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IN THE SUPREME COURT OF FLORIDA

CASE NO. 71,431

IN RE: ADVISORY OPINION)
TO THE ATTORNEY GENERAL
)
ENGLISH-THE OFFICIAL
LANGUAGE OF FLORIDA)

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BRIEF OF RESPONDENT, COMMITTEE FOR
CONSTITUTIONAL HONESTY, IN OPPOSITION
TO PLACING the "ENGLISH-OFFICIAL LANGUAGE"
PROPOSITION ON THE BALLOT

PAUL SIEGEL, ESQUIRE
Attorney for
Respondent Committee
1125 Alfred I. duPont Building
169 East Flagler Street
Miami, Florida 33131
(305) 374-0544

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PREFACE

A group of Californians seek to violate and abuse our Constitution by adding an unnecessary provision confirming that English is the language of this State. The proposal includes a dangerous and limitless grant of power to the Legislature to enforce it.

The Committee for Constitutional Honesty was organized last week to protect the Constitution, after it became apparent that this Court would not have the benefit of argument on both sides of the issue. Founding members include Dr. Rosie Feinberg, member of the Dade County School Board; Dr. Jose Llanos, Professor, Department of Law and Economics, University of Miami; Rudy Garcia, State Representative; and Paul Siegel, attorney. The committee's principal concern is that neither this Court, the proponents, nor the voters of this State, have any idea of the potential scope and effects of the vague and sweeping proposal made by U.S. English and the Florida English campaign.

Justice Shaw recently reminded this Court in his concurring opinion in Fine v. Firestone, 448 So.2d 984, 999 (Fla. 1984) of the view of Justices Terrell and Roberts that "It is hard to amend the constitution and it ought to be hard." It is appropriate to revisit at greater length Justice Roberts'[1] dissenting opinion in Weber v. Smathers, 338 So.2d 819, 824 (Fla. 1976):

> There is little doubt that it was the clear

[1] Chief Justice McDonald evidently also agrees with much of what Justice Roberts said. Fine at p. 994.

> intent of the authors of the initiative provision and its amendment that it be more restrictive and more difficult to amend the Constitution by the initiative method rather than Legislative Resolution or a Constitutional Convention in order to prevent the disturbance of other sections of the charter by taking a popular subject as a vehicle and do damage to other sections in the fine print. It should be more difficult by the initiative. Where an amendment is by Legislative Resolution or Resolution of a Constitutional Convention, there are always public hearings, committee studies, and public debate in developing the format of the proposal, whereas, under the initiative section involved here, it only takes one person, not even required to be a resident of the State, nor learned in the law, to pencil an amendment, giving it a popular name, get the signatures, and place it on the ballot without any such committee action, study or debate. The late and revered Justice Terrell once said, "It is hard to amend the Constitution and it ought to be hard."

See also Fine v. Firestone, 448 So.2d 984, 988 (Fla.1984) ("legislative filtering").

SUMMARY OF ARGUMENT

The proposed amendment is so broad and unclear that it violates the single subject rule of Article XI, Section 3 of the Florida Constitution. Fine v. Firestone, 448 So.2d 984 (Fla. 1984); Evans v. Firestone, 457 So.2d 1351 (Fla. 1984); Askew v. Firestone, 421 So.2d 151 (Fla.1982); Smathers v. Smith, 338 So.2d 825 (Fla. 1976). The broadness of the proposed amendment will prevent the electorate from knowing what it is voting on. It is impossible to state what it will affect and effect.

The proposed amendment does not identify the articles or sections of the Florida Constitution substantially affected.

It fails the function test established by this Court as a subpart of the single subject rule. Fine v. Firestone, 448 So.2d 984 (Fla. 1984); Evans v. Firestone, 457 So.2d 1351 (Fla.1984); Grose v. Firestone, 422 So.2d 303 (Fla. 1982).

The ballot summary violates section 101.161 of the Florida Statutes. Reading this ballot summary, the electorate cannot know the chief purpose or any purpose of the proposal. Fine v. Firestone, 448 So.2d 984 (Fla.1984); Askew v. Firestone, 421 So.2d 151 (Fla. 1982). The amendment authorizes the Legislature to enforce it; the ballot summary speaks of implementing it. They are not the same.

The proposed amendment violates Article XIV, Section 1 of the United States Constitution. Its concealed purpose, principally due to the subsection (b) enforcement provision, is to create an instrument for potential repression and discrimination against minorities in this State.

ARGUMENT

POINT I

THE INITIATIVE QUESTION VIOLATES THE SINGLE SUBJECT RULE OF ARTICLE XI, SECTION 3 OF THE FLORIDA CONSTITUTION BY FAILING TO SATISFY SCOPE AND CLARITY REQUIREMENTS AND FAILING TO PASS THE FUNCTION TEST.

A. Broadness and Clarity

The seminal opinion of this decade on Article XI, Section 3 is Fine v. Firestone, 448 So.2d 984 (Fla.1984). A majority of the present members of this Court wrote at length. Pertinent to the present controversy are the following comments of Justice McDonald, now Chief Justice (Fine at 994-95; quotation order rearranged):

Initiative petitions should be strictly scrutinized to assure that they meet the limitation that "any revision or amendment shall embrace but one subject and matter directly connected therewith."[5]

[5] I feel the Court failed to do this in Weber and Floridians.

*   *   *

The very broadness of the proposed amendment amounts to logrolling because the electorate cannot know what it is voting on--the amendment's proponents' simplistic explanation reveals only the tip of the iceberg. The ballot must give the electorate fair notice of the proposed amendment being voted on. Askew v. Firestone, 421 So.2d 151 (Fla.1982). The ballot language in the instant case fails to do that. The very broadness of the proposal makes it impossible to state what it will affect and effect and violates the requirement that proposed amendments embrace only one subject.

*   *   *

If an amendment is specific and well-defined in its scope, there is no problem in ascertaining what it supersedes. Unfortunately, the sweeping language used in Floridians does not take into account a proposed amendment, such as here, which is simply too broad.

*   *   *

As Justice England recognized and as Justice Roberts prohesied, this Court's discussion and holding on the second point in Floridians has made the constitution "subject to potentially devastating effects from ... initiative petitions having subjects framed as broadly as the mind can devise." Weber, 338 So.2d at 823 (England, J., concurring).

In Evans v. Firestone, 457 So.2d 1351, 1360 (Fla.1984), Justice Shaw commented to the same effect:

In Fine, I stated that I saw the one-subject limitation as serving two purposes:

> 1. Ensuring that initiatives are sufficiently clear so that the reader, whether layman or judge, can understand what it purports to do and perceive its limits. (Emphasis supplied.)

On the same subject, Chief Justice McDonald also stated in Askew v. Firestone, 421 So.2d 151, 155 (Fla. 1982):

> While the wisdom of a proposed amendment is not a matter for our review, Weber v. Smathers, we are reminded that the "proposal of amendments to the Constitution is a highly important function of government, that should be performed with the greatest certainty, efficiency, care and deliberation." Crawford v. Gilchrist, 64 Fla. 41, 54, 59 So. 963, 968 (1912). We reiterate that "lawmakers who are asked to consider constitutional changes, and the people who are asked to approve them, must be able to comprehend the sweep of each proposal from a fair notification in the proposition itself that it is neither less nor more extensive than it appears to be." Smathers v. Smith, 338 So.2d 825, 829 (Fla.1976).

What does the proposed amendment mean and how broad is it? "English is the official language of the State of Florida." According to Webster's Third New International Dictionary, page 1567 (1961), "official" means "prescribed or recognized as authorized (official ballot)(official language of a region)." The most useful synonym for "official" in this context is "authorized." If the State of Florida is to have but one official or authorized language and the Legislature is empowered to enforce that limitation, one could well conclude that the use of other languages in this State is prohibited.[2]

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[2]Under Chapter 15 of the Florida Statutes, orange juice is the official beverage of the State of Florida and the panther is the official animal, but neither of these statutes has or

Even as broad as the proposal is, it probably would not prohibit use of foreign languages by consenting adults in the privacy of their own bedrooms.

In order to explore the sweep and outer limit of the proposed amendment and enforcing legislation, a proposed enforcement statute[3] has been drafted and is found in the appendix to this brief. To understand the balance of the argument, the reader is respectfully requested now to turn to the appendix and review the statute.

How many of these proposed statutory provisions do the proponents of the amendment endorse? The only hint is the comment in footnote 9 on page 10 of the U.S. English brief, which says the proposed amendment will mean that absent "a good reason to the contrary, government will function and speak in English."

The author's initial image of a U.S. English proponent brought up from memory a scene from the film "Easy Rider". The Dennis Hopper character is shotgunned and killed by an occupant of a pickup truck that passes his motorcycle, simply because he is riding a motorcycle. But that is not an accurate portrayal. A friend with whom the proposed amendment was discussed is an extremely bright and articulate, politically liberal, junior high school English teacher. Her sympathies are with the

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[2] (Continued)
needs an enforcement mechanism. The enforcement provision in paragraph (b) of the proposed amendment clearly indicates that the proposal is far from innocuous.

[3] See p. 13 of the Brief of U.S. English: ". . . as the initiative finds <u>full</u> <u>expression</u> in Florida statutes."

amendment, out of frustration. On a daily basis, she tries to teach English to a group including many Latin teenagers, whose only use of the English language, she believes, occurs during the hours they attend school; her impression is that at home, they speak only Spanish with their parents, siblings and friends.

The proposed constitutional amendment will do nothing to aleviate this problem. It will not affect what Latins or other ethnic groups do in their own homes and neighborhoods. Even the Orwellian neighborhood defense committees in section 9.20 of the proposed statute (A 5-6) will not prevent that. A constitutional amendment is not necessary or useful in generating appropriation of as much money as the State wishes to spend in order to promote teaching the English language to persons of foreign birth. This argument does not address the merits of the proposed amendment, but simply whether the public will "comprehend the sweep of . . . [the] proposal from a fair notification in the proposition itself that it is neither less nor more extensive than it appears to be." Askew v. Firestone, 421 So.2d 151, 155 (Fla.1982); Smathers v. Smith, 338 So.2d 825, 829 (Fla.1976).

It would be naive to think that the proposed amendment is anything other than an anti-Hispanic measure. Under Fla.Stat. § 90.202(11), this Court can take judicial notice of the fact that there exists considerable resentment toward Hispanics by many Floridians. Sociologists probably can explain this; perhaps it is because Latins frequently speak a language not understood by non-Latins. Perhaps it is partly related to

their economic success. Notwithstanding the fact that the proposed amendment is anti-Hispanic, the poll in Attachment F to the U.S. English brief reports that 64% of the Hispanics interviewed in Florida support the measure.

U.S. English's poll says that its respondents do not favor the amendment for anti-Hispanic reasons. How many of the members of this Court, as trial lawyers, were not really convinced when a prospective juror responded "of course I have no prejudice against either party" and continued with more probing questions? The conclusion that must be reached is that people simply do not understand what the proposed amendment means and what it is designed to accomplish.

The proposed amendment is so broad that in effect it is the equivalent of placing in the constitution a clause such as the due process or the equal protection clauses. At the time these were put in the United States Constitution following the Civil War, no one could have been really sure what their breadth was. The amendments were proposed by the United States Congress and approved by the states. Legislative history accompanied them. The state legislatures at least knew what these amendments were intended to accomplish. These things cannot be said of the present proposal.

B. Function Test

In Evans v. Firestone, 457 So.2d 1351, 1354 (Fla. 1984), this Court stated:

> The test, as set forth in Fine, is functional and not locational, and where a proposed amendment changes more than one government function, it is clearly multi-subject. . . . The proposed amendment now

before us affects the function of the legislative and the judicial branches of government. Provisions a and c of the amendment, which limit a defendant's liability, are substantive in nature and therefore perform an essentially legislative function. . . . But where such an initiative performs the functions of different branches of government, it clearly fails the functional test for the single-subject limitation the people have incorporated into article XI, section 3, Florida Constitution.

* * *

Within the broad generality of the amendment title we find provisions which effect both legislative and judicial functions.

The proposed amendment clearly affects the legislative function, since it promulgates a measure which is substantive and legislative in nature. Analogous to placing the Fla. R. Civ. P. 1.510 provision in the constitution like the measure in Evans, the present proposal will require use only of the English language not just in the legislative and executive branches of the government, but also in the judicial branch. See sections 9.7 and 9.8 of the proposed statute in the appendix. If the amendment is passed, will witnesses still be able to testify in a foreign language in a trial court, with simultaneous translation into English? Will lawyers and judges be able to continue to speak and write partly in English and partly in Latin? If Latin is to be eliminated in the appellate courts, clearly a judicial function has been affected.

In Fine v. Firestone, 448 So.2d 984, 989-90, 995, f.2 (Fla. 1984), this Court stated:

[H]ow an initiative proposal affects other articles or sections of the constitution is an appropriate factor to be considered in

> determining whether there is more than one subject included in an initiative proposal.
>
> * * *
>
> [A]n initiative proposal should identify the articles or sections of the constitution substantially affected. This is necessary for the public to be able to comprehend the contemplated changes in the constitution and to avoid leaving to this Court the responsibility of interpreting the initiative proposal to determine what sections and articles are substantially affected by the proposal. The problem of conflicting provisions resulting from the adoption of an initiative proposal cannot be satisfactorily addressed by the application of the principle of constitutional construction that the most recent amendment necessarily supersedes any existing provisions which are in conflict.
>
> * * *
>
> [2]The less than immediate effect on other parts of the constitution such as art.I, § 21 (access to courts) and art. IX, § 1 (free public schools), for example, is incalculable.

The proposed amendment will remake a large part of the constitution, starting with the declaration of rights. Under Article I, section 2 of the Florida Constitution, "all natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry . . . ." If the amendment passes, will natural persons who do not speak English continue to have the same rights as those who do? It is highly doubtful.

If the amendment passes, and section 9.15 of the proposed statute (A 4) were passed, how would this Court harmonize section 3 of the Declaration of Rights, prohibiting penalizing

the free exercise of religion, with the Official English provision and its enforcement? See footnote 10 on page 34 of the Hearing Before a Subcommittee of the Senate Judiciary Committee on the third page of attachment E of the Appendix to the U.S. English brief. Section 9.15 of the proposed statute obviously would violate the United States Constitution, but would it be authorized under the amended Florida Constitution?

Section 4 of the Declaration of Rights provides:

> Every person may speak, write and publish his sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. . . .

One clear purpose of the proponents of the amendment is to require that the government function and speak in English. The proponents certainly would support section 9.2 and 9.10 of the proposed statute. If such statutes were passed, would they not abridge the freedom of speech of state employees, but be valid enforcement measures under the official language amendment? How would this Court then harmonize the constitutional provisions? The potential effect of the amendment on section 4 of the Declaration of Rights invalidates the amendment under part of the function test, and also because nothing of this potential impact is revealed by the amendment or its summary. See the discussion of Fla. Stat. § 101.161 in the next portion of this brief.

Florida has a Spanish-speaking Governor. If he talks to a member of the press in Spanish, or gives a news conference in that language, does he violate the intent of the amendment,

even if section 9.10 of the proposed statute does not become law? If the Governor speaks with a Spanish-speaking aide in that language in order to improve his already-good facility with the language, does he violate the amendment?

The proposed statute will effectively prohibit all media using a language other than English. This supposedly will promote the purpose of the amendment,[4] since if there are no Spanish language media, Latins will have to read newspapers and watch television in English; it will hasten their acquisition of fluency in English, particularly the student population. Would this measure violate the guarantee of freedom of the press in Article I, section 4? Nothing in that section says that the press may print or broadcast in Spanish. The proposed amendment very specifically makes English the official language. A strong argument can be made that the most recent amendment, which is subject specific, should prevail. Time does not permit exploring the federal constitutional implications. How will the Spanish language press and broadcast media react when they realize that there may be no Florida constitutional protection for their continued existence?

How will the amendment impact on section 9 due process of law, section 12 search and seizure protections, section 17

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[4]See Ex parte Virginia, 100 U.S. 339, 345-46 (1879): "Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power."

excessive punishments,[5] and section 23 right of privacy? Won't the proposed amendment change the rights of privacy of Hispanic citizens of this State, even without the ridiculous legislation in the proposed enforcing statute? The amendment gives no notice whatsoever of its potential impact upon the right of privacy.

The danger created by putting the "Official English" provision in the constitution is that this constitutional authority might overcome earlier and less specific constitutional protections (such as due process, equal protection, freedom of speech and the press) against some repressive statute or court interpretation, which would not happen with only an "Official English" statute. See the discussion at pages 10-11 above; appendix to Brief of U.S. English, Attachment E, footnote 10. This argument may be so esoteric that many lawyers and judges will not understand it; there is almost a zero percent chance that it could be explained to the voters in a contested election campaign.

POINT II

THE BALLOT SUMMARY FOR THE PROPOSED AMENDMENT GIVES NOT THE SLIGHTEST HINT OF ITS CHIEF PURPOSE AND VIOLATES SECTION 101.161 OF THE FLORIDA STATUTES.

Section 101.161 of the Florida Statutes (1987) provides:

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[5]This provision of the present constitution would prohibit imposing the death penalty for violating section 9.14 of the proposed statute (A 4). But if the statute is an enforcement mechanism for the proposed amendment, would that still be true? The federal constitution obviously would invalidate section 9.14, but that is beside the point of the present discussion.

> (1) Whenever a constitutional amendment . . . is submitted to the vote of the people, the substance of such amendment . . . shall be printed in clear and unambiguous language on the ballot . . . . The substance of the amendment . . . shall be an explanatory statement . . . of the chief purpose of the measure. . . . (Emphasis added)

The ballot summary provides:

> "Establishes English as the official language of the state of Florida: enables the legislature to implement this article by appropriate legislation."

What is the "chief purpose" of the measure? What is any purpose of the measure? The ballot summary says what the amendment is going to say. But it gives not the slightest indication of the purpose of the amendment or why it is being proposed.

Why is this being done? What do the proponents want to accomplish by making English the official language of Florida? Are the promoters seeking to generate additional funds to teach English to foreigners? Are they trying to discriminate against Hispanics? Is this a movement to keep Serbo-Croatian from becoming the official language of Florida? They haven't told this Court in their briefs, and they certainly haven't told the voters of this State why they are doing what they are doing. In Askew v. Firestone, 421 So.2d 151, 156 (Fla. 1982), now Chief Justice McDonald, for the Court, stated:

> While the wisdom of a proposed amendment is not a matter for our review, Weber v. Smathers, we are reminded that the "proposal of amendments to the Constitution is a highly important function of government, that should be performed with the greatest certainty, efficiency, care and deliberation." Crawford v. Gilchrist, 64 Fla. 41,

> 54, 59 So. 963, 968 (1912). We reiterate that "lawmakers who are asked to consider constitutional changes, and the people who are asked to approve them, must be able to comprehend the sweep of each proposal from a fair notification in the proposition itself that it is neither less nor more extensive than it appears to be." Smathers v. Smith, 338 So.2d 825, 829 (Fla.1976).

Most of what has been said under part A of Point I on violation of the single subject requirement could be repeated here, since the broadness and vagueness of the proposal violates section 101.161 as well as Article XI, section 3. The only part that will be repeated, briefly, is Justice Roberts' dissenting opinion in Weber v. Smathers, 338 So.2d 819, 824 (Fla. 1976):

> [U]nder the initiative section involved here, it only takes one person, not even required to be a resident of the State, nor learned in the law, to pencil an amendment, giving it a popular name, get the signatures, and place it on the ballot without any such committee action, study or debate.

The pencil referred to by Justice Roberts has been at work here. The ballot summary is a slap-dash effort. It was not carefully drafted, even though it contains only 21 words. Attorney General Butterworth has already discussed the erroneous reference in the ballot summary to implementing an article of the constitution, while the amendment itself seeks to add a new section. He has also pointed out the second error, far more serious, in that the ballot summary refers to legislation to implement the amendment, while amendment itself refers to the Legislature having power to enforce the section.

Webster's Third New International Dictionary, p. 751 (1961), defines "enforce" to mean "to put in force: cause to

take effect: give effect to <u>especially with vigor</u> (enforce laws). . . ." (Emphasis added.)

Although "implement" is a synonym for enforce, the same definition continues on to discuss the two terms:

> Enforce refers to requiring operation, observance, or protection of laws, orders, contracts and agreements by authority, often that of a whole government or of its executive or legal branches (this law is seldom enforced) (in order to make the papal bureaucracy disciplined and fit for such duties he <u>enforced</u> the hated rule of celibacy upon his clergy -- Herbert Agar)(the mediator's request for troops to back up its resolutions and enforce the truce -- <u>Collier's Yr. Bk.</u>) IMPLEMENT suggests performance of such acts as are necessary to bring into actual effect or operation some agreed-on plan or measure (the estimates of public accountants that the actual cost of <u>implementing</u> the bill would be about double the amount the president forecast -- <u>Current Biog.</u>)(he also urged that military equipment be given to the nations of Western Europe to <u>implement</u> the Brussels pact --<u>Current Biog.)</u> (to implement the prison's group activities by providing films, books, and pamphlets-- <u>Saturday Rev.</u>)

Comparing the definitions, it seems clear that "enforce" is a stronger term than "implement". It suggests an executive rather than legislative function. The ballot summary would be misleading to the voters, if permitted to stand.

<u>POINT III</u>

THE PROPOSED AMENDMENT VIOLATES THE PRIVILEGES AND IMMUNITIES, DUE PROCESS OF LAW AND EQUAL PROTECTION PROVISIONS OF SECTION 1, ARTICLE XIV, UNITED STATES CONSTITUTION.

In <u>Smathers v. Smith</u>, 338 So.2d 825, 826-27 (Fla.1976), this Court stated:

> [W]e approach the subject matter of the case mindful of our limited role in review-

ing constitutional proposals which have been adopted by the Legislature for direct submission to the people.

> "Another thing we should keep in mind is that we are dealing with a constitutional democracy in which sovereignty resides in the people. It is their Constitution that we are construing. They have a right to change, abrogate or modify it in any manner they see fit so long as they keep within the confines of the Federal Constitution. The legislature which approved and submitted the proposed amendment took the same oath to protect and defend the Constitution that we did and our first duty is to uphold their action if there is any reasonable theory under which it can be done. This is the first rule we are required to observe when considering acts of the legislature and it is even more impelling when considering a proposed constitutional amendment which goes to the people for their approval or disapproval."[1]
>
> [1] Gray v. Golden, 89 S.2d 785, 790 (Fla.1956) (Emphasis added.)

Article XIV, Section 1 of the United States Constitution provides:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The proposed amendment is a cleverly disguised instrument of repression and discrimination against non-English speaking minorities in this State. It is intended to prevent government from communicating with minorities in an understandable

fashion, and in this way to abridge the privileges of citizenship. It is further intended to deprive non-English speaking minorities of due process and equal protection of the laws of the United States.

Proof of these allegations will require discovery and a factual record. It is obvious that the proposed amendment is not innocuous pablum. If the amendment were limited to subsection (a) declaring English to be the official language, its federal constitutional problems would not be as grave. All states thus far passing a similar measure, except California, have only made the official language declaration, without the enforcement provision. Appendix C to the brief of U.S. English.

The principal and concealed evil of the amendment is subsection (b) which gives the Legisature the power to enforce the official language provision. It is here that the intent of the drafters to discriminate and repress begins to emerge. At the beginning of its brief, U.S. English tells us:

> U.S. ENGLISH is a national membership organization dedicated to the preservation and protection of English as the common language of the United States. U.S. ENGLISH is also dedicated to encouraging all Americans, through use of English, to join the political, economic and social mainstreams of the Nation.
>
> * * *
>
> U.S. ENGLISH sponsors innovative methods of teaching English to persons with limited English proficiency, conducts conferences and publishes materials on English as the common language of the United States, and advocates laws designating English as the official language of the United States and the states. U.S. ENGLISH has assisted

successful efforts to make English the official language of seven states in the last four years.

How much of the money collected by U.S. English has been spent developing and implementing "innovative methods of teaching English?" What is the true intent of the sponsors of this measure?

This Court will not reach the federal constitutional issues unless the proposed amendment is found valid in spite of the arguments in Points I and II of this brief. Evans v. Firestone, 457 So.2d 1351 (Fla. 1984). Should it develop that the United States Constitution is the last remaining barrier between the proposed amendment and an uninformed voting public, Respondent respectfully requests that this Court remand the federal constitutional issues to the Dade County Circuit Court for pre-trial discovery and trial. See Fine v. Firestone, 448 So.2d 984, 986, fn. 1 (Fla. 1984).

CONCLUSION

The motto of constitutional scholars is or should be:

DON'T TAMPER WITH THE CONSTITUTION.

This Court has a heavy responsibility in determining whether the hastily and ill-conceived proposed amendment should be presented to the electorate. There is no ballot deadline to meet under the new constitutional and statutory procedures in force. After appropriate deliberation, the conclusion should be reached that the proposed amendment is invalid under Article I, Section 3 of the Florida Constitution, section 101.161 of the Florida statutes and Article XIV, Section 1 of the United States Constitution.

No program to *encourage* U.S. citizens and residents to learn English needs constitutional authority. A program to *oppress* people because they may not be fluent in the language can be promulgated far more effectively if it has a constitutional basis. Any legitimate goal of the proponents can be more easily and better accomplished by statute, rather than constitutional amendment. The danger created by putting the "Official English" provision in the constitution rather than a statute is that this constitutional authority might overcome the protection for citizens provided by other sections of the Florida constitution, such as freedom of speech, religion and the press, and due process and equal protection of the law.

Respectfully submitted,

PAUL SIEGEL, ESQ.
Attorney for Respondent Committee for Constitutional Honesty
1125 Alfred I.duPont Building
Miami, Florida 33131 (374-0544)

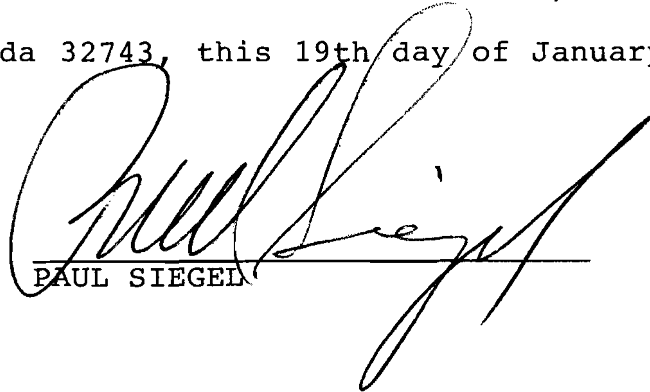
BY ______________________

PAUL SIEGEL

CERTIFICATE OF SERVICE

WE HEREBY CERTIY that a true and correct copy of the foregoing was mailed to the Honorable Robert A. Butterworth, Attorney General, Plaza Level, Room 1, The Capitol, Tallahassee, Florida 32399-1050; Barnaby W. Zall, Esq., Counsel for U.S. English, Suite 525, 1156 Fifteenth Street, N.W.,

Washington, D.C. 20005; Douglass, Cooper, Coppins & Powell, P.O. Box 1674, Tallahassee, Florida 32302, and Calixto Anaya, State Director, League of United Latin American Citizens, P.O. Box 430448, Kissimmee, Florida 32743, this 19th day of January 1988.



PAUL SIEGEL