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LAND, RACE, AND LEGITIMACY IN TERRITORIAL NEW MEXICO

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“UNDER THE SAME GLORIOUS FLAG”:  
LAND, RACE, AND LEGITIMACY IN TERRITORIAL NEW MEXICO

A DISSERTATION APPROVED FOR THE  
DEPARTMENT OF HISTORY

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## ABSTRACT

Using San Miguel County in northern New Mexico as a case study, this dissertation explores the ways in which nuevomexicanos sought some measure of control over the terms of their incorporation into the United States after the Mexican War. A reexamination of the *Gorras Blancas* or “White Caps,” a secret society of fence cutters, lies at the core of this study. While they are commonly portrayed as primitive rebels or social bandits struggling against the onslaught of capitalism and modernization in the quintessential expression of nuevomexicano resistance to the American conquest, previously untapped sources reveal otherwise. Rather than trying to overturn the Anglo capitalist order, many of the alleged fence cutters were striving to carve out a better place for themselves within that system. Indeed, they pursued a variety of complex and often contradictory strategies to define the terms of their incorporation.

This dissertation explores the ways in which a group of nuevomexicanos—including alleged fence cutters—asserted an American identity void of race in order to buttress their claims to land and demand recognition of their rights as legitimate citizens of the United States. They did so by joining the Knights of Labor, organizing a People’s Party in San Miguel County, and adopting the symbol of the American flag and the icon of John Brown. The alternative political discourse they offered both preceded and overlapped what other scholars have identified as the emergence of a Spanish-American identity. It was ultimately abandoned, however, because the conflation

of whiteness and citizenship was too entrenched in the late nineteenth century for a non-racialized American identity to be accepted.

## Introduction

Poised at the international border between the United States and Mexico, Colonel Stephen Watts Kearny announced his impending conquest in a proclamation issued to the citizens of New Mexico on 31 July 1846. This would be a benevolent conquest, for his purpose was nothing more than “seeking union with and ameliorating the condition of its inhabitants.” So long as they remained “quietly at their homes, and [in pursuit of] their peaceful avocations,” the citizens of New Mexico had nothing to fear. If, however, they chose to resist, they would be punished as enemies of the United States.<sup>1</sup>

Kearny and his “Army of the West” reached the first major settlement in New Mexico by mid-August. Newly promoted to brigadier general, Kearny readied his men to enter the town of Las Vegas at dawn on the fifteenth. Their procession was “sounded by martial trumpet and horn” and led by a company of dragoons, flanked by the infantry carrying “banners [that] streamed in every direction,” with a battalion of light artillery and the cavalry following behind.<sup>2</sup>

When they reached the center of town, Kearny ascended a building with the alcalde and “other men of distinction among the Mexicans” at his side and addressed the people gathered below: “We come amongst you as friends—not as enemies; as protectors—not as conquerors. We come among you for your

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<sup>1</sup> James Madison Cutts, *The Conquest of California and New Mexico, by the forces of the United States, in the years 1846 & 1847* (Philadelphia: Carey & Hart, 1847), 42.

<sup>2</sup> John T. Hughes, *Doniphan's Expedition; Containing an Account of the Conquest of New Mexico; General Kearney's Overland Expedition to California; Doniphan's Campaign Against the Navajos; His Unparalleled March Upon Chihuahua and Durango; and the Operations of General Price at Santa Fé: With a Sketch of the Life of Col. Doniphan* (Cincinnati: U. P. James, 1847), 30.

benefit.”<sup>3</sup> They had come, quite simply, “to take possession of New Mexico, and to extend the laws of the United States over them.”<sup>4</sup>

Kearny went on to proclaim himself governor and absolve them of any allegiance to Mexico. He assured them that he would protect their property and religion and, unlike the Mexican government, the United States would also protect them from marauding Indians. After his speech, Kearny administered an “oath of allegiance to the laws and government of the United States” and concluded the ceremony, saying: “I shake hands with you all, through your alcalde, and hail you as good citizens of the United States.”<sup>5</sup>

Kearny repeated this ceremony of possession in every village he encountered until he reached the capital where it became even more elaborate.<sup>6</sup> As before, Kearny led his soldiers in a procession through town to the plaza where he addressed a crowd, claiming New Mexico for the United States. But here the troops raised an American flag, and when it became visible to the artillery battalion positioned on the hill overlooking Santa Fe, it was greeted by a national salute. For Kearny and his men, this was the final act of possession—by

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<sup>3</sup> Cutts, *The Conquest of California and New Mexico*, 46.

<sup>4</sup> *Ibid.*

<sup>5</sup> Hughes, *Doniphan's Expedition*, 30; Cutts, *The Conquest of California and New Mexico*, 47; William H. Emory, *Notes of a Military Reconnoissance [sic] from Fort Leavenworth, in Missouri, to San Diego, in California, Including Parts of the Arkansas, Del Norte, and Gila Rivers* (Washington: Wendell and Van Benthuysen, Printers, 1848), 27-28.

<sup>6</sup> Frank S. Edwards, *A Campaign in New Mexico with Colonel Doniphan, by Frank S. Edwards, a Volunteer; with a map of the route, and a table of the distances traversed* (Philadelphia: Carey and Hart, 1847), 41-42; Cutts, *The Conquest of California and New Mexico*, 47, 48-50; Hughes, *Doniphan's Expedition*, 31. The phrase, “ceremony of possession” is borrowed from Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492-1640* (New York: Cambridge University Press, 1995).

“proclaim[ing] that the flag of the United States floats over [the] capital,” the firing of the cannons signaled that the conquest of New Mexico was complete.<sup>7</sup>

The general worked to formalize U.S. control over the region in the coming days. To that end, he issued a written proclamation repeating his promises to the people and affirming his claim to New Mexico. That he had “taken possession of it without firing a gun or shedding a drop of blood” justified his right to rule. Kearny’s written proclamation of conquest was followed by the construction of two concrete, visual reminders of U.S. sovereignty—a new, permanent mast for the American flag and a military fort large enough to house a garrison of 280 soldiers.<sup>8</sup>

Mexico City fell a mere thirteen months after Kearny first raised the American flag in Santa Fe. By then, the United States claimed not only New Mexico, but nearly half of Mexico’s territory. In exchange for fifteen million dollars and a cessation of hostilities, Mexico ultimately ceded more than 500,000 square miles of territory to the United States.<sup>9</sup>

How the Mexican North became the American Southwest is the subject of this dissertation. This study is not a military or diplomatic history, nor does it offer a comprehensive chronicle of conquest and the triumph of U.S. hegemony. Instead, it aims to understand how a region and its peoples acquired through a

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<sup>7</sup> Cutts, *The Conquest of California and New Mexico*, 53. The details of Kearny’s arrival in Santa Fe varies slightly, but each account emphasizes the significance of the raising of the American flag and the artillery salute, see *ibid.*, 52-53; Edwards, *A Campaign in New Mexico*, 45-47; Hughes, *Doniphan’s Expedition*, 33; Emory, *Notes of a Military Reconnaissance [sic]*, 32.

<sup>8</sup> Hughes, *Doniphan’s Expedition*, 34; Cutts, *The Conquest of California and New Mexico*, 56-57; Emory, *Notes of a Military Reconnaissance [sic]*, 32.

<sup>9</sup> For the peace negotiations and the provisions of the treaty that ended the war, see Richard Griswold del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990).

war that was rationalized and justified by an ideology of Anglo-Saxon supremacy could be incorporated into the United States. Centering my research in San Miguel County in northern New Mexico, I employ a community studies approach to explore the long process of incorporation that occurred on the ground after the military conquest of the region. How nuevomexicanos participated in this process—how they sought some measure of control over the terms of their incorporation into the United States—lies at the core of this study.<sup>10</sup>

Scholars have often viewed incorporation as a process of expanding transportation and communication networks in order to link outlying regions to national and global markets. In this vision, incorporation is an economic process that emanates outward from the center with capitalism as the transformative force that propels the extension of central authority or political control and ultimately results in the transformation of cultural values.<sup>11</sup> This theme has been particularly emphasized in western history over the last two decades or more as scholars have linked the conquest of the American West to the expansion of

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<sup>10</sup> The term nuevomexicano describes native New Mexicans of Hispanic or mestizo descent living in the nineteenth century. While imprecise, Anglo is used as a convenient shorthand for European and American immigrants to New Mexico in the nineteenth century (and their descendants) and includes Irish, Jewish, French Canadian, Italian, Eastern and Southern European peoples, as well as Anglo-Saxons.

<sup>11</sup> The seminal study of incorporation remains Alan Trachtenberg, *The Incorporation of America: Culture and Society in the Gilded Age* (New York: Hill and Wang, 1982). For works that focus on the American West, see Richard Maxwell Brown, "Western Violence: Structure, Values, Myth," *Western Historical Quarterly* 24, no. 1 (1993): 4-20; David Alan Johnson, *Founding the Far West: California, Oregon, and Nevada, 1840-1890* (Berkeley: University of California Press, 1992); Andrew R. Graybill, "Instruments of Incorporation: Rangers, Mounties, and the North American Frontier, 1875-1910" (Ph.D. diss., Princeton University, 2003); María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Lawrence: University Press of Kansas, 2005); and Andrés Reséndez, *Changing National Identities at the Frontier: Texas and New Mexico, 1800-1850* (New York: Cambridge University Press, 2005).



global capitalism and the larger history of European imperialism and colonialism.<sup>12</sup>

Capitalist consolidation and national consolidation went hand in hand and western historians have long emphasized both the role of the federal government in the economic development of the West and the region's significance to the expansion and centralization of the American state.<sup>13</sup> Recently, however, Elliott West has reoriented the discussion by placing race and the territorial acquisitions of the 1840s at the center of the nineteenth-century drive for national consolidation. By expanding the nation's boundaries so dramatically and making its population so much more diverse, western expansion not only accelerated the conflict between North and South, it also sparked a national discourse on the relationship between race and nation during what West calls the "Greater Reconstruction"—a period beginning in 1846 with the Mexican War and ending with the Chinese Exclusion Act in 1882. The question of whether or not the peoples living in the newly acquired territories could or should be incorporated

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<sup>12</sup> Much of the scholarship on capitalist expansion and the economic incorporation of the West has been largely influenced by dependency and world-systems theories. See, for instance, Richard White, *Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos* (Lincoln: University of Nebraska Press, 1983); David Montejano, *Anglos and Mexicans in the Making of Texas, 1836-1986* (Austin: University of Texas Press, 1987); Thomas D. Hall, *Social Change in the Southwest: 1350-1880* (Lawrence: University Press of Kansas, 1989); William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W. W. Norton & Co., 1991); and William G. Robbins, *Colony and Empire: The Capitalist Transformation of the American West* (Lawrence: University Press of Kansas, 1994).

<sup>13</sup> The larger history of colonialism, capitalist expansion, and the role of the federal government are some of the central themes of New Western History. See, for example, Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: W. W. Norton & Co., 1987); White, *It's Your Misfortune and None of My Own": A History of the American West* (Norman: University of Oklahoma Press, 1991); Donald Worster, *Rivers of Empire: Water, Aridity, and the Growth of the American West* (New York: Pantheon Books, 1985); Limerick, Clyde A. Milner II, and Charles Rankin, eds., *Trails: Toward a New Western History* (Lawrence: University of Kansas Press, 1991); and Cronon, George Miles, and Jay Gitlin, eds., *Under an Open Sky: Rethinking America's Western Past* (New York: W. W. Norton & Co., 1992).

into the American republic was often at the center of this racial dialogue.

Ultimately, West contends that western expansion required the federal government to assert its newly centralized authority after the Civil War to create a new racial order incorporating both newly freed slaves in the South and peoples of color in the West into a national economy and national culture.<sup>14</sup>

In the case of New Mexico, however, the questions surrounding the relation between race and nation—between race and citizenship, race and national belonging—were far from settled by the end of Greater Reconstruction. Ostensibly, the Treaty of Guadalupe Hidalgo outlined the process by which Mexican citizens living in the territories acquired by the United States after the U.S. – Mexico War would be incorporated in the Union. Residents were given one year to decide if they wished to retain their Mexican citizenship or to become citizens of the United States. Those who elected to become U.S. citizens would then, “at the proper time” determined by Congress, be admitted as full American citizens.<sup>15</sup> Rather than settle the racial questions raised by expansion, the language of the treaty opened the door for a debate over just which Mexicans could become citizens, what rights citizenship would confer, and how and by whom their property and liberty would be protected in the meantime.

Nuevomexicanos participated in the national dialogue on the relation between race and nation that was sparked by western expansion and the demise of southern slavery. While they pursued a variety of complex and often

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<sup>14</sup> Elliott West, “Reconstructing Race,” *Western Historical Quarterly* 34 (Spring 2003): 7-36.

<sup>15</sup> Articles VIII and IX addressed citizenship and property; quote from Article IX. The treaty has been published in several sources. I used Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, which reprints in appendices the treaty as ratified by the United States and Mexico, the original text of Articles IX and X, and the Protocol of Querétaro.

contradictory strategies to assert a measure of control over their incorporation, the central story in this dissertation explores the ways in which nuevomexicanos asserted an American identity void of race in order to buttress their claims to land and demand recognition of their rights as citizens of the United States. They did so by joining the Knights of Labor, organizing a People's Party in San Miguel County, and adopting the symbol of the American flag and the icon of John Brown.

Resistance has been one of the dominant themes in New Mexico historiography for more than three decades. While it has served as a necessary corrective to stereotypes of nuevomexicanos as passive and culturally stagnant, the emphasis on resistance has also effectively challenged the assumption that the conquest of New Mexico was bloodless, swift, and benign. Instead, nuevomexicanos actively—and, for a time, successfully—resisted Anglo attempts to achieve cultural, economic, and political dominion over them.

One of the most pervasive and successful strategies of resistance, as Sarah Deutsch has demonstrated, was episodic entry into the Anglo capitalist economy and culture through the creation of a “regional community” that stretched from northern New Mexican villages to the mines and beet fields of Colorado. The seasonal, migratory wage labor of men, and the agricultural production of the women who stayed behind in the village, shielded nuevomexicanos from total dependency on the Anglo cash economy. So long as they could resist full entry into the Anglo economy by seeking refuge in the village, nuevomexicanos could “remain culturally aloof from the Anglos,” adopting

only those elements of Anglo culture that served their needs. Thus, Deutsch argues that the regional community was both an economic strategy and “a cultural choice” that delayed the consolidation and completion of the American conquest until the end of the 1930s.<sup>16</sup>

While Deutsch may have identified the most common response, the quintessential example of nuevomexicano resistance according to many historians are the *Gorras Blancas* or “White Caps”—a secret society of fence cutters in San Miguel County.<sup>17</sup> These scholars argue that poor nuevomexicanos violently resisted Anglo encroachment by engaging in organized fence cutting and other acts of vandalism and intimidation in defense of their community land grants. Many have interpreted their actions as an assertion of traditional, communal values and a rejection of modern capitalism and the imposition of American political control.

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<sup>16</sup> Sarah Deutsch, *No Separate Refuge: Culture, Class, and Gender on an Anglo-Hispanic Frontier in the American Southwest, 1880-1940* (New York: Oxford University Press, 1987), first quote found on page 201, second from page 36.

<sup>17</sup> The *Gorras Blancas* have been chronicled by several authors. See Arthur B. Schlesinger, “Las Gorras Blancas, 1889-1891,” *Journal of Mexican American History* 1, no. 2 (spring 1971): 87-143; Robert W. Larson, “The White Caps of New Mexico: A Study of Ethnic Militancy in the Southwest,” *Pacific Historical Review* 44, no. 2 (May 1975): 171-85; Mary Romero, “Las Gorras Blancas, A Class Struggle Against the Transformation of Land Ownership and Usage in Northern New Mexico,” in *Chicano Social and Political History in the Nineteenth Century*, ed. Richard Griswold del Castillo and Manuel Hidalgo (Encino, CA: Floricanto Press, 1990): 135-54; Robert J. Rosenbaum, *Mexicano Resistance in the Southwest* (Austin: University of Texas Press, 1981; reprint, Dallas: Southern Methodist University Press, 1998); and Anselmo Arellano, “The People’s Movement: Las Gorras Blancas,” in *The Contested Homeland: A Chicano History of New Mexico*, ed. Erlinda Gonzalez-Berry and David R. Maciel (Albuquerque: University of New Mexico Press, 2000): 59-82. Rosenbaum’s *Mexicano Resistance*, is the most definitive study to date. See also Larson, “The Knights of Labor and Native Protest in New Mexico,” in *Labor in New Mexico: Unions, Strikes, and Social History since 1881*, ed. Robert Kern (Albuquerque: University of New Mexico Press, 1983): 31-52; and Rosenbaum and Larson, “Mexicano Resistance to the Expropriation of Grant Lands in New Mexico,” in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*, ed. Charles L. Briggs and John R. Van Ness (Albuquerque: University of New Mexico Press, 1987): 269-310. The *Gorras Blancas* are referenced in countless other works on Chicano / Mexican-American history, the Southwest, the American West, and violence in the United States. They have also been the subject of an historical novel, see Daniel Aragón y Ulibarri, *The Devil’s Hatband/Centillo del Diablo: A Story about a People’s Struggle Against Land Theft and Racism: A Novel* (Santa Fe: Sunstone Press, 1999).

Unlike their non-elite counterparts, historians have suggested that elite nuevomexicanos often chose accommodation over resistance in order to preserve their status and wealth under the new regime. Intermarriage offered one of the surest ways to solidify their position by creating reciprocal economic and social ties between newcomers and established families. These alliances, scholars have argued, were mutually advantageous. For immigrant men, intermarriage provided access to land ownership and trade networks, as well as entrée into the political and social world of the landed gentry. For local elites, the bonds of kinship forged by the marriages of their nuevamexicana daughters to Anglo men helped solidify their social status and class position and provided a measure of security in a rapidly changing political and economic landscape.<sup>18</sup>

While intermarriage may have been a strategy pursued by nuevomexicano elites, it did not diminish the deeply-held belief of many Americans that nuevomexicanos were racially unfit for full inclusion in the republic. In fact, as New Mexicans intensified their efforts for admission into the Union in the late nineteenth century, statehood opponents increasingly employed explicitly racist arguments to deny their incorporation. Because this rhetoric focused on the territory's "impure" and "mixed blood" population, elite nuevomexicanos began to

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<sup>18</sup> Rebecca McDowell Craver, *The Impact of Intimacy: Mexican-Anglo Intermarriage in New Mexico, 1821-1846* (El Paso: Texas Western Press, 1982); Darlis A. Miller, "Cross-Cultural Marriages in the Southwest: The New Mexico Experience, 1846-1900," in *New Mexico Women: Intercultural Perspectives*, edited by Joan M. Jensen and Darlis A. Miller (Albuquerque: University of New Mexico Press, 1986); Montoya, *Translating Property*. See also, Jane Dysart, "Mexican Women in San Antonio, 1830-1860: The Assimilation Process," *Western Historical Quarterly* 7 (October 1976): 365-75; Sylvia Van Kirk, *Many Tender Ties: Women in Fur Trade Society, 1670-1870* (Norman: University of Oklahoma Press, 1980); and Jennifer S. H. Brown, *Strangers in Blood: Fur Trade Company Families in Indian Country* (Vancouver: University of British Columbia Press, 1980).

defend their racial fitness for self-government by emphasizing their “pure” Spanish lineage.

As recent studies have shown, in the 1880s and 1890s, nuevomexicanos increasingly began to lay claim to “whiteness” by invoking a heroic colonial past and European racial identity, in essence becoming “Spanish American” as a means of facilitating New Mexico’s political and cultural incorporation into the United States in the early twentieth century.<sup>19</sup> According to Charles Montgomery, the emergence of a Spanish American identity was a collaborative project of nuevomexicanos and Anglos. In his telling, Spanish heritage “functioned as a shared idiom” that allowed Hispanos and Anglos to achieve “a rhetorical compromise, a way to talk about New Mexico and its people that was acceptable—and seemingly beneficial—to both groups.”<sup>20</sup>

John Nieto-Phillips argues, however, that the emergence of a Spanish American identity was also a strategy of resistance and a source of empowerment.<sup>21</sup> As descendants of Spanish conquistadores, nuevomexicanos could both date their claims to the land from the sixteenth century and demand a central role in the governance of New Mexico as a land first conquered by their ancestors. Ultimately, the assertion of a Spanish colonial heritage provided a means of demanding equal rights as American citizens, while simultaneously

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<sup>19</sup> Charles Montgomery, *The Spanish Redemption: Heritage, Power, and Loss on New Mexico’s Upper Rio Grande* (Berkeley: University of California Press, 2002); John Nieto-Phillips, *The Language of Blood: The Making of Spanish-American Identity in New Mexico, 1880s-1930s* (Albuquerque: University of New Mexico Press, 2004). See also, Laura E. Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York: New York University Press, 2007).

<sup>20</sup> Montgomery, *The Spanish Redemption: Heritage*, quote on 11. Montgomery’s focus is not on an internalized identity, but rather one that was asserted publicly. He also suggests it was a means of asserting dignity and demanding equality as American citizens.

<sup>21</sup> *Language of Blood*, see especially pages 8-9, 53, 64, 81-82, 172, and 176.

allowing nuevomexicanos to “take some degree of control over symbols of their identity.”<sup>22</sup>

In the pages that follow, I have tried to avoid categorizing the activities of nuevomexicanos as either forms of resistance or acts of accommodation. Positing the two as opposite or dichotomous can often be too reductive—both create a dynamic in which nuevomexicanos react and respond to the actions of others or outside forces. I examine the ways in which nuevomexicanos participated in their own incorporation not to deny the realities of conquest and oppression (or to assign blame to collaborators), but to explore a rich, diverse, and sophisticated array of action.

The first chapter, “Mexicans, Indians, and the Problem of Citizenship,” establishes the cultural and political context that framed nuevomexicanos’ struggle for inclusion in the national community. It explores the meaning of citizenship in the United States through Reconstruction, focusing particularly on the relationship between citizenship and race, and examines the ambiguous legal status of former Mexicans under the Treaty of Guadalupe Hidalgo. The central questions raised by the treaty—who could be a citizen, what that status meant, and the consequence of residing beyond its bounds—extended well beyond the Mexican Cession. In the three decades after the Mexican War, they were inextricably linked to contests over the boundaries of national and state authority and the meaning of citizenship in a federal system. Nuevomexicano and Pueblo Indian citizenship was complicated first by race, but was perhaps even more complicated by New Mexico’s territorial status. The legal indeterminacy of their

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<sup>22</sup> Quote from Nieto-Phillips, *Language of Blood*, 172.

status required the meaning of citizenship (and its boundaries) to be worked out on the ground. While the dynamics varied, race occupied a central place in this process on both the local and national level.

In order to explore how racial boundaries were drawn locally, the second chapter examines intimate unions and divorce in Las Vegas during the latter half of the nineteenth century. Scholars have long studied interracial marriage for what it can tell us about race relations, cultural transmission, assimilation, and identity. Western historians have also explored the role of intermarriage in conquest, concluding in many cases that mixed unions muted ethnic hostility on the frontier and facilitated the transition to Anglo control by forging alliances between native elites and newcomers. These alliances, they contend, encouraged acculturation and initiated a process of assimilation.<sup>23</sup>

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<sup>23</sup> Although the claim that intermarriage muted ethnic hostility is pervasive, this theme is most developed by Van Kirk who credited widespread intermarriage—and the mutual exchange and dependency between Indians and Europeans that developed as a result—with the relative absence of violence on the western Canadian frontier. The emphasis on assimilation began with Dysart who argued that recognizing “women as active participants rather than passive objects in the historical process” required shifting the focus of analysis from an examination of the views Anglo men had of Mexican women to an exploration of the role Mexican women played in the process of assimilation through their marriages to Anglo men. She concluded that assimilation was a defensive strategy designed to protect Mexicans from discrimination, prejudice, and racial violence; it was often an avenue open only to those “women and children with Anglo surnames, light skins, and wealth” (“Mexican Women in San Antonio,” 365-66, 369-75). Craver followed Dysart’s emphasis on assimilation, but also wondered what role mixed marriage played in muting ethnic hostility and reducing frontier violence. If Mexico’s northern frontier was characterized by “mutual suspicion, even hostility” between Anglos and Mexicans, Craver asked, why did they marry each other? “Far from being wary of the *norteamericanos*,” she concluded, “the native citizenry . . . readily accepted many of the new arrivals as settlers in their midst.” As a result, the Mexican frontier should be viewed, “not as a clash of cultures but a cooperative fusion.” Because intermarriage formed the nucleus of this fusion, Craver reasoned that the significance of these unions was “obvious”: marriages between Anglo men and Mexican women “initiated the process of Hispanic-Anglo assimilation in the region [that became] the American Southwest” (*The Impact of Intimacy*, 2-3). Darlis Miller was more circumspect. While she argued that intermarriage facilitated assimilation and smoothed the transition to Anglo control, Miller also believed that it was impossible to generalize about the significance of intermarriage in the Southwest given the heterogeneity of Hispanic culture and the divergent historical experiences of Spanish-speaking peoples in Texas, New Mexico, Arizona, and California.



Since the 1990s, however, the emphasis in studies of mixed unions in the American West and Southwest has shifted in two important ways. First, influenced largely by the work of Peggy Pascoe on miscegenation in the American West, historians have become more interested in what intermarriage (and prohibitions against it) can reveal about the social constructions of race and gender across time and space, as well as the concomitant creation and maintenance of gendered and racial hierarchies.<sup>24</sup> The second shift has been two fold: exploring intermarriage through the perspective of women of color, and examining interracial relationships for what they can illuminate about conflict, conquest, and domination rather than positive, or benign cultural blending.<sup>25</sup> My analysis of mixed unions has been shaped by these more recent historiographical currents as well.

Looking at intermarriage from the perspective of Anglo men gives the impression that mixed unions were commonplace until the arrival of the railroad brought increasing numbers of Anglo women to Las Vegas. In fact, prior to 1880, seventy to eighty percent of Anglo men who lived with women were married to (or cohabitating with) women of color. After 1880, however, the rate of intermarriage declined precipitously so that by 1900, only seven percent of married Anglo men were partnered with women of color.<sup>26</sup>

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<sup>24</sup> Margaret D. Jacobs, "The Eastmans and the Luhans: Interracial Marriage between White Women and Native American Men, 1875-1935," *Frontiers: A Journal of Women Studies* 23, no. 3 (2002): 29-54; see also, Albert L. Hurtado, *Intimate Frontiers: Sex, Gender, and Culture in Old California* (Albuquerque: University of New Mexico Press, 1999).

<sup>25</sup> These criticisms are most clearly articulated by Deena J. González in *Refusing the Favor: The Spanish-Mexican Women of Santa Fe, 1820-1880* (New York: Oxford University Press, 1999).

<sup>26</sup> Please see Table 2.1: Proportional Intermarriage Among Anglos, 1850-1900.

Yet, simply inverting the lens through which we view intermarriage by privileging the experience of local women over that of immigrant men, reveals the relative rarity of exogamous marriage in Las Vegas. At no time between 1850 and 1900 did the percentage of mixed unions exceed ten percent of all married or cohabitating couples. The statistics are more striking for Anglo-Hispanic marriages: no more than three percent of nuevamexicanas were partnered with Anglo men at any given time.<sup>27</sup> Contrary to what scholars have found in other localities, nuevamexicanas and their families did not view Anglo men as appealing marriage partners. In reality, nuevomexicanos had an overwhelming preference for endogamy. The infrequency of mixed marriages in Las Vegas illuminates the sharp racial boundaries that separated nuevomexicanos from Anglos in nineteenth-century New Mexico—boundaries that were constructed as much by nuevomexicanos as they were by Anglos.

Chapter three shifts our focus from social boundaries to boundaries on the land itself. In “Land Taking and Boundary Making: The Battle for the Las Vegas Land Grant Begins,” I examine the collision of Hispanic and American land tenure systems in the Southwest, and the struggle to reconcile the two, by exploring the history of the Las Vegas grant up to the arrival of the railroad in 1879. Issued by the Mexican government in 1835, the grant was awarded to twenty-nine petitioners and all future settlers who did not own their own farm land. It was a community land grant—although individuals received a parcel of land as private property for cultivation, all of the available water sources,

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<sup>27</sup> See Appendix A: Marriages in Las Vegas, New Mexico, 1850–1900; Chart 2.1: Comparative Marital Choice, 1850-1900; and Chart 2.3: Marital Status of Nuevamexicanas (Age 15 or Older), 1850-1900.

rangeland, and timber resources were held in common by all residents of the grant. These common lands included some 400,000 acres and comprised both the bulk of the grant and its most valuable resources. From the beginning, settlers vied for control of these resources and worked to stake a personal claim over portions of the commons. Those who attempted to privatize or monopolize the common lands after 1848, however, did so in a contested and confused legal landscape. Reconciling Spanish-Mexican land law and custom with U.S. legal traditions was central to the process of incorporation; the struggle over the ownership of the Las Vegas commons offers a way to examine how this played out in practice.

Chapter four continues this story after the arrival of the Atchison, Topeka, and Santa Fe Railroad in 1879 and the appointment of a new surveyor general in 1885 transformed the battle for the Las Vegas grant. The railroad accelerated the industrial transformation of Las Vegas, initiating staggering demographic, social, and economic change. By 1880, the majority of residents worked for wages in a racially segmented workforce. Anglo immigration increased dramatically and Anglo-dominated “New Town,” or East Las Vegas, popped up around the new railroad depot and stood as a constant visual reminder of the new racial and ethnic division of the community. Within a decade, Anglos represented sixty percent of the population.

The railroad also increased land values, which in turn encouraged land speculation and fraud and amplified the struggle over the common lands of the Las Vegas grant. The ensuing conflict was not, however, a simple story of Anglo

encroachment and nuevomexicano dispossession. As the commercial value of land increased, nuevomexicanos employed a variety of tactics to protect or enlarge their claims including pursuing litigation against their neighbors as well as outsiders, utilizing U.S. land laws to gain private title to communal lands, and simply appropriating and fencing the commons.

When George Washington Julian was appointed Surveyor General of New Mexico in 1885, he was charged with reforming the land grant adjudication process in the territory in order to protect the federal government from fraudulent claims. Julian was a zealous reformer who believed that enlarging the public domain—and thereby opening more land to Anglo settlement—would regenerate and modernize New Mexico. To that end, he embarked upon a campaign to exclude anything but individual allotments from the confirmed acreage of community land grants and his first target was the Las Vegas grant. Julian's crusade to reduce the size of the grant from almost half a million acres to less than ten thousand intensified the conflict over the ownership of the commons.

The first recorded acts of organized fence cutting in San Miguel County occurred during Julian's resurvey of the Las Vegas grant in 1889 and historians have cast the Gorras Blancas as primitive rebels or social bandits struggling against the onslaught of capitalism and modernization. They were purportedly led by Juan José Herrera, who used the Knights of Labor to recruit and organize fence cutters. While better educated and more widely traveled than many, the Herrera who emerges from these accounts is a man of the people, an ardent anti-capitalist who is fiercely anti-Anglo and devoted to defending communal land

tenure practices.<sup>28</sup> Aside from an assertion that they were nuevomexicano, poor, and motivated by “a feeling of outrage fed by desperation,” the individuals who swelled the ranks of the Gorras Blancas remain hidden in Herrera’s shadow.<sup>29</sup>

The traditional narrative relies heavily on the papers of Governor L. Bradford Prince. In the summer of 1890, under pressure from the Secretary of the Interior, Governor Prince began investigating the trouble in San Miguel County by combing his files for any correspondence his office had received regarding unrest in the Las Vegas area. He then solicited information from victims, ordered reports from government officials, and traveled to Las Vegas to investigate the matter firsthand. In the process, Prince amassed a large body of documents which were compiled by his office and labeled “White Cap” Investigation. These records were subsequently included in the governor’s papers, deposited in the Territorial Archives of New Mexico, and later microfilmed.<sup>30</sup>

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<sup>28</sup> On resistance to Anglo encroachment see especially Rosenbaum, *Mexicano Resistance*, 103, 112, 118, 126; Larson, “The White Caps,” 171; and Arellano, “The People’s Movement,” 63. On the Knights of Labor and the Gorras Blancas see especially Larson, “The Knights of Labor;” Rosenbaum, *Mexicano Resistance*, 120-23; Rosenbaum and Larson, “Mexicano Resistance to the Expropriation of Grant Lands,” 289-90; Arellano, “The People’s Movement,” 68-72; and Larson, “The White Caps,” 178-82. This interpretation of Herrera is drawn most directly from Rosenbaum who says that Herrera “was wary of Anglo practices. . . . [and] viewed all aspects of Anglo America with suspicion” and believed “traditional rights must be maintained; Herrera would support no change in established patterns until it was clearly demonstrated that the people, his people, would benefit” (*Mexicano Resistance*, 126-27). See also *ibid.*, 122; Arellano, “The People’s Movement,” 63-4, 76; and Larson, “The White Caps,” 175-76, 182. Larson and Rosenbaum have disagreed about whether Herrera served as an innovator or a coordinator. See Rosenbaum, *Mexicano Resistance*, 210 n. 37; and Rosenbaum and Larson, “Mexicano Resistance to the Expropriation of Grant Lands,” 309 n. 31.

<sup>29</sup> Rosenbaum, *Mexicano Resistance*, xiii, quote 103, 119. See also Arellano, “The People’s Movement,” 61; and Schlesinger, “Las Gorras Blancas,” 102, 105.

<sup>30</sup> John W. Noble to Prince, telegram, 19 May 1890; Noble to Prince, 28 July 1890; Advertisement from the *Las Vegas Daily Optic*, 31 July 1890, Governor L. Bradford Prince Papers, New Mexico State Records Center and Archives (NMSRCA), Santa Fe, New Mexico (microfilm copy, Territorial Archives of New Mexico, reel 121) (hereafter cited as Prince Papers).

In addition to being easily accessible, the White Cap file is an exciting read. We find tales of murder and intimidation, spies and conspiracies, anarchy and revolution, and even a suggestion by the district attorney that the best way to stop the Gorras Blancas might be assassinating their leaders. Historians have supplemented these documents with Spanish and English newspaper accounts and a handful of oral history interviews, but the bulk of their evidence comes from the “White Cap” Investigation folder in the Governor Prince Papers.<sup>31</sup>

Decidedly less exciting, district court records are at least as valuable and offer us a better starting point for investigating the individuals who may have participated in the Gorras Blancas. While newspaper accounts and the Prince Papers describe a vast organization of fence cutters numbering in the hundreds, they only identify a handful of people by name. Likewise, although they tell us that over forty men were indicted, they fail to inform us whose fences they were accused of destroying. In contrast, court records reveal the names of every individual indicted for fence cutting in San Miguel County between 1889 and 1892, their alleged victims, and who was charged with cutting which fence. Furthermore, they document which communities these individuals lived in and

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<sup>31</sup> Rosenbaum provides an interesting discussion of his reaction to the White Cap file in *Mexicano Resistance*, 236-37. He and Larson describe it as “conveniently organized,” and state that “although the viewpoint . . . is strongly Anglo, its arrangement and content can save much time.” Ibid, “Mexicano Resistance to the Expropriation of Grant Lands,” 304. The *Daily Optic* and *La Voz del Pueblo*, both published in Las Vegas, are the two most used newspapers. Larson interviewed Herrera’s grandnephew, great grandniece, and her son and daughter-in-law. Arellano interviewed Herrera’s daughter, transcripts can be found in Arellano and Julian Josué Vigil, *Las Vegas Grandes on the Gallinas, 1835-1985* (Las Vegas, NM: Editorial Telaraña, 1985), 103-07. Rosenbaum completed several oral history interviews and his discussion of the Gorras Blancas was drawn in part from eight interviews with people living on the Anton Chico Grant and two living in Las Vegas. Rosenbaum drew from the widest range of sources, including folklore, but still relied heavily on the Prince Papers.

even provide clues to kin networks among the accused.<sup>32</sup> No scholar of the Gorras Blancas has mined these sources until now.

Beginning with court records, and then moving on to assessment rolls, deed records, and manuscript census returns helps fill out the story found in the Prince Papers and, in so doing, illuminates the ways in which land speculators, railroad officials, and county politicians exaggerated the threat posed by the Gorras Blancas in order to demand a greater assertion of centralized authority. These sources also reveal a diversity among both fence cutters and their victims that the traditional narrative cannot account for, demonstrating not only that many fence cutters owned property, but that some were relatively wealthy, and a few owned more land than their victims. Thus, the fifth chapter, “Unmasking the Gorras Blancas,” reexamines the Gorras Blancas themselves through an exploration of the individuals who participated in organized fence cutting and a reevaluation of their purported leader, Juan José Herrera. It also reevaluates the meaning and significance of organized fence cutting in northern New Mexico during the late nineteenth century.

The physical act of fence cutting was not in itself particularly significant. Lots of people cut fences. Organized fence cutting was neither unique to New Mexico, nor was it an activity restricted to nuevomexicanos. What was

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<sup>32</sup> San Miguel County Criminal Docket Book No. 1, November, 1882 – March, 1885; Book No. 2, March, 1885 – May, 1889; Book No. 3, May, 1889 – November, 1897; San Miguel County Criminal Case Files, Box 9, case #3150-3161, 3163-3176, 3263, 3271-3273, 3275-3294, 3308-3318; Box 10, case #3493-3495, 3499, 3504-3521, 3566, San Miguel County District Court Records, NMSRCA. Extant case files vary. Some contain only the indictment, but most also include at least warrant and arrest information and appearance bonds. The docket books provide summaries of each action before the court and supplement the case files; they are often the only source that relates the final outcome. San Miguel County was placed in the First Judicial District of the United States Territorial Courts in New Mexico in 1846 and transferred to the Fourth Judicial District in 1877.

significant, however, was the adoption of the symbol of the American flag and the icon of John Brown in civic demonstrations by those accused of fence cutting and those who called themselves “White Caps.” While other scholars have viewed the fence cutters as a serious impediment to incorporation, I argue that rather than trying to overturn the Anglo capitalist order, at least some members of the Gorras Blancas were struggling to carve out a better place for themselves within that system.

The final chapter, “The Knights of Labor and the Politics of Lawlessness,” examines the history of the Knights in New Mexico during the last two decades of the nineteenth century, focusing on their efforts to organize across racial lines and transform local politics. Historians have dismissed the Knights of Labor in New Mexico as merely a front—or at the very least, a mechanism—for the recruitment and organization of fence cutters.<sup>33</sup> The conflation of the two groups, however, has produced a serious gap in New Mexican labor history and, more generally, a limited understanding of the Knights of Labor in the Southwest. It has also skewed our understanding of the People’s Party in San Miguel County.

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<sup>33</sup> The only study of the New Mexico Knights is Robert W. Larson, “The Knights of Labor and Native Protest in New Mexico,” in *Labor in New Mexico: Unions, Strikes, and Social History since 1881*, ed. Robert Kern (Albuquerque: University of New Mexico Press, 1983). While Larson maintains that the Knights and the Gorras Blancas were separate organizations, it is the infiltration of the labor union by the vigilante group that he finds significant. Thus, the bulk of his article focuses on the Gorras Blancas and the creation of the People’s Party, rather than the Knights of Labor. Historians who have discussed the Knights in their work on the Gorras Blancas include Anselmo Arellano, “The People’s Movement: Las Gorras Blancas,” in *The Contested Homeland: A Chicano History of New Mexico*, eds. Erlinda Gonzales-Berry and David R. Maciel (Albuquerque: University of New Mexico, 2000), who suggests that nuevomexicanos established an entirely independent organization called *Los Caballeros del Trabajo*; and Robert J. Rosenbaum, *Mexicano Resistance in the Southwest* (Austin: University of Texas Press, 1981; reprint, Dallas: Southern Methodist University Press, 1998), who argues, with some equivocation, that the Knights and the Gorras Blancas were one in the same. See also Arthur B. Schlesinger, “Las Gorras Blancas, 1889-1891,” *Journal of Mexican American History* 1, no. 2 (spring 1971), and Larson, “The White Caps of New Mexico: A Study of Ethnic Militancy in the Southwest,” *Pacific Historical Review* 44, no. 2 (May 1975).



Nuevomexicanos in and around Las Vegas were attracted to the Knights of Labor not only because they were often unskilled workers barred from other unions and protective associations that organized along craft lines, but because of the rhetoric of citizenship and freedom the Knights' employed. Once members, nuevomexicanos used the Knights of Labor as a vehicle to fight land speculators in the territorial courts, to press U.S. lawmakers to fulfill the terms of the Treaty of Guadalupe Hidalgo, and to demand a final settlement of the Las Vegas grant that conveyed ownership of the common lands to the community of Las Vegas.

The coalition Anglos and nuevomexicanos achieved within the Knights of Labor was built on shared opposition to land speculation and anti-monopoly sentiment. Theirs was a fragile alliance that fractured once local elites, absentee land owners, and speculators accused the Knights of organizing the Gorras Blancas and pressured the union to disavow its nuevomexicano membership.

Before the ultimate collapse of the Anglo-nuevomexicano coalition in the Knights of Labor, the union's condemnation of political corruption and corporate greed appealed to a broad spectrum of the population of San Miguel County. Under this umbrella, nuevomexicanos who felt deprived of their rights and dignity, Democrats hoping to wrest control of county politics from the Republican machine, and disaffected Republicans unhappy with Eugenio Romero's despotic leadership joined members of the Knights of Labor in a diffuse protest movement that culminated in the creation of a new political party, *El Partido del Pueblo Unido* (the United People's Party), in the summer of 1890.

The Republican Party had firmly controlled New Mexico politics for decades and they tried to defeat the upstart People's Party by linking it to the *Gorras Blancas*. Instead, their attempt to make the 1890 elections a referendum on lawlessness was a tactical blunder that placed their own party on the defensive and resulted in a stunning defeat in November. The realignment of political power in San Miguel County was only temporary, however, and could not be replicated on the territorial level. The groups who formed the third-party coalition had inherently antithetical interests, and once the unifying goal of defeating the Republicans was accomplished, race became a convenient wedge issue that hastened the collapse of the People's Party in New Mexico. At the same time, however, the heightened discourse of race also fractured the *nuevomexicano* community, which ultimately closed off any alternative strategies for securing their incorporation into the United States besides laying claim to whiteness by becoming "Spanish American."

For former Mexicans living in New Mexico, the proper time for full admission into the American body politic did not arrive for sixty-four years after the U.S. conquest of Mexico. In the interim, they sought inclusion and incorporation—but on the terms they saw as favorable to their interests. Above all, *nuevomexicanos* in San Miguel County wanted the United States to fulfill the promises made in the Treaty of Guadalupe Hidalgo. From their perspective, that meant upholding and protecting their property rights in accordance with Spanish and Mexican law while also recognizing them as legitimate citizens of the United States. The alternative political discourse they offered both preceded and

overlapped the emergence of a Spanish-American identity. It was ultimately abandoned, however, because the conflation of whiteness and citizenship was too entrenched in the late nineteenth century for a non-racialized American identity to be accepted.

## Chapter 1

### Mexicans, Indians, and The Problem of Citizenship

In the midst of a war waged under the banner of Anglo-Saxon supremacy and Manifest Destiny, General Stephen Watts Kearny raised the American flag over the plaza in Santa Fe and proclaimed the people of New Mexico “good citizens of the United States.”<sup>1</sup> Soon thereafter, he issued what became known as the Kearny Code, a law which created a civil government for the territory, outlined the rights of its peoples, and pledged future incorporation into the United States.<sup>2</sup> This was no small thing.

General Kearny violated some of the most commonly-held beliefs about the character of the civic community and the quality of its members when he decreed that the residents of New Mexico were now American citizens and would soon be incorporated into the United States. As a result, his actions were renounced by the press and opposed by Congress. The general also earned a sharp rebuke from President Polk for exceeding the bounds of his authority by establishing a territorial government and extending civil rights to the people of

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<sup>1</sup> Quote from James Madison Cutts, *The Conquest of California and New Mexico, by the forces of the United States, in the years 1846 & 1847* (Philadelphia: Carey & Hart, 1847), 47. See also John T. Hughes, *Doniphan's Expedition; Containing an Account of the Conquest of New Mexico; General Kearney's Overland Expedition to California; Doniphan's Campaign Against the Navajos; His Unparalleled March Upon Chihuahua and Durango; and the Operations of General Price at Santa Fé: With a Sketch of the Life of Col. Doniphan* (Cincinnati: U. P. James, 1847), 33-34. On the rise of an Anglo-Saxon racial and political ideology, Manifest Destiny, and the U.S. - Mexico War, see Reginald Horsman, *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism* (Cambridge: Harvard University Press, 1981).

<sup>2</sup> The Kearny Code was also known as the Organic Law for the Territory of New Mexico (which should not be confused with the Organic Act passed by Congress in 1850 establishing a territorial government for New Mexico). The government Kearny created had three branches of government—the executive and judicial officials would be appointed, but the members of the bicameral legislature were to be elected by the people. The Kearny Code also included a bill of rights similar to that affixed to the U.S. constitution. Robert W. Larson, *New Mexico's Quest for Statehood, 1846-1912* (Albuquerque: University of New Mexico Press, 1968), 4-6.

New Mexico—rights that could only be “enjoyed . . . by citizens of the United States.”<sup>3</sup> Precisely what those rights were, and who was entitled to enjoy them, however, was by no means settled in the mid-nineteenth century.

The Constitution provided little guidance—it neither defined who was eligible for citizenship, nor what rights were attached to that status. Congress was charged with determining the rules for naturalization, but it was left to the states to identify the requirements for, and the rights of, citizenship.<sup>4</sup> While the specifics varied from state to state and remained undefined at the national level, some assumptions were clear by the end of the eighteenth century: American citizenship rested on individual consent, required dual allegiance to state and nation, and balanced rights with responsibilities that not all people were qualified to possess or fulfill.<sup>5</sup>

Membership in the national community was circumscribed by race from the first days of the new republic, and the meaning of American citizenship remained deeply contested and unresolved throughout much of the nineteenth

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<sup>3</sup> Quoted in Larson, *New Mexico's Quest for Statehood*, 6. As a means of securing the conquest of New Mexico without disrupting the Santa Fe trade, Kearny had been instructed to establish a temporary civilian government, retaining as many Mexican officials as possible. It was not then, the creation of a civilian government itself that Kearny's superiors repudiated, but his declaration that it was a permanent government, that New Mexico was now permanently annexed to the United States, and that New Mexicans were entitled to civil rights and had become citizens. See *ibid.*, 3-6; Howard R. Lamar, *The Far Southwest, 1846-1912: A Territorial History*, rev. ed. (Albuquerque: University of New Mexico Press, 2000), 51-58; and Horsman, *Race and Manifest Destiny*, 239.

<sup>4</sup> For citizenship provisions, see U.S. Constitution, art. I, sec. 2; art. 2, sec. 1; and art. 4, sec. 2.

<sup>5</sup> James H. Kettner, *The Development of American Citizenship, 1608-1870* (Chapel Hill: University of North Carolina Press, 1978), 208, 231, 235, 246-48. For a more recent synthesis, see Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997). For a concise introduction to the ways in which the meaning of American citizenship has been experienced differently by various groups, see Linda K. Kerber, “The Meanings of Citizenship,” *Journal of American History* 84, no. 3 (1997): 833-54. On women's citizenship specifically, see Nancy F. Cott, “Marriage and Women's Citizenship in the United States, 1830-1934,” *American Historical Review* 103, no. 5 (1998): 1440-74; and Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill: University of North Carolina Press, 1998).

century. Kearny's extension of citizenship to the people of New Mexico came at a pivotal moment when the boundaries of citizenship were expanding just as Americans' notions of race were hardening.

The core principles of American citizenship were first forged by the transformation of subjects into citizens during the Revolution. Above all, citizenship rested on individual consent. Unlike subjects, citizens had the right to choose their allegiance. That allegiance was contractual and the relationship between citizen and state was reciprocal—loyalty was owed in exchange for protection; rights were bestowed in return for civic participation. Rather than a passive entitlement, citizenship bound the citizen to the nation in a reciprocal relationship that paired rights with obligations. This concept of contractual allegiance intertwined civic participation with individual consent as the foundation of American citizenship.<sup>6</sup>

Of course, not all who desired to participate in the civic community were allowed to do so. Individual consent was not enough. Civic participation in the early republic also required the exercise of public virtue—the ability to subsume one's own self-interest to promote the common good. Public virtue, in turn, rested on personal independence. Only those who were free “from the imposition of the will of another” possessed the capacity for public virtue.<sup>7</sup>

Economic independence was a prerequisite for the independence of will necessary to exercise public virtue and participate in the civic community.

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<sup>6</sup> Kettner, *The Development of American Citizenship*, 173-75, 193-94, 247-48, 287; Kerber, “The Meanings of Citizenship,” 834-36.

<sup>7</sup> Cott, “Marriage and Women's Citizenship,” 1451. See also, Isenberg, *Sex and Citizenship*, xiv, 23-24; and, more generally, Robert E. Shalhope, *The Roots of Democracy: American Thought and Culture, 1760-1800* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 1990), 44-46.

Property ownership alone could ensure one's freedom from economic dependence on someone else. In like fashion, one had to be recognized as independent in the eyes of the law—vested with the right to own and convey property, enter into contracts, and represent one's self in court—to be free from the imposition of the will of another.<sup>8</sup>

Republican citizenship was fundamentally shaped by race and gender—and here property was central. Under the common law doctrine of coverture, women surrendered their property to their husbands upon marriage, signaling not only their own economic dependence, but their husbands' independence as well.<sup>9</sup> Even more, a woman surrendered her civic identity upon marriage—under coverture, a married woman could not enter into contracts, sue, or be sued without her husband's consent. Neither economically independent, nor independent in the eyes of the law, married women lacked the capacity for public virtue. Married or unmarried, women could not vote, hold office, serve on juries, or join the militia. Barred from participating in the civic community, women could not fulfill the obligations of republican citizenship.<sup>10</sup>

Nor could they pass citizenship on to their children. Beginning with the first Naturalization Act of 1790, only children whose fathers were American citizens were accorded citizenship regardless of where they were born. Congress upheld patrilineal citizenship in 1855 and further decreed that women of foreign birth automatically became citizens upon their marriage to American

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<sup>8</sup> Cott, "Marriage and Women's Citizenship," 1451-53; Isenberg, *Sex and Citizenship*, xiv.

<sup>9</sup> Cott, "Marriage and Women's Citizenship," 1452.

<sup>10</sup> Kerber, "The Meanings of Citizenship," 838-41; Cott, "Marriage and Women's Citizenship," 1452-54.

men. The 1855 law contained one important exception—only free white women could receive the privilege of citizenship through marriage.<sup>11</sup> The law thus reaffirmed and reinforced two essential elements of American citizenship: the primacy of male citizenship and the conflation of citizenship with whiteness.

The 1855 statute simply followed the precedent of exclusion set by Congress more than six decades earlier in their first legislative act defining the rules for naturalization. The same 1790 law that granted citizenship to the children of citizen fathers also limited naturalization to immigrants who were “free white persons.” As Matthew Frye Jacobson has remarked, “the relationship of whiteness to citizenship” was “so natural” by the end of the eighteenth century that the racial restriction in the 1790 naturalization act occasioned no debate or dissent.<sup>12</sup>

The association of citizenship with whiteness was produced, in part, by the republican emphasis on propertied independence. As Jacobson has noted, race has structured notions of property itself, determining “who can own property and who can *be* property.”<sup>13</sup> In a political culture that celebrated property ownership as the only means of achieving the personal independence required for the possession of public virtue that qualified individuals for participation in the civic community, “citizen” became equivalent to “white man.” Yet, to be a citizen in the early republic was to be a property owner and head of household. The emphasis

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<sup>11</sup> Kerber, “The Meanings of Citizenship,” 839; Cott, “Marriage and Women’s Citizenship,” 1456-58. American women could not extend the same privilege to their foreign-born husbands and after 1907, American women forfeited their American citizenship if they married foreign men. Cott, “Marriage and Women’s Citizenship,” 1461-63.

<sup>12</sup> Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge: Harvard University Press, 1999), 22.

<sup>13</sup> *Ibid.*, 21, emphasis in original.



on propertied independence thus excluded not only white women and people of color, but some white men as well.

In the first half of the nineteenth century, however, self-ownership increasingly eclipsed the ownership of property as the defining feature of personal independence. As the measure of independence gradually became the ability to command one's own labor, property restrictions on the right to vote were steadily abandoned on a state-by-state basis and suffrage increasingly became the symbol of citizenship. The boundaries of citizenship were thus broadened by the end of property restrictions on the right to vote as nearly universal white manhood suffrage was achieved by 1850.<sup>14</sup> More than ever, citizenship was equated with whiteness as the transformation of the meaning of independence paralleled the rise of an Anglo-Saxon political ideology in which racial fitness became the measure to determine the boundaries of citizenship.

Americans' understanding of race and racial difference hardened in the years preceding the Mexican War. The idea that the world was made up of distinct races, each with their own innate traits and separate origins, was commonplace by the 1840s. The inherent and unchanging characteristics of each race determined their position in society and the world. Thus, the natural order preordained that some races would rule over others. In the hierarchy of superior and inferior races, Anglo Saxons occupied the highest rung and, alone among races, had the capacity for self-government.<sup>15</sup>

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<sup>14</sup> Eric Foner, *The Story of American Freedom* (New York: W. W. Norton & Company, Inc., 1998), 52-53; Cott, "Marriage and Women's Citizenship," 1453.

<sup>15</sup> Horsman, *Race and Manifest Destiny*, 116-57, 169-74; Elliott West, "Reconstructing Race," *Western Historical Quarterly* 34 (Spring 2003): 9-11, 15-17.

Mexicans were relegated to one of the lowest positions in the racial hierarchy. The mixed-blood progeny of Indians and Europeans, Mexicans were particularly debased because they were a “mongrelized” race. Neither purely European nor purely Indian, Mexicans were simultaneously semi-barbarous and semi-civilized. They retained none of the virtues the Spanish may have possessed when they arrived in the New World—those qualities had been erased by years of intermarriage and racial amalgamation. Believed to be inherently superstitious and fanatical, dishonest and treacherous, Mexicans were commonly regarded by Americans as an indolent, ignorant, and immoral people.<sup>16</sup>

These racial assumptions provided a rationale for conquest and shaped the debate over the merits of annexing Mexican territory as American military victories in the first months of the war made that possibility seem more likely. The debate over annexation was not so much a dispute over territorial expansion, however, as it was a debate over the practicality of annexing Mexicans.<sup>17</sup> To be sure, the extension of slavery played a role in the discussion, but many Whigs and Democrats could agree that Mexicans could not be admitted into the United States on an equal basis with whites. Ultimately, the best proposition was incorporating as much territory, inhabited by as few Mexicans, as possible.<sup>18</sup>

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<sup>16</sup> Horsman, *Race and Manifest Destiny*, 208-48; West, “Reconstructing Race,” 9, 11. For a recent examination of the process of racial formation, or the construction of “Mexican American” as a racial category, see Laura E. Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York: New York University Press, 2007).

<sup>17</sup> Horsman, *Race and Manifest Destiny*, 236.

<sup>18</sup> *Ibid.*, 237-45. On the consequences of the territorial acquisitions of the 1840s that moves beyond the question of slavery’s expansion, see West, “Reconstructing Race.”

To many, General Kearny's declaration in September 1846 that the residents of New Mexico were citizens and would be incorporated into the United States was thus beyond the pale. Since 1790, Congress had limited naturalization to immigrants who were "free white person[s]," pledged support for the Constitution, and were "of good character." But even they were required to live in the United States for a period long enough to cast off their "foreign principles" and adopt American civic values before they could become citizens.<sup>19</sup> Kearny had clearly usurped the power of Congress and disregarded naturalization law, but by summarily transforming conquered peoples into citizens he had also ignored the centrality of consent in American notions of legitimate government. Most importantly, however, he violated the racial boundaries of the body politic and the early repudiation of the Kearny Code foreshadowed the staunch opposition to the incorporation of New Mexico that would plague the territory and its peoples for more than half a century.

The root of this resistance was perhaps most clearly articulated by South Carolina Senator John C. Calhoun as diplomats hammered out the terms of peace between the United States and Mexico in January 1848. Calhoun was rabidly opposed to annexing Mexican territory because he believed that Mexico was peopled by "impure races" who were "ignorant and unfit for liberty" and utterly incapable of self-government. Incorporating such inferior peoples into the

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<sup>19</sup> *An Act to establish an uniform Rule of Naturalization, United States Statutes at Large*, 1st Cong., 2nd sess., Ch. 3 (26 March 1790), 1 Stat. 103. According to Kettner, the 1790 and 1802 naturalization acts established a lengthy period of residence, adoption of republican principles and values, and a declaration of intent as "the basic nature of the admission procedure" for immigrants seeking U.S. citizenship in the nineteenth century. See *ibid.*, *The Development of American Citizenship*, 219, 246.

United States—what he called “the Government of a white race”—would be a fatal mistake, one that would destroy American democracy. Beseeching the president to resist annexation, Calhoun asked incredulously: “Are we to associate [them] with ourselves as equals, companions, and fellow-citizens”?<sup>20</sup>

In the language of the Treaty of Guadalupe Hidalgo, the answer to Calhoun’s question was equivocal. While the treaty is often credited with providing full American citizenship to former Mexican citizens after the Mexican War, U.S. lawmakers proceeded cautiously. Residents of the newly acquired territory were given one year to decide if they wished to retain their Mexican citizenship or to become citizens of the United States. Those who did not declare their preference for Mexican citizenship during that period would be assumed to have elected to become U.S. citizens. However, a significant degree of legal ambiguity was embedded in the language of the citizenship provision. As ratified, Article IX proclaimed:

Mexicans who [elect to become citizens] shall be incorporated into the Union of the United States and be admitted, at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States.<sup>21</sup>

The phrases “shall be incorporated” and “at the proper time” left the status of former Mexicans in the newly acquired territories uncertain and the boundaries of citizenship would be contested and reconfigured on the local, territorial, and national level. Thus, the treaty complicated the question of citizenship rather

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<sup>20</sup> *Congressional Globe*, 30th Cong., 1st sess., (4 January 1848): 98.

<sup>21</sup> The treaty has been published in several sources. I used Richard Griswold del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990), which reprints in appendices the treaty as ratified by the United States and Mexico, the original text of Articles IX and X, and the Protocol of Querétaro.

than resolving it. Indeed, it opened the door for a debate over just which Mexicans could become citizens, what rights citizenship would confer, and how and by whom their property and liberty would be protected in the meantime.

For more than thirty years before the Treaty of Guadalupe Hidalgo, the inhabitants of New Mexico enjoyed equality before the law without racial distinction. The principle of civil equality was first promulgated in the Spanish constitution of 1812, which declared all Spanish subjects citizens.<sup>22</sup> To ensure that the broadening of the political community had practical application in New Mexico, Spanish Governor Facundo Melgares affirmed the right of Pueblo Indians to vote and hold office and decreed that they “be regarded ‘as Spaniards in all things.’”<sup>23</sup> Later, as Mexico sought independence from Spain, Agustín de Iturbide’s *Plan de Iguala* affirmed that all Mexicans, whether of “European, African, or Indian” descent, were citizens. Ultimately, the principle of equality before the law, without regard to race, was enshrined in the Mexican Constitution in 1824.<sup>24</sup> As a result, all free males were recognized as citizens of the Republic and granted suffrage.

As Mexican citizens, Pueblo Indians exercised their right to vote and hold office in New Mexico prior to the American conquest. General Kearny upheld these rights in 1846 when he declared all free males eligible to vote. With the

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<sup>22</sup> On the Spanish Cortes and the 1812 Constitution, see David J. Weber, *The Mexican Frontier, 1821-1846: The American Southwest Under Mexico* (Albuquerque: University of New Mexico Press, 1982), 16-19.

<sup>23</sup> Quoted in *ibid.*, 17.

<sup>24</sup> *Ibid.*, 22, 47. While the centralist constitutions of 1836 and 1843 established property qualifications for suffrage and holding office, Weber argues that the failure of the Mexican Congress to issue regulations for the administration of territories and a general lack of oversight meant that “New Mexico continued to operate under the laws of the Spanish Cortes, sprinkled with regulations of the Mexican republic.” *The Mexican Frontier*, 27, 34.

political rights of Pueblo Indians seemingly intact before war's end, the New Mexico assembly worked to codify their rights to own property and seek redress in the courts. Consequently, the assembly adopted a statute in 1847 that confirmed Spanish and Mexican land grants to the various Pueblos, conveyed title to those lands in common, and defined the Pueblos as "bodies politic and corporate" with perpetual succession and the right to sue or be sued.<sup>25</sup>

After the Treaty of Guadalupe Hidalgo formally ceded New Mexico to the United States and ended the Mexican War, it remained to be seen whether or not the United States would regard Pueblo Indians "as *Mexicans* in all things." The residents of New Mexico were themselves divided over the appropriate place of Pueblo Indians in the new government. As they debated the most effective means to replace military rule with some form of legitimate, civilian government, so too did they argue over who should be allowed to participate in that new government.

When the first convention to organize a civilian government convened in Santa Fe in September 1849, the delegates declared their preference for a territorial government and drafted a proposal to submit to Congress. The document they composed originally used the phrase "all free male citizens" in the provisions for the apportionment of representatives, the requirements for holding

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<sup>25</sup> The 1847 assembly was not a legally sanctioned body and acted without official recognition as New Mexico remained under military rule. For reference to the suffrage provision of the Kearny Code, see Larson, *New Mexico's Quest for Statehood*, 16. The 1847 act is quoted in "Instructions to the Surveyor General of New Mexico," 21 August 1854, in House, *Report of the Commissioner of the General Land Office*, 33<sup>rd</sup> Cong., 2<sup>nd</sup> sess., 30 November 1854, H. Exdoc. 1/6, 93.

office, and the qualifications for voting.<sup>26</sup> However, when an Anglo army officer proposed an amendment restricting suffrage to free white males, the delegates, who were overwhelmingly nuevomexicano, approved it unanimously.<sup>27</sup>

While the convention attendees could agree that white men alone should enjoy the right to vote, they did not approve a motion that any act establishing a territorial government contain a provision “that the rights of citizenship be *conferred* on all free white male inhabitants residing within the limits of [New Mexico], not already citizens of the United States.” Instead, the final proposal forwarded to Congress declared that the “right of suffrage and of holding office shall be exercised only by the citizens of the United States, *and* all those free white male inhabitants residing within the limits of New Mexico” at the conclusion of the Mexican War who renounced their allegiance to Mexico.<sup>28</sup> In short, the document composed at the first convention detached political rights from citizenship. While both were allowed to vote and hold office, “citizens of the United States” and “free white male inhabitants” of New Mexico remained distinctly separate groups.

While the proposal for a territorial government lay before Congress, a new convention was called in May 1850—this time to draft a plan for statehood. The word “white” was entirely absent from the constitution adopted by the convention.

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<sup>26</sup> House, *Journal and proceedings of a convention of delegates elected by the people of New Mexico, held at Santa Fe on the 24th of September, 1849, presenting a plan for a civil government of said Territory of New Mexico, and asking the action of Congress thereon*, 31 Cong., 1<sup>st</sup> sess., 24 September 1849, H. Misdoc. 39. See especially, Document No. 9, Article II, sections 3, 4, 6, and 8 in *ibid.*, 6-7.

<sup>27</sup> *Ibid.*, 4, 7. The amendment was proposed by Captain William Z. Angney, who had commanded the troops who put down the Taos rebellion in 1847. On Angney, see Larson, *New Mexico's Quest for Statehood*, 9.

<sup>28</sup> House, *Journal and proceedings of a convention of delegates elected by the people of New Mexico*, quotes from 7 and 10, emphasis added.

Instead, the authors employed a language of natural rights that “all men” and “the people” possessed. The constitution did, however, identify six distinct classes of people: citizens of the United States, those who elected to remain Mexican citizens, “persons of foreign birth” who had declared their intention to become American citizens, Africans and their descendants, uncivilized Indians, and soldiers serving in the U.S. army. Only the latter three were denied the right to vote or hold office. As a result, the state constitution expanded the electorate dramatically.<sup>29</sup> But it also implicitly defined all Mexican citizens who did not retain their allegiance to Mexico—whether they were “white” residents or “civilized” Indians—as citizens of the United States.

New Mexico voters approved the state constitution by an overwhelming majority. Even so, Congress chose not to act on New Mexico’s first appeal for statehood, and instead organized a territorial government that largely conformed to the proposal offered in 1849.<sup>30</sup> Under the Organic Act establishing the Territory of New Mexico, all free white males over the age of twenty-one were

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<sup>29</sup> Male adulthood and six months residency were required of all three classes eligible to vote and hold office. Those who had previously declared their desire to remain Mexican citizens were also required to appear before a court at least six months before the election to renounce their loyalty to the Mexican Republic and take an oath to support the U.S. Constitution. Senate, *Message from the President of the United States, transmitting a copy of the constitution adopted by the inhabitants of New Mexico, together with a digest of the votes for and against it; also, a letter to the late President of the United States*, 31 Cong., 1<sup>st</sup> sess., 9 September 1850, S. Exdoc. 74, 11-12.

<sup>30</sup> *Ibid.*, 2. Just over ninety-nine percent of the votes cast were in favor of the statehood constitution—6,771 people voted for the constitution, while only thirty-nine voters opposed it. Still, that represents only a fraction of the population, which was estimated to be approximately 70,000. *An Act proposing to the State of Texas the Establishment of her Northern and Western Boundaries, the Relinquishment by the said State of all Territory claimed by her exterior to said Boundaries, and of all her Claims upon the United States, and to establish a territorial Government for New Mexico [Organic Act of 1850]*, *United States Statutes at Large*, 31<sup>st</sup> Cong., 1<sup>st</sup> sess., Ch 49 (9 September 1850), 9 Stat. 446. For a detailed chronicle of the factionalism that emerged locally between proponents of statehood and those who favored a territorial government, as well as the significance of New Mexico’s territorial status for the Compromise of 1850, see Larson, *New Mexico’s Quest for Statehood*, 13-61.



eligible to vote and run for office in the first election. Afterwards, the territorial assembly was vested with the authority to determine the qualifications required for both office holders and voters, so long as those rights were conferred only to “citizens of the United States, including those recognized as citizens by the treaty with the republic of Mexico.”<sup>31</sup>

The Organic Act did not resolve the problem of citizenship in New Mexico. Congress failed to specify either *who* was recognized as a citizen under the treaty or *how* the treaty conferred citizenship. As a result, both became matters of judicial interpretation after 1850. Their answers began to take shape as the courts rendered decisions on the rights and status of Mexican Indians and the doctrine of the right of election. Yet, the central questions raised by the Treaty of Guadalupe Hidalgo—who could be a citizen, what that status meant, and the consequence of residing beyond its bounds—extended well beyond the Mexican Cession. In the three decades after the Mexican War, they were inextricably linked to contests over the boundaries of national and state authority. As American jurists and legislators struggled to sort out the meaning of citizenship in a federal system, so too did they work to determine the status of former Mexicans now resident within the United States.

The notion that citizens, unlike subjects, had the right to choose their allegiance because legitimate government rested upon individual consent was one of the foundational principles of American citizenship. This concept of volitional allegiance that emerged during the Revolutionary era was preserved by the legal doctrine of the right of election. It was also embedded in the citizenship

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<sup>31</sup> *Organic Act of 1850*, 449.

provision of the Treaty of Guadalupe Hidalgo that allowed residents in the conquered territories to retain their allegiance to Mexico or to become citizens of the United States.<sup>32</sup>

The New Mexico Supreme Court upheld the right of Mexicans to choose their allegiance. Those who elected to remain citizens of Mexico had to appear before their local court or some other governmental authority to formally declare and record their preference for Mexican citizenship within one year of the treaty's ratification. Once made and recorded, a declaration was binding and permanent—it could not be undone by a later pledge of allegiance to the Constitution of the United States and a renunciation of loyalty to Mexico. No action was necessary, however, for those residents who chose to become citizens of the United States. The Court ruled that under the terms of the Treaty of Guadalupe Hidalgo, the absence of a declaration of intention to retain Mexican citizenship was evidence of an election to become a citizen of the United States.<sup>33</sup>

Regardless of the Court's ruling, few Anglos were convinced that inaction demonstrated a deliberate choice to become an American citizen. Instead, whether they made a formal declaration to retain Mexican citizenship or remained passive, the allegiance of all nuevomexicanos was suspect. It was not the fact that New Mexicans chose to remain Mexican citizens—only three percent of the population did—but the mere possibility that they could make that

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<sup>32</sup> On volitional allegiance and the right of election, see Kettner, *The Development of American Citizenship*, 193-94.

<sup>33</sup> See *Nicolas Quintana v. R. H. Tompkins* 1 NM 29 (1853); and *George Carter v. Territory of New Mexico* 1 NM 317 (1859).

choice that reinforced the notion that nuevomexicanos were foreign, disloyal, and anti-American.<sup>34</sup>

What is most revealing about the Court's interpretation of the right of election in the Treaty of Guadalupe Hidalgo is the degree to which many Anglos viewed the conquest of New Mexico as a benevolent one. Chief Justice Kirby Benedict himself was simply unable to conceive of any reason why someone might wish to remain a Mexican citizen when offered the opportunity to become an American. As he explained:

To be a subject under a despotism is to be naked of political rights. To be a citizen of the United States in New Mexico, elevates the man to being virtually his own legislator. This is a position not to be lightly esteemed. This great right should not be trifled with by those who enjoy it. Those who knowingly and willfully pushed it aside or trampled it under their feet, after the treaty offered it to their hands, must place to their own charge their great loss. They should have estimated more justly the strength, progress, and justice of the government inviting their allegiance.<sup>35</sup>

Benedict's statements reflected the sentiment of many Anglos who interpreted the decision to retain Mexican citizenship as a protest against American rule. For some, the rejection (real or imagined) of the sacred benefits of American citizenship was a betrayal tantamount to treason.<sup>36</sup> For others, it was proof that

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<sup>34</sup> It is difficult to determine how many New Mexicans opted to remain citizens of Mexico with any precision. In 1850, Colonel George A. McCall estimated that no more than 1,000 to 1,200 retained their Mexican citizenship, see Senate, *Report of the Secretary of War, communicating, in compliance with a resolution of the Senate, Colonel McCall's reports in relation to New Mexico*, 31<sup>st</sup> Cong., 2<sup>nd</sup> sess., 10 February 1851, S. Exdoc. 26, 2. Griswold del Castillo has placed the figure between 1,500 and 2000, see *ibid.*, *The Treaty of Guadalupe Hidalgo*, 65. Likewise, Weber estimated that between 1000 and 2000 New Mexicans elected to remain citizens of Mexico, see *ibid.*, ed. *Foreigners in Their Native Land: Historical Roots of the Mexican Americans* (Albuquerque: University of New Mexico Press, 1973), 142. The figure of three percent is derived from 2,000 out of a population of 70,000. On population estimates see Lamar, *The Far Southwest*, 92; Larson, *New Mexico's Quest for Statehood*, 65, 78; and Weber, *Foreigners in Their Native Land*, 40.

<sup>35</sup> *Carter v. Territory* (1859), 343.

<sup>36</sup> This sentiment was prevalent even in the midst of the United States' war with Mexico. Some two dozen nuevomexicanos and Indians from Taos Pueblo were indicted for treason and murder.

nuevomexicanos were unfit for self-government and as such were a danger to American democracy.

Sensationalist reports from correspondents for eastern newspapers helped propagate these fears. In 1855, for example, a reporter writing from Santa Fe for the *New York Evening Post* claimed that the vast majority of nuevomexicanos had rejected U.S. citizenship—so many, in fact, that the territorial government was actually controlled by Mexican citizens who were inimical to American institutions and values.<sup>37</sup> As a result, elections in New Mexico were “an injury [and] an insult” to American democracy; they were, in his estimation, “caricatures of freedom.” The mockery of the American political system in New Mexico, the writer argued, demonstrated the impossibility of “incorporating with ourselves, a people of another race, another language, and of directly opposite political prejudices.” It was also proof that nuevomexicanos were “no better prepared to exercise the privileges of American freemen than the negroes of the South.”<sup>38</sup>

The comparison the reporter drew between Mexicans and blacks was not insignificant. Both were deemed racially unfit for self-government; both resided beyond the bounds of the civic community. The exclusion of non-whites had deep roots in the American political tradition, but in 1857, the racial boundaries of citizenship were marked out more explicitly than ever before. The Supreme

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in the aftermath of a rebellion against the American occupation that occurred in Taos in January 1847. In the end, one man was executed for the crime of high treason, while twenty-one others were put to death for murder. For a recent analysis of the Taos Rebellion and treason trials of 1847, see Gómez, *Manifest Destinies*, 25-41.

<sup>37</sup> Dated November 1855, his article appeared as “Matters in Santa Fe,” *Chicago Daily Tribune*, 10 January 1856.

<sup>38</sup> *Ibid.*

Court unambiguously intertwined whiteness and citizenship in order to declare in the *Dred Scott* decision that African Americans were ineligible for citizenship.

The opinion written by Chief Justice Roger B. Taney rested upon an interpretation of the Constitution that drew a sharp distinction between state and national citizenship. According to Taney, each state possessed absolute authority to confer citizenship to whomever it pleased and to bestow upon its citizens whatever rights it wished. Anyone could be a state citizen, but they could not carry their rights with them when they crossed state lines. Consequently, no state was bound to protect the rights of another state's citizens—or even to recognize them as citizens—if they did not meet the local requirements for citizenship.<sup>39</sup>

Taney declared that the “privileges and immunities” guaranteed by the Constitution applied only to individuals who held both state and national citizenship. National citizenship, Taney argued, was restricted to those groups who had been recognized as state citizens when the Constitution was adopted and the Chief Justice pointed to the racial restriction in the naturalization act of 1790, anti-miscegenation statutes, slavery, and public opinion to claim that blacks were never considered citizens. Even more, Taney maintained that “the line of division . . . between the citizen race, who formed and held the Government, and the African race, which they held in subjection and slavery, and governed at their own pleasure” was drawn so starkly in the Constitution that blacks “had no rights which the white man was bound to respect.”<sup>40</sup>

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<sup>39</sup> *Scott v. Sandford*, 60 U.S. 393 (1857), 405-06, 422.

<sup>40</sup> *Ibid.*, 404, 406-10, 419-20, 423. First quote found on page 420; second quote on page 407.

Dismissing the notion of birthright citizenship, Taney declared that only the descendants of the “new political family” created by the Constitution could be national citizens after 1789. Ruling that citizenship was acquired by descent allowed the Chief Justice to sever the connection between citizenship and political rights. One could be a citizen and not have rights, just as one could have rights and not be a citizen. White women could neither vote nor hold office, but they were citizens. Likewise, white men who lacked the property qualifications necessary to vote were nonetheless citizens. So too might unnaturalized foreigners be granted suffrage in one state and African Americans in another, but that did not mean they were citizens.<sup>41</sup>

According to Taney, the only route to national citizenship other than descent was naturalization and this path was closed to African Americans as well. First, Congress had intentionally excluded them by limiting naturalization to “free white persons.” But more importantly, the power vested in Congress to naturalize immigrants was confined to aliens who had been subject to a foreign power. Persons of African descent, the Chief Justice claimed, owed no allegiance to a foreign government whether they were born under the dominion of the United States or imported as slaves. Thus, Taney concluded that even if Congress chose to reverse the racial restrictions on naturalization, African Americans still could not become naturalized citizens.<sup>42</sup>

Although the *Dred Scott* decision was calculated to permanently bar African Americans from attaining citizenship, the ruling had significant

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<sup>41</sup> Ibid., quote from 406, 422.

<sup>42</sup> Ibid., 417, 419-420. Taney argued that Indians, as aliens subject to a foreign power, could be naturalized. See especially pages 404 and 420.

ramifications for nuevomexicanos as well. While Taney's interpretation of the Constitution reflected the widespread association of citizenship with whiteness, his pronouncement that national citizenship derived from descent because the framers had intentionally differentiated between a "citizen race," who possessed rights, and an "African race," who did not, also served to naturalize the relationship between the two. But regardless of race, all territorial residents were affected by the decision. So long as state citizenship and national citizenship were understood to be two distinct and independent statuses, and the "privileges and immunities" guaranteed by the Constitution applied only to individuals who held both citizenships, territorial citizens resided beyond the bounds of constitutional protection.<sup>43</sup>

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<sup>43</sup> The status of territorial citizens had long been ambiguous and, according to Kettner, "was open to judicial interpretation" throughout the antebellum period (*The Development of American Citizenship*, 251). Prior to *Dred Scott*, federal judges issued contradictory decisions relative to the citizenship status of residents of territories acquired by treaty. In the case of Louisiana and Texas, federal judges ruled that the inhabitants of Louisiana and the citizens of Texas became U.S. citizens only upon admission to statehood. In contrast, the Supreme Court declared in *American Insurance Company v. Canter* (1828) that when a territory transferred sovereignty, the inhabitants transferred their allegiance to the new sovereign, implying that residents of Florida became U.S. citizens when the territory was first acquired by the United States. Yet, the Court had also declared that individuals who resided in the District of Columbia, in the territories, or overseas were not state citizens, and thus did not fall under the protection of the constitutional guarantees in Article IV, section 2. See *ibid.*, 248-49, 251-57, 261-63, and 327.

Laura E. Gómez's interpretation of the significance of *Dred Scott* for nuevomexicanos differs substantially from mine. She postulates that Taney's decision "inadvertently expanded the rights of those Mexican Americans who held only federal (but not state) citizenship, such as Mexicans in New Mexico" (*Manifest Destinies*, 135). He did so, Gómez contends, by overlooking the "collective naturalization" of former Mexicans under the Treaty of Guadalupe Hidalgo despite emphasizing that non-whites were ineligible for naturalization. As a result, she suggests that he "effectively ranked the nation's brand-new Mexican American citizens above African Americans in the U.S. racial hierarchy" (*ibid.*). Ultimately, Gómez argues that "the logic of the Court's ruling in [*Scott v. Sandford*] was to enlarge the scope of citizenship rights of non-blacks living in the federal territories. The unintended consequence was that the rights of Mexican American citizens in the federal territories also were expanded." She concedes that "this meaning of the *Dred Scott* case, however, was never tested in the legal system" (138). This hypothesis is untenable. As I argue below, the *Dred Scott* opinion had significant ramifications for nuevomexicanos, not because they were non-blacks, but because they were territorial citizens. Taney's separation of state and national citizenship and his contention that only individuals who held both citizenships

Within a decade, however, Reconstruction legislation repudiated nearly every element of the *Dred Scott* decision. First, Congress attempted to sever the link between whiteness and citizenship by declaring in the Civil Rights Act of 1866 that persons “of every race and color” born under the dominion of the United States, “excluding Indians not taxed,” were American citizens entitled to the same rights as those “enjoyed by white citizens.” Designed first and foremost to protect the rights of former slaves, this legislation also provided the first clear delineation of the basic rights of American citizenship: “to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of persons and property.” The Civil Rights Act further mandated that these rights applied “in every State and Territory in the United States.”<sup>44</sup>

Congress preserved the core principles of the act in the Fourteenth Amendment. Ratified in 1868, the amendment created a national citizenship endowed with rights no state could abridge and it enshrined the principles of due process and equal protection of the laws into the Constitution. The amendment did not, however, enumerate the specific rights attached to citizenship as the Civil Rights Act had, nor did it duplicate the act’s litmus test for equal protection—that citizens of “every race and color” were entitled to the same rights as those “enjoyed by white citizens.”<sup>45</sup>

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were protected by the Constitution outlived the Civil War, Reconstruction, and the Fourteenth Amendment.

<sup>44</sup> The text of the bill is quoted in Kettner, *The Development of American Citizenship*, 341-42.

<sup>45</sup> Neither does the word “territory” appear in the amendment.



The Fourteenth Amendment did not resolve the ambiguous status of territorial citizens. The first section declared that “All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” New Mexico was undeniably subject to the jurisdiction of the United States when the amendment was ratified, but the majority of its residents had been born under the dominion of Mexico before the territory was acquired by the United States. Thus, the first dilemma was whether they had been naturalized through the Treaty of Guadalupe Hidalgo, could claim birthright citizenship retroactively, or occupied some liminal space in between.

The second issue involved the meaning of citizenship in a federal system. By elevating national citizenship above state citizenship, and thereby conferring citizenship upon African Americans, the Fourteenth Amendment attacked the *Dred Scott* decision directly. Yet, the amendment’s framers maintained the tradition of dual citizenship in state and nation and, more importantly, failed to define which rights came with which status. As a result, Taney’s separation of state and national citizenship and his claim that the Constitution only protected those who held both citizenships would prove to be remarkably resilient.

For former Mexicans resident in the United States as a result of military conquest, the indeterminacy of their status within the body politic and under the Fourteenth Amendment had material consequences. If New Mexicans were only citizens of the United States (and that was by no means settled) and the amendment only explicitly prohibited the infringement of civil rights by states, did

that mean that territorial residents could be deprived of “life, liberty, or property, without due process of law” by the federal government? The chief justice of the New Mexico Supreme Court believed the answer ultimately lay in the government’s treatment of Pueblo Indians.

On the surface, the case before the Court in 1869 was a simple proceeding initiated by the U.S. Attorney to recover a fine from Jose Juan Lucero for violating the Trade and Intercourse Act of 1834. Under this law, any non-Indians who settled on Indian land were subject to a one thousand dollar fine. This statute and all other laws governing federal relations with Indian tribes had been extended to the territory of New Mexico by congressional legislation in 1851. Thus, U.S. Attorney Stephen B. Elkins prosecuted Lucero for settling on land held by Cochiti Pueblo in violation of the 1834 act. When *Lucero* reached the territorial supreme court, however, Chief Justice John S. Watts dramatically expanded the purview of the case in order to render a decision on the citizenship status and property titles of Pueblo Indians, and thereby rule on the authority of Congress to administer their affairs as wards of the federal government.<sup>46</sup>

The chief justice insisted that the Trade and Intercourse Act of 1834 was utterly inapplicable to the Pueblo Indians of New Mexico. He argued that the law

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<sup>46</sup> *United States v. Jose Juan Lucero*, 1 NM 422 (1869). Some scholars have argued that *Lucero* and other rulings declaring the Indian Intercourse Act inapplicable to Pueblo Indians had disastrous consequences for Pueblo communities. Without the protection of the federal government they would have received as wards, some have argued, Pueblo Indians were particularly vulnerable to abuses from non-Indians. Most significantly, according to these scholars, defining Pueblo Indians as citizens made encroachment upon their lands easier and some have suggested that these legal decisions were consciously designed to make room for dispossessing Pueblo Indians of their lands. See especially Deborah A. Rosen, “Pueblo Indians and Citizenship in Territorial New Mexico,” *New Mexico Historical Review* 78, no. 1 (Winter 2003): 1-28; G. Emlen Hall, *Four Leagues of Pecos: A Legal History of the Pecos Land Grant, 1800-1933* (Albuquerque: University of New Mexico Press, 1984), 112-38; and Gómez, *Manifest Destinies*, 92-98.

was intended to govern relations between the United States and those Indians who “were wandering savages, given to murder, robbery, and theft, living on the game of the mountains, the forest, and the plains, unaccustomed to the cultivation of the soil, and unwilling to follow the pursuits of civilized man.” The federal government entered into treaties with these Indians as if they were “*quasi* nations” and in exchange for relinquishing their lands, the federal government agreed to supply annuities for their survival, assigned agents to oversee their development along the path to civilization, and “set apart” land for their use. The purpose of the subsequent 1834 act, Watts contended, was to protect those Indians “from intrusion and trespass” on the lands they lived upon as “tenants of the government.”<sup>47</sup>

According to Watts, Pueblo Indians had nothing in common with the Indian tribes who fell under the jurisdiction of the federal government. From time immemorial, they had been “a peaceful, quiet, and industrious people, residing in villages for their protection against the wild Indians, and living by the cultivation of the soil.” The Spanish had “found them civilized, peaceful, and kind” when they arrived in New Mexico in the sixteenth century, and after the colonists “planted the Catholic religion among them,” the Crown entered into “a written agreement” with each Pueblo recognizing their title to the lands they lived upon. Not only were those titles maintained throughout the Spanish period, they were also respected by the Mexican government which ultimately embraced Pueblo Indians as citizens of the Mexican Republic.<sup>48</sup>

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<sup>47</sup> *U.S. v. Lucero*, 425, 426, 445; italics in original.

<sup>48</sup> *Ibid.*, 427-28.

The chief justice argued that in character and condition, the Pueblo Indians were so unlike any Indians the U.S. government had previously encountered that they should not be considered “Indians” at all. He maintained that both the Spanish and Mexican governments recognized a distinction between civilized Indians and savage Indians and pointed to the terms they used to support his contention. The former were referred to in Spanish as “*naturales*,” “*pueblos*,” or “*Indios del pueblos*,” which Watts translated into “natives of the towns” or “Indians of the towns.” In contrast, the latter “distinct and separate class of Indians” were called “savages (*salvajes*) or barbarous Indians (*Indios barbaros*).” Watts insisted that U.S. lawmakers could not assume that “Indian” had a shared meaning in both languages. “When the term Indian is used in our acts of congress,” the chief justice explained, “it means that savage and roaming race of red men given to war and the chase for a living, and wholly ignorant of the pursuits of civilized man.” In contrast, Watts claimed that “when Spanish law books and Spanish legislators speak of Indians, they mean that civilized race of people who live in towns and cultivate the soil.”<sup>49</sup>

Watts argued that there was no doubt that “the Indian race, in the Spanish sense of the term, were as much and fully citizens of the republic of Mexico as Europeans or Africans” when the Treaty of Guadalupe Hidalgo was signed. In fact, the United States Supreme Court had already ruled on the question in the 1854 case of *U.S. v. Ritchie*. Watts used the precedent set in *Ritchie*—not only that Indians were Mexican citizens, but also that they were deemed competent to hold and sell land—to expand his decision to cover Pueblo land claims and rule

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<sup>49</sup> *Ibid.*, 430-31; italics in original.

on the constitutionality of congressional legislation extending the Trade and Intercourse Act over Indians in New Mexico.<sup>50</sup>

The chief justice declared that the people of Cochiti, like all the other Pueblos, had a perfect title to their land. They had received title in the seventeenth century in the form of a land grant from the king of Spain which had also been honored by the Mexican government. According to the terms of international law, their perfected title did not change when sovereignty passed to the United States. In fact, their title was further protected by the Treaty of Guadalupe Hidalgo. Watts then pointed to the 1847 act of the New Mexico legislative assembly conceding to the Pueblos the land on which they lived, establishing them as corporate bodies vested with all the legal rights to defend their property in the courts without assistance from the federal government. More importantly, Congress had confirmed their claims and their lands had been patented by the government as well. According to Watts, however, their title would have been perfect without any of the above measures simply by virtue of their three hundred years of occupancy. As a result, it was illegal for the U.S. government to seize control of their land by treating them as wards rather than citizens.<sup>51</sup>

Chief Justice Watts believed that much more was at stake in the *Lucero* case than a one thousand dollar fine. For him, the case touched on natural rights, the abuse of power by government agencies, and the meaning of citizenship in a democracy. Watts was certain that Pueblo Indians—like all

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<sup>50</sup> Ibid., 432-34.

<sup>51</sup> Ibid., 435, 438-39, 444-47, 449-50.

former Mexicans who had not retained their allegiance to Mexico—had become American citizens under the Treaty of Guadalupe Hidalgo. The chief justice argued that Congress had already failed to fulfill its responsibility to protect citizens of the United States when it allowed the territorial assembly to violate the rights of Pueblo Indians by denying them suffrage.<sup>52</sup> Still, he tried to limit his opinion to the questions raised by the case at hand. As he explained:

Whether the right to vote shall be given to the African or taken away from him; given to the Mexican or taken away from him; given to the American or taken away from him; given to the pueblo Indian or taken away from him; are questions not properly before us and are to be judged of by the congress [*sic*] of the United States. . . . but it is the right and duty of the courts to see that every citizen of the territory of New Mexico, in conformity with the . . . treaty of Guadalupe Hidalgo, “shall be maintained and protected in the free enjoyment of their liberty and property” . . . This court . . . does not consider it proper to assent to the withdrawal of eight thousand citizens of New Mexico from the operation of the laws, made to secure and maintain them in their liberty and property, and consign their liberty and property to a system of laws and trade made for wandering savages and administered by the agents of the Indian department.<sup>53</sup>

Watts hoped his decision would settle the question of Pueblo Indians’ status under the United States.<sup>54</sup>

As the territorial courts were ruling on the citizenship status of Pueblo Indians in New Mexico, the California Supreme Court heard a case challenging the meaning of the citizenship provision in the Treaty of Guadalupe Hidalgo for all former Mexican citizens. In *People v. de la Guerra*, the election of Pablo de la Guerra as district judge was contested on the grounds that he was not a citizen of the United States and therefore could not hold elected office. The plaintiff

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<sup>52</sup> *Ibid.*, 440.

<sup>53</sup> *Ibid.*, 440-41.

<sup>54</sup> He also argued that the government’s case would lose if none of the above were true because it did not conform to the letter of the law, see *ibid.*, 449-50.

argued that the treaty itself did not convey the right of citizenship upon former Mexicans who elected to become U.S. citizens. Instead, an act of Congress “admitting them to such rights” was required. Since no such legislation had been passed, they reasoned that de la Guerra and others like him were not American citizens.<sup>55</sup>

Were it not for the ninth article of the treaty, Justice Jackson Temple believed there would be no argument about the citizenship status of the people living in the territories acquired after the Mexican War. From his perspective the “natural consequence of the cession of the Territory by Mexico, and its acquisition by the United States, would be that the allegiance of the inhabitants who remained in it would be transferred to the new sovereign.”<sup>56</sup> The language of Article IX, however (shall be incorporated into the Union of the United States, and be admitted at the proper time . . . to the enjoyment of all the rights of citizens) had complicated the matter unnecessarily. He then offered the following interpretation of the treaty’s ninth article:

The Union with which they are to be incorporated is, of course, the Union of the States composing the United States, and by which Union that Government is created. They can be incorporated into this Union only as a State, and the admission of the people to the full rights as citizens of the United States follows as the consequence of that act.

No further action was required by Congress than admitting the territory to statehood.<sup>57</sup> Thus, the Court ruled that de la Guerra was a citizen of the United States.

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<sup>55</sup> *People v. de la Guerra*, 40 Cal. 311 (1870), 340. Pablo de la Guerra had been a delegate to the California Constitutional Convention and had repeatedly held office prior to this case.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*, 341.

The *de la Guerra* decision drew a sharp distinction between the character or quality of citizenship enjoyed by those born in territories of the United States and those who possessed state citizenship. Most rights were accrued by virtue of one's state citizenship; in the opinion of the Court, those who were citizens of the nation but not of a state occupied a position "more of the character of subjects than of citizens." The judge believed that territorial citizens were likely protected by the Constitution and possessed "the shield of nationality abroad." But they could only attain "the political rights of citizens [when they were] organized into a State, and admitted into the Union."<sup>58</sup>

The *de la Guerra* decision presaged the U.S. Supreme Court's interpretation of the Fourteenth Amendment in the waning days of Reconstruction. In 1873, the Court ruled in the *Slaughterhouse Cases* that the Fourteenth Amendment did not create any new or additional rights, nor did it transform the federalist tradition of dual citizenship. The sharp distinction between national and state citizenship remained, with the Court declaring that most rights were conveyed by the latter. As a result, the Court decreed that the amendment protected only those rights that flowed from national citizenship, including little more than interstate travel, access to the federal courts, the right of assembly and the right to petition the government, and protection on the high seas. So narrowly had the *Slaughterhouse* decision defined the rights of citizenship and the meaning of the Fourteenth Amendment that the Court

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<sup>58</sup> *Ibid.*, 342. The significance of statehood extended well beyond political rights in Justice Temple's decision. According to him, statehood "may be considered as the last act in the acquisition of the Territory, for it is then for the first time incorporated into the Union" (*ibid.*).



declared the following year in *Minor v. Happersett* that citizenship meant “membership of a nation, and nothing more.”<sup>59</sup>

The utter hollowness of national citizenship became increasingly clear as the nation retreated from Reconstruction. Most New Mexicans would have agreed with the judge in *de la Guerra* that as territorial citizens their position was more akin to subjects than citizens. They were subject to the laws of the United States, but had no voice in their construction. Most of the officials in the territorial government were federal appointees who were accountable only to the administration which had placed them in office. Nor did New Mexicans enjoy an independent judiciary or a legislature whose actions were not subject to federal approval.<sup>60</sup> For many, this marginal position was intolerable and in the last three decades of the nineteenth century, New Mexicans pressed for statehood with an increasing sense of urgency.

In the meantime, however, the legal status of Pueblo Indians reached the U.S. Supreme Court. Like the *Lucero* case, *U.S. v. Joseph* began as a suit to recover a thousand dollar fine from a non-Indian who had settled on Indian land in violation of the Trade and Intercourse Act of 1834. When the New Mexico

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<sup>59</sup> On *Slaughterhouse* and the retreat from Reconstruction see Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988), 524-34; Smith, *Civic Ideals*, 331-37; and Robert J. Kaczorowski, “To Begin the Nation Anew: Congress, Citizenship, and Civil Rights after the Civil War,” *American Historical Review* 92, no. 1 (February 1987): 45-68. On *Minor* see Cott, “Marriage and Women’s Citizenship,” 1446; and Smith, *Civic Ideals*, 337-41.

<sup>60</sup> Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, 70-71; Larson, *New Mexico's Quest for Statehood*, 303; Gómez, *Manifest Destinies*, 43-45.

Courts ruled, as they had in *Lucero*, that the Act did not apply to Pueblo Indians, the case was appealed to the Supreme Court.<sup>61</sup>

The decision penned by Justice Miller (who had recently authored the opinion in *Slaughterhouse*) upheld the lower court's ruling on two grounds. First, Pueblo Indians were not an Indian tribe in the sense of the term used in the 1834 Act. Miller contended that the "degree of civilization which they had attained centuries before, their willing submission to all the laws of the Mexican government, the full recognition by that government of all their civil rights, including that of voting and holding office" all demonstrated that Pueblo Indians did not fall under the jurisdiction of the Trade and Intercourse Act. In fact, they were so unlike the nomadic, uncivilized Indian tribes "whose incapacity for self-government" required the "guardian care of the general government" that Miller was unsure they could even "be called Indians."<sup>62</sup>

Secondly, Pueblo Indians did not hold their lands in the manner prescribed by the 1834 Act. The legislation applied to Indians who had a right to use land which was held in trust by the federal government—the United States always retained the title. In contrast, Pueblo Indians "[held] their lands by a right superior to the United States." Their title had been granted by Spain, upheld by Mexico, protected by the Treaty of Guadalupe Hidalgo, and ultimately confirmed by the United States Congress. Although the Supreme Court was willing to rule that Pueblo Indians held perfect title to their lands and were not wards of the

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<sup>61</sup> *U.S. v. Joseph*, 1 NM 593 (1874). The New Mexico Supreme Court ruled likewise in *U.S. v. Santistevan*, 1 NM 583 (1874); *U.S. v. Varela*, 1 NM 593 (1874); and *U.S. v. Koslowski*, 1 NM 593 (1874). The U.S. Supreme Court's ruling in *Joseph* was also applied to *Santistevan*.

<sup>62</sup> *U.S. v. Joseph*, 94 U.S. 614 (1876), 617.

government, Miller was disinclined “to declare that they are citizens of the United States and of New Mexico.” He believed that question fell outside the parameters of the case and thus should be ignored by the Court until “some case where the rights of citizenship [were] necessarily involved.”<sup>63</sup>

While the Supreme Court applauded the level of civilization attained by Pueblo Indians, an 1876 report from the Committee on Territories decried the uncivilized character of nuevomexicanos. Few could call themselves “pure-blooded or Castilian;” instead the majority of the population was “a mixture of Spanish or Mexican and Indian” who had “continued to sink . . . for nigh two hundred years, into a condition of ignorance, superstition, and sloth that [was] unequaled by their Aztec neighbors, the Pueblo Indians.”<sup>64</sup> Believing that the population remained ignorant of American political institutions and customs thirty years after the military conquest of New Mexico, Congress declared that the territory required more tutelage before it could be admitted into the Union.

As Reconstruction drew to a close, nuevomexicanos and Pueblo Indians remained in a liminal space somewhere between citizen and conquered subject. While calling their very “Indianness” under the law into question, the U.S. Supreme Court had explicitly declined to issue a ruling on the question of Pueblo Indian citizenship. And if the *de la Guerra* decision was correct and admission to statehood alone conferred American citizenship under the Treaty of Guadalupe Hidalgo, then nuevomexicanos remained “citizens-in-waiting” as well.<sup>65</sup> As a

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<sup>63</sup> *Ibid.*, 618.

<sup>64</sup> House Committee on Territories, *New Mexico: Minority Report on Admission as a State*, 44<sup>th</sup> Cong., 1<sup>st</sup> sess., 1876, H. Rept. 503, 12.

<sup>65</sup> This is a phrase borrowed from Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, 71.

result, the meaning of citizenship and its boundaries would have to be worked out on the ground over the next three decades.

While citizenship and political inclusion were fundamental problems of incorporation, intermarriage offered perhaps the most basic means of incorporating the people of New Mexico into the United States after the Mexican War. A time-honored frontier practice, intimate unions between local women and immigrant men established economic and social ties that bound newcomers to local elites in a mutually advantageous relationship. These marital alliances—and the offspring they produced—also provided an opportunity for cultural exchange, which not only facilitated acculturation and assimilation, but also helped mute ethnic hostility and reduce frontier violence. The following chapter turns our attention to the private domain of love and marriage to explore the role of intermarriage in the incorporation of New Mexico.

## Chapter 2

### **“The Charms and Joys of Home”: Race, Marriage, and Divorce in Las Vegas**

Separated from his family as Christmas approached, Charles Blanchard found himself in a reflective mood. Over the last half century, he had made and lost more than one fortune, his name and reputation had been sullied and then restored, and his “false friends” had abandoned him. Experience had shown him that ambition and the pursuit of wealth led to nothing more than “false glory” and “superficial strength.” True contentment, Blanchard believed, could only be found in “the charms and joys of home.”<sup>1</sup>

Nearly fifty years before, Blanchard left his home in Montreal to enter the employ of Miguel Desmarais, a fellow French-Canadian and Las Vegas merchant. Long before Blanchard was born, Desmarais had been drawn to New Mexico by the fur trade. Through his friendships with Ceran St. Vrain, Charles Beaubien, and Kit Carson, Desmarais soon became acquainted with the prominent Vigil family in Taos. Over the next two decades, Desmarais parlayed an advantageous marriage to Deluvina Vigil into a thriving mercantile firm on the Las Vegas plaza. With a business worth over fifteen thousand dollars, Desmarais needed men he could trust to transport goods back and forth along the Santa Fe trail from Las Vegas to Independence, Missouri, and he wrote to friends in Montreal asking for young men of ambition to join him in New Mexico.

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<sup>1</sup> Blanchard to Margarita Desmarais Blanchard and Children, 21 December 1910, Charles Blanchard Papers, Western History and Genealogy Collection, Denver Public Library.

Looking for an adventure, twenty-two-year-old Blanchard was one of the men who answered Desmarais' offer of employment in 1864.<sup>2</sup>

Blanchard quickly became much more than a trusted employee, however. As a fellow countryman and fellow Catholic, he was welcomed into the Desmarais family almost immediately. Less than a year after his arrival, he was given the honor of joining Deluvina as a *padrino* (godfather) to José Miguel Bernard at his baptism. Bernard was a fellow employee, but unlike Blanchard, he was a Methodist and Virginian. Thus, at the age of thirty, Bernard agreed to be baptized in anticipation of his marriage to María Luisa, the eldest daughter of Miguel and Deluvina Desmarais. While Bernard's entry into the Desmarais family was predicated on his conversion to Catholicism and his marriage to one of their daughters, Blanchard first became a member of the family through the bonds of *compadrazgo*—a system of godparentage that expanded or solidified social ties and spiritual bonds with fictive kin through ritual co-parentage.<sup>3</sup>

Blanchard began to take on more responsibility in both the mercantile firm and the Desmarais family as Miguel, who was now well into his sixties, became

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<sup>2</sup> "The Story of Doña Deluvina Vigil Desmarais; included with an Account of a Wagon Train Trip Between Las Vegas, New Mexico, and the Missouri River in the Year 1868 by Charles A. Blanchard of Las Vegas New Mexico," Special Collections, Amarillo Public Library.

<sup>3</sup> The sacramental records of Our Lady of Sorrows Catholic Church are available on microfilm as Our Lady of Sorrows Catholic Church, Marriage and Baptismal Records, Books 1 and 2, reel no. 0016814; and Book 3, reel no. 0016811, Haines Family History Center, Albuquerque, New Mexico. A portion of the baptismal records have been transcribed, indexed, and published by the Hispanic Genealogical Research Center of New Mexico as "New Mexico Baptisms, Las Vegas, Nuestra Señora de los Dolores, 1852–1871," Center for Southwest Research (CSWR), University of New Mexico (UNM) [hereafter cited as "New Mexico Baptisms"]. For the baptism of Bernard, see "New Mexico Baptisms," 55. On *compadrazgo* see James F. Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill: University of North Carolina Press, 2002), 34, 230; Frances Leon Swadesh, *Los Prímeros Pobladores: Hispanic Americans of the Ute Frontier* (Notre Dame: University of Notre Dame Press, 1974), 189-90; and Richard Griswold del Castillo, *La Familia: Chicano Families in the Urban Southwest, 1848 to the Present* (Notre Dame: University of Notre Dame Press, 1984), 42.

ill. When Miguel died in the fall of 1870, Blanchard served as Deluvina's agent and co-executor of the estate. He was rewarded handsomely for his service, both monetarily and matrimonially; in 1871, Blanchard married seventeen-year-old Margarita Desmarais and held property worth over \$11,000.<sup>4</sup>

Utilizing his new-found wealth and family connections, Blanchard soon began to diversify his holdings. While he continued to operate a general merchandise store on the plaza, Blanchard began speculating in mining and ranching throughout the territory, and did so with great success. In 1880, for instance, his newly-incorporated Las Vegas and St. Louis Mining and Smelting Company was capitalized at the staggering sum of \$700,000 dollars. Shortly thereafter, in a deal that was likely engineered by his new brother-in-law, Rafael Romero, Blanchard purchased a two-thirds interest in the Mora grant in order to begin a new timber operation supplying telegraph poles and ties to the Santa Fe Railroad. Then, in 1887, he opened the Blanchard Meat and Supply Company (capitalized at a more modest \$25,000) headquartered in Socorro. His luck changed dramatically in the next few years, however, as a series of lawsuits over the boundaries of the Mora grant, a lengthy dispute with the U.S. government over illegal timber cutting on the public domain, and the Panic of 1893 wiped away most of Blanchard's fortune.<sup>5</sup>

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<sup>4</sup> Abstract of Title, No. 230, Litigation Abstracts, A. A. Jones Papers, New Mexico State Records Center and Archives (NMSRCA), Santa Fe, New Mexico; Luís Gilberto Padilla y Baca, "Marriages (En Español), Nuestra Señora de los Dolores: Las Vegas, Territory of New Mexico, From 1853 through 1882 for Las Vegas and surrounding settlements," p. 82, University of New Mexico Center for Regional Studies Southwestern Collection, CSWR, UNM [hereafter cited as "Marriages, Nuestra Señora de los Dolores"]; Tax Assessment Roll, 1872, Records of the County Assessor, San Miguel County, N.M. Records, NMSRCA.

<sup>5</sup> Las Vegas and St. Louis Mining and Smelting Company Records; Blanchard Memoir; Charles Blanchard Papers. For the timber cutting cases see, *U.S. v. Blanchard et al* (1888), case no. 1;

He spent the next two decades trying to recover his lost wealth and his business pursuits increasingly demanded long absences from his family. Thus, as the holidays approached in 1910, Blanchard sorely missed the “cheerful clatter of the children” and longed for Margarita, his “dearest Wife and faithful consort for life.” But in his solitude, he took comfort in the life he and Margarita had built together. He thanked his wife for making their home a haven of tranquility, virtue, and hope—a refuge from the “pride and arrogance” of the modern world. The contentment Blanchard felt in the waning years of his life, and what he ultimately wished for his children, was “not the kind of satisfaction that money can buy,” but rather “the common blessings that the hearth of the family alone can produce.”<sup>6</sup>

Like Miguel Desmarais and Charles Blanchard, many newcomers who hoped to replicate “the charms and joys of home” in nineteenth-century New Mexico did so by building families with nuevamexicana women. This was partly the result of demographic realities: before 1880, the vast majority of sojourners to New Mexico were unaccompanied men. Nevertheless, mixed marriages offered more than the opportunity for immigrants to reproduce familiar domestic arrangements; they created reciprocal economic and social ties between newcomers and established families. These bonds of kinship helped local elites

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*U.S. v. Blanchard et al* (1888), case no. 2; *U.S. v. Richard Dunn and Charles Blanchard* (1888), case no. 18; and *U.S. v. Charles Blanchard* (1889), case no. 29; Criminal Case Files, 1887-1910; Records of the Fourth Judicial District, Las Vegas, New Mexico Territory; Records of the District Courts of the United States, Record Group 21, National Archives and Records Administration—Rocky Mountain Region (Denver). See also, “The Southwest,” *Albuquerque Democrat*, 13 July 1887; [News Notes], *Santa Fe Daily New Mexican*, 19 November 1889; “Chas. Blanchard Fails,” *ibid*, 6 August 1891; and “Timber Cutting Cases,” *ibid.*, 27 April 1894.

<sup>6</sup> Blanchard to Margarita Desmarais Blanchard and Children, 21 December 1910, Charles Blanchard Papers.



solidify their social status and class position and provided a measure of security in a rapidly changing political and economic landscape. For immigrant men, intermarriage provided access to land ownership and trade networks, as well as entrée into the political and social world of the landed gentry. Most importantly, some scholars have argued, marriages between nuevamexicanas and Anglo men “initiated a large-scale process of racial and cultural assimilation” and facilitated the transition to Anglo political control.<sup>7</sup> Both were prerequisites for incorporation.

Looking at mixed unions from the perspective of Anglo men gives the impression that interracial relationships were remarkably common until the arrival of the railroad brought increasing numbers of Anglo women to Las Vegas. In 1850, for example, seventy-nine percent of the Anglo men who were living with women were married to (or cohabitating with) women of color. That number remained high (seventy percent in 1860 and seventy-four percent in 1870) until 1880, when only fourteen percent were intermarried. The rate of intermarriage continued to decline and in 1900, only seven percent of married Anglo men were partnered with women of color (see Table 2.1). These statistical trends conform to our general understanding of intermarriage on the frontier—in early periods of

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<sup>7</sup> Quote from Rebecca McDowell Craver, *The Impact of Intimacy: Mexican-Anglo Intermarriage in New Mexico, 1821-1846* (El Paso: Texas Western Press, 1982), 4. See also, Darlis A. Miller, “Cross-Cultural Marriages in the Southwest: The New Mexico Experience, 1846-1900,” in *New Mexico Women: Intercultural Perspectives*, edited by Joan M. Jensen and Darlis A. Miller (Albuquerque: University of New Mexico Press, 1986); Jane Dysart, “Mexican Women in San Antonio, 1830-1860: The Assimilation Process,” *Western Historical Quarterly* 7 (October 1976): 365-75; Sylvia Van Kirk, *Many Tender Ties: Women in Fur Trade Society, 1670-1870* (Norman: University of Oklahoma Press, 1980); and Jennifer S. H. Brown, *Strangers in Blood: Fur Trade Company Families in Indian Country* (Vancouver: University of British Columbia Press, 1980).

Table 2.1: Proportional Inter-marriage Among Anglos, 1850-1900\*

	1850	1860	1870	1880	1900
Percentage of total adult population that was Anglo	8.1	3.7	5.5	37.7	52.4
Percentage of Anglo men who were married	25	33	43	26	50
Percentage of married Anglo men who were intermarried	79	70	74	14	7

*Source: Seventh Census of the United States, 1850; Eighth Census of the United States, 1860; Ninth Census of the United States, 1870; Tenth Census of the United States, 1880; and Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*

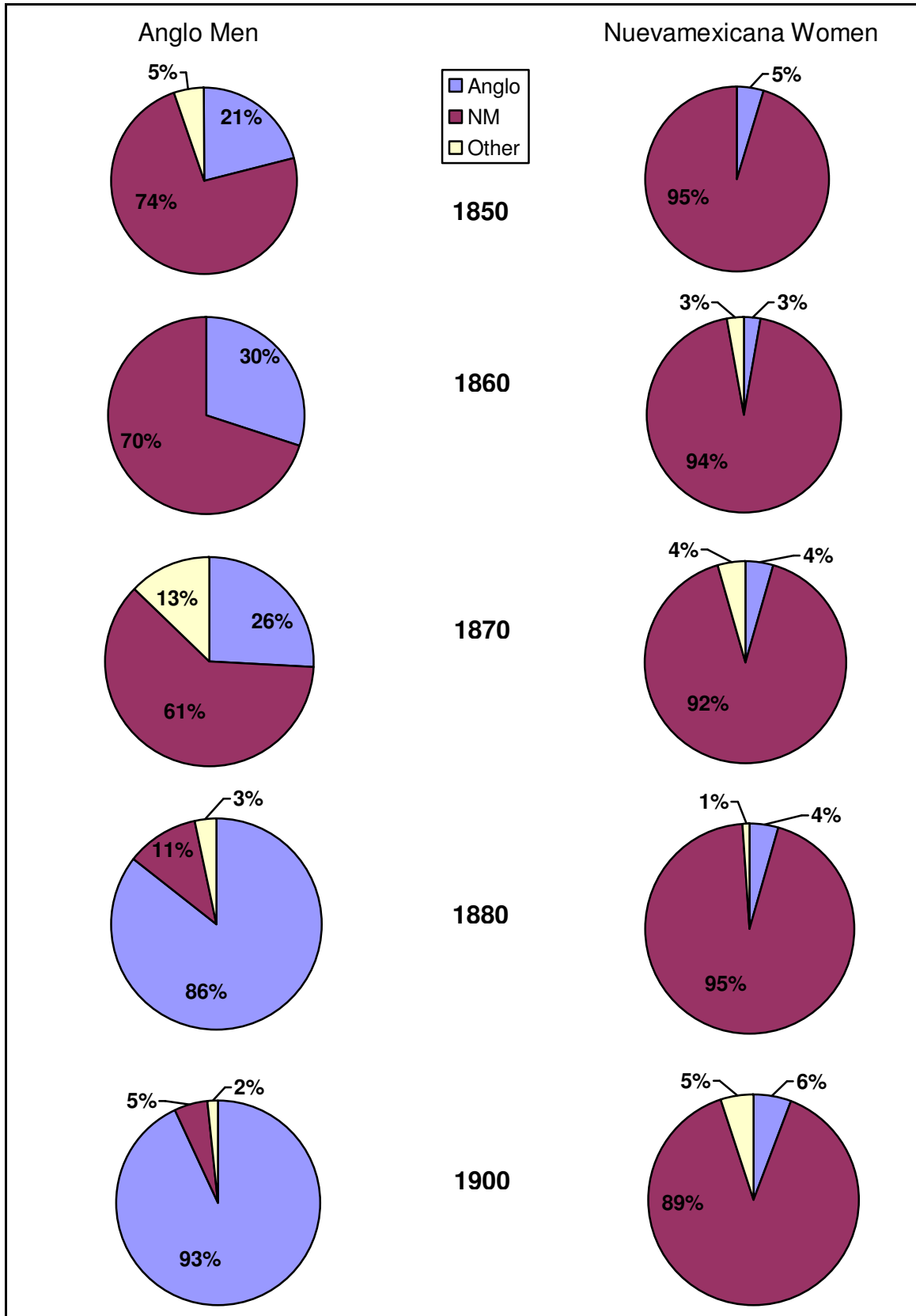
\*Includes cohabitation.

contact, immigrant men form unions (both formal and informal) with local women with great frequency; once women from their own group arrive in the region, however, intermarriage declines precipitously.<sup>8</sup>

The rate of exogamous unions follows a much different trajectory if we shift our emphasis from the experiences of Anglo men to the practices of the local population. Rather than a dramatic decline in the late nineteenth century, mixed unions consistently represented only a small fraction of marriages in Las Vegas—at no time between 1850 and 1900 did exogamous unions exceed ten

<sup>8</sup> On the significance of skewed sex ratios to higher rates of formal intermarriage or informal mixed unions, see Miller, "Cross-Cultural Marriages in the Southwest," 98-100; Dysart, "Mexican Women in San Antonio, 1830-1860," 365; and the editors' introduction to "Part Two: Frontiers," in *Writing the Range: Race, Class, and Culture in the Women's West*, ed. Elizabeth Jameson and Susan Armitage (Norman: University of Oklahoma Press, 1997), 81-82. Van Kirk charts this pattern of declining intermarriage over time in *Many Tender Ties*; for a succinct summation, see her "The Role of Native Women in the Creation of Fur Trade Society in Western Canada," in *The Women's West*, ed. Susan Armitage and Elizabeth Jameson (Norman: University of Oklahoma Press, 1987).

Chart 2.1: Comparative Marital Choice, 1850-1900



percent of the total number of marriages (see Appendix A).<sup>9</sup> The figures are even more striking for Anglo-nuevomexicano unions specifically. Of the Anglo men who were married, more than sixty percent were partnered with nuevamexicanas before 1880 when the number declined to eleven percent and then to only five percent by 1900. In comparison, only between three and six percent of married nuevamexicanas were married to Anglo men (see Chart 2.1).

Percentages can be misleading. Even though a significant proportion of married Anglo men were, in fact, partnered with nuevamexicanas, the raw numbers were small. Census records reveal only forty unions between Anglo men and nuevamexicanas from 1850 to 1870 combined. The fact that only twenty-five Anglo women total were enumerated during the same period lays bare the reality of the marriage market for Anglo men—those choosing to marry were much more likely to marry a woman of color than another Anglo. And while some chose to do so, the vast majority of Anglo men in Las Vegas remained single throughout much of the latter half of the nineteenth century (see Chart 2.2).

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<sup>9</sup> The statistics in this chapter (and the appendices) are derived from a line-by-line analysis of the population schedules of each of the extant decennial censuses between 1850 and 1900. I recorded demographic information for every resident of Las Vegas who was fifteen years old or older when the census was taken. I defined exogamous unions as those between people from different “racial” groups, including couples who were cohabitating, as well as those who were formally married. Translating census data into socially constructed categories like race is tricky, however. The racial categories census enumerators were asked to use changed over time, but during the period under study Anglos and nuevomexicanos were both classified as “white.” I used surname and place of birth (and later, parents’ place of birth, and year of immigration to the United States) to distinguish between nuevomexicanos and Anglos. Prior to 1880, the census did not record marital status (unless a couple married during the census year) or the relationship of each individual to the head of household. However, enumerators generally followed a convention of listing wives immediately below their husbands (using ditto marks below his surname) before listing children oldest to youngest.

Chart 2.2: Marital Status of Anglo Men, 1850-1900

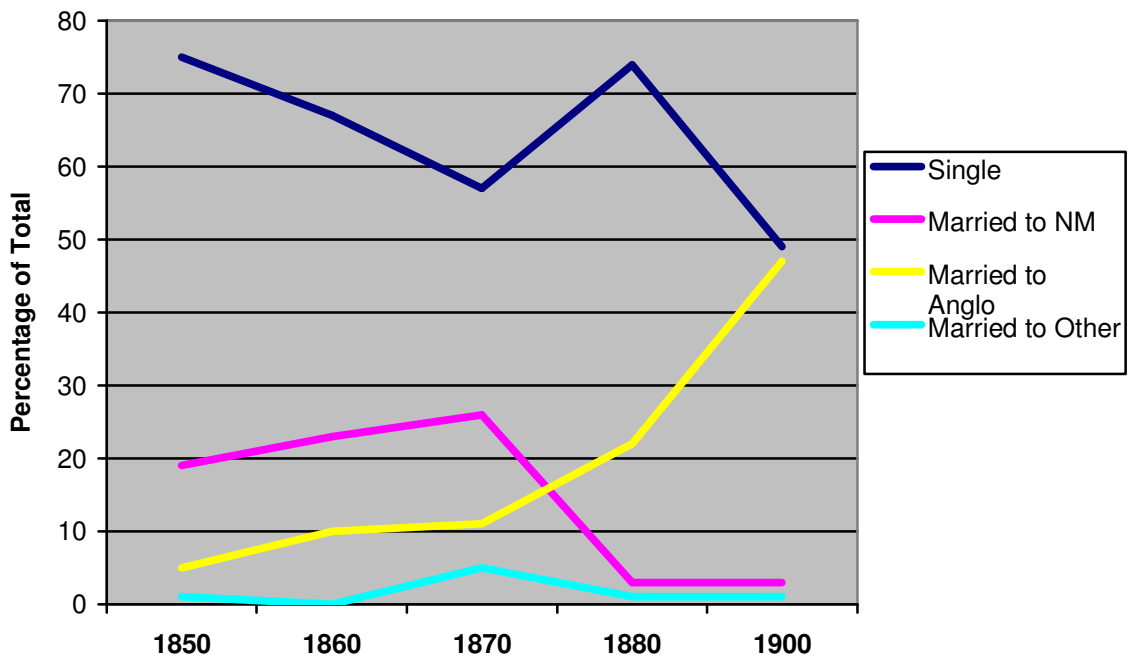
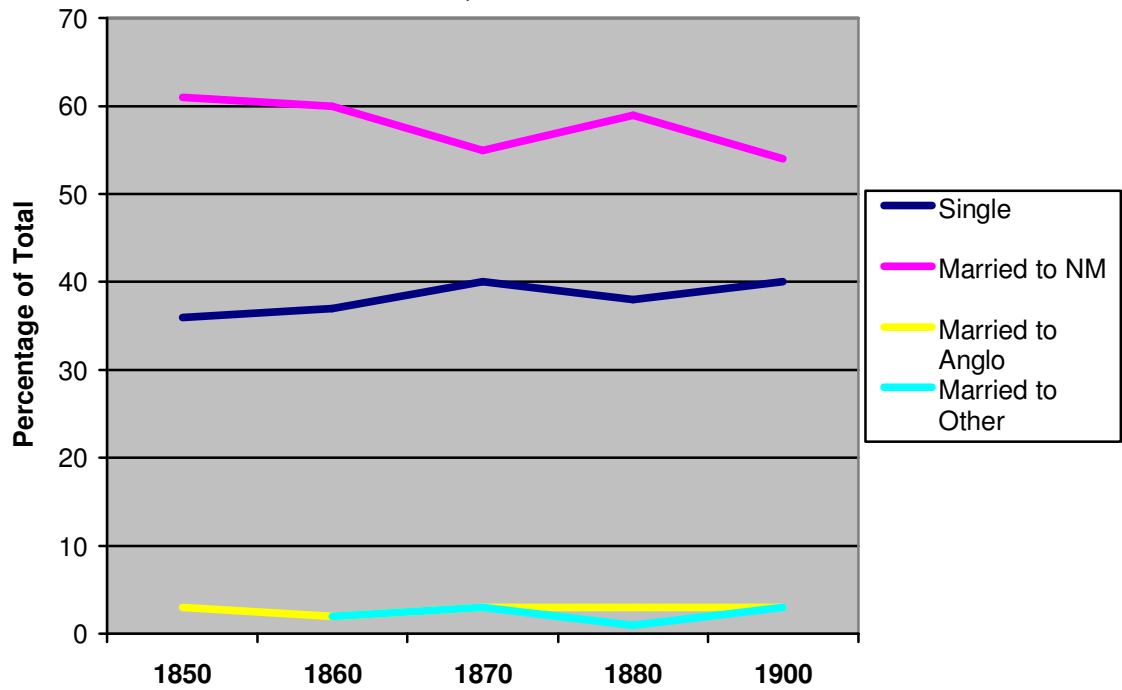


Chart 2.3: Marital Status of Nuevamexicanas (Age 15 or Older), 1850-1900



Without question, the marriage market was different for nuevamexicanas than it was for Anglo men. Yet, many also made the choice to remain single rather than marry outside their group (see Chart 2.3). As a result, we find that no more than three percent of all nuevamexicanas were partnered with Anglo men at any given time between 1850 and 1900.<sup>10</sup> Contrary to our previous assumptions, from the perspective of nuevamexicanas living in Las Vegas, Anglo men were not much more appealing marriage partners than Mexicans, African-Americans, or Indians.<sup>11</sup>

That is a startling realization given the commonalities the two groups supposedly shared that should have promoted intermarriage. As a number of scholars have demonstrated, the gender and marriage systems operating in Spanish-Mexican and Anglo societies were fairly compatible. First and foremost, both were patriarchal and Christian. Each society also prized female virginity before marriage and demanded fidelity afterward. Likewise, they shared a double standard of sexual behavior, requiring sexual purity in women while rewarding sexual prowess in men. This double standard of sexual behavior was also racialized; both societies esteemed whiteness and sought to protect the

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<sup>10</sup> In 1850, 14 nuevamexicanas out of a total of 459 were married to or cohabitating with Anglos (3%); in 1860, 7 nuevamexicanas out of a total number of 388 were married to Anglos (2%); in 1870, 19 out of 729 were married to Anglo men (3%); the figure in 1880 was 26 out of 965 (3%); and in 1990, 36 out of 1,047 nuevamexicanas were in mixed unions with Anglo men (3%).

<sup>11</sup> See especially Miller, "Cross-Cultural Marriages in the Southwest," 98-99, 105; Craver, *The Impact of Intimacy*, 12-13. For nuevomexicanos' general preference for endogamy in an earlier period, see Ramón A. Gutiérrez, *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500-1846* (Stanford: Stanford University Press, 1991).

purity of white women, while condoning or even encouraging the sexual exploitation of women of color by white men.<sup>12</sup>

Despite these similarities, the rarity of mixed marriage in nineteenth-century Las Vegas is revealed by simply inverting the lens through which we view it. Shifting our angle of vision from the experiences of Anglo men to that of local women also transforms the implicit question that drives many studies of intermarriage. From the perspective of nuevamexicanas, the question is not why were there so many mixed unions, but why were there so few?

Population figures provide a partial answer. Prior to 1880, the adult population of Las Vegas was overwhelmingly nuevomexicano. Only after the arrival of the railroad did non-nuevomexicanos comprise even a tenth of the population (see Table 2.2). With such a small pool of non-nuevomexicano men, it is not surprising that few nuevamexicanas intermarried.

The sex ratio was a factor as well. While Anglo men outnumbered Anglo women by more than ten to one in 1850 and still by just over three to one in 1880, the sex ratio in the total population was much more equal (see Table 2.3). Again, this points to the small size of the Anglo community in Las Vegas during

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<sup>12</sup> Albert L. Hurtado, *Intimate Frontiers: Sex, Gender, and Culture in Old California* (Albuquerque: University of New Mexico Press, 1999), 25, 29-30, 44, 53; *Ibid.*, "When Strangers Met: Sex and Gender on Three Frontiers," in *Writing the Range*, 125-26; Dysart, "Mexican Women in San Antonio," 366-67. See also Margaret D. Jacobs, "The Eastmans and the Luhans: Interracial Marriage between White Women and Native American Men, 1875-1935," *Frontiers: A Journal of Women Studies* 23, no. 3 (2002): 29-54. There were significant differences in women's property rights, however, as married Anglo women were subject to coverture, while nuevamexicanas could own, sell, and bequeath their property without the consent of their husbands. For comparisons, see Deena J. González in *Refusing the Favor: The Spanish-Mexican Women of Santa Fe, 1820-1880* (New York: Oxford University Press, 1999), 74, 93; María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Lawrence: University Press of Kansas, 2002), 46-77; Janet Lecompte, "The Independent Women of Hispanic New Mexico, 1821-1846," *Western Historical Quarterly* 12, no. 1 (1981): 17-35.

Table 2.2: Adult Population of Las Vegas, 1850-1900

	<b>Nuevomexicanos</b>		<b>Anglos</b>		<b>Other</b>		<b>Total Adult Population</b>
	No.	%	No.	%	No.	%	
<b>1850</b>	921	91.1	82	8.1	8	0.8	<b>1011</b>
<b>1860</b>	860	94.0	34	3.7	21	2.3	<b>915</b>
<b>1870</b>	1381	89.5	86	5.5	76	5.0	<b>1543</b>
<b>1880</b>	1874	59.0	1199	37.7	107	3.3	<b>3180</b>
<b>1900</b>	1987	41.9	2487	52.4	271	5.7	<b>4745</b>

*Source: Seventh Census of the United States, 1850; Eighth Census of the United States, 1860; Ninth Census of the United States, 1870; Tenth Census of the United States, 1880; and Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*

Table 2.3: Sex Ratios, Total Adult Population in Las Vegas, 1850-1900

	<b>Anglos</b>	<b>Nuevomexicanos</b>	<b>Total*</b>
	Males per Female	Males per Female	Males per Female
<b>1850</b>	10.7	1.0	1.1
<b>1860</b>	7.5	1.2	1.3
<b>1870</b>	5.1	0.9	1.0
<b>1880</b>	3.1	0.9	1.5
<b>1900</b>	1.2	0.9	1.1

*Source: Seventh Census of the United States, 1850; Eighth Census of the United States, 1860; Ninth Census of the United States, 1870; Tenth Census of the United States, 1880; and Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*

\*Total number includes adults not identified as nuevomexicano or Anglo.



much of the period. It does not explain, however, why fifty to seventy-five percent of Anglo men chose not to marry when between thirty-six and forty percent of nuevamexicanas over the age of fifteen remained single. If intermarriage is “an index of social distance” as Darlis Miller suggests, the paucity of mixed marriages illuminates the fact that Las Vegas was a bifurcated community.<sup>13</sup>

Long before the American conquest, marriage in New Mexico served to define and maintain social boundaries, or as Ramón Gutiérrez put it, “to assure the perpetuation of social inequalities.”<sup>14</sup> As a result, there was a strong preference for endogamy, particularly among the elite. Thus, many marriages were arranged to ensure matches with someone of equal status in order to preserve family honor.

In colonial New Mexico, one’s standing in society was determined by a constellation of overlapping factors including *casta* (race) and *calidad* (social status / honor).<sup>15</sup> The racial hierarchy in Spanish society included not only *españoles* (Spanish) and *indios* (Indian), but also an elaborate array of categories denoting various kinds of racial mixture including *mestizos* (Spanish and Indian), *mulatos* (Spanish and African), *castizos* (Spanish and Mestizo), *castas* (racial mixture), *color quebrado* (literally broken color), and *genízaros* (Hispanicized Indians).<sup>16</sup> In colonial New Mexico, one’s racial classification was

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<sup>13</sup> “Cross-Cultural Marriages in the Southwest,” 95.

<sup>14</sup> *When Jesus Came*, xix.

<sup>15</sup> In addition to Gutiérrez, see also John Nieto-Phillips, *The Language of Blood: The Making of Spanish-American Identity in New Mexico, 1880s-1930s* (Albuquerque: University of New Mexico Press, 2004), 23-37.

<sup>16</sup> Virginia L. Olmsted, *Spanish and Mexican Censuses of New Mexico: 1750-1830* (Albuquerque: New Mexico Genealogical Society, 1981), ii; *ibid.*, *Spanish and Mexican Colonial Censuses of*

determined not only by ancestry or phenotype, but also by occupation or class and could change overtime according to one's circumstances.

According to Gutiérrez, "honor was a complex measure of social status based on one's religion, ethnicity, race, occupation, ancestry, and authority over land." In colonial New Mexico, "much of what it meant to be honorable was a projection of what it meant to be a free, landholding citizen of white legitimate ancestry, and by contrast what it meant not to be a slave, an outcast, or an Indian." Race and legitimacy were intertwined in colonial New Mexico as many associated racial mixture of any kind with illegitimacy and illicit sex.<sup>17</sup>

In the early nineteenth century, New Mexicans moved away from the elaborate racial hierarchy in place during the colonial period until the previous array of categories collapsed into two: Spanish and Indian.<sup>18</sup> Reducing race to an oppositional binary did not necessarily alter the association of racial mixture with dishonor. But, as James Brooks has shown, economic expansion touched off by the Bourbon reforms, augmented by closer integration with markets in northern Mexico, and amplified by the opening of trade with the United States combined to alter nuevomexicano marriage and kinship strategies. In the first three decades of the nineteenth century, elite nuevomexicanos who sought to strengthen commercial ties through marital alliances preferred to marry their daughters to prosperous mercantile families in Chihuahua. Anglo fur trappers

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*New Mexico: 1790, 1823, 1845* (Albuquerque: New Mexico Genealogical Society, 1975), i; Gutiérrez, *When Jesus Came*, 192-99; Nieto-Phillips, *Language of Blood*, 25-37; David J. Weber, *The Spanish Frontier in North America* (New Haven, Yale University Press, 1992), 326-29. According to Weber, people of African descent, free or enslaved, occupied the bottom rung of the hierarchy.

<sup>17</sup> Gutiérrez, *When Jesus Came*, 202-206.

<sup>18</sup> *Ibid.*, 194; Nieto-Phillips, *Language of Blood*, 30.

were not initially seen as acceptable marriage partners, Brooks suggests, because they “often appeared distinctly Indian in dress and customs.” However, by the late 1830s, a number of elite nuevomexicano families began seeking kinship ties with Anglo traders in order “to guard [their] wealth from possible dilution through social or marriage bonds with the pobres.”<sup>19</sup>

It was in this context that Deluvina Vigil married Miguel Desmarais. She was only seven years old when she met Desmarais. He was introduced to her father by three Anglo men who were already linked to several prominent Taos families through marriage and *compadrazgo*, and one of them, Kit Carson, was married to Deluvina’s cousin. What specific business compelled the four Anglo fur traders to call on Juan Vigil in the fall of 1837 is uncertain.<sup>20</sup> Perhaps Deluvina’s fate was decided that very day. Nine years later, the two were married and Desmarais took his young bride a hundred miles away from her family to begin a new life in San Miguel del Bado.

After giving birth to her first daughter, Deluvina was uprooted again when Miguel decided to open a new mercantile store on the plaza in Las Vegas. For the next twenty years of her life, Deluvina was almost constantly pregnant or nursing—she bore nine children, seven of whom survived into adulthood. By all indications, their marriage was a happy one; it was also a prosperous one, as the Desmarais family amassed a fortune of more than fifty thousand dollars. When Miguel became sick, he deeded their property to Deluvina to ensure that no one

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<sup>19</sup> Brooks, *Captives and Cousins*, 208, 215-17, 228-31.

<sup>20</sup> “The Story of Doña Deluvina Vigil Desmarais.” For additional information on Vigil Desmarais’ family, see F. Stanley, *The Las Vegas, New Mexico Story* (Denver: World Press, 1951). On the New Mexican fur trade, see also Weber, *The Taos Trappers: The Fur Trade in the Far Southwest, 1540-1846* (Norman: University of Oklahoma Press, 1980).

would question her inheritance after his death. As he declared in the deed of conveyance, he did so “in consideration of the affection and natural love . . . for his wife.” The legal transfer of property also provided an occasion for Desmarais to outline his desire for the final distribution of his estate—so long as their son lived (he was only two years old at the time), he would inherit the entire estate; if, however, their son did not survive, Deluvina would be allowed to distribute the property among their daughters.<sup>21</sup>

Deluvina was forty years old when she became a widow. Her household included two unmarried teenage daughters, two daughters under the age of ten, and her two-year-old son. In addition, her eldest daughter Luisa, her husband, and their two small daughters lived there as well. Deluvina had also taken in her young niece and had at least one domestic servant to help with the housework. Within a year of her husband’s death, Deluvina arranged the marriages of her two teenage daughters—one to Rafael Romero, the son of a prosperous mercantile family in Mora, and the other to Charles Blanchard. Seven years later, she betrothed her youngest daughter to another French-Canadian, and once Emilia reached her fifteenth birthday, she wed A. A. Senecal in an elaborate ceremony in Las Vegas. Before her death in 1894, Deluvina had secured

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<sup>21</sup> Deed of Conveyance, 18 February 1870, Abstract of Title, No. 230, A. A. Jones Papers. On the number and ages of her children, see “New Mexico Baptisms,” 55, 85-86; and the *Eighth Census of the United States, 1860*; *Ninth Census of the United States, 1870*; *Tenth Census of the United States, 1880*. On the Desmarais family’s wealth, see Tax Assessment Roll, 1872; Assessment Book, 1874; San Miguel County Assessment Roll 1, 1884-1887; Records of the County Assessor, San Miguel County, N.M. Records, NMSRCA.

advantageous matches for all but one of her daughters and had become one of the wealthiest and most respected women in Las Vegas.<sup>22</sup>

Deluvina Vigil was exceptional. Her marriage to Miguel Desmarais was an alliance of elites. Over the course of their marriage, Miguel and Deluvina Desmarais wove an intricate web of kinship through *compadrazgo* and the strategic marriages of their children that linked them to other French-Canadian/*nuevamexicana* couples, prominent *nuevomexicano* families, and capital-rich Anglos. The Desmarais clan also left manuscript sources that make a reconstruction of their kin network possible.

The same cannot be said for the vast majority of *nuevamexicanas* who partnered with Anglo men. Most formed unions not with elites, but with working-class Anglos. They were also slightly more likely to partner with Anglo men who migrated to New Mexico from other parts of the United States, rather than someone who was foreign-born (see Appendices B-D). These couples were often highly mobile, appearing in only one of the decennial census returns. For some of these couples, the marriage and baptismal records kept by Nuestra Señora de los Dolores Catholic Church help flesh out the statistical data that can be drawn from the manuscript census.

Such was the case for María Guadalupe Crespín and John O. Steins who baptized their natural daughter, María Maxima Crespín, on 17 May 1856 when she was just six days old. At the ceremony, Steins declared before the parish

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<sup>22</sup> *Ninth Census of the United States*, 1870; "Marriages, Nuestra Señora de los Dolores," 54, 82, 137; "Happy Hymeneal," *Las Vegas Daily Optic*, 2 May 1881; San Miguel County Assessment Roll 1, 1884-1887; Records of the County Assessor, San Miguel County, N.M. Records, NMSRCA; "The Story of Doña Deluvina Vigil Desmarais."

priest and two nuevomexicano witnesses—Jesus María Armijo and Juan Bernal, who was one of María’s padrinos—that he recognized the infant as his child.

Steins was not exceptional in this regard; other Anglo men also formally recognized the children they had with nuevamexicana women at the time of the child’s baptism in the Catholic Church.<sup>23</sup>

Between 1858 and 1867, Steins and Crespín baptized two more daughters and three sons: Augustina, María Sara, José Julián, and twins Antonio María and Juan Bautista. Steins did not formally recognize any of these children, though both girls and José Julián were given his surname. Augustina, who was born in 1858, and the twins, born in 1867, were listed as natural children, while the others were identified as legitimate. At the 1867 baptism of their twins, Steins and Crespín informed the priest they had married in 1854 in a civil ceremony before the alcalde, and while he made note of it in the baptismal register, he still pronounced the boys their natural children.<sup>24</sup> Perhaps it was the priest’s reluctance to recognize them as a married couple that led the two to marry in the Catholic Church the following year. At the wedding, Steins identified and recognized their eight children as his legitimate heirs and pledged to raise them in the Church.<sup>25</sup>

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<sup>23</sup> “New Mexico Baptisms,” 80. See for example, William Mortimer’s declaration that he recognized the son he had with Desideria Jaramillo as his own (“New Mexico Baptisms,” 225).

<sup>24</sup> “New Mexico Baptisms,” 82, 342. It is not clear why the Church was inconsistent in this regard. Prior to their marriage in the Church, four of their children were pronounced “natural” and two were declared “legitimate” by the Church. This couple also appears in the 1860, 1870, and 1880 census schedules. Both gave three different dates of birth. Steins was born sometime between 1831 and 1835, making him between nineteen and twenty-three when they married in 1854. Crespín was born sometime between 1835 and 1841 and would have been between 13 and 19 in 1854. Steins’ birthplace was also listed differently in each census: Prussia, Missouri, and Maryland of German parents respectively.

<sup>25</sup> “Marriages, Nuestra Señora de los Dolores,” 71.

Theirs was not an alliance of elites. Steins was a man of modest means who earned a living as a carpenter, while Crespín helped support their growing family by working as a seamstress.<sup>26</sup> Together for more than three decades, they clearly sought recognition of their union and valued the sanction of the Church and the community. This seems to have been of particular importance to Steins who willingly conformed to the cultural expectations of his nuevomexicano neighbors by baptizing his children, remarrying in the Church, and pledging to raise his children as Catholics. Whether or not his decisions were simply pragmatic—recognizing, for instance, that his children could make better matches if they were unambiguously “legitimate” in the eyes of the Church—Steins’ actions suggest that Anglo men who married nuevamexicanas were expected to observe community mores. If this marriage facilitated assimilation, it was the assimilation of John Steins rather than his nuevamexicana wife.

In 1860, Steins and Crespín chose their neighbors, Arthur Morrison and María Andrea Baca to serve as padrinos for their daughter Sara. Morrison had been in Las Vegas for at least a decade and, unlike Steins, was a fairly wealthy merchant. He also had a fondness for nuevamexicanas—Morrison was one of only three men who were involved in more than one mixed union.<sup>27</sup> His first began shortly after his arrival in the territory. By 1850, Morrison shared his household with a nineteen-year-old nuevamexicana and he seems to have tried to legitimate their union by reporting her name to the census enumerator as

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<sup>26</sup> For their occupations and the value of their property, see the *Eighth Census of the United States, 1860*; and the *Ninth Census of the United States, 1870*.

<sup>27</sup> The information on Morrison and his consorts is largely drawn from the 1850, 1860, and 1880 census returns. The value of his property was reported as \$400 in 1850, but had increased to \$14,000 in 1860 (see census returns).

“Dolores de Morrison.”<sup>28</sup> If they were formally married, no record has survived. The census enumerator interpreted their arrangement as an economic one and listed Dolores as Morrison’s cook. Whatever the nature of their relationship, it was temporary.

By 1856, Morrison had become enchanted with thirteen-year-old María Andrea Baca. In order to secure her father’s permission to marry her, Morrison agreed to be baptized in the Catholic Church and in May, at the age of thirty, he was christened Pablo Morrison. The two married a few weeks later, and in 1860, they baptized their son Juan Bautista. By then, Morrison’s business had done well and in addition to \$13,000 in personal property, he reportedly held real estate in upper Las Vegas valued at one thousand dollars. They were not happy for long.<sup>29</sup>

When Morrison filed for divorce eleven years after they married, he and his wife offered the court conflicting visions of their life together. Morrison claimed to have entered the marriage with some five thousand dollars in property and asserted that Baca had brought only a few clothes and some furniture. He assured the court that they had been “comparatively happy and contented” for the first six years of their marriage until he began to suspect Baca of “infidelity and faithlessness to her marriage vows.” His suspicions led to “a partial separation” from 1862 until 1865. During that time, he continued to provide for his wife until, “much to his regret,” he had proof she committed adultery.

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<sup>28</sup> Most often when a surname was preceded by “de” it signified that the last name was the woman’s married name.

<sup>29</sup> “New Mexico Baptisms,” 258; “Marriages, Nuestra Señora de los Dolores,” 26; *Eighth Census of the United States, 1860*.



Nevertheless, since September of 1865, Baca had continued to live in his house with her mother. Since no children had survived, Morrison asked only that a divorce be granted, that he be absolved of any financial responsibility for her, and that she be forbidden from contracting debts in his name.<sup>30</sup>

Baca professed her innocence. She had never been unfaithful and she had no idea why her husband suspected her of adultery in 1862. While they had, in fact, lived apart, Baca explained to the court that his absence was required by his service in the Union Army during the Civil War. However, upon his return they had again lived as husband and wife.

She claimed that her husband was the one who broke their marriage vows. According to Baca, Morrison began an affair with Antonia Espalin, “a notorious prostitute,” when he served in the territorial assembly in Santa Fe. Not only had he admitted his indiscretion to his wife, Morrison told Baca that “she was ugly and he did not like her but he did like the pretty girl in Santa Fe.” He then taunted her by bringing Espalin to Las Vegas and setting her up in house the couple owned. Baca informed the court that Morrison had committed adultery with at least two more women since 1865.<sup>31</sup>

Baca also presented a much different picture of the couple’s financial history. Morrison had not brought \$5,000 into the marriage, all he owned when they were married was “an inferior house and piece of ground” he had acquired for sixty dollars at public auction. Through the couple’s mutual effort, the house was now worth one thousand dollars. Baca informed the court that she had

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<sup>30</sup> *Arthur Morrison v. Andrea Baca*, case #84, Bill of Complaint, 25 February 1867, Civil Case Files, San Miguel County District Court Records, NMSRCA [hereafter cited as SMC DCR].

<sup>31</sup> *Morrison v. Baca*, case #84, Answer and Crossbill, 16 March 1867.

brought “a ewe and young heifer” to the marriage, as well as a number of household items that had been “furnished by her parents and friends because she was not yet 14 years old” when they married. She asked for her dowry back, payment for the ewe and heifer and their offspring, and an equitable division of the money Morrison made during their marriage.<sup>32</sup>

Morrison called his wife a liar. He was not guilty of adultery, had “never abused her feelings in any . . . way,” and had not made any profits during their marriage—if anything, he was poorer in 1867 than he had been in when they married in 1856.<sup>33</sup> While the case dragged on into the spring and summer, Morrison was required to provide fifteen dollars a month for Baca’s support. The court rendered its decision in August 1867. Based on testimony gathered over the summer, the court believed Baca was guilty of adultery, “and therefore forfeited her right to maintenance, support, or any portion of the property.” Morrison was granted his divorce and ordered to pay nothing more than the costs of the suit.<sup>34</sup>

The consequences of being branded as an adulterer were significantly different for men than women. With his property intact, Morrison soon remarried. For his third wife, he chose a woman twenty-six years his junior who was herself a product of a marriage between a Prussian man and a nuevamexicana. The two were blessed with children and a successful business. Then, in 1880,

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<sup>32</sup> Ibid.

<sup>33</sup> *Morrison v. Baca*, case #84, Answer to Crossbill, 19 March 1867.

<sup>34</sup> Criminal and Civil Record Book, 1849-1868, Roll 11, Proceedings in *Morrison v. Baca*, case #84; 8 March, 20 March, 20 August 1867; SMC DRC.

Morrison was elected Justice of the Peace.<sup>35</sup> Despite being accused of infidelity and consorting with a prostitute, Morrison clearly did not suffer social opprobrium.

As for María Andrea Baca, we cannot be sure. She disappears from the record after her divorce. Nevertheless, her treatment by the court demonstrates the vulnerability of women in nineteenth-century New Mexico. Their economic security was often dependent not only on men, but on their reputation as well. Those who violated the standards of propriety, or were simply marked as immoral, forfeited their rights to both property and protection.

For some women, much more than their economic security was at stake. In 1872, Rallos Barela Wagoner appealed to the court for protection from her husband Theodore Wagoner. His abuse had begun a year after their wedding. For two years he had repeatedly beaten her with chains and clubs, and once he shot at her and put out her eye. His beatings had become increasingly more violent until he finally kicked her out of the house. Since then he refused to provide for her or their three-year-old daughter and had threatened to sell everything they owned and return to the United States.<sup>36</sup>

She pled for an injunction from the court that would prevent him from disposing of their property. Barela explained that while Wagoner “was poor and brought nothing of value” to the marriage, she had contributed over five hundred dollars in property and cash. She estimated that after three years of marriage the two acquired an additional eight thousand dollars of property. Barela concluded her bill by accusing Wagoner of repeatedly committing adultery. She

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<sup>35</sup> *Tenth Census of the United States, 1880.*

<sup>36</sup> *Rallos Barela Wagoner v. Theodore Wagoner*, case #388, Bill of Complaint, 1872, Civil Case Files, SMC DRC.

asked for custody of their child, the property she had brought to the marriage, and a portion of the property they owned together.<sup>37</sup>

Wagoner countered by claiming they had never been lawfully married anywhere or in any church.<sup>38</sup> The nature of their relationship was that of employer and employee—he had hired her as a housekeeper in April 1868. Wagoner claimed that he “largely overpaid her services as such housekeeper by furnishing her with expensive clothing” and paying all of her debts when she came to work for him. Not only did Wagoner deny being the father of her three-year-old daughter, he denied that Barela was the girl’s mother. As far as he knew, she had never been pregnant and had simply “obtained” someone else’s child while she lived with him. He assured the court he had never used any of her property to run his business, and his assets totaled no more than \$1500.

Wagoner also complained that Barela had only lived with him sporadically. She would work as his housekeeper for a few months, leave to live in open fornication with another man, return to his employ for awhile, leave to work as a prostitute, and then ask to be his housekeeper again. He had never abused or threatened her, nor did he kick her out of the house; rather, Barela had left when he tried to intervene when she was beating her child. His statement concluded

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<sup>37</sup> Ibid.

<sup>38</sup> Barela claimed they were married in an Episcopal ceremony at Ft. Union in March 1869. While I have been able to verify that the post chaplain stationed there in 1869 was an Episcopal minister, I have not yet had an opportunity to examine the fort’s records in order to verify that they were (or were not) married there. In addition to denying they had married, Wagoner complained that Barela had no right to use his surname and asked the court to issue an injunction forbidding her to do so. *Wagoner v. Wagoner*, case #388, Answer to Bill of Complaint. They appear in the same household (with no other residents) in the 1870 census. Rallos was listed under Wagoner and the enumerator used ditto marks to indicate that her last name was also Wagoner. *Ninth Census of the United States, 1870*.

with the following concession: “your respondent would further state that he admits that the loss of the complainant’s eye was caused by a pistol shot in the hands of respondent, but this, as the complainant well knows, was an accident.”<sup>39</sup>

Apparently the judge took Wagoner at his word. We have no record of any evidence or additional testimony. For whatever reason, the judge ruled in Wagoner’s favor and dismissed Barela’s suit. If there had been no marriage, she had no cause to seek a divorce.<sup>40</sup> As with María Andrea Baca, Rallos Barela Wagoner vanishes from the record after her court case. Theodore Wagoner, however, remained in Las Vegas. By 1880, he was married to an Irish woman and together they ran a hotel that catered to single Anglo men.<sup>41</sup>

The court’s invalidation of Rallos Barela’s marriage to Theodore Wagoner parallels the treatment of women of color under miscegenation law and illuminates the relationship between property and propriety.<sup>42</sup> “Miscegenation law,” as Peggy Pascoe has demonstrated, “played on this connection by drawing a sharp line between ‘legitimate marriage’ on the one hand and ‘illicit sex’ on the other, then defining all interracial relationships as illicit sex.” This distinction had significant economic consequences. While men “were legally obligated to

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<sup>39</sup> *Wagoner v. Wagoner*, case #388, Answer to Bill of Complaint.

<sup>40</sup> San Miguel County Civil Docket Book, 1868-1876, Roll 5, case #388, *Wagoner v. Wagoner*, March 1873, SMC DRC. I am reluctant to assume that the judge dismissed the suit because *no* evidence was produced to prove the marriage. It more than likely hinged on what *kind* of evidence or *whose* evidence was considered reliable by the court. The case file contains no evidence produced by either party beyond their own testimony.

<sup>41</sup> *Tenth Census of the United States, 1880*.

<sup>42</sup> I am drawing here from Pascoe’s essay, “Race, Gender, and the Privileges of Property: On the Significance of Miscegenation Law in the U.S. West,” in *Over the Edge: Remapping the American West*, ed. Valerie J. Matsumoto and Blake Allmendinger (Berkeley: University of California Press, 1999). She credits Nancy Cott for calling her attention to “the etymological connection between the words ‘property’ and ‘propriety.’”

provide for legitimate wives and children,” no such duty accompanied sexual relationships outside of marriage.<sup>43</sup>

As a result, the vast majority of miscegenation cases prosecuted in the late nineteenth and early twentieth century were “ex post facto attempts to invalidate relationships that had already lasted for a long time,” rather than suits designed to prevent interracial marriages from occurring.<sup>44</sup> What Pascoe found was a cyclical process:

By defining all interracial relationships as illicit, miscegenation law did not so much prohibit or punish illicit sex as it did create and reproduce it. Conditioned by stereotypes which associated women of color with hypersexuality, judges routinely branded long-term settled relationships as “mere” sex rather than marriage. Lawyers played to these assumptions by reducing interracial relationships to interracial sex, then distinguishing interracial sex from marriage by associating it with prostitution.<sup>45</sup>

As demonstrated by the *Barela v. Wagoner* case, this was an effective strategy that could be employed in other legal disputes as well.

While miscegenation law was partly designed to control the sexual behavior of women, Pascoe argues that its purpose was also (and perhaps more so) to control the inheritance of property. When courts stripped women of color of their inheritance by invalidating their marriages to white men, “miscegenation law kept property within racial boundaries.” Thus, the “crucial power of miscegenation law,” in her estimation, was “the role it played in connecting white supremacy to the transmission of property.” According to Pascoe, miscegenation

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<sup>43</sup> Pascoe, “Race, Gender, and the Privileges of Property,” 220.

<sup>44</sup> Ibid., “Race, Gender and Intercultural Relations: The Case of Interracial Marriage,” in *Writing the Range*, 71.

<sup>45</sup> Ibid., “Race, Gender, and the Privileges of Property,” 220.

cases ultimately reveal “the links between white patriarchal privilege and property.”<sup>46</sup>

Examining divorce cases in San Miguel County provides another way to explore the relationship between propriety and property and the links between property and white patriarchal privilege.<sup>47</sup> When deciding divorce cases, the court’s determination that women who committed adultery forfeited their rights to property reveals the deep connection between property and propriety. The judgment against María Andrea Baca did not hinge on transforming her marriage to Arthur Morrison into an illicit sexual relationship; instead, it centered on the accusation that she had engaged in an illicit sexual relationship *outside* of her marriage to Morrison. In her case, it was extramarital sex with a nuevomexicano that was illicit, rather than her relationship with a white man. If we explore intermarriage for what it can tell us about conquest and the construction of racial and gender hierarchies, this distinction is important.

Deena González has argued that one of the central elements of American conquest was the domination of the court system by Anglos. After the Mexican War, the courtroom became an arena where “Euro-American men solidified their authority and exerted control over Spanish-Mexicans.” Specifically, González uses court case to illuminate “the grim contrast . . . between the power of emigrating men and that of local women.” That unequal relationship of power—

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<sup>46</sup> Ibid., 218-19.

<sup>47</sup> In 1857, the Territory of New Mexico passed a statute that forbid marriage between “a free negro or mulatto” and “any woman of the white race.” It was repealed in 1866 and I am not aware of any cases that were prosecuted under the law. Thus, I have examined divorce cases to explore the links between property and propriety. On the miscegenation statute, see Pascoe, “Race, Gender, and Intercultural Relations,” 71; and Brooks, *Captives and Cousins*, 309.

of Anglo men's domination of nuevamexicanas—structured legal contests between Anglo men and Spanish-Mexican women as well as intermarriage itself.<sup>48</sup>

The treatment Baca and Barela received at the hands of the court lends support to González's argument. However, nuevomexicano men could also use the court to solidify their authority and exert control over Anglo women. As the following case suggests, the deep connection between propriety and property meant that patriarchal privilege could sometimes trump the privilege of whiteness.

On 26 October 1866, Eliza Pinard filed for divorce from her husband Juan José Herrera on the grounds of cruelty and abuse. The two had married in November 1858 and had "lived together as man and wife in a tolerable state of happiness" until they were temporarily separated by virtue of his enlistment in the Union Army at the outbreak of the Civil War. Shortly after his return in 1862 and without provocation, Herrera beat her, brandished his pistol at her, and threatened to kill her. She contended that his abuse continued nearly unabated for the next few years and his threats to take her life became so frequent that she feared for her safety. Then, while Herrera was away on a six month business trip to the States, she learned that he had written letters to his friends vowing to kill her on sight or at the first opportunity that presented itself. She filed for divorce and begged the court to issue a restraining order against him before he returned

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<sup>48</sup> *Refusing the Favor*, 92-93.



to the Territory. The court was sympathetic and granted the injunction against Herrera the same day Pinard filed her request.<sup>49</sup>

In his cross-bill for divorce, Herrera never explicitly denied beating Pinard. Nor did he respond directly to her allegations of abuse. He claimed that he had always acted as “a kind and affectionate husband” during their marriage, providing “her with all the comforts” his means would allow, and that he always “labored hard to . . . provide for his wife . . . with everything in his power to make her happy.” His bill for divorce focused instead on Pinard’s contraction of debts, her “useless waste” of his money, and what he called her notorious acts of infidelity.<sup>50</sup>

Herrera explained to the court that upon his return to the Territory, he was informed by his friends that during his absence Pinard had been living in Santa Fe in an open state of adultery and was “recognized and demeaned herself as a public prostitute.” Her infidelity had become so notorious, he claimed, that his friends felt compelled to inform him not only of her actions during his absence but also of numerous acts of adultery that she had concealed from him during the previous years of their marriage. Herrera also told the court that at the time of his bill of complaint, she was “recognized as a common prostitute in the town of Las Vegas.”<sup>51</sup>

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<sup>49</sup> *Eliza Pinard v. Juan Jose Herrera*, case #78, Bill for Divorce, 26 October 1866, Civil Case Files, SMC DRC.

<sup>50</sup> *Juan Jose Herrera v. Eliza Pinard*, case #112, Bill of Complaint in Chancery, 20 March 1867; Civil Case Files, SMC DRC. The court dismissed Pinard’s suit six days before Herrera filed his countersuit; see Criminal and Civil Record Book, 1849-1868, Roll 11, Proceedings in *Pinard v. Herrera*, case #78; 14 March 1867; SMC DRC.

<sup>51</sup> *Herrera v. Pinard*, case #112, Bill of Complaint in Chancery.

A number of witnesses offered testimony that corroborated his accusations. Several testified to Pinard's reputation as a prostitute and one individual even claimed to have seen her in the act of committing adultery with his own eyes. This was enough evidence for the court to rule in Herrera's favor, granting the divorce and declaring that Pinard's adultery resulted in the forfeiture of all her rights to property or support.<sup>52</sup>

This case demonstrates, in part, the tenuous economic position of women in nineteenth-century New Mexico. The language used in divorce cases decided in favor of the husband reveals the degree to which a woman's right to property was contingent on her propriety. If a woman was unfaithful, she *forfeited* her right to property—not simply to an equitable division of their joint property, but to her dotal property as well.

In addition, the outcome of Pinard's suit also demonstrates the risks women faced when they filed for divorce. While they might secure some protection from domestic abuse, women like Pinard and Barela also had much to lose if their husbands could convince the court they had committed adultery. Accusations of infidelity carried even harsher consequences after 1887, when the passage of the Edmunds Tucker Act made adultery a federal crime.<sup>53</sup>

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<sup>52</sup> *Herrera v. Pinard*, case #112; for the ruling of the court, see Criminal and Civil Record Book, 1849-1868, Roll 11, Proceedings in *Herrera v. Pinard*, case #112; 20 and 22 August 1867; SMC DRC.

<sup>53</sup> Although intended to abolish polygamy in Utah by criminalizing adultery, the Edmunds Tucker Act was applicable to New Mexico because it was a federal territory. For the impact of the Edmunds Tucker Act in New Mexico, see David A. Reichard, "'Justice is God's Law': The Struggle to Control Social Conflict and U.S. Colonization of New Mexico" (Ph.D. diss., Temple University, 1996), 225-65.

Table 2.4: Divorces Filed in San Miguel County, 1864-1900\*

	No.	%
<b>Couples with Hispanic Surnames</b>	<b>96</b>	<b>29</b>
Women Plaintiffs	72	75
Men Plaintiffs	24	25
<b>Couples with Non-Hispanic Surnames</b>	<b>211</b>	<b>64</b>
Women Plaintiffs	127	65
Men Plaintiffs	74	35
<b>Intermarried Couples</b>	<b>23</b>	<b>7</b>
Women Plaintiffs	14	61
Men Plaintiffs	9	39

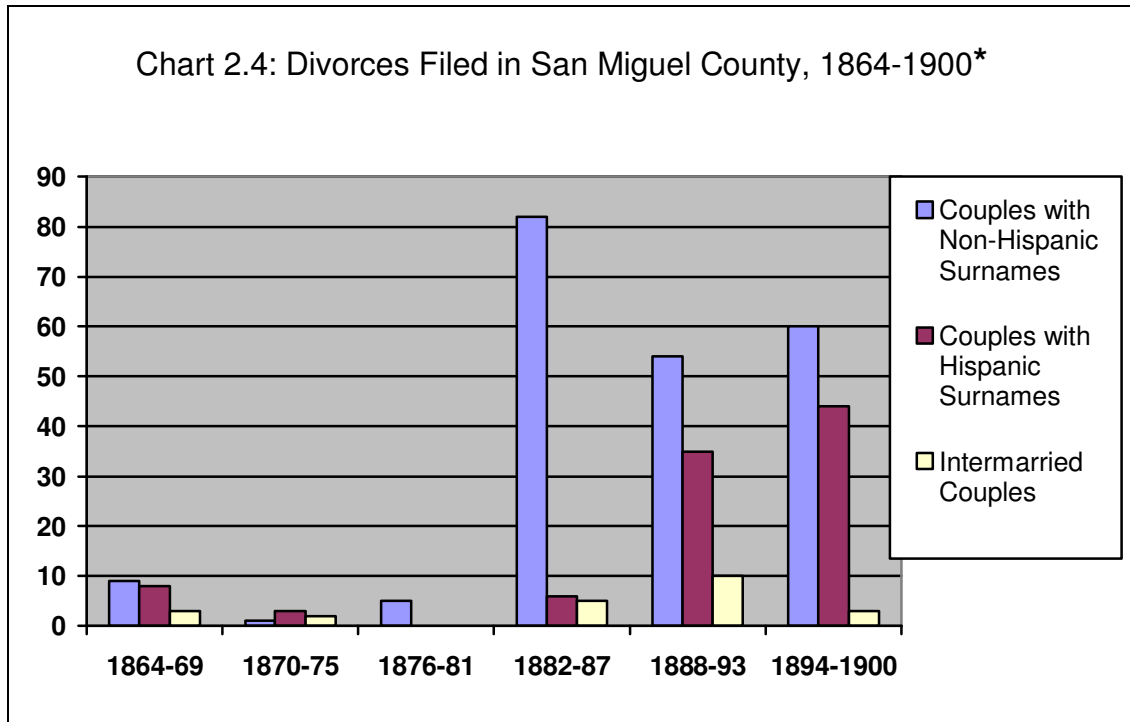
*Source:* San Miguel County Civil Docket, Book No. 1, 1857-1885; Book No. 2, 1885-1887; Book No. 3, 1887-1889; Book No. 4, 1889-1892; Book No. 5, 1892-1895; Book No. 6, 1894-1900; Book No. 7, 1900-1904; Rolls 5-8, San Miguel County District Court Records, NMSRCA.

\*While the docket begins in 1857, the first divorce suit was filed in 1864. No docket is extant from the fall term of the Court in 1876 through August 1881.

Despite the risks, women in New Mexico increasingly turned to divorce as a way to free themselves from disagreeable husbands or compel them to provide for their children (see Table 2.4). While some scholars have argued that women who intermarried were more likely to experience divorce, the opposite was true in San Miguel County.<sup>54</sup> Intermarried couples divorced at a rate that was equivalent to their proportion of all marriages in Las Vegas. Instead, Anglo couples were disproportionately more likely to experience divorce.<sup>55</sup>

<sup>54</sup> Miller, "Cross-Cultural Marriages," 109; Glenda Riley, *Building and Breaking Families in the American West* (Albuquerque: University of New Mexico Press, 1996), 73-74, 96, 101; Paul R. Spickard, *Mixed Blood: Intermarriage and Ethnic Identity in Twentieth-Century America* (Madison: University of Wisconsin Press, 1991), 106-08, 223-24, 101.

<sup>55</sup> Scholars generally agree that the Catholic Church's opposition to divorce discouraged Hispanic couples from pursuing either an ecclesiastical divorce or a formal, civil divorce. Instead, couples most frequently "divorced" informally by separating. See, for example, González, *Refusing the*



\* Note that no docket is extant from the fall term of the Court in 1876 through August 1881.

The dramatic rise in divorces of couples with non-Hispanic surnames after 1881 reflects the explosion of the Anglo population after the arrival of the railroad in 1879 (see Chart 2.4). There simply were not very many Anglo couples in Las Vegas prior to 1880.<sup>56</sup> However, the spike in divorce cases from 1882 to 1887 may carry greater significance. According to New Mexico statutes, individuals filing for divorce had to have been a resident of the territory for no less than one

*Favor*, 30-32; Montoya, *Translating Property*, 57-59; and Lecompte, "The Independent Women of Hispanic New Mexico," 30. On shifting ideas about marriage, the liberalization of divorce law, and the rise of divorce among Anglos (particularly those in the West) during the nineteenth century, see Robert L. Griswold, *Family and Divorce in California, 1850-1900: Victorian Illusions and Everyday Realities* (Albany: State University of New York Press, 1982); *Ibid.*, "Law, Sex, Cruelty, and Divorce in Victorian America, 1840-1900," *American Quarterly* 38, no. 5 (Winter 1986): 721-745; Riley, *Building and Breaking Families*; and Norma Basch, *Framing American Divorce: From the Revolutionary Generation to the Victorians* (Berkeley: University of California Press, 1999).

<sup>56</sup> In aggregate, only 15 Anglo marriages were enumerated in the census from 1850 to 1870; in 1880, there were 201, and by 1900 the number had jumped to 633.

year.<sup>57</sup> Thus, the increase in divorce in the 1880s may be indicative of the profound stress migration could place on families. It could also, however, be the product of a differential marriage market for Anglo men and women. While the population of Anglo women increased by more than two thousand percent after the railroad reached Las Vegas, they were still outnumbered by their male counterparts by more than three to one. Thus, a favorable marriage market for Anglo women—and steep competition for their affections among Anglo men—could spawn higher divorce rates.<sup>58</sup>

Changes in the information census enumerators recorded allow us to examine family stability and dislocation in another way. Beginning in 1880, census enumerators recorded each individual's marital status, allowing us to identify married persons living apart from their spouses. Since this information is not available for the entire period under study, it should be used with caution. However, from 1880 to 1900, we see a significant decline in the number of married Anglo men living apart from their wives. In contrast, the number of nuevamexicanas who were married but separated from their husbands increased (see Table 2.5). The increase in nuevamexicanas living apart from their husbands likely reflects a growing reliance on the migratory wage labor of nuevomexicano men after 1880 as demonstrated by Sarah Deutsch.<sup>59</sup> On the other hand, while the increase in Anglo women living without husbands likely

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<sup>57</sup> *Laws on Marriage, Divorce and Property Rights of Married Women of All States and Alaska, Hawaii, Arizona, New Mexico and District of Columbia*, comp. by Frederick A. White (1910), 275. The residency requirement was established by 1885.

<sup>58</sup> For this phenomenon on a much more intensive scale, see Hurtado, *Intimate Frontiers*, 76-77, 94-105.

<sup>59</sup> *No Separate Refuge: Culture, Class, and Gender on an Anglo-Hispanic Frontier in the American Southwest, 1880-1940* (New York: Oxford University Press, 1987).

Table 2.5: Married, No Spouse Present

	1880	1900
<b>Nuevomexicano Men</b>	23	17
<b>Nuevamexicana Women</b>	31	43
<b>Anglo Men</b>	74	31
<b>Anglo Women</b>	12	27

*Source: Tenth Census of the United States, 1880; and Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*

reflects the larger sample size, the decline in that figure for Anglo men may indicate that Anglo families were more stable and settled in 1900 than in 1880.

Without question, the arrival of the railroad transformed the marriage market for Anglo men. Prior to 1880, those who wished to reproduce familiar domestic arrangements—to replicate “the charms and joys of home”—did so by building families with local women. Once Anglo women entered the territory in large numbers, however, mixed unions were no longer a necessity and the proportion of Anglo men partnered with nuevamexicanas declined precipitously.

Yet, inverting the lens through which we view intermarriage by privileging the experience of local women over that of immigrant men, illuminates the relative rarity of exogamous marriage in nineteenth-century New Mexico. Nuevomexicanos had an overwhelming preference for endogamy. From the perspective of nuevamexicanas and their families, Anglo men were not particularly appealing marriage partners. Thus, the significance scholars have previously attributed to intermarriage in the Southwest—that it facilitated the

transition to Anglo control by forging alliances between elites, muted ethnic hostility, and initiated a process of assimilation—does not hold up when we place nuevamexicanas at the center of our analysis.

Transgressing racial boundaries in one's personal life did not bridge the racial divide in the community. Thus, Frank Ogden, for example, could decry the presence of "ignorant Mexicans" in his local assembly of the Knights of Labor despite his marriage to a nuevamexicana. Likewise, the fact that Charles Blanchard and José Bernard had intermarried did not protect them from attacks on their property by nuevomexicano nightriders. If intermarriage could, in fact, mute ethnic hostility, there were simply too few mixed unions in Las Vegas to make much of a difference.

The same can be said about the claim that intermarriage facilitated assimilation. As demonstrated by the example of John Steins, Anglo men often had to (or chose to) conform to the cultural expectations of the nuevomexicano community in order to gain access to nuevamexicana women. If intermarriage facilitated assimilation, it was just as likely to facilitate the assimilation of Anglo men to nuevomexicano culture as it was to facilitate the assimilation of nuevamexicanas. However, the sources that we have at our disposal to study mixed unions—particularly manuscript census schedules—are too blunt a tool to examine assimilation. Likewise, who the children of Anglo-nuevomexicano unions chose as their own spouses reveals little about their cultural identity. What it does suggest, however, is that the social taboo prohibiting intimate

Table 2.6: Marriages of Offspring of Anglo-Nuevomexicano Unions

	Nuevomexicanos		Anglos		Other	
	No.	%	No.	%	No.	%
<b>Men</b>	18	75	3	12.5	3	12.5
<b>Women</b>	18	49	18	49	1	1

*Source: Tenth Census of the United States, 1880; and Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*

relationships between white women and men of color remained potent in Las Vegas—potent enough that even men who had one Anglo parent were often not “white enough” to marry Anglo women (see Table 2.6).

The infrequency of mixed unions in Las Vegas during the latter half of the nineteenth century was not the result of state prohibitions of intermarriage. Instead, it was the product of sharp racial boundaries constructed by the people themselves—by nuevomexicanos as well as Anglos—in the absence of state intervention. Their answer to the question of how nuevomexicanos could or should be incorporated into the Union after the Mexican War was resoundingly clear: not through intermarriage or racial amalgamation.

The inclusion nuevomexicanos sought was ultimately civic in nature. Above all, they wanted to be recognized as legitimate citizens of the United States. In the minds of many nuevomexicanos in San Miguel County, however, full and equal membership in the national community was predicated upon recognition of their property rights under Spanish and Mexican law and in accordance with the Treaty of Guadalupe Hidalgo, as they understood it.



## Chapter 3

### Land Taking and Boundary Making: The Battle for the Las Vegas Land Grant Begins

When the United States acquired the Southwest, it encountered a system of land tenure different from its own. This was particularly true in New Mexico, where the most common form of land holding—the community land grant—blended private ownership of agricultural parcels with individual usufruct rights to communally owned forests, grasslands, and water sources. The mixture of private and communal ownership prevalent in nineteenth-century New Mexico was the product of Spanish, and later Mexican, colonial land policy which offered enormous grants of land as inducements to settling the frontier—simultaneously promoting community formation and border defense.<sup>1</sup>

Once a community grant was awarded to a group of settlers, each head of household received an individual allotment of land for cultivation along a stream

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<sup>1</sup> Except for Pueblo land grants, most grants during the early Spanish colonial period were awarded to individuals as rewards for service to the Crown. This pattern began to shift during the eighteenth century, and by the early nineteenth century, community grants were most common. Malcolm Ebright, *Land Grants and Lawsuits in Northern New Mexico* (Albuquerque: University of New Mexico Press, 1994), 14, 22, 24. The literature on Spanish and Mexican land grants is immense. For a representative sample see J. J. Bowden, "Private Land Claims in the Southwest" (master's thesis, Southern Methodist University, 1969); John R. Van Ness and Christine M. Van Ness, eds., *Spanish and Mexican Land Grants in New Mexico and Colorado* (Manhattan, Kansas: Sunflower University Press, 1980); William deBuys, "Fractions of Justice: A Legal and Social History of the Las Trampas Land Grant, New Mexico," *New Mexico Historical Review* 56 (January 1981): 71-97; Victor Westphall, *Mercedes Reales: Hispanic Land Grants of the Upper Rio Grande Region* (Albuquerque: University of New Mexico Press, 1983); G. Emlen Hall, *Four Leagues of Pecos: A Legal History of the Pecos Land Grant, 1800-1933* (Albuquerque: University of New Mexico Press, 1984); and Charles L. Briggs and John R. Van Ness, eds., *Land, Water, and Culture: New Perspectives on Hispanic Land Grants* (Albuquerque: University of New Mexico Press, 1987). The land grant system that developed in New Mexico was quite different from the California ranchos and mission grants as well as the empresario system in Texas. For California, see Bowden, "Private Land Claims in the Southwest;" Rose Hollenbaugh Aviña, *Spanish and Mexican Land Grants in California* (New York: Arno Press, 1976); and Iris W. H. Engstrand, "An Enduring Legacy: California Ranchos in Historical Perspective," *Journal of the West* 27, no. 3 (1988): 36-47; on Texas, see also Bowden, *Spanish and Mexican Land Grants in the Chihuahuan Acquisition* (El Paso: Texas Western Press, 1971).

or river, as well as rights to use the unallotted lands in common with other residents for hunting and fishing, gathering firewood and building materials, and pasturing their livestock. These common lands—the *ejido*—played an essential role in the subsistence economies of nuevomexicano communities by providing access to water, grazing land, and the resources of the mountain forests. Unlike individual parcels which became the private property of the allottee after four years of possession and could then be sold or transferred without restriction, ownership of the *ejido* was vested in the community. While municipal officials could distribute additional allotments as population growth required it, the common lands could not be sold under Hispanic law.<sup>2</sup>

The permanent Hispanic settlement of what would become San Miguel County began in the late eighteenth century as colonial officials worked to create buffer communities between nomadic plains Indians and population centers like Santa Fe. To that end, the Spanish Crown issued a series of grants to lands north and east of the capital. But as population growth outstripped the availability of arable and grazing land, what began as a gradual advance of the Hispanic frontier accelerated dramatically after Mexican independence as settlers vied for control of the abundant grasslands in the northeastern high plains of New

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<sup>2</sup> Many scholars have argued that these factors contributed to a cultural emphasis on the use-value of land over its exchange-value. deBuys, *Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range* (Albuquerque: University of New Mexico Press, 1985), 9; Sylvia Rodríguez, "Land, Water, and Ethnic Identity in Taos," in *Land, Water, and Culture*, ed. Briggs and Van Ness, 382-83; Van Ness, "Hispanic Land Grants: Ecology and Subsistence in the Uplands of Northern New Mexico and Southern Colorado," in *ibid.*, 193. However, some historians have complicated this view by demonstrating that the process of privatization of the common lands of some grants began decades before the *U.S. v. Sandoval* (1897) decision and widespread partition suits required it. See especially Robert D. Shadow and María Rodríguez-Shadow, "From *Repartición* to Partition: A History of the Mora Land Grant, 1835-1916," *New Mexico Historical Review* 70 (July 1995): 257-98.

Mexico. The intense competition for control of those resources resulted in a series of overlapping claims so that by 1846, San Miguel County contained all or part of more than twenty different private and community land grants.<sup>3</sup>

The first of these was San Miguel del Bado, a community grant of more than 300,000 acres located on the Pecos River and awarded to fifty-two families in 1794. Settlement on the grant began slowly until 1803 when fifty-eight individuals received formal allotments at San Miguel and an additional forty-six families were allotted land at San José. Within a decade, San Miguel became the principal village on the grant and served as a “springboard” for the expansion of Hispanic settlement along the Pecos.<sup>4</sup>

As the population grew, residents sought out new lands beyond the boundaries of the San Miguel del Bado grant to graze their growing livestock herds. The grasslands in the surrounding area attracted not only settlers from

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<sup>3</sup> The area that became San Miguel County contained all or part of more than twenty different community and private grants, the majority of which were awarded during the Mexican period, many only a year or two before the Mexican–American War. The community grants included, among others, the following: San Miguel del Bado (1794), Anton Chico (1822), Tecolote (1824), Mora (1835), Las Vegas (1835), Manuelitas (1845) and John Scolly (1846). The private grants that are significant for this study include Los Trigos (1814), Alexander Valle (1815), Antonio Ortiz (1819), Preston Beck, Jr. (1823), Pablo Montoya (1824), Sanguijuela (1842), Santiago Boné (1842), and El Salitre (1842). A Spanish grant to Pecos Pueblo was also located within the boundaries of San Miguel County. On the Pecos grant, encroachment on Indian land, and early land speculation in the area, see Hall, *Four Leagues of Pecos*.

<sup>4</sup> For typescript copies and English translations of the grant petition, decree, act of possession and 1803 allotments at San Miguel, see Case #198, *Juan Marquez et al v. United States*, reel 21, frames 210840-843, 210849-856, 210862-865, Series 301: U.S. Court of Private Land Claims, Thomas B. Catron Papers, Center for Southwest Research (hereafter CSWR), University Libraries, University of New Mexico (hereafter UNM) (hereafter cited as New Mexico Land Title Records); for translations of the act of possession and distribution of allotments at San Jose, see Case # 25, *Julian Sandoval et al v. United States*, reel 3, frames 300606-612, New Mexico Land Title Records. On the settlement of the grant, see Ebright, *Land Grants and Lawsuits*, 171-73; for the town of San Miguel del Bado as a “springboard” for other settlements, see Richard L. Nostrand, *The Hispano Homeland* (Norman: University of Oklahoma Press, 1992), 77; and for a general history of the grant, see Hall, “San Miguel del Bado and the Loss of the Common Lands of New Mexico Community Land Grants,” *New Mexico Historical Review* 66 (October 1991): 413-32.

San Miguel, but some of New Mexico's largest stock raisers as well. In the scramble for land that ensued, San Miguel authorities consistently attempted to block new land grants in the area from 1814 to 1824.<sup>5</sup> While they protested against large private grants to Santa Fe elites, local officials also objected to the settlement of new community grants. In both cases, they could argue that they did so in order to prevent encroachment on lands already used by San Miguel residents to graze their animals. But it also became clear that local authorities tried to block new grants in order to protect their own private interests as well, as small stock-raisers and wealthy ranchers alike began to press claims to the large meadows on the Gallinas River approximately twenty-five miles to the northeast.<sup>6</sup>

When Luis María Cabeza de Baca was the *alcalde* of San Miguel del Bado in 1820, he petitioned the *diputación* at Durango for a grant to these lands known as *las vegas grandes* on behalf of himself and eight others.<sup>7</sup> Once the grant was awarded, however, Cabeza de Baca moved to secure individual control over the land. Within a year, he informed the *diputación* that the other eight grantees had acquired land elsewhere and were no longer interested in the

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<sup>5</sup> Ebright, *Land Grants and Lawsuits*, 189, 194.

<sup>6</sup> *Ibid.*, 189-94.

<sup>7</sup> The *alcalde* was a local municipal official whose duties were both judicial and administrative. The *ayuntamiento* was a town council and the *diputación* was a legislature. With one exception, Spanish words will be italicized only on first occurrence. *Las vegas grandes* will continue to be italicized in order to distinguish the general area of grasslands along the Gallinas from the town or the land grant. On the Mexican administration of New Mexico, see David Weber, *The Mexican Frontier, 1821-1846: The American Southwest Under Mexico* (Albuquerque: University of New Mexico Press, 1982). For the Spanish administration of New Mexico, see Marc Simmons, *Spanish Government in New Mexico* (Albuquerque: University of New Mexico Press, 1968).

Las Vegas grant; therefore, he requested the grant be revised and awarded as a private grant to him and his sons.<sup>8</sup>

Although Cabeza de Baca's second petition was successful, the new alcalde at San Miguel refused to place him in possession of the land. The family continued to battle with local authorities after Mexico achieved independence from Spain, and while the change in administration likely contributed to the delay, it was the recalcitrance of San Miguel officials that prevented the formal delivery of the grant. In the meantime, Cabeza de Baca and his sons continued to graze their herds of horses, mules, cattle, and some three thousand sheep on *las vegas grandes*.

Their use of the grant did not change after the alcalde finally placed Cabeza de Baca in possession of the land in 1826 under order of the governor. They did not settle on the grant, nor did they irrigate any fields. Instead, they erected little more than a hut for their shepherds to use when tending the flocks. Repeatedly driven off the land by "hostile Indians," the Cabeza de Baca family reportedly suffered \$36,000 in losses and finally abandoned the grant for good sometime after 1831.<sup>9</sup>

The persistent fear of Indian reprisals was not enough to dissuade other residents of San Miguel from seeking control over the valuable grasslands on the

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<sup>8</sup> Cabeza de Baca was awarded more than half a million acres, bounded on the south by the San Miguel del Bado grant, on the north by the Sapello River, on the west by the summit of the Pecos mountains, and on the east by the Antonio Ortiz grant and the Aguaje de la Yegua. House, *New Mexico—Private Land Claims. Letter from the Secretary of the Interior, communicating documents in relation to private land claims in New Mexico*, 36<sup>th</sup> Cong., 1<sup>st</sup> sess., 10 February 1860, H. Exdoc. 14, 5-8. When he appealed to the provincial diputación of the state of Durango, Cabeza de Baca bypassed the customary procedure of petitioning the governor of New Mexico for a land grant—something competing claimants would later argue rendered the grant void.

<sup>9</sup> House, *New Mexico—Private Land Claims*, 3-4, 38-39.

Gallinas River. On the contrary, public officials launched a campaign to colonize *las vegas grandes*, arguing that settling the northern frontier would ultimately end the “Indian problem” and would, in the meantime, provide a buffer between nomadic Indians and communities like San Miguel and Santa Fe. This new campaign was led by the local parish priest, José Francisco Leyba, who sent a petition to the governor in the June 1831 enumerating the problems plaguing San Miguel that could be remedied by a government program to settle northeastern New Mexico. In addition to providing an immediate stopgap measure and a long-term solution to the Indian problem, the settlement of northeastern New Mexico, he argued, would relieve population pressures, alleviate poverty, and siphon off the unsavory element of San Miguel.<sup>10</sup>

By 1831, the population of San Miguel exceeded two thousand people and adequate agricultural land was increasingly difficult to come by as the population continued to grow.<sup>11</sup> The result, according to Leyba, was a growing number of vagrants who placed an undue burden on a community already beset with widespread poverty. The logical solution to the economic and social problems San Miguel faced, he suggested, was the settlement of northeastern New Mexico through the proper enforcement of the *Ley de Vagos*, an 1828 law which gave vagrants the option of settling new lands on the frontier as an alternative to military service or prison. Leyba offered Las Vegas, Sapello, and Ocaté—places

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<sup>10</sup> Anselmo Arellano and Julian Josué Vigil, *Las Vegas Grandes on the Gallinas, 1835-1985* (Las Vegas, New Mexico: Editorial Telaraña, 1985), 9, 11, 12.

<sup>11</sup> *Ibid.*, 9. Several other villages were established on the grant as well. In addition to San Miguel and San José, La Cuesta, Las Mulas, El Pueblo, Puerticita, El Gusano, and Bernal were all settled prior to the American occupation. Ebright, *Land Grants and Lawsuits*, 289 n. 153.

already used for grazing by San Miguel residents—as potential locations where land and water were plentiful. He assured the governor that “industrious men” would also benefit from his proposal, especially if government assistance in the form of tools and oxen was granted to prospective settlers.<sup>12</sup>

The *ayuntamiento* of San Miguel heartily endorsed Leyba’s proposal and after eight months of government inaction, they solicited the assistance of the *ayuntamiento* of Santa Fe. Leyba’s colonization plan would benefit the entire territory, they explained, not simply because it would encourage the development of agriculture, but because it would close off the northern frontier protecting population centers like Santa Fe from Indian raids. Although the *ayuntamiento* of Santa Fe responded favorably and pledged to cooperate with the San Miguel officials, Leyba’s plan to settle Las Vegas languished for another three years.<sup>13</sup>

Then, in March 1835, four citizens of San Miguel—Juan de Dios Maese, Miguel Archuleta, Manuel Duran, and Antonio Casaos—petitioned the *ayuntamiento* for a tract of land on the Gallinas River bounded on the west by the San Miguel del Bado grant, the Ortiz grant on the south, the Aguaje de la Yegua on the east, and the Sapello River on the north, for themselves as principal settlers and on behalf of twenty-five others whom they did not name. Rather than block the grant, as they had attempted to do in Cabeza de Baca’s case, the San Miguel *ayuntamiento* endorsed the petition and forwarded it to the territorial diputación with the recommendation that the governor award the land with the proposed boundaries—all on the same day the petitioners requested the grant.

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<sup>12</sup> Arellano and Vigil, *Las Vegas Grandes*, 9-11; Ebright, *Land Grants and Lawsuits*, 179-81.

<sup>13</sup> Ebright, *Land Grants and Lawsuits*, 180; Arellano and Vigil, *Las Vegas Grandes*, 11-12.

Their immediate action, undoubtedly a result of the fact that the secretary of the ayuntamiento was one of the authors of the grant petition, signaled an important shift in the behavior of the San Miguel ayuntamiento from promoting the settlement of Las Vegas to directly participating in it.<sup>14</sup>

When the territorial diputación approved the Las Vegas grant, they awarded it not simply to the twenty-nine petitioners, but to the citizens of San Miguel and all future settlers who did not own their own farmland. The governor instructed the alcalde of San Miguel, José de Jesús Ulibarrí, to establish a plaza site, distribute private allotments, and order the settlers to provide for defense of their village. Ulibarrí did so on 6 April 1835, assigning private tracts up to 250 *varas* (a Spanish yard, or approximately 33 inches) wide to thirty-one settlers who were informed that the pastures and water sources within the boundaries of the grant were held in common by all. They were also ordered to organize the construction and maintenance of *acequias* and the equitable distribution of water for irrigation, as well as build a wall around their settlement and arm themselves to defend against Indian raids.<sup>15</sup>

Settlement did not proceed as dictated, however. Initially, the bulk of grantees refused to occupy their tracts on the Las Vegas grant, hoping to receive allotments on the more secure Tecolote grant instead. Only after that avenue was closed off did they initiate the permanent settlement of the Las Vegas grant in 1838. They did not, however, establish the single fortified village organized

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<sup>14</sup> Antonio Casaos was the secretary. House, *New Mexico—Private Land Claims*, 17-18; Ebright, *Land Grants and Lawsuits*, 181, 194. Three other members received allotments at Las Vegas, including José Ulibarrí, the president of the ayuntamiento and alcalde of San Miguel.

<sup>15</sup> House, *New Mexico—Private Land Claims*, 18-22. *Acequias* are irrigation ditches.



around a central plaza as mandated by the territorial diputación and alcalde Ulibarrí. Instead, several small communities dotted the banks of the Gallinas River, including two communities at Las Vegas, each with its own patron saint—Las Vegas proper, known as Nuestra Señora de los Dolores de Las Vegas, and San Antonio or Upper Town. By the time General Stephen Watts Kearny claimed possession of New Mexico on behalf of the United States from a rooftop overlooking the plaza in Las Vegas, at least eleven villages were scattered across the grant, supporting well over three hundred families.<sup>16</sup>

Under the Treaty of Guadalupe Hidalgo, the United States pledged to uphold and protect the property rights of former Mexican citizens living in its newly acquired territory. Yet, there was a sharp distinction between Anglo and Hispanic law, practice, and tradition. Legal scholars have characterized the encounter between the two as a clash between a common law tradition that relied on formal, substantive law to provide certainty and predictability in an individualistic and adversarial system, and a civil law tradition that embraced custom over code in a conciliatory system that was informal, flexible, and responsive to local conditions in order to protect communal interests.<sup>17</sup> In the

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<sup>16</sup> Additional allotments up to 1,067 varas wide were distributed between 1841 and 1846 to more than 150 individuals, House, *New Mexico—Private Land Claims*, 22-27. The other villages were San Gerónimo, Lagunas, Ojitos Frios, Agua Sarca, Los Fuertes, San Agustín, Concepción, Cañada del Salitre, Lagunas, Los Ojos (Hot Springs), and Los Alamos. Ebright, *Land Grants and Lawsuits*, 119; Clark S. Knowlton, “The Town of Las Vegas Community Land Grant: An Anglo-American Coup D’ Étet,” *Journal of the West* 19 (July 1980): 14.

<sup>17</sup> On the collision of legal systems and Hispanic legal culture in general, see David J. Langum, *Law and Community on the Mexican California Frontier: Anglo-American Expatriates and the Clash of Legal Traditions, 1821-1846* (Norman: University of Oklahoma Press, 1987); Michael C. Meyer, *Water in the Hispanic Southwest: A Social and Legal History, 1550-1850* (Tucson: University of Arizona Press, 1996 [1984]); María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Lawrence: University Press of Kansas, 2002); Paul W. Gates, *Land and Law in California: Essays on Land Policies* (Ames: Iowa State University Press, 1991); Donald J. Pisani, “Squatter Law in California, 1850-

collision of legal cultures that followed the military conquest of the Southwest, reconciling Spanish-Mexican land law and custom with U.S. land policy and legal traditions would be no easy task.

The Hispanic amalgam of individual and community land tenure was distinct from the American system of private, individual ownership vested in exclusive and absolute title to discrete tracts of land. This fee simple system encouraged a strong sense of personal proprietorship signifying absolute control over the land and its resources. Land was a commodity, as an article of trade itself and for the “merchantable commodities” it might yield. The value of land in the American system was ultimately determined by the price it could fetch in the capitalist marketplace.<sup>18</sup>

The American system of land tenure rested on the rectangular survey system created by the Land Ordinance of 1785. Under this law, public surveyors

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1858,” *Western Historical Quarterly* 25, no. 3 (Autumn 1994): 277-310; Charles R. Cutter, *The Legal Culture of Northern New Spain, 1700-1810* (Albuquerque: University of New Mexico Press, 1995); Victor M. Uribe-Uran, “The Great Transformation of Law and Legal Culture: ‘The Public’ and ‘the Private’ in the Transition from Empire to Nation in Mexico, Colombia, and Brazil, 1750-1850,” in Joseph W. Esherick, Hasan Kayali, and Eric Van Young, eds., *Empire to Nation: Historical Perspectives on the Making of the Modern World* (Rowman & Littlefield Publishers, Inc., 2006), 68-105; Peter Guardino, “Barbarism or Republican Law? Guerrero’s Peasants and National Politics, 1820-1846,” *Hispanic American Historical Review* 75, no. 2 (May 1995): 185-213; and James F. Brooks, “‘Lest We Go in Search of Relief to Our Lands and Our Nation’: Customary Justice and Colonial Law in the New Mexico Borderlands, 1680-1821,” in Christopher L. Tomlins and Bruce H. Mann, eds., *The Many Legalities of Early America* (Chapel Hill: University of North Carolina Press, 2001), 150-180.

<sup>18</sup> Quote in William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England* (New York: Hill and Wang, 1983), 20; Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: W.W. Norton & Company, 1987), 55; Hal Rothman, *On Rims and Ridges: The Los Alamos Area Since 1880* (Lincoln: University of Nebraska Press, 1992), 20, 24-6. On federal land policy in general, see Paul W. Gates, *History of Public Land Law Development* (Washington, D.C.: Government Printing Office, 1968). On the origins of land ownership patterns in colonial (British) America and the early transition from communal landholding to private property in New England, see Edward T. Price, *Dividing the Land: Early American Beginnings of Our Private Property Mosaic* (Chicago: The University of Chicago Press, 1995). According to Price, “land appears to have been viewed as a marketable commodity from its first distribution in the colonies” (332).

divided the lands west of Pennsylvania into thirty-six square mile townships with 640-acre sections, imposing a geometric grid on the landscape with arbitrary lines drawn at right angles without concern for typography, soil type, or water sources. The grid survey thus facilitated the commodification of land by creating standardized units with precisely measurable boundaries plotted on a map, which could be centrally recorded and administered. This system transformed unmapped Indian lands into a simplified, ordered, and manageable landscape of neatly drawn squares and rectangles. In essence, the extension of the grid survey could make newly acquired territory “legible” to its new sovereign, while simultaneously imposing a new spatial and economic order on preexisting land tenure patterns.<sup>19</sup>

New Mexico Territory was brought under the dominion of federal land policy in 1854 through legislation creating the Office of the Surveyor General of New Mexico. This law was designed to Americanize the territory through property law—first and foremost by ordering the extension of the survey into New Mexico. In an effort to encourage immigration and attract American settlers to the territory, the second section of the Act offered a donation of 160 acres of land to “every white male citizen of the United States” who already lived in New Mexico or would move to the territory before 1858, provided they live on and cultivate the parcel for four years. Together with the extension of the Preemption

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<sup>19</sup> Gates, *History of Public Land Law Development*, 59-74; John Opie, *The Law of the Land: Two Hundred Years of American Farmland Policy* (Lincoln: University of Nebraska Press, 1987), xvii-3, 11-12; James C. Scott, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998), 2, 35, 44-5, 51; and Roger J. P. Kain and Elizabeth Baigent, *The Cadastral Map in the Service of the State: A History of Property Mapping* (Chicago: University of Chicago Press, 1992), 294, 297, 329, 341. On the need of modern states to make outlying areas legible to the center for purposes of management and control, see Scott, *Seeing like a State*.

Act of 1841, the donation provision reflected Congressional desire to re-make New Mexico into a land of independent, commercially-oriented, family farmers. One of the final sections of the law ordered the surveyor general “to ascertain the origin, nature, character, and extent of all claims to land under the laws, usages, and customs of Spain and Mexico.”<sup>20</sup>

The first man selected for this task was William Pelham. An engineer by trade, Pelham had previously served as surveyor general of Arkansas. The fact that he had no knowledge of Spanish or Mexican law and could not speak or read Spanish did not disqualify him for the position.<sup>21</sup> Instead, the Commissioner of the General Land Office, John Wilson, simply instructed Pelham to acquaint himself with the laws of Spain, relevant decisions of the U.S. Supreme Court, and congressional legislation prior to his arrival in New Mexico. That would allow him “to apply the principles of the Spanish system as understood and expounded by the authorities of [the United States] government” to his investigation of land titles in New Mexico.<sup>22</sup>

Pelham’s primary responsibility was to determine what land was held privately and what constituted the public domain. Under international law, ownership of all lands classified by Spain as public domain and later held by the Mexican government passed to the United States as successor sovereign. At the same time, Commissioner Wilson explained, the sanctity of private property

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<sup>20</sup> *An act to establish the offices of Surveyor-General of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes, United States Statutes at Large*, 33rd Cong., 1st sess., Ch. 103 (22 June 1854), 10 Stat. 308.

<sup>21</sup> Hall, *Four Leagues of Pecos*, 79, 84.

<sup>22</sup> “Instructions to the Surveyor General of New Mexico,” 21 August 1854, in House, *Report of the Commissioner of the General Land Office*, 33<sup>rd</sup> Cong., 2<sup>nd</sup> sess., 30 November 1854, H. Exdoc. 1/6, 88-89, quote on 89.

was a principle of law “universally acknowledged by civilized nations.” He also reminded Pelham that the United States had expressly agreed to uphold “the security and protection of private property” in the Treaty of Guadalupe Hidalgo. As a result, the legislation creating his office required that any lands under a pending claim were reserved from sale or government disposal until the title was settled.<sup>23</sup>

Commissioner Wilson provided explicit instructions for the procedure Pelham should follow in order to determine the validity of private land claims in New Mexico. Upon his arrival in Santa Fe, he was to assemble an official archive of land documents from whatever Spanish and Mexican government records were available in the capital and to restrict the public’s access to those documents. Once he had gathered official grant papers, conveyance records, and land titles, Pelham was instructed to organize them by date, bind them, and prepare an index in duplicate. He was also directed to prepare, in duplicate, an abstract listing all Spanish and Mexican land grants—including the date, location, and acreage of each grant, the name of each grantee, as well as the name of the official who made the grant along with an explanation of their authority to do so.<sup>24</sup>

Once these documents were collected, translated, duplicated, and properly recorded, Pelham was authorized to gather evidence and hear testimony after notifying the public that all Spanish and Mexican land claimants were required to file written notice and supporting documentation of their claim with the surveyor general’s office. In the case of grants made by Spanish or

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<sup>23</sup> Ibid., quotes on 88; see also *An act to establish the offices of Surveyor-General of New Mexico*.

<sup>24</sup> “Instructions to the Surveyor General of New Mexico,” 89.

Mexican authorities to establish towns, Commissioner Wilson provided special instructions for adjudication: when Pelham could verify that the community filing a claim was established prior to 22 June 1854, he should consider the simple existence of that community as *prima facie* evidence of a grant to that community. With all other grants, however, Pelham was instructed to guard against fraud—particularly the possibility of antedated claims—and told to hold any suspicious documents “to the severest scrutiny and test.”<sup>25</sup>

Indian land claims were to be examined separately from individual and municipal claims, and this task comprised the second component of Pelham’s duty. Commissioner Wilson had received reports that the Pueblo Indians were “an industrious, agricultural, and pastoral people” who not only lived in villages on lands granted to them by Spain, but had also been granted citizenship and suffrage by the Republic of Mexico. Wilson had also learned that the General Assembly of New Mexico passed an act in 1847 which confirmed Spanish and Mexican land grants to the various Pueblos, conveyed title to those lands in common, and defined the Pueblos as “bodies politic and corporate” with perpetual succession. Thus, it was imperative that Pelham thoroughly investigate the status, condition, and land claims of the Pueblo Indians in New Mexico. This was a weighty responsibility, Wilson explained, because only a thorough report from him would “enable Congress to understand the matter fully, and legislate in such a manner as will do justice to all concerned.”<sup>26</sup> Wilson concluded his instructions with the following caveat:

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<sup>25</sup> Ibid., 90-2.

<sup>26</sup> Ibid., 92-3; quote on 93.

It is obligatory on the government of the United States to deal with the private land titles, and the “pueblos,” precisely as Mexico would have done had the sovereignty not changed. We are bound to recognize all titles as she would have done—to *go that far, and no further*. This is the principle which you will bear in mind in acting upon these important concerns.<sup>27</sup>

As an agent of the state on the ground, the surveyor general was thus responsible for ensuring that the United States meet its treaty obligations without surrendering its right to the spoils of the Mexican War—land that would be included in the public domain.

In hindsight, it seems obvious that the surveyor general would fail to do both. Anglos’ conception of private property, public domain, and the distinction between the two differed from that of nuevomexicanos. Both distinguished between land that was publicly owned and land that was privately used. But Spanish law recognized two classes of public domain: *tierras baldías* and *tierras concegiles*. The first referred to vacant or unappropriated land owned by the sovereign. This definition was perfectly compatible with Anglo notions of what constituted the public domain. It was the second class of land, the *tierras concegiles*, that produced confusion. *Tierras concegiles* were lands owned by communities or municipalities—the *ejido* in a community land grant—and they were considered private domain.<sup>28</sup>

The United States’ pledge to protect private property was a promise to protect “private property” as they understood it, not as it was understood in New Mexico. Exclusivity was fundamental to Anglo notions of private property.

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<sup>27</sup> *Ibid.*, 94, emphasis added.

<sup>28</sup> Hall, *Four Leagues of Pecos*, 10-11; Ebright, *Land Grants and Lawsuits*, 87, 113-14; see also Ebright, “The San Joaquin Grant: Who Owned the Common Lands? A Historical-Legal Puzzle,” *New Mexico Historical Review* 57 (January 1982): 5-26.

Private property was owned by an individual for his or her exclusive use, something no other could claim or use. It was land over which the owner had complete dominion to exclude or expel all others. Hispanic law recognized this form of private property as well. Individuals owned their individual parcels in a community land grant. The land they lived upon, cultivated, irrigated, and fenced was their private property which they could and did sell. But, ejidos were private property as well—in Spanish property law, municipal ownership was private ownership. This was incomprehensible to many Anglo policy-makers. By their definition, ownership that did not convey a legal right to exclude others was no ownership at all.

By its very nature, the process for settling Spanish and Mexican land claims that was authorized by Congress and implemented by the General Land Office guaranteed that the United States would fail to treat land titles “precisely as Mexico would have done.” While Pelham was told to examine the validity of land claims according to Spanish and Mexican law, he was instructed to learn what those laws were by familiarizing himself with decisions of the U.S. Supreme Court and legislation passed by the U.S. Congress. From the outset, the surveyor general’s task was not to understand Spanish or Mexican land law on its own terms, but rather to learn how U.S. lawmakers and jurists understood and interpreted those laws. Some things were lost in translation. Most significantly overlooked or misunderstood was the fact that Spanish-Mexican law was derived from three components: written law, judicial interpretations of the written law, and custom. Of the three, custom was most important. In the case of property rights



in New Mexico, that meant that use, possession, and abandonment were more significant indications of ownership than a paper title.<sup>29</sup>

Without an understanding of the system of land tenure practiced in New Mexico or the law that governed it before 1848, U.S. officials simply could not meet the terms of the treaty.<sup>30</sup> It should come as no surprise that the procedure required for filing a claim was more appropriate to the U.S. legal system than the Spanish. Claimants were required to submit a written notice that identified the original claimant, the government official who awarded the grant (with evidence that he possessed the power and authority to do so), the means by which the

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<sup>29</sup> Ebright, *Land Grants and Lawsuits*, 2, 23-24, 67-69; Hall, *Four Leagues of Pecos*, 10. Even though custom was most significant, paper titles were also important. See especially, Meyer, *Water in the Hispanic Southwest*, 146-48. As discussed below, Pelham archived almost 2,000 conveyances, deeds, and titles in his first year in office.

<sup>30</sup> Scholars have disagreed about the intentions and obligations of the United States under the treaty. The eighth article of the treaty declared that property owned by Mexican citizens in the territory acquired by the United States would not be subject “to any contribution, tax, or charge whatever” whether they chose to sell their property and remove themselves to Mexico or chose to remain in the United States. The rights of non-resident Mexicans were further protected by the pledge that “property of every kind, now belonging to Mexicans not established [in the Mexican Cession], shall be inviolably respected.”

The final version of the treaty provided little protection for former Mexicans who remained in the conquered territories, but that was not the case initially. Article X provided that: “All grants of land made by the Mexican Government or by the competent authorities, in territories previously appertaining to Mexico, and remaining for the future within the limits of the United States, shall be respected as valid, to the same extent that the same grants would be valid, if the said territories had remained within the limits of Mexico.” This article was stricken from the treaty prior to its ratification by Congress.

On the provisions of Article X, the significance of its deletion from the treaty, and the explanation provided by the U.S. in the Protocol of Querétaro, see Richard Griswold del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990), 47-9, 53-5, 95-6; for the original text of Article X, the Protocol of Querétaro, and the treaty as ratified, see *ibid.*, 180-99. For a useful summary of the historiographical debate over the treaty, see Christopher David Ruiz Cameron, “One Hundred Fifty Years of Solitude: Reflections on the End of the History Academy’s Dominance of Scholarship on the Treaty of Guadalupe Hidalgo,” in *The Legacy of the Mexican and Spanish-American Wars: Legal, Literary, and Historical Perspectives*, ed. Gary D. Keller and Cordelia Gandelaria (Tempe: Bilingual Review/Press, 2000), 1-22. For a comparison of Native American and Hispanic land loss due to shifting legal interpretations of property rights vested in various Indian treaties and the Treaty of Guadalupe Hidalgo, see Christine A. Klein, “Treaties of Conquest: Property Rights, Indian Treaties, and the Treaty of Guadalupe Hidalgo,” *New Mexico Law Review* 26 (spring 1996): 201-56.

original grant was later conveyed to the current claimant, and a survey demonstrating “the precise locality and extent” of the grant. In short, they were expected to document the chain of title from its origin to the present.<sup>31</sup>

Armed with his instructions from the General Land Office, Pelham arrived in Santa Fe on 28 December 1854 and got to work. It was not long before the surveyor general complained about the inadequacies of the legislation creating his office and the unrealistic expectations of his superiors. He was underfunded, understaffed, and was prevented from making much progress in extending the grid survey because of the “constant danger from attacks by the Indians.” Although Pelham had located almost two thousand documents related to grants and private land claims in Santa Fe, he could not complete the archive because he lacked access to the records held in each of the county seats and those housed in archives in El Paso, which included most of the earliest Spanish grants.<sup>32</sup>

The surveyor general also decried the requirements for properly filing land claims with his office, explaining to the commissioner of the General Land Office that the law placed an undue burden and expense on the claimants and thus “utterly failed to secure the object for which it was intended.” That was reason enough, Pelham argued, to explain why only fifteen claims had been submitted for adjudication in the nine months following his public notice requiring all individuals claiming land under Spain or Mexico to file their claims with his

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<sup>31</sup> “Instructions to the Surveyor General of New Mexico,” 90-91, quote on 91.

<sup>32</sup> “Report of the Surveyor General of New Mexico,” 30 September 1855, in House, *Report of the Commissioner of the General Land Office*, 33<sup>rd</sup> Cong., 2<sup>nd</sup> sess., 30 November 1855, H. Exdoc. 1/6, 301-304; quote on 303.

office.<sup>33</sup> Of those first fifteen claims, however, two were filed by groups claiming a grant to the very same piece of land in San Miguel County: the heirs of Luis María Cabeza de Baca and the town of Las Vegas.<sup>34</sup>

When Pelham submitted his report on those conflicting claims in December 1858, he argued that Congress did not intend for the surveyor general to “determine questions of rights between parties” when it created his office. Instead, Pelham maintained that his job was simply to determine if the claims presented to him were valid enough to warrant separating them from the public domain. If that were the case, he contended that the responsibility for mediating conflicting claims rested with the courts rather than his office.<sup>35</sup>

Both grants, Pelham explained, were made by legal authorities. The grant to Cabeza de Baca was made with “no condition” and was “an absolute one,” while the Las Vegas grant was “made in strict conformity with the laws and usages of the country at the time.” The validity of either grant warranted separating the land under question from the public domain and he “firmly believed . . . that in the absence of the one the other would be a good and valid grant.” With that explanation, and the justification that determining claims between conflicting claimants was beyond the scope of his office, Pelham decided that both grants were valid and merited congressional confirmation.<sup>36</sup>

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<sup>33</sup> *Ibid.*, 302.

<sup>34</sup> “Abstract of private land claims filed in the office of the surveyor general of New Mexico, from January 1, 1855 to August 30, 1856,” in Senate, *Report of the Commissioner of the General Land Office*, 34<sup>th</sup> Cong., 3<sup>rd</sup> sess., 29 November 1856, S. Exdoc. 5/5, 521.

<sup>35</sup> House, *New Mexico—Private Land Claims*, 44.

<sup>36</sup> *Ibid.*, 45.

Surprisingly enough, a year and a half later the Committee on Private Land Claims concurred with Pelham's conclusion that both grants were valid. However, the committee vehemently disagreed with his litigious solution. The fact that "several hundred families" lived on the same land previously granted to Cabeza de Baca in fee was what troubled them. While they conceded that it was not the responsibility of the surveyor general to adjudicate conflicting claims, Congress, the committee believed, was morally obligated

to legislate in such a manner as to prevent, if possible, so disastrous a result as the plunging of an entire settlement of families into litigation, at the imminent hazard of being turned out of their homes, or made to purchase a second time, from a private owner, lands for which they paid their government a full equivalent, in the labor, risk, and exposure by which they have converted a wilderness, surrounded by hostile savages, into a civilized and thriving settlement.

Congress could fulfill its responsibility "with little loss or cost to the government," the committee explained, by confirming title to the settlers and offering the Cabeza de Baca heirs an equivalent amount of land elsewhere if they would abandon their claim to Las Vegas.<sup>37</sup>

Congress approved the report of the surveyor general, as well as the solution to the conflicting claims offered by the Committee on Private Land Claims, and confirmed the grant to the Town of Las Vegas in June 1860.<sup>38</sup> Still, the ownership of the grant was far from resolved. First, the survey required by the act of confirmation found that the outer boundaries of the Las Vegas grant

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<sup>37</sup> Senate Committee on Private Land Claims, *Various Reports of the surveyor general of the Territory of New Mexico, in relation to private land claims in said Territory*, 36<sup>th</sup> Cong., 1<sup>st</sup> sess., 19 May 1860, S. Rept. 228, 4. The solution so heartily endorsed by the Committee on Private Land Claims was offered by the lawyer for the Cabeza de Baca heirs.

<sup>38</sup> *An Act to confirm certain Private Land Claims in the Territory of New Mexico, United States Statutes at Large*, 36<sup>th</sup> Cong., 1st sess., Ch. 167 (21 June 1860), 12 Stat. 71.

overlapped three others—while one set of conflicting claims had been resolved, three more remained.<sup>39</sup> Secondly, and perhaps more importantly, the grant had been confirmed to a municipal body that did not legally exist at the time. Despite the wording of the surveyor general’s report, the report of the Committee on Private Land Claims, and the legislation confirming the grant, there was no legally incorporated Town of Las Vegas.<sup>40</sup> The problem of precisely to whom the grant had been confirmed was also complicated by the fact that the act in no way addressed the status or ownership of the common lands. Without a patent, the title to the 496,446 acres embraced by the grant remained unsettled. Thus, despite the good intentions of Congress, more than forty years of litigation would be required to quiet title to the Las Vegas grant.

In that sense, Las Vegas was not unique. Overburdened and underfunded, New Mexico’s surveyors general made remarkably little progress in adjudicating land grants.<sup>41</sup> During the first fifteen years of operation, in fact, the Office of the Surveyor General acted on only forty-eight claims.<sup>42</sup> The action of the surveyor general, however, was only the first step in the woefully inefficient

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<sup>39</sup> Ebright, *Land Grants and Lawsuits*, 204.

<sup>40</sup> *Maese v. Herman*, 183 U.S. 572 (1902); Knowlton, “The Town of Las Vegas Community Land Grant,” 20; and Ebright, *Land Grants and Lawsuits*, 216-17.

<sup>41</sup> On the problems plaguing the Office of Surveyor General, as well as criticism of the procedures dictated by the 1854 act creating it, see especially Westphall, *Mercedes Reales*, 85-105; and Ebright, “New Mexican Land Grants: The Legal Background,” in *Land, Water, and Culture*, 34-41.

<sup>42</sup> This figure does not include Pueblo land claims, which were examined separately as noted above. Surveyor General Pelham approved eighteen of the twenty Pueblos during his first two years in office. Seventeen of those claims were confirmed by Congress in 1858; Santa Ana received confirmation in 1869 and Laguna was confirmed in 1895. Sixteen patents were issued in 1864, with Acoma, Santa Ana, and Laguna receiving patents in 1877, 1883, and 1909, respectively, and lands for Zuni Pueblo were “set aside by executive order” in 1877, 1883, and 1885. Westphall, *Mercedes Reales*, 113-15, 302 n. 26. The forty-eight claims mentioned above were disposed of by the first two surveyors general who served from 1854 to 1861. No additional claims were even processed by the following two men who held the office. This pattern changed dramatically when T. Rush Spencer took office. *Ibid.*, 95-98.

and inadequate system of adjudicating New Mexico land grants. His report recommending or rejecting a grant then had to wind its way through the General Land Office and the Department of the Interior before reaching the Committee on Private Land Claims, where it would be examined and evaluated prior to a congressional vote approving or rejecting the claim. Once an act was passed confirming the grant, it was then referred back to the General Land Office who was charged with conducting a survey of the outer boundaries of the grant and issuing a patent.<sup>43</sup> While the patent was, theoretically, the final step vesting title to the claimant, it could still be challenged in the courts.<sup>44</sup> As a result, after nearly four decades of adjudication, more than thirty-five million acres of land in New Mexico were still left with unsettled titles.<sup>45</sup>

This process occurred much differently in California, where the enormous economic potential of its natural resources, the flood of Anglo immigrants spurred by the gold rush, and early statehood encouraged a prompt settlement of private land claims. Consequently, in 1851, Congress created a three-member Board of Land Commissioners to examine Spanish and Mexican land grants in California. Their decisions on the validity of those claims were to be governed not only by

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<sup>43</sup> Exclusive of Pueblo grants, no patents were issued until 1871, as the authority to issue patents was not given until 1869. *An Act to Confirm certain private Land Claims in the Territory of New Mexico, United States Statutes at Large*, 40<sup>th</sup> Cong., 3<sup>rd</sup> sess., Ch. 152 (3 March 1869), 15 Stat. 352; *Maese v. Herman* (1902).

<sup>44</sup> On the importance of the patent, see Westphall, *Mercedes Reales*, 175-77. The Maxwell land grant is one example of a case in which the issuance of a patent did not settle title until it was upheld by the Supreme Court. On the history of the Maxwell grant, see Montoya, *Translating Property*.

<sup>45</sup> Of 212 claims examined by the Office of Surveyor General between 1854 and 1891, only 30 had been disposed of—22 were patented and 8 rejected. The greatest responsibility for the delay rested with Congress: by the time the Court of Private Claims was established in 1891, 116 grants were still awaiting action by Congress. Ebright, "New Mexican Land Grants," 41; Westphall, *The Public Domain in New Mexico, 1854-1891* (Albuquerque: University of New Mexico Press, 1965), 51; and *Ibid.*, *Mercedes Reales*, 275-80.

the Treaty of Guadalupe Hidalgo and international law, but by “the laws, usages, and customs of the government from which [it was] derived.”<sup>46</sup> While the rulings of the board could be appealed to the federal courts, if a claimant failed to present his or her claim within two years, the property embraced in that claim would automatically become part of the public domain. The commission completed its work in 1856, ultimately confirming over seventy-five percent of the acreage claimed by grantees. The procedures for confirmation of land grants in California were problematic, controversial, and open to fraud, but when compared with New Mexico, the system of adjudicating land grants in California was a model of justice and efficiency.<sup>47</sup>

New Mexico lacked all of the things that made settling land titles in California of such immediate importance. Despite the fact that both were geographically isolated, physically distant from Washington, D. C., and at the end of a primitive transportation and communication network, New Mexico remained

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<sup>46</sup> *An Act to ascertain and settle the private Land Claims in the State of California, United States Statutes at Large*, 31<sup>st</sup> Cong., 2<sup>nd</sup> sess., Ch. 41 (3 March 1851), 9 Stat. 631. While the difference in the language of the laws creating the California Land Commission, the Surveyor General of New Mexico, and the Court of Private Claims was slight, it had significant consequences for later interpretations of the Supreme Court.

<sup>47</sup> The confirmation rate for New Mexico was only twenty-four percent. For comparisons of the adjudication systems in New Mexico and California, see Westphall, *Mercedes Reales*, 85, 104, 252-54, 261-65; and Ebright, “New Mexican Land Grants,” 32-34, 41-42. On the adjudication of land grants in California, see Gates, “Adjudication of Spanish-Mexican Land Claims in California,” *The Huntington Library Quarterly* 21, no. 3 (May 1958): 213-36; *ibid.*, “The Suscol Principle, Preemption, and California Latifundia,” *Pacific Historical Review* 39, no. 4 (November 1970): 453-71; David Hornbeck, “The Patenting of California’s Private Land Claims, 1851-1855,” *Geographical Review* 69, no. 4 (October 1979): 434-48; Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, 73-77; Donald J. Pisani, “Squatter Law in California, 1850-1858,” *Western Historical Quarterly* 25, no. 3 (Autumn 1994): 277-310; and Peter L. Reich, “Dismantling the Pueblo: Hispanic Municipal Land Rights in California Since 1850,” *The American Journal of Legal History* 45, no. 4 (October 2001): 253-370.

an “obscure border province” decades longer than California.<sup>48</sup> It is difficult to overemphasize the significance of the gold rush in overcoming these obstacles to incorporation in the case of California. Without readily exploitable resources, capital, and the Anglo immigration that would follow, New Mexico remained a “valueless nuisance” in the eyes of many government officials and was regarded by most Americans as “an uncivilized, exotic, and backwards place” filled with mongrel Mexicans and debased Indians.<sup>49</sup> The adjudication of land titles in New Mexico, then, was easily superseded by matters that were significantly more pressing to members of Congress in the first decades after the acquisition of the territory: the Civil War, Reconstruction, and the “Indian problem.”

With the attention of Washington diverted elsewhere, the battle over control of *las vegas grandes* that began in the late eighteenth century intensified in the decades following confirmation of the Las Vegas land grant precisely because the legal ownership of the common lands were left unsettled. From the beginning, settlers had vied for control over these resources and worked to stake a personal claim over portions of the commons. In fact, a number of individuals were able to secure small, private grants within the boundaries of the Las Vegas grant prior to the American takeover. Manuel de Herrera, for example, received private title and an exclusive water right to approximately fifty acres of the commons at Salitre in 1842. That same year, a much larger private grant was

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<sup>48</sup> Quote from Howard R. Lamar, *The Far Southwest, 1846-1912: A Territorial History*, rev. ed. (Albuquerque: University of New Mexico Press, 2000), 93; see also Montoya, *Translating Property*, 83; and deBuys, *Enchantment and Exploitation*, 305-306.

<sup>49</sup> For New Mexico as a “valueless nuisance,” see Robert W. Larson, *New Mexico’s Quest for Statehood, 1846-1912* (Albuquerque: University of New Mexico Press, 1968), 79; For New Mexico as “an uncivilized, exotic, and backwards place,” see Montoya, *Translating Property*, 83.



issued to the Ulibarrí family, and while it did not award any water rights, the Sanguijuela grant did convey exclusive grazing rights.<sup>50</sup>

The gradual privatization of the Las Vegas grant continued in the first decade following confirmation as county officials, acting in the capacity of the *alcaldes* before them, continued to carve out allotments from the common lands for new settlers.<sup>51</sup> Two laws passed in the 1860s, however, helped further the process of privatization: the Homestead Act passed by Congress in 1862 and territorial legislation approved in 1865 allowing individuals to file claims to mineral lands. Neither should have applied to the lands contained in the Las Vegas grant, because, without a patent, the grant was still technically under adjudication and therefore “reserved from settlement and public disposal” until a final ruling was issued.<sup>52</sup> Nevertheless, both measures provided a means for long-term nuevomexicano residents and Anglo newcomers alike to acquire or expand their private holdings.

An organized effort to privatize the commons began in earnest in 1873 when Trinidad Romero—a wealthy merchant, rancher, and prominent politician—called a public meeting of grant residents to elect a committee to oversee

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<sup>50</sup> Herrera received a *hijuela* (deed) to a tract of land 2000 varas in circumference at Cañada del Salitre on the Las Vegas Grant from Justice of the Peace Santiago Ulibarrí in March 1842. See Juana Herrera de Ulibarri et al. to Nicanor Herrera, 28 December 1888, Book 39, page 342, San Miguel County Deed Records, County Clerk’s Office, Las Vegas, New Mexico (hereafter cited as San Miguel County Deed Records); and Case #2788, *Juan José Herrera and Romulo Ulibarri v. José Albino Baca*, San Miguel County Civil Case Files, Box 30, San Miguel County District Court Records, New Mexico State Records Center and Archives, Santa Fe, New Mexico (hereafter NMSRCA) (hereafter cited as SMC DCR). According to Ebright, the *hijuela* conveyed an exclusive water right, *Land Grants and Lawsuits*, 193. On Ulibarrí and the Sanguijuela grant, see *ibid.*, 189-90; Lorenzo Lopez as assignee of Andres Sena to Mahlon Harrold, 3 July 1886, Book 29, page 355; and Lorenzo Lopez to Jose Lopez in trust for Carlota Ulibarrí, 24 July 1886, Book 29, page 96, San Miguel County Deed Records.

<sup>51</sup> Lynn I. Perrigo, *Gateway to Glorieta: A History of Las Vegas, New Mexico* (Boulder: Pruett Publishing Co., 1982), 105-06; Knowlton, “The Town of Las Vegas Community Land Grant,” 15.

<sup>52</sup> Westphall, *The Public Domain*, 51.

management of the Las Vegas grant. The meeting was dominated by wealthy nuevomexicano and Anglo ranchers and businessmen who believed that the common lands were owned collectively by every individual who lived within the grant boundaries. This legal argument ran counter to that articulated by the original grantees and their heirs, who contended that the common lands belonged only to those individuals named in the grant documents. Clearly outnumbered, the latter walked out of the meeting in protest. Those who remained elected Miguel García, May Hays, and Juan Romero to serve on a committee that would direct the orderly distribution of the common lands. Instructed to privilege landless residents, the committeemen were empowered to parcel out the commons in tracts of 40 to 80 acres to each resident of grant.<sup>53</sup>

Representatives of the original grantees and their heirs filed an injunction in the territorial district court and successfully blocked the distribution of the common lands by the soon defunct land grant committee. But they were unable to force the court to issue a decision on who owned the commons.<sup>54</sup> Thus, without title or patent, 400,000 acres of the Las Vegas grant remained in legal limbo. Securing title to this land became increasingly important as the railroad approached New Mexico Territory and the cattle industry boomed.

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<sup>53</sup> Knowlton, "The Town of Las Vegas Community Land Grant," 16-17; Perrigo, *Gateway to Glorieta*, 106.

<sup>54</sup> *Ibid.*; Ebright, *Land Grants and Lawsuits*, 210.

## Chapter 4

### **Las Vegas Transformed, New Mexico Regenerated: The Coming of the Railroad and a New Surveyor General**

The correspondent for the *Chicago Tribune* was not prepared for what he saw when he stepped off the train in Las Vegas on 18 July 1879. Had he arrived three weeks earlier, the reporter would have looked westward over a vacant field until his eyes settled on a community nestled in the hills across the river. Instead, what he saw from the platform of the new Atchison, Topeka, and Santa Fe Railroad depot were two wide boulevards running parallel to the tracks before giving way to an orderly grid plotted on a north-south axis where many individuals had already staked out their lots and laid the foundations of their new homes. The pace of construction was so rapid that the local carpenters, masons, and even the new planing-mill could not keep up with demand.<sup>1</sup>

The *Tribune* reporter confided to his readers that it seemed “almost incredible” that a town could spring up “as if by magic” from the prairie. Yet, that was precisely what had happened—the “new Town of Las Vegas” had been constructed in less than three weeks. While it was a testament to American initiative and ingenuity, the writer believed that such a dramatic transformation could only be triggered by the power of the railroad itself. He also argued that once it was unleashed, the march of civilization that followed the railroad could not be turned back. Thus, the “quaint old Mexican town” on the other side of the river would naturally become “a thing of the past.” Although the process was inevitable, the reporter was equally certain that it would not be gradual and he

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<sup>1</sup> “Denver to Las Vegas,” *Chicago Tribune*, 23 July 1879.

grew increasingly confident with each new train that, “without exaggeration,” the town of “Las Vegas [would] be transformed into an American city within thirty days.”<sup>2</sup>

The journalist’s admiration for the transformative power of the railroad reflected popular sentiment in the latter half of the nineteenth century. To many, the railroad was “a force of nature” that could civilize and domesticate the West. They believed that the expansion of transportation and communication networks would not only stimulate economic development, it would link the West to the rest of the nation—facilitating the transportation of people, commodities, and ideas.<sup>3</sup>

Many New Mexicans shared this vision. Opponents of statehood had long argued that New Mexico lacked the population, industry, and wealth that would make it worthy of admission into the Union. All of these deficiencies, it seemed, could be remedied by the extension of railway lines into the territory. Many assumed that progress and prosperity would follow in the railroad’s wake. Local boosters insisted that New Mexico was rich in natural resources—all that was required for the industrial development of the territory was increased immigration and an influx of capital. They argued that the railroad would supply both, and in the process, it would modernize and Americanize the territory. For all of these reasons, statehood advocates, newspaper editors, and territorial officials

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<sup>2</sup> Ibid.

<sup>3</sup> William Cronon, *Nature’s Metropolis: Chicago and the Great West* (New York: W. W. Norton, 1992), 72-73, 76-81, quote from 72; see also, Carlos A. Schwantes and James P. Ronda, *The West the Railroads Made* (Seattle: University of Washington Press, 2008), 3-4, 7-8, 11, 17, 111.

heralded the arrival of the Atchison, Topeka, and Santa Fe Railroad as the beginning of New Mexico's true incorporation into the United States.<sup>4</sup>

Las Vegas was neither isolated nor economically stagnant when the first train arrived in 1879. With an expansive sheep and cattle industry fueling its commercial economy, the town had long been a trade and transportation hub linked to eastern and international markets. As a frontier outpost established to shield communities further south from raids by plains Indians, Las Vegas had quickly become an important site on the Santa Fe–Chihuahua trail, eclipsing San Miguel del Bado as the gateway to the plains and the port of entry into Mexico. While it offered north-bound traders the last opportunity to secure provisions for the journey east, Las Vegas also provided a respite from the overland trek and a chance to replenish supplies for those heading south. The livestock and mercantile interests that profited from the Santa Fe trade found new markets after the American takeover and many secured lucrative government contracts once Fort Union was completed in 1851 and a Navajo reservation was established at Bosque Redondo a decade later.<sup>5</sup> Nevertheless, the arrival of the

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<sup>4</sup> House Committee on Territories, *New Mexico: Minority Report on Admission as a State*, 44<sup>th</sup> Cong., 1<sup>st</sup> sess., 1876, H. Rept. 503, 15; John M. Nieto-Phillips, *The Language of Blood: The Making of Spanish-American Identity in New Mexico, 1880s-1930s* (Albuquerque: University of New Mexico Press, 2004), 105-18.

<sup>5</sup> Anselmo Arellano, "Through Thick and Thin: Evolutionary Transitions of *Las Vegas Grandes* and its *Pobladores*" (Ph.D. diss, University of New Mexico, 1990), 74, 83-121, 184-210, 260; Marc Simmons, *New Mexico* (Albuquerque: University of New Mexico Press, 1988), 134-38; Darlis A. Miller, *The California Column in New Mexico* (Albuquerque: University of New Mexico Press, 1982), 31-41; F. Stanley, *Fort Union* (n.p., 1953), 63. On New Mexico's involvement in far-reaching trade networks and its links to eastern and international markets, see Ross Frank, "From Settler to Citizen: Economic Development and Cultural Change in Late Colonial New Mexico" (Ph.D. diss., University of California, 1992); Elliot West, *The Contested Plains: Indians, Goldseekers, and the Rush to Colorado* (Lawrence: University Press of Kansas, 1998); James F. Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill: University of North Carolina Press, 2002); Max L. Morehead, *New Mexico's Royal Road: Trade and Travel on the Chihuahua Trail* (Norman: University of Oklahoma Press, 1995);

railroad initiated economic, demographic, and social change on an unprecedented scale. With astounding speed and far-reaching consequences, the railroad ushered in the industrial transformation of Las Vegas.<sup>6</sup>

Alterations to the land itself were perhaps the most visible and immediate signs of the changes wrought by the railroad. Track construction was preceded by the development of new coal mines, timber operations, and other industries necessary to harvest and deliver the natural resources required for building, operating, and maintaining the rail system. The ubiquitous supporting structures that accompanied the rail line—water and coaling stations, signal towers, section houses, tool sheds, and freight houses—also contributed to the new industrial landscape created by railroad expansion. So too did the fences, cattle guards, pens, chutes, and stockyards that eventually followed.<sup>7</sup>

While the mere presence of the railroad could stimulate economic growth, it was the AT & SF's decision to establish a division center at Las Vegas that was responsible for its sudden transformation into a mini-industrial city. Instituted in 1879, the division system was the company's solution to the logistical problems caused by expansion. As the railway stretched well beyond the borders of Kansas, it had become increasingly difficult for the shop facilities in Topeka to maintain and repair the company's locomotives and rolling stock. In response,

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and Susan C. Boyle, *Los Capitalistas: Hispano Merchants and the Santa Fe Trade* (Albuquerque: University of New Mexico Press, 1997).

<sup>6</sup> Although Las Vegas does not meet his criteria because of its history or size, see Gunther Paul Barth, *Instant Cities: Urbanization and the Rise of San Francisco and Denver* (New York: Oxford University Press, 1975) on rapid urbanization in the West.

<sup>7</sup> Richard White, *"It's Your Misfortune and None of My Own": A History of the American West* (Norman: University of Oklahoma Press, 1991), 257; Schwantes and Ronda, *The West the Railroads Made*, 158; Lawrence Leslie Waters, *Steel Trails to Santa Fe* (Lawrence: University of Kansas Press, 1950), 147; Cronon, *Nature's Metropolis*, 72-3, 209-12, 219-21, 223.

the Santa Fe instituted a new policy of stationing shops and repair crews at division points every hundred miles or so along the line. With the construction of a roundhouse, shop, foundry, switching yard, and station, each new division center became a local base of operation, a traffic hub, and a magnet for migratory workers seeking seasonal employment.<sup>8</sup>

Once construction of the mainline to Las Vegas was complete, the new railroad complex was built approximately one mile east of the plaza where an assortment of skilled and unskilled workers joined the trackmen, building gangs, and enginemen who had been the first AT & SF employees to work in San Miguel County. Boilermakers, machinists, blacksmiths, car repairers, and painters were among those who worked in the foundry and shop repairing the rolling stock. In the roundhouse, hostlers, wipers, and other laborers were responsible for cleaning, maintaining, and preparing each locomotive for its daily run. But the widest variety of employees worked in the yard and station as switchmen, flagmen, yard men, baggagemen, dispatchers, clerks, telegraph operators, and station agents.<sup>9</sup>

The arrival of the railroad—and the population boom that followed—set off a ripple effect that reached every segment of the economy. First, by providing more efficient and direct access to wider markets, rail service boosted the mercantile and livestock industries that had been the foundation of the local economy before 1879. Merchants were able to offer new and more varied

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<sup>8</sup> James H. Ducker, *Men of the Steel Rails: Workers on the Atchison, Topeka & Santa Fe Railroad, 1869-1900* (Lincoln: University of Nebraska Press, 1983), 3-4, 28, 69-72.

<sup>9</sup> Lynn I. Perrigo, *Gateway to Glorieta: A History of Las Vegas, New Mexico* (Boulder: Pruett Press, 1982), 19; Ducker, *Men of the Steel Rails*, 4.

products to their customers, while ranchers often spent their growing profits in Las Vegas establishments. Railroad expansion also facilitated the development of extractive industries in the region, not only by reducing the cost of shipping freight, but by providing easier access to the natural resources themselves.<sup>10</sup> The Santa Fe Railroad benefited from this itself by establishing a tie preservation plant near Las Vegas where nearly two hundred men worked to supply treated ties for its entire operation.<sup>11</sup>

Although rail service particularly stimulated the timber and mining industries, its impact extended to other commodities as well. For example, once the AT & SF built a spur through Gallinas canyon, a new ice works employed some three hundred seasonal workers who harvested approximately 50,000 tons of ice per year. That same line also transported tourists and health seekers to the new resort at the Hot Springs and the hotel managed by Fred Harvey.<sup>12</sup>

Whether they were employed by the railroad or worked to provide services for those who did, by 1880, the majority of Las Vegas residents worked for wages (see Table 4.1).<sup>13</sup> For example, many who did not work at the AT & SF tie

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<sup>10</sup> White, "It's Your Misfortune," 257-58; William G. Ritch, *Aztlán: The History, Resources, and Attractions of New Mexico* (Boston: D. Lothrop & Co., 1885), 205, 208.

<sup>11</sup> Ducker, *Men of the Steel Rails*, 6;

<sup>12</sup> Perrigo, *Gateway to Glorieta*, 21-24.

<sup>13</sup> This figure is an estimate. The statistics in Table 4.1 are drawn from the 1880 manuscript census and include every male fifteen years old or above for whom a trade or occupation was recorded. I grouped specific trades and occupations under the five broad categories of "agriculture and mining," "domestic and personal service," "manufacturing and mechanical industries," "professional service," and "trade and transportation" in conformity with Table 75 (pages 416-23) in volume 3 of the *Compendium of the Eleventh Census: 1890*. When farmers, ranchers / stock raisers, and merchants / proprietors are subtracted from the total number of men with recorded occupations, the number of male wage workers in Las Vegas drops to 1408. That figure represents 75% of the total number of males in Las Vegas, but only 44% of the total adult population. Thus, my claim that more than half of the residents worked for wages rests on an assumption that at least 182 women (14% of the total adult female population) received wages for some form of work.



Table 4.1: Male Occupational Structure in Las Vegas, 1880

Occupational Categories	Number of Workers	Percentage of Workforce
Agriculture and Mining	282	17
Domestic and Personal Service	589	35
Manufacturing and Mechanical Industries	309	18
Professional Service	98	6
Trade and Transportation	410	24
<b>Total</b>	<b>1688</b>	<b>100</b>

*Source:* United States, Department of Commerce, Bureau of the Census, *Tenth Census of the United States, 1880*, San Miguel County, New Mexico, Population Schedules, National Archives Microcopy No. T9, Reel 2.

plant either sold ties to the company independently or worked for lumber contractors. Planing-mills also benefited from the population boom that followed the railroad, as carpenters and contractors struggled to provide housing for hundreds of newcomers.<sup>14</sup> Similarly, small proprietors saw their businesses grow with access to more customers and those who provided domestic services—meals, boarding, and laundry for instance—to men who migrated to Las Vegas without their families found a particularly lucrative niche in the local economy.

The social and demographic changes wrought by the railroad were no less dramatic. The adult population of Las Vegas doubled. While the new economic

<sup>14</sup> Arellano, "Through Thick and Thin," 260; Perrigo, *Gateway to Glorieta*, 18-22; Ducker, *Men of the Steel Rails*, 6, 48

opportunities attracted nuevomexicano migrants, most of the population increase was the result of rapid Anglo immigration. Seemingly overnight, the Anglo population of Las Vegas mushroomed, growing from six to thirty-eight percent of the total adult inhabitants within a year of the AT & SF's arrival.<sup>15</sup> Anglo-dominated "New Town," or East Las Vegas, popped up around the new depot and stood as a constant visual reminder of the new racial and ethnic division of the community. This phenomenon continued throughout the decade so that by 1890, Las Vegas was composed of two distinct municipalities. While Anglos and nuevomexicanos lived in both communities, Old Town, located west of the Gallinas, was chiefly nuevomexicano, while New Town, situated on the east side of the river, was predominantly Anglo. Although approximately the same number of people lived in each of the two townships, by 1890, nuevomexicanos found themselves in the minority as Anglos composed sixty percent of the population of Las Vegas as a whole.<sup>16</sup>

The racial segmentation of the workforce mirrored the emerging residential pattern of separation (see Table 4.2). Although most of the largest mercantile houses remained on the plaza in West Las Vegas, the locus of the

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<sup>15</sup> In 1870, the total adult (defined as age fifteen and above) population of Las Vegas was 1,543 with nuevomexicanos comprising 89.5% (1,381) and Anglos representing 5.5% (86). By 1880, the total adult population of Las Vegas was 3,180. The adult Anglo population grew to 1,199 (37.7% of the total), while the nuevomexicano population grew to 1,874 (58.9% of the total). United States, Department of Commerce, Bureau of the Census, *Ninth Census of the United States, 1870*, San Miguel County, New Mexico, Population Schedules, National Archives Microcopy No. 593, reel 3; *Tenth Census of the United States, 1880*, San Miguel County, New Mexico, Population Schedules, National Archives Microcopy No. T9, reel 2.

<sup>16</sup> *Tenth Census of the United States*; Schlesinger, "Las Gorras Blancas," 101, 134n. East and West Las Vegas were two distinct municipalities until the mid-twentieth century. For the sake of convenience I use "Las Vegas" when describing both municipalities. On the two towns of Las Vegas see especially, Lynn Perrigo, *La Reunión: A Personal Chronicle of the Municipal Consolidation of Las Vegas, New Mexico* (Peralta, NM: Yguado Press, 1975).

Table 4.2: Male Occupational Structure by Locality, 1880

Occupations	Number	Percent Nuevomexicano	Percent Anglo	Percent Other
<b>Agriculture and Mining</b>	<b>282</b>	<b>86</b>	<b>12</b>	<b>2</b>
West Las Vegas	136	86	10	4
East Las Vegas	28	29	71	0
Upper Las Vegas & Hot Springs	118	99	1	0
<b>Domestic and Personal Service</b>	<b>589</b>	<b>63</b>	<b>30</b>	<b>7</b>
West Las Vegas	269	79	16	5
East Las Vegas	153	18	73	9
Upper Las Vegas & Hot Springs	167	81	12	7
<b>Manufacturing and Mechanical Industries</b>	<b>309</b>	<b>20</b>	<b>80</b>	<b>0</b>
West Las Vegas	164	32	68	0
East Las Vegas	122	3	97	0
Upper Las Vegas & Hot Springs	23	22	78	0
<b>Professional Service</b>	<b>98</b>	<b>10</b>	<b>90</b>	<b>0</b>
West Las Vegas	66	12	88	0
East Las Vegas	28	4	96	0
Upper Las Vegas & Hot Springs	4	25	75	0
<b>Trade and Transportation</b>	<b>410</b>	<b>14</b>	<b>84</b>	<b>2</b>
West Las Vegas	171	22	77	1
East Las Vegas	232	7	91	2
Upper Las Vegas & Hot Springs	7	43	43	14

Source: United States, Department of Commerce, Bureau of the Census, *Tenth Census of the United States, 1880*, San Miguel County, New Mexico, Population Schedules, National Archives Microcopy No. T9, Reel 2.

manufacturing, trade, and transportation industries shifted to New Town once the railroad depot was built on the east side of the river. In aggregate, Anglos dominated each occupational category except for two—agriculture and mining, and domestic and personal service—regardless of locality. Still, these broad categories mask the stark segregation of the workforce (see Table 4.3). While

Table 4.3: Racial Segmentation of the Male Workforce in Las Vegas, 1880

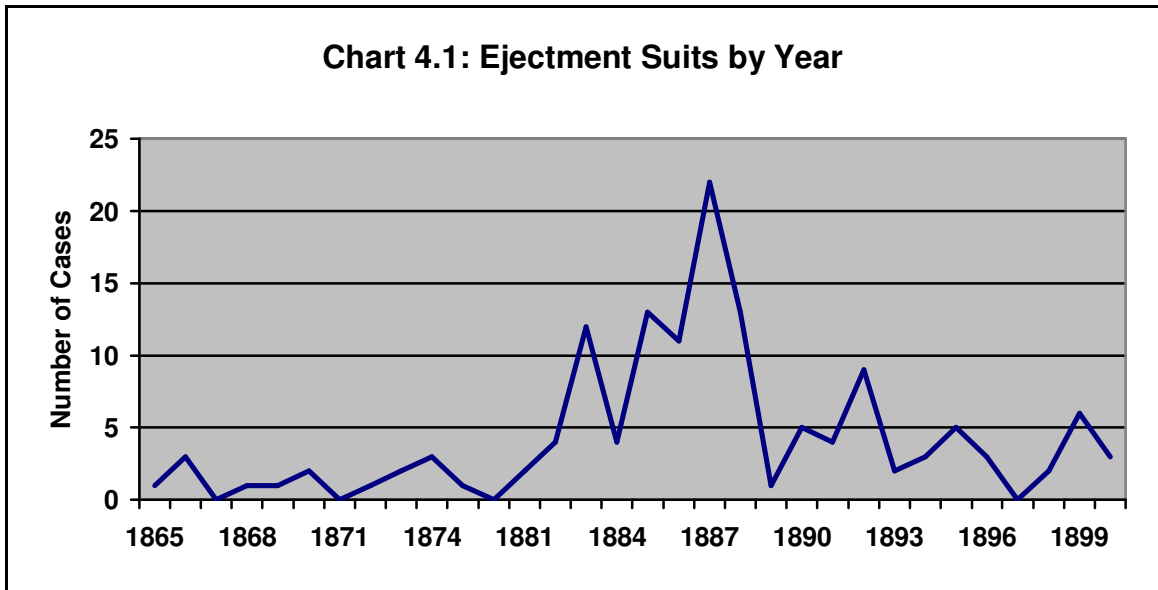
	Number	Percent Nuevomexicano	Percent Anglo	Percent Other
<b>Skilled Trades</b>	362	15	85	0
<b>Unskilled Workers</b>	416	81	15	4
<b>Farm Laborers</b>	86	100	0	0

Source: United States, Department of Commerce, Bureau of the Census, *Tenth Census of the United States, 1880*, San Miguel County, New Mexico, Population Schedules, National Archives Microcopy No. T9, Reel 2.

nuevomexicanos comprised eighty-one percent of unskilled workers and one hundred percent of farm laborers, the skilled trades were overwhelmingly dominated by Anglos.

Just as the railroad accelerated the industrial transformation of Las Vegas, the population explosion and rapid economic growth that it initiated also escalated the competition over land. Long-term nuevomexicano residents, Anglo newcomers, and land speculators alike employed a variety of strategies to expand their property holdings as the commercial value of land increased in the 1880s.<sup>17</sup> Some purchased interests in the Las Vegas grant from heirs of the original grantees, while others bought tracts offered at public auction to pay off debts. Many filed homestead or preemption claims, or simply enclosed more

<sup>17</sup> While Clark S. Knowlton contends that a land market did not exist until the 1880s, Malcolm Ebright has demonstrated that grantees began selling their interests in the grant as early as 1838. See Knowlton, "The Town of Las Vegas Community Land Grant: An Anglo-American Coup D'État," *Journal of the West* 19 (July 1980): 15-16; and Ebright, *Land Grants and Lawsuits in Northern New Mexico* (Albuquerque: University of New Mexico Press, 1994), 186. My research supports Ebright's argument as purchases, conveyances, and the use of allotments as collateral appear in the San Miguel County deed books long before the arrival of the railroad.



*Source:* San Miguel County Civil Docket, Book No. 1, 1857-1885; Book No. 2, 1885-1887; Book No. 3, 1887-1889; Book No. 4, 1889-1892; Book No. 5, 1892-1895; Book No. 6, 1894-1900; Book No. 7, 1900-1904; Rolls 5-8, San Miguel County District Court Records, New Mexico State Records Center and Archives, Santa Fe, New Mexico.

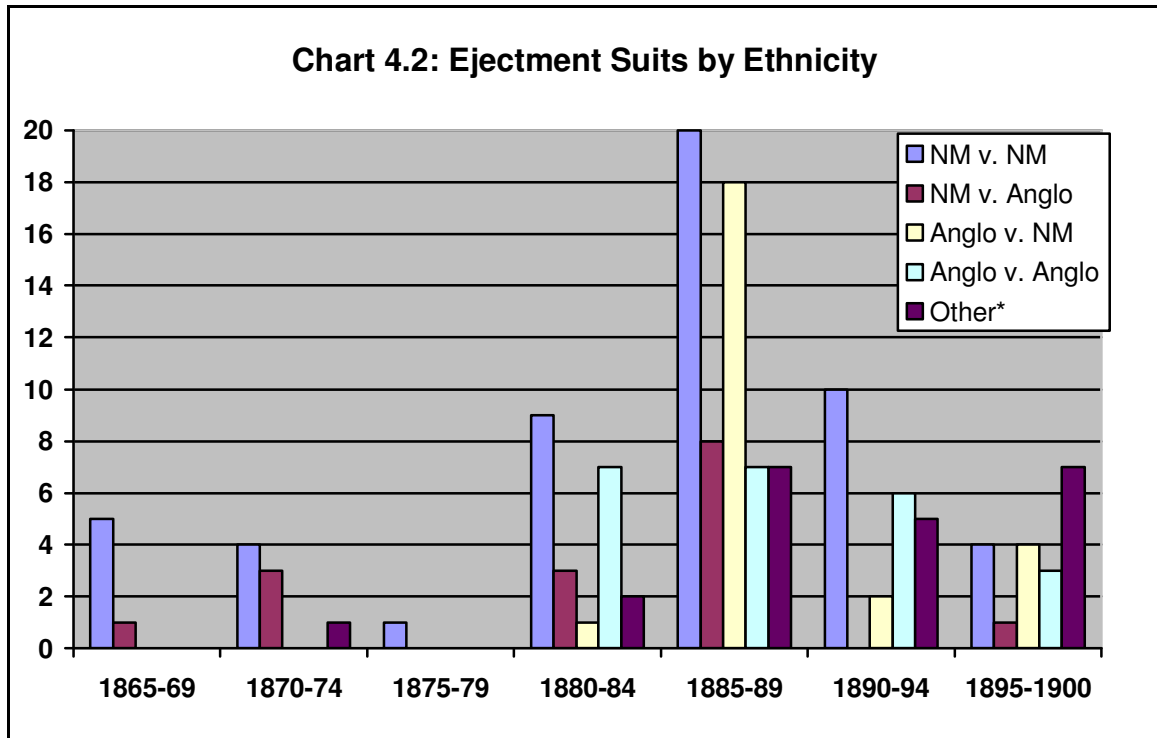
*Note:* No docket is extant from the fall term of the Court in 1876 through August 1881.

land than their titles warranted. These endeavors were most often attempts to gain individual, exclusive ownership of ejido land, or, at the very least, to control access to its resources.

Residents increasingly turned to the courts to assert their claims to land by initiating ejectment proceedings against competing claimants (see Chart 4.1).

Filing an ejectment suit was a low-risk proposition for plaintiffs. Because cases were determined solely on the strength or weakness of the plaintiff’s evidence of title, they did not establish the legal status of the defendant’s claim to the land in question.<sup>18</sup> Thus, having the case dismissed at the cost of the plaintiff was the only thing one had to lose when filing an ejectment suit. While ejectment suits were often employed by land speculators and local elites to evict “squatters” from

<sup>18</sup> Ebright, *Land Grants and Lawsuits*, 213.



*Source:* San Miguel County Civil Docket, Book No. 1, 1857-1885; Book No. 2, 1885-1887; Book No. 3, 1887-1889; Book No. 4, 1889-1892; Book No. 5, 1892-1895; Book No. 6, 1894-1900; Book No. 7, 1900-1904; Rolls 5-8, San Miguel County District Court Records, New Mexico State Records Center and Archives, Santa Fe, New Mexico.

*Note:* No docket is extant from the fall term of the Court in 1876 through August 1881.

\*Other includes mixed groups of defendants and/or plaintiffs, as well as cases involving companies.

private property, they could also be used to settle boundary disputes or to secure payment for stolen hay and timber.<sup>19</sup>

The dramatic rise in ejectment suits during the 1880s underscores the impact of the economic boom and rapid influx of Anglo immigrants initiated by the

<sup>19</sup> For examples of attempts to evict squatters, see Case #1712, *Jose Maria Montoya et al v. Jose Andres Salazar*, Civil Case Files, Box 23; and Cases #2773-2779, Civil Case Files, Box 30, San Miguel County District Court Records, New Mexico State Records Center and Archives (NMSRCA), Santa Fe, New Mexico [hereafter cited as SMC DCR]. For examples of boundary disputes, see Case #1702, *Pedro Quintana v. Luis Manzanares*; Case #1786, *Juan Bernal v. Jose Gallegos et al*; and Case #1787, *Felipe Martinez v. Jose Gallegos et al*, Civil Case Files, Box 23, SMC DCR. For attempts to secure damages for stolen resources like hay or timber, see Case #2609, *Juan José Herrera et al v. Nicolas Gallegos*, Civil Case Files, Box 29; and Case #2789, *Juan José Herrera and Nicanor Herrera v. Alvin Trujillo*, Civil Case Files, Box 30, SMC DCR.

arrival of the railroad. The ensuing conflict was not, however, a simple story of Anglo encroachment and nuevomexicano dispossession. As a demographic breakdown of those cases demonstrates, the arrival of the railroad set off a scramble for land in general, amplifying a decades-old struggle (see Chart 4.2).

Nuevomexicanos had been seeking control of *las vegas grandes* since the late eighteenth century and they continued to do so after the American invasion. While they may have previously appealed to political officials like the governor or the local *alcalde*, they increasingly turned to the territorial court system to protect their claims.<sup>20</sup> In fact, fifty-one percent of the ejectment suits filed in San Miguel County District Court between 1865 and 1900 were brought by nuevomexicano plaintiffs. More significantly, nuevomexicano defendants were more than twice as likely to be taken to court by other nuevomexicanos than by Anglos.<sup>21</sup>

These patterns held even as the number of ejectment suits spiked in the decade after the arrival of the railroad.<sup>22</sup> Although there was a substantial increase in the number of cases that pitted nuevomexicanos and Anglos against

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<sup>20</sup> Nuevomexicanos participated widely in the civil and criminal district courts. In his dissertation, David A. Reichard describes the courts as “a middle ground” that legitimized conquest and provided a space for nuevomexicanos to assert power. He also contends that “ordinary Hispano men and women employed the District Courts tactically, especially to challenge . . . political or personal rivals. Reichard, “Justice is God’s Law’: The Struggle to Control Social Conflict and U.S. Colonization of New Mexico” (Ph.D. diss., Temple University, 1996), quote from v. For the criminal courts, Laura E. Gómez describes “a regime of racial power-sharing” that also legitimized American political authority but allowed a space for Mexicans to resist colonization. She also demonstrates that Anglos were over represented as criminal defendants. Gómez, “Race, Colonialism, and Criminal Law: Mexicans and the American Criminal Justice System in Territorial New Mexico,” *Law & Society Review* 34, no. 4 (2000): 1129-1202.

<sup>21</sup> Of 139 cases total, 71 were filed by nuevomexicanos. Only 25 nuevomexicanos were taken to court by Anglos, while 53 defended themselves against nuevomexicano plaintiffs. Nuevomexicanos were three times more likely to initiate a suit against other nuevomexicanos than against Anglos.

<sup>22</sup> Thus it also held true once nuevomexicanos were no longer the numerical majority. Eighty-two cases were filed in the 1880s (59% of the overall total), of those, 29 pitted nuevomexicanos against each other, while only 19 Anglos brought ejectment suits against nuevomexicanos.

each other, the dramatic rise in ejectment proceedings during the 1880s was driven by a surge in the number of suits between nuevomexicanos themselves. During that period, nuevomexicanos filed three times as many suits against other nuevomexicanos as they had in the previous fifteen years. Indeed, only twenty-three percent of the ejectment proceedings initiated in the 1880s were attempts by Anglos to evict nuevomexicanos.<sup>23</sup>

These statistics reveal the thorny and convoluted character of the battle for the Las Vegas land grant. Much like Anglo speculators who acquired interest in a community grant and then viewed its residents as squatters on what they now considered their private property, nuevomexicanos who successfully received title to portions of the commons in the 1840s believed that other grant residents who used it were squatters. Nevertheless, neither nuevomexicanos nor Anglos shared a uniformity of opinion about the ownership or appropriate use of the commons.<sup>24</sup>

In fact, precisely who was a rightful owner and who was a squatter was often dictated by circumstance—and as one's circumstances were likely to change over time, so too was one's point of view. For example, in 1873, Anglo

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<sup>23</sup> Of the 82 cases filed during the 1880s, 43 were intra-group suits, 30 were inter-group, and 9 had a mixed group of nuevomexicanos and Anglos as either plaintiffs or defendants. From 1865-1900, only 18% of the total number of ejectment suits were filed by Anglos against Nuevomexicanos.

<sup>24</sup> While there were both racial and class dimensions to the conflict over the grant, neither completely explain the divisions – it was not simply nuevomexicanos against Anglos or wealthy against poor. Alliances were flexible and could change over time. The sharp distinctions scholars have drawn between Anglo and Hispanic law, practice, and custom are perhaps too stark—at least by the last quarter of the nineteenth century. For example, the “law-mindedness” Donald J. Pisani has identified in California squatters in the 1850s could generally apply to Hispanics as well. By Pisani’s account, California squatters believed usage superseded paper title and “‘the people’ [had] a greater right to define and interpret the rules they lived by than legal experts.” The same was true of the Hispanic legal culture. The greatest difference may have been who constituted “the people.” See Pisani, “Squatter Law in California, 1850-1858.” *Western Historical Quarterly* 25, no. 3 (Autumn 1994): 277-310, quote on 284.



businessman May Hays was a part of the faction of grant residents who argued that the common lands of the Las Vegas grant were owned collectively by all its inhabitants.<sup>25</sup> By that logic, there could be no squatters on the grant. A decade later, however, Hays thought much differently after he purchased the title to a 47,743-acre tract allegedly carved out of the commons in 1842 and issued to Ventura Trujillo for his exclusive use. Then he believed the grant was owned “principally by a few individuals” whose rights were violated by squatters who occupied the grant without “consent of the owners.” Although Hays filed an ejectment suit against two such individuals, Antonio and Aniceto Solano, he believed he could not get a fair hearing in San Miguel County. As he explained in his change of venue request, so many residents of the county disregarded the law and squatted on land grants owned by others that “a very violent prejudice [had] grown in the minds of the people . . . against any title to lands based upon a Mexican or Spanish grant.”<sup>26</sup>

Antonio Solano took umbrage at Hays’ description of the population. Unlike “the lawless, wandering, squatting people described” by the plaintiff, the residents of San Miguel County were “a respectable law abiding people who respect the property rights of others.” He assured the court that they had “great respect for Mexican and Spanish titles.” What they had “a prejudice against [were] certain land grabbers who [had] come . . . since the American occupation . . . and [claimed] large tracts of land without any valid title whatsoever.” Solano

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<sup>25</sup> Knowlton, “The Town of Las Vegas Community Land Grant,” 16-17; Perrigo, *Gateway to Glorieta*, 106. See also the discussion of the 1873 meeting in chapter three.

<sup>26</sup> Case #1319, *May Hays v. Antonio Solano and Aniceto Solano*, Civil Case Files, Box 21, SMC DCR. His claim for the Ojo del Apache / Apache Springs grant was ultimately rejected by the Supreme Court in 1899, see *Hays v. U.S.*, 175 U.S. 248 (1899).

concluded that Hays must have confused their prejudice against land grabbers for a prejudice against land grants. Instead, Solano explained, titles derived from “valid” Spanish and Mexican grants were revered by the people of San Miguel County.<sup>27</sup>

While the dispute between Hays and the Solano brothers continued before the district court, changing policies in Washington ushered in a new phase in the battle for the Las Vegas grant. Reflecting his administration’s commitment to reform public land policy, President Cleveland appointed William A. J. Sparks as Commissioner of the General Land Office in 1885. True to his reputation as a “combative reformer,” Sparks decried the despoliation of the public domain through “fraudulent entries” and “illegal claims” approved under “imperfect land laws.” Rather than protect the public domain, Sparks argued, his predecessors had allowed the General Land Office to become the tool of speculators and monopolists.<sup>28</sup>

While railing against incompetence and corruption in every branch of the department, Sparks reserved his harshest criticism for the treatment of Spanish and Mexican land claims. For him, the government’s policy regarding foreign titles was “characterized by a prodigality of award even exceeding that bestowed upon grants to railroads.” Sparks believed that many grants confirmed by Congress were based on “wholly fictitious” claims. Those grants that had once derived from legitimate titles were “magnified ten and twenty fold” through

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<sup>27</sup> *Hays v. Solano*, case #1319.

<sup>28</sup> For Sparks’ reputation, see John Opie, *The Law of the Land: Two Hundred Years of American Farmland Policy* (Lincoln: University of Nebraska Press, 1987), 78. Sparks’ quotes come from House, *Report of the Commissioner of the General Land Office*, 49<sup>th</sup> Cong., 1<sup>st</sup> sess., 22 October 1885, H. Exdoc. 1/16, 155-56.

manipulation and the passage of time, then confirmed and patented with little investigation. Throughout the process, no one seemed to represent the interests of the nation. In Sparks' estimation, "encroachment upon the public domain by one claimant cease[d] only when it clasp[ed] with the pretensions of another."<sup>29</sup>

At the same time, Sparks believed that valid rights were not being protected. His own office shouldered as much blame for trampling on the rights of actual settlers as the surveyors general and Congress. The most egregious example, according to Sparks, occurred in 1883 when the General Land Office awarded a single individual the patent to the Anton Chico grant—conferring three hundred thousand acres and the homes of three thousand people to one person. The problem extended well beyond any single community land grant, however.

As Sparks explained:

Prescriptive rights were acquired by inhabitancy under Spanish and Mexican laws. . . [R]elying upon these acknowledged rights and their long possessions, [the people of New Mexico] . . . have rested in fancied security that, as citizens protected by the treaty of Guadalupe Hidalgo [*sic*], their property rights were safe from invasion under the laws of the United States. They now find that, notwithstanding their equitable claims and legal rights, the homes and possession of their ancestors, of themselves, and of their children, are being appropriated by speculators and cattle corporations through entries, chiefly as fraudulent against the United States as against them, under the homestead, pre-emption, and other of our public land laws. . . . The native inhabitants, not understanding the necessity of asserting their own claims, suddenly find themselves evicted and their lands passing to strangers under "cowboy" patents.<sup>30</sup>

It was in this sense that Sparks believed the United States had failed to meet its obligations under the Treaty of Guadalupe Hidalgo.

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<sup>29</sup> *Report of the Commissioner of the General Land Office*, 1885, 169-70.

<sup>30</sup> *Ibid.*, 175-76.

Ultimately, however, it was neglect from Washington that provided the opportunity for widespread corruption in the adjudication process. The act creating the Office of Surveyor General of New Mexico, Sparks argued, had placed too much power in the hands of imperfect men who, with little oversight, were vulnerable to corrupting influences. So it was that from 1870 to 1885, the surveyors general of New Mexico served land speculators, rather than serving the interests of the nation state.<sup>31</sup>

Federal policy governing the adjudication of Spanish and Mexican land grants changed in three important ways under Sparks. First, claims would no longer be submitted to Congress for confirmation prior to an extensive investigation of the surveyor general's report by the General Land Office. Second, claims already confirmed by Congress on the basis of previous recommendations were subject to reexamination by both the surveyor general and the General Land Office before a patent would be issued. Finally, and most significantly, the federal government would only recognize claims to the individually allotted lands within community land grants. The General Land Office would henceforth maintain the argument that the Spanish government awarded grantees use of the commons but retained the title; thus, the ownership

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<sup>31</sup> Ibid., 169-71, 177. On the corruption in the surveyor general's office, see also Victor Westphall, *The Public Domain in New Mexico, 1854-1891* (Albuquerque: University of New Mexico Press, 1965), 20-32; *ibid.*, *Mercedes Reales: Hispanic Land Grants of the Upper Rio Grande Region* (Albuquerque: University of New Mexico Press, 1983), 98, 102-04; María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Lawrence: University Press of Kansas, 2002), 89-90; and Ebright, *Land Grants and Lawsuits*, 41-3; on corruption in the General Land Office more broadly, see Opie, *The Law of the Land*, 36, 47-8.

of the common lands of community grants passed to the United States as public domain.<sup>32</sup>

President Cleveland chose George Washington Julian to implement Sparks' reforms as the new Surveyor General of New Mexico. Much of his political career had been dedicated to defending the interests of settlers while protecting the public domain from speculators and monopolists. A former Free Soiler and Radical Republican, Julian had been a leading proponent of the Homestead Act and served as chairman of the Committee on Public Lands for nearly a decade. Cleveland chose him, in part, because of his reputation as an honest reformer and an enemy of monopolists.<sup>33</sup>

Julian also had some limited experience with Spanish and Mexican claims. In fact, while he was chairman of the Committee on Public Lands, he became personally involved in a dispute between competing groups of claimants under a rejected grant in California. The Mariano Vallejo claim known as the Suscol Ranch was rejected by the Supreme Court in 1862 and the ninety thousand acres embraced by the invalidated grant was declared to be public domain. A number of people who had purchased tracts on the Suscol Ranch

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<sup>32</sup> *Report of the Commissioner of the General Land Office*, 1885, 175, 178. The Supreme Court upheld this argument in *U.S. v Sandoval*, 167 U.S. 278 (1897). It was, however, an erroneous interpretation of Spanish law as legal historian Malcolm Ebright has convincingly demonstrated in "The San Joaquin Grant: Who Owned the Common Lands? A Historical-Legal Puzzle," *New Mexico Historical Review* 57 (January 1982): 5-26.

<sup>33</sup> Julian began his political career as a Whig, was elected Representative of Indiana as a member of the Free Soil Party, became a Radical Republican, then joined the Liberal Republicans in 1872. He was a member of the Democratic Party when appointed by Cleveland. On his changing political affiliations and service in Congress, see Patrick W. Riddleberger, *George Washington Julian, Radical Republican; A Study in Nineteenth-Century Politics and Reform* (Indianapolis: Indiana Historical Bureau, 1966); Frederick J. Blue, *No Taint of Compromise: Crusaders in Antislavery Politics* (Baton Rouge: Louisiana State University Press, 2005), 161-83; and his own autobiography published as Julian, *Political Recollections, 1840-1872* (Chicago: Jansen, McClurg & Co., 1884).

from Vallejo prior to its rejection by the Court appealed to Congress for recognition of their titles. Believing “the lands claimed under the Spanish grant were in possession of numerous small holders” who had purchased them “in good faith,” Julian’s committee recommended a bill that would allow the purchasers of the rejected Vallejo title to preempt as much land as they had “reduced to possession.”<sup>34</sup>

Between the decision of the Supreme Court and the passage of the 1863 act, however, more than two hundred-fifty people settled on the Suscol Ranch as preemptors. When these settlers presented their case to Julian’s committee, he learned that he had been deceived by the Vallejo claimants. Many of them had never occupied the lands they claimed. Thus, much to his chagrin, Julian discovered that his support for the 1863 Act had protected monopolists rather than actual settlers. The realization that he had been duped by absentee land speculators led Julian to become a fervent advocate of the preemption settlers.<sup>35</sup>

Conflict between the Vallejo claimants and the preemption settlers raged as each side pressed their claims in the courts. Then, in 1866, the Attorney General issued an opinion on the rights of preemptors that strengthened the case of the Vallejo claimants. According to the Attorney General, the preemption law of the United States did not vest any rights to settlers by the mere act of possession. Only once all terms of the law were met, including proof of

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<sup>34</sup> *The Rights of Pre-Emptors on the Public Lands of the Government Threatened—The Conspiracy Exposed; Remarks of Hon. G. W. Julian, of Indiana, and others, in the House of Representatives, July 5, 1866* (Washington, 1866).

<sup>35</sup> *Ibid.* On the Suscol case and Julian’s involvement, see Paul W. Gates, “The Suscol Principle, Preemption, and California Latifundia,” *Pacific Historical Review* 39, no. 4 (November 1970): 453-71; and Riddleberger, *George Washington Julian*, 248-49.

improvements and payment, did preemptors gain an absolute right to their land. The implication of this opinion, in Julian's estimation, meant that a preemption settler was "a mere tenant-at-will, who [could] be ejected by the Government at any moment in favor of another party." Hoping to make the opinion of the Attorney General enshrined in law, the Vallejo claimants brought a new suit against the preemptors. Once the case reached the Supreme Court, Julian appeared as a lawyer for the defendants. When the Vallejo claimants won, and the ruling of the Court concurred with the opinion of the Attorney General on the rights of preemptors, Julian called it the "Dred Scott decision of the American Pioneer."<sup>36</sup> This stinging defeat only bolstered Julian's belief in the righteousness of his crusade against land speculation and his defense of settlers' rights.

Julian equated land monopoly with "white slavery" and argued that the "foundations of democratic equality" rested on access to land for the landless. An ardent believer in the Jeffersonian dream, Julian was predisposed to breaking up large land holdings. During Reconstruction, he advocated the confiscation and redistribution of Confederate lands to freedmen and poor whites. Transforming the plantation South into a land of small family farms, Julian believed, would cripple the southern oligarchy while also providing a means toward racial equality. In the process the South could be regenerated and

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<sup>36</sup> *The Rights of Pre-Emptors on the Public Lands of the Government Threatened*. Julian also discusses the Suscol case in his *Political Recollections*, 298-301. His quotes are found on pages 299 and 301.

eventually return to the Union.<sup>37</sup> Julian's belief in the potential reformation of the Confederate South through land redistribution, and his defeat in the Suscol case, profoundly influenced the way he approached the settlement of Spanish and Mexican land grant claims as Surveyor General of New Mexico.

Julian assumed the Office of Surveyor General in July 1885 and was shocked by what he found. Correspondence was left unanswered, private land claims were left pending, and hundreds of grant documents had never been translated, recorded, or indexed by his predecessors.<sup>38</sup> After taking stock of the archives, Julian confided in Sparks that he was absolutely certain that any attempt "to arrive at a just and intelligent conclusion in regard to land grants based on the existing records is time and labor wasted." To his dismay, "most of these grants [had] only been superficially examined, and the evidence as to their validity [was] better calculated to deceive and lead the investigator astray than to assist him in his labors." Julian informed Sparks that "the claimants of these grants, as a rule, [were] wealthy men," and he worried that many of them would not be "overscrupulous in using their means and ability to the detriment of the Government."<sup>39</sup>

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<sup>37</sup> *Our Land Policy—Its Evils and their Remedy. Speech of Hon. George W. Julian, of Indiana, in the House of Representatives, March 6, 1868: the House having under consideration bill No. 370, to prevent the further sale of the public lands of the United States, except as provided for in the Pre-Emption and Homestead laws, and the laws for the disposal of town sites and mineral lands* (Washington, 1868); Blue, *No Taint of Compromise*, 179-81; Riddleberger, *George Washington Julian*, 296, 309; Gates, "Federal Land Policy in the South, 1866-1888," *Journal of Southern History* 6, no. 3 (August 1940): 305-06.

<sup>38</sup> "Report of the Surveyor General of New Mexico," 20 August 1886, in House, *Report of the Secretary of the Interior; being part of the message and documents communicated to the two Houses of Congress at the beginning of the second session of the Forty-ninth Congress*, 49<sup>th</sup> Cong., 2<sup>nd</sup> sess., 7 October 1886, H. Exdoc. 1/14, 531-32.

<sup>39</sup> Quoted in "Report of the Commissioner of the General Land Office," 7 October 1886, in House, *Report of the Secretary of the Interior; being part of the message and documents communicated*



Julian's first annual report was a condemnation of all that had come before. His predecessors, it seemed, had operated under "the principle that the validity of Mexican and Spanish grants [should be] presumed." As a result, countless claims had been approved on the flimsiest of evidence, their boundaries magnified by fraudulent surveys. For more than a quarter century, Julian declared, "the Government has been friendless and powerless in the presence of organized land grabbing." No one was safe from Julian's accusations of fraud and corruption; claimants, deputy surveyors, surveyors general, and territorial officials were all conspiring to defraud the government.<sup>40</sup>

Julian assumed the mantle of representing the interests of the government. This meant, above all, quickly settling grant titles. Julian feared that "the curse of uncertainty of titles, which . . . resulted in the shedding of blood and the loss of life in other countries," would soon afflict New Mexico if the current state of affairs was allowed to continue. The solution was not a new method of adjudication, but merely the faithful execution of the procedure required by current legislation. If the 1854 act had been carried out as it should have been, Julian was certain that all grants would have been settled in only a few years "and the territory would have found a new birth in the influx of an intelligent and enterprising population, which would have entered."<sup>41</sup> Instead, Congress had carelessly approved every fraudulent survey forwarded to them,

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*to the two Houses of Congress at the beginning of the second session of the Forty-ninth Congress, 49<sup>th</sup> Cong., 2<sup>nd</sup> sess., 7 October 1886, H. Exdoc. 1/14, 22-23.*

<sup>40</sup> "Report of the Surveyor General of New Mexico," 20 August 1886, 534.

<sup>41</sup> *Ibid.*, 535-36.

and had “thus criminally surrendered to monopolists not less than 5,000,000 acres which should have been reserved for the landless poor.”<sup>42</sup>

As surveyor general, Julian believed he could best protect the government’s interest by recovering as much land from claimants as possible and then opening it to settlement under the public land laws. During his first year in office, Julian reexamined twenty claims previously approved and currently pending before Congress. Of those, he declared fourteen completely invalid, significantly reduced the acreage of four, and approved only two as reported. Extrapolating from the results of his first investigation, Julian estimated that between the other claims pending before Congress and confirmed grants not yet patented, five million acres of the public domain had been “illegally appropriated.” Julian believed that his discovery “fully vindicated” Sparks’ policy requiring the reexamination of previously confirmed land grants.<sup>43</sup>

As a confirmed but unpatented grant, the Las Vegas grant was among those slated for reexamination and Julian opened an investigation in 1887. Unlike his predecessors, Julian assumed grants were fraudulent until proven otherwise, adopting a policy “of construing . . . grants strictly against the grantee, and devolving upon him the burden of establishing his claim by affirmative proofs.”<sup>44</sup> Likewise, Julian questioned “whether a single one of the surveys [of

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<sup>42</sup> “Report of the Surveyor General of New Mexico,” 20 July 1887, in House, *Report of the Commissioner of the General Land Office*, 50<sup>th</sup> Cong., 1<sup>st</sup> sess., 28 September 1887, H. Exdoc. 1/13, 665.

<sup>43</sup> “Report of the Surveyor General of New Mexico,” 20 August 1886, 533-34. Julian also attacked patented grants as fraudulent and sought ways to have the patents revoked and the claims reduced in size. By 1888, Julian’s estimate of illegally claimed land had grown to ten million acres.

<sup>44</sup> Julian, “Land Stealing in New Mexico,” *North American Review* 145 (July 1887): 18.

confirmed grants was] accurate.”<sup>45</sup> He found the Las Vegas grant guilty on both counts.

Julian concurred with Commissioner Sparks’ interpretation of the legal status of the common lands of community land grants. He thus assumed that the Las Vegas claim embraced only “a small grant in fee of tillable land,” covering only some twenty thousand acres. The remaining land, according to Julian, included nothing more than a “right of pasturage,” and yet, the surveyor general had approved a survey that enclosed almost half a million acres.<sup>46</sup> The grossly bloated survey was not the worst of it, however.

Julian believed that the town of Las Vegas and the heirs of Cabeza de Baca had conspired to defraud the government. Clearly, no competing claim existed, “since if the grant to one was valid the grant to the other could not be.” The only logical conclusion, in Julian’s mind, was that the “nominally rival parties” had each worked “to help the other to a large slice of the public domain.” It was hard for him to imagine how Surveyor Pelham “did not see this collusion, nor even seem to suspect it.” Even worse, Pelham’s survey contained 475,000 acres more than the grant warranted. That Congress would approve such a “monstrous fraud” was equally shocking. More troubling to Julian, however, was the fact that they agreed to issue the Cabeza de Baca heirs scrip to lands elsewhere in the same amount as the Las Vegas grant. Thus, the conspiring

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<sup>45</sup> “Report of the Surveyor General of New Mexico,” 20 July 1887, 664

<sup>46</sup> *Ibid.*

claimants succeeded in stealing nearly one million acres from the public domain.<sup>47</sup>

Determined to recover this purloined property, Julian focused his attack on the survey of the Las Vegas grant. In the summer of 1887, he sent Will M. Tipton to Las Vegas to gather evidence of the “true boundaries” of the grant prior to its resurvey. Julian was so confident that the ownership of the common lands had not been conveyed by the Mexican government that he instructed Tipton to “have nothing to do with [the] woods and watering places nor the exterior boundaries which enclose[d] them.”<sup>48</sup> Instead, Tipton was charged with locating the private allotments distributed by Mexican officials prior to 1848. If any of the allotments were no longer occupied or under cultivation, Tipton was to make special note of their location so that they too could be “restored” to the public domain. Julian encouraged him to take testimony from any of the original grantees who were still alive, but believed that the boundaries of the individual parcels could “readily be ascertained” from the deed records archived in San Miguel County.<sup>49</sup>

Tipton’s report must have disappointed Julian. Locating the individual allotments to effect a survey that included only the partitioned lands, Tipton explained, was “an undertaking presenting the greatest difficulties.” First, the “indefiniteness of description” in the grant documents made it difficult to find the exact location of each tract. Moreover, the incompleteness of the county records made it nearly impossible to trace the chain of title to its origin. Ultimately,

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<sup>47</sup> Ibid., 665.

<sup>48</sup> George W. Julian to Will M. Tipton, 20 June 1887, *Tomas Cabeza de Baca and the Town of Las Vegas Grant: Report #20* (photocopy of microfilm of original documents), Western History Collections, Denver Public Library.

<sup>49</sup> Ibid.

however, the principal problem was one of geography. Mexican officials had not distributed allotments in a single body—instead, they had partitioned land in at least five different locations on the grant. Without contiguous boundaries, it was thus “a physical impossibility to survey the different holdings within any common boundaries without including lands that were not partitioned.”<sup>50</sup>

Tipton did think it was possible to locate most, if not all, of the individual allotments. However, “so extensive and peculiar an investigation” as the one proposed by Julian would require “the expenditure of much labor, time and money.” In short, Tipton explained that the work he was expected to complete “in a few weeks would require months.” It would also require the cooperation of the residents of Las Vegas. This assistance might be difficult to come by because, Tipton warned, “the native people of the Territory, not without cause, are inclined to be suspicious of strangers who with the claim of authority come among them inquiring into matters which they naturally consider their own private business.” Tipton suggested that the reticence of the local population could be overcome if Julian explained the purpose of the investigation. If he informed the residents of Las Vegas “of the intended action of the government,” he might find “prominent and influential citizens” who agreed with his position on the ownership of the common lands and would therefore offer their assistance.<sup>51</sup>

Within a month of Tipton’s visit, however, the status of the common lands and the question of who legally owned the Las Vegas grant was brought before the district court in a two-year case that pitted long-term nuevomexicano

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<sup>50</sup> Tipton to Julian, 18 July 1887, *Tomas Cabeza de Baca and the Town of Las Vegas Grant: Report #20*.

<sup>51</sup> *Ibid.*

residents against Anglo newcomers. When Moses and Philip Milhiser filed an ejectment and chancery suit against José, Francisco, and Pablo Padilla for illegally fencing several hundred acres on the grant, their suit became a test case for the legal status of community land grants. R. W. Johnson was appointed Master by the court two months after the *Milhiser v. Padilla* suit was filed and began taking testimony and gathering evidence in preparation for submitting a report to the judge.<sup>52</sup>

The plaintiffs argued that the grant was owned exclusively by the twenty-nine original grantees and their descendants. Therefore, they reasoned, the common lands were held as private property, each grantee owning a fractional share in proportion to his or her interest in the grant. Because the Milhisers had purchased a number of those interests, they contended that they owned a 1/6 undivided interest in the grant which included a share of the lands illegally occupied by the Padillas. They asked the courts to order the defendants to remove their fences and to forbid them to graze any livestock on the grant.<sup>53</sup>

The Padillas had settled on the commons at La Monilla, some thirteen miles east of Las Vegas, in the late 1870s. This area contained particularly valuable grazing land, and each of the Padilla brothers subsequently fenced 160 acres. They claimed the right to enclose this land for their exclusive use based

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<sup>52</sup> M. A. Otero to Governor L. Bradford Prince, 9 August 1890, "White Cap" Investigation, Governor L. Bradford Prince Papers, NMSRCA (microfilm copy, Territorial Archives of New Mexico, reel 121).

<sup>53</sup> Case #2860, *Moses Milhiser et al v. José Leon Padilla et al*, Civil Case Files, Box 31, SMC DCR.

on U.S. Homestead laws, adverse possession, and deeds they purchased from original grantees or their heirs.<sup>54</sup>

Both parties claimed an undivided interest in the grant through conveyances from the original grantees, their descendants, or assigns. In addition, both argued that through those purchases, they were “entitled to the undisturbed possession, occupancy and use of all the lands, pastures, waters and springs existing [on the Las Vegas grant] in proportion to their interest therein, in common with the other joint owners thereof.” Thus, both the Milhisers and the Padillas put forth the same argument as to who rightfully owned the commons. What they each denied was that the other party owned, or had a right to use, the disputed land. While Philip Milhiser had been in the territory for only a year, the Padillas could further buttress their claims to the particular tracts in question by their occupancy “under claim of right and color of title” for more than ten years before the commencement of the suit.<sup>55</sup>

Johnson decided that both parties were wrong about the nature of the land grant. The Las Vegas grant was designed to “advance and encourage agricultural development.” As such, neither the Milhisers nor the Padillas could claim the land “as individuals in fee, to hold for their benefit.” Instead, the grant was intended to benefit all the citizens of Las Vegas and any others who came later. Moreover, Congress had upheld this fact when they “confirmed the grant with quit-claim to the town of Las Vegas.”<sup>56</sup>

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<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

The question, then, was who had occupied the lands at La Monilla first. When Johnson asked Philip Milhiser this question, his response was simply that “The Bill states that the defendants are in possession, and I want possession and can’t get it.” When Johnson pressed him further by asking directly if the land belonged to him, Milhiser replied: “I am advised and believe that I have the right to use it.” That was not enough to supersede the rights afforded the Padillas by their actual possession and their homestead claims. When Johnson finally filed his report in July 1888, he argued that the plaintiffs had no bill and the case should be dismissed.<sup>57</sup> The final outcome of the case, however, would not be determined for another sixteen months.

In the meantime, Julian continued to pursue a resurvey of the Las Vegas grant. He still believed that the government could recover over 475,000 acres if the true boundaries were located. However, his position on the status of the common lands had softened somewhat. While Julian still argued that the commons had passed to the United States as public domain, he was willing to concede that if he was wrong, the title should be vested in the town of Las Vegas. In either case, he steadfastly maintained that no individual claimants held any legitimate title to any lands beyond their own allotments.<sup>58</sup>

From the beginning, Julian’s investigation had been hampered by inadequate appropriations and it seemed as though it would be suspended indefinitely as the money ran out in May 1889. Up to that time, his new

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<sup>57</sup> Ibid.

<sup>58</sup> “Report of the Surveyor General of New Mexico,” 26 July 1888, in House, *Annual Report of the Commissioner of the General Land Office for the year 1888*, 50<sup>th</sup> Cong., 2<sup>nd</sup> sess., 4 October 1888, H. Exdoc. 1/14, 468.



investigator, R. B. Rice, had succeeded in surveying only a portion of the allotments along the Gallinas River from Las Vegas to just below the Hot Springs. With nearly a dozen other localities still left to survey, Rice estimated that the true area of the grant would not exceed nine thousand acres.<sup>59</sup>

More alarming to Julian, however, was Rice's reports of unrest in the area. He recounted the growing number of new fences erected on the grant that spring and the migration of several old fences which now enclosed a great deal more land than before. Rice had heard reports of violence erupting over disputed property lines in the outlying areas, where a number of fences had been cut and "bloodshed [was] expected at any time." As a result, Rice explained, "everybody is anxious to have the grant question settled and all except a few individuals want the United States to assume ownership and take control."<sup>60</sup> It seemed to Julian that what he had long feared had come to pass at precisely the same moment he became powerless to stop it.

Julian's crusade to regenerate New Mexico through land reform came to an abrupt end when his replacement was named in August 1889. Despite his inability to hasten the settlement of land titles, or his failure to recover much of the ten million acres "stolen" from the public domain, Julian reflected upon his work as surveyor general "with the most unqualified satisfaction."<sup>61</sup> He earnestly

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<sup>59</sup> R. B. Rice to George W. Julian, 3 May 1889, SG# 20, Town of Las Vegas Grant, reel 15, frames 250-55, New Mexico Land Records; Spanish Archives of New Mexico, Series I: Surveyor General Records And The Records Of The Court Of Private Land Claims (Microfilm copy), Center for Southwest Research University Libraries, University of New Mexico.

<sup>60</sup> Ibid.

<sup>61</sup> Quoted in R. Hal Williams, "George W. Julian and Land Reform in New Mexico, 1885-1889," *Agricultural History* 41, no. 1 (January 1967): 71.

believed that his efforts, if continued by his successors, would initiate a glorious catharsis. Julian dreamed of future in which:

New Mexico [would] be regenerated through the restoration of her stolen domain and the settlement of her titles. The stream of settlers now crossing the Territory in search of homes on the Pacific will be arrested by the new order of things, and poured into her valleys and plains. Small land-holders, thrifty tillage, and compact settlements will supersede great monopolies, slovenly agriculture, and industrial stagnation. The influx of an intelligent and enterprising population will insure the development of the vast mineral wealth of the Territory . . . while the men who have so long reveled in their triumphant plunder . . . will be obliged to take back seats in the temple of civilization, which will be reared upon the ruins of the past.<sup>62</sup>

For Julian, the tradition of community land tenure practiced in New Mexico led only to slovenly agriculture, industrial stagnation, and land monopoly. Thus, truly incorporating the territory into the United States required two things: the transformation of New Mexico into a land of independent, commercially-oriented family farmers, and the supplanting of the native population with Anglo immigrants. Julian failed on both counts and his attack on the Las Vegas grant did nothing more than exacerbate an already tense situation. As roving bands of fence cutters terrorized San Miguel County in the summer of 1889, it seemed to many that the battle for the Las Vegas grant had spilled out of the courtroom and onto the land itself.

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<sup>62</sup> "Report of the Surveyor General of New Mexico," 20 July 1887, 667-68.

## Chapter 5

### Unmasking the Gorras Blancas

Four months before Surveyor Julian received the first reports of fence cutting in San Miguel County, Petrolino Martín watched as his neighbor, Eutimio Ulibarrí, and more than two dozen other men tore down the fence enclosing his property in the small village of Las Colonias. What seemed like an isolated incident in January 1889, significant only to Martín whose two hundred dollar investment had been dismantled by his neighbors, took on new meaning in the coming months as rumors of the existence of a secret organization of fence cutters spread throughout the territory. By the summer of 1890, these reports reached the U. S. Senate, the Secretary of the Interior, and the office of the President, while newspapers across the country printed sensational accounts of American citizens driven from their homes by a band of Mexican outlaws and fence cutters as part of a widespread assault on private property in and around Las Vegas.<sup>1</sup>

Fence cutting was not unique to San Miguel County, nor was it distinctive to New Mexico. Indeed, it was a well-established practice employed wherever individuals enclosed resources that were previously used communally.

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<sup>1</sup> Between 15 November 1889 and 1 November 1890, articles about the Gorras Blancas appeared in the *Bismarck Daily Tribune* (Bismarck, ND), *Duluth Daily Tribune* (Duluth, MN), *San Jose Mercury News* (San Jose, CA), *Tacoma Daily News* (Tacoma, WA), *The Chicago Herald*, *The Chicago Tribune*, *The Columbus Enquirer-Sun* (Columbus, GA), *The Daily Inter Ocean* (Chicago), *The Los Angeles Times*, *The New York Times*, *The Philadelphia Inquirer*, *The Tombstone Epitaph Prospector* (Tombstone, AZ), *The Washington Critic* (Washington, D.C.), *Weekly Arizona Journal-Miner* (Prescott, AZ), and *Wheeling Sunday Register* (Wheeling, WV). America's Historical Newspapers, <http://infoweb.newsbank.com.ezproxy1.lib.ou.edu>. Database search conducted 19 February 2008.

Nevertheless, attempts to monopolize grazing land, water sources, and mineral wealth were particularly likely to trigger a violent response in the American West, whether it took the form of fence cutting, vigilantism, or lynch mobs.<sup>2</sup>

The introduction of barbed wire fencing in 1873 produced the most notorious example of collective violence over western resources: range wars. This new technology allowed ranchers to enclose enormous sections of land—that which they owned or leased, as well as land they did not—excluding other livestock from water sources and pasturage. Violence broke out when competing grazers and small farmers cut the fences that denied their animals access to grass and water, while large ranchers tried to defend their resource monopoly. In the last three decades of the nineteenth century, conflicts between homesteaders

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<sup>2</sup> On violence in the American West in general, see Richard Maxwell Brown, “Western Violence: Structure, Values, Myth,” *Western Historical Quarterly* 24, no. 1 (1993): 4-20; *ibid.*, *No Duty to Retreat: Violence and Values in American History and Society* (New York: Oxford University Press, 1991); Robert R. Dykstra, *The Cattle Towns* (New York: Knopf, 1968); and Roger D. McGrath, *Gunfighters, Highwaymen, and Vigilantes: Violence on the Frontier* (Berkeley: University of California Press, 1984). Violence was not just a western problem, nor was fencing and enclosure. For a recent historiographical discussion of western violence (and the question of whether the West was more violent than the East), see Michael A. Bellesiles, “Western Violence,” in *A Companion to the American West*, ed. William Devereaux (2007); for fencing and enclosure in the South, see Stephanie McCurry, *Masters of Small Worlds: Yeoman Households, Gender Relations and the Political Culture of the Antebellum South Carolina Low Country* (New York: Oxford University Press, 1995) and Steven Hahn, *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850-1890* (New York: Oxford University Press, 1983); for the Midwest, see Daniel W. Schneider, “Enclosing the Floodplain: Resource Conflict on the Illinois River, 1880-1920,” *Environmental History* 1, no. 2 (April 1996): 70-96. For another example of resistance to the privatization of previously public or communal resources, see also Karl Jacoby, *Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation* (Berkeley, University of California Press, 2001). My general discussion of violence in the West is also drawn from the Richard White, “*It’s Your Misfortune and None of My Own*,” *A New History of the American West* (Norman: University of Oklahoma Press, 1991); Elliot West, “Reconstructing Race,” *Western Historical Quarterly* 34, no. 1 (2003) 7-26; *ibid.*, *The Contested Plains: Indians, Goldseekers, and the Rush to Colorado* (Lawrence: University Press of Kansas, 1998); and Andrew R. Graybill, *Policing the Great Plains: Rangers, Mounties, and the North American Frontier, 1875-1910* (Lincoln: University of Nebraska Press, 2007).

and ranchers, cattlemen and sheep raisers, and big ranchers and small cattlemen erupted across the West, from Texas to Wyoming, Idaho, Nevada, Arizona, and New Mexico.<sup>3</sup>

Outside observers interpreted fence cutting in San Miguel County within this broader context, assuming the fence cutters were a vigilante group engaged in a kind of range war with large landholders. At the same time, their understanding of the events in Las Vegas was also shaped by the recent Lincoln County War. This feud between economic rivals in the 1870s led to almost two dozen deaths and ultimately required President Hayes to send in troops to restore order, leaving many with the impression that New Mexico was essentially lawless. Above all, however, Anglos understood unrest in San Miguel County through a racial filter: New Mexico was prone to lawlessness because it was full of Mexicans who engaged in destruction and violence without justification.

Thus, the group that became known as the *Gorras Blancas* represented much more than routine criminality. In the eyes of prominent Republicans, railroad officials, land speculators, and local boosters alike, the fence cutters' wanton destruction of private property—and the inability of local law enforcement to bring them to heel—impeded capital investment, economic development, immigration, and ultimately statehood. While these observers assumed the individuals who joined the secret society were nothing more than “backward” and

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<sup>3</sup> For the effect of barbed wire on open range grazing, see Walter Prescott Webb, *The Great Plains* (1981; reprint, Lincoln: University of Nebraska Press, 1981); on the fence cutters' war in Texas, see Graybill, *Policing the Great Plains*; for the Johnson County War and in general, see White, “*It's Your Misfortune and None of My Own*,” for the Tonto Basin / Pleasant Valley War in Arizona, see Brown, “Western Violence: Structure, Values, Myth;” for the Lincoln County War see Robert M. Utley, *High Noon in Lincoln: Violence on the Western Frontier* (Albuquerque: University of New Mexico Press, 1987).

“ignorant” Mexicans manipulated by a local labor leader, they nonetheless believed that the organization embodied a serious threat to the incorporation of New Mexico.

The first act of organized fence cutting in San Miguel County occurred on 11 January 1889 when a large body of men destroyed Petrolino Martín’s fence in the village of Las Colonias, some twelve miles southwest of Las Vegas.<sup>4</sup> This incident did not initially provoke much concern. Four months later, Martín and several others testified before the grand jury that they had witnessed more than two dozen men “maliciously, unlawfully and wantonly” tear down his \$200 fence. Their testimony led to twenty-six indictments, but the court proceeded slowly, waiting a month before issuing warrants and another month before arresting anyone. By the end of July, Martín’s neighbor, Eutimio Ulibarrí, and five others had been arrested, but most of the remaining men were not served until September.<sup>5</sup>

Before the first man stood trial, rumors began to circulate that there was a secret society of fence cutters operating southwest of Las Vegas. That suspicion seemed confirmed when more than sixty armed men on horseback, wearing “long black coats” and “white masks,” made an appearance in Las Vegas in the

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<sup>4</sup> San Miguel County Criminal Case Files, Box 9, case #3150-3161, 3163-3176, San Miguel County District Court Records (SMC DCR), New Mexico State Records Center and Archives (NMSRCA), Santa Fe, New Mexico (hereafter cited as SMC DCR). The standard narrative of the Gorras Blancas begins with the destruction of a fence belonging to Rawlins and Quarrell on the night of 26 April 1889, and continues with quick indictments by the grand jury and the November trial of Bernabel Gallegos. See especially Robert J. Rosenbaum, *Mexicano Resistance in the Southwest* (Austin: University of Texas Press, 1981; reprint, Dallas: Southern Methodist University Press, 1998), 99, 104-06. Perhaps because the cutting of Martín’s fence does not appear in the Prince Papers, we have assumed until now that Gallegos was the first man tried for the assault on Rawlins and Quarrell. In fact, it seems that he was in no way associated with that incident, demonstrating the limitations of relying on inferences to fill the gaps in the Prince Papers and newspaper accounts.

<sup>5</sup> Case #3150-3161, 3163-3176, Criminal Case Files, box 9, SMC DCR.

early morning hours of 2 November 1889. After surrounding the courthouse, they made their way to the home of the district attorney and then advanced on the county jail before vanishing again into the night. The *Las Vegas Daily Optic* believed this demonstration by the White Caps, as they called them, was an attempt to intimidate the court and local law enforcement. Chief Justice Elisha V. Long agreed and urged both the district attorney and the grand jury to pursue indictments against the secret society of fence cutters.<sup>6</sup>

Less than three weeks later, the first fence cutter's trial began. Interest in Bernabel Gallegos' case was high and the *Optic* predicted a quick conviction on the basis of solid evidence. Within two days, however, the jury found Gallegos not guilty, reporting that what had occurred in Las Colonias was a property dispute among neighbors rather than an attack by the Gorras Blancas.<sup>7</sup> After the not guilty verdict was returned in the Gallegos case, District Attorney Miguel Salazar dropped the charges against the other accused night riders.<sup>8</sup>

Salazar did not wallow in his defeat. Instead, he pursued his quest to bring the White Caps to justice with renewed vigor. As luck would have it, three men held in the county jail on unrelated charges confessed to belonging to the Gorras Blancas and participating in two acts of fence cutting. Coincidentally, they also detailed the organizational structure of the Gorras Blancas and named

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<sup>6</sup> "White Caps: Sixty-Three Masked Horsemen Gather Together & Attempt to Terrorize the Court," *Daily Optic*, 2 November 1889; Miguel Salazar to Prince, 23 July 1890, Governor L. Bradford Prince Papers, New Mexico State Records Center and Archives (NMSRCA), Santa Fe, New Mexico (microfilm copy, Territorial Archives of New Mexico, reel 121) (hereafter cited as Prince Papers).

<sup>7</sup> Case #3156, *Territory of New Mexico v. Bernabel Gallegos*, Criminal Case Files, box 9, SMC DCR. *Daily Optic* quoted in Rosenbaum, *Mexicano Resistance*, 106. See also *Daily Optic*, 14 December 1889.

<sup>8</sup> San Miguel County Criminal Docket Book No. 3, May, 1889 – November, 1897, SMC DCR.

Juan José Herrera as their leader. Their testimony allowed Salazar to secure the indictments of sixteen men on 25 November and an additional twenty-two a week later.<sup>9</sup> By mid December, nearly two dozen men had been arrested on charges of rioting and fence cutting for attacks on three properties the previous spring and summer and their bonds were set at \$500 per offense.<sup>10</sup>

Fear of impending unrest in San Miguel County was first brought to the attention of Governor Prince at this time. Anticipating an assault on the jail, Sheriff Lorenzo Lopez implored the governor to send him fifty rifles and ammunition on 11 December 1889. Prince was initially skeptical and sought the advice of Judge Long, who first reported no knowledge of a credible threat of mob violence. Later that day, however, Long telegraphed Prince recommending immediate compliance with Lopez's request. Prince sent the rifles with the adjutant general of the territory, Colonel E. W. Wynkoop, who arrived in Las Vegas later that night. The *Optic* believed these preparations were unnecessary, scolded the citizens of Las Vegas for indulging in "wild talk" about the strength of the White Caps, and assured them that "this little flurry of crime and lawlessness [would] soon blow over and be forgotten."<sup>11</sup>

The newspaper did not succeed in reassuring Wynkoop, who informed Prince after the arrest of Juan Lucero, Juan José Herrera, and Nicanor Herrera the following day that "large parties of their friends [were] coming into town" and

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<sup>9</sup> See Salazar's detailed report to Prince, 23 July 1890, Prince Papers. Case #3271-3273, 3275-3294, 3308-3318, Criminal Case Files, Box 9, SMC DCR. Though they confessed to participating in the destruction of two fences, no charges are extant for Geronimo Chavez, José Clemente Sandoval, and Jerman Mestas.

<sup>10</sup> Cases #3273, 3275, 3278, 3280-3281, 3286, 3288, 3312-3316, 3318, Criminal Case Files, Box 9. "Habeas Corpus Proceedings," *Daily Optic*, 16 December 1889.

<sup>11</sup> Lopez to Prince, 11 December 1889; two telegrams, Long to Prince, 11 December 1889, Prince Papers. "Looks Like War," *Daily Optic*, 12 December 1889.



“trouble [was] expected” that night. In anticipation, the county hired more than twenty special guards to protect the jail. The trouble they feared did not come to pass. None of the accused resisted arrest and the jail was not attacked.<sup>12</sup>

When Juan José Herrera’s *habeas corpus* case for the reduction of bail was argued in district court three days later, however, nuevomexicanos came from throughout the county to witness the proceedings. The crowd was so large, in fact, that those unable to find seats in the courtroom and galleries spilled out into the street.<sup>13</sup> Judge Long took the opportunity to lecture those in attendance about the importance of the rule of law. He also warned the spectators that the inevitable result of men taking the law into their own hands, as the fence cutters had done, was anarchy and violence. Nevertheless, Long chose to reduce bail for each of the accused. He then implored the crowd to return to their homes and resume their work, but they did not obey.<sup>14</sup>

A few hours later, the prisoners were released to a jubilant public. The assembly then formed a procession led by women waving American flags, with a group of little girls, the released prisoners, and a crowd numbering close to three hundred following behind. As they marched around the Las Vegas plaza, the prisoners began to sing “John Brown’s Body” and as the crowd joined in the refrain—“John Brown died that the slave might be free, /But his soul goes

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<sup>12</sup> Wynkoop to Prince, 13 December 1889, Prince Papers; *Daily Optic*, 13, 16 December 1889. On the special prison guards, see clipping reporting on payments made by the Board of County Commissioners on 13 March 1890; Interior Department Territorial Papers: New Mexico, 1851-1914 (National Archives Microfilm Publication M364, roll 8); Records of the Office of the Secretary of the Interior, Record Group 48 [hereafter cited as Territorial Papers].

<sup>13</sup> Both attorneys agreed that the decision in Herrera’s case would apply to the other defendants. Cases #3273, 3275, 3278, 3280-3281, 3286, 3288, 3312-3316, and 3318, Criminal Case Files, Box 9. “Habeas Corpus Proceedings,” *Daily Optic*, 16 December 1889.

<sup>14</sup> “Habeas Corpus Proceedings,” *Daily Optic*, 16 December 1889.

marching on”—the local Republican newspaper reported that “the foundations of the buildings nearly shook from the echoes of the sound.”<sup>15</sup>

The next two months passed quietly before rumors of masked horsemen reached Las Vegas again. In early March, the *Optic* received a report that “300 men, armed to the teeth” had ordered the employees of Eugenio Romero to halt their lumber operation and destroy the approximately 6,000 railroad ties they had already cut under contract with the Atchison, Topeka, and Santa Fe Railroad.<sup>16</sup> Then, just three days later, the newspaper reported that shortly after midnight, more than two hundred men, armed, masked, and mounted, rode through Las Vegas in silence, scattering a leaflet titled “Our Platform” and signed “The White Caps, 1,500 Strong and Gaining Daily.”<sup>17</sup> Unlike the attack on Petrolino Martín’s fence a year earlier, this episode in March 1890 aroused significant concern in San Miguel County in the coming weeks and, as the court date for the second group of indicted fence cutters approached, Governor Prince received the first requests for some kind of state intervention.

In April, Prince received conflicting reports about the situation in Las Vegas. Manuel C. de Baca informed him that the White Caps had been making threats of “an outbreak during the Court” and requested, at the very least, the governor’s help organizing a militia. Although others assured him that “the White Cap excitement [had] quieted down,” Prince erred on the side of caution and

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<sup>15</sup> “Peace Once More Prevails,” *ibid*, 17 December 1889.

<sup>16</sup> “A High-Handed Outrage,” *ibid*, 7 March 1890. See also O. D. Barrett report to General Benjamin Butler, 26 June 1890 in Territorial Papers.

<sup>17</sup> Their platform was reprinted in “The White Caps,” *Daily Optic*, 11 March 1890. Barrett included a copy of their platform with his report to Butler, which is included on the microfilm. It was also reprinted in “The White Caps,” *Daily Optic*, 11 March 1890. The Gorras Blancas’ platform can also be found in Rosenbaum, *Mexicano Resistance*, 166. The contents of their manifesto are discussed below.

asked the president to send in troops. Denying the governor's request, Secretary of the Interior John W. Noble encouraged Prince to "go to the full length of [his] ability and territorial force first." The federal government "[would] not interfere with troops," Noble explained, unless or until the territorial authorities were prevented from "preserve[ing] the peace . . . because of resistance."<sup>18</sup>

Prince's fears seemed unfounded when each of the men indicted for rioting and fence cutting the previous term honored their bonds and appeared before the district court in May. The witnesses whose testimony led to those indictments, however, could not be found. Thus, on the advice of the district attorney, Judge James O'Brien dismissed the cases against the alleged fence cutters due to insufficient evidence.<sup>19</sup>

By this time, at least half a dozen newspapers across the country had carried stories about White Caps terrorizing the people of Las Vegas and targeting large landowners in the surrounding areas. For land speculators like General Benjamin F. Butler of Boston, these reports likely engendered a great deal of alarm.<sup>20</sup> As an absentee landowner who already claimed 75,000 acres in the neighboring Mora grant and was looking to purchase an interest in the Las Vegas Grant as well, Butler had cause for concern. Thus, in June 1890, Butler

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<sup>18</sup> C de Baca to Prince, 15 April 1890; W. S. Fletcher to Prince, 22 and 24 April 1890. Noble to Prince, telegram, 19 May 1890, Prince Papers.

<sup>19</sup> *Daily Optic*, 20 May 1890.

<sup>20</sup> Butler was a former congressman, governor of Massachusetts, and Major General in the Union Army. On Butler, see his *Autobiography and Personal Reminiscences of Major-General Benjamin F. Butler* (Boston: A. M. Thayer & Co., 1892); Howard P. Nash, *Stormy Petrel: The Life and Times of General Benjamin F. Butler, 1818-1893* (Rutherford, NJ: Fairleigh Dickinson University Press, 1969); and Chester G. Hearn, *When the Devil Came Down to Dixie: Ben Butler in New Orleans* (Baton Rouge: Louisiana State University Press, 1997). The newspapers included the *San Jose Mercury News*; *The Daily Inter Ocean* (Chicago); *The Philadelphia Inquirer* (Philadelphia); *Wheeling Sunday Register* (Wheeling, West Virginia); *The Washington Critic* (Washington DC); and the *Duluth Daily Tribune* (Duluth, Minnesota).

dispatched his legal partner, O. D. Barrett, to New Mexico to “look after [his] interests” and report on the state of affairs in Las Vegas.<sup>21</sup> Barrett’s report was anything but comforting.

The atmosphere in Las Vegas was tense. It was imperative, Barrett explained, that Butler be made aware of the White Caps’ activities. He had spent a week investigating the matter in order “to avoid all exaggeration [*sic*] to which [he] was liable from listening to excited people.” In order to provide a thorough and accurate report, Barrett had relied upon “the assistance of a friend . . . who had had knowledge of their doings from the first,” had consulted Judge Long and the former clerk of the court, and had personally spoken with several victims.<sup>22</sup>

The summary of his report explained that the White Caps were “a lawless mob of several hundreds of Mexicans” who had terrorized Las Vegas and the surrounding area for the last several months by “destroying fences, houses, bridges and crops, upon the plea that the lands belong to the people, and that they are underpaid for work.” Although he catalogued twenty-five incidents of vandalism and intimidation, Barrett warned Butler that his report was not definitive as “many other house burnings, cases of fence cutting, might be named” and several murders had been committed. He closed by describing the events during the spring term of the court, explaining that forty men had been under indictment for those crimes but had been discharged by the judge when the prosecution’s witnesses disappeared. The released prisoners then joined

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<sup>21</sup> Butler to Noble, 9 July 1890, Territorial Papers; J. B. Allen to John Hayes, 25 July 1890; Jose Valdez and Enrique Mares to Terence V. Powderly, 18 August 1890, Terence Vincent Powderly Papers, 1864-1937 and John William Hayes Papers, 1880-1921; The Knights of Labor (Microfilm copy, reel 33) (Hereafter cited as Powderly Papers).

<sup>22</sup> Barrett to Butler, 26 June 1890; *ibid.*, 27 June 1890, Territorial Papers.

“several hundred other Mexicans assembled in the Plaza near the Court House, and there for three hours were harranged [*sic*] by members of the crowd, some shooting pistols in the air, and all in the most excited way, denouncing the public officers and the laws.”<sup>23</sup>

Upon receipt of this disturbing news, Butler sprang into action by drafting two letters on 9 July. The first of these was addressed to John W. Noble, the Secretary of the Interior, and included a copy of Barrett’s recent report and catalogue of the crimes committed by the White Caps. Given the “alarming state of facts” he suggested the Secretary of War transfer command of the soldiers stationed at Fort Union to Governor Prince. He was certain that there was “ample power already in the United States to rid its territories of such vandals as these ‘White Caps.’” At the very least, Butler explained, there was “plenty of precedent” for the “use of United States troops” to quell disorder and he pointed to one in particular: the use of U. S. Marines, under command of Robert E. Lee, to capture John Brown at Harper’s Ferry in 1859.<sup>24</sup>

Butler’s second letter was addressed to Terence V. Powderly, but its tone was quite different. Rather than demanding immediate action and intervention, Butler apologized for “intruding where I have no right to.” But, “as one who is friendly to the organization,” he felt compelled to inform Powderly that the White Caps were using the name of the Knights of Labor and thus harming its good reputation.<sup>25</sup> Together, these letters ignited a flurry of activity.

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<sup>23</sup> [List of Outrages] Barrett report to Butler, 26 June 1890, Territorial Papers.

<sup>24</sup> Butler to Noble, 9 July 1890, Territorial Papers.

<sup>25</sup> Butler to Powderly, 9 July 1890, Powderly Papers. This claim is highly suspect. Butler indicated that he also “enclosed a report of the outrages done in New Mexico, by the ‘White Caps’

Almost immediately, Secretary Noble forwarded copies of Butler's communications to Prince, demanding an explanation. Noble warned the governor that if Butler had correctly judged the state of affairs in New Mexico, then "the whole executive force must be exercised to bring [the] Territory into good order."<sup>26</sup> Prince assured him that he would investigate the matter thoroughly and would report as soon as possible. Prince conceded that "an unfortunate feeling" existed in San Miguel County, due largely to the unsettled status of many land grants, but "there is naturally much exaggeration." The result of which, Prince explained, was that "every kind of wrong doing however committed is now very naturally attributed to the so-called 'White Caps.'"<sup>27</sup>

As ordered, Prince initiated an investigation in late July. In addition to contacting several of the victims named in Barrett's report for more details, he placed an advertisement in the *Optic* soliciting credible information about the depredations committed by the White Caps and offered a \$100 reward for any information that led to a conviction. Prince also ordered reports from District Attorney Salazar and other government officials.<sup>28</sup>

The district attorney was not an impartial observer. For Salazar, the Gorras Blancas represented a threat to both his livelihood and his political

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and also a copy of a letter of my law associate . . . in which he shows that they claim to be a labor organization acting under the direction of the Knights of Labor" (emphasis added). Barrett did not suggest the White Caps were associated with the Knights of Labor, or were a labor organization of any kind in any of the 9 July 1890 enclosures extant in the Territorial Papers. One could presume that the enclosures Butler forwarded to Powderly were the same ones he sent to Secretary Noble. The first records I have found in which Barrett suggested a connection between the White Caps and Knights of Labor are dated 21 July 1890. The union's own investigation is discussed in chapter six.

<sup>26</sup> Noble to Prince, 17 July 1890, Territorial Papers.

<sup>27</sup> Prince to Noble, 23 July 1890 in *ibid.*

<sup>28</sup> *Ibid.*; Prince to Noble, 1 August 1890 in *ibid.*; *Daily Optic*, 31 July 1890; see also Prince's correspondence from 21 July – 9 August and Prince, "Report to the Secretary of the Interior John W. Noble," 12 August 1890, Prince Papers.

ambitions. In addition to his legal practice, Salazar dealt in real estate and land grant acquisition—an enterprise which suffered so long as nightriders publicly threatened land speculators and vandalized property unchecked by law enforcement. More importantly, perhaps, Salazar was also a beneficiary of political patronage and the appearance of incompetence—or worse yet, sympathy with the fence cutters—threatened to stall his rise through the ranks of the Republican Party. Thus, he had to distance himself from the Gorras Blancas and explain his inability to bring them to justice. Salazar used his report to Governor Prince to do both.<sup>29</sup>

The “outrages,” Salazar explained, began in April 1889 when the White Caps destroyed W. D. Quarrell’s fence some ten miles west of Las Vegas. After repeatedly harassing Quarrell, the organization then moved on to other victims. Salazar assured Prince that he had vigorously pursued the White Caps and had, in fact, secured over forty indictments on the basis of the confessions he obtained from three professed fence cutters in the fall of 1889. From them, Salazar learned that “a certain person” came to New Mexico from Utah or Colorado in 1888 and began organizing “societies under the name first, of White Caps, but [then] under the name of Knights of Labor.” With seven lieutenants, the unnamed organizer controlled a conservative estimate of 700 people who were under “oath and penalty of being killed in the event they disobey or divulge any thing that they do.”<sup>30</sup>

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<sup>29</sup> Salazar to Prince, 23 July 1890, Prince Papers. For Salazar’s political and economic activities, see articles in the *Santa Fe New Mexican*, 6, 12, and 18 September 1888; *ibid.*, 3 and 9 April 1889; and *ibid.*, 17 September 1892.

<sup>30</sup> Salazar to Prince, 23 July 1890.

According to Salazar, the fence cutters made good on this threat before their cases went to trial when they murdered the men who had testified against them. As a result, the district attorney explained, no one else would step forward “for fear of being killed.” Thus, although he was “morally certain” who was guilty, Salazar was “unable to prove it” under “the strict rules of law.” Without witnesses willing to testify against the White Caps, Salazar was “powerless to punish these people” through no fault of his own.<sup>31</sup>

The solution Salazar offered was to meet violence with violence. Denying any legitimacy for the actions of the fence cutters, Salazar called their platform “anarchical, revolutionary, and communistic.” He warned Prince that they were growing “stronger and bolder every day” and “no life or property” would be secure in New Mexico unless “every good citizen,” the governor, and the federal government took immediate action to crush the Gorras Blancas.<sup>32</sup>

The members of the White Caps, Salazar explained, were “ignorant people, easily deceived, and swayed,” and he felt compelled to “confess that the majority of our ignorant Mexican population, are just as easy prey to such monsters of society, as those who already belong to it.” Consequently, Salazar argued that “only through fear” could the vigilantes “be persuaded to desist the wholesale destruction of property.” He believed that “the only possible way of putting them to fear” was “disposing of the leaders.”<sup>33</sup>

Like Salazar, other Republicans viewed the unrest in San Miguel County as a threat to central authority. While unwilling to advocate state-sponsored

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<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.



assassinations (at least in official correspondence), they did believe federal intervention was required in order to demonstrate U. S. sovereignty over New Mexico. “Ever since the annexation” of the territory, Barrett explained in a supplementary report to Butler, “a few hot headed ignorant Mexicans have talked” about rebelling against the United States, “but since the labor organizations have come into existence . . . these extreme men have become more numerous and bolder in their declarations.” While the impotence of the local authorities was partly to blame for the state of affairs in and around Las Vegas, the maladministration of justice by Judge O’Brien—who dismissed the cases against the fence cutters without authority—made the White Caps believe they were “above the reach of the Court.”

Barrett then detailed what he believed to be a deeply held contempt for the law among the “Mexican population” and a belief that the Knights of Labor supported their lawless activities. “To understand this,” Barrett explained, “you must recollect that these are Mexicans; that the Mexicans in New Mexico, with the exception of perhaps five per cent, are the most ignorant people on the face of the earth.” Many of them were now “dreaming of independence” and believed they could accomplish that “by driving out the Americans now among them.”<sup>34</sup> From Butler’s perspective, this development certainly demanded swift action by the federal government and he forwarded Barrett’s letter to Secretary Noble.

Other Republicans also interpreted the unrest in San Miguel County as a contest between federal power and home rule but did so without framing it as a conflict between “Americans” and “Mexicans” as Barrett had done. Instead, J. W.

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<sup>34</sup> Barrett to Butler, 21 July 1890, Territorial Papers, frames 620-24.

Barney, a former jayhawker from Kansas, likened the political climate in New Mexico to that of the South immediately following the Civil War. He had served as an agent of the Freedmen's Bureau in Georgia and recalled that "it became necessary for the government to take action" to suppress the Ku Klux Klan. "The civil authorities amounted to nothing" and the Klan's reign of terror was only brought to an end when "troops were sent all over the state." In Barney's eyes, the civil authorities in New Mexico also amounted to nothing. They were, he believed, "powerless to do anything even should [they] manifest a disposition in that direction." For that reason, and because he presumed to speak for many other Kansans who had recently moved to New Mexico, Barney bypassed territorial officials and appealed directly to Kansas Senator Preston B. Plumb to press for "national interference . . . in our behalf."<sup>35</sup>

While he conceded that "the grievances" in New Mexico were different than those in the Reconstruction South, Barney believed there were important parallels. As a consequence of the lawlessness that plagued Georgia before federal soldiers were sent to restore order, "hundreds of good law abiding, and useful citizens left the country." "Now," Barney explained, "they are leaving this country." More importantly, he warned that the unrest in San Miguel County "[was] but a forerunner to an uprising insurrection unless it is speedily checked." Barney concluded his letter with an appeal to partisanship and a plea for statehood: "I am satisfied that the Territory is republican and if the present administration will manifest a disposition to crush out this undoubted democratic

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<sup>35</sup> Barney to Plumb, 3 August 1890, Territorial Papers.

outlawry, we can be admitted with two more republican senators.”<sup>36</sup> Senator Plumb agreed that the affairs in New Mexico merited consideration and promptly forwarded Barney’s letter to the office of the president.

For Governor Prince, who had recently traveled to Las Vegas to investigate the matter firsthand, the trouble in San Miguel County was considerably more complicated than democratic outlawry or an attempt by hot-headed Mexicans to drive the Americans out of New Mexico. For the next few weeks, Prince struggled to convey that complexity to Secretary Noble. First, the governor cautioned that it was exceedingly “difficult to determine which of the depredations [had] been committed by any organization, and which [were] the result of private spite.” The problem was magnified by the difficulty in identifying the culprits because, he explained, “thus far no proof can be had. Those who know facts seem to be afraid to speak” and his offer of a reward had produced no results. Prince suggested that employing undercover detectives was the only likely way that the authorities could obtain credible evidence. Nevertheless, that option was closed off to him because the territory had no funds to hire anyone.<sup>37</sup>

As Prince saw it, the “difficulties in San Miguel County, like most of those in New Mexico, arose from the unsettled condition of land titles.”<sup>38</sup> Many people believed they held rights in common on the Las Vegas grant—an understandable assumption, according to the governor, since they had exercised those rights undisturbed for years until newcomers began fencing large tracts of land under a claim of absolute ownership. It was a mistake, then, to assume that

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<sup>36</sup> Ibid.

<sup>37</sup> Prince to Noble, 1 August 1890, Territorial Papers.

<sup>38</sup> Prince report to Noble, 12 August 1890, Prince Papers.

nuevomexicanos were “lawless.” Prince assured Noble that quite the opposite was true: they revered the law and held “the highest respect for the Courts.” Despite appearances, even the fence cutters respected American law as evidenced by the fact “that not a single outrage was committed” between the arrests of suspected White Caps in December 1889 and their trials the following May.<sup>39</sup>

The problem, according to Prince, was that they had been duped. They were simply trying to protect their rights, and when Judge O’Brien dismissed the suits against the accused fence cutters, they “misconstrued” his decision as a demonstration of government support for their actions. In addition, the “name of the Knights of Labor [had] been used as a cloak for the dissemination of lawless ideas.” Ultimately, Prince maintained, “a few active and educated men” had deceived the nuevomexicanos who engaged in fence cutting—and who were drawn from “the most ignorant classes”—into believing that their actions were legal, the Knights of Labor supported them, and the U. S. government sympathized with them.<sup>40</sup>

Undoubtedly, the unrest in San Miguel County placed the governor in a difficult position. As a leading proponent of statehood, Prince had worked tirelessly to refute the racial arguments against admitting New Mexico, promote the economic development of the territory, and to encourage immigration from the eastern United States. If the White Caps were not quickly put down, and the

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<sup>39</sup> His claim contradicts other reports of White Cap activity of which he was fully aware.

<sup>40</sup> Report to Noble, 12 August 1890, Prince Papers. These were arguments he also expressed in correspondence with Demetrio Perez, 12 August 1890; and James O’Brien, 11 August 1890, Prince Papers.

national press continued to print sensational reports of their depredations, Prince feared the territory would suffer long term damage to its economy and, as a result, its hope for statehood.<sup>41</sup> He was also likely concerned about his own political future; as a federal appointee serving at the pleasure of the president, Prince needed to demonstrate effective action without suggesting he was unable to keep the territory under control.

Prince hoped to resolve the unrest in San Miguel County without resorting “to any of the extraordinary means for which the newspapers and many of the people [were] clamoring.”<sup>42</sup> He may have been wary of appealing for the federal assistance others were demanding for two principal reasons. First, it would affirm prevailing public opinion that the population of New Mexico was not capable of self-governance and the territory was thus not worthy of admission into the Union. What is more, calling for federal intervention would also be an indictment of Prince’s own administration of New Mexico, akin to admitting incompetence as the executive of the territory.

The governor seemed to believe that the White Caps would simply disband once their members learned their actions were not condoned by either the government or the Knights of Labor, and were, in fact, illegal. Prince first pursued this strategy by issuing proclamations and enlisting the assistance of

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<sup>41</sup> See for example, *Optic* clipping enclosed in Prince to Noble, 20 August 1890, Prince Papers; “The People of New Mexico and Their Territory,” Letter to the Editor, *New York Times*, 28 February 1882; Prince to the Senate Committee on Territories, 25 June 1892, copied to Noble, 2 July 1892, Territorial Papers. For Prince’s activities in support of statehood, see Larson, *New Mexico’s Quest for Statehood, 1846-1912* (Albuquerque: University of New Mexico Press, 1968). In his correspondence regarding the White Caps, Prince almost never referred to nuevomexicanos as “Mexicans,” preferring to use instead “our native population” or “native New Mexicans.”

<sup>42</sup> Quote from letter to O’Brien, 11 August 1890, TANM Reel # 115, Frame # 1049, Prince Papers.

men he believed were esteemed by the nuevomexicano community.<sup>43</sup> In the meantime, he hoped the citizens of San Miguel County would collect the funds necessary to hire a detective to infiltrate the secret society of fence cutters.<sup>44</sup>

Once the White Caps posted notices ordering railroad workers to strike, however, Prince bowed to the pressure of the Atchison, Topeka, and Santa Fe Railroad and requested troops on their behalf. Still, the governor advocated a measured response in his communications with Secretary Noble. Prince emphasized the fact that no violence had occurred, the employees were simply intimidated and afraid to work. All that was needed, he argued, was the presence of federal soldiers to restore the workers' confidence. The "moral effect" of a company of troops conducting drills or marching along the Santa Fe line between Las Vegas and Lamy would be sufficient to "prevent trouble without further action" because the White Caps had a "wholesome respect for United States soldiers."<sup>45</sup>

In the absence of someone stepping forward to testify against the fence cutters or an appropriation of federal funds to hire a detective to procure evidence against them, Prince contended that a "summer 'outing' for the troops" offered the most effective solution to the problems in San Miguel County. First,

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<sup>43</sup> Prince to O'Brien, 11 August 1890; Prince to J.B. Allen, 8 August 1890; Prince to Demetrio Perez, 12 August 1890; TANM reel #115, Governor Prince Papers. See also Prince's report to Noble 12 August 1890 and his public proclamation issued 1 August 1890 in Prince Papers.

<sup>44</sup> Nevertheless, when the governor attended a mass meeting convened in Las Vegas to discuss ways to end the marauding and bring the White Caps to justice, he found a shocking "apathy and indifference there," see Prince to Noble, 20 August 1890. However, Prince enclosed an article from the *Optic* reporting on the public meeting which highlighted local complaints about the impotence of Salazar and López, as well as frustration that Prince had not sent in the territorial militia or federal soldiers.

<sup>45</sup> Prince to Noble, telegram, 11 August 1890, Territorial Papers.

he believed it would appease land speculators like Benjamin Butler, officials of the railroad, and others who were calling for more draconian measures to crush the White Caps. The presence of U.S. soldiers, Prince insisted, would also reassure those who had been too intimidated by the White Caps to testify against them to finally come forward. Likewise, it would encourage those railroad employees who had given in to White Cap threats to return to work. Most importantly, however, the sight of federal troops in San Miguel County would demonstrate to those involved in lawless activities that they had been duped by their leaders into believing the government sympathized with their actions. That discovery, Prince maintained, would put an end to the depredations once and for all.<sup>46</sup>

When a week passed with no response from Noble and no action by the federal government, Allen Manvel, the president of the Santa Fe Railroad, appealed to the two Kansas senators in Washington to pressure President Harrison on the company's behalf. Manvel's telegrams described a situation much more dire than that reported by Governor Prince. "The lives of our employees and our property in New Mexico are constantly threatened by White Caps," he declared. But more importantly, Manvel asserted that the violence in San Miguel County had grown to such proportions that the civil authorities

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<sup>46</sup> The "summer 'outing'" quote is from Prince to General Nelson A. Miles, 12 August 1890, Territorial Papers. See also Prince telegram to Noble, 12 August 1890, Territorial Papers; and Prince report to Noble, 12 August 1890, Prince Papers. The governor did not request troops for himself, but rather reported that railroad officials asked for troops and contended that dispatching troops would be "in the line of the request made in General Butler's letter."

required the support of federal troops “in maintaining order and protecting the lives of the people in that territory.”<sup>47</sup>

Unlike Governor Prince’s request, the demand for intervention from the president of the railroad company provoked an immediate response in the form of an emergency meeting of President Harrison, Secretary Noble, the U. S. Attorney General, and the Secretary of War. Nevertheless, they ultimately determined that federal troops could only be deployed once it had been demonstrated that law enforcement officers could not serve warrants or make arrests because of resistance and the territorial militia was unable to preserve the peace in San Miguel County. When that happened, Noble assured Prince that federal soldiers would be dispatched immediately.<sup>48</sup>

An exasperated Prince could no longer hide his frustration in his reply to Noble. He had “endeavored in every communication on this subject to make it plain that there [was] no forcible opposition to officers of the law anywhere in New Mexico.” As Prince had already tried to make clear, Sheriff Lopez had

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<sup>47</sup> George R. Peck on behalf of Allen Manvel, 18 August 1890, telegrams to P. B. Plumb and John J. Ingalls, Territorial Papers.

<sup>48</sup> Telegram to Prince 19 August 1890 and letter from Noble to Prince same date; both in Prince Papers. It is unclear why they did not use troops. It could have been because of the Posse Comitatus Act of 1878, which made it illegal to use troops as civil law enforcement unless authorized by the Constitution or specific act of Congress. Presidents continued to call in troops to support or act as civil law enforcement after the passage of the law, however. Harrison himself sent troops to restore order in the Johnson County War and during the Coeur d’Alene strike in 1892. Juan José Herrera later claimed that military action was not authorized because Sec. Blaine “understood that the dangers were imaginary,” 7 July 1891, “Defenza y Respuesta,” *El Defensor del Pueblo*. On the use of the military as law enforcement in the West and in riot suppression in general see Clayton D. Laurie, “Filing the Breach: Military Aid to the Civil Power in the Trans-Mississippi West,” *Western Historical Quarterly* 25, no. 2 (Summer 1994): 151, 153-60; and his “Civil Disorder and the Military in Rock Springs, Wyoming: The Army’s Role in the 1885 Chinese Massacre,” *Montana: The Magazine of Western History* 40, no. 3 (Summer 1990): 44-59; see also Jeffrey Ostler, “Conquest and the State: Why the United States Employed Massive Military Force to Suppress the Lakota Ghost Dance,” *Pacific Historical Review* 65, no. 2 (May 1996): 217-48; and “Riot Control and the Use of Federal Troops,” *Harvard Law Review* 81, no. 3 (January 1968): 638-52.



repeatedly declared that he was able to serve any warrant and make any arrest required of him. Thus, Prince had no justifiable reason to call up the territorial militia and he believed that mobilizing the militia in this case would be an act of despotism. Even when he requested military aid, the governor reminded Noble, he “expressly stated that they were needed for moral effect only.” As Prince had asserted again and again, “the difficulty is and has been, solely, to identify any wrong-doers and to obtain evidence on which warrants could issue.”<sup>49</sup>

This was a common refrain among territorial officials, who repeatedly complained that they were unable to find witnesses willing to testify—either because they were intimidated by the fence cutters or in sympathy with them. Several local observers, including alleged victims, suggested a different problem: they believed that many of the depredations blamed on the Gorras Blancas were actually perpetrated by others who took advantage of the hysteria that gripped Las Vegas and the surrounding area at the height of the White Cap scare in 1890.<sup>50</sup> In any case, the fence cutters successfully concealed their identities and their anonymity undoubtedly hampered the efforts of law enforcement to put an end to clandestine vandalism.

The fact that the fence cutters were members of a secret society has hindered historians as well as the officials who wanted to stop them. Without

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<sup>49</sup> Prince to Noble, 20 August 1890, Territorial Papers. The despotism remark comes from the newspaper clipping enclosed in same.

<sup>50</sup> This group even included Barrett who informed Butler that at least three of the accusations he had originally reported had no basis in fact including his report of an employee who was almost killed when he caught fence cutters in the act. According to Barrett, the man was seriously injured in a fight with his employer several days after the fence had been cut. Barrett to Butler, 27 June 1890; see also F. Le Duc to Prince, 24 July 1890; Albert Alberti to Prince, 25 July 1890; and Prince to Noble, 23 July and 1 August 1890, in Prince Papers. See also the comments of Louis C. Totend printed in “Exaggerated. The New Mexico White Cap Stories are Not True,” *San Jose Mercury News*, 20 August 1890.

identifying who participated in organized fence cutting, scholars are left to generalize about their motives through an examination of the activities attributed to the Gorras Blancas—who they allegedly attacked and what they allegedly destroyed. Even this impressionistic glimpse reveals that fence cutters were just as likely to target nuevomexicanos as Anglos, long-term residents as newcomers, and large landowners as smallholders.<sup>51</sup> Just as fences enclosing pasture, timber, and springs were destroyed, so too were fences that enclosed farms and cultivated fields. The White Caps were also accused of burning houses, haystacks, crops, fruit trees, lumber, and railroad bridges.<sup>52</sup>

The Gorras Blancas existed in the shadows, and thus become visible in the historical record only intermittently. Although they were often accused of intimidation and violence, there were no dramatic shootouts, no jailbreaks, no assassinations, and no lynchings. There were, however, indictments, arrests, and criminal prosecutions for fence cutting. Revealing the names of ninety-six men, these court records offer a starting point for a demographic portrait of the men who were accused of participating in organized fence cutting, allowing for a comparison with their alleged victims.

Only seven incidents of fence cutting were prosecuted in San Miguel County between 1889 and 1892. Half of the victims, Petrolino Martín, Lorenzo Lopez, and Julio Hurtado, were nuevomexicanos. The others were Anglos—

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<sup>51</sup> According to the list compiled by Rosenbaum, of the incidents in 1889 and 1890 where ethnicity was determined, 22 victims were Anglos and 23 were nuevomexicanos. See *Ibid.*, *Mexicano Resistance*, 167-68

<sup>52</sup> For examples of what some of the cut fences enclosed, see Eduardo Martinez to Prince, 9 July 1890; F. Le Duc to Prince, 24 July 1890; J. Y. Lujan to Prince; W. C. Wright to Prince, 3 August 1890; S. E. Booth to Prince, 25 August 1890; J. B. Snouffer to Prince, 7 September 1890; Salazar to Prince, 23 July 1890; [List of Outrages]; “Defenza y Respuesta,” 7 July 1891.

William Rawlins and William D. Quarrell, W. C. Wright, and Mahlon Harrold.<sup>53</sup>

While the number of people indicted for each incident ranged from one to twenty-six, only three men were accused of participating in more than one episode and additional information is extant in the historical record for sixty of the ninety-six men indicted. Many of the accused were related to each other by blood or marriage. Most of them were married and thirty-five or older at the time of the attack. But most importantly, forty-three percent owned property and over half were literate, suggesting that previous assumptions about the social composition of the rank and file have been overdrawn (see Appendix E).<sup>54</sup>

The destruction of Petrolino Martín's fence was the first incident prosecuted in San Miguel County. In Las Colonias, fence cutting was a family affair. At least two of the men accused of cutting Martín's fence were brothers and more than half of the families involved were related by marriage. Eleven of the men indicted owned property, several of them adjacent to the village commons. With fifteen acres, Bernabel Gallegos was the largest landholder

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<sup>53</sup> Quarrell was attacked twice.

<sup>54</sup> San Miguel County Criminal Docket Book No. 1, November, 1882 – March, 1885; Book No. 2, March, 1885 – May, 1889; Book No. 3, May, 1889 – November, 1897; San Miguel County Criminal Case Files, Box 9, case #3150-3161, 3163-3176, 3263, 3271-3273, 3275-3294, 3308-3318; Box 10, case #3493-3495, 3499, 3504-3521, 3566, SMC DCR. I found additional information for twenty of twenty-six men indicted for Martín's fence, sixteen of twenty-three for Rawlins and Quarrell, six of ten for a second attack on Quarrell, three of eight for Lopez, two of eight for Wright, one of one for Hurtado, and fourteen of twenty-three for Harrold. Rinaldo Salas was indicted for both the attack on Rawlins and Quarrell in April 1889 and for cutting Lorenzo Lopez's fence in August. Rinaldo Fernandez and Nicanor Herrera were indicted for the second attack on Quarrell and the cutting of Lopez's fence; no demographic data was found for Fernandez. Bernabel Gallegos (Martín's fence) and Marcelino Gurule (Hurtado's fence) were the only two who went to trial and both were found not guilty. Relationships, marital status, and age were drawn from the manuscript census. The 1880 census lists each person's relationship to the head of household, and while some enumerators only occasionally listed wives' maiden names, the 1885 Territorial Census enumerator for Las Colonias consistently recorded them. Property holdings were drawn from census returns (including a Schedule of Agriculture for the 1885 Territorial Census), assessment rolls, and deed records recorded in the San Miguel County Clerk's Office. Literacy was determined by an individual's ability to sign his name in conjunction with the census listing him as able to read and write.

among those them. Most were small farmers or day laborers, but the fence cutters also included a former justice of the peace, bricklayer, and two men who farmed on shares. They ranged in age from twenty-one to sixty-three and all twenty-six men were able to post bond with help from their families.<sup>55</sup>

Without question, these men engaged in a coordinated attack on Martín's fence, and as they awaited trial, many in Las Vegas believed they belonged to a secret organization of fence cutters. When more than sixty masked men surrounded the county jail in the early morning hours of 2 November 1889, local residents and law enforcement interpreted those actions as a sign of support for the men charged with cutting Martín's fence and evidence that they were members of the secret society.<sup>56</sup> However, after the jury returned a not guilty verdict in the Gallegos case and the charges against the other men were dropped, Anglo observers dismissed the attack on Martín's property as "a dispute over the right to fence a certain tract of land" that bore "no special relation to the association known as White Caps."<sup>57</sup>

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<sup>55</sup> Twenty-one lived in Las Colonias and the Urioste, Gallegos, Gutiérrez, Valdez, Ulibarrí, and Martínez families were all related by marriage, as were the Ortiz and Tapia families and the Gonzales and Romero families. Of the four men who came from La Junta, three of them were Garcias. *Tenth Census of the United States, 1880*, San Miguel County, New Mexico, Population Schedules, National Archives Microcopy No. T9, reel 2; *Schedules of the New Mexico Territory Census of 1885*, San Miguel County, New Mexico, Schedules of Agriculture and Population, National Archives Microfilm Publication M 846, roll 4. Records of the County Assessor, Assessment Records, 1888-1891, Precinct 19, Las Colonias, San Miguel County, N.M. Records, NMSRCA (hereafter cited as Assessment Records).

<sup>56</sup> *Daily Optic*, 2 November 1889.

<sup>57</sup> Case #3156, *Territory of New Mexico v. Bernabel Gallegos*, Criminal Case Files, box 9, SMC DCR. Quotes from "Two Remarkable Verdicts," *Santa Fe New Mexican*, 28 November 1889. The *Optic* suggested it was either the result of a family feud or a dispute between neighbors, 14 December 1889. See also the *Optic* quoted in Rosenbaum, *Mexicano Resistance*, 106. When local officials were asked to provide Governor Prince with a report on the trouble in San Miguel County the following summer, they seem to have disagreed about the connection between the Martín fence cutters and the Gorras Blancas—M. A. Otero, the clerk of the court, included them in his account, but Salazar did not. Otero to Prince, 9 August 1890; Salazar to Prince, 23 July 1890, Prince Papers.

After absolving the men from Las Colonias, the *Optic* urged local authorities to eradicate the rampant robbery, murder, and general mayhem that raged unchecked outside of the city. These outrages, they explained, were orchestrated by an organization “lawless in its inception, spirit, and purpose” whose nefarious dealings extended well beyond “mere white capism or the banding together of men to cut fences.” The *Optic* warned its readers that only “an organization created and held together for the purposes of robbery and theft” could “keep such numerous and such dark crimes a profound secret.”<sup>58</sup> For the *Optic*’s editor, imagined intent was more significant than the actions themselves—fence cutting alone did not denote membership in the secret society of fence cutters.

Whether the men who destroyed Martín’s fence were members of the Gorras Blancas or not, this episode demonstrates that fence cutting in San Miguel County can not simply be explained as resistance to Anglo encroachment. Individual motives were far more complicated. Petrolino Martín was no Anglo, no newcomer, nor was he an established *rico*. Organized fence cutting offered an opportunity to settle scores against personal, economic, or political rivals and could be a useful tool employed in family or village feuds.

Most of the thirty-eight men indicted in the wake of the Gallegos trial were accused of cutting a fence belonging to William Rawlins and W. D. Quarrell the previous spring. Rawlins owned a saloon in Las Vegas before establishing a

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<sup>58</sup> First quote found in “Hunt them Down,” *Daily Optic*, 13 December 1889; others in “Must be Looked After,” *ibid.*, 11 December 1889.

Table 5.1: Property Values of Alleged Fence Cutters and Their Victims

	Real Property			Personal Property		
	1888	1889	1890	1888	1889	1890
<b>Fence Owners</b>						
W. D. Quarrell	\$570			\$1584		
William Rawlins	\$570			\$904		
Rawlins & Quarrell		\$1550	\$750		\$1578	\$1578
W. C. Wright		\$200	\$200		\$150	\$150
<b>Accused Fence Cutters</b>						
Dario Atencio	\$274	\$252	\$189	\$230	\$211	\$163
Jose L. Benevidez	\$263	\$262	\$143	\$345	\$364	\$286
Atanacio Garcia	\$1020	\$895	\$700	\$140	\$121	\$213
Nicanor Herrera		\$1530	\$1530		\$509	\$509
Teodoro Salas	\$125		\$125	\$202		\$257
Julian Sandoval	\$936	\$975	\$936	\$1851	\$1424	\$2032

*Source:* Records of the County Assessor, Assessment Records, 1888-1891, San Miguel County, N.M. Records, New Mexico State Records Center and Archives, Santa Fe, New Mexico.

small ranch on the Tecolote River near San Gerónimo in the late 1880s. Quarrell also owned a modest ranch in the area that included a claim on the adjacent commons that had passed to him by purchase from one of the original grantees. Neither man owned appreciably more real property or livestock than their nuevomexicano neighbors. Then, in 1889, the two joined forces and erected an \$800 barbwire fence around their newly consolidated landholdings. After their merger, Rawlins and Quarrell owned property valued at just over \$3000 (see Table 5.1).<sup>59</sup>

<sup>59</sup> No records detail where the fence was located or what it enclosed. Assessment Records, 1888-1891, Precinct 11, San Gerónimo; *New Mexico Territorial Census of 1885*; William D. Quarrell to William W. Rawlins, 26 October 1889, Book 40, page 531, San Miguel County Deed Records, County Clerk's Office, Las Vegas, New Mexico (hereafter cited as San Miguel County Deed Records). The value of their fence is given in the indictments.

The same could not be said for many of their nuevomexicano neighbors who experienced an opposite trajectory. Atanacio Garcia, for example, held almost twice as much land as either Rawlins or Quarrell in 1888. By the following year, however, he was among the residents of San Gerónimo who suffered economic losses—a decline that may have made the financial success Rawlins and Quarrell achieved as a result of their merger intolerable.<sup>60</sup> Garcia and the other villagers may have found the Anglos' fence unacceptable, or their use of the commons offensive, or perhaps they had competing land claims. In any case, Garcia and twenty-two others from San Gerónimo and nearby Ojitos Frios dismantled the newly constructed fence of Rawlins and Quarrell in April 1889.

Two months later, ten other men from the same villages visited Quarrell again, this time cutting a fence valued at \$500. They too had suffered from declining property values the previous year. This group included Nicanor Herrera, the youngest of the Herrera brothers. Nicanor owned the family ranch in Ojitos Frios, and though the value of his property had declined, he still owned more property than all but one other accused fence cutter. Worth over \$2000, Nicanor, in fact, held more land than Rawlins and Quarrell and owned more total property than two of the other victims of the Gorras Blancas.<sup>61</sup>

The trials of these individuals and several men accused of cutting a fence belonging to Sheriff Lorenzo Lopez were set for the spring term of the court. The

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<sup>60</sup> Assessment Records, 1888-1891, Precinct 11, San Gerónimo. See also *Tenth Census of the United States, 1880*.

<sup>61</sup> Assessment Records, 1872, 1889-1890, Precinct 44, Ojitos Frios. Beginning in 1871, Manuel de Herrera's heirs began transferring their interests in the Herrera properties to Nicanor who ultimately became the sole legal owner.

district attorney chose to dismiss the charges, however, when the witnesses for the prosecution failed to appear. Although he was never able to prove it, Salazar believed the three men had been murdered by the Gorras Blancas to prevent them from testifying.<sup>62</sup> While they had been the only witnesses for the attacks on Lopez and Quarrell, William Rawlins had testified before the grand jury in all twenty-three cases of those charged with cutting his fence.<sup>63</sup> We are left to wonder why Salazar was unable, or chose not to prosecute those men when he had a witness willing and able to identify them.

A new round of indictments for fence cutting were handed down during the next term of the court. In November 1890, the grand jury accused six men of cutting W. C. Wright's fence the previous December, adding charges of rioting and discharging weapons.<sup>64</sup> This episode raises interesting questions about the leadership of the Gorras Blancas and the motivations of the rank and file. In 1888, Wright bought Julio Chavez's property at Fulton, on the San Miguel del Bado Grant, and fenced in fifty acres that he intended to cultivate. The following summer, William Gibbs acted as an interpreter for Juan Benavides and Casisino Demio when they served Wright with a written notice to remove his fences and vacate his property. The warning was signed by Julian Sandoval and Ramon Gallegos as president and secretary, respectively, of the White Caps.

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<sup>62</sup> Salazar to Prince, 23 July 1890, Prince Papers. Salazar was incorrect—at least two of the three men reappear in the historical record after 1890.

<sup>63</sup> Case #3308-3318, Criminal Case Files, Box 9, SMC DCR. Quarrell did not testify, nor did his employee Tom Williams, who was allegedly shot by the fence cutters while the two men attempted to defend Quarrell's property.

<sup>64</sup> San Miguel County Criminal Docket Book No. 3; Case #3505-3507, 3514, 3516-3519, Criminal Case Files, Box 10, SMC DCR.



Predictably, Wright refused to heed their warning, and in return, a large body of men cut his fence on the night of 7 December 1889. Having recognized one of the men and several of the horses before he was forced to seek shelter from a volley of bullets, Wright reported the incident to Judge Long and offered to testify. Nevertheless, the new chief justice apparently declined to pursue the case during the spring term of the district court. Wright was not deterred, however, and answered Governor Prince's August appeal for information about outrages committed by the Gorras Blancas with a pledge to testify.<sup>65</sup> He got his chance in November 1890 and the evidence he provided led to the indictments of half a dozen men.

The cutting of Wright's fence is extraordinary not only because of the purported notice signed by two men identifying themselves as officers, but because one of them owned almost seven times more property than Wright held at the time he was targeted. When Julian Sandoval allegedly destroyed Wright's fence, he owned sixty head of cattle and his property was valued at close to three thousand dollars. Wright owned no livestock and owned only \$350 in property.<sup>66</sup>

The standard narrative leaves little room for Sandoval who owned a large and successful farm in San Miguel that included 320 acres of tilled land, thirty acres of forest, 278 acres of grasslands, and a one-acre orchard. In the late 1880s, he began to expand his land holdings, primarily along the Pecos River.

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<sup>65</sup> Wright to Prince, 3 August 1890, Prince Papers.

<sup>66</sup> Assessment Records, 1888-1891, Precinct 1, San Miguel; Assessment Records, 1889-1890, Precinct 12, Rowe. The cases were #3505-07, 3514, 3516-19; the indictments were dismissed 7 May 1891.

By the time the charges against Sandoval were dismissed, he held more than four thousand dollars in property, 215 head of cattle, and owned thirteen plots of land across five precincts, including two houses in addition to his residence.<sup>67</sup> Resistance to Anglo encroachment seems an unsatisfying explanation for the actions of this upwardly mobile nuevomexicano landholder who claimed to be the leader of the White Caps, but had himself been visited by masked nightriders who cut down his fruit trees and destroyed his fences.<sup>68</sup> Surely members of the Gorras Blancas were not only responding to external forces, but had their own reasons for participating in organized fence cutting. Some may well have been struggling against the onslaught of capitalism and modernization, but others found an opportunity for personal aggrandizement in organized fence cutting.

The standard interpretation of the Gorras Blancas as a reactionary movement to defend tradition is not simply a product of sources, but the result of an analytical model that posits resistance and accommodation as an oppositional binary. The constraints of this kind of approach are most evident in the interpretations of those scholars who have relied most heavily on Eric Hobsbawm's model of social banditry in order to make sense of the Gorras Blancas. By denying the possibility of non-elite political consciousness, the only explanation for organized fence cutting becomes a reactionary response to the forces of modernization that threaten a "traditional" nuevomexicano way of life. Thus, Arthur B. Schlesinger described nuevomexicanos as "a simple people who

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<sup>67</sup> Assessment Records, 1888-1891, Precinct 1, San Miguel; Territorial Census of 1885, microfilm copy, reel 3, Center for Southwest Research, General Library, University of New Mexico.

<sup>68</sup> Undated, unidentified newspaper clipping in the Territorial Papers; see also "Territorial Tips," *Santa Fe Daily New Mexican*, 26 July 1890.

had grown accustomed to a simple, straightforward way of life. They lacked explicit ideals because it was enough to live and work with what they had.” Too primitive to understand what was going on around them, Schlesinger explained that “The White Caps . . . felt, if they did not intellectualize, the dissolution of their life style. As the law, which they did not understand, did not help them, they had to take matters into their own hands in the only way they knew to preserve what they knew.”<sup>69</sup>

Robert Rosenbaum and Robert Larson later ruminated on what exactly it was that nuevomexicanos knew in the last decades of the nineteenth century. “Peasants (or their agrarian equivalents in New Mexico),” the authors insisted, “have only two frames of reference for action: the universe, which consists of everything they have ever heard about or conceived of, and their locality, the simple, practical world bounded by the limits of their actual activities.”<sup>70</sup> Like any other traditional society threatened by a more modern one, nuevomexicanos “just wanted to live as they had always lived.” Thus, Rosenbaum and Larson imagined that “Los pobres,” as they called non-elite nuevomexicanos, “cared little about such populist issues as free silver, education, or a more equitable form of ‘progress;’ they just wanted to keep their common land.”<sup>71</sup> In sum, Rosenbaum argues that the conflict in San Miguel County during the 1880s and 1890s is best understood as “a struggle between peoples from a complex world who imposed

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<sup>69</sup> Arthur B. Schlesinger, “Las Gorras Blancas, 1889-1891,” *Journal of Mexican American History* 1, no. 2 (Spring 1971): 105, 109.

<sup>70</sup> Rosenbaum and Larson, “Mexicano Resistance to the Expropriation of Grant Lands in New Mexico,” in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*, ed. Charles L. Briggs and John R. Van Ness (Albuquerque: University of New Mexico Press, 1987), 301.

<sup>71</sup> *Ibid.*, 227, 294.

their forms, for their benefit, upon a more traditional society” and a clash “between expectant capitalist and established peasant;” ultimately, however, it was a “conflict between *americano* and *mexicano*.”<sup>72</sup>

However, the story of the Gorras Blancas, and their purported leader Juan José Herrera, becomes much more complicated when we broaden our analytical view beyond the confines of resistance or pre-political peasant rebellion and reconsider the language and symbols they and their supporters invoked to confer legitimacy on their cause. The fact that a group of nuevomexicanos, including Herrera, were waving American flags and singing about John Brown is surprising given the traditional interpretation of the Gorras Blancas as primitive rebels resisting American control. While the *Optic* concluded, rather incredulously, that “these people, in some way, regard themselves as martyrs,” their actions conveyed a deeper meaning.<sup>73</sup> The heroic image of John Brown as a martyr for justice was certainly prevalent in the late nineteenth century. But he was a secular martyr who served as a model of courage and morality in the face of tyranny; a hero who confronted a corrupt social and political system.<sup>74</sup> By marching behind American flags and evoking the icon of John Brown, the members of the crowd were associating themselves with more than martyrdom and liberation—they were affirming their membership in the American body

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<sup>72</sup> Rosenbaum, *Mexicano Resistance*, 12.

<sup>73</sup> “Peace Once More Prevails,” *Daily Optic*, 17 December 1889.

<sup>74</sup> For responses to John Brown and the crafting of his legend, see for instance Paul Finkelman, ed., *His Soul Goes Marching On: Responses to John Brown and the Harpers Ferry Raid* (Charlottesville: University Press of Virginia, 1995).

politic, referencing their service in the Union army and, perhaps, their affiliation with the Republican Party, and conferring legitimacy on their cause.<sup>75</sup>

Although the image of John Brown has been employed by those seeking revolutionary change, the Gorras Blancas did not challenge the legitimacy of the federal government or the American political system. Instead, they asserted their place in that system and demanded their rights be respected. The Gorras Blancas articulated their principles in the platform they distributed in Las Vegas in March 1890. Those scholars who have examined the platform have highlighted the provisions dealing with land issues and have suggested that, in aggregate, the Gorras Blancas' platform gives us a sense of who they "considered their enemies."<sup>76</sup> If we are willing to seriously consider their rhetoric, however, the Gorras Blancas' platform takes on new dimensions.

"Not wishing to be misunderstood," they described themselves as "law abiding citizens" devoted to protecting the rights of "the people in general, [but] especially those of the helpless classes." First, they declared their position on

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<sup>75</sup> For a discussion of how reference to John Brown has served to legitimate political violence, see Gary Alan Fine, "John Brown's Body: Elites, Heroic Embodiment, and the Legitimation of Political Violence," *Social Problems* 46, no. 2 (1999): 225-49. I cannot, with any certainty, identify the people who participated in this demonstration. However, the eighteen accused fence cutters released that day and the twenty-eight nuevomexicanos who signed their bonds were likely present. Of those, at least four were veterans of the Union army and it is likely that other veterans could be found in the crowd. In 1890, at least 162 nuevomexicano Union veterans were living in San Miguel County. See Ronald Vern Jackson, ed. *New Mexico 1890 Special Census of Veterans [index]*, CSWR. For another use of military service for the United States as evidence of loyalty and citizenship, see "¿No Somos Americanos?", *El Defensor del Pueblo [Albuquerque]*, 16 January 1892.

<sup>76</sup> Quote from Rosenbaum, *Mexicano Resistance*, 108; see also Sarah Deutsch, *No Separate Refuge: Culture, Class, and Gender on an Anglo-Hispanic Frontier in the American Southwest, 1880-1940* (New York: Oxford University Press, 1987), 25; and Anselmo Arellano, "The People's Movement: Las Gorras Blancas," in *The Contested Homeland: A Chicano History of New Mexico*, edited by Erlinda Gonzalez-Berry and David R. Maciel (Albuquerque: University of New Mexico Press, 2000), 66.

the Las Vegas grant, calling for a fair legal settlement conveying ownership of the commons to the residents of the grant and they warned “land grabbers” not to interfere. They also “favor[ed] irrigation enterprises” so long as all residents had equal access. But the majority of the platform’s provisions focused instead on demands for fair elections, an end to political bossism, and civil justice.<sup>77</sup>

The Gorras Blancas emphatically rejected ethnic separatism and emphasized their common cause with Anglo residents. They made it clear that they were not motivated by “race issues” and would not tolerate “race agitators.” Their platform did not employ a language of patrimony or ground their cause in their historic occupation of the land. Instead, they appealed to patriotism by declaring “We are all human brethren, under the same glorious flag.”<sup>78</sup> Herrera made this point even more explicitly when he responded to accusations that he organized the fence cutters. In his letter to the *Optic*, Herrera affirmed his membership in the Knights of Labor but denied any association with the Gorras Blancas with the following explanation: “While I was born in New Mexico, I rejoice in feeling that I am an American, that proud title which embraces all nationalities and races of people that live under our flag and constitution; and I am ready to work and fight to sustain every principle and institution that belongs to our common country.”<sup>79</sup> Even if the Gorras Blancas’ appeal to patriotism and Herrera’s pronouncement of joyful Americanism may have been an astute

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<sup>77</sup> All quotes from the platform are drawn from the leaflet Barrett enclosed in his report to Butler, 26 June 1890, Territorial Papers.

<sup>78</sup> Ibid.

<sup>79</sup> “That Long Promised Letter,” *Daily Optic*, 9 April 1890.

political calculation rather than a heartfelt expression, there is other evidence that challenges the standard interpretation of the Gorras Blancas as primitive rebels.

The *Milhisier v. Padilla* suit, a lengthy land grant case that would help determine ownership of the common lands of the Las Vegas grant, occupies a prominent place in the standard narrative of the Gorras Blancas, both as the impetus for their organization and as evidence of their commitment to protecting the commons.<sup>80</sup> In addition, the Gorras Blancas are credited with influencing the outcome of the case itself—land grant historian Malcolm Ebright has suggested that Judge Long inconsistently applied Mexican law in the *Milhisier* decision because of his opposition to the Gorras Blancas. While correctly ruling that the common lands of the Las Vegas grant were not owned by the original grantees nor the United States, Long’s suggestion that an individual—in this case, the Padillas—could legally occupy, farm, and fence a portion of the commons would not have been tolerated under Mexican law or custom. Ebright contends that Long lent support to individual appropriation and fencing of the commons precisely because the Gorras Blancas opposed it.<sup>81</sup> Their purported leader, however, did not. Juan José Herrera supported the Padillas’ claim to exclusive use of the land they had enclosed on the Las Vegas grant and testified on their

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<sup>80</sup> Both Arellano and Rosenbaum discuss the case, but neither make it clear that the fences in question belonged to the Padillas. Rosenbaum’s characterization of the defendants’ position, that “no portion [of the commons] could be alienated without communal consent” (*Mexicano Resistance*, 102), is misleading since both the Milhisiers and the Padillas claimed an undivided interest in the grant through conveyances from the original grantees.

<sup>81</sup> Malcolm Ebright, *Land Grants and Lawsuits in Northern New Mexico* (Albuquerque: University of New Mexico Press, 1994), 213-14.

behalf.<sup>82</sup> What is more, Herrera claimed that his family also had exclusive rights to a portion of the commons.

Manuel de Herrera, Juan José's father, was one of several individuals who had successfully staked a personal claim over portions of the common lands of the Las Vegas grant. In 1842, he received private title to approximately fifty acres as well as an exclusive water right. Manuel further expanded his landholdings by purchasing the allotments of three other grant residents during the 1850s. His successful land deals contributed in large measure to the wealth of the Herrera family—contrary to our previous assumptions about Juan José, he grew up in a family that was one of the wealthiest in their community. In fact, by 1860, shortly after he left home, his parents' assets were valued at \$14,000—ten times higher than the median property value in their village.

The Herreras maintained that they enjoyed exclusive right to a sizable portion of the Las Vegas grant—rights conveyed to them by the grant to their father, subsequent purchases from original grantees, as well as the principle of adverse possession. They began fencing their claim in the 1880s and then initiated a series of ejectment suits to expel people who had settled on land the Herreras claimed as their own. However, it was not Anglo land grabbers or foreign cattle companies that were encroaching on their land—instead, it was nuevomexicano homesteaders.<sup>83</sup> The fact that one of these men was unlawfully

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<sup>82</sup> Case #2860, *Moses Milhiser et al v. José Leon Padilla et al*, Civil Case Files, Box 31, SMC DCR.

<sup>83</sup> Juana Herrera de Ulibarrí et al. to Nicanor Herrera, 28 December 1888, Book 39, page 342, San Miguel County Deed Records; Case #2788, *Juan José Herrera and Romulo Ulibarrí v. José Albino Baca*, Civil Case Files, Box 30, SMC DCR. His family, including brothers Nicanor and Pablo, lived in El Salitre in 1860 where the average total property value was \$883 and the median was \$400, see *Eighth Census of the United States, 1860*, San Miguel County, New Mexico,



“felling, selling, and removing timber” from their property was particularly troublesome since Herrera and his brother Nicanor had a timber contract with the Santa Fe Railroad at the time of the suit. That Juan José himself fenced land, initiated ejectment suits to protect his exclusive rights, and sold lumber from the common lands to the railroad does not fit the interpretation of him as a steadfast defender of traditional land use.<sup>84</sup>

Herrera was a prominent member of the community and a public figure. His father had been an officer in the Mexican army and joined the U.S. army after the occupation. He earned the rank of general, and was a renowned Indian fighter. Herrera followed in his father’s footsteps when he enlisted in the Union Army during the Civil War and was commissioned a captain in the 4<sup>th</sup> regimental infantry. Despite serving only nine months, the title of El Capitán stayed with him for the remainder of his life. As a young man, Herrera had served as the mayordomo of Las Vegas, married a French woman, and owned more than \$2000 in property. He practiced law and engaged in a variety of small-scale capitalist enterprises during his lifetime.<sup>85</sup> He also made enemies.

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Population Schedules, National Archives Microcopy No. 653, reel 2. For fencing, see Case #2377, *M. Brunswick Assignee v. Nicanor Herrera*, Civil Case Files, Box 27, SMC DCR. For the ejectment suits, see Case #2609, *Juan José Herrera et al v. Nicolas Gallegos*, Civil Case Files, Box 29; #2788, *Herrera and Ulibarrí v. Baca*; and #2789, *Juan José and Nicanor Herrera v. Alvino Trujillo*, Civil Case Files, Box 30, SMC DCR.

<sup>84</sup> Juan José Herrera and Brother to San Miguel National Bank, 6 July 1886, Chattel Mortgage Record, 1885-1888, page 84, San Miguel County Clerk’s Office, Las Vegas, New Mexico. On this previous interpretation of Herrera, see especially Rosenbaum, *Mexicano Resistance*, 126-27.

<sup>85</sup> *Special Schedules of the Eleventh Census (1890) Enumerating Union Veterans and Widows of Union Veterans of the Civil War: New Mexico* (National Archives Microfilm Publication, Microcopy No. 123); see also Arellano, “Through Thick and Thin: Evolutionary Transitions of Las Vegas Grandes and its Pobladores” (Ph.D. diss, University of New Mexico, 1990), 294-338; *Eighth Census of the United States*; see also Case #112, *Herrera v. Eliza Pinard*, Civil Case Files, Box 16, SMC DCR; Juan José Herrera y Otros, Certificado de Colocación Minera, 26 April 1867, Book 4, pages 121-23; Jesus Gonzales, Juan José Herrera, Pablo Herrera, Nicanor Herrera, and

In 1866, Herrera was sued in civil court for damages of \$5,000 by Geronimo Chavez. Apparently Herrera appeared before the Justice of the Peace in November 1865 to accuse Chavez of larceny, and when a warrant was issued for Chavez's arrest, he then took it upon himself to physically remove Chavez from his house and forcibly march him down the public street to the county jail where he was imprisoned for three months. Chavez sued, claiming Herrera's actions had damaged his name, reputation, and credit and his false imprisonment had prevented him from maintaining his business. The case files do not reveal what was allegedly stolen, nor do they provide the decision rendered by the court.<sup>86</sup> There is no indication that Herrera paid any damages and it seems that Chavez did not quickly forget the humiliation he suffered at Herrera's hand.

Two decades later, Herrera entered San Miguel County politics. He joined one of the local assemblies of the Knights of Labor and became a district organizer in 1888. That year, he helped organize a people's party in an attempt to break the back of the Republican machine in San Miguel County which was controlled by Eugenio Romero.<sup>87</sup> Then in December 1889, he was arrested for cutting a fence that belonged to two Anglos. Herrera's indictment was made possible by the confession of a professed fence cutter—Geronimo Chavez, the same man who two decades before sued Herrera for assault and humiliation.

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Dionicio Gonzales, Certificado de Colocación Minera, 14 December 1867, Book 4, page 123, San Miguel County Deed Records

<sup>86</sup> Case #44, *Geronimo Chavez v. Juan José Herrera and Miguel Esquibel*, Civil Case Files, Box 16, SMC DCR.

<sup>87</sup> Arellano, "The People's Movement," 64; Larson, *New Mexico Populism*, 43. Herrera's longtime feud with Romero began in the late 1860s when Herrera's first wife, Eliza Pinard, had an affair with Romero.

While held in the county jail on other charges, Chavez claimed to be a member of the Gorras Blancas and volunteered a confession to District Attorney Miguel Salazar, naming Herrera the leader and outlining the group's organizational structure.

Chavez was never charged with fence cutting and was released from jail shortly after his confession.<sup>88</sup> His statement was relayed to Governor Prince by Salazar in a report several months later. This confession convinced Prince that Herrera organized and led the fence cutters; it is also the foundation upon which previous historians have based their own conclusions about his role in the secret society of fence cutters.<sup>89</sup>

The Gorras Blancas will likely remain at least partially hidden by shadows. Beyond the platform leaflets they scattered through the streets of Las Vegas and a handful of notices they tacked to fence posts, they left few records that illuminate their secret society of fence cutters. Extant court records demonstrate that, at least in the seven cases that were prosecuted, fence cutting was highly localized. Participants were not drawn from a broad geographic area; rather, fence cutters and their victims often lived in the same communities—in some cases, they were literally neighbors. They do not reveal, however, if that was simply a matter of circumstance or if it reflected the fact that the Gorras Blancas were organized as a federation of small, local groups. Likewise, the extant

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<sup>88</sup> When Chavez was in prison again in 1896, he testified against Nicanor Herrera in a six year old murder case. Upon his release, he was accused of accepting money from Billy Green, an Anglo sheriff from East Las Vegas, to manufacture evidence against Nicanor. He disappeared again and another imprisoned man claimed Chavez had stolen his horse and left town. "New Mexico News," *Santa Fe New Mexican*, 20 February 1896.

<sup>89</sup> Herrera was undoubtedly involved, though it is equally unlikely that he was the mastermind everyone assumed he was. He later wrote favorably about the Gorras Blancas.

historical record shows that the individuals accused of engaging in organized acts of fence cutting represented all segments of society—from illiterate, landless laborers to wealthy, educated public officials—but says little about their individual motivations.

What the story of Gorras Blancas does reveal is a pervasive anxiety about a nuevomexicano population that was in, but not of, the union—a numerical majority not fully under national control, but who shared national values. Reflecting a deep-seated fear of a racial uprising, absentee landowners and local and territorial elites alike saw anarchy and rebellion wherever they looked. As a popular protest movement emerged in San Miguel County, the Knights of Labor gained strength, and a new political party threatened the stranglehold of the Republican machine and the Santa Fe Ring, local, territorial, and national elites overemphasized the existence and unity of the Gorras Blancas' threat in order to justify a greater assertion of centralized authority to bring the territory and its people more fully under the nation's control. While their attempts to gain the intervention of federal troops by decrying a vast organization of revolutionary Mexicans conspiring to drive Anglos out of New Mexico failed, as the following chapter demonstrates, territorial elites were much more successful at exploiting tensions within the protest movement itself by linking "lawless Mexicans" to radical labor in San Miguel County.

## Chapter 6

### The Knights of Labor and the Politics of Lawlessness

Shortly after nightfall on 3 July 1890, more than seven hundred fires could be seen glowing in the plaza of Las Vegas, New Mexico. That night, Anglos and nuevomexicanos, men and women, marched together through Old Town carrying torches—a fiery display of the strength of their union, the Knights of Labor.<sup>1</sup> The Fourth of July celebration the following day astonished onlookers. Overnight, more than one thousand Knights converged on Las Vegas to participate in the Independence Day parade. They were welcomed by speakers who evoked the memory of George Washington and Father Hidalgo and spoke of the glories of Mexican independence and the American Revolution in the same breath. On this day, the town's Democratic newspaper celebrated, "the people . . . united" and "Americans and Mexicans mingled together in a way which had never been witnessed before."<sup>2</sup>

The unity the newspaper described was partly the result of the Knights' willingness to organize workers regardless of skill, sex, race, or nationality.<sup>3</sup> By inviting both skilled and unskilled workers into their organization, the union

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<sup>1</sup> "Independence Day," *Las Vegas Daily Optic*, 5 July 1890.

<sup>2</sup> "How We Celebrated," *Las Vegas Democrat*, 5 July 1890. As leader of an insurrection in 1810 that launched the wars for Mexican independence from Spain, achieved in 1821, Father Miguel Hidalgo is revered as the father of Mexican independence.

<sup>3</sup> Only "non-producers" like speculators, bankers, and lawyers were officially barred from membership with the glaring exception of Chinese immigrants; see Robert E. Weir, "Blind in One Eye Only: Western and Eastern Knights of Labor View the Chinese Question," *Labor History* 41, no. 4 (2000): 421-36. For recent examinations of the obstacles to, and the limits of, the union's efforts at interracial organizing, see Joseph Gerteis, *Class and the Color Line: Interracial Class Coalition in the Knights of Labor and the Populist Movement* (Durham: Duke University Press, 2007); and Matthew Hild, *Greenbackers, Knights of Labor, and Populists: Farmer-Labor Insurgency in the Late-Nineteenth-Century South* (Athens: University of Georgia Press, 2007).

helped mitigate the racial segmentation of the workforce in Las Vegas, as well as the prevailing pattern of residential segregation that separated Anglos from nuevomexicanos. More importantly, however, the Knights' appropriation of "the cultural symbols of American patriotism and the republican language of independence . . . opened the possibility for a broader coalition" that crossed both race and class. Drawing from an ideology scholars have called labor republicanism, the Knights celebrated civic virtue, the dignity of labor, and workers' rights to social equality. In so doing, they demanded more than higher wages, shorter hours, and better working conditions—the Knights sought broad-based social and political reform.<sup>4</sup>

Juan José Herrera, one of the union's organizers in New Mexico, explained that the purpose of the Knights of Labor was "to reconquer every right of man, putting him in the high place he deserves, that of an intelligent human, equal in dignity and rights to all other men." They were devoted to this cause for all people "without racial, national, or party distinctions." On a basic level, this meant the Knights would strive to "insure that [laborers were] properly paid for their work so that they [might] enjoy the comforts of life just like anyone else." But Herrera contended that elevating "the whole of the human family" would require "the humbling of the tyrants and the destruction of tyranny." This could be achieved only through principled political participation, Herrera believed, and

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<sup>4</sup> Quote from Gerteis, *Class and the Color Line*, 40. Any examination of the Knights' efforts at broad-based social and political reform should begin with the works of Leon Fink. See especially, *Workingmen's Democracy: The Knights of Labor and American Politics* (Urbana: University of Illinois Press, 1983); "Labor, Liberty, and the Law: Trade Unionism and the Problem of the American Constitutional Order," *Journal of American History* 74, no. 3 (December 1987): 904-25; and "The New Labor History and the Powers of Historical Pessimism: Consensus, Hegemony, and the Case of the Knights of Labor," *Journal of American History* 75, no. 1 (June 1988): 115-36.

only through “the restoration of the empire of rights” could the Knights achieve their ultimate goal: “harmony among men.”<sup>5</sup>

To many Gilded Age Americans, the concentration of wealth in the hands of the few not only produced a concentration of economic power, but one of political power as well. Steeped in the nineteenth-century tradition of anti-monopolism, members of the Knights of Labor viewed both as a threat to freedom and American democracy. In San Miguel County, Anglos and nuevomexicanos built a coalition on shared opposition to land monopoly and land grant speculation and it was there that the New Mexico Knights achieved their greatest prominence. Two local assemblies were established in Las Vegas in 1882—the first, #2343 was chartered by nuevomexicanos in West Las Vegas. A third assembly, #4636, was established in East Las Vegas in December 1885.<sup>6</sup>

When the Milhisers filed their ejectment suit against the Padillas in 1887, the Knights of Labor rallied around the defendants. Members of local assembly 4636 helped form the Las Vegas Land Grant Defense Association to provide

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<sup>5</sup> Herrera purchased an Albuquerque newspaper, *El Defensor del Pueblo*, in June or July 1891 and frequently wrote editorials over the year or so that he owned the paper. The themes discussed here are common in Herrera’s writings. All but two of the quotes appear in “Defenza y Respuesta,” 7 July 1891; the quote “insure that they are properly paid for their work. . .” appears in “No Hay Mejor Defensa Como la Confesion de un Enemigo,” 1 August 1891; and “harmony among men” appears in “El Hispano-Americano Mal Informado,” 16 January 1892.

<sup>6</sup> According to Jonathan Garlock, all assemblies numbered between 1728 and 2422 were organized in 1882; see Garlock, comp., *Guide to the Local Assemblies of the Knights of Labor* (Westport: Greenwood Press, 1982), xix. I have designated 2343 a predominantly nuevomexicano assembly because all of the officers who corresponded with the national union were nuevomexicanos and the address given for the assembly was West Las Vegas. See L.A. #2343 to John Hayes, 21 July 1890, and Hayes to Nestor Montoya and Jose Cabeza de Baca, 2 August 1890, Terence Vincent Powderly Papers, 1864-1937 and John William Hayes Papers, 1880-1921; The Knights of Labor (Microfilm copy, reel 33) [Hereafter cited as Powderly Papers]. L.A. #2976 initiated 57 members in its first year, see *Records of the Proceedings of the Eighth Regular Session of the General Assembly of the Knights of Labor of America*, September 1884, “Summary of Quarterly Reports,” #2976 Las Vegas, NM, p. 831; on #4636, see *Journal of United Labor*, 10 January 1886, p. 1174; see also Garlock, comp., *Guide to the Local Assemblies*, 295-96.

support for the defense. While the case languished in the court for the next two years, the Association continued to hold meetings, encourage public support, and raise money to pay for the legal defense. Local assembly 4636 also intensified their organizing efforts during that time by renewing the commission of Herrera as District Organizer.<sup>7</sup> None of the activities of the Las Vegas Land Grant Defense Association, however, generated as much public attention to the status of the Las Vegas grant—or garnered as much publicity for the Knights of Labor—as the action of the Gorras Blancas.

Although five members of the union, including Juan José Herrera and his brother Nicanor, were among the nuevomexicanos indicted for fence cutting in November 1889, the first public association of the Knights of Labor with the Gorras Blancas aroused little attention within the union's inner councils.<sup>8</sup> The very day the Knights were charged, the plaintiffs in the *Milhiser v. Padilla* case abandoned their suit, signaling a victory for the Knight-led Las Vegas Land Grant Defense Association. The Milhisers withdrew their complaint and paid all costs when they learned that Judge Long favored the defendants in the hope that they

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<sup>7</sup> Frank C. Ogden, John K. Martin, and J. B. Allen to Terence V. Powderly, National Grand Master Workman, 8 August 1890, "White Cap" Investigation, Governor L. Bradford Prince Papers, New Mexico State Records Center and Archives (NMSRCA), Santa Fe, New Mexico (microfilm copy, Territorial Archives of New Mexico, reel 121) [hereafter cited as Prince Papers]. The letter is vague about the timing of Herrera's renewal. They recount the history of their assembly from the fall of 1887 to the dismissal of the fence-cutting cases in the spring of 1890 and write that "About this time a renewal of the commission of Bro. J. J. Herrera came to hand." According to the records of the General Assembly, local assembly 4636 submitted a request in 1887 for copies of the Knights of Labor constitution printed in Spanish and asked that an organizer be appointed. The report of the General Executive Board simply reads "Not granted." *Records of the Proceedings of the Eleventh Regular Session of the General Assembly of the Knights of Labor of America*, October 1887, 1359. It is thus unclear when exactly Herrera's "commission" was renewed or whether or not he was an officially recognized organizer for the Knights of Labor.

<sup>8</sup> I have no evidence that it aroused any attention and am uncertain which of the men indicted for fence cutting besides the Herrera brothers were members of the Knights of Labor. The Ogden et al letter (written nine months after the indictments) says five members were indicted, but they do not provide the names of any of them.



could prevent Long's opinion from becoming a legal precedent supporting the community land grant concept. Despite the outcome of the case, however, tension remained high in Las Vegas as those named in the latest series of indictments were rounded up.

In early 1890, the character of the "outrages" attributed to the Gorras Blancas changed. On 30 January, a railroad tie was placed on the track south of the city in an apparent effort to derail a train. Then in the beginning of March, reports circulated that three hundred armed men ordered the employees of Eugenio Romero to halt their lumber operation and to destroy the approximately six thousand ties they had already cut. Later that spring, White Caps reportedly vandalized a railroad bridge, posted notices setting wage scales and hauling rates, and ordered teamsters to strike.<sup>9</sup>

The association of the vigilante group with labor demands drew public attention toward the Knights' organizer, Juan José Herrera. Responding to public accusations and criticisms, Herrera submitted a letter to the *Daily Optic* in April 1890.<sup>10</sup> In it, he pointedly denied any personal involvement in the Gorras Blancas. After affirming his membership in the Knights of Labor, Herrera went on to discount any association between the fence cutters and the labor union. In fact, Herrera went so far as to pledge "to assist in suppressing any unlawful movement carried on" by the Gorras Blancas. Moreover, he promised that he

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<sup>9</sup> [List of Outrages], O. D. Barrett report to General Benjamin Butler, 26 June 1890, enclosed in Butler to John W. Noble, Secretary of the Interior, 9 July 1890; Interior Department Territorial Papers: New Mexico, 1851-1914 (National Archives Microfilm Publication M364, roll 8); Records of the Office of the Secretary of the Interior, Record Group 48.

<sup>10</sup> Juan José Herrera, letter to the editor, "That Long-Promised Letter," *Daily Optic*, 9 April 1890. According to Herrera's letter, some people had already accused the Knights of collusion with the *Gorras Blancas*. I have not been able to locate any public charges made before July 1890.

would continue to “fight these designing politicians in a political way,” for “the benefit of the people at large,” but would never participate, assist, or suggest any action that would disturb the peace of their community; in fact he was “ready to render [his] life in its defense.”<sup>11</sup> Herrera’s letter did not dispel the growing suspicion that the union and the fence cutters were somehow linked.

On 4 May, a general meeting of the Knights of Labor of San Miguel County convened in East Las Vegas to respond to accusations of involvement with the White Caps and to draft a resolution declaring their position on the Las Vegas grant. First, in a sign of support for Herrera, they made it clear that no information had been formally presented to any of the assemblies in San Miguel County that any member of their order was guilty of unlawful acts. They continued by stating that the rules of membership were stringent—all members were required to “use every means in their power to remedy existing evils through lawful means, and restrain lawlessness and excessive greed.” Nevertheless, the Knights declared that the “recent fence cutting troubles . . . [were] the result of the efforts of individuals for years past to rob the mass of the people of their rightful and legal heritage in this community grant.”<sup>12</sup>

Their position on the grant was clear—every resident was entitled to equal ownership of the grass, wood, and water on the grant and was legally guaranteed free and unrestricted access to it. These rights had been conveyed “under Mexican law” when the Las Vegas grant had been “set apart from the general public domain” as a community land grant. “All persons,” the Knights

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<sup>11</sup> Ibid.

<sup>12</sup> “The Las Vegas Grant: The Knights Declare Themselves on the Subject,” *Las Vegas Democrat*, 7 June 1890.

explained, “could apply . . . for a tract of land so large as [they] had the means to cultivate.” However, that land was given “with the express stipulation that all of the land within the boundaries of the grant not so occupied, should be forever free and common to all.”<sup>13</sup>

The Knights of Labor argued that these rights had been “guaranteed by solemn treaty provisions” when the United States acquired the territory from Mexico. By signing the Treaty of Guadalupe Hidalgo, the Knights explained, the United States had promised to “protect the citizens of [the] Territory . . . in their previously acquired rights to property.” Recognizing the special legal status afforded community land grants under Mexican law, Congress acted in “good faith” when it confirmed the grant to the town of Las Vegas in 1860.<sup>14</sup>

Thus, the union did not agree with the position of the General Land Office and Surveyor Julian that the common lands had passed to the United States as public domain. Instead, they steadfastly believed that ownership of the commons was vested in the community of Las Vegas. This position put the Knights of Labor in stark opposition to those who argued that the act of confirmation was intended to convey ownership of the grant to the twenty-nine original grantees as private property. The Knights publicly condemned the individuals who used this argument to assert control over the common lands “in violation of every legal and moral right possessed by the mass of the people.”<sup>15</sup>

At this same meeting, the Knights of Labor declared fences a public nuisance and demanded their immediate removal. In fact, they argued that

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

fencing on the grant was even illegal when “lands were enclosed for the purpose of monopolizing and establishing a quasi individual title.” However, the union drew a sharp distinction between those who enclosed land “for the purpose of cultivating and improving it permanently,” and those who fenced off land “for the purpose of speculation and public plunder.”<sup>16</sup> Thus, their support of the Padillas in the *Milhisser* case did not contradict their principles despite the fact that the Padillas had both enclosed a portion of the commons in order to establish an individual title to it, and had claimed the right to do so through conveyances from some of the original grantees.

The Knights concluded their public declaration by returning to the issue of clandestine fence cutting. They reiterated their claim that they knew nothing of the activities of the White Caps, but resolved to use their influence to make sure that “in attempts to protect the public rights against individual encroachments that injustice is not done.”<sup>17</sup> Their early refusal to condemn the fence cutters would have serious repercussions for the Knights of Labor in San Miguel County.

Night raids continued unabated and tensions reached a fever pitch during the summer. In June, thirteen more attacks by the Gorras Blancas were reported and three railroad bridges were burned. When Las Vegas was chosen as the site for the first territory-wide gathering of the Knights of Labor in New Mexico—a demonstration planned to coincide with Independence Day celebrations—some of their own members feared unrest. Nestor Montoya of assembly 2343, used his newspaper to implore his fellow Knights to act with honor:

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<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

*La Voz del Pueblo* hopes that you will not use injustice or illegal methods to acquire the glory which your cause merits, and that as an independent body you will not permit intrigue or treason to be sown in your councils, and will not permit the dignity of your order to be compromised in wanting to avenge the animosities of any of your members. In one word we hope that your guiding star may be justice and reason.<sup>18</sup>

Montoya's fear that the Knights would allow intrigue and treason to invade their councils proved prescient.

More than seven hundred strong, the Knights held a torchlight parade through Las Vegas on the night of 3 July. By the next morning, over one thousand Knights from throughout the territory converged on the town. Their procession led the Fourth of July parade through West Las Vegas, across the river, and into East Las Vegas. The marchers carried signs expressing the Knights of Labor platform—"We seek protection for the worker against the monopolist," "Free schools for our children," "Death to the scoundrel who would trample the rights of the people," "He who touches one of us answers to all"—and were followed by three hundred men on horseback and another four hundred people in wagons.<sup>19</sup>

Both partisan newspapers reported the events favorably, although the Republican newspaper did so with incredulity. Each noted that the Knights comported themselves with dignity and patriotism. The papers also complimented the Knights on the barbecue they hosted for the citizens of Las

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<sup>18</sup> *La Voz del Pueblo*, 21 June 1890, translation reprinted in *Las Vegas Democrat*, 28 June 1890. Quoted from translation. It is unclear why Montoya used "your" instead of "our." It is possible he was not yet an official member of the Knights. The first record I have confirming his membership is dated 21 July 1890. See L.A. #2343 to General Secretary John W. Hayes, 21 July 1890, Powderly Papers.

<sup>19</sup> "El Dia Glorioso," *La Voz del Pueblo*, 12 July 1890; Anselmo Arellano, "The People's Movement: Las Gorras Blancas," in *The Contested Homeland: A Chicano History of New Mexico*, ed. Erlinda Gonzalez-Berry and David R. Maciel (Albuquerque: University of New Mexico Press, 2000): 68-9.

Vegas, the *Democrat* being careful to emphasize their prohibition of alcohol at the event. The festivities included some fifteen speeches by Knights or their sympathizers, foot races, a dance, and fireworks. That both papers printed statements like “there was no drunkenness, no disorder or rioting,” and “not a single fight or disturbance of any kind occurred,” reveals the tension that gripped San Miguel County during the summer of 1890.<sup>20</sup>

The Fourth of July celebration was a turning point for the Knights in New Mexico. First, their numbers were impressive—estimates ranged from twelve to fifteen hundred participants. That the Anglo business elites received them positively, at least publicly, was also a victory for the union. More important, however, was the demonstration of broad-based support from the multi-racial community—non-members, Anglos and nuevomexicanos alike, attended the events sponsored by the Knights and cheered enthusiastically when any speaker denounced land-grabbers or demanded equal access to the common lands of the Las Vegas grant.<sup>21</sup>

The San Miguel County Knights of Labor had little time to enjoy the success of their Independence Day celebration. Within a week, Terrence V. Powderly received General Butler’s letter accusing the New Mexico Knights of collusion with the White Caps, and he immediately ordered an internal investigation of the assemblies in New Mexico. Without disclosing the source,

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<sup>20</sup> “Independence Day,” *Daily Optic*, 5 July 1890; “How We Celebrated,” *Las Vegas Democrat*, 5 July 1890.

<sup>21</sup> *Ibid.* See also “El Dia Glorioso,” *La Voz del Pueblo*, 12 July 1890.

each local was informed that charges had been made against the order and was forwarded the list of outrages Butler had enclosed in his letter to Powderly.<sup>22</sup>

Invariably, each assembly denied any connection between the Knights and the White Caps. The responses of the predominantly nuevomexicano assembly and the predominantly Anglo assembly in Las Vegas varied only in tone. The nuevomexicano local announced that a general meeting of representatives from all the assemblies in New Mexico had been called to answer the charges and they would send a full report to national headquarters afterwards. In the meantime, they explained their own position on the matter: “We have had to battle with a great deal of opposition from the rich land holders in the West, and we believe that the charges preferred against us have been fabricated simply to hinder and hurt our good work.”<sup>23</sup>

The reply from the predominantly Anglo local evidenced a level of hostility that did not appear in the measured response of the nuevomexicano assembly. “It appears remarkable,” local 4636 wrote, “that if [the charges] have been forwarded to you by anonymous [*sic*] parties, that any attention should have been given them, and also that our order here should have been called upon to defend itself.” The members had conducted their assembly in strict accordance with the principles of the order, and, in fact, could not even confirm “that any of the lawless acts mentioned in these charges have been committed.” Therefore, they explained, they had no knowledge of any association of any member of the

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<sup>22</sup> Butler to Powderly, 9 July 1890; Powderly to John W. Hayes, 11 July 1890; Hayes to M. Custers, J. B. Allen, and Jose Lovato, 15 July 1890; Hayes to Powderly, 2 August 1890; Powderly Papers.

<sup>23</sup> L.A. #2343 to Hayes, 21 July 1890, Powderly Papers.

Knights with any acts of lawlessness. In conclusion they wrote: "The order in this territory has a great work to perform in the interest of justice, equity, and the permanent development and prosperity of the mass of the people as well as the members of the order. This will be accomplished in time, through legitimate means . . . if heartily and sincerely supported by the general order of the K. of L. in the Union."<sup>24</sup> Their obvious offense at the intrusion of the General Secretary in local affairs might explain their decision to omit any mention of either the indictment of five of their members for fence cutting or the general meeting convened two months earlier to refute public accusations against their Order.

Enclosed in the official report of assembly 4636 was a more conciliatory letter written by J. B. Allen explaining the situation in San Miguel County. Allen connected the success of the Las Vegas Land Grant Defense Association to the charges against the Knights:

we have been contesting every inch of ground before the courts during the past three years. While acting on the defense [we] have been able to defeat them (the land grabbers) at every point so far. Judge Barrett, with his short hand reporter has been an interested spectator during the trials as the rulings and decisions would naturally affect his interest also that of General B. F. Butler and others, in the Mora and other land grants. Hence the charge against the K. of L. here.<sup>25</sup>

Allen asked Powderly to name their accusers so that they could defend themselves more effectively. He explained that "the difficulties to be overcome in this Territory are numerous if the order and its aims are to be crowned with success eventually. Its enemies are powerful and composed of the most corrupt, arrogant, and despotic leading politicians of both political parties as well as

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<sup>24</sup> L.A. #4636 to Hayes, 24 July 1890, Powderly Papers.

<sup>25</sup> Allen to Hayes, 25 July 1890, Powderly Papers.



nearly all of the leading lawyers and wealthy land grabbers.” Throughout his letter, Allen steadfastly denied the involvement of any Knight in any act of lawlessness.<sup>26</sup>

Like Allen, the secretary of the local assembly in Albuquerque, M. Custer, also denied any involvement between the Knights and lawlessness. His rationale, however, was quite different. The fence cutters, Custer explained, were “Native or Mexican citizens of that class which [was] hostile to American progress.” It was well known that the vigilantes were “illiterate, indolent, non-progressive, [and] vicious” and they targeted only “the more progressive, prosperous and new element which [was] developing the country.” In short, Custer informed Powderly that it was a movement “directed by Mexicans against Americans,” and therefore could not possibly involve the Knights of Labor. The idea that nuevomexicanos would be admitted into the union was so unthinkable to Custer that he believed there were fewer than two dozen true members of the Knights of Labor in all of San Miguel County. Thus, the charges were preposterous because “there [was] no evidence to show that a single American or White man” was involved.<sup>27</sup>

As national attention focused on northern New Mexico, accusations against the Knights intensified. Under pressure from Anglo land owners, the Secretary of the Interior demanded that Governor Prince investigate and “exert [his] full force to the suppression” of disorder. Nevertheless, in a national release, the Associated Press doubted that anything short of federal military

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<sup>26</sup> Ibid.

<sup>27</sup> M. Custer to Powderly, 6 August 1890, Powderly Papers.

intervention could put down the mob of “several hundred Mexicans” who were terrorizing the citizens of New Mexico.<sup>28</sup>

The Las Vegas assemblies of the Knights of Labor convened on the night of 5 August to elect a special committee to meet with Governor Prince to discuss the unrest in the county. The committee included representatives from both assemblies 2343 and 4636, but only one Anglo, J. B. Allen, was elected. The following day, Allen and the other committee members—Nestor Montoya, Juan José Herrera, Nicanor Herrera, E. H. Salazar, and Tony Cajal—met with the governor. Presenting a united front, both Montoya and Allen assured Prince that their members were law-abiding citizens and not members of the Gorras Blancas. They pledged to expel any member found guilty of lawlessness and offered any assistance that might help put an end to the unrest in the area.<sup>29</sup>

The Anglo-nuevomexicano coalition within the Knights began to fracture two days later when Allen and two other Anglo Knights, Frank C. Ogden and John K. Martin, recanted their previous denials of member involvement with the Gorras Blancas. In their letter to Powderly, a copy of which they sent to Governor Prince, they offered no explanation for their change of heart beyond saying that “the time has arrived, when some action should be taken.”<sup>30</sup> As usual, the letter began with a recounting of the fencing of the public domain by land-grabbers and the Knights’ efforts to defeat them through the Las Vegas Land Grant Defense Association. They reported that after their first legal victory,

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<sup>28</sup> Noble to Prince, 28 July 1890, Prince Papers; for Associated Press report see clipping attached to Prince to Powderly, 1 August 1890, Powderly Papers.

<sup>29</sup> Prince, personal notes, date illegible, Prince Papers.

<sup>30</sup> J.B. Allen and Frank C. Ogden to Prince, 9 August 1890, Prince Papers; Ogden et al to Powderly, 8 August 1890, Prince Papers.

“fence cutting and house burning commenced,” resulting in the arrest of many people including five members of the Knights of Labor. Those cases, the authors explained, were eventually dismissed because of insufficient evidence. However, about the same time, Juan José Herrera received a renewal of his commission as District Organizer, “and as organization proceeded, so also did fence cutting. Just how many assemblies [*sic*] he has organized,” they wrote, “we are not prepared to say, but fence cutting and other depredations are by far of too frequent occurrence.” The authors were also unprepared to say just who the fence cutters were. However, they did report that “the Mexican people” Herrera was organizing as Knights of Labor “are of the lower class and consequently they are more ignorant.” They asked that Herrera be forbidden to organize any more assemblies and that those already organized by him not be recognized or granted charters.<sup>31</sup>

It seems unlikely that Allen, Martin, and Ogden were motivated to write their letter to Powderly because they had just recently learned that Herrera was involved with the Gorras Blancas. Herrera’s name had been associated with the fence cutters for more than nine months preceding the drafting of their letter. During that time, he had been indicted, arrested, and acquitted—events that were all widely reported in the press. Yet, a mere two weeks earlier, Allen had privately reported to General Secretary Hayes that he had no knowledge of any association between the White Caps and any member of the Knights of Labor. A convergence of other factors seems the most likely explanation for Allen’s change of heart.

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<sup>31</sup> Ogden et al to Powderly, 8 August 1890.

The union's ranks were swelling as a result of Herrera's organizing efforts. The segment of the workforce most ripe for unionization was unskilled track workers and Herrera had organized at least half a dozen local assemblies in San Miguel County in the last year alone.<sup>32</sup> These new recruits were more militant and willing to strike than many of the Anglo veterans. They staged three strikes between April and August, and called a fourth less than a week after Allen's letter to Powderly. They also shifted the balance of power in the county assembly by electing nuevomexicanos to positions of authority once held by Anglos. As mentioned above, only one Anglo was elected by the San Miguel County Knights to the special committee to meet with the governor. Moreover, the top three positions in the county assembly were now held by nuevomexicanos. Allen, Martin, and Ogden were all former Master Workmen and may have felt displaced and marginalized by the new nuevomexicano leadership and more militant nuevomexicano rank-and-file.<sup>33</sup> In any case, the evidence suggests that the Anglo letter writers used their opponents' accusations of Knight involvement in the White Caps in an attempt to alter the direction of the San Miguel County Knights of Labor. No other explanation makes sense given their plea to Powderly that Herrera's commission as district organizer be revoked and his

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<sup>32</sup> Since 1882, AT & SF track crews were composed almost entirely of nuevomexicanos—as unskilled workers they received the lowest pay, between \$1.10 and \$1.25 per day, of any position on the railroad; see James H. Ducker, *Men of the Steel Rails: Workers on the Atchison, Topeka & Santa Fe Railroad, 1869-1900* (Lincoln: University of Nebraska Press, 1983), 10, 21, 27, 171.

<sup>33</sup> [List of Outrages], "White Caps Investigation," Prince Papers; for the August strike see *Daily Optic*, 12, 15 August 1890; see also Ducker, *Men of the Steel Rails*, 29. Jose Valdez and Enrique Mares to Powderly, 18 August 1890, Powderly Papers; Nestor Montoya to Powderly, 20 August 1890, Powderly Papers. For identification of Allen, Martin, and Ogden as Master Workmen see Arthur B. Schlesinger, "Las Gorras Blancas, 1889-1891," *Journal of Mexican American History* 1, no. 2 (Spring 1971), 104-05.

locals not be recognized, after months of denying any connection between the White Caps and the Knights despite knowing Herrera was implicated.

Not only had the union's leadership and demographics changed, their rhetoric had become increasingly confrontational as well. The changing character of the San Miguel County assembly became clear in a public letter to Powderly that was distributed to the Las Vegas press in late August. Like their critics, the Knights decried the pervasive lawlessness that had infected the territory. For them, however, lawlessness was inextricably linked to a corruption of the political process.

The Knights' assessment of territorial politics was bleak. They informed Powderly that the Republican party had distributed "whiskey by the keg" in an attempt "to secure and influence votes" during the last election and less enthusiastic voters had been "threatened" or "beaten." But political corruption was neither unique to San Miguel County nor was it a recent phenomenon. Throughout the territory, the Knights explained to Powderly, "the mass of the poor people [had] been bull-dozed, cajoled, and their votes bought" by both Democrats and Republicans.

The Knights denounced both political parties as the pawns of land speculators who passed laws designed to keep the people "in ignorance, under easy control, and . . . to systematically rob them by means of the courts." For decades, these "land thieves and public corruptionists" had "controlled the legislatures, courts and county affairs, and prostituted all of these sources of power to gratify their venal, mercenary propensities and vain ambitions." The

White Caps, then, were merely a symptom. According to the Knights, “lawlessness” was ultimately rooted in “the corrupt and tyrannical political practices . . . in connection with the land-robbing acts of many of the leading lawyers, prominent politicians and business men of this county and territory for years past.”<sup>34</sup>

The Knights were not the only ones to frame the state of affairs in San Miguel County in political terms. The chairman of the New Mexico Democratic Party, C. H. Gildersleeve, told a Denver newspaper that the actions of the White Caps, while contemptible, were understandable given “the grinding landlordism of an affluent oligarchy, who [had] acquired their power by . . . the actions of a corrupt and avaricious Republican legislature and the criminal failure of a Republican congress to pass protective land grant laws.” In response to the charges leveled by Gildersleeve, the Santa Fe *New Mexican* accused the Democratic party of “inflaming and exciting . . . the poor people” and organizing new “lodges” of the White Caps and Knights of Labor as a campaign strategy.<sup>35</sup>

Throughout August, both the Republicans and the Democrats were accused of using the White Caps as a political machine. Out of state newspapers speculated that the fence cutters would be used as pawns in the factional struggle between Eugenio Romero and Lorenzo López for control of the Republican party in San Miguel County.<sup>36</sup> Closer to home, the *New Mexican*

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<sup>34</sup> Valdez and Mares to Powderly 18 August 1890, Powderly Papers. Also printed as “A Sorching [sic] Letter,” *Las Vegas Democrat*, 28 August 1890.

<sup>35</sup> Interview reprinted (with commentary) in *New Mexican*, 6 August 1890.

<sup>36</sup> Eugenio Romero and Lorenzo López were brothers-in-law. *Los Angeles Times*, 4 August 1890; *Bismarck (North Dakota) Daily Tribune*, 5 August 1890; *The Columbus (Georgia) Enquirer-Sun*, 6 August 1890; *The Albuquerque Democrat*, October 26, 1890.

informed its readers that the White Cap “outrages” were “directly traceable to the evil machinations and wicked agitation of the Democratic [party] leaders.”<sup>37</sup> For the next month, the mouthpiece of the Republican Party continually linked the Democrats with the White Caps, imploring “all public spirited, patriotic and honest citizens of New Mexico, regardless of party” to vote the Republican ticket. A vote for the Republicans was more than a sign of support for “crushing the lawless White Cap element,” it was a vote for “the supremacy of the law.” On the other hand, the *New Mexican* warned, a vote for the Democrats was a vote for depreciating property values, declining immigration, and the end of capital investment; it was, in short, a vote for “lawlessness and [a] reign of terror.”<sup>38</sup>

The Republicans’ attempt to make the 1890 elections a referendum on lawlessness was a tactical blunder that placed their own party on the defensive. During the Cleveland administration, Governor Edmund G. Ross and Surveyor General George W. Julian had been sent to New Mexico to institute reform and break up the “rings” operating in the territory. Both men pursued their tasks with enthusiasm—exposing land frauds, corruption, and political obstructionism linked to the Republican Party.<sup>39</sup> Without question, the persistent public pillorying they received at the hands of two of the highest ranking government officials in the territory tarnished the Republicans’ image. Nonetheless, it was their own

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<sup>37</sup> *New Mexican*, 9 August 1890.

<sup>38</sup> *New Mexican*, 11 August 1890.

<sup>39</sup> The Democratic Party was not immune to charges of corruption. In fact, both men believed leading members of the party were involved in the Santa Fe Ring. While Ross was cautious about attacking members of his own party, Julian’s denunciations of corruption were nonpartisan. Howard R. Lamar, *The Far Southwest, 1846-1912: A Territorial History*, rev. ed. (Albuquerque: University of New Mexico Press, 2000), 146, 156, 159.

legislative record that was most damaging to the Republicans in the fall campaign.

Two measures in particular—the change of venue law and the 1889 constitution—branded the Republicans as the party of monopolists and land grabbers. Passed over the governor’s veto, the change of venue law allowed individuals involved in a lawsuit to petition the court to move their trial to another county if they could produce two “disinterested” witnesses willing to testify that a fair and impartial jury could not be found locally.<sup>40</sup> Many New Mexicans, Anglo and nuevomexicano alike, viewed the change of venue law as bald-faced Republican support for the Maxwell Land Grant Company’s attempt to evict “squatters” from the grant by moving their ejectment suits out of Colfax County where the Farmers’ Alliance and the Knights of Labor had mobilized public opinion in support of the settlers.<sup>41</sup>

The 1889 constitution was even more damning to the Republicans. No claim could be made that the constitution was a bipartisan document; when the constitutional convention met in Santa Fe in September 1889, only one delegate was a Democrat. Once the delegates were announced, territorial newspapers condemned the meeting as a land-grabber’s convention by citing the fact that fourteen of the Republican attendees alone were the owners of, and attorneys for, almost nine and a half million acres of land. However, two provisions of the

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<sup>40</sup> According to Robert Larson, the prosecuting attorneys could not file counter affidavits and the court was not allowed to inquire as to the motive behind the change of venue request, see *New Mexico Populism: A Study of Radical Protest in a Western Territory* (Boulder: Colorado Associated University Press, 1974), 28-30, 194 n24.

<sup>41</sup> For the Colfax County Farmers’ Alliance and the Maxwell Land Grant Company’s campaign to eject grant settlers, see Larson, *New Mexico Populism*, 23-32; see also María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Lawrence: University Press of Kansas, 2002).



constitution itself particularly inflamed public opinion. The first capped property taxes at one percent. Opponents of the constitution argued that the cap would produce a revenue shortfall, shifting the tax burden from large landowners to farmers, workers, and cattlemen. The second measure forbid any person who could not read, write, and speak English from voting or serving on a jury. When the referendum was held in October 1890, the constitution was defeated by a margin of more than two to one.<sup>42</sup> Thus, by the fall of 1890, the Republicans had alienated nuevomexicanos, small landowners, farmers, and workers.

While dissatisfaction with Republican rule was widespread, the political climate in New Mexico was also shaped by an economic downturn in two of the territory's most important industries—silver mining and cattle ranching—as well as the rising tide of agrarian discontent and anti-monopoly sentiment sweeping the nation.<sup>43</sup> In New Mexico this resentment coalesced around land speculation and the backlog of unsettled grant titles. As a result, political adversaries increasingly accused their opponents of manipulating, disregarding, or breaking the law for personal aggrandizement to the detriment of the public good.

While this was a charge easily leveled at the Republicans, the Democrats hoped to capitalize specifically on the bitterness inspired by the 1889 constitution. In their party platform, they condemned each provision of the Republican constitution as a tool of land-grabbers “against the masses.” They reserved special criticism for the tax code, the change of venue law, and the

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<sup>42</sup> On the September 1889 constitutional convention, see Larson, *New Mexico Populism*, 32-33; and Lamar, *The Far Southwest*, 161-65.

<sup>43</sup> Larson, *Populism in the Mountain West* (Albuquerque: University of New Mexico Press, 1986), 114-19.

failure of the Republican-controlled legislature to pass a meaningful public school law. What is more, the territorial Democrats admonished the federal government for “failing and refusing” to meet its obligations under the Treaty of Guadalupe Hidalgo. They also contended that unlike their opponents, the Democrats believed “that the native population of New Mexico [was] entitled to the lands held by them . . . under the laws of the republic of Mexico, and their rights . . . should be respected.” And, in an unveiled attempt to garner votes in the most populated county, the platform announced that their party felt compelled to “denounce the action” of Governor Prince “in requesting the quartering of United States troops in the county of San Miguel to overawe the people, under the pretext of resistance to the civil authority.” These actions, the Democrats concluded, were “in keeping with the spirit of contempt for the civil authorities usually evinced by the republican party.”<sup>44</sup>

Although the Democrats gained new support throughout the territory, their party was particularly weak in San Miguel County. There, it was the Knights of Labor who were uniquely positioned to capitalize on the changing political climate.<sup>45</sup> Since their inception, the New Mexico Knights had condemned the monopolization of economic and political power as the antithesis of democracy and a violation of American ideals. It was this rhetoric that had initially drawn Anglo and nuevomexicano workers together in San Miguel County. But in the process of defending themselves against charges of lawlessness, the Knights of

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<sup>44</sup> Printed in the *Albuquerque Democrat*, 12 September 1890.

<sup>45</sup> Not only were the Democrats weak in San Miguel County, the Republicans were hampered by factionalism. As a result, Robert Larson has argued that San Miguel County “was one of the most politically unstable counties in New Mexico.” See *ibid.*, *Populism in the Mountain West* (Albuquerque: University of New Mexico Press, 117).

Labor had become increasingly politicized and their denunciation of bossism and machine politics then appealed equally to disaffected Republicans and outnumbered Democrats. A new political party, organized largely by members of the Knights of Labor, was built on this expanded coalition in San Miguel County.

The organizers who met in late August were an unlikely group of three Anglos and five nuevomexicanos. They included Felix Martinez, a prominent Democrat, and Lorenzo López, a leading Republican, both of whom had been victims of the White Caps. They were joined by Juan José Herrera, who had been accused of coordinating the attacks on their property, and John D. W. Veeder, the lawyer who had defended the indicted fence cutters. López brought along his son, José L. López, as well as his son-in-law, Enrique H. Salazar. Both men were members of the Knights of Labor and Salazar edited *La Voz* with Martinez. The final founding members were two Anglo boosters—Theodore B. Mills and F. A. Blake. Whereas Blake was a longtime member of the Knights of Labor and had worked with Herrera to establish a “people’s party” in 1888, Mills was a speculator and real estate developer. Both were former Republicans and newspaper editors.<sup>46</sup> While several of these men were bound together by familial or business ties, as a group their interests seem inherently antagonistic. Yet, there was one thing they all shared in common: a desire to end Republican rule as dictated by Eugenio Romero at the county level and directed by Thomas Catron at the territorial level. They called their new party *El Partido del Pueblo Unido* (the United People’s Party) and issued a call for a convention.

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<sup>46</sup> On the organization of the People’s Party in 1890, see Larson, *New Mexico Populism*, 43; Arellano, “The People’s Movement,” 72; and Robert J. Rosenbaum, *Mexicano Resistance in the Southwest* (1981; reprint, Dallas: Southern Methodist University Press, 1998), 126-27.

More than 1,500 people attended the organizational meeting of the People's Party in early September. They elected a central committee composed of nuevomexicanos and Anglos, former Republicans and Democrats, members of the Knights of Labor, and members of the Spanish-language press.<sup>47</sup> Three hundred delegates attended the county convention held later that month to outline the party's platform and select nominees for the November election.<sup>48</sup>

The People's Party denounced the 1889 constitution and political bossism. Their platform contained an anti-monopoly plank and a provision supporting federal regulation of the railroads. It also addressed land grant issues in two important ways. First, the platform urged the territorial delegate to Congress to support passage of a law requiring the federal government to meet its obligations under the Treaty of Guadalupe Hidalgo by promptly settling all land grant claims. They also addressed the Las Vegas land grant specifically, demanding that its ultimate legal settlement conform to Mexican land law and custom. Finally, the People's Party criticized the territorial legislature for defeating a bill that would have funded a new public school system by taxing large landowners, and their platform called for a new public school law that included compulsory attendance.<sup>49</sup>

Martinez and Mills quickly emerged as two of the most influential leaders of the convention and the party's first slate of candidates reflected the broad coalition that comprised the protest movement in San Miguel County. Eleven of

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<sup>47</sup> This figure is from Arellano, "The People's Movement," 73. The *Albuquerque Democrat* (9 September 1890) estimated an attendance of over 7,000.

<sup>48</sup> *Albuquerque Democrat*, 9 September and 2 October 1890.

<sup>49</sup> *Albuquerque Democrat*, 29 September and 2 October 1890; Larson, *Populism in the Mountain West*, 120; and Arellano, "The People's Movement," 72-74.

the nominees were identified as Democrats, five were Republicans, and at least a third of the candidates were members of the Knights of Labor. In all, the ticket included twelve nuevomexicanos and four Anglos. While the People's Party selected one Anglo (founding member Theodore B. Mills) and one nuevomexicano to run for seats in the upper house of the territorial assembly, all four candidates put forth as representatives in the lower house were nuevomexicano. And, at the local level, the county offices that wielded the most power were reserved for nuevomexicanos. Only the positions of school superintendent and clerk of the probate court were set aside for Anglos. This arrangement was engineered by Martinez, who had supported José L. López's bid for sheriff over the nomination of Charles F. Rudolph, a fellow Democrat, who ultimately agreed to accept the nomination for superintendent instead.<sup>50</sup>

The territory's two major parties reacted quite differently to the emergence of the People's Party in San Miguel County. The Republicans derided the name of the new party, suggesting "the White Cap and fence cutters party" was more appropriate. As evidence of the third party's embrace of the White Caps, the Republicans pointed to the nomination of Pablo Herrera, the younger brother of Juan José Herrera, for a seat in the territorial house. With the allegedly true nature of the People's Party exposed, the *New Mexican* assured its readers that "no decent, self respecting, and law and order loving citizen" would vote for any of the candidates on their ticket.<sup>51</sup>

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<sup>50</sup> In addition, one of the three candidates for county commissioner was Anglo. *Albuquerque Democrat*, 2 October 1890; Larson, *New Mexico Populism*, 46, 59-60; Arellano, "The People's Movement," 73; and Rosenbaum, *Mexicano Resistance*, 169.

<sup>51</sup> 5 September 1890.

In contrast, the Democrats greeted the People's Party quite warmly. The two parties had several things in common. First, both denounced "the land grabbers constitution" engineered by the Republican party. The Democrats further believed that the new party shared their own "condemnation of the [Republican] policy of favoritism of the rich at the expense of the poor." In addition, the People's Party had chosen to endorse the Democratic incumbent, Antonio Joseph, instead of offering their own candidate for congressional delegate. But most important, the Democrats believed that the success of the People's Party could "sound the death of the republican bosses and land sharks in San Miguel county."<sup>52</sup>

The Democrats' decision to support the People's Party reflected their own political pragmatism. San Miguel County was both the most populated county and a traditional Republican stronghold. Realistically, the Democratic Party had little hope of making inroads in the county on their own. More importantly, however, Eugenio Romero controlled enough votes so that a strong Republican showing in San Miguel County alone could potentially wipe out the Democratic advantage in the rest of the territory, leading to a defeat of their candidate for territorial delegate.

Recognizing their own weakness in San Miguel County, the Democrats decided to support the People's Party ticket and adjourned their county convention without nominating a slate of candidates. They celebrated the selection of eleven Democrats by the People's Party and emphasized the positions the two parties shared. In the end, they justified their alliance with the

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<sup>52</sup> *Albuquerque Democrat*, 9 September and 2 October 1890.

third party by arguing that the ultimate goal of the November election was “the breaking of ring rule in New Mexico. To secure such a result [was] more desirable than the election of democrats.” For that purpose alone, the Democratic Party implored its members to “support the fusion ticket.”<sup>53</sup> The Democrats were thrilled with the results of the 1890 election—the People’s Party won a clean sweep of every office by an average margin of sixty percent and, based largely on the number of votes he received in San Miguel County, Joseph was easily reelected.<sup>54</sup>

Despite their stunning electoral victory, the People’s Party was unable to institute meaningful reform at the territorial level. Although the four representatives from San Miguel County held the balance of power in the Assembly—which was split eleven to nine in favor of the Republicans—the Council remained securely in the hands of the Republicans. In addition to their majority in the upper house, Republicans continued to hold key committee positions in the Assembly as well, allowing them to block much of the legislation offered by the People’s Party. As a result, many of their more significant bills—including a railroad regulation bill, a measure providing for the incorporation of community land grants, a law revoking a \$300 tax exemption for large land owners, and the repeal of legislation barring individuals who had not paid taxes from serving on juries—failed. The inability of the People’s Party to implement any of the core reforms advocated by the Knights of Labor left some union

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<sup>53</sup> *Albuquerque Democrat*, 2 and 5 October 1890.

<sup>54</sup> Rosenbaum, *Mexicano Resistance*, 128.

members disillusioned with their new political party in the months following the election.

By the end of their first term, however, the People's Party representatives did achieve some modest success. For example, Nestor Montoya was able to secure passage of a bill which made it illegal either to destroy a fence located on property held in fee simple or to enclose land that was not. And, despite some Republican opposition, Mills successfully passed a public school bill which provided revenue through local taxation, created a territorial board of education, and established a school for training teachers.<sup>55</sup> In the end, however, the accomplishments of Montoya and Mills were too slight to secure them a place on the People's Party ticket at the next convention.

When the People's Party convened in 1892 to revise their platform and nominate candidates for the upcoming election, a battle over party leadership triggered old partisan divisions and underlying tensions between the city and the countryside, East and West Las Vegas, and nuevomexicanos and Anglos that threatened to rupture the movement's coalition. Some Anglo Knights, led by F. A. Blake, attempted to recapture control of the party and secure a larger presence on the ticket. Nuevomexicano Knights like Juan José Herrera rallied around Felix Martinez, who ultimately maintained his command of the executive committee. When Blake was denied the nomination for a seat in the Territorial Council, he stormed out of the convention and took a number of Knights with him. Blake then publicly denounced Felix Martinez as a Democratic hack who

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<sup>55</sup> Larson, *New Mexico Populism*, 59-61, 66-76, 76-77; Rosenbaum, *Mexicano Resistance*, 128-29.



had sold out the People's Party for his own personal gain, condemning Martinez's rule of the party as analogous to the machinations of Tammany Hall.

Blake's bitter accusations included a claim that Martinez had been engaged in subterfuge from the beginning. He pointed to the decision of the four People's Party representatives to caucus with the Democrats in the Territorial Assembly as evidence of Martinez's scheme to neutralize the independent power of the third party and ultimately deliver it to the Democratic Party. Blake's charges were a manifestation of the pervasive partisan rivalries between former Democrats and Republicans that threatened to split the convention in two as each side accused the other of attempting to transform the People's Party into an appendage of their previous party.<sup>56</sup>

Blake's defection was only one among many. Also troubling to the party was the loss of José Valdez, Master Workman of the San Miguel County Knights in 1890, who had been elected on the first People's ticket and served two years as county coroner. In 1892, Valdez declined renomination and returned to the Republican Party, announcing that at least a third of the convention attendees could be expected to vote a straight Republican ticket in the November.<sup>57</sup>

As they had done in 1890, county Democrats sought a fusion ticket with the People's Party. While both conventions were held simultaneously, they met on separate sides of the river—the Democrats in East Las Vegas and the People's Party in West Las Vegas. The Democrats sought five slots on the ticket and all of their nominations went to Anglos. This presented a problem for the

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<sup>56</sup> "Campaign News," *Santa Fe New Mexican*, 12 October 1892; Larson, *New Mexico Populism*, 66, 76, 172-73.

<sup>57</sup> "A Rattling Ruction," *Santa Fe New Mexican*, 11 October 1892.

People's Party leadership in two ways. First, delegates from outlying precincts already felt marginalized as the ticket was dominated by men from the city. But the Democratic nominees were not simply residents of East Las Vegas, they were also Anglos. In an attempt to preserve the coalition, Martinez and the other party leaders selected two of their own Anglo members and approved four of the five nominations offered by the Democrats. This compromise surely alienated some members of the People's Party as one of the approved Democratic nominees was R. B. Rice, who had worked with Surveyor Julian to limit the size of the Las Vegas land grant to only the occupied allotments. Given the party's stance on the grant—that all the common lands should be included in the final settlement—the nomination of Rice should have been rejected as antithetical to both the party's principles and its legislative goals.<sup>58</sup>

The second People's Party convention proved to be the beginning of the end of the popular protest movement in San Miguel County. Although the third party swept the election again in 1892, their margin of victory was considerably smaller than it was just two years before.<sup>59</sup> Once the unifying goal of defeating Romero's Republican machine was accomplished, the latent divisions within the reform coalition percolated to the surface.

In the months after the election, the party continued to suffer from infighting and defections. T. B. Mills broke with Martinez and moved to Bernalillo County where he rose in the ranks of a Populist Party that became increasingly dominated by Anglos and eventually drew most of its support from northwestern

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<sup>58</sup> Ibid.; "Campaign News," *Santa Fe New Mexican*, 12 October 1892; and "A Triumphant Tour," in *ibid.*, 14 October 1892.

<sup>59</sup> Rosenbaum, *Mexicano Resistance*, 133, 176-78.

New Mexico. In Las Vegas, public feuds between Anglo and nuevomexicano Knights played out in the local press, which suffered its own schism as E. H. Salazar also split with Martinez, leaving *La Voz* to establish a competing Spanish-language newspaper.<sup>60</sup>

The protest movement suffered not only from internal problems but from a well-organized opposition as well. After their defeat in 1890, the Republicans redoubled their organizing efforts in San Miguel County and their denunciation in the territorial press of the People's Party as the party of fence cutters and bandits. In addition, Eugenio Romero and Manuel C de Baca established a counter organization to the Knights of Labor and People's Party, which they called the Society of Law and Order and Mutual Protection, and a newspaper, *El Sol de Mayo*, which relentlessly attacked Juan José Herrera in particular.<sup>61</sup>

By 1894, San Miguel County politics were in complete disarray as a dizzying realignment took place in the month before the election. In addition to the Democratic, Republican, and People's parties, two new organizations competed for votes—the Independent Party, directed by Lorenzo López, and the Union Party, led by the bizarre trinity of Felix Martinez, Eugenio Romero, and Juan José Herrera. Ultimately, the 1894 election signaled the collapse of the

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<sup>60</sup> *Ibid.*, 133-36.

<sup>61</sup> Manuel C de Baca to Prince, 2 February 1891, Prince Papers, letters received, reel 108; *El Sol de Mayo* and *La Revista Católica* attacked Herrera and Knights throughout 1891, see also his defense as the editor of *El Defensor del Pueblo* from July 1891 through May 1892; on the Spanish-language press see A. Gabriel Meléndez, *So All is Not Lost: The Poetics of Print in Nuevomexicano Communities, 1834-1958* (Albuquerque: University of New Mexico Press, 1997); and Doris Meyer, *Speaking for Themselves: Neomexicano Cultural Identity and the Spanish Language Press, 1880-1920* (Albuquerque: University of New Mexico Press, 1996).

coalition that had propelled the popular protest movement into power just four years earlier.<sup>62</sup>

The unity the *Las Vegas Democrat* described in the afterglow of the torchlight march of July 1890 was both tenuous and fleeting. While the Knights' condemnation of political corruption and corporate greed could appeal to a broad spectrum of the population, it could not sustain the third-party coalition once the unifying goal of defeating the Republicans was accomplished. The Anglos, nuevomexicanos, Democrats, and disaffected Republicans who joined the Knights of Labor in the Partido del Pueblo Unido had inherently antithetical interests that could not be suppressed for long. In the end, the movement's greatest weakness was its broad base of support.

The alliance nuevomexicanos and Anglos achieved within the Knights of Labor was itself a fragile one that could easily fracture when race loyalties were called into question by either side. Nevertheless, internal factionalism—particularly divisions over tactics, leadership, and political power—moved beyond race and was ultimately more damaging to the success of the union. Just as important, nuevomexicanos were themselves divided by class and partisan loyalties and, as a result, the realignment of political power in San Miguel County was only temporary and could not be replicated on the territorial level.

The disintegration of the People's Party and the decline of the Knights of Labor in the last decade of the nineteenth century signaled the demise of nuevomexicano assertions of an American identity void of race as a strategy to

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<sup>62</sup> "San Miguel County Politics," *Santa Fe New Mexican*, 6 August 1894; "The Las Vegas Meeting," *ibid.*, 29 August 1894; "Political Grist," *ibid.*, 27 October 1894; "San Miguel Fusion Ticket," *ibid.*, 27 October 1894; "Mixed Politics," *ibid.*, 25 October 1894.

protect their property rights and achieve full and equal membership in American civic life. Ultimately, the collapse of the popular protest movement in San Miguel County ushered in a new strategy for securing nuevomexicanos' full incorporation into the national community—laying claim to whiteness by becoming “Spanish American.”

## Conclusion

At the conclusion of the United States' war with Mexico, the Treaty of Guadalupe Hidalgo codified the process by which the former Mexican North would become the American Southwest. On the surface, it bound the United States to recognize and protect the property rights of the inhabitants of its newly conquered territory and to admit them into the Union as full American citizens. As we have seen, however, these promises to the people of New Mexico went largely unfulfilled through the nineteenth century.

Nuevomexicanos and Pueblo Indians occupied a liminal space somewhere between citizen and conquered subject for more than half a century. Three decades after the American conquest, federal officials remained unsure about the status of former Mexicans living in the territory acquired by the United States. Justice Jackson Temple, author of the *de la Guerra* opinion, believed that the language of the ninth article of the Treaty of Guadalupe Hidalgo had complicated the matter unnecessarily. A transfer of sovereignty, in his estimation, logically resulted in a transfer of allegiance—the residents of the territories acquired by the United States through the Mexican Cession would automatically become citizens of the United States. Given the terms of the ninth article, however, it seemed to Temple that former Mexicans could be admitted to the rights of full citizenship only by admission to statehood.

As late as 1887, George W. Lane, the acting governor of New Mexico, appealed directly to President Grover Cleveland for clarification of the status of former Mexicans under the treaty. He wondered if Congress had ever passed

the legislation that seemed required by the ninth article and, if not, could “those natives of the acquired territory . . . be considered citizens of the United States.”<sup>1</sup> Although Lane was referring to both nuevomexicanos and Pueblo Indians in his letter to Cleveland, the Supreme Court had heard a case on the citizenship status of Pueblo Indians specifically only a decade before. While calling their very “Indianness” under the law into question, and acknowledging that the citizenship status of former Mexicans under the Treaty of Guadalupe Hidalgo was ambiguous and unresolved, the Supreme Court explicitly refused to rule on the subject. As a result, the meaning of citizenship and its boundaries had to be worked out on the ground over the next three decades.

For nuevomexicanos in San Miguel County, recognition as legitimate citizens of the United States was inextricably linked to upholding their property rights in accordance with Spanish and Mexican law and the Treaty of Guadalupe Hidalgo. Although Congress confirmed the Las Vegas grant in 1860, no patent was issued until 1903 and in the interim, nuevomexicanos pursued a variety of strategies to protect or expand their claims to nearly half a million acres of land embraced by this community land grant.<sup>2</sup> Some purchased interests in the grant

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<sup>1</sup> George W. Lane to Grover Cleveland, 15 February 1887; Interior Department Territorial Papers: New Mexico, 1851-1914 (National Archives Microfilm Publication M364, roll 8, frames 498-99); Records of the Office of the Secretary of the Interior, Record Group 48.

<sup>2</sup> As a result of a series of legal maneuverings, the territorial legislature passed a law incorporating the Las Vegas grant under the administration of an appointed board of trustees. The grant’s patent was issued to the trustees in 1903 and they began to issue quit-claim deeds (not to exceed 160 acres) to residents who had lived on the grant for at least 10 years. The trustees quickly began to sell portions of the commons: over 300,000 acres were sold before 1931, only 29,000 acres remained by 1942, and in 1990 the commons consisted of less than 2500 acres. See Anselmo Arellano and Julian Josué Vigil, *Las Vegas Grandes on the Gallinas, 1835-1985* (Las Vegas, New Mexico: Editorial Telaraña, 1985), 69-70; Malcolm Ebright, *Land Grants and Lawsuits in Northern New Mexico* (Albuquerque: University of New Mexico Press, 1994), 218; Clark S. Knowlton, “The Town of Las Vegas Community Land Grant: An Anglo-American Coup D’ Étet,” *Journal of the West* 19 (July 1980): 20.

from heirs of the original grantees or filed homestead and pre-emption claims, while others simply appropriated portions of the commons or enclosed more land than their titles warranted and then filed ejectment suits to expel individuals they perceived as squatters. Those who were members of the Knights of Labor used the union as a vehicle to fight land speculators in the territorial courts, to press U.S. lawmakers to fulfill the terms of the Treaty of Guadalupe Hidalgo as they understood them, and to demand a final settlement of the Las Vegas grant in accordance with Mexican land law. At the same time, however, many nuevomexicanos were genuinely drawn to the Knights of Labor by the union's celebration of labor republicanism and the rhetoric of citizenship and freedom they employed.

When nuevomexicanos asserted an American identity, emphasized their patriotism, or demanded recognition as legitimate citizens of the United States, they were not engaging in an idle exercise. The indeterminacy of their status had material consequences beyond the symbolic costs. Non-citizens could not, for instance, file Indian depredation claims against the United States. Juan José Herrera learned this himself when he re-filed a claim in 1891 that had languished in the Interior Department for almost two decades. Herrera sought compensation for the loss of more than two dozen animals and thirty tons of hay at the hands of Arapahoe and Sioux Indians in Wyoming. The primary argument against Herrera was that he was not a citizen of the United States and was therefore ineligible to file a claim or receive compensation under the law. The U.S. attorneys explained that by his own testimony, Herrera admitted he was not a natural-born citizen of



the United States because he was born in the territory of New Mexico before it was included within the territorial limits of the U.S. Moreover, they continued, “the record being silent as to how, when, or where he became a citizen, it must be presumed that he was not.”<sup>3</sup> Herrera’s claim was ultimately denied.

For many nuevomexicanos, the inability to command monetary compensation for Indian depredations paled in comparison to their inability to achieve what they viewed as the just settlement of Spanish and Mexican land claims. So long as they lacked meaningful representation in Congress, nuevomexicanos had little hope of influencing federal land policy or effecting change in the adjudication process. Not only were they barred from participating in the construction of the laws that governed them, New Mexicans could not exert pressure on the president or their own territorial officials because they could not vote for them. It seemed as though no one was accountable to New Mexicans—not the administration, not Congress, not local officials—so long as New Mexico remained a territory. Consequently, the quest for full citizenship, statehood, and the permanent settlement of land titles all intertwined in the last three decades of the nineteenth century.

While citizenship and land rights were fundamental problems of incorporation, intermarriage offered a fundamental means of incorporation. It was a road not taken by the vast majority of nuevomexicanos. In fact, the racial boundaries that bifurcated Las Vegas were constructed, maintained, and

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<sup>3</sup> *Juan José Herrera v. The United States and Arapahoe Indians*, no. 2801, Court of Claims of the United States, Indian Depredations, p. 6; Yale Collection of Western Americana, Beinecke Rare Book and Manuscript Library.

reinforced as much by nuevomexicanos as by Anglos. Nevertheless, it was not the dynamics of race at the local level that forestalled nuevomexicanos full inclusion in the national community.

As New Mexicans redoubled their efforts for admission into the Union during the last three decades of the nineteenth century, their opponents increasingly employed explicitly racist arguments to deny their incorporation.<sup>4</sup> In the eyes of the eastern press and many members of Congress, nuevomexicanos were less fit to govern themselves than the former slaves were at the close of the Civil War. They were described as superstitious papists who could not speak English, were illiterate even in Spanish, and would happily sell their votes for whisky or money. Many statehood opponents believed that nuevomexicanos were not only utterly ignorant of the principles of American democracy, they “hate[d] with a passionate hatred everything that [was] . . . American.”<sup>5</sup> Even if their “angry hostility” eventually receded, however, the passage of time could not erase the innate and unchanging characteristics that made nuevomexicanos racially unfit for citizenship. It was simply absurd, according to one *New York Times* writer, to think that New Mexico could be admitted into the Union when its

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<sup>4</sup> John Nieto-Phillips contends that race was established “as a central issue in the debate” in 1876 when the minority report opposing statehood “invoked racial slanders;” see *The Language of Blood: The Making of Spanish-American Identity in New Mexico, 1880s-1930s* (Albuquerque: University of New Mexico Press, 2004), 72-77, quote on 73. Several scholars have argued that race prejudice was the reason New Mexico was denied statehood for so long; see especially, Robert W. Larson, *New Mexico’s Quest for Statehood, 1846-1912* (Albuquerque: University of New Mexico Press, 1968), 303; William deBuys, *Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range* (Albuquerque: University of New Mexico Press, 1985), 305-06; and María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Lawrence: University Press of Kansas, 2002), 82.

<sup>5</sup> “Greasers as Citizens,” *New York Times*, 6 February 1882.

population was composed “of the mongrel breed known as Mexicans—a mixture of the blood of Apache, negro, Navajo, white horse-thief, Pueblo Indian, and old-time frontiersman with the original Mexican stock.”<sup>6</sup>

As recent scholars have shown, these kinds of racial aspersions led many elite nuevomexicanos to defend their racial fitness for self-government by emphasizing their “pure” Spanish lineage. At the same time, however, the heightened discourse of race in the late nineteenth century also fractured the nuevomexicano community. In San Miguel County, these internal divisions erupted over the activities of the Gorras Blancas and were played out in the Spanish-language press.

As we saw in chapter six, opponents of the Knights of Labor and the People’s Party sought to discredit them by linking them to the secret society of fence cutters. These charges were often racialized by the characterization of the Gorras Blancas as “lawless Mexicans.” Consequently, Herrera’s political rivals who were members of the Spanish-language press often accused him of dishonoring his race, harming the reputation of New Mexico, and damaging the territory’s hope for statehood. As these attacks intensified, Herrera purchased his own paper, *El Defensor del Pueblo*, to distance himself, and Knights of Labor, from racial politics.

According to Herrera, the union’s purpose was “to reconquer every right of man, putting him in the high place he deserves, that of an intelligent human, equal in dignity and rights to all other men.” The Knights were devoted to this

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<sup>6</sup> Ibid.

cause for all people “without racial, national, or party distinction” because their ultimate goal was “harmony among men.” Thus, they sought to elevate not only laborers or nuevomexicanos but “the whole of the human family.”<sup>7</sup> Herrera was even more explicit when *El Hispano Americano* criticized the Knights of Labor, the People’s Party, and the Republicans for attacking each other in the press, arguing that their public dispute reflected poorly on nuevomexicanos as a group. Herrera dismissed their criticism that “the so-called conflict dishonors the race to which the [organizations] in question belong” simply by asserting that “the Knights of Labor do not know or belong to any other race but the human race.”<sup>8</sup>

Herrera was not among the nuevomexicanos who began to lay claim to whiteness by articulating a Spanish American identity. Instead, he argued that nuevomexicanos were citizens regardless of how they might be racially classified. As he explained:

if we are seen as descending from the Indians, then we are the legitimate children of America, and if we are seen as descending from the Spanish, we are legitimate children of the discoverers, they cannot say we immigrated from Mexico and forced ourselves upon them as citizens. To the contrary . . . our Territory was taken against our will [and yet] they cannot deny . . . that our fathers adhered to this government as faithful and peaceful citizens.<sup>9</sup>

For Herrera, nuevomexicanos were American citizens by birth, by virtue of the guarantees of the Treaty of Guadalupe Hidalgo, and as a just reward for their loyalty to the United States.

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<sup>7</sup> “Defenza y Repuesta,” *El Defensor del Pueblo*, 7 July 1891. In this first issue, Herrera also denounced the “horde of soulless Americans” who had “invaded” San Miguel County and dispossessed the majority of nuevomexicanos of their lands and livelihoods because they had “the sympathy of their race in the Courts.”

<sup>8</sup> “El Hispano-Americano Mal Informado,” *El Defensor del Pueblo*, 16 January 1892.

<sup>9</sup> “Un Editorial Digno de Aprecio,” *El Defensor del Pueblo*, 16 January 1892.

Whether heartfelt expression or political calculation, Herrera's articulation of a civic identity that was void of race fell on deaf ears. As far as most Anglos were concerned, he and his followers were asserting an impossibility. Simply waving around a flag and calling themselves Americans did not make it so—their Mexicanness prevented it. This widely held and deeply ingrained assumption became abundantly clear when a senate subcommittee traveled to New Mexico in 1902 to determine whether or not the territory was worthy of admission into the Union.

Charged with investigating the character and condition of the population, the committee led by Senator Alfred Beveridge collected testimony from nuevomexicanos and Anglos in cities and towns throughout New Mexico that focused on the educational level, predominant language, and racial composition of the population. The first witness called before the committee was William J. Mills, Chief Justice of the New Mexico Supreme Court and judge of the fourth judicial district which included the counties of San Miguel, Mora, Colfax, Union, and Guadalupe. After establishing that district court was held in each county, the line of questioning turned to race:

Q. Take the counties county by county and tell the committee the relative difference in the people down here; I mean by that the difference in the races, the relative proportions of each.

A. The term "American" includes everybody that is not a "Mexican;" and in this county, San Miguel—I have not looked at the census—the largest part of the American population is in the towns—East Lasvegas [*sic*], Las Vegas, and the other towns. Some Americans have been here ever since the American occupation, and they are not as good citizens, I think, as the native Mexicans.<sup>10</sup>

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<sup>10</sup> Senate Committee on Territories, *Hearings before the Subcommittee of the Committee on Territories on House Bill 12543; To Enable the People of Oklahoma, Arizona, and New Mexico to*

Mills was one of many witnesses who described the population as comprised almost entirely of “Mexicans” and “Americans.” While the meaning of American required little elaboration—neither offered by the witnesses nor asked for by the committee—the meaning of the term “Mexican” often had to be explained. One of the first *nuevomexicanos* to appear before the committee echoed Mills’ testimony. According to Enrique Armijo, “Mexican” was a term used simply “to distinguish from the Anglo-Saxon” population. Witnesses occasionally provided a more specific definition, explaining, for instance that “Mexican” referred to “the Spanish-speaking people” and thus included “some Spanish and some Indians, and a mixture of people.”<sup>11</sup>

Mills’ unprompted response that “the native Mexicans” were better citizens than some American residents was also echoed by *nuevomexicano* witnesses who felt compelled to defend their patriotism as well as their use of Spanish. For instance, when José María García, a former Justice of the Peace in Santa Fe, was asked what language was used in his court, he replied:

Usually in Spanish, because the people here are Spanish, and the American people are less than the Mexican people and most all talk Spanish, you know, and of course I like my own language better than any other, the same as I like the United States better than any other country in the world.<sup>12</sup>

That García would claim the United States as his own was lost on the members of the committee who could not conceive of Mexicans as Americans. Nothing

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*Form Constitutions and State Governments and be Admitted into the Union on an Equal Footing with the Original States*, 57<sup>th</sup> Cong., 2<sup>nd</sup> sess., 1902 [hereafter cited as *Beveridge Hearings*], 2.

<sup>11</sup> *Beveridge Hearings*, 10, 17.

<sup>12</sup> *Ibid.*, 41.

reveals this more clearly than the following exchange between the congressmen and Isidor Armijo, Probate Clerk of Doña Ana County:

Q. *And about what were the proportions of the different races there?*

A. Well, the majority native.

Q. *By that do you mean Mexican?*

A. I mean American citizens, not Mexicans; born in the United States.

Q. *Of what blood were they, of American or Mexican descent?*

A. Of Spanish extraction. I am of Spanish extraction myself, but I was born in the United States and I am an American.

[Chairman Beveridge]. *But you understand down here, and the committee know that themselves, that the words "Mexican" and "American" down here are used as they are not used anywhere else in the United States. We are just getting at the racial blood; that is all.*<sup>13</sup>

For Senator Beveridge, "racial blood" was central to the question of whether or not the territory merited admission into the Union.

As a result, his final report to Congress argued that the character and condition of the population of New Mexico had changed little since the Mexican War. Most nuevomexicanos, he insisted, still lacked even a basic understanding of American political institutions. Beveridge also reported that very few had a command of the English language, including court officials, educators, and political leaders. English was, in fact, unnecessary because the business of daily life, the legislature, and the courts was conducted in Spanish. Thus, half a century of living under the American flag had not yet mitigated the simple fact that the people of New Mexico were "unlike us in race, language, and social customs." According to Beveridge, "by descent, tradition, instinct and speech,"

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<sup>13</sup> *Beveridge Hearings*, 100.

nuevomexicanos still belonged “to another civilization and system of institutions.” Thus, he argued that they required more tutelage by English-speaking immigrants who were “the children and product of our institutions, *‘bone of our bone and blood of our blood’*” before they could become “a creditable portion of American citizenship.”<sup>14</sup>

Ultimately, the racialized dichotomy of “American” (white) and “Mexican” (not white) and the conflation of citizenship with whiteness were too entrenched for the alternative discourse offered by nuevomexicanos in San Miguel County to dislodge.<sup>15</sup> As a result, in the last decade of the nineteenth century many nuevomexicanos increasingly adopted a different strategy to secure their full incorporation into the American body politic—they became Spanish Americans. Invoking a heroic colonial past and European racial identity not only allowed nuevomexicanos to lay claim to their own brand of whiteness, it also dated their claims to the land in the sixteenth century. Although the tactics changed, the ultimate goal remained the same: an equal role in their own governance and recognition of their property rights in accordance with Spanish and Mexican law.

Anglos were much more receptive to nuevomexicano articulations of a Spanish American identity. Anglo admiration of the Spanish past did not, of

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<sup>14</sup> Senate Committee on Territories, *New Statehood Bill*, 57<sup>th</sup> Cong., 2<sup>nd</sup> sess., 10 December 1902, S. Rept. 2206, Part I, 5-9; “unlike us . . .” and “a creditable portion . . .” quoted from 9; all other quotes from 26 (emphasis added).

<sup>15</sup> On citizenship and whiteness more broadly, see Ian Haney López, *White By Law: The Legal Construction of Race* (New York: New York University Press, 1996); and Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge: Harvard University Press, 1999). On the racialized dichotomy of American / Mexican in New Mexico, see Charles Montgomery, *The Spanish Redemption: Heritage, Power, and Loss on New Mexico’s Upper Rio Grande* (Berkeley: University of California Press, 2002), 60; Nieto-Phillips, *Language of Blood*, 63; and Anthony P. Mora, “Mesilleros and Gringo Mexicans: The Changing Meanings of Race, Nation, and Space in Southern New Mexico, 1848-1912,” (Ph.D. diss., University of Notre Dame, 2002).



course, translate into political, civil, or racial equality for the majority of nuevomexicanos. But the transformation of nuevomexicanos into Spanish Americans helped resolve (at least in the eyes of Congress) the questions on the relation of race and nation raised by the conquest of Mexico in ways Herrera's pronouncement of joyful Americanism and the Gorras Blancas' appeal to patriotism simply could not. Ultimately, it was an alliance between Anglos and elite nuevomexicanos, who worked together to propagate a romanticized and exotic image of the territory and its people—one linked to the Spanish conquest—that finally led to New Mexico's full incorporation into the Union more than sixty years after the Mexican War.

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## APPENDIX A

Marriages in Las Vegas, New Mexico, 1850–1900\*

	NM / NM	I / I	M / M	A / A	B / B	NMA / NMA	O / O	% of Endogamous Unions	NM / I	NM / M	NM / A	NM / NMA	NM / B	NM / O	A / M	A / NMA	B / I	% of Exogamous Unions
<b>1850</b>	281	1		4				95%	1		14				1			5%
<b>1860</b>	231			3				93%		9	8							7%
<b>1870</b>	400		3	8	2			91%		19	19			1	4			9%
<b>1880</b>	569			201	7			95%		2	28	3	1	1	2	7	1	5%
<b>1900</b>	562		1	633	22	1	2	92%	1	20	38	28	1	1	2	12		8%
<b>Totals</b>	2043	1	4	849	31	1	2		2	50	107	31	2	3	9	19	1	

Sources: *Seventh Census of the United States, 1850*, San Miguel County, New Mexico, Population Schedules; *Eighth Census of the United States, 1860*, San Miguel County, New Mexico, Population Schedules; *Ninth Census of the United States, 1870*, San Miguel County, New Mexico, Population Schedules; *Tenth Census of the United States, 1880*, San Miguel County, New Mexico, Population Schedules; *Twelfth Census of the United States, 1900*, San Miguel County, New Mexico, Population Schedules.

\*Includes cohabitation.

NM = Nuevomexicano

I = Indian

M = Mexican

A = Anglo

B = Black

NMA = Nuevomexicano-Anglo

O = Other [includes individuals born on the Iberian Peninsula and in the Middle East]

## APPENDIX B

### Class of Anglo Men Partnered with Nuevamexicanas, 1850-1900

	No.	%
<b>Capitalist</b>	2	2
<b>Merchant</b>	9	8
<b>Proprietor</b>	4	4
<b>Professional – White Collar</b>	12	11
<b>Working Class</b>	52	48
<b>Other</b>	5	5
<b>Unknown</b>	24	22
<b>Total</b>	<b>108</b>	<b>100</b>

*Source: Seventh Census of the United States, 1850, San Miguel County, New Mexico, Population Schedules; Eighth Census of the United States, 1860, San Miguel County, New Mexico, Population Schedules; Ninth Census of the United States, 1870, San Miguel County, New Mexico, Population Schedules; Tenth Census of the United States, 1880, San Miguel County, New Mexico, Population Schedules; Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*

## APPENDIX C

### Skill Level of Working-Class Anglo Men Partnered with Nuevamexicanas, 1850-1900

	No.	%
<b>Skilled Tradesmen</b>	40	77
<b>Unskilled Laborers</b>	12	23
<b>Total</b>	<b>52</b>	<b>100</b>

*Source: Seventh Census of the United States, 1850, San Miguel County, New Mexico, Population Schedules; Eighth Census of the United States, 1860, San Miguel County, New Mexico, Population Schedules; Ninth Census of the United States, 1870, San Miguel County, New Mexico, Population Schedules; Tenth Census of the United States, 1880, San Miguel County, New Mexico, Population Schedules; Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*

## APPENDIX D

### Origin of Anglo Men Partnered with Nuevamexicanas, 1850-1900

	No.	%
<b><i>United States</i></b>		
New England	5	5
Mid-Atlantic	12	13
Midwest	23	24
South	11	12
West	1	1
<b><i>Total U.S.</i></b>	<b>52</b>	<b>55</b>
British Isles	12	13
Canada	7	7
German States	14	15
Italy	6	6
Other	4	4
<b>Total</b>	<b>95</b>	<b>100</b>

*Source: Seventh Census of the United States, 1850, San Miguel County, New Mexico, Population Schedules; Eighth Census of the United States, 1860, San Miguel County, New Mexico, Population Schedules; Ninth Census of the United States, 1870, San Miguel County, New Mexico, Population Schedules; Tenth Census of the United States, 1880, San Miguel County, New Mexico, Population Schedules; Twelfth Census of the United States, 1900, San Miguel County, New Mexico, Population Schedules.*



## APPENDIX E

### Individuals Indicted for Cutting Fences in San Miguel County, 1889-1892

Name	Place of residence	Occupation	Which fence	Age at offence	Marital status	Children	Literate	Property owner
Armijo, Jose	Los Alamos	farm laborer	Harrold	40	M	Y	Y	N
Atencio, Dario	San Geronimo	farm laborer	Quarrell	35	M	U	Y	Y
Benevidez, Jose L.	San Geronimo		Rawlins/Quarrell	U	U	U	U	Y
Chavez, Emiterio	San Geronimo	laborer in tie camp	Lopez	30	U	U	N	N
Chavez, Gabriel	Las Colonias	laborer	Martín	31	M	U	N	Y
Chavez, Pedro	Las Colonias	shepherd	Martín	63	M	U	N	N
Cordova, Celestino	La Junta	farm hand	Martín	26	U	U	N	N
Crespin, Benito	Las Colonias		Martín	24	U	U	N	N
Gallegos, Bernabel	Las Colonias	laborer	Martín	38	M	Y	Y	Y
Gallegos, Isidoro	Los Alamos	farmer	Harrold	37	M	Y	Y	Y
Gallegos, Jesus María	Los Alamos		Harrold	69	M	Y	Y	Y
Garcia, Anastacio	Gusano Plaza		Wright	21	U	U	N	N
Garcia, Aniceto	San Geronimo	farm laborer	Rawlins/Quarrell	51	M	Y	Y	Y
Garcia, Atanacio	San Geronimo	farmer	Rawlins/Quarrell	54	M	Y	Y	Y
Garcia, Juan	La Junta		Martín	U	U	U	U	Y
Garcia, Narciso	San Geronimo	farm laborer	Rawlins/Quarrell	40	M	Y	Y	N
Gonzales, Bonifacio	San Geronimo	laborer	Quarrell	28	U	U	Y	N
Gonzales, Felipe	San Geronimo	farm laborer	Quarrell	50	M	Y	Y	N
Gonzales, Francisco	Las Colonias	shepherd & day laborer	Martín	59	M	Y	N	N
Gonzales, Martin	Las Colonias	farm laborer	Martín	32	U	U	Y	N
Gonzalez y Baca, Manuel	Los Alamos		Harrold	U	U	U	U	Y
Gonzalez, Pedro	Los Alamos		Harrold	U	U	U	U	Y
Gurule, Marcelino	San Jose / Tecolote	railroad worker & farmer	Hurtado	46	W	Y	N	Y

<b>Name</b>	<b>Place of residence</b>	<b>Occupation</b>	<b>Which fence</b>	<b>Age at offence</b>	<b>Marital status</b>	<b>Children</b>	<b>Literate</b>	<b>Property owner</b>
Gutierrez, Faustin	Las Colonias	brick layer & day laborer	Martín	54	M	Y	N	Y
Gutierrez, Jesus M.	Las Colonias	farm laborer	Martín	32	M	U	Y	Y
Gutierrez, Jose	Las Colonias		Martín	27	U	U	N	N
Herrera, Juan José	Ojitos Frios	freighter	Rawlins/Quarrell	52	M	Y	Y	Y
Herrera, Nicanor	Ojitos Frios	rancher	Quarrell; Lopez	43	M	U	Y	Y
Herrera, Pablo	Ojitos Frios	freighter/farmer on shares	Rawlins/Quarrell	46	S	N	Y	Y
Jaramillo, Francisco	Los Alamos		Harrold	15	S	N	U	N
Jaramillo, Marcelo	Los Alamos	farm laborer	Harrold	25	U	U	N	N
Jimenez, Jesus	Los Alamos	farm laborer	Harrold	64	M	U	N	N
Lobato, Juan	San Geronimo	farm laborer	Rawlins/Quarrell	33	M	Y	Y	N
Lobato, Sena	San Geronimo	farm laborer	Rawlins/Quarrell	39	M	Y	Y	N
Lucero, Antonio	San Geronimo	laborer	Rawlins/Quarrell	28	U	U	Y	N
Lucero, Jose	San Geronimo	farm laborer	Rawlins/Quarrell	51	M	Y	Y	Y
Lucero, Melecio	Los Alamos		Harrold	25	U	U	Y	N
Lucero, Victor	Los Alamos	farm laborer	Harrold	48	M	Y	Y	N
Lujan, Rafael	San Geronimo	farm laborer	Quarrell	57	M	Y	N	N
Lujan, Valente	San Geronimo		Rawlins/Quarrell	21	U	U	Y	N
Madrid, Teodoro	Las Colonias	farm laborer	Martín	25	U	U	Y	N
Martinez, Apolonio	San Geronimo	laborer	Quarrell	32	M	Y	N	N
Martinez, Juan	Los Alamos	farm laborer	Harrold	60	M	Y	Y	N
Martinez, Pablo	Las Colonias	farmer & Justice of the Peace	Martín	40	M	Y	Y	Y
Martinez, Telesfor	Los Alamos		Harrold	21	U	U	Y	N
Ortiz, Francisco	Las Colonias	farm laborer	Martín	51	M	Y	Y	N
Ortiz, Juan	San Geronimo	farm laborer	Rawlins/Quarrell	54	M	Y	N	N
Roibal, Rumaldo	San Geronimo	farm laborer	Rawlins/Quarrell	36	M	Y	N	N
Romero, Nicolas	Los Alamos	farm laborer	Harrold	58	M	Y	Y	N

<b>Name</b>	<b>Place of residence</b>	<b>Occupation</b>	<b>Which fence</b>	<b>Age at offence</b>	<b>Marital status</b>	<b>Children</b>	<b>Literate</b>	<b>Property owner</b>
Romero, Pablo	Las Colonias		Martín	U	U	U	U	Y
Salas, Rumaldo	San Geronimo	farm laborer	Rawlins/Quarrell, Lopez	37	M	Y	N	N
Salas, Teodoro	Ojitos Frios	farm laborer	Rawlins/Quarrell	59	M	Y	Y	Y
Sandoval, Julian	San Miguel	farmer / rancher	Wright	57	W	Y	U	Y
Segura, Jose Lino	Las Colonias	farm laborer	Martín	34	M	Y	Y	Y
Sisneros, Dionicio	Los Alamos		Harrold	U	U	U	U	Y
Tapia, Juan	San Jose	laborer	Martín	36	M	Y	N	Y
Trujillo, Apolonio	San Geronimo	farm laborer	Rawlins/Quarrell	34	M	Y	Y	N
Ulibarri, Eutimio	Las Colonias	laborer	Martín	42	M	Y	N	Y
Urioste, Manuel	Las Colonias	farmer on shares & laborer	Martín	42	M	Y	Y	Y
Valdez, Manuel	Las Colonias		Martín	21	U	U	Y	N

*Source:* San Miguel County Criminal Docket Book No. 2, March, 1885 – May, 1889; Book No. 3, May, 1889 – November, 1897; San Miguel County Criminal Case Files, Box 9, case #3150-3161, 3163-3176, 3263, 3271-3273, 3275-3294, 3308-3318; Box 10, case #3493-3495, 3499, 3504-3521, 3566, San Miguel County District Court Records, New Mexico State Records Center and Archives (NMSRCA), Santa Fe, New Mexico; *Tenth Census of the United States, 1880*, San Miguel County, New Mexico, Population Schedules; *Schedules of the New Mexico Territory Census of 1885*, San Miguel County, New Mexico, Schedules of Agriculture and Population, National Archives Microfilm Publication M 846, roll 4; Records of the County Assessor, Assessment Records, 1888-1891, San Miguel County, N.M. Records, NMSRCA, Santa Fe, New Mexico.