KGB-linked officials railroad LaRouche conviction, the second time

by Nancy Spannaus

The Dec. 16 conviction of former U.S. presidential candidate and international statesman Lyndon H. LaRouche, Jr., in federal court in Alexandria, Virginia, represents a major inflection point in the disintegration of the rule of constitutional law in the United States. If the jury verdict is carried out through the imposition of a jail sentence, it could mean death for LaRouche, with disastrous consequences for the world strategic situation. For the United States as a whole, it will mean that there is no block to the Soviet Union dictating political prosecutions against its enemies—the de facto elimination of United States national sovereignty.

The conviction of LaRouche and six of his associates on charges of conspiracy to commit mail fraud, and LaRouche himself on a nebulous conspiracy to deceive the Internal Revenue Service, was the immediate result of a prejudiced "runaway" jury. That jury, whose foreman was a government employee, and which contained at least two other government employees, disregarded clear instructions from U.S. District Judge Albert V. Bryan, Jr., in order to render the guilty verdicts.

Put in perspective, however, the verdict is the culmination of a four-year campaign by the Soviet Union, and its friends in the U.S. media and government, to eliminate the man and the movement which it considers most dangerous in the West. This campaign has included a paramilitary raid, a shutdown of several publishing companies through an unprecedented forced bankruptcy, and a broad range of legal prosecutions. Most embarrassing for the Department of Justice officials who spearheaded the prosecution, was the collapse of the first federal trial against LaRouche and several associates, in Boston, Massachusetts during the first part of 1988. That trial, which was supposed to prove a "conspiracy to obstruct justice" on the part of the defendants, blew up into a mistrial in May 1988, as government misconduct against the defendants was exposed in the court.

With the ramming through of the Alexandria indictments, on Oct. 14, 1988, the Russians' friends in the Justice Department were determined not to leave any potential for a new embarrassment. Proceeding on essentially the same charges, they this time chose a jurisdiction where they exercise the greatest control, and where it is traditional that the constitutional rights of the defendants be overridden in the interest of "efficiency." Judge Bryan, during the rush of pretrial actions, did not disappoint the prosecutors.

It is instructive, if not horrifying, to compare the Boston and Alexandria trials, to observe the violation of constitutional rights which the defendants underwent in the latter. That deprivation of rights is key to understanding why the government was successful in Alexandria, but got egg on its face in Boston. And while this violation of constitutional rights will be the basis for appeals of the outrageous Alexandria verdict, without an extraordinary battle by citizens internationally willing to fight for those rights, there is no hope that this travesty of justice—and the future horrors it portends—will be reversed.

The issue of government misconduct

The reality of all the legal prosecutions against LaRouche and his movement, is that corrupt circles in the U.S. government have politically targeted them for elimination. Although the pattern of harassment against LaRouche and his associates by the Justice Department and the FBI began as early as 20 years ago, it took on new viciousness in the post-1983 period, when the Russians sent the message that the intellectual author of the Strategic Defense Initiative must be eliminated.

The means and methods of the government conspiracy against LaRouche have been myriad. Federal Election Commission officials have carried out what one federal judge called "an abusive visitation of bureaucratic power" against contributors to LaRouche's presidential campaigns. The FBI has deployed for hundreds, if not thousands, of visits to supporters, in order to terrify them into either dropping away, or cooperating with government prosecutors. A federal-state interagency taskforce has coordinated a multiple-layered assault of media slanders, financial harassment, state actions, and private law suits.

Nor are the reasons for this antagonism a secret. La-

Tom Szymecko

Members of the Food for Peace movement demonstrate their support for LaRouche in a rally at the Chicago Mercantile Grain Market, Dec. 12.

Rouche has been a leading spokesman for economic and social justice, and thus offended the leading circles of the Eastern Establishment, particularly from the time that he launched his international movement for a new world economic order in the mid-1970s. As the pioneer for high-technology projects such as the SDI, he has even more upset those circles who seek an international malthusian power-sharing world order with the Russians. As the only political figure designing a real war on drugs that hits the financiers of the drug trade, LaRouche has also incurred the wrath of the banking establishment.

If this scandalous history of government harassment were permitted to be aired in court proceedings, there would be no question in the mind of anyone—jurors included—that LaRouche is under political persecution. The evidence would show that LaRouche and his associates are the victims of a conspiracy, not the authors of one. This is the key to understanding why the Boston prosecution was shut down, and why the Alexandria proceeding was rammed through before the Boston trial could be restarted.

Discovery in Boston

The defense in both Boston and Alexandria responded to the indictments with a series of pretrial motions, demanding that the government disclose evidence of its own actions against the defendants. With this information, the defense contended, it could prove that the Justice Department was engaged in "selective and vindictive prosecution"—singling out LaRouche and his associates for prosecution for alleged offenses which are normally treated as civil matters or not prosecuted at all.

The defense also sought extensive disclosure of "exculpatory" evidence—any evidence that would tend to show the innocence of the defendants. This included evidence of government harassment, financial and political interference, the use of informants to attempt to entrap the defendants, and so forth.

The alleged offenses charged in Boston were both a scheme to commit credit card fraud, and a conspiracy to obstruct justice—the latter count of which was charged against LaRouche and various associates of LaRouche responsible for coordinating legal defense and security-intelligence activity.

Over a year elapsed in Boston between the first indictment, in October 1986, to the actual commencement of trial. There were two "superceding" indictments, adding new defendants, in December 1986 and June 1987.

In the course of many months of pretrial maneuvering in Boston, the court granted some of the defendants' discovery motions. To prevent further rulings, the Boston prosecutor, Assistant U.S. Attorney John Markham, also made agreements with the defense, to provide certain categories of exculpatory evidence.

Thus, although Judge Robert Keeton denied the motions

to dismiss the case on grounds of selective and vindictive prosecution, the government was nevertheless required to reveal some explosive facts under discovery rulings and agreements. Additionally, because the government delayed so long in providing its "discovery" material, the defendants were able to obtain other relevant information through the Freedom of Information Act (FOIA). It was through FOIA, for example, that the defense in Boston learned that NSC aide Oliver North had communicated with some of his private intelligence cronies, who had "collected info against LaRouche."

In the Boston trial, evidence was only heard consistently from the end of December through February. March and April were largely occupied with hearings on government misconduct and hearings under the Classified Information Procedures Act (CIPA). Indeed, during the last 10 weeks of the trial, the jury was only present to hear evidence on eight days.

The central issue of misconduct was the fact that the prosecution had hidden from the defense the identity of one of its FBI informants who was in regular contact with the defendants—and was even using a statement by this individual, Ryan Quade Emerson, as "proof" of the conspiracy to obstruct justice by the defendants.

Finally, the government coverup was so obvious, that the judge allowed the defense to put both prosecutors and the FBI case agents on the witness stand. Publicity about the government's use of FBI informants, and North's involvement with LaRouche, hit the national press with a bang. The trial dragged on and on.

Finally, in early May, a mistrial was declared on grounds of juror hardship, since it was obvious that the government was nowhere near concluding its case, and that it would be followed by a lengthy defense case as well.

After the declaration of mistrial, jurors told the press that they had taken an informal poll among themselves, and had voted unanimously for acquittal of all defendants. Juror Ramon Dashowetz told the press: "There was too much question of government misconduct in what was happening to the LaRouche campaign."

LaRouche: 'Jury voted in support of hate propaganda'

Lyndon LaRouche made the following remarks to a packed press conference, shortly after the announcement of the jury's verdict of guilty on the evening of Dec. 16 in Alexandria, Virginia:

I won't belabor the obvious. We had a runaway jury which just went all the way, with no regard for fact. The question is, how could it be possible, for example, in the Eastern District of Virginia, to run a short trial with an average jury selected in the Eastern District of Virginia, and have a fair trial, for me or anyone associated with me? I think it's almost impossible. Therefore, while the jury did not behave in a moral way, in the sense of the way they reacted, nonetheless we can't blame them entirely for their behavior. If I had been one of the jury, of course, I'd blame myself, but I'm a little more lenient in blaming others than I am myself. Given that they're average people, or most of them, given that the *Washington Post,* for example, has been running a hate campaign against me for more than 14 years—with the recent years, as my influence on policy has increased, the campaign of hate against me in the liberal media has been beyond belief—it's almost impossible to pick up a paper in which my name is mentioned, since August 1986, without the words, "political extremist." A meaningless formulation, but to a suggestible population, an other-directed American population, that has an effect. So, obviously, the jury voted to support a verdict which had been given for over 14 years, and especially in the four most recent years, of hate propaganda by sections of the news media and others. And that's what the verdict means.

The other side of this is more ominous. As it's obvious to everyone, I'm a fairly tough individual, and I'm associated with friends who are tough and experienced. If we, under these circumstances of frameup—and it was an all-out frameup by a national federal-state task force, and the whole case was a lie on the government's side—if *we* cannot defeat a frameup, what about the little guy out there, who suddenly finds himself framed up? Where's his justice?

More significant than these matters of justice, which to some of you might appear esoteric, the purpose of this operation is not to put me in prison; the purpose is to kill me. Obviously, if I'm sent to prison, it's very easy to kill me. It's called "a natural death," an "accident," etc.; or some loony in the joint did it on his own. But, the question is, if I'm removed, where are the rest of you? Let me put it this way: I don't hate George Bush, I think that's obvious. George, as President-elect, will probably be the best President, as an

Shut-out in Alexandria

In contrast to Boston, the Alexandria case was rushed to trial without any discovery of exculpatory evidence being allowed, and with evidence of government misconduct being explicitly excluded from the trial.

First, on the date of arraignment, Judge Bryan set a trial date of only five weeks later. When there was protest from the prosecution that this might be too quick, the judge stated openly that he didn't think more than three or four of the defense's pretrial motions would even be worth reading. (To be perfectly fair, it should be noted that Bryan, who is the chief judge in the Eastern District of Virginia, follows the same procedure with all defendants. His district is known as the "rocket docket," for its rush of cases to trial. In a case of this complexity, however, the schedule was extremely prejudicial against the defendants.)

The Alexandria pretrial motions—hastily put together—were less numerous and extensive than in Boston, but still substantial. First, the defense argued that the charges in Alexandria—conspiracy to commit loan fraud—were in substance the same case as that brought in Boston, and that the constitutional prohibition against double jeopardy should either lead to the dismissal of the charges, or a transfer of the case to Boston. Second, the defense moved to separate the tax case from the loan fraud case, because of the danger of prejudicial "spill-over" between the two cases. Both of these motions were dismissed virtually out of hand, as were all the other substantive pre-trial motions. (Only a few procedural motions were granted.)

The most voluminous of the defense's pretrial motions, however, was the one for disclosure of exculpatory evidence, which sought information concerning government actions against the defendants, particularly in the area of interference with the financial and sales activities of the defendants.

It was the defense's contention, that the failure of lenders to be repaid was not the responsibility of the defendants and their companies, but was the result of outside interference by the government and private parties; the defense argued that it should be allowed to obtain such evidence and present it to the jury. These discovery requests were meticulously de-

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administrator, we've had in a long time.

George will hold the ship, as well as a very good captain who happened to be captain of the *Titanic*. The problem that George has is this. He has many challenges. We're in the worst crisis that any President has faced in the 20th century. The question is, will George, as a good administrator, follow current company policy into the iceberg and sink the ship, as the good captain—and he was a good captain—of the *Titanic* did?

The most crucial aspect of the policy question facing George Bush is, will he try to do as Baker has tried to do, will he deal with this monetary, economic, and financial crisis by trying to ride out current policies through crisis management, or will he face reality and change fundamentally the monetary, financial, and economic policies that have been ruining the United States and the world for the past 20 years? If George Bush during the first 60-90 days of his administration makes the fundamental changes in monetary, financial, and economic policy required, the U.S. will weather the storm and George will have the resources to cope with the other major crises he has to face, for the sake of this nation, not just himself. If George Bush fails to deal effectively with the monetary, economic, and financial crises, then within 60-90 days, his administration will begin to fall apart and there won't be any way to put it back together again.

In that case, weep for this United States and weep for civilization.

My function is not to gain personal prestige for myself. I never cared for it, I never sought money, I never sought personal prestige. I have other things that are important to me, and that keep me happy. For example, tomorrow, I'm having a scientific seminar and I'm going to be very happy with that. My function is the service I have performed for the United States and civilization.

One thing I shall leave behind me, if I'm killed: I have set into motion—not entirely on my own initiative, but on the basis of discussion with relevant influential people in various parts of the world—a worldwide movement, an anti-Bolshevik resistance movement, which is prepared to fight to prevent this civilization from going under communist rule. To fight by the kinds of methods which the Chinese call People's War.

If this sentence goes through, the way the jury voted, I'm dead. You can figure that, and I'm counting on being dead. Not that I particularly like the idea, but I have to be realistic about what I face. I shall devote the remaining weeks of my life to strengthening that anti-communist resistance which will make sure that our civilization is safe and that the injustice, the kind of injustice which is imposed on people in the United States and the Third World, will not fall upon our grandchildren. Because millions of people around the world in this anti-Bolshevik movement, are willing to die to prevent communism from taking over this world.

So, I shall be very careful to put no stain on this martyr's corpse when I go out. Those who have gone after me in our government in complicity with the Soviets, will, when I'm dead, wear the Mark of the Beast in the eyes of those who are members of that movement that I lead.

tailed and specific, as is required by the law.

Judge Bryan denied every aspect of the discovery motion! That meant that the government was not required to provide any of the material relating to its financial warfare—interference against money-making ventures—to the defense. This ruling undercut a central plank of the defense strategy.

But Judge Bryan went farther. In response to a motion by the government, he ruled that the defense would be prevented from presenting any evidence of the government's campaign of financial warfare! The defense was ordered not to even mention one of the crucial facts of the case—that the government itself had shut down the companies owing the loans at issue in the case. This was despite the fact that, because of the government-initiated bankruptcy proceedings in April 1987, the companies legally *cannot* repay any loans.

The defense was also precluded from mentioning the fact of the mistrial in Boston.

As a result of these rulings, the defendants were prevented from making a head-on defense against the charges of loan fraud. Although certain relevant facts were able to be mentioned obliquely during the course of the 14-day trial, systematic presentation of the government's gestapo-like operations against the LaRouche movement was objected to and ruled out of order every time a defense lawyer got close to raising the point.

As it happened, the defense team in the Alexandria case did an excellent job in discrediting government witnesses, and in showing that the defendants had a reasonable expectation of being able to pay back the loans. Equally importantly, the defense presented a lawyer and accountants who established beyond any doubt, that LaRouche had relied on professional counsel in deciding that he had no taxable income, and did not need to file tax returns from 1979 to the present.

In fact, Judge Bryan's charge to the jury seemed to dovetail with these facts. He emphasized that failure to file a tax return is not evidence of fraud, and that "reasonable reliance" on experts is a complete defense. He also stated that failure to pay back loans on time did not prove fraud, and that "good faith" by the defendants was a sufficient defense against the charge of conspiracy.

Additionally, some of the government's charges were shown to be totally bogus. One loan for which Dennis Small was being charged, was admitted by government witness Chris Curtis, to have been solicited and finalized by him. Defendant Edward Spannaus was charged primarily with having changed the form of a promissory note to a "letter of indebtedness," upon advice of an attorney.

Runaway jury

Yet the jury, under the foremanship of a career government employee, found all defendants guilty on all charges. How was this possible?

The answer lies first with the process of jury selection. In Boston, the prospective jurors were required to fill out a lengthy questionnaire, and defense counsel participated in individual questioning of prospective jurors. Such individual questioning was shown to be necessary to seek out biases which were often not disclosed at first. As a result of this procedure, jury selection in Boston took three full weeks.

In Alexandria, however, where the jury pool is known to be the most pro-government in the country, the jury was selected in less than two hours. As a result of the lack of adequate questioning and screening, the jury was able to be turned into an anti-LaRouche lynch mob during its deliberations.

We'll review the process in detail.

The jury pool from which the LaRouche jury was chosen consisted of 175 potential jurors. Forty-six of these were direct government employees. This included:

- Department of Justice and FBI: 5
- Central Intelligence Agency: 5
- Internal Revenue Service: 2
- U.S. Secret Service: 1
- Other (Treasury, Agriculture Department, General Services Administration, etc.): 34

Total = 46

In addition, other members of the pool had spouses who worked for the FBI, CIA, and other government agencies. Still dozens of others worked for government-related businesses and organizations, including the "Beltway bandit" consulting companies and even the International Monetary Fund.

Prior to jury selection, the defendants submitted pre-trial motions asking for expanded questioning of the jury pool, and also for individual questioning of the jurors. The defense argued that this was necessary because of the pro-government composition of the pool, and the years of virulent anti-LaRouche hate propaganda which has flooded the northern Virginia area, from the *Washington Post* and other news media. The motion was summarily denied.

Jury selection began with the opening of the trial at 10 a.m. on Nov. 21. As the potential jurors crowded the courtroom, Judge Bryan asked certain questions of the entire group—whether they had a hardship problem, whether they had been exposed to adverse publicity which would affect their ability to be impartial. Those who admitted to this were excused without further questioning—in front of the other jurors. Government employees—even of law-enforcement agencies—were excused only if they admitted they could not be impartial. A Secret Service agent was excused only after he flashed his badge and said he had worked on the LaRouche investigation.

International observers have expressed shock that the judicial system would allow anyone from the government to sit on a jury in a case the government is trying. Just imagine how impartial some one is whose paycheck depends upon the government, or who hears the government attacked, but, according to the judge's restrictions, never the whole story as to why.

After all the excusals "for cause," there were less than 30 potential jurors left. The defense was allowed only 10 "peremptory" challenges. The remaining pool, those who were not excluded for cause, included seven government employees. The defense and the government had to go through the remaining group one by one, and choose whether or not to exercise a peremptory challenge for each one.

Still left in the pool were:

- A Justice Department program analyst;
- An FBI "repairman";
- A woman whose husband was a retired FBI agent;
- A CPA;
- A government employee whose uncles worked with the IRS and CIA;
- An employee of the Defense Intelligence Agency whose spouse works for the CIA;
- A secretary at the DEA;
- A U.S. Labor Department administrator;
- An employee of NBC.

Besides these, there were others whose profiles also made them extremely undesirable for the defense.

The biggest known problem in the final jury turned out to be Buster Horton, a 57-year-old Agriculture Department career employee, who campaigned to be foreman from day one, and then railroaded the guilty verdicts through the jury.

The defense was forced to leave some government employees like Horton on the jury, because there were still others in the pool who appeared more dangerous—including the Justice Department analyst, and the spouse of the FBI agent. All of those should have been excused for cause, and in most courts would have been, instead of requiring the defense to exercise its scarce peremptory challenges against them.

In fact, most of the final jurors were never even questioned individually. All a "ringer" would have to do, is keep his mouth shut and not admit to any bias, and he would stand a good chance of ending up seated on the final jury. Clearly, at least one of those "ringers" did end up in place, with an outrageous result. The jury ignored the facts and the law, while averaging less than 15 minutes each in considering each of the 48 separate charges in the indictment.

The right to counsel

There was another constitutional issue which took center stage during the Alexandria trial, and which shows the contrast between that and the Boston mistrial. In Alexandria, defense attorneys submitted numerous affidavits opposing the judge's insistence on the rush to trial. They argued forcefully that they were not being given sufficient time to adequately represent their clients. Attorney William Moffitt, for Dennis Small, even said that he was sure that his client would be found guilty, if the trial were rushed ahead. The rush violated the Sixth Amendment to the U.S. Constitution, they said, which provides defendants the right to effective assistance of counsel.

The defendants then sought a Writ of Mandamus from the Fourth Circuit Court of Appeals, ordering Bryan to delay the trial date. This was also denied. Stop "wailing and lamenting," the judge said in the final hearing before the trial began—you've faced trial under adversity before.

While defense counsel were not happy with the government's dilatory tactics in Boston, at least they had sufficient time to prepare for trial. In Alexandria, the defendants had only 34 days to submit pretrial motions and to prepare for a complex trial.

Grisly implications

Now, with its pre-rigged conviction under its belt, the Department of Justice is poised to go even more wildly against LaRouche's movement. Various defendants, including LaRouche, still face trials in different jurisdictions with the same witnesses, and the same charges. The government still claims that it will go ahead with a retrial in Boston, on the conspiracy to obstruct justice charge.

Whether this occurs will depend heavily on the nature of the political action taken by supporters of constitutional law and human rights between now and the sentencing of LaRouche and associates, scheduled for Jan. 27. LaRouche has sworn to uphold the rule of law no matter how it's been corrupted, even if he goes to a martyr's death. What happens on Jan. 27 and thereafter will be the severest test of the morality of this nation and the civilized world.