Defense asks new trial in Alexandria case

In motions filed in Alexandria, Virginia on Dec. 28, Lyndon LaRouche and his six co-defendants have asked the federal court to overturn the Dec. 16 jury verdict of conviction against them, and to either acquit them, or hold a new trial. The gross inadequacies of the jury selection process and the insufficiency of the evidence presented in the trial are two of the grounds on which the post-trial motions are based.

The hasty and inadequate jury selection process violated the defendants' constitutional right to a fair trial and an impartial jury, defense attorneys argue in the motions. Because of the extensive publicity surrounding the case, and the controversy surrounding the defendants, "it was particularly incumbent on the Court to take the requisite steps to ensure the jury's impartiality," contends the defense motion.

Prior to the trial, defense attorneys had filed motions asking for extensive questioning of potential jurors, based on the intensity of attacks on the defendants in the news media—especially the *Washington Post*—over the previous four years. They also asked for the use of a questionnaire similar to that used in the Boston trial of LaRouche and others. But because the court did not allow any of this, and picked a jury in less than two hours, the result was "a jury composed of three federal government employees, including a jury foreman who works for an agency of the United States government—Department of Agriculture—that has been attacked over and over again in articles published by the political movement . . . two jurors who worked for defense contracting companies and another who is married to a Navy engineer. Thus," the motion continues, "at least six of twelve jurors are directly or indirectly dependent on the federal government for their economic well-being."

The defendants have identified Buster E. Horton, the jury foreman, as the principal prosecution plant in the jury who railroaded through the "guilty" verdicts on all 48 counts. Horton is the number-two official in the Emergency Operations Section of the USDA.

LaRouche tax count

Attorneys for Lyndon LaRouche also filed a motion for a judgment of acquittal (directed verdict) on the basis that the evidence was simply insufficient for the jury to have convicted LaRouche on any of the 13 counts with which he was charged, and that this was especially so with respect to the tax count. The tax charge was that LaRouche had conspired with others to impede and obstruct the IRS. But there was no evidence of concealment presented in the trial; proving acts of concealment is an essential element of proving such a so-called "Klein" conspiracy. LaRouche's lawyers argue that the evidence presented at trial showed that there was no effort made to hide or conceal anything, and that on the contrary, a system of computerized accounting records was kept of all expenses relating to Mr. LaRouche.

An expert witness accountant "stated unequivocally that he found no evidence of the concealment contemplated in a 'Klein' conspiracy. This testimony remained unchallenged and uncontradicted." The evidence also showed that LaRouche had sought and obtained expert advice, and had followed that advice. "The jury's verdict . . . was clearly contrary to the weight of the evidence," his lawyers argue.

In the motion for a new trial, the principal objections to the jury selection process are described as follows:

"A. The Court denied defense counsel's pre-trial motions for an expanded voir dire, thereby eliminating many probing questions relating to their awareness that the defendants belong to a highly prolific and controversial political movement and possible bias emanating from such awareness.

"B. The court permitted seven veniremen to openly declare in front of the entire panel that they had formed a sufficiently adverse opinion of the defendants as to preclude them from being impartial, thereby polluting the mindframe of the remainder of the panel.

"C. The Court permitted any prospective juror to be excused for hardship without any individual questioning by the court concerning the nature of that hardship, thereby depriving the defendants of jurors who may simply have preferred not to sit in judgment.

"D. Despite defense counsel's pre-trial motions, the Court engaged in a minimal amount of individual voir dire and posed its questions in general non-probing terms. As a result, none of the veniremen were effectively examined for bias.

"E. In an effort to streamline the jury selection process, a jury was selected in less than two hours. Under such immense time pressure, defense counsel were prevented from being able to properly convene and decide on their peremptory challenges. Rather than the intelligent exercise of challenges that is contemplated under the law, defense counsel's exercise of their peremptory strikes may best be described as an unmethodical scramble to keep up with the Court's rapid pace.

"F. In addition to the time pressure placed on defense counsel, the Court permitted defense counsel only ten peremptory challenges. This was an inadequate quantity given that the jury pool still contained numerous government employees and relatives of government employees."