LaRouche appeal: does the Bill of Rights still survive?

The recent trial and conviction of Lyndon LaRouche and six associates in an Alexandria, Virginia federal court has shocked the conscience of the nation and the world. Astute observers around the globe realize that if this travesty of justice is allowed to stand, the United States no longer stands as a "beacon of hope and temple of liberty" for the world.

The upcoming appeals in the LaRouche case will determine whether the Constitution and the Bill of Rights are a dead letter, and whether the United States has become a totalitarian police state in which the rule of law is no more.

Constitutional violations

From beginning to end, the LaRouche trial was a flagrant denial of the right to due process and a fair trial. The magnitude of the constitutional violations is only understood by taking the violations as a whole, not merely one by one.

1) The Oct. 14, 1988 Alexandria indictment and trial were rushed through to preempt the retrial of the Boston case, scheduled for Jan. 3, 1989. The collapse of the Boston case and the ensuing declaration of mistrial were seen as a major embarrassment for the government: Prosecutors were determined to prevent a repeat of the Boston fiasco.

2) In order to rush the Alexandria case to trial a mere 38 days after the indictment, the judge denied all substantive pre-trial motions, including all defense requests for disclosure of exculpatory evidence. (Government hiding of evidence and mishandling of classified information was the cause of the Boston case's blowing up.)

3) At the same time, the court granted the government's motion to exclude evidence anticipated to be offered by the defense, thus precluding the jury from ever hearing major areas of the defense case, and compelling the defense to lie about evidence critical to the charges presented. Other evidentiary rulings during the trial compounded the damage.

4) The rush to trial also prevented the defendants and their attorneys from adequately preparing what was left of the defense case.

5) Selection of a jury in less than two hours denied the defendants their right to a fair and impartial jury, leaving a jury with three government employees, including a jury foreman whose official duties with the government put him in contact with anti-LaRouche operations run through a multi-agency task force.

Constitutional rights implicated, and violated, by the Alexandria show-trial proceding include:

- The constitutional guarantee (Article III) of trial by jury;
- The First Amendment right to freedom of speech and association;
- The Fourth Amendment right to be free from unreasonable searches and seizures;
- The Fifth Amendment right to due process of law, and the prohibition against double jeopardy; and
- The Sixth Amendment right to a fair trial, by an impartial jury, to be able to summon and confront witnesses, and to effective assistance of counsel.

Jury trial abrogated

Nothing is more fundamental to our system of justice than trial by jury, which has been understood historically in the United States as the ultimate protection against arbitrary and politically motivated prosecutors and corrupt judges. Every citizen has the right to a public trial, in which he can present a full defense to a fair and impartial jury. In the Alexandria case, the defendants were denied the right to present their full defense to the jury; and then, to doubly ensure the frameup, they were denied the right to be judged by an unbiased jury.

In a civil case, the judge can take factual issues away from the jury by the device of summary judgment. While there is no provision for summary judgment in criminal cases—the jury, not the judge, is the trier of fact—Judge Bryan sneaked summary judgment in through the back door in the LaRouche case. This was accomplished by means of the insidious vehicle of a government "motion *in limine*" to prevent the defense from even mentioning certain subject areas in front of the jury.

The government's "motion *in limine*" gutted the defense case in the following ways:

- It prevented the defendants from mentioning the 20-year history of FBI harassment against them, including the use of informants, infiltration, monitoring of bank accounts, and "dirty tricks."
- It barred the defendants from presenting a defense based on government-directed "financial warfare" against them, with only narrow exceptions;

- It prevented any mention of the fact of the Boston mistrial or government misconduct uncovered in the Boston case;
- It forced the defendants to lie about the government-initiated involuntary bankruptcy against the three companies which took the loans which were at issue in the case.

This last ruling, compelling the falsification of the facts of the bankruptcy, was one of the most outrageous aspects of the whole trial. The substance of the "mail fraud" charges against the defendants was that loans had been solicited by them and not repaid. This was the heart of the prosecution's emotional appeal to the jury, telling the jury that "little old ladies" had lost their life savings because the loans were not repaid. While the defendants could allude to the involuntary bankruptcy, they could only say that unnamed "creditors" forced the bankruptcy. The defendants could not tell the truth: that it was a sole creditor—the United States government—which petitioned for the bankruptcy and shut down the three publishing companies, thus preventing the companies by force of law from repaying any loans! The jury was never told that the same U.S. Attorney's office which was prosecuting the defendants for non-repayment of loans, had in fact *prevented* the repayment of loans by shutting down the companies which owed the money. The government arbitrarily defined the end of the conspiracy as the day before the government initiated the bankruptcy action.

Thus, before the jury was ever selected, the court had denied the defendants the ability to present a full defense to the jury. This denial of the right to trial by jury was compounded by the judge's evidentiary rulings during the trial itself, by which he excluded numerous defense exhibits, and prohibited the defendants from attacking the government's "conspiracy theory" underlying the charges against the defendants. At root, the prosecution was alleging that the defendants' philosophical association—the National Caucus of Labor Committees—was itself a criminal conspiracy, dominated by the "authoritarian personality," Lyndon LaRouche. The defense was barred from exposing the roots of the government's peculiar "conspiracy theory," and was also barred from obtaining or presenting evidence of the government's actual counter-conspiracy against the defendants.

Under such conditions, it should hardly have been necessary to even bother rigging the jury. But, just for that extra margin of safety, the court and the prosecution teamed up to conduct a rapid-fire jury selection, denying the defendants any semblance of an adequate *voir dire*.

Jury selection taking many weeks to complete is commonplace in high-publicity cases. In the Boston LaRouche trial, sequestered, individual *voir dire* was permitted, along with the use of a written questionnaire; this resulted, to all indications, in a fair jury. Jury selection has run much longer—up to eight weeks—in other high-profile cases. Yet here, with the Washington-Northern Virginia area saturated with virulent news-media attacks on LaRouche over a number of years, a jury was seated in less than two hours!

Judge Albert V. Bryan refused to excuse for cause even employees of the prosecuting agencies, the FBI and the Justice Department, forcing the defense to use their scarce peremptory strikes against them. *Voir dire* was for the most part collective (involving all potential jurors) and extremely general. As a result, a majority of the final jurors never even opened their mouths during the *voir dire*.

These included Buster Horton, visibly hostile to the defendants from the beginning, who aggressively campaigned to become the jury foreman. It was later learned that Horton is the highest-ranking career employee responsible for "emergency preparedness" in the U.S. Department of Agriculture. Horton is the liaison to the Federal Emergency Management Agency and to the FBI and other agencies dealing with "extremism" and terrorism. This puts Horton not only in the middle of the "Seven Days in May" crowd, but also in the multi-agency task force targeting of LaRouche and associates. Yet, the defendants were not allowed to ask Horton a single question during *voir dire* which might have uncovered these sources of contamination.

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Taken separately and as discrete issues, one can find many adverse precedents in the case law of both the Fourth Circuit Court of Appeals and the Rehnquist-dominated Supreme Court. On issues of jury selection, exclusion of evidence, denial of discovery, and denial of adequate time to prepare for trial, the courts in recent years have steadily eroded the rights of the accused while upholding the actions of judges and prosecutors.

The line must be drawn with the LaRouche case. The cumulative effect of separate, discrete rulings by the trial court was an overwhelming denial of due process. If this precedent is affirmed, no one is safe. Due process of law will have effectively been eliminated in the United States. Trials will have become a mere formality sandwiched in between indictment and sentencing, with the same significance such legal rituals had in Nazi Germany or any other totalitarian regime.