

## Du Pont heir puts 'Get LaRouche' mob on trial

by Frederic Henderson

The first three days of the trial to vacate the unprecedented November 1986 ruling that Lewis du Pont Smith is "incompetent" because of his political association with economist and former presidential candidate Lyndon H. LaRouche, Jr., and his financial support for those political commitments, began in West Chester, Pennsylvania on Dec. 19.

Judge Lawrence Wood, at the request of Smith's family, had ruled that Smith, then 29 years old and an heir to the du Pont industrial fortune, was incompetent to manage his own affairs. Wood's ruling took away the young history teacher's right to vote and to marry, among other things, but the main intention was to deny him his First Amendment right to associate with the political candidate of his own choice. Smith's challenge to Wood's finding will prove to be a battle royal. The trial is expected to last more than 14 days, spread over several months.

In mid-October, attorneys for Smith filed the petition to reverse Wood's earlier decision which is the basis for the current hearings. Smith's family's counterattack began well before the December hearings. In mid-November, Mr. and Mrs. E. Newbold Smith, Lewis's parents, rushed into court with the amazing demand that Wood appoint a "guardian" for their son to represent his interests in all legal matters. The request, in the form of a petition for guardianship *ad litem*, was nothing more than a blatant attempt to gain control over Smith's person, a move which they had failed to get Wood's approval in 1986. It represented yet one more in a continuing pattern of bad faith actions by the family since they began the incompetency proceedings over three years ago.

### Bad faith shown

Smith's attorneys, in their response, documented numerous examples showing that E. Newbold Smith was part of an illegal harassment campaign: his burglary of his son's home in Leesburg, Virginia; his later perjury about that on the witness stand before Judge Wood; his failure to respond to a Virginia arrest warrant for the break-in; the family's hiring of a private investigator to spy on Lewis and his wife Andrea to try to kidnap one or both of them; the family's proffering of false evidence to assist in a criminal indictment against

Andrea (later dropped); and the attempts to block Lewis and Andrea's marriage in 1987. They also noted for the court E. Newbold Smith's repeated public portrayal of his actions against his son as part of a larger "Get LaRouche" operation. In a hearing on Nov. 20, Judge Wood tossed out the family's bid for guardianship and also granted a petition filed by Smith's wife Andrea, to intervene as a party to the action to reverse the incompetency ruling.

From these pre-trial actions and pre-trial discovery materials, it can be expected that every slander retailed by the Anti-Defamation League, the spearhead of LaRouche's pro-Soviet, pro-drug political foes in the United States, will be the core of the family's opposition. A telling clue is that the family's star witness to maintain the fiction that Lewis is "incompetent," will be Christian Curtis, a former fundraiser who has been a key government witness for the "Get LaRouche" task force in all of the politically motivated prosecutions against LaRouche and his movement brought to date. Lewis du Pont Smith, in a statement released at a press conference on Nov. 19, said his strategy will be to put his family and their collaborators in the "Get LaRouche" task force on trial.

James Crawford, one of Smith's attorneys, said in his opening statement Dec. 19 that the court would be presented with incontrovertible evidence of the young man's competence, demonstrated in testimony by expert psychiatric witnesses, associates, his wife, Smith himself, and Lyndon LaRouche. Crawford noted that all of this would clearly prove that Lewis du Pont Smith had, despite Wood's earlier decision, gone about living his life in a fashion hardly that of an incompetent. Crawford pointed to the fundamental constitutional issues involved: Smith's right to support the political beliefs of his choice, both vocally and financially. He told the court that it would hear the nature of those beliefs through the testimony both of Lewis du Pont Smith and Mr. LaRouche.

The first day's witnesses included a number of Smith's political associates and friends, who have known and worked with him. The day was dominated, however, by the testimony of Dr. Judiann Densen-Gerber, Smith's primary expert witness and an internationally renowned leader of the fight against drugs and child pornography. Dr. Densen-Gerber, in extensive testimony based on over 14 months of regular weekly contact with Smith, detailed the psychiatric basis for her findings that he is fully competent to manage his own life and financial affairs. Dr. Densen-Gerber said that Smith "does not suffer a mental disorder or disease" by any current or past legal standard.

In cross examination, David Foulke, the family's attorney, attempted to impeach the credibility of the testimony by smearing her as everything from an eccentric to "the official LaRouche psychiatrist" in such proceedings. He dragged out unfounded accusations of financial improprieties in Odyssey House, the drug rehabilitation program Dr. Densen-Gerber

founded and operates. This effort backfired when Dr. Densen-Gerber detailed her fight against drugs, child abuse, and pedophilia, herself producing and quoting from the publication of the North American Man-Boy Lovers Association, which identified her as their number-one enemy. While Foulke did not even bother to try to challenge her medical findings, Dr. Densen-Gerber successfully reiterated her view of Lewis du Pont Smith's competency and the importance of ensuring that both psychiatry and the law not be abused in this case.

Witnesses on Dec. 20 included Max Dean, past president of the Michigan Trial Lawyers Association and a friend of Smith. Mr. Dean is also the president and chairman of the board of the Constitutional Defense Fund and had formerly been active in the Flint NAACP. Mr. Dean said his relationship with Smith in the last two years had shown Smith to be financially astute, courtly, and reserved in demeanor. Also testifying was Amelia Boynton Robinson, an 84-year-old civil rights activist from Tuskegee, Alabama, who helped organize and risked her life in the famed Selma March in 1965. Mrs. Robinson, an associate of the late Dr. Martin Luther King, is a founding member of the international Commission to Investigate Human Rights Violations and the Schiller Institute. She first met Smith at a human rights commission gathering in Rome where he spoke on his case. They have remained friends, she testified, because of Smith's passionate concern and his support for civil rights, and her own lifelong concern for human rights.

The second day's testimony was concluded with that of Martha Diano, Smith's mother-in-law. Her testimony ripped apart the line being pushed by E. Newbold Smith's attorneys that Lewis and Andrea were being alienated from their families by the "LaRouche cult." Mrs. Diano described the close relationship enjoyed among mother, daughter, and son-in-law, and testified that Smith remains frugal despite his allowance, which was \$150,000 this year. She said he refuses to buy new furniture, stays at her small Philadelphia rowhouse during visits rather than at a hotel, and still drives "a beat-up old car," which Smith later described as a 1984 Volkswagen with 96,000 miles on it. She ended by saying, "I love him like a son."

### **Abuse of psychiatry for political ends**

The most important testimony of the day was supplied by Smith's second expert psychiatric witness, Dr. Abraham Halpren, a New York psychiatrist who helped write the medical tests widely used to determine legal competency. Halpren stated that the criteria used to adjudicate Smith incompetent were misunderstood and misapplied by the experts who testified in the prior proceeding. He also testified that Smith was totally competent. Halpern went on to decimate Dr. David Halperin, the psychiatrist from the American Family Foundation brought in by Smith's family for the original incompetency trial, saying that Halperin's prior diagnosis was unscien-

tific, shoddy, and the "application in its worst form of psychiatry for political purposes." Halpren said that Halperin's so-called psychiatric examination of Lewis du Pont Smith two weeks earlier had nothing to do with psychiatry, but was basically a political interrogation.

Dr. Abraham Halpren said he reviewed the transcripts and tapes made by Dr. David Halperin in 1985, and concluded that Halperin had taken an "adversarial" approach to Smith. He added that the idea of labeling a political organization as a cult horrifies him and other members of the psychiatric profession because then any politically dissident organization could potentially be silenced.

On Dec. 21, the third day of testimony, the *Philadelphia Inquirer* carried a lengthy article on the first two days of the hearings. Entitled, "Du Pont Heir Presses Case on Fitness," the article quotes Smith saying, "I wouldn't want any citizen of the United States to be put through what I have been subjected to."

Another expert, an occupational psychologist, testified that Lewis du Pont Smith was totally capable of holding management-level positions and functioning in the workforce, and from his observations functioned well as a political fundraiser and organizer. Donald "Tony" Hadley, the LaRouche supporter who won the Democratic nomination for Congress in the district that includes Chester County, also testified.

Judge Wood on several occasions formulated his view of the case. In the opening statement and later, he warned attorneys for Lewis du Pont Smith that he did not view the family's actions as being particularly relevant. He also, during the testimony of Dr. Abraham Halpren, indicated he was not interested in hearing testimony regarding what he described as "the cult issue." His concern, he said, was only whether Lewis du Pont Smith had, as he put it, "a mental makeup which in some qualitative or substantial way makes him more likely than others to be the victim of designing persons." This formulation raises major questions as to the character of the future proceedings. With the family on record as viewing the major issue as Lewis Smith's association with the ideas and policies of Lyndon H. LaRouche, it seems that there can be no way to limit the case in such a simple fashion. Either Wood excludes what is clearly the center of the E. Newbold Smith family's intended case, or Lewis du Pont Smith's attorneys are allowed to present material to rebut that which Wood has indicated he doesn't believe is relevant.

The future proceedings no doubt will be bitterly contested and more dramatic than anything seen in this case so far. The next hearing dates have been set for late January and mid-February. Smith has yet to call a number of major witnesses, including Mr. LaRouche. He himself will take the stand, as will his wife Andrea, in his fight to reverse the first ruling of incompetency in American history based on an individual's political beliefs and associations.