DNC defends its Jim Crow rule changes

On Aug. 21, the plaintiffs in *LaRouche, et al. v. Fowler, et al.,* filed a notice with the U.S. District Court in Washington, D.C., that they will appeal the Aug. 15 decision by Judge Thomas Penfield Jackson. His ruling denies the 600,000 people who voted in the Democratic primaries for Lyndon LaRouche, the right to have LaRouche delegates seated at the Democratic Convention, which began Aug. 26. LaRouche and his co-plaintiffs, including delegates from the Southern states of Texas, Louisiana, and Virginia, sought relief under the landmark 1965 Voting Rights Act, after Democratic National Committee Chairman Donald Fowler had circulated letters to the state parties in January and April, unilaterally ordering that "Mr. Larouche [sic] is not to be considered a qualified candidate for nomination of the Democratic Party for President." The determination not to seat duly elected LaRouche delegates was made under a change in party rules, known as Rule 11(K). According to the Voting Rights Act, such rule changes had to be submitted to the U.S. Attorney General and "precleared," precisely because states and state parties with Confederate pretensions would make such "Jim Crow" rule changes to discriminate against African-American voters, and then cover their deeds by claiming "First Amendment rights" as private clubs.

"Fowler's attorneys made a racist appeal to the judge, claiming that the DNC did not have to have their decisions precleared for possible racial bias, and the judge went with it," a LaRouche spokesman said. "President Clinton should fire Fowler, or the word will go out that the Democratic Party leadership is in bed with a bunch of racists."

Below we excerpt from the Aug. 15 hearing transcript. Arguing for the defendant DNC, was Jack Keeney, Jr.; and, for the plaintiffs, LaRouche's personal attorney Odin Anderson, and civil rights veterans James Wilson of Alabama and Theo Mitchell of South Carolina.

DNC lawyer: Nobody here, but us white folk

Keeney: We believe there are two legal points. . . .

Number one, the DNC and its chair are not, quote "covered jurisdictions," end quote, within the meaning of Section 5 of the Voting Rights Act and, therefore, they are not required to preclear any of their actions under Section 5 of the Voting Rights Act.

Our second point, which is equally established by Supreme Court authority, is this internal party dispute about who gets to be a delegate in ten days to the Democratic National Convention in Chicago, and which of the delegate party selection rules of the Democratic Party are to be applied, are both nonjusticiable as political questions.

We think the law is clear [that] such political questions are protected by the First Amendment right, freedom of association of the Democratic Party to, quote, "define and limit its members as stated by the Supreme Court in *LaFollette*. . . ."

Judge: [addressing plaintiffs' attorney]: Suppose Rule 11(K) said, "we are only going to recognize white males as Democrats."

Anderson: That is clearly impermissible.

Judge: Would it have to be precleared, whether it's permissible under some other rubric or not? . . .

Anderson: . . . Nowhere is the National Democratic Party excluded from that categorization of party. Party is general. It could be state parties. It could be national party. That is the language.

In fact, if the Democratic National Committee is not required to preclear, any state—particularly any state within a covered jurisdiction—we have here two, Virginia and Louisiana—that adopts, without preclearance, those rule changes that affect voting, are unlawful, are void and *ab initio* must be struck down and cannot be implemented. . . .

Wilson: I would like to say that when we look at it from the party plaintiffs' standpoint, we can raise a lot of issues about preclearance. And I think the court would have jurisdiction to hear those claims, but they are so intertwined here, if the court is going to declare that Mr. LaRouche is not a candidate, then that leaves the party plaintiffs sort of left out there in the cold. They have voted in good faith, based on representation made by the state parties. They voted for candidates, and now they are going to be stripped of those.

Judge: I suppose the answer that you get from the other side of the courtroom is that you ought to start your own party.

Wilson: . . .The party plaintiffs find themselves out in the cold now. They have in good faith exercised their rights under the Constitution to vote for a candidate that they thought was a lawful candidate. We're now before the court, and there is a question about whether he is a lawful candidate or not. . . .

Judge: Actually, they cast those votes after he was convicted and had lost his civil right to vote.

Wilson: I understand that, Judge. I understand that, but in the state of Louisiana and in the state of Virginia, they listed his name as a legitimate candidate for President. They offered him, through the party structure, as a legitimate candidate for President. And they are left out in the cold with no recourse. They have exercised a vote that is going

Grace Littlejohn, a Washington, D.C. Democrat, who was denied the right to run as a LaRouche delegate in the District. She is now a co-plaintiff in LaRouche's suit against the DNC and its chairman Donald Fowler.

to be nullified. And in some of those jurisdictions, they met the initial threshold of fifteen percent to have delegates to elect him. And the state parties came in after the fact, and, in effect, what they did is nullified their right to vote. . . . What in effect does the voter do at this point? He has cast his vote legitimately for the candidate that he thought was a lawfully a candidate by the state and national party. Now he is out in the cold. . . ..

Judge: . . .That's right, but the issue here is whether the DNC and Mr. Fowler are covered jurisdictions, because all of the state parties can beseech as much as they wish to have Mr. LaRouche's delegate seated. Unless that is acceded to by the DNC and Mr. Fowler, they are wasting their breath.

Wilson: Well, that is precisely my point. The whole incident started with Mr. Fowler's letter. And, as result of Mr. Fowler's letter, there have been a lot of people out there who have cast votes, who won't be counted, who will not have representation at the Democratic Party convention, whose vote at this point is not going to be counted under any circumstances. . . .

Mitchell: Your Honor, I certainly couldn't go back to South Carolina without having at least a say on one particular point which His Honor raised. You raised the question—you asked, sir, if this had been changed to have membership as an all-white membership, whether or not it would run into some problem with the Voting Rights Act.

I certainly feel that notwithstanding that, it would, but it basically is similar conduct by Mr. Fowler and a deliberate design to harm Mr. LaRouche.

The Virginia Party precleared its rules, but it did not preclear the rules with 11(K) appended to it. If the states accept the letter, as they did, from Mr. Fowler, and utilize it as state party rules by incorporating Rule 11(k), then it exercised conduct from an idiot in Washington, D.C., one man who had dictatorial authority to be able to change the rules of the game against the Democratic Party rules, which state, in essence, "participation shall be open to all voters who wished to participate as Democrats." And as my colleagues have argued to his honor, 600,000 or so people exercised their rights to be Democrats in the past elections, notwithstanding the fact that this letter has designed—meanspiritedness on behalf of Mr. Fowler to hurt Mr. LaRouche. It was personally designed and pulled out for that particular purpose. . . .

Judge: It was certainly directed at Mr. LaRouche. There is no question about that.

Mitchell: Yes, sir. The delegates who actually cast their ballots on behalf of the Democratic Party primary for him certainly are suffering irreparable harm, because going by the rules of the party, they have a right to participate in the Democratic process and in the Democratic Party. But to have the burden of sending back to Washington, D.C. and asking Mr. Fowler's consent to have Mr. LaRouche considered as a delegate is like a fox watching the hen house. The man who had already done damage to him certainly had no intentions—or his party or his committee—on remedying this conduct.

So, Your Honor, I would say that any time something comes out of Washington that has the impact or the effect of discriminating and denying, without hearing, without a forum to have the matter brought up for review, and has literally the force of law, I believe, certainly should be covered.

I believe Congress intended and contemplated this kind of mischief whenever it passed the Voting Rights Act and its amendments, because we have to be contemporary with the conduct of people.

From 1982 up to now, obviously, there have been changes in attitudes and administrations and leadership in both parties, but certainly in the Democratic Party, it has seemingly been a personal vendetta of one man against another man to the prejudice of tens of thousands or hundreds of thousands of people.