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Introduction

On February 28, 1861, the US Congress approved the act establishing the territory of Colorado; the following month, on March 22, it annexed a rectangular portion of land from the territories of New Mexico, Kansas, Nebraska, and Utah for the new territory. Congress had designated specific meridians of longitude and parallels of latitude, just so the territory would appear as a rectangle on a map.¹ By this action, it automatically placed 7,000 *nuevomexicanos* in a new territory. The history of their annexation to the new territory is told here. It is a story that many southern Colorado natives do not know and one they certainly did not learn in school. By examining legislative records and the biographies of Hispano assemblymen, I provide a historical account of how politics, policies, and laws affected Hispano regional life in territorial southern Colorado.

This book is a brief introduction to territorial law and jurisprudence in Colorado Territory. It addresses ethnic history, political issues, cultural conflict, and institutional racism experienced in the region by Hispano assemblymen and their constituents. It also discusses how certain territorial legislation

affected the regional life of the Hispano settlers already living in the area that became Colorado. I begin, in chapter 1, by discussing a chronology of settlement in Colorado and explaining how the northern part of New Mexico Territory became the southern part of Colorado Territory, which is key to understanding why southern Colorado is deeply embedded in Hispano norms, culture, religion, language, and tradition.

As discussed in chapter 1, miners began to swarm the area and worked to establish the Territory of Jefferson. Although the US Congress paid no attention to their new territory's name, it did hear the need for a new congressionally formed square territory. As discussed in this chapter, Congress failed to consider the dire consequences of placing 7,000 nuevomexicanos in Anglo-dominated Colorado Territory.

The cultural conflict between the Hispanos and the Anglo majority is further illustrated in the loss and acquisition of land. I briefly introduce several Mexican land grants in present-day Colorado that are of historical significance in order to provide a frame of reference and to document a history for land issues as well as a history of the areas in which the settlers lived. The congressional confirmation process worked for those lands that were granted to individuals such as Charles Beaubien, but not for the Hispano grantees of the Conejos Land Grant.

I introduce Wilbur Fisk Stone as an early Anglo newspaper correspondent who wrote biased opinions of the Hispanos in southern Colorado but yet became a justice on the Court of Private Land Claims, which denied Hispano settlers confirmation of the Conejos grant. Also in this chapter, I explain why the US Congress placed a part of northern New Mexico Territory into the newly established Territory of Colorado. The New Mexico Territorial Assembly had not requested, petitioned, or approved any annexation of its people or its land. More important, the nuevomexicanos and their land were annexed without their desire or consultation; thus, they had no opportunity to discuss, amend, propose, or protest the actions of Congress. Their liberties had been disregarded by a republic that was supposed to represent and uphold their rights. As stated by New Mexico delegate José Francisco Perea, "a great wrong" had been done "to a large population." Because the histories of the Conejos and Sangre de Cristo grants are unique yet similar, I chose to separate them into their own sections within chapter 1. Here I provide an introduction to the different types of grants and their locations in

different parts of the San Luis Valley. The nuevomexicanos in Colorado were often separated from their families in northern New Mexico. Ecclesiastical records show that many of them wished to be returned, with their land, to New Mexico. Many families traveled between territories to be with relatives, to help them celebrate family additions, or to comfort them in their sorrow. Many families chose to marry and have their children baptized into the Catholic faith on the New Mexico side in Ojo Caliente, Arroyo Hondo, Taos, or, on the eastern side of the Sangre de Cristo Mountains, Mora. Relatives from New Mexico came into Colorado to assist in harvests or pasture their herds. They were supported by the labor of each family member. The Hispanos were tied to the land and across territorial borders by kinship and economy. This unity continues today.²

The new laws and social order that were brought to southern Colorado further impacted Hispano life. As explained in chapter 2, the federal and territorial governments made no provisions for translating and printing the territorial laws passed by the legislature. The federal and territorial governments also made no provisions for interpreters, so Hispano assemblymen could not effectively take part in the legislative process; in effect, their Hispano constituents were forced to accept taxation without representation.

Additionally, none of the Colorado executives met with their counterparts in New Mexico or California to discuss and determine how to meet the needs of its Spanish-speaking citizens. Passing laws through a legislative body with representation from all citizens was and still is essential in any democratic society. Anglos in the US Congress and territorial legislature created obstacles to the political participation of the Spanish-speaking assemblymen by failing to provide them with a Spanish translation of the enacted laws. Because the territorial government refused to provide the Spanish-speaking representatives with a translation of the House journals and the enacted laws, the Hispano citizens had no actual representation when the laws were being made. All legislative discussion and deliberations were entirely in English.

Despite requests by the Hispano representatives, the laws of Colorado Territory were published only in English. Colorado had no money in its treasury, and Congress refused to appropriate any funds because it considered the Hispanos alien and noncitizens. The Hispano assemblymen were unable to participate in any discussion or deliberations because of language

issues. The Spanish-speaking assemblymen were denied any real voice in territorial legislation. And when they requested translated copies of legislative documents, policy, or laws, they ran into funding obstacles on the federal and territorial levels. Without knowing the rules, the Hispano assemblymen could not participate in the legislative game. As they had limited or no English-language abilities, they were forced to work through unqualified and inexperienced interpreters who were unfamiliar with the issues and needs of Hispano southern Colorado.

Legislative actions by the Anglo and Republican-led assemblymen worked to keep members of their majority party in political and economic control. By refusing to approve payment for translating the all-important rules of a chamber, territorial treasurer Samuel Hitt Elbert denied the Spanish-speaking assemblymen access to understanding the internal legislative process. By keeping the rules from them, the territory kept them from participating in the legislative process. A single translated copy could have been shared among the Hispano representatives serving in current and future sessions, but, to Elbert, they were not real citizens. From the very beginning, the Spanish-speaking settlers of southern Colorado were not kept informed as to the character of laws under which they were expected to live; they understood neither the new statutes nor “the rights conferred or obligations the new laws imposed,” and they were excluded from every part of the legislative process. These Hispanos had only recently been annexed from New Mexico Territory, and despite their pleas to be restored to New Mexico along with their land, wealthy Anglos secured legislative and congressional support to keep them in Colorado.

In chapter 3 I highlight the struggles experienced by Hispano territorial assemblymen while they tried to create opportunities and better lives for themselves and their constituents in the face of cultural conflict. The people I discuss are generally unique to each grant. I also discuss certain laws that affected *comunidad*. Those who could not pay taxes, even because of an inability to afford them, were seen not just as delinquent but as un-American. The impact the territorial real estate law had on the Sangre de Cristo settlers is also discussed in this chapter.

During this time, the Indian Wars and the US Civil War were being fought simultaneously. A discussion of militiamen and soldiers appears in chapter 4. A military census had been ordered by the New Mexico Military Department

to determine the number of Hispanos in southern Colorado who could serve in the Union Army and to record the stores and livestock they owned should the army need them. The Civil War began a month and a half after the US Congress established the Territory of Colorado. Governor William Gilpin quickly learned that many miners in his new territory had emigrated from the southern states and were Confederate sympathizers. He feared that Confederate forces from Texas would make their way north to Colorado for its gold, so companies of soldiers were routinely posted at Fort Garland, a US Army post in Costilla County in southern Colorado. There they were given their marching orders against the Confederates.³ Soldiers and other new settlers arrived from the East, bringing with them preconceived notions about the American Southwest and its peoples and cultures.

In chapter 5, I provide information about the Conejos Indian Agency, its agent Lafayette Head, and the various hearings held to remove Head from office. Here I also introduce the important Ute Treaty that was being discussed in Conejos the same time many other events discussed in this book occurred. I think you see find that the early Colorado territorial period was definitely a frontier-wild time.

I review, from a Hispano perspective, the collective violence that occurred in southern Colorado in chapter 6. Hispano boys and adult males were lynched after verdicts passed down by all-Anglo miners' courts. The Espinosa brothers, Felipe and Vivían of Conejos County, were hunted down and killed in 1863 without trial or legal process. Although derived from a biased perspective, stories about their escapades have been published in books, aired on television programs about western desperados, and posted on the website Legends of America. These stories tell the same sensationalized version of the alleged murders. Briefly, Felipe de Nerio Espinosa, his brother José Vivían Espinosa, and a supposed nephew named Vicente Espinosa allegedly committed a series of murders throughout southern Colorado. Although I do not focus here on the crimes the Espinosas were popularly charged with, a review of prior research—combined with military records and oral histories I discovered—provides an alternative explanation about where and when the murders occurred and why the Espinosas were violently hunted down and killed. Although I do not present a smoking gun, I review a Hispano perspective about the collective violence that was directed against certain Hispano settlers in southern Colorado.

Throughout the territorial period, Hispano legislators faced numerous hurdles to effecting legislative change on behalf of their Spanish-speaking constituents, as I discuss in chapter 7. Powerful Anglo legislators living in the northern half of the territory helped enact a series of laws and taxes that affected the Hispano citizens living in the southern half of Colorado Territory. The Hispano way of life was so impacted by the new order that the Hispanos living in Conejos and Costilla Counties soon submitted petitions to both territorial and national legislators asking to be reannexed to New Mexico Territory. Anglo authors of Colorado's territorial history have erroneously attributed taxation and peonage as the main issues of Hispano discontent during this period. Then, following the Homestead Act of 1863, men with money filed false claims to obtain more land.

In chapter 8, I address institutional racism used as a weapon and tool by certain Anglos to suppress the use of the Spanish language. The elected Hispano assemblymen had a difficult time protecting, supporting, representing, and advocating for their Spanish-speaking constituents against the impact of prejudice and discriminatory laws and policies of Anglo assemblymen in the majority party. This is not an in-depth study of territorial law, nor does it expound on every piece of legislation; however, the select laws discussed in chapter 8 exemplify the basic sociological issues regarding Hispanos' interactions with their new Anglo neighbors, who spoke a different language, had a different religion, and lived by different customs. The examples, in chapter 8, of certain legislative discussions held in the Territorial House and Territorial Council (Senate) chambers reveal the prejudicial language some assemblymen used to promote bias, impose assimilation, and maintain power and control over the Hispanos and indigenous nations in Colorado Territory. (The Hispanos in southern Colorado far outnumbered immigrant Chinese laborers and African Americans; thus, those other minority groups are not discussed here.)

In chapter 9, I introduce the statehood initiatives and explain how the Hispano vote challenged the power in the northern part of the state. When Hispanos tried to return to New Mexico, Congress failed to hear their pleas or address their petitions. Yet without them, Colorado would not have a large enough population to seek statehood.

I conclude this book with a discussion of the use of language, attempts to restrict its usage, and what nativism and nationalism really mean to minorities. Water law is probably the most important law passed in Colorado

Territory. It is also an important law that other territories and western states have implemented. For this reason, I chose to discuss it in the conclusion. I also present the question, Was a square territory (and state) really necessary? After you have read about the immense impact the Territory of Colorado had on the Hispano settlers, consider the fact that the congressional leaders would not listen to facts and to the people. Hopefully, we all can learn from the settlers' point of view.

This book adds to the growing list of Hispanos who have in some way influenced the course of Colorado's history. The biographies presented in appendix A introduce historical members of Colorado's colorful legislative past. They acknowledge the struggles and efforts of notable Hispano assemblymen who represented southern Colorado during the territorial period as well as the vital roles their family members played to help create Colorado and its cultural diversity. I identify and refer to the assemblymen by their names as recorded on ecclesiastical records. Church and civil records used various spellings of some names; I use those that occur most consistently in these records. To help sort through the various events, readers may want to refer to the timeline in appendix B.

Readers should note that throughout the book the county name appears in parenthesis after the first instance of an assemblyman's name to indicate the county (or counties) he represented. As women's suffrage was not granted in Colorado until after statehood, all voters and elected officials during this period were male. In *Política: Nuevomexicanos and American Political Incorporation, 1821–1910*, Phillip B. Gonzales found one account in 1858 when Gertrudis Mora, a Hispana living in Taos County, served on a county nominations committee. Gonzales wrote, "Nationally women were excluded from the electorate but had begun to utilize such instruments as the petition to voice their political opinions and social concerns."⁴ Because there are very few historical records about Hispanas for this period, the only females addressed here are daughters or wives of the Hispano assemblymen.

I use the term "Anglo" rather than "whites" or "European Americans" to refer to people of British descent and native English speakers from the eastern part of the United States. I use the term *nuevomexicanos* to denote Hispanos as those who were born in New Mexico under the Mexican (or even Spanish) and US regimes and/or who became Colorado citizens when Congress established the southern border of the territory in 1861. I use this

term because, even though they lived in Colorado, their sentiments still turned to New Mexico. I include the territory and state of California in the discussion of legislative policies. When I mention California during this period, I refer to Alta California and I denote its Hispano peoples as *californios* to distinguish them from nuevomexicanos in the two areas of the northern Mexican frontier. I do not include a discussion of Texas statutes as Texas was a part of Nueva Viscaya and had become a state of the Union by 1845.

I also interchangeably use the term “Hispanos” to refer to the Spanish-speaking settlers of southern Colorado and northern New Mexico. I use this term over the more familiar “Mexican American,” “Spanish American,” or “Chicano,” as these terms were not used during the territorial periods of either New Mexico or Colorado. Although many cited historical documents use the term “Mexican,” its purpose was to separate the nationalities and typically implied a questionable patriotism or loyalty to the United States. This “we” versus “them” mentality ultimately led to a lower-level class of US citizenship. Historian Frances Leon Quintana explained it very well when she wrote, “Through military service starting in the Civil War [Hispanos] were well aware of their American citizenship and had ceased to think of themselves as Mexicans in terms of national affiliation.”⁵ The Honorable Celestino Domínguez, whom I introduce as one of the few Hispanos who served in the Territorial Council (Senate), was born, raised, and educated in Spain. He fully affiliated with, supported, and represented his Hispano constituents; therefore, for the sake of consistency here, he is a Hispano.

Regarding the use of diacritics, accents in Spanish geographic names appear only if the discussion or event occurred before 1848. Spanish terms appear in italics when the term is first introduced. Diacritics are used in all Spanish terms and names.

Readers cannot expect to understand southern Colorado without knowing the history of New Mexico, as the cultural and historical roots of the two territories were so interwoven. These were frontier communities. What impacted New Mexico impacted the Hispanos of southern Colorado. Some Hispano and Anglo assemblymen had *peones* (laborers) and indigenous slaves working and living in their households; however, peonage and slavery arose as contentious issues as a result of the US Civil War and not a result of Colorado’s territorial legislation. For this reason, I do not discuss this issue in great detail here.⁶

Through the years my research has led me to a substantial amount of historical information that needed to be told from a Hispano/a perspective. Much of the history of southern Colorado Territory has been written by Anglos who, unfortunately, did not deeply consider the cultural and racial motivations of military and government officials that greatly impacted the lives of the Hispano settlers and their descendants. The more I learned about these motivations and Colorado's early public policies, and about the subsequent social injustices and the skewed advantages in the legislative process, the more determined I became to relate this history from a Hispano/a viewpoint.

Notes

1. Keleher, *Turmoil in New Mexico*, 127. For a detailed discussion of why western states have geometric boundaries or artificial lines rather than natural divisions such as rivers or mountains, refer to Everett, *Creating the American West*: 171–72, 174, 184.
2. Deutsch, *No Separate Refuge*, 9.
3. Fort Garland, established in 1858, was under the jurisdiction of the Military Department of New Mexico until 1862.
4. Gonzales, *Política*, 330–31.
5. Quintana, *Pobladores*, 226.
6. Paxson, "Territory of Colorado," 62. Technically, Colorado is not a rectangle but an isosceles trapezoid. Colorado's north and south borders (along lines of latitude) are parallel and of equal length, but because its east and west borders are defined by lines of longitude, which are not parallel but converge toward the poles, its north border is slightly shorter than its south border.