



THE PATRIOT POST®

VOICE OF ESSENTIAL LIBERTY

Liberal Activists Worked With AGs to Target Conservatives

Hans von Spakovsky

May 5, 2016

In Ray Bradbury's classic dystopian novel, "Fahrenheit 451," a future society criminalizes the possession of books and burns them in order to suppress any dissenting ideas, opinions, and views. Today, we have state attorneys general trying to implement their own version of "Fahrenheit 451" to criminalize dissent over a disputed, unproven scientific theory: man-induced climate change.

Recently, the attorney general of the Virgin Islands, Claude Walker, unleashed a subpoena on the Competitive Enterprise Institute seeking 10 years' worth of research and communications about climate change.

It turns out that same Grand Inquisitor, Claude Walker, has hit ExxonMobil with a similar subpoena that seeks all of that company's communications, conversations, and correspondence with 88 conservative and libertarian think tanks, foundations, and universities, and 54 individual researchers, scientists, and writers.

Included in that list of think tanks, foundations, and other organizations is The Heritage Foundation, Cato Institute, Heartland Institute, National Center for Public Policy Research, Manhattan Institute, Washington Legal Foundation, FreedomWorks, Reason Foundation, Pacific Legal Foundation, Federalist Society, Landmark Legal Foundation, Americans for Prosperity, and the Hoover Institution.

The schools targeted include George Mason University, Washington University, Suffolk University, and Arizona State University. Among the individual scientists, researchers, and professors pursued by Walker are well-known University of Alabama scientist (and climate skeptic) John Christy and M.I.T. professor Richard Lindzen.

In response to the subpoena, which Walker says is connected to a possible violation of the Virgin Islands version of the federal Racketeer Influenced and Corrupt Organizations Act, ExxonMobil has filed a lawsuit in state court in Tarrant County, Texas (where the company has its principal office). The company is seeking a declaratory judgment against Walker and the plaintiffs' law firm to whom Walker has delegated his prosecutorial authority, Cohen Milstein Sellers & Toll, that the so-called "investigation" and subpoena violate "constitutionally protected rights of

freedom of speech, freedom from unreasonable searches and seizures, and due process of law and constitute the common law tort of abuse of process.”

Walker’s Politically Motivated Attack

ExxonMobil lays out what is happening here. Referring to the coalition of state attorneys general that has been formed to pursue these abusive cases, the company points out that the statements by the attorneys general at their March press conference make it “unmistakably clear” that this is “a politically-motivated” coalition whose actions are “urged on by activists intolerant of contrary views.”

Walker himself has said he is targeting ExxonMobil because it manufactures a product he believes is “destroying this earth.” It seems Walker has not considered the fact that our abundant and relatively cheap fossil fuels have done much to contribute to the wealth, prosperity, and high standard of living for most Americans.

ExxonMobil claims Walker has no jurisdiction over the company since ExxonMobil has no physical presence, no property, no employees, and “has conducted no business operations in the Virgin Islands in the last five years.”

More to the point, though, ExxonMobil claims that Walker is abusing his power to “deter ExxonMobil from participating in ongoing public deliberations about climate change and to fish through decades of ExxonMobil’s documents with the hope of finding some ammunition to enhance Attorney General Walker’s position in the policy debate.” ExxonMobil charges that Walker’s allegation against the company “amounts to little more than a weak pretext for an unlawful exercise of government power;” it is the use of “law enforcement tools to achieve political goals.”

As the Competitive Enterprise Institute did in its objection, ExxonMobil also alleges that Walker’s delegation of his prosecutorial power to a private law firm “likely on a contingency-fee basis” violates basic “due process of law and fundamental fairness,” particularly because that same law firm has “pursued a bitterly contested and contentious litigation in an unrelated lawsuit against ExxonMobil ... which could result in a substantial fee award if Cohen Milstein’s client were to prevail.” That raises “substantial doubts about whether that firm should be permitted to serve as the ‘disinterested prosecutor’ whose impartiality is demanded by law and expected by the public.”

This is particularly true because of the firm’s seeming misbehavior in a series of cases that ExxonMobil recites in the complaint. This includes a case in which Cohen Milstein’s co-counsel, Terrence Collingsworth, filed a lawsuit on behalf of Ecuadorian plaintiffs against Texaco that ultimately resulted in a federal judge rebuking Collingsworth for “misconduct” and accusing him of having “manufactured” the case. ExxonMobil cites the “scathing opinion issued by an Alabama federal judge in Dec. 2015, in which the judge found that Collingsworth had improperly made payments to witnesses, and made repeated and knowing false statements to both the court and to opposing counsel in an effort to conceal the payments.”

ExxonMobil asks the Texas court to declare that the “issuance and mailing of the subpoena” violates various provisions of the U.S. Constitution, federal law, and the Texas Constitution.

Legal Attack Organized by Climate Activists

It seems that this effort by Walker and other state attorneys general may have been done in coordination with left-wing climate activists. According to The Washington Free Beacon, “a small coalition of prominent climate change activists and political operatives” met on Jan. 8 in a closed door meeting at the Rockefeller Family Fund in Manhattan. Their agenda: taking down oil giant ExxonMobil through a coordinated campaign of legal action, divestment efforts, and political pressure.”

A copy of the agenda from that meeting states that two of the common goals of these activists are to “establish in public’s mind [sic.] that Exxon is a corrupt institution that has pushed humanity (and all creation) toward climate chaos and grave harm” and to “delegitimize them as a political actor.” Part of the discussion of their grand strategy was how to include “industry associations, scientists and front groups” in their targeting. And at the top of their list for “legal actions & related campaigns” was state “AGs.”

That last goal was apparently put into action. According to Fox News, a series of emails obtained by the Energy & Environmental Legal Institute showed communications between some of these same anti-fossil fuel activists and the attorneys general that are part of this “Green” coalition against climate change dissenters.

Some of them secretly briefed state attorneys general before their March press conference on arguments they could present to justify “climate change litigation” and the “imperative of taking action now.” The attorneys general and their staff tried to hide this discussion and coordination with the activists by “using a ‘Common Interest Agreement’ ... [that] sought to protect as privileged the discussions about defending President Obama’s controversial global warming rules, and going after political opponents using the Racketeer Influenced and Corrupt Organizations Act.”

Some state attorneys general have criticized the dangerous and misguided efforts of their inquisitorial peers. As Louisiana Attorney General Jeff Landry correctly states, they are using “prosecutorial weapons to intimidate critics, silence free speech, or chill the robust exchange of ideas” about a public policy issue. And it is just as malevolent as the burning of books in the society depicted by Bradbury in “Fahrenheit 451.”