

Government lies paved way for LaRouche frame

by Edward Spannaus

Department of Justice (DOJ) documents recently obtained by *EIR* show that that U.S. government attorneys repeatedly lied concerning their intention in initiating an involuntary bankruptcy action in 1987, an action which seized and shut down three publishing and distributing companies operated by associates of Lyndon LaRouche. That bankruptcy shutdown was a crucial step in preparing the prosecution and imprisonment of LaRouche and a number of his associates in 1988-89.

Information contained in these documents, which were disclosed under the Freedom of Information Act, directly contradicts the government's position, as repeatedly argued by the DOJ in court proceedings, which maintained the lie that the government intended to keep the three businesses operating. By shutting down the companies, the government prevented them from repaying loans which had been made to the companies by political supporters. The DOJ then indicted LaRouche and others for failing to repay those loans!

The new disclosures come on top of massive evidence already on the public record, which proves that the U.S. government knew at all relevant times, from 1979 to the present day, that Lyndon LaRouche and his co-defendants were innocent of the charges for which they were convicted. This evidence consists chiefly of the government's own documents, statements of government officials, and sworn testimony of government witnesses. These show that the prosecution lied on all relevant issues during pre-trial and later proceedings. This proof is documented in six volumes of such evidence filed within the federal Fourth Circuit Court of Appeals.

'Shut down the businesses'

The documents include extensive handwritten notes made by DOJ "senior legal adviser" Benjamin Flannagan, who was the number-two official in the General Litigation and Legal Advice Section (GLLAS) of the Criminal Division. The notes are from a conference call on March 24, 1987, which DOJ bankruptcy specialist David Schiller conducted with Flannagan and other DOJ officials, concerning whether to bring the involuntary bankruptcy action. Flannagan was one of the DOJ's top experts dealing with dissident groups; he began his career in 1955 in the DOJ Internal Security Division, and he remained in that division and its successor units, such as GLLAS, for 38 years.

On March 24, 1987, Flannagan wrote in his notes: "Bene-

fit is that a trustee is immediately appointed. They are ordered to shut down the business immediately."

A marginal note next to this reads: "Trustee's role is to shut down the entities."

'Wild accusation'

About four weeks after this conference call, Schiller and other DOJ attorneys obtained a court order directing the appointment of trustees to take over the companies; the order was issued at a highly unusual *ex parte* (secret) hearing, of which no transcript was made. The next day, federal marshals seized and padlocked the three businesses. When the companies sought to appeal the order, the government strenuously opposed the motion for an appeal, arguing in a brief filed on May 18, 1987:

"The debtor Campaigner Publications, Inc. [CPI] asserts that because the Bankruptcy Court has prohibited its publication of its weekly newspaper, *New Solidarity*, the debtor should be granted leave to appeal the Bankruptcy Court's interlocutory order. . . .

"While the debtors assert that the government intended to shut down CPI's newspaper, there is nothing cited in the record to support such a wild accusation. Such empty rhetoric is typical of the debtors and, being factually unsupported, should be dismissed out of hand."

On July 27, 1987, the government's position was upheld by U.S. District Judge Albert V. Bryan. This was one of two rulings made by Bryan in the bankruptcy case, which allowed the government to maintain control of the closed-down companies and to prevent them from repaying any loans. The rulings later became a prominent issue in the 2255 motion filed by attorneys for LaRouche seeking to vacate his conviction and sentence. LaRouche's lawyers also sought motions to disqualify Bryan from hearing the 2255, on grounds which included his involvement in the bankruptcy case.

In another brief filed in October 1987, while attempting to rebut the argument raised by Campaigner and the Fusion Energy Foundation that the bankruptcy proceeding constituted a "prior restraint" on free speech prohibited by the First Amendment, the government again argued that there was nothing in the record to support the "wild accusation" that the government "intended to shut down CPI's newspaper." The government argued that "there has been no restraint at all. . . . The Court's April 21, 1987 Order appointing the Interim Trustee specifically provides that the business shall continue to be operated. It is in fact that debtor's refusal to cooperate with the trustees and advise them of sources of funds to be used to continue operation that causes any problems they might suffer at the present time."

A full reading of Flannagan's notes now proves beyond a doubt that the purpose of the bankruptcy was to shut down the companies permanently, prevent any debt repayment, and to use the bankruptcy to interfere with the defense of the criminal investigations and prosecutions.