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MEXICAN LIBERALS AND THE PUEBLO INDIANS, 1821–1829

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MEXICAN LIBERALS AND THE PUEBLO INDIANS, 1821–1829

G. EMLEN HALL AND DAVID J. WEBER

WHEN INDEPENDENCE FROM SPAIN seemed an irreversible fact and he could no longer avoid acknowledging it, the last Spanish governor of the isolated frontier province of New Mexico, the loyal Facundo Melgares, ordered celebrations in honor of the birth of the new Mexican nation. On 6 January 1822, the streets of Santa Fe rang with the sound of church bells and guns fired into the air, as people made their way to Mass, participated in processions, listened to speeches, watched a special play, and danced well into the night. Among the revelers were Pueblo Indians from Tesuque who performed a "splendid dance" in the main plaza.[1]

Although Pueblo Indians and Hispanics danced in celebration of the new regime, they did not dance together. The two societies coexisted but were separate in many ways. Since 1598, when Spanish-Mexicans first began to settle among them, the Pueblos had borrowed new kinds of animals, foods, technology, and ideas from their neighbors, but they had borrowed selectively. The essentials of Pueblo culture—language, religion, and society—had remained intact. One of the pillars of that indigenous culture was communal land, which paternalistic Spanish legislation protected from encroachment by outsiders. By the time of Mexican independence, some 9,000 Pueblo Indians lived in twenty villages, also called pueblos, in the midst of four square leagues of land that officials and Indians alike knew as the pueblo "league."[2] The exact boundaries of the leagues of many of the pueblos had never been surveyed with precision, but the means of determining the boundaries was well understood by local custom. One would usually measure a linear league, 5,000 varas or about 2.6 miles, from the cross

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of the cemetery in the pueblo to the four cardinal points of the compass.[3] As one Pueblo leader reminded a Spanish official, "the king, God keep him, has given us one league of land to the four winds."[4]

With the coming of Mexican independence, legislation began to undermine the sanctity of the square league of the Pueblo Indians of New Mexico. One law radically changed the status of the Pueblo Indians by promising them legal equality. A second law permitted the government to dispose of unused communal lands. Both laws, as we shall see, threatened to erode the previously inviolable Pueblo league and thereby weaken the concept of communal ownership of land that had served as the foundation of Pueblo society.

This new legislation had origins in European liberalism, then in brief ascendency in Mexican political life. If communal ownership of property was one of the pillars of Pueblo Indian society, "the cornerstone of the liberal edifice was the individual property-owning citizen."[5] Committed to the classic liberal precepts of legal equality and the utilitarian individualism of Jeremy Bentham, Mexican liberals had little regard for communal property. As the often-doctrinaire liberal Mexican philosopher José Luis Mora put it, "there are no rights in nature and in society except those of individuals."[6] Indians could not occupy a place of equality in Mexico, Mora argued, until the vestiges of Pueblo paternalism and special privilege were excised. Under Spain, the Laws of the Indies had protected Indian communal property unequivocally. "In no case," one law read, "can these lands be sold or alienated."[7] But in the liberal view, articulated by Mora, Indians needed to acquire individual parcels of land so that they might develop habits of hard work, raise agricultural production, and achieve a "feeling of personal independence."[8]

Mexican liberalism of the 1820s had long antecedents in Spain and in Spanish America, but its most immediate reference point was the legislation of the extraordinary liberal Spanish *Cortes*, or parliament, that met at Cádiz in southern Spain during the Napoleonic invasion of the Iberian peninsula. Beginning in 1808, Napoleon's forces had not only overrun much of Spain and Portugal, but the French emperor had virtually kidnapped the Spanish monarchs, Charles IV and his ambitious son, Ferdinand VII. In the

absence of Spain's legitimate king and his heir, power fell to the Cortes. Dominated by a group of liberals, including some colonials from America, the Cortes of Cádiz proceeded to reshape the autocratic Spanish government into a constitutional monarchy. The nation's radical new charter, the Constitution of 1812, and other acts of the Cortes were to apply to Spain's overseas empire as well as to the mother country.[9]

The new liberal legislation had little immediate impact on Mexico, much less on a remote frontier province such as New Mexico, because the reactionary Ferdinand VII returned to the throne in 1814 and brought the reform movement to a halt. Six years later, however, on the eve of Mexican independence, rebellious Spanish officers and politicians resurrected the movement. In 1820 they forced Ferdinand to restore the Constitution of 1812, reconstitute the Cortes, and declare the previous acts of the Cortes in force in Spain and her possessions. Thus, when the leader of Mexico's successful independence movement, Agustín de Iturbide, sought to win Mexican liberals to his cause in 1821, he found it expedient to declare that the Spanish Constitution and the acts of the Cortes of Cádiz would remain in force in independent Mexico.[10]

Under Iturbide, then, Mexico was born with a liberal constitution inherited from Spain. Although Iturbide's empire was short-lived, the spirit of Spanish liberalism lived on in the Mexican Constitution of 1824.

The new liberal legislation had the potential to affect the Pueblo Indians profoundly. First, it declared the equality of all Mexicans before the law. In legislation of 9 February 1811, the Cortes of Cádiz had decreed the juridical equality of Spaniards and Indians, thereby eliminating old legal distinctions, some of which had been designed to provide special protection for Indians. This law was promulgated again in Mexico just prior to Iturbide's rebellion and was distributed to the provinces. When a copy reached Governor Melgares in New Mexico, he declared the "minority" of the Pueblo Indians ended on 18 April 1821. Thereafter, Melgares wrote, the Pueblos should be regarded "as Spaniards in all things."[11]

The Iturbide government and the federalists who drafted the Constitution of 1824 continued to regard all Mexicans, including Indians, as equal before the law and repeatedly reaffirmed that

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principle. Article twelve of Iturbide's declaration of independence, the Plan of Iguala, proclaimed that all Mexicans, "without any distinction between Europeans, Africans, nor Indians, are citizens." A law of 24 February 1822 affirmed "the equality of civil rights of all free inhabitants of the Empire," and on 17 September 1822, Iturbide ordered that in compliance with article 12 of the Plan of Iguala, no one was to be classified according to racial origin either in private or public documents.[12] After Iturbide's downfall, the Constitution of 1824 implicitly reaffirmed the equality of all Mexicans, without mentioning Indians specifically.

In practice, the new status of equality that all Mexicans enjoyed had little effect on Comanches, Apaches, and other tribes that did not recognize Mexican sovereignty over them. The new legislation did, however, affect the the Pueblo Indians. After Melgares ended their minority, Pueblos ceased to be wards of the state with a special "protector of Indians" assigned to look after their interests.[13] Following the liberal reforms some Pueblos operated their own municipal governments, paid taxes, and served in the militia with other "citizens."[14] Priests in New Mexico were instructed not to identify persons in parish records according to racial origins, and members of the New Mexico assembly ceased for a while to use the word "Indian," or "*indio*," to describe the Pueblos.[15] Instead, New Mexico assemblymen began to refer to Pueblo Indians as natives ("*hijos*" or "*naturales*"), or citizens ("*ciudadanos*"). The legislators, as we shall see, clearly understood that the status of the Pueblo Indians had changed along with their name.

Liberalism, then, with its most immediate antecedents in the legislation of the Spanish Cortes, dramatically altered the legal status of Pueblo Indians in theory and in practice. Similarly, but with less success, Mexican liberals sought to place certain communal Indian lands under individual title.

Challenges to communal landholdings of indigenous peoples in Mexico had antecedents in Bourbon Spain, but again it was an act of the liberal Cortes of Cádiz that precipitated change in the Mexican period.[16] In an effort to promote agricultural development, the Cortes had taken measures to convert certain public and communal lands to private ownership, with specific restrictions and under carefully explained guidelines. The most important of these

measures was a much-discussed colonization law of 4 January 1813. Originating in the Agricultural Committee of the Cortes, this law provided for the conversion to private ownership of vacant public lands and certain unneeded communal lands, but the law specifically exempted those common lands, or *ejidos*, "necessary" to the towns. The law of 4 January 1813 apparently remained in effect in New Mexico until it was superseded by the Colonization Law for the Territories of 21 November 1828.[17]

The law of 4 January 1813 had not distinguished between lands belonging to communities of Indians and non-Indians, probably because the Cortes had taken action in regard to Indian-owned lands just two months before. Article five of a law of 9 November 1812, which applied specifically to Indians, had ordered that unused Indian communal lands be unfrozen and put to private use: "If the communal lands are very numerous in respect to the population of the town to which they belong, the lands will be divided, up to half of these lands at the most."[18]

Thus, this law of 9 November 1812 applied only to the *surplus* lands belonging to Indian communities; it did not challenge the idea of community property to the extent that some liberals would have wished. When the bill was first introduced to the Cortes, its author, Florencio Castillo of Costa Rica, had proposed that half of the communal lands of each Indian town, whether used or unused, be divided and put into the hands of adult Indians. Castillo argued the classical liberal line: ownership of land would stimulate Indians to work because Indians, like other men, are guided by self interest.[19] One of a series of measures designed to "alleviate and improve the sad state of the Indians," Castillo's proposal was sent to the Overseas Committee of the Cortes, which proceeded to modify it. The committee recognized the benefits of putting communal lands into the hands of individuals and acknowledged that this proposal conformed to the general philosophy of the Cortes, but the committee argued that communal Indian land "always has been viewed as a sacred place."[20] The communal tradition was too well-entrenched among Indians to disturb. The committee, however, made one exception: "If the communal lands are very numerous in respect to the towns to which they belong, in this case it would be very fair to divide up to half of those lands into private

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property." Members of the Cortes agreed with this approach, and adopted the committee's recommendation in article 5 of the law of 9 November 1812. That law was reissued again by the new liberal Cortes on 29 April 1820, published in Mexico City on 2 September 1820, and would be applied in New Mexico in the 1820s.[21]

The position of the Cortes had been clear, and New Mexicans had a delegate representing them at the Cortes in 1812 who could give them a firsthand report on this question. Pedro Pino of Santa Fe, who had one of the longest journeys to make from anywhere in the New World, had arrived late in the session, presenting his credentials to the Cortes at Cádiz on 3 August 1812. Pino's journey through Mexico had left him disturbed by the poverty and sedition of landless peasants. On 20 November 1812, Pino offered a liberal solution to the problem. The only way to extinguish the fires of rebellion in Mexico, Pino told the Cortes, was to congregate people in towns and "assign to every family land sufficient for its necessary subsistence, inside the four leagues of common lands that each town should have, as is the practice in the province of New Mexico."[22] This suggestion, along with several other proposals of Pino's, was turned over to the Overseas Committee. After five months of study, that body reaffirmed the sanctity of common lands, saying that "the ejidos necessary for the towns cannot, nor should be, reduced to private property; the laws of the Indies never permitted it." Moreover, the committee could find no law in the Laws of the Indies that required a town to possess four square leagues, as Pino said was the practice in New Mexico. That the laws did not specify this was not a shortcoming, the committee argued, but a wise effort by "those ancient legislators" to assure that the common lands be of adequate size to meet the needs of a town's population. In any event, the committee argued, the newly passed law of 4 January 1813 would "completely fulfill Sr. Pino's desires." That law, the committee pointed out, gave provincial governments the power to put those common lands that towns did not need into private hands.[23]

In New Mexico, the idea that surplus land, or *"tierra sobrante,"* might be taken from some of the Pueblos and put to use by non-Indians had been raised a few years prior to Mexican independence on at least two occasions. Gov. Alberto Maynez had affirmed unequivocally, however, that the Pueblo league could not be given away or sold "without license from the king, because it is a patrimony or entailed estate, which no judge or governor has the authority to sell, in whole or in part."[24] The new liberal legislation ended the protection of the Crown, and the first years of Mexican independence saw a number of non-Indians petition the government for Pueblo land.[25]

Under Mexico, petitions for Pueblo Indian land were usually addressed to the New Mexico *diputación*, a seven-member elected assembly over which the governor presided. Like the new status of the Pueblo Indians, the diputación was also a creation of the Cortes of Cádiz. New Mexico's first diputación was elected in January 1822—none had existed in the Spanish period.[26] The law of 9 November 1812 required that the diputaciones carry out the division of surplus communal property, according to local needs and particular circumstances: "It should be understood that in all of these divisions the provincial assembly will designate the parcel of land that belongs to each individual, according to the particular circumstances of that individual and of each town."[27]

On the surface, this act seems clear enough, but the law left much unsaid. Although the law was clearly designed to benefit Indians, it did not specifically say who would receive unused lands from Indian communities. In New Mexico, for example, should the land be divided among individual Pueblo Indians who might in turn sell their parcels? Or would the land revert to the state, which would be empowered to grant it to individuals? If the latter, who might receive grants of the former Indian-owned lands? Indians? non-Indians? or both? Consistent with liberal philosophy, the Cortes intended to leave "the quantity, the timing, and the means of dividing these vacant lands" to local governments, as one legislator put it.[28] The ambiguity of the law, however, permitted inconsistencies and led to confusion in New Mexico.

The first inquiry to reach the New Mexico diputación that specifically mentioned the law of 9 November 1812 came from the El Paso district, then under the jurisdiction of Santa Fe. In a letter dated 18 March 1823, officials of the *ayuntamiento*, or town council, of the former mission community of Real de San Lorenzo wanted to know if it could partition surplus Pueblo lands to landless vecinos in the area. Only one mission Indian lived at San Lorenzo, and

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few, if any, remained in the neighboring mission community of San Antonio de Senecú. The ayuntamiento of San Lorenzo referred specifically to the law of 9 November 1812 and asked if it applied in New Mexico.[29]

That year, 1823, saw Iturbide flee for Europe in the face of open revolt and politicians scramble to fill the vacuum in power. Given the political confusion in the nation's capital it is understandable that the alcaldes in the frontier village of San Lorenzo would wonder if certain Spanish laws were still in force. The question would continue to perplex New Mexico officials under the Constitution of 1824, which remained in effect for eleven years. Under that liberal charter, New Mexico held the status of a territory, setting it apart from the other states that comprised the United States of Mexico. As a territory, New Mexico came under the supervision of Congress, which was to draw up regulations for its internal government. Congress never completed that task, however, so New Mexico officials continued uneasily to follow the laws of the Constitutional monarchy established by the Cortes of Cádiz together with the laws of the Mexican Republic.[30]

Under the circumstances, there was ample room for confusion and disagreement, but the Pueblo Indians and Mexican liberalism seemed on a collision course. Not only was Mexican politics permeated by "an official atmosphere favorable to the disappearance of the communal property of Indians," as one historian has put it, but the expanding non-Indian population of New Mexico also coveted the fertile Pueblo lands that had previously been closed to them.[31] Especially inviting was the "league" of the once powerful pueblo of Pecos, strategically situated along the major trade route between the Rio Grande Pueblos and the tribes of the High Plains. The population of Pecos had fallen to eight or ten families by 1821, and much of the *pecoseños'* richest lands had lain fallow and ungrazed.[32] Pecos seemed an ideal place to test the provision of the law of 9 November 1812 that called for the diputación to place unused Indian communal land into private hands.

New Mexico officials had received petitions for vacant lands at Pecos at least as early as 1821, but declined to distribute any Pueblo land.[33] In 1824, however, the picture began to change. That year the diputación received requests for parcels of Pecos lands from

four different parties. The first of those petitions, which the diputación considered on 16 February, asked for lands at Pecos "that the few natives do not cultivate."[34] The legislators responded prudently to the request, agreeing that they would consult with the pecoseños through their principal "caudillos" and gather information about the condition of the pueblo and the lands requested. While the Pecos question was under review, the policy that the diputación would adopt in regard to uncultivated Pueblo land was enunciated in a similar case involving Indian land in the Rio Grande Valley.

On 16 February 1824, the diputación also had considered three different requests from eighteen persons who sought vacant farm land (*"tierra de labor"*) that belonged to San Felipe and Santo Domingo, neighboring pueblos in the Rio Grande Valley. The diputación appointed a committee to look into the matter and, among other things, "inform the Indians that the governor had the right to dispose of those lands to improve the decadent agriculture of this vast territory."[35] Although it did not cite any specific act of the Cortes of Cádiz, the New Mexico diputación clearly echoed its liberal utilitarian philosophy. A month later, the committee appointed by the diputación reported that it had found three-fourths of a league of vacant land at San Felipe and Santo Domingo that the "naturales" said had been given them for pasture. This land may have lain outside of the pueblo league; the records of the diputación are not clear on this point. After a brief discussion, the legislators decided that the governor should go personally to the two pueblos and "distribute [*repartir*] the lands that had been held in common up to the present date, so that each one recognizing his property might dispose of it *with the liberty of the other citizens*, and in virtue of this distribution, the excess land [*tierra sobrante*] will be disposed of on the best terms."[36] In other words, the diputación had apparently decided to divide the land among individual Indians so that they might sell or lease it if they could not use it themselves. The procedure would differ at Pecos the next year.

Liberalism had clearly come to the Pueblos, but the diputación seemed determined to examine each case on its merits as the law required. In the case of Pecos, the Pueblo Indians opposed the

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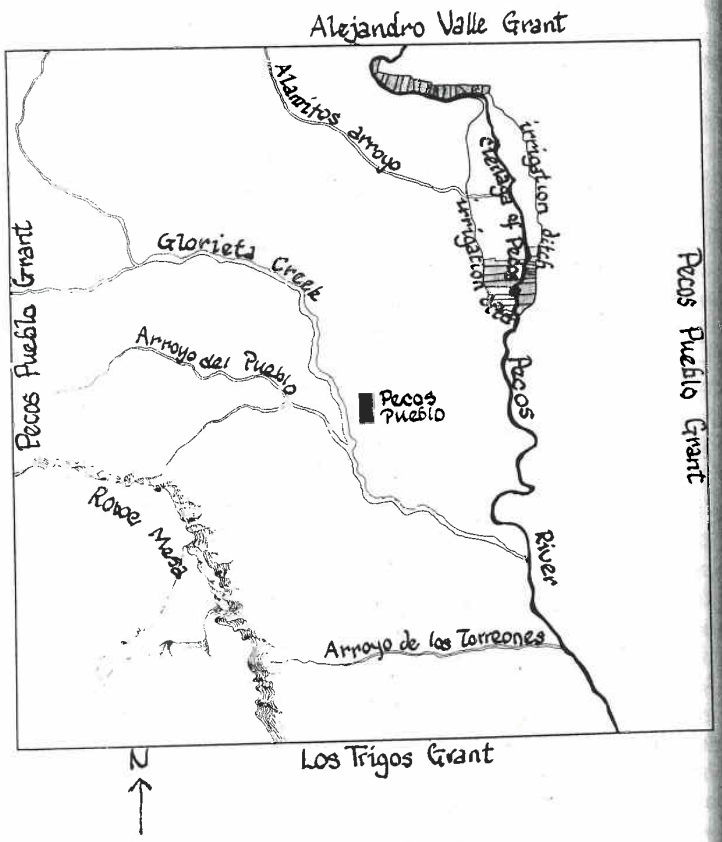

This map shows the Pecos pueblo grant (18,763 acres) and reveals the impact of a decision by the diputación territorial in 1825 to apportion the valuable but unused ciénaga between Indian and non-Indian owners. The shaded area shows non-Indian tracts that sandwiched ten Pueblo families between Hispanics on the north and south. Map, courtesy of Em Hall.

granting of their lands to *"vecinos,"* as they called the non-Indians, on the grounds that they themselves had scarcely enough farmland. Although the pecoseños probably exaggerated their condition, the diputación ruled on 12 March 1824 to deny one of the requests by non-Indians for Pecos lands.[37] Pressure, however, continued to mount. Vecinos began to settle on the Pecos league without permission, and officials began to respond affirmatively to requests for unused Pecos land. Within a year, when two groups of vecinos found themselves occupying overlapping claims, the question of surplus lands at Pecos reappeared on the agenda of the diputación.[38]

On 16 February 1825, a year to the day after the diputación had begun to consider the Pecos, San Felipe, and Santo Domingo questions, one Miguel Ribera complained to the assembly that lands that the governor had assigned to him at Pecos had already been granted by the diputación to the sacristan Diego Padilla.[39] The legislators suggested a way to resolve the conflict, then went on to express concern that this discord was arousing "various doubts concerning whether or not the Pecos had the right to sell lands or block the grants made by this diputación of lands that the Pecos did not cultivate." These doubts, the legislators said, had been dispelled by article 5 of the law of 9 November 1812, "which is presently in force and should be applied according to the circumstances of each pueblo."[40] Subsequent actions of the diputación make clear the meaning of this somewhat ambiguous statement. The diputación regarded the Pecos as having the right to sell land to non-Indian individuals, but the diputación also asserted its right to condemn surplus lands of the pueblo to the public domain and to grant those lands to non-Indian individuals. The issues were clarified within two weeks.

On 3 March 1825, the diputación heard a complaint from the "naturales" of Pecos, "claiming the right to a league of land that they had in the time of the Spanish government." The legislators responded by deciding to send two of their own, Matías Ortiz and José Francisco Ortiz, to Pecos with instructions to explain to the Indians that "just as their old obligations have ceased, so have their privileges ended. They are equal, one to the other, to all the other citizens who with them form the great Mexican family."[41] The two-member commission of Ortiz and Ortiz was to divide among the

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Indians the surplus lands of the pueblo "according to the spirit" of the law of 9 November 1812. The diputación made clear that the Pecos Indians had the right to sell the distributed lands, if they wished. After dividing the unused land among the pecoseños, Ortiz and Ortiz were to report back to the diputación on which lands remained unassigned. Those lands were to be distributed to non-Indians who were "absolutely desolate." Preference was to be given to a number of claimants who had already heard about the land giveaway at Pecos and who had petitions for land on the agenda of the diputación that very day. They included José María Gallegos, José Francisco Baca, a retired soldier named Rafael Benavides, and Miguel Ribera and his partners who were reapplying for land at Pecos.[42]

The two commissioners lost little time. On 19 March Ortiz and Ortiz were back in Santa Fe with their report. They had allocated lands at Pecos to the heads of ten families of Pecos Indians and eleven heads of non-Indian families representing the Benavides and Ribera claimants. The commissioners had a list of seventeen more persons who were to be given those lands that remained after the initial apportionment. The diputación decided to send the two Ortizes back to Pecos to verify the allotment of the land, mark the boundaries, and put the other claimants in possession of the former pueblo lands. As recompense for this work, Ortiz and Ortiz could receive plots of surplus lands themselves.[43] It was not simply liberal ideology, then, that motivated some members of the diputación to begin to divide the surplus communal lands at Pecos.

During the first half of 1825, the diputación was clearly committed to the liberal policy of redistributing unused Pueblo lands. That summer, when it received a request from various individuals for surplus lands from "the league" that belonged to the Indians of the pueblo of Nambé, the diputación proceeded to gather information, just as it had in the cases of Pecos, Santo Domingo, and San Felipe. The legislators instructed the ayuntamiento of Santa Cruz de la Cañada to investigate the status of land at Nambé and resolve the matter satisfactorily.[44] In its efforts to apply the Law of 9 November 1812, the diputación of New Mexico seems to have operated firmly and fairly, gathering information before acting and giving the Pueblos a chance to respond.

As autumn of 1825 approached, members of the diputación lost confidence in their assertion of the right to divide surplus Pueblo lands. This change of attitude coincided with the arrival of a new governor, Antonio Narbona, who replaced Bartolomé Baca. Narbona entered Santa Fe on 13 September 1825 and two days later assumed his position at the head of the diputación. That very day, the diputación refused to honor a request for the surplus lands belonging to "the native citizens" of the pueblo of San Juan de los Caballeros. The legislators resolved "not to consider this nor other requests of its kind" until it received a general ruling from the central government on a matter "of such significance."[45]

A month later, when the Pecos Indians complained again about violations of their "league," the diputación decided that "after reviewing the antecedents and law of Spain upon which this diputación is founded," to refer the matter to the central government. The diputación requested an interpretation of article 5 of the law of 9 November 1812, and an explanation for why it should not distribute the surplus lands of other Pueblos, as it had done with Pecos.[46]

The decision of the diputación to secure clarification for future decisions from Mexico City seems to have discouraged further applicants for surplus Pueblos lands. During the next few years the diputación apparently received few new requests and the redistribution of Pueblo lands halted before it had gone very far.[47] While the diputación awaited a ruling from Mexico City, the vecinos who remained on the Pecos league began to sell their lands, according to a complaint lodged by Pecos Alcalde Rafael Aguilar and other Indians on 12 March 1826. These Pueblo Indians referred to themselves as "the principal citizens of the Pueblo of Pecos." They reminded the diputación of the Pueblos' "rights as citizens," reasserted their ownership of a square league, and asked the diputación to order the vecinos to stop selling the lands. Among other things, the pecoseños charged the vecinos had not lived on the land the five years required to receive clear title.[48] The diputación responded by resolving "again" to send an inquiry to the central government. In the meantime the governor should inform those vecinos who held possession of lands within the area that the Pecos

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claimed "that under no circumstances may they [the vecinos] sell or alienate those lands."[49]

On 31 March 1826, apparently in response to the latest petition from Pecos, Governor Narbona sent another inquiry about the Pecos situation, as well as a petition from the pueblo of Isleta, to an official in Mexico City. Narbona's query was answered on 31 May 1826 by the first secretary of state, who asked that the diputación and the governor provide him with more information about the extent of the lands at Pecos, their origin and form, their age, and their present function.[50] Narbona answered these questions on 14 October 1826 in some detail. His response showed clearly that he had imbibed the prevailing liberal spirit. Narbona viewed Indian communities as unprogressive; he favored converting *all* Pueblo lands to private property, not just unused lands.[51]

The diputación unanimously "confirmed and ratified" Narbona's response. It apparently viewed his solution of the Pecos problem as the best way to treat the lands of all the pueblos—"the remedy that is necessary so that the pueblos of this territory, in general, will flourish."[52] Considering that the sympathies of the governor and the diputación were not with Pecos, it seems remarkable that these officials nonetheless followed legal channels all the way to Mexico City to obtain a ruling in the case. Had they resolved the matter locally, it seems unlikely that they would have risked reprisal from the distant central government.

A search of a variety of government correspondence, as well as the minutes of the diputación from October 1826 to early 1829, has failed to produce a record of a reply from the central government to Narbona's requests for a decision about the surplus Pueblo lands.[53] These were years of intense political infighting in the nation's capital, and it is possible that New Mexico affairs were ignored. If a reply did come, it must have told local officials to stop redistributing the surplus lands of Indian communities, for early in 1829 the diputación suddenly reversed itself.

This latest turn of events was prompted by the internecine fighting among non-Indian claimants to Pecos land and by a letter to the governor, dated 9 March 1829, from Rafael Aguilar and José Cota, first and second alcaldes of Pecos pueblo. The two Indian leaders, both of whom signed with an "x," protested that for "five

years going on six" they had sought protection from settlers who moved onto their lands:

> Please, Your Excellency, see if by chance the natives of our pueblo, for whom we speak, are denied property and the shelter of the laws of our liberal system. Indeed, Sir, has the right of ownership and security that every citizen [*todo ciudadano*] enjoys in his possessions been abolished?[54]

The answer to this question, as historian John Kessell has noted, was "surprisingly unequivocal." The diputación appointed a committee to look into the matter and its report, issued on 24 March 1829, concluded:

> 1) That all the lands of which they have been despoiled be returned to the natives of the pueblo of Pecos.
> 2) That the settlers who have possession of them be advised by the alcalde of that district that they have acquired no right of possession because said grant was given to lands that have owners.[55]

The diputación approved both of these articles with the additional clarification that "the lands that must be returned to the natives of Pecos are those that have been granted and not those which they [the Pueblos] sold." Explicitly, then, the diputación again recognized the right of Pecos Indians to sell property as could other Mexican citizens, but the diputación now abjured its previously asserted right to condemn surplus lands to the public domain and to grant them to non-Indians. If surplus communal lands were to be put into non-Indian hands, the Pueblos could do it themselves and reap the profits, just like other citizens whose property Mexican law repeatedly affirmed was inviolate.

The appeal by the leaders of Pecos pueblo for "the rights that every citizen enjoys" and the willingness of the diputación to concede these rights is significant. It suggests a greater change in the legal status of the Pueblos under independent Mexico than most historians have acknowledged.[56] After mid-1825 the Pueblos no longer appealed to special rights as Indians, as they would have under Spain. Instead they argued for the rights of other Mexicans and appealed to their prior ownership of land. On 14 May 1829,

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for example, Mariano Rodríguez of Picurís pueblo, who termed himself a "citizen," protested the granting of common lands of Picurís to two non-Indians. Among the arguments that Rodríguez used was that the laws of Mexico "declare the property of citizens sacred."[57] Rodríguez won his case.

The Pecos pueblo imbroglio did not end in 1829, of course. At least one of the vecinos, Domingo Fernández, requested the restitution of his lands at Pecos. He cited his right to that land by virtue of the law of 9 November 1812, but the diputación stuck by its decision.[58] Fernández then appealed his case to the Supreme Court in Mexico City. When the Supreme Court asked the New Mexico diputación for further evidence in the case, the diputación replied that the matter fell within its own jurisdiction and that "since time immemorial the land in question was the property of the naturales" of Pecos.[59] The Supreme Court agreed that the case fell under local jurisdiction and apparently sent the documents back to New Mexico on 11 February 1830.[60]

Although the diputación in New Mexico abandoned the right to place unused property within the Pueblo leagues into the public domain, the new liberal legislation had permitted erosion of the once-sacrosanct Pueblo communal lands. By defining the Pueblos as citizens, and by removing government restrictions that gave the Indians special protection, the liberals left the way open for Pueblos to sell parcels of real estate. At Pecos, the vecinos who had settled illegally under the now-rescinded policy of the diputación refused to go away. It appears that in 1830 José Cota, one of the last Pecos leaders, sold a choice, well-watered tract of the commonlands to Juan Estevan Pino, son of New Mexico's delegate to the Spanish Cortes of 1812, Pedro Bautista Pino. Juan Estevan Pino permitted the vecinos to stay on his newly acquired lands at Pecos.[61]

Encroachment by non-Indians on the lands of New Mexico Pueblos probably accelerated in the Mexican period as some historians have argued.[62] The vecino movement onto Pueblo lands, however, seems to have occurred through the legal sale of Pueblo lands as well as through the illegal actions of squatters. Indeed, squatting on Indian land by non-Indians had become so extensive in New Mexico that Pueblos would have been foolish not to sell land if a non-Indian, who occupied a parcel free of charge, offered to pay

...it in order to quiet title. By one count, vecinos outnumbered ...ians at fourteen of the New Mexico pueblos in 1821.[63]

As one document suggests, the sale of Pueblo lands to non-...ians during the Mexican period may have become routine, but ...e extent of such sales may never be definitively determined.[64] ...ere were no contemporary deed books in which such land trans-...ions were recorded, and few original deeds of land sales from ...ians to non-Indians apparently exist in public archives. Abstracts ...original deeds, however, suggest that a substantial number of ...ese sales occurred in the 1830s.[65]

Thus, the liberal measures of the Spanish Cortes, as perpetuated ...the young Mexican Republic, eroded the legal underpinnings ...formerly inviolable community property belonging to New Mex-...'s Pueblo Indians. Through legal as well as illegal means, non-...ians apparently acquired parcels of Pueblo lands. Meanwhile, ...e state retained the right to allocate certain communal lands until ...e end of the Mexico period, even under conservative regimes,[66] ...though it did not exercise that right in New Mexico after the ...0s.

By the end of the 1820s, then, the liberal program of putting ...rplus community land into private hands apparently had come ...a halt among the Pueblos. Not only had liberal leadership in ...xico City become fractionalized, personalistic, and ineffective,[67] ...t the Pueblo Indians themselves defended their property through ...peals to authorities. The pueblo of Pecos played the key role in ...sting the applicability of the law of 9 November 1812 in New ...xico, and the success of this nearly abandoned pueblo seems to ...ve blocked efforts to apply the law to other more populous pueb-...s.[68]

As a result, all of the pueblos except Pecos maintained a com-...nal land base until the American conquest of New Mexico in ...46. On the eve of the United States invasion of New Mexico, ...tional and local law alike recognized the sanctity of private prop-...rty, whether it belonged to individuals or to communities.[69] On ...3 February 1846, for example, one of a series of municipal ordi-...nces drawn up by the New Mexico Departmental Assembly re-...rred to the lands that towns "presently possess in common or ...t they might acquire in the future." This document, which did

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not distinguish between Indian and non-Indian towns, not only recognized communal property but acknowledged the possibility of the expansion of communal property.[70]

The Pueblos' successful resistance to the most extreme aspects of liberal land reform was not an aberration. Throughout Mexico and Central America in the 1820s, liberal efforts to convert communal Indian land into private holdings failed. Under the federalist Constitution of 1824 such matters were left to the discretion of individual states, many of which adopted their own agrarian laws. Efforts to apply those laws, however, encountered overwhelming obstacles: the need of municipalities to maintain common lands as a source of tax revenue; the difficulty of defining "those who were once called Indians" in areas where miscegenation had become commonplace; the fear of some liberals that smaller units of private land would fall prey to avaricious *hacendados* and have the counterproductive effect of promoting *latifundismo;* the urgency of other problems that left matters concerning Indians very low on the liberal agenda; and the tenaciousness of Indians themselves, who fought with every weapon to maintain tradition.[71]

The same liberal legislation that mandated the allocation of surplus lands of Indian communities also contained provisions that in theory granted all Mexicans, including Indians, due process and that guaranteed the protection of private property—be it owned by communities or individuals. By appealing to their rights as citizens, the Pueblo Indians staved off the liberal threat to their communal property in the 1820s even though they could not always protect themselves from squatters or resist the impulse to exercise their new right to sell land. Not until the adoption of the controversial Ley Lerdo of 25 June 1856 (the Ley de Desamortización), did Mexican liberals make another serious effort to turn Indian common lands into small farms. This time their efforts had disastrous results for Indian communities throughout Mexico.[72] By then, of course, sovereignty over New Mexico had changed again and the Pueblo Indians had to learn to survive under a new legal system. In the United States, too, the Pueblos would continue to hear echoes of the nineteenth-century liberal philosophy of legal equality and individual private ownership espoused as the solutions to their economic problems.

NOTES

1. David J. Weber, ed. and trans., "An Unforgettable Day: Facundo Melgares on Independence," *New Mexico Historical Review* (*NMHR*) 48 (January 1973): 27–44.

2. The Pueblo population in 1821 excludes the autonomous Hopis and "the largely acculturated Piro-Tiwa settlements in the vicinity of El Paso" (Marc Simmons, "History of the Pueblos Since 1821," in William C. Sturtevant, ed., *Handbook of North American Indians*, vol. 9, *Southwest*, Alfonso Ortiz, ed. [Washington: Smithsonian Institution, 1979], p. 206). For discussions of Pueblo selective acculturation, see Edward P. Dozier, *The Pueblo Indians of North America* (New York: Holt, Rinehart & Winston, 1970), and Albert H. Schroeder, "Shifting for Survival in the Spanish Southwest," *NMHR* 43 (October 1968): 291–310.

3. The length of the vara was not standardized at this time, but is generally regarded as about thirty-three inches or one step. A league, then, was 5000 steps, or "the distance traveled for one hour on horseback over level terrain at a normal gait" (*The Domínguez-Escalante Journal*, ed. Ted J. Warner and trans. Fray Angelico Chavez [Provo, Utah: Brigham Young University Press, 1976], p. 4, n. 17). For a less poetic discussion of the length of a league, see Roland Chardon, "The Elusive Spanish League: A Problem of Measurement in Sixteenth-Century New Spain," *Hispanic American Historical Review* 60 (May 1980): 294–302.

4. José Francisco Luján, San Gerónimo de Taos, 11 April 1815, to Alcalde José Miguel Tafoya, quoted in Myra Ellen Jenkins, "Taos Pueblo and its Neighbors," *NMHR* 41 (April 1966): 101.

5. Charles A. Hale, *Mexican Liberalism in the Age of Mora, 1821–1853* (New Haven: Yale University Press, 1968), p. 224.

6. Quoted in Hale, *Mexican Liberalism*, p. 231.

7. *Recopilación de leyes de los Reynos de las Indias*, Book IV, title 12, law 18, quoted in Myra Ellen Jenkins, "The Baltasar Baca 'Grant': History of an Encroachment," *El Palacio* 68 (Spring 1961): 49, who provides a fine summary of Spanish law on this subject.

8. José María Luis Mora, *México y sus revoluciones*, ed. Agustín Yáñez, 3 vols. (1st ed., 1836; Mexico: Editorial Porrúa, 1965), 1: 177–79. The quote is from p. 179.

9. These events and the significance of the Cortes of Cádiz for Mexico are best described and analyzed in Nettie Lee Benson, *La diputación provincial y el federalismo mexicano* (México: El Colegio de México, 1955), and in her introduction to *Mexico and the Spanish Cortes, 1810–1822. Eight Essays* (Austin: University of Texas Press, 1966), and the essays therein.

10. Iturbide declared that those portions of the Constitution of 1812 that did not run counter to Mexican independence would remain in force until a new constitution could be prepared; officials would continue to exercise their usual functions. No new constitution was written during Iturbide's brief tenure, however, and so Spanish law remained in force (law of 5 October 1821, in Manuel

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Dublán and José María Lozano, *Legislación mexicana* . . . 34 vols. [Mexico: Imprenta del Comercio, 1876–1911], 1: 476. For the historical context, see William Spence Robertson, *Iturbide of Mexico* (Durham, N. C.: Duke University Press, 1952), especially pp. 96, 134, 214–15, 218–19.

11. Draft of a letter by Melgares, Santa Fe, 18 April 1821, quoted in Marc Simmons, *Spanish Government in New Mexico* (Albuquerque: University of New Mexico [UNM] Press, 1968), p. 213. Dublán y Lozano, *Legislación mexicana*, 1: 340. The law's reincarnation in 1821 is reported in Ralph E. Twitchell, *Spanish Archives of New Mexico*, 2 vols. (Cedar Rapids, Iowa: Torch Press, 1914), 1: 319–20.

12. The Plan of Iguala, the law of 14 February 1822, and the order of 17 September 1822, are in Dublán and Lozano, *Legislación mexicana*, 1: 548, 597, 629. The version of article 12 of the Plan of Iguala in this collection reads "all the inhabitants [of Mexico] without any other distinction than their merit and virtue, are citizens. . . ." The version of article 12 that we have quoted comes from a contemporary broadside (in the DeGolyer Collection, Southern Methodist University) and is the most common version of article 12. In either case, when understood in the context of other contemporary legislation, the meaning is the same.

13. Francis Leon Swadesh has concluded that "the special advocate to defend the legal rights of the Indians was retained [in the Mexican period]" (*Los Primeros Pobladores: Hispanic Americans of the Ute Frontier* [Notre Dame: University of Notre Dame Press, 1974], p. 53). We have found no evidence that this statement is correct. Her assertion is based on an incident in 1829 in which officials appointed José María Alarid "as attorney for the Indians [i.e. the *genízaros* of Abiquiú], to see that the boundaries of their grant were set as stated in the original documents" (Swadesh, *Los Primeros Pobladores*, p. 56). Swadesh's source is not entirely clear, but assuming that she has interpreted it correctly, the appointment of an "attorney" on a single occasion is much different than continuing the office of the *Protector de indios* from the Spanish period.

14. A trend in this direction was evident prior to 1821, as a result of the liberal reforms of the Cortes. See Simmons, *Spanish Government in New Mexico*, pp. 147, 189–91. At Pecos, Pueblo Indians elected a government in 1820, and some Pecos leaders referred to themselves as alcaldes well into the 1820s. See John L. Kessell, *Kiva, Cross, and Crown: The Pecos Indians and New Mexico, 1540–1840* (Washington: National Park Service, U.S. Department of the Interior, 1979), pp. 446, 449. For an example of Pueblos serving in the militia, see Dan Tyler, "New Mexico in the 1820's: The First Administration of Manuel Armijo" (Ph.D. diss., University of New Mexico, 1970), p. 212, n. 114. Although Pueblo Indians fought as "auxiliaries" in the Spanish period, they were not an integral part of the militia (Oakah L. Jones, *Pueblo Warriors & Spanish Conquest* [Norman: University of Oklahoma Press, 1966], p. 12).

15. Entry of 8 October 1822, Durango, in Fray Angélico Chávez, *Archives of the Archdiocese of Santa Fe, 1678–1900* (Washington: Academy of American Fran-

History, 1957), p. 178. The reference here to the "assembly" is to the diputación, discussed further in this paper.

16. Hale, *Mexican Liberalism*, p. 225, and Richard E. Greenleaf, "Land and Water in New Mexico, 1700–1821," *NMHR* 47 (April 1972): 104–6, who summarize efforts to redistribute land to the landless, including Indians.

17. The law of 4 January 1813 is in Dublán and Lozano, *Legislación mexicana*, 1: 467–69. It was in force in New Mexico by 1814. When Gov. José Manrrique transmitted a request by Francisco Trujillo, dated 26 May 1814, for lands at a place called Los Trigos, near Pecos Pueblo, to the ayuntamiento of Santa Fe, he indicated that article 11 of the law of 4 January 1813 gave the ayuntamiento jurisdiction in the case (J. J. Bowden, "Private Land Claims in the Southwest," LL.M thesis, Southern Methodist University, 1969), 3: 744–45). The law of 4 January 1813 was suspended with the return of Ferdinand VII, but revived in October and transmitted to the governor of New Mexico again in 1821 by Alejo García Conde (Twitchell, *Spanish Archives of New Mexico*, 1: 1133). It continued to be the basis of land law in New Mexico apparently until it was replaced by the Colonization Act for the Territories of 1828. See, for example, the instructions that the diputación gave to the alcalde of Taos about putting Simon Sáenz in possession of land at Arroyo Hondo, under the terms of the law of 4 January 1813, which is "in force up to the present date" (*"dado por las cortes de Espana y vigente a la fecha"*). Minutes of the diputación, 17 March 1826, Mexican Archives of New Mexico (MANM), State Records Center and Archives (SRCA), Santa Fe, microfilm roll 12, frame 385–86. Hale, *Mexican Liberalism*, p. 226, is probably correct in asserting that "the main law affecting postindependence thinking on land policy was issued by the Cortes of Cádiz on January 4, 1813," but for the Pueblo Indians the law of 9 November 1812 was of greater importance. See, too, below, n. 23.

18. Article 5 of the law of 9 November 1812, in Dublán and Lozano, *Legislación mexicana*, 1: 396, said, in part:

> si las tierras de comunidades fuesen muy cuantiosas con respecto á la poblacion del pueblo á que pertenecen, se repartirá, cuando mas, hasta la mitad de dichas tierras, debiendo entender en todos estos repartimientos las diputaciones provinciales, las que designarán la porcion de terreno que corresponda a cada individuo, segun las circunstancias particulares de este y de cada pueblo.

19. *Diario de las discusiones y actas de las Cortes*, 18 vols. (Cádiz: Imprenta Real, 1811–1813), 12: 407.

20. "Como un sagrado," *Diario de las discusiones*, 15: 462. Historians have written very little on the position the Cortes took in regard to communal lands, but this subject is touched upon in Mario Rodríguez, *The Cádiz Experiment in Central America, 1808 to 1826* (Berkeley: University of California Press, 1978), pp. 84–86; Enrique Florescano, "El problema agrario en los últimos años del virreinato," *Historia Mexicana* 20 (abril–junio 1971): 509; and Fray Cesáreo de Armellada, *La causa indígena americana en las Cortes de Cádiz* (Madrid: Edi-

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ciones Cultural Hispánica, 1959), pp. 77–79. The latter, a somewhat unwieldy work, reproduces the laws of 9 November 1812 and 4 January 1813 in an appendix.

21. See Dublán and Lozano, *Legislación mexicana*, 1: 516. See, too, Rodríguez, *The Cádiz Experiment*, pp. 84–86.

22. *Diario de las discusiones*, 16: 162. Pino's presentation of his credentials on 3 August and his seating on 5 August are noted in *Diario de las discusiones*, 14: 288, 320.

23. 24 April 1813, *Diario de las discusiones*, 18: 397. Article 1 of the law of 4 January 1813, to which the committee referred, called for the reduction of "propios y arbitrios" to private hands, while exempting the "egidos necesarios a los pueblos." The distinction is important. "Propios y arbitrios" referred to lands owned by towns, but not worked by townspeople and rented out to individuals. Ejidos were those lands worked in common by residents of the community. Note, too, that the law exempted ejidos "necessary" to the towns, not simply ejidos belonging to the towns.

24. Quoted in Myra Ellen Jenkins, "Taos Pueblo and Its Neighbors, 1540–1847," *NMHR* 41 (April 1966): 101. See, too, Jenkins, p. 103, and Matías Ortiz to the Governor, 30 June 1815, Spanish Archives of New Mexico, Series I, Bureau of Land Management (SANM BLM), no. 18, Santa Fe.

25. The request for land at Pecos by Esteban Baca et al., Santa Fe, 10 February 1821, SANM BLM, no. 130. Baca refers specifically to the king's wishes and the low population at Pecos, but he does not refer to a specific law. See Kessell, *Kiva, Cross, and Crown*, pp. 444–45.

26. David J. Weber, *The Mexican Frontier, 1821–1846: The American Southwest Under Mexico* (Albuquerque: UNM Press, 1982), p. 19.

27. For the Spanish text, see n. 18.

28. Comment of Carcés in the session of 20 April 1812, discussing the bill that would eventually become the law of 4 January 1813 (*Diario de las discusiones*, 13: 71). See, too, the comments of Martínez de Orense (p. 72).

29. Alcalde Félix Guerra and Secretary Demetrio Omniveros, San Lorenzo del Real, 1 February 1823, to the New Mexico diputación, MANM, r. 42, frs. 385–86. A marginal note says the letter was answered on 18 March 1823. For these missions, see Cleofas Calleros, *El Paso's Missions and Indians* ([El Paso]: McMath Co., 1951), pp. 23–29, and Ernest Burrus, "Our Missions," in *Four Centuries at the Pass*, ed. W. H. Timmons (El Paso: Arts Resources Dept., 1980), pp. 20–32.

30. Weber, *Mexican Frontier*, pp. 19–20, 27–28.

31. Moisés González Navarro, "Instituciones indígenas en Mexico independiente," in *Métodos y resultados de la política indigenista en México. Memorias*, vol. 6 (Mexico: Instituto Nacional Indigenista, 1954), p. 121. For population growth, see Weber, *Mexican Frontier*, p. 195.

32. Kessell, *Kiva, Cross, and Crown*, p. 44. Francisco Atanasio Domínguez, *The Missions of New Mexico, 1776*, trans. and ed. Eleanor B. Adams and Fray Angélico Chávez (Albuquerque: UNM Press, 1956), p. 213.

33. Esteban Baca et al. to the governor, 10 February 1821, and Domingo

Fernández et al. to the governor, 1 September 1823, SANM BLM, nos. 18, 30, 263. Details regarding these early attempts to obtain vacant land at Pecos appear in Hall's book, *Four Leagues of Pecos* (Albuquerque: UNM Press, 1984).

34. "Terreno en la tierra que no cultiban los pocos naturales," minutes of the diputación, 16 February 1824, MANM, r. 42, frs. 170–71. This was a resurrection of the petition of Domingo Fernández cited above. Hall, *Pecos*, p. 59, identifies three other claims to land on the Pecos league in early 1824. Whether the petitioners referred to a specific law is not clear since the original petition apparently has not survived.

35. "Haciendo entender a aquellos naturales que S.E. puede disponer de aquellas tierras, y procurar el progreso de la decadente agricultura de este vasto territorio," minutes of the diputación, 16 February 1824, MANM, r. 42. frs. 170–72.

36. Minutes of the diputación territorial, 16 March 1824, r. 42, fr. 175 (italics added). The request for this land may be the badly faded document in SANM BLM, no. 1065. Extant records do not indicate if this distribution of land was carried out. Seven years later, Agustín Durán and other non-Indians were still working lands between the two pueblos that may have been the same property that came into question in 1824. See SANM BLM, no. 255, and minutes of the diputación, 14 April 1831, r. 42, fr. 673.

37. Minutes of the diputación, 12 March 1824, MANM, r. 42, fr. 174.

38. Hall, *Pecos*, pp. 61–62, discusses illegal encroachment by non-Indians at this time.

39. Hall, *Pecos*, p. 65, notes that in a reapplication for Pecos lands of 1 March 1825, Miguel Ribera and his partners accused the Pecos of selling the land to Padilla.

40. "Con este motivo se sucitaron [suscitaron] barias dudas sobre si tenia ó no derecho los pecos a bender tierras o embarazan las donaciones que hacia [sic] esta Diputación en las tierras que estos no cultiban; las [las dudas] cuales fueron decididas a virtud del art.o 5.o de la Ley de 9 de Noviembre de 1812: que se halla vigente y debe tener efecto segun las circunstancias de cada pueblo . . .," minutes of the diputación, 16 February 1825, MANM, r. 42, fr. 257.

Herbert O. Brayer misread the sense of this session. Brayer says:

> the question was raised as to whether the Pecos Indians could sell their lands or prevent the assembly from making donations of those lands which they claimed to own, but were not cultivating. The provincial assembly ruled that such donations had been rejected in accordance with Section 5 of the law of November 9, 1812, which was a Spanish and not a Mexican law. This would seem conclusive evidence that the Mexican officials in New Mexico considered the status of the Indians to be unchanged. (*Pueblo Indian Land Grants of the "Rio Abajo," New Mexico* [Albuquerque: UNM Press, 1939], pp. 18–19.)

Not only did Brayer misunderstand the document, which says that Indians could

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sell their lands and affirms the right of the diputación to distribute uncultivated lands, but Brayer clearly did not look at the 9 November 1812 law that authorizes this action by the diputación. Moreover, because the law of 1812 "was a Spanish and not a Mexican law" does not mean that the status of the Indian had not changed from the colonial period. The law of 1812 marked the legal beginnings of the change that had only begun to be implemented in New Mexico on the eve of Mexican independence.

41. "Que asi como sesaron sus antiguas cargos, han terminado sus pribilegios, quedando igual, unos y otros, a todos los demas ciudadanos que con ellos forman la gran familia Mejicana," minutes of the diputación, 3 March 1825, MANM, r. 42, fr. 261. This paragraph derives from the minutes of this day. Hall's forthcoming work on Pecos contains interesting details about the interests of Matías Ortiz in Pecos land.

42. The diputación gave Ribera's request precedence over any land that the Pecos might have sold: "si dentro de los limites [of Ribera's request] han bendido tierras dichos naturales, esta benta sera nula y de ningun valor por ser del expresado Ribera y socios" (minutes of the diputación, 3 March 1825, MANM, r. 42, frs. 261–62). This statement clearly upheld the pueblo's right to sell its uncultivated lands; the sale would be "null and void" because the land belonged to Ribera, the diputación argued, not because it questioned the right of the Pueblos to sell property within their league. Indeed, the diputación had affirmed that right just two weeks earlier. Hall, *Pecos*, provides a full discussion of these various applicants for Pecos land.

43. Minutes of the diputación, 19 March 1825, MANM, r. 42, frs. 272–73.

44. Minutes of the diputación, 16 July 1825, MANM, r. 42, fr. 284. There is no record in public archives of further action in this case.

45. Minutes of the diputación, 15 September 1828, MANM, r. 42, fr. 298. The legislators referred to the Pueblo Indians from San Juan as "los ciudadanos naturales" (Lansing B. Bloom, "New Mexico Under Mexican Administration, 1822–1846," *Old Santa Fe* 1 [January 1914]: 244). Narbona presided over a diputación whose membership had changed in elections held the previous May (Bloom, "New Mexico Under Mexican Administratin," p. 242). See Bloom, "New Mexico Under Mexican Administration," 1 (October 1913): 165, for the previous composition of the diputación, and minutes of the diputación, 16 July 1825, MANM, r. 42, fr. 277–78, for its membership as of July 1825.

46. Minutes of the diputación, 17 November 1825, r. 42, frs. 311–14: "Las causas por que esta Diputación no ha hecho con los demas pueblos del territorio lo ejecutado con el cortisimo numero de los individuos que forman el antiguo de Pecos." On 18 November when the minutes of the previous day were read, deputy Francisco Ignacio de Madariaga noted that the minutes failed to mention that the lands that the Pecos claimed were the same which the diputación had divided among the Pueblos themselves, giving the remainder to the vecinos who requested them.

47. We have found no further requests for surplus Pueblo lands in the extant

minutes of the diputación for 1825, 1826, 1827, or 1828, with the possible exception of a request for land on the Pecos River that the diputación considered at its session of 16 March 1826 (minutes of the diputación, 16 March 1826, fr. 357).

48. Alcalde Rafael Aguilar et al. to the diputación, Pecos, 12 March 1826, SANM BLM, no. 1370. See, too, Kessell, *Kiva, Cross, and Crown*, pp. 445–46.

49. Minutes of the diputación, 18 March 1826, MANM, r. 42, frs. 398–90: "que de ninguna manera venden ni engagenen tales tierras." Hall, *Pecos*, p. 79, using SANM BLM, no. 1370, notes that on 21 March Governor Narbona ordered Pecanos not to alienate their property.

50. Letter to the Governor of New Mexico from [Sebastián] Camacho, Primera Secretario de Estado, Mexico City, 31 May 1826, Governor's Papers, MANM, r. 5, frs. 29–32.

51. Narbona to Secretary of the Interior and Foreign Relations, Santa Fe, 14 October 1826, translated in Florence Hawley Ellis, *A Reconstruction of the Basic Jemez Pattern of Social Organization, with Comparisons to Other Tanoan Social Structures* (Albuquerque: UNM Press, 1964), pp. 59–61. The original is in SANM BLM, 1371.

52. Minutes of the diputación, 21 October 1826, MANM, r. 42, frs. 438–39.

53. During this interval requests were not made for surplus land at any pueblo, and the diputación respected the pueblo boundaries. A request by a non-Indian for land in the jurisdiction of San Miguel del Bado, for example, received a favorable response from the diputación, with the proviso that the land be outside the Pecos league (Minutes of the diputación, 1 February 1828, MANM, r. 42, fr. 553).

54. Aguilar and Cota to the governor, Santa Fe, 9 March 1829, SANM BLM, no. 258(3). Hall's forthcoming *Four Leagues of Pecos* treats the squabbles among Pecanos that precipitated this letter.

55. We are using John Kessell's translation here, after checking it against the original in SANM (Kessell, *Kiva, Cross, and Crown*, p. 448). We have dated this document by checking it against the minutes of the diputación, 24 March 1829, MANM, r. 42, fr. 605.

56. See, for example, Brayer, *Pueblo Land Grants*, p. 18; Jenkins, "Taos Pueblo," p. 104; Harold H. Dunham, "Spanish and Mexican Land Policies and Grants in the Taos Pueblo Region, New Mexico," *Pueblo Indians I*, ed. and comp. David Agee Horr (New York: Garland Publishing Co., 1974), p. 205; Simmons, "Pueblos since 1821," p. 206; Felix S. Cohen, *Felix S. Cohen's Handbook of Federal Indian Law* (1942; Albuquerque: UNM Press, 1976), p. 384; Joe S. Sando, *The Pueblo Indians* (1976; San Francisco: Indian Historian Press, 1982), p. 71; James A. Walsh, "Pueblo Indian Agriculture, Irrigation, and Water Rights" (Ph.D. diss., University of Utah, 1980), p. 117; and Victor Westphall, *Mercedes Reales: Hispanic Land Grants of the Upper Rio Grande Region* (Albuquerque: UNM Press, 1983), pp. 111–12.

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57. Rodríguez to the governor, Picurís, 14 May 1829, in SANM BLM, no. 1374. See, too, the related documents in this same group.

58. Fernández to the governor, Santa Fe, 7 May 1829, SANM BLM, no. 288 (2); minutes of the diputación, 12 June 1829, MANM, r. 42, fr. 618.

59. "Una propiedad inmemorial de dhos. naturales," minutes of the diputación, 26 November 1829, MANM, r. 42, fr. 631.

60. José María Paredes to Ramon Abreú, Segunda Sala de la Suprema Corte de Justicia, México, 11 February 1830, SANM BLM, no. 1369.

61. Hall raised the possibility of such a sale in "Juan Estevan Pino, 'Se Los Coma': New Mexico Land Speculation in the 1820s," *NMHR* 57 (January 1982): 33–35. In that article he expressed doubts about the authenticity of the deed of sale. His doubts were based on the sixty-year lapse between the making of the deed in 1830 and its recording in the San Miguel County courthouse in 1894. At the time he also wondered about the fact that no contemporaneous Pino document mentioned the sale.

Since then Hall has found no corroborative evidence among the Pino papers, but has learned that there was nothing remarkable about the delay in getting the Pino deed to the county courthouse. Until 1846 no public repository existed for private land sale documents. After 1850, territorial law required the recording of land documents in the various county courthouses. Some residents did file their pre-1846 documents after 1850. Most did not, at least not immediately. Particularly in Hispanic northern New Mexico, residents saw no benefit in public recording of private documents. Many feared that the new mandatory provisions would result in land loss. As a result, residents tended to file documents, if they filed them at all, in response to perceived emergencies. Many of the documents recorded in the late nineteenth century in the Santa Fe, Taos, and Rio Arriba county courthouses originated in the early nineteenth and late eighteenth centuries. Thus, the local county courthouses represent a largely untapped resource for Spanish and Mexican land transactions. The sale in 1830 from Pecos pueblo to Juan Esteven Pino falls into that mold.

In addition, Hall has since discovered that current landholding patterns in the Pecos pueblo grant confirm the 1830 sale. West of the Pecos River, the center of the ciénega de Pecos remains today in the ownership of two families whose separate titles are directly traceable to Pino's acquisition in 1830. East of the Pecos River in the same vicinity the current land status story is more complicated. Tracts there are smaller; ownership is more splintered. But titles to these tracts stem directly from the Pino sale as well.

62. Simmons, "History of the Pueblos Since 1821," p. 207, and Myra Ellen Jenkins, "The Baltasar Baca 'Grant': History of an Encroachment," *El Palacio* 68 (Spring 1961): 60.

63. Ward Alan Minge, "Frontier Problems in New Mexico Preceding the Mexican War, 1840–1846" (Ph.D. diss., University of New Mexico, 1965), p. 96, citing the 1821 census of Fray José Pedro Rubin de Celis, reproduced in Bloom, "New Mexico under Mexican Administration," 1: 28. These figures may be misleading,

for the district covered by the census may have been larger than the boundaries of a league of an individual pueblo, and so counted people who actually lived off of pueblo land. See, too, Alvar W. Carlson, "Spanish-American Acquisition of Cropland Within the Northern Pueblo Indian Grants, New Mexico," *Ethnohistory* 22 (Spring 1975): 97.

64. A document of 12 May 1841 adjusting the boundaries between the pueblo of Laguna and the non-Indian town of Cubero mentions "admitting as valid the grants which under the accustomed formalities may have been made in favor of the citizen Marcos Baca by the members of the aforesaid pueblo" (quoted in Jenkins, "The Baltasar Baca 'Grant,'" p. 63). The document is not in the surveyor-general records, as Jenkins indicates, but rather in U.S., Bureau of Land Management, New Mexico Land Grants, Records of Private Land Claims Adjudicated by the U.S. Court of Private Land Claims, case No. 1, reel 33, frame 51.

65. See, for example, "Indian Deeds: San Ildefonso Pueblo" File numbers 300.10-9-5, 8, 9, 12, and "Indian Deeds: Nambé Pueblo" File Numbers 300.5-9-1, 3.1 in the records of the Pueblo Lands Board, Southern Pueblo Agency, Albuquerque. The San Ildefonso abstracts, prepared by board personnel, show two pre-1829 sales to non-Indians by the pueblo and twenty sales between 1829 and 1845. The Nambé abstracts show one pueblo sale to a non-Indian prior to 1829 and seven sales between 1829 and 1846. The Pueblo Lands Board abstracts contain only a clerk's transcription of the essential elements of deeds presented to the board. Of the twenty deeds presented to the board documenting San Ildefonso pueblo sales between 1829 and 1846, only two had been recorded at the time in the appropriate county courthouse.

66. Article 77 of the law of 20 March 1837, and decreto of 26 August 1842, in Dublán and Lozano, *Legislación mexicana*, 3: 330, and 4: 256, respectively.

67. If the Constitution of 1824 reflected a liberal consensus, that consensus began to dissolve by 1826. See Jesús Reyes Heroles, *El liberalismo Mexicano*, 2: *La sociedad fluctuante* (Mexico: Universidad Nacional Autónoma, 1958), pp. 47–73.

68. Pecos was abandoned by 1838. The pressure of non-Pueblos who sought Pueblo lands may have hastened the pueblo's demise, as John Kessell suggests. Other reasons, too, contributed to the abandonment of Pecos: disease; raids from nomads on the Plains; the departure of the Franciscans; and perhaps internal dissension. See Kessell, *Kiva, Cross, and Crown*, pp. 455–58.

69. The Bases Orgánicas of 1843 declared that: "La propiedad es inviolable, sea que pertenezca á particulares ó á corporaciones . . ." (title 2, article 9, part 2, in Felipe Tena Ramírez, *Leyes fundamentales de México, 1808–1971*, 4th ed. [México: Editorial Porrúa, 1971], p. 408).

70. "Las tierras que en comun poseen actualmente o que en adelante adquieran," chapter 5, article 31, part 2, Municipal Ordinances, 23 February 1846, drawn up under title 7, article 34, no. 10 of the Bases Orgánicas, SANM BLM, no. 1106. See, too, papers pertaining to the Ojo de la Cabra Case, SANM BLM, nos. 1381–83 and no. 677.

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71. See Hale, *Mexican Liberalism*, pp. 215–16, 231–34; Gonzales Navarro, "Instituciones indígenas," pp. 121–24; Rodríguez, *The Cádiz Experiment in Central America*, p. 210; Jesús Silva Herzog, *El agrarismo mexicano y la reforma agraria: exposición y crítica* (México: Fondo de Cultura Económica, 1959), pp. 38–66; and Edward H. Spicer, *Cycles of Conflict: The Impact of Spain, Mexico, and the United States on Indians of the Southwest, 1540–1960* (Tucson: University of Arizona Press, 1962), pp. 334–39.

72. The effects of the Ley Lerdo on Indian communities are discussed in many sources. See, for example, Gonzales Navarro, "Instituciones indígenas," pp. 125–33, and Jean Meyer, *Problemas campesinos y revueltas agrarias, 1821–1910* (México: SepSetentas, 1973), pp. 27–34, 116–18.

THE SANTA VISTA *OF AGUSTÍN FERNÁNDEZ DE SAN VICENTE TO NEW MEXICO, 1826*

CONNIE CORTAZAR

In 1826 THE MEXICAN GOVERNMENT sent Agustín Fernández de San Vicente as special envoy to New Mexico in a belated effort to end the growing antagonism engendered by the many years of neglect from church and state. His mission had two main objectives: he was to investigate reports of clerical abuse and institute reforms wherever possible,[1] and he was to gather information regarding certain individuals suspected of seeking the overthrow of the Mexican Republic.[2] Basic to his enterprise was the urgent need to reestablish a peaceful and orderly society in which the Mexican church and state might rule without fear of an effective opposition. Thus, in 1824 the bishop of Durango, Marqués de Castañiza, nominated Fernández as vicar-general and ecclesiastical governor of New Mexico. The appointment became official two years later when the vicar's nephew, President Guadalupe Victoria, and the Mexican Senate gave their approval to Castañiza's selection.[3]

Early in the year 1826 the well-rounded, slightly less than energetic *racionero* (prebend) Agustín Fernández de San Vicente took leave of his fellow clerics at the cathedral of Durango to begin a long journey to the remote frontier province of New Mexico.[4] As was usual during such assignments, a fawning entourage accompanied Fernández and catered to his every whim.[5] Although the trip was long and difficult for the peripatetic canon, it allowed him to pursue his interests in wine, women, and gambling far from the watchful eyes of his religious superiors.[6] Yet the cost of his personal indulgence was high and within a few days of his arrival in New Mexico Fernández found himself in the embarrassing position of writing to a clerical associate in Durango imploring financial aid.

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