in the media as the "secret" or "private" or "parallel" government, or the "enterprise." Since this apparatus has virtually taken over executive policy formation and implementation through a series of administrative "emergency decrees" signed by the last Presidents, and since George Bush, now President, has been intimately involved with their operations for years, we suggest that the terms "secret" and "private" popularized by the media do not do full justice to how far the takeover has gone.

Who are these people? The individuals in and out of government engaged in such foreign and domestic activities are the same as those who have been repeatedly proven in court documents to have created and run the "get LaRouche" task force—Henry Kissinger and his associates on the President's Foreign Intelligence Advisory Board (PFIAB) such as David Abshire, the late Edward Bennett Williams, Ross Perot, Richard Secord, Leo Cherne, the late William Casey, Assistant FBI Director Oliver "Buck" Revell, Director of Central Intelligence William Webster, Oliver North, the NSC's Walter Raymond, John Train, and George Bush's personal "political chauffeurs" C. Boyden Gray and Donald Gregg and their "gophers" Fred Lewis, Gary Howard, and Ron Tucker.

As an entire *amicus curiae* brief on the LaRouche appeal forcefully dramatizes, the man who was the jury foreman in LaRouche's Alexandria trial—Buster Horton—was a member of the unique, highly selective 100-man Federal Emergency Management Agency (FEMA) emergency apparatus, along with Ollie North and elite representatives of the CIA, FBI, NSA, DoJ, and Armed Forces. The underlying totalitarian nature of this apparatus is encoded in an administrative

clause for this task force to provide "continuity of government" in otherwise ungovernable situations. The transition from a "pre-totalitarian" to a full-scale "totalitarian" state is embodied in the task force's administrative mandate to not only deal with emergencies such as nuclear war and earthquakes, but also to take over during otherwise ungovernable "political" crises.

America outside the law of nations

Already, the eyes of the world have become focused on the LaRouche appeals because of this broader historical importance. Not only have over 100 Ibero-American congressmen signed a public declaration denouncing the violations of human and constitutional rights in the LaRouche case; but many among the world's leading legal thinkers have concretely entered "friend of the court" (*amicus curiae*) briefs as part of LaRouche's appeal, which is argued by a team of American lawyers headed by former U.S. Attorney General Ramsey Clark. Among the many supplemental American *amicus* briefs is one brief co-signed by over 140 prominent American jurists including the deans of four law schools, some 20 full professors of law, and officials of the American Criminal Lawyers Association, ACLU, NAACP, and other legal associations.

Among the international *amici,* Dr. Hans Richard Klecatsky, the former minister of justice of Austria, has entered a brief co-signed by two other noted Austrian jurists, in which they inspect from the most learned historical standpoint the violations of due process in the LaRouche case from the following stated proposition in their brief:

> Only states that guarantee fair trials by impartial courts are considered "states under the rule of law."

By outlawing relevant political defenses and denying discovery, Judge Bryan grossly violated the ancient principle for a defense to be presented, or *audiatur et altera pars*—"and the other part should be heard." This places Judge Bryan's misconduct against LaRouche outside the guarantees of a fair trial which have been the pillar of all law in civilized societies throughout European history, back to ancient Greek and Roman standards and recorded as early as 3,700 years ago in Hammurabi's Code in 1729 B.C. as the express function of a judge to be impartial, in order to "offer justice to those deprived of rights."

The Austrian *amicus curiae* brief is joined by briefs from other noted jurists and legal scholars from West Germany, France, and Sweden, who all note that the political prosecution of LaRouche by the U.S. government specifically violated the international principle of double jeopardy, or *ne bis in idem,* "not twice against the same," when effectively the same trial was switched from Boston to Alexandria because the new judge and legal district would be more brazen and efficient in fixing a guilty verdict.

The West German professor Albert Bleckmann, the director for Public Law and Political Sciences at the University of Münster, thoroughly demonstrates in his brief that the gross violations by the court and government in the LaRouche case violate the NATO Treaty whose member states are bound to:

> guarantee the freedom, the common heritage and civilization of their peoples, which are founded on the principles of democracy, personal liberty, and the rules of law.

He, along with the French *amici,* also notes that the outrageous "life" sentence of 15 years imprisonment to a 66-year-old man, is a vengeful sentence out of all proportion to the crimes charged. Professor Bleckmann comments that in West German courts the maximum sentence LaRouche would have been given would have been two years and even that would have been considered severe.

Another international *amicus,* the Swedish lawyer Lennart Hane, who practices at the International Human Rights Court, argues that the methods used against LaRouche violate two additional principles of the "Law of Nations": *nullum crimen sine lege*—there can be "no crime without law"; and *difficilem oportet aurem habere*—"one must not descend to listen to slander." He further shows that the methods used in the courtroom against LaRouche resemble the practices in the 17th-century witchcraft trials in Sweden, where successive testimonies taken separately were insufficient to prove anything, but the zealous prosecutors added them together in an "incremental method" to manufacture the appearance of damning evidence.

Four noted French attorneys and jurists in two additional briefs deplore the partiality of justice which was meted out to LaRouche, in order for the state to "eliminate" a political leader from the scene.

In sum, these noted international jurists find that the methods used by the government and Judge Bryan in the LaRouche case stand outside:

- more than three and a half millennia of civilized legal tradition;
- current conventions and treaties such as the European Convention of Human Rights, United Nations Statutes, the NATO Treaty, the Organization of American States (OAS) charter;
- the U.S. Constitution itself, which is the world's protector as the highest expression of political, human, and constitutional rights.

Natural law

How do we combat the onslaught of fascism in America? The man whose personal fate is central to this drama—Lyndon H. LaRouche—has written extensively on this subject and has emphasized that the only course of action which will succeed is that which mobilizes citizens on the highest cultural level to defend the most precious values of Western

civilization as embodied in the *Filioque* and *agapē*, the love of mankind and the love of truth. Without this notion of natural law and the dignity of man, there will be no victory through pragmatic shortcuts or charges over the hill by soldiers with their heads down.

Our growing philosophical association is based upon the idea that victory can be achieved by addressing the spiritual, cultural, and philosophical starvation of millions of people who hunger to live their life for a higher purpose, to contribute to a nation dedicated to uplifting the conditions of the world and exploring new frontiers in space, to so leave after them a better, more challenging, and enriching life to those who follow. That was the secret of Benjamin Franklin and Abraham Lincoln as well as Martin Luther King.

Among all the riches of LaRouche's life's work, there is no more central contribution he has made a revival of natural law from this highest conceptual standpoint of man in the image of his Creator. Among his vast writings are many extensive historical and epistemological treatments of the subject, innumerable speeches, and two draft constitutions—one for Iran and one for the Commonwealth of Canada.

LaRouche traces the heritage of natural law explicitly to the conception of the *Filioque* as conceived by St. Augustine and Nicolaus of Cusa, and then mediated by Leibniz to the founding of the American republic. Natural law embodies the notion that the will of the Creator is directly reflected in the lawful composition of the universe and that those same moral principles can also be seen in man's "divine spark of reason" as expressed in creative contributions to all mankind. Only a society, as expressed in its government and judicial system, which openly governs itself by those very principles, is morally fit to survive and prosper.

LaRouche addressed this very question in an extended section of his 1984 presidential platform calling for the urgent reorganization of the American justice system in order to prevent the sort of pragmatic descent to totalitarianism now destroying our nation. He argued that the crux of the crisis in our courts and Justice Department was that under the overreaching subversive influence of the Eastern Liberal Establishment, this heritage of natural law as embodied in Augustine, Cusa, and Leibniz, was displaced in favor of the heritage of Roman imperial law, and that the moral substance of natural law had been replaced by Aristotle's *Ethics*.

One of the most efficient means of highlighting the quality of this conception is to study the writings of Leibniz on natural law. Not only was he the direct mediator of Cusa and Augustine's image of man to these shores, but in all of his autobiographical writings LaRouche himself identifies his early exposure to Leibniz half a century ago as the wellspring of his accomplishments. Leibniz wrote extensively on the need for man to study God's design in composing and "governing" the Universe as the model for governing society and his own life. This he often called the "architectonic justice" of the Universe.

For instance, Leibniz in 1693 and 1700 published two extensive collections of international treaties and documents of importance for European history and law. In the prefaces to these works he writes that there is a higher moral content to law, which is expressed in a society dedicated to the love of mankind and fostering the "agapic" quality of the wise man. This quality of divine love which is embodied in God's composition and government of the universe not only creates beauty but as well *happiness*. The physical universe and all living things are composed according to this design. So too are man's creations of great art. Leibniz specifically cites the paintings of Raphael, the astronomy of Kepler, and the philosophy of St. Augustine as the highest expressions by man of this natural law. The most perfect society, he argues, is that which governs its affairs according to this "universal and supreme happiness."

It is this higher conception—long forgotten and abused—which is the real substance of our nation's original dedication to "life, liberty, and the pursuit of happiness," and not the pleasure-seeking hedonism of the culturally depraved free to "do their own thing."

In numerous other essays on natural law, such as his appendix to the *Theodicee* in 1710, which he called "A Vindication of God's Justice Reconciled with his Other Perfections and All His Actions," Leibniz draws out the distinction between these two conceptions. Societies which exclude what he calls the "architectonic justice" embodied in God's composition of the universe are not governed by love and happiness, but by a tyrant's fear, hatred, and power.

Such societies—in open defiance of natural law as America has now become—he calls "tyrannies" ruled by "despots," and he says that since they are "unfit to survive," they will not.

Societies in which there remain, he says, "vestiges of the divine image" are good and just and free and *happy*.

Those who dedicate their lives to bringing about such governments on Earth Leibniz calls men and women of "divine providence." Such has been the reason that such a man as Lyndon LaRouche has so composed our philosophic association and why it continues to expand and grow, despite the efforts of many to extinguish its existence. There is no positive law on the face of the earth—no matter how evil and powerful—which can ever defeat those who remain steadfast to the principles of natural law. And this, perhaps, is why Lyndon LaRouche is always fond of giving all of his friends the profound advice to "be happy!"

I can think of no better way to engender happiness as well as to give hope to all those outside and inside this country who yearn for our nation to be the champion of freedom and the dignity of man than to free Lyndon LaRouche, Dennis Small, Mike Billington, Ed Spannaus, Will Wertz, Paul Greenberg, and Joyce Rubinstein Fredman. By that act, we can also be assured that we will cause the greatest unhappiness for Satan and all those who worship him for all eternity.