
Documentation

The case against D.A. Robert Morgenthau

Judge Jeffrey Atlas of New York Supreme Court, in a ruling expected to be immediately appealed, denied two separate motions to quash grand jury subpoenas against individuals associated with *EIR* founder Lyndon H. LaRouche, Jr. The motions had seemed to unnerve New York District Attorney Robert Morgenthau. The National Caucus of Labor Committees, which LaRouche chairs, had filed an "intervenor's motion" to halt Morgenthau's witch-hunt against the LaRouche network, asking the court to quash subpoenas pending against PMR Printing Company and nine NCLC members.

The case stemmed from a raid on PMR related to an Oct. 24 supplement appearing in the *New York Times*, but said by the *Times* to have been bogus. Atlas's denial of the motions means that grand-jury proceedings could begin within a matter of weeks.

As the motion filed by the NCLC's National Executive and National Committees by Boston criminal attorney Odin Anderson states, "the Manhattan District Attorney's Office, and other parties are engaged in a protracted campaign to destroy the NCLC because of political animus for the policies and program of the association. The present investigation of the 'Profiles of the Times' incident merely provides a suitable pretext to accomplish that end.

"As provided in the included affidavits, the petitioners contend that the NCLC is the target of this grand jury investigation. Further, the petition asserts the grand jury lacks subject matter jurisdiction for this investigation; that said investigation is being conducted in bad faith and for political harassment purposes; and that abuses of the grand jury process have already taken place."

Therefore, the motion asserts, the grand-jury proceedings have the effect of "chilling," that is, inhibiting the First Amendment rights of the association.

This is further substantiated by the fact that DA Morgenthau has refused to disclose what crime—if any—he is investigating, even though grand jury proceedings in the State of New York, when dealing with non-government officials, are authorized to investigate only crimes specified by the District Attorney.

The motion states: "As the courts in this state have previously and properly realized, "The powers of all inquisitorial bodies are subject to the limitation that their power is to be exercised, not as an end in itself. . . In the face of allegations

of harassment and bad faith, the government must minimally describe a relevant scope of inquiry and establish some basis for inquisition of and through the witnesses subpoenaed. . . . The court should quash all subpoenas where the government falls short of this threshold as does the Manhattan District Attorney's Office in this case."

Following are excerpts from the affidavits of NCLC National Committee member Kenneth Kronberg, president of PMR Printing Company, and NCLC National Committee member and security consultant Jeffrey Steinberg, submitted in support of the motion.

From the affidavit of Kenneth Kronberg

1. I am a member of the National Committee of the National Caucus of Labor Committees ("NCLC"), and the President of PMR Printing Company, Inc. ("PMR"). I make this affidavit in support of the motion by the National Executive Committee and the National Committee of the NCLC to intervene in grand jury proceedings conducted by the District Attorney of the County of New York, to enjoin those proceedings. . . .

2. . . . I believe that the NCLC organization is a target of the grand jury investigation and that the investigation is being conducted in bad faith for political harassment purposes. The National Executive Committee of the NCLC and the National Committee of the NCLC are the governing bodies of the NCLC political association and are elected by the membership on a bi-annual basis to initiate and assure the execution of the political policy initiatives of the organization. The NCLC is an unincorporated political association. Members of the NCLC intervene in political events internationally, primarily on behalf of the NCLC's campaign for a New World Economic Order based upon policies of high-technology economic development and associated policies for scientific breakthroughs at the frontiers of human knowledge. In campaigning on behalf of these policies the NCLC has developed a unique political intelligence capability, allowing the organization to understand and influence strategic political events. The accuracy of this intelligence capacity is the primary basis for the NCLC's survival against powerful political opponents who propose a new Malthusian world order based upon "controlled disintegration" of the world economy. Since its founding in 1968 by Lyndon LaRouche, the NCLC has vigorously campaigned against proponents of the new Malthusianism and the genocidal consequences of such policies, particularly in Third World nations.

3. On November 16, 1982, the premises of PMR Printing Company, Inc. in New York City were searched by 17 individuals identifying themselves as detectives of the New York City Police Department. Twenty-three employees of PMR Printing Company, Inc. were subpoenaed by the identified police officers to appear before the New York County Grand Jury on that date. The police officers issued subpoenas to every person on PMR's premises in a blanket subpoena process which has been challenged on behalf of the individ-

uals in proceedings by their attorneys. A motion to quash those subpoenas is presently pending before Justice Jeffrey Atlas of this Court.

4. Nine of the individuals subpoenaed on November 16, 1982 are members of the National Caucus of Labor Committees. PMR Printing Company, Inc. is managed by members of the National Caucus of Labor Committees and owned by members of the NCLC or its supporters. All publications written and published by members of the NCLC or organizations associated with Lyndon H. LaRouche, Jr. are printed at PMR Printing Company, Inc.

5. Since the NCLC is the investigative target of the Grand Jury, and since the First Amendment associational and speech rights of the NCLC are at stake and adversely affected by the bad faith investigation conducted by the District Attorney, I believe that the NCLC is the real party in interest in these proceedings. The NCLC cannot protect its rights and the rights of its members without the Court granting its right to intervene and be heard concerning the nature of the District Attorney's investigation and bad faith harassment motive dominating that investigation.

From the affidavit of Jeffrey Steinberg

7. Since October 26, 1982, I have been in receipt of information from confidential law enforcement sources and other confidential news sources indicating that the NCLC and members of its National Committee and National Executive Committee are the targets of the grand jury's investigation and that the grand jury process is being utilized to generate information concerning the NCLC and its leadership and activities, which is not relevant to a legitimate grand jury investigation. The information is being sought primarily for political harassment purposes by and through political opponents of Lyndon LaRouche and the NCLC.

8. The information received falls into three broad categories:

(a) the grand jury process in New York County is being utilized for purposes of generating information for civil lawsuits by the *New York Times*, Roy Cohn, and other individuals;

(b) information developed from the grand jury proceedings in New York County and the District Attorney's investigation and presentation to the grand jury is being discussed in detail with political opponents of Lyndon LaRouche, including the *New York Times*, *Our Town* newspaper, Dennis King, Kalev Pehme, Chip Berlet, and Roy Cohn, and with federal law enforcement authorities not assigned to this investigation by the District Attorney's office: and

(c) the purpose of this investigation and other political harassment operations conducted at the same time is to financially drain the NCLC, destroy its political policy and information-sharing relationships with law enforcement and government personnel, and destroy the very fabric of the NCLC political organization. . . .

10. On October 26, 1982, the article annexed as Exhibit "B" was published in the *New York Times*. According to

that article, Manhattan District Attorney Robert Morgenthau began investigating a pamphlet entitled "Profiles of the Times" on October 25, 1982 upon complaints from the *New York Times* and Roy M. Cohn.

11. In the article annexed as Exhibit "B," *New York Times* general counsel Catherine Darrow states that the insertion of unauthorized advertising sections in newspapers or magazines is a misdemeanor under New York law. According to the *Times* account, copies of the pamphlet were delivered by three men in a dark van to newsstands in Manhattan and Queens. Some newsdealers said the deliverers instructed them to insert the article in the *Times*, and about 1,000 copies of the pamphlet may have been circulated, according to the *Times* account.

12. My attorneys have told me, after reading the *Times* account of the reason for the investigation and the New York Penal Code, they are unable to find any criminal misdemeanor or specifically statutorily defined by the events described in the *New York Times* account of the incident and no case law specifically

told me that the New York Penal Code is strictly construed. My attorneys have also told me that the persons responsible for "Profiles of the Times" might be subject to civil damages suits including defamation and possible unfair competition lawsuits by the individuals portrayed in "Profiles of the Times" and by the *New York Times*. . . .

Paragraphs 23-38 detail the reports of confidential informants to the effect that persons including Dennis King and Edward Kayatt of the newspaper Our Town, Joe Conason of the Village Voice, and Chip Berlet of High Times are receiving materials from the grand jury's investigation; note that Our Town has posted a \$10,000 reward for information on "Profiles of the Times"; and report that the Federal Bureau of Investigation has become involved in the case, according to information from confidential informants. . . .

39. According to information received from confidential informants and my own personal investigation, Robert Morgenthau is a close personal friend of Ariel Sharon, the Defense Minister of Israel. Morgenthau is presently the national co-chairman of an organization called International Conference for PEACE, a propaganda organization for West Bank expansion policies founded by Ariel Sharon in the United States.

40. The NCLC, in political campaigns within Israel, Western Europe and the United States for Middle East peace based upon intensive scientific and economic development of the entire Middle East, has consistently opposed the Sharon faction in Israeli politics. The NCLC has investigated and exposed the domination of this faction by organized crime elements acting against the interests of the Jewish state.

41. Meir Jolowitz, a national board member of PEACE, is also the National Director of the Jewish Defense League ("JDL"). Jolowitz, according to a confidential source, has received assurances from Morgenthau that any attacks conducted by the JDL against the NCLC will not be prosecuted.

42. In August and September of 1980, Citizens for LaRouche, the campaign committee for Lyndon LaRouche's presidential bid, received numerous death threats and warnings of physical assaults from the JDL. Complaints concerning these JDL activities were delivered by Citizens for LaRouche to the U.S. Attorney's office in the Southern District of New York and to Robert Morgenthau. Despite advice by the U.S. Attorney for the Southern District of New York that the complaints seemed to specify the crime of aggravated harassment under the New York penal law, Morgenthau and Assistant District Attorney Harold Wilson refused to investigate or prosecute these JDL activities. Harold Wilson is the Assistant District Attorney presently assigned to the investigation of "Profiles of the Times". . . .

44. In 1978, Paul Gallagher, a member of the National Committee of the NCLC had his skull fractured by David Newsome, an individual who engaged in occasional peripheral political activities with the NCLC.

45. The Manhattan District Attorney's office prosecuted Newsome for robbery and assault. Shortly before the trial Assistant District Attorney Robert Gottlieb demanded that Lyndon LaRouche appear at the trial in communications to Lyndon LaRouche's attorney. The reason for the appearance according to Gottlieb was that Newsome, a deranged individual, who insisted that he heard voices in his head, stated that Lyndon LaRouche had ordered him from Western Europe to assault Gallagher.

46. As a security consultant to LaRouche working in conjunction with security professionals, I was extremely concerned by these developments. Shortly before Gottlieb's demand, which our attorney advised me made no legal sense, LaRouche had been the victim of a serious security incident in Detroit where individuals associated with terrorist organizations had attempted to block his vehicle as it approached a major publicized speaking event in Detroit, Michigan.

47. I sought to arrange for appropriate security for LaRouche's testimony with Robert Gottlieb and with the District Attorney's office. All cooperation was refused by District Attorney Robert Morgenthau. Federal court intervention and a major minimal protection being provided LaRouche for his testimony. . . .

50. In October of 1979, the *New York Times* published a three-part series on the National Caucus of Labor Committees in which the FMR Printing Company was identified as one of three companies "controlled by party associates."

51. The defamatory articles by the *Times* were published, according to the co-author Paul Montgomery, for the purpose of launching law enforcement investigations against LaRouche and his associates **regardless of the truth or falsity of the allegations.** (See the affidavits of Paul Goldstein and Charles Tate annexed as Exhibit "E"). Specifically, the *Times* insisted that LaRouche be investigated for tax purposes (see Exhibit "F" annexed hereto) and called for the Federal Election Commission to deny Lyndon LaRouche's

1980 Democratic presidential campaign its federal matching fund application. The *Times* article also emphasized the necessity for investigations concerning LaRouche's ties to elements of the United States intelligence community. . . .

53. The *New York Times'* October, 1979 series of articles had originally been scheduled for publication in the summer of 1979. However, the National Caucus of Labor Committees learned the pendency of the defamatory series and interviewed reporters Howard Blum and Paul Montgomery prior to publication concerning their motives and the content of the article.

54. As a result of Blum's and Montgomery's disclosures of malice during that interview, and widespread circulation of these disclosures by the NCLC, the *Times* publication was delayed. However, beginning on August 24, 1979, *Our Town*—the publication now offering a \$10,000 reward for information in District Attorney Morgenthau's investigation of the NCLC—began a defamatory series on the NCLC. The author of these articles was Dennis King, an individual associated with the terrorist Yippie organization and formerly associated with the violent and anti-Semitic Progressive Labor Party, and, according to the information specified in this affidavit, an individual now receiving materials from the grand jury investigation. . . .

57. Roy M. Cohn is the attorney for Edward Kayatt and *Our Town*, and Cohn's lawfirm, Saxe, Bacon & Bolan defended the newspaper, Kayatt, and King in a subsequent lawsuit brought by LaRouche. Upon information and belief, Roy M. Cohn sponsored and instigated the *Our Town* series of defamations. Kayatt began the *Our Town* publishing venture following his conviction in U.S. District Court for the Eastern District of New York on a felony charge stemming from his participation in a counterfeiting ring.

58. *Our Town* has published numerous defamatory articles on LaRouche and his associates since the 1979-1980 Dennis King series. These publications included prominent front-page identification of LaRouche's New York address and pictures of that residence with the full knowledge that LaRouche is a target of death threats and violence from the Jewish Defense League and other terrorist organizations. Reporters for *Our Town* have actively harassed LaRouche's neighbors in an unsuccessful effort to force a "community" outcry against LaRouche's presence in the neighborhood.

59. At the instigation of the *New York Times*, *Our Town*, and the Democratic National Committee, the Federal Election Commission ("FEC") did, in fact, launch an investigation into the financing of Lyndon LaRouche's 1980 presidential campaign. The FEC investigation was conducted throughout the 1980-81 period.

60. On March 9, 1982, a preliminary injunction was granted on grounds of bad faith harassment against the FEC investigation into Citizens for LaRouche (LaRouche's principal campaign committee) by the United States District Court for the Southern District of New York, Charles Brieant, USDJ.