

Police state methods used on LaRouche associates—again

by Jeffrey Steinberg

In this, the bicentennial anniversary of the 1787 signing of the U.S. Constitution, officials of the Department of Justice have once again demonstrated that, at least in the case of Lyndon H. LaRouche, Jr. and his friends, that most sacred document of the nation's republican tradition is a meaningless piece of stained parchment.

On Tuesday, April 21, U.S. Marshals, acting under orders from the Department of Justice and a federal bankruptcy court, staged the sixth police-state raid since last October against companies and political organizations associated with presidential candidate LaRouche in Leesburg, Va. and a dozen other cities around the United States. The previous day, in a flagrantly illegal move, Henry Hudson, U.S. Attorney for the Eastern District of Virginia, secretly appeared before federal bankruptcy judge Martin V.B. Bostetter to obtain involuntary bankruptcy orders against Campaigner Publications, Caucus Distributors, Inc. and the Fusion Energy Foundation under Chapter 7 of the federal bankruptcy statutes.

In a seven-page Order Directing Appointment of Interim Trustees, Hudson petitioned the court to seize the three companies to enable the government to collect over \$16 million in contempt fines imposed beginning in early 1985 by Federal District Court Judge A. David Mazzone in Boston, Mass. These fines, themselves a flagrantly unconstitutional financial warfare action aimed at silencing the LaRouche political movement in the United States, are still the subject of court proceedings before the First Circuit U.S. Court of Appeals in Boston, and therefore are not legally subject to collection.

By their actions on Monday, Hudson and his superiors at

the Department of Justice, including Criminal Division head William Weld, have moved to bankrupt and shut down LaRouche-linked publications months before they ever get their day in court.

Papers now filed before the First Circuit Court show that the original contempt fines, totaling \$21 million, were illegally imposed in the first place on the basis of false claims by then U.S. Attorney Weld that the three entities, plus the National Democratic Policy Committee, a political action committee registered with the Federal Election Commission, failed to comply with subpoenas for corporate financial records. In fact, as government attorneys have now admitted in court, hundreds of thousands of documents were submitted to the grand jury during 1985.

So outrageous and politically motivated were the initial fines, that attorneys for the LaRouche associated groups discovered only in March 1987 that during the January to June 1986 period, the grand jury, which had been investigating media-foisted allegations of credit card fraud by the 1984 LaRouche campaign committees, had been dissolved with no charges brought. The \$21 million figure reflects running fines that were maintained for each of the four entities throughout the period that there was no standing grand jury, and throughout the subsequent five months in which a separate but unrelated grand jury was convened.

Legally unprecedented

Even government officials have acknowledged that the April 20-21 action is the first time ever that a Chapter 7

involuntary bankruptcy petition was used to collect court fines. Under Chapter 7, government-appointed trustees are ordered to liquidate all corporate assets and terminate all corporate activities. By every reading of the statute, the Chapter 7 procedure only applies to business corporations engaged in profit-making activities. Two of the three entities targeted by the Hudson-Weld action this week are not-for-profit. Fusion Energy Foundation, a federally approved tax exempt foundation, publishes *Fusion* magazine and the *International Journal of Fusion Energy*. Caucus Distributors is a not-for-profit membership corporation formed to distribute literature and promote certain political and philosophical ideas. Campaigner Publications, the only "business" corporation, is the publisher of the twice-weekly, 200,000 circulation *New Solidarity* newspaper.

Thus, as attorneys for the publication charged in court in Alexandria, Va. on April 21, the bankruptcy action is a flagrant assault against the First Amendment right to free speech. "This is a highly irregular one-of-a-kind procedure with frightening implications for the press," attorney Daniel Alcorn told the *New York Times* on April 21, adding that the government's failure to even inform the defendants of the pending court action and thus provide them with a right to a hearing was a sharp violation of the U.S. Constitution's Sixth Amendment guarantee of due process.

The strategic crisis

On learning of the federal bankruptcy order and the seizure of the publishing and sales offices, Lyndon LaRouche issued a statement on April 23 which identified the broader motives and strategic context for the wildly unconstitutional move:

"This Tuesday (April 21) Federal agencies staged the sixth police-state style raid on my friends in Leesburg, Va. since the virtual military occupation of that small town back during Oct. 6 and Oct. 7, 1986. The fact that federal authorities admitted that Tuesday's action was without legal precedent, and that the action was used in fact to prevent the publication of a newspaper, is sufficient evidence of the corrupt political motives behind this action.

"The latest atrocity, like the police-state action by the same federal offices last Oct. 6, occurred following massive Soviet demands issued from the highest level, demanding that my political influence be eliminated in the United States.

"The most recent barrage of Soviet demands for action against me include a featured attack in the March edition of the Soviet leading political journal *International Affairs* and more recent attacks on Radio Moscow. The last time such a barrage of Soviet attacks occurred was during the weeks preceding the Oct. 6 raid on Leesburg, in the context of preparations for President Reagan's meeting with Soviet General Secretary Gorbachov at Reykjavik. Tuesday's atrocity occurred in the midst of preparations for a new Reagan-

Gorbachov summit, over the same 'zero-option' issues presented at Reykjavik.

"This Soviet pressure on the U.S. government is a very important factor in the occurrence and timing of these raids, but there are also others complicit in the Iran-Contra scandal, and certain others, who are more directly involved than Soviet channels in pressuring corruptible officials into taking these actions. There is also a very special factor: The international banking system and stock markets are teetering at this moment on the brink of a collapse worse than 1929-1931."

Elaborating on the critical policy battle brewing around the imminent monetary blowout, LaRouche continued, "Some of you may have read the *New York Times'* headlined April article 'The Crash of 87?' The European financial press, and leading banking officials speaking privately to my associates, are much more explicit. Financial authorities are saying, that the international financial system is at the brink of a collapse which could collapse stock prices by as much as 50% or more during a short period. Some are advising their customers to dump dollar holdings for cash and gold, predicting that gold may zoom to between \$800 and \$1,000 an ounce during the near future.

"What the U.S. government is doing right now, starting a trade war with Japan and other allies, and pushing up interest-rates, are the worst possible policies our government could adopt at this time. The trade-war with Japan is already undermining the market in U.S. government bonds, with the ominous May 15 date for a vote on raising the U.S. debt-limit coming up. Raising interest-rates, will promote a crisis in the 'junk bonds' market, setting off a crisis which must tend to crush the already sagging bond markets, and a collapse in the rotten-ripe stock markets. The best guess among European experts is, that the 'Crash of 87' will surface about mid-May, if present policy-trends are not changed immediately.

"This looming financial crisis accelerates the continuing police-state actions against my friends and me in two ways. First, there is a faction on Wall Street which is wildly hysterical about me, fearing that in the case of a 'crash,' government might turn to adopt my policies out of lack of any workable alternative in sight. Second, there are others, including Moscow and certain leading factions around Paul Kirk's Democratic National Committee, which are not so much concerned with my economic-recovery proposals as such, as the fear that my importance under conditions of economic crisis might catapult me to a leading position in the 1988 presidential campaign.

"In short," LaRouche concluded, "these circles, and Moscow, wish me and my friends out of the way by the time the 'crash' hits. That, and not the phony accusations 'leaked' to the news media as pretexts for new police-state raids and arrests, are what it is all about."

In the 72-hour period following the April 21 move to padlock the offices of the LaRouche-linked publications, officials of the U.S. Attorney's office for the Eastern District of Virginia have even further flaunted their contempt for the U.S. Constitution. Appearing at an emergency hearing before Judge Bostetter late in the afternoon of April 21, Assistant U.S. Attorney David Schiller falsely claimed that the government had no intention of shutting down the publications—"unless it were to publish libelous material." He simultaneously submitted an exhaustive list of interrogatory questions to the officers of the three companies, ignoring the fact that all three are under federal and state indictments, and that the answering of those detailed financial and personnel probes would be an abrogation of Fifth and Sixth Amendment rights.

Increasingly, with the public unraveling of the "secret government" behind the Iran-Contra affair, the American public is being exposed to the harsh reality that the U.S. Constitution has been de facto suspended. While no other political organization has yet been subjected to the level of outright government criminality equaling that to which LaRouche and his friends have been subjected since Oct. 6, 1986, the message is clear: If the Wall Street-Weld cabal gets away with the elimination of LaRouche, no one is safe. And the greatest experiment in democratic-republican rule of law, our own American Constitution, will have been buried under a tombstone reading, "1787-1987 R.I.P."

The constitutional violations

According to legal specialists, the action of the U.S. Justice Department in throwing three LaRouche-identified organizations into "involuntary bankruptcy" on April 20 was completely unprecedented, and represents such a fundamental invasion of constitutional rights that it is potentially fatal to constitutional rule in the United States.

It is not just that the use of involuntary bankruptcy is unprecedented as an effort to collect a government fines, but that the procedure is being used against defendants who have been indicted and are awaiting trial in a *criminal* case. As such, the procedure constitutes "execution before trial," in that the defendant corporations will be liquidated before they ever have an opportunity to go to trial and prove their innocence.

The most egregious constitutional violations involved are as follows:

First Amendment: By shutting down two publications—*New Solidarity* newspaper and *Fusion* magazine—and severely hampering a third—*EIR*—the United States government has silenced voices which have been at the center of major policy controversies over the past decade and more. The seizure of their editorial offices, throwing writers and editors out onto the street, and the impending liquidation of the companies, constitutes the grossest type of "prior restraint" of publications—impermissible under a long line of

Supreme Court rulings over the past 50 years.

Fourth Amendment: The Fourth Amendment prohibits "unreasonable searches and seizures" and says that search and seizure, when permitted, must be particular and exacting; in this case the government has illegally seized offices and property not only of the three organizations named—Campaigner Publications, Caucus Distributors, and the Fusion Energy Foundation—but also offices and property of legally distinct corporations such as that which publishes *EIR*.

Fifth Amendment: (a) The Fifth Amendment declares that no person shall be compelled to be a witness against himself. Yet, the nature of a bankruptcy proceeding is such that officers and principals of a "debtor" company must disclose information to the trustees and the bankruptcy court. In this situation, when the companies and many of its officers and employees are under criminal indictments, most criminal attorneys will not permit individuals to make any statements to government authorities. Such "failure to cooperate" ensures immediate liquidation of the companies.

(b) The Fifth Amendment also provides that no person (which includes a corporation) shall be deprived of life, liberty, or property without due process of law. The involuntary bankruptcy petition was filed, and seizures ordered, in a secret, *ex parte* (only one side present) proceeding, in blatant violation of even the statutory requirement of notice and hearing. Offices were seized, employees thrown out, and corporations shut down, without any hearing or due process whatsoever. The first that any of the companies or their lawyers knew of the proceedings was when federal marshalls appeared at 7:00 a.m. to seize and seal off their offices.

Sixth Amendment: The Sixth Amendment, governing criminal prosecutions, provides the following:

(a) The right to trial, and to trial by jury: Here, corporations which were indicted and awaiting trial, are now being "executed" before trial. The involuntary bankruptcy petition relies heavily upon the "criminal" nature of these companies; yet by the time they would have a chance to go to trial, defend themselves, and prove their innocence, they will have been liquidated in the bankruptcy proceeding.

(b) The right to confront witnesses: The *ex parte*, Star Chamber nature of the seizure of the companies denied this fundamental right. Further, the justification for this *ex parte* proceeding was provided by other *ex parte* proceedings such as the issuing of "Cease and Desist" orders by various state securities commissions and the *ex parte* attachment of the "PANIC" (anti-AIDS initiative) bank account in California last summer. Each Star Chamber proceeding justifies the next one.

(c) The right to the assistance of counsel: In a bankruptcy proceeding, the lawyer for the debtor is obligated to provide information to the court, and can be ordered to waive the attorney-client privilege. When the debtor is simultaneously a defendant in a criminal proceeding, this creates an insurmountable constitutional conflict.