

\*\*CITIZEN POWER FOR 2013: Read this, please. Twice. Please. (Part 2 of 2; Part 1 follows) by Fred Holden (updated 8/31/2012; again, 1/5/2013, again 2/24/13)

(Please Note: Part 1 of \*\*CITIZEN POWER FOR 2012 (12/31/11), for handy reference, is at end of this email. Please review first, then last.)

Late-breaking comment, learned from one who knows, who has had occasion to be in court: If you are ever in a position to give testimony, in court as a plaintiff or defendant, ask as many friends as you can to be there to be a witness to the event. You may be similarly called upon to be a witness for someone else and that is also a desirable and good thing. In either case as witness, the main objective is to witness quietly, observe, watch, listen and remember. One not so obvious occasion might be your giving testimony to a public meeting such as at a City Council, Board of Education, or home County. There may come a time when that becomes a most valuable event to have taken place. Witnesses, the more the merrier and the more potentially effective if the time ever comes they are needed.

To begin, I make bold to share a quote from Jacob Hornberger, Founder and President of Future for Freedom Foundation, "**Submissiveness and Conformity in America's Business Leaders**," <http://www.fff.org/blog/index.asp> Monday, August 6, 2012

"One of the best descriptions for the benefit of a state-regulated economy was set forth by Ayn Rand in her novel *Atlas Shrugged* in a statement made by the slimy state bureaucrat Dr. Floyd Ferris:

***"Did you really think that we want those laws to be observed?" said Dr. Ferris. "We want them broken. You'd better get it straight that it's not a bunch of boy scouts you're up against — then you'll know that this is not the age for beautiful gestures. We're after power and we mean it. You fellows were pikers, but we know the real trick, and you'd better get wise to it. There's no way to rule innocent men. The only power any government has is the power to crack down on criminals. Well, when there aren't enough criminals, one makes them. One declares so many things to be a crime that it becomes impossible for men to live without breaking laws. Who wants a nation of law-abiding citizens? What's there in that for anyone? But just pass the kind of laws that can neither be observed nor enforced nor objectively interpreted — and you create a nation of law-breakers — and then you cash in on guilt. Now, that's the system, Mr. Rearden, that's the game, and once you understand it, you'll be much easier to deal with."***

Jacob Hornberger is founder and president of the Future of Freedom Foundation. ( Consider all this, and for one thing only, the 10,000-page IRS, Internal Revenue Service Code and Forms 1040 and W-4 -- are you cognizant and in compliance with all of it. You so indicate when you sign under penalties of perjury you are.)

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(Caution: Really long sentence) Suffice it to say that U. S. Citizens and their lawful, legal, constitutional, personal rights illiteracy and insensitivity, combined with their being much too busy, and to these important things, much too ignorant, indifferent, apathetic, complacent (the disease of IgInApCo), lack of involvement and prolonged inactivity, have allowed themselves to be placed in a serious position of compromise, vulnerability, weakness and powerlessness. The

answer is awareness, knowledge, information, education. This is the beginning of that new beginning.

First I digress to the fortuitous opportunity handed to me around 1982 in the form of the 1980 book, *THE MIRACLE ON MAIN STREET* by F. Tupper Saussy. What a gift, blessing, eye-opener for me. Fortunately copies are still available, and though Saussy died in 2007, his good work goes on. I read it. It got me even more into America's Freedom Documents -- Declaration of Independence, U.S. Constitution and its incredibly important Bill of Rights, all of which we are losing through what's in the first paragraph above. (Wait till you read the book and see what it is really all about, in Saussy's words, "Judge Roger Sherman, God bless his soul, saw to that on August 28, 1787, in a law (of 17 words) that has never been repealed, rescinded, or amended in any way whatsoever!")

(What were those 17 words, why did they relate so powerfully to the 10th Amendment, why are they so powerful, timely and especially important today?)

By way of introduction I briefly quote from Saussy's book to set the stage for knowing and using Colorado ("Colorado Revised Statutes," C.R.S.) and Federal Laws to the advantage of the seemingly disadvantaged, disempowered, overwhelmed, hapless and helpless citizen. Not so, thank you Tupper Saussy.

On page 62, Saussy continues, "And what if some government official should come after you and bug you in any way? You have the protection of the law, not he. All states have official misconduct statutes. here's the one for Tennessee:

“TENNESSEE CODE 39-3203 Official Oppression -- Penalty. -- If any person, by color of his office, willfully and corruptly oppress any person, under pretense of acting in his official capacity, he shall be punished by fine not exceeding one thousand dollars (\$1,000), or imprisonment in the county jail not exceeding one (1) year.

"Now, the important words in this statute are 'willfully and corruptly.' That means you must first inform the official (of which you speak, and this statute) . . . Now you've given him fair warning. If he tries to oppress you from this point onward, he is being "willful and corrupt," and all you have to do -- if the District Attorney plays dead -- is appear before a Grand Jury yourself, tell those taxpayers what this official did, and get him indicted!

“Don't believe the false notion that government officials are permitted to operate corruptly and safely behind 'sovereign immunity' laws. There are no sovereigns in America (except you, the people), and no government official is immune from justice if he abuses your rights. You can establish a personal fortune upon the ruins of anyone who runs roughshod over your Constitutional guarantees; he who would unlawfully jeopardize your property loses property to you, and that's what justice is all about. Here's the law:

“42 UNITED STATES CODE 1983 (1). Civil action for deprivation of rights. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the Constitution and laws, shall be liable to the party injured in an action at law, suite in equity, or other proper proceeding for redress.

"(1) Upheld by the Supreme Court only last year: "The innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury." Owen vs. City of Independence, 100 S. Ct 1398 (1980)."

(For your own must-read Colorado Constitution (U.S. Constitution, Declaration of Independence): Send \$12 check or money order to: Secretary of State, 1700 Broadway, Denver, CO 80290, 303 860 2200 x 6311, Rose Sanchez.)

ABUSE OF PUBLIC OFFICE, from Colorado Revised Statutes:

**18-8-402. Misuse of official information.**

(1) Any public servant, in contemplation of official action by himself or by a governmental unit with which he is associated or in reliance on information to which he has access in his official capacity and which has not been made public, commits misuse of official information if he:

- (a) Acquires a pecuniary interest in any property, transaction, or enterprise which may be affected by such information or official action; or
- (b) Speculates or wagers on the basis of such information or official action; or
- (c) Aids, advises, or encourages another to do any of the foregoing with intent to confer on any person a special pecuniary benefit.

(2) Misuse of official information is a class 6 felony.

Source: L. 71: R&RE, p. 461, § 1. C.R.S. 1963: § 40-8-402. L. 89: (2) amended, p. 840, § 83, effective July 1.

**18-8-403. Official oppression.**

(1) A public servant, while acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity, commits official oppression if, with actual knowledge that his conduct is illegal, he:

- (a) Subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, or lien; or
- (b) Has legal authority and jurisdiction of any person legally restrained of his liberty and denies the person restrained the reasonable opportunity to consult in private with a licensed attorney-at-law, if there is no danger of imminent escape and the person in custody expresses a desire to consult with such attorney.

(2) Official oppression is a class 2 misdemeanor.

Source: L. 71: R&RE, p. 461, § 1. C.R.S. 1963: § 40-8-403.

Cross references: For the duty of officers to admit an attorney, see § 16-3-404.

**18-8-404. First degree official misconduct.**

(1) A public servant commits first degree official misconduct if, with intent to obtain a benefit for the public servant or another or maliciously to cause harm to another, he or she knowingly:

- (a) Commits an act relating to his office but constituting an unauthorized exercise of his official function; or
- (b) Refrains from performing a duty imposed upon him by law; or
- (c) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) First degree official misconduct is a class 2 misdemeanor.

Source: L. 71: R&RE, p. 462, § 1. C.R.S. 1963: § 40-8-404. L. 83: (1)(b) amended, p. 710, § 1, effective June 10. L. 2000: IP(1) amended, p. 709, § 41, effective July 1.

**18-8-405. Second degree official misconduct.**

(1) A public servant commits second degree official misconduct if he knowingly, arbitrarily, and capriciously:

- (a) Refrains from performing a duty imposed upon him by law; or
- (b) Violates any statute or lawfully adopted rule or regulation relating to his office.

(2) Second degree official misconduct is a class 1 petty offense.

Source: L. 71: R&RE, p. 462, § 1. C.R.S. 1963: § 40-8-405. L. 83: (1)(a) amended, p. 710, § 2, effective June 10.

**18-8-406. Issuing a false certificate.**

A person commits a class 6 felony, if, being a public servant authorized by law to make and issue official certificates or other official written instruments, he makes and issues such an instrument containing a statement which he knows to be false.

Source: L. 71: R&RE, p. 462, § 1. C.R.S. 1963: § 40-8-406. L. 89: Entire section amended, p. 840, § 84, effective July 1.

**18-8-407. Embezzlement of public property.**

(1) Every public servant who lawfully or unlawfully comes into possession of any public moneys or public property of whatever description, being the property of the state or of any political subdivision of the state, and who knowingly converts any of such public moneys or property to his own use or to any use other than the public use authorized by law is guilty of embezzlement of public property. Every person convicted under the provisions of this section shall be forever thereafter ineligible and disqualified from being a member of the general assembly of this state or from holding any office of trust or profit in this state.

(2) Embezzlement of public property is a class 5 felony.

Source: L. 71: R&RE, p. 462, § 1. C.R.S. 1963: § 40-8-407. L. 77: (1) amended, p. 967, § 45, effective July 1. L. 89: (2) amended, p. 840, § 85, effective July 1.

**18-8-408. Designation of insurer prohibited.**

(1) No public servant shall, directly or indirectly, require or direct a bidder on any public building or construction contract which is about to be or has been competitively bid to obtain from a particular insurer, agent, or broker any surety bond or contract of insurance required in such bid or contract or required by any law, ordinance, or regulation.

(2) Any such public servant who violates any of the provisions of subsection (1) of this section commits a class 1 petty offense.

(3) Any provisions in invitations to bid or in any contract documents prohibited by this section are declared void as against the public policy of this state.

(4) Nothing in this section shall be construed to prevent any such public servant acting on behalf of the government from exercising the right to approve or reject a surety bond or contract of insurance as to its form or sufficiency or the lack of financial capability of an insurer selected by a bidder.

(5) This section shall apply only to contracts entered into on or after July 1, 1977.

Source: L. 77: Entire section added, p. 989, § 1, effective May 26.

18-8-409. Violation of rules and regulations of judicial nominating commissions not subject to criminal prosecution.

A person who violates a rule or regulation promulgated by any judicial nominating commission shall not be subject to criminal prosecution.

Source: L. 87: Entire section added, p. 673, § 1, effective May 16.

**18-1.3-501. Misdemeanors classified - penalties.**

(1) (a) Misdemeanors are divided into three classes which are distinguished from one another by the following penalties which are authorized upon conviction except as provided in subsection (1.5) of this section:

Class	Minimum Sentence	Maximum Sentence
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1	Six months imprisonment, or five hundred dollars fine, or both	Eighteen months imprisonment, or five thousand dollars fine, or both
2	Three months imprisonment, or two hundred fifty dollars fine, or both	Twelve months imprisonment, or one thousand dollars fine, or both
3	Fifty dollars fine	Six months imprisonment, or seven hundred fifty dollars fine, or both

Title 18. CRIMINAL CODE, Article 1.3. Sentencing in Criminal Cases  
Part 5. . . . PETTY OFFENSE SENTENCING  
Current through 2011 Legislative Session

**§ 18-1.3-503. Petty offenses classified - penalties**

(1) A violation of a statute of this state is a "petty offense" if specifically classified as a class 1 or class 2 petty offense. The penalty for commission of a class 1 petty offense, upon conviction, is a fine of not more than five hundred dollars, or imprisonment for not more than six months other than in state correctional facilities, or both. The penalty for commission of a class 2 petty offense is a fine specified in the section defining the offense. The penalty assessment procedure of section 16-2-201, C.R.S., is available for the payment of fines in class 2 petty offense cases.

(2) Every sentence entered under this section shall include consideration of restitution as required by part 6 of this article and by article 18.5 of title 16, C.R.S.

**FELONY CRIMINAL OFFENSES**

CRS 18-1.3-401 Class 5 Felony Classification (F-5)	Presumptive Prison			Presumptive Fines	
	Minimum	Maximum	Parole	Minimum	Maximum
	1 year	3 years	2 years	\$1,000	\$100,000
F-5 Mitigated	6 months	18 months			
F-5 Aggravated	3 years + 1 day	6 years			
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Someone, an ICA (next), who is quite impressively taking heat and truly making a difference.

From: Impressive Citizen Activist (ICA)  
Sent: Thu, Dec 29, 2011, 7:40 pm  
Subject: wanted you to know...

Hi Fred!

Below is a note I just wrote and published on Facebook. I wanted to share it with you for two reasons:

- 1- I wasn't sure if you had ever caught wind of this situation
- 2- I take my title "Freedom Babe" very serious. This title dubbed to me by someone I have a great deal of respect for. :)

I hope you're well and we will go into the New Year the same way we are going out- fighting. Happy New Year!

Impressive Citizen Activist

“Citizens,

“Most of you might remember the story I wrote about back in August 2011. It was about the professor I had at Arapahoe Community College, whose academic standards for an American

Government class included attempts at recruiting students (most quite young) with "ways" to get involved in the upcoming presidential election, lecture talk about needing more \$\$\$ for roads and bridges, daily lectures on the incompetence of the American Government as it compared to China, other ridiculous non-cited academic statements, and his most notorious statement, "Libertarians would much rather see/let people DIE and then SUE, before letting the government regulate drugs."

"Here is an update on what has become of this situation as I had intended to see this through, to the end. But we all know this is not the end to what has become an accepted atrocity in public education. I am a freedom fighter and take no issue calling the kettle black as it relates to public education and the decline of the common sense standards.

"Re-cap from the event back in August (names acronymized (?) by Fred Holden):

"I very tactfully called this Punk Liberal Professor (PLP) out on his non-sense in the classroom back in August, he immediately ended class when he could not cite his sources, he then confronted me in the hallway, and he then invited me to his office once he realized students in the class were thanking me for my willingness to speak up. I obliged, in which I should not have done so, but once in his office- he became angry. I upset him very much with the fact that I knew more about America than he had claimed to know. In all honesty, I feared for my safety, the guy was ticked and shaking, so I left his office. He demanded I get back in his office and followed me (literally chased me). I refused to return to his office and told him to get away from me- he continued to follow me while making a scene in front of the elevators on the 4th floor of the college. He still would not give up at this point and began talking to me in a baby voice and prevented the elevator doors from closing 4 times. All of this while another staff member stood in the elevator telling ME to get out and go talk to him. The other staff member got off the elevator and left me standing there with this guy who would not back off. I started dialing 911- and of course he backed off. This was all caught on video surveillance.

"I immediately reported it and surprisingly NO ONE knew what to do about it, so I filed two formal complaints.

"During the investigation which involved a Title IX complaint (federal), and a college complaint for denying me access to my educational rights, it was determined that OF COURSE this professor had done nothing wrong as far as denying me access to an education. It was also determined through a "thorough" Title IX investigation performed by one male college employee, that it was "unlikely" this professor had acted aggressively towards me because I was a woman. But of course this professor produced documentation from his ONE buddy- the department chair (who was no where to be found during the incident) who claims to have witnessed me acting inappropriately with this professor while in his office- a compilation of lies and apparent justification for why this professor was caught on video surveillance chasing me down a hall out of his office and preventing me from leaving the 4th floor on the elevator while another staff member stood and watched.

"These are called typical protective tactics of the union- remember public education is a stellar performance of honesty- protection by design if you will. The pure human nature truth of fact is this; if I were a man, or had he done this to a man, he would have found himself on the floor in a concussive state of mind. As I see it- welcome to the wild wild west, engage at free will- but be prepared for what may come your way. Had he placed a hand on me- the outcome would have been much different.

“Of course I appealed their bias findings. I appealed through all processes afforded to me. I did so without an attorney because they are expensive and very few are interested in pro bono for the right reasons. Furthermore, my time is just as important as theirs and to hunt one down can take months. My appeal process, as a regular Joe citizen if you will, ends with the dean of the college.

“I met with Punk Professor’s Dean (PPD) - I stated my case- I used these phrases: "you’re promoting political indoctrination", "you’re college is publicly funded", "you’re employing a professor to teach American Government who doesn't know anything about government, let alone America". She asked me a couple of insignificant questions as to appease me. She also asked me, "What is your background in education?" I told her I have a solid 14 years of watching kids fail in public education, I am a taxpayer, and most importantly a mother to three boys. I asked her how she felt about the amount of revenue being generated from the remedial courses kids were required to take at her college- while employing a full time professor to indoctrinate the uneducated? The meeting didn't last too long after that, she told me she would deliver her decision to me in writing. I then asked her, "What if I don't agree with your decision, certainly there is a higher Ed Board I can appeal to?" She said, "No, I am the ultimate decision maker and if you don't like it, I guess you can sue me, I've been sued before." She delivered her decision to me. She determined that her professor was A-OK, after all he is full time faculty. I wonder if I should sue her?

“As a result; the college had immediately offered this same American Government class to me via on line taught by another professor, at no additional cost to me.(even though their professor had done nothing wrong) I obliged because after I had attempted to return to this same class, (as I WAS NOT going to be forced into dropping it and having to pay for it) it was clear to me that this professor was still seeing red and unable to pull his act together as he attempted to engage ME in a conversation about AFL-CIO and their mutual agreements with the teachers unions, during class! This guy was not going to teach ANYONE ANYTHING and clearly had his eye on a prize; me. I took the online class, it was a great experience, and Professor NewProf was outstanding. I plan to have my two sons who require remediation in their education, take this American Government class with Professor NewProf this spring.

“I remained worried about those "kids" that continued to sit through that class with PLP, as I worked my way through the online class. I wanted to stay in that class and continue to speak up. Did I make the right move? The most important end result I have recently been made aware of through the public registration process at ACC; Professor AFL-CIO Libertarian basher PLP is not assigned to teach any American Government class this spring semester.

“Did PPD listen to me and HEAR me? Mission accomplished? Did I do enough to let this teacher know we are watching him? While I would like to find solace in answering yes to these questions I am hopeful we are asking ourselves this question instead:

“Are we paying attention, and will we continue to do so? I know I will, but at the same time I continue to worry about conservative party leadership and our unwillingness to ensure our kids understand what the USA was intentionally designed to be grounded in- Freedom. Freedom will never last at the rate these kids are being uneducated. I take this very serious.”

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From Colorado Revised Statutes, C.R.S.

## **ARTICLE 61 TEACHER EMPLOYMENT**

Section 22-61-102. No group membership.

22-61-103. Teacher's oath or affirmation.

22-61-104. Professors, instructors, and teachers in state institutions of higher education to take oath or affirmation.

22-61-105. Penalty.

**22-61-102. No group membership.**

No contract or other employment arrangement executed or made by and between any school district and teacher shall require by inference or otherwise that said teacher become a member of or belong to any group or organization.

Source: L. 51: p. 761, § 1. CSA: C. 146, § 234(1). CRS 53: § 123-17-13. C.R.S. 1963: § 123-17-5.

**22-61-103. Teacher's oath or affirmation.**

(1) Any person now holding a license to teach in the public schools in the state of Colorado or who shall hereafter be issued a license to teach in such public schools within the state of Colorado, except any person employed to teach in a temporary capacity who is a citizen of a nation other than the United States, shall take the following oath or affirmation:

"I solemnly (swear) (affirm) that I will uphold the constitution of the United States and the constitution of the state of Colorado, and I will faithfully perform the duties of the position upon which I am about to enter."

(2) The said oath or affirmation shall be administered by any person authorized to administer oaths in the state of Colorado.

Source: L. 21: p. 719, § 1. C.L. § 8441. CSA: C. 146, § 235. CRS 53: § 123-17-14. L. 61: p. 665, § 1. C.R.S. 1963: § 123-17-6. L. 69: p. 1024, § 1. L. 2004: (1) amended, p. 1286, § 22, effective May 28.

ANNOTATION

**This loyalty oath is not unduly vague.** A loyalty oath prescribed for teachers in Colorado state institutions which affirms the "upholding" of the state and federal constitutions and the "faithful performance, of teacher's duties is not unduly vague, but is plain, straightforward, and unequivocal, and a person taking it is not left in doubt as to his undertaking." *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Neither is it an improper invasion of rights of free association and expression.** The obligation assumed in taking the oath is one of simple recognition that ours is a government of laws and not of men, and the oath is not a sweeping and improper invasion of the rights of free association and expression. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Nor does it deprive teachers of equal protection.** The oath is an almost universal requirement of all public officials, including lawyers and judges, and it cannot be truthfully said that teachers are being deprived of equal protection of the laws by arbitrarily classifying teachers. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**The state has a vital concern in possible advocacy by teachers of forceful overthrow of government.** Since teachers work in a sensitive area in which they can shape the attitudes of the



students with whom they come in contact, the state has a vital concern in the educational process, and has the right not only to screen teachers as to their fitness, but also to be concerned about possible advocacy of overthrow of the government by force and violence. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**This section is not a bill of attainder or ex post facto law.** The oath statute does not constitute a bill of attainder or an ex post facto law, because punishment is a prerequisite of these forbidden legislative acts, and the statute imposes no punishment. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**The imposition of qualifications is not punishment.** The statute imposes no punishment, as it is merely a general regulation providing standards of qualification and eligibility for a position, and the imposition of such qualifications by the general assembly does not amount to a "punishment". *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Swearing to "faithfully perform" their duties is not a restriction on teacher's political expression.** State can reasonably ask teachers in state schools to subscribe to professional competence and dedication, and this portion of the oath providing that they will "faithfully perform their duties" of their positions merely reflects the significant interest of the state in assuring the careful selection of teachers, and imposes no restrictions on a teacher's political expressions. It is certain that there is no right to be unfaithful in the performance of duties, and hence this undertaking is implicit. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**In this oath the phrase to "uphold the constitution" means an affirmation of belief in organic law and disbelief in the use of force to overthrow the government.** *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**No hearing is required where teacher is dismissed for failure to take the oath.** Due process does not demand a hearing in connection with every dismissal from public employment. A teacher who is dismissed for refusal to take the oath has no need to be faced with his accuser or given an opportunity for cross-examination, since no amount of hearing can change the fact that the person refused to take the oath. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

**Reasons for refusal to take oath are not relevant.** A teacher's reasons for refusal to take the oath are not relevant, because where the oath is simple, direct, and unambiguous, the hearing as to why the accused refused to take it would be virtually meaningless. *Ohlson v. Phillips*, 304 F. Supp. 1152 (D. Colo. 1969), *aff'd mem.*, 397 U.S. 317, 90 S. Ct. 1124, 25 L. Ed. 2d 337, *reh'g denied*, 397 U.S. 1081, 90 S. Ct. 1520, 25 L. Ed. 2d 819 (1970).

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\*\*CITIZEN POWER FOR 2012 (12/31/11): Read this. Twice. Please. (Part 1 of 2)

Can we put some important things together, for a possibly Happier New Year?

Are you becoming more aware of situations and trends worth knowing and following, that have to do with delivery of justice in Colorado and These United States?

A few years ago a Colorado city, with no complaints or provocation, had by satellite, viewed a private property, single family residence, to determine it was full of unsightly or otherwise, to their codes or opinions, unjustifiable materials. Determined to clean it up, the city undertook civil action to cart away some of the contents, though in its entirety, it was fully enclosed in full peripheral six-foot-high fence unviewable from outside. The property owner was charged for the city's efforts.

A second situation involved a Jo-Jo Connor who had lost her son to civil authorities, unable to get him back, knowing he had been heavily drugged, and judicially pursued to where this frail, black woman on walker was sentenced to over two years in jail.

Recently, some of you know of Stacey Lynne who has, without indictment for a crime, and restrained from fairly defending herself, was confined to Larimer County, finally subjected to court trial before a judge after pleading "I do not consent" to numerous court magistrate judicial proceedings, has had her young son taken from her and is in personal dire straits, both personal and economic.

Perhaps some of you were able to attend JCRMC meeting 11/21/11 moderated by members Brian Wareing and Steve Byfield, discussing various facets of changing application of justice to various citizens and situations. They included brief book mentions of *Three Felonies a Day* and *Go Directly to Jail*, concerning increasing frequency of citizen accusal and prosecution, indictment and conviction.

Interestingly, the *Wall Street Journal* has published two-front-page, above-the-fold feature stories of same on the federal level, "As Criminal Laws Proliferate, More Ensnared," 7/23/11, and "As Federal Crime List Grows, Threshold of Guilt Declines," 9/27/11. Then a 12/11/11 WSJ follow-up story, "Criminal Code Is Overgrown, Legal Experts Tell Panel," by Gary Fields and John R. Emshwiller. Its first two paragraphs, "The federal criminal code has grown so large it ensnares everyday citizens who have no idea they are violating the law, a bipartisan group of legal experts told a House panel Tuesday. There are about 4,500 criminal statutes, said Edwin Meese, attorney general under President Ronald Reagan and with the conservative Heritage Foundation. 'This is in addition to over 300,000 other regulations that don't appear in the federal code but nevertheless carry essentially criminal penalties including prison,' he said. 'So the vast array of traps for the unwary that lurks out there in federal criminal law is more extensive than most people realize.'"

It may be of personal importance to be mindful and sensitive to "Citizen Prosecution Creep."

Fred Holden, 303-421-7619, 1/14/2012, 1/5/2013

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A Reminder: (For your own must-read Colorado Constitution (U.S. Constitution, Declaration of Independence): Send \$12 check or money order to: Secretary of State, 1700 Broadway, Denver, CO 80290, 303 860 2200 x 6311, Rose Sanchez.)