

# “I’m a Free Man Resisting Slavery”

**T**he cake had white icing, with red and blue trim. It was decorated with an American flag and a quote from Benjamin Franklin, spelled out in sugary blue letters: “They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.” Underneath was written “Welcome Home, Paul.”

The cake was part of a celebration at the Little Rock, Arkansas, residence of John and Jane Jacob. Along with about 50 guests, the Jacobs were welcoming home their son, Paul, from federal prison, where he had served a six-month sentence for refusing to register with the Selective Service System for possible military duty in the future. For Paul, the party was a milestone. It marked the end of a years-long personal struggle against registration and the draft—a struggle that erupted into one of the most highly publicized draft-resistance cases since the Vietnam war.

**J**acob’s battle against compulsory military duty began in 1978 when, as an 18-year-old freshman at Westminster College in Missouri, he formed a campus chapter of the Libertarian Party. Most of

## Paul Jacob’s fight against the draft

by James W. Harris

the activities of the Westminster libertarians were directed against proposals for national service and a military draft.

In July 1980, President Jimmy Carter, responding to the Soviet invasion of Afghanistan, instituted draft registration—but stopped short of a draft itself—for all young men born in 1960 (Jacob’s year of birth). Jacob, who had moved back to Arkansas and become chairman of the Arkansas Libertarian Party, was by now convinced that registration was an individual-rights issue of overriding importance.

“As Carter started registration, it was clear to me that I wasn’t going to register,” Jacob recalls. It was also clear to him that

“the most effective way to beat it, for those of us threatened with the draft, was to resist.”

In January 1981, when the law was broadened to require all men to register when they turned 18, Jacob organized a protest demonstration. It was small—just three or four persons standing with placards and leaflets outside a Little Rock post office. But it marked a major turning point in his life.

“There was no thought in my mind that I would publicly state that I wouldn’t register,” he remembers. But when reporters covering the demonstration asked him if he had registered, he said he had not and would not. He urged others to actively resist, also.

This brought Jacob a good bit of local publicity. It also brought some unwanted attention: in June he received a letter from Selective Service ordering him to register or face prosecution.

Neither option was acceptable to Jacob. Instead, he chose to defy Selective Service and continue his antiregistration activities underground. He left Arkansas on July 4, leaving no forwarding address.

During the next year he traveled around the country, speaking at colleges and anti-draft rallies. On September 23, 1982, an Arkansas grand jury indicted him for failure to register. He was now an FBI fugitive—the first underground draft resister since the Vietnam war.

At that time, 10 other young men had been indicted for failure to register. All had publicly declared that they would not comply, and in traditional civil-disobedience fashion they had submitted voluntarily to arrest and trial. Jacob, however, refused to do so.

"I will not assist the government in their attempt to take away my freedom," he said in a statement released after his indictment. Later he told an interviewer that "to go to court is to allow the men who have been appointed by the politicians who started the program in the first place to decide whether you are innocent or guilty. [I am] concerned with justice. They are concerned with legality. There is a big difference between the two."

Jacob hoped to encourage wider noncompliance by dramatizing how easy it was to avoid prosecution. If he—an indicted, vocal nonregistrant—could travel around the country with relative impunity, then obviously the several hundred thousand quiet nonregistrants, not one of whom had been indicted, had little to fear.

Unlike the other indicted resisters, most of whom were pacifists, Jacob was quick to say that he would defend the country in case of attack. His opposition to the draft stemmed not from pacifism but from a deep commitment to individual liberty. "I am not a pacifist resisting war," he said shortly after his indictment. "I am a free man resisting slavery."

Though he opposed the draft for a number of reasons—including fears that it would encourage U.S. military intervention abroad and that enforcement would lead to severe

restrictions on free speech—first and foremost he condemned conscription as an invasion of personal freedom. "The most serious thing wrong with a draft is that it's involuntary servitude—slavery. It's slavery in the same sense as slaves on southern plantations. The only difference is that your master is different and your type of work is differ-

that he could keep moving and not risk working too long in one location.

During this time he frequently surfaced to speak out against the draft and registration. He granted interviews to newspapers and antidraft publications, wrote articles and letters, published an antidraft newsletter, and phoned in comments on the draft and related issues to radio stations in his hometown.

The life of a fugitive began to grow tiresome, though—especially with his wife, Rhonda Allen, expecting their first child. After evading arrest for almost a year and a half, Jacob returned to Little Rock. There he lived quietly with his wife and new daughter, Jessica, until the FBI arrested him on December 6, 1984.

Released the next day on bond ("I sometimes wonder if they didn't time it to coincide with the anniversary of Pearl Harbor"), Jacob used the contacts he had made during his travels to organize a speaking campaign to raise funds for his defense. For the next six months he spoke around the country. Newspaper and radio interviews—and an appearance on the PBS TV show "Late Night America"—brought his arguments to larger audiences.

Jacob peppered his speeches with quotes from the likes of Thomas

Paine, the fiery anticonscription orator Daniel Webster, Henry David Thoreau, and other American dissenters, making the point that personal liberty and rebellion against unjust laws are as American as apple pie. (He also liked to quote another well-known American, Ronald Reagan, who during his 1980 presidential campaign had declared that "the draft and draft registration destroy the very values our society is committed to defending.")

Jacob blasted the argument that a draft is necessary for national defense, pointing out that there were already some two million American volunteers in uniform around



Free at last, Paul Jacob, his wife Rhonda Allen, and their friends celebrate his release after six months in prison.

ent." And registration, he was convinced, was the first step toward resumption of a draft, which had been ended after national soul-searching less than a decade earlier.

Jacob, who's been described as conservative-looking and the all-American type, remained a fugitive for nearly two and a half years. At first he crisscrossed the country, traveling through more than 40 states and supporting himself by working at odd jobs. Some were provided by friends; others he found on his own, using assumed names and false Social Security numbers. Occasionally supporters donated money so

the world, a more than sufficient force to perform "their only legitimate role, the defense of our country." The draft, he said, is "an insult to young people. [It] implies that we are too cowardly or too unpatriotic to defend our homes unless threatened with prison sentences."

Jacob also argued that a volunteer military provides an important curb on military adventurism. "The freedom of choice to say no to unjust wars is an important check on the politicians' ability to involve us in such conflicts," he said. "The volunteer system puts the trust where it belongs, with the people. The draft puts the trust where it doesn't belong—with politicians."

To claims that registration is not the same as a draft, and therefore not objectionable, Jacob replied that registration is clearly a first step toward a draft and had been viewed as such by many advocates of the program—such as Army Chief of Staff Gen. Bernard Rogers, who in 1979 urged a Senate committee to adopt "the evolutionary approach" toward resumption of the draft: "First, to start to register and get us accustomed to that...then commence to classification...then, third, start to draft."

Jacob's trial took place in Little Rock in July 1985. He was charged with refusing to register—an offense carrying a maximum penalty of five years in prison and a \$10,000 fine. In his defense he argued that Selective Service had violated his First Amendment rights, both by targeting only vocal nonregistrants for prosecution—thus using selective prosecution to crush dissent—and by insisting that the act of registering constituted an endorsement of registration, even though that "endorsement" was *compelled* under threat of fines and imprisonment. He further argued that the draft is unconstitutional and that his refusal to register was therefore not a crime.

Jacob had no illusions about his prospects in court. "I realized I had very little chance of winning," he says. Instead, his goal was to publicize his views—to "put the draft on trial." To this end he persuaded 1980 Libertarian Party presidential candidate Ed Clark and former Republican Congressman Ron Paul to testify against the draft at his trial. Both, Jacob says, did "terrific jobs."

Paul, who had introduced legislation in Congress to end draft registration, commended Jacob's stance as "a position only courageous people can hold." The prosecuting attorney confronted Paul with Jacob's voter registration card—Jacob had written "Smash The State" on it—and asked, "Is that an opinion or an attitude that...finds support among people of your philosophy?" Paul replied that during his last years in Congress he had voted against "99 percent

## "Not everybody who's against the draft is a commie, a pacifist, or afraid to fight."



of the expenditures of the state....I don't use those words ['Smash the state'], but if you took my voting record, I certainly would reduce the state in a very significant manner....It's a threat to the individual liberties not only of Paul Jacob but to every single solitary person in this country."

Jacob was also able to subpoena Selective Service head Thomas Turnage—a first among registration resisters. Turnage asserted that, in his view, the high rate of compliance with registration did indeed constitute an endorsement of the program.

Jacob and his lawyers suffered two major setbacks in their planned defense, however. They were not allowed to inform the jury of the long-established legal principle of jury nullification, whereby jurors can refuse to convict a defendant of breaking a law that they deem unjust—a principle used widely during Prohibition. And the judge refused to allow the jury instructions prepared by Jacob's lawyers, which clarified and amplified many of the First Amendment issues involved in his case.

Given this, a guilty verdict was virtually a foregone conclusion. Jacob was sentenced to five years in prison, with four-and-a-half years suspended provided he do two years of "community service" eight hours per week. He was taken immediately to prison.

Despite the verdict, however, Jacob feels that in a real sense he won the trial. One juror, he learned later, told a reporter that most of the jurors basically agreed with his philosophy and thought he had done the right thing. However, the jury instructions were such that they felt they had no choice but to return a guilty verdict.

Jacob spent the first month of his sentence in a county jail in Little Rock. His cell mate was a Vietnam veteran who said prison officials had told him he could do whatever he wanted to the "draft dodger" without fear of punishment. The vet instead became good friends with Jacob and sympathized with his cause. Eventually Jacob was transferred to a prison camp at Seagoville, Texas, where he served out his term.

During this time he received "countless" letters of support from family, friends, and others across the country and abroad—so many that his fellow prisoners jokingly asked if he were paying people to write. He also continued receiving donations to

help with legal bills and family expenses.

After being released from prison, Jacob encountered yet another shock. According to the conditions of his probation, he was forbidden to speak publicly about the draft, Selective Service, his prison stay, and related topics. So much for the First Amendment. Even more incredible, his probation officer, an officer of the court, told him that it was his speaking out against the draft that had gotten him into trouble in the first place—precisely what Jacob had tried unsuccessfully to argue in court!

Jacob and his lawyers immediately protested and filed motions. Local newspapers spoke out strongly against the restriction; largely because of this publicity, the proviso was dropped.

Upon his release from prison, Jacob went home to Little Rock, where he attended law school at the University of Arkansas. To fulfill his community-service obligation, he worked at Easter Seals. After completing a successful semester in law school, Jacob moved east with his family. Now he and his wife both work at the Cato Institute, a free-market think tank in Washington, D.C., where he is sales director and mailroom coordinator and she is assistant to the president. To complete his community-service requirement, Jacob is an "active listener" at a northern Virginia crisis hotline. In the near future he expects to go back to school to study either law or history.

And he remains very active in antidraft activities. In addition to speaking around the country and serving on the Libertarian Party National Committee, Jacob is cofounder and president of Volunteers for America, an organization designed to promote the concept of a volunteer military and to provide a support network for draft resisters.

"Our position is that the volunteer system is the best, both tactically and morally. It's very important that people realize that not everybody who's against the draft is a commie, a pacifist, or afraid to fight—that you can be against the *draft* without being against the *military*. We want a military that defends our country, and defends it in keeping with the best values of our country."

After eight years of fighting registration and the draft, Jacob is more convinced than ever of the importance of educational efforts and active resistance. "I have never believed that the battle against conscription would be won in the legal area," he says. "Only by speaking out and convincing the American people that the draft is unjust, unnecessary, and dangerous can we ultimately stop it." □

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By Warren Salomon

## They're Lookin' at You, Kid

**Y**ou must remember this, a kiss is just a kiss...

Even in this crazy business, certain fundamental things apply. Details and section numbers may change, but one thing is eternal—the “crime” of tax evasion. It’s the essence of our “voluntary” tax system, the rock upon which the state is built.

Lots of folks are probably cheating a little on their taxes. That’s why the feds audit us. About 1.3 percent of individual tax returns were examined in 1985. But audits rarely lead to criminal prosecution. Most end in settlements, or sometimes in Tax Court. These are civil cases, where the stakes are taxes and penalties, not time in the slammer. (Thus the folklore that mere tax avoidance is “legal.”)

We like to think we’re civilized; we don’t jail people for debt. That’s why the mere failure to pay taxes or file a return, even when willful, is only a misdemeanor (Section 7203—one year or \$25,000 or both). But filing a false return is a felony (Section 7206—three years or \$100,000 or both). The fines for corporations are more, and the penalties apply separately to each year of each offense, for you and your company, and are in addition to big civil fraud penalties. It can really add up.

But willful tax evasion is even more serious. The penalty (for each annual offense) is five years or \$100,000 or both. To convict you of tax evasion under Section 7201 of the tax code, the feds have to prove three elements: besides showing that some additional tax is owing, they have to prove an affirmative act of tax evasion, plus willfulness. It’s not difficult to prove those things (and paying up after you’re indicted may not help; it may even be used as an admission that you cheated).

Willfulness and affirmative acts are interrelated. If the feds can show a pattern of keeping two sets of books, or no books, or bank accounts under an alias, or some other scheme, or if they show you’ve been destroying records or lying to IRS agents, they’ve got it made.

But without your records, how do they prove that you owe more taxes? Greatly simplified, there are three ways:

1. Specific items: This can be a killer, because all they need to show is one concealed sale, or one fictitious name on your



payroll (where you probably signed the back of the check and cashed it), or one instance of anything. They don’t have to prove (or know) everything.

2. Bank deposits: They can get your bank records as easily as you can (usually), and all they need to show is that your deposits exceed your reported income. They’ve made their case. Now it’s your turn. Sure, you might prove that some of those deposits were interaccount transfers, or loans, or gifts, or something, but what about the rest?

3. Net worth: Here, they show that your outlays for investments and living expenses exceed your reported income and savings. Suppose—after years of reporting trivial income and borrowing from small loan companies—you pay all cash for your house. Where’d the money come from? It’s presumed to be unreported income. Now you have to prove a nontaxable source of the funds.

Surprisingly, fewer than 10,000 fraud investigations are conducted annually, resulting in fewer than 2,000 actual cases. More than half result in guilty pleas. Of maybe 700 trials, about half end with convictions. Such is the effectiveness of this “state-sponsored terrorism” that a few hundred annual convictions are sufficient to keep us in line.

How do the feds decide whom to prosecute? There are a hundred million taxpayers and only 80,000 wretches in the IRS. The feds can’t attack everyone, and they don’t.

They strive for maximum deterrent value by prosecuting only the strongest cases, preferring high-profile defendants. So they go after Max Megabucks, a case they think is a sure thing and likely to strike terror in the community where Max is a prominent citizen.

But still, how do they find him?

Often it’s luck. Some fraud cases arise routinely from normal audits, where the revenue agent stumbles across unmistakable evidence of cheating. Or they can come as “referrals” from other bureaucracies.

And then there’s greed. The IRS pays a bounty of up to 10 percent to stoolies. Another tool of the trade is cowardice. All they need to do is arrest your trusted bookkeeper for possessing a gram of some illegal substance, and he’ll hasten to make a deal: “Spare me, and I’ll tell you about my boss, Max Megabucks, who’s been evading taxes for years.” Forget about gold; the IRS operates on the sleaze standard.

In addition to luck, greed, and cowardice, the feds have other assets at their disposal—hatred, vengeance, and jealousy. A disgustingly large percentage of cases begin with informants: ex-spouses, ex-sweethearts, ex-partners, employees, customers, competitors, etc.

“Ah,” you’re saying to yourself, “perhaps the former wife of Max Megabucks squealed to the feds, but my own sweet darling would never do such a thing.”

Really? Probably that’s what Max Megabucks thought too. Anyway, this brings us to the great Cosmic Rule of Tax Evasion: *Trust no one*. If your scheme requires accomplices or involves witnesses, you would be wise to forget about it. Weak individuals are the strength of the state.

“No,” you insist. “My own sweet darling—who is also the keeper of my two sets of books—will stand by me forever.” Sure. And if you believe that, I’ve got some land in the Everglades you’ll want to invest in.

The conclusion is this: Even if you’re brilliant, it’s not easy to evade taxes and get away with it. The feds have been working in that sewer since 1913. They’re at home in muck, and you’re not.

On that you can rely...as time goes by.

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