



The Foreign Language Issue in Nebraska, 1918-1923

(Article begins on page 2 below.)

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Article Summary: When the United States entered World War I in 1917, the loyalty of German-Americans became suspect. In Nebraska anti-German feeling led to attacks on the teaching and use of the German language. These attacks subsided as the war ended, but German never regained its pre-war popularity.

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Photographs / Images: Robert T Meyer, Zion Lutheran School teacher whose right to teach German was upheld by the US Supreme Court; Zion Evangelical Lutheran School, northeast of Hampton, Nebraska

THE FOREIGN LANGUAGE ISSUE IN NEBRASKA, 1918-1923

BY JACK W. RODGERS

AFTER the United States entered World War I on April 6, 1917, a wave of intolerance of anything and everything German swept over the country. Some observers could see it coming; it had been building up slowly since 1914. There were those who called for level-headedness and toleration, but their voices were largely drowned in the upsurge of popular feeling. Frederick Lewis Allen, for example, writing three weeks after Congress declared war on Germany, was concerned lest the people of the nation would not act "in accordance with the American tradition of democracy, liberty, tolerance, and national unselfishness."¹ Sensing the "tide of feeling" rising already, he said that

Hatred will spring up quickly when American blood has been shed in war. Sensationalism will spread the German spy scare. Every suburban gossip will have her story of such-and-such a German-American's concrete

¹ Frederick Lewis Allen, "The American Tradition and the War," *The Nation*, CIV (April 26, 1917), 484-485.

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tennis court and three-inch gun. Reprisals against loyal Americans of German birth will be advocated, and, one fears, frequently effected.²

Aside from the many local incidents throughout the country involving persons of German descent, both citizens and aliens, nationally the reaction took the form of a growing concern over "Americanizing" the German-American. The movement was subsequently aimed at all "hyphenates." The journals of the years from 1916 to the early 1920's are replete with articles urging the need for making "real Americans" out of these people of foreign extraction.

Initially, the loyalty of the average German-American was suspect. Because there had been some vocal pro-German elements in the United States prior to our entrance into the war, and even after, and because certain of these elements joined pacifist groups in resisting compulsory military conscription and other war measures, it was generally assumed that an organized conspiracy was under way against the American government and American ideals. There were numerous unrestrained and somewhat hysterical accounts of German-language papers, parochial schools, and German-American parents teaching the younger generation to "always remain German, to belittle everything not German, to do everything to help the Fatherland and to harm everything else."³

² *Ibid.* In Nebraska, for example, a number of women's organizations of statewide membership co-ordinated their war work with that of the Women's Committee of the State Council of Defense. One such group, the Women's Benefit Association of the Maccabees, reported the following as part of its war work: "Secret service work has been done in unearthing German plots and reporting same to government." (Nebraska State Council of Defense, *Report of the Women's Committee, June, 1917—April, 1919* [Lincoln, 1919], p. 84.)

³ Lewis Allen Browne, "Our Danger—Tomorrow's German-Americans," *The Forum*, LIX (May, 1918), 570-583. The author reported, for example, that ninety public schools in Nebraska had to be abandoned because German-American parochial schools fostered by the German Lutheran Church had taken their place. He also said that in three hundred of these schools in Nebraska elementary instruction in German had completely displaced the use of English, and that students caught using English were severely punished. He concluded that "the mantle of Germanism must be struck off, destroyed, incinerated and entirely eliminated."

It was charged that German-Americans had worked to make the German language compulsory in the public schools, primarily for the purpose of poisoning the minds of the second generation German-Americans. It was fairly easy, therefore, to unite these self-appointed conservators of American patriotism behind a program of repressing the use of the German language. Inevitably, legislation was enacted with the aim of bringing about the destruction of this "alien influence" on the minds of the young.

While the movement was especially vigorous in those states with large numbers of people of German origin, such as Nebraska, the concern over Americanization was not entirely localized. In 1918 the Governors of the states met in Washington with the Council of National Defense, and lengthy discussions were devoted to the German language press, the use of German in schools and churches, and the need for Americanization. The National Security League, a private organization formed in 1914 to promote 100 per cent patriotism and an active participant in the big Red Scare of 1919-1920,⁴ urged that every citizen must think, talk, and act American.⁵ This group suggested that steps be taken to insure that foreign language newspapers were "foreign" in language only, and that the use of any language in public or private schools other than English as a basic medium of instruction be prohibited.⁶

The movement was carried over into the postwar period. In 1919 an Americanization Conference was held in Washington, D. C., under the auspices of the Bureau of Education (Americanization Division) in the Department of the Interior.⁷ Emphasis was placed on the need for Ameri-

⁴ For an interesting account of this episode see Robert K. Murray, *Red Scare: A Study in National Hysteria, 1919-1920* (Minneapolis, 1955); Frederick L. Allen, *Only Yesterday* (New York, 1931).

⁵ National Security League, *A Square Deal for the Public, A Working Program for Crushing the Radical Menace* (New York, 1919), p. 10.

⁶ *Ibid.* pp. 9-10.

⁷ U. S. Department of Interior, Bureau of Education (Americanization Division), *Proceedings of the Americanization Conference, May 12-15, 1919* (Washington, 1919).

canizing the alien and the naturalized citizen and for inculcating American ideals in the minds of the young people. After 1919, however, the public interest and concern was directed toward the so-called "radical menace" and the Red Scare.

The organized anti-German movement in Nebraska began with the formation of the State Council of Defense by the Legislature in 1917.⁸ These councils were formed in each of the states upon the urging of the Council of National Defense. Letters were sent to the Governors within sixty hours after the declaration of war, suggesting the creation of state councils. Their primary purpose was to aid in the war effort through such activities as stimulating the production and conservation of food, aiding in the supplying of farm labor, Red Cross work, Liberty Loan drives, and Home Guard work. Many of these councils performed valuable war work while others became bands of patriotic vigilantes.⁹

The Nebraska Council engaged in many worthwhile activities in furthering the war effort, but the role it assumed in policing the loyalty of the people of the state was of a more questionable nature. The Council's self-expressed view was as follows:

. . . during the earlier period of its (the Council's) work . . . it became apparent that prompt and effectual measures must be taken with respect to the disloyal and negative attitude of a small but annoying element of our citizenship. Un-American sentiments, and in some instances German propaganda, found fertile soil in the minds and hearts of certain academic intellectuals in high places; mushroom socialists masquerading under new colors; foreign born people whose Americanization had been neglected; advocates of internationalism; clergymen of foreign soul and body, and others who failed to adjust their thoughts and actions to the standard of American citizenship, all of whom were dealt with by the Council in a manner suited to the circumstances.¹⁰

⁸ *Laws of Nebraska, 1917*, Ch. 205, pp. 489-492.

⁹ See Frederick L. Allen, "The Forty-Eight Defenders," *The Century Magazine*, XCV (December, 1917), 261-266.

¹⁰ *Report of the Nebraska State Council of Defense, 1918*, p. 13. For a brief description of the activities of the Council, see James C. Olson, *History of Nebraska* (Lincoln, 1955), pp. 272-276; and Addison E. Sheldon, *Nebraska: The Land and the People* (Chicago, 1931), I, 916-925, 934-936.

County councils of defense were established in each county in the state, and they aided in these activities. Particular emphasis was placed on the foreign language issue.

One reason for the development of the anti-German feeling in Nebraska was the fact that prior to the entrance of the United States into the war on April 6, 1917, a number of persons of German origin had openly expressed their opposition to the Allied cause and to the United States' joining in the fight against the Fatherland. After the United States actually became involved in the war many of those with pro-German feelings either changed them or became more discreet in announcing them. Some were still outspoken, however, and enough had been said prior to the declaration of war to convince many Nebraskans that most German-Americans should be suspect in their loyalty to the United States Government.

Also, the mere presence of a large German-American population was enough to arouse strong suspicion. Out of a population of 1,296,372 in Nebraska in 1919 (1920 Census figures), there were 149,652 foreign-born whites. Of the 149,652 foreign-born whites, 40,969, or 27.4 per cent, were born in Germany, and 4,551, or 3 per cent, were born in Austria.¹¹ There were 522,155 white persons of foreign stock, that is, persons either foreign-born or having one or both parents foreign-born. Of these, 48 per cent were of German, Austrian, or Hungarian origin.¹² In twenty-three counties of the state from 10 to 15 per cent of the total population was foreign-born, and in eleven counties from 15 to 25 per cent of the total population was foreign-born.¹³

Of the total number of foreign-born whites in the state, 61.6 per cent were naturalized citizens, 10.2 per cent had taken out their first papers, 18.4 per cent were aliens, and the citizenship status of the other 9.8 per cent was not reported.

¹¹ U. S. Bureau of the Census, *Fourteenth Census of the United States, State Compendium: Nebraska* (Washington, 1925), p. 33.

¹² *Ibid.*, p. 54.

¹³ *Ibid.*, p. 34.

It is interesting to note, furthermore, that the Census Bureau reported only 6.2 per cent of the foreign-born white population in Nebraska in 1919 over ten years of age as being unable to speak English, and 6.3 per cent of those over twenty-one as being unable to speak English.¹⁴ It is not known what standard was used in classifying a person as either being able or unable to speak English. There were at least forty German-language newspapers in the state,¹⁵ and the language was used extensively in numerous Lutheran churches and undoubtedly in many parochial schools. It would probably not be unfair to suppose that more than 6 per cent of the foreign-born were without a good working command of the English language and unaccustomed to using it in their everyday lives.

By early 1918 the movement to restrict the use of the German language in Nebraska was well under way. Certain local communities were considering fairly drastic action. An official of Campbell, Nebraska, for example, asked the Attorney General if a proposed ordinance forbidding the speaking of any foreign language upon the village streets or in any public place would be valid. The Attorney General replied that he thought it would be invalid, but only because the Legislature had not authorized cities and villages to exercise such authority. He did prophesy, however, that "prudence and public policy will, no doubt, in the near future, prompt those of foreign birth to desist as far as possible in the use of their native language."¹⁶

The Council of Defense said that in the early days of its duties, especially in dealing with those who were reported as being neglectful of patriotically supporting the government in its war work, "it became evident that the German language newspapers and the use of the German language in the teaching of children of grade school years, and the use of that language in a very large number of the

¹⁴ *Ibid.*, p. 52.

¹⁵ Sheldon, *op. cit.*, p. 901.

¹⁶ *Report of the Attorney General of Nebraska for the Biennium Ending November 30, 1918*, pp. 220-221.

churches of the state had been a potent preventative means against the Americanization of the people who came under such influence."¹⁷

The Council passed the following resolution, which it subsequently made public, in an endeavor "to deal with the situation wisely":

WHEREAS, from investigations which have been conducted by the Nebraska State Council of Defense, it has become very apparent that the teaching of German in some of the private and denominational schools of the State has had an influence which is not conducive to a proper and full appreciation of American citizenship; therefore,

BE IT RESOLVED, that the Nebraska State Council of Defense earnestly requests that no foreign language shall be taught in any of the private or denominational schools of Nebraska and that all instruction, whether secular or religious, shall be given in the English language. And, the Council earnestly asks the cordial cooperation of all private and denominational school authorities of Nebraska in putting into effect this request; and we again urge that the public school authorities of Nebraska see to it that no foreign language shall be taught in any of the grade schools of the State.¹⁸

The chairman of the State Council of Defense also sent a letter to the chairmen of the county councils expressing the Council's beliefs in the dangers arising from allowing the use of foreign languages, and urging that they be allowed only for religious worship, but even then only to a limited extent. He urged that all private schools be placed under state direction and that immigration be restricted to those who understood English.¹⁹

Support for this stand was soon forthcoming. Governor Neville called the Legislature into special session on March 26, 1918, for the purpose of enacting needed war legislation. High on his list was the passage of a sedition law, a law defining sabotage, and the repeal of the Mockett Law.²⁰

¹⁷ *Report of the Nebraska State Council of Defense, 1918*, p. 16.

¹⁸ *Ibid.*, pp. 16-17.

¹⁹ *Omaha Morning World-Herald*, January 4, 1919, p. 1.

²⁰ *Senate and House Journals of the Legislature of the State of Nebraska, Thirty-sixth Session (Special), 1918*, pp. 37-38. Hereafter, the journals of the Nebraska State Legislature will be designated as *Senate Journal* and *House Journal*.

Under the provisions of the Mockett Law, enacted by the Legislature in 1913, every high school, city school or metropolitan school was required to give instruction in grades above the fourth in those modern European languages which were requested in writing by the parents or guardians of at least fifty pupils in grades above the fourth attending such schools.²¹ The law further provided that not more than five hours per week nor less than one period each day was to be devoted to the teaching of these languages when requested. It has been said that the bill was introduced at the request of the German-American Alliance and that the German language was the one most benefited by teaching under the act.²²

A bill to repeal the Mockett Law had passed the House during the 1917 session of the Legislature, but it was indefinitely postponed by the Senate.²³ In urging its repeal at the 1918 special session Governor Neville said that "The operation of this law has been most unsatisfactory, enabling as it does, a small minority of the patrons of a school district to dictate school policy." He went on to say that "such legislation is vicious, undemocratic and un-American and its repeal will be universally endorsed by the people of Nebraska."²⁴

This time the Legislature reflected the apparent "universal endorsement" of the people of the state of the repeal of the Mockett Law. The House unanimously adopted a resolution approving the request of the State Council of Defense that foreign languages not be taught in the elementary grades,²⁵ and the Senate ultimately passed a similar resolution by a vote of eighteen to fourteen.²⁶ The Mockett Law was then repealed without a dissenting vote in either house.²⁷ Repeal of this measure did not forbid the

²¹ *Laws of Nebraska*, 1913, Ch. 31, p. 107.

²² Sheldon, *op. cit.*, I, p. 884.

²³ *House Journal*, 1917, p. 1049; *Senate Journal*, 1917, p. 852.

²⁴ *Senate and House Journals*, Special Session, 1918, p. 38.

²⁵ *Ibid.*, p. 180.

²⁶ *Ibid.*, p. 91.

²⁷ *Ibid.*, pp. 136-137; p. 59.

teaching of foreign languages in public schools, but merely removed the provision that school districts had to offer such instruction when requested by the parents of at least fifty pupils in grades above the fourth.

There were those who believed that the action was unnecessary and that it resulted primarily from unfounded fear and hysteria. When the Senate was voting on the resolution endorsing the stand of the Council of Defense on the teaching of foreign languages, one member offered an amendment calling for moderation and tolerance. He said, in part,

Let us proceed without any red light in our eyes, without any fear that America is going to be overthrown from within or without. I would not have a resolution adopted branding as disloyal the man who reads a German language newspaper, for that man might have a boy standing beside my boy in France.²⁸

The amendment was ruled out of order.

When the vote on the repeal of the Mockett Law was taken, one senator, who voted for repeal, said that when the law was originally passed circumstances permitted its consideration on its merits as a matter of educational progress alone, and that on that test it had been approved by the Legislature and the Governor. He wished the law might continue to be considered on the basis of its educational value, but felt constrained to vote for repeal since it had been recommended by the Governor after due deliberation and thorough investigation.²⁹

The Supreme Court of Nebraska had also taken the position that the Mockett Law was a matter of educational policy and one with a great deal of merit. The Court had said that

The idea is shadowed forth that the foreign-born resident is not entitled to education in his own tongue furnished at the public expense. To this it may be said that the education is not alone for him. It is for the native-born citizen as well as for the citizen of foreign

²⁸ *Senate and House Journals*, Special Session, 1918, pp. 91-92.

²⁹ *Ibid.*, pp. 59-60.

birth. Both may profit by the study of a foreign tongue. Both do profit necessarily by the study of the foreign language along with the English language. The two languages will be considered and studied together, and the pupil, whether foreign-born or native-born, will profit by the fact that he studies both languages.³⁰

Recognition of the value of studying a foreign language, especially German, had taken a distant back seat to the fear that the ultimate safety of the state was somehow imperiled by such instruction.

The 1918 special session also passed a law defining the crime of sabotage and providing for its punishment,³¹ submitted an amendment to the state constitution restricting the suffrage to full citizens,³² and enacted a very stringent sedition law.³³ Section 6 of this sedition statute required the publishers of any foreign language newspaper, magazine, periodical, book, or any other printed matter in any form, to file a copy as soon as printed with the State Council of Defense, including translations of any material required by or furnished to the Post Office Department of the federal government.

When the Legislature convened on January 7, 1919, it was still generally felt, despite the fact the war was over, that steps should be taken to prevent any future exposure of children to alien doctrines. The thought was that this could best be done by forbidding the teaching of foreign languages altogether to children in the lower grades. The real purpose was to prevent the teaching of German. A number of other states, mostly in the Middle West, also passed foreign language statutes of one type or another

³⁰ *State ex. rel. Thayer v. School District, Reports of Cases in the Nebraska Supreme Court, XCIX (1916), 338, 348.*

³¹ *Laws and Resolutions Passed by the Legislature at the Thirty-Sixth (Extraordinary) Session, 1918, Ch. 9, pp. 50-51.*

³² *Ibid.*, Ch. 11, pp. 53-54. This amendment was adopted overwhelmingly by the people at the 1918 general election.

³³ *Ibid.*, Ch. 5, pp. 36-40.

during the months immediately following the end of World War I.³⁴

Both retiring Governor Neville and incoming Governor McKelvie stressed the Americanization issue in their messages to the 1919 Legislature. It was Governor Neville's opinion that this was one of the most important problems demanding the consideration of the Legislature, and that it was up to it to determine whether future generations in many communities in Nebraska would be American in language, thought and ideals.³⁵ While he opposed any restrictions upon religious instruction in a foreign language, he recommended legislation prohibiting the use of any foreign language in the teaching of all secular branches in the lower elementary grades of the public, private and parochial schools of the state.

Governor McKelvie expressed similar sentiments. Saying that the experiences of the war had indicated past mistakes with reference to the foreign language question, especially in that we had failed to make the schools the medium through which a genuine Americanism could be built, he concluded that all instruction in public and private schools should be conducted in the English language. He also felt that the common use of any foreign language should be discouraged.³⁶

The members of the Legislature were anxious to get on with it. Many bills were immediately introduced which in one way or another were aimed at restricting the use of foreign languages. At the end of the second week of the

³⁴ Some of these laws (Arkansas, Maine, West Virginia) merely provided that English was to be the basic language of instruction in the common school branches, and did not prohibit the teaching of foreign languages as such. In other states, however, the laws went to the point of forbidding the teaching of foreign languages below the high school level (Colorado, Indiana, Iowa, Kansas, Nebraska, Oklahoma, Oregon, South Dakota). (*American Political Science Review*, XIV [February, 1920], 110-115. See also, "Recent Legislation Forbidding the Teaching of Foreign Languages," *Minnesota Law Review*, IV [May, 1920], 449.)

³⁵ *House Journal*, 1919, pp. 81-82.

³⁶ *Ibid.*, p. 94.

session it was reported that "the sentiment against the use of foreign languages in Nebraska . . . is reflected in practically one out of every ten bills introduced in the legislature during the last week."³⁷ Several of them approached the problem through legislation directed at the private and parochial schools. One bill (House Roll 4) would have required all children to attend the public schools; another (House Roll 64, which subsequently passed) called for placing these schools under state control and regulation. This type of proposed legislation aroused much more opposition than that merely aimed at limiting the teaching of foreign languages. Other bills (House Rolls 119 and 221) would have seriously restricted publications of any kind in a foreign language. A bill was even introduced (House Roll 496) which would have declared ineligible for public elective office persons unable to comprehend the Declaration of Independence or repeat the Star Spangled Banner and correctly give the author and origin!

Then, on January 15, 1919, Senator Siman introduced a bill making it unlawful to teach any school subject to any child in any other language than the English language in any private, denominational, parochial or public school, unless such child had a certificate from the county superintendent stating that he had successfully completed and mastered the courses of study taught in the first eight grades.³⁸ The bill was subsequently amended by both houses and it was necessary for a conference committee to work out the final provisions. The vote in favor of the conference report in the Senate was 29-2 and in the House 76-15-9.³⁹ Governor McKelvie signed the bill on April 9.

As finally enacted the bill provided as follows:

Section 1. No person, individually or as a teacher, shall, in any private, denominational, parochial or public school, teach any subject to any person in any language than the English language.

³⁷ Omaha *Morning World-Herald*, January 20, 1919, p. 1.

³⁸ Senate File 24, *Senate Journal*, 1919, p. 72.

³⁹ *House Journal*, 1919, pp. 1007-1009; *Senate Journal*, 1919, p. 1047.

Section 2. Languages, other than the English language, may be taught as languages only after a pupil shall have attained and successfully passed the eighth grade as evidenced by a certificate of graduation issued by the county superintendent of the county in which the child resides.

Section 3 was the penalty section and made it a misdemeanor, punishable by a fine of not less than \$25 nor more than \$100 or by confinement in the county jail for not to exceed thirty days, to violate the act.⁴⁰

The bill did two things. First, it prohibited the teaching of any subject in a foreign language in any private, denominational, parochial or public school. Second, it allowed the teaching of foreign languages as languages only to those students who had successfully passed the eighth grade, in other words to high school students.

The campaign to prohibit the teaching and use of foreign languages did not proceed without opposition. Many ministers testified that a number of persons could not receive proper religious instruction unless they did so in a foreign language. Several members of the Legislature made calm and rational speeches against the bill, seeing in it intolerance and fear alien to the democratic tradition.⁴¹ On the other hand, the intolerant view was also amply expressed. One representative spoke as follows:

If these people are Americans, let them speak our language. If they don't know it, let them learn it. If they don't like it, let them move. It is a good thing to learn. I would be ashamed to face my boy, when he returns from France, if I voted for this amendment (to authorize specifically the use of foreign languages for religious instruction in parochial schools) and had to tell him that I had done nothing to crush Kaiserism in this country. If these people don't like our language, let them get out.⁴²

Leading newspaper editorials counseled moderation in the entire Americanization program and urged that religious or provincial prejudice not dictate a policy which would

⁴⁰ *Laws of Nebraska*, 1919, Ch. 249, p. 1019.

⁴¹ For example, see *Omaha Morning World-Herald*, February 25, 1919, p. 1.

⁴² *Ibid.*

be difficult to square with American principles.⁴³ Opposition and criticism were especially directed against those bills which would have attempted to abolish private and parochial schools.

Because of the nature of the foreign language statute, the number of people affected by it, and its close relation to the religious and educational practices and beliefs of these people, it is no surprise to find that judicial attacks upon it were instituted soon after its passage.

The first attempt to nullify the law was made by several churches maintaining parochial schools, certain parochial schools, and several foreign-language-speaking parents of children in these schools. They brought suit in district court to enjoin enforcement of the act, and when the court denied the relief asked for, an appeal was taken to the State Supreme Court.

The plaintiffs argued that if the law were enforced it would prevent their children from obtaining instruction in religion and morals in accordance with the doctrines of the religious denominations to which the parents belonged, in the language of their parents; that many of their children could not understand English and could not understand instruction in that language; that in the parochial schools below the seventh grade the language of the parents was used in order to teach English, and that the children could not learn English if they did not receive rudimentary instruction in the tongues their parents used. They further charged that the statute was an unwarranted interference with purely domestic affairs, and an invasion of the inherent discretion of parents in prescribing the course of instruction best adapted to the spiritual and material needs of children of their respective faiths. Finally, the complaint was made that the parents had reached the age where it was not possible for them to acquire a sufficient knowledge

⁴³ See *Omaha Morning World-Herald*, January 30, 1919, p. 6; *Nebraska State Journal* (Lincoln), January 20, 1919, p. 4; *Omaha Morning World-Herald*, January 29, 1919, p. 3.

of English to enable them to counsel and admonish their children in matters of faith and morals in the English language, that the private schools, having discharged their duty to the state by providing instruction equal to that of the public schools, could not be penalized for giving additional instruction, and that the teaching of foreign languages was not harmful to either the individual or the state.

The State Supreme Court upheld the order of the district court denying the injunction and sustaining the validity of the law.⁴⁴ The law was upheld, in the first place, as a valid method of correcting the situation turned up by the operation of the selective draft law during the war, that is, of many young men being unable to speak or understand English. The court also interpreted the law in the light of the Compulsory Education Law enacted at the 1919 session, and concluded that the evident intent was that none of the time necessarily employed in teaching the elementary branches forming the public school curriculum should be consumed in teaching the child a foreign language, since whatever time was devoted to such teaching in school hours must necessarily be taken away from the time which the state required to be devoted to education carried on in the English language.

The court did hold, however, apparently fearful of constitutional objections, that the statute forbade the teaching of foreign languages only during those hours taken up with the required studies as provided in the Compulsory Education Law. The court said that "if a child has attended either the public or private school for the required time, it could not have been the intention of the legislature to bar its parents, either in person, or through the medium of tutors or teachers employed, from teaching other studies as their

⁴⁴ *Nebraska District of Evangelical Lutheran Synod v. McKelvie*, *Reports of Cases in the Nebraska Supreme Court*, CIV (1919), 93. For a lengthy opinion of the Attorney General interpreting the law see, *Report of the Attorney General of Nebraska, 1919-1920*, pp. 231-237.

wisdom might dictate."⁴⁵ Thus, the schools could offer foreign language instruction under this interpretation either before or after the regular school hours and in the schools themselves.

One result of this opinion was the amending of the law by the 1921 Legislature making it clear that no instruction in foreign languages was to be given in schools at any time, that the intent of the original law had not been to limit such instruction only during the hours set aside for the instruction required by the Compulsory Education Law.⁴⁶ The law was also amended to make it unlawful for any organization, whether social, religious, or commercial, to prohibit or discriminate against the use of the English language in any meeting, school, or proceeding. A conviction under this last provision was subsequently overturned by the State Supreme Court because the whole act had meanwhile been declared unconstitutional by the United States Supreme Court.⁴⁷

The events leading up to the invalidation of the foreign language statute began in late 1920. Robert T. Meyer, teacher of a parochial school maintained by the Zion Evangelical Lutheran Congregation northeast of Hampton, was found guilty in Hamilton County court of violating the statute and was fined twenty-five dollars. He appealed to the district court and was again found guilty. From that judgment he gave notice of appeal to the State Supreme Court.

The board of education and the church operating the school taught by Meyer had decided to begin school at 1:30 in the afternoon rather than 1:00. This half hour was then given over to the study of German. Meyer's only defense was that it was not taught during regular school hours.⁴⁸

⁴⁵ *Nebraska District . . . v. McKelvie, Reports of Cases in the Nebraska Supreme Court*, CIV (1919), 100-101.

⁴⁶ *Laws of Nebraska*, 1921, Ch. 61, pp. 244-245.

⁴⁷ *Busboom v. State, Reports of Cases in the Nebraska Supreme Court*, CX (1923), 629.

⁴⁸ *The Aurora Republican*, December 15, 1920.



Robert T. Meyer, Zion Lutheran School Teacher
The U. S. Supreme Court upheld his right to teach German.



Zion Evangelical Lutheran School, northeast of Hampton, Nebraska—battleground in the contest over the right to teach foreign languages in Nebraska

The State Supreme Court again upheld the foreign language statute.⁴⁹ Upholding the statute as a valid exercise of the state police power, the court reasoned as follows:

The salutary purpose of the statute is clear. The legislature had seen the baneful effects of permitting foreigners, who had taken residence in this country, to rear and educate their children in the language of their native land. The result of that condition was found to be inimical to our own safety. To allow the children of foreigners, who had emigrated here, to be taught from early childhood the language of the country of their parents was to rear them with that language as their mother tongue. It was to educate them so that they must always think in that language, and, as a consequence, naturally inculcate in them the ideas and sentiments foreign to the best interests of this country. The statute, therefore, was intended not only to require that the education of all children be conducted in the English language, but that, until they had grown into that language and until it had become a part of them, they should not in the schools be taught any other language. The obvious purpose of this statute was that the English language should be and become the mother tongue of all children reared in this state.⁵⁰

The court went further and repudiated its earlier interpretation of the law as prohibiting the teaching of foreign languages during regular school hours only, while two judges dissented on the ground that the earlier and broader interpretation of the statute should stand.

From this decision of the Nebraska Supreme Court an appeal was taken to the United States Supreme Court. That Court, in an opinion written by Justice McReynolds, declared the law to be an unconstitutional interference with the right of a foreign language teacher to teach and of parents to engage him so to instruct their children.⁵¹ These rights were declared to be among those protected by the provision of the Fourteenth Amendment to the United States Constitution which prohibits any state from denying a person life, liberty or property without due process of law. The liberty so protected could not be infringed upon

⁴⁹ *Meyer v. State, Reports of Cases in the Nebraska Supreme Court*, CVII (1922), 657.

⁵⁰ *Ibid.*, pp. 661-662.

⁵¹ *Meyer v. Nebraska, U. S. Supreme Court Reports*, CCLXII (1923), 390.

under the guise of protecting the public interest or by legislative action which was arbitrary or without reasonable relation to some purpose within the competency of the state to effect. Mere knowledge of the German language, said the Court, could not be regarded as harmful. In companion cases the Supreme Court at the same time invalidated similar laws of Iowa and Ohio.⁵²

The foreign language statute was merely one, albeit the most far-reaching in its effects, of a voluminous legislative outpouring of bills aimed at supposed alien and subversive persons and influences resulting from the fears and suspicions aroused by World War I.⁵³ The sedition act passed by the special session of 1918 was part of this program, as was the act defining the act of sabotage. But the real deluge came with the 1919 regular session.

In addition to the foreign language statute, the following measures were enacted: (1) requiring all public meetings to be conducted in the English language;⁵⁴ (2) placing private and parochial schools under state control and re-

⁵² *Bartels v. Iowa*, U. S. Supreme Court Reports, CCLXII (1923), 404.

⁵³ Mr. Arthur F. Mullen, a prominent Democrat and Catholic layman who was vitally interested in the litigation surrounding the law and who appeared as one of the plaintiff's counsels in the original suit to enjoin enforcement of the act, thought the real purpose of the act was to destroy parochial schools—both Catholic and Lutheran. He said it was not aimed at the German-Americans. (Arthur F. Mullen, *Western Democrat* [New York, 1950], p. 208.) This interpretation of the statute is hardly adequate. Not only was the law part of a comprehensive legislative program to combat all alien influences, but the discussions in the Legislature and in the press at the time of its passage demonstrate clearly that the fundamental purpose was to prohibit the teaching of the German language and thus to discourage its use entirely. The law was born of fear and suspicion of German-Americans living in Nebraska, a fear and suspicion of their loyalty to the United States, not antipathy toward their religion. Also, why was this "attack" on private and parochial education suddenly initiated in 1919, and why did a number of other states also pick the same year, suddenly, to attack parochial school education? Besides, the courts never took any view of the statute other than that it was an attempt to inculcate patriotism and loyalty through discouraging the use of foreign tongues. Undoubtedly certain people seized this opportunity to give vent to their prejudice against parochial schools and the religious groups supporting them, but this was a side line to the real show.

⁵⁴ *Laws of Nebraska*, 1919, Ch. 234, p. 991.

quiring patriotic studies and exercises in all schools;⁵⁵ (3) requiring the publication of legal notices in the English language, including delinquent tax lists;⁵⁶ (4) prohibiting the display of red or black flags;⁵⁷ (5) a criminal syndicalism law;⁵⁸ (6) forbidding any teacher in any public school from wearing any religious garb;⁵⁹ (7) prohibiting aliens from holding public office;⁶⁰ (8) making it unlawful to appoint an alien to any public office;⁶¹ (9) prohibiting aliens from teaching in any school in the state;⁶² (10) and requiring the heads of public institutions, sheriffs, and police to furnish the Governor certain information about all known aliens.⁶³

The mood of the Legislature was further illustrated by the introduction of several resolutions, such as those condemning "alien slackers," and objecting to the honorable discharge of conscientious objectors by the Federal Government.⁶⁴ Then, a resolution was adopted by the House on February 4, 1919, calling upon the State Library Commission to deliver to the Chief Clerk of the House all German language books in the traveling library, and asking that a committee of three be named by the Speaker to take charge of such books, examine them, and recommend to the House what disposition should be made of them.⁶⁵ The resolution, saying that there were about 1,200 of these volumes, complained that they contained the words and music to German war songs, catalogues of German royalty, biographies of Prussian military conquerors, misleading histories of the United States, and "pictures of barmaids serving liquor to German soldiers."

⁵⁵ *Ibid.*, Ch. 155, pp. 346-351.

⁵⁶ *Ibid.*, Ch. 133, pp. 309-310.

⁵⁷ *Ibid.*, Ch. 208, pp. 916-917.

⁵⁸ *Ibid.*, Ch. 261, pp. 1058-1060.

⁵⁹ *Ibid.*, Ch. 248, p. 1018.

⁶⁰ *Ibid.*, Ch. 171, p. 383.

⁶¹ *Ibid.*, Ch. 170, p. 382.

⁶² *Ibid.*, Ch. 250, p. 1020.

⁶³ *Ibid.*, Ch. 172, pp. 383-384.

⁶⁴ For example, see *Senate Journal*, 1919, pp. 343-344, 842.

⁶⁵ *House Journal*, 1919, pp. 274-275.

The following day another resolution was adopted requesting the Library Commission to call in *all* foreign language books and deliver them to the House because complete Americanization should be encouraged through the use of one common tongue.⁶⁶ The special committee designated to receive these books eventually reported to the House with the recommendation that, because some of them contained sentiments out of harmony with wholesome Americanism, all of the books should be turned over to the Board of Regents of the State University to be placed in the library of that institution.⁶⁷ This was done.

Meanwhile, the voters had approved a proposal at the general election of 1918 to hold a constitutional convention, which convention convened on December 2, 1919, and adjourned on March 25, 1920. Strenuous attempts were made at the convention to place in the constitution itself a restriction on the use and teaching of foreign languages. Proposal No. 77, submitted by a delegate from Lancaster County, would have added the following new section to the Bill of Rights:

Ability of the people to freely communicate with and understand each other is essential to a republican form of government, and a common language being therefore a necessity to the people of this state, the right of the people to such a common language shall never be denied or in any way impaired or abridged. To that end, the *American language*—the language of the Declaration of Independence, of the Federal Constitution and of this Constitution—is hereby declared to be such common language and the official language of this state, and all public proceedings, records and publications shall be in such common language and no other, and no person shall be taught in or taught any other language in any school, public or private, until such person shall have attained the age of fourteen years and shall be able to understandingly read, write and speak such *American language*.⁶⁸

Referred to the Committee on the Bill of Rights, the proposal received a great deal of support. No less than

⁶⁶ *Ibid.*, p. 343.

⁶⁷ *Ibid.*, pp. 1005-1006.

⁶⁸ *Proceedings of the Nebraska Constitutional Convention, 1919-1920, I, p. 133.* Emphasis supplied.

twelve American Legion posts throughout the state sent resolutions or communications urging its adoption, and some appeared in person before the committee supporting the proposal.⁶⁹ There was no other organized support behind it. The committee recommended its indefinite postponement by a majority vote.⁷⁰ Three members of the committee asked to be noted as dissenting from this action of the committee. The Convention voted against placing the proposal on general file.⁷¹

Meanwhile, the Committee on the Bill of Rights, after voting to postpone indefinitely the above proposal, proposed the following substitute:

The English [language] is hereby declared to be the official language of this state, and all official proceedings, records and publications shall be in such language, and the common school branches shall be taught in said language in public, private, denominational and parochial schools.⁷²

When this substitute proposal came up before the Convention, one delegate, who was one of the minority on the Committee on the Bill of Rights supporting No. 77, offered a substitute which would have added to the provision "that no person could be taught any language in any public, private, denominational or parochial school until he could understandingly read, write and speak the English language."⁷³ He made a flowery and patriotic appeal for his substitute, saying that this much was owed to the memory of Theodore Roosevelt, "who while living stood upon the mountain top of human progress with the sunshine of liberty in his face," and to the boys who had left Nebraska farms and workshops to go across the seas and perform the greatest duty that was ever placed upon man. Another member, however, argued that citizens of a nation should comprehend more than one language, and he cited the difficulties of the lead-

⁶⁹ *Ibid.*, pp. 434, 623, 646, 717, 793, 835, 1304.

⁷⁰ *Ibid.*, p. 951. For the discussion pro and con on the proposal, see pp. 951-962.

⁷¹ *Ibid.*, p. 962.

⁷² *Ibid.*, p. 951.

⁷³ *Ibid.*, p. 1294.

ers at the League of Nations in understanding one another.⁷⁴ The Convention voted down the substitute, and the proposal submitted by the Committee on the Bill of Rights was subsequently adopted unanimously.⁷⁵ This is now Section 27 of Article I (the Bill of Rights) of the Nebraska Constitution.

Thus, the attempt to prohibit by constitutional provision the teaching of foreign languages in any school until after a student had reached fourteen years of age failed. And, as the years went by, the people of the state gradually forgot the foreign language issue. When the United States Supreme Court declared the foreign language statute unconstitutional in 1923 it aroused very little stir. Nebraska was entering a new era with new problems and new interests, and the reasons for the legislation gradually faded into the past.

⁷⁴ *Ibid.*, pp. 1297-1298.

⁷⁵ *Ibid.*, II, p. 2647.