

State anti-LaRouche cases unraveling?

Judge Stephen Crane of the New York State Supreme Court in New York County, on Jan. 11 dismissed all felony charges against four longtime associates of Democratic presidential candidate Lyndon LaRouche: David Stephen Pepper, Judah P. Rubinstein, Nancy Spannaus, and Edward Spannaus. The four were indicted with 11 others in a sweeping 18-count indictment in March 1987. Judge Crane dismissed felony securities fraud and consumer fraud charges against the four, because he found that the evidence presented to the New York grand jury was "legally insufficient" to require these defendants to stand trial.

The case was brought by the office of Attorney General Robert Abrams, because, as an article in the March 17, 1987 *Washington Post* stated, New York authorities hoped to bring down the fundraising efforts of LaRouche associates "like a house of cards."

The judge also dismissed the fraud charges because, in violation of a case decided by the New York Supreme Court, the evidence presented on these substantive counts was identical to evidence presented on the charge of conspiracy still pending against Mr. and Mrs. Spannaus, Mr. Pepper, Mr. Rubinstein, and the other defendants in the case. The conspiracy count is only a misdemeanor under New York state law.

Crane implied that other defects in the case may lead to further dismissals. The judge was especially concerned about the jurisdiction of the New York County court over acts which occurred outside the County and State of New York. The court asked for additional submissions on the jurisdictional issue by Feb. 9. Further rulings are expected on Feb. 22.

The judge also pointed out that the New York attorney general's presentation to the grand jury on defendant Lynne Speed, who was added in a superseding indictment returned in September 1987, was bungled in such a way that the attorney general may have to redo his entire presentation against Mrs. Speed.

The New York ruling is one of three handed down by judges since Jan. 7, which suggest that the series of ill-conceived, politically motivated cases brought in various states against friends of candidate LaRouche is about to unravel.

Political loans not securities

In Chicago, Judge Thomas Hoffman on Jan. 8 threw out a civil complaint alleging fraud in the solicitation of contributions and "loans," against Campaigner Publications, Caucus Distributors, Inc., the Schiller Institute, and three individuals. Hoffman, in a seven-page written opinion on a motion to dismiss in the case *Froelich v. Campaigner et al.*, stated that loans made to political causes are not securities.

The significance of this ruling for numerous so-called securities cases brought against organizations and individuals associated with Lyndon LaRouche lies in the fact that, despite numerous administrative findings on this issue, this is the first time a court has ruled on this question. And while securities officials in numerous states have asserted that these political loans are securities, a trial judge has now ruled, and made clear, that he believes they are not.

Citing the language of the Illinois statute on securities, and numerous cases which have refined its interpretation, Judge Hoffman dismissed the allegations of securities fraud and consumer fraud as "containing no merit." After reading his opinion into the record, Judge Hoffman, in response to an argument from Mr. Froelich's attorney, that these were in fact investments, and therefore should be considered "securities," retorted: "If any promissory note or other record of indebtedness that bears interest can be considered a security, then we're all in a lot of trouble."

Virginia search case

A Jan. 7 ruling by the U.S. Appeals Court for the Fourth Circuit in Richmond, Virginia is a partial setback for the prosecutorial vendetta of state Attorney General Mary Sue Terry. In the case of *Fusion Energy Foundation, et al. v. Terry, et al.*, the Appeals Court held that the infamous Oct. 6, 1986 raid in Leesburg raised certain factual and legal issues which could not be summarily adjudicated by a federal District Court.

Reversing in part the summary judgment which District Court Judge Richard Williams, of the Eastern District of Virginia, granted to Terry and her renegades, the Appeals Court specifically ruled that the authority of a state officer, Virginia State Trooper R.H. Perry III, to conduct a search and seizure under a federal warrant is still open to dispute. The Appeals Court did, however, recommend that the District Court stay the proceedings until the criminal cases pending in Loudoun County are concluded.

District Court Judge Williams had issued a summary judgment against six LaRouche-associated organizations whose documents were seized during the Oct. 6-7, 1986 raid by federal and state agents on their offices in Leesburg. The organizations had claimed that they were not targets of the search; and that the documents seized were taken in violation of their Fourth Amendment rights. The plaintiffs sought the return of their documents, and "the identification of persons to whom information set forth in those documents has been made known."