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MYRA ELLEN JENKINS
TAOS PUEBLO AND ITS NEIGHBORS

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HISTORICAL SOCIETY NOTES

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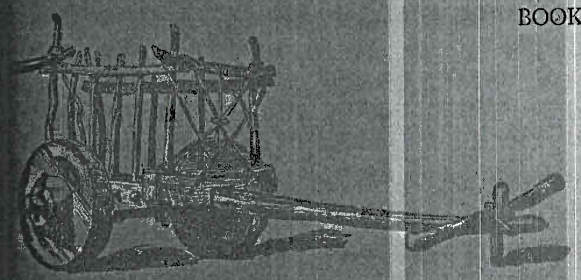

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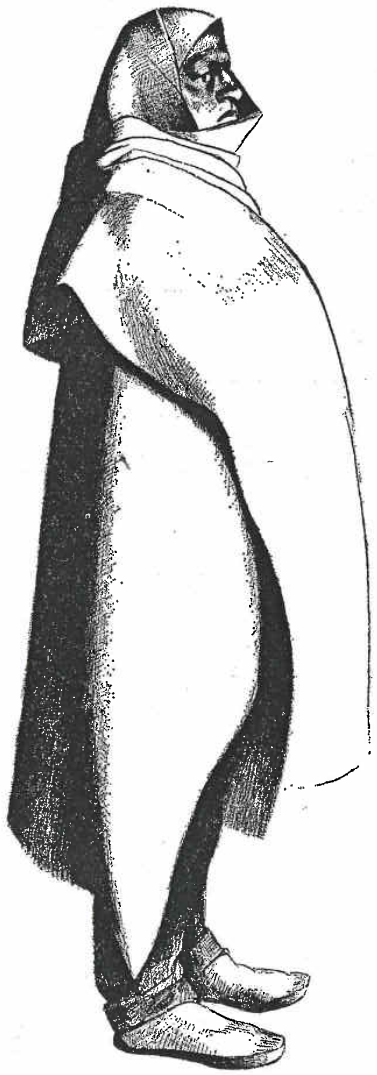

TAOS PUEBLO AND ITS NEIGHBORS
1540-1847

MYRA ELLEN JENKINS

SINCE 1540, when Europeans under the command of Coronado's lieutenant, Hernando de Alvarado, first visited the Indian village at the foot of the brooding Sangre de Cristo Mountains, the multi-storied Pueblo of Taos, with its two large apartment buildings separated by the Taos River, has impressed all who see it for the first time. The Indians of this northern pueblo have on several occasions impressed the white man's government in Mexico City or Washington, as well as in Santa Fe, for reasons other than the picturesque setting of their abode. Perhaps no tribe has more tenaciously resisted absorption by its non-Indian neighbors than has this proud and hardy community, determined to preserve its tribal identity and its lands, whatever the cost. The great Pueblo Revolt of 1680, which drove the Spaniards from New Mexico for twelve years, began at Taos. The revolution of 1837, which resulted in the death of Governor Albino Pérez and other officials of the Mexican Republic, saw the installation of José González, son of a Taos Indian woman, as governor of New Mexico for a brief time. Open rebellion against U.S. occupation of New Mexico flared in Taos on January 19, 1847, when enraged Indians and Mexican nationalists killed Governor Charles Bent.

Much less spectacular, but no less significant, has been the consistent, centuries-old opposition, by petition and lawsuit, to stop encroachment on lands the Taos Indians consider their ancestral heritage for farming, grazing, hunting, or religious purposes.

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Diego Romero, his wife, María de San José, and three children were in the Taos area by August 20, 1714, when, as a resident of San Gerónimo de Taos, he registered a livestock brand.[29] His sister had married the soldier Juan de Villalpando in 1684,[30] and her family also moved into the Taos region. Apparently the mother was part Indian, since Diego described himself as "a coyote, the son of a Spaniard and a coyota" in the brand registration. Within a few years the Indians were at odds with Diego Romero, whom they usually referred to as "El Coyote," and his large family.

In 1715 Francisca Antonia de Gijosa petitioned for a tract formerly occupied by a Bartolomé Romero, southwest of Taos and adjoining the Cristóbal de la Serna grant. The donation was allowed by Flores Mogollón on June 16, and possession given at San Gerónimo de Taos, October 20, in the presence of the pueblo principales, who apparently did not object. The boundaries were: the head of the acequia belonging to the Taos Indians on the east; the black rocks on the west; the middle road to Picurís on the south; the arroyo hondo on the north.[31] Francisca de Gijosa conveyed the tract to a Baltasar Trujillo in 1725. Trujillo conveyed to Baltasar Romero, July 12, 1732,[32] and the grant remained in the hands of this Romero family, who also had troubles with the Indians.

Still another grant to lands north and west of the pueblo of San Gerónimo was made October 26, 1716, to Antonio Martínez of Sonora. This donation had originally been given to Lucero de Godoy, who did not return to New Mexico after the 1680 Revolt. In the act of possession, October 29, 1716, the boundaries were given as: the arroyo nearest the pueblo on the east; the Rio Grande on the west; the mountains which are the source of the Rio Lucero on the north; and the junction of the Taos River with the Rio del Norte on the south. Secretary of State and War Miguel Tenorio stated that he had summoned the Taos Indians to the royal houses, because the Spaniards were then living in the pueblo and that although the Indians made no objection to the grant, they expected to be able to continue their use of some of the land.

> And on the inside of the Rio Lucero aforesaid, toward the mouth where it disembogues toward the right, there is a valley where the natives say they cultivate, in which they were never disturbed by the said Sergeant Major [Lucero de Godoy], and that they will abide by whatever may be given them by the said Antonio.[33]

When alleged descendants of Martínez petitioned the Surveyor-General in 1877 for title to the land, and later filed suit before the Court of Private Land Claims, they could produce no evidence of continuous use and ownership by this Martínez family, although the Court of Private Land Claims approved the grant in 1892.

One of the most persistent encroachers on the pueblo of Taos in the mid-1700's was Sebastián Martín, the well-known Indian campaigner and alcalde mayor of Santa Cruz de la Cañada. In 1712, Martín secured a large grant north of San Juan Pueblo[34] and built a pretentious hacienda at the site of "Nuestra Señora de la Soledad del Rio Arriba" near present Alcalde. On October 25, 1723, a Dimas Jirón and his wife, María Domínguez, conveyed a tract of land, which María claimed to have inherited from her father, in the Taos valley to Martín.[35] No boundaries were stated. The father's name does not appear in the document, but he was apparently Captain José Domínguez who lived in the Santa Cruz de la Cañada area.[36] There is no evidence that Domínguez had any legal right to any land, or that he had ever lived in the Taos region.[37]

In 1730 the pueblo of Taos filed the first of many complaints against the settlers, objecting to encroachments by Sebastián Martín, Diego Romero and Baltasar Romero. Governor Juan Domingo de Bustamante set the precedent for future action by ordering the settlers to vacate the land and move their stock three leagues from the pueblo. Sebastián Martín brought suit against the governor for losses to his fields and livestock, before Francisco de la Sierra y Castillo, the judge of Bustamante's residencia in the late summer of 1731, alleging that he had a royal grant. The decision was in the governor's favor, Martín was fined 105 pesos for perjury and misrepresentation. All the settlers agreed to obey the decree.[38]

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Meanwhile, on August 13, 1731, the Taos Indians again laid charges of trespass, theft of stock, and damage against Sebastián Martín, Baltasar Romero and Diego, El Coyote, before the new governor Gervasio Cruzat y Góngora:

> . . . We say that inasmuch as Sebastián Martín, Baltasar Romero and other residents are damaging our plantings with their herds and flocks of stock, both large and small, so much so that they oblige us to keep driving away the said herds personally, day and night, so that we can benefit from the hard work which we have done in the cultivation of our fields; and they are also branding our calves with their brands, as well as inflicting many other damages upon us. . . . Moreover, when the said Sebastián Martín finds his fields harmed by his own stock, he takes the opportunity to pen up the stock of the pueblo so that the owners of the said stock must pay him; and this can be proved. And also, it is usual, whenever anyone kills an animal, for the said settlers to say that we have killed it. And in view of all the damages and injuries which are being committed against us, we beg and petition, in all submission, that it may please Your Excellency that the aforesaid leave there so that we may enjoy the benefits of our own labor and live happily and in peace, for it is justice which we hope to obtain. And we swear to God by the Holy Cross that this our writing is not inspired by malice.

Governor Cruzat y Góngora demanded an investigation of the charges; then, following the precedent set by Governor Bustamante, ordered that such trespass and injury cease:

> . . . I order and command the alcalde mayor of the jurisdiction of the said pueblo to order the said Sebastián Martín, Baltasar Romero and the other residents, immediately upon notification of this decree to withdraw all their herds to a league around from where the Indians of the said pueblo have their cultivated fields, under penalty of one hundred pesos to be applied for military pasturage. They are to employ the herders who may be necessary to guard their herds so that they do no damage. And with regard to their branding the calves with their own brand, and other damages that [the Indians] say they have received [from them], the said alcalde mayor shall find out what herds may have been so branded and by whom, as well as

> the other damages the [settlers] may have caused. And if the allegation prove true, the amount of the damage is to be restored to the interested parties. In regard to Sebastián Martín's taking the opportunity to pen up the stock of the said pueblo so that the owners may pay him for the damage which his own stock has caused, and the charge that when any large animal is accidentally killed, he accuses the Indians of having killed it; in regard to all this he will also make the necessary investigation for its verification, recording his action at the foot of this decree, on the basis of which I will take action. . . .[39]

Both decisions were in strict conformity with the great 1680 legal code, the *Recopilación de Leyes de los Reynos de las Indias*, that no Spanish grazing grants or permits would be allowed close enough to Indian lands so that the livestock of the Spaniards could damage Indian crops.[40]

A petition of mountain man and trader, Antoine Leroux, presented to the Surveyor-General in 1860, alleged that a grant in the Taos valley had been made on August 9, 1742, to Pedro Vigil de Santillanes, Francisco Bautista Vigil and Cristóbal Vigil. The boundaries in the act of possession were: on the north, the arroyo hondo; on the west, a line running from north to south two leagues west of an old house, or four leagues west of a line one hundred varas west of the cemetery of the church of San Gerónimo de Taos; on the east, by the west line of the pueblo; and on the south by lands of Sebastián Martín. Leroux, who was married to a Juana Catalina Vigil,[41] filed on behalf of the unnamed heirs of the grantees. The grant may have been genuine in part, but the act of possession submitted by Leroux showed alteration of the original wording. As in the case of the Antonio Martínez grant, there is no evidence of occupation by the grantees in 1742, or of use by any descendant. If the petition for the grant was valid, Sebastián Martín was still using the lands west of the pueblo.[42]

In his will of 1763, Sebastián Martín made only one brief mention of the land: "I declare another site in the valley of Taos which I have by purchase which I made, which I have always assigned and now assign and leave to my wife."[43] Whether or not the family continued to use the land in the late eighteenth century cannot

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be determined, but the Taos Indians did continue to use it. In 1795 and 1800 they bought out some of the claims of members of the Martín family to avoid harassment.

The fact that Spanish authorities did not construe that any grant or occupation in the area interfered with Indian use of the land for grazing was again bluntly recognized by Governor Tomás Vélez Cachupín on March 29, 1753, when as the result of another formal complaint on the part of the pueblo, he commanded the settlers to fence their crops and to stop interfering with Indian herds using their traditional pastures:

> Whereas, the Indian natives of the Pueblo of San Gerónimo de Taos of this government have represented to me the damages resulting to their community because some Spanish residents are settled on the boundaries of the said pueblo, with sowings and farms and fields which render impassable and obstruct the roads and passage of their cattle and livestock and horseherds to pasture. As a result, the said residents prevent this and keep them at a distance to their grave prejudice. And they also use abusive language to the Indian herders who are legitimately pasturing their livestock on their own lands. In order to stop such illegal damages and vexation to the natives, I order and command all the residents of the valley of Taos, near and far from the pueblo, that, in order that the Indians may freely take their stock out to pasture, and lest damage may be caused to their own crops, that they fence their farms and kitchen gardens with adequate fences so that the livestock cannot penetrate them, and that they leave the roads open for the livestock of the Indians. The penalty for the resident who does not do so will be a fifty peso fine and three months in jail, and that his planted land be laid waste by the livestock of the Indians; with the warning that the fencing is to be done before the first weeding of the cornfields. And in the meantime, the stock of the Indians is to pass equally freely without any residents daring to make difficulties or to use abusive language to any Indian herder, under the existing penalties. The lieutenant alcalde mayor of the said pueblo of Taos, in the presence of the residents of the said valley, shall publish this mandate, so that they may not allege ignorance, and he shall record the proclamation and publication, and the fact that they were present. And when this has been done, he shall personally bring these proceedings and the published decree to this capital villa within ten days. The alcalde mayor and the lieutenant will enforce the most prompt and due fulfillment of this order under penalty of one hundred pesos fine and removal from office.

Jacinto Martín, lieutenant of the alcalde mayor, duly summoned the fourteen offending residents, who agreed to obey the order.[44] Among them were five close relatives of the deceased Diego Romero: his son, Francisco; his son, or grandson, Juan; another grandson, Andrés; his son-in-law, Antonio de Atienza; and his nephew, Pablo Francisco de Villalpando. Another was Francisco Martín, possibly the youngest son of Sebastián.[45]

During these years and until late in the century, most of the settlers must have been living very near to the pueblo or actually in it. The only inhabited site in the valley appears to have been the settlement of the Diego Romero clan on the Río de las Trampas (Río Chiquito). In May 1743, the Romeros asked for a redistribution of the lands at the Río de las Trampas "which the deceased Diego Romero left at his death for the benefit of his heirs." Half the region was given to his widow and second wife, Barbara Montoya, and the rest divided among his children.[46] The year before, the widow had married Antonio Durán de Armijo.[47] In her will of January 18, 1745, Barbara Montoya declared that she had brought to her marriage to Durán de Armijo "one ranch which is in the Río de las Trampas which is approximately three leagues away from the pueblo, a little more or less, without any house," as well as a five-room house "in which we live in this valley."[48] On October 29, 1746, her daughter by Diego, Ana Romero, with her husband, Antonio Atienza, deeded two houses to the widower. The description of these properties indicates that they were closer to the pueblo than the Las Trampas settlement.[49] When Antonio Durán de Armijo died in 1748, the inventory of his estate listed two pieces of property, "a house and lands in the Pueblo of San Gerónimo de Taos" and lands at the Río de las Trampas.[50]

When Fray Miguel de Menchero made his report of his 1744 visitation of missions, he spoke of only four ranches in the Taos valley, with ten Spanish families, most of whom were obviously the

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pas had so increased that on February 4, 1795, José Mirabal, Antonio Fernández, Concepción Romero, Ventura Romero, Julián Romero and others of that settlement petitioned for a new grant to the east and southeast, known as the Rancho del Río Grande. Alcalde Ortiz placed the petitioners in occupation on April 9.[61]

On June 13, 1795, José García de la Mora, for two hundred pesos, sold to the pueblo of Taos a tract of land which he claimed to have inherited from his grandfather, Sebastián Martín, and to have purchased from other heirs. On May 25, 1800, the pueblo bought from him a larger piece, 1,450 varas of cultivated lands at the Estiércoles, south of the first purchase, for 1,450 pesos in kind, mostly stock.[62] García de la Mora's claim to the land was tenuous at best. He was the husband of Sebastián's granddaughter, Josefa, the daughter of Marcial Martín, and not the grandson of the famous Sebastián.[63] Furthermore, the land clearly lay within the foursquare league recognized as pueblo property.[64]

By 1795 most if not all of the settlers had moved out of the pueblo. A large group settled in the region of present Taos village. In 1796 Governor Fernando Chacón approved a grant, and sixty-three families were placed in possession of the Don Fernando de Taos grant by Alcalde Antonio José Ortiz. Two other acts of possession were made in 1797, with additional families. On August 9, 1799, Chacón revalidated all three acts. The boundaries of the new grant were given as: the lands of the Indians on the north; the middle road to Picurís on the northwest and west; the *cuesta* (brow of the hill) on the opposite side of the Río Don Fernando on the south; and the Cuesta de la Osha and Palo Flechado on the east. There is no record that the Indians were summoned. In spite of the fact that the north boundary was to be the lands of the Indians, the new settlement was an encroachment on pueblo lands from the start, for the plaza and many of the houses were built within the limits of the pueblo league.[65] Conflict was inevitable.

On April 11, 1815, José Francisco Luján, governor of San Gerónimo de Taos, petitioned Alcalde José Miguel Tafoya for protection against trespassers within the four-league grant as follows:

> . . . Since the king, God keep him, has given us one league of land to the four winds, we request Your Excellency that it be delivered to us so that our families may have more land for planting and our livestock may have ample pasturage. And knowing that the settlers who have usurped the lands within our league will confound us by their allegations, because we do not know how to present our rights, we inform you that I have seen the Reverend Father Minister, Fray Benito Pereyro in order that he may reply in our name.[66]

Because of its importance, Tafoya referred the petition to Governor Alberto Maynez, whose reply on April 15 was brief and to the point:

> The five thousand vara league, measured from the cross of the cemetery in all directions, which His Majesty granted to each Indian pueblo from the beginning of its establishment, is for the purpose of conserving this land for the maintenance of the sons of the same, so that they may have the use of it; and they cannot give it away or sell it without license from the king, because it is a patrimony or entailed estate, which no judge nor governor has the authority to sell, in whole or in part.
>
> If it should turn out that many years since, or in any manner whatsoever, settlers have intruded to plant and build on Indian lands, they must lose their labor, leaving the ground free for the Indians. But as this will result in serious injury to the settlers, the alcalde mayor of Taos shall provide for them impartially with the justice which is possible, hearing the parties and arranging a compromise such that the Indians shall not suffer in the settlement they may make. The Protector of the Indians, Don Felipe Sandoval, shall set down at the end of this decree whatever may occur to him concerning the present petition.

Sandoval's suggestion was:

> It should be possible to arrange a settlement between the interested parties under tenant's arrangement, in order not to injure either of the parties, with the understanding that the land belongs to the league of the natives, and that the residents who may have purchased in that territory shall have no right to the land that belongs to the aforesaid pueblo.

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The Indians were then using lands as far northwest as the Arroyo Hondo, as the dispute involved not only the area within the pueblo league, but also the new settlement of Arroyo Hondo. Governor Maynez appended a note to Sandoval's suggestion, saying:

> If the damages which the Indians of Taos have described to me result from the planting permitted to the residents in the ciénega of Arroyo Hondo, they cannot plant. The alcalde shall settle this point in the most just and advantageous way.

On April 6 of the same year, Maynez had authorized a grant to one Nerio Sisneros and forty-two others of lands some fifteen miles northwest of the pueblo, and north of the Arroyo Hondo stream.

On May 3, Alcalde Pedro Martínez, who had replaced Ortiz, wrote to Maynez that in accordance with the governor's instructions of April 27, he had measured the pueblo league, but that the Indians refused to concede any land or title within it to the settlers.

> . . . and in consideration of what Your Excellency has advised me, I measured the league with a vara of the kind in ordinary use, which I showed to the pueblo. As a result, 1,700 varas from east to west and 3,950 from north to south were taken from the settlers; all land cultivated at the expense and sweat of the settlers. Included in this territory are three plazas[68] which may contain about 190 families and a church built solely by the residents. . . .
>
> Anticipating an agreement and adjustment of this lawsuit, which is very important, I proposed to the Indians that if they would leave them their houses and ranches, they would give them forty-five head of livestock, both horses and cattle. The governor of the pueblo and the interpreter consented to this harmonious agreement, but when they proposed it to the Indians, they not only did not agree, but even abused them.
>
> As Your Excellency gives me to understand that I should make a statement regarding the present serious affair, I state with the greatest submission and respect, as a former father of this jurisdiction, that the settlement at Arroyo Hondo does not injure either the Indians or the residents, because they are more than ten thousand varas distant from the league.
>
> If Your Excellency should determine that the unfortunate remain orphaned, losing houses and ranches purchased in good faith, I am of the opinion, subject to the superior decision of Your Excellency, that the said Indians should lose what was purchased in clear and patent damage to the heirs of the late Don Sebastián Martín, at which place so many destitute Spaniards may be accomodated, assigning to them the same proportion of the land, houses, corrals and fences which they are losing.

This statement would seem to indicate that the Indians had purchased more land from the Sebastián Martín heirs than the Estiércoles site. The governor refused to budge from his April 15 decision on the lands within the league, but stated that "the Arroyo Hondo shall be populated by farmers if it can be done without prejudice to a third party." Alcalde Martínez and the priest, José Benito Pereyro, joined by José Romero, attorney for the residents, again appealed to Maynez on May 20 to soften his decision in case the Indians refused to compromise, insisting that the Indians already had more land than they needed. They also attempted to advance the argument that the Spaniards should have prior rights over a subject people:

> . . . I also set forth to Your Excellency that because the residents are descendants of the conquering and reconquering nation, I, as well as the Reverend Father Minister, Fray Benito Pereyro, who is my associate in this lawsuit, am, of the opinion that the said descendants of the conquering nation are entitled to the lands which the Indians do not develop and cultivate. . . .

This illegal argument moved the governor not at all, and he answered two days later:

> My preceding decrees of April 15 and May 6 cannot be more firmly based on the principles of law and justice, nor more clearly stated in order to incline the parties to a settlement and tranquility. . . . Based upon the principle that their rights to the league which His Majesty granted them are incontestable, it is for the residents to satisfy them, because in accordance with ordinary justice, it is my opinion that the right is on the side of the Indians.

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NOTES

1. The author is, of course, referring to the Rio Grande, which he says the Spaniards reached about twenty leagues east of Ácoma. He estimated that some seventy pueblos extended from north to south along its course for a distance of more than fifty leagues.

2. George P. Hammond and Agapito Rey, eds., *Narratives of the Coronado Expedition 1540-1542* (Albuquerque, 1940), pp. 288-89.

3. *Ibid.*, p. 22.

4. *Ibid.*, p. 244.

5. Hammond and Rey, "The Rodriguez Expedition to New Mexico, 1581-82," NMHR, vol. 2 (1927), p. 352.

6. Albert H. Schroeder and Dan S. Matson, *A Colony on the Move, Gaspar Castaño de Sosa's Journal 1590-1591* (Santa Fe, 1965), pp. 125-28.

7. Hammond and Rey, *Don Juan de Oñate, Colonizer of New Mexico,* 2 vols., (Albuquerque, 1953), vol. 1, pp. 342, 345.

8. *Ibid.*, vol. 2, p. 1110.

9. *Ibid.*, p. 1094.

10. France V. Scholes, *Church and State in New Mexico, 1610-1650* (Albuquerque, 1937), p. 25; also NMHR, vol. 11 (1936), p. 33.

11. Frederick Webb Hodge, George P. Hammond and Agapito Rey, *Benavides' Revised Memorial of 1634* (Albuquerque, 1945), pp. 97-98.

12. Scholes, *Church and State,* p. 128; also NMHR, vol. 11 (1936), p. 310.

13. *Ibid.*, p. 137, and NMHR, vol. 11, p. 320.

14. Charles Wilson Hackett, ed., *Historical Documents Relating to New Mexico, Nueva Vizcaya, and Approaches thereto, to 1773,* vol. 3 (Washington, D.C., 1937), pp. 206-07.

15. *Ibid.*, pp. 218-19.

16. Scholes, *Troublous Times in New Mexico 1659-1670* (Albuquerque, 1942), pp. 69-70; also NMHR, vol. 12 (1937), p. 416.

17. Hackett, vol. 3, pp. 263-64.

18. Certification by Martín Serrano, May 21, 1664, that he had collected encomienda revenues at Taos, *ibid.*, vol. 3, p. 249.

19. Fray Angelico Chavez, *Origins of New Mexico Families in the Spanish Colonial Period* (Santa Fe, 1954), pp. 21-22. Details of the Great Revolt are in Hackett, *Historical Documents,* vol. 3, pp. 328-32, and in Hackett and C. C. Shelby, *Revolt of the Pueblo Indians of New Mexico and Otermin's Attempted Reconquest 1680-1682,* 2 vols., (Albuquerque, 1942).

20. Chavez, *Origins,* pp. 46, 60.

21. Hackett and Shelby, vol. 2, pp. 247, 248.

22. J. Manuel Espinosa, *First Expedition of Vargas into New Mexico* (Albuquerque, 1940), pp. 149-56.

23. J. Manuel Espinosa, *Crusaders of the Rio Grande* (Chicago, 1942), pp. 190-96.

24. *Ibid.*, pp. 281-84.

25. Hackett, vol. 3, p. 374.

26. There were nine Spanish households; six coyote or mestizo households, and eight genízaro households included in this number. See Eleanor B. Adams, *Bishop Tamarón's Visitation of New Mexico, 1760* (Albuquerque, 1954), p. 57n.; also NMHR, vol. 28 (1953), p. 215n.

27. The original documents in this case are in No. 240, Spanish Archives of New Mexico, series I, Bureau of Land Management, Santa Fe, New Mexico; copies are in Surveyor-General, No. 158 and Court of Private Land Claims, No. 21, Bureau of Land Management. Hereafter these files will be referred to as SANM, BLM; S-G, BLM; PCL, BLM with appropriate file numbers.

28. Chavez, *Origins,* pp. 13, 98, 272.

29. No. 240, SANM, BLM, 4th document.

30. Chavez, *Origins,* p. 312.

31. No. 945, SANM, BLM; copy in No. 109, S-G, BLM.

32. No. 951, SANM, BLM; copy in No. 109, S-G, BLM.

33. No. 116, S-G, BLM.

34. The Sebastián Martín Grant is No. 28, S-G, BLM.

35. No. 510, SANM, BLM.

36. Chavez, *Origins,* p. 170.

37. An 1836 copy of an alleged grant of the "site of Los Estiércoles" made in 1702 to José Domínguez was filed before the Surveyor-General by Santiago Valdez in 1800. Valdez claimed that it had been in his possession for many years. The "grant" was immediately rejected by Surveyor-General H. M. Atkinson, who usually approved even dubious claims, in Case No. 120, because the paper was a copy of a copy.

38. Bustamante's residencia, Bancroft Library, University of California, Berkeley, New Mexico Originals (photocopy in the University of New Mexico Library), pp. 162-68.

39. The complaint and the decision are in No. 361, Spanish Archives of New Mexico, State Records Center and Archives, Santa Fe, New Mexico, hereafter cited as SANM, SRC.

40. *Recopilación,* Book IV, Title 12, Law 12.

41. Chavez, "New Names in New Mexico," *El Palacio,* vol. 64 (1957), p. 315.

42. The Los Luceros grant was approved by the Surveyor-General in

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1861 as Case No. 47. It was confirmed in 1869. By this time, however, the claimants tried to prove that the large Sebastián Martín grant north of San Juan Pueblo was the true southern boundary. The Sawyer-McElroy survey of 1877 showed an overlap with the following grants: the Arroyo Hondo, the Gijosa, the Cristóbal de la Serna, Antonio Martínez, Fernando de Taos, Rancho del Río Grande, and the Picurís Pueblo. Owing to the protests of the other grant claimants and the report of special investigator Will N. Tipton that there was no evidence of occupation of the land by descendants of the alleged grantee, Surveyor-General George W. Julian recommended, on April 30, 1887, that the Los Luceros grant be returned to the public domain. A smaller grant was finally approved by the Court of Private Land Claims and patented in 1909; part of this still overlapped the Antonio Martínez grant.

43. A copy of Sebastián Martín's will is in the L. Bradford Prince Papers, Land Grants, State Records Center and Archives, with a notation that the original, which was never filed with the Surveyor-General, was in the hands of Attorney J. H. Purdy of Santa Fe. However, No. 698, SANM, BLM, concerning the probate of the wills of Sebastián and his wife, mention the Taos lands also.

44. These proceedings are in No. 1248, SANM, BLM.

45. The other residents were: Carlos Fernández, Diego Antonio Gallegos, Pedro de Chávez, Joseph Delgado, Antonio Romero, Julián Padilla, Pablo Romero and Xavier González.

46. No. 240, SANM, BLM.

47. Chavez, *Origins*, p. 136.

48. No. 240, SANM, BLM.

49. *Ibid.*

50. *Ibid.*

51. Hackett, vol. 3, p. 400.

52. Adams, *Bishop Tamarón's Visitation*, p. 56.

53. *Ibid.*, p. 58.

54. Adams and Chavez, *The Missions of New Mexico, 1776, a Description by Fray Francisco Atanasio Domínguez with other Contemporary Documents* (Albuquerque, 1956), pp. 112-13.

55. *Ibid.*, p. 113.

56. *Ibid.*

57. *Ibid.*, p. 112.

58. *Ibid.*, p. 111.

59. *Ibid.*, pp. 111-12.

60. The request is in No. 158, S-G, BLM.

61. No. 58, S-G, BLM concerns the Rancho del Río Grande grant.

62. Copies of these documents were filed April 17, 1875, in Deed Book E, No. 5, pp. 133-39. Taos County Records, Court House, Taos, New Mexico, apparently as the result of the survey of the Antoine Leroux grant. A prefatory note states that they were prepared before Juez de Paz Juan de Jesús Valdez, April 23, 1840, in a renewal of the sale of lands belonging to the pueblo of Taos made by order of the governor, which was communicated to Valdez by Prefect Juan Andrés Archuleta, since the original was torn.

63. Genealogical chart in L. Bradford Prince Papers, Land Grants, SRC. Apparently, even Antoine Leroux accepted the validity of the purchase, for on April 10, 1861, the so-called heirs in the Los Luceros grant executed a quitclaim deed to the pueblo for $100 to lands lying east of the pueblo league, Deed Book A, No. 2, pp. 74-75, Taos County Records.

64. The question of Indian land grants has yet to be satisfactorily resolved. When the pueblo cases came before the Surveyor-General from 1855 to 1859, many of the pueblos submitted documents purporting to show grants made by Governor Domingo Jironza Petrís de Cruzate at El Paso in 1689, on the basis of which several patents were issued between 1858 and 1877. The investigation of Will N. Tipton before the Court of Private Land Claims in the case of the pueblo of Laguna, whose grant had been confirmed by Congress but not patented, however, proved that the documents were at least partially spurious. Taos did not produce a Cruzate, but relied on the 1815 decision of Maynez. That there was at least a foursquare league grant to most of the pueblos, including Taos, seems indisputable in view of the number of Spanish documents on pueblo matters which refer to the "Pueblo League."

65. The Don Fernando de Taos grant is No. 125, S-G, BLM. When the case came before the Court of Private Land Claims, some of the claimants admitted that the town proper lay within the pueblo league lands which had by then been surveyed. For that reason, the court, in No. 149, PLC, held on September 5, 1899, that the allotted lands outside the pueblo grant would be confirmed, but refused to confirm that portion which lay within the league because of the 1815 decision.

66. All the documents cited in this case are in No. 1357, SANM, BLM.

67. The original papers in this grant had disappeared by the time the case was submitted to the Surveyor-General, and only a copy, presumably made May 1, 1820, exists, No. 159, S-G, BLM.

68. Obviously, one of these sites was Los Estiércoles, and another a portion of Don Fernando de Taos. The third plaza has not been identified.

69. A typewritten translation of a document presumably prepared by Miguel Tenorio in 1818 is in the N. B. Laughlin Papers, "Francisco

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Martínez y Martínez et al. vs. Melaquías Martínez et al.," SRC, but since the original of the document has not been located, reliance has been placed on the proceedings in 1823.

70. The July 2 document is not in official custody, but reference to it is in the report of December 30, 1823.

71. The precise meaning of this word is not clear. The Taos Indians stated that *surco* meant the amount of water which would "flow through the hub of a Mexican cart wheel placed in said river," Respondents Answer, "Francisco Martínez y Martínez et al., vs. Melaquías Martínez et al.," Laughlin Papers.

72. No. 2956, Mexican Archives of New Mexico, State Records Center, hereafter cited as MANM, SRC.

73. Both the petition and the referral to the governor are in No. 628, SANM, BLM.

74. Twitchell, *Leading Facts in New Mexican History* (Cedar Rapids, 1912), vol. 2, pp. 60-61, states that the Taos Indians were deeply involved, relying on Josiah C. Gregg, *Commerce of the Prairies*.

75. L. Bradford Prince, *Historical Sketches of New Mexico* (Kansas City, 1883), p. 287, states that González was a Taos Indian, as does H. H. Bancroft, *Arizona and New Mexico* (San Francisco, 1888), p. 318. Twitchell, *Leading Facts*, vol. 2, p. 65, says the same thing, relying on Prince. The story was embellished in much detail in the fictional account by Ruth Laughlin, *The Wind Leaves no Shadow* (New York, 1948), pp. 178-91.

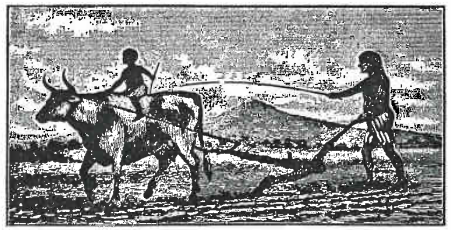
76. An excellent and detailed discussion of who José González really was is in Fray Angelico Chavez, "Jose González, Genízaro Governor," NMHR, vol. 30 (1955), pp. 190-94. See also Philip Reno, "Rebellion in New Mexico—1837," NMHR, vol. 40 (1965), pp. 197, 200-01.

77. These documents are in U.S. Senate, 45th Cong., 3rd Sess., Sen. Misc. Doc. No. 81, Part III, "Private Land Claims," 1879, pp. 1250-53.

78. *Ibid.*, p. 1253.

79. No. 7580, MANM, SRC.

80. A copy of this deed is in the Donaciano Vigil Register of Land Titles, Book *A*, BLM, pp. 53-54.



THE RIGHT OF ASYLUM IN NEW MEXICO IN THE SEVENTEENTH AND EIGHTEENTH CENTURIES

ELIZABETH HOWARD WEST

THAT THE RIGHT of asylum still exists in the Orient is no more than is to be expected; that it lingered in some parts of continental Europe to a time within the memory of living man, and that it must at one time or another have been exercised within more than half of what is now the United States, as it certainly was in New Mexico, are rather startling facts.[1]

Having its basis in a feeling of reverence for the place of worship, this right has doubtless existed ever since there have been shrines devoted to the worship of deity. To go no further back than the history of Europe, it played an interesting and important part in the history of Greece, being a recognized fact in the amphictyonic laws. The Greek temple-sanctuaries continued to furnish immunity after the Greek states fell under Roman rule, though their number was afterward limited when their working was found to interfere materially with the execution of Roman laws.

In Rome, the institution did not develop early. The Roman temper was essentially juridical, and in the long struggle between patrician and plebeian for equality of rights and privilege, a complicated system of purely legal checks upon despotic power was developed. Romulus's traditional asylum was not religious, and furnished no precedent in the republic; the right of a condemned criminal to exemption from the death penalty if he accidentally met a vestal, on the way to the place of execution, was closely akin, but not true religious asylum; so that the earliest native Roman religious asylum was that afforded under imperial law by the

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