but to create an entirely new National Government with a National Executive, National Judiciary, and a National Legislature." In adopting that plan, the Framers envisioned a uniform national system, rejecting the notion that the Nation was a collection of States, and instead creating a direct link between the National Government and the people of the United States. . . . In that National Government, representatives owe primary allegiance not to the people of a State, but to the people of the Nation. As Justice Story observed, each Member of Congress is "an officer of the union, deriving his powers and qualifications from the constitution, and neither created by, dependent upon, nor controllable by, the states. . . . Those officers owe their existence and functions to the united voice of the whole, not of a portion, of the people."

We believe that the Constitution reflects the Framers' general agreement with the approach later articulated by Justice Story. . . .

For example, Art. I, 5, cl. 1 provides: "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members." The text of the Constitution thus gives the representatives of all the people the final say in judging the qualifications of the representatives of any one State. For this reason, the dissent falters when it states that "the people of Georgia have no say over whom the people of Massachusetts select to represent them in Congress.". . .

The merits of term limits, or "rotation," have been the subject of debate since the formation of our Constitution, when the Framers unanimously rejected a proposal to add such limits to the Constitution. The cogent arguments on both sides of the question that were articulated during the process of ratification largely retain their force today.

We are, however, firmly convinced that allowing the several States to adopt term limits for congressional service would effect a fundamental change in the constitutional framework. Any such change must come not by legislation adopted either by Congress or by an individual State, but rather—as have other important changes in the electoral process—through the Amendment procedures set forth in Article V. The Framers decided that the qualifications for service in the Congress of the United States be fixed in the Constitution and be uniform throughout the Nation. That decision reflects the Framers' understanding that Members of Congress are chosen by separate constituencies, but that they become, when elected, servants of the people of the United States. They are not merely delegates appointed by separate, sovereign States; they occupy offices that are integral and essential components of a single National Government. In the absence of a properly passed constitutional amendment, allowing individual States to craft their own qualifications for Congress would thus erode the structure envisioned by the Framers, a structure that was designed, in the words of the Preamble to our Constitution, to form a "more perfect Union."

'Clear the shadows over LaRouche'

by Prof. Tullio Grimaldi

Prof. Tullio Grimaldi is vice chairman of the Judiciary Committee of the Italian Chamber of Deputies in Rome, and a judge in the Italian Supreme Court, the Corte di Cassazione. Over May 5-12, he visited Washington, accompanied by the president of the Judiciary Committee, Tiziana Maiolo, and committee member Enrico Nan, for meetings in Congress to discuss the question of the exoneration of the American economist and political leader Lyndon LaRouche. Following the visit, Professor Grimaldi wrote the following comment for EIR.

Does the sentence against Lyndon LaRouche hide a true case of political persecution through a court action? This question accompanied the visit in Washington made some weeks ago by myself and two other members of the Judiciary Committee of the Chamber of Deputies.

There are many cases in history of political trials, and not infrequently one can speak of a plot, when the indictment goes against an uncomfortable personality whom someone tries to eliminate, or when it is conducted with the massive use of state agencies. That is why the function of judges should be more prudent, and all the more distanced and impartial, whenever elements of evidence may give rise to the suspicion that there is a plot from forces in power.

On LaRouche and his case, during a meeting in Rome we were briefed by James Mann, former member of Congress for the Democratic Party; also, more than a thousand members of parliament, politicians, and former members of government from a great many countries addressed a call to President Clinton for LaRouche's exoneration. This is the reason for the interest which this case holds for those who, like myself, have been dealing with jurisprudence, first as a judge, then as a university professor, and now as a member of parliament.

At a conference held in Eltville, Germany, on Dec. 10, 1994, which was reported on in the weekly news magazine *EIR* on Jan. 13 of this year, Representative Mann listed a series of very interesting and striking irregularities in the trial proceedings. He quoted a letter dated Aug. 19, 1982, sent by Henry Kissinger to then-FBI Director William Webster, in which Kissinger drew Webster's attention to some activities of LaRouche's organization. This letter seems to have given the true impetus for the legal action. The trial started in Boston, where it did not yield the hoped-for result; therefore, it was moved to Alexandria, Virginia, with a very rushed

procedure. The defense had less than 28 days to prepare, and was not given the opportunity to see the evidence of the prosecution. The jury, according to Mann, was not impartial. Among its members were employees of the federal government. Furthermore, a full preliminary questioning of the jurors to verify whether they had already formed their opinion on the case, a so-called *voir dire,* was not permitted.

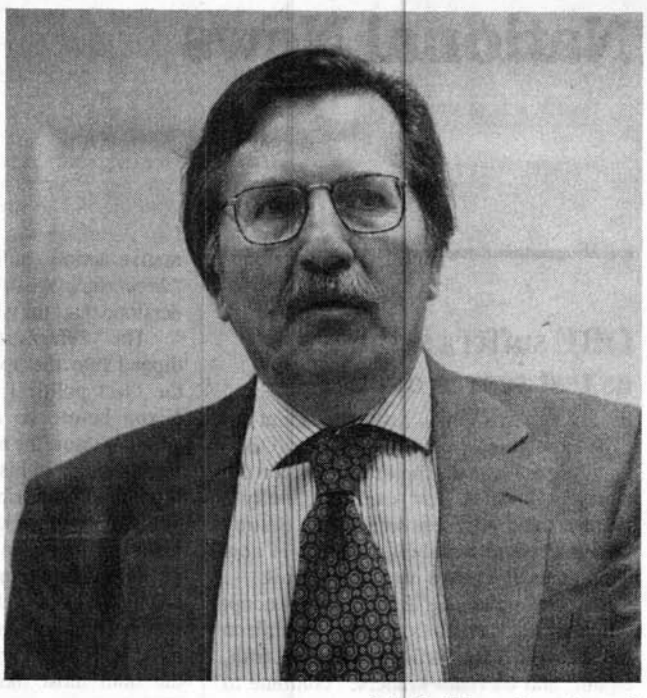
A prosecution inspired by political motives, a defense deprived of its opportunity to exert its function, a judge chosen according to the needs of the prosecution, and who was not impartial: The fundamental rules for a fair trial were therefore absent. But the Court of Appeals nevertheless called it a fair trial, and the Supreme Court confirmed that there were no substantial mistakes which would allow a retrial. Also, a retrial motion, known as a "2255 motion" in American law, was rejected. The contrary would have surprised me, since it was examined by the same judge who had handed down the sentence.

As for the main evidence, the bankruptcy which the LaRouche organization was accused of [having provoked], many suspicions have been raised, particularly on how potential witnesses were identified and interrogated, and only then declared that they had lost their money. As a matter of fact, a special civil bankruptcy court recognized later that the federal government's agencies had acted in bad faith with the bankruptcy procedure, and had defrauded the court.

The picture given by those who have followed the case very closely, would lead one to conclude that the trial and sentence were the result of machinations on the side of government agencies, for political reasons. I would not rush to support such a thesis, and no serious jurist would do so, without examining the trial proceedings. However, a number of impartial personalities, in the course of a conference held in Vienna, Virginia on Sept. 3, 1994, signed a document to that effect after reviewing the many volumes of court proceedings regarding this case.

The conclusion of their document is very clear: LaRouche's political activities were the only cause of the legal action undertaken by the government against him; the case was classified as a case of national security, in order to be able to use otherwise illegal means of investigation; the government exerted pressures on witnesses, and deliberately ignored all exculpatory evidence; the government illegally obtained a bankruptcy procedure (which was later vacated by a federal civil court), in order to forestall repayment of debts owed by organizations associated with Mr. LaRouche.

Was LaRouche tried and sentenced only for his political opinions, as James Mann stated? I have to admit that during my meetings in Washington, I did not find a confirmation of this hypothesis; but I did not find a denial, either. Two things particularly struck me. The first was that all members of Congress whom I met, claimed that they were not familiar with the case. Only one Republican member of Congress, with greater candor, admitted that LaRouche had made a lot



Prof. Tulio Grimaldi, vice president of the Judiciary Committee of Italy's Chamber of Deputies.

of enemies, and that even the Democratic Party would not help him. The second, was that in a telephone conversation our delegation held with Prosecutor Kent Robinson, organized by the Department of Justice. Mr. Robinson gave many details on the trial procedures, emphasizing more than once that all legal recourse had been exhausted, but he neglected to mention that a federal court had declared that the government-ordered bankruptcy procedure was illegal.

The question which arises at this point, is, how is it that a case like this, involving a political leader who was then a potential candidate in the Presidential elections, finds so little hearing in official circles, while the press decides to draw a curtain of silence around it, only to be broken through now and then by the voices of supporters and friends of those who were sentenced? How is it, that the concern felt abroad with regard to such a case, is not as strongly felt within the United States, not even among those circles *outside* the political parties, which are fighting for civil rights? How is it, that such weighty accusations against the government, and particularly against the Department of Justice and the FBI, have fallen into a void, without there having been, as yet, an investigation by the new Democratic administration to restore the truth?

Though I would not rush to make an evaluation, without the fullest information, I think I can say that a country which considers its judiciary system one of the best in the world should not allow shadows to remain over cases such as that of Mr. LaRouche, which have led to an international debate. And there is no doubt, but that this case has led to debate.