

# OSI, ADL persist in frameup of Demjanjuk

by Jeffrey Steinberg

On Dec. 30, 1993, the U.S. Department of Justice filed a motion asking the entire Sixth Circuit Court of Appeals to review *en banc* the recent finding by a three-judge panel that the DOJ's Office of Special Investigations (OSI) committed fraud upon the court and prosecutorial misconduct in the case of John Demjanjuk. Demjanjuk is the retired Cleveland autoworker who was accused by the OSI of being the Nazi war criminal known as "Ivan the Terrible" of the Treblinka, Poland concentration camp. Last summer, after spending five years in solitary confinement in an Israeli prison awaiting execution, the Israeli Supreme Court freed Demjanjuk, on the basis of new evidence showing that another man had been the actual "Ivan." From the very outset, Demjanjuk has consistently denied that he was a war criminal at Treblinka or any other Nazi camp.

The Dec. 30 DOJ action was backed by the Anti-Defamation League of B'nai B'rith (ADL), which filed an *amicus* brief accusing the Sixth Circuit panel of violating the law by issuing a ruling contrary to that of the Special Master, Judge Thomas Wiseman. In 1992, the Sixth Circuit had appointed Judge Wiseman to conduct a fact-finding effort to determine whether OSI officials had committed fraud in their failure to provide Demjanjuk's attorneys with exculpatory evidence during the period from 1978 to 1984, when Demjanjuk was subjected to denaturalization, deportation, and extradition proceedings. While Judge Wiseman amassed a large volume of evidence showing that the DOJ's Nazi-hunting unit had withheld critical evidence from the Demjanjuk defense team, his report ended with a recommendation that the Sixth Circuit exonerate the OSI because there was insufficient evidence that the unit had willfully cheated.

In a sharply worded 88-page ruling issued on Nov. 17, 1993, the Sixth Circuit adopted Wiseman's factual findings, but ruled that the Justice Department had indeed crossed the threshold of fraud in its systematic concealing of evidence that strongly suggested that another man, Ivan Marchenko, was the actual butcher of Treblinka.

## OSI and ADL desperation

In addition to its filing before the Sixth Circuit, the OSI also filed papers the same day calling upon the District Court in Cleveland to reopen the original denaturalization case against Demjanjuk, arguing now that even if Demjanjuk were innocent of the Treblinka charges, he had still lied on his original immigration application at the end of World War II,

and had illegally entered the United States. This fallback maneuver is based on the OSI's continuing unsubstantiated allegations that if Demjanjuk did not serve at Treblinka, he must have been a guard at another Nazi concentration camp.

That story is itself predicated on evidence that has already been massively discredited. OSI prosecutors continue to flaunt an ID card from the training camp at Sobibor as "proof" that Demjanjuk served the Nazi cause; however, German investigators who carefully studied the ID card when it was first provided by Soviet intelligence services, concluded that it was a Soviet KGB forgery. Details of the forgery evaluation were published last year in *Der Spiegel* magazine in Germany, and Demjanjuk's defense team is known to have eyewitness proof that the Sobibor card was a phony.

Attorneys for Demjanjuk immediately issued a statement responding to the DOJ's call for a retrial, welcoming the opportunity to prove once and for all that Demjanjuk is innocent of all the charges levelled against him over the past 16 years.

In fact, the last-minute moves by the OSI and their ADL allies to reverse the Sixth Circuit's hard-hitting critique of their behavior in the Demjanjuk case, is a reflection of the state of panic inside the so-called "Nazi-hunting" camp. The Sixth Circuit ruling slammed the OSI for playing up to a political constituency, including the ADL, which had a strong vested interest in staging a new "show trial" in Israel, and which was at the time reeling from a series of highly publicized OSI cases in which the targets were proven innocent.

The Sixth Circuit ruling also made a point of contrasting the politically motivated cheating by OSI with the performance of the Israeli prosecutors, who went out of their way to turn up evidence that was critical to eventually proving Demjanjuk's innocence.

Behind the scenes, both OSI and ADL officials are worried that they could be subject to civil lawsuits by Demjanjuk and other victims of OSI prosecutorial fraud. *EIR* has learned that several such suits are pending in federal and state courts in different parts of the country.

OSI attorneys are also scrambling to settle as many pending "Nazi war crime" cases as possible with "consent decrees" and other out-of-court pressure tactics, in order to bolster their claims of impartiality and pad their record of successfully closed cases. In many instances, according to sources familiar with the negotiations, OSI attorneys are promising that they will not seek denaturalization or deportation if targets simply sign documents admitting that they entered the country illegally. For many targets of this latest OSI offensive, such offers are particularly tempting, given that the OSI is promising not to cut off their pension and retirement benefits.

For the ADL, which worked hand-in-glove with OSI prosecutors, often tracking down "witnesses" who provided the crucial first-hand identifications of alleged war criminals, the Sixth Circuit action was a particularly devastating blow to its tarnished credibility. The Sixth Circuit's November ruling, which singled out the ADL for complicity in the OSI's

fraud upon the court, came just days after the San Francisco district attorney decided to end a year-long probe of illegal ADL spying on thousands of American political activists. Although the district attorney decided on pragmatic grounds not to file felony indictments against top ADL personnel, evidence released during the probe did result in two multimillion-dollar civil suits against the ADL which are now moving through federal and state courts in California.

Several ADL officials are also holding their breath in fear that the recent fight to win presidential clemency for convicted Israeli spy Jonathan Jay Pollard could stir up a new controversy that leads to their identification as players in the spy ring. Pollard has written to friends and relatives naming at least one prominent ADL official as a partner in the espionage effort.

### Restoring Demjanjuk's good name

Many supporters of John Demjanjuk are urging him to take action against the government railroaders, now that he has succeeded in returning to the United States.

The Jan. 10 issue of the weekly newspaper *New Federalist* published a letter by Ed Nishnic, John Demjanjuk's son-in-law and a leading figure in the fight for justice in the case,

seeking support for Demjanjuk's continuing fight to restore his good name and to put an end to the kind of prosecutorial abuse that has typified the OSI's actions for over a decade.

The letter included a call for financial support for a series of legal initiatives, and read in part:

"John Demjanjuk is free, but his case is not yet over. The U.S. Justice Department is using every means at its disposal to get him out of the country. Attorney General Janet Reno, under pressure from special-interest groups, tried to convince the judges and courts to rule against Mr. Demjanjuk. Michael Wartler of the Rockford Institute describes the case of John Demjanjuk as 'the trial of the century.' Demjanjuk has been bravely trying to adapt to his newly regained, yet tenuous freedom, but a great struggle lies ahead of him—and for us, too. . . .

"Five years ago, in April 1988, we filed a suit on behalf of John Demjanjuk in U.S. federal court, alleging governmental fraud in the denaturalization and deportation proceedings. We have been asking the court to reinstate Mr. Demjanjuk's U.S. citizenship and vacate the deportation order. In order to do this, we are currently seeking a law firm or an attorney willing to represent John Demjanjuk *pro bono*—cost-free, since we have no money."

## Schiller Institute to hold February conference

The Schiller Institute, a think-tank for republican policy, and the International Caucus of Labor Committees (ICLC), the philosophical association founded and led by Lyndon H. LaRouche, Jr., will hold their next semi-annual joint conference on Presidents' Day weekend, Feb. 18-21, 1994.

The conference will discuss a new theoretical writing of Mr. LaRouche's, explaining his original contribution to the Leibniz science of physical economy in the 1948-52 period. Titled simply, "LaRouche's Discovery," it will appear in the Spring 1994 issue of *Fidelio* magazine.

The gathering will be the first international conference marking the tenth anniversary of the Schiller Institute. It was founded in early 1984 at the urging of Mrs. Helga Zepp-LaRouche, as a new institution working to mend the dangerous rift then dividing the United States from Germany, her native land, and indeed from western Europe in general.

Although the most obvious aspects of the crisis were strategic, political, and economic, from its inception the Institute also plumbed the cultural and scientific failings which lay behind the collapse, and pointed the way back to the greatest moments in the two continents' respective

histories, namely: the American Revolution, the Classic period of Germany (Beethoven, Schiller), the Golden Renaissance of the 15th century which made possible the discovery and evangelization of the Americas; and, echoing those, our century's steps toward conquering outer space.

This will be the first ICLC/Schiller conference in five years in which Lyndon LaRouche will be free. Incarcerated on Jan. 27, 1989 after being railroaded to a conviction on false, politically motivated federal fraud and conspiracy charges, he will be released on parole on Jan. 26. He is now 71.

During these five years, the Schiller Institute became recognized for its strategic leadership among nations emerging out of the nightmare of communist dictatorship, or struggling to do so, starting with its May 1989 conference held during the height of the Tiananmen democratic movement in China, days before the massacre. It has collaborators all over the former East bloc, and a branch in Moscow. Key to this growth is LaRouche's late-1989 proposal for a "Paris-Berlin-Vienna Productive Triangle" to become the engine of a global economic recovery. Also inspired by the ICLC is the Ibero-American Solidarity Movement, founded in 1992.

For information about registering to attend the conference, contact your *EIR* representative or the Schiller Institute national office at (202) 544-7018 before Feb. 11, 1994.