

EIRFeature

LaRouche launches major legal effort for freedom

by Warren A.J. Hamerman

On Jan. 22, Lyndon H. LaRouche, Jr., two of his co-defendants, and his attorneys, including former U.S. Attorney General Ramsey Clark and Odin P. Anderson, filed a monumental motion in federal court seeking to vacate his sentence because his conviction and detention were unlawful. The principal ground for LaRouche's immediate release from prison is that massive amounts of newly obtained evidence prove that "the prosecution conducted and participated in a conspiracy and concerted action with others to illegally and wrongfully convict him and his associates by engaging in outrageous misconduct, including financial warfare."

The legal offensive seeks to free the 69-year-old innocent political prisoner LaRouche, who will pass the third year of his imprisonment on Jan. 27, 1992.

The more-than-100-page motion is supported by several volumes of newly discovered evidence which were suppressed by the prosecution, or concealed as a result of their deception and outrageous misconduct. This evidence has been obtained as recently as Dec. 31, 1991 by his defense team, through a multitude of legal battles from coast to coast over the last three years. The prosecution is still concealing mountains of evidence even as the LaRouche motion is filed, part of which they claim cannot be declassified because it is part of a "national security repository." Therefore, along with the motion seeking LaRouche's freedom, his attorneys have filed another motion to get the court to order the government to turn over all exculpatory evidence detailed in the papers, as well as to conduct a series of evidentiary hearings to determine how and why key evidence was concealed and suppressed.

According to attorneys Ramsey Clark and Odin Anderson, the substantial newly discovered evidence demonstrates that the convictions against LaRouche and his co-defendants were obtained "as a direct result of prosecutorial misconduct including illegal acts and overreaching which deprived defendants of their liberty without due process of law [and] by means including outrageous government misconduct during its investigation that denied defendants fundamental fairness that is shocking to the universal sense of justice and violates due process of law."



Lyndon LaRouche at his arraignment in federal court in Alexandria, Virginia, Oct. 17, 1988. Judge Albert V. Bryan, Jr., who runs the court known as the "Rocket Docket," set a date for trial just 34 days later, and LaRouche and his co-defendants were railroaded to conviction by Dec. 16.

Carlos de Hoyos

The newly discovered evidence shows that the prosecution conducted and participated in a conspiracy and concerted action with others to wrongfully convict LaRouche and his co-defendants by engaging in outrageous misconduct, including financial warfare. The centerpiece of the conspiracy was the bad-faith filing in April 1987 by the U.S. government of an illegal and fraudulent involuntary bankruptcy petition that prevented the repayment of the very loans that provided the basis for LaRouche's later indictment.

LaRouche is joined on the legal papers—filed in the same Alexandria federal court for the Eastern District of Virginia where they were railroaded in a trial presided over by Judge Albert Bryan, Jr. in the fall of 1988—by co-defendants William Wertz and Edward Spannaus. Their new legal effort seeks to "vacate, set aside, or correct" their sentences, or, "in the alternative, to at least grant them a new trial" based upon the fact that the prosecution:

- 1) suppressed evidence of illegal concerted activity by the Federal Election Commission, the Internal Revenue Service, the Anti-Defamation League, and others to destroy the ability to borrow money and repay loans;
- 2) suppressed evidence of covert actions undertaken pursuant to Executive Order 12333, or otherwise;
- 3) suppressed evidence that the Loudoun County, Virginia Sheriff's Department and the Anti-Defamation League of B'nai B'rith (ADL) engaged in direct operations damaging defendants' finances from the fall of 1985 forward;
- 4) suppressed evidence that Virginia State Police agent

Charles Bryant and others engaged in activities to prejudice lenders, biasing witness testimony at trial;

5) filed a Motion *in limine* to exclude inquiry into and evidence about its concerted activity to destroy the ability to repay loans which it suppressed at trial;

6) concealed a document prepared by FBI case agent Timothy Klund which stated that numerous sums received were most likely political contributions, directly contradicting the indictment itself and government witnesses;

7) concealed exculpatory information pertaining to the bias and false and misleading testimony of former LaRouche associates who were turned into government witnesses;

8) concealed that the testimony of two of these key witnesses was influenced by promises, rewards, and inducements by the prosecution.

Additionally, new evidence reveals that the convictions were obtained as a result of an unconstitutionally selected and biased jury. Only since the trial has the defense learned that the jury foreman, one Buster Horton, is a member of an elite, interagency national security apparatus composed of approximately 100 specialists, including former National Security Council staffer Lt. Col. Oliver North, from various federal departments and agencies, including the Department of Justice, the Federal Bureau of Investigation, and the Central Intelligence Agency. This apparatus, popularly known as "the secret government," has as its primary function to ensure the "continuity of government" during any federal emergency. This interagency apparatus is coordinated under the aegis of

the Federal Emergency Management Agency (FEMA), which is responsible to the National Security Council, the ultimate authority for all national emergency planning.

How it all began

The legal motion argues that the targeting of the LaRouche political movement, and the conspiracy and concerted action designed to implement it, began no later than 1982. At that time former U.S. Secretary of State Henry A. Kissinger wrote two letters to then-FBI Director William Webster, raising questions of funding and control by a foreign intelligence service. Kissinger's efforts were supplemented by his attorney, William D. Rogers. Kissinger's complaints were raised shortly thereafter at a Jan. 12, 1983 meeting of the President's Foreign Intelligence Advisory Board (PFIAB).

The disputes between LaRouche, Kissinger, and others in and out of government allied with Kissinger, were over policy questions, including Third World development and international monetary reform. Many of the disputes and conflicts dated from the 1970s. As an example, recently declassified government documents, most explicitly a "National Security Study Memorandum 200" (NSSM 200, Dec. 10, 1974), reveal the targeting of 13 Third World nations for radical depopulation programs and disparage the efforts of the movement for a New World Economic Order for encouraging economic optimism and resistance to depopulation plans. Kissinger was national security adviser at that time, and LaRouche was a leading opponent of these plans. The scope of the federal investigations, including E.O. 12333 and the activities undertaken under its authority are not known. Until recently discovered evidence revealed a LaRouche file under E.O. 12333, the government had denied and concealed its existence. The file has still not been revealed despite demands upon President Bush for its release.

Along with the main motion to vacate LaRouche's sentence, two additional legal documents were filed.

One document was a motion by LaRouche counsel Odin Anderson and Virginia local attorney Scott Harper to recuse or disqualify the trial judge, Judge Albert Bryan, Jr., from deciding this matter, because of his personal bias and prejudice previously demonstrated. According to American law, the trial judge is automatically assigned to hear motions of the type LaRouche has now filed. Judge Bryan had, in fact, made significant legal decisions approving the bad-faith forced bankruptcy back in the summer of 1987, over a year before LaRouche's Alexandria trial. Secondly, Judge Bryan's history as a member of the Foreign Intelligence Surveillance Court and his Classified Information Procedures Act rulings at trial mean that he cannot fairly judge the claims raised pertaining to E.O. 12333. The other legal motion requests that the government be ordered to hand over all of the exculpatory material it is still concealing and that the court hold evidentiary hearings to get to the bottom of the prosecution's flouting of the law and ongoing concealment of key evidence.

The LaRouche '2255' motion: excerpts

Below are extracts from the "Motion to vacate, set aside, correct sentence under 28 U.S.C. 2255, or, in the alternative, grant a new trial under Rule 33 by persons in federal custody" filed by Lyndon LaRouche, two co-defendants, and his attorneys on Jan. 22. References to the extensive appendices have been omitted in order to ease the reader's way through the main arguments.

1. The judgments of conviction were entered in the U.S. District Court for the Eastern District of Virginia, Alexandria, Division.
2. The judgments of conviction were entered on Dec. 16, 1988.
3. a) Petitioner LaRouche was sentenced to 5 years on each of 13 counts, with Counts 1 through 4 to run concurrently with each other, Counts 5 through 9 to run concurrently with each other, and Counts 10 through 13 to run concurrently with each other. These three groupings of concurrent sentences were then ordered to run consecutively for a total of 15 years to be served. . . .
4. The nature of the offense as to:
Count 1: conspiracy to commit mail fraud, 18 U.S.C. §371, 18 U.S.C. §1341.
Counts 2-12: mail fraud, 18 U.S.C. §1341.
Count 13: conspiracy to impede and obstruct the functioning of the Internal Revenue Service, 18 U.S.C. §371.
5. All petitioners pleaded not guilty to all counts charged. . . .

The grounds that make LaRouche's detention unlawful

- A. The convictions were obtained as a direct result of prosecutorial misconduct . . . including illegal acts and overreaching, which deprived petitioners of their liberty without due process of law.
- B. The convictions were obtained by means, including outrageous government misconduct during its investigation, that denied petitioners fundamental fairness that is shocking to the universal sense of justice and violates due process of law.
- C. The convictions were obtained by the unconstitutional suppression and concealment of evidence and deceptive and misleading acts and statements by the prosecution and by the prosecution's failure to disclose to petitioners evidence favorable to the defense.
- D. The convictions were obtained on the basis of false