

to work,” they said. “Wait until Summer. People are going to be dying in the streets.” The technicians were spending a great deal of their time figuring out where they could take patients so they would be admitted for treatment.

He said that he and his colleagues are agreed on three things. First, that they are going to keep fighting. “If we stop fighting, our people are going to suffer.” Second, that Congress has to stand up and be counted, and every member must feel the pressure. Third, “We are not dismissing our lawsuit,” and have issued subpoenas to take depositions from all the members of the Control Board, including Chairman Alice Rivlin. Chavous called for a turnout of hundreds at the next court hearing, on June 8.

D.C. Control Board’s Illegal ‘Emergency Laws’

by Edward Spannaus

The District of Columbia Financial Control Board acted in true Nazi fashion on April 30, when it unilaterally decreed the privatization of the Washington’s public health system and the closing of D.C. General Hospital.

Not only did the Control Board sign the contract and enact its measures under the protection of police SWAT squad storm troopers, who were keeping the public at bay, but the Control Board literally declared the existence of an “emergency,” in order to justify its enactment of an emergency law.

Even though Congress has given the Control Board sweeping, dictatorial authority over the financial management of the District of Columbia, the Board managed to exceed its lawful authority in two crucial respects: 1) by executing a contract of a magnitude and duration which only the elected District of Columbia City Council can do, and 2) by enacting *legislation*, which only the Council can do.

The Control Board’s illegal, emergency dictates can and should be overturned by both Congress and by the courts, on the grounds that we show here.

The Contract

The five-year, \$500 million contract for the privatization of the District’s health-care system, was signed by an official of the Control Board, not by the Mayor or any official of the District’s elected government.

But, as Council members Kevin Chavous (D) and David Catania (R) have shown in a lawsuit filed April 30 in U.S. District Court, the Control Board lacks the statutory authority to enter into a contract of this duration and magnitude; the powers to enter into such a contract are reserved to the Council under both Federal and District law.

The only types of “contracts” in which the Control Board can enter, are for services related to carrying out its own duties, i.e., hiring accountants, hiring a cleaning service, etc. But any contract over \$1 million, or over one year in duration, must be approved by the Council—and the Board has no authority under its authorizing legislation, to act in the stead of the Council.

The Chavous-Catania lawsuit also shows that:

- The Control Board has no authority to issue orders to the Council—such as ordering it to enact specific legislation (the privatization plan), or to repeal legislation (that which created the Public Benefit Corp., which has been operating D.C. General Hospital). Furthermore, while Congress has given the Control Board the authority to issue an order or regulation within the authority of the Mayor or an agency head (i.e., to stand in their shoes), Congress did *not* give the Control Board the power to stand in the shoes of the Council.

- By overriding the actions of the elected Council, the Control Board has violated the rights and duty of the Council “to protect the health and welfare of the citizens of the District of Columbia.”

- Doctors Community Healthcare Corporation (DCHC), the parent company of the prime contractor in the privatization scheme, “has well-documented and substantial financial difficulty . . . has posted large annual losses for the last three years,” and has a poor reputation in the business community. The Control Board has refused to make its “due diligence” investigation of DCHC available to the Council.

The Control Board Enacts ‘Law’

While media coverage has focussed on the contract signed by the Control Board, what is not generally recognized, is that the Control Board actually “enacted” laws on April 30.

The Board enacted three almost-identical versions of its “Health Care Privatization Amendment Act of 2001.” These three versions are styled as “emergency,” “temporary,” and an intended permanent version.

The Control Board claimed to be acting in the stead of the D.C. Council—which had unanimously rejected the privatization plan presented by the Control Board and the Mayor.

But when the Council enacts legislation, it cannot take immediate effect. Under the 1973 D.C. Home Rule Act, legislation can only take effect after a 30-day period (legislative days, not calendar days) after the proposed law has been sent to the Speaker of the House and the President of the Senate, and “unless during such 30-day period, there has been enacted into law a joint resolution disapproving such act.” In other words, Congress has 30 days to override any District law.

From their standpoint, the Control Board could not afford to wait 30 days. The popular movement against the privatization scheme and the corrupt DCHC contract was growing, and the Council had just held a day-long public hearing on

Friday, April 27, which thoroughly discredited the proposed contract. Moreover, hospital employees were continuing to meet and mobilize within the hospital against the privatization scheme.

(Moreover, there are persistent reports that Greater Southeast Community Hospital, owned by DCHC and the prime contractor, was on the verge of bankruptcy and needed an immediate bailout, which the contract and takeover of D.C. General would provide.)

So, the Control Board declared an “emergency” — which provided the pretext for the Board to utilize the special powers reserved to the Council for emergency situations. Under emergency conditions, the Council is empowered to enact emergency measures. Such measures are only in effect for 90 days, but that would be enough for the Control Board to carry out its dirty work: to ram the contract through over the opposition of the elected Council, and to begin the takeover and dismantling of D.C. General. This allowed them to also shut down the employee organizing and meetings which were taking place, and to summarily fire the CEO and other top officials who were actively and publicly opposing the privatization scam.

And so, declare an “emergency” is what the Control Board did. One of the resolutions adopted by the Control Board states as its purpose: “To declare the existence of an emergency with respect to the need to privatize comprehensive community-based health care for uninsured residents of the District and to abolish the Public Benefit Corporation.” (The PBC was created by the Council in 1996, and it operates D.C. General Hospital and six community health centers.)

The justification for the declaration of an emergency, was that the Control Board had recommended that the Council repeal the PBC law, and that it adopt laws for the privatization of health care. Because the Council failed to adopt the Control Board’s recommendations, which therefore supposedly triggered Congressional restrictions which would cut off funds for D.C. General, the Board declared that these circumstances “constitute emergency circumstances making it necessary that the Health Care Privatization Emergency Amendment Act of 2001 be adopted immediately.”

The Council’s offense was to do their duty as elected officials, by representing the best interests of their constituents and the District as a whole. Democratically elected officials, carrying out their duties, were declared to be the cause of the “emergency.”

Last December and January, *EIR*’s Founding Editor Lyndon LaRouche warned that, with the George W. Bush Administration taking office during onrushing financial and economic collapse, the nation would soon likely head into a period of “crisis management” and “rule by decree.” What has just happened in Washington, D.C., is just a foretaste of what is to come, unless the Congress and the courts return to their constitutional commitment to establish justice and to promote the general welfare.

Michael Barch

We Are Committed To Staying This Battle

On April 30, the D.C. Control Board ousted Michael Barch as chief executive officer of the Public Benefit Corp., along with other officers of the PBC, which had been established to operate D.C. General Hospital. Barch had been an outspoken opponent of the Control Board’s illegal efforts to shut down the hospital. Here are his remarks to the weekly town meeting called by the Coalition to Save D.C. General Hospital on April 4, held at the Union Temple Baptist Church in Washington, D.C.

Barch was introduced by the meeting’s moderator, Dr. Abdul Alim Muhammad.

What we are hearing today, about the Mayor’s plan, or [the Mayor’s health-care adviser] Ivan Walks’ plan—and we don’t know what the plan is, because the truth of the matter is, it isn’t a plan: It is an evolving contract, arrived at through negotiations; has very little substance to it, going in, and I suspect it’ll have a lot of complications to it coming out.

But, let me tell you about PBC II, a little bit, and about D.C. General. And I must admit, when I came to D.C. General, I came with a lot of Northwest Washington prejudice [referring to the wealthier quadrant of the city]. And those prejudices were formed, largely, from the *Washington Post*, from Av Goldstein’s articles. And, I thought I was coming into a hospital, where I had massive chaos, with labor unions, I had a medical staff that was sub-optimal, and had a wonderful history, but was in a nose-dive.

The truth of the matter was, it was anything but that. We had labor unions that needed to have a sense of leadership, and needed to have a sense of faith in that leadership, in order to enter into sensible talks. Labor is not a problem at D.C. General; quite the opposite: It’s one of its strengths. The medical staff, as we learned *very* quickly, after my presence, is actually outstanding. And the joint commission saw it that way. And, it’s not just the medical staff—it’s the entire staff.

To think of what these people have lived through over the last four or five years, and *intensified* over the last five or six months—just to stick it out, and hang in there, it’s a commitment to this community, unlike any other hospital I’ve ever been in.

Taking Down a Comprehensive Health System

But, the PBC is so much more than just a hospital (and then, I’ll get to comparing the plans, a little bit): It is really a