



LaRouche cases get 'discriminatory, selective, and vindictive prosecution'

The year 1987 is the bicentennial of the birth of the U.S. Constitution, created as the culmination of decades of bloody battle for a republic in the New World. The Constitution's drafters were intent on creating a document that would guarantee, through the delegated power of an educated population, the personal freedoms requisite to the proper functioning of a democratic republic. Chief among those freedoms was the freedom of political belief.

That freedom is today in great jeopardy, as we will show in the series inaugurated here, drawing on the court papers in the ongoing campaign of the U.S. Justice Department against Lyndon LaRouche, Jr. and associates. The document excerpted below is a stinging indictment of the illegal and vindictive use of governmental power to prevent and ultimately destroy the exercise of that precious political freedom, by a "dissident" political faction in the United States, headed by presidential candidate LaRouche. This "Motion to Dismiss Superseding Indictment on Grounds of Discriminatory and Selective and Vindictive Prosecution," is a leading part of the argument on behalf of defendants in the case, currently pending in the U.S. District Court, District of Massachusetts, United States of America v. The LaRouche Campaign, et al. Defendants are political figures, campaign associations, and publishing companies associated with LaRouche, specifically with his 1984 bid for the presidency.

As the excerpts below make clear, a "classic exercise of the American fundamental right to speak out on public issues and to seek election to public office in our free society," has been selectively harassed, using the broad powers of the U.S. government's judicial authorities, for the sole purpose of stopping LaRouche from gaining broader political influence.

Campaigns by other Democratic presidential hopefuls, including Walter Mondale, Alan Cranston, Gary Hart, and John Glenn, were never prosecuted, even though prosecutable offenses occurred, of greater consequence than those alleged against LaRouche.

The reasons for William Weld and other Justice Department and FBI officials' witchhunt against LaRouche and his associates, are spelled out in this document: LaRouche "focused popular attention" on the international illegal drug industry and the role of the Eastern Liberal Establishment in purveying drugs; he led a campaign for the U.S. Strategic Defense Initiative; he exposed the Justice Department and FBI's role in covering up the government's illegal arms deals with the Khomeini regime in Iran, long before "Irangate" started.

In this 200th anniversary year of the American Constitution, this Memorandum, and the legal proceedings of which it is a part, will play a critical role in the war to preserve the Constitutional heritage, for which the nation's forefathers sacrificed everything.

The Defendants (being all Defendants other than Roy Frankhouser) hereby present this memorandum In Support of their Motion before this Honorable Court to dismiss the superseding indictment in this case as being in violation of the Fifth Amendment to the Constitution of the United States for the reasons as follow:

This Memorandum will show those facts in the possession of the Defendants supporting the defense of selective prosecution. The detailed factual sections of this Memorandum demonstrate that 1984 Presidential candidates other than

Lyndon LaRouche were not proceeded against criminally for similar acts to those alleged in this indictment. The facts alleged also show that the motive for this action was a concern on the part of certain persons in government that Mr. LaRouche's politics and policies were gaining too much influence. In short, defendants believe that the government, for political reasons, is trying to eliminate the LaRouche political influence through this prosecution. . . .

II. Factual background of alleged campaign irregularities

Lyndon H. LaRouche, Jr. of Leesburg, Virginia campaigned actively in 1984 for election to the office of President of the United States. Mr. LaRouche sought the nomination of the Democratic Party by entering 13 primary elections. The organizational vehicle for this campaign was Defendant The LaRouche Campaign (TLC), a principal campaign committee registered with the Federal Election Commission (FEC). During the nomination phase of the campaign Mr. LaRouche received 123,649 votes in primary elections. TLC raised substantial funds and received authorized payments of Federal Electional Matching Funds of approximately \$500,000.

After the Democratic Party nominated Walter F. Mondale, Mr. LaRouche campaigned for President as an "independent Democrat." The campaign organization for this political effort was Defendant, Independent Democrats for LaRouche (IDL). Mr. LaRouche was placed on the ballot in the general election for President in 1984 in 19 states. He the ballot in the general election for President in 1984 in 19 states. He received 78,807 votes in the election.

A. LaRouche-National Security Council connection

During the 1984 campaign a number of U.S. media organizations attempted to focus attention on the growing policy influence of Mr. LaRouche and his associates on the highest levels of the U.S. Government. In March 1984 NBC Television News aired a report on its First Camera news program which investigated, among other issues, the acknowledged relationships which had been established in 1981 through 1983 between Mr. LaRouche and the National Security Council (NSC) staff in the White House. NBC aired an interview with Dr. Norman Bailey, Director of International Economic Policy for the NSC staff, who acknowledged a flow of policy input from Mr. LaRouche and his associates into the NSC decision-making process during the 1981-83 period. Dr. Bailey said Mr. LaRouche and associates were "one of the best private intelligence services" in the world, and defended the White House policy of taking information from any source in the process of national security decision making.

Following the First Camera report, the weekly public affairs magazine *The New Republic* commissioned a further investigation of Mr. LaRouche's influence on NSC deliber-

ations. This article, written in part by a long-time bitter opponent of Mr. LaRouche, Dennis King, was released by *The New Republic* via a press release on October 31, 1984, scarcely a week before the national election, on November 6, 1984 under the title "The LaRouche Connection." The article is filled with invective against Mr. LaRouche resulting from a long-running feud with Mr. King, and those portions should be discounted for that reason. The timing of release of the article apparently was intended to harm the Reagan re-election campaign by linking his administration's policy making to LaRouche and associates. As this Court will realize, the timing of this article was simultaneous with the beginning of Mr. William Weld's highly unusual prosecution of Mr. LaRouche and associates in this case.

B. Beginnings of the Weld investigation

The acknowledged facts of the time of the beginning of this case merit some discussion in light of the timing of the First Camera report and *The New Republic* article detailing Mr. LaRouche's connections to the National Security Council and the general election of November 1984. FBI agent Richard Egan (in charge of the FBI investigation of this case) testified at the detention hearing of Defendants Spannaus, Greenberg and Scialdone in this case that Mr. LaRouche came to his attention in October 1984 from citizen complaints and from a television news report critical of Mr. LaRouche aired by the NBC affiliate in Boston, WBZ-TV on or about October 29-31, 1984. WBZ-TV news reported that Mr. Weld had empanelled a grand jury in Boston to investigate Mr. LaRouche. Mr. Egan testified further that he telephoned the bank in New Jersey handling IDL and TLC accounts on or about October 31, 1984 to inform the bank that IDL and TLC were under investigation for fraud and to expect a subpoena for bank records of those organizations. Mr. LaRouche's election-eve broadcast of 30 minutes scheduled to be aired nationwide on the night before the national election was cancelled when the bank froze IDL and TLC accounts following Mr. Egan's telephone call. Not only was Agent Egan active on October 31, 1984, an FBI telex message released pursuant to the Freedom of Information Act reveals that Mr. Weld was personally involved on that day. The message from FBI Boston to FBI Director states, "United States Attorney, William F. Weld, Boston, advised on October 31, 1984, that he wishes to move expeditiously in this matter since it affects the integrity of the Presidential election process." (See Exhibit 11)

Therefore without characterizing these facts further here, it can be said that actions of Mr. Weld, NBC affiliate WBZ-TV and FBI agent Egan based upon unproven allegations worked in concert to halt Mr. LaRouche from addressing the nation on CBS-TV network the night before the 1984 U.S. Presidential election in which Mr. LaRouche was a qualified candidate in 19 states. Coincidentally or not, these events occurred at a time when Mr. LaRouche's connections to White House policy making on crucial national security is-

sues was an item of discussion in political circles.

The purpose of detailing these facts in chronological context is to point out a portion of the evidence of motive on the part of Mr. William Weld in this case. Defendants believe that motive was to stop Mr. LaRouche's growing political and policy influence through a prosecution of key associates of Mr. LaRouche on as many legal theories as possible. . . .

C. News gathering of interest to intelligence agencies

Mr. LaRouche and associates are affiliated in varying degrees through an international news gathering organization called the New Solidarity International Press Service (NSIPS), best known by its principal publication, the newsweekly *Executive Intelligence Review* (EIR). This news service maintains offices in 12 countries as well as 19 offices in leading cities in the United States. The writers for this service investigate and analyze world-wide critical political events. Predictably this information network became of interest over a decade ago to the intelligence services of various nations, including the U.S. Central Intelligence Agency and the FBI. Given the covert operational technique of these secret services, NSIPS is only partially aware of the extent of efforts made to surveil, penetrate or otherwise affect NSIPS operations.

However, NSIPS, being a news service, has not avoided contact with the United States Government for the reason that it is not averse to sharing information with the government in projects of mutual concern. For over 11 years Mr. LaRouche and associates have maintained a dialogue with elements of the U.S. Government on selected issues, usually those of foreign intelligence gathering and long-range policy concerns. Mr. LaRouche and associates have purposefully avoided formal attachments to the CIA (and other secret services) in order to maintain independence of thought and analysis.

The government's witnesses (revealed by Agent Egan in his testimony at detention hearings in this case) Roy Frankhouser, and the unindicted Forrest Lee Fick, represented themselves to Mr. LaRouche and associates as a channel of communication with the CIA. Mr. Frankhouser served in this self-described role from 1975 to the time of his indictment, while Mr. Fick came forward under this pretext through Mr. Frankhouser's recommendation in 1982. The official nature of this contact has been confirmed by reliable information, the revelation of which might involve release of classified national security information. The nature of their role has been further confirmed by Mr. Frankhouser's otherwise inexplicable access to U.S. Government intelligence documents, as well as Mr. Frankhouser's use of U.S. intelligence tradecraft. In addition, the U.S. Government has admitted in court documents the truth, among others, of Mr. Frankhouser's covert operational role on behalf of the NSC for the Nixon White House in 1972.

Mr. Fick's self-admitted status as a CIA operative work-

ing in the realm of infiltration of international paramilitary organizations has been confirmed by reliable information, the release of which might involve a release of classified national security information. Mr. Fick is publisher of the internationally circulated "Dragon Fire" newsletter. "Dragon Fire," according to Fick is funded by the U.S. Government under the auspices of the CIA as a method to infiltrate and influence international paramilitary terrorist groups.

The association of some Defendants with Frankhouser and Fick is, according to the latter two, a channel of communication to the CIA and perhaps other U.S. Government agencies *at the request of those agencies*.

In this context it is interesting to note FBI agent Richard Egan's testimony on October 9, 1986 at a detention hearing in this case in which he stated that he had not checked with the CIA to determine the status of Mr. Frankhouser and Mr. Fick with that agency, despite his knowledge that these persons had made the claim of CIA affiliation to the Defendants for a period of years.

. . . The government's case supposedly originated with the "credit card fraud" irregularities alleged during the LaRouche 1984 presidential campaigns. It is appropriate to review how the government had treated similar irregularities in other Presidential campaigns in 1984.

III. Irregularities in other 1984 presidential campaigns

In 1984 U.S. Senator Alan Cranston (D-Calif.) sought the Democratic presidential nomination. During the Federal Election Commission (FEC) audit of the Cranston campaign, the FEC discovered a pattern of "bad checks" issued by the Cranston Campaign. The FEC "Bad Check List-Final" lists a total of 736 checks totalling \$166,498.07 which were returned as insufficient funds checks, i.e., "bounced checks" in the vernacular.

The FEC Final Audit Report states on this issue, "The Commission has not previously encountered the issuance of insufficient fund checks on such a large scale by a publicly-funded committee. Here the Committee issued hundreds of bad checks under circumstances suggesting either knowledge that the checks were unsupported or at least disregard for whether there would be sufficient funds to cover the checks."

The government's solution to this pattern was to disallow federal matching funds for the \$5,502 of bank returned check charges incurred by the Cranston campaign. There was no criminal investigation nor a criminal prosecution of Mr. Cranston, his campaign Committee staff and associates.

By contrast, the indictment in this case charges a total dollar amount of approximately \$58,000 of "unauthorized credit card charges" from 58 individual complaints against Mr. LaRouche's campaign committees and other organizations and corporations, using theories of wire and mail fraud.

The government certainly could have investigated the Cranston campaign for wire and mail fraud for use of the mails and telephones to engage in the Cranston bad check

scheme. Yet there is no indication that such an investigation was contemplated, even less conducted. In the LaRouche matter, according to FBI agent Egan, the FEC turned over all of its files to William Weld and assisted criminal prosecution at every step. Also, FEC Associate General Counsel Kenneth A. Gross has testified that the FEC made a formal referral of LaRouche campaign matters to the Department of Justice and Mr. Weld.

In 1984 then U. S. Senator Gary Hart (D-Colo.) sought the Democratic nomination for President. Similarly to the Cranston campaign, the FEC determined in its final audit report of the Hart campaign that:

"A review of the Committee's disbursement activity revealed that the Committee was charged \$4,862.00 in service charges for checks drawn on accounts with insufficient funds. . . . In response to the Committee's argument that the overdrafts were nonsystematic and inadvertent and primarily occurred in state and local accounts, a review of the overdraft charges reveals that the majority of the charges were in fact from the Committee's headquarters operating account and two state accounts. . . . Therefore it appears that the overdrafts in these two state accounts occurred at a crucial time period in the campaign in those two states when an adequate cash flow was most important. . . ."

As in the Cranston case the FEC's sole response to this pattern of bad checks was to disqualify the bank service charges for federal matching funds payments. There were no criminal investigations of Senator Hart, his campaign, staff and associates for mail or wire fraud, and there was no referral of the matter to the Department of Justice.

In 1984 U.S. Senator John Glenn (D-Ohio) sought the Democratic nomination for President. During Senator Glenn's short-lived campaign, in February 1984 a consortium of Ohio's banks loaned his campaign a total of \$2,180,000 and issued letters of credit for an additional \$196,565. These loans were secured by 1) a lien on anticipated federal matching funds, 2) "comfort letters" from at least 15 Glenn supporters who pledged their "best efforts" to raise money to retire the indebtedness, and 3) a life insurance policy on Senator Glenn.

Senator Glenn's campaign failed to gather anticipated public support and he withdrew from the race in March 1984. Small repayments were made on the loans, but at campaign's end the bank consortium was owed \$1,900,000.

The size of the illegal contributions to Glenn, alleged by the government, \$1,900,000, dwarfs the charge in this case, \$58,000.00, yet the Government does not pursue criminal penalties.

After the 1984 campaign, Senator Gary Hart's campaign remained awash with debt, according to FEC records. As of the third quarter of 1986, Senator Hart's campaign reported a total debt of \$2,423,228.32. Beginning December 3, 1985, the Hart campaign informed the FEC that it would initiate a program of requesting its creditors to settle their claims against the campaign for large discounts of the amount owed. To

date these "settlements" to creditors have erased \$653,062.11 of validly occurring obligations for payment of \$1 67,995.32, for an average settlement rate of 25% of the original amount owed.

To date the FEC has taken no action on these debt settlements by the Hart campaign. There has been no criminal investigation of Senator Hart, his campaign and staff for mail fraud and wire fraud for these "debt settlements" at 25 cents on the dollar. Yet the government accuses Independent Democrats for LaRouche in this indictment in Counts 117-123 of incurring debt with no intention of paying it back, or only making partial payment on the debt. The same charge apparently could be made against Senator Hart and might find supporters among the creditors who took 25 cents on the dollar in return for their claims.

In 1984 Walter F. Mondale, former Vice-President of the United States, sought election as President of the United States. During Mr. Mondale's campaign, his organization was accused by Senator Hart's campaign of having violated federal laws enforced with criminal penalties by forming "delegate committees" to launder approximately \$3.5 million in campaign funds in excess of spending and contribution limits set by federal statute. To comply with the law, these "delegate committees" would have needed to have been independent of and not controlled by the Mondale campaign. Senator Hart's campaign charged that these committees were founded and directed by the Mondale campaign under a scheme created by the General Counsel to the campaign.

After Mr. Mondale lost the election in November 1984, the FEC entered into a "conciliation" of these violations with the Mondale campaign which resulted in the Mondale campaign repaying \$350,000 of federal matching funds to the U.S. Treasury. In return there was no civil or criminal investigation of Mr. Mondale, his campaign and associates.

The FEC has spoken on the record to explain the difference between its treatment of candidates Mondale and LaRouche. Judge Gerald L. Goettel, District Judge in the U.S. District Court of the Southern District of New York asked the attorney for the FEC before him in a matter involving LaRouche to explain the difference in treatment. That attorney for the FEC, Richard Bader, Esquire, stated that the distinctions were that the Mondale people requested conciliation, and

"The other distinction is the Mondale people of course, were willing to pay \$350,000 to the treasurer as liquidation of whatever overpayments there were, and that was deemed an adequate and rather large, in light of our other cases, remedy which would, at the same time, avoid what would have been an extraordinarily large investigation throughout the country, involving hundreds of political commissions, something the commission had to take into consideration, with its meager administrative resources. . . ."

It goes without saying that the government has not been similarly constrained in this investigation of LaRouche and associates.