5-30-1956

The Public Domain in New Mexico 1854-1891

Victor Westphall

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1854 - 1891

By

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A Dissertation

Submitted in Partial Fulfillment of the

Requirements for the Degree of

Doctor of Philosophy in History

The University of New Mexico

1956

This dissertation, directed and approved by the candidate's committee, has been accepted by the Graduate Committee of the University of New Mexico in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

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5/30/1956
DATE

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CONTENTS

ACKNOWLEDGMENTS

I wish to express my thanks to Professor Frank D. Reeve, who directed this study, and whose interest and patience guided me through many vicissitudes to the completion of the project.

I have profited much from the help of members of the staffs of the Library of Congress, National Archives, Department of Interior Library, Denver Federal Records Center, Denver State Historical Museum, Denver Public Library, Bureaus of Land Management at Washington, Denver, and Santa Fe, University of New Mexico Library, University of New Mexico Law Library, and at Santa Fe, Library of the Museum of New Mexico, Federal Court House, Legislative Reference Council, Office of the Secretary of State, and State Land Office, besides numerous individuals acknowledged in the text.

I am greatly indebted to my wife, Jeanne, and sons, David and Douglas, who not only aided substantially but also gave constant encouragement; to Mrs. Josephine Burdette, who typed the manuscript and furnished many helpful suggestions; to Miss Josephine Adamson, Washington, D. C., who copied statistics in the National Archives for the material in the Appendixes beyond 1891; and to Mrs. Peggy Carter, who executed the maps.

MAP EXPLANATION

1. The township and range lines are as shown on the map of climatic zones by H. J. Maker and H. E. Dregne.

2. PM = principal meridian.

BL = base line.

(digit) MW = (digit) guide meridian west.

" ME = " " " east.

" CN = " correction line north.

" CS = " " " south.

R " W = range (digit) west.

R " E = " " east.

T " N = township " north.

T " S = " " south.

3. A = Albuquerque; T.10N, R.3E.

B = Santa Fe; T.17N, R.9E.

C = Silver City; T.18S, R.14W.

D = Clayton; T.26N, R.35E.

E = Las Cruces; T.23S, R.2E.

F = Roswell; T.10S, R.24E.

4. The first township in each instance (e.g., Homestead, etc.), is designated by an "X" through that township.

5. Climatic Zone 3 and better, as designated on the map of H. J. Maker and H. E. Dregne.

Climatic Zone 4, Ibid.

Irrigated areas as designated on Map Illustrating the Progress of Irrigation Within the Arid and Semi-arid Region of the United States West of the 97th Degree of Longitude from Greenwich (Washington, United States Department of Agriculture, Office of Irrigation Inquiry), p.4.

6. The rivers shown are the Rio Grande, Pecos, Mondo, Canadian, San Juan and Gila. Their locations can be identified on any standard map of New Mexico.

7. Some public domain areas are shown in what are actually grant areas because they were unwittingly surveyed as such.

8. The following excerpts selected from Maker and Dregne's bulletin, Climatic Zones in New Mexico, explain the basis upon which they selected zone designations:

Climate must be considered when land is classified for agricultural purposes. It is frequently the limiting factor in plant growth. This report shows how climate can be evaluated for its influence on land capability in non-irrigated areas of New Mexico, and it correlates the zones established by evaluation of climate with land classifications used by the Soil Conservation Service.

The climatic zones established in this report should not be considered in the classification of irrigated lands, because where irrigation water is available, moisture is not a limiting factor. Even if irrigation water is inadequate in certain areas, these climatic zones would not reflect the available water supply. Therefore, the maximum land class given for each zone applies only to the non-irrigated land.

Mexico. Annual Summary 1949. 53(13). Weather Bureau, U. S. Department of Commerce.) Only data from those stations having at least a 10-year record of precipitation and temperature through 1949 were used.

Climatic Zone 1

Very few areas in New Mexico belong in this zone.

Climatic Zone 2

This zone has adequate precipitation for some crops. Dry years occur, but farming as a rule is rather dependable.

Climatic Zone 3

The good soils in this zone are moderately dependable cropland. The risks of drought, crop failure, and erosion, however, are high.

Climatic Zone 4

In this zone, only average or above-average precipitation is adequate for crop production. Low yields and crop failures occur more often in this zone than in Zone 3.

Climatic Zone 5

The soils in this zone are not suitable for crop production unless irrigation or supplemental water is available.

Climatic Zone 6

The land in this zone is suitable for grazing or woodland use if soils, slopes, and other factors are favorable. It is not suitable for cultivation because of limited rainfall, which also limits it somewhat for range or woodland.

Climatic Zone 7

The land in this zone is suitable for grazing when soils,

slopes, and other factors are favorable. It produces less forage than similar land in Zone 6 because of the less favorable climatic conditions.

* * *

Professor Dregne, in a telephone conversation on May 30, 1955, advanced the belief that the Baker and Dregne map would be reasonably accurate for climatic conditions that prevailed in the last half of the nineteenth century. He pointed out that the map is already weighted to include all possible areas within the respective zones and that the inclusion of Zone 4 would certainly balance any slightly more favorable climatic conditions, in the nineteenth century, due to less grazing and land erosion at that time. His opinion is borne out by an examination of rainfall statistics, for past years, in various places in the State. Available statistics vary from place to place as to the length of time covered. The oldest (those for Santa Fe) date from 1850. Statistics for all areas show a reasonably uniform rainfall pattern throughout their entire history.

LIST OF MAPS

CHAPTER I

THE BACKGROUND

New Mexico enjoys the use and benefits of the most complete and ingenious system of identifying land areas ever devised by man - the rectangular system of surveying.[1] This system of survey was used in all the states of the United States except "six New England States, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Tennessee, Kentucky and Texas, the United States not being the owner of public lands in any of

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[1]Frank M. Johnson, Public Land System of the United States: The Rectangular System of Surveying, 9 ff. This is the best summary available of the steps in the evolution of the rectangular surveying system. Mr. Johnson was a U. S. Supervisor of Surveys when this article was written. Marion Clawson, Uncle Sam's Acres, 46 ff., provides a readily understandable and complete statement of surveying techniques on a rather elementary level. L.C.R. 11/5/68, 4-8; and L.C.R. 11/1/69, 41 Cong., 2 Sess., H.E.D. No. 1, 10-18 (1414), are more technical expositions of the rectangular surveying system as it was practiced during the period of this study. A modern and voluminously detailed guide is the Bureau of Land Management's Manual of Instructions for the Survey of the Public Lands of the United States, 1947. A standard college text is Charles B. Breed and George L. Hosmer's The Principles and Practice of Surveying. Mention should be made of the Report of the Public Lands Commission March 3, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, XI-XIX (1923); and, The Public Domain: Its History, with Statistics, July 16, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, Pt. 4, 164-196 (1975). These are commonly known, respectively, as the Preliminary and Final, Reports of the Public Lands Commission. Two articles of interest are Frank J. Cordes, "Origin of Sections, Townships and Ranges," Lawyer and Banker, 24:142-149; and "The Creation of the National Land Policy," Chicago Historical Society Bulletin, 3:65-67, 72-76, and 82-84.

these political divisions."[2] The economic efficiency of surveying with this system has done much to preclude the possibility of litigation over boundaries as is so common in the States where it does not prevail.

A number of individuals have been credited with originating the public-land surveying system. Among these are Washington, Jefferson, William Grayson, Thomas Hutchins, Rufus Putnam, Jared Mansfield, and an officer of the Continental Army named DeWitte.[3] Actually, however, the perfected system was not the creation of any individual but that of several men working over a period of years. The resulting arrangement was born of necessity and underwent an evolutionary process in its growth to perfection.

In June, 1783, prior to the disbandment of the Continental Army, 283 officers petitioned Congress to grant them the bounty lands they had been voted shortly after the signing of the Declaration of Independence. Permission was requested to select this land in a contiguous body in the area then known as the Northwest Territory, lying west of the Alleghany Mountains between the Ohio River and Lake Erie. The several States had relinquished their claims to this region in favor of the Federal Government and its possession was assured by the treaty of 1783 when Great Britain conceded claim to all the territory north of 31° of north latitude east of the Mississippi River.

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[2] L.C.R. 11/1/69, 41 Cong., 2 Sess., H.E.D. No. 1, 10-18 (1414).

[3] Johnson, Public Land System, 10.

Aware of the political significance of the petition, leaders of that day took steps for the exploration, survey, and ultimate settlement of this region.

On May 7, 1784, a committee of the Continental Congress, with Thomas Jefferson of Virginia as chairman, reported an ordinance for ascertaining the method of locating and disposing of lands in the western territory. This ordinance was wholly in Jefferson's handwriting and it may reasonably be assumed that he was its sole author. That part of the report relating to surveys provided for the division of the public lands into hundreds of 10 miles square and those again into lots of 1 mile square each, to be numbered from 1 to 100 and all lines to be laid out on the ground in the cardinal directions.[4]

But Jefferson was called away to serve as minister to France before his work reached fruition and the responsibility of fostering the proposed legislation fell to William Grayson, Delegate to the Continental Congress from Virginia. Under his guidance there took form the famous Ordinance of 1785 which became a law on May 20 of that year. It differed from the proposal of Jefferson chiefly in the reduction of the size of the township from 10 to 6 miles square. Also in his committee report, Grayson used the words township and section for the first time in this legislation. During the debate on the bill there was bitter contention between the advocates of indiscriminate location and location by a fixed system. The victory of the latter was the origin, by law, of the rectangular system of

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[4]Ibid., 11.

surveying the public lands. It should be noted that there was but a bare provision for the survey of 6-mile squares called townships and no reference to scientific methods of procedure.

The reason for the 6-mile square rather than the one of 10 miles advocated by Jefferson[5] goes back to Colonial times and the granting of towns to groups of individuals. These grants were surveyed and recorded and had definite forms of local government. They were usually of about the same general size but were frequently irregular in shape so as to embrace as much agricultural land as possible in the prescribed area. In time uniformity of outline seemed desirable, so the custom grew of granting about 36 square miles in as nearly as possible the shape of a square.

Probably the first town of this size, rectangular in shape rather than a square, was Chelmsford, on the Merrimac River, incorporated in 1652. The first grant in the form of a square of 6 miles to the side was to Marlborough made by the General Court of Massachusetts in 1656. While the boundaries of this town were not run on the cardinals, it may be claimed that it was, at least in shape and area, the original township. It was not until 1749 that the first standard 6-mile square township, with boundaries officially designated to bear in the cardinal directions, regardless of the topography, was surveyed and recorded. The survey of this township was authorized by Governor Wentworth of New Hampshire, at Bennington, 36 years

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[5] Ibid., 12.

before the passage of the Federal Land Ordinance of 1785, and was "the beginning of the plan of survey by mathematical system which had been in process of formation in the New England Colonies for over a hundred years and which later developed into the Federal system."[6]

This township plan created a favorable impression in other colonies; Thomas Jefferson in particular saw its worth. Jefferson was, at the time, also intrigued with the value of the decimal system which accounts for the inclusion in his original report of a 10-mile square township. In this connection, he had also advocated a division of the Northwest Territory into 10 square states with 100 miles to the side.[7]

The Ordinance of 1785 was but the barest outline providing merely for a 6-mile square township with boundaries following the cardinal directions. There was no provision for primary control except that Ellicott's Line, the boundary between Ohio and Pennsylvania, was to serve as a starting point. Likewise there was no provision for correction necessitated by the convergence of meridians, or for excess or deficiency in measurements. It may be that these details were simply left to the judgment of later geographers or that they were overlooked in the heat of debate, but it is more likely that the importance of such matters was simply not understood at the time.[8] The

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[6]Ibid., 12-13.

[7]Ibid., 13.

[8]Ibid., 14.

need for surveys was urgent so the system was launched at once and allowed to evolve as best it might. The first area of surveyed public domain was in what is now the State of Ohio. Each surveyor followed the general requirements of the law but used his own judgment in technical details.

In 1796 Congress created the office of Surveyor General of the United States and authorized President Washington to fill the new post.[9] General Rufus Putnam of Massachusetts, chief of engineers of the Continental Army and a practical surveyor, had been a leading advocate of the land legislation of 1785 and was now the President's choice for the first Surveyor General of the United States. Putnam was not the chief contributor to the modern surveying system, but his contributions were noteworthy. It is likely that he should be credited with the present-day system of numbering sections, and indeed the term itself since he was the first to use that name instead of the lot of the original legislation. To him also goes the credit of first recommending to Congress the system of running "boundaries out on the ground and throwing the excess and deficiency of measurement on the north and west exterior boundaries; also for having first used bearing trees as corner accessories."[10]

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[9] Stat. L. Vol. I, 464 ff. This Act of May 18, 1796, also provided for the sections of a township to be numbered, beginning with the number 1 in the northeast section, running west and east alternately, and ending with the number 36 in the southeast section.

[10] Johnson, Public Land System, 15. Thomas Hutchins, the Geographer, favored Putnam's plan of survey by system and also the 6-mile square township.

To Jared Mansfield, selected by President Jefferson in 1803 to succeed Putnam, belongs the credit of devising a system of definite control lines and limits of error fixed on the ground in the field of survey. He was fortunate in being able to start afresh in the newly created Territory of Indiana; here he originated the logical system of base lines and principal meridians to form a framework for the structure of townships. Delineations, called base and meridian lines, had been used in the Ohio surveys, but they were merely boundary lines and lacked over-all coordination.[11]

Still one more step was necessary in the evolution to the modern system of public land surveys. Mansfield resigned in 1812 and that same year, under the Congressional Act of April 25, the office of Commissioner of the General Land Office was created with Edward Tiffin as the first commissioner.[12] No one had as yet tackled the problem of converging meridian lines although the complications caused by this geographical phenomenon were well known. Commissioner Tiffin appreised this problem carefully, with the full realization that additional controlling lines must be established as townships were surveyed farther from base lines, and inaugurated the scheme of guide meridians and standard parallels that is in use today.[13]

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[11] Ibid., 16.

[12] Stat. L., Vol. II, 716-718.

[13] Johnson, Public Land System, 17.

The first step in the process of a public survey is the establishment of a basic framework consisting of a point and two intersecting lines. The initial point is established by astronomical observations. In surveying the public domain of the United States, initial points were established wherever necessary. The one of concern here is that established for surveys in the Territory of New Mexico.

The first of the intersecting lines is a principal meridian conforming to a true parallel of longitude and extending either north or south, or in both directions, as may be required.[14]

The second intersecting line is a base line and conforms to a true parallel of latitude through the initial point and extending east and west from it.

The principal meridian is established on the ground in a straight line while the base line follows the curve of a line of latitude, being at any given point at right angles to the meridian through that point. A parallel of latitude on the surface of a sphere is a curved line as may readily be understood by observing that meridians of longitude converge toward the poles and that parallels of latitude are, at every point, at right angles to them.

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[14]Bureau of Land Management, Manual of Instructions for the Survey of the Public Lands, 167, states that the New Mexico Principal Meridian was established for the surveys in that Territory and is the basis for all surveys there except that "The Navajo Meridian originally governed public land surveys in northwestern New Mexico and northeastern Arizona. However, only a few townships governed by that meridian were surveyed in the State of New Mexico and no disposals based on those surveys were made.

The first step in the process of a geodetic survey is the establishment of a basic framework consisting of a total and two intersecting lines. The initial work is done by astronomical observations. In surveying the public domain of the United States, initial points were established wherever necessary. The one of concern here is the Indian Meridian survey in the Territory of Iowa.

The first of the intersecting lines is a principal meridian; such meridians are a long north and south line, usually either north or south, in the full circumference, as maybe required.[14]

The second intersecting line is a base line and portions of a line parallel of latitude through the initial point and extending east and west from it.

The principal meridian is established on the ground in a manner like unto the base line following the course of a line of latitude, being at any given point as nearly north as the meridian through that point. A particular landmark is the surface corner marks in a curved line or straight results as nearly stood by observing that variations of longitude converge toward the poles and that parallels of latitude are, at every point, at right angles to them.

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[14] Thomas M. Cooley, Constitutional Law of the United States, Government of the Public Lands, 1884, states that the Ordinance of 1787 called for two meridians. The Ordinance of 1785 provided for the survey in 6 miles square townships and 1 mile square sections. The Federal Government provided land surveys for distribution by sales and homestead entries. Congress gave a few tracts for public purposes by direct grant. Congress gave to the states for their public use and to aid in the support of common schools, or other purposes as a grant.

In 1855, when the initial survey was made in New Mexico, the prevailing method of locating a parallel of latitude on the surface of the earth was by means of "Burts Solar Compass."[15] Today, a more accurate and commonly used method is by taking mathematical offsets from a straight line. There are two ways of doing this, known, respectively, as the tangent method and the secant method, both of which involve trigonometric calculations. They are considered to be more accurate than methods using solar instruments, chiefly because of errors commonly encountered in the adjustment of the latter.[16] Nevertheless, the early surveys in New Mexico were surprisingly accurate. In the 1880's there was inadequate field work here but the basic surveying framework was completed in the earlier years.[17]

The second major step in the survey of the public domain was to divide the area into basic squares or rectangles. In modern practice this is a square approximately 24 miles on each side; but at the time when the New Mexico survey was initiated, the pattern generally followed was (for the area north of the base line) a rectangle 24 miles along the north-south

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The Navajo Meridian and the surveys based thereon were canceled by letter of the Commissioner of the General Land Office dated July 26, 1936, in the interest of regularity and uniformity of surveying procedure in that state."

[15] L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 98 (777).

[16] Breed and Hosmer, Principles and Practice of Surveying, 129-134.

[17] Personal Interview, Land Office Personnel, March 23, 1954.

boundaries and 48 miles for the boundaries east and west. South of the base line the meridional boundaries were 30 miles long while those extending east and west were the same 48 miles in length as those north of the base line.[18] John Wilson, the Commissioner of the General Land Office, in 1854, in his instructions to William Pelham, the first Surveyor General of New Mexico, laid down this basic pattern for the survey in New Mexico Territory, with the further admonition that one of Mr. Pelham's first duties should be to make a reconnaissance of the Territory to determine any variations from the general pattern that might best adapt the standard system to this new land of widely scattered and sparsely populated settlements containing already established grants of land to the native populace.[19]

The aforementioned rectangles were established by laying down standard parallels (sometimes known as correction lines) conforming to true parallels of latitude, through the 24-mile and 30-mile points previously established on the principal meridian north and south, respectively, of the base line and extending east and west from it; and guide meridians, conforming to true meridians of longitude through the 48-mile points

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[18] L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 97 (777); also L.O.R. 11/5/68, 5.

[19] Ibid., 11/30/54. The story of the previously established land grants in New Mexico has already been covered in part by various writers but a complete account of New Mexico land grants remains to be written.

previously established on the base line and standard parallels and extending north from it to a point of intersection with the next standard parallel, or the base line itself, as the case might be.

Since the guide meridians converge, the resulting rectangles are 48 miles along their southern, and somewhat less than this on their northern, boundaries. In theory, the lines along the east and west sides should be exactly 24 miles long north of the base line and 30 miles in length south of that line. Because of discrepancies in field measurements, this is rarely achieved.

The third step in the surveying process is the division of each rectangle into <u>townships</u>, each approximately 6 miles square. This is achieved by establishing <u>range lines</u> (also known as meridional lines) conforming to true meridians through the previously established standard township corners laid out at six-mile intervals on the base line and standard parallels, and extending north from there to an intersection with the next standard parallel, or the base line, and completed by the placement of <u>township lines</u> (also known as latitudinal lines) connecting the township corners previously established at six-mile intervals on the principal meridian, guide meridians, and range lines.

A basic similarity with the rectangles described in the second step is now apparent in that, barring the effect of discrepancies in measurement, the east and west boundaries of townships will be exactly 6 miles long while the convergence noted in the second step dictates that the northern boundaries will

be shorter than the southern boundaries to the extent of the convergence in each 6 miles.

The fourth and final step is the subdivision of each township into sections, each containing about 640 acres and being approximately 1 mile square. Up to this point all boundaries have followed lines of latitude or longitude but, in the case of sectional divisions, there is a basic difference. Measurements for section lines are started on the eastern and southern boundaries of townships and are made at intervals of 1 mile from these boundaries and parallel to them. Overlooking errors, the section will be 1 mile long on the eastern and western boundaries and likewise all northern and southern boundaries except those on the westernmost row of sections in each township. Here the northern boundary of the sections will inevitably be shorter than the southern boundary by the amount of convergence in each mile of the western township boundary.

All measurements for both townships and sections are started on the southern and eastern sides which results in all errors in measurement being thrown into the northern and western rows of townships, or sections, as the case may be.

Townships or sections lying contiguously north or south of each other make up a range and such a series arranged in an east and west direction constitutes a tier. Tiers of townships are numbered both north and south from the base line, starting with the number 1 on each side of that line and proceeding in numerical order in both directions. Ranges of townships are numbered, likewise, on both side of the principal meridian and

follow a numerical order both to the east and west from it. A township is thus located by a code such as - Township 4 north, Range 10 east, of the New Mexico Principal Meridian. This is usually shortened to - T.4N, R.10E, N. Mex. P. M.

The sections of a township are numbered starting in the northeast corner and proceeding, in numerical order, west in the northernmost tier of sections to the number 6 in the northwest corner, and then continuing the numerical order to the east in the next row south, and continuing back and forth in this fashion until the southeast corner is reached with the number 36.

Subdivision into sections still leaves tracts as large as 640 acres. The sections can be divided into quarters, and these quarters can be further divided into quarters and so on. They are designated as the northeast quarter of the southwest quarter (NE¼ SW¼) etc. This system permits the description of almost any tract of land since the units can be combined in many different ways. It does not, however, preclude the description of particular tracts by metes and bounds, or in other words, by distances and directions. The latter is sometimes valuable for such contingencies as describing an irregularly shaped tract of land within a given section or quarter section.[20]

The General Land Office was originally subordinate to the Treasury Department, the latter having been charged, by the Congressional Act of September 2, 1789, with the execution of

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[20]For this discussion of the rectangular surveying system, some use has been made of each of the references in note 1.

such duties relative to the sale of lands belonging to the United States as might be required by law.[21] The General Land Office itself was not created until April 25, 1812, when Congress created the office of Commissioner of that office and made his bureau in and subordinate to the Treasury Department.[22]

On July 4, 1836, Congress reorganized the General Land Office with an attempt to classify duties within the department.[23] From the wording of this act it appeared that the control of the General Land Office was removed from the Treasury Department and placed directly under the President; nevertheless, the Treasury Department continued to exercise control of the General Land Office until 1849. On March 3rd of that year the Department of the Interior was created and it was provided that the Secretary of the Interior assume such duties, in relation to the General Land Office, as had been performed by the Secretary of the Treasury. By this act, therefore, the General Land Office was transferred to the Interior Department.[24]

The office of the Commissioner was charged with performing, under the direction of the Secretary of the Interior, all the

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[21] Stat. L., Vol. I, 65-67. S. V. Proudfit, Public Land System of the United States: Historical Outline, 1 ff., is an excellent brief history of land legislation.

[22] Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 164 (1975).

[23] Stat. L., Vol. V, 107-112.

[24] Ibid., Vol. IX, 395. Milton Conover, General Land Office: Its History, Activities and Organization, is particularly valuable for the period after 1823.

executive duties attendant to the survey and sale of the public lands of the United States and all other factors in the management of those lands including duties related to private claims.[25]

The General Land Office was organized into five principal branches: "the Washington office, the district land offices, the offices of the surveyors general, the field surveying services, and the field service."[26] The Washington office was in general control while the district land offices dealt with the people in public land business. The surveyors general received the returns of surveys performed in the field and prepared records, field notes, and plats of surveys. The field surveying service performed the actual work of surveying, and the chief duty of the field service was to prevent fraudulent acquisition of title to public lands.[27]

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[25]Proudfit, Public Land System, 3.

[26]Ibid., 4. By the Act of May 10, 1800, there was created the office of register for the various land districts that were established from time to time after the passage of this act. These registers received, from the surveyor general in the same district, township plats of areas surveyed and ready for disposal to the public. It was the duty of the register, briefly, to supervise the disposal of the public domain in the manner prescribed by Congress in various land legislation. Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 201 (1975).

This act also created the office of receiver of public moneys in each land office. The duties of the receiver were to take in all money on account of the public land and to account for the same to the Secretary of the Treasury. In addition to a nominal salary, both the register and receiver were allowed certain fees as prescribed by law. Ibid., 201-202.

[27]Proudfit, Public Land System, 4.

> The primary conception of Congress in dealing with the public lands was the realization of the largest possible cash return for their sale to meet the immediate necessities of national enterprise. The General Land Office was organized in accordance with this conception; practically a real estate agency acting for the United States in the sale of its public domain. Under the statutory provisions enacted in 1785 and 1796 and the act of May 10, 1800, the conversion of public lands into cash funds was, in brief, the congressional definition of the powers and duties of the General Land Office. Since that time policies widely different, involving a broader conception of the proper foundation of our national institutions and a better development of the entire country, gradually came to be recognized, and took form in the later statutes that substantially abandoned the cash-sale proposition and adopted a theory based on the enhancement of agricultural values, in which the entire nation would ultimately profit.[28]

The Pre-emption and Homestead Laws and other land legislation were the result of this change in the philosophy of the disposal of our public domain. It is with this phase of our land policy, as applied to the Territory of New Mexico, that this study is concerned.

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[28] Ibid., 4-5.

CHAPTER II

ESTABLISHING THE SURVEYING SYSTEM

When William Pelham, the first Surveyor General of New Mexico, arrived in Santa Fe on December 28, 1854,[1] he had already been in office nearly five months, having been appointed by President Franklin Pierce with tenure to start on August first of that year.[2] The office had been created by an Act of Congress approved July 22, 1854. This legislation was entitled "An act to establish the offices of Surveyors General of New Mexico, Kansas and Nebraska, to grant donations to actual settlers therein, and for other purposes."[3] The chain of command from President Pierce to Mr. Pelham consisted of Robert McClelland, the Secretary of the Interior, and John Wilson, the Commissioner of the General Land Office.[4]

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[1] S.G.R. 9/30/55, 34 Cong., 1 Sess., H.E.D. No. 1, 301 (840).

[2] John Wilson, Commissioner of the General Land Office, to William Pelham, Surveyor General of New Mexico, 8/5/54 (B.L.M.).

[3] Stat. L. Vol. X, 308-310. See Appendix I for the text of this act.

[4] Thomas Donaldson, The Public Domain, 165-166 and 552. Donaldson was helpful in compiling Appendix II, a compilation of all national and local officials connected with this study together with their office and political affiliation.

Pelham was in Washington City, as our national capital was then called, when he received his appointment and set about preparing to fulfill his new duties. He had learned, "from a gentleman well informed on the subject,"[5] that it took usually about four months for a letter sent from New York to arrive in Santa Fe, so one of his first official acts, on August 9, was to request a remittance of 3,750 dollars for the salary of the Surveyor General and his clerks and for a further remittance of 3,000 dollars for incidental expenses anticipated in the establishment of the new office.[6] Evidently he did not wish to arrive at the scene of his new labors without funds to execute them.

The following day he returned his duly executed bond[7] and spent the next week readying himself for his journey to New Mexico Territory. At this time (August 15)[8] he appointed the first of his clerks, Alexander P. Wilbar, a native of Virginia.[9] This, and subsequent appointments made before leaving the States, was made without the direct consent of his superiors (although he considered himself within his legal rights)[10] and was to

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[5]Pelham to John Wilson, 8/9/54 (B.L.M.).

[6]Ibid.

[7]Ibid., 8/10/54.

[8]John Wilson to Pelham, 2/19/55 (B.L.M.).

[9]S.G.R. 8/29/61, 37 Cong., 2 Sess., S.E.D. No. 1, 589 (1117).

[10]Pelham to John Wilson, 4/18/55 (B.L.M.).

prove a source of considerable embarrassment after his arrival in New Mexico. His second appointment, that of Leonidas Smith, was made on September 9.[11]

Shortly before his departure, near the end of August, he received his instructions and perceived that one of his first duties would be to examine the country in preparation for the execution of the public surveys. He had heard that it was infested with bands of roving hostile Indians which "would render it unsafe to life and property, if not impossible for a small surveying party to pass."[12] With this observation in mind he respectfully requested authorization to call upon the commander of the nearest military post for an escort suitable for the protection of the party.[13]

This request was passed on to Secretary of the Interior McClelland, and the latter's reply did not reach Pelham until he arrived in Austin, Texas.[14] McClelland's reply denied the request by stating that there was no provision of law which authorized the employment of military forces for protection unless forcible opposition had been offered, or was likely to be offered, to surveying parties. If such a contingency arose, he was to call upon the second section of an Act of May 29, 1830,

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[11]John Wilson to Pelham, 2/19/55 (B.L.M.).

[12]Pelham to John Wilson, 8/17/54 (B.L.M.).

[13]Ibid.

[14]Ibid., 1/26/55.

prove a series of considerable embarrassment after his arrival in New Mexico. His second appointment, that of Lieutenant Colonel, was made on September 9.[11]

Shortly before his departure, near the end of August, he received his instructions and perceived that one of his first duties would be to examine the security in anticipation for the execution of the public surveys. He had heard that it was infested with bands of roving Indians which "would render it unsafe to life and property, if not impossible for a small surveying party to pass."[12] With this observation in mind he respectfully requested authorization to call upon the commander of the nearest military post for an escort suitable for the protection of the party.[13]

This request was passed on to Secretary of the Interior McClelland, and the latter's reply did not reach Talbot until he arrived in Austin, Texas.[14] McClelland's reply denied the request by stating that there was no provision of law which authorized the employment of military forces for protection unless formidable opposition had been offered, or was likely to be offered, to surveying parties. If such a contingency arose, he was to call upon the second section of an Act of May 23, 1830.

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[11] John Wilson to Talbot, 9/25/55 (B.L.M.).

[12] Talbot to John Wilson, 9/27/54 (B.L.M.).

[13] Ibid.

[14] Ibid., 1/20/55.

for instructions to direct his conduct.[15] This act made it lawful for the President to order the State or district marshal to protect surveyors from such forcible opposition.[16] In far-away New Mexico this was somewhat like saying that if a surveyor was being scalped, he could request the President to order the marshal to give him protection.

Mr. Pelham's fear of Indian attack was not without grounds, so his journey must have seemed fraught with exciting possibilities of interest and adventure. All the details of his trip are not known but those available provide the background for travels attended by danger and perhaps a measure of boredom.

He traveled to Cincinnati where he stopped to purchase supplies and instruments for the new surveyor's office. Some articles had been bought in Washington; but he desired to carry as little baggage as possible and endeavored to secure the more easily acquired items nearer his journey's end. The last of

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[15] Robert McClelland, Secretary of the Interior, to John Wilson, 9/8/54 (B.L.M.).

[16] Stat. L., Vol. IV, 417. "Sec. 2. And be it further enacted, That, whenever the President of the United States shall be satisfied that forcible opposition has been offered, or will likely to be offered, to any surveyor or deputy surveyor, or assistant surveyor, in the discharge of his or their duties, in surveying the public lands of the United States, it shall and may be lawful for the President to order the marshal of the state or district, by himself or deputy, to attend such surveyor, deputy, or assistant surveyor, with sufficient force to protect such officer in the execution of his duty as surveyor, and to remove force should any be offered."

for instructions to direct his conduct.[15] This act made it lawful for the President to order the State militia or navy to protect surveyors from such forcible obstruction.[16] In Lowry Low Pacific this was presented like saying that if a surveyor was being assaulted, he could request the President to order the military to give him protection.

Mr. Polk's use of Indian troops was not without precedent, as did Jackson, who had used Creek Indians and the Seminoles against the British and Spanish during the Revolutionary Wars. All the difference this time was that there were Indians among the Indians for Indians attacked by Indians and perhaps a number of others.

He traveled to Cincinnati where he stopped to purchase supplies and instruments for the new surveyor's office. Some articles had been bought in Washington but he decided to buy as little as possible and determined to return the most easily acquired items during his journey's end. The lines of

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[15] Polk's Proclamation, Proceedings of the Citizens, St. John Wilson, 9/8/34 (Mss.).

[16] Ibid., Vol. IV, #17, Pgs. 5. Art. 1a in Tribune Journal, Stat. However the President as the Chief Magistrate shall be satisfied that Foreign Government has been offered or will likely to be offered, to any surveyor or land surveyor, or resident surveyor, in the discharge of his or their duties, in surveying the public lands or the public domain, it shall and may be lawful for the President to order the military of the state or district, or the militia or disciplined surveyor, by, or resident surveyor, to protect such officer in the execution of the duty, as aforesaid, and to remove force should any be offered."

these purchases were made in New Orleans.[17] To his assistant, Mr. Wilbar, he largely entrusted the purchase and shipment of these supplies.[18]

From New Orleans, he wrote,

> I took passage upon the Steamship Chas. Morgan from New Orleans to Port Lavaca, Texas and shiped [sic] my articles upon the same vessel. The depth of water not being sufficient in Matagorda Bay for the Morgan to pass up to Port Lavaca, the Captain had his freight put upon two small vessels for the purpose of being carried up. After having sailed two miles, they stoped [sic] at Indianola to remain for the night, but before day (I believe) on the 16th Septr. a storm occured [sic] and continued some two days, doing much damage to houses, wharfs, and shiping [sic] on the Bay, and wrecked the vessels having the Chas. Morgan's freight. The Iron safe and boxes containing the articles I had purchased for the Surveyors Office were recovered, in a damaged state, and some of the papers so much damaged as to be useless.[19]

At Indianola Pelham was seized with an attack of yellow fever and, being confined to his bed at Port Lavaca, was unable to attend to the valuable office material he had purchased:

> the articles were in great danger of being lost, stolen, or sold at public auction without authority. Mr. Wilbar, by my orders, repaired to the scene of the disaster and saved the entire loss of the goods, which were then not materially injured by the salt water. This was done at a time when the yellow fever was raging, and had assumed the form of an epidemic. He was in imminent [sic] danger and risk of life from this fatal disease; yet his orders were carried out with great promptness and energy.[20]

And yet the General Land Office seriously questioned whether

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[17] Pelham to John Wilson, 12/31/54 (B.L.M.).

[18] Ibid., 4/28/55.

[19] Ibid., 12/31/54.

[20] Ibid., 4/28/55.

Wilbar was even officially employed by the United States Government at this time.[21]

From Port Lavaca, Pelham now departed on the most perilous as well as time-consuming portion of his journey. On October 25 he reached San Antonio having, in the meantime, sojourned at Austin long enough to request of Postmaster Mr. Durham that his mail be forwarded to Santa Fe.[22]

During this time Pelham appointed two more assistants and their appointments became effective (at least so he thought) while he was enroute to San Antonio. The first of these was Charles B. Magruder, from Maryland, hired as a draughtsman. The other was David J. Miller, a native of Alabama, who served as clerk and translator.[23] These appointments became effective on the 17th and 18th of October respectively.[24] He felt that he was justified in making them from the States rather than await the dubious possibility of hiring adequate help in frontier New Mexico.[25]

From San Antonio it was necessary to traverse the country of the dreaded Comanches. Fortunately for Pelham's safety he

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[21] Ibid.

[22] John Wilson to Pelham, 11/25/54, and Pelham to John Wilson, 1/29/55 (B.L.M.). From the wording of these letters, it would appear that he arrived at San Antonio and left the same day.

[23] S.G.R. 8/29/61, 37 Cong., 2 Sess., S.E.D. No. 1, 589 (1117).

[24] John Wilson to Pelham, 2/19/55 (B.L.M.).

[25] Pelham to John Wilson, 4/28/55 (B.L.M.).

Wilson was even officially employed by the United States Government at this time.[21]

From Fort Lawson, Fellows now departed on the much publicized as well as time-consuming portion of his journey. On October 25 he reached San Antonio Harbor, in the meantime, adjourned at Austin long enough to request of Postmaster Jim Durham that his mail be forwarded to Santa Fe.[22]

During this time Fellows acquainted two more Canadians and their equipment became effective (at least on the journey) while he was enroute to San Antonio. The first of these was Charles B. Hagyard, from Kerryland, hired as a draughtsman. The other was David J. Miller, a native of Alabama, who served as clerk and translator.[23] These acquaintances became effective on the 17th and 18th of October respectively.[24] In fact, Miller was instrumental in making them from the Galveston Harbor than aware the dubious possibility of having adequate help in Frontier New Mexico.[25]

From San Antonio it was necessary to traverse the country of the dreaded Comanches. Fortunately for Fellows's safety he

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[21] Ibid.

[22] John Wilson to Fellows, 11/25/54, and Fellows to John Wilson, 1/29/55 (E.L.M.). From the wording of these letters, it would appear that he arrived at San Antonio and left the same day.

[23] E.L.M. 8/29/6, 37 conc., 2 sans., P.-P. No. 1, 559 (1117).

[24] John Wilson to Fellows, 2/19/55 (E.L.M.).

[25] Fellows to John Wilson, 4/23/55 (E.L.M.).

was able immediately upon arrival at San Antonio to make connections with Major Emory's Boundary Commission,[26] which was traveling to El Paso in the pursuance of its task of running and marking the line established between Mexico and the United States.[27]

The trip to El Paso took nearly six weeks, the party arriving at that location on December 4, 1854. Pelham's letter announcing his arrival, was brief and descriptive:

> I have arrived near my district in safety... .
> I came through the Indian country in Texas in company with the Boundary Commission, consequently had ample protection. But the party with the United States mail, which passed us, was not so fortunate. A large party of Indians attacked them at "dead man's hole," and the engagement continued for six or seven hours, during which it is believed several Indians were killed by Mr. Skillman, but at so great a distance, that the dead bodies were carried off by their comrades. The mail party experienced no loss except two or three mules killed and a Mexican wounded.[28]

Within a few days he set out on a reconnaissance of the Rio Grande Valley to select a suitable point for the intersection of the principal meridian and the base line.[29]

In his instructions to the Surveyor General, Commissioner John Wilson was understandably lacking in detailed knowledge

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[26]John Wilson to Pelham, 11/25/54 (B.L.M.).

[27]P. M. Baldwin, "A Historical Note on the Boundaries of New Mexico," New Mexico Historical Review, 5:116-137. For the earlier history of this boundary survey see, S.I.R. 10/11/52, 32 Cong., 2 Sess., H.E.D. No. 1, 37-45 (673).

[28]Pelham to John Wilson, 12/4/54 (B.L.M.).

[29]Ibid.; L.C.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 97 (777).

of the wild frontier of this new Territory, and thus he allowed the Surveyor General considerable leeway in the execution of his duties. He stated as a desideratum that the principal meridian should run near the suburbs of Santa Fe and that the base line intersect it possibly as far south as a point fifty miles east of the junction of the Rio Grande and the Rio Puerco. An alternate suggestion allowed, if expedient, the fork of the Rio Grande and the Rio Puerco as the junction point.[30] This would place the principal meridian about fifty miles west of Santa Fe.

Surveyor General Pelham followed the second suggestion. "Agreeably to your instructions I selected a hill about six miles below the mouth of the Puerco river, which is two hundred feet high and of a rocky formation. This hill is nearly round, and is washed at its base by the Rio Grande. I have therefore established this hill as the initial point, and have caused a suitable monument to be erected on its summit."[31]

His choice was probably dictated by expediency. Having made his approach from the south, it is assumed that he knew little about the terrain west of Santa Fe where his choice placed the principal meridian, nor is it likely that he was acquainted with the land 50 miles east of the junction of the Rio Grande and the Rio Puerco, where Commissioner Wilson's

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[30] L.C.R. Ibid. See Appendix III for the text of the instructions to the Surveyor General of New Mexico.

[31] S.G.R. 9/30/55, 34 Cong., 1 Sess., H.E.D. No. 1, 303 (840).

of the only transfer of [illegible] property, and [illegible] allowed the surveyor General accordingly to issue a [illegible] for his duties. In stating on a [illegible] that the [illegible] merelion should not [illegible] the authority of [illegible] and that the base line intersect it perpendicular [illegible] as a point fifty miles east of the junction of the [illegible] and the [illegible] as a [illegible] Rio Grande and the [illegible] to the [illegible] [illegible] would place the principal meridian about [illegible] miles west of Santa Fe.

Surveyor General [illegible] followed the second recommendation, "Agreeably to your instructions", adopted a fifty mile [illegible] miles below the [illegible] and by a [illegible] [illegible] will be nearly round, and is [illegible] by the [illegible]. I have therefore established this [illegible] the initial point, and have caused a building [illegible] to be erected on it [illegible].[70]

His choice was [illegible] by [illegible]. During [illegible] made his approach from the south, [illegible] it appears that he knew little about the [illegible] where his choice placed the principal meridian, nor [illegible] that he was acquainted with the land [illegible] of the junction of the Rio Grande and the Rio Puerco, where Surveyor Miller's

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[70] G.L.O. 1873. See document XXI for the text of the instructions to the Surveyor General of New Mexico.

[illegible] S/3C/3B. [illegible] Land, no. [illegible] (840).

first proposal would have placed the principal meridian. It was simply convenient to place the initial point within the main traveled reaches of the Rio Grande Valley.

Pelham had little to do during the five months of his trip to Santa Fe, but this was quite changed when he reached his journey's end. His duties in connection with Spanish and Mexican land grants were of a minor but important character.[32] The procrastination of the United States Government in not giving proper authority or support for adequate settlement of land claims was distracting. Each of the Surveyors General were plagued with this situation until 1891 when a Court of Private Land Claims was finally established to adjudicate the claims. Tasks dealing with the public domain constituted the major portion of the work.[33] Pelham's instructions covered in detail the eight sections of the act creating the Office of Surveyor General of New Mexico. Section 1 provided for the survey of the land in New Mexico. Sections 2, 3, and 4 made donations to actual settlers. Sections 5 and 6 reserved land for school and university purposes. Section 7 granted pre-emption rights. Section 8 gave authority to report on private land claims originating before the Treaty of Guadalupe Hidalgo of 1848.[34]

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[32]Pelham to John Wilson, 5/29/55 (B.L.M.).

[33]See Appendix III for details.

[34]Ibid. In the first years of the Territory's existence, Pelham was also charged with the duties of register and receiver. Thomas A. Hendricks, Commissioner of the General Land Office, to Jacob Thompson, Secretary of the Interior, 10/1/58 (N.A.). The first land office for New Mexico was established on May 24, 1858, and opened in Santa Fe on November 24th. The first

Even so simple a thing as renting a suitable office and purchasing furniture for it, presented the Surveyor General with complicated problems. The house he finally selected was of typical adobe with a dirt floor.[35] His consternation can be imagined at the thought of keeping up appearances such as were commonplace in the East. His budget of 3,000 dollars a year for office rent, fuel, books, stationery, and other incidental expenses[36] was meager by eastern standards of purchasing power, and in New Mexico its sparseness was aggravatingly apparent. His problem was made doubly complicated by his observation that the native population was governed in great measure by appearances and he felt bound to keep up these appearances in order, as he explained, "to command the respect of the Mexican population... ."[37]

He finally found some chairs, made of common pine plank, that cost two dollars and a half each. Six chairs with cane seats cost forty dollars and, as he regretted, "would have cost from twelve to fifteen dollars per dozen in the states... ."[38]

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register was W. S. Davidson and the office of receiver was first filled by W. A. Street. Hendricks to Pelham, 10/1/58 (N. A.).

[35]Pelham to John Wilson, 4/26/55 (B.L.M.). The Register and Receiver at Santa Fe had comparable problems when their office was established. Wm. A. Street, Receiver, to W. Medill, Comptroller, 8/5/59; Street to Medill, 9/16/59; and Street to Hendricks, 12/30/59 (F.R.C.).

[36]John Wilson to Pelham, 4/7/55 (B.L.M.).

[37]Pelham to John Wilson, 4/26/55 (B.L.M.).

[38]<u>Ibid</u>.

He was relieved at being able to purchase mahogany chairs, sofa, and table for the court room. For the rest he resigned himself to the native custom. He informed Commissioner Wilson that it was necessary to purchase carpets for the floors because even the poorer class of natives carpeted their floors.[39] He did not add that the carpet of the natives was "a coarse domestic fabric called gerga...,"[40] which undoubtedly was quite inexpensive. The walls he found necessary to cover with canvas, in the commonly practiced manner, to protect the papers and documents from the dirt of the adobe walls.[41]

Having established an office as passably as was possible under the circumstances, the Surveyor General set about the duties that he had traveled so long and wearily to commence. On the 9th of March, 1855, he let his first contract (for the survey of part of the principal meridian and base line).[42] His instructions had required that the deputy surveyor selected for this task should be of well established skill and reputation because the base and meridian lines form the groundwork for all subsequent surveying operations. It was prescribed that one and the same deputy surveyor be used to run all these lines in

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[39] Ibid.

[40] R. L. Duffus, The Santa Fe Trail, 161.

[41] Pelham to John Wilson, 4/26/55 (B.L.M.).

[42] S.O.R. 9/30/55, 34 Cong., 1 Sess., H.E.D. No. 1, 303 (840); L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 100 (777), explains that the price for base lines, principal meridians, and standard parallels, was not to exceed twenty dollars per mile and that township and subdivisional lines should be limited to twelve dollars per mile.

order to insure uniformity, and it was strongly urged that, for the same reason, the same crew be used throughout the operation. As a prerequisite, the deputy selected needed to be familiar with the use of Burt's improved solar compass, and also the theodolite; the former for determining latitudes and ascertaining compass variations; the latter for taking long-course sights and bearings of mountain ranges where it might be necessary to take angles in order to establish distances of inaccessible objects.[43]

Pelham's choice for a deputy who would meet these exacting qualifications was John W. Garretson, "a surveyor of acknowledged ability, energy and experience and...a gentleman of respectability and integrity."[44] Garretson had previously worked for Pelham when the latter was Surveyor General of Arkansas.[45]

Meanwhile the Surveyor General was having trouble getting his supplies. Characteristic of the items missing was a "Burt's improved solar compass."[46] It was specifically ordered that this instrument was to be relied upon for the establishment of all principal lines.[47] The first correspondence regarding this

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[43] L.O.R. Ibid.

[44] Pelham to John Wilson, 4/1/55 (B.L.M.).

[45] Ibid., 4/20/55. This letter states that Garretson did surveying in Arkansas, and, Personal Interview, Land Office Personnel, August 12, 1954, revealed that Garretson had previously worked under Pelham in Arkansas.

[46] L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 98 (777).

[47] Ibid.

compass took place on September 9, 1854, and the office was opened in Santa Fe nearly four months later without the compass and with no immediate prospect of its delivery. In this initial letter, Commissioner Wilson said, "Burt's Solar Compass is expected here every day and so soon as received it will be sent to you... ."[48]

On September 16, Wilson wrote that the solar compass would be shipped as soon as it arrived at the General Land Office together with a box of books and papers,[49] also two standard pole chains.[50] The solar compass might be sorely needed if the deputy surveyor failed to provide his own as he was supposed to; and in any case the standard chain would be indispensable since it was provided by the Government and was required to be used in checking the length of chains used by deputy surveyors in the field. This was necessary because the links of measuring chains were subject to severe wear in rocky and brushy country; furthermore the links might become elongated if subjected to undue strain. The result in either case would be a chain longer than the standard. There was also the possibility of variation in manufacture.[51]

On September 23, Wilson wrote that Burt and Bailey, of Detroit, had promised to ship the solar compass in two weeks

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[48]John Wilson to Pelham, 9/9/54 (B.L.M.).

[49]Ibid., 9/16/54.

[50]Ibid.

[51]Personal Interview, Land Office Personnel, March 23, 1954.

compass took place up on January 4th, and the office was opened in Santa Fe nearly four months later without the compass and with no immediate prospect of its delivery. In this initial letter, Commissioner Wilson wrote, "Burt's Solar Compass is expected here every day and as soon as received it will be sent to you...."[48]

On September 16, Wilson wrote that the solar compass would be shipped as soon as it arrived at the General Land Office together with a set of books and papers,[49] and the standard pole chains.[50] The solar compass might be sorely needed if the deputy surveyor failed to provide his own as he was supposed to; and in any case the standard chain would be indispensable since it was furnished by the Government and was required to be used in checking the length of chains used by deputy surveyors in the field. This was necessary because the links of measuring chains were subject to considerable wear in rocky and brushy country; furthermore the links of the chains stretched if subjected to undue tension. The result in either case would be a chain longer than the standard. There was also the possibility of variation in manufacture.

On September 23, Wilson wrote that Burt and Bailey, of Detroit, had promised to ship the solar compass in two weeks

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[48] John Wilson to Pelham, 9/9/54 [illegible].

[49] *Ibid.*, 9/16/54.

[50] *Ibid.*

[51] Personal interview, *Lucy Wilson Fitzgerald*, March 23, 1954.

and that it would then be sent to Pelham at Austin, Texas.[52] Before the compass was shipped Pelham was leaving San Antonio. Wilson accordingly delayed shipment of the compass because he feared Pelham's departure for Santa Fe might be prejudicial to the safe transportation of the compass from San Antonio (where Pelham in the meantime had requested that it be sent) to Santa Fe. At the same time Wilson again asked for instructions where to send the instrument.[53]

Pelham answered that it was fortunate the solar compass had been detained, and added: "You will please have the compass carefully packed, and forwarded by express to Independence, Mo. to the care of Messrs. Rockaday & Hall, with instructions to forward it by the first mail wagon that will leave after they receive it."[54] The box of books containing the standard chain was, however, sent to El Paso via San Antonio.[55]

On April 25, 1855, the compass was received and duly acknowledged by the office at Santa Fe, after nearly eight months of correspondence and waiting![56] Such were the trials of establishing a surveying system in Territorial New Mexico.

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[52]John Wilson to Pelham, 9/23/54 (B.L.M.).

[53]<u>Ibid</u>., 11/21/54.

[54]Pelham to John Wilson, 1/29/55 (B.L.M.).

[55]See note 60.

[56]Pelham to John Wilson, 4/25/55 (B.L.M.). The freighting season was spring or early summer. Freight arriving at Independence after that had to wait until the following season.

After signing the contract for surveying the base line and principal meridian, Garretson gathered together his materials and his surveying crew consisting of James W. Lawson, compassman; John S. Haw, chainman; Lewis Dickens, chainman; John A. Puckot, flagman; James M. Hunter, marker; and three Mexicans for spademen and packers.[57] He was required to furnish all supplies and materials with the exception of a standard chain with which to compare his own from time to time.[58] Since this chain, along with the box of books previously referred to, had not yet arrived, Garretson delayed his departure for the initial point of survey until March 26.[59] Even then the standard chain was not at hand but he hoped that it would be soon and could be forwarded to him. He waited in vain and finally sent two of his men posthaste to El Paso to get one of the chains packed in the box of books awaiting shipment to the Surveyor General.[60] It is not recorded whether they brought back the box of books and the other chain but it is

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[57]Deputy Surveyor Garretson, Field Note Book, No. 18, Introduction (B.L.M.).

[58]Personal Interview, Land Office Personnel, August 12, 1954.

[59]Pelham to John Wilson, 4/1/55 (B.L.M.).

[60]Ibid., 6/30/55. Pelham does not actually state that Garretson secured a chain from the box of books awaiting shipment in El Paso, but Garretson in the introduction to Field Note Book No. 18 states that he received a standard chain that had been sent to the Surveyor General of New Mexico by the Commissioner of the General Land Office. It is known, John Wilson to Pelham, 9/6/54, and Pelham to John Wilson, 1/26/55 (B.L.M.), that the box of books, containing the standard chains, was sent via San Antonio and, Pelham to John Wilson, 6/30/55 (B.L.M.), that it had arrived in El Paso.

evident that, traveling light by horseback as they must have been, they were unable to bring Surveyor General Pelham's badly needed supplies. He was still waiting for them on the last day of June, 1855.[61]

While Garretson's men were on their way to El Paso, he and the rest of his crew were busy locating and monumenting the initial point of survey selected by Pelham on the west bank of the Rio Grande[62] about six miles south of the junction of the Rio Grande and the Rio Puerco[63] and about 120 chains (a chain is 66 feet) northwest of Lajoya.[64] Garretson

> Erected a mound of stones 14½ feet in diameter and 8 1/3 feet in height on an isolated Hill on the west bank of the Rio Grande (said hill is 210 feet above the surrounding plain) on the top of the mound of stones I placed a stone 18 x 12 x 8 ins marked with 6 notches on the north side of it six notches on the south side six notches on the east side and six notches on the west side of it & from Said stone is placed a stone at the horizontal distance of 10 links course N 45° W & a stone at the horizontal distance of 10 3/4 links course N 45° E and a stone at the horizontal distance of 12¼ links course S 45° E and a stone at the horizontal distance of 11 links course S 45° W. The four stones last named are set into the earth at the Base of the mound and form a part of it the stone NW is marked T1N. R1W. S36. The stone NE is marked T1N. R1E. S31 The Stone SE is marked T1S R1E. S6 and

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[61] Pelham to John Wilson, 6/30/55 (B.L.M.).

[62] Deputy Surveyor Garretson, Field Note Book, No. 18, Introduction (B.L.M.).

[63] S.G.R. 9/30/55, 34 Cong., 1 Sess., H.E.D. No. 1, 303 (840).

[64] Deputy Surveyor Garretson, Field Note Book, No. 14, Introduction (B.L.M.). Garretson here calls it La Joyita, but it is spelled La Joya on a map of the public surveys to accompany S.G.R. 9/30/63, 38 Cong., 1 Sess., H.E.D. No. 1 (1182). The modern spelling is Lajoya or La Joya.

the stone SW is marked T1S R1W. S1 These letters & figures are indelibly and neatly cut into these stones with chisels and marking irons[65]

Between the 3rd and 12th of April he took solar observations of the sun on its meridian to determine the latitude of the mound of stones.[66] His compass readings indicated the initial point to be 34° 31' of north latitude, but he calculated this to be 12' too much as compared with the established latitude of Santa Fe and Detroit; therefore, he concluded that the latitude must have been 34° 19'. [67] Later he must have reassessed his calculations and split the difference between his solar observations and his mathematical calculations. This gave him a final figure of 34° 26' of north latitude.[68] As later corrected the figure is 34° 15' 35" and the longitude 106° 53' 12" west from Greenwich.[69]

On april 14, Garretson's messengers returned from El Paso with the standard chain. The following day, surveying was started on the principal meridian south from the initial point.[70] After surveying 60 miles, operations had to be suspended because

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[65]Deputy Surveyor Garretson, Field Note Book, No. 18, Introduction (B.L.M.).

[66]Ibid.

[67]Ibid.

[68]Ibid., No. 14.

[69]Bureau of Land Management, Manual of Instructions for the Survey of the Public Lands, 168. Hubert Howe Bancroft, History of Arizona and New Mexico. 1530-1888, 646, gives the latitude as 30° 19'. This, of course, is wrong.

[70]Deputy Surveyor Garretson, Field Note Book, No. 18, Introduction (B.L.M.).

there was no water on the Jornada del Muerto.[71] By the 27th of April the surveying party had returned to the initial point and started the survey of the principal meridian northward.[72]

Meanwhile, it seems evident that Surveyor General Pelham, in the press of other duties, had not completed his special instructions to Deputy Surveyor Garretson and intended to send them later.[73] It is possible that these special instructions were sent to Garretson about the 30th of April.[74] Garretson had worked under Pelham before[75] and they probably had a working arrangement between them that made instructions seem a routine matter. Such was not the case this time.

After having surveyed 48 miles of the principal meridian north of the base line, Garretson was apprised of what must have seemed to him a rather horrible circumstance. He had surveyed 108 miles of the principal meridian while using the

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[71] Ibid., No. 14.

[72] Ibid., No. 18.

[73] Pelham to John Wilson, 4/1/55 (B.L.M.). Pelham says, "The special instructions given to Mr. Garretson for his government in the execution of his surveys have not been copied and prepared for transmission to Washington in time for the present mail, but will be by the next." Also see Pelham to John Wilson, 4/30/55 (B.L.M.). At this time (April 30) Pelham sent a copy of his special instructions to Garretson, to Commissioner Wilson. If at this time he also sent them to Garretson, it would account for the latter's being informed that he was using the wrong interpretation of the length of the standard chain. Both Pelham and Garretson evade the point of how discovery was made of the wrong chain length. The significance of using the wrong chain length will be developed presently.

[74] See note 73.

[75] See note 45.

wrong length for the standard chain. By way of explanation Garretson said:

> [I received] a copy of the Report of the Commissioner of the General Land Office. I find from the description of the Standard chain that only a part of said chain constitutes the Standard measure and...I had supposed the whole chain to be the measure. My work of course is all incorrect in measurement. I shall therefore commence my work anew.[76]

Thus 2,160 dollars' worth of work had to be re-done. Mr. Garretson can hardly be blamed when he pithily wrote:

> I received the report of the Commissioner of the General Land Office in which the standard chain is described, the standard measure being the space between the rivets within the handles. The remarkably foolish penchant for novelty has cost me the running of 108 miles twice.[77]

Thomas A. Hendricks, a new Commissioner of the General Land Office, later defended that organization's position when he acidly expressed his feelings that

> The standard chain alluded to (as are all others) was constructed by one of the most scientific mechanicians in the country, employed in the Coast Survey Department and the error alluded to resulted from the nonobservance (of what had been deemed selfevident to the eye of every observer) that the concluding links at the two extremities are <u>within</u> & <u>short of</u> the <u>handles</u>, which are

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[76]Deputy Surveyor Garretson, <u>Field Note Book</u>, No. 18, Introduction (B.L.M.). The report that Garretson refers to is <u>L.C.R.</u> 11/30/54, 33 Cong., 2 Sess., <u>H.E.D.</u> No. 1, 98 (777): "You are herewith provided with two pole-chains, of a true standard measure, the extreme links of which are terminated by rivets on the inner circle of their handles: these chains must always be retained in your office to regulate the chains of the deputy surveyors, each of whom should take to the field a similar standard to regulate from time to time the chains in practical use." Pelham received a copy of these instructions at Austin, Texas, while on his way to Santa Fe; Pelham to John Wilson, 1/26/55 (B.L.M.), but evidently he had not communicated the information to Garretson.

[77]Deputy Surveyor Garretson, <u>Field Note Book</u>, No. 14, Introduction (B.L.M.).

> designed to be used for the indispensable purpose of stretching the chain to its utmost degree of tension when using it as a standard to regulate the working chains.[78]

By May 15, Garretson was busy resurveying the principal meridian north from the initial point.[79] It was not only necessary to resurvey the work but, in addition, it was essential that the old monuments be destroyed! This both Pelham and his deputy took for granted. Commissioner Hendricks, however, left nothing to chance, and issued specific instructions that this be done.[80] It was now Mr. Pelham's turn to be somewhat irritated and he replied with some heat:

> In regard to the corners erected under the survey of Mr. Garretson which was found incorrect, and which was corrected by resurvey, I have to inform you that they were all destroyed on discovering their erroneous positions; and you would have been informed of this fact before had I not considered their demolition so entirely a matter of course as to make it unnecessary to advise you thereof.[81]

The Surveyor General was instructed to first extend the principal meridian, base line, and standard parallels only so far as might be deemed indispensably necessary to control the surveying, as soon as practicable, of the land already settled upon or toward which immigration might be tending.[82] With this

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[78]Hendricks to Pelham, 9/7/55 (B.L.M.).

[79]Deputy Surveyor Garretson, Field Note Book, No. 18, Introduction (B.L.M.).

[80]Hendricks to Pelham, 9/7/55 (B.L.M.).

[81]Pelham to Hendricks, 10/31/55 (B.L.M.).

[82]L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 98 (777).

> designed to be used for the [illegible] purpose of ascertaining the [illegible] degree of [illegible] upon using it as a measure [illegible] required [illegible] chains.[78]

By May [illegible] the corrections [illegible] meridian north from the initial point.[79] It was [illegible] necessary to resurvey the work, and, in addition, it was [illegible] that the old [illegible] to resurvey [illegible] his deputy [illegible] left nothing to chance, and issued specific instructions [illegible] this be done.[80] [illegible] irritated and he replied with some [illegible]

> In regard to the [illegible] Mr. Garretson which was found incorrect, and [illegible] corrected by resurvey, I have [illegible] were all destroyed [illegible] tions, and you would have been [illegible] before had I not [illegible] a matter of [illegible] you thereof.[81]

The Surveyor General was [illegible] principal meridian, base line, and standard parallels only as far as might be deemed [illegible] necessary [illegible] surveying, the area in [illegible] upon or toward which immigration [illegible]

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[79] Hendricks to Palmer, [illegible]

[78] Deputy Surveyor [illegible] Introduction [illegible]

[80] Hendricks to Palmer, [illegible]

[81] Palmer to Hendricks, [illegible]

[82] [illegible] (777).

admonition in mind, Pelham made the first part of the contract (for the principal meridian north of the base line) for only 96 miles. This brought the line to a point near the Jemez Mountains. It was almost August before this 96 miles was finished.[83] Garretson had hoped to finish the entire principal meridian by that time![84]

After the late summer and fall rains, Garretson was able to continue the survey of the principal meridian south from the initial point. This survey, of 170 miles, 47 chains, and 38 links, brought the line to the Mexican border and was completed in time for the field notes and plats to be prepared and forwarded to Washington on November 30, 1855. Also included were the field notes and plats for the survey of 45 miles and 40 chains of the base line.[85] The original plan called for 48 miles of base line - 24 miles on each side of the principal meridian. Garretson surveyed the 24 miles east of the base line and then explained why he stopped two and one-half miles short of the 24 miles to the west:

> I travel to the top of this mountain ridge & see a continuation of gulchy & steep cragged ridges which (if not impassable) would be very difficult to pass with a line & as there does not appear to be any necessity for extending this line at this time as there are not any settlements on the part of the line run nor will there ever be I would suppose either in it or farther west as there is not any land that can be cultivated I continue the line no farther October 11th 1855.[86]

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[83]Pelham to John Wilson, 6/30/55 (B.L.M.).

[84]Ibid., 4/20/55.

[85]Pelham to Hendricks, 11/30/55 (B.L.M.).

[86]Deputy Surveyor Garretson, Field Note Book, No. 17, 16-17.

It is hard today to realize the difficulties faced in the early surveying of New Mexico. Man and nature joined in a conspiracy that only an iron will and steadfast determination could overcome; and always in the background was the entangling web of Government red tape that took slow cognizance of the onerous conditions to be encountered.

The most pressing difficulty was the ever present danger of attack by Indians. The problem of living in inhospitable and rough surroundings was annoying, no doubt, but could be taken more or less in stride by men inured to frontier conditions. Not as terrifying as the danger of Indian attack, but fully as worrisome in its way, was the nagging difficulty of securing funds and instructions from Washington. It must have been trying indeed for these men to see their problems handled in the same routine manner as would perhaps suffice back East where communications were relatively good.

It was customary for the inhabitants of New Mexico to live in settlements to afford them mutual protection from Indian attack. Surveying crews, nevertheless, had to leave the settlements and could not even take advantage of favorable terrain to repel attack. As Pelham explained:

> [The] lines are required to be extended through countries infested with roving bands of hostile Indians, whose habits have been marked by pillage, rapine and murder for ages past. The Surveyor who is now engaged on that service has been under the necessity of employing men at fifty dollars per month, furnish them with provisions, arms, ammunition and transportation, to serve as an <u>escort</u> to protect the lives and property of himself and his company against the depredations of those Indians while executing his surveys.[87]

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[87]Pelham to John Wilson, 7/22/55 (B.L.M.).

In case of danger from Indian attack, the Surveyor General could call on the President to order the Marshal in the Territory to give him protection. This proved to be so unwieldy a procedure as to be highly impracticable, if not impossible. As a result, Pelham was forced to do exactly what he had been denied permission to do, namely call on the commander of the nearest military post for protection. In the spring of 1857, Garretson had his animals stolen by Indians. Although they were recovered, he lost several days and was under heavy expense during the whole period. Pelham recommended

> that the general commanding this department be directed by the proper authorities to furnish deputy surveyors whose fields of labor are distant from the larger settlements with a sufficient escort to protect them from attacks by hostile bands of Indians. Unless this is done the public surveys in this Territory will be greatly retarded, as no deputy surveyor will be willing to risk his life and property for the remuneration allowed by the government for his services.[88]

In May, 1858, hostile Indians were hovering around the camp of Deputy Surveyor A. P. Wilbar, who was surveying in the Conejos Valley, and threatened to stop his work. Pelham requested "that a sufficient escort be furnished to Mr. Wilbar at the earliest practicable period if it can be done without injury to the public service."[89]

The following year he appealed to the Superintendent of Indian Affairs at Santa Fe, Colonel James L. Collins, who was planning a talk with the Comanche Indians in the vicinity of

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[88] S.G.R. 9/30/57, 35 Cong., 1 Sess., H.E.D. No. 11, 235 (919).

[89] Pelham to General Garland, 5/29/58 (B.L.M.).

the Canadian River. Deputy Surveyor R. E. Clements was engaged in executing public surveys there and all his property and provisions had been taken from him by these Indians except his compass, chains, and animals. Pelham urged Collins to carry out his plans "at the earliest possible period, in order to quiet the Indians and allow the public surveys in that portion of the Territory now under contract to be completed."[90]

Collins informed Pelham that there was little he could do about the situation, that Clements had been informed of the need of a military escort before leaving for his survey location near the Texas line, and that the best thing to do was call in the military for protection.[91]

In this case the surveying party was released by the Indians only on condition that they abandon their work on the Canadian fork of the Arkansas River.[92] They had already surveyed 163 miles, 42 chains, and 39 links of exterior and subdivision lines. They had no alternative but to give up this work and leave the country. Surveyor General Pelham felt that no further surveying could be done there without great risk to life and property; accordingly, he released Clements from his contract and assigned him elsewhere.[93]

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[90] Pelham to Collins, 7/7/59 (B.L.M.).

[91] Collins to Pelham, 7/7/59 (B.L.M.).

[92] L.O.R. 11/30/59, 36 Cong., 1 Sess., S.E.D. No. 2, 188 (1023).

[93] L.O.R. 9/1/59, 36 Cong., 1 Sess., S.E.D. No. 2, 296 (1023).

Danger from Indian attack continued for several years. In 1861 Surveyor General Alexander Wilbar wrote:

> Had the present contractor for the survey of private land claims not met with the good fortune of being furnished by the commander of this military department with an escort to accompany him while engaged in surveying in that section of country lying along the Canadian river, I doubt whether he could have at all operated in that region; and the remarkis also applicable, in a greater or less degree, to the work he still has on hand contemplated by the contract, as part of it lies in the Navajo country, which formidable tribe of Indians are now at open war with the whites; and should he not be further favoured with an escort, I am apprehensive that all the claims included in his contract cannot at present be surveyed, and that the contract may have to be changed so as to apply to other surveys, public or private.[94]

The following year much needed surveys were held up because of the bitter hostility of the Navajo and Apache Indians in the central and southern portion of the Territory. It was unsafe to operate outside of the settlements without a strong military escort and such protection could not be counted on as a regular arrangement.[95]

The abortive invasion of New Mexico by Confederate troops in 1861-62 had so occupied the armies that Indian tribes were emboldened to increase their depredations. By the fall of 1862 this danger was alleviated and the armed forces in New Mexico, under General James H. Carlton (with Colonel Kit Carson commanding in the field), were preparing to subdue the savages.

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[94] S.G.R. 9/29/61, 37 Cong., 2 Sess., S.E.D. No. 1, 574-575 (1117).

[95] S.G.R. 9/29/62, 37 Cong., 3 Sess., H.E.D. No. 1, 118 (1157).

In 1863 a vigorous war was waged on the Navajo and Apache Indians and no forces were available to escort deputy surveyors in the field. As a consequence, no contracts were let for surveying the public lands during that year.[96]

Most of the Mescalero Apache and Navajo Indians were rounded up and herded to the Bosque Redondo to eke out a short but unhappy existence. In 1865 the Mescalero Apaches escaped to their native haunts and by July 20, 1868, the Navajos were again occupying their old lands, having been allowed to do so by treaty negotiations.[97] The Comanches, Kiowas, Cheyennes, Arapahoes and other tribes continued hostilities that culminated in the Red River Indian War of 1874-75.[98]

Danger to surveying parties continued to the extent that in 1864[99] and 1865 no surveys were contracted for or executed.[100] During 1866 there were no surveys, but promise of military protection in the field, if it should be necessary, led to hopes of being able to resume surveying operations without too much further delay.[101] This hope materialized the following year[102] and by 1871 settlers and surveyors alike

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[96] S.G.R. 9/30/63, 38 Cong., 1 Sess., H.E.D. No. 1, 89 (1182).

[97] William A. Keleher, Turmoil in New Mexico, 1846-1868, 468.

[98] Dan Albert Clark, The West in American History, 583. The Red River is the natural boundary between Texas and Oklahoma.

[99] S.G.R. 9/1/64, in L.O.R. 10/3/64, 85.

[100] S.G.R. 8/7/65, 39 Cong., 1 Sess., H.E.D. No. 1, 110 (1248).

[101] S.G.R. 8/16/66, 39 Cong., 2 Sess., H.E.D. No. 1, 470-471 (1284).

[102] S.G.R. 7/19/67, 40 Cong., 2 Sess., H.E.D. No. 1, 325-326 (1326).

were sanguine of a brighter outlook for the future, and settlement was constantly extending as fear of the Indian diminished and population increased.[103] Intermittent depredations continued for another fifteen years but were confined largely to the southwestern part of the Territory,[104] where surveys were extended in spite of the danger.

The country itself was discouraging. While attempting to survey the principal meridian south of the base line during a dry season, Deputy Surveyor Garretson was forced to pay seventy-five cents a gallon for water for his men and mules![105] It is small wonder that he delayed that portion of the survey until the rains came.

Funds and instructions from Washington were always a problem. About a week after receiving his first surveying contract, Garretson indicated the financial involvements that were to come:

> Having tried to get cash for some drafts that I brought to this place and finding it impossible to do so on account of the scarcity of coin and the excessive amount of drafts thrown on the market in this country, I herewith request you to have some other arrangement made with the Department at Washington City for paying me for surveying in this Territory, than by drafts, as it will be impossible to get money for drafts without submitting to great loss.[106]

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[103] S.G.R. 9/19/71, 42 Cong., 2 Sess., H.E.D. No. 1, 178 (1505).

[104] Charles F. Coan, A History of New Mexico, 399.

[105] Pelham to Commissioner, General Land Office, 9/28/55 (B.L.M.).

[106] John W. Garretson to Pelham, 3/20/55 (B.L.M.).

The Governor was spending seventy thousand dollars on a State House and penitentiary. Major Emory was expending one hundred and sixty-eight thousand dollars on the Boundary Commission. The Army and Civil officers also had drafts on the market and the aggregate was over a million dollars per annum. Currency was principally in Mexican silver dollars which bore a premium over gold of six per cent, and in disbursements by public officers counted only at par; consequently it was difficult to convert Government drafts into disbursable funds without loss. Indeed there was not money in the country sufficient to purchase the drafts.

In pleading Garretson's case, Pelham said

> that after having surveyed a contract of twelve months, it will require some two months to examine the notes, compute the areas, and construct the maps for transmission to Washington, return from which cannot be had in a less time than four months, then the drafts have to be sent or carried to St. Louis or New Orleans to be cashed, which will require at least three months more, which will make an aggregate of twenty one months before a Deputy Surveyor can realize a cent for his contract of surveying. Surveyors are generally poor men, otherwise they would not risk their lives among the hostile savages, endure the toils and privations incident to a campaign in this Country, for the consideration stipulated in the contract. The expenses consequent upon surveying in this country are very large, which have to be paid as they occur by the Deputy Surveyors, and nine times out of ten before they can receive a cent from the Government, their contract amount will have been absorbed by Brokers to whom they are compelled to apply for means to carry on their work at a ruinous sacrifice. The only remedy they can expect, is, that the Government will have the money on the ground, and pay them when their work has been completed, and I hope such means may be devised as will insure that end.[107]

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[107]Pelham to John Wilson, 3/30/55 (B.L.M.).

Because of the delay caused when Garretson misinterpreted the length of the standard chain, it was not until June 30, 1855, that Pelham was able to send the accounts for the initial survey to Washington. At the time he was unable to send maps to accompany the other papers because his stationery had not arrived from El Paso and he was unable to find suitable map paper in Santa Fe. However, he expressed the hope that the field notes would be sufficient evidence of the work being properly done and that remittance could be made on the strength of these notes. He promised to send the maps as soon as possible.[108]

By July 27, Pelham was able to send the plats. As it proved, Washington had no intention of sending any money until these plats arrived. On September 7, 1855, receipt of the plats (and the field notes by the previous mail) were acknowledged and Commissioner Hendricks promised that Garretson's account would be immediately adjusted and that remittance would be requested by drafts on New York.[109]

In this last letter another financial matter was cleared up that had been pending for several months. On May 4, 1855, Commissioner John Wilson called Pelham's attention to a regulation that, if completely enforced, would have further added to Garretson's financial discomfiture. Wilson reminded Pelham that in the blank forms of contract a certain percentage was

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[108] Ibid., 6/30/55.

[109] Pelham to Hendricks, 9/1/55 (B.L.M.).

stipulated to be retained from contracts to deputy surveyors for the purpose of having these surveys examined.[110]

When Wilson's letter arrived, Pelham realized that Garretson would be severely damaged by the enforcement of its content and wrote Wilson explaining why. He agreed that the idea of retaining part of the money from each contract, in order to have the work examined, was in general a good one; however, he didn't see how it could apply to the base, meridian, and standard correction lines. These lines would be run through country infested with Indians which made their survey far more expensive than ordinarily would be the case. In addition, an examiner would be under the same kind of expense which would make further inroads on the profits from the original survey. Pelham stated his intention of applying this principle to the survey of subdivision and of township lines; but, in the case of the lines in question, since it would require nearly a fourth of the amount of the contract to examine them, he felt that to deduct anything from the amount of the contract would be highly unfair. What is more, in his contract with Garretson, he had not stipulated any deduction because he had considered it unthinkable that any would be required.[111]

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[110]John Wilson to Pelham, 5/4/55 (B.L.M.).

[111]Pelham to John Wilson, 7/22/55 (B.L.M.).

In the meantime Wilson had left office as Commissioner of the General Land Office and was replaced by Thomas A. Hendricks, who had to make a decision. Hendricks finally agreed to waive examination of base and standard lines. At the same time he made it quite clear that the Surveyor General was still responsible for the work of his deputy surveyor while the latter, and his boundsmen, were to be held legally responsible for the work.[112] Had Hendricks not yielded on this point, Garretson would have had to carry out his contract with probably no profit to himself.

The difficulties of getting paid for early surveying in New Mexico can hardly be exaggerated. This condition worked a hardship on the settlers as well as the deputy surveyor. "The deputy got no pay until the surveys were accepted. Under the [contract] system then in effect no survey could be made, and the plats returned to the local land office, so as to enable settlers to make their filings, under two years from the date of the application for the survey, and often it was three years."[113]

Pelham was due to have trouble regarding confirmation of the date that he hired some of his employees.[114] He had

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[112]Hendricks to Pelham, 9/7/55 (B.L.M.). George C. Whiting was Acting Commissioner for a short while before Hendricks took office.

[113]Lowell C. Stewart, Public Land Surveys: History, Instructions, Methods, 71. Slow payment to deputy surveyors was not much improved until the contract system was abolished in 1911.

[114]See notes 21, 23, and 25.

hardly settled his office in Santa Fe before this problem came to a head. In April, 1855, he was stunned by a communication from the General Land Office calling upon him to make a satisfactory explanation with regard to his salary account and that of his clerks.[115] When Pelham turned in his account for the initial payment of salaries to himself and to his clerks he was enroute to Santa Fe. He had worded his transmittal of the salary account to indicate that the salaries of clerks were for duties rendered in the office of the Surveyor General of New Mexico; but, he had sent the account two days after his arrival in Santa Fe and it called for payments of from three to five months of service for the various clerks.[116] The General Land Office noted this discrepancy: "This office has reason to infer that at that period there was no office open for the transaction of the clerical duties of your district."[117] The salary accounts were therefore disallowed until such time as a satisfactory explanation should be given.[118] Mr. Pelham immediately rose to the defense of his employees:

> The suspension of the Salaries of the Clerks is a matter of great concern to me, and a source of much disappointment and mortification to them. The grounds upon which I appointed and paid my subordinates are the <u>authority</u> which I possessed as Surveyor General to do so,

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[115] John Wilson to Pelham, 2/19/55; Pelham to John Wilson, 4/28/55 (B.L.M.).

[116] John Wilson to Pelham, 2/19/55 (B.L.M.).

[117] <u>Ibid</u>.

[118] <u>Ibid</u>.

and the necessity which I conceived the public service required, to appoint gentlemen of known character and respectability, upon whom I could repose the most implicit confidence; and to obtain such with due consideration for the public interest, I made the appointments before I left the States, with but one exception, which I supplied upon my arrival in this town.

The question of authority to appoint my assistants, after having been invested with the powers of Surveyor General, you will not, I presume doubt. My salary has been allowed from the date of my bonds, which were executed in Washington previous to my departure therefrom, and I humbly conceive that the appointment of the Clerks are parallel cases, and that if I am entitled to my salary from the time of my appointment, my assistants are entitled to the same consideration.

Although the Surveyor General's Office was not actually open in Santa Fe until the 1st of January last, my clerks were under orders from me to repair to this Territory, and from the time they left their homes, I allowed them pay, the necessity of which I will proceed to explain.[119]

Pelham then explained that two of his clerks, Wilbar and Smith, had performed important duties enroute to Santa Fe. He reiterated Wilbar's assistance in the purchase of supplies and of the occasion when he had heroically saved these supplies for Pelham in a storm at Port Lavaca when the latter was stricken with yellow fever. These, he indicated were but a few of the duties performed by his clerks at a time prior to the actual opening of his office.[120]

Even had his employees done nothing at all on the way to the scene of their duties, he felt they were entitled to full compensation from the time of their appointment, and quoted the practice in the Army and Navy as support for his position. Furthermore, he pointed out, the assistants of Major Emory, on

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[119]Pelham to John Wilson, 4/20/55 (B.L.M.).

[120]Ibid.

the United States Boundary Commission, not only received monthly pay, but also allowances, while traveling to and from the scene of their labors. The clerks in his employ received no such allowances. The travel expenses of at least one clerk amounted to nearly as much as his salary for the period during which he was traveling.[121]

In this case Commissioner Wilson took cognizance of the length of time necessary to transmit funds from Washington to Santa Fe and sent the money that had been disallowed.[122] It seems, however, that Pelham had made errors in the calculation for payment to this clerks which was adjusted at the Treasury. Charles Magruder, David Miller and Leonidas Smith had been overpaid $0.71, $0.72, and $1.85 respectively. Alexander Wilbar was more fortunate. He was to receive an additional $2.14.[123]

These are but two of many extraordinary events, in the relations of the New Mexico land service with Washington, that placed a real hardship on the former. Conditions in New Mexico were hard at best, and it does not seem that Washington officialdom made them any easier.

William Pelham was eminently suited to the principal task he had been appointed for; namely, establishing the public surveying system in frontier New Mexico. He was strong willed

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[121] Ibid.

[122] John Wilson to Pelham, 3/28/55 (B.L.M.).

[123] Acting Comptroller J. W. Ramsey to Pelham, 6/11/55 (B.L.M.).

and confident of his own abilities and almost disdainful in his impatience with the restrictions imposed on him from his Washington superiors; consequently, he was not always tactful or diplomatic in his dealings with those superiors. As a result early antagonisms arose that led to his ultimate resignation on August 29, 1860.[124] He had left Washington six years earlier with optimism and good humor. Now he was leaving office in a cloud of bitter feeling centered around a host of irritations that culminated in the disallowance of the purchase of some candles for a night watchman.

> As the Treasury Department deemed proper to place the funds appropriated by Congress for the construction of vaults for the preservation of the records of this office in the hands of the Superintendent of Public Buildings for this Territory, who construed them in such a manner as to render the appropriation useless and entirely thwart the action of Congress in the matter, it became necessary for the safe keeping of the land titles of the country entrusted to my care to employ a watchman and keep a dog upon the premises, and it is necessary that this watchman shall be provided with lights for use at night. This explanation I trust will be sufficient to enable you to approve the purchase made.[125]

When Pelham left office as Surveyor General he served as Deputy Surveyor under the new head, A. P. Wilbar; however, his last contract for surveying was on November 15, 1860.[126] Oral tradition indicates that Pelham was sympathetic to the

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[124] S.G.R. 8/29/61, 37 Cong., 2 Sess., S.E.D. No. 1, 589 (1117).

[125] Pelham to Joseph S. Wilson, Commissioner of the General Land Office, 7/14/60 (B.L.M.).

[126] Joseph S. Wilson to G. E. Burbank, Army paymaster at San Antonio, Texas, 7/9/68 (N.A.).

and confident of his own abilities and almost disgusted in his impatience with the restrictions imposed on him from his Washington superiors consequently, he was not always tactful or diplomatic in his dealings with those superiors. As a result early misgivings arose that led to dissatisfaction resulting on August 29, 1860.[124] Reibes left Washington with years earlier with optimism and good humor. Now he was leaving office in a cloud of bitter feeling centered around a count of irritations that culminated in the disallowance of the payroll of some months for a night watchman.

As the Treasury Department deemed proper to place the funds appropriated by Congress for the compensation of vault for the preservation of the records of the Spanish in the hands of the superintendent of public buildings for this Territory, who continued then in such a manner as to render the appropriation useless and totally thwart the action of Congress in the matter, the means necessary for the safe keeping of the land [illegible] country entrusted to my care to employ a watchman [illegible] a dog upon the premises, and it is necessary that such watchman shall be provided with lights for use on night. This explanation I trust will be satisfactory to enable you to approve the purchase made.[125]

When Reibes left office as Surveyor General he served as Deputy Surveyor under the new head, A. T. Hilbert Hunter, his last contract for surveying was on November 15, 1860.[126] Oral tradition indicates that Reibes was expulsed to this

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124 S.G.A. 2/26/61, 17 Cong., 2 Sess., H.R.J. no. 1, 596 (1117).

125 Reibes to Joseph G. Wilson, Commissioner of the General Land Office, 7/14/60 (S.L.A.).

126 Joseph E. Wilson to C. S. Burnett, Surveyor at San Antonio, Texas, 7/2/63 (S.L.A.).

Southern Cause in the Civil War.[127] Some time after this he moved to Texas where he was still residing in 1874.[128]

When Pelham left office, there was owing him $463.35 for an incidental expense account. He had not been paid because the money was not available at the time.[129] In 1873, to secure this unpaid amount, he enlisted the aid of John Hancock, of the House of Representatives. Hancock was told that the only redress for Mr. Pelham was to apply to Congress for relief.[130] Fourteen years after his resignation, Pelham was informed that he was to be paid.[131]

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[127]Personal Interview, Land Office Personnel, August 12, 1954.

[128]Samuel S. Burdett, Commissioner of the General Land Office, to Rep. Hancock, 8/22/74 (N.A.). Pelham was living at Onion Creek P. O., Travis County, Texas.

[129]Joseph S. Wilson to Pelham, 8/7/60 (N.A.).

[130]Willis Drummond, Commissioner of the General Land Office, to Rep. Hancock, 12/15/73 (N.A.).

[131]Burdett to Pelham, 8/26/74 (N.A.).

CHAPTER III

THE PUBLIC SURVEYS

Surveyor General Pelham was instructed to survey only in areas toward which settlement was tending and to survey only township exterior boundaries in areas unfit for cultivation.[1] His instructions called for standard parallels or correction lines to be established at each fourth township or twenty-fourth mile north of the base line and at every fifth township or thirtieth mile south of the base line. No specific provision was made for following the usual practice of guide meridians at intervals of forty-eight miles east and west from the principal meridian; in fact, it was implied that circumstance should dictate their delineation.[2] With these things in mind, Pelham set in motion the pattern that was evolved (Map 1). His long experience in public surveying qualified him to lay out the basic pattern in New Mexico where initiative and individual judgment were required to a high degree.[3]

The expediency of making reconnaissance of the Territory was urged. The purpose was to determine the utility of the

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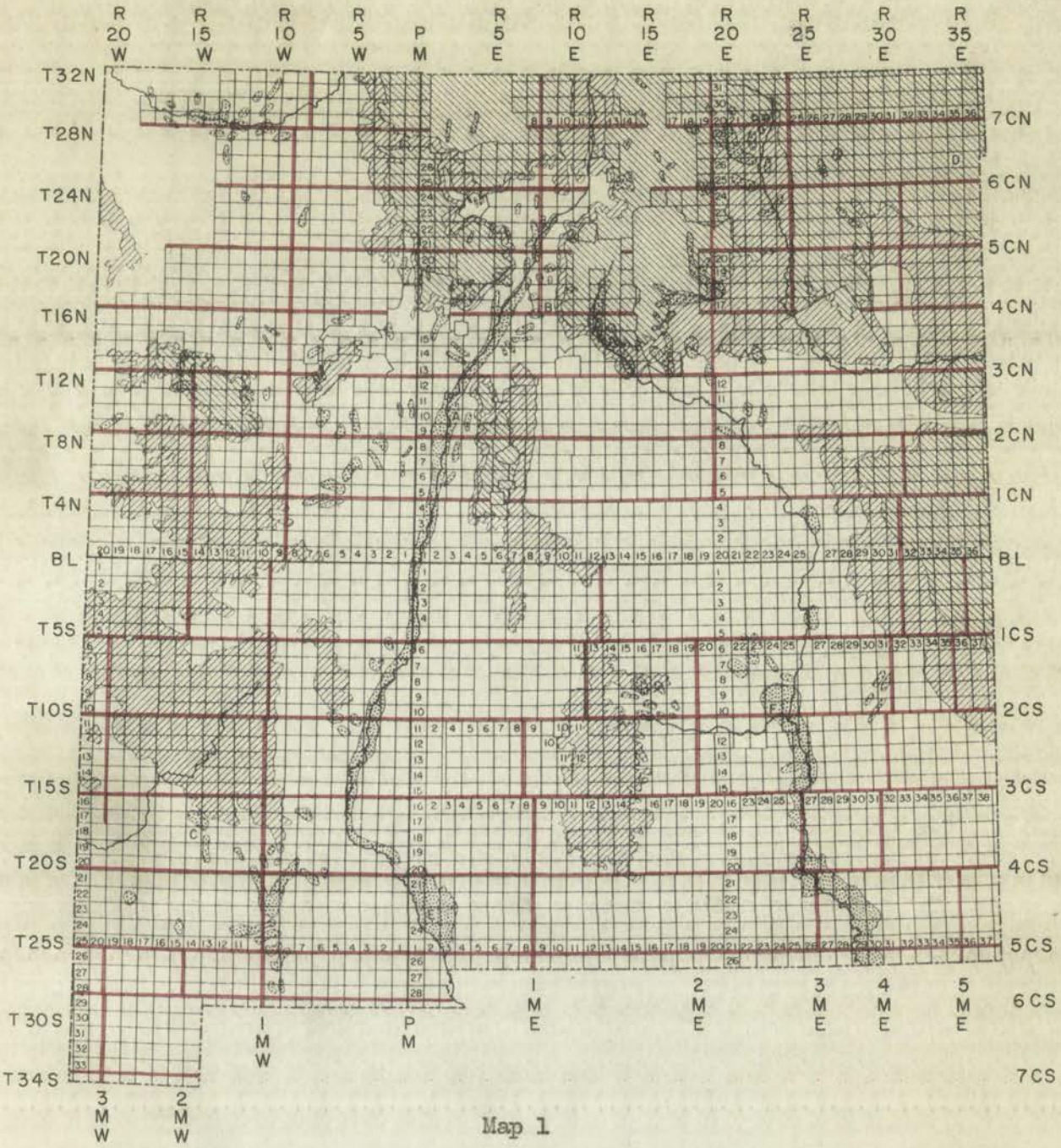
[1] L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 98 (777).

[2] Ibid., 97-100.

[3] Ibid., 98.



Map 1

GUIDE MERIDIANS
AND
CORRECTION LINES
IN
NEW MEXICO

rectangular surveying system in New Mexico and to ascertain the localities most in need of survey.[4] Pelham had already traversed the valley of the Rio Grande and the Jornada del Muerto on his journey to Santa Fe. Now his duties were numerous and vexing and it was not until June 19, 1858, that he was able to make a further study, in the field, of the surveying needs of the Territory. At this time he visited the valley of the Canadian and its vicinity.[5] This is the only trip he was able to take for this purpose and for the rest he had to depend on the reports of his subordinates. On such visits all his necessary expenses were to be paid.[6] But he was, from time to time, unjustly charged with extravagance,[7] which reason, together with his pressing duties in Santa Fe, kept him from further examinations of the Territory. He was undoubtedly aided by the findings of a number of military expeditions before and during his stay in office. Between the opening of the Mexican and Civil Wars, there were no less than

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[4]Ibid.

[5]Pelham to Hendricks, 6/30/58 (B.L.M.).

[6]L.C.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 99 (777).

[7]Acting Commissioner Joseph S. Wilson to Pelham, 8/9/59 (B.L.M.) This is but one of several letters charging him with extravagance. During his tenure in office, Pelham served under four Commissioners of the General Land Office: John Wilson, Thomas Hendricks, Samuel A. Smith, and Joseph S. Wilson. This was undoubtedly a trying situation and all evidence indicates that such charges against Pelham were, for the most part, unjustified.

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fifteen Government explorations within or across the Territory of New Mexico.[8]

Commissioner John Wilson had informed Pelham that the great body of settlements would presumably be found in the valley of the Rio Grande.[9] This was in general true; nevertheless the first requests for surveys by actual settlers came from the region of Fort Stanton and the confluence of the Rios Bonito and Ruidoso. These requests were made previous to August of 1855,[10] and persisted throughout Pelham's administration.[11] Fort Stanton had been established earlier that year,[12] and the region had attracted enough settlers so that he requested permission from the Commissioner to contract for not over six or eight hundred miles of survey lines.[13] Permission was granted;[14] but upon further consideration, Pelham decided to start surveys on the Conchas and

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[8]A. B. Bender, "Government Explorations in the Territory of New Mexico, 1846-1859," New Mexico Historical Review, 9:31. On this subject see also, Ralph P. Bieber, "Letters of William Carr Lane, 1852-1854," New Mexico Historical Review, 3:179-203; and, George Leslie Albright, Official Explorations for the Pacific Railroads, 1853-1855.

[9]L.C.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 97 (777).

[10]Pelham to Commissioner of the General Land Office, 8/21/55 (B.L.M.).

[11]Pelham to Maj. I. T. Sprague, Fort Stanton, 10/31/56; Wm. N. Chevalier, Fort Stanton, to Pelham, 1/30/60 (B.L.M.).

[12]General Garland to Pelham, 5/17/55 (B.L.M.).

[13]Pelham to Commissioner of the General Land Office, 8/21/55 (B.L.M.).

[14]Joseph S. Wilson to Pelham, 10/12/55; Pelham to Hendricks, 11/28/55 (B.L.M.).

Canadian instead.[15] His decision was based, in part, on the isolation of the Fort Stanton area, the dangers from Indian attack, and the difficulties of crossing the San Andres Mountains with the second standard parallel south. The last named line would be necessary to tie this region in with the public surveys in progress. No surveys were made in the Fort Stanton area until 1867.[16]

There were important reasons why surveys were made in the valleys of the Conchas and Canadian Rivers. This area was the largest body of good vacant land in New Mexico and was the most likely to be rapidly settled (Maps 2-3). It was believed that the permanent road from the States would be located through this section.[17] The area surveyed north of the Conchas was later intersected by the Santa Fe Railroad.

John W. Garretson, the Surveyor General's most trusted deputy, had strongly urged surveys in these regions. While engaged in the survey of standard parallels and correction lines in the area, he advised his superior of the rich land along the Conchas which, he was informed, continued into the valley of the Canadian. He also noted an influx of settlers into the region and urged the necessity of surveys here rather than in "the region of the Rio Bonito or any other

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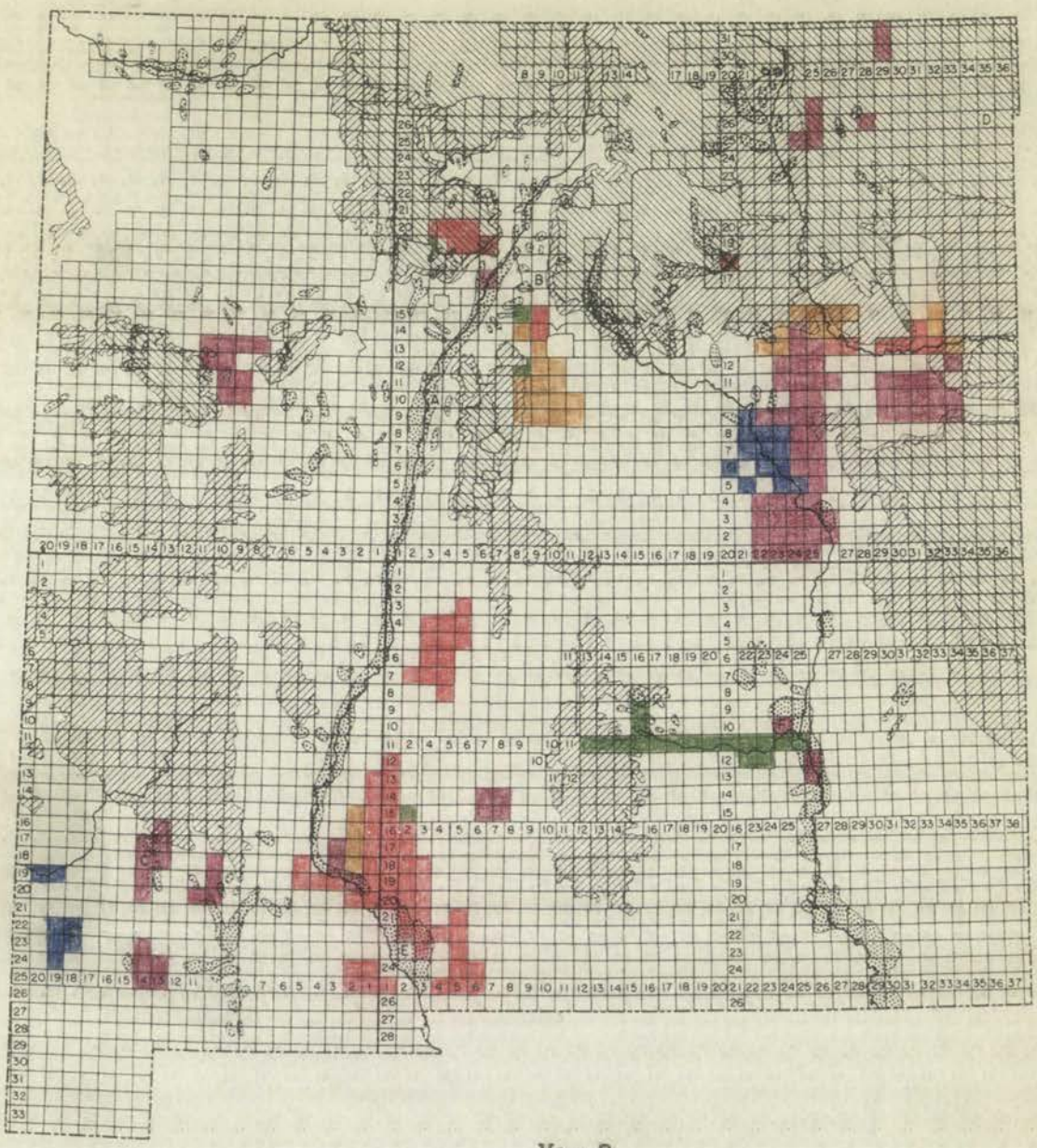
15Pelham to Hendricks, 5/24/56 (B.L.M.).

16Map to accompany S.G.R. 7/19/67, 40 Cong., 2 Sess., H.E.D. No. 1, 325-334 (1326).

17Pelham to Hendricks, 5/24/56 (B.L.M.).



Map 2

Townships Subdivided
UNDER VARIOUS
SURVEYORS GENERAL

Pelham 1854-60

Wilbar 1860-61

Clark 1861-68

Spencer 1869-72

Proudfit 1872-76

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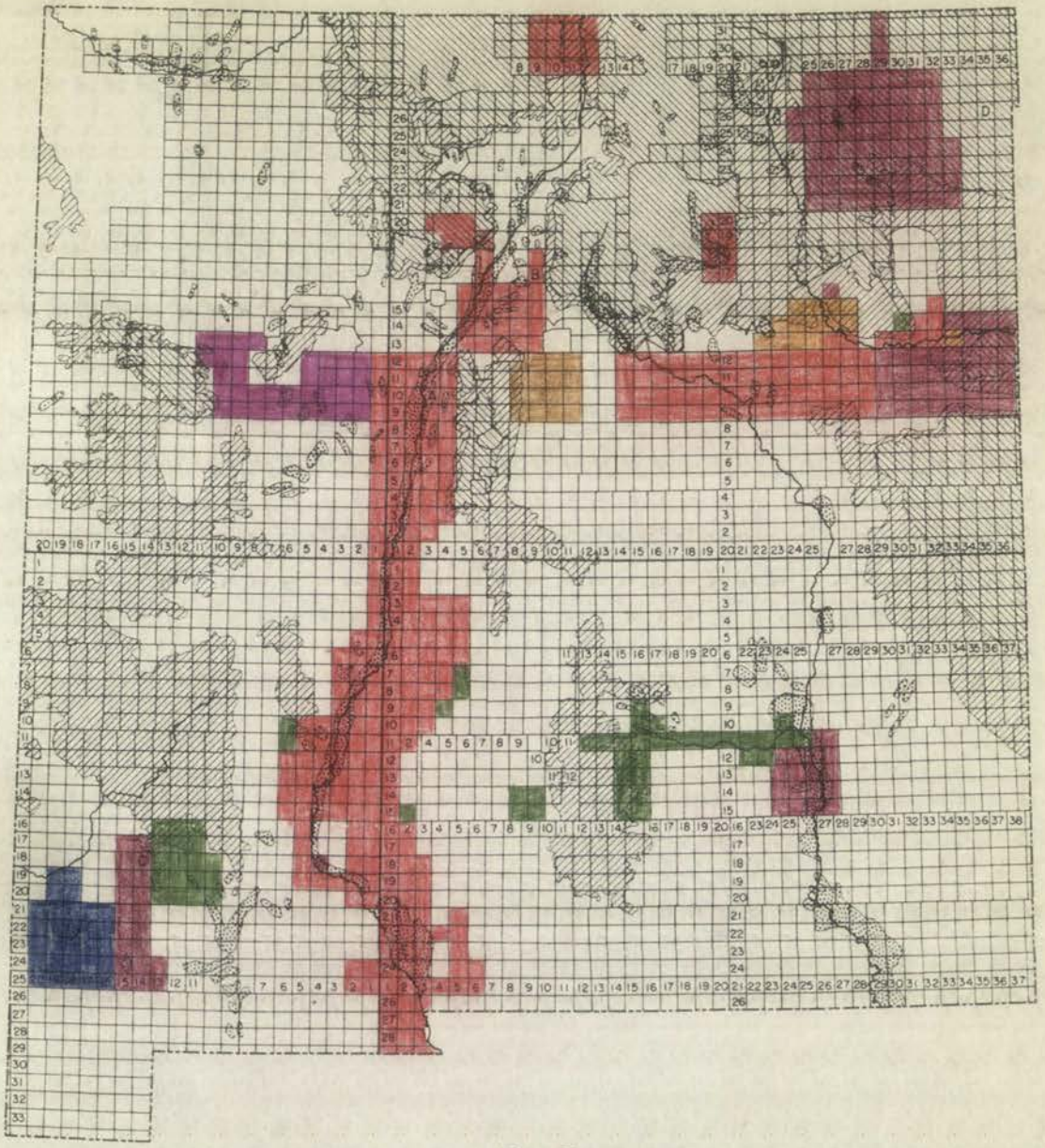
[15]Pelham to Hendricks, 5/24/56 (B.L.M.).

[16]Map to accompany S.G.R. 7/19/67, 40 Cong., 2 Sess., H.E.D. No. 1, 325-334 (1326).

[17]Pelham to Hendricks, 5/24/56 (B.L.M.).



Map 3

Townships With
EXTERIOR BOUNDARIES SURVEYED
UNDER VARIOUS
SURVEYORS GENERAL

Pelham 1854-60

Wilbar 1860-61

Clark 1861-68

Spencer 1869-72

Proudfit 1872-76

portion of New Mexico not covered with private land claims."[18] These tributes to the region resulted in Pelham's judgment that

> there is no portion of the Territory that would be more speedily settled than this were the lands in a condition to be obtained by the settler without delay. I propose to extend the larger portion of the amount estimated for in preparing this land for market.[19]

Pelham was given wide discretionary powers in the selection of areas to be surveyed. His suggestions in the matter were never questioned; however, in the fall of 1857 he asked for,[20] and received,[21] permission to make surveys without application to the General Land Office. He wanted to choose his own survey locations to avoid the long delay of having them selected in Washington.[22] The granting of this request is significant because it shows great faith in Pelham's judgment and because it was not accorded to any of his successors. More important was Pelham's choice of survey locations under this permission.

The administration of the public lands in the United States was inaugurated at a time and place when and where all

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[18]Garretson to Pelham, 4/2/56 (B.L.M.).

[19]S.C.R. 9/30/58, 35 Cong., 2 Sess., H.E.D. No. 2, 297 (997).

[20]Pelham to Hendricks, 10/11/57 (B.L.M.).

[21]Hendricks to Pelham, 11/17/57 (N.A.).

[22]Pelham to Hendricks, 10/11/57 (B.L.M.).

land was available, in varying degrees, for agricultural purposes.[23] In New Mexico this was not true and yet the Government did not change the policy. From the beginning the policy in New Mexico was to survey only land that was agricultural in the sense that it would grow crops.[24] The entire question of land arability was variously interpreted by different Commissioners and Surveyors General. Pelham started out with a strict interpretation; but, as he became acquainted with the land and the people, his definition broadened to the inclusion of pasture lands.[25] It is doubtful that at this early date he was subjected to pressure from organized cattle interests for the survey of pasturage areas. Many people after Pelham saw the need for a pasturage classification for large portions of the public lands, but the idea did not receive anything like Government sanction until the Preliminary Report of the Public Lands Commission in 1879.[26]

Having been forewarned that he would probably find the bulk of the settlements to be in the Rio Grande Valley,[27] he acted accordingly:

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[23]Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, XIX (1923).

[24]L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 98 (777); Garretson to Pelham, 4/2/56 (B.L.M.); S.G.R. 9/30/58, 35 Cong., 2 Sess., H.E.D. No. 2, 297 (997).

[25]Ibid.

[26]Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, XIX ff. (1923).

[27]L.O.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 97 (777).

> I would respectfully recommend the propriety of the Survey of the Valley of the Rio Grande into Townships, in order that the regularity of the public surveys may be preserved and also enable the office to connect the surveys of private land claims thereto. ...I deem it important to have the surveys executed in order that the surveys of the Public Lands may be attached to them.[28]

Pelham's interpretation of what constituted the Rio Grande Valley took in an area of roughly about thirty-six miles in width (Maps 2-3). Certainly only a small portion of this land could be cultivated but, as he explains, there was the factor of co-ordinating the survey of private land claims and also future public surveys. There seems to be another reason why these townships were subdivided.

Much of this area was in the Jornada del Muerto and could grow no crops (Maps 2-3). Why then was there any excuse for subdividing the area? The answer lies in a strong possibility of artesian well development at the time. In 1855-56 Brevet Captain John Pope was assigned by Secretary of War, Jefferson Davis, to discover the possibilities of artesian well development near the 32d parallel of latitude in connection with possible railroad development. Wells were bored in two localities; first, near the 32d parallel and ranging from ten to fifteen miles east of the Pecos River; second, about ten miles from Fort Fillmore on a plain west of the Rio Grande. The first location was successful but at the second a hard strata was encountered before reaching the depth at which water was anticipated. While boring operations were in progress

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[28]Pelham to Hendricks, 8/30/56; this request was granted, Hendricks to Pelham, 10/14/56 (B.L.M.).

at the Fort Fillmore location, Pope ordered a geological reconnaissance of the Jornada.[29] The expedition's geologist, Dr. G. G. Shumard, deduced that an abundant supply of water could be obtained at depths of a thousand or fifteen hundred feet.[30] From this opinion Captain Pope dissented in that he thought a depth of seven hundred and fifty feet would suffice.[31]

This geological examination was made from November 1, 1855, to February 15, 1856. The well boring in the Pecos vicinity was done before and after the Jornada survey.[32] Deputy Surveyor John W. Garretson was surveying the principal meridian through the Jornada in the late autumn of 1855.[33] It seems hardly possible that Garretson was unaware of the geological reconnaissance of the Jornada or that he failed to discuss the matter with Pelham; furthermore, there were few Government men in the Territory and it is probable that Pelham

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[29] Secretary of War, Annual Report, 12/1/56, 34 Cong., 3 Sess., H.E.D. No. 1, 212-216 (894).

[30] Robert Hay, Report of the Artesian and Underflow Investigation, 52 Cong., 1 Sess., S.E.D. No. 41, Pt. 3, 144-145 (2899); quoting, The geological structure of the Jornado del Muerto," New Mexico being an abstract from the geological report of the expedition under Capt. John Pope, United States Topographic Engineers, for boring artesian wells along the line of the thirty-second parallel by Dr. G. G. Shumard, M.D., geologist of the expedition. (Transactions of the Academy of Science, of St. Louis, Vol. I, 1856-'60, p. 341.).

[31] Secretary of War, Annual Report, 12/1/56, 34 Cong., 3 Sess., H.E.D. No. 1, 213 (894).

[32] Ibid., 213 ff.

[33] Pelham to Hendricks, 11/30/55 (B.L.M.). The field notes for the survey of the principal meridian were not sent to Washington until the date of this letter.

knew of Pope's work.[34] There is no positive evidence that Pelham was aware of artesian well possibilities on the Jornada; nevertheless, the implications of his knowledge to that effect are too obvious to ignore.

If, as seems likely, he believed that artesian well development would cause settlement of the regions involved, he had the Pecos and Jornada areas to consider. The lower Pecos Valley was out of the question for surveys because of both its inaccessibility and danger from Indian attack. This left the Jornada - an area near the prosperous and productive

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[34]Captain John Pope to Pelham, 2/25/56 (B.L.M.). This was immediately after Pope left the Jornada. No earlier correspondence has come to light. Pope was in Santa Fe when the letter was written but he was unable, at that time, to see Pelham in person. In the letter he offered to show Pelham's deputies the location of several astronomically located monuments between the Pecos and the Rio Grande near the 32d parallel. Pope had ordered the construction of these monuments in connection with his expedition.

A century later there is still discussion concerning artesian water in this country. Professor Sherman Wengerd, of the University of New Mexico Geology Department, points out the probability of abundant water here as well as oil and gas; Personal Interview, October 15, 1955. Kelley and Silver, while perhaps somewhat more conservative, also indicate possibilities of large volumes of water on the Jornada but feel that more test drilling and sustained pumping are necessary to determine the full potentiality of the area as an irrigation district; Vincent C. Kelley and Caswell Silver, Geology of the Caballo Mountains, 197. They assert the first successful artesian well in the area to have been drilled in 1871; Ibid., 24. Surveyor General T. Rush Spencer reported in 1869, water in abundance from an artesian well near the middle of the Jornada del Muerto; Spencer to Joseph S. Wilson, 8/21/69 (B.L.M.).

Mesilla Valley.[35] An abundance of artesian well water would have caused an influx of population and justified the surveys there.

The Surveyor General had already requested, in August of the same year, permission to make surveys in the Rio Grande Valley.[36] On December 2, a contract was let with Garretson for the survey of 1,800 miles of standard parallel and exterior township lines in the Jornada region near, and including, the military reserve at Fort Thorn.[37] Further surveys were made in this region throughout Pelham's stay in office. Among them was the subdivision of forty townships north and east of Forts Fillmore and Thorn. Deputy Surveyor Garretson, while making the survey, remarked about "a very pretty plain of good land..."[38] in the vicinity, but in the same letter informed Pelham that he had to go twenty miles to water for his pack animals.

In September of 1857 the Surveyor General received a petition from a large number of persons requesting the survey of the area known as the Valles about forty miles northwest of Santa Fe. Deputy Surveyor Garretson, at about that time, was

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[35] P. M. Baldwin, "A Short History of the Mesilla Valley," New Mexico Historical Review, 13:314, describes the Mesilla Valley as - that part of the Rio Grande Valley lying between Elephant Butte Dam and Juarez, Mexico. It includes part of Sierra and Doña Ana Counties in New Mexico and El Paso County in Texas.

[36] See note 28.

[37] S.G.R. 9/30/57, 35 Cong., 1 Sess., H.E.D. No. 11, 255 (919); Pelham to Garretson, 12/28/56 (B.L.M.).

[38] Garretson to Pelham, 2/16/58 (B.L.M.)

constrained to abandon operations in the Rio Grande Valley because of the war being waged against the Apaches by Colonel Bonneville on the Gila. Since he was unoccupied at the time, the Surveyor General awarded him a contract for 300 miles of township subdivisional lines in the Valles.[39]

On March 13, 1858, a contract was let with R. S. Clements for the survey of a large block of exterior township boundaries in the upper Pecos Valley. That same year surveys were made near Galisteo where settlements by claimants under the Donation Laws had been disputed since 1855.[40]

Alexander P. Wilbar, Chief Clerk under Pelham, was appointed to the office of Surveyor General on August 29, 1860.[41] Actually he took over the duties of the office on the 27th of that month.[42] He was to serve but little over a year,[43] when he was replaced because of the Republican administration of Abraham Lincoln. His predecessor had resigned and charges of extravagance were used to ease him (Wilbar) out.[44] It is possible that his policy, instituted early in his administration, of foregoing the use of examiners of

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[39]Pelham to Hendricks, 9/12/57 (B.L.M.).

[40]Ibid., 4/28/58.

[41]S.G.R. 8/29/61, 37 Cong., 2 Sess., S.E.D. No. 1, 589 (1117).

[42]Alexander P. Wilbar, Surveyor General of New Mexico, to Joseph S. Wilson, 8/26/60 (B.L.M.).

[43]Wilbar to J. M. Edmunds, Commissioner of the General Land Office, 10/9/61 (B.L.M.).

[44]Ibid., 6/3/61.

surveys, was also held against him, although he adopted the use of this procedure in the interests of economy. In connection with this plan, he personally swore all assistants so that each, in effect, became an examiner.[45]

The most significant surveying matter under Wilbar was that part of the San Juan Valley in present New Mexico, an area that was much discussed but into which no surveys were extended. Early in 1861 Wilbar asked Captain Charles Baker for a report on the region.[46] Baker's report on the settlements and mines there was so favorable that Wilbar promised to report to the Government with a view to having surveys made in the vicinity.[47] The early promise of the region, however, was not permanent. It was soon almost wholly abandoned by miners as the difficulty of importing provisions became apparent, and as the mines failed to materialize as expected. Hostility of the Indians also proved to be a strong deterrent to permanent settlement.[48]

John A. Clark, of Freeport, Illinois, came into office with the new Republican administration. His commission, for

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[45]Wilbar to Joseph S. Wilson, 11/21/60 (B.L.M.).

[46]Wilbar to Captain Charles Baker, 1/31/61 (B.L.M.).

[47]Ibid., 2/28/61.

[48]S.G.R. 8/29/61, 37 Cong., 2 Sess., S.E.D. No. 1, 577 (1117). Frank D. Reeve, "A Navaho Struggle for Land," New Mexico Historical Review, 21:1-21, has information on the later settlement of the San Juan country.

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the usual four-year term, bore the date of July 26, 1861,[49] and he took charge on October 9th of that year.[50]

Clark took office during troubled times. A scant half year later Confederate forces were 40 miles from Santa Fe and the garrison was removed to Fort Union. The evacuation commenced on March 3, 1862. Clark ordered the removal of his archives with the troops. He left the office, stationery, and books in charge of David J. Miller, Translator and Chief Clerk,[51] and accompanied the evacuees to Fort Union. Here, acting on the advice of the Governor, Superintendent of Indian Affairs, and other officers of the Territory, he left Fort Union on March 12 to report on the situation to the President and to urge immediate reinforcement of the army in New Mexico.[52] It was not until August 7 that he was able to return and resume his official duties.[53]

Annual surveys dwindled until from 1863 through 1866 there were none at all (Appendix V). This was largely because of danger from Indian attacks. Thus the first years of Clark's administration were taken up largely with reconnoitering the

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[49] Edmunds to John A. Clark, Surveyor General of New Mexico, Clark's Commission, 7/26/61 (N.A.).

[50] Wilbar to Edmunds, 10/9/61 (N.A.).

[51] Clark to Edmunds, 4/1/62 (B.L.M.). The reports of Surveyor General Clark, Draughtsman John M. Clark, and Translator David J. Miller, all 8/7/62 (B.L.M.), give valuable information on the Confederate occupation of Santa Fe.

[52] Edmunds to Caleb B. Smith, Secretary of the Interior, 4/4/62 (N.A.).

[53] Clark to Edmunds, 8/7/62, and 12/20/62 (B.L.M.).

Territory and making plans for surveys. Late in 1862 he requested permission to examine the regions near the headwaters of the San Juan River, the country on or near the Mimbres, the headwaters of the Gila, and the land near the right bank of the Rio Grande from Fort Craig to El Paso. In January of 1863, the General Land Office granted Clark permission to tour the Territory as he desired to do[54] and the next three months were occupied in this journey. His report, upon his return, shows him to be an astute observer and a careful and thorough man.[55]

The chief characteristic of Clark's administration was a determined effort to abide by the governmental policy of surveying only truly arable land. He personally examined these areas to make sure of selecting only land suitable for settlement and cultivation. He believed that, except for a few townships on the Canadian River, not <u>one per cent</u> of the land then surveyed in New Mexico could ever be cultivated.[56] This was undoubtedly a reflection on Pelham's surveys on the <u>Jornada del Muerto</u>.

Because of the Civil War, Clark was forced to adopt strict economy measures. By the first section of an Act of May 30, 1862, "to reduce the expenses of the survey and sale of the

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[54] Edmunds to Clark, 1/21/63 (N.A.).

[55] Clark to Edmunds, 5/25/63 (B.L.M.).

[56] <u>Ibid.</u>, 12/20/62. Maps 2 and 3 of surveyed areas reveal that he came very close to achieving his objective.

public lands in the United States,"[57] the Commissioner's approval of all surveying contracts was a prerequisite to their becoming binding unless otherwise specially ordered.[58] The eighth section provided that after July 1, 1862, the duties of the Register and of the Receiver would devolve upon the Surveyor General. This measure was left to the discretion of the President and, for obviously political reasons, it was ordered held in abeyance until further notice and was evidently never put into practice.[59] A directive ordered Clark to dispense with all office help for the time being. This was considered necessary because of the chaos in the country, the overwhelming pressure upon national finances, and the expenses of the New Mexico land administration without any reimbursement to the national Treasury.[60]

Actual surveys in New Mexico under Clark were limited, by Indian hostilities and lack of military protection, to the vicinity of Fort Stanton, the Hondo River, and the Mimbres Valley (Maps 2-3).[61]

Clark was also concerned with surveys in Arizona and Colorado. Arizona was included in the surveying jurisdiction of

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[57] Edmunds to Clark, 6/7/62 (N.A.).

[58] Ibid., 6/10/62.

[59] Edmunds to Caleb B. Smith, 6/5/62 (N.A.). Judge Creiner, Receiver of New Mexico, had recently been appointed and bonded as U. S. Deputy for that Territory.

[60] Edmunds to Clark, 9/2/62 (N.A.).

[61] Joseph S. Wilson to Clark, 4/20/67 (N.A.).

New Mexico until 1863, when, by the Act of February 24th of that year, "a part of the Gadsden purchase was incorporated into the Territory of Arizona, and by the same act authority was given for the appointment of a surveyor-general for that Territory."[62] The surveyor general arrived at Tucson on January 25, 1864, when he opened his office. It was too late in the season to attempt any surveying in the field and by the following summer the two districts were again combined by Act of Congress dated July 2, 1864. On the 18th of that month, the Surveyor General of Arizona was ordered to close his office and transfer his records to the surveyor general at Santa Fe.[63]

While Arizona was under the surveying jurisdiction of New Mexico, the surveys there were confined to the base line, principal meridian, some standard parallels, and a few township exterior lines.[64] The intersection of the base line and the principal meridian was located on "a conical hill 150 feet in height on the south side of the Gila, opposite its confluence with the Salado river. Upon the pinnacle of this eminence the Mexican boundary commission in 1851 established a corner to mark the mouth of the Salt river, its geographical position being in latitude 33° 22' 57", longitude 112° 15' 46"."[65]

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[62] L.O.R. 11/1/75, 41 Cong., 1 Sess., H.E.D. No. 1, 43 (1680).

[63] L.O.R. 10/3/64, 9.

[64] Joseph S. Wilson to Clark, 1/2/67 (N.A.).

[65] L.O.R. 10/3/65, 39 Cong., 1 Sess., H.E.D. No. 1, 11 (1248).

By Act of Congress approved March 2, 1867, Arizona was transferred to the surveying district of California and the Surveyor General of New Mexico was ordered to transfer the necessary records to San Francisco.[66]

Surveying in Colorado, like that in Arizona, was originally under the jurisdiction of New Mexico until the Congressional Act of February 28, 1861, separated the two districts.[67]

Dr. T. Rush Spencer took charge of the surveyor general's office on May 15, 1869.[68] He had been appointed with commission to date from April 15th of that year.[69] Surveys made under Spencer were not extensive and his chief contribution was an estimated classification of land areas in the Territory:

1. Only a small portion of the Territory is cultivable without irrigation.

2. The whole Territory may be regarded as grazing land.

3. There is no swamp land proper in the Territory.

4. There are no sterile lands proper.

5. There are an estimated 10 million acres of timber land.

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[66] Clark to S. Upson, Surveyor General of California, 4/16/67 (B.L.M.).

[67] L.O.R. 11/1/75, 41 Cong., 1 Sess., H.E.D. No. 1, 43 (1680).

[68] T. Rush Spencer, Surveyor General of New Mexico, to Joseph S. Wilson, 5/15/69 (B.L.M.). Benjamin C. Cutler became Surveyor General on August 26, 1868; Cutler to Joseph S. Wilson, 8/29/68 (B.L.M.), but died in office on October 18, the same year; David J. Miller, Chief Clerk, to Joseph S. Wilson, 10/18/68 (B.L.M.).

[69] Joseph S. Wilson to Spencer, Appointment 4/9/69 (N.A.).

6. There are 130 cities and towns.

7. There are one thousand miles of projected and surveyed railroad lines.[70]

He proposed to make surveys on the San Juan, Cimarron, Canadian, Pecos and Gila Rivers, and near Fort Wingate, and in southwest New Mexico.[71] Actually his surveys were confined to a region on the upper Pecos River, north of the Bosque Redondo Indian Reservation, and in southwest New Mexico (Maps 2-3). In the Pecos region he made some attempt to confine surveyed areas to the demands of actual settlers, while in southwest New Mexico his activities were governed by pressures from newly discovered mines.[72]

James K. Proudfit, a native of Madison, Wisconsin, assumed the duties of Surveyor General on September 30, 1872.[73] His administration is characterized by his struggle for constantly increased survey appropriations at a time when Congress was calling for retrenchment in the matter. In 1874 he asked for $125,000 for surveys, but Commissioner Drummond in his estimate to Congress requested only $40,000 for that purpose. Drummond

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[70] Spencer to Joseph S. Wilson, 8/21/69 (B.L.M.).

[71] Ibid., 7/16/69 and 6/30/72.

[72] L.O.R. 10/27/70, 41 Cong., 3 Sess., H.E.D. No. 1, 109 (1449).

[73] Drummond to James K. Proudfit, Surveyor General of New Mexico, 9/9/72 (N.A.). A marginal note gives the date of his arrival in Santa Fe. Spencer was in ill health during much of his stay in office; Joseph S. Wilson to Spencer 11/30/70 (N.A.), and died 6/19/72; David J. Miller, Chief Clerk, to Drummond, 6/19/72 (B.L.M.).

6. There are 130 cities and towns.

7. There are one thousand miles of projected and surveyed railroad lines.[70]

He proposed to make surveys of the San Juan, Gila, Santa Cruz, Pecos and Gila Rivers, and over very rough, and in southwest New Mexico.[71] Immediately his surveying parties [illegible] to a region on the upper Pecos River, north of the Pueblo Indian Reservation, and in southwest New Mexico (Maps 2-7). In the Pecos region in which were already to confine surveyed areas to the searches of actual settlers, while in southwest New Mexico his activities were governed by pressures from really discovered mines.[72]

James K. Proudfit, a native of Indiana, discharged the duties of Surveyor General of Colorado [illegible] administration in characterized by his energy for conducting increased survey appropriations [illegible] calling for retrenchment in the nation. In 1877 he asked for $125,000 for surveys, but congressional [illegible] to congress requested only $40,000 for that purpose. Through

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[70] Spencer to Joseph A. Wilson, 8/22/76 (N.A.).

[71] Ibid., 7/16/80 and 6/20/82.

[72] C.G.H. 10/27/76, N. Sen., 3 Sess., Ser. 1, No. 1, 1876 (1449).

[73] Surveying to Carson A. Proudfit, Surveyor General of New Mexico, 9/9/72 (N.A.). A meridional was the date of his arrival in Santa Fe. [illegible] was in [illegible] of his stay. [illegible] office [illegible] Carson to [illegible] 12/27/72 [illegible] and died 6/15/73 [illegible] Ohio, [illegible] 6/15/72 (N.A.).

pointed out that in New Mexico from 1855 through 1873 upwards of $440,000 had been spent for surveying 4,860,410 acres of land, while the area disposed of by the Government, up to June 30, 1873, by homestead entry, cash sales, etc., was less than 150,000 acres.[74] This would seem an ample back-log of surveyed land to take care of any reasonably sudden demand, but Proudfit attempted to prove that it was not. He pointed out that there had not been a great demand for land but that the day was rapidly approaching when this would change. Indian depredations had largely ceased, permitting expansion into new areas. In time past settlers were able to purchase land from private grants, but now land was becoming more costly because of the approach of railroads and expectation of mineral discoveries.

> [Because] of the prospective demand by settlers for surveyed lands, it seems to me that the true policy of the Government is to survey the whole Territory as rapidly as practicable, since sooner or later it must be done in pursuance of the public land system and policy of the United States, as has been done in the States of Illinois, Wisconsin, and others now completed.[75]

What he overlooked, or perhaps chose not to see, was the great dissimilarity in the arability of the land in New Mexico and the States that he used as examples. He claimed that his predecessors had not possessed sufficient information to make judicious choices of areas to be surveyed that could be

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[74]Drummond to S. B. Elkins, House of Representatives, 2/16/74 (N.A.).

[75]S.C.R. 10/7/72, 42 Cong., 3 Sess., H.E.D. No. 1, 123-124 (1560). His arguments for increased appropriations were similar throughout his administration.

pointed out that in New Jersey from 1888 through 1893 grants of 4,440,000 had been made for surveying 4,620,412 acres of land, while the area disposed of by the Government, up to June 30, 1893, by homestead entry, cash sales, etc., was less than 150,000 acres.[74] This would seem to equate land-for-for surveyed land to take care of any irregularity and/or fraud, but Proudfit attempted to prove that it was not. He pointed out that there had not been a great demand for land but that the day was rapidly approaching when this would change. Indian depredations had largely ceased, permitting expansion into new areas. In the past soldiers were able to purchase land from private grants, but now land was becoming more scarce because of the expense of railroads and exploitation of mineral deposits.

> [Because] of the prospective demand, it seems that surveyed lands, it appears to me, that the wise policy of the Government is to survey the public territory as rapidly as practicable, either sooner or later it must be done in pursuance of the public land system and policy of the United States, as has been done in the States of Illinois, Missouri, and other new states.[75]

What he overlooked, or perhaps chose not to see, was the great disinterest in the availability of the land in New Jersey and the States that he used as examples. He claimed that the predecessors had not possessed sufficient information to make judicious choices of areas to be surveyed that would be

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[74] Proudfit to G. D. Shiras, Jr., Chairman of Representatives, 2/6/74 (H.R.).

[75] C.R. 10/1/72, 42 Cong., 2 Sess., Part 5, 1-2, 1-2, 127-128 (1872). His arguments for increased appropriations were similar throughout his administration.

irrigated or sought for under the Pre-emption and Homestead Laws, or purchased by settlers.[76] To the contrary, their knowledge was surprisingly adequate in this regard and they had, in general, attempted to abide by a strict interpretation of the laws of the land.

There had been no change in the official Government policy requiring that land must be capable of growing crops to be homesteaded or pre-empted. There was, however, a growing tendency to overlook this requirement in actual practice. Whether this was good or bad depends on certain points of view. On the one hand it did break the law; on the other it made for more rapid settlement of the land with cattle ranchers serving as a catalytic agent in the process.

By 1873 Proudfit was openly propagandizing for the cattle industry in New Mexico, and striving to secure increased appropriations to accommodate their needs for surveys.[77] In 1874 he enlisted the aid of S. B. Elkins, Delegate to the House of Representatives, to secure this increase. It was quite convenient for him to call upon Elkins since they were, along with Marsh Giddings, Thomas B. Catron, and William W. Griffin, incorporators of the Consolidated Land, Cattle Raising and Wool Growing Company, October 19, 1872, with home offices at Fort

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[76] Ibid.

[77] S.G.R. 8/15/73, 43 Cong., 1 Sess., H.E.D. No. 1, 99 (1601).

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[76] Ibid.

[77] G.L. 8/25/73, 93 cong., 1 sess., S. Rept. No. 93-95 (1974).

Bascom, Santa Fe, and Denver. Operations were planned in San Miguel County and in Colorado.[78]

His survey locations (Maps 2-3) were particularly interesting in the northeast part of the Territory and the Pecos Valley. Railroad talk was in the air and probably had some influence on the surveys in the northeast. Of more significance, the Prairie Cattle Company came to control most of the area now embraced by Union County.[79] This was a Scottish firm incorporated on September 15, 1883.[80] The Pecos Valley "was solely and strictly a cattle country - there were no other interests - and there were large herds."[81]

In 1876 Proudfit was asked to resign. After this request he entered into a contract with Lewis Kingman for more claims than one deputy could survey in a single season (the time allowed). The contract was promptly disapproved because of the previous request for his resignation and for the excessive number of claims in it.[82] The significance is that each

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[78]Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900, Summary, Ms. This was the first cattle corporation in New Mexico and the only one until 1881. Commissioner Drummond paid no heed to Elkins' plea.

[79]Berry Newton Alvis, "History of Union County, New Mexico," New Mexico Historical Review, 22:248.

[80]Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900. Summary, Ms.

[81]James P. Hinkle, Early Days of a Cowboy on the Pecos, 3-4.

[82]Acting Commissioner, L. K. Lippincott, to Henry M. Atkinson, Surveyor General of New Mexico, 3/8/76 (N.A.). This contract was disallowed.

Ranch, Santa Fe, and Tucson. Operations were planned in San Miguel County and in Colorado.[79]

The survey locations (Maps 2-3) were primarily located in the northeast part of the Territory and the Pecos Valley. Railroad talk was in the air and repeated had been influence on the property in the northeast. Of more significance, the Pecos Valley Company was to control most of the area now contained by Quay County.[80] This was a speculative firm incorporated on September 15, 1887.[81] Its boosters talked up the safety and stability of cattle country - there were no other interests - and there were large herds.[82]

In 1890 Prosdocimi was asked to resign. Before this request be entered into a contract with Lindsay Kingman for more claims than one deputy could survey in a single season (the time allowed). The contract was promptly disapproved because of the previous request for his resignation and for the excessive number of claims in it.[83] The significance is that such

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[79]Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900. Summary. No. This was the first cattle corporation in New Mexico and the only one until 1888. Domestic corporations could not be of Clifton' kind.

[79]Henry Newton Davis, "History of Quay County, New Mexico," New Mexico Historical Review, 22:248.

[80]Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900. Summary, 7b.

[81]Jason F. Hinton, Early Days of a Ranch on the Pecos, 3-4.

[82]Acting Commissioner, L. W. Lippincott, to Henry A. Atkinson, Surveyor General of New Mexico, 3/7/78 (N.A.). The contract was disallowed.

deputy was supposed to personally make all the surveys in each contract, for otherwise the deputy might sublet portions of the contract to an inferior surveyor. There was also the possibility that the deputy might remunerate the Surveyor General for awarding him a larger contract than he could personally take care of.[83]

Henry N. Atkinson, of Nebraska,[84] took over the office of Surveyor General on March 31, 1876.[85] By far the greatest amount of surveying in New Mexico was done under his supervision and irregular practices were common during his tenure. It was crystal clear that Atkinson operated within a specific framework of instructions as to areas that could be surveyed under the regular annual appropriations. These were:

1. Those lands adapted to agriculture without artificial irrigation.
2. Irrigable lands, or such as can be redeemed and for which there is sufficient accessible water for the reclamation and cultivation of the same not otherwise utilized or claimed.
3. Timber lands bearing timber of commercial value.
4. Coal lands containing coal of commercial value.
5. Exterior boundaries of townsites.
6. Private land claims.[86]

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[83]Personal Interview, Land Office Personnel, December 14, 1954.

[84]Atkinson to J. A. Williamson, Commissioner of the General Land Office, 12/4/76 (B.L.M.).

[85]Proudfit to Burdett, 3/31/76 (B.L.M.).

[86]Williamson to Atkinson, 8/23/76 (N.A.). These categories were repeated each year with the annual instructions. Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 191 (1975), points out that "It was the custom prior to July 31, 1876, for Congress to make appropriations annually for each surveying district by separate item.

"July 31, 1876 (19 Stats., p. 120), Congress changed the

deputy was required to personally conduct the survey in each contract, for otherwise, according to Joel Stillman, it was contrary to an Indian custom. Here we see the responsibility that the deputy also had in that extra expense incurred for awarding the contract according to Indian custom, which take care of.[82]

Henry H. Williams, of Wahkiakum, had been the district of Surveyor General on March 31, 1854.[83] By far the greatest amount of surveying in Washington was done during the summer and irregular practices were common during the country.

It was urgent that the national government adopt a specific framework of instructions as to areas that could be surveyed under the regular general regulations. These were:

1. Those lands subject to settlement claims or to Indian investigation.
2. Arable lands, or such as can be produced with fair prospects of success, or which are necessary for the reclamation and utilization of the land, or lands of value utility or interest.
3. Timber lands bearing pine or cedar timber.
4. Coal lands containing coal or bituminous rock.
5. Regular townships on all towns.
6. Private land claims.

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[82] General Instructions, Land Office, Washington, June 14, 1854.

[83] Stillman to W. A. Gillespie, President of the General Land Office, 12/4/74 (L.R.).

[84] Crosbie to Dreher, 3/7/74 (L.R.).

[85] Stillman to Gillespie, 6/25/74 (L.R.). Some petitions were requested such as that of Samuel Chamberlain, Donation Lands Department, Final Proof, 1878, No. 1, Case, 1, No. 47, 1878 (1875), p. 1. Also see the Survey Plat of July 31, 1875. For other examples of surveying, see (L.R.) each surveying plat of Snoqualmie Pass.

[86] July 31, 1875 (L.R.), Letter, Jan. 1, 1875, Corresp. of the

Atkinson did not fulfill those stipulations. There might have been some question as to what constituted agricultural land except that Commissioner Williamson [87] and Atkinson were clear on the matter: "The classification of surveyable lands made by Congress precludes the survey of portions of this Territory that are valuable for grazing purposes and which could be rapidly sold by the Government were they surveyed and subject to sale."[88]

The special Deposit System became a matter of importance in Atkinson's surveys. It was originated by the Congressional Act of May 30, 1862, to reduce the Government cost of making surveys by authorizing that they be paid for by settlers in townships where they were desired. The law was modified in 1871 to the extent that deposits by settlers could be used in part payment for their lands in the townships the surveying of which was paid for out of these deposits. On March 3, 1879, the harmlessness of this law came to an end when certificates of deposits became negotiable and could be used in payment for public land anywhere under the terms of the Pre-emption and Homestead Laws. Nationally, the total deposits for survey in the seventeen years prior to the modification of 1879, amounted to $368,625.69. The deposits under the act from 1880 through

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method of appropriation by giving a gross sum for annual surveys, without specifying surveying districts, States, or Territories; which system now exists. The Secretary of the Interior, under this law, annually apportions the same to the several surveying districts as in his judgment is deemed best."

[87] Ibid.

[88] Atkinson to Williamson, 9/30/76 (B.L.M.).

1884 were $5,813,368.58,[89] and figures in New Mexico were proportionate.

The startling increase was the result of regulations adopted by the General Land Office not consonant with Congressional intention. The application of one settler was sufficient to cause the survey of a township, and a form of settlers application was adopted that would not overly stretch the conscience of a non-settler to sign. The result was frequent applications for the survey of a township by one settler

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[89] L.O.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 165 (2378).

Annual Deposits in the United States:

1880.	$ 941,741.42
1881.	1,749,547.54
1882.	2,134,175.44
1883.	437,949.72
1884.	549,954.46
Total in five years	5,813,368.58

* * *

Annual deposits for New Mexico; compiled from Annual Reports of Surveyors General:

1872.	$ 3,000.00*
1874.	92.03
1878.	3,565.00
1879.	6,775.00
1880.	54,592.01
1881.	282,460.09
1882.	284,807.04
1883.	277,541.54**
1884.	92,307.17
1885.	19,462.86
1886.	713.51***

* $2,500.00 of this amount was deposited by Peter Maxwell for surveys near Fort Sumner.

** These figures are, in each instance, for the fiscal year ending June 30. The bulk of the deposits for 1883 were turned in from June 30 to August 7, 1882. This would indicate a determined effort, by depositors, to get under the wire.

*** To cover deficiencies in accounts for surveys executed under previous surveyors general.

who might be a non-settler. The law permitted only the survey of townships; the regulations, however, permitted the survey of connection lines. Assignment of certificates should have been, by law, restricted to those dated subsequent to the Act of 1879; but the regulations permitted such use of earlier certificates, and in localities not authorized by the law. Deputy surveyors secured work on easily surveyable land and individuals who paid for the surveys used the certificates to avail themselves of valuable land. It was even possible, by false representation of a lost certificate, to acquire double payment for one deposit![90]

> This system [was] in fact a temporary loan of money by individuals to the United States to pay for surveys, which the United States [repaid] to the lenders by receiving for lands the evidences of deposit, which [were] assignable at their full value.
>
> This law [gave] ample and frequent opportunities for gross and serious abuses.[91]

The situation became so intolerable that on August 7, 1882, a law was passed by which the use of certificates of deposit was confined to the land district in which the lands surveyed were situated.[92] This caused a sharp drop in the amount of money deposited.

It is true that a large proportion of Atkinson's surveys were made under the deposit system and that, for purposes of

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[90] Ibid., 166.

[91] Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 184-185 (1975).

[92] S.G.R. 7/20/83, 48 Cong., 1 Sess., H.E.D. No. 1, 260 (2190).

accounting, special deposits were handled separately from the regularly appropriated survey funds. But surveys under special deposits were subject to the requirements of surveying only entire townships surveyable by law. It was furthermore specifically stipulated that no surveys were to be extended into townships not already settled.[93]

It is evident that rationalization was used in the interpretation of what constituted a settled township. Commissioner William A. J. Sparks, referring to the past use of the deposit survey law, in 1885 stated: "The law is for the benefit of the 'settlers' in a township of unsurveyed lands, not for the benefit of persons not settlers nor yet for the benefit of surveyors."[94] Sparks admitted that the law did not specify how many settlers residing in a township constituted a justification for the survey of that township and therefore public advantage must be the deciding factor. He scathingly wrote that certainly not one settler constituted either a legal or literal justification and added that, in many instances in the past, the evidence that even one person was a settler had been "extremely slight and superficial."[95] "Deposit surveys," continued Sparks, "being restricted by the several provisions of law to surveys for homestead and pre-emption settlers, cannot be made for the benefit of other persons or interests, and it

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[93] Williamson to Atkinson, 8/23/76 (N.A.).

[94] Wm. A. J. Sparks, Commissioner of the General Land Office, to Clarence Pullen, Surveyor General of New Mexico, 6/6/85 (N.A.).

[95] Ibid.

also follows that lands not adapted to nor needed for such settlements are not surveyable under the Deposit System."[96]

Atkinson repeatedly blamed the large number of deposits on the failure of Congress to make appropriations sufficient to prosecute the public surveys as rapidly as demanded by the settlement of the Territory.[97] This is demonstrably strange reasoning even if the entire resident population was considered in the need for surveys. It is more reasonable to consider that the bulk of actual and legitimate settlement was demanded by newcomers who had not already acquired land. In 1883 the population of the Territory was about 130,000, three-fourths of whom were natives,[98] and presumably had an abode of long standing. Of the remaining one-fourth all but a few foreigners were from the States. Even a large percentage of these had resided in the Territory for some years and had established an agrarian residence. That same year there were 12,847,970 acres of land surveyed in New Mexico; an average, in a single year, of almost 99 acres for each person living there at the time! Of this amount, at least 14/15 was done under the deposit system.

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[96] Ibid. Henry N. Copp, The American Settler's Guide, 22, states that survey deposit certificates could be used only for homestead or pre-emption uses; and, 7, that "Agricultural Lands are those that will produce agricultural crops;" also, 51, that land for homestead or pre-emption uses must be cultivated to be legally held.

[97] S.G.R. 8/25/82, 47 Cong., 2 Sess., H.E.D. No. 1, 522 (2099).

[98] G.M.M. 9/6/83, 48 Cong., 1 Sess., H.E.D. No. 1, 553 (2191); G.M.M. 9/15/90, 51 Cong., 2 Sess., H.E.D. No. 1, 595 (2842).

The only possible demand for that amount of surveyed land was that advanced by cattlemen. Two years later Commissioner Sparks reported that "the choicest cattle raising portions of New Mexico..." had been surveyed.[99]

In 1882 Atkinson admitted that the deposit system was being abused, "no doubt, by parties interested in the execution of the survey of these lands."[100] He thought that such deposits should be limited to one or two hundred townships a year with a penalty for false or fraudulent applications. At the same time he considered that "The law permitting deposits and the assignment of the certificates of deposit is a most excellent one, as it is a great convenience to the homestead and other settlers, and should not be repealed... ."[101]

Atkinson tried to justify the surveys he sponsored under the deposit system as well as regular appropriations, by claiming that at times it was impossible for the deputy surveyor to ascertain the surveyability by law of a given township until the exterior boundaries were run.[102] This was undoubtedly true in some instances but was certainly the exception rather than the rule. Again, he said, "In making the surveys of public lands under the instructions of last year [1876] and the

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[99] L.C.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 168 (2378).

[100] S.C.R. 8/22/82, 47 Cong., 2 Sess., H.E.D. No. 1, 522 (2099).

[101] Ibid.

[102] Atkinson to Williamson, 7/12/77 (B.L.M.).

classification of lands as made by the Act of Congress making the appropriations, the deputies experienced considerable difficulty in finding whole townships the lands of which would fall within the classifications... ."[103] He then wondered if it would not be reasonable for the law to allow the survey of an entire township if part of it fell within the legal classifications.[104] Following this logic, it would be possible for a deputy surveyor, or a settler, to set out a potted plant within the confines of a township and call it agricultural. Using this same oblique type of reasoning about the land in New Mexico, Atkinson said that "a very considerable part is good land, most of it susceptible of irrigation as I am aware in part by personal observation... ."[105]

The land was desired for grazing purposes. Atkinson's own words are proof of that. He had been questioned by Acting Commissioner C. M. Holcomb as to the validity of contract No. 131 with William S. Stretch. Holcomb said, "Upon examination it is found that the greater portion of said contract is for the extension of Standard lines over the region designated upon the maps as the 'Llano Estacado,' a country which from best accounts is almost if not wholly unfit for settlement or even grazing purposes."[106]

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[103] Ibid.

[104] Ibid.

[105] Ibid., 7/24/76.

[106] Holcomb to Atkinson, 6/8/81 (N.A.).

Atkinson's answer is revealing:

> In reply to your letter of the 8th inst. relative to contract No. 131 with Mr. S. Stretch, I have to state that I have been credibly informed that the greater part of the region embraced by the standard lines included in said contract is fine grass land, and that in various places there are springs and waterholes that stockmen claim are desirable. The surveys made north of the base line near the eastern boundary of the territory have developed springs hitherto unknown except to those herding stock in that vicinity, and my information leads me to believe that a considerable portion of the country embraced in the standard lines alluded to is similar to that between the Base Line and the north edge of the table land adjacent to Red River. I presume that but a small portion of this land is suitable for agriculture, but it is adapted for grazing purposes and stockmen are desirous of securing their water and the land embracing same as the nucleus of their stock ranges.
>
> The finest grazing in New Mexico I am told, is embraced in a portion of what is termed the Llano Estacado or Staked Plains and today a large percent of the cattle within the Territory are now grazed within the lines of Mr. Stretch's contract.[107]

It is evident that the General Land Office accepted this explanation at its face value because the contract was approved and duly executed.[108] Such flagrant winking at the law can hardly be justified; but there is an explanation. Thinking men knew that the national land classification was unrealistic. They knew that large portions of the West were unsuited to anything except grazing, and yet there was no classification for grazing land.[109] Such land, therefore, could not

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[107] Atkinson to Holcomb, 6/14/81 (B.L.M.).

[108] S.G.R. 8/25/82, 47 Cong., 2 Sess., H.E.D. No. 1, 528 (2099).

[109] Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 185 (1975).

legally be acquired for the only use it was suited. Perhaps men became careless, or disillusioned, at the frustration of seeing this condition exist year after year with no attempt at a remedy. At any rate, Atkinson blithely continued, year after year, to certify that the areas of public surveys were confined to the classifications made by Congress.[110]

Throughout his period in office, Atkinson attempted to show the need for larger appropriations for his surveying district. He used most of the generalities that had been advanced by his predecessor. He stressed the rapid approach of railroad transportation,[111] the desirability of settlers being able to perfect titles in any location at any time they wished,[112] and the fact that all the public domain had already been surveyed in the States.[113]

His surveys were so extensive that they covered nearly every region in the Territory. A majority of this area was suitable only for grazing cattle (Maps 4-5). Atkinson himself was interested in the cattle business. In 1882 he was an incorporator, with Thomas B. Catron and John H. Thomson, of

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[110] See the successive Annual Reports of his administration. It is of interest also to note that the Surveyor General's salary, during Atkinson's administration, was reduced from $3,000.00 per year to $2,500.00. Later this salary was raised to the $3,000.00 that had prevailed from the inception of the office.

[111] Atkinson to Williamson, 3/26/78 (B.L.M.).

[112] S.G.R. 8/15/78, 45 Cong., 3 Sess., H.E.D. No. 1, 275 (1850).

[113] S.G.R. 8/25/76, 44 Cong., 2 Sess., H.E.D. No. 1, 229 (1749).

legally be required for the only use it was actual. Further non-bonus contracts, or disciplinary, at the discretion of making this condition until you either year with no change is a remedy. At no rate, [illegible] existing conditions, year after year, to certify that the needs of public service are satisfied to the classifications made by Congress.[110]

Throughout his period in office, Altgeld attempted to show the need for larger judgeship districts for his judicial district. He used most of the [illegible] which had been advanced by his predecessors. He stressed the real [illegible] of radical legislation, [illegible] the inability of judges being able to [illegible] cases in any time [illegible] widens, [illegible] and the fact that [illegible] have been surveyed in the State.[111]

His survey was to indicate that two, several times, every region in the [illegible]. [illegible] of [illegible] available only for [illegible] (Cases 1-5). Attorney General was interested in the [illegible]. In 1896 he was an incorporator, with Thomas E. Clarke and John M. [illegible], of

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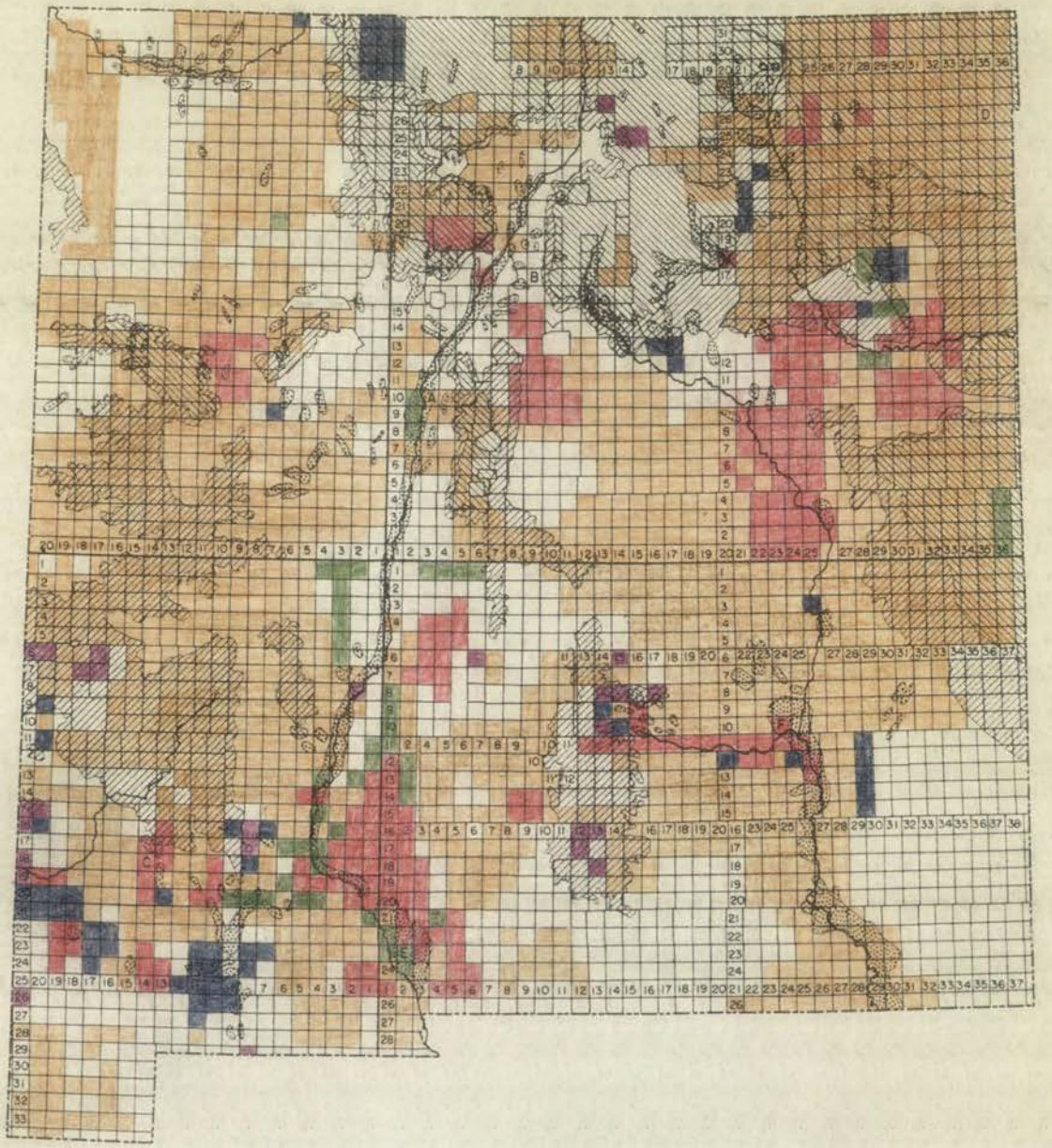
110 See the [illegible] Report of his [illegible] tion. It is of interest to note to note that the [illegible] and's salary, during Attorney's [illegible], was raised from $3,000.00 per year to $3,500.00. Later this salary was raised to the $5,000.00 that had prevailed from the [illegible] of the office.

111 [illegible] to Gilchrist, [illegible].

112 [illegible], 8/3/[illegible], [illegible], 3 [illegible], [illegible], 1, 278 (1850).

113 [illegible], 2/25/[illegible], [illegible], 2 [illegible], [illegible], 2, 295 (1745).



Map 4

Townships Subdivided
UNDER VARIOUS
SURVEYORS GENERAL

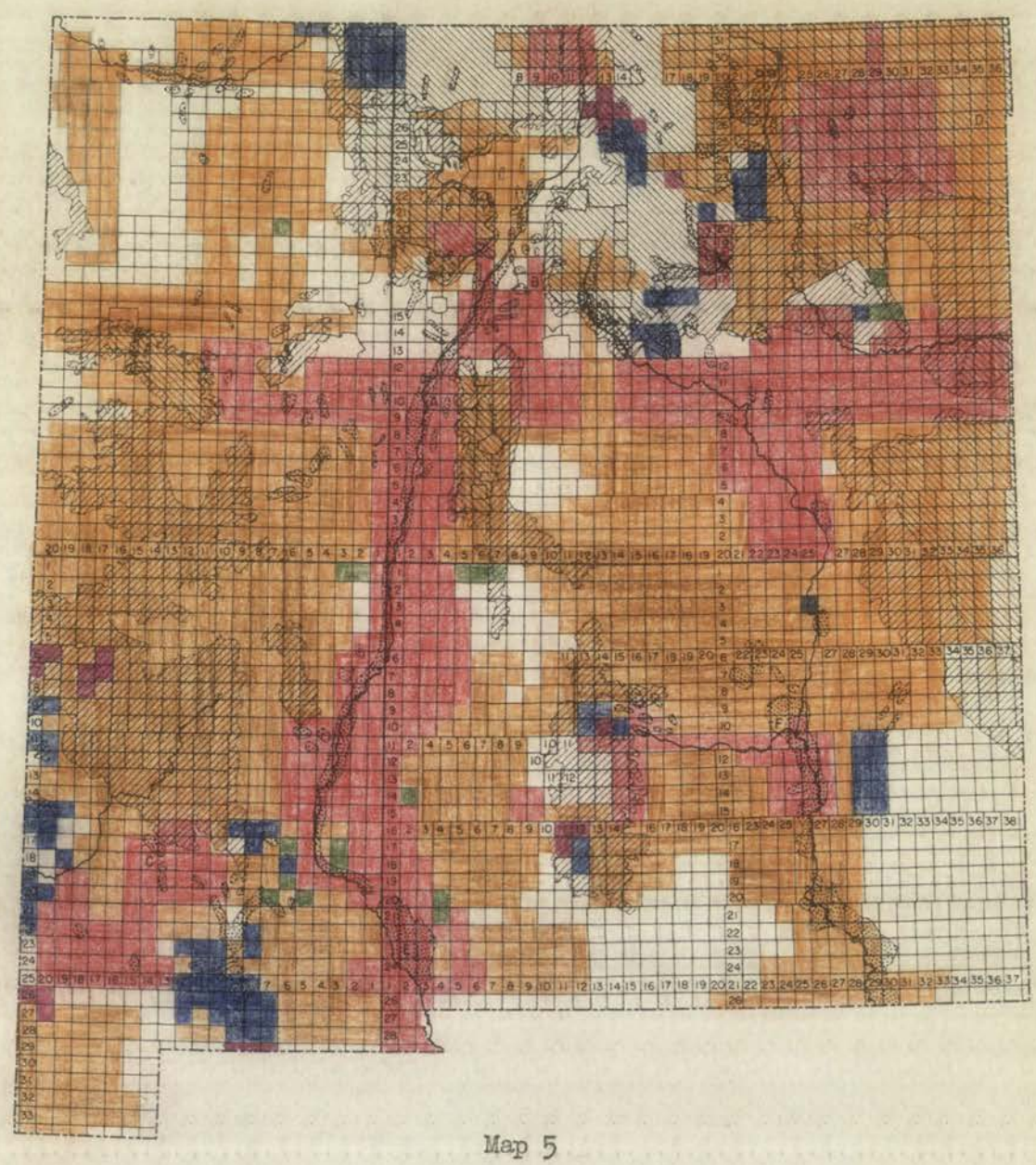
Before Atkinson

Atkinson 1876-84

Pullen 1884-85

Julian 1885-89

Hobart 1889-91



Map 5

Townships With
EXTERIOR BOUNDARIES SURVEYED
UNDER VARIOUS
SURVEYORS GENERAL

Before Atkinson

Atkinson 1876-84

Pullen 1884-85

Julian 1885-89

Hobart 1889-91

the Boston and New Mexico Cattle Company. The following year he and William H. McBroom and Joseph H. Bonham formed the New Mexico Land and Livestock Company. In 1884 he joined with Max Frost, W. H. McBroom, and three gentlemen from Kentucky, in forming the New Mexico and Kentucky Land and Stock Company. These three companies operated in Santa Fe County. In 1886 the American Valley Company was incorporated by Atkinson, Thomas B. Catron, William B. Slaughter, and Henry L. Warren. The American Valley is in the triangle formed by the towns of Salt Lake, Trechado, and Quemado in present Catron County. The combined capitalization of these companies was $5,000,000.[114]

Irregularities in surveys under Atkinson were prolific and brought repercussions while he was still in office. Commissioner N. C. McFarland condemned certain survey plats. He pointed out that the topography was poorly and roughly drawn and that the plats were "far below the average of other districts."[115] An examination of survey plats for various periods, comparing them with resurveys, reveals that the early surveys, both in the field and on the plats, were much more

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[114]Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900, Summary, Ms.

[115]Noah C. McFarland, Commissioner of the General Land Office to Atkinson, 7/26/83 (N.A.). Ten plats selected at random and compared with resurveys, are summarized in the

accurate than those made in the 1880's under Atkinson.[116]

The early deputy surveyors "carried a good chisel."[117] The surveys in the 1850's were good both for bearing and distance and compare favorably with what would be expected of a competent engineer today. In the 1860's the surveys were not as good as in the 50's; for example, surveys of Hiram G. Fellows in 1867 were consistently good in bearing but, in many instances, the distances were uniformly one chain long per each half mile. This can best be accounted for by supposing that a surveying assistant (chainman) carried eleven pins, instead of ten, forward from a given monument and used all eleven of them on the first tally. Thus in four tallies, there would be forty-one spaces between the pins instead of forty. The monumentation was also poor. In the early 1870's

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following table.

			SURVEY		RESURVEY	
T	R	Comment	By Whom	Date of Survey	By Whom	Date of Resurvey
4N	5E	A	Taylor & Holland	1883	G. W. Devendorf	1920
16N	11E	A	" " "	1882	Wendell V. Hall	1929
25S	1W	B	A. P. Wilbar	1858	Haste & Tolland	1940
7S	21E	A	Albert W. Steele	1882	Glenn R. Haste	1937
2N	7E	B	G. T. McCullough	1882	Lee S. Miller	1912
15N	11E	A	Wm. White	1882	Wendell V. Hall	1929
16S	2E	B	Garretson & Tivy	1858	C. P. Warner	1930
15S	4E	A	Pearce & Coleman	1882	Donald Harding	1937
17N	12E	A	Taylor & Holland	1882	G. W. Devendorf	1925
15N	10E	A	Wm. White	1884	S. Kimmell	1932

A = inaccurate.
B = accurate.

[116] Surveyors General, Survey Plats of Townships, (B.L.M.).

[117] Personal Interview, Land Office Personnel, March 23, 1954.

the surveys were well done. The period of the 1880's had some of the worst surveys.[118]

In a resurvey that followed the old Santa Fe Trail, it was obvious that when the original survey had been made the marked monument rocks had been tossed off each side of a wagon as it traversed a winding road. One flat rock, about 18 inches by 18 inches, lay broken as it fell on another rock on the ground.[119] This survey, in T.15N, R.10E, was made by William White in 1884. An examination of the field notes and plat of this survey shows that White was supposed to follow the road, and did, but the field notes do not accurately describe the line.[120] Perhaps Deputy Surveyor White was using a technique sometimes resorted to. The practice was to tie a red cloth to a wagon wheel and, by counting the number of revolutions of the wheel, arrive at surveyed distances. As unorthodox as it sounds, this method could be surprisingly accurate on flat ground; however, it was hardly sanctioned by the surveying manual and relied too much on the diligent counting of the revolutions of the wagon wheel.[121]

In many instances it was evident that no original survey had been made at all. One of these was T.15S, R.4E, in southern Socorro County, made by Pearce and Coleman in 1882. The

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[118] Ibid., December 14, 1954.

[119] Ibid., March 23, 1954.

[120] Surveyors General, Survey Plats of Townships, (B.L.M.). On other surveys White did a good job.

[121] Personal Interview, Wallace Bisbee, March 10, 1954.

resurvey was made by Donald Harding, et al., in 1936 and 1937. Harding found all the corners of the east boundary of this township but no other monuments, either exterior or subdivisional.[122]

Atkinson did not always follow regulations concerning awarding of surveying contracts. On October 21, 1880, he let a contract to Max Frost.[123] All deputy surveyors were required to certify that they personally, with the necessary assistance, performed all of the surveying work in their contracts. This Frost certified but he did not do the work. He was on hand part of the time but Charles Easley and William Marland did the surveying. There is doubt that Frost was a surveyor at all; at any rate, his bad eyesight disqualified him from making a Government survey.[124] He was later completely blind.[125]

A similar case occurred in 1882 when Holden R. Warner had contracts for surveys near the southern boundary of the Territory, south of Carlsbad. In the same year he also had contracts in the San Juan River area, in the northwest part of the Territory, as well as in other regions. In each instance he had a different partner. The Territory was too large, and

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[122]Personal Interview, Land Office Personnel, December 14, 1954. Surveyors General, Survey Plats of Townships; Deputy Surveyors, Field Note Books, (B.L.M.).

[123]Atkinson to Williamson, 10/21/80 (B.L.M.).

[124]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 48 Cong., 2 Sess., S.E.D. No. 106, 331-332. Report of Inspector Frank D. Hobbs.

[125]Personal Interview, Land Office Personnel, May 10, 1955.

transportation too slow, for him to have personally made all these surveys as he was supposed to do and as he certified that he did.[126]

Particular inaccuracies some times tended to average out over an entire survey. An example is the base line in the vicinity of Fort Sumner. Errors in short distances were greater than the inaccuracy of the entire survey.

There was a feeling among the surveyors of the 1880's that much of the surveyed land would never be used for anything anyhow so why make the surveys too good! In justice to the deputies, it might be said that the pay was inadequate for really careful work.[127]

In short, the surveys under Atkinson were not conducted in a creditable manner. However, he held office at a time when such practices were characteristic of the entire surveying service and particularly that of the West.[128]

Clarence Pullen succeeded Atkinson on July 29, 1884.[129] His administration was short and a large percentage of the surveys executed under his guidance had already been contracted for by Atkinson. He was still serving under Noah C. McFarland,

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[126] Ibid., December 14, 1954.

[127] Ibid., December 22, 1954. The idea that the land would not be useful is, of course, at variance with Atkinson's certification that it fell within the classification prescribed by Congress.

[128] Harold H. Dunham, Government Handout: A Study in the Administration of the Public Lands, 1875-1891, Chap. XII.

[129] Pullen to McFarland, 7/29/84 (B.L.M.).

transportation van [illegible]

since survey as he [illegible]

that he did.[126]

Particular investigations were [illegible]

over an entire county. [illegible]

stability of Fort Jackson. [illegible]

greater than the inventory of [illegible]

There was a feeling [illegible]

that much of the [illegible]

anyone so why make the [illegible]

Deputies, it might be [illegible]

really useful work.[127]

In short, the survey [illegible]

a creditable number. [illegible]

much practice was [illegible]

service and particularly [illegible]

Charles Fulton's [illegible]

His administration was [illegible]

very capable under his [illegible]

for by Congress. [illegible]

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[126] Ibid., [illegible]

[127] Ibid., [illegible]

would not be useful [illegible]

certification that [illegible]

merited by Congress.

[128] Harold E. [illegible]

Administration of [illegible]

[129] Fulton to [illegible]

a Republican Commissioner of the General Land Office, and it was not politically opportune to be too frank in criticism of the fellow Republican he had relieved as Surveyor General. He did try to clean up the surveying service in the Territory. He ordered some deputies to correct errors in their work and conducted a number of forthright investigations of surveying contractors. At times, when it would seem hardly avoidable, he voiced cautious condemnation of the work conducted by Atkinson. In relation to contract No. 196 dated August 15, 1883, he wrote, "The original notes I cannot accept as they are so poorly written and unintelligible, and further, the dates show that the survey was made within three days which is an impossibility."[130]

Pullen also tried to clean up irregularities of the deposit system in his district. Deputy Surveyor J. M. McLaughlin, of Tucson, Arizona, wrote and frankly asked if he might be awarded a surveying contract if he could induce some settlers, near the Arizona border, to make deposits for the same.[131] Surveyor General Pullen pointedly informed the deputy that any action on the part of a deputy surveyor to induce settlers to make deposits for surveys was strictly irregular and would subject that deputy to having his commission revoked.[132]

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[130] Ibid., 8/22/84.

[131] Pullen to McLaughlin, 12/8/84 (F.R.C.).

[132] Ibid.

It is evident, though, that his reform policies were not energetic enough to suit William A. J. Sparks, who became Commissioner of the General Land Office in 1885. The latter rebuked Pullen for submitting a group of ten townships, for survey authorization, in which each township had only one settler as an applicant. The only evidence that even this one applicant was an actual settler took the form of a mere formal affidavit. Sparks concluded a long and detailed letter by ordering Pullen to see that the deposit system of survey was "legitimately and lawfully used...," and not misused for either procuring speculative contracts or as an aid in the unlawful acquiring of land to be used for other than settlement purposes.[133]

The General Land Office, by a regulation of June 24, 1885, abolished blank forms in applying for public surveys and reserved the right to pass specifically on each application;[134] furthermore, it required detailed information:

> First. The character of the land, whether mineral, cultivable, grazing, timber, desert, swamps, mountainous, rocky, etc.
> Second. The number of settlers in the township or townships.
> Third. The character and duration of their inhabitancy of the land.
> Fourth. The extent and value of their improvements.
> Fifth. The uses made of the land and the quantity under cultivation.[135]

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[133] Sparks to Pullen, 6/6/85 (N.A.).

[134] George W. Julian, Surveyor General of New Mexico, to Messrs. McKeyes and Washington, Deming, N.M., 7/1/89 (F.R.C.).

[135] Julian to J. A. Armstrong, Joseph, N.M., 2/4/89 (F.R.C.). Julian wrote a large number of letters explaining this regulation of the General Land Office.

The result of this regulation was to entirely abolish the deposit system in New Mexico soon after Pullen left office.

In 1885 President Cleveland, in a letter of May 11, asked George W. Julian to accept the office of either Governor or Surveyor General of New Mexico. Cleveland considered the office of Surveyor General the more important of the two.[136]

Julian, who had cast his first presidential ballot for General Harrison in 1840,[137] was seventy years old when, on July 22, 1885, he assumed the duties of his new office.[138] He was a politician and a good Government man, and tried to comply with the details of the law as he saw it. Above all, he could not be bought at any price. It was undoubtedly this unimpeachable honesty that endeared him so little to his contemporaries in New Mexico. Some historians have judged him too harshly.[139] Evidence was everywhere at hand that the public domain was being harvested by fraud at an unprecedented rate. "No early problem of his Administration worried Cleveland so much as this wholesale spoliation of the West."[140] This worry was honestly shared by Julian and he acted virorously to save the public lands so they could be dispensed in

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[136]Julian "Land Stealing in New Mexico," North American Review, 145:2.

[137]Julian, Political Recollections, 1840 to 1872, 11.

[138]William A. Keleher, Maxwell Land Grant, 125.

[139]Ralph Emerson Twitchell, The Leading Facts of New Mexican History, Vol. II, 462, accuses Julian of being steeped in prejudice against New Mexico and its people and acting in a partisan and political manner.

[140]Allan Nevins, Grover Cleveland: A Study in Courage, 225.

The result of this regulation was to unfairly penalize the deposit system in New Orleans and particularly its patrons.

In 1885 President Cleveland, in a desire to reward, named George K. Gulick to succeed the office of deputy surveyor or surveyor general of New Orleans. Gulick was a friend of the office of surveyor general, who also been lost to Mr. Ellis, Julian, who had been the first presidential nominee for General Harrison in 1880.[137] He was sworn in July 24, 1885. He assumed the duties of the new office.[138] He was a politician and a good businessman, and tried to comply with the details of the law as he saw it. Gulick, however, he could not be lenient in any fashion. He was responsible, unimpeachable honesty that entered into politics, and temporarily in New Orleans. Some statisticians, indeed, too harmly.[139] Statistics are everywhere at hand that the public domain was being surveyed in Grand as a [illegible] rate. "So early from as of the statistics after Cleveland so much as this administration of the [illegible] This worry was normally shared by Julian and he noted [illegible] usually to save the public lands as they could be [illegible]

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[136] Julian "Land Stuff" in New Orleans, [illegible] Review, 145:2.

[137] Julian, Political Recollections, 1840 to 1872, 11.

[138] William A. Robinson, Diamond Dust, 1:2.

[139] Ralph Monroe Wilkerson, The Influence of the Mexican History, Vol. 1, 262, argues Julian of [illegible] in prejudice against the Yankee and its [illegible] partisan and political [illegible].

[140] Julian Service, Force of Persuasion in Land [illegible]

in the manner prescribed by existing laws.

He was a leading exponent of the homestead principle as it applied to the fertile regions of the Midwest; nevertheless, when he saw conditions in New Mexico for himself, he was realistic enough to realize that much of the land was suitable only for grazing.[141] He was not opposed to the honest settler who desired to make a living, be it raising cows or corn; but he wholeheartedly resented the success of a few in amassing enormous landed estates by the manipulation of the land laws.

His work in relation to the public surveys was particularly trying. The ratio of land settled to land surveyed was much higher under Julian than under his predecessor, Henry M. Atkinson (Appendixes V-VIII). This made a difficult problem for Julian. While tremendous acreages had been surveyed, there was a dearth of surveyed areas for the increasing number of settlers. At the same time, appropriations for surveys were meager and the deposit system, which had been productive of much fraud, was sharply regulated by instructions laid down in a Land Office circular of June 24, 1885; furthermore, settlers were urged not to use it.[142] As a result, the deposit system practically ceased under Julian.[143]

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[141] Julian to Commissioner of the General Land Office, 7/2/89 (B.L.M.).

[142] Julian to Mrs. Mary E. Cox, Gila, N.M., 2/18/89 (F.R.C.).

[143] S.G.R. 7/26/88, 50 Cong., 2 Sess., H.E.D. No. 1, 476 (2636).

In the manner prescribed by existing laws.

He was a leading exponent of the doctrine of homestead as it applied to the fertile regions of the Missouri watershed. Laws, when he saw conditions in New York in for instance, were realistic enough to realize that much of the land was suitable only for grazing.[141] He was not dismayed by the thought of those who desired to make a living, be it raising corn or cattle; he wholeheartedly recommended the purchase of a few in preference enormous landed estates by the nominal action of the legislature. His work in relation to the public surveys was certainly fairly trying. The ratio of land acquired to land surveyed was much higher under Julian than under his predecessor, Henry M. Atkinson (Appendices V-VIII). This made a fine record for Julian. While transcontinental surveys had been surveyed there was a dearth of surveyed areas for the increasing number of settlers. At the same time, appropriations for surveying were meager and the decoy system, which had been productive of much fraud, was merely readjusted by instructions issued in a Land Office circular of June 6, 1882. Land inspectors etc. were urged not to use it.[142] As a result, the decoy system practically ceased under Julian.[143]

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[141] Julian to Commissioner of the General Land Office, 7/2/89 (S.I.M.).

[142] Julian to Wm. Mary [illegible], [illegible] (S.R.O.).

[143] S.R. 7/26/89, 50 Cong., 2 Sess., Senate, [illegible] (2676).

Julian strove earnestly to take care of the demands of actual settlers.[144] On the other hand, he had little patience with requests for surveys not for actual settlers. In one case 10 or 15 settlers desired to locate in T.22N, R.21E. He replied, "you are informed that I am not authorized, under existing regulations, to make surveys for the accommodation of prospective settlers. Whenever you and your friends become actual settlers upon the township mentioned, the survey desired can be made.[145] Again, he received a request for the survey of several townships which stated that some of the settlers were located on the tract and that several settlements had been made within the townships. "This information is not sufficient," he stated, "as I am required to know the exact number of settlers that would be accommodated by any proposed survey."[146]

He was not as careful, however, to survey only areas strictly arable in nature (Maps 4-5). Atkinson had surveyed large quantities of non-arable land and certified that they had been arable. Julian and his superiors in Washington, on the other hand, recognized some grazing land as being within the agricultural class even though the law clearly stated otherwise.

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[144] Julian to G. F. Black, Patterson, N.M., 1/31/87 (B.L.M.); Julian to Wm. H. Hugo, Fort Bayard, N.M., 2/7/88; and Julian to C. E. Harney, Springer, N.M., 2/6/88 (F.R.C.). Such specific examples are in sharp contrast to Atkinson's vague references to settlers.

[145] Julian to T. W. Fassler, Kendall, Kansas, 4/18/87 (B.L.M.).

[146] Julian to C. Toner, Marmelito, N.M., 3/15/87 (B.L.M.).

Julian strove earnestly to take part of the department of natural resources.[144] On the other hand, he had little patience with requests for surveys not for actual settlers. In one case 10 or 15 settlers desired to locate in T.[illegible], R.[illegible]. He replied, "you are informed that I am not authorized under existing regulations, to make surveys for the accommodation of prospective settlers. However you and your friends locate actual settlers upon the township mentioned, the surveys desired can be made."[145] Again, he received a request for the survey of several townships which stated that none of the settlers were located on the tract and that several settlements had been made within the township. "Until information is not sufficient," he stated, "as I am required to know the actual number of settlers that would be accommodated by such township survey."[146]

He was not so careful, however, to survey only areas actually settled in nature (Map 4-5). Lumbermen had surveyed large quantities of northern land and certainly that land had been settled. Julian and his supervisors in Washington, on the other hand, recognized some promising land as being within the agricultural domain even though the land actually showed no settlers.

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[144] Julian to [illegible], [illegible], [illegible]; Julian to [illegible], [illegible], [illegible]; Julian to [illegible], [illegible], [illegible]; [illegible] to [illegible], [illegible], [illegible]; [illegible] to [illegible], [illegible], [illegible]. Such specific examples are in order to answer to Skinner's vague reference to settlers.

[145] Julian to [illegible], [illegible], [illegible], [illegible] (N.A.).

[146] Julian to [illegible], [illegible], [illegible], [illegible] (N.A.).

Julian attained, to a lesser degree, the same results as Atkinson in the matter of surveying grazing land, but by a more subtle procedure.[147]

The appointment of William A. J. Sparks as Commissioner of the General Land Office, in 1885, set up a storm of controversy with rabid exponents on both sides. He is usually ridiculed for his reform measures. On April 3, 1885, he suspended final action on all land entries. This suspension has generally been given a significance all out of proportion to any real hardship it may have caused actual settlers.[148]

The blanket suspension was modified on December 3 of the same year;[149] nevertheless, suspension of surveys and entries in specified areas were continued for several years. Suspended entries were not new in New Mexico, several having been carried out under Commissioner McFarland;[150] under Sparks they were much greater in numbers and in area covered.

There were two main reasons for the suspension of entries. Filings in areas where fraud was reported or suspected were halted pending the investigation of the suspected cases, and

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[147] In some instances Julian considered grazing land to be within the legal classification for agricultural use, for example, see Julian to S. M. Stockslager, Commissioner of the General Land Office, 7/2/89 (B.L.M.); and Stockslager to Julian, 5/13/89 (N.A.).

[148] Dunham, Government Handout, Chap. X, passim.

[149] L.C.R. 9/17/89, 51 Cong., 1 Sess., H.E.D. No. 1, 5 (2724).

[150] McFarland to Register and Receiver at Las Cruces, 2/28/84 (F.R.C.), an example suspending entries in T.6S, R.12E.

William stated, to a lesser degree, the same result in Atkinson in the matter of surveying grazing land, but by a more subtle procedure.[147]

The appointment of William A. G. Sperry as Commissioner of the General Land Office, in 1885, set up a storm of controversy with rabid exponents on both sides. He is usually credited for his reform measures. On April 7, 1886, he suspended final action on all land entries. This suspension has generally been given a significance all out of proportion to any real hardship it may have caused actual settlers.[148]

The blanket suspension was modified on December 3 of the same year,[149] nevertheless, new entries of surveys and entries in specified areas were continued for several years. Suspended entries were not new in New Mexico, several having been carried out under Commissioner McFarland;[150] in fact, grazing had been much greater in numbers and in area covered.

There were two main reasons for the suspension of entries. Filings in areas where fraud was reported or suspected were halted pending the investigation of the suspected cases, and

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[147] In more instances Julian considered grazing land to be within the legal classification for agricultural use, for example, see Julian to J. K. Stoddard, Commissioner of the General Land Office, 7/2/89 (S.L.M.); and Stoddard to Julian, 5/13/89 (N.A.).

[148] Gates, Government Farming, Chap. 4, passim.

[149] L.O.D. 9/17/86, 3L Dec., I Sess., Ser. No. 2, 6 (2724).

[150] McFarland to Register and Receiver at Las Cruces, 2/28/94 (S.L.C.), on usually aggressive activity in L.O., 1891.

at times entries were stopped until inadequate or fraudulent surveys could be checked. Surveys were suspended because examination revealed them to be faulty or because there was reason to believe that they were not made for the benefit of actual settlers. In a great many instances, requests for surveys were never approved if it was felt that they would benefit other than bona fide settlers.[151]

Edward F. Hobart replaced Julian on September 7, 1889,[152] and served until August 2, 1893.[153] He came into office with the Republican administration of Benjamin Harrison, but did not alter policies greatly from those of his Democratic predecessor. Toward the end of his tenure, Julian had been plagued by the need of a number of resurveys of work that had either been poorly done or in which the monumentation had been destroyed. Hobart faced this same problem.[154] Julian's policy of confining surveys to those for actual settlers was continued just as sincerely by Hobart. Furthermore, he was probably even more careful to survey only strictly agricultural land (Maps 4-5).[155] Likewise continued was the policy of carefully

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[151] A great deal of correspondence between the Commissioner, Surveyor General, and Registers and Receivers, explains these circumstances.

[152] Edward F. Hobart, Surveyor General of New Mexico, to Commissioner of the General Land Office, 9/7/89 (B.L.M.).

[153] Surveyor General Charles F. Easley to Commissioner of the General Land Office, 8/2/93 (F.R.C.).

[154] S.G.R. 7/19/90, in L.C.R. 9/13/90.

[155] Hobart to J. T. McWhirt, Steins Pass., N.M., 12/20/89 (F.R.C.).

at times entries were slipped until inaccurate or fraudulent surveys could be checked. Surveys were accepted before examination revealed that in the final in or because there was cause to believe that they were wanted for the benefit of actual settlers. In a great many instances, requests for surveys were never approved if it was felt that they would result in other than bona fide settlers.[151]

Edward F. Hobart resigned during on September 7, 1905,[152] and served until August 2, 1907.[153] He came into office when the Republican administration of Theodore Roosevelt, not did not alter policies greatly from those of his Democratic predecessor. Toward the end of his tenure, Miller had been plagued by the need of a number of resurveys of work that had either been poorly done or in which the monumental lines had been destroyed. Hobart faced this same problem.[154] Miller's policy of confirming surveys in those for actual settlers was continued just as diligently by Hobart. Furthermore, he was prepared even more several to survey only a fifth of California land (Maps 4-5).[155] Likewise contributed was the policy of originally

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[151] A great deal of correspondence between the Commissioner, Surveyor General, and Registers and Receivers, affirms these circumstances.

[152] Edward F. Hobart, Surveyor General of Two Rivers, to Commissioner of the General Land Office, 8/7/05 (L.R.G.).

[153] Surveyor General Charles F. Lady to Commissioner of the General Land Office, 8/2/07 (L.R.G.).

[154] L.R.G. 7/25/00, in L.R.G. 9/13/00.

[155] Hobart to A. L. Mohrhart, Stella Tass., 8/2/07 (L.R.G.).

examining all surveying returns and work in the field.[156] It evident that the extremely loose practices of the early 1880's were at an end.

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[156] Lewis A. Groff, Commissioner of the General Land Office, to Hobart, 2/11/90 (N.A.).

CHAPTER IV

THE DONATION ACT OF 1854

Secretary of the Interior Jacob Thompson, in his annual report for 1858, pointed out that Congress from time to time had made large grants of land to several States on the theory that such land would be developed by the States and thus make the Federal land more valuable; however, "With but few exceptions, grants [had] never been made to individuals except as remuneration for meritorious services, or for the public benefit."[1]

In earlier legislation, title to limited quantities of land had been vested in individuals from former French, Spanish, and British areas who claimed the land by virtue of settlement or possession prior to certain dates. This was considered a measure of justice rather than a donation of land. The policy was changed when,

> In Florida, however, and in the Territories of Oregon, Washington, and New Mexico, not only was provision made for the allowance of the claims of settlers, who were then upon the public lands, without the payment of a consideration, but donation grants were offered to persons who should emigrate and settle within specified periods of time. Such donations though inuring to individuals, were made as a means of public defence, and were believed to be well calculated to promote the military strength of distant settlements exposed to the hostile attacks and predatory visits of Indian tribes... ."[2]

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[1] S.I.R. 12/2/58, 35 Cong., 2 Sess., H.E.D. No. 2, 73 (997).

[2] Ibid.

The legislation allowing for donations in New Mexico was contained in the second, third, and fourth sections of the act establishing the office of Surveyor General of New Mexico. By the provisions of these sections, 160 acres of land was granted to every white male citizen of the United States over twenty-one years of age, or to such person who had declared his intention of becoming a citizen, who was residing in the Territory prior to January 1, 1853, and who was resident there at the time the act was passed on July 22, 1854. These conditions were also to apply to persons moving into the Territory between January 1, 1853, and January 1, 1858. Initially, donation claims were filed with the Surveyor General. The most important qualification for securing a donation was continuous residence and cultivation for a period of not less than four years. In addition, the claim was required to be located on surveyed land and, in case of settlement prior to survey, the land had to be selected by legal subdivisions within three months after the survey. If settlement was made after the survey, the condition of selection had to be made not later than three months after settlement.

In the case of persons living in the Territory prior to January 1, 1853, the four years continued settlement and cultivation counted from the date of settlement and might therefore have been completed before the passage of the law. In that case, upon proper application and proof, the person was entitled to a certificate as soon as the land was surveyed. For persons moving into New Mexico after that date, the

The legislation allowing the entryman to commute the contained in the report, which, was found guilty of the act establishing the office of Surveyor General of Dakota, by the provisions of these acts, 160 acres of land was granted to every white male citizen of the United States over twenty-one years of age, or to such persons who had declared his intention of becoming a citizen, who was residing in the Territory prior to January 1, 1873, and who was residing there at the time the act was passed on July 4, 1862. Other qualifications were also to apply to persons entering land as homesteaders between January 1, 1873, and January 1, 1876. Commutation claims were filed with the [illegible] important qualification for securing a commutation was continuous residence and cultivation for a period of not less than four years. In addition, the claim was subjected to be contested on surveyed land and, in case of contest, proof to show that the land had to be cultivated or land improvements made three months after the survey. If such proof was made after the survey, the commutation selection had to be made not less than three months after contest.

In the case of persons living on the land prior to January 1, 1873, the four years continued until four years cultivation counted from the date of settlement and actual residence have been completed before the passage of the act. In that case, upon proper application and proof, the homestead was entitled to a certificate as soon as the land was surveyed. For persons having lived on the [illegible]

four-year period started with the date of actual settlement and cultivation. In either case, upon a death prior to the elapse of the four-year period, the right in question descended to the heirs.

Claimants of Mexican or Spanish land grants were not allowed to file for a donation claim. Likewise holders of donations were excluded from pre-emptions or homesteads, on the grounds that both classes required actual settlement and cultivation and one person could not fulfill these requirements on two claims. A donation claimant could, however, relinquish his claim and file the same land under the Homestead or Pre-emption Laws.[3]

The first application for a donation claim that fulfilled all the requirements stipulated by law, and thus resulted in a notification, was made by Pinckney R. Tulley on December 22, 1858. This was for 160 acres in Section 34, T.18S, R.4W, in present Doña Ana County. Along with a number of others, it was abandoned and finally forfeited on August 8, 1870, when the land was proclaimed for sale. The first donation certificate was issued to James T. Johnson on July 18, 1870, for 160 acres of land in Section 6, T.18N, R.20E,[4] near the south

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[3]Stat. L., Vol. X, 308-310; McFarland to Register and Receiver, Mesilla, 1/23/83 (F.R.C.). See Appendix I for the text of this act, also instructions to the Surveyor General regarding donations in Appendix III.

[4]Registers and Receivers, Abstract of Donation Notifications, (F.R.C. and N.A.). S.G.R. 9/30/56, 34 Cong., 3 Sess., H.E.D. No. 5, 523-524 (875), and S.G.R. 9/30/57, 35 Cong., 2 Sess., H.E.D. No. 11, 260 (919), record 80 applications through September 10, 1857. Six of these are marked as entitled to patent, but merely on the basis of length of settlement,

four-year period starting with the date of actual settlement and cultivation. In attempting to comply with the requirements of the four-year period, the rights to quarter sections [illegible] to the heirs.

Claimants of land on [illegible] land [illegible] allowed to file for a [illegible] claim. [illegible] donations were excluded from [illegible] grounds that both classes required actual settlement and cultivation and one person could not fulfill those requirements for two claims. A donation claimant could, however, [illegible] his claim and file the same land [illegible] homestead [illegible] emption laws.[7]

The first application for a donation claim [illegible] all the requirements stipulated by law, and then received notification, was made by Pinkney E. Duffy on January 28, 1858. This was for 160 acres in section 34, [illegible] present Doña Ana County. Although a number of claims [illegible] was abandoned and finally forfeited, on August 8, 1877, [illegible] the land was proved up on and [illegible] Isaac Ellis was issued a certificate on [illegible] acres of land in section 6, T. [illegible] N., R. [illegible] W.

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[7] Stat. L., Vol. [illegible], 309-310; Instructions to Registers and Receivers, Public L. 1/29/05 (R.S.C.), [illegible] the [illegible] text of this act, also in instructions to the surveyor General regarding donations in Appendix III.

[8] Registers and Receivers, Estimates of Donation Claimants, (R.S.C. [illegible]), [illegible] Donations, [illegible] R.L.D. No. 3, 320-324 (1877), [illegible] Donations, [illegible] R.L.D. No. 11, 320 (1878), Records of Final Certificates through September 30, 1879. [illegible] tled to patent, but really [illegible]

boundary of Mora County.

Actually there were a number of applications for donation claims prior to Tulley's notification. No less than thirteen were made in 1855, the first year that the surveyor general's office was opened. These could not be accepted because the claimants did not actually live on the land they claimed. They lived in settlements away from the land they cultivated for the mutual protection of their lives and property from attacks by Indians. This situation prompted Surveyor General Pelham to recommend that the law be so amended that they could continue this practice.[5]

Another difficulty confronting donation claimants was the requirement that the land be surveyed. Most of the land in the vicinity of the settlements had already been reduced to private property. If settlers removed to a distance from the settlements, there was constant disputes concerning boundaries which were difficult to settle when the land was surveyed. Taking this into consideration, Pelham requested that the law

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no mention being made of other qualifications. The Abstract of Donation Notifications starts with #1, indicating that the previous 80 applications were not eligible for notification.

Benjamin Hibbard, A History of the Public Land Policies, 354, gives the acreage of donations as 20,105. He does not state the source of his information but it undoubtedly was the Public Lands Commission, Final Report, 1881, 297. This figure is through June 30, 1880, only. The final figure for donation certificates was 51,989 acres (338 entries) through the final entry in 1884. There were also 73,298 acres (465 entries) in donation notifications through the final entry in 1882.

[5] S.G.R. 9/30/55, 34 Cong., 1 Sess., H.E.D. No. 1, 302-303 (840).

boundary of Nora County.

Actually there were a number of applications for homestead claims prior to Tuttle's notification. No large scale settlements were made in 1885, the first year that the surveyor general's office was opened. Most could not be accurately described as claimants did not actually live on the land they claimed. They lived in settlements away from the land they cultivated for the mutual protection of their lives and property from attacks by Indians. This situation prompted numerous petitions to recommend that the law be so modified that they could continue this practice.[5]

Another difficulty confronting potential claimants was the requirement that the land be surveyed. Most of the land in the vicinity of the settlements had already been declared by private property. If settlers resorted to a Mexican form of settlement, there was constant danger of government officials who were difficult to satisfy when the land was surveyed. Taking this into consideration, Tuttle recommended that the law

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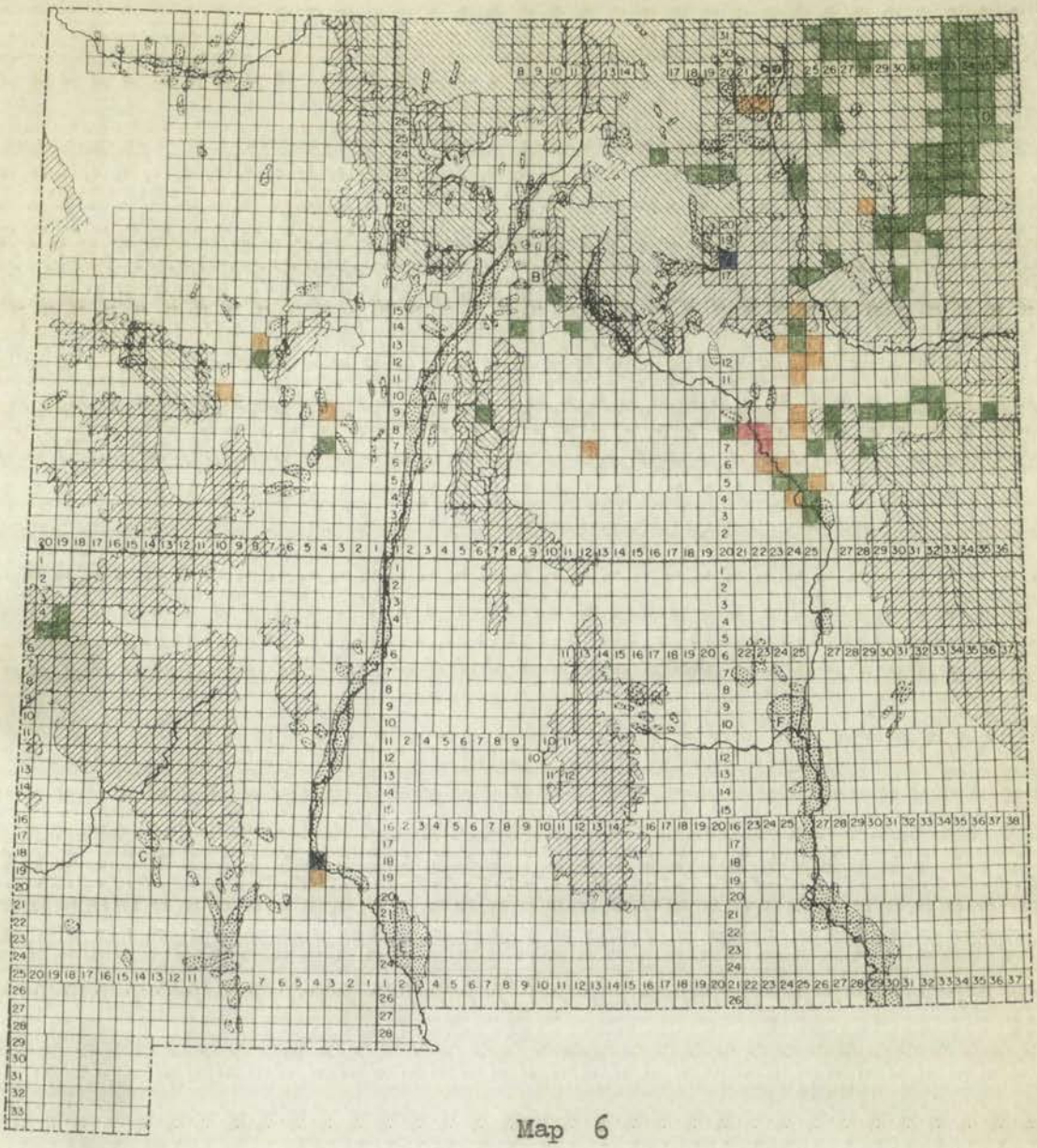
no mention being made of other qualifications. The Bureau of Donation Entitlements, where with 3, Washington, that 8 previous 80 applications were tentatively for verification.

Benjamin Hibbard, a director of the United States Land Office, 354, gives the acreage of donations as 20,700. He does not state the source of this information but it is important, the Public Lands Commission, Final Report, 1888, p. 1. Hibbard is through June 30, 1890, only. The final [illegible] certificates was 31,089 acres (353 entries) [illegible] entry in 1889. There were [illegible] (639 entries) in donation entitlements through the final entry in 1890.

[5] S.E.D., 2/30/55, 34 Cong., 1 Sess., Serial [illegible], 302-303 (1860).



Map 6

Townships With

DONATION NOTIFICATIONS

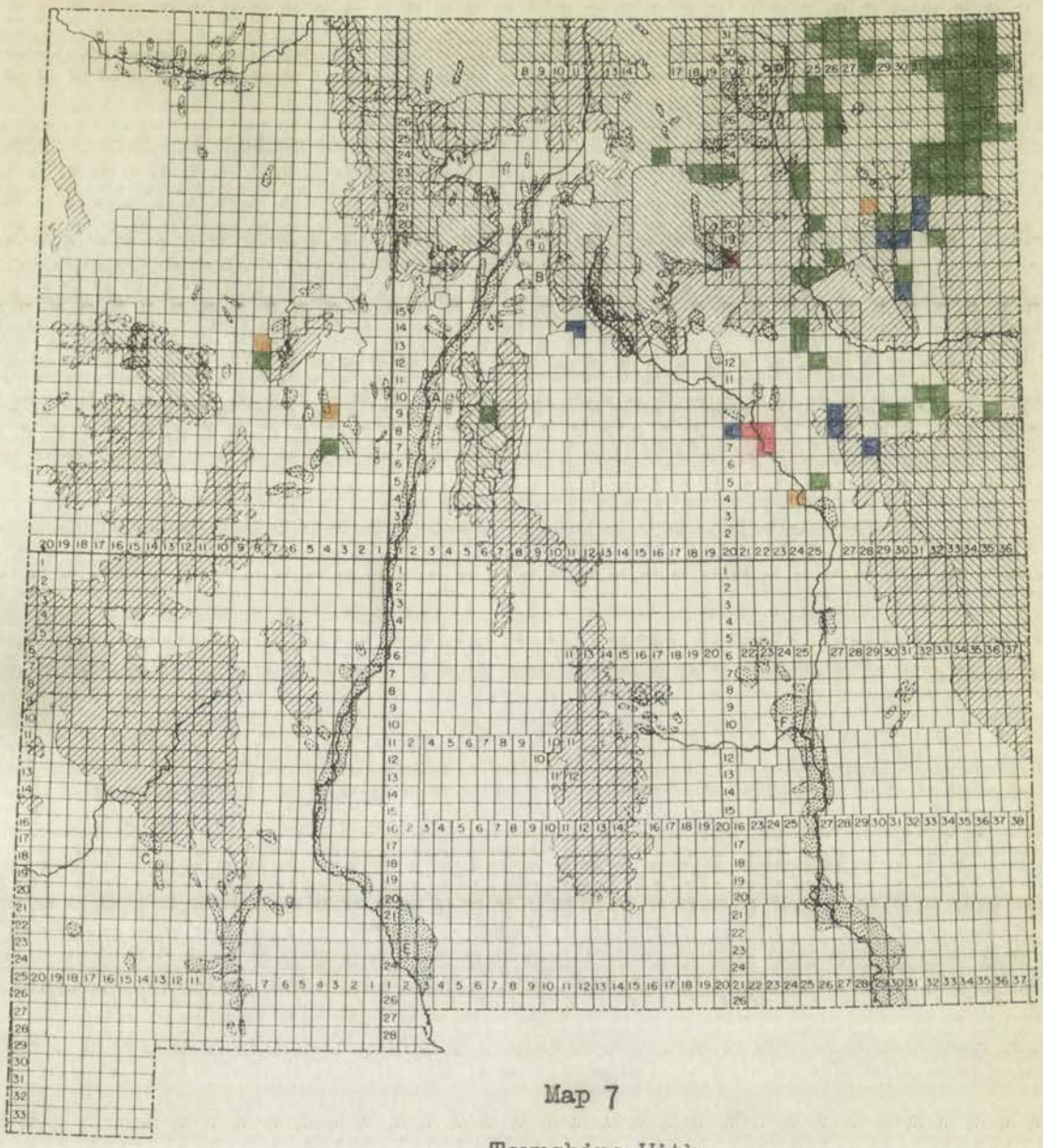
1858-1861

1862-1866

1867-1871

1872-1876

1877-1882



Map 7

Townships With

DONATION CERTIFICATES

1870-1871 1877-1881

1872-1876 1882-1884

be so modified that these areas could be surveyed independent of the regular progress of surveys.[6] Neither of these solicitations was granted.

A third problem was that donation claims located on private land claims could not be honored due to the extreme slowness with which title to private claims was settled. When making application for a donation, no one could be certain that he was not locating on a private claim.[7]

The Surveyor General's office was relieved from handling donation claims when, on November 8, 1860, that office was ordered to transfer all necessary records to the office of the Register and Receiver.[8] The latter office had already received an application for a donation claim the previous month and obviously did not know what to do with it. The Register informed the applicant that an Act of Congress of 1857 or 1858 forbade him to accept any more donation applications in his office.[9] At the time they were being accepted by the Surveyor General, whose office was also in Santa Fe. It is possible that the Register had heard of Surveyor General Pelham's

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[6] S.G.R. 9/30/57, 35 Cong., 1 Sess., H.E.D. No. 11, 256 (919).

[7] Ibid.

[8] Joseph S. Wilson to Wilbar, 11/8/60 (N.A.). The authority for this transfer was the Act of May 24, 1858, creating the land office at Santa Fe.

[9] Q. P. Richardson, Register at Santa Fe, to Messrs. Massie and Collins, Las Cruces, N.M., 10/17/60 (F.R.C.). It is also possible that he was confused by the law requiring that donation applicants must be residents of the Territory by January 1, 1858.

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[6] G.L.R. 9/20/37, 35 Cong., 1 Sess., H.Rept. No. 2[illegible], 550 (929).

[7] Ibid.

[8] Joseph S. Wilson to William H. [illegible], 11/8/[illegible]. The authority for this transfer was the Act of May 2[illegible], 1880, creating the land office at Yuma.

[9] E. Richardson, Register of Yuma, to [illegible], Marcio and Dolida, Los Angeles, [illegible] 10/17/[illegible]. It is also possible that no was confused by the fact that donation applicants must be residents of the [illegible] by January 1, 1[illegible].

decision in 1858 not to accept any more such claims on unsurveyed land[10] and was confused in the matter. At any rate, it would have been easy to ascertain the facts from his neighboring office.

In 1862, as a result of the Civil War, an oath of allegiance was required by all persons making donation or preemption claims. It was felt that national resources should not be squandered on persons disloyal to the Union. This oath to support the Constitution of the United States could be administered by a register or receiver or by a surveyor general.[11]

As early as 1858, Secretary of the Interior Jacob Thompson had urged that the Donation Act be discontinued. It had been initiated as a means of public defense, but proved falacious as a measure of public policy. The length of residence required, and other conditions imposed on claimants, caused complications in settling the titles of the donations themselves as well as trouble and delay in settling titles to

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[10] S.C.R. 9/15/58, 35 Cong., 2 Sess., H.E.D. No. 2, 299 (997). The law did not allow claims on unsurveyed land, but Pelham evidently accepted claims to hold until the land was surveyed. He discontinued the practice because they did not fit legal subdivisions after the land was surveyed.

[11] Commissioner of the General Land Office, Circular Regarding Loyalty Oath, January 6, 1862. To Registers, Receivers and Surveyors General.

adjacent lands.[12] Surveyor General Pelham had earlier reported these troubles to exist.[13]

It also became a potent instrument for fraud. Celso Baca received donation certificate No. 4, in 1870, and made a homestead entry in 1876. It was against the law to acquire a homestead in addition to a donation. Even then Baca was not content and in 1881 his name appeared on another entry. Related to Baca's activities was the donation entry and homestead entry of Marcelino Moya. The first was in 1870 and the second in 1876. Neither of these was proved up. In May of 1881 he made another homestead entry and made final proof in June of that year. In December of the same year, his name was on still another entry. Strangely enough, Moya was an invalid who hadn't been out of bed for several years and who lived in the house of Celso Baca![14] There is no doubt that Moya was a tool of Baca, who possessed the lands thus entered.

At the same time witnesses swore that the applicant had lived on the land since before January 1, 1858. In the same statement they mentioned that they had known the applicant for six or seven years only. In other cases different signatures

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[12] S.I.R. 12/2/58, 35 Cong., 2 Sess., H.E.D. No. 2, 73-74 (997).

[13] S.G.R. 9/15/58, 35 Cong., 2 Sess., H.E.D. No. 2, 299 (997).

[14] Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 19 (letter from Elias Brevoort, Receiver of the Land Office at Santa Fe, to Commissioner McFarland, December 5, 1881).

adjacent lands.[12] Surveyor General [illegible] notified regarding these troubles to [illegible].[13]

It also became a potent instrument for fraud. Many [illegible] received domestic certificates [illegible], in 1870, and [illegible] stand entry in 1876. It was [illegible] the [illegible] homestead in addition to a [illegible]. [illegible] contest and in 1881 his [illegible] on another entry. Related to Bace's activities was the location entry and [illegible] stand entry of [illegible]. The first was in 1876 and the second in 1876. [illegible] [illegible]. In [illegible] 1881 he made another [illegible] [illegible] June of that year. In December of the same year, [illegible] on still another entry. Strangely enough, this was an [illegible] who hadn't been out of [illegible] for [illegible] and who lived in the house of [illegible]. There is no [illegible] [illegible] tool of Bace, who [illegible] the [illegible].

At the same time [illegible] lived on the land [illegible] before [illegible]. In the same statement they mentioned that they had [illegible] for six or seven years [illegible]. In other cases [illegible]

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[12] [illegible] 12/2/[illegible], [illegible] (1877).

[13] [illegible] 9/15/[illegible], [illegible] (1877).

[14] Secretary of the Interior, [illegible] Claims to Land in New [illegible], [illegible] No. 100, 19 (Letter from [illegible] Bureau, [illegible] Office at Santa Fe, to Commissioner [illegible], [illegible] 1881).

appeared in the same handwriting. Many signatures were written near the bottom of the sheet, indicating that the proof had been filled in afterward.[15]

On August 21, 1880, John Gwyn made donation entry No. 164, in T.14N, R.8E, southwest of Santa Fe, representing the date of settlement as June 10, 1879. The land involved was marked on the plats in the land office as mineral land; moreover, it was well known that Gwyn had been for years past, and was at the time, a resident of Santa Fe. He was also a large owner in land grants. About this time Gwyn's brother, Thomas, who was in charge of the register's office, filed a pre-emption declaratory statement on land that was also mineral. He likewise had never resided upon the land filed on.[16]

In 1884, Land Inspector Frank D. Hobbs ventured the opinion that not over two per cent of the 457 donation applications on file were valid claims.[17] Of 332 land claims investigated by Special Agent H. H. Eddy in 1883, only that of Juan Martinez, T.19N, R.30E, was a donation. On it were some crumbling walls of an adobe building that had never been roofed and had long been abandoned.[18]

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[15] Ibid., 23.

[16] Ibid. "Gwyn" is here spelled "Guyn" but is spelled "Gwyn" in the Register's Abstracts for Santa Fe and the latter is no doubt correct. In 1871-72, John Gwyn purchased 1,913.60 acres of land at private entry, and with Robert B. Willison, another 938.23 acres during the same period.

[17] Ibid., 349.

[18] Ibid., 53.

appeared in the more peculiar ones. Many signatures were seen near the bottom of the sheet, indicating that the group had been filled in sequence.[15]

On August 21, 1896, with one final correction entry, No. 1,64 in T.1496, H.65, matching entry No. 1,63, recording the date of settlement as June 19, 1896. The land patent was issued on the plats in the land office as [illegible] [illegible] was well known that there had been a [illegible] at the time, a reflection of [illegible] in land grants. [illegible] was in charge of [illegible] secretary [illegible] Illinois had never resulted [illegible] [illegible]

In 1884, land investigator [illegible] [illegible] ion that not over two per cent of the [illegible] on file were valid [illegible] by Special Agent [illegible] in 1885, only one of [illegible] Martinez, T.1[illegible], H.3[illegible], was a [illegible] filing walls of an [illegible] and had long been abandoned.[16]

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[15] Ibid., 23.

[16] Ibid. "Hope" is here a [illegible] "Owen" in the Register's [illegible] is no doubt correct. In [illegible] acres of land at [illegible] another 232.27 acres [illegible]

[17] Ibid., 24.

[18] Ibid., 25.

In examining Registers and Receivers monthly abstracts of donation notifications and certificates, certain entries stand out when they appear in the same township on the same date. This could happen occasionally by chance, but when they appear in this manner regularly it prompts the question, did all the neighbors ride to town the same day to file on donation claims? It is more probable that the entries were made in the interest of someone bent on acquiring more land in the township than was legal.[19]

In 1880-81, when the cattle industry was starting its boom,[20] there was a sudden increase in donation entries. In 1880 there were 172 donation notifications and 162 donation certificates. Each group was more than in all the previous years combined (Appendix VII). It was required by law that any settler to avail himself of a donation, must have commenced his residence, settlement, and cultivation, in New Mexico not later than January 1, 1858. The question naturally

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[19]Registers and Receivers, Abstracts of Donation Notifications and Certificates, (N.A.).

Typical examples are the following Donation Notifications in the Santa Fe Land District:

Inclusive No. of Notification	Township and Range	Date
252-265	23 & 24 N - 32 & 33 E	July 31, 1880
344-351	18 N - 26 E	June 8, 1881
374-381	11 & 12 N - 24 E	August 18, 1881
390-398	24 N - 16 E	October 3, 1881
406-414	23 N - 18, 19 & 20 E	October 27, 1881
425-431	17 N - 24 E	November 7, 1881

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[20]Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900. Summary, Ms.

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[20] Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900, Summary, 1-6.

arises why were there suddenly so many qualified donation entrants? True, the law did not stipulate when they were to file, but why had they waited 22 years after the final date that residence could be established? The answer is that they were not bona fide entrants. In 1882, Secretary of the Interior Teller affirmed that

> it was the intent of Congress, in the passage of the New Mexico donation act, that all selections should be made under the act, and settlement and cultivation be commenced by the 1st day of January, 1858, that being the limit of the time within which the necessary residence could be acquired.[21]

As a result in 1883, there was not a single donation notification or certificate. A lone certificate in 1884 closed the books on this class of land entry in New Mexico.

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[21] L.O.R. 9/29/83, 48 Cong., 1 Sess., H.E.D. No. 1, 209 (2190). Decision, November 29, 1882, in the case of Juan Rafael Garcia.

CHAPTER V

THE HOMESTEAD ACT OF 1862

The original Homestead Law was signed by President Lincoln on May 20, 1862, and was followed by a number of amendments. These were, for the most part, in the nature of extensions of its privileges. As originally conceived, the law gave, for a nominal fee, to any settler (man or woman) who was the head of a family, or who was not less than twenty-one years of age, and was a citizen of the United States, or had declared an intention of becoming such, the right to locate upon 160 acres of unoccupied public land, not mineral in character and in the minimum class, subject to entry at a United States land office. To obtain a patent, the settler was required to live upon the land for five years and to cultivate the same. It was furthermore required that final proof be made within two years after the five-year period. This last requirement was not always complied with. It was the clear intention of the law that land was to be a place of residence and a means of livelihood. Full citizenship was required for title. Certain areas such as designated alternate sections of railroad lands were supposedly more valuable and were classified as double minimum. Only 80 acres were allowed to each settler.[1]

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[1] Copp, The American Settler's Guide, Chap. III, gives numerous court rulings that clarify the meaning of the law.

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The Pre-emption Law of 1841 was not repealed with the passage of the Homestead Act and the eighth section of the latter was, in application, a duplication of the pre-emption privilege. This was the so-called commutation clause and could be invoked by a settler to pay for his land after having lived upon the same for a period of six months, and having submitted proof of residence, cultivation and improvements. Upon acceptance of this proof by a United States land office, the land could be bought at the standard rate of $1.25 an acre for minimum land and $2.50 an acre for double minimum land.

A later Act of June 8, 1872, gave special privileges to honorably discharged soldiers or sailors of the United States who were veterans of the Civil War. Their term of service was, by the conditions of this act, deductible from the five years required to prove up a homestead claim. They were still required to make proof of one year's residence and cultivation upon the land of their selection.

Other modifications were made by laws of 1879 and 1880. The principal changes eliminated the double minimum class of land, which made but one class of agricultural lands as regards homestead entries; and allowed the homestead privilege to revert to the date of settlement instead of the date of application.[2]

The Homestead Act with its principle of free land for actual settlers, was the inevitable culmination of national

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[2]Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, Chap. XXVII (1975).

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[1] Public Lands Commission, Final Report, 1903, 57 Cong., 2 Sess., H. R. Doc. 47, Ser. 4415 (1903).

and regional pressures. Tolerance toward squatters, donations to pioneers on the frontier, and modifications of the pre-emption privilege favorable to the settler, all pointed to free land. Generosity, subsidization, natural rights, class struggle, and expediency were co-ordinately parts of the pressure.

The 160 acres allowed was based on the theoretical amount of land required by the head of a family to make a living in a typically fertile farming community. But New Mexico was arid and 160 acres was not nearly enough. Therein lay the great weakness of the Homestead Act. The idea of small farms here was a tenacious eastern dream and wholly untenable. It was forced upon the Territory and to blame the people for resulting pernicious developments would be uncharitable; thus it is realistic to say that it developed into just another way of acquiring large amounts of grazing land.

In opposition to this development was "a deeply seated conviction in the minds of the majority of people in this country that any system which tends towards or even permits the aggregation of very large tracts of valuable land to the ownership of a single person is not only unrepublican, but is essentially unjust."[3] Regardless of the national feeling, large holdings were developed from the public domain in New Mexico.

During the decade of the 80's cattle raising became the great bonanza when newspapers, periodicals, and livestock journals pointed out the large profits to be made in that

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[3]Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, VIII (1923).

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During the decade of the 80's public raising became the great business when newspapers, merchants, and livestock journals pointed out the large profits to be made in that

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[7]Public Lands Commission, Preliminary Report, 1919, 46 Cong., 2 Sess., H.R.2, No. 96, viii (1920).

business. It was said that an investment of five thousand dollars would net the investor a profit of forty or fifty thousand dollars in four years. Within that time a calf worth five dollars could be matured at little cost on the grass of the public domain and sold for forty or fifty dollars. Annual dividends of from twenty-five to forty per cent were not uncommon.[4] The Western Philanthropic Society of New York, in 1879, declared that the cattle raising business was, beyond question, the most profitable in the United States.[6] These glowing reports led to the investment of millions of dollars by eastern interests as well as investors from abroad, especially England and Scotland. Their purpose was to realize the largest possible profit while free range was still available.

Acquiring a stock range was a simple matter in the early days of the industry before the country became crowded with cattle. It was only necessary to secure title to an available water supply to control land for miles around just as surely as though that land was actually owned. In this way the public domain was used without the payment of any tax.[6]

But by the late eighties and early nineties, cattle ranchers began to extend their private holdings. There were several reasons for this. As the ranges became overstocked,

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[4]Clark, The West in American History, 596.

[5]The Western Philanthropic Society of New York, Prospectus, 1879, 2 (N.R.C.I.S.).

[6]G.N.M. 9/6/83, 48 Cong., 1 Sess., H.E.D. No. 1, 556 (2191).

business. It was said that an investment of ten thousand dollars would net the investor a profit of forty or fifty thousand dollars in four years. Within two, this or half of five dollars could be returned at little cost on the [illegible] the public domain and sold for forty or fifty dollars. Among dividends of from twenty-five to forty per cent were not unknown.[4] The Western Philanthropic Society of New York, in 1857, declared that the entire railroad business was, beyond question, the most profitable in the United States.[5] These glowing reports led to the investment of millions of dollars by eastern interests as well as investors from abroad, especially England and Scotland. Their purpose was to realize the largest possible profit with a free hand with [illegible]

Acquiring a steel range was a simple matter in the early days of the industry before the country became crowded with cattle. It was only necessary to secure title to a [illegible] water supply to control land for miles around and as nearly as though that land was actually owned. In this way the public domain was used without the expense of any kind.

But by the late eighties and early nineties, cattle ranchers began to extend their private holdings. There were several reasons for this. As the ranges became overstocked,

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[4] Clark, The Day in Montana, 55.

[5] The Western Philanthropic Society was a well-[illegible] Journal, 1857, 2 (N.Y.: [illegible]).

[6] [illegible], 9/6/85, 49 Cong., 1 sess., H.R. Doc. 1, 73 (1885).

not only did the supply of grass dwindle but grazing areas became increasingly hard to control. Surpluses of cattle led to lower prices. Drouths and bad seasons made inroads on the vast herds then in vogue. Many cattlemen found they could raise better beeves more economically through selective breeding and supplementary winter feeding. Then too, land entries were being more widely made by those desiring to farm where it was possible and by persons desiring to get into the cattle raising business. To protect their interests, established ranchers had to secure ownership of land to meet the new competition.[7]

There were a number of ways in which this was done. In New Mexico as elsewhere it was possible for one person to acquire 1,120 acres of land by the legitimate use of the land laws. For instance, a settler could take out a homestead of 160 acres and secure a final certificate by either living on it for five years or commuting it by paying cash in six months. He could then move to a pre-emption claim and acquire another 160 acres with six months residence and the payment of $1.25 per acre. At the same time he could be fulfilling the requirements for a timber-culture claim of 160 acres and a desert land claim of 640 acres, neither of which required residence as a condition of securing title. Any person of requisite age, even though in the same family, could take out an additional desert land entry. In some regions it was possible to

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[7]Clark, The West in American History, 597; Hinkle, Early Days of a Cowboy on the Pecos, 20; G.N.M. 10/10/86, 50 Cong., 2 Sess., H.E.D. No. 1, 844 (2639).

not only did the supply of grass [illegible] but [illegible] became increasingly hard to [illegible]. Cattlemen of [illegible] to lower prices. Drought and bad seasons were [illegible] of the vast herds than in years. Many cattlemen found they could raise better beeves more economically through [illegible] and supplementary [illegible]. Land [illegible] were being more widely made by those [illegible] to farm where it was possible and by persons [illegible] raising business. To protect their interests, [illegible] ranchers had to secure ownership of land [illegible] petition.[7]

There were a number of ways in which [illegible] New Mexico as elsewhere it was possible for [illegible] acquire 1,120 acres of land by [illegible] laws. For instance, a settler could take out a [illegible] 160 acres and secure a final certificate by [illegible] it for five years or commuting it by paying cash [illegible]. He could then move to a [illegible] 160 acres with six adjoining [illegible] per acre. At the same time he could [illegible] for a timber-culture claim of 160 acres [illegible] land claim of 640 acres, neither of which required residence as a condition of securing title. Any person of [illegible] age, even though in the same family, could take out [illegible] tional desert land entry. In arid regions [illegible]

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[7] Clark, The West in American History, [illegible] Days of a Cowboy on [illegible], [illegible] 2 Bess., H.R. No. 1, 387 (1904).

secure another 160 acres by application of the Timber and Stone Act of 1878, but this law did not apply in New Mexico. The Donation Law of 1854 was another means of acquiring land but both a donation and pre-emption or homestead could not be acquired by the same person. The land laws became so complicated that a shrewd businessman had a decided advantage over a settler in acquiring large properties through their use.[8] These possibilities were well known at the time the laws were being most widely used.[9]

Some land was sold at private entry and public auction,[10] but such sales did not bring a quick turn-over of land, which indicates that other available methods were adequate and just as advantageous. These sales were minor in the aggregate.

Far more land benefited applicants by virtue of applications than by securing actual patent under the various conditions of the laws (Appendix VIII). In their original forms, it took from five years (for a homestead) to ten years (for a timber-culture claim) residence and occupation to fulfill the requirements for patent. During this period the applicant was actually protected since proof was not required until submission for patent. Meanwhile, exclusive grazing and watering

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[8]Fred A. Shannon, "The Homestead Act and the Labor Surplus," American Historical Review, 41:646.

[9]John T. Ganoe, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:144. Both the Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, IX (1923), and Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 411 (1975), note this possibility.

[10]See Chapter VI.

secure another 160 acres by compliance of the Timber and Stone Act of 1878, but this time did not apply the Preemption. The Donation Law of 1854 was another matter, providing land but both a donation and preemption of 320 acres could be acquired by the same person. The land laws seemed to complicated that a federal bureaucrat had a definite advantage over a settler in securing large tracts of timber for sale.[8] These possibilities were well known at the time the laws were being worked out.

Some land was sold at public auction and public sales, but such sales did not bring a quick turn-over of land. Data indicates that other avenues were adequate and more advantageous. These sales were a means for speculation.

Far more land benefited speculators by virtue of legislation than by securing actual patents under the various provisions of the laws (Appendix VIII). In fact, speculation took from five years (for a homestead) to ten years (for a timber-and-stone claim) residence and cultivation to fulfill the requirements for patent. During this period the speculator actually protected those areas that required water, timber also for patent. Essentially, speculators practiced a form

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[8]Fred A. Shannon, "The Homestead Act and the Labor Surplus," American Historical Review, 41:637.

[9]John T. Ganoe, "The Desert Land Act in Operation, 1890-1891," Agricultural History, 13:(1)1. Note the remarks of Commissioner, Preliminary Report, 1894 Comp. Ed. Doc. No. 46, II (1893), and Final Report, 1895, Ex. Doc. H.R.2. No. 47, XII (1895), 50-51, 54-55.

[10]See Chapter VI.

rights were available. Conditions in the land office were chaotic and, even without collusion, an application might drag out for many years with no attempt to offer proof. In the meantime the applicant may have made his pile and didn't care whether he secured patent or not.[11]

In amounts in excess of the legal limits of the land laws, public land could be acquired only by purchase from persons who had secured it by compliance with the laws. The only alternative was fraud.

Some of the large holdings of grazing land were procured by purchase from homesteaders or pre-emptors who failed on their claim and sold out to ranchers. There were always a number of misinformed or stubborn settlers who insisted on trying to grow crops where none could be grown.

In the early 80's, ranchers were usually bitter toward settlers because they were changing the old ways of the free range. But as it became evident that private holdings must be developed to meet competition, the wiser of them changed their attitude. Settlers were not then always looked upon with disfavor by the cattlemen who knew that most of them must eventually give up their efforts to be dirt farmers. If these settlers could be encouraged to remain long enough to prove up their claim before leaving, the rancher could buy the land where he could not legally acquire it otherwise. Some settlers had this in mind from the beginning and others

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[11] J. A. Stinson, Ranch Supt., to J. D. Whitney, President of the New Mexico Land and Cattle Company, 12/3/83, Presidents Report, 5/12/84, 11 (W.R.C.I.S.).

rights were available. Conditions in the land office were chaotic and, even without collusion, or outright graft, dragging out for many years with no attempt to offer proof, the seemingly the applicant may have made his claim and didn't care whether he secured patent or not.[11]

In accordance in spanish of the legal fictions of Mexican laws, public land could be acquired only by petitions from persons who had secured it or occupied it in the past. The only alternative was fraud.

Some of the large holdings of grazing land were secured by purchase from homesteaders or persons who filed on their claim and sold out to speculators. Therefore always a number of plaintiffs or absentee settlers were interested in trying to grow crops where none could be grown.

In the early 20's, homesteaders were generally the best settlers because they were changing the old type of the range. But as it became evident that private holdings must be developed to meet competition, the nature of the homestead attitude. Settlers were not the always looks upon with disfavor by the cattlemen who saw the best of the must eventually give up their efforts to [illegible]. These settlers could be encouraged to remain longer where to prove up their claim before leaving, the land or could buy the land where he could not legally acquire it otherwise. Some settlers had claim in that from the beginning and others

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11. A. Stinson, Trans. Cont., to [illegible], Speaking of the New Mexico land and cattle [illegible], Report, 3/12/29, 11 (N.A.R.G.).

were rapidly educated by crop failures. This education was painful and most were inclined to move away and let their land go back to the Government. If ranchers could encourage them to stay long enough to procure title, both would benefit: the rancher by acquiring the land, and the settler by some remuneration for his patience and effort in acquiring title to it.

An example of this encouragement was by the Blanchard Brothers west of Roswell. They allowed settlers to haul water from the Blanchard wells, and even invited the settlers' children to attend their own private school. William C. McDonald, later first Governor of the State, adopted similar practices as did the MacGillivray Brothers 50 miles southeast of Estancia.[12] Frederic Gerhardt, an early pioneer near Fort Sumner told newcomers that they could not possibly make a living on a quarter-section of land. Most would not believe him and settled where not even a well was available. Gerhardt provided these people with water until he didn't have enough for himself.[13]

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[12]Personal Interview, Land Office Personnel, December 22, 1954. The first homestead application was made by Henry B. Porter on August 7, 1868. This entry was located in Section 30 of T.20S, R.10W, and was for 160 acres. He pre-empted and paid for his claim on January 21, 1871, becoming the first person in the Territory to own land by virtue of the Homestead Act of 1862. The first five-year homestead that was proved up was made by Lawrence G. Murphy in Sections 32 and 33 of T.10S, R.17E. The certificate for this quarter-section was dated March 3, 1873.

[13]Lillie Gerhardt Anderson, "A New Mexico Pioneer of the 1880's," New Mexico Historical Review, 29:254.

were rapidly adopted by every [illegible]. The [illegible] was painful and most were forced to move every [illegible] land go back to the Government. If members could [illegible] them to stay long enough to prove their [illegible], [illegible] the number by acquiring the land, and the settler [illegible] remuneration for his exertions and effort in [illegible] to it.

An example of this [illegible] was in the [illegible] Brothers west of Roswell. They allowed surveyors to [illegible] water from the Hondo valley, and even invited the settlers [illegible] down to attend their own private auction. [illegible] Later First Governor of the State, [illegible] as did the Mesquitewy Brothers [illegible] Salomon.[12] Frederic Gerhardt, in early [illegible] manner told newcomers that [illegible] ing on a quarter-section of land [illegible] and settled where not even a [illegible] provided these people with water [illegible] for himself.[13]

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[12] Personal Interview, [illegible] Gilliam Ranchero, [illegible] 1954. The first homestead [illegible] by [illegible] Porter on August 7, 1889. This entry was [illegible] of 5.209, R.10W, and was for 160 acres. The [illegible] paid for his claim on [illegible] 21, 1894, [illegible] person in the Territory to [illegible] Act of 1862. The first five-year [illegible] was made by [illegible] R.17E. The certificate for this [illegible] March 3, 1872.

[13] Little Gerhardt [illegible], "[illegible] 1880's," New Mexico [illegible] [illegible].

Another reason for encouraging settlers was that they usually brought a certain amount of money with them when they moved here to settle. Some of it came back to them if they proved up a claim and sold out; meanwhile it added to the economy of the Territory.

Some homesteaders were smart enough to acquire a herd of their own and get into the ranching business, as the Stratey family in the vicinity of Ancho near Corona. They had a store at Ancho and eventually acquired probably 10,000 acres of grazing land.[14]

But not all homesteads were entered by legitimate settlers. In the decade of the 1880's the population of New Mexico increased by 33,601.[15] Since only 35 per cent of this increase was engaged in agriculture,[16] only 11,760 can be considered as prospective farmers. At a conservative figure of four persons per family,[17] 2,940 would be eligible to take out a homestead. And yet in these ten years, there were 5,740 original homestead entries. In the same period there were 6,937 pre-emption declarations. These required a residence of

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[14]Personal Interview, Land Office Personnel, December 22, 1954.

[15]G.N.M. 9/15/90, 51 Cong., 2 Sess., H.E.D. No. 1, 595 (2842).

[16]Richard J. Hinton, Irrigation in the United States, Progress Report for 1890, 1891, 51 Cong., 2 Sess., S.E.D. No. 53, 62 (2818), adapted from the Album of Agricultural Statistics, Department of Agriculture, 1889; X Census (Population) 768-769; XI Census (Population) 324-325.

[17]G.N.M. 9/15/90, 51 Cong., 2 Sess., H.E.D. No. 1, 594 (2842).

Another reason for encouraging settlers was that they usually brought a certain amount of money with them when they moved here to settle. Some of it came back to them if they proved up a claim and sold out; much of it added to the economy of the territory.

Some homesteaders were smart enough to capitalize a bit of their own and get into the remaining business, as the Straley family in the vicinity of Anoka found out. They had a store at Anoka and eventually acquired probably 10,000 acres of grazing land.[14]

But not all homesteads were secured by legitimate settlers. In the decade of the 1880's the population of New Mexico increased by 75,693.[15] Since only 35 per cent of this increase was engaged in agriculture,[16] only 11,760 can be considered as prospective farmers. At a conservative figure of four persons per family,[17] 2,940 would be entitled to take out a homestead. And yet in those ten years, there were 5,760 original homestead entries. In the same period there were 6,937 re-emption declarations. These required a residence of

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[14]Personal Interview, Land Office Personnel, December 22, 1954.

[15]U.S.M.C. 9/15/90, 51 cong., 2 sess., H.R.D. No. 1, 595 (2842).

[16]Richard W. Hinton, Irrigation in the United States, Extreme Report for 1890, 1891, 51 cong., 2 sess., Ex. Doc. No. 51, 62 (2848), adapted from the Bulletin of Agricultural Statistics, Department of Agriculture, 1889; X Census (Population) 728-729; XI Census (Population) 324-325.

[17]U.S.M.C. 9/15/90, 51 cong., 2 sess., H.R.D. No. 1, 594 (2842).

five years for a homestead and six months for a pre-emption to acquire title. During the same period there were 1,547 timber-culture, and 1,207 desert land, entries (Appendixes VI and VII); for these no residence was required.

Over-all figures are nearly as startling. In 1890, the population of New Mexico was 153,076 persons (exclusive of tribal Indians), or about 158,000 in 1891.[18] Since only 35 per cent of the population in the Territory was engaged in agriculture,[19] only 55,300 can be further considered. This figure is further reduced by deduction of residents of the more than 5,000 small-holding claims in the Territory[20] who had a settled place of abode from which they almost certainly would not have removed to prove up a homestead. At a conservative figure of four persons per family,[21] their population would be 20,000. In this class were the 8,278 residents of the pueblos who were almost entirely agricultural and were permanently located.[22] Also deducted are the 1,461 soldiers stationed in the Territory at the time. The figure is now 25,561. Using four persons per family there were 6,390 persons eligible to apply for homesteads. But there were 6,784

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[18] Ibid., 595.

[19] Hinton, Irrigation in the United States, Progress Report for 1890, 1891, 51 Cong., 2 Sess., S.E.D. No. 53, 62 (2818), from Album of Agricultural Statistics, 1889; X Census (Population) 768-769; XI Census (Population) 324-325.

[20] G.N.M. 9/15/90, 51 Cong., 2 Sess., H.E.D. No. 1, 590 (2842).

[21] Ibid., 594.

[22] Ibid., 595.

five years for a homestead and six months for a pre-emption to acquire title. During the same period there were 1,[illegible] in mere cultivation, and 1,[illegible] desert land, entries (by equivalent [illegible] VII); for these no residence was required.

Over-all figures are perhaps misleading. In 1900, the population of New Ireland was 120,000 (approximately [illegible] times Indiana), or about 15[illegible] per in 1900. Only 30 per cent of the population in the territory was engaged in agriculture,[19] only 35,300 were in farms or ranches. This figure is further reduced by deduction of the number of the more than 5,000 small-holding colonists in the Territory.[20] So, had a settled place of people here with their accepted patterns would not have sufficed to prove up a homestead. [illegible] conservative figure of four persons per family,[21] the population would be 20,000. In this claim, the 4,[illegible] of the publication was [illegible] of the publication and [illegible] permanently located.[22] The [illegible] were 1,[illegible] established in the territory [illegible]. The figure is now 35,300. Using four persons per family there were [illegible] persons eligible to apply for homesteads. Why there were [illegible]

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[18]Ibid., 595.

[19]Hinton, "Fifty Years in the Union," [illegible] for 1900, 1901, 32 Cong., [illegible] from 10 Am of Internal Revenue, [illegible] tion) 1[illegible] 32 Cong. (Publication) 595-[illegible].

[20]U.S., 6/15/00, 32 Cong., [illegible], 1, 595 (2d Ed).

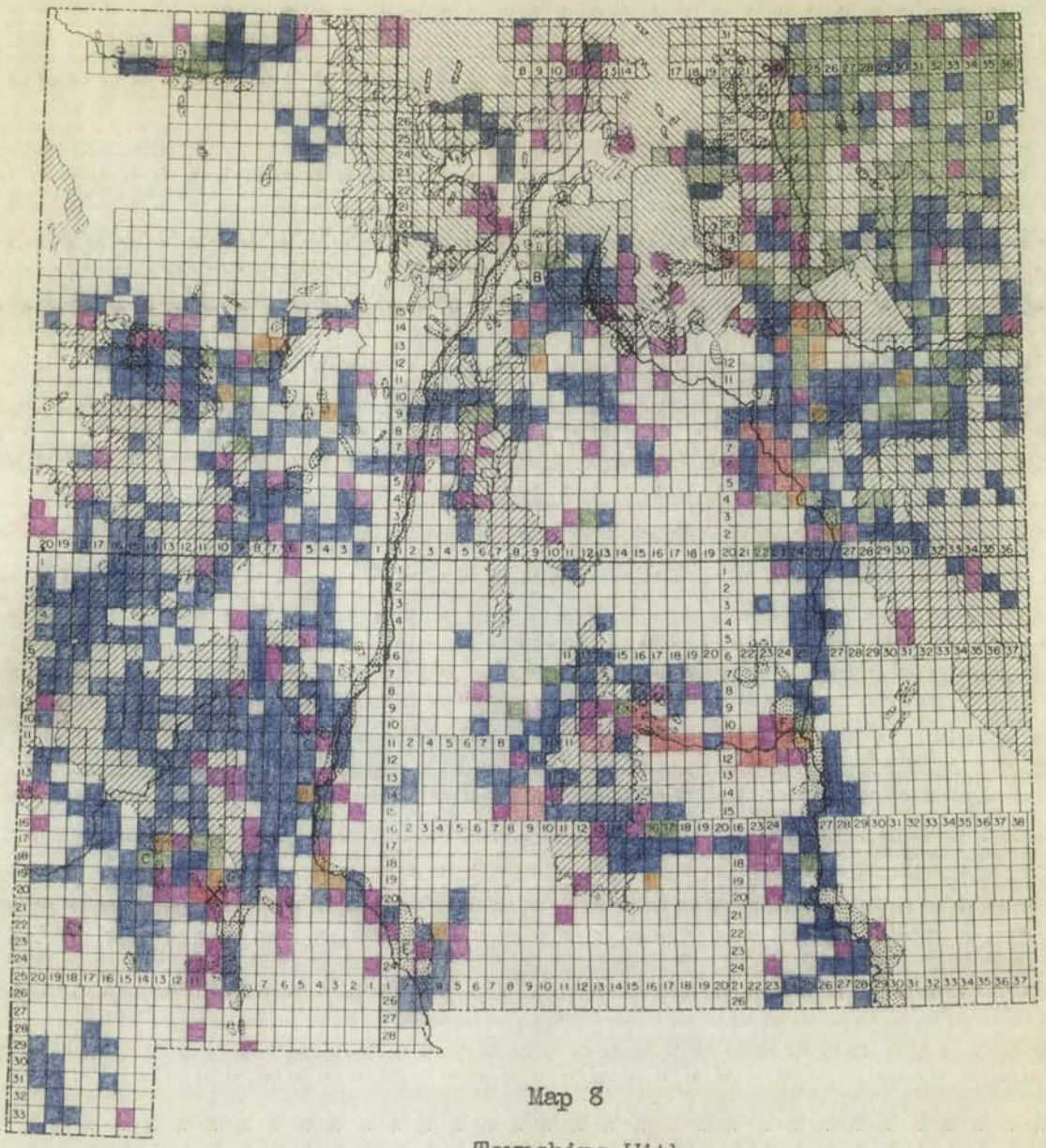
[21]Ibid., 594.

[22]Ibid., 595.

homesteads applied for as well as 463 donations. All eligible persons, to comply with the residence requirements, would have had to leave a former home, move to the new land, build a house, and cultivate the soil. It is absurd to think that this happened. Furthermore, the 6,784 homestead applicants would have had to establish six months residence on 7,657 pre-emptions. Then too, of the 6,784 homesteads entered through 1891, only 3,702 were given final certificates through 1896 (when those entered in 1891 would normally be completed). Also, homesteads could be filed only in legally subdivided townships. The clamor for surveys was constant indicating that many persons desired to make entries where the land was not surveyed. If they were waiting to file on unsurveyed land, it follows that they could not legally have filed on surveyed land.

Of the townships that had original entries by the close of 1891, about 53 per cent were not climatically capable of supporting the growth of crops, so could not have complied with the requirement of cultivation. By the end of 1896, of the townships that had final certificates, about 49 per cent were incapable of supporting crop growth and could not have complied with cultivation requirements (Maps 8-9). It should be borne in mind that much of the area climatically capable of raising crops was not suitable for that purpose because it was mountainous or timbered. The Homestead Law did not apply to timber land.

At the close of 1891 there were about 6 original entries per township and 5 final certificates at the end of 1896.



Map 8

Townships With

ORIGINAL HOMESTEAD ENTRIES

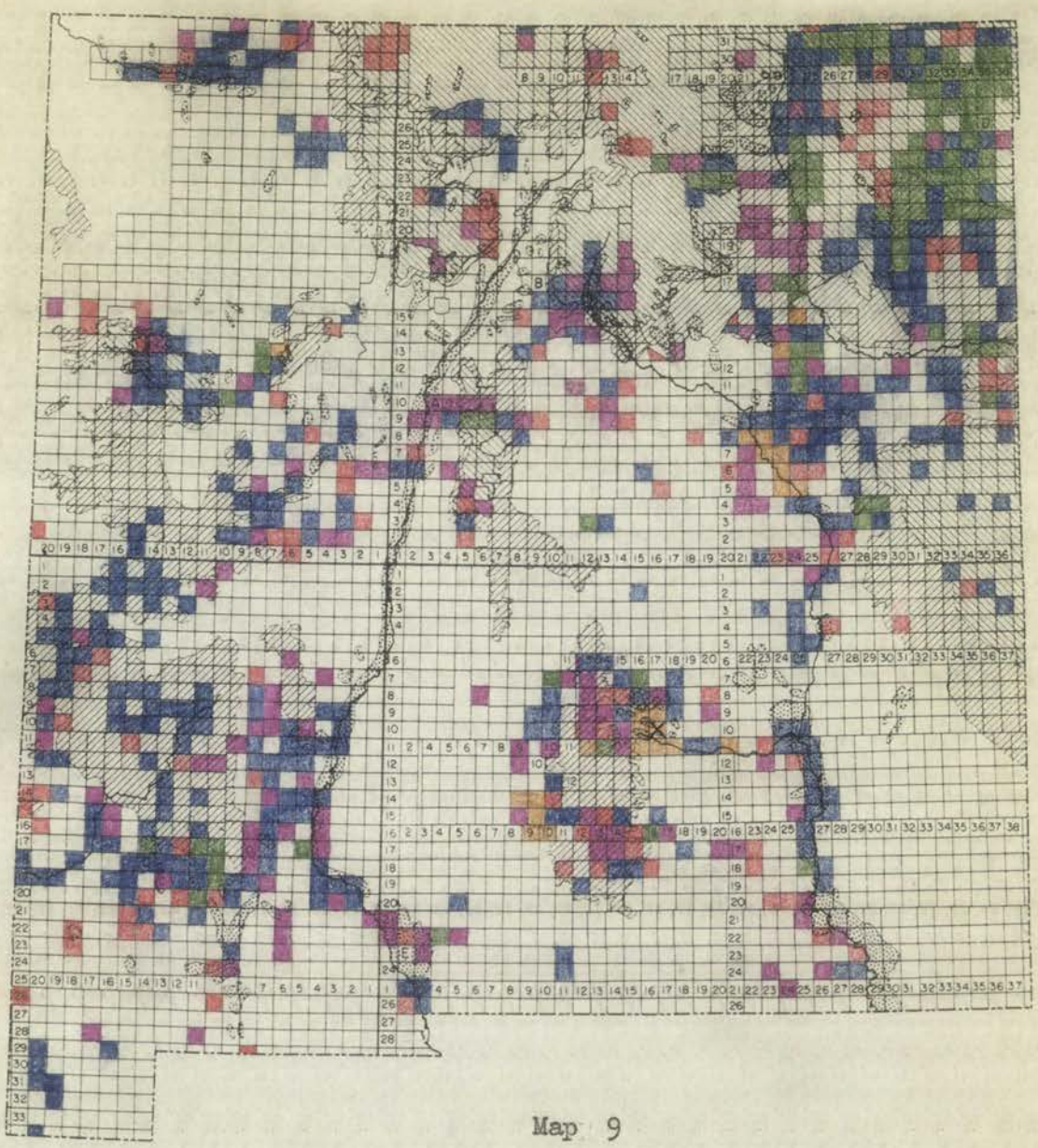
1868-1871

1872-1876

1877-1881

1882-1886

1887-1891



Map 9

Townships With

FINAL HOMESTEAD CERTIFICATES

1873-1876

1877-1881

1882-1886

1887-1891

1892-1896

This is an average. Any township capable of growing crops would have had more than 800 acres homesteaded out of a possible 23,040. Evidently much of the land was acquired to control widely scattered water which dominated grazing land rather than for cultivation, and since there were not nearly enough legitimate settlers for the quantity entered, it follows that it was done illegally.

There was an intense preoccupation with the fraudulent aspects connected with the application of the law; usually the actual or implied expression that the law was good, but -.

> A prudent writer might be expected to approach the subject of any change in the [pre-emption and homestead] laws with diffidence if not with fear.
> That these laws are kind and beneficient, or were intended to be, will not be denied.
> * * *
> As the law now is, men procure title by swearing to a compliance with the laws requiring cultivation. The homestead and pre-emption laws are now educating thousands of men in the crime of perjury.[23]

In the more agrarian sections of the nation, fraud was committed by persons who wished to sell their ill-gotten gains. Fertile crop land was valuable, and speculating in it was frequently lucrative. In New Mexico, however, people wanted land for raising cattle. More particularly, they wanted land to control the sources of water for these cattle. In most cases these waterholes were valuable only for watering stock since they would support little irrigation.

Since control of one waterhole could gain command over thousands of acres of grazing land, it provided a good living

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[23] L.C.R. 11/1/77, 45 Cong., 2 Sess., H.E.D. No. 1, 34-35 (1800).

for a family. Control of several watering places controlled more land and might bring wealth. This became the goal and achievement of some persons. Such was their greed that they knowingly broke the law to acquire whatever might and cunning would avail them.

In the 40-mile square area known as the American Valley, in Catron County, there were just six springs[24] and six claims entered in behalf of the American Valley Cattle Company, covered nearly all the water in the vicinity.[25] Claims were entered by Daniel C. Casey, Thomas J. Wright, John J. Potter, Robert McAntyre, James E. Reynolds, and Hank Andrews, all in 1883. Casey, Wright, Potter and McAntyre were never on the ranch up to this time and Reynolds signed papers in blank. Andrews, a full-blooded Ute Indian, never signed any papers because he had been hanged by a mob the winter before.[26]

Other entries were made but only six went to final proof. One entry was made in the name of Edward McGinty who authorized no one to use his name and didn't even know where he was supposed to have located until Surveyor General Atkinson showed him. He had never been in Santa Fe until after the entry was made. He was also represented as having made commutation proof before Register Max Frost and as having signed

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[24]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 309. The American Valley is in the triangle formed by Salt Lake, Trechado, and Quemado.

[25]Ibid., 326.

[26]Ibid., 327.

for a family. [illegible] more land and might bring [illegible] assistance of some [illegible] somewhat [illegible] would avail them.

In the [illegible] in Denver today, [illegible] claims entered in behalf of the American Mining [illegible] party, covered nearly all the [illegible] were entered by [illegible] Potter, [illegible] all in 1863. [illegible] the trench up to this [illegible] Andrews, a full-blooded [illegible] because he had been a [illegible]

Other [illegible] the entry was made in [illegible] land so one to [illegible] supposed to have located [illegible] showed him. [illegible] entry was made. [illegible] mutation proof before [illegible]

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[24] Secretary of the [illegible] Tilles to [illegible] No. 106, 309. [illegible] by Salt Lake, Tuesday, [illegible]

[25] Ibid., 309.

[26] Ibid., 310.

his name in full when he actually could sign by mark only. Later he was promised a sum of money (which he never received) for signing an affidavit that he had never made a homestead entry.[27]

Richard T. Mitchell's name appeared on another homestead entry. He worked for the American Valley Cattle Company, but swore that he never made the alleged entry which was later commuted to cash. After he discovered the supposed entry, Mitchell went to Atkinson about the matter. The latter told him that if he would give him a quitclaim to the land he (Atkinson) would give him $600. Mitchell agreed to this, since the entry was in his name and he didn't know how else to get back his right to make another entry. They went to the office of T. B. Catron where the papers were made out and he was given $300 in cash and the balance in paper.[28]

D. H. McAllister was the Manager of the American Valley Cattle Company starting in June of 1882. He put in what cattle he had, and it was agreed that W. C. Moore was to furnish money to increase the stock and run the ranch. The profits were to be divided. Soon thereafter Moore informed McAllister that he had formed a partnership with John P. Casey and Surveyor General Atkinson. Atkinson was considered

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[27]Ibid., 325.

[28]Ibid., 325-326. The attorney who made out the papers is here given as "Cobron" but no such party is on record as being an associate of Atkinson while "Catron" was. When Mitchell deeded the land to Atkinson, he had no legal right to make another entry as he was evidently led to believe.

a good man to have because through him they could get possession of land in the American Valley before anyone else got there. Casey secured the range by arranging entries to cover the water in the area.[29]

Casey had been a clerk in the General Land Office in Washington and knew all about land laws while McAllister was entirely ignorant in such matters. As a consequence, he left all such matters up to Casey. He obliged by making out entry papers for McAllister to sign and told him it was useless for him to go to Santa Fe to make entry. McAllister swore that he paid out nothing to enter or commute the entry and that Atkinson or Moore must have paid it.[30]

After it became obvious that fraud was going on, McAllister severed his connection with the company and went to Atkinson with a view to selling his interest. McAllister wanted $3,000 but Atkinson said he already had $24,000 in the business and couldn't afford to pay that much. After consultation with Atkinson's attorney, T. B. Catron, McAllister agreed to accept $1,600 for the stock he had put in and the land that had been entered in his name. A quitclaim deed was given for the land. McAllister was certain that Register Frost was a party to the fraud because he had heard Casey say that it would only take three words from him to put Frost out of office.[31]

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[29] Ibid., 326.

[30] Ibid., 326-327.

[31] Ibid., "Catron" again appears as "Cobron."

a good man to have because, through his [illegible] and [illegible] [illegible] of land in the American Valley, Arizona, [illegible] there. Casey secured the [illegible] by offering [illegible] to [illegible] the water in the area.[29]

Casey had been a [illegible] in Washington and knew [illegible] [illegible] entirely ignorant of [illegible] [illegible] all such matters [illegible]. He [illegible] prepare for [illegible] [illegible] him to go to [illegible] [illegible] be paid out [illegible] Atkinson or [illegible] [illegible].[30]

After it became [illegible] [illegible] severed his [illegible] with a view to [illegible] [illegible] but Atkinson [illegible] [illegible] [illegible] [illegible] [illegible] Atkinson's [illegible] [illegible] $1,000 for the stock [illegible] [illegible] entered in his [illegible] [illegible] Modillator [illegible] [illegible] [illegible] [illegible] three [illegible] [illegible].[31]

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[29] Ibid., 306.

[30] Ibid., 306-307.

[31] Ibid., [illegible]

The American Valley case was by no means isolated. Fraudulent entries were common throughout the Territory and those in Colfax County were among the most prevalent.[32] Special Agent John M. Dunn made some investigations in this area as well as elsewhere in the Territory. When he could find but very little fraud, at a time when other inspectors were finding almost nothing else, the General Land Office became suspicious and sent Inspector Frank D. Hobbs to check the cases already covered by Dunn. Hobbs found many people who believed that Dunn had not acted in the best interests of the Government and that, instead, he had devoted his time to protecting the interests of stockmen who were parties to illegal entries. Dunn spent much of his time at the home of S. W. Dorsey, used Dorsey's horses at will, and enjoyed himself generally. Upon one occasion he inspected fraudulent entries at the Dubuque Cattle Company and was picked up at Dorsey's ranch by a four-horse rig belonging to the Dubuque outfit. A few days later he returned in the same comfortable manner. Inspector Hobbs unearthed convincing evidence that a great deal of land was entered by illegal means and straightway came into the ownership of Mr. Dorsey and other ranchers in the area. One person who swore to affidavits in wholesale lots was a young gentleman named Kit Carson, Jr., who was employed by Dorsey as a cowboy, teamster and general utility man.[33]

The Prairie Cattle Company, owned entirely in Scotland, pre-empted and homesteaded most of present Union County

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[32] Ibid., 315.

[33] Ibid., 312-315.

The American Valley [illegible] was a [illegible] lawlessness. Land-grant surveys were common throughout the land area, as Alvarado County was made the target of [illegible]. Special agent John M. Dunn made some investigations in this area as well as elsewhere in the Territory. Dunn could find but very little fraud, at a time when other inspectors were finding almost nothing else. The General Land Office's Pecos surveyor and east inspector Frank S. Hudson be [illegible] the areas already covered by Dunn. Hudson found many people who believed that Dunn had not acted in the best interests of the government and that, instead, he had devoted his time to protecting the interests of academic [illegible] in illegal entries. Upon [illegible] much of his time at the home of S. M. Dorsey, near Dorsey's Corners at Lilly, and at local [illegible]. Upon one occasion he [illegible] [illegible] at [illegible] Dallie Dempsey and was [illegible] to [illegible] a [illegible] horse rig belonging to the Dempsey outfit. A few days later he returned in the same [illegible] fashion. Inspector Hobbs uncovered convincing evidence that a great deal of land was entered by illegal means and circuitously came into the ownership of Mr. Dorsey and other members in the area. One [illegible] who [illegible] to [illegible] in Nicholas Hobbs was a young gentleman named Bill [illegible], who was employed by Dorsey as a cowboy, teamster and general [illegible].[32]

The Pueblo [illegible] Journal, [illegible] editorial in [illegible] pro-moted the [illegible] of present Union County

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[32] Ibid., [illegible].

[33] Ibid., [illegible].

without making a dollar's worth of improvements. The Palo Blanco and Portsmouth Cattle Companies and J. S. Taylor, E. J. Temple, H. M. Porter, W. E. Corbitt, J. W. Dwyer, and John Delano, all had numerous entries.[34]

> The Dubuque Cattle Company [held] every claim on the Tequiesquite arroyo for a distance of 17 miles through Ts. 17, 18, and 19 N., R. 30 E., as well as a large number of claims on the creek, especially in T. 20 N., R. 30 E., and on the Monia arroyo in T. 19 N., R. 35 E., which [gave] them control of several hundred thousand acres of the public domain, embracing the finest grass lands in New Mexico.[35]

Few if any of the original entrymen complied with the law. For example, José Ma. Martinez transferred seven claims to the Dubuque Cattle Company by quitclaim deeds in an impossibly short length of time.[36]

In 1883 more than 150 Spanish-name settlers along the Rio Pecos sent a petition to the Secretary of the Interior requesting that an investigation be conducted regarding lands there. They were being dispossessed of their homes:

> we have settled on the public land, many of us years ago, when the Indians were bad and when we had to defend our homes with the rifle; ...most of us were ignorant of the homestead laws at the time, but upon the land whereon our homes were situated being surveyed, we sent up our filings to the register at Santa Fé, and they were returned by him with statements that the land upon which we had been living on for ten and twelve years had been taken up by parties which we know have never been on the land. We would also call your attention to the number of entries made by either men who have been dead for years, or non-residents, unknown to us, and have never settled on the public lands along the Pecos or the Salado.

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[34] Ibid., 129, passim.

[35] L.O.R. 9/28/87, 50 Cong., 1 Sess., H.E.D. No. 1, 160 (2541).

[36] Ibid.

without making a dollar's worth of improvements. The Palo Alamo and Portsmouth Cattle companies and C. C. Taylor, C. C. Tomlin, E. E. Porter, E. C. Gorham, C. W. Dwyer, and John Quinn, all had numerous entries.[74]

The Dubuque Cattle Company [had] every claim on the Iowa-Nebraska array for a distance of 17 miles through Ts. 17, 18, and 19 N., R. 30 W., as well as a large number of claims on the crest, especially in T. 20 N., R. 30 W., and on the South array in T. 19 N., R. 30 W., which [gave] them control of several hundred thousand acres of the public domain, extending the Tilden grass lands in New Mexico.[75]

Few if any of the original entrymen complied with the law. For example, John E. Hartman transferred seven claims to the Dubuque Cattle Company by quitclaim deeds in an typically short length of time.[76]

In 1885 more than 150 squatter-cowboys settlers along the Pecos sent a petition to the Secretary of the Interior requesting that an investigation be conducted regarding lands stating, They were being dispossessed of their homes:

> We have settled on the public land, many of us years ago, when the Indians were bad and when we had to defend our homes with the rifle! ...most of us were ignorant of the homestead laws at the time, but upon the land whereon our homes were situated being surveyed, we made up our filings to the register at Santa Fe, and they were returned by him with statements that the land upon which we had been living on for ten and twelve years had been taken up by parties which we know have never been on the land. We would also call your attention to the number of entries made by either men who have been dead for years, or non-residents, unknown to us, and have never settled on the public lands along the Pecos or the Salado.

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[74] Ibid., 127, passim.

[75] I.C.S. 5/29/87, 20 Cong., 1 sess., H.R. No. 1, 100 (2344).

[76] Ibid.

We also beg that you will investigate the claims of homesteads made by one W. H. McBroom in T. 4 N., R. 24 E., in names of fictitious parties.

We know that this McBroom and others have made false statements, and have fraudulently filed and now hold the lands of some of our best settlers, who have been residing on their lands for years, but who cannot get their filings accepted at the Land Office on account of the filings of this said McBroom.

We would also call your honorable attention to the fraudulent filings of one Orcott and one Goodwin on the Lower Pecos.

These parties have hired men in their employ who make it a business to file on land under assumed names and enter them in the land office at Mesilla, thereby preventing citizens of the United States from exercising their legal rights thereon under the provisions of the homestead and pre-emption laws.[37]

In 1882 and 1883, 7,200 acres of public domain in the eastern part of the Territory were taken up by one individual for grazing purposes by homestead and pre-emption claims entered in the name of fictitious persons under conditions that made it impossible for them to be legal. In southern New Mexico the Vermont and Rio Grande Cattle Company acquired 3,000 acres of land by similar methods.[38] In 1885 all southeast New Mexico was devoted exclusively to cattle ranching.[39]

Another case involved 6,500 acres of fraudulent pre-emption and homestead claims. Ninety-one entries, embracing 14,000 acres, were acquired by another cattle company. In San Miguel County 84 entries of 160 acres each were found to have been made in behalf of still another cattle company. In

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[37]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 29.

[38]L.O.R. 10/7/86, 49 Cong., 2 Sess., H.E.D. No. 1, 91-92 (2468).

[39]Hinkle, Early Days of a Cowboy on the Pecos, 3.

the Las Cruces district 56 entries covering 10,500 acres were acquired illegally by a firm of cattlemen. A case in Colfax County involved 7,000 acres and 45 entries. Commissioner Stockslager reported that "While the entries in the above-mentioned [five] cases ... only cover about 52,000 acres, they actually control an immense territory by appropriating all the water in the respective localities. The cattlemen are masters of the country, and they domineer and rule the people in their vicinity in such a way as to make it exceedingly difficult to induce parties to give evidence of the fraudulent transactions."[40]

There is further evidence that homestead entries were made in the interest of parties other than settlers. Often groups of entries were made in a single township on the same day. Preceding and following these groups are completely random entries. Either groups of neighbors filed the same day or the land was filed upon by several persons in the interest of party or parties desiring to consolidate holdings in that area. The latter is more likely.[41]

In 1883, Special Agent Eddy investigated 200 homestead claims, only 65 (32.5%) of which complied with homestead regulations. In determining the legality of these claims, he gave every possible advantage to the claimants. In a number of

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[40] L.O.R. 10/4/88, 50 Cong., 2 Sess., H.E.D. No. 1, 48 (2636). All the cases mentioned did not necessarily come to light in the year of this report, at least one having been mentioned in an earlier report.

[41] Registers and Receivers, Abstracts of Final Homestead

the Los Angeles District Office activities [illegible] were acquired illegally by a [illegible] of [illegible]. [illegible] County involved 7,000 [illegible] and 45 [illegible]. [illegible] stockholder reported that "while the [illegible] mentioned [five] [illegible] over about [illegible] they actually [illegible] in [illegible] all the water in the [illegible] [illegible]. [illegible] are masters of the country, and [illegible] people in their activity is such [illegible] [illegible] difficult to [illegible] [illegible] fraudulent transactions."[40]

There is further evidence that [illegible] were made in the interest of [illegible] [illegible]. [illegible] groups of [illegible] were [illegible] [illegible] day. [illegible] random entries. [illegible] or the land was filed [illegible] [illegible] of party or [illegible] [illegible] area. The latter is [illegible].[41]

In 1885, special agent [illegible] claims, only [illegible] [illegible] lations. In determining the [illegible] every possible advantage to [illegible].

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[40] [illegible] (2656). All the [illegible] Light in the [illegible] mentioned in [illegible].

[41] [illegible]

cases where improvements had been partially or completely destroyed by Indians, he recommended that a patent be issued. In other instances, where affidavits substantiated that settlers had been forced to leave their homes because of danger from Indians, he likewise urged that the settlers receive a patent. This was also his feeling in certain cases where settlers had been forced to vacate because of illness.[42]

The chief factor in non-compliance with the law was the complete absence of any settlement or improvements on the land of any kind whatsoever. In other instances the land had been abandoned for years; the applicant was under legal age; a house had been built by a party other than the applicant; or the resident on the land had never filed a claim and didn't

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Certificates, (N.A.). The following are some examples of this phenomenon:

LAS CRUCES LAND OFFICE FINAL HOMESTEAD CERTIFICATES

Inclusive No. of Certificate	Township and Range	Date
41-52	17, 18 S - 10, 11 W	October 1, 1879
80-88	8, 9 S - 8 W	November 1, 1882
95-108	5 S - 19 W	December 23, 1882
123-129	2 S - 14 W	March 28, 1883
135-140	5 S - 20 W	April 21, 1883
259-267	10 S - 3 W	July 15, 1884

SANTA FE LAND OFFICE FINAL HOMESTEAD CERTIFICATES

226-244	10 N - 30, 31 E	June 15, 1881
250-265	9 N - 29, 30 E	June 25, 1881
327-339	23 N - 18, 19, 20 E	November 4, 1881
395-406	13 N - 36 E	December 30, 1881
484-499	23 N - 19, 20 E	April 10, 1882
668-677	17 N - 29, 30 E	September 11, 1882

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[42]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, passim.

cases where improvements had been installed or severely destroyed by Indians. In recommending such a judgment in other instances, where a liberal construction that there had been forced to leave their homes because of danger from Indians, he likewise urged that the matters presented. This was also his finding in certain cases where there had been forced to vacate because of illness.[4]

The chief factor in non-compliance with the law was the complete absence of any settlement or improvements on the land of any kind whatsoever. In other instances the land was abandoned for years before the contest, the entry men had been built by a party other than the applicant or the resident on the land had never filed a claim [illegible]

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certificates, (U.A.). The [illegible] are a [illegible] of this phenomenon:

LAND OFFICE AT LAKE CITY, FLORIDA (CONTEST CERTIFICATES)

Inclusive No. of certificate	Number of cases	Date
44-52	17, 10 - 10	October 3, 1879
80-88	9, 9 - 8, 9	November 1, 1879
93-108	2 - 19	November 2, 1 [illegible]
123-130	2 - 14	March 29, 1883
139-140	2 - 20	April 21, 1883
259-267	10, 3 - 3	July 12, 1884

SANTA FE LAND OFFICE (CONTEST CERTIFICATES)

226-264	10 M - 30, 31	June 15, 1881
270-285	8 M - 20, 30	June 25, 1881
327-336	23 M - 18, 19, 20	November 1, 1882
385-406	13 M - 36, 1	November 20, 1882
434-467	20 M - 18, 20	April 10, 1883
668-677	17 M - 25, 26	September 11, 1883

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[4] Secretary of the Interior, Decisions Relating to Public Lands, Vol. 10, pp. 1 [illegible]

even know that one had been filed. Frequently settlers in the neighborhood had never heard of the supposed claimant.[43]

Eddy concluded that "An honest investigation would result in the cancellation of hundreds of fraudulent entries, and many thousand acres of land would be thrown open to entry by actual settlers. ...the office should send at least six agents into this Territory without delay... ."[44]

In five cases of commuted homesteads examined by Eddy, not one had any semblance of legality. James G. Reynolds and Daniel H. McAllister filed in T.1N, R.16W. Examination revealed no evidence of occupation at either location. A claim was filed by Daniel C. Casey in T.2N, R.15W. Improvements were made by José Salazar who had abandoned the claim. Casey never lived on the land. Edward McGinty and Richard Mitchell filed claims in the vicinity. Examination revealed that all were made in behalf of cattle interests there.[45] Fraud in commuted homestead cases was typical nationally.

> Commuted homestead entries, as a class, are made immediately after the expiration of six months from the date of original entry or just as soon as the law allows, and are just as invariably conveyed by deed or power of sale mortgage, usually executed on the day of the entry. I think it has seldom or never been reported upon examination that an original settler has been found living on a six months commuted homestead claim. The proportion of fraudulent entries of this kind can be more nearly estimated at the whole number of such entries than in any other manner.[46]

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[43] Ibid.

[44] Ibid., 315.

[45] Ibid., passim. These claims were in the American Valley.

[46] L.O.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 223 (2378).

Only 58 per cent of original homestead entries were patented (Appendix VII). An application provided the use of the land, and for grazing purposes frequently this is all that was desired. It was estimated in 1885 that 40 per cent of five-year homesteads in New Mexico were fraudulent.[47] This is close to the 42 per cent that were not patented, but lower than Eddy's findings of 67.5 per cent in 1883.

The Homestead Law was not suitable for any except limited portions of New Mexico, and it was greatly abused; nevertheless, no essential change was made in the system until the Stock-Raising Homestead Act of 1916. Halfway attempts at compromise had been made with the Enlarged Homestead Act of 1909 and the Three Year Homestead Act of 1912. It was not until the act of 1916 that grazing land was recognized as such, by classification, in a homestead law. Before that the idea of a homestead as a crop-raising farm unit had basically prevailed.

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[47] Ibid.

CHAPTER VI

CASH SALES OF LAND

The question may well be asked why settlers would buy land when free land was available through homesteading? There is no one answer to this question. One obvious answer is that a homesteader could secure additional land, through pre-emption, after completing a homestead entry by a five years residence or commutation to cash in six months. Many settlers did this. The homesteader could also purchase lands that were, from time to time, offered for sale by the Government.

A second reason is more theoretical, but is plausible.

> The enterprise and fondness for change which characterize the frontiersman, too often make him impatient of so long a residence before enjoying the absolute control of his settlement, and an improvident forfeiture of his claim is frequently incurred.
>
> Wherever the pre-emption laws are available as a means of securing homes, the settlers will generally prefer to pay for their lands, and complete their titles at once, rather than wait for years, and then obtain their titles without the payment of any consideration. This is made evident by the fact that Congress has been constrained, from a sense of justice to those who have sought to avail themselves of the benefit of the several donation acts, to pass laws for their relief, substituting payments in cash in lieu of further continued residence.[1]

Another reason is more unpleasant. It was easier for the unscrupulous to find a bogus entryman to stay six months on a

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[1] L.C.R. 12/2/58, 35 Cong., 2 Sess., H.E.D. No. 2, 74 (1858).

pre-emption claim than five years on a homestead, and less difficulty was encountered in concealing the nature of a false pre-emption entry for the shorter time.

The Act of 1854 establishing the Office of Surveyor General of New Mexico (Appendix I) extended the pre-emption privilege to unsurveyed areas, and until the Homestead Acts of 1878 and 1880 gave homesteaders every privilege enjoyed by pre-emptors, a settler protected his rights by pre-empting rather waiting for a survey and homesteading.[2] It should be added, though, that in New Mexico a comparatively small amount of land was disposed of prior to 1880 (Appendixes VI-VII).

Cash sales of land were out of harmony with the homestead principle,[3] and there were repeated and strenuous efforts to have the Pre-emption Law repealed. Advocates of this measure named it the "speculators law" in a disparaging effort to distinguish it from the "settlers law."[4] Many believed that "The policy of disposing of public lands as a means of raising revenue [had] long since been rejected by enlightened views of public economy."[5]

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[2]Roy M. Robbins, Our Landed Heritage: The Public Domain, 1776-1936, 237, is only partially correct in stating that the pre-emption privilege was extended to unsurveyed land in 1862. Earlier statutes of 1853 and 1854 (as well as 1862) extended pre-emption to certain unsurveyed areas, L.C.R. 1868, 97.

[3]Paul Wallace Gates, "The Homestead Law in an Incongruous Land System," American Historical Review, 41:654.

[4]Robbins, Our Landed Heritage, 285.

[5]L.C.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 227 (2378).

pre-emption claim than five years on a homestead, and land difficulty was encountered in reconciling the nature of a cash pre-emption entry for the shorter claim.

The Act of 1894 establishing the office of Surveyor General of New Zealand (Appendix 1) extended the pre-emption privilege to unsurveyed areas, and until the Hospital Lands of 1873 and 1880 were homesteaded no other privileges enjoyed by pre-emptors, a similar monopolistic claim by non-occupying robber waiting for a survey and homestead.[2] It should be added, though, that in New Zealand a conscientious account of land was disposed of prior to 1870 (Appendix 1-1881).

Each mode of land were out of harmony with the immediate principle,[3] and there were repeated and strenuous efforts to have the pre-emption limited. Advocates of this measure used to the "expulsion law" in a disparaging effort to distinguish it from the "settlers law."[4] They believed that "the policy of disposing of public lands on terms of actual residence [had] long since been rejected by enlightened views of public economy."[5]

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[1] Sir K. Douglas, Cyclopedia Handbook for Public Lands, 1776-1908, 27. In only partially correct to assert that the pre-emption privilege was extended to unsurveyed lands in 1876. Earlier statutes of 1853 and 1877 (as well as 1894) extended pre-emption to certain unsurveyed areas, L.G.A. 1858, 27.

[2] Paul Walker Gates, "The Homestead Law in an Incongruous Land System," American Historical Review, 41:(65).

[3] Hobbins, Our Landed Heritage, 65.

[4] L.G.E. 10\2E\35, 45 Vict., I Sess., L.G.A. No. 1, 147 (1879).

Land could be acquired for cash in New Mexico through public auction, private entry, pre-emption, commuted homesteads, land scrip, and sale of military and Indian reserves.[6]

In the spring of 1870, there was considerable excitement in the Territory occasioned by a coming public auction sale of areas in certain townships principally along the Canadian and Hondo Rivers (Map 12). Some of these townships were fractional and all portions were excluded that had been reserved by law for schools, Indians, the military, and other use. This included areas within private grants.[7]

The sale was to continue for no longer than two weeks, then the land was to be opened to private entry. Pre-emption claimants in the designated areas were required to establish their claims to the satisfaction of the Register and Receiver at Santa Fe where the sale was to be held, commencing August 8th. They were, furthermore, required to make payment on their claims before the date of the sale or else forfeit their rights to any land they claimed.[8] They were unable to do this in every instance because some of the land had not yet been subdivided.[9]

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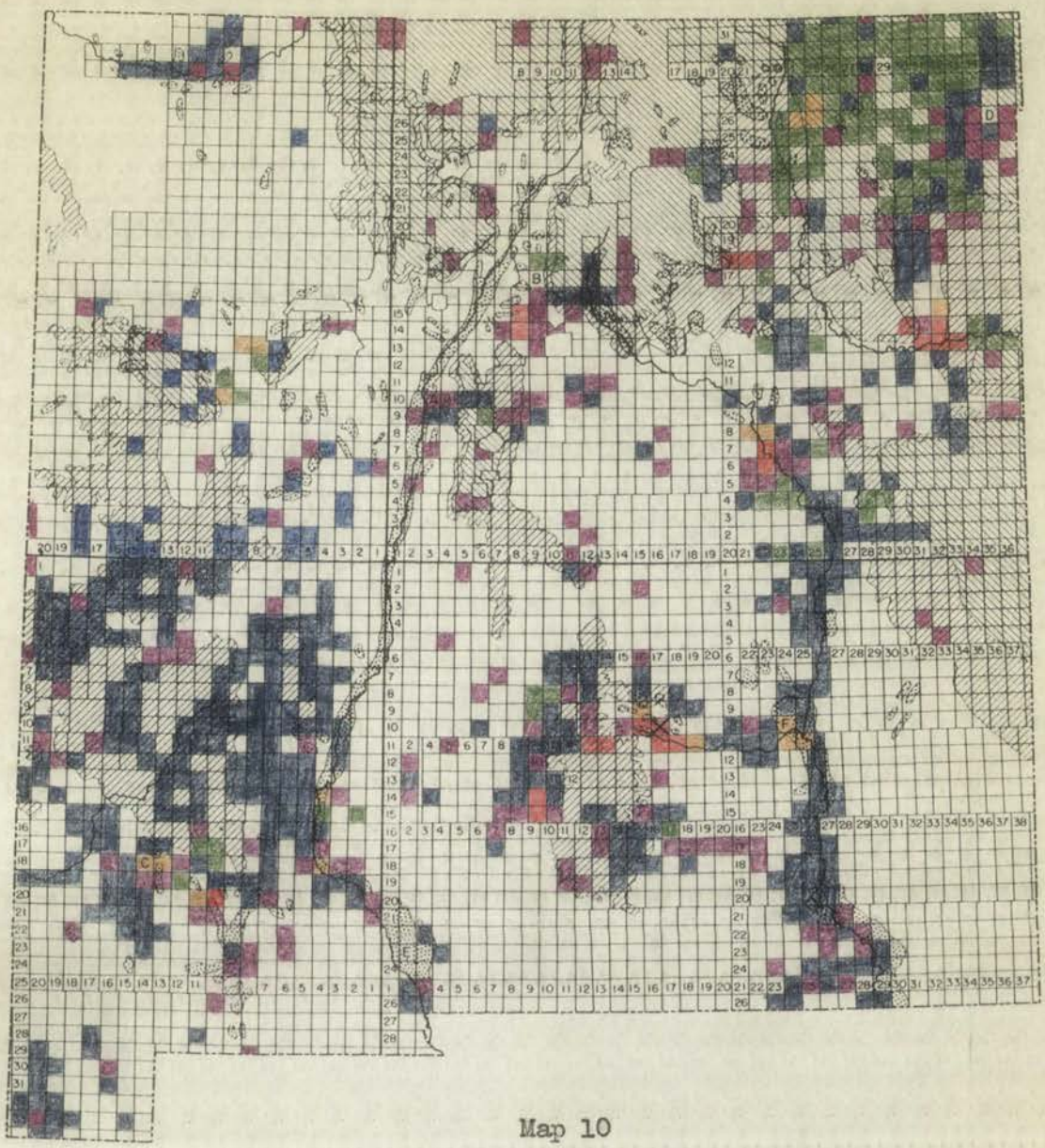
[6]The Graduation Act of 1854 need not be considered since it was repealed in 1862 and the first cash sales of land in New Mexico were in 1868.

[7]President of the U. S., Order for the Sale of Land, May 3, 1870 (N.A.). This was the only public sale in the Territory.

[8]Ibid. Public sales were auction sales and differentiated from private entry in that the latter was for land offered at public sale and upon which no one had bid during the designated period of the sale. Copp, The American Settlers Guide, 8.

[9]S.G.R. 8/20/70, 41 Cong., 3 Sess., H.E.D. No. 1, 418 (1449).



Map 10

Townships With

CASH SALES

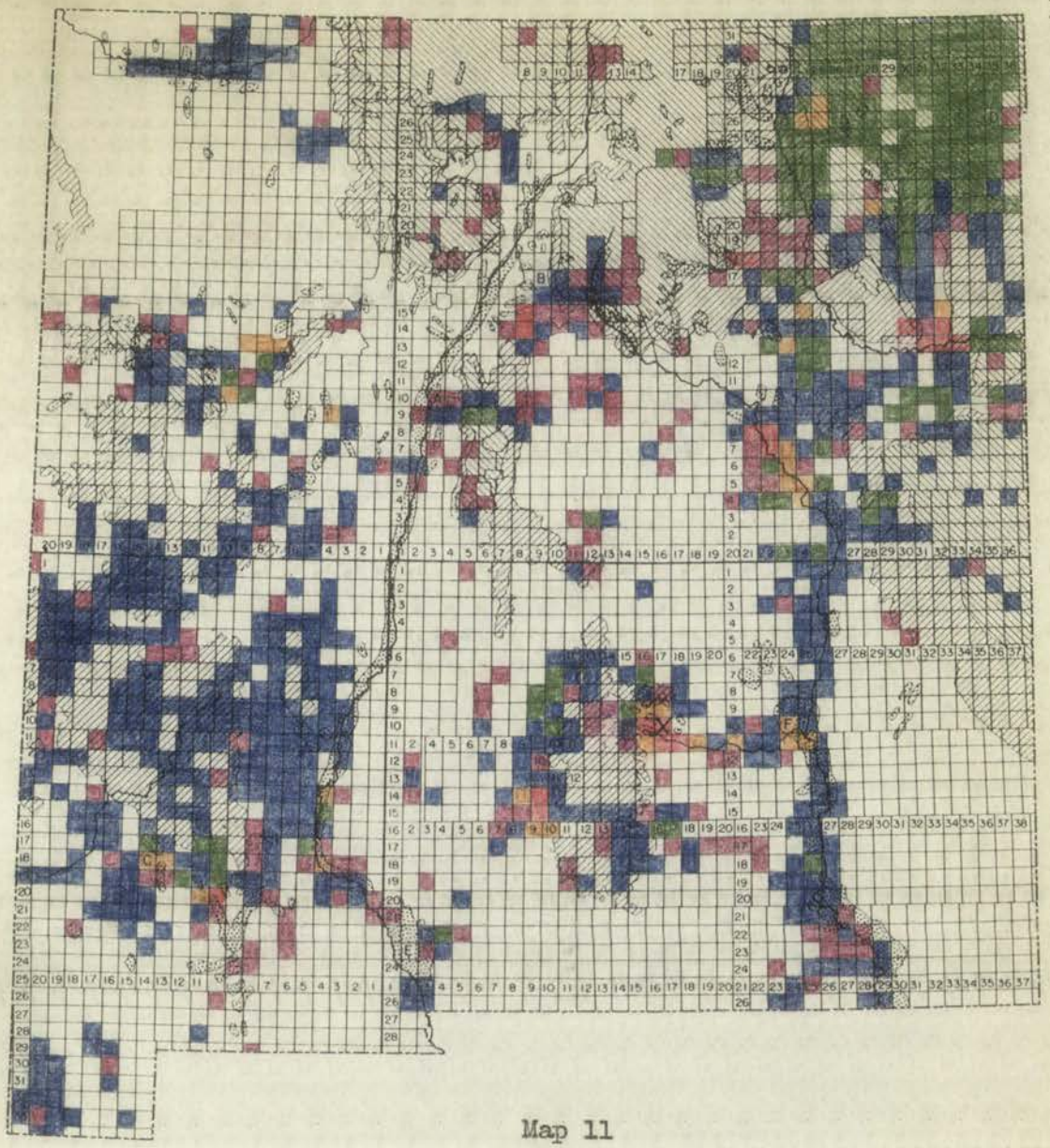
1868-1871

1872-1876

1877-1881

1882-1886

1887-1891



Map 11

Townships With

CASH SALES AND

LAND LAW CERTIFICATES

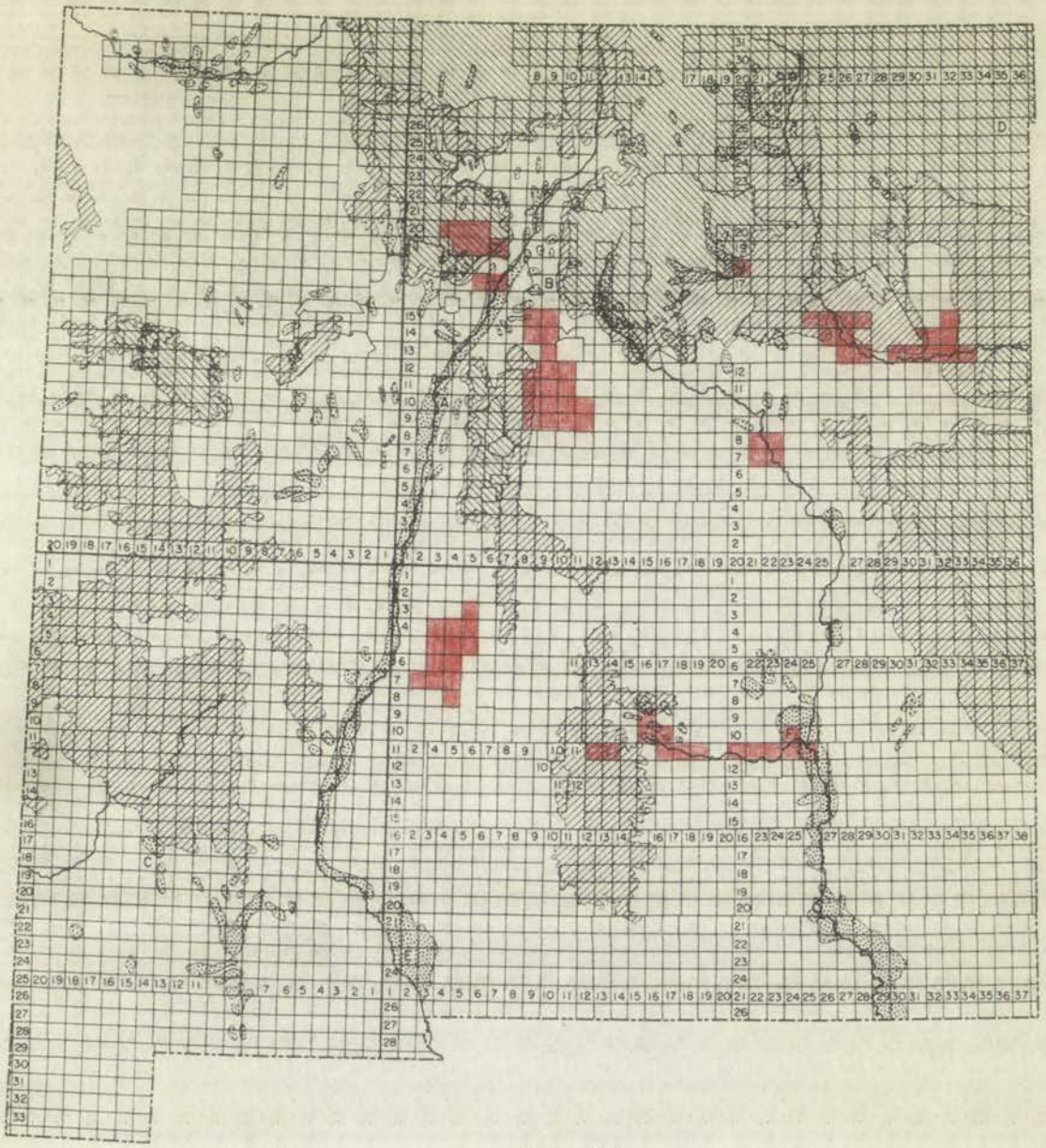
1868-1871

1872-1876

1877-1881

1882-1886

1887-1891



Map 12

Townships Included
In The
PRESIDENTIAL PROCLAMATION
OF
MAY 3, 1870

It is evident that the public sale of 1870 gave a comparatively large impetus to the land disposal program in New Mexico, small as it was in actual number. In the two years prior to 1870, there were only 10 original homestead entries filed and in that year there were 96. From 1858 through 1869 there were 13 donation notifications and in 1870 there were 14. The first mineral land sales were made in 1870; there were 21 of them. In the same year there were 26 cash sales. The only previous sales were three in 1868 (Appendixes VI-VII).[10]

The choice of areas included in this sale were later criticized by Surveyors General Proudfit[11] and Atkinson.[12] Their grounds for complaint were that the selected areas covered unsalable land and that they had been selected without consulting the surveyor general in the Territory. They were partially correct but quite wrong as regards the townships in the vicinity of the Canadian and Hondo Rivers (Map 12).

The sale itself was not immediately a great success, since only 1,958.23 acres were sold for $2,447.79. No one would bid over the going rate of $1.25 per acre for preemption land.[13] This lends some strength to the contention

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[10]The three cash sales in 1868 were pre-emptions.

[11]S.G.R. 10/7/72, 42 Cong., 3 Sess., H.E.D. No. 1, 124 (1560).

[12]Atkinson to Williamson, 7/24/76 (B.L.M.).

[13]Eben Everett, Register at Santa Fe, to Joseph S. Wilson, 8/21/70 (F.R.C.).

that the land was not particularly salable; however, a lot of land could be bought for the minimum price so there was little incentive to pay more. After the sale, the unsold land was placed in the offered[14] class and eventually disposed of through sale at private entry.

Among the largest of these purchases were those of Wilson Waddingham along the Canadian River and Ute Creek near their confluence. In 1871 he bought 6,589.58 acres of land from the Government and the following year 5,427.79.[15] Their strategic location for controlling water is apparent (Map 13). These purchases became part of the domain which was to be known as the famous Bell Ranch.[16] Settlers in the region had been repeatedly urged by the Register at Santa Fe, to enter their lands. Many of them failed to heed the warning, and consequently lost the tracts that they had settled upon when Waddingham bought the land.[17]

Waddingham's purchases were not looked upon with favor by some people in New Mexico:

> In my judgment the lands put in market for private entry should be limited in quantity to each purchaser. It is a common practice in this Territory to enter the smallest legal subdivisions bordering on streams, with a view to speculation and to secure the public land adjacent thereto for grazing purposes without purchase.

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[14]Lands proclaimed for sale but not sold. Copp, The American Settlers Guide, 8.

[15]Registers and Receivers, Abstracts of Cash Entries, (N.A.).

[16]Wilson Waddingham, Bills and Invoices, 1887-1890 (W.R.C.I.S.).

[17]Eben Everett, Register at Santa Fe, to Charles Ebel and Gotfried Gauss, Red River, N.M., 5/5/72 (F.R.C.).

that the land was not particularly valuable at present, a [illegible] land could be bought for the asking; it is no wonder there little incentive to pay more. After the sale, the [illegible] land was placed in the offered[14] [illegible] through sale at private entry.

Along the largest of these [illegible] Washington along the Canadian [illegible] confluence. In 1871 he [illegible] government and the following year [illegible] location for controlling water [illegible] purchases became part of the [illegible] the famous Hall Ranch.[16] [illegible] repeatedly urged by the [illegible] lands. Many of them [illegible] quently lost the [illegible] Washington bought the land.[17]

Washington's purchase was not [illegible] by some people in Washington.

> In my judgment the Trade [illegible] entry should be limited [illegible] It is a common practice in this [illegible] small legal monopolies [illegible] a view to speculation and [illegible] adjacent thereto for grazing purposes [illegible]

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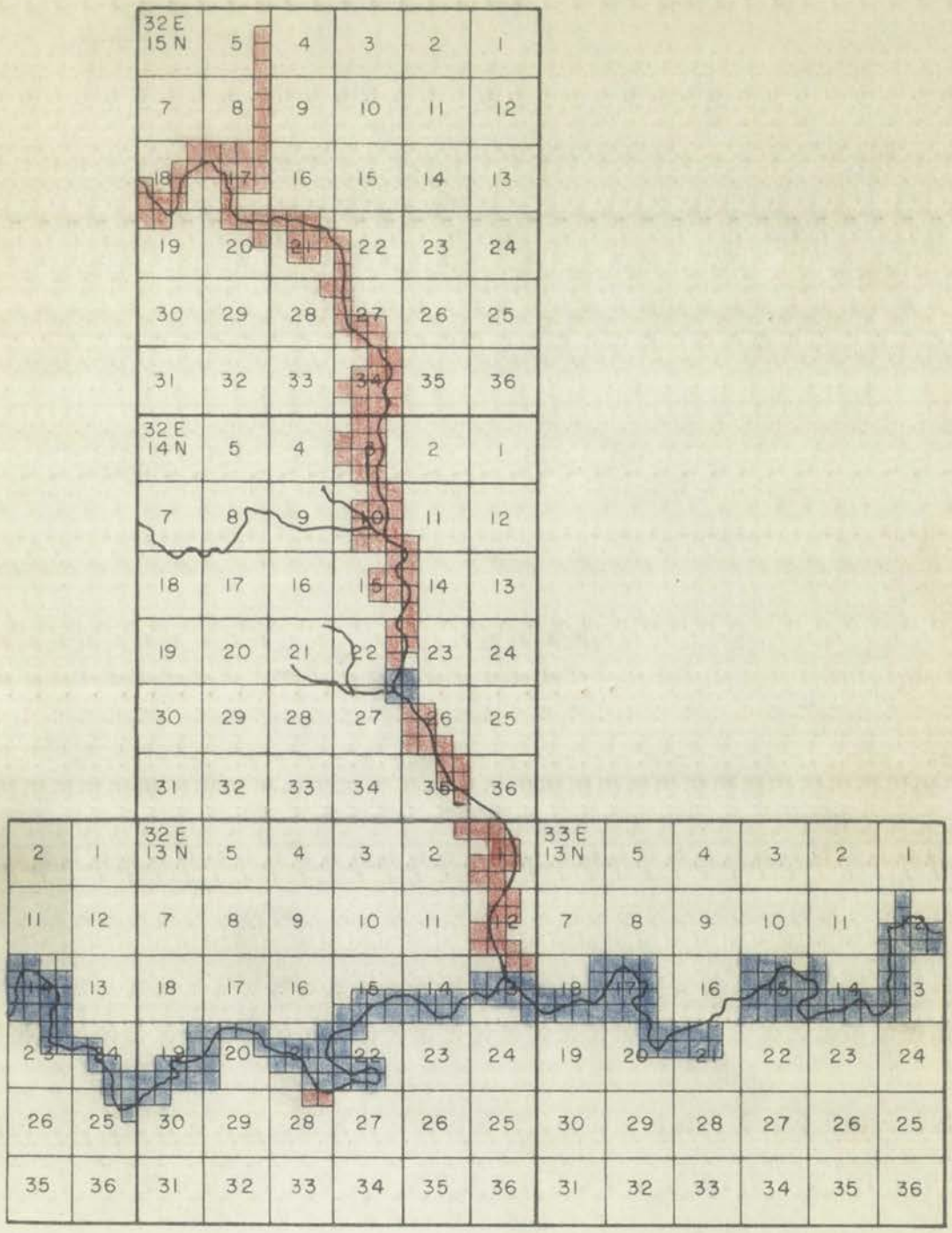
[14] Lands produced for sale but not sold. [illegible] American Sentinel [illegible].

[15] Statutes and Reports, [illegible] (U.S.).

[16] Alice Washington, [illegible] (W.S.G.L.O.).

[17] [illegible] and Cultural Causes, [illegible]



Map 13

1871 CASH PURCHASES 1872

OF WILSON WADDINGHAM

A notable case is that of Wilson Waddingham in his entry of land bordering on the Canadian River, and Ute Creek. See his advertisement hereto attached:

(Las Vegas Gazette.)

Waddingham post-office, La Cinta, San Miguel County, N.M.; range, Montoy's [sic] Grant N.M.

NOTICE.

All persons found trespassing by herding sheep or cattle on Ute Creek within boundaries of the mouth of said Creek and for a distance of sixteen miles on both sides said Creek, and also on Canadian (or Red) River from the boundary line of the Baca location No. 2 for a distance of sixteen miles on both sides down said river, will be prosecuted according to law.

Wilson Waddingham.[18]

This point of view was shared in Washington. In 1820, the price for offered land had been set at $1.25 per acre. In 1885, Secretary of the Interior Lamar believed that this minimum price for sales at private cash entry should be raised. At the minimum price persons of moderate means could still afford only a little land while the wealthy could acquire extensive holdings. The cumulation of capital, compared with unsold land, had more than doubled from the time the price had been set. An increase in the price would restrain large-scale purchasers in their activities while the Homestead and Preemption Laws would still enable the poor to acquire land on the old basis.[19]

Other extensive purchases at private entry were made by Joseph C. Lea along the Rio Hondo from its source to its junction with the Pecos River. From 1879 through 1885, he bought

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[18]Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, 450 (1923), statement by William McMullen, Civil Engineer.

[19]S.I.R. 11/1/85, 49 Cong., 1 Sess., H.E.D. No. 1, 38 (2378).

13,386.98 acres there.[20] Other members of the Lea family bought more than 2,400 acres in the same area.[21]

Sales made under the Proclamation of May 3, 1870, were suspended on July 10, 1886, pending a determination of its legality. On June 9, 1890, Secretary of the Interior Noble rendered an affirmative decision based on the Act of July 22, 1854, establishing the Office of Surveyor General of New Mexico, Kansas and Nebraska. The last clause of section 13 of this act gave the President authority to make sales of land in Nebraska. Since the whole act included New Mexico, it was ruled that this authority also extended to that Territory. J. C. Lea was one of the persons whose land was in question and, as demanded, filed an affidavit that he had made various private entries in good faith and that his improvements on the land had cost not less than $20,000. In view of the lapse of time and the expenditures made on the faith of the offering, the Proclamation was ordered to be legally held as res judicata and the titles to the lands involved were no longer questioned.[22]

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[20]Registers and Receivers, Abstracts of Cash Entries, (N.A.). His purchases were, in acres: 1879, 321.69; 1882, 165.96; 1883, 559.56; 1884, 519.24; and 1885, 11,820.53. Part of the city of Roswell is located on portions of this land. At $1.25 per acre, it was a good investment.

[21]Registers and Receivers, Tract Books, (B.L.M.). Part of this was under the Desert Land Law. Numerous other persons purchased land made available by the Proclamation of May 3, 1870, but none in as large quantities as Waddingham and Lea.

[22]S. V. Proudfit, Decisions of the Department of Interior Relating to Public Lands, Vol. X, 652-655.

13,386.98 acres there.[20] Other members of the Los Angeles bought more than 2,400 acres in the same area.[21]

Sales made under the proclamation of May 3, 1870, were suspended on July 10, 1886, pending a determination of the legality. On June 9, 1890, Secretary of the Interior Noble rendered an affirmative decision based on the act of July 26, 1854, establishing the Office of Surveyor General of New Mexico, Kansas and Nebraska. The last clause of section 13 of this act gave the President authority to sell public land in Nebraska. Since the entry not included in Nebraska, it was ruled that this authority also extended to Kansas. W. O. Lem was one of the persons whose land was in question as demanded, filed an affidavit that he intend further private entries in good faith and that his improvements on the land had cost not less than $20,000. In view of the lapse of time and the expenditures made on the faith of the original the proclamation was ordered to be legally valid as to the initiate and the titles to the lands involved were no longer questioned.[22]

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[20] Registers and Receivers. Abstracts of Land Entries, (N.A.). His purchases were, in across lots, 320, 160, 160, 160; 1887, 320, 320; 1888, 320; 1889, 320; and 1890, 160, 320. Part of the city of Kewanee is located on portions of this land. At $1.25 per acre, it was a good investment.

[21] Registers and Receivers, Abstracts of Land Entries, (N.A.). Land of this was under the Timber Land Act. It shows that several purchased land made available by the proclamation of May 3, 1870, but none in as large quantities as Lem and Lee.

[22] V. Freund, Decisions of the Secretary of Interior Relating to Public Lands, Vol. 8, 528-529.

The requirements for pre-emption entry varied from time to time and from place to place. In New Mexico, the following requirements were basic for the duration of the law in that Territory. Pre-emptions were limited to a person who was the head of a family, a widow, or a single man more than twenty-one years of age. United States citizenship, or a declaration of intention to become one, was required. A person already the owner of 320 acres of land was not eligible nor was a person who had abandoned his or her own land in the same State or Territory to reside upon the public domain.

Upon land which had once been offered at public sale the pre-emptor was required to file a declaratory statement within thirty days after settlement and to present proof of settlement and cultivation and to pay for the same within twelve months of the date of settlement. Upon unoffered land the requirement was filing within three months from the date of settlement and presenting proof and payment within thirty months after filing, or thirty-three months after settlement. The only way a patent for land could be acquired from the United States, on unsurveyed land, was by the Desert Land Law.[23] But it was possible for a settler to hold 160 acres of unoccupied and unsurveyed land as long as he resided upon and occupied the same.[24] When the settlement was upon

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[23]Pullen to John F. Dodds, San Antonio, N.M., 5/6/85 (F.R.C.).

[24]Everett to Van C. Smith, Rio Hondo, N.M., 4/9/71 (F.R.C.). A settler might file a declaratory statement as to date of settlement, to protect his rights under the Pre-emption Law; but it was not necessary to do so, squatters'

The requirements for proving this entry varied from time to time and from place to place. In the early years, the requirements were basic as the population of settlers in the Territory. Pre-emptions were limited to a person who was the head of a family, a widow, or a single man over twenty-one years of age. Limited water settlement, or a declaration of intention to become one, was required. A person already the owner of 320 acres of land was not eligible. Nor was a person who had abandoned his or her own land in the public domain of the Territory to reside upon the public domain.

Upon land which had once been offered at public sale, the pre-emptor was required to file a declaratory statement within thirty days after settlement and to record proof of settlement and cultivation and to pay for the same within twelve months of the date of settlement. Upon specified land, the requirement was filing within three months from the date of settlement and producing proof and payment within twelve months after filing, or within two years after settlement. The only way a person who land could be obtained from the United States, on unsurveyed land, was by the Donation Land Law.[23] But it was possible for a settler to build a cabin of unoccupied and unsurveyed land in the Pacific Northwest and occupied the more [illegible] than the statutory minimum

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[23]Spellen to Selm, [illegible], Ser. Letters, [illegible] (P.R.O.).

[24]Savarit to Van [illegible], [illegible] (P.R.O.). A settler could file a declaratory statement on a [illegible] date of settlement, to protect that claim [illegible] emption law; but it was not necessary to do so. Statutes

unsurveyed land, no filing could be made, describing the land by legal subdivisions; but after survey, and within three months from the time the township plat was filed in a district land office, the settler was required to file a declaratory statement, and within thirty-three months after the filing of the township plat, proof and payment were required. Forfeiture of the land was the penalty for failure to comply with these regulations.[25]

There were certain differences between pre-emption and homestead claims. Beyond small fees and commissions, homesteads were free, whereas $1.25 or $2.50 per acre in money or its equivalent was required for pre-empted land. Until 1880, the homestead right commenced only from the date of entry at a local land office and such entry could be made only on surveyed land. By contrast a pre-emption dated from the time of settlement and could therefore technically be made on unsurveyed land although the actual filing of a declaratory statement could not be made until after the land was surveyed. Likewise, proof and payment could not be made until after survey.

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rights being recognized as the equivalent. In case of litigation, however, a recording of the date of settlement might be added protection in the eyes of the law. In practice, registers of land offices did not seem to encourage settlers to make such a filing since it was added work for them and the filing fee was only $1.50. There is also the possibility that collusion existed between registers and persons desiring to secure squatters lands by filing in advance of the latter. The filing mentioned should not be confused with the regular pre-emption declaratory statement, initiated for acquiring title to land, which could only be made after the land was surveyed.

[25] L.O.R. 11/1/71, 42 Cong., 2 Sess., H.E.D. No. 1, 59 (1505); and Everett to John D. Rail, La Mesilla, N.M., 5/10/70 (F.R.C.).

unsurveyed land, no filing could be made, therefore no application by legal subdivision out prior survey. Within three months from the time the township plat was filed in a local land office, the settler was required to file a declaratory statement, and within thirty-three months after the filing of the township plat, proof of a year's residence. Failure of the land was the penalty for failure to comply with these regulations.[25]

There were certain differences between preemption and homestead claims. Beyond small fees and commissions, homesteads were free, whereas $1.25 or $2.50 per acre in money or its equivalent was required for preemption land. Initially, the homestead right commenced only from the date of entry at a local land office and such entry could be made only on surveyed land. By contrast a preemption claim from the time of settlement and could therefore technically be made on unsurveyed land although the actual filing of a declaratory statement could not be made until after survey. Proof and payment could not be made until after survey.

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rights being recognized as the "qualifiers". In spite of criticism, however, a proportion of the idea of settlement rights was added protection in the form of the law. In practice, a claimant of land offices did not even to encourage settlers to make such a filing since it was added work for them and the filing fee was only $1.50. There is also the usual difficulty in getting related between registers and receivers in addition to getting land by filing in advance of the survey. The filing mentioned should not be confused with the preliminary declaratory statement, initiating the homestead filing, which could only be made after the land was surveyed.

25 [illegible] (1905); and Everett [illegible] (F.H.C.).

There were also certain similarities. In each instance, a given period was allowed from the time the first papers were filed until final proof. Residence, cultivation and improvements were necessary to secure title in either case.[26]

The Act of May 27, 1878, permitted a pre-emption entry to be changed to a homestead entry if desired. A homestead modification of May 14, 1880, declared that the homestead privilege should revert to the date of settlement the same as in the case of pre-emption. Homesteads now had exactly the same privileges as pre-emptions and there was no practical reason for continuing the latter. As Roy M. Robbins says, "Had Congress been seriously determined on reform, it should have repealed the pre-emption laws and commutation features of the Homestead Act, a step which would have done much to guarantee bona fide settlements."[27] The Pre-emption Act, however, was not repealed until March 3, 1891. At the same time the commutation period of the Homestead Act was raised from six to fourteen months.[28]

Declaratory statements were required to be filed within one or three months after settlement on surveyed land depending upon the class of land. This was in accordance with a provision of the Act of May 30, 1862. In 1866 this requirement provided a hardship for settlers in New Mexico in a

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[26]Copp, The American Settlers Guide, 51. The pre-emption privilege on unsurveyed land was extended to New Mexico in 1854 (Appendix I, section 7).

[27]Robbins, Our Landed Heritage, 286.

[28]Ibid., 296-297.

There were also certain qualifications. Persons in order a given period was allowed from the time the first process filed until final proof. Residence, cultivation and improvements were necessary to secure title to either [illegible].[25]

The Act of May 27, 1870, restricted a pre-emption entry to be changed to a homestead entry if [illegible] a [illegible] modification of May 14, 1880, declared that the [illegible] privilege should revert to the date of entry, the date was in the case of pre-emption. Homestead [illegible] same privilege as pre-emptions and there was no [illegible] reason for controlling the latter. As early [illegible] "had Congress been seriously determined to relent, it should have repealed the pre-emption laws and consolidated [illegible] of the Homestead Act, a step which would have [illegible] guarantee bona fide settlement."[27] The Pre-emption Act, however, was not repealed until March 3, 1891. At the [illegible] time the commutation period of the Homestead Act was [illegible] from six to fourteen months.[28]

Declaratory statements were required to be filed [illegible] one or three months after entry [illegible] ing upon the claim of land. This was in [illegible] provision of the Act of May 30, 1890. The [illegible] ment provided a bandaid for settlers in [illegible]

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[25]Copp, The Marion Statesman Guide, 74. [illegible] privilege on unsurveyed land was extended to [illegible] 1894 (Appendix 1, section 1).

[27]Robbins, Our Landed Heritage, 206.

[28]Ibid., 206-207.

peculiar way. The office of register of the land office was vacant for more than a year and it was impossible for settlers to file a declaratory statement within the required time. In accordance with the law, they lost their pre-emption privileges even though the circumstances were beyond their control.[29]

During the years there was considerable effort on the part of local land office officials to make known to the nation what New Mexico had to offer in the way of land available for purchase. They stressed pre-emption and private entry rather than homestead.[30] It was natural that they should do so since a major part of their income depended on fees from their business. There was also a certain amount of pride in the "Sunshine State."[31] In correspondence regarding the possibility of buying land from the United States, it was frankly stated that there was good grazing land available and some excellent land susceptible to irrigation. "New Mexico," it was pointed out, "is very different from any other part of the Republic. Cultivation is wholly consequent upon irrigation and where water cannot be brought, the soil is unfit for cultivation."[32]

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[29] S.G.R. 8/16/66, 39 Cong., 2 Sess., H.E.D. No. 1, 472 (1284).

[30] Everett to Charles Troll, Louisville, Kentucky, 8/21/70; and to A. D. Ottarson, Nashville, Tennessee, 2/17/71 (F.R.C.).

[31] First so designated in the Annual Report of Governor L. Bradford Prince, 9/15/90, 51 Cong., 2 Sess., H.E.D. No. 1, 634 (2842).

[32] Everett to James Eastman, and others, Tecumseh, Nebraska, 1/4/71 (F.R.C.).

popular way. The office of surveyor-general was left to be vacant for more than a year and it was necessary for settlers to file a declaratory statement showing the required steps in accordance with the law, thus they were given certain privileges even though the circumstances were somewhat irregular.[29]

During the years 1872 and 1873 there was considerable effort on the part of local land office officials to make known to the public what New Mexico had to offer in the way of land availability for purchase. They stressed preemption and private entry rather than homestead.[30] It was stated that they should be taken a major part of their income expected from the public domain. There was also a certain amount of pride in the "Sunshine State."[31] In correspondence regarding the availability of buying land from the United States, it was stated that there was good grazing land available and some good land susceptible to irrigation. Many wrote. It was pointed out, "is very different from any other part of the Rocky Mts. Cultivation is wholly dependent upon irrigation and some water cannot be brought, the soil is rich for cultivation."[32]

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[29] G.O.S. 8/16/86, 19 June. Gen. L.O. 1, 272 (1884).

[30] Everett to Curtis Grill, Louisville, Ky. 8/2/73, and to A. D. Cutaree, Brooklyn, Connecticut, 8/17/73 (L.O.).

[31] Pirtle to Commissioner of Internal Revenue of Commerce, Bradford Pirtle, 8/15/90, 31 Gen. L.O. (1892).

[32] Everett to Jesse Jennings and others, Nueces, Texas, 1/4/73 (L.O.).

Cultivation of the soil was a requirement for pre-emption, and yet it was reported that 60,000,000 acres of land were available in New Mexico for pre-emption.[33] This was more public domain than was available in the Territory,[34] and a majority of it would grow no crops (Map 10).

Land officials of that day did not consider this a contradiction. They reflected that most of the land was fit only for grazing, and that the law should so allow. It was their duty to administer the land laws as they were written, but they saw the hopelessness of a literal interpretation of that duty and tempered their actions with the realities of the arid domain under their jurisdiction. It was not generally their intention to condone unlawful entries, but rather to make it possible for lawful entrants to secure land. Without a liberal interpretation of arability, this could not often be done.

Nevertheless, lawlessness did prevail. It was estimated that, based on reports of special agents, from 75 to 90 per cent of pre-emption claims in New Mexico were fraudulent.[35]

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[33]Everett to Charles Troll, Louisville, Kentucky, 8/21/70 (F.R.C.).

[34]It is evident that Everett made a rough estimate of all the public domain in the Territory and classified it as available for pre-emption. His estimate was too high by about 15,000,000 acres. Total acreage is 77,568,640. Private land grants, grants to the Atlantic and Pacific Railroad (later partially forfeited), Texas and Pacific Railroad (later completely forfeited), railroad rights-of-way, military reservations, and Indian reservations, accounted for about 32,500,000 acres leaving a balance of approximately 45,000,000.

[35]L.C.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 222 (2378).

Cultivation of [illegible] was a requirement. For pre-emption, and yet it was reported that 25,000,000 acres of land were available in [illegible] for pre-emption.[33] Even more public domain was available in [illegible] and a majority of it would go to [illegible] (cap 10).

Land officials of that day did not consider this a [illegible] tradition. They reflected the attitude of the land-[illegible] only for grazing, and that [illegible] could do either. [illegible] their duty to administer the land laws as they were written, but they saw the [illegible] of a liberal interpretation of that duty and tempered their actions with the realities of arid domain under their jurisdiction. It requires [illegible] their intention to [illegible] existing, [illegible] make it possible for [illegible] to [illegible] land. Without a liberal interpretation of [illegible] could not [illegible] be done.

Nevertheless, [illegible] it [illegible]. It was estimated that, based on reports of special agents, [illegible] 50 per cent of pre-emption claims in [illegible] were fraudulent.

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[33] [illegible] to Charles Wolf, [illegible] (N.R.O.).

[34] It is evident that [illegible] the public domain in [illegible] and [illegible] able for pre-emption. The entries were [illegible] 15,000,000 acres. Total [illegible] grants, grants to the [illegible] partially forfeited), [illegible] plately forfeited), railroad [illegible] tions, and Indian reservations, [illegible] acres leaving a balance of [illegible] 25,000,000.

[35] [illegible] (2372).

This may be somewhat high. Findings of Special Agent H. H. Eddy indicate 56.7 per cent. Of 111 cases examined by Eddy, 63 in no way complied with the law.[36] In one case in T.15S, R.17W, northwest of Silver City, James Voss was the pre-emptor but never lived on the land. It was further learned that Voss did not know which of three claims he supposedly owned and didn't care because J. W. Fleming was going to give him $300 for proving up. Later Voss said he didn't want to pre-empt a claim but Fleming told him he had to do so because his name was already in Washington.[37] Such blackmail tactics were typical of the fraudulent cases.

Land scrip was a transferable certificate, in lieu of land, awarded to individuals by the Government as awards for various services or for obligations incurred.[38] The homestead idea largely superseded the awarding of land bounties for services rendered and, since most of the land disposals in New Mexico occurred subsequent to the beginning of the homestead era, scrip was only a minor phase of the public land disposals in that Territory (Appendix VI).

By the four categories of free land (homestead, timber culture, donations, and soldiers and sailers homesteads), there were 622,684 acres deeded to individuals. On the other

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[36]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, passim.

[37]Ibid., 140.

[38]Both Hibbard, A History of the Public Land Policies; and Robbins, Our Landed Heritage, deal with this subject extensively.

This may be somewhat high. Figures on Grazing Permit H-[illegible] may indicate 36.7 per cent. Of 111 cases examined by [illegible] 65 in no way complied with the law.[36] In one case in [illegible] H.L.T., northwest of Silver City, [illegible] but never lived on the land. It was further learned that [illegible] did not know which of three [illegible] [illegible] didn't care because [illegible] for proving up. Later Vegas said he didn't want to [illegible] claim but Fleming told him he had [illegible] was already in Washington.[37] Such [illegible] typical of the fraudulent cases.

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By the four categories of free land (homestead, timber culture, donation, and military and military bounty warrants), there were 622,684 acres granted to individuals. On the other

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[36] Secretary of the Interior, [illegible] Investigation of Titles to Land in New Mexico, [illegible], 77 Cong., [illegible] No. 106, passim.

[37] Ibid., 140.

[38] Roth Richard, [illegible] of the Public Land Laws [illegible] and Robins, Our Landed Heritage, [illegible] this section extensively.

hand, settlers paid cash for 648,028 acres of Government land (Appendix VIII). The railroads also sold 356,260.56 acres during this period. In addition a large amount was purchased by individuals from grant owners. It is evident that many people preferred to buy their land rather than get it free from the Government with the strings that were attached by the latter.

CHAPTER VII

THE TIMBER CULTURE LAW OF 1873

The Timber Culture Acts were, "in substance, a subsidy paid in lands to encourage the planting and culture of timber."[1] They were in operation from 1873 until their final repeal in 1891. The original act provided that any person who would plant forty acres of timber, and keep it in a healthy growing condition for ten years, could receive title to the quarter-section in which the forty acres were located. The trees were to be not less than twelve feet apart. Only one quarter in any section could be acquired under this law. The weaknesses of the act were such that the very next year it was amended.

As amended, the qualifications of <u>any person</u> were changed to a person the head of a family and a citizen twenty-one years of age. As was the case in homestead entry, the entrant could legally qualify by declaring his or her intention of becoming a citizen. A qualified entrant was now limited to a single entry of 160 acres. The ten-year period period required for compliance was modified to eight. The original act, requiring the planting to be done in one year, was changed to allow four years. The law remained in this form until further modified in 1878.

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[1] S.I.R. 11/1/85, 49 Cong., 1 Sess., H.E.D. No. 1, 39 (2378).

CHAPTER VII

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The Timber Culture Act's aim, "in substance, is subsidy paid in lands to encourage the planting and culture of timber."[1] They were in operation from 1873 until their final repeal in 1891. The original act provided that any person who would plant forty acres of timber, and keep it in a healthy growing condition for ten years, could receive title to the quarter-section in which the forty acres were located. The trees were to be not less than twelve feet apart. Only one quarter in any section could be acquired under this law. The wanderings of the act were such that the very next year it was amended.

As amended, the qualifications of any person were changed to a person the head of a family and a citizen twenty-one years of age. As was the case in homestead entry, the entrant could legally qualify by declaring his or her intention of becoming a citizen. A qualified entrant was entitled to a single entry of 160 acres. The ten-year period required for compliance was modified to eight. The original act, requiring the planting to be done in one year, was changed to allow four years. The law remained in this form until further modified in 1878.

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[1] S.I.R. 11/1/85, 49 Cong., 1 sess., H.R.D. No. 1, 39 (2378).

There had been growing agitation for a reduction in the number of acres to be planted, and in that year the requirement was changed to ten acres instead of forty. Further arithmetic was added by a prescription that 2,700 trees be grown per acre at time of planting and that 675 be living and healthy when title was conveyed.[2]

The Timber Culture Act was a mistake in arid New Mexico. Except in rare instances it was impossible to comply with the law. Nature controlled the balance here. Where there were trees, timber culture was illegal. Where there were no trees, none were destined to grow without irrigation, and irrigated land was more valuable for crops than for trees.[3]

Compared to other States and Territories where it was tried, little land was disposed of under the Timber Culture Act (Map 14). Still, considering the difficulty of compliance, an amazing number of persons took steps to avail themselves of this class of national bounty. There were nearly eighteen times as many original entries as final certificates. By 1891, the year the law was repealed, 1,609 entrants had filed original papers for 230,335 acres. By 1903 the final returns

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[2]Hibbard, A History of the Public Land Policies, Chap. XIX.

[3]See maps 15 and 16. In most of the areas shown in Zone 4 and better trees were already growing. In virtually all the rest they would not grow without irrigation. Maker and Dregne do not deal specifically with timber growth but a comparable land classification map compiled by Charles E. Linney, et al., Climate as it Affects Crops and Ranges in New Mexico, 6, shows timber growth in essentially the same localities as Maker and Dregne's Zone 4 and better except that the entire eastern part of the State is basically devoid of timber.

There had been produced a definite or a promotion in the number of acres to be planted, one in that year the requirement was changed to ten acres instead of forty. Right of ultimately was added by a prescription that 2,000 trees be grown at time of planting and that 500 be alive and healthy when title was conveyed.

The timber culture act was a failure in arid New Mexico except in rare instances it was impossible to comply with the law. Nature controlled the climate here. Where there were trees, timber culture was lifeless. Where there were no trees, none were destined to grow without irrigation and farming. Land was more valuable for other uses.

Compared to other states in the Southwest as a whole, Little Land was disposed of under the timber culture act (Map 18). Still, considering the difficulty of an arising number of persons that came to settle in one of this class of national country. There were fewer claims than many original homestead claims. In the year the law was repealed, 1891, entries had filed certificates for 239,375 acres. In 1909 the final vouchers

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Shibland. A History of [illegible]

XIX.

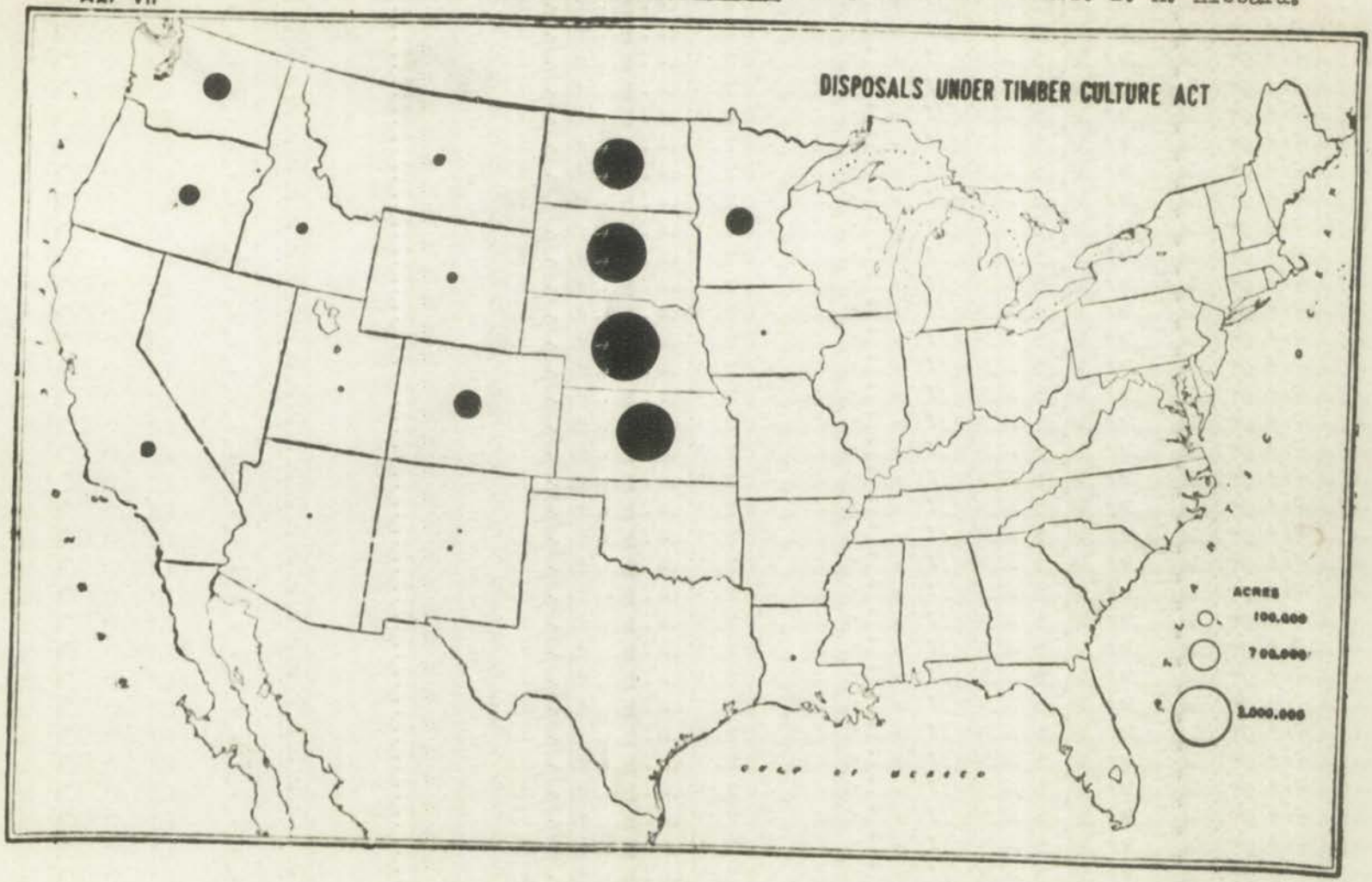
These maps 17 and 18. In view of the areas where [illegible] and better trees were already growing. In spite of all the fact they would not [illegible] water. [illegible] do not deal specifically [illegible] Land classification [illegible]

Climate as it Affects [illegible]

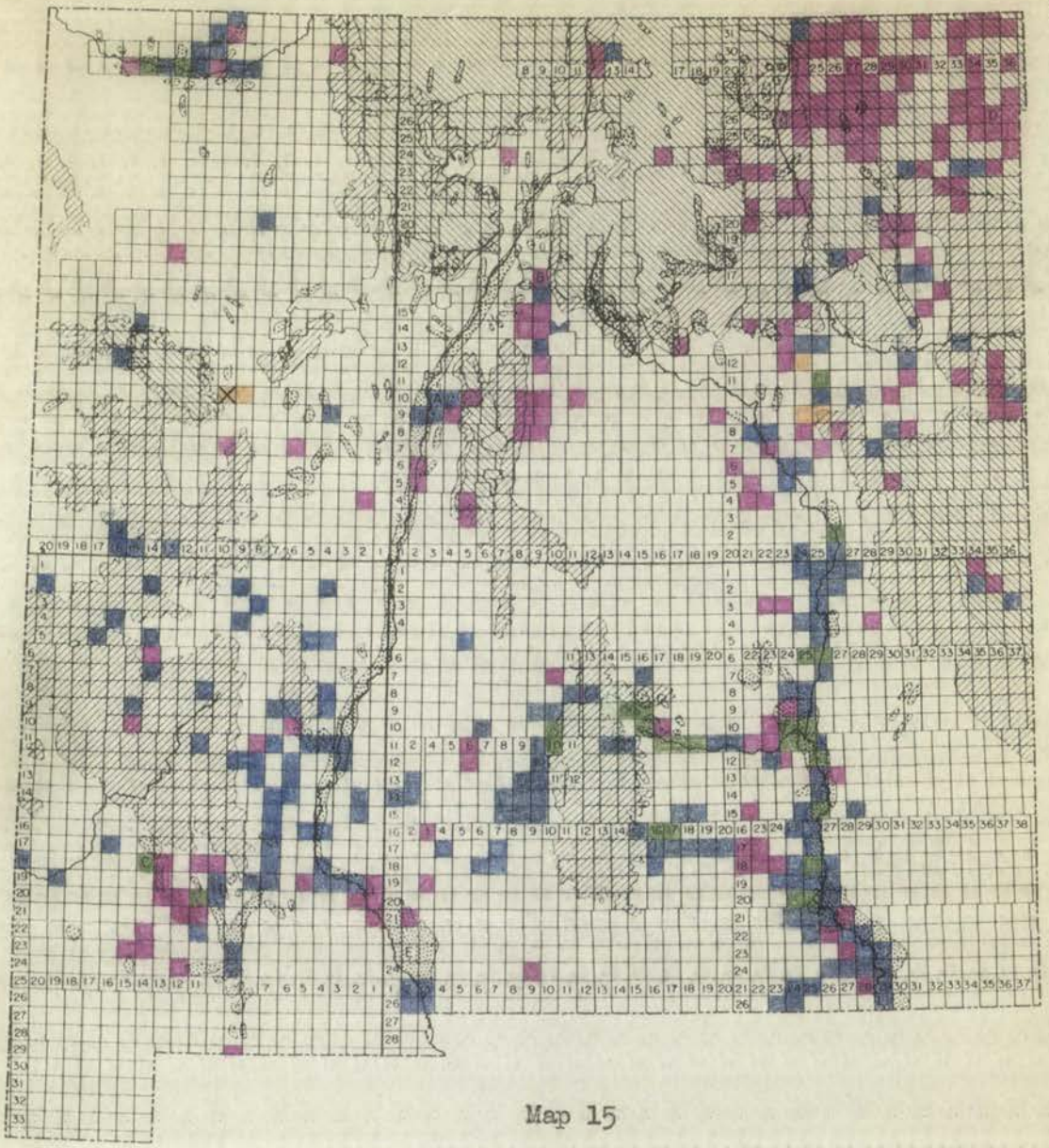
timber grows in [illegible] Dregon's zone [illegible] part of the State is [illegible]

From Hibbard, A History of the Public Land Policies. By permission of Mrs. B. H. Hibbard.

MAP VII



Map 14



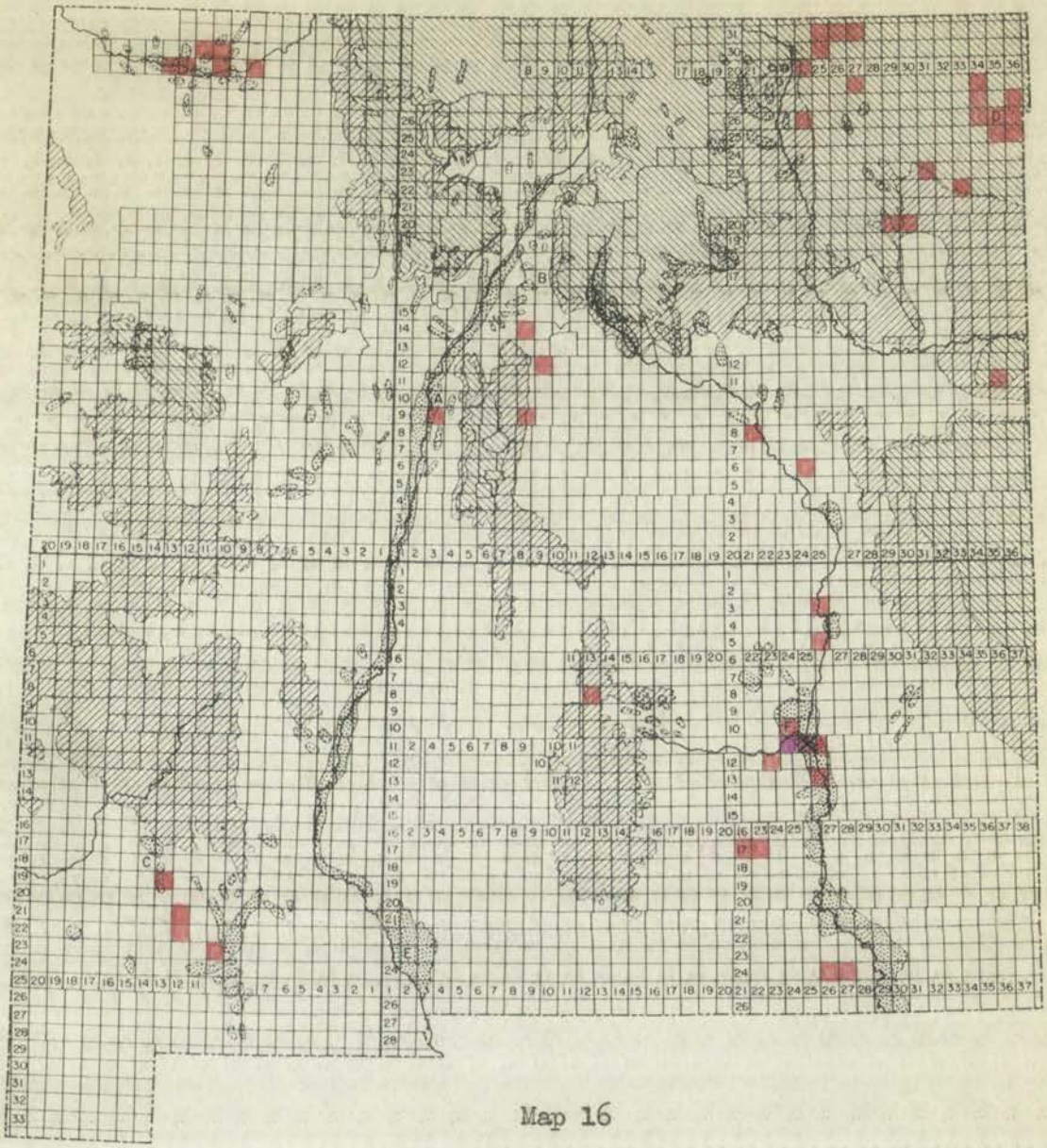
Map 15

Townships With

ORIGINAL TIMBER CULTURE ENTRIES

1875-1876 1882-1886

1877-1881 1887-1891



Map 16

Townships With

FINAL TIMBER CULTURE CERTIFICATES

1887-1891 1892-1903

were all in and there were only 91 certificates with 12,937 acres.[4]

This shows that frequently the law was used only to hold possession with no intent to acquire title.[5] There was more interest in the immediate use of the land than in ultimate ownership. A timber-culture entry ran for thirteen years before it lapsed. Eight years were required for final proof and five more years were allowed to complete the entry, and even longer if failure to complete the entry did not come to the attention of local land officials. During this time the entryman had use of the land "free of rent, interest or taxes."[6]

Fraud in timber-culture entries was widespread. Land Inspector A. H. Greene, after a scathing denounciation of the entire timber-culture system, concluded that, "The experiment has approximated success about as nearly as an effort to make water flow up hill. I doubt if the trees standing on any timber-culture entry west of the hundredth meridian would retard a zepher."[7]

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[4]See Appendix VII. The first original timber-culture entry was filed by Dumas Provencher in Section 26, T.10N, R.10W, in present Valencia County, in 1875. The first final certificate was issued to Oregon Bell in Section 6, T.11S, R.25E, near Roswell, on July 29, 1887.

[5]S.I.R. 11/1/85, 49 Cong., 1 Sess., H.E.D. No. 1, 39 (2378).

[6]William F. Raney, "The Timber Culture Acts," Mississippi Valley Historical Association (Proceedings), 10:223; Copp, The American Settler's Guide, 64.

[7]L.O.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 203 (2378).

were all in and there was only 32 certificates for 16,000 acres.[4]

This shows that frequently the law was used only to hold possession with no intent to acquire title. There was more interest in the immediate use of the land than in ultimate ownership. A timber-culture entry ran for sixteen years before it lapsed. Eight years were required for final proof and five more years were allowed to complete the work, and even longer if failure to commence the entry did not come to the attention of local land officials. During this time the entryman had use of the land "free of rent, interest or taxes."[5]

Fraud in timber-culture entries was widespread. Special agent A. H. Greene, after a searching reconnaissance of the entire timber-culture system, concluded that, "the operation has approximated success about as nearly as an article would water flow up hill. I doubt if the Devil ever invented any timber-culture entry west of the Mississippi unless with intent to cipher."[7]

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[4] See Appendix VII. The first original timber-culture entry was filed by James Freyenmyer in section 26, T.10N., R.10W, in present Yellowstone County, in 1878. The first final certificate was issued to Green Hill in section 8, T.11N., R.25E, near Roswell, on July 15, 1887.

[5] G.L.O. 11/4/85, 45 Cong., 1 Sess., Ex. Doc. 1, 95 (2378).

[6] William F. Kenny, "The timber-culture entry," Journal of Land & Public Utility Economics (Berkeley), 16:Nov. 1940, 458 American Society of Civil Engineers, 67.

[7] G.L.O. 10/22/85, 49 Cong., 1 Sess., Ex. Doc. 1, 95 (2378).

The fault was chiefly in the system. Human nature was too weak to refrain from violating a law which was so easy to circumvent. So lightly was the law regarded that it became neighborly to exchange services as witnesses to affidavits. The more innocuous method of evasion was simply the failure of careless entrymen to obey the law. It was a common practice for homestead and other settlers to take up an adjoining quarter-section of land as a timber-culture claim with no intention of growing trees.[8]

A more flagrant practice was that of cattle corporations. There was frequently no pretense of complying with any part of the law.[9] The object was to secure valuable grass land by controlling water for their stock. It was accomplished by requiring their herders to take out entries covering these watering places. The adjoining land was valuable only to those who controlled the water. In this way entire townships were dominated by cattle interests.[10]

Registers and Receivers monthly abstracts of timber-culture entries show numerous entries in the same township on the same date. These groups stand out because they are surrounded by random entries. Chance cannot account for these

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[8] Ibid.

[9] Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, 441-461 (1923). Numerous persons were asked what kind of timber was planted in their locality. In twenty-one pages of testimony, not a single person knew of any timber being planted, let alone being able to name the kind.

[10] L.O.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 204 (2378).

The fault was only in the system. Human nature was too weak to refrain from violating a law which was so easily circumvent. So lightly was the law regarded that it became [illegible] to encourage surveys as a means to efficiency. The more innocuous method of evasion was simply the failure of settlers entirely to obey the law. It was a common practice for homestead and other settlers to take up an adjoining quarter-section of land as a timber-culture claim with no intention of growing trees.[8]

A more flagrant abuse was that of cattle corporations. There was frequently no pretense of complying with any part of the law.[9] The object was to secure valuable grazing land controlling water for their stock. It was accomplished by requiring their herders to take out entries covering all the watering places. The adjoining land was valuable only to those who controlled the water. In this way [illegible] were dominated by cattle interests.[10]

Registers and Receivers monthly abstracts of timber-culture entries show numerous entries in the same township on the same date. These groups grew out because they were rounded by random entries. These cannot account for those

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[8] Ibid.

[9] Public Lands Commission, Preliminary Report, 1903, 58. Cong., 2 Sess., S.D. 56, No. 56, Ser. 4681 (1903). The abuse was some were noted what kind of timber was planted [illegible] locality. In twenty-one [illegible] of twenty, not a single [illegible] son knew of any timber being [illegible]. Not alone [illegible] [illegible] were the kind.

[10] I.C.L., 10/22/85, 10 Cong., 1 Sess., H.R. [illegible] (2378).

claims so close together in time and location in thinly settled New Mexico. It is easier to believe that the consecutive entries were made in the interest of an individual or corporation trying to acquire more land than this law allowed.[11]

In 1883 Special Agent H. H. Eddy examined 332 land claims in the Territory. Only seven were timber culture. None of these complied fully with the law. William W. Conkling, T.17S, R.16W (an area reasonably subject to timber-culture entry) had recently located his claim and seemed to be acting in good faith but had as yet done nothing to comply with the law. Frank L. Orcutt's claim, T.8N, R.22E, showed no evidence of improvement or occupation and was located on a mesa where there was no water to irrigate and where trees would not grow without irrigation. The claim of Erastus J. Wilcox, T.1N, R.26E, showed no improvements or occupation, but he declared his intention of planting trees in the spring and Eddy recommended that action be deferred in this case. The entry of O. L. Houghton, T.1S, R.25E, was made in his own behalf. He had plowed five acres of land but had planted no trees. Eddy recommended that the entry be not disturbed. The entry of Leadra

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[11] Registers and Receivers, Abstracts of Original and Final Entries, (N.A.). Original entries at the Las Cruces Office:

Inclusive Numbers of Entry	Township and Range	Date
162-175	18, 19, & 20 S - 26 E	May 12, 1883
181-186	21 S - 26 E	June 1, 1883
381-388	17 S - 19 E	April 3, 1885
635-639	23 S - 27 & 28 E	November 14, 1888
687-697	11 & 12 S - 23 & 24 E	March 9, 1889
777-782	23 S - 27 E	October 10, 1889

claims so close together in time and location that they seem
like New Mexico. It is worthy to believe that the
entries were made in the interest of an individual or corporation
trying to acquire more land than the law allows.[11]
In 1887 special agent S. L. Jackson [illegible] and
in the Territory. Only seven were under entry, three of
them completed fully with the law. William A. Cowell, [illegible]
R.126 (an area reasonably [illegible] to timber-culture entry) was
recently located his claim and appeared to be working in good
faith but had as yet done nothing to secure title. [illegible]
Frank L. Orcutt's claim, [illegible], showed no evidence of
improvement or occupation. [illegible] located on a [illegible] where
there was no water to irrigate and where [illegible] would have grow
without irrigation. [illegible], [illegible],
R.208, showed no improvements or occupation, but he declared
his intention of [illegible] the [illegible] 1887 [illegible]
needed that action be deferred in this case. The entry of G.
L. Houghton, C.12, R.224, was made in the one broad [illegible]
plowed five acres of land and claimed no trees. Many [illegible]
commended that the entry be not disturbed. The entry of Lewis

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11 Registers and Receivers, Letters of Instruction [illegible]
Surveys, (N.A.). Original certificates of the Las Cruces

Inclusive Numbers of Entry	Tuesday and Wednesday
162-175	[illegible]
181-186	[illegible]
188-198	[illegible]
235-255	[illegible]
257-267	[illegible]
277-282	[illegible]

R. Savage, T.23, R.25E, conflicted with an earlier homestead entry. There were five acres of plowed land but no trees. Robina J. Smith, had filed a timber-culture entry on grazing land in T.33, R.25E, that was occupied by Richard Lowery. Lowery had built a house and said he had filed a pre-emption claim on the land. David H. Rust also filed in T.33, R.25E. There was no evidence of occupation or cultivation and Eddy recommended that the entry be held for cancellation.[12]

The wisdom of the Timber Culture Act is open to question.[13] It was passed at a time when the subject of promoting timber resources was coming to the public attention. It was thought to transform the bleak plains of the West by having land-hungry men cultivate trees in exchange for a farm. This was a visionary dream and no more. It was a failure as far as accomplishing what Congress had in mind[14] and, in New Mexico, it was the least successful of all the land laws.

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[12]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, passim.

[13]Robbins, Our Landed Heritage, 218.

[14]Hibbard, A History of the Public Land Policies, 422.

R. Savage, T.2N, R.25E, consisted of 1120 acres of pasture and timber. There were five acres of planted land on the farm. Robins R. Smith, had filed a timber-culture entry for the land in T.3N, R.25E, which was cancelled by Edward Lowery. Lowery had built a house and built up the land. There was no evidence of cultivation and Lowery recommended that the entry be held for cancellation.[12]

The wisdom of the Timber Culture Act is open to question.[13] It was passed at a time when the subject of preserving timber resources was coming to the public attention. It was thought to transform the bleak plains of the West by having land-hungry men cultivate trees in abundance for profit. This was a visionary proposal to say. It was a failure as far as accomplishing what Congress had in mind, and, like Mexico, it was the local speculator who got all the land.

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[12]Secretary of the Interior, President Cleveland's Letter of Filing to Land in the Entry, 1896. "R. Savage," Land Office, No. 100, Yakima.

[13]Robbins, Our Landed Heritage, 211.

[14]Hibbard, A History of the Public Land Policies, 475.

CHAPTER VIII

THE DESERT LAND ACT OF 1877

Within a few years of the passage of the Homestead Law, it was evident that its application to the arid lands of the West was not practical. A quarter-section of land where rainfall was plentiful was valuable to its owner, but the same area west of the one hundredth meridian was usually of value for growing crops only if irrigation was applied.

It was to cope with this situation that the Desert Land Act was passed on March 3, 1877. It applied to any citizen of the United States of requisite age, or to such person who declared his intention to become a citizen. Only one entry of 640 acres, in compact form, was permitted to any one person. The price of the land was $1.25 per acre, but only twenty-five cents per acre was required to be paid when the entry was filed. The entrant was required to reclaim this land within a period of three years. At any time within that period, after producing satisfactory proof, he could pay the balance and secure title to the claim. A patent could be obtained on unsurveyed land. All lands not timber or mineral, which could not produce an agricultural crop without irrigation, were considered desert lands within the meaning of the law.[1] No assignments were to be made under

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[1] L.O.R. 11/1/77, 45 Cong., 2 Sess., H.E.D. No. 1, 41 (1800). Text of the act.

the terms of the act.[2]

The law had weaknesses that made its application difficult from the start. One of these was the size of the area sold. The passage of the act was attended by much debate on this point. It was pointed out that well-tended irrigated land is exceedingly productive and the question was raised why a person should be allowed 640 acres of such land and only 160 acres under other land laws? The Senator who sponsored the bill illogically replied, "Simply because it is very expensive and difficult to conduct water to the land."[3]

That view was all the more reason for limiting the size of the tract because allowing the larger amount was simply an inducement to acquire it for grazing purposes. This was a purpose of promotors of the law.[4] Existing laws prohibited the sale of public lands except in a few instances. This bill allowed for purchase and the amount allowed was more worthwhile for grazing than the previous maximum of 160 acres. But this was an irrigation and not a grazing law.[5]

The value of small tracts intensively cultivated was well recognized in New Mexico where irrigation had been practiced for centuries. For the average settler, large acreage meant

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[2]Public Lands Commission, Final Report, 1881, 45 Cong., 2 Sess., H.E.D. No. 47, 415 (1975).

[3]Hibbard, A History of the Public Land Policies, 427.

[4]S.I.R. 11/1/77, 45 Cong., 2 Sess., H.E.D. No. 1, 33 (1800).

[5]The Stock-Raising Homestead Act of 1916 also allowed 640 acres.

the terms of the act.[2]

The law had weaknesses that made its application difficult from the start. One of these was the size of the grant. The passage of the act was attended by much laboring of the point. It was pointed out that irrigation [illegible] excessively productive and the grants were [illegible] should be allowed 640 acres of such land and only 160 acres under other land laws. The Senators who supported the bill illogically replied, "Clearly because it is very expensive and difficult to conduct water to the land."[3]

That view was all the more curious for limiting the size of the grant because although the Larimer amendment was adopted to induce settlers to acquire it for grazing purposes, this was a purpose of promoters of the land. Existing laws provided for the sale of public lands every 36 days in quantities [illegible] allowed for purchase and the accumulation was more [illegible] while for grazing the [illegible] 160 acres. This was an irrigation and not a grazing law.

The value of small tracts [illegible] was well recognized in New Mexico where irrigation had been [illegible] for centuries. For the average settler, large acreage [illegible]

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[2]Public lands commission, [illegible], 1901, 57 cong., 2 sess., H.R.D. No. 47, 443 (1902).

[3]Hibbard, A history of the public land policies, 507.

[4]S.I.R. 11/1/17, 55 cong., 2 sess. [illegible] (1800).

[5]The stock-raising [illegible] of 320 to allow 640 acres.

a large mortgage and the interest took much of the profit. More land than a farmer could care for himself meant hiring help and payments on the mortgage might preclude this. A good living could be had on 60 or 80 acres and often persons who had more than that sold part of it.[6]

Another weakness was the looseness with which the bill was drawn. A liberal construction would allow title to pass with very little water put on the land. A strict interpretation would require that all the land be irrigated. Except in rare instances it was impossibly expensive to fully irrigate the entire 640 acres.[7] In New Mexico easily irrigated land had long been privately owned and what was left called for more cash to reclaim than the average person could afford.

The General Land Office adopted a strict interpretation of the law from the start, although Commissioner Williamson recognized that it would probably defeat its operation and beneficial results. On the other hand, a liberal construction was certain to permit easy evasion of the law and render it a mockery.[8]

The tract allowed was too small for a stock range and too large to irrigate by most persons using only their own resources. It was held that all the land must be irrigated

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[6]Richard J. Hinton, A Report of Irrigation and Cultivation of the Soil Thereby, 1891, 52 Cong., 1 Sess., S.E.D. No. 41, 214 (2899).

[7]L.O.R. 11/1/77, 45 Cong., 2 Sess., H.E.D. No. 1, 33-34 (1800).

[8]Ibid.

within the required three years for a patent to be legally issued.[9] "This was expecting a miracle second only to the rain-making act of 1873."[10] On the other hand, the area was too small to attract investment capital to develop the large-scale storage of water needed to irrigate the arid regions.

The General Land Office had misgivings about the application of the Desert Land Law in New Mexico. Eight months after it was passed, all entries under the act were suspended and hearings ordered to determine their legality. They were to be most thorough and were to reveal whether any of the land entered would produce an agricultural crop without irrigation, whether any had been previously cultivated by residents or semi-residents, and whether entries had been made by parties other than real applicants. Such development of the facts were to be made as would "fully protect the interests of the United States, prevent the success of fraud and secure the rights of all persons who [had] made entries in good faith under said law."[11]

This order for suspension was revoked within a month at the insistence of Secretary of the Interior Schurz. At the same time, however, specific instructions were issued that any cases suspected of fraud were to be immediately reported to the General Land Office.[12]

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[9]William B. Mathews, Mathews's Guide for Settlers upon the Public Lands, 159. Case of Geo. Ramsey, 5 L. D., 120.

[10]Ernest S. Osgood, The Day of the Cattleman, 195.

[11]Williamson to Register and Receiver, Mesilla, 10/8/77 (F.R.C.).

[12]Ibid., 11/8/77.

within the required three years for a patent to be legally issued.[9] "This was expecting a great deal, to the rain-making act of 1875."[10] On the other hand, the areas were too small to attract investment capital to develop large-scale storage of water needed to irrigate the arid region.

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[9] William H. Matthews, *Matthews' Guide for Settlers upon the Public Lands*, 159. Case of Geo. Ramsey, [illegible]

[10] Ernest S. Osgood, *The Day of the Cattleman*, [illegible]

[11] Williamson to Register and Receiver, Santa Fe, 10/3/77 (F.R.C.).

[12] *Ibid.*, 11/8/77.

There was justification for these suspicions. The law specified that entries must be in compact form; yet, it was less than a year old when numerous persons desired to take out entries in contiguous subdivisions of 40 acres.[13] The obvious purpose was to control a maximum acreage adjacent to a stream or series of springs. This could be important for irrigation purposes, but even then to irrigate the whole claim would be expensive and difficult to accomplish in three years. Far more important, such control of a source of water gained the owner dominion over large quantities of grazing land in areas back from the water. For example, "Senator Dorsey [owned] all the springs on 160 acres, and this [controlled] the whole 10,000 acres back of it."[14]

The matter of contiguous entries was dealt with by Land Office ruling. Desert land entries could be made on unsurveyed land. Without survey lines as a guide, a great deal of looseness arose as to what constituted compact form. Even in surveyed areas entries frequently followed streams in a comparatively narrow strip.[15] It was ruled that entries must be made as nearly as possible in the shape of a legally subdivided section which, of course, was a square. Parts of more than one section might be admitted if they conformed to the

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[13]Atkinson to Williamson, 11/10/77 (B.L.M.).

[14]Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, 446 (1923).

[15]L.O.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 226 (2378).

There was justification for these statements. The law specified that entries must be made in some [illegible] year, in many less than a year old when numerous persons desired to take out entries in contiguous subdivisions. [illegible] one purpose was to control a certain acreage adjacent to a stream or series of springs. This could be important for irrigation purposes, but even then it irrigate the whole tract would be expensive and difficult [illegible] further. Far more important, such control of a series of water [illegible] the owner dominion over large quantities of grazing land in areas back from the water. For example, [illegible] all the springs on [illegible] and this [illegible] 10,000 acres back of it.[illegible]

The matter of contiguous entries [illegible] office ruling. [illegible] veyed land. Without survey [illegible] locations area due to [illegible] surveyed areas entries [illegible] practically narrow strip. [illegible] made as nearly as possible in the shape of a legally [illegible] vided section which, of course, is a square. [illegible] than one section might be entered [illegible] [illegible]

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[13] Atkinson to Williamson, [illegible]

[14] Public Lands Circulars, [illegible] 46 Comp., 2 Decs., [illegible]

[15] [illegible] (2378).

proper shape. Merely contiguous small pieces of land, joined end to end, were ruled to be illegal whether on surveyed or unsurveyed land.[16]

But this did not end fraudulent use of the land. Since it was required that only twenty-five cents per acre be paid at the time of entry, and since the entryman had three years to make proof of reclamation and complete the payment, a way was opened

> to persons desiring to secure lands for a cattle range to take up, in different names, large bodies of these lands extending along streams and practically to control them for years at a very limited rental, by relinquishing and renewing the entries in other names; by which means not only the tracts entered are obtained, but the water-supply to the surrounding country, often for many miles in extent, is exclusively appropriated, and thereby the opportunity gained to range those lands with little interference.[17]

In this way thousands of acres of land in New Mexico were held as a lease for three years by the payment of twenty-five cents an acre. Officials there regarded desert land entries as a fruitful source of a great deal of "crookedness."[18]

Through 1891 there were 415,203 acres in original entries and 66,725 acres in final certificates. Through 1894 (when entries made in 1891 would normally be completed) acres in final certificates had more than doubled to 139,622. Only

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[16] L.O.R. 10/28/81, 47 Cong., 1 Sess., H.E.D. No. 1, 408 (2017).

[17] S.I.R. 11/24/88, 50 Cong., 2 Sess., H.E.D. No. 1, XII (2636).

[18] L.O.R. 10/4/88, 50 Cong., 2 Sess., H.E.D. No. 1, 76 (2636). Reports of Register Edmund G. Shields and Receiver James Brown, Las Cruces Land Office.

proper share. Hardly surprisingly, pieces of land, joined and to and, were rules to be illegal working on surveyed or unsurveyed land.[16]

But this did not end fraudulent private land. Since it was required that only twenty-five acres be held as the time of entry, and since the entryman had three years to make proof of residence and complete the payment, a way was opened

> to persons desiring to secure large tracts of land to take up, in different ways, large tracts of public lands extending along streams and practically monopolize them for years at a very trifling cost, by relinquishing and repeating the entries. In this manner not only the lands adjacent to water were obtained, but the water-supply to the surrounding country, for many miles in extent, is practically appropriated, and thereby the opportunity afforded to many other lands with little interference.[17]

In this way thousands of acres of land in New Jersey were held as a lease for life [illegible] at a time. [illegible] sixty-five cents an acre. Officials there [illegible] acres land, writing as a fruitful source of a great deal of "[illegible]".[18]

Through 1891 there were 815,202 acres in original entries and 66,725 acres in final certificates. Through 1894 (when entries made in 1891 would normally be completed) acres in final certificates had more than doubled to 137,[illegible]. Only

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[16] C.G.B. 10/29/91, [illegible] (2017).

[17] A.L.S. 11/24/92, [illegible] XLI (2636).

[18] C.G.B. 10/4/92, [illegible] (2636). Reports of Indian Agents [illegible] James Brown, [illegible] Critics.

about 33 per cent of entries made by 1891 were proved up by the end of 1894 (Appendix VI). Since two-thirds of the entries were never completed by conducting water upon the land, it is evident that it was used for other than irrigating purposes. This could only be for grazing on 57 per cent of it, that being the percentage of entries made in townships where crops could not be grown without irrigation and where there was no irrigation. Also, 75 per cent of entries made through 1891 were made in townships where there was no irrigating in any part of the township at that time (Maps 17-18). Furthermore, by 1891 only about 47,000 acres had been added to the total under cultivation by irrigation during the fifteen years the law was in force,[19] as opposed to 415,203 acres in original entries. There were nearly nine times as many acres in original entries as were added to the irrigated total. By 1894 there were nearly three times as many acres in final certificates as were added to the total brought under cultivation by irrigation through 1891 (Appendix VI).

But all the land brought under irrigation was not public domain. Conservatively, 40 per cent was by private irrigation companies operating on land purchased from grants and individuals.[20] So almost fifteen times as much land was entered, and nearly five times as much acquired by certificates, as public domain brought under irrigation while the law was in effect.

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[19] Estimate based on table of irrigated areas, p. 175.

[20] Estimate based on data in, Hinton, A Report on Irrigation and Cultivation of the Soil Thereby, 1891, 52 Cong., 1 Sess., S.E.D. No. 41, passim (2899).

about 33 per cent of entries made in 1891 were forfeited by the end of 1894 (Appendix VI). Since [illegible] were never completed by cultivating water were the law, it is evident that it was a bad for other [illegible] structures. This could only be for grazing on [illegible] of it, that being the percentage of entries made in [illegible] could not be grown without irrigation and there was no irrigation. Also, 10 per cent of entries made through 1891 were made in townships where there was no irrigation in any part of the township as this time (Map 17-18). Furthermore, by 1891 only about 87,000 acres had been added to the total under cultivation by irrigation during the fifteen year the law was in force,[19] as compared to 813,000 acres in original entries. There were [illegible] other times or [illegible] acres in original entries as were also in the [illegible] by 1894 there were nearly three [illegible] acres in total [illegible] acres as were [illegible] brought under cultivation by irrigation through 1894 (Appendix V).

But all the land brought under irrigation was not public domain. Conservatively, 40 per cent was by private irrigation companies operating on land purchased from [illegible] and individuals.[20] So almost fifteen times as much land was entered, and nearly five times as much irrigated by certificates, as public domain brought under irrigation while the law was in effect.

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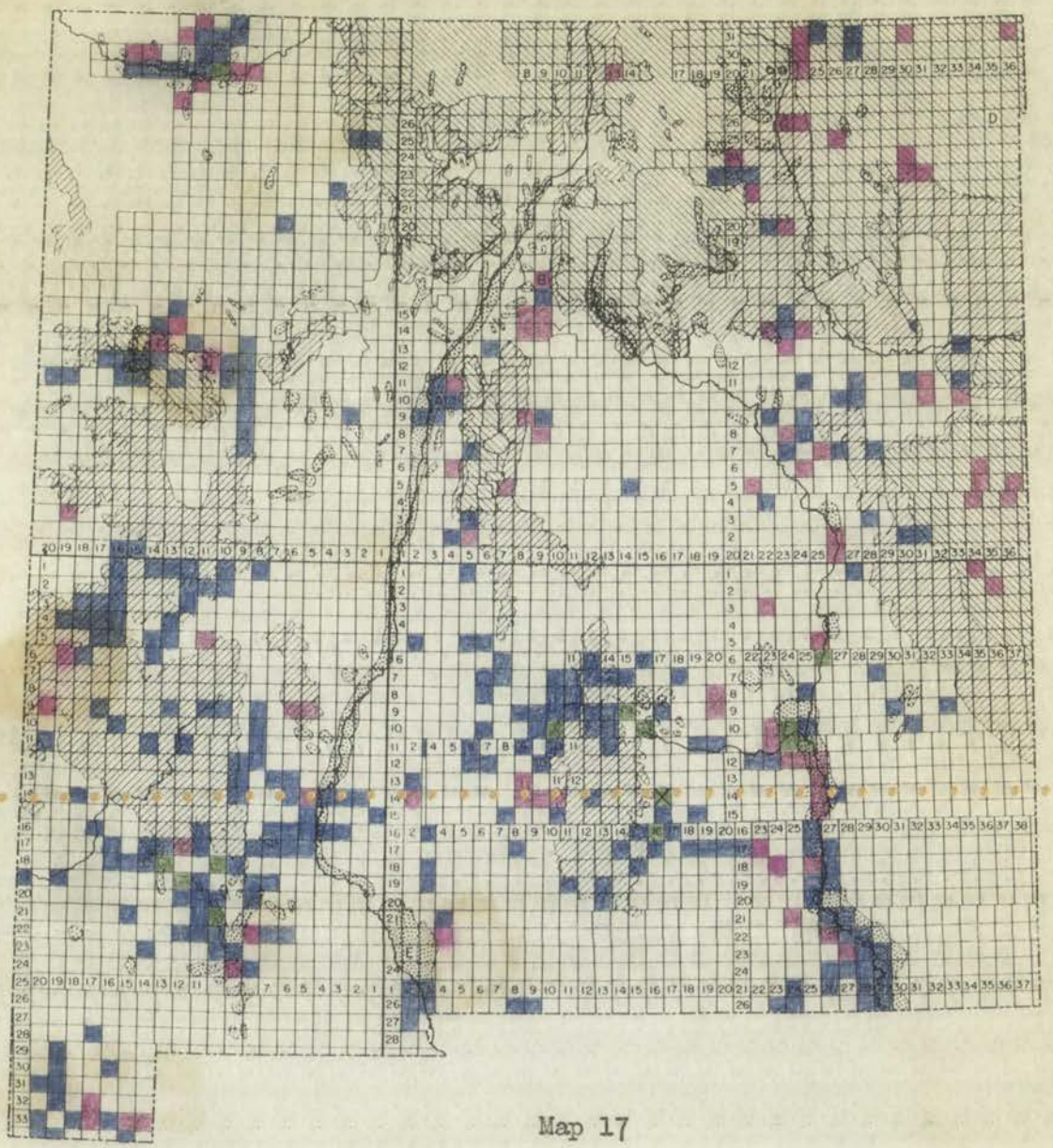
[19] Estimate based on table of [illegible] Table 17.

[20] Estimate [illegible] in [illegible], Report on Irrigation and Cultivation [illegible] in the Dry Belt, [illegible] I [illegible], [illegible].



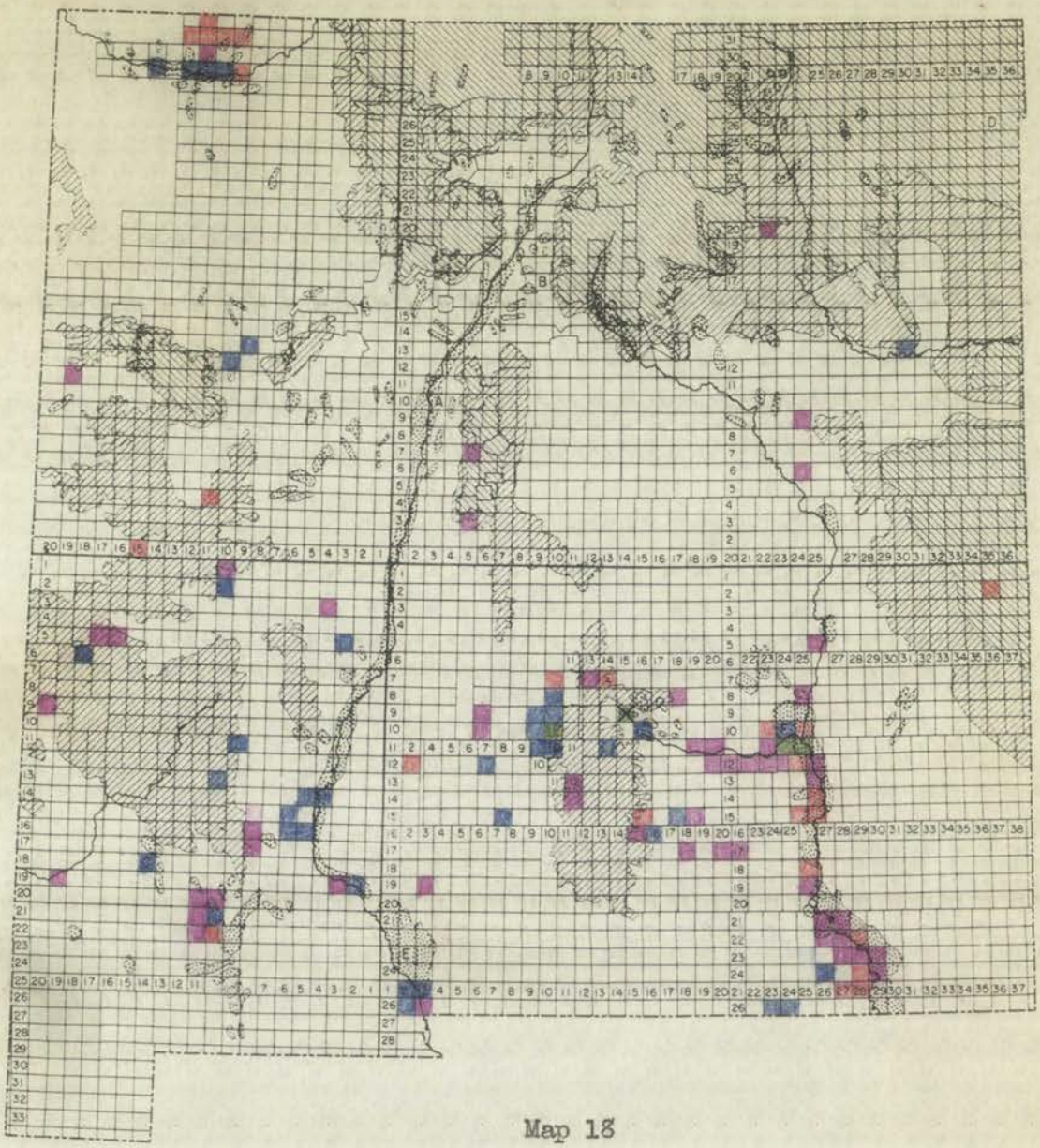
Map 17

Townships With

ORIGINAL DESERT LAND ENTRIES

1877-1881 1887-1891

1882-1886



Map 18

Townships With

FINAL DESERT LAND CERTIFICATES

1879-1881

1882-1886

1887-1891

1892-1894

Registers were not very discerning in the entries they allowed to be filed. A number of consecutive entries in the same township on the same day was rather common.[21] These groupings are bound to stand out when they are surrounded by completely random entries.

Although the Desert Land Law was badly misused, the fifteen years the original law was in existence was practically concurrent with a mushroom growth of the cattle industry. The intention of a large element in this industry was to make a quick return on an investment and be prepared to get out - something like hitting the peak in the stock market and then unloading. This segment of the industry stopped at nothing to acquire land for their operations; however, many of the cattlemen themselves deprecated these tactics.[22]

Along with fraudulent use of desert land entries was a steady growth of legitimate irrigation. Records of the amount of land irrigated are by no means complete and those available are contradictory. The first census to contain irrigation

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[21]Registers, Abstracts of Desert Land Entries and Certificates, (N.A.). Typical original entries at the Las Cruces Land Office:

Inclusive Numbers of Entry	Township and Range	Date
286-290	6 S - 16 E	May 5, 1884
338-347	5 S - 2 E	September 24, 1884
393-399	17 S - 18, 19 E	April 2, 1885
660-665	14 S - 9 E	June 7, 1888
679-685	22, 23 S - 27 E	October 23, 1888
686-690	13 S - 26 E	" " "

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[22]The Avarica Cattle Company (Arizona), Prospectus, (W.R.C.I.S.).

Registers were not very discriminating in the entries they allowed to be filed. A number of nonexistent entries in the same township on the same day was rather common.[21] These groupings are found so stupid not when they are surrounded by completely random entries.

Although the desert land law was hardly framed, the fifteen years the original law was in existence was practically concurrent with a mushroom growth of the cattle industry. The intention of a large element in this industry was to make a quick return on an investment, and be prepared to get out - something like hitting the peak in the stock market and then unloading. This segment of the industry stopped at nothing to acquire land for their operations however, many of the cattlemen themselves deprecated these tactics.[22]

Along with fraudulent use of desert land entries was a steady growth of legitimate irrigation. Records of the amount of land irrigated are by no means complete and those available are contradictory. The first common to certain irrigation

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[21] Registers, Abstracts of Desert Land Entries and Certificates. (N.A.). Typical original entries at the Las Cruces Land Office:

Inclusive Number of Entry	Township and Range	Date
286-290	6 S - 1 E	May 5, 1894
338-347	5 S - 6 E	September 24, 1894
393-399	17 S - 18, 19 E	April 2, 1895
660-665	16 S - 6 E	June 1, 1895
679-685	22, 23 S - 27 E	October 29, 1895
686-690	15 S - 26 E	" "

[22] The Average Cattle Country (Chicago), June issue, (W.R.O.I.S.).

acreage was that of 1890. This was actually for 1889. The figure for that year was 91,745 acres of irrigated land.[23] That same year there were 263,106 acres in improved farms.[24] Approximately 40 per cent of improved farms were irrigated. Using this percentage as an index for figures prior to 1890, the acreages through 1900 follow:

Year	Acres in improved farms	Acres irrigated (estimate)	Increase in acres irrigated over previous decade
1860	136,358	54,500	
1870	143,007	57,200 (60,000)*	5,500
1880	237,392	94,900 (76,000)*	16,000
1890	263,106	105,000	29,000
1900	303,438	229,000	200,000

[25]

Nationally there was a marked decrease in desert land entries by 1887. The cattle industry reached its maximum development by the middle eighties and the demand for land fell off. Profits of the industry showed a sharp decrease beginning with 1885 because of overstocking and the severe winters.[26] In New Mexico the decrease in desert land entries did not come

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[23] XI Census (Agriculture by Irrigation), 193.

[24] XI Census (Agriculture), 74.

[25] VIII Census (Agriculture), 178 [Arizona deducted]; IX Census (Compendium), 688; X Census (Compendium), Vol. I, 718; XI Census (Agriculture), 74; XII Census (Crops and Irrigation), 852. The basis of what constituted improved land varied as did the techniques of the census enumerators so the figures marked * are adjustments that are probably more accurate than those they replace. Hinton, A Report on Irrigation and Cultivation of the Soil Thereby, 1891, 52 Cong., 1 Sess., S.E.D. No. 41, passim (2899), shows larger figures than these but they are incomplete and contradictory.

[26] Gance, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:146.

average was that of 1890. This was actually for 1889. The figure for that year was 51,745 acres of irrigated land.[23] That same year there were 253,100 acres in improved farms.[24] Approximately 40 per cent of improved farms were irrigated. Using this percentage as an index for figures prior to 1890, the averages through 1900 follow:

Year	Acres in improved farms	Acres irrigated (estimate)	Increases in acres irrigated over previous decade
1860	136,358	34,500	
1870	143,007	57,200 (60,000)*	5,500
1880	237,392	94,500 (76,000)*	16,700
1890	263,106	105,000	25,000
1900	303,432	225,000	200,000

Nationally there was a marked decrease in desert land entries by 1887. The cattle industry reached its maximum development by the middle eighties and the demand for land fell off. Profits of the industry moved a short decrease beginning with 1885 because of overstocking and the severe winters.[25] In New Mexico the decrease in desert land entries did not come

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[23] XI Census (Agriculture by Irrigation), 193.

[24] XI Census (Agriculture), 74.

[25] VIII Census (Agriculture), 178 [Arizona damaged]; IX Census (Compendium), 688; X Census (Compendium), Vol. I, 716; XI Census (Agriculture), 74; XII Census (Crops and Irrigation), 852. The basis of what constituted improved land varied as did the technique of the census enumerators so the figures marked * are estimates that are probably more accurate than those they replace. Hinton, A Report on Irrigation and Cultivation of the Soil Thereby, 1891, 52 Cong., 1 sess., S. Ex. Do. 41, passim (2856), shows larger figures than those but they are incomplete and contradictory.

[26] Osmore, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:142.

until 1891 when original entries dropped to 19,548 acres from the figure of 55,534 in 1890 (Appendix VI). Likewise the depressed period in the cattle industry came to New Mexico in the early 1890's.[27] The winter of 1886-1887 was unusually severe on the northern plains and cattle losses were as high as eighty per cent.[28] The winters were milder in New Mexico and losses not heavy; consequently, the cattle depression came later here than in the North, and when it came, was caused by drouths, overstocking, and low prices.[29]

The decline of the cattle industry brought a new epoch to irrigation. "In 1882, there were no irrigation works built on sound engineering principles, but by 1888, investors were turning from ranching to the rapidly developing irrigation companies."[30]

In New Mexico there were 19 irrigation companies incorporated in 1888; 32 in 1889; 23 in 1890; and 14 in 1891 - a total of 88.[31] Conservatively estimated, 40 per cent of the land brought under irrigation during the decade of the 1890's was by these companies. Purchases under the Desert Land Act

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[27]Hinkle, Early Days of a Cowboy on the Pecos, 20.

[28]Clark, The West in American History, 597-598.

[29]Hinkle, Early Days of a Cowboy on the Pecos, 20.

[30]Gance, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:146-147.

[31]G.N.M. 10/10/88, 50 Cong., 2 Sess., H.E.D. No. 1, 843 (2638); 10/12/89, 51 Cong., 1 Sess., H.E.D. No. 1, 459 (2726); 9/15/90, 51 Cong., 2 Sess., H.E.D. No. 1, 609 (2842); and 10/12/91, 52 Cong., 1 Sess., H.E.D. No. 1, 339 (2935).

until 1891 when cattleland [illegible] dropped to 14,343 acres, the figure of 35,234 in 1890 [illegible]. Since the depressed period in the cattle industry [illegible] the early 1890's.[27] [illegible] 1890-1897 was marked by severe ice storms, [illegible] and losses not heavy; consequently, [illegible] later here than in the north, [illegible] drought, overstocking, and low prices.[28]

The decline of the cattle industry [illegible] irrigation. "In 1892, there were [illegible] on sound engineering principles, but by 1898, [illegible] surviving from remaining [illegible] companies."[29]

In New Mexico there were [illegible] reported in 1888; 32 in 1898; [illegible] total of 88.[31] [illegible] land brought under irrigation [illegible] was by these companies. Further, [illegible]

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[27] Mimeo, Early Days of a Cowboy [illegible] the Range.

[28] Mark, The Year in Western History, 1897-98.

[29] Mimeo, Early Days of a Cowboy [illegible] the Range, 30.

[30] Dance, "The Desert [illegible] Aid in Irrigation, 1890-1902," Agricultural Ethnic History, 17:46-147.

[31] [illegible], 10/20/89, 32 [illegible]; [illegible], [illegible] (2038); 10/12/89, 21 [illegible]; [illegible], [illegible]; 9/15/90, 21 [illegible]; [illegible], [illegible]; 10/12/91, 32 [illegible], 1 [illegible], [illegible]

were minor because they needed land in large quantities for economical development of irrigation facilities. Land in excess of amounts allowed by desert land entry was acquired from individuals and land grants. The Springer Land Association purchased 130,000 acres from the Maxwell Land Grant Company. Other areas of successful development were along the Rios Pecos, Grande and San Juan and in the Mimbres Valley. Others chose areas that were impractical for irrigation development and were failures. Two of these were in Bernalillo County; one in Tijeras Canyon and the other along the Rio Puerco.[32]

A person who made a desert land entry for irrigation purposes rather than grazing had four possible ways of achieving his purpose:

1. His own individual effort.

2. A co-operative with the owners of the land holding the stock.

3. A State sanctioned irrigation district with a comparatively large number of members.

4. Purchase of water from an irrigation company at a specified rate.[33]

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[32]Ibid., passim. See also Hinton, Irrigation in the United States, Progress Report for 1890, 51 Cong., 2 Sess., S. E.D. No. 53, passim (2818); Hinton, Nettleton and Hay (Irrigation; Underflow Investigation; and Geology, respectively), 52 Cong., 1 Sess., S.E.D. No. 41 (Pts. 1, 2 and 3 respectively), passim (2899). Many of the statistics in the last two mentioned documents seem exaggerated, and to some extent, the Governor's Reports also.

[33]Gamoe, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:149-150.

were minor because they needed very large quantities for economical development of irrigation facilities. Land in excess of amounts allowed by Desert Land entry was acquired from individual and land grants. The Sacramento Land Association purchased 120,000 acres from [illegible] and Green Company. Other areas of unsuccessful development were along the Rio Pecos. Grants had been made by the Mexican Valley. Other areas arose that were leased land for irrigation development and were failures. The [illegible] were in Bernalillo County; one in Tijeras canyon and the other along the Rio Puerco.[32]

A person who made a desert land entry for irrigation purposes rather than grazing had four options of meeting his purpose:

1. His own individual efforts.

2. A cooperative association of the land holding the stock.

3. A State or national irrigation district with a comparatively large number of members.

4. Purchase of water from an irrigation company at a specified rate.[33]

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[32] Ibid., passim. See also Mitchell, Irrigation in the United States, Fourteen Reports from 1902. Vol. Done., 2 Sess., S. 230. No. 53, passim (2 Vol.). Also, Hazlehurst and Cory (Irrigation Under Irrigation Associations and Companies, Respectively), 32 Cong., 1 Sess., S. Doc. No. [illegible] (Vols. 1, 2 and 3 respectively), passim (2 Vol.). [illegible] of the Statistics [illegible] two mentioned documents were organized, and in each instance the Governor's reports also.

[33] Dunne, "The Desert Land Act as a Factor in Irrigation, 1877-1891," Agricultural History, II (1928).

Irrigation by individual effort was generally unsatisfactory because few persons had the capital to do more than divert water from easy-access streams in short ditches to land near the watercourse. Without storage facilities, water was quite limited. Even if it were not, as soon as all the land along a stream was appropriated, others on higher ground could not gain access to the water. Title to land not adjacent to streams did not give title to water. "The separate control of land and water tended to create water monopolies..." with the owners of land not adjacent to water dependent on the owners of the streams.[34]

This was a problem in New Mexico even before the advent of the Desert Land Law. In 1872, for example, ten homestead entrants requested permission to move the location of their entries from the Rio Hondo to the North Spring River some 18 miles to the north. Other settlers above them had taken all the water from the Rio Hondo and left none for irrigation downstream.[35]

Irrigation by small co-operative groups was hardly more satisfactory than individual effort because the individuals of these groups generally had little but labor to offer to the enterprise.

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[34] Ibid., 150. New Mexico later officially rejected the riparian doctrine and adopted the "Colorado doctrine" which recognized only priority of use as the basis for acquiring a water right. Clyde O. Martz, Cases and Materials on the Law of Natural Resources, 69. The native custom had recognized priority of use.

[35] Everett to Drummond, 1/8/72 (F.R.C.).

Irrigation by artificial means began early in mining history because few places had the wealth to divert water from over-worked streams. Ditches were dug near the watercourse. Although [illegible] quite limited. Even if it was [illegible] along a stream was [illegible] not gain access to the water. [illegible] streams did not give title to water. The [illegible] land and water tended to [illegible] the owners of land not adjacent to [illegible] owners of the stream.[24]

This was a problem in [illegible] the Desert Land Law. In 1877, the [illegible] entrants requested permission to take [illegible] entries from the [illegible] miles to the north. [illegible] the water from the [illegible] downstream.[25]

Irrigation by small [illegible] was far more satisfactory than irrigation [illegible] of these groups [illegible] enterprise.

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[24]Ibid., 120. [illegible] priority to water [illegible] riparian doctrine [illegible] recognized only [illegible] a water right. [illegible] Law of Natural Resources [illegible] based priority of use.

[25]Everett to [illegible], [illegible].

State controlled irrigation districts were also hardly possible because the Government retained title to the land until final proof was made and final proof could not be accomplished until the land was irrigated. As a consequence, title to land could not be put up as security for the tax issues that would in turn secure the bonds that would raise money to construct the irrigation works.[36]

The dream of vast fortunes from irrigation companies was largely just a myth. These companies learned through bitter experience that the land laws did not operate in their favor.[37] Then too, many of these companies built reclamation projects as cheaply and as quickly as they could in order to bring in revenue as soon as possible. The resulting maintenance cost soon forced many into bankruptcy.[38]

It was evident that a land law which gave no consideration to the problem of water needed substantial revision. Congress took a half-hearted step in that direction in 1888 when it passed an act providing for the withdrawal of irrigable land from entry.[39] By this act, 39 reservoir sites were selected in New Mexico totalling 40,170.20 acres.[40]

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[36]Ganoe, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:151-152.

[37]Ibid.

[38]Ganoe, "The Desert Land Act Since 1891," Agricultural History, 11:266.

[39]Robbins, Our Landed Heritage, 294-295.

[40]L.C.R. 9/23/91, 51.

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[36] Gamoe, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:152-158.

[37] Ibid.

[38] Gamoe, "The Desert Land Act Strikes Idaho," Agricultural History, 11:266.

[39] Robbins, Our Landed Heritage, 294-295.

[40] L.O.R., 9/23/91, 31.

These withdrawals were very unpopular with the people of New Mexico, who felt that the Territory was as much entitled to national aid for irrigation purposes as other sections were entitled to aid for rivers and harbors. It was granted that the withdrawals covered potentially irrigable lands but it was the feeling that nothing would eventually come of this action and the immediate result was to keep settlers from filing entries and making developments on their own initiative.[41]

Following the recommendation of the Congressional Committee on Irrigation and Reclamation of Arid Lands, in 1890 Congress acted to repeal that part of the act which had withdrawn lands from settlement.[42] A further modification that year reduced the size of entry from 640 to 320 acres. More significant changes followed in 1891. The amendatory Omnibus Land Reform Act of that year stipulated that one dollar per acre for each of three years should be expended in reclaiming the land. Water was required to be available for the entire acreage but only one-eighth need be put under cultivation. Entrants were permitted to form associations for mutual development of their lands, and only citizens of the State or Territory where the land was located were permitted to file entries.[43] This last requirement was to prevent

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[41]G.N.M. 9/15/90, 51 Cong., 2 Sess., H.R.D. No. 1, 608 (2842).

[42]Ganoe, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:155.

[43]Hibbard, A History of the Public Land Policies, 431.

manipulation of entries by cattle companies (many of which were controlled by English and Scotch bankers) for the purpose of acquiring large areas of land.[44]

Starting in 1877, there had been a determined movement to repeal the entire desert land policy.[45] This movement was not successful and a new era in irrigation started in 1891 with the problems of operation still unsolved.[46]

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[44]Gance, "The Desert Land Act in Operation, 1877-1891," Agricultural History, 11:157.

[45]Ibid., 153.

[46]Ibid., 157.

CHAPTER IX

OTHER DISPOSALS OF THE PUBLIC DOMAIN

MILITARY RESERVATIONS

The military reservations in New Mexico were established by the following procedure:

> The commanding officer of a military department recommends the establishment of a reservation with certain boundaries; the Secretary of War refers the papers to the Interior Department to know whether any objection exists to the declaration of the reserve by the President. If no objection is known to the General Land Office and it is so reported, the reservation is declared by the President upon application of the Secretary of War for that purpose, and the papers are sent to the General Land Office, through the Secretary of the Interior, for annotation upon the proper records. If upon surveyed land the United States land officers are at once instructed to withhold the same from disposal and respect the reservation. If upon unsurveyed land the United States surveyor-general is furnished with a full description of the tract and is instructed to close the lines of public surveys upon the outboundaries of the reserve; the United States land officers are also instructed not to receive any filing of any kind for the reserved lands.[1]

A number of abandoned military reservations in New Mexico remained in an unsettled state for years because there was no authority for their restoration to the public domain. A Congressional Act of June 12, 1858, interdicted the sale of lands in a military reserve without a special Act of Congress, and provided that they were not subject to pre-emption or homestead entry. Florida was the single exception to these rules.

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[1]Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 249 (1975).

An Act of July 2, 1864, provided for the sale of land, in accordance with the law of 1858, at a minimum price of $1.25 per acre.

Special Acts of Congress for the sale of military reserves usually provided for appraisers to value the land after which they were sold for not less than the appraised value or for less than the minimum price of $1.25 per acre. Under such laws, it was the practice for the Secretary of War to transfer the land to the Secretary of the Interior who disposed of the same, in accordance with law, through the Commissioner of the General Land Office.[2] This was the case under the Act of February 24, 1871, when 13,645 acres at Fort Sumner were declared for sale. Meanwhile, in 1870, Lucien B. Maxwell had purchased the buildings and improvements on the abandoned military reservation and moved there to live along with some forty families. Soon thereafter, Eben Everett, the Register at Santa Fe, placed a request with the General Land Office to have the land transferred to the Interior Department so that it might be surveyed to enable the people living there to acquire title to the land.[3]

In 1872 Maxwell, through his attorney, J. Houghton of Santa Fe, requested permission to purchase the land within the limits of the reserve at private sale. He was informed that although he was the purchaser of the buildings he had no right to the land on which they were situated. The land could

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[2]Ibid.

[3]Everett to Joseph S. Wilson, 11/25/70 (F.R.C.).

An Act of July 2, 1864, provided for the sale of land, in accordance with the law of 1862, in minimum units of 40 acres.

Special Acts of Congress for the sale of military reserves usually provided for appraisers to value the land after which they were sold for not less than the appraised value or for less than the minimum price of $1.25 per acre. Under such laws, it was the practice for the Secretary of War to transfer the land to the Secretary of the Interior who disposed of the same, in accordance with law, through the Register of the General Land Office.[2] This was the case under the act of February 24, 1871, when 13,000 acres of Fort Marcy were declared for sale. Accordingly, on 1872, Thomas Hall purchased the buildings and improvements on the abandoned military reservation and moved them to a site along with some forty families. Soon thereafter, John Ward, the Register at Santa Fe, placed a request with the General Land Office to have the land transferred to the Interior Department so that it might be surveyed to permit the people living there to acquire title to the land.

In 1872 Maxwell, through his attorney, J. Benjamin of Santa Fe, requested permission to purchase the land within the limits of the reserve at minimum rates. He was informed that, although he was the grantee of the land grant in 1848, he had no right to the land on which they were located. Thereupon Hall

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[2] Ibid.

[3] Everett to Joseph K. Wilson, 12/20/12 (G.L.O.).

be disposed of only in accordance with the provisions of the Act of February 24, 1871,[4] which called for appraisal of the land and sale at public auction.[5]

By 1873 there were a hundred or more settlers on the reserve and Maxwell was still pressing the General Land Office for permission to buy the land on the grounds that the settlers had located there before the passage of the act providing for its disposal. The Land Office, however, still refused to recognize the right of the settlers to live on the reserve.[6]

Meanwhile Lucien Maxwell's son, Peter, deposited $2,500 for the survey of the townships within which the military reservation was located. The deposit was made in April, 1872.

Early in 1874 a petition was sent to the General Land Office requesting that office to seek relief from Congress for the settlers on the reservation in the form of a law granting them homestead and pre-emption privileges. Commissioner Drummond ruled that

> The settlers went upon the lands without authority of law. The deposit was made by Mr. Maxwell who purchased the Government buildings of the War Department, and not the settlers. This would indicate that the settlements were made in the interest of Mr. Maxwell, and that the lands may pass into his hands.
>
> I cannot therefore recommend the passage of the bill as requested by the petitioners.[7]

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[4]W. W. Curtis, Acting Commissioner, to Houghton, 10/31/72 (N.A.).

[5]See note 2.

[6]Drummond to Houghton, 2/8/73 (N.A.).

[7]Drummond to J. W. Nesmith, House of Representatives, 1/12/74 (N.A.).

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By 1873 there were a hundred or more settlers on the reserve and Maxwell was still pressing the General Land Office for permission to buy the land on the ground that the settlers had located there before the passage of the act providing for its disposal. The Land Office, however, still refused to recognize the right of the settlers to live on the reserve.[6]

Meanwhile Lucien Maxwell's son, Peter, lobbied in Congress for the survey of the township which made the military reservation was located. The deposit was made in June, 1873. Early in 1874 a petition was sent to the General Land Office requesting that office to seek relief from Congress for the settlers on the reservation in the form of a law granting them homestead and pre-emption privileges. Commissioner Drummond ruled that

> The settlers were upon the lands without authority of law. The deposit was made by Mr. Maxwell who purchased the Government buildings of the War Department, and not the settlers. This would indicate that the settlements were made in the interest of Mr. Maxwell, and that the lands may pass into his hands.
>
> I cannot therefore recommend the passage of the bill as requested by the petitioners.[7]

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[4] W. Curtis, acting Commissioner, to Houghton, 10/31/72 (N.A.).

[5] See note 2.

[6] Drummond to Hampton, 2/28/73 (N.A.).

[7] Drummond to J. W. Smith, House of Representatives, 1/12/74 (N.A.).

In the spring of 1874, the reservation was appraised by Surveyor General James K. Proudfit,[8] and Abram G. Hoyt, Register of the Land Office at Santa Fe.[9]

In making deposits for survey, it was Maxwell's evident intention to use the receipt for the money deposited in payment for the land surveyed.[10] His intention was thwarted when the Land Office discovered that the deposit was for the survey of a military reservation. The money thus deposited then became an entire loss until the Act of March 3, 1879, made certificates of deposit for the survey of public lands assignable by endorsement and receivable in payment for any lands entered under the Homestead or Pre-emption Laws. Meanwhile Maxwell had lost the triplicate copies of the certificates of deposit; nevertheless, after considerable maneuvering he was able to get a refund of his money but he was not able to acquire the land he had sought.[11]

Most of the land in the Fort Sumner Military Reservation was eventually sold at public sale on January 15, 1884. A small portion, however, did not find buyers until 1914.[12]

That of Fort Sumner was the only reservation dealt with by a Special Act of Congress. Forts Butler, Cummings, Craig,

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[8]Drummond to Proudfit, 3/9/74 (N.A.).

[9]Ibid., to Hoyt, 3/11/74.

[10]See Chapter III.

[11]J. M. Armstrong, Acting Commissioner, to Atkinson, 9/26/79, and Williamson to Atkinson, 3/29/80 (N.A.).

[12]Registers and Receivers, Tract Books, (B.L.M.).

In the spring of 1871, the reservation was surveyed by surveyor General [illegible], and [illegible], Surveyor of the Land office at [illegible].

In making departs for survey, it was probably without intention to use the [illegible] for the women interested in [illegible] for the land survey[illegible]. In [illegible] was [illegible] when the land office discovered that the [illegible] was [illegible] survey of a military reservation, [illegible] then became an entire [illegible] the [illegible] made certificates of [illegible] the survey of [illegible] analgamable by endorsement and [illegible] lands entered under the homestead or [illegible] while Maxwell had lost the [illegible] option of the [illegible] option of [illegible] navigable [illegible] ing he was able to get a refund of his money but [illegible] able to acquire the land he was [illegible].[7]

Most of the land in the [illegible] was eventually sold as public [illegible] small portion, however, [illegible] 1874.[8]

That of Fort Hamer was the only [illegible] by a special act of [illegible].

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[8]Drummond to [illegible], [illegible].

[9]Ibid., to Hoyt, [illegible].

[10]See chapter iii.

[11]W. Arnold [illegible] to [illegible], 9/26/79, and William [illegible].

[12]Registers and [illegible].

McRae, and an unnamed reserve in T.18N, R.20E, were relinquished by the Regular Act of July 5, 1884, which provided for "the survey, appraisal and sale of abandoned Military Reservations, [such areas] to be appraised and sold at public sale, to the highest bidder for cash, at not less than the appraised value, nor less than $1.25 per acre."[13] All but Fort Cummings were either partially or wholly within private grants and no action was taken to dispose of those portions on the public domain prior to 1891.

Fort Thorn was never officially declared and yet its status was such that it was considered necessary to invoke official action for it to revert to the public domain. This authority was given by a decision of the Secretary of the Interior. All official declarations of forts in New Mexico were by order of the President except Fort Butler, which was originally sanctioned by order of the Secretary of War (Appendix IX).

On February 27, 1890, Fort Selden was turned over to the Secretary of the Interior for disposal in accordance with the Act of July 5, 1884. On April 2, 1890, the Secretary of War, upon urging from the Secretary of the Interior, requested the President to authorize its use as an Indian School Reservation. This was approved by President Harrison the same day and thus the order of February 27, 1890, was cancelled. On December 4, 1891, the Interior Department decided it was no longer needed

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[13]Julian to J. W. Virgin, San Marcial, N.M., 8/2/87 (B.L.M.).

for an Indian School and so informed the War Department. Accordingly, on March 16, 1892, Secretary of War S. B. Elkins, requested the President to order that it be turned over to the Secretary of the Interior for disposal. The request was approved the following day.[14]

Other forts still officially activated at the end of 1891 were Bayard, Marcy, Stanton, Sumner Cemetery, Union and Wingate.[15] Fort Union reverted to the owners of the Mora Grant, where it was located, on April 1, 1894,[16] and Fort Marcy was relinquished on June 15, 1895.[17] Forts Bayard, Stanton, Wingate and Sumner Cemetery are still in use (Appendix IX). Others such as Bascom, Conrad, Fillmore, Lowell, Fauntleroy (renamed Lyon), Tularosa, Webster and West, and Camps Cook, Mimbres, and Vincent, were never officially declared to be military reservations but were simply appropriated from the public domain or private grants as the need arose and reverted to the same without official action.

The only military reservation in New Mexico that was not originally surveyed by military personnel was Fort Thorn. At the request of General Carland, Surveyor General Pelham let a contract for the survey of that reserve to Deputy Surveyor

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[14] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 173-178 (B.L.M.).

[15] L.C.R. 9/23/91, 52 Cong., 1 Sess., H.E.D. No. 1, 145 (2933).

[16] F. Stanley, Fort Union (New Mexico), 57.

[17] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 119 (B.L.M.).

for an Indian school and so informed the War Department. Accordingly, on March 16, 1899, Secretary of War R. A. Alger requested the President to order that it be turned over to the Secretary of the Interior for disposal. The request was approved the following day.[14]

Other forts built initially as a result of the war of 1898 were Duperé, Morey, Stevens, Homer Jewett, Wolcott and Strong.[15] Fort Union reverted to the owners of the Hotel Grand, where it was located, on April 3, 1899.[16] and Fort Morey was relinquished on June 23, 1899.[17] Forts Layard, Stockton, Sumgate and Samuel Jewett were still in use (Appendix L). Others such as Beaver, Conrad, Kilpatrick, Lowell, Russell Morey (renamed Lyon), Tulaross, Webster and Wolf, and Camp Cook, Vining, and Vincent, were never officially declared to be military reservations but were simply appropriated from the public domain or private ownership on the war crisis and reverted to its owners without official action.

The only military reservation in Puerto Rico that was originally surveyed by military personnel was Fort Buchan. At the request of General Davis, Surveyor General Salome Ing contracted for the survey of that reserve to Jesús Quiñones

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[14] Survey Records Section, Survey Field Notes and Descriptive Documents of Military and Indian Reservations, 1776-1876 (G.L.O.).

[15] G.O.R. 9/23/98, Se Corp., I Seas., Gen. L. No. 1, 195 (2933).

[16] Y. Stanley, Puerto Rico (New York), 57.

[17] Survey Records Section, Survey Field Notes and Descriptive Documents of Military and Indian Reservations, 1776-1876 (G.L.O.).

John W. Garretson.[18] Other military reserves were included in Garland's request but were so distant from the lines of public surveys that Pelham considered their survey would entail a greater expense than he felt authorized to incur.[19] It was fortunate that none of these other surveys was made because the General Land Office decided that such surveys were not the function of that office and disallowed the account of Deputy Garretson for his survey of Fort Thorn.[20]

INDIAN RESERVATIONS

JICARILLA APACHE.- The Jicarilla Apache Indian Reservation was first established by Executive Order of March 25, 1874, in accordance with treaty stipulations of December 10, 1873, and embraced the following land:

> Commencing at a point where the headwaters of the San Juan River crosses the southern boundary of the Territory of Colorado, following the course of said river until it intersects the eastern boundary of the Navajo Reservation; thence due north along said eastern boundary of the Navajo Reservation to where it intersects the southern boundary line of the Territory of Colorado, thence due east along the said southern boundary of the Territory of Colorado to the place of beginning.[21]

On July 18, 1876, this order was cancelled and the area designated was restored to the public domain.[22]

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[18]Pelham to Hendricks, 4/30/58 (B.L.M.).

[19]S.C.R. 9/30/57, 35 Cong., 1 Sess., H.E.D. No. 11, 256 (919).

[20]Hendricks to Pelham, 6/16/58 (N.A.).

[21]Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 65 (B.L.M.).

[22]Ibid., 67.

On September 21, 1880, by Executive Order, the following territory was set aside for use of the Jicarilla Apaches:

> Beginning at the southwest corner of the Mexican Grant known as the "Tierra Amarilla Grant", as surveyed by Sawyer and McBroom in July, 1876; and extending thence north with the western boundary of said survey of the Tierra Amarilla Grant, to the boundary line between New Mexico and Colorado; thence west along said boundary line sixteen miles; thence south to a point due west from the aforesaid southwest corner of the Tierra Amarilla Grant; and thence east to the place of beginning... .[23]

On May 14, 1884, once again the President ordered the return of this reservation to the public domain.[24] Finally, on February 11, 1887, the situation was resolved when President Cleveland declared that

> It is hereby ordered that all that portion of the public domain in the Territory of New Mexico, which, when surveyed, will be embraced in the following townships, viz.: "27, 28, 29 and 30, North, Ranges 1 East and 1, 2, and 3 West; 31 and 32 North, Ranges 2 West and 3 West; and the south half of township 31 north, Range 1 West, be, and the same is hereby" set apart as a reservation for the use and occupation of the Jicarilla Apache Indians; Provided, that this order shall not be so construed as to deprive any bona fide settler of any valid rights he may have acquired under laws of the United States providing for the disposition of the public domain.[25]

By this order, 129,313.35 acres were allotted to 845 Indians, and 280.44 acres were reserved for mission, school, and agency purposes. The balance of 286,400 acres was unallotted.[26]

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[23] Ibid., 69.

[24] Ibid., 71.

[25] Ibid., 73.

[26] Public Lands Commission, Report, 1905, 58 Cong., 3 Sess., S.E.D. No. 189, 295 (4766).

After considerable delay in which at least two deputy surveyors turned down the work, a contract was finally let for the survey of the reservation to Mr. Hugh Hartman.[27] The contract was dated October 1, 1887.[28] The survey was duly made but after much further delay, accusations, and recrimination, on February 14, 1890, it was finally rejected as being unsatisfactory.[29] On October 23, 1890, a contract was made with James F. Harper for this same survey and for the allotments. To insure adequate work, the survey was made under the supervision of Special Agent J. K. Rankin.[30]

MESCALERO APACHE.- A reservation for these Indians was first set aside by the Executive Order of May 29, 1873, at the request of Edwin P. Smith, Commissioner of Indian Affairs, on May 23.

> Commencing at the southwest corner of the Fort Stanton reduced military reservation, and running thence due south to a point on the hills near the north bank of the Rio Ruidoso; thence along said hills to a point above the settlements; thence across said river to a point on the opposite hills, and thence to the same line upon which we start from Fort Stanton; and thence due south to the thirty-third degree north latitude; thence to the top of the Sacramento Mountains, and along the top of said mountains to the top of the White Mountains; thence along the top of said mountains to the headwaters of the Rio Nogal, to a point opposite the starting point, and thence to the starting point.[31]

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[27]Julian to Commissioner, General Land Office, 11/22/87 (F.R.C.).

[28]Julian to Henry R. Martin, Santa Fe, 4/11/89 (F.R.C.).

[29]Croff to Hobart, 2/14/90 (N.A.).

[30]Ibid., 11/24/90.

[31]Frank D. Reeve, "Federal Indian Policy in New Mexico, 1858-1880," New Mexico Historical Review, 13:267-268; Survey

After considerable delay in which at least two deputy surveyors turned down the work, a contract was finally let for the survey of the reservation to Mr. Hugh Martin.[27] The contract was dated October 1, 1867.[28] The survey was duly made but after much further delay, vacillations, and remonstrations, on February 14, 1870, it was finally rejected as being inadequate.[29] On October 29, 1870, a contract was again made with James F. Harper for this same survey and for the subdivisions. To insure adequate work, the survey was made under the supervision of special agent C. A. Lamphin.[30]

RESUME THE ALLOTS.--A repurveying for these Indians was first set aside by the Commissioner of May 20, 1873, on the request of Alvin T. Smith, commissioner of Indian Affairs, on May 23.

Commencing at the northeast corner of the fort Stanton reduced military reservation, and running thence due south to a point on the Indian meridian near the north bank of the Rio Bonito; thence along said Indian to a point above the said mouth; thence among said Indians to a point on the opposite bank, and thence to the base line upon which we start from; thence with the base line and with the thirty-third degree north latitude; thence to the top of the Sierra de Montalvo, and along the top of said mountains to the top of the Sierra Blanca; and along the top of said mountains to the top of the Sierra Blanca; thence along the top of said mountains to the headwaters of the Rio Ruidoso, to a point opposite the other first point, and thence to the starting point.[31]

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[27]Julian to Commissioner, Letters Land Office, 12/23/67 (N.A.C.).

[28]Julian to Henry A. Martin, Letters Rec., 4/11/68 (N.A.C.).

[29]Scott to Hubert, 2/14/70 (N.A.C.).

[30]Ibid., 12/24/70.

[31]Frank C. Reeve, "Federal Indian Policy in New Mexico, 1858-1880," New Mexico Historical Review, 13:307-328; Abner

The upper part of the Ruidoso River Valley was excluded from the reservation in an attempt to avoid conflict with the settlements there.[32] This did not satisfy the Indians as they were reluctant to live in the mountains during the winter, "although they desired that region for hunting." Then too, they had to live too far from the agency.[33]

In an attempt to correct these shortcomings, a new Executive Order of February 2, 1874, cancelled the old order and designated new boundaries to be the area (except that portion embraced in the Fort Stanton reduced military reservation):

> Beginning at the most northerly point of the Fort Stanton reduced military reservation; thence due west to the summit of the Sierra Blanca Mountains; thence due south to the thirty-third degree north latitude; thence due east to a point due south of the most easterly point of the said Fort Stanton reduced military reservation; thence due north to the southern boundary of township 11; thence due west to the southwest corner of township 11, in range 13; thence due north to the second correction line south; thence due east along said line to a point opposite the line running north from the thirty-third degree north latitude; thence due north to the most easterly point of said Fort Stanton reduced military reservation; thence along the northeastern boundary of said military reservation to the place of beginning.[34]

In order to enlarge the reservation and to remove some of the ambiguities of the former metes and bounds descriptions,[35] a new boundary was designated by the Executive Order of October 20, 1875:

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[32]Drummond to Proudfit, 6/23/73 (N.A.).

[33]Reeve, "Federal Indian Policy in New Mexico, 1858-1880," New Mexico Historical Review, 13:268.

[34]Ibid.

[35]Burdett to Proudfit, 11/19/75 (N.A.).

The upper part of the Rio Grande Valley was produced from the reservoir [illegible] to avoid complicating the settlement there. [illegible] as they were [illegible] as the problems facing the water, "although they again [illegible] too, they had to [illegible] the [illegible].[72]

In an attempt to [illegible] the [illegible] tive order of January 2, 1879, [illegible] designated new boundaries on the [illegible] mentioned in the first [illegible].

Beginning at the [illegible] station [illegible] the summit of the [illegible] south to the [illegible] due east to a point [illegible] of the said [illegible] thence due north to the [illegible] thence due west to the [illegible] in range 17; [illegible] line south; thence [illegible] opposite the [illegible] degree north latitude [illegible] westerly [illegible] reservation, thence [illegible] said all [illegible].[73]

In order to enlarge the reservation and to remove some of the mishaps of the former [illegible] and [illegible] a new boundary was designed by the Executive Order of October 20, 1879:

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[72] Brennand to Pradt, [illegible] (n.d.).

[73] Reeve, "Indian [illegible]," [illegible] 1880," New Mexico [illegible] 1880.

[74] Ibid.

[75] Burdett to Pradt, [illegible] (n.d.).

> Beginning at the most northerly point of the Fort Stanton reduced military reservation; running thence due west to a point due north of the northeast corner of township 14 south, range 10 east; thence due south along the eastern boundary of said township to the thirty-third degree north latitude; thence due east on said parallel to a point due south of the most easterly point of the said Fort Stanton reduced military reservation; thence due north to the southern boundary of township 11; thence due west to the southwest corner of township 11, in range 13; thence due north to the second correction line south; thence due east along said line to a point opposite the line running north from the thirty-third degree north latitude; thence due north to the most easterly point of said Fort Stanton reduced military reservation; thence along the northeastern boundary of said military reservation to the place of beginning.[36]

This boundary did not meet with the approval of certain miners within the Territory, some of whom even questioned the authority of the President to act in the matter after they had been removed from the reservation. They questioned the legality of the Executive Order because it had not been ratified by an Act of Congress. Commissioner Williamson, of the General Land Office, replied with an ample weight of authority in the matter that left no doubt as to the legality of the order.[37]

Rich mineral deposits had been found in the western part of the reserve as it was then constituted. Surveyor General Atkinson suggested that both the miners and the Indians might be placated if a portion of the west edge of the reservation was removed and some added south of the thirty-third parallel.[38]

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[36] Reeve, "Federal Indian Policy in New Mexico, 1858-1880," New Mexico Historical Review, 13:269.

[37] Williamson to L. A. Russell, U. S. Indian Agent, South Fork, N.M., 3/19/81 (N.A.).

[38] Atkinson to Gen. J. H. Hammond, U. S. Indian Inspector, 10/15/79 (B.L.M.).

"Beginning at the most southerly point of the Fort Stanton reduced military reservation; running thence due west to a point; thence north of the northeast corner of township 14 south, range 10 east; thence due south along the eastern boundary of said township to the thirty-third degree north latitude; thence due east on said parallel of latitude to a point due south of the most easterly point of the said Fort Stanton reduced military reservation; thence due north to the southern boundary of township 11; thence due west to the southwest corner of township 11, in range 13; thence due north in the second correction line south; thence due west along said line to a point opposite the line running north from the thirty-third degree north latitude; thence due north to the most easterly point of said Fort Stanton reduced military reservation; thence along the northeastern boundary of said military reservation to the place of beginning."[36]

This boundary did not meet with the approval of certain miners within the Territory, some of whom even questioned the authority of the President to act in the matter after they had been removed from the reservation. They questioned the legality of the Executive Order because it had not been ratified by an Act of Congress. Commissioner Williamson, of the General Land Office, replied with an ample weight of authority in the matter that left no doubt as to the legality of the order.[37]

Rich mineral deposits had been found in the southern part of the reserve as it was then constituted. Surveyor General Atkinson suggested that both the miners and the Indians might be placated if a portion of the west edge of the reservation was removed and some added south of the thirty-third parallel.[38]

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[36] Reeve, "Federal Indian Policy in New Mexico, 1858-1880," New Mexico Historical Review, 13:268.

[37] Williamson to G. A. Sussdt, U. S. Indian Agent, Santa Fe, N.M., 3/25/68 (N.A.).

[38] Atkinson to Gen. W. H. Emmond, U. S. Indian Inspector, 10/15/70 (N.A.).

As it developed, some land was taken from the western edge of the reservation but none was added to the south; in fact, the reserve was reduced in size. This was done by Executive Order of May 19, 1882. The boundaries were established nearly as they are presently constituted.[39] The order reduced the old reserve on the north and west sides and extended it on the east.[40]

By Executive Order of March 24, 1883, parts of two townships were added to the jut that extends on the northwest portion of the reservation.[41] This was the final change in the reserve.[42] The reservation contained 474,240 acres.

NAVAHO.- The present Navaho[43] Reservation consists of about 15,000,000 acres of land in northwestern New Mexico, northeastern Arizona, and southeastern Utah. It has had a complex history starting with the treaty of 1868 between the United States and the Navaho Indians which set apart 3,414,528 acres, as a reservation; the area was

> bounded on the north by the thirty-seventh degree of north latitude, south by an east and west line passing through the site of old Fort Defiance, in Cañon Bonito, east by the parallel of longitude which, if prolonged south, would pass through old Fort Lyon, or the Ojo-de-oso, Bear Spring, and west by a parallel of longitude

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[39] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 153 (B.L.M.).

[40] McFarland to Register and Receiver at Mesilla, 7/15/82 (N.A.).

[41] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 155 (B.L.M.).

[42] Acting Commissioner William Walker to Julian, 8/25/85 (N.A.).

[43] Berard Haile, O.F.M., "Navaho or Navajo?" The Americas, 6:85-90.

As it developed, some land was taken from the western edge of the reservation but none was added to the south; in fact, the reserve was reduced in size. This was done by Executive Order of May 19, 1882. The boundaries were established nearly as they are presently constituted.[39] The order reduced the old reserve on the north and west sides and extended it on the east.[40]

By executive order of March 24, 1883, parts of two townships were added to the Ft that extends on the northwest portion of the reservation.[41] This was the final change in the reserve.[42] The reservation contained 4[illegible],[illegible]40 acres.

NAVAHO.- The present Navaho[43] reservation consists of about 15,000,000 acres of land in northwestern New Mexico, northeastern Arizona, and southeastern Utah. It has had a complex history starting with the treaty of 1868 between the United States and the Navaho Indians which set apart 3,414,528 acres, as a reservation; the area was

> bounded on the north by the thirty-seventh degree of north latitude, south by an east and west line passing through the site of old Fort Defiance, in Cañon Bonito, east by the parallel of longitude which, if prolonged south, would pass through old Fort Lyon, or the 0jo-de-oso, Bear Spring, and west by a parallel of longitude

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[39] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 155 (S.L.R.).

[40] Morfarland to Sagatar and Receiver at Mesilla, 7/15/82 (N.A.).

[41] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 155 (S.L.R.).

[42] Acting Commissioner William Walker to Julian, 6/25/85 (N.A.).

[43] Gerard Hall, C.F.R., "Navaho or Navajo" The Americas, 6:85-90.

> about 109° 30' west of Greenwich, provided it embraces the outlet of the Cañon-de-Chelly, which cañon is to be all included in this reservation... .[44]

The original survey of the Navaho Reservation was made by E. N. Darling in accordance with a contract dated April 29, 1869.[45] This sizable surveying job seems to have been done in a commendable manner and was completed in the spring of the following year.[46]

An Executive Order of October 29, 1878, set apart an additional 557,817 acres in the Territory of Arizona in an area

> commencing at the northwest corner of the Navajo Indian Reservation, on the boundary line between the Territories of Arizona and Utah; thence west along said boundary line to the one hundred and tenth degree of longitude west; thence south along said degree to the thirty-sixth parallel of latitude north; thence east along said parallel to the west boundary of the Navajo Reservation; thence north along said west boundary to the place of beginning... .[47]

An additional 996,403 acres in New Mexico and Arizona were set apart by an Executive Order of January 6, 1880, amended by an order of May 17, 1884. The order of 1880 included the area

> commencing in the middle of the channel of the San Juan River where the east line of the Navajo Reservation in the Territory of New Mexico, as established by the treaty of June 1, 1868 (15 Stat. 667), crosses said river; thence up and along the middle channel of said river to a point 15 miles due east of the eastern boundary line of said reservation; thence due south to a point due east of

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[44] H. J. Hagerman, Navajo Indian Reservation, 72 Cong., 1 Sess., S.E.D. No. 64, 3.

[45] Joseph S. Wilson to Darling, 5/3/69 (N.A.).

[46] Ibid., 5/11/70.

[47] Hagerman, Navajo Indian Reservation, 72 Cong., 1 Sess., S.E.D. No. 64, 4.

about 1000 [illegible]
the outlet of the [illegible]
all included in this [illegible]

The original [illegible]
E. W. Darling in [illegible]
1869.[45] This [illegible]
a commendable [illegible]
following year.[46]

An executive order of October 20, 1879, [illegible]
additional [illegible]
commencing at the northeast corner of the Yakima [illegible]
Reservation, on the [illegible] 12 miles
of Ahtanum and [illegible]
to the one hundred and [illegible]
thence south along [illegible]
Ind. of Indians [illegible]
the west boundary [illegible]
along said east [illegible]

An additional [illegible]
set apart by an executive order of January 5, 1880, [illegible]
an order of May 17, [illegible]

area

[illegible] the boundary of the [illegible]
River where the south [illegible] the Yakima River
the territory of [illegible]
of Jona L. Todd (1) [illegible]
thence up said [illegible]
a point 15 [illegible] of the [illegible]
said reservation, [illegible]

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[44] H. J. Ingersoll, [illegible]
I 2222, [illegible]

[45] Joseph E. [illegible]

[46] Ibid., [illegible]

[47] Executive [illegible]
E.O.D. No. [illegible]

> the present southeast corner of said reservation; thence due south 6 miles; thence due west to the one hundred and tenth degree of west longitude; thence north along said degree to the southwest corner of said reservation in the Territory of Arizona, as defined by the Executive order dated October 29, 1878... .

The amendment of 1884 provided for the exemption of all those portions of irrigable land in T.29N, R.14, 15, and 16W, south of the San Juan River in New Mexico.[48] But the Navaho refused to give up the land. What is more, the Indians needed this land "in order to have access to water for their flocks." Its economic value to the Navaho was above question while "to the white people in general, its occupancy by a handful of settlers could be of little importance, either to the general economy or to the progress of civilization... ." The Navaho knew little of the white man's practice in such matters so he relied upon his own sense of justice and doggedly clung to the land until it was returned two years later.[49]

Another Executive Order of December 16, 1882, added another 2,499,558 acres in Arizona

> beginning on the one hundred and tenth degree of longitude west of Greenwich, at a point 36° 30' north; thence due west to the one hundred and eleventh degree of longitude west; thence due south to a point of longitude 35° 30' north; thence due east to the one hundred and tenth degree of longitude west; thence due north to the place of beginning... .[50]

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[48] Ibid.

[49] Reeve, "A Navaho Struggle for Land," New Mexico Historical Review, 21:1-21. This article is an interesting account of the entire Navaho struggle for this region.

[50] Hagerman, Navajo Indian Reservation, 72 Cong., 1 Sess., S.E.D. No. 64, 4-5.

An Executive Order of May 17, 1884, amended by the order of November 19, 1892, set apart another 2,373,870 acres in Arizona and Utah. The order of 1884 added the area

> Beginning on the one hundred and tenth degree of west longitude at 36° and 30' north latitude (the same being the northeast corner of the Moqui Indian Reservation); thence due west to the one hundred and eleventh degree 30 minutes west longitude; thence due north to the middle of the channel of the Colorado River; thence up and along the middle of the channel of said river to its intersection with the San Juan River; thence up and along the middle channel of San Juan River to west boundary of Colorado (32° west longitude, Washington Meridian); thence due south to the thirty-seventh parallel north latitude; thence west along said parallel to the one hundred and tenth degree of west longitude; thence due south to the place of beginning... .

The amendment of 1892 exempted the area west of the one hundred and tenth degree of west longitude in Utah.[51]

On April 24, 1886, an additional 36,723 acres was added to the reservation in New Mexico. This was the portions of T.29N, R.14, 15, and 16W, south of the San Juan River, that had been taken from the reservation by the amendment of 1884.[52] Additional modifications were made to the reservation in 1900, 1901, 1905, 1907, 1908, 1911, 1917, 1918, 1930[53] and 1934.[54]

SOUTHERN UTE.- On June 15, 1880, Congress ratified an agreement with the Ute Indians in Colorado which provided for the survey of unoccupied grazing and agricultural lands for

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[51] Ibid., 5.

[52] Ibid.

[53] Ibid., 5 ff.

[54] Sanford A. Mosk, Land Tenure Problems in Santa Fe Railroad Grant Area, 14.

the Southern Utes on the La Plata River in Colorado. If enough land was not found in Colorado, then the balance of the allotments were to be selected in the vicinity of the La Plata River in New Mexico. In accordance with the act, on October 18 a contract was made with J. Alexander Tyler and Thomas B. Medary for these surveys.

As was expected, not enough agricultural land was found in Colorado, so the surveys were continued in New Mexico in the vicinity of the La Plata River and also on the San Juan.[55] The total amount surveyed for these allotments in New Mexico was 120,349.47 acres.[56]

PUEBLOS.- By Executive Orders of March 16, 1877; May 1, 1883; and March 3, 1885, 215,040 acres were set aside for the Zuni Indians. The area of the original Spanish Grant was 17,581.25 acres.[57]

The land of the Pueblo Indians was confirmed by United States patents in 1864 under old Spanish Grants validated by the Acts of December 22, 1858, and June 21, 1860. Additional lands were allotted to San Felipe and Nambe Pueblos by Executive Orders of June 13, and September 4, 1902. The areas, in acres, of the various Pueblos are as follows:

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[55] L.C.R. 10/11/82, 47 Cong., 2 Sess., H.E.D. No. 1, 81-82 (2099).

[56] Ibid., 84.

[57] Public Lands Commission, Report, 1905, 58 Cong., 3 Sess., S.E.D. No. 189 (4766).

the Southern Utes on the La Plata River in Colorado. If enough land was not found in Colorado, then the Utes' allotments were to be selected in the vicinity of the La Plata River in New Mexico. In accordance with the act, on October 15 a contract was made with Commander Tyler and Thomas H. Nodary for the 3,000 acres.

As was expected, not enough agricultural land was found in Colorado, so the allotments were continued in New Mexico in the vicinity of the La Plata River and also on the San Juan.[55] The total amount surveyed for these allotments in New Mexico was 120,340.47 acres.

PUEBLOS.- By Executive orders of March 16, 1877; May 1, 1883; and March 3, 1887, 215,040 acres were set aside for the Zuni Indians. The area of the original Zuni grant was 17,381.25 acres.[57]

The land of the Pueblo Indians was confirmed by United States patents in 1894 during the Spanish or Mexican validation by the Acts of Congress of 22, 1891, and June 21, 1890. Additional lands were allotted to the Santa Ana and Santo Domingo by Executive orders of June 13, and September 5, 1902. The areas, in acres, of the various pueblos are as follows:

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[55] C.C.R. 10/Al/82, 17 Oct., 2 Dec., E.L.R. 6. 1.
81-82 (2099).

[56] Ibid., 84.

[57] Public Lands Commission, Report 2105, 56 Cong., 2 Sess., H.R.D. No. 189 (4766).

Jemez -	17,510	Tesuque -	17,471
Acoma -	95,792	San Ildefonso -	17,293
San Juan -	17,545	Pojuaque -	13,520
Picuris -	17,461	Zia -	17,515
San Felipe -	34,767	Sandia -	24,187
Pecos -	18,763	Isleta -	110,080
Cochiti -	24,256	Nambe -	13,586
Santo Domingo -	74,743	Laguna -	125,225
Taos -	17,361	Santa Ana -	17,361[58]
Santa Clara -	17,369		

ALBUQUERQUE AND SANTA FE INDUSTRIAL SCHOOLS.- Land for these two schools was conveyed to the United States by private individuals who held title to the land before conveyance. It was not a matter of the public domain.[59]

INDIAN RESERVATIONS RESTORED TO THE PUBLIC DOMAIN

BOSQUE REDONDO.- The Bosque Redondo Reservation consisting of 1,024,000 acres surrounding Fort Sumner, was created by Executive Order on January 15, 1864.[60] It was never surveyed while a reservation and became subject to survey and entry on July 24, 1871,[61] at which time it was officially abandoned by order of the Act of February 24, 1871.[62]

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[58] Ibid. For the story of the Pueblo land grants, see Herbert O. Brayer, Pueblo Indian Land Grants of the "Rio Abajo," New Mexico.

[59] Acting Commissioner L. Harrison to Pullen, 10/14/84 (N.A.). Telephone Conversation with the United Pueblo Agency, Albuquerque, N.M., January 17, 1956.

[60] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, passim (B.L.M.).

[61] Drummond to J. M. Gallegos, House of Representatives, 5/17/72 (N.A.).

[62] Drummond to Spencer, 6/10/71 (N.A.).

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[59] [illegible]. For the story of the Fredric land grants, see Herbert O. Brayer, [illegible] Land Grants of the [illegible] Area." [illegible].

[59] Acting Commissioner [illegible]. Telephone conversation with the United States Mission, Guatemala, N.A., January 17, 1956.

[60] Survey Records Section, Survey [illegible] Division, [illegible] Department of Military and Naval Operations, [illegible] (N.A.).

[61] Forwarded to [illegible], Belize, Honduras of Survey [illegible], 5/171/72 (N.A.).

[62] Forwarded to [illegible], 6/23/72 (N.A.).

HOT SPRINGS.- The Hot Springs Reservation for southern Apache and other Indians, of 448,000 acres, was created by Executive Order on April 9, 1874, and the boundaries were defined December 21, 1875.[63] It was located in T.8-9S, R.7-8W, in the southwest corner of present Socorro County, "Beginning at the ruins of an ancient pueblo in the valley of the Cañada Alamosa River, about 7 miles above the present town of Canada Alamosa, and running thence due east 10 miles; thence due north 25 miles; thence due west 30 miles; thence due south 25 miles; thence due east 20 miles to the place of beginning."[64] It was never surveyed while a reservation and, except for five sections on which the buildings were located, was restored to the public domain by Executive Order of August 25, 1877.[65]

Although there were no sales of Indian reservations, at one time these five sections were scheduled for sale to the highest bidder. The first discussion concerning this proposed sale was in 1877[66] and was several times scheduled and revoked until finally a date for the sale was set. The sale was to take place at the office of the Register and Receiver at Las Cruces on Wednesday, February 27, 1884, at 10 A.M. The five sections of land, together with the buildings on them, were

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[63] Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, passim (B.L.M.).

[64] Reeve, "Federal Indian Policy in New Mexico, 1858-1880," New Mexico Historical Review, 13:303.

[65] Williamson to Atkinson, 9/8/77 (N.A.).

[66] Ibid., 10/30/77.

NOT SERIOUS. [illegible] Apache and other Indians, of 700,000 acres, was created by Executive order on April 9, 1871, and the Reservation was defined December 22, 1873.[65] It was located in T.5-6S, R.7-8W, in the southwest corner of present Kiowa County, "Beginning at the middle of an Indian's house on the valley of the Cañada Alamosa River, about 7 miles above the mouth of Cañada Alamosa, and running thence due east 10 miles; thence due north 20 miles; thence due west 20 miles; due south 20 miles; thence due east 10 miles to the place of beginning."[66] It was a very marginal area in a [illegible] except for five reservations that the Indians [illegible] was restored to the public domain by Congressional action on August 23, 1877.[67]

Although there were no Indian reservations, at one time those five Indians were admitted for people to buy Kiowa County. The first Homestead according to the original sale was in 1877[68] and was owned. Three additional and received until finally a date for the sale was set. The sale was to take place at the office of the Registrar and Receiver of the Dodge on Wednesday, February 27, 1889, at 10 A.M. The five sections of land, together with the buildings on them, were

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[65] Harvey Ahern's Contact. Harvey Ahern's Notes and Interviews Documents of Military and Indian Reservations, Kansas.

[66] Reeve, Colonel Frank D., Ed. "Indian Policy in New Mexico and Arizona," 1953-55.

[67] Williamson to Alabama, 3/27/77 (C.A.).

[68] Ibid., 10/30/77.

to be sold in a single lot to the highest bidder. No bid was to be accepted for less than $15,000.[67]

On February 23, less than a week before the sale was scheduled, Secretary of the Interior Teller, at the request of the House Committee on Public Lands,[68] ordered the cancellation of the sale.[69] People felt that the land should not be sold but held open for settlement,[70] and the matter had attracted widely scattered attention;[71] consequently, Washington officials decided it was not wise to allow the sale to proceed as scheduled.

GILA APACHE (SANTA LUCIA).- This reservation, in T.15, 16, 17S, R. 16, 17, 18, 19W,[72] in present Grant County, was selected on May 11, 1860 by Indian Agent Steck for the Gila Apaches including the Mimbres, Mogollon, and Chiricahua bands of that tribe. He suggested boundaries commencing at Santa Lucia Spring; running north fifteen miles; thence west 15 miles; thence south 15 miles; thence east 15 miles to the place of beginning. On May 14, the Commissioner of the General

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[67]McFarland to Register and Receiver, Las Cruces, 1/9/84 (F.R.C.).

[68]Teller to Geo. D. Bowman, Register at Las Cruces, 2/28/84 (F.R.C.).

[69]Ibid., to Register and Receiver at Las Cruces, 2/23/84.

[70]Acting Commissioner H. J. Baxter to Register and Receiver at Las Cruces, 9/30/78 (F.R.C.).

[71]An example of inquiry concerning the sale is McFarland to J. W. Davis, 2601-2609 Archer Ave., Chicago, Ill., 12/6/82 (N.A.).

[72]Atkinson to McFarland, 11/17/81 (F.R.C.).

to be sold to a [illegible] [illegible] [illegible] [illegible]. [illegible] was to be auctioned for [illegible] [illegible] $15,000.[67]

On February 23, [illegible] that a [illegible] [illegible] the sale was scheduled, [illegible] of the Interior Salley, at the request of the Navajo Council, to [illegible] tribe,[68] ordered the cancellation of the sale.[69] People felt that the land should not be sold but held open for [illegible],[70] and the matter had attracted widely [illegible] attention;[71] consequently, [illegible] the officials decided it would [illegible] to allow the sale to proceed as scheduled.

Oil & Gas: (A.C.M.,[illegible]).- Oil & [illegible], in T.25, 16, 17S, R. 16, 17, 18, [illegible],[72] in Lemhi County, Idaho, [illegible] on May 21, 1890 by Indian Agent Simon for the Oil [illegible] Apaches including the Mimbres, Mogollon, and Chiricahua bands of that tribe. He suggested [illegible] [illegible] [illegible] Lucia Springs [illegible] [illegible] [illegible] miles; [illegible] miles east [illegible] place of beginning. On May 26, the Land Commissioner of the General

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[67] [illegible] to Register and Receiver, Las Cruces, 1/7/24 (N.R.O.).

[68] Letter to Sec. H. Bowman, Register at Las Cruces, 2/23/24 (N.R.O.).

[69] Ibid., to Register and Receiver at Las Cruces, 2/23/24.

[70] Acting Commissioner E. B. Meritt to Register and Receiver at Las Cruces, 2/20/24 (N.R.O.).

[71] An example of [illegible] [illegible] the sale is [illegible] to L. W. Davis, 2011-Eight Avenue NW., Chicago, Ill., 12/5/22 (N.A.).

[72] Altman to Roberts, 12/17/20. (N.R.O.).

Land Office was notified of this selection and requested to respect it in the extension of the public surveys. No Executive Order was ever issued in the case and apparently no steps were ever taken to settle Indians on the reservation.[73] It was surveyed in October, 1860 to include 144,000 acres.[74] On June 9, 1882, it was restored to the public domain by order of the Secretary of the Interior.[75]

TULAROSA.- This reservation of 384,000 acres was located on the Tularosa River, within the area that is the present Mescalero Apache Reservation in northeastern Otero County, beginning at the headwaters of the Tularosa and extending down the river 30 miles for 10 miles on each side.[76] It was established by Executive Order on November 9, 1871, and officially abandoned, also by order of the President, on November 24, 1874.[77] It was never surveyed while a reservation.[78]

RAILROAD LANDS

By December 7, 1878, the Atchison, Topeka and Santa Fe Railroad had reached the northern boundary of New Mexico and

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[73]Survey Records Section, Survey Field Notes and Executive Documents of Military and Indian Reservations, 59-60 (B.L.M.).

[74]Clark to Edmunds, 11/30/61 (B.L.M.).

[75]McFarland to Register and Receiver at Mesilla, 7/15/82 (N.A.).

[76]C.I.A. 11/15/71, 83.

[77]Burdett to Proudfit, 1/18/75 (N.A.).

[78]Map to accompany L.C.R. 11/1/76, 49 Cong., 2 Sess., H.E.D. No. 1 (1749).

Land Office was notified of this selection and requested to reject it in the extension of the public survey. No executive order was ever issued in the case and apparently no steps were ever taken to settle Indians on the reservation.[73] It was surveyed in October, 1880 to include 144,000 acres.[74] On June 5, 1882, it was restored to the public domain by order of the Secretary of the Interior.[75]

TULAROSA.- This reservation of 104,000 acres was located on the Tularosa River, within the area that is the present Mescalero Apache Reservation in northwestern Otero County, beginning at the headwaters of the Tularosa and extending down the river 20 miles for 10 miles on each side.[76] It was established by Executive order on November 5, 1873, and officially abandoned, also by order of the President, on November 24, 1874.[77] It was never surveyed while a reservation.[78]

RAILROAD LANDS

By December 1, 1873, the Atchison, Topeka and Santa Fe Railroad had reached the northern boundary of New Mexico and

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[73] Survey Records Santa Fe, Survey Field Notes and Descriptive Documents of Military and Indian Reservations, 35-40 (S.L.A.).

[74] Clark to Schurz, 11/30/82 (S.L.R.).

[75] Referred to Register and Receiver at Mesilla, 7/15/82 (S.A.).

[76] S.L.A. 11/1/5/11, 83.

[77] Executive Order, 1/29/75 (S.A.).

[78] Map to accompany L.C.S. 11/1/76, 45 cons., 2 cons., H.L.D. No. 1 (1849).

a subsidary, the New Mexico and Southern Pacific, started to build south from there.[79] Progress was slow. It was not until April 5, 1880, after a burst of activity, that the line reached Albuquerque.[80]

There followed immediately an unprecedented increase in land entries. The largest number of original homestead entries previous to 1880 was in 1870 when there were 96. In 1880 there were 181 entries. In 1876 there were 35 final homestead certificates, the largest number in any year previous to 1880, and in 1880 there were 98. The high for donation notifications prior to 1880 was in 1877 when there were 38. In 1880 there were 172. The increase was even greater in the case of donation certificates. The largest number previous to 1880 was in 1873 when there were 27; in 1880 there were 162 (Appendixes VI-VII).

This increase was permanent and steady as is shown by a comparison of the entries in the dozen years following 1880 with the same number previous to 1880:

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[79] Westphall, "Albuquerque in the 1870's," New Mexico Historical Review, 23:257.

[80] Ibid., 265.

a subsidiary, the Sun Fraction and Southern Pacific, proceeded to build north from there.[79] Prospects were dim. It was not until April 5, 1880, after a burst of activity, that the line reached Albuquerque.[80]

Three colonies benefitted by an unprecedented increase in land entries. The largest number of original homestead entries previous to 1870 was in 1870 when there were 96. In 1880 there were 181 entries. In 1872 there were 35 final homestead certificates; the largest number in any year previous to 1880, and in 1880 there were 92. The high for commutation entries prior to 1880 was in 1871 when there were 32. In 1880 there were 172. The increase was even greater in the case of homestead certificates. The largest number previous to 1880 was in 1873 when there were 111 in 1880 there were 162 (Appendices VI-VII).

This increase was permanent and steady as is shown by a comparison of the statistics in the data years following 1880 with the same dates previous to 1880:

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[79] Westphall, "Albuquerque in the 1870's," Ter Kuile Historical Series, 23:57.

[80] Ibid., 26.

Kind of entry	Inclusive years prior to 1880			Inclusive equivalent number of years after 1880		
	Years	Entries	Acres	Years	Entries	Acres
Orig.Homestead	1868-79	441	63,515	1880-91	6,343	877,313
Final "	1873-79	88	12,951	1880-86	1,538	199,372
Orig.Timb.Cul.	1875-79	38	5,422	1880-84	385	52,240
Donation Notif.	1858-79 (22 yrs.)	168	26,101	1880-82 (3 yrs.)	297	47,197
Donation Cert.	1870-79 (10 yrs.)	64	8,840	1880-84 (5 yrs.)	274	43,149
Pre-emp.Decla.	1861-79 (19 yrs.)	616		1880-91 (12 yrs.)	7,041	
Mineral Appl.	1869-79	62		1880-89	546	
Orig.Desert L.	1877-79	45	16,668	1880-82	122	30,484
Mineral Sales	1870-79	8	129	1880-88	377	6,438
Cash Sales	1868-79	352	47,142	1880-91	3,398	437,231

(Appendixes VI-VII)

Railroads received a large amount of the public domain in grants and rights-of-way. The one grant ever legally earned by a company to which it was granted was that to the Atlantic and Pacific Railroad Company, later acquired by the Atchison, Topeka and Santa Fe, and only to the A. & P. was title to land conveyed by the United States. Of this grant, 3,565,730.91 acres, exclusive of railroad right-of-way was acquired by the A. & P. in New Mexico.[81]

[81] James P. Reinhold, Assistant to the President of the Santa Fe Railroad, to the author, September 16, 1955. Mr. J. W. Higgins, Valuation Engineer System, supplied the information. Valuable studies on railroads are, William S. Greever, Arid Domain: The Santa Fe Railway and its Western Land Grant; Sanford A. Mosk, Land Tenure Problems in the Santa Fe Railroad Grant Area; John Bell Sanborn, Congressional Grants of Land in Aid of Railways; David Maldwyn Ellis, "The Forfeiture of Railroad Land Grants,1867-1894," Mississippi Valley Historical Review, 33:27-60; George W. Julian, "Our Land Grant Railways in Congress." International Review, 14:198-212; Julian, "Railway Influence in the Land Office," American Review, 136:237-256; and John B. Rae, "Commissioner Sparks and the Railroad Land Grants," Mississippi Valley Historical Review, 25:211-230.

Kind of entry	Relatively years order to 1880	Yards article	Acres	Yards article	Acres	Relatively equivalent number of years after 1880
Orig.Mercantoad	1869-75		641	69,315	1880-91	6,345
Final "	1875-79		88	12,922	1880-86	1,338
Orig.Timb.Cut.	1879-79		38	5,422	1880-84	305
Donation Profit.	1858-75		168	26,168	1880-82	297
	(26 yrs.)				(3 yrs.)	
Donation Cert.	1875-79		64	8,840	1880-84	274
	(10 yrs.)				(5 yrs.)	
Pre-emp.Donis.	1869-79		646		1880-91	7,041
	(15 yrs.)				(12 yrs.)	
Mineral Appl.	1869-79		62		1880-86	546
Orig.Desert L.	1877-79		45	16,668	1880-82	122
Mineral Sales	1870-79		8	1,285	1880-88	277
Cash Sales	1869-79		352	47,142	1880-91	3,362
						(Approximate 31-41)

Railroads received a large amount of the public lands in grants and rights-of-way. The one grant over legally earned by a company to which it was granted was that to the Atlantic and Pacific Railroad Company. Later acquired by the Atchison, Topeka and Santa Fe, and only to the A. & P. was title to land conveyed by the United States. Of this grant, 3,566,720.82 acres, exclusive of railroad right-of-way was acquired by the A. & P. in New Mexico.[21]

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[21] Jesse P. Reynold, Assistant to the President of the Santa Fe Railroad, to the author, September 16, 1935. Dr. J. W. Higgins, Valuation Engineer Trades, supplied the information. Valuable studies on railroads are, William S. Greever, Arid Domain: The Santa Fe Railway and its Western Land Grant; Sanford A. Mosk, Land Tenure Problems in the Santa Fe Railroad Grant Area; John Walt Bonton, Correspondence Grants of Land in Aid of Railways; David Madden Mills, "The Portland Co. of Railroad Land Grants,1867-1869," Mississippi Valley Historical Review, 35:327-60; George W. Julian, "Our Land Grant Railways in Congress," International Review, 14:(295-312) Julian, "Railway Influence in the Land Office," American Review, 136:(327)-296; and John B. Rae, "Constitutional Courts and the Railroad Land Grants," Mississippi Valley Historical Review, 25:211-230.

The grant was made on July 27, 1866.[82] Another line, the Texas and Pacific was awarded a grant on March 3, 1871.[83] The A. & P., reorganized by the A. T. & S. F. and the Frisco, laid tracks from Isleta, New Mexico, to Needles, California, and thus earned that portion of the grant.[84] The balance of the A. & P. grant was forfeited on July 6, 1886.[85] Likewise forfeited was the Texas and Pacific grant by a statute of February 28, 1885.[86]

Although the Texas and Pacific was not successful in acquiring title to its grant of land, this grant was still important in the disposal of the public domain in New Mexico, as was the unearned portion of the A. & P. grant. These grants tied up land to the extent of millions of acres and thus prevented actual settlement thereon. Voluminous correspondence between registers and receivers of land offices and the Commissioner of the General Land Office attest to the desire for settlement on this land.[87]

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[82] Stat. L., Vol. 14, 92-99.

[83] Ibid., Vol. 16, 573-579.

[84] Greever, Arid Domain, 29 passim.

[85] Stat. L., Vol. 24, 123-124.

[86] Ibid., Vol. 23, 337-338; Ellis, "The Forfeiture of Railroad Land Grants, 1867-1894," Mississippi Valley Historical Review, 33:42.

[87] C. W. Holcomb, Acting Commissioner to Register and Receiver at Mesilla, 4/18/81 (F.R.C.). This letter alone suspended fifteen entries because they conflicted with the lands withdrawn for the benefit of the Texas and Pacific Railroad Company.

By 1891 the A. & P. had met with but little success in selling its grant land. In New Mexico, it sold 41,592.19 acres of grazing land to the Cebolla Cattle Company at 50 cents per acre. It also sold, in 1890, 314,668.37 acres of timber land, and the timber on it, to Mitchell Brothers. The price was $1.425 per acre. Outside of a few possible minor tracts, this was the extent of the railroad land sales in New Mexico.[88]

This failure to sell land can be accounted for by scarcity of water, troubles connected with unsurveyed land, and droughts during the early 1890's. Then too, ranchers used the land almost at will because of traditional range rights and their success in preventing the passage of any effective territorial trespass laws.[89]

> The Atlantic and Pacific, unable to persuade many ranchers to purchase its property, failed even more signally in its attempt to rent them grazing rights. In 1887 it announced that anybody using its acreage must take out a lease, but nobody did; under existing laws, the company could take no effective action against trespassers. In 1892 the railroad again attempted to interest renters but succeeded in making only one small lease for one year. After the turn of the century, ... ranchers very gradually and with much reluctance began to rent railroad land.[90]

Another item of the public domain related to railroad corporations was the matter of rights-of-way. The Right of Way Act of March 3, 1875, provided

> That the right of way through the public lands of the United States is hereby granted to any railroad company

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[88]Greever, Arid Domain, 48 and 52; Greever to the author, January 16, 1956.

[89]Ibid., 43 and 48.

[90]Ibid., 49

By 1891 the A. & P. had with but little success in selling its grant land. In New Mexico, it held 41,921.13 acres of grazing land to the federal dative company at 50 cents per acre. It also sold, in 1890, 314,560.17 acres of timber land, and the timber on it, to Michael Jordan. The price was $1.425 per acre. Outside of a few possible minor tracts, this was the extent of the railroad land sales in New Mexico.[88]

This failure to sell land can be accounted for by scarcity of water, troubles connected with unsurveyed land, and droughts during the early 1890's. Then too, ranchers used the land almost at will because of traditional range rights and their success in preventing the passage of any effective territorial trespass laws.[89]

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Another item of the public domain related to railroad corporations was the matter of rights-of-way. The Right of Way Act of March 3, 1875, provided

> That the right of way through the public lands of the United States is hereby granted to any railroad company

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[88]Grover, Arid Domain, 16 and 321; Grover to the author, January 16, 1956.

[89]Ibid., 42 and 48.

[90]Ibid., 49

duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said railroad, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station-buildings, depots, machine shops, side-tracks, turn-outs, and water-stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road.[91]

This rule of a 200-foot right-of-way was the general practice and was followed in the grant to the A. & P. except that the words central line were not included and the necessary grounds for stations, etc., was not specified as to amount per station nor proximity of stations.[92] The one exception to the 200-foot right-of-way was the Texas and Pacific which was granted 200 feet on each side of the railroad and ground for stations not to exceed 40 acres each. The number of stations was not specified.[93]

The Southern Pacific (El Paso to the Colorado River) took over the Texas and Pacific prior to the revoking of the latter's grant,[94] but it was not entitled to the original 400-foot right-of-way and 40-acre lots for stations. The Southern Pacific's right-of-way was governed by the terms of the Act of 1875, subject, however, to any rights then existing of the

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[91] Stat. L., Vol. 18, 482.

[92] Ibid., Vol. 14, 294.

[93] Ibid.

[94] James P. Reinhold to the author, September 16, 1955.

duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said railroad, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent in such right of way for station-buildings, depots, machine shops, sidetracks, turn-outs, and water-stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road.[91]

This rule of a 200-foot right-of-way was the general practice and was followed in the grant to the A. & P. except that the words central line were not included and the necessary grounds for stations, etc., was not specified as to amount or station nor proximity of stations.[92] The one exception to the 200-foot right-of-way was the Texas and Pacific which was granted 100 feet on each side of the railroad and grounds for stations not to exceed 40 acres each. The number of stations was not specified.[93]

The Southern Pacific (-3 Pacific to the Colorado River) took over the Texas and Pacific prior to the revoking of the Pacific's grant,[94] but it was not entitled to the original 400-foot right-of-way and 40-acre lots for stations. The Southern Pacific's right-of-way was governed by the terms of the Act of 1875, subject, however, to any rights then existing of the

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[91] Stat. L., Vol. 18, 482.

[92] Ibid., Vol. 14, 294.

[93] Ibid.

[94] Jesse P. Reinhold to the author, September 16, 1955.

Texas and Pacific.[95] Through 1891, there were 22,670 acres in rights-of-way taken from the public domain in New Mexico.[96]

In the matter of station grounds, the Right of Way Act of 1875 allowed one tract of 20 acres every 10 miles, but the A. & P. grant did not specify the amount. As an approximation, however, the amount allowed by the Act of 1875 should not be far off. Railroads for which data is available specified, on plats filed with the Interior Department, as much land for stations as they were allowed,[97] as did, in all probability, the rest. In 935.15 miles (Appendix X) there would be 94 twenty-acre tracts of 1,880 acres in station grounds. Combining rights-of-way and station grounds, there were about 24,550 acres granted to railroads in New Mexico for rights-of-way through 1891. This figure, added to the area granted to the A. & P. Railroad makes a total approximating 3,590,281 acres of land granted for railroad purposes in New Mexico by the Federal Government.

In the entire Territory through the period of this study, there were only 622,684 acres of land granted to individuals

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[95] C. W. Holcomb, Acting Commissioner, to Register and Receiver at Mesilla, 6/16/81 (F.R.C.).

[96] Acreage of rights-of-way can be calculated from Appendix X by the following formulae: 935.15 miles x 5,280 (feet in a mile) x 200 (width of right-of-way) ÷ 43,560 (square feet in an acre) = acres of right-of-way on the public domain in New Mexico.

[97] McFarland to Register and Receiver at Las Cruces, 5/22/84 (F.R.C.), is an example that concerns the Silver City, Deming, and Pacific Railroad Company.

Texas and Pacific.[95] Through 1907, there were 20,000 acres in rights-of-way taken from the public domain in New Mexico.[96]

In the matter of station grounds, the Act of May 20, 1875 allowed one tract of 20 acres every 10 miles, but the A. & P. grant did not specifically mention. As an operation, however, the amount allowed by the Act of 1875 seemed too far off. Railroads for which data is available specified, on plats filed with the Interior Department, as much land for stations as they were allowed.[97] As did, in all probability, the rest. In 595.15 miles (figure 5) there would be twenty-more tracts of 1,280 acres in station grounds. Adding rights-of-way and station grounds, there were about 24,560 acres granted to railroads in New Mexico for rights-of-way through 1907. This figure, added to the area granted to the A. & P. allowed being a total approximating 1,590,000 acres of land granted for railroad purposes in New Mexico by the Federal Government.

In the entire territory taking the period of this study, there were only 622,000 acres of land granted to individuals

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[95] H. Hilgard, Letter Concerning, to Bradley and Rossiter at Mexico, 6/15/91 (F.R.C.).

[96] Acreage of rights-of-way can be calculated from appendix A by the following formula: 595.15 miles x 5,280 (feet in a mile) x 200 (width of right-of-way) ÷ 43,560 (square feet in an acre) = acres of right-of-way. Also, only Texas in New Mexico.

[97] Referred to Registry and Receiver of the Grant, 12/24 (F.R.C.), in an example that concerns the Silver City, Deming, and Pacific Railroad Company.

by virtue of the land laws. An additional 648,028 acres of public domain were sold to individuals; but, even this total of 1,270,712 acres (Appendix VIII) is insignificant to the amount granted to railroads.

MINERAL AND COAL LANDS

When Surveyor General Pelham arrived in New Mexico to institute the surveying service there, the only precedent regarding mineral lands that he could count on was contained in his original instructions. The only information contained therein was that mineral lands could not be acquired under the provisions of the Donation and Pre-emption Laws.[98] This left no method for people to acquire title to mineral lands under the land laws of the United States.

From his first year in office, Pelham had to deal with this problem. In 1855 Hugh Stephenson filed a pre-emption claim for the land covered by his furnaces and machinery for extracting ore; however, there was no provision of law allowing this procedure so the claim was withdrawn.[99] This was the first effort in New Mexico to acquire title to mineral land.

Pelham summed up the problem in 1859:

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[98] L.C.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 100 and 102 (777).

[99] Pelham to Bvt. Maj. J. T. Sprague, Ft. Fillmore, 3/24/60 (B.L.M.). Pelham filled the office of register and receiver during the first years of his incumbency as Surveyor General. Stephenson's claim was in T.22S, R.3E, in the Organ Mountain Mining District in Dona Ana County.

by virtue of the land laws. In addition 685,000 acres of public domain were sold to industrialist Jay Gould, even this total of 1,270,712 acres (appendix viii) is insignificant to the amount granted to railroads.

MINERAL AND COAL LANDS

When surveyor General Pelham arrived in New Mexico to institute the surveying survey there, the only precedent regarding mineral lands that he could count on was contained in his original instructions. The only information concerning therein was that mineral lands could not be acquired under the provisions of the homestead and pre-emption laws.[99] This left no method for people to acquire title to mineral lands under the land laws of the United States.

From his first year in office, Pelham had to deal with this problem. In 1855 Hugh Stephenson filed a pre-emption claim for the land covered by his furnace and machinery. Without extinguishing orig. survey, there was no provision for legalizing this procedure on the claim was without.[99] This was the first effort in New Mexico to acquire title to mineral land.

Pelham dealt with the problem in 1859:

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[99] I.C.B. 11/30/54, 32 pers., 2 maps., H.E.L., 6. In 1909 and 1912 (III).

[99] Pelham to Fish, U.S. Surveyor Gen. (Ariz.), 3/24/60 (El.E.). Pelham filed his claim as surveyor and receiver during the first years of the land office as surveyor General. Stephenson's claim was in T.20S., R.7., in the Mountain mining district in Dona Ana County.

> In answer to your communication of April 21st transmitting to this office your denouncement of a mine disallowed by you I have to state that the Government does not recognize the vesting of title to individuals in mines discovered on the public lands. In California it has been customary to allow the discoverer of a mine to work it, if on public land until he abandons it when it then is liable to be worked by another but no title is vested in either and it is the opinion of this office that the same custom holds good in this Territory. When this country was ceded to the United States all the laws of Mexico then existing were declared to be in force excepting such as conflicted with those of the United States. As the Mexican Laws in regard to mines are directly opposed to those of this government in their principle and practicable application they are virtually repealed.
>
> Instructions have been asked for to the proper Department at Washington in regard to the matter under consideration and when they are received due notice will be given to you.[100]

Prior to 1866 there was no general mineral legislation. In lieu of such legislation, there grew up a system of local regulations controlling the size, location and possession of mining claims and the water rights appurtenant thereto. These regulations, applying at first only to placer claims, varied in different localities. Regulations governing lode mining were established as soon as required. It was customary for miners in various localities to organize mineral districts and elect recorders whose duty it was to record the location of all claims filed with him. Filing was generally required to make the claim valid. These regulations grew from the mutual consent of their makers and became recognized as binding in the courts in all matters relating to mining claim titles.[101]

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[100] Pelham to John Donaldson, Calabasas, N.M., 5/21/59 (B.L.M.).

[101] Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.E.D. No. 47, 321 (1975).

In answer to your communication of April 23rd tender
uitting to this office your denouncement of a mine dis-
allowed by you I have to state that the Government does
not recognize the validity of title to individual
mines discovered on the public lands. In California it
has been customary to allow the discoverer of a mine to
work it, if on public land until he abandons it when it
then is liable to be worked by another but no title is
vested in either and it is the opinion of this office
that the same course holds good in this Territory. If as
this country was ceded to the United States all the laws
of Mexico then existing were declared to be in force
excepting such as conflicted with those of the United
States. As the Mexican laws in regard to mines are
directly opposed to those of this government in their
principle and practicable application they are virtually
repealed.

Instructions have been asked for in the proper Department
at Washington in regard to the matter under consid-
eration and upon their receipt the decision will be
given to you.[100]

Prior to 1866 there was no general mineral legislation.
In lieu of such legislation, there grew up a system of local
regulations controlling the size, location and ownership of
mining claims and the water rights appurtenant thereto. These
regulations, applying at first only to placer claims, varied
in different localities. Regulations governing lode claims
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all claims filed with him. Filing was generally required to
make the claim valid. These regulations grew from the natural
consent of their makers and became recognized as binding in the
courts in all matters relating to mining claim titles.[101]

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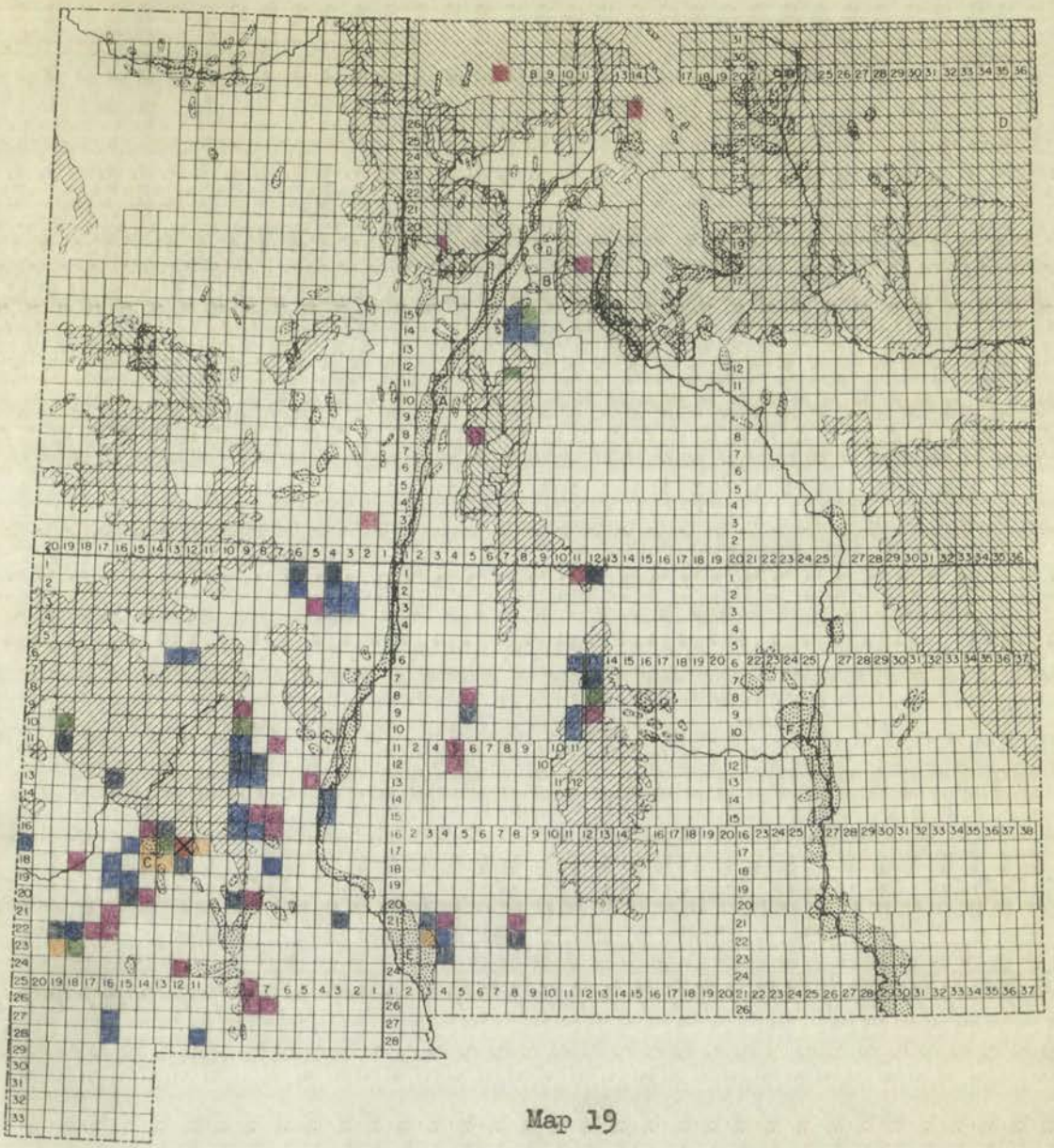
[100] Miles to John Donald Hunt, Gladstone, N.M., 5/23/[illegible]
(N.A.N.M.).

[101] Curtis Lewis Donaldson, Final Report, 1900, 56 Cong.,
2 Sess., H.R. Doc. 91, Ser. 4215 (15/2).



Map 19

Townships With

MINING ENTRIES

1868-1871

1872-1876

1877-1881

1882-1886

1887-1891

The first national legislation was the Mining Act of July 26, 1866, providing that both surveyed and unsurveyed land was to be open to exploration and occupation by all citizens of the United States or persons declaring their intention to become citizens. The act was subject to regulations prescribed by law and also local miners' rules that did not conflict with national laws. The law applied only to lode mines. This act was followed by the Placer-Mining Act of July 9, 1870, which provided for the survey and sale of placer-mining claims at $2.50 per acre.

The next mining legislation was passed on May 10, 1872, and amended the original act of 1866. It recognized mineral lands as a distinct class and provided for the survey and sale of placer lands at $2.50 per acre and $5.00 per acre for lode claims.[102]

The first coal land legislation was the Act of July 1, 1864. Under this act, coal lands became subject to pre-emption at a minimum price of $20.00 per acre. The law required that such lands be first proclaimed for sale by the President to the highest bidder in legal subdivisions. The following year, on March 3, the law was supplemented so that citizens of the United States engaged in coal mining as a business could enter 160 acres of coal land, or less, at $20.00 per acre.

Finally, the Act of March 3, 1873, allowed for a pre-emption of 160 acres of coal land to an individual and 320 acres to an association. The price was fixed at $10.00 per

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[102] Ibid., 321-322.

acre for lands more than 15 miles from a completed railroad and $20.00 per acre for coal land within 15 miles from a railroad. Furthermore, an association of no less than four persons, having expended at least $5,000 in improving a mine on their claim, might take out an additional entry of 640 acres at the stated prices.[103]

The laws covering mineral lands on the public domain did not extend to private grants; consequently, there arose a difficult problem in this connection. The Treaty of Guadalupe Hidalgo of 1848 obligated the United States to honor only such regulations as were in force under the former government, providing they did not conflict with national policy and welfare. Mineral rights did not extend to land grants under the governments of Spain and Mexico. There were many who felt that, in this matter, the largess of the United States should spread no further than that of the former governments. In the grants originally confirmed, Congress failed to withhold mineral rights and therefore they passed to the grantees.[104]

After 1879 Congress confirmed no more grants in New Mexico until 1891. This presented another problem. The Act of July 22, 1854, provided that unconfirmed grants be held in a state of reservation. This meant they were closed to miners as well as settlers and the failure of Congress to act gave

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[103] Ibid., 292; Copp, The American Settler's Guide, 72-76.

[104] S.C.R. 8/20/86, 49 Cong., 2 Sess., H.E.D. No. 1, 337-338 (2468), is an example.

are for lands more than 15 miles from a completed railroad and $20.00 per acre for coal land within 15 miles from a railroad. Furthermore, an association of no less than four persons, having expended at least $5,000 in improving a mine on their claim, might take out an additional entry of 640 acres at the stated prices.[103]

The laws covering mineral lands on the public domain did not extend to private grants; consequently, there arose a difficult problem in this connection. The treaty of Guadalupe Hidalgo of 1848 obligated the United States to honor early Mexican regulations as were in force under the former governments, under which they did not conflict with national policy and welfare. Mineral rights did not extend to land grants under the governments of Spain and Mexico. There were many who felt that, in this matter, the laws of the United States should extend no further than that of the former governments. In the grants originally confirmed, Congress failed to withhold mineral rights and therefore they passed to the grantees.[104]

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[103] Ibid., 572; Supp. The Southern Pacific's Guide, 75-76.

[104] U.S. 8/2c/80, Ag Comm., 2 Sess., H.R.D. No. 1, 337-338 (Ser 2[illegible]), in an report.

grant claimants the use of large areas of land without ownership of the same.[105]

The situation was settled to some extent by the Act of March 3, 1891, establishing a Court of Private Land Claims. By the third section of this act, gold, silver, and quick silver mines, or minerals of the same, on grants subsequently confirmed, were reserved for the United States. However, the same act provided that no such mine could be worked, on any property confirmed under the act, without the consent of the owner of the property unless otherwise arranged by subsequent legislation. Other mineral rights were not mentioned and consequently went with the confirmed grant.[106]

This condition was not settled until 1926. On June 8th of that year, the Secretary of the Interior was authorized to lease the right, to mine such metals, to the grantee of any claim confirmed by the Court of Private Land Claims. The royalty for this right was assigned at from 5 to 12½ per cent of the net value.[107]

The greatest impetus to mining development came with the advent of railroad transportation in 1880 (Appendix VI). There was also a better knowledge of mineral resources in the Territory by this time. As early as 1857 the Secretary of the Interior had suggested the propriety of a geological survey of

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[105] L.O.R. 9/23/91, 133.

[106] Stat. L., Vol. 26, 860.

[107] Emilio D. DeSoto and Arthur R. Morrison, Mining Rights on the Public Domain, 396.

grant claimants the use of lands [illegible] within a [illegible] strip of the area.[105]

The situation was settled by [illegible] of March 3, 1891, entitling [illegible] of [illegible] land rights. By the third section of this act, [illegible] mines, or mineral [illegible] of the area, or [illegible] fixed, were reserved for the United States. However, [illegible] not provided that no such rights could be acquired, or [illegible] confirmed under the act, without the consent of the [illegible] the property unless otherwise arranged by subsequent legislation. Other mineral rights were not, [illegible] with the confirmed grant.[106]

This condition was not [illegible] until 1906. In June [illegible] of that year, the Secretary of the Interior [illegible] issue the right, [illegible] claim such [illegible] claim confirmed by the court of [illegible] royalty for this right was [illegible] of the net value.[107]

The greatest impetus to mining development came with the advent of railroad transportation in 1880 [illegible]. There was also a better knowledge of mineral resources in the Territory by this time. In early [illegible] the Secretary of the Interior had suggested the [illegible]

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[105] U.S.A. 9/23/[illegible], [illegible].

[106] Stat. L., Vol. [illegible], 240.

[107] Willis C. [illegible] and [illegible], [illegible] on the Public Domain, 194.

New Mexico and in 1860 an unsuccessful attempt was made to achieve Congressional action to that end. The Civil War halted further activities in the matter.[108] The first decisive step in that direction was taken by Major James W. Powell who followed more than a decade of geological studies in the West with his monumental "Report on the Arid Regions of the United States," in 1878.[109]

By 1871, Indian dangers had lessened in many parts of the Territory and surveyors, settlers, and miners, alike were appreciative of the better progress that was consequently promised;[110] nevertheless, mining did not increase greatly until the decade of the 1880's.[111]

LANDS FOR EDUCATIONAL PURPOSES

The Act of July 22, 1854, establishing the office of Surveyor General, reserved sections 16 and 36 in each township for the benefit of schools in the Territory, and a quantity of land equal to two townships for the establishment of a

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[108] Edmunds to John Watts, House of Representatives, 12/16/61 (N.A.).

[109] Dunham, Government Handout, 35.

[110] S.C.R. 11/19/71, 42 Cong., 2 Sess., H.E.D. No. 1, 178 (1505). Indian depredations continued in the southwest part of the Territory until the middle of the next decade.

[111] Westphall, "Albuquerque in the 1870's," New Mexico Historical Review, 23:264.

university.[112] Subsequently sections 2 and 32 were also reserved for common schools.[113]

The Morrill Act of 1862 provided for 30,000 acres of land for each Senator and Representative in Congress at the time. The purpose of this grant was to establish a college for instruction in agricultural and mechanical arts.[114]

But none of this land was actually granted to the Territory until the passage of the Ferguson Act of June 21, 1898. The Enabling Act of June 20, 1910 made additional grants and later legislation added still more (Appendix XI).

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[112] Stat. L., Vol. 10, 308-310.

[113] George A. Graham, Know New Mexico: Acquisition of State Lands, 3.

[114] Simon Peter Hanninga, The New Mexico School System, 98.

CHAPTER X

FEDERAL PROSECUTION OF FRAUD

Large-scale prosecution of fraudulent practices came with the advent of the Democratic administration in 1885; nevertheless, there was warning by 1879 that title to much public land was being acquired in a manner and under conditions not contemplated by law largely because the land laws were not being adapted to fit conditions of the arid West.[1]

The decade of the 1880's in New Mexico saw the advent of the railroad and a boom in the cattle business. Land for grazing purposes was needed in ever increasing quantities - far more than could legally be acquired under the land laws. The consequence was an epidemic of fraudulent manipulation of the land laws. Prior to this decade there had been only four indictments for land fraud in the Territory. None of these had resulted in a conviction.[2]

By 1881, the incidence of fraud was such that Elias Brevoort, Receiver in the land office at Santa Fe, on December 5, informed Commissioner N. C. McFarland, in a letter of far-reaching consequence, "That I have quite recently become

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[1]Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, IX (1923).

[2]United States, Transcript Record of District Court Cases. First Judicial District, Nos. 382 and 383. Criminal Docket (Old) June 1877-March 1886. Third Judicial District, Nos. 334 and 390.

impressed with the belief there has been for some months past a system of frauds perpetrated in making entries of lands."[3] He named, as principal suspected parties, José de Sena, former register at Santa Fe; Antonio Ortiz y Salazar, former probate judge of Santa Fe County; John Gwyn and Thomas Gwyn of Santa Fe, the latter a former register; Miguel Salazar, Las Vegas attorney; Alexander Grzelachowski, better known as "Polaco"; Celso Baca of San Miguel County; and Miguel Martin, Leandro Urtadio, José Trujora, Luis F. Garcia, Hilario Montana, Ignacio Valdez, Tarivio Martin, Frank Unruh, and B. F. Houx, all residents in the vicinity of Cimarron in Colfax County. There were also, he believed, many others.[4]

The practice was to have witnesses furnish false affidavits, dating back the time of settlement to suit the case, and the entrant then acquired the land without ever having seen it. Afterwards the principal manipulators and advisors purchased it for a mere nominal sum. Another practice was for stock-raisers to have their laborers make false entries for their employers' benefit.[5]

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[3]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 19.

[4]Ibid., 19-21.

[5]The Donation Law required four years residence and cultivation and a certificate was acquired by presenting proof of such. In 1881 there were 172 donation notifications and 162 donation certificates; more than in all previous years combined. See Appendixes VI and VII for complete statistics on all land laws.

The more worthy citizens of the Territory desired the Government to take immediate action to break up these frauds and bring the guilty parties to justice. Brevoort suggested that a special agent of the Interior Department be sent to the Territory at once to investigate. He should be "a man firm and resolute, and beyond the reach of bribery, who should be paid double or treble the usual salary of special agents, with all expenses paid, for the reason that the risk of life [was] great, not only to him, but to persons giving information of the frauds in question... ."[6]

Brevoort left office on December 8, 1881, three days after his communication with the Commissioner.[7] It is probable that he had no axe to grind on the troubled wheel of Territorial politics since his name drops completely from the resulting investigations, charges, and counter-charges.

As a direct result of Brevoort's charges, on August 5, 1882, Robert S. Graham, a clerk in the General Land Office, was appointed for a period of one month to investigate fraud in New Mexico.[8] This was later extended for an additional thirty days.[9] He found that conditions warranted a much more extensive scrutiny than originally contemplated. By the end

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[6]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 19.

[7]Ibid., 22. He took office in July 1878.

[8]Ibid., 23-24.

[9]Ibid., 25.

of 1884, at least seven special agents of the General Land Office had conducted investigations in the Territory. These were Richard J. Hinton, H. H. Eddy, John M. Dunn, Frank D. Hobbs, John G. Evans, A. R. Greene, and Charles A. Walker.[10]

With the evidence unearthed by these agents, Secretary of the Interior Teller and Commissioner McFarland set in motion the wheels of justice through indictments for the widespread fraudulent practices in the Territory.

Through 1891 there were 3,633 criminal cases in the five Federal District Courts in New Mexico. Of these 641 involved land fraud; however, there were only four such cases prior to 1883. Exclusive of these four, land fraud cases were initiated in the first and second districts in 1883, the third district in 1884, and the fourth district in 1887. None of the 69 cases in the fifth district initiated in 1891 involved land fraud. The first district had 1,431 cases, with 388 land fraud; second district 894 cases with 33 land fraud; third district, 933 cases with 149 land fraud; and the fourth district, 306 cases with 71 land fraud.[11]

Perjury accounted for the most cases with a total of 442. Unlawful inclosures followed with 78 cases and violation of

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[10] Ibid., passim.

[11] United States, Territorial Court Records. Transcript Records and Dockets of District Court Cases. The first district consisted of the counties of Santa Fe, San Juan, Rio Arriba, and Taos; second district, Bernalillo, Valencia and Socorro; third district, Dona Ana, Sierra and Grant; fourth district, San Miguel, Colfax, Mora, and Lincoln; fifth district, Socorro, Lincoln, Chaves, and Eddy. Some changes were made from time to time in the counties within the various

of 1889, at least five recent Secretaries of the General Land Office had conducted investigations in the Territory. These were Hiram L. Chapman, H. H. Miller, John A. Evans, Thomas H. Robbs, John C. Ewers, A. H. Graves, and Charles A. Walker.[10] With the evidence obtained by these agents, Secretary of the Interior Teller and Commissioner Stockton set in motion the wheels of justice through indictments for the widespread fraudulent practices in the Territory.

Through 1891 there were 2,651 criminal cases in the five Federal District Courts in New Mexico. Of these 64 involved land fraud; however, there were only four such cases prior to 1885. Analysis of these four, land fraud cases were initiated in the first and second District courts in 1879, the third district in 1884, and the fourth district in 1887. Some of the 69 cases in the fifth district initiated in 1889 involved land fraud. The first district had 1,413 cases, with 348 land fraud; second district 694 cases with 37 land fraud; third district, 273 cases with 149 land fraud; and the fourth district, 306 cases with 71 land fraud.[11]

Perjury accounted for the most cases with a total of 442. Unlawful homesteads followed with 78 cases and violation of

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[10] Ibid., 1889.

[11] United States, Federal Court Records. Transcripts Records and Dockets of Territorial Court Cases. The first district consisted of the counties of Santa Fe, San Juan, Rio Arriba, and Taos; second district, Bernalillo, Valencia and Socorro; third district, Doña Ana, Grant and Sierra; fourth district, San Miguel, Guadalupe, Mora, and Lincoln; fifth district, Sandoval, Colfax, Taos, and Mora. Some changes were made from time to time in the counties within the various

timber laws accounted for 64. Other categories were subornation of perjury, conspiracy, official misconduct, abstraction of records, bribery, forgery, false certificate and unlawful obtaining of land (Appendix XIII).

There were only 15 cases with a jury verdict of Guilty but this does not tell the entire story. In 82 cases the defendant was not found by a United States Marshal. These Marshals repeatedly wrote on subpoenas that after a diligent search they were unable to find the defendants and did not believe these persons existed. This was probably true because one Grand Jury foreman pointed out that many entries were made with fictitious names.[12] Some of these defendants may have skipped the country but in either instance they were presumably guilty. Also, in 209 dismissed cases, all or part of the records are missing from the transcript. Many dismissed cases were not prosecuted by the U. S. Attorney because records were

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districts which accounts for overlapping. The cases by years follow:

Year	#1	#2	#3	#4	Total
1871	2				2
1876			1		1
1878			1		1
1883	52	1			53
1884	3		48		51
1885	10		1		11
1886	275	15	61		351
1887	40	6	16	14	76
1888	4	8	7	23	42
1889	2	3	14	5	24
1890				29	29
	388	33	149	71	641

[12] C.C.R. 10/7/86, 49 Cong., 2 Sess., H.E.D. No. 1, 471-472 (2468). This foreman was R. W. Webb.

lost or stolen from the files.[13] This was a serious difficulty then because all affidavits, etc., were in long hand with a single copy and, if missing, were hard to duplicate. Without the missing transcripts, it is impossible to say how many of these cases were not prosecuted because the record had already been stolen at the time for prosecution. The fact that the records were lost or stolen is a strong presumption of guilt in all these cases. Then too, in 28 cases the verdict is in neither the docket nor transcript and here also there is a possibility of guilt.[14]

The Democrats came into power in 1885, and with Commissioner Wm. A. J. Sparks leading the way, intensified the prosecution of land fraud cases in the Territory. In 1886 there were 351 cases; far more than in any previous or subsequent year.[15] The Republicans, nevertheless, under Secretary of the Interior Teller and Commissioner McFarland had not only pressed charges in numerous indictments, but also conducted the investigations that were used as the basis for Democratic prosecutions.[16] In Washington Commissioner Sparks gave his

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[13]The dockets give this information in a number of cases.

[14]United States, Territorial Court Records. Transcript Records and Dockets of District Court Cases. Appendix XIII is a summary of all cases.

[15]See note 11.

[16]Names of persons indicted by the Democrats were almost entirely those investigated by the Republicans. In the years after 1884, Land Office Reports mention only four special agents by name as having investigated fraud in the Territory. These are Clark S. Rowe, L.O.R. 10/7/86, 49 Cong., 2 Sess., H.E.D. No. 1, 273 (2468); J. N. Smithee, E. R. Stafford, Ibid.,

Republican predecessors due credit for collecting information on land fraud;[17] but in New Mexico this courtesy was sorely lacking.[18]

There was loud lamenting in Democratic Washington that convictions were almost impossible to secure in New Mexico. The sparseness of English-speaking people bore the brunt of the blame. Native New Mexicans were accused of being unreliable witnesses who would swear to anything, and native juries were charged with never returning a verdict of Guilty regardless of the evidence.[19] Sympathy was expressed for these people, however, because they were unaware of the law and could be deceived into signing fraudulent papers in the interest of others. Natives with honest intentions were frequently taken advantage of, it was pointed out, by unscrupulous manipulators who gave them false descriptions of the land they lived on prior to the time they filed this description in the land office.

471; and Clayton G. Coleman, L.C.R. 9/28/87, 50 Cong., 1 Sess., H.E.D. No. 1, 159-160 (2541). Only isolated examples of the work of these agents are given. One particularly telling and widely quoted indictment against fraud in the nation, contained in part in the Annual Report of Commissioner Sparks for 1885, L.C.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 202-205 (2378), was originally written at the request of Sparks' predecessor by Inspector A. R. Greene from Santa Fe, N.M., on November 3, 1884, Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 48 Cong., 2 Sess., S.E.D. No. 106, 378-381.

[17] Dunham, Government Handout, 185.

[18] L.C.R. 10/7/86, 49 Cong., 2 Sess., H.E.D. No. 1, 471 (2468).

[19] Ibid., 272.

These descriptions were for worthless land. The settler filed the spurious description thinking it was for the land he had settled upon. His home was then filed upon by a person representing the party who supplied the false description and the settler was deprived of his valuable land in exchange for the worthless acreage he had filed upon. If he complained he was told that he had committed perjury by entering land he had never lived upon and that if he didn't keep quiet he would be arrested and prosecuted.[20]

It is true that the native inhabitants were used by clever schemers who took advantage of their ignorance of laws and customs they were not acquainted with. It is also true that native juries returned few verdicts of Guilty, but this must be explained. Juries then had to be selected largely from native inhabitants because they composed the bulk of the population. There were two reasons why a verdict of Guilty was seldom returned: fear of reprisal,[21] and sympathy for anyone accused of a crime.[22]

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[20]Ibid., 90-91. Commissioner Sparks' opinions were based on a letter from Special Agent H. H. Eddy to Commissioner McFarland, 5/17/83, Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 49. The practice by which settlers were deprived of their land is confirmed by numerous letters between Commissioners and Registers, Receivers, and Surveyors General (N.A., B.L.M., and F.R.C.).

[21]Personal Interview, Land Office Personnel, March 23, 1956.

[22]Paul W. Robinson to the author, March 26, 1956. Mr. Robinson is a prominent Albuquerque attorney and he points out that even today "predominantly Spanish juries are perhaps a little more sympathetic than Anglo juries, and are inclined

These descriptions were for merely a trail. The act for [illegible] the spurious description [illegible] and for [illegible] he had settled upon. His [illegible] was filled upon by a person [illegible] sorting the party who provided the false description and the matter was described [illegible] for the workhouse authorities be had filed them. He be complained he was told that he had committed perjury by swearing [illegible] he had never lived upon and [illegible] be arrested and prosecuted.[20]

It is true that the [illegible] were used by [illegible] authorities who took advantage of [illegible] and [illegible] matters they were not [illegible]. It is also true that native justice [illegible] of [illegible], but this [illegible] explained. Justice [illegible] be [illegible] [illegible] tribesmen became [illegible] the [illegible]. There were two [illegible] of [illegible] was either returned: fear of [illegible] or [illegible] upon accused of a crime.[22]

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[20] Ibid., [illegible] Magistrate [illegible] opinions were based on a letter from [illegible] to Commissioner Morfmond, [illegible] Acquisition of [illegible] 2 [illegible] were deprived of [illegible] between [illegible] General ([illegible]).

[21] Personal [illegible] 1956.

[22] Paul W. [illegible] Robinson [illegible] out that even [illegible] a little more [illegible]

Then too, it was well known that a majority of the accused were innocent as to interest. They did not understand the English language, were ignorant of the land laws, were confiding, and were "mere tools in the hands of designing men as well as the betrayed of official corruption."[23]

Far more important though, is that many cases with damaging possibilities never got to the jury. There is not a shred of evidence indicating that Washington officials were aware of the numerous times that U. S. Marshals were unable to find defendants, or of the really amazing number of records that were lost or stolen from the files (Appendix XIII). To blame juries for these conditions is utterly unfair. The missing records had to be the work of persons who had access to the files; largely the attorneys in the cases. The U. S. Attorneys themselves are not blameless in the matter.[24]

Persons and corporations against whom indictments were returned represented all classes in the Territory: Charles Ilfeld, Max Frost, Pedro Sanchez, Dubuque Cattle Company, Wm. H. McBroom, Luciano Baca, Red River Cattle Company, Lake Cattle Company, Palo Blanco Cattle Company, Prairie Cattle Company, Portsmouth Cattle Company, Stephen W. Dorsey, Miguel Martin,

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to be more lenient as far as accused persons in criminal matters are concerned, and are likewise inclined to be perhaps more lenient in granting awards to plaintiffs in civil damage cases."

[23] L.O.R. 10/7/86, 49 Cong., 2 Sess., H.E.D. No. 1, 470 (2468). Address of R. W. Webb, Foreman of the Grand Jury, First Judicial District, to Chief Justice Long.

[24] Personal Interview, Land Office Personnel, March 23, 1956.

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Far more important though, is that many cases with damaging possibilities never got to the jury. There is not a shred of evidence indicating that Washington officials were aware of the numerous times that U.S. Marshals were unable to find defendants, or of the small, growing number of records that were lost or stolen from the files (U.S. Dist. Ct.). No issue juries for those conditions in history unfair. The missing records had to be the work of persons who had access to the files; largely the attorneys in the cases. The U. S. attorneys themselves are not blameless in the matter.[24]

Persons and corporations against whom indictments were returned represented all classes in the Territory: Bonifacio Iliff, Max Frank, Pedro Sandoz, Dubuque Cattle Company, M. H. Morrison, Luciano Baca, Red River Cattle Company, Lake Cattle Company, Palo Blanco Cattle Company, Pueblo Cattle Company, Portsmouth Cattle Company, Stephen W. Dorsey, Frank Martin,

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to be more lenient as far as accused persons in individual matters are concerned, and are likewise inclined to be perhaps more lenient in granting awards to plaintiffs in civil damage cases."

[23] G.R. 10/7/86, 49 Cong., 2 Sess., H.R.D. No. 1, 470 (2468). Address of R. W. Webb, Foreman of the Grand Jury, First Judicial District, to Chief Justice Long.

[24] Personal Interview, Land Office Personnel, March 27, 1956.

Cimarron Cattle Company, Wm. F. Purcont, George H. Purcont, Theo. Maxwell, Charles Blanchard, and M. A. Upson, to name only a few.[25]

But one person was singled out over all the others; Max Frost, Register of the Land Office at Santa Fe.[26] He came to New Mexico as a Sergeant[27] in charge of the military telegraph line built into Santa Fe.[28] During the years 1881-1883 he was Adjutant General of New Mexico from which he got his title of "Colonel."[29] By 1884 he was prominent in politics and once unwisely boasted to Inspector John G. Evans that he had great influence with the grand jurors of his county and would have persons indicted who made an affidavit against him. He was likewise Secretary of the San Mateo Cattle Company, interested in a mining company, and connected with four newspapers.[30] He was also an incorporator, in 1883, of the San Mateo Cattle Company along with Amado Chaves and Simon Vivo. In 1884 he joined

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[25]United States, Territorial Court Records. Transcript Records and Dockets of District Court Cases.

[26]L.O.R. 10/7/86, 49 Cong., 2 Sess., H.E.D. No. 1, 470 (2468); Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, passim.

[27]S.G.R. 8/15/78, 45 Cong., 3 Sess., H.E.D. No. 1, 277 (1850).

[28]Paul A. F. Walter, "New Mexico's Pioneer Bank and and Bankers," New Mexico Historical Review, 21:224.

[29]M. A. Otero, Jr., to the author, May 27, 1955.

[30]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 83 and 387.

Glenarrow Cattle Company, W. T. Thompson, George H. Thornton, Theo. Maxwell, Charles Blundford, and T. A. Frank, to name only a few.[25]

But one person was singled out over all the others, as proof, Register of the Land Office at Santa Fe.[26] He came to New Mexico as a Surveyor[27] in charge of the military telegraph line built into Santa Fe.[28] During the years 1867-1870 he was Adjutant General of New Mexico from which he got his title of "Colonel."[29] By 1884 he was prominent in political and governmental circles located in Register John C. Shaw that he had great influence with the great Tycoons of his country and would lend persons indicted who made an affidavit against him. He was Lincoln's Secretary of the San Juan Cattle Company, interested in a mining company, and connected with four newspapers.[30] He was also an incorporator, in 1883, of the San Mateo Cattle Company along with James Duncan and Simon Vivian. In 1884 he joined

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[25]United States, Interior Court Records. Tomkins Records and Decisions of District Court Cases.

[26]G.L.O. 10/T/16, 45 cong., 2 sess., H.R.D. No. 1, 279 (1878); Secretary of the Interior, Preemption Adjudication of Title to Land in New Mexico, 1878, 45 Cong., 2 sess., H.R.D. No. 106, passim.

[27]G.L.O. 9/R/78, 45 cong., 3 sess., H.R.D. No. 1, 277 (1880).

[28]Paul A. N. Walker, "New Mexico's Pioneer Bank and Bankers," New Mexico Historical Review, 23:229.

[29]A. Otero, Jr., to the author, May 27, 1953.

[30]Secretary of the Interior, Preemption Adjudication of Title to Land in New Mexico, 1883, 48 Cong., 2 sess., H.R.D. No. 106, 85 and 327.

with H. M. Atkinson and W. H. McBroom, and three gentlemen from Kentucky, in forming the New Mexico and Kentucky Land and Stock Company.[31]

As a result of charges preferred by Francis Downs, a Santa Fe attorney, on October 30, 1883,[32] and by R. W. Webb on January 8, 1884,[33] Frost's conduct in office was thoroughly investigated by Inspector Frank D. Hobbs.[34] On the basis of Hobbs' reports in the matter, Commissioner McFarland presented charges to Frost on September 24, and requested that he make any showing he might desire before the case was turned over to the Secretary of the Interior.[35]

Two months later, on November 24, Frost had not presented a defense and McFarland laid the matter before Secretary Teller recommending Frost's dismissal. McFarland pointed out that a large number of persons expressed want of confidence in Frost's official integrity and openly charged that his office was not honestly conducted. They also expressed fear of volunteering evidence out of court because of Frost's political influence.

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[31]Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900. Summary, Ms.

[32]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 149.

[33]Ibid., 203-204.

[34]Ibid., passim.

[35]Ibid., 386-387.

with H. M. Atkinson and W. R. Jefferys, and three gentlemen from Kentucky, in forming the New Mexico and Kentucky Land and Stock Company.[31]

As a result of charges preferred by Pascale Romero, a Santa Fe attorney, on October 30, 1897,[32] and by R. W. Webb on January 8, 1898,[33] Frost's conduct in office was thoroughly investigated by Inspector Frank D. Tobin.[34] On the basis of Tobin's reports in the matter, Commissioner Ofelt and prominent charges to Frost on September 24, and requested that he make any showing in eight days before the case was turned over to the Secretary of the Interior.[35]

Two months later, on November 24, Frost had not presented a defense and Ofelt and Hoffmann laid the matter before Secretary Teller recommending Frost's dismissal. Ofelt also pointed out that a large number of persons expressed want of confidence in Frost's official integrity and openly charged that his office was not honestly conducted. They also expressed fear of voluntarily giving evidence out of court because of Frost's political influence.

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[31] Southern Range Cattle Industry Study, New Mexico Cattle Corporations, 1870-1920. Summary, 9a.

[32] Secretary of the Interior, Proceedings Adjudication of Titles to Land in New Mexico, 1898, 48 Cong., 2 Sess., Sen. Do. 106, 149.

[33] Ibid., 203-204.

[34] Ibid., passim.

[35] Ibid., 326-327.

Among specific charges investigated by Inspector Hobbs, and reported to Secretary Teller, was that L. J. Orcutt paid Frost seven hundred dollars for aid in enlarging his ranch by means of a number of fraudulent entries. In numerous other cases Frost was charged with attaching his signature to fraudulent entry papers without the affiants being present. Another case involved nineteen fraudulent homestead entries made in the interest of Pedro Sanchez, Indian Agent at Santa Fe. Nine of the entries were in the names of fictitious persons, and in the rest the persons in whose names the entries were made swore under oath that they had not signed the papers. He was charged with being a silent partner of M. Salazar, a land attorney at Las Vegas. Salazar was able to pass entries through the land office without bothering entrymen to make affidavits or sign papers. It was learned by the inspector that Frost did a great deal of work at night, the mornings after which the clerk would find many final proofs that had not been there the evening before. Frost was charged with being a party to many illegal final proof notices that were printed in two or three copies of a newspaper and omitted from the regular edition. He had assumed entire charge of the receiver's office and the latter did nothing but sign his name while Frost received all money sent by mail and made returns by personal check contrary to official instructions. A number of irregularities in the method of keeping records of entries were noted, raising the suspicion that certain lands were held on the books long after they should have been

relinquished. Finally, Frost had raised the fee for publishing final proof notices, and the newspapers in which he had an interest had received most of the business.[36]

On December 9, Frost belatedly answered the charges, giving as an excuse for his tardiness that he had been injured in a fall from a buggy and had been unable to perform any active physical or mental labor. He addressed his letter to Secretary Teller instead of Commissioner McFarland, who had presented the charges.[37] The following circumstance sheds light on his reason for doing this. On October 30, 1883, Francis Downs had preferred charges against Frost in a letter to Secretary Teller. The letter was registered and marked "private." Even before Teller acknowledged the letter, Frost was in some manner informed not only of the charges but the language of the same.[38] However, Frost's influence had run its course and he was permitted to resign in March, 1885.[39]

It is evident that the numerous investigations of land fraud in the Territory were a deterrent to this type of activity. In 1884, the first year that the numbers of reported fraud cases were published by the General Land Office, New Mexico led the nation with 827 cases followed by California

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[36] Ibid., 381-384.

[37] Ibid., 387-389.

[38] Ibid., 175-176.

[39] L.O.R. 10/7/86, 49 Cong., 2 Sess., H.E.D. No. 1, 470 (2468); G. B. Anderson, Compl., History of New Mexico, Vol. I, 189. Frost signed his last Abstract of Entries in that month. Charles F. Easley signed for April, Monthly Abstract of Homestead Entries (F.R.C.).

relinquished. Finally, Frost had raised the fee for publishing final proof notices, and the newspapers in which he had an interest had received most of the business.[36]

On December 9, Frost belatedly answered the charges, giving as an excuse for his forthcoming that he had been injured in a fall from a ladder and had been unable to be fully active physical or mental labor. He enclosed his letter to Secretary Tolbert instead of corresponding directly, who had preferred the charges.[37] The following afternoon shed light on his reason for doing this. On October 20, 1888, Francis Downs had preferred charges against Frost in a letter to Secretary Tolbert. The letter was registered and marked "private." Downs before Tolbert mentioned the letter, Frost was in some manner informed not only of the charges but the language of the same.[38] However, Frost's influence had run its course and he was prevailed to resign in March, 1889.[39]

It is evident that the new U.S. Investigations of Land Fraud in the Territory were a deterrent to this type of activity. In 1889, the first year that the records of recorded fraud cases were published by the General Land Office, New Mexico led the nation with 827 cases followed by California in

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[36] Ibid., 383-384.

[37] Ibid., 387-389.

[38] Ibid., 175-176.

[39] G.L.O. 10/17/89, Dig cons., 2 Sess., H.R. No. 1, 47 (1889); G. and Corp. Cont., History of Territories, Vol. 2, 189. Frost signed the last instrument of a series in that month. Charles F. Easley signed for April. Easley Abstr. of Horsehead Titles (P.A.O.).

with 574. Late that year the pressure of investigation reached a climax when Max Frost was put on the carpet by the Interior Department. The following year New Mexico dropped to eleventh place with only 63 cases. During subsequent years the entries reached their average of fifth place (Appendix XII).

On July 14, 1886, an indictment was returned against Max Frost by the Grand Jury on a charge of official misconduct. On July 30, 1886, an additional fourteen charges were filed wherein Frost was either named as sole defendant or was named with others on conspiracy charges. Five of the total number of cases filed against him were based upon misconduct; one was based upon a false certificate given; another was for subornation of perjury; and eight were for conspiracy. In the examination into the complete record of the case, it appears that the first case filed was the key case of the United States Attorney, who was Thomas Smith. This case came on for trial first on February 24, 1887, and the jury verdict was Guilty. Edward Miller was the foreman of the Jury, and the jury verdict assessed a penalty against him of imprisonment for one year and a fine of $5,000.00. Immediately following this, Frost's attorneys moved for a new trial. Ultimately a hearing was held upon their motion and a new trial was denied. Following that, Frost's attorneys submitted a long series of affidavits and filed a motion for a rehearing on the question of whether or not he was entitled to a new trial. The affidavits in question relate to the fact that the foreman of the jury, Edward Miller, had a great deal of animosity toward

Frost's attorney, who was Henry L. Waldo, and other affidavits attempted to show the proper disposition by Frost of the funds which he was charged to have accepted in the nature of a bribe. The basic indictment of the Grand Jury charged him with the acceptance of $60.00 as a bribe, and at the time of the first trial a receipt was offered in evidence whereby Frost had receipted for a total sum of $225.00. These affidavits went to the point that Frost had no way of knowing, nor did his attorneys, prior to the time of the first trial, that anything more than the $60.00 would come up; and when the receipt was introduced into evidence it placed a burden upon Frost to show the proper disposition of the entire sum of $225.00, which Frost alleged he could do and submitted affidavits to show a partial proper distribution of this money. It appears that the United States District Judge was impressed with the affidavits, and upon rehearing granted Frost a new trial, which was held on August 17, 1888, and which resulted in a jury verdict of Not Guilty. In the first trial, for which the list of jurors appears, the only Anglo name on the list was that of the foreman, Edward Miller. The list of jurors in the second trial does not appear in the official record of the proceedings; however, the jury verdict is in Spanish and signed by David Velarde as the foreman of the jury. It would appear from this jury verdict that the trial proceeded through an interpreter.

Immediately following the jury verdict of August 17, 1888, whereby Frost was found Not Guilty, a series of other cases

Frost's attorney, who was Henry L. Waldo, and other affidavits attempted to show the proper disposition by Frost of the funds which he was charged to have accounted in the nature of a bribe. The basic indictment of the Grand Jury charged him with the acceptance of $60.00 as a bribe, and at the time of the first trial a rebuttal was offered in evidence whereby Frost had receipted for a total sum of $225.00. These affidavits went to the point that Frost had no way of knowing, nor did his attorney, prior to the time of the first trial, that something more than the $60.00 would come up and when the receipts were introduced into evidence it placed a burden upon Frost to show the proper disposition of the entire sum of $225.00, which Frost alleged he could do and submitted affidavits to show a partial proper distribution of this money. It appears that the United States District Judge was impressed with the affidavits, and upon reversing granted Frost a new trial, which was held on August 17, 1920, and which resulted in a jury verdict of not guilty. In the first trial, for which the list of jurors appears, the only Anglo name on the list was that of the foreman, Edward Miller. The list of jurors in the second trial does not appear in the official record of the proceedings; however, the jury verdict is in English and signed by David Velarde as the foreman of the jury. It would appear from this jury verdict that the trial proceeded through an interpreter.

Immediately following the jury verdict of August 17, 1920, whereby Frost was found not guilty, a series of other cases

against him were dismissed, apparently upon motion of the United States Attorney, though no record of his motion or any order of dismissal appears in the official record of the file, these appearing only in the docket in the office of the Clerk. Other cases against Frost, in fact a total of five, were dismissed on August 18, 1888, giving the United States Attorney leave to reinstate them at any time. The reason for this was that the official files were missing from the office of the Clerk. It is assumed that in those days the indictments rendered by the Grand Jury were by original copy only and that no duplicate was retained, and someone apparently had taken a number of these cases against Max Frost and others out of the office of the United States District Court Clerk. It is more than coincidence that these files are missing. It would not be uncommon to have one case misfiled; however, even in those days, anyone taking a file out of the office of the Clerk was required to receipt for the same, and no receipt or other document appears in the records in the office. The cases which are missing involved one of official misconduct against Max Frost; two others were conspiracy charges against Max Frost and P. H. Kuhn. The other two were conspiracy charges against Max Frost and Pedro Y. Jaramillo.

Frost did stand trial in three other cases, two of which were based upon conspiracy, the co-conspirators being Luciano Baca and Amado Chaves, and the jury verdict in those cases was Not Guilty. The other case involved official misconduct, and the court apparently instructed a verdict in favor of Mr. Frost

against him were already in [illegible], upon motion of the
United States Attorney, though he requested a [illegible] in
order of dismissal appears on the docket in the office of the Clerk.
These appearing only in the docket in the office of the Clerk.
Other cases against [illegible], [illegible] a [illegible] of [illegible]
missed on August 18, 1925, [illegible] the United States Attorney
leave to voluntarily [illegible] [illegible]. The reason for this was
that the official files were missing from the office of the
Clerk. It is assumed that [illegible] due to the indictments
remained by the Grand Jury [illegible] and that
no duplicate was [illegible] [illegible]
number of these cases [illegible] [illegible] in the
office of the United States District Court Clerk. It is more
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be uncommon to have one case [illegible] however, even in [illegible]
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required to receipt for the [illegible] and to [illegible] or other [illegible]
ment appears in the receipts in the [illegible]. The cases [illegible]
are missing involved one of [illegible] [illegible]
Fronti two others were [illegible] [illegible] Fronti
and F. H. Kuhn. In other [illegible] [illegible]
Max Frost and Harry L. [illegible].

[illegible] Frost did [illegible] in three other cases, [illegible] of which
were based upon conspiracy, the [illegible]
Sacco and Lucio Cantore, and the [illegible]
Not Guilty. The [illegible] [illegible]
the court approved [illegible]

because the alleged act was barred by the Statute of Limitations of the day.[40]

Max Frost was extremely fortunate in having all the charges against him disposed of in one way or another.[41] The records in the case show that it was a real battle all the way.

It is also evident that he was related to the indictment of a number of persons other than those named in indictments with him. The key case against Frost was No. 975a. Forty-two other cases appear with the suffix "a" immediately following 975a. These numbers break into the regular sequence of numbers following No. 1026. All of these were perjury cases and all were either dismissed or returned with a verdict of Not Guilty. Apparently the basis for the dismissal or acquital was that the people involved, while committing an act of perjury, did so either unknowingly or through coercion of their employer or some other person.[42]

Another matter of concern to the Government was the unlawful inclosure of the public domain. As early as 1879 this was an issue with the Public Lands Commission and

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[40]United States, Criminal Docket, Vol. I, First Judicial District, August 1, 1882 - May 2, 1896; Transcript Record of Cases, First Judicial District, Nos. 975a, 1086, 1092, 1093, 1095, 1101, 1103, 1104, 1105, 1107, 1109, 1140, 1141, 1142, and 1149. The 5 cases which the United States Attorney had leave to reinstate at any time were dismissed from the record in 1904. Paul W. Robinson aided materially in assembling the facts of this case.

[41]Paul W. Robinson to the author, March 26, 1956.

[42]Ibid. Mr. Robinson is of the opinion that Mr. Frost was related to even more cases than the 42 linked to key case #975a, but the evidence here is not conclusive.

because the alleged act was barred by the statute of limitations of the day.[40]

Arthur Frost was extremely fortunate in having all the charges against him dropped of in one way or another.[41] The records in the case show that it was a real battle and the government [illegible]. It is also evident that he was related to the indictment of a number of persons other than those named in indictments with him. The lay name against Frost was No. 9754. Forty-two other cases appear with the [illegible] immediately following 9754. These numbers break into the regular sequence of numbers following No. 1020. All of these were perjury cases and all were either dismissed or returned with a verdict of not guilty. Apparently the basis for the dismissal or acquittal was that the people involved, while committing an act of perjury, did so clearly unknowingly or through coercion of their employer or some other person.[42]

Another matter of concern to the government was the unlawful issuance of the public domain. As early as 1879 this was an issue with the Public Lands Commission and

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[40]United States, Criminal Docket, Vol. I, First Judicial District, August 1, 1902 - May 2, 1904; Transcript Records of Cases, First Judicial District, Nos. 9754, 1066, 1066, 1092, 1093, 1095, 1101, 1103, 1104, 1105, 1107, 1109, 1140, 1141, 1142, and 1149. The 5 cases which the United States Attorney had leave to reinstate at any time were dismissed from the record in 1904. Paul W. Robinson aided materially in unravelling the facts of this case.

[41]Paul W. Robinson to the author, March 26, 1956.

[42]Ibid. Mr. Robinson is of the opinion that Mr. Frost was related in even more ways than the 42 listed in my case 9754, but the evidence here is not conclusive.

inquiries revealed that there was then very little fencing in New Mexico, but that in most parts of the Territory, cattle could safely be confined during the winter months when they were inclined to drift and break wire fences. Ranchers did not desire to fence the range because it was not crowded and there seemed to be plenty of room for all.[43]

Early in the next decade this situation was changed. Large cattle corporations were being formed[44] and land entries were being taken out in ever increasing numbers (Appendixes VI-VII). The fight was now on to control water and range facilities.

The first complaint against large-scale fencing in the Territory was in 1883. On February 24 of that year some two dozen petitioners complained of the unlawful inclosure of large tracts of land in Colfax and Mora Counties. Named in the petition were the Cimarron and Renello cattle companies.[45]

On March 15 of the same year, more than 50 persons complained of fencing along the Ute Creek and other parts of the

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[43] Public Lands Commission, Preliminary Report, 1879, 46 Cong., 2 Sess., H.E.D. No. 46, 447-459 (1923).

[44] Western Range Cattle Industry Study, New Mexico Cattle Corporations, 1871-1900. Summary, Ms. There was only one corporation previous to 1881.

[45] Secretary of the Interior, Unauthorized Fencing of Public Lands, 1884, 48 Cong., 1 Sess., S.E.D. No. 127, 24. Earl W. Hayter, "Barbed Wire Fencing," Agricultural History, 13:196, says that barbed wire was first used in New Mexico in 1884. The correct date was earlier than this; nevertheless, the whole article is an excellent history of barbed wire fencing.

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On March 15 of the same year, more than 50 ranchers complained of fencing along the Gallinas and other parts of the

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[43] Public Lands Commission, Final Report, 1879, 46 Cong., 2 Sess., H. R. Ex. Do. No. 46, 44-45 (1880).

[44] Western Range Cattle Industry Study, Developing Cattle Corporations, 1871-1900. Manuscript, 34. There was only one corporation previous to 1871.

[45] Secretary of the Interior, Unauthorized Fencing of Public Lands, 1884, 48 Cong., 1 Sess., S. Ex. Do. No. 127, 27. Lamar's Interior, "Barbed Wire Fencing," Agricultural Digest, 13:196, says that barbed wire was first used in New Mexico in 1884. The correct date was earlier than that; nevertheless, the whole article is an excellent history of barbed wire fencing.

country by large stock companies and others.[46] The chief offender in this case was the Dubuque Cattle Company. The fenced area was some of the best grazing land in the Territory. The only pretense of ownership to any of this land was by virtue of certain fraudulent homestead claims.[47]

It has been said that barbed wire fencing was not economically a sound practice in New Mexico because of the comparatively large amount of land required to be inclosed to feed a given number of cattle.[48] Statistics indicate otherwise. Reports of the General Land Office from 1885 through 1888 show New Mexico, with 3,438,830 acres reported, being acted upon, or awaiting investigation, ranked third in the nation behind only Colorado and Kansas. New Mexico was well ahead of Nebraska, Montana, Utah, Wyoming, California, Nevada, Oregon, Idaho, and Dakota (Appendix XIV).

There were 78 indictments in the Territory for unlawful inclosures. Of these, 6 were returned with a verdict of Not

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[46]Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 28-29.

[47]Secretary of the Interior, Unauthorized Fencing of Public Lands, 1884, 48 Cong., 1 Sess., S.E.D. No. 127, 25.

[48]Clara M. Love, "History of the Cattle Industry in the Southwest," Southwestern Historical Quarterly, 20:9. The Prairie Cattle Company reported, in 1883, that it was not to their best interests to fence the public domain, Secretary of the Interior, Fraudulent Acquisition of Titles to Land in New Mexico, 1885, 48 Cong., 2 Sess., S.E.D. No. 106, 51, and were not reported as having done so in New Mexico; but they controlled so much of the land in the northeast part of the Territory that it was probably not necessary for them to do so. In Colorado they were accused of fencing 1,000,000 acres of public land, L.C.R. 10/22/85, 49 Cong., 1 Sess., H.E.D. No. 1, 472 (2378).

country by large scale speculators and [illegible]. The offender in this case was the Union Pacific Railroad. The zoned area was one of the most productive in the country. The only protests of consequence came from a few [illegible] of certain irrigation associations and others.

It has been said that the [illegible] were [illegible] morbidly a sound property at the time [illegible] of the [illegible] particularly large amount of land [illegible] by individuals [illegible] a given number of years. [illegible] Reports of the General Land Office [illegible] show that [illegible] upon, or awaiting investigation, [illegible] in the U.S. behind only Colorado and Kansas. Non-[illegible], who [illegible] of Nebraska, Montana, [illegible], Wyoming, [illegible], Oregon, Idaho, [illegible].

There were 32 [illegible] in the [illegible] involved. Of these, [illegible]

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[46] Secretary of the Interior, [illegible], Titles to Land in the Public Domain, 1915, [illegible] ser., 2 [illegible], No. 106, 20-22.

[47] Secretary of the Interior, [illegible], Public Lands, [illegible].

[48] [illegible] "[illegible] Southwest," [illegible] Prairie Cattle [illegible] their best interest [illegible] the Interior, [illegible] Market, 1922, [illegible] not reported an [illegible] trolled so much [illegible] tory that it was [illegible] Colorado [illegible] Land, L.C.C. 10/2[illegible] (2176).

Guilty and 63 were dismissed without trial. In only one case was there a verdict of Guilty, but in 6 cases the defendant was not found by the U. S. Marshal who attempted to serve a subpoena. In one other dismissed case the records are missing from the transcript in the office of the District Court Clerk which may have been the reason for dismissal. In another case the verdict is in neither the docket nor the transcript record of court cases (Appendix XIII).

In 1884 the General Land Office mailed a letter of inquiry to registers and receivers requesting information on land fraud in general as well as the effect of inclosures in their respective districts. The matter had attracted wide public attention and had been brought prominently before Congress.[49] In 1885 Congress passed an act making the inclosure of public lands a punishable offense,[50] and a vigorous campaign was started by the General Land Office to stop the practice.

By 1889 acreage inclosed was small,[51] and only a few cases remained to be acted upon in 1890[52] and 1891.[53]

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[49]Acting Commissioner L. Harrison to Register and Receiver at Las Cruces, 10/4/84 (F.R.C.).

[50]Hibbard, A History of the Public Land Policies, 478.

[51]L.O.R. 9/17/89, 51 Cong., 1 Sess., H.E.D. No. 1, 275 (2724).

[52]L.O.R. 9/13/90, 51 Cong., 2 Sess., H.E.D. No. 1, 79 (2840).

[53]L.O.R. 9/23/91, 52 Cong., 1 Sess., H.E.D. No. 1, 316 (2933).

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[49] Acting Commissioner L. Harrison to Register and Receiver at Lewiston, 10/4/94 (P.R.C.).

[50] Hibbard, A History of the Public Land Policies, 472.

[51] L.C.H. 9/17/89, 51 Cong., 1 Sess., H.R. No. 1, 275 (2724).

[52] L.C.H. 9/13/90, 51 Cong., 2 Sess., H.R. No. 1, 75 (2840).

[53] L.C.H. 9/23/91, 52 Cong., 1 Sess., H.R. No. 1, 78 (2933).

Timber depredation was another matter of surveillance by the Federal Government. Until 1878, there was no law by which timber could be legally acquired from the public domain. People had tried to buy timber or timber land but were unable to do so; consequently, it became the practice to appropriate it by trespass, trusting that the Government's terms would not be too severe in settling for the depredation.[54] In recognition of this situation Congress passed, on June 3rd, "An Act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes."[55]

But the depredations continued and even increased. In New Mexico, as early as 1880, agents had "investigated and reported upon cases involving 1,169,984 feet, 23,000 shingles, 41,050 laths, which [was] but a small portion of the depredations upon the public timber." Mills with a capacity of 15,000 feet per day were located on unsurveyed public lands and upon unconfirmed private land grants. Some of the trespassers showed a willingness to settle for the timber they had taken while others claimed that it was for domestic purposes when it was obviously being sold on the open market.[56]

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[54]Hibbard, A History of Public Land Policies, 463.

[55]Williamson to Register and Receiver, Mesilla, 3/29/79 (F.R.C.). The Timber and Stone Act of the same date allowed for the purchase of such land but did not apply to New Mexico.

[56]L.C.R. 10/18/80, 46 Cong., 3 Sess., H.S.D. No. 1, 580 (1959).

Timber depredation was another matter of surveillance by the Federal Government. Until 1879, there was no law by which timber could be legally acquired from the public domain. People had tried to buy timber or timber land but were unable to do so; consequently, it became the practice to appropriate it by trespass, trusting that the Government's hands would not be too severe in exacting for the depredations.[54] In recognition of this situation Congress passed, on June 3rd, "an Act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes."[55]

But the depredations continued and even increased. In New Mexico, as early as 1870, agents had "investigated and reported upon cedar involving 1,109,954 feet, 27,000 shingles, 41,050 laths, which [was] but a small portion of the depredations upon the public timber." While with a capacity of 15,000 feet per day were located on unsurveyed public lands and upon unconfirmed private land grants. Some of the trespassers showed a willingness to settle for the timber they had taken while others claimed that it was for domestic purposes when it was obviously being sold on the open market.[56]

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[54] Hibbard, A History of Public Land Policies, 465.

[55] Williamson to Registers and Receivers, Circular, 3/29/79 (L.R.O.). The timber and stone act of the same date allowed for the purchase of such land but did not apply to New Mexico.

[56] L.O.R. 10/18/70, 46 Cong., 3 Sess., H.R.E. No. 1, 320 (1879).

In one case parties had large contracts to supply railroad ties, bridge timbers, etc., to the Mexican Central Railroad Company, for constructing a railroad in the Republic of Mexico. This timber was supplied from the public domain in New Mexico.[57]

With but one exception the 64 persons who were indicted for violation of timber laws in the Territory were Anglos.[58] Since they were a definite minority at the time, this proportion would not have held had the timber been universally cut for domestic purposes as was allowed.

Of the 64 indictments, 8 defendants were judged Not Guilty and 31 were dismissed without trial. While only 3 were found Guilty, 9 others were not located by U. S. Marshals who attempted to serve them with subpoenas. In 10 cases the records are missing from the transcript record of court cases, and in 3 cases the disposition cannot be determined because the verdict is in neither the docket nor the transcript (Appendix XIII).

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[57] L.C.R. 10/28/81, 47 Cong., 1 Sess., H.E.D. No. 1, 373 (2017).

[58] United States, Territorial Court Records. Transcript Records and Dockets of District Court Cases.

In one case parties had large contracts to furnish railroad ties, bridge timbers, etc., to the Southern Pacific Railroad Company, for constructing a railroad in the Republic of Mexico. This timber was supplied from the public domain in New Mexico.[57]

In spite but one prosecution the 64 persons who were indicted for violation of timber laws in the Territory were acquitted. [58] Since they were a definite minority at the time, this prosecution would not have held had the timber been nationally cut for domestic purposes as was allowed.

Of the 64 indictments, 3 defendants were judged not guilty and 21 were dismissed without trial. Only 7 were found guilty, 9 others were not located by U. S. Marshals who attempted to serve them with subpoenas. In 10 cases the records are missing from the Department record of court cases, and in 3 cases the disposition cannot be determined because the docket is in neither the docket nor the Department (Appendix XIII).

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[57] L.C.B. 10/28/91, 47 Cong., 1 Sess., H.R. No. 1, 372 (2017).

[58] United States, Territorial Court Records. Prosecutor's Records and Dockets of District Court Cases.

CHAPTER XI

CONCLUSION

The first Surveyor General of New Mexico arrived in Santa Fe late in 1854 to establish the public surveying system in that Territory. This was accomplished in a commendable manner in the face of serious difficulties. Danger from Indian attack was ever present to surveyors in the field. The problem of living in inhospitable and rough surroundings was annoying, but could be taken more or less in stride by men inured to frontier conditions. Not as terrifying as the danger of Indian attack, but fully as worrisome in its way, was the nagging difficulty of securing funds and instructions from Washington. In spite of these hardships, the basic pattern of surveys in New Mexico was accomplished with an accuracy approaching what would be expected of a competent engineer today.

The original conception of Congress in dealing with the public lands was the realization of the largest possible cash return to meet current fiscal necessities. The General Land Office was organized with this conception in mind and became virtually a real estate agency in the sale of the public domain. The Donation Act of 1854, while awarding land free to settlers, was not inconsistent with the cash sales policy

since it was considered a measure for promoting frontier defense and the land donations were for services rendered to that end.

The Homestead Act of 1862, with its principle of free land for actual settlers, marked a change in Congressional thinking. It was the inevitable culmination of national and regional pressures. Generosity, subsidization, natural rights, class struggle, and expediency were co-ordinately parts of the pressure. The 160 acres allowed was based on the theoretical amount of land required by the head of a family to make a living in a typically fertile farming community. But New Mexico was arid and 160 acres was not nearly enough. Therein lay the great weakness of the Homestead Act.

The Pre-emption Law of 1841 was not repealed with the passage of the Homestead Act, resulting in a mixed premise of land disposal. The old cash sales policy was maintained along with the new doctrine of free land to settlers. In New Mexico, more land was sold for cash than was awarded to settlers under the Homestead Law and subsequent free land legislation.

The Timber Culture Law of 1873 was a subsidy paid in lands to encourage the planting and culture of timber. The various Timber Culture Laws were in operation until their repeal in 1891. They were a mistake in arid New Mexico. Except in rare instances it was impossible to comply with the law. Nature controlled the balance here. Where there were trees, timber culture was illegal. Where there were no trees,

since it was considered a measure for promoting frontier defense and the land donations were for services rendered to that end.

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The Pre-emption Law of 1841 was not repealed with the passage of the Homestead Act, resulting in a mixed practice of land disposal. The old cash sales policy was maintained along with the new doctrine of free land to settlers. In ten years, more land was sold for cash than was awarded to settlers under the Homestead Law and subsequent free land legislation.

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none were destined to grow without irrigation and irrigated lands were more valuable for crops than for trees.

Within a few years of the passage of the Homestead Law, it was evident that its application to the arid lands of the West was not practical. A quarter-section of land where rainfall was plentiful was valuable to its owner, but the same area west of the one hundredth meridian was usually of value for growing crops only if irrigation was applied. It was to cope with this situation that the Desert Land Act was passed in 1877. Like other land laws it was greatly abused in New Mexico. In the years through 1891, nearly fifteen times as much land was entered under this law as public domain brought under irrigation.

It was well known that the land laws were not suited to semiarid New Mexico. Even before the office of Surveyor General was established, officials in Washington had a good idea of the true circumstances. Surveyor General Pelham's original instructions, in 1854, directed him to survey only township exterior lines where the land was deemed unfit for cultivation. Even then township exteriors were to be surveyed only when necessary to preserve the regularity of surveys. In making his surveys, Pelham named numerous areas unfit for cultivation.

Another Surveyor General, John A. Clark, called attention to the natural classification of the land in the Territory. In 1868 Joseph S. Wilson, Commissioner of the General Land Office, had asked him for a report on the <u>barrens</u> or <u>desert lands</u> in

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his district. He replied that properly speaking there was very little land of this class in New Mexico. He pointed out that the Territory is divided between valleys, subject to irrigation by the streams flowing through them; mountains; and mesas or tablelands including all the lands not mountains or irrigable valleys. He considered the term arable as synonymous with irrigable because no land in the Territory could be cultivated with any certainty of raising crops without irrigation. He was nearly correct in his analysis. Areas which will grow crops without irrigation are limited.

The report, in 1878, of Major James W. Powell on the Lands of the Arid Regions of the United States was the clarion call for a new policy of land classification in the United States. It proposed the classification of the public domain into mineral, timber, coal, irrigation, and pasture land. It also recommended a change in the surveying system and modifications in the homestead system to make it more suitable for the regions of his report.

Congress became concerned enough, in 1879, to appoint a commission to study the problem of the public lands and to make recommendations based on their findings. This Commission concluded that the system for land administration was inaugurated at a time and place when all the lands were considered to be suitable for agricultural purposes, and further recognized that this system was not adequate for a large portion of the West where crops could not be grown without irrigation and where frequently it was impossible to irrigate. It therefore

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recommended the recognition of a class of pasturage lands and noted that these areas were already largely occupied by people engaged in pasturage industries. In recognition of the fitness of this land only for grazing, and the need of a comparatively large acreage for that purpose, the Commission, upon the recommendation of Major Powell, proposed a bill, one provision of which would make pasturage lands available for purchase at a price of $1.25 per acre graduated down to 12½ cents per acre over a period of years. This arrangement was not to interfere with homestead, pasturage homestead, or irrigation land privileges. Pasturage homesteads were recommended in the amount of four sections (2,560 acres) of land in a compact body. A fee of $100.00 would be paid by the homesteader with his application.

This recommendation would allow the homesteading of a tract sixteen times larger than was permitted under the Homestead Law then in force as well as cash purchases of unspecified amounts. Congress had often been reminded that 160 acres of such land was inadequate to support a family but had shown little inclination to enlarge the amount. Now to propose the sale of a much larger amount to the monopolistic cattle interests was asking for the impossible.

In helping to arrive at a judgment, the Public Lands Commission consulted the feelings of many people in New Mexico. Their overwhelming opinion was that pasturage lands, whether through homestead or private entry, should be made available in at least as large quantities was was eventually recommended

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Almost everyone in New Mexico, who was in a position to do so, recommended that the land laws be changed so that sufficient quantities of land could be entered to enable a settler to make a legitimate living on the land he acquired. The only major dissenting opinion was that of Governor Edmund G. Ross. He insisted on voicing an opinion contrary to all others and at variance with logic. His bitterness against large ranch holdings was so great that he could see no middle course and insisted that the quantity of land prescribed by the Homestead Law was adequate and the only thing needed was a policing of that law so that no individual could possibly get more.

Congress did not follow the recommendations of the Public Lands Commission and New Mexico entered upon a decade of rampant violation of the existing land laws. Ranchers needed land and land they would have. If the restrictions were unreasonable, then they also would be unreasonable.

When cattle grazing became a bonanza business in the 1880's, illegal practices in surveying and acquiring the public domain became common. This resulted in numerous indictments for fraud, largely under the Democratic administration of Cleveland, starting in 1885, although the preceding Republican administration did most of the investigating that resulted in these indictments. Of the 641 indictments for land fraud,

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only 15 resulted in a jury verdict of Guilty but this does not tell the entire story. In 82 cases the defendant was not found by a U. S. Marshal who attempted to serve a subpoena. All or part of the records in 209 cases dismissed have been lost or stolen from the Territorial Court Records. Many cases were not prosecuted because of such missing papers. The fact that the records were lost or stolen is a strong presumption of guilt in all these cases.

While it is true that cattle graziers persistently violated the land laws of the United States, many of them did so knowingly and with the firm conviction that they had a strong moral, if not legal, case in so doing. The Federal land laws were not applicable to most of the arid land in the Territory. Many of the local officials, whose duty it was to administer the land laws as they were written, saw the hopelessness of a literal interpretation of their duty and tempered their actions with the realities of the arid domain under their jurisdiction. The land in New Mexico was suited principally for grazing, which required large amounts of land for successful operation. And yet the laws were designed to limit the amount of the public domain that could be acquired by one person and stipulated that the land must be cultivated by that person.

A water supply was an absolute necessity for the raising of stock. Water was scarce and if the springs and streams were taken up by settlers, the adjacent public domain was useless except in localities where water for stock could be obtained from wells. It was recognized that 10 or 12 head of

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cattle on 160 acres of land was the general maximum and that as few as four was more often correct. These would not begin to support a family. Available watering places should have been calculated to serve as the nucleus for a suitable quantity of grazing land adjacent to it. This adjacent land should have been made available for adequate homesteads or sold at graduated prices so that the full potential value of the land would have been realized.

Since the bulk of the land was good only for grazing, it was natural that cattle ranchers sought the widely scattered springs and streams to water their stock. There was logic in their convictions that such water was more valuable for watering a large quantity of stock than for the possible garden patch that might be irrigated by that water. Large-scale storage of water for irrigating purposes did not begin until the late 1880's and irrigation before that was largely confined to areas where water could be diverted from living streams. Marginal irrigation was less valuable to the economy of the Territory than the same water used to support a large grazing area.

The real fight in New Mexico was over water and was as much between the have and have-nots in ranching as between ranching and agrarian interests. The land laws limiting to an inadequate amount the quantity of land that could legally be acquired, encouraged the struggle over the really valuable land - the land with water. Had there been devised a system of parceling land in accordance with the nature of the country,

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much of the fraud in land matters would have been averted. Given a sensible system, sensible people would have largely followed it. Given an impossible system, even sensible people rebelled against it and, like a small force that can cause an avalance, this rebellion grew to unmanageable proportions.

The situation encouraged the strong and the firstcomers. It was impossible to make a living on the amount of land that could legally be acquired under the land laws. There was provocation to break the law to some degree to make a living. Once this step was taken, who was to say how much was enough? Had cattle graziers been permitted to homestead land up to some such amount as the 2,560 acres recommended by Powell, and had they been required to buy the arid land (even at a nominal price) to obtain a share in the water, the great baronial holdings of cattle interests would not have become a reality. There would have been far less cause to break the law in the first place and persons whose duty it was to police these laws would have had a less disillusioning task in doing so. There were always the greedy and deliberately lawless but the widespread breakdown in morality would not have had a reason to exist and a heartened law enforcement body could surely have been able to cope with the incorrigible element.

If this seems to place too much faith in the innate justice of human nature, there is the realistic consideration that land in the sensible quantity of sixteen times what was allowed would have meant only one-sixteenth the amount of checking for harassed land office officials who could have

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devoted the time saved to closer supervision of the larger amounts. This might as well have been done because many secured larger amounts by one method or another anyway. It was common for hired hands to take out land entries for the benefit of their employers. Since the quantity allowed wasn't enough to do these hired hands much good, and since they received some remuneration for their service, there was reason to turn it over to their employers. Had they been able to secure enough land to make a living, many would have been reluctant to let it go. Indeed, large ranchers would have had more difficulty finding help with which to make such a bargain in the first place.

The alternative would have been a larger number of smaller ranches with consequent benefit to the economy of the Territory and a more rational serving of human justice. As it was, a comparatively few early acquired most of the water, and without that commodity, it was pointless for others to acquire land.

The earlier Republican administrations attempted to follow the land laws as they were written. When growing pressure from grazing interests became more apparent, the Republicans, with Proudfit and Atkinson as Surveyors General, found themselves in a dilemma which they tried to resolve by permitting large areas to accrue illegally to individuals and corporations. The new Democratic era, with Julian taking the lead, sought to confine the disposal of the public domain to actual settlers but still bowed to the reality that much of the land was suitable only for grazing by interpreting the law to include some

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grazing land in the disposals to these actual settlers. The Republicans, coming into office again, endeavored valiantly to prove that the loose practices of the late 70's and early 80's were at an end and attempted to confine land disposals to that which would grow crops and for actual settlers only.

The General Revision Act of March 3, 1891, brought important changes in the public land policy. It repealed timber-culture legislation, amended the Desert Land Law, repealed the Pre-emption Law, amended the Homestead Act so that commutation took fourteen months instead of six, and provided that no more land would be disposed of by public auction. It also expressed the changing spirit of the times by providing that the President might set aside timber lands as national parks. An era of inept land legislation was at an end with the problems of that period still unsolved.

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APPENDIXES

AND

BIBLIOGRAPHY

APPENDIX I

TEXT OF THE ACT ESTABLISHING THE OFFICE OF SURVEYOR GENERAL OF NEW MEXICO*

Chap. CIII.-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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a Surveyor-General for New Mexico, whose annual salary shall be three thousand dollars, and whose power, authority, and duties shall be the same as those provided by law for the Surveyor-General of Oregon; he shall have proper allowances for clerk hire, office rent, and fuel, not exceeding what now is or hereafter may be allowed by law to the said Surveyor-General of Oregon; and he shall locate his office from time to time at such places as may be directed by the President of the United States.

Sec. 2. And be it further enacted, That, to every white male citizen of the United States, or every white male above the age of twenty-one years who has declared his intention to

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*Stat. L., Vol. X, 308-310.

TEXT OF [illegible]

OF SURVEYOR GENERAL OF [illegible]

Chap. CIII.--An act to establish the office of Surveyor-General of New Mexico, Oregon, and Washington, to grant donations to actual settlers therein, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a Surveyor-General for New Mexico, who shall receive a salary of three thousand dollars, and whose term of office, duties, and fees shall be the same as those provided for the Surveyor-General of Oregon; he shall have power to appoint a deputy, clerks, office rent, and fuel, and otherwise shall act as the Surveyor-General of Oregon; and he shall locate his office at such places as may be directed by the Commissioner of the General Land Office.

Sec. 2. And be it further enacted, That, to every male citizen of the United States, or every male person of the age of twenty-one years who has declared his intention to become a citizen, who

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*Stat. L., Vol. 9, 395-398.

become a citizen, and who was residing in said Territory prior to the first day of January, eighteen hundred and fifty-three, and who may be still residing there, there shall be, and hereby is, donated one quarter section, or one hundred and sixty acres of land. And to every white male citizen of the United States, or every white male above the age of twenty-one years, who has declared his intention to become a citizen, and who shall have removed or shall remove to and settle in said Territory between the first day of January, eighteen hundred and fifty-three, and the first day of January, eighteen hundred and fifty-eight, there shall in like manner be donated one quarter-section, or one hundred and sixty acres, on condition of actual settlement and cultivation for not less than four years: Provided, however, That each of said donations shall include the actual settlement and improvement of the donee, and shall be selected by legal subdivisions, within three months after the survey of the land where the settlement was made before the survey; and where the settlement was made after the survey, then within three months after the settlement has been made; and all persons failing to designate the boundaries of their claims within that time, shall forfeit all right to the same.

Sec. 3. And be it further enacted, That, on proof of the settlement and cultivation required by this act, to the satisfaction of the surveyor-general, or other officer designated by law for that purpose, subject to the supervision of the Secretary of the Interior, a certificate shall be issued to the

become a citizen, and who was residing in said territory prior to the first day of January, eighteen hundred and fifty-three, and who may be still residing there, there shall be, and hereby is, donated one quarter section, or one hundred and sixty acres of land. And to every white male citizen of the United States, or every white male above the age of twenty-one years, who has declared his intention to become a citizen, and who shall have removed or shall remove to and settle in said Territory between the first day of January, eighteen hundred and fifty-three, and the first day of January, eighteen hundred and fifty-eight, there shall in like manner be donated one quarter-section, or one hundred and sixty acres, on condition of actual settlement and cultivation for not less than four years: Provided, however, That each of said donations shall include the actual settlement and improvement of the donee, and shall be selected by legal subdivisions, within three months after the survey of the land where the settlement was made before the survey; and where the settlement was made after the survey, then within three months after the settlement has been made; and all persons failing to designate the boundaries of their claims within that time, shall forfeit all right to the same.

Sec. 3. And be it further enacted, That, on proof of the settlement and cultivation required by this act, to the satisfaction of the surveyor-general, or other officer designated by law for that purpose, subject to the supervision of the Secretary of the Interior, a certificate shall be issued to the

party entitled, on presentation of which, if approved by the Secretary of the Interior, a patent shall issue thereon: Provided, however, That on the death of any such settler before the completion of the four years' occupancy and cultivation required by this act, the right shall descend to his heirs at law, who shall be entitled to a certificate and patent, as aforesaid on proof, as before provided, of continued occupancy and cultivation by such settler to the time of his death: Provided, however, That when lands are claimed under any of the provisions of this act by persons who are not citizens of the United States, patents shall not issue therefor until they become citizens.

Sec. 4. And be it further enacted, That none of the provisions of this act shall extend to mineral or school lands, salines, military or other reservations, or lands settled on and occupied for purposes of trade and commerce, and not for agriculture, and all legal subdivisions settled on and occupied, in whole or in part, for purposes of trade and commerce, and not for agriculture, shall be subject to the provisions of the act of twenty-third of May, eighteen hundred and forty-four, in relation to town sites on the public lands, whether so settled and occupied before or after the survey of said lands, except that said lands shall be donated instead of being sold.

Sec. 5. And be it further enacted, That when the lands in the said Territory shall be surveyed, under the direction of the Government of the United States, preparatory to bringing

party entitled, on presentation of which, if approved by the Secretary of the Interior, a patent shall issue thereon: Provided, however, that on the death of any such settler before the completion of the four years' occupancy and cultivation required by this act, the right shall descend to his heirs at law, who shall be entitled to a certificate and patent, as aforesaid on proof, as before provided, of continued occupancy and cultivation by such settler to the time of his death: Provided, however, that when lands are claimed under any of the provisions of this act by persons who are not citizens of the United States, patents shall not issue therefor until they become citizens.

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Sec. 5. And be it further enacted, that when the lands in the said Territory shall be surveyed, under the direction of the Government of the United States, preparatory to bringing

the same into market, sections numbered sixteen and thirty-six in each township, in said Territory, shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be created out of the same.

Sec. 6. And be it further enacted, That, when the lands in said Territory shall be surveyed as aforesaid, a quantity of land equal to two townships shall be, and the same is hereby, reserved for the establishment of a University in said Territory, and in the State hereafter to be created out of the same, to be selected, under the direction of the legislature, in legal subdivisions of not less than one half-section.

Sec. 7. And be it further enacted, That any of the lands not taken under the provisions of this act shall be subject to the operation of the Preëmption Act of fourth September, eighteen hundred and forty-one, whether settled upon before or after the survey; and, in all cases where the settlement was made before the survey, the settler shall file his declaration within three months after the survey is made and returned; and any person claiming a donation under this act shall be permitted to enter the land claimed by him at any time prior to the four years' occupancy and cultivation required, by paying therefor at the rate of one dollar and twenty-five cents per acre, and proving occupancy and cultivation up to the time of such payment.

Sec. 8. And be it further enacted, That it shall be the duty of the Surveyor-General, under such instructions as may

the same into market, sections numbered sixteen and thirty-six in each township, in said Territory, shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be created out of the same.

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Sec. 7. And be it further enacted, That any of the lands not taken under the provisions of this act shall be subject to the operation of the preemption act of fourth September, eighteen hundred and forty-one, whether settled upon before or after the survey; and, in all cases where the settlement was made before the survey, the settler shall file his declaration within three months after the survey is made and returned; and any person claiming a donation under this act shall be permitted to enter the land claimed by him at any time prior to the four years' occupancy and cultivation required, by paying therefor at the rate of one dollar and twenty-five cents per acre, and proving occupancy and cultivation up to the time of such payment.

Sec. 8. And be it further enacted, That it shall be the duty of the Surveyor-General, under such instructions as may

be given by the Secretary of the Interior, to ascertain the origin, nature, character, and extent of all claims to lands under the laws, usages, and customs of Spain and Mexico; and, for this purpose, may issue notices, summons witnesses, administer oaths, and do and perform all other necessary acts in the premises. He shall make a full report on all such claims as originated before the cession of the territory to the United States by the treaty of Guadalupe Hidalgo, of eighteen hundred and forty-eight, denoting the various grades of title, with his decision as to the validity or invalidity of each of the same under the laws, usages, and customs of the country before its cession to the United States; and shall also make a report in regard to all pueblos existing in the Territory, showing the extent and locality of each, stating the number of inhabitants in the said pueblos, respectively, and the nature of their titles to the land. Such report to be made according to the form which may be prescribed by the Secretary of the Interior; which report shall be laid before Congress for such action thereon as may be deemed just and proper, with a view to confirm bona fide grants, and give full effect to the treaty of eighteen hundred and forty-eight between the United States and Mexico; and, until the final action of Congress on such claims, all lands covered thereby shall be reserved from sale or other disposal by the government, and shall not be subject to the donations granted by the previous provisions of this act.

be given by the Secretary of the Interior, to ascertain the origin, nature, character, and extent of all claims to lands under the laws, usages, and customs of Spain and Mexico; and, for this purpose, may issue notices, summons witnesses, administer oaths, and do and perform all other necessary acts in the premises. He shall make a full report on all such claims as originated before the cession of the territory to the United States by the treaty of Guadalupe Hidalgo, of eighteen hundred and forty-eight, detailing the various grades of title, with his decision as to the validity or invalidity of each of the same under the laws, usages, and customs of the country before its cession to the United States; and shall also make a report in regard to all pueblos existing in the Territory, showing the extent and locality of each, stating the number of inhabitants in the said pueblos, respectively, and the nature of their titles to the land. Such report to be made according to the form which may be prescribed by the Secretary of the Interior; which report shall be laid before Congress for such action thereon as may be deemed just and proper, with a view to confirm bona fide grants, and give full effect to the treaty of eighteen hundred and forty-eight between the United States and Mexico; and, until the final action of Congress on such claims, all lands covered thereby shall be reserved from sale or other disposal by the government, and shall not be subject to the donations granted by the previous provisions of this act.

Sec. 9. And be it further enacted, That full power and authority are hereby given the Secretary of the Interior to issue all needful rules and regulations for fully carrying into effect the several provisions of this act.

Sec. 10. And be it further enacted, That the President of the United States shall be and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a Surveyor-General for the Territories of Nebraska and Kansas, who shall locate his office at such place as the President of the United States shall from time to time direct, and whose duties, powers, obligations and responsibilities and compensation shall be the same as those of the Surveyor-General of Wisconsin and Iowa, and who shall be allowed the same amount for office rent, fuel, incidental expenses, and clerk hire, as is allowed to said Surveyor-General of Wisconsin and Iowa.

Sec. 11. And be it further enacted, That said Surveyor General shall cause the necessary surveys to be made in said Territories of standard meridian, base and parallel lines, and of township and subdivisional lines, under such rules and regulations as shall be prescribed by the Commissioner of the General Land-Office.

Sec. 12. And be it further enacted, That all the lands to which the Indian title has been or shall be extinguished within said Territories of Nebraska and Kansas, shall be subject to the operations of the Preëmption Act of fourth September, eighteen hundred and forty-one, and under the conditions, restrictions, and stipulations therein mentioned; Provided, however,

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That where unsurveyed lands are claimed by preëmption, notice of the specific tracts claimed shall be filed within three months after the survey has been made in the field, and on the failure to file such notice or to pay for the tracts claimed before the day fixed for the public sale of the lands by the proclamation of the President of the United States, the parties claiming such lands shall forfeit all right thereto: Provided, said notices may be filed with the Surveyor-General, and to be noted by him on the township plats, until other arrangements shall have been made by law for that purpose.

Sec. 13. And be it further enacted, That the public lands in the Territory of Nebraska, to which the Indian title shall have been extinguished, shall constitute a new land district to be called the Omaha District; and the public lands in the Territory of Kansas, to which the Indian title shall have been extinguished, shall constitute a new land district, to be called the Pawnee District: the officers for each of which districts shall be established at such points as the President may deem expedient; and he is hereby authorized to appoint, by and with the advice and consent of the Senate, a Register and Receiver of Public Moneys for each of said districts, who shall each be required to reside at the site of their respective offices, and they shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to other land-offices of the United States. And the President is hereby authorized to cause the surveyed lands to be exposed for sale from time to

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Sec. 13. And be it further enacted, That the public lands in the Territory of Nebraska, to which the Indian title shall have been extinguished, shall constitute a new land district to be called the Omaha District; and the public lands in the territory of Kansas, to which the Indian title shall have been extinguished, shall constitute a new land district, to be called the Kansas District: the offices for each of which districts shall be established at such points as the President may deem expedient; and he is hereby authorized to appoint, by and with the advice and consent of the Senate, a Register and Receiver of Public Moneys for each of said districts, who shall each be required to reside at the site of their respective offices, and they shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to other land-offices of the United States. And the President is hereby authorized to cause the surveyed lands to be exposed for sale from time to

time, in the same manner and upon the same terms and conditions as the other public lands of the United States.

APPROVED, July 22, 1854.

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APPROVED, July 22, 1894.

APPENDIX II

RESUME OF TERRITORIAL AND NATIONAL OFFICIALS

Year	Sur. General New Mexico	Commr., General Land Office	Secretary of the Interior	President of the United States	Party of U. S. Administration
1854	W.H.Pelham	John Wilson	R.McClelland	F.Pierce	Democrat
1855		T.A.Hendricks			
1857			J.Thompson	J.Buchanan	Democrat
1859		S.A.Smith			
1860	A.P.Wilbar	J.S.Wilson			
1861	J.A.Clark	J.M.Edmunds	C.B.Smith	A.Lincoln	Republican
1863			J.P.Usher		
1865			J.Harlan	A.Johnson	National Union
1866		J.S.Wilson	O.H.Browning		
1868	B.C.Cutler				
1869	T.R.Spencer		J.D.Cox	U.S.Grant	Republican
1870			C.Delano		
1871		W.Drummond			
1872	J.K.Proudfit				
1874		S.S.Burdett			
1875			Z.Chandler		
1876	H.M.Atkinson	J.A.Williamson			
1877			C.Schurz	R.B.Hayes	Republican
1881		N.C.McFarland	S.J.Kirkwood	J.A.Garfield	Republican
1882			H.M.Teller	(C.A.Arthur)	
1884	C.Pullen				
1885	G.W.Julian	W.A.J.Sparks	L.Q.C.Lamar	G.Cleveland	Democrat
1888		S.M.Stockslager	W.F.Vilas		
1889	E.F.Hobart		J.W.Noble	B.Harrison	Republican
1890		L.A.Groff			
1891		T.H.Carter			

APPENDIX III

TEXT OF ORIGINAL INSTRUCTIONS TO THE SURVEYOR GENERAL OF NEW MEXICO*

General Land Office, August 26, 1854.

Sir: Under authority of the first section of the act of Congress approved 22d ultimo, entitled "An act to establish the offices of surveyors general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," you have been appointed surveyor general of public lands in the Territory of New Mexico. Your power, authority, and duties are the same as those provided by law for the surveyor general of Oregon, with proper allowances for clerk-hire, office-rent, and fuel, not exceeding what now is, or hereafter may be, allowed by law to said surveyor general of Oregon; and your office is to be located from time to time at such places as may be directed by the President of the United States.

Your first surveying duty will be to determine the location of a principal base and a principal meridian line, to govern the public surveys in the Territory. The great body of the settlements it is presumed will be found in the valley of the Rio Grande del Norte.

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*L.C.R. 11/30/54, 33 Cong., 2 Sess., H.E.D. No. 1, 97-103 (777). Section 8 deals with Private Land Claims and is not included here.

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*I.O.R. 11/30/34, 33 Cong., 2 Sess., H.R.D. No. 1, 97-103 (111). Section 8 deals with Private Land Claims and is not included here.

It is desirable that the principal meridian should run near the suburbs of Santa Fé, starting from and intersecting on the south the principal base line extending east and west, possibly as far south as the junction of the Rio Puerco and the Rio Grande. It may be, however, that the mountainous features of the country present obstacles which forbid the meridian line being extended through the longitude of Santa Fé; and if so, you are authorized to run it to the east or west thereof, as far as in your judgment may be found most expedient, and to such locality as shall present superior facilities for the purpose; and you may find that the most available position for the meridian and base to intersect each other will be the point of junction of the Rio Puerco with the Rio Grande del Norte.

Your earliest operation will be to survey the base line, starting from the point thereon where it will be intersected by the meridian; and, running west therefrom, you will establish boundary corners at intervals of every half mile, mile, and six miles, to govern the township surveys to the west of the principal meridian; and from the same intersection point, running east, corner boundaries at similar intervals will be established, to govern the township surveys on the east of such principal meridian.

At right-angles to the principal meridian, on the north of the base line, what are called standard parallels or correction lines will subsequently be extended east and west at every fourth township, or twenty-fourth mile, and from the

It is desirable that the principal meridian should run near the mouths of Santa Fe, starting from and intersecting on the north the principal base line extending east and west, possibly as far south as the junction of the Rio Tuerco and the Rio Grande. It may be, however, that the mountainous features of the country present obstacles which forbid the meridian line being extended through the longitude of Santa Fe; and if so, you are authorized to run it to the east or west thereof, as far as in your judgment may be found most expedient, and to such locality as shall present superior facilities for the purpose; and you may find that the most available position for the meridian and base to intersect each other will be the point of junction of the Rio Tuerco with the Rio Grande del Norte.

Your earliest operation will be to survey the base line, starting from the point thereon where it will be intersected by the meridian; and, running west therefrom, you will establish boundary corners at intervals of every half mile, mile, and six miles, to govern the township surveys to the west of the principal meridian; and from the same intersection point, running east, corner boundaries at similar intervals will be established, to govern the township surveys on the east of such principal meridian.

At right-angles to the principal meridian, on the north of the base line, what are called standard parallels or correction lines will subsequently be extended east and west at every fourth township, or twenty-four miles, and from the

same meridian to the south of the base line similar standard or correction lines are to be extended at every fifth township, or every thirtieth mile; and on such standard or correction lines, at the time when surveyed, the corner boundaries for townships, sections, and quarter-sections, are to be established at every six miles, mile, and half mile, respectively, as prescribed for the public surveys in Oregon Territory.

The township and subdivisional surveys, which will start from the standard or correction line below, will close by meridional lines on the standard above in every instance; so that double corners may be expected to exist on such standards, but which are inadmissible under any other circumstances.

The distances to which the principal meridian, base, and standard parallels should be extended on the first operations, will be only so far as shall be deemed indispensably necessary in order to regulate the surveying, at the earliest practicable periods, of those portions of the Territory now occupied and settled upon, and also those to which emigration may be tending.

The instrument to be relied on in establishing all your principal lines will be "Burt's improved solar compass." You are herewith provided with two pole-chains, of a true standard measure, the extreme links of which are terminated by rivets on the inner circles of their handles: these chains must always be retained in your office to regulate the chains of your deputy surveyors, each of whom should take to the field a similar standard, to regulate from time to time the chains in practical use.

same meridian to the south of the base line similar standard or correction lines are to be extended at every fifth township, or every thirteenth mile; and on such standard or correction lines, at the time when surveyed, the corner boundaries for townships, sections, and quarter-sections, are to be established at every six miles, mile, and half mile, respectively, as prescribed for the public surveys in Oregon Territory.

The township and subdivisional surveys, which will start from the standard or correction line below, will close by meridional lines on the standard above in every instance so that double corners may be expected to exist on such standards, but which are inadmissible under any other circumstances.

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As you are aware, from long experience, that the value of the public surveys depends on the permanency of the boundary monuments, and that great evils have ensued from the inefficient construction of mounds of earth, where such have to be used for that purpose, it is therefore expected that you will exact of your deputy surveyors the most rigid accountability for the faithful construction of mounds for boundaries, according to the method prescribed for Oregon, and which has been required to be adopted in California and Minnesota, and will also be made applicable to the surveys in New Mexico.

None other than township lines are to be run where the land is deemed unfit for cultivation, and no deputy shall charge for any line except such as may be actually run and marked, nor for any line not actually necessary to be run.

You will enter into a contract with a deputy surveyor of well established skill and reputation, for the survey of the base and meridian lines, and who must be conversant with the uses and practice of Burt's improved solar compass, and also of the theodolite; the former to be used especially in reference to taking latitudes at all such points as you may prescribe, and ascertaining the variation of the needle on the respective lines; and the latter for taking long-course sights and bearings of the mountain ranges, from the appropriate station points where it shall be deemed necessary to take angles in order to establish distances of inaccessible objects from such points.

As you are aware, from long experience, that the rights of the public surveys depends on the permanency of the boundary monuments, and that great evils have sprung from the insufficient construction of mounds of earth, where such have to be used for that purpose, it is therefore expected that you will exact of your deputy surveyors the most rigid accountability for the faithful construction of mounds for boundaries, according to the method prescribed for groups, and which has been required to be adopted in California and Minnesota, and will also be made applicable to the surveys in New Mexico.

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You will enter into a contract with a deputy surveyor of well established skill and reputation, for the survey of the base and meridian lines, and who must be conversant with the uses and practice of Burt's improved solar compass, and also of the theodolite; the former to be used exclusively in references to taking latitudes at all such points as you may prescribe, and ascertaining the variation of the needle on the respective lines; and the latter for taking long-course sights and bearings of the mountain ranges, from the appropriate station points where it shall be deemed necessary to take angles in order to establish distances of inaccessible objects from such points.

As the base and meridian lines will form the groundwork of all your surveying operations, special care, skill and practical experience are requisite to that work; and to insure uniformity in the processes, it is expedient that the surveying of those lines should be confided to one and the same deputy surveyor, with instructions to his to employ as his assistants one and the same corps of operators throughout, if practicable; and in view of the cost of instruments, expense of outfit, &c., such proceeding would seem to be the most economical.

After having instituted these preliminary proceedings, and reported the fact to the department, it is expedient that you make a reconnaissance through the country, with a view to acquire correct information as to the localities and extent of the principal settlements, in order to enable you to determine the particular portions of country which ought, in your opinion, to be first surveyed into townships and subdivided; and where certain localities indicate the expediency of departing to greater or less extent from the system of square sectioning, you will report thereon, and give your opinion as to the mode of surveying by front and depth, or radiating lots, which will be better adapted to the topographical features of the country, and the wants and requirements of its people, present and prospective.

Your actual and necessary personal expenses whilst engaged in making the reconnaissance alluded to will be allowed at the department, on the production of proper vouchers.

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After having instituted these preliminary proceedings, and reported the fact to the department, it is expedient that you make a reconnoissance through the country, with a view to acquire correct information as to the localities and extent of the principal settlements, in order to enable you to determine the particular portions of country which ought, in your opinion, to be first surveyed into townships and subdivisions; and where certain localities indicate the expediency of departing to greater or less extent from the system of square sectioning, you will report thereon, and give your opinion as to the mode of surveying by front and depth, or radiating lots, which will be better adapted to the topographical features of the country, and the wants and requirements of its people, present and prospective.

Your actual and necessary personal expenses while engaged in making the reconnoissance alluded to will be allowed at the department, on the production of proper vouchers.

At the intersection point between the base line and meridian, a conspicuous monument is to be constructed to signalize the spot, and which is to be described in the field-notes.

The deputy surveyor in his line field-book (whether base or meridian) is to note, as he proceeds in his measurements, the distance on his line of the crossings of every stream or ravine, &c., the width thereof, also the depth of stream or ravine, and the points of crossing of every other natural object, whether hill, mountain, ridge, lake, pond, ledge of rocks, stone quarry, mineral locality, and noting the kind of mineral; also noting the point when entering prairie, woodland, swamp or marsh, and when leaving the same, the kind of timber and geological features of the country; these all to be carefully ascertained, and appropriately set forth in his line field-book, which is required to be free from blots, blurs, and interlineations of every kind which would throw the least doubt as to the true meaning of such book, which is to constitute the permanent record of the work, and to be filed and preserved at your office; a certified copy of the same to be returned to this office, accompanied by appropriate plats of the lines. It is proposed that such plats be on a scale of <u>two inches to the mile</u>, and to be protracted on successive sheets so as to admit of the same being bound up in a book form, instead of being in one continuous roll. The sheets, if of the size of a township plat (twelve inches square within a large margin,) may admit of three lengths, of twelve inches

At the intersection point between the base line and meridian, a conspicuous monument is to be constructed to pinnacle the spot, and which is to be described in the field-notes.

The deputy surveyor in his line field-book (whether base or meridian) is to note, as he proceeds in his measurements, the distance on his line of the crossings of every stream or ravine, &c., the width thereof, also the depth of stream or ravine, and the points of crossing of every other natural object, whether hill, mountain, ridge, lake, pond, ledge of rocks, stone quarry, mineral locality, and noting the kind of mineral; also noting the point when entering prairie, woodland, swamp or marsh, and when leaving the same, the kind of timber and peculiarities of the country; these all to be carefully ascertained, and appropriately set forth in his line field-book, which is required to be free from blots, blurs, and interlineations of every kind which would throw the least doubt as to the true meaning of such book, which is to constitute the permanent record of the work, and to be filed and preserved at your office; a certified copy of the same to be returned to this office, accompanied by appropriate plats of the lines. It is proposed that such plats be on a scale of two inches to the mile, and to be protracted on successive sheets so as to admit of the same being bound up in a book form, instead of being in one continuous roll. The sheets, if of the size of a township plat (twelve inches square within a large margin,) may admit of three lengths, of twelve inches

each, being inserted on a single sheet, leaving a copious margin.

You will communicate with the department as soon as convenient, after having instituted the surveys of your base and meridian lines; and when enabled understandingly to do so, you will report your views as to the extension of standard lines (accompanied by a programme of survey) so far as to admit of dividing into townships, and subdividing into sections, those particular portions of country which seem to command the earliest attention; and in order to acquire as much reliable information as possible on this subject, (and at the earliest practicable period,) you are herewith furnished with a draught of a "Notice to the inhabitants of New Mexico, claiming donations to land under act of Congress of July 22, 1854," which you will issue from your office at Santa Fe, and cause to be distributed as extensively as possible over the country. You will cause the same to be printed both in English and Spanish.

It may be that there are isolated settlements, so situated and surrounded by mountain-barriers as not to be approachable by the standard parallels, in order to connect them regularly with the main body of surveys without incurring great loss of time, expense, and labor. Should such circumstances of imperative necessity be found to exist, it may possibly be deemed best to survey such isolated portions of country in bodies of townships, to be surveyed and subdivided in the usual manner, according to the true meridian, but as independent townships, having no reference whatever to the base and meridian lines.

soon, being inserted on a single sheet, leaving a portion surplus.

You will communicate with the department as soon as convenient, after having instituted the surveys of your base and meridian lines; and when enabled understandingly to do, you will report your views as to the extension of standard lines (accompanied by a progress of survey) so far as to admit of dividing into townships, and subdividing into sections, those particular portions of country which seem to demand the speediest attention; and in order to acquire as much reliable information as possible on this subject, (and at the earliest practicable period,) you are hereby instructed with a draught of a "Notice to the inhabitants of New Mexico, claiming claims to land under act of Congress of July 22, 1854," which you will issue from your office at Santa Fe, and cause to be distributed as extensively as possible over the country. You will cause the same to be printed both in English and Spanish.

It may be that there are isolated settlements, established and surrounded by mountain-barriers as not to be approachable by the standard parallels, in order to connect them readily with the main body of surveys without incurring great loss of time, expense, and labor. Should such circumstances of imperative necessity be found to exist, it may possibly be deemed best to survey such isolated portions of country in townships, to be surveyed and subdivided in the usual manner, according to the true meridian, but as independent townships, having no reference whatever to the base and meridian lines.

Townships so situated would of necessity have to be designated each by a specific name; as, for instance, "Independence township," "Constitution township," "Columbia township," and so forth.

These are suggestions seasonably presented for your future consideration, and to be reported on at your leisure. The prices allowed for surveying in Oregon Territory are as follows: For principal meridian, principal base, and standard parallel lines, not exceeding twenty dollars per mile; and for surveying township and subdivisional lines, not exceeding twelve dollars per mile. These are maximum rates, subject to be reduced by you where found practicable to do so consistently with the faithful execution of the work.

Herewith is furnished a form of contract and bond to be entered into by deputy surveyors, with a supply of blanks for the same.

You will submit your report as seasonably as possible on the various subjects of your duties to be laid before Congress at the next session, accompanied by estimates of the appropriations deemed necessary for the surveying service in New Mexico during the fiscal year ending June 30, 1856.

You are hereby apprized that it is the opinion of this office that parties holding lands under claims from the former governments of Spain or Mexico are not entitled also to receive a donation of land under the act of July 22, 1854.

It is declared by the fourth section of the act as follows:

"That none of the provisions of this act shall extend to

Townships so situated would of necessity have to be designated each by a specific name; as, for instance, "Independence township," "Constitution township," "Columbia township," and so forth.

These are suggestions reasonably presented for your future consideration, and to be reported on at your leisure. The prices allowed for surveying in Oregon territory are as follows: For principal meridian, principal base, and standard parallel lines, not exceeding twenty dollars per mile; and for surveying township and subdivisional lines, not exceeding twelve dollars per mile. These are maximum rates, subject to be reduced by you where found practicable to do so consistently with the faithful execution of the work.

Herewith is furnished a form of contract and bond to be entered into by deputy surveyors, with a supply of blanks for the same.

You will submit your report as reasonably as possible on the various subjects of your duties to be laid before Congress at the next session, accompanied by estimates of the appropriations deemed necessary for the surveying service in New Mexico during the fiscal year ending June 30, 1856.

You are hereby apprised that it is the opinion of this office that partles holding lands under claims from the former governments of Spain or Mexico are not entitled also to receive a donation of land under the act of July 22, 1854.

It is declared by the fourth section of the act as follows: "That none of the provisions of this act shall extend to

mineral or school lands, salines, military or other reservations, or land settled on and occupied for purposes of trade and commerce and not for agriculture, and all legal subdivisions settled on and occupied in whole or in part for purposes of trade and commerce and not for agriculture, shall be subject to the provisions of the act of 23d May, 1854, in relation to town sites on the public lands, whether so settled and occupied before or after the survey of said lands, except that said lands shall be donated instead of being sold."

Very respectfully, your obedient servant,

JOHN WILSON, Commissioner.

Wm. Pelham, Esq., Surveyor General of New Mexico.

The foregoing instructions are hereby approved.

R. McCLELLAND, Secretary.

. . . . . .

Department of the Interior,

September 2, 1854.

General Land Office, August 28, 1854.

Sir: The act of the 22d July, 1854, directs that "your power, authority, and duties" shall be the same as "those provided by law for the surveyor general of Oregon;" hence you are requested to execute the 2d, 3d, and 4th sections of that law, making donations to actual settlers, and for town sites; the 5th and 6th sections reserving lands for school and university purposes; the 7th granting pre-emption rights, as well as the 1st section providing for the survey of the lands in New Mexico; and the 8th conferring on you the authority to report on the private claims in that Territory. Instructions have already

mineral or school lands, salines, [illegible] stations, or land settled on and occupied for purposes of trade and commerce and not for agriculture, and [illegible] done settled on and occupied in whole or in part for purposes of trade and commerce and not for agriculture, shall be subject to the provisions of the act of [illegible] 1879, in relation to town sites on the public lands, [illegible] platted before or after the survey of said lands, [illegible] and lands shall be donated in [illegible] with."

Very respectfully, your obedient servant,

[illegible] Commissioner.

Hon. Feltus, Sec., Survey Manual of [illegible].

The foregoing instructions are hereby approved.

[illegible] Secretary.

Department of the Interior,

September 8, 1894.

Commissioner [illegible] Manual, etc.

Sir: The act of the 22d July, 1894, [illegible] "Under proper authority, and duties" shall be [illegible] law for the surveyor general of [illegible] to execute the 2d, 3d, and 4th sections of that law, relating donations to actual settlers, and for some actual [illegible] 5th sections reserving lands for [illegible] possession; the 7th [illegible] section providing for the survey of the lands in New [illegible] and the 8th conferring on you the authority to [illegible] private claims in that Territory. [illegible]

been sent you under the 1st and 8th sections; the following will govern you in the discharge of your duties under the other sections above mentioned.

The second section grants a quarter-section of land, or one hundred and sixty acres, to every white male citizen of the United States, and to every white male over twenty-one years of age, who has declared his intention of becoming a citizen, who was residing in said Territory prior to the 1st of January, 1853, and who was residing there at the passage of this act.

A like grant is made to the same classes of persons, who have removed, or shall remove to, and settle in said Territory between the 1st day of January, 1853, and the 1st day of January, 1858.

These grants are made on the condition of actual settlement and cultivation, on the land claimed as a donation, for not less than four years; and the act requires that each of those donations shall include the actual settlement and improvement of the donee, and shall be selected by legal subdivisions within three months after the survey of the land where the settlement was made before the survey; and where the settlement was made after the survey, then within three months after the settlement is made, under penalty of entire forfeiture of the claim, for failing to designate the boundaries of the claim as thus required.

The difference in these grants is, that the period of four year's continued settlement and cultivation, required by

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These grants are made on the condition of actual settlement and cultivation, on the land claimed as a donation, for not less than four years; and the act requires that each of these donations shall include the actual settlement and improvement of the donee, and shall be selected by legal subdivisions within three months after the survey of the land where the settlement was made before the survey; and where the settlement was made after the survey, then within three months after the settlement is made, under penalty of entire forfeiture of the claim, for failing to designate the boundaries of the claim as thus required.

The difference in these grants is, that the period of four year's continued settlement and cultivation, required by

the law, is to be counted, in the former class, from the commencement of the settlement and cultivation, and hence may have been completed at or before the passage of the law; and if so, such persons are entitled to certificates as soon as the land is surveyed, on proof as required by the law. In the latter class, the settlement and cultivation must have been commenced after the 1st of January, 1853, and must continue from such commencement for the full term of four years, as required by this act, before the parties can obtain certificates. The only exception to this rule is where the settler has died or may die before the completion of the four years' occupancy and cultivation required by the act, when his right will descend to his heirs-at-law, who will be entitled to a certificate and patent on proof of continued occupancy and cultivation by such settler to the time of his death. This provision will be regarded as applicable to both classes of donees.

In each case you will require the evidence of at least two respectable citizens that the claimant is over twenty-one years of age; is an American citizen - giving their reasons for knowing this fact; or where one not a citizen claims a certificate under seal from the clerk of the proper court that such person did, at such a time, file his declaration of intention to become a citizen. The testimony must also show the date when the settlement commenced, the character of the dwelling, the extent and nature of the improvements and cultivation, and that the occupancy and cultivation were continuous for four years, or until the death of the settler.

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In each case you will require the evidence of at least two respectable citizens that the claimant is over twenty-one years of age; is an American citizen - giving their reasons for knowing this fact; or where one not a citizen claims a certificate under seal from the clerk of the proper court that such person did, at such a time, file his declaration of intention to become a citizen. The testimony must also show the date when the settlement commenced, the character of the dwelling, the extent and nature of the improvements and cultivation, and that the occupancy and cultivation were continuous for four years, or until the death of the settler.

On such evidence you will issue certificates according to the accompanying forms, and transmit the same, with the testimony filed in support of the claims. These certificates will be headed, respectively, "Donation, settlement, and cultivation for four years," or, "Donation, settlement, and cultivation till death of settler;" and in either case, where the claimant is not a citizen, you will add that remark - "not a citizen" - at the end of either of the above headings; so that patents may not issue for such cases until the claimants "become citizens," as provided by the 3d section of the act. Whenever a settler desires to enter, with cash, land settled upon and improved by him before the expiration of the four years' continuous settlement and occupation required by this act, he is authorized to do so by the 7th section of this law, by paying therefor at the rate of one dollar and twenty-five cents per acre. Before being permitted to make such entry, however, he must make similar proof to that above required, of the date and character of his settlement and cultivation, and that it has been continuous up to the time he applies to purchase the same. In these cases the form of the certificates will be varied to suit the circumstances of the case, and the certificates will have the additional heading, "Paid for in cash." Duplicate receipts should be furnished in these cases - one to be given to the settler, the other to accompany your return to this office. These cases should be embraced in your returns of donation cases, and you will charge yourself with the amount of purchase-money in your account as receiver.

On such evidence you will issue certificates according to the accompanying forms, and transmit the same, with the testimony filed in support of the claim. These certificates will be headed, respectively, "Donation, settlement, and cultivation for four years," or, "Donation, settlement, and cultivation till death of settler;" and in either case, where the claimant is not a citizen, you will add that remark - "not a citizen" - at the end of either of the above headings; so that patents may not issue for such cases until the claimants "become citizens," as provided by the 3d section of the act. Whenever a settler desires to enter, with cash, land settled upon and improved by him before the expiration of the four years' continuous settlement and occupation required by this act, he is authorized to do so by the 7th section of this law, by paying therefor at the rate of one dollar and twenty-five cents per acre. Before being permitted to make such entry, however, he must make similar proof to that above required, of the date and character of his settlement and cultivation, and that it has been continuous up to the time he applies to purchase the same. In these cases the form of the certificates will be varied to suit the circumstances of the case, and the certificates will have the additional heading, "Paid for in cash." Duplicate receipts should be furnished in these cases - one to be given to the settler, the other to accompany your return to this office. These cases should be entered in your returns of donation cases, and you will charge yourself with the amount of purchase-money in your account as receiver.

The fourth section expressly excludes from the provisions of this act certain lands, of which you will take proper notice. Further, holders of valid claims under Mexican or Spanish grants cannot be entitled to a donation under this law; neither can they, or holders of donations, be entitled to pre-emptions - the intention of this law being mainly to encourage the settlement of the country. Therefore, actual settlement and cultivation being the basis of both donations and pre-emptions, they cannot exist under the same person in two different places at one time, nor can such settlement and cultivation be made by holders of a Mexican or Spanish grant, within the intent of this act, unless he relinquish such grant.

Under the fifth section, sections numbered 16 and 36, in each township, will be reserved for schools in all cases. The act clearly contemplates the tracts thus designated in regular rectangular townships; and hence those lands must be thus numbered, however surveyed, and the reservations will apply to none other.

Under the sixth section, the legislature of New Mexico is authorized to direct the selection of a quantity of land equal to two townships, for the establishment of a university; and when selected, by persons authorized to do so by the legislature, you will respect such selections, and enter them on the plats as reserved for university purposes, and transmit a list of them to this office. These selections, however, must be made in compact bodies of not <u>less</u> than a half-section in each body. Any minor subdivision may be taken in lieu of, and full

The fourth section expressly excludes from the provisions of this act certain lands, of which you will take proper notice. Further, holders of valid claims under German or Spanish grants cannot be entitled to a donation under this law; neither can they, or holders of concessions, be entitled to pre-emptions - the intention of this law being mainly to encourage the settlement of the country. Therefore, actual settlement and cultivation being the basis of both donations and pre-emptions, they cannot exist under the same person in two different places at one time, nor can such settlement and cultivation be made by holders of a Mexican or Spanish grant, within the intent of this act, unless be relinquish such grant.

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satisfaction of, a half-section; and any quantity above a half-section, not exceeding the grant, may be taken in one body.

By the seventh section of this act, any of the lands not taken under its other provisions are made subject to the operation of the pre-emption act of September 4, 1841, whether settled upon before or after the survey. The enclosed instructions, under the latter law, will be sufficient for all cases where the settlement was made after the survey, and will apply equally well where it was made before, with this difference - that, in the latter case, the settler is required to file his declaration within three months after the survey is made and returned; that is, within three months after the plats are approved by you.

Of the returns required under the eighth section, you have been fully instructed, under the head of private claims. You will make a separate return of donations, including those paid for, in accordance with the accompanying form, beginning with No. 1, and going on continuously to the highest number.

You will also make a separate return under the pre-emption act of 1841, as modified by this act. The certificates will be headed "Pre-emption acts of 1841 and 1854." Certificates and receipts will be transmitted by you, with the returns, as in other cases of cash sales.

In your quarterly account as receiver, you will charge yourself with all moneys received for pre-emptions and donations. These returns will be distinct and separate from those required of you as surveyor general.

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You will also make a separate return under the pre-emption act of 1841, as modified by this act. The certificates will be headed "Pre-emption acts of 1841 and 1854." Certificates and receipts will be transmitted by you, with the returns, as in other cases of cash entries.

In your quarterly account as receiver, you will charge yourself with all moneys received for pre-emptions and donations. These returns will be distinct and separate from those required of you as surveyor general.

As explanatory of the views of this office, in qu[illegible] arising in the examinations of donation claims and town [illegible], I send you copy of a letter dated May 17, 1854, written to [illegible] surveyor general of Oregon, on these subjects - the law being very similar in that Territory to that for New Mexico.

Very respectfully, your obedient servant,

JOHN WILSON, Commissioner.

Wm. Pelham, Esq.,

Surveyor General, Santa Fé, New Mexico.

The foregoing instructions are hereby approved.

R. McCLELLAND, Secretary.

Department of the Interior,

September 2, 1854.

As explanatory of the views of this office, in questions arising in the examinations of donation claims and town sites, I send you copy of a letter dated May 17, 1894, written to the surveyor general of Oregon, on these subjects - the law being very similar in that Territory to that for New Mexico.

Very respectfully, your obedient servant,

JOHN WILSON, Commissioner.

Wm. Tolliver, Esq.,

Surveyor General, Santa Fe, New Mexico.

The foregoing instructions are hereby approved.

R. McCLELLAND, Secretary.

Department of the Interior,

September 2, 1894.

APPENDIX IV

NEW MEXICO DISTRICT LAND OFFICES

The first Land Office for New Mexico was established on May 24, 1858, and opened in Santa Fe on November 24.[1] It continued to serve the entire Territory until March 3, 1874, when all that part of New Mexico south of the base line was created into a separate district to be called La Mesilla land district.[2] The office continued at Mesilla until May 1, 1883, when it was transferred to Las Cruces.[3]

Two new offices were opened in 1888 and 1889 respectively. The first of these, the Colfax district with office at Folsom, was created on December 18, 1888. The boundary was as follows:

> Commencing at the northeastern corner of said Territory and running thence west on the northern boundary line of said Territory to the line dividing ranges numbered twenty-four and twenty-five; thence south on said range line to the principal base-line running east and west through said Territory; thence east on said base-line to the eastern boundary line of said Territory; thence north on said eastern boundary line to the place of beginning... .[4]

The Lincoln land district, with office at Roswell, was created on March 1, 1889:

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[1]Hendricks to Pelham, 10/1/58 (N.A.).

[2]Burdett to Proudfit, 7/7/74 (N.A.).

[3]McFarland to Register and Receiver, Mesilla, 3/2/83 (F.R.C.).

[4]L.C.R. 9/17/89, 51 Cong., 1 Sess., H.E.D. No. 1, 112 (2724).

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The Lincoln Land district, with office at Roswell, was created on March 1, 1889:

---

[1]Boundaries to Folsom, 10/1/58 (N.A.).

[2]Burdett to Proudfit, 7/7/74 (N.A.).

[3]Overland to Register and Receiver, Mesilla, 3/2/83 (P.R.O.).

[4]I.O.R. 9/17/89, 51 Cong., 1 Sess., H.R.D. No. 1, 1X2 (2724).

Beginning at a point on the line running north and south between the State of Texas and the Territory of New Mexico, where such line would be intersected by the township line between townships numbers one and two, north of the base line, and running thence west to the southwest corner of San Miguel county along the line between the counties of Lincoln and San Miguel, said southwest corner being on said line in range number nineteen west (east) of the New Mexico principal meridian, thence north to the southeast corner of Valencia county, a distance of about 4 miles, thence west on the south line of Valencia county parallel with the line between townships numbers one and two through township number two north to the east line of range number eight, east of the New Mexico principal meridian, thence south along said range line between ranges numbered eight and nine east of said principal meridian to the second standard parallel south on the line between townships numbered ten and eleven south of the base line, thence east along said parallel to the line between ranges numbered ten and eleven south (east) of the base line (principal meridian), thence south along said range line to the township line between townships numbered twelve and thirteen south, thence east along said last-named line to the meridian of longitude number twenty-eight degrees thirty minutes west from Washington, thence south along said meridian line to the line of the State of Texas, thence east along said line to the southeast corner of the Territory of New Mexico, and thence north along the boundary line between the State of Texas and the Territory of New Mexico to the point of beginning... .[5]

This changed the southern boundary of the previously established Colfax land district.

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[5] Ibid., 114.

Beginning at a point on the line running north and south between the State of Texas and the Territory of New Mexico, where such line would be intersected by the township line between township numbers one and two, north of the base line, and running thence west to the southeast corner of San Miguel county along the line between the counties of Lincoln and San Miguel, said southeast corner being on said line in range number ninetee west (east) of the New Mexico principal meridian, thence north to the southeast corner of Valencia county, a distance of about 4 miles, thence west on the south line of Valencia county parallel with the line between township numbers one and two through township number two north to the east line of range number eight, east of the New Mexico principal meridian, thence south along said range line between ranges numbered eight and nine east of said principal meridian to the second standard parallel south on the line between townships numbered ten and eleven south of the base line, thence east along said parallel to the line between ranges numbered ten and eleven south (east) of the base line (principal meridian), thence south along said range line to the township line between townships numbered twelve and thirteen south, thence east along said last-named line to the meridian of longitude number twenty-eight degrees thirty minutes west from Washington, thence south along said meridian line to the line of the State of Texas, thence east along said line to the southeast corner of the Territory of New Mexico, and thence north along the boundary line between the State of Texas and the Territory of New Mexico to the point of beginning... .[7]

This changed the northern boundary of the previously established Colfax land district.

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[7] Ibid., 114.

APPENDIX V

TABULAR STATEMENT OF ANNUAL SURVEYS IN NEW MEXICO*

Year reported	(1) Acres of public land surveyed up to June 30 (year prior to year reported)	(2) Acres of public land surveyed prior to June 30 (year prior to year reported) not heretofore reported	(3) Acres of public land surveyed within the fiscal year ending June 30 (year reported)	(4) Acres of public land surveyed up to June 30 (year reported)	(5) Acres of public and Indian lands remaining unsurveyed, and of course, unoffered and undisposed of, inclusive of the area of private land claims surveyed up to June 30 (year reported)	(6) Total of Column 2 and Column 3 which is effectively the amount of land surveyed during the fiscal year ending (year reported)
1855					77,568,640	
56			20	20	77,568,620	20
57			928	948	77,567,692	928
58			800,217	801,165	76,767,475	800,217
59			767,214	1,568,379	76,000,261	767,214
1860			453,555	2,021,934	75,546,706	453,555
61			220,337	2,242,271	75,326,369	220,337
62			50,871	2,293,142	75,275,498	50,871
63	2,293,142	None	None	2,293,142	75,275,498	None
64	2,293,142	"	"	2,293,142	75,275,498	"
1865	2,293,142	"	"	2,293,142	75,275,498	"
66	2,293,142	"	"	2,293,142	75,275,498	"
67	2,293,142	"	(2)39,413	2,332,555	75,236,085	39,413
68	2,332,555	"	650,198	2,982,753	74,585,887	650,198
69	2,982,753	"	None	2,982,753	74,585,887	None

APPENDIX V

TABULAR STATEMENT OF ANNUAL SURVEYS IN NEW MEXICO*

Year reported	(1) Acres of public land surveyed up to June 30 (year prior to year reported)	(2) Acres of public land surveyed within the fiscal year ending June 30 (year prior to year reported) not heretofore reported	(3) Acres of public land surveyed within the fiscal year ending June 30 (year reported)	(4) Acres of public land surveyed up to June 30 (year reported)	(5) Acres of public and Indian lands remaining surveyed, and of course, unofficially and of, inclusive of the area of private land claims surveyed up to June 30 (year reported)	(6) Total of Column 3 and Column 5 which is actually the amount of land surveyed during the fiscal year ending (year reported)
1898					11,320,580	
1899			20	20	11,328,020	20
1900			922	940	11,329,092	922
1901			600,417	601,165	11,929,157	600,417
1902			761,224	1,456,379	12,690,251	761,224
1903			493,373	2,044,954	13,183,624	493,373
1904			422,337	2,242,271	13,605,959	422,337
1905			2,412	2,223,142	13,608,371	2,412
1906	2,223,142	None	None	2,223,142	13,608,371	None
1907	2,223,142	"	"	2,223,142	13,608,371	"
1908	2,223,142	"	"	2,223,142	13,608,371	"
1909	2,223,142	"	"	2,223,142	13,608,371	"
1910	2,223,142	"	"	2,223,142	13,608,371	"
1911	2,223,142	"	(2)20,117	2,243,259	13,628,488	20,117
1912	2,243,259	"	(3)20,128	2,263,387	13,648,616	20,128
1913	2,263,387	"	None	2,263,387	13,648,616	None

	(1)	(2)	(3)	(4)	(5)	(6)
1870	2,982,753	None	1,258,106	(4)4,240,859	73,327,781	1,258,106
71	4,240,859	"	161,414	4,402,273	73,166,367	161,414
72	4,402,273	17,712	2,991	4,422,975	73,145,665	20,703
73	4,422,975	46,093	391,341	4,860,410	72,708,230	437,435
74	4,860,410	None	625,775	5,486,185	72,082,455	625,775
1875	5,486,185	"	722,907	6,209,092	71,359,548	722,907
76	6,209,092	"	1,080,686	7,289,778	70,278,862	1,080,686
77	7,289,778	"	630,972	7,920,750	69,647,890	630,972
78	7,920,750	9,701	541,429	8,471,880	69,096,760	551,130
79	8,471,880	36,189	333,822	8,843,890	68,724,750	372,010
1880	8,843,890	75,604	1,624,156	10,543,650	67,024,990	1,699,760
81	10,543,650	916,217	(3)3,179,216	14,639,083	62,929,557	4,095,433
82	(1)14,639,083	7,584,319	1,287,308	23,510,710	54,057,930	8,871,627
83	23,510,710	4,486,229	8,361,741	36,358,680	41,209,960	12,847,970
84	36,358,680	5,152,381	2,162,490	43,673,551	33,895,089	7,314,871
1885	43,673,551	1,693,728	None	45,367,279	32,210,361	1,693,728
86	45,367,279	679,524	"	46,046,803	31,521,837	679,524
87	46,046,803	533,682	"	46,580,485	30,988,155	533,682
88	46,580,485	766,275	240	47,347,000	30,221,640	766,515
89	47,347,000	1,028,189	25,990	48,401,179	29,167,461	1,054,179
1890	48,401,179	178,434	58,698	48,638,311	28,930,329	237,132
91	48,638,311	157,136	None	48,795,441	28,773,193	157,136

*Compiled from L.O.R. for the respective years involved.

(1) Of the surveys in N.M., 120,349 acres were surveyed into 40-acre tracts for the Southern Ute Indians, under the Ute Commission, of which 108,534 acres had been also surveyed as public lands under the Surveyor General of New Mexico.

(2) Private claims.

(3) 16,779 acres are embraced within the Southern Ute Indian Lands selected by the Ute Commission under the Act of Congress approved June 15, 1880.

	(1)	(2)	(3)	(4)	(5)	(6)
1879	2,982,753	None	1,258,305	(4)4,240,899	13,321,703	1,286,106
71	4,240,899	"	163,414	4,402,213	13,166,367	163,414
72	4,402,213	11,722	2,091	4,422,975	13,146,645	20,705
73	4,422,975	46,097	291,341	4,680,420	12,705,239	437,445
74	4,680,420	None	625,177	5,466,165	12,082,075	665,177
1875	5,466,165	"	722,507	6,200,092	11,390,598	722,507
76	6,209,092	"	1,080,586	7,289,177	10,236,856	1,080,586
77	7,289,177	"	690,372	7,920,370	9,6[illegible],[illegible]	630,372
78	7,920,370	9,701	941,489	8,471,580	8,[illegible],[illegible]	551,210
79	8,471,580	36,189	337,824	8,845,800	8,134,790	372,220
1880	8,845,800	73,604	1,634,156	10,492,050	6,7[illegible],[illegible]	1,646,250
81	10,492,050	91[illegible],217	(3)3,179,346	14,459,087	6,[illegible],[illegible]	3,966,937
82	(1)14,459,087	7,984,739	1,847,396	23,290,720	4,[illegible],[illegible]	8,831,633
83	23,290,720	4,846,229	2,364,742	30,500,580	1,[illegible],[illegible]	7,210,860
84	30,500,580	3,152,325	2,162,490	35,815,395	35,[illegible],[illegible]	5,314,815
1885	35,815,395	1,695,128	None	36,507,523	34,[illegible],[illegible]	692,128
86	36,507,523	4,934	"	36,[illegible],[illegible]	31,521,[illegible]	[illegible],[illegible]
87	36,[illegible],[illegible]	5,232	"	36,[illegible],[illegible]	30,[illegible],[illegible]	[illegible],[illegible]
88	36,[illegible],[illegible]	7,[illegible]	240	37,[illegible],[illegible]	30,[illegible],[illegible]	[illegible],[illegible]
89	37,[illegible],000	1,022,125	27,[illegible]	38,[illegible],[illegible]	29,[illegible],[illegible]	4,[illegible],[illegible]
1890	38,[illegible],179	1,[illegible],[illegible]	96,[illegible]	38,[illegible],[illegible]	28,[illegible],[illegible]	[illegible],[illegible]
91	38,[illegible],[illegible]	1,[illegible],[illegible]	None	38,[illegible],[illegible]	26,[illegible],[illegible]	[illegible],[illegible]

*Compiled from I.C.R. for the respective years involved.

(1) Of the surveys in N.M., 120,319 acres were enlarged into 10-acre tracts for the Southern Ute Indians, under the Ute Commission, of which 104,934 acres had been also surveyed as public lands under the Surveyor General of New Mexico.

(2) Private claims.

(3) 14,179 acres are embraced within the entitlement Ute Indian lands selected by the Ute Commission under the Act of Congress approved June 15, 1880.

(4) Of the surveys in New Mexico Territory 955,841 acres are Navajo Indian Lands reserved by the second article of the Treaty of June 1, 1868 (United States Laws, Vol. 15, 668).

Column 2 Starting with 1882, reads - Under contract made prior to June 30 (year prior to year reported) but not heretofore reported because returned since June 30 (year prior to year reported).

Column 3 Starting with 1882, reads - Under contract made for the fiscal year ending June 30 (year reported).

Column 6 Since Column 2 was not returned in the year (prior to the year reported) it had to be during the fiscal year ending (the year reported) and therefore is effectively the same as land surveyed in the fiscal year ending (the year reported).

(NOTE) Figures for 1861 and 1862 were given in lineal miles, chains and links of surveys rather than acres so the acreage figures in this chart are only approximate, based on the proportionate amounts for the two years.

(h) Of the surveys in New Mexico Territory 999,831 acres are Navajo Indian Lands reserved by the second article of the Treaty of June 1, 1868 (United States Laws, Vol. 15, 668).

Column 2 Starting with 1882, week - Under contract made prior to June 30 (year prior to year reported) but not heretofore reported because returned since June 30 (year prior to year reported).

Column 3 Starting with 1882, week - Under contract made for the fiscal year ending June 30 (year reported).

Column 6 Since Column 2 was not returned in the year (prior to the year reported) it had to be during the fiscal year ending (the year reported) and therefore is effectively the same as land surveyed in the fiscal year ending (the year reported).

(NOTE) Figures for 1851 and 1852 were given in fiscal years, chains and links of surveys rather than acres so the average figures in this chart are only approximate, based on the proportionate results for the two years.

APPENDIX VI

TABULAR STATEMENT OF NEW MEXICO LAND OFFICE CASH SALES BUSINESS THROUGH 1891*

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
		ORIGINAL DESERT LAND ENTRIES				
1877	14	5,664			14	5,664
78	7	1,651	7	3,680	14	5,331
79	12	3,800	5	1,873	17	5,673
1880	26	6,747	4	1,040	30	7,787
81	22	6,200	1	320	23	6,520
82	31	6,016	38	10,161	69	16,177
83	149	40,865	26	5,918	175	46,783
84	101	32,035	28	8,348	129	40,383
1885	135	28,045	21	6,212	156	34,257
86	110	29,434	29	9,788	139	39,222
87	37	7,608	44	14,751	81	22,359
88	67	34,148	31	11,098	98	45,246
89	86	45,911	36	12,531	136	64,719
	(1)	(400)	(13)	(5,877)		
1890	15	3,681	65	14,616	171	55,534
	(5)	(240)	(86)	(36,997)		
91	9	1,560	22	4,664	96	19,548
	(2)	(360)	(63)	(12,964)		
	821	253,365	357	105,000	1,348	415,203
	(8)	(1,000)	(162)	(55,838)		

R&R entries - 1,348 R&R acres - 415,203
LOR entries - 1,256 LOR acres - 385,847
(No LOR entries or acres previous to 1881)

*Compiled from Land Office Reports (LOR) and Register and Receiver Returns (R&R) for the years involved.

APPENDIX VI

TABULAR STATEMENT OF NEW MEXICO LAND OFFICE CASH SALES REVENUES THROUGH 1891*

	La Mesilla, 1857 1., Las Cruces (Mylers)		Santa Fe (Donnell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			ORIGINAL PUBLIC LAND SERIES			
1877	18	5,664			18	5,664
78	7	1,591	7	2,000	14	3,591
79	12	3,800	5	1,873	17	5,673
1880	25	6,717	5	1,040	30	7,757
81	22	6,200	1	320	23	6,520
82	31	6,016	38	10,151	69	16,171
83	149	40,649	26	5,312	175	45,961
84	101	32,075	38	6,386	139	38,461
1885	139	32,045	14	3,212	153	35,257
86	110	29,157	39	9,722	149	38,879
87	31	7,656	38	14,721	69	22,377
88	47	14,144	34	11,094	81	25,238
89	86	43,412	46	12,331	132	55,743
	(1)	(400)	(15)	(5,277)		
1890	38	1,681	85	18,516	123	20,197
	(5)	(240)	(66)	(26,297)		
91	3	1,360	22	4,624	25	5,984
	(2)	(360)	(65)	(12,984)		
	821	237,108	371	102,000	1,192	339,108
	(8)	(1,000)	(186)	(56,520)		

NEW entries - 1,192 NEW acres - 339,108
LAM entries - 1,095 LAM acres - 295,847
(No LAM entries or acres previous to 1887)

*Compiled from Land Office Reports (LOR) and Register and Receiver Returns (R&R) for the years involved.

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			FINAL DESERT LAND CERTIFICATES			
1879	1	80			1	80
1880						
81	3	1,120			3	1,120
82	4	1,424			4	1,424
83	4	1,103			4	1,103
84	13	3,225	3	480	16	3,705
1885	13	3,302	2	320	15	3,622
86	16	3,536	4	480	20	4,016
87	10	3,108	1	640	11	3,748
88	7	1,306			7	1,306
89	32	8,547	4	1,000	36	9,547
1890	9	1,893	2	800	21	6,924
			(10)	(4,231)		
91	9	1,880	1	120	65	30,130
			(55)	(28,130)		
92	1	640	3	360	121	45,101
			(117)	(44,101)		
93	2	1,191	15	7,658	49	21,429
			(32)	(12,580)		
94			3	520	25	6,367
			(22)	(5,847)		
	124	32,355	38	12,378	398	139,622
			(236)	(94,889)		

R&R entries - 398 R&R acres - 139,622
LOR entries - 388 LOR acres - 137,653
(No LOR entries or acres previous to 1881)

	La Mesilla, 1853 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			PRE-EMPTION DECLARATORY STATEMENTS			
1861			18		18	
62			1		1	
63			2		2	
64			2		2	
1865			1		1	
66			3		3	
67						
68			6		6	
69			18		18	
1870			15		15	
71			18		18	
72			19		19	
73			34		34	
74			10		10	
1875	14		13		27	
76	9		3		12	
77	41				41	
78	48				48	
79	53		*288		341	
1880	29		161		190	
81	59		186		245	
82	241		180		422	
83	788		231		1,019	
84	630		191		821	
1885	711		85		796	
86	404		499		903	
87	272		450		722	
88	274		452		726	
89	268		305		639	
	(38)		(28)			
1890	123		139		455	
	(96)		(97)			
91	29		25		104	
	(30)		(20)			
	3,993		3,355		7,657	
	(164)		(145)			

R&R entries - 7,657
LOR entries - 7,029
(LOR entries are for the years 1881 through 1891.)

*No definite statement of entries was found in R&R for 1879 but 1877 and 1878 were recorded as no entries and the last entry of 1876 was #163. The first entry for 1880 was #452 so the intervening entries must have been for 1879.

	La Medalla, 1857 K., Los Ceruna (Yolanda)		Santa Fe (Bonnell)		New Mexico	
Year	Matches	Aces	Matches	Aces	Matches	Aces
	PRE-SECTION DEVELOPMENT EXPERIMENTS					
1851			18		28	
52			4		4	
53			3		6	
1854			2		4	
55			4		3	
56			7			
57			5		6	
58			18		28	
1859			15		15	
60			18		22	
61			19		34	
62			24		18	
63			10		18	
1864	14		13		12	
65	4		4		8	
66	16				14	
67	18				34	
68	23		*[illegible]		34	
1869	23		103		150	
70	23		185		85	
71	24		180		128	
72	28		211		1,019	
73	40		104		224	
1874	71		25		198	
75	108		159		95	
76	112		150		172	
77	112		142		172	
78	208		90		65	
1879	(32)		(28)			
80	123		139		49	
81	(50)		(91)			
82	25		25		104	
	(30)		(20)			
	2,224		2,225		1,657	
	(104)		(145)			

NEW matches - 1,657
ACE matches - 1,029
(ACE matches are for the years 1851 through 1879.)

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*No definite statement of matches was found in NEW for 1879 but 1877 and 1878 were recorded as no matches and the last entry of 1876 was 8181. The first entry for 1880 was 8182 so the intervening matches must have been for 1879.

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			OTHER CASH SALES			
1868			3	480	3	480
69						
1870			26	2,780	26	2,780
71			68	9,422	68	9,422
72			49	8,393	49	8,393
73			12	2,165	12	2,165
74			6	395	6	395
1875	2	200	5	647	7	847
76	5	633	2	91	7	724
77	9	606	1	2	10	608
78	6	611	43	5,814	49	6,425
79	15	891	100	14,012	115	14,903
1880	9	858	132	16,995	141	17,853
81	11	1,048	60	5,062	71	6,110
82	61	7,204	113	8,683	174	15,887
83	349	48,122	181	23,155	530	71,277
84	316	44,939	173	22,136	489	66,175
1885	428	73,432	81	8,142	509	81,574
86	248	31,677	68	8,433	316	40,110
87	97	11,614	122	13,398	219	25,012
88	108	12,063	114	12,717	222	24,780
89	93	10,504	106	12,145	233	27,082
	(34)	(4,433)				
1890	59	5,983	74	8,306	247	32,193
	(66)	(11,049)	(48)	(6,855)		
91	46	5,144	78	9,183	247	29,178
	(52)	(5,915)	(71)	(8,936)		
	1,862	254,629	1,617	192,556	3,750	484,373
	(152)	(21,397)	(119)	(15,791)		

R&R entries - 3,750 R&R acres - 484,373
LOR entries - 3,170 LOR acres - 481,180

FURTHER EXPLANATION OF OTHER CASH SALES

There are two sources of figures for OTHER CASH SALES: R&R and LOR. Unfortunately, R&R figures are not broken down into further categories. LOR figures are so broken down but only for the years 1881-1891 inclusively. R&R figures have been used whenever available and will be used here in the following manner:

	In Manila, 1857 I., Lee Grosse (Polanco)		Santa Ana (Roosevelt)		New Washington	
Year	Matches	Acres	Matches	Acres	Matches	Acres
			OTHER CASH CROPS			
1860			3	480	3	480
59						
1870			26	3,720	26	3,720
71			68	9,122	68	9,122
72			95	8,325	68	8,325
73			12	2,165	12	2,165
74			6	780	6	780
1875	2	290	4	587	1	587
76	2	652	2	91	1	726
77	2	686	1	2	1	684
78	6	622	49	5,814	49	6,436
79	15	874	100	14,012	115	14,886
1880	9	858	172	16,995	184	17,853
81	11	1,046	64	5,082	71	6,128
82	61	7,204	113	8,665	174	15,869
83	246	16,122	143	22,159	389	38,271
84	246	14,039	171	22,158	415	36,197
1885	132	13,432	81	8,142	213	21,574
86	288	21,671	58	8,432	346	30,110
87	97	11,614	122	13,398	219	24,012
88	108	12,063	114	12,317	222	24,380
89	93	10,801	106	12,145	199	22,946
	(34)	(4,433)				
1890	89	5,903	74	6,306	247	12,209
	(56)	(11,049)	(88)	(6,295)		
91	46	5,144	73	9,183	247	14,326
	(52)	(5,925)	(71)	(6,976)		
	1,802	134,849	1,417	192,[illegible]	3,[illegible]	[illegible]
	(182)	(23,391)	(119)	(13,271)		

MAX matches - 3,790 MAX acres - 192,[illegible]
LOW matches - 3,170 LOW acres - 148,180

NOTES EXPLANATORY OF OTHER CASH CROPS

There are two sources of figures for OTHER CASH CROPS: MAX and LOW. Unfortunately, MAX figures are not broken down into further categories. LOW figures are so broken down but only for the years 1871-1891 inclusively. MAX figures have been used wherever available and will be used here in the following summary

LOR breakdown from 1881-1891 inclusively is as follows:

	Entries	Acres	Acres per entry
Pre-emption sales	2,176	305,543	140.0
Private Entry sales	165	41,075	248.9
Public Auction sales	95	12,961	136.4
Excess payments on Homesteads, etc.	468	1,939	4.1
Homestead Entries commuted to cash	266	38,402	144.4
	3,170	399,920	

LOR lists only a total of 81,260 acres (and no entries) for the years through 1881. This makes a total LOR figure of 481,180 acres in contrast with the total figure for R&R of 484,373 acres and 3,750 entries. The LOR figures will serve as a percentage index to break the total R&R entries and acres into the proportionate parts for the five categories listed. The LOR ACRES PER ENTRY must be increased by 2.6+ % to do this.

The R&R figures then break down as follows:

	Entries	Acres	Acres per entry
Pre-emption sales	2,574	369,631	143.6
Private Entry sales	196	50,061	255.4
Public Auction sales	112	15,671	139.9
Excess payments on Homesteads, etc.	553	2,324	4.2
Homestead Entries commuted to cash	315	46,686	148.2
	3,750	484,373	

IGM breakdown from 1921-1931 inclusive is as follows:

	Entries	Agrees	Agree per entry
Pre-emption sales	2,170	325,350	149.9
Private Entry sales	109	41,075	376.9
Public auction sales	54	12,961	239.8
Excess payments on homesteads, etc.	152	1,978	4.1
Homestead Entries converted to cash	815	32,602	40.0
	3,170	393,910	

IGM lists only a total of 81,320 acres (and no entries) for the years through 1921. This makes a total IGM figure of 921,180 acres in contrast with the total figure for RSM of 968,371 acres and 3,770 entries. The IGM figures will serve as a percentage index to break the total RSM entries and acres into the proportionate parts for the five categories listed. The IGM acres (921 [illegible]) must be increased by 5.6% to do this.

The RSM figures then break down as follows:

	Entries	Acres	Acres per entry
Pre-emption sales	2,[illegible]	325,[illegible]	149.9
Private Entry sales	109	40,[illegible]	376.9
Public auction sales	112	12,[illegible]	107.9
Excess payments on Homesteads, etc.	323	1,[illegible]	4.2
Homestead Entries converted to cash	815	32,[illegible]	40.2
	3,[illegible]	392,371	

La Mesilla, 1883 f., Las Cruces (Folsom)			Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			APPLICATIONS TO PURCHASE COAL LANDS			
1881			15		15	
82						
83	26		48		74	
84	6		40		46	
1885	7		19		26	
86	16		23		39	
87	7		15		22	
88	12		27		39	
89	8		39		47	
1890	5		49		56	
			(2)			
91	1		61		72	
	(1)		(9)			
	88		336		436	
	(1)		(11)			

This category was taken from LOR since none was found in R&R. No record was found of any applications prior to 1881, but it is obvious that there were some since there were 5 Coal Land claims sold in 1880: see Coal Land Sales.

			COAL LAND SALES			
1880			5	721	5	721
84			2	120	2	120
1885						
86	9	1,270	1	80	10	1,350
87	7	716	1	80	8	796
88	3	191	1	40	4	231
89	1	80	3	240	4	320
1890			2	80	2	80
91			4	571	4	571
	20	2,257	19	1,932	39	4,189

These figures were taken from LOR - since R&R Coal Land Sales were not available - with the exception of the figures for 1880 which were taken from the Public Lands Commission, Final Report, 1881, 46 Cong., 3 Sess., H.R.D. No. 47, 294 (1975).

La Meslin, 1893		Santa Fe	New Mexico
E., Los Cerrosos		(Moment)	
(Palace)			

Year	Entries	Acres	Entries	Acres	Entries	Acres
		APPLICATIONS TO PURCHASE COAL LANDS				
1881			15		15	
82						
83	25		46		[illegible]	
84	6		46		[illegible]	
1885	7		19		[illegible]	
86	15		23		[illegible]	
87	7		15		[illegible]	
88	12		17		[illegible]	
89	16		35		[illegible]	
1890	5		5		5	
			(2)			
91	1		62		72	
	(1)		(3)			
	88		278		455	
	(2)		(11)			

This category was taken from 101 since none was found in 92. No record was found of any significance prior to 1881, but it is obvious that there were none since there were 5 Coal Land claims sold in 1890: see Coal Land Sales.

COAL LAND SALES

1880			5	72a	5	72a
84			2	120	2	120
1885						
86	5	1,272	1	80	10	1,352
87	1	74	1	80	2	154
88	5	191	1	40	6	231
89	1	80	3	240	4	320
1890			2	80	2	80
91			4	312	4	312
	20	1,637	19	1,424	39	1,129

These figures were taken from 1881 - since 88a Coal Land Sales were not available - with the exception of the figures for 1890 which were taken from the Public Lands Curtailed, Annual Report, 1891, 52 Cong., 1 Sess., H.R.E. No. 47, 29th (1875).

La Mesilla, 1883 f., Las Cruces (Folsom)			Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			APPLICATIONS TO PURCHASE MINERAL LANDS			
1869					(1	
71					(1	
72					(8	
73					(28	
74					(4	
1875		Only totals for N.M. are available.			(5	
76					(4	
77					(1	
78					(7	
79					(3	
1880					(11	
81	54		1		55	
82	29		4		33	
83	48		1		49	
84	89		7		96	
1885	44		4		48	
86	30		6		36	
87	42		5		47	
88	87		5		92	
89	77		2		79	
1890	32		8		45	
			(5)			
91	18		3		21	
	590		46		674	
			(5)			

La Mesilla, 1883 f., Las Cruces (Folsom			Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			MINERAL AND MILL SITE LAND SALES			
1870			1	21	1	21
74			2	14	2	14
1875			1	21	1	21
76	1	21			1	21
78	1	21	1	10	2	31
79	1	21			1	21
1880	4	49			4	49
81	48	983			48	983
82	13	224	2	41	15	265
83	60	1,126	3	62	63	1,188
84	58	916	1	10	59	926
1885	38	582	2	21	40	603
86	32	461	7	66	39	527
87	42	784	3	47	45	831
88	60	1,029	4	37	64	1,066
89	77	1,417			77	1,417
1890	15	270	10	187	25	507
			(3)	(50)		
91	19	293	3	183	27	524
			(5)	(48)		
	469	8,197	40	720	517	9,015
			(8)	(98)		

R&R entries - 517 R&R acres - 9,015
LOR entries - 538 LOR acres - 9,212

These figures were all taken from R&R with the exception of those for Roswell where none were available from R&R and LOR were used. It should be noted that R&R shows the following entries and acres as ultimately being cancelled although originally approved:

48	721	6	97	54	818

It is probable that LOR did not take these into consideration since they were usually cancelled some years after the original approval. If these figures had not been deducted from R&R, it would bring the figures for the latter considerably above those of LOR.

La Mesilla, 1885	Santa Fe	New Mexico
E., Las Cruces	(Bonwell)	
(Wolcom		

Year	Entries	Acres	Entries	Acres	Entries	Acres
		HOMESTEAD AND MILL SITE LAND SALES				
1870			1	22	1	21
71			2	14	2	14
1872			1	22	1	21
73	1	21			1	21
74	1	22	1	10	2	1,11
75	1	21			1	11
1876	4	49			4	49
77	12	245			12	245
78	15	224	2	14	15	238
79	19	1,136	3	22	19	1,158
80	38	916	2	10	38	926
1881	38	982	2	21	38	1,003
82	32	1,021	1	18	32	1,039
83	42	1,249	2	17	42	1,266
84	19	1,029	2	37	19	1,066
85	17	1,147			17	1,147
1890	15	270	10	167	25	437
			(3)	(50)		
91	19	295	3	185	22	480
			(4)	(48)		
	308	8,257	30	710	338	8,967
			(40)	(98)		

HM entries - 317 HM acres - 9,015
HS entries - 338 HS acres - 9,677

These figures were all taken from MM with the exception of those for Bonwell where none were available from MM and HS were used. It should be noted that HM shows the following entries and acres as wrongly being cancelled although officially approved:

40	72A	6	37	34	62A

It is probable that HS did not take these into consideration since they were usually cancelled some years after the original approval. If these figures had not been deducted from HM, it would bring the figures for the latter considerably above those of HS.

La Mesilla, 1863 f., Las Cruces (Folsom)			Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
		PRIVATE LAND SCRIP ENTRIES				
1882	1	640			1	640
	1	640			1	640

This entry is from LOR. None was found in R&R.

		SIOUX HALF-BREED SCRIP ENTRIES				
1881	1	80			1	80
82	1	80			1	80
84	2	120			2	120
86	2	80			2	80
88	2	320			2	320
91					8	680
			(8)	(680)		
	8	680			16	1,360
			(8)	(680)		

This category was taken from LOR since the record in R&R was fragmentary.

		VALENTINE SCRIP ENTRIES				
1882	2	80			2	80
1885	2	80			2	80
86	2	80			2	80
	6	240			6	240

	VALENTINE SCRIP FILINGS	
1882	2	2
83	2	2
86	1	1
87	1	1
	6	6

In Meadlim, 1882? E., Ine Gunoce (Volunes)			Sunda Ye (Boswell)			Son Fiesto	
Year	Barbies	Acrobs	Nostalge	Acres	Ratives	Acres	
	PRIVATE ELK'S SCALP BEATING						
1882	1	500			1	500	
This entry is from 1878. Some was found in 882.							
	SIXOUX HALF-BRIED SCALE TRUTHS						
1882	1	80			1	80	
82	1	60			1	80	
84	2	120			2	120	
85	2	80			2	80	
88	2	120			2	120	
91					2	120	
	6	560	(8)	(520)	16	1,280	
			(4)	(520)			
This category was taken from 1878 since the record in 1882 was fragmentary.							
	VALENTINE SCALP BUNDLE						
1882	2	80			2	80	
1883	2	80					
86	1	80			1	80	
	5	240			3	160	
	VALENTINE SCALP KILLING						
1882	2				2		
1883	2				2		
87	1				1		
	5				5		

La Mesilla, 1883 f., Las Cruces (Folsom)			Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			MINERAL PROTESTS, ADVERSE CLAIMS			
1881	1				1	
83	6				6	
84	2		2		4	
1885	2		3		5	
86	5				5	
87	7				7	
88	10				10	
89	2				2	
1890	3				3	
91	1				1	
	39		5		44	
			MILITARY BOUNTY LAND WARRANT ENTRIES			
1883			1	80	1	80
84	2	160	1	160	3	320
1885	4	240	1	156	5	396
86	8	800	6	440	14	1,240
87	1	80			1	80
88			1	80	1	80
89	2	240	1	160	3	400
1890	1	120	2	320	4	520
	(1)	(80)				
91	3	280			4	440
	(1)	(160)				
	21	1,920	13	1,396	36	3,556
	(2)	(240)				

The four categories above were taken from LOR since none were found in R&R.

			ISRAEL DODGE SCRIP ENTRIES			
1882			2	80	2	80
83	1	40			1	40
84	9	430			9	430
1885	4	160			4	160
91					2	80
			(2)	(80)		
	14	630	2	80	18	790
			(2)	(80)		

R&R entries - 18
LOR entries - 9

R&R acres - 790
LOR acres - 438

In Manila, 1857		Berbs 70		New Yeeds
E., Ian Crusoe		(Rawson)		
(Milsom)				

Year	Nathlas	Adsen	Nathlas	Adsen	Nathlew	Jawse
			MIRROR PROTECTS, ADVICE CLAIMS			
1857	1				1	
58	6				6	
59	5				5	
1860	2		3		2	
61	5				5	
62	7				7	
63	10				10	
64	2				2	
1865	3				3	
66	4				4	
	38		3		38	
			MILITARY MUSEUM BAND RAINBOW MEMBERS			
1867		1	80		1	80
68	2	180	1	180	3	360
1869	4	240	4	240	8	480
70	8	600	6	480	14	1,080
71	1	80			15	80
72			1	80	1	80
73	2	240	4	160	7	320
1874	1	120	2	320	4	520
		(1)		(80)		
75	3	280			4	440
		(1)		(160)		
	21	1,920	15	1,320	36	3,240
		(2)		(240)		

The four categories above were taken from 1874 where none were found in 1875.

			IRRAWA NOTES BOOK MAKING			
1875			2	80	2	80
76	1	40			1	40
77	3	120			3	120
1878	4	160			4	160
79					2	80
	18	320	2	80	12	480
			(2)	(80)		

RAM entrant - 18 RAM entries - 320
IAM entries - 9 IAM entre - 480

La Mesilla, 1883 f., Las Cruces (Folsom)			Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			SUPREME COURT LOCATIONS			
1884	4/4	160/160			4/4	160/160

The source of this category was LOR.

			ROBERT COLE SCRIP			
1885	1/1	80/80			1/1	80/80

LOR and R&R provided identical information here.

			JOSEPH S. WILSON SCRIP			
1878	2/2	160/160			2/2	160/160

R&R had this information but nothing in LOR.

			AGRICULTURAL COLLEGE SCRIP			
1863			4	643	4	643
66			4	640	4	640
71			10	1,600	10	1,600
73			6	960	6	960
			24	3,843	24	3,843

R&R entries - 24
LOR entries - 17

R&R acres - 3,843
LOR acres - 2,720

	In Hostile, 1887 (Malaya)		Ranks Ye (Borneo)		Nor Hosten	
Year	Entries	Adres	Entries	Adres	Entries	Adres
			SUPREME COURT MAGISTRATES			
1884	4/4	160/160			4/4	160/160

The source of this category was IAR.

			NORTH DOCK SHARP			
1889	1/1	80/80			1/1	80/80

IOR and NAR provided identical information here.

			TOBERT D. WILSON SHARP			
1878	2/2	160/160			2/2	160/160

NAR had this information but nothing in IOR.

			AGRICULTURAL DOLLARS SHARP			
1887	4	893	4	893		
8	4	840	4	840		
4	10	1,600	10	1,600		
12	6	980	6	980		
	24	3,893	24	3,893		

NAR entries - 24 NAR score - 3,893
IOR entries - 17 IOR score - 2,789

APPENDIX VII

TABULAR STATEMENT OF NEW MEXICO LAND OFFICE LAND-LAW BUSINESS THROUGH 1891*

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			ORIGINAL HOMESTEAD ENTRIES			
1868			5	800	5	800
69			5	787	5	787
1870			96	14,692	96	14,692
71			59	8,580	59	8,580
72			10	1,400	10	1,400
73			23	3,144	23	3,144
74			3	400	3	400
1875	36	5,640	14	1,360	50	7,000
76	10	1,360	17	2,011	27	3,371
77	16	2,483	4	320	20	2,803
78	14	1,880	39	6,080	53	7,960
79	44	5,727	46	6,851	90	12,578
1880	22	3,091	159	25,236	181	28,327
81	34	4,408	367	56,320	401	60,728
82	163	23,567	619	110,087	782	133,654
83	291	41,828	531	78,809	822	120,637
84	204	28,466	182	26,027	386	54,493
1885	389	52,348	207	31,426	596	83,774
86	173	23,413	136	19,662	309	43,075
87	123	17,405	322	49,840	445	67,245
88	164	22,700	785	42,924	949	65,624
89	140	19,968	220	33,380	403	60,081
	(39)	(6,093)	(4)	(640)		
1890	113	15,828	178	25,740	466	68,750
	(87)	(13,798)	(88)	(13,384)		
91	153	22,337	188	28,091	603	90,925
	(140)	(22,034)	(122)	(18,463)		
	2,089	292,449	4,215	573,967	6,784	940,828
	(266)	(41,925)	(214)	(32,487)		

R&R entries - 6,784 R&R acres - 940,828
LOR entries - 5,575 LOR acres - 913,722
(No LOR entries listed previous to 1881 but LOR acres start with 1869.)

*Compiled from LOR and R&R for the years involved.

APPENDIX VII

TRENDS STATEWIDE OF NEW MEXICO LAWS

DIVIDED BAR-LAW BUSINESS EXPIRED 1957*

	La Mesilla, 1957 E., Las Cruces (Dalson)			Santa Fe (Boswell)			New Mexico	
Year	Entries	Agree	Entries	Agree	Entries	Agree		
			ORIGINAL NUMBERED ENTRIES					
1956				5	300		5	300
57					167			167
1958				56	14,052		56	14,052
9				59	8,320		59	8,320
1960				10	1,100		10	1,100
1				9	1,144		9	1,144
2				7	140		7	140
1963	36	5,090		34	4,320		70	9,410
4	20	1,320		17	1,021		37	2,341
1965	14	1,125		7	420		21	1,545
6	14	1,380		39	6,000		53	7,380
7	14	5,127		48	6,321		62	11,448
1968	22	2,951		189	8,134		211	11,085
9	34	1,108		187	8,320		221	9,428
70	145	23,517		219	110,027		364	133,544
71	204	14,222		273	17,008		477	31,230
72	204	28,462		182	8,027		386	36,489
1973	299	52,348		297	32,185		596	84,533
4	171	20,143		156	15,064		327	35,207
75	145	11,095		152	18,810		297	29,905
76	168	22,700		198	18,924		366	41,624
77	140	19,966		220	32,320		360	52,286
1978	(39)	(6,093)		(4)	(600)			
	115	15,888		172	24,980		286	40,868
79	(97)	(13,780)		(82)	(13,984)			
	152	22,377		188	28,094		340	50,471
	(143)	(22,038)		(122)	(18,489)			
	4,080	284,490		1,815	312,307		5,894	596,797
	(865)	(14,958)		(214)	(32,467)			

MAR entries - 6,798 MAR cases - 910,325
LOR entries - 5,575 LOR cases - 913,782
(No LOR entries listed prior to 1951 but LOR cases start with 1950.)

*Compiled from LOR and MAR for the years involved.

LOR 1874-1877 is listed as Homestead and Timber-Culture entries but, since a separate category for Original Timber-Culture entries was started in 1878, it is not likely that there were any Original Timber-Culture entries before that date in LOR.

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
		FINAL HOMESTEAD CERTIFICATES				
1873			4	640	4	640
74			1	181	1	181
1875	8	1,224	5	788	13	2,012
76	17	2,521	18	2,735	35	5,256
77	4	642	3	400	7	1,042
78	5	800	2	120	7	920
79	18	2,521	3	379	21	2,900
1880	1	160	97	15,087	98	15,247
81	12	1,500	261	37,912	273	39,412
82	43	5,377	263	37,554	306	42,931
83	96	13,332	240	36,585	336	49,917
84	100	12,697	110	16,214	210	28,911
1885	109	12,492	71	10,462	180	22,954
86	75	9,513	60	8,783	135	18,296
87	39	5,919	63	9,596	102	15,515
88	54	6,728	101	15,158	155	21,886
89	74	10,084	63	9,422	140	19,986
	(3)	(480)				
1890	72	9,819	95	14,803	211	31,457
	(21)	(3,360)	(23)	(3,475)		
91	93	13,611	65	9,607	208	31,058
	(14)	(2,240)	(36)	(5,600)		
92	79	11,350	156	31,024	318	55,364
	(53)	(8,331)	(30)	(4,659)		
93	86	12,655	134	21,031	292	44,896
	(57)	(9,097)	(15)	(2,113)		
94	47	6,360	96	14,498	215	31,374
	(40)	(5,760)	(32)	(4,756)		
1895	46	7,854	89	13,447	204	32,098
	(49)	(7,636)	(20)	(3,161)		
96	40	5,583	79	11,717	231	35,044
	(76)	(12,123)	(36)	(5,621)		
	1,118	152,742	2,079	318,143	3,702	549,297
	(313)	(49,027)	(192)	(29,385)		

R&R entries - 3,702 R&R acres - 549,297
LOR entries - 3,691 LOR acres - 548,198
(No LOR entries or acres listed previous to 1881.)

There were 244 final entries, and 38, 483 acres in R&R, that were later

ROM 1874-1877 is listed as Roosevelt and Timber-Culture entries but, since a separate category for Original Timber-Culture entries was started in 1872, it is not likely that there were any Original Timber-Culture entries before that date in ROM.

	In Months, 1867 E., Las Cruces (Polson)		Ended 1872 (Bennett)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			FINAL HOMESTEAD CERTIFICATES			
1873			4	640	4	640
74			1	160	1	160
1875	6	1,264	5	726	15	[illegible]
76	14	2,721	18	2,755	35	5,495
77	4	642	3	400	7	1,042
78	5	800	2	320	7	[illegible]
79	18	2,922	3	379	21	3,301
1880	1	160	37	5,047	38	5,207
81	12	1,920	23	3,242	35	5,162
82	32	5,177	25	3,994	57	9,171
83	96	13,352	240	36,325	336	49,677
84	100	12,097	110	16,434	210	28,531
1885	109	12,492	71	10,403	180	22,895
86	75	9,313	69	8,781	144	18,094
87	58	8,219	65	9,388	123	17,607
88	58	6,728	101	15,124	159	21,852
89	74	10,004	45	7,232	119	17,236
	(3)	(480)				
1890	72	9,639	95	14,801	241	24,497
	(24)	(3,360)	(85)	(3,475)		
91	93	13,011	55	8,607	208	21,618
	(14)	(2,240)	(36)	(5,600)		
92	79	11,320	156	21,064	318	32,384
	(53)	(8,331)	(30)	(4,659)		
93	86	12,559	136	21,072	222	34,626
	(57)	(9,037)	(45)	(2,133)		
94	47	6,300	96	14,968	143	21,371
	(40)	(5,720)	(32)	(4,960)		
1895	46	7,894	89	13,847	134	21,092
	(40)	(7,676)	(27)	(3,161)		
96	40	5,505	73	11,747	113	16,064
	(36)	(12,125)	(36)	(5,321)		
	1,112	152,742	2,412	326,171	3,702	478,827
	(312)	(49,027)	(192)	(29,385)		

Max entries - 1,702 Max acres - 349,127
Min entries - 3,691 Min acres - 548,128
(No ROM entries or acres listed previous to 1873.)

There were 244 final entries, and 24, 449 acres in ROM, that were later

"Compiled from [illegible] and [illegible] sources."

cancelled. It seems evident that LOR does not take these into consideration since they were usually cancelled some years later and the cancellations could hardly have been included in current fiscal year reports. There is no evidence that any adjustment of the totals was subsequently made in the LOR figures. It should be noted that, without this deduction for cancelled entries, R&R figures would be even higher than LOR.

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
		ORIGINAL TIMBER-CULTURE ENTRIES				
1875			3	480	3	480
76			4	640	4	640
77						
78	1	42	2	320	3	362
79	27	3,780	1	160	28	3,940
1880	13	1,277			13	1,277
81	11	1,319	3	480	14	1,799
82	60	7,992	24	3,493	84	11,485
83	151	21,067	16	2,080	167	23,147
84	77	9,933	30	4,599	107	14,532
1885	133	16,315	21	3,349	154	19,664
86	44	5,469	35	5,028	79	10,497
87	60	8,530	180	27,014	240	35,544
88	73	10,441	193	29,729	266	40,170
89	142	21,307	82	12,023	235	35,037
	(8)	(1,227)	(3)	(480)		
1890	15	2,028	29	4,142	188	28,125
	(51)	(7,273)	(93)	(14,682)		
91	2	318	7	1,000	24	3,636
	(11)	(1,759)	(4)	(559)		
	805	109,818	630	94,537	1,609	230,335
	(70)	(10,259)	(100)	(15,721)		

R&R entries - 1,609 R&R acres - 239,335
LOR entries - 1,562 LOR acres - 228,977

No LOR entries or acres listed previous to 1881.

	In Hospital, 1957				
	I. Has Nurses (Polson)			(Norwell)	
Year	Nurses	Nurses	Nurses	Patients	Beds
1875					
76					
77					
78	1	40	2	600	7
79	2	3,240	1	400	3
1880	13	1,277			15
81	11	1,340	1	400	15
82	5	1,034	1	400	14
83	18	1,097	16	1,400	14
84	17	2,411	20	1,800	20
1885	22	14,340	17	2,300	20
86	4	2,400	17	2,300	20
87	8	2,400	18	2,400	20
88	17	10,400	17	2,400	20
89	14	21,400	20	2,400	20
	(2)	(1,400)	(3)	(0.0)	
1890	18	2,040	25	2,700	20
	(32)	(1,400)	(37)	(1,400)	
91	2	340	7	1,200	24
	(11)	(1,200)	(7)	(400)	
	209	102,000	200	20,000	1,700
	(20)	(10,200)	(100)	(2,000)	

BMA average - 1,000
IDA average - 1,320

BMA nurses - [illegible]
IDA nurses - [illegible]

No IDA nurses or nurse listed prior to 1880.

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			FINAL TIMBER-CULTURE CERTIFICATES			
1887	2	167			2	167
88	2	289			2	289
1890					2	240
			(2)	(240)		
91					1	160
			(1)	(160)		
92			2	200	4	440
			(2)	(240)		
93			1	80	5	720
			(4)	(640)		
94			1	160	2	320
			(1)	(160)		
1895	1	80			9	1,366
	(6)	(966)	(2)	(320)		
96			3	479	8	1,279
	(5)	(800)				
97			2	200	9	1,320
	(7)	(1,120)				
98	2	320	5	560	18	2,520
	(7)	(1,120)	(4)	(520)		
99	1	158	7	1,025	13	1,943
	(4)	(600)	(1)	(160)		
1900					4	628
	(2)	(317)	(2)	(311)		
01			3	319	6	746
	(2)	(267)	(1)	(160)		
02			1	79	3	319
			(2)	(240)		
03			1	160	3	480
	(2)	(320)				
	8	1,014	26	3,252	91	12,937
	(35)	(5,510)	(22)	(3,151)		

R&R entries - 91 R&R acres - 12,937
LOR entries - 91 LOR acres - 12,931

	La Mesilla, 1895		Santa Fe (Accessi)		San Marcos	
	Fr., Lon Grunes (Molino)					
Year	Barbier	Acres	Bilirio	Acres	Bushels	Acres
	FIRST TIMERS-SPRING CHEAPTOPIAN					
1891	2	160			2	40
92	2	320			2	320
1890					2	640
			(2)	(640)		
91					1	160
			(1)	(160)		
92			2	320	4	640
			(2)	(640)		
93			1	80	3	240
			(1)	(160)		
94			1	160	2	320
			(1)	(160)		
1895	1	80			5	1,360
	(6)	(960)	(2)	(320)		
96			3	480	2	1,440
	(5)	(800)				
97			2	320	3	1,520
	(7)	(1,120)				
98	2	320	3	480	12	4,320
	(7)	(1,120)	(4)	(640)		
99	1	160	1	1,280	15	4,960
	(4)	(640)	(1)	(160)		
1900					3	480
	(2)	(320)	(2)	(320)		
01			3	480	6	960
	(2)	(320)	(1)	(160)		
02			2	320	5	840
			(2)	(320)		
03			1	160	3	480
	(2)	(320)				
	8	1,280	22	3,520	74	12,320
	(32)	(5,120)	(22)	(3,520)		

Max entries - 32 Max acres - 12,320
Min entries - 32 Min acres - 12,320

	La Mesilla, 1853 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			DONATION NOTIFICATIONS			
1858			1	160	1	160
59			10	1,600	10	1,600
1860			1	160	1	160
1870			14	2,124	14	2,124
71			1	160	1	160
73			29	5,559	29	5,559
74			10	1,600	10	1,600
1875			13	2,080	13	2,080
76			31	4,800	31	4,800
77			38	4,720	38	4,720
78			14	2,243	14	2,243
79			6	895	6	895
1880			172	27,438	172	27,438
81	8	1,285	94	14,793	102	16,078
82			23	3,681	23	3,681
	8	1,285	457	72,013	465	73,298

R&R entries - 465 R&R acres - 73,298
LOR entries - 166 LOR acres - 24,834

LOR entries and acres are for 1881 through 1884 only.

			DONATION CERTIFICATES			
1870			7	1,120	7	1,120
73			27	4,280	27	4,280
76			6	960	6	960
78			24	2,480	24	2,480
1880			162	25,856	162	25,856
81			89	13,692	89	13,692
82			22	3,441	22	3,441
84			1	160	1	160
			338	51,989	338	51,989

LOR has no record of this category.

	La Montiñe, 1887 S., Los Grandes (Poison)		Santo Jo (Monsoni)		Ten Ranks	
Year	Entries	Acres	Entries	Acres	Entries	Acres
			MEMBERS ENTRIES			
1878			1	160	1	160
1879			10	1,630	10	1,630
1880			1	160	1	160
1881			15	2,128	15	2,128
1882			1	160	1	160
1883			39	5,[illegible]	39	[illegible]
1884			10	1,[illegible]	10	[illegible]
1885			13	2,[illegible]	13	[illegible]
1886			14	2,[illegible]	14	[illegible]
1887			14	2,[illegible]	14	[illegible]
1888			14	2,[illegible]	14	[illegible]
1889			6	[illegible]	6	[illegible]
1890			172	27,[illegible]	172	27,[illegible]
1891	6	1,[illegible]	94	14,[illegible]	94	15,[illegible]
1892			32	4,[illegible]	32	4,[illegible]
Total	6	1,[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

MEM entries - 14%
NON entries - 16%

MEM acres - [illegible]%
NON acres - [illegible]%

NON entries and acres are for 1891 through 1892 only.

			NONMEMBER ENTRIES			
1879			1	1,120	1	1,120
1880			8	[illegible]	8	[illegible]
1881			5	[illegible]	5	[illegible]
1882			34	5,[illegible]	34	5,[illegible]
1883			102	[illegible]	102	[illegible]
1884			83	[illegible]	83	[illegible]
1885			22	[illegible]	22	[illegible]
1886			1	[illegible]	1	[illegible]
Total			[illegible]	[illegible]	[illegible]	[illegible]

NON has no record of this category.

	La Mesilla, 1883 f., Las Cruces (Folsom)		Santa Fe (Roswell)		New Mexico	
Year	Entries	Acres	Entries	Acres	Entries	Acres
	SOLDIERS AND SAILORS HOMESTEAD DECLARATORY STATEMENTS					
1879	1				1	
1881	2				2	
82	3		7		10	
83	2		3		5	
84	5		2		7	
1885	5		1		6	
86	3		1		4	
87	2		1		3	
88	2		10		12	
89	2		3		5	
1890	1		3		5	
	(1)					
91	1				1	
	29		31		61	
	(1)					

Entries for Santa Fe were taken from LOR since none were found in R&R. R&R figures were used for La Mesilla and the LOR figure was only one short of that for R&R.

	La Marilla, 1957	Santa Fe (Bonnell)	San Pedro
	L. San Gregorio (Palacios)		

Year	Martins	Aztec	Zapotec	Aztec	Martins	Aztec
	BUCKWHEAT AND BALCONES MEXICANUS INDIANAFONT STAGEMENTS					
1879	1				4	
1881	2				8	
82	4		1		16	
83	8		2		32	
84	16		3		64	
1885	32		4		128	
86	64		5		256	
87	128		6		512	
88	256		7		1024	
89	512		8		2048	
1890	1024		9		4096	
	(1)		10		8192	
91	2048		11		16384	
	(2)		12		32768	

Martins for Santa Fe were taken from 1881 since none were found in 1881. 1881 figures were used for La Marilla, and the 1908 figure was only one above of that for 1881.

APPENDIX VIII

RECAPITULATION OF APPENDIXES VI AND VII

	Entries	Acres
ARABLE OR GRAZING LAND DEEDED TO INDIVIDUALS BY LAND LAWS (1)		
Final Homestead Certificates (through 1896)	3,702	549,297
Final Timber Culture Cert. (through 1903)	91	12,937
Donation Certificates	338	51,989
Soldiers & Sailors Homestead Declaratory Statements (could be entered immediately)	61	(a) 8,461
Total	4,192	622,684
ARABLE OR GRAZING LAND BENEFITING INDIVIDUALS, FOR VARYING LENGTHS OF TIME, BY VIRTUE OF APPLICATIONS FOR LAND UNDER THE LAND LAWS (2)		
Original Homestead Entries	6,784	940,828
Original Timber Culture Entries	1,609	230,335
Donation Notifications	465	73,298
Total	8,858	1,244,461
ARABLE OR GRAZING LAND DEEDED TO INDIVIDUALS BY CASH SALES (3)		
Final Desert Land Certificates	398	139,622
Pre-emption Sales	2,574	369,631
Private Entry Sales	196	50,061
Public Auction Sales	112	15,671
Excess Payments on Homesteads, Etc.	553	2,324
Homestead Entries Commuted to Cash	315	46,686
Total	4,148	623,995
ARABLE OR GRAZING LAND BENEFITING INDIVIDUALS, FOR VARYING LENGTHS OF TIME, BY VIRTUE OF APPLICATIONS TO PURCHASE WITH CASH (4)		
Original Desert Land Entries	1,348	415,203
Pre-emption Declaratory Statements	7,657	(b)1,099,545
Total	9,005	1,514,748
ARABLE OR GRAZING LAND DEEDED TO INDIVIDUALS BY PURCHASE WITH NEGOTIABLE SCRIP (5)		
Private Land Scrip	1	640
Sioux Half-Breed Scrip	16	1,360
Valentine Scrip	6	240
Military Bounty Land Warrants	36	3,556
Israel Dodge Scrip	15	790

APPENDIX VIII

RECONCILIATION OF APPENDICES VI AND VII

Section Acres	
GRANTS OF GRAZING LAND PRIORS TO INDIVIDUALS BY LAND LAWS (1)	
Final Homestead Certificates (through 1956)	1,702
Final Timber Culture Certs. (through 1934)	91
Homestead Certificates	372
Soldiers & Sailors Homestead Declaratory	81
Statements (could be reduced hereafter) Total	1,195
GRANTS OF GRAZING LAND PRIORITIES INDIVIDUALS, NOW VARYING LENGTHS OF TIME, BY VARIOUS OF APPLICATIONS NOW LAND UNDER THE LAND LAWS (2)	
Original Homestead Entries	6,748
Original Timber Culture Entries	1,695
Desolation Notifications	940
Total	9,383
GRANTS OF GRAZING LAND PRIORS TO INDIVIDUALS BY CLAIM SALES (3)	
Final Desert Land Certificates	398
Pre-emption Sales	2,574
Private Entry Sales	196
Public Auction Sales	112
Excess Payments on Homestead, Etc.	527
Homestead Entries Converted to Cash	312
Total	4,140
GRANTS OF GRAZING LAND PRIORITIES INDIVIDUALS, NOW VARYING LENGTHS OF TIME, BY VENUE OF APPLICATIONS TO PURCHASE RIGHT CASH (4)	
Original Desert Land Entries	1,398
Pre-emption Declaratory Statements	1,677
Total	3,075
GRANTS OF GRAZING LAND PRIORS TO INDIVIDUALS BY PURCHASE RIGHT NONPLANNED SIGNIF (5)	
Private Land Scrip	1
Sioux Half-Breed Scrip	16
Valentine Scrip	6
Military Bounty Land Warrants	36
Lateral Dodge Scrip	18

	Entries	Acres
Supreme Court Locations	4	160
Robert Cole Scrip	1	80
Joseph Wilson Scrip	2	160
Agricultural College Scrip	24	3,843
Total	108	10,829
TOTAL ARABLE OR GRAZING LAND DEEDED TO INDIVIDUALS BY LAND LAWS (1)	4,192	622,684
TOTAL ARABLE OR GRAZING LAND SOLD TO INDIVIDUALS (3) (5)	4,256	634,824
TOTAL DEEDED ARABLE OR GRAZING LAND	8,448	1,257,508
TOTAL ARABLE OR GRAZING LAND BENEFITING INDIVIDUALS, FOR VARYING LENGTHS OF TIME, BY VIRTUE OF APPLICATIONS FOR LAND UNDER THE LAND LAWS (2)	8,858	1,244,461
TOTAL ARABLE OR GRAZING LAND BENEFITING INDIVIDUALS, FOR VARYING LENGTHS OF TIME, BY VIRTUE OF APPLICATIONS TO PURCHASE WITH CASH (4)	9,005	1,514,748
TOTAL ARABLE OR GRAZING LAND BENEFITING INDIVIDUALS FOR VARYING LENGTHS OF TIME	17,863	2,759,209
TOTAL ARABLE OR GRAZING LAND USED BY INDIVIDUALS UNDER THE VARIOUS CATEGORIES	26,311	4,016,717
MINERAL AND COAL LANDS DEEDED TO INDIVIDUALS BY CASH		
Mineral Land Sales	517	9,015
Coal Land Sales	39	4,189
Total	556	13,204
MINERAL AND COAL LANDS BENEFITING INDIVIDUALS, FOR VARYING LENGTHS OF TIME, BY VIRTUE OF APPLICATIONS TO PURCHASE WITH CASH		
Applications to Purchase Mineral Lands	(c) 674	11,795
Applications to Purchase Coal Lands	(d) 436	46,652
Total	1,110	58,447
TOTAL MINERAL AND COAL LAND USED BY INDIVIDUALS UNDER THE VARIOUS CATEGORIES	1,666	71,651
GRAND TOTAL	27,977	4,088,368
ARABLE AND GRAZING LAND TO INDIVIDUALS BY LAND LAWS	4,192	622,684
ARABLE, GRAZING, MINERAL AND COAL LAND SOLD	4,812	648,028
ARABLE, GRAZING, MINERAL AND COAL LAND DEEDED	9,004	1,270,712
ARABLE, GRAZING, MINERAL AND COAL LAND BENEFITING INDIVIDUALS FOR VARYING LENGTHS OF TIME	18,973	2,817,656
GRAND TOTAL	27,977	4,088,368

(a) Based on the average Original Homestead entry of 138.7 acres.
(b) Based on the average Pre-emption sale of 143.6 acres.
(c) Based on the average Mineral Land sale of 17.5 acres.
(d) Based on the average Coal Land sale of 107 acres.

Supreme Court Locations	4	160
Robert Cole Sorty	1	40
Joseph Wilson Sorty	2	180
Agricultural College Sorty	26	3,800
Total	108	10,267

TOTAL ARAEIN OR GRAZING LAND DEEMED TO INDIVIDUALS BY LAWS LAWS (3)	4,192	667,664
TOTAL ARAEIN OR GRAZING LAND SOLD TO INDIVIDUALS (3) (5)	4,296	649,884
TOTAL DEEMED ARAEIN OR GRAZING LAND	8,488	1,317,548

TOTAL ARAEIN OR GRAZING LAND REMAINING INDIVIDUALS, NON VARIOUS LEGENDS OF VIRE, BY VIRTUE OF APPLICATIONS NOT LAND UNDER THE LAWS LAWS (2)	6,898	1,246,804
TOTAL ARAEIN OR GRAZING LAND REMAINING INDIVIDUALS, NON VARIOUS LEGENDS OF VIRE, BY VIRTUE OF APPLICATIONS TO PURCHASE WITH CASH (4)	9,092	1,924,768
TOTAL ARAEIN OR GRAZING LAND REMAINING INDIVIDUALS NON VARIOUS LEGENDS OF VIRE	17,665	3,758,207

TOTAL ARAEIN OR GRAZING LAND USED BY INDIVIDUALS UNDER NON VARIOUS CLEGENDS	26,153	4,075,755

MINERAL AND COAL LANDS DEEMED TO INDIVIDUALS BY CASH

Mineral Land Sales	747	9,045
Coal Land Sales	99	4,195
Total	846	13,240

MINERAL AND COAL LANDS REMAINING INDIVIDUALS, NON VARIOUS LEGENDS OF VIRE, BY VIRTUE OF APPLICATIONS TO PURCHASE WITH CASH

Applications to Purchase Mineral Lands	(a) 634	11,130
Applications to Purchase Coal Lands	(b) 536	16,926
Total	1,170	28,056

TOTAL MINERAL AND COAL LAND USED BY INDIVIDUALS UNDER NON VARIOUS CLEGENDS

	2,066	41,296

GRAND TOTAL	27,219	4,117,051

ARAEIN AND GRAZING LAND TO INDIVIDUALS BY LAWS LAWS	4,192	667,664
ARAEIN, GRAZING, MINERAL AND COAL LAND SOLD	4,296	649,884
ARAEIN, GRAZING, MINERAL AND COAL LAND DEEMED	8,488	1,317,548
ARAEIN, GRAZING, MINERAL AND COAL LAND REMAINING INDIVIDUALS FOR VARIOUS LEGENDS OF VIRE	18,665	2,758,207
GRAND TOTAL	27,153	4,075,755

(a) Based on the average Original Homestead entry of 132.7 acres.
(b) Based on the average Pre-emption sale of 142.6 acres.
(c) Based on the average Mineral Land sale of 17.5 acres.
(d) Based on the average Coal Land sale of 107 acres.

APPENDIX IX

MILITARY RESERVATIONS

	Bayard	Butler	Cummings	Craig	Marcy	McRae	Selden	Stanton
Location	T17S, R12-13W (3)	T12-13N, R27-28-29E (1)	T21S, R8W (1)	T7-8S, R2-3W (1)	T17N, R8E (1)	T13S, R3W (1)	T21S, R1E & 1W (1)	T9-10S, R11-12-13-14-15E (10)
Officially established	Apr.19'69 (2)	Mar.22'61 (1)	Apr.29'70 (1)	Sep.23'69 (1)	Aug.28'68 (1)	May 28'69 (1)	Nov.28'70 (1)	May 12'59 (1)
Authority	Ex.Order (2)	Sec.War (1)	Ex.Order (1)	Ex.Order (1)	Ex.Order (1)	Ex.Order (1)	Ex.Order (1)	Ex.Order (1)
Size in acres	8,840 (2)	76,800 (1)	2,560 (1)	24,895 (1)	17.77 (1)	2,560 (1)	9,613.74 (1)	92,160 (1)
Initial survey	Feb.'69 (2)	Feb.'61 (2)	Dec.'68 (2)	June'69 (2)	Apr.'68 (2)	Apr.'69 (2)	Nov.'70 (2)	Apr.'70 (2)
Officially abandoned		Jul.22'84 (7)	Oct.7'91 (2)	Mar.3'85 (2)	Jun.15'95 (2)	Jul.22'84 (8)		
Authority		Act Jul. 5'84 (7)	Act Jul. 5'84 (2)	Act Jul. 5'84 (2)	Act Jul. 5'84 (2)	Act Jul. 5'84 (8)		
Comment		Mostly in Pablo Montoya and Baca location No.2 Grants. Never used by Military. (1)	Nov.8'80 enlarged to 23,040 acres. (2)	Mostly in Pedro Armendaris Grant. (7)		In Pedro Armendaris Grant. (1)	Considered for an Indian School in 1891. (2)	1872 reduced to 10,240 acres. (1)
Status in 1891	Military (2)	Abandoned (7)	Abandoned (2)	Abandoned (2)	Military (2)	Abandoned (8)	Military (2)	Military (2)

A1 APPENDIX

[illegible]

[illegible]

[illegible]

MILITARY RESERVATIONS

	Sumner	Thorn	Union	Wingate	On Mora River	Fort Sumner Cemetery
Location	T2-3N, R26E (10)	T18-19S. R3-4-5W (1)	T18-19N, R19-20E (2)	T13-14-15N R15-16-17W (8)	T18N, R20E (1)	T2N, R26E (1)
Officially established	May 28'69 (2)	Never officially declared (1)	Oct.9'68 (1)	Feb.18'70 & Mar.26'81 (1)	Aug.18'57 (6)	May 22'71 (1)
Authority	Ex.Order (2)		Ex.Order (1)	Ex.Order (1)	Ex.Order (6)	Ex.Order (1)
Size in acres	13,644.8 (2)	23,040 (1)	66,880 (1)	64,000 (1)	5,120 (1)	320 (1)
Initial survey	Jul.'68 (2)	Mar.'57 (2)	Mar.'68 (2)	Nov.'69 (2)		
Officially abandoned	Feb.24'71 (4)	Reverted to Pub.Do. Feb.15'84(5)	Apr.1'94 (13)			
Authority	Act Feb. 24'71 (4)	Decision Secy.Int. Feb.15'84 (5)	Act Jul. 5'84 (12)			
Comment	Sold public auction Jan. 15'84. (9)		Within Mora Grant. (1)	Mar.21'81 enlarged to 83,200 acres. (2)	Within Mora Grant.(1) Never used by Military. (11)	
Status in 1891	Abandoned (4)	Abandoned (5)	Military (12)	Military (12)	Abandoned (1)	Military (12)

(1) L.O.R. 10/18/80, 49 Cong., 3 Sess., H.E.D. No. 1, 459-460 (1959).

(2) Survey Records Section, Field Notes and Executive Documents of Military and Indian Reservations, passim (B.L.M.).

MILITARY RESERVATIONS

	Sumner	Thorn	Union	Wingate	On Horse River	Fort Sumner Cemetery
Location	T2-3N, R26E (10)	T12-13N, R3-4-5W (1)	T11-12N, R29-30E (2)	T13-14-15N R15-16-17W (8)	T12N, R20E (1)	T2N, R28E (1)
Officially established	May 22'85 (2)		Never officially designated (1)	Oct.9'98 (1)	Feb.18'70 & Mar.25'81 (1)	Aug.18'97 (6)	May 22'71 (1)
Authority	Ex.Order (2)			Ex.Order (1)	Ex.Order (1)	Ex.Order (6)	Ex.Order (1)
Size in acres	15,360.4 (2)	23,040 (1)		60,000 (1)	80,000 (1)	5,120 (1)	320 (1)
Initial survey	Jul.'08 (2)	Mar.'07 (2)		Mar.'02 (2)	Nov.'09 (2)		
Officially abandoned	Feb.22'71 (4)	Reverted to Pub.Do. Feb.15'84(5)		Apr.1'98 (13)			
Authority	Act Feb. 22'71 (4)	Isolation Secy.Int. Feb.15'84 (5)		Int Jul. 5'69 (12)			
Comment	Held public auction Jan. 15'84. (5)			Allotm Form enlarged to 80,000 acres. (2)	Ret.21'21 Within Hors Great.(1) Never used by MILITARY. (11)		
Status in 1924	Abandoned (4)	Abandoned (5)	Military (12)	Military (12)	Abandoned (1)	Military (12)

(1) L.O.R. 10/12/00. 49 Conc. 3 Seas., N.M.P. No. 1, 459-460 (1959).

(2) Survey Records Section, Field Notes and Descriptive Memoranda of Military and Indian Reservations, Grants (G.L.R.).

(3) Joseph S. Wilson to Spencer, 5/28/69 (N.A.).

(4) L.O.R. 11/1/71, 42 Cong., 1 Sess., H.E.D. No. 1, 57 (1505).

(5)Acting Commissioner L. L. Harrison to Register and Receiver at Las Cruces, 3/8/84, enclosure, Secretary of the Interior, 2/15/84 (F.R.C.).

(6) Hendricks to Pelham, 8/29/57 (N.A.).

(7) Sparks to Julian, 2/18/87 (N.A.).

(8) L.O.R. 10/4/88, 50 Cong., 2 Sess., H.E.D. No. 1, 175-178 (2636).

(9) Registers and Receivers, Tract Books (B.L.M.).

(10) Map to accompany L.O.R. 10/30/79, 46 Cong., 2 Sess., H.E.D. No. 1 (1910).

(11) S.G.R. 8/25/82, 47 Cong., 2 Sess., H.E.D. No. 1, 526 (2099).

(12) L.O.R. 9/23/91, 52 Cong., 1 Sess., H.E.D. No. 1, 145 (2933).

(13) Stanley, Fort Union, 57.

(3) Joseph S. Wilson to Spencer, 5/25/69 (M.A.).

(4) I.O.R. 11/1/71, 42 Cong., 1 Sess., H.R.D. No. 1, 57 (1909).

(5)Acting Commissioner T. L. Harrison to Register and Receiver at Los Cruces, 7/2/84, enclosure, Secretary of the Interior, 2/15/84 (N.R.S.).

(6) Hendrickson to Pelham, 8/29/97 (M.A.).

(7) Sparks to Julian, 3/28/97 (M.A.).

(8) I.O.R. 10/4/88, 50 Cong., 2 Sess., H.R.D. No. 1, 175-178 (2536).

(9) Registers and Receivers, Press Books (N.L.M.).

(10) Map to accompany I.O.R. 10/30/79, 46 Cong., 2 Sess., H.R.D. No. 1 (1910).

(11) S.O.R. 8/26/82, 47 Cong., 2 Sess., H.R.D. No. 1, 326 (2099).

(12) I.O.R. 9/25/92, 52 Cong., 1 Sess., H.R.D. No. 1, 149 (2933).

(13) Stanley, Park Union, 97.

APPENDIX X

RAILROAD MILEAGE IN 1891*

	Mileage in New Mexico		Mileage in Grants	
Atchison, Topeka, and Santa Fe:				
Main line, north and south (1879-'81).	503.1		343.	
Lamy to Santa Fe (1880).....	18.		11.	
Rincon to Deming (1881).....	53.			
Dillon to Blossburg (1881).....	5.9			
Nutt to Lake Valley (1884).....	13.3			
Soccorro to Magdalena (1884).....	27.1			
Magdalena to Kelley (1885).....	3.9			
San Antonio to Carthage (1882).....	9.6			
Las Vegas to Hot Springs (1882).....	6.4		6.4	
Hot Springs westward (1887).....	1.9		1.9	
Silver City Branch.....	48.			
		690.20		362.30
Atlantic and Pacific:				
Main line (1881).....	166.60		78.	
Sidings (188-).....	22.25		11.	
San Jose Quarry spur (1888).....	3.41			
		192.26		89.00
Southern Pacific:				
Rio Grande to Deming (1881).....	73.46			
Deming to Arizona line (1880).....	93.76			
		167.22		
Denver and Rio Grande:				
Colorado line to Espanola (1880).....	85.86		15.	
Between Antonito and Durango (1880)...	69.03			
Tres Piedras lumber branch (1888).....	2.15			
Chama lumber branch (1888).....	3.16			
		160.47(sic.)		15.00
Denver, Texas and Fort Worth, in New Mexico.....		83.30		
Santa Fe Southern, Espanola to Santa Fe.....		39.00		17.00
Arizona and New Mexico, Lordsburg to Arizona line, about.....		32.00		
Pecos Valley Railroad, in New Mexico.....		35.00		
Trinidad to Catskill, in New Mexico.....		27.00		27.00
Silver City and Northern, in New Mexico.....		19.00		
				510.30
Total mileage in New Mexico.....		1,445.45		
" " " grants.....		510.30		
" " on public domain.....		935.15		

*G.N.M. 10/12/91, 52 Cong., 1 Sess., H.E.D. No. 1, 351 (2935).

APPENDIX X

RAILROAD MILEAGE IN 1891*

	Mileage in New Mexico	Mileage in Grants
Atchison, Topeka, and Santa Fe:		
Main line, north and south (1879-'81).	905.1	345.
Lamy to Santa Fe (1880).....	16.	11.
Pecos to Deming (1881).....	5.	
Dilion to Mosquero (1881).....	5.9	
Ruth to Lake Valley (1884).....	13.3	
Socorro to Magdalena (1884).....	27.1	
Magdalena to Kelly (1885).....	3.9	
San Antonio to Carthage (1886).....	9.6	
Las Vegas to Hot Springs (1882).....	6.4	6.4
Hot Springs westward (1887).....	1.9	1.9
Silver City Branch.....	4.	
	990.20	364.30
Atlantic and Pacific:		
Main line (1881).....	146.99	74.
Gallup (1888-).....	22.25	11.
San Jose Quarry spur (1888).....	3.41	
	192.66	85.00
Southern Pacific:		
Rio Grande to Deming (1881).....	73.46	
Deming to Arizona line (1880).....	93.76	
	167.22	
Denver and Rio Grande:		
Colorado line to Durango (1880).....	95.85	15.
Between Antonito and Durango (1880)...	59.09	
Tres Piedras lumber branch (1888).....	2.15	
Chama lumber branch (1888).....	3.15	
	160.24(est.)	15.00
Denver, Texas and Fort Worth, in New Mexico.....	83.30	
Santa Fe Southern, Espanola to Santa Fe.....	35.00	17.00
Arizona and New Mexico, Holbrook to Arizona line, about.....	32.00	
Pecos Valley Railroad, in New Mexico.....	35.00	
Trinidad to Gardnill, in New Mexico.....	27.00	27.00
Silver City and Northern, in New Mexico.....	19.00	
		310.30
Total mileage in New Mexico.....	1,495.49	
" " " grants.....	310.30	
" " on public domain.....	935.19	

*G.N.M. 10/12/91, 52 Cong., 1 Sess., H.R. No. 1, 391 (2919).

APPENDIX XI

ESTIMATED GRANTS FOR EDUCATION (1)

	Ferguson Act (Acres)	Enabling Act (Acres)	Other Acts (Acres)
Common Schools	4,244,480.00	4,219,520.00	
University	111,080.00	200,000.00	
University Saline	1,622.86	- - - - -	
A & M College	100,000.00	150,000.00	
Normal Schools	100,000.00	200,000.00 *	
School of Mines	50,000.00	150,000.00	
Military Institute	50,000.00	100,000.00	
Reform School	50,000.00	- - - - -	
Blind Asylum	50,000.00	100,000.00 **	
Deaf & Dumb Asylum	50,000.00	- - - - -	
Water Reservoirs	500,000.00	- - - - -	
Miners' Hospital	50,000.00	50,000.00	
Insane Asylum	50,000.00	100,000.00	
Imp. of Rio Grande	100,000.00	- - - - -	
Public Buildings	32,000.00	100,000.00	
Penitentiary	50,000.00	100,000.00	
Old Palace	2.60	- - - - -	
Charitable, Penal, Reform	- - - -	100,000.00	
Santa Fe, Grant Counties Bond Payment to Common Schools		1,000,000.00	
Repayment to Santa Fe & Grant Counties, etc. for Payment on Void Bonds			250,000.00
To Eastern N. M. Normal 1932			76,000.00
Carey Quitclain			2,980.00
	5,589,185.46	6,569,520.00	328,980.00

GRAND TOTAL - - 12,487,685.46

* Divided between Normal Schools
** Divided between Blind Asylum and Deaf & Dumb Asylum

(1) Graham, Know New Mexico, Acquisition of State Lands, 2.

APPENDIX XI

ESTIMATED GRANTS FOR APPROPRIATION (1)

	Appropriation Act (Acres)	Enabling Act (Acres)	Other Acts (Acres)
Common Schools	4,284,160.00	4,219,520.00	
University	111,080.00	200,000.00	
University Endow	1,622.85	- - - - -	
A & M College	100,000.00	120,000.00	
Normal Schools	100,000.00	200,000.00 *	
School of Mines	50,000.00	150,000.00	
Military Institute	50,000.00	100,000.00	
Reform School	50,000.00	- - - - -	
Blind Asylum	50,000.00	100,000.00 **	
Deaf & Dumb Asylum	50,000.00	- - - - -	
Water Reservoirs	500,000.00	- - - - -	
Miners' Hospital	50,000.00	70,000.00	
Insane Asylum	50,000.00	100,000.00	
Imp. of Rio Grande	100,000.00	- - - - -	
Public Buildings	50,000.00	100,000.00	
Penitentiary	50,000.00	100,000.00	
Old Palace	2.50	- - - - -	
Charitable, Penal, Reform	- - - -	100,000.00	
Santa Fe, Grant Counties Road Payment to Common Schools		1,000,000.00	
Repayment to Santa Fe & Grant Counties, etc. for Payment on Void Bonds			550,000.00
To Restore N. M. Normal 1952			70,000.00
Carry Quitclaim			2,580.00
	5,385,165.15	6,589,520.00	122,580.00

GRAND TOTAL - - 12,147,085.15

* Divided between Normal Schools
** Divided between Blind Asylum and Deaf & Dumb Asylum

(1) Graham, New Mex Mexico, Acquisition of State Lands, 2.

APPENDIX XII

LAND FRAUD CASES IN THE UNITED STATES (1)

	1884	1885	1886	1887	1888	1889	1890	1891	Total
California	574	529	318	453	999	2,193	2,571	2,303	9,940
Colorado	373	451	753	1,245	579	1,389	583	479	5,852
Kansas	182	117	114	2,514	859	1,553	235	78	5,652
Dakota	460	329	527	1,252	304	1,257			4,129
North Dakota							206	42	248
South Dakota							356	74	430
New Mexico	827	63	193	364	432	1,040	773	437	4,129
Nebraska	170	160	176	1,364	657	948	103	147	3,725
Washington Terr.	109	239	161	128	700	733	689	636	3,395
Minnesota	355	57	165	590	176	285	211	170	2,009
Wyoming	10	186	76	125	163	313	253	216	1,342
Louisiana		90	154	136	176	224	80	47	907
Oregon	83	37	26	137	49	172	207	195	906
Montana	24	51	97	68	203	164	75	104	786
Arizona			6	103	271	222	100	48	750
Alabama	153	12	3	82	89	113	121	134	707
Arkansas	70	44	51	66	120	142	79	47	619
Idaho	92	9	54	33	48	75	125	121	557
Utah		13	32	154	61	106	117	29	512
Florida	71	64	33	162	36	63	51	21	501
Mississippi		3	76	28	71	23	12	114	327
Wisconsin	10	67	21	90	19	35	26	44	312
Michigan		28	25	76	31	22	33	23	238
Missouri		3	12	54	4	13	16	11	113
Nevada						7	1	--	8
Iowa						3	2	1	6
Oklahoma								4	4
Total	3,563*	2,552**	3,073**	9,224***	6,047***	11,095****	7,025****	5,525****	48,104

APPENDIX XII

LAND FRAUD CASES IN THE UNITED STATES (1)

	1884	1885	1886	1887	1888	1889	1890	1891	Total
California	374	259	348	455	595	2,195	2,371	2,303	7,040
Colorado	372	491	753	1,415	579	1,359	983	479	5,852
Kansas	122	117	114	2,314	699	1,553	25	78	5,622
Dakota	460	329	527	1,242	304	1,827			4,129
North Dakota							206	49	255
South Dakota							396	74	470
New Mexico	827	65	193	194	432	1,010	773	457	4,129
Nebraska	170	160	174	1,104	697	484	403	347	3,795
Washington Terr.	109	239	101	128	700	173	665	695	3,595
Minnesota	375	37	189	520	174	289	211	179	2,009
Wyoming	10	186	74	129	469	343	284	246	1,342
Louisiana		90	194	135	172	224	80	47	907
Oregon	87	37	23	171	49	172	207	185	904
Montana	24	34	97	98	203	164	75	124	765
Arizona			6	103	272	222	100	48	750
Alabama	193	32	3	82	69	171	124	134	707
Arkansas	70	43	84	66	139	142	78	47	649
Idaho	92	9	54	33	42	73	136	121	551
Utah	13	32	154	64	106	117	29	82	592
Florida	73	64	33	182	36	63	54	21	503
Mississippi		7	16	24	71	23	13	124	327
Wisconsin	10	57	21	90	19	35	26	44	312
Michigan	28	49	76	31	24	33	33	23	292
Missouri	5	12	54	4	13	45	41	41	215
Nevada					1		1	1	3
Iowa					5		2	4	6
Oklahoma								4	4
Total	3,559*	2,352**	3,017**	9,224***	5,047***	11,099****	1,028*****	5,529******	42,104

* Cases investigated including 32 cases of fencing.

** Cases investigated exclusive of fencing.

*** Cases received during year.

**** Cases pending June 30, respective year.

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(1) The above figures compiled from Annual Reports of Commissioners of the General Land Office, cannot be taken as an absolute index because, to some extent, they reflect concentrations of investigating agents rather than fraud. They can, however, be accepted as a reliable general indication of the extent of land fraud in various parts of the country.

* Cases investigated including 32 cases of fraud.

** Cases investigated exclusive of fraud.

*** Cases received during year.

**** Cases pending June 30, respective year.

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(1) The above figures compiled from Annual Reports of Commissioners of the General Land Office, cannot be taken as an absolute index because, to some extent, they reflect concentrations of investigating agents rather than fraud. They can, however, be accepted as a reliable general indication of the extent of land fraud in various parts of the country.

APPENDIX XIII

SUMMARY OF LAND FRAUD CASES IN NEW MEXICO

	Perjury	Subornation of Perjury	Conspiracy	Official Misconduct	Miscellaneous	Unlawful Incolsure	Violating Timber Laws	Totals
FIRST JUDICIAL DISTRICT, CRIMINAL CASES, 1-1431								
Not Guilty	61	1	4	2		1	7	76
Dismissed Without Trial	93	10	8	2	1	52	5	171
TOTAL (Presumably Not Guilty)	154	11	12	4	1	53	12	247
Dismissed (Defendant Not Found)	45						3	48
Guilty							2	2
TOTAL (Presumably Guilty)	45						5	50
Dismissed, Not in Transcript (Guilt Probable)	85	1	4	1				91
Disposition Unknown (Guilt Possible)								
GRAND TOTAL	284	12	16	5	1	53	17	388
SECOND JUDICIAL DISTRICT, CRIMINAL CASES, 1-894								
Not Guilty	2							2
Dismissed Without Trial								
TOTAL (Presumably Not Guilty)	2							2
Dismissed (Defendant Not Found)	11	1						12
Guilty	5		2			1	1	9
TOTAL (Presumably Guilty)	16	1	2			1	1	21
Dismissed, Not in Transcript (Guilt Probable)								
Disposition Unknown (Guilt Possible)	5	2	2		1			10
GRAND TOTAL	23	3	4		1	1	1	33

TABLE XIII

GENERAL USE OF ITEMS BY TWO BEHAVIOR GROUPS IN NEW JERSEY

Items	Antiques	Antique furniture	Vertical	Horizontal	Horizontal structure	Square floors	Lighted structure	Dark/Light area	Color
Behavior Group I (Ages 1-10)									
Number of Children	18	17	14	4	1	1	22	1	22
Percent of Children	82	77	64	18	5	5	100	5	100
Behavior Group II (Ages 11-18)									
Number of Children	22	14	15	4	4	1	22	1	22
Percent of Children	100	64	68	18	18	5	100	5	100
Behavior Group III (Ages 19-25)									
Number of Children	18	12	11	1	1	1	18	1	18
Percent of Children	100	67	61	6	6	6	100	6	100
Behavior Group IV (Ages 26-Adult)									
Number of Children	5	5	5	1	1	1	5	1	5
Percent of Children	100	100	100	20	20	20	100	20	100

	Perjury	Subornation of Perjury	Conspiracy	Official Misconduct	Miscellaneous	Unlawful Inclosure	Violating Timber Laws	Totals
THIRD JUDICIAL DISTRICT, CRIMINAL CASES, 1-933								
Not Guilty	6				1		1	8
Dismissed Without Trial							1	1
TOTAL (Presumably Not Guilty)	6				1		2	9
Dismissed (Defendant Not Found)								
Guilty	4							4
TOTAL (Presumably Guilty)	4							4
Dismissed, Not in Transcript (Guilt Probable)	97	6	2		2	1	10	118
Disposition Unknown (Guilt Possible)	12		2		1	1	3	18
GRAND TOTAL	119	6	4		3	2	15	149
FOURTH JUDICIAL DISTRICT, CRIMINAL CASES, 1-306								
Not Guilty	2					5		7
Dismissed Without Trial	4		1		1	11	25	42
TOTAL (Presumably Not Guilty)	6		1		1	16	25	49
Dismissed (Defendant Not Found)	10					6	6	22
Guilty								
TOTAL (Presumably Guilty)	10					6	6	22
Dismissed, Not in Transcript (Guilt Probable)								
Disposition Unknown (Guilt Possible)								
GRAND TOTAL	16		1		1	22	31	71
FIFTH JUDICIAL DISTRICT, CRIMINAL CASES, 1-69								
(No Land Fraud)								

	Perjury	Subornation of Perjury	Conspiracy	Official Misconduct	Miscellaneous	Unlawful Inclosure	Violating Timber Laws	Totals
TOTAL CRIMINAL CASES, 3,633								
TOTAL OF ALL DISTRICTS (Presumably Not Guilty)	168	11	13	4	3	69	39	307
TOTAL OF ALL DISTRICTS (Presumably Guilty)	75	1	2			7	12	97
TOTAL OF ALL DISTRICTS, Not in Transcript (Guilt Probable)	182	7	6	1	2	1	10	209
TOTAL OF ALL DISTRICTS, Disposition Unknown (Guilt Possible)	17	2	4		1	1	3	28
	442	21	25	5	6	78	64	641

BOARD QUALITY QUERY , 1,527

RECAP OF AIR HEMATOMA (Hypermenorrhea but Oliver)
RATAF OF AIR HEMATOMA (Hypermenorrhea but Oliver)
RATAF OF AIR HEMATOMA, Not to Measure#
(Part 1 Respondents)

WORST OF AIR HEMATOMA , Hypothetical Dynamic
(Part 2 Not Hematoma)

Variety	18-24	25-34	35-44	45-54	55-64	65+
Exploration	11	1	1			
Variety to	(1)					
Contrasted	13	2	2			
Lobitro	4	5		2		
Hypocoagulin						
Hypercellular	2	5	1			
Lymphatic	8	1	1			
Cytoplasmic						
Satisfactory	11	10				
Equal vacuole						
Alpha	34	20				
Total	101	50				

APPENDIX XIV

UNLAWFUL INCLOSURES IN THE UNITED STATES*

		Cases reported	Cases being acted upon	Cases awaiting investigation	Total
		(Acres)	(Acres)	(Acres)	
Colorado	1885	3,115,228			
	86		3,562,570	1,041,116	
	87		3,273,610	526,300	
	88		3,562,570	538,500	
	Total	3,115,228	10,398,750	2,105,916	15,619,894
Kansas	1885	313,540			
	86		1,280,940	1,075,900	
	87		1,588,340	192,000	
	88		1,638,340	192,000	
	Total	313,540	4,507,620	1,459,900	6,281,060
New Mexico	1885	386,000			
	86			803,140	
	87		662,130	103,140	
	88		1,381,280	103,140	
	Total	386,000	2,043,410	1,009,420	3,438,830
Nebraska	1885	418,094			
	86		506,540	275,600	
	87		580,780	240,600	
	88		576,840	248,170	
	Total	418,094	1,664,160	764,370	2,846,624
Montana	1885	130,380			
	86		168,800	17,900	
	87		181,020	45,500	
	88		631,500	53,410	
	Total	130,380	981,320	116,810	1,228,510
Utah	1885	137,800			
	86		68,700	31,500	
	87		101,420	1,500	
	88		68,700	383,160	
	Total	137,800	238,820	416,160	792,780

APPENDIX LIV

MILKWEED INDICATORS IN THE UNITED STATES, 1885-1889

		Grass harvested (acres)	Cases handling milkweed (acres)	Cases requiring chemical treatment (acres)
Colorado	1885	3,115,325		
	86			
	87			
	88			
	Total	3,115,325	10,395,750	2,705,325
Kansas	1885	315,940		
	86			
	87			
	88			
	Total	315,940		
New Mexico	1885	356,000		
	86			
	87		625,120	
	88			
	Total	356,000		
Nebraska	1885	412,090		
	86			
	87			
	88			
	Total	412,090	1,654,120	
Montana	1885	120,320		
	86			
	87			
	88			
	Total	120,320		
Utah	1885	127,000		
	86			
	87			
	88			
	Total	127,000		

		Cases reported	Cases being acted upon	Cases awaiting investigation	Total
		(Acres)	(Acres)	(Acres)	
Wyoming	1885	34,140			
	86		38,060	64,640	
	87		107,390	55,640	
	88		253,260	57,640	
	Total	34,140	398,710	177,920	610,770
Public Land Strip	1886			211,000	
	87			211,000	
	88			178,000	
	Total			600,000	600,000
California	1887		97,440	93,440	
	88		4,000	99,450	
	Total		101,440	192,890	294,330
Nevada	1885	21,600			
	86		10,000	82,780	
	87		10,000	72,780	
	88		10,000	72,800	
	Total	21,600	30,000	228,360	279,960
Oregon	1886			67,900	
	87		26,940	31,900	
	88		26,940	31,900	
	Total		53,880	131,700	185,580
Arizona	1886		4,000	33,080	
	87		54,200	200	
	88		54,750	1,400	
	Total		112,950	34,680	147,630
Idaho	1885	8,240			
	86		16,080	5,080	
	87		15,380	1,280	
	88		16,080	26,280	
	Total	8,240	47,540	32,640	88,420
Dakota	1886		15,000	350	
	87		15,000	553	
	88		15,000	553	
	Total		45,000	1,456	46,456
Washington	1886			11,815	
	87			11,815	
	88			13,275	
	Total			36,905	36,905

		Cases reported	Cases being actual type investigation	Cases awaiting investigation	Total
		(Acres)	(Acres)	(Acres)	
Wyoming	1895	74,140			
	96		32,080	65,580	
	97		407,320	55,640	
	98		825,480	57,580	
Total		74,140	756,720	177,320	610,720
Public Land Study	1895			221,000	
	97			211,000	
	98			176,000	
Total				620,000	620,000
California	1897		92,140	92,140	
	98		5,000	55,520	
Total			101,140	192,660	293,320
Nevada	1895	21,680			
	96		10,000	42,720	
	97		10,000	72,120	
	98		10,000	75,940	
Total		21,680	30,040	235,340	273,660
Oregon	1896			97,500	
	97		16,940	71,840	
	98		25,040	12,000	
Total			51,680	131,120	182,800
Arizona	1895		4,000	32,080	
	97		94,280	800	
	98		90,920	1,600	
Total			111,280	34,680	145,960
Idaho	1895	6,280			
	96		16,080	2,080	
	97		42,320	1,280	
	98		15,080	26,280	
Total		6,280	73,480	32,640	84,480
Dakota	1895		15,000	320	
	97		15,000	323	
	98		15,000	323	
Total			45,000	1,000	46,000
Washington	1895			11,215	
	97			11,215	
	98			11,215	
Total				33,645	33,645

		Cases	Cases being acted upon	Cases awaiting investigation	Total
		(Acres)	(Acres)	(Acres)	
Minnesota	1886			900	
	87			900	
	88			900	
	Total			2,700	2,700

*These figures, compiled from Annual Reports of Commissioners of the General Land Office, cannot be accepted as an absolute index because they sometimes reflect a concentration of inspectors rather than fraud. This is particularly true of Colorado. In Grant and Socorro Counties in New Mexico, in 1885, over 3,000,000 acres were reported as being fenced but evidently not on good enough authority to be tabulated. These are the only comparative figures available and can be accepted as a good general indication of the extent of illegal fencing in the country.

The cattle graziers named in the above reports are the following for New Mexico:

COLFAX COUNTY; Lake Valley Cattle Company, Muscatine Cattle Company, F. M. Darling, J. E. Temple, Portsmouth Cattle Company, Pale Blanco Cattle Company, S. W. Dorsey, F. C. Tallman, Western Land and Cattle Company, Delano & Dwyer, Eagle Tail Cattle Company and T. E. Owen.

MORA COUNTY; M. W. Mills, Red River Cattle Company, Dubuque Cattle Company, Lake Ranch Cattle Company, Augustine Vigil, and Akron Cattle Company.

SAN MIGUEL COUNTY; Montezuma Cattle Company, Francisco Gallegos, Fond du Lac Cattle Company, Mrs. Ellen Casey, W. A. Burnett, Cimarron Cattle Company, New England Livestock Company, A. Grysladowski, F. Huntington, Trinidad Romero, R. L. M. Ross, Tiffin Cattle Company, A. Goldsmith, R. Muejus Company, Stonewall Cattle Company, J. M. Bernard, W. H. McBroom, A. W. Rand, Y. Kohn & Company, Dutchess Cattle Company, and Juan de Dios Company.

SOCORRO COUNTY; Grayson & Borland, San Augustine Cattle Company, and E. E. Scates.

LINCOLN COUNTY; Carrizozo Cattle Company, Coyote Valley and Red Lake Cattle Company, F. M. Goodwin, and El Capitan Cattle Company.

Cases	Cases pending general report	Cases awaiting investigation	Total
	(Acres)	(Acres)	(Acres)
Minnesota 1885			900
97			900
88			900
Total			2,700

"These figures, compiled from annual reports of inspectors of the General Land Office, cannot be accepted as an absolute index because they sometimes reflect a concentration of inspectors rather than fraud. This is particularly true of Colorado. In Cole's and Scoville's in New Mexico, in 1885, over 3,000,000 acres were reported as being fraud but evidently not on good enough authority to be taken into. These are the only comparative figures available and can be accepted as a good general indication of the extent of illegal fencing in the country.

The cattle graziers named in the above reports are the following for New Mexico:

COLFAX COUNTY: Lake Valley Cattle Company, Maxwell Cattle Company, E. M. Darling, J. E. Tarpin, Northwestern Cattle Company, Pete Ilfeld Cattle Company, S. W. Harvey, W. C. Atkinson, Western Land and Cattle Company, Helano & Dwyer, Eagle Nest Cattle Company and M. L. Owen.

MORA COUNTY: M. W. Mills, Red River Cattle Company, Maxwell Cattle Company, Lake Ranch Cattle Company, Sangrelino Vigil, and Aaron Cattle Company.

SAN MIGUEL COUNTY: Montezuma Cattle Company, Pancho Gallegos, Real de Las Cattle Company, Mr. Allen Greer, W. A. Barnett, Gibson Cattle Company, New England Livestock Company, A. Gryslechnt, M. Huntington, Matilda Romero, R. K. M. Jones, Fifth Cattle Company, A. Goldsmith, M. Kaplan Gotham, Stonewall Cattle Company, J. W. Barnett, W. H. McGroom, L. W. Ford, Y. Kohn & Company, Baldwin Cattle Company, and Juan de Dios Company.

SOCORRO COUNTY: Grayson & Rutland, New Mexico Cattle Company, and M. K. Scales.

LINCOLN COUNTY: Carrizozo Cattle Company, Coyote Valley and Red Lake Cattle Company, E. M. Goodwin, and J. Hopkins Cattle Company.

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Dunham, Harold H. Professor of History, University of Denver.

Graham, George A. Attorney (formerly attorney for the State Land Office for 14 years).

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Wengerd, Sherman. Professor of Geology, University of New Mexico.

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Delaney, James. Manager, Bureau of Land Management, Land Office, Santa Fe.

Hall, Wendell G. Office Cadastral Engineer, Bureau of Land Management, Survey Records Section, Santa Fe.

Harrington, Earl G. Cadastral Engineering Officer, Washington Office.

Harrington, Guy P. (Retired), formerly Chief of the Cadastral Engineering Office at Santa Fe.

Hasto, Glenn R. Regional Chief of the Division of Cadastral Engineering, Region 5.

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