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OÑATE A MARAUDER?

By GEORGE P. HAMMOND

NEW light continues to be shed upon many phases of American history as the veil shadowing the past is pushed back, now here, now there, by students burrowing in archives at home and abroad. New Mexico, a truly pioneer American commonwealth, is one of the regions in which this is especially true. For a period of two and a half centuries it was a province of Spain, or of her daughter, Mexico. Spain, in this Indian land, introduced new ideals of government, of religion, of a social order, and New Mexico began to assume those strikingly individual characteristics which were later to make it unique among the states of the American union.

The influence of Spain in New Mexico has, for nearly a century now, been enriched by contact with an Anglo-Saxon race, bringing the fruits of its peculiar qualities, spiritual as well as materialistic. In this manner the Indian, Spanish, Mexican, and Anglo-Saxon civilizations have been fused in the crucible that we call the state of New Mexico. Here, the aim has been not to destroy, but to preserve the best of the various culture contacts that are New Mexico's special characteristic. Today, as never before, we are conscious of the heritage that is ours. To learn more about it is a matter of pride to the citizens of the state and of the nation, for an ever-increasing number recognize its rich historical lore.

Few episodes in the history of the Southwest are as interesting as the founding of Spain's border colonies. First

among these in the sixteenth century was *Nuevo México*. As the name implies, this Pueblo land was conceived of as "another Mexico," a land of wealth as fabulous as that which Cortés and the Spanish conquerors had found in Mexico, or as Pizarro and his lieutenants had found in Peru. This land of settled Indians had been heard of by Cabeza de Vaca during his wanderings in Texas and northern Mexico, and his stories, widely heralded upon his return to civilization, proved the mainspring of the great Coronado expedition, which, it was certain, would add new glory and wealthy provinces to Spain's expanding empire. Coronado succeeded in finding the pueblos and the settled Indians of Cabeza de Vaca's stories, but they contained none of the treasure the conquerors needed, and the new land was soon forgotten. Forty years later, however, Pueblo land was again heard of, as the mining frontier had pushed north, and thereupon Captain Francisco Sánchez Chamuscado and Father Agustín Rodríguez entered New Mexico from Chihuahua, 1581-1582, and the survivors of their party came back with great hopes of having found a province as rich in material resources as in souls to be saved. They were immediately followed by Don Antonio Espejo and Father Bernardino Beltrán, whose travels covered most of the Pueblo country, and whose dreams were not dimmed one whit thereby. The boom was still gathering momentum.

Philip II of Spain and his Council of the Indies, ever ready to listen to such reports as came from this long hoped-for "New" Mexico, ordered that the conquest and settlement of the land be undertaken and that an individual of standing and wealth be awarded a contract for the purpose. Mexico's most prominent men sought the honor. Espejo applied, but failed to win. Juan Bautista de Lomas y Colmenares, reputed to be one of the richest men in New Galicia, was given a contract by the viceroy of Mexico in 1589, but he did not secure the approval of the home government. Most prominent of the remaining candidates was Don Juan de Oñate, another wealthy son of New Galicia, and, in 1595,

he attained the long-sought honor and received a contract for the conquest, becoming first governor and captain general of New Mexico.

Oñate's tribulations began at once. A change of viceroys took place shortly after the signing of his contract, and, while he was busy with fife and drum enlisting men, others sought to undermine his position. With the nucleus of his army, Oñate meanwhile proceeded to the New Galicia frontier, recruiting busily all the while, confident of success. The new viceroy, however, growing uneasy or suspicious owing to the charges Oñate's enemies circulated, requested the crown to suspend him till the truth could be learned. This step led to two years of delays, Oñate in the meantime striving to keep his army together, for the king did order his suspension, the news of which reached the army at the Rio de las Nazas on September 9, 1596.

What should now be done? Could Oñate hope to keep his forces together, while his friends brought pressure to bear upon the government? To disband meant disaster, obviously, for it would mean that the investment of every captain and soldier was lost. For Oñate this step was unthinkable, and therefore he set to work to keep up the enthusiasm of his men, concealing from them the truth of their situation. For over a year he carried on thus, and, somehow or other, he succeeded in supplying his soldier-colonists with food and in leading them into New Mexico early in 1598. Up till the present time we have known but very little of how he managed to do this. So powerful was he that criticism of his behavior apparently did not go very far. After he got to New Mexico, for example, he maintained a strict censorship, and the folks back home got only the rosy-colored reports which he permitted to be sent, until the desertion of the colony in 1601.

Now, however, from the archives of Guadalajara, comes documentary proof of Oñate's conduct during his two years of waiting on the frontier, documents which brand him as a "marauder," and throw entirely new light on his

activities while he and his army marked time, awaiting the king's permission to go to New Mexico.¹ It is true that the finger of suspicion was usually pointed at conquerors like Oñate, but not till the present has any definite information regarding his high-handed acts come to light. In particular, Oñate was charged with sending his soldiers and captains to round up and seize whatever oxen, horses, equipment, or Indians they could find; and they were charged, furthermore, with having invaded the estates of the wealthy Juan Bautista de Lomas y Colmenares, erstwhile candidate for Oñate's governorship. It is to be noted, moreover, that this raid took place in October, 1596, just a month after Oñate had received the order of suspension, prohibiting him from continuing his expedition. It is apparent that he was in desperate straits. Likewise, it may not have been entirely accidental that it was the property of Juan Bautista de Lomas which was seized by Oñate's soldiers.

The accompanying document is intensely interesting, for it provides enough details to give us an insight into what took place. It is the criminal complaint of Juan Bautista de Lomas which he brought before the judge of Nieves against Oñate and his captains, together with the hearings which the judge conducted in the case. Both Lomas and Oñate were influential men, among the foremost in Mexico. Under the circumstances, it is probably not strange that the case was finally referred to the viceroy in Mexico City, where it was apparently pigeon-holed, for at present we know nothing further about the matter.

Finally, what shall we say to the question, was Oñate a marauder? We may safely suggest that he was not any more lawless than other frontier governors, probably much less. This isolated document is after all the first real proof

1. This document, recently brought to light in the archives of Guadalajara by Luis Páez Brotchie, is from the records of the royal audiencia of the same city. It was read before the Jalisco section of the "Sociedad Mexicana de Geografía y Estadística," in August, 1933, and published in the *Boletín* of the Jalisco branch of this society, in December, 1934. I am indebted to Mr. Lansing B. Bloom for a copy of this bulletin, given to him in Mexico City this summer by Lic. Vito Alessio Robles.

against him of a practice which was very common in all the outlying provinces.

DOCUMENTARY SECTION

"At sunrise October 14, 1596, six soldiers and a captain, armed with guns and coats of mail, invaded some charcoal fields² which Don Juan Bautista de Lomas, the rich owner of the mines of Nuestra Señora de las Nieves, Zacatecas, possessed, about eight leagues from his estate, for the purpose of extracting silver, and which were inhabited by more than thirty persons. The soldiers came, pointing their guns at the people, even at the Spanish mayordomo, and with force and violence robbed the place of all there was, 150 oxen, twenty horses, a large quantity of axes and adzes, equipment and other things, in all amounting to more than 6,000 pesos in value. They opened a chest of the mayordomo's and took away what it contained. They took Clara and María, the wives of Juan Bonifacio and Juan Martín, married Indians, and manacled them. From Gabriel, an Indian cartwright, they seized a boy of ten years, named Gabriel Melchor, and manacled him also. Likewise they despoiled Lomas' cartwright of more than twenty mules from those that had been allotted to the foundry, more than thirty horses from the pastures where they kept the small stock, five or six slaves, and a large number of mares, young bulls, and cows from the cattle ranches.

"The following day D. Juan Bautista presented his complaint before the judge and justicia mayor of Nieves, Captain D. Juan de Herrera, criminally charging D. Juan de Oñate, 'who claims to be governor of the provinces of New Mexico,' and all his captains and soldiers, with depopulating, destroying, and wasting his estates, depriving him of the means of mining silver, whereby his majesty is seri-

2. "Unas haciendas de hacer carbon," meaning the places where the Indians gathered wood and burned it to produce charcoal.

ously defrauded of his royal fifths.³ All this was done with but little fear of God and great disregard for the royal ordinances of the king, our lord, of which they were warned, and by which he is ordered not to approach my estates, says the complainant, nor to permit any of his captains or soldiers to approach or cross them. Likewise he charged that Oñate had said that he would send a captain and soldiers to kill him, and that it was a well-known and notorious fact that a certain D. Juan de Morales came with soldiers to threaten him if he should even claim his rights.

"The judge opened the verbal process, naming Juan de Vargas, versed in the Tarascan and Mexican languages, as interpreter to examine the Indian witnesses.

"The first to come was Gabriel Clemente, native of Tula, a carpenter, residing in Lomas' charcoal fields, who said six soldiers came about eight o'clock in the morning and he saw them descend a little hill and they went straight to where the Spaniard⁴ was and asked him to give them something to eat; and, after they had eaten, one of the soldiers left the others and came to the house of this witness and seized a boy of his named Gabriel Melchor and put him on the horse together with an older son of his named Gaspar; this witness, when he saw Gabriel Melchor on horseback and that he wanted to get down, seized him by the arm and pulled him from the horse to the ground, and the boy began to run down an arroyo, the soldier after him with the gun in his hands, threatening him. In the meantime, the other boy named Gaspar fled, and also hid; but the soldier seized Gabriel and put him back on the horse again. This witness, because he defended them, was thrown to the ground and kicked and pummeled. After the soldier finished with him, this witness got up and began to flee. The witness appeared to be more than fifty years of age.

3. The quinto, or royal fifth, was a twenty per cent tax which the crown collected on newly mined ores and other precious metals.

4. The mayordomo.

"Juan Bonifacio, native of Chilchota, province of Michoacán, said that, being in the forest cutting wood for making charcoal, they came to call him, saying that some soldiers were running off with his wife by force; and thus he came to see what was going on. When he arrived at the rancho, he did not find her because they had taken her away. The witness appeared to be about twenty-five years old.

"Miguel Angel, captain of the carts to the charcoal fields, said that, while preparing the yoke-straps to yoke the oxen to the charcoal carts, he saw six soldiers coming on horseback, who went to the house of Juan Martín, a married Indian; they dismounted, went inside, and tried to seize Clara, wife of this Indian, but the woman rushed out and fled. Then he went to help at the place where Juanes de Artiaga, the mayordomo, was. At this moment a soldier came and seized the said Joannes by the collar band and threatened him, saying that he should keep still and not defend the Indian woman, for he vowed to God that he would take her away and that he would kill him if he defended her. With this threat the mayordomo made no further effort at resistance, and thus the soldiers seized the woman and put her on a horse to take her away. While this was going on with the said Clara, another Indian woman, named María, married to Juan Bonifacio, an Indian, seeking to hide, fled from her house, but a soldier went after her and seized her and likewise compelled her to mount a horse, and they carried off both women. This witness appeared to be about twenty years old.

"Diego Juárez, Indian, native of Mexico, who works in the cattle business, said that the soldier whom they called captain told the mayordomo to give them an Indian woman from those on the rancho, to serve them. He replied, however, that he had no Indian woman, for those who were there were married, and that if he wished to see it, he would show him the book in which they were so recorded, and that he kept a regular account of this. To this the captain replied that, although they might be married, he must give

them up, and should the Indians, their husbands, follow them, there on the road they would kill them. And thus he ordered one of the soldiers to seize the Indian woman named Clara; and the woman, when she saw they were going to seize her, fled to Juanes for aid; and thus she stayed with him a little while recovering, until a soldier seized her and commanded: 'Go and bring your clothes.' The woman took out some clothes wrapped in a blanket. Then the captain asked the woman if she had any more clothes. She said yes, but that they were in the hands of Juan de Artiaga. Whereupon the captain required Artiaga to give them up at once, but he replied that he had no clothes belonging to Clara. In response to this the captain ordered a soldier to take the key from Juanes and open the chest to see what was within and to take the clothing. So the soldier opened the chest and took out the clothes of Clara, the Indian woman, and of Juan de Artiaga. Afterwards the captain told another soldier to go for another Indian woman in another house and to bring her so that she might go along. This woman, named María, was married to Juan Bonifacio. When this woman realized what was going on, before the soldier got to her house, she fled and ran through a cornfield next to her house. But another soldier who saw her go, seized her, and they placed her on the back of a horse and took her away together with the other Indian woman, Clara, and with Gabriel, the boy. This witness also saw how they took from Juan de Artiaga a little bell with which they sounded the call to prayers. They went with the two Indian women and boy and, after they had gone, the said Juanes told this witness and other Indian men who were there that they should be witnesses as to how they had also taken the oxen and raided the pens.⁵ This is what he knows, which, being read to him and explained by the interpreter, he said he affirmed and approved. He said he was thirty years of age, more or less.

5. "Cómo también llevaban los bueyes y los chiqueros."

“Juan Martín, Indian, native of the pueblo of Uruapa, said that while in the forest cutting wood an Indian came from the rancho and said: ‘We are going to the ranch because some soldiers are running off with your wife.’ So this witness stopped cutting wood and went to the rancho. When he got there he did not find the Indian woman, Clara, his wife, and asking about her they replied that some soldiers had carried her away, and also María, wife of Juan Bonifacio, and Gabriel Melchor, son of Gabriel, the carpenter. They also told this witness how they had carried off the axes and the *comal*⁶ which this witness had in his house, and he knows that, some days after this, after the soldiers had been there, many horses were missing from the rancho and the charcoal fields but that he did not know who had taken them. The witness appeared to be more than twenty years old.

“On the same day, month, and year [Oct. 15, 1596], in the mines of Nieves, before the justicia mayor, Juan Bautista de Lomas in this same case presented and had sworn as a witness Domingo Hernández d’Estrada, inhabitant of these mines, who took oath and swore by God and Holy Mary and the sign of the Cross, in legal manner, and on these he promised to tell the truth. Being asked as to the facts of the said complaint, he said that what he knew was that yesterday, Monday, before prayers, while standing at the house of Juan Bautista de Lomas talking with him, he saw four Indians coming from the charcoal fields which Juan de Lomas possessed in the Sancta Catarina mountains, about eight leagues from this *real*; and they told how six soldiers had come to the rancho yesterday, in the morning, and by force and violence had carried off two married Indian women and a boy and that they had abused the mayordomo and had taken everything he had in the said rancho, and thus it remained deserted. Moreover, Juan Bautista de Lomas said that there was nothing for him to do but to

6. The *comal* was a flat slab of stone on which the tortillas were baked. It is derived from the Mexican Indian word *camatli*.

seek justice before God and the king for the insults and robberies which the soldiers had caused him and were still perpetrating, and that there had actually come to pass that which he had been warned of two or three days earlier, namely, that they were going to plunder his charcoal fields. This witness knew for certain that Juan Bautista de Lomas had suffered much loss and damage to his mining property when the soldiers carried off the women and the boy from his rancho, because, lacking people in the charcoal fields for making charcoal, necessarily the benefit to his estate from extracting silver must stop, from which great loss to his majesty results from the decrease of the royal fifths, for the hacienda is very large and one of the best in this entire kingdom; and he knew, having heard one Pedro Sánchez declare in the house of the *comendador*,⁷ Rodrigo de Río de Loza, that he had seen eleven mules with the brand of Juan Bautista de Lomas, in addition to many horses, in the Malpaís near the mines of Aviño, that some soldiers of D. Juan de Oñate had hidden them, and that he had also seen, in the *real* of said Don Juan which was on the other side of the Río de las Nazas, a number of horses with the same brand; and this witness, being in the house of the *comendador* five or six days ago, there came a soldier named Zayas who said that he came from the *real* where D. Juan de Oñate was, and there publicly declared, in the presence of this witness, of Captain Juan Domínguez y Bernardo de Porras, and of Asencio de Sancta Cruz that he gave notice for all to be careful and guard their estates because D. Juan de Oñate was sending a captain with eight soldiers to get one hundred oxen for the carts of the camp wherever they could find them, because they could not go forward in any other manner and that the oxen they found for this purpose should be taken wherever they might find them, and not simply oxen, but also people and whatever else they might encounter, horses and mules. And that, being in the place and house of governor Rodrigo de Río, this witness wishing to enlist,

7. The *comendador*, or knight, was an official in one of the military orders.

Pedro Sánchez, above-mentioned, came to him and told him secretly that he should tell Juan Bautista de Lomas that, Pero Sánchez being in the *real* of said D. Juan de Oñate, one D. Juan de Morales had told him that since Juan Bautista de Lomas had spoken ill of D. Juan de Oñate, he would have to come with four companions, and in the very plaza of these mines of Nieves he would have to kill him or make a very striking insult.⁸ And that he should tell and advise said Juan de Lomas so that nothing should happen to him and that he must not be off guard. This is what he knows regarding what is asked, and it is the truth by the oath he has taken. It being read to him, he approved and signed it. He said he was more than forty-six years old, and that he is not disqualified by the general questions. Juan de Herrera.—Domingo Hernández.—Before me, Andrés Alvarez, notary public.

“Francisco de la Riva said that on leaving his house today he heard it said publicly through the town how they had stolen, from the charcoal fields of Juan Bautista de Lomas, the oxen and horses he had there, as well as two married women, from the Indians of the group, and a small boy. In addition to the above, this witness told Lomas how Matías de Lechera, his father-in-law, had written him a note that he should warn Lomas of how a soldier from the camp of D. Juan de Oñate had slept in his house and that, talking with him about things happening there, he warned him to watch his oxen and horses, for Captain César with fifteen soldiers had left the camp at the orders of D. Juan, to bring one hundred oxen from whatever place or district they might find them, because the army could not go forward without them, since the oxen they had had there had fled.⁹ And they came with the intention of going by the way of the charcoal fields of Lomas for them, all of which is known to this witness, for his father-in-law had written this

8. That is, Oñate's soldiers would kill Lomas.

9. Gregorio César was one of Oñate's captains in the conquest of New Mexico. See G. P. Hammond, *Don Juan de Oñate and the Founding of New Mexico* (Santa Fé 1927), pp. 142, 150, 190.

to him. Furthermore, he informed Lomas of this and showed him the letter. And he said that it might have been twenty days, more or less, when this witness, going in search of nine horses which they had taken from him and his father-in-law, arrived at the estate of Pero Hernández Caro, which is six leagues beyond the hacienda of the comendador, Rodrigo de Río de Loza; and this witness, asking if they had seen any horses of the brand of his father-in-law, was informed they had not, but they had seen many mules and horses go by belonging to Juan de Lomas. He said he was more than twenty-six years old.

“Juan de Artiaga, the mayordomo in the charcoal fields, said that Monday, the 14th of this month, there came to the rancho four men on horseback, with their coats of mail, leather jackets, and guns, and another soldier, in coat of mail and a hooked knife in his hand, and together they went to the place where this witness was, and dismounted. At this moment the drove of oxen was herded from the corral, and they said, ‘These oxen are very lean.’ Then they asked this witness that he provide them something to eat. He sought for what he could give them, set the table before them, and fed them. Afterwards they left and one of the soldiers, who is a brother of one named Hinojos,¹⁰ who was a cartwright for Captain Francisco de Urdiñola and first was so for Alonso de Angulo, this soldier, brother of the one mentioned, took this witness aside and told him that his chief said that he should give him the single Indian women he might have, and he replied that he did not have any on that rancho, that all were married. But in answer to this he was told, ‘Although they may be married, I must have them.’ While things were in this pass, two others of the soldiers went to the house of Gabriel, the carpenter, the one on horse and the other on foot. He who went on foot seized a boy, son of Gabriel, named Melchor, and put him on the

10. There were three men among Oñate's soldiers named Hinojos or Hinojosa: Captain Pablo de Aguilar Hinojosa, Alonso Nuñez de Hinojosa, and Hernando de Ynojos.

back of the horse which the other soldier was riding. The boy began to shout, calling his father and mother. In response to this, his father came, seized him by the arm and pulled him to the ground. The soldier who was on foot went to Gabriel, the Indian, threw him to the ground and struck him in the face with his fist, from which he got a nosebleed. The boy took to flight, two soldiers going after him, one with a hooked knife, the other pointing a gun. The one with the knife struck him with it, struggled with him on the ground, seized and bound him and placed him on the back of the horse belonging to the soldier with the gun. Then they seized an Indian woman named Clara, married to an Indian named Juan Martín, and a soldier who was on foot put her on the back of Hinojos' horse, at his order. Before they had her mount, Clara came to this witness, wishing to be helped by him. But the soldier who was on foot took hold of the woman and both together fell to the ground. Then, as the soldier got up, he struck the woman a violent blow and asked her where she had her clothing, threatening her. She told him that this witness had it in his chest. The soldier and the woman went to the room and found the chest locked, but Clara put her hand in the pocket of this witness's breeches, [took the key] and they went to the chest, opened it and took out the clothing, together with that of the Indian woman whom this witness had as his own. Then they left, and they mounted her on the back of Hinojos' horse. Afterward, they went to the house of Bonifacio, an Indian married to María, and took her by force, striking him in the face; the said Indian woman, crying out, called to this witness to protect and defend her. But, in spite of the resistance put up by the Indian woman, they mounted her on the back of the horse on which the chief [of the soldiers] was riding. Then they came to the house of this witness to take leave of him and they took a comal, the yoke-straps and *tupiles*¹¹ which were in the carts. Then they caught two other Indian men in order that these

11. The *tupiles* were evidently lances, or goads.

might bring them the yoke-straps and tupiles and asked them if they wanted to go with them. They said yes, and thus they took them along an harquebus shot's distance up the hill from the ranch, and there the five soldiers and Indians stopped. From there they sent back those that were bringing the yoke-straps and tupiles, telling them, 'Go! take back what we do not care for, for you should not rob the Indian women.' This is what the said Indians told this witness after they returned. Of these five soldiers he knew only two brothers named Hinojos. They belong to the company of Captain Bartolomé de Cárdenas. In regard to the other three, although this witness does not know them by name, he would recognize them on sight. From the rancho, thirteen horses are missing, part of them belonging to his proprietor, and others to this witness, and the rest to the Indians of this rancho. It is presumed that the soldiers have taken them, as they have been missing for many days since the time that the soldiers went through this land. Likewise, he has heard it said that eight horses were missing from the small stock. This he heard said to Diego Ponce, nephew of Juan de Lomas, and because he saw them he went to search; and he heard it said to Ponce how ten mules were missing from the hacienda. On Saturday morning, the 12th of the present month, the said Juan Bautista de Lomas, his proprietor, wrote him a letter, warning him to be careful to guard the oxen and the milk cows and to put two herders in care of them, because he had been advised that some of D. Juan de Oñate's soldiers were coming for them and if they came he should not harm them, but use the Indians as witnesses as to how they took the oxen against his will; and while this witness was talking to the five soldiers as to whether they might take the women and the boy, they abused him, for this hacienda belonged to Juan Bautista de Lomas. They said that, although this might be so, they must have it, and that if it was necessary, they would kill him within the plaza of the mines of the said Lomas and anyone who might defend him. This is what they told him

with much determination. This is what he knows. He did not sign, for he said he did not know how. He said he was more than forty-five years old and that he was a servant of Lomas.

“Pedro Perico, Indian captain in the charcoal fields, said that on Monday, the 14th, while in his house on the rancho, five soldiers came and went to where Artiaga was and asked him if he had seen in those parts some soldiers who had returned from the *real* and did not wish to go to New Mexico, for they had come in search of them. He said no; and then they said, ‘Have you nothing for breakfast?’ Artiaga replied, ‘There is something,’ and got tortillas and meat and gave them to eat. They then said they were going to see the oxen which at that moment the herder was bringing preparatory to yoking them. They said, ‘They are not much good; they are very lean.’ Two of them dismounted, and went into the house of Gabriel and caught a boy, but when they seized him he began to shout, ‘Father, they are taking me!’ His father came, but when he got there one of the soldiers had him [the boy] on the back of his horse, and the father pushed him off the horse, pulled him to the ground, and said, ‘Now, get going.’ And the boy fled. Then they seized the father and pummeled him because he had protected the boy, and one of them set out after the lad with a hooked knife in his hand and struck him a blow with this weapon. Then the other soldier came, seized him, and again put him on the back of his horse. To another boy, son of Gabriel, they exclaimed, because they saw him on horseback, ‘This lad will probably give warning; let them take care that no one leaves here, and if anyone does leave, unhorse him.’ They went after him, bound him, and then said, ‘We are going to get a woman.’ They then entered the house of Artiaga and required him to give them some unmarried woman whom they might take along. To this Juan de Artiaga replied that he had none, for they were all married. The soldiers, however, insisted, ‘Even though they be married, we are going to take them along.’ And they in-

vaded the house where Clara lived, but the woman began to shout, 'Ah, señor mayordomo, they are going to run off with me.' He warned them, 'Leave this woman alone; she is married.' But the soldiers answered Juanes by pointing their guns at his heart, 'Shut up, dog; leave us alone!' Then Clara grasped hold of Juanes, but a soldier seized the woman and, struggling to take her away, both fell to the ground. After they had gotten up, the Indian woman, frightened and seeing that she could not defend herself, said, 'Let me alone; I will not go!' They answered, 'Bring your clothes. Where are they?' She replied, 'The mayordomo has them.' Then the soldiers demanded of Artiaga, 'Get the clothing, for you have it.' But he answered, 'I do not know anything.' A soldier seized Artiaga by the shirt-collar, a knife in his hand, and exclaimed, 'Well, dog, hand over the key!' Clara, out of fear, said, 'Here it is, in his pocket.' And the soldier took it from his pocket, went to the chest, and opened it, and took out all the clothing there was, both that belonging to the woman and to Juanes, even taking the cowhide sandals and the soap which he had to give to the Indians. Then they took some axes and adzes from the room and a comal which Clara had. Afterwards, they went to the house of Juan Bonifacio, where this witness was, laid hold of María, but she tried to escape out the back way. They went after her, however, and exclaimed: 'Ah, dog of a woman; you want to run from us. Walk, then, here with the others!' And they seized her; but the woman said, 'I don't have to go, for I am married.' In spite of this, the soldiers answered, 'Even though you may be married and may be with your husband, we are going to hang him.' At once they put her on the back of one of their horses, and this witness, together with other Indians who were present, seeing how the soldiers used force, exclaimed: 'We are going after them. How is this they are running off with our women by force! We will protect them even though we die!' Then this witness said, 'Let us leave them go, for perhaps this is the king's order, as they say, and not pay too

dearly for defending them.' On passing near a cross, they saw a little bell which is used to call to prayers, and they said, 'This we must take.' And they took it away. As they left, they shouted, 'Don't worry about it Juanes, this hacienda is not yours; if it were, we would not trouble you.' This is what he knows. He appeared to be more than twenty-five years old."

The judge heard the complaint and, on October 19th, ordered that a true copy be placed in the proceedings, together with a copy of the notification which doubtless had been given to Oñate. He further provided that Oñate should be given whatever copies of the hearings he might wish, "in order that he might seek justice before whom, where, when, and how it might be suitable for him."¹²

Oñate does not seem to have been present at this judicial hearing, nor anyone representing him, and there is nothing to show that he ever asked for a transcript of the record. That his rival Lomas had anticipated some such trouble is evident from two earlier documents which were written into the record and which explain the above reference to an earlier "notification" to Oñate. The inference is that Lomas had certified copies of these documents which he presented with his complaint to the judge in Nieves.

It should be remembered that Lomas himself, in 1589, had secured from Villamanrique, viceroy at that time, a contract for the colonizing of New Mexico which had been later disallowed by the king in Spain. After Velasco became viceroy, Lomas renewed his petition without avail, in 1592 and again shortly before the contract was given to Oñate.¹³ In February, 1596, when the new viceroy, the Count of Monterrey, gave his final decision in favor of Oñate, the latter was in Zacatecas but was represented in Mexico City by two of his brothers with his power of attorney.¹⁴ The

12. Luis Páez Brotchie, "Del Archivo Judicial Neogallego. Juan de Oñate, merodeador," p. 297.

13. Hammond, *op. cit.*, pp. 10, 12.

14. *Ibid.*, pp. 27, 33-35.

unsuccessful and disgruntled Lomas also was there, and he immediately asked for, and was given, a royal decree which was in effect an injunction against any injury from Oñate. As will be seen, this decree was dated in Mexico on March 2, 1596; and it was served on Oñate in Zacatecas, where the latter signed the "notification" a month later.

"ROYAL DECREE.—Don Philip, by the grace of God, king of Castile, León, etc. To you, D. Juan de Oñate, to whom is entrusted the entrance and pacification of the provinces of New Mexico, and whosoever of your captains, other officers and soldiers, and to my alcalde mayor of the villas of Llerena and Sant Martín, and to his lieutenant residing in the mines of Nieves, and to each and all of my commissaries and other military officers, health and grace: Know, that before D. Gaspar de Zúñiga y Acevedo, count of Monterey, lieutenant, governor and captain general of New Spain and president of my audiencia and royal chancery which exists there, appeared Juan Bautista de Lomas, inhabitant of the said mines of Nieves, in the new kingdom of Galicia; and by petition, which he presented to him, gave an account, saying that as was well known, the above-mentioned [Lomas] had many mines and houses and estates of every kind, cattle and sheep ranches, and many fertile lands where he harvested wheat, corn and other grain; and that at the present time he had a large quantity of these locked up in his storehouses, together with flour and other things necessary for the support and subsistence of the mines. And that, being in the country and in a place where ordinarily there is no one to administer justice, and somewhat near the road where you, said D. Juan de Oñate, must pass, it is feared that your captains and soldiers and other people which you may bring on the said journey might kill his live stock or take them along or might deprive his mayordomos of the said supplies; and that, although they should pay the just price and value, he would suffer serious injury as he needs all of it for the support and maintenance of his mining haciendas, the success of which benefits my royal service in

the increase of my royal fifths; and, in order to avoid these and other damages which might occur, he [Lomas] asks him [the viceroy] that, with reference to the above-mentioned and to the fact that he had served me more than thirty-eight years in that kingdom, to issue my letter and royal decree ordering you, under grievous penalties, that you shall not pass or approach the estates, or mines, or houses of said Juan Bautista de Lomas, or stop or camp for the night in them, for it is not the road for your journey, to take anything from them against his will, neither for money nor without either flour, wheat, corn, or other smaller grains, or any carts or oxen, or any of his cattle or small stock, or any other thing, or take or consent to be taken any of his mayordomos, or servants, Spaniards or negroes, mulattos or Indians, whether slave or free, because the free ones owe him much money, and it would be the means of costing him all his estates; and this having been seen by my said viceroy, it was agreed that he ought to order this my letter and royal decree to you and to any of yours in the said case; and I, having under consideration the above, have deemed it proper, wherefore I order you, inasmuch as the direct road of your expedition does not lie by way of the said estates, houses, and mines of said Juan Bautista de Lomas, that you may not pass by them, you or any of your captains or soldiers; nor may you allow them to go or pass by, nor make camp in them; and if the road is direct and necessarily goes by them, you may not kill or consent to kill, or take anything against his will, either for money or without, any of his live stock or provisions, carts or oxen, or anything whatsoever belonging to him of any description or quality; neither may you take with you nor consent to take any of his mayordomos, servants, Spaniards, mestizos, negroes, mulattoes, or Indians, slave or free, that owe him moneys or who have made contracts of any kind with him, except that they fulfill them first, making payment and satisfaction, unless you relinquish it all for the support and maintenance of your said haciendas, notwithstanding what-

ever clause or power you may have from me to take what you may have necessary for the support of the said journey, because I am revoking it with reference to the said Juan de Lomas and hold it of no value, the rest remaining in full force and rigor. This you shall do and fulfill without waiting for a second or third letter from me, under penalty of two thousand ducats for my exchequer and royal treasury and four times as much for whatever thing you might thus take, or do, or permit to be taken; and for the captain or any other of my ministers, a penalty of 500 ducats and loss of such office; and should it be a soldier, in addition to paying four times as much as he shall take, as stated, he shall be proceeded against with all rigor, as against persons who take things in the country without permission of the owners, and they shall be punished according to the ordinances and laws of my kingdoms which regulate such matters. In these penalties, in every one herein contained, I hold you guilty from this moment, you and every one of yours, if you violate them. Given in my city of México, March 2, 1596.—I, the count of Monterey.—I, Pedro de Campos Guerrero, chief notary for the government of this New Spain, inscribe it for the king, our lord; by his order, his viceroy in his name.—Registered. Juan Serrano.—As chancellor, Cosme de Medina.”

“NOTIFICATION.—In the city of Nuestra Señora de los Zacatecas, April 1, 1596, I, the notary-receiver above-mentioned,¹⁵ at the request of Gonzalo Sánchez Caballo, in the name of Juan Bautista de Lomas, read and made known this letter and royal decree, as stated therein, to D. Juan de Oñate, governor and captain general of New Mexico, in

15. The reader may notice that the notaries of these two documents are different, so that the term “above-mentioned” cannot refer to the notary for the royal decree. Possibly it was legal phraseology, established by long usage, but here without meaning. It occurs to us, however, that the notary-receiver was in effect a recorder and that he may have kept a book of permanent record. Then “above-mentioned” would refer to his notarial signature with the preceding entry in his book—doubtless on an entirely different affair. Or, lastly, this may have been only one of several certified copies which Lomas had secured from the notary in Zacatecas and the others dropped out at some stage in the procedure.

person. He took the letter in his hands, kissed it, and placed it above his head and said that he obeyed and would obey it, with the respect and reverence which he owes, and he is ready to fulfill that which is ordered in it, and that, although the road might go by the mines and the hacienda of said Juan Bautista de Lomas, in order to fulfill that which is ordered in the said royal decree, he will seek [another] road for making the journey; and as for the provisions, live stock, and other things which the said Juan de Lomas has, they will not ask him for them nor take them; in everything he will comply with the said royal decree as ordered. This he gave as his answer and signed it.—Witnesses, Garci López de San Juan and Juan Pérez de Donis, inhabitants of this city.—D. Juan de Oñate,—I vouch for it.—Jerónimo Juárez, notary-receiver.”

In addition to the foregoing, Señor Brotchie, from his study in the Guadalajara archives, found that Lomas executed a power of attorney in favor of Jerónimo Juárez, Rodrigo Hernández Cordero, and Diego Martín de Rivera, on October 23 [1596], and that, on November 8 of the same year, Martín de Rivera appeared before the audiencia of New Galicia and presented the information taken in Nieves. He asked that his patron “be given a full measure of justice,” that the guilty be punished in conformity with the seriousness of their crimes, and that the proper restitution be made to Lomas of everything that had been taken from his land. “But,” concludes Brotchie, “since two powerful influences were at work in this case, the one more than the other, the Guadalajara tribunal, as will be seen from the following act, did not desire to pronounce sentence, but washed its hands of the affair, like Pilate.”¹⁶

“In the city of Guadalajara, November 13, 1596, the president and judges of the royal audiencia of the new kingdom of Galicia, having seen this information received by Captain Joán de Herrera, justicia mayor of the villas of

16. Brotchie, *op. cit.*, pp. 299-300.

Llerena and San Martín and Nieves, from Joán Bautista de Lomas, inhabitant and miner of the said mines of Nieves, against D. Joán de Oñate, governor and captain general of the provinces of New Mexico, and of his captains and soldiers, in regard to having robbed him and taken from his haciendas many horses, mules, slaves, and freed Indians, his haciendas thereby losing the means for extracting silver, and having read the rest contained in the said report, they said that they were ordering and ordered that notice of this crime be given to the viceroy of New Spain, and for this purpose they sent an accurate copy of the said summaries. Thus they decreed and ordered.—(Three rubrics.)—Before me, Francisco Partida.—(Rubric).”