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NEW MEXICO HISTORICAL REVIEW

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NEW MEXICO HISTORICAL REVIEW

Vol. VII

JANUARY, 1932

No. 1

F. X. AUBRY: SANTA FÉ FREIGHTER, PATHFINDER AND EXPLORER

By WALKER D. WYMAN

SOMETIME in the early forties F. X. Aubry, a Canadian by birth, came to the booming town of Independence, Missouri, and soon became known as a merchant of "great enterprise," connected with the Santa Fé trade.¹ He must have possessed a stirring personality for an admiring contemporary wrote of his "medium stature and slender proportions, with keen eyes, iron nerve, great resolution, and indomitable perseverance."² Another believed that his intelligence and sagacity and his success in overcoming difficulties of every nature proved how completely Aubry had adapted himself to the life he loved so well.

Aubry had come to the scene just in time to see overland freighting become a great business. The trade with New Mexico had increased manifold after the occupation of northern Mexico by the Army of the West. The lowly ox and the great prairie became an integral part of westward expansion, and the Santa Fé Trail—a wide roadbed some eight hundred miles in length through an unsettled country—became the path of empire over which guns, groceries, and dry goods rattled to New Mexico from Missouri river towns.

1. *Missouri Republican*, September 11, 1854. This testimony was given under oath in the trial of Major R. H. Weightman for the murder of Aubry. The name was often spelled "Aubrey."

2. George D. Brewerton, "In the Buffalo Country," *Harpers' Magazine*, vol. XXV, p. 456.

By 1847, or before, Aubry was engaged in freighting goods to Santa Fé. The conventional freighter made but one trip each season, starting in the spring after the grass was sufficiently high to subsist the cattle or mules, and returning before snow and cold weather made freighting difficult or impossible. But Aubry started making several trips each year, thereby establishing his "Lightning Express." The first merchants to arrive in the spring made as high as one hundred per cent on the goods sold in Santa Fé. Aubry would hasten back to Missouri and would be enroute again by the time the regular freighters were on the way. There seems to be no evidence that he caused others to adopt his procedure, but rather he remained as the only one consistently to follow winter freighting.

In April, 1847, Aubry left Independence for the first trip of the year; by September 9 he was ready to leave Independence again; and on Christmas Day he started back to Missouri. In spite of the cold and the snow he made the trip in fourteen days. The *Reveille* reported that he left his wagons behind at the Arkansas river and rode the remaining three hundred miles in three days. Three mules were killed enroute. The government express, which had started three days before he left arrived several days after he did.³ His reputation was rapidly being made.

The *Independence Expositor* harbored no worries over their prominent citizen when he left for Santa Fé in early March, 1848. "We have every confidence," the editor wrote, "in the dauntless zeal and indomitable enterprize of Mr. Aubrey to overcome every obstacle."⁴ Having left a number of "fleet-footed" saddle mares along the way he immediately made arrangements for a rapid return. A wager was made that he could not make the trip in eight days—"and many were the boots, and numerous the hats, to say

3. *Missouri Republican* quoted in the *New York Tribune*, January 25, 1848; also *St. Louis Reveille*, January 17, 1848. The *Reveille* believed this the quickest trip ever made.

4. Quoted in the *Reveille*, March 20, 1848.

nothing of the 'tens' and 'twenties' which were hazarded upon Aubrey's intentions."⁵

On the night of May 19 he started from Santa Fé. Within eight days he was in Independence. Newspapers and later writers have proclaimed this event without any degree of incredulity. The Indians had detained him more than a day, he reported, so he had actually covered the distance in seven days. The six men who accompanied him from Santa Fé had fallen behind before they had gone three hundred miles. Alone on that eerie trek he walked forty miles, for three days he was without food, and for only three or four fleeting hours did he succumb to the desire to sleep. Three horses and two mules, so the newspapers said, were left along the trail as mute evidence of his relentlessness. Albert D. Richardson in his *Beyond the Mississippi* says that Aubry won the wager of \$1,000, but at the end he was so stiff that he had to be lifted from his saddle.⁶

However, if the testimony of the *Missouri Republican* (September 24, 1848) is to be accepted, this spectacular ride was to be eclipsed by one in the following year. "This trip," the *Reveille* clarified, "transcends the history of travelling." Six horses [and he "always preferred using the very best saddle stock"] having been left along the trail with various caravans so as to be available at strategic points, sank in sheer exhaustion during this ride. For only two and one half hours, so the account goes, did he sleep. When he arrived in Independence he was helped from his horse and carried inside the Noland House. To the editor of the *Reveille* he brought a letter from someone in Santa Fé. This message, dated September 12, delineated his character and the nature of his most recent exploit in one sentence: "Allow me to introduce to you [that is, to the In-

5. George Brewerton, *op. cit.*

6. The accounts of this trip are given in the *Reveille*, June 5, 1848; *New York Tribune*, June 12, 1848, quoting the *Missouri Republican*, June 3, 1848; and in several secondary works. Richardson refers to a trip made in seven days but gives no date. I assume this was the same trip.

dependence editor] the man to whom the telegraph is a fool.””

In the latter part of October, 1848, Aubry was enroute to Santa Fé in lumbering freight wagons, proceeding in a leisurely manner. The Indians stole some of his mules and killed one of his men near Cow Creek. He pushed ahead by the Raton route (the north branch of the Santa Fé Trail by way of Bent's Fort) after extra animals, while the train came along in its crippled condition. When Aubry returned to them later the intense cold had killed seventy-five mules and the Indians had caused the disappearance of nearly the same number. However, by the middle of February he was back again in Independence with news of Santa Fé up to December 16.⁸

These disasters caused by the cold may account for Aubry's shift of freighting routes in 1850. In the middle of February he left Victoria, Texas, with eighteen wagons, for Chihuahua. Later he reported that the road he traveled could be shortened by one hundred miles, and that, in his opinion, the advantages of this route were so great that all the Chihuahua and much of the Santa Fé trade would take this course.⁹ This optimism must have cooled, for the next year he was running the Santa Fé Trail again. In early spring he left El Paso del Norte. Going by way of Santa Fé, accompanied by ten wagons and forty men, he headed for Independence. At Cottonwood he left his train behind and dashed the remaining two hundred miles in two days on his famous yellow mare. According to the *Missouri Republican* (July 8, 1850) he rode the last hundred and twenty-five miles of this distance in twenty and one-half hours. It was in something of a tone of awe that this newspaper concluded, “[he] moves with almost electric speed.”¹⁰ Within seventy-seven days after leaving Santa Fé for this

7. *Reveille*, September 24, 1848. A. E. Adair wrote in the *Odessa Democrat* (Missouri), February 23, 1917, that Aubry took his food and sleep in “broken doses,” eating between periods of three hours sleep.

8. *Reveille*, February 13 and February 17, 1849.

9. *New Orleans Crescent*, quoted in *Missouri Republican*, March 14, 1850

10. *Missouri Republican*, July 8, 1850.

trip Aubry drove past the public plaza again. This was just twenty-one days less than any previous trip.

After having come from Independence in March and April of 1851, Aubry started back on April 23. In this trip he tried to cut off distance as well as find a route which would eliminate the Cimarron desert with its expanses of sand, void of water and vegetation. At Cold Spring they left the trail, proceeding in a northeastern direction much of the time over a dry sandy plain. After he was satisfied that no new route could be obtained and having but one gallon of water in camp, the party turned northward to the Arkansas. When they arrived at the river the animals had been without water for two days and the men for one day. "They had traveled through sand and hot sun, and had to drink the blood of the Antelope," remarked the *Missouri Republican* a few days later. From Cottonwood on, Aubry rode a hundred miles per day. Newspapers told that just eighteen days after leaving the New Mexico capitol he galloped down the wide streets of Independence.¹¹

Later in the same year this freighter attempted another short cut. He expected to find a crossing much above the one at Fort Mann. A correspondent of the *Missouri Republican* wrote that Aubry's "travelling enterprize and endurance exceed, perhaps, those of all other men living. He has made three trips across the Plains in one year, with loaded wagons. The mail last month, with all its advantages for moving speedily, had to leave nine-tenths of its burden behind; while Aubry came through with heavy teams, and without the loss of an animal . . . [he] has gained the highest admiration for his daring qualities and unscrupled achievements, as the electric traveler."¹²

On New Year's Day, 1852, this Mercury of the plains was out from Santa Fé with a large amount of specie. The heavy snow and twenty-below-zero weather did not prevent him from attempting a new route. His safe arrival on

11. For a day by day account see the *Missouri Republican*, May 19, 1851.

12. *Missouri Republican*, February 2, 1852.

February 5 caused the *Missouri Republican* to pay him the tribute: "no season or weather stops him; and whilst he leads large caravans, he always is successful, both in time and safety."¹³

Sometime in March Aubry faced southwestward again. By early April he was enroute to Missouri, resolved to try a new road. Leaving the trail at Cold Spring as before, he veered northwest, striking the Arkansas fifty-eight miles above the regular crossing. Proceeding in the same direction above the river, he maintained that he saved fifty miles and could save one hundred if properly done.¹⁴

Aubry's third trip of the year, 1852, was made in August. Bringing two hundred and fifty mules, twelve wagons, and two carriages, he broke no records. Perhaps his interest was waning, for in the next two years he turned to new fields (to him) to exploit, and new paths to follow.

In December (1852) Aubry set out from Santa Fé with nearly 5,000 sheep, a few pack animals, and a number of mules, destined for California. The sheep market offered an opportunity for speculation. Several New Mexicans had already turned to this field of investment.¹⁵ But he was by nature an adventurer. He had constantly turned to new fields or had done many unusual feats to satisfy his restlessness. The blood of the pioneer coursed through his veins and in another age he might have been a promoter of the Pony Express or "Around the World Flights." But in the fifties the fever of continental railroads and Pacific wagon roads was in the air. Aubry moved from the smaller sphere of the Santa Fé Trail to the larger sphere of the whole southwest. While selling sheep in California was a means of a lucrative adventure it also provided him the means and the opportunity to see for himself the proper

13. *Missouri Republican*, February 2, 1852.

14. *Missouri Republican*, May 18, 1852. This short-cut was used some by freighters. The *Missouri Republican*, September 11, 1854, said that this had been pronounced the best road by a topographical engineer.

15. *Missouri Republican*, July 31 and November 11, 1853. This paper estimated that 50,000 sheep would start in November to California by way of the Gila route alone. Others were driven up by way of South Pass and Fort Bridger.

route for a railroad or a wagon road from New Mexico to the Pacific.

Consequently the sheep were herded down the Rio Grande, across to the Gila, down that river to the junction of the Colorado, thence up to the coast where they were sold. The financial success must have inveigled him for he is supposed to have said that he "would not thank any man to offer him 50 cents per pound for freight from Independence to Santa Fé."¹⁶ The *Independence Messenger* believed him worth \$250,000 in "plato blanco" after this bit of speculation.

The return from San Francisco offered him his opportunity. Crossing the Sierra Nevada through Tejón Pass, he with a party of eighteen men traveled eastward along the thirty-fifth parallel to the Mojave river, along that river for a few days, then leaving it to the right proceeded to the Colorado. Hostile bands of Indians harrassed them as they went toward Zuñi. At one time a party of warriors, abetted by squaws and children, attacked and threatened to destroy them. Twelve of the whites were seriously wounded and twenty-five Indians were killed. Water became scarce and good food an unattainable luxury. For a month they subsisted on mule and horse flesh, including his "inestimable" mare *Dolly*.¹⁷

On September 10 they were in Albuquerque, having completed the first investigation of a route along the thirty-fifth parallel from New Mexico to California.¹⁸ At the end of his journal he made a complete resumé of the trip, purposes, and possibilities of the route. "I set out in the first place," he wrote, "upon this journey, simply to satisfy my own curiosity as to the practicability of one of the much talked of routes for the contemplated Atlantic and Pacific

16. The account of this drive is given in the *Missouri Republican*, July 4, 1853, which quotes the *Independence Messenger*, June 25, 1853.

17. His journal as published in the Saint Louis *Western Journal and Civilian*, Vol. II, No. 2, pp. 84-96, is given in Appendix I.

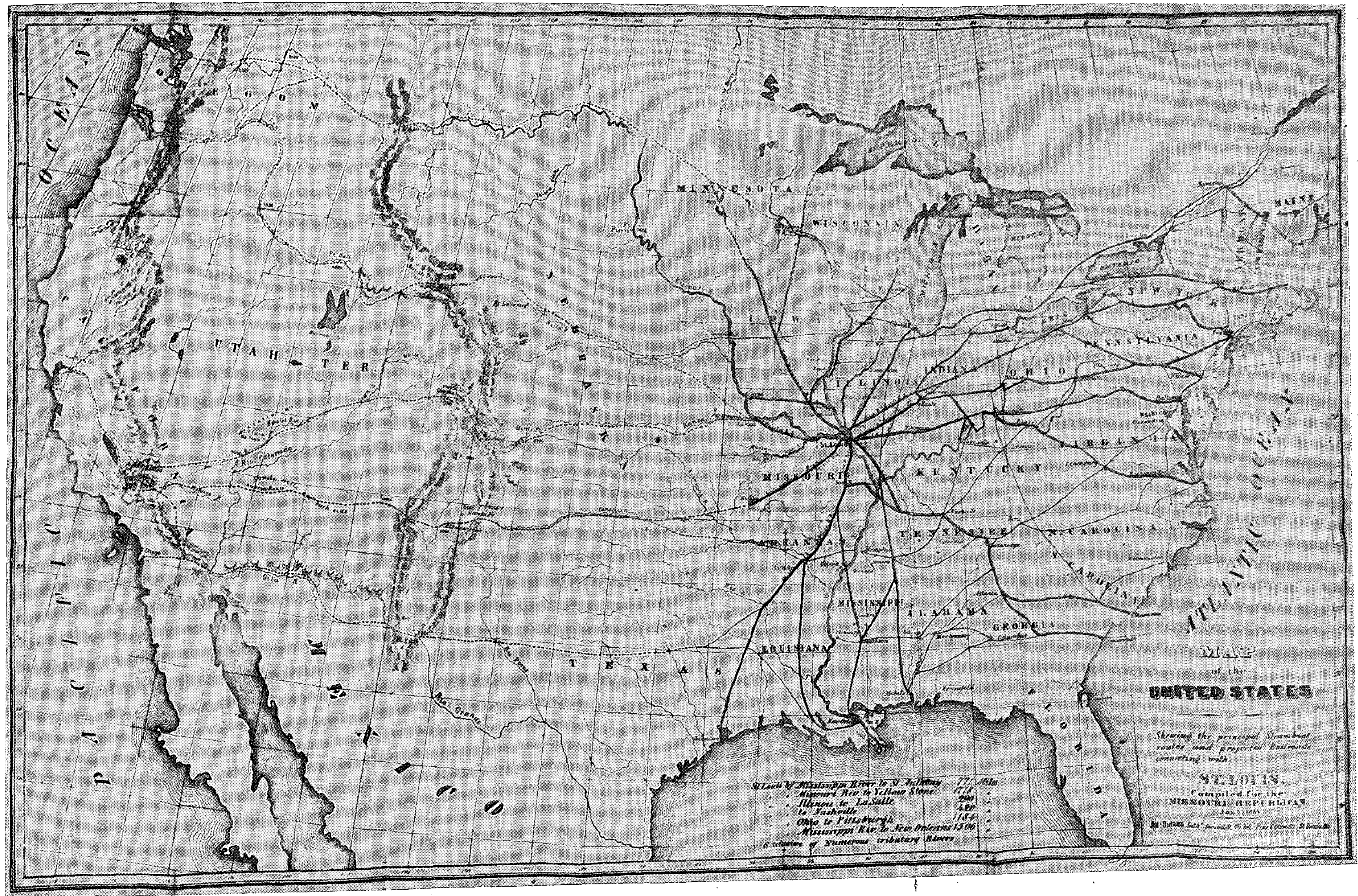
18. Captain L. Sitgraves made a reconnaissance as far as the Colorado from New Mexico in 1851. He followed the thirty-fifth parallel. See *Senate Executive Doc.* No. 59, 32d. Congress, 2d Session.

Railroad. Having previously traveled the southern or Gila route, I felt anxious to compare it with the Albuquerque or middle route. Although I conceive the former to be every way practicable, I now give it as my opinion that the latter is equally so, whilst it has the additional advantage of being more central and serviceable to the Union. I believe the route I traveled is far enough south to be certainly free from the danger of obstruction by snows in winter. . . . I am satisfied that a railroad may be run almost mathematically direct from Zuñi to the Colorado, and from thence to the Tejón pass in California. . . ." Then he proceeds to give specific recommendations in regard to the exact location of the track. He states his objections to the other proposed routes and ends his journal thus: "I have no interest in recommending one of these routes more than another. . . . Upon the route I have just traveled, I encountered many hardships and dangers, and met with serious pecuniary loss; yet I say it is the best for a railroad, and would be excellent for ordinary traveling but for the Indians. A large portion of the trail over which I passed—say some 250 miles west from the Rio Grande—is, for the most part, admirably adapted to farming and stock raising."¹⁹

Just a few days after Aubry had started from California a government expedition, under Lieutenant A. W. Whipple, started from Ft. Smith, Arkansas, to "ascertain the most practicable and economical route for a railroad from the Mississippi to the Pacific ocean" which would lie along the thirty-fifth parallel.²⁰ Before Whipple left Albuquerque for the west, one of Aubry's men was consulted, and he gave

19. Quoted from his *Journal* cited *ante*, pp. 94-96. The *Missouri Republican* made a map of Aubry's route on January 1, 1854. It was published by the St. Louis Chamber of Commerce in their annual report of 1853 under the title of "Map of the United States Showing the principal Steamboat routes and projected railroads connecting with St. Louis." A photostatic copy of this map was obtained through the courtesy of the State Historical Society of Missouri, Columbia, Missouri.

20. The Military Act of March 3, 1853, provided for this survey. Whipple with a corp of topographical engineers, geologists, artists, and other experts, escorted by troops, and taking wagons and pack animals, left Ft. Smith, Arkansas, on July 14, 1853, and Albuquerque on November 7, 1853. They arrived in Los Angeles on March 24, 1854. See his journal in *House Executive Doc. No. 91*, 33d Congress, 2d Session, Vol. III.



them a description of the country over which they had passed. Whipple recorded that the man cautioned them to "avoid his trail as being unsuitable for our [Whipple's] operations."²¹ However, this warning must have been made concerning a part of the trail, for Whipple followed in a general way that taken by Aubry and was enthusiastic concerning it. In the latter part of that year or in the early part of 1854 Aubry and other New Mexican capitalists were on the way to California with their sheep. Aubry had visions of following the same middle route on his return to Albuquerque, but in such a way as to avoid the hardships of the former year. Accordingly, on July 6, he led a force of men through Tejón Pass. This group had been outfitted at a cost of \$15,000 with the avowed object, so he wrote in his journal, of locating "a Wagon Road from this valley [San Jose] to Albuquerque on the north side of the Gila, in the 35th parallel of latitude, or as near it as practicable."²² Whipple's trail was crossed several times, as was his own of the year before. The Indians did not harass them on this trip, nor did the party suffer from lack of food and water.

Thirty-five days after the departure from California, Aubry stopped at the store of Messrs. Mercure in Santa Fé. Major R. H. Weightman, formerly the editor of the *Amigo del Pais*, of Albuquerque, who had published Aubry's California journal of the previous year, entered the store soon after. After shaking hands, the men began a general conversation concerning the journal Weightman had published. Aubry asked Weightman what had happened to his paper, and was told that it had died for lack of subscribers. "Aubry then said that any such lying paper ought to die. Weightman asked him what he alluded to, when Aubry replied and said: 'last fall you asked me for information about it, which I gave you, and you afterwards abused me.' " In the quarrel which followed Weightman threw part of a tumbler of liquor in Aubry's face, then stepped back a pace or two, and

21. *Ibid.*, p. 48.

22. His journal was printed in the *Missouri Republican*, September 26, 1854. See Appendix II.

placed his hands upon his belt. . . . [Aubry] immediately drew a five-shooter from his left side, and as he brought it up in front of him, one barrel prematurely discharged (supposedly while cocking it) before it was on a level with Weightman's person, and the bullet went into the ceiling." Weightman drew a Bowie knife, they clinched, and Aubry was stabbed, dying soon afterward.²³

In the subsequent trial the court instructed the jury that by reason of Aubry's drawing the pistol, Weightman had "no reasonable and safe means in his power to avoid or escape the danger in which he was placed without taking the life of Aubry." Frontier justice was soon given, the jury agreeing unanimously that the defendant was not guilty.²⁴ The *Missouri Republican* rather sadly told of the funeral services being held in the "Parroquial" church in Santa Fé, and that a "large concourse of friends" followed the body to the grave.

The exploits of Aubry drew the respect of the leading newspapers of the day. By them he was referred to as "Telegraph Aubrey," the "Great Plains Courier," the "Skimmer of the Plains," and the "fleet traveller of the Prairie," also being given other sobriquets of a similar ring. His speed records, in all probability, inspired the christening of the "F. X. Aubry," one of the "Lightning Line" packets plying on the Missouri. The military department gave his name to a fort on the Arkansas river built for the protection of the Santa Fé Trail in the Indian troubles of 1865 and 1866. The state of Missouri named a town in his honor. Even the gold rush to Colorado in the latter seventies brought an "F. X. Aubry" lode. The name became legendary, associated with great speed and daring. His soul was restless and adventurous, craving only the approbation of his fellowmen. He typifies the frontier spirit in

23. This account is taken from testimony given under oath in the trial of Weightman, published in the *Santa Fé Gazette* and quoted by the *Missouri Republican*, September 26, 1854. Also given by R. E. Twitchell in his *Leading Facts of New Mexican History* (Cedar Rapids, 1912), Vol. II, pp. 305-309.

24. A full account of the trial is given in the *Missouri Republican*, October 28, 1854.

his boundless energy, his faith in himself, and in his belief in the power of man to conquer nature. Yet he made no permanent contributions. A distant government failed to recruit his talents in guiding one of the many surveying parties of the fifties in quest of a suitable railroad route through the Southwest, or in commanding wagon trains to feed the destitute Army of the West in the Mexican War. Aubry probably would have scorned such an offer. It was for him to play the lone hand, to do the unusual and spectacular. To live in the spotlight of public approval was all that he demanded in return. It is rather melancholy that his death should have come while defending one of his exploits. Contemporary testimony indicates that he was one of the heroes of the latter forties and early fifties, and that he deserves the honor of being called a pathfinder, an explorer, and one who personifies the "great riding tradition of the West."

APPENDIX I

AUBRY'S JOURNEY FROM CALIFORNIA TO NEW MEXICO

(The notes, kept by Aubry, of this journey in 1853 are given as they first appeared in the *St. Louis Western Journal and Civilian*, vol. 11, no. 2 (Nov., 1853), pp. 84-96. The editor, in a note, said: "The following account of a trip made by F. X. Aubry from California to New Mexico, through an unexplored region, is full of interest, especially at the present time, and is highly worthy of being preserved in American history on account of the heroism displayed by the author and his comrades.")

Notes.—By F. X. AUBRY

TEJON PASS, *July 10th*, 1853.—As the country between this point and San Francisco is well known, I have kept no minutes of my journey thus far. We crossed the Sierra Nevada at the Tejon Pass, which is in about the 35th parallel of latitude, and about 50 miles south of Walker's pass. From this point we travel east until we reach the Rio

Grande at Albuquerque, New Mexico. It is well to remark that, unfortunately, there is no one with us who knows anything of the country through which we must pass, and we could not obtain any information in regard to it. *My* party consists of eighteen men—twelve Americans and six Mexicans. Messrs. Tully, of Santa Fe, and Adair, of Independence, have joined us for a pleasure trip. We use pack animals entirely, having neither wagon nor carriage.

July 11th.—Left the Pass, and made twelve miles east over a level, gravelly and sandy soil, and found a spring of good water.

July 12th.—Traveled twenty miles eastward, the country similar to that of yesterday. We met with no timber, but found several springs of fresh water. There is timber in the mountains about the Tejon pass, but none on the eastern side of them.

July 13th.—Travelled to-day 35 miles east, and struck the Mohave river, where we found plenty of good water. This river sometimes disappears in its course, whilst at others it contains as much as two feet of water. There is a little coot-wood timber upon its banks, and canebrakes in great abundance. The cane is not of the large species.

The Mohave takes its rise in the San Bernardino mountains, which lie to the south of us, and after pursuing a northern course to a point a little north of our present camp, turns suddenly east, and soon south of east to empty into the great Colorado. Found good grass for our animals.

July 14th.—Made 20 miles east along the Mohave, and found water, timber and grass abundant.

July 15th.—Continued along the river about 18 miles further, in a direction nearly east, then leaving the Mohave to our right, we traveled 15 miles north-east.

Met with an abundance of grass, a little timber, and a few miles of fertile land along the river. There is no water in the bed of the stream; but it may be had by digging a few feet. Found wild game from time to time. Encamped without water, grass or wood.

July 16th.—Still pursuing a north-eastern course—we traveled to-day 35 miles over a level, gravelly soil. We have deviated from our due east course in order to avoid a region of sand hills that lie to our right, and directly between us and the Great Colorado. The weather is very hot, and no rain has fallen since we left the Pass. So far we have met

with neither Indians nor game of any kind. We obtained a little water about half-way in our day's journey; but saw no timber or grass.

July 17th.—Made 33 miles northeast, over a level, gravelly country; about half way obtained a little very bad water. No grass or timber in sight during the day; but at night we obtained good water, grass and wild game. Prairie mountains lie on both sides of the trail.

July 18th.—Traveled 20 miles, still north-east, over a level country. Saw but little good land, and no timber. After traveling about 5 miles, we found good spring water, but encamped without any.

July 19th.—Course still north-east, distance 32 miles, country level, soil inferior, grass and water, but no timber.

July 20th.—Made 20 miles north east over a level, gravelly country, and obtained good spring water and grass. Saw no timber.

July 21st.—Were detained in camp all day by the sickness of one of the men.

July 22d.—Traveled 20 miles east-south-east, most of the distance through a little canon, where we found good grass, water and game in abundance, and struck the great Colorado of the West. The river at this place is over 300 yards in width, and has from 10 to 15 feet water in the channel. Its banks are entirely destitute of timber and grass; in fact, no vegetation is met with except a small shrub, called *chamezo* by the Mexicans, and I believe *artemesia* by botanists. We were very fortunate in striking the river at this point, where there are neither canons nor mountains, although the country appears very rough and mountainous both to the north and south of us. To the north, the rocks are black and irregular, and seem to be volcanic; whilst the cliffs to the south are of red sandstone. The banks at the crossing are low, rocky and unchanging, and the current exceedingly rapid.

We followed the river up for 5 miles, and selected a crossing where it was some 200 yards wide and 20 or 25 feet deep. We succeeded in finding a little drift wood, of which we made a raft. Four men took charge of it, and it was carried some 3 miles with the current before it could be landed. The heights were covered with Indians, in readiness to shoot us down. I started down with four men to follow the raft and protect the men who were upon it,

having ordered the camp to move down in haste. Having unloaded the raft upon the eastern bank, the men recrossed the river, and we selected a camp opposite the place where the baggage was deposited, and during the night kept up a constant fire with our rifles across the river, and in this manner protected it from the Indians.

The animals were taken to the crossing I had first selected, to swim the river. I took them up with three men on the west bank, and four men received them on the opposite side. This detained us half a day, and altogether we were detained five days in crossing the river.

The driftwood of which we constructed our little raft, appeared to have been cut by beavers. These animals must be exceedingly abundant, as they destroyed during the first night the ropes with which our raft was bound together, and carried off the timber. The loss of the ropes was a great inconvenience to us. We set a guard afterwards at night over our second raft, to protect it from a similar fate.

The river showed signs of having been some fifteen feet higher than when we crossed it. It is here a grand and magnificent stream, swift like the Mississippi, and apparently as well adapted to navigation.

The place of our crossing is well suited to bridging, or ferriage by steam or otherwise.

We saw no water-fowl about the river, and only a few antelope and black-tailed deer. East of the river we encountered a great many rattlesnakes of an uncommonly large size. They seem to be a new species, as their tails are covered, for some six inches from the point, with alternate white and black rings of hair or bristles, about a quarter of an inch long.

According to my observations the Colorado of the west is set down upon the maps greatly too far to the east, perhaps as much as 150 miles.

The Indians were constantly in sight, and watching our movements. They could not be induced to approach us; but assured us, across the river, that they were Mohaves.

On one occasion, whilst at rest for a few minutes in a deep gulley, about a mile from the crossing on the west side of the river, a Mexican mule-boy discovered something glistening upon the ground, which on examination proved to be gold. We at once commenced washing sand in our tin cups, and in every one discovered particles of gold. This gold was discovered in a dark, coarse sand, and a black

heavy sand was found in the cup after washing away the gravel. The sandy soil was so compact that we could not dig it up with our fingers. The Indians being still on the heights near us, and our party being separated by the river, the danger was so great that we could not remain longer at this spot. I intended to return again, but the Indians became so numerous that it was impossible to do so. This gulley is on the right bank of the river, and the head of it is in a very rough and rugged mountain.

July 27th.—We washed sand on the east side of the river, and found gold in greater abundance than on any previous occasion. A Mexican boy, on washing a frying-panfull of coarse sand, found from forty to fifty particles of pure gold, some of which were as large as the head of a pin. We took the clay and sand from the top of the ground without digging. The appearance of the country also indicated gold. I made no further examination, as our animals had subsisted for five days upon the *chamezo*, without a blade of grass, and our provisions had been damaged in the Colorado, which must cause us to travel several days without anything to eat.

To-day we made 10 miles east. The country is without wood, water or grass.

July 28th.—Two of our men being sick, we were compelled to return to the river on their account.

Struck it some 15 miles below the crossing, and found that from near that point it makes a considerable bend towards the east. The country here does not indicate gold, nor could we find any on washing the sands.

July 29th.—The condition of our sick men obliged us to remain in camp all day. Our animals were in a starving condition, as there is not a particle of grass on or near the river.

July 30th.—Left the river and traveled 15 miles east, and 5 north-east. A sick Mexican was so much exhausted that we were compelled to make for a mountain north of us, which indicated water; but we found neither water, timber nor grass.

July 31st.—Traveled 8 miles, north-east, and struck a large stream, but much smaller than the Colorado, coming from the east-south-east, and running west-north-west. This stream may be what the Mexicans designate as the Rio

Grande de los Apaches, and what the Americans have recently called the Little Red River.

One of our Mexicans followed this stream a few miles, and says it empties into the Colorado, 7 or 8 miles below camp, and that there is below us a valley of good soil, and grass in abundance. Where we struck this stream there is neither timber nor grass.

In the evening, we traveled 5 miles south, to avoid mountains, and as many east.

The country was level, but without grass or timber.

The mountains, or perhaps more properly hills that we have thus far met with, are nothing more than elevations of various forms and dimensions, dispersed in a detached and irregular manner over a vast and otherwise uninterrupted plateau. Hence, I have constantly termed the country level, and very properly, as it may be traversed in all directions among the solitary and detached elevations or mountains, without the necessity of crossing them.

August 1st.—Traveled 20 miles east, and found a spring of good water; the grass was abundant, and cedar trees were seen on the highlands. The country is level, and the soil inferior.

August 2d.—Made 10 miles east, crossing a mountain or ridge, where we found a fine pass, grass and timber (cedar and piñon,) abundant.

August 3d.—Traveled 20 miles south of east, over a country somewhat broken; timber and grass abundant. Indians were around us in numbers, all day, shooting arrows every moment. They wounded some of our mules, and my famous mare Dolly, who has so often rescued me from danger, by her speed and capacity of endurance.

August 4th.—We moved 10 miles south, to avoid mountains, and struck a valley which we left a few days since, and which extends to the Colorado. The mountains which we left are covered with timber. Grass and water were found in plenty.

The Indians commenced firing on us at sunrise, and continued until we reached camp. Arrows passed through the clothes of the men, and three passed through my own clothes, and I was slightly wounded by two others in different places. An arrow passed through the collar of Dick Williams. We killed several of the Indians and wounded more. Peter Prudon accidentally shot himself in the right knee.

August 5th.—Traveled 10 miles south-east in a valley. No water; grass and timber in abundance on all the mountains.

August 6th.—Continued 10 miles south-east in the same valley in which we traveled yesterday; found no water, but good grass and plenty of timber on and below the mountains. As our sick men are unable to travel, we are suffering for water, having been nearly 3 days without any; and indications are not now favorable. Indians still around us.

August 7th.—Traveled 10 miles south-east, half the distance in the same valley, and then went to a mountain, and found good water, grass and timber. All the mountains in this country are covered with cedar, pine and piñon. The grass is good in all the prairies, but none of them have any water. The soil is sandy and full of particles of mica. Indians are numerous, and continue to fire upon us.

August 8th.—Made 15 miles east-south-east, crossing a little chain of mountains, where we found a level pass, and timber, grass and water in abundance. Crossed a stream running from north-east to south-west, which I think goes to the Colorado. After crossing the mountains, we passed through a fine valley, with an abundance of good spring water, and timber near it. The Indians attacked the camp several times last night, but without success, and continued fighting us during the day, but with less boldness and resolution.

August 9th.—After proceeding 8 miles east, we found ourselves surrounded by cañons, apparently from one to four thousand feet deep; at least we sometimes could not see the bottom. We were compelled to return to the same camp. The country is high and level, and well supplied with timber, grass and water.

August 10th.—Moved 10 miles south-east over a somewhat broken country. Crossed a stream of good water, (with timber along its course,) which is evidently a tributary of the Gila. The country indicates gold in abundance. We crossed a little chain of mountains, where we found a great quantity of silver ore in flint rocks.

August 11th.—Traveled south-east over a country a little broken, but well supplied with water, grass and timber. Indications of gold still exist.

August 12th.—Made 15 miles south-east, crossing the bed of a large stream now dry, with plenty of timber along it. Struck the valley which we left some five or six days ago, having crossed a few days ago the head water of a stream which passes through it. This valley will be of the utmost importance in the making of a wagon or rail road.

To-day, for the first time on this trip, we ate a dinner of mule meat. It was a new dish to most of our men, and made some of them sick. To me it was an old acquaintance, and I feel well. It only served to remind me of hard times on other journeys. The quality of the meat depends on the appetite of the man. Several of us are now on foot.

August 13th.—Marched 20 miles east, leaving to our right the great valley so often mentioned, and which extends to the Colorado. Passed through a little valley between two mountains, where we found timber, grass and water in abundance. The soil was excellent.

We here met Indians, who professed to be very friendly, with papers of recommendation from the commanding officer of Fort Yuma, on the Gila trail.

August 14th.—We left early, and after traveling 5 miles in an eastern direction, stopped to breakfast near an Indian camp of Garroteros. They professed friendship, but having no faith in their professions, I selected a camp on the top of a small hill, which would give us advantage in case of a fight. All went on well until our mules were saddled, and we were ready to start, when, at a given signal, some forty or fifty Indians, apparently unarmed, and accompanied by their squaws, children and babies, (tied to boards,) in their arms, very suddenly charged upon us, and attempted to destroy the whole party with clubs and rocks. The signal of attack was the taking of my hand in farewell by a chief, which he held with all his strength. So soon as these first Indians commenced the fight about two hundred more rushed from behind a hill and brush, and charged upon us with clubs, bows and arrows. I thought, for a few minutes, that our party must necessarily be destroyed; but some of us having disengaged ourselves, we shot them down so fast with our Colt's revolvers, that we soon produced confusion among them, and put them to flight. We owe our lives to these firearms, the best ever were invented, and now brought, by successive improvements, to a state of perfection.

Mr. Hendry, an American, and Francisco Guzman, a New Mexican, greatly distinguished themselves.

Twelve of us, just two-thirds of our party, were severely wounded. I, among the rest, was wounded in six places. Abner Adair, I fear, is dangerously injured. It was a very great satisfaction to me to find that none of my men were killed, nor any of the animals lost. We bled very much from our numerous wounds; but the blood and bodies of the Indians covered the ground for many yards around us. We killed over twenty-five, and wounded more. The bows and arrows that we captured and destroyed, would have more than filled a large wagon.

Before the attack commenced, the squaws kept the clubs, which were from 18 to 24 inches long, concealed in deer skins about their children. When put to flight, they threw their babes down into a deep, brushy gulley, near at hand, by which many of them must have been killed. This is the first time I ever met with a war party of Indians accompanied by their wives and children. The presence of the latter was evidently to remove from our minds all suspicion of foul play on their part. I was never before in so perilous a condition with a party in all my life. On this occasion, which will be the last, I imprudently gave my right hand, in parting, to the Indian chief. The left must answer for leave taking hereafter.

We have thus far had so much ill-luck to encounter, that our arrival at our destination must be much delayed. First, our men fell sick, then our provisions were damaged in the Colorado; latterly, a man shot himself through the knee; our mules' feet, for want of shoes, are worn out; and, to crown all, to-day two-thirds of the party are badly wounded, and all have barely escaped with their lives. We are now subsisting entirely on mule meat, and do not get as much of that as we want. We are without salt and pepper, and, in their absence, it requires a stout stomach to digest our fare. But nobody complains, and the possibility of not doing what we have set out to do, has never entered the minds of my party.

We traveled 5 miles this afternoon, with the Indians at our heels, shooting arrows at us every moment.

August 15th.—Traveled 10 miles east among mountains, where we found water, grass and timber in abundance. Indians around us all day shooting arrows. I omitted, in the proper place, to say that I brought away from

the mountains we passed through on the 10th, a little black sand, less than a cupful, and found in it, on washing, twelve or fifteen particles of pure gold.

August 16th.—Made 10 miles east and found no water; plenty of grass and timber seen on the mountains north of us. Indians still numerous and troublesome. To-day met with copper in very great quantities. A vein of the pure native metal, about an inch and a half in diameter, was seen sticking out from a rock, which must have worn away by time and left the copper exposed. I think there is gold in the ore, but am not certain.

Our condition at present is bad enough. I have eight wounds upon me, five of which cause me much suffering; and at the same time, my mule having given out, I have to walk the whole distance. Thirteen of us are now wounded, and one is sick, so that we have only four men in good health. We are unable to travel faster on account of Adair's condition.

Our canteens, &c., having been broken or destroyed in our fight with the Indians, we cannot carry water enough for more than half a day. This loss caused us to suffer more than can be imagined. Our animals are broken down by this traveling, which could not be avoided. We would come across an abundance of water every day if we could march some twenty-five or thirty miles, but our condition is such that it requires three days to make that small distance. In addition to all this, we are now on half rations of horse meat; and I have the misfortune to know that it is the flesh of my inestimable mare *Dolly*, who has so often, by her speed, saved me from death at the hands of the Indians. Being wounded some days ago by the Garroteros, she gave out, and we are now subsisting upon her flesh.

August 17th.—Moved to-day about 10 miles east, over a country rather rough. Suffering much for want of water. In crossing mountains we have to select the highest places instead of the regular passes, as when caught in cañons or gullies we are not strong enough to fight the Indians. To-day, from the top of a little mountain, I saw the great valley, so often mentioned, extending to the Colorado, not over twenty miles south of us, and it now seems to turn more to the east. I intend to make for it. I entertain fears that Adair and Baskerville are in danger from their wounds; all the others are getting better.

August 18th.—Moved only 5 miles south of east. Found water, grass and some timber.

August 19th.—Went 5 miles to-day in the same direction as yesterday, and came to the great valley that extends to the Colorado. Encamped on a creek of good water and grass. Adair being sometimes unable to travel, we are waiting on him. Indians around us shooting arrows. We never return their fire without being certain of our shots.

August 20th.—Traveled 20 miles east, over a level, gravelly country; crossed a creek; found good grass; no timber in sight.

August 21st.—Moved 10 miles east over a level, gravelly country, and struck a large stream which is, no doubt, a branch of the Gila. The mountains to the north of us are very rough, and without timber.

There is no grass on the stream, which is 30 yards wide, with three feet of water in the channel. Its course is from north to south.

August 22d.—Made 10 miles south-east to a mountain. Country level, and without grass or timber.

August 23d.—Moved about the same distance and in the same direction, over a low, gravelly country. Struck a stream of good water, but without grass or timber.

August 24th.—Went about 8 miles north-east, and encamped in the mountains, where we met with the Apaches Tontos. No timber seen to-day.

August 25th.—Crossed the mountains where the Apaches Tontos live, and found water, timber and grass in abundance. Traveled 15 miles northeast from the top of this mountain, from which we saw the Sierra Blanca Mountains, which are near the Pueblo of Zuñi.

Saw a prairie extending from the east end of the Garrotero Mountain to the upper end of the Sierra Blanca. I saw this prairie when we were at the east end of the Garrotero Mountain, but we were not in a condition to examine it. Fifty miles is nothing with good animals; but ours were broken down, and our wounded men were unable to travel over ten miles a day. But I saw the country sufficiently well to convince me that there will be no obstacle whatever to the making of a rail or wagon road. The mountains which we crossed to-day are impracticable for either. I should like to return to the east end of the Garrotero Mountain and pursue the route I indicate; but it is utterly impos-

sible to do so, as we are now living on berries and herbs. We would rejoice to have mule meat, but we have so few animals, and so many wounded men, that it would be unsafe to kill any more. I have the good fortune of having true men with me, otherwise it would be uncertain that the party could get through; but I have confidence in my men, and I feel positively certain that we will make the trip.

It will take us some ten or twelve days to reach Zuñi, where we expect to procure provisions. I shall travel near the mountains, as heretofore, on account of the certainty and facility of getting water, but shall remain in sight of the prairie extending from the Garrotero to the Sierra Blanca Mountain.

August 26th.—Moved 10 miles east-north-east, most of the way along a creek, where we found grass in plenty, and some timber. The Apaches Tontos are numerous and troublesome.

August 27th.—Made 15 miles east, crossing two streams which are branches of the Gila. We met Indians to-day, who, I think, are not Apaches Tontos, as they do not speak any Spanish, and refuse to answer our questions. We obtained from them over fifteen hundred dollars worth of gold for a few old articles of clothing. The Indians use gold bullets for their guns. They are of different sizes and each Indian has a pouch of them. We saw an Indian load his gun with one large and three small bullets to shoot a rabbit. They proposed exchanging them for lead, but I preferred trading other articles. Whether the Indians made these balls themselves, or whether they were obtained by the murder of miners in California or Sonora, I am unable to say.

August 28th.—Traveled 10 miles east, over a good country, met with more Indians and traded for some horse-meat, by giving articles of clothing in exchange. We traded also a few hundred dollars worth of gold. To-day a mule broke down, and an Indian gave me for it a lump of gold weighing a pound and a half less one ounce.

The Indians are so numerous they would destroy the party if we allowed them the least chance. But we are very vigilant, and select camps on elevated places, consequently we are unable to make any examinations for gold in the sands of the country. The Indians call themselves Belenios.

August 29th.—Traveled some twenty miles in an eastern direction; the country quite level, and the land good, with plenty of grass and water.

August 30th.—Moved about twelve miles north of east, over a country similar to that of yesterday. Found water, grass and pine timber.

September 1st.—Traveled fifteen miles over a country a little broken, and well supplied with water, grass and timber.

September 2d.—Traveled the same distance north-east to the Sierra Blanca. Followed Indian trails all day, and found grass, water and pine timber in great abundance; and most of the soil is of a superior quality.

September 3d.—Pursuing the same course, we traveled some fifteen miles among the same mountains. To-day we passed through valleys of good soil, and we found the pine timber in greater abundance than yesterday. The trees are generally from two and a half to five feet in diameter, and over two hundred feet high. We have seen timber enough to-day to make a railroad from the Eastern States to the Pacific. The passes through this mountain are level, and can be traveled by wagons without any difficulty whatever.

September 4th.—Made 25 miles north-east, crossing the Colorado Chiquito after traveling two miles. The land is level and good, and water and wood are plenty.

September 5th.—Made 20 miles north-east, and got out of the mountains after traveling five miles; struck the prairie, where we found good soil, grass and water.

September 6th.—Continuing north-east over a good and level country for 25 miles, we reached the Indian town or pueblo of Zuñi, where we met with a hospitable and civilized population, from whom we obtained an abundance of good provisions, over which we greatly rejoiced.

We have subsisted for a month on mule and horse flesh, and for the most part of that time on half or quarter rations. But as I have reached this place with all my men, I feel satisfied. I shall take no notes of the country from this town to Albuquerque on the Rio Grande, as a level and much traveled wagon road exists between the two places, and is familiar to the people of New Mexico. It has been described by others, and is well known to present no difficulties to the construction of a railroad.

September 10th.—At Albuquerque, New Mexico. Before laying aside my pencil, for the use of which I have no fancy, I shall set down a few ideas that are now prominent in my recollection.

I set out, in the first place, upon this journey, simply to gratify my own curiosity, as to the practicability of one of the much talked of routes for the contemplated Atlantic and Pacific Railroad. Having previously traveled the southern or Gila route, I felt anxious to compare it with the Albuquerque or middle route. Although I conceive the former to be every way practicable, I now give it as my opinion that the latter is equally so, whilst it has the additional advantage of being more central and serviceable to the Union. I believe the route I traveled is far enough south to be certainly free from the danger of obstruction by snow in winter.

The route, in all its length, may be said to pass over a high plateau, or generally level country, for the most part thickly studded with prairie mountains, or detached elevations, seldom so linked together as to deserve to be called a chain of mountains. Numerous mountains were at all times in sight; but being for the most part isolated peaks, a detour of a few miles would always supersede the necessity of crossing them. To the south of our route from the great Colorado to Zuñi, the country was more level than on the north, and for the greater part of the distance a valley extends nearly due east and west to the Colorado. The existence of so many mountains along the way must be considered, in reference to a railroad, as a very fortunate circumstance instead of a disadvantage, as it is the mountains alone which furnish the timber and never failing water. The plains are only deserts and barren spots, if they are to be called so after the fashion of the day, which exist in all that vast region of country which lies between the Gila on the south and the British Possessions on the north, and the Rio Grande on the east, and the Sierra Nevada of California on the west. The plateau, or table lands, must of course furnish the track upon which the road is to be laid; but the mountains adjacent must furnish the timber to make it, and the water for the use of men and animals employed in its construction, and for the use of the depots afterwards.

It is well for the country over which I passed that these mountains exist, as without them it would be in reality one vast and repulsive desert. It would be a disadvantage for

a railroad to have to cross them, as, although not difficult to cross, it would much increase the expense. But I saw nothing that rendered it at all probable that they would have to be crossed. On the contrary, I am satisfied that a railroad may be run almost mathematically direct from Zuñi to the Colorado, and from thence to the Tejon Pass in California. The section from the Pass to San Francisco should leave the Tular Lake to the west, and should pass through the Coast Range of mountains, say in the neighborhood of San Juan, and thence to San Francisco, and by a branch to Stockton.

The west side of Tular Lake is unfit for a road on account of its miry nature. The section of the route from Zuñi to Albuquerque is plain sailing. That from Albuquerque to Independence to St. Louis, or Memphis, is equally plain, by two or three well known passes through the Sandia Mountains, which lie east of the Rio Grande.

Certain slight deviations from the track which I pursued would improve the route. For instance, it would be better to leave my trail to the north, at a point say 180 miles east of the Sierra Nevada, and intersect it again some fifteen miles west of the Colorado. On the east side of the Colorado the road should pursue a directly eastern course for 75 miles, and thence take an east-south-east course for nearly 200 miles, at the foot and on the south side of the mountain inhabited by the Garrotero Indians. Thence north-east for 15 miles, in a prairie between these mountains and a range of mountains which seem to extend to the Gila. From this point, the road should run easterly to the Colorado Chiquito river, and thence north-east to Zuñi. The distance from the east end of the Garrotero mountain to Zuñi is about 200 miles. This route, as I indicate it, will pass at all times in sight of my trail, and through as practicable a country as any railroad route of the same distance in the United States.

The proposed route by the Sangre de Cristo, north of Taos, I take, if practicable at all, to be very objectionable on account of the vast elevations the road must ascend to and the large quantities of snow which fall and remain there so long during the winter months. This route has also the additional disadvantage of crossing two rivers, the Grand and the Green, either of which would be as costly to bridge as the Colorado.

A route has been somewhat spoken of just north of the Gila, with the view of having a route wholly on American

ground. This, I am satisfied, is altogether out of the question, on account of mountains alone, if no other objection existed. The Gila route proper, passing in part through Sonora, is objectionable on several accounts, besides its situation. In the first place, there is no timber upon the plains, nor upon the volcanic mountains that are along the way. A considerable part of the route, too, lies over a country destitute of vegetation, which, when dry, is a white powder, resembling flour, in which the feet of men and animals sink several inches. This same clay, when wet, is the most treacherous of quagmires. Some parts of the road are also very sandy. Don Ambrosio Armijo, who took sheep to California last year, lost as many as eleven hundred among the sand-hills west of Colorado, by sinking in the sand, and being run over by those behind. Another serious objection to the Gila route is the great desert which lies west of the Colorado, and has an extent of 100 miles without wood or water.

I have no interest in recommending one of these routes more than another. I took sheep and wagons to California last year by the Gila route, and I am about to return that way to California again with sheep. Upon the route which I have just traveled, I encountered many hardships and dangers, and met with serious pecuniary loss; yet I say it is the best for a railroad, and would be excellent for ordinary traveling but for the Indians. A large portion of the trail over which I passed—say some 250 miles west from the Rio Grande—is, for the most part, admirably adapted to farming and stock raising.

APPENDIX II

In the editorial column of its issue of September 26, 1854, *The Missouri Republican* (St. Louis) said:

We publish to-day the traveling notes of MR. AUBREY, taken during his late trip from San Jose to Santa Fe. They contain much valuable information in regard to the nature and resources of the country through which he passed, and they possess a melancholy interest as a record of the last journey which the daring adventurer made.

A good many letters were received yesterday from Santa Fe, all of which make mention, in sorrowful terms of the death of AUBREY. It was an occurrence universally regretted, and the regret seems to have been heightened by the

achievement which he had just accomplished of making the trip from San Jose to Peralta in *twenty-nine* days—not unaccompanied, as has been supposed, but with a company of sixty men, and bringing with them to Peralta a wagon which had been driven the whole distance. We have seen a letter from DR. CONNELLY which states this fact, and it furnishes irrefutable evidence that a Railroad from Albuquerque to San Francisco is practicable, and that, as mules and or Peralta, in twenty-nine days, it is by all odds the best route which has yet been discovered for a Railroad to the Pacific. Now take the Southwestern Branch of the Pacific Railroad of Missouri, extend it to the Missouri border, as it has been determined to do, push it to Albuquerque and thence to the Pacific, and we shall be able to make St. Louis the great Central Route for the trade of California and the Indies.

(Immediately following is the account of Aubry's death, copied from the *Santa Fe Gazette*; and in column four of the same page are the notes which are here reproduced.)

F. X. AUBREY'S JOURNAL

SAN JOSE, CALIFORNIA, July 6th, 1854.

We leave this place to-day for New Mexico, with a party consisting of sixty men, and fitted out at an expense of about fifteen thousand dollars. Judge OTERO, Mr. CHAVIS, and Mr. PEREA, are my companions. The object of the expedition is to locate a Wagon Road from this valley to Albuquerque on the north side of the Gila, in the 35th parallel of latitude, or as near it as practicable.

JULY 22.—To-day we struck the Mohave river, having crossed the Coast Range mountains near San Juan, and the Sierra Nevada at the Tejon Pass. The Pass through the Coast Range is low and easily practicable for a Railroad, wagons can be driven between San Jose and Albuquerque, and it can be continued at the foot of the Coast Mountain to the Sierra Nevada without the least difficulty, as it all level. The land on the west side of the Tulare Lakes is very inferior, and forever uninhabitable. It was oppressively warm; the thermometer marked 112 degrees in the shade.

The Cañon de Uvas (or Grape Pass), is the lowest pass in the Sierra Nevada, and the best for a Railroad, and thence the route should come direct to the Mohave river.

JULY 30.—We arrived to-day at the Great Colorado river, where we struck last year. We came from San Jose to the Sierra Nevada in ten days, and from that mountain to this place in eight days, counting traveling days only. We were delayed in making attempts to find a route to cross this river some fifty miles below this point, but could not succeed. The country south is either filled up with low mountains or sand hills. However, I think a level route can be had by going east to *this c* (not distinct) from a point where the Mohave river turns abruptly to the north-east. But this country is barren and indicates no water. I had intended to pass through it, but Judge Otero objected to it so strongly that I abandoned the project.

We brought our boat on a wagon to this place without the least difficulty, and a rail route can be had with the greatest facility. The country most suitable for a rail or wagon road is to leave the old Spanish trail twelve miles from the Agua Tiomese, and traveling north-east to this place. There is an extensive vegas about forty miles south-west from here, which will be of great advantage to travelers. On this route there is no sand whatever.

The distance from the Cañon de Uvas to this place is less than 300 miles, and the whole distance from San Jose will not quite reach 600 miles.

Also, travelers can reach this crossing by taking the old Spanish trail to the Vegas Callatana, leaving it to the north and traveling twenty-five miles south-east—Springs will be found at half way, with grass in abundance.

Recent observations show that this crossing is very nearly in latitude $35\frac{3}{4}$ degrees, as the Vegas Callatana is in a few minutes less than 36 degrees.

We found the Colorado river some fifteen feet lower than last year, and anticipated no trouble in crossing. The river, as low as it seems, is still navigable for the largest class of steamboats; and this may be the head of navigation, as there is a cañon just above us. This will, no doubt, become a landing for the people of Salt Lake.

JULY 31.—We crossed the Colorado in ten hours, without any loss whatever. Our boat worked admirably, under the management of PEREA and CHAVIS, who are better navigators than any others in the party. We delayed half a day in searching for gold, and without much success. We found some small particles in sand obtained near the river. Our

two miners say that indications are much better in a little mountain near the river which we crossed the next day.

AUGUST 1.—We marched twenty miles southeast, crossed a low mountain where there is a good pass; but there are on this side a number of gullies, from three to fifteen feet deep. Of course they can be easily made level for a rail or wagon road. We struck the Colorado where it turns to the south.

AUGUST 2.—Made fifteen miles east, near our trail of last year. Country level and gravelly; no timber.

AUGUST 4.—We traveled fifty miles southeast yesterday, and to-day in the same level valley, which is well supplied with lakes and spring of good water, and with an abundance of timber on the mountains. There is a *plaze*, or dry lake, in this valley, about twenty-five miles in length and ten miles in width.

This valley or prairie extends all the way to Zuñi, but as it makes a bend to the south, and afterward to the north, we will attempt to find a more direct route to the Del Norte.

It seems that the presence of our large party has created great confusion among the Indians. We found several rancherias they have abandoned, where they left their crops—consisting of water-melons, pumpkins, and a little corn. Also, in some places they left bows, arrows, &c., &c. Our men regret not having an opportunity of bringing punishment upon them for the treatment they extended to us last year. It would be useless for us to follow them, as they have gone into rugged mountains.

AUGUST 5.—We were detained half a day in search of a pass through a high table mountain, and found one entirely level, and one to two hundred yards wide. We traveled two miles north and eight miles east; passed two springs of good water, and plenty of grass and timber.

To-day CHAVIS, PEREA, and a few men, met some Indians, and exchanged a few shots with them.

AUGUST 6.—Marched twenty-five miles over a high, level table land, with great abundance of grass and timber. We saw deer and antelopes, and found rainwater in many places.

AUGUST 7.—Traveled twenty miles over the same level country; found grass, timber, and water in abundance. We

passed during the day, several branches of William's Fork, or Big Sandy, and encamped near the head of the main stream. I went on top of a high peak, and recognized the Garrotero mountains, near our trail of last year.

AUGUST 8.—We started in an eastern direction, and crossed Lieut. WHIPPLE'S trail, after traveling three miles. We continued the same course, and after traveling ten miles we struck heavy and thick timber, of pine, cedar, and piñon, where we were detained hours without being able to get through it; and it is barely possible to pass it on foot. In consequence of this, we went south, and traveled eight miles on Lieut. WHIPPLE'S trail.

AUGUST 9.—We left Lieut. W.'s trail to the north, and proceeded east. We passed near a valley fifteen miles wide, and twenty miles in length; and passed through another about ten miles in length, and seven or eight miles wide. We found several springs of good water, yesterday and to-day.

The whole of this country is well supplied with grass in great abundance, and we saw timber enough to-day to make a thousand miles of railroad; the trees are from one to four feet in diameter, and from one hundred to two hundred and fifty feet high. There are mountains North and South of us covered with timber. We traveled twenty miles East, and fifteen miles North-east. This evening I went on top of a mountain and discovered, from the formation of the country ahead of us, that there is a stream not over twenty-five miles from our camp; it may be the Colorado Chiquito.

10th—We marched twenty-seven miles North-east and struck the Colorado Chiquito. According to one of PEREA'S men, we are opposite the villages of the Moquis. We have so far succeeded most admirably in finding a wagon route to this place; and it is clear sailing from this camp to Zuñi, as the valley of this river may be followed all the way without the least obstacle. The country to-day was level and well supplied with timber and grass. This stream is about twenty yards wide and one and a half feet deep. The valley is narrow, with coarse grass in it, and unfit for cultivation; there are a few small cotton-wood trees along the stream.

We came from the Great Colorado to this place in nine traveling days: distance 225 miles.

11th.—We came to the falls of the Colorado Chiquito after traveling eight miles, and made twenty-two miles in the afternoon. We are traveling up the river in a S. S. E. direction. We discovered to-day that a distance of thirty or forty miles can be avoided by coming directly East from our camp on the 7th inst., and striking the river at this camp. There is a higher mountain covered with fine timber which must be left to the North, and some low hills to the South.

12th.—Marched thirty-five miles East, along the river, where we found wagon tracks, plenty of cotton trees and grass.

13th.—Traveled twenty-five miles East on North side of the river, and two miles near a little creek coming from the East. To-day we went in the hills and found several very large petrified trees, one was six feet in diameter and two hundred and fifty feet in length.

This morning we saw the Sierra Blanca and recognized other mountains on my trail of last year.

14th.—Marched twenty-five miles East over a level country, with gravelly soil, good grass and some Cedar and Piñon. We are about fifteen miles North of the Colorado Chiquito.

16th.—Traveled twelve miles East and struck my trail of last year thirty-five miles from Zuñi, which we will pursue to that place, and travel the wagon road to the Del Norte.

PROBLEMS IN THE EARLY ECCLESIASTICAL HISTORY OF NEW MEXICO

FRANCE SCHOLES

THIS paper will deal with two problems of early ecclesiastical history and organization in New Mexico, 1598-1630, viz., the date of the founding of the "Custodia de la Conversión de San Pablo del Nuevo México," and the chronology of the early custodians or prelates.

The author has been prompted to make this re-examination of these problems because of the accumulation of new documentary evidence on the early history of New Mexico, which has been made available during recent years by the labors of several students. Professor George P. Hammond has made known a mass of material on the Oñate period not printed in the Pacheco-Cárdenas¹ and Bandelier-Hackett² series. Professor L. B. Bloom's researches in the archives of Spain, especially in the papers of the Sección de Contaduría in the Archivo General de Indias in Seville, have made possible the building up of a sounder chronology of New Mexico in the seventeenth century. From the Propaganda Fide in Rome have come the unpublished 1634 *Memorial* of Fray Alonso de Benavides and relate papers.³ The author of this paper has devoted most of his efforts to the papers of the Inquisition in the Mexican National Archive and to the remnants of the archive of the Convento Grande de San Francisco de México that are now in the National Library in Mexico.⁴

1. *Colección de documentos inéditos relativos al descubrimiento conquista y colonización de las posesiones españolas en America y Oceanía.* (Madrid, 1864-84) 42 vols.

2. *Historical Documents Relating to New Mexico, Nueva Vizcaya, and Approaches Thereto, to 1773.* (Washington, 1923-26.) 2 vols.

3. Some of these papers from the Propaganda Fide are described in a pamphlet by Rev. Thomas P. O'Rourke, C. S. B., Ph. D., *A Study of the "Memorial" of Fray Alonso de Benavides.*

4. For reference to the library and archive of the Convento Grande de San Francisco, see Felipe Teixidor, *Ex Libris y Bibliotecas de Mexico*, (Mexico, 1931).

Reference is made finally to Fray Francisco Antonio de la Rosa Figueroa's *Bezerro General Menológico y Chronológico*, a manuscript in the Ayer Collection of the Newberry Library in Chicago.⁵ Rosa Figueroa was librarian of the Convento Grande de San Francisco de México and archivist for the Franciscan Province of the Santo Evangelio,⁶ and as such had access to the papers of the Order. This manuscript contains lists of friars that had served in the Province of the Santo Evangelio, together with information concerning their country or province of origin, date of profession, and such other information as the editor-author thought was valuable. In these lists are the names of the prelates of New Mexico, and in some instances very valuable details concerning their services in the Order are added. The manuscript is not "new," but it has not been used to the fullest extent possible by students of Franciscan history in New Spain.

The information which is found in this accumulation of unpublished materials has been supplemented by such evidence as is found (1) in the well known published works of ecclesiastical historians of New Spain, such as Mendieta, Torquemada, Vetancurt, and others, and (2) in the pub-

Monografías Bibliográficas Mexicanas, num. 20, pp. 379 et seq. These papers are of the highest value for the history of the Franciscans in the Southwest. Most of the New Mexico materials have been reproduced in photostat for the Library of Congress. The Texas and Northern Mexico materials have been reproduced by Carlos E. Castañeda, librarian of the Latin American Collection of the library of the University of Texas. A legajo on California and a volume of Serra letters have been reproduced in photostat for the Library of Congress.

5. The full title of the manuscript is: *Bezerro General Menológico y Chronológico de todos los Religiosos que de las tres Parcialidades conviene a saber Padres de España, Hijos de Provincia, y Criollos, ha Avido en esta St. Prova. del Sto. Evango. desde su fundacion hasta el preste, año de 1764 y de todos los prelados assinros. M. Rdos. PP. Comisarios como Rdos. PP. Provinciales que la han governado. Dispuesto y elaborado con la possible prolixidad y claridad por Fr. Franco. Antonio de la Rosa Figueroa, Predr. gl. Notario Appco. Notto. y Revisor por el Sto. Offo. Archivero de esta Sta. Prova. y Bibliothecario en este Convento de Mexico.* The manuscript as it now exists in the Ayer collection seems to be incomplete, and is probably only part one of the projected work. In the Bancroft Library, University of California, there is a manuscript with similar title and with Rosa Figueroa as the author. Whether this is part two of the manuscript or a copy of part one, I have not been able to ascertain.

6. For bibliographic note on Rosa Figueroa, see Beristain, *Biblioteca Hispano-Americano Septentrional*, (2a ed., Amecameca, 1883), Tomo III, pp. 67, 68.

lished sources and secondary works dealing with the general Franciscan history and organization in the late sixteenth and early seventeenth centuries.⁷

II.

The ecclesiastical history of New Mexico during the Spanish period is essentially the history of the Franciscan missions established by the Order of Friars Minor. It will not be out of place, therefore, to digress for a moment in order to sum up the general form of government and organization of the Order as a whole, before discussing the special problems of Franciscan history in New Mexico.⁸

The unit of administration was the convent where a group of friars lived under the guidance of a guardian. These units were not independent establishments as were the houses of some of the other Orders; instead, a group of convents in a given area was organized into a province governed by a Provincial, a standing committee of Definitors, and the provincial chapter which met periodically and which elected the Provincial and Definitors. Over the entire Order, comprising all the provinces, was the Minister-

7. The sources include the *Annales Minorum*, volumes xxiii-xxv, edited by Cerreto and Fermendzin. (Ancona and Quaracchi, 1859-1886); *De Gubernatis, Orbis Sera-phicus* (Rome and Lyons, 1682-89), 5 vols.; and a number of separately printed rules and statutes for the Order as a whole and for some of the provinces in New Spain for the sixteenth and seventeenth centuries. This last group of printed rules and statutes I used in the National Library, Mexico City, which has a rich collection of books of this sort. A list of these may be found in Vigil's *Catálogos de la Biblioteca Nacional*, 4a Division, *Jurisprudencia*, (Mexico, 1908.) The most useful of these for this study were: *Estatutos Generales de Barcelona . . . ultimamente reconocidos y con mejor método dispuesto en la congregación general celebrada en la Ciudad de Segovia el año Señor de 1621 . . .* (Madrid, 1622; Sevilla, 1634); *Tabula et constitutiones celeberrimi capituli generalis totius Ordinis minorum celebrati in conventu Sancti Joannis Regum Toleti*. (Matriti, 1633); *Constituciones y Leyes Municipales de la Provincia del S. Evangelio de Mexico*. (Mexico, 1667). One of the books listed in Vigil's catalogue is *Constituciones de la Provincia del Santo Evangelio, hechas en el capítulo provincial celebrado en Xochimilco, en 1614, y reformadas en el celebrado en México en 1640*, (México, 1640). This book might have been invaluable. Although I asked for it on several occasions, it could never be found on the shelves!

8. Description of Franciscan organization may be found in numerous books. The book which I have found most useful for all phases of general Franciscan history and organization in relation to the present study is P. Dr. Heribert Holzapfel, *Handbuch de Geschichte des Franziskanerordens*. (Freiburg, 1909).

General, elected by the general chapter. In the course of time, with the growth of the Order, the European provinces had been divided into two groups or families, the Cismon-tane and the Ultramontane. From the sixteenth century onward the Minister-General was elected alternately from one family and then the other, and a Commissary-General was elected to represent the family not represented by the Minister-General.⁹ The discovery of the new world and the founding of new Franciscan establishments both in America and in the Orient greatly extended the business and organization of the Order. To assist in the administration of Franciscan affairs in the Spanish colonies a Commissary-General for the Indies was appointed to reside in Madrid, and to have general supervision over all the Franciscan provinces in the Spanish Indies, subject to the Minister-General of the Order. Then, within the Americas, two lesser Commissaries-General were appointed, one for New Spain and another for Peru.¹⁰

In this brief outline of Franciscan organization no mention has been made of the *custodia*, which is the unit or area most important for this present study. The *custodia* may be described as an administrative area which did not have the status of a full-fledged province. In some cases a *custodia* was subject directly to one of the higher prelates of the Order, but most of the *custodiae* were parts of and subject to a regularly constituted province. In the latter case a *custodia* was a semi-independent area, autonomous and self-governing in local affairs, but still subject to the general control of the province of which it formed a part. The *custodia* had its own chapter, its own Definitors, and its

9. Holzapfel, *ibid.*, pp. 171-205, 422-461, contains a good outline of Franciscan organization, both before and after the year 1517 which was a landmark in Franciscan history and organization.

10. The Spanish Crown had been granted the patronage over the American church, and the Commissary-General of the Indies, both in his appointment and in his management of Franciscan affairs in the Indies, was subordinated to the general theory and practice of the patronage. For a discussion of these questions, see Porras, *Gobierno de los Regulares de la América*, Tomo I, (Madrid, 1783). Also Holzapfel, *op. cit.*, pp. 437-447, and *Estatutos Generales de Barcelona . . .* (Madrid, 1622), section entitled, "Estatutos generales para los frayles de las Indias."

own local prelate who had the title of Custodian (Lat. *custos*, Span. *custodio*). Sometimes a province had more than one of these areas within its boundaries.^{10a}

The normal process of development was for the *custodiae* to develop into full-fledged provinces, and in the sixteenth century there were few of them remaining in the Old World. But in the New World, new *custodiae* came into existence along with the expansion of Franciscan enterprise there. A brief review of the development of Franciscan organization in New Spain will indicate more clearly the nature and significance of these units or areas of Franciscan administration.

III.

The success of the Cortés expedition, culminating in the military conquest of Tenochtitlán in 1521, opened the way for the spiritual conquest of Mexico. The Spanish government at an early date gave serious consideration to the general policy to be followed in effecting the conversion of this new possession. Inasmuch as the Mendicant Orders, especially the Franciscans, were to be used in initiating the missionary labors among the Indians, the papacy was asked to extend to America the privileges and concessions that had been granted on former occasions to friars going out to labor in heathen lands. In two bulls, the *Alias felicis* of Leo X, April 25, 1521, and the famous *Exponi nobis* of Adrian VI, May 10, 1522,¹¹ the friars, especially the Franciscans, were given full liberty to undertake the work of evangelization in the Indies, and were granted numerous privileges and concessions, including the right freely to preach and baptize, to administer certain of the sacraments, and, under certain circumstances, their prelates could ex-

10a. Brief statements concerning the *custodiae* and their organization are found in Holzappel, *op cit.*, bk. I, sec. 38, "Kustos und Kustodie-Kapital"; and in *Catholic Encyclopedia*, article "Custos."

11. The text of these bulls may be found in Mendieta, *Historia Eclesiástica Indiana* (Mexico, 1870), pp. 188-93, and in Hernáez, *Colección de Bulas, Breves, y otros Documentos relativos a la Iglesia de América y Filipinas* (Bruselas, 1879), I, pp. 378-79, 385-86.

ercise quasi-episcopal powers, such as confirmation, the conferring of minor orders, consecration of ecclesiastical buildings and ornaments, issuing of indulgences, and dispensing in certain matrimonial cases. The bull *Exponi nobis* contained the famous statement that these powers were to be exercised by the prelates in areas where there were no bishops, or two days (*dietae*) from a bishopric, and that such prelates were to have *omnimodam auctoritatem nostram in utroque foro*.¹²

These grants of privilege and authority made possible full development of the opportunity for conversion of the Indians by the Mendicant Orders. In 1523 a group of Franciscans was chosen for the mission, and Fray Martín de Valencia was chosen to serve as prelate of the group. The Minister-General of the Order, Fray Francisco de los Ángeles, or de Quiñones,¹³ gave them their instructions. These instructions are important as a point of departure for the history of Franciscan organization in Mexico and Central America.¹⁴

The instructions provided, first, that Fray Martín de Valencia, leader of the mission, should be called "Custodian of the Custodia of the Santo Evangelio," and that all of the friars being sent with him, or to be sent later, should be subject to his authority, or to that of his successors. As Cus-

12. In 1533 Paul II, in the bull *Alias felicis*, confirmed these earlier concessions and abolished the two day limitation. Mendieta, *ibid.*, pp. 195, 196, and Hernáez, *ibid.*, I, pp. 390-91. The exact nature of the authority granted to the prelates of the friars, within the meaning of the phrase *Omnimodam auctoritatem nostram in utroque foro*, is a difficult problem. The friars naturally tried to place a broad interpretation on such phraseology, whereas the bishops endeavored to limit in the narrowest possible manner the powers thus granted. Another problem which was a matter of much controversy had to do with the limitations placed on these earlier concessions by later bulls and by the decrees of the Council of Trent. It is not possible to discuss these problems in this paper.

13. Fray Francisco de los Ángeles together with another Franciscan, Fray Juan de Clapión, had hoped to take part in the first formal Franciscan mission to Mexico, and the bull *Alias felicis* of Leo X had been addressed to them. But their plans could not be carried out, for Fray Clapión died, and at the general chapter of the Order, meeting in 1523, Fray Francisco de los Ángeles was elected Minister-General. Plans for the mission were pushed forward, however, the group was organized with Fray Valencia as prelate, and its instructions were given by Fray Francisco de los Ángeles who had hoped to be a member of the mission.

14. The instructions are in Mendieta, *op. cit.*, pp. 200-206.

todians; he and his successors were to be subject immediately to the authority of the Minister-General. To the said Custodian the Minister-General delegated all his power *in utroque foro*, both ordinary and delegated—that is, the authority which he enjoyed by virtue of his office as Minister-General and that delegated to him by papal decree. Two exceptions to this grant of authority were made: the power of receiving women into the Order of Santa Clara, and the authority to absolve offenses which by their nature involved excommunication by the Minister-General. All of the friars were instructed to recognize Fray Valencia as Custodian, and to obey him in all matters in which, under the Rule, they would be accustomed to obey the Minister-General and other Prelates of the Order. In case of death of the Custodian or of the expiration of his triennium, the friars of the custodia were to elect a successor who would *ipso facto* be confirmed and recognized as Custodian. Finally, whenever two or more friars were to be sent into the field from headquarters, one of them must be made prelate of the group.

Such are the essential points in the instructions that are pertinent to the present study. Fray Valencia and his associates finally embarked from San Lucar on Jan. 25, 1524, and arrived at Vera Cruz on May 13.¹⁵ They were received in Mexico City with great devotion and courtesy by Cortés and his associates. Very shortly they were joined by five other friars already in Mexico, including the three Flemish Franciscans of whom Fray Pedro de Gante is most famous, and the entire group held the first chapter of the Custodia of the Santo Evangelio. Fray Martín de Valencia had resigned his office as Custodian, but the chapter re-elected him. With the organization of the custodia effected, the friars were ready to begin active missionary labors, and groups of four each were sent out to Tezcoco, Tlascala,

15. Medieta, *op. cit.*, pp. 207-208.

and Guaxozingo, while the Custodian and another group of four remained in Mexico City.¹⁶

Thus formal missionary government and enterprise was set on foot in 1524. During the succeeding years the friars, reinforced by new groups of workers sent from Spain, began to push farther and farther into the outlying areas. Groups were sent out to Michoacán, Yucatán, Tampico (Huasteca), Nueva Vizcaya, and other parts of New Spain where they initiated the work of conversion, built churches and convents, and founded the Church on a solid basis. In each of these cases the missionaries were dispatched under the authority of the Custodia, or (after 1535) the Province, of the Santo Evangelio. Some one of each group was appointed to be prelate or leader in accordance with the Minister-General's instructions. The title of this person, as indicated in the documents and histories, varied. The terms "presidente," "caudillo," and "comisario" are all used, but probably "comisario" is the most common. The group was, however, directly subject to the prelate of the mother unit and the convents that were established were regarded as integral parts of it.

But this expansion of the missions brought the need for a more elaborate organization. The first step was taken in 1535 when the general chapter at Nice erected the Custodia of the Santo Evangelio into a full-fledged province.¹⁷ The same year the convents in Michoacán were erected into a custodia. The need for granting this measure of local autonomy to the Michoacán missions is well summed up in Torquemada (elaborating on Mendieta), and his statement bears witness to the practical reasons that usually prompted the erection of a mission area into a custodia. He says:

Fueron Casas sujetas a esta Provincia de Mexico las de aquel Reino de Mechoacan desde el Año de 25 hasta el de 35, en el aquel Año fue erigida y levantada en Custodia, y fue la primera que engendró esta Religiosísima Provincia

16. Mendieta, *op. cit.*, pp. 210-216.

17. Vetancurt, *Crónica* (Mexico, 1697), p. 24.

del Santo Evangelio: porque este mismo Año tomó esta del Evangelio, Título de Provincia; y haciendose Provincia, quedó Mechoacan por Custodia: que hasta este Año esta de Mexico y aquella de Mechoacan, todo era una Custodia; los Guardianes de aquellas Casas se congregaban a Capítulo con los de estotras, donde quiera que se celebraba. Pero erigida en Provincia esta del Santo Evangelio, pareció a los Padres Congregados, ser de mucho trabajo y dificultad venir a los Capítulos de la Provincia, los de aquel Reino, en especial, que venian de pie, y eran muchas las Leguas: por lo qual ordenaron que se hiciese Custodia, con concierto que hubo, de que de los Frailes que viniessen de España a ayudar a la Conversión, les diessen a los de Mechoacan la tercia parte de ellos.¹⁸

In short, circumstances required that the new outlying mission areas should have some kind of formal local organization. The increase in local mission business and details of organization demanded it, and the distance which separated these areas from headquarters in Mexico City not only made it more and more difficult to transact business in an orderly way, but placed heavy burdens of travel on the friars in the outlying areas whenever summoned to provincial chapter. Moreover, visitation and control of the outlying convents by the provincial prelate was also a difficult task.¹⁹ The usual method of meeting these problems was to erect these new areas into *custodiae* with their own local organization and local officers, but remaining subject to the general supervision of the mother province. The number of convents required for a *custodia* varied according to circumstance. Yucatán became a *custodia* with only

18. *Monarchia Indiana* (ed. 1723), III, p. 333.

19. The factor of distance in forcing a change is indicated by statements of Torquemada in relation to Yucatán and Tampico. He states concerning Yucatán: "... y alçano de el P. Fr. Francisco de Bustamente, que á lo saçon era Comisario General de todas las Indias, que aquellas dos Casas [Mérida and Campeche], por estar tan remotas, se hiciessen Custodia por sí." *Ibid.*, III, 337. In the case of Tampico, he says, "Fundo algunas Casas en Tampico, y otras partes, las quales llegaron a numero de siete, y por estar tan remotas y apartadas, para poder ser visitadas de los Prelados Ordinarios de esta Provincia del Santo Evangelio, se erigió en Custodia." *Ibid.*, III, 347-48.

two convents;²⁰ the Custodia of San Diego of the Barefoot Friars had five;²¹ Tampico had seven.²²

Thus one by one the outlying areas became custodiae; Michoacán in 1535, Yucatán in 1549,²³ etc. In most cases, however, the custodia was only a transition stage in Franciscan organization in New Spain as in Europe—the stage between full dependence on the mother province and full independence. One by one most of the custodiae in New Spain reached full provincial status: Michoacán in 1565, Yucatán in 1559, Guatemala in 1565,²⁴ etc. These changes were made possible by, and were recognition of, at least two factors: (1) an increasing number of convents and friars sufficient to warrant full provincial status;²⁵ and (2) proper provision for the teaching and training of novices.

The formal erection of a province was by vote of the general chapter. The general chapter also confirmed the erection of custodiae, but it appears that original action in the case of a custodia could be taken by the superior prelates of New Spain, the Commissary-General of New Spain and the Provincial of the Province of the Santo Evangelio.²⁶

Two of the custodiae that were established, subject to the general supervision of the Province of the Santo Evangelio, did not attain full provincial status. These were the Custodiae of Tampico and New Mexico. Both had convents enough to warrant the erection of provinces, and there is evidence that at the general chapter meeting at Toledo in

20. *Ibid.*, III, 337.

21. Medina, *Crónica de San Diego*, f. 35v.

22. Torquemada, *op. cit.*, III, 347-48.

23. *Ibid.*, III, pp. 333, 337.

24. *Ibid.*, III, pp. 333, 337, 3339. Vetancurt, *Crónica*, p. 24.

25. The number of convents required for a province seems also to have varied. Medina, *Crónica de San Diego*, ff. 39v-44, denounces the notion that twelve were required. The province of San Diego, Barefoot Friars, became a province with seven convents, and he casts doubt on the point of view that a special dispensation was necessary in this case. It is easy to understand that a special favor may have been shown in this case, for this was the only unit of Barefoot Friars in New Spain; moreover, the Custodia de San Diego, prior to its erection into a province, was subject to the Province of San Gregorio in Manila.

26. Yucatán was erected into a custodia on the initiative of the Commissary-General of New Spain. Torquemada, *op. cit.*, III, 337. The Custodia of San Diego was created, subject to approval of the higher authorities. Medina, *op. cit.*, f. 35v.

1645 there was discussion of such action. Lack of schools and adequate training for novices and danger from Indian attacks are the reasons given for failure of these areas to become provinces.²⁷

The Custodia of New Mexico remained under the control of the Province of the Santo Evangelio down to the end of the Spanish period. In fact, the control exercised by the Province, at least in the seventeenth and early eighteenth centuries, remained more extensive than that normally exercised over other custodias. The election of a Custodian was ordinarily in the hands of the local custodial chapter; except that, in those cases where the number of friars in a custodia was not regarded as large enough to warrant that procedure, the Custodian was elected by the central authorities of the mother province. In the case of New Mexico, despite the fact that after 1631 the number of friars in the custodia was sometimes as large as sixty-six, the election always remained in the hands of the authorities of the Province of the Santo Evangelio.^{27a} A summary rec-

27. Vetancurt states that the general chapter in 1645 took some action looking to the creation of a province by uniting the Custodias of Rio Verde (at that time subject directly to the Commissary-General of New Spain) and Tampico. "Y por no poder tener noviciado ni casas de estudios . . . no tuvo execución." *Crónica*, p. 91. As a matter of fact, the general chapter united the Custodia of Rio Verde with Province of Zacatecas. De Gubernatis, *Orbis Seraphicus*, IV, p. 118. Fray Joaquín de Iñarbe, provincial of the Province of the Santo Evangelio, in an *informe* addressed to D. Manuel Antonio Flores, president of the Audiencia of Mexico, Dec. 21, 1787, discussed the status of the Custodias of Tampico and New Mexico and the northern frontier missions and said: "En una y otra pensó no pocas vezes la Prova. del Sto. Evangelio, y aun el mismo capítulo General Franciscano, celebrado en Toledo el año de 1645, establecer Provincial, y formar un cuerpo de Provincia. Pero las incursiones repetidas de las Bárbaras, y sus frecuentes saqueos en las Misiones con la intemperie de los climas pa. los Estudios, dejaron ineficaces aquellos sanos arbitrios, que no dejarían de ser útiles, si fueron superables los inconvenientes." The *informe* is in *Documentos para la historia de Mexico, Misiones*, MS., Bancroft Library.

27a. I have used the phrase "authorities of the Province of the Santo Evangelio" because it is not clear whether the election always remained in the hands of the Provincial and Definitors, as was the case early in the seventeenth century, or whether it later was vested in the provincial chapter. The document which gives us most of the information on this point (see note 28) states, in the case of the later elections of the seventeenth and early eighteenth centuries, that the such and such friars were "Instituted" as Custodian "in the chapter." I cannot be sure whether this means that the chapter itself controlled the election or whether the Provincial and Definitors made the election at the time of meeting of the chapter.

ord exists of most of the elections from 1623 to 1755,²⁸ and there is not a single instance of election by the local custodial chapter in New Mexico in that period.

The Custodians were sometimes friars who had never served in New Mexico prior to their election and sometimes friars who had seen years of service in the Custodia. The powers exercised by the Custodian in New Mexico were wide. He was chief and leader of all the friars, directed their activities, and represented them in all their relations with the State. In fact, the Custodian enjoyed, in relation to the custodia, the same authority that the Provincials enjoyed in their provinces.²⁹ Besides, the Custodian was prelate of the entire community, civil and ecclesiastical, for no bishop exercised active authority over New Mexico prior to the first quarter of the eighteenth century. The Custodian, therefore, enjoyed quasi-episcopal powers, as granted by the bulls of Leo X, Adrian VI, and Paul III. To him the non-aboriginal members of the community paid tithes.³⁰ He was ecclesiastical judge ordinary for the entire province, and records of trials of laymen by the Custodian, or his delegates, for ecclesiastical offenses have been preserved. Finally, the Custodian was sometimes Commissary of the Inquisition, with authority to investigate error and heresy. Such a wide variety of authority gave the Custodian great influence; in fact, except for the civil governor of the province, the Custodian was the most powerful personage in New Mexico, and, in some cases, he was in reality more influential than the governor.

28. This record is a document entitled *Custodios de Nuevo Mexico sacados de los Libros de Decretos de la Provincia principiando por el que empezo año de 1623 . . .* Biblioteca Nacional, Mexico, Legajo Series, Leg. 9, doc. 8. The compiler was Rosa Figueroa, the compiler of the *Bezerro General*.

29. "Declárase que los Prelados Custodios en sus distritos y Custodias tienen consimil autoridad regular que los Prelados Provinciales en sus Provincias, sin limitación alguna si no es la que expresamente pusiere esta Provincia por su Discretorio y Diffinitorio pleno." *Constituciones y leyes municipales de esta Provincia del S. Evangelio . . .* (Mexico, 1667).

30. Vetancurt, *Crónica*, p. 96.

IV.

When was the Custodia of New Mexico established? The answer to that question depends very largely upon the proper interpretation of the term Custodian (Lat., *custos*, Span., *custodio*) as used in the sources and secondary materials. It has been indicated above that the term was used to designate the prelate of a custodia, but it must be pointed out, however, that it had a more general use than that in the Franciscan Order. "Saint Francis sometimes applied the word to any superior in the order—guardians, provincials, and even to the general (See Rule, IV and VIII, and Testament)."³¹ In the later history of the Order it had a variety of use. One important use was that already indicated, i. e., to designate the prelate of a custodia. In the beginning all of the Custodians of the custodiae in a given province had the right to attend the general chapter with the Provincial; but in the course of time it was decreed that the several Custodians should elect one of their number to accompany the Provincial. "The custos thus chosen was called *Custos custodum*, or, among the Observantines until the time of Leo X (Ite et vos, Bull. Rom. V, 694), *discretus discretorum*."³² After the disappearance of most of the custodiae, the custom of sending a Custodian to accompany the Provincial to general chapter was continued, even in provinces having no more custodiae, and the person chosen was called "Custodian for the General Chapter."³³ Finally, in modern Franciscan organization the term is still used, but in different ways by the Capuchins and Friars Minor.³⁴ Thus the title did not always signify a person who was prelate of a custodia, and it is necessary, therefore, to use some care in interpreting the significance of the term when found in the documents. The real point at issue, of course, is the

31. *Catholic Encyclopedia*, art., "Custos."

32. *Ibid.*

33. See *Estatutos generales de Barcelona*, section entitled, "De los Custodios para el Capitulo General"; or the same in Latin text in *De Gubernatis, Orbis Seraphicus*, III, pp. 671-672, "De Custodibus ad Capitulum Generale Mittendis."

34. *Catholic Encyclopedia*, art. "Custos."

significance of the term when used to designate a person known to be a prelate of a new, frontier, mission area.

It was pointed out above that when Franciscans were sent out into a new and unorganized area from headquarters in Mexico City one of the group was appointed prelate of the group, and that various terms, such as "presidente," "caudillo," and "comisario," are found in the histories and documents to designate such persons. In the case of New Mexico, "comisario" (Eng., commissary) is the term used to designate these earliest prelates, and it will be useful to discuss the general and special use of this term. In its general sense it indicated a person who exercised certain powers or executed a mission (*comisión*) on behalf of, or on the authority of, some other person. That is, the authority of a Commissary was essentially *delegated* authority. Thus we have the title "Commissary of the Holy Office of the Inquisition," which designated a person who served as agent or representative, within a certain area, of some Tribunal of the Holy Office and who possessed certain powers granted or delegated to him by that Tribunal to investigate cases of heresy and error. The term was also used sometimes to designate a person acting as chief or leader of a group on appointment of some superior. Thus we find it used to designate the leader or responsible chief of a group of soldiers; or the leader of a group of friars on a journey from one area to another. Finally, we come to its use to designate the leader or prelate of a group of friars laboring in a new, unorganized, mission area, and it was in this sense that it was used to designate the earliest prelates of the New Mexican missions. The Commissary of such a group of friars was leader of the group, responsible for its labors, and possessed certain powers as agent or representative of a superior prelate who had appointed him. If the missionary enterprise started by this group of friars prospered, churches and convents would be built and more friars sent out. The expanding business of the missions, or the distance from headquarters, or both, would sooner or later

create the need for a greater amount of local autonomy, and to meet this need the mission area would be set up as a custodia, and the prelate of the newly created custodia would have the title of Custodian instead of Commissary.

Now the point at issue is whether the title of Custodian could be given to the prelate of such a frontier mission area before it actually became a custodia. There is an interesting passage in Cogolludo's *Historia de Yucatán* that is pertinent to this discussion. Cogolludo is discussing the coming of Fray Luis de Villalpando and his associates to Yucatán in 1546, and he refers to a statement in Lizana's *Historia de Yucatán* to the effect that Villalpando at that time had been given the title of Custodian. Cogolludo insists that Lizana must have been mistaken because the Custodia of Yucatán was founded only in 1549, and that prior to that date Villalpando had only the title of Commissary.³⁵ An examination of Lizana's own account of these years reveals that Lizana himself usually used the term Commissary to designate Villalpando. The notable exception is the statement to which Cogolludo referred.³⁶

If we can generalize from this point made by Cogolludo, then it may be said that the term Custodian was not justified to designate the prelate of a new mission area, subject to some mother province, as was Yucatán to the Province of the Santo Evangelio prior to 1559, unless that area had been erected into a custodia. This does not mean that the term was never used incorrectly, but repeated use of the term in a variety of *contemporary* sources to designate the prelate of a new mission area would seem to warrant the supposition that the area in question was actually a custodia.

35. After reviewing the facts in the case, Cogolludo concludes: "Pos esto juzgo vino solamente con título de comisario." *Historia de Yucatán*, (3d. ed., Merida, 1867), 392. Then discussing the founding of the Custodia in 1549, he says: "... y salió electo en custodio el V. varón Fr. Luís de Villalpando, que hasta entonces había sido comisario, no mas." *Ibid.*, p. 433.

36. Lizana, *Historia de Yucatán*, (2d ed., Mexico, 1893), ff. 43v-57.

The difference between a custodia and the earlier form of local mission organization, and the difference between the authority of a Commissary and a Custodian are difficult to define exactly. The erection of a custodia seemed to be definite recognition of the success and permanence of missionary enterprise in a given area. It gave the area local government and autonomy, and an appropriate set of officers. The authority exercised by a Commissary was similar in many respects to that exercised by a Custodian. The Custodian was, however, subject to less direction from outside. His powers were wider. His authority was not essentially *delegated* authority as was that of a Commissary; on the contrary, his was *ordinary* authority, i. e., derived from the office itself. Finally, the Custodian, at the end of his term of office, received certain privileges of honor and precedence in the custodia and province, according to the local statutes.³⁷

If we apply the conclusion of the foregoing discussion, it is apparent that the use of these two terms—Commissary and Custodian—in the contemporary histories and documents to designate the prelates of New Mexico is of paramount importance in fixing the date of the founding of the Custodia of New Mexico. The date when the change in terminology occurred furnishes a clue to be checked by other evidence.

V.

Attention is directed, first of all, to the fact that both Vetancurt and Rosa Figueroa use the term Custodian to designate some of the earliest prelates, even of the Oñate

37. As further illustration of the use of the term Commissary, it may be noted that in New Mexico we have the term used *after the erection of the Custodia* to designate the leader of a group of friars being sent out from the main New Mexico mission area to labor among tribes on the frontier of New Mexico. For example, in 1638 friars were sent to the country of the Ipotlapiguas southwest of Zuñi, and we find Fray Antonio Arteaga named as *Commissary* of the group by appointment from Fray Juan de Salas, the *Custodian*. *Del P. fr. esteuan de Perea . . . con una ynformon. contra Don luis de Rosas . . .* 1638. A. G. P. M., *Inquisición*, tomo 385. Similar examples are found in the case of the leaders of the mission to the Jumanos in 1629 and of the mission to the Mansos in the 1650's and 1660's. These examples of the use of the term confirm the main points in the argument above.

period. Vetancurt uses it for Fray Juan de Escalona, Fray Francisco de Escobar, and Fray Alonso Peinado. In the case of Escobar the title is "Custodian and Commissary."³⁸ Likewise, Rosa Figueroa in the *Bezerro General*, gives the title of Custodian to Escobar and Peinado.³⁹ This use of the term Custodian for these early prelates is interesting but not convincing, and can not be regarded as proof of the erection of the Custodia in Peinado's time or earlier (1609 et ante). Both Vetancurt and Rosa Figueroa had access to the Franciscan archives, it is true, but both of them wrote long after the events herein discussed. It is probable that both of them being accustomed to the use of the term Custodian to designate the prelates of New Mexico in their own times, applied it to earlier prelates who did not have the title.⁴⁰

Let us review the contemporary sources and histories for the events of New Mexico, 1598 to 1630, and check up on the titles used for the prelates in such materials. It will be recalled that when Oñate was making preparation for

38. *Crónica*, pp. 95, 96, as follows:

(a) ". . . el año de 1604 fue el V. P. Fr. Juan de Escalona con algunos Religiosos."

(b) "El año siguiente fue el P. Fr. Francisco de Escobar por Custodio y Comisario Apostólico con seis Religiosos," etc.

(c) "El año de 1608, convertidos mas de ocho mil personas, . . . y fue por Custodio el P. Fr. Alonso Peinado." etc.

39. In the case of Escobar, there is only this short comment: "Fue Cust. del Nuevo Mexco." Page 120. In the case of Peinado: "Varon Appco. fue de los primeros Custodios de Nuevo Mexco. murio con opinion de Santidad no dizen los chronistas en q año." Page 220.

40. Rosa Figueroa states that in his day (1750's and 1760's) the extant books of decrees (*Libros de Decretos*) of the Province of the Santo Evangelio did not go back of the year 1623, and he laments the fact because it was difficult for him to be sure of his facts for the period prior to that date. Thus, his statements regarding persons prior to that date had to be taken from sources that were not so trustworthy. For the earlier period (prior to 1623) he used a variety of sources, such as Torquemada and Vetancourt, and certain manuscripts. *Bezzero General*, pp. 3 et seq. His use of the term Custodian for Escobar and Peinado may have been, therefore, merely a repetition of what he found in Vetancurt. It is true that Vetancurt wrote some sixty-five or seventy years prior to Rosa Figueroa and may have had use of materials not extant later. On the other hand, it must be noted that Vetancurt made mistakes, such as his statement that Fray Tomás Manso was Custodian in 1629, a statement which Rosa Figueroa corrects. In any case Vetancurt wrote long after the events he described and we must check his use of terms by what we find in the contemporary sources.

the expedition to New Mexico a group of friars was chosen to accompany him. Fray Rodrigo Durán was appointed prelate of the group, but before the expedition departed Durán was replaced by Fray Alonso Martínez. Durán and Martínez are spoken of as "Commissary" in Villagrà,⁴¹ in Torquemada,⁴² and in the documents of the Pacheco-Cárdenas series.⁴³ In 1599 Fray Martínez returned to Mexico and somewhat later Fray Juan de Escalona was appointed in his place. He, in turn, was succeeded by Fray Francisco de Escobar.⁴⁴ Both Escalona and Escobar are called "Commissary" in Torquemada⁴⁵ and in the manuscripts.⁴⁶ In 1609, after the Viceroy had definitely decided to maintain New Mexico as a mission province, Fray Alonso Peinado

41. *Historia del Nuevo Mexico*, (Mexico, 1900) Vol. I, as follows:

(a) "Por cuija justa causa fue nombrado por Comisario y Delgado. . . Fray Rodrigo Duran, varon prudente." canto séptimo.

(b) "Fray Alonso Martínez, Comisario Apostólico," etc., in the reply to Oñate's questionnaire on the Ácoma war.

42. *Monarchia Indiana*. (ed. 1723), I, as follows:

(a) ". . . y nombró por Comisario de los que avian de ir, al Padre Frai Rodrigo Duran," etc. Page 671.

(b) ". . . y fue nombrado Frai Alonso Martínez por nuevo Comisario," etc. Page 672.

43. (a) ". . . Reverendísimo Padre Fray Alonso Martínez, Comisario Apostólico," in *Traslado de la Posesion que tomó*," etc. *Don Juan Oñate*. Tomo XVI, p. 97. Same is in Villagrà.

(b) "El reverendísimo Padre Fray Alonco Martinez, Comisario apostólico de Su Santidad," etc., in *Obediencia y vassalje*. *Ibid*, p. 102.

(c) ". . . Padre Comissario Apostólico, llamado Fray Alonso Martínez," *Discurso de las Jornadas*. *Ibid.*, p. 256.

44. In this list of Commissaries I have not included Fray Francisco de Velasco, for, although he is mentioned as Commissary by both Villagrà and Torquemada, the references are so ambiguous that it is difficult to use them.

45. *Monarchia Indiana* I:

(a) ". . . el Santo Comisario Frai Juan de Escalona," etc., Page 675.

(b) See note 47.

46. (a) ". . . assi mismo los Religiosos de san francisco celebró el padre fray Juan de Escalona comisario dellos capítulo al punto que llegaron. . ." *Relación verdadera sacada de las cartas*. . . A. G. I., 1-13/22.

(b) Escalona signed as "Comisario" in his letter of October 15, 1601, in *Consejo de Indias al Rey*. *Lo que parece conviene proveer*. . . A. G. I., 1-1-3/22.

(c) ". . . El Padre Comisario fray francisco de escobar," in *Copia de carta de Don Juan de Oñate al Marqués de Montesclaros*. . . San Bartolomé, August 7, 1605. A. G. I., 58-3-16.

(d) ". . . las cartas y relaciones ynbiadas por don Juan de oñate . . . y del Padre fray francisco de escouar Comisario. . ." *Auto*, Mexico, January 18, 1608, in *Título de Gobernador*, etc., A. G. I., 58-3-16.

was sent out as prelate with another group of friars. Torquemada⁴⁷ and the manuscripts⁴⁸ give him the title of Commissary. Peinado, in turn, was succeeded by Fray Isidro Ordoñez in 1612, or earlier, and in his case also the manuscripts use the title of Commissary,⁴⁹—with one exception. In the papers of the Sección de Contaduría, Archivo General de Indias, there is one reference to Fray Ordoñez as "Custodio," but in six other referencés in the same set of papers, four of them later in date than the one where "Custodio" is used, the title applied to him is "Comisario."⁵⁰ The successor to Ordoñez probably was Fray Estévan de Perea, for Zárate Salmerón in his *Relaciones* states that Perea was "Commissary of those Provinces" when the body of Fray Francisco López, murdered by the Indians in 1581, was found at Puaray thirty-three years later, i. e., in 1614.⁵¹

47. "... y para lo espiritual, fueron ocho, o'nueve Religiosos. . . y el Padre Frai Alonso Peinado for Comisario de ellos, y de los que allá están, poraver renunciado este Oficio el Padre Frai Francisco de Escobar, que hasta entonces lo avia sido, con mucha aprobaci6n." *Monarchia Indiana*, I, 678.

48. (a) "... en compa'ia del padre comissario fray alonso peynado y otros siete Relixiosos de la dha orden fueron a las provas. del nuevo mexico. . ." A. G. I., *Contaduría*, 712, Payment of June 23, 1609.

(b) "... y por lo qual recuso al pe. fr. Alonso peynado y despues denego al Pe. fr. Ysidro Ordoñes su sucesor en el oficio de Comisso. . ." *Opinions presented by Fray Juan de Vidania concerning the actions and policies of Gov. Luis de Rosas and Fray Juan de Salas. 1640-1641?* Archivo General y Público, México, *Inquisicion*, Tomo 595.

49. (a) See note 48 (b).

"Fr. Ysidro Ordoñez, Comisario de San Francisco del Nuevo Mexico. . ." *Codex Monacensis. Hispan.*, 79 f. 7v. Staatsbibliothek, Munich.

50. Mr. L. B. Bloom has furnished me this information, and also the information in note 48 (a). The references, taken from his letter, are:

AGI, *Contaduría*, 850:

libranza of 15 Feb., 1612, speaks of "el Padre comisario Fray Isidro Hordoñez," etc.

libranza of 27 Feb., 1612,—the same.

libranza of 31 March, for payment to Conçalo Carnero, "valor de las cosas en una memoria firmada del dicho Fco. (sic) Carnero que se usó dicho Padre custodio Ordoñez para su viaje," etc.

libranza of 5 April, 1612, "... dos Indios que alistaron y entregaron al Padre comisario fray Isidro Ordoñez," etc.

libranzas of 27 April and 25 August, 1612, and 12 March, 1613,—all three use term "comisario."

51. I have used the translation of the Salmerón *Relaciones* in *Land of Sunshine*, XI (1911), 336-346; XII (1912), 39-48, 104-113, 180-187, for I have not had access to the Spanish text in *Documentos para la Historia de Mexico*, 3a serie.

A.G.I. Indiferente
16, p. 133.

To sum up, the contemporary sources, printed and manuscript, have the term Commissary in almost every case to designate the prelate of New Mexico from the beginning of the Oñate period up to the year 1614 at least. The one instance where the term Custodian is used, in the case of Ordoñez, is offset by the term Commissary in all other cases.⁵² This burden of contemporary evidence must be regarded as more conclusive than that which is found in the works of Vetancurt and Rosa Figueroa who wrote some ninety, and one hundred fifty or sixty years later, respectively. It is possible, moreover, to cite certain evidence in addition to that based on the use of the terms Commissary and Custodian. For example, in a memorial or petition addressed to the King on Feb. 13, 1609, Fray Francisco de Velasco "petitioned the king not to abandon the province, but to erect a custodia there instead."^{52a} This indicates that the Custodia of New Mexico must have been erected post-1608. Attention is called also to the fact that Torquemada, in his summary of the Franciscan provinces of New Spain in the third volume of the *Monarchia Indiana*, states with regard to the Province of the Santo Evangelio:

"Tiene mas una Custodia que es la de San Salvador de Tampico."^{52b}

This shows clearly that at the time Torquemada was writing his history, early in the second decade of the seventeenth century, the Custodia of New Mexico had not been erected. Finally, all that is known concerning the progress of the missions prior to 1609, when Peinado became prelate, also proves that the custodia could not have been erected at such an early date. Up to 1608 there was grave danger of the whole New Mexican venture being completely abandoned. Tardy success of the conversions in that year was the factor which influenced the viceregal court to maintain

52. It has been impossible, of course, to check all possible references to the prelates in all the sources. I have tried, however, to test the usage in the case of every prelate and in such a variety of sources that the tests could be regarded as representative of the sources as a whole.

52a. Hammond, *op. cit.*, p. 177, note 679.

52b. Page 281.

New Mexico, but as a mission province. Peinado was sent out with reinforcements in 1609, but it would be several years after that date before the authorities in New Spain could be sure enough of the permanence and expanding needs of the New Mexican missions to take action looking to the erection of a custodia.

Thus it may be asserted with confidence that the Custodia of New Mexico was not established prior to 1614.⁵³

At what later date was it established? Long standing tradition has fixed the date at 1621 or 1622, and has assigned to Fray Alonso de Benavides the honor of having been the first Custodian. Numerous statements in the older secondary works have been the basis of this tradition, but the crucial contemporary statement is found in a royal cedula, dated November 15, 1627, and quoted in the letter of Fray Juan de Santander, Commissary-General of the Indies, transmitting Benavides' Memorial to the King. The cedula states:

"... it must be some five years since by the Provincial Chapter (which was celebrated in that [province] of the Holy Evangel) the [Province] of New Mexico was erected into a Custodia, and for its Custodio [was appointed] Fray Alonso de Benavides," etc.⁵⁴

"Some five years" (aura como cinco años) preceding the year 1627, the date of the cedula, would place the year at 1622, or earlier, depending upon the interpretation of the phrase.

The tradition that Benavides was first Custodian is supported, perhaps, by Benavides' own statement. In a manuscript entitled *Relazione delle Conversioni del Nouo*

53. Historians have never supposed, of course, that the Custodia of New Mexico was founded prior to 1614. Such statements as found in Vetancurt have been disregarded. I thought it wise, however, to discuss the point here because of Rosa Figueroa's use of the term Custodian for Escobar and Peinado which would seem to confirm Vetancurt, even though it is probable that Rosa Figueroa took his information from Vetancurt. The discussion also served to illustrate the use of the terms Commissary and Custodian, and set limits to the possible dates that could be considered in the later discussion.

54. Benavides, *Memorial* (Ayer edition, Chicago, 1916), p. 5.

Messico,⁵⁵ which is a sort of summary in Italian of the 1634 *Memorial*, there is the following statement:

“... l'anno 1623 Jo' fra' Alonso de Benavides fui elieto in primo Custode ministro di quella Conuersioni e po. Comrio. di Santo officio,” etc.

This would seem at first sight to indicate that Benavides claimed for himself the honor of first Custodian, but the statement may be subjected to some interpretation. The date 1623 is unquestionably right, as will be proved later. It is also true that Benavides was Commissary of the Holy Office in New Mexico, the first person, in fact, to have such an appointment. Now, is it not possible that the quotation may be made to read that he was the first person to hold both appointments—Custodian and Commissary of the Holy Office? Such an interpretation fits the facts exactly.⁵⁶ If, however, the quotation is to be read so as to make Benavides the first Custodian, then the statement can not be supported by other evidence. In fact, other evidence proves conclusively that he was not.⁵⁷

This evidence is found in a variety of sources, as follows: (1) The record of an ecclesiastical trial held in Santa Fé in 1617; (2) a letter of the Viceroy of New Spain to the King, dated May 27, 1620; (3) two viceregal decrees dated January 9 and February 5, 1621, and addressed to the Custodian and Governor of New Mexico; (4) letters and sworn declarations dating from 1621 *et seq.* in the papers of the Inquisition in Mexico; (5) an extract or selection of references to the Custodia of New Mexico taken from the *Libros de Decretos* of the Province of the Santo Evangelio, and covering the years 1623 to 1755; and (6) statements in the *Bezerro General* that confirm evidence in one or more of the items (1) to (5) above.

55. This is one of the Propaganda Fide documents.

56. For Benavides appointment as Commissary of the Holy Office, see discussion below.

58. It is only just to note that Benavides was not at all reticent in describing his own part in New Mexican affairs. In fact, a close reading of his writings must convince any student that he actively presented his own case in the best possible man-

Part of the evidence found in these sources may be summed up as follows:

1. The Viceroy, in the letter to the King, dated May 27, 1620, indicated that the Custodia of New Mexico had already been established.⁵⁸
2. In the extracts from the *Libros de Decretos* it is stated that Fray Alonso de Benavides was elected Custodian on October 13, 1623, to take the place of Fray Miguel de Chavarría, "primer custodio electo," whose triennium had expired.⁵⁹ This would date Chavarría's election as of the year 1620.
3. In the *Bezerro General* Rosa Figueroa has the following comment concerning Chavarría:
 "... el primer custodio por elección canónica electo en el cap. Proal. del año del 1620."⁶⁰
4. There is absolute proof that Chavarría arrived in New Mexico in the autumn of 1621, took over the govern-

ner, and did not always give as much credit to others as they deserved. For example, in the *Relazione delle Conversioni*, in describing the missionary activity in 1629 when Perea and thirty new friars arrived and the conversion of Ácoma, Zuñi, and Moqui was started and a mission sent to the Jumanos, Benavides does not mention Perea's name. In fact, throughout all of Benavides' writings little is said concerning Perea, who was undoubtedly the outstanding figure in the New Mexican Church in his day. Moreover, in the *Privilegios para las Indias*, another manuscript from the Propaganda Fide, Benavides discusses the possibility of the appointment of a bishop for New Mexico, and he stresses the point that the appointee should be a friar. More, he suggests for the post certain persons *beneméritos* who had served in New Mexico with distinction, and his own name heads the list! In the 1634 *Memorial* he falls into serious error, such as having Fray Marcos de Niza martyred in New Mexico. In short although Benavides' writings are precious sources for the history of New Mexico, they must be used with care.

58. "Los quales tienen un convento en la villa de Santa Fé, y otros mas pequeños en los dichos pueblos de yndios, para que se provee todo lo necesario, y el gobierno de los religiosos está reducido a una custodia." Hammond, *Don Juan de Oñate and the Founding of New Mexico*, p. 182, note 698. It was this quotation that set me to work to check other sources for similar data.

59. These extracts are entitled *Custodios de Nueva Mexico*, etc. See note 28 *supra*.

60. This statement is clearly based on the *Libros de Decretos* also. Rosa Figueroa, compiler of the *Bezerro General*, was also compiler of the *Custodios de Nueva Mexico*, etc.

ment of the Custodia for a year, and then returned to Mexico in the autumn of 1622.⁶¹

This evidence proves, then, that the Custodia of New Mexico was erected as early as 1620, and that Benavides was not the first Custodian.

But this is not all of the evidence to be considered. The two viceregal decrees of January 9 and February 5, 1621, refer to Fray Estévan de Perea as the Custodian in charge, and one of them is addressed to him directly.⁶² (Both decrees were issued subsequent to Chavarría's election, but prior to his departure for New Mexico.) The decrees deal with many problems of provincial government, but especially with the series of differences between Church and State in New Mexico that had characterized the years preceding 1621, and in which Perea had had a leading part as prelate of the missions. Thus it appears that Perea preceded Chavarría as prelate and that he had the title of Custodian. This is confirmed by additional evidence, as follows:

1. On August 18, 1621, a decree in Perea's name was read from the mission pulpits in which certain errors and heresies current in New Mexico were condemned.⁶³ This decree begins with the following words:

61. See *Letters of Fray Estévan de Perea and other friars of New Mexico*. 1622. *passim*. Archivo General Público, Mexico, *Inquisición*, Tomo 486. In these letters it is made abundantly clear that Chavarría arrived with the mission supply-train in 1621, and returned the year following.

62. The first of these decrees, dated January 9, 1621, was in the form of a *real provision*, i. e., a decree issued in the name of the King but actually by the Viceroy. It was addressed to Perea: "A vos el benéable Padre fray estéban de Perea del orden del seráfico san francisco Custodio de los Relixiosos de la dha orden." The decree is translated by L. B. Bloom in *NEW MEXICO HISTORICAL REVIEW*, V (1930), 288-298. The second decree, dated February 5, 1621, was addressed to Governor Juan de Eulate. It is a companion piece with the decree addressed to Perea. In it Perea is not mentioned by name, but the decree contains the following words: "el padre Custodio de los Religiosos." This decree has also been published, Spanish text with English translation, in the *NEW MEXICO HISTORICAL REVIEW*, III (1928), 357-380.

63. The decree is found in folio 282 of *Declarations, letters, and decrees, concerning the differences between Governor Juan de Eulate and the New Mexican friars*. 1621-1626. A. G. P. M., *Inquisición*, Tomo 356, ff. 257-316.

"Fr. Esteuan de perea de la horden de los frayles menores de nro. P. s. franco. Custod. desta custodia de la nua. Mexco," etc.

At the end, the decree is signed:

Fr. esteuan
de perea custos.
Por mandado de nro Pe.
Custodio
fr. Augustin de Burgos
Secretario.

2. In this decree Perea called upon the faithful to come to him and denounce persons known to be guilty of the errors that he had condemned. During the course of the next few weeks several friars appeared to give testimony, and in their sworn declarations the term Custodian is used to designate Perea.⁶⁴
3. In 1626, when Fray Alonso de Benavides was gathering testimony under his authority as Commissary of the Inquisition, several persons who made sworn declarations referred to Perea as former Custodian.⁶⁵
4. In a letter which Perea wrote to the Inquisition on Sept. 18, 1622, he states that he had been prelate during the five years ending in 1621, when Fray Miguel de Chavarria took charge.⁶⁶
5. In the record of the ecclesiastical trial held in 1617, it appears that the prosecuting attorney and the judge were serving on appointment by "Padre Fray Estevan

64. (a) "En este convento de nro. Pe. St. franco de Sandia en veynte y dos Dias del mes de Agosto de mil y seis cientos y veynte y vn años Nro. Pe. Csto. fr. esteuan de perea," etc.

Declaration of Fray Pedro de Haro, in *Declarations, letters, and decrees*, etc.

(b) "En este Convto. de San franco de sandia a dos de setiembre de 1621 As. nro. Pe. Custod. fr. esteuan de perea," etc.

Declaration of Fray Andrés Suarez, in *ibid.*

65. The following phrases occur: "custodio que fue;" "Custo, que a la sason era"; "Custo. que era." *Ibid.*, *passim*.

66. "Y siendo prelado de estas provincias estos 5 años pasados q se cumplieron a fin de el de 1621," etc. *Letters of Perea and others*. These papers also make it entirely clear that Chavarria succeeded Perea as prelate.

Perea, Custodio, Juez Ordinario."⁶⁷

6. Finally, we have Perea's statement, made in 1633, that he was three times superior prelate of New Mexico.⁶⁸ When were these three times? It is known, on the authority of Zárate Salmerón that he was Commissary in 1614. It has long been known, also, that he succeeded Benavides as Custodian in 1629. The third time must, therefore, have been during the years 1617 to 1621, as indicated above.

Thus there can be no doubt that Perea had the title of Custodian from 1617 to the autumn of 1621 when Chavarria arrived. The crucial point is this: does the fact that Perea had the title of Custodian as early as 1617 mean that the Custodia of New Mexico had been erected at that time? It was in anticipation of this question that the use of the term Custodian was discussed in the preceding pages. It is clear that a friar could have the title without being the prelate of a custodia, but when used to designate the prelate of a new mission area it must be regarded as strong proof that the area in question had actually been erected into a custodia. In the case of Perea, it is clear that the title was used in the sense of local prelate, and not in any other way. Moreover, he exercised the powers that later custodians of New Mexico always had, especially the powers of ecclesiastical judge ordinary. That he did not sit in person in the trial of 1617 does not alter this fact. He delegated his authority to others. In fact, in the viceregal decrees referred to above, his authority to exercise the powers of an

67. The trial took place in Santa Fé during the spring and summer of 1617. A citizen of Santa Fé, Juan de Escarramad, one of the founders of the province, was tried for having made slanderous statements concerning the friars. The trial record forms part of an expediente entitled *Diferentes Autos de Molestias Hechas a los Vezos. de la nua mexco. 1604-1636*. A. G. P. M., *Provincias Internas*, Tomo 34, Exp. 1.

68. ". . . por auer sido prelado superior tres ueces," etc. Perea to the Holy Office, October 30, 1633, in a group of papers entitled *Del Pe. fr. esteuan de Perea de la orden de S. franco. Comiso. del nueuo mexco.* A. G. P. M., *Inquisición*, Tomo 380, ff. 231-244. The term Commissary as used in the title of this group of papers refers to Perea's appointment as Commissary of the Holy Office, not as prelate of the friars.

ecclesiastical judge ordinary was not questioned; he was merely instructed to exercise it with prudence and caution in future, and not to delegate it to others.

Thus it becomes clear that Perea had the title and powers of Custodian of New Mexico as early as April 17, 1617, which is the date of the first document in the trial record, and it may be assumed, therefore, that the Custodia had actually been erected. Some seven or eight years would have elapsed since the decision of the Viceroy in 1608-1609 not to abandon New Mexico. There would have been opportunity to check the results and permanence of missionary enterprise in New Mexico. One, and probably two, supply caravans would have been sent to the province, in addition to that sent in 1609. On the basis of the reports brought back, the Franciscan authorities in New Spain could have made their decision. The decision must have been made several weeks or months prior to the date of the earliest document (April 17, 1617) in which Perea appears as Custodian because of the time required to send news to the far away northern frontier. Thus the decision must have been made at least by the turn of the year 1616-1617, or even within the year 1616. It is known that a group of friars and soldiers made the journey from Mexico City to New Mexico in the winter of 1616-1617,⁶⁹ and the news may have been sent at that time.

It is possible, of course, that the decision may have been made even earlier than 1616, and that some friar may have preceded Perea as Custodian. Unfortunately, we have no positive documentary evidence for the years from 1614 (when Perea was Commissary) to 1617. It can only be stated that there is no evidence that any friar other than Perea was prelate during those years.

Before we leave this discussion, there are two points that must be cleared up.

69. This is indicated by incidental statements in the 1617 trial record, and by statement in A. G. I., *Contaduría*, 845B, reference from Mr. L. B. Bloom.

1. There is the statement in the extracts or quotations from the *Libros de Decretos* of the Province of the Santo Evangelio that Chavarría was "primer Custodio electo de aquella dicha Custodia," etc.⁷⁰ This, in turn, was no doubt the basis of the statement made by Rosa Figueroa (who was the compiler of the extracts) in the *Bezerro General* that Chavarría was "el Custodio por elección canónica electo," etc.⁷¹ How reconcile these statements with the evidence that Perea preceded Chavarría as Custodian? Rosa Figueroa gives the clue in another statement in the *Bezerro General* to the effect that all of the friars named as Custodians by Vetancurt, i. e., Escalona, Escobar, and Peinado, had been appointed by letters patent from the Superior Prelates in New Spain.⁷² Although none of these friars actually had the title of Custodian, it is true that their nomination as prelate (Commissary) of the new mission area in New Mexico was by appointment from the Franciscan authorities in New Spain. The decision to set up a custodia in New Mexico, probably made in 1616, would raise the question of future procedure in nominating the Custodian. The usual method of nomination of Custodians was by election by the local custodial chapter, or by the authorities of the mother province. (See discussion in section III above.) When the decision to set up the Custodia of New Mexico was made, the Franciscan authorities in New Spain may well have had some doubt about the proper method to be adopted for New Mexico. New Mexico was far away. The missions had to be supported by triennial grants of subsidy from the Royal Treasury. These conditions may very likely have caused the authorities in New Spain to take some time to consider the situation before deciding whether the election should be by the local custodial chapter in New Mexico, or by the provincial authorities in Mexico City. Delay would give them an opportunity to obtain more in-

70. *Custodios de Nueva Mexico*, f. 1.

71. Page 249.

72. Page 254.

formation on the basis of which they could make a decision. Pending a decision on this point, they probably continued the old method of nomination by appointment in the case of Perea, the first Custodian. It has been indicated that Perea was Commissary in 1614. There is no evidence that any person other than Perea, was prelate between 1614 and 1617. It is probable, therefore, that when the authorities in Mexico decided to erect the New Mexican missions into a custodia, they dispatched letters patent to Perea giving him authority to assume the title and powers of Custodian, pending a decision concerning the method of nomination in future. During the four years, from the year 1616-1617, to the year 1620, when Chavarria was elected, more news of New Mexico was received in Mexico City, and especially the news of the disagreement and conflict between the Church and State, and the provincial authorities may well have concluded that these conditions, in addition to the factors of distance and financial support, required that they maintain a greater measure of control by keeping the election of the Custodian in the hands of the authorities of the mother province, instead of giving it over to the local custodial chapter. Having made the decision, the first election was held and Fray Miguel de Chavarria was elected.⁷³

2. The second point concerns the ratification of the erection of the Custodia of New Mexico by the general chapter of the Order. The earliest record of such action is a statement in the published decisions of the general chapter that met at Toledo in 1633, as follows:

news!
 "Custodia noui Mexici erigitur & confirmatur denuo cum omnibus iuribus verae Custodiae subiecta Prouinciae S. Euangelii de Mexico sub titulo S. Pauli."⁷⁴

73. The *Bezerro General*, p. 249, states that the election of Chavarria was "en el cap. Proal. del año de 1620." This does not mean necessarily that the election was by the provincial chapter as a whole, but probably means that it took place at the time of the provincial chapter in 1620.

74. De *Gubernatis, Orbis Seraphicus*, IV, p. 36.

This statement is responsible for Holzapfel's remark that the Custodia of New Mexico was erected in 1633.⁷⁵ That such action should have been taken at Toledo in 1633 is easy to understand. Benavides had published his *Memorial* in 1630. He and other Franciscans were actively urging the cause of the New Mexican missions. The action of the general chapter at Toledo in 1633 is merely another proof of Benavides' influence.⁷⁶

This entire discussion may be summed up as follows:

1. The old traditions that the Custodia of New Mexico was founded in 1621, or 1622, and that Benavides was first Custodian can no longer stand. Instead, it is proved that Chavarría preceded Benavides, and that the former was elected in 1620.

2. The evidence available at present indicates that the Custodia was erected not later than 1616-1617, and that Fray Estévan de Perea was first Custodian. This conclusion has been reached on the basis of the interpretation of the significance of the term Custodian as used in the contemporary documents. The author desires, however, that this point should receive the study and criticism of students who are familiar with Franciscan practice and usage.

VI

What can we determine concerning the chronology of the early Custodians? Using the evidence already presented above, it appears that the first Custodian was probably Fray Estévan de Perea. The list of early Custodians, beginning with Perea, is as follows:

1. Fray Estévan de Perea. 1616-1617 to 1621.

75. *Handbuch de Geschichte de Franziskanerordens*, p. 393.

76. It is interesting to note that in Gaspar de la Fuente's *Historia del capítulo general que celebró la religión seráfica en la imperial Toledo este año de 1633*, (Madrid, 1633), there is no discussion of the formal action concerning the ratification of the erection of the Custodia of New Mexico; but there is an account of the New Mexican missions based mostly on Benavides.

2. Fray Miguel de Chavarría. Elected in 1620. Served in New Mexico from the autumn of 1621 to the autumn of 1622. Term expired in 1623.

3. Fray Ascenio de Zárate, Vice-Custodian in Charge. Autumn of 1622 to December, 1625.

4. Fray Alonso de Benavides. Elected on October 17, 1623. Served in New Mexico from December, 1625, to the spring of 1629.

5. Fray Estévan de Perea. Elected on September 25, 1627. Served in New Mexico from the spring of 1629 to 1630-31.

Although this is not the place to describe the careers of these men in detail, it will be useful to sum up such information concerning them as is not already well known.

Fray Estévan de Perea was a native of Villanueva del Fresno in Estremadura, and prior to his departure for America, was known as Fray Estévan de Villanueva. His parents and ancestors of both lines were Portuguese.⁷⁷ The date of his birth was 1566, perhaps somewhat earlier.⁷⁸ Nothing is known concerning his early life, prior to his

77. There are two documents dealing with the genealogy of Perea in A. G. P. M., Sección de Inquisición. (1) *Letter and testimonio from the Inquisition of Llorena, 1629-1630.* Tomo 268, Exp. 5, pp. 1, 2. (2) *Documents concerning the genealogy and limpieza de sangre of Fray Estévan de Perea.* 1628. Tomo 365, Exp. 11/12. These two sets of papers contain information gathered by the agents of the Inquisition in various places in Spain and Portugal where Perea or his ancestors had lived. The investigation was ordered by the Suprema in Spain, probably on request from the Inquisition in Mexico City which desired such information before appointing Perea to the position of Commissary of the Inquisition in New Mexico. The testimony in the second of these sets of papers is mostly written in Portuguese and is almost illegible, but the essential facts seem to be summed up in Spanish in the first folio of the document. Perea's parents were Rodrigo Alonso and Ines Nuñez, citizens of Villanueva del Fresno. His father, Rodrigo Alonso, was a native of Beja in Portugal, the son of Roque de Pesaña. His mother, Ines Nuñez, was a native of Moncaraz in Portugal, the daughter of Estévan Nuñez and Juana Fernandez. One of Perea's brothers was Fray Roque de S. Basilio, "a friar of great reputation" in the college of St. Basil in Seville. An uncle, brother of his father, named Gaspar Pereira, is also mentioned. The general opinion concerning Perea's ancestry seemed to have been favorable, except that there was some rumor that his maternal grandfather came from a line of new Christians. The Pesañas—the paternal ancestors—were recognized as persons of good standing.

78. On January 26, 1626, Perea stated in a sworn declaration that he was "more than sixty years old." *Declarations, letters, and decrees, etc.*

arrival in Mexico, except that he had become a member of the Order of Friars Minor in one of the provinces of Spain.⁷⁹ He came to Mexico in 1605, and was affiliated with the Province of the Santo Evangelio.⁸⁰ In 1609, probably,⁸¹ he went to New Mexico to labor in the Indian missions there, and was assigned to the Tigua area in the middle Rio Grande valley, where he became Guardian, and probably founder of the mission and convent of Sandía.⁸² We have Salmerón's statement that he was Commissary of those Provinces in 1614. From 1617 (1616-1617?) to 1621, he had the title and authority of Custodian, and was succeeded in that office in the autumn of 1621 by Fray Miguel de Chavarría.

During these years as prelate, Perea exerted a very powerful influence in New Mexican affairs, especially in the conflict between the civil and ecclesiastical authorities, which began during the administration of Governor Pe-

79. The documents contain conflicting statements concerning the province to which Perea belonged in Spain. In the two documents dealing with his genealogy (see note 77 *supra*) it is stated in one instance that he was a "religioso descalzo en la Prouincia de S. Gabriel; and in other instances he is referred to as "Religioso de s. frco. de Prouincia de S. Miguel." And in the *Bezerro General*, p. 126, his province is given as that of Santiago. These statements cannot be entirely reconciled, but some explanation may be attempted. The Province of San Gabriel, of the Barefoot Friars, and the two provinces of "regular" Franciscans, Santiago and San Miguel en Estramadura, were all in the same general area in southwestern Spain. Perea may have entered the Barefoot Friars at first, and in that case, he would have been a member of the Province of San Gabriel. But when he arrived in Mexico, he affiliated with the Province of the Santo Evangelio, instead of with the Province of San Diego, of the Barefoot Friars. It is possible, therefore, that he had changed his affiliations before he left Spain, and in that case he had become a member of either the Province of Santiago, or of the Province of San Miguel en Estramadura.

80. *Bezerro General*, p. 126.

81. "... y tener baptizadas tantos millares de almas por mi mano en mas de 24 años q asisto aqui," etc. Perea to the Holy Office, October 30, 1633, in *Del Pe. fr. estéuan de perea de la orden de S. franco, Comiso. del nueuo mexco.* A. G. P. M., Inquisición, Tomo 380, f. 231. Twenty-four years prior to 1633 would bring the date back to 1609. It is possible, therefore, that Perea was a member of the group of friars that Peinado took to New Mexico in 1609.

82. (a) "... este conbento y doctrina de los tiguas q. e bautizado y congregado con tantos trabajos," etc. Perea to Chavarría, Sandia, August 26, 1622. *Letters of Perea*, etc.

(b) "En esta prouincia y nascion Tiguas an trabajado mucho los Pes. fr. Esteuan de Perea y fray joan de Salas assi en congregar estos indios a los pueblos como en conuertirlos a nra. sta. fee catolica," etc. Benavides, 1634 *Memorial*.

ralta, and which characterized the terms of office of Ceballos and Eulate, the two immediate successors of Peralta.⁸³ Perea was a staunch defender of the Church and its privileges and immunities and an ardent foe of all manner of heresy and error, and his actions during these years contributed much to the formation of that evil tradition of enmity and rivalry between the civil and ecclesiastical jurisdictions which characterized the political history of the province during the remainder of the seventeenth century. In 1621, Perea received a stern rebuke for some of his actions in a decree issued by the Viceroy in Mexico City.⁸⁴

In the autumn of 1621, Fray Miguel de Chavarria, his successor as Custodian, arrived, and Perea was reduced once more to the rank of mission friar. During the years 1621-1626, he seems to have served as Guardian of the Sandia convent, but, although reduced in rank, he never wavered in his campaign against heresy and error. In 1622, he appealed to the Inquisition in Mexico City to appoint a Commissary to investigate conditions in New Mexico, and in this was supported by some of his friar associates.⁸⁵ This appeal had the desired effect, for Fray Alonso de Benavides, who was elected Custodian in 1623, was also appointed Commissary of the Inquisition for New Mexico. Benavides arrived in New Mexico late in December, 1625, and on January 25, 1626, the first edict of the faith was read in the Santa Fé church. It was fitting that Perea should be the first person to testify concerning matters of the faith before Benavides, and on January 26, 1626, Perea made a long declaration in which he summed up the events of the preceding years, his own part in them, and presented a set of papers and *testimonios* to support and confirm his testimony.⁸⁶

83. The details of this Church and State conflict in which Perea was involved will be described by the author of this paper in a forthcoming work on the Inquisition and the Conflict between Church and State in New Mexico in the Seventeenth Century.

84. This is the viceregal decree, dated January 5, 1621, described above under note 62.

85. *Letters of Perea, etc., passim.*

86. *Declarations, letters, and decrees, etc.*

For several years Perea had desired to go to Mexico City in order to present his version of New Mexican affairs to the Holy Office and to the superior prelates of his Province, and now, at last, he had the opportunity. In September, 1626, he departed with the mission supply-train, and arrived in Mexico City in January, 1627.⁸⁷ The *apologia* of his past actions in New Mexico, which he presented, must have been convincing and well received, for on September 25, he was elected Custodian to succeed Benavides.⁸⁸ At the same time, the Inquisition probably decided to appoint him Commissary for New Mexico, but before this could be done, it had to have proof of his genealogy and *limpieza de sangre*. The Inquisition in Spain was probably requested to furnish the information, and the result of this request was the investigation, the results of which are stated in the papers described in note 77. This information was not received in Mexico before Perea left for New Mexico in 1628, so that his appointment as Commissary of the Inquisition was delayed until 1630.⁸⁹

On October 1, 1629, the Provincial and Definitors of the Province of the Santo Evangelio met to elect Perea's successor as Custodian. First choice fell on Fray Francisco de Porras, and, in case of his death, Fray Juan de Salas was to have the post.⁹⁰ Salas actually succeeded to the office. Porras had taken up the work of conversion at Moqui in 1628, and he apparently preferred to remain there rather than accept the office of Custodian. He was killed at Moqui in June, 1633. The exact date when Salas suc-

87. The date of departure is indicated by a letter of Benavides to the Inquisition, September 8, 1626. *Ibid.* The date of arrival is indicated by the fact that these papers (declarations, letters, and decrees) were sent at the same time and were received in the Inquisition on January 27, 1627. See superscription to Benavides letter of Sept. 8.

88. *Custodios de Nuevo Mexico*, f. 1.

89. Superscription on the first of the two sets of papers listed in note 77 states that this set of papers was received in Mexico City on October 28, 1630. The second set was received later and was then lost temporarily. Apparently the Inquisition dispatched the appointment as Commissary to Perea late in 1630 after having received the first set of papers.

90. *Custodios de Nuevo Mexico*, f. lv.

ceeded Perea, cannot be determined. The earliest document in which Salas is mentioned with the title of Custodian is dated Jan. 19, 1631.⁹¹

Although Perea was some sixty-five years of age at the time when he relinquished the Custodianship to his successor, Fray Juan de Salas, he still had many years of active work ahead. His appointment as Commissary of the Inquisition was received at about the turn of the year, 1630-31, and he seems to have held the office down to the end of his life, some eight years later. An edict of the faith was read in Santa Fé on March 23, 1631,⁹² and during the following three years, Perea sent a large body of sworn evidence to the Tribunal of the Inquisition in Mexico City. Although none of these declarations appear to have resulted in formal trial of any of the accused persons by the Inquisition, they present to the modern investigator an illuminating picture of New Mexican life in the early 1630's.

In the mid-1630's, the Church and State conflict, which had been in abeyance since the departure of Governor Eulate in 1626, was renewed, and for several years it was an increasingly important factor in provincial life. Perea took an active part in this quarrel, either as Commissary of the Inquisition or as a member of the Definitors, the standing committee of the custodia. His last active efforts of this sort, of which we have a record, were in the summer of 1638, when he investigated the reported actions of Governor Rosas during the expedition to the Ipotlapigua country in the spring of that year.⁹³ In a letter addressed to the Inquisition in Mexico City, dated September 15, 1638,⁹⁴ Perea stated that he was ill, and it is probable that he died sometime during the following months, for, in the reports

91. Declaration of Capt. Diego de Santa Cruz, Sandía, Jan. 19, 1631. A. G. P. M., *Inquisición*, Tomo 372, Exp. 16, f. 1.

92. Perea to the Holy Office, Nov. 10, 1631. A. G. P. M., *Inquisición*, Tomo 372, Exp. 19, f. 1.

93. The reports of this investigation are in an expediente entitled *Del Pe. fr. esteuan de Perea Commisso. del Nuevo Mexico Contra Don luis de Rosas*, etc. A. G. P. M., *Inquisición*, Tomo 385. Cf. note 35.

94. *Ibid.*

of the quarrel between Rosas and the clergy that occurred in 1639, *et seq.*, Perea's name does not appear among the active friars. During these later years of his life, Perea had lived at Cuarác, but his death and burial are supposed to have been at his old mission of Sandía.

Perea was one of the greatest figures in the history of the Church in New Mexico. For some thirty years, except for the brief period from 1626 to 1629, he was the dominant figure in the religious life of the province. He played an active part in the expansion of the missions and he was a pillar of defense in the struggle with the State. More than any other person, he was responsible for the establishment of the Inquisition in New Mexico; likewise, he must bear a share of the blame for the long conflict between Church and State. Fray Alonso de Benavides has long enjoyed the greatest reputation of any Franciscan who served in the New Mexican missions, and this has been due to the phenomenal success of his *Memorial* printed in 1630. The two known published writings of Perea, the *Verdadera Relación* and the *Segunda Relación*, deal but briefly with two or three incidents related to his long career in New Mexico, and they never had the vogue of the Benavides *Memorial*. Consequently, little has been known concerning Perea's life and influence. New manuscript evidence has made possible the rediscovery of Perea as a great leader and prelate. His long years of service, and his paramount influence give him a pre-eminent position in New Mexican history, a position greater than that of Benavides. Perea, more than any other friar, deserves the honor of being called the Father of the New Mexican Church.

Little is known concerning the early life of Fray Miguel de Chavarría, who succeeded Perea as prelate of New Mexico in 1621. He made his profession as a member of the Franciscan Order on December 10, 1602.⁹⁵ Prior to his election as Custodian of New Mexico, he had been Master

95. *Bezerro General*, p. 249.

of the quarrel between Rosas and the clergy that occurred in 1639, *et seq.*, Perea's name does not appear among the active friars. During these later years of his life, Perea had lived at Cuarác, but his death and burial are supposed to have been at his old mission of Sandía.

Perea was one of the greatest figures in the history of the Church in New Mexico. For some thirty years, except for the brief period from 1626 to 1629, he was the dominant figure in the religious life of the province. He played an active part in the expansion of the missions and he was a pillar of defense in the struggle with the State. More than any other person, he was responsible for the establishment of the Inquisition in New Mexico; likewise, he must bear a share of the blame for the long conflict between Church and State. Fray Alonso de Benavides has long enjoyed the greatest reputation of any Franciscan who served in the New Mexican missions, and this has been due to the phenomenal success of his *Memorial* printed in 1630. The two known published writings of Perea, the *Verdadera Relación* and the *Segunda Relación*, deal but briefly with two or three incidents related to his long career in New Mexico, and they never had the vogue of the Benavides *Memorial*. Consequently, little has been known concerning Perea's life and influence. New manuscript evidence has made possible the rediscovery of Perea as a great leader and prelate. His long years of service, and his paramount influence give him a pre-eminent position in New Mexican history, a position greater than that of Benavides. Perea, more than any other friar, deserves the honor of being called the Father of the New Mexican Church.

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95. *Bezerro General*, p. 249.

of Novices in the Convent in Mexico City and Vicar of Santa Clara.⁹⁶ He was elected Custodian of New Mexico in 1620, and he made the journey to New Mexico in 1621 with the mission supply-train. He arrived in the autumn of that year, and took over the government of the missions from his predecessor, Fray Estévan de Perea. For some time, Perea had been anxious to go to Mexico City to give a full report concerning conditions in New Mexico to the prelates of his Order, and it appears that the Provincial had granted him permission to make the trip. Apparently Chavarría was unwilling to give him final consent to depart, and in a series of letters and petitions, Perea made serious charges against Chavarría, accusing him of open hostility, and of abject subservience to the civil authorities in New Mexico with whom Perea had been carrying on bitter controversy.⁹⁷ Except for this controversy with Perea, nothing is known concerning Chavarría's year of service in New Mexico. In the autumn of 1622, he returned to Mexico City, and the year following, his triennium having expired, Fray Alonso de Benavides was elected in his place. He died at the convent in Puebla on May 20, 1632.⁹⁸ Rosa Figueroa has the following comment concerning him:

"Fue varon de Heroycas Virtudes mui abstinente penitente y extatico. lo adornó Dios con gracia de milagros, ya dando lluvias al fervor de su oracion, ya sanando un leproso el contacto de sus paños menores. Fue varon Appco. en el Nuevo Mexco.," etc.⁹⁹

During the interval between the departure of Chavarría in the autumn of 1622 and the arrival of Benavides late in December, 1625, the Custodia was governed by Fray Ascencio de Zárate with the title of Vice-Custodian. He had been a friend and associate of Chavarría for several years and he probably held office in virtue of appointment by Chavar-

96. Fray Ascencio Zárate to the Holy Office, Sept. 8, 1622, in *Letters of Perea*, etc.

97. *Letters of Perea*, etc., *passim*.

98. *Bezerro General*, p. 249.

99. *Ibid.*

ría. The documents contain little information concerning his services as prelate. Relations between the Church and Governor Eulate were strained, as usual, and Zárte bore the brunt of the quarrel in behalf of the Church.¹⁰⁰ After he was relieved of his office on the arrival of Benavides, he took up the duties of a mission friar. For some time, he labored at Pecuries, where he was buried in 1632.¹⁰¹

Fray Alonso de Benavides was a native of the island of San Miguel (Sao Miguel) in the Azores.¹⁰² Nothing is known concerning his early life prior to his arrival in the Indies. His own statements indicate that he held the office of Alguacil Mayor of the Inquisition in the Island of Española, about the year 1600.¹⁰³ Soon afterward, however, he went to New Spain, where he entered the Franciscan Order. He professed at the Convent of Mexico on August 12, 1603,¹⁰⁴ and during the twenty years that followed, he held several offices of trust under the Order. For a time, he was Master of Novices at the Convent of Puebla.¹⁰⁵ In 1621, he was living at the Convent of Cuernavaca, and in 1623, at the time of his election as Custodian of New Mexico, he was Guardian of the Convent of San Juan Temamatlac.¹⁰⁶ During these twenty years, he was also interested in the affairs of the Inquisition. He was notary of the Inquisition at Veracruz in 1609,¹⁰⁷ and during the years that followed, he appears to have served the Holy Office on various occasions. We have a letter written by Benavides to the

100. Information concerning the years, 1622 to 1625, is derived from the *Declarations, letters, and decrees*, etc.

101. Benavides, *Memorial* (Ayer ed.), p. 200, note 6, based on Vetancourt.

102. *Ibid.*, p. 188. The *Bezerro General*, p. 250, calls him an "Isleño."

103. In a note which Benavides wrote on the declaration of a certain Juan Donayre, who testified before Benavides on June 12, 1626, there is the following statement: "Deste hombre tengo uehemente sospecha que es un fulano de soto doctor en medicina que veinte y seis años que el Arçobispo Don fray Agustin de Auila en su Arçobispado de la isla española hasiendo yo offo. de alguasil mor. en la causa le castigó por el Sto. offo. hechandole un sanbenito," etc. *Declarations, letters, and decrees*, f. 305.

104. Benavides, *op. cit.*, p. 188; *Bezerro General*, p. 250.

105. Benavides, *op. cit.*, p. 188.

106. *Custodios de Nuevo Mexico*, f. 1.

107. This is indicated by documents in A. G. P. M., *Inquisición*, Tomo 284, ff. 742-748.

Inquisitor in 1621, while he was living in the Convent of Cuernavaca, which indicates this fact, and which incidentally gives us an interesting sidelight on him and his times. The letter is given in full in an appendix to this paper.

On October 13, 1623, Benavides was elected Custodian of New Mexico by the action of the Provincial and Definitors of the Province of the Santo Evangelio.¹⁰⁸ Sometime during the year or fifteen months that followed, he was also appointed Commissary of the Holy Office of the Inquisition for New Mexico—the first person ever appointed to that office.¹⁰⁹ Benavides was, therefore, the first prelate who exercised the authority of the two offices of Custodian and Commissary of the Holy Office, and for that reason his term of office is worthy of note, although it can no longer be held that Benavides was the first Custodian.

Benavides did not leave for New Mexico until early in the year 1625. The delay may have been due to the fact that he took with him to New Mexico a group of twenty-six friars to serve as missionaries in the Indian pueblos, and preparations for the journey and the transportation of adequate supplies would naturally require much planning. The supply-train reached the region of Santa Barbara and Cuencamé in northern Nueva Vizcaya late in the summer (1625), and tarried there for some six weeks (late August to mid-October) while Benavides carried on investigations for the Inquisition; for his appointment had included jurisdiction over northern Nueva Vizcaya as over

108. *Custodios de Nuevo Mexico*, f. 1.

109. This appointment was undoubtedly the result of the appeal of Perea and others, who had proclaimed the need of investigation of conditions in New Mexico. They felt that the special authority of the Holy Office was needed in order that the errors and heresies, current in New Mexico, might be dealt with in adequate fashion. It is altogether likely that the decision to appoint an agent or Commissary for New Mexico, may have been made prior to Benavides' election as Custodian, and that his election may have been due, in part, to his experience in the affairs of the Inquisition. That Benavides was the first Commissary of the Inquisition in New Mexico, is made doubly sure by statements in *Declarations, letters, and decrees*. For example, in his formal appointment of Fray Pedro de Ortega as his notary in New Mexico, Benavides states: ". . . por qto. los señores inquisidores desta nueva españa le an honrrado con el titulo de primer Comissario del Sto. offo. en estas prouincias," etc. *Ibid.*

New Mexico.¹¹⁰ In mid-October, the supply train finally started northward on the long journey across the "no man's land" between Santa Barbara and the El Paso country, and late in December it reached the central Rio Grande group of pueblos in New Mexico.¹¹¹

The arrival of a new Custodian was always an event to be celebrated with proper ceremony, but the reception of Benavides took on an especial significance because of the fact that he was also Commissary of the Holy Office. Arrangements were made to have the governor and cabildo of Santa Fé take part in the ceremony, and the day for his entry into the Villa was fixed. On the appointed day, January 24, 1626, the governor and cabildo, in full military regalia, met him at the outskirts of the town and accompanied him to the church and convent, while the soldiers fired salutes with arquebuses and artillery. On the following day, January 25, the governor and cabildo once more in attendance, the first Edict of the Faith was read in the Santa Fé church and the authority of the Inquisition formally established, for better or worse, in New Mexico.¹¹²

Benavides remained in charge of the Custodia of New Mexico until the arrival of his successor, Fray Estévan de Perea, in Easterweek of 1629. His missionary labors among the Piros, Apaches, and other Indian groups are well known. The story of his activities as Commissary of the Inquisition will be told in another place. In the autumn of 1629, he returned to Mexico City with the supply caravan, arriving early in the following year. In conferences with the prelates of his Order and with the viceregal court, it was decided that he should go to Spain, in order to present to the King and Council a report on New Mexican affairs and the progress of the missions. He departed for Spain, late

110. For Benavides' investigations in Cuecamé and Santa Barbara, see A. G. P. M., *Inquisición*, Tomo 356, ff. 317-370.

111. The date of his departure from Mexico and his arrival in New Mexico have been established by Mr. Bloom on the basis of information in the papers of the Sección de Contaduría, A. G. I.

112. The documents describing these events are in *Declarations, letters, and decrees*.

in the spring probably, and, before the end of the year, his report or *Memorial* had been written, presented to the King by the Commissary-General of the Indies, and printed. The success of this description of missionary labors in New Mexico was phenomenal, and within a short time it was translated into several other languages.¹¹³

Concerning the later career of Benavides, subsequent to his arrival in Spain in 1630, there is not much information. It is known, of course, that in 1631 he visited the Abbess María de Agreda, who was supposed to have been transported miraculously to the Southwest to teach and convert the Indians. Benavides described his meeting with her in a famous letter written the same year to the friars of New Mexico.¹¹⁴ Whether he returned to New Spain in 1632-1633, as Rosa-Figueroa believes,¹¹⁵ cannot be determined. It is not unlikely that he was in Spain at the time of the meeting of the general chapter of the Franciscan Order at Toledo, in 1633, when the erection of the Custodia of New Mexico was confirmed. In 1634, he presented a revised edition of his *Memorial* to Pope Urban VIII, the manuscript of which has never been published.¹¹⁶ That he was still in Spain in 1635 is proved by a letter which he wrote from Madrid, dated July 8, 1635, to a cleric in Rome.¹¹⁷ Rosa Figueroa states also that, during the same year (1635), the Province of the Santo Evangelio sent Benavides one hundred pesos for expenses.¹¹⁸

During these five years, 1630-1635, except for a possible visit to New Spain, Benavides was busy urging the cause of the New Mexican missions before the Spanish

113. No attempt will be made here to describe the editions of Benavides' book, For reference, see Hodge, *Bibliography of Fray Alonso de Benavides*. (N. Y., 1919), Museum of the American Indian, Heye Foundation. *Indian Notes and Monographs*. Vol. III, no. 1.

114. For editions of this letters, see Hodge, *op. cit.*

115. *Bezerro General*, p. 252.

116. The Quivira Society plans to publish it.

117. Benavides to Mgr. Francisco Ingoli, Madrid, July 8, 1635. Archivo di Propaganda Fide, Rome. *Scritture riferite nelle Congregazioni Generali*. Vol. 105, f. 54.

118. *Bezerro General*, p. 252.

court at Madrid and the papal court at Rome. The most important aim that was sought was the establishment of a bishopric in New Mexico. In 1631, Fray Francisco de Soca, Commissary-General of the Indies, petitioned the Crown to this end,¹¹⁹ and Benavides presented his revised *Memorial* to the pope with the same end in view. It is clear, also, that Benavides had ambitions of becoming the first bishop. The hopes of the Franciscans were not realized, however, for several years passed by before the Crown could get the viceregal and ecclesiastical officials of New Spain to investigate and make recommendations on the proposal. The recommendations, when finally made at the end of the 1630's, were unfavorable, and no further action was taken at the time.¹²⁰

It has been a tradition that Benavides finally attained the mitre, for it is stated that he was appointed assistant to the Archbishop of Goa in India, and that, at the latter's death, he succeeded to the see. The fact that Benavides' name is not found in such recognized episcopal lists as Gam's *Series Episcoporum* and Streit's *Atlas Hierarchicus* has cast some doubt on this phase of his career.

APPENDIX

Letter of Fray Alonso de Benavides to the Inquisitor,
Cuernavaca, Sept. 24, 1621

(From Archivo General y Público, Mexico, *Inquisición*,
Tomo 486, f. 204)

Muy mi Señor.

La afficion particular a Vmd. y el preciarme de hijo desse Santo tribunal a quien antes y despues de frayle he servido en muchas ocasiones me obliga a auisar a Vmd. como cerca deste Conuento de quahnauac adonde soi morador se an Rancheado de pocos años a esta parte algunos negros simarrones de los quales an cogido dos u tres y declaran

119. Real cedula al virrey de la Nueva España. Madrid, May 19, 1631. Villagrà, *Historia de la Nueva Mexico*, (Mexico, 1900), Vol. II, apéndice tercero, pp. 3, 4.

120. The reports and recommendations are found in A. G. I., 67-3-32.

(v. 14. 70)

como su capitan dellos a quien no an podido prender tiene una culebra que le habla uisiblemente y confiessan estos negros presos auerlo uisto y oido. juntamente un palito del tamaño de un dedo el qual palito habla y come como gente. y quando el negro capitan sale a Robar fuera de su Rancheria primero sale la culebra a uer adonde ay gallinas que hurtar y se lo uiene a desir publicam^{te} delante de los demas negros y luego ua el y la culebra se queda en guarda de los demas y no los dexa salir de la Rancheria hasta que uenga el capitan. y quando este duerme se le pone la culebra sobre el hombre y le dispierta quando uiene gente y otras cosas a esto traça. el negocio esta suspenso hasta que Vmd. me auise y mande lo que debo haser a quien obedecere como tan afficionado hijo suyo y desse Sancto tribunal. y para que Vmd. me conesca por tal soy el que hise la causa en toluca aserca del pleito que mis frailes tubieron con la justicia del marques adonde se trato de algunas blasfemias que en aquella ocasion dixeran algunas personas cuya comision mostre a Vmd. como a tan Señor mio a quien nro. Señor me guarde en la dignidad que merece ett. quauhnauac, 24 de Sep^e de 621.

de Vmd. afficionado capellan y Ser^{or}

fr. Alonso de Benauides (Rúbrica)

WILLS AND HIJUELAS

By LOUIS H. WARNER

IN NO section are wills more interesting than along the Rio Grande, in New Mexico. This is not true of old wills alone. It applies equally to many of recent date among the Spanish-speaking people. In many instances, there was a delightful informality about their execution, and yet I know of no region where, generally speaking, there seemed to be a more genuine desire to carry out the wishes of the deceased with such exactness. In the old days before our occupancy, the cost of legal paper and of execution before some official was prohibitive, so naturally there grew up this informality of which I speak. Sometimes the designated executors actually drew up and signed the instrument with all the formality that would have attended a regular execution and, all heirs agreeing, the wishes of the person, who no doubt died before his signature could be obtained, became effective. He had evidently talked over with the members of his family the method he wished adopted. They saw to it that this was done. And the most remarkable thing of all was the general contentment that followed. Rarely do wills seem to have been contested; almost never were results changed. All of which speaks volumes for the respect, yes, almost reverence, for the wishes of the dying. I know of no greater devotion, particularly to the parents, than here shown.

In 1812, a considerable estate was left. The testator made many specific bequests; there was a residue, which was divided in three parts:

1. To prisoners, to be expended under the care of the governor.
2. To bashful women and maidens, the padre to select.
3. To the most unfortunate persons, the padre to select.

This shows the confidence accorded to the selected officials. It is indicative of that followed down to compadres or members of the family selected as administrators and executors.

In the work of the Pueblo Lands Board it became necessary to ascertain the ownership of very small pieces of land, sometimes as small as .002 of an acre. It is difficult to picture such a small claim; one wonders how it could have arisen. However, many a will has referred to two limbs of a tree; the ground upon which the tree stood, the ownership of the land upon which the tree stood until the tree died. So I was not altogether surprised to read in a will executed in the Española district a bequest of "three parts of a tree." It became of importance to know how much land was conveyed, so, very naturally, while seated at luncheon next a federal judge and a university president a few days later, I asked the question: "How many parts has a tree?" The looks I received from both only aroused my desire for light, so, more seriously still, I repeated the inquiry. As I look back on the occasion I am amused at how busy each became with other things. Suffice it to say, no information was forthcoming. Then I turned to a member of an old Spanish family, one who has mixed with his people in their various walks of life. He, at least, had an answer—"four." Now just why a tree should be divided into four parts I do not know, but the answer seemed reasonable and in the absence of anything better I accepted it.

Quite apart from this, but in the same will, there appeared the bequest of one half of a cow; no disposition was made of the balance; which part was actually bequeathed did not appear.

About the same time I noticed another will. Apparently the woman making it had none too high a regard for her husband and she had considerable to convey. Her children shared equally, but to the husband went a mattress, a blanket and a pillow.

The division of rooms was the rule rather than the exception—so many *vigas* to each, as will appear in subsequent examples. Land was often divided into strips of equally numbered *varas* based on a water course, and thence running indefinitely into space.

In an 1850 will there appeared:

“Being in full and natural judgment, memory and understanding, taking for my intercessor the ever immaculate, Most Serene, Queen of the Angels, fearing death, which is natural, and desiring to save my soul and to prevent doubts and disputes after my decease, I make my will as follows:

“I direct that my burial be according to the regular customs and that my body be placed upon the earth and not upon any table.”

Then followed a great many individual bequests. Often the will had first a very elaborate profession of faith; then an account of the marriage or marriages, and the children from each, living or dead! then followed a declaration of all property, sometimes to the most minute detail; then the disposition of it, a record of debts owed by and to the testator, and the designation of executors. Of course there was no standard form, but as a rule this general idea was followed.

A fairly recent will in the San Juan area was, in part, as follows:

“I declare . . . that being ill and knowing that we are mortal and knowing that I have heirs and property to bequeath to them, I execute in the following way:

“I leave two small rooms with doors to the street to my two servants, with three mattresses, one for each and one for Chato, with blankets.

“To N. thirty-seven *vigas* in the house, eight being in the kitchen, nine in the large room, nineteen in the parlor on west side and three in the little room south of the parlor.

“To T. four *vigas* in the little room which is inside the parlor of N.; eight *vigas* in the room of the garden, nineteen *vigas* in the little parlor of the garden, five *vigas* in the kitchen and two *vigas* in the gallery.

"To F. for his wife Maria, nineteen vigas in the little gallery, six vigas in the little hallway, fourteen vigas in the big kitchen and the front porch outside of the house."

To the uninitiated, the *viga* is the roof beam. The marvel to me is how it was possible to give parts of a house, yes, even of a room, to various heirs and have so little friction result. Of course, frequently, heirs would sell their respective interests and in this way rooms or houses became owned by a single party. However, in the old days, this does not seem to have been the rule.

A simple and direct will follows:

"I, . . . , in the presence of Señor . . . , whom I authorize and empower to write my last will and testament, which he will write as I dictate and he will write as if I were doing it personally, all before L. and M. as witnesses:

"I place all in charge of my administrators and executors and charge them before God and Man to fulfill their administration equally between my heirs, and I request the closing of my administration as soon as this property is arranged."

Down in Algodones in 1879 an estate of an eight-room house, corral and courtyard was to be divided equally into seven parts, yet I venture to say it was done to the complete satisfaction of all. In fact, in this particular case, the heirs executed an instrument confirming this and it was filed with the executors. Certainly this and many like cases called for an excellent type of tact and diplomacy. There was some personal property in the above case by which adjustments could be made. To one seventh also went 10 goats; to another, 1 burro. This agreement among the heirs was as follows:

"In consequence of the unanimous agreement of all the heirs, it was admitted and agreed by one and all that the division of the said lands would be made beginning at the lower end, which is from south to north, and divided from the oldest to the youngest, according to the age of the heirs. Signed, executed and sealed January 30, 1879."

In 1896, after the formalities, a will stated:

"To . . . , whom I name as my heiress, and without any obstacle whatever, I leave as all my property an *hijuela* belonging to me."

Now this *hijeula* was her title, so that what it amounted to was that her house and her lands as shown and evidenced by the *hijuela* were left to the heir referred to. It was a simple and universal method of conveyance in the old days to endorse over the title papers. This idea was here carried out in the will.

From a will executed at Santa Fé is the following:

"I, . . . , a resident of the city and county of Santa Fé, Territory of New Mexico, finding myself in perfect health and entirely in my sane judgment of senses and potentials, fearing that death . . . :

"Declare that I was married according to the regulations of our Holy Mother church, in the first nuptials with the deceased A. B. and there being no children living, all my wife's property was turned over to her father at the time of her death.

"I declare that I actually find myself married according to the orders of our Mother of the Holy Church, in second nuptials with my wife L. M.

"I declare that to A. should be given the land of the Voca Calla.

"I declare that to B., my brother, should be given the corral and shed situate on the east side of the House of his residence and besides that eight oxen and eight cows, of which B. C. has to pay from what I have given him as undivided property.

"I declare and ordain that to C., daughter of D., be tendered a room and half of the hall in which E. actually lives, situate on the west of the room assigned to F.

"I declare and constitute my wife, A., as my universal heir of all my real estate and personal property, so that she will possess, enjoy and use forever all my real and personal property and chattels, furniture and credits that are due me, at the time of my death, after delivering and paying the orders above made by me above mentioned and my debts that I lawfully owe."

One will carried this admonition:

"I do not disinherit the children that have absented themselves from their home, but I hope they will return home with repentance as the Prodigal Son had on returning to his father's house. I advise all my family to preserve in their hearts during their lives a holy fear of offending God and to care for and protect their mother to the end of her life. To my grandchildren also, I ask them to look after their mother so they will care for them."

Another of about this period recited that his wife had brought nothing to the matrimony and never received anything. That the testator had inherited the property willed from his deceased parents or had acquired it subsequent to marriage. That he had 12 children whom he acknowledged as his legitimate heirs and that he wished that the property of which he died possessed should be divided equally among them.

Often wills carried specific directions as to certain tracts. One directed that land in La Ciénega Postura be used to defray the expenses of the last illness and funeral. In the same will, a place of "The middle" was also disposed of. Two were to receive it but it was acknowledged that four others each had a tree in that area.

Another very reverently recited his faith and declared he was owed by no one and owed nothing except his soul to his God, who had created it and as pertaining to him alone. The total cost of the funeral was \$68 and 4 reales, and a particular lot was sold to cover this. Then the administrator worked out an intricate distribution. One share was one *viga* of the house; three *cuartas* of land, eleven *reales* in cash; five and one-half *varas* of land in El Tanque.

This was covered by an *hijuela* signed and delivered by the administrator and became thereafter the basis for the legal title in the particular heir.

Often a will recited what the testator brought to the marriage. In 1852 a woman listed it as: two mares, one

not broken, one colt, one cow, one bull, one box, a four-room house and kitchen utensils. Then she states that, after her husband has withdrawn his corresponding paternal and maternal tutelage and inheritance of the property acquired during marriage, equal parts were to be used to pay rights and bequests of this her testament and the residue was to be divided.

In 1861 by will a man declared his entire estate to consist of certain land, a four-room house and porch, an oven, a burro, farming tools and furniture. Of this he left a *valso fete* or curve of land in land by the road to a woman for her honest services.

A curious statement based on a verbal will was executed by the two administrators. It follows:

"Know all by these presents, how we, the children and sole heirs of our deceased father, who left this temporal life and passed to the mansion of the just, as we hope; This happened September 8, 1895, between 11 and 12 of said day, and to fulfill and execute his last will and to draw up same, we have come together peacefully and harmoniously on this 4th day of October, 1895.

"So declared deceased, my last will is this before God and all present, A. and B. as witnesses of this declaration.

"I declare being seriously ill but sound of mind and of complete judgment. I declare to have seven children whom I name and acknowledge as my lawful heirs."

Among the bequests was the large tree in the center and the part he possessed in the tree at the west end. He left to be agreed among them by equal division four large horses, one small one, one burro, one wagon, one set of harness, two plows.

All this was signed by those designated by the deceased to settle his estate. Then follows the worked-out distribution which the several heirs signed with the further statement that they were contented and satisfied.

In an 1861 will the testator asked a humble funeral; nevertheless, it was stated a grand one was given. The heirs all agreed to this and certain tracts were sold to cover

the expense. Then the partition of the residue was agreed upon and a statement in detail signed by all.

In 1815 after the formal statement a will recited in detail the possession of two house rooms, some land, five pictures, three mattresses, four chairs, one stove, two carpets, one box, one set of harness. Among the bequests were to one four chairs and a wardrobe; to another the harness and box; to another a cupboard, one chair and one table.

Nearly a century later we find a will of all property conditioned on care and the defrayal of all expenses of sickness and death; also the assuming of any indebtedness. In this three rooms and five trees were left.

An undated will, but probably old, acknowledges that the testator's first wife brought to the marriage "100 steers, over 400 head of minor cattle and seven mares" and that he had delivered them and their augmentation to the children of both this and a subsequent marriage.

An old will of 1758 first makes provision for funeral expenses, including masses and shroud; then she declares her marriage, her nine children, and the fact that neither her husband nor herself had any property upon marriage. Considerable was acquired after and all equally divided among the children.

In an 1833 will, among other things, the testator declared possession of a mill and the fact that two other men had contributed to the purchase, one with seventeen sheep and the other with four. This debt was ordered paid.

In 1854 the testator acknowledges he had never been married. He possessed half of a house and four and one-half varas of land and he left it to his brother who had cared for him since his mother died.

A will of a seventy-four-year-old man states: "Being well disposed, of sound mind and memory, not acting in bad faith or through malice or fraud or influenced by any person whatever, I order my body to be buried according to my means and standing, condition of life and the circum-

stances of my estate." Among his bequests were three trees to be equally divided among nine heirs.

In most wills specific mention was made both of the body and the soul. An example of this: "I send my soul to God who created it and my body to earth from whence it was formed." He goes into much detail as to his marriages. He left a considerable estate and in one bequest of 500 ewes he states they shall not be chosen but as they come out of the pen. He divides equally among four sons, two houses of eight rooms, a fruit bearing orchard, three post corrals. Other bequests follow where the division must have been equally difficult, but the whole seems to have been appraised, then totaled, and a solution thus worked out.

I have seen but few Indian wills. There was one executed in 1873 before the governor and council members of one of the pueblos. This was in part as follows:

I declare to have been married to . . . and had one daughter . . . deceased.

"I declare to have been married a second time with A. B. and had one daughter, C. D. She is living.

"I also declare to have 6 portions of land. I leave my daughter four of these portions of land.

"I also declare to leave my son E. F. 1 portion of land.

"I also declare to leave my little brother another portion of land.

"I also declare to have plum trees, 1 apricot tree, 3 apple trees, 1 peach tree. I leave these to my daughter.

"I declare to have 4 rooms and 5 metates; I leave these to my daughter.

"I also declare to have a bull, a donkey, an iron spade, a white bed spread, 1 axe, 3 hoes, 1 pick axe; I leave all to my daughter.

"I declare to have a carbine which I leave for my funeral expenses, if God calls me.

"I also declare to leave my daughter in guardianship of my uncle H. F.; also all her inheritance as expressed in this will.

"I also declare to name my uncle as my administrator to comply with the disposal of this my Last Will and Testament.

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"In testimony thereof I signed in the presence of the Governor of this Pueblo and two witnesses that were for this purpose requested."

A will of 1907 leaves two trees to a son and twenty-six trees to a daughter, together with the land that the trees occupy. The land not occupied by the trees is equally divided among all of the heirs.

A 1785 will among other things bequeaths the "long field for the good of my soul" and the balance of the land and the house is divided equally among ten heirs.

An 1818 will states: "I order my slave XY be given her liberty upon my death."

A will of 1793 signed by the nephew at the request of his aunt makes full disposition of all of her property.

A will in the Picuris section, executed in 1899, provided: "I declare it is my will and the will of my children that XY, my grandchild, will share the rights of my property equally with my children."

Another, not dated, leaves a wagon to be equally divided among the children.

A will of 1882 leaves to A. B. five fanegas and nine almudes of wheat.

A will of 1869 recites: "I declare to leave to my wife all of my property in payment of a tutelage she received from her parents and which I spent and so I leave to my wife all of my possessions, my children not to have any claim, as all is in payment of a debt that I owe my wife."

A will of 1871 recites: "I declare to have my dwelling house of six rooms with five doors, one a double door with locks and keys, and three windows." This was near Española.

A more recent will sets forth that "finding myself, by Divine Will, sick in bed and fearing death, the natural end of all human creatures, and after due thought and reflection as to how to conscientiously avoid any dispute and suit that for lack of clarity may arise after my demise, I declare, etc."

An 1887 will sets forth, in the form so frequently found, "I commend my soul to God, our Lord, who created it. I commend my body to the earth, from whence it was formed."

A will of 1852 of an old lady states: "I have been left alone on my ranch and without anybody to care for me, and meditating with good judgment the hopes of life or death and my duty toward my niece, that she left her property out in the sun and open to humanity and came to take care of me during my life, which fine sentiment in her I admire and give due and legal merit to."

A will of 1889 states: "I order my body to be buried and that my funeral be made according to the will of my wife."

In a will of 1898 the testator sets forth that she took twenty varas, one iron skillet, one metate and a crucifix when she married and that her husband brought twenty-three varas of land, twenty ewes and five steers.

A will of 1810 acknowledges that his wife brought into the marriage community one cow, one yearling calf, one bull, one horse.

A 1768 will declares that XY of El Paso owes testator a *cholula* cloth coat of the best quality and woolen trousers with their trimmings and a piece of linen which he orders collected.

In an 1828 will it is stated that he had received an inheritance of his wife of a dry cow, spurs, a bridle, two ox-hides, a mattress, five sheep and a cornfield. He directs that these be made up to her. He further orders that 139 hard dollars be paid his wife because after they were married, from the work of both, they paid \$278 of debts incurred before he was married.

A will of 1862 states: "I direct that all the men servants whom I have in my employ, be the amount which they owe me at the time of my death what it may, shall be released."

An 1812 will provides: "I direct that the slave XY, whom I hold by written title be emancipated."

The testator in a will of 1820 acknowledges that his age is 112 years, 10 months, 26 days.

HIJUELAS

One authority defines an *hijuela* to be:

(a) An inventory, a catalogue of the articles which belong to the estate of a deceased person.

(b) Schedule or inventory delivered to parties entitled to distribution of the estate of a person deceased, containing an exact amount of their distributive share.

(c) A small drain for drawing of water from an estate.

Many more and varied definitions were given to this word, so only by examples can its full use be shown. I have seen it take the form of a schedule signed by the administrators of an estate. Again it was a receipt given to these officials for a distributive share. Again it was a writing signed by all the heirs and providing a definite method of distribution. However, whatever form it took, it was called an *hijuela*. The wide latitude given in its original meaning has been expanded with time in its colloquial use until it has come to cover many forms. A good example of the *hijuela* follows:

We, the undersigned, administrators of the estate of . . . deceased, certify that we have delivered to A. B. the following donative as per order in testament as follows:

One half of the sala from center of double door eastward;

One half of porch, beginning division in center of door southward;

The room of the board, El Cuarto de la Tabla;

Two more rooms formerly pertaining to L. M. bounded: north, placita of Los Lujanes; south, ingress and egress; east, land known as La Tapia, the wall; west, donative of YZ.

Signed H. L.

B. J. administrators."

Under the same estate and by the same administrators there was given to another heir the following:

"The little room and one-half of sala from center of double door westward.

One half of porch from right side of door of the sala southward. Together with all improvements, rights and privileges to the same corresponding, as much in law as in equity, to him, his heirs and assigns forever."

Out in Pojoaque in 1881 an *hijuela* was given for four and three-quarters varas and four fingers of land in La Cerca; nine varas and four and one-half fingers of the land of the six *álamos*; one and three-quarters varas and four fingers of the land of the house; four vigas of the house and free ingress and egress as to the rest of the heirs. This had been received from certain executors named. The *hijuela* closes with the statement: "all this I received to my entire satisfaction and contentment and for the validity of this *hijuela* I give this present on July 11, 1881."

Another *hijuela* some years later recites that signer had received from an estate mentioned eleven vigas of a house and the corresponding walls; *chorreras* as far as the road on north, south and west parts, same as the *chorreras* of the house and also pertaining to the rest of the heirs, including road leading to the corrals.

Six vigas in La Sombra with five yards of *chorreras* on north and south side; personal property, one mare, one cow, some furniture.

Some fifty years ago another *hijuela* recites how the signer's mother had left her and she received fifty varas of land in the place called Las Joyas, which was bounded as given in detail.

Another acknowledges fifteen yards for pathways, eighty-two logs, and one-half of a mattress.

Another, five apple trees and the ground where each is planted; also a cow.

Another, three vigas in sala of a house; two vigas in porch; one viga in store room; two detached vigas; free in-

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Another, three vigas in sala of a house; two vigas in porch; one viga in store room; two detached vigas; free in-

gress; one apple tree; fifty-three posts; \$2.70 in cash; twenty-three varas in El Rancho; twenty yards in El Barrial.

In 1837 seven heirs agreed to stand by the following, in court and out:

The large room of the house was divided among three; three received each one viga of the porch; one received eight vigas of house; another received two vigas of house; another received six vigas in kitchen; another received six vigas in porch. All divided the 245 varas of land equally.

Sixty years later, we find the receipt by one heir for two vigas of a house and a tree with its ground and three tracts of land varying in width from two to seven yards. To another two vigas and two spaces in sala of house, two vigas of porch and an apricot tree and the ground.

In 1877 there was executed a very detailed *hijuela*. It not only gave the areas to be distributed but also their values. To one heir two vigas of house, value \$2; sixteen varas of land, value \$7.67. To another heir, among other items, there appear four varas in La Ciénega de Jacona, value \$1; twenty-three and one-half varas in La Cerca, no value given; one and one-half varas in Abrevadero, value \$.25; three trees, value \$1. To another, four apple, two peach trees, lot and fence, all value \$2; corral lot, 8x23 varas, value \$1. This heir received a list of articles valued at \$5. It included a chisel, a catachism, a demijohn, a barrel, a spindle, a loom, a table and two chairs. She also received a part of a wagon and four cedar posts, value \$.50 and also a pair of stirrups, a whip and a rope of like value.

In another *hijuela* involving many heirs and much detail, the share of one was thirty-eight and one-half varas and four fingers of land in seven pieces; six vigas of the house; one door; \$2 of the soil; one post and five more in the corral; one forked post; one picture. The other heirs received much the same amounts, although they differed a bit in their detail. For example, to one were added a

crucifix and a forked post in the corral. To another, one window of the house; to another, one door of the house.

A subsequent *hijuela* exempted trees on land from the distribution, conveyed rights to a well; one foot in the frame room; one yard, seven inches in the wagon shed.

An *hijuela* of 1889 among other things disposes of a tract twenty-one inches wide.

An *hijuela* of 1896 signed by the heirs simply states they have received their rightful shares in the estate and that they are satisfied and content. There are no details.

An 1870 *hijuela* sets forth that the heir is entitled to \$162.25 for his paternal share; \$17.50 for improvements; \$101.27 for his maternal share; \$17.50 for improvements, and he is paid 101½ varas of land, a three-room house, court yard and corral; mares, oxen, cows and other personal property.

An 1889 *hijuela*, together with land provides for one room of six vigas and two and one-half vigas in an outside room and two vigas in the sala.

An undated *hijuela* distributed to one heir twenty-nine posts in a cow corral; twenty-five posts in a goat corral; two varas three and one-half inches of land in one place; one vara, one and one-quarter feet in another; two feet, one-half inch in another; one foot, three inches, two lines in the house; eight inches in another room.

An 1883 *hijuela* disposes of two vigas in a house and one viga in the *mielero* or molasses place, together with various pieces of land.

An 1896 *hijuela*, among other things, allots \$5.85 in cash; six ft. three inches in house; four ft. three inches in porch; two ft. eight inches in a little house, four ft. two inches in a post corral.

And so one might go on without limit, building up one more source of fascination to the student of the life of the Southwest. Much would be in the nature of repetition; all would be worth the effort put in. Because the greater the knowledge of one phase of life of these interesting times, the better the understanding of it all.

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REVIEWS

Givers of Life. By Emma Franklin Estabrook. (University of New Mexico Press, 1931. \$1.25.)

The dividing line between history and archaeology is vague at best. In the American Southwest it hardly exists. There is an overlapping and an interdependence which make the two studies merge into one. The archaeological background is necessary for the understanding of history. On the other hand, the archaeologist finds much of his material in the documents of the early chroniclers.

The Indian left no written records. The world's first concepts of the Red Man came from the inadequate and comparatively few reports of explorers; later from the more voluminous reports of traders and soldiers, and from church manuscripts. The Spanish explorer came with the preconceived notion that the American Indians were fabulously wealthy. His disillusionment was severe and biased him. Either he was forced to exaggerate to save his own face, or he was gullible in the extremes of a hope that was becoming desperate. Those who came later saw in the Indian a heathen to be converted, a simple savage to be exploited, or a menace to frontiers to be subdued. In every case, there was much to make prejudice and inaccuracy, and little incentive to true, objective, or sympathetic study.

From such sources, and from the romancers, the world got its first pictures of the Indian. As often happens, the first impression was strong. In view of the fact that there has been little to modify it in the popular mind, the generally accepted "Red Man" is still primarily a savage, a warrior, a raider, a scalper, and quite generally a pretty bad fellow.

Those who studied a little further have often inclined to the other extreme, and have idealized the Indian as primarily a poet, a philosopher, a dreamer and the possessor of religious ideals far superior to those of the races which have taken his place over much of the American continents.

For the past two decades scientists have studied the Indian rather intensively. They have gone about the work with an objective, disinterested viewpoint, attempting not to confirm preconceived notions, but to gather data and, in

the fullness of their labors, to draw conclusions. They have amassed much material, which has been sorted over, and re-sorted. They have discovered just what sort of race the Indian is, his mental make-up, his viewpoint, his material achievements. Unfortunately, until quite recently, most of this knowledge they have kept hidden away in learned books where only the scholar and research worker had access to it.

But in the past few years interpretative books attempting to make this new knowledge and viewpoint available to the less learned, have begun to appear. A notable addition to these is *Givers of Life*.

Mrs. Estabrook has prepared herself for her task through years of study, both in libraries and museums, and in the field among Indians and what remains of their ancestors. She has associated with leaders in the field of archaeology; she has attended summer school camps. Thus she has gained both the scientific accuracy of knowledge, and the living background for her book. She has brought to her task a clear and imaginative style of writing, and she has illustrated the volume with a wealth of photographic material.

The book is a small one but it covers a wide range. It gives a new interpretation to the Indian, one which is entirely constructive. It pictures him as a rational, practical human being, who was yet both philosopher, poet and artist. It catalogues his material achievements under such chapter headings as "The Indian as Builder," "The Indian as an Agriculturist," "The Indian as an Engineer," "The Indian as a Philosopher."

It will be amazing to most readers to see listed the agricultural contributions of American Indians to the world. They make up a large portion of the present agricultural wealth of the world, including such items as corn, tobacco, rubber, turkeys, and many others less well known. The idea that agricultural activity among Indians was confined to only small parts of the two continents is erroneous. A map in Mrs. Estabrook's book shows that there was agricultural development in varying degrees over most of the area which American Indians occupied.

While the author speaks of the American Indian as a racial unit, and of his contributions from every part of the Americas, her emphasis is placed upon the southwestern United States where most of her studies have been made,

and where she has found best preserved the more primitive methods and philosophies of the Red Man. For the student of Southwestern history, therefore, there is much good background to be had from this volume—much that will aid in an understanding of the Indian, far different from that to be had from studying only the early chroniclers.

PAUL WALTER, JR.

American Neutrality in 1793: A Study in Cabinet Government. By Thomas Charles Marion, Ph.D. (Columbia University Press, 1931. pp. 283.)

Who is to be credited with formulating the principles on which our highly praised Law of Neutrality is founded? In his preface, the author of this interesting volume tells us that his study started as an attempt to discover the contributions of Jefferson to this policy, and that the study soon developed into a study of cabinet government. "It became evident," he says, "that scarcely a single principle was added by an individual. They were nearly all the product of joint discussions in a cabinet that contained, fortunately, as divergent elements as have ever been found in any American cabinet." It was the necessity of compromise that produced a "neutral course, . . . more impartial than that which any individual could have found."

The carefully arranged evidence which supports this conclusion should go far in rectifying many misconceptions and, maybe, misrepresentations, which have been advanced by partisans of both Hamilton and Jefferson. On the other hand, partisans of each will find satisfaction in the evidence that neither the English bias of Hamilton nor the great French sympathy and interest of Jefferson controlled their cabinet votes and their actions when the interest of their own country was made clear. On all these matters, which have been subjects of controversy, this study is well balanced, the evidence is carefully presented, and each point at issue is thoroughly annotated.

In a study of cabinet government the diverse positions taken by Hamilton and Jefferson on almost every issue of neutral policy take on a significance that otherwise might be lost sight of. In fact, as one goes through this volume he finds himself led into agreement with the author that it

was the brilliant presentation of the diverse opinions of Hamilton and Jefferson that enabled Washington and his cabinet to pursue a truly neutral course.

The method adopted by Washington of having his cabinet submit in writing their views on the problems of neutrality confronting the young republic made it necessary that each opinion be well thought out and logically presented. The well known bias of both Hamilton and Jefferson and their chronic opposition to each other, resulting from their conflicting economic, social, and political theories, stimulated the keenest analysis of each problem. Above this conflict of master minds devoted to a solution of the problems of neutrality was Washington of whom it has been said, "If he had ever harbored a prejudiced thought or sentiment at that time, there is no evidence of its having been expressed." In addition to the objective position of Washington and the unanimous desire of his cabinet for neutrality, the saving factor is to be found in the logical qualities of the minds of both Hamilton and Jefferson, who, when their conflicting positions confronted each other and were thoroughly analyzed in cabinet meeting, were capable of seeing the wisest course.

The method of the author follows the logical sequence of events from the arrival of Washington in Philadelphia on April 17, 1793, to the retirement of Jefferson from the cabinet on the 31st of the following December. The study is confined primarily to the development of the policy of neutral duties, which is the significant contribution of America to the Law of Neutrality and, of course, had to be the first interest of the infant republic if it wished to keep out of the European conflict.

Chapter I deals with the issues involved in the proclamation of neutrality. The following five chapters deal with issues which had to be faced and solved as they arose. The issues involved in the proclamation produced the first series of clashes between Hamilton and Jefferson and indicate the strength and value of Washington's method of using his cabinet. Jefferson opposed the proclamation, not because he believed in the desirability of neutrality less than Hamilton, but because he believed, as he wrote to Madison, that "it would be better to hold back the declaration of neutrality as a thing worth something to the powers at war, that they would bid for it, and we might reasonably ask a price, the broadest privilege of neutral nations." He also believed

that the executive, since he had no power to decide the question of war on the affirmative side, should not assume the power on the negative side. The author finds no evidence that Jefferson lacked sincerity on these points but suggests that these reasons may have been reinforced by partisan motives.

Against Jefferson's profit argument, which profit Jefferson expected to exact from England, Hamilton took the lofty position of questioning its "justice and magnanimity." On the second point, while Hamilton did not publicly declare that the executive had the power to bind congress, he argued that when the country is in a neutral position it is the duty of the executive so to declare it and to enforce the laws of neutrality in order "to avoid giving cause of war to foreign powers." When the arguments were weighed by the cabinet, with Hamilton and Jefferson both present, the vote was unanimous that a proclamation should be issued. In regard to this unanimous vote, the author says of Jefferson, "Once both sides were clearly before his mind, Jefferson the neutral, whose first interest was always America, predominated over Jefferson the French sympathizer."

After the proclamation was published, the next great question that confronted Washington and his cabinet was the policy to be adopted in regard to the existing treaties with France. On this issue both Hamilton and Jefferson presented lengthy and conflicting opinions. The diversity of these opinions lead the author to state, "that neither Jefferson nor Hamilton could have formulated a policy of true neutrality for this troubled year. Yet the presence of each was necessary in order that the unprejudiced Washington could select from the proposals of each the elements of a truly neutral policy. Hamilton's proclamation was necessary, so also would the following of his advice on the treaties have been disastrous."

These two illustrations will give some idea of the method of the author in bringing together the clashes of opinion and the cabinet procedure which enabled Washington and his cabinet to work out those foundation principles which preserved our neutrality and upon which was erected the American Law of Neutrality.

After reading this very interesting treatment of the method by which our first executive and his cabinet actually faced and solved probably as difficult problems as any of our chief executives and their cabinets have ever faced, one is

inclined to the opinion that if some such method of facing and solving problems were the practice of today, it might prove of greater value to the republic than the evasion of issues by the appointment of commissions.

A. E. WHITE.