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## BY ORDER OF RICHARD CAMPBELL

BY EDWARD D. TITTMAN

According to popular tradition the law west of the Pecos in the days before the coming of the railroads was administered and personified entirely by Judge Bean and his combined saloon and courthouse. As usual popular tradition is very much in error. At least where there were settlements, as in the valley of the Rio Grande, there was considerable law. True it was law somewhat different from our present day conceptions but, nevertheless, it was "according to the statute in such case made and provided" by the legislature of the Territory of New Mexico.<sup>1</sup> In the early fifties of the 19th century the area of the just established and organized territory extended from the west boundary of Texas to the east boundary of California, and from the Mexican Republic to the southern line of Colorado Territory. Neither the northern nor the southern lines were then very certainly established, and especially in the south, prior to the Gadsden purchase, there was much doubt as to the exact location of the boundary line. This line was the southern boundary of the County of Doña Ana which had been cut off in 1852 from the County of Socorro and the Kingdom of Valencia, when the territory had just been organized. And it is the Law in the County of Doña Ana in those early days, as disclosed in remaining records in the Las Cruces Court House, that I am going to tell about in this story.

The law of Doña Ana County in those days was mainly

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1. Prior to the County Commissioners Act of 1876 Probate Judges exercised all the powers of the present Board of County Commissioners, in addition to their rather general civil and criminal jurisdiction. E. D. T.

by order of Richard Campbell; sometimes it was by order of Richard Campbell, Probate Judge, but just as often the title was left off, and the law became, on the face of the record, the law by order of Richard Campbell.

And Richard Campbell was some man.

Back of him he had the Act of the Territorial Legislature which conferred upon the Probate Courts the powers of a court of general jurisdiction, such as to grant writs of habeas corpus, to try criminal cases with a jury, up to certain grades of crime, and to hear civil causes. This was necessary because the country was sparsely settled, judicial districts were large and the distances from one county seat to another were great. To travel from Lemitar in Socorro County to Las Cruces was no light matter, what with the murdering Apaches and the journey over the Jornada del Muerto where water was then unknown. It took not less than a week for the trip and the judges were not anxious for the journey. It is on record in the legislative enactments of those days that the legislature found it desirable to address a memorial to the government in Washington asking that one of the district judges be made to stay in the territory and attend to his duties.

The first presiding judge of the Probate Court in Doña Ana County was Richard Campbell. Whence he came the record does not disclose. Judging from his handwriting he was an elderly man at the time, and judging from his style he was a man of some education, though he found some words beyond his power to spell. But he was certainly a man. He ruled the county with a firm hand and he did not stand for any foolishness. When he spoke he spoke and when he ordered he ordered. And he did lots of ordering.

The town of Las Cruces in those days was a somewhat recently established aggregation of adobe houses. Adopting a method still in vogue in some portions of the State the adobe-makers had dug the mud for the earthen bricks from

pits right along the houses they were building. The results, in so far as they affected the use of streets and roads, were evidently displeasing to Richard Campbell, for streets and roads were one of his pet hobbies. For this reason perhaps the first entry on Richard Campbell's new Probate Court Record was as follows:

"Ordered by Richard Campbell, Probate Judge in and for the County of Doña Ana and Territory of New Mexico, that the holes made in the Streets of the Town of Las Cruces for the purpose of making adobes and for other purposes be filled up within thirty days from the issueing of this order with the positive assurance that all those who made such holes and do not fill them up or comply with this order within thirty days from the date hereof will be fined and legal steps taken to compel the payment of such fines.

By order of Richard Campbell, Probate Judge, this the 17th day of September, 1853.

One imagines that the holes were filled up.

On the same day he appointed commissioners to view and lay out a road from the older settlement of Doña Ana to the county seat, and a few days afterwards he took the same steps to secure a road to Fort Fillmore.

In the meantime there appears to have been some dispute about the ownership of lots in the Village of Las Cruces. Richard Campbell did not wait for some one to bring a suit in ejectment but he entered an order designed to settle the question then and there. "All claiming lots in Las Cruces," he wrote, "shall repair to the office of the Clerk and designate the same and a certificate will be issued;" "otherwise," concludes the order, "they will lose their rights to the same."

The lots in the town of Las Cruces were a part of the Doña Ana Bend Grant, and the titles were or should have

been derived from the trustees of the Grant, if it was at all possible to alienate such title, and so the order of Richard Campbell, while undoubtedly made in the best of good faith, did nothing to help the situation except that it gave color of title for a basis to possessory title later on.

Other difficult matters soon pressed on Richard Campbell's sense of duty and official power. A surety on the bond of John Jones, Sheriff of the county, was about to leave and on February 25th, 1854, the Probate Judge — that man's title should rightfully be spelled with capital letters — issued an order requiring Jones to account. It may be that Jones declined to recognize the jurisdiction of Richard Campbell; at least on May 4th of the same year Jones was charged with embezzlement and malfeasance in office and Thomas Chuntun was "appointed" acting sheriff, but the record does not show who did the appointing; probably it was by order of Richard Campbell.

In between the larger affairs of his government Richard Campbell did not neglect the smaller matters. Especially did he not forget to look after the roads. He appointed road overseers to keep the roads in good repair and to call out "any time" as many men as needed for that purpose. When their efforts were unsatisfactory or at least left room for improvement, Richard Campbell took the matter in his own hands, and on August 2d, 1855, he ordered all male inhabitants over eighteen year of age, except those exempt by law, to assemble on August 11th with hoes and spades and axes to take away the mesquite roots and leveling Main Street and working on the road. Evidently the previous orders about filling up the holes had not quite resulted in making Main Street a desirable thoroughfare.

But there were other things to do. Citizens petitioned for the appointment of alcaldes and justices of the peace — according to the language they spoke — and Richard Campbell either appointed them or ordered elections to be held to fill such offices. Many minor cases of misde-

meanors had to be tried, taxes had to be levied, jury panels had to be drawn.

Taxes especially seem to have been bothersome and hard to collect. The revenues were perhaps not large enough. At any rate on an undated day in June, 1854, it was "commanded by Richard Campbell" that a fifty cent license be collected on each billiard table. In January, 1855, "small games" were ordered taxed \$1.50 for each 24 hours during the fair at Las Cruces. On January 14th, 1854, he made the following entry regarding taxation:

"Ordered by Richard Campbell that there be a County Tax collected by the Collector of the County of Doña Ana for to defray the expenses of said county which tax shall not exceed the territorial tax on all property and licenses made taxable for territorial purposes one hundred per cent."

Richard Campbell was always equal to an emergency. When two men were arrested for larceny and it turned out that the crime had been committed in the doubtful zone of Mesilla the probate judge turned them loose on a writ of habeas corpus. When Eucebio Sanchez, by his agent Pedro Chavez, complained on May 19th, 1855, that he was being detained of his liberty by an order of Cristobal Ascarate, J. P., for a debt, Richard Campbell promptly granted a writ of habeas corpus and turned the poor debtor loose; "restored him to his liberty" says the record. It was well that the county had for judge a man whose spirit was imbued with Anglo-Saxon ideas of freedom, even though grim necessity forced him to be an autocrat. He certainly went beyond his jurisdiction when on November 3d, 1854, one Jose Aris charged Theodor Green and Peter Miller with the murder of Juan "Carivjal." The murder was alleged to have been committed "near the Cotton Wood between Las Cruces and Franklin." A jury of six men was sworn: Lewis Flotte, John S. Draper, Andon Scarff, H. J. Cuniffe, C. W. Robinson and P. P. Lully, and this

jury found the defendants not guilty. What the reasons were that prompted Richard Campbell to assume jurisdiction when he should have left the matter to the District Court the record does not show. Very likely the circumstances were such that the good common sense of Campbell thought it would serve not only the ends of justice but likely the sentiment of the community if he would do as he did do.

Discretion in such matters was an outstanding characteristic of Richard Campbell. When Jose Maria Flores, justice of the peace of Doña Ana Precinct was charged with having detained monies of the Territory, Campbell dismissed the charges "because of his ignorance of the laws of the Territory and his pleading innocence." Evidently Campbell did not adhere too strictly to the maxim that ignorance of the laws excuses no man. In view of the fact that the people had only just come under the new system of law and government this was eminently just. Rosalio Trujillo, constable of the same precinct, did not get off quite so easily on charges of neglect of duty. The judge's entry as of January 27th, 1855, reads:

"Defendant dismissed upon the charges against him by paying costs of suit, there being no evidence of a serious nature against him."

The costs amounted to \$4.00 and the court evidently thought that the payment of this, at that time substantial, sum, would cause the defendant to attend to his duties thereafter.

When, on July 25th, 1854, Domingo Candelaria was found guilty of larceny the court must have considered many extenuating circumstances, for the defendant was only sentenced to the payment of the costs and to give a \$100 bond for good behaviour and conduct for six months.

In civil matters Campbell displayed an equal desire

to have justice done regardless. After the Gadsden purchase had brought the country across the river from Las Cruces into the union some trouble arose over the public funds of the village of Mesilla which was then on the west side of the Rio Grande and the northernmost settlement in the Republic of Mexico. Campbell treated the dispute with the following order; which was duly entered on the record on December 6th, 1854:

“Having good reason to believe that between five hundred and one thousand dollars has been unlawfully taken from the town of Masilla since the treaty of December 30, 1853, which belongs to the town of Masilla and to one else I have constituted and appointed and by these presents do constitute and appoint J. S. Watts as attorney to reclaim said money and rediliver it to said town of Masilla to which town it *personly* belongs.

Given under my hand and seal of office this 6th day of December, 1854.”

What was the result of this appointment does not appear from the records. But on February 3d, 1855, the legislature passed an act which probably had reference to the same matter, and which provided that “any or all the money belonging to the former canton or town of Mesilla that is or has not been appropriated by law to this territory, or not belonging to any person or persons be and the same is hereby appropriated to the County of Doña Ana for the purpose of building or purchasing county property.” As the county seat was later moved to Mesilla it may be that this money of Mesilla was used to buy the buildings for court house and jail in Mesilla. J. S. Watts is probably the John S. Watts who later became Chief Justice of the Territory and who lived in the southern part of the territory for a time and was well known as far south as Franklin.



The election of 1855 ended the career of Richard Campbell as probate judge but not until he had passed on an election contest brought by other officers of the county. The election took place early in September, 1855, and Samuel G. Bean, sheriff of the county, moved to reject the election at Santa Barbara and Los Amoles precincts, while constable W. C. Jones opposed the returns from La Mesilla. According to the record there were in the ballot box at Mesilla 195 ballots which were neither numbered nor entered on the poll books of which there was only one; "which appearing to be all on one side gives it greatly the appearance of fraud," wrote the court. As the certificates were also not in form the court declared the election at Mesilla void. At Santa Barbara the "tickets" were said not to have been placed in the ballot box at all, the number of votes cast did not conform with the number shown in the poll-books and the certificates were not signed. So Santa Barbara precinct also went out. At Los Amoles the votes were registered in the poll book but the names of the candidates for whom the votes had been cast were omitted so that it was impossible to ascertain for whom the votes were cast. This disposed of Los Amoles.

What effect this had on the results of the balloting is not shown by the record. But on September 24th following the election appears the last entry signed by order of Richard Campbell. And on that day also appears the last entry in the English language for many years. Beginning with the administration of Pablo Melendres the records were kept in the "Castilian" language.

Where Richard Campbell came from I do not know. Twitchell, at p. 143 Vol. I of his *Leading Facts*, quotes a recital by Richard Campbell of Santa Fé describing a journey to California in 1827. This is probably the same Richard Campbell. The legislature of 1855 on January 30th of that year passed a bill for the relief of Richard Campbell, former sheriff of the County of Doña Ana to repay

him \$171.75 for money expended in catching George Goodnew, a murderer. So it seems that Campbell was sheriff before he was Probate Judge. He was probably a good sheriff for he had plenty of courage. One of his orders as Probate Judge, written in the record in his own handwriting called on the citizens to gather and discuss the advisability of forming an armed patrol to resist the Indians. The order read:

“Ordered, that all ablebodied men of Las Cruces capable of bearing arms be notified to be and appear in front of the office of the Probate Clerk at 5 o'clock of the evening of the 3d of July inst. with such arms and accoutrements as they may have in their possession for the purpose of taking into consideration the propriety of forming an armed patrol for the protection against indian depredations.”

Richard Campbell died in February, 1860. On the seventh of that month John Peter Deus was appointed administrator. In the application for such appointment it is recited that the late judge left as heirs Richard Campbell, Gertrude Campbell and another whose first name was unknown, and all of whom resided in Santa Fé. If there are any descendants living this short recital of some of the facts in the life of their ancestor may be of interest to them. Certain it is that neither they nor the County where he held office need be ashamed of his record.