



How a grand jury was manipulated against political opponents

by Marianna Wertz

This bicentennial year of the U.S. Constitution will see a major test of the enduring strength of that document, which is challenged by the ongoing attempt by government officials, who are political opponents of declared candidate for the U.S. presidency, Lyndon H. LaRouche, Jr., to destroy him and those associated with him, through show trials and "trial by press."

The principal weapon in use by U.S. Justice Department official William Weld, in his witchhunt against LaRouche, is the grand jury investigation in Boston, Massachusetts since 1984, which has handed down indictments of numerous associates of Mr. LaRouche, charged with "fraud" and "obstruction of justice." Weld and his cohorts have wielded the grand jury as a weapon of prosecution in a two-year-long "trial by press" against LaRouche, in total opposition to the intent of the Constitution's drafters. The grand jury was defined in the Fifth Amendment to the Bill of Rights:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War of public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Among the more than 150 motions filed by attorneys for those indicted in the case, U.S. District Court, District of Massachusetts,

United States of America v. The LaRouche Campaign, et al., the question of abuse of the grand jury is prominently featured, because of its singular role in U.S. jurisprudence:

In *Wood v. Georgia*, 370 U.S. 375 (1962), the Supreme Court identified the role of the grand jury as a "primary security to the innocent against hasty, malicious and oppressive persecution; it serves the invaluable function in our society of standing between the accuser and the accused, whether the latter be an individual, minority group or other, to determine whether a charge is founded upon reason or was dictated by an intimidating power or by malice and personal ill will" and stressed that "an independent and informed grand jury" was a "necessity to society."

Last week, this column documented, quoting from the defendants' "Motion to Dismiss Superseding Indictment on Grounds of Discriminatory and Selective and Vindictive Prosecution" in this case, that Weld and his associates view the prosecution of LaRouche et al. as a personal vendetta against a *political* figure whom they oppose *politically*, in which they are illegally using means in their possession as government officials. That the prosecution is illegally misusing and abusing the grand jury process toward that end, will be documented in this column.

Boston grand jury abuse

The defendants' motions on this crucial question are summarized in their "Joint Motion to Dismiss and for Hearing," excerpted below:

"In or around October 1984, the U.S. Attorney's Office in Boston, Massachusetts opened a well-publicized grand jury investigation of alleged credit card fraud in connection with the 1984 presidential campaign of Lyndon H. LaRouche, Jr. Subsequently, the investigation was apparently expanded to include allegation of tax fraud and obstruction of justice. On October 6, 1986, indictments were returned against defendants for wire fraud and conspiracy to obstruct justice. A superseding Indictment was returned on December

16, 1986, adding several defendants and additional counts.

“As will be discussed more fully below, the grand jury investigation was characterized throughout by violations by the office of the United States Attorney [William Weld—ed.]

the willful avoidance of having certain grand jury colloquy recorded, the intentional disclosure of grand jury testimony to the media, the failure to inform the court promptly of the identity of government personnel assisting the government, and the allowance of government personnel not properly designated by order of the court to be present in the grand jury. Far more prejudicial to defendants, however, was AUSA Small’s undisguised ill-will toward them. Small’s animus revealed itself on numerous occasions: yelling at witnesses, raising questions without proper foundation, and generally manipulating the sentiments of grand jurors as evidenced by hostile grand juror questioning. AUSA Small’s conduct and demeanor served to destroy the grand jury’s impartiality, and his inflammation of the grand jury irreparably prejudiced the grand jury against defendants.”

Trial by press

While all these violations of grand jury procedures are documented by the defendants’ brief, most extensively documented is the use of the grand jury to conduct a “trial by press” against LaRouche and his associates. As the defendants’ “Memorandum of Law in Support of Defendants’ Joint Motion to Dismiss . . .,” cited above, summarizes the case:

“The government long ago decided to try their case in the press rather than in court. The government’s actual case against the indictees is patently ridiculous. After two years of intensive investigation from coast to coast, the government is charging in the original indictment the campaign committees and individuals with less than \$60,000 in credit card fraud, i.e., less than one per cent of the total money raised by these committees. The government’s conspiracy to obstruct case hinges upon pitting the testimony of Nazis, Klansmen, terrorists, and felons against people who have no prior criminal record. The illegal disclosures [to the press] are too numerous and systematic to be the responsibility of a few wayward subordinates. Rather, they reflect the policy of the U.S. Department of Justice, Federal Bureau of Investigation, and other high government circles to conduct a trial by press using the power and prestige of the government to defame, through grand jury ‘leaks,’ the government’s political opponents. . . .

“The two-year investigation culminating in the October 6, 1986 indictments was the subject of a nationwide government-orchestrated media barrage which became especially intense, pervasive, and systematic during the last ten months. The continuation of the Boston grand jury after October 6 has been accompanied by a further round of disclosures contravening the prohibitions of Rule 6(e). Matters occurring before the grand jury and even verbatim testimony were routinely reported on network TV news segments, national

wire stories, the front pages of several major metropolitan newspapers, and many other publications too numerous to itemize. These grand jury revelations include leaks of ‘preliminary findings’ by the grand jury, claims that the grand jury has evidence of millions of dollars in credit card fraud, accusations that material before the grand jury links the accused with the assassination of a foreign head of state, and other patently prejudicial material.

“The indictments at bar resulted from an investigation which sacrificed the observance of grand jury secrecy and constitutional liberties on the altar of political expediency. Former United States Attorney William Weld announced his investigation of The LaRouche Campaign and Independent Democrats for LaRouche on local Boston TV less than one week before the 1984 general election and set the political tone for the overall inquiry. The circumstantial evidence adduced below strongly indicates that the government’s media-mongering was, in part, designed to curb the electoral successes of candidates for public office associated with Lyndon H. LaRouche, Jr.

“One of the organizations affected by the grand jury leaks was the National Democratic Policy Committee (NDPC), the political action committee which was instrumental in the March, 1986 Illinois Democratic primary victories of Mark Fairchild and Janice Hart. The NDPC, *inter alia*, was the nationwide target of grand jury leaks linking the organization to credit card fraud and the specter of wrongdoing unjustly tainted the campaigns of numerous NDPC candidates for public office and party position. Despite the government’s best efforts, the prosecution was unable to indict the NDPC on a single count of credit card fraud. The Fusion Energy Foundation, a tax exempt scientific foundation, was another innocent victim of the government’s vicious propaganda campaign.”

The Memorandum quotes from a government document obtained through the Freedom of Information Act, which documents the fact that “. . . in mid-February, 1986, the government at the instigation of Mr. Weld and Stephen Trott (Deputy Attorney General) convened a national conference in Boston to discuss the investigation. Although Mr. Weld was ‘extremely interested’ in the case, the grand jury investigation had clearly been unsuccessful at the point the conference was convened. The acknowledged target of the investigation was not ‘fraud’, but ‘fundraising’ activities of those associated with Mr. LaRouche.”

The following month, on March 18, 1986, two LaRouche-associated candidates, Mark Fairchild and Janice Hart, won the Democratic primary for Lieutenant Governor and Secretary of State in Illinois. This victory, according to the Memorandum, “prompted the government to retaliate against this electoral threat by escalating its press campaign against the targets of the grand jury inquiry. Within two months after the triumphs of Fairchild and Hart, virtually every news outlet in the United States had printed or broadcast stories which disclosed matters occurring before this

grand jury, including a major *New York Times* report on the front page of its Sunday edition detailing 'preliminary findings' of the grand jury and a *Washington Post* front page story containing direct quotes from grand jury transcripts."

Twenty of the more prominent stories dating from the Fairchild-Hart victories to the handing up of indictments are then detailed, including feature articles in the *Boston Globe*, *Wall Street Journal*, *United Press International*, *Village Voice*, *Washington Post*, *Newsweek*, *NBC Nightly News*, *New York Times*, *Associated Press*, *Christian Science Monitor*, *Newsday*, the *Los Angeles Times*, and the *Seattle Times*.

Perhaps the most outrageous abuse of the grand jury proceedings by Weld and the prosecution, was the publicity stunt, in which notebooks seized in the Oct. 6, 1986 raid on the offices of *Executive Intelligence Review* and other organizations associated with Lyndon LaRouche, were turned over to Swedish authorities investigating the murder of Olof Palme. According to the Memorandum, "The story was reported by NBC as a major breaking development in the Palme investigation. According to a national UPI wire dated December 4, 1986, 'NBC quoted anonymous sources close to investigation as saying the notebooks, written after Palme's murder, contained 45 references to [one-time murder suspect Victor] Gunnarsson, to the assassination, and to the use of .357 Magnum used in the shooting.'

". . . Numerous other media outlets in the United States and Europe picked up the story after the NBC broadcast, and published or broadcast high profile accounts regarding the purported connection between the notebooks and the Palme investigation.

"As a December 5 UPI release reveals, this story was discredited long ago by Swedish police and a spokesman said 'there is a disproportionately great interest among journalists in the United States about one of the leads we have followed up during the investigation. . . . Every time NBC or some other agency from the States calls up about this [LaRouche angle] we look at each other at police headquarters and say, 'Oh no, not again.'"

"NBC has repeatedly aired false and defamatory stories claiming that Mr. LaRouche and his associates have or are plotting to assassinate various political figures, including former President Carter. The leaker(s) of this story could reasonably anticipate that NBC would make the alleged tie between the notebooks and the Palme murder a spectacular nationwide story. It is reasonable to assume that the leakers intended that the accused and their associates would be defamed by the irresponsible airing of this long-discredited story. Further, these leakers used material pending before the Boston grand jury to accomplish their designs."

The defendants' Motion to Dismiss argues persuasively that the prejudice of the prosecutors in the case is particularly troublesome, given the nature of the grand jury. "The grand jury is a time-honored institution which is a bulwark against malicious and vindictive prosecutions. . . ." [The] Grand Jury exists as an integral part of Anglo-American jurisprudence

for the express purpose of assuring that persons will not be charged with crimes simply because of the zeal, malice, partiality or other prejudice of the prosecutor, the government or private persons.' *United States v. DiGrazia*, 213 F.Supp. 232, 235 (N.D.Ill. 1963) ". . . Since the grand jury is a secret, nonadversarial proceeding, there is a special onus on the prosecutor to behave in a fair and impartial manner to preserve the 'independent and informed grand jury.' '[A] prosecutor who presents a case to a grand jury has the obligation of preserving the fairness, impartiality, and lack of bias of this important governmental investigative body.' *United States v. Gold*, 470 F.Supp. at 1346. The Fifth Amendment guarantee of an independent grand jury 'cannot be achieved in the absence of independent, unbiased prosecutors whose concern for justice transcends all considerations.' *United States v. Dondick*, 460 F.Supp. 849, 855 (N.D.Cal., 1978). It is the government's transgression of these principles in connection with the grand jury investigation which resulted in the instant indictment that forms the basis for the instant motion."

Time-honored role of grand jury

A Memorandum of Law submitted in this case by attorney William B. Moffitt, of Moffitt and Jones, on behalf of Jeffrey Steinberg and Michele Steinberg, completes the defendants' argument against grand jury abuse, by relating the centuries-old history of the grand jury, to underline its necessary role in a democratic republic.

The grand jury, the Memorandum recounts, "is a judicial institution of the most ancient lineage. . . . While there is some Frankish, Scandinavian and Roman precedent for the grand jury, its place in our Constitutional structure is traceable to the reign of King Henry II of England. . . . The grand jury, as established in 1166 with the issuance of the Assize of Clarendon, has undergone extreme changes. Henry II's effort to consolidate his power and to utilize the judiciary as a means of combatting the power of the church and its ecclesiastical courts was the principal motive for the establishment of the grand jury. . . . The grand jury underwent a gradual transformation, and by the 17th century, it had become a primary source of protection of the citizenry from the crown. . . . The institution of the grand jury was brought to this country by the early colonists and was ultimately incorporated in the Constitution. . . . The framers of the Constitution established the grand jury as an institution central to the protection of basic liberties, and interposed it in the law enforcement process to safeguard citizens against governmental oppression."

Whether the grand jury returns to its proper function as "safeguard," depends upon the outcome of the case of the *United States of America vs. The LaRouche Campaign, et al.* On trial in this case are not Lyndon LaRouche or his associates, but the violators of constitutional guarantees, who have illegally seized the powers of the government for their own personal and political motives.