The 'Get LaRouche' Task Force

Next Virginia trial begins against Phau

The latest "Get LaRouche" trial began in Roanoke, Virginia on Jan. 17, with opening statments in the case of *Virginia v. Don Phau*. Phau is one of 16 individuals charged with violating Virginia securities laws in connection with political loans raised for the LaRouche movement.

His trial follows the legal lynchings of Rochelle Ascher, who was tried in 1989 and sentenced to 10 years in jail for "securities" fraud (the jury had recommended an 86-year sentence), and Michael Billington, who received a 77-year sentence last December at the hands of Roanoke Judge Clifford Weckstein, the judge in the Phau trial.

In opening, prosecutor John Russell made the same claims he had made in the Ascher and Billington cases, asserting that the political movement associated with Lyndon LaRouche is a "scam," a "scheme" to bring in "big money." He said, "This is not a political case," though he admitted the jury will be hearing much about Lyndon LaRouche.

Defense lawyer Pat Monaghan, in his opening statement, explained how the attacks and slanders against the LaRouche movement escalated after the 1986 Illinois Democratic primaries, when two LaRouche associates won spots on the statewide Democratic ballot. This affected the ability of companies associated with LaRouche to repay loans.

In January 1986, a letter was received from the State Corporation Commission concerning whether LaRouche-associated organizations were involved with securities. Monaghan called it a "cordial letter, similar to an IRS letter that anyone would receive." In response, the organizations gave a detailed explanation of why they were not dealing in securities. "The next thing that occurred was on Oct. 6, 1986 when 400 state, federal, and county police, with armored personnel carriers, raided their office and removed 428 boxes of materials," Monaghan said.

Only after 16 people were indicted in February 1987 for "securities fraud," did the SCC rule that loans "may be securities." Then, Monaghan said, the government went in to "finish them off," by an involuntary bankruptcy action shutting down three companies. Monaghan said that this was "a bankruptcy which a federal bankruptcy judge ruled was a violation of the law."

Judge Weckstein's actions on pre-trial motions gave an indication of how he intends to "railroad" another LaRouche defendant. At a Jan. 12 pre-trial hearing, the defense had asked Judge Weckstein to recuse himself (withdraw from the case), on grounds of evident bias against the defense.

In the previous "LaRouche case," Judge Weckstein upheld a jury sentence of *77 years* for Michael Billington, after prosecutor Russell asked him to use his sentence to "send a message" to 14 other LaRouche defendants about the advisability of seeking jury trials.

One of Phau's defense team, attorney Doug Davis, gave a direct argument for his recusal motion on Jan. 12: "I was in the courtroom, and sat through the Billington trial. I saw personally that you were biased." Davis said he did not know why, although perhaps it stemmed from Billington's connection to LaRouche, but it was clear the judge could not preside fairly over Phau's trial. "Millionaire insider traders get off with a few months, Leona Helmsley gets four years, and recently, a truck driver who killed 26 children while driving drunk got 16 years," Davis told the judge.

Judge Weckstein denied the motion.

Another defense motion asserted that the prosecution of Phau was *ex post facto*—after the fact; that Phau, like the other defendants in this case, is being tried for violations of the Virginia state securities laws, *even though at the time he was arrested, in February 1987, the SCC had not ruled that promissory notes or letters of indebtedness issued by LaRouche fundraisers to political supporters had anything to do with "securities"!*

How could Phau form "criminal intent" to violate securities laws, when there was no determination that these were securities? the motion asked. *Ex post facto* prosecutions are forbidden by the U.S. Constitution.

Judge Weckstein did grant one pre-trial motion—one that would gag the defense. Prosecutor Russell filed a motion to preclude the defense from mentioning that, on Oct. 25, 1989, Bankruptcy Judge Martin Bostetter threw out the federal government's petition to place into involuntary bankruptcy three LaRouche-related companies. The bankruptcy had legally barred any of the three from repaying any loans! Yet in the various "LaRouche" trials, the failure to repay these loans is hammered by the prosecution as proof of criminal intent not to repay.

In seeking to exclude reference to Bostetter's ruling against the federal government on this issue, Russell told Weckstein that introduction of the ruling would "confuse the jurors." Observers noted that there was hardly anything confusing about the Bostetter ruling, in which he wrote that the government acted in "bad faith" in seeking the bankruptcies, in a way which could be likened to "committing constructive fraud on the Court."

Defense attorney Pat Monaghan argued that to grant the prosecution's motion would "be gagging my client and preventing the presentation of his defense. . . . I want my client to be able to present the whole story."