

An unbelievable travesty of justice

by Gail G. Billington

On Dec. 1, 1989, Michael O. Billington was sentenced to 77 years in Virginia state prison on criminal charges of failure to register as a securities broker/dealer, selling unregistered securities, fraud, and conspiracy. The alleged "securities" were political loans made to sponsor the activities and publications of associates of Lyndon H. LaRouche, Jr.

Michael is one of 50 associates of LaRouche targeted for criminal prosecution in seven states of the United States; the state cases were intended to run parallel to and simultaneously with the federal prosecution of LaRouche himself. Michael, however, was also a codefendant of LaRouche in the federal fraud trial that led to LaRouche's 15-year sentence in January 1989.

These cases followed a years-long campaign of slander and character assassination in the national press, including more than 20,000 articles that appeared in a three-month period, following electoral victories of two LaRouche associates in Illinois in March 1986. The impact of this media campaign was essential to poisoning the jury pools in all cases. At the time Michael went to trial in Salem, Virginia, more than 200 articles had appeared in the local newspaper, even though there were no LaRouche associates in the area.

On Feb. 17, 1987, Michael, 15 associates, and five corporations were indicted by the Commonwealth of Virginia on charges of "securities" fraud. At the time of the arrests, there had been no civil proceeding nor any ruling that the political loans at issue were legally "securities." In fact, initially the State Corporation Commission said that "on first impression," these loans appeared not to be securities. Weeks after the arrests, the SCC ruled that the notes were securities; the head of the commission was shortly thereafter promoted to the Virginia Supreme Court.

On April 21, 1987, the federal government, for the first time in U.S. history, brought involuntary bankruptcy proceedings against the three corporations that had issued the loan notes, placing them under federal trusteeship, and thus unilaterally foreclosing on any further repayment of these loans.

The very same day, agents of the Federal Bureau of Investigation began a systematic effort to contact, by telephone or in person, every single lender to these companies, to per-

suade them that they had been defrauded and to recruit witnesses for the criminal prosecutions, federal and state.

A Kafka-esque trial

At the time of his trial in Salem, Virginia in fall 1989, Michael was in federal prison, serving the three-year sentence he had received as a result of the federal trial against LaRouche and six codefendants. Michael changed attorneys in June 1989, on the basis of an agreement that his new attorney, Brian Gettings, would wage the kind of defense that had been disallowed in the federal case.

Shortly before the trial was to start, all hell broke loose. The trial judge, Clifford R. Weckstein, denied Michael's motion to dismiss the Virginia case on grounds of double jeopardy. He ruled that even though the acts in the Virginia indictment derived from the same body of evidence for which Michael had been convicted in federal court, Virginia had the "sovereign right" to bring its own case. Ultimately, the exact same witnesses, testifying to the exact same evidence, testified against Michael in Salem.

After this decision, the judge met in his chambers privately with attorney Gettings and the prosecutor; Michael was not invited. Gettings then pressured Michael to abandon his right to a jury trial, arguing that this judge would be more lenient. Gettings sweetened the proposal, relaying the prosecutor's "attractive" plea bargain offer: Plead guilty to criminal counts and get a three-year sentence that would run concurrently with the federal sentence he was then serving.

Michael did not dismiss either of these proposals out of hand, but ultimately decided that his chances were better before a jury. At that point, the nightmare began. Attorney Gettings threw a fit, accusing Michael of offending his professional pride, even though he admitted that the choice between a jury or bench trial was exclusively, under the Constitution, up to the defendant. He denounced Michael as mad and accused him of being "directed" by Lyndon LaRouche.

At an emergency hearing the day before the trial was to begin, Gettings filed a motion to withdraw from the case, charging that "irreconcilable differences of opinion now exist . . . as to how to proceed in defending the case. These differences are fundamental. Counsel was retained to defend Michael Billington, not an organization with a political agenda to advance in this case. Counsel . . . now has reason to believe that . . . Mr. Billington's free will is so impaired that he cannot intelligently assist counsel."

The motion was crafted so as to invoke the Virginia statute calling for Michael to be declared incompetent. On the suggestion of the prosecutor, Gettings seconded a proposal to subject Michael to a psychiatric examination. Michael objected; the judge said he agreed with Michael, but granted the request.

Simultaneous to these developments in the courtroom, and for reasons never explained, Michael was placed in solitary confinement in the local jail, where he was kept through-

out the duration of his trial and longer. He was allowed to make phone calls only to the attorney who had turned against him; calls to his wife, working as a paralegal on his case, were cut off by the sheriff's office. For more than 100 days, Michael was kept in a 3×4 meter cell, given three hours a week to exercise, and allowed only two 15-minute visits a week from his wife.

The morning after the court-appointed psychiatrist interviewed Michael, the local newspaper broadcast, "LaRouche Aide Trial Delayed: Billington to Undergo Mental Test," quoting Mira Lansky Boland, deputy director of the Fact-Finding Division of the Anti-Defamation League of B'nai B'rith, a long-time political opponent of LaRouche and associates, who described the movement as a "cult."

In the courtroom, the prosecutor conferred privately with the psychiatrist, then retired with the judge and attorney Gettings to the privacy of the judge's chambers. On the witness stand, the psychiatrist declared Michael to be sane, but stated under examination by the prosecutor and defense attorney that he was not an expert in cults and would welcome a second opinion. The prosecutor and attorney immediately chimed in, demanding a second in-depth examination at an institute subsequently shown to be funded by the Virginia Attorney General's office, which was prosecuting the case, and the FBI, which had run the investigation in the federal case against Michael. Michael refused the examination, running the risk that he would be held in contempt of court.

A new level of Kafka-esque drama was introduced when court reconvened. Attorney Gettings brought in his law partner to argue his motion to withdraw, while Michael still had no counsel to protect him against Gettings's charges. Gettings and his partner argued that Michael was a dupe, being used by LaRouche and others to "get" Gettings and "gum up" the trial. The prosecutor, worried about the possibility of a mistrial, suddenly did an about-face, arguing Michael's competency. The judge declared that he found "not an iota, not a scintilla of evidence" of Michael's incompetence, and agreed with Michael that the institute chosen for the second examination was not a "disinterested party." However, the judge said, he would not allow the works to be "gummed up," and promptly ordered Michael to go to trial with Gettings as his attorney!

Throughout the trial, Gettings's overriding concern appeared to be, not to defend Michael against criminal charges, but to prove that Michael was "directed" in his approach to the case. The trial itself was an agonizing process of simply trying to introduce evidence. Gettings refused to put on witnesses, agreed to evidence he knew to be false without consulting Michael, and, in his closing argument, suggested to the jury that Michael was guilty of selling securities in some cases. The prosecutor jammed the record with the most outrageous, prejudicial hearsay evidence, including, not direct testimony from lenders, but testimony of their children and their lawyers.



Michael and Gail Billington in September 1992, before Michael began to serve his 77-year sentence. Michael Billington, who was a leading fundraiser for the LaRouche movement, is an amateur Classical musician who has directed numerous choruses, and a student of Chinese philosophy and history.

The judge, in tacit acknowledgement of the total breakdown of the attorney-client relationship between Gettings and Michael, permitted Michael to file four separate motions, *pro se*, protesting Gettings's failure adequately to represent his client in the courtroom.

The trial lasted exactly 15 days, from jury selection to verdict. Present in the courtroom during closing arguments was Galen Kelly, a self-described "deprogrammer" who worked closely with Mira Lansky Boland of the ADL, the Cult Awareness Network, and federal and state prosecutors in the LaRouche cases (Kelly was later convicted on federal kidnapping charges, and is serving a seven-year sentence). Brian Gettings left town after closing arguments and was not present when the verdict came in.

The jury found Michael guilty on all nine felony counts and sentenced him to 77 years in state prison. The maximum sentence he could have received was 90 years.

The day after the conviction, the federal bankruptcy court threw out the involuntary bankruptcy proceedings that had shut down three companies associated with Lyndon

LaRouche, for which Michael had raised funds. The forced bankruptcy prevented the companies from repaying lenders. The court ruling in this case charged the federal government with "fraud on the court" and acting "in objective bad faith."

Denying the right to a jury trial

At Michael's sentencing hearing on Dec. 1, the prosecutor outdid himself in arguing for the jury's suggested sentence: "Mr. Billington was certainly made aware by his counsel of the pros and cons, the risks and benefits of putting his case to a jury . . . my argument is that, in addition to what Mike Billington has done, in addition to the choices that he has made . . . there is another purpose behind our judicial system . . . and that is the deterrent factor. And in that respect this Court should look not only upon Mike Billington's situation, but upon the big picture. Look at the overall interest of the citizens of the Commonwealth of Virginia, and look at Mike Billington's co-defendants. There are 14 other people out there who have been charged with similar crimes. . . ."

"And I would submit, Your Honor, that if the lessons to those people are that, go ahead, have your jury trial, take up the time and effort of the Court and the Commonwealth . . . then that's not much of a lesson. . . ."

"I believe that the jury was trying to send a message to Michael Billington and to Lyndon LaRouche and to everybody affiliated with that organization."

Judge Weckstein agreed and imposed the jury's 77-year sentence.

Political efforts continue in prison

During his incarceration, Michael has returned to his love of Asia, fostered by a student tour in Japan and a two-year stint as a Peace Corps volunteer in Thailand from 1969-71. From prison he has written a paper, published in *Fidelio* (Summer 1993) outlining the historical basis for the ecumenical unity of East and West, following in the footsteps of the correspondence of Gottfried Wilhelm Leibniz with the court of Emperor Kang-hsi and the Catholic missionaries to China.

Ascher jury was a lynch mob against LaRouche

The following is excerpted from a speech given by Rochelle Ascher after she was sentenced to 86 years by a Loudoun County, Virginia jury in 1989. Judge Carleton Penn reduced the sentence to 10 years.

We began jury selection in the middle of this charged, lynch-mob atmosphere, the same week that LaRouche and his six codefendants were sentenced to 15 years in prison for the same "offense." Of course, the judge "forgot" to tell the prospective jurors not to read the newspapers. This was the longest jury selection in the history of the county, possibly in the state. The judge finally resorted to the following formulation:

"This case involves the fundraising practice of individuals and organizations associated with Lyndon H. LaRouche, Jr. I am sure that you have read something about this in the newspapers, or heard something of this in the media. Can you put aside everything that you have heard and judge this case solely on the basis of its merit?" On this basis, jurors who expressed the most vile bias were seated if they could assure the judge that they could put this out of their mind for the purpose of this trial. The only difference between this and the LaRouche case in Alexandria, where the jury selection took under two hours, is that we got to hear the filth pour out of people's mouths for two weeks before they were seated: People



Rochelle Ascher is visited in prison by Mexican Congressman Rufino Saucedo, who came to the United States this fall to appeal for justice for LaRouche. Ascher, formerly a leading fundraiser for the LaRouche movement, is a student of American history who has published numerous articles on Abraham Lincoln.

who said LaRouche is an extremist, anti-Semitic, racist, neo-Nazi, a threat to the country—but sure, Your Honor, I can put my personal "opinion" about the man and his organization aside to sit on this jury!