The government packs 150 lies into its appeal brief in LaRouche case

The following report was released from Alexandria, Virginia on July 7. It discusses the federal government's reply to the appeal filed by Lyndon LaRouche and six associates, before the U.S. Court of Appeals for the Fourth Circuit in Richmond, Virginia. The seven were convicted on Dec. 16, 1988, after a hastily conducted political frameup trial, on charges of fraud and conspiracy. Mr. LaRouche was sentenced to 15 years in prison; sentences for his associates ranged from 3 to 5 years. All were denied bond pending appeal, and were imprisoned on Jan. 27. On July 11, the seven defendants filed a motion pro se *to present the Appeals Court with a "Table of Misstatements of Facts" documenting the government lies in its response brief.*

Careful analysis of the government's opposition brief filed last week in the LaRouche case shows over 150 lies and misstatements packed into a 70-page memorandum.

Observers characterized the government brief as a transparent effort by the prosecution team to sow so much filth and prejudice that the appeals court will ignore the compelling constitutional arguments made in the LaRouche appeal.

This is a familiar prosecution tactic, adapted with a vengeance to the special circumstances of the LaRouche case. Prosecutors frequently try to inflame appellate courts with gory descriptions and details of a crime, as if to say: "This guy is guilty as sin. So what if we cut a few corners in getting a conviction—he deserved it." Following the lead of the U.S. Supreme Court, courts often buy this dirty game with the so-called "harmless error" doctrine. "Harmless error" means that the evidence of guilt was so "overwhelming" that errors in the trial are deemed "harmless"—the defendant would have been convicted anyway. (It is also well-known that appeals court judges often don't bother reading the appellate briefs; they just rely on their instinct and emotions and commission their clerks to write an opinion, usually repeating the government's "facts")

In the LaRouche case, of course, there was no overwhelming evidence of guilt; in fact, there was no evidence of guilt whatsoever. The prosecution's case was a melange of lies and distortions, admitted into evidence by a tyrannical and vindictive judge, and ratified by a crooked jury. Now, the prosecutors are trying to turn their witnesses' lies and prosecutors' manufactured theory into court-approved "facts."

Some of the most egregious lies, simply made up without any evidence at all, are the following:

- [LaRouche] "was in every sense the mastermind of the fraud scheme which defrauded thousands and corrupted, among others, his codefendants."
- "Ten of them [lenders] testified at trial and were given a rather consistent, fraudulent story."
- Lenders "were never told of the organization's financial difficulties," and, the defendants "never communicated expected attacks to their lenders."

All in all, a detailed examination of the government's response brief has turned up 152 lies and false statements. These involve:

1) 39 outright lies, simply made up without any support whatsoever from the record of the case.

2) 73 lies based on perjured and false testimony, which was contradicted and disproven at trial by other evidence.

3) 40 lies based on a perjured and false testimony, which the defendants were prevented from rebutting due to the lack of a fair trial.

There were two principal reasons why defendants could

Prosecutorial mendacity
Lying in court: the government brief

Category of lie	Number of lies
Outright lie—no evidence at all	39
Lie based on false testimony, contradicted or rebutted by other testimony or evidence.	73
Lie based on false testimony, unrebutted because of court orders limiting evidence, and preparation for trial, and cross-examination.	40
Total	**152**

Philip Ulanowsky

Lyndon LaRouche (right) and his lawyer, Odin Anderson. Defendants have now filed, in their own behalf, the document on which this article was based, pointing out that the document had to be filed pro se, *since "the unrelenting rush to trial" forced by the judge left many defense attorneys insufficiently familiar with the facts of the case. Shown above are expressions of the worldwide outcry against LaRouche's incarceration: on the right, a banner on the Autobahn in Dortmund, West Germany ("Freedom for LaRouche!"), and on the left, a parade in Paris ("Free LaRouche!")*

not disprove many of the government witnesses at trial. First was the rush to trial, in five weeks from arraignment to the trial, which left defense attorneys woefully unprepared to cross-examine government witnesses or present their own witnesses. After pre-trial motions were filed and argued, the defense had only 10 days to interview dozens of witnesses, read thousands of pages of grand jury testimony, and attempt to review relevant portions of 2 million pages of documents seized in the October 1986 raid by the government.

Second, Judge Albert V. Bryan excluded whole areas of the defense case from the trial, thus preventing the defendants from presenting the case to the jury. The defendants were barred from presenting evidence of FBI harassment and financial warfare, and were not even allowed to tell the jury that it was the government which initiated the bankruptcy seizure and shutdown of the three businesses which actually owed the loans at issue in the indictment.

And finally, during trial, the judge prevented the defense from effectively cross-examining government witnesses, for example, from showing that the core group of government witnesses were themselves an organized conspiracy, dedicated to putting LaRouche in jail by any means possible.

The '$30 million' fraud

Although headlines screamed about a "$30 million fraud scheme" which LaRouche and his associates were supposed to have perpetrated, and "thousands" of lenders which were supposed to have been defrauded, the government proved no such thing at trial. In fact, even hanging Judge Bryan was compelled to make a formal finding that the government had

only "proved" $294,000 in fraud, involving 10 lenders.

Nevertheless, the government's brief (as well as its press releases) continues to talk about $30 million and "thousands of unsuspecting individuals." They claim that the defendants bought LaRouche a "million-dollar estate" and paid hundreds of thousands of dollars to fix it up and run it—all out of the alleged fraudulent proceeds!

The government also claims that the lenders were never repaid, and that "when lenders asked for the timely repayments of their loans, they were told there was no money." Yet, the actual evidence at trial was quite different: it showed that during 1985, most of the lenders were repaid on a regular basis. It was only in the spring and summer of 1986 that loan repayments came to a near halt, under the barrage of media attacks and financial harassment that followed the victory of two LaRouche associates in the March 1986 Democratic primaries in Illinois.

Fair trial issues

The appeal brief filed on May 25 by attorneys for the "LaRouche Seven" is a powerful indictment of Judge Bryan for denying the defendants their constitutional right to a fair trial. The brief demonstrates that

1) The defendants were rushed to trial without time to prepare their defense.

2) The court unconstitutionally excluded major portions of evidence from the trial, and also denied the defendants their right to obtain exculpatory evidence in the possession of the government.

3) The defendants were denied a fair and impartial jury, by a jury selection that was completed in less than two hours.

Under these conditions, observers note, any "facts" submitted by the government as "proven" at trial are worthless. A trial is supposed to be a truth-seeking process, yet in the LaRouche trial, truth was barred at the door. The prosecution knowingly put perjured witnesses on the stand; now the prosecution wants the appeals court to certify these lies as "facts proven at trial."

The government clearly hopes that the Appeals Court will be so prejudiced by the "facts" as presented that they won't bother to look at the legal and constitutional issues. But, just in case, the prosecutors also lie about the fair trial issues.

For example, the government brief claims that the defendants "sought to create a mind-boggling conflict" by asking for a continuance (delay) of the trial date, when it was the government who rammed the indictment and trial through in October and November, even though defendants LaRouche and Spannaus were scheduled to be re-tried in the Boston case in January. The government lies that "nearly all" of the defendants and lawyers were involved in other matters which made them "exceptionally well-versed" in the charges. The government also says that at every point during the trial where the defense sought a continuance "it was granted"—even though the record shows Judge Bryan warning defense attorneys not to expect even a "one day delay."

In the section dealing with the court's exclusion of evidence, the government begins by saying:

> The trial court in this case was faced with a defense team which paid little heed to the allegations of the indictment and instead . . . sought to drag the trial into irrelevant, prejudicial and at times bizarre disputes.

The government also defends the court's denial of discovery requests by saying that the defense had presented "bizarre conspiracy theories" and "nonsensical discovery requests." But nonetheless, say the prosecutors, the court "identified the few relevant arguments among the defendants' barrage, and allowed them to be fully developed." Despite the thoroughly documented LaRouche appeal brief, the government lies that no relevant evidence was excluded.

On the jury selection, the government brief would be laughable—if this were a laughing matter. Even though Judge Bryan denied *all* defense motions regarding jury selection, the government has the temerity to say: "the court did all that was asked of it by the defense." After giving its version of the questioning of potential jurors, the government concludes that the jury panel "had shown itself to be extremely open and responsive"—even though 8 of the 12 final jurors never opened their mouths once to answer a single question asked by the court.

That the prosecution should attempt to divert the appeals court's attention from the legal issues of the appeal is not surprising. The LaRouche appeal has attracted widespread national and international attention and support. The appeals court has already accepted five European and two U.S. "friend of the court" (*amicus curiae*) briefs. Pending before the court are motions to accept two more *amicus* briefs, one of which is already signed by 144 lawyers with more signatures coming in daily.

The LaRouche appeal team is headed by former U.S. Attorney General Ramsey Clark. On June 29, Clark issued a statement charging that the U.S. government "has engaged in flagrant constitutional violations to convict and confine Lyndon H. LaRouche, Jr." Clark said the case is "an outgrowth of a many-year program of a national multi-agency 'Get LaRouche' task force."

A legal brief replying to the government's lies was filed by the LaRouche legal team on July 11, with the U.S. Court of Appeals for the Fourt Circuit in Richmond, Va. LaRouche and five of his fellow political prisoners have been held in the local Alexandria, Va. jail since Jan. 27, under a court order allowing them to remain in Alexandria until all appeal briefs are filed. It is anticipated that the six will soon be split up and transferred to various federal prisons. The seventh codefendant, Joyce Rubinstein, is already at the Alderson Federal Prison for women at Alderson, West Virginia.