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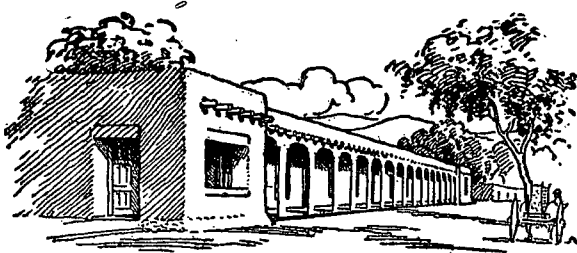
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NEW MEXICO HISTORICAL REVIEW

VOL. VIII

OCTOBER, 1933

No. 4



PALACE OF THE GOVERNORS

PUBLISHED QUARTERLY BY
THE HISTORICAL SOCIETY OF NEW MEXICO
AND
THE UNIVERSITY OF NEW MEXICO

NEW MEXICO HISTORICAL REVIEW

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The Historical Society of New Mexico
(INCORPORATED)

Organized December 26, 1859

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CONSTITUTION

OF THE

HISTORICAL SOCIETY OF NEW MEXICO

(As amended Nov. 19, 1929)

Article 1. *Name.* This Society shall be called the Historical Society of New Mexico.

Article 2. *Objects and Operation.* The objects of the Society shall be, in general, the promotion of historical studies; and in particular, the discovery, collection, preservation, and publication of historical material, especially such as relates to New Mexico.

Article 3. *Membership.* The Society shall consist of Members, Fellows, Life Members and Honorary Life Members.

(a) *Members.* Persons recommended by the Executive Council and elected by the Society may become members.

(b) *Fellows.* Members who show, by published work, special aptitude for historical investigation may become Fellows. Immediately following the adoption of this Constitution, the Executive Council shall elect five Fellows, and the body thus created may thereafter elect additional Fellows on the nomination of the Executive Council. The number of Fellows shall never exceed twenty-five.

(c) *Life Members.* In addition to life members of the Historical Society of New Mexico at the date of the adoption hereof, such other benefactors of the Society as shall pay into its treasury at one time the sum of fifty dollars, or shall present to the Society an equivalent in books, manuscripts, portraits, or other acceptable material of an historic nature, may upon recommendation by the Executive Council and election by the Society, be classed as Life Members.

(d) *Honorary Life Members.* Persons who have rendered eminent service to New Mexico and others who have, by published work, contributed to the historical literature of New Mexico or the Southwest, may become Honorary Life Members upon being recommended by the Executive Council and elected by the Society.

Article 4. *Officers.* The elective officers of the Society shall be a president, two vice-presidents, a corresponding secretary and treasurer, and a recording secretary; and these five officers shall constitute the *Executive Council* with full administrative powers.

Officers shall qualify on January 1st following their election, and shall hold office for the term of two years and until their successors shall have been elected and qualified.

Article 5. *Elections.* At the October meeting of each odd-numbered year, a nominating committee shall be named by the president of the Society and such committee shall make its report to the Society at the November meeting. Nominations may be made from the floor and the Society shall, in open meeting, proceed to elect its officers by ballot, those nominees receiving a majority of the votes cast for the respective offices to be declared elected.

Article 6. *Dues.* Dues shall be \$3.00 for each calendar year, and shall entitle members to receive bulletins as published and also the *Historical Review*.

Article 7. *Publications.* All publications of the Society and the selection and editing of matter for publication shall be under the direction and control of the Executive Council.

Article 8. *Meetings.* Monthly meetings of the Society shall be held at the rooms of the Society on the third Tuesday of each month at eight P. M. The Executive Council shall meet at any time upon call of the President or of three of its members.

Article 9. *Quorums.* Seven members of the Society and three members of the Executive Council, shall constitute quorums.

Article 10. *Amendments.* Amendments to this constitution shall become operative after being recommended by the Executive Council and approved by two-thirds of the members present and voting at any regular monthly meeting; provided, that notice of the proposed amendment shall have been given at a regular meeting of the Society, at least four weeks prior to the meeting when such proposed amendment is passed upon by the Society.

Students and friends of Southwestern History are cordially invited to become members. Applications should be addressed to the corresponding secretary, Mr. Lansing B. Bloom, Santa Fe, N. Mex.

NEW MEXICO HISTORICAL REVIEW

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LAS VEGAS BEFORE 1850

By VERNA LAUMBACH

INTRODUCTION

THERE is now a blended atmosphere of modern life and antiquity in Las Vegas. To the rich, romantic civilization of the past has been added the restless, active civilization of today, and the two combine to make a town both old and new. It is colorful in story and legend, though to the casual observer it may be just another Southwestern town, nestled in the valley against the mountain range. With its paved streets, its progressive school and business houses, and its fine residential districts shadowed by cottonwood and elm, it is hard to believe that a little more than a hundred years ago it was only a meadow. In that meadow the same sleepy, little mountain stream wound through, and there the prairie chicken, the buffalo, and the Indian still enjoyed the freedom of their home.

Before New Mexico was well known to the Spaniards in Mexico it was a magical land where dreams of riches, adventure, and glory, were supposed to come true. Many dreams were broken, and lives and fortunes were lost, in the long, difficult period of exchanging the red man's culture for the white man's. By 1821 the Pueblo Indians were fully subdued, but there were still the plains Indians—especially the Apaches and the Navahos—who held the outlying and poorly protected districts in terror. For that reason much of New Mexico was as yet unoccupied by the Spaniard, and there were few large settlements. Santa Fé,

the capital since about 1610, with approximately 6,000 souls, was the most important town, and traders coming from the United States down the Santa Fé Trail saw its ancient walls after the long journey with as much joy as the pilgrims in Palestine viewed the first sight of Jerusalem.

Before trade with the United States became prevalent, the settlers here depended for their luxuries on the long, expensive trade route from New Spain to Santa Fé. After Mexico gained her independence in 1821, trade with the United States was more favorable, and by 1822 Becknell had established the Santa Fé Trade between the two countries.

It was a romantic life to be a trader, and filled with danger and adventure. Uncertainty of a water supply and the Indian problem were responsible for the loss of many lives. In 1843 Antonio José Chavez was murdered by Texan marauders near the Little Arkansas, and there were many other casualties. Nevertheless, the good pay involved and the thrill of a new country, kept the Santa Fé Trail well traveled by caravans of precious goods.

Gregg, in his *Commerce of the Prairies*, gives a very good picture of the Santa Fé Trade. Each man, on starting from Independence, needed a supply of 50 pounds of flour, 100 pounds of bacon, 10 pounds of coffee, 20 pounds of sugar, and a little salt. Fresh meat was supplied on the way by killing buffalo, for the buffaloes, although rapidly disappearing, were still plentiful. Fruit and nuts also might be gathered in some regions. The necessary utensils were a skillet, frying-pan, sheet-iron camp kettle, coffee-pot, tin cup, and a butcher knife. Buffalo rugs and blankets served for covering at night, in which the travelers rolled up to sleep, usually on the ground. Each man slept in front of his own wagon, while the stock was kept within the corral made by the circle of wagons. It was necessary for somebody to keep watch because of the Indians, and every man, whether guest or not, was pressed into this service.

The route varied a little, from Independence to Santa

Fé, but it is safe to judge that it usually passed through the present site of Las Vegas. Sometimes traders camped on the banks of the little stream running through the meadow, and at night the trees lining it were black with prairie chickens. It seems reasonable enough that from the presence of so many prairie chickens the Gallinas River received its name. The name of Vegas Grandes (the Great Meadows) was given to this region, and it was designated by that name when the grant of land was given to Luís María Cabeza de Baca.

HISTORY OF THE LAND GRANTS

Land grants in the Southwest have an interesting history, for they played an important part in the settlement of the country. Land grants were given by both the Spanish and Mexican governments, and for various reasons. Usually the grantee was a deserving citizen who was given an area of land so vast that it rivaled even the feudal barons of Europe and the plantation owners of the South. The Las Vegas Grant had an area of 431,653.65 acres, and there were other grants, such as the Maxwell Grant, that had an area much larger. In his domain the grantee, with his Indian peons, had practically the same power as a feudal lord. He could live as royally as he pleased—if the Indians would let him. However, the untamed Indians and the arid condition of much of the land rather prevented a grantee from living in great style and comfort.

The boundaries of these grants were very indefinite, due to lack of good surveying instruments, and they caused much worry to the American surveyor general later. An example of the boundary of the Las Vegas Grant is as follows:

A pine tree nine inches in diameter, bears south twenty-five degrees, fifty-six minutes east, one hundred links distant, marked L.V.G., 3m., B. T.

Thirty-five chains, descend sandstone ledge thirty-five feet high, bears east and west, thence over large boulders of sandstone.

Forty-nine chains, dry creek bed, fifteen links wide, water in pools, course south seventy degrees east, Foot of descent of two-hundred and twenty-five feet, ascent.¹

A grant of land, called the Vegas Grandes, in the jurisdiction of San Miguel del Bado, was petitioned on January 16, 1821, by Luís María Cabeza de Baca.² This man claimed relationship to the famous Alvár Núñez Cabeza de Vaca.³ He petitioned the Provincial Deputation in the city of Durango, capital of the Internal Provinces of which New Mexico was then a part. There had been a petition made before to the authorities of the Internal Provinces for the Vegas Grandes, and on February 18, 1820, it had been granted to Cabeza de Baca and eight others. The other petitioners, however, had lands and interests elsewhere, and since they had made no improvements on this grant Luís María Cabeza de Baca wanted it for himself and his seventeen children. This grant was bounded on the north by the Sapelló River, on the south by the boundary of El Bado, on the west by the summits of the Pecos mountains, and on the east by Aguaje de la Llegua and the boundary of Don Antonio Ortiz' grant.

On May 29 the president and secretary of the Provincial Deputation at Durango informed the governor of New Mexico that he had decided to confer on Cabeza de Baca the land for which he had petitioned. In 1823 the governor and political chief, Don Bartolomé Baca, directed the alcalde of San Miguel del Bado to place Luís María Cabeza de Baca in possession, and on October 17, 1823, with the usual ceremony, this was done.

Luís María Cabeza de Baca, with his servants, then built a ranch on his grant and placed on it his stock, con-

1. Copy of original land grant in the Land Grant Office.

2. Records of Mr. Pettit, abstractor.

3. The family of Cabeza de Baca (or Vaca) is very old and may be traced back many centuries in Spanish history. There is a story that the family was knighted in 1235 after the Spaniards were led to a victory over the Moors, by the leader using the head of a cow as a sign. The title of Cabeza de Vaca was given then and it is still used. Today in this region it is designated merely by C. de Baca. This material was given by Mr. J. T. McCullough.

sisting chiefly of 600 mules and horses. He lived in a hut at the place known as Loma Montosa for a number of years, and there he attempted to fulfill his reasons for wanting the grant, as stated in his petition—"to cultivate the soil, advance the interests of agriculture, pasture the animals Providence had been pleased to favor him with, and live in the quietude and repose he aspired to."⁴

Cabeza de Baca was not allowed to remain in peace on his grant, and was soon driven away by the increased hostility of the plains Indians. They had stolen his 600 horses and mules, valued at \$36,000; so he removed to Peña Blanca. There he was killed in 1827 by a Mexican soldier when Baca refused to give up some contraband property belonging to an American.⁵ It was not until 1835 that it became safe enough to live on the Vegas Grandes again, and in that year a second grant was petitioned by a different party.

The second grant was petitioned on March 20, 1835, by Juan de Diós Maese, Miguél Archuleta, Manuel Durán, José Antonio Casaus, and twenty-five others. It had practically the same boundaries as the first. On the north was the Sapelló River, on the east was the boundary of the grant of Don Antonio Ortíz and the Aguaje de la Llegua, and on the south was the boundary of El Bado. The same day the grant was asked for, the ayuntamiento of El Bado recommended it to the Territorial Deputation, and on March 23, 1835, the grant was made with some added provisions. These provisions were that persons owning no land were allowed the same privileges as the petitioning settlers, and the pastures and watering places were free to all. On March 25 Don Francisco Sarracino, governor and political chief, directed the alcalde of El Bado to place the settlers in possession and have them select a townsite.

Because there were two Las Vegas grants some trouble

4. Copy of original petition in Mr. Pettit's office.

5. Records of testimony concerning the land grants, found in Mr. Pettit's office. For another reference to this affair, see the former quarterly *Old Santa Fé*, I, 260-261.

naturally arose. The last grantees contended that the grant made to Cabeza de Baca by the Provincial Deputation at Durango was void because it was in the year that Mexico won its independence from Spain, and the country was in confusion. In some places the people had not known about the change, and authorities had continued to exercise their power given by the King of Spain. However, since it was believed that the capital of Durango then held jurisdiction over New Mexico, it was decided that the deputation at Durango had acted within its bounds. The Territorial Deputation of New Mexico also in 1825 had confirmed the Cabeza de Baca grant which would make it valid.

The grant made to Juan de Diós Maese and others was protested against by the heirs of Cabeza de Baca. In the complaint filed it was stated that Maese and the others knew at the time they petitioned that there was a prior grant in existence. The complaint also gave the reasons that prevented the heirs from regaining possession of their land. These were the infancy of the heirs at the time, the internal revolution of the Republic of Mexico, and war with the United States. The living sons of Cabeza de Baca at that time were Luís, Prudencio, Jesús the Second, Domingo, and Manuel. Those dead were Juan Antonio, José, José Miguél, Ramón, and Mateo.⁶ After the father died Juan Antonio, as revealed in testimony, acted as manager of the affairs, until he was killed by the Indians.

These conflicting land claims were not settled until after the American Occupation when Pelham was appointed surveyor general for the United States. His duty was not to decide which claim was right, but only to decide if the

6. Testimony concerning the land grants, Pettit's office. These names were copied from the records but for some reason do not number the seventeen which were mentioned in the petition. In Twitchell's *Spanish Archives*, I, 47, all the children of Cabeza de Baca were named. In his first marriage to Ana María López the children were Antonio, Juan Antonio, Rosa, José Domingo, Guadalupe, Miguél, and Ramón. In his second marriage to Josefa Sánchez the children were Luís María, Prudencio, Mateo, Josefa the First, and Luz. In his third marriage to Encarnación Lucero the children were Juana Paula, Jesús Bacalro (Cañonero), Juan Felipe, Jesús the Second (Carretero), Josefa the Second, Domingo, Manuel, María de Jesús, Luisa, and Luz.

claims should be separate from the public domain. He found that they were lawfully separated and beyond the disposal of the government. Congress then confirmed the grant to the town of Las Vegas, and allowed the older claimants, the Cabeza de Baca heirs, to select an equivalent quantity of land elsewhere. The conditions on which they were to select it were that it should not be mineral land, and should lie in square bodies.

GROWTH OF LAS VEGAS

When the second grant was given it stated that the settlers should provide lots for residences, and construct a wall surrounding the town. Each man must be supplied with arms which were to be inspected every eight days. No one should sell his land until he had acquired the title prescribed by law to all colonists. There was provision for 123 varas set aside for gardens, 25 varas for a road to the watering place, and on the south 75 varas more for gardens. The land should be distributed to all the individuals in the list, and the alcalde had the power to grant small allotments of land to colonists who came for farming purposes.⁷ The gardens and roads were to be placed opposite the square plaza, and across the square a ditch was provided for watering the land. A warning was given that all gardens must be fenced, or no damages could be claimed. The alcalde reported to the governor that at Nuestra Señora de los Dolores de Las Vegas (the full name of Las Vegas), on April 6, 1835, he had apportioned the lands, taken the measurements from north to south, and given each individual a piece of land according to his means. This land was given on the condition that it should not remain uncultivated. From this humble beginning the town originated.⁸

7. Mr. Lucas, in his paper, *Historic Las Vegas*, states that Juan de Diós Maese was the alcalde who made most of these grants. The first copies, or testimonios, of the grants "are still the foundations of all titles to real estate in Las Vegas." So many of these grants were made that "the whole valley of the Gallinas was allotted to settlers."

8. Records of the land grants, Mr. Pettit's office.

The new town was on the Santa Fé Trail, and was one of the first stops for the caravans coming from the east. This trade was valuable because it helped Las Vegas grow, and it gave some of the travelers an opportunity to comment upon it as they passed through. It is interesting to note that most of these descriptions by travelers were not flattering. This may be explained by the fact that most of this country was as yet new and undeveloped.

One of the earliest mentions of this region was prior to the founding of the town and was made by Gregg in about 1831. He found a large flock of sheep grazing at the Gallinas Creek, and a little hovel at the foot of the cliff, showing itself to be a rancho. This was probably the first dwelling of Las Vegas, and was situated in what is now Upper Town.

After Gregg's account there is a period of ten years, or more, in which there seems to be no specific mention of Las Vegas by traders. It is safe to judge, however, that after the town was founded, and the Indian trouble was not so acute, it slowly progressed. There is available evidence concerning this period from early families who remember hearing their parents or grandparents tell about it.

From this evidence it seems that Upper Town was the first settlement of Las Vegas. The adobe houses were built compactly about the plaza, with few openings for wagons to come through. The buildings were made as fortress-like as possible, with the windows and doors opening out upon an inner patio or courtyard. For several years there were no windows on the outside wall, and even when there were later, they were always tightly shuttered at evening as a protection against the Indians and marauders. Today, when life is so comparatively safe, it is hard to realize the dangers through which these old colonizers passed. But even today, if one should go to Upper Town, he would find some resemblance of the old plaza still there—the houses built closely around it, the well in the center, and the ancient church still facing it. There seem to be no available records

showing when the first church was built, though early families state that the first church was in West Las Vegas, and the people from Upper Town went there to worship. It was always the custom to build a church as soon as a settlement was founded, and it is known that the early church of Las Vegas was a *visita*, or visiting church, of the older church of San Miguel.

For a while there were no outlying houses, but gradually a few were built in what is now West Las Vegas. Eventually West Las Vegas became more important than Upper Town, and there the houses, still made of adobe, were grouped about the plaza in much the same manner as in Upper Town. There was a well in the center of what is now the park, with a bucket for drawing up the water, and a fence built around it. The church was built on the west side of the plaza, in the site of what is now Guerin's store. A cemetery was behind it, extending to where the new church now stands. Years later, as the town grew, this church was abandoned for the new one named Our Lady of Sorrows,⁹ which was built to accommodate the growing population.¹⁰

The Santa Fé Trade helped to build the towns along its route, and eventually the merchants and wealthy men in New Mexico began to operate their own expeditions to "los Estados", as the East was called. They would send as many as 35 wagons or more, twice a year, for goods with which to supply their stores and working people. They always had to be on guard against the Indians, and they thought up several schemes to protect themselves, such as eating their evening meal long enough before dark to make the camp fire less noticeable. Then in the early morning they

9. This name may have been given because the town's full name, as found in some early records, was Nuestra Señora de los Dolores (Our Lady of Sorrows) de Las Vegas.

10. The material on Upper and Old Town was given by Mrs. Manzanares and Miss Aurelia Baca. The Baca and Manzanares families, especially Don Rumaldo Baca, contributed a great deal of money toward the building of the new church. There were probably many other families, unknown to the writer, who also contributed to it.

would be off on the trail again. For some of these trips, which would usually take six months to go and return, the drivers would take provisions easily kept, such as biscochuelo (a hard bread), and carne seca (jerked meat). They would depend on the buffalo for fresh meat, called carne de cibolo. On their return they would bring large quantities of food and clothing which would provide the town for several months. Most products were still too expensive for the poor class, and only the rich could afford sugar, tea, and coffee. Still it was a great day for all when they saw the long, weary caravans coming into town.

The route to Santa Fé varied a little, as wagons moved two or three abreast, or sometimes formed a new trail by eliminating a bad piece of road and making a short cut. The most traveled trail, which began in Kansas, moved westward, passing through Butte Creek, the regions where Capulín and Folsom now are, by the present Taylor Springs near Springer, through Wagon Mound, Watrous, Las Vegas, and on to Santa Fé. Some caravans came by the present sites of Trinidad, the Ratón Pass, and Cimarrón. Mora was not on the main route, but there were several roads leading to it, usually going through Watrous, the Fort Union site, and Golondrinas. The ruts of one old trail are still visible by the Saint Anthony Sanitarium, while the present University Avenue was once the road to the States.

Along the Santa Fé Trail, a few years before 1850, travelers again noted some of the progress made in Las Vegas. The progress was not very apparent, for the town was still mainly grouped about the plaza. There were no buildings on what is now Bridge Street, for that place was subject to the overflow of the river. Two bridges, before the concrete one, were washed away.¹¹ Homes were not built on the east side of the river until after the railroads came through in 1879. Before that time there were few houses on the east side, and only one house in the village not made of adobe. This was the court house, made of

11. Material given by Mrs. Manzanares.

stone, which is now used by the Ilfeld Company for a storehouse.¹²

The next account of Las Vegas after Gregg was in 1846 when there were about 100 houses in the town. Abert¹³ gave a vivid description of it, as having a large open space in the middle, and streets running north and south, and east and west. The houses were of adobe, and the roofs had an inclination to turn the rain. The walls continued one foot above the roof, and had pierced openings through which the water could run. The acequia, or ditch, provided for in the second grant, was evidently still in use for it was described as running through the midst of the town, supplying water for irrigation. When Webb went through he said there were three or four hundred inhabitants, and that there were no Americans. He also mentioned the roads near Las Vegas which were very bad.

Doctor Wislizenus in his *Memoir of a Tour to Northern Mexico in 1846-1847* found the settlement of Las Vegas one mile from the creek, and composed of 100 odd houses.¹⁴ He mentioned the "poor and dirty inhabitants" who cultivated their fields around town by irrigation and raised stock. The valley of Vegas was not as fertile as Mora, perhaps because it was exposed more to the rigor of winter. He, as most of the travelers, considered San Miguél a larger and wealthier settlement than Las Vegas.

One of the longest accounts of early Las Vegas is found in Mrs. Magoffin's diary, written in 1846 and 1847.¹⁵ This town, because it was new to her, made quite an impression. She first spoke of the Mora Creek and settlement, which she called "a little hovel, a fit match for some of the genteel pig sties in the States." They passed the Vegas next and camped three or four miles on this side. The caravan arrived in Las Vegas at 2:00 P. M., and while dinner was being prepared for them, the curious travelers looked

12. Twitchell, *Leading Facts of New Mexico History*, IV, 223.

13. Webb, *Journal of a Santa Fe Trader*, footnote.

14. Twitchell, *Leading Facts*, IV, 207, note.

15. *Magoffin: Down the Santa Fé Trail and into Mexico* (ed. Stella Drumm).

around. Driving down a hill she speaks of the beautiful, little stream, circling the village and tempting one with its clear waters. They crossed the stream, and came in contact with the dwelling houses, pig sties, and corn cribs. When the carriage stopped the driver went in to get some delicacies, and Mrs. Magoffin imagined that her husband had enough money to buy out the whole town, and that if he would put her up as a show he would have a good business. She was the object of great curiosity to the village people, since an American woman, dressed in the American fashion, was a novel sight in most parts of New Mexico. She kept her veil drawn down for protection, but that did not stop the children from standing around her so compactly that it was hard for anyone to pass. These children's costumes, or lack of them, were also a novel sight to her, and as they stood with "their eyes opened to the fullest extent, and tongues clattering", she hardly could restrain her laughter. Her husband didn't.

They were finally called to dinner in a big room, and there men, women, and children swarmed around her like bees. The women, she observed, wore *camisas*, petticoats, and the famous *rebozos*, or shawls. The *rebozos*, mostly blue, were made of Mexican woven cotton, and the *camisas* and petticoats were made of cotton and red flannel. As they sat on the floor around her table, they smoked their *cigarettes*. Some of them talked to her and she answered them as well as her knowledge of Spanish would permit.

Before the dinner was served an old man came in and spread a blanket on the table. Over that he spread a clean, white cloth, and Mrs. Magoffin imagined a fine dinner. She was disappointed, however, when he next spread on a cloth "so black with dirt and grease it resembled brown." For their dinner they had the typical dishes served in the Southwest, but as they were rather new to her she commented on them. There first came a half dozen *tortillas* made of blue corn, and wrapped in a napkin which in color "was twin to the last tablecloth." They also had cheese, and two earthen

jugs filled with a mixture of meat, chile verde, and onion boiled together. They had no knives, forks, or spoons, and for a substitute used a piece of doubled tortilla with each mouthful. She only ate four mouthfuls of the first course, because the chile was too strong, and so Mr. Magoffin called for something else. Then they were brought roasted corn rolled in a cleaner napkin, and this was relished more than the chile.

After the meal they returned to the carriage. Soon they were "hid from view by the mountains as the road wound along," and she was vastly relieved to be in the open again, beyond the gaze of the curious and "wild looking strangers." Their next dinner, at Bernál, which consisted of fried chicken, corn, and bean soup, was enjoyed more than the one at Las Vegas.

These pictures of Las Vegas, interesting and vivid as they may be, were not on the whole complimentary. The travelers were probably too unfamiliar with the new customs to appreciate them, and there may have been some more refined people, perhaps, than the ones crowding about the caravan. It would seem that there were a few wealthy families in Las Vegas as early as 1846, and knowledge of these would have lent added interest to the travelers' narratives. There was not a strict middle class, and the two main classes were composed of the wealthy group and their peons. Evidently it was the peon class that Mrs. Magoffin was describing.

When Mrs. Magoffin passed through Las Vegas with her husband, Samuel Magoffin, and a company of traders, she was on her way to Santa Fé. Kearny had passed through Las Vegas before her, and in a remarkably bloodless campaign, had taken possession of a foreign country for the United States. His way had been paved by James Magoffin, a brother of Samuel Magoffin, who had persuaded Governor Armijo and his followers to make no opposition.¹⁶ Consequently Kearny, with his troops, passed from town

16. Magoffin, *Down the Santa Fe Trail and into Mexico*.

to town, advising the people of their change of government. The people, for the most part, took the change quietly, for they hated Armijo, and had already gained some acquaintanceship with the Americans through the Santa Fé traders.

Las Vegas was the first large settlement that Kearny came to in the Mexican territory, and on August 15, 1846, at 8:00 in the morning, he galloped into the plaza with his army behind him.¹⁷ He was met by Alcalde Don Juan de Diós Maese and the citizens of the town. Then, with his officers, Kearny climbed to the top of an adobe building to address the people. Emory says it was on the north side of the plaza, but there are conflicting stories about which building it was. One story¹⁸ says that the adobe structure now called the Dice Apartments, and then owned by Herman von Grolman, was the one used. Ike Davis, an old resident of this town, was told when he came here by an old man that Kearny had spoken from the roof or portal of what is now the Shaw building. At that time it had a flat roof, which has since been displaced by a pointed one.

When Kearny was on the roof, with his staff and the officers of the town beside him, he gave the following address to the people:

Mr. Alcalde and people of New Mexico: I have come amongst you by the orders of my government, to take possession of your country and extend over it the laws of the United States. We consider it, and have done so for some time, a part of the territory of the United States. We come amongst you as friends, not as enemies; as protectors, not as conquerors. We come among you for your benefit, not for your injury.

Henceforth I absolve you from all allegiance to the Mexican government, and from all obedience to General Armijo. He is no longer your governor (great sensation in the plaza); I am your governor. I shall not expect you to take up arms and follow me to fight your own people who may

17. Emory, *Notes of a Military Reconnoissance*.

18. Lucas, W. J., *Historic Las Vegas*.

oppose me: but I now tell you, that those who remain peaceably at home, attending to their crops, and their herds, shall be protected by me in their property, their persons, and their religion; and not a pepper, not an onion, shall be disturbed or taken by my troops without pay, or by the consent of the owner. But listen! He who promises to be quiet and is found in arms against me, I will hang.

From the Mexican government, you have never received protection. The Apaches and the Navajoes come down from the mountains and carry off your sheep, and even your women, whenever they please. My government will correct all this. It will keep off the Indians, protect you in your persons and property; and I repeat, will protect you in your religion. I know you are all great Catholics; that some of your priests have told you all sorts of stories; that we would ill-treat your women, and brand them on the cheek, as you do your mules on the hip. It is all false. My government respects your religion as much as the Protestant religion; and allows each man to worship his Creator as his heart tells him best. Its laws protect the Catholic as well as the Protestant; the weak as well as the strong; the poor as well as the rich. I am not a Catholic myself I was not brought up in that faith, but at least one-third of my army are Catholics and I respect a good Catholic as much as a good Protestant.

There goes my army; you see but a small portion of it; there are many more behind; resistance is useless.

Mr. Alcalde, and you two captains of militia: the laws of my country require that all men who hold office under it shall take the oath of allegiance. I do not wish for the present, until the affairs become more settled to disturb your form of government. If you are prepared to take oaths of allegiance, I shall continue you in office and support your authority.¹⁹

When he had finished speaking he noticed that the captains looked with downcast eyes upon the earthen roof,

19. Emory, *Notes of a Military Reconnaissance*.

so he said in the hearing of all: "Captain, look me in the face while you repeat the oath of office." After the oaths were administered, Kearny descended from the roof. There is one legend that he rested for a few minutes behind the Shaw building, under a large tree which is still standing. There is no absolute proof of this, and Emory said he soon mounted "and galloped away to the head of the column. The sun was shining brightly. . . ."

Las Vegas had a prominent position during the military occupation, for a large post was established here. It was maintained until 1850 when Colonel E. V. Sumner built a large post near by in the Mora valley. This new post was called Fort Union, which was one of the largest forts in the Southwest. After Las Vegas became a part of the United States more definite records were kept, and from then on its history is more accurate.

LIFE IN EARLY LAS VEGAS

All of the travelers who wrote of Las Vegas praised certain common characteristics of the Spanish people, such as their courtesy, charity, and companionship. Here, in this dim region, contact with the outside, foreign world was small, and there was not the hurry and worry of a modern, industrial nation. Ancient customs, in the poor class especially, were handed down through the years almost unaltered. Naturally there were not many of the conveniences we think so necessary today, but there was a peace of mind and a contentment, that kings desire and never find. Life was comparatively simple at first, for the average man was satisfied with his home, his garden and flocks, and the bright blue sky overhead.

Despite the similarity of some national characteristics, the type of life which the poor and the rich led was vastly different. A reason for this may have been that there wasn't a middle class, and while the wealthy man could afford many luxuries the peon or common settler lived in a very humble manner. It might be interesting to note

some of the daily occurrences in a poor man's life, in order to understand more fully and contrast it with that of the rich man.

The Spaniard of the lower class arose in the morning as carefree as the birds on his doorstep, for his wants were simple. Manufactured goods from the States were luxuries and very expensive. They were too expensive for him, so he lived mostly by his own ingenuity. Nearly everything he surveyed about him was hand made. The floor of his house was made of dirt, and the walls were covered with clay, and whitewashed. There was little furniture, except perhaps a few pine-board chairs and settees; while folded mattresses against the walls, covered with a blanket, were comfortable sofas. His wife and children preferred at times to sit on the floor in their blankets, Indian style. A fireplace served for heating and cooking purposes, and when his wife had made his breakfast, he and the children took their bowls of food and sat around quite informally, because few homes had tables. In some respects the early families seem to have borrowed the customs of the Indians.

If the man was a peon, working for one of the wealthy families, he probably then would go out to the large fields and pastures of his employer. If he was not, he would go out to work in his own little garden and field, for in early Las Vegas each home appears to have had its strip of land running down to the river, which was used for a garden and field. There were a few domesticated animals in his pasture, such as hogs, sheep, horses, mules, and burros. The burro was the favorite beast of burden for the lower class, though unpedigreed horses were owned by some. The mule was valuable for loadable purposes, and the father, as he worked in the old, tedious way of his forefathers, saw a pack train of mules going by, laden with snugly packed bundles. He also saw a friend going by in the clumsy *carreta*, or cart, with its wheels made of cottonwood, hewn into shape. They talked a bit, for there was no hurry about anything—the man in the cart would reach his destination soon

enough, and the garden would wait. What did a few minutes, or a few hours, matter as long as there was a friend to pass the time of day with, and life was so easy to live in this dreamy land?

As they talked they saw a handsome caballero going by—a visitor going to the big, near by house. Perhaps he came from Santa Fé and was bringing news of some kind. He sat very grandly and gracefully on his spirited horse, and his fine clothes showed off to good effect in the bright sunshine. Little children ran and stared at him as he passed. He wore a large sombrero, a gay jacket, and pantaloons caught at the waist with a rich sash, and trimmed with buttons. His *botas* were new and a colorful *serape* served as a cloak. After they had speculated on him, they then discussed horseracing and the last chicken fight. The night before there had been a dance, and all the young men and señoritas were there, as well as the old people, to indulge in their favorite amusement—the dance. It was a wonderful affair, for the Spaniard is famed for his grace in dancing, as well as for his superb horsemanship.

Meanwhile the sun had climbed higher, and the friends reluctantly parted. The cart rumbled along, and the erstwhile farmer went to his house to see what was in store for lunch. He found his wife preparing *tortillas*. She had first boiled some corn in water with a little lime in it to soften the shells. Then she ground it fine on a *metate*. When ground fine enough she patted the *tortillas* out very thin with her hands—for there was an art in making them thin—and then placed them on a hot sheet-iron over the fire. She turned them carefully so that they would not burn. There were also chile and frijoles prepared, and *atole*, a thin mush of Indian meal. The *atole* was a favorite beverage, and in some parts of the country was called by the Americans the “café de los Mexicanos.” Sometimes potatoes, corn, eggs, meat, and a little fruit lent variety to the meal.

After eating and talking a while they went about their

business again. The family might take a siesta, after which the father would work in his garden plot while his wife would finish her housework. She might also go to visit a neighbor, and, incidentally, hear the news. Her shoulders had a weary stoop from much work, but her daughter, still dreaming of the dance the night before, was vitally young and glowing.

After the evening meal one or two of the family wandered off to visit with friends. A guitar was faintly playing somewhere, and children were laughing in the square. But the old couple sat out in front of their adobe hut, and there enjoyed a quiet, cool meditation under the stars before retiring for the night.²⁰

While the life of the average settler at first was very simple, it later became more complicated as wealthier people came to this country.

There were several prominent families who came here in the early days. Besides the original grantees of the second Las Vegas grant—Juan de Diós Maese, Miguél Archuleta, Manuel Durán, José Antonio Casaus, and twenty-five others not named—there was a steady stream of colonists. Some of these, who settled in Las Vegas, Mora, or the surrounding vicinity, acquired much land, and some became quite noted. Cerán St. Vrain was one of the most widely known of these early settlers. He helped to build Bent's Fort in 1828, and later he built St. Vrain's Fort on the fork of the South Platte River which still bears his name. He was a great trader, and one of the most important freighters on the Santa Fe Trail. He owned some land around the Las Vegas plaza when Kearny passed through, and established a large hacienda in the Mora valley when he married Louisa Branch of Mora.

Some other settlers were John Scolly, Captain William S. French, Henry Connelly (later governor of the Territory), Samuel B. Watrous, William B. Tipton, William B.

20. Data concerning the poor family in New Mexico found in Gregg's *Commerce of the Prairies*, and in stories told by old colonists.

Stapp, John B. Dawson, Lucien B. Maxwell, Killiam Kroenig, Milnor Rudolph, Herman von Grolman, Andreas Detlef Laumbach, Frank Metzger, Antonio A. Sanchez, Cresencio Gallegos, Vicente Romero (who founded La Cueva), and his brothers Eugenio, Dolores, and Casimiro Romero, Korte, Goke, Ebel, Bonney, Blattman, DesMarias, Branch, the Bacas, Maes's, Abreus, Valdez's, Quintanas, and the Ote-ros.²¹

Many of these settlers owned much property, in the form of land and cattle, in the country around Mora, La Cueva, Buena Vista, Sapelló, Rociada, Watrous, and Las Vegas. There are many descendents of these brave pio-ners who can appreciate the modern security and progress which were founded by their forefathers.

Though there were few rich homes in Las Vegas be-fore 1850, we get a vivid picture of them from reminis-ences of old families. Some of these families, such as the Baca and the Manzanares, have preserved many heirlooms and traditions of an ancient day.²² Both homes have furni-ture, mirrors, and silverware that came from Europe or from the East by wagon train.

From evidence gathered, it seems that among some of the first settlers of Las Vegas were Don Luís María Baca and his son Don Juan María Baca.²³ Later five brothers, and nephews of Don Juan María Baca, came to Las Vegas—Don Romuldo Baca, Don José Albino Baca, Don Aneceto

21. Most of the data on early settlers are taken from *Historic Las Vegas* by W. J. Lucas.

The Baca family still has in possession wonderful rebozos, serapes, and mantillas worn in Spain about 125 years ago. There are also some stirrups, massive and carved, which were handed down from generation to generation for over 300 years, and are now in the possession of Miss Aurelia Baca and Mrs. María de Romero.

23. Several of the Bacas have been distinguished. Don Juan María Baca's sons were noted—Benito Baca was a great politician and ran for delegate to Wash-ington at one time, but was defeated. (Later Mr. Manzanares was elected delegate from New Mexico to the forty-eighth Congress.) Eleuterio Baca, brother to Benito Baca, translated "Oh Fair New Mexico" into Spanish. More recently Filadelfo Baca was four years in Mexico City as secretary of the United States legation, and afterwards became president of the El Rito Normal. His brother, José A. Baca, was a lieutenant-governor. Today Miss Aurelia Baca and Mrs. María Baca de Romero are some of the last survivors among the older generation of an aristocratic family.

Baca, Don Simón Baca, and Don Pablo Baca. They did not come at the same time, and perhaps Don Romuldo Baca was the only one here before 1850. They were wealthy, and owned nearly all the land in what is now East Las Vegas, as well as some in West Las Vegas. All but Don Pablo built beautiful homes in Upper Town, and he lived for a while with Don José Albino Baca. Some of these houses are still standing, though most are in ruins.

Don José Albino Baca, who came a little later than 1850, owned 60,000 sheep and more than 3,000 head of cattle. He was principally a stock raiser, though he also had some farmland. He, as well as the others, had many peons or servants working for him, both Indian and Spanish, and when he built his large house in about 1855, for the bride he had married in 1851, it took a large force of men and much time and money.

The house is still standing in Upper Town—a relic of the past. It can be reached by taking the Eighth Street Road and then turning off through a lane between two orchards. The old house, standing on a slight hill, with a beautiful command of view, and alive today with murmuring barn swallows, gives one a start of wonder and surprise. It is still beautiful, and its large patio, encircling porches and balconies, rich door paneling, and courtyard give an impression of mystery and grandeur. It is slowly going to ruins now, but there is still a hint of the gay life once lived within its rambling walls.

It was famous for being the first house in New Mexico with a second floor, as well as being one of the most beautiful residences, and many people traveled to see it. It was a little palace in the old days, and much money was spent in decorating it. The woodwork and furniture, including a piano,²⁴ were brought from the East, and the ceilings and woodwork in the upstairs rooms were hand-painted by a French artist. The house was built about a patio, in which blue grass and climbing roses grew, with a large English

24. This piano is now in the New Mexico Normal University museum.

walnut tree in the center. Overlooking the patio were balconies and porches, and to one side was an enclosed garden. There was also a beautiful orchard, and there were well-kept lawns and vines. Today much of this has been destroyed, yet it still serves as a monument to the colorful history of early Las Vegas.

A picture of the gay life may be had, perhaps, by sketching some of the events which took place in one of the large, wealthy homes.²⁵ After rising and eating breakfast in the morning, the day was spent in a variety of ways. On Sundays the family could attend church in their own home perhaps, for some of the richer dwellings included a private chapel. These chapels, however, were not barred to the peons and poorer class.

The children were usually taught by private tutors during part of the day, for in that early period there wasn't a public educational system. Only the rich could afford to have their children educated, and this was done by having tutors in the home, or by sending the students away, when old enough, to the East, to Mexico, or even to Europe. Because they had the advantage of higher education, many of the older families were very cultured, with the ability to speak several languages. The disadvantage in going so far away to study was the necessity of staying away from home for long periods. The Indian problem, and the slow traveling, made frequent home-comings difficult.

Traveling, however, was not as uncomfortable as one might imagine, even if there were no oiled roads and limousines. The wagons and carts used by the peons may have been tiresome, but the stage coaches and the carriages of the wealthy were quite luxurious. The body of the coach was built high to avoid ridges, and to make it possible to cross small streams without getting the floor wet. There were automatic steps with which to enter, as well as other automatic contrivances. The seats were well upholstered, and so constructed as to make a comfortable bed at night-

25. The material on the rich homes was given chiefly by Mrs. F. A. Manzanares.

time. There were pockets for toilet articles and mirrors, while the heavy luggage was placed on top of the coach. Sometimes there were secret hiding places for money, which might be found in a sliding flat drawer under the driver's seat.

The family sometimes took a morning ride in a carriage like the one described, and sometimes went visiting in it. During the day the children could amuse themselves by playing in the patio and gardens, while their mother tended to her duties of managing the household. Perhaps she would supervise a new dress her private seamstress was making, for she tried to keep in touch with the styles in the East. She would also have to inspect her linen closets and see if there was anything needed when the next trip went to the States. There were always large rooms filled with cloth and various articles, and storehouses filled with food and provisions. When her husband would send a caravan East, in charge of his servants, he would sometimes send 70 or 90 wagons, and the supplies brought back would last many months.

At noontime the Don would probably arrive from inspecting his ranch and attending to business affairs. Their meal would consist of home products, such as fruits, vegetables, meat, and wine, and some things brought from the East, such as coffee, sugar, and canned goods. They ate from silver dishes—plates, cups, and saucers—for the rich families almost entirely used utensils made of pure, hammered silver. Glass and china were uncommon because they were harder to pack long distances, and some of the silverware was brought from as far away as Spain.²⁶

The afternoon may have been spent in taking a siesta, reading books—newspapers were not published here yet—and finishing the regular day's schedule. In the evening there was often some social gathering, formal and cultured. Sometimes evenings were spent in playing music, such as the harp, guitar, and violin. Dances were given also in the

26. Mrs. Manzanares has silver plates and dishes which bear the Spanish stamp.

home for the family and close friends. The social center was decidedly the home, as most of the public amusements we have today were unknown then.

CONCLUSION

All of this served to make up a glamorous period in the history of our Southwest. No other part of the United States was quite as fascinating, I think, as this Spanish colonial section. It was a colorful life of extremes—richness and poverty, power and servitude—but throughout all was the spirit of romance and adventure.

This period before 1850 may seem to be very far away and removed to most readers, and yet Las Vegas, in some respects, has not changed. It is larger today, and there is present the new element of the pushing, energetic American culture, but it can never destroy the other and older culture in the Southwest—that of the Spaniard. In some parts of Las Vegas life is being lived today in practically the same way it was lived before 1850. Ride sometime through the winding streets of West Las Vegas or Upper Town, and there, in the atmosphere of the quaint adobe homes, you may read the story of an ancient, though undying, civilization.



GOVERNOR HENRY CONNELLY
(1861-66)

WHEN LAS VEGAS WAS THE CAPITAL OF NEW MEXICO

By F. S. DONNELL

IN all the many histories of New Mexico since it became a part of the United States, Santa Fé is given as the only capital and the fact that, for a short period during the Civil War, Las Vegas had this honor seems to have been overlooked.

In 1861 the Confederate forces captured the southern part of New Mexico and held the country as far north as Fort Craig, on the Rio Grande, near the town of San Marcial. They felt so sure of their ability to hold this area that they organized the southern part of New Mexico and Arizona as the Territory of Arizona, and as such it was admitted to the Confederacy by Act of the Confederate Congress, passed January 18th, 1862.

In February, 1862, General H. H. Sibley, in command of the Confederate forces with headquarters at Fort Bliss, El Paso, planned a campaign to capture the northern part of the Territory and secure the large amount of supplies and ammunition which were held in Albuquerque, Santa Fé, and Fort Union.

Fort Craig was held by a strong force of Union troops under command of Colonel Canby, and when Sibley reached there on his march to the north he decided that the fort was so well guarded that he had no chance to capture it and, making a detour, he continued his northern march. On February 21st he reached Valverde and found that a strong force from Fort Craig had arrived there to head him off. In the battle which followed both sides suffered heavy losses. After the battle General Sibley found that he had only five days' rations and a limited amount of ammunition left and his only chance was to make a rapid march to Albuquerque and try to capture this place before the Union troops could be collected to oppose him.

On March 2nd Captain Herbert M. Enos, assistant quartermaster at Albuquerque, hearing that the advance of the Confederate troops had reached Belen, loaded part of his supplies in wagons and started them for Santa Fé, setting fire to the storehouses to destroy the balance of his supplies so as to keep them from falling into the hands of the enemy. The people of the town, however, put out the fires and a large part of the supplies were saved and taken by General Sibley when he reached this point.

Having secured all the available stores in and about Albuquerque and sending Major Charles L. Pyron with his command to Santa Fé to capture such as might be found there, General Sibley determined to strike at Fort Union. If he were successful in capturing this place, he would be in full control of all New Mexico.

On March 4th Major J. L. Donaldson, in command of the Union army at Santa Fé, loaded 120 wagons with supplies, valued at over \$250,000, and started for Fort Union which he succeeded in reaching with all his troops and the supplies.

With no troops left to protect the capital, Governor Henry Connelly decided that it was useless to remain there, so he with his office force joined in the retreat to Fort Union. On March 11th, writing from Fort Union to W. H. Seward, secretary of state at Washington, explaining his move he says:

On the 4th instant, Major Donaldson, then commander of the District of Santa Fé, determined to leave that city with the small force he had under his command, say 200 men, and fall back upon this place. It was then said that the advanced guard (500 strong) of the enemy had entered Albuquerque and would proceed immediately to the capital. His departure became the more necessary in order to escort and defend a large amount of Government property then on the way from Albuquerque and Santa Fé to this place.

The capital having been abandoned by the United States forces, I came in company with them, and I have for the present established the Executive Department at Las Vegas, 30 miles west of this post.

Colonel Slough, from Denver City, arrived here last night, with 950 men, who from all accounts can be relied upon. These, with 300 or 400 that are already here, will give Colonel Canby a force of 2,000 regular troops; that is American troops. The militia have all dispersed, and have gone to prepare their lands for the coming harvest, and this is by far the best use that could be made of them.

Should the forces at this place unite with Colonel Canby, the enemy will be driven from the Territory. Should Colonel Canby be attacked by the enemy and suffer a defeat, we will then be in a very precarious condition until reinforcements arrive. The whole force from this place, say 1,300 men, will leave in a few days to meet Colonel Canby should he be on this side or south of Santa Fé.

I hope my next mail to give you the information that the enemy are either vanquished in battle or are in retreat from the Territory.

Colonel Canby for some reason delayed his move from the safety of Fort Craig and after waiting ten days for some word from him as to his plans Colonel Slough decided that the best way to stop the Confederates was to go out and meet them before they could gather all their strength, capture Las Vegas and then with their full force attack Fort Union, and the next letter from Governor Connelly to Secretary Seward, written from the Executive Department at Las Vegas on March 23rd, reports as follows:

Since my last from Fort Union, dated 11th instant, there has occurred nothing indicating a speedy encounter with the enemy until this time. Today the whole force from Denver City, together with the Territorial forces, numbering 1,400 men in all; will leave this place in the direction of the enemy, but I am informed will go but a short distance until they receive further communications and orders from Colonel Canby, who still remains at Fort Craig. These orders are daily expected, and with them a simultaneous movement of the two forces, so as to reach the position of the enemy on the same day.

There has been some little discord in relation to the movement now made from Union, in consequence of the want of orders from Colonel Canby. Major Paul, in command at Union, was of the opinion that the orders of Colonel Canby were essential to an effective forward movement

from Union; whereas Colonel Slough, in command of the forces from Colorado, was of opinion that an advance of a day or more march in advance could lead to no evil, and would curtail the limits of the enemy, and mayhap lead to the expulsion of the enemy from the capital, now occupied by about 100 men, with two pieces of artillery. I think this slight difference of opinion and movement will lead to no unfavorable result, as Colonel Slough will advance upon the road that the enemy will necessarily have to march to reach Union, should an attempt be made upon that place which seems to be the fear entertained by Colonel Paul.

The enemy in force are now occupying a pass in the mountains east of Albuquerque, some 15 miles, called Carnavel, with a view, doubtless, to prevent the junction of the commands from Union and Craig, near which the commands will have to pass in order to form a junction.

I am sorry to say that the Texans have not behaved with the moderation that was expected, and that desolation has marked their progress on the Rio Grande from Craig to Bernalillo, exactions and confiscations are of daily occurrence, and the larger portion of those who have anything to give or to lose are here on this frontier, seeking a refuge from their rapacity, and have left their houses and contents a prey to the invaders.

My own house, 90 miles from Santa Fé was despoiled of its contents, including a valuable stock of goods, together with everything in the way of subsistence. On yesterday there arrived at this place some 20 of our most prosperous and respectable citizens from the neighborhood of Albuquerque and Bernalillo, who had fled from the exactions of Sibley; among the number a gentleman of eighty years of age, Don Pedro Jose Perea, and his three sons, upon whom a demand had been made for a large sum of money, which they had not in their houses, having advanced all their available means to the disbursing officers of the Government but a short time before. The threat of personal violence in case of refusal so alarmed them, that they left their houses and entire contents at the mercy of the enemy.

In Governor Connelly's next letter to Seward, also written from the Executive Department, Las Vegas, on March 30th, he gives the first news from the battle at Glorieta which halted the advance of the Confederates, saved Las

Vegas from capture and ended the efforts of the Texans to control northern New Mexico. In this letter he writes

In my communication of the 23rd instant I informed you that Colonel Slough, with the troops from Colorado Territory, together with the small regular force at Union, had advanced through this place in the direction of the enemy. On the 26th the advance guard of our forces, making a reconnaissance and without anticipating any encounter with the enemy, came in contact with his advance guard of 600 men, neither it would seem, being aware of the presence or near approach of the other.

This took place at the Cañon del Apache, the east end thereof, on the road to and about 20 miles from Santa Fé. An action ensued, in which the enemy were entirely routed, with a loss of 25 or 30 killed and wounded and 62 prisoners. A flag of truce was sent in at night by the enemy asking a suspension of hostilities for the purpose of burying their dead and taking care of the wounded. The 27th was occupied in these acts of humanity. The main body of their forces being at the cañon, only about 7 miles distant, they advanced on the 28th in full force to the attack of ours, which had all been called to the scene of action.

The engagement commenced at about noon and lasted until sunset, without any decisive result. The cause of this indecision as to result was that early in the day Major Chivington, with 500 men, had been ordered to make a detour in the heights (mesa) and observe the operation of any forces that might approach in that direction. His position on the table land, and parallel to the whole length of the cañon, gave him a full view, part of the way, of everything that was in it, and to his joy and surprise when he reached the lower end of the cañon he found the enemy's whole train parked, together with the mules and horses necessary for its transportation, guarded by 200 men. The nature of the country enabled him to approach very near without the observance of the guard. He made a sudden and unexpected attack upon them, and captured the whole train of 80 wagons, with all the stock except the few upon which some of the guards made their escape. He also captured 40 prisoners, and after burning the train, with all its contents of provisions and ammunition, he returned to the command late at night by way of the same table land over which he had advanced. Our loss in killed, wounded, and missing in

the two days encounter will reach 150; that of the enemy fully double that number.

There were some reports that General Sibley was moving by another road upon Fort Union with the balance of his forces. It was thought best to fall back to a point at which he must necessarily pass in order to reach that place. This was done, and our forces will tomorrow take a position at Bernal Springs for the purpose indicated.

While this battle was a victory for the Union forces, they did not take advantage of it and allowed the Confederates to fall back to Santa Fé without further fighting, very much to the disgust of Governor Connelly as shown by his next letter in which he says:

In my communication of the 30th ultimo I informed you that our forces had fallen back to Bernal Springs, 20 miles from the place of our late encounter with the enemy. On the day of their arrival at that place the adjutant-general of Colonel Canby, Lieutenant Nicodemus, arrived in camp, bringing news and orders from Colonel Canby. The first was that he had not on the 25th of March left Fort Craig, and these orders were for the whole force to fall back on Union. These orders were obeyed, and on the 31st ultimo the troops passed this place en route to Fort Union.

Since the late encounter with the enemy we have had occasion to learn much more of the particulars and consequences of that engagement than I could write you in my last. As I had anticipated, they fled in confusion from the field and returned to Santa Fé, not having on an average 10 rounds of ammunition to the man, the whole of the ammunition having been destroyed in the train that was burned by Major Chivington on the day of the battle. So it turned out that had our troops advanced the day after the battle it would have led to the entire capture or dispersion of the enemy's force in the neighborhood of Santa Fé.

This opportunity has been lost, and we have again to try the fortunes of another battle. Upon hearing of the defeat of the troops under the command of Colonel Scurry and their retreat to Santa Fé, General Sibley sent a re-inforcement of 500 men from Albuquerque which reached Santa Fé two days since, together with as much ammunition and provisions as could be spared from that quarter.

On April 9th word was received that the Confederates had evacuated Santa Fé and were in full retreat toward Albuquerque and on the 12th, Colonel Paul, commanding the Fourth Regiment New Mexico Volunteers, wrote to Governor Connelly from Santa Fé, saying:

It affords me great pleasure to inform you that Santa Fé is now in our possession, and that your Excellency will hazard nothing by returning to the seat of government and resuming the duties of your office. Your Excellency will be glad to know that the Union troops on entering Santa Fé were received with public demonstrations of joy.

After the battle was over and New Mexico saved to the Union by the work of the Colorado Volunteers under Colonel Slough, Colonel Canby finally appeared with his forces from Fort Craig and in Governor Connelly's last letter to Seward written from the Executive Department, Las Vegas, on April 13th, he says:

I have the honor to inform the Department that on the 11th instant Colonel Canby formed a junction with the command under Colonel Paul at Gallisteo, 15 miles south of Santa Fé, and proceeded by forced marches on to Albuquerque, at which place the enemy with their entire force had concentrated. Colonel Canby made a detour by way of the Canon Carnavel, and came on the east side of the mountains to the junction at Gallisteo. Today he will arrive at Albuquerque, and doubtless decide the question of the occupancy of this Territory by the Texans. It is thought the Texans are in hasty retreat, and have full three days march the advantage. Should that be the case it will not be easy to overtake them. Colonel Kit Carson, with his entire regiment, and some auxiliary forces, is still at Craig, and may offer some embarrassment to the safe retreat of the enemy. The cavalry and means of transportation on both sides are completely broken down, and neither a retreat nor pursuit can be effected with any degree of rapidity. I leave tomorrow for Santa Fé.

Governor Connelly's next letter to Seward was written on April 20th from the Executive Department, Santa Fé, and thus ended the short period in which Las Vegas was the capital of New Mexico.

In 1861 General Sibley was very enthusiastic over the value of New Mexico to the Confederate States, but after the defeat at Apache Cañon and the loss of all he had gained by his march up the valley he evidently changed his mind, for in a full report of the campaign made on May 4th, 1862, to General Cooper at Richmond he says:

It has been almost impossible to procure specie upon any terms. The ricos or wealthy citizens of New Mexico had been completely drained by the Federal powers, and adhering to them, had become absolute followers of their army for dear life and their invested dollars. Politically they have no distinct sentiment or opinion on the vital questions at issue. Power and interest alone control the expression of their sympathies. Two noble exceptions to this rule were found in the brothers Rafael and Manuel Armijo, the wealthiest and most respectable native merchants of New Mexico. On our arrival at Albuquerque they came forward boldly and protested their sympathy with the cause, placing their stores, containing goods amounting to \$200,000 at the disposal of my troops. When the necessity for evacuating the country became inevitable these two gentlemen abandoned luxurious homes and well filled storehouses to join their fate to the Southern Confederacy.

I express the conviction, determined by some experience, that, except for its political geographic position, the Territory of New Mexico is not worth a quarter of the blood and treasure expended in its conquest. As a result of the campaign, from being the worst armed my forces are now the best armed in the country. We reached this point (El Paso) last winter in rags and blanketless. The army is now well clad. The entire campaign has been prosecuted without a dollar from the quartermaster's department. But I cannot speak encouragingly for the future, my troops having manifested a dogged, irreconcilable detestation of the country and the people.¹

1. The letters quoted may be found in Vol. IX of the *Official Records of the Civil War*, published by the United States Government.

“BIENES CASTRENSES”

(Dictamen of Pedro Galindo Navarro of Dec. 7, 1795 and Ley 5 of the *Nueva Recopilación* Lib. V, Tit. 9, A. D. 1567— Ley 5 *Novísima Recopilación* Lib. X, Tit. 4, A. D. 1805)

By DR. VSEVOLOD BASANOFF

THE 5th Law in Book V, Title 9, of the *Nueva Recopilación* of 1567, reproducing an order of King Henri IV of Castilla in 1473, sets out definitely a rule which reads as follows:

. . . . mando y ordeno, que todos y qualesquier bienes castrenses, y oficios del rey y donados de los que fueran ganados . . . durante el matrimonio . . . que sean y finquen de aquel que los hubo ganado, sin que el otro haya parte dellos, seguen lo quieran las dichas leyes del Fuero.

In other words “bienes castrenses”, as well as property acquired by offices held from the king and gifts to husband or wife, are under a special regime. All other kinds of acquisitions made by one of the spouses during marriage fall into the mass of common property; meanwhile the above mentioned kinds of property remain the exclusive property of the spouse who obtained it. So the property obtained by members of the army resulting from their military activities should remain the exclusive property of the husband to a half of which a surviving wife, the widow, has no claim as a partner, notwithstanding the fact that such property had been acquired during the marriage.

Nevertheless the passage of our dictamen in the year 1795¹ concerning a distribution of the property of deceased members of the army says: “*que el fondo de cien pesos que si les retiene en caja, sus alcances, y los cortos bienes, que poséen a el tiempo de su fallecimiento, y que la mitad de toda corresponde à sus viudas por razon de gananciales etc.*; that is to say, a half of said property is to be transferred to widows, although the elements of property it mentions

1. *Dictamen* of Pedro Galindo Navarro, Auditor de Guerra, of Dec. 7, 1795. See my paper in *New Mexico Historical Review*, July, 1933, vol. VIII, pp. 183-200.

are all acquired by military activities of the deceased. The question arises why the *auditor de guerra* considers as community property the property of members of the army acquired by and during their military service. Does it mean that the old rule of 1473-1567 was no longer in use at the date of the *dictamen* in 1795? It does not, because ten years later it was reproduced exactly in the ley 5 *Novísima Recopilación* Lib. X, Tit. 4, A. D. 1805.

The *dictamen* presents, then, a legal interpretation which is within and not outside of the system given by the quoted law of the *Nueva Recopilación*.² A historical method is necessary in order to realize the nature of what seems *prima facie* to be opposite statements of the *dictamen* and of the "Recopilaciones", and consequently the nature of the rule of "bienes castrenses".

We shall study: I. The origin of *bienes castrenses* and of the rule excluding them from the rest of *gananciales*, i. e. acquisitions made during marriage. II. The development of the function of this rule during the fourteenth and fifteenth centuries. III. The transformation of the nature of *bienes castrenses* as well as the function of the rule with changed political, social, and economic conditions under the Catholic kings and in the sixteenth century, and the decay of the function of the rule in later times.³ Its disappearance since the reception of the community property in the United States, in spite of the fact that the social and economic conditions there presented offer striking analogies with those of the development of the rule.

* * *

The term "bienes castrenses" and the idea of property obtained during military campaigns as a particular kind of property, appears in Spain under the enlightened rule of King Alphonso X el Sabio. It is of Roman origin. It is

2. Thus our *dictamen* constitutes a precious evidence for the history of *bienes castrenses* in the Spanish jurisprudence.

3. I shall reproduce the text of the *dictamen suo loco*, when studying the XVIIIth century. The first folios of the *Dictamen* have been reproduced and analysed in my paper quoted above.

imported from abroad and is not a revival of Roman law of early Visigothic age. The evidence thereto is that we find it in *Partida tercera*, tit. II, ley 2. And *Las Siete Partidas* is a Spanish legislative monument connected with a first renaissance of Roman Law in Bologna, a widespread radiation of which during the twelfth and thirteenth centuries may be observed throughout Europe. Arms of noble students from all the countries of the old continent still adorn the walls of some Italian universities. Among them there are more than one from Spain. Whether it was the *Somma* of Azo or a glossary of Accursius that came to Madrid, we do not know exactly. However it may be, *Las Siete Partidas* is a splendid monument of the Spanish language,⁴ but the constant quotations of wise men of antiquity, *los antiguos*, as well as many almost literal expositions of titles of the *Corpus Juris*, leave no doubt as to their origin. It is not the Visigothic epitome of the *Codex Theodosianus* with Paul's sentences, Gaius, etc., but most certainly the Roman Law of Justinian with his "novellae", which is at the basis of Alphonso el Sabio's code.⁵

The fundamental text concerning the matter is Ley 2, Tit. II, Part. III, the *incipit* of which deals with the possibility for a man to claim in justice a property against father, grandfather, or other person under whose *patria potestas* this man is. The only exception to this rule constitutes property acquired by a "filius" during and by his military activities or by civil service, as was the case of the Roman "peculium castrense" during the classical period, extended (after reforms of Diocletianus and division of military and civil powers to property acquired by civil functionaries) under the name of "peculium quasi castrense". The only innovation by the enlightened Spanish ruler was that of property acquired by such activities as those of teachers.

4. Cf. *Las Siete Partidas*, prologo of the Real Academia de Historia, pp. xlv-xlv, in the edition of Madrid 1847.

5. The code contains as well customary law, and a great deal of canon law, but the number of rules of Roman law still prevails.

Tercera Partida. Título II. Ley II.

. . . . Pero razones hi ha por que tambien contra el abuelo como contra el padre natural en cuyo poderio estodiese, et aun contra aquel que lo hobiese porfijado podrie el que estodiese en su poder mover demanda en juicio sobre cosas que fuesen suyas quitamente, asi como de aquellas ganancias que los caballeros facen de las soldadas que les dan sus señores por el servicio que dellos resciben, ó de lo que ganan en guerra por razon de su trabajo. Et esto ficieron los antiguos por honra de la caballeria, et porque los homes hobiesen solor de la mantener et de non olvidar fecho de armas, entendiendo que sin el precio et la honra que ende han, que les vienen dellas pro et bien. Eso mesmo posieron de lo que los maestros ganan en las escuelas por los saberes que maestran á los homes que les facen seer mas entendidos de que viene grant pro a la tierra: otro tal pussieron de las ganancias que facen los jueces et los escribanos en razon de las soldadas que ganan en las cortes de los señores, ó en las cibdades ó en las villas. El bien assi como otorgaron esto a las ganancias que facen los caballeros por honra de la caballeria et porque guerran contra los enemigos, otrosi tovieron por derecho que lo hobiesen estos oficiales sobredichos, porque son como guerreros et contralladores a los que embargan la justicia, que es otra manera de muy grant guerra que usan los homes en todo tiempo. •

If the idea of *bienes castrenses* was suggested by Roman Law, this institution, however, assumed in Spain an original aspect thanks to a wide interpretation by the legislator, who took into consideration the needs of his own country, and because of the different social and economic conditions then prevailing in Spain.

King Alphonso did not reproduce literally the texts concerning the two Roman "peculii". The above quoted text bears a strong imprint of the social philosophy of the legislator, so that quotations of "antiguos" are made rather to give a stronger argument to his own ideas. The Roman text serving as a starting-point is often scarcely perceivable under the abundant details and expressions relating to characteristics of the Spanish social life to which the ruler turns his mind. Such an expression as *pro honra de cabal-*

leria reminds us to a great extent that we are in León and Castilla, and a sentence like “que los maestros ganan en las escuelas por los saberes que maestran á los homes que les facen seer mas entendidos” reveals a policy of favouring *lettrados*—a feature of king’s personality, rather than a juridical construction of the Romans, which served as a point for Alphonso’s creation. The term itself of *bienes castrenses* is absent in the text.

The only thing manifesting a somewhat artificial fidelity to the rule of “antiguos” is the fact that these two kinds of property are dealt with in connection with *patria potestas*, whereas *patria potestas* in the Roman domestic relations was far different from paternal power in Spain. As a matter of fact the paternal power in Spain continued not until the death of the father but until the formation of a new family by a son.⁶ So that a legal necessity and reason of the “peculium castrense” was not felt at all with the same acuteness as it had in the Roman Empire.

Nevertheless there were strong factors in the Spanish society of that time favorable to the development of a particular regime of the property acquired by military activities. Let us examine the text which will show what elements it contains and what are the factors responsible for the Spanish rule. This Spanish rule is connected directly with property relations between husband and wife, and it appears as such for the first time some years earlier than the text on “peculium castrense” in *Las Siete Partidas*, namely as Ley 2, Tit. II, Lib. III of *Fuero Real* under the

6. Cf. the disposition of *Leyes de Toro*, which reproduces this old Spanish rule contrary to the Roman principle of *Partidas*.

Eduardo de Hinojosa. *El Elemento germánico en el Derecho Español*. (Madrid 1915), p. 20, *Fuero de Teruel* (Aragón) of 1176, art. 316 “*Filli sint in potestate parentum, donec ordinentur qui fuerint clerici et alii contrahunt matrimonium . . . et usque ad dictum tempus quicquid filii acquisierint . . . sit parentum suorum.*” The reason of acquisitions made by a son going to his father is the *consortium* mentioned as well in the quoted law of *Partida*: “*por que vive con el de so uno.*” When *consortium* (living together) ends by a son becoming a minister of religion, or by his marrying, the paternal power ceases. The same may be said as to the responsibility of the father for offenses committed by the son, Art. 317 of the same *Fuero de Teruel*.

same legislator, Alphonso el Sabio. The text is as follows:

. . . . Si el marido alguna cosa ganare de herencia de Padre o de otro ppinquo o donaciō de señor o de Pariēte o de amigo o en hueste en \bar{q} vay por su soldada de rey o de otro: aya lo todo quanto ganare por suyo: y si fuere en hueste sin soldada: a costa de si y de su muger: \bar{q} nto ganare desta guisa se del marido y de la muger. Ca assi como la costa es comunal assi lo \bar{q} ganarē sea comunal de amos . . .⁷

Among the property acquired during marriage, that acquired by inheritance and gift does not become community property but remains separate property of those who have so acquired it. Such is the rule maintained in the states of community property till nowadays from 1255, the date of our text. But there is another provision in the text which does interest us particularly. I mean the property acquired by a man when in the army. There is, however, a distinction as regards the conditions under which such property is acquired. Not always do things got in the army become individual property of the husband; but only in case he is in the army under pay of the king (or another, i. e. his feudal lord). If, on the contrary, he is in the army without pay, at his own and his wife's expense, things got this way become common property.

The juridical reason of the rule in its later acceptance⁸ is quite clear. A common element of inheritance, gift, and acquisitions by members of the army when paid for a military service, is that each one of these sources is independent of any economic behaviour of husband and wife, and when there is such a dependence in the case of an engagement in the army at the expense of both, the community naturally will absorb these *gananciales*.

The text permits, however, the finding not only of this juridical reason which is given explicitly but of a social reason for the rule, at the time of its origin as well. Let us insist on the distinction between military acts, *por su soldada* and *sin soldada* at the community expense.

7. Ed. Burgos. J. de Tunda 1533.

8. And that is why it might pass intact to the *Nueva* and later on to the *Novísima Recopilación*.

The term *soldada* and its origin need to be elucidated. It should be remembered first of all that at the time we are writing about, there was no army, in our sense of the word. There were men ready for the war, ready at any moment to come armed, when convoked by the king. These *feudos y retrofeudos* (barons and their vassals, *ban et arrière ban*) were nobles, dependent on the king and followed by their vassals dependent in their turn on them. So war was a business of the nobility, and in early times, when the Spanish Christian state was reduced to a small territory in the north of the peninsula, it was a very difficult one. As early as the eleventh century, there begin measures of exemptions from taxes and other privileges granted to the military of Castilla for encouraging them in their activities, the measures attributed by early historians to Don Sancho, Count of Castilla.⁹ Among these privileges is mentioned a pay to be made three days after soldiers leave their homes.¹⁰ These "stipendia", according to the expression of Don Rodrigo, cannot be construed at all as a remuneration, on account of which noblemen take their sword. They were just to meet the cost of living during war time and compensations for service, otherwise painful and difficult. Only later on, at the development of the wars of reconquest, with large amounts of booty got during military campaigns, the property acquired through military activity assumes a new and a more complicated economic, and consequently juri-

9. E.g., Archbishop Don Rodrigo, *De Rebus Hispaniae*, Libr. V, cap. 3: "Castellanis militibus, qui et tributa solvere et militare cum Principe tenebantur contulit liberates: videlicet ut necr tributum aliquod teneantur, nec sine stipendiis militare cogantur" and other historians quoted by Aso and Manuel in the prólogo to *Fuero Viejo de Castilla*, they discovered and published in 1771, pp. II sq. As to the generalization and authenticity of *Fuero Viejo* l. c., IX conclusive criticisms thereof are made already by Martínez Marina *Ensayo Histórico-Crítico sobre la legislación y principales cuerpos legales de los reinos de León y Castilla*, Madrid 1834 T. I, p. 154 sqq; cf. P. Berganza, *Antigüedades Lib IV*, cap. XVI n. 127, quoted l. c. The attribution of measures to Don Sancho is contested by Martínez Marina l. c. 157 who connects the measures regarding privileges of *milicia y nobleza* with Don Sancho el Mayor, King of Navarra and Count of Castilla as well. However it may be, the fact of privileges and exemptions as dated of the eleventh century does not provoke doubts.

10. P. Berganza l. c. n. 127 "se obligó á pagar sueldo á los soldados. despues de tres dias que hubiesen salido de sus casas . . ."

dical, aspect. However it may be we have no evidence, before the *Fuero Real* that this pay to the nobles for a military service would not be considered as any other kind of *gananciales*. But among customs connected with the privileges granted by Don Sancho el Mayor and written in the famous *fuero de Nájera*, authorized as well in Castilla, and which extended into the numerous *fueros municipales*,¹¹ there is one which seems to me especially important as a germ of future development and nature of our provision in the thirteenth century. Namely "*el que tuviese caballo y loriga, y otras armas habidas por donacion del rey, que los mudiesen heredar sus hijos y consaguíneos.*" So horse and arms, i. e. the military equipment of a *caballero* received by him from the king, becomes family property, inheritable by children and relatives of the same blood. No wonder that in time things acquired when using this implement are considered exactly the same way, that is to say essentially as a *nucleus* of noble family property.

The expression itself "*por su soldada del rey o de otro*" is very significant indeed. It contains elements of vassal relationship, and this relationship between the vassal and his lord is eminently that of nobility. So *soldada* of our text is narrowly connected with provisions we find mentioned in another part of the same *Fuero Real*, reproducing now customary rules, namely Lib. II, Tit. XIII: *De los vassallos, y de los que les dan los señores*. The *ley quarta* ("*como todo lo que rescibiere el cauallero al tiempo de las armas es suyo proprio*") is conclusive as to the above construction of the rule: "*Toda cosa que rescibiere el cauallero del señor por donadio, quier en lorigas, quier ē otras armas quier en caualllos, aya lo todo por suyo e quanto con el gano. . . .*"

Thus as far as this property is acquired through military activities, it is understood to be individual property of an *hidalgo*, *suyo proprio* of the text,—property not mixed

11. Martinez Marina, l. c. 157-158. Unhappily, my bibliography of Spanish literature is necessarily limited by what is available here. It is far from being complete as regards recent publications. This could not affect conclusions concerning our topic.

with, being different from the *gananciales* of the rest of the population, which constitute (conforming to a wide-spread customary law of *fueros*, reproduced also by the Ley 2, Tit. III, Lib. III of the *Fuero Real*) the community property.

Thus at the beginning the rule of “bienes castrenses” concerns especially caballeros who are in the army *por su soldada de rey o de otro*. The vassal relationship of *fijosdalgo*, the particular title of acquisitions similar to the origins of noble family property are responsible for the origin of our rule.

* * *

The social function of this rule during the next two and a half centuries¹² was closely connected with the evolu-

12. The main features of the history of sources should be mentioned. The *Fuero Real* was introduced in 1255 in the cities of Aguilas.de Campóo, Burgos, Sahagun, Nielda, Valladolid, Simancas, Tudela, Soria, Madrid, Segovia, etc. Altamira y Crevea, T. II, *op. cit.* p. 77; cf. Rauchhaupt, *Geschichte der Spanischen Gesetzesquellen* (Heidelberg 1923), p. 98 and *passim*, who thinks *Fuero Real* was a foral codification. The erroneous character of this conclusion is noticed by G. S. in his critical account on Rauchhaupt's book, *Anuario de Historia del Derecho Español* (1924) T. I., p. 461; cf. my note below. The aim proposed by the legislator—the unification of the law of the country— has been broken against a resistance of the nobility. Rauchhaupt *op. cit.*, 104, admitting that the reason of this resistance is not quite clear, tries, however, to explain it, as conditioned by lacks of this code, by the fact there were quite a few borrowed dispositions, meanwhile the *Fuero Viejo de Castilla* was a very comprehensive summary of proved customary rules. The assertion as to the *Fuero Viejo* at that date, is hardly defendable. Either the author confounds the *Fuero Viejo* with e. g. *Libro de los Fueros de Castiella* (published since by M. Galo Sanchez, edition of the Law Faculty of the University of Barcelona, 1924) which is a compilation of the law of about the middle of the thirteenth century (Galo Sanchez. Introduction), and which is too a comprehensive summary of proved customary rules and *fazañas*, where numerous titles concern *fijosdalgo* (e. g. 169, 171, 175, 176, 179, 181, 182, 195, etc.) and the *nucleus* of which was the customary law of *Castilla la Vieja*; or he relies upon the data of the editors of the *Fuero Viejo* as to its function and date, data contested already by Martinez Marina (l. c. 153 seq.) and later critics (cf. Altamira y Crevea l. c. 83; and G. S. critical account quoted above p. 462, note on p. 68 of Rauchhaupt's “Geschichte”). Very probably the nobility resisted the *Fuero Real* because different parts of the Code found themselves in opposition either to local *fueros* or, sometimes, to usages in practice just among the nobility,—usages which were not always in accord with the common rules of *fueros*, especially as regards domestic and hereditary relations. (Confirmación y adiciones de los antiguos fueros de León y Carrion by Queen Urraca of 1109, Muñoz y Romero, *Colección de fueros municipales y cartas etc.* (Madrid 1847), p. 96,—the earliest text I know containing all the elements of community property institution. There are nevertheless evidences of application of *Fuero Juzgo* visigothic proportionate community in later times in León. Don Rafael Floranes followed by Muñoz y Romero, l. c. 97 note, reaches on the ground thereof an inexact conclusion as to the survivance of the *Fuero Juzgo* in León until the promulgation of the

tion of noble property and depends on a particular regime of the order of succession characteristic of noble families, the beginning of which coincides chronologically with the creation of our provision. Under Alphonso X, when there is observable a process of fixation of hereditary titles, this is accompanied also by grants of entailed estates and the formation of large estates concentrated by the way in the hands of seniors of the family. So that we find on one hand representatives of families by the right of primogeniture who maintain the lustre and splendor of family, and who own all the substance of family property received either by inheritance or by gift of the king, and on the other hand the rest of the children, so-called "*segundos*," who found themselves in a very inferior economic condition. The latter could but follow an ecclesiastic or military career.¹³ Because if there was no regular army there were professional military men. Alfonso el Sabio was the king who formulated more clearly than any of his predecessors the claim of the crown to the control of the army and supreme military command as an essential attribute of the monarch with legislative and judicial power and coining money.¹⁴ So if the organization of the army remains essentially the same until the end of the fifteenth century, or more exactly until the Catholic kings, there appear now new functionaries such as *caudillos*, generals; *adalides*¹⁵ a kind of officers of the staff;

13. Cf. Altamira y Crevea, *Historia de España y de la civilización española*, T. II, p. 7 and *passim*. (Organización social y política).

14. Altamira y Crevea, *op. cit.*, section 438 *passim* and especially p. 35.

15. Cf. glossary to the *Fuero sobre el fecho de las Cavalgadas*, La Real Academia de Historia, *Memorial Histórico Español*, T. 2, p. 499 *sub verbo*.

Leyes de Toro. The question is to be solved otherwise). The *Fuero Real* according to the plan of the king should be imperative everywhere; but the nobility, jealous of its privileged social situation and liberties, on which particular usages depended, was opposed to the Code, which had to give up its place in 1272 (according to Rauchhaupt l. c. 105) to the *Fuero Viejo*, a statement which seems to me unacceptable taking into account the above considerations. The *Fuero Real* afterwards remained in force in the cities and towns subordinated directly to the king, as León (cf. above notice on Queen Urraca's *fuero* of León), Sevilla, and interior districts dependent on them. But it remained there as local *fueros* were in other places. The *Ordenamiento de Alcaldé* of 1348 marked a turning point in the authority of the *Fuero Real* which passed too into *Las Leyes de Toro* promulgated in 1505, and later on to the *Nueva Recopilación*.

quadrilleros,¹⁶ charged with the distributing of booty taken from the enemy; *fronteros*, military chiefs of frontier detachments; *almocatenes*,¹⁷ captains of infantry, of whom professional experience is required in accord with the complication and development of military technique. The formation of these offices will be of great interest to the nobility, especially in later times. And as regards *segundos* of the noble families, they were natural candidates for these functions. These *segundos* found themselves in the army necessarily *por su soldada del rey*. More than this, the *soldada* was for them not a compensation of costs of the campaign, as it was in the case of military men of the eleventh century who received it on the third day after they left their homes, but it was a regular means of livelihood. Their situation was particularly interesting. They had nothing, or almost nothing, from the family property, and they depended on economic fruits of their professional activities. This kind of acquisitions replaced to them what might be inheritable family property. That is why it is dealt with in the text of the *Fuero Real* on the same lines as inheritance.¹⁸ On the other hand military acquisitions, be-

16. Glossary, l. c. p. 505, Ley XII, Tit. XXVII, Part II.

17. Glossary, l. c. p. 500, Ley V, Tit. XX, and Part II.

18. It should be noticed that entailed estates, at the time of the introduction of our rule, were rather exceptions as were the cases of scions of great noble families who might be obliged to embrace a military career for pay. The germs of future development were present at that time, but were not sufficient for a formation of usage. This rule must be considered not as the reproduction of a widespread custom, but as an innovation growing out of various elements of past and present; and it represents an anticipation, perhaps unconscious, of a future social development. The *Fuero Real* contained, indeed, besides customary rules, some innovations, and the aim of the legislator seems to be not only unification of law but as well a preparation of the public for a vast project, cherished by the king, of the adoption of Roman law in *Las Siete Partidas* (cf. Sánchez Román, *Estudios de Derecho é historia general de la legislación española* (2d ed. 1899), p. 268; Rauchhaupt, *op. cit.*, 98 and, n. 146). Very probably such difficulties as the *Fuero Real* met among the nobility were the reason why the king never promulgated the *Partidas*, nor did his successors, so that only in the fourteenth century did this Code under the rule of *Ordenamiento de Alcalá* assume the position of a supplementary Code, crowning other legal sources as an expression of the highest juridical wisdom, which had to be consulted as such (cf. a short but masterly sketch of this legislation by Altamira y Crevea, l. c. 78-84.) The rule of the *Fuero Real* excluding *bienes castrenses* was just a creation in the spirit of "peculium castrense". That is why we began our study by the text of *Partidas*, chronologically a later one, but logically preceding that of

ing entirely independent from the economic behaviour of husband and wife,¹⁹ are connected specifically with the person acquiring it, as in the case of gifts. The history of the social function of "*bienes castrenses*" under the rule of the provision concerning *soldada* follows, from the time Alphonso el Sabio until the end of the fifteenth century, the period of wars of reconquest. It is a period of territorial expansion, and the accumulation of real estate in the hands of his nobility which play a prominent role in these wars. All the elements mentioned above, and present already at the origin of the legal provision, are now in plain development. The extension of entailed estates is a growing process from reign to reign. These are granted as a recompense to nobles for their services, and what was rather exceptional in the thirteenth century assumes an aspect of a social phenomenon characteristic of the highest social class of the kingdom, especially from the reign of Henry II on.²⁰ The *segundos*, who are thus disinherited, are quite numerous, and, their natural occupation being military, the rule becomes for them more important than ever under the dominant regime of noble property.

We should, however, insist on the forms of acquisitions opened to military noblemen. Otherwise the provision would be hardly understandable taking into account a low economic importance of personal property at this period. As a matter of fact, only real property was considered then as a valuable asset, and as a rule only such property constitutes capital seriously accountable in the family relations and inheritance, of which it is the main element. The term *hereditat* and *heredamiento* is used in *Libro de los*

19. When common funds are not engaged in military activities, as it is the case of being in the army without pay *sine soldada*, or of private military enterprises.

20. Altamira y Crevea, l. c. 7.

Fuero Real. We should, however, insist that in spite of this logical filiation, the rule of "*bienes castrenses*" has nothing to do with the Roman Law, this rule being dependent on property relations between husband and wife essentially different in the Spanish Law.

*Fueros de Castiella*²¹ and in other legal sources of the Spanish language now as “inheritance”, now as “real estate”. The personal property is of secondary importance. In the same *Libro de fueros* we find a text which contains implicit evidence of this same phenomenon. And what is especially interesting, it is connected with the regime of property relations of husband and wife:

Tit. 289:²² Esto es por fuero de Logronno: que el dia que fuere el omne con su muger casado aura la meatad de todo el mueble, el marido de la muger, e la muger del marido. Et toda cosa que ouyesse cada vno dellos pecha por su cabo cada vno ante que casassen, ambos ados lo abrian de pechar por medio. Et depues que fuessen casados otrosi.

Thus the common property is not limited by acquisitions made during coverture, but all the personal property constitutes community property. Under these conditions the exclusion of personal property acquired during marriage would be justified only in the case when the amount of such property was considerable. And as a matter of fact, the expansion of the reconquest creates wide possibilities. The most natural one and directly resulting from a military campaign is the booty. But there are other forms of acquisition, indirect ones, as for instance *honor* or *tierra*,²³ which may equally be a form of remuneration for military activities.

The social function of the provision of the *Fuero Real* was far reaching and important in the formation of the wealth of nobility. As regards “segundos” of noble families, the gift of the king and the above mentioned forms of acquisitions are the point of departure of new accumula-

21. Gálo Sánchez (ed. Barcelona 1924)). The nucleus of this book of fueros was the law of Old Castilla of the XIIIth century, and the author of this compilation must have accomplished his task a little after the conquest of Sevilla by Fernando III (1248). The manuscript used by the editor is of the XIVth century, Gálo Sánchez, Introduction p. X and XIII, so these fueros are contemporary with *Fuero Real*.

22. p. 156 of above quoted edition.

23. *Honor* is a concession to a nobleman of fiscal rights due, to the king in a definite place; *Tierra*, a certain rent from a determined pueblo. Altamira y Crevea, l. c. 8.

tions of property, and sometimes with new grants the very beginning of new entailed estates. This accumulated wealth made the noble families keep their prominent social situation after the political one had been long restricted. We may formulate now the juridical nature of the property under the rule of the *Fuero Real* during this period until the end of the XVth century.²⁴ It is closely connected with the family regime of the nobles. It is individual property *par excellence* of the husband, and as such is different from other kinds of *gananciales*, but it is at the same time the property constituting a nucleus of the future family property of a nobleman acquiring it. The evidence of this may be seen in the rules governing the distribution of spoils of war. We find in the so-called *Fuero sobre el fecho de las cabalgadas*,²⁵ art. XVIII dealing with *erechas* or indemnizations for wounds etc. received during a *cabalgada*. Tit. XVIII, *De las feridas que fueren fechas en los cavalgadas, como sean erechadas*, after a list of *erechas* of various amounts according to different degrees of wounds, deals with the case of death on the battlefield:

. . . *Et si alguno moriere en la cavalgada, quel den su parte bien asi como o uno et a otro. Et si non le fallaren parientes, quel den su parte por amor de Dios.*

So death on the battlefield does not deprive a fallen

24. The law of King Henry IV of Castilla on *bienes castrenses* promulgated in 1473, i. e. on the eve of the reign of the Catholic kings with deep social and political changes which marked the next period,—this law, which we quoted in the beginning of the present paper, is a way-mark for the history of our institution.

25. Published by the Real Academie de Historia. *Memorial Histórico Español*, Tom. 2, pp. 487-506 (inexact reference by Rauchhaupt *op. cit.* 84, n. 106). Full title is *Libro que el Emperador Carlos fizo é ordenó para Todos los Reyes de la Christianidad sobre el fecho de las cabalgadas*. This is an apocryphal compilation attributed to Charlemagne (Rauchhaupt l. c. n. 106 confounded Charlemagne with Emperor Charles V: "Carlos I (V von Deutschland)"; cf. G. S., critical account of *Anuario de Historia del Derecho Español* (1924) p. 462.)

The compiler in fact borrowed numerous laws from the *Fuero of Alcaraz*, which was the translation of Latin *fueros* of Cuenca, translated in their turn from the *fuero* granted by Don Alonso II of Aragón to the city of Teruel in 1176 (Advertencia of editor 441). The manuscript discovered in 1807 in the city of Perpignan by Fr. Jaime Villanueva by its paleographical characteristics seems to be of the fifteenth century (l. c. 489). So military customs of the period interesting us particularly are reflected in the *fuero*.

caballero of his part of the booty. This part is transferred to his heirs.

It is curious enough that neither the fundamental text of *Partidas* (quoted above), nor the text of *Fuero Real* uses the terms of *bienes castrenses*. The reason of it seems to be the fact that the center of gravity is on the nobility which is occupied with military activity and not on the activity itself. In other words these different forms of remuneration we spoke about, all of which go to noblemen, are acquired by men not for military activity, but because the military activity is in their domain. An “honor” or a “tierra” are not *bienes castrenses* indeed, although they are granted as a remuneration for services made by, and expected eventually from, these warriors who form the nobility of the land. It is quite understandable in a period where there was no permanent and regular army, and where the political influence of the nobility was great. It is no wonder consequently that these characteristics are maintained until the end of the reconquest which coincides with the end of the political power of the nobility under the Catholic kings.

* * *

The policy of the Catholic kings towards the nobility gave a mortal blow to the organization of the class which was at the basis of the function of our provision. The concessions granted to the nobility especially at the most difficult moments of anarchy and weakness of the kings (as e. g. of their predecessor Henry IV) were revoked. And after repeated representations of the nobility, the Catholic kings charged Cardinal Mendoza to investigate *los libros de juros y mercedes, consultando à los contadores oficiales* of the time of Henry IV. The opinion of the cardinal was that “*todos los que tenían pensiones concedidas sin haber prestado ningún servicio correspondiente por su parte, las perdieran enteramente; que los que habían comprado papel de renta, devolvieran sus vales, recibiendo el precio que hubiesen dado por ellos; y que los demás acreedores, que eran el*

mayor número, conservarán tan sólo una parte de sus pensiones proporcionada a los servicios efectivos que hubiesen prestado al Estado."²⁶

The meaning of this measure is not doubtful. From now on the advantages the noblemen have, are to be corresponding to the effective services they deliver, and not to the fact that they are expected to serve when need appears. Even the most important privilege, the immunity from taxes can be revoked, if a nobleman is not capable to face his duty. The obligation of personal military service in Spanish communities of this time was so imperative as regards the nobility, that a *caballero* incapable of furnishing arms and a horse was reduced to the state of *pechero*,²⁷ that is to say one taxable, a *roturier*.²⁸ Consequently the connection between the nobility as a class which furnishes military service and the property its representatives acquire as such, has been broken. And only the property acquired directly from military activity and connected with a person serving effectively, be it nobleman or not, is characterized as a particular kind of property i. e. as *bienes castrenses*.

The new legal text containing the provision is characteristic in this sense:

Mando y ordeno, que todos y qualesquier bienes castrenses, y oficios del rey, y donados de los que fueran ganados . . . durante el matrimonio . . . que sean y finquen de quel que los hubo ganado.

No more family nor seigneurial relationship is perceivable as regards titles of acquisition mentioned in the text. There are but the king, the state, and the individual who receives property as an onerous title or as a gratuitous one.

Let us compare the titles of acquisition in the text of the *Fuero Real* which we have already examined, and in this one:

26. Altamira y Crevea, *op. cit.*, p. 406.

27. Jean H. Mariéjol, *L'Espagne sous Ferdinand et Isabelle*, p. 196, and a chapter consecrated to the army, *passim*. See too Amador de los Ríos, *Hist. de Madrid*, T. II, p. 163.

28. Is not that an inverse situation in comparison with the provision of the *Fuero de Nájera* etc. on the eve of the wars of reconquest.

“Herencia”, “gift”, pay when in the army of the king or another; that is to say, a remuneration of vassals.

Here inheritance is not mentioned at all. The first place is attributed to *bienes castrenses*, then felloe offices of the king, i. e. *bienes quasi castrenses*, and then gifts. Nothing which would be connected with the nobility as a social class nor with family. Only effective service either military, or civil.²⁹

Deep political and social changes are perceivable through the composition of the text.

The organization and recruiting of the army, changed under the Catholic kings, will assume a modern aspect under their successors, especially after reforms conceived and executed by Gonzalo de Ayora and Gonzalo de Córdoba.

The number of permanent troops of the king grows. Especially important is the *Pragmática* of February 22, 1496, of Valladolid, which determines obligatory military service of all Spaniards from twenty to forty years, among whom the state would recruit one soldier from every dozen of citizens.³⁰ They constitute a reserve, and receive pay when mobilized (*acostamientos, milites stipendiarii.*)

As to the technical side of the army, the Catholic kings replaced old divisions in *batallas* by new ones, uniform *batallones* of 500 troopers each. The importance of this innovation was far reaching in the same direction. *Batallas* remained always seigneurial contingencies, of various numbers of warriors each, where lords and their vassals constituted heterogeneous military units. From now on the divisions of the army became uniform, and the connection of military units with territorial distribution of noble families and their vassals has been broken definitely.

Córdoba’s reforms accomplished the transformation of a feudal army of nobles into a modern army of the state. We find in the XVIth century *capitanías* or *compañías* of

29. As to the juridical construction of the law: *bienes castrenses*—offices—gifts, see below.

30. Mariéjol, l. c., p. 200 *et seq.* (this author mentions the ages from 20 to 45); Altamira y Crevea, l. c., p. 474.

500 men each; *coronelías* or *esquadrones* composed of twelve *capitanías* each. They are uniformly armed, and what is quite important socially each *coronelía* of infantry has 600 horsemen attached to it, and a more comprehensive unit, a brigade, is provided with sixty-four pieces of artillery.

It is needless to insist that the composition of the army was deeply modified by these reforms. *Caballeros* are distributed throughout the units and lose as such their exclusive position. The army needs men of professional experience. We know that Italian, German, and Flemish engineers were now employed in the artillery. Córdoba himself was a military man of the Italian school.

An important new feature of the period should be noticed. The wars of reconquest are finished. This is a period of conquest and expansion. The army needs men, whether noblemen or not, Spaniards of *sangre limpia* or foreign offsprings recruited in the far distant provinces of the Empire.

This cosmopolitan crowd is organized in *capitanías* and *coronelías*. They are of heterogeneous origin but their common feature is that they are serving the king and the state. They are the mercenary soldiers who follow Charles V to Flanders, to Italy, to the Netherlands, and to France; the great captains themselves, like Cortez with his companions at arms, and intrepid adventurers of the type of Francisco Pizarro—all those people of the era of wars, of discoveries and of conquest, who bring with them, throughout the known and yet unknown world, the name of Spain and the banner of the Catholic faith. These soldiers of profession full of faith, of love for adventures and of insatiable avidity for goods of this world, leave their homes and go out to far countries to satisfy their desire, sometimes of glory and always of gold. Some of them find death in the virgin forests of the Amazon or on the hideous altars of Mexicans. Many return home with bags heavy with booty, to enjoy a rest well or ill gained. Such are the people acquiring "*los bienes castrenses*".

This category of people is numerous enough. They are interesting for the country not only as a means of power, but as a source from which wealth comes. These resources, however, are extraordinary, they are not of the nature which the country gets from its industry, commerce, land, by normal processes of accumulation of wealth; likewise the activity of these people does not resemble, in this sense, the activity of other members of society. It develops outside of the common régime of those who remain in Spain and do business of their ancestors or exploit hereditary property. It is understandable, then, that “inheritance” is not mentioned in our text, in spite of the fact that it does not become community property. The fact of being military is not considered here as that of a man who knows how to use a sword, but is considered as a lucrative business which is exercised under particular conditions and eminently outside of marital communion. The product of the activity of a soldier is indeed essentially personal. It is at the same time a kind of *donum fortunæ*, as far as it is beyond regular activity within the society. It is quite understandable, then, why three titles of acquisition are mentioned in our text: *bienes castrenses*, *officios del rey* and *donaciones*. All these are outside of the regular activity of the rest of society, all concern strictly a person so acquiring the property, and all are unrelated to, and consequently disproportioned with, family or personal capital possessed by the spouse before marriage, consisting of either real or personal property, and only the fruits of which become community property. It should be noticed that the economic importance of personal property appear just at this period, so that accumulation of a movable fortune becomes an important economic factor.

Let us see now the social function of the provision of the text. It appears as a regulator of property relations between husband and wife, tending to the uniformity of this relationship within the whole of society, and not as to a particular social class.

In the Spanish community property of modern times, reduced to *gananciales*, where the fruits of separate property of the spouse become community property, this common property will be in proportion as to the social class and a wealth of a family. As to the wealthy people the community will be considerable because of the considerable incomes obtained from separate property. As to the common people, where the community is a result principally of the personal industry of husband and wife, the community property will be a small one, but it will be always in proportion to the social *status* of family and to the respective volumes of separate property either of husband or wife or of both of them. This characteristic is not without importance, because it is in functional relation to the economic nature of the regime of community property which is supposed to be a product of the common activity of the spouses. Economically it is a premium of good administration of the husband, of good housekeeping of the wife, and of a wise economy of both. So that in the case of the dissolution of community either by the decease or especially by separation (equivalent there to the divorce), the partition of this property into two equal parts corresponds, *ceteris paribus*, to the feeling of justice.

This is not the case of property acquired by the means mentioned above. Not only that this property is acquired exclusively by the activity of the husband alone, without any form of collaboration of the wife. But this category of acquisitions is of a nature tending to break down this proportionate equilibrium of the function of the institution within and throughout the society. *Los bienes castrenses*, side by side with offices of the king and with gifts, were apparently prominent sources of a prompt enrichment, and the only sources unrelated to a mass of inherited or otherwise possessed individual property of each spouse. In the case of one Cortez or a governor of some island, a fortune acquired by the way constituted his individual property, and the community receiving income from his

property functioned as a community of other well-to-do people, so that the repartition of respective masses of property remained throughout the whole society under this rule equally distributed. There were no rich people with small common property, or enormous common property, with small individual³¹ funds.³²

When, consequently, this element is lacking, there is no place for applying the rule of "bienes castrenses". This is true even as to the members of the army, who receive their pay and whose property is acquired during and by their military activity. Such was exactly the case of the Spanish troops garrisoned in *presidios* in the Spanish provinces of the New World. The Dictamen of Pedro Galindo Navarro constitutes a precious evidence thereon.

The text follows:³³

f. 3, p. 2/Las Compañías Presidiales y Volantes se hallan/f.4, p. 1/ en continua guerra y debiendo ser de sobresaliente calidad, y confianza, se declaran en el art. 5., Tit.º 1.º del Reglamento, por Veteranas y del Egercito, y á sus oficiales, sargentos, y cavos seles concede alternativa en todo, con los delos cuerpos arreglados, y la misma obcion álos ascensos, honores, grados, y recompensas, y tambien álos retiros, quando por sus heridas, achaques, ó ábanzada edad, no pueden continuar las duras fatigas de este servicio: Por el articulo 6.º del mismo tit.º se previene que aunque esta tropa varia dela demas del egercito en su gobierno interior, Prest. Vestuario, Armamento y Montura, en todo lo perteneciente á la Subordinación y Leyes penales deve estarse á

31. I use the somewhat vague term of individual property because the term "separate property" does not render the meaning which is contained in the corresponding term of *biens propres*. Separate property as a term contains only negative characteristics of goods as being outside of community, while "biens propres" which could be translated as inherited property, loses in its translation the nuance of individual property which is eminent as to the relationship we are examining, the relationship of husband and wife as owners.

32. This is often the case in the Western States, e. g., in California, because of the fact that the nature of our text was not taken into consideration, and an analogous provision has not been created. This is not the place to analyse it in detail. See below.

33. The first folios of the text are reproduced in my paper "Dictamen of Pedro Galindo Navarro" in the *New Mexico Historical Review*, July 1933, p. 185 *et seq.* I reproduce the text, as there, with the orthography of the ms. The original document is in the Spanish archives (no. 1351) at Santa Fe, New Mexico.

lo que previenen las Ordenanzas Generales: En el 2° de Tit. 5° se dispone que cada cavo y soldado tenga en caja un caído de cien pesos, y que á este fin sele bayan reteniendo veinte ó veinte y cinco anuales, haciendoles ver que esta providencia tiene por obgeto el bien de sus familias si falleciesen, y el personal suyo, si se retirasen por ancianos imposibilitados, ó cumplidos: Y ultimamente en el 1° del Tit.° 11 con los justos fines de que á el resguardo delos Presidios bien arreglados/f. 4, p. 2/ se fomenten la Poblacion y Comercio en los Países de Frontera, y se aumente su fuerza con el mayor numero de abitantes, se mande que no se impida ni retraiga con pretexto alguno á las gentes de buena vida y costumbres, avecindarse y residir dentro de sus resintos ampliandose por alguno de sus lados, quando no bastasen á contener las familias agregadas, y haciendose la obr aá cuenta del comun, por redundar en beneficio de todos, y que en el repartimiento de tierras y solares se dé la preferencia á los soldados, que huviesen servido los diez años de su empeño á los que se huviesen retirado por la ancianidad, ó achaques, y á las familias delos que huviesen fallecido entregando entonces á unos y otros sus alcances, ye el fondo de cien pesos que deven tener caídos en caja, para que puedan aviar sus Labores.

Agregando á estas providencias economicas dirigidas á fomentar la Poblacion en los Países de Frontera, la consideración de que quando toman Plaza los soldados delas Compañías Presidiales y volantes comun, y generalmente son pobres sin caudal, ni bienes algunos, y que á diferencia delas demas/ f. 5, p. 1/ Tropas del Egercito se admiten reclutas casados y solteros, y esto se ben precisados á tomár estado, podrá tener quien los cuide y asista; resulta de todo por consecuencia necesaria, que el fondo de cien pesos que seles retiene en caja, sus alcances y los cortos bienes que poseen á el tiempo de su fallecimiento, son adquiridos durante el matrimonio y que la mitad de todo corresponde á sus Viudas por razon de gananciales, exceptuando solamente aquella porcion ó parte que los hijos, ó herederos de sus difuntos maridos, justificaren haver llevado á el matrimonio, lo que deverá reservarseles, como capital que les pertenece.³⁴

34. The rest of this folio does not interest us now. It concerns the case of the Puerto of Guajoquilla analyzed in the above quoted paper, and the issuing of the *dictamen* by the Chihuahua chancery.

The text scarcely needs a commentary. Some remarks are, however, to be made as to the details. The flying companies garrisoned in presidios, declares the *dictamen*, find themselves in continuous wars. They must be of an overwhelming quality and character, and as regards honors, degrees, and recompenses, they are to be dealt with as regular troops. So the general provision on "bienes castrenses" concerns these troops as well as other members of the army, and the applicability of the rule depends only on its own nature. In other words, the question is, if acquisitions these men make by virtue of their activity are such as to break the equilibrium of husband-and-wife property reparitions, and to make the rule work.

The description of the economic status of troops reveals that these acquisitions have no such effect. As to the soldiers, the government is specially concerned with the question of economies which would permit their families, in case they are killed, or themselves, in case of retirement, to arrange their affairs and organize a decent living. One hundred *pesos* of required savings, composed of 20 or 25 *pesos* annually retained from their pay, should serve them as such a guarantee fund. We see that there is no question of a disproportionate enrichment and consequently no place for the application of the rule. The period of conquest and expansion finished, the function of the rule is in decay. Potentially the rule exists, but the cases of its application are exceptional, if they present themselves at all. A safety valve does not function save in the case of an excessive pressure. When such is not the case, the valve is silent.

The characteristics of the activity of these troops is, too, very different from that of *conquistadores* of the sixteenth century, in spite of continuous war which requires the eminent military qualities mentioned at the beginning of the 4th folio above. A personal initiative so eminently

characteristic of captains and their companions³⁵ of the period of expansion is lacking, as a rule, among these descendants of Coronados and Guevaras, as far as we may judge on the ground of the policy mentioned by the auditor. The social policy pursued by the government was to develop settlements in these frontier countries. It was interested in augmenting the population around garrisons and in encouraging commerce, no less than in the military safety of the frontiers, these two factors being two aspects of the same problem. A curious provision is mentioned as to the repartition of lands and lots between warriors who were to become colonists. The preference in this repartition is to be accorded to the members of the army who served ten years as such, before those who retired from service at the limit of age. At first glance it seems strange that veterans who had served all their life in the army are in a position of inferiority in comparison with their younger fellows of ten years of service. The preoccupation of colonizing the country does not explain this advantage of an early retirement. The fact is that military service is considered by soldiers as a more sure and comfortable situation, which is to be abandoned as late as possible—a situation securing to men a means of livelihood with lesser risks than those faced by an individual settler. And this in spite of the moderate remuneration they receive. A spirit of passivity contrary to that of their ancestors reigns in the army. The courage is perhaps the same, but the spirit of enterprise is gone.

Their "bienes castrenses" degenerate consequently into small amounts,³⁶ each like the other, and all like the small income of a settler. Consequently a half of "the fund of

35. As to the history of conquest and colonization of the oversea provinces, this growth and decay of personal initiative is striking when one reads correspondence between Spain and these provinces, and the documents concerning the question. Cf. c. g., 40 volumes of the *Colección de documentos inéditos relativos al descubrimiento, conquista y colonización de las posesiones españolas en América y Oceanía*, pp. J. F. Pacheco, F. de Cárdenas y L. Torres de Mendoza. (Madrid, 1864-84.)

36. As to these *bienes castrenses* and the calculation thereof, see V. Basanoff: "The Dictamen of Pedro Galindo Navarro," in *New Mexico Historical Review*, July 1933, p. 196.

one hundred pesos, which they retain in their savings, their *alcances*³⁷ and a few goods they possess” and which are acquired during marriage, “go to their widows *por razón de gananciales*” with the exception of the part to which children or heirs of their husbands may justify their claims, and which are to be reserved to them as a capital which is theirs. That is to say, the provision on the “bienes castrenses” is not applied, and the property of these military men is distributed according to the common rule of civil law.

Let us recapitulate the phases of the history of *bienes castrenses* in Spanish law, before dealing with the reception of the Spanish community property in the Western states, in connection with our subject.

The Christian Spanish state was, as a matter of fact, reduced in the eleventh century to a small territory of the kingdom of León, from which began a series of wars of reconquest. These wars as well as continuous efforts directed to the defence and maintaining of newly regained territories and their frontiers were conducted by the king with his barons and vassals. A remuneration the noblemen received from their lords, either king or “ricosombres,” is mentioned already in connection with the name of don Sancho count of Castilla. But this kind of acquisition is not yet considered as a particular one juridically. The following factors are responsible for it. The property relationship between husband and wife was differently organized in different *fueros* and the visigothic regime of *Fuero Juzgo* was still widely in practice; the social and economic conditions of the nobility were not so formed that a need thereof would be felt; the idea of a peculiar type and nature of this kind of acquisitions did not enter contemporaneous thought.

This idea came with the Renaissance of Roman law under the form of *peculium castrense* which impressed the Spanish legislator of the middle of the thirteenth century. The political, social and economic conditions changed too

37. See V. Basanoff, *op. cit.*, 195 seq.

about this time. As to the political factor, the army conserving its feudal character came under a narrower control of the king, who showed himself more interested in its organization. There appear military functionaries. On the other hand, there appear entailed estates, and this regime, disinheriting *segundos*, furnishes thus natural candidates to paid military posts. So the *soldada* of the king as well as that of *ricosombres*, assuming various forms, becomes an important factor in the economic life of the nobility, connected with the regime of noble property and order of succession. According to these characteristics *bienes castrenses* are treated with the inheritance and gifts; and with these two kinds of acquisitions do not fall into the mass of common property. Our rule is eminently an institution concerning nobility as a social class whose occupation is the military activity.

With the Catholic kings and the end of the wars of reconquest, the nobility loses its exclusive political situation, and because of military reforms and wars of conquest, the military business becomes open to everybody. Now this kind of acquisition is treated not with a family factor of inheritance, but with the analogous acquisitions of royal offices and gifts, as acquisitions made outside of the normal activity of the rest of the nation. The institution, instead of being that of a class, becomes national. With the growth of the economic value of personal property, this kind of acquisition becomes an important factor of an extraordinary and strictly personal enrichment, so that the rule of "bienes castrenses", in its social function, assumes the role of a regulator of proportionate equilibrium in the repartition of property within families.

This function of the rule is eminently social. Its application works automatically when there is an intensive vertical social mobility. And it maintains then the economy of the property relationship of husband and wife. As to the families which move up to the economically higher social strata, the rule avoids eventual disturbances, maintaining

the repartition of property as if the family had occupied always the social situation recently achieved. In the periods of intensive social mobility, with a high index of individual enrichments within society, many an evil consequence is thus avoided, especially if we take into consideration a growing instability of marriages during these periods, in comparison with those of lesser mobility.

So the text of Ley 5 of the *Nueva Recopilación* Lib. V, tit. 9 may be considered as a masterpiece of legislation, of which the juridical world of Spain has a right to be proud.

* * *

At the time of the adoption of the community property rule in the States formed from territory acquired by the United States from Mexico in 1848, the text of law 5 here cited did not attract the attention either of the American legislator or of the judge. There were neither soldiers with "military property"³⁸ nor kings. On the other hand, nineteenth century legal treatises of repute in Mexico, like *Feb- rero* or *Sala Mejicano*, consulted by American lawyers, do not deal at length with our text, because of the decay of its application, due to the absence of corresponding social and economic conditions, as we observed in the case of the Galindo Navarro *dictamen*.

Thus the doctrine of the rule of "bienes castrenses" remained outside of the juridical construction of community property, and was not applied in spite of the intensive social mobility and other social and economic factors, with which the rule was connected. This would naturally occasion a marked change in the evolution and social function of the rule, in the states where said social factors are felt more

38. It is curious that in a recent edition of Spanish legal texts concerning community property published by Lloyd Robbins and Bernardine Murphy under the somewhat misleading title "Laws of Toro" (I wonder if the editors realized what "Toro" was) bienes quasi castrenses are translated as "semi-military property," a baseless translation which shows insufficient knowledge of what the text means. Cf. our p. 4 above. It is interesting, however, that people investigating the Spanish institution lay stress upon the notion "military" where nothing might be construed this way. No wonder that the social function of the text escaped the attention of lawyers at the very time of the community property reception in California.

acutely, as e. g., in California; and this may be considered one of the leading causes of its eventual decline.

Let us make some observations on the cases which present striking analogies, as to their social nature, with those for which the provision was created.³⁹ If there were neither kings nor soldiers acquiring "bienes castrenses" by war, there was the American nation, and there were pacific conquerors who began to colonize the Far West, especially the Pacific coast, long before it became territory of the United States. They paved the way for this political acquisition. They were agents of American expansion exactly as Spanish soldiers and conquistadors were, in the sixteenth century. The "Bostonians" came to California first to engage in commerce, later to find gold. The social nature of their situation as well as the conditions of their activities, and the result of the latter were strikingly analogous to those of Spanish conquerors. In both cases, men worked for expansion and had the aim of an enrichment. The only difference between the camps of Spanish soldiers and conquistadores and those of American adventurers and gold seekers was that the first were military and the second pioneer or mining camps. Even that difference, in early times, was more formal than material.⁴⁰

When, in 1849, the constitutional assembly of Monterey, after a hot discussion,⁴¹ introduced into the constitution a provision defining separate property of the wife, as section 14 of Art. XI, thus inaugurating the regime of community property in California, and when the act of April 17, 1850, defined more circumstantially the property relations between husband and wife, there were in California many people in the conditions described above.

Let us recall from this point of view a case of 1855: *Rachel Beard vs. William J. Knox*, 5 Cal. 252.

39. It is needless to say, I shall restrict myself to the indication here of the main features of these cases, and only so far as they are connected with our topic. I shall deal at length with the questions of community property in my book on the history and sociology of the institution, which is now being written.

40. Should it be said that *bienes castrenses* signifies just *camp goods*?

41. See *Debates*, pp. 257 seq.

Rachel Beard, plaintiff, married William Beard in 1840, in the State of Illinois, without any special marriage settlement. They lived together until 1849, when Beard emigrated to the State of California, where he established his domicile and resided until his death. William Beard died in December, 1853, in the city of Nevada, leaving an estate estimated at about 12,000 dollars, and consisting of real property, mines and mining interests, in the county of Nevada, California. All this property was acquired after April 17, 1850, the date of the act defining property relations between husband and wife. Beard left a will by which he devised to his wife five hundred dollars, and the whole of this estate, save some trifling legacies, to Harriet A. Beard, his minor daughter by Rachel Beard.

Rachel Beard contested the validity of these testamentary dispositions, as depriving her of her half of the property, a claim to which she grounded on the provision of the act defining community property as the property acquired by either husband or wife during marriage, except that acquired by gift, devise or descent.

The court pronounced judgment in favor of the plaintiff, awarding to Rachel Beard a half of the estate, including in this half the five hundred-dollar legacy.

The defendant appealed the case. Among the arguments of this appeal, one is particularly interesting: “The law of April 17, 1850, should not be applied to the plaintiff, because she never resided in the country.”

This is the opinion of the court as to the argument cited:

“The appellant relies on the words of the statute (April 17, 1850) ‘shall reside and acquire property’ and seems to think that this provision was intended to give greater privileges to those wives actually living or residing in the State than was conferred on those not actually resident. In *Kashaw v. Kashaw*, 3 Cal. 312, we held the domicile of the husband was the domicile of the wife in contemplation of law, and that it was not necessary that she should be an actual resident of the State. The reasoning of that case will

apply with equal force to the present, and it can hardly be supposed that the legislature intended to deprive the wife of all right to the husband's estate as a penalty for not residing in the State, which would be the necessary result if the appellant's construction was correct."⁴²

Subsequently the Supreme Court of California confirmed the judgment of first instance, and corrected it with irreproachable juridical logic as to the legacy of 500 dollars. Conforming to the court's decision Rachel Beard was entitled to receive half of the Beard estate, as a result of reparation of community property, and besides, the validity of the five-hundred-dollar legacy being unquestioned, this amount as well.

So the rule of *bienes castrenses* was not applied in the case. If it had been applied, the estate would have been considered as a separate estate of the deceased, and his testament valid.

The case is interesting because all the estate acquired by Beard was acquired outside of the economic behaviour of husband and wife. This property could be construed as community property only on the ground of the letter of the law. Nothing therein was of the nature of community property, which arises in history as a natural result of spouses living together in common, and from a situation of the wife who is considered as partner of the husband, *socia laborum periculorumve*. The court did not take into account the first element of the provision of *bienes castrenses*, that a property acquired independently of the marital communion, and of the economic behaviour of husband and wife does not become community.

Consequently the right of the wife is construed in the above passage independently of this behaviour, and as a right to the husband's estate, resulting not from the marital community but from the legal fact of being his wife.

42. *Loc. cit.*, 255. This text is highly interesting as to the elements of which it is composed, from the historical as well as from the sociological point of view. This is not the place to analyze it at length. I will confine myself to observations closely connected with the topic of this article.

This construction changed the development of our institution, and in an inverse hypothesis⁴³ the income of the separate estate of the wife was considered as her separate estate as well (*Ransom vs. Ransom* 15 Cal. 322). So that the Constitutional Assembly of Sacramento, in order to re-establish the equilibrium of property relations between husband and wife, adopted the same regime as to the separate property of the husband (Sec. 8 of Art. XX), and the community funds were deprived of what were their most natural resources in Spanish law.

On the other hand, the social function of our Ley 5th, as a regulator of the proportionate repartition of elements of the property under the regime received from Spanish law was lacking, as well; and we observe, now enormous separate estates without common property, now enormous community property (of some twenty-five million dollars, as in *Spreckels v. Spreckels* 116 Cal. 339) with trifling separate funds or without them.

I shall not dwell here on the analysis of the juridical, economical and social consequences of this state of things. The above mentioned examples are sufficient, on the other hand, to show the influence of the non-adoption of the rule of Ley 5th in California. This is not to be understood as criticism of California courts and legislators. These facts are mentioned as evidence. We realize now the role our rule plays in study of the property relations between husband and wife in the Western States, a problem of far reaching importance for legal history and sociology.

Paris, France,
August 28, 1933.

43. Husband and wife were living together, and the question was of the separate estate of the wife, the fruits of which, notwithstanding all the elements of community present, were excluded from it, on the ground that the provision on separate property of the wife was a part of the Constitution and the act of April 17, 1850, should be construed as not constitutional, as to the wife's separate estate.

NECROLOGY

RICHARD L. YOUNG

THE Mesilla Valley and the State of New Mexico suffered the loss of a prominent, highly respected, public-spirited, and well loved citizen in the death of Richard L. Young, prominent lawyer of Las Cruces, on July 4th last, at the ripe age of seventy-two.

Mr. Young was born at Boonville, Missouri, in 1861, and was educated in the schools of St. Joseph. As a young man he was a steamboat pilot on the Mississippi river. Reasons of health induced him to come to New Mexico in 1888, where he entered the legal profession. Not long after his arrival he married Sue Cornelia Leedy, of Springfield, Missouri. He was at one time the law partner of A. B. Fall. In politics he was an ardent Democrat, but not an anxious seeker after public office. He twice refused the nomination of his party for United States Senator, but did serve as district attorney for the third judicial district. On one occasion he came within a few votes of being elected judge, and carried his own county of Doña Ana by a handsome majority, receiving the support of many Republican voters. He was a member of the first town board of Las Cruces in 1907, and officiated as chairman of the board during its second term. He was one of the chief promoters and organizers of the Elephant Butte Water Users' Association. He was a man of deep religious convictions and was a charter member and consistent supporter of St. Paul's Methodist Church in Las Cruces. His life was saddened by the unfortunate death of his only son, whose life was cut short by an accident shortly after his graduation from Yale University. At the time of his death, Mr. Young was devoting his business ability and high sense of public duty to the task of being president of the Board of Regents of the A. and M. College, during a peculiarly difficult time in its history. He is survived by his wife and an elder brother, Benjamin Young, of Sedalia, Missouri.

It would be impossible to express more fittingly in words the esteem in which Judge Young was held by his fellow citizens than in two obituary notices of him by distinguished members of his profession, Edwin Mechem and Numa C. Frenger.* Judge Mechem, a former political opponent, said in part:

We will not speak of his industry and ability, by which he became recognized as a civic leader and a jurist of the first order, but of his human side. . . . It seemed as though he had adopted the young people and children of the community. Many of the boys and girls who have been raised in this vicinity will ever hold him in affectionate memory for his friendly council and aid. While he held himself rigidly to his ideals of life and conduct he had a broad sympathy for the weaknesses and failings of others. . . . There was nothing narrow or bigoted about him. He granted to others the same right to their own ideas and principles, which he assumed for himself.

N. C. Frenger, now serving as judge of the third judicial district, wrote:

He loved his community and his State, and their interests were his. Always progressive, he earnestly strove for real and substantial advancement for his people and did not heed what might be extravagant, glamorous or evanescent. The glamor of public office did not appeal to him, but when a real service was to be performed he would accept positions of public trust. His services were always sound and characterized by the high order of integrity that was his. It should not be forgotten that as one of the first Mayors of our town he laid firm foundations whereby we have grown into a City of aggressive commercial strength and one of contented people. When the Elephant Butte project was first broached, it was Mr. Young who was outstanding in grasping its possibilities. To bring it into actual existence, seemingly insurmountable difficulties had to be overcome, and in the struggle for success, Mr. Young was ever in the forefront. In a very great measure we owe it to him that we now live in one of the best farming sections of our country. The welfare of our College was always close to his heart. It was under his inspiration that the Y. M. C. A.

* *Las Cruces Citizen*, July 6, 1933.

building was erected on the campus. During the past three years as a Regent of the College he has been tireless in guiding it through the many perils incident to the very depressed times we have been passing through. . . . Mr. Young will be missed by those of us who must remain yet awhile to carry on, but the good influences that he has left will guide and sustain us.

PERCY M. BALDWIN.

State College, N. Mex.

ARTHUR SELIGMAN

If ancestry, early training and environment ever predetermined the career of any man, such was the case with Arthur Seligman, the first native-born governor of New Mexico not of Spanish ancestry.

The father, Bernard Seligman, was a native of Germany, who before coming to America had been on the staff of the famous banking house of the Rothschilds in Frankfurt-on-the Main. A college graduate, the father was a linguist of no mean pretensions, speaking English, German, French, Spanish, Italian, and Hebrew. After reaching the United States, he located in Philadelphia where he was interested in the manufacture of cotton goods. He arrived in Santa Fé in 1856, and in 1862 joined Sigmund Seligman who ten years previously had formed a mercantile partnership with Charles P. Clever, later territorial delegate to congress, to establish the firm of Seligman & Clever, which engaged extensively in a flourishing trade over the Santa Fé Trail. Bernard Seligman, a trained public speaker, rapidly gained political influence. He served in both houses of the legislature, was chairman for three terms of the board of county commissioners, was territorial treasurer, was a commissioner to the exposition in Vienna in 1872, and to the Paris Exposition in 1881. Before the establishment of the first bank in Santa Fé, the Seligman firm in addition to its mercantile activities engaged in private banking and was active in helping to finance the construction of what is now the Denver and Rio Grande Railroad to

Santa Fé. Bernard Seligman died in Philadelphia in 1903, at the age of 65. His son's career in a large measure paralleled his own.

The mother, née Frances Nusbaum, was the daughter of John Nusbaum, who founded one of the first department stores in America, at Harrisburg, Pennsylvania, where his daughter was born. He was later proprietor of a similar store at Peoria, Illinois. The biographer of Frances Nusbaum states: "She was a noted beauty, highly educated and accomplished." In Santa Fé she took a notable part in civic and club activities and in doing charity work. She died only a year after her husband's demise. Her children were four: James L., of Santa Fé, Mrs. Eva Cohen of Philadelphia, Miss Minnie who died while attending college, and Arthur, the subject of this sketch.

Characteristic is the fact that there is a vagueness regarding the year of birth of Governor Seligman. Biographical reference works such as *The National Encyclopedia of American Biography* and *Who's Who in America* give it as June 14, 1873; a sketch of the firm of Seligman Bros. gives it as 1872, and both the application for membership in Montezuma Lodge, A. F. & A. M. and his application for Scottish Rite degrees, in his own handwriting, make the date 1871,—no doubt, the correct one. It is strange that, all through his life, there rose again and again similar vagueness as to his motives, decisions, and actions, making him a much misunderstood man and subjecting him to merciless and unjustified criticism.

He gives us glimpses of his boyhood days in a sketch which he recently wrote on his experiences as a collector of Navajo blankets. He says, for instance: "I recall that in my younger days I used to sit in the curio stores of Jake Gold and Abe Spiegelberg by the hour, trying to study and learn from them what constituted a good blanket," and again: "When a boy of twelve years of age, I was attracted to the Indians by their art, their picturesqueness and their love of color and harmony—I spent many of my vacation

days among the Indians. In those days our means of travel were either by horse and buggy, or a buckboard drawn by a pair of good mules. Often I was scolded by my father when I would come home with some Indian artifacts, such as moccasins, bows and arrows, baskets and a blanket or two, and well do I remember how my mother would insist that they be hung outdoors until the odor, in part at least, had been consumed by the air and sunlight." He says further: "I had often been told that the Indians would soon be a race of the past, and the selfish thought prevailed in me to acquire as many articles of their own make as I could. These, I felt in time, would be of value to those who thought as I did and would have some sentiment and feeling for their country and for our first inhabitants, who would like to have tokens of the first American, and preserve these evidences of their culture and their art for future generations." Thus he became a collector of Indian handicrafts, of paintings by Southwestern artists, of santos and historical relics such as old stage coaches, of stamps and coins, collections which still exist and, true to his prophesy, have increased in intrinsic value.

This brought him in intimate contact not only with the Indians but also with the Spanish-speaking people in the out-of-the-way plazas. Though brought up an aristocrat and fastidious in dress and food, he would mingle with these freely, share their simple meals and accept their primitive shelter.

Early thrown into political turmoil, he tells: "I used to go out campaigning with my father. Once a campaign was on and my father was running for Territorial Council, now known as State Senate. We traveled in a buggy, and our horses were tired. So we remained at Pojoaque for the night. Juan Bouquet and his good wife took us in, gave us a good supper and some good wine. We were shown to our room which had a comfortable bed but a dirt floor. On the floor beside the bed, Mrs. Bouquet had placed an Indian blanket. Next morning I told my father I wanted the blanket.

I asked Mrs. Bouquet if she would sell it to me, and she said she would; so I bought it for \$3.50. My father tried to dissuade me as I had already spent too much on our trip. I still have the blanket. It is a very fine weave and color." Again exhibiting a life-long contradiction—a free spender, yet a good trader who would be punctilious even in small financial matters. As a banker, later, he spent large sums freely, and yet he would persistently keep after a debtor for a small obligation until it had been paid.

Acquiring a hand printing press and a modicum of type in trade as a boy, he set out to publish a newspaper, but with characteristic commercial instinct solicited advertising and subscriptions to back his boyishly idealistic utterances and political observations. A few copies of the paper are still in family possession, highly prized by them. As is the case with many men who have attained greatness or fame, Governor Seligman from boyhood had a great fascination for the other sex. He counted this an asset in political organization, assigning important places and tasks to women and commanding their loyalty and support to the last ditch at the polls. He loved social gayety and tells of an early experience: "At the time Fort Marcy was occupied, I used to attend the Post hops. One of the officers and his wife had been very kind to me and I felt indebted to them. After pondering long as to what I should give his wife as a birthday gift, I decided to take out of my collection a very nice saddler, a beautiful bayeta specimen. The officer was soon transferred to Washington, where ten years later I visited him. In going through their kitchen, I noted my beautiful saddle blanket on the floor in front of the kitchen range. It was so filled with grease and coal dust that it looked more like a squaw dress or a piece of rag carpet than it did an Indian saddle blanket. When we came back into the library, I noticed on the library table that some one had evidently dropped a lighted cigar and had burned in the table cover a hole about the size of half a dollar. I told my hostess that I thought she should have a new table cover

for her library table, and I would be willing to take an old Indian blanket that was on the floor in the kitchen, and for it she could go down to any of the stores and buy a new table cloth for her library table and send me the bill. Of course, she thought, I was playing a joke and to carry it out she sent me the blanket and a bill for \$17.50 for the table cover. After a great many boilings, washings and cleanings, the blanket finally began to show up in its true colors, and the blanket is now one of the finest specimens in my collection." Again, the close observer, the shrewd trader, the keen politician, suave diplomat and gallant lady's man!

As chairman of the inaugural committees for more than thirty years, both for Democratic and Republican governors, he was expert in the niceties of these gala social events. He was one of the founders of the Santa Fé Club, for a time Santa Fé's leading social organization.

Public schools, private tutors, Swarthmore College Preparatory School (from which he graduated in 1887), and Pierce's Business College in Philadelphia, trained him for the business career which ran parallel with his political activities. President of Seligman Brothers Company for twenty-three years, president of the First National Bank at Santa Fé from 1924 until his death and for twenty-three years one of the directors, he was deep in many movements for the upbuilding of Santa Fé, most notably the community enterprise which resulted in construction of La Fonda, its famous tourist hotel, now part of the Harvey System.

His greatest financial undertaking, perhaps, was the settlement of the crushing indebtedness of Santa Fé county which had been incurred in the voting and issuing of railroad aid and court house bonds. Interest had been defaulted, property values throughout the county had dropped to the vanishing point on account of the debt, and the situation seemed hopeless. For years he persisted, calling to his aid men of prominence, lobbying in Washington and in the legislature at Santa Fé, pulling many strings until finally congress which had validated the debt, granted relief and

thus ushered in a new era of prosperity for the county and the state capital. His persistence and skill in this undertaking were characteristic of his career politically.

Enemies pointed to his friendship with prominent men of the Republican party as an inconsistency in one who professed unalterable allegiance to the Democratic party organization, but he made it serve the purpose which eventually brought his party and himself political triumph. It was his boast that he always voted the Democratic ticket straight, and yet his closest advisers in legislative matters were leading Republicans such as the late Charles A. Spiess, the late Charles Springer, Judge Edward R. Wright, Levi A. Hughes, Jan Van Houten, and other stalwart. conservative Republicans, while at the same time he counted as closest friend and counsellor, U. S. Senator Bronson M. Cutting, a Progressive Republican, who succeeded the late U. S. Senator A. A. Jones in his affections and admiration. It was Senator Cutting's return from Europe which he awaited anxiously in order to counsel with him over filling the vacant U. S. senatorship, although his political associates urged the governor to name himself and crown his own political career with this high office. His acquaintanceships and friendships among Democratic leaders were nation-wide, and he was highly regarded by them, sitting frequently in their most intimate councils. To many admirers, and often to the press, his reliance on men of opposite partisan opinion seemed inconsistent, but results proved it excellent generalship which snatched victory out of the very jaws of defeat.

Arthur Seligman often consented to vicarious sacrifice as a candidate for minor office in hopeless political campaigns in the face of certain defeat. Yet, he was astonishingly successful in winning against resourceful and powerful opposition in his own party, even oftener than against the forces of the Republican organization. His last victories, in being twice elected governor, were sweeping in every sense of the word, his majorities being greater than

had been deemed possible even by his own party friends. It seems that all the way in his political career he was compelled to fight against odds that would have frightened off most men. As mayor of Santa Fé, he succeeded in having the first street paving in the ancient and historic capital, many of whose property owners were bitterly opposed. Chairman of the board of county commissioners, chairman of the Democratic county and state committees, national committeeman, delegate to many state and national Democratic conventions, member of many important appointive boards, he astonished friend and foe alike with his grasp of political situations and his tireless efforts at creating and maintaining partisan organization.¹

As governor he came upon the difficult period of the depression. The height of his ambition was fiscal reform—his endeavor to balance the budget was almost fanatical in its zeal. His greatest triumph apparently came when the figures were submitted showing that the state budget was balanced. His deepest chagrin followed when, shortly before his death, it was evident to him that budget balancing

1. Among the positions held by him were:

Mayor of Santa Fé, 1910-1912.

Chairman board of county commissioners in which position he was instrumental in the building of a modern county jail and replacing the old wooden bridges across the Santa Fé river with concrete and stone structures.

Chairman of the Santa Fé council of defense during the Great War.

Chairman of the county war savings board.

Chairman of the county road board.

President Santa Fé merchants association.

Director northern New Mexico loan association.

Chairman exposition boards from New Mexico for the Pan-American exposition at Buffalo, and the St. Louis exposition.

Member of territorial and state boards of equalization.

Chairman democratic county committee for six years.

Chairman democratic city committee for eight years.

Member territorial democratic committee for sixteen years, part of the time as chairman.

Member state democratic committee for ten years, part of the time as chairman.

Delegate to the national democratic conventions in 1916, 1920, 1924, and 1932.

Member democratic national committee since 1920.

Member state irrigation commission.

Member of state educational survey.

Elected governor of New Mexico for two years in 1930, and re-elected in 1932 for two years.



THE LATE ARTHUR SELIGMAN
(Governor, 1931-33)

was merely a matter of bookkeeping; that after all, the tax rate would have to be increased; that cutting off twenty-five per cent from the legally made appropriations to institutions, which at their best were sparsely provided for, was not far from repudiation, and had no effect of consequence on the tax rate. He learned from bitter experience, and acknowledged it to his intimates, that after all it takes money to run a modern state, to give the people and the press a fraction of what they wanted, asked, and clamored for, when it appertained to their own locality and environment or their personal affairs. He looked with doubt upon the vast expenditures authorized by Washington but was eager to secure as much for the state and its people as was obtainable in the grand rush for public funds, which he knew too well must eventually come out of the pockets of the tax payers. While he held down expenditures to the minimum where he had the power, he never stinted the institutions which provided for the deaf, the blind, the unfortunate. He was unalterable in his determination that these must be provided for, no matter how heavy the burden upon the tax payer. He also believed in the highway systems across the state. He took deep interest in developing the state's scenic wonders such as the Carlsbad Cavern and such institutions as the State Museum and the Historical Society which he felt brought more people, more capital, and more revenue to the State than most industries. He was a life-long member of the Historical Society and it was one of the few institutions for which he recommended an increased appropriation to the legislature.

Governor Seligman was not a religious man in the way of church membership or church attendance. His attitude toward church and ecclesiasts, however, was respectful and even reverent. He was a contributor to Jewish and Catholic charities and the Hebrew church in its press throughout the world made much of the fact that he was of Jewish descent.

In addition to being a 32d degree Mason, he was a

member of the Benevolent Order of Elks and a number of civic associations, including the Santa Fé Chamber of Commerce.

Outside of his collections, Governor Seligman had few hobbies. He was an ardent baseball fan; he enjoyed motor-ing and took long motor trips, often at night, although he did not drive a car himself. He organized a Glider Club and was an aviation enthusiast. He rose late in the morn-ing and retired very late at night, a habit which puzzled his friends and in which he persisted despite pleadings of fam-ily, urging of associates, and advice of physicians. It gave a tinge of unreality to his life and business activities. He offset this with a canny executive ability which enabled him to draft the best efforts of experts in formulating policies for him, working out problems, preparing data for ad-dresses, and executing details. Far more than outward de-meanor betrayed, Governor Seligman was sentimental, ro-mantic, idealistic, and sensitive. While pretending to be inured to public criticism he was hurt to the quick by unjust newspaper comments, by treachery of those whom he had regarded as friends and whom he had helped in their days of need. He was intensely loyal to those who had given evidence of friendship for him and clung to them even in the face of fierce and continuous attacks and venomous crit-icism. Apparently dilatory at times, he was capable of swift and decisive action, as was manifested for instance just before his death, when he ordered the National Guard to Gallup to forestall destruction of property and bloodshed in a strike of coal miners.

It is too soon after his death to assign an exact place to Arthur Seligman in the New Mexico pantheon of more than a hundred governors. This much is true, however, that he was more than a mere politician, that he was a statesman, and that he is bound to rank high among the men born, reared, and attaining place of responsibility in the commonwealth of New Mexico.

On July 4, 1896, Arthur Seligman and Frankie E.

Harris were married, Mrs. Seligman established a congenial home of taste and refinement, and, although a leader in social and civic circles, made her husband's ambitions her chief aim in life.

Governor Seligman was stricken with an attack of angina pectoris at noon of Monday, September 25. He had left the Capital City, Santa Fé, that morning at nine o'clock, after a brief visit to the First National Bank. Over the telephone he discussed with Levi A. Hughes, chairman of the board of directors of the bank, several phases of the talk which he was to make that forenoon before the New Mexico Bankers Association at Albuquerque. He went over the same matter with the writer, and then, accompanied by George Bloom, assistant cashier of the bank, motored to Albuquerque and went directly to the Franciscan hotel where the bankers were in session. He was apparently in good health and made an impression of vigor and earnestness as he read his address which was enthusiastically received and in which he spoke both as a banker and as the chief executive of the commonwealth. He sat down by the side of James B. Read, Taos banker, who later that day was elected president of the association, and was listening to the latter's commendation of his address, when he put his hand to the region of the heart and remarked: "I feel a pain." Arising, the governor walked into the hallway where he met Oscar Love, Albuquerque banker, and again complained of being ill. Love accompanied the governor to the latter's room and called Dr. W. R. Lovelace, for many years physician to the Seligman family.

The medical man immediately recognized the seriousness of the attack, but despite all efforts, the stricken man sank rapidly into unconsciousness, arousing from his stupor only long enough to remark to State Bank Examiner Bingham: "What is all this commotion? I must hurry back to Santa Fé for I have so many things to do!" Death came a few minutes later as he was surrounded by friends who had gathered anxiously in the room.

Mrs. Seligman had been notified that her husband was seriously ill and motored immediately to Albuquerque from Santa Fé only to be apprised of his death. The funeral took place on Thursday afternoon, September 28, from the Capitol of the state, amid an imposing military display and vast throngs which crowded the highway from the Capitol to the Cemetery. The Episcopal service for the dead was read in the House of Representatives by the Rev. Walter Trowbridge of the Church of the Holy Faith at Santa Fé. At the mausoleum in Fairview Cemetery, the Masonic Blue Lodge ritual was impressively rendered.

Honorary pall bearers included scores of men of prominence, the active pall bearers being friends and associates: Dr. W. R. Lovelace, Clinton P. Anderson, Juan N. Vigil, Paul A. F. Walter, George Bloom, E. B. Swope, Martin Gardesky, John Bingham, Frank Horn, and Jesús M. Baca.

P. A. F. W.

BOOK REVIEWS

Yuman Tribes of the Gila River. By Leslie Spier. (University of Chicago Press, 1933. xviii+433 pp. Illustrations; bibliography; index. \$4.00.)

Dr. Spier's book fills a noteworthy and important gap in the ethnography of the Southwest and is perhaps an even more significant contribution than his *Havasupai Ethnography*.

The book begins with a detailed discussion of our knowledge of the tribal distribution of the Maricopa, Kaveltcadom, and Halchidoma in historic times. Spier shows that even if we identify the Cocomaricopa of Spanish chronicles with the Maricopa of our day and the Opa with the Kaveltcadom, nevertheless it is extremely doubtful that the Maricopa have lived within the last three centuries on the Lower Gila below the great bend. Hence it seems likely that the Maricopa and Pima have had close cultural connections for a much longer time than has been generally assumed. Throughout the book Spier stresses the reciprocal nature of these cultural connections.

Following this account of tribal distribution and inter-tribal relations comes a full description of the bases of the economic life of these tribes before their transition to modern rural conditions, a section on houses, a section on dress and ornament, and one on technology. The chapter on time-reckoning with its correlations to historical events is one of the most interesting in the book.

Social structure is treated very completely and the link between these and other Yuma-speaking tribes, especially those of the lower Colorado, is clearly shown. The study of religious life is extremely well done. The absence of ritual dances is remarkable, as is the extraordinary prominence given to dream experience. In general, the religious and ceremonial forms seem very unakin to the general Southwestern complex.

The chapter on "Individual Development" contains a

great deal of suggestive and valuable incidental material. The final eighty pages of the book are given over to a very fine selection of folktales. Taken as a whole, the book gives a very satisfactory and integrated picture of these peoples, hitherto neglected by ethnographers. There is an occasional lack of lucidity in expression and one sometimes would like to know whether particular assertions are based on information given by more than one informant.

CLYDE K. M. KLUCKHOHN.

University of New Mexico.

American Foreign Policy in Mexican Relations. By James Morton Callahan. (New York, The Macmillan Co., 1932, 626 pp.)

In this volume, the author gives us what he claims is "the first general historical view of American-Mexican policy." The author has done a fairly satisfactory piece of work. Some of us, however, had considered Professor Rippey's contribution in this field as giving us a general view, although in many points lacking in certain details which are to be found in the present volume. In this work, Professor Callahan relies "upon the manuscript archives at the Department of State at Washington—especially upon the volumes of 'Instructions' and 'Despatches.'" For the first decade after 1907 he has relied chiefly "upon published volumes of Foreign Relations and other government documents," and for the decade since 1920, he has largely "supplemented the government documents by newspaper files." In addition to these original sources, he has used such secondary material as the studies of Manning, Rives, Reeves, Garber, and Rippey. He has not, however, consulted Mexican archives and other published Mexican sources, nor has he referred to British sources.

To a person with a general background and interest in United States-Mexican relations, the volume will no doubt prove interesting because of its vast amount of detailed information with dates of diplomatic correspondence and instruction, and "who's who" information in regard to the

personalities participating in the diplomatic episodes discussed. With but few exceptions the volume is written in the calm objective style so dear to the heart of members of the cult who glory in what is called modern scholarship. The author volunteers but few attempts at interpretation. Synthesis, generalization, and interpretation which are logical and valid functions of the scientific mind are avoided. This manner of treatment, however, with its punctilious attention to details and dates will, no doubt, place this volume on the reference shelf, and thus restrict its reading to students of history and diplomacy, and leave the general reader to seek his knowledge and understanding of our very interesting relations with Mexico from other more popularly written sources, in which the high art of generalization and interpretation is not considered out of place.

The author's alleged reason for presenting his book is the public interest in United States-Mexico diplomatic relations created by the unrest during the period 1911-1931. The 1911 revolution marked the overthrow of the Díaz regime and the most marked period of foreign capitalistic invasion, ending in a widely spread possession and control of Mexico's mineral wealth and other natural resources. The struggle of the Mexicans for internal organization, stability, and for repossessing their own natural wealth was a period most annoying to the United States. "The pacification of Mexico," to use the author's words, which was brought about by Dwight W. Morrow, seems to bring this period to a close. The author speaks approvingly of the methods of Mr. Morrow which included his many expressions concerning the welfare of the Mexican people and his friendly breakfasts with President Calles. Certainly the methods of Dwight W. Morrow were a great improvement over the methods of Woodrow Wilson in dealing with Huerta, and the methods adopted by the Harding and the early part of the Coolidge administrations. It is probable that the period 1919-1929, which represented the gala

days of American capitalism at home, brought from some of our governmental officials statements that represent the high-water mark in nationalistic arrogance and investment diplomacy in Mexico.

Some statements by our public men prior to the mission of Mr. Morrow are worth recalling. Early in the Harding administration, Secretary Fall wrote, "So long as I have anything to do with Mexican questions, no government of Mexico will be recognized with my consent which does not first enter into a written agreement promising to protect American citizens and their property rights in Mexico." This attitude was again expressed in 1921 by Secretary Hughes in his outline of the general American policy when he urged that the fundamental and vital question was, "the safeguarding of American property rights against confiscation." The final expression of this attitude was made by President Coolidge in April 1927 when, at a dinner of the United States Press Association, he declared "the person and property of a citizen are a part of the general domain of a nation even when abroad." Such public statements of our blustering diplomacy failed to stop Mexico in the application or enforcement of Article twenty-seven in her new Constitution; and since public opinion in the United States did not look with favor on aggressive measures, the pacification program of the Morrow mission was adopted. From the point of view of American diplomacy the Morrow mission was successful. The diplomacy of friendly breakfasts succeeded where bluff and arrogance failed.

But granting the scholarly research involved in getting material for this volume, and a satisfactory objectivity in reporting it, is this enough in a volume of this kind? Must the scholar who has waded through this mass of evidence stop there? The volume lacks that touch which the scientist would give to the results of his investigations—a tentative interpretation of his evidence.

ARTHUR S. WHITE.

University of New Mexico.

America in the Southwest, A Regional Anthology. Selected and Edited by T. M. Pearce, Ph.D., associate professor of English at the University of New Mexico, and Telfair Hendon, M.A., instructor of English at the University of New Mexico. (The University Press, Albuquerque, N. M., 1933. xxviii+346 pp. \$3.00.)

Books of prose selections for use in college composition courses come off the press in such a steady stream that it is surprising to find one with an entirely new principle of selection. *America in the Southwest*, while roughly divided into the traditional exposition, description, and narration, has the more alluring headings: What is the Southwest? Where is the Southwest? Who is the Southwest? This division puts the emphasis more upon the matter than manner of expression. In answer to the questions, southwestern voices are allowed to speak.

Mary Austin, who has always preached the gospel of regionalism with stimulating effect on other southwestern writers, is of course represented. So also are Willa Cather, Frank Applegate, Harvey Fergusson, Erna Fergusson, Alida Sims Malkus, Witter Bynner, Paul Horgan, J. Frank Dobie, Charles F. Lummis, R. L. Duffus, Elizabeth Willis De Huff, Omar Barker, Stanley Vestal, Andy Adams, Frederick Bechdolt, Ruth Laughlin Barker, Douglas Branch, John Chapman, Emerson Hough, Robert Reynolds, Eugene Manlove Rhodes, Dorothy Scarborough—and even these names do not exhaust the varied list.

An interesting phase of the book, however, is the amount of space given to those who are not primarily literary men. That selections from their work are often among the best in the book is a healthful discovery for professional writers to make, for readers to make, and for students of composition to make,—though surely only students of composition can be surprised at it. And probably they will be least surprised of all.

For it is an axiom that a man who has something to say will find a way to say it—and the less his eye is on the

manner of saying the better; the fitting words will be found. If we want to know about bell towers and capitals then, we go to an architect—William Templeton Johnson. For archaeological and ethnological material we can go to Edgar L. Hewett and Hartley Burr Alexander. To exclude them from professional writers, it is true, is, in view of their extensive published work, a little absurd. It is done on no finely drawn technicality, but on their probable preference for being known first of all as scientists. The integrity of these men's prose is not surprising; nor, except to those who are having their introduction to them in this volume, are the passages of very real beauty to be wondered at.

When, however, one looks over the whole list of contributors, with work drawn from such contrasting publications as the *Yale Review*, the *Southwest Review*, the *New Mexico Quarterly*, and *Folk-Say*, on the one hand, and the *Saturday Evening Post* and *West Magazine* on the other, it must be admitted that these selections are uneven in quality. Yet, again taking the clearly defined point of view of the editors into consideration, this also seems to be a virtue. A survey of what the Southwest is saying—a regional diagnosis—should not refuse to listen to those who speak in a popular as well as in a scholarly fashion. For that matter, this aspect of the book again shows that pigeonholing writers and publications—as editors of most prose anthologies such as this are prone to do and as these editors avoid doing with refreshing unconventionality—is unsafe. The reader may be surprised at the places where he finds his nuggets.

Moreover, this unevenness is more stimulating to the imagination than a neat literary orthodoxy would be. The reader who approaches the book with a diagnostic purpose, as the editors evidently desire him to do, will be led to wonder about America in the Southwest ten years from now. As a quick survey this is the sort of thing that might well be repeated periodically. For in spite of selections from Susan Shelby Magoffin and from Bandelier, from James Josiah Webb and Frederick Ruxton, the book is mainly a

collection of today's materials. Tomorrow will have its own speech. And if for comparative purposes, yesterday is also allowed to speak, perhaps the next volume will bring material of more salty vigor and beauty from the pages of Cushing, of Washington Matthews, of Benavides;—the names from yesterday, and from yesterday's languages, crowd for room. Probably that is the reason why yesterday is allowed so faint a voice.

But for contemporary writing this covers a surprisingly wide field. Some of the tendency for short selections from such a wide field to scatter is counteracted by an excellent introduction explaining the significance of such a regional approach. This introduction is written by Dr. Pearce, whose work in the field of southwestern vocabulary and usage and as editor of the *New Mexico Quarterly* makes him the man for such an analysis. The plan of the book is briefly outlined by Dr. Pearce and Mr. Hendon. A survey of the types of characters represented in the section of the book entitled "Who is the Southwest" is given in a thoughtful and suggestive introduction to that section written by Mr. Hendon, who died before the book was completed.

With the engaging balance that the whole book shows, the editors include in it a symposium on the subject of regional literature conducted by the *Southwest Review* with contributions from Mary Austin, Stanley Vestal, Roger Adger Law, Albert Guerard, J. Frank Dobie, Howard Mumford Jones, John William Rogers, John Chapman, John C. Granbery, E. E. Leisy, B. A. Botkin and Witter Bynner. Some of these people are opposed to a regionalism which is too conscious of itself, too rigid in its boundaries. Such questioning clarifies and perhaps strengthens the point of view upon which the book is built. At any rate, to include it in an examination of regional culture is honest, and adds spice.

With its balance and unconventionality of content, the book will do for southwestern students something they have been crying for. It will show them their own materials.

No longer need they say—"But I can't write. I haven't anything to say. Here is Conrad writing of the sea—but I have never seen the sea. Here are men writing about London and New York and Chicago—but I live fifty miles from a neighbor." It has been a fair challenge that has come to every composition instructor. Now the answer is at hand. "Here is Willa Cather writing about a piñon, writing about a cottonwood. In these pages are the health seeker, the artist, the realtor; here are cattle, and cow-punchers, and cliff dwellings, and pueblos. These are your people, your places. See what others can write about them. See what you can write about them."

Such a book should bring consolation to both teacher and student. That it brings stimulus too to the reader and the writer outside the University classroom, that it gives a cross section of today's southwestern cultural expression, makes it more than a textbook—and therefore makes it a better textbook.

FRANCES GILLMOR.

University of New Mexico.

New Mexico History and Civics. By Lansing B. Bloom, A. M. and Thomas C. Donnelly, Ph.D. (The University Press, Albuquerque, N. M., 1933. 539 pp. Illustrated. \$2.50.)

Written primarily for the high schools of New Mexico, this work will appeal to a much larger circle. It is a scholarly, authoritative production which brings the history and civics of New Mexico up to the last minute, necessarily supplanting earlier text books. It is fortunate that the writing of this text book was undertaken by men of ripe and recognized scholarship whose familiarity with the sources and whose mastery of their subjects enabled them not only to differentiate between the trivial details and the important undercurrents which culminated in decisive events but also to present their subject matter interestingly with a real sweep of comprehensiveness.

The authors speak for themselves in the preface and the reviewer enthusiastically endorses their viewpoint when they say: "The history of our state is presented as an *interpretation* rather than as a complete and detailed *narrative*. Yet familiarity with, and use of, our rich source materials and the many and varied writings of earlier authors is both necessary and desirable. To this end, by the aid of frequent reading-lists and questions, the student and the teacher (in preparation and later in class discussion) may verify or criticize our interpretation, and they may discover a wide range of topics for stimulating thought and discussion. It will be found that the background of historical continuity is present, but space and emphasis are given to aspects of our history which have been largely overlooked or misunderstood by earlier writers.

"The section on civics will be found to be the most complete treatment yet offered of the government of New Mexico. The attempt has been made, not only to present to the student a clear picture of the organization and functioning of his own state government, but also to compare and contrast, here and there throughout the text, New Mexican practices with those found in other states. Thus evaluations are made possible, and a provincialism found in many text books on state civics has been avoided."

The arrangement and sequences of the book are somewhat unusual but logical. The nice discrimination and temper with which even controversial points are treated are admirable and the absence of bombast, too often found in local school histories, is commendable. Yet, full justice is done to the romance of New Mexico's "rich and colorful past" and to its cultural and political development.

The first chapter briefly sketches the European background of the era of discovery in Spanish history, with reference to the motives of the Conquistadores, to wit: the thirst for gold and other treasure, the desire to find an adequate supply of labor, and the evangelization of the pagan world. "The Northern Mystery" is the second chapter

heading and covers the travels of Cabeza de Vaca and the expedition of Coronado, a disappointed and disillusioned leader whose journeyings to the Seven Cities of Cibola and the Gran Quivira convinced his followers that "there was nothing worth returning for."

It is in the third chapter that Historian Bloom takes up the prehistory of New Mexico as archaeologists have revealed it at Chetro Keti, on the Pajarito Plateau, at Pecos, in the Jemez country, at Tabirá and other ancient settlements, the beginning of which in some instances has been taken back to the ninth century by careful tree-ring analysis. It presents a most interesting story of cultural development, which, according to the author, possibly began thousands of years ago for it is the only way in which he can explain the linguistic differences of closely related and situated town groups. The seventy years from Coronado to the founding of Santa Fé include the stirring events which continue to color the aspirations and progress of the commonwealth even to this day. Amazing are the episodes of "The Great Missionary Era" covered by Chapter V, the martyrdom of scores of Franciscans and the conflicts and internecine struggles of ecclesiastical and secular authorities.

"Spaniards versus French, 1673 to 1769," the subject of Chapter VI, develops the gradual encroachments on the Spanish Domain from the east. It was a century of Indian wars, of the Pueblo rebellion, the reconquest and the emergence of Santa Fé as a center of commerce. Then came the period from 1776 (the year of American Independence,) to 1821, the year of separation from Spain. "Monotonously uneventful" one historian calls these years, and yet Chapter VII presents a vivid review of events, some of which, like the myth of the "Sierra Azul" with its reputed fabulous mines of silver and quicksilver, and the marvelous exploits of Governor Juan Bautista de Anza, "one of the ablest men who ever held this office," might well be the themes for great epics.

It was during "The Mexican Interlude" (Chapter VIII) that New Mexico looked toward the east with growing apprehension and yet desire. "The Blending of the Two Frontiers," in Chapter IX, with its story of the Santa Fé Trail, the Conquest by the American Invaders, the Civil War, the Coming of the Railroads, the growth of the range industry and the political intrigues of territorial days, is a book in itself. The tenth chapter treats of the events and growth since New Mexico was admitted as a State, including New Mexico's part in the World War and the years of economic depression.

No other commonwealth has had so splendid and wonderful a story and Lansing B. Bloom, editor of the *New Mexico Historical Review*, associate professor of history of the University of New Mexico and associate of the School of American Research, tells it so well in 250 pages that it should be read in every New Mexico household and find a place on every Southwestern library shelf.

Dr. Donnelly, until lately professor of political science at the New Mexico State Teachers College, is given 275 pages to develop his theme in fourteen chapters, treating philosophically as well as lucidly "The Constitution of New Mexico," "The Electoral Process," "The Legislature," "The Governor," "State Administration," "The State Educational System," "State Finance," "The State Courts," and "County, Village, Town and City Government." Especially interesting and valuable are the latest statistics available, which give a graphic birdseye view of present day conditions. A glossary, a well edited and complete index, approximately a hundred maps, plats, portraits, and other illustrations, and excellent typography make the volume most attractive, a credit to authors and press. The volume is dedicated to the late Amado Chaves, first superintendent of public instruction "worthy heir of our early history, distinguished citizen, cultured Christian gentleman."

P. A. F. W.

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