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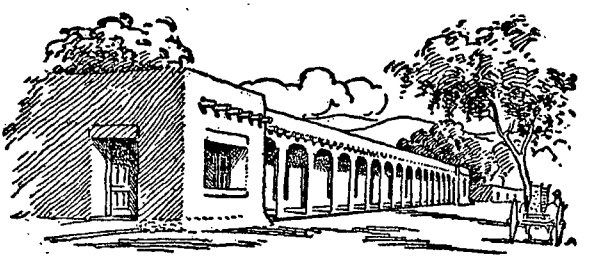

PALACE OF THE GOVERNORS, SANTA FE

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NEW MEXICO HISTORICAL REVIEW

VOL. XXIII JANUARY, 1948 No. 1

THE GALLEGOS RELACION RECONSIDERED

By FRAY ANGELICO CHAVEZ *

Introduction

FOR almost three centuries and a half, prior to the discovery and interpretation of Hernán Gallegos' *Relacion y concudio* of the 1581-1582 so-called Expedition, ancient as well as modern historians laid the blame for several sad occurrences on the soldiers who had accompanied the Franciscan friars Agustín Rodríguez, Francisco López, and Juan de Santa María. Depending on meager material extant in their day, and on the works of Mendieta, Salmerón, and others, men like Bancroft and Twitchell placed the responsibility for the death of the three friars on the "desertion" by Chamuscado and his eight soldiers.

A contrary view, which seems to have been unreservedly accepted in recent years, arose from the prominence given to Gallegos' *Relacion,* together with the *Cronica* of Obregon, and to two affidavits which Gallegos drew up, one after the departure of Fr. Juan de Santa María, the second when the other two friars later decided to stay in New Mexico.[1]

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* New Mexican poet and acting church archivist at the Cathedral, Santa Fe, New Mexico.

1. Gallegos, Hernán, *Relacion y concudio de el viage y subseso que Francisco Chamuscado con ocho soldados sus compañeros hizo en el descubrimiento del Nuevo Mexico en Junio de 1581.* (Archivo General de Indias, Patronato, 1-1-3/22). An English translation in NEW MEXICO HISTORICAL REVIEW, II, 249-268; 334-362.

Obregón, Baltasar de, *Cronica comentario o relaciones de los descubrimientos antiguos y modernos de N. E. y del Nuevo Mexico, 1584.* (A. G. I., *ibid.*). Hammond and Rey, *Obregon's History* (Los Angeles, 1928); Mariano Cuevas, S. J., *Historia de Obregon* (Mexico, 1924).

As these are contemporary documents of an eye-witness, except Obregon's history, they hold priority over all other accounts, historically. The affidavits, it is claimed,

> undoubtedly owe their existence to something more than the Spaniards' slavishness to red-tape. In them one detects a fear of the power of the Church, for the explorers knew that they would be criticised because of their leaving the friars alone among hostile natives. They sought, therefore, to protect themselves against possible accusations. But because of the great influence of the ecclesiastical historians, Mendieta and Torquemada, it appears that the soldiers were unsuccessful in clearing their names.[2]

In short, the verdict is that Fray Juan de Santa María left the Tanos pueblos without permission of his religious Superior in his bull-headed attempt to find a more direct route to New Spain and there report on the discoveries, while Fray Francisco López and Fray Agustín Rodríguez remained in Puaráy from a brave but foolhardy notion of converting the Indians all alone and possibly obtaining the crown of martyrdom.

I myself accepted this modern view, even after reading Father Engelhardt's objections to Dr. Mecham's conclusions and the latter's rebuttal.[3] What led me to question this modern verdict, or rather its ancient sources, was not my affinity to the three frailes as a Franciscan, but one of those

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The two affidavits are given by J. Lloyd Mecham, "Supplementary Documents Relating to The Chamuscado-Rodriguez Expedition," *Southwestern Historical Quarterly*, XXIX, 224-231.

2. It is unfortunate that Dr. Mecham, *op. cit.*, 225, makes this supposition in his otherwise admirable contributions in this matter. True, the explorers knew they would be criticised, and by others besides the Church, simply because they were far from innocent, as I will try to show from the *Relacion* itself and the affidavits.

Dr. Mecham's other valuable writings on the affair are: "The Second Spanish Expedition to New Mexico," *NMHR*, I, 265-291, and "The Martyrdom of Father Juan de Santa Maria," *Catholic Historical Review*, VI, 308-321. Also, his M. A. Thesis (University of California, 1917), *The Rodriguez Expedition into New Mexico*, which I have not seen.

Recently Fr. Marion Habig, O. F. M., kindly sent me photostats from Washington of a study by Fr. Otto Maas, in which the author ably reviews the controversy between Fr. Engelhardt and Dr. Mecham, the opinions of Hammond and others, concluding that it would be unjust to accuse the three friars of being light-headed and ill-advised in their conduct. But he contributes nothing new or original to the problem. *"Die Ersten Versuche einer Missionierung und Kolonisierung Neumexikos," Ibero-Amerikanisches Archiv (Januar 1933)*, 362-363.

3. Fr. Zephyrin Engelhardt, "El Yllustre Señor Chamuscado," *SHQ*, XXIX, 296-309. Mecham's reply, *ibid.*, 299-300.

sudden hunches, unscientific perhaps in historical research, yet most helpful and, perhaps, psychologically lawful. Repeated and careful study of Gallegos in an attempt to synchronize his itinerary and the time element had stirred up something in me which burst out one night in this thought: "Gallegos is lying for his own ends." Then it was that I proceeded methodically to collate and compare all the available material on the Rodríguez Exploratory Mission, as I now choose to call it, and my conclusion is that he did lie and that contemporary documents like his, which have much greater value than others written later, can, by being false, lead historical research a-stray, especially when "first documents" are worshipped as such. In drawing up this resurvey it is not my intention to defy or berate professional historians, but to present a view which might throw more light on the question.

The Nature of the Mission and Its Leader

The supposition that Gallegos and the soldiers distorted the Mission's reason for being, flows from the tenor of both the *Relacion* and the affidavits, in which the author protests too much the leadership of Chamuscado, or better still, that of the author himself under the name and figurehead of the ter XI: "The *leader* and the *discoverers.*" Chapter XII: Six times Chamuscado is referred to as "our leader" in exacting food from the Indians for the expedition. (As used in Chapter XIII, the word can be taken in the sense that Chamuscado was captain of the soldiers). Chapter XIV: "Said *leader* and the other soldiers *decided* to return" and "took leave of the friars who had decided to remain." "The *chief* ordered that testimony of all this should be drawn up." "Our leader *and magistrate* of the said expedition." (The italics here and in subsequent XVI-Century quotations are mine).

The first affidavit on Fr. Santa María's departure (curiously enough, not even mentioned in the *Relacion*), dated Sept. 10, 1581, immediately starts, written by Gallegos: "Yo, el Yllustre Sr. Francisco Sanchez Chamuscado, con commision del visorrey. . . ," and then proceeds to declare that the

soldiers were against the friar's departing because Chamailing old Captain. Hernán Gallegos is a common soldier of twenty-five, appointed (as he says in the second affidavit) *escribano* or clerk of the expedition by Chamuscado himself, but his "I-I-I" pervades through every sentence from start to finish and culminates in his later conduct in Mexico City and in Spain in his futile attempts to be named as the leader of a great new Entrada into New Mexico.

In the title of the *Relacion,* Chamuscado "accomplishes" the expedition and in the introduction he is the one to whom the expedition is offered (Gallegos does not say by whom); but the Franciscans "in good spirit offered themselves *for* the expedition." Chapter I: "Chamuscado, *leader* of the expedition"; *"they took along"* Friars López, Rodríguez, and Santa María. Chapter IV: the Indians kissed the hands "of the missionaries *whom we brought with us.*" Chapter V: "Those *whom we brought with us,* that is, the friars." Chapuscado himself planned to make known the discovery. "The *conquerors, colonizers,* and discoverers were disturbed and angered" at his leaving. Chamuscado "assembled all of the discoverers and asked them if they did not regard him as their *head and judge,* and if they were aware that he *had been commissioned by the viceroy to discover new lands,*" and the soldiers concurred. In the second affidavit, dated Feb. 13, 1582, Gallegos refers to Chamuscado as *"judge, head, and discoverer* for his Majesty of the said Province and Plains of the Cows." He again refers to the friars as those *"whom he had brought in his company."*

Now, the Viceroy himself expressly states in his Letter to the King [4] that Fray Agustín Rodríguez had come to him with the proposition of exploring the northern country for

4. This letter, dated Nov. 1, 1582, at Mexico City, is given in Bolton's *Spanish Exploration in the Southwest* (New York, 1916), 158-160, as also the following soldiers' testimonies before the Viceroy which will be cited: Pedro de Bustamante, May 16, 1582, 142-150; Hernan Barrado, Oct. 20, 1582, 151-153; and the "Brief and True Account" of Escalante and Barrado, early in 1583, 154-157. Not given in Bolton is Gallegos' testimony given concurrently with Bustamante.

All are contained in *Documentos Ineditos del Archivo de Indias,* XV (Madrid 1871) pp. 97-100, 80-88, 95-97, 146-150, respectively. The testimony of Gallegos, *ibid.,* 88-95. These documents are short; hence, to avoid cluttering up the pages with additional footnotes, no reference to pages will be made.

evangelization, and that he had granted the friar permission, as well as to others of his confreres, "and as many as twenty men who might voluntarily wish to go with him *to protect them and as company.*" This is the only reason given for the soldiers' going. "And that they might take some things for barter." This does not necessarily apply to the soldiers, but even if it does, it certainly does not give them authority as official explorers and traders, much less as plunderers, but conforms with the ancient and modern practice of taking baubles along to get the good will of uncivilized peoples. I myself saw this practised in the Pacific islands during World War II. Escalante and Barrado tell how they gave the Piro cacique and his companions playing cards, hawk's bells, and other trinkets. "And the one *whom the friar should name* should go as leader (cabeza), whom the others" — the soldiers — "should obey, *that they might not cause disorder.*" Clearly, one of the soldiers is commissioned as Captain of the Guard and not as leader of an expedition. Benavides, surely, is not far from wrong fifty years later when he states that the Viceroy gave Brother Agustín a signed blank commission to fill in with the name of the soldier he chose as captain of the voluntary escort.[5] "I did not give permission for more men to go because your Majesty had given instructions that *no entradas or new discoveries should be made* without express permission from your Majesty." In other words, the Viceroy could not give permission for a military expedition, but he was allowed by those same royal instructions[6] to let missionaries go on exploratory missions; his sole reason for permitting a limited number of soldiers to go was simply to guard the friars, and the reason for commissioning one of them as a Captain was to keep them in line according to military discipline.

5. *Memorial of 1634*, his revised version of the *1630 Memorial*, edited by Hodge, Hammond and Rey, Coronado Historical Series (Albuquerque 1940), IV, Ch. XVI.

6. These Royal *Ordenanzas* of July 13, 1573, promulgated but a few years previously, must have been fresh in the minds of all concerned; they are to be found in the *Documentos Ineditos*, Vol. 16. For example: those in charge of the *Gobernacion de Yndias* should inform themselves of lands to be discovered and pacified, but without sending *"gente de guerra" or others who might cause scandal;* they should inform themselves as to the persons going on such missions (in this mission the Viceroy unfortunately depended on Fr. Rodriguez' not-so-good judgment of men); let them take vassal Indians as interpreters with things *for barter and gifts.* Pp. 143-144.

The theme is repeated in the testimonies of Gallegos and Bustamante, where the former sings a different tune in the presence of the Viceroy. Bustamante states that Viceroy Suárez de Mendoza had given permission to Fray Rodríguez and his confreres to discover lands beyond Santa Barbara and that "as many as twenty men" may go with them *"for the safety of their persons, and in order that thereby they might be able to preach the Gospel. . . ."* Gallegos now deposes that he went *with* the religious, and not vice versa as in the *Relacion.* Hernán Barrado declares that he went with Chamuscado *in company* of Fray Agustín and two other friars. Escalante and Barrado state that they went *"in company with three religious of the Order of St. Francis."* And Obregón, who got his data from the *Relacion* and the other soldiers, puts down Fray Agustín as "the author and principal agent" who "solicited and obtained the grant and commission for the leader." [6a] It is therefore difficult to see how Chamuscado could have been more than captain of the guard; on the contrary, it is easy to see how he and most of the soldiers, Gallegos in particular, assumed that leadership without any authority when they entered Puebloland. (See last part of note 14).

That the common soldier, Hernán Gallegos, was the moving spirit, and not so much the old and ailing captain, can be seen throughout the *Relacion* and the affidavits. The *Relacion* begins with "Since I began serving his Majesty in my youth" and throughout four long paragraphs of the introduction gives away the hypocritical and obsequious character of the chronicler. Thus:

"there has grown upon me constantly as the years have passed the particular desire to serve my king and lord in some important cause worthy of my desire. Since there was offered to Francisco Sanchez Chamuscado the expedition which he carried out . . . and as he had communicated with me about it, *I* saw there was presented to me an opportunity commensurate with my purpose and ambition. . . . We left fortified with the hope of attaining temporal and eternal reward. Following the example of the nine men of fame, we set out. . . . On this expedition *I* noted the important things . . . and after *I* had helped

6a. Hammond and Rey, eds., *Obregon's History,* p. 268.

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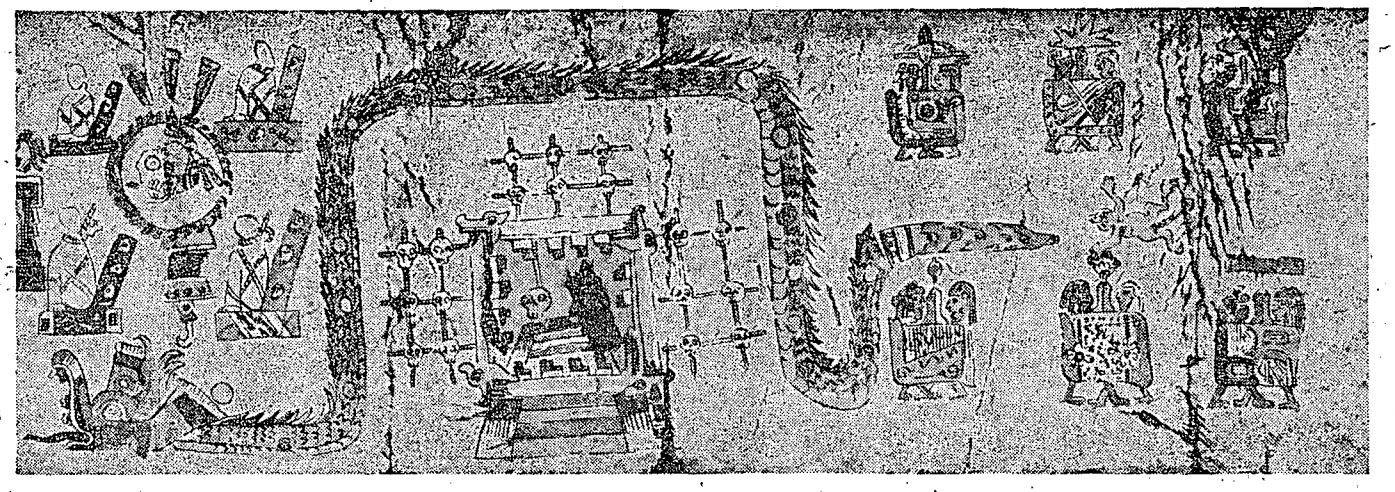
In his introduction to Dr. Charles E. Dibble's commentary on the Codex, Dr. Sylvanus G. Morley, Associate of the Carnegie Institution of Washington and Director of the School of American Research and the Museum of New Mexico, states:

"In closing, I may add, that in my opinion, the *Codex Hall* dates from the immediate post-Conquest period, and I should point out further, that many of our most important Mexican hieroglyphic manuscripts also date from precisely this same period."

Dr. Charles E. Dibble, of the Department of Anthropology, University of Utah, analyzes and describes a previously unpublished codex dealing with ancient Aztec religious ritual. In it are pictured "The binding up of the Years," a ceremony to Tlaloc, the Rain God, an arrow sacrifice, a representation of fertility, and other Aztec religious ceremonies.

In addition to the seventeen text figures, the monograph is accompanied by actual-size, full-color, silk-screen reproductions,



CODEX HALL, Photograph of First Plate

At the left are shown four human bodies, swathed in funeral bandages, the Aztec symbol denoting death. The thrones on which the "mummy bundles" are seated indicate the rank of the deceased as having been that of rulers or important warriors. The middle is devoted to a representation of a *tzompantli*, or rack of human skulls, where the skulls of sacrificial victims were preserved. At the extreme right appears a fertility ceremony.

The nature of silk screen painting is such that each resulting plate is a personal and individual product of the artist.

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the work of Louie H. Ewing, of Santa Fe, New Mexico, who has become nationally known as an artist in this medium.

Mr. Manly P. Hall, Founder of the Philosophical Research Society and owner of the original Codex, says in his preface to the publication: "As far as can be learned, no reference to this Codex has ever appeared in the literature, and it is here reproduced and described for the first time."

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"These contemporaneous written records of ancient America," writes Dr. Sylvanus G. Morley in his introduction to Dr. Dibble's commentary, "were never common, probably far more rare than the papyri of ancient Egypt; indeed only three such manuscripts are known to have survived from the Maya Civilization, and although many more are known from the Aztec, Mixtec, Zapotec, and other peoples of the central Mexican plateau region, the discovery of a new codex, as these hieroglyphic picture manuscripts are called, is a matter of first importance to the students of aboriginal American epigraphy."

to the best of my little strength it seemed to me that *I* was not even then doing all I should. I also wished to employ the little talent that God gave me in something that would be of service to God and his majesty, in order that there should not remain with me anything *I* could offer. . . . Although it may seem boldness on my part . . . *I* was nevertheless encouraged by the case of the poor widow in the Gospel . . . as a result of this reflection and finding myself in the possession of two farthings capital, I offered them to his excellency and risked them in this undertaking."

And so forth in this egotistic vein. This section alone makes one wonder how much, or how little, of the *Relacion* was written en route, as it should have been according to law [7] and as he himself boasts in his personal deposition before the Viceroy.

Throughout his journal we must give him credit for his sharp observations regarding manners and customs, but he does not do so well in his sense of time and space; for example, the chapter on the itinerary through the pueblos is a jumble which has caused historians many a headache, which could not have happened had he written as he went along or *por dias;* also the trip to the bison-country, in which they leave on September 28, travel on well-described terrain for four days, arriving at a certain place which they call San Miguel because they got there on the feast of St. Michael. (The Church had kept this feast, for centuries before Gallegos' time, on September 29). Where we must take particular issue is in Chapter 13, in which he relates Father Santa María's premature departure, and the following Chapter describing their hectic parting with the other two friars at Puaráy. But now we are concerned with his personal ambitions.

The affidavits drawn up on these two occasions, especially the second one, brings this out. "I, Hernán Gallegos, appointed scribe . . . by Francisco Sanchez Chamuscado. . . ." It is signed by Gallegos and three others "who were present" (Bustamante, Sánchez de Chavez, de Herrera). Chamuscado

7. Ordenanza: "hagan comentario e memoria por dias, de todo lo que vieren y hallaren y les aconteciere . . . e todo lo vayan asentando en un libro . . . y despues de asentado, se lea en publico cada dia firmandolo algunos de los principales. . . ." *Documentos Ineditos,* XVI, 149. Other sections show that they were not written *por dias,* and Gallegos alone signs it.

is too ill, even to sign his name. The four other soldiers are not present for the signing, though the little group of nine stuck close together on their hurried trip back. And it is two weeks since the event treated therein took place. From here on Gallegos has taken over completely. Back in Santa Barbara, with Chamuscado dead and buried on the way, Gallegos has trouble with the authorities there. He claims that they wanted his papers to beat him and his companions to the new land; this is true, but it also shows that the just as ambitious minions of Diego de Ibarra, his former barracks pals,[8] knew that neither Chamuscado nor his men had a commission as explorers and colonizers, that they had gone merely as companions to the friars; and maybe they resented the fact, if they knew about twenty men being authorized, that only a clique of nine had gone.

And so Gallegos sneaks away to Mexico with two companions who had signed the second affidavit with him. There Gallegos and Bustamante present themselves to the Viceroy, who takes their depositions (in which they omit mention of Fray Santa María's departure and death); there Gallegos presents, as he says in that testimony, his famous *Relacion* —from its revealing introduction to a like boastful conclusion:

> We brought great joy and happiness to this city of Mexico, and especially to his excellency . . . for having carried out in such a short time . . . an enterprise like the present one in which his majesty and his vassals have spent quantities of money in search of this discovery, but without success. Now nine men had dared to go among such a large number of people in the inhabited area and to penetrate the uninhabited land and to have discovered what they had. . . . Where five hundred men had failed to discover or explore the eight men had succeeded at their own cost and expense, without receiving any support or help from his majesty or any other person.[9] This brought

8. "the jurisdiction of the discovery appears to belong to (N. Vizcaya) . . . and the soldiers who just went with the said religious were from the company of Governor Martin Lopez Ibarra, my deputy." *Letter of Diego de Ibarra to the King*, Mexico, Nov. 10, 1582. Bandelier-Hackett, *Historical Documents Relating to New Mexico* (Washington, D. C. 1923), I. 113-114.

9. As Hammond and Rey observe in a footnote to their translation and edition of the *Relacion*, *NMHR*, II, 363 note, Gallegos refers to the Coronado *Entrada* of 1540. We can also observe, regarding the boast of "at their own cost and expense," that the great amount of stock and provisions taken along, of which they undoubtedly partook of daily, were at the Viceroy's expense, as we shall see later.

great relief and enthusiasm to many people in New Spain. Hernan Gallegos, one of the explorers and the *escribano* of the expedition and discovery, decided to write this relation with the chapters and explanations here contained.

Months of lobbying at the viceregal court in Mexico City and at the royal palace in Spain bring forth no results for the ambitious scrivener.[10] The just as wily Viceroy and King seem to know who Gallegos really is. Suárez de Mendoza reads his *Relacion* and makes all kinds of inquiries. Surely they cannot help but note the discrepancies thus far treated, and more that we shall examine when treating the cases of the individual friars.

Departure and Death of Fray Juan de Santa María

During the 1581 tour of the party, while they were somewhere in the Galisteo-Rio Grande area, Fr. Juan de Santa María left the group and took a route east of the "Sierra Morena" to avoid the tortuous winding of the Rio Grande and thus find a straighter road to New Spain. Some days later he was killed by Indians somewhere east of that sierra. Later Franciscan authors wrote that the friars had sent him. The contemporary *Relacion* and first affidavit of Gallegos (and Obregon who copies from him) reveal that he left on his own and against the command of his Superior.

First of all, let it be noted that these are the only strictly contemporary documents that mention his departure and death. The Viceroy does not refer to such an important event in his Report to the King, although he ought to have

10. In March, 1583, he addressed a petition to the King: "Very Powerful Lord: *Captain* Hernan Gallegos, *discoverer of New Mexico*, states that. . . ." Again, "*I* went with eight others. . . ." "Do me the favor to command that I be given the conquest and pacifying of that country. . . , I will undertake the said conquest at my expense and cost. . . ." A. G., Guadalajara 10.—A brief summary of the earlier petition betrays his desire for the "trading-rights and administration" of New Mexico, which is endorsed on March 14, 1583, and referred back to the Council of the Indies with: "This matter is already dealt with as is convenient" (better still, "as it deserves"), while a similar endorsement of the March 30 petition passes back the buck with: "*que acuda al Virrey.*" This matter is interestingly treated by the late Lansing B. Bloom in his "Who Discovered New Mexico?," *NMHR*, XV, 109-122.

known of it from the *Relacion* (provided the copy he got in May 8-16, 1582, has this section in it).[11]

The testimonies of Gallegos himself and Bustamante before the Viceroy, May 16, 1582, do not mention the fact, nor does that of Barrado, Oct. 20, 1582, when the Viceroy calls him in to testify on learning of the later death of the other two friars, nor yet the "Brief and True Account" of Escalante and Barrado, early in 1583. In fact, the latter deposition has it: "We, the said nine companions and the *three* friars," discovered the bison-country to the east of the pueblos. And Fr. Santa María is supposed to have left before that specific trip. Perhaps this is a copyist's error. Anyway, the whole silence is very disturbing. Other notices of his death do not appear until the following year when Espejo visits the Saline pueblos behind the Sierra Morena, when Obregon writes his *Cronica* based on Gallegos, and in the later writings of Mendieta, Salmerón, and other old standard historians.

The point of Santa María's departure is not clear either. Mecham, and Hammond and Rey after him, deduce that he left from Malpartida, which they identify with the pueblo known later on as San Marcos. Nowhere does Gallegos say expressly that he left from Malpartida; Obregon is the only other writer who mentions the place, and again not as the point of departure. None of the other soldiers mentions Malpartida. One can deduce from the unchronological *Relacion* (Ch. 12-13) that the friar could have left from Piedra Hita,[12] later known as San Cristobal, or perhaps from Gal-

11. In his testimony of May 16, Gallegos declares that he has a book, written by his own hand, in which he relates all about the journey, *"el cual tiene entregado a Su Excelencia."* The *Relacion* which comes to us is a copy of the one Gallegos apparently later revised and had copied, on July 8 of the same year.

12. Malpartida does mean "Bad Parting," but it can also mean "An Affidavit Concerning a Bad Event," a stretching of the point, true, but useful in showing how one cannot depend on the meaning of names without external facts to back one up. Likewise with Piedra Hita. *Hita*: adj., firm, fixed, importunate, according to Velasquez' Dictionary; And in Peñalver's: *Hito*: *Mojon o poste de piedra que se coloca en los caminos para marcar su direccion o para deslindar los territorios.* — I had hoped to find the original MS having either *"Piedreguita"* (little stone) or *"Piedragüita"* (stone plus little water), for what's left of San Cristobal is built of small flat stones, and a small stream flows near the concrete-like expanses of stone terrain.

isteo—and Zárate-Salmerón couldn't have been far from wrong forty years later.[13]

Now the question is: Did Fr. Santa María leave with or without permission of his Superior. Gallegos, surely, is not trustworthy (*a*) because of his and the soldiers' unwarranted assumption of authority, (*b*) his own suspect ambitions in the egotistic *Relacion,* (*c*) the strange silence among the other declarants who had been witnesses of such an important event, (*d*) the fact that he did not enter the event *por dias* as required, but a month later, and (*e*) the fact that the affidavit was dated three days after, is signed only by two other soldiers besides Chamuscado, and not by the *remaining friars.*[13] Had young Santa María left without permission, I am certain as a Franciscan that Fr. López, his religious Superior, would have signed the protest also. If only we had the Chronicle which the friars undoubtedly kept faithfully (this I also know as a Franciscan). But it was lost, either when López and Rodríguez were later killed, or else *when Santa María was slain.*

This brings us to the supposition, born because of Gallegos' suspect testimony and bolstered by later writers, that Fr. López actually did send his theological classmate back to New Spain by the shortest route possible, to report, not only on the Pueblos discovered, but on the conduct of the soldiers who not only assumed authority but flouted other Royal *Ordenanzas* on several counts.[14] And so Fr. Santa

13. Mecham, "The Second Spanish Expedition," *loc. cit.*, p. 79 note, says: "Zarate-Salmeron is in error on two points: (1) Santa Maria did not depart from Galisteo, and (2) He did not leave after the departure of the soldiers nor with the permission of his friar-companions." There is a possibility that (a) Zárate-Salmerón meant the Galisteo area or (b) that the name itself, or the inhabitants, shifted among the Tanos pueblos as with Puaráy among the Tiguas or (c) that Santa María did leave from the site now known as Galisteo, for from here the route south behind the sierras looks more inviting.

13. Ordenanzas: See note 7. Fr. López and Brother Rodríguez were surely *"algunos de los principales."* This omission, and the fact that Chamuscado, according to the affidavit itself, tried to impress the soldiers that he was head and judge of the expedition, is one proof of the grave division already existing between the friars and their escorts, and also points to the reason for Santa María's early departure.

14. Domestic pueblos had been discovered in great numbers and so the purpose of the Mission was accomplished; it was high time to report according to law: *"Y hayan discrecion de todo lo que se puede saber . . . y vayan imbiando siempre relacion al Gobernador, para que la imbie al Consejo." Op. cit.*, p. 144. This the soldiers did not want to do — "to keep on sending notices always."

María, the astronomer and pathfinder in the party, was sent to report, particularly on the spiritual field white for the harvest. But Chamuscado and his men are looking for free gold and beef to report in person, so that they may return as official conquerors and *encomenderos* and lords of the land and its people; now they are insisting on going east to the bison-country where there are no pueblos ready for conversion like these. Santa María mounts his horse and sets out alone with his astrolabe.

Of course, the soldiers object, says the *Relacion* (Ch. 13), "because he was placing us in great danger" (how this could be is hard to figure out) "and because we had not yet examined the land" (for bison and mines, the real reason). Obregon puts it: The soldiers "had not explored the whole land nor *completely learned all its secrets and sources of profit.*" (*Op. Cit.*, 310). And so the extremely serious accusation is made (to be found only in the *Relacion*, and the *Cronica* which copies from it) that the young Padre left without the permission of his Superior. Then, three days after he left, the pompous affidavit was drawn up while nothing was said in the chronicle—until a month later. Gallegos says that the Friar departed on the Eve of Our Lady of September,[15] which would be September 7, and that after three days of travel he was killed, but that "We heard of this when we returned from the cattle, for until then we knew nothing." Obregon writes that they heard of his death five days later. Might this have prompted the affidavit? When the Indians boasted that they had followed and killed him in the sierra, whether three or five days or even weeks

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The law further stated that as soon as the discoverers' victuals were half-spent, they had to turn back (to forestall despoliation of the natives). P. 148. Also, "*Los descobrimientos no se den con titulos y nombre de conquista: puese habiendose de hacer con tanta paz y caridad . . . no queremos quel nombre. . . .*" P. 152. The ignoring of these regulations, and others mentioned previously, were more than enough to cause a break, and at the same time prompt the friars to act accordingly.

Another though not conclusive instance of the soldier's early assumption of authority is hinted in the names given the pueblos from the moment they entered Puebloland. It was the Franciscan custom to designate places with names of the Saints or else continue using the original native names. The *Relacion* goes on a spree of Spanish and Mexican place-names, including those that do commemorate a saint.

15. September 8 is the ancient Feast of the Nativity of the Blessed Virgin, known when Merrie England was Catholic as "Little Lady Day."

later, "we pretended not to understand it," Gallegos says; that is to say, the soldiers feigned ignorance or indifference to discourage further Indian acts of aggression.[16]

The Padre was killed behind the Sierra Morena, which can be anywhere along the eastern slopes of the Ortiz, San Pedro, Sandia, and Manzano mountains which compose the range running north and south from the Galisteo basin down to the Salinas, for the name is applied by the party to the whole range as they come up through the Socorro district. Espejo, a year later,[17] was told by the Indians of the northern Saline pueblos that Santa María had been killed in their district. Since the Indians "followed him" and the Tanos reported his death, it looks as if they did the killing, perhaps with the help of local Tiguas. That he was slain while sleeping suggests the idea that they dared not attack him while mounted; that he went on horseback can be inferred from the fact that the party, including the friars, had come from New Spain on horseback with ninety pack and saddle horses, which were the property, not of the soldiers, but furnished to Brother Agustín by the Viceroy. The exact locale of his martyrdom depends very much on the pueblo from which he left, and this has been the cause of much speculation.[18]

16. And Friars López and Rodríguez? The supposition is not far-fetched that they did not believe the Indian boast, but expected Fr. Santa María to return within a few weeks with more missionaries to begin the evangelization of the pueblos on a large scale.

17. "Relacion que yo Antonio Espejo con catorce soldados y un religioso de el orden de San Francisco a las Provincias y poblaciones de la Nueva Mexico." *Doc. Ined.* XV, 101-126. Translated in H. E. Bolton, ed., *Spanish Explorations in the Southwest, 1542-1706* (New York, 1916), pp. 168-192.

18. Adolph Bandelier, finding no Tigua Pueblo of the Salines with the title of San Pablo, wrote: "Zarate Salmeron places Santa Maria's death some place east of the Sierra de Sandia and three day's journey south of Galisteo, or at San Pablo. Niel changes the name to San Pedro. This is the old San Pedro of today. Three days' journey south of Galisteo would bring one to San Pedro or between San Pedro and Chilili." *Final Report*, II, 113. — This San Pedro is Paako, a ruin behind the Sandia range proper, which had a church dedicated to San Pedro. Cf. "Documentary History of the Rio Grande Pueblos," Part III, *NMHR*, V, 351. Archeological evidence shows that the pueblo was Tano, but no church ruins have been found.

The *Relacion* states that he left on Sept. 7, but on the 6th the party had taken possession of the pueblos in the valley they called Atotonilco, believed to be the Santa Fe river valley around Cienega and La Bajada. Did he leave from here? Then the ravine where Paako stood would be the logical "direct route." Or did the party go back to Puaráy, which the friars had designated as their future headquarters, and from where Santa María skirted the north and east sides of the Sandia through Paako

My unscientific suppositions so far, from taking Gallegos with a barrel of salt, coincide with what the later Franciscan writers have to say. Aware of the dangers inherent in the use of internal evidence alone, I have recourse to these sources. The friars down in New Spain were not idle when Gallegos and his men were making their depositions. An interesting and telling episode is the finding by Barrado in the *Franciscan convento* at Santa Barbara of one of the Indian servants, Francisco by name, who had witnessed the martyrdom of Fr. López. What he told the Fathers there might well be part of the information used by Fray Gerónimo Mendieta, then gathering historical material by special command of the head of the Franciscan Order, in 1571, for a history of the Order's activities in the Indies. His *Historia Eclesiastica Indiana* was not completed until 1596, but the events recorded therein of 1581-1582 are certainly *contemporary,* and, if taken from the Indian servants and perhaps one of the soldiers who did not sign either affidavit, also *eye-witness testimony.* (Barrado also came across his own servant, Gerónimo, who had fled with Francisco from Puaráy; both went to Mexico City from Zacatecas to talk with the Viceroy, which was the occasion for, and gist of, Barrado's testimony).

Fray Gerónimo Zárate-Salmerón served in the Jemez and Queres pueblos from 1621 to 1626, during which time he translated the catechism into the Jemez tongue and gathered historical data. Such a student undoubtedly made personal investigations about the friar-martyrs, and from eye-witnesses, for it was only some forty years after their deaths

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and on to Chilili and Tajique? I venture this question because Obregón seems to identify the mysterious word *Porne* with his Malpartida and Mal Puerto, *op. cit.,* p. 279, and Cuevas writes it down as the pueblo "*que nombraron Porue* (Sic)." *Op. cit.,* p. 279.

With regard to the Tanos Pueblos of the Galisteo basin, if one stands on the site of any one of them and, looking southwest, figures on the most direct route to the Paso region by eschewing the great curves of the Rio Grande, then the east slope of the Sandia proper and Paako lie too far west and close to the Rio, even from San Marcos, the westernmost pueblo of the Tanos. Therefore, whether he left from San Marcos in the west, or Piedra Hita on the east, or especially from Galisteo in the middle, it seems as if he would have chosen a straight line east of the Cerro Pelon, the Ortiz and San Pedro mountains, to the Salinas area, and that on the third day of travel by horse he would have reached the Tigua pueblos of that region, the area which Espejo mentions.

when he worked in the central area of New Mexico. His details about the death of Father Juan de Santa María cannot, therefore, be dismissed as guesses or a version of Mendieta. He wrote:

> Arriving at Galisteo, and seeing the docility of the Indians, the three friars (having been deserted by the soldiers) [19] agreed that one of them should return to inform the prelates what had been seen [see footnote 14], and to ask for more priests. Father Juan de Santa María offered himself for this journey, he who was an accomplished astronomer, and looking over the lay of the land, found by his reckoning where the route ran shortest and straight, and thus went out by the Sierra of Puray, to cross through the salines, and from there cut straight to the crossing of the Rio del Norte . . . however, his good intent did not come to full measure. For on the third day after he bade farewell to his brother companions, having come to rest under a tree, the Tigua Indians of the pueblo now called San Pablo killed him, and burned his bones.[20]

Fr. Mendieta's account is very much the same (*Op. cit.*, p. 763): Santa María left "on finding themselves alone," and the Indians killed him by dropping a very large block of stone while he slept. Torquemada and Vetancurt copy almost literally from him, but Salmerón's words ring like something heard from persons who knew at first hand.

The Martyrdom of Friars López and Rodríguez

After Chamuscado and his Gallegos-styled "conquerors, colonizers, and discoverers," had seen all they could, even as far west as Ácoma and the Zuñi pueblos, their saddlebags

19. Perhaps deserted temporarily, while out on forays in search of mines; Santa María could have left while the soldiers were absent, which might explain the affidavit three days later on their return. Certainly, the soldiers had deserted the friars in spirit by denial of Rodríguez' leadership and doing things on their own contrary to the purpose of the Mission.

20. "Relacion de todas las cosas que en el Nuevo Mexico se han visto y sabido asi por mar como por tierra desde el ano 1538 hasta el de 1626." *Doc. Hist. Mex.*, 3rd Series, IV (Mexico, 1856.) There is an English translation in *Land of Sunshine*, XI. Also cited by Bandelier, "Documentary History, etc.," *loc. cit.*, who says that "His affirmations have the same importance as ocular testimony." P. 353 footnote.

Concerning the burning of his body, Bandelier makes some interesting observations: That because of his reading of the stars the savages considered him a sorcerer, and it was their custom to burn witches. He refers to Mota Padilla's description of a regular cremation among the Tiguas (*Historia de Nueva Galicia*, Mexico, 1870, p. 160). P. 354.

crammed with mineral specimens, they decided it was high time to return. They also were running out of horseshoes. But now that they were ready to go back in their own good time, the two friars were set on remaining in Puaráy. This should have caused them no surprise, as this decision had been made long before, a fact which again points to their sending Fr. Santa María to report on the pueblos and get more missionaries. That is why one cannot help but conclude that López and Rodríguez were confident, or almost so, that their brother in St. Francis had reached the Viceroy and was at that moment setting out with more priests and better representatives of the Crown than these ruffians from the frontier mines of Santa Barbara. Otherwise, how explain the decision of the soldiers' own servants to cast their lot with the friars, and even some of the soldiers until they were persuaded to change their minds by their companions? (*Relacion,* Ch. XIV). We might even allow the friars to gloat on the thought that, while Chamuscado was now promising the happy Indians of Puaráy that he would return personally with many more Christians and their women, a new *Entrada* was setting out which he would meet on the way.

Nor can it be said that the friars were doing something untoward by staying. One of the Royal *Ordenanzas* read: "If they saw that the people were domestic, and that a religious might safely stay among them . . . let them leave him, promising to return for him within a year or sooner. . . ." (*Op. cit.,* p. 148).

Gallegos relates how Chamuscado remonstrated strongly with the friars, but that is neither here nor there; almost in the same breath he tells how happy the Puaráy Tiguas were, and in other instances he shows how other Indians took to the men of God. Then Gallegos points to the generosity with which they left the other Indian servants, the large stock of sheep and goats, the axes and other implements, even the surgical instruments, with the friars. There was no other course, for Fray Agustín was the head of the Mission, and all these persons and things had been furnished

at the Viceroy's expense. They hurried off posthaste on Jan. 31, 1582, not so much to "keep the promise we had given to both the friars," but because their own resources were running low, the sick old captain was failing fast, and they must stake their claims at the viceregal court before their former barracks companions and rivals of New Vizcaya stole a beat on them. For it is possible that the nine soldiers, seeing the friars' enthusiasm, doubted Santa María's death, too; or perhaps they always had, hence the exclusion of his newsworthy departure from the *Relacion* until a much later date—maybe in July when Gallegos had been two months in Mexico City. (See note 11).

As for the affidavit fixed up on this occasion, it took Gallegos two weeks to decide. By this time they must have reached the Paso del Norte district, when he dated it Feb. 13, 1582, with the very general place-designation of "Province of San Felipe." The absurd claim is made here that the friars had threatened the soldiers with excommunication if they forced them to return, and Fr. López is called the "guardian." [21] This document, which is all Gallegos in ego and tune, is signed by him and three other soldiers "who were present." Was Chamuscado so ill that he could not even sign his name? Why didn't the others, particularly Escalante and Barrado who in their famous "Brief and True Account" say nothing about these difficulties with the friars, although by this time (1583) their deaths were known?

Gallegos and Bustamante reached Mexico City on May 8, 1582, made their depositions before the Viceroy on May 16, in which both of them omit, not only the departure of Santa María, but also the purported arguments between them and the friars when parting at Puaráy. Bustamante simply states that they returned from the Salinas to Puaráy, "where they had left the religious, the horses, and the rest of the things which they possessed, and from this pueblo they returned by the same route they had gone. In the said

21. Fray Francisco López had been appointed religious Superior, the correct generic term, because Fray Agustín Rodríguez was not a priest but a lay-brother. "Guardian" is the official and exclusively Franciscan term for the superior of an established *convento* only. Neither guardians nor simple superiors, nor priests as such, are empowered to excommunicate.

pueblo the religious remained with the Indian servants whom they had taken, among them being a half-breed." Later in October, news had arrived about the deaths of the two friars. Barrado and his servant Gerónimo were summoned for a hearing on October 20, and Barrado tells how he had first encountered Francisco three months previously in the friary at Santa Barbara. Three Indian servants, Francisco, Gerónimo, and Andres, had fled from Puaráy when Fr. López was martyred. Andres had been killed by hostile Conchos in the Chihuahua region on their way down. Barrado later met Gerónimo when being brought by other soldiers to Zacatecas, and from there the whole party came to Mexico City, where the Indian talked with the Viceroy. Concerning Gerónimo, Barrado's testimony ends with a strange note: "A few days ago he disappeared . . . (Barrado) understands that he has returned to his own country."

In the meantime the Franciscans at the Convent of San Francisco in Mexico City were undoubtedly culling evidence according to the Order's practice in such cases, evidence for the "ecclesiastical historians, Mendieta and Torquemada" because of whose "great influence . . . it appears that the soldiers were unsuccessful in clearing their names."

And Fr. Zárate-Salmerón, back on the actual scenes of martyrdom not forty years after, talks with Indians who remember in the shadow of the Sierra Morena. He writes in 1626:

> As the devoted Fr. Francisco Lopez was praying, about a harquebus' shot away from the pueblo, an Indian killed him with two blows of a club on the temples [22] as the marks on his skull can be seen,[23] and

22. The servant Francisco, according to Barrado's testimony, said that they killed Fr. López and that he had seen him buried. When he told Fray Agustín about it, the servants became excited, and so with two of them he fled, hearing as they left "many outcries and a tumult in the pueblo, wherefore he believed that they had killed the rest of the religious and the Indian boys. . . ." — Fr. Benavides, in New Mexico before Fr. Zárate-Salmerón left for New Spain, says that Fr. López went out into the open praying, saw a group of Indians seated, who were at the moment scheming; at his first words, one of them smashed his head with a *macana* while the rest shot him with arrows. *Op. cit.*, Ch. XIX. (Hodge thinks the source of information is the same for all friar-writers — i.e., Mendieta — and that Benavides cannot be regarded as an authority! *Ibid.* 160.)

23. Zárate-Salmerón: "The body of the holy fray Juan López lay hidden for more than 33 years, at the end of which an Indian of Puaray pueblo, an eye-witness

the Indians of that pueblo acknowledge it, because there are yet *many Indians witnesses of his death,* and they revealed where his corpse was buried. . . . Fray Agustin Ruiz enshrouded him, and buried him according to our manner inside the pueblo. . . . The chieftain of the pueblo showed his sentiments of sympathy . . . and in order that the same might not befall the lay-brother . . . he took him to the pueblo called Santiago,[24] a league and a half up the river . . . and being caught unawares [25] they did the same thing and killed him also, and threw his body in the Rio which was in flood.[26]

After comparing all the accounts, with due allowance for the changes in a story when passed down for many years, we can venture the following reconstruction: Friars López and Rodríguez were happy in Puaráy learning the language and sharing their goods with their own servants and their hosts, when the Tanos or the Saline Tiguas, or both (and even some of the Puaráy Tiguas with them), who had previously killed Fr. Santa María, now came to demand the death of the two remaining friars. As this typically Indian consultation was going on outside the pueblo, Fr. López came by. Then and there the plotters fell upon him—first a blow on either temple and then a burst of arrows for good measure. On seeing this the chief of Puaráy hid Fr. Rodríguez who was on the other side of the village until the enemy left. While the latter were seeking him with their war-cries, the three Mexican servants fled. Later the lay-brother buried his confrere. But since the enemy was still in the vicinity, or even among some of the inhabitants of Puaráy, the chief thought it best to abscond the friar to a safer place, the pueblo of Santiago. But finally the foe traced him there and,

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of his death and burial, revealed it to Father Fray Estevan de Perea, he being Commissary of those provinces and a grand minister among those natives, which body, or to put it better, bones, were taken with all devotion and respect, the religious in vestments and on foot, until they were placed in the church of Sandia, a good and lengthy league. . . ." *(Relacion, op. cit.,* p. 11.) Benavides (Ch. XX) adds that they found him with the cloth still tied about the club-marks on his head, and that the Indians honored his new burial place with a chapel on the spot where he was martyred and painted his picture on it.

24. Bandelier placed Santiago five and a half miles north of Bernalillo on the Mesa del Canjilon. *Final Reports,* II, 227.

25. *En descuidandose.* Either Fr. Agustín, or the friendly chief, or the other friendly Indians, or all together.

26. *Relacion de todas cosas, etc., Doc. Hist. Mex.,* p. 10.

when he and his protectors were not watching, slew him also and threw his body in the flooded Rio Grande.

Conclusion

May I repeat that this paper was not meant to criticize my betters, whose historical spade-work I not only admire but depend on; rather, I want to show how the author of the contemporary documents in question cannot be trusted implicitly in all he writes. (1) His distortion of the prime purpose of the Mission and its real leadership, as well as the role he gives his own unimportant self throughout, with his untoward motives clearly showing through, are in direct contradiction to the Viceroy's report and the depositions of the soldiers, that of Gallegos included. Furthermore, he violates all the Royal Ordinances regarding all kinds of forays and expeditions. All of which explains his failure at the courts of Mexico and Spain. (2) His leaving out of the chronicle, until a month later (or even altogether in the copy given to the Viceroy) of such an important happening as the "unlawful" departure and subsequent death of Fr. Santa María, also of the affidavit drawn up, belies his statement that everything set down is true and "written while he was passing through the land." (3) Glaring chronological lapses, like those cited, not only throw doubt on his writing things en route, but also call other dates into question. (4) Old authors, contemporaries who spoke with other ocular witnesses of the events, agree with him in certain time and space facts, but do not support him in the reason for the expedition or for the conduct of all three Franciscans.

All this gives us the right to reconsider, at least in part, the statements of Fr. Mendieta, who was in New Spain gathering material as official American Historian of the Order when Francisco and Gerónimo, and perhaps one or the other of the soldiers, were giving their own ocular versions in the convents, and of Fr. Zárate-Salmerón who thirty-nine years later was in New Mexico interviewing eye-witnesses. Nor can we lightly dismiss the writings of Fr. Alonso Benavides

in this matter just because he is glaringly wrong about events that happened a century before his time.

Undoubtedly, the exploratory Mission of Fray Agustín Rodríguez and his priest-companions into Puebloland in 1581-1582 "is of particular interest because it started that series of events which led directly to the permanent occupation of the Rio Grande country by the Spaniards." [27] But it is of more than particular interest. It not only started that series of events which led to permanent colonization, it also began and foreshadowed, in the conduct and writings of Gallegos, that series of failures in the complete evangelization of the pueblos and the tragic deaths of so many Franciscans, from the precarious beginnings of Oñate and Peralta (1595-1614) through the troublous times of men like de la Rosas and Peñalosa (1610-1680) down to the era of Mexican Independence and the secularization of the Missions — more than two centuries of blood and tears and constant failure, because of unscrupulous little "conquerors, colonizers, and discoverers," and *"escribanos."*

27. Hammond and Rey, "The Rodriguez Exp.," *loc. cit.*, 240.

MISSIONARY ASPECTS OF THE FOUNDING OF NEW MEXICO

By AGAPITO REY *

SOON AFTER Cortés established himself in Mexico City, many captains proceeded to explore and conquer the neighboring land. By 1531 Nuño de Gusmán had reached Sinaloa and founded the city of Culiacán. Founded about that time were also Compostela and the first Guadalajara. The brothers Juan and Diego de Alcaraz explored beyond Culiacán as far as the region of Petatlán. It was they who in 1536 welcomed Alvar Núnez Cabeza de Vaca and his three companions on their arrival in Mexico after one of the epic marches in history. Shipwrecked on the coast of Florida in the disastrous Narváez expedition of 1528, Cabeza de Vaca and his three companions wandered over the southwest for eight years before they reached Spanish settlements in Mexico. On his arrival at the Aztec capital Cabeza de Vaca reported his experiences to the viceroy before he set sail for Spain, where he gave an elaborate account of it all in his *Naufragios*. Cabeza de Vaca did not see the New Mexico pueblos, but he told of information he had received of the existence of rich Indian cities.

Cabeza de Vaca reached Mexico at a very opportune time. The first viceroy, Don Antonio de Mendoza, had arrived in his new post only the year before, 1535, eager to undertake big things. After some preliminary explorations, the viceroy decided to send someone into the northern regions to verify Cabeza de Vaca's information and the rumors it had originated.

A roving Franciscan father named Fray Marcos de Niza was living in Mexico at the time. The viceroy chose him to go to the distant north, giving him as companion and guide a young Moor named Estevanico, who had been shipwrecked with Cabeza de Vaca and had made his way to

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Mexico with him. They traveled north as far as the present Zuñi in southern New Mexico. There the Moor was killed by the Indians, and Fray Marcos after looking at the pueblo from a nearby hill returned to Mexico post haste. There he presented a written report or Relación to his superiors and the viceroy. A certified copy, dated September 2, 1539, was forwarded to Spain.[1]

Fray Marcos was an earnest pious friar, but too credulous of Indian yarns. Not satisfied with his written report he began to gloss in his conversations, and even from the pulpit, the fantastic riches of the Seven Cities of Cíbola. Although his fanciful accounts raised some doubts in the minds of the intelligent, they were nevertheless enthusiastically repeated.

In a letter addressed by Bishop Juan de Zumárraga to his nephew on August 23, 1539, he writes: "The land is as you left it, peaceful. Fray Marcos has discovered a much greater one four hundred leagues beyond where Nuño de Guzmán is now, near the island visited by the Marquis [Cortés]. Many people are stirred to go there. The Marquis claims the right to the conquest and the viceroy is undertaking it for the Emperor. He wants to send ahead unarmed friars, and that the conquest be a Christian apostolic one and not a butchery. The people there are more advanced both in buildings, with many wood terraces, and in the clothes they wear. They have no idols other than the sun and the moon which they worship. They have only one wife, and if she dies they do not remarry. The father says he saw partridges and cattle [buffalo], and that he was told of camels and dromedaries and other cities bigger than this Mexico." [2]

1. Upon his return to Mexico, Fray Marcos retired to the convent of Xochimilco. In 1546 he wrote to Bishop Zumárraga asking for some wine to fortify his failing health due to "deficiency in blood and natural warmth." The bishop readily granted his request in any amount he needed (*Códice franciscano*, ed. García Icazbalceta, Mexico, 1889, p. 273).

A sympathetic narrative of Fray Marcos' hike to Cíbola is given by Mildred Farnun in her *The Seven Golden Cities*, Milwaukee, 1943. An English translation of his report or Relación is found in G. P. Hammond and A. Rey, *Narratives of the Coronado Expedition*, Albuquerque, 1940, pp. 58-82.

2. *Códice franciscano*, p. 265.

On October 9, 1539, Father Gerónimo Ximénez writes: "Last September it was a year since a Franciscan friar, French by birth, left this city of Mexico in search of a land of which the governors of these regions had reports. He was unable to find it. He traveled five hundred leagues over settled land and finally after crossing a desert extending over more than sixty leagues he came upon a land inhabited by people highly developed who dwell in walled cities and big houses; who wear leather shoes and moccasins. Many of them wear silk clothes down to their feet. I will not write concerning the wealth of the land, because he tells so much it does not seem credible. The friar himself told me he saw a temple of their idols with the walls covered with precious stones inside and out. I believe he said emeralds. It is also reported there are camels and elephants farther inland. Men who moved by greed of gold wandered over this South sea claim they discovered close to that land very rich islands with people in the same high state of development." [3]

With such alluring reports it was not difficult to find people for an expedition to those rich lands. As indicated in the letter by Bishop Zumárraga and other contemporary documents, both Cortés and the viceroy claimed the right to explore and conquer the northern territories. The viceroy prevailed by virtue of authority granted to him from Spain. So in 1540 he sent an expedition under the leadership of Francisco Vásquez de Coronado. This army made up of some four hundred Spaniards and about one thousand Indians marched to the Rio Grande valley, established its headquarters in the vicinity of present Bernalillo, and from there small parties explored the country in all directions. Coronado himself with twenty-five picked mounted men traveled as far as the Kansas plains in search of elusive fabulous Quivira. After two years of privations and troubles the army returned to Mexico. However, the friars who accompanied the expedition, fathers Fray Juan de Padilla and Fray Luis de Escalona, refused to go back and remained among the

3. *Cartas de religiosos*, ed. García Icazbalceta, Mexico, 1889, p. 188.

Indians to preach the gospel and to receive the palm of martyrdom soon after the soldiers left.[4]

Coronado did not succeed in establishing permanent colonies in New Mexico, as he had been instructed to do by the viceroy. The reasons for this failure are many. The main cause may be ascribed to false notions regarding the geography of the land. The prevailing belief then was that the country formed a narrow peninsula extending to China and that a land expedition could be easily supplied by sea. Coronado's heavy equipment, seeds and farming supplies, were sent by ship to the Gulf of California and up the Colorado river in a fleet under Hernando de Alarcón. Unable to establish contact with Coronado's forces, who were thirty days' travel away, Alarcón distributed his seed and chickens among the Yuma Indians, planted crosses among them and returned to Mexico.[5]

The real cause for the failure was the poverty of the land. The New Mexico Indians did not have enough food to support a large body of visitors, and the distance from Mexico was too great to permit quick relief. The Coronado expedition was useful in that it helped to dispel the myth of the Seven Cities of Cíbola and the fabulous riches of the land.

It established that the land was rich in human element; a fertile field for the missionary.

The first friars to come among the natives died in their noble attempt of converting them. Their martyrdom was a constant reminder and inspiration to their Franciscan brothers who wanted to follow in their footsteps. These pueblo Indians were not savages, but people who lived in well-organized communities, who farmed the land, wove fine blankets and made good pottery. The natives wore no gold or silver ornaments, a proof that these metals were not found among them. Their wealth consisted of not very valuable turquoises.

4. See Hammond and Rey, *Narratives of the Coronado Expedition*, pp. 10-11.
5. An English translation of Alarcón's report is found in Hammond and Rey, *Narratives of the Coronado Expedition*, pp. 124-155.

We have seen from Bishop Zumárraga's letter that Viceroy Antonio de Mendoza wanted the conquest of New Mexico to be apostolic and not a butchery. In his oral and written instructions to Coronado and Alarcón the viceroy insisted that he wanted a peaceful exploration and conquest of the vast Cíbola land. Animated by this same apostolic spirit some friars wanted to reenter the land abandoned by Coronado. Fray Jacinto de San Francisco tried in 1559 to plant the gospel in those regions, according to a letter he addressed to Philip II in 1561, from which I cite the following passage:

"Thus, most Christian King and master, eager to see in my days another conversion similar to the one in this land, I set out from this city in the company of two friars, over two years ago, in search of New Mexico, of which there have been reports since we came to this land, although the truth has not been verified."

He said they traveled 150 leagues inland, but as the viceroy Don Luis de Velasco could not send them aid, the Provincial of the order did not allow them to go any farther. Fray Jacinto was anxious to go back to those lands. He said that all he needed to accomplish it was one hundred Chichimec friendly Indians and a Christian captain. With them: "Without wars or deaths or taking slaves a road could be opened from here to Santa Elena and to the new land reached by Francisco Vásquez de Coronado, and many leagues beyond, in a short time and at small cost, in which could be employed one or two thousand Franciscan friars in the conversion of the natives, and establish the truth regarding New Mexico." [6]

He suggested the sending of one hundred picked Spaniards under a captain. For such post he recommended Doctor Alonso de Zurita, judge in the Audiencia of Mexico. Friars and soldiers must all be paid by the king and must

6. *Códice franciscano*, pp. 222-228. This is one of the first instances we know of the use of the term "New Mexico" to designate the newly explored land. It is not used in the documents pertaining to the Coronado or Chamuscado expeditions. The term is used somewhat loosely in the early chronicles. The late L. B. Bloom, *N. M. Hist. Rev.*, XV, 102, believes the first use of the term "New Mexico" with the present connotation came with Francisco de Ibarra in 1562.

not go moved by greed of riches, "nor titles to ennoble their lineages, social climbing or worldly vanity."

The Franciscans never forgot that in those distant lands lay buried two of their brothers. The yearnings of the friars did not find satisfaction until 1580. At this time Fray Agustín Rodríguez obtained permission to send a small exploring expedition into New Mexico. The party, composed of nine soldiers and two friars, under the leadership of Francisco Sánchez Chamuscado, explored the various regions of New Mexico for over a year. But Chamuscado, who was an old man, became ill and died as the expedition was on its way back to Mexico, and he was buried by the roadside. Fray Francisco López and Fray Agustín R. Rodríguez refused to return with the party and remained among the pueblo Indians to continue with their apostolic labors. They were soon killed by the natives, as had been their predecessors in the Coronado expedition.[7]

With the purported pretext of rescuing these two friars, another expedition was sent to New Mexico in 1582 under Antonio de Espejo. Like the preceding one, this expedition was small, consisting of twelve soldiers and one friar, Fray Bernardino Beltrán.

They arrived too late to rescue the friars. Espejo's real aim in coming to New Mexico was to explore the country for valuable minerals. With this aim in mind, he brought along some experienced mining men. Ore samples from various localities were assayed with disappointing results. None of the samples showed any silver, and without some mineral wealth, it would prove difficult to attract colonists. Espejo had one ore sample assayed both in public and private. To the sample assayed in public, he added a certain amount of silver so the people would feel encouraged. Despite his failure to find rich metals, Espejo continued to seek the right to colonize New Mexico. He sailed for Spain hoping to overcome the resistance of the Spanish authorities. But he never

7. See G. P. Hammond and A. Rey, *The Gallegos' Relación of the Rodríguez Expedition*, Santa Fe, 1927.

reached Spain, as he became sick on the way and died at Havana.[8]

Several unauthorized incursions into New Mexico took place during the next few years following Espejo, while colonizing proposals were being made to the crown. The initiative now comes from "criollos" who have become wealthy and want to devote their riches and energy to undertakings that will bring them prestige and titles to grace their family names.

The successful aspirant was Don Juan de Oñate, grandson of Christobal de Oñate, founder of Guadalajara in 1542, who in the middle of the century moved to Zacatecas and became wealthy as a mining operator. In 1595 Don Juan de Oñate signed a contract with the crown for the conquest and colonization of New Mexico. After many long delays and inspections imposed by the Spanish authorities to see if he carried the goods stipulated in the contract, Don Juan finally was allowed to proceed. He arrived in New Mexico in the fall of 1598. This was no longer a military foray but a true colonizing expedition composed of whole families. In search of rich lands to establish new homes, they carried their belongings, farming implements, and cattle. There were also ten friars to start the preaching of the gospel among the natives.

The Spaniards established their first capital at San Juan in the fall of 1598; later they moved to San Gabriel; then in 1609 they founded Santa Fe, which has been the capital of New Mexico ever since.

No sooner had they established themselves in the new land when difficulties began, due mainly to the scarcity of provisions and the little promise of betterment. There was no wealth to reward the settlers already in the country or to attract others. It was apparent from the start that the undertaking was too big and too costly for a private enterprise. Without help from the royal treasury it would fail.

In 1599, Oñate made a trip to the Gulf of California in

8. The details may be found in G. P. Hammond and A. Rey, *Luxán's Narrative of the Espejo Expedition*, Quivira Society Publications, Vol. I.

the hope of finding pearls or some other riches among the Indians there. He heard some yarns of great wealth "farther on," but came back empty-handed. On the way they explored some mineral deposits of no particular value. Nevertheless, Oñate continued to send flattering reports to Mexico City, always telling how he had information of wealth and expected to locate it. But in Mexico City they already knew what to believe of all these florid accounts of riches in the new lands. The viceroy had ordered the gathering and study of all the accounts of the previous expeditions by Coronado, Rodríguez and Espejo and had a digest made of what they told concerning the resources of those lands. This study was embodied in a report, a copy of which the viceroy sent to Spain together with his opinion about maintaining the New Mexico colonies. The viceroy acknowledged that the land was poor and that there was no great hope of finding silver or other rich metals to attract colonizers. Just the same, he was of the opinion the colonies should be maintained, even if it was at the cost of the crown. He told the king he could not think of an undertaking that would bring greater benefits and honor to Spain and to the conscience of his majesty.[9]

When desertions and the demand of the governor to abandon the colonies threatened their existence, the friars insisted on their being maintained. The viceroy submitted the solution of this thorny problem to a committee composed of theologians and jurists. Their decision was that the colonies should be maintained even if only as missions. The Spaniards could not withdraw and abandon the Indians already converted to Christianity, since if left to themselves they would soon revert to their former idolatry. Besides, they would be in danger of vengeful persecution by the heathen Indians who had become their enemies. The alternative would be for the Spaniards to take along the Christianized Indians as they withdrew. This was not possible for practical reasons; besides, it would be cruel to remove

9. Such is the thought expressed in a letter to the king by Viceroy Don Luis de Velasco, dated March 7, 1608 (Archivo General de Indias, 58-3-16). A similar view is expressed by Fiscal Don Francisco de Leoz, who was asked to render an opinion on the matter (A. G. I., 58-5-12).

them from the land of their birth, where their forefathers lay. The decision of the friars prevailed, and the New Mexico colonies were continued through the aid of the royal treasury.[10] This aid came in yearly supply trains, which also were the means of contact with Mexico and Spain.

The colonies in New Mexico, like those of California later, were in reality missions. The new settlers devoted themselves to agriculture and cattle raising. The Indian pueblos continued to be for a long time the centers of population and commerce. There the friars built their churches and convents. The poverty of the land together with the enormous distance from Mexico hindered the development of profitable commerce and the raising of big cities. Santa Fe is the only original city established by the Spaniards that survived and prospered. The churches built by the early missionaries of New Mexico were quite humble when compared with the sumptuous temples we find everywhere in Mexico.

If material development suffers by comparison with Mexico, the missionary zeal displayed by the missionaries in New Mexico has not been surpassed anywhere. The period of greatest activity was between 1620 and 1640. In this period were built many of the best churches, and some attempts made to teach the natives. These churches were destroyed in the general Indian revolt of 1680; some were rebuilt later. Religious teaching in New Mexico was entirely in the hands of the Franciscan friars. No other religious order worked there until after the American occupation. Oñate tried to open New Mexico to all orders but without success.[11]

10. In a communication of September 13, 1608, the king advised the viceroy to submit the decision of abandoning New Mexico to a committee composed of judges from the audiencia, jurists, learned men from the university, and theologians, both secular and from the religious orders. The opinion was rendered in writing by Fray Francisco de Velasco on January 31, 1609. He sets forth seven reasons why New Mexico must not be abandoned. The main argument is that the Indians who in good faith have accepted Christianity cannot be abandoned lest they relapse into paganism (A. G. I., Audiencia de Mexico, legajo 128).

A similar opinion had already been rendered on January 31, 1602, by the Jesuits Pedro Diez, Pedro de Ortigossa, and Pedro Morales (A. G. I., Audiencia de Mexico, legajo 26).

11. Oñate wanted New Mexico open to friars of all orders who cared to labor there. The Council of the Indies authorized only Franciscans and barefooted Carmelites (A. G. I., 58-3-13).

The isolation of New Mexico which was such an obstacle to development was also a hindrance to the missionaries in matters of ecclesiastical administration. They were under the jurisdiction of the bishop of Zacatecas. In 1634 favorable action was taken both in Rome and Spain for the creation of a bishopric at Santa Fe. Unfortunately, the crown decided to consult the viceroy and the archbishop at Mexico City before reaching a final decision, and nothing was ever heard of the matter again.[12] It was only after New Mexico became a part of the United States that the bishopric of Santa Fe was established, with Father Lamy as its first bishop.

Some twenty years later the Dominicans also sought permission to extend their activities to New Mexico, but they were refused because of the opposition of the Franciscans. See F. W. Hodge, G. P. Hammond, and A. Rey, *Fray Alonso de Benavides' Memorial of 1634*, Albuquerque, 1945, pp. 131-132. Alonso de Oñate, brother of Don Juan, is very critical of the Franciscans because of their tendency to exclude native friars from important posts (A. G. I., 59-1-2).

12. See Hodge, Hammond, and Rey, *The Benavides' Memorial of 1634*, pp. 150-158.

ANCESTRY AND SOME DESCENDANTS OF WILLIAM GREGG I

By HOWARD T. DIMICK

I. Introductory

WILLIAM GREGG I is the genarch in America of a line of Greggs numbering many individuals of talent and some of marked distinction. Among the distinguished are William Gregg who introduced cotton mills in the Graniteville district of South Carolina, Brigadier-General John Gregg of Alabama and Texas, and Josiah Gregg, Santa Fe trader and early American explorer, quondam resident of Santa Fe, whose Western travels and death in the wilderness of northern California are items of Americana still green in the minds of New Mexicans.[1]

II

William Gregg I [William the Quaker] was one of the three earliest Gregg arrivals in the American colonies, having settled in the Christiana Hundred of Delaware in the period 1680-1682. Although some of his descendants have claimed that he came to the colonies from Scotland, I am of the opinion that he lived for many years in Ireland prior to his emigration, residing in the Londonderry district of Ulster.[2]

The tale extant in some quarters that William Gregg I came to the colonies with William Penn is no doubt apo-

1. J. S. Buckingham, *The Slave States of America* (2 vols., Fisher, Son & Co., London, 1842), I, 43; R. S. Cotterill, *The Old South; . . .* (The Arthur H. Clark Co., Glendale, 1936), 197; W. F. Cash, *The Mind of the South* (Alfred A. Knopf, New York, 1941), 78; Josiah Gregg, *Diary & Letters: Southwestern Enterprises, . . .* (Univ. of Okla. Press, Norman, 1941), 1-72, cited hereinafter as *Diary & Letters, I;* Josiah Gregg, *Diary & Letters: Excursions in Mexico and California, . . .* (Norman, 1944), 361-379, cited hereinafter as *Diary & Letters, II.*

2. *Biographical and Genealogical History of the State of Delaware* (2 vols., J. M. Runk, Chambersburg, 1899), I, 640; Henry C. Conrad, *History of the State of Delaware* (3 vols., Wilmington, 1908), II, 462, 481. It is believed that William Gregg I went to Ireland about the time of the Cromwellian civil war.

cryphal, and the myth turns on the point of Gregg's being a Quaker. It is far more probable, however, that William Gregg had no connection with William Penn, but emigrated to the colonies directly from Londonderry, Ireland, and landed at New Castle, Delaware, from which incident he is sometimes called William Gregg of New Castle. At any rate, he was a very old man, a widower, at the time of his arrival, and had four children: John, Ann, George, and Richard Gregg.[3] The children of John Gregg, son of William Gregg I, are of especial interest.

John Gregg married Elizabeth Cook, and their children were:

William Gregg II,
Thomas who married Dinah Harlan,
Joseph who married Hannah Beeson,
Samuel I who married Ann Robinson,
Hannah who married George Robinson,
Rebecca who married —— Spragg (Sprague),
Amy who married Joseph Hadley.

William Gregg II married Margery Hinkey. Her father's name is believed to have been Herman Hinke or Heinke corrupted to Hinkey.[4] William II married a second time, his second wife having been Anne Woodnut. By Margery Hinkey William Gregg II had four sons of importance in this account: Herman, William III, Joshua, and Jacob Gregg.

Jacob Gregg married Mary Polly Hatcher,[5] and among their four sons were two of direct interest: Harman [probably Herman] and John Gregg. Harman [Harmon] married Susannah Schmeltzer (spelled Smelsor) and of their large family two sons, John and Josiah Gregg, are of particular interest.[6] John Gregg, brother of Harman, married

3. *Family records* of Mrs. Louise P. Bosworth; Howard T. Dimick, "Four Johns Gregg of Texas" in *The Southwestern Historical Quarterly:* to be published, probably in 1947. Mrs. Bosworth, a Gregg genealogist, is a descendant of William Gregg I.

4. Margery's father was a German scientist; she was a granddaughter of Augustine Herman.

5. She was usually known as Polly Hatcher.

6. Josiah Gregg, *Diary & Letters*, I, 1-72; *Pennsylvania Archives*, 3 Ser., (29 vols. and index, William S. Ray, Harrisburg, 1894-1899), XXI (Schmeltzer), XVII (Smelsor), XVIII, XXVI (Smeltzer), *passim*.

Catherine Grotts of Illinois, and later settled in Texas, residing in the Sulphur Bluff area of what is now Hopkins County.[7] John and Josiah Gregg, sons of Harman Gregg and Susannah Schmeltzer, were engaged in the Santa Fe trade between Northern Mexico and the United States.[8] Josiah Gregg on December 20, 1850, rediscovered Humboldt Bay, California.[9]

III

In the decade 1753-1763 four Gregg brothers were born near Winchester, Virginia. Their birth is established by entries in a family bible, but since the word "near" is elastic when applied to the pioneer country there is the problem of whether they were born on Virginia soil or over the line in Maryland. The four brothers, Nathan, James, William, and Samuel Gregg, were descendants of William Gregg I of Delaware.[10] They were of the fourth generation in America, but their father has not yet been identified in the line.[11] Whether or not their mother was a Virginian is still undetermined, but it is certain that Greggs of their line were in Virginia after 1750 as shown by the birth of their cousin John Gregg, brother of Harman Gregg, near Petersburg, Virginia, on December 3, 1780.[12] Of the children of William Gregg II one son, Joshua Gregg, was twice married, but the name of his first wife and a record of their children are not available. For that reason it has been assumed that he may have been the father of the four Gregg brothers born near Winchester.

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7. Gregg family records. Courtesy of Frank Gregg, Birthright, Texas.

8. Josiah Gregg, *Diary & Letters*, I, 1-75; Howard T. Dimick, "Reconsideration of the Death of Josiah Gregg" in NEW MEXICO HISTORICAL REVIEW, XXII, 276, 315-316.

9. *Ibid.*, I, 126-127; *Diary & Letters*, II, 361-379; Howard T. Dimick, "Visits of Josiah Gregg to Louisiana, 1841-1847," in *The Louisiana Historical Quarterly*, XXIX, 4; Dimick, "Reconsideration of the Death of Josiah Gregg," *loc. cit.*, XXII, 278, 279.

10. *Family bible* of Jane Gregg Gammon (records of Mrs. Louise P. Bosworth). Jane Gregg, daughter of Nathan Gregg of the four brothers, married George Gammon and lived in Sullivan County, Tennessee.

11. Destruction of records during and since the Civil War has made the research into the paternity of the four Gregg brothers slow and so far unproductive.

12. Gregg family records.

IV

Of the four Gregg brothers Nathan and James are of especial importance in this account. Nathan Gregg married Annis Gamble and there were several children: Jane, James G., and Nathan who remained in Tennessee.[13] Jane also remained in Tennessee, but James G. emigrated, and will be mentioned again. James Gregg of the four brothers married Rachel McClellan, and their eldest son was Nathan Gregg who settled in Lawrence County, Alabama, in the period 1821-1823.[14]

Nathan Gregg of Alabama married Sarah Pearsall Camp, a widow, and among their children was John Gregg, afterwards the famous brigadier of Lee's army who on August 16, 1864, saved Richmond from capture, and whose death near Richmond on October 7 of that year was regarded as a calamitous event in the fortunes of the Confederacy.[15]

James G. Gregg, son of Nathan and Annis Gamble Gregg, married Mary Baker. Two of their children, George Gammon Gregg and Endymion Baker Gregg, are of importance as cousins of the children of Harman Gregg of Missouri and Nathan Gregg of Lawrence County, Alabama. The children of James G. and Mary Baker Gregg early recognized a blood relationship to the Missouri and Alabama branches of the Gregg family. James G. Gregg moved to Fayetteville, Arkansas, in 1837. While living there his sons George Gammon and Endymion B. Gregg were in touch with the Missouri family, and George Gammon Gregg thought of joining one of Josiah Gregg's Santa Fe caravans. In-

13. Oliver Taylor, *Historic Sullivan: A History of Sullivan County, Tennessee* . . . (The King Prtg. Co., Bristol, 1909), 200-201.

14. James Edmonds Saunders, *Early Settlers of Alabama* (Graham & Sons, New Orleans, 1899), 200; Thomas McAdory Owen, *History of Alabama and Dictionary of Alabama Biography* (4 vols., S. J. Clarke Co., Chicago, 1921), III, 704.

15. Charles W. Field, "Campaign of 1864 and 1865" in *Southern Historical Society Papers*, XIV, 553, 558; Douglas S. Freeman, *R. E. Lee, A Biography* (4 vols., Charles Scribner's Sons, New York, 1935-1941), III, 509 (note); *report* of Robert E. Lee to James A. Seddon, October 7, 1864, in *Official Records*, Ser. I, XLII, Pt. I, 852.

A biographical and military history of Brigadier-General John Gregg is now in preparation.

stead, however, George G. Gregg settled at Marshall, Texas, about 1841, and went into the mercantile business there; Endymion B. Gregg followed him there a few years later.[16]

Both the Missouri and Alabama branches early recognized a blood relationship to the Greggs at Marshall, Texas, and at one time or another John and Josiah Gregg of Harman's family and John and Edward Pearsall Gregg of Nathan's family visited their cousins at Marshall. Among the children of George Gammon Gregg there was recognition of a remote grandfather (forefather) William Gregg —probably William Gregg II.[17]

V

John Gregg, son of William Gregg I of Delaware, married Elizabeth Cook and his children have already been named in Section II. His son Samuel Gregg I married Ann Robinson. They had one child Samuel Gregg II. Samuel Gregg II married Dinah Chandler. Their children were:

Samuel III, Jesse, Thomas, and Mary.

Samuel Gregg III married Ann C. Walraven (first wife) and Sarah Sutton (second wife). By Ann Walraven he had:

Peter Walraven, Anna C., and Samuel IV.

By Sarah Sutton he had one daughter Mary Sutton Gregg.

Samuel Gregg IV is not known to have married, and the succession of Samuels Gregg must on that account be broken and the eldest son of Samuel Gregg III, Peter Walraven Gregg, must be substituted. Peter W. Gregg married Mary A. Shields, and they had:

Samuel V, Lydia, and Anna C.

Samuel Gregg V married Margaret A. Chandler, and they had:

Elsie, Willard S., Elizabeth, Irwin W., Joseph C., and Helen H.

16. *Family bible* of George Gammon and Mary Wilson Gregg; records of Mrs. Louise P. Bosworth; Gregg family records. George G. Gregg was the writer's matrilineal grandfather. Endymion B. Gregg was the matrilineal grandfather of Mrs. Louise B. Bosworth.

17. *Gregg family records and reminiscence.*

It was from records preserved by these descendants of John Gregg, son of William Gregg I, that I found means of definitely tracing the ancestry of William Gregg I of Delaware.[18]

VI

Handed down from John Gregg, who had come to the colonies from Ireland with his father, was a motto ascribed to "ancient Celtic kings" which read: *Srioghal mo dhream een do,* and was said to mean "spare not." [19]

Inspection of the motto reveals that there is a linguistic discordance or anomaly between the words *Srioghal mo dhream* and the words *een do.* "Spare not" given as the meaning of the motto is questionable. It would appear that there are too many words in the motto merely to mean "spare not." Impressed by these conclusions, I sought to learn whether such a motto might be found on the arms of the Gregory or the Gregor families (particularly the Clan Mac Gregor). Aided by The Library of Congress, I found that the pseudo motto was in fact *two* mottoes in combination, one much older than the other. A part of the older motto was given as the meaning of the combination. Both mottoes were traceable to the arms of the Clan Mac Gregor of the Scottish Highlands. They had become garbled in the process of being handed down through the Gregg generations, and were attributed to ancient Celtic royalty as late as 1899. It was evident that these mottoes preserved but misunderstood were not the glib findings of venal genealogists but were legitimate items of the Gregg family records. From them, therefore, the true ancestry of William Gregg I [William the Quaker] and his descendants could be taken back to Gregor Alpin — third son of King Alpin — who founded Clan Mac Gregor, and to Gregor Alpin's eldest son Doungheal Gregor who became the first Mac Gregor.[20]

18. The descendants of John Gregg are given from *Biographical and Genealogical History of the State of Delaware,* I, 640-641. By courtesy of The Historical Society of Pennsylvania.

19. *Ibid.,* I, 641; James Fairbairn, *Fairbairn's Crests . . .* (Heraldic Pub. Co., New York, 1911), 589.

20. Alexander Nisbet, *Heraldic Plates . . .* (George Waterston & Sons, Edinburgh, 1892), 157-161; George Eyre-Todd, *The Highland Clans of Scotland* (2 vols., D.

The older Mac Gregor motto was found to be *Ein doe and spair not.* Its age is uncertain, but it is probable that it was the motto of Clan Gregor (Mac Gregor) from an early date. The later motto dates from 1801, when Sir John Murray Mac Gregor obtained permission to change the Mac Gregor motto above the crest to *'S rioghal mo dhream,* meaning "royal is my race." It is probable that Sir John Murray Mac Gregor was motivated by pride in the royal line of Mac Alpin in changing the older motto which the early Mac Gregors found adequate. Personally I find the older motto preferable because of its Scottish and its historical connotations.[21]

VII

The ancestry of William Gregg I of Delaware is thus established as of clannish and pure Scottish blood.[22] William Gregg I was not of Scots-Irish lineage, although that has been supposed to be the case because of his long residence in Ireland.[23] But residence in Ireland did not modify the Scots clannishness of William Gregg I; and it may be inferred with reason that he became a Quaker because he had seen the folly and retribution of clan wars and Highland turmoil. There is good reason to infer that he was born William Mac Gregor, and that the family name was changed to Gregg after Clan Mac Gregor was abolished by an act of parliament under Charles I in 1633.[24]

Appleton & Co., New York, 1923), I, 166-171; *Biographical and Genealogical History,* I, 640.

Srioghal is also given as *S'rioghal* and *'S rioghal.* The latter is believed to be the correct form. The lack of readily available sources on heraldry prevented the writer from research on the point.

21. Alexander Nisbet, *op. cit.,* 158-161; James Fairbairn, *op. cit.,* 589.

22. Howard T. Dimick, "Reconsideration of the Death of Josiah Gregg" in NEW MEXICO HISTORICAL REVIEW.

23. The date of William Gregg's emigration to Ireland is not known but is believed to be about the time of the Cromwellian Civil War. He may have been accompanied by his parents and by brothers and sisters. If any of the brothers or sisters married Irish nationals it did not change the Scots clannishness of William Gregg whose descendants were not of Scots-Irish character.

24. Frank Adam, *The Clans, Septs, and Regiments of the Scottish Highlands* (W. & A. K. Johnston, Edinburgh & London, 1924) 78-79; Peter Hume Brown, *History of Scotland* (Univ. Press, Cambridge, 1909-1912), II, 253; Thomas Wright, *The History of Scotland from the Earliest Period* (2 vols., Thomas C. Jack, Edin-

It is fortunate that this line of Greggs preserved some of the family records and that publication of the mottoes was made in Pennsylvania with the aid of the Delaware descendants.[25] It is a matter of conjecture and surmise as to the failure of genealogists to trace and publish the data of the correct form and meaning of the mottoes since the biographical publication in 1899.

burgh, n.d.), II, 440; Henry Cabot Lodge (Ed.), *The History of Nations* (25 vols., John D. Morris & Co., Philadelphia, 1906), XII (Ireland and Scotland), 248, 249, 333-340.

25. *Biographical and Genealogical History*, I, 640-641. A forthcoming article is of interest: Howard T. Dimick, "Four Johns Gregg of Texas" in *The Southwestern Historical Quarterly*.

BLACK-ROBED JUSTICE IN NEW MEXICO, 1846-1912

By ARIE POLDERVAART

CHAPTER XV

COMBING POLITICAL HAIR

Elisha V. Long, who was serving as judge of the circuit court of Whitney county at Warsaw, Indiana, though not an applicant for the office, was selected by President Grover Cleveland to fill the vacancy occasioned by removal of Chief Justice Vincent.

As a member of the bar of Indiana before coming to New Mexico, Judge Long occupied a number of positions of honor and trust. In 1863 he was appointed district attorney for Kosciusko and Wabash counties, holding the office for three years. Governor Thomas A. Hendricks, afterward a vice president of the United States, in 1872 named Judge Long to the circuit bench of Indiana presiding over the judicial area comprising Kosciusko, Marshall and Fulton counties, with a later addition of Whitley county. After completing this term by appointment he was twice re-elected, presiding for thirteen years in all. Though Long was a Democrat in politics, his personal popularity and judicial distinction were so pronounced that he twice carried Kosciusko county and the city of Warsaw by large majorities when the district was overwhelmingly Republican.

In R. E. Twitchell's opinion Judge Long's court was in all probability the strongest, intellectually, which ever sat on the Territorial bench in New Mexico.[1] Serving with Judge Long were Associate Justice Reuben A. Reeves of Texas, Associate Justice William H. Brinker from Missouri and William F. Henderson from the State of Arkansas.

Early in 1887 Congress authorized division of the Territory of New Mexico into four judicial districts, placing upon the Territorial chief justice and the associate justices

1. *Leading facts of New Mexican history*, II, 497-498.

the responsibility for carving the three districts of the Territory into four. Under the new plan, the newly appointed additional judge, Reuben A. Reeves, was assigned to the first judicial district with headquarters at Santa Fe, thus breaking the long established precedent of having the chief justice head the first judicial district and reside in the capital. Chief Justice Long took over the newly created fourth judicial district with his headquarters at Las Vegas, where he continued to reside until his death.

Legal questions coming before the Supreme Court had increased manifold for several years and the variety of cases was quite phenomenal. The *Santa Fe New Mexican* editorialized on this subject, saying:

> In view of the limited population of New Mexico and the undeveloped state of our natural resources it is a surprising fact that our Supreme Court has to consider every term questions whose legal importance and whose magnitude, in reference to the pecuniary and proprietary interests involved, are at least equal to those which are involved in the litigation of the wealthiest and most populous states of the Union.[2]

The district court dockets had been similarly crowded. In 1886, for instance, while he was still presiding over the first judicial district, Judge Long held court eleven months, resulting of necessity in serious delay in the decision of cases appealed to the Supreme Court. This alarming situation was partially alleviated through creation of the fourth district.

Almost immediately after his arrival in New Mexico, Judge Long was faced with important political questions at solution of which he became exceptionally adept. Democratic Governor Ross upon taking office proceeded to remove all the Republican officials, but Attorney General Breeden and some other Republican officials refused to submit without a legal battle.

In January, 1886, the already familiar question of who was attorney general of New Mexico arose again, this time between Colonel Breeden and N. B. Laughlin, the latter a member of the Supreme Court some years later. Colonel

2. Dec. 16, 1887.

Breeden started to represent the Territory in the case of *Territory of New Mexico v. Kinney*,[3] when he was interrupted by Mr. Laughlin, who proceeded to address the court and claimed that he was the attorney general and not Colonel Breeden. In support of his claim he produced a commission, regular upon its face, signed by Governor Ross and dated November 15, 1885. Colonel Breeden thereupon presented his commission, also regular and formal, signed by Gov. Lionel A. Sheldon in April, 1884.

Judge Long himself wrote a separate opinion which settled the dispute in a collateral way, pointing out that the question really was not before the court as an issue legally joined since it came up in the course of another controversy properly before it.[4] Hence, said Judge Long, the court would determine the matter informally so it might proceed with the principal case, using such facts only as were then apparent and without determining finally who was the real attorney general of New Mexico.

The governor had sought to remove Colonel Breeden and had publicized his decision to do so. Since an act of congress, however, declared that the governor could appoint a new attorney general either upon death of the incumbent or upon his resignation and since Colonel Breeden appeared in person very much alive and showing no disposition whatsoever of having resigned his position, the court concluded that the political appointment of his alleged successor could not have been predicated upon either of those contingencies. On the other hand, the governor had openly announced through the press and otherwise, that he was removing Colonel Breeden and substituting Mr. Laughlin. The court concluded that it could take judicial notice of these facts as being current history of the Territory. It thereupon decided that in accordance with the earlier decision in *Territory v. Stokes*, 2 N. M. 63, Colonel Breeden's term not having expired by limitation, it would recognize his right to proceed with prosecution of the Kinney case as the *de facto*[5] attorney

3. 3 N. M. (Gild.) 656, 9 Pac. 599.

4. *See In re Claim for Recognition as Attorney General*, 3 N. M. (Gild.) 524, 9 Pac. 249.

5. In fact, but without lawful title.

general. The court thus side-stepped a forthright clash with the governor on the question of the chief executive's power of removal of the Territorial officer.

Exactly one year later, however, the same legal question came up in another political appointment wrangle. And in this case the issue was placed squarely before the court. Judge Long again wrote the opinion.

In this case Edward C. Wade had been duly appointed and confirmed as district attorney of the third judicial district on March 11, 1884. According to Mr. Wade's contention, on November 9, 1885, Singleton M. Ashenfelter came along with an illegal claim to the office, based upon a gubernatorial commission. Wade contended the commission was void because, although it had been made by the governor, the appointment had not been approved by the legislative council. Since that ill-fated day in November, Wade declared, Ashenfelter had actually excluded him (Wade) from the office. The district court listened to Wade's story and agreeing with him, adjudged him to be the lawful incumbent.

Mr. Ashenfelter predicated his right to the office upon a commission issued him on October 28, 1885, by Governor Ross. The council had not been in session since that date and hence had not had the opportunity either to confirm or to reject the appointment. The questions presented to the Supreme Court by this controversy were:

(1) Was there a vacancy when the governor made this appointment?

(2) If no vacancy existed, did the governor have the power to create one by the mere act of appointment and delivery of a commission to Ashenfelter, and thus by the same act both create and fill the vacancy?

The real question, according to the Court's interpretation, resolved itself into whether the governor had the power to remove from office one who had been appointed for a fixed and definite term. In a lengthy summary and survey of opinions by courts of other jurisdictions on the question, Judge Long wrote that such power in the governor did not exist. The opinion was based upon pure and convincing

principles of fundamental law, but it did not negate the fact that the decision was the second in two years in direct opposition to the wishes of the executive. In what appears to have been an attempt to smooth over the governor's ruffled feelings as best he could, Judge Long declared, in an eloquent exposition of human rights:

> In what has been said upon the law of this case, there has been no wish or purpose to cast the least imputation on the motives of the executive. The same presumption of good faith and honest desire to act within legal and constitutional limits are accorded to him as to either of the coordinate branches of the government, and his motives are not the subject of criticism. No doubt, he acted upon the impression that he was entirely within the line of his duty, as well as of law, and that he believed the removal of the respondent was demanded by the best interests of the public service.
>
> It is a very delicate task for one department of the government to pass upon the acts of either of the others. It is, however, unavoidable, as the law has imposed upon the judiciary duties it can not and should not seek to escape, but rather to discharge them with the highest respect for the other departments, and with the single purpose to maintain only those principles of law firmly established by the weight of authority, well founded in justice, proper for the protection of human rights, and the maintenance of that system which prevails, that every one, however humble, shall be heard before he is condemned or his rights denied.[6]

Because of his stand in upholding the law against his own party, Judge Long was severely scored by party friends.

In the case of *Territory v. Thomason*,[7] an interesting language problem confronted the court, originating in a criminal trial. After the trial had been concluded and while the jury was in deliberation, it developed that about one half of the jury couldn't speak a word of English, while the other half couldn't speak or understand Spanish. All possibility of deliberation or agreement was thus cut off. In desperation the jury twice earnestly asked to be supplied with some medium of communication. Finally an officer of the court, specially provided by statute as an interpreter, was first sworn and then sent into the jury room. The de-

6. *Territory v. Ashenfelter*, 4 N. M. 93 (Columbia, Mo., 1896), pp. 147-148.
7. 4 N. M. 154, 13 Pac. 223.

fendant's attorneys now contended that sending the interpreter in with the jury, when it was considering the verdict, over the defendant's objection, was error. The law is extremely jealous, said the defendant, "of the slightest communication of any person, including even the judge, with the jury after they have retired."

The question, as Chief Justice Long pointed out in writing the opinion in the case, was a novel one peculiar to New Mexico, and one which had "not been before decided by any court," in so far as the court had been able to find in its search. Hence, the judge held, this case stood on its own peculiar facts.

Deciding the point upon general principles, the court concluded that when the defendant relies upon an alleged irregularity of the court or jury, the burden is upon him, not only to show it, but also to prove he was prejudiced thereby. The presumption is, said the court, that the interpreter was in the jury room

> not to communicate to the jury, but only to act as the medium of communication. He could not have been an embarrassment to the jury, for that body twice earnestly asked for his presence. The interpreter did not intrude himself upon the jury as a mere listener, but went by direction of the court, on the request of the whole panel. This case is not like one where, unbidden, a stranger goes into the jury room as a spy upon the deliberations, or as an unwelcome intruder. Such a person might be a restraint upon that free interchange of opinion so important to correct results. It is not in this case shown, or attempted to be proven, that the interpreter said a word, or performed an act, inimical or prejudicial to the prisoner, or that any juror was restrained in the exercise of his duty, or in the slightest influenced by the presence of the interpreter. Acting under oath and the order of the court, the presumption should be in favor of proper action by him, rather than against it. . . . If this officer of the court did or said anything prejudicial, that is a fact for the defendant to show in the court below in the first instance. [8]

Chief Justice Long held several distinctions in his able career upon the bench in New Mexico. Among these may be included that of having prepared the longest and most exhaustive opinion written in any case during Territorial days.

8. *Territory v. Thomason*, 4 N. M. 154, at pp. 167-168.

The controversy in question was that of the *United States v. the San Pedro and Cañon del Agua Company*, reported in volume 4 of the New Mexico Supreme Court reports. The case begins on page 405 of the volume in the Gildersleeve edition and extends through page 602, but two pages short of two hundred printed pages. The actual opinion of Chief Justice Long extends from page 414 to page 577, and there is an additional opinion on rehearing by Judge Long beginning on page 598 and continuing to page 602. In this case the United States sought to set aside on grounds of alleged fraud and imposition, a survey of public land which the defendant claimed he had derived through a grant from the Mexican government that had been made prior to the cession of New Mexico to the United States. The grant had been approved by the surveyor general, and it had been confirmed by act of congress.

In February, 1844, Jose Sefarin Ramírez had petitioned the then governor of the department of New Mexico for a certain tract of land described in his petition as over a league distant from the town of Real de San Francisco. In the case before the court it was averred that the north line of the grant as confirmed by the surveyor general, through the fraud and connivance of the original petitioner with the surveyor general and others, had been extended so as to include certain valuable copper mining properties. The bill then seeks to set aside the survey and to vacate the patent made under it, so far as the alleged extensions are concerned, on grounds of fraud and mistake. The court made a lengthy study of the facts and concluded that Ramirez was thoroughly familiar with the original delineation and that if it had not been correct he would certainly have complained and sought a correction of the descriptions. Accordingly, the subsequent delineation which extended the boundaries evidenced fraud because it in effect reversed the boundaries of the grant.

After what the court said was a careful weighing and consideration of the record in the case (which consisted of over seven hundred closely printed pages, with numerous

maps and plats in addition!), it held that the fraud and mistake alleged were clearly and satisfactorily proven. It also pointed out that in any event, by the laws of Spain and Mexico, mines would not be conveyed in such a grant since they were reserved to the crown or the government.

Both in the Cañon del Agua case in the Supreme Court and in the Las Vegas Grant case in the district court, Judge Long showed courage and legal knowledge. As in the Attorney General case these decisions made him some influential and bitter enemies. Several years later when the Court of Private Land Claims was about to be created, Judge Long was considered as one of the most likely persons to be considered for appointment to that body. His adversaries, however, slipped a proviso into the act stating that no resident of New Mexico or Arizona should be eligible as a judge for such a court. Leaders in Territorial affairs for some years had been active in promoting appointment of New Mexico and Arizona residents for official positions within these Territories, and this sudden reversal of policy has been generally interpreted as directed primarily at preventing Judge Long's appointment.

In 1890 the chief justice submitted his resignation and entered private practice of law at Las Vegas, where he died on September 9, 1928.

CHAPTER XVI

AN IRISHMAN ADORNS THE BENCH

Dr. John B. Newbrough, Ohio born spiritualist, had a vision while living in New York State which in 1881 impelled him to write a new Bible "by automatic control." He called it the *Oahspe* and had it published early in 1883. Andrew M. Howland, a well-to-do wool dealer in Boston saw a copy of the new book in a bookshop and became interested in the movement which it outlined, the founding and maintenance of a home for orphans and castaway babies.

Howland, in October, 1883, went to a meeting which Newbrough called in the interests of his new movement, and

thenceforth helped it along financially. Newbrough's plan "differed" from other orphan homes in that the children would be reared under a strictly religious program from the cradle amidst teachings of cooperation, brotherly love and helpfulness.

Down in Atlanta, Georgia, Jesse N. Ellis, the father of two young boys, also learned of the new movement through some of its literature. He was particularly impressed with communal features of the program, a "Utopian scheme for the amelioration of all the ills, both temporal and spiritual, to which human flesh and soul are heir." [1] According to Ellis' understanding of the plan, as outlined in the official literature, the property of the community which the "Faithists" would establish in some remote and isolated spot was to be held in common; no one individual was to have any separate title or property; the community would be conducted on principles of brotherly love, without master or mortal leader there to exercise control over the others; all members were to enjoy equally a permanent place in the society. This, Ellis decided, was the ideal life. He had gone bankrupt only a few years before and knew what it was to be left without any security in a cruel and merciless world. He, therefore, wrote Newbrough that he was ready to join the community and to consecrate his life, his labor and his worldly effects and prospects, together with those of his two sons, to the good of the program. He joined the group in July, 1884, at Pearl River, New York, some twenty-five miles from New York City, where the Faithists were "mustering in" to start their new adventure.

In *Oahspe* Newbrough had envisioned the type of location needed for the new Faithist colony and went West to find a permanent site for the movement. Through Arizona he looked, then in California, finally in New Mexico. Convinced that he had been guided in his choice by "Jehovih" from on high, Dr. Newbrough located his new Arcadia on the river Shalam (Rio Grande), 50 miles above El Paso, in the county of Doña Ana, in the valley of the Mesilla. He

1. *Ellis v. Newbrough*, 6 N. M. 181, at p. 184.

christened this new Vale of Tempe as the "Land of Shalam." Friction developed among the members and Ellis was ordered to leave the colony. He decided to seek $10,000 compensation for alleged losses. In a district court jury trial, he was awarded the sum of $1,500. The case was appealed to the Supreme Court. The opinion, handed down on August 19, 1891, stands today as a leading case on the legal doctrine of estoppel. Ellis was estopped by his own acts, the court said. It further held that there was no evidence to sustain the verdict of the jury awarding the plaintiff $1,500; that the refusal of the trial judge to set aside the verdict was all wrong; and that the judgment of the district court would have to be reversed.[2]

The opinion in the case was written by Judge Alfred A. Freeman and is probably the best mixture of facetious humor and satire ever penned by a member of New Mexico's highest tribunal.

It very nearly lost him his place upon the court. President Harrison was deeply disturbed by what he regarded as conduct improper and inconsistent with the dignity of the bench.

Serving as chief justice of the Supreme Court during this time, from 1890 to 1893, was an Irish-born jurist by the name of James O'Brien, named to the post, while practicing law in Minnesota, by President Benjamin Harrison. Judge O'Brien found a crowded docket upon his arrival in New Mexico and in the three years on the bench he personally wrote twenty majority opinions and also prepared dissenting views in five cases, in addition to presiding as judge of the fourth judicial district with headquarters at Las Vegas.

Throughout Territorial days controversies involving water rights turned up in the courts from time to time with curious twists. An interesting question of this nature was decided by the Supreme Court in July, 1891, a few weeks before the decision in *Ellis v. Newbrough,* in an opinion written by Chief Justice O'Brien.[3]

2. *Ellis v. Newbrough,* 6 N. M. 181, 27 Pac. 490.
3. *Trambley v. Luterman,* 6 N. M. 15, 27 Pac. 312.

In May, 1846, Rafael Garcia, before justice of the peace Manuel Duran, solicited permission to erect a mill on an artificial race or ditch along the Gallinas river, near Las Vegas, explaining that erection of the mill would in no way impede use of the water from the acequia for irrigation purposes. Consent was granted and in 1849 Garcia erected a grist mill, the machinery of which was propelled with the water from the ditch, which in turn was supplied from the river. A mill, such as the one Garcia built, is described by Lt. John G. Bourke as follows:

> Cottonwood log edifices, about 12 ft. square and 7 ft. high, built over the ditch to allow the water to turn a small turbine wheel. I should conjecture that in an emergency, under the stimulus of a Gov't contract, with a full complement of hands (that is to say a man smoking a cigarrito, a small boy scratching his nose, and a big dog scratching his ribs) and running full time, one of these mills could grind a bushel of wheat in a week; the ordinary output can't be over half that quantity.[4]

In 1859 Miguel Desmarais, Garcia's successor in interest, erected a new mill which he owned and worked until October, 1864, when he conveyed to Juan Francisco Pinard, who used it until May 10, 1867. Pinard sold out to Peter and Ernestine Trambley and the latter operated the mill until the summer of 1886 when George Luterman erected a wool and pelt cleaning establishment along the ditch which withdrew so much water that the Trambleys couldn't operate their mill. They brought suit against Luterman to restrain him from diverting the water from the acequia.

The controversy was first brought before a Master who concluded that the Trambleys were entitled to a restraining order from the court against Luterman enjoining him from using the water during the season of limited flow unless the water so used was returned to the ditch above the Trambleys' mill, without serious diminution in quantity. Luterman appealed. In upholding the judgment of the fourth judicial district court which had been based upon the Master's report, the Supreme Court, through Chief Justice O'Brien stated:

4. NEW MEXICO HISTORICAL REVIEW, X, 299.

The ditch or acequia in controversy was made in the year 1846, before the acquisition of the territory by the United States. The rights of the parties to the use of the waters therein then attached according to the laws, customs, and usages in force in the republic of Mexico. It is apparent that when defendant bought his mill site in 1886 the Trambleys personally, and by their predecessors through whom they claimed title and took possession, had occupied and used the premises continuously during forty years for substantially the same purposes for which they were used when this suit was commenced; hence, when defendant purchased he knew or might have known of the existence of this servitude upon the land which he bought.[5]

Anyone familiar with the final, congested hours of the last days of a legislative session will readily understand why some acts eventually reach the courts for disentanglement and interpretation. The courts, however, can do no more than interpret the law as it is actually passed, giving as much weight as possible to the true legislative intent. When Chief Justice O'Brien was on the bench and former Chief Justice Prince was governor of New Mexico a very important law which had suffered a last minute legislative abortion came before the Supreme Court for final disposition.

The trouble arose from a provision in Chapter 94, Laws of 1891, otherwise known as the Finance bill, or appropriation act for the forty-second and forty-third fiscal years of the Territorial government. Section 1 provided funds and made all needed appropriations for the forty-second fiscal year; section 2, by its terms, was intended to make provisions for the forty-third fiscal year. Charles W. Dudrow, holder of an outstanding Territorial warrant, sought to convert the same into a Territorial six per centum interest-bearing bond in conformity with a proviso in section 2 of the act.

Sections 1 and 2 occupy thirty-eight printed pages in the 1891 session laws and each of these two sections is unusually complex, "surcharged with a strange variety of detailed items and multifarious provisions." The bill was originally introduced in the Council and passed there, but it was indefinitely postponed by the House which, on the

5. *Trambley v. Luterman*, 6 N. M. 15, at p. 23.

eve of final adjournment, passed a House substitute. The Council rejected the House version and instead adopted a "Council Substitute for House Substitute for Council Bill No. 81." On the last day of the session the Council appointed a three-man committee to confer with a like group from the House to consider the matter. The joint conference, after persistent disagreements, finally recommended for passage a version of the Council substitute, whereupon rules were suspended and the bill passed. The conferees, however, had barely time to rewrite section 1 of the bill, and, finding it impossible before the hour of final adjournment to amend in terms and rewrite section 2, they appended after section 1, and directly ahead of section 2 which remained formally unamended for want of time, the following note:

> The amendments in Sec. 2 (for 43rd fiscal year) coincide with those of preceding section throughout, and amounts and notes to be changed to the same.[6]

The provisions under which Dudrow tried to convert appear in section 2 of the amended act but not in section 1; hence, the court concluded that since these provisions are not found in section 1, in effect they did not appear in section 2, regardless of the fact that they did appear as part of the printed section in the session laws. Said the court in justifying its position:

> This court can not afford to be technical with the law-making power of the territory. Our province is to interpret and obey the will, not to criticise the *modus operandi*, or dictate the policy, of the legislature, created by the power of the general government. In justice to the representatives of the people it must not be forgotten that the legislature was on the eve of a final adjournment when the bill passed. The house had refused to pass the finance bill adopted by the council. A final adjournment without such an enactment would be more than a calamity—it would be a public disaster. To prevent such a misfortune, haste and disregard of the usual formalities seemed imperative. Notwithstanding all this, it scarcely admits of doubt that the legislature clearly expressed the intent, when it adopted the report of the joint conference committee, that section 2 of chapter 94 should

6. *Laws of New Mexico*, 1891, Chap. 94, Sec. 2, p. 207.

contain the substantial provisions embraced in section 1, and that all provisions found in the former, not embraced in the latter, should be expunged.[7]

When the Constitution was drafted for the new State of New Mexico nearly twenty years later, the possibility of this type of confused legislation was averted by the inclusion of a provision prohibiting the amendment of legislation by reference. No doubt the recollection of the difficulties caused by this act may have added to the determination of some of the convention members to avoid the problem in statehood days.

A controversy connected with selection of the county seat of San Juan county was one of the important issues which came up for settlement during the time O'Brien was chief justice.[8] According to provisions of Chapter 7, Laws of 1889, the legal voters of San Juan county were authorized at the general election of 1890 to vote on Junction City, Aztec and Farmington for their permanent county seat. The election was spirited and the board of county canvassers duly declared Junction City as the county seat with a majority of nine votes over Aztec, the next nearest competitor. In the election contest which followed, evidence tended to show that three non-citizens had voted for Junction City, some one else who voted for Junction City had lived in the Territory only forty days; and enough others had voted for Junction City illegally and fraudulently to change the result. Illegality of these latter votes was based on a charge of bribery. Testimony indicated that up to two or three months before the date of election there was no such place in existence as Junction City, nor was one contemplated. About that time a company was organized which purchased land at the place, platted it as a city, and gave a large square for county purposes. This company made a proposition to the San Juan county voters that, if they would locate the county seat at this place, where as yet no one resided and the lots were not sold, it would bind itself to build the necessary county buildings for the use of the county. To induce the

7. *Territory ex rel. Dudrow v. Prince*, 6 N. M. 635, at pp. 641-642.
8. *Edward G. Berry, et al. v. Henry Hull, et al.*, 6 N. M. 643, 30 Pac. 936.

voters to have a personal interest in locating the county seat at this place they began offering certificates to residents of the county to lots in the proposed town which upon their face recited a price of only $1.00 per lot. This one dollar was clearly nominal, intended probably to pay the cost of the documents and, as the court phrased it, "so nominal as to cast suspicion upon the whole transaction." There was no outright evidence that the company actually campaigned, asking people to vote for Junction City, but conversation about voting for Junction City as county seat was constantly in the air, concluded the court, while these certificates were being issued. Furthermore, it was notable that the certificates were not good after the first of January following the election in November. Nothing was paid at the time the script was given, and the dollar was paid only upon delivery of the deed, if the certificate was presented before January 1.

Aztec, of course, heard what was taking place so it too offered some one dollar lots.

The Supreme Court made a careful survey of the facts when the case came up before it and concluded that from the two-hundred and fifty-five votes cast for Junction City, twenty-three should be deducted as illegal, leaving as legal votes cast in favor of Junction City, 232; from the 246 votes cast for Aztec, nine were found to be illegal ballots, leaving as legal votes cast for Aztec, 237. As a result, Aztec was given the county seat over Junction City by a majority of five votes.

Antonio Cortesy had been fined for selling liquor on the Sabbath. He appealed to the Supreme Court to determine whether New Mexico had any valid law against selling goods, wares, and merchandise, including liquor, on Sunday. The question was one which involved interpretation of legislative intent in amending one Sunday statute by another which, to make it more definite and certain, left out some of the phraseology of the earlier act, and reduced penalties to make the law more readily enforceable. In holding that sale of liquor on Sunday was a violation of the law, Justice Seeds, writing the opinion, concluded:

As a Christian nation, it has always been the policy of the legislature to protect the sanctity of the Sabbath; to pass appropriate laws for the proper observance of the Sabbath; and, unless the law is so specific as to demand a construction against such view, it would be a rash court that would give its adhesion to such a construction. It must also be considered in this connection that the whole trend of modern thought, feeling and legislation is toward the curtailing of the admitted evils of the liquor traffic. . . .[9]

Justice Lee and Justice McFie concurred in this majority view, but Chief Justice O'Brien found himself unable to agree and stated in his dissent:

Notwithstanding the foregoing vigorous argument of the court, redolent with the fervent eloquence of my Brother Seeds, I reluctantly dissent from the conclusion reached. What induced the twenty-seventh session of the legislative assembly of New Mexico to remove the safeguards thrown around the Christian Sabbath by a preexisting law of the territory, is not the question submitted. Has it done so, is the only point the court is called upon to determine in this case.[10]

The word "labor," Judge O'Brien declared further, meant "nothing more or less than manual, servile labor," and that it would be "sheer nonsense to call a saloonkeeper or merchant a laborer or laboring man."

Judge O'Brien's court needed to discipline a leading member of the bar for disrespect to the court when he prepared his brief on appeal in the case of *Tomlinson v. Territory*. Explained the court:

The brief for appellant in this cause contains such an unwarranted attack upon the trial judge, his conduct, rulings, and instructions, as to amount to a scandalous and impertinent attack upon the judiciary of the territory and of this court, of which the nisi prius judge is a member, which would warrant us of our own motion in striking the brief and argument from the files, and affirming the decision without further investigation. It is proper for defendant to show errors, and apply the law to the same; but to allow an attorney to come into this court, and criticise and question, comment upon, and condemn the motives which actuated the judge in his rulings below, would be to place the defendant above the law, and to subject the courts of this territory to wild tirades of abuse from any person of

9. *Cortesy v. Territory*, 6 N. M. 682, at p. 695.
10. *Ibid.*, at page 697.

malignant or depraved mind—would be lowering the dignity of the bench, and subversive of good government.[11]

Chief Justice O'Brien and Mr. Justice Lee concurred with a separate statement, saying, "We concur . . . on account of the unwarranted attack upon the official conduct of the trial judge in appellant's printed brief." The attorney who had thus invoked the displeasure of the court was Frank W. Clancy. He sought a rehearing in the case on the ground that misconduct of counsel, no matter how gross, should not be visited upon the client, unless that client actively participated. In apologizing for his transgression, Mr. Clancy said:

> If, in my earnest effort to do my whole duty to a client who has intrusted his case to me, I have exceeded the bounds of legitimate and proper criticism of the trial court, I have done so unconsciously. In view of the severe opinion of the court, and in view of the respect which every member of the bar ought always to exhibit toward the courts before which he appears, I desire to express my regret that any act of mine could have called forth from any court such condemnation, and to say, although guiltless of any intentional offense, that anything which even appears to the court improper is a fit subject for apology, which I now offer to the highest tribunal of the territory.[12]

The rights of a municipality to levy special assessments against property owners came under the reviewing eye of the Supreme Court in July, 1891. Chief Justice O'Brien, writing the opinion of the court, decided that where it did not appear that two-thirds of the owners of the property charged with the assessment had petitioned that improvements be made, a property owner could appeal his grievance, in case such an assessment was levied, to a court in equity in the district where taxes had been levied.[13]

As early as August, 1892, rumors became prevalent that Judge O'Brien desired to be relieved from his position as chief justice. His resignation followed shortly afterward and it became effective early in 1893. Judge O'Brien then

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11. *Tomlinson v. Territory*, 7 N. M. 195, at p. 214.
12. *Ibid.*, at p. 210.
13. *Albuquerque v. Zeiger*, 5 N. M. 674, 27 Pac. 315.

returned to Minnesota to resume the practice of law. He died there in Caledonia on November 5, 1909.

A memorial by the Minnesota State Bar Association pays the following tribute to an able jurist:

> Judge O'Brien's many friends bear witness that, as a teacher, he was thorough and energetic; as a writer, fluent and forcible; as a speaker, pleasing beyond the great majority of even good speakers; and as a lawyer and judge, he was able and painstaking, honorable and upright.[14]

14. Minnesota Bar Association, *Proceedings*, 1910, pp. 189-190.

Notes and Documents

The Board of Directors of the Red River Valley Company, popularly known as the Bell Ranch, have given to the University of New Mexico the business papers of that concern. Mr. Albert K. Mitchell, manager of the ranch, made the gift in behalf of the Directors.

The private papers of former Governor Richard C. Dillon have been given to the University.

* Every visitor of Isleta has been shown the grave of Padre Padilla in the sanctuary of the Church of St. Agustín on the gospel side. One tradition of the Pueblo claims that the grave contains the earthly remains of Padre Juan Francisco Padilla, New Mexico's first martyr. The few historical facts about this zealous "Tashide" are few. (1) He came to New Mexico in 1540 with Coronado as a missionary; (2) He did not return with Coronado to Mexico in 1542; (3) He was killed by the Indians with arrows and (or) stones on the very outskirts of New Spain in 1544.[1]

A second Isleta tradition explains the death of Father Padilla differently.

Father Padilla at Isleta was called for a confession of an Indian at Laguna, a mission of Isleta parish. As he started back it was dusk and the snow was falling. He rode into the night and lost his way. After a long time he saw a light and he stopped at the house, but he did not know the woman who answered. She showed him the way but urged him to come in first for a cup of coffee. As he was drinking the coffee, there was a loud pounding at the door and heavy curses. It was the woman's husband. He had come home drunk and mad. He was a Mexican gambler and had lost money at cards. (sic) He yelled at the woman, calling her a fat dog and then stabbed the Father as he sat at the table. Then the woman screamed, 'El Padre, el Padre!'

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* This item was contributed by Fr. Peter J. Hill, Immaculate Heart of Mary Seminary, Santa Fe, New Mexico.

1. Different narratives on the life and death of Padre Juan Francisco Padilla may be found in an article by Miguel Trujillo, "The First Christian Martyr of the Southwest," in the *New Mexico Quarterly Review*, vol. 4, no. 4 (November, 1934); and in my unpublished thesis, *The Pueblo of La Isleta during the 16th and 17th Century*, New Mexico Highlands University, 1944, ms.

The man was frightened by his own deed. He picked up the body and carried it out to the yard, and put it on the horse. He tied each boot to a stirrup and the hands to the pommel of the saddle. Then he roped the stirrups together under the horse's belly and headed the horse into the blackness. Early the next morning an Isleta woman went to the well for water and she saw the horse standing at the gate of the church yard with the body slumped over the pommel of the saddle.[2]

The purpose of this paper is to disprove the first tradition which claims that the earthly remains are those of Juan Francisco Padilla, military chaplain to Coronado and to prove with some finality that the earthly remains are those of Juan Jose Padilla, "doctrinero" of the Mission of San José de la Laguna, attached to the parish of La Isleta and killed around the year 1743, fitting in with the second tradition as narrated above.

The Isletan Indians claim that due to the friar's violent death, he cannot rest. The body rises in the coffin and pushes up the dirt in the floor. As often as the Indians put down the boards they rise again. They believe the friar to walk in the village at night. As this Indian tradition gained ground and popularity during the years the ecclesiastical authorities started investigations.

The ecclesiastical investigation of April 25, 1895, and the report as found in the Archives of the Archdiocese of Santa Fe is well known and has been published.[2a] Another document (as far as I know yet unpublished) contains the official report of the ecclesiastical investigation held on the 6th of July, 1819, which implies one other investigation before 1819. The official report on the earlier investigation has not been found as yet.

In order to compare the facts of the two Indian traditions with the two ecclesiastical investigations, the complete text of the two reports is given.

Official report on the ecclesiastical investigation of 1895:

2. Julia Keleher and Elsie Ruth Chant, *The Padre of Isleta*, The Rydal Press, Santa Fe, New Mexico [1940], p. 39.

2a. *Ibid.*, pp. 50-53.

On the 25th day of April, 1895, at 9 A. M. there met at the rectory of the Parish of San Agustín at Isleta, New Mexico, the reverend priests appointed by His Highness, the Bishop of Santa Fé, New Mexico, Most Reverend Plácido Luis Chapelle, as a special committee to disinter and to examine, under the close direction of the very capable doctor Ruben Tipton, the supposed remains of Reverend Francisco Padilla, who had been killed by the Indians of Quivira, according to tradition three hundred fifty years before.

This trust was undertaken by the following venerable and reverend fathers:

José María Coudert of Bernalillo,
James Henrique Defouri of Las Vegas,
Luis María Gentile, S.J., of Albuquerque,
Juan Benito Brun of Socorro,
Francisco Gatignol of Belén,
Manuel Rivera of Tiptonville,
Antón Docher of Isleta,
Enrique Nerol (Substitute priest of Bernalillo).

The Reverend J. M. Coudert acted as chairman in the proceedings of this investigation, and immediately after the installation of the committee, they proceeded to elect and to vote for the necessary officials in the case.

In order to save time it was unanimously decided to name the officials by acclamation. These nominations fell on the following reverend gentlemen respectively:

Promotor: Rev. James H. Defouri
Lawyer (against): Rev. J. B. Brun
Secretary: Rev. Luis M. Gentile, S.J.
Notary Public: Rev. M. A. Rivera

The following laymen were admitted as necessary assistants:

Jose Rodríguez, native of the village and
sexton of the parish,
Benito García, carpenter,
Rafael Chávez,
Ramón Carrillo, grave diggers.

Before our eyes the boards of the floor were lifted and the supposed body of the deceased Fray Juan Francisco Padilla was found in the very site where by local tradition he was known to have been buried.

He was above the earth inside a trough or canoe made from a cottonwood, covered by a single lid made from the same material and

touching the board of the floor. The dimensions of said coffin are the following:

Length: 6 feet and 7 inches
Width: 17 inches
Depth: 16 inches

Following are the measurements of the cadaver:

Length: 5 feet
Length of the only foot found: 7 in.
Measurement of its hands: 7 in.

The body was found in a mumified state, and over his neck a stole, seemingly of purple color, and in a well preserved condition.

The physician, Dr. W. R. Tipton, wrote a scientific report respectively of the state and condition in which said body was found.[3]

Diego Abeyta whose age appears to be 90 years, and who according to his own words was sexton of the parish of San Agustín for sixty-four years, says that just prior to the time that the Indians persecuted the Spaniards (priests) and during the time that the Rev. Sánchez was priest of the place while he was still a youth, the body of the priest, Fray J. F. Padilla, came out of the earth for the first time, that it was watched for a whole night before being buried anew. The Reverend Fathers Pinon, Correa, Caballero, Valle, and Sánchez, watched and buried him. He was buried in the usual depth in the place above mentioned where we had found the body, that is near the altar to the side of the gospel. He says that the cadaver was complete at the time. He heard say that the body had in one hand a book from which one of the already mentioned priests read before the altar while shedding copious tears. At this time the sexton of the church was a man named Andrés, native of this village.

Juan Andrés Zuñi also of the same village whose age according to him was sixty years declares that when for the second time the body of the priest J. F. Padilla came out above the surface of the earth, he must have been 20 years old. "The body was," said Andrés Zuñi, "whole, complete and dry, in a mumified state, holding the book in his hands"; that again they buried him, but that he could not tell whether more or less deep than the first time.

José Chiwiwi also a native and close to fifty years of age, more or less, declared that in his youth he had seen it whole, complete and dry; that the sepulcher in which he was buried anew was of the usual depth which covers a man of average stature. Not long after this the floor was built.

Mercelina Lucero de Abeyta, also an Indian of the same village, fifty years old more or less, declares that while she was still a child the body of the priest rose above the earth.

3. This report was never found and it seems doubtful whether it was written at all.

Here end the testimonies of the first and second appearances of the body of the priest, J. F. Padilla above the surface of the earth.

Following is what refers to a strange noise which was heard at the church the night of the 25th of December, 1889, when Reverend Andrés Eschalier was parish priest.

María Marcelina Lucero says that this noise was of someone kicking on the floor; that the altar moved and that the Indians terrified, went out of the church precipitately.

Pablo Abeyta, Indian of the same village and about twenty-nine years, declared that the noise was audible during and while the Indians danced in the body of the church, and that the altar moved visibly.

"I was," says Pablo, "at the door of the railing (of the altar) to prevent the Indians from going in to desecrate the Sanctuary." He says that several of those present went with him to see if some one was moving the altar, but that they had not found anyone. That the dance began at 8 P. M., more or less, and that it had taken place against the authorities and without the consent of the Parish Priest.

Having taken these testimonies with the utmost care that was possible, the body was buried anew in the same coffin. It was placed in the same place where it had lain, and in the depth of one foot. On digging this tomb, there were found human bones, a small rosary, and a bonnet (cap used by the clergy). In the coffin was placed a steel box containing a piece of paper in which is written a summary of this investigation and signed by each and everyone of those who formed this committee.

The investigation came to a close on the same day, the 25th at noon.

The unpublished document of July 6, 1819, is translated as follows:

Having arrived at this mission of San Agustín de La Isleta, in continuance of my juridical visitation, on the 5th day of July, 1819, on the afternoon of that day, the "doctrinero" of said mission, Fr. José Iganacio Sánchez, informed me that a coffin which he knows contains the body of Fray Juan José Padilla, "doctrinero" of the mission of San Jose de la Laguna, gradually has been coming up from the depth at which it was buried, until it reached the surface of the floor, at the Gospel side of the sanctuary of said church.

In effect, having examined the grave, I noticed that the coffin was becoming visible; therefore I ordered that on the next day, on the 6th of July, the coffin should be taken out, and this was done between 8:00 and 9:00 A. M. in my presence, and that of my secretary, Rev. Father Fray Andrés Correa, and likewise were present at this, the pastor of the villa of Albuquerque, Don Francisco Leyba, the Rev.

Father Preacher General and the present "discreto"[4] Fray José Pedro Ruvi, Rev. Father Fray José Iganacio Sánches, and with the voice of Pro-Discreto,[5] Father Fray Manuel Antonio García del Valle, as well as in the presence of Mr. Mayor of the district, Don Mariano de la Peña, and Messrs. Don Francisco Xávier Chávez, Don Manuel Ruvi, Don José Antonio Chávez, and Don Antonio Sandoval, all distinguished and respected citizens of the first rank of this province.

The coffin, having been uncovered, I ordered my secretary to take the cover, which covered it, off and inside I found the body of the above referred Fray Juan José Padilla. My secretary, himself, took the body out of the coffin and placed it on a table, which for this purpose had been prepared by my order in the middle of the body of the church. And beginning the examination of this cadaver with the conscientiousness which this instance required, I found the body dressed with a habit so far gone that by just touching it it would change to dust as in reality did happen. Thus turning the body it remained naked and the habit was reduced to ashes or dust of a blue color. The body had a rosary on its neck, with a medal of our Holy Father St. Francis, and of St. John Nepomoceno, and an empty pendant of a heavenly blue, so bright as if it had just been unrolled from the bolt.

The body, having been cleaned of the dust to which the habit had been reduced I went near, accompanied by the persons already mentioned. I found the body complete, with the exception of the flanches of the right foot, the eyes and the tongue. The flesh, dried up, but so flexible, that in dressing it with a habit, the arms could be stretched to make them enter the sleeves and in the same manner and without difficulty the arms were crossed, noticing that flexibility in the fleshy parts of the limbs, the muscles and the neck where on the left side behind the ear, on the lower part of the skull, can be distinguished a scar or wound, which as is judged was the cause of his death. In the upper part of the skull, the skin appears the same as on the other limbs of the body and on the part [of the skull] with hair was the tonsure, as is proven by that which I am sending to our Seraphic Father, together with a parchment covered with a paper, turned to dust which was found in the coffin under the body, with the inscription which in the same shows itself. It is evident that the date which the inscription shows, namely June 4, 177 [torn] is that of the day on which for the second time he was buried by the same [torn] which indicated above to have come out [torn] to the surface of the ground. According to what old men of this province say, this priest was buried in the ground 32 years ago, which added to the 44 years that it was

4. Not necessarily the pastor, but he who instructed the faithful in the Christian Doctrine.

5. Religious, who assists the superior of a community in the government of same.

put in the coffin, totals to seventy-six years from his death to the present date. His body gives out a pleasant odor just like the earth smells when it is watered, and far from causing fear, even women and children come to see it and look at it without terror and it inspires all with reverence. By the hair and the condition of the beard, I am of the opinion with the others present that he must have died at the age of between 30 and 36 years.

After having again dressed this father, as is right, with a new habit, the body remained exposed in all religious decency, until the morning of the 7th of the current said July, on which a solemn mass was sung, with the office of the dead with common responsory and corresponding tolling of the bells. This funeral ceremony having been concluded, I ordered the coffin to be placed in the above mentioned (graye), with its inscription on a parchment of a better class than that which was found below the body which reads as follows: "This is the body of Father Fray Juan José Padilla, a religious priest, who was minister of the mission of San José de la Laguna; from the time of his death one counts about seventy-six years and with this one it is the third time the body is buried, and the second time it has come to the surface of the ground. Being Prelate of New Mexico the Reverend Father Fray Juan Francisco de Hocio. Year 1819. And in this disposal I ordered to place the body in the same coffin, place and church, where it was before until such time that the Father Regidor (Custodian) disposes of this topic, the investigation of which took place in the presence of the priests and the other gentlemen, who sign here below as eye-witnesses of what has been said.

Mission of San Agustín de la Isleta, and July 7, 1819, Fr. Francisco Leyva, Fr. Jose Pedro Ruvi, Fray José Ignacio Sánchez "Discreto" — Fray Manuel Antonio González del Valle — "Pro Discreto" Francisco Xávier Chávez — Don Manuel Ruvi de Celis — José Antonio Chávez — Antonio Sandoval — Mariano de la Peña — To which I certify.

Fray Andrés Correa,
Secretary.

In comparing the two documents the conclusion seems to be that the earthly remains are those of Friar Juan José Padilla of the Mission of Laguna. This opinion coincides well with the Indian tradition that Fray Padilla was killed on the way from Laguna to Isleta. The document of 1819 states that this was the second time that the body had risen to the surface. But the testimony of Diego Abeyta in the document of 1895 claims that around 1819 the body rose for the first time.

Of the names mentioned by Abeyta those of Correa, Valle, and Sánchez correspond with the document. The names Pinón and Caballero are not found in the document. The book about which Diego Abeyta speaks fails to be mentioned in the document of 1819.

According to the testimony of Juan Andrés Zuñi and José Chiwiwi in the previous document, there seems to have been a third disinterment approximately around 1855, of which no official report has been found thus far. However, this third disinterment would explain why the objects left in the coffin at the time of the investigation of 1819 were not found at the time of the investigation of 1895, particularly the copy of the document of 1819.

Then, too, if the remains belonged to Juan Francisco Padilla, who was killed by arrows or (and) stones, it seems difficult to believe that the body, according to the report of 1819, was complete save for "a scar or wound on the left side behind the ear on the lower part of the skull."

The conclusion then may be that the body buried in the Church of San Agustín de la Isleta on the gospel side of the altar is the body of Juan José Padilla, Franciscan missionary, murdered in the year 1743.[6]

6. A difficulty against the year of his death seems the fact that a Juan José Padilla signs the baptism and death registers at Isleta through the year 1755, unless this is another Juan José Padilla.

Book Reviews

The Los Angeles Star, 1851-1864: The Beginnings of Journalism in Southern California. William B. Rice. Edited by John Walton Caughey. Pp. 315. Berkeley and Los Angeles, University of California Press, 1947. $5.00

"Nothing is so stale as yesterday's newspaper."

The fallacy of this commonly-accepted simile is conclusively established by William B. Rice in his documented, scholarly, and popularly-written story of *The Los Angeles Star*. This book shows the value of newspapers as historical sources—an appraisal we often shortsightedly overlook in our hasty and sometimes careless reading of the daily papers. Good newspapers are indeed the foremost recorders of the current story of man in a particular region and time.

As Caughey states in the foreword, this volume would have significance standing alone as a journalistic study of one of California's first newspapers. Furthermore, since it devotes considerable attention to other outstanding California journals of the period (a device which enables the author to present an objective view of events as portrayed by different newspapers) and touches upon problems faced by the editors, it presents a clear cross-section of the whole field of early California journalism. The influence upon the *Star* of the pioneer *Daily Alta California,* San Francisco, and its editorial rivalry with other neighboring newspapers are portrayed. Such characteristics of frontier journalism as financial problems; importance of state printing subsidies; difficulties with news sources; the development of correspondents, and contributors; news, feature-story, and editorial policies are delineated or reflected in the analysis of the *Star*. The paper was an aggressive democratic leader and a potent voice in moulding the country's destiny. Chapters discussing the war years when the *Star* was one of the papers which felt the touch of unorganized censorship are a contribution to the study of government regulation of the press.

But the newspaper is so inextricably a part of the community it serves, the heart-throb of communal life, that by its very nature it has greater significance beyond its own horizons, problems and methods. So this study necessarily does what the Los Angeles newspapers of the 1850's and 1860's did—namely, it pictures the economic, political, social, religious and cultural life of the community. The reader vividly sees the life of the people, experiences sympathetically the problems they faced, and feels the drama and importance, in the light of later years, of the sociological issues of the period as debated and portrayed in the *Star*. The book becomes an illuminating social history. The author states in evaluation: ". . . these editors were aware of much in life; they attempted to help their readers gain the same awareness. Their paper, therefore, was an educative and ameliorating influence. It also became, as its files bulked larger and larger, a prime historical source for the career of a colorful and important town."

The *Star* was founded shortly after "Journalism . . . came to California with the Gold Rush" and within a year after Los Angeles (a town of about 1,500 persons, "the men outnumbering the women four to one") was incorporated. In the cultural poverty of frontier life, Anglo-Saxon competed with Spanish. From this "somber setting for adventures in journalism," the growth of the *Star* with its community is traced, step by step. During the early, unstable years, the paper was characterized by a succession of unimpressive editors, "adequate, but not distinguished service, and a conservatism that is always admired by many solvent subscribers." Editorial subjects during the early period included improvement in mail service, articles on Indian conditions, local vigilantism, local government reform and community improvement, state and national policies affecting the Southern California area. Unfolding from the pages of the *Star* one sees the growth of manufacturing, industry, agriculture and commerce. Like other early journals, the *Star* was an outlet for literary efforts. Many of the feature articles and poems were above average in quality, Rice

says. The *Star's* interview with Olive Oatman after her rescue from the Apache and Mohave Indians was widely quoted at the time and is of such historical stature that Rice quotes it fully in the appendix. The chief literary contribution of the *Star* in its later years was the publication of Ina Donna Coolbrith's poems. A check list of these early poems also appears in the appendix.

Henry Hamilton's editorship of the *Star* after 1856 made it a positive, aggressive force at home and abroad. His influence was strong in making Southern California a Democratic pocket borough. He editorially quarreled with rival journals. In state and national politics, the Democrats and the colorful editor of the *Star* were equally successful. Finally, Hamilton's party loyalty was rewarded by his election to the state Senate. The Mormons, Indians, the Mail, and the Railroad furnished an inexhaustible supply of grist for Hamilton's mill before the issues of the Civil War occupied his attention. The fiery Hamilton remained democracy's champion, sharply criticized the war with the result that the use of the mails was temporarily denied the *Star* and Hamilton himself was arrested and held briefly for treason. The Unionist *Los Angeles News* commented that the *Star* had been perhaps the most treasonable sheet in the loyal United States, but was forced to admit that most of Los Angeles County was "double-dyed" in treason. In this respect the *Star* remained loyal to the views of its readers.

William B. Rice, the author, died in 1942 at the age of 26 while on a mountain-climbing expedition in Wyoming. Although his other research was unusually extensive for one so young, *The Los Angeles Star* was his largest achievement. It was his dissertation offered as requirement for the Doctor of Philosophy degree at the University of California at Los Angeles. He had served as lecturer in history at the University and as associate editor of the Pacific Historical Review. John Walton Caughey, professor of history, has edited the book for his friend and former student.

Besides the files of the *Star,* the author draws generously from the Bancroft and Benjamin L. Hayes Scrapbooks

in the Bancroft Library; the manuscripts of Abel Stearns and Benjamin D. Wilson in the Huntington Library; and from the state, county and city records.

JAMES W. MARKHAM
Baylor University

Uncovered Wagon. Hart Stilwell. New York, Doubleday & Co., Inc., 1947. Pp. 309. $3.00

Portrait of a character against a background of lesser lights, told in the first person and in the salty language of a newspaperman who was raised tough. The book should be read in one sitting, just as a picture must be seen in its entirety.

Hart Stilwell has done a good job of writing for, although the book is fiction, that element is forgotten while reading. Stilwell has concerned himself with one person, "My Old Man," and does not deviate. The other characters, Mother, brother Duke, blind brother Richard, the daughters who worked for Bell Telephone and for Woolworth's, all nine children of the union, and even the horses, Buck, Sonny and the old white horse, move in the shadow of "My Old Man." They do move, however, and vividly on occasion.

Frank Endicott, "My Old Man," is a prototype of those restless primitives who form a hard nucleus for the migratory ne'er-do-wells of the rural communities. Ignorant, profane, untruthful, able to work himself into towering tantrums, able also to turn charm on and off as water is regulated by a spiggot, cowardly at times, at other times bold as a lion, "My Old Man" emerges as exactly what he calls himself in his rages: ". . . a no good son-of-a-bitch that's just in the way and would be better off dead."

There are times in the story when the reader's credulity is a trifle strained. It is difficult to believe that the narrator could be so naive as he shows himself at first and still come out the tolerant, if cynical, person that concludes the story. Some of the incident seems repetitious, and the mother's continuous obstinacy, coupled with her eternal equilibrium, is a little hard to take. Stilwell might have allowed her one uprising against her husband to some advantage. As it

stands she simply feeds "My Old Man" baking powder biscuits, concerning which he has a definite fixation, and grows morning glories on the front porch despite "My Old Man's" constant battle against them.

The writing is flatly factual, without interjection of the narrator's self save where such interjection adds to character portrayal. There is no crusade on the author's part, no social evil to set right, no personal ax to grind, and this is a relief after Steinbeck and others. *Uncovered Wagon* is just what it sets out to be: a picture of one character, unlovely truly, but very real for the most part. The setting is agricultural Texas in the 1900's. It is quite apparent that Stilwell writes of things he knows and that he has reached into his experience rather than into a source book for his color and incident. To this reviewer it seemed that *Uncovered Wagon* was worth the money.

BENNETT FOSTER

Albuquerque, New Mexico

The Pueblo Indians of San Ildefonso: A Changing Culture. William Whitman, 3rd. New York, Columbia University Press, 1947. Pp. vii, 164. $2.75 (Columbia University Contributions to Anthropology, No. 34).

The Pueblo Indians of San Ildefonso is a study of a Tewa speaking group located on the northern Rio Grande in New Mexico. The work follows the conventional organization of most ethnologies. The first section deals with a general presentation of the political, social and religious divisions and organizations of the Pueblo. It contains little material that is new but does serve to orient the reader. Chapters two and three, The Individual, and the Family, give information on the socialization processes and the individual life cycle. They comprise the bulk of work and represent a real contribution to our knowledge of the Rio Grande Tewa. In these two sections numerous examples of concrete situations embodied in case histories give mathematical validity for the analysis of the social implications. The chapter on Work gives some information on the accul-

turated economic scene but contains little on the techniques employed in making a livelihood. The section, Religion, deals with witchcraft, and to all practical purposes, nothing else. Some supplementary material on religion appears under Dances and Games. The final chapter, Conformance, two and a half pages, discusses cultural norms, stability, and breakdown and contains some psychological inferences.

The book is disappointing. In part, this is attributable to the untimely death of Whitman, which prevented continuation of field work, and in part to the inordinate secrecy which is characteristic of Pueblo Indians. However, discounting these factors, as an ethnology it still leaves much to be desired. The cultural picture presented is essentially one dimensional and without historic perspective. The work adds little to what is already recorded for this people. It contains no photographs or other illustrative material.

The principal value of the volume stems from the fact that it highlights the disadvantages of an over-dependence upon the participant-observer technique in ethnologic work. Dr. Florence Kluckhohn in her excellent paper, "The Participant-Observer Technique in Small Communities," *American Journal of Sociology*, vol. 46, no. 3, pp. 331-343 (1940), has outlined the strengths and limitations of the use of this field method in cultures having the same or historically related cultural antecedents and has pointed out the dangers of employing it in situations where the cultural "distance" is great. Whitman's work is an exemplification of the direct relationship between paucity of results and the use of participant-observer technique in the study of Indian cultures whose way of life is even partially intact.

W. W. HILL

University of New Mexico

Franciscan Explorations in California. Herbert Ingram Priestley. Edited by Lillian Estelle Fisher. With Illustrations by Frederic W. Corson. Glendale, California, The Arthur H. Clark Company, 1946. Pp. 189. $5.00

This is a posthumous publication of one of the unfinished manuscripts left by Professor Herbert Ingram

Priestly. The manuscript was entitled "Franciscan Exploration in California," and one is at a loss to know why the title was changed. The purpose of the manuscript seems to have been to name many towns, rivers, mountains, valleys, and other places in California; to sketch rapidly the founding of the Franciscan missions there; and to show how Upper California was opened to geographical knowledge.

About a fourth of the manuscript was published in *The Catholic Historical Review* of July, 1920. The *Review* had planned to run the remaining part, but it was never finished.

After sketching briefly and skilfully the colonization work of the Spaniards in Lower California and northwestern Mexico prior to the occupation of Upper California, Priestly embarks immediately on his main theme. The story of the first journey to Monterey and the "East Bay Penetration" is followed in rapid succession by an account of the problem of maintaining the missions and presidios, the discoveries of Father Garcés, and the first and second Anza expeditions. From these the author appropriately turns to the problem of consolidating the new settlements and the need to explore and settle part of the inland valleys (in which efforts the work of Fray Pedro Muñoz receives emphasis).

After a brief (perhaps too brief) discussion of the exploration of the river valleys, Priestly turns to the period of decline. Although the titles of the main headings and sub-headings may not indicate it, the rest of the book deals with the decline and brings in the establishment of San Rafael and the intrusion of the Russians.

It is surprising how many expeditions and itineraries are given in some detail in this comparatively short book printed in large readable type in the usual excellent format used by the Arthur H. Clark Company. Priestley relied mostly on manuscripts, and the large number of manuscripts cited is also surprising. The main reason why Priestly could put so much into so little a book is the fact that he stuck to his purpose, which may best be explained in his own words:

"Missionaries and neophytes alike are gone, but the Californian of today rejoices when he finds that his home lies on some pathway trod by the friars of a bygone day on their errands of faith." It is historians like Priestly and publishers like the Arthur H. Clark Company that stimulate interest in local history. Priestly has written again on a subject already frequently treated, but he has done an essential job of consolidating and abbreviating his subject matter into what might become a ready reference work on Spanish and Mexican colonization in California from 1769 to 1823.

Dr. Fisher made some minor additions to the work from the original manuscripts "for the sake of clarity," and added several footnotes as well as the excellent bibliography and index.

FRITZ L. HOFFMANN

University of Colorado

Necrology

JAMES BROOKS JONES.—Lieutenant Governor for two terms and at times Acting Governor during the administrations of John J. Dempsey, 1943 to 1946 inclusive, James Brooks Jones, who died at the Methodist Sanatorium, Albuquerque, on August 9, 1947, was the presiding officer of the State Senate during its sessions of 1943 and 1945.

Jones was born in Edgefield, South Carolina, in 1886. He was a grandson of General William B. Travis of Alamo fame. He joined the U. S. Marine Corps in 1912 and as corporal saw service in the Philippines, in Haiti, in Santo Domingo and in Nicaragua. During World War I he was with the U. S. Army in France, where he received injuries which caused his fatal illness, and was advanced to a first lieutenancy. After being mustered out he settled at Raton, New Mexico, and there married Maud St. Vrain, a grand niece of Col. Ceran St. Vrain, early Taos leader and contemporary of Kit Carson. In 1920, Jones moved to Albuquerque and as traveling representative in the Southwest of a nationally known soap manufacturer, became well-known throughout New Mexico as "Jawbone" (Spanish *jabon,* soap) Jones. In the winter of 1946, after an unsuccessful campaign in the Democratic primaries for member of the national House of Representatives, he sold his Albuquerque home and moved to Hot Springs, N. M., there hoping to find relief from his ailment. He would not admit that he was seriously ill, and a few weeks before entering the Albuquerque hospital, he rose out of bed and drove around Hot Springs visiting friends in order to scotch reports that he was not well.

Jones was a member of the Elks for 29 years and was active in the Sons of the American Revolution, the American Legion, the Veterans of Foreign Wars, the 40 and 8, the D. A. V., and the Marine Corps League.

In addition to his widow, Jones is survived by two sons, J. B. Jones, Jr., Fort Sumner; Preston St. Vrain Jones of Albuquerque; and two daughters, Mrs. Carol Valentine, Oklahoma City, and Mrs. C. W. Watts of Charleston, N. C.

Funeral services at Albuquerque on Wednesday forenoon, August 13, were under the auspices of Albuquerque Lodge of Elks. The remains were taken to Santa Fe for burial in the National Cemetery. There military honors, firing squad and buglers, were part of the ritual at the grave by the American Legion. Offices in the Capitol were closed and the flag above the dome was at half mast during the ceremony. The active pallbearers were Walter Disque, John Flaska, Alfonso Castillo, Fritz Redford, George Parrish and Guy Shepard. The honorary pallbearers were: John J. Dempsey, Clyde Tingley, both former governors of the State; Drs. W. R. Lovelace, W. H. Thearle and Vere Lane; State Senators Don L. Dickason, Hilario Rubio, Juan A. Pacheco, Elmer H. Moore, Filiberto Maestas, Leonard A. Ginn, Joseph F. Montoya, James Morrow, Ray Stringfellow, Thomas Closson, J. A. DesGeorges, Sidney S. Gottlieb, Burton Roach, G. W. Evans, G. T. McWhirter, James T. Brewster, W. E. Clarke, L. T. Hall, Clarence E. Hinkle, Milton R. Smith, Arthur F. Jones, Henry L. Eager, Claude E. Gamble, and John W. Turner, Sr.

The *Albuquerque Morning Journal* paid Jones the following editorial tribute:

> A colorful figure was taken from New Mexico in the death of James Brooks (Jawbone) Jones. He came to the state more than 30 years ago, soon after the first World War, in which he received injuries which contributed to his death.
>
> He was a salesman for many years traveling all over the state, and in meeting many people could not help becoming interested in one of our chief industries—politics. He acquired a taste for talking politics and sounding out sentiment, often doing as well as any Gallup pollsters could do in forecasting election trends. It was this activity that induced him to enter politics, and easily win two terms as lieutenant governor.
>
> Mr. Jones was known far and wide as Jawbone, a nickname derived from the Spanish word for soap—jabon—which he sold throughout the state. His jocular and jovial habits made him a popular figure, but back of that exterior was a man of character and integrity. He will be missed by a host of friends throughout the state.

HERBERT WARREN KANE.—Death came to Herbert Warren Kane, War veteran, publisher, editor of the *Las Vegas*

Daily Optic, on Friday evening, July 18, 1947. He had suffered a heart attack in the morning of that day and was taken to St. Anthony's Hospital where he died. Three months before he had undergone a serious eye operation recovery from which had been tedious. Funeral services were conducted in the Johnsen Mortuary Chapel at Las Vegas, on Sunday, July 20, by Las Vegas Lodge of Elks of which Kane had been a member. Interment was in the family plot at Leavenworth, Kansas. The pall bearers were: B. M. Werley, C. P. Trumbull, Dayton Dalbey, George Edmonds, Linton Gross, Fred Ball, Walter Vivian, E. J. McWenie, Paul Dailey and Robert Phillips.

Kane was born on May 15, 1891, in Chicago. He attended the University of Kansas for three years and was trained as an engineer, especially in water conservation and irrigation. He starred at the University in football and baseball and maintained his interest in sports in later life, especially in hunting and skiing. Employed by the French Land and Irrigation Company he later worked for the St. Louis, Rocky Mountain and Pacific Company at Raton. He enlisted in the United States Army September 7, 1917, and was mustered out at Camp Cody, on December 16, 1918. He was active in the affairs of Leonard Hoskins Post, No. 24, of the American Legion.

Upon his return from the War, he was employed by the *Raton Range* and later by the *Springer Times.* In 1922 he went to Las Vegas as editor-manager of the *Daily Optic,* a position he held until his death, having in the meanwhile acquired control of the corporation publishing the paper. He was a forceful editorial writer and highly esteemed by the newspaper fraternity throughout the State.

Kane was active in civic and political affairs. He was chairman of the Cowboys Reunion, an annual affair which drew large crowds from far and near to Las Vegas. He served in various public capacities, among them as a director of the State Hospital at Las Vegas. He was a director of the Gross, Kelly Company, the well known wholesale grocery firm.

Soon after taking up his residence in Las Vegas, Kane married Miss Helen Kelly, daughter of the late Harry W. Kelly. Mrs. Kane survives her husband in addition to a daughter, Mrs. Joseph Stein; a son, John W. Kane; three brothers, Leon Kane, Wilmette, Ill.; Stephen Kane, Leland, Ill., and Clarence Kane, Dodge City, Kansas; and a sister, Mrs. H. O. Worsley of Earlville, Ill.

Kane's was a handsome, striking personality, a genial attitude and social affability, which made him friends wherever he went. He was a Republican politically and a constant advocate in his editorial columns of civic betterment, improvement of public service and the development of the natural resources of his adopted state. Quoting an editorial of the Santa Fe *Daily New Mexican*:

> New Mexico journalism has lost one of its truly outstanding figures with the death of H. W. (Hub) Kane, for 25 years editor and publisher of the Las Vegas Daily Optic.
>
> A man of extraordinary intelligence, personal integrity and vigor, Mr. Kane was an active and beneficial influence on New Mexico politics for years. His editorials were well-documented, his style lucid, his expression pungent and his reasoning logical.
>
> As is the case with any forthright editor, he found many who disagreed with his views. But there were none who did not respect him for his honesty and his fund of information.
>
> Mr. Kane was one of the last of the old school of small daily newspaper editors. His death not only was a personal loss to his many friends, but also symbolized an even greater loss to his profession.

GEORGE CURRY.—The colorful and tempestuous career of George Curry, who probably held more official positions than any other person thus far in New Mexico history, came to a close in the United States Veterans Hospital at Albuquerque on Thursday morning, November 27, 1947. He was born in Bayou Sara, April 21, 1862, during the stormy days of the Civil War. His father, George, was a native of Kentucky, and his mother Clara was a native of Ireland. The father was killed soon after the close of the Civil War and the mother, taking her son, then eleven, moved to Dodge City, Kansas, a rip-roaring, lawless frontier town. Curry had but meager schooling in the public schools of the day, and soon after the death of his mother in 1879, made his way

to Fort Stanton, Lincoln county, there finding employment as a ranch hand, and later as a clerk in the store of J. C. Delaney, post trader. In 1884, he took charge of the mercantile establishment of James J. Dolan at Lincoln, Dolan having been chosen county treasurer and naming Curry as his deputy. Dolan, one of the factional leaders in the so-called Lincoln County War and active in Democratic politics, advanced Curry's political fortunes so that he was successively elected probate clerk in 1888, county assessor in 1890, sheriff in 1892, and to the legislative council, in 1894, presiding over that body during his term, 1895-1896, representing Lincoln, Chaves, Eddy, Doña Ana and Grant counties, a vast domain larger than some eastern states. He also served as clerk of the United States district court.

A turn in Curry's career came with the Spanish-American War in 1898. He enlisted at Santa Fe with the New Mexico contingent of Roosevelt's Rough Riders, commissioned by Governor Miguel A. Otero as first lieutenant and then advanced to captain of Troop H with which he was mobilized at San Antonio, Texas, and there entrained with his men for Tampa, Florida. As one of the New Mexico troops had to be left behind, Captains Luna and Curry flipped coins to determine who of the two should embark for Cuba. Much to Curry's disappointment and that of his men, Curry lost, and saw no active fighting until after he had gone to the Philippines to help quell the insurrection in those islands. Upon his return to New Mexico, Curry was named sheriff of the newly created county of Otero, having taken up his residence in Tularosa, but served only from March to August 1899, resigning to accept a commission as lieutenant of the 11th Volunteer Cavalry, advancing to command the Filipino Scouts and Captain of Troop K of the 11th Cavalry, 1900 to 1901.

Upon Theodore Roosevelt succeeding President McKinley, the men of his Rough Rider Regiment in New Mexico became the dominant political factor and many of them were given political preferment. Curry was appointed the first civil governor of the province of Ambos Camarine in

the Philippines, serving from April to August 1901. Appointed Chief of Police of Manila, he organized the first police force under the United States government in the Philippines in August 1902. Then followed a year as manager of the Camarines Mercantile Company, 1902 to 1903. He was governor of the Province of Isabella, 1904 to 1905, and governor of Samar, 1905 to 1907.

A third period in Curry's political career began when he was summoned by President Roosevelt to take the governorship of the Territory of New Mexico. Curry had severed his connection with the Democratic party and now affiliated with the Republicans. He succeeded Governor Herbert Hagerman, who in a controversy with the President over public land matters had fallen into disfavor at Washington and had been asked to resign as governor. Political dissension in the Territory at that time would have made one less favored than Curry also the victim of political intrigue. He was inaugurated the day after he arrived in Santa Fe, August 8, 1907, and pursued a conciliatory course, reuniting the Republican factions. Having completed the task assigned him by his beloved commander, President Roosevelt, Curry resigned the governorship and was succeeded on March 1, 1910, by Chief Justice William J. Mills, the last territorial governor, the enabling act making New Mexico a State being passed by Congress and signed by President Taft the same year. The year following, Curry was a candidate for the U. S. House of Representatives of the 62d Congress on the Republican ticket and was elected by a vote of 30,162, the highest cast for that honor among the four leading candidates, his plurality being 1,809. A Democrat, H. B. Fergusson, was elected to the second seat in the National House at the same time with a vote of 29,999, a plurality of 1,163. Curry served but one term. Up to 1928, he was a member of the International Boundary Commission of the United States and Mexico. He took up residence in Sierra county, living at Cutter, and returned to his first residence in New Mexico, Lincoln, 1945, to serve as custodian of the old Lincoln county court house, which had been

created a state monument and placed under the care of the Museum of New Mexico.

Curry, despite his varied career in business and politics, had not accumulated wealth, and was given the sinecure of state historian by a grateful legislature with a modest appropriation, which supplemented his pension as a Spanish War veteran. In his declining years, he gathered official documents and was engaged in compiling memoirs whose publication some day is an event to which not only his contemporaries but also the historians of the present look forward with much interest. Curry county, New Mexico, was named in his honor and he but recently attended the 40th anniversary of its county seat, Clovis. Curry was married in 1888 to Rebecca Sisneros. Two sons, Clifford and Charles F. Curry, were at their father's bedside when he died as the result of complications brought on by a kidney ailment and old age. High mass was celebrated by Rev. Fr. Daniel Krahe at St. Charles Borromeo Catholic church in Albuquerque on Monday forenoon, December 1. It was followed by a funeral service in the Palm Chapel of the Strong-Thorne Mortuary. The remains were taken to Santa Fe, where on Tuesday afternoon, December 2, burial took place in the National Cemetery, the United Spanish War Veterans, assisted by the Veterans of Foreign Wars, having charge of the last rites.

Curry was a member of the New Mexico Historical Society, of the B. P. O. Elks, Knights of Pythias, United Spanish War Veterans and the Veterans of Foreign Wars. Governor Thomas J. Mabry, when informed of Curry's death, commented: "We have lost a great and colorful citizen who never quit working for the welfare of his State. As a public official serving the territory and state over a period of 50 years he exemplified official and personal honesty, courage and nonpartisanship to a degree which made him beloved by thousands of New Mexicans."—P. A. F. W.