

1-1-1946

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### Recommended Citation

Poldervaart, Arie. "The New Mexico Law Library—A History." *New Mexico Historical Review* 21, 1 (1946).  
<https://digitalrepository.unm.edu/nmhr/vol21/iss1/4>

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## THE NEW MEXICO LAW LIBRARY—A HISTORY

By ARIE POLDERVAART, *Librarian*

“Did our caravan cross the buffalo wallow?”

“All but that wagon loaded with them law books, Bill. Those tomes weighed ’er down till she sank in below the axles. Aubry’s hooked on some extra teams and they are trying to pull ’er out right now. I reckon they won’t have much use for them books out there in ‘Mexico’ where the alcaldes use a magic stick to keep the law and the frontiersman administers what real law there is with his six-shooter and bowie knife.”

Thus a frontier scout traveling ahead of the caravan may well have spoken to another as they kept a wary eye for hostile Indians along the way. Somehow those law books did reach the capital of a vast new empire, at the end of the Santa Fe Trail, early in the summer of 1851—books for which Congress appropriated, and the president of the United States, on Sept. 30, 1850, approved expenditure of \$5,000. Load upon load of these books was trundled across the plains and prairies until they reached the seat of government in Santa Fe. Here the newly established Territorial legislature hurriedly appropriated \$1,000 in July, 1851, to make repairs in the Old Palace to install the necessary shelving and to fix up an office for the Secretary of the Territory who was placed in charge of the library.

The books were housed, according to R. E. Twitchell, in a room immediately west of the Hall of Representatives and could be reached through a small vestibule from the portal. The room was about fifteen feet square and, as additional books arrived, the shelving was extended upward until the room soon was filled with reports and statutes from the dirt floor to the vigas, totalling over 2,000 volumes before the end of the first summer. Included in the collection, besides reports and codes were the standard texts on the common and the civil law as well as miscellaneous government documents. Many of these volumes disappeared throughout the years or finally burned in the capitol fire of 1892. A few, however, are still in the library today.

A resolution in the legislative assembly on Jan. 2, 1852, indicated that provision for the administrative expenses of the library had been overlooked. The governor of the Territory had been obliged to advance the transportation charges on shipments of books, cost of stationery and other incidentals. The 1852 resolution provided the secretary with a little, a very little, expense money, directed him to pay off such bills as he could, and particularly to refund to his excellency, the governor, whatever he was out of pocket.

It soon became apparent that the Secretary of the Territory could not adequately supervise the library as one after another of the most used volumes disappeared. Consequently on Jan. 14, 1853, a bill providing for the preservation and regulation of the Territorial Library was enacted. It set up a board of directors consisting of the governor, the judges of the Supreme Court, the Secretary of the Territory and the presiding officers of the legislature. Under authority of the act John Ward was appointed as first Territorial librarian. His salary was provided for at \$100 per annum.

Aside from his somewhat less than lucrative remuneration, Ward was beset by many rigid rules and regulations named in the act or promulgated by the directors. His library room was dark and in the winter uncomfortably cold. Ward finally bought a little stove and rustled some wood at his own expense to keep a little fire going. On February 3, 1855, the legislature recognized his plight and, a bit reluctantly it seems, authorized the auditor and the treasurer to reimburse him not to exceed \$25.00 for the money he spent in keeping the place warm.

Ward soon after left the library for a better paying job and Juan Climaco Tapia thereafter served as librarian for about two years. When he quit no one wanted the job and the post remained vacant until 1866. In 1863 the legislative assembly became concerned over the matter. Valuable archives as well as the books remained unattended, were borrowed and were never seen again. A new bill, was prepared providing for a more practical board of directors by eliminating the associate justices of the Supreme Court,

none of whom resided in Santa Fe, retaining the governor, the chief justice and the presiding officers of the legislature, and adding the Santa Fe county probate judge who in early Territorial days possessed far greater jurisdiction than he has now. The librarian's salary was increased to \$300. A hundred dollars were appropriated for shelving and general renovation of the library and a further sum of \$30 a year was set up for contingent expense.

To spur the librarian into proper performance of his duties the act of 1863 called on him to prepare a catalog and decreed that any member of the board might drop in on him at pleasure to look into the condition of the library and the discharge by the librarian of his official duties. Should upon such a visit anything be found amiss the snooping boardsman was directed to call a majority of the board together forthwith to take suitable steps to put the librarian in his place and the library into proper shape.

The librarianship, however, continued begging for three more years. Then, as Gov. Robert B. Mitchell was inaugurated in July 1866, the new executive named one of his young political followers who had accompanied him to New Mexico from the East as Territorial librarian. The young man, unfortunately, was absent from the library more than he was present, even during the legislative session of 1866-67. As a result W. F. Arny, secretary of the Territory, more or less looked after the library until the governor was temporarily absent from the Territory. Then Arny, as acting governor, appointed a young New Mexican by the name of Trinidad Alarid, member of a respected native family, to the post. Alarid later served the Territory as auditor for nearly twenty years. His appointment as librarian was confirmed by unanimous vote of the Legislative Council and he proved a capable and faithful public servant. The legislature gave him a special appropriation of \$40 to rehabilitate the library because, as the appropriation act explained, the library books were "lying upon the floor."

Alarid never succeeded in gaining Gov. Mitchell's goodwill. In May, 1867, while Alarid was away from Santa Fe:

on a short business trip, the governor seized the opportunity to make an examination of the library as by law provided. Finding the door locked the governor sent for a carpenter to break it open. Word of the governor's move traveled fast, probably via messenger dispatched by Secretary Army who learned of the Governor's intentions; and ere the carpenter reached the scene the librarian's brother delivered the key to his royal highness. The library naturally had not recovered from the fearful earmarks of years of neglect, despite Alarid's earnest efforts and the governor eased the librarian from office "for legal cause."

Again the library was the loser and there was no taker for the position of librarian until 1869 when Ira M. Bond, later a newspaper editor in Albuquerque, took over. During May, 1869, William A. Pile was inaugurated governor of New Mexico. The new chief executive proceeded promptly to renovate and clean up the rooms in the Old Palace. Next to the secretary's office and to the library there was a fair-sized room with dirt floor and piled high with old papers, books and debris. On discovering this accumulation Pile called on the librarian, Bond, to dispose of it so the room could be cleaned and occupied. Bond, somewhat less impetuous than his superior, hastily looked the papers over and found a considerable amount of manuscript material dating back to the Spanish and Mexican regimes. He was informed by several old timers that these papers were junk, had been examined by two former secretaries of the Territory and had been by them discarded. The worst of this paper Bond pitched out the window into the street in front of the Palace where he knew the native people would pick it up and use it for starting fires. Eluterio Barela, a woodhauler from Cienegita, came by with his carreta, saw the pile of paper and obtained permission from Gov. Pile to haul it off. Some of the better paper in the collection Bond sold to Santa Fe businessmen for packing and wrapping merchandise.

Scarcely had the "archives" been disposed of, however, when a crusade was started by the *Santa Fe Weekly Post* charging that Gov. Pile had ordered the destruction of the old Spanish and Mexican archives of New Mexico

and hinted, furthermore, that the librarian had pocketed the proceeds of the sale.

Bond, as was to be expected, denied the charges. "Since," he declared in a rebuttal in the *Santa Fe New Mexican*, "this has given an opportunity to some persons who 'see the mote in other's eyes, and not the beam in their own', I have got the papers back, and propose to keep them until next winter and ask the legislature to appoint a committee to examine them, and preserve any of them that they think proper." Actually, only part of the papers were retrieved. Some no doubt had already been used for wrapping and the papers which Barela salvaged, or those of them which were left, were not returned until 1886 when the woodhauler turned them over to Samuel Ellison who was then librarian.

As to the money which had been realized from the sale, Bond asserted, the library had nothing but a dirt floor when he took over and he had used the money, together with the \$30 contingent fund for the year, to put in a good floor as well as substantial shelving, window frames, chairs and about 300 new books.

Official disinterest in the library continued and Bond soon quit in disgust. He was succeeded in 1871 by James C. McKenzie. The situation was deplorable and McKenzie appealed to the press for help. He lamented that valuable sets of reports were broken. He pointed out that many states and Territories were willing to supply books without cost but that the legislature had been too niggardly to provide funds to pay the express. Supporting the librarian's plea, the editor of the *Daily New Mexican* called attention to his starvation salary of \$300 a year payable in territorial warrants which were worthless unless there was money in the till to meet them. It was insufficient to pay the expenses of the institution, he declared, let alone the personal services of the custodian.

During the closing hours of the legislative session on Jan. 9, 1874, the legislature engaged in an interesting bit of skullduggery. In an act designated as amending the school law, inserted as Section 5 thereof, appeared a provision making the superintendent of public schools of the

Territory ex-officio Territorial librarian. Its actual purpose was to provide pay for the superintendency, as for the services of these *two* capacities the incumbent was to receive the emoluments of librarian "and no more" as entire compensation.

Whatever effect this law may have had upon the advancement of public education in New Mexico, the territorial library probably was no worse off. On April 2, 1875, it was reported to contain around 4,500 volumes. McKenzie continued as librarian until 1878 when he was succeeded by Aniceto Abeyta who in turn was followed two years later by one of the ablest of the territorial librarians, Samuel Ellison.

Ellison was born in Kentucky and after spending some years in Texas and Mexico came to New Mexico in 1848. Since 1849, when he was employed as an interpreter and secretary to Colonel John Monroe, civil and military commandante of New Mexico, Ellison gained distinction as a linguist. He served as clerk of the New Mexico Supreme Court from 1859 until 1866, and was official translator for the legislature during several sessions, serving as a member of the legislature himself on three occasions, once as speaker of the House, in 1865-66.

Upon his appointment as librarian in 1881 Ellison devoted most of his time to examining the old Mexican and Spanish archives pursuant to an 1882 act of the legislature which made it his duty to arrange these manuscripts "either chronologically or by subjects," and then to have them 'bound in suitable volumes for preservation'. He was given a fund of \$400 for the purpose. Ellison reported to Gov. Lionel A. Sheldon two years later that "with the meager sum . . . it could not reasonably be expected that much could be accomplished." He also explained that the material had been arranged under broad subject classifications such as church, Indians, military, etc., but that because of the nature of the documents the arrangement was necessarily imperfect, though he felt it was in any event better than to arrange them chronologically. As to binding he said that (aside from the lack of sufficient funds) many of the docu-

ments were in such poor condition and brittle shape that binding them was out of the question.

During Ellison's administration many improvements were made in the library. Ellison believed in exchange and in 1882 he succeeded in putting through the legislature a bill authorizing the exchange of the new Supreme Court reports with other states and territories. The lawmakers also passed a new measure (which broke the link with the educational department) for the appointment of the librarian by the governor with the consent of the Legislative Council. The governor, the secretary of the Territory and the librarian were empowered to make the necessary rules and regulations for administering the library. The librarian by the same act was directed before the next session of the legislature to "cause each book in the library to be labeled with a printed label, to be pasted on the outside of the cover, with the words 'Territorial Library, New Mexico', with the number of the volume in the catalogue of said library enscribed on said label, and also to stamp the same words at the bottom of the twenty-fifth page of each volume." Some books bearing Ellison's tell-tale markings pursuant to this act are still in the library, but none of the numbers goes above 400. Though Lafayette Emmett in 1900, noting these numbered volumes, expressed it as his belief that this indicated there were no more than 400 books in the library at the time, this conclusion appears refuted by one of Ellison's reports to Gov. Sheldon which gave the number of volumes in the library on March 1, 1882, as 1,668. The more likely answer, therefore, is that Ellison never completed the chore, though it is conceivable that through some coincidence all volumes over 400 were among those destroyed in the capital fire of 1892.

As an indication of Ellison's qualifications as librarian the 1882 legislature doubled his salary, making it \$600 a year. In 1884 Ellison reported that though there was not a single article of furniture in the library when he came, few shelves and no catalog, by the time the report was made shelving had been installed, repairs completed and 142 law books added.

In 1886 Ellison made a fervent plea for additional funds for the library and with a new capitol about completed providing more adequate quarters for the library, the legislators lent a sympathetic ear and for the first time in its history the library received an appropriation from the Territory for the express purpose of building up its book collection. The appropriation was generous—\$5,000. Ellison and Chief Justice Elisha V. Long are said to have had a delightful time filling in missing volumes and buying new sets of reports and statutes. The legislature also changed jurisdiction over the library and vested its control in the judges of the Supreme Court.

Actual removal to the Capitol did not take place until August, 1888, due to the difficulty in obtaining necessary shelving. Even then the material was not available but because impatient U. S. officials demanded the space occupied by the library in the Old Palace the books were brought over and dumped in heaps on the floor in capitol hallways and vacant rooms. Here the repositories of the law reposed for three months while employees and visitors navigated around, through and between them, until the shelving was finally installed. Placing and arranging the books was completed barely in time for opening of the legislature on Dec. 31st.

The arrangement making the Supreme Court judges the governing board of the library under the 1886-87 statute still proved unsatisfactory because all except the judge who presided over the first judicial district resided away from the capital. To aggravate the situation, the chief justice now resided in Las Vegas instead of Santa Fe. The 1888-89 legislature, therefore, again reshuffled the board and designated the presiding judge of the First Judicial District who resided in Santa Fe instead of the chief justice as chairman. This judge himself was authorized to appoint two additional residents of the county to serve with him as a board.

A new library measure in 1891 provided that the librarian thenceforth would be required to speak both English and Spanish fluently. It raised his salary from \$600 to \$900 and stipulated that if the encumbent wanted to take

a vacation or otherwise found it necessary to be away from the library it would be up to him to find a competent person to look after the library at his own expense.

Jose Segura succeeded Ellison as librarian in 1889. Facundo Pino served from 1891 to 1895, being replaced by Segura on Jan. 17 of that year. Segura served the second time until 1899.

On the night of May 12, 1892, the new capitol building burned to the ground and most of the library's collection was lost in the fire. It was fortunate now that for lack of shelving the old archives had not been brought over from their dirt floored, dusty store rooms in back of the Old Palace.

A new collection of books was gradually assembled and the volumes were placed in the only quarters available consisting of four small basement rooms, two of them without light where the less used documents were buried and the other two without sufficient room to shelve books in daily requisition. Two months before his second retirement Segura reported the library again had around 5,000 volumes and that the books were insured for \$15,000. The Spanish archives, which he said dated back as far as 1621, were still being neglected and were fast crumbling away.

Colorful Judge Lafayette Emmett, the father-in-law of Gov. Miguel A. Otero, who had served as chief justice of the Supreme Court of Minnesota for nine years, was designated territorial librarian by the governor as Segura's successor. Judge Emmett's appointment was popular with members of the bar. His diplomacy in explaining the sad condition in which he found the library reflects his judicial background:

"When in March, 1899, the library came under my control, I found it in many respects in a very unsatisfactory condition, not because of any fault of those previously having it in charge, but mainly by reason of the cramped and unsuitable quarters to which for years it had been confined."

A year later the library moved into more spacious quarters in the newly completed capitol. Classifying and

arranging the books, including tons of government documents which he reported were in almost "inextricable confusion" posed as a major problem for the judge. There was again no catalog when he took over and he greatly bemoaned the fact that he could make no comparison with library holdings in the past. After a complete physical inventory in February, 1901, he reported the books shelved in the new capitol at 5,550. In addition he said there were "many thousands in number and many tons in weight of valuable public documents for which no room can be found in the capitol except by stowing them in the basement." Judge Emmett took steps toward better preservation of the archives by depositing them in the more or less fire proof vaults of the Secretary of the Territory.

Federal authorities about this time became increasingly nervous about the treatment the archives had been getting. Governor Otero advised the legislature on Jan. 19, 1903, that the Librarian of Congress through the Secretary of the Interior had suggested they be transferred to the national library where they would be "absolutely safe and properly classified and indexed without expense to the Territory." The offer was promptly accepted with an understanding that after the work of sorting, translating, summarizing and indexing had been completed several copies of the printed reproduction of the archives were to be sent the Territorial library.

Throaty rumblings, however, quickly developed as historians and others who understood the unique value of these early documents of the Southwest realized that this vast collection of source material had apparently left New Mexico for good. Probably in response to these outcries the Secretary of the Territory said in his annual report in Dec., 1904:

"As the documents were practically unavailable in the form in which they were stored here, there can be no doubt but that the people of the Territory are to be congratulated upon the fact that the archives have been transferred to the hands of persons who have both knowledge and means to investigate their contents and publish the results

of such investigation in comprehensive and convenient form."

But clamor for return of the documents grew louder. Finally, largely due to the untiring efforts of Dr. Edgar L. Hewett, they were returned and placed in the custody of the Museum of New Mexico, where they are now housed, properly classified and protected in fireproof vaults.

After passage of the library act of 1889, which gave to the board of trustees "sole management, control and supervision of the library" together with complete management of its financial affairs, the office of librarian had become little more than that of a custodian together with such responsibilities as might be said to go with it for the arrangement and classification of the material. To Judge Emmett the limitations apparently were a bit irksome at times as he referred to them frequently in making his reports. Nevertheless, not many years later this very circumstance proved a salvation to a succeeding state librarian at a time when the office had unfortunately become a political castabout.

Judge Emmett was followed in 1905 by the first of two woman librarians. This was Mrs. Anita J. Chapman, related to a well known New Mexico family. With changes of administration in 1909 Mrs. Chapman was succeeded by Mrs. Lola C. Armijo, mother of Rough Rider George Washington Armijo, who held the office until 1917. Soon after New Mexico attained statehood in 1912 Gov. William C. MacDonald sought to replace Mrs. Armijo and nominated Mrs. Mary Victory for a two year term. The newly organized state senate under leadership of Attorney H. B. Holt as chairman of the Committee on Executive Communications, refused to confirm the appointment, and Mrs. Armijo held over.

A short while later legal action was instituted to oust Mrs. Armijo by a proceeding in *quo warranto* upon the sole basis of —sex. Could a woman hold a public office in New Mexico, there being no statute authorizing her to do so? The case reached the Supreme Court which in a two to one

decision resolved the question in Mrs. Armijo's favor. (See *State v. Armijo*, 18 N. M. 646, 140 Pac. 1123) After drawing some fine distinctions the Supreme Court concluded that the office was a purely ministerial one since, from a review of the then applicable statutes for regulation of the library, the librarian was "not required to exercise his or her judgment in any respect," and for that reason, wrote Chief Justice Roberts, the duties of a state librarian "are not incompatible with the ability of a woman to perform."

Since the library, as Judge Emmett observed as early as 1900, was to be "classed as a law library pure and simple," save for the government documents, the various political maneuverings proved extremely distasteful to many members of the legal profession and on March 15, 1912, H. J. Collins, an Albuquerque lawyer, proposed to the New Mexico Bar Association that it sponsor legislation to return jurisdiction over the library to the Supreme Court. The litigation which followed soon thereafter further emphasized the wisdom of such a move and by an act of the legislature in 1915, which became law by limitation, the members of the Supreme Court were constituted a board of trustees to supervise the library and to select the librarian. This act, with a few minor amendments, is the law under which the library is administered today.

Following Mrs. Armijo's retirement in 1917, the Supreme Court reappointed Mrs. Chapman who continued in office until the summer of 1937.

Since 1900 the library has grown steadily. The 5,550 volumes which Judge Emmett reported in 1901 had increased to an estimated 10,750 volumes by July 1, 1903. On Jan. 7, 1907, the total, including some of the government documents, was estimated by Mrs. Chapman at 13,722. On Jan. 1, 1937, Mrs. Chapman reported an estimated total of 26,500 volumes. A physical inventory taken a year later gave the figure on Jan. 3, 1938, as 32,971, excluding pamphlet material. Total bound volumes on July 1, 1945, numbered 47,023.

By Chap. 154, Laws 1931 (Secs. 3-713—3-716, 1941 Compilation) the library was designated by the legislature

as legal depository for copies of official departmental publications. All state departments and agencies since that date have been required to file three copies of all their official reports and publications with the library for permanent preservation, one copy being turned over to the Museum of New Mexico. Since this law was enacted, and particularly within the past five or six years thousands of valuable Territorial and State documents have been accumulated and filed in a special New Mexicana section.

The matter of adequate space for housing the library collection continued until 1938 to be a serious problem. In July, 1903, Judge Emmett reported that there was room for approximately 8,000 volumes in the main unit on the second floor of the Capitol, but that by extending the shelving upward and further crowding, the capacity could be increased to approximately 12,000. In the basement, however, where the government documents were kept there was room for no more than two years' growth. By 1911 when an annex had been completed to the old part of the Capitol its entire second floor, now occupied by the Bureau of Revenue, was turned over to the library. In these quarters the library remained, becoming increasingly crowded, until completion of the new Supreme Court building.

An able library committee and a capable architect worked together to design the present quarters comprising the central unit of the new building, making the library one of the most modern in design and arrangement in America. Constructed on three main floors with nineteen reading and study rooms on the first and second floors, the library has been made more conducive to study and research than previously with the old type central reading room plan. Current textbooks, the National Reporter system, encyclopedias, current statutes and legal periodicals are on the second floor, less used state reports, early session laws and attorney general reports are on the first. Foreign reports and statutes, international law and Federal administrative reports are shelved on the third floor. Least used materials, such as superseded editions of textbooks and many state and Federal documents are shelved in the extensive library basement rooms.