

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 13, 1987

The meeting of the State Administration Committee was called to order by Chairman Sales on January 13, 1987, at 9:00 a.m. in Room 437 of the State Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL NO. 109: Rep. Swysgood, House District #73, sponsor of the bill, stated that the bill gives some clarification to the county canvassing board if errors affecting vote totals are discovered during the canvass and gives them guidelines as to what to do in that event. He submitted sponsor amendments (Exhibit #1).

PROPOSERS: Elwood English from the Secretary of State's Office stated the original bill would have required a court order if a discrepancy in the vote count was discovered. The amended bill provides that if a canvassing board discovers a substantial error that could cause citizens not to have confidence in the outcome of an election, notice could simply be given to the election administrator and a recount could be initiated. The amendments to this bill would allow for an automatic recount if there is a substantial error. This method would save everyone money. No one would have to incur attorney fees and there would be no court costs. There would be only minimal cost to the county if a recount is required. Something needs to be done to resolve the present difficulties.

Greg Jackson, representing the Clerk and Recorders' Association, supports HB 109 as amended. Under the original language, there was some concern about the time it would take to request a court order for recount of votes. He feels the amendments are a timesaver and will not cause any additional problems for the canvassing board to do an effective job when an error is made.

OPPOSERS: None.

DISCUSSION ON HOUSE BILL NO. 109: Rep. Jenkins asked Mr. English if the petition would just allow for a recheck of the vote count figures and would not go into the ballot counting. Mr. English replied that at the present time the figures can be checked for mathematical errors. This bill would give the canvassing board the opportunity to reopen the ballot envelopes. Votes cast in all precincts would not necessarily be recounted but just the votes from a particular precinct. Rep. Jenkins then asked Mr. English if the idea of going through district court for recount permission is to prevent ballot tampering. Mr. English responded that that was correct with one exception, that being if an election results were within one quarter of one percent, then the loser is

entitled automatically to a recount which is paid for by the county. In this instance, the candidate would make the petition to the election administrator who then would inform the county recount board that they have a job to do. If an election is within one half of one percent, the candidate would have to pay for the cost of the recount by posting a bond. This bill as amended would add a third category of eligibility for recount and that is if the board of election canvassers feels there is a substantial discrepancy and they need to open some ballot envelopes to resolve it. They then can petition the election administrator. Rep. Cody expressed concern as to how all of this is paid for especially as outlined on page 5, lines 6 and 7 where it indicates "the expense of the recount shall be absorbed by the county". Mr. English responded that the county pays for the recount only when the results are within one quarter of one percent. That is an automatic entitlement to the candidate. Rep. Peterson expressed concern about ballot privacy and Mr. English responded that there was no threats to privacy at all.

Rep. Swysgood closed the discussion on HB 109 stressing the importance of protecting the integrity of the election process. When there are obvious errors that affect the vote total, HB 109 will allow the election administrator to recount the questioned areas so that everyone is confident in the election results.

DISPOSITION OF HOUSE BILL NO. 109: At the request of Chairman Sales, Mr. English explained the problem with the original bill and then explained the amendments. Rep. Roth moved DO PASS on the amendments which was seconded by Rep. Phillips. A DO PASS AS AMENDED motion was moved by Rep. Phillips and seconded by Rep. Roth. The vote carried unanimously.

CONSIDERATION OF HOUSE BILL NO. 101: Rep. Bruce Simon, House District #91, sponsor of the bill stated the bill was a simple one with a simple purpose. He stated that the purpose of the bill was not to deny in any way the cultural aspects of the many languages and cultures that have come to the U.S. He intends to recognize these various cultures and assured the committee that nothing in this bill would prohibit the State Library from obtaining collections of documents and recordings of other languages. Learning English has been the primary task of every immigrant group for the past two centuries and this has made available to them the political and economic benefits of the American society. We must realize the importance of the English language to the citizens of the U.S. A person unable to use the English language is unable to pursue their constitutional rights to the fullest amount, including legal rights, medical care and employment opportunities. He stated that the English language is the "glue that has held the fabric of our nation together" and has been the primary language of this country for 200 years but has never received official recognition. The people of Butte are a good example of citizens being united as one people even though they have their own individual cultures. HB 101 calls

attention to the fact that English is the language of Montana and the United States. It will send a signal to the educational process that something needs to be done to ensure that every person learns English. It is absolutely essential for someone living in the U.S. to learn English if he/she is to reach their highest potential. He stated HB 101 is not racist in any way and he hoped the committee would agree.

PROPOSERS: Rep. Jenkins requested to go on record as a proponent but he did not wish to speak. Carol Mosher, Montana Cattle Women, submitted testimony in support of HB 101 (Exhibit #2). Lorna Frank, Montana Farm Bureau Federation, also submitted written testimony in support of HB 101 (Exhibit #3).

OPPOSERS: Rep. Angela Russell, House District #99, spoke in opposition to HB 101. She is a native Crow speaker and stressed that language is the conduit of the Indian culture. Bilingualism in the schools today not only gives a better understanding of the English language but instills the rich heritage and diversity of the Indian people. HB 101 is not necessary and, if passed, it will surely cause divisiveness which might result in litigation, a costly prospect for the Montana taxpayers. Her constituents are concerned with HB 101 and view it as racist. She feels the bill has many inherent dangers and urged the committee to not pass the bill.

Ken Briggs, a Missoula teacher and coordinator of bilingual education, spoke in opposition. His program serves children, refugees from Laos, who would possibly suffer under passage of this bill. He acknowledged the importance of English but discussed the importance of bilingual education in assisting in the process of citizens' pursuit of their goals. Passage of this bill could bring about changes that the school system has just begun to deal with. HB 101 is chauvinistic and gives a poor message to the minorities that English is better than other languages. Passage of the bill would hurt refugees and immigrants.

Larry LaCounte, Superintendent of Schools, Lodge Grass School System, expressed concern about later interpretations of HB 101. He agrees with Rep. Simon only on the point that the bill is very simple. The Crow Reservation represents the largest non-English speaking language group in Montana. He feels enactment of this legislation would be very arrogant on the part of the English-speaking majority. He sees no need for the bill and urged that it do not pass.

Phil Campbell, representing the Montana Education Association, thought the bill is discriminatory although he is sure that is not the intent. He is concerned that later interpretation may deprive those people who do not have English as their primary language of the opportunity to participate in the state and country.

Robert Kolesar testified on behalf of the American Civil Liberties Union in opposition to HB 101 and stated the bill violated several important constitutional rights of citizens. He submitted a handout to committee members (Exhibit #4). He acknowledged the importance of the English language in this country but questioned whether the state should come forward and decree it to be the official language. He feels this law directly affects freedom of speech guaranteed by our constitution and is a "slap in the face" to the Indian people. The fiscal implications of the bill also make its passage inappropriate.

Butch Kurt, representing the Montana Peace Legislative Coalition, submitted written testimony (Exhibit #5) and expressed sadness at seeing this kind of legislation introduced.

William Anderson, representing himself, submitted testimony in opposition to HB 101 (Exhibit #6).

DISCUSSION OF HOUSE BILL NO. 101: Rep. Pistoria asked how many other states have adopted English as the official state language. Rep. Simon responded that seven states have adopted similar legislation and in California the voters adopted a constitutional amendment by a 73 percent margin recognizing English as the official language in California. Rep. Whalen asked Rep. Simon that since the reservations in Montana are independent nations, what effect would HB 101 have on their ability to adopt their own official language. Rep. Simon responded that it would have no effect at all. Rep. Simon stressed that HB 101 only encourages all citizens of Montana to learn English and does nothing to discourage them to continue with their native language. Bilingual education is not prohibited by the bill. Rep. Fritz asked Rep. Simon to explain the impact HB 101 would have on public policy of the state of Montana. Rep. Simon replied that the law is intended to establish an official language and encourage citizens to learn English without denying anyone the benefits of other cultures and languages. He emphasized that people need to communicate in order to fully enrich their lives in this state and nation. If citizens lack this communication skill, they are denied many of the things that enrich our society. A key ingredient to our united nation has been the fact that a common language is shared.

Rep. Simon closed the discussion on HB 101 stating he did not want to do anything to deny the basic concepts of bilingual education. The committee recessed at 10:10 a.m. and reconvened at 10:28 a.m.

Chairman Sales requested Vice Chairman Phillips to chair the hearing.

CONSIDERATION OF HOUSE BILL NO. 100: Rep. Sales, House District #76 and sponsor of the bill stated the purpose of HB 100 is to consolidate the present six separate retirement systems involving public employees into one system, PERS. He acknowledged there are some problems in doing this and that it is a long-term approach. All of the existing

employees that are under separate retirement systems now would not have their retirement benefits affected in any way by this bill. The bill stipulates that all employees hired after July 1, 1987 would be covered under PERS rather than separate systems as they now exist. Rep. Sales feels there just is not enough difference in the type of public service given by these public servants that they should have their own separate retirement systems.

PROPONENTS: None.

OPPONENTS: Tom Schneider, Executive Director of the Montana Public Employees Association submitted written testimony in opposition to HB 100 (Exhibit #7).

Tom Harrison, representing the Sheriffs' and Peace Officers' Association, stated that the sheriffs' and peace officers' retirement systems are the most actuarially and fiscally sound systems of the present retirement systems. The retirement systems are a recruiting and retention tool in attracting young, capable professionals into the law enforcement field. There is also friendly competition among the systems to remain actuarially sound, and there is a certain pride in having one's own retirement system.

Tim Bergstrom spoke in opposition to HB 100 on behalf of the Montana State Council of Professional Firefighters. He stated that the nature of firefighting is inherently dangerous. It is a "young man's sport" so to speak. HB 100 creates disparity and big morale problems. Professional firefighters are a close-knit and labor-intensive group. Passage of HB 100 could result in a high rate of turnover which will impact the quality of the delivery of fire protecting services in communities statewide.

Vern Erickson, Montana State Fireman's Association, expressed opposition and stated that individuality is necessary in retirement systems. He also indicated that passage of HB 100 could result in costs to local governments in the long term.

Rick Later, representing Montana Police Officers' Association and sheriff of Dillon, endorsed the opposition testimony of the other witnesses.

Nadlean Jensen, Executive Director of the American Federation of State, County and Municipal Employees Council 9 AFL-CIO expressed opposition to HB 100.

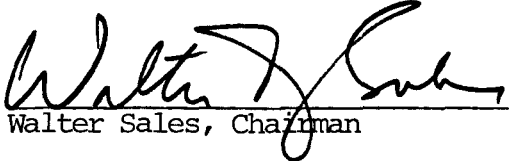
Joe Brand testified as an individual in opposition to HB 100 and stated he had a problem with this legislation. He feels a study is needed. There will be more retirees than people coming into the system. The cost factor will be great in many instances. In the long run, this proposed system will cost the Montana taxpayers a lot of money.

DISCUSSION OF HOUSE BILL NO. 100: Rep. Sales stated that he realized that we do need a lot more information than what we have at the present time in order to make an intelligent decision on HB 100. He urged the committee members to take time to visit with highway patrolmen, game wardens, etc., regarding how the retirement systems work for them. He acknowledged that esprit and pride are important. Rep. Cody asked Rep. Sales if he had addressed the increased financing needed for some of these systems. Rep. Sales responded that this was information that needed to be obtained from the administrators of the programs. Rep. Cody then asked if each of the retirement systems being discussed are actuarially sound, and Rep. Sales responded that most of them are. Rep. Pistoria expressed his concerns about doubledipping to Tom Schneider, and Mr. Schneider stated that benefits cannot be denied to anyone who has contributed for them.

Rep. Sales closed the discussion on HB 100 stating he appreciated the testimony given but was disappointed that representatives from all groups were not present to address the issue. He suggested withholding a decision until committee members have a chance to study the annual report provided by the retirement division and visit with other members of the different retirement systems.

Executive action on HB 100 and HB 101 was postponed until January 14.

ADJOURNMENT: There being no further business to come before this committee, the hearing was adjourned at 11:15 a.m.


Walter Sales, Chairman

SPONSOR AMENDMENTS TO HB 109 (SWYSGOOD)

1. Title, line 5.
Strike: "APPLY"
Insert: "PETITION"
2. Title, lines 5 and 6.
Strike: "A" on line 5 through "AUTHORIZING" on line 6.
3. Title, line 8.
Following: "13-15-403,"
Strike: "13-16-301" through "13-16-306"
Insert: "13-16-201"
Strike: "13-16-307"
Insert: "13-16-204"
4. Page 1, line 14.
Strike: "application"
Insert: "petition"
Strike: "order"
5. Page 2, line 5.
Strike: "apply" through "order"
Insert: "petition"
6. Page 2, line 6.
Strike: "13-16-301"
Insert: "13-16-201"
7. Page 2.
Following: line 6
Strike: sections 2 through 5 in their entirety
Insert: "Section 2. Section 13-16-201, MCA, is amended to
read:

"13-16-201. Conditions under which
recount to be made. A recount shall be made
under any of the following conditions:

(1) If a candidate for a county,
municipal, or district office voted for in
only one county, other than a legislator or a
judge of the district court, or a precinct
office is defeated by a margin not exceeding
1/4 of 1% of the total votes cast or by a
margin not exceeding 10 votes, whichever is
greater, he may, within 5 days after the
official canvass, file with the election
administrator a verified petition stating he
believes a recount will change the result and
a recount of the votes for the office or
nomination should be had.

(2) If a candidate for a congressional
office, a state or district office voted on
in more than one county, the legislature, or

judge of the district court is defeated by a margin not exceeding $\frac{1}{4}$ of 1% of the total votes cast for all candidates for the same position, he may, within 5 days after the official canvass, file a petition with the secretary of state as set forth in subsection (1). The secretary of state shall immediately notify each election administrator whose county includes any precincts which voted for the same office by certified or registered mail, and a recount shall be conducted in those precincts.

(3) If a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding $\frac{1}{4}$ of 1% of the total votes cast for and against the question, a petition as set forth in subsection (1) may be filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

(4) If a question submitted to the vote of the people of the state is decided by a margin not exceeding $\frac{1}{4}$ of 1% of the total votes cast for and against the question, a petition as set forth in subsection (1) may be filed with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(5) If a question submitted to the vote of the people of a multicounty district is decided by a margin not exceeding $\frac{1}{4}$ of 1% of the total votes cast for and against the question, a petition as set forth in subsection (1) may be filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least two counties, and must be filed within 5 days after the official canvass.

(6) The secretary of state shall immediately notify each election administrator by certified mail of the filing of the petition, and a recount shall be conducted in all precincts in each county.

(7) If during a canvass of election returns a board of county canvassers finds an error, as provided in 13-15-403, the board immediately shall file a petition with the election administrator."

Section 3. Section 13-16-204, MCA, is amended to read:

"13-16-204. Meeting of recount board when recount requested. (1) Immediately upon receiving ~~an-application~~ a petition for a recount ~~as-provided-in-13-16-201(1)~~ or a notice from the secretary of state that ~~an-application~~ a petition has been filed with him, as provided in 13-16-201, the election administrator shall notify the members of the county recount board.

(2) The board shall convene at the usual meeting place of the governing body without undue delay but not later than 5 days after receiving notice from the election administrator."



EXHIBIT #2
DATE 1/13/87
HB 101

NAME Carol Mosher BILL NO. HB 101
ADDRESS Augusta, MT. DATE Jan. 13, 1987
WHOM DO YOU REPRESENT Montana CattleWomen
SUPPORT XX OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMENTS.

We are in support of HB 101 because we believe that since our country has traditionally followed the English language, that in order for all citizens to intelligently participate and contribute to their own and all of our country's well being, that it is in our country's best interest to designate English as our official language.

The opportunities to learn foriegn languages needs to be stressed more strongly in our educational systems, but we still need to recognize English as the Official one.

I attended a small one room school where many of the first graders spoke another language and until they grasped the English language their heart aches were great.

It is wonderful for a culture to maintain their own language and we do encourage that, but, again for an official language, we support English and HB 101.



P.O. Box 6400
~~502 South 19th~~

Bozeman, Montana 59715

Phone (406) 587-3153

TESTIMONY BY: Lorna Frank

BILL # H.B. - 101 DATE 1/13/87

SUPPORT XXX OPPOSE

EXHIBIT #3
DATE 1/13/87
HB 101

Mr. Chairman, members of the State Administration Committee,
for the record my name is Lorna Frank, representing Montana Farm
Bureau.

By declairing the English language as the official language
of Montana, it is a step in making English the national language.

Therefore I urge you to give H.B. 101 a do pass. Thank you.

SIGNED: Lorna Frank

New "English-only" movement reflects old fear of immigrants

By Edward M. Chen and Wade Henderson

Even as our nation prepares to celebrate the bicentennial of the U.S. Constitution, a political movement antagonistic to fundamental constitutional guarantees is emerging in California, Washington, D.C., and elsewhere. It is a movement that is anti-immigrant and xenophobic. It is fed by the perception that immigration to the United States is "out of control" and that large ethnic communities, particularly Hispanics and Asians, are not willing to assimilate in the traditional "melting pot" process.

The movement, which attacks virtually all forms of multilingual assistance provided by government and businesses to non-English-speaking populations, seeks to enshrine English as the "official language" of the United States.

A historical perspective

The new English-only movement is not unprecedented; it bears great similarity to the racist nativism movement that arose in response to the wave of immigration from Southern and Eastern Europe between 1880 and 1914. The Federal Immigration Commission issued a report in 1911

and other new immigrants regularly fill the long waiting lists for adult English classes. Los Angeles County alone has over 30,000 people on its list.

The existence of anti-assimilationists and cultural separatists among immigrants is a myth put forward by English-only advocates. There is no movement among Asians or Hispanics to make any foreign language official. Nor is there a "cultural separatist movement." A 1985 study by the Rand Corporation of Mexican immigrants and assimilation patterns in California revealed that Mexican immigrants are assimilating into our society in much the same fashion as earlier generations of immigrants. While approximately 50 percent of Mexican immigrants speak English, over 95 percent

bond, and it runs much deeper than the English language.

The English-only agenda

The English-only movement appears to have three principal goals:

- To ratify a constitutional amendment that would declare English the official language of the United States and outlaw all bilingual programs and services provided by federal, state and local governments;
- To convince Congress to repeal bilingual ballot requirements under the Voting Rights Act; and
- To reduce sharply federal programs for bilingual education.

Several measures have been introduced in Congress to advance these objectives. Two California representatives are trying to repeal the provisions of the Voting Rights Act that mandate foreign-language ballots; a similar measure is also pending in the Senate.

English-as-official-language legislation centers on the English Language Amendment to the Constitution, first introduced by then Senator S. I. Hayakawa of California in 1981. Two versions, one in the House, one in the Senate, have been submitted in the 99th Congress. In addition to making



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A historical perspective

World War I gave rise to intense anti-German sentiment. A number of states enacted extreme English-only laws. For instance, Nebraska and Ohio passed laws in 1919 and 1923 prohibiting the teaching of any languages other than English to students below the eighth grade. The Supreme Court ultimately held the Nebraska statute unconstitutional as violative of due process.

The current English-only movement is spearheaded by U.S. English, an organization closely related to the Federation for American Immigration Reform and other anti-immigration groups. It is not surprising that it comes at a time of rising resentment toward immigration from Mexico, Central America and Asia. It appeals to our worst fears of social change, exploiting and perpetuating false stereotypes about Asians and Latinos.

English-only proponents argue that our "common bond" of English is being threatened by "language rivalries" and "ethnic separatism" and that today's immigrants are refusing to learn English. They contend that bilingual services and programs provide a disincentive to learn English and permit immigrants to live in "language ghettos" without assimilating.

In fact, immigrants *want* to learn English. A recent study conducted by an independent marketing firm showed that 98 percent of Latino parents surveyed, as compared to 94 percent of Anglo and

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of first-generation native-born Mexican-Americans are proficient in English. Indeed, by the second generation, over 50 percent of Mexican-Americans have completely lost their mother tongue, speaking no Spanish at all. According to the 1980 census, nearly 90 percent of Hispanics ages 5 years or older speak only English in their households.

Bilingualism in government is not new in America. At the birth of our nation, the Continental Congress printed a number of documents, including the Articles of Confederation, in German for the benefit of non-English-speaking patriots. In the early 1800s, in midwestern states such as Ohio and Wisconsin, bilingual German-English public schools were commonplace. In fact, Pennsylvania passed a law in 1837 requiring school instruction to be given on an equal basis in German and English.

The prevalence of these bilingual programs did not threaten our national unity. The experience of New Mexico, a state that officially has been bilingual since 1912, further demonstrates that political divisiveness need not result from cultural pluralism. New Mexico, which has long had bilingual ballots, enjoys the highest rate of Hispanic political participation in the country.

What English-only proponents fail to realize is that the real common bond of all Americans is our shared belief and commitment to democracy, freedom and equality of opportunity. Many of today's immigrants from Latin America and Southeast Asia, just as the Germans, Italians and Eastern Europeans who preceded them, fled from political repression, war and abject poverty. They all share a

- To ratify a constitution that would declare England the United States and outlaw services provided by federal governments;

- To convince Congress to change the requirements under the law.
- To reduce sharply the federal funding for equal education.

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However, where the titles are not. In California, has sponsored

initiative that would aim to prevent the legislation from "diminishing or ignoring common language." That was in November. What this time is unclear. However, it gives business in California a "perceived violation" of the absurd as it may seem, "civility" are only one step.

Several other states have the official state language broad operative mandatory mechanism. Proposition because it is the first of voters by initiative if advocates will escalate paigns in Florida, Texas-

Although it is impossible to predict the consequences of dropping bilingual services, a few illustrations of its

Emergency service
 qual emergency telephone
 to language-minority groups
 cent or more of the population.
 These essential services—
 police, fire and emergency
 have saved countless lives.
 service may be based on
 retention is based on
 rather than constitutional

Other government services—A wide range of publications, including equal education, vot

Henderson

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Teaching school in Atlanta, Georgia.

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The claim of English-only advocates that bilin-
gual services threaten the unity of our nation is not
only based on false premises, but ignores history
and experience.

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English-as-official-language legisla-
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House bill would prohibit federal and/
or state governments from mandating
that any language other than English
be used, other than as a foreign lan-
guage requirement, at academic insti-
tutions.

However, it is at the state level
where the most intense political bat-
tles are now being waged.

In California the U.S. English group
has sponsored Proposition 63, a ballot
initiative that would amend the state's constitution
to prevent the legislature from passing any law that
"diminishes or ignores the role of English as our
common language." The measure will be voted on
in November. What this language actually means is
unclear. However, it gives to any individual or busi-
ness in California a private right to sue for any per-
ceived violation of this sweeping mandate. As
absurd as it may seem, citizen-sponsored "language
police" are only one step away from political real-
ity.

Several other states have laws declaring English
the official state language, but none contain this
broad operative mandate and private enforcement
mechanism. Proposition 63 is also significant
because it is the first of such laws submitted to the
voters by initiative: if it passes, the English-only
advocates will escalate their already existing cam-
paigns in Florida, Texas and other states.

Although it is impossible to predict the direct
consequences of Proposition 63's adoption upon
bilingual services and programs, the following are a
few illustrations of its potential impact:

Emergency services—In California, multilin-
gual emergency telephone operators are provided
to language-minority groups that constitute 5 per-
cent or more of the population in a given area.
These essential services, which provide access to
police, fire and emergency medical protection,
have saved countless lives. As important as this
service may be, it would be eliminated since its
retention is based upon administrative largess
rather than constitutional mandate.

**Other governmental programs and social
services**—A wide range of government services
and publications, such as court translators, bilin-
gual education, voting materials, pamphlets
informing immigrant parents of educational oppor-
tunities for their children, mental health and fam-

ily-planning services, and health bulletins, could be outlawed as unconstitutional. Challenges could be mounted against foreign-language books in public libraries, Spanish street names and foreign-language instruction in public schools. Even though such claims may be frivolous, Proposition 63 openly invites litigation.

Foreign-language advertising by private business—Although Proposition 63 would not directly operate against private business, the amendment requires the California legislature to take all steps necessary to protect English-language supremacy. This broad mandate could provide a constitutional basis for legislation limiting foreign-language advertising by private business. The constitutionalization of English-language supremacy could conceivably provide the "substantial government interest" that would be necessary to overcome the limited First Amendment protection accorded to commercial speech.

The provision will at least create a political climate conducive to such efforts. English-only advocates in California and Florida have already mounted protests against businesses such as Pacific Telephone, McDonald's and Philip Morris, and against foreign-language telephone books, billboards and menus.

Praying by permit

William P. Nichols, a painting contractor, lives in Stratford, Connecticut, a town of 50,000. Religion is not a sometime thing for Nichols. A member of The Way International, a church based in Ohio, Nichols holds prayer meetings in his home three times a week. About six or seven usually attend—

cited the fact that religious services were being conducted in a residence and that a gathering of automobiles accompanied the prayer group on those nights.

The town of Stratford's Zoning Enforcement Officer thereupon wrote Nichols that, according to the zoning regulations, any property used for religious



Shopping in Union City, New Jersey.

In one sense, it's hard to take the English-only movement seriously. The idea of zealous citizen-guardians of the English language punishing those who fail to conform because of their inability to speak English is hard to imagine. But, by sanction-

ing these efforts, initiatives like Proposition 63 and the English-only movement breed intolerance and bigotry. The stereotype of disloyal anti-assimilationists now advanced by English-only advocates is not only baseless, but disturbingly reminiscent of the brand of disloyalty placed on Japanese-Americans to justify their internment in relocation camps during World War II.

The ACLUs of Northern and Southern California along with the ACLU's Washington Office are actively opposing the English-only political movement and California's Proposition 63 as unnecessary and counterproductive. The English-only movement seeks to enshrine as a constitutional principle cultural and linguistic conformity by eliminating the rights of minority groups. It is contrary to a constitutional tradition that affords protection of individual differences and societal diversity.

It is essential that the mean-spirited and ill-conceived English-only movement is stopped before it spreads.

Edward M. Chen is a staff counsel with the ACLU of Northern California. Wade Henderson is associate director of the ACLU's Washington Office.

SWEET LAND OF LIBERTY

By Nat Hentoff

ment, and Nichols's rights to equal protection of the laws and due process of law. Moreover, that relentless town ordinance unconstitutionally placed a prior restraint on First Amendment activity (the free expression of prayer).

The civil liberties lawyers could not resist noting in their brief that Stratford does not regulate "political meetings, social gatherings, or meetings

Cross-References

- Right to bear arms, Art. II, sec. 12, Mont. Const.
- Environment and natural resources, Art. IX, Mont. Const.
- Department of Health and Environmental Sciences, Title 2, ch. 15, part 21.
- Department of Agriculture, Title 2, ch. 15, part 30.
- Department of Livestock, Title 2, ch. 15, part 31.
- Department of State Lands, Title 2, ch. 15, part 32.
- Department of Natural Resources and Conservation, Title 2, ch. 15, part 33.
- Department of Fish, Wildlife, and Parks, Title 2, ch. 15, part 34.
- Water Courts, Title 3, ch. 7.
- Environmental Quality Council, Title 5, ch. 16.
- Coal severance tax, Title 15, ch. 35.
- Oil and gas severance tax, Title 15, ch. 36.
- Mining license taxes, Title 15, ch. 37.
- Resource indemnity trust tax, Title 15, ch. 38.
- Parks, Title 23, ch. 1.
- Recreation, Title 23, ch. 2.
- Human Rights, Title 49.

Section 4. Individual dignity. The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas.

Cross-References

- Rights of the convicted, Art. II, sec. 28, Mont. Const.
- Servicemen, servicewomen, and veterans allowed special consideration, Art. II, sec. 35, Mont. Const.
- Discrimination in education prohibited, Art. X, sec. 7, Mont. Const.
- Elimination of sexual discrimination in statutes, 1-2-105.
- Human Rights Commission, 2-15-1706.
- Discrimination prohibited in urban renewal projects, 7-13-1207.
- Discrimination against members of organized militia in employment prohibited, 10-1-603, 10-1-594.
- Employment preference for veterans, relatives of veterans, and certain disabled civilians, Title 10, ch. 2, part 2.
- Impartiality in state contracts — Montana preference provisions, 18-1-111, 18-1-112.
- Discrimination in state retirement systems prohibited, 19-3-304, 19-3-305, 19-4-302, 19-5-201, 19-6-201, 19-7-201, 19-8-201.

Section 5. Freedom of religion. The state shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Cross-References

- Discrimination on basis of religion, Title 49, Art. II, sec. 4, Mont. Const.; Title 49, Agriculture, Title 81.
- Aid prohibited to sectarian schools, Art. X, sec. 6, Mont. Const.
- Religious discrimination prohibited in education, Art. X, sec. 7, Mont. Const.
- Coercion or undue influence of voters based on religion, 13-35-218.
- Religious instruction released time program, 20-1-308.
- Exemption from school immunization requirement on religious grounds, 20-8-406.
- Distribution of sectarian or denominational publication in schools prohibited — prayer in schools permitted, 20-7-112.
- Securities issued by religious organization exempt from regulation, 30-10-104.
- Donations by corporations for religious purposes, 35-1-108.
- Donations by nonprofit corporations for religious purposes, 35-2-107.
- Religious corporations sole, Title 35, ch. 3.
- Exemption from chapter regulating museum and columbarium authorities, 35-21-103.

Section 6. Freedom of assembly. The people shall have the right peaceably to assemble, petition for redress or peaceably protest governmental action.

Cross-References

- Immunity of Legislator for speech or debate in Legislature, Art. V, sec. 8, Mont. Const.
- Public participation in governmental operations, Title 2, ch. 3.
- Disaster and emergency services law not to interfere with dissemination of news or public comment, 10-3-102.
- Limitation on political activity — disaster and emergency services organization, 10-3-112.
- Prevention of public meetings of electors, 13-35-213.
- Criminal contempt, 45-7-309.
- Conduct disruptive of public order, Title 45, ch. 8, part 1.

Section 7. Freedom of speech, expression, and press. No law shall be passed impairing the freedom of speech or expression. Every person shall be free to speak or publish whatever he will on any subject, being responsible for all abuse of that liberty. In all suits and prosecutions for libel or slander the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

Cross-References

- Immunity of Legislator for speech or debate in Legislature, Art. V, sec. 8, Mont. Const.
- Jurisdiction denied Justice's Court in libel or slander action, 3-10-301.
- Disaster and emergency services law not to interfere with dissemination of news or public comment, 10-3-102.

- Practice medicine not required for circumcisions by rabbi, 37-3-103.
- Duty of Christian Scientists and religious healers to report dependent and neglected child, Title 41, ch. 3, part 2.
- Management of funds by religious institutions, Title 72, ch. 30.

Constitutional Convention Transcript

- Adoption, Trans. 2933, 2934.
- Committee report, Vol. II 620, 621, 629, 957, 963, 969, 970, 1038.
- Cross references, 1889 and 1972 Constitutions, Vol. II 646.
- Debate — committee report, Trans. 1646, 1647, 1738, 2015, 2745.
- Debate — style and drafting report, Trans. 2477, 2921.
- Delegate proposals, Vol. I 189, 190, 312, 313, 315.
- Final consideration, Trans. 2631, 2632.
- Text as adopted, Vol. II 1087.

Constitutional Convention Transcript

- Adoption, Trans. 2933, 2934.
- Committee report, Vol. II 621, 629, 958, 963, 967, 970, 1038.
- Cross references, 1889 and 1972 Constitutions, Vol. II 646.
- Debate — committee report, Trans. 1647 through 1649.
- Debate — style and drafting report, Trans. 2477 through 2481, 2921.
- Final consideration, Trans. 2632, 2633.
- Text as adopted, Vol. II 1087.

- Limitation on political activity of disaster and emergency services organization, 10-3-112.
- Electioneering at polling place on election day prohibited, 13-35-211.
- Illegal influence of voters, 13-35-214.
- Coercion or undue influence of voters, 13-35-218.
- Election materials not to be anonymous, 13-35-225.

ARTICLE X

EDUCATION AND PUBLIC LANDS

Section

1. Educational goals and duties.
2. Public school fund.
3. Public school fund inviolate.
4. Board of land commissioners.
5. Public school fund revenue.
6. Aid prohibited to sectarian schools.
7. Non-discrimination in education.
8. School district trustees.
9. Boards of education.
10. State university funds.
11. Public land trust, disposition.

Article Cross-References

Superintendent of Public Instruction as executive branch officer, Art. VI, sec. 1 through 4, 6, and 7, Mont. Const.

Education, 2-15-1501; Title 20.

Department of State Lands, Title 2, ch. 15, part 32.

State Lands, Title 77.

Section 1. Educational goals and duties. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Cross-References

Public school fund, Art. X, sec. 2 and 3, Mont. Const.

Nondiscrimination in education, Art. X, sec. 7, Mont. Const.; 49-2-307; 49-3-203.

State university funds, Art. X, sec. 10, Mont. Const.

Free tuition and waivers at units of the university system for certain veterans and children of veterans, 10-2-311 through 10-2-314.

Property tax exemption of property used for educational purposes, 15-6-201.

Statewide levy for school purposes, 15-10-103.

Statewide levy for university system, 15-10-105.

Education, Title 20.

Indian studies required of teachers under certain circumstances, 20-4-211 through 20-4-214.

Vocational and technical education, Title 20, ch. 7, part 3.

Montana State School for the Deaf and Blind, Title 20, ch. 8.

State equalization aid, Title 20, ch. 9, part 3.

Community college districts, Title 20, ch. 15.

University system, Title 20, ch. 25.

Proprietary postsecondary instruction, Title 20, ch. 30.

Libraries, Title 22, ch. 1.

Issuance of permit to mine state coal to school district, 77-3-321.

Constitutional Convention Transcript Cross-References

Adoption, Trans. 2939, 2940.

Committee report, Vol. II 718, 721 through 725, 993, 996, 1002, 1003, 1069.

Cross-references, 1889 and 1972 Constitutions, Vol. II 757.

Debate — committee report, Trans. 1949 through 1989, 2022, 2151 through 2159.

Debate — style and drafting report, Trans. 2572, 2573, 2928.

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TESTIMONY OPPOSING HB 101

(English as State Language)

House State Administration Committee
January 13, 1987

Butch Turk

Mr. Chairman and members of the committee, thank you for the opportunity to testify on this bill. My name is Butch Turk and I'm here representing the Montana Peace Legislative Coalition. We are strongly opposed to House Bill 101 and I must say that it is sad and discouraging to see this type of legislation introduced here. We oppose the bill for several reasons.

To begin with, we feel that this legislation is primarily directed at the recent wave of immigrants from Latin America and Southeast Asia. These are people who've come here to escape war, oppression or great economic adversity. They come here speaking a different language and yes, on occasion they choose to preserve distinguishing elements of their culture, including their language. Often they've suffered so much, how can we blame them for wishing to preserve a part of their heritage? One other characteristic sets these people apart. It is, of course, that they are not white. The United States has always been a nation of immigrants, but as long as those immigrants came from Germany, Italy, Poland or Norway no one introduced English language bills. At a time when white supremacists have announced their desire to create a homeland in the Northwest, this bill sends the wrong message about attitudes in Montana.

It's ironic that this bill would be introduced so soon after we so gloriously celebrated the 100th birthday and restoration of the Statue of Liberty. Perhaps we should amend that famous inscription to read "Give me your tired, your poor, etc., but only if they speak English."

Even more important for Montanans is the message that this bill sends to our home's original occupants. For thousands of years non-white Native Americans spoke differing languages, long before Europeans ever set foot on this continent. Many of these languages survive today. To tell our Indian citizens that their very words are undesirable in our society would be a direct slap in the face and would embarrass me as a Montanan and as an American.

Many nations tolerate, accomodate and even encourage multiple languages. Most seem to manage quite well. For instance, most Canadians I've spoken

with feel that the inconvenience of having two official languages is far outweighed by the richness it brings to their society. If Holland had ever passed a bill like this one, they would not now be flexible enough to have adopted English as a second official language.

Of all the developed countries, we are probably the most illiterate when it comes to speaking a foreign language. Not only do people in other countries find this to be elitist, insulting and somewhat pitiful, but it has also put us at a distinct economic disadvantage. I'm sure you've all heard that trade with Japan, China and other countries has suffered because of our inability to speak their language. This bill encourages the maintenance of this harmful situation. Instead we should be discussing legislation to require the learning of a second language.

Given all these problems with House Bill 101, I'm at a loss to understand what its purpose is. English is already our national language. Anyone who wishes to fully participate in society will eventually learn to speak it. Not only that, but it is also the primary international business and scientific language. What are we worried about? I've spent my entire adult life in Montana and I've yet to see a problem that this bill would resolve. In Montana there are no bilingual signs, no mandate to sell products bilingually and little or no bilingual education.

I encourage this committee to avoid insulting our Indian population and any perceptions of racist motivations by killing this bill. Montana is one of the most tolerant of states, always open to new ideas and glad to accept diverse peoples. We should keep it that way.

Since I represent a group which is concerned with issues of war and peace, I'd like to make one final point. The Southeast Asians and Central Americans that this bill is largely directed at came here to escape the ravages of war in their home lands. Whatever one thinks of our involvement in these conflict, we Americans can neither ignore nor deny our partial responsibility for the victims of the fighting. Many of the bullets they avoided and weapons they ran from were stamped made in the U.S.A. To add another burden to the troubles that these refugees face would simply be cruel.

Thank you.