FREE!!! TAKE ONE

COMMON SENSE

Editorialized News

(At least we admit it)

"Better a free press without government than government without a free press." - Thomas Jefferson

NOTICE: The material in **Common Sense** should not be construed as legal advice or an attempt to interfere with any court's discretionary powers of substantive decision making. The material contained herein is a 1st Amendment effort to get the judiciary to stop stonewalling the crucial social issue of unequal citizenship in the courts, to stop attempting to diffuse political accountability on this issue, and to stop the wholesale abuse of pro se litigants by judge lawyers.

"LEGAL" BIGOTRY IN MESA COUNTY

(Part 2)

John R. Wilkenson

In its first issue, **Common Sense** said, "The only people who are conceivably unaware of the general moral corruption of the entire legal profession are those who have had no contact with it." That statement is more true than ever, despite the "profession's" slick public relations efforts to improve its image with minimal pro bono work and political devices such as ask-your-friendly-lawyer-a-free-question radio and TV talk shows. The issue is deadly serious.

Take the case of Paul Ferris, for instance. If you haven't read about it elsewhere, Ferris is the Mesa County farmer who has taken on the government/legal-"profession" monster in a court battle apparently designed to keep the board of commissioners from illegally padding the general-expenditure mill levy with the one-time capital-expenditure mill levy of a new jail.

Common Sense has reviewed Ferris's complaint filed in district court. Contrary to the allegations of the county's attorneys, it was crystal clear what Ferris was complaining about. It was also very plainly put in writing that Ferris is willing to drop the entire action if the commissioners will only put the mill levy hike to a binding vote of Mesa County's registered voters.

In return for his considerable good-faith efforts, Ferris has been faced with a form-over-substance "legal" game playing so blatantly immoral and insulting to common notions of fair play and justice that **Common Sense** believes the public must be made aware of what officials like county attorney Lyle Dechant and district court judge David Bottger are doing.

At this point, it is necessary to preface the story with the fact that a mountain of state and federal appellate case law and legislative history prove that courts are legally obligated to operate in the best interests of complete justice. The formal rule is substance-over-form, NOT form-over-substance. Every citizen has a fundamental constitutional right of access to the courts, and that means access to honestly equal reciprocal justice between person and person regardless of socio-politico-economic status. It does not mean conditional access to a biased judge lawyer who is all too happy to jerk non-bar pro se (self-represented) litigants around to the financial benefit of lawyers and private interests who call themselves "government."

Getting back to the story, Good Old Bottger struck the summonses in Ferris's case for the sole reason that Ferris signed them himself instead of having a lawyer do it. Exactly the same treatment was accorded to my own mother by then-referee Bottger and Good Old William Ela when she tried to use the judicial process to recover money she had lost by fraud. Bottger also ordered Ferris to amend his complaint so it would contain numbered paragraphs, and ordered him to omit "all redundant, immaterial and impertinent matters." In **Common Sense's** view, there was not a shred of impertinence in the complaint, and only a small amount of redundancy.

At any rate, Ferris shortened his complaint, numbered his paragraphs as ordered, and filed his amended complaint within the time constraints of the court order. In return, the "county" responded by asking the court to "quash purported service of process," "strike the Amended Complaint from the court's docket," and to dismiss Ferris's action.

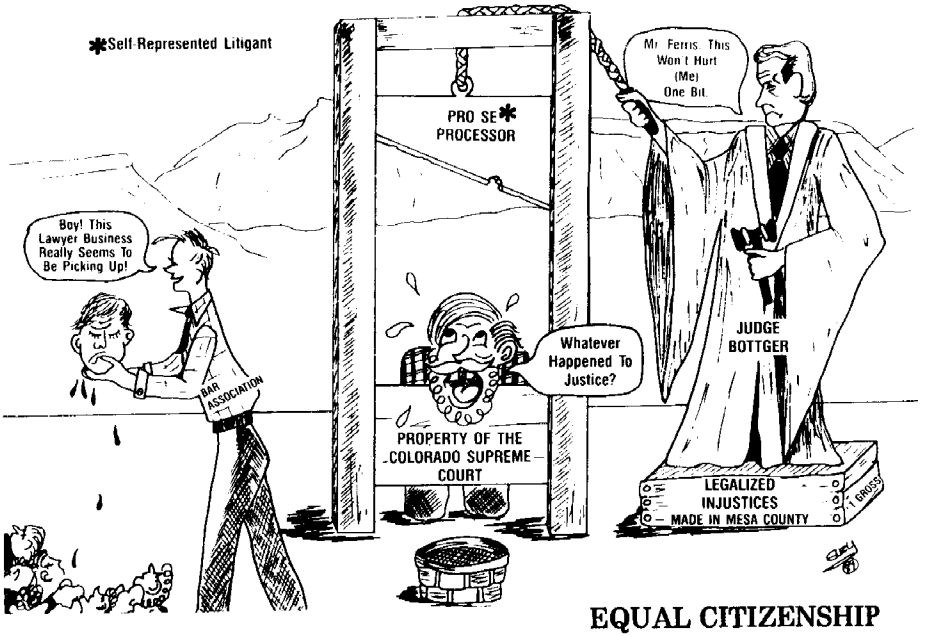
Common Sense believes the commissioners should either instruct their attorneys to move forward to try the case on its merits, put the tax hike to a vote of the people, or resign. Legalese game playing is not an appropriate or becoming substitute for facing hard questions and issues honestly and openly. As for Maurice (Lyle) Dechant, judge David Bottger, and the Colorado Supreme Court en banc, **Common Sense** believes they are so obviously guilty of the grossest possible anti-pro-se-litigant bigotry that they should resign their official positions immediately in the best interests of justice and the general welfare of the people. As grounds for this public accusation, **Common Sense** presents the following argument for the reader's consideration. You be the judge.

The controversy centers around the interpretation of Rule 4 of the Colorado Rules of Civil Procedure which says in relevant part: "The summons *may* be signed and issued by the clerk, under the seal of the court, or it *may* be signed and issued by the attorney for the plaintiff. . . ."

At first glance, the use of the word "may" in the rule appears to unconstitutionally narrow the provisions of Article 2 Section 6 of the Colorado Constitution which says: "Courts of justice *shall* be open to *every* person" (*NOT* depending on whether some lawyer or court clerk feels like signing a summons or believes the case has merit). However the grammatical reason the word "may" is correctly used is because two different and distinct methods of signing and issuing summonses are provided for in Colorado.

The federal rule 4 does not contain the "may" dilemma and is constitutionally valid because it says in relevant part: "Upon the filing of the complaint the clerk *shall* forthwith issue a summons and deliver the summons to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint."

Continued on page 4 . . .



EQUAL CITIZENSHIP

Commentary

Common Sense

Originally founded
by Thomas Paine in 1776

John R. Wilkenson
Editor and Publisher

P.O.Box 91
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July 4, 1989

EDITORIALS

Beijing and the New Jail

Recent events in China ought to make it clear to everyone what the real purpose of standing armies is: enforce the will of the tyrants and predators who call themselves "government." It was not for nothing America's founders hated standing armies. They knew "professional" and/or mercenary armies are controlled by types who blindly follow orders, people who, in violation of their oaths to support various social compacts, find some kind of fulfillment out of busting heads and keeping "order" for loot and/or pay. See the writings of US Marine general Butler.

It is amazing to notice how many public "servants" at all levels of government are calling for massive increases in the number of prisons. Doesn't this seem odd in view of the fact that America already has one of the world's largest prison populations? Isn't it interesting how the need for more prisons and jails (and taxes) increases in a direct ratio with the increase in citizen dissatisfaction with the corruption of the professional liars known as "government?"

Common Sense finds it amazing that, in a country where "government" supposedly represents the will of the people, the administrators of "justice" now feel so threatened by the people they claim to represent that they want to conduct their business from behind locked doors in windowless, heavily armed, electronically protected fortresses. We find it interesting that the term "police" has now become (the department of public) "safety." The term "Special Weapons and Tactics" has now become "Special Problems Response Team." Isn't it amazing how benign brute force can be made to appear through the creative use of Orwellian newspeak?

The lies of revisionist-history politicians, educators, and media aside, the proveable truth about the 2nd Amendment is that it was written for one primary reason and one only: so the people would always be more powerful than the military and law enforcement agencies of their government. The idea was to prevent government (whether foreign or domestic) from ever imposing its will on the people by deception or force.

As unspeakably tragic as the Stockton massacre was and is, we must never forget the scores of millions of people murdered by government. "It can't happen in America," you say? What about Kent State? What about the murder of civil rights workers? What about Nathan Hale? Examples are far too numerous to list.

The harsh fact is, "government" has killed countless more people than all blue-collar individual criminals combined. "Government" kills many more people than guns, so, following the rationale of anti-gunners, why not ban government? Can the American people really be expected to believe that a bunch of patriots who had just whipped a criminal government would write a 2nd Amendment which means "our children and grandchildren will never have the right to do what we just did?" Give us a break from newspeak, please!

About The Insert

The insert in this issue is a public letter by Dr. Everett Sileven on the legal "profession" and his experiences with it. Dr. Sileven has paid his dues. He spent considerable time in jail due to biased and unconstitutional judicial behavior. In so doing, he became one of the countless multitude of political prisoners that exist today, right here in America.

SPEAK OUT/LETTERS

Editor's Note...

The editor wrote a letter to the retired Honorable James J. Carter, asking if he still stood by his holding in the Vieira *case that pro se litigants are authorized to sign summons in their own actions. Judge Carter answered as follows:*

March 28, 1989

Dear Mr. Wilkenson,

Please excuse my belated response to your February letter. My initial impression was that you referred to a case in which you were a party and in which I presided.

I am not familiar with the rulings of other judges in the case which you mention. A prior ruling by me in another case would have no binding efficacy in the case in which you seem to be involved and I have no control over what other judges do.

Perhaps it will suffice to state that I am unable to participate in your difficulty. Having retired from judicial service I decline to become embroiled in matters raising questions as to matters such as yours although you have my sympathy. My dissatisfaction with the administration of justice was one reason for my withdrawal. Until the citizens become sufficiently interested or aroused there will be no changes. Any change will only emerge when judges become responsive to the general welfare — when they become elected.

Yours truly,
James J. Carter

Common Sense believes the publication and distribution of "peoples" newspapers is essential to the public exposure of the whole truth and the preservation of liberty and justice. Accordingly, ***Common Sense*** encourages anyone who is having trouble getting the truth about injustice out to the people to feel free to borrow the idea of ***Common Sense*** and its format. Because so few ideas are truly original, the editor reserves the right of editorial control only over those volumes with his name on it as editor and publisher. Every issue of a "peoples" newspaper should be viewed as a completely separate enterprise, and other publishers of ***Common Sense*** ought to accept accountability by placing their names on any issues they might publish, much like America's Founders accepted accountability by signing the Declaration of Independence.

GIGANTIC TAX INCREASES

Hope F.O.R. Justice

If you favor them, don't read this article.

THE PROBLEM: It's time to do something concrete and effective about Mesa County's crisis in government. One can begin to get a handle on the problem by watching what happens as various small groups of citizen/victims of organized government injustice and lawlessness, one by one, beat their heads against the brick wall of "the system" while everyone else sits back wishing them good luck but offering precious little (if any) effective help. We all seem to feel about the other person's problems, "I think s/he's right, but it's not my fight."

It may be that folks may never be willing to actually risk their lives, fortunes, and sacred honor in what they perceive to be the other guy's fight, but surely all reasonable people can agree that everyone deserves a fair and impartial public hearing. After all, if the people are ultimately responsible for the way justice is administered, don't we have the right to know the truth about what is really going on, and about what the public's so-called "servants" are really doing? Surely all reaonsable people can agree that the establishment media's transparent attempts to create, mold, manipulate, and control public opinion must somehow be opposed.

Back in the days of the Declaration of Independence, when King George's media were constantly distorting the truth and misrepresenting the facts about events and people of that time, Samuel Adams and company knew they had to find a way to get the truth out to the people. The Founders knew that whenever the press takes a less than unbiased stance, it is all but impossible to secure a fair hearing for all sides of any important issue. They knew that an uninformed or misinformed opinion is not truly a representative opinion, and a vote resulting from such an opinion is not truly a representative vote. Simply put, the founding fathers and mothers were faced with the same problem we have in Mesa County today: How do we get the whole truth out to the people (Voters)?

The Founders invented and implemented the Committees of Correspondence. Common Sense proposes we re-establish the Committees of Correspondence.

Voters Organized for Tax Equity (V.O.T..E) is a 1st Amendment political action committee founded to help create a local "people network" that will be able to function effectively in getting the truth out to the people when mass communication channels are unavailable. By participating in a modern committee of correspondence, any person can take a small but very effective part in "the other guy's fight," and in so doing, protect their own rights against government injustice and criminality.

There presently exists county-wide resentment against government corruption and runaway taxation. Many people seem to suspect that too many government officials are not exercising their official powers of discretion in the best interests of the citizens and taxpayers of Mesa County. The 700-person standing ovation given to the "good-old-boy-syndrome" quote and Mesa County's approval of Amendment 4 and Amendment 6 are in the too-recent past to escape memory.

We must remember that the carpet-bagging Good Old Boys and their friends, apologists, and followers, both inside and outside the government and "news" media, are highly skilled in the "art" of politics, and quite clever at composing effective little catch phrases, jingles, and slogans such as "just vote for the kids," "only a dime a day," "doom and gloom are dead," "we've had enough negativity and negative attitudes," etc., etc.

Obviously, the subliminal message intended is that anyone who disagrees with the Good Old Boys is a "doom-and-gloomer", doesn't like children, and/or is opposed to economic development (translated in voters' minds as "jobs") in Mesa County. Who in his/her right mind would vote in favor of "doom and gloom" and/or against children and jobs? Get the picture?!

We have had enough of this sort of deceptive "good-old-boy" propaganda. A negative attitude toward elitism, fraud, and thievery is not only healthy, but prudent self-defense. We do not so much need to attract business to Mesa County from elsewhere as we need to create and promote production and trade from WITHIN the county, thereby pulling ourselves up by our own bootstraps. When a business leaves some other part of the country to come here, then production and jobs are lost in another county. The only thing truly gained is the success of the Good Old Boys (on a national scale) in creating an atmosphere in which the taxpayers of America's cities and counties (under "home" rule) have to bid against each other for corporations and so-called "economic experts" to come to their county and "create jobs" and promote "economic development." We must not allow ourselves to be fooled by this taxpayer-funded musical-chairs form of economic suicide.

Like most other people in Mesa County, we are 100% in favor of HONEST, real, and constructive economic development. Perhaps, if graft, corruption, greed, apathy and ignorance could be eliminated by the education and involvement of us little people and our children, the illusory monsters of "doom and gloom" might just disappear by themselves. That, in turn, might well lead to an era of economic development, education, and prosperity unrivaled in Mesa County's history. Being average, unashamed, run-of-the-mill optimists, we think such a phenomenon would be positively wonderful! Don't you agree?

THE SOLUTION: V.O.T.E. believes that what is needed in Mesa County is a bi-partisan "rainbow" political infrastructure composed of workers in every precinct in both the Democratic and Republican parties. If we neglect either party, the Good Old Boy Gang will throw their money and power behind the remaining party in an attempt to get what they want.

THE ISSUE: V.O.T.E. believes the key issue has four related parts:

1. Voter exclusion. V.O.T.E. believes voters ought to be included on all tax increase and public debt bonding questions.
2. The siphoning of public moneys into private pockets. V.O.T.E. believes public moneys should be spent on public projects and not wind up in private pockets in the form of "interest" payments (or debt "service").
3. Accountability of judges. V.O.T.E. believes that, if the constitution is to be truly the "will of the people," then the people have a right and duty to interpret it by directly electing all members of the judiciary (most especially supreme court justices) and lawyer discipline committees.
4. Restoration of honestly representative government. V.O.T.E. is committed to the political defeat of the Good Old Boy Gang in Mesa County.

If we stand exclusively on this one bi-partisan issue, V.O.T.E. can gain the support necessary to achieve our common goals. If we focus on more partisan issues, we will alienate support. After V.O.T.E. has achieved its goals, all citizens will be freer to address other issues as they arise.

WHAT YOU CAN DO: Support V.O.T.E. with your time, money or both. Help V.O.T.E. distribute information door-to-door to the voters in your precinct. Help V.O.T.E. raise funding for occasional advertisements. Make copies of this information and give them to your friends and neighbors.

If only 1% of the registered voters in Mesa County would donate $5.00 per month to V.O.T.E., we could afford a full-page ad containing detailed information regarding tax and bond related issues. Better yet, we could afford to distribute **Common Sense** to every reigstered voter in Mesa County.

We in Mesa County are blessed with too many unique resources and talented good-hearted people to waste them on special interests. Let's *DO* something for a change! Please write today and help V.O.T.E. restore a quality of life and government in Mesa County we can all be proud of.

V.O.T.E.
VOTERS ORGANIZED FOR TAX EQUITY
P.O. Box 91, Glade Park, CO 81523

"Legal" continued from page 1

Rule 11 of the Colorado Rules of Civil Procedure plainly states in relevant part: "A party who is not represented by an attorney shall sign his pleadings and state his address." Of course, defenders of anti-pro-se-litigant bigotry would hasten to say that a summons is not a pleading. True enough, but controlling case law proves that, in Colorado, a summons is not "process" either. A summons is merely fair notice (due process) that a complaint has been or is about to be filed in court against the recipient/s of the summons. It is fair notice and a fair opportunity to defend, that's all. Period. It is entirely illogical, unfair, and unconstitutional to interpret the Colorado rules in such a way as to, on the one hand, require a pro se litigant to sign his/her own pleadings, and on the other hand somehow forbid that very same person from signing fair notice of those very same pleadings (i.e. complaint). Additionally, an "attorney" is merely a hired hand, an *agent*. Since when can an agent sign papers that a principal is forbidden to sign? No. Litigation proceeds under the authority of the litigant (plaintiff or defendant), *NOT* under the authority of his/her hired lawyer or the supposedly neutral court.

The only way Colorado rule 4 can pass constitutional muster is if the term "attorney for the plaintiff" is interpreted to include a litigant who is in fact acting as his/her own attorney. Otherwise you are left with a clerk who "may" sign and issue summons (if s/he feels like it) instead of a clerk who "shall" issue summons upon the filing of a complaint.

A frivolous argument, you say? Hardly. Theory turned into a reality when my mother and I asked a clerk to sign and issue summons in her case. We were told to do it ourselves, because "if we would do this for everybody, the lawyers would have us doing all their work for them, and we don't have the time or enough help." In our case the clerk refused to sign and issue summons because of the "may" language of rule 4. So when Ela and Bottger decided we were not "attorney for the plaintiff" even though we were representing ourselves, we were denied access to the court altogether — in reality, not theory, and for the sole reason that we did not hire a lawyer.

In a 1980 case in Mesa County, *John Vieira, et al. v. Board of Education, Mesa County Valley School District #51*, then-chief-judge James Carter ruled that pro se litigants are authorized by the Colorado rules to sign and issue summons in their own cases. Paul Ferris relied on judge Carter's opinion when he signed and issued summons in his own action (as did my mother and I). In response to Ferris's motion to reconsider striking the summonses, the "county" said the following about judge Carter's ruling in Vieira: ". . . reviewing and appellate courts have the power AND PROBABLY DUTY to overturn erroneous decisions. *Vieira* should be disregarded as adverse to the rules of fundamental law concerning procedure and court decisions on those rules. It is interesting to note that in *Vieira* the problem was eventually cured by issuance of a summons by the clerk of the court."

Judge Carter's motive for having the clerk issue summons is irrelevant. The fact is his ruling in *Vieira* was correct. The appellate courts of New York agree with Judge Carter. The whole truth is, the school district knew it had spent money illegally to promote **one** side of a bond election (remember the infamous "dime a day?"), knew it had illegally refused to make public how much money was illegally spent, and knew it was going to lose in court and be forced to provide the information sought by the *Vieira* petition. So the school district settled out of court, electing to publicly state how much money was spent rather than endure the public embarrassment of having a judge order them to obey the law. The mere fact that judge Carter issued his own summons in the *Vieira* case in no way supports the "county" in the Ferris case.

The public has a right to know that Ferris has invited the court to issue its own summons in his case rather than have the form-over-substance issue of who signed the summonses be determinative of his case. To date there has been no response from the court. The public has a right to know that in my mother's case, after asking the clerk to sign and issue summons and after being told to do it themselves, Good Old Ela and Bottger illegally and maliciously assessed attorney fees against us *FOR DOING AS WE WERE TOLD.*

In trying to give Paul Ferris a legalese run around, the "county" has tried to use the argument that it is the duty of the appellate courts to correct erroneous decisions. What a laugh! My mother and I already gave the Colorado Supreme Court a chance to "correct" the *Vieira* holding. We presented an exhaustive brief on this precise issue to the high court, begging them to clarify Rule 4 for everyone. Despite the fact the high court has never previously addressed the issue or set forth a uniform and coherent public policy, it dismissed my mother's petition with the single substantive word, "denied." Not only does the Good Old Colorado Supreme Court not want to address this immensely important social issue, it doesn't even want to say why it doesn't want to address the issue.

There is one more angle to this blatant unequal citizenship in the courts. If it wasn't so purely evil, it would be almost amusing how the legal "profession" takes the position that the winning work of a non-monopoly-union-lawyer pro se litigant has no value whatsoever, while the losing work of all licensed-shyster monopoly-union lawyers is worth many times the hourly wages or salaries of most of the poor unfortunates who turn to them for help.

Isn't it interesting how lawyers are the only segment of society who say that the kind of work they do only has value if a member of their monopoly union does the work? If a lawyer builds his own house, the carpenters don't pass laws making that house valueless just because a lawyer did the work. What makes the lawyers think they're so special?

It is crystal clear that the lawyers have monopolized justice and access to it for purely commercial purposes. This manifestly unjust unspoken and unwritten policy has the covert-but-very-real effect of repealing on a case-by-case basis — for every member of society except lawyers and their more affluent customers — various acts of Congress allegedly designed to 1) encourage government officials and employees to obey the law; 2) make government officials and employees personally liable for their violations of individual constitutional rights; and 3) encourage citizens to use the judicial process to vindicate their rights.

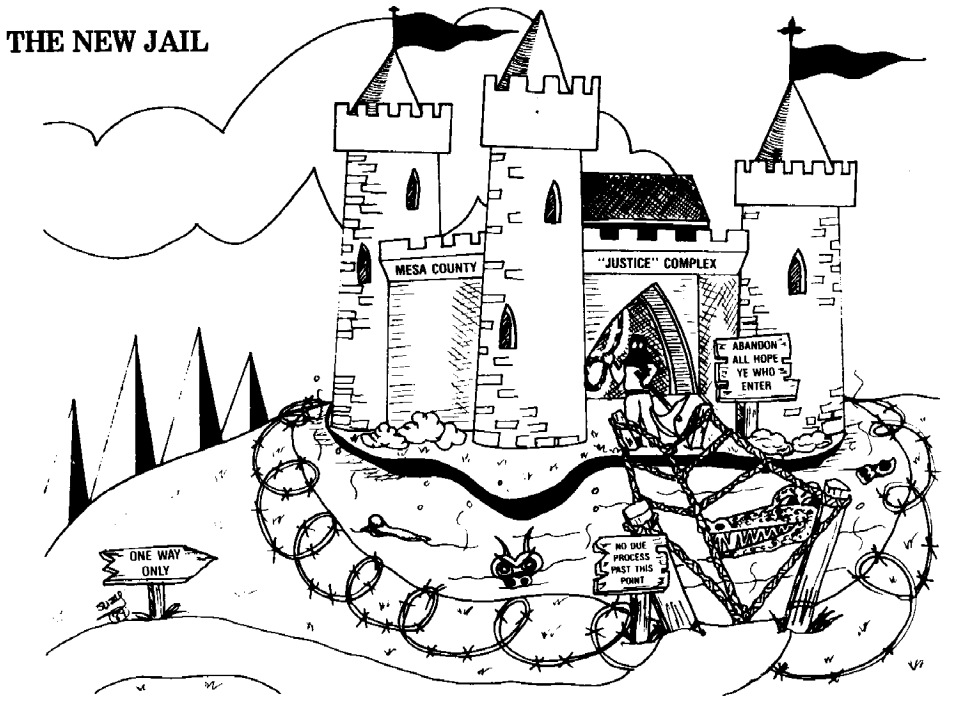
The equal citizenship-in-the-courts issue is currently in the 10th Circuit Court of Appeals, where I am appealing certain judicial behavior expressly designed to keep this exact issue from being successfully appealed. A successful appeal would accomplish one of two things: either 1) the judge lawyers would straighten the situation out; or 2) the legislator lawyers would be placed in a position of political accountability for enforcing equal citizenship in the courts. Obviously neither the judge lawyers nor the legislator lawyers, nor the free market lawyers (who, for $100/hour, will hold your hand in court while you are sheared of your wool by the first two) want to see either possibility turn into a reality.

So-called "conservative" lawyers at Mountain States Legal Foundation expresed keen interest in the appeal, but decided it would cost too much money. So-called "liberal" staff at the national headquarters of the American Civil Liberties Union called from Washington D.C. and expressed interest in handling the appeal, but eventually decided it would cost too much money. Isn't it interesting how both left and right wing lawyers say they agree with me in principle and enthusiastically wish me the best of luck? Of course, none ever get around to actually DOING SOMETHING about the unequal citizenship in the courts.

It should come as no surprise, as the US Supreme Court pointed out in the *Faretta* case, that, especially in colonial times, the American people have always had a profound distrust of lawyers. Perhaps it might restore some of what little remains of the public's rapidly waning faith in lawyers (especially judge lawyers and legislator lawyers) if they could see a group of lawyers (who actually were people of good will) effectively help a non-lawyer fight the commercially-motivated monopoly on justice so zealously and jealously guarded by most other lawyers. But I wouldn't hold my breath.

By the way, the latest news in the Ferris case is that the "county" is spending more of your hard-earned tax money to hire the local law firm of Young and Hockensmith to give Good Old Dechant a helping hand in squashing Paul Ferris. This raises the question: If Dechant and his underlings can't handle a corn farmer in court without hiring outside "professionals," what are the people of Mesa County allegedly paying them for?

Ferris says he has tried but failed to find professional counsel who will take his case. Since the same thing happened to me in the Glade Park struggle, another question is raised: why is it so many lawyers seem so much more interested in aiding and abetting government lawlessness than opposing it?



LESSONS FROM LOUISVILLE

(By Dr. Everett Sileven, former Pastor of Faith Baptist Church, Louisville, Nebraska)

LESSON 4

LAWYERS AND JUDGES

The more I think about the lessons from Louisville, the angrier I get that our educational system in America and the rest of the world, for that matter, is not geared to educate a child for life and for a function in life. I had no earthly idea what the function of the prosecutor, the judge and the defense attorney was until I was in the middle of our battle.

In my limited knowledge and naivete, I was led to believe that the courts were a place where the accused and the accuser met to lay all the cards on the table and the wheels of justice would measure all the evidence, judge it against the Constitution and the Biblical norms of justice and that the final outcome would be one of honesty and fairness. Was I in for a shock!

The players in this tragedy of injustice were:

PROSECUTORS: State Attorney General Paul Douglas, a man in his 50's, single, never married, a Republican, not a Christian, although a member of a local mainline denomination.

Assistant Attorney General, Mosier, anemic and effeminate in appearance, but more personable and more religious than Douglas.

New Attorney General, Spires, at the end of the game, a Republican, supportive of individual and parental rights.

County Prosecutor, Jim Beagly, Republican county boss, arrogant and had very little to do with religion.

Assistant County Prosecutor, Ron Moravick, young, ambitious and a main line liberal Presbyterian.

Defense Attorney, David Gibbs, very articulate, brilliant, sincere, dedicated and a Christian of the Independent Baptist stripe.

Defense Attorney, Charles Craze, not as articulate, sharp, sincere, a Christian of the conservative Methodist flavor. A partner with Gibbs.

JUDGES:

Walsh, very conservative, County level.

A new judge, liberal, retired and appointed to replace Walsh.

Case, 50's, Catholic, humble, personable, strong family man.

Reagan, young, ex-marine drill sergeant, arrogant, ungodly and unpersonable.

This is a list of all the players. They did not all play at the same time, but were all involved at some time.

We first appeared in October 1977 in the Cass County Court, Honorable Judge Walsh presiding. We plead "Not Guilty" to 14 charges of running an unlicensed school, not filling out proper papers, etc.

At this time, I and Ed Gilbert, our principal, were charged personally with misdemeanors carrying a maximum of 90 days jail and a $1,000 fine.

The hearing was set for November 77, but when we returned for the hearing, we found to our great surprise that the State Supreme Court had arbitrarily removed Walsh, a past American Party candidate for governor, from the case and replaced him with an older, retired judge from Lincoln. This new judge was an ultra liberal.

Gibbs and Craze, our attorneys, refused to go to court and went to the State Supreme Court to lodge protest, which they won after threatening to go to the United States Supreme Court if neces sary. I say, they won, but in effect it was a compromise. Gibbs and Craze taught the state prosecutors how to come against the church corporation instead of us personally and thus sent the case one court higher to the Cass County District Court under The Honorable Judge Raymond Case.

Charges were dropped against us, but then brought against the corporation and myself as president of the corporation. The trial was set for April, 1979. We lost and the church was ordered to close its school or comply with the State regulations. We refused and Judge Case allowed the school to finish the year.

The case was appealed to the Nebraska State Supreme Court. This put the case in limbo until it was heard in 1981. We lost again. The lower court allowed us to finish the year but demanded that we not open in the fall.

We opened anyway. We appealed to the United States Supreme Court, but they refused to hear the case, for lack of federal question, they said.

We were charged by the prosecutors with contempt of court. We were found guilty and we expected to go to jail. But instead, the judge ordered the padlocking of the church to prevent the school from meeting in the building. Many professing Christians were not bothered by this because the judge allowed the building unlocked for Sunday services and Wednesday night services. The church was even charged for the lock and chains.

The school operated across State lines as well as in a bus on the property outside the church.

In January, 1982, we notified the Judge and Sheriff that the church would not move out of the buildings any more and that we would occupy the building including the school. The judge ordered the Sheriff to not replace the chains on the door.

I was charged with contempt of court again, and on February 18, 1982 I fired the attorneys and represented myself. The Judge was very reluctant to hold the hearings and postponed them for us to reconsider and get an attorney.

We came back on the February 22nd and the hearing was held. It was obvious that the prosecutor, the Sheriff and the Judge had met privately and already decided to jail me. I asked the Judge if he took an oath to uphold the Constitution, and he said, "Yes, but I am not bound by it in this case." A full court room gasp!

I was jailed for 4 months, but released after the first 13 days, because I made a very stupid mistake and listened to another attorney who had not been on the case; I resigned from the school, but not the church. When I realized what I had done, I immediately notified the Court that I had resumed my old position.

I was once again charged with contempt and brought back to court and found guilty of contempt. I was not sent back to jail because school was about ready to dismiss for the summer. I was ordered to turn myself in on September 1, if I felt I should.

On August 28th, school started and I notified the press and the Court that I did not intend to turn myself in. On September 3, 1982, I was arrested while in my pulpit by Sheriff Tesch and taken to jail, where I stayed until I was released for a

short time to lobby the legislature in special session to change the law.

When that failed, I was arrested again and returned to jail where I stayed until my sentence was up in January of 1983.

The school continued to operate while I was in jail and the judge ordered the Sheriff to padlock the doors of the church again. This time pastors from across the land came in determined to stay in the church for prayer meetings all the time. These men were all carried out by armed officers early Monday morning and the church was padlocked with armed officers stationed on the inside with orders to shoot to kill anyone who tried to get in.

The defense attorneys for the most part were not involved here and could do no more. It was now a battle of God against Satan.

In 1982 at a Christmas party, State Attorney General Paul Douglas said, "I will get a piece of those Christian Schools if it is the last thing I do".

In 1984, Paul Douglas was impeached, stripped of his bar license and removed from office and practice over alleged criminal activity surrounding a bank failure in Lincoln, Nebraska.

The Governor, Charles Thone, a Republican, lawyer, not expected to lose, lost to Bob Kerry, a liberal Democrat.

Judge Case resigned from the case and Judge Ronald Reagan took over as judge. This judge in his arrogance had seven fathers thrown in jail, issued arrest warrants for 8 mothers including my daughter, Tresa Schmidt, who was a teacher and a new mother nursing a 6 month old son. The nation reacted with sheer vehemence, once we were able to get the news on all the major networks, all Christian TV and radio stations and Ted Copple's Night Line.

The Whitehouse stepped in through its Department of Education who called Governor Kerry. The Governor was told to tell the National Education Association State Branch, the Nebraska State Education Association, "They could have the Christians or their Federal Funds, but they could not have both." All their funds would be held up for at least three years while the Feds looked into possible Constitutional violations against the parents.

The NEA agreed to back off if Governor Kerry would tax the Nebraska people an additional $20,000,000 for education. This was agreed upon. Kerry set up a special Governor's commission to study the Christian School issue and bring recommendations. This they did and the next year a new $20,000,000 tax bill was passed.

The Commission sat down and talked with us. This was the first time the State had ever made an attempt to listen to us. They even went across State lines to meet with me since I had an arrest warrant out for me in Nebraska.

The Commission report came out very close to all that we wanted. The Governor got behind it and new laws were passed.

All the warrants were dropped on the parents. My daughter and I still had to go back and face a very arrogant Judge Reagan. This we did on April 20,1984. My daughter was released and sent home. I was given a new jail sentence to last until the school year ended and then to restart in September for a total of eight more months. I am sure that Reagan would have given me more, but he could not give me more than a total of 12 months in the county jail and I had already served 4 months. He did not want to send me to the State Penitentiary, for fear the preachers might come back to the state.

We appealed the contempt sentence, and I was allowed to stay out until the State Supreme Court heard the case. Gibbs did a magnificent job before the court and the sentence was overturned. That was the end of it. God had given the church total victory and the parents a partial victory. (More on the parents and their partial victory in another lesson.)

THINGS WE LEARNED ABOUT LAWYERS:

1) All lawyers are officers of the court. They are subject to the same judge that the prosecutor is subject to.

2) Christian lawyers have no special advantage, they may even have a disadvantage, because their hands are tied to argue individual constitutional rights.

3) Most lawyers are like most pastors, they are experts and refuse to listen to a layman's opinion.

4) Lawyers meet in judges chambers to discuss the trial, what will be allowed to be said and what will not. Hearings and their outcome are cut and dried.

5) Lawyers will sacrifice principle to save their neck and their license.

6) Judges are lawyers who are not free men. They are subject to an association of their peers who pass judgment on them and who can limit their future. They are all subject to the Supreme Court of the State and the U.S. who can dis-bar them.

7) Lawyers are not interested for the most part in Justice, but winning.

8) Lawyer judges will become extremely nervous and aggravated if you try to represent yourself. They want you to have a lawyer to represent you, to relieve them of their responsibility to look out for your rights.

9) Lawyers are loyal to the hand that feeds them; the State, not the people. For that reason, you will hardly ever win a case against the State or government. One of the reasons for losing is that the judge will not let you enter all the evidence in your favor. In our case, the children tested out from 1-3 years ahead of the State schools. These tests were given by the man who gave the State tests. The judge refused to allow this information to enter the record and refused to allow the expert to testify.

10) Judge Case made it quite clear that while he agreed with our case 95%, he was not going to jeopardize his retirement to protect our rights.

11) Our attorneys on several occasions met with or talked to the judges without our knowledge, permission, or agreement. Some decisions were made against our wishes. Two examples of this are as follows:

We were not happy that the attorneys taught the State how to sue a corporation. Corporations do not have Constitutional rights, individuals do.

Second, in January 1982, we notifed the officials that we intended to bring the school back in on Monday and that we were going to stay in the building all Sunday night if necessary to do so. The attorneys called the judge and told him that we were going to have an all night prayer meeting so the judge would have a face saving reason to order the locks kept off and the officers away.

12) Our attorneys informed us that they could not protect our secrets. That if we had secrets, not to tell them, for they were obligated to tell the judge. We were also told by our attorneys that they were responsible to the judge to try and get our secrets. This made it difficult to know when our attorneys were really in need of information or when they were simply fulfilling their obligation to the judge.

13) Most judges and lawyers will lie, cheat, take pay offs, and use dirty tricks to do their thing. We hired a private investigator who confirmed that $2,000,000.00 in dirty money was laundered from the NEA under the table to officials in Cass County Nebraska directly related to our case. We ran out of money before he could confirm which officials. The fact that Judge Walsh was purposely removed from the case and a liberal judge appointed out of retirement shows how high corruption is in our land.

14) Never say never; but God willing and with all my sanity, I cannot think of any circumstances where I feel that having an attorney today for any reason of defense or prosecution would be preferable to not having one. ◇◇◇◇◇◇◇◇◇◇◇◇◇◇◇◇◇◇◇◇

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