

by Martin Murie

(*Swans - December 18, 2006*) Another disaster year, but there are always those little-noticed flares of resistance, here, in these States of America. Alison and I want to put three of these on the year's gloom board. Look! Flickering lights that never quite go out.

First, the Lynne Stewart case. Stewart, a lawyer who specializes in defending difficult clients, was convicted of conspiring with terrorists. The federal prosecutors demanded a thirty year sentence. What was her crime? She contacted Reuters to forward a message from her client, Sheikh Omar Abdel Rahman, directed to his Islamic followers in Egypt, urging them to reject a current peace initiative. Two days later Stewart amended that statement to express the Sheikh's request to his followers to accept his personal opposition to the peace process, but urged them to consult among themselves for final decision. These acts occurred prior to 9/11.

Stewart admitted that this act did violate Special Administrative Measures (SAMs) that are issued case-by-case in connection with attorneys defending federal prisoners. One of the provisions of that SAM was a prohibition of forwarding messages from the client to the "outside." Meanwhile, federal agents eavesdropped on conversations between Lynne and the Sheikh, violating attorney/client privilege.

Her trial, beginning in April 2004, was riddled with the prosecution's injection of terrorist drama, completely irrelevant, offered merely as background, "state of mind," etc., containing not one shred of evidence of Stewart's connection to any conspiracy, and taking full and untruthful advantage of the post-9/11 hysteria.

We have omitted much detail, but the above covers the essential elements. The prosecution demanded a thirty year prison sentence! Sentencing was delayed several times. In October of 2006, Circuit Judge John Koeltl made his ruling. Here is the first line of the AP report: "A civil rights lawyer who has defended Black Panther and anti-war radicals was sentenced Monday to nearly 2 and 1/2 years in prison for helping an imprisoned terrorist sheik communicate with his followers on the outside."

Judge Koeltl, in challenging the federal prosecution's demand for a 30 year prison sentence, cited Stewart's "more than three decades of service to poor, disadvantaged and unpopular citizens." Koeltl went further, declaring that in her dedication to difficult clients she had "performed a public service, not only to her clients, but to the nation." Those were bold declarations on the judge's part, throwing down a gauntlet to the Patriot Act foisted on Americans under cover of post-9/11 lies and drummed up hysteria. As for Lynne, she held fast through it all, never backing down from her convictions. She will appeal the sentence. There it is, two fine acts of resistance. Thank you Judge John Koeltl. Thank you Lynne Stewart

Second, a cold day in Casper, Wyoming. A group of protesters, including my novelist friend Sydney Spiegel, had gathered over 500 Wyoming signatures asking for early troop pull-out from Iraq. Margaret Fuller led the group to the longtime Republican Congresswoman's office in the Dick Cheney office building to present the petitions. Shivering, they then adjourned to an outdoor space to hear a short speech by Fuller. She had never spoken in public before.

Any relation to Margaret Fuller, nineteenth century New England literateur and editor of *The Dial*? From Italy, in 1848, Fuller wrote a dispatch to the *New York Tribune*.

I find the cause of tyranny and wrong everywhere the same -- and lo! my country the darkest offender, because with the least excuse, forsworn to the highest calling for which she was called, no champion of the rights of men, but a robber and a jailer, the scourge hid behind her banner; her eyes fixed not on the stars but on the possessions of other men.

Apparently Sydney gave a little speech too, saying that the war in which he fought (War against Fascism) was "a war for freedom." The current conflict is "a war to try and turn Iraq into a colony." (Look for Sydney's work, especially his *All Empires Die*.) Pundits place Wyoming with Utah and Idaho as the heart of the conservative west. In many ways those states are obnoxiously dead set on "get government off our backs," a legacy from cattle baron days. But pundits rarely probe into ordinary life and daily struggles and the marvelous human diversity, and intelligence, in those beautiful states.

Third, the Conservation side of environmental politics. One of the big scandals of the past few years has been a huge real

estate development at the edges of San Diego that required a Multiple Species Conservation Plan. The plan was created by a coalition of city officials, development capitalists, and environmentalists meeting with Fish and Wildlife Service, the federal agency given overall decision-making powers by the Endangered Species Act (ESA).

The final document had spots of vague language; that is, loopholes. After the agreement was signed bulldozers ran wild. In one hard-hit area, vernal pools -- miniature seasonal wetlands -- were wiped out, sparing precisely one small token pool to harbor a number of endangered species including San Diego fairy shrimp, Otay Mesa mint, and San Diego button celery. We've been trained to shrug and mumble, "So what? Who ever heard of these species?" But the District Judge, Rudi Brewster, took a firm stand.

If this type of destruction is treated on a case-by-case basis as an unimportant loss, it does not take long before life on this planet is in jeopardy.

In his ruling, Judge Brewster sided with the plaintiffs, a coalition of environmental groups, including the **Center for Biological Diversity**. **David Hogan, urban wildlands director for the Center said**, "Brewster got it right."

The overarching controversy focuses on the distinction between the ESA's directive that a species must not only be protected so that it will continue to "exist," but that the ultimate goal is to establish it's "full recovery." The difference between these two terms is crucial. Full recovery means restoration to as much of the species original range as possible to give it an ability to survive catastrophes -- fire, flood, human intervention, etc., as well as ensure genetic diversity. Judge Brewster, chastising the Fish and Wildlife Service for signing off on the plan, ruled that the plan had to be re-worked to create pathways to full recovery of the species.

David Hogan put it this way: "This decision may set an important precedent because the government has previously disregarded its obligation to use these plans to further *recovery*" (my emphasis).

It's a fact that not all law people have tossed away their common sense and stubborn independence. Is the San Diego ruling startling enough to be listed here as a bit of good news? Yes, because behind the scenes, unknown to most of us, a fantastic array of unlawful shenanigans has occurred in the traditional bailiwicks of environmentalism. As **Hogan** intimated, little victories mean big opportunities. So, let's open our arms, offering big hugs to honorable law people, scattered here and there. And to protesters of many stripes, many talents; scattered but holding ground, lighting candles, sending up flares.