

THE PROENGLISH Advocate

5-4 Alabama Supreme Court driver's test ruling ignores common sense

By a slim one-vote margin, the Alabama Supreme Court turned down an appeal by five Alabama members of ProEnglish who had sued to overturn the state's policy of giving driver's license exams in foreign languages, which they charged violated the state constitution.

Alabama voters adopted Amendment 509 to the Alabama Constitution in a 1990 statewide referendum by an overwhelming 9-1 margin. The amendment reads in part, "English is the official language of the state of Alabama....The legislature and officials of the state of Alabama shall take all steps necessary to insure that the role of English as the common language of the State of Alabama is preserved and enhanced."

Despite the clear intent of the Amendment's language, five members of the Alabama Supreme Court agreed to accept Alabama Gov. Bob Riley's nonsensical argument that letting immigrants take driver's license exams in their native language actually conformed



to the constitution because it promoted their assimilation "by increasing their access to education, employment, and shopping."

"This is an incredibly bad decision in which the Court's majority agreed to suspend common sense, twist the meaning of words, and ignore evidence in order to defy Alabama's constitution and overrule the express will of the people of Alabama," said ProEnglish executive director K.C. McAlpin

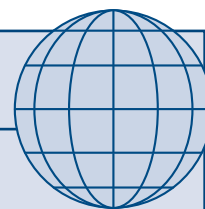
Four Alabama Supreme Court Justices, led by Judge Glenn Murdock, joined in a scathing dissent. Quoting a standard legal encyclopedia, he wrote "Constitutions are the result of popular will, and their words are to be understood ordinarily as used in

the sense such words convey to the popular mind." Judge Michael Bolin added, "What the officials of Alabama have accomplished in offering the written portion of the driver's license test in 12 (so far) foreign languages, is to revise Amendment 509 into a 'blank paper by [judicial] construction...'"

"ProEnglish is not giving up. This battle has become even more important because it has now become a struggle for the right of the people of Alabama to govern themselves," McAlpin said. "The Southeastern Legal Foundation, which represents our Alabama members in this litigation, already has filed a petition asking the Court to reopen the case."

"This was not a popular decision in Alabama. ProEnglish plans to work with our Alabama members and other citizen's groups to persuade the Alabama legislature to clarify the meaning of Amendment 509, for the benefit of judges who have a hard time understanding the common sense meaning of words in English," McAlpin added.

Around the World



Language split threatens Belgium, Ukraine

Two European nations, Belgium and Ukraine, share a common problem that could lead to dissolution. Both have serious divisions over language. In Belgium, 60 percent of the population speaks Dutch (known as Flemish), while French predominates in the southern part of the country. In Ukraine, Russian is the main language spoken in the eastern and southern parts of the country, and Ukrainian is spoken in the rest.

The language divide in Belgium, a nation the size of Maryland, already has led to a political upheaval that threatens to tear the country apart. Social interaction between the country's Dutch and French speakers is extremely low. There are separate political parties and elections, separate television networks and newspapers, and linguistic segregation is the norm in the country's schools.

Under Belgium's unique constitution the country consists of the two linguistically distinct regions named Flanders and Wallonia, each having veto power over the makeup of the central government.

For the last eight months this mutual veto has resulted in stalemate over the appointment of a new government. Now Flemish separatists are demanding that the country separate into two autonomous parts.

Ukraine's future is almost as dark. The split between Ukrainian and Russian speakers has been evident for years. Ukrainian is the official language of the ex-Soviet state. But many want Russian to be the country's second official language. Language was an underlying issue in the famous 2004 Orange Revolution, in which President-elect Viktor Yushchenko called making Russian the second official language too "politicized," while his opponent backed the idea.

"What is happening in countries like Belgium and Ukraine

should be a warning. Language can unify or divide a nation. And no nation, however large or prosperous, is immune," said ProEnglish executive director K.C. McAlpin.

European nations start requiring language for immigration

In the United Kingdom, Labor Prime Minister Gordon Brown recently introduced a rule requiring skilled immigrants from outside the European Union to pass an English test before they can enter the U.K.

"For those who come to Britain to do skilled work we will first require you to learn English, a requirement we are prepared to extend to lower-skilled workers as well," said Brown. The government estimated that as many as 35,000 skilled immigrants that entered the country in last year would have been barred under the new rule.

Political leaders made it clear that assimilation was a major factor in the decision. Home Secretary Jaqui Smith said, "Those who we welcome into the UK to work and settle here need to understand our traditions and feel that they are part of our shared national culture. They need to integrate into our country, learn English and use our language."

In France the newly elected president, Nicolas Sarkozy, pushed tough new immigration restrictions through the French National Assembly that will require all new immigrants to demonstrate knowledge of French and French culture before they can immigrate.

U.S. taxpayers have a direct financial stake in making English fluency a requirement for immigration. Executive Order 13166 requires U.S. taxpayers to pay the high cost of providing translations and interpreters for non-English speaking immigrants seeking government help.

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In the Courts



AZ restaurant declares victory over EEOC

RD's Drive-In Restaurant, a family-owned business in Page, Arizona, has reinstated an English-on-the-job policy after a 5-year legal battle against the Equal Employment Opportunity Commission (EEOC).

RD's attracted national attention after the EEOC filed suit against it in 2002 charging that its English language workplace policy constituted 'national origin discrimination' against the restaurant's Navajo-speaking employees. RD's owners, Richard and Shauna Kidman, said they put their English policy in effect after reports by some of their Navajo employees of sexual harassment and very vulgar Navajo language use by several of the restaurant's Navajo-speaking workers, and followed the EEOC's own guidelines for implementing it.

But the EEOC refused to drop the charges and demanded back pay and \$200,000 in punitive damages for four employees who left their jobs after the policy went into effect. The Kidmans appealed for help in paying their legal costs. But when it became clear their attorney's fees would far exceed what they could raise from the public, ProEnglish stepped in to help with their legal costs.

The battle took a complicated turn when a judge ruled that the Kidman's had agreed to settle the lawsuit and rescind their policy in a third round of court mandated negotiations. The couple objected, pointing out that they had refused to sign an EEOC-drafted consent decree after discovering the EEOC had inserted harmful provisions they had never seen before. Mountain States Legal Foundation (MSLF), a Denver-based public interest law foundation, then agreed to take over the Kidmans' legal defense.

The judge rebuked the EEOC attorneys' unethical conduct but refused to drop his order requiring the Kidmans to rescind their English policy. The Kidmans appealed the ruling, but lost a 2-1 decision in the 9th Circuit Court of Appeals this September.

Throughout the proceedings the Kidmans never surrendered their right to replace their original English-on-the-job policy with a new one that protected their employees, customers, and management from abuse. Now, with help from

ProEnglish, they have crafted an employment policy handbook with a far more detailed English language workplace policy. The new handbook was issued to all RD's employees this November.

Groups sue New York drugstores for translation services

New York-based immigration advocacy groups filed a complaint in November charging a number of local drugstores with illegal discrimination for not having interpreters on site and not enough foreign language translations of medicine instructions.

Stores belonging to major drugstore chains including CVS, Wal-Mart, Walgreens, and Rite Aid were named in the complaint.

The complaint cited Executive Order 13166, first issued by President Clinton and left in force by President Bush, which mandates that all entities receiving federal funds must provide "meaningful access" for non-English speaking clients or risk prosecution for violating their civil rights.

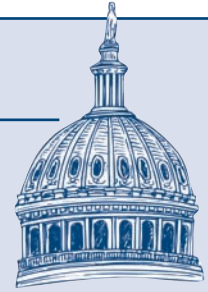
ProEnglish has gone to court to challenge the constitutionality of the executive order, which was never even disclosed to Congress before it was signed into law. The measure effectively forces English-speaking U.S. taxpayers, citizens, and residents to pay the cost of providing translation services for the benefit of those who refuse to learn English.

In their defense the drugstores cited numerous ways they were trying to meet the needs of their non-English speaking customers. One chain said it provided free interpreter services in 150 languages via telephone. Another said it printed instruction labels in 12 languages and tried to recruit and hire bilingual pharmacists for its stores.

The complaint contained accounts by several non-English speaking immigrants of problems they had experienced communicating with pharmacy workers.

ProEnglish Chairman Bob Park commented, "This is outrageous. Nobody comes to this country unaware that English is our nation's language. If they choose not to learn it, they should not expect to burden Americans with their language needs."

On Capitol Hill



Congress reconsidering Puerto Rico statehood

Puerto Rico statehood advocates won an easy victory this October when a House committee unanimously passed the misnamed “Puerto Rico Democracy Act,” H.R. 900. The bill by Rep. Louis Fortuno (R-PR) would require Puerto Ricans to vote in a nation-wide referendum for the 4th time in forty years to indicate whether they want to become a U.S. state or remain a self-governing commonwealth of the U.S.

ProEnglish opposes H.R. 900 because it fails to require the Spanish-speaking nation to adopt English as the day-to-day language of government operations as a pre-condition for statehood. The bill also limits ballot choices in a two-stage voting process that favors statehood, and despite its title is actually “undemocratic.”

“Admitting Puerto Rico as the 51st state without requiring it to adopt English as the language of its government operations will open the door to a Pandora’s box of demands for the federal government to operate in Spanish as well as English,” warned ProEnglish Chairman Bob Park. “Coming at a time when the U.S. is already struggling to assimilate an enormous, largely Spanish speaking immigrant population, such a move would be extremely damaging.”

Admitting a non-English speaking territory to the Union also would be unprecedented. In 1811, President James Madison signed the Louisiana Enabling Act that admitted French and Creole-speaking Louisiana as a state. But the Act required the territory to adopt English as the language of its government, including all laws, records and public proceedings.

Puerto Rican voters have rejected statehood in favor of remaining a U.S. commonwealth three times since 1968. This time H.R. 900 attempts to rig the process in favor of statehood by giving Puerto Ricans only two choices in the proposed referendum: retain the status quo (e.g. commonwealth), or pursue some other “constitutionally viable” option that could include either statehood or full independence.

The idea is to combine the traditionally small pro-independence vote with the perennially second place statehood vote to get a majority vote for

“change.” If the gambit succeeds, there would be a second round of voting. In that Puerto Ricans once again would have only two choices: statehood or full independence, which would guarantee a majority vote for statehood.

“Whatever the outcome of the latest scheme to get Puerto Ricans to vote for statehood, Congress must make it clear that statehood is not an option unless Puerto Rico adopts English as the official language of its government,” said Park.

House Speaker Pelosi blocks English-on-the-job protection

House Democratic leaders took extreme action to block a Senate amendment to a funding bill that would protect employers’ right to have their employees speak English at work.

Sen. Lamar Alexander (R-TN) succeeded in attaching an amendment to the Senate Commerce, Justice and Science appropriations bill that would bar the Equal Employment Opportunity Commission (EEOC) from using taxpayer funds to sue employers for having English-on-the-job rules.

For many years the EEOC has been suing employers that have such policies charging they violate workers’ “civil rights,” despite the fact that the rules are completely legal. But it was an EEOC lawsuit against the Salvation Army earlier this year that prompted Sen. Alexander to act.

The EEOC charged a Salvation Army thrift store in Framingham, Mass. with “national origin” discrimination for terminating two Spanish-speaking workers after they had been given a year to comply with the store’s written policy requiring employees to speak English at work.

Despite Sen. Alexander’s amendment, its inclusion in a final bill appeared in doubt because there was no comparable language in the House-passed version of the appropriations bill that would have been reconciled in a conference committee. Then, in a surprise move, House Republicans with the help of 36 Democrats passed a resolution instructing their conferees to

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include Sen. Alexander's EEOC funding amendment in the final bill.

The resolution's passage provoked a shouting match on the House floor between Democratic Majority Leader Steny Hoyer (D-MD) and members of the Hispanic caucus who blamed the Democratic Leadership for allowing it to happen. To appease the caucus, House Speaker Nancy Pelosi (D-CA) announced that she would block the conference committee from meeting unless the Senate conferees agreed to drop Sen. Alexander's amendment from the final bill.

"We strongly commend Sen. Alexander for fighting for the right of the Salvation Army and employers everywhere to require their employees to speak English on the job," said Ben Piper, director of government relations for ProEnglish. "Employers should be encouraged to provide incentives for their employees to speak English, not be sued by the federal government for requiring workers to communicate in the unifying language of our nation."

Official English bills among most popular in Congress

Most bills in Congress never attract more than 100 co-sponsors. But Rep. Steve King's (R-IA) "English Language Unity Act" that makes English the official language of the U.S., H.R. 997, already has 132 bipartisan co-sponsors – 30 percent of the entire House of Representatives.

In addition to making English the official language, H.R. 997 repeals the Clinton-era "multilingual mandate" known as Executive Order 13166, which requires federal, state and local government agencies and private entities that receive any federal funds, to provide translations and interpreters in multiple foreign languages on demand.

Another official English bill, H.R. 769, by Rep. Peter King (R-NY), includes a provision repealing the bilingual ballot provisions of the Voting Rights Act. It currently has 55 bipartisan co-sponsors.

And a newly introduced official English bill in the Senate, the "S.I. Hayakawa Official English Language Act," by Sen. James Inhofe (R-OK), S. 1335, already has five Senate co-sponsors.



How to help win the battle for English

- 1. Join ProEnglish's Online Action Alert Network** to make your voice heard on critical issues like official English, bilingual ballots, English-on-the-job, and bilingual education. Sign up to receive email alerts when important things are going on in Congress. You will get up-to-the-minute information on upcoming votes, talking points, and contact information you can use to email or call your congressmen. To sign up, visit <http://capwiz.com/proenglish/mlm/signup/>.
- 2. Contact your state and federal representatives** to express your support for laws to make English the official language, stop government sponsored multilingualism, or expand incentives for immigrants to learn English. To send emails to your elected representatives at no cost, visit our Legislative Action Center online at <http://capwiz.com/proenglish>.
- 3. Help ProEnglish grow** by telling your friends about our work to preserve English as the unifying language of our nation. Send them a link to our website at www.proenglish.org, or mention ProEnglish in every email you send by adding information about ProEnglish to your email signature. To find out how to add ProEnglish to your email signature, visit us online at www.proenglish.org/howyoucanhelp/emailsignature.htm
- 4. Write letters to the editor** of your local newspaper in support of making English our official language. Or write letters in response to local news stories about English-on-the-job, English in schools, or the use of English by government agencies. For tips on writing effective letters to the editor, visit our tips page online at www.proenglish.org/howyoucanhelp/letterstotheeditor.html

Around the Nation



Language disrupts LA school panel

A fierce debate over whether meetings should be conducted in Spanish or English has raged in a Los Angeles Unified School District (LAUSD) advisory committee. The committee is made up of parents elected from schools in a district in which 226,000 out of a total student population of 694,000 are Spanish-speaking English learners.

The fight over language began last February when the group's chairman, Roberto Fonseca, started to give a report speaking in Spanish. Ensuing arguments over the issue turned so ugly that police had to be called in to avert violence, and committee meetings in March and April were canceled. The debate has aggravated ethnic tensions on the committee by pitting blacks and other minorities against Hispanics.

Monthly committee meetings have resumed. But the impasse over language continues with meetings disrupted by acrimonious debate and walk-outs. Although LAUSD bylaws say that parent meetings must be conducted in English, the school district's staff has told the parents involved that the rule will not be enforced.

Nashville councilman launches official English initiative

Nashville city councilman Eric Crafton is leading a petition campaign to put official English on the city ballot in the November 2008 election.

Earlier this year Crafton succeeded in persuading the Nashville City Council to adopt an official English ordinance by a vote of 23-14 despite intense, well-funded opposition from the Chamber of Commerce and a number of left wing interest groups. But Nashville's then mayor, Bill Purcell, vetoed the legislation saying that it "does not reflect who we are in Nashville."

Now Crafton is taking the battle to the people by leading an effort to put the issue before voters in next year's general election. He has organized a group named Nashville English First and set up a website (www.nashvilleenglishfirst.com) where people on the Internet can download and sign petitions, or help by circulating petitions to other voters.

Crafton estimates that he needs to gather 12,000-15,000 voter signatures to make sure the initiative qualifies, and makes it to the ballot. If he succeeds and voters adopt it, Nashville will become the largest city in the U.S. with English as its official language.

ProEnglish director of government relations, Ben Piper, encouraged ProEnglish members in Nashville to get behind the effort. "This is one of the best opportunities we have to move the ball forward in next year's election," said Piper.

Teachers face layoffs over language

Chicago area teachers face a threat to their job security. Thanks to Illinois' bilingual education law a rapid rise in the city's Spanish speaking student population is forcing school districts to reassign teachers and administrators who are not fluent in Spanish.

In the Chicago suburb of Waukegan, teacher Valerie Goranson has taught 5th grade for six years. But her inability to speak Spanish has resulted in her twice being involuntarily transferred to different schools. Many other English speaking employees fear there soon will be few positions open for monolingual workers in Waukegan schools.

"I know what the trend is, and it's not looking good," said Goranson. "Even if my job was saved this year, what about next year?"

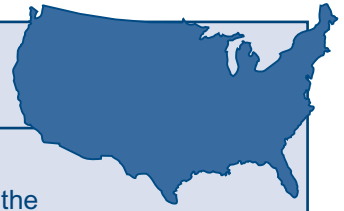
A 1973 Illinois law requires schools to provide 'bilingual' teachers if 20 or more of the students in a class speak the same foreign language. Despite the near universal failure of bilingual education in the rest of the country, the law's supporters continue to claim that Spanish-speaking children need to be taught in their native tongue in order to learn.

Many veteran teachers question that claim and cite their experience with immigrant students who thrive in English immersion-style classrooms.

"We have kids from China, Belize, Serbia, everywhere, and they catch on and end up doing well," said elementary school teacher Linette Oliver. "I don't understand why we can't do that for any child, no matter where they are from."

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Spanish language TV network to teach English

This January the Spanish-language television network Azteca America plans to launch a new program called “Survival English” to help immigrants learn English. Azteca officials hope the program will help Latino immigrants learn basic language skills to foster their assimilation, improve their standard of living, and increase their political clout.

Felix Gutierrez, a journalism professor at the USC Annenberg School for Communication, says Spanish-language media is a primary source of information for many Hispanics; and televised classes are ideal for those who do not have the time or money to attend regular classes.

U.S. Representative Grace Napolitano (D-CA) praised the idea saying that after years of profiting from Spanish-speaking immigrants, it was time for the Spanish language networks to give back to the community.

ProEnglish Chairman Bob Park said, “This is a positive step and good news for Hispanic immigrants who want to duplicate the success

of previous immigrants, who learned English and pursued the American dream.”

Crackdown on non-English speaking truck drivers

Earlier this year, the Nebraska State Patrol stopped a truck driver who spoke only Russian and could not understand why he was being pulled over. Unable to communicate with the truck driver, the troopers called his boss.

“You need to tell your driver he is out of service until he can understand English,” said Trooper Jeremy Radford.

For safety reasons, the Federal Motor Carrier Safety Regulations (FMCSR) place truck drivers who do not meet certain English language requirements out of service. According to FMCSR’s website, Section 391.11(b)(2) states that truck drivers must have the ability to read and speak the English language sufficiently to converse with the general public, must understand highway traffic signs and signals in the English language, must respond to official inquiries, and must be able to make entries on driving reports and records in English.

Kucinich supports official Spanish

Democratic presidential candidate Dennis Kucinich said he favored making Spanish the second national language of the U.S. Representative Kucinich (OH) was responding to a moderator’s question at a Democratic presidential debate in early September sponsored by the Spanish language television network *Univision*.

The Miami event was broadcast entirely in Spanish with moderators’ questions and candidates’ answers in English

translated for the network’s Spanish language audience estimated at 2.2 million viewers nationwide.

Two other Democratic candidates, U.S. Senator Chris Dodd (CT) and New Mexico Governor Bill Richardson, ducked the question. Richardson, who speaks Spanish fluently and is the first Hispanic to run for president, protested that the rules prevented him from answering in Spanish and criticized organizers for holding an “English-only” event.

As reported in the October issue

of the *ProEnglish Advocate*, all the Democratic hopefuls with the exception of former Alaska Gov. Mike Gravel, have declared their opposition to making English the official language. That stand may not win them many votes. A December 2006 Zogby International poll, found that 65 percent of Hispanic voters favor making English the official language.

Univision is hosting a Spanish-language debate for Republican presidential hopefuls December 9th.

Language and public safety

“We’ve had several accidents here. It’s not confusing if the person could just understand English.”

— Kings Mountain, NC police captain Jerry Tezzner attributing a violent crash between a train and a tractor-trailer to the driver’s inability to understand a traffic sign. *Land Line Magazine*, July 23, 2007.

Senators urge Bush to back official English

Nine U.S. Senators used the ten-year anniversary of the U.S. Commission on Immigration Reform’s report to Congress, which called for a renewed effort to Americanize new immigrants, to urge the president to support official English.

“At a time of unprecedented immigration to the United States, there is an urgent need to ensure that new immigrants successfully assimilate” the Sept. 27, letter stated. It was sponsored by Sen. James Inhoff (R-OK), who has introduced an official English bill in the Senate, and was co-signed by Senators Burr (R-NC), Chambliss

(R-GA), Coburn (R-OK), Coleman (R-MN), Demint (R-SC), Dole (R-NC), Isakson (R-GA), and Sessions (R-AL).

In addition to making English the official language of government in the U.S., the senators urged President Bush to eliminate a major disincentive for new immigrants to learn English, namely Executive Order 13166. That order now requires all federal fund recipients, including all state and local governments, to provide translation or interpreter services for non-English speaking immigrants in potentially dozens of foreign languages on demand.

They also asked the president to strengthen the English language component of the U.S. naturalization test and look for ways to encourage corporations, non-profit organizations, and local governments to foster English fluency in the immigrant community.

The letter reminded President Bush of a speech he made at a celebration marking the Mexican ‘Cinco de Mayo’ holiday in 2006: “Those who come here to start new lives in our country have...a responsibility to learn the English language so they can better understand our national character and participate fully in American life.”

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