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THE ROYAL ORDER OF 1620

To Custodian Fray Esteban de Perea

LANSING B. BLOOM

As recently as the spring of 1929 there were in various parts of Mexico uprisings of *insurrectos*, popularly known as "Cristeros," who proclaimed "against a government which acts illegally and mocks in contemptuous form all the sacred principles . . . which the revolution formerly conquered . . . The present conditions are due to the Machiavelian interference of the clown Plutarco Elias Calles in the present administration."

As the name indicates, this outburst was an expression of the "Church and State" struggle in Mexico, so frequently recurrent throughout the history of that country, and indeed running far back into the history of the mother country Spain. It permeated all parts of the vast Spanish realm, and in the distant frontier province of New Mexico, especially throughout the seventeenth century, trouble was caused repeatedly by disagreement as to whether the ecclesiastical or the civil authorities were supreme.

In an earlier issue¹ one side of the controversy in New Mexico in 1620 was presented by means of the text and translation of the order from the viceroy to Governor Juan de Eulate, dated at Mexico City, February 5, 1621, and mention was made of the fact that another communication, similar in purport had been addressed to the custodian, Fray Esteban de Perea. The original of this latter was doubtless destroyed in the Indian Rebellion of 1680, but an excellent copy has been preserved in the so-called "oldest archive" now in Santa Fe, translation of which is given herewith.² A study of the two documents together will bring out similarities and differences which are significant in throwing

1. *N. Mex. Hist. Rev.*, III, pp. 357-380.

2. Museum of N. Mex., Sp. Archs., no. 1. 6 ff. See cut of first page.

1621

M. 1.

Don Felipe por la gracia de Dios Rey de Castilla
 de Leon, de las Indias, de Jerusalem de Portugal
 de Navarra, de Granada, de Toledo, de Valencia,
 de Mallorca, de Sevilla de Cerdeña de
 Cordoba de Comega de Murcia, de Paen de los al
 garbes de algeria, de Sibrattax, de las Islas de Cana
 rias Islas Y tierra firme de Mar Oceano, a
 Archiduque de Austria, Duque de Borgoña, con
 dante de Milan, Conde de Arden y de Flandes
 de Bruot y Barcelona, Senor de Vizcaya de
 Molina &c. a Nos el venerable Padre Fray Lotobon
 de Perera del orden del Seraphico sanfrancisco,
 Custodio de las Religiosos de la dha Orden que resi
 den en las prov.^{as} de San Mex^o, ouo es qualquiera
 Estado a cuyo cargo estubiere la dha custodia, Religi
 on de ellas, sabed, que en la Sumra que el Rey
 de Sualcarax parente mi Rey Juan de Capoyen
 de las prov.^{as} de Nueva Espana y presidente de
 mi audiencia de San Mexico Real que reside en la
 Ciudad de Mexico, tubo en veinte y siete de
 Julio de este año con los tres c. lores mas antiguos
 de la mi audiencia presente mi fiscal en conformidad
 de lo orden que tengo dado; se vieron algunas cartas
 misivas, memoriales, Relim^{os}, y otras peticiones que
 las dhas provincias han despachado desuanto al dho
 m^o y diferentes personas o si eclesiasticas, como se
 culares, por los quales ha conuido a las competencias
 de su jurisdiccion y otras entre los dho Custodios
 de el dho m^o Gov^o, ha h^ouido, y, pretendiendo
 por el dho Padre que en virtud de las bulas
 de su Santidad Leon decimo, y Adriano sexto

light on the situation, and which also show more clearly the procedure followed by the superior authorities.

Governor Juan de Eulate had been appointed to his office Dec. 31, 1617, but he did not start from Mexico City until March 1, 1618. He arrived in the Villa of Santa Fe on Dec. 22, 1618, upon which date his predecessor, Admiral Bernardino de Cavallos, delivered to him *el bastón de su gobierno*. Eulate in turn delivered over the office to his successor, Admiral Phelipe Sotelo Ossorio, on Dec. 21, 1625, so that Eulate's term of actual service in New Mexico was exactly seven years in length.³

It was during the year 1619 that the dissensions between Eulate and the Franciscan missionaries in New Mexico reached such a stage that both sides in the controversy appealed to the viceroy, and apparently the numerous documents in the matter, letters, memorials, affidavits, etc., were sent south by special messenger.⁴ In fact, it is probable that there were two transmissions of such documents, the first of which left Santa Fe on June 25, 1619, and arrived in Mexico City early in the following January.⁵ Perhaps it

3. These data are from disbursements recorded at Sevilla in A.G.I., *Contaduria*, legajos 721-724.

4. A.G.I., *Contaduria*, 723. By order of the viceroy dated May 5, 1620, payment was made to Juan Francisco de Vertiz, agent for Gov. Juan de Eulate, covering the salary of the latter until June 25, 1619, "que quedaba siruiendo en ellas . . ." (the Provinces of New Mexico.)

By another order of Nov. 7, 1620, a payment of 50 pesos was made to one "Don Andrés, Indio principal de la Provincia del Nuevo Mexico." He had been in Mexico ten months, suffering from a great sickness which had been occasioned by his journey thither *with the soldiers from New Mexico*. He had had to beg from house to house and needed help to return home.

5. This is the natural deduction from the records given in note 4. When Governor Eulate entered New Mexico in the fall of 1618, he had passed 15 wagons of the regular mission supply-service going south under escort. These wagons were sent on from Zacatecas to Mexico City, and before Dec. 4, 1618, had there been sold "por quenta de su Magestad . . . en su Real almaneda." (A.G.I., *Cont.*, 721). There is no record of another supply-train to New Mexico until the year 1621. On Jan. 28 of that year, payment was made for 16 wagons with 12 mules each, all fully equipped. (A.G.I., *Cont.*, 723).

Eulate may have had a few wagons with him, besides pack-animals; but if so, it was not one of the regular supply trains which were primarily for the service of the missionaries. Therefore the soldiers who left New Mexico at the end of June, 1619, were not escorting a supply-train but, presumably, were bearers of despatches.

is safe to infer that the despatches carried by this little band of soldiers represented only the Eulate side of the controversy, and that the frailes did not succeed in getting their papers to Mexico City until the summer of 1620.

At any rate, it was not until July 29, 1620, that the viceroy brought the whole matter before the special council which he called for its consideration. Their decision, as reduced to writing over that date, was sent to the king in Spain and must have reached his attention in October, for his approval of the decision was back in Mexico City early in the following January. It will be noted that the cedula to Fray Estéban de Perea, as we have it in the copy given below, is addressed from the *king* but is signed by the *viceroy* in Mexico on January 9, 1621; whereas the order of February 5 to Governor Eulate is both addressed and signed by the viceroy. At the same time, the phraseology of the two documents shows that both were based upon the decision rendered by the council in Mexico City on July 29, 1620.

While the governor of New Mexico and the custodian are enjoined respectively in these two documents to keep each within his own province, nevertheless the intent of the king, and of his administrative officials in Mexico, is clear that in any definite conflict the authority of the State was to have priority over that of the Church.

PLAIN COPY OF A CEDULA DISPATCHED BY THE ROYAL AUDIEN-

CIA OF MEXICO TO THE GOVERNOR AND CUSTODIO OF THESE¹

PROVINCES, UNDER DATE OF JANUARY 9, 1621.

DON FELIPE, by the grace of God King of Castile, of Leon, of the Two Sicilies, of Jerusalem, of Portugal, of Navarre, of Granada, of Toledo, of Valencia, of Galicia, of Ma-

1. The title as given is the endorsement on the cover of this document. The word "these," here used and also once in the body of the text, shows that this copy was made in New Mexico. In other words, they were slips by the copyist. At other places, he used the correct "those."

jorca, of Seville, of Cerdagne, of Córdoba, of Corsica, of Murcia, of Jaen, of the Algarbes, of Algeciras, of Gibraltar, of the Canary Isles, of the Islands and mainland of the oceanic sea [Atlantic]; archduke of Austria; duke of Burgundy, Brabant and Milan; count of Hapsburg, of Flanders, of Tyrol and Barcelona; lord of Vizcaya and of Molina, &&^a—to You the venerable Father Fray Estéban de Perea of the Order of the seraphic San Francisco, Custodio of the Religious of the said Order who reside in the provinces of New Mexico, or to whatever other Prelate among the Religious of those provinces may have the said Custodia in his charge: know ye, that, in the Council which the Marques de Guadalcazar, my cousin, viceroy, governor and captain-general of the provinces of New Spain and president of my royal Audiencia and Chancery who resides in the City of Mexico, held on the twenty-ninth of July of this year² with the three senior *oidores* of my said Audiencia, with the attendance of my *fiscal* in accordance with the order which I have given, there were seen certain letters, missives, memorials, depositions, and other documents which have been written and dispatched from those said provinces to my said Viceroy by various persons, ecclesiastic as well as lay, through which [documents] account has been given of the strifes over jurisdiction and other [matters]³ which there have been, and are, between you, the said Custodio, and my said Governor, you, the said Father, claiming that, by virtue of the bulls of His Holiness Leo X, and of Adrian VI, you have in those said provinces authority and jurisdiction su-

The original, as appears at the end of the text, was to pass into the keeping of the governor and, therefore, must have perished with the other archives at Santa Fe in the Rebellion of 1680. In chirography, the copy is work of the 17th century and may have been made at, or soon after, the receipt of the original. But how did it escape the destruction of 1680, and find its place among the papers now at Santa Fe? Perhaps the best surmise is that it is a copy which was made for one of the southern missions, that in some way it got to El Paso del Norte, and from there was brought back to Santa Fe in the time of De Vargas.

2. The wording at this point would seem to have originated in Spain.

3. The phrasing of the two documents at this point differs slightly. Probably "otros" in this text should read "otras," referring back to "competencias."

preme as well as ordinary *ad universitatem causarum*⁴ so that you can take cognizance of any ecclesiastical matters whatever, and can issue any censure and interdict against any persons of whatever state, condition and preeminence they may be, imposing upon them the punishments at your command, and [you claiming further] that my said Governor should not and could not decree or determine any matter touching his said government without [first] consulting with you and following the advice of you and of the Religious of your Custodia, with many other causes and reasons which it appears are set forth at length in the said letters, memorials, depositions and other documents; and moreover through other documents which have been presented before my said Viceroy and [through] complaints which have been, and are, pending in my said Audiencia there have been reported the serious difficulties which have followed and resulted from [the fact] that the Prelates your predecessors made use of the said jurisdiction against Don Pedro de Peralta and against the Admiral Bernardino de Zeballos who have been my governors in those provinces with greater scandal and less prudence than would have been just, exceeding and going contrary to what has been determined by the holy canons, bulls of His Holiness, and my cédulas, in excommunicating them and, in order for them to have absolution, imposing upon them public penances without due authority and humiliating to my said governors and to the rest of the Royal Jurisdiction which was then in force.

And in order that from now henceforth procedure may be in accord with what is right and that such scandals may be avoided, [the matter] having been considered by my said Viceroy in the said Council and in others which he held with my said *oidores* and *fiscal*, it was agreed that he must give this my letter in the said Cause, and I approved it; wherefor I ask you and I enjoin you that, you the said Father Custodio

4. Translating freely, "in all sorts of causes."

holding ordinary jurisdiction in those said provinces, you employ it and exercise it in conformity with what is right in the matters spiritual and ecclesiastical which may pertain to your Jurisdiction, and in these [matters] you alone shall proceed without the other Religicus of your Custodia intruding themselves further than in th^e administering of the Holy Sacraments, without their officiously making *autos* over what may be brought up by appeal before you, nor any other [*autos*], and in those [*autos*] which you may draw up, whether it be by petition of some party or officially [on your part], you shall always proceed in writing before an apostolic⁵ notary if there be one, and if there be none you shall name one in form, and if the layman or laymen against whom you shall make the process shall feel themselves aggrieved by the definitive sentences or interlocutory *autos* lest they might have final force or be an encumbrance which it might not be possible to correct and should take an appeal to the Metropolitan judge, the Archbishop of Mexico, and should protest against the Royal aid in the enforcement of them, you shall not proceed to execute your decisions until after my said Audiencia which resides in the City of Mexico may decide whether you shall give [them] ~~effort~~ or no, for which purpose you shall send to my Audiencia the original process which you may have fulminated with all the *autos* without the lack of anything, in the meanwhile absolving those whom, by the said process, you may have excommunicated and raising and removing whatever interdicts and censures you may have imposed; and in the executive and ecclesiastical causes, cognizance of which may pertain to your ecclesiastical jurisdiction, you shall proceed according to law, taking care as to the form and extent of the judgment and what is provided by my Royal laws, noting that in cases of sacrilege, concubinage and in the others which may

5. The abbreviation for this word in the Eulate document was misread "public." See *N. M. Hist. Rev.* III, 372, 361.

be of mixed jurisdiction⁶ the judge who should act is to be informed of them; and against lay persons you shall not proceed in any manner except it be in ecclesiastical matters according to law [and] in these you shall not proceed to imprisonment without first requesting the aid of the secular arm from my said Governor or from his Lieutenant, who shall give and afford you such aid, [you] showing him by what you have written that you will proceed legally.

And since from the documents seen in the said Council it appears that you the said Padre Custodio and your other Religious have attempted to dissuade the Indians of these⁷ provinces and to give them to understand that your authority was the superior and that from it and your hand depend all their interests with the [authority?] of their governor, civil and political, and you and your said Religious complain that the said Governor is interfering in the [matters] of your Charge even to the naming of the *fiscales* of the Church and other more trifling matters, my said Viceroy may send an enactment to my said Governor⁸ so that he [the governor] may give orders how each of the pueblos of those provinces, on the first day of January of every year, may carry out their elections of governor, alcaldes, *topiles* and *fiscales* and other public officers⁹ without my said Governor or any other Judiciary, you or any other Religious of your Custodia being found present in the said elections so that in them the said Indians may have the freedom which is fitting, and that the [elections] which may be effected in this manner may be carried [reported] to my said Governor in order that [the elections] having been effected and by the majority [of the

6. That is, in cases where both the civil and the ecclesiastical authorities might proceed legally.

7. See note 1.

8. This permission was embodied in the Eulate document. *N. M. Hist. Rev.*, III, 363.

9. The autonomy of the Pueblo Indians in local government has continued to the present day, as here stipulated by the Spanish sovereign.

Indians] with the freedom indicated, he [the governor] may confirm [the fact] that everything is in accord with what is customary in our said Spain.¹⁰

You shall have it so understood in order that, in what touches you, you may give order that [my instructions] be observed, executed and fulfilled.

And whereas my said Viceroy, in the said Council and in others, has decided that my said Governor may not collect, nor he [you, the Custodio?], the Tributes from the Pueblos which may be in process of conversion without his order, and that when there may be reasons for doing so he report the motives which he may have for imposing such Tributes, and that you the said Custodio and the minister of instruction in any such pueblo do the same, in order that, being fully advised, my said Viceroy may provide what may be convenient, and that until after taking these steps the said Tributes be not collected from the Pueblos of Zuñi and Moqui of those said provinces;—having it so understood in so far as it touches you, I charge you that from the pueblos which may be already agreed upon for the collecting of the said Tributes, you shall not impede nor allow your said Religious to impede the said Governor nor the *encomenderos*¹¹ of the said pueblos in collecting the said Tributes.

And because likewise my said Viceroy has ordered and commanded my said Governor that he have good relations with you, the said Father Custodio, and with the other Religious, without meddling in matters and affairs which pertain to your persons and to the ministration of the doctrine which is in your charge nor in anything else which pertains to you, and in order that matters which might import to the

10. There is a curious difference in the texts. The viceroy to Eulate wrote: "in accord with what is customary in this *New Spain*;" the king to Perea wrote: "in accord with what is customary in our said *Spain*."

11. See *N. M. Hist. Rev.*, III, 365, note. This is another side to the picture, which has no counterpart at the present day. Not only was tribute in the form of *mantas*, corn and various forms of service required of the Pueblo Indians by the Spanish governors beginning with Juan de Oñate, but also grants to collect such tribute had been given to many of the early settlers.

common good of the baptized Indians and to the universal conservation of the Republic, of Spaniards as well as of Indians, [may be properly arranged], let him [the governor?]¹² consult upon them [such matters] with you and with the Governor of the Villa of Santa Fee and with two others *definidores* if there should be such, and if not, [then] with the two senior Religious of that Custodia, and with the *cabildo* of the said Villa and with the captains and the sergeant whom he may select, so that, having listened to all, he alone, my said Governor, may decide what may seem to him to be most convenient for my service; and that in everything he proceed with the tactful prudence and good consideration which is expected of his person, and that if someone of those who may be found in the said Council should be of contrary opinion and, because of my said Governor not deciding in conformity with his views, he should request a testimony, let it be given him, it being understood that the councils are to be held in the form stated and with the persons indicated, if my said Governor should be found in the said Villa of Santa Fee, capital of those provinces, but if he should be found in some other Pueblo or on the road, let him comply by holding the Council with the captains whom he may have with him and with such other persons as may seem to him best, and with the religious who may be ministering to them at that time. Thus you will have it understood so that as to other matters you shall not intermeddle nor allow your said Religious to intrude themselves upon my said Governor and upon the other judiciaries nor impede them in the use and exercise of their Jurisdiction and government; on the contrary I charge you that in everything you have with them good and courteous relations, giving orders that when any one of your said Religious may preach in the presence of my said Governor, he do him courtesy with the cap and with the

12. In employing the phraseology of the action of July 29, 1620, there seems to be here a double reference to the governor. See the similar passage in *N. M. Hist. Rev.*, III, 363-4.

head, without saying anything to him, and if you the said Custodio should enter at the same time, he may do you similar courtesy afterwards;¹³ and you shall so provide that a religious go on Sundays and feast days to [each] Pueblo where there may be a church to say mass for them, to instruct them and to administer the sacraments, in such way that they do not receive inconvenience through their being taken for this purpose from one pueblo to another. .

And since it has been understood that, in some cases in which you have proceeded, you and your Religious, against the Indians for errors and light faults, you have had their hair sheared; a punishment from which they suffer very great affliction because it is for them the greatest affront that there is, from which has resulted the fact that some have removed to the Peñol of Acoma, returning to idolatry, and other grave inconveniences, you shall give order that the Religious of your Custodia do not inflict such punishments but rather that those recently converted be shown in everything good treatment and consideration.

And because also your said Religious sometimes send to the mountains a great number of Indians for things of little necessity and which might be excused, you shall not allow their time and labor to be utilized except for things necessary for the church and the convenience of the living-quarters, and in those things with the greatest moderation that may be possible to the end that they may not suffer hardships.

And because the observance and fulfilment of all in this my letter contained tends to the service of God our Lord, and to mine, and to the peace and quiet and concord of those provinces, I charge you that ye observe, guard, comply and execute, and that ye make to be guarded, complied and executed wholly in all that touches, or can touch, you the said Father Custodio and each one of your said Religious who

13. In other words, as between governor and custodian, priority of recognition is to be accorded the former.

are now, or in the future may be, in that your said Custodia, so disposing in everything in a manner that what is in it contained and each matter and part of it may have entire and complete effect, contrary to the tenor and form of which [letter] ye shall not go nor pass, nor shall ye consent nor give place that anyone of you, directly or indirectly, go or pass in any manner, but rather that it be carried into due execution to the end that in everything there may be peace and concord which has always been desired in those provinces, so that thus ye shall serve me, and in case of the contrary I shall consider myself very ill-served and shall provide for it suitable remedy in a manner that my Royal Will may have due effect; and I order that my said letter be placed in the books of the Government of those said Provinces and in those of the Custodia which are in your charge, the original, with whatever notification thereof may be given you, remaining in the possession of my said Governor in order that to those of the one [side] and to those of the other it may be entirely and thoroughly manifest what you [both] are required to do.

Given in the City of Mexico, the ninth of January, one thousand six hundred and twenty one. The Marques de Guadalcazar.—I, Francisco Nuñez Basurto, lieutenant of the *escribano mayor* of the government of this New Spain for the King our Lord, caused it to be written by his command, his Viceroy in his name.¹⁴ Recorded.

Cosme de Medrano—Chancellor Don Sebastian Carrillo—*escribano's* fees, gratis—recording fee, twenty-five—secretary, fifty-six—affirmed, inspector's office (?)—The Father Custodio of the Religious of the Order of San Francisco who reside in the provinces of New Mexico is asked and charged by what is here contained and [which was] agreed upon in the Council which his Excellency held with the three senior *oidores* and the señor *fiscal* of His Majesty of this Royal Audiencia.