

# Lone Citizen Defends Official English Movement

By John Tanton

In November 1988, Proposition 106, English as Arizona's official language, became Article XXVIII of the Arizona Constitution via the citizen initiative process. Within hours of its passage, Maria - Kelly F. Yniguez, a state employee, filed suit in Federal Court alleging violation of her First Amendment right of free speech. Federal District Judge P. G. Rosenblatt ruled Article XXVIII was an unconstitutional violation of the First Amendment. Governor Rose Mofford declined to appeal; the Attorney General had already been excused, leaving no one to defend the measure. The will of the people be damned.

As chairman of Arizonans for Official English (AOE), the committee that carried the initiative to the ballot, Robert Park asked Judge Rosenblatt to allow him to intervene post-judgment for the purpose of making an appeal. The motion was denied. Park appealed Rosenblatt's decision to the U.S. Ninth Circuit Court of Appeals. Judge Stephen Reinhardt, writing for the court, granted Park's motion.

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In granting Park standing, Judge Reinhardt cited four criteria: (1) timeliness (of the lower courts denial); (2) Park's interest in the subject matter of the litigation; (3) absent intervention the party's interest may be practically impaired; (4) other parties inadequately represent the intervenor. As described above, (AOE and Park) were found to have standing on all accounts. They were not, as Yniguez asserted, "mere bystanders."

How common is it for a private citizen to be left as the sole defendant of a state's constitution? The answer, according to Park's attorney: "It almost never happens — it is very, very rare. You must walk in the shoes of the legislature to qualify...." Judge Reinhardt wrote, "AOE, ... as principal sponsor of the initiative, stands in an analogous position to a state legislature." Ordinarily the state would defend its own Constitution. For the reasons mentioned above, Park is the only one with legal standing.

The Yniguez case was accepted for review by the U.S. Ninth Circuit Court of Appeals. On December 7, 1994, Judge Reinhardt, writing for a three-judge panel, struck down Article XXVIII as unconstitutional in its entirety. Rehearing *en banc* has been granted (also a very rare occurrence). Oral arguments are set for July 21, 1995 in San Francisco before an eleven-judge panel.

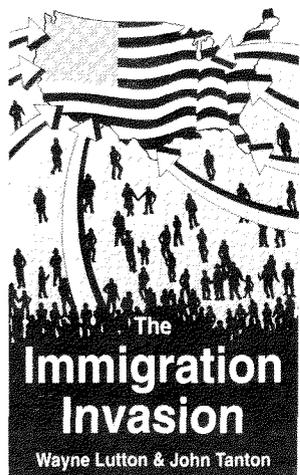
The importance of this legal case is simple: short of a constitutional amendment, no amount of lobbying, letter writing, political influence or legislative action can make English our official language; success comes only in the courts, which have the final say. ■

[Mr. Park is chairman of **English Language Advocates** (ELA), the only group lending financial support to the case. For more information, contact Mr. Park directly at 4870 Butterfly Drive, Yavapai Hills, Prescott, AZ 86301, (502) 778-5811.]



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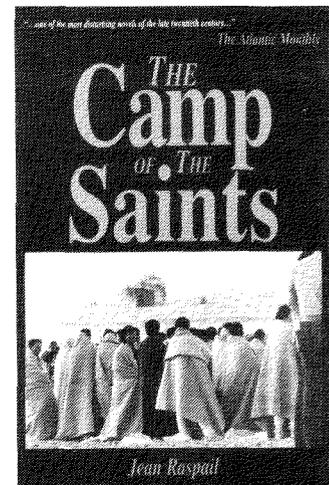


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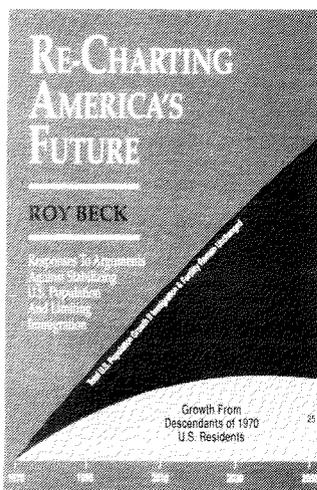
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Michael W. Masters is the author of "The Morality of Survival," an essay to be published in the July and August issues of *American Renaissance*. Based in part on Garrett Hardin's 1978 book, *The Limits of Altruism*, it explores the moral flaws of universalism and their potential implications for the future.

## "Who Speaks For Posterity?"

A Book Review by Michael W. Masters

In his 1982 essay, "Discriminating Altruisms," Garrett Hardin describes an intellectual as "a person skilled in words but deficient in the imagination required to see the reality behind verbal counters." This exposes the great truth underlying the West's immigration dilemma — our immigration policies are largely based on the way we want the world to be rather than the way it really is. Western governments persist in basing policy on sentiment and universalism rather than on objective assessment of historically predominant factors such as social harmony, cultural compatibility and carrying capacity. The chimera of universalism remains a glittering mirage, forever unobtainable, for reasons that Garrett Hardin first wrote about in his classic 1968 essay, "The Tragedy of the Commons," one of many essays collected in his new book, *The Immigration Dilemma: Avoiding The Tragedy of the Commons*.

Our policies are rapidly destroying stabilizing social conditions that have endured for many generations. In times past, while great, unsettled regions of the world remained to be developed, the consequences of a flawed policy were likely to be local, and perhaps transitory as well. So long as sources of renewal existed, the damage caused by ecological and social misjudgments might heal in the course of time. Now, that isolation is gone forever. Today as never before, there are potentially enormous consequences for policy mistakes that fail to take the realities of human nature into account, mistakes with consequences that could haunt future generations forever.

A number of remarkably far-reaching themes run through Hardin's works, themes that have profound implications for the consequences of the profligate

population and immigration policies practiced by the West. These themes form a seamless web. First, all ecosystems — from the common grazing lands shared by our herdsman ancestors to the homelands of nation states as they have existed for the past several centuries to the "great globe itself" — are finite. The

numbers of inhabitants that each ecosystem can support is determined by its carrying capacity. Exceeding this carrying capacity inevitably results in an ecological readjustment that may include not only severe, and possibly permanent,

damage to the ecosystem but also a population crash as well.

Second, it is human nature for people to act out of self-interest. Self-interest leads to exploitation of resources that are held in common by all. Because of the nature of a commons, the full benefit of exploitation is gained by the exploiter but the cost is spread among all who share the commons. Thus there is a built-in incentive for each individual or cohesive group to maximize its gain from the commons. Hardin calls this the tragedy of the commons. It is a tragedy because, unless stopped, exploitation is likely to proceed until the carrying capacity of the commons is exceeded and the shared ecosystem is irreparably damaged.

Third, a tension exists in nature between self-interest and altruism. In fact, there is a hierarchy of altruisms, ranging from the kinship altruism of family members to blind, universal altruism. Altruism toward one's tribe or one's nation (extended tribe) falls somewhere between. Altruism has evolutionary benefits at a less-than-universal scale. It helps insure the survival of the genes of those who practice it,

THE IMMIGRATION DILEMMA: AVOIDING  
THE TRAGEDY OF THE COMMONS

by Garrett Hardin

Washington D.C.: Federation for  
American Immigration Reform, 1995

140 pages, \$5.00