

New Mexico Historical Review

Volume 19 | Number 1

Article 3

1-1-1944

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Recommended Citation

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NEW MEXICO AND THE SECTIONAL CONTROVERSY,
1846-1861

By LOOMIS MORTON GANAWAY

CHAPTER VI

THE SECESSION MOVEMENT IN SOUTHERN
NEW MEXICO

WHEN the Treaty of Guadalupe Hidalgo was negotiated in 1848, the international boundary between the United States and Mexico was partially determined by a map that was later found to be inaccurate. The error, when detected, created a boundary dispute between the two governments involving an area of five or six thousand square miles.¹ The region in question extended from the Mexican frontier town of El Paso on the Rio Grande northward along the west band of the river for approximately fifty miles and westward to the headwaters of the Gila River. Although it was uninhabited except by roving bands of lawless, nomadic Apache Indians, it was a fertile region which, under peaceful conditions, would invite settlement to an extensive degree.

Some fifty miles above El Paso del Norte and on the east side of the river, in the spring of 1851, was the small town of Doña Ana with five or six hundred inhabitants, and standing fifty or sixty feet above the bottom lands. It had been settled but a few years and was selected on account of the broad and rich valley near, and the facilities that existed for irrigating it. Six or eight miles below Doña Ana, on the opposite side of the river,² was the town of Mesilla, containing between six and seven hundred inhabitants, a place which owed its origin to circumstances growing out of the late war with Mexico. "*Mesilla* is the diminutive of the Spanish

1. Paul Neff Garber, *The Gadsden Purchase* (Philadelphia, 1923), 16-17.
2. At this time, the Rio Grande was using a channel which ran much nearer the foothills on the east. Some thirty years later, the river picked a new channel west of Mesilla and near the foothills along the west side of the valley, where it is today. Our description is from Bartlett. See next note.

word *mesa* (table) and is applied to a lesser plateau in the valley of the Rio Grande, beneath that of the great *mesa* or table-land, which extends for several hundred miles in all directions from the Rio Grande. . . . Immediately preceding and after the war with Mexico, the Mexican population occupying the eastern bank of the Rio Grande in Texas and New Mexico were greatly annoyed by the encroachments of the Americans, and by their determined efforts to despoil them of their landed property." At this time an unestimated number of Texans arrived in that locality with "head rights," grants that were issued by the State of Texas to men who had served in her wars. These grants were usually for 640 acres of land, not specific as to the location. According to a contemporary writer, the Texans were not much concerned about the property rights of the Mexican inhabitants and in some instances evicted them from their homes and assumed ownership of other property that had been held by the Mexicans for generations.³

A partial compensation for the dispossessed Mexicans developed with the promise by the United States of protection from the Indians along the international frontier. According to the ninth article of the Treaty of Guadalupe Hidalgo, the United States bound itself to restrain the incursions of the Indians into Mexican territory with the same diligence that would be exercised in their control within American territory.⁴ With this assurance of protection, the Mexicans moved their families across the Rio Grande into the Mesilla Valley.⁵ The Texans, however, followed shortly, and asserted American sovereignty in this region as firmly as they had declared it on the eastern side of the Rio Grande. Conflicts again ensued, and this was the situation in 1851, when the entire disputed region was awarded to Mexico

3. John Russell Bartlett, *Personal Narrative of Explorations and Incidents in Texas, New Mexico, California, Sonora, and Chihuahua, Connected with the United States and Mexican Boundary Commission, during the Years 1850, '51, '52 and '53* (New York, 2 vols., 1854), I, 211-215.

4. Act of March 10, 1848, *U. S. Statutes at Large*, IX, 930-932.

5. Samuel Woodworth Cozzens, *Marvellous Country; or Three Years in Arizona and New Mexico, the Apaches' home, etc.* (New York, 1874), 46-49.

by John Russell Bartlett, the boundary commissioner representing the United States.⁶

With the award to Mexico, the State of Chihuahua extended its authority over the Mesilla Valley with a demand that the Americans relinquish their claims immediately. The Texans not only refused to obey this order but also appealed for protection of their rights to James S. Calhoun, the territorial governor of New Mexico.⁷ In order that this plea from the Americans in the Mesilla reach the governor at Santa Fé, a messenger was compelled to travel a distance of over two hundred miles, ninety of which was across the *Jornada del Muerto*, the most desolate region in the territory. Governor Calhoun received their entreaty with indifference, principally because he was so much involved in local problems that he had no time to engage in a controversy so far distant from Santa Fé.

Despite the governor's lack of interest in their quarrel, the Texans were successful in soliciting the aid of southern congressmen, whose constituencies might be benefitted by a trans-continental railroad, were it to follow a southern route. As a result of their interference, a senate report on the boundary dispute stated that the American commissioner, Bartlett, had acted beyond his authority in acknowledging the Mexican claims to the Mesilla Valley.⁸ At their instigation, congress approved an appropriation of \$100,000 for a second survey, which was to be made under the direction of army engineers.⁹ The positive interest of congress in the Mesilla question served to strength the bellicose attitude of the Americans in the Valley.

With the arrival of William Carr Lane as governor of New Mexico, replacing Calhoun who had died while in office, the Americans in Mesilla procured a champion not so far distant as the national capital. On March 13, 1852, Governor Lane by his own authority issued a proclamation in which he stated that the disputed territory would remain

6. Bancroft, *History of Arizona and New Mexico*, 468-471.

7. *Sen. Ex. Docs.*, 32 Cong., 2 Sess., no. 41, pp. 13-14.

8. *Senate Reports*, 32 Cong., 1 Sess., no. 345.

9. Act of August 31, 1852, *U. S. Statutes at Large*, X, 94-95.

under the jurisdiction of the United States "until the boundary line should be established by the two governments."¹⁰ To maintain his position, determined by the governor without consulting with the authorities in Chihuahua, he asked protection of the inhabitants in the Valley by the military forces stationed in New Mexico. Colonel Sumner, who was in command, believed that the governor had acted without proper authority and refused the support of the army.¹¹ In the meantime sustained by Governor Lane, the Texans in Mesilla and Americans coming to that vicinity from other parts of the territory were making plans to defend themselves. The governor of Chihuahua, alarmed at the preparations of the Americans, was reported to be equally active in defending Mexican sovereignty. When a serious conflict thus appeared inevitable, the United States through its agent, James Gadsden, purchased approximately 45,000 square miles of territory from Mexico along the international frontier. The Mesilla Valley, a small part of that region, consequently came within the sovereignty of the United States.¹²

In the year of the purchase, 1853, the population of the Mesilla Valley was approximately three thousand, probably all of whom had settled there after 1848. Farther to the west in the vicinity of the Gila River, small settlements of Americans soon appeared who were interested in the copper and silver mines of that region. Many more settlers would have been attracted to that vicinity by the possibility of sudden wealth, but the continued attacks of the Apaches restricted any extensive migration.

Now firmly established within the sovereignty of the United States, the law-abiding element looked forward to the extension of civil law to that region. In the Mesilla Valley, a rudimentary legal organization was set up, but farther to the west at Tubac and Tucson, men were compelled to rely on their own resources for protection of life and

10. *House Ex. Docs.*, 32 Cong., 1 Sess., no. 81, 579.

11. *Ibid.*, 72.

12. William M. Malloy, compiler, *Treaties, Conventions, International Acts, Protocols and Agreements Between the United States of America and Other Powers, 1776-1909* (2 vols., Washington, 1910), I, 1121-1125.

property. A traveler in that locality during 1853 recorded that Americans and Mexicans killed each other, and everybody killed Indians.¹³ After the discovery of gold in California, the large number of immigrants passing through southern New Mexico served to increase disorder. The Apaches made frequent attacks upon small caravans, and the Mexicans were not loath to engage in similar practices.

On August 4, 1854, congress added to New Mexico all of the territory acquired through the Gadsden Purchase.¹⁴ Shortly thereafter, the legislature of the territory extended over it local law and placed the entire region in Doña Ana County.¹⁵ So extensive in area was this county and so far removed were the inhabitants from the more populous settlements along the Rio Grande north of the Jornada that by 1856 a movement was in progress in southern New Mexico for a territorial government independent of New Mexico. A convention for this purpose met at the village of Tucson on August 19, 1856. At this meeting, a memorial was formulated by the members for submission to congress, asking for an independent territorial government.¹⁶ So certain were they of success that in September of that year, Nathan P. Cook was elected delegate. This and subsequent petitions during the next four years represented ineffectual efforts by the inhabitants to gain territorial status, regulation of land claims, and mining titles, and establishment of courts. In this failure of the federal government to establish orderly government, a fundamental cause for the rapid growth of the secession movement in southern New Mexico was engendered.

The inhabitants attributed the denial by congress of their petitions to the unwillingness of free state congressmen to create an independent territory in the geographical lati-

13. Raphael Pumpelly, *Across America and Asia . . .* (New York, 1879), reported the conduct of the Americans as rivaling the most wanton acts of the Indians. A recent study of social conditions in that locality is that of W. Clement Eaton, "Frontier Life in Arizona, 1858-1861," *Southwestern Historical Quarterly*, xxxvi (1933), 173-192.

14. Act of August 4, 1854, *U. S. Statutes at Large*, X, 575.

15. *Laws of the Territory of New Mexico. Passed by the Legislative Assembly, Session of 1854-1855.*

16. Bancroft, *History of Arizona and New Mexico*, 504-505.

tude of southern New Mexico. Their opinion was probably not altered following the defeat of such a bill, introduced by Senator Green of Missouri late in 1860.¹⁷ According to the governor of New Mexico, so thoroughly disheartened were the people at Mesilla by the neglect of the federal government that, in the latter part of 1860, rumors were current in Santa Fé of a revolutionary spirit among the Americans south of the Jornada.¹⁸

Much of the bad temper was aroused by Sylvester Mowry, the editor of the *Tubac Arizonian*, who had first come to southern New Mexico as a young army officer. Probably the agitation of Mowry was responsible for the action of a convention which assembled at Tucson in 1860. At this meeting, the delegates adopted a temporary plan of government independent of New Mexico, and proclaimed their ability to govern themselves until congress was willing to "organize a territorial government and no longer."¹⁹ This convention, which has been called a "direct precursor of the Confederate Territory of Arizona, which built upon the edifice already constructed, even to the extent of retaining many of the officials,"²⁰ represented the most determined effort of the Anglo-American inhabitants up to that time to establish independent civil authority.

The thirty-one official delegates decreed that Arizona Territory (for such it was to be called) should include all of New Mexico south of the parallel of latitude 33°-40'. The four counties of Doña Ana, Mesilla, Castle Dome, and Ewell were defined, Ewell County receiving its name as a mark of respect to Captain Richard S. Ewell. He was reputedly at Tucson in the interest of mining investments at the time of the convention and accepted membership at the suggestion of Mowry.²¹

After approving a plan of territorial government which

17. *Congressional Globe*, 36 Cong., 2 Sess., 195.

18. Abraham Rencher to Lewis Cass, Santa Fé, September 10, 1859, N.A., State Department Records, Territorial Papers, New Mexico.

19. Bancroft, *History of Arizona and New Mexico*, 507.

20. Charles S. Walker, "Causes of the Confederate Invasion of New Mexico," *NEW MEXICO HISTORICAL REVIEW*, VIII (1933), 78-96.

21. *Mesilla Miner*, April 9, 1860.

included a bicameral legislature, the delegates added a provision calling for a census for the entire territory. It was stipulated that the sheriffs should make the census, and should be paid for the enumeration of slaves as well as white inhabitants.²² This indirect recognition of slavery was the only reference to that institution. Not awaiting a popular election of a governor, the convention selected Lewis S. Owings of Mesilla. Under the authority given him, Owings named James A. Lucas, who, like the governor, was a former Texan, as territorial secretary; Sam Bean, as marshal; Ignacio Orantia as lieutenant governor, the only Mexican given an office; G. H. Oury, Samuel Cozzens, and Benjamin Neal, as members of the supreme court; and a number of less important officials.²³ Although no census was taken by order of "Arizona Territory" in 1860, the federal census of that year listed a total white population of 8,760.²⁴ Of this number, perhaps a third was of Anglo-American stock.²⁵ The Apaches likewise numbered several thousand, but because of their nomadic character, government officials could only approximate their total population.

Although the federal government had secured its release in 1853 from the ninth article of the Treaty of Guadalupe Hidalgo, the inhabitants still expected the United States to provide protection from the Indians. However, it became increasingly evident to the people that the Indians were every year becoming a greater threat to life and property. By 1860, the situation had become so alarming in the vicinity of Tubac that one correspondent reported "a new outrage every day."²⁶

For this reason, the people of southern New Mexico did not evince much concern in the slavery controversy and the secession movement until the withdrawal of Texas from the Union in February, 1861. However, most of the Anglo-Americans were former Texans, whose ties of kinship became evident in the succeeding months. In a letter to an

22. *Idem.*

23. *Idem.*

24. *Eighth Census of the United States*, 1860, I, 566-573.

25. Bancroft, *Scraps*, vol. 96, p. 23.

26. *Idem.*

official at Washington, a visitor at Tucson wrote about this time that the people in that part of the territory were rapidly coming under the influence of the secessionists from Texas and that "the slave power in this Territory [Arizona] and New Mexico has been as proscriptive of Republicans as in South Carolina."²⁷

The first active measure in the direction of secession for "Arizona Territory" followed the arrival at Mesilla of Philip T. Herbert, a lawyer from El Paso. In a letter to "Governor" Owings, Herbert stated that he had been commissioned by Texan authorities

to confer with the people of New Mexico and Arizona Territories in relation to the present political crisis, and invite their co-operation in the formation of a Southern Confederacy to be composed of such Slave States as may unite themselves for this object.²⁸

In arousing the people to the expediency of secession from the Union, Herbert had the support of a number of prominent Anglo-Americans. Among these was Simeon Hart, a native of New York, who had been an early settler near Franklin, the village on the international boundary which later was renamed El Paso. After the erection of Fort Bliss and other garrisons along the frontier of Mexico, Hart secured a government contract for supplying the troops with flour. His profits were large, and his investments at Mesilla and elsewhere in that locality were likewise considerable.²⁹ Reports were current throughout the Valley that Hart offered to lend the Confederacy sums estimated from \$150,000 to \$300,000 by provisioning troops for an occupation of New Mexico. In some quarters, his support of the Confederacy by the offer of a loan represented no loyalty to the South but rather a means of protecting his

27. William Need to William H. Seward, Tucson, February 8, 1861, N.A., Interior Department Records, Secretary's Office, Appointment Division, Incoming Papers.

28. *Mesilla Times*, March 2, 1861. A copy of this paper for this date is located in the N.A., Justice Department Records, Attorney General MSS., and was received in that office on July 13, 1861.

29. Bancroft, *Scraps*, vol. 96, p. 25.

property.³⁰ The *Mesilla Times* of June 8, 1861, printed a statement concerning Hart, which was written by an individual under a pseudonym. The writer accused Hart of being an abolitionist, whose interest in the Confederacy was selfish financial profits.

Another resident in the southern part of the territory who welcomed Herbert, the Texan commissioner, was James Magoffin. Since 1828, he had been living in New Mexico or Chihuahua, and had been an active participant in the negotiations which resulted in the peaceful occupation of New Mexico by General Kearny in 1846.³¹ At the end of the Mexican War, Magoffin settled at a place henceforth known as Magoffinsville, which lay a long mile below Koontz Ranch (or Franklin) and across the river from the Mexican Paso del Norte. After securing a federal contract to supply the military in that locality with wood, he engaged the services of several hundred natives, who became dependent upon him for their livelihood. On this account, he was credited with being the most influential Anglo-American south of the Jornada. His active support of Herbert was significant to the cause of secession, and he became a leader in the movement at Mesilla and elsewhere in the valley.³²

During the time that Herbert was busy arousing secession sentiment at Mesilla, a similar movement was being promoted at Tucson by Mowry. In appealing to the inhabitants there, Mowry assured them that under a Confederate government they would find protection from the unrestrained attacks of the Indians. Mowry, although a native of Rhode Island, was in a position not unlike that of Simeon Hart. Supported by financial interests in the East, he had acquired the Patagonia silver mine near Tucson. Were he to express Union sentiment, he ran the risk of being driven from the territory and losing his property. Whether this motivated his action or whether he was a sincere exponent

30. *Idem.*

31. Stella M. Drumm, ed., *Down the Santa Fé Trail and into Mexico, The Diary of Susan Shelby Magoffin, 1846-1847* (New Haven, 1926), introduction. In Bancroft, *Scraps*, vol. 96, pp. 21-22, a contemporary account of Magoffin's participation in affairs in southern New Mexico during this period is recorded.

32. Bancroft, *Scraps*, vol. 96, pp. 21-22.

of southern institutions is not clearly defined. He was reported as being the leader of "the band of outlaws who advocate the disruption of our federal union of states and who has done more than any other through his paper to stir up hatred to the North in this part of New Mexico."³³

John Rains was another who "walked the streets of Tucson and dared a man to declare his loyalty to Abe Lincoln and the Union." At the beginning of the war, when a group of army officers passed through Tucson in route from California to their homes in the South, Rains assisted Mowry in welcoming them to "Arizona Territory." Their reception was friendly, "leaving no doubt in the minds of the officers as to the sentiments of the people in Arizona." Rains provided all of the officers with fresh mounts and accompanied them a part of the distance in the direction of Mesilla.³⁴

The friendly reception at Tucson was doubtless reported upon the arrival of the army officers at Mesilla. Here, plans had already been made for a meeting of all the people of the "Territory of Arizona" on March 16, 1861. According to an eyewitness account, this meeting which was "known generally to be a secession convention aroused Mesilla by the importance of the occasion."³⁵ The convention was to meet

33. Bancroft, *Scraps*, vol. 82, part 1, p. 191; Mowry was described by a contemporary as a "bold and swaggering fellow, . . . a leader among men even in Arizona." When the Confederate army was compelled to withdraw from Arizona in 1862, Mowry remained at his mine, Patagonia. With the arrival of General James H. Carleton and the federal military force, called the California Volunteers, at Tucson in June, 1862, Mowry was arrested and was marched through the principal streets of the town in chains. A reporter to a California newspaper wrote that Mowry was "taking things quite coolly, puts on a good many airs; had along his mistress, Private Secretary and servant. I think a dose of military treatment will cure him. He has been guilty of writing secession letters and giving shelter to outlaws." Shortly after his arrest, he was brought before a military tribunal, where he was found guilty of being "in treasonable correspondence and collusion with well known secessionists, and has afforded them aid and comfort when they are well known publicly to be enemies to the legally constituted authority and Government of the United States, and that there are sufficient grounds to restrain the said Sylvester Mowry of his liberty, and bring him before a military commission." After being detained for a week at Tucson, he was removed to Fort Yuma on the Colorado River, where he was held a prisoner until November 4, 1862. All of his property was confiscated by the federal authorities. After his release, he went to England where, after futile efforts during the next six years to raise money for further mining operations in Arizona, he died. Bancroft, *Scraps*, vol. 82, part 1, 191, 243.

34. Bancroft, *Scraps*, vol. 82, part 1, pp. 193-194.

35. *Mesilla Times*, March 30, 1861.

at a hall used for various purposes. As the time drew near for the meeting to begin, business houses closed, and people were seen moving in small groups in the direction of the convention place. Before an audience of several hundred, James A. Lucas called the meeting to order and announced as the first speaker, General [?] W. Claude Jones, a practicing lawyer of Mesilla.

In beginning his address, Jones said that the people of the territory must choose "the Black Republican banner, waving over our people, unprotected and neglected, denied their constitutional rights," or "unite with the South and ask that protection and equality of legal right which is the birthright of our citizens."³⁶ At the North, he said, were only "insult, wrong and oppression," while at the South

a brilliant and glorious pathway of hope, leads to the star of empire smiling over a Constellation of free and sovereign States, and inviting us into the life-giving rays of its galaxy. There is no middle ground.... It is too late for compromise.³⁷

He reminded his listeners that the people of Arizona were southerners in their heritage, and only in the South could they expect to find a correction of the evils that had plagued them since they had come as pioneers into the country. The Confederacy, he promised, would never disregard their petitions as had the federal government, but would welcome them as a territory into a confederacy of southern states. Neither would the people be overlooked in the building of an overland mail route. Under Confederate control, he predicted that within a year the people would have a tri-weekly mail service, running from Texas to the Pacific coast and protected all the way by "hardy sons of the South, not by prebold [?], mungrel materials from the U. S. Army."³⁸ In concluding his speech, Jones said:

Arizona constitutes the greatest portion of the northern [?] border of the State of Texas. Your destiny is linked with hers. You must be made a

36. *Idem.*

37. *Idem.*

38. *Mesilla Times*, March 30, 1861.

bulwark against the fell tide of Northern encroachment and fanaticism, or you must be a seething den for abolitionists, from which they can hurl their incendiary bolts into the heart of the South. You must be a hot-bed for Northern upas-like exotics, poisonous to Southern institutions, or you must be the home of independent freemen, growing and prospering under the seven starred banner of the South as it waves protectingly above you. The hell of abolitionism glooms to the north—the Eden of liberty, equality and right, smiles upon you from the south! Choose between them.³⁹

Herbert, the Texan commissioner, was next invited to address the meeting. He reaffirmed Jones' promises, reminded the people again of their southern heritage, and expressed the hope that the inhabitants were prepared to take definite action to support what he believed were their principles.⁴⁰

A set of resolutions had been drawn up prior to the meeting, and they were now brought forward by a delegation of five men. After their presentation to James A. Lucas, he, as chairman, read them to the convention. Following a lengthy preamble, in which the aggressions and the neglect of the federal government were enumerated, eight recommendations were offered for consideration: (1) that Arizona endorse the action of the southern states; (2) that Arizona look to the Confederacy for protection; (3) that Arizona become a part of the Confederacy, and not a part of any state that had seceded; (4) that Arizona have a regular mail service to the Pacific states; (5) that Arizona take steps immediately for the election of a delegate to the Confederate congress; (6) that the people of the western part of Arizona be invited to join a movement for union with the Confederacy; (7) that the people of the territory do "not recognize the present Black Republican administration," but resist any officers sent to Arizona by that administration by whatever means the people possess; (8) that the proceedings of the convention be published in the *Mesilla Times* and a copy

39. *Idem.*

40. *Idem.*

of the newspaper be sent to the president of the Confederacy with a request that the same be acted upon by the Confederate congress. All the resolutions were unanimously adopted, and according to the *Times*, "with three cheers for Jefferson Davis," the meeting adjourned.⁴¹ Some weeks after this meeting, notices were posted throughout "Arizona" calling for an election of a delegate to the Confederate congress.⁴² Oury, who had been active in the Tucson convention, was chosen to represent the territory at Richmond.

In contrast with the participation by the natives in territorial affairs at Santa Fé, under the guidance of the American politicians, no such support was solicited from them at Mesilla. One explanation for this slight was offered by a writer to the *Mesilla Times*, who said that "one good company of Texan cavalry can do more to insure their [Mexican] loyalty to the Confederacy than all the offices in the territory."⁴³ Some observers in other parts of the territory regarded as fatal to secession the failure to insure native support. In a letter to the commissioner of Indian affairs, a Santa Fé politician stated that the natives of southern New Mexico were well aware of the feeling of the former Texans for them, and were only awaiting the arrival of a federal military force to profess their loyalty to the Union. The disloyalty of southern New Mexico was attributed to the open state of rebellion which had prevailed among a lawless group for some years. The only solution for destruction of the "stronghold of secessionism" would be to send a strong military force to Fort Bliss, the garrison located a short distance from El Paso.⁴⁴

Captain R. M. Morris, an officer located at Fort Craig, likewise believed that the secessionists were not taking full notice of the natives. In a letter to his commanding officer at Santa Fé, Morris said the natives were capable of hamper-

41. *Mesilla Times*, March 30, 1861.

42. William Need to William H. Seward, Santa Fé, August 8, 1861, clipping enclosed with letter; N.A., State Department Records, Miscellaneous Letters.

43. *Mesilla Times*, July 20, 1861.

44. James L. Collins to William P. Dale, Santa Fé, June 22, 1861, N.A., Interior Department Records, Office of Indian Affairs, New Mexico Superintendency, Letters Received.

ing any military operations that the Confederates might attempt, and this, he believed they would do. The Confederates, he added, had not believed it necessary to employ the natives, and as a result, "they are expressing a desire to support the Union, and to join the Union forces, once the Union marches into the southern part of the territory."⁴⁵

The most detailed description of the sentiment at Mesilla in June, 1861 is given in a letter written by W. W. Mills to Judge John S. Watts, a former justice of the territorial supreme court and at this time New Mexico's delegate to congress.

I assure you that I find matters here in a most deplorable condition. A disunion flag is now flying from the house in which I write, and this country is now as much in the possession of the enemy as Charleston is. All the officers at Fort Fillmore, except two, are avowedly with the South, and are only holding on to their commissions in order to embarrass our Government, and at the proper time to turn over everything to the South, after the manner of General Twiggs. The Mesilla Times is bitterly disunion, and threatens with death anyone who refuses to acknowledge this usurpation. There is, however, a latent Union sentiment here, especially among the Mexicans, but they are effectually overawed. Give them something to rally to, and let them know that they have a Government worthy of their support, and they will teach their would-be masters a lesson.⁴⁶

That there was good reason for Judge Watts or any other federal official not to come to Mesilla was manifested by the experience of a federal Indian agent to the southern Apaches. This agent, Lorenzo Labadie not only had refused to pledge loyalty to the Confederacy but was believed by some of the secessionists to be organizing the Indians for attack against the inhabitants of Mesilla and that vicinity. According to his own account, Labadie was threatened with

45. R. M. Morris to E. R. S. Canby, Fort Craig, August 13, 1861, N.A., War Department Records, Letters Sent Book January, 1852 to December, 1863.

46. W. W. Mills to John S. Watts, Mesilla, June 23, 1861, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* (131 vols., Washington, 1881-1901), Series I, Vol. IV, 56, hereinafter cited as O.R.A.

physical violence unless he left the territory immediately. As a warning to any other federal officer who might think of coming to that locality, Labadie was told that Mesilla had ready "a fine barrel of tar" for any officer appointed by Lincoln who failed to heed the warning. He added that the secessionists had threatened to "feather him, and start him out to fly."⁴⁷

Upon the receipt of this information at Santa Fé, Judge Sidney Hubbell, recently arrived in the territory from Salisbury, Connecticut, as judge for the Mesilla district, questioned the propriety of attempting to hold court unless protected by a federal military force.⁴⁸ The *Mesilla Times* in commenting upon the prospective arrival of Judge Hubbell at Mesilla, reminded the judge of the action taken by the people at the March convention, and concluded by noting, "No comment is necessary."⁴⁹

Having professed adherence to the Confederacy, the "disaffected elements" looked forward to a display of military force from the South in order to strengthen this position. Some uneasiness was felt in Mesilla when rumors reached there in June that Colonel Canby was making preparations for an occupation of the Valley. Communications were addressed to Confederate officials repeating these rumors and appealing for protection. Among those who wrote President Davis was M. H. McWillie, designating himself "Chief Justice of Arizona Territory," who urged the necessity of sending an army from Texas. If protection to the inhabitants were not a sufficient cause for such an expedition, he offered other considerations:

The stores, supplies and munitions of war within New Mexico and Arizona are immense, and I am decidedly of the opinion that the game is well worth the ammunition. The movement, if undertaken soon enough, would undoubtedly have the effect to

47. Lorenzo Labadie to James L. Collins, Las Cruces, New Mexico, June 16, 1861, N. A., Interior Department Records, Office of Indian Affairs, New Mexico Superintendency, Letters Received.

48. Sidney Hubbell to Edward Bates, Santa Fé, June 16, 1861, N.A., Justice Department Records, Attorney General MSS.

49. *Mesilla Times*, June 1, 1861.

overawe and intimidate the Mexican element, which comprises at least nineteen-twentieths of our entire population. . . . The expedition, I suggest, would relieve Texas, open communications to the Pacific, and break the line of operations, which . . . is designed to circumvallate the South.⁵⁰

McWillie also suggested the feasibility of arming a regiment of Cherokee or Choctaw Indians as a further means of dominating the natives.⁵¹

To what extent the inhabitants north of the Jornada were aware of the development of the secession movement in the southern part of the territory during the spring and summer of 1861 cannot be fully ascertained. Available evidence suggests that they were far more concerned with the situation at Santa Fé and at Washington than with the movement at Mesilla. Their almost complete isolation from southern New Mexico probably accounted for the failure of the *Santa Fé Gazette* and of local correspondents to discuss in much detail the situation at the south. The renewal of Indian outrages made hazardous any communication between the two sections during the summer of 1861. Few travelers ventured southward from Santa Fé and then only with military escorts. Most of the accounts from north of the Jornada indicate some information concerning support of the Confederacy by the people at Mesilla and at Tucson, but otherwise they were ignorant of conditions in that part of the territory. Three months after the secession convention at Mesilla, an officer at Santa Fé wrote to the commander at Fort Fillmore, a federal military post near Mesilla, that "The extent of the disaffection in the Mesilla valley is not fully known here and will not be fully developed there until the civil authorities enter upon their duties."⁵² If the officer had in mind the presence of Judge Hubbell, protected by the military, he failed to clarify his statement. The *Santa Fé Gazette* made frequent allusion

50. McWillie to Davis (inclosure), A. T. Bledsoe to Brigadier General Ben McCulloch, August 1, 1861, *O.R.A.*, Series I, Vol. IV, 96.

51. *Idem.*

52. A. L. Anderson, Acting Assistant Adjutant General, to Major Isaac Lynde, Santa Fé, June 16, 1861, N.A., War Department Records, Adjutant General Office Files.

to the disrupted communications throughout the territory and admitted that, in Santa Fé, they knew little about other parts of New Mexico.⁵³ The same issue of the paper reported a rumor that an army of Texans had been assembled for an invasion of New Mexico.

That such an expedition was more than a rumor was realized when Fort Bliss was occupied by the Confederates in July, 1861. Late in the same month, Lieutenant Colonel John R. Baylor in command of the Second Regiment of Texas Mounted Volunteers occupied Mesilla. According to the *Mesilla Times*, the populace made the arrival of the Texans a day of celebration. After expressing the gratitude of the inhabitants at their deliverance from abolitionism, the *Times* predicted that under the protection of the Confederacy in Arizona

every field of labor will be developed; and a golden age of prosperity and progress will be our heritage, instead of studied neglect and a continued series of misfortunes. Well may our citizens rejoice; 'tis a full theme of joy and congratulations.' We have changed from sorrow to gladness, from death to life.⁵⁴

Two days after the arrival of Colonel Baylor at Mesilla, he engaged a federal force at Fort Fillmore under Major Isaac Lynde.⁵⁵ After a running battle in which Lynde attempted to withdraw, Baylor captured him and the entire force. From the Confederate viewpoint, the abject surrender of Major Lynde, for which he was later court-martialed, had a salutary effect upon the attitude of the natives.⁵⁶ The *Mesilla Times*, after praising the Confederates for their superior fighting ability, added that the victory should serve as a warning to any other Union army that aspired to engage "so gallant an adversary." As to those individuals, especially the Mexicans, who had heretofore

53. *Santa Fé Gazette*, May 25, 1861.

54. *Mesilla Times*, July 27, 1861.

55. James Cooper McKee, *Narrative of the Surrender of a Command of U. S. Forces, at Fort Fillmore, N. M. in July 1861* (Boston, 1886), 7-13.

56. Lieutenant Colonel E. R. S. Canby to Assistant Adjutant General, Santa Fé, August 4, 1861, *O. R. A.*, Series I, Vol. IV, 2-20.

hesitated to supply the Confederates with commodities, the *Times* expressed its opinion that it was now time for them to look favorably on Colonel Baylor and his army if they expected to remain in the country.⁵⁷

After having achieved so signal a success, Baylor now set about establishing a provisional military government until the Confederate congress could provide civil authority. In a proclamation of August 1, 1861, he praised the people for the action of the Mesilla Convention, and declared that, in his opinion, a temporary military government would be expedient because of the prevailing conditions in the territory.⁵⁸ He announced the boundaries of Arizona Territory approximately the same as decreed by the Tucson constitution and ordered that laws heretofore in force in Arizona and not inconsistent with the constitution and laws of the Confederacy were to remain in operation. All officeholders appointed by the Territory of New Mexico or the federal government were dismissed. Baylor designated Mesilla as the territorial capital and laid the basis for the judicial organization of the territory. Shortly after issuing the proclamation, he named a number of temporary territorial officers.

At the suggestion of Philip T. Herbert, who had directed events leading to the Mesilla Convention, William M. Ochiltree, a representative from Texas, presented the petition for territorial recognition to the Confederate congress. This request was received and accepted without comment on April 29, 1861.⁵⁹ Not until November 25, however, did Representative John H. Reagan, likewise from Texas, present a bill "to organize the Territory of Arizona, and to create the office of surveyor-general therein."⁶⁰ This and the credentials of the Arizona delegate, Oury, were referred to the committee on territories.

57. Clipping from *Mesilla Times*, N.A., Justice Department Records, Attorney General MSS.

58. "Proclamation of John R. Baylor to the People of the Territory of Arizona," *Mesilla*, August 1, 1861, *O. R. A.*, Series I, Vol. IV, 20-21.

59. *Journal of the Congress of the Confederate States of America, 1861-1865* (Washington, 1904), I, 160.

60. *Ibid.*, 475.

The next action on the bill was taken about two weeks later when Representative J. A. P. Campbell of Mississippi, a member of the committee on territories, made a request that it be placed on the calendar for discussion by congress on December 18.⁶¹ On that date, congress met in executive session with Oury addressing the members. Six days later, when the bill was again before congress for discussion, Representative Campbell recommended the enlargement of Arizona Territory at the expense of New Mexico. Although the change was not agreed to, a resolution was adopted which stated that the Confederacy did not forfeit "the right or claim . . . to the remainder of the Territory of New Mexico," by limiting the boundaries of Arizona.⁶² On January 2, 1862, the bill was before congress, and again on January 13, when it passed by an unrecorded vote.⁶³ Shortly thereafter, President Davis signed it and Oury was admitted to congress as the delegate from Arizona Territory.⁶⁴

By the terms of the enactment, slavery was to be protected by territorial and congressional legislation; and, before Arizona could be admitted to statehood, the state constitution must provide for the "full, adequate, and perpetual maintenance and protection of slavery."⁶⁵ Provision was made for a territorial legislature of two houses with the power to override a governor's veto, if supported by a two-thirds majority of both houses. Congress retained the right to modify or change any act passed by the territorial legislature or to initiate any legislation that might be deemed expedient. Appeals could be made from territorial courts to the supreme court of the Confederacy if the amount involved exceeded one thousand dollars. However, no such limitation prevailed in cases involving slave property or questions of personal freedom.

In contrast with the solicitous interest in the Mexicans by the politicians at Santa Fé, the Confederate constitution for Arizona Territory accented its indifference to this group

61. *Ibid.*, I, 551.

62. *Ibid.*, I, 613.

63. *Ibid.*, I, 661.

64. *Ibid.*, I, 691, 701.

65. The territorial constitution is printed in the *Journal*, I, 612-620.

by decreeing that all proceedings of the territorial courts be conducted in the English language.

Although the secession movement in southern New Mexico reached its climax with the Confederate enabling act of January 13, 1862, a brief summary of civil activities under Confederate government seems necessary to complete this picture. On March 13, 1862, President Davis submitted nominations to the Confederate senate for the Territory of Arizona: governor, John R. Baylor of Texas; secretary, Robert Josselyn of Mississippi, the president's former private secretary; chief justice, Alexander M. Jackson of Mississippi, the former secretary of New Mexico Territory; associate justice, Columbus Upson of Texas; attorney, Russell Howard of Arizona; marshal, Samuel J. Jones of Arizona.⁶⁶

During the brief period of Arizona's connection with the Confederacy, territorial government scarcely had time to function. It is even doubtful that all the officers had reached their posts before the middle of August, 1862, when the Union military occupied Mesilla, and cut short further civil government under the authority of Richmond. However, during this period two sessions of the probate court were held, and the property of individuals who were believed to be opposed to the Confederacy was confiscated. In the eastern part of the territory, few seizures occurred, but in the vicinity of Tucson and Tubac, some mines owned by northern companies or individuals were appropriated under the direction of Palatine Robinson.⁶⁷

Brigadier General Henry H. Sibley, who had been at Fort Bliss, Texas, since the fall of 1861, announced in December of that year that he was now prepared to establish Confederate sovereignty over the whole of New Mexico. In a proclamation issued on December 20, 1861, he stated that an army of the Confederacy had arrived at the borders of New Mexico to take possession of the territory, which by "geographical position, by similarity of institutions, by

66. *Ibid.*, II, 59.

67. Bancroft, *Scraps*, vol. 82, part 1, 192.

commercial interests, and by future destinies" rightfully belonged with the Confederacy.⁶⁸

He declared that the Confederate army had not come to the territory to wage war upon the peaceful inhabitants, but to free them from "the military despotism erected by usurpers upon the ruins of the former free institutions of the United States."⁶⁹ His men, having the highest regard for the religious institutions of the natives, would insure their protection. With respect to the strength of his force, Sibley added:

The army under my command is ample to seize any force which the enemy now has or is able to place within its limits. . . . Follow, then, quietly your peaceful avocations, and from my forces you have nothing to fear. Your persons, your families, and your property shall be secure and safe. If destroyed or removed to prevent me from availing myself of them, those who so co-operate with our enemies will be treated accordingly, and must prepare to share their fate.⁷⁰

He declared that he had been reliably informed of acts of intimidation and of fraud which had been employed by the federal government to secure enlistments in the ranks of the Confederacy's enemies. He promised that the day was not far off, when they could rebel against such authority, and disperse quietly to their homes. "But," he added, "persist in the service and you are lost."

As to the future of New Mexico, Sibly said:

When the authority of the Confederate States shall be established in New Mexico, a government of your best men, to be conducted upon principles with which you are familiar and to which you are attached, will be inaugurated. Your religious, civil, and political rights and liberties will be re-established and maintained sacred and intact. In the meantime, by virtue of the powers vested in

68. "Proclamation to the People of New Mexico," *O. R. A.*, Series I, Vol. IV, 88-90.

69. *Idem.*

70. *Idem.*

me by the President and Government of the Confederate States, I abrogate and abolish the law of the United States levying taxes upon the people of New Mexico.⁷¹

In conclusion, Sibley appealed to his "old comrades in arms, still in the ranks of the usurpers of their government and liberties," to renounce service under such tyrants "and array yourselves under the colors of justice and freedom!"

Shortly after issuing this manifesto, General Sibley marched north from Mesilla on an invasion of the territory. The Civil War had come to New Mexico.

71. *Idem.*

CHAPTER VII

CONCLUSION

HUBERT HOWE BANCROFT, a distinguished writer of New Mexico history, in discussing the position of this territory at the beginning of the Civil War, has said:

In a general way, so far as they had any knowledge or feeling at all in the matter, the New Mexicans were somewhat in sympathy with the southern states as against those of the north in the questions growing out of the institution of slavery. Their commercial relations in early times had been chiefly with southern men; the army officers with whom they had come in contact later had been largely from the south; and the territorial officials appointed for the territory had been in most cases politicians of strong southern sympathies. Therefore, most of the popular leaders, with the masses controlled politically by them, fancied themselves democrats, and felt no admiration for republicans and abolitionists. Yet only a few exhibited any enthusiasm in national politics, apathy being the leading characteristic, with a slight leaning on general principles to southern views.¹

Although Bancroft sensed the importance of officials, civil and military, in influencing political trends within New Mexico in the pre-war period, he probably magnified the interest taken by the natives in southern institutions. What he failed to recognize is that the slavery controversy was superimposed upon the natives. They were not interested in negro slavery, despite the efforts of propagandists and abolitionists to involve them in a national controversy. With so few negroes in the territory—the census of 1860 enumerated eighty-five—they could not be expected to appreciate the contradictory viewpoints advanced concerning it. Peonage, a system with which they had been familiar from the period of the Spanish conquest, practically satisfied their need for unskilled labor. In addition, they enslaved captive

1. Bancroft, *History of Arizona and New Mexico*, 680.

Indians. From either, they derived all the advantages of negro slave labor with none of its obligations. Southern agitators failed to recognize the impossibility of placing their system of slavery in competition with these local systems.

Likewise, they were unwilling to admit the truth of Daniel Webster's declaration that in New Mexico, nature was on the side of the free states. Even if it had been admitted to the Union as a slave state in 1860, natural conditions would have aligned it eventually with the free states, as Charles Francis Adams foresaw. Because northern leaders recognized this alliance of nature with their principles, they did not wage so intensive a campaign as did pro-slavery advocates.

Southern politicians were concerned with increasing their numerical strength in congress. If New Mexico could be brought into the Union as a slave state, its support in the senate would restore the balance destroyed by the admission of California in 1850. Such procedure appealed also to local politicians, who were ambitious for political preferment. The adoption of a slave code in 1859 represented one step towards the program, which was cut short by the outbreak of the Civil War. That the South was interested in New Mexico was evidenced by the rapidity with which southern New Mexico, known as Arizona, was admitted to territorial status by the Confederacy. In that section of the territory, allegiance to the South was apparently universal. However, the unanimity reflected only the support by the Anglo-American inhabitants. The natives were generally disregarded politically.

In 1861, the latent hatred of the natives for Texans was revived by federal authorities as a means of winning their support. This animosity, engendered by the Texas Revolution and by the efforts of Texas to absorb the most fertile areas of New Mexico following annexation of the territory, was effective, once the natives were awakened.

Without intent, the nomadic Indians contributed to the power of the federal authority in New Mexico. Their

depredations necessitated the maintenance of forts and troops throughout the territory. By representing the federal government, the military effectively suppressed any open demonstrations of sympathy for the Confederacy.

As William Need observed, "despite the machinations of secession forces who are now straining every nerve, using every device, pulling every cord, to circumvent the supporters of our glorious Union,"² they were doomed to failure. Local institutions, an apathetic populace indifferent to controversies alien to them, and nature itself were aligned with each other in determining the political history of New Mexico from 1846 to 1861.

2. William Need to Simon Cameron, Fort Fauntleroy, New Mexico, September 27, 1861, N. A., War Department Records, Secretary of War Document File.