
NATIVISM REKINDLED: A REPORT

ON THE EFFORT TO MAKE ENGLISH

COLORADO'S OFFICIAL LANGUAGE

COLORADO ADVISORY COMMITTEE

TO THE UNITED STATES

COMMISSION ON CIVIL RIGHTS

This summary report of the Colorado Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or the Advisory Committee, but only to individual participants in the community forum where the information was gathered.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, first created by the Civil Rights Act of 1957, and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the 1983 act, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice; investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 6(c) of the United States Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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LETTER OF TRANSMITTAL

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Melvin L. Jenkins, Acting Staff Director

Attached for your information is a summary report of two community forums held by the Colorado Advisory Committee in Grand Junction on October 4, 1988, and in Denver on October 7, 1988. The purpose of these forums was to gather information on the ballot measure which sought to make English the official State language in Colorado and to allow proponents and opponents of the measure to present information in neutral settings.

At these forums, the Advisory Committee heard from community representatives, local and State officials, and a representative of U.S. English. The proponents of the measure suggested that the proposed English language amendment to the Colorado Constitution would help people learn English and unify the citizens of the State. Opponents suggested that the regulation of language is not an appropriate State function and that passage might jeopardize civil rights and liberties. The measure was passed by the electorate in November 1988.

The Advisory Committee approved (9 for, not including 2 new members) submission of this summary report and believes it serves to fulfill our mandate to advise the Commission of issues which have civil rights implications in Colorado and for the Nation.

Respectfully,

MAXINE KURTZ, Chairperson
Colorado Advisory Committee

COLORADO ADVISORY COMMITTEE

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*Was not a member of the Committee at the time of this project.

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Introduction

Prior to November 1988, 13 States had established English¹ as their official language. Among these States are California, Illinois, Indiana, Kentucky, Nebraska, and North Dakota.

"English-only" State constitutional amendments have been defeated in Kansas, Louisiana, Maryland, Minnesota, Montana, New Mexico, New York, Oklahoma, South Dakota, and Wyoming. With the exception of California and Illinois, most of the States that passed such measures have small numbers of immigrants and non-English speaking populations.

During the 1988 election season, measures to make English the official State language were on the ballots and passed in Arizona, Colorado, and Florida.² These States have significant populations of non-English speaking residents who questioned the civil rights implications of the measure.

The effort in Colorado was of concern to the Colorado Advisory Committee to the United States Commission on Civil Rights. The controversial measure drew supporters and detractors who engaged in heated debate. The proponents of the measure in Colorado suggested that the amendment would help people learn English and unify the citizens of the State. Opponents of the measure suggested that the regulation of language is not an appropriate State function and that passage of the ballot measure may jeopardize civil rights and liberties.

1 "One of the richest languages on Earth, English embraces more than 600,000 words. Of this vast store, studies have shown, well-educated people know some 20,000, but for most people a mere 2,000 serve their needs." Helle Bering-Jensen, "Taking the Measure of a Lively Language," Insight, Jan. 9, 1989, p. 52 (hereafter cited as Bering-Jensen.)

2 In Arizona the language initiative won, 50.5 percent to 49.5 percent; in Colorado the language measure passed, 60.6 percent to 39.4 percent; and, in Florida the language initiative won 83.7 percent to 16.3 percent.

At its meeting of June 20, 1988, the Committee determined that it should hold two educational forums to allow proponents and opponents the opportunity to address the merits of the measure in neutral settings. The specific focus of the forums would be the potential civil rights implications of the ballot measure. The forums were held October 4, 1988, in Grand Junction and October 7, 1988, in Denver. Over 22 individuals appeared before the Advisory Committee to present views on the ballot measure.³ The majority of presenters opposed the ballot measure. Although the Advisory Committee expended efforts to invite proponents of the measure, no one from Official English of Colorado, the organization which supported the measure, chose to participate at

³Presentors included: Grand Junction--Judge John Kirby, treasurer, Colorado Unity of Mesa County; George Orbanek, editor-publisher, Grand Junction Daily Sentinel; James M. Robb, attorney and cochairman of Colorado Unity of Mesa County; Robert Traylor, attorney and cochairman of Colorado Unity of Mesa County; Sioux Lamont, staff, Civil Rights Division, State Department of Regulatory Agencies, Grand Junction Regional Office; Dan C. Craig, graduate student, Colorado State University and member of Colorado Unity of Mesa County; Shirley Otero, Colorado Coalition Against English Only, Fruita branch; Dorothy Wilson, bilingual speech and language pathologist, Western Slope; J.F. Harold, retired; Joseph O'Hara, retired school teacher; Audrey Berry, western slope representative, office of U.S. Senator Tim Wirth; Isadora Silva, housewife, Grand Junction.

Denver--Barbara Kaze, western regional director, U.S. English, Los Angeles, California; Wellington E. Webb, city of Denver official, former State legislator and treasurer, Colorado Unity; Richard Castro, executive director, Agency of Human Rights and Community Relations, city and county of Denver and a former State legislator; John F. Garcia, Sr., interim president, Hispanic Public Affairs Committee and founder and past president of Hispanics of Colorado, Inc.; Levi Beall, owner-operator, Spanish language movie theater; David D'Evelyn, trustee, Independence Institute of Colorado; Delores Conde, Image of Denver; Dr. Frederick McEvoy, director, research and education, Civil Rights Division, State Department of Regulatory Agencies; Norbert Montana, chairperson, Coloradoans for Language Freedom.

either forum.⁴ A representative of U.S. English, a national organization which seeks an amendment to the U.S. Constitution which would make English the Nation's official language, did provide the Advisory Committee with information in support of the Colorado measure. Additional proponent views have been

⁴Ninety press advisories were disseminated in September 1988 to advise the media and public about the Colorado Advisory Committee forums. An invitation was forwarded Sept. 23, 1988, to State Representative Barbara Phillips, the legislator who coordinated efforts to pass the measure, requesting that she or a representative participate at the Grand Junction and/or Denver forums. She did not respond to that correspondence nor to several subsequent telephone calls prior to the Grand Junction forum. On Oct. 1, 1988, an article which appeared in the Daily Sentinel of Grand Junction quoted Lydia Trujillo, a Colorado Advisory Committee member from that city, asking that proponents of the official English measure contact her or appear at the Tuesday, Oct. 4, 1988 forum. Ms. Trujillo received two telephone calls and one proponent appeared at the forum. On Oct. 5, 1988, regional staff telephoned and was able to speak with Representative Phillips regarding her participation at the Denver forum. She declined and referred staff to Ron Paberzs, director, Public Speakers Bureau, Official English of Colorado. Mr. Paberzs indicated that Official English of Colorado was focusing its efforts on the electorate and that it would see about a representative for the Oct. 7, 1988, forum. Despite these efforts on the part of the Advisory Committee and regional staff, a representative of Official English of Colorado did not appear.

researched from newspaper articles and coverage. The Advisory Committee's report is based upon these two forums and the additional information collected.

Background

According to 1980 census figures, Colorado has a total population of 2,889,964 of which 657,519 are members of minority groups. Hispanics are 339,300 or 11.7 percent; blacks are 101,703 or 3.5 percent; Asian/Pacific Islanders are 16,675 or .5 percent; and Native Americans/Eskimo are 17,734 or .6 percent of the State population.⁵

According to the Colorado State Demographer's Office, the non-English speaking population of the State, including bilingual and limited-English speakers, is estimated at 283,095 or 10.5 percent of the 2,673,872 State residents over the age of five. The actual number of State residents who do not speak any English is 31,293 or 1.1 percent of the State's population over the age of five. The Office does not have statistics for the population under the age of five.

During the 1987 legislative session, Barbara Phillips, a Republican State legislator, introduced House Bill 1038, which sought to make English the State language. The proposal stalled under the threat of a governor's veto. The legislator initiated a petition drive.

In 1988 petitions containing 102,000 signatures were submitted to the Colorado secretary of State to qualify

⁵The minority population figures do not reflect the total due to several factors, including self-identification, confusion regarding identification and statistically insignificant totals for "Other" minorities.

the initiative which read:

Shall there be an amendment to the Colorado
Constitution to declare that the English language
is the official language of the State of
Colorado?

Following review of the petitions, the secretary of State declared that a sufficient number of valid signatures were gathered to qualify the measure for the ballot in the November general election. On September 16, 1988, United States district court Judge Jim Carrigan invalidated more than half of the names, ruling that the measure violated the Voting Rights Act of 1965⁶ and would be off the ballot because the petitions were only in English when circulated in 12 bilingual counties. On September 19 Secretary of State Natalie Meyer allowed proponents until October 3 to file replacement signatures. On October 3 supporters of the official English initiative filed an additional 36,309 signatures with the secretary of State's office. On October 12, the United States Court of Appeals for the Tenth Circuit overturned the district court judge's decision and the measure was allowed to stay on the ballot.

⁶Pub. L. No. 89-110, 79 Stat. 437 (1965), as amended.

The Amendment

The legislative council of the Colorado General Assembly provided the State Advisory Committee with a copy of its ballot analysis.⁷ According to its analysis, the proposed amendment to the Colorado Constitution would amend Article II by the addition of a new section 30 to read as follows:

Section 30. The English language is the official language of the State of Colorado.

This section is self executing; however, the General Assembly may enact laws to implement this section.

The proposed "English as the official language" amendment consists of two provisions. The first provision is a declaration that "The English language is the official language of the State of Colorado." According to the legislative council analysis, "proponents argue that this provision of the proposal by itself could be a legal basis to support challenges in the courts to any government programs in the State which circumvent its intent and meaning, or to

⁷ Charles S. Brown, staff director, legislative council, Colorado General Assembly, letter to Thomas V. Pilla, civil rights analyst, Western Regional Division, U.S. Commission on Civil Rights, Sept. 8, 1988 (hereafter cited as Brown Letter.) Attached to the correspondence was a copy of the legislative council's ballot analysis on Amendment number 1 concerning English as the official State language. The analysis outlines the provisions, background, and popular arguments for and against each proposal. According to Mr. Brown, "once the analysis is drafted, it is thoroughly reviewed by the Legislative Council to ensure the fact that no bias exists in the document." He added that, "Once the analysis is finalized, it becomes the 'last word' on each proposal by staff." (Hereafter cited as Brown Letter, Ballot Analysis on Amendment #1.)

invalidate any attempts by government to mandate the use of non-English (sic), except where health, safety and justice, or Federal laws require the use of non-English languages."⁸

The second provision states that the amendment is self-executing and does not require the general assembly to adopt implementing legislation. According to the legislative council analysis, this means that local governmental entities and school districts may adopt implementing ordinances and regulations within their statutory authority upon passage of the amendment.

Common Language

One of the arguments for the measure is that government can only survive through the use of a common language and since English is the State's strongest unifying common language, it is proper that the importance of that language be officially recognized in the Colorado Constitution.⁹ State Representative Barbara Phillips, a proponent of the ballot measure, was quoted in the Rocky Mountain News:

The point is you need a common language, and it happens to be English in this country. What this [measure] will do is preserve English as the common language.¹⁰

⁸Brown Letter, Ballot Analysis on Amendment #1, p. 1.

⁹The Colorado State Constitution, approved in 1876, included Article XVIII, Section 8, which required publication of the session laws in English, Spanish, and German until 1900. Staff of the legislative council have found that the provision is still in the State constitution. Legislative council staff, memorandum to Representative Dick Bond, State of Colorado, Feb. 26, 1987.

¹⁰"Racism Denied in English Drive," Rocky Mountain News, July 10, 1988, p. 1.

At the forum in Grand Junction, George Orbanek, editor and publisher of the Daily Sentinel, told the Advisory Committee:

English is not under attack in the United States. It has long been recognized as the de facto official language of this country and the official English movement is not needed to convince Hispanic Americans of the importance of proficiency in English.

Proponents contend that they want to unify the country through the use of one language. Barbara Kaze, regional director for U.S. English, told the Advisory Committee in Denver that the proposed constitutional amendment is an attempt to unite Americans. Representative Phillips argued in the Rocky Mountain News that "the issue is designed to unite different people behind a common language."¹¹

Delores Conde of Image of Denver, an organization concerned with civil and employment rights for minorities, especially Hispanics, told the Advisory Committee:

What unites a country is not official English, but a society which respects the dignity of all people, cultures, races, religions, and languages. What unites a country is a strong economy which allows for equal employment opportunity for all. Acceptance of the official English trojan horse will move us away from this rather than towards it.

¹¹"E Pluribus Official English, Attempt at unity leads to state of division and anger," Rocky Mountain News, Sept. 25, 1988, p. 50.

John Kirby, treasurer of Colorado Unity of Mesa County,¹² and a retired judge, told the Advisory Committee that the amendment has certain patriotic qualities, including the fact that "we are an English speaking people, this is our nation and we should have one unifying language for all. The amendment is very innocuous, the problems arise when it is implemented." He added that the English language does not need to be protected or preserved "because it is like crabgrass and just grows and grows."¹³ As support for this statement, Judge Kirby noted that the Colorado State Constitution was originally written in Spanish, German, and English.

George Orbanek said his paper, the Daily Sentinel, editorially opposed the official English initiative as a misguided solution in search of a problem. He asked, "what societal problem is the official English movement intended to correct?" According to Mr. Orbanek, the official English movement runs counter to the traditions of political and cultural pluralism that have made the American experiment unique in the annals of self-government.

James Robb, attorney and former State legislator from the Grand Junction area, believed the measure will divide and polarize and is not a unifying amendment. "The intent of the proposal remains unclear, creates many problems, and solves none," he said.

¹²Colorado Unity was an umbrella group of organizations and individuals formed statewide to oppose the effort to make English Colorado's official language.

¹³"The mongrel nature of English is the result of historical as well as grammatical circumstance. Present day English reflects centuries of interaction with other cultures, its original Anglo-Saxon base absorbing words from the Celts, Romans, Danes, French-speaking Normans and the medieval Roman Catholic Church. As the original Anglo-Saxon inflections eroded, the emerging English language became more and more flexible, allowing easy borrowing from other languages." Bering-Jensen, p. 53.

Robert Traylor, cochairman of Colorado Unity of Mesa County and an attorney in Grand Junction, said the amendment mocks the mix of cultures which have existed in Colorado since statehood and expresses a preference for one culture over others. He believed racist overtones exist in the amendment.

Dan C. Craig, a student at Colorado State University, pointed out that people came to the United States seeking freedom from oppression, to escape totalitarian kingdoms, oppressive religious regimes, and not to speak the English language. He added, "our freedoms are unique in this world and we cherish and defend them. In our pluralistic, federalist system we have made the choice of having no official language."

Shirley Otero of Colorado Coalition Against English Only, told the Advisory Committee that the Mexican American community wants its children to succeed, adding:

We realize they have got to become fluent in English, but we also see the threat of this English only initiative becoming law and reality. Money could be better implemented by teaching our children proficiency in English because we are not anti-English.

J.F. Harold, a retired resident of Grand Junction, asked, "is English a help or a barrier to create and stabilize a more perfect union?"

Joseph O'Hara, a retired schoolteacher from Grand Junction, agreed with a letter to the editor at the Denver Post¹⁴ supporting the initiative. As support for the measure, he quoted the letter's main points that "it worries people when Hispanic leaders declare you are going to have a bilingual,

¹⁴Charles E. Meyers, Denver, "We must stress our similarities." Letter to the Editor, Denver Post, Oct. 4, 1988.

bicultural country; it worries them when they hear Hispanics in California say you are living on foreign soil¹⁵; and, it worries them when Hispanic leaders say they were robbed of parts of the western United States."

Audrey Berry, Western Slope representative for U.S. Senator Tim Wirth, said the Senator was opposed to the English only proposal and believed that rather than being a positive movement, it would be negative and divisive. Ms. Berry added that we should look at more positive things towards bringing our cultures together.

Isadora Silva, a housewife from Grand Junction, noted that since her childhood, the Mexican American community has known that English has been official and will stay official.

Barbara Kaze, western regional director, U.S. English, believed that:

making English official deprives no one of any right to use and enjoy his or her ethnic heritage. Nothing in this amendment prohibits the use of languages other than English in unofficial situations such as the conduct of private business. Nothing in it forbids teaching foreign languages. Nothing in it reduces any Coloradan's constitutional rights.¹⁶

¹⁵The "foreign soil" referred to in this statement is described in Article 5 of the Treaty of Guadalupe Hidalgo concluded on Feb. 2, 1848, and proclaimed on July 4, 1848. 9 Stat. 922, T.S. No. 207. Under this treaty, many Mexican citizens became United States citizens after the annexation of territory by the United States following the Mexican War. See U.S. Commission on Civil Rights, The Tarnished Golden Door: Civil Rights Issues in Immigration (1980), p. 10.

¹⁶Section 4 of the Colorado Enabling Act states, "provided, that the constitution shall be republican in form, and make

Ms. Kaze estimated that 40 million U.S. citizens, and resident aliens are from non-English speaking backgrounds, a number that is expected to grow rapidly over the next few decades. She expected that the preservation of America's tradition of a common language will hinge on both public and private efforts to teach English to this new wave of immigrants and their children. She said:

Through the declaration that English is the official language, we give immigrants a clear message that English is essential to success in our society. It preserves the consensus that we have had in this country that English is the common language.

Wellington E. Webb, city of Denver official, treasurer of Colorado Unity and former State legislator, said this amendment is not needed, is divisive, vague, and damages Colorado. He said that we neither need an official language nor an official religion or color, adding:

We believe in English proficiency because one cannot succeed in America without being proficient in English. Current immigrants are learning English at the same rate as immigrants always have.

no distinction in civil or political rights on account of race or color, except Indians not taxed, and not be repugnant to the constitution of the United States and the principles of the declaration of independence." Colo. Rev. Stat., Vol. 1A (1980). This nondiscrimination principle has since been expanded to include national origin.

Mr. Webb said, "I have always thought that English was the official language of not only our State but also of our country because the U.S. Constitution, the very document which guarantees freedom to all Americans no matter what language they speak, is written in English."

A statement from the Colorado Official English Committee, dated December 24, 1987, read:

History shows that countries with more than one official or national language are countries divided. Polarization along ethnic or linguistic lines within a nation causes cultural competition, friction, and expense involved with bilingual communication and printing requirements.

According to Mr. Webb, proponents claim that they want this amendment in order to achieve unity so that the United States will not become another Quebec or Belgium. However, Mr. Webb noted that these areas are historically different from the United States. The British protected the French language in Quebec and Belgium was created in 1830 by placing two diverse native populations together.

Mr. Webb continued, the Founding Fathers of our nation wanted to promote unity among the colonists who had come from many different lands in their search for freedom, the true unifying principle of our country. People sought economic, religious, cultural, and political freedom. The framers of the U.S. Constitution, in their wisdom, did not designate an official language or an official religion.

Richard Castro, executive director of the Agency of Human Rights and Community Relations, city and county of Denver, a former State legislator and member of Colorado Unity, noted that it is obvious that to succeed in United States society, one needs to be proficient in English. He added:

The charge that English is under some kind of threat and there is a national movement afoot by Hispanic leaders to make Spanish the second language is not correct. The vast number of Hispanics were born here, reside here and are loyal to this nation. Problems of racial division exist under this amendment.

Mr. Castro also said:

English is alive and well. It is not under any threat. All of us are in favor of English. That is the language of government and we do not need a law to mandate what is already a fact. We do not need to cast aspersions on groups or other individuals who happen to have a second language.

John F. Garcia, interim president of the Hispanic Public Affairs Committee (HISPAC) and the founder of Hispanics of Colorado, Inc., said the initiative is a subtle attempt to emasculate the spirit of a people without justification because Hispanics have never questioned that English is the dominant and official language.

Mr. Garcia believed that because it is such an emotional issue people have distorted it completely. He added that there is fear on both sides. The initiative tells people that they are less than first-class citizens.

Levi Beall, owner-operator of a Spanish language movie theater, believed the initiative is inhibiting the use of Spanish in the community because the implication is that you are not fully American if you do not speak English. According to Mr. Beall, "proponents say we are not talking about what you say at home, church, lodge or anyplace like that, but the issue does not speak to this. The only thing that appears in this amendment are the words that English is the official language."

David D'Evelyn, a trustee of the Independence Institute, a think tank which focuses on Colorado issues, was opposed to the measure because he did not see it accomplishing anything positive and saw a potential for a negative impact. His key objection was that the amendment would undermine the sense of community that he believes is so crucial to the American way of life and governance. Mr. D'Evelyn said:

The vast majority of Hispanics in Colorado see the importance of English and this fact could do much to quiet the perhaps irrational fears that exist [regarding] Hispanic separatism gaining momentum in this State. The Hispanic community is aware that English is the language of achievement.

His opposition to the amendment derived from the fact that:

passage of it would push further into the future the day when the many cultural strands that make up America today, while maintaining their own cultural integrity within the overall framework, [would] meld successfully to perpetuate and invigorate that sense of community upon which America depends.

Mr. D'Evelyn believed mainstream America is afraid of the country fragmenting because of cultural units pulling together instead of across the board assimilation. He said that there seems to be a "vague, undefined, hard to pin down fear that people have that somehow their sense of American society is coming apart and those fears are played upon."

Ms. Conde, an opponent of the ballot measure from Image of Denver, asked:

If official English passes, what can be expected? One, tension created at the workplace because some employees will interpret official English to mean English only. Two, imposition of English-only rules by misinformed management. Three, litigation costs will increase. Four, some will interpret passage as giving legitimacy to their feeling that this country needs to move backwards to a time when blacks, Hispanics, native Americans, Asians, and white women had to wait their turn for the leftover jobs.¹⁷

Ms. Conde believed if proponents of official English were genuinely concerned about opportunities for Hispanics, they could have utilized the \$100,000 received from U.S. English to implement a program to help Hispanic youth develop positive self-esteem. According to her, 99 percent of the population of Colorado already speaks English, even those who speak another language. "So, I am having a hard time understanding how passage is going to help me or the Hispanic community," she said.

¹⁷Ms. Conde believed that Donald L. Horowitz, in his 1985 book, Ethnic Groups in Conflict, (Berkeley: University of California Press) put the matter in perspective when he wrote, "Language, then, is a symbol of domination. Groups claiming priority demand that their language be given what they invariably call its rightful place, by which they mean exclusive official status."

Ms. Conde was concerned that the initiative was so vague and unclear that people could interpret it as having to do with affirmative action or with Asians rather than Hispanics. She noted that some Hispanics will vote for it because they think it applies to those Mexicans who just came over and do not speak English.

Ms. Conde said:

I was at a debate with Barbara Phillips and she said, "wait a minute, this is only a language issue and has nothing to do with your culture."
I do not see how you can separate the two.

Norbert Montano, chairperson of Coloradoans for Language Freedom, found the proposal repugnant to the status of citizenship of all people of color because it has the "tendency to undermine the basic constitutional freedoms of all." He also believed the measure was an assault on a person's culture and relegated certain people to second class citizenship. Mr. Montano added that the measure abridged treaty rights noting that "under the Treaty of Guadalupe Hidalgo of 1848, the indigenous people of this region were guaranteed the right to carry on their customs, religion, culture, and their language."

Ms. Kaze of U.S. English responded, "the proposed amendment to the State Constitution will not take away anyone's civil rights because those rights are guaranteed by the Constitution of the United States which would supersede any State Constitution amendment."

Ms. Kaze added that making English the official language "gives a message not just to immigrants but to all Americans, citizens and noncitizens alike, that becoming part of the mainstream of American society and having opportunities involves the learning of English."

According to her:

there will be no interference with social, religious, family or cultural use of other languages and certainly no interference with private enterprise. By drawing everyone closer together into a community where all can speak a common language and agree to disagree on certain issues makes for more sense of community than separate languages and separate cultures where people are at odds with one another and not communicating. The intent of the amendment is to make everyone feel part of one nation with one language and a common bond of unity.

English as the Language of Government, Commerce, and Business

Proponents allege that in recent years, the legislative, judicial, and administrative arenas have recognized other languages and slowly these public sectors are adopting the custom of running society in more than one language. They believe these inroads provide the potential for legal attempts to claim that the use of foreign languages in other than private contexts is a language right to be protected by existing law. Proponents contend this is why English deserves a measure of legal recognition and protection.¹⁸

¹⁸Brown Letter, Ballot Analysis on Amendment #1, pp. 3-4.

Mr. Robb said that the amendment's passage gives no comfort or assurance of better government. It does not affect the Federal rules which require election ballots to be printed in more than one language in some areas. It will not add anything to good government, and he believed it would detract a great deal.

Mr. Traylor added that the initiative is not forward-looking and is commercially backward. One of the negatives he foresaw was the impact on foreign markets. He said, "at a time when Colorado is attempting to establish markets for its goods and products all over the world, it makes no sense to pass an amendment declaring foreign languages unwelcome in Colorado."

Joseph O'Hara agreed with those who believe the purpose for declaring English the official language would be to ensure its continued use as the language of the government; to preempt any possibility that a second language would become official; and to make a statement as to the importance of English for full participation in public life. Ms. Silva disagreed, saying, "I do not think it is right that business or education be conducted in English only."

Ms. Kaze contended that "[The initiative] will prohibit the State from using languages other than English in its official functions, but not when it comes to issues of health, justice, or safety. The proponents of English as the official language always make that very clear in any descriptive materials that are put out."

Mr. Webb said that the proposed amendment sends a negative message to tourists and international trading partners, adding:

Everyone in the world speaks English and we are one of the few countries where the only language we speak is English. It makes it difficult to promote international trading and [world] unity, when we only know English and are not multi- or bilingual. It puts us at a disadvantage in the international marketplace.

Mr. Webb believes in States' rights and in less government.

He added:

This amendment is saying the obvious. If we allow government to tell us now what our official language is, then is government next going to tell us what religion we should have? Is government going to put other restrictions on us as citizens?

Mr. Castro alleged that the measure was not good policy for Colorado from an economic and civil rights point of view.

He noted:

The amendment is drawn vaguely and because of its vagueness, dangerous implications exist for health, safety, and other governmental services. There are no safeguards in the amendment to ensure that important and crucial public health and safety services [are maintained].

Passage of this measure, Mr. Castro believed, "would stifle the growing economic and political power of ethnic minorities, but not only minorities will be impacted. The State and nation will be impacted by the measure,...[which] is bad government because it does not provide the flexibility that is necessary."

Mr. Beall, the owner of a Spanish-language theater, pointed out that English is already the language of the marketplace. He said that "you go to the legislature and there is not one measure that is not discussed, written and passed in English; you go to the courts and there is not a case that is not decided in English; you go to the offices of the Governor or Mayor and there is not an issue that is not in English. Everything, -- legislative, administrative, judicial -- it is all in English and there is no need to make it official because it is already."

Mr. Garcia agreed, saying that "English is the language of commerce and tourism and proponents should devote their energies to helping the many millions of Americans who need to become literate. This amendment will not do it."

Mr. D'Evelyn saw no compelling reason for this measure to be included in the constitution because the conditions of social cohesion in Colorado do not merit its inclusion.

Dr. McEvoy of the State's Department of Regulatory Agencies, Civil Rights Division, said that the increased use of non-English languages by Federal, State, and local government agencies has increased program accessibility for persons not yet fully assimilated into the American system. He noted that in an average week at the Civil Rights Division, from six to eight persons who speak limited English are provided bilingual assistance in filing charges of unlawful discrimination in employment, housing, or public accommodations. He added:

To deny full participation in the system until a full command of official English has been achieved, would have the effect of [denying] the non-English speaker his or her equal right of access and participation.

The Use of English as a Cost Saving Measure

Proponents contend that use of one language for government purposes decreases translation, printing, and distribution costs.¹⁹

Mr. Robb foresaw a real chance for legislative mischief. He noted "the proposal allows the legislature to enact whatever laws it deems appropriate in furtherance of English as the official language."

Mr. Traylor said that the overburdened judicial system will be called upon to referee language disputes, another cost to the taxpayer. While some proponents argue that the State will be able to eliminate bilingual education and thereby save money, Mr. Traylor suggested that the amendment will not take care of the students who will continue to need bilingual programs. Ms. Berry suggested that, "if we have to face massive litigation, it is going to be very costly to the State and the taxpayers." Mr. Castro agreed that the amendment would stimulate more litigation and added, "when certain rules or ordinances are promulgated in terms of enforcement and may conflict with the [U.S.] Constitution or where they take away guaranteed rights, there will be major litigation."

Proponents allege that States which have adopted English as their official language have not experienced increased and costly litigation.²⁰ But Judge Kirby alleged that "in the States where it has passed it has not been implemented and such costs have yet to be measured."

¹⁹Brown Letter, Ballot Analysis on Amendment #1, p. 4.

²⁰Brown Letter, Ballot Analysis on Amendment #1, p. 4.

Civil Rights Implications

Proponents allege that only a constitutional amendment can prevent future legal challenges to English as the State's common language and prevent the drift toward official bilingualism.²¹

Dr. Frederick McEvoy, director of research and education with the Colorado Civil Rights Division, presented a copy of the State civil rights commission's position statement on the measure which declared:

That adoption of the English language as the official State language would be contrary to the spirit and the letter of the civil rights statutes of the state.

Dr. McEvoy said "it has been the [State] commission's experience that even in the absence of an official language requirement, an English-only policy in workplaces has often contributed to the occurrence of unlawful discrimination against employees or applicants who speak a language other than English." He added:

Under current antidiscrimination laws, unless the English-only policy or practice can be shown to be a genuinely job-related requirement, the employer can be found to have violated the State's fair employment statute.

Dr. McEvoy noted that "over the past 3 years the civil rights division has had to investigate nearly a dozen cases where the respondent employer was alleged to have instituted English-only policies which were not clearly job related." Dr. McEvoy believed passage would have an adverse impact on the ability to protect 14th amendment due process rights.

²¹Brown Letter, Ballot Analysis on Amendment #1, p. 4.

Sioux Lamont, a staff member of the civil rights division, Colorado Department of Regulatory Agencies, Grand Junction office agreed and said, "the formal adoption of the English language amendment would deny equal access." This denial, she believed, "would constitute a violation of State law prohibiting discrimination on the basis of national ancestry."²²

Judge Kirby stated, "there seems to be a polarization occurring in the country based on a perceived threat of foreign people and so we see attempts at official language amendments." He added, "a basic tenent of our Federal Constitution is that the minority will be protected from any tyranny of the majority." He foresaw the courts being inundated with actions regarding official English. George Orbanek said that the measure carries the potential of a great deal of prejudice and deserves to be defeated. He noted, "I am not certain that we are not talking about something that takes away American freedoms."

Mr. Robb saw a level of intolerance on the rise in the Nation and was concerned about what he viewed as a complacent attitude. "The official language bill evidences erosion of the concern and respect we should have for our fellow citizens," he said. The first amendment of the U.S. Constitution provides that the Congress shall pass no law abridging or impairing freedom of speech. Article II, section X of the Colorado State Constitution articulates a similar right. Mr. Robb noted that the initiative suggests some serious problems for first amendment rights. "The real issue," he said, "is a quest for conformity versus a recognition of diversity."

²²In response to a question at the forum in Grand Junction, Ms. Lamont, who is a Ogallala Lakota Sioux, noted that Native Americans are accustomed to living in two different cultures and she believed that passage of the measure would not have any impact on those living on reservations. The Advisory Committee notes that it has not been legally decided whether the amendment would apply to Native Americans on reservations.

Mr. Traylor suggested that there is "a fear of a robust culture out there, fear of people who are not understood and languages which are not understood."

Mr. Craig sees the desire to exclude, to assert that one language is better than others:

The initiative implies denial of 5th and 14th amendment freedoms and does not ensure procedural and substantive due process. Individuals may be denied the fundamental right to understand court proceedings. There may even be some provision in the Treaty of Guadalupe Hidalgo of 1848 that will be violated by passage of the amendment.

Shirley Otero said, "we feel, as Americans, as Chicanos, as anyone who is brown-skinned and speaks Spanish, we are the target group of this law." She believed that the whole issue is targeted to the Mexican American community:

I think it is a racist move and Mexican American civil rights that we have fought for in the last 20 years will be taking a leap back. It is a direct attack on the Mexican American community in Colorado and the Nation.

Ms. Berry believed there is a real potential for limiting language freedom and restricting the rights of citizens. Ms. Silva saw the initiative as a threat to her civil rights. Ms. Kaze disagreed, saying, "I do not believe that the initiative has a negative impact on the civil rights of non-English speakers."

Mr. Webb believed all constitutional amendments, with the exception of the prohibition amendment which was later repealed, have protected or expanded rights and freedoms. He asked, "why would we now want to infringe upon and take away rights?" He believed the measure provides legal support to those who want to restrict language freedom and cultural pluralism. Mr. Webb said that passage will have a negative effect upon all of the civil rights organizations that are also attempting to provide equal opportunity for those groups and individuals who are attempting to be part of the mainstream of America.

Opponents who have gone on record have crossed political and cultural lines in the State. Mr. Castro pointed out that proponents have suggested that the opposition consists of merely a few Hispanic leaders, but the record indicates otherwise. According to Mr. Castro, opponents to this measure included: both presidential candidates, both U.S. Senators from Colorado, the Governor, attorney general, Colorado Council of Churches, the Rocky Mountain Rabbinical Council, all three Catholic Bishops in the State, the Episcopal Church Bishop, the American Jewish Committee, the National Conference of Christians and Jews, the Anti-Defamation League of B'nai B'rith, the Japanese American Citizens League, and many others.

Judge Kirby told the Advisory Committee, "I know of no major organization that has gone on record saying they favor the amendment, but the polls say 60 percent or more of the people in the western slope area of Colorado favor it."

Mr. Montano agreed, noting:

We have a large entourage of civic, business, and political leaders who have come out against this proposal, but the polls show that if people were to vote today, they would vote in favor.

Summary

The polls were correct. During the campaign, the proposal to make English Colorado's official language generated emotional debate. There were accusations that racism was the underlying motive for support of the measure. Proponents denied any racial intent. Despite the concern of many civic and governmental leaders regarding the negative impact the passage of the initiative would have on the State of Colorado, the electorate agreed 60.6 percent to 39.4 percent that it was necessary.

Opponents of the measure outnumbered proponents at the forums conducted by the Advisory Committee. Despite efforts of Advisory Committee members and staff to solicit participation of proponents, only a representative of U.S. English and a few private citizens who favored the measure appeared at the forums. One proponent noted that fear was the motivation for his support of the measure. An opponent agreed with this assessment, noting that newspaper coverage and interviews with supporters of the measure suggested that fear of anything foreign played a strong role in its support.

Opponents also suggested that the measure was divisive and unnecessary since the use of English for governmental, judicial, and economic affairs was an established fact. Proponents suggested that establishing English as the official language would unify the citizens of Colorado.

It remains to be seen whether the specific concerns of individuals and organizations which pressed for its defeat are realized or whether the unifying effects projected by its proponents are the outcome. The Advisory Committee will be monitoring the impact of the amendment with respect to civil rights concerns.