

1-1-1938

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### Recommended Citation

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# TROUBLOUS TIMES IN NEW MEXICO

1659-1670

(Continued)

By FRANCE V. SCHOLES

## CHAPTER V

### GOVERNOR DIEGO DE PEÑALOSA <sup>1</sup>

#### I

**D**IEGO DIONISIO DE PEÑALOSA BRICEÑO Y BERDUGO was born in Lima in 1621 or 1622.<sup>2</sup> He was a member of a family of some local prominence.<sup>3</sup> His early years were spent in Lima and La Paz where he received instruction in grammar, rhetoric, and kindred subjects. His public career began in La Paz where his father purchased for him the office of *regidor*. At the age of eighteen he was elected *procurador general* to represent the *cabildo* of La Paz in certain legal business before the *Audiencia* of Charcas. During his stay in La Plata he became involved in a fray in the plaza and killed a man, and as the result of this incident he was obliged to return to La Paz. In 1641 he married Doña María Ramírez de Vargas, by whom he had two children prior to her death in 1644. In 1645 he was married in Cuzco to Doña Jacoba de los Ríos y Cabrera. The only issue of this second union was an infant who died soon after birth.<sup>4</sup>

After a brief period devoted to private and public business, Peñalosa was appointed *alcalde provincial* of the *Santa Hermandad* for the district of La Paz. As the result of complaints received concerning his private and official conduct he was summoned to Lima by Viceroy Salvatierra. After consulting certain influential friends in the capital, including his relative, Don Dionisio Pérez Manrique de Lara, president of New Granada, he presented himself at the viceregal palace. The viceroy was unfriendly, and he finally gave orders for Peñalosa to be taken into custody.

But Peñalosa hastily withdrew from the audience chamber and fled to the Augustinian convent where he had friends. Early next day he took refuge in the Augustinian college of San Ildefonso where he remained for three months. This incident occurred in 1651 or 1652.<sup>5</sup>

Peñalosa's family took counsel with various friends and relatives, and it was decided that he should go to Spain and present an appeal to the king. Inasmuch as the viceroy had issued orders forbidding Peñalosa's departure, it was necessary to bribe the captain of a small vessel bound for Panamá to take him on board. Off the port of Paita the vessel was wrecked, but Peñalosa, with several other passengers, escaped and made port, where he finally took another ship for Panamá. Instead of continuing his journey to Spain, he went to Nicaragua where he lived for six months with his uncle, Bishop Briceño. From Nicaragua he finally journeyed to Mexico City.<sup>6</sup>

In Mexico Peñalosa received military assignments from time to time during the early years of the administration of the viceroy, Duque de Alburquerque. After an illness in Veracruz, he spent a year in Habana where he served as captain of infantry in the garrison. Returning to Mexico City he was appointed *alcalde mayor* of Xiquilpa and Chilchota and lieutenant-captain general for the viceroy in these areas. After three years in this service he returned to Mexico City where, after a brief interval, he was named governor of the province of New Mexico by the new viceroy, Conde de Baños. The appointment to the governorship of New Mexico was made in 1660.<sup>7</sup>

## II

Peñalosa took office in Santa Fé about the middle of August, 1661.<sup>8</sup> The colonists and soldiers whom López had antagonized and sorely offended during his two-year term of office naturally regarded the change of administration as an opportunity to seek redress, if not revenge, for alleged injustice, and to regain power and influence in provincial

affairs. And Peñalosa shrewdly exploited the hatred for the ex-governor to build up a faction favorable to his own personal interests.

Capt. Diego de Trujillo, who had left the province as the result of differences with Governor López, met Peñalosa in Parral and returned with him to New Mexico. Soon thereafter he was re-appointed to the office of *alcalde mayor* of the Zuñi-Hopi area from which he had been removed by order of López. Miguel de Noriega, who had quarreled with López after having served as his secretary for about a year, met the new governor in El Paso and immediately solicited his favor and friendship. Juan Lucero de Godoy, who had reluctantly served as one of the two messengers sent to New Spain by López in the autumn of 1660, became Peñalosa's administrative secretary. To the post of lieutenant-captain general Peñalosa appointed Pedro de Valdez, whom López regarded as one of his capital enemies.<sup>9</sup> It is worth noting too that Valdez was a nephew of the former governor, Juan Manso. And when new *cabildo* elections were held in Santa Fé, members of the anti-López party obtained office. One of the new *alcaldes ordinarios* was Sargento Mayor Diego del Castillo, against whom López had brought legal action on various charges.

The clergy received the new governor with open arms,<sup>10</sup> and for several months the relations of Church and State were once more harmonious. Indeed, there is some evidence that Peñalosa and Custodian Posada worked in close coöperation during the period when López' *residencia* was in progress. Moreover, on November 4, 1661, on petition by Friar García de San Francisco, Peñalosa gave orders for the execution of the decree of Governor Guzmán, June 30, 1648, which had granted to each convent the service of ten Indians, as interpreter, sacristan; *portero*, organist, shepherd, etc., the same to be exempted from tribute in lieu of service.<sup>11</sup> To this extent, at least, the labor policy of López was abandoned.

The first important task of the new governor was to take the *residencia* of his predecessor. The investigation was started in the autumn and lasted until sometime in December. In testimony before the Holy Office both López and his wife made the charge that the clergy took an active part in directing the *residencia*, that Custodian Posada even drew up the questionnaire for the examination of witnesses.<sup>12</sup> Whether these charges were true or false, it is clear that the friars, as the colonists and soldiers, took full advantage of the *residencia* to air their grievances and to file formal charges against the ex-governor.

The manuscript record of the *residencia* contains more than seventy formal petitions of complaint.<sup>13</sup> Friar García de San Francisco, under appointment as *procurador* of the clergy, filed a long list of charges in the name of the friars. Antonio González, acting as defender of the Indians, presented thirty-four petitions on behalf of the pueblos or of individual Indians. The *procurador general* of the *cabildo* of Santa Fé, Capt. Diego González Bernal, submitted a long bill of complaint in the name of the Hispanic colony as a whole. Finally, more than thirty petitions were presented by individual colonists and soldiers.

The charges presented by Friar García de San Francisco in the name of the clergy may be divided into two groups. The first group included the most important complaints concerning López' opposition to the mission program, his violation of ecclesiastical immunity, and the alleged denial of all ecclesiastical jurisdiction and authority. These have already been described in detail in Chapter III. The second group contained a detailed statement of the losses in live stock—sheep, cattle, and oxen—suffered by various missions as a result of López' refusal to permit the service of Indians without pay as farmers and herdsmen. The following list is a summary statement of the losses said to have been sustained.

Convent of Santo Domingo	1378 head
"    "    San Felipe	343 "
"    "    Galisteo	100 "
Convents of Chililí and Tajique	1350 "
Convent of Cuarac	400 "
Convents of Abó and Jumanos	1347 "
Convent of San Marcos	798 "
"    "    Santa Fé	800 "
"    "    Sandía	801 "
"    "    Sía	350 "
"    "    Santa Ana	250 "
"    "    Isleta	400 "
	<hr/>
Total losses	8317 head

In addition to the livestock, the convents had also suffered heavy losses in maize because of the lack of Indians to till the mission fields. Thus Friar García de San Francisco's statement clearly indicates the large scale farming and herding business carried on by the clergy.

In his reply López asserted that the friar's petition contained many falsehoods. It was mere libel! He also raised the issue whether Friar García de San Francisco, being an ecclesiastic, could in law bring a suit of this kind. And inasmuch as reports concerning the problems of Church-State relations had already been sent to New Spain, final decision should be made by the viceroy and *audiencia*.

The petitions presented by Antonio González on behalf of the Indians were in the form of claims of various kinds. Most of the claims were for payment of sums due on account of services rendered: for labor performed in transporting salt from the salt marshes east of the Manzano Range to depots on the Río Grande, gathering piñon, building carts, washing hides, tanning leather, painting leather hangings, etc.; for the manufacture of *mantas*, stockings, shirts, shoes, and leather doublets; or for service in connection with the dispatch of accumulated stocks of goods to Parral and Sonora. (For a more detailed statement, see Chapter III,

section III.) A few petitions were made for payment for property sold to López or alleged to have been seized by him. The claims varied in amount from two pesos to more than three hundred pesos. The grand total was more than 2900 pesos.

López asserted that some of these claims were sheer fabrication and denied having employed the persons named in the complaints. Others were said to be gross exaggerations. In certain cases he insisted that payment had already been made and that he held the receipts. He stated that he was ready, however, to make an equitable settlement of all just claims, and asked to have the Indians present such claims in person.

The most important charges made by Capt. Diego González Bernal in the name of the Hispanic colony as a whole are summarized below.

(1) Complaint was made that even before López arrived in Santa Fé he took measures to prepare a dispatch of wagons and salt to Parral, forcing the citizens to loan ox-teams that were never returned.

(2) After taking office López was guilty of arbitrary and unjust actions, sending the citizens on escort duty "without any cause whatever."

(3) As a result of the order promulgated by López increasing wages for Indian labor from half a *real* to one *real* a day plus food "the entire kingdom suffered great hunger," inasmuch as the citizens could not afford to pay the new wage for Indians farmers and herdsmen. To obtain even a meager sustenance, women, girls, and even young children were forced to till the fields. The motive of the governor was purely selfish, for he wished to use Indian labor for himself in the preparation and manufacture of goods for export.

(4) Although the *Casa de Cabildo* needed repairing and rebuilding, López refused to lend any aid.

(5) Although there had been a custom of long standing to parade the royal ensign once each year, with proper ceremony and festivities, it had not been done during López' term of office.

(6) Having promulgated an order of Viceroy Alburquerque prohibiting further discussion of certain past events (the Rosas affair), López violated the order, calling many citizens traitors and other insulting names.

(7) Because certain women did not wish to embroider doublets and shirts for his account, López called them whores, and threatened to give them two hundred lashes and to make a prison in the *Casa Real* in which to keep them spinning and embroidering.

(8) López intensified the hostility of the Apaches by acts of treachery. For example, certain Apache warriors were permitted to come in peace to Jémez, only to be cut down and killed by the governor's order. An expedition was then sent out immediately to seize the women and children who had been left behind.

López characterized these charges as deliberately false and lacking the proof required by law. He also questioned the status of Capt. González Bernal as *procurador general*, and charged that the petition was an evidence of conspiracy on the part of his enemies. As in the case of most of the other petitions of complaint, he entered an appeal to the authorities of New Spain.

The petitions filed by colonists and soldiers covered a wide range of subjects: (1) disputes over property and business operations; (2) complaints concerning *encomienda* administration; (3) complaints concerning appointments to local office; (4) losses alleged to have been sustained by soldiers during the performance of military service; (5) abuse of authority by the governor in the conduct of official business, especially in certain judicial actions against soldiers and colonists; (6) arbitrary and outrageous conduct on the part of the governor in his personal relations with

citizens of the province. It is not possible to describe the several petitions in detail. In Chapter III, section II, we have already discussed some of the causes for complaint. López offered a vigorous defense against many of the complaints. He made counter-charges which, if true, must have turned the tables on the plaintiffs. Other charges he denied as utterly false and malicious. In certain instances, however, he either refused to make a formal reply, appealing the charge to the viceroy and *audiencia*, or raised technical legal objections clearly designed to block action or to avoid the necessity for reply to the original charges. And in most cases he entered an appeal to the authorities of New Spain. Many of the accusations were clearly inspired by a desire for revenge, or by personal resentment caused by loss of office and local prestige. In all parts of the Indies the *residencia* provided an opportunity for disgruntled individuals, unsuccessful applicants for office, and restless, discontented spirits to attack the honor and character of officials whose term of office had come to an end. Moreover, if an official attacked or infringed upon local vested interests, he was certain to be submitted to a torrent of abuse and complaint during his *residencia*. The case of López is no exception. On the other hand, it is clear that many of the charges against López were true. Moreover, he had aroused opposition on all sides by policies that were neither expedient nor wise.

The *residencia* had been in progress only a short time when the usual rumor was spread abroad that López planned to flee from the province. On October 21, 1661, Capt. Diego González Bernal, *regidor* and *procurador general* of Santa Fé, presented a formal petition demanding that López be arrested and imprisoned in order to prevent his escape and to make sure that full satisfaction for all claims and complaints would be made. Governor Peñalosa acceded to this demand. He ordered López to be held under guard in the dwelling he then occupied, and instructed one of the *alcaldes ordinarios* to appoint four citizens to serve as guards, with

a salary of one peso each per day, the cost to be paid by López.

The motives given by Peñalosa for this decision are interesting. He stated that the feeling against López was running so high that there was danger of disorder. He had used his authority in an effort to quiet the situation, and had even taken measures to send some of the leaders of the anti-López faction away from Santa Fé. But in view of the fact that the malcontents were so inter-related (*muy emparentados*) and that the bitterness against López was so general, he deemed it wise to take appropriate action to avoid further trouble, remembering the fate of Don Luís de Rosas. Moreover, it was necessary to take into consideration the fact that the *residencia* had given rise to so much litigation. Therefore, as a precaution to protect López from violence and to avoid the risk of his fleeing to New Spain, Peñalosa issued the formal order of arrest and detention under guard. López naturally protested against this action. He regarded it as merely another sign of Peñalosa's hostility and as a means by which the new governor could serve his own interests.

It is perfectly clear that Peñalosa's motives were by no means altruistic. He was a mere adventurer, with an eye for the main chance. He realized that López possessed large stocks of goods accumulated for export, herds of livestock, and property of other kinds. The *residencia* offered him an opportunity to feather his own nest at López' expense. It was to his own personal interest, therefore, to appease the clergy and other members of the anti-López faction, and bide his time.

During the course of the *residencia* Peñalosa maintained contact with the ex-governor. He made overtures for a deal that would be mutually profitable, and finally made a definite offer. According to López, it was proposed that in return for a bribe of ten thousand pesos Peñalosa would destroy the record and permit the ex-governor to write the *residencia* in his own terms. But López rejected

the offer, and declared that he would see the investigation through, relying on the action of the viceroy and *audiencia* for vindication.<sup>14</sup>

About the middle of December the *residencia* was brought to a close. Acting as judge of *residencia*, Peñalosa prepared an indictment consisting of thirty-three charges, based on the accumulated testimony and petitions of complaint. The governor had no authority, however, to render a final decision, such authority being reserved to the *audiencia*. Late in December the list of charges and a copy of the record were sent to Mexico City by special messenger.

In a *real provisión* dated May 12, 1662, the president and *oidores* of the *audiencia* rendered their decision. López was absolved on the following charges:

(1) That he had exercised authority before he had been formally received in office. (This charge was based, in part at least, on López' action in making use of Indian labor (prior to his arrival in Santa Fé) in preparation of the dispatch of wagons and salt to Parral.

(2) That he had imprisoned certain persons in rooms in his dwelling and had made private prisons there with stocks, fetters, etc.

(4) That he had unjustly increased the rate of wages for Indian labor, thereby causing great need and hardship in the colony.

(5) That he had unjustly deprived certain citizens of *encomiendas*. (Cf. Chapter III, section II.)

(8, 9) That he had failed to punish certain delinquents, especially certain persons guilty of homicide (notably Capt. Nicolás de Aguilar) who had fled from New Spain to New Mexico, having pardoned them on the occasion of the birth of a royal prince.

(10) That he had submitted an exempt person to public shame by ordering him to give a *manta* to an Indian woman who had accused the said person. (This referred

clearly to the case of Friar Francisco de Acebedo, guardian of Alamillo. See Chapter III, section IV.)

(12) That he had given permission for the public celebration of the *catzinas*. (The *audiencia* stated that the friars should report concerning the character of these dances.)

(13, 14) That he had failed in his obligation to promote Christianity among the Indians by forbidding the friars to enforce attendance at religious services, by prohibiting the service of *cantores* and sacristans, by abusive language against the friars, and by the remark that neither St. Peter nor St. Paul would render justice as well as he.

(15) That he had endangered the safety of the powder held for military purposes by transferring it from the room where it had been usually kept to an unsafe place in the *Casa Real*.

(21) That he had failed to repair the local prison and the *casa de cabildo*, and that he had not permitted the customary procession in honor of the royal ensign.

(24) That he had fixed the price of grain, and had then sold grain through the agency of the *alcaldes mayores* at higher prices, as a result of which the province had suffered great need.

(25) That he had sold the office of lieutenant-captain general of the Sandía area to Juan Domínguez de Mendoza for three hundred pesos.

(28) That he had failed to visit certain areas, such as Taos, Picurís, Acoma, and the Tewa pueblos, being under obligation to do so in person, or at least to send a visitor if the case was urgent.

(31) That in order to authorize reports in his favor to be sent to the viceroy and *audiencia*, the same attested by forged signatures, he had sought to obtain possession of the seal of the *cabildo*.

(32) That in the interest of selling certain captives (Apaches?) he had compelled the *cabildo* of Santa Fé and

certain citizens to make petitions and reports to the viceroy, in certain cases writing out a draft for them to sign.

On the following charges the *audiencia* pronounced López guilty:

(3) That instead of honoring the subjects of His Majesty, especially the *encomenderos*, he had abused them with insulting speech, especially Capt. Diego de Trujillo, his son, Francisco de Trujillo, and his son-in-law; and that he had unjustly wished to inflict punishment of two hundred lashes on Sargento Mayor Diego del Castillo.<sup>15</sup>

(6) That from the time he entered the province, even before taking office, he had employed the Indians in all manner of enterprise without making full payment for their labor. (It was ordered that he should make full settlement for all balances justly due.)

(7) That he had accepted a bribe from former governor Juan Manso during the latter's *residencia*, the said bribe being in the form of a gift to Doña Teresa de Aguilera, the wife of López. (Fine of three hundred pesos was imposed for this offense.)

(11) That instead of having honored and favored the *cabildo* of Santa Fé, he had said, among other things, that the *cabildo*, his negress, and his mule were all the same thing.

(16) That he had accepted a bribe of two hundred pesos, in return for which he had not executed a sentence of whipping in the case of a certain Diego González Opodaca, who had been found guilty of incest with three step-daughters. (He was ordered to repay the said bribe and to pay a fine in the same amount.)

(17) That he had used disrespectful language concerning certain *oidores* of the *real audiencia* and also concerning the viceroy, Duque de Alburquerque.

(18) That in violation of terms of peace with certain Apaches who had come to live at Taos and Jémez, he had

ordered the males killed, and their women and children seized in order to sell them as servants.

(19) That after orders had been received forbidding the sale of captives, he had then taken no action to punish Apache invasions.

(20) That without consideration for sacerdotal dignity he had given orders depriving the convents of Indian herdsmen and servants to bring in wood, that he had taken delight in the fact that certain friars, especially Velasco, Freitas, and Parraga, had been obliged to fetch their own wood and herd their livestock, and that as a result of this policy the convents had suffered great losses in livestock. (With regard to the losses sustained, the friars were authorized to present claims before the *audiencia*.)

(22) That he had disturbed the tranquillity of the province by impeding the jurisdiction of the prelate; and that he had ordered his lieutenants to proceed against exempt persons (the friars) on charges of concubinage, as a result of which both the friars and certain married women had been defamed.

(23) That he had abused his authority in the administration of justice by summoning women for examination in certain judicial cases and then forcing them to submit to improper relations, thus causing great scandal.

(26) That he had borrowed oxen from various citizens and had not returned them.

(27) That he was liable for re-payment of one hundred pesos' worth of lead that he had received for use in New Mexico and had not actually taken to the province.

(29) That he had oppressed the *encomenderos* by preventing them from collecting the tribute due from their *encomiendas*, and by ordering his *alcaldes mayores* to make the collections in order to obtain payment for balances due on account of goods sold by him to the said *encomenderos*.

(30) That a certain Joseph Telles Jirón had been unjustly exiled to Taos because he refused to make a false

statement in López' behalf in reports remitted to the vice-roy, and that Capt. Bartolomé Romero, *alcalde ordinario* of Santa Fé, had been sent on escort duty for the same reason.

(33) That "with scandal and little fear of God or law," he had oppressed both ecclesiastics and laymen.

The *audiencia* declared that López should be ineligible for office for a period of eight years, and that he should be fined 3000 silver pesos and costs. The claims made against him during the *residencia* should be followed up, substantiated, and decided by his judge of *residencia*, except that the claims presented by the friars should be referred to the authorities in Mexico City. After having fulfilled the terms of the sentence, or having given bond for the same, López should then be set free and permitted to return to Mexico City. A copy of the sentence should be sent to Peñalosa with orders to obey the same under penalty of two hundred gold pesos.

Diego González Lobón, who had brought the *residencia* proceedings to Mexico City, was sent back in all haste with a copy of the sentence. He arrived in Santa Fé early in August, 1662.

### III

The sentence by the *audiencia* deserves some comment.

López' action in restoring *encomiendas* to persons who had been deprived of their grants by Governor Manso was approved, as well as his decisions with regard to other *encomienda* appointments. His policy concerning wages for Indian labor was also sustained, although he was ordered to make full payment for all labor performed for his own account. On these points the *audiencia* took a firm stand in behalf of the governor as against certain colonists of prominence and against the vested interests of the Hispanic colony as a whole. On the other hand, the arbitrary action of López in the collection of tribute from certain *encomiendas* in order to satisfy private debts owed to him by the holders of the said *encomiendas*, the nature of his

conduct with regard to certain prominent citizens, the acceptance of bribes, and the flagrant abuse of authority in the case of women summoned to testify in judicial cases received formal condemnation. Moreover, the *audiencia* did not fail to censure him for disrespectful language concerning the viceroy, certain *oidores*, and the *cabildo* of Santa Fé.

On three important points the clergy scored a victory. First, the *audiencia* upheld the general ecclesiastical jurisdiction of the custodian, although there is no record that a formal pronouncement was made concerning all issues raised by López in the summer of 1660. (See Chapter III, section IV.) Second, by finding López guilty on the charge that he and his subordinates had proceeded against the clergy in certain cases of alleged immoral conduct, the *audiencia* took a firm stand in favor of ecclesiastical immunity and privilege. Third, López' policy forbidding the employment of Indian herdsmen and laborers by the convents without pay was condemned.

But the views of the friars on two important aspects of general mission policy were not sustained. The *audiencia* found López innocent on the charge that he had impeded the mission program by his refusal to support the friars in enforcing attendance at religious services and by his policy regarding the service of *cantores* and sacristans. And even more important was the decision with regard to the *catzinas*. Instead of censuring López for permitting public celebration of the dances, the *audiencia* put the burden of proof concerning the alleged superstitious character of the ceremonials on the clergy. The *audiencia* had at hand not only the statements on this point presented during the *residencia*, but also letters and memorials from the friars emphasizing the harm resulting from the celebration of the dances. Thus the decision of the *audiencia* represented a determination to proceed with caution on this moot question.

The decision of the *audiencia* upholding the general principles of ecclesiastical privilege and jurisdiction is not

surprising. But it is interesting to see that the *audiencia* took such a liberal stand with regard to mission discipline and the *catzina* question, while condemning López' policy regarding the employment of Indian laborers by the convents. The *catzina* question was of supreme importance, inasmuch as it involved the larger issue of paganism vs. Christianization. Idolatry was forbidden by colonial law, and in times past drastic action had been taken to stamp out the practice of aboriginal religious customs. The ceremonial dances were the most important feature of the Pueblo cults, and it is surprising, therefore, to find the *audiencia* putting the burden of proof regarding their superstitious character on the clergy. Moreover, the decision on this point has greater significance if we recall that the later Pueblo Rebellion of 1680 was largely inspired by a desire on the part of the Indians to preserve the old folk ways.

The terms of the general sentence imposed as penalty for López' misconduct were fairly severe. Although it was not an uncommon practice to declare persons ineligible for office for a term of years as the result of an unfavorable *residencia*, such a penalty naturally laid serious handicaps on an ambitious official. The fine of 3000 pesos, equal to the governor's salary for a year and a half, was also a fairly heavy penalty.

Finally, it should be noted that the *audiencia* pronounced its decision without hearing López' case, except insofar as he offered a defense in his replies to the several petitions of complaint presented during the hearings in Santa Fé. That Peñalosa and his aides carried on the investigation in a rather arbitrary manner is fairly clear. Moreover, the new governor prevented López from sending messengers to New Spain for several months. López finally found a way to get representations to the viceregal authorities, as a result of which the *audiencia* immediately dispatched orders relieving Peñalosa from further jurisdiction in the case, but by the time these orders were received in New Mexico, Peñalosa had already taken action to execute

the sentence of May 12, 1662, and in a manner detrimental to López' fortunes.

#### IV

From December, 1661, until the summer of 1662 López was held in confinement in his dwelling in Santa Fé. There is also evidence that Peñalosa employed other measures to limit his contacts with citizens of the province. Moreover, an illness that had troubled López for some time gradually became more serious, and he was often forced to keep his bed. Under such circumstances López was unable to offer active resistance to the measures adopted by Peñalosa in seeking his own personal profit.

In Chapter III, section II, I referred briefly to certain shipments of goods that López sent to Sonora and Parral. The Sonora shipment, consisting of New Mexican products of various kinds and a large number of Apache captives, was sent under the management of Capt. Francisco Pérez Granillo. The Apache captives were readily sold, but as the result of orders from the *Audiencia* of Guadalajara the deals were later declared null and void, and Pérez Granillo was forced to make a refund to the purchasers. For the remainder of the shipment he realized 2904 pesos which he put into silver bullion. Peñalosa apparently learned about this shipment on his way to Santa Fé for he was said to have sent an agent from the El Paso area to Sonora with instructions to contact Capt. Pérez Granillo and have him bring the silver to New Mexico. Pérez Granillo arrived in Santa Fé a few days after Peñalosa took possession of the provincial government. On orders from the new governor, Pérez Granillo brought the silver to the *Casa Real* where it was weighed in the presence of witnesses. On petition by Pérez Granillo, the silver was put in deposit, instead of being turned over to the ex-governor, López de Mendizábal. The person chosen to receive the silver was Capt. Pedro Lucero de Godoy, in whose hands it remained until February 26, 1662, when it was turned over to Peñalosa by order of the latter. Capt. Lucero later testified that a few days

after this transfer was made Peñalosa remarked, "Concerning this silver, which belongs to Don Bernardo López, I will go to law (*pleitar*) with him, and I will make war with him (*le daré guerra*) [for it]."<sup>15</sup>

Thus Peñalosa began to reveal his purpose to take advantage of López' adversity in order to feather his own nest, and before long he found other means to the same end. During the winter and spring of 1661-1662 he gave orders from time to time for the embargo of large quantities of goods belonging to López, on the ground that it was necessary to provide funds to defray the costs of López' *residencia* and to pay the salaries of the four guards appointed to keep watch over the ex-governor. In this manner 1000 deerskins, hides and leather goods of other kinds, and supplies of *mantas*, shirts, and other textile products were seized and taken to the *Casa Real*. López valued the goods at approximately 1500 pesos. Although Peñalosa made certain small payments to the guards on account of salary due, the bulk of the property thus seized remained in the governor's possession.<sup>16</sup>

On April 19, 1655, shortly after his appointment as *alcalde mayor* of Guaiacocotla, López had borrowed five hundred pesos from a citizen of Mexico City, Don Fernando de Pacheco, Duque de Estrada, giving his note to repay the money by the end of February, 1656. But López failed to repay the loan, and in September, 1660, his creditor finally obtained a judgment for the amount due. Pacheco gave his power of attorney in this matter to Perdo Martínez de Moya and Martín de Carranza, servants or associates of Peñalosa in New Mexico.<sup>17</sup>

Sometime during the winter of 1661-1662 Martínez brought formal action in Santa Fé for execution of the judgment. López admitted the debt, but asserted that fifty pesos had already been paid on account. It was finally agreed that fifty *mantas* and 400 sheep would be accepted as payment of the balance of 450 pesos due, and that Martínez should receive 500 sheep as payment for his serv-

ices as collector, or agent, for Pacheco. In accordance with this agreement López turned over the 900 sheep and fifty *mantas*, but when he asked Peñalosa for the customary receipts, he found it impossible to obtain them.<sup>18</sup>

In May, 1662, some six months later, Martín de Carranza, the second of Pacheco's agents, brought action before Diego del Castillo, the *alcalde ordinario* of Santa Fé, for payment of the loan. Although López apparently protested against this attempt to force payment a second time, he was in no position to make effective resistance. When the *alcalde ordinario* informed him of the claim for payment in the name of Carranza, he asked to have Carranza summoned. But Peñalosa refused this request. Moreover, the governor sent word to the *alcalde* and the notary of the *cabildo*, who were taking down López' reply, not to proceed further in the case, and this order was obeyed to the letter, with the result that López' reply remained unfinished and unsigned. When the *alcalde* and the notary returned to the *Casa Real*, Peñalosa tore up the original petition made by Carranza and López' unfinished reply to the same. A second petition was then drawn up, and Peñalosa dictated a reply in the name of López in which it was stated that López denied the debt and refused to sign the said reply! The governor then forced the notary to certify these papers, and pressure was put on the *alcalde* and other witnesses to sign them.<sup>19</sup>

Orders were then given for the seizure of López' property in sufficient quantity to pay the demand thus made a second time. Several pieces of silver plate and a richly ornamented saddle were removed from López' house, and within a few days twelve oxen and 238 steers, belonging to a herd being grazed at Taos for López' account, were brought to Santa Fé. The property thus placed under embargo was finally sold at auction to a certain Lucas de Villasante, a member of the military escort of the recently arrived mission supply caravan. The total purchase price was 1098 pesos.<sup>20</sup>

At the same time forty-nine pesos were collected from Pedro Martínez de Moya, said to be due on the purchase of 500 sheep and fifty *mantas* allegedly purchased from López.<sup>21</sup> As noted above, López had turned over 500 sheep on account of Martínez' salary as collector when the first settlement of the claim was made. This payment of forty-nine pesos was undoubtedly used as a means of covering up the fact that the note had already been collected.

Thus there was a total of 1147 pesos available to meet Carranza's demand. The costs of the suit were deducted, leaving 1101 pesos' worth of goods to be turned over to Carranza. Five hundred pesos were applied to the liquidation of the note, and the remaining 601 pesos were assigned to Carranza for salary as collector.<sup>22</sup>

It was common knowledge that as purchaser of the property sold at auction Villasante was merely acting as agent for Peñalosa. Moreover, the goods given in payment—*mantas*, hides, etc.—probably came from the stocks of such goods that Peñalosa had accumulated by the simple means of seizure from López. It may be doubted also whether Carranza, as collector for Pacheco, actually retained all of the property assigned to him as salary, the supposition being that Peñalosa probably received a share of it. In fact, all three persons, Martínez, Carranza, and Villasante, were apparently acting as agents and accomplices of the governor.<sup>23</sup>

Thus, by the summer of 1662, Peñalosa had found it possible to use the López case as a means of personal aggrandizement. Other opportunities soon presented themselves. In the spring of 1662 Father Posada received the orders of the Holy Office to arrest Nicolás de Aguilar, Francisco Gómez Robledo, and Diego Romero, and to take appropriate action in the case of Cristóbal de Anaya. The bearer of these orders was ex-governor Juan Manso, who also brought a decree of the *audiencia* naming Peñalosa as judge in the action that Manso was authorized to bring against López on charges based on López' conduct during Manso's

*residencia*. In August, 1662, Peñalosa received the sentence of the *audiencia* in López' *residencia*, and he proceeded to execute the same. And at about the same time Posada received the decrees of the Holy Office for the arrest of López and his wife on charges filed before that tribunal. Thus the situation in New Mexico was further complicated by the series of events resulting from the execution of all these orders and decrees. And it was inevitable that Peñalosa, ever watchful for the main chance, should attempt to derive personal profit and gain from these new developments.

(To be continued)

### NOTES

1. The career of Peñalosa in New Mexico has been briefly summarized in C. W. Hackett, "New Light on Diego de Peñalosa: Proof that he never made an Expedition from Santa Fe to Quivira and the Mississippi River in 1662," *Miss. Valley Hist. Rev.*, VI (1910-1920), 313-325.
2. In a statement of his life history made before the Holy Office on June 25, 1665, Peñalosa stated that he was then "forty-three or forty-four years of age." *Proceso contra Peñalosa*.
3. Peñalosa's father, Maese de Campo don Alonso de Peñalosa Briceño y Berdugo, held office for a time as *corregidor* of Recaxa in the Charcos district. One of his aunts, Doña Petronila de Doipa (?) y Ocampo, was abbess of the convent of the Santísima Trinidad in Lima. A cousin married Dionisio Pérez Manrique de Lara, who served a term as rector of the University of Alcalá de Henares, was later *oidor* of Lima, then President of Charcas, and in 1654 was appointed President of New Granada. One of Peñalosa's brothers served a term as *alcalde ordinario* of La Paz and later was appointed *alcalde provincial* of the *Santa Hermandad*. Peñalosa also claimed as his uncle Fray Alonso Briceño, who served as Bishop of Nicaragua and was later moved to the see of Chile. Testimony of Peñalosa, June 25, 1665, *Proceso contra Peñalosa*; *Encyclopedia Universal Ilustrada*, XLIII, 728-729; Domingo Juarros, *Compendio de la Historia de la Ciudad de Guatemala* (Guatemala, 1857), II, 190.
4. Testimony of Peñalosa, June 25, 1665. *Proceso contra Peñalosa*.
5. *Ibid.*
6. *Ibid.*
7. *Ibid.*
8. Posada to the Holy Office, Santo Domingo, Dec. 8, 1661. A.G.P.M., Inquisición 595.
9. *Real provisión*, México, July 22, 1662. A.G.P.M., Tierras 3268. In a written deposition presented to the Holy Office on Jan. 9, 1664, López' wife indicated one reason why the relations between Valdez and her husband were strained. She stated that on a certain occasion López ordered Valdez not to enter the home of Juan Griego because of his scandalous conduct with a daughter of Griego. *Proceso contra Doña Teresa de Aguilera*.
10. In testimony before the Holy Office, Dec. 3, 1663, López stated ". . . y luego que llegó el dicho Fray Alonso de Posadas al Nuevo Mexico, mostró la union que llevaba hecha con el dicho don Diego de Peñalosa contra este confesante y despachó patente pública a todos los Comventos avisando de la yda del dicho don Diego, mandando le encomendasen a Dios, y llegado que fuese le diesen quanto pidiese o hubiese menester en los Comventos, y que era orden del Comisario General de San Francisco, lo qual se executó inviándole el sustento y todo lo demas de cada Comvento;

y el dicho Don Diego decía que agradecido solo sentia no tener tres o quatro hermanas para el Custodio, y los Frailes, pero que hiciesen todo lo que quisiesen que el haria lo que mandasen . . . ." *Proceso contra López*. A written deposition by Doña Teresa presented to the Holy Office on Oct. 5, 1663, contains the following: "Y el mesmo fetas (Fray Nicolás de Freitas) predicó recien ido peñalosa por gouernador en un sermon que iço que dios auia lleuadole a que socora la iglesia de poder de un erege i otras muchas cosas destas como se lo digo a don bernardo diego romero i todos los que oieron el sermon i los demas que iço pues solo para decir mal dellos acia i era tanta su pasion deste religioso que asta de hir de en casa a solicitar no me amasaran un poco de pan lo acia como lo iço en casa de lucia de montoia amenaçandola le auia de uenir mucho mal por ello si lo acia . . . ." *Proceso contra Doña Teresa de Aguilera*.

11. *Tetimonio de Un Mandamiento en favor de la Custodia del Nuevo Mex.<sup>co</sup>*. Santa Fé, Nov. 4, 1661. B. N. Mex., Legajo, doc. 19.

12. ". . . pues su residencia la hicieron el dicho Fray Alonso de Posadas y los demas religiosos, y le dio el dicho Fray Alonso de Posadas el interrogatorio de preguntas para ello, y un tanto de un dicho para que fuese General en los testigos que llamase para dicha residencia, lo qual le dijo a este confesante Francisco de Anaya Almazan que era el que escribió la residencia, y asi mismo se lo invió a decir Don Fernando Duran de Chaves con Juan Dominguez de Mendoza . . . ." Testimony of López, Dec. 3, 1663. *Proceso contra López*, III. A written deposition by Doña Teresa presented to the Holy Office on Oct. 5, 1663, contained the following: "Primeramente tomo don diego la residencia de don bernardo por un auto de inquisicion como nos lo dijo toriuio de la guerta i Juan domingues de mendoça iendo a gurar en los descargos lo auian uisto i mas digo el dicho Juan domingues sauia en que conuento se auia echo i que fraile le tal auto por interrogatorio para examinar los testigos della." *Proceso contra Doña Teresa de Aguilera*.

13. The manuscript record of the López *residencia* is in A.G.P.M., Tierras 3268.

14. For a statement concerning some of the causes of controversy between López and the Trujillos, see Chapter III, section IV. In a formal complaint presented during López' *residencia*, Diego de Trujillo accused the ex-governor of various acts of injustice, such as unwarranted arrest and imprisonment, seizure of Apache captives, and abusive speech. Francisco de Trujillo stated that López sent him on unnecessary escort duty, and that during his absence from home Apache raiders carried off a herd of thirty mares. For reasons that are not entirely clear, López brought criminal action against Diego del Castillo and threatened him with severe physical punishment. Doña Teresa and the friar-guardian of Santa Fé interceded on behalf of Del Castillo, and the sentence was apparently commuted to a fine and exile. Del Castillo claimed that López built up the case against him by taking evidence from his enemies and by false testimony. A.G.P.M., Tierras 3268.

15. Testimony of Capt. Pedro Lucero de Godoy, May 6, 1664. *Proceso contra Peñalosa*.

16. Testimony of Sargento Mayor Diego del Castillo, May 8, 1664, and of Domingo González, May 17, 1664, in *Proceso contra Peñalosa*; Declaration of López, Sept. 1, 1662, in A.G.P.M., Tierras 3283.

17. *Carta de Justt.<sup>a</sup> . . . en favor de don fernando Pacheco . . .*, [1655-1662]. A.G.P.M., Tierras 3268.

18. Declaration of López, Sept. 1, 1662, A.G.P.M., Tierras 3283; Articles 146 and 147 of the indictment against Peñalosa and his replies to the same, in *Proceso contra Peñalosa*.

19. *Carta de Justt.<sup>a</sup> . . .*, [1665-1662], A.G.P.M., Tierras 3268; Declaration of López, Sept. 1, 1662, A.G.P.M., Tierras 3283; testimony of Antonio González, Feb. 22, 1664, in *Proceso contra Peñalosa*; articles 146 and 147 of the indictment against Peñalosa and replies to the same, in *Proceso contra Peñalosa*.

20. *Carta de Justt.<sup>a</sup> . . .*, [1655-1662], A.G.P.M., Tierras 3268.

21. *Ibid.*

22. *Ibid.*

23. Declaration of various witnesses in *Proceso contra Peñalosa*.