

## The Alito Fight: LaRouche Says 'No' To Germany 1933-34

by Jeffrey Steinberg

On Jan. 25, 2006, Lyndon LaRouche issued his most impassioned statement to date, demanding that the U.S. Senate defeat the nomination of Judge Samuel Alito to the Supreme Court, on the grounds that Alito is a Nazi who promotes the judicial outlook of Hitler's "Crown Jurist," Carl Schmitt. Under the title "1933 And Now," LaRouche wrote:

"Clearly, even most leading Senate Democrats have failed to grasp the essential issue of Alito. They have obviously failed to relive the experience of those, during January and February of 1933, who failed to recognize what should have been the obviously already looming danger of an Adolf Hitler dictatorship. Their cowardice then created the conditions under which Hitler was made a dictator in the immediate aftermath of Hermann Göring's '9/11,' the setting of fire to the Reichstag.

"Many of those who refused to recognize the Hitler danger before the Reichstag incident, were soon rewarded by being shuffled into prisons, shot preemptorily, or shovelled into what became the concentration-camp system. What made that possible was Germany's toleration of Carl Schmitt's award to Hitler of the same powers which the Supreme Court faction of Carl Schmitt's Federalist Society fellow-travellers such as nominee Alito represents.

"Those of us from my generation, and some others, who lived through the experience of that tragic outcome brought about by those who refused to, as the saying goes, 'exaggerate the Hitler danger' then, look sadly at those in the Senate and elsewhere today who seem inclined to repeat the lesson of history, from January-February 1933, weeks when Hitler could still have been stopped.

"They either do not remember, or have chosen to forget, that the prompting of the Hitler coup, which had been promoted by the head of the Bank of England, Montagu Norman, and his Anglo-American-French and other private banker accomplices, was motivated by the events surrounding and following the 1931 founding of the Bank for International Settlements. This all occurred in the context of a great international monetary-financial crisis, like that of today. Then, as now, it



White House/Paul Morse

*“Clearly,” wrote Lyndon LaRouche on Jan. 25, “even most leading Senate Democrats have failed to grasp the essential issue of Alito. They have obviously failed to relive the experience of those, during January and February of 1933, who failed to recognize what should have been the obviously already looming danger of an Adolf Hitler dictatorship.” The next day, a group of Senate Democrats announced their plan to filibuster: Who will join them?*

could happen here!

“It is notable that many relevant members of the Senate and others do not know of that lesson of history; the problem is the influence of sophistries catalogued under the rubric of ‘go along to get along.’ Let them look into the millions of despairing faces of those who died so cruelly in Hitler’s camps, as a result of the same doctrine which the Federalist Society has adopted from the same Carl Schmitt known as the Crown Jurist of the Nazi system. To repeat the mistake of Germany in January-February 1933, is to take on oneself the guilt for those who were tortured and murdered so mercilessly by the forces of the Hitler whom the relevant leading private bankers brought to power then, and would do the like again today.”

### **Filibuster!**

Clearly LaRouche’s warnings are now resonating with leading Senate Democrats. As this issue of *EIR* goes to press, the Senate is poised to vote on a cloture motion, brought by Senate Majority Leader Bill Frist (R-Tenn.), to bring the Alito nomination to an up-or-down vote, perhaps as early as Jan. 31, just hours before President Bush is scheduled to deliver his State of the Union message. As of Jan. 26, a group of Democratic Senators, led by John Kerry (Mass.) and Edward Kennedy (Mass.), have announced that they will lead a filibuster to block the Alito nomination. As of this moment, the outcome of that filibuster is unknown. However, certain crucial features of the fight over the Alito nomination are clear—despite outlandish efforts by most

“establishment” media to portray the defeat of Alito as a “lost cause.”

On Jan. 23 and again on Jan. 26, the *New York Times* published lead editorials, demanding that the Senate defeat the Alito nomination. In unusually strong language, the *Times* editors wrote, Jan. 23: “Judge Alito may be a fine man, but he is not the kind of justice the country needs right now. Senators from both parties should oppose his nomination. It is likely that Judge Alito was chosen for his extreme views on presidential power. . . . He has supported the fringe ‘unitary executive’ theory, which would give the President greater power to detain Americans and would throw off the checks and balances built into the Constitution. . . . The real risk for senators lies not in opposing Judge Alito, but in voting for him. If the far right takes over the Supreme Court, American law and life could change dramatically.”

The second *Times* editorial, published on Jan. 26 under the provocative headline “Senators in Need of a Spine,” was even more blunt:

“It is hard to imagine,” the newspaper editorialized, “a moment when it would be more appropriate for senators to fight for a principle. . . . The judge’s record strongly suggests that he is an eager lieutenant in the ranks of the conservative theorists who ignore our system of checks and balances, elevating the presidency over everything else. He has expressed little enthusiasm for restrictions on presidential power and has espoused the peculiar argument that a president’s intent in signing a bill is just as important as the intent of the Congress in writing it. This would be worrisome at any time,

but it takes on far more significance now, when the Bush administration seems determined to use the cover of the 'war on terror' and presidential privilege to ignore every restraint, from the Constitution to Congressional demands for information."

The editorial concluded: "A filibuster is a radical tool. It's easy to see why Democrats are frightened of it. But from our perspective, there are some things far more frightening. One of them is Samuel Alito on the Supreme Court."

In commenting on the *New York Times* editorials on Jan. 27, LaRouche emphasized that the real issue on the table with the Alito nomination is the prospect of imminent fascist dictatorship over America, sponsored by the same Synarchist banking cabal that installed Hitler in power in Germany in 1933.

Not only would the Alito confirmation create a Supreme Court majority adhering to the Carl Schmitt *Führerprinzip* (Leader Principle). Vice President Dick Cheney would seize upon the Alito victory to press for dictatorship, through some strategic provocation, like a pre-emptive war against Iran, perhaps using nuclear weapons. Such an attack would assure a perpetual global asymmetric war against the United States. Under such insane circumstances, the last cloak of constitutional rule would be stripped. "The editors and publishers of the *New York Times* clearly understand that these are the stakes, and, to their credit, they have weighed in against fascism. No one can take that away from them," LaRouche said.

And now, leading elements of the Democratic Party have taken up the same fight. Senator Kerry issued a statement from Davos, Switzerland on Jan. 26, announcing his intention to launch a filibuster against Alito. Kerry's announcement caught the White House totally by surprise, as evidenced by press spokesman Scott McClellan's childish attacks on the Senator at the White House briefing the next day, mocking Kerry's presence at a Swiss "ski resort," although at least three Bush-Cheney Cabinet members were attending the same Davos World Economic Forum, along with Kerry and other members of the House and Senate.

Senator Kerry returned to Washington on Jan. 27 and spoke from the floor of the Senate about his decision to lead the filibuster. "Confirming Judge Alito to a lifetime appointment on the Supreme Court," he said, "would have irreversible consequences that are already defined if Senators will take the time to measure them. . . . I know it is an uphill battle. I have heard many of my colleagues. I hear the arguments: Reserve your gunpowder for the future. What is the future if it changes so dramatically at this moment in time? What happens to those people who count on us to stand up and protect them now, not later, not at some future time?"

"This is the choice for the court now," Kerry continued. "I reject those notions that there ought to somehow be some political calculus about the future. This impact is going to be now. This choice is now. This ideological direction is defined now."

Within hours of the Kerry announcement, a number of

leading Democratic Senators, including Hillary Clinton (N.Y.), Richard Durbin (Ill.), Barbara Boxer (Calif.), and Russell Feingold (Wisc.), strongly backed the filibuster. By Friday Jan. 27, a number of other Democrats, including Minority Leader Harry Reid (Nev.) and Diane Feinstein (Calif.), who had earlier opposed the idea of a filibuster, announced that they, too, would back Kerry and Kennedy and vote against cloture.

Washington sources have confirmed that former President Bill Clinton has weighed in strongly, behind the scenes, against Alito. The significance of the former President's role in the belated Democratic mobilization against the Alito confirmation cannot be overestimated.

### **The White House 'Lunatic Factor'**

The longer that the Alito fight stretches out, the more likely it is that Democrats will unify behind the filibuster. And the longer the fight, the more opportunities will be provided to the White House to take outrageous steps that will anger the American people, steel the Democratic opposition, and alienate sane Republicans.

Typical of the lunatic actions already taken by the Bush-Cheney White House: On Jan. 26, the President announced that he would resubmit to the Senate his nomination of Brett Kavanaugh to the U.S. Appellate Court for the District of Columbia. Kavanaugh, a 40-something Federalist Society *wunderkind*, who has never been a judge, was the point-man for Bush 43 judicial selections, and was a deputy to White-water Independent Counsel Kenneth Starr, another Federalist Society fixture. Kavanaugh's nomination had been explicitly pulled last year, as part of the agreement among a core group of Senate Democrats and Republicans, to kill Dick Cheney's "nuclear option" to eliminate judicial filibusters. The renomination of Kavanaugh was a petty provocation by the President's men.

The President's own behavior is also becoming even more erratic, as a majority of Americans now say that if he did, indeed, order the National Security Agency to spy on American citizens, he should be impeached. In a nearly incoherent, and borderline paranoid television interview with CBS-TV's Bob Schieffer on Jan. 27, Bush asserted an "I am the law" interpretation of Presidential powers, and boasted that he ordered the spying on Americans. "I made the decision of tapping the phones of citizens making calls to abroad and somewhat linked to al-Qaeda," Bush said, "because my special advisors told me that's the best thing to do." Asked why he didn't use the Foreign Intelligence Surveillance Act provision, allowing him to get authorization for wiretaps 72 hours after the fact, Bush rambled, "I told that to my advisors, but they told me that it would not work. . . . The enemy is hearing us every time. Right now they are hearing us!"

Bush's bizarre behavior during the Schieffer interview prompted one astute observer to speculate: Will Bush show up for the State of the Union address with aluminum foil over his head?

## International Media Expose U.S. 'Schmittlerian' Revival

With the spotlight being trained by the international LaRouche movement on the Nazi character of the Cheney-Bush Administration, which has adopted the *Führerprinzip* of Hitler's "crown jurist" Carl Schmitt, the international media has begun to pick up on this reality. Here are three examples:

### Professor Peter Wagner, "Democracy in Distress," *The Frankfurter Rundschau*, Jan, 17, 2006.

The feature article begins by contrasting the reaction of the government of Chancellor Gerhard Schröder to the floods of 2002, with the reaction of President George W. Bush to the hurricane damage in New Orleans.

After a subhead "Exceptional Situation—according to Schmitt," the article continues: "This comparison invites you to consider anew Carl Schmitt's thesis that the sovereign is the one who controls the 'exceptional situation.' Schmitt was thinking of conflicts in which friend and foe were in a struggle for control of the state. Later his students in the current U.S. government are ready at all times to create new enemies, against whom the battle for dominance can be waged. Over and over again Schmitt and his imitators thought of the possibility that the 'enemy,' against whom he must exercise his political capability, could be nothing more than a political opponent. . . ."

The article goes on to discuss how the Schmitt theory is used in the United States to fight "the enemy," while going against the general welfare of the citizens.

### "Protest in Mexico Against Alito," *Associated Press*, Jan. 23, 2006. *Posted as a Spanish-language wire by its Mexico City office, it was picked up by the Spanish-language TV station Univision.*

"Some 20 people protested in front of the U.S. Embassy in Mexico City against the possible confirmation of Samuel Alito, whom they compared to Hitler, to the U.S. Supreme Court.

"The LaRouche Youth Movement, an international organization which backs the ideas of American economist Lyndon LaRouche, who some time back had presidential aspirations, organized the demonstration.

" 'Alito puts forward a doctrine which is, frankly, Nazi,' said one of the organizers of the demo, Erick de Leon, 25 years old. 'We have to stop this ultraright policy in the U.S., before it gets to Mexico.' "

"Some of their signs mentioned Adolf Hitler and pointed out that there was no way to honestly debate including a Nazi

leader in the U.S. government.

"The group also organized demonstrations in front of the U.S. Embassies in Argentina, Colombia and Peru."

### "The Sulfurous Carl Schmitt," *El País*, by Luis Bassets, Jan. 26, 2006. *The Spanish daily exposed the philosophy behind Alito.*

"We will have to urgently consult philosophers of Law, and learned and eminent jurists, for them to explain to us what is happening in the most outstanding democracy in the world, a country which moreover is a friend and ally of Spain and of the European Union. A handful of jurists—from Attorney General Alberto Gonzales to the candidate for the vacant Supreme Court seat Samuel Alito—have been churning out purportedly constitutional arguments designed to place the President of the United States above the law and the other powers. This deference is not gratuitous, but is driven by objectives that are as precise as they are disturbing: to give legal cover to activities so un-edifying as indefinite detention without trial of suspected terrorists, submitting those detainees to torture, jailing and interrogating them in clandestine dungeons situated in countries without guarantees or controls, or conducting unauthorized telephone wiretaps without any judicial oversight. . . ."

"Samuel Alito, candidate for a lifetime Supreme Court post, is the author of the unitary Executive theory, a peculiar way of defending concentration of power and turn the President into the interpreter of the Constitution. Thanks to the invention of some strange 'signing statements,' the President can correct the content of a law by later introducing his own peculiar interpretation. . . . Likewise, Alberto Gonzales, who promoted the memos authorizing violent interrogations, just manufactured another document justifying Presidential power to order wiretapping and taping of telephone calls without judicial oversight.

"These unscrupulous geniuses of juridical juggling appear to have come out of the same mold. Their writings have a sulphurous spitfire which weds them to Carl Schmitt, the skillful jurist who provided the conceptual arguments for the Hitler dictatorship; among them, the absolute superiority of the Executive, the glorification of political decision above the law, and the figure of the sovereign who decides on a state of exception. It is not the first time that Constitutional law has been suspended in the United States, but never has it been done with the intent to make it permanent. The legal basis used now to grant so much power to the President as to transform him into the lord of life and death, of freedom and privacy, is the mandate he received from Congress on Sept. 18 [2001] to wage the war on terrorism. It has no expiration date, because the President himself has acknowledged that this is a war without end; and with consequences as sad as they are evident. 'Our Constitutional design is in danger,' Al Gore declared a few days ago. And veteran columnist William Pfaff went further: 'the President and his advisors are putting forward an American doctrine of Presidential dictatorship.' "