

# TRANSLATING CALIFORNIA:

## *Official Spanish Usage in California's Constitutional Conventions and State Legislature, 1848–1894*

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Pablo de la Guerra was not an ideal candidate for a conquered man. Educated, landed, and holding great prestige in his community, de la Guerra was a *Californio* who witnessed the transfer of his native land from Mexico to the United States during the Mexican American War. His previous advantages afforded him continued respect in post-1848 California. The Treaty of Guadalupe Hidalgo guaranteed United States citizenship for Mexican citizens living in the newly secured territories. While de la Guerra maintained some of his previous wealth and status, he shared conflicted views about his new “Yankee,” English-speaking identity and the feeling that came from writing in English rather than in his native Spanish. De la

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Guerra's description of Anglos in a December 14, 1851, letter suggested just how strange he thought his new countrymen to be:

The English (in which I have to write to you) the idiom of birds, I do not know it with such a perfection, as I have neither beak nor wings, things both I believe inherent to every Yankee, and notwithstanding that I am one of them, yet its deficiency in me I think is because I am an unwilling one.<sup>1</sup>

This letter not only points out how de la Guerra was forced to write in English to his lawyer, Archibald Peachy, but also suggests that he would never be comfortable in his new role as a Yankee due to his imperfect English. This language deficiency would forever label him as an "unwilling" or conquered American. De la Guerra's feelings of being an outsider in the new system would be underscored as the state moved away from supporting the mother tongue of the *Californios* and in the process began seeing them as foreigners in the land of their birth.

Despite his reluctance to be a Yankee, de la Guerra became a fixture in the American period's political system. He demonstrated a certain acceptance of the new government and was selected to represent his home region of Santa Barbara in the state senate. His English skills must have improved tremendously while in this role: Just two years into the statehood period, he had already begun writing in the language of the conquerors. This gain was impressive considering he needed a translator at the 1849 California Constitutional Convention.<sup>2</sup> Perhaps due to his own language struggles and the needs of his constituents, de la Guerra was the most adamant supporter in the state senate for proper and timely translations for Spanish speakers. As his brother, Antonio de la Guerra later reminded him, without translations entire regions could not follow the law,

*Aquí hemos visto varias leyes de esa legislatura pero a nada hemos hecho caso por no venir de oficio y estar en Yngles . . . no hai quien*

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<sup>1</sup> Pablo de la Guerra to Archibald Cary Peachy, 14 December 1851, box 9 fol 413, Guerra Family Collection, The Huntington Library, San Marino, California (hereafter cited as GFC).

<sup>2</sup> California, *Report of the Debates in the Convention of California on the Formation of the State Constitution, in September and October, 1849* (Washington: Printed by J. T. Towers, 1850), 305.

*traduzca tal cual . . . creo seremos los del sur los últimos en darles cumplimiento* / Here we have seen various laws of this legislative session, but we have paid them no attention since they are in English and not official . . . there is no one here to translate . . . I believe that we of the South will be the last ones to comply . . .<sup>3</sup>

By providing representation for those who could not appeal to the Legislature in English, de la Guerra attempted to get the young state to support and respect native Spanish speakers. Without translations, this population would have to struggle to get their own translations or live in ignorance of the new laws that might benefit them and of those they were required to uphold as residents of the state. The translator was a position of major importance for *Californios* and de la Guerra was integral to the selection process. One of the most respected early translators was his brother-in-law.

William E.P. Hartnell, or Don Guillermo Arnel, married Pablo de la Guerra's sister, Maria Teresa de la Guerra, in 1825 after converting to Catholicism.<sup>4</sup> He was part of a larger group of Anglo immigrants who entered California prior to 1846 and who benefitted in the early statehood period from already understanding two languages and different legal, social, and political systems. This group of Anglos served to bridge the divide between the two cultures. Many of them such as Hartnell had married into *Californio* families and had strong ties with and the trust of native Spanish speakers. When the prospect of statehood came to California, Hartnell had the central role in facilitating communication between the new Anglo settlers and the *Californio* ranch leaders.

As *Californios* and Anglos worked together to get the new state to function, they tried to bridge a linguistic divide. This article traces the politics of the Spanish language in the early years of California statehood. It focuses on Spanish's official status in the state government. Another place where Spanish was at times required was in the courts. The use of language in court cases, however, was more on a case-by-case or county-by-county

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<sup>3</sup> Antonio de la Guerra to Pablo de la Guerra, 9 March 1850, box 8 fol 351, GFC (Spanish spelling and diacritics per the original).

<sup>4</sup> Louise Pubols, *The Father of All: The De La Guerra Family, Power, and Patriarchy in Mexican California*, Western Histories 1 (Berkeley: Published for the Huntington-USC Institute on California and the West by University of California Press and The Huntington Library, San Marino, Calif., 2009), 118–19.

basis. This article examines larger legislative trends instead of individual cases. The overall language policies in laws passed in the first fifty years of statehood shows that the use of Spanish in the government was largely a practical policy. If *Californios* were expected to follow the laws of the new state, they must be provided the opportunity to learn what legislation was passed and how it affected them. Studying state language law finds that the official sanction of the Spanish language dropped precipitously in the years after statehood. The loss of *Californio* representation in the state's government was largely tied to the shift in language policy. The changes in language outlook are apparent in the different approaches taken in the two state constitutional conventions completed in 1849 and 1879 that bookend the period of official Spanish usage.

## LANGUAGE USAGE AT THE FIRST CALIFORNIA STATE CONSTITUTIONAL CONVENTION

The California State Constitutional Convention was held in the old Mexican capital of Monterey from September through October 1849. The delegates shifted during the debates, but forty-eight Californians signed the final Constitution. When the convention met, a demographic upheaval had already occurred in the territory; the vast majority of Northern California was populated by new arrivals. There remained however a significant Spanish-speaking minority. The early openness towards Spanish language usage can largely be explained by looking at the power *Californios* continued to have — particularly in Southern California — in the first years of statehood. There were eight native Spanish-speaking representatives at the first state constitutional convention.<sup>5</sup> With the exception of Mariano Guadalupe Vallejo, all of these delegates were from regions south of San Francisco and the mines. In addition to Vallejo, the other native Spanish-speaking delegates included: J.M. Covarrubias (San Luis Obispo), Pablo Noriega de la Guerra (Santa Barbara), Miguel de Pedrona (San Diego), José Antonio Carrillo (Los Angeles), Jacinto Rodríguez (Monterey),

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<sup>5</sup> Roger D. McGrath, "A Violent Birth: Disorder, Crime, and Law Enforcement, 1849–1880," in *Taming the Elephant: Politics, Government, and Law in Pioneer California*, ed. John F. Burns and Richard J. Orsi (Berkeley: University of California Press, 2003), 7.



DAGUERREOTYPE OF (LEFT TO RIGHT):  
PABLO DE LA GUERRA, SALVADOR VALLEJO,  
AND ANDRÉS PICO

*Courtesy The Bancroft Library, UC Berkeley*

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Antonio M. Pico (San José), and Manuel Domínguez (Los Angeles). With the exception of Pedrorena who was a native of Spain, the other seven were native-born Californians.<sup>6</sup> The southern residence of native Spanish-speaking delegates was contrary to the new demographics of the state. The center of the state's population had moved to Northern California during the Gold Rush, and San Francisco and Sacramento had eight signers each compared to five from Los Angeles and two from San Diego. The number of representatives from Southern California increased due to appeals made by individuals from Los Angeles like José Antonio Carrillo. With only 8,000 residents settled in Los Angeles, compared to the estimated 35,000 in San Francisco, the North had the ability to forcefully advocate for its interests throughout the convention.<sup>7</sup>

In 1849, the land cases had not yet stripped away the wealth, land, or prestige of most *Californio* families. The concerns and needs of native Spanish speakers were different from the Anglo miners and businessmen who entered the state. *Californios'* presence and outspokenness on certain topics at the convention helped to remind the other delegates of those distinctions. These included discussions related to voting rights for Indians, representation, and state boundaries. The native Spanish speakers had some Anglo allies. Twelve of the forty Anglo signers of the new state Constitution lived in California prior to the Mexican American War. This long residency suggests that they chose to remain in a Mexican state and probably understood Spanish as well as the social, economic, and political practices of the region. Seven of those twelve had lived in California for ten or more years and were highly respected businessmen and landowners in the *Californio* community. Abel Stearns, John Sutter, Hugo Reid, and Pierre Sainsevain each had pre-American period land grants. These individuals would be familiar with the main issues and discussions of Spanish speakers. They brought shared concerns over landholdings and representation into the debate over the new Constitution. Both Stearns and Reid as

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<sup>6</sup> It is not clear whether John Sutter, a native German speaker, used the Spanish interpreter as he confessed his poor ability to speak the English language during the proceedings. California, *Report of the Debates*, 478–79, 187.

<sup>7</sup> *Ibid.*, 16, 407, 478–79, 14; Sidney Redner, “San Francisco Population History,” Sidney Redner. 6 November 2003, Boston University Physics. 15 January 2009 <<http://physics.bu.edu/~redner/projects/population/cities/sf.html>>.

well as other Anglo San Luis Obispo and San Diego representatives voted against creating a state constitution and instead advocated for a territorial status where longstanding residents of California could continue to control local affairs.<sup>8</sup>

The eight native Spanish speakers at the convention had varying levels of English knowledge and ability. For that reason, the translator was a key position and one of the first selected. William E.P. Hartnell was officially appointed on September 4 and served as the intermediary between the Spanish and English speakers. After Hartnell's selection, Vallejo immediately requested that a clerk be assigned to assist the translator. He recognized the difficulties of the job and knew that one individual would be unable to ensure accurate and timely translations without aid. Vallejo's request was supported by the delegation, and H.W. Henrie was elected to the office of clerk to the interpreter and translator.<sup>9</sup> These two translators — neither of them native Spanish speakers — would have the unenviable task of trying to keep up with the English language debates occurring while translating the ideas, opinions, and arguments of the Spanish speakers. They would also be privy to what the Spanish language speakers were saying if they were discussing issues off the floor.

The report of the constitutional debates shows that there was no simultaneous translation during the convention, but rather a summing up of views by the translator at the end of the discussion and prior to the vote. In fact, Spanish-speaking views in the debates appeared few and far between. There was no record taken of the Spanish dialogue occurring during the constitutional convention. It is unknown whether the Spanish language speakers silently observed and waited for translations or if they debated the issues on their own and sent an emissary to discuss important concerns. Considering that Carrillo, de la Guerra, and Vallejo were the most likely to rise to speak on topics that concerned *Californios*, it is possible that these men were given a vote of confidence by other Spanish speakers to voice their opinions. These individuals spoke rarely (de la Guerra spoke the most, around fifteen times during the entire proceedings) and each talked about needing a translator, "Mr. Carillo [sic] felt a diffidence in

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<sup>8</sup> California, *Report of the Debates*, 22.

<sup>9</sup> *Ibid.*, 18–19.



addressing the assembly, from his ignorance of the English language. He claimed its indulgence, therefore, as he was compelled to speak through an interpreter.”<sup>10</sup> Vallejo was the only one who discussed what could be described as his frustration with his inability to understand the discussion; “He regretted that his limited knowledge of the English language prevented him from replying to all the arguments adduced by those gentlemen who did not speak in his own tongue.”<sup>11</sup> Vallejo let the convention know that he had an opinion that was going unspoken due to his language limitations.

*Californios* rarely took to the floor during the proceedings due to lack of comprehension. The *Report of the Debates* contains only two instances where José María Covarrubias spoke. Both instances occurred when he disagreed with something that another *Californio* had said. When Covarrubias heard the testimony of his fellow Spanish speakers in his native language, he immediately responded to the conversation at hand. In one instance, Vallejo was asked about some documents detailing the borders of California. After hearing his opinion, Covarrubias spoke up and corrected Vallejo’s statement. Vallejo then responded and clarified his point.<sup>12</sup> In a second more heated exchange, Carrillo shared his ideas about a vote and again Covarrubias interjected his interpretation. Aside from a motion he presented, these were the only two cases when Covarrubias’s name appeared outside of vote summaries.<sup>13</sup> His interjections were forceful and confident when he understood the issues at hand. If Covarrubias had grasped more of the proceedings, his involvement in discussions would have been much greater. Covarrubias’s comments provide evidence that *Californios* were impeded from participating in the debates due to their English language deficiency.

While native Spanish speakers rarely participated in the discussion, there was a demonstration of respect toward the *Californio* delegates by the rest of the convention, especially in light of the discussions in favor of

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<sup>10</sup> The recorder of the constitutional convention, J. Ross Browne, had difficulty staying consistent with the names he used. Carrillo was used as well as Carrillo. Pablo de la Guerra was sometimes referred to as Noriega (his father was José de la Guerra y Noriega). *Ibid.*, 14, 26, 63.

<sup>11</sup> *Ibid.*, 303. For Pablo de la Guerra’s use of an interpreter, see page 305.

<sup>12</sup> *Ibid.*, 450–51.

<sup>13</sup> *Ibid.*, 450–51, 456–57, 290–91, 153.

Anglo-Saxons throughout the proceedings. The “Spanish” gentlemen were viewed as white men deserving of the vote.<sup>14</sup> English speakers made requests throughout the convention to halt discussions prior to a vote in order to allow adequate translation time for Spanish speakers.<sup>15</sup> Sometimes the response to this request was that a translation had already been thought of and created prior to the meeting.<sup>16</sup> The delegates thought beyond their needs as well. All Californians could read the proceedings only if they had accurate translations, and the delegates therefore decided to publish the debates of the constitutional convention in both English and Spanish.<sup>17</sup> In addition, the Constitution itself would have a Spanish version that was engrossed and certified by the translator and placed in parallel columns of English and Spanish translations.<sup>18</sup> Recognizing that the Spanish-speaking delegates were representing significant populations within California, the English-speaking delegates at the convention made numerous attempts to get articles translated, debates understood, and generous wages for the interpreter.<sup>19</sup> The voting date for Californians to approve the Constitution was also extended by the length of time it would take to get accurate translations to meet the needs of Spanish-speaking residents.<sup>20</sup>

One Anglo repeatedly defended the rights of Spanish speakers during the convention. Kimball H. Dimmick appeared to be a very conscientious follower of procedure and fair representation and spoke up when he believed the convention was veering off course, especially on issues of fair *Californio* representation.<sup>21</sup> He made a point of recognizing *Californios* as American, “As to the line of distinction attempted to be drawn between native Californians and Americans, he knew no such distinction himself; his

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<sup>14</sup> Ibid., 71–72.

<sup>15</sup> Ibid., 25, 31, 153, 219, 331.

<sup>16</sup> Ibid., 31.

<sup>17</sup> Ibid., 163–64.

<sup>18</sup> Ibid., 398.

<sup>19</sup> The interpreter had one of the largest salaries of any of the support staff at the convention. Hartnell was paid \$28, equal only to the secretary. There was a request to raise his pay from \$21 demonstrating his importance in the view of the convention and the commitment of the delegates to appear fair to Spanish-speaking delegates. Ibid., 95, 106–07.

<sup>20</sup> Ibid., 390.

<sup>21</sup> Ibid., 157–59, 274. Dimmick would later be a respected Los Angeles District Attorney and judge.

constituents knew none. They all claimed to be Americans.”<sup>22</sup> This stance differed from the views of most delegates as the term “American” became synonymous with individuals born in what was called “the older states of the Union,” despite the fact that the vast majority of Mexican citizens remaining in the United States opted to become citizens of the new ruling nation.<sup>23</sup> Dimmick forcefully argued *Californios* should not be placed in the minority and should be considered full members of the majority. He accepted and advocated for a new vision of an American that was broader than just those born in American states. Dimmick also showed his support for *Californios* as the convention was deciding on procedure. He rejected the idea to use the Constitution of Iowa as a model,

It would have to be translated into Spanish, and a sufficient number of copies made for those who only spoke that language. If, on the other hand, the committee reported, article by article, a plan of a Constitution, it could be translated, copied, and laid upon the tables of the members at the opening of each day’s session.<sup>24</sup>

Here Dimmick made his suggestion for how the convention should operate daily and he based his opinion on the needs of the entire convention to function properly, which included the Spanish speakers.

Native Spanish speakers were in the minority at the convention and in the state, but their language rights were supported as the decision to distribute government documents in Spanish met with little debate. On September 27, Pablo de la Guerra proposed a constitutional provision that all laws, decrees, publications, and provisions requiring public distribution in the new state be translated and printed in Spanish.<sup>25</sup> Myron Norton immediately responded that he believed a section was previously adopted to ensure that publications were in Spanish. His statement suggests this was an obvious provision in need of no further discussion. The sole dissenter to de la Guerra’s proposal was Charles T. Botts who felt there was no need to require Spanish translations in the Constitution, as the new state government would take care of the task for as long as it was required. He

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<sup>22</sup> Ibid., 23.

<sup>23</sup> Ibid., 23.

<sup>24</sup> Ibid., 25.

<sup>25</sup> Ibid., 273.

believed that the state would be burdened with “an immense and permanent expense upon the people — an expense for which there will be no necessity in a few years.”<sup>26</sup> Botts viewed California as quickly becoming a monolingual English-speaking state.

De la Guerra responded to Botts by denouncing the early translation practices of the American occupational period where little effort was made to create or send translations to the southern regions of the state. He explained the reality of the language situation in Santa Barbara where he himself had to translate some government publications despite his lack of mastery of the language. He passionately argued that

all laws ought to be published in a language which the people understand, so that every native Californian shall not be at the expense of procuring his own interpreter; and moreover, you will bear in mind that the laws which will hereafter be published, will be very different from those which they obeyed formerly. They cannot obey laws unless they understand them.<sup>27</sup>

De la Guerra was reminding the delegates that this American rule was new not only in language alone, but also in style of governing. He suggested the possibility that interpretations might not be necessary after twenty years, once native Spanish speakers got the opportunity to learn English, at which point the Constitution could be changed.<sup>28</sup> His statement suggested a resignation that English was the predominant language and that the state’s future was not a bilingual one.

Some delegates sought to specify a time limit in the proposal after hearing de la Guerra’s estimate for how long Spanish translations might be required. Henry A. Tefft shifted the conversation by supporting a possible bilingual future for the state. He explained that Louisiana continued publishing laws in French and Spanish over fifty years after statehood. The knowledge that another state published their governmental documents in languages other than English led to the delegates’ unanimous passing of the resolution.<sup>29</sup> Article XI, section 21 of the constitution supported

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

Spanish translations with no time limit. The provision implied an acceptance that California's linguistic future might remain a bilingual one.<sup>30</sup> This decision to conduct state business in both English and Spanish exemplified a support for language difference and a view that individuals who spoke Spanish could be seen as contributing members of the state and ultimately of the nation. By allowing political participation to continue without a language barrier, state officials decided that Spanish speakers would be viewed as full citizens — or at least the elite ones with no Indian blood would be afforded the status of citizen in good standing. Congress's acceptance of California as a state in 1850 with a Spanish language provision for publication of laws in its Constitution suggests language rights for Spanish speakers did not hinder Congress's decision to grant statehood as it later did for other territories like New Mexico.

The convention made a great effort to support Spanish and the Spanish-speaking delegates, but *Californios* were unable to participate as full members of the convention due to inadequate English skills. At one point, de la Guerra made a request that Spanish speakers abstain from a vote since the discussion dealt with semantics. The official summary reported: "The question appeared to be respecting certain English words, which they did not understand, and they desired to be excused from the voting."<sup>31</sup> Creating the clearest and most accurate statements in the Constitution required careful study of the semantics and intricacies of the English language. These discussions would be difficult if not impossible for even a great translator to explain. Acquiescing in their request, the convention released Spanish-speaking delegates from this vote. Spanish-speaking *Californios* received just two interpretations of the material presented at the convention with less than stellar results.

On September 15 — almost two weeks after the interpreter and clerk received their positions — José Antonio Carrillo addressed the convention in the absence of both the translator and his clerk. Stephen C. Foster, a delegate from Los Angeles who was bilingual, translated for him. Carrillo complained about the incompetence and disrespectful language on the part of the clerk toward the Spanish speakers. Upon hearing Carrillo's

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<sup>30</sup> Cal. Const. of 1849, art. XI, § 21 (superseded 1879).

<sup>31</sup> California, *Report of the Debates*, 57–58.

concerns, the convention immediately rallied to the side of the *Californios*. Delegates remedied the offense toward one of its members by removing the clerk and replacing him with Judge White.<sup>32</sup> Anglos demonstrated their respect and good feelings toward their native Spanish-speaking members. They took time out of the convention to address and remedy Carrillo's concerns, and this highlighted the continued relevance that *Californios* had in state politics. A second conclusion can be drawn from this episode. The fact that the native Spanish-speaking delegates had to endure a clerk they disliked indicates how isolated they were at the convention.

Carrillo brought his concerns to the floor when both the interpreter and clerk were absent. This strategy could have been employed because he could not depend on the accurate translation of his sentiments from the interpreter and clerk. Or perhaps he hoped to avoid a public denouncing of the clerk and knew that he could enlist the services of a bilingual member of the delegation. Perhaps this was the first time the clerk had not attended and it was a coincidence that the well-respected translator, Hartnell, was not at the proceedings that day. Whatever the case, the absence of both interpreters from this particular session is troubling. Henrie and Hartnell were paid to attend sessions and inform native Spanish speakers about the debates and discussions on the floor. Would Stephen Foster and other bilingual members of the convention step in during their absence and translate? This would be a distracting alternative and perhaps a position that bilingual members would dislike, as they could not participate in the same manner if focused on translating. The convention members rallied behind their fellow member, but permitted a situation where a monolingual *Californio* addressed the group in a session with no official translator.

The absence of a translator halted discussions at the convention one other time when Spanish speakers asked to leave because of their inability to understand the proceedings. In this case, the person proposed to translate declined the position.<sup>33</sup> The monolingual *Californios* ended up remaining at the convention, and they allowed discussions and debates to proceed on sections where their constituents had few vested interests. They depended on their friends to keep them abreast of what those debates were

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<sup>32</sup> Ibid., 94–95.

<sup>33</sup> Ibid., 399.

concerning, because when the subject of representation came up they immediately asked that the conversation be halted,

They generally had very little objection to any of the provisions adopted by the Convention, but as this section was one in which they felt interested, and as they could not understand it without having it translated, and the arguments explained to them through an interpreter, they hoped at least that they would be allowed the privilege of a reconsideration, if it was deemed necessary.<sup>34</sup>

*Californios* had a great interest in the topic of the distribution of state senators and did not wish to allow this decision to be made without their input and approval.<sup>35</sup> Los Angeles delegates in particular were adamant about retaining their status by ensuring they received their share of state senators.<sup>36</sup> While the native Spanish speakers were able to persuade the other members of their opinions prior to voting, the absence of an interpreter demonstrated they could not participate as full members. The native Spanish speakers were not only separated by language, but also by location. They sat at another end of the room as the English debates occurred.<sup>37</sup>

Encouragement of *Californio* participation at the California Constitutional Convention of 1849 was fervid at first glance. Relying on a couple of translators and accepting a situation where native Spanish speakers rarely addressed the floor tells a different story. Monolingual Spanish speakers were largely isolated from the debates. Each native Spanish-speaking individual's sentiments and opinions could be expressed or obtained from a translator who was only summarizing debates. Bilingual individuals who spoke Spanish and English could have corrected portions of Hartnell's English translation if he went off course or failed to summarize a part of a debate if they had heard him. The Spanish summary came from an isolated discussion separate from the bilingual speakers. Key points could be lost or altered in translation. English language deficiency hindered native Spanish speakers' chance of fully representing their constituents, though

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<sup>34</sup> Ibid., 400.

<sup>35</sup> Ibid., 399–405.

<sup>36</sup> Ibid., 400–14.

<sup>37</sup> Botts acknowledged that “he was requested by one of the gentleman on the other side, (a member of the native California delegation),” which suggests a physical as well as linguistic division. Ibid., 400.

they did their part to get their voices heard on their most pressing issues. *Californios* would continue to find themselves at a linguistic disadvantage in the new state's government.

## OFFICIAL SPANISH USAGE

After California became a state, the first state legislature was in position to decide how to fulfill the new constitutional mandates. The Committee on Printing proposed the creation of an office of the state translator and by the end of January 1850, the act passed.<sup>38</sup> Both the California State Assembly and Senate would choose the state translator in a joint vote, and the position would have a term of one year.<sup>39</sup> The state translator would receive copies of the laws from the secretary of state.<sup>40</sup> *Californio* representatives greatly aided the legislature's efforts to find a state translator.

Pablo de la Guerra was one of the Senate representatives in charge of finding a suitable individual for the position of state translator. He was also given the task of locating the funding to support the work.<sup>41</sup> While a candidate was being selected, the Joint Select Committee on the Examination of Applicants for the Office of State Translator submitted a report. De la Guerra represented the committee when he spoke before the Senate. He claimed that the committee had found no candidates who they believed were "fully competent to discharge the important duty that must necessarily devolve upon the officer, in translating, with minute accuracy, the laws of the State."<sup>42</sup> Due to the fact that the state printer needed the support of a translator daily, the committee selected William Lourie, "who has evinced over all other applicants superior qualifications as Translator," for the interim position.<sup>43</sup> De la Guerra subsequently recommended the creation of a joint committee to examine the accuracy of Lourie's translations.<sup>44</sup>

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<sup>38</sup> California Legislature, *Journal of the Legislature of the State of California At Their First Session* (San José: J. Winchester, state printer, 1850), 85, 122.

<sup>39</sup> Cal. Code, ch. 7, §§ 1–2 (1850).

<sup>40</sup> J.R. March 2, 1st Leg. (Cal. 1850).

<sup>41</sup> California Legislature, *Journal of the Senate . . . First Legislature*, 776, 848.

<sup>42</sup> California, *Report of the Debates*, 551.

<sup>43</sup> *Ibid.*

<sup>44</sup> California Legislature, *Journal of the Legislature . . . At Their First Session*, 150, 551.



The interim appointment failed to solve the problem of getting timely and accurate translations. José María Covarrubias submitted a resolution to the assembly a month after Lourie's appointment to examine the reason why the joint committee created to review his translations had not received any.<sup>45</sup> When Lourie submitted his explanation to the Assembly, it demonstrated the confusion of the young state government.<sup>46</sup> Lourie was never fully informed that he was selected for the position. He subsequently went to ask for items to translate, and was redirected to the secretary of state who had "no notice of what I applied for and had nothing for me to translate."<sup>47</sup> He finally began to receive work in March and claimed he was diligently translating those acts one at a time.<sup>48</sup> Lourie's letter suggested that he received documents from numerous individuals in the state. It was this confusion over who was to give the translator documents that likely led to the passage of a law requiring the secretary of state to transmit items to the state translator. The job of the translator was a large and difficult one with shifting expectations and responsibilities that were worked out in the first years of statehood.

The selective joint committee was unable to locate a suitable candidate even though prospective state translators applied and were nominated. Letters came in to de la Guerra requesting consideration for the post. Hopeful Toler inquired about the possibility for his appointment. His credentials demonstrated that he was a highly educated individual with business connections to Latin America, extensive legal training, and more than thirty years of claimed translator experience.<sup>49</sup> His impressive résumé and contacts suggest that the job of the state translator was taken very seriously and seen as an important position by those outside of the government. Vallejo recognized the significance of the post as well. He went out of his way to suggest a translator to de la Guerra.<sup>50</sup> None of the prospective

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<sup>45</sup> Ibid., 1023–24.

<sup>46</sup> Lourie's name was spelled differently throughout the Legislative Journal (Lowry, Lowrie, and Lourie). The Lourie spelling was chosen because it was the way it was reported at the end of his letter to the Assembly.

<sup>47</sup> California Legislature, *Journal of the Legislature . . . At Their First Session*, 1034.

<sup>48</sup> Ibid., 1034, 1035.

<sup>49</sup> Hopeful Toler to Pablo de la Guerra, 14 April 1854, box 22 fol 973, GFC.

<sup>50</sup> Mariano Guadalupe Vallejo to Pablo de la Guerra, 13 February 1854, box 22 fol 997, GFC.

translators were native Spanish speakers.<sup>51</sup> This perhaps serves as a commentary on the newly conquered status of *Californios* that did not permit them to become educated in English with enough time to be competitive or qualified for the translator position, or that bilingual *Californios* had other priorities outside of government.

The Legislature voted numerous times on the best candidates without success. They ended the first day of voting with no state translator.<sup>52</sup> J.M. Covarrubias spoke before the Assembly on April 10 about his great disappointment that a state translator was not selected. He explained that the South was “almost entirely inhabited by people who do not know any other language than Spanish.”<sup>53</sup> Covarrubias further conveyed Southern *Californio* sentiments, “they felt sorry for not knowing what was going on in the Legislature, as the information they received from their representatives was a very limited one, given by private letters.”<sup>54</sup> He then pushed that a new date for election be decided upon and nominated Mr. Schleiden for the position.<sup>55</sup> Covarrubias was also involved in the joint committee’s selection of competent candidates for state translator from the Assembly. A week after Covarrubias’s prodding, Joseph H. Schull was selected for the position of state translator on April 17. He received the votes of Mariano Guadalupe Vallejo and Covarrubias. Lourie and Toler were the other possible translators nominated for the position.<sup>56</sup> De la Guerra was selected by the state senate to work on these tasks with E.K. Chamberlain (for examining candidates) and Robinson (for finding funds).<sup>57</sup> The Legislature authorized Schull to rent an office and to hire additional translators as necessary as long as the Committee of Examination approved them.<sup>58</sup>

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<sup>51</sup> It is not clear how many of the prospective candidates may have been Anglo *Californios* who were conquered too. Many early settlers converted to Catholicism and became Mexican citizens, so they were also rightfully *Californios* although not native Spanish speakers.

<sup>52</sup> The candidates included Schleiden, Jno. [Jonathan?] H. Schull, William Lowry [Lourie], Joseph Henriques, and Alfred Lockett.

<sup>53</sup> California Legislature, *Journal of the Legislature . . . At the First Session*, 1172.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, 346.

<sup>57</sup> *Ibid.*, 776, 848.

<sup>58</sup> J.R. March 11, 1st Leg. (Cal. 1850).

The journal of the first session of the California Legislature makes it evident that the state government needed translations in order to run. The legislative journal documents many discussions, reports, and acts that emerged during the proceedings dealing with translations and also with the delay of translations. As the joint resolution created to support the employment of additional translators explained, “there exists at present an urgent necessity for the translation of the laws into Spanish.”<sup>59</sup> The state translator was listed as one of the nine major offices (e.g. governor, secretary of state, comptroller, treasurer, attorney general) of the state that would have expenses paid out of the general fund.<sup>60</sup> At eight thousand dollars, this salary was below only the governor (\$10,000) and the state treasurer (\$9,000).<sup>61</sup> The proceedings and laws passed during the first session of the California Legislature suggest that the state was committed to paying for and getting accurate translations. Native Spanish speakers continued in active roles in the state’s governmental proceedings. The Legislature believed its efforts to fully establish a state translator position would provide a remedy for delayed translations. Unfortunately, the efforts of the first Legislature were wasted, and the position of state translator was short-lived and unsuccessful. The Legislature eliminated the State Translator position the next year.

By 1853, William Hartnell was authorized to translate items for the government. His position was not as prestigious as the first state translator; he received no salary and was not considered a state officer. Instead, he was paid piecemeal for the work he completed, at a price not to exceed two dollars per folio of one hundred words, and fifty cents per folio to be engraved by the printer.<sup>62</sup> The lengthy time spent on a vote and examination of the translator candidates was greatly reduced after the first Legislature.

For the remainder of the years when Spanish translations were supported by the state, a committee of three was selected from the Assembly and another from the Senate to find a translator. In the early years, the committees were made up of *Californios* like Pablo de la Guerra, Ygnacio

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<sup>59</sup> J.R. March 9, 1st Leg. (Cal. 1850).

<sup>60</sup> Cal. Code, Ch. 16, § 11 (1850).

<sup>61</sup> Cal. Code, Ch. 25, § 1 (1850).

<sup>62</sup> Cal. Code, Ch. XCV, § 1 (1853).

del Valle, Romualdo Pacheco, and Andrés Pico.<sup>63</sup> The committees were in charge of locating possible candidates and getting bids on the amount they would be paid. They presented their findings, and the Legislature would make a contract (with certain price limits as the one with Hartnell demonstrates) for the translations. The cost of translations greatly decreased over the years. When José F. Godoy requested payment for his services, he received it retroactively and the Senate voted for him to collect interest on his fees. The total in 1876 for Godoy amounted to a little over \$2,500.<sup>64</sup> By 1878, instead of two dollars per folio, the bid that was won by Adelina B. Godoy was for sixteen cents per folio.<sup>65</sup> The selection of a woman and at such a low price may indicate how the position of translator changed over the first thirty years of statehood. It also could suggest that the availability of translators may have increased over this period, as more people knew they could get good-paying jobs by becoming bilingual. A bigger pool of competent individuals would increase competition, and could drastically reduce the compensation for services. These new contracts with the state translator no longer discussed the difficulty of the post. After the first year, there was no notation of the translator deserving an office or additional aid. Despite the reduction in status and pay, publication of Spanish copies of government documents, decrees, and speeches continued.

Printers published a significant number of Spanish translations of state material. As an example, Browne's *Report of the Debates of the Constitutional Convention* had 1,000 English copies made and 250 Spanish copies.<sup>66</sup> A joint resolution agreed upon by the Legislature in 1869 expands on the types of documents translated. Nine hundred sixty Spanish copies of the governor's biennial message and the reports of the controller, surveyor-general, and superintendent of public instruction were requested. The state treasurer's

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<sup>63</sup> California Legislature, *Journal of the Third Session of the Legislature of the State of California* (San Francisco: G.K. Fitch & Co. and V.E. Geiger & Co., State Printers, 1852), 81, 94; California Legislature, *Journal of the Ninth Session of the Legislature of the State of California* (San Francisco: G.K. Fitch & Co. and V.E. Geiger & Co., State Printers, 1858), 252, 350.

<sup>64</sup> California Senate, *The Journal of the Senate During the Twenty-First Session of the Legislature of the State of California* (Sacramento: State Printing Office, 1876), 13.

<sup>65</sup> California Senate, *The Journal of the Senate During the Twenty-Second Session of the Legislature of the State of California* (Sacramento: State Printing Office, 1877), 144.

<sup>66</sup> California, *Report of the Debates*, 163.



ROMUALDO PACHECO

*Courtesy The Bancroft Library, UC Berkeley*

report had 240 Spanish copies contracted. The governor's biennial message even included a request for 2,400 German copies. Despite these orders, many reports had only English language copies printed (e.g. adjutant general, attorney general, state librarian, state geologist, etc.).<sup>67</sup> The legislative discussions leading to the selection of some reports in Spanish over others,

<sup>67</sup> J.R. Num. I, 18th Leg. (Cal. 1870).

were not present in the Legislature's journal. Spanish speakers would have to find other ways to translate those reports, if needed, at their own expense.

The number of Spanish copies varied over the years. In 1872, the Inaugural Address of California Governor Newton Booth and the Second Biennial Message of Governor H.H. Haight were each translated with 500 copies published in Spanish, while in 1876, the Legislature ordered 2,000 Spanish copies of the Inaugural Address of Governor William Irwin.<sup>68</sup> It is not clear from the Legislature's journal how the number of copies was determined and whether it was a political, administrative, or budgetary decision. The distribution of Spanish-language copies of laws appeared largely localized. In 1876, the counties of San Diego, San Bernardino, Los Angeles, Santa Barbara, San Luis Obispo, Monterey, Santa Clara, Contra Costa, Alameda, Marin, and Sonoma as well as the first, third, and seventh district judges were chosen to receive the 240 copies of Spanish language laws.<sup>69</sup> Perhaps requests from those counties dictated the number contracted. The state continued to order numerous Spanish copies of state documents up to 1879. The actual printing was sometimes stipulated as being contingent on the availability of funding.<sup>70</sup> By the 1870s, Spanish language translations were no longer deemed a logistical necessity. Native Spanish speakers were becoming a tiny minority in the state. The state continued to honor the Constitution and *Californios* by publishing laws in Spanish, although the state had larger immigrant language groups at that time (as evidenced by the occasional publication of German versions of state publications).

Notwithstanding efforts to get Spanish translations out to its constituents, California was never a bilingual state. A bilingual state would have enabled timely translations and interaction between individuals who spoke either language. California's translators never worked fast enough for this type of system to emerge. The commitment during the first year to create a well-paid position of state translator was an anomaly. The concerns of Covarrubias demonstrated that the southern portion of the state was awaiting translations about the actions of the government. *Californios* did not receive

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<sup>68</sup> California Assembly, *The Journal of the Assembly During the Nineteenth Legislature of the State of California* (Sacramento: State Printing Office, 1875), 613; California Senate, *The Journal of the Senate During the Twenty-First Session*, 83, 90, 112.

<sup>69</sup> Cal. Pol. Code, §§ 415, 528 (1876).

<sup>70</sup> Cal. Code Ch. DIII, § 1 (1870).

immediate benefits from the Legislature's efforts as the translations took long and were rarely complete. They brought up the issue of missing translations to the Legislature on numerous occasions.<sup>71</sup> A list detailing precisely which of the laws were translated was once submitted after these requests. The list was long, but not exhaustive.<sup>72</sup> A committee during the ninth session attempted to remedy the situation by making an extensive list of laws still in effect. They hoped to create one comprehensive bound volume of laws in Spanish. Andrés Pico was chairman of the committee and presented the list for the "Schedule of Laws of 1856 and 1857, now in force" and he also suggested that the translations of laws still in the secretary of state's office be distributed.<sup>73</sup> Pico's actions indicated that Spanish speakers were not kept abreast of the laws on a regular schedule. Disseminating a complete book of laws would have cleared up any confusion that existed among native Spanish speakers about current state laws.<sup>74</sup> Spanish speakers were receiving a filtered and selective version of the state's official material.

Translating government material accurately and quickly was very difficult to accomplish because of the sheer volume of documents. *Californios* were frustrated and complained about slow and inadequate translations:

*Todo va por ahora bien menos lo de la traduccion de las leyes pues el presidente como buen K.N. ha nombrado la comision. Sin poner en ella ninguno que hable español / All goes well except with the translation of the laws, for the president who is a good K.N. [Know Nothing] has named the commission. Without putting a single person who speaks Spanish.*<sup>75</sup>

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<sup>71</sup> California Legislature, *Journals of the Legislature of the State of California at its Second Session* (San Francisco: Eugene Casserly, State Printer, 1851), 1413; California Legislature, *Journal of the Seventh Session of the Legislature of the State of California* (San Francisco: G.K. Fitch & Co. and V.E. Geiger & Co., State Printers, 1856), 152.

<sup>72</sup> California Legislature, *Journals of the Legislature . . . at its Second Session*, 1449–52.

<sup>73</sup> California Legislature, *Journal of the Ninth Session*, 550–55.

<sup>74</sup> Sometimes the appeal for translations came from non-*Californios*. During the eighth session, Edward Harrison asked for the reason that the 1856 laws were still not translated. California Legislature, *Journal of the Eighth Session of the Legislature of the State of California* (San Francisco: G.K. Fitch & Co. and V.E. Geiger & Co., State Printers, 1857), 563.

<sup>75</sup> Pablo de la Guerra to Antonio de la Guerra, 29 January 1850, box 9 fol 416, GFC (Spanish spelling and diacritics per the original).



ANDRÉS PICO

*Courtesy The Bancroft Library, UC Berkeley*

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De la Guerra criticized the Anglo majority for failing to place a native Spanish speaker on the committee that selected the candidates for translator. The report of the first Legislature gave the most respect to the translator position of any Legislature during this period, yet de la Guerra needed to assert himself in order to get on the committee. The translator was crucial to the daily operations of the government for *Californios*, but the importance of the position was lost on the president. Andrés Pico echoed de la Guerra's frustrations over translations by complaining about the many discrepancies between English and Spanish versions of state business. At times the translations were said to be so poor that they were almost "completely unintelligible."<sup>76</sup> While Spanish speakers expected and depended on the Legislature to commit to translations of official documents, it is clear that they took long to disseminate and were uneven in quality. *Californios* had to use their political presence in the Legislature to attempt to give their constituents the accurate and timely translations they deserved.

The slow process of translation undoubtedly affected *Californios* and, reportedly, the larger Spanish-speaking population in the hemisphere. Andrés Pico explained to the California Assembly that Spanish translations were essential to legal proceedings and would receive transnational exposure. He stressed accurate Spanish translations of the law were of day-to-day importance.<sup>77</sup> These versions were critical to southern county court decisions as many Spanish-speaking judges depended on them to determine that laws and convictions were being fairly administered. In addition, Latin Americans reviewed the translations and would criticize California if they were inaccurate or poorly done.<sup>78</sup> This transnational awareness reveals that *Californios* continued to have a positive view of their place in the larger Latin American world. They played a role in and identified with the southern part of the hemisphere. Spanish translations were not merely of ceremonial importance, but were required both for the state to function fully and to earn respect from Latin America.

Representatives from Southern California successfully proved this day-to-day Spanish language reality by gaining legislative support for Spanish

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<sup>76</sup> Andrés Pico, "Address to California Assembly," *El Clamor Público*, April 10, 1858.

<sup>77</sup> Since "a considerable number of justices of the peace come from the Spanish community." *Ibid.*

<sup>78</sup> *Ibid.*

for *Californio* legal proceedings. Any witness in the state “who did not understand or speak the English language” was entitled to an interpreter.<sup>79</sup> In several counties, the state was required to provide defendants with their summons in Spanish so they could understand the charges. In Santa Barbara, San Luis Obispo, Los Angeles, San Diego, Monterey, Santa Clara, Santa Cruz, and Contra Costa counties, it was permitted “with the consent of both parties, to have the process, pleadings, and other proceedings” in Spanish.<sup>80</sup> By limiting Spanish proceedings to only certain counties with established Spanish-speaking populations, the state legislature was demonstrating a prejudice against mining regions or cities where South American immigrants were more likely to settle. The privileges of Spanish were meant for American citizens — for the *Californios*.

In order to give a fair trial to members of both language groups, counties that permitted Spanish proceedings needed to employ individuals able to do the work in both languages. G.A. Pendleton, a San Diego county clerk in 1866, distributed county legal documents and certified public posts completely in Spanish.<sup>81</sup> County clerks like Pendleton were not always fully compensated for their skills or recognized for the fact that much of their work in the county was conducted in Spanish.<sup>82</sup> Official county documents in Santa Barbara would alternate between officials’ statements — judges, sheriffs, notaries public, and clerks — some of whom would write in Spanish and others who would write in English on the same page.<sup>83</sup> These examples could suggest a catering to native Spanish speakers by bilingual officials so they would understand the document, but that conclusion does not explain why there would be no translator hired for the English-speaking

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<sup>79</sup> Cal. Civ. Proc. Code, § 1184 (1876).

<sup>80</sup> After 1862, only the first five counties listed were still permitted to have court proceedings in Spanish. By 1876, only the first four counties listed still permitted court proceedings in Spanish. Cal. Title XVII, 5575, § 646 (1865). Cal Civ. Proc. Code, § 185 (1876).

<sup>81</sup> G.A. Pendleton, San Diego County Clerk, legal document, 3 July 1866, box 10 fol 624, Helen P. Long Collection, The Huntington Library, San Marino, California (hereafter cited as HPL); Julio Osima, San Diego County judge to James McCoy, San Diego County sheriff, 3 June 1867, box 11 fol 661, HPL.

<sup>82</sup> David F. Newsom to Pablo de la Guerra, 22 February 1856, box 15 fol 710, GFC.

<sup>83</sup> George D. Fisher, County Clerk and J. Carrillo, Juez del 2° Distrito (2nd District judge) Certification County Court of Santa Barbara, 21 April 1854, box 6 fol 292, GFC.

official's section. Officials writing and signing in different languages on the same document suggests more than a tolerance for bilingualism. Indeed it was routine for much of the region.

As a testament to the continued political power of *Californios*, Anglo office seekers also employed translators for their election campaigns. If a candidate hoped to carry the southern counties, he needed to reach out to the Spanish-speaking community. Democratic gubernatorial candidate "Juan" B. Weller sought to gain the support of the *Californio* elite by talking about the large land concessions made by *Californios* when the territory joined the United States. He made a statement that those affected should be compensated in some way by the government.<sup>84</sup> Democratic nominee S.B. Axtell had his speech translated into Spanish during his 1867 campaign as a representative of the 1st Congressional District, citing his main regret in addressing them as,

*[m]i felicidad de encontrarme cara á cara con vosotros es solamente oscurecida por mi inabilidad de poderos hablar en vuestro idioma nativo . . . dulce y rica lengua castellana / my happiness in meeting you face to face is only dimmed by my inability to be able to speak in your native language . . . the sweet and rich Castilian language.*<sup>85</sup>

Axtell went beyond exhibiting a desire to comprehend the language and demonstrated an appreciation and respect for *Californios'* linguistic heritage.

Candidates sought *Californio* votes by making campaign promises and utilizing native Spanish-speaking advocates. Pablo de la Guerra was nominated as an elector for the Stephen Douglas ticket in 1860 and was asked to set up meetings in both Spanish and English in Los Angeles, Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, and Santa Clara.<sup>86</sup> In 1868, de la Guerra was approached by the *Club Democrático* to give

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<sup>84</sup> Coronel Juan [John] B. Weller, Campaign Speech, 25 July 1857, v. 2, 234, Documentos para la historia de California: Colección del Sr. Don Rafael Pinto, MSS C-B 91, The Bancroft Library, University of California, Berkeley.

<sup>85</sup> S.B. Axtell, speech, 8 August 1867, box 28 fol 1103h, GFC (Spanish spelling and diacritics per the original).

<sup>86</sup> Eugene Casserly to Pablo de la Guerra, 17 September 1860, box 4 fol 164, GFC.

a talk in Spanish about the current political situation.<sup>87</sup> Most elite, land-owning, and educated *Californios* allied with the Democratic Party; *El Clamor Público*'s editor was one of the few *Californios* who chose to align himself with Republicans. Francisco P. Ramírez's editorials supported the party and he personally campaigned for candidates by giving speeches in Spanish. The Republican Party repaid his support at numerous times in his career.<sup>88</sup> Party politicians recognized the importance of having a well-known *Californio* statesman to communicate to the mass of monolingual Spanish speakers. Although a minority in the state, native Spanish speakers remained a significant — possibly election-deciding group — that could not be ignored.

Opportunities for translators in the new state were plentiful. Even during the 1870s' transition to English Only, bilingual individuals were necessary. As Sonoma County increasingly turned to English as its language of choice, it needed to translate its vast Spanish language archives. An 1870 law allowed for the translation of Spanish language documents (and those in any other foreign language) into English. The person employed was expected to be a "competent . . . , resident of the county," and was promised a just and reasonable salary decided by the recorder and the translator with Board of Supervisors' approval.<sup>89</sup> A check was put into place to ensure the accuracy of the translations.<sup>90</sup> Bilingual individuals served an important role in bridging the two monolingual segments of the state together and were rewarded for their skills as mediators for legal, municipal and state government documents.

The linguistic diversity of California's population increased in the years following 1849 with the influx of Europeans, South Americans, and Chinese immigrants, and Spanish became just one of many possible languages heard. This proliferation of different languages increasingly worried nativists who wanted the future of the state, the nation, and even the world to be an English-speaking one. Debates over language of instruction and English's supremacy surfaced repeatedly after 1870.

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<sup>87</sup> Tadeo Sánchez to Pablo de la Guerra, 20 September 1868, box 19 fol 877, GFC.

<sup>88</sup> Paul Bryan Gray, "Francisco P. Ramírez: A Short Biography," *California History* 84 (Winter 2006–2007); 26, 33.

<sup>89</sup> Cal. Code, Ch. CCCCXXII, § 1 (1870).

<sup>90</sup> Cal. Code, Ch. CCCCXXII, § 1–3 (1870).

## CALIFORNIA MOVES TOWARDS ENGLISH ONLY

When the second California constitutional convention met in Sacramento in September 1878, few state laws existed that demanded English Only practices. State laws dictated that all students learn in the English language in the public schools (except the San Francisco Cosmopolitan Schools) and a pawnbroker or “pledgee” was required to keep records in English. Any individual who did not keep accurate pawn records was guilty of a misdemeanor.<sup>91</sup> When the convention met, Spanish was still afforded a special place in a state that had many immigrants and languages. Spanish was used in some counties for court proceedings and Spanish language publications of current laws continued. The new Constitution completely dismantled these language privileges. Nativist sentiments brought forth by many at the convention (the Workingmen’s Party had a significant representation at the proceedings) made certain the loss of the bilingual aspects of the state’s government.<sup>92</sup>

As the initial proposals stated at the convention, delegates made English language knowledge and usage the expectation and preference for the schools, electors, and all participants of government. Numerous amendments sought to revise the Constitution by disenfranchising non-English speakers and taking out any stipulation that permitted languages other than English to receive favorable government or educational support.<sup>93</sup> The move to require all voters to read and write in English did not make it into the Constitution. The delegates easily passed the amendment providing that “all laws of the State of California, and all official writing, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.”<sup>94</sup> By the end

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<sup>91</sup> Cal. Penal Code, Ch. XI, § 339 (1876).

<sup>92</sup> For more about the politics behind the constitutional convention, see Carl Brent Swisher, *Motivation and Political Technique in the California Constitutional Convention, 1878–79* (New York: Da Capo Press, 1969).

<sup>93</sup> California, *Debates and Proceedings of the Constitutional Convention of the State of California, Convened at the City of Sacramento, Saturday, September 28, 1878*, vol. 1 (Sacramento: State Office, J. D. Young, sup’t, 1880), 89, 100, 110, 117, 143, 220.

<sup>94</sup> Cal. Const., art. IV, § 24.

of the convention, native Spanish speakers lost all their language ties to the state government.

Unlike during the first constitutional convention, the proceedings had no native Spanish-speaking delegates. At one point, Joseph Brown attempted to seat Major José R. Pico “as a representative native Californian.”<sup>95</sup> He made his case amidst the jeers of the Workingmen’s supporters who applauded the announcement that, “Mr. Pico was repudiated by the delegation.”<sup>96</sup> Aside from Major Pico’s personal achievements, Brown asserted that at least one member of the convention should be from a *Californio* family,

I believe he is the only man of that race, that once possessed this whole country, that is on hand here, and I believe none of the representative Californians are here in this House; and I would state that the Spanish and Mexican population amounts to twenty-three thousand.<sup>97</sup>

Despite Brown’s intervention, Pico was not seated as a delegate, and only friendly individuals from the southern counties who knew what life was like in that part of the state supported *Californios* in the proceedings.

Horace Rolfe, Charles Beerstecher, James Ayers, and Brown all spoke in support of continuing Spanish language proceedings and translations in local venues during the convention. Rolfe, a representative of San Diego and San Bernardino Counties, spoke specifically about how monolingual judges continued to preside in some courts using the Spanish language. Prohibiting Spanish would hinder the ability of Spanish speakers to seek justice. Eli Blackmer of San Diego agreed and praised non-English-speaking judges he knew as “among the best Justices of the Peace we have.”<sup>98</sup> Ayers further echoed Rolfe by saying,

there are townships in Southern California which are entirely Spanish, or Spanish-American, and in those townships the Courts of Justice of the Peace are carried on sometimes exclusively in the

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<sup>95</sup> California, *Debates and Proceedings*, 1: 50.

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*

<sup>98</sup> California, *Debates and Proceedings of the Constitutional Convention of the State of California*, vol. 2 (Sacramento: State office, J. D. Young, sup’t, 1880), 801.

Spanish language, and it would be wrong, it seems to me, for this Convention to prevent these people from transacting their local business in their own language. It does no harm to Americans, and I think they should be permitted to do so.<sup>99</sup>

Ayers's support was sincere, but demonstrated the marginalized status of Spanish speakers. Even a supporter of Spanish language provisions did not see any real detriment for the larger group of "Americans" to have *Californios* conduct their "local business" in Spanish. The language was relegated to a small, isolated group that was not particularly American or equal to Euro-Americans, but deserved respect since they occupied the land first.

Ayers and Beerstecher discussed the promise in the Treaty of Guadalupe Hidalgo that *Californios* would receive the same rights and responsibilities as all citizens. They believed the amendment would renege on the assurances given to *Californios* when the territory became part of the United States. Beerstecher even went so far as to talk about eastern states that also published laws in other languages such as Michigan, Wisconsin, and Pennsylvania. He thought the policy of "Western States" to publish the laws only in English should be left to the Legislature, that "we ought not to put any Know-Nothing clause into the Constitution."<sup>100</sup> Despite their support, other delegates saw the requirement to translate and publish laws in Spanish as "entirely unnecessary."<sup>101</sup> When W.J. Tinnin of the 3rd Congressional District claimed that there was no reason to support "tons and tons of documents published in Spanish for the benefit of foreigners," Rolfe responded by asking if Tinnin called the native population foreign. Tinnin's reply was that they had ample time to learn the language.<sup>102</sup> In the end, delegates hardly debated the amendment to move the government and courts to English Only. On December 21, the constitutional convention rejected the state's commitment to Spanish and the bilingual court system that had prevailed for the previous thirty years.

Rolfe attempted to strike down the portion of the provision that required local proceedings in English. He perhaps recognized that he could not convince the delegates of any broader privilege than that. Rolfe hoped

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<sup>99</sup> Ibid.

<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> California, *Debates and Proceedings*, 2: 801.

this exception would permit business to be carried out as usual in regions where everything was still conducted in Spanish. While he conceded that most people in the southern parts of the state did speak some English, for many it was imperfect and would be “inconvenient” to conduct proceedings without full fluency. Rolfe argued that a judge “will make mistakes in language which will be injurious to litigants before his Court.”<sup>103</sup> He ended his appeal by reminding the delegates that the Americans, “or English speaking people,” were the newcomers to the state who took the land from those who were here “when the Spanish was universally the mother tongue of the people. They are a conquered people.”<sup>104</sup> Rolfe believed that by taking their land and making them American citizens, the state had an obligation to take them as they were and “give them an equal show.”<sup>105</sup> Although his argument was meticulously stated, it was not supported by any aside from Ayers and Blackmer in discussion. A.P. Overton believed that by catering to Spanish speakers the state enabled them to continue to neglect English language learning and that California had “honorably” lived up to the contract of the original treaty.<sup>106</sup> The delegation resoundingly rejected the amendment 27 to 55.<sup>107</sup>

Rolfe did not introduce another amendment dealing with language. Ayers, a representative of the 4th Congressional District that encompassed the San Joaquin Valley, Southern California, and the mid portion of the coast (Santa Clara, Santa Cruz, and Monterey), did twice attempt to get the convention to reconsider their decision.<sup>108</sup> Ayers argued,

The object of this amendment is to permit Justices’ Courts, in some of the townships of the southern portion of this State, where the population is almost entirely composed of native Californians, to preserve their proceedings in the Spanish language . . . . It can do no possible harm.<sup>109</sup>

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<sup>103</sup> *Ibid.*, 2: 802.

<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*, 2: 803.

<sup>108</sup> California, *Debates and Proceedings*, 2: 829; California, *Debates and Proceedings of the Constitutional Convention of the State of California*, vol. 3 (Sacramento: State Office, J. D. Young, sup’t, 1880), 1269.

<sup>109</sup> California, *Debates and Proceedings*, 3: 1269.



Both attempts failed and no other delegate tried to change the amendment.

Besides removing their language rights, delegates ridiculed Spanish speakers during the proceedings. In a particularly lively exchange, 4th Congressional District representative, Byron Waters of San Bernardino, presented a petition from eighty citizens. The secretary “read the petition down to the names, and then hesitated, as they were mostly Spanish names, difficult to pronounce.”<sup>110</sup> The response from the delegates was animated, “Cries of ‘Read!’ ‘Read!’” were reported.<sup>111</sup> Waters interrupted the proceedings by exclaiming that the petition was no laughing matter. Laughter ensued in response to his comment. He continued saying, “I know every man whose name is appended to that petition. They are electors of that county, and have been for the last twenty years or more.”<sup>112</sup> He persisted by saying that they had lived there since 1842. The names needed to be read for the record and Waters offered to read the names. Ayers interjected, “They are just as good names as if they were all ‘Smith.’”<sup>113</sup> In the end, the delegates made an exception and dispensed with reading the names and the convention continued.<sup>114</sup> The “difficult to pronounce” Spanish language names of petitioning citizens caused delegates to burst out in laughter. This nativist reaction was bigoted, but not necessarily racial since they had no sense of what these signers looked like. The petition itself was in English, and the Spanish-surnamed petitioners might have been afforded respect had they arrived and spoken in the English language at the proceedings. It was instead the simple fact of their names that was ridiculed and relegated them to an inferior position. Language in this case served as the primary discriminatory indicator, rather than an individual’s physical characteristics.

California became the first English Only state during the period immediately following the constitutional convention. While the amendment to deny the teaching of other languages in the schools of California did not end up in the final Constitution, three separate and lengthy debates discussing

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<sup>110</sup> *Ibid.*, 3: 1282.

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> *Ibid.*

the merits of language instruction occurred.<sup>115</sup> Some delegates believed that the schools overburdened young students with material and preferred assurances that all students receive an adequate English education by omitting additional language learning. Other delegates believed that hindering the upper limits of a student's curriculum was a huge step backward for the state and an ill-informed and anti-intellectual one. These delegates managed to garner enough support for their views, and the constitutional requirement for English knowledge failed. Despite this victory for language learning, the state that emerged after the constitutional convention of 1879 was not supportive of language differences. An 1888 state law required police officers to be able to speak, read, and write English among other requirements.<sup>116</sup> Another law required all election officers to be able to "read, write, and speak the English language understandably."<sup>117</sup> Written proceedings of the courts would be in English and therefore necessitated that all jurors "[p]ossessed sufficient knowledge of the English language."<sup>118</sup> The state legislature embraced the English Only preferences of the constitutional convention and went further in expanding the rights of citizens who spoke English while relegating non-English speakers to being second-class citizens with few civic responsibilities or privileges.

The English Only trend continued into the 1890s when those illiterate in the English language lost their right to vote. An 1891 provision allowed voters to determine whether they wanted to require that every voter "be able to write his name and read any section of the Constitution of the United States in the English language."<sup>119</sup> In 1894, an amendment passed that put the English language requirement for electors into the state constitution.<sup>120</sup> In the fifteen years following the constitutional convention, English Only sentiments solidified. Only those individuals literate

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<sup>115</sup> California, *Debates and Proceedings*, 2: 1101–06; California, *Debates and Proceedings*, 3: 1397–98, 1409–13.

<sup>116</sup> The law regarding policeman qualifications was very detailed. It included requirements for height (five feet seven inches or taller) and age (under fifty-five years of age). Cal. City and County Code, 15,046 § 124 (1880).

<sup>117</sup> Cal. City and County Code, 15,046 § 97 (1880).

<sup>118</sup> Cal. Civ. Proc. Code, §§ 185, 198(2) (1880).

<sup>119</sup> Cal. Code, Ch. CXIII, § 1 (1891).

<sup>120</sup> Cal. Const. art. II, § 1 [adopted 1894, superseded 1970].

and conversant in English would receive full rights regardless of the non-English speaker's citizenship or nativity status.

## CONCLUSION

California was never bilingual and was not committed to retaining Spanish. The official use of the language in government was largely out of necessity. Once the Spanish-speaking population got too small and had no real representation, the language concession made to the conquered people of California was completely rejected. This denial of language rights occurred even though there remained regions of the state that continued to operate completely in Spanish into the 1880s. The pressure to rid the state of Spanish language provisions came from political changes in the larger population, state elected officials, and delegates of the constitutional convention.

California no longer wanted to translate its politics or business, but not everyone supported a monolingual course of action. At the constitutional convention, John Wickes called to give some official recognition to Spanish because it "is a noble language, spoken by millions of people upon the American continent."<sup>121</sup> His suggestion went unheeded. Ayers made a remark that predicted the argument for Spanish used by many in the decades that followed,

In the future it will be a popular question in this State to control the commerce of the vast populations which are to the south of us, and there is no manner in which we can more successfully obtain that control than by allowing our children to become more conversant with the language that prevails among the people.<sup>122</sup>

Ayers recognized the crucial role that Spanish played in hemispheric relations. Almost immediately following Ayers's encouragement of Spanish learning, Thomas Laine stated that there could be no education finer than the one in English, which was "of all the languages known now to this earth, the conquering language."<sup>123</sup> These were two different visions for America's future. These sentiments were precursors to stances held in the

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<sup>121</sup> California, *Debates and Proceedings*, 2: 802.

<sup>122</sup> California, *Debates and Proceedings*, 1: 1398.

<sup>123</sup> *Ibid.*, 1: 1398.

twentieth century supporting Americanization and Pan-Americanism. In California, the statewide support for the Spanish language would not return until the 1960s and 1970s. The second constitutional convention had set the state government's policy on language for the next eighty years.

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