EIR Special Report

Why Cacheris's ruling in NBC case is unconstitutional

by Lyndon H. LaRouche, Jr.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; . . ."

Constitution of the United States Bill of Rights, Article VI,
in force since December 15, 1791

Admittedly, my lawsuit against the conspirators NBC, ADL, et al. was not a criminal proceeding against them. The heart of the charges against those defendants was, that they had acted with willful and knowing disregard for fact, and, in this way, had falsely accused me of acts which are major crimes. Although my lawsuit against NBC et al. is a civil, not a criminal action, the cited passages from the Sixth Amendment clearly reflect a principle of law underlying the intent of the Constitution as a whole. Moreover, since massive circulation of false allegations by major news media might incite attempts to subject me to criminal investigations and proceedings, the defendants should have been obliged either to present witnesses and material evidence for cross-examination, in open court before the jury, or else they should have been subjected to summary judgment for refusal to submit the evidence required by law.

The key to the first round of my lawsuit against NBC et al., is that on the first day of the trial, October 22, 1984, Federal Judge James C. Cacheris of the Eastern District of Virginia ruled to nullify the Constitution of the United States.

From the beginning of pre-trial discovery, Judge Cacheris consistently ruled to allow the defendants to conceal all crucial evidence bearing on the leading issues of the complaint. Later, during mid-August presentation of post-discovery motions, my attorneys presented a motion to preclude the defendants from using in the trial itself the evidence which Judge Cacheris had permitted them to conceal during the pre-trial discovery. Judge Cacheris stated that he intended to rule on the motion within weeks. He failed to do so.

Later, after he had failed to reach his decision as he had first promised, he

The jury views a videotape of NBC's libelous attack against Lyndon LaRouche. Sen. Daniel P. Moynihan is pictured here calling LaRouche a "Nazi," and NBC producer Pat Lynch is on the witness stand. Judge Cacheris permitted hearsay "testimony," including from "confidential sources."

assured my attorneys that he would certainly make his ruling on this point prior to beginning of trial.

At the close of the first day of trial, Judge Cacheris ruled that the defendants had the right to present as evidence the defendants' hearsay report of unidentified "confidential informants," a decision which permitted the defendants to lie with luxurious abandon throughout the remainder of the trial. By that action, Judge James C. Cacheris nullified fundamental principles of law in force throughout almost the entirety of the existence of our constitutional republic.

The worst feature of Judge Cacheris's overturning of the law, was the sly manner he timed the issuance of his ruling. I was informed by my attorneys that had the judge made such a ruling before the trial commenced, we would have had the right to appeal his ruling as to law prior to commencement of the trial itself. By making the ruling after the trial had commenced, the judge forced us to go through a trial whose outcome his ruling had rigged by the end of the first day.

Next, the jury was contaminated massively. The defendants manufactured a false charge that a threat had been delivered by one of my associates against defendant Pat Lynch. This lie was leaked to the *Washington Post,* and spread in *Post* headlines on the trial that night. Following the leaking of this lie to the jury by way of the *Post,* the jury sent a written message to the court implying that they feared themselves to be threatened with physical harm by the plaintiff. In the review of this matter, members of the jury stated that they were in fear of such actions against them by the plaintiff.

My attorneys asked that the two jurors expressing this fear be excused. The judge refused. My attorneys then moved for a mistrial. The judge refused.

So, at that point, both the court proceeding and the jury were pre-rigged massively, to ensure a predetermined outcome, before the plaintiff's facts had been presented.

In fairness to certain unknown members of the jury, the following facts from the jury's own statements on its decisions should be known.

Contrary to a false statement in a UPI dispatch, the jury did not find NBC's falsehoods to have been truthful. Quite the contrary. The jury spent eight hours deliberating on the plaintiff's charge of malicious libel. During this eight hours, the jury was, of course, not informed of the identities and backgrounds of the unnamed "confidential informants" in the defendant's hearsay testimony. On the basis of the judge's repeating his instruction on this point, in his charges to the jury, that hearsay testimony concerned unidentified informants must be taken as evidence without qualification, the jury ruled that there was not "clear and convincing evidence" that the defendants had known the hearsay allegations were lies at the time NBC broadcast those lies.

There were obviously a few hold-outs against NBC during approximately eight hours of the initial deliberations by the jury. Some jurors' consciences were clearly troubled by the instruction to accept hearsay testimony as evidence.

After about eight hours, the jury still was hung on the counterclaims by the defendants. Judge Cacheris sent them back to try again. On the basis of the jury's actions in open court, it was clear that the jury's verdict, much later that night, was based chiefly on the jury's fearful reaction to the fabricated lie which the defendants had caused to be leaked

for publication in the *Washington Post*.

Judge Cacheris's sly manner of making a ruling nullifying existing law was the first major error of the trial. His refusal to declare a mistrial in face of the clearest evidence of massive contamination of the jury, was the second of the most outstanding errors. There were many other errors in the trial, but these two were of the utmost importance. The trial was rigged by Judge Cacheris's cunning manner of delaying his ruling on the matter of hearsay evidence, and his kindred actions in putting aside massive evidence in open court that the jury had been irreparably prejudiced by the *Washington Post*'s headlined endorsement of the defendant's fabricated lie.

Judge Cacheris's cunning behavior in the matter of the ruling on defendants' hearsay evidence continued *in extremis* a pattern of bias in Judge Cacheris's rulings from early during the pre-trial discovery. It is important to identify a few of the incidents of the pre-trial period to understand the setting in which the judge's actions during the trial were situated.

Prior to the taking of depositions in pre-trial discovery, Judge Cacheris had ruled that I would be deposed under the protection of licensed security personnel, to include three such persons in the room where I would be deposed.

Beginning approximately ten o'clock on the morning of Thursday, June 7, 1984, defendants Dennis King and "Chip" Berlet staged an incident under the direct supervision of their attorney, Philip Hirschkop.

First, Berlet and King staged attempted provocations against my security force during the period I was entering the premises where that day's deposition was to be held. King, in particular, attempted to crash through the screen of security personnel around me, to come into the immediate vicinity of my person. King has publicly threatened physical attacks against me and my associates, as he did at a rally of the violence-prone "Yippies" and others held outside my New York City offices.

Second, a member of the security detail standing on duty outside the room in which I was to be deposed, overheard attorney Hirschkop giving instructions to Berlet and King to stage an incident inside the room where I was seated awaiting the deposition's commencement that day. Thereupon, King entered the room, and consistent with Hirschkop's instruction just moments earlier, walked up to the coffee table where one of the security detail was preparing a cup of coffee, and nudged the member of the security detail. Some part of King's arm struck against the torso of the security guard, striking the portable two-way radio holstered under the guard's sports coat. Then, King moved to converse in whispers with Hirschkop.

We waited to resume the deposition. The ADL attorneys were not present. For the NBC, only Peter Stackhouse was present; the chief counsel for NBC, Thomas Kavaler, would arrive approximately an hour late. During the hour between ten and eleven, attorney Hirschkop occupied himself with a wild display of gestures and verbal pyrotechnics, walking out of the deposition with his two clients at approximately the end of that hour's interval. At that point, Thomas Kavaler arrived, an hour late, excusing himself with some cock-and-bull story about losing his way to one of the best-known major hotels in the vicinity of the Pentagon.

The next day, Hirschkop presented a wildly perjured statement to Judge Cacheris. The judge not only stripped away two-thirds of the security arrangements he had previously ordered for the taking of my deposition, but excluded the security guard who had been jostled by King from being present in the deposition. The judge's bias was naked.

While Hirschkop was lying his head off in court that morning, the deposition of me by NBC proceeded with attorneys Stackhouse and Kavaler present. Hirschkop, obviously enough, was not there; ADL continued to absent itself. At about noon, we recessed. During that recess, I was informed of the judge's stripping down his earlier orders

LaRouche's lawsuit against NBC, the ADL

The $150 million libel suit brought by Lyndon LaRouche against the National Broadcasting Company (NBC) and the Anti-Defamation League of B'nai B'rith (ADL) went to trial on Oct. 22 in Federal District Court in Alexandria, Virginia. LaRouche had charged that NBC and the ADL acted with "actual malice" in two network broadcasts, a five-minute "Nightly News" segment run on Jan. 30 of this year, and a 20-minute "First Camera" feature shown on March 4.

NBC claimed that LaRouche had plotted to assassinate President Carter and other high government officials, that he and his associates are tax evaders, that he is a "cult leader" whose followers would commit violence at his command, that he is an anti-Semite who blames Jews for all the evils of the world, and that he is a "small-time Hitler" (in the words of the ADL's Irwin Suall, who appeared on the "First Camera" program) who draws support from the KKK and other violent right-wing groups.

LaRouche's attorneys had presented a pre-trial motion to eliminate NBC's reliance on "confidential sources," which "First Camera" producer Pat Lynch had cited in her argument about the alleged assassination plot. Judge James Cacheris ruled on Oct. 22 that the NBC defendants would be allowed to cite their reliance on these "sources" for information used in the broadcast, whether the sources appeared on the broadcast or not, without being forced to name or produce the sources.

for my security. I was also informed that the terrorist-linked assailant of the earlier day, Dennis King, was coming back into the deposition in company of Hirschkop and Berlet.

Also, "Chip" Berlet is a member of the Yippies and an associate of the drug-pushers' magazine, *High Times*. Dennis King is an intimate confederate of the violence-prone "Yippies," who had attempted to incite them and others to violence against me. The Yippies, at their March 1981 convention in New York City had announced that President Reagan would be dead soon, and adopted the slogan "Shoot Bush First!" Attorney Hirschkop is well-known as a drug-offenders' attorney; the fact that he had staged the incident in the deposition on the preceding morning, left no doubt of Hirschkop's willingness to unleash violence against me or my associates during the course of my deposition.

I instructed my attorneys that I would be suicidally insane to enter the same room with all three of those perpetrators under inadequate security. I proposed two alternatives. Either, Hirschkop would agree to excuse his clients from the deposition during the remainder of that day, or, we would offer to dismiss the complaint against King and Berlet without prejudice, to make it possible to comply with the judge's irresponsible change in his earlier ruling.

My attorneys returned to the room where the deposition was being held. The offers were submitted. Hirschkop refused, and was supported by Thomas Kavaler and by the attorneys for ADL, who had deigned to end their absence from the proceeding at this time. I was given no choice but to instruct my attorneys to make the relevant motions before Judge Cacheris which would get King, Berlet, and Hirschkop out of the case, so that the deposition of me, then in its fourth day, might proceed.

The deposition did resume. On July 4th, we were informed that one of the defendants and a principal witness, NBC's Pat Lynch, was undergoing surgery, and would not be able to appear for deposition until a week or more after the date which Judge Cacheris had set as the termination of pre-trial discovery. My attorneys were able to depose Pat Lynch during August, after the close of pre-trial discovery by Cacheris; but the judge refused to extend the period of discovery to compensate for the lateness of the key defendant in the case! Thus, we were not informed that one Larry Cooper was NBC's "confidential source" of choice in the bomb-plot allegation until a point at which Cacheris's ruling prevented us from examining this essential witness or NBC's knowledge of this witness.

NBC's 'confidential sources'

After Judge Cacheris had closed pre-trial discovery, NBC claimed three "confidential sources" for the allegation that, in 1977, I had planned to murder President Jimmy Carter with "remote control bombs activated" from as far away as "12,000 miles"! The "source" of this allegation, Pat Lynch testified, was one Larry Cooper. The chief corroborating source was one Gordon Novel, she swore, a convicted felon with a long record of arrests, convictions, and a fugitive from subpoenas. Novel was a fugitive from law at the time he allegedly dreamed up this plot with Cooper, and was soon caught and imprisoned. The court records in the case showed that Novel dreamed up this plot in an attempt to escape conviction and sentencing in that trial. The third source was an unnamed "American"; this "American," as described by Pat Lynch in sworn and perjured testimony in court, does not exist. No person of that description ever existed.

The case of Larry Cooper is most interesting. As the sworn testimony of all witnesses in the trial corroborates this fact to have been known to NBC at the time it broadcast its lies about the alleged "bomb plot," Cooper did visit me in Germany for a period of about 26 hours during August 1977. I had received information from a most authoritative source that I was the next intended victim of a Baader-Meinhof assassination threat. My friends, with my endorsement, had retained Col. Mitchell WerBell as my security consultant. Colonel WerBell had checked with relevant sources as to the authenticity of the Baader-Meinhof threat against me, and had sent Larry Cooper to deliver messages in aid of my security to relevant offices in West Germany. Within 26 hours, I personally relieved Larry Cooper because of my estimate of his mental state at that time.

I subsequently learned, as corroborated by the public official directly involved in the firing of Cooper from the Powder Springs police force, that there were two reasons Cooper had been fired immediately after I had sent him back to the United States. First, he had lied to that authority in asking permission for a leave of absence for the trip to Germany. Colonel Warbell had retained him to assist a private citizen of the United States; according to authorities, he stated falsely that he was on a mission involving a plot against government officials. Second, when applying for a passport renewal to make that trip, Cooper had told a second falsehood to officials of the U.S. State Department. These are a matter of record, and would have been available had Ms. Lynch pulled a back newspaper file on Cooper's much-publicized antics during that period of August 1977.

According to Pat Lynch, she never met Cooper during her preparation of the NBC-TV "First Camera" broadcast, and that no other person from NBC had contacted him but herself. She stated she had spoken to him only by telephone; she also swore that most among approximately a dozen such telephone calls had been by her to argue Cooper into agreement to be interviewed by her in person.

According to the corroborating statement by the Georgia public official, Cooper had stated as his reason for needing the leave, that he had been assigned to assist in working against an assassination of the President. This was several days prior to his arrival in Wiesbaden. According to Novel's sworn testimony in his trial and sentencing, the story of the plot against the President and other officials had been first concocted by him in June 1977, approximately two months before Cooper arrived for his aborted day-long visit to West

Germany. According to the evidence, Cooper's story before his departure for Germany was what Cooper's confederate, Gordon Novel, had concocted, according to sworn testimony, in June!

The second contributing cause leading to the firing of Cooper from the Powder Springs police force was the U.S. State Department's attempt to confirm Cooper's alleged statement to passport authorities that he was the chief of police of Powder Springs! The real chief was not favorably impressed by this, nor were other relevant local officials. Cooper was dismissed, in an action covered in the relevant daily press at that time.

Judge Cacheris ruled that none of the court records and other material evidence exposing Cooper and Novel as habitual liars could be presented to the jury.

Pat Lynch's third "confidential source" was, of course, either Harvey the Rabbit or his cousin. No person of her description ever existed. Yet, Judge Cacheris allowed Pat Lynch to tell this lie in open court in defiance of a mass of sworn testimony proving such a source could not possibly have existed.

Cacheris also forbid my attorneys to question me on one of the most crucial facts of the case: Why had I allowed Larry Cooper to be sent to me in the first place? The pretext for this was that this involved information from a highly qualified confidential source I used in my function as a journalist! Admittedly, what that confidential source transmitted to me and Colonel Wertbell's corroboration of that information, might be hearsay in and of itself, but the fact that I had relied upon independent and highly qualified sources was of the utmost relevance to the reasons my associates had suffered the expense of sending Cooper to me. The judge had previously ruled that Pat Lynch could present hearsay information from Harvey the Rabbit, and repeatedly instructed the jury to accept the word of Harvey the Rabbit as evidence. However, he also ruled, that although I, as a journalist, have confidential sources, I may not even refer to the existence of such a source, even when the mere existence of source is material to a most crucial point of the plaintiff's case!

The nastiest development during the trial was NBC attorney Thomas Kavaler's repeated, sarcastic allusions to the assassination of Prime Minister Indira Gandhi. The defendants' corner was filled with shameless giggling over this obscene behavior by Kavaler. It had been elicited previously that Mrs. Gandhi was a dear friend. Later, on the day her assassination filled the news media, when the President himself had expressed passionately his great sorrow at her death, Thomas Kavaler gloated in open court over her assassination. Judge Cacheris consented to Kavaler's actions.

The court reeked of a rigged trial and massively contaminated jury.

If one deducts the hearsay of allegedly existing Harvey the Rabbit and Harvey's cousins from the testimony in the trial, neither NBC nor ADL presented any evidence in support of the libelous allegations cited in the complaint. They never presented either Cooper or Novel, although both were listed as witnesses which might be called by the defense. It was perjured hearsay, and only that hearsay, on which NBC and ADL relied entirely as "corroborating" evidence in support of its alleged sincerity in broadcasting the wild falsehoods.

"No doubt, Judge Cacheris despises Adolf Hitler's memory, but his decision in this case has placed him within the same current of philosophy of law which otherwise led directly both to Marxism and to the establishment of the Nazi state. . . . If Judge Cacheris's ruling is permitted to serve as a precedent, we shall have come to the end of constitutional law and constitutional democracy in the United States."

The matter of law

I am an economist, a philosopher, and an editor, not an attorney; I rely upon qualified legal counsel wherever I require guidance in matters of the so-called "positive," or ordinary law of our own or other nations. In matters of law, I am an authority only on the subject of what is called *natural law* and on those aspects of constitutional law which directly reflect fundamental principles of natural law. However, the heart of the errors of Judge Cacheris lies within the scope of natural law.

In the conception of law underlying the establishment of our republic and our Constitution, there are three levels of the law as a whole:

> The highest authority in law is what is called the *natural law*, sometimes also called the "law of nations," the law which U.S. Justice Robert Jackson invoked in his argument for bringing the Nazis to trial for crimes against humanity.
>
> The second highest authority in law is what is called *constitutional law*. Republics establish a constitution prescribing certain principles of self-government, establishing the institutions of self-government, and the ordering of the relations among those institutions. The principles embodied in that constitution

are subordinate only to the knowable principles of natural law.

The lowest of the principal levels of the law is the *positive law,* laws established by acts of institutions of government.

Natural law provides the basis for the design of a constitution of self-government of a republic. A republic may choose to prefer one set of options over another in the composition of a constitution, as long as that choice does not violate the principles of natural law. This constitution, interpreted according to principles of natural law, provides the basis for *constitutional law*. Those acts of legislatures and other institutions of government, known as law, must never violate the principles of the constitution, and the interpretation of those principles must be governed by natural law. A nation which adheres to such a practice of law is a republic of law, a republic under law.

There exists a view of the law contrary to the principles we have just identified. To exemplify this contrary view, one of the best choices of influential professors of law is the case of Berlin University Professor Friedrich Karl von Savigny (1779-1861). Savigny was the law-professor under whose influence Dr. Karl Marx developed his own doctrine of "historical materialism." Although Savigny's work is generally known only among students of law, history, and philosophy, he is generally acknowledged to have been perhaps the single most influential source of the doctrine of law underlying Judge James Cacheris's decision to allow NBC to employ Harvey the Rabbit as authority for the wild lies broadcast against me.

The allusion to the fact that Savigny taught Marx law is very directly relevant to the fundamental issues of law at stake in Cacheris's decision. The entirety of Marx's "materialist theory of history" is chiefly Marx's addition of the influence of Adam Smith and David Ricardo, as well as some bits from the work of Savigny's confederate G. W. F. Hegel, to Savigny's fundamental doctrine of law. It is also a fact, and also a relevant fact in the instance of Cacheris' ruling, that it was the influence of Savigny's doctrine on Weimar law which enabled Hitler to become dictator of Germany in 1933. No doubt, Judge Cacheris despises Adolf Hitler's memory, but his decision in this case has placed him within the same current of philosophy of law which otherwise led directly both to Marxism and to the establishment of the Nazi state. This is no exaggeration; it is ominously relevant. If Judge Cacheris's ruling is permitted to serve as a precedent, we shall have come to the end of constitutional law and constitutional democracy in the United States.

The essence of Savigny's doctrine is his argument that no natural or constitutional law ought to be tolerated to exist. Law, Savigny argued, must be governed by the mysterious force of the *Volksgeist,* the changing moral values which judges may, by some mysterious faculty, perceive to be the most recent innovations in popular opinion. In Marx's hands, Savigny's doctrine became Marx's doctrine of "historical specificity," that each class which establishes a "class dictatorship" over society may make such law as it chooses, without regard to the opposing law of any period of history in that or other nations. This same *völkisch* doctrine of law was advocated by the Nazis, and was the foundation of the law of the Nazi state, a doctrine of law for which we condemned Nazi judges at Nuremberg.

Judge Cacheris's ruling in question is totally consistent with Savigny's doctrine on several counts: First, it nullifies the principle of constitutional law; second, it establishes the scoundrels of the lying liberal news media as the judges of the "sociological phenomenon" of *völkisch* popular opinion. Cacheris's ruling thus makes that news media a law higher than the President, the Congress, or the Federal Courts; third, the judge went beyond Savigny, but not in contradiction of the principles of Savigny's fundamental argument, in exempting the press from the last vestige of obligation to tell the truth, either in publication or in matters of law.

There can be no law in practice, unless two very simple and interdependent principles of evidence are strictly enforced. The first principle is sworn testimony to tell the truth under penalties of perjury. The second principle is the right of the courts and opposing party to cross-examine the witness and material evidence. This provision of our criminal law, as embedded within the Sixth Amendment, must apply with full force to the civil law, or else the civil law is in fact no law at all.

These simple principles of conduct under law reflect the most fundamental principles of the entirety of the law.

The question first arises on the highest level of law, the natural law. Since it is living persons who must define what the law is concretely, the question whether those persons are right or wrong in their proposed definitions, presumes that mankind has possession of some means both to discover true law and to prove that discovery's validity to other persons of reasonable disposition and qualifications. "How do you know that that is God's law?" "By what evidence and interpretation of evidence can you prove that your knowledge is valid? What proof do you possess which is not tainted by the prejudice of some special body of opinion?"

Take a hypothetical case. Some fellow runs into the court and announces that he has just spoken with God, and that God told him that such and such was the law. Or, another case, some fellow says "My religion teaches me . . . " What do we do in such cases? Such information has no authority outside some lunatic's paradise, such as Khomeini's Iran.

The state must, first, find the law written in the stars, where all reasonable men and women may see that law written. This conforms to the teachings of Moses and Christianity, that mortal men may not see God in His Person as the Creator, the Composer of our universe. What we may

see and know is God's handiwork, and from that handiwork, we may adduce and prove in what fashion the Will of the Composer of that universe is manifest.

The state must, next, find the law written in the fundamental difference between mankind and the beasts. On this account, the fundamental law of Judeo-Christian republics is the famous verse from the First Book of Genesis, that mankind shall be fruitful and multiply, fill up and replenish the earth, and exert dominion over every beast and thing in nature.

We know with certainty, depending upon no mere special opinion, that all persons are born and must ultimately die. We know, with the same certainty, that the sensual pleasures which exist for us only in our mortal flesh become meaningless things when we are dead. We know that if we live only in pursuit of "immediate and original instincts" of "love of pleasure and dread of pain," that we live and die no better than the lower beasts. It is that which our lives contribute, to be of benefit to our posterity, which is the only thing which distinguishes us morally from mere beasts.

From this, we know that the true self-interest of each and every individual is so defined. From this flows rigorously the fundamental distinction of the natural law of Judeo-Christian civilization, the principle of the individual, the Principle of Equity properly defined.

All of the advancements of mankind depend upon contributions of individuals. Those advancements, to the degree that they are advancements, require the creative mental powers of individuals; all contributions to human knowledge for practice occur originally as products of individual creative-mental activity.

Thus, the most fundamental interest of the democratic republic and of the individual member of that republic entirely coincide. The individual's most fundamental self-interest is to live a life which deserves to be deemed as having been necessary by his or her posterity. Therefore, the individual has the right to develop his or her mental and related powers, and the right to opportunity for reasonable exercise of those powers to whatever good purpose he or she may choose from among those which might be made reasonably available to that individual. The state, in turn, urgently requires the benefit of such fruitful individuals. Moreover, the state can not long endure unless the individuals who participate in its government, as both officials and electors, are adequately developed in moral and intellectual powers to judge more or less correctly the interests of the state.

No law may be allowed to stand, and no other action, which violates that Principle of Equity, as that principle applies to either or both the rights and obligations of the state and the individual personality.

It might be imagined by some, wrongly, that such a definition of natural law conflicts on principle with the standpoint of theology. This would be a serious error of imagination. The best single example we might choose in refuting such an error is the case of the fifteenth century's Cardinal Nicolaus of Cusa. Cusa, who defined the basis for modern doctrines of natural law and government in writings beginning his 1431 *Concordantia Catholica,* was also the principal initiator of modern physical science. He was the powerful intellectual force informing the scientific work of Leonardo da Vinci and also the first modern formulator of the solar hypothesis employed and proven, in a slightly modified version, by the founder of modern mathematical physics, Johannes Kepler. The point to be stressed is, that Cusa showed that the nature of God can be rigorously adduced from a proper study of the manifest laws of the universe. His short *The Non-Other* (*De Non Aliud*), respecting rigorous ontological proof of the existence and nature of God, is a concentrated restatement of the lengthier argument he develops in other locations.

The modern law of nations (natural law) was first elaborated by Cusa and others during the fifteenth century, when it was known as "Christian Humanism," the direct adversary of what is called "Secular Humanism" today. The influence of Cusa was radiated through such authorities as Hugo Grotius, John Milton, Samuel Pufendorf, and Gottfried Leibniz, into the English colonies in America, and thus provided the majority viewpoint of the founders of our constitutional republic.

From the beginning, beginning with the most fundamental principles of natural law, all proper proceedings in matters of law must be governed by the principle of truth. The proponent of any proposition affecting deliberations at law, must speak truthfully in such a manner that his or her statement points toward means of independent verification in terms of material evidence. In other words, although the mere fact that a sworn statement may appear to be truthfully sincere is important as it bears upon the credibility of the witness or legal counsel, "sincerity" in itself does not constitute evidence as to fact under any possible, proper process of law. It is not sufficient that the witness appears to be "sincere"; the witness might be wrong. What must be proven is that the witness is either right or wrong. The witness must provide sworn testimony which points toward the best possible evidence, that his statement is to be corroborated by material evidence. It may be that that material evidence is not under his control at the time he gives testimony; if so, he must at least point to the kind of material evidence which, by its nature, might be verified by others.

In challenging sworn testimony, the opponents of the proposition can not be said to prove their case by mere efforts to impeach the witness's appearance of sincerity. If that were tolerated, proceedings at law degenerate into the sophistry of theatrical rhetoric. The result of introduction of sophistry into law, as Judge Cacheris replaced truth by sophistry in this case, is that such proceedings at law are almost worthless always, and frequently damaging to the society in which such perversions are tolerated. The issue of sworn testimony is right and wrong; appearance of "sincerity" is relevant only as it bears on the weight of elements of testimony, or upon

testimony respecting a verifiable method for interpretation of the incomplete portion of the material evidence available.

1. Can the proposition at issue be shown to be right or wrong beyond doubt?

2. If the evidence presented appears, on balance, to show that rightness lies in a certain direction, is the evidence submitted adequate to justify a conclusion? (We can not judge the morals of a man by conclusive evidence concerning the physiology of his left foot.)

In the last analysis, these two conditions are one and the same thing. Logical deduction from the corroborating material evidence, may lead to a certain hypothetical estimate of rightness or wrongness. That, however, is not a permissible weighing of the evidence. We must ask what areas of evidence must also be included, and what from each such area also included, to reach a sound decision one way or the other. If a vital area of evidence is excluded, the proper decision at law is the Scotch Verdict, "Not Proven."

From the top to the bottom of the law, the same rule of procedure must prevail absolutely: "What do you know? How do you know it? What material evidence exists to verify that what you know can be known under the circumstances you report, and that by the method of observation and judgment you report you have employed in adducing what you report to be an observed fact?" Those conditions must be satisfied.

By these standards, Judge Cacheris's ruling of October 22 said two things which, if upheld, mean the end of a rational system of law and justice throughout the United States. What Judge Cacheris did, was to permit the defendants to introduce as evidence whatever the defendants wished to allege they had heard, to cite many "confidential sources" who were never proven to actually exist, and to deny the plaintiffs the right to test (a) Whether or not the "confidential sources," as described, ever actually existed? (b) If any of the "confidential sources" actually existed, whether the information allegedly received from a "confidential source" had any resemblance or not to what some mysterious such source might have said? (c) If the "confidential source" actually existed, and if anything resembling the content of hearsay testimony had actually been transmitted, whether that source would prove credible under examination?

If Judge Cacheris's ruling were applied to a criminal proceeding, any one of you could be sentenced for execution on the basis of testimony that some reporter had received the information "from several confidential sources whose opinions I have learned to respect." You could could die in the gas chamber of a state for an offense you did not commit, on the basis of "confidential sources" of less reliability than Casper the Ghost and Harvey the giant rabbit.

If Judge Cacheris's ruling in matters of civil law were to spill over into criminal law, such frame-ups would begin to happen at increasing rates. If Cacheris's ruling were upheld, that would begin to happen in criminal cases very soon; there would be no proceeding under law by which such evil miscarriages of justice could be prevented from happening.

Precedent: Lord George Jeffreys

In the history of the law of the United States, there are several sets of cases which are outstanding in their bearing respecting the constitutional intent of our founding fathers in matters of both criminal and civil law. Our forefathers were horrified by the "Star Chamber" practices of the seventeenth-century Stuart monarchy. More directly relevant as precedent applicable to this case, is our forefathers' experience with Stuart justice under King James II, both in Britain and in the New England colonies.

Under James II, Britain was subjected to what is known to history as the "Bloody Assizes" conducted by Lord George Jeffreys. According to British historian Thomas B. Macauley, for example, in his *History of England Since The Accession of James I,* prior to his appointment to head these "Bloody Assizes," George Jeffreys had been magistrate of a London's whores' and pimps' court, and a man as foul-tongued, perjured, and immoral as NBC attorney Thomas Kavaler exhibited himself to be during the eight days Kavaler was under my direct and close observation during the trial and preceding pre-trial discovery. Under Jeffreys masses of accused were tortured in the extreme and executed on the pretext of hearsay evidence of the worst sort, just as Cacheris permitted in this case.

When what British history calls the "Glorious Revolution" chased James II from his throne, Judge Jeffreys, according to historian Macauley, exited the pages of history in his nightshirt, fearing the hot pursuit of justice overdue.

The English colonists suffered a kindred variety of injustice. This included, in particular, the Salem witchcraft trials and the general conduct of injustice under colonial governor Andrus.

Later, the principles of law outlawing the kind of ruling which Judge Cacheris made in this present case, were extended to the civil law in the famous 1735 trial of New York publisher John Peter Zenger, in which precedent was established the principle that truth was the lawful defense in libel actions.

Not only did Judge Cacheris throw back law to restore in principle the doctrine of Lord George Jeffreys' court, but, with an appropriate if perhaps unconscious fostering of historical irony, the judge consented to unleash in that court a Thomas Kavaler embodying all of those foulest qualities in his nature which British history attributes to the foul George Jeffreys. Like Judge Jeffreys himself, Judge Cacheris wittingly encouraged the perjured false-accusers to lie with luxurious abandon, by aid of fabricated testimony on evidence which was at best hearsay per se.

The indicated and comparable precedents from the ex-

perience at law of the English-speaking peoples exhibit the correlation between Judge Cacheris's revival of Jeffreys' ruling in a civil case and the extension of that same ruling to a criminal proceeding.

Precedent: Zenger

Leading elements of the liberal news-media have praised Judge Cacheris's conduct, by insisting that that judge has acted in aid of the cause of a "free press." In this instance, "freedom of the press" means a license given to the liberal news-media to publish the wildest of falsehoods against a libelled person, even if the liberal news-media knows that the allegations it publishes are false at the time of publication.

In the Zenger case, the most immediate precedent for the relevant intent of the First Amendment to the U.S. Constitution, the freedom of the press signifies only the freedom of the press to circulate opinion based on truth. We have the right of free speech and press, to voice our hostility against even the highest personalities and agencies of government, on condition that this hostile characterization is based on a reasonable degree of effort to determine whether the facts of the matter are true.

If the hostile allegations are not based upon knowledge of true facts, then those allegations are slanderous or libellous in fact. If the putative facts employed in aid of such allegations are not true, then the First Amendment can no longer protect the utterances in dispute.

In other words, the implication of the Zenger case is that it is not possible for government to tolerate "freedom of the press" under law unless that press delimits the scope of its utterances to a reasonable formulation of opinion premised on an adequate supply of true facts. If the press does not limit itself to the principle of truth, then government must censor the press for the sake of the higher good, the importance to the nation and all of its people to enjoy the protection of representative self-government.

In other words, unless the press is bound under law to respect the principle of truth, "freedom of the press" can not exist.

Therefore, Judge Cacheris did not rule for "freedom of the press." He ruled against "freedom of the press."

At first glance, there are powerful difficulties which stand in the way of the effort to enforce the principle of truth. We identify those difficulties and their remedies by aid of reference to this case.

Since absolute truth in any matter is rarely available to the press, we allow the press to rely on falsehood to the degree that the press had no reasonable alternative but to believe that false facts were true. We do not require that the press's evidence be true, but only that the press be truthful, that the press demonstrates in each case a zeal for the discovery of all true facts bearing on the matter on which it renders opinion.

At this point of our report, some might argue that I am overstepping the bounds of my specific competencies to intrude into matters of the positive law. It must therefore be made clear at this point, that I overstep no such limitations; I speak fully within my specific competencies.

In the matter of slander and libel, most emphatically so in the instance of libel, we are dealing with matters of public policy which must, by their nature, be clearly understood by such laymen as publishers and editors. If we require that only members of the legal profession could know whether the publication of an allegation were probably libellous or not, then we could not hold publishers and editors responsible for libellous actions. If the law specifies a definition of "truthfulness" which could not be comprehended by any person excepting a certified member of the legal profession, then such a requirement of law means that no publisher or editor could be held accountable for such standards of "truthfulness." How could any person be held accountable for intending to accomplish a kind of act, if, by definition of law, he was prohibited from knowing what he might be charged with intending?

If the doctrines of positive law attempt to invade the area of "intent to libel," to prohibit publishers, editors, and other persons outside the legal profession from knowing what "truthfulness" and "intent to libel" mean in practice, then the whole purpose of the First Amendment is defeated, and the law of libel degraded to a farce *per se*.

Therefore, it were absurd to argue that I, as an experienced editor, with specific competence in the philosophy of natural law, am not qualified to speak expertly on the question whether I, as an editor, am capable of knowing whether I am being truthful or libellous in publishing an allegation against a public figure or agency. On the points of the matter I address here, I address the authority sometimes called "common sense."

In the practice of a publisher or editor of a free press, the fact that the allegation published is false is not by itself proof of intent to libel. If the allegation is false, and it is also shown that the publisher or editor is infected with personal malice toward the person against whom the allegation is directed, that is not adequate proof of the intent to libel. The publisher or editor has the right to search for true facts damaging to a person or agency toward whom he projects malice. A publisher or editor must not do either of two things. First, what the publisher or editor may not do is to publish an allegation which he knows to be false. Second, a publisher or editor may not willfully disregard facts which might tend to show that his allegation is false.

In the instance of NBC-TV, NBC-TV's "Nightly News" alleged that my nationwide CBS-TV broadcast of January 21, 1984, expressed, among other things, the dedication of my campaign for the 1984 Democratic Party presidential nomination to a campaign against "Jewish conspiracies." A portion of that broadcast was shown on the NBC-TV "Nightly News" broadcast of January 30, 1984. Brian Ross testified under oath that he had viewed my CBS-TV broadcast in entirety on his video play-back system, and that he, Ross, had written the script for the January 30, 1984 "Nightly

News" segment defaming me. The presentation of the full January 21 broadcast to the court showed absolutely no references to a "Jewish conspiracy" in that broadcast. Brian Ross, acting as an agent of NBC-TV, had lied explicitly. In open court, it was proven that Ross and NBC were caught "red-handed" with the "smoking gun" of deliberate falsehood.

In other instances, the plaintiffs were able to prove massively that the allegations cited in the lawsuit were false, and that the defendants had acted with a willful and reckless disregard for various evidence, either in their possession or evidence which they knew to exist, and to which they had reasonable access if they had chosen to collect that evidence.

For example, the Anti-Defamation League's Irwin Suall, a defendant, swore under oath that he did not know what a Jew was. He defined an "anti-Semite" as one who attacked

"Since absolute truth in any matter is rarely available to the press, we allow the press to rely on falsehood to the degree that the press had no reasonable alternative but to believe that false facts were true. We do not require that the press's evidence be true, but only that the press be truthful, that the press demonstrates in each case a zeal for the discovery of all true facts bearing on the matter on which it renders opinion."

the Anti-Defamation League or Edgar Bronfman! He had called me a "small-time Hitler," but testified he had no first-hand knowledge of my writings or actions. Suall thus admitted that he had made no effort to discover facts which might prove or disprove hearsay reports that I was alleged to be an "anti-Semite."

The most important allegation in the trial was the allegation that I had planned to plant bombs near President Carter's person, which I intended to detonate by telephone from as much as 12,000 miles away. NBC confessed that it had made no effort to determine whether or not the alleged report of Cooper or Novel were true; Pat Lynch even went to the point of testifying that she had refused to investigate evidence of Novel's prior arrests and convictions, and the judge refused to allow the evidence which Lynch had refused to investigate to be presented to the jury.

The same pattern of willful and reckless disregard for truth permeated the full scope of the sworn testimony of the defendants during pre-trial deposition and the trial itself. The defendants charged me with racism, yet they suppressed the televised interview with the head of CORE, Roy Innis, who ridiculed all of NBC's charges presented to him in that interview. They had statements from public officials of government who had praised the work of me and my associates, yet the defendants swore under oath that they had excluded that testimony from the broadcast because they disliked the statements made.

In other words, the evidence presented in open court proved that in one instance the defendants had published a deliberate falsehood, and in the other instances had willfully falsified their allegations by knowing and willful disregard for truth. This proved the charge of the plaintiff, that the defendants had acted together in a way constituting "constitutional malice."

Some would argue that only a member of the legal profession could comprehend the meaning of "constitutional malice." For reasons I have already stated, such an argument is an absurdity per se, a direct and naked contradiction in terms. In the mind of any publisher and editor, or in the minds of intelligent laymen in general, "constitutional malice" has a very simple, easily understood meaning.

"Constitutional malice" is nothing but the direct opposite of "truthfulness." In the case we may not be able to prove that the defendant lied knowingly in his published allegations, we can determine whether he acted with such a systematic disregard for facts reasonably available to him that he could have discovered that the allegation was probably false. In other words, the proof of malice in this case lies in the fact of willful disregard for available evidence; the malice lies in employing a method of composition of selected information, a method which is designed to avoid facts which might tend to discredit the allegation published. In other words, the defendant has employed a method of inquiry which is intentionally untruthful.

The difference between "malice" and "constitutional malice" is a very simple kind of distinction, which any intelligent layman can easily comprehend. The fact of "constitutional malice" lies in evidence that the publisher of an allegation against the libelled person or persons used a method of collection of facts which is intended to lead attention away from facts bearing upon truth, and that publisher knew that he or she was willfully employing such an untruthful method. The "malice" of "constitutional malice" lies in the publisher's decision either to employ or to condone an untruthful method of arrangement of putative evidence in support of a damaging allegation.

Whoever might argue that "constitutional malice" might be some esoteric feature of the practice of law is presenting an absurd case. The fact of "constitutional malice" is a very simple matter. It is simply the fact that in some cases, libellous allegations are a product of the publisher's willful deci-

sion to violate the obligation of the news media to attempt to be truthful.

In the case of NBC-TV, NBC had been repeatedly informed that those allegations we knew it intended to broadcast were proven falsehoods manufactured by sources associated with the drug-lobby. NBC's Pat Lynch acknowledged the intended use of such allegations and sources weeks before either the January 30 "Nightly News" and March 4 "First Camera" libels were broadcast. NBC was invited to submit written interrogatories on these or any other issues, with the promise of receiving both written response from me to each question, and also receiving any relevant documentary evidence or testimony in my control or reach which might bear upon these matters.

Most of the allegations which NBC had been earlier informed to be false were broadcast. However, the "bomb-plot" allegation was never presented to me or my designated representatives prior to the "First Camera" broadcast. However, neither Pat Lynch, NBC, nor ADL, at any time submitted interrogatories to me as NBC had been invited to do.

Moreover, they testified in open court that they had willfully excluded direct evidence in their possession directly contradicting their published allegations, and also testified that they had willfully ignored entire areas of relevant evidence, which areas they knew might have contained evidence directly refuting the allegations they were preparing to publish. Morever, NBC conducted its preparation of the broadcasts over a period of months prior to either broadcast, and expended great effort and expense in the investigation; they had all the time and funds assigned needed to have discovered readily available evidence which discredited the allegations they made.

The malice of the libels lay in the systematic effort by NBC and ADL to be untruthful. To act in such a fashion is in itself malicious libel.

In fact, to the degree libel law is kept under the jurisdiction of the natural and constitutional law, "constitutional malice" is the only strict basis for finding against the defendants in a libel action affecting public figures. Even in the case it were easily proven that the publisher knowingly lied in publishing a defamatory allegation, the proper definition of the libel in that case were "constitutional malice," that the publisher relied upon a process of inquiry which he should have known to be untruthful.

Since men and women are always limited in their ability to discover "absolute truth" concretely in most matters, it is impossible in practice of law, especially civil law, to demand absolute truthfulness of a press. Instead of "absolute truth," we apply the principle of "truthfulness" of the methods and means employed to compose an allegation. Since the decisions at law must be congruent in their nature with the nature of the facts employed to reach such decisions, the method by which a damaging allegation is composed must be the area of fact upon which the judgment is rendered. The judgment must be based on a principle of law which reflects the character of the area of fact upon which the judgment itself rests. Hence, there is no acceptable fiction of law in such cases but judgment of "constitutional malice" by virtue of evidence that the defendant based the allegation upon an intrinsically untruthful method of inquiry.

In the case of Peter Zenger. Zenger was the publisher of a New York City newspaper, the *New York Weekly Journal*. The British colonial governor of New York, William Cosby, brought action against Zenger for articles published by others in his periodical. Zenger was arrested for libel, by order of the governor, although Zenger had not authored the articles in question. Zenger was exonerated by verdict of the jury, on grounds that the articles were based upon truthful inquiry into matters bearing on the allegations at issue.

The possibility of having a free press depends upon the existence of some constraint which prevents the press's freedom from censorship from causing unjust damage to society or persons within it. That constraint is the principle identified by "constitutional malice." Without enforcement of the doctrine of "constitutional malice," "freedom of the press" could not be tolerated by a free society. The two are but different sides of the same coin; the one can not exist in law without the other. Without a "free press," there could not be "constitutional malice"; without enforcement of the doctrine of "constitutional malice," there can not be a principle of "free press."

Cacheris undermines the republic

The immediately visible danger is that your elected representative will be "Watergated" out of office through journalists' use of Cacheris's precedent. This means that the political faction which controls most of the liberal factions of the news media will be able to control the policies of government through threat of orchestrated press frame-ups of any politicians who resist orders from the liberal faction. That is not something which might begin to happen a year or so down the road; "Watergate" crises, created by the news media's manufacturing of "confidential sources," will erupt on the Federal, state and local level as early as the turn of the coming year, or perhaps a bit later, unless Cacheris's ruling is promptly struck down.

These two kinds of problems are very important, but they are only symptoms of the broader horrors to which the upholding of Cacheris's ruling would lead, rather rapidly.

Under Cacheris's ruling, whatever the news media swears its *unsupported opinion* to be, becomes the law of the land in practice. This leads directly to anarchy.

It is the nature of society that people and groups of people have varying, often directly conflicting *opinions*. Under the rule of law, we say that "Your opinion is not evidence of anything, except the fact that that is your opinion. The mere fact that a certain number of persons share your opinion does not make that opinion any better than if you held it without any such agreement. It is merely opinion." In the heart of all matters at law, opinion must leave the courtroom, and only a

full and rigorous adversary proceeding, to discover truth, is to be permitted.

As I have emphasized, it is usually very difficult to discover the absolute truth in any matter. The point is, we must try to get at the whole truth of a matter, and permit nothing to deter us from the quest to bring out the whole truth, by aid of adversary's right to fully cross-examine all witnesses and material evidence relevant to the matter under deliberation.

As long as the practice of law obeys those rules, then should we lose a case in which we know our cause is right, we must be willing to suffer that specific injustice because we believe that the kinds of processes of law used in our case will, in most cases, produce a just result. The essence of justice does not lie in the verdict; the essence of justice lies in the process of trying our best to serve nothing but the truth. If such efforts fail in one case, they will succeed in approximating truth in most cases.

It is our confidence in the process of justice, which aids us greatly in living in the same society with people of opinions and interests diametrically opposed to our own. Each may have his own opinion, but in society as a whole all opinions must be put aside in the quest for a truth which exists independently of anyone's opinion as such.

Judge Cacheris's ruling throws that out the window. His ruling implicitly creates an order in society in which each body of opinion attempts to impose its will by force, or force of corruption, on those of contrary opinions. Those aggrieved by this will quickly learn to hate our courts, and the names of "judge" and "jury" will become increasingly terms of contempt. When that happens, the institutions of law are in danger, because the courts themselves would have destroyed the institutions of law by the substitution of lawlessness of opinion for truth.

When any state comes for any significant period of time into the condition Cacheris's ruling portends, the anarchy which flows implicitly from this begs for the imposition of dictatorship by one party or the other. In ancient Athens, whenever radical democracy's substitution of opinion for truth was introduced, such democracy led quickly to a new tyranny. Whenever the institutions of law are corrupted in the manner Cacheris's ruling portends, the injustice and anarchy of rule by imposition of mere opinion against other opinion leads to a condition in which one degree of dictatorship or another seems the only alternative to threatened general disorder.

In summation

During the closing day of the trial and summations to the jury, an unexpected reality intervened into the proceedings, the assassination of Prime Minister Indira Gandhi by persons to whom one set of defendants, the Anti-Defamation League, were affiliated as political sympathizers and collaborators. The defendants' pleasure at Mrs. Gandhi's assassination was repeatedly expressed in open court that day. It was expressed by the several sarcastic and gloating remarks made by NBC counsel Thomas Kavaler. It was expressed by giggling support for Kavaler's obscene remarks from the desks at which the defendants and their attorneys were gathered. It was expressed by the fact that Judge Cacheris did not promptly rebuke Kavaler and the defendants for their obscene breach of decorum. It was expressed also in the verdict of a jury which had admitted its corruption in open court early during the trial.

"If Judge Cacheris's ruling were applied to a criminal proceeding, any one of you could be sentenced for execution on the basis of testimony that some reporter had received the information 'from several confidential sources whose opinions I have learned to respect.'"

Mrs. Gandhi's name was introduced to the trial in cross-examination of me by the defendants. The area of questioning was the issue of whether or not I was a leader of "followers" who acted always only on my instruction. In this connection, Mrs. Gandhi's name appeared in a list of prominent persons with whom my efforts were associated in some of those matters to which I have devoted most of my life's efforts over the recent ten years and longer, but whom it would be absurd to call strict followers of my every whim. Mrs. Gandhi was one among the most important figures who shared my concern for certain kinds of proposed economic reforms in relations among nations.

NBC's Kavaler rubbed my connection to Mrs. Gandhi into the proceedings repeatedly and obscenely during the proceedings of the final day. The head of government of the world's largest democracy has been assassinated. The government of the United States has expressed in most passionate terms its profound sorrow at this terrorists' assassination. The Soviet government is attempting to blame the U.S. Central Intelligence Agency for the assassination. The defendants make obscene jokes about the assassination in open court. Some among the defendants are political collaborators of the assassins.

The actions of the defendants, court and jury in this case featured an expression of sympathy for the assassination of a person whom the court, defendants, and jury knew I esteemed as a friend. Since Cacheris's offensive rulings, the conduct of the defendants, and the verdict, force the proceedings of this trial into the domain of U.S. public policy, the probable effect of the trial's proceedings is grave damage to the most vital strategic interests of our republic.

The jury did not know that the defendant ADL has been a political collaborator of the terrorist Dr. Jagit Chauhan Singh, but the ADL is such a collaborator. This fact is known to the governments of numerous nations. Despite the jury's limited knowledge of this aspect of the matter, the verdict must be and will be judged on the basis of as much as the jury did know; and therefore, the jury itself will not be exempt from collateral moral accountability for this feature of the case.

The fact that the law was not followed in this trial has done implicitly serious damage to the vital interests of the United States. Judge Cacheris should have recognized that such a possible implication existed as soon as Kavaler made his obscene outbursts on the subject of Mrs. Gandhi's assassination. Judge Cacheris knew, by sworn affidavits before him and by sworn testimony, that my connection to Mrs. Gandhi was probably of some special significance respecting the vital interests of the United States. If there were any doubt on this in his mind, Cacheris had remedies available to him to improve his knowledge respecting this highly sensitive development made of the utmost relevance by Kavaler's obscene outbursts. The judge will be viewed as acting in gross negligence of the vital interests of the United States, for such reasons.

The government of the United States does have a proper interest in a Federal court proceeding of such ramifications. Since the rights of all individuals depend upon the protection of those rights by the state, the Principle of Equity, as we have identified that here, is extended as a vital interest and right of the individuals to become projected in the form of the vital interests, obligations, and rights of the state itself. In this instance, the U.S. interest involved a political assassination comparable in its strategic implications to the Sarajevo assassination which triggered World War I. Events during the course of the trial, within the trial itself, made that assassination and its implications the most important issue of the trial itself.

True, as much as possible, we must insulate the course of a proceeding from external influences. We must aid in accomplishing this by rulings on procedure. Events overwhelmed the efforts to do so in this case; the defendants' attorney demolished barriers and brought the floods of the Gandhi assassination's implications onto center-stage in the court proceedings. Judge Cacheris permitted Kavaler to do as he chose in this matter.

Had Judge Cacheris not permitted the massive accumulation of error which occurred during round one of the case, this damage to the vital interests of the United States would not have occurred.

Between the microcosm of legal fictions which purports to isolate a trial from the macrocosm of events erupting in the real world outside the court, there exists always an efficient connection. Sometimes, as in this instance, that connection between microcosm and macrocosm overwhelms the fictive separation. Then, we learn afresh, that every bad ruling in any case implicitly does damage to the interest of our republic as a whole. Damage to the United States' vital strategic interest has been done because of Judge Cacheris's erroneous rulings in this case. Such a danger occurs whenever we permit departure from what must be strict adherence to proper choice of legal procedures. If we do not perfect the law's administration, that negligence itself always threatens our entire republic implicitly. Sometimes, the errors in one trial or even in a number of trials can not be shown to have done any calculable damage to the general interest, in and of themselves. However, sometimes, as in Judge Cacheris's direction of the first round of this case, the estimable damage done to the general interest is direct, immediate, and calculably substantial.

"Judge Cacheris's ruling implicitly creates an order in society in which each body of opinion attempts to impose its will by force, or force of corruption, on those of contrary opinions. Those aggrieved by this will quickly learn to hate our courts, and the names of 'judge' and 'jury' will become increasingly terms of contempt. When that happens, the institutions of law are in danger, because the courts themselves would have destroyed the institutions of law by the substitution of lawlessness of opinion for truth."

The law must never become a mere game played out by the legal profession and its clients. The law shapes the conditions which ultimately determine the continued existence or collapse of the order of our society. To treat the law as a game, and its rules like the mere rules of an organized competitive sport, is an obscenity per se. The law must be always the servant of the consequences of legal action in the real world at large. The only tolerable connection between the macrocosm of reality and the microcosm of each case, is the principle of truth. The implications of the Gandhi assassination are fresh, massive illustration of what destruction of our nation ever lurks wherever the principle of truth is thrown out of legal proceedings.

Schiller Institute
Third International Conference

"The Necessary Changes in America's Foreign Policy"

November 24–25, 1984
Arlington, Virginia
Registration begins at 8:00 A.M.
Admission: $25 per day
(included with membership)
Concert November 23, 8:00 P.M.

I wish to register for the Third International Conference of the Schiller Institute.
Enclosed is my check for: ☐ $25 one day ☐ $50 two days

Name _____

Street _____

City _____ State _____ Zip _____

Phone _____

Make checks payable to: Schiller Institute, Inc., 1010 16th Street, N.W., Room 300, Washington, D.C. (202) 955-5938