

# LaRouche puts NBC on trial for libel

*Don Baier reports from Alexandria, Va. on the opening of this historic case against 'Watergate journalism.'*

The trial of NBC and the Anti-Defamation League of B'nai B'rith began in U.S. District Court in Alexandria, Virginia on Oct. 22 with a reassertion by NBC attorney Thomas Kavalier that the media has the right to say whatever it wants against public figures.

Kavalier's opening statement—which repeated in detail every scurrilous allegation made by NBC in its Jan. 30 and March 4 libels against LaRouche—bore out the opening remarks of LaRouche's attorney Michael Dennis that NBC and the ADL were operating with conscious malice against LaRouche when they undertook to produce their programs.

Dennis told the six-person jury that evidence of the conspiracy between NBC and the ADL to defame LaRouche rested on three libelous statements in particular which were made with reckless disregard of the truth: 1) the charge that LaRouche threatened to kill President Carter and some of his associates; 2) the charge that LaRouche was a "small-time Hitler"; and 3) the charge that LaRouche was in violation of tax law. Although LaRouche by no means accepted the rest of the broadcast as true, libel law for public figures makes it difficult to legally challenge other outrages of the NBC shows, Dennis added.

Kavalier's response, backed up by subsequent testimony from producer and prime-defendant Pat Lynch, was that NBC was justified in making its wild claims by the word of "confidential sources," whose names and persons will not be presented before the court, or the jury. Lynch accurately described the method of "confidential sources" to questioning attorney Michael Dennis as "Watergate journalism"—i.e., journalism it is impossible to refute.

## **Ruling for NBC**

LaRouche attorneys had presented a pretrial motion to eliminate NBC's reliance on "confidential sources," which Lynch had already cited in her argument about the so-called assassination plot. It was not until the end of court on Oct. 22 that Judge James Cacheris ruled on the motion. Cacheris ruled that the NBC defendants would be allowed to cite their reliance on "confidential sources" for information used in the broadcast, whether the sources appeared on the broadcast or not, without being forced to name or produce the sources.

This ruling, in effect, allows NBC to make any wild

charge it wants, as long as it claims that a couple of other "ghost" witnesses had privately vouched for the accuracy of the charge. There would be nothing to prevent such "confidential sources" from being NBC employees, or characters obviously biased or unsavory.

Under this ruling, the plaintiffs are denied the due process right of cross-examining the sources of NBC to expose their fraudulent character. Yet the jury will be instructed to consider the statements of those ghostly "confidential sources" to the NBC defendants as if they were flesh and blood.

In her testimony on Oct. 24, producer Lynch described in some detail her procedure with "confidential sources." Her prime example was that of "Watergate journalism," the so-called "Deep Throat." Asked how she would verify the report of such a source, Lynch remarked that she would ask the source if he or she could refer her to others who could verify the story. If she could find two others to agree with the same story, even on the condition of anonymity, she would consider it "verified." Lynch repeatedly said that the charges NBC had chosen to broadcast against LaRouche were those she felt "comfortable with," apparently considering this as a higher order test than that of truth. Thus, if the source who claimed that LaRouche was plotting assassination against Carter could refer her to two other enemies of LaRouche who would testify to that fact, Lynch would go with the story.

This argument is NBC's only hope to counter the testimony of three members of the European Labor Party, given Oct. 23, who were present at the time of the alleged "assassination threat" presented on the "First Camera" show, and thoroughly refuted the testimony of NBC's sole named source for the charge, one Larry Cooper.

Inside the courtroom, NBC attorney Kavalier otherwise attempted to defend his clients by playing and replaying excerpted defamatory segments of the "First Camera" and "NBC Nightly News" broadcasts, together with other videotapes made for, but not used on, the broadcasts, and by reading 10 years worth of published libels and smears of LaRouche into the court record. Clearly, the NBC attorney hopes to belabor and intimidate the jurors by the authority of the "respectable press" and mere repetition of NBC's characterizations of LaRouche and his associates as "violence-prone," "cultists," and "bizarre."

Also extremely unusual has been the role of the *Washington Post* in the trial proceedings. The *Post* reporter published prominent articles in the "Metro" section of the paper on both Oct. 23 and 24, articles in which they headlined supposed threats against witnesses and NBC principals in the trial.

According to the paper, the alleged threats are currently the subject of an FBI investigation.

Most sensational was the headline Oct. 24, which read "Death Threat Against TV Producer Reported," with the subhead "FBI Probes Call Allegedly Made at Trial of LaRouche Libel Suit Against NBC."

Given that one of the major allegations of NBC in its defense is that LaRouche and his associates carry out attacks on journalists, the coverage by the *Washington Post* had all the earmarks of a deliberate attempt to tamper with the jury. The *Washington Post* article also noted that the alleged threat was reported by Pat Lynch "in an interview with FBI investigators and NBC attorneys last night." How is it that a *Washington Post* reporter was privy to such a private conversation?

Two days later, on Oct. 26, the *Post* published an article headlined: "Juror in LaRouche Suit Cites Fear, is Dismissed." The *Post* asserted that "one of the jurors was excused because she feared for her personal safety" after Judge Cacheris "called each of the jurors up individually during a bench conference and asked: 'Do you have any fear for your personal safety?'"

"The questioning apparently was prompted by a note sent to the judge from the jury room, asking whether an artist who was sketching the courtroom worked for LaRouche. LaRouche charges in the suit that two NBC broadcasts characterized him and his followers unjustly as 'anti-Semitic' and 'violence-prone.'

"The excused woman has been watching videotapes and testimony offered as evidence in the suit against the network since Monday. She walked directly to the clerk's office and requested that a federal marshal escort her home.

"After yesterday's jury incident, attorneys for LaRouche could be heard arguing at the bench for a mistrial on the grounds that the question about personal safety had prejudiced the jury. But Cacheris ordered the court to proceed. . . ."

### **Suppressed tape aired**

In a clear demonstration of the charge that NBC "recklessly disregarded" evidence on LaRouche's character, LaRouche's attorneys presented a television tape of an interview between Roy Innis, national chairman of the Congress of Racial Equality for the past 13 years, and Pat Lynch. Mr. Innis also took the stand for the plaintiff.

Innis testified in court, "I conducted my own independent investigation" of allegations that LaRouche is an anti-Semite, a racist, and the leader of a cult, charges which NBC repeated again and again on its broadcasts. Innis said he had found "no evidence, nothing to substantiate those charges."

In the videotaped interview, Innis said that LaRouche

consistently put forward "innovative ideas," ideas which might be "seriously criticized" by the media, but that "two years or five years later, those ideas often resurfaced, without Mr. LaRouche's name attached to them." Innis discussed LaRouche's proposal for beam-weapons defense (aspects of which were later adopted by the Reagan administration), as well as LaRouche's ideas on combating cults and the drug trade. "Compared to the pablum of the other candidates" for President, Mr. Innis said, he found LaRouche's ideas "a breath of fresh air," and thought they clearly deserved a hearing "in the marketplace of ideas."

Although NBC's Lynch claimed in later testimony that she had interviewed 108 sources about LaRouche, and found no more than a handful with similarly favorable views, NBC chose not to air any portion of Innis' remarks. Nor did NBC report on its broadcasts statements by officials of the Reagan administration, prominent Republicans, and others that conflicted sharply with its characterizations of "bizarre, violence-prone cult."

### **Evidence of malice**

Testimony by producer Lynch on Oct. 23 and 24 showed again and again that she was proceeding with malice and reckless disregard for the truth, the standard which LaRouche and his attorneys must show to win a judgment.

In rebuttal of Lynch's assertion that LaRouche was totally uncooperative with her, attorney Michael Dennis produced a memo from her own staff indicating that they were given published material on LaRouche's views in a visit to his offices, and had found the staff cooperative. Mentioned in the memo were some of the same LaRouche programs referred to by Innis during his testimony, including proposals for beam-weapons defense, major Third World development projects, and reform of the international financial system.

Ms. Lynch also testified that she only "looked over" the mass of written materials on Mr. LaRouche's programs and proposals which she and her staff had been given.

Dennis also introduced into evidence a December 1984 letter written by LaRouche attorney Odin Anderson to Ms. Lynch in response to her request for an interview. Anderson's letter detailed LaRouche's unhappy experience with NBC's Mark Nykanen, who had butchered an interview with LaRouche in June 1982 in order to produce a show defamatory to LaRouche, and relied instead on "information" from LaRouche's political opponents such as ADL Fact Finding Division Director Irwin Suall and drug lobby reporter Chip Berlet.

Although Anderson notified Lynch in the letter that LaRouche *would* agree to be interviewed by NBC, provided certain safeguards could be negotiated to ensure that LaRouche had a fair opportunity to refute his accusers and retained a measure of control about how his remarks were to be used, Lynch did not even wait for the Anderson letter to be read to the jury before characterizing it as "a list of irrational demands" from LaRouche.

## Attorney says why LaRouche sued NBC

*Attorney for the plaintiff Michael Dennis made this opening statement on Oct. 22 in the \$150 million libel trial in which economist and presidential candidate Lyndon LaRouche is suing NBC and others.*

This is a suit for defamation and libel *per se*. The plaintiff is **Lyndon H. LaRouche, Jr.** . . .

Defendants are: **National Broadcasting Co., Inc. Pat Lynch**—Employed by NBC as a television producer. **Mark Nykanen**—Employed by NBC as a television reporter. **Brian Ross**—Employed by NBC as a television reporter. **The Anti-Defamation League of B'nai B'rith. Irwin Suall**—An employee of ADL.

Plaintiff claims that prior to Jan. 30, 1984, defendants conspired among themselves and with others to formulate and prepare television broadcasts:

1) To defame plaintiff. 2) To harass and intimidate prominent persons and government officials who have associated with plaintiff. 3) To create a climate for the instigation of “bad faith” law enforcement investigations directed at plaintiff in order to defame and destroy plaintiff’s personal and professional reputation as an economist and consultant; to nullify any influence by plaintiff on governmental affairs of the U.S. and other countries and to destroy plaintiff’s prospects and efforts to become a viable presidential candidate.

Plaintiff’s evidence will prove that each and every defendant was aware and intended to effect the wrongful goals of the conspiracy.

### Acts in furtherance of conspiracy

1. On Jan. 29, 1984: NBC broadcast a teaser segment in a number of states including Virginia which promoted a broadcast to be made the following Monday night concerning plaintiff. The teaser contained the following defamatory statement: “Presidential candidate Lyndon LaRouche and his campaign of hate.” On Jan. 30, 1984, NBC broadcast another teaser: “The frightening world of Lyndon LaRouche.”

On the same night, Jan. 30, 1984, NBC Nightly News broadcast, among other defamatory statements: 1. “LaRouche . . . head of a political *cult*.” 2. That LaRouche says that a “Jewish conspiracy is responsible for drug smuggling and even the Holocaust” and “that Jews in some way or other

were responsible for the Holocaust by cooperation with the Nazis.”

Thereafter, on March 2, 1984: NBC broadcast a “teaser” promoting a broadcast to be made on Sunday night, March 4, 7-8 p.m. which said: “He’s been called a ‘small-time Hitler.’ He draws support from the KKK and anti-Semitic groups. He has his own cult following.”

Then on March 4, 1984, NBC broadcast a program entitled “First Camera”—a weekly commentary program, in a number of states including Virginia, a substantial segment of which concerned plaintiff and his supporters. The broadcast said, *among other things*:

That LaRouche is “a small-time Hitler” and “LaRouche says he will create a new race of ‘golden souls’ which is Adolf Hitler’s program, pure and simple; only transplanted to the 1980’s and to the United States rather than to Germany.”

That “LaRouche and his followers have cultivated extreme right-wing groups such as the Ku Klux Klan and the Posse Comitatus, a militant anti-Semitic organization.”

That “LaRouche and his followers have made statements that indicate he thinks that Jews are responsible for every evil that besets the world.”

That “Lyndon LaRouche’s *control* over his ‘membership’ is such that he could incite people to violence”; that “these people are not the most psychologically stable in the world and they could be directed to do something at LaRouche’s bidding including *killing* someone.”

To round out and drive home their vicious defamation of the plaintiff, defendant’s program broadcast the following bizarre accusation:

That, in August 1977, LaRouche told his top staff that he wanted to “assassinate Zbigniew Brzezinski, Secretary General of NATO Joseph Luns, Paul Warnke of the Arms Control and Disarmament Agency, President Carter, and David Rockefeller and the method was to be the installation of small radio-controlled time bombs that could be detonated over the telephone lines from foreign countries 12,000 miles away.”

Not content with defaming plaintiff as a cultist, a Hitler, who advocates mass murder, who could order his supporters to kill, who plotted the assassination of a President and other governmental officials, the broadcast even instigated the IRS to harass plaintiff by stating, “Any serious investigation by the Internal Revenue Service would lead to criminal indictments and the closing down of the LaRouche organizations.”

I ask you to consider not only defamatory content of the broadcast, but the overall purpose, each twist, word, and inflection delivered at the most damaging time during the presidential primary season.

Plaintiff will prove that not only are these statements completely false, but that defendants made them with the malicious intent to injure, damage, and destroy plaintiff’s private, public, and professional reputation and his reputation as a political candidate, and at the close of the entire case we shall ask you to award just compensation therefore.