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Marc Simmons

## Spanish Government and Colonial Land Practices

*Spanish Government in New Mexico, soon to be published by the University of New Mexico Press, describes political government in New Mexico during the last fifty years of its existence as a province of Spain. This excerpt explores one phase of this government in the eighteenth century.*

CIVIL AND MILITARY authority in New Mexico was vested in a governor who directed affairs of the province with the aid of his agents, the *alcaldes mayores*. It is difficult for the modern student to appreciate properly the complexity and enormity of the problems which beset Spain's officers in this farthest corner of the empire. The tribes which invested the frontiers on all sides engaged in alternate trade and war with the Spaniards and Pueblo Indians, exacting during times of hostility a considerable toll in human lives and suffering. The economy of the region developed slowly, because of the defense effort. The general feeling of crisis promoted by the uncertainty of life and limb was intensified by the poverty of the people. With hardship a salient characteristic of life in New Mexico, the office of governor needed a man of considerable fortitude and intelligence.

It may fairly be reckoned that the governors coming from Spain and Mexico, especially in the eighteenth century when raiders from the plains had accelerated their activities, looked with considerable misgiving upon their assignment to New Mexico. Some, such as Pedro Fermín de Mendinueta and Juan Bautista de Anza, were men of exceptional vigor who met considerable success in defeating or bargaining with the Indians. Others displayed less forceful traits of character, and some were blatantly weak and dishonest. As Scholes has succinctly remarked, "A governor's powers were wide enough to permit an honest and energetic man to maintain discipline and secure justice, or to make it possible for a self-seeking official to become a local tyrant."

In theory, the governor headed a battery of lesser officials who assisted in the conduct of provincial business. These included a lieutenant governor, the members of the town council, or *cabildo*, of Santa Fe, a secretary of government who served as notary as well as personal advisor to the the governor, and a clerk. Administering the separate districts or rural subdivisions into which the region was divided were the *alcaldes mayores*, together with their subordinate lieutenants and an assortment of petty magistrates among the Pueblo Indians. In actual practice, the eighteenth century witnessed a decline in the number of functionaries, mainly, it seems, because of the dearth of qualified candidates to fill the various offices.

Toward the end of the century, for example, the governor was without the services of a secretary and a notary, and several districts lacked for a time an *alcalde mayor*. Moreover, the lieutenant governor was far to the south, administering the district of El Paso, and the municipal council of Santa Fe, which traditionally had aided the governor in the direction of provincial affairs, had ceased to exist sometime before mid-century. As a consequence, the governor came to rely upon the advice and assistance of the officers of the capital's presidential garrison.

The governor's duties encompassed directly or indirectly all affairs within his jurisdiction. As a military ruler, he was responsible for maintenance of the peace, the most demanding of all tasks. Tied to this obligation was the supply, training, and command of the regular presidential troops and the citizens' militia. Moreover, his constant dealings with the native inhabitants, both peaceful and hostile, made him, in effect, the Indian agent for the district—the personal liaison between the Spanish government and these subjects.

Outside the city of Santa Fe, few local administrative duties were in the hands of the governor since these he delegated to his agents, the *alcaldes mayores*. They, in addition, dispensed justice at the local level, the governor retaining supervision over their activities and sitting as a court of appeal from their decisions. Generally, his sphere of action included both civil and criminal cases and litigation involving the military *fuero*.

In absence of a treasury office in New Mexico, the governor was concerned with the collection of taxes and the promotion of such meager crown revenues as existed. Similarly, he encouraged the economy of the country whenever possible, although this and the administration of finances remained minor phases of his total activity.

The governor, as vice-patron of the Church, was responsible for maintenance and welfare of the entire missionary program. The work of conversion, however, was weakened after the Pueblo revolt of the late seventeenth century, and it never recovered its early vigor.

Beyond these specific obligations, the governor was impelled to foster the general welfare of his province. This implied a wide range of authority, and, in fact, empowered him to perform whatever acts were necessary to ensure the proper functioning of the governmental machinery, subject always, of course, to the approval of his immediate superiors. The governor could issue appropriate ordinances and decrees; he arranged for division of the province into lesser administrative districts; he appointed civil officials at the local level and nominated persons for military positions; he supervised the founding of new settlements, the concentration of the population for defensive purposes, and taking of a periodic census; he controlled the assignment of land and water rights outside the Villa of Santa Fe; and he regulated public travel within the province.

The governor was empowered to maintain public buildings, including his residence (the *casa real*), the cuartel, or installations and barracks of the presidial troops, frontier outposts, supply depots, roads and communications. To insure his familiarity with the province he was expected to conduct a general inspection (*visita*) of his jurisdiction, seeking out and remedying injustices and providing necessary changes in the local administration. To all of this was added an inordinate amount of paper work, the governor being required to compose a host of reports throughout the year to be submitted in duplicate or triplicate to the central authorities.

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**THE REGULATION OF SETTLEMENTS.** From the first days of the founding of the province of New Mexico, it was recognized that strength lay in the clinging together of colonists for mutual protection. The natural tendency of the citizens, however, was to disperse over the countryside in pursuit of the few economic activities which were open to them. Viceroy Luis de Velasco observed as early as 1609, "I have been informed that the small population of that country [New Mexico] is very scattered over it so that they are destitute of administration because very few reside in each place and they also are too far apart to be helped and protected." This situation remained an abiding problem to the end of the colonial period, although special efforts were made in the

second half of the eighteenth century to concentrate the people in easily defended settlements.

The governors were empowered to select sites for new settlements, to make arrangements for and certify their establishments, and to provide the support needed in their earliest stage of development. Related to this authority, the governors were obliged to see that no settlers abandoned their communities, or, for the matter, left the province without his expressed permission. Spanish law was explicit in this latter regard. A person who left his place of residence without the proper license might forfeit any offices he held in addition to his house, lands, and other possessions. The prohibition against traveling without a permit was reiterated specifically for New Mexico in a royal order of 1784 and was proclaimed throughout the area by the *alcaldes mayores* acting under orders of Governor Anza.

Increasing Indian pressure upon the Spanish settlements in the eighteenth century accentuated the need for assembling the people of New Mexico to better resist the enemy. Governor Mendinueta, in 1772, bewailed the fact that among "the Spaniards there is no united settlement, so that to the dispersion of their houses the name of ranches or houses of the field is properly given and not that of villas or villages." Antonio de Bonilla, four years later, echoed the governor's complaint and warned of impending ruin, for "the force of settlers is divided, and they can neither protect themselves nor contribute to the general defense of the country." By contrast he extolled the merits of the Indian pueblos which "are defensible because of their excellent and unified formation." In addition, he supported an earlier proposal by Governor Mendinueta which would have forced the New Mexicans to congregate in well-organized settlements.

Fray Juan Agustín de Morfi, writing sometime in the 1780's, enumerated the injuries to government and society resulting from the people's careless habits of settlement. Some of these appear as follows: citizens, because of the isolation of their homes, felt free to act with independence and insolence in a manner which they would not have dared in the presence of the authorities; for the same reason, great crimes were committed since the wrongdoers held little fear of being punished; settlers were deprived of the benefits of the sacraments since the few priests could not reach those in the outlying areas; the men lived so far apart that when the government sounded the call to arms, the enemy had ample time to escape before the militia could assemble to give chase; and since many lived without neighbors to observe them, they were not

ashamed to go about nude so that lewdness was seen here more than in the brutes, and the peaceful Indians were scandalized.

Morfi decried the fact that not a single Spanish town was well organized for defense. In particular he singled out the Villa of Albuquerque, complaining that its inhabitants were distributed for a dozen leagues along the banks of the river. If the people were brought together, a large town would be the result, common defense would be promoted, and abundant lands for cultivation and pasturage could be had by all.

The arrangement of the Villa of Santa Fe appears to have been in similar disarray during the entire colonial period. As early as 1620, there was official concern expressed over the poor defensive qualities of the current site, and a proposal was advanced to move the capital to the more favorable location. The sacking of the outlying districts of the Villa in the several days preceding its total abandonment by the Spanish during the Pueblo revolt emphasized the weaknesses inherent in the haphazard growth hitherto permitted in the Santa Fe municipality. Notwithstanding, the capital was subsequently reconstructed on its former site, and disorderly sprawling over the surrounding countryside was resumed by the colonists.

The sad spectacle of the Santa Fe defensive position again became a subject of concern in the second half of the eighteenth century. Criticism of the capital's condition was implied in the remarks by Mendinueta and Bonilla. It was during the administration of governor Anza, however, that overt action on the question appeared imminent. Involved was not only an active proposal to reorganize Santa Fe, but the remaining towns of the province as well. Indian incursions had devastated the large areas, so that Miera y Pacheco's map of New Mexico for the year 1780 showed more abandoned settlements than occupied ones.

Anza received instructions from the commandant general to devote himself to the task of implementing the ideas originated by his predecessor, Governor Mendinueta, with regard to reform of the settlement patterns adopted by the New Mexicans. Although he set about enthusiastically to fulfill his charge, Anza was able to achieve results which were only partially successful. Albuquerque and Santa Cruz de la Cañada were apparently reduced to some order, but the citizens of Santa Fe remained adamant in refusing to meet the demands of the governor who was seeking the transfer of the Villa to the south side of the river. Twenty-four of these fled the province without his permission

and presented themselves before the commandant general in Arizpe to state their grievances. This bold action won an order restraining the governor from moving the capital until all complaints could be judiciously heard, and in the final outcome, Santa Fe remained on its original site.

In 1788 the commandant general approved a project by Governor Concha to reform the Villa of Santa Fe, but this concerned more the construction of a *cuartel* or presidial barracks than an attempt to concentrate the populace. A proposal current at this time, however, did advocate the shifting of the capital to a site near Santo Domingo Pueblo, but the hostile attitude of the citizens of the Villa, not to mention that of the Indians, caused the idea to be hastily abandoned. At this time two thousand pesos was assigned for work on the barracks to provide badly needed improvements.

The Spanish king was proprietor of all territories conquered in his name and was at liberty to dispose of them as he chose. They were distributed in several ways. Lands were conceded to the support of new towns and their citizens, for Indian pueblos, and to vassals who had served in the conquest of a new territory. Certain property was retained by the crown under the title of "vacant or royal lands." It was these last which were made as grants to individuals, but with the understanding that final title was retained by the king. Grants were made for occupation and use, the subject taking the rents and profits, and normally a time limit was specified. The amount of land given varied according to the needs of the individual.

The governor of New Mexico was empowered to make both Spanish and Indian land grants in the name of the king. Spaniards who desired lands presented a formal petition to the governor who then instituted an investigation to determine if the land requested would produce a conflict with other claims. The *alcaldes mayores* were actually in charge of examining applications which fell within their respective jurisdictions and they placed grantees in possession after the governor had drawn up the appropriate title.

A common occurrence in the New Mexico province was the frequent abandonment of settlements and lands under pressure from hostile Indians. Such removal was often hastily taken by terrified colonists without the official sanction required from the governor, who was hard pressed sometimes to force the people to return to their homes. Governor Vélez Cachupín, for example, declared in February of 1766, that the lands in the region of Ojo Caliente which had recently been aban-

done because of the Indian menace had reverted to the crown, and were available to other subjects of the king who might apply for them.

Pedro Bautista Pino mentions his part in a case involving land distribution.

During the administration of Señor Chacón, I was commissioned to found two settlements and to distribute lands to more than 200 families at Pecos ford. After I concluded this operation, and upon taking leave of them . . . my heart was filled with joy. Parents and little children surrounded me and thanked me with tears in their eyes for the land I had given them for their subsistence.

Related to the governor's land grant powers was his obligation to protect Indian properties from trespass and encroachment by Europeans. Carefully wrought legislation was designed to safeguard all native land which was actually used or occupied. Unfortunately, as one authority has noted, the laws were honored more in the breach than in the observance. With increased European population, the eighteenth century was a time of stress for the Indian communities, as the governors and alcaldes mayores at best ignored the laws while whites impinged upon pueblo lands, and at worst connived openly to exploit the natives.

In 1705 Governor Francisco Cuervo y Valdés had proclaimed an order prohibiting all Spanish citizens from residing in Indian pueblos or even entering them without express permission of the governor. This was merely a restatement of the law that had long prevailed in New Spain and though it was reiterated on subsequent occasions in New Mexico, it did little to stem the tide of white encroachment. The aggrieved pueblos might formally petition the governor or they might send representative delegations to appear before him with their complaints, but in the end it was the personal feeling of the governor rather than Spanish law which decided the issue in any given case.