

# U.N. gets LaRouche rights case

*The case of the unjustified political prosecutions of Lyndon LaRouche and associates is now before the United Nations. Part IV of a four-part series.*

*The Paris-based Commission to Investigate Human Rights Violations and Helga Zepp-LaRouche, wife of political prisoner Lyndon LaRouche, filed a second petition to the Commission on Human Rights of the United Nations in Geneva, Switzerland on Feb. 2, 1990, seeking U.N. action against human rights abuses committed against LaRouche and his political movement by federal, state, and court authorities in the United States. A first petition had been submitted at the end of May 1989, but has yet to be deliberated upon.*

*Part III took up the Virginia state prosecutions of two LaRouche associates, Michael Billington and Rochelle Ascher, which resulted in barbaric 77-year and 86-year jail sentences, respectively. In this, the concluding section of the series, the petition describes the New York state prosecution of LaRouche associates, and the inhuman treatment of LaRouche and other defendants in prison.*

## 4. The New York 'LaRouche case'

In June 1986, three months after the election victory of two LaRouche associates in Illinois, the National chairman of the Democratic Party, Paul Kirk, traveled to New York State and held a press conference together with Governor Cuomo and U.S. Sen. Daniel Moynihan (D) and others, where they vowed to "stop LaRouche and his associates by any means necessary, legal or otherwise." One week later, New York Attorney General Robert Abrams began an investigation into allegedly fraudulent fundraising by LaRouche-affiliated companies. After almost one year, the Attorney General's office handed down an indictment consisting of over 100 counts against 16 collaborators of LaRouche and several companies.

One of the defendants, Mark Calney, was held for two weeks in a Los Angeles city jail, on a bail of \$500,000. The judge at the bail hearing said Calney merited such an extraordinary bail, because, as an associate of the international LaRouche movement, he was a danger to the community.

Ultimately, the charges against Calney and 11 other co-defendants were dropped. Four defendants, George Canning, Marielle Kronberg, Robert Primack, and Lynne Speed, plus three companies, Campaigner Publications, Inc., Caucus Distributors, Inc. (CDI), and New Benjamin Franklin House, were brought to trial for charges reduced to two coun-

ts each: conspiracy to commit fraud and scheme to defraud.

Before the trial started, the defendants were offered a plea bargain deal: to plead guilty to a misdemeanor in exchange for a non-jail sentence. They refused and insisted on a jury trial to prove their innocence.

During trial, by the prosecutors' objections and the rulings of trial Judge Steven Crane, the defendants were prevented from putting on a full defense:

- The defense subpoenaed Lawrence Kirwan, the former New York State chairman of the Democratic Party, who had participated in the aforementioned press conference, and Henry Kissinger, who was subpoenaed in support of the defense's contention that ongoing harassment initiated by Kissinger, among others, made it impossible for the LaRouche-related companies to stabilize financially and repay many of the loans. Judge Crane quashed both subpoenas on the grounds that they were "not relevant" to the case, in spite of a detailed affidavit showing sufficient nexus between activities of Henry Kissinger and the financial stability, including the ability to raise contributions and repay loans of the entities at issue in the New York prosecution.

- During the trial, large parts of the testimony by defense witnesses and defendants were struck, after the judge had virtually invited respective prosecution motions. This despite the testimony directly related to the beliefs and motivations regarding loan repayment or political harassment directed at the LaRouche movement. Crane granted the government's Motion *in limine* which prohibited Mark Fairchild from testifying about death threats he got after his victory in the March 1986 Democratic Party primary and about the simultaneous slander campaign.

All references to the government-initiated involuntary bankruptcy, which a federal judge has now ruled to have been illegal, were objected to by the prosecutor and referred to as "just another one of the laundry list of excuses."

The prosecution introduced an abundance of hearsay evidence and was allowed to make full use of witnesses such as Chase Manhattan economist Michael Hudson, who during trial committed perjury and contempt of court, in spite of which the judge refused to hold him in contempt. Hudson is intimately tied into years-long anti-LaRouche activities involving the FBI, other authorities, and private entities. He

had participated in a 1983 meeting which had the purpose of organizing a national media campaign against LaRouche to create a climate for criminal prosecutions and which also deliberated upon how a civil suit by Hudson, aimed at the 1984 LaRouche presidential campaign, could be utilized to prevent LaRouche from receiving federal matching funds.

### **FBI agent destroyed evidence**

When the defense demanded the release of documents that had been produced to the grand jury in Boston investigating the 1984 presidential campaign of Lyndon LaRouche and which were needed as exculpatory material in the New York trial, it turned out that the very FBI agent who was supposed to preserve these records for their owners had destroyed them! The facts of this outrageous occurrence are as follows:

U.S. Attorney William Weld's 1984 Boston grand jury had subpoenaed business records belonging to Caucus Distributors, Inc. (CDI), Campaigner Publications, and the Fusion Energy Foundation. Weld sought and won contempt fines in the amount of \$16 million against the companies for alleged failure to produce a tiny portion of the documents to the grand jury. It was these fines which were then used as the government's claim to bring the illegal involuntary bankruptcy action against the three entities in April 1987.

The government also used the documents in other cases than the Boston case, which ended in a mistrial in May 1988, and all charges were dropped in January 1989.

Then, although the government knew that other targeted individuals and entities were likely to need them in ongoing civil and criminal proceedings, the government destroyed the documents: After the documents had been requested by the defense team in the New York trial, the government had to admit, that on May 9, 1989, FBI agent Richard Egan had destroyed boxes of these same business records! Among the documents were thousands of checks issued to lenders which clearly represent important exculpatory information not only pertaining to the New York trial, because they show persistent efforts to repay debts, but also directly contradict every prosecutorial theory of "conspiracies to defraud lenders."

Egan destroyed the business records one day after he was present at a hearing on May 8, 1989, before Boston Federal Judge Robert Keeton, at which Keeton ordered that the checks and other documents in question be preserved to be turned back over to the entities to which they belonged. On Aug. 18, 1989, Egan testified in New York, that he had consulted with LaRouche prosecutor John Markham before he destroyed the documents. Markham denied this in a contradicting affidavit. In the course of the ensuing court proceedings about whether Egan and others should be held in contempt and how the government could remedy the damage created, another scandalous fact was revealed in a government affidavit: The government knew prior to the time Federal Judge Mazzone imposed \$16 million in contempt fines, that the fined entities had in fact produced the records at issue to William Weld's grand jury in

1985, the very records which Egan destroyed! After Egan's destruction of grand jury records had become an issue and the defense moved for sanctions and to hold Egan in contempt, the government was forced to disclose their inventory of the records which had been produced by the four entities. While the inventory shows the thousands and thousands of records produced, the more significant fact is that the inventory was created by then-paralegal assistant to Assistant U.S. Attorney John Markham, Mary Beth Downing, in 1986 in order to "facilitate the transfer of the case from" the first expired grand jury "to a second grand jury."

The second Boston grand jury began in June 1986. Judge Mazzone did not impose the \$16 million fines until February 1987. His contempt order was issued after the government continued to represent that the entities had not complied with grand jury subpoenas for records. It read: ". . . as of close of business on September 1, 1986, [they] have failed to comply. . . ." The government affidavit filed three years later, in September 1989, now shows the government lied to the court to obtain contempt fines and, in the end, the bankruptcy of three organizations.

Up to the date of this communication, Judge Keeton refused to hold Egan in contempt for the destruction of evidence under government custody and in violation of a judicial directive, or otherwise sanction the government. He also refused to grant an evidentiary hearing.

### **New York trial part of nationwide prosecution**

The New York trial was yet another confirmation of the fact, that this like any other "LaRouche case" was the outgrowth of a multi-agency, nationwide effort to eliminate the political movement created by Mr. LaRouche. As New York Prosecutor Dawn Cardi stated in a post-trial memorandum: "This case was in fact part of a multijurisdictional effort with the Department of Justice and the State of Virginia to prosecute Lyndon LaRouche and various members of his organizations. . . ."

This "multijurisdictional effort"—defense attorney Ramsey Clark captioned it the "Get LaRouche Task Force"—is also subject of post-trial Kastigar hearings required to ascertain whether the prosecution in New York used in any way, directly or indirectly, any testimony defendant Kronberg gave under subpoena and grant of immunity in the Alexandria federal grand jury or at the Alexandria federal trial of LaRouche and six co-defendants, which would have been illegal and a violation of her Fifth Amendment rights. The first witness at the Kastigar hearings that commenced on Jan. 8, was Virginia prosecutor John Russell, who occasionally had been present at the New York trial, when he "happened to be in town." First Russell claimed that his prosecution was not part of the federal task force. Only when confronted with a U.S. government document received by the defense under the Freedom of Information Act, which explicitly identified the Virginia State Police as part of the task force, he said,

well, the State Police worked in, around, and with the task force, but were not "part of" it!

### **Confused verdict**

During trial the defense team worked hard to introduce the truth about government financial warfare; lender witnesses confirmed that they were informed about risks, legal problems, and financial problems before they gave money; and in several cases their loans came due after the 1987 bankruptcy. Despite this and the scandalous revelations about government activities as described above, the trial ended with convictions for three defendants. On Aug. 31, 1989, the jury issued a "confused verdict," as observers commented: George Canning was acquitted on all counts, Marielle Kronberg and Lynne Speed were acquitted on the conspiracy count and convicted on the fraud count, Robert Primack was convicted on both counts.

Due to several post-trial motions filed by the defense regarding Bankruptcy Judge Bostetter's decision and other new evidence, sentencing was several times continued and has not yet occurred. Prosecutor Cardi for her part demanded in her sentencing memorandum the maximum sentence for Speed and Primack, four years in state prison.

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## **C. Violations of Articles 5 and 9 of the Universal Declaration of Human Rights**

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### **1. Arbitrary and cruel punishment of Lyndon LaRouche**

The prohibition of unusual and degrading punishment is one of the principles most deeply moored in the Western tradition of the rule of law. It is an outgrowth of this principle, that the punishment must not be out of proportion to the crime. Especially European jurists were above all dismayed by the fact that Mr. LaRouche, who is now 67 years old, was sentenced to 65 years imprisonment, redefined as concurrent sentences to be served over 15 years. This punishment appears especially harsh if one considers that it involves a matter of loans worth less than \$300,000.

On July 4, 1989, the U.S. Supreme Court denied a *habeas corpus* petition filed on June 2, 1989, by Philadelphia attorney Charles Bowser, requesting the justices to order the immediate release of LaRouche and six of his associates, on the grounds that the government had unlawfully assaulted the LaRouche movement with multiple political prosecutions over a period of more than a decade. The justices rejected without a word the Bowser petition's argument that "the acts for which petitioners have been investigated and prosecuted . . . were acts in the exercise of [their] rights of political association and political expression."

More than anything else, the prison conditions imposed on Mr. LaRouche, who has been in jail since Jan. 27, 1989, have documented the improper motives behind his prosecution. The following chronology of events during August through October 1989, shows that the mistreatment of the prisoner, which human rights spokesmen qualified as "torture," gave reason for grave concerns including for his life.

Chronology of events during the stay of Mr. LaRouche in the Federal Medical Center in Rochester, Minnesota:

July 18: Transportation from Federal Detention in Alexandria to Federal Medical Center in Rochester (FMC).

August 16: Mr. LaRouche reads on a bulletin that he has to work, beginning the following day, in the FMC kitchen from 7 a.m. to 4 p.m. with two ten-minute breaks, Monday through Friday.

August 17-31: Mr. LaRouche has to do heavy kitchen work including cleaning big pots. Because of the specific working conditions in conjunction with Mr. LaRouche's age, the category "heavy labor" is applicable according to visitors.

Under this work, Mr. LaRouche is coming out in a rash on both arms. He is then medically assigned to different kitchen work. Mr. LaRouche reports constant exhaustion and muscle pain.

August 31: Mr. LaRouche suffers an acute collapse at 11:30 a.m. with nausea, muscle pain, and loss of control of the muscles. He has to rest for almost one hour and is unable to work again afterwards. He reports to sick bay.

September 1: Mr. LaRouche's personal physician tries to call the responsible physician in FMC. He is told the physician is out until the next week. Mr. LaRouche says he needs immediate action on his work schedule, because he feels "at the end of his rope."

Sept. 4: Mr. LaRouche's physician arrives from Germany in Rochester, writes a letter to the FMC physician, in which he requests a medical consultation on the condition of his patient and to see his patient.

Sept. 6: Discussion with Mr. LaRouche's personal physician and two responsible physicians of the FMC.

Sept. 6: Medical examination, assignment to lighter work. Starting Sept. 8, Mr. LaRouche's working hours are 4 a.m. to 12 a.m., Monday through Friday.

Sept. 7: Mr. LaRouche's physician is allowed to see his patient for one hour, but he is not allowed to see any medical records or to do an examination.

Sept. 11: At 1 p.m. Mr. LaRouche is called to the clinic of FMC and told that later that week he will have a surgical procedure for the removal of two intestinal polyps. He is told that he will have a no-residue diet on Tuesday, and then will be on a liquid diet until the procedure.

Sept. 12: After working a full work shift from 4 a.m. to 12 noon. Mr. LaRouche begins receiving strong laxative medication at approximately 4 p.m. He only ingests egg whites, coffee, and water. Between 10 p.m. and 2 a.m. into the next morning he experiences bowel movements caused

by the medication.

Sept. 13: At approximately 2 a.m., Mr. LaRouche finally falls asleep. At 3:20 a.m. he is awakened to report to work. He has to do another full work shift from 4 a.m. to 12 noon. He only ingests coffee and water. Due to over-exhaustion he only sleeps sporadically on this night.

Sept. 14: At 3:20 a.m. Mr. LaRouche is awakened to the normal work shift to which he reports at 4 a.m. After working an entire shift, he is called to the clinic at FMC where he is informed that he will be brought to the Mayo Clinic, Rochester, for a "test" procedure. When Mr. LaRouche tells the guards that he is feeling too exhausted to undertake a surgical procedure, he is assured that this is only a test. Mr. LaRouche is taken now to the Mayo Clinic by two guards. After being interviewed by an assistant physician to the responsible internist at Mayo Clinic, he is given a pain killer (Demerol) intravenously. He falls asleep immediately and sleeps through the entire procedure. The surgical procedure lasts about one hour. After being in the recovery room for another hour, Mr. LaRouche is brought back to the FMC. He arrives there at 3:30 p.m. During the whole day he ingests only coffee, apple juice, and a bowl of jello. On this night he falls asleep of sheer exhaustion.

Sept. 15: At 3:20 a.m. Mr. LaRouche is awakened to go to work as normal. At 7 a.m. Mr. LaRouche reports to sick bay unable to work (reporting to sick bay cannot be done before 7 a.m.). He requests to see a doctor. Shortly after 9 a.m. when the doctor still has not come, LaRouche is called out to see a paralegal visitor on legal matters, leaving a message for the doctor. He is not seen by a doctor on this day. The next days, Saturday and Sunday, he mostly sleeps, due to exhaustion.

Sept. 15: Mr. LaRouche's personal physician sends an urgent communication to the FMC doctors protesting the improper preparation for the surgical procedure. The communication cannot be delivered before Sept. 18 (Monday). He requests an immediate discussion of the matters of his patient.

Sept. 18: Mr. LaRouche requests to meet with his case manager to file an oral complaint. He has a short discussion with a senior physician of FMC during which he says that his preparations were not done according to international medical standards. He has to work this day.

Sept. 19: Mr. LaRouche has a phone conversation with his personal doctor who is back in Rochester. The doctor does not receive any communication of the FMC doctors. After several requests phoned into the FMC, there is no answer from the FMC doctors. Contrary to Sept. 6, contact among the doctors cannot be established this time.

Sept. 20: Mr. LaRouche starts to undergo a series of medical examinations both in internal medicine and ophthalmology going on for several days.

Sept. 22: Mr. LaRouche reports to his personal doctor that he is totally exhausted.

Sept. 25: Mr. LaRouche reports he feels "lousy."

Sept. 27: Mr. LaRouche is put on indefinite idle till he sees a FMC doctor on Friday, Sept. 29, because he feels exhausted and suffers constant muscle pain.

Sept. 30: Mr. LaRouche sees his name on the work schedule board to go to work on Monday, Oct. 2.

Oct. 2: Mr. LaRouche is awakened as usual at 3:20 a.m. to go to work. At 7 a.m., he is seen by a supervisor who tells him that he is on idle since Sept. 27 for 14 days.

Oct. 10: Mr. LaRouche is told by his FMC doctor that he is on medically assigned idle for the next 30 days. In being off work, Mr. LaRouche reports an improved physical condition.

After another surgical procedure (eye operation) and subsequent idle, Mr. LaRouche has to do prison work under a different assignment from mid-January 1990 on. Already the forced labor imposed on Mr. LaRouche, who is well beyond the age of retirement, led to numerous protests from jurists, civil rights leaders, church representatives, and persons active in humanitarian organizations around the world. In response to complaints about the outrageous escalation of maltreatment during September, which were uttered by legislators, civil rights leaders, and members of medical and humanitarian groups, the director of the Federal Bureau of Prisons claimed in November 1989, that "Mr. LaRouche has not been subjected to mistreatment. The staff involved in his case has complied with professional and correctional standards that are consistent with humane and accepted practices." (!)

## **2. Solitary confinement and arbitrary punishment of Michael Billington**

During his trial in Roanoke, Michael Billington was detained at the Roanoke County jail beginning about Sept. 8, 1989. As stated above [in Part III—ed.], for reasons never explained, Billington was immediately placed in solitary confinement in a tiny cell for 24 hours a days. He was not allowed to make phone calls to anybody except his hostile attorney. He was also not allowed to see paralegals familiar with his case; from Sept. 30 on, any other paralegal was also prohibited from talking to him. Without any reason given, Billington was held in this solitary confinement until Dec. 21, 1989, that is for a total of almost three-and-a-half months.

Billington's sentence to a prison term of 77 years is believed by legal experts to be a record in the state of Virginia, which is not a liberal state at all, as well as in the United States, for this type of criminal allegation. At issue in the substantive charges in Billington's case is \$76,590 in unrepaid loans to political supporters of Lyndon LaRouche!

On Jan. 22, 1990, one hour after hearing about his appeal against the Alexandria conviction being rejected, Mr. Billington was taken in handcuffs from his dormitory in the Danbury, Connecticut prison, strip searched, and told he was being put in "The Hole," a segregated area of the Danbury prison designed for prisoners who are being punished. The guard did

not tell him the reasons for this treatment. The new place is a three-story cell block, where two prisoners share a space of six feet by ten feet, having only two bunks and a toilet.

At midnight on the same day, Mr. Billington was handed a paper saying that he was being reclassified, which is why he was relocated. On Jan. 24, he was visited by the lieutenant of the block, who confirmed that the warden had just received papers showing that Billington was sentenced to 77 years, and the warden didn't want him there, but in a higher-security prison. However, Billington had been sent to Danbury from a different prison as a reclassification already, because of his 77-year sentence. Until he is moved, he will have to remain in this punishment unit.

Prisoners in this unit are allowed one personal phone call every 30 days; calls to lawyers must be approved. They get three showers per week and are led to the shower in handcuffs. One hour per day they are allowed in an "outdoor recreation area," a 10x10 foot concrete space surrounded by barbed wire.

### 3. Arbitrary punishment of Rochelle Ascher

The sentencing of Mrs. Rochelle Ascher to 86 years imprisonment by a Loudoun County jury is so much out of proportion, that European jurists informed about this judgment mostly reacted with disbelief. The court received numerous letters opposing the sentence, including letters by government witnesses.

On June 5, 1989, Judge Carleton Penn ordered that the 86-year sentence recommended by the jury has to be served by 10 years in prison for seven counts of conspiracy, plus, for the remaining two counts, in 10 years probation including restitution to lenders and the cost of the court case.

This, in effect, 20-year sentence is the longest ever imposed on a person with no criminal record.

A memorandum and other defense motions on sentencing filed with the trial court in Loudoun County, Virginia, drew comparisons with other criminal convictions in Virginia that included, for example, prison terms of 8-10 years for murdering a daughter, or 5-15 years for strangling a girlfriend. The average convictions for fraud in Virginia amount to no more than 29 months. The provisional state sentencing guidelines would have suggested 6 months in Mrs. Ascher's case.

On sentencing day, Judge Penn denied bail arguing Ascher was "willful" and "lacked remorse." She was arrested in the courtroom and two days later released, when the Virginia Appeals Court granted a \$50,000 bond and ruled that Judge Penn had abused his discretion. Repeatedly, the Commonwealth of Virginia attempted to get the court to order reimprisonment.

### 4. Arbitrary denial of parole

On June 30, 1989, the Parole Commission decided in the case of Joyce Rubinstein, who was convicted in Alexandria Dec. 16, 1988 and jailed Jan. 27, 1989, together with six

others, that she will not be released after the average 12 months for a three-year sentence. The Parole Commission ordered that Mrs. Rubinstein has to serve at least 24 months of her 36-month sentence. In so deciding, the Parole Commission overruled at least one parole hearing officer and Rubinstein's case manager.

### VI. MEANS OF REDRESS ATTEMPTED

The appeal of the Alexandria verdicts has been denied as reported; appeals of all other convictions reported in this communication are pending with the specific practice regarding appeals in the state of Virginia to be noted. In the case of the contempt fines imposed on the political action committee National Democratic Policy Committee, all legal means have been exhausted as reported.

Section A of this communication explains, how the addressed widespread pattern of politically motivated judicial abuse in the United States falls under the responsibility of personalities, who either belong to the executive department or utilized their personal influence to cause the Department of Justice and other U.S. authorities to disrupt the legitimate activities of Mr. LaRouche and the political movement associated with him.

The highest government authority, the President of the United States of America, is undoubtedly aware of this situation. As proven by the response of the President's office to the urgent request for release of information, which is in the possession of the government and could prove the innocence of Lyndon LaRouche and his associates, neither President George Bush nor other government officials or agencies are willing to remedy these obvious violations of human rights.

It is therefore to be presumed that domestic remedies, though still being sought, will not yield positive results.

### VII. PURPOSE OF THIS COMMUNICATION

The purpose of this communication is to cause the Commission on Human Rights of the United Nations to decide on a thorough study of the situation addressed either by an ad hoc committee or an appointed special envoy, to declare that human rights have been violated by the described incidents, to help remedy the situation and to request appropriate compensation to the victims.

### VIII. STATEMENT OF CONFIDENTIALITY

The undersigned declare, that their names and authorship of this communication may be revealed in the appropriate manner.

### IX. SIGNATURE AND DATE

January 25, 1990  
Helga Zepp-LaRouche  
Ortrun Cramer

For the International Commission to Investigate Human Rights Violations