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EDITORIALS Free Paul Jacob And uphold the First Amendment

By THE ARKANSAS DEMOCRAT-GAZETTE (CONTACT)

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LITTLE ROCK — “This indictment is not about the law, but about politics-ugly, anti-democratic politics.”

-Paul Jacob THE NAME Paul Jacob will be familiar to folks who followed the struggle to get term limits adopted in Arkansas. For he pretty much led it. An Arkansas boy, he went national as head of U.S. Term Limits and now runs an outfit called Citizens in Charge. It seems he's never outgrown his need to put the people, not the politicians, in control of government. One needn't agree with his ideas to admire his commitment-or defend his right to express them.

But anyone so interested in reform was bound to rile an establishment with an overweening sense of entitlement. So when Mr. Jacob and his merry band of reformers showed up in Oklahoma, they naturally attracted the attention of DrewEdmondson, that state's attorney (and zealot) general.

This time Paul Jacob and company were gathering signatures for a proposal that would have limited legislators' power to spend, spend, spend. Their reward for this show of civic interest? Mr. Jacob and his fellow signature-gatherers, Rick Carpenter and Susan Johnson, were indicted.

The charge? Being part of a criminal conspiracy, to wit democracy. Or as General Edmondson phrased it, attempting to defraud the state by hiring folks from outside Oklahoma to help them gather signatures. Even if according to Paul Jacob, they sought signatures only from duly registered Oklahomans.

“The attorney general's office,” to quote Mr. Jacob, “is well aware that the people who pursued this petition drive on the ground went to state officials first, asked them what the rules were and followed their advice. And they were told that as long as someone is residing in the state for the duration of the petition drive, that's residency.”

No matter. Mr. Jacobs and friends were indicted anyway. Welcome to Oklahoma.

The message for Arkies: Watch your back, and your civil rights, when you cross that state line. The right to petition government for redress of grievances ends at Fort Smith, or so Oklahoma's attorney general would have the courts believe. His response to Paul Jacob and his signature-gatherers can be summed up simply enough: Shut up, he explained.

But there is justice after all, even west of Arkansas-thanks to the Tenth Circuit Court of Appeals. That court now has struck down Oklahoma's law forbidding non-residents from circulating petitions. Its ruling follows similar ones, just as unanimous, in the Sixth and Ninth

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To quote the Tenth Circuit, the right to circulate petitions in the United States of America is "core political speech," and so is fully protected by the First Amendment to the Constitution. Thank you, founding fathers. Thank you, courts that uphold it.

THIS INDICTMENT has been hanging over the heads of Paul Jacob and those helping him garner signatures for a year. If convicted, they would have faced 10 years in prison for the heinous crime of taking part in American politics. Now they've been freed at last, or certainly should be in a free country. This indictment should be quashed; it should never have been filed in the first place. As the Tenth Circuit now has indicated.

But no right is safe unless citizens are willing to exercise and defend it. For there will always be Drew Edmondsons around to challenge rights they don't care for, and not even the Constitution of the United States, for all its virtues, is self-enforcing. Only citizens willing to fight for their rights, and courts able to enforce its letter and spirit, can keep the Constitution alive.

The bad news is that General Edmondson may pursue his prosecution/ persecution of Paul Jacob even after this appellate ruling. His official spokesman says Oklahoma's attorney general will appeal the Tenth Circuit's decision. But at least now he'll have the First Amendment to contend with. Paul Jacob, who once again has stood up for the rights of all Americans, deserves congratulations. Also, thanks and respect.

The Hon. Drew Edmondson, a bully with considerable power, a high state office, and more ambition than respect for the rights of others, deserves something else. The word is he's planning to run for governor in our neighboring state. Which means the best rebuke for his misdirected zeal could yet be delivered by the good people of Oklahoma.

AMERICANS have faced threats to their freedom of speech before. How else did we get a First Amendment except in response to such threats-and in anticipation of more of them in the future? But seldom have such attempts to limit freedom of expression been put forward in so superior, so condescending and oh-so-enlightened fashion.

The various new ways to restrict our freedom of speech, it is explained, are being proposed only for our own good. And that of society as a whole. So say those who know best what we the mere people should be allowed to say and hear, read and write. Oklahoma's restriction on gathering signatures for a political cause is but one prominent example of this ominous trend. There are so many other signs of the increasingly stifled times that they're beginning to add up to a new era of suppression. For example:

-The McCain-Feingold campaign reform act that gags political advocacy just when it's most needed-30 days before election day-lest we the people, unthinking cattle that we are, be stamped by a rush of propaganda over the airwaves rather than the establishment's enlightened, approved-for-public-consumption line.

-The return of the Unfairness Doctrine, which would make free and untrammelled speech impractical for broadcasters. Obligated to give equal (and free) time to all opinions, radio and television stations would soon learn to avoid broadcasting opinion at all, which is how they reacted when the original "Fairness Doctrine" was in foul bloom. But now this gag rule can be rationalized in the most highflown language, like the president-elect's during his smooth campaign, when he subtly endorsed the idea. Some folks will go to any lengths to shut up the Rush Limbaughs among us, though always of course in the name of "fairness." They lack the candor to censor opinions they don't like outright; they'd much rather rig the system.

-The kind of "net neutrality" that isn't neutral at all but would tell distributors of opinions (and everything else) over the internet which ones they may distribute when and how and at what speeds-rather than leave such decisions to competing interests and new developments. This is to treat the internet as a common carrier delivering head of cattle or widgets rather than a wide-open frontier of ideas where competition, cooperation, innovation and all of the above should be allowed to develop largely on their own. Arrangements that aren't working to everyone's benefit will soon enough invite the kind of competition that will. The way the stultified broadcast networks spawned wide-open talk radio. That's how Adam Smith's "invisible hand" is supposed to work-if we'll let it. The internet, like all business, needs to be policed for the public's benefit and its own, but not stifled. When a centralized government decides just how a frontier should look, operate and be governed, it's no longer a frontier but a planned development.

-And college speech codes, it seems, we will always have with us, no matter how clear it becomes that they restrict expression rather than encourage it. That they should flourish on some of the most prestigious campuses in the country is evidence of the sad state of real dialogue within the American university. There was a time when it was considered a truism that the best answer to a bad idea was a better one; now the arbiters of thought take it upon themselves to decide which ideas are good enough to be expressed and which must be suppressed. That's not debate; it's indoctrination.

When it comes to being gagged, Paul Jacob has got a lot of company.

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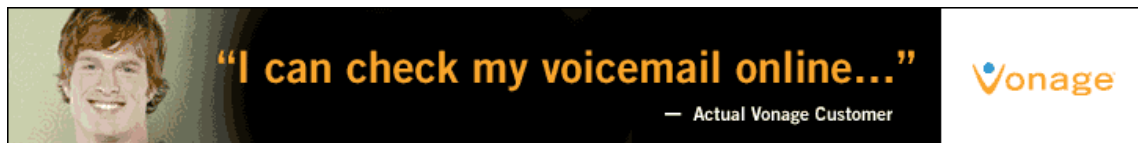
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