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S. H. Newman III

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THE LAS VEGAS WEEKLY MAIL

S. H. NEWMAN III*

ON FRIDAY, July 22, 1870, M. A. "Ash" Upson packed his night-shirt in a suitcase, strapped a Colt to his right hip and, in order to achieve a happy balance, put a bottle of Hostetter's Bitters (a patent medicine not unlike Lydia E. Pinkham's Vegetable Compound, but of earlier vintage) into his left coat pocket. Then he went out to announce to his many friends in Santa Fe that he was taking the stage to Las Vegas, New Mexico, where he intended to start a Democratic newspaper. The editors of the *Daily New Mexican*, the following day, made note of his departure in their paper, and hoped that as a fellow printer, Ash would "strike it rich."

Time passed and no newspaper made its appearance from Las Vegas, which probably surprised nobody, because Ash was as given over to erratic behavior as he was to peculiar alcoholic potations.¹ He popped up again in the news on March 14, 1871, when the *Weekly New Mexican Review* reported that he was in Elizabethtown, where he would take charge of Major Sprigman's new paper, the *Argus*. His stay there was brief, and so was the life of the *Argus*,² perhaps because of the lack of a stable spirit in the editorial sanctum.

Finally, in July of 1871, he was able to gain enough financial support to begin a six-column, four-page Spanish-English weekly in Las Vegas.³ Louis W. Leroux put up over \$400, May Hays gave \$245 as his share, William W. Bollinger contributed \$175, and Vicente Romero, Fernando Nolan and Van C. Smith dug deep

* The author wishes to thank Dr. Victor Westphall for his assistance and encouragement.

into their pockets, investing from ten to fifty dollars each. Needing someone to translate the English section into Spanish, the young principal of the Las Vegas Progressive Lyceum,⁴ Simeon Harrison Newman,⁵ was invited to join the staff.

That summer the territory was writhing in the usual political agony that precedes an election. The Honorable José Manuel Gallegos, ex-priest from Albuquerque and former Speaker of the House in the legislature, announced that he would challenge Colonel J. Francisco Chávez, the anti-Anglo, anti-Protestant Republican, for the Congressional seat.⁶ Upson's new paper, the *Weekly Mail*, took up the banner for Gallegos in its very first issue.⁷ Newman, who had no previous experience in journalism, cut his newspaper teeth during one of the most vigorous campaigns ever waged in New Mexico.⁸

With the eighth issue, the management of the newspaper underwent a shuffle. Unable to sow his journalistic oats as a mere translator, Newman bought the shares of all the stockholders except those belonging to Bollinger and Hays, this latter gentleman retaining a one-quarter interest. Ash Upson bowed out of the picture: it was said that too much prosperity had ruined him.⁹

During that era of Great Monopolies the Santa Fe Ring had become very powerful. Led by men with great organizational ability such as Thomas B. Catron and Stephen B. Elkins, members of the Ring had not only succeeded in gaining title to thousands of acres of old Spanish land grants, but were firmly entrenched in political office. Since Federal positions in the Territory were obtained by appointment rather than by election, it was only natural that cliques should form among the office-holders and a game of musical chairs be played with the jobs available. The Santa Fe Ring was, in essence, nothing more than what is called the "Establishment" today, although a bit more freewheeling. It must be borne in mind that during this period there were fewer and less stringent laws; consequently, the system of free enterprise had reached an unrestrained peak.

The power and affluence of the ringsters inspired a great deal of jealousy and suspicion among those unfortunate enough to have

been left outside the organization. An anti-Ring faction emerged, and from them stories arose concerning the supposed nefarious activities of the Ring. One such story, which probably had no actual basis in fact, was that a conspiracy existed between Supreme Court Justice Joseph G. Palen, Attorney General Thomas ("Boss") Catron and his law partner, "Smooth Steve" Elkins. According to this bit of loose gossip, Catron and Elkins had boasted that they had made a deal with Palen under which they were the only lawyers in the Territory who could try a case successfully before him.¹⁰ It was said that honest lawyers who refused to become parties to their scheme of extorting money from people through trumped-up lawsuits were disbarred by Palen. The case of Judge Kirby Benedict was cited as an example,¹¹ although it was no secret that Benedict had been disbarred because of his habitual drunkenness and courtroom conduct.¹²

There is no doubt that many people were sincerely convinced of the truth of these stories, whereas others, less gullible, merely used them for their political value. In any case, they give a clear indication of the motives that caused the legislature, on December 31, 1871, to pass a bill that would effectively weaken the supposed conspiracy. The *Daily New Mexican*, a newspaper not wholly unsympathetic to the interests of the Ring, described the passage of this bill in its issue of January 2, 1872:

On Saturday last an act was introduced into the legislature, and violently, and with unseemly haste, without a reference, without being printed and without consideration was hurried through both houses. This bill assigns Chief Justice Palen to the third district, and Associate Justice D. B. Johnson to this, the first district. The measure was originated by personal enemies of Judge Palen, and its passage secured by gross misrepresentation. This action of the legislature will be deeply regretted by the true men of the country who are interested in the pure and intelligent administration of justice in the Territory. The purpose of the men who secured the passage of the bill is to annoy, injure and weaken the influence of Judge Palen.

To complicate the affair still more, we find that two of the principal plotters seeking his transfer were fellow Republicans. These were Territorial Secretary Henry Wetter and Postmaster Alexander Sullivan of Santa Fe.¹³ Both men had been dipping into the public till, and fearing that they would soon be indicted, preferred to trust their fate to the dissolute Judge D. B. ("Deadbeat") Johnson of the Third Judicial District rather than to Palen, who was a classic example of a hanging judge.

In the preceding election these two men had bolted the party and had backed Gallegos, because they were afraid that the then incumbent Chávez would succeed in obtaining for Catron the appointment as U.S. District Attorney.¹⁴ Catron, a most able and ambitious lawyer, would prove to be a formidable prosecutor. Singleton M. Ashenfelter, who held the U.S. District Attorney's commission on a temporary basis,¹⁵ did not constitute even a minor threat: in fact, he had written a letter to Secretary of State Hamilton Fish begging that Wetter be allowed to remain at his post.¹⁶ (Wetter, who had lost a leg in the Civil War, was able to inspire considerable sympathy from his friends.) Ashenfelter's letter did not carry much weight, however, as Governor Marsh Giddings had already written to Fish stating that the temporary District Attorney "lacked in capacity and lacked in ambition."¹⁷

The Governor was fully aware of the conspiracy against Palen, although he had been in the Territory only a few months. On January 4 he vetoed the bill and stated that it was his opinion that the legislature had overstepped its authority by enacting it, for only Congress had the power to reassign district judges.¹⁸

Not to be outdone, the Democratic minority, on January 10, waited until Speaker Milnor Rudolph had adjourned the legislature and then, after electing a new Speaker, ousted three Republican members and seated three Democrats in their stead. Having thus attained the necessary two-thirds majority, they proceeded to pass the bill over the Governor's veto.¹⁹

The Republicans were outraged and took the matter to the Supreme Court, which ruled that the action was revolutionary, illegal, and void.²⁰ But the machinations continued. In February,

August Kirchner, a partner in the Santa Fe firm of Probst and Kirchner, butchers and cattle dealers, appeared before the Clerk of the Probate Court, Sam Ellison, and swore to an affidavit. Kirchner was a low, abject creature completely ruled by expediency. At the time he was in danger of losing his business because this same Sam Ellison had a lien on his property and a lawsuit pending against him.²¹ His oath was made under duress at the instigation of certain prominent Democrats.

In the affidavit, Kirchner stated that on the last day of December 1871, Stephen Elkins had come to tell him about the bill that was then pending in the legislature in regard to Judge Palen. He asserted that Elkins had promised to see to it that he would win the suit that Ellison held against him if he would use his influence to persuade two representatives to vote against the bill. Kirchner said that he went directly to the House of Representatives, but when he saw that two votes would not have been sufficient to prevent its passage, he failed to speak to the members.

He further stated that on the following Monday, Catron had come to his butcher shop, and there among the beef sides and sausages had offered to give him \$500 to be used as bribes for the two representatives; and Catron had said that he had already bought the votes of the representatives from Taos and San Miguel counties in order to make sure that the bill would not be passed over the veto of the Governor. Kirchner swore that he had refused to bribe them under any circumstances, and that Catron had become very angry at this refusal and said that he and Elkins would be ruined if Palen were transferred.

In addition the affiant and the clerk, Henry Wetter, as Territorial Secretary, signed the document to guarantee the signature of Ellison. Also affixed to the affidavit were the names of Charles P. Clever, former Delegate to Congress; S. Seligman & Bro.; Spiegelberg & Bro.; Mayer Kayser; Guttman, Friedman & Co.; Z. Staab & Bro., and that of the Probate Judge, Felipe Delgado. All of these were prominent Santa Fe citizens and merchants, and all, in several paragraphs, attested to the good character and veracity of August Kirchner.

This affidavit was a last-ditch attempt on the part of the Democratic anti-Ring group to prevent Tom Catron from gaining the appointment of U. S. District Attorney, and to keep Secretary Wetter and Postmaster Sullivan from being indicted for embezzlement. The affidavit was printed in circular form and copies sent to the authorities in Washington.²²

Other copies were mailed to the territorial press, including the office of the *Las Vegas Weekly Mail*. Newman, exhibiting one of his rare moments of prudence—he was only twenty-five years old—refused to publish it because he feared it might not be genuine.²³ But, when Nehemiah Bennett, rabid Democrat and editor of the *Las Cruces Borderer*,²⁴ printed it on the front page of his paper on February 28, the *Mail* published it as a news item coming from the *Borderer*.²⁵ It was the custom in those days for editorial offices to maintain a mutual exchange of newspapers so that the news might circulate.

To add more fuel to the fire, H. S. Russell, Representative from Colfax County and one of the leaders in the revolt of the legislature,²⁶ went down to the *Mail* office and ordered more copies of the affidavit to be printed as circulars. This was done, for job printing was a profitable sideline in most newspaper offices. These circulars were distributed around town and one of them hung by the courthouse door. At best, this demonstrated poor timing, because court was then in session under the auspices of Palen and Catron.²⁷

When Catron came out of the courthouse and saw the poster, he decided that things had gone far enough. After ordering that it be removed, he took the matter to the Grand Jury which, on March 7, found an indictment against Russell, Bollinger, Newman, and Kirchner.²⁸ At that time there was no law in New Mexico concerning libel, so they were charged under what was known popularly as the "omnibus law," which dealt with offenses not specifically listed in the statutes.²⁹ However, the indictment was not immediately presented because of public opinion, which was on the side of the defendants.³⁰ Tom Catron, as an astute legal maneuverer, was almost without peer.

Will Bollinger—perhaps gifted with a more vivid imagination—saw plainly what was in store. In April he sold his share of the *Mail* to Newman and left the country.³¹ This left Newman in full control of the paper except for the small interest still owned by Hays. Kirchner, who bent before whichever wind blew hardest, made a deposition stating that his first affidavit had been a lie.³² H. S. Russell went before Palen and threw himself upon the mercy of the court. He pleaded guilty, saying that “he had acted in the heat of political excitement,” and that as a result of Kirchner’s second affidavit, he was convinced that an injustice had been done.³³ This mitigating factor was taken into consideration by the court, and he was let off with a fifty-dollar fine. That left only Newman to be dealt with.

However, it was never easy to deal with Newman. Tall, thin, and goateed, he bore more than a little resemblance to that fictional character, Don Quixote, the Knight of the *Triste Figura*. Possessed of a keen wit and a natural gift for rhetoric, he tilted at windmills with his pen, and to him there was no greater or more malignant windmill than the Santa Fe Ring.

At this point, it becomes difficult to determine the precise sequence of events, since no issues of the *Weekly Mail* appear to be extant, and district court records of San Miguel County for those years have mysteriously vanished.³⁴ We can assume that Newman must have attacked Judge Palen and his associates very vigorously through the medium of his newspaper, if later performance is any indication of his earlier actions.³⁵ An item in the *Las Cruces Borderer* of April 3, 1872, is one of the few contemporaneous reports that hints at what was transpiring:

The editors of the *Las Vegas Mail* begs the indulgence of their readers for the small amount of reading matter and gives the cause—attendance at Palen’s court to answer charges of contempt. We opine that the amount and quality of the reading matter in that one number alone is worth the subscription price for one year. The bold and manly stand taken by the *Mail* in the interests of the citizens of New Mexico, and the exposure of the corruption of some of our officials

should commend it to our people. We are given over to the worst leeches the administration owns, and we gladly welcome the assistance of the *Mail* in arousing our people to just indignation.

After that, the editor of the *Borderer* made no further mention of the affair, doubtless having heard of Kirchner's retraction and not wanting to be indicted himself for having been the first to publish the affidavit.

Court convened again in Las Vegas during August. By this time the handwriting on the wall had become clearly intelligible, so Newman "took a trip for his health,"³⁶ knowing that if he remained arrested was inevitable. But he miscalculated by returning to Las Vegas one day too soon—on the final day of court. Word soon reached the members of that body that he was back in town and the sheriff was dispatched to arrest him. Bond was set at \$3,000, which he refused to pay as a matter of principle. At worst, the libel charge amounted only to a misdemeanor; the highest bond set for other prisoners in the jail, felon or otherwise, was only \$200.³⁷

Stubborn to the end, Newman called for pen, ink and paper, and proceeded to edit the paper from the confinement of his cell.³⁸ This attempt met with little success, and on August 27, 1872, the *Daily New Mexican* reported that the *Mail* had announced its suspension for lack of patronage. Death had finally overtaken Las Vegas' first newspaper. It was resurrected almost a month later by May Hays and Louis Hommel, who renamed it the *Gazette* and advised the public that its new editorial policy would be politically neutral.³⁹

Meantime, Newman was using every legal weapon possible in order to secure his release. He was taken before the local probate judge, Desiderio Romero, on a writ of *habeas corpus*. Romero, in turn, directed an order to Palen and Catron to appear and show cause why the prisoner should not be released or, at least, have his bond reduced to \$500. These two were holding court in Cimarron when the sheriff appeared with the order. Palen was not intimidated by a lowly probate judge: he merely sent the sheriff packing back to Las Vegas with a writ prohibiting any further action in the

case until his court could hold session there again. Since it was almost winter and the jail was unheated, Newman went ahead and made bail, which was put up for him by Louis Leroux and John H. Monk.⁴⁰

It was March of 1873 before he was brought to trial. Imperturbably turbulent, he immediately made a shambles of the whole judicial process. On his way to court he stopped at a friend's house to drink a cup of coffee. He lingered there too long and court convened without him, which caused Judge Palen to declare his bond forfeit. When he did arrive, his lawyer, Judge Joab Houghton, advised him to take the easy way out, plead guilty and receive a fifty-dollar fine. This suggestion rankled his sense of justice, and he told Houghton that he had no further need of him. Nevertheless, the lawyer remained at his side. By that time Catron had assumed his duties as the new U. S. District Attorney, and F. F. Conway was prosecuting. After this gentleman had made his final summation, Newman rose and began to address the jury. When Palen advised him to sit down and let his lawyer speak for him, he replied that he was conducting his own case and that Houghton was only associated with him as an adviser.⁴¹

Anyone less addicted to impossible ideals could have predicted how the episode would end. The Knight of the Ink-stained Countenance was found guilty and fined \$100.⁴² After that, he exhibited considerably more circumspection when waging war against the Santa Fe Ring.

NOTES

1. William A. Keleher, *The Fabulous Frontier* (Albuquerque, revised edition, 1962), pp. 146-48.
2. *Daily New Mexican*, Aug. 12, 1871, reported that the *Argus* had been suspended.
3. *Ibid.*, July 20, 1871.
4. The Ritch Collection in the Henry E. Huntington Library and Art Gallery, San Marino, California, contains a fourteen-page biographical sketch of Newman written by William G. Ritch during an interview in 1882 (hereinafter cited as the Ritch ms.). On p. 2 of this it states that the ". . . Lyceum [was] the first public school supported by private subscription at Las Vegas."
5. Newman was born in Richmond, Kentucky, on January 12, 1846, educated in St. Louis, and came to New Mexico in the summer of 1866. From 1878-1886 he was editor of various newspapers, viz. *El Democrata* in Mesilla, *Thirty-four* and *Newman's Semi-Weekly* in Las Cruces, and *Lone Star* in El Paso. Following his controversial career as a newspaperman, he became General Agent for the Mutual Life Insurance Company of New York for West Texas and New Mexico. He died of cancer in El Paso on March 2, 1915.
6. W. J. Howlett, *Life of the Right Reverend Joseph P. Machebeuf* (Pueblo, Colo., 1908), pp. 191-94; Marion Dargan, *New Mexico's Fight for Statehood, 1895-1912*, NMHR, vol. 15 (1940), p. 181.
7. *Daily New Mexican*, July 20, 1871.
8. S. H. Newman III, "The Borderer of Las Cruces," *El Paso County Historical Society Password*, vol. 12, no. 4 (Winter 1967), pp. 114-15.
9. *Las Vegas Gazette*, February 17, 1877.
10. *Las Vegas Daily Optic*, September 2, 1884.
11. *New York Sun*, August 16, 1875.
12. Arie Poldervaart, *Black-Robed Justice* (Albuquerque, 1948), pp. 49-66.
13. *Daily New Mexican*, January 8, 1872.
14. *Ibid.*
15. Temporary Attorney's Commissions, National Archives Record Group 59 (hereinafter cited as NARG).
16. S. M. Ashenfelter to Hamilton Fish, National Archives, *New Mexico Territorial Papers 1860-1872* (hereinafter cited as NMTP), August 16, 1871.
17. *Ibid.*, Giddings to Fish, March 16, 1872.

18. *Daily New Mexican*, January 5, 1872.
19. NMTP, Report of the Committee of Investigation of the Council of the Legislative Assembly of the Territory of New Mexico, Appointed to Examine into the Stationing of U. S. Troops in and about the Legislative Halls of said Territory, January 24, 1872.
20. *Ibid.*
21. Appointment Records of the Department of Justice (NARG 60), Stephen B. Elkins, Affidavit, February 16, 1872. Also: Ritch ms., pp. 3-4.
22. August Kirchner, Affidavit (NARG 60), February 1, 1872.
23. Ritch ms., p. 5.
24. Bennett used his newspaper to grind personal as well as political axes. The reason for his personal war against Palen finally came to light in the May 8, 1872, issue of the *Borderer*, in which he accused the judge of never having paid him for some court forms that he had printed the year before.
25. Ritch ms., p. 5.
26. NMTP, Minutes of the Legislature, January 10, 1872.
27. Ritch ms., p. 5.
28. *Ibid.*, p. 6.
29. *Las Animas, Col., Leader*, September 10, 1875. See also *General Laws of New Mexico*, 1880, Article XXXI, Chapter LXXII, pp. 373-74, Act of July 14, 1851: "All laws that have previously been in force in this Territory that are not repugnant to, or inconsistent with, the Constitution of the United States, the organic law of this Territory, or any act passed at the present session of the Legislative Assembly, shall be and continue in force, excepting in Kearny's Code the law concerning registers of land."
30. Ritch ms., p. 7.
31. *Ibid.*
32. *Ibid.*, p. 6.
33. *Ibid.*
34. Dolores G. Martinez, Clerk of the District Court in Las Vegas, N. M., in a letter to this writer dated March 1, 1967, states that records of that court date back only to November 13, 1882.
35. See Newman's letter to *New York Sun*, August 16, 1875.
36. Ritch ms., p. 7.
37. *Ibid.*, p. 8.
38. Norman M. Walker, *Obituary of S. H. Newman*, *El Paso Herald*, March 5, 1915. From the great amount of biographical data given in this obituary, most of which have been corroborated through research by the present writer, one suspects that Walker was not only personally acquainted with Newman, but also had access to his memoirs (written ca. 1906), many pages of which are now lost.

39. *Daily New Mexican*, September 17, 1872.
40. Ritch ms., p. 8.
41. *Ibid.*, p. 12.
42. *Ibid.*