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Report of the Governor of New Mexico, 1885

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REPORT
OF
THE GOVERNOR OF NEW MEXICO.

EXECUTIVE OFFICE, TERRITORY OF NEW MEXICO,
Santa Fé, N. Mex., October 21, 1885.

SIR: In response to your instructions of 24th August, ultimo, I have the honor herewith to submit my annual report of affairs in the Territory of New Mexico for the preceding year.

In comparison with the last few years, New Mexico has, during the past year enjoyed a condition of manifestly increasing prosperity. Rains have been unusually prevalent and abundant, in consequence of which grass on the ranges has been good and stock in good marketable condition. These conditions have given the grazing interest an unusual stimulant, and the numbers and values of our cattle and sheep herds have largely increased.

It is shown by the recently completed census of the Territory that the population has increased from 119,000 in 1800 to 134,000 in 1885, showing a gain of 15,000 in five years. It is believed that the actual gain has been not less than 20,000, as there are indications that the census of 1880 for some of the counties of the Territory was, for reasons best known to parties instrumental, given at figures which the actual state of the population did not warrant.

In view of the embarrassments that have attended development here, this may be considered a satisfactory gain. With the removal of these embarrassments, which it is hoped will be effected to a considerable degree by the approaching session of Congress, it is confidently anticipated that thenceforth immigration and development will be very actively stimulated and increased.

With a climate that admits of out-door labor in comfort during the entire year, a fair and constantly increasing agricultural area, producing in an abundance and quality found nowhere outside of the Rocky Mountain valleys, every description of agricultural product, roots, grains, and fruits—a mining area unparalleled in extent, value, and accessibility—inexhaustible deposits of coal in nearly all parts of the Territory as a basis for manufactories—great forests of timber and with vast capacities for cattle and sheep growing, New Mexico offers attractions to immigration of a variety and character rarely found elsewhere.

LAND TITLES.

A somewhat serious drawback to this exceptional array of attractions is the impression that seems to have found lodgment in the public mind of the insufficiency of our land titles. While there is good ground for

suspicion as to the sufficiency of a considerable portion of those titles, it is yet the fact that the titles to much the larger proportion of these lands is as perfect and conclusive as can be found anywhere. As a rule the lands actually occupied are held by an unimpeachable tenure, having been handed down from generation to generation, and showing a regular chain of title by transfer and occupancy for two hundred years and no more encumbered or clouded than is usual in the oldest States of the Union.

The only possible cloud upon this class of titles arises from the ignorance of the holders as to the American system of land tenures, which leads them to suppose that there is no necessity for a public record for their holdings or a formal patent from the Government. This is, however, a mere technical disability, and readily corrected as these people become better informed as to the American system of tenures, or as the lands pass by purchase into the hands of new occupants.

There is also a large area of good lands in different sections of the Territory, amounting in the aggregate to many million acres, subject to homestead and pre-emption entry. A large proportion of these lands are in mountain valleys fairly watered and timbered, and are the finest in the world for the production of root crops, small grains, and fruits— isolated from good markets at present, but destined in due time, with the constantly developing facilities for transportation and trade, to be amply supplied.

There is a general belief, too, that considerable areas of good agricultural land have been illegitimately entered and included in great cattle ranches, which with a thorough investigation of the methods by which their possession has been procured, will in due time be replaced in the public land system, and again subject to pre-emption and homestead entry by actual occupants.

SPANISH AND MEXICAN LAND GRANTS.

The only really serious embarrassment in connection with our land titles is the fact that many large tracts are held on pretended grants from the Spanish and Mexican Governments, while many more that are held on genuine and indisputable titles from those Governments have been enormously magnified by the fraudulent extension of their exterior limits, thus being made to cover large areas of really public land which ought to be open to pre-emption and homestead entry. As an illustration of this fact, suit was recently instituted in one of the district courts for the partition of the interests of the claimants in a well-known grant in Rio Arriba, one of the northern counties of this Territory. In the application of the claimants for that partition the area of the grant was stated at 184,000 acres. This was all they claimed and all they asked for, yet upon investigation by the court it was found that this grant had been surveyed and that survey approved some years ago by the then surveyor-general for 472,000 acres, or nearly 300,000 acres more than the grantees themselves claimed. Another grant in Santa Fé County is understood to have grown in the last twenty years from 300 to 23,000 acres. These are but sample cases.

So common has this practice become of enlarging the boundaries of bona fide grants made by Spain and Mexico, and so general and apparently well grounded is the suspicion that there has been in operation for many years a systematic and cunningly executed scheme for the manufacture of fraudulent titles to large tracts of the public domain under the guise of Spanish and Mexican grants, that the public faith in

all such titles has largely diminished, and that fact has, in turn, not unnaturally, but none the less unjustly, weakened faith in titles to lands generally in this Territory to such a degree as to discourage investment and immigration and consequent development. Add to this the fact that many of these grants have been made to overlap each other, in some cases even in patented grants, producing confusion and litigation, and it is not strange that capital is chary about investing in this class of properties, or that large areas of country, susceptible of a high degree of development, in agricultural and mineral products, remain unimproved, and they will so remain until some effective action is taken by Congress for the adjustment of this class of titles.

What that action will be it is for Congress alone to say. It is now nearly forty years since New Mexico became a Territory of the United States. In 1854 an effort was made to institute a system of adjudication whereby titles in land grants could be perfected. But instead of accomplishing that purpose, these titles, from the causes mentioned, have become from year to year more and more complicated, till they are now in a far worse condition than at the time of the annexation.

THE ADVANTAGES OF THE COMMISSION PLAN.

A commission was promptly instituted for quieting titles in California, annexed to the United States at the same time, which long since secured the adjustment of titles there, and the result has been that California has now a population of more than a million people, while New Mexico, with equal, if not superior natural resources in nearly all respects, has less than one-sixth of that number. The commission plan undoubtedly has its defects. No plan could be devised that would not be defective, but it is the best yet devised for that purpose, and infinitely preferable to any that has yet been suggested for New Mexico. To continue as we are, depending on adjustment by Congress, is simply ruinous and condemning a large part of one of the richest Territories of the Union to continuing desolation, while to attempt to settle those titles in the courts would be to institute a process that this generation would not see the end of, and result in the eviction of hundreds, if not thousands, of honest occupants and claimants through the costs of litigation, a class of claimants, too, whom the United States is bound by solemn treaty stipulation to protect.

The land titles of California were practically all adjusted by the commission plan in three years. Making due allowance for the complicated condition of titles here by reason of the delay that has ensued, it is believed that all could be settled in five years. It is undoubted that instances of hardship and injustice have occurred and would again occur by this plan, but no more than by any other, while the time saved would be invaluable. It is of the first importance that a settlement should be had; that it should be definitely determined who owns these lands; that title should be finally lodged somewhere, to the end that it may be established who has the right to sell them, and they be thus put upon the market and opened up to settlement. Until that is done, millions of acres, among the best lands in the Territory, will inevitably remain sealed up against all useful purposes—practically a desert. To keep New Mexico longer in this condition would be a wrong that no other Territory is called upon to endure, and a wrong to the multitude of people who are seeking homes in the West, where they might exchange their condition of poverty and privation for one of comfort and comparative independence.

FRAUDULENT LAND ENTRIES.

In this connection it seems not out of place to speak of frauds that have been practiced here in land entries, though I have no recommendation to make further than to call to them the attention of the proper Department. I am in possession of information which satisfies me that possession of large quantities of the public lands has been obtained under the forms of the pre-emption laws through the boldest perjury, forgery, and false pretense, and that in at least some instances this has been done, if not with the connivance, at least through the inadvertence and carelessness of officials. If these lands had been obtained for actual occupation and cultivation, the results would not be so disastrous to the Territory, but in many cases they have been thus absorbed into great cattle ranches, merely for the purpose of getting control of water courses and springs, and thus keep out settlers and small herds, and in others the lands have been thus stolen for purely speculative purposes.

Even the school lands, set apart by Congress as a perpetual endowment for the education of the children of the future State, have not escaped depredation by these public robbers. It has come to my knowledge that considerable tracts are occupied in various ways in defiance of law, manifestly with a view to future absorption in the same way, and that in some instances lands have actually passed out of the hands of the Government by patent in that way.

It is by reason of facts of this character, through which the public lands are being rapidly and illegally absorbed, that I earnestly recommend the abrogation of all laws for their disposal, except for bona fide homestead purposes.

LEGISLATIVE SESSION FOR 1886-'87.

In accordance with the laws of the Territory, a session of the Territorial legislature is to begin on the 28th day of December, 1886. It will therefore be necessary, in order that such session may be held, that the usual appropriation therefor be made at the approaching session of Congress. It is important that a session be authorized by Congress for that date, as the Territory will then have been without any local legislation whatever, or the opportunity to secure any, for nearly three years, during which time many conditions have arisen which require legislative adjustment. It is important, also, that there shall be an opportunity for the correction of many incongruities that characterized the action of the session of 1884.

A LEGISLATIVE REAPPORTIONMENT NEEDED.

In this connection I desire to call the attention of the Department and of Congress to the fact that the distribution of the population of the Territory has materially changed since 1880, necessitating, in the interest of equitable representation, a reapportionment of the Territory for the election of members of the next legislature. All but one of the counties in the southern half of the Territory have largely increased in population, while some in the northern half have diminished. The increase in the Territory has been, in round numbers, as shown by the late census, 14,000. Of this the southern counties have made a net gain of 11,600 and the northern counties 2,400. Some of the counties have nearly doubled in population and others have increased from a third

to a half since the last legislative apportionment, and this increase has occurred in the newer counties, where additional legislation for the regulation and conservation of newly-developed interests and in accordance with the changed conditions is very greatly needed. I therefore very earnestly recommend that in the bill making appropriation for the next session of the legislature a proviso be inserted that the governor of the Territory be authorized to redistrict the Territory for the elections of members to the legislature to convene on the 28th of December, 1886, in order that the present inequality in the representation of the several counties may be avoided in that session.

A FOURTH JUDICIAL DISTRICT NEEDED.

There are now but three judicial districts for this Territory, and the labor of these courts has become exceedingly onerous. A large part of the year is now occupied by each of the three judges actually in court, leaving them but little time for recuperation or for the preparation of opinions upon the many very important cases that come before them for adjudication. The result is that they are greatly embarrassed in the discharge of their duties, and are often unable to clear the docket in one county before court begins in another; important cases, civil and criminal, are obliged to be held over to a later term, to the great detriment of litigants, and with great wrong and the denial of justice to alleged criminals, who are not infrequently compelled to be in jail for another six months, under accusations of which they claim to be, and sometimes are finally on trial found to be, innocent. Another serious phase of this matter is in the fact that, with but three judges to constitute the supreme court of the Territory, each of the three is required, in order that there may always be a majority for the promulgation of an opinion and the decision of a case, to sit in judgment and reviewal of his own decisions in the court below. This is unfair and embarrassing to the judges themselves, as it is not unnatural that it should in the minds of interested parties create suspicion of collusion, and thus cause scandals in connection with a tribunal that above all others should be the furthest possible removed from all appearance of illegitimate motive as well as action. I therefore recommend the creation of a fourth judicial district for this Territory.

DISPOSAL OF THE PUBLIC LANDS.

Recommendations have been made from several of the Territories of modifications of the laws providing for the disposal of the public lands in such manner as to allow of the purchase of large areas for grazing purposes in consideration of the expenditure of the necessary sums for the development of water thereon. I do not concur in these recommendations. I do not see the necessity for any modification of the land laws except in the manner of their enforcement, and that they should be hedged about with every possible guarantee of good faith in the making of entries under the homestead law, and, if it were possible, that not another acre of land should be disposed of except for actual homestead purposes. The area of the public domain has been so largely reduced in the last twenty years by railroad grants, scrip entries, and the abuse of the pre-emption law, that comparatively little is left. At the past and present rate of absorption, the next generation will see, practically, the last of the public lands and the exhaustion of this great source of benefaction to the landless people of the country.

The theory upon which the proposed modifications are based is that the aridity of the Western plains and mountains will forever preclude agricultural product thereon, and that therefore they must be permanently devoted to grazing purposes. Nothing could be more mistaken or mischievous, for the reason that they are not permanently arid, as I show later on in this report, and the idea is mischievous, for the reason that to permanently devote them to grazing by the proposed methods of disposal would be to seal them against future settlement and development.

It is true that in certain conditions the appropriation of large areas to grazing becomes a source of wealth to a degree that cannot be otherwise attained, but these conditions are rare, and are nearly everywhere and always temporary. That is especially the case here, where climatic changes are constantly taking place, which extend notably the arable limits. An experience of thirty years on the great plains of the West illustrates the fact that settlement and cultivation of the ground, while they may not have increased the volume of rainfall, have yet manifestly equalized it throughout the year to such an extent as to convert vast regions that thirty years ago were an apparent desert, as much so as is New Mexico to-day, into reliable agricultural counties. The same influences are now in operation here, and it is fair to presume that the same results will follow, and that in due time. In large portions of the Territory water is being developed by boring and sinking wells. On the Jornado del Muerto, a region 90 by 40 miles in extent, and hemmed in on either side by almost impassable mountains, known as the "Journey of Death," from the fact that numbers of people and animals have perished from thirst in attempting to traverse it, water is now obtained in abundance at a number of places at depths ranging from 20 to 100 feet.

On the Staked Plains, or "Llano Estacado," on the eastern border of the Territory, and also on the San Augustine plains in the west, and on the great plain about the city of Deming in the south, heretofore sterile, waterless regions, a large number of wells have been sunk and an abundance of water developed, and numbers of instances have come to my knowledge where permanent surface water in the form of springs and running streams has been developed by occupancy and cultivation. All of which goes to show great misapprehension in the public mind in regard to this feature of the country.

The absorption of large areas for stock ranges means the occupation of the country by dumb brutes to the exclusion of people, where there can be no society, no schools, no roads, no improvement, no development. Under such conditions the country would be condemned to perpetual semi-barbarism.

While for the time being this may be the best use that can be made of considerable portions of the Western Territories, yet the fact that that time is limited by the manifestly changing climatic conditions proves the unwisdom of changing the land laws to conform to existing conditions. With the changes already manifest people will come upon these plains, as they have elsewhere in the West; and people are worth more to the State than steers, for they establish civilization, development, growth, and progress.

With these climatic changes will come other conditions. As it is now, it is estimated that 20 acres of grass is required to prepare a steer for market. With the incoming of people consequent upon the development of water and the extension of the arable limits the pastoral regions will become from year to year correspondingly diminished. That

in turn will necessitate better breeds of stock, smaller herds, and better grasses, so that in the end the State will be doubly benefited, first in the accumulation of people and the consequent development of a higher civilization, and second in the superior grades and smaller numbers of cattle, leaving the ranchman as rich in a hundred head of cattle as he is now in many times that number. Other conditions being equal, it is a thousand times better for the State that a hundred thousand head of cattle be owned by a thousand men than by one man.

One method whereby these changes may be hastened, and one to which I desire earnestly to call the attention of the Department and of Congress, is to encourage by suitable legislation the creation of reservoirs in the mountain arroyos for the irrigation of the mesas spread out for many miles at their base; as a rule there are abundant rains and snows in nearly all the mountain regions. In the declivities of all these mountains are frequent cañons or gulches, which can be dammed with not very great expense for the erection of ponds and lakes, and thus secure, it is believed, an ample store of water for the irrigation of very extensive districts of country that now are waterless and practically impossible of cultivation. These mountain districts are generally public lands and cannot be taken up in sufficient quantities, under the land laws, for this purpose. I would suggest legislation whereby corporations of individuals organized under Territorial law could have the free use of these mountain lands in sufficient quantities for the purpose named, with the possession and use thereof for that purpose assured so long as these reservoirs should be maintained by them.

TAXING PUEBLO LANDS.

Under the provisions of the revenue laws of the Territory the county assessors of the various counties are required to assess for taxation the lands held in common as reservations by the various communities of Pueblo Indians. These people, though they have never exercised the right of suffrage, were made citizens of Mexico by an act of the Congress of that Republic, and by the treaty of annexation transferred to the United States as such. There are sixteen of these communities, residing upon distinct reservations, embracing in the aggregate 453,427 acres. These lands are among the best in the Territory, and are becoming very valuable by reason of the improvements and developments made from year to year in their vicinity.

This nearly a half a million acres of valuable land is that much taken out of the resources of Territorial revenues, and imposes a corresponding burden upon the balance. These people enjoy all the benefits of governmental protection and of good markets for their products afforded by their white neighbors, but share none of the burdens of government. This condition produces yearly increasing complications, which can be remedied only by Congressional action.

APACHE INDIAN RAIDS.

In May and June last very destructive raids into this Territory were made by renegade bands of Apache Indians, located on the White Mountain or San Carlos Indian reservation in Arizona. During that raid, I have reason to believe that some fifty citizens of the Territory were killed, large amounts of property in cattle, horses, and improvements were destroyed, and general development in the southwestern portion of the Territory was stopped. Early in October another raid oc-

curred, in the main by the same bands, in which several persons were killed, with a further destruction of property. The eastern line of the San Carlos reservation is but some 30 miles from the west line of this Territory, inside of which lies a region 150 by 200 miles in extent, constituting the richest mineral and grazing district in the southwest. This district has been devastated by these Indians almost yearly for many years, from no known provocation except the instinct of murder and pillage, and many hundreds of the pioneers of this Territory have been butchered and other hundreds impoverished, till, outraged by their unredressed wrongs, the settlers of that region see no prospect of relief until radical measures are adopted by the Government either in the disarming of these Indians or their removal to some more isolated locality away from their former haunts, where they are thoroughly familiar with every pass and watering place in the mountains, and thus able to effectually elude pursuit. Large numbers of the Territorial militia have been and are now acting in conjunction with the United States troops in the defense of the settlements; but this imposes a heavy burden upon the Territory, which the people are unable and ought not to be required to bear. It is believed that the employment by the army commanders of large numbers of Indians as scouts, constitutes to a large degree the secret of the failure to find and destroy these marauding bands during the past two years, while the practice of permitting them to return to the reservation to be fed when the season becomes too inclement for further hostile movement, but condones their past crimes and invites them to a repetition of those crimes on the advent of another spring and summer. In this connection I desire to suggest that the arming of the militia of the Territory with weapons of an abandoned caliber has in many instances proven a source of embarrassment in the impossibility of interchanging ammunition with the United States troops operating in conjunction with militia. The Congressional enactment providing that the Territories be supplied with only obsolete and abandoned arms is a very unjust measure. The hostile Indians and others against whom the militia must be used are as a rule always armed with the best makes on the market, and to restrict the lawful forces of the Territory to inferior weapons with which to fight outlaws is not only an injustice but a cruelty. I earnestly recommend Congressional action on this subject.

EDUCATION.

The educational interests of the Territory are in much better condition than has heretofore been the case. The late legislature enacted a public school law, which, though imperfect in some essential features, is a step in advance and a good beginning in the line of progress. Public schools are being somewhat generally established, and the public attention is being awakened to the importance of the education of the youth of the Territory. The period fixed by the law for the making of the reports of the school superintendents not having arrived, I have no official data on that subject, except what is afforded by the report of the commissioner of the census, recently concluded. By that the number of children who have attended school within the year is 10,232, while for the census year 1880 the number was 4,755, a gain of 5,477; that the number of persons who cannot read is now 42,091, while in 1880 it was 52,994, a gain of 10,003; and that the number who cannot write is now 44,899, while in 1880 it was 57,156, a gain of 12,257.

This is, under the circumstances, a gratifying rate of improvement, which cannot fail of rapid increase with the improvement of our educa-

tional system and facilities, and the growing interest in educational matters among the people.

IN GENERAL.

There are now in operation in the Territory 1,109 miles of railroad, constructed within the past five years—of the Atchison, Topeka and Santa Fé and branches, 675 miles; of the Atlantic and Pacific 174 miles; Denver and Rio Grande, 80 miles, and of the Southern Pacific and branches 180 miles. In addition to this, the extension of the Atlantic and Pacific from its crossing of the Atchison, Topeka and Santa Fé at Albuquerque eastward to the Texas boundary, a distance of 200 miles, is practically assured during the coming year.

It is anticipated that railroad construction within the Territory will then become active, as a number of railroad enterprises are now quite matured, and all demanded by the increasing development of the country.

The assessment rolls for 1885, made up on the 1st of March last, show \$37,500,498 of property assessed for taxation, against \$28,422,839 for 1884, an increase of 9,077,659. This property consists in part of 778,271 head of cattle, 36,153 horses, 1,470,824 sheep, 44,619 other domestic animals.

The net gain in farm products since the census of 1880 has been \$1,000,000, and the value of manufactures for 1885 is \$3,500,000. The wool clip for the year was 3,376,150 pounds, a falling off from the previous year, numbers of sheep-growers having abandoned that industry for cattle-raising.

Very respectfully submitted.

EDMUND G. ROSS,
Governor of New Mexico.

Hon. L. Q. C. LAMAR,
Secretary of the Interior.