Government goes on trial in 'LaRouche' cases

by our Special Correspondent

During the course of mid-May the combined legal onslaught of corrupt circles in the U.S. Justice Department against presidential candidate Lyndon H. LaRouche and his political associates underwent a dramatic transformation. In three major cases which the Justice Department was using to shut down LaRouche's political organizing, the roles were reversed and the prosecutors themselves went on the witness stand. The subject in all three situations was accumulated evidence of violations of the law by the prosecution.

Among those compelled to testify on their actions were all the leading actors in the anti-LaRouche prosecutions in Boston, Virginia, and Washington, D.C.:

- Assistant U.S. Attorney (AUSA) John Markham, the chief Boston prosecutor, was asked to account for the withholding of relevant exculpatory evidence from the defense in the *USA* v. *The LaRouche Campaign* trial;
- William Weld, the recently resigned head of the Justice Department's Criminal Division and the Boston U.S. Attorney who initiated the case against LaRouche, was questioned on his role in the government's forced bankruptcy actions against three corporations identified with LaRouche;
- U.S. Attorney Henry Hudson of Alexandria, Virginia, the official on top of a widely touted grand jury investigation against LaRouche and his associates in that jurisdiction, was probed on his role in the same bankruptcy action.

Leading subordinates to these individuals were also compelled to testify on their roles in anti-LaRouche actions. Among them were the chief FBI case agents against LaRouche, Richard Egan and Timothy Klund, as well as Virginia AUSA Kent Robinson and dozens of state police agents who were involved in the Oct. 6-7, 1986 raid against Leesburg corporations associated with LaRouche.

Although the Boston federal case is now in limbo because of the declaration of a mistrial, the implications of all this testimony have not yet been felt. The issues raised by the defense lawyers in putting the government on the stand could result in the total dismissal of the Boston case; the denial of the government's petition for involuntary bankruptcy against the three LaRouche-identified corporations; and possibly the invalidation of the unprecedented joint state and federal search, which resulted in indictments against 16 individuals and 5 corporations by the Commonwealth of Virginia, as well as the Boston federal and New York state indictments.

Markham makes admissions

AUSA Markham took the witness stand on May 6 as a witness in the evidentiary hearing into government misconduct. From the start the clearly nervous prosecutor took the tack that it was his co-prosecutor, Mark Rasch, who was responsible for providing the material to the defense which was delayed until 55 days into the trial.

Yet, by the conclusion of the one and a half days of testimony, Markham had to acknowledge that he had not honored either his agreement with the defense to provide materials on informants, or the June 1987 order of Magistrate Robert Collings that the prosecution had to turn over materials on informants who were witnesses to crimes.

The particular individual on whom Markham withheld evidence was FBI informant Ryan Quade Emerson, whose connection with the government was not revealed until February of this year. Yet Markham had to admit that he knew on Oct. 3-4, 1986 that Ryan Emerson was the name of an informant for FBI agent Timothy Klund. Within two or three months after the raid, Markham had identified Emerson as the source named "QED," which he found "hundreds" of times in the notebooks of the defendants. Then Markham personally interviewed Emerson on two occasions, and supposedly received the copies of the FBI's reports on meetings with Emerson as early as March of 1987.

Yet, despite all this contact and knowledge, Markham both used a statement made by government agent Emerson which was reported in the defendants' notebooks, as "evidence" of an overt criminal act in his opening statement to the jury; and also failed to tell the defense that Emerson was a government agent.

Despite all this, Markham pled that his failure to produce evidence was not deliberate, but the result of inadvertence and neglect.

Both William Weld and Henry Hudson were called by the defense to testify in the bankruptcy trial of three corpo-

rations seized by the federal government in April of 1987. The defense, represented by attorney David Kuney, sought to show that these two U.S. Attorneys, as directors of the major criminal investigations against LaRouche and his associates, were using the "civil" bankruptcy proceeding "in bad faith" as a means of violating the constitutional rights of the criminal targets.

The outcome of the trial, presided over by Judge Martin V.B. Bostetter, will decide whether this unprecedented shutdown of three corporations will be concluded with a declaration that they are involuntarily bankrupt and should be completely liquidated. A decision is not expected until July.

U.S. Attorney Hudson proudly declared in the course of his testimony that "I made the decision" to file the bankruptcy petitions. When asked why he then violated the lawful procedure of filing with at least three creditors, Hudson claimed that he had been advised by his assistant David Schiller, that he could proceed with the government as the only creditor. When confronted by Kuney with the fact that the bankruptcy procedure would, in fact, not give the government any of the monies which it claimed were owed to it by the corporations—a fact that shows that the government had ulterior motives—Hudson pled ignorance.

Weld, who had done his best to avoid taking the stand, was compelled to testify on May 11 for about 45 minutes. His performance was largely incredible, as he attempted to minimize his involvement in both the bankruptcy and even the Boston grand jury investigation as "very limited" and "superficial." It is well-known that Weld pursued the LaRouche case with the equivalent of a personal vendetta, especially in light of LaRouche's political campaign against drug money-laundering.

Attorney Kuney confronted Weld with the FBI memorandum which had been sent around the country in January of 1986, which described Weld as "extremely interested" in the case, and which further outlined the fact that Justice Department officials were looking for new avenues, including so-called "civil aspects," as a means of forcing through their languishing case on LaRouche. Despite his previous coyness, Weld did confirm the accuracy of the memorandum.

Weld testified that in his discussions about the bankruptcy filings, he did not consider whether the action might impair the rights of the companies and individuals to defend themselves in criminal proceedings. He acknowledged that the attempted collection of the criminal contempt fine collections, the excuse for the bankruptcy petition by the government, was handled within the Criminal Division of the Justice Department. This testimony directly contradicted that of the government, which had stated that the collection of judgments was strictly a Civil Division matter, and supported the defense's contention.

Overall, observers believe the testimony of Weld and his former cohorts strongly reinforced the defense argument that the bankruptcy was filed for a "prosecutorial," not bankruptcy, purpose, and was therefore improper.

An illegal search?

Meanwhile, starting May 2, defendants in the state of Virginia's political prosecution against LaRouche began a two and a half week grilling of state and federal officers who were involved in the Oct. 6-7, 1986 400-person invasion of Leesburg, which was ostensibly the implementation of a joint state-federal search warrant. Appearing before Judge Carleton Penn in Loudoun County court, defense attorneys argued that searchers blatantly violated the state search warrant, which was specifically restricted to materials relevant to alleged "securities fraud." The materials taken in the raid should be thrown out, the defense argued, since they were the product of a "general search," which is specifically prohibited by the Fourth Amendment of the U.S. Constitution.

Most explosive in proving the defense's point was the testimony given by one State Police Officer, Colton, who read from notes he took at the briefing session held before the search. "Seize everything, search everywhere, pat down everyone," read the notes. Colton claimed, however, that he could not remember which individual had given these instructions.

Additionally, hundreds of thousands of pages of seized materials were introduced into evidence by the defense, which demonstrated that there was reckless disregard of any limitation on the search. Corporations which were not targets of the search, political campaign materials, and even a set of petitions to put Democratic presidential candidate Lyndon H. LaRouche, Jr. on the ballot in 1984, were found to have been taken by the zealous searchers.

It became clear in the course of the hearing that the federal government was actually directing the activities of the state officers. While it was the case that the federal warrant was much broader than the state one, examination of materials seized under the federal warrant also showed that there was no limitation on its scope—i.e., it was a general search.

Also explosive was the revelation by two FBI agents who took the stand, that they had heard that the only reason for the unprecedented procedure of having both a state and federal warrant, was that the state was trying to avoid running afoul of a state statute against double jeopardy. Defense attorneys argued that this ruse showed that the state search was being made in bad faith.

At the conclusion of the hearing, Virginia Assistant Attorney General John Russell demanded that Judge Penn ignore the testimony, and rush the 21 cases to trial immediately. Russell claimed that the defense was simply trying to delay the case by asking the judge to consider written briefs summarizing the results of the hearings.

Judge Penn denied Russell's motion, stating he had no idea yet how he will rule on the search. He then set a schedule which would not bring the two parties back to court until Sept. 6.