

# Language Rights and New Mexico Statehood

## By the U.S. Commission on Civil Rights

Before the United States achieved independence, Spanish soldiers and colonists from Mexico had established settlements in California, Arizona, and Texas, as well as New Mexico. When Mexico ceded these lands to the U.S. following the war of 1846-48, an estimated 75,000 Spanish-speaking people lived in the Southwest: 60,000 in New Mexico, 7,500 in California, 5,000 in Texas, 1,000 or so in Arizona, and 1,500 in Colorado.<1> Spanish was the dominant language and a combination of Spanish-Mexican-Indian culture dominated the region's life style.

The Treaty of Guadalupe Hidalgo, signed on February 2, 1848 and ratified three months later, gave U.S. citizenship to all Mexican nationals who remained in the ceded territory. Only a few – less than 2,000 – left. The treaty also guaranteed certain civil, political, and religious rights to the Spanish-speaking colonists and attempted to protect their culture and language.

With the California Gold Rush as the principal impetus, streams of Anglos began flowing West. As they achieved sufficient population majorities, the treaty's guarantees, explicit or implied, were sometimes circumvented or totally ignored. With two cultures in conflict and new political powers at stake, a series of legal actions started which to this day affects the treatment Mexican Americans receive from our institutions of law and learning.

In 1850 the Territory of New Mexico (which included the present state of Arizona) was added to the union. Thirteen years later New Mexico and Arizona were separated as territories, but in 1906 the U.S. Congress passed a joint statehood bill for them, stipulating that rejection of joint statehood by the voters of either territory would prevent it from taking place. New Mexico was roughly 50 percent Spanish-speaking, while estimates of Arizona's Indian and Mexican American population ranged from 5 percent to nearly 20 percent.

After introduction of a similar bill the year before, the Arizona legislature

had passed a resolution of protest, stating that joint statehood "would subject us to the domination of another commonwealth of different traditions, customs and aspirations." The Arizona Territorial Teachers Association passed a resolution opposing joint statehood. Arizona schools taught all classes in English; New Mexico schools used interpreters. The resolution warned that the union of New Mexico and Arizona would disrupt the Arizona school system. Arizonans' fears were summarized in a Protest Against Union of Arizona with New Mexico presented to Congress on February 12, 1906, which cited

the decided racial difference between the people of New Mexico, who are not only different in race and largely in language, but have entirely different customs, laws and ideals and would have but little prospect of successful amalgamation ... [and] the objection of the people of Arizona, 95 percent of whom are Americans, to the probability of the control of public affairs by people of a different race, many of whom do not speak the English language, and who outnumber the people of Arizona two to one.<2>

Further in the document the delegates explained that the New Mexico courts and legislature were conducted through interpreters; that New Mexico published its statutes in two languages; that New Mexico derived its law from the civil law system, while Arizona law stemmed from the common law system; and that the Spanish-speaking New Mexicans would not consent to the loss of their right to serve on juries. The proposed statehood bill gave sixty-six votes in the constitutional convention to New Mexico and forty-four votes to Arizona. The Protest prophesied that New Mexico would control the constitutional convention and impose her dual language conditions on Arizona. Joint statehood won in New Mexico, 26,195 to 14,735. It lost in Arizona, 16,265 to 3,141.

In 1910 the Senate Committee on Territories considered separate statehood for Arizona and New Mexico. An Arizona delegate sought to amend the statehood bill by inserting a provision that "nothing in this Act shall preclude the teaching of other languages" in public schools. He was opposed by the committee chairman, Senator Albert Beveridge of Indiana, and other senators. Beveridge declared:

The purpose of that provision, both with reference to New Mexico and Arizona, and particularly to the former is to continue the thing that has kept back the speaking of English and the learning of English, to wit: that because they may conduct the schools in other

languages, in many of those Spanish-speaking communities, particularly in New Mexico, they will do so.<3>

Everybody knows ... one of the difficulties down there ... [is] the curious continuance of the solidarity of the Spanish-speaking people. It would be well ... if at last the men who make the laws could speak the language which all of the rest of us speak.

On June 10, 1910, Congress passed an enabling act which provided for the calling of constitutional conventions. The act required the Arizona and New Mexico state constitutions to include two provisions which would limit the use of the Spanish language as an official language. First, the public schools must be conducted in English: "That provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all children of said state and free from sectarian control, and that said schools shall always be conducted in English."<4>

Second, knowledge of the English language was a prerequisite for holding state offices and positions in the legislature: "That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous conditions of servitude, and that ability to read, write, speak, and understand the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be necessary qualification for all State officers and members of the State legislature."<5>

Nevertheless, the draft of the New Mexico constitution, completed on November 21, 1911, contained three provisions which protected the rights of the Spanish-speaking. One related to voting:

**Sec. 3. Religious and racial equality protected; restrictions on amendments.** The right of any citizen of the state to vote, hold office, or sit upon juries, shall never be restricted, abridged or impaired on account of religion, race, language or color, or inability to speak, read or write the English or Spanish languages as may be otherwise provided in this Constitution; and the provisions of this section and of section one of this article shall never be amended except upon the vote of the people of this state in an election at which at least three-fourths of the electors in the whole state, and at least two-thirds of those voting in each county of the state, shall vote for such amendment.<6>

The other two related to education:

**Sec. 8. Teachers to learn English and Spanish.** The legislature shall provide for the training of teachers in the normal schools or otherwise so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the State, and shall provide proper means and methods to facilitate the teaching of the English language and other branches of learning to such pupils and students.

**Sec. 10. Educational rights of children of Spanish descent.** Children of Spanish descent in the State of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the State, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the State, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this State, in an election at which at least three-fourths of the electors voting in the whole state and at least two-thirds of those voting in each county in the State shall vote for such amendment.<7>

The Constitution also preserves all rights granted under the Treaty of Guadalupe Hidalgo: "The rights, privileges and immunities, civil, political and religious, granted to the people of New Mexico by the Treaty of Guadalupe Hidalgo shall be preserved inviolate."

On January 12, 1911, New Mexico had ratified a constitution and forwarded it to President Taft, who approved it on February 24, 1911. The Senate, however, did not approve the constitution because of the provision which made amendments far too difficult. Arizona also ratified its constitution, but it was rejected by the President. A resolution was adopted by Congress requiring New Mexico to resubmit to the electors a less restrictive provision for constitutional amendments, and Arizona to resubmit an amendment on recall of officers. This resolution also deleted the provision of the enabling act which required state officers and legislators of New Mexico to have a comprehensive knowledge of the English language. Representative Legare said:

These people come to us from New Mexico, both Republicans and

Democrats, and say that in the Enabling Act passed last year we have taken them by the throat and told them that they must enact an irrevocable ordinance whereby no Spanish-speaking person can hold office in their State. They tell us, both factions, that some of the best people of their State and some of their most brilliant men are Spanish-speaking people.<8>

On November 7, 1911, the electors of New Mexico approved a substitute provision on the amendment process. On January 6, 1912, President Taft signed the Statehood Proclamation.

The Mexican Americans of New Mexico succeeded in protecting their heritage by inserting provisions in their constitution which made Spanish an official language, equal to the English language. The constitution also provided that, for the following twenty years, all laws passed by the legislature be published in both Spanish and English, and thereafter as the legislature should provide.<9> Prior to 1967, notices of statewide and county elections were required to be printed in English and "may be printed in Spanish." Additionally, many legal notices today are required to be published in both English and Spanish.

In 1925 the legislature provided that

in every high school with fifty (50) or more pupils, one (1) special teacher in addition to those already provided for, may be employed providing that such teacher is qualified to teach both Spanish and English and does teach classes in Spanish. ...<10>

This law was repealed in 1962. In 1943 the position of State Supervisor of Spanish was created "to bring about an improvement in the teaching of Spanish in the schools of the State, and in order to insure the retainment and the development of the Spanish language, with a view of future Inter-American relations.<11>This law was repealed in 1967.

A 1941 act required all public grade schools of the state – rural or municipal – having at least three teachers and a daily attendance of ninety pupils to teach Spanish in the fifth to the eighth grades, except where the governing board of education by resolution relieves a school from teaching Spanish during any scholastic year.<12> In 1969 the legislature authorized any school district to establish in any level of instruction a bilingual and bicultural study involving a culture in which a language other than English

is spoken in the home.<13>

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1. Editor's note: These estimates, which first appeared in Carey McWilliams, *North From Mexico: The Spanish-Speaking People of the United States* (Philadelphia: J. P. Lippincott Co., 1949), p. 52, are now considered conservative.
2. U.S. Senate Document 216, 59th Cong., 1st Sess. (Feb. 12, 1906), pp. 1-2.
3. U.S. Congress, Senate, *Congressional Record*, 61st Cong., 2d Sess. (1910), p. 109.
4. Ch. 310, 36 Stat. 559, 570 (1910) §§ 2(4), 20(4).
5. Ibid., §§ 2(5) 559, 20(5) 570.
6. N. Mex. Const. Art. VII § 3 (1912).
7. Ibid., Art. XII §§ 8, 10.
8. U.S. Congress, House, *Congressional Record*, 78th Cong., 2d Sess. (1911), p. 1251.
9. N. Mex. Const., Art. XX § 12 (1912).
10. N. Mex. Stat. Ann. 73-12-7 (1953).
11. Ibid., 73-4-1 to 73-4-7.
12. Ibid., 73-17-2.
13. N. Mex. Stat. Ann. 77-11-12 (1969).

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From *The Excluded Student: Educational Practices Affecting Mexican Americans in the Southwest*, Mexican American Education Study, Report III (Washington, D.C.: U.S. Government Printing Office, 1972), pp. 76-82.