STATE SESSION LAWS IN NON-ENGLISH LANGUAGES: 
A CHAPTER OF AMERICAN LEGAL HISTORY

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"... [W]e are a multi-racial and multi-linguistic nation; and there are groups in this country as versatile in Spanish, French, Japanese, and Chinese, for example, as others are in English..." These are the words of Supreme Court Justice Douglas in his separate opinion in the case Cardona v. Power. This case as well as Katzenbach v. Morgan, decided on the same day of June 13, 1966, upheld the constitutionality of §4(e) of the Voting Rights Act of 1965. The Court established in these cases that the Voting Rights Act provision just cited is a proper exercise of the powers granted to Congress by § 5 of the fourteenth amendment, and by force of the supremacy clause in article 6 of the Constitution, a state English-literacy requirement cannot be enforced to the extent that it is inconsistent with § 4(e). This section may be viewed as a measure to secure for the Puerto Rican community residing in New York nondiscriminatory treatment by government, both in the imposition of voting qualifications and the provision or administration of governmental services, such as public schools, public housing and law enforcement.

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2. Id.
4. No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English. 42 U.S.C. § 1973b(e)(2) (Supp. V, 1969).
Four years later a further step in the recognition of the rights of linguistic minorities was taken by the California Supreme Court. In the case of *Castro v. State of California*, petitioners were able to demonstrate access to considerable information on matters of national, state and local concern by virtue of the availability of numerous newspapers and magazines published in Spanish in Los Angeles, as well as the existence of nonwritten modes of communication such as Spanish programs on radio and television. Thus, the court held that California's constitutional provision conditioning the right to vote upon an ability to read the English language is, as applied to persons who are literate in Spanish but not in English, unconstitutional as violative of the equal protection clause of the fourteenth amendment; such a determination applies to any case in which otherwise qualified voters, literate in a language other than English, are able to make a comparable demonstration of access to sources of political information.

These recent decisions do not mention the availability in the past, and possible revival in the future, of the most far reaching method of political information for American linguistic minorities in the form of non-English editions of laws. The recent sesquicentennial celebration of Indiana University seems an appropriate occasion for looking back into a short and little known chapter of the legal history of Indiana and several other states.

The United States Constitution contains no statement as to the official language of the land. Since English was in general use in all of the thirteen colonies, it was clear that no other language could be taken into consideration as a second official language. Nevertheless, express provisions in constitutions of Illinois, Michigan, and until recently also California dictate that the laws shall be promulgated in the English language only. A similar restriction was provided in the Kansas territorial constitution of 1857 and of 1858, but not in the first state, Wyandot, constitution of 1859. A few states have statutory prohibitions upon the publication of laws in non-English languages. However, most states lack any constitutional or statutory regulation of this question, with many having never published laws in a non-English language.

5. 85 Cal. Rptr. 20, 466 P.2d 244 (1970).
Indiana

The authors of the *Handwörterbuch des Auslanddeutschums* give in considerable detail a picture of economic, cultural and political activity of early German settlers in Indiana, but they fail to mention one significant achievement: official publication of several volumes of Indiana session laws in German.

During the debates of the Indiana Constitutional Convention (1850-51) one of the delegates of the Convention, Allen Hamilton of Allen district, introduced on February 6, 1851, a resolution that thirty thousand copies of the Constitution be printed in English, and five thousand in German. Delegate James Dick of Knox district moved to add "three thousand in French," but this amendment was rejected. Delegates William Steele Holman of Dearborn district and James Lockhart of Posey and Vanderburgh district tried unsuccessfully to raise the number of German copies of the Constitution to ten and fifteen thousand, respectively. Finally, on February 10, 1851, a resolution was adopted to publish fifty thousand copies of the Constitution and the Address in English, and five thousand in German.

The publication of session laws in German had a hard beginning in Indiana. It started with a petition of "sundry citizens of Carroll county on the subject of printing of the laws of Indiana in the German language" submitted to the Indiana House of Representatives during the 36th session of the General Assembly early in 1852. Another petition of citizens from Perry and Spencer County requested that all documents ordered to be printed in the English language also be printed in German. The first petition was referred to a special House Committee and the second petition to a special Senate Committee composed of Senators Saffer, Berry and Niblack. The special House Committee introduced in the House on May 15, 1852, Bill No. 277, authorizing the State Printer to print, bind and publish one thousand copies of the laws passed by the present Assembly in the German language.

Several members of the House tried to torpedo the Bill by introducing amendments, deleting "1000" and inserting "100", adding "1000 copies in French language", adding "one hundred copies in the Pot-
tawatomie language" (Representative Cowgill), tabling and postponing the Bill indefinitely. The Indiana House Journal of 1852 does not include the full transcript of the debates, but only laconic motions and the results of voting. After a prolonged debate the Bill went through all three readings and passed in the House on May 27, 1852, by a vote of 64 ayes to 14 noes. The Bill passed smoothly in the Senate on June 9, 1852 with 36 senators voting in the affirmative and only one, Senator Turman, in the negative. It was signed by the Governor on June 16, 1852, and published in Indiana session laws (Special and local acts) passed at the thirty-sixth session of the General Assembly as its chapter 45. Section 2 of this Act directed the Secretary of State to forward one copy of the German translation of session laws to the clerk of the circuit court of each county, which should be preserved in the office of the clerk.

The 1852 session was also one of those exceptional sessions when the publication of a new edition of Revised Statutes with the Code of Civil and Criminal Practice was adopted. Thus, eventually the session laws of 1852 consisted of three volumes: a two-volume Revised Statutes including courts, their jurisdiction, and practice therein, and a third volume containing Special and local acts. Revised Statutes were printed in English in fifteen thousand copies, Special and local acts in six thousand copies. This last volume was not translated in German, but the first two were published in 1853 under the title Die Revidirten Gesetze des Staaates Indiana.

The Indiana Legislature had not handled any matters concerning the German language for several years. In February 1859, Senate Bill No. 262 was introduced by Senator O'Brien to provide for the printing and binding of 2000 copies of the laws passed at the special session of the General Assembly in the year 1858, and at the regular session thereof in the year 1859, in the German language, and for the distr-

17. The title of the act was *An Act to Authorize the State Printer, to Print, Bind and Publish One Thousand Copies of the Laws Passed by the Present General Assembly, in the German Language*.
18. Since this publication is a bibliographical rarity today (Indiana State Library, Indiana University Library and the University of Notre Dame Library have one set each) its title page is reproduced here: Die revidirten Gesetze des Staaates Indiana, erlassen in der sechszufeldigkeiten Sitzung der General-Versammlung; nebst diversen Verordnungen, Ordonnansen und öffentlichen Dokumenten, deren Druck mit den besagten Gesetzen verordnet wurde. Diesen sind vorangeschicked die Constitution der Vereinigten Staaten und die des Staaates Indiana. Gedruckt und herausgegeben nach dem Gesetz. Indianapolis, Gedruckt in der Druckerei des Indiana Volksblattes, 1853. The title page of the second volume includes in addition the words: "enthaltend Gerichtshöfe, deren Gerichtsbarkeit und Praxis." The first volume has xv, 650 pages, the second volume has xii, 830 pages. Both are printed in Gothic letters.
bution and sale of the same. The Bill passed the Senate on March 4, 1859, by a 37 to 6 majority, and passed the House without debate by a 64 to 8 majority. It was signed by the Governor on March 5, 1859, and published in Indiana session laws 1859 as its chapter 72. Section 2 of this Act directed the Secretary of State "to distribute copies printed in the German language in such manner and proportion to the several counties, as may effectuate the purpose of this act." A German edition of the Indiana laws was also published during the next legislature of 1861. It included the regular January session, as well as the extraordinary April session.

The last German edition of the Indiana session laws was published in 1867. Legislative journals do not give us any clues as to later attempts to continue the publication of state laws in German. The fact of their official distribution in the past seems to indicate a need for laws in German. The press of the nineteenth century reported from time to time rather exceptional cases of trials before state courts where the judge, the jury, the lawyers, the parties and witnesses, all talked in the court room in German only. Jury deliberations in German were not uncommon in some state courts.

Pennsylvania

The number of persons of German descent living in Pennsylvania during the first half of the nineteenth century was significant. However, it was not the number of German speaking Pennsylvanians alone, but rather their perseverance and political maturity which caused the legislature as early as 1805 to authorize an official publication of laws in German. According to the Act published as chapter 89 of the 1805

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22. See e.g., the news in "DER DEUTSCHE PIONIER" (Cincinnati) at 76 (1876).
session laws, the Governor was authorized and required to subscribe for one thousand copies of the laws as published by Collinson Read, in his Digest of the laws of the Commonwealth of Pennsylvania, to be translated, digested and published in the German language by John Ritter and Charles Kessler of the borough of Reading. Based on this Act a thick volume of laws in German was published two years later.\textsuperscript{22} The preface states that this is the first experiment (Versuch) in the United States aimed at giving to the German citizens and residents of Pennsylvania their laws in their native language. The editors and translators expressed the hope to be able to continue the publication of German translations of state laws every two years.

Apparently, the response had not met the original expectation. The next time the laws were published in German was during the 1836-37 legislative session. On January 21, 1837 an act was passed authorizing the printing and distribution of five hundred copies of the pamphlet laws in the German language, not only for the current session but also for future sessions.\textsuperscript{24} By Act No. 107 of the same session the number of copies of German translations was raised from five hundred to two thousand.\textsuperscript{25} Act No. 95 of the 1840 session limited this number to twelve hundred copies.

In 1843 the office of State Printer was established\textsuperscript{26} consisting of two persons, one to do the English, and one to do the German printing of the Commonwealth. The number of copies of laws printed in German was further limited to five hundred. In 1844 detailed regulations as to printing were established for the next three years.\textsuperscript{27} In 1847 additional numbers of various reports of executive departments were ordered to be printed in German.\textsuperscript{28} Finally, Act No. 6 of the 1850 session repealed all previous acts of the assembly providing for printing and binding the journals of the legislature and laws in the German language.\textsuperscript{29}

\begin{itemize}
  \item The volume is printed in Gothic letters. It has lxix, 7,756 pages, and an index of 12 more pages. This publication is completely forgotten today. It is not listed in the \textbf{MacDonald's Checklist of Session Laws}, New York, 1936, and in \textbf{Pimsleur's Checklist of Basic American Legal Publications}, South Hackensack, 1962. It is listed, however, in \textbf{Seidensticker's The First Century of German Printing in America, 1728-1830}, Philadelphia 171 (1893). The author of this article saw one copy of this rare publication in the Harvard Law Library, and one copy in the Columbia Law Library.
  \item Law of Jan. 21, 1837, No. 9 [1837] Penn. Laws 1836-37 (repealed 1850).
  \item The 1836-37 volume of laws in German was printed by Joseph Ehrenfried in Harrisburg. It contains 110 acts and 24 resolutions (Beschliisse). The 1837-38 volume was printed in Harrisburg, but the next two volumes (1839-40 and 1840) were printed by Francis Frank in Neu-Berlin.
  \item Law of March 24, 1843, No. 56 [1843] Penn. Laws 1843 (repealed 1850).
  \item Law of Jan. 25, 1847, No. 15 [1847] Penn. Laws 1847 (repealed 1850).
  \item Law of Jan. 21, 1850, No. 6 [1850] Penn. Laws 1850 (repealed 1876).
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Ohio

The considerable number of German immigrants in this state in the nineteenth century were not as successful as the Germans of Pennsylvania in obtaining bilingual laws. A petition of a large number of German inhabitants of Ohio prayed in 1815 that “a law may be passed, to have part of the laws and journals printed in the German language.” A joint committee on propositions and grievances was of the opinion that the prayer was reasonable. The recommendation of the Committee was rejected by a slight margin in the General Assembly. A similar petition, submitted to the Legislature of 1816, fared better; an amount of $1300 was appropriated for the translation and publication of the state constitution and laws of general nature in German. It must be noted, however, that this and subsequent official publications of laws in German never extended to a full German edition of state session laws. Only selected laws were translated and published in separate German editions. For example, the publication, in Lancaster, Ohio, of the German language edition contained only seven acts of the 1826 Legislature. The state laws of 1829, 1831 and of following years authorized publication in German of school laws and certain other selected state laws of general nature.

Colorado

Colorado is the only state which had at any one time parallel editions of session laws in three languages. Spanish editions of session laws were published beginning with the first territorial session in September 1861. Copies covering the first six sessions are preserved; however, it is uncertain whether the laws passed by the seventh through the tenth sessions were also printed in Spanish. General laws of the Territory for the year 1876 contained an “Act to provide for the printing of the acts of the Legislative Assembly of Colorado Territory for the year 1876, in the Spanish language.” The first section of this Act authorizes the Secretary of the Territory to publish 250 copies of the General Acts of the General Assembly and those having specific application to the counties of Costilla, Conejos, Las Animas, Huerfano and Saguache for the year 1876, in the Spanish language. The second section directs the order of distribution of Spanish copies: Costilla county—40, Conejos—40, Las Animas—75, Huerfano—50, Saguache—10, Río Grande—

30. Ohio petition to the Legislature, no. 270, 1815.
31. Ohio recommendation of Committee of General Assembly, no. 271, 1815.
32. Authorized by the Act of February 20, 1824, 22 Ohio LL, 41.
33. Law of February 9, 1876, at 84 [1876] Colo. Laws 1870-2-4-76.
10. The remaining 25 copies were "to be retained by the Secretary for the future use of such members of the Legislative Assembly as speak the Spanish language."³⁴

During the Constitutional Convention which convened in Denver on December 20, 1875, the language problem was raised by delegates Hough on January 10, 1876. Hough offered a resolution "that all laws, decrees, regulations and provisions which from their nature require publication shall be published in English and Spanish."³⁵ Delegate Ebert moved to amend the resolution by inserting the words "and German" after the word "Spanish." The amended resolution was referred to the appropriate committee.

In the next meeting of the Convention, on January 18, 1876, delegate Barela offered the resolution "that one fourth of all the copies of the Constitution and laws shall be printed in Spanish for the benefit of the portion of our citizens who speak that language."³⁶ Delegate Garcia moved that the number of laws printed in Spanish "shall be in proportion as the Spanish speaking population of the State to English."³⁷ On February 5, 1876 the Committee on Miscellaneous Subjects recommended the publication of the laws passed at each session of the General Assembly in Spanish and German "to supply that portion of the inhabitants of the State who speak those languages and who may be unable to read and understand the English language."³⁸ Delegates Cooper and Felton offered an amendment putting a time limit on publication "until the year 1900."³⁹

The amended resolutions were adopted on March 10, 1876. As the result, article XVIII, § 8 of the Constitution of the State of Colorado of March 14, 1876 states:

Until the year 1900 they [the General Assembly] shall cause to be published in Spanish and German a sufficient number of copies of said laws, to supply that portion of the inhabitants of the State who speak those languages, and who may be unable to read and understand the English language.⁴⁰

³⁴. Id.
³⁷. Proceedings, 162.
⁴⁰. Proceedings of the Constitutional Convention held in Denver, December 20, 1875, to frame a Constitution for the State of Colorado (1907) pp. 100, 139, 161, 243, 244, 282, 283, 638.
Twenty thousand copies of the constitution were printed in English, two thousand copies in Spanish and one thousand copies in German. Five thousand copies of the session laws were printed in English, three hundred copies in Spanish and three hundred copies in German. Only two volumes of session laws in German were published. They were for the second (1879) and third (1881) sessions, and both were printed in Denver by the "Times" and "Tribune Publishing Company" respectively.

As provided by the constitution, the publication of Spanish editions of state session laws continued through twelve legislatures, up to and including the year 1899. In addition to session laws, several voluminous compilations of Colorado laws were published in Spanish and German between 1872 and 1887.

New Mexico

New Mexico is the only state where the laws in Spanish were published as late as 1949, a full century after the first territorial laws were printed. The first New Mexico session laws were those for the Legislative Assembly which convened in December 1847, with the English version of the laws on one page, and the Spanish text on the opposite page. This format of alternate English and Spanish pages was maintained through the session laws of 1867, after which time the English and Spanish versions were printed separately. The session laws for the first regular territorial session, held in June 1851, were published in Washington, D.C. as a U.S. Senate document, but all other session laws were locally printed within New Mexico. Until approximately 1870 laws were frequently enacted in Spanish and then translated into English. After that time, the laws were generally enacted in English and then translated into Spanish.42

The state Constitution of 1912 provided, in article XX, § 12, for the publication of the laws in both English and Spanish for twenty years after statehood. This period was extended for an additional ten year period by New Mexico Laws, 1931, ch. 113, and again for an additional ten years by New Mexico Laws, 1943, ch. 31. All state laws with the exception of the special session of 1934 were published in separate English and Spanish editions until and including the 1949 session. Poldervaart maintains that the failure of later legislative sessions to appropriate necessary funds, appears to be responsible for a premature

41. Colorado Annotated Statutes § 3672 (Mills, 1891).
discontinuance of the Spanish edition. Since 1951, only an English edition has been published. Several statutory compilations were published in English and Spanish between 1847 (Kearny code) and 1885. Annotated statutes in Spanish only were published in 1915.

**California**

The publication of the California state laws in Spanish had its beginnings in the constitutional provision of 1849: article XI, Miscellaneous provisions, § 21 states that "All laws, decrees, regulations, and provisions, which from their nature require publication, shall be published in English and Spanish." Based upon this constitutional authorization, several acts were issued regulating various aspects of publication of Spanish editions of session laws. The first act created the office of State Translator. Soon thereafter another statute was passed to provide for distribution of the journals, laws, supreme court reports, and other documents. It provided for the printing of 1050 copies in English and 350 copies in Spanish of all the laws of California passed at that session of the Legislature. Next came the amendments of 1852, 1853, 1859, 1863 and 1871 which established elaborate procedural devices. A joint legislature committee was appointed whose duty was to designate the laws and resolutions to be translated, and to decide upon the qualifications of translators. A bidding for the translation was provided, and the lowest bidder was to receive preference over the others. Furthermore, the translators had to take an oath for the faithful and correct translation, and also had to give a bond in an amount ranging from $1,000 to $30,000.

The laws were published in a very limited number of copies. For example, the third session of the General Assembly, which convened in January 1852, authorized the publication of seven hundred copies of session laws in English, and three hundred copies in Spanish. An act of April 29, 1852, ch. 50, contained an interesting regulation as to the

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43. *Id.* at 52, n. 17.
44. This provision was made part of the Constitution in spirit of the treaty of Guadalupe Hidalgo of 1848 which assured Mexicans residing in all the places occupied the protection of person and property guaranteed by the Constitution and laws of the Republic.
45. Act of January 31, 1850, ch. 5.
46. Act of April 22, 1850, ch. 124.
47. Ch. 51.
48. Ch. 36, (repealed 1854), ch. 66.
49. Ch. 153.
50. Ch. 430.
51. Ch. 42.
distribution of laws in Spanish.\textsuperscript{52}

Characteristically, Spanish editions of California session laws before 1863 were abridged editions of the original English volumes. The ratio between English and Spanish contents oscillates between 3:1 and 3:2. The last Spanish edition was published in 1878 for the 1877-78 session. The constitution of 1879 prohibited the use of any other language for the publication of laws.\textsuperscript{53} Laws authorizing the publication of Spanish editions of session laws were formally repealed in 1897.\textsuperscript{54} The laws for the first and second session (1849-51) were published in Spanish several years after their enactment (1859).\textsuperscript{55}

\textit{Louisiana}

The laws of the first session of the Legislative Council of the Territory of Orleans in 1804\textsuperscript{56} were published in French and English on opposite pages. The constitution of 1812, the first state constitution, required by circumscript\textsuperscript{57} that the laws be promulgated and preserved "in the language in which the Constitution of the United States is written." This requirement was repeated in later constitutions of 1845,\textsuperscript{58} 1852\textsuperscript{59} and 1864.\textsuperscript{60} According to article 109 of the constitution of 1868 the laws were to be promulgated and preserved in the English language. By article 165 of the 1879 constitution, later adopted by the 1913 constitution, the legislature was given the authority to provide for publication in the French language.

Under these constitutional provisions the laws were printed in both English and French on opposite pages from 1804 to 1867 inclusive, and for both extra sessions of 1881. Since that time all laws were published only in English. The constitutionally granted privilege men-

\textsuperscript{52} The distribution of the laws in Spanish shall be made by the Secretary of State, as follows: one copy to each Justice of the Supreme Court, to each District Judge, to each County Clerk, to each Senator and member of the Assembly in the counties of Sonoma, Marin, Mendocino, Contra Costa, Santa Clara, Monterey, San Luis Obispo, Santa Barbara, San Diego, and Los Angeles, and to each county judge in said counties. The residue shall remain in the State Library until otherwise disposed of by law.
\textsuperscript{53} Art. IV, § 24.
\textsuperscript{54} Law of March 9, 1897, ch. 96 [1897].
\textsuperscript{55} The title page of this first California edition is here given:
Leyes de California aprobadas durante la primera y segunda sesion de la Legislatura. Traducidas par Miguel Smith (Agente de W.E.P. Harnell), John O'Meara, Impresor del Estado, 1859. (The volume has a preface written by the translator.)
\textsuperscript{56} Title page is in English only.
\textsuperscript{57} Art. 6, § 15.
\textsuperscript{58} Art. 103.
\textsuperscript{59} Art. 100.
\textsuperscript{60} Art. 103.
tioned above, authorizing the publication of laws in both languages, was not utilized.

Summary

A little over one hundred different volumes of territorial and state session laws were published before 1949. Some older volumes are preserved in only a few libraries. Since this article deals with laws of general nature binding the whole population of a territorial unit, special laws of Indian tribes are not included. However, mention should be made of some forty volumes of laws of Indian tribes published in the United States between 1827 and 1899 in English and in a vernacular translation, or vice-versa. Of the fifteen Indian nations and tribes having written law, six not only had English but also other language editions: Cherokee, Chickasaw in Choctaw, Choctaw, Creek, Nez Perce and Seneca. Laws of Navaho Indians are published in English. In addition, briefly noted is the considerable number of non-official translations of the United States and state constitutions, as well as selected laws into dozens of foreign languages. Especially, the Constitution of the United States was translated into languages of virtually every ethnic group of immigrants in the United States.

Kloss gives a highly interesting account of bilingualism on the Federal level in the first decades of independence of the United States. Because of the active participation of the German speaking population in the American War of Independence, the Continental Congress ordered five times in the years 1774 to 1779 German translations of selected proceedings of the Congress to be published, as well as a German translation of the Articles of Confederation.

Americans of German descent of Augusta County in Virginia submitted, in 1794, to the Third Congress of the United States a petition

62. See Navajo Tribal Code (1969 ed.).
63. One of the last such publications is the translation of the U.S. Constitution and the Declaration of Independence into Ukrainian language, with the active cooperation of the author of this article. The translation was published on pages 49-90 of Arnold Margolin's Derzhavnyi Ustii Spoluchenynkh Shetativ Ameryky (The Structure of Government of the United States of America), Ukrainian Academy of Arts and Sciences (1956). This kind of translation is very useful, insofar as it helps new immigrants in preparation for naturalization exams.
to publish Federal laws in the German language. The petition was given careful consideration by a special committee of the House of Representatives which recommended the printing of two thousand copies of Federal laws in German. The recommendation of the Committee was defeated in the House on January 13, 1795, by a 41 to 42 vote. This action initiated the legend, alive to the present day, that the question of the official language of the United States was at stake, and that not much was needed at that time to make German the official language instead of English.\(^6\)

**Interpretation of Laws in Foreign Languages**

We have evidence that many of the non-English versions of state laws were in fact applied by courts in their ordinary judicial activity. Laws of New Mexico provide that “the language in which the said laws were originally passed shall govern, whether it be Spanish or English.”\(^7\) It is, in practice, not always easy to ascertain whether an early New Mexico act was originally passed in Spanish or English. At least five decisions of the Supreme Court of New Mexico deal with this problem.\(^8\)

In the interpretation of laws written in English and French in Louisiana, the following rules were developed: Justice Martin in *Hudson v. Grieve*,\(^9\) decided that where the law as printed in the two languages presented distinct ideas, a compliance with either was sufficient.\(^7\) Thirty years later the Louisiana Supreme Court in *Fink v. Lalande*,\(^7\) observed that the English and French texts of laws passed before the constitution of 1812 are of equal validity and in construing them effect must be given to both. Cases decided after the adoption of the constitution of 1812 have held that the English text was the law and must be followed, and that in case of a conflict in the English and French parts of the act the French version must yield. However, in cases of uncertainty the French part may be used to explain the uncertainty.\(^7\) The United States Supreme

\(^{66}\) For a special article devoted to this question see Lohr, *Deutsch als "Landessprache" der Vereinigten Staaten?* in *MITTEILUNGEN DER DEUTSCHEN AKADEMIE*, (1931) at 283-290.

\(^{67}\) Law of Jan. 8, 1874, ch. 1, § 1, New Mexico Territory Laws 17, (noted in vol. 1, New Mexico Stats. Ann. at 1-1-1n.).

\(^{68}\) Leonardo v. Territory, 1 N.M. 291 (1859); Douglass v. Lewis, 3 N.M. 345, 9 P. 377 (1886); Wells v. Dice, 33 N.M. 647, 275 P. 90 (1929); Application of Dasingburg, 45 N.M. 184, 113 P.2d 569 (1941); Granito v. Grace, 56 N.M. 652, 248 P.2d 210 (1952). See also Foldervaart, *supra* note 42, at 53.

\(^{69}\) 1 Mart (U.S.), 143, (1810).

\(^{70}\) Id. at 144.

\(^{71}\) 16 La. 547 (1840).

Court in its summary on statutory interpretation in Louisiana recognized [in Viterbo v. Friedländer,73] the aid derived from the greater precision of the French text in clearing up obscurities or ambiguities of the English text.74

Conclusion

The legal status of different languages in the realm of international law and diplomacy is the subject of numerous studies.75 The legal status of languages within a single legal system is far less known. Thus far, the question of the right of a linguistic minority to have generally binding laws of the state published officially in the language of the minority has not attracted the attention of legal writers. Official publications of general laws in more than one language is an exception to the rule that laws are published only in the official language of the land. Pre-revolutionary Russia, with more than one hundred different linguistic groups had only one official language: Russian. Consequently, general laws were published in Russian only. The Baltic provinces with their different legal system and a strong German element also had, by way of exception, their laws published in German.

Where more than one language is official, the laws are published in more than one language. This is the case in Switzerland,76 Belgium,77 Finland,78 South Africa,79 Cyprus,80 Ireland,81 India,82 Pakistan,83 Malta84 and Canada.85 In Austria-Hungary laws were published before 1918 in ten provincial languages. Unique is the situation in the Soviet Union. Federal laws are published in Russian and in the fourteen languages of the Union Republics other than RSFSR. The laws of union republics are published in two editions: in the language of the Republic and in the Russian language. Exceptionally, the Constitution of the Byelorussian Republic provided in the past, article 25, for the publication

73. 120 U.S. 707, 725 (1887).
75. E.g., A. Ostrower, Language, Law, and Diplomacy (1965). This two-volume work includes extensive bibliographies.
76. Bundesverfassung der Schweizerischen Eidgenossenschaft, Constitution, art. 116 (Swiss, 1874).
77. Constitution art. 23 (Belgium, 1831) and the Law of April 18, 1898, Loi Relative à la Sanction et à la Promulgation des Lois, [1909] Moniteur.
78. Hallitusmotto (Constitution) art. 14 (Finland, 1919).
80. Kyriakon Synagma (Constitution) art. 2 (Cyprus, 1960).
81. Ire. Const. art. 8 (1937) and the implementing legislation.
82. India Const. art. 71, §§ 343-47 (1949).
84. Malta Const. art. 5 (1964).
85. British North America Act § 133 (Canada, 1867).
of republican laws in four languages: Byelorussian, Russian, Polish and Yiddish. Similar regulation is to be found in Yugoslavia. Federal legislation is in Serbo-Croatian, and republican laws are in the language of the republic and in Serbo-Croatian. In all the bilingual or multilingual countries listed above, we must deal with sizable groups of population, settled on a given territory in compact masses for a very long time, and permanently using a different language.

Returning to the conditions in the United States and reviewing the more than one hundred year history of official publications of state laws in non-English languages in several states, one should distinguish between states such as Pennsylvania, Indiana and Ohio, on one side, and southwestern states on the other. New Mexico, Southern California and, to a lesser degree, the southern part of Colorado, had a considerable local Spanish speaking population with only slight or no knowledge of English. Many positions in the local administration were held by these people at the time of the annexation of these territories to the United States. Hence, the Spanish language was customarily used in many local and state offices. The same was true in Louisiana with the French language. Non-English laws were not only useful but necessary for a better administration of justice. The fact that border states like Texas and Arizona never published laws in Spanish is explained by the fact that very few Spanish speaking people lived in these territories in the mid-nineteenth century.

The history of the publication of laws in German may be explained in a different way. New immigrants, transplanted from from their homeland in Europe into a new environment with different laws and a different language, were trying to preserve as much as possible their old heritage. To bring along their European legal system was impossible. Therefore, German immigrants concentrated on the language problem. Besides German private schools, press and other publications, the German groups in Pennsylvania, Indiana, Ohio and Colorado were successful in convincing state legislatures of the necessity of publishing general state laws in German, at least for a transitory period. Brief and fragmentary success of this plan affirms the conviction of this writer that German session laws were not a matter of absolute or continued necessity.

Another detail supports this conviction. Although one cannot deny the skill of the German translators of the nineteenth century, the translations, especially those of Pennsylvania laws, contain a number of untranslated English terms, like “court,” “sheriff,” “jury,” “county,” “township,” “commissioner” and “assembly.” The foreword to the 1805 Pennsylvania compilation explains that the readers will better understand the word “court” than the German word “Gericht.” Here is the
weakness of the whole idea of translating laws. Customarily, laws, are
read, interpreted, and applied by lawyers only, and not by the population
as a whole. Laws in unofficial languages of a state make sense only
in connection with the admission of such languages to courts and other
state offices. Where the court business is transacted in the one official
language only, publication of laws in translations does not have great
practical significance.

Recent court decisions discussed at the beginning of this article
opened a new legal aspect of the right of linguistic minorities not to be
discriminated against on account of insufficient knowledge of English.
Whether this will eventually bring back the publication of laws in more
than one language is hard to predict. An understanding of the English
language, including an ability to read, write, and speak words in ordinary
usage in the English language is now one of the prerequisites of natural-
ization of aliens. \(^6\) Except for Puerto Ricans educated in American-flag
schools in which the predominant classroom language was Spanish, and
possibly some groups of Indian and Mexican origin, there are not,
at the present time, any other minority groups in this country unable to
communicate in English.
