

After Alito Fight, The War Continues

by Edward Spannaus

In a capitulation which moves the United States closer to the possibility of the imposition of a fascist dictatorship, the United States Senate confirmed the nomination of Federalist Society Nazi Samuel Alito to the United States Supreme Court on Jan. 31, by a vote of 58-42.

That shameful confirmation vote could only take place, because of the earlier 72-25 vote in the Senate, on Monday, Jan. 30, which defeated the effort by Massachusetts Senators John Kerry (D) and Edward Kennedy (D) to organize a filibuster to block the Alito nomination.

After that vote, which cleared the way for the confirmation vote, Democrat Lyndon LaRouche issued the following statement:

“This past week’s fight around the Samuel Alito nomination was a battle, not a war, testing the various forces’ competence and readiness. Some in the Senate showed their mettle and have now come together as the hard core of what the Biblical right wing would call a Gideon’s Army. This was merely the first battle, and the war continues. We proved our mettle and that, in itself, is a true victory.

“Our allies came into this fight ill-prepared. Their unwillingness to take up the Nazi precedents of the Federalist Society represented the key weakness and deprived us of a battle won, and leaves us in a momentary retreat, to regroup and take up the next battle.

“Let us be clear. Our enemy cannot win, but we, all of civilization, can lose. We are at the end phase of the system—both the economic system and the cultural system. Our present economy and culture are doomed, and it is only our efforts to change that system that offers a basis to overcome catastrophe. We *are* serious contenders. We have suffered a battle setback, but the way the battle played out was a critical testing-

ground for future victory. Some of our allies in the Alito fight now come out far more battle-tested than before. I know that some of our leading allies in the Alito fight have already conveyed that they are glad that they carried out this fight, and they are strengthened by that effort.

“The present world financial system is doomed. Either we return to the American System or we face a planetary New Dark Age. This is a fight that now can not be avoided. You can not choose whether or not to enter the war. The war has entered you.”

LaRouche’s ‘1933’ Warning

The belated filibuster drive was only announced by Senator Kerry on Thursday, Jan. 26, after the Senate Democrats’ caucus meeting on Jan. 25 had failed to make the necessary decision to go all out to defeat the Alito nomination.

Overnight, on the evening of Jan. 25, LaRouche issued his toughest statement yet, entitled “1933 and Now,” demanding that the Senate defeat the Alito nomination on the grounds that he is a Nazi who promotes the judicial outlook of Hitler’s “Crown Jurist,” Carl Schmitt (see *EIR*, Feb. 3). The circulation of LaRouche’s statement, which warned that a capitulation on the Alito issue would be to repeat the mistake of Germany in 1932-33, had a shock effect within significant sections of the Democratic Party.

Already, on Jan. 21, the LaRouche Political Action Committee had launched a mobilization of the Democratic Party nationwide, which no one else was doing. During the ten-day period leading into the final vote, well over 500 local Democratic Party leaders—county chairs and others—were called and mobilized, and 53,000 LaRouche PAC pamphlets were taken for further circulation and distribution. Many of

these local leaders were thrilled that someone was leading such a mobilization, and were relieved to hear that someone was not afraid to tell the truth, and say that the issue was Hitler on the Supreme Court.

Starting on Jan. 23, LaRouche PAC also began running one-minute ads on the leading all-news radio station in the nation's capital, featuring a statement by LaRouche which concluded: "There is no honest debate about bringing Adolf Hitler and his tradition into the government of the United States!"

New York Times Weighs In

Showing more understanding of the stakes than did some Senators, the Establishment's *New York Times* published lead editorials on Jan. 23 and again on Jan. 26, demanding that the Senate defeat the Alito nomination, by a filibuster if necessary. On Jan. 26, the day of the second *Times* editorial, and the day after LaRouche's "1933 and Now" statement, Senator Kerry announced his intention to launch a filibuster. Kerry returned to Washington and spoke on the Senate floor on Jan. 27, warning that confirming Alito for a lifetime Supreme Court appointment "would have irreversible consequences."

The final *New York Times* intervention was an extraordinary Jan. 30 front-page article which described the conspiracy, launched with the founding of the Federalist Society in 1982, to pack the Supreme Court with right-wing ideologues—a portrayal which has otherwise only been presented by *EIR* (See [EIR, Jan. 6, Jan. 13]).

Without explicitly identifying the Schmitt-Hitler origins of the Federalist Society conspiracy, the *Times* reported on what we have called the Federalist Society's "march through the institutions"—with its seeding the lower-levels of the Federal judiciary with like-minded judges during the Reagan Administration, and its recruiting of right-wing lawyers like John Roberts and Samuel Alito into the Reagan Justice Department, in order to groom them for an eventual takeover of the Supreme Court.

'The Next 30 Years. . .'

The *Times* article on the Federalist Society significantly shaped the debate on the day of the cloture vote. Opening the Senate debate that morning, Sen. Kennedy stated:

"I was absolutely startled . . . when I picked up the *New York Times* and saw . . . exactly how this nominee was selected—and who selected him, what the process was, all during this period of time, something that those of us on the Judiciary Committee had no mind of. Maybe our friends on the other side knew about [it]. I'd ask that it be printed at an appropriate place in the record."

Later, speaking again shortly before the vote, Kennedy declared: "This vote we are casting with regard to Judge Alito is going to have echoes for years and years to come. It is going to be a defining vote about the Constitution of the United States, about our protections of our rights and our liberties."

Kennedy went on to warn that "if you are looking for someone that is going to be willing to stand up to the Executive branch of government at a time that he is going to exceed his power and authority and the law of the country, it's not going to be Judge Alito. . . . This happens to be the wrong judge at the wrong time for the wrong court."

Senator Kerry also pointed to the *New York Times* article, noting that the President "has chosen to send a Supreme Court nominee who comes directly out of a revolt by the ideological wing of his party to satisfy their demands for ideological orthodoxy," noting: "We read about that in the *New York Times*."

Kerry reminded listeners that Alito was not the President's first choice to replace retiring Justice Sandra Day O'Connor. "The first choice was Harriet Miers, and opposition to her nomination came not from Democrats, but it came from the far right of the Republican Party," Kerry said. "They challenged her ideological purity with such conviction that the President capitulated to their demands, and gave them instead Judge Alito, a nominee who they received with gleeful excitement."

(According to a number of reports, it was Vice President Dick Cheney who in fact caused the nomination of Miers, which had bipartisan support, to be withdrawn and replaced by that of Samuel Alito.)

Kerry emphasized that there really had not been enough debate, with only 25 Democrats speaking, and only 25 hours of total debate. "The direction that our country will take for the next 30 years is being set now," Kerry continued. "And this is the time for debate. This is the time when it counts—not after the Supreme Court has granted the executive the right to use torture, or to eavesdrop without warrants, not after a woman's right to privacy has been taken away. . . . History will wonder why we didn't do more when we knew what was coming."

The Test of Leadership

In discussions after the Alito confirmation vote, LaRouche said that the mood of the American people is way ahead of the politicians. The people know that the fight has to be fought. That the Democratic Party made mistakes in the Alito fight should come as no surprise. Up until the Democratic Convention in the summer of 2004, the Democratic Party was well along the road to doom, and then, as a result of the intervention of LaRouche and the LaRouche Youth Movement, it began to be revived. That process of revival is still under way.

The problem with the Alito fight was that too few Democrats followed LaRouche's advice. And they all flinched on the Hitler issue. None had the courage to call a spade a spade, which, in this case, meant calling a Nazi a Nazi. You can only win a war, if you know what war you are fighting. By that standard, only Lyndon LaRouche passed the full test of leadership in this battle.