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O. P. McMAINS, CHAMPION OF A LOST CAUSE

*By F. STANLEY**

OSCAR PATRICK McMAINS was like a match; his oratory and courage lit up for a while, and then all ended in smoke. But no story of the Maxwell Land Grant can be told without including him. His coming to New Mexico was an accident in the first place; once here, however, he was caught in the vortex of moving frontiers, railroads, outlaws, squatters, homesteaders, miners, and builders. Monuments have been erected to men who did less than he did.

Actually, the original petitioners for the tract which later became the Maxwell Land Grant acted as though they were about to start a grand scale reform school. In the first letter pertaining to the Grant, filed in Santa Fe on January 8, 1841, Guadalupe Miranda and Carlos Beaubien stressed the most elevating motives for their request.

Idleness, the mother of vice [their petition reads], is the cause of the increase of crimes which are daily being committed, notwithstanding the severity of the laws and their rigid execution; the towns are overrun with thieves and murderers. . . . We think it is a difficult task to reform the present generation, accustomed to idleness and hardened in vice. But the rising one, receiving new impressions, will easily be guided by the principles of purer morality. The welfare of the nation consists in the possession of lands which produce all the necessities of life without requiring those of other nations, and it cannot be denied that New Mexico possesses this great advantage, and only requires industrious hands to make it a happy residence. This is the age of progress and the march of intellect, and they are so rapid that we may expect, at a day not far distant, that they will reach even us. Under the above conviction we both request your Excellency to be pleased to grant to us a tract of land for the purpose of

* Father Stanley Crocchiola, Raton, New Mexico.

improving it, without any injury to any third party, and raising sugar beets, which we believe will grow well and produce an abundant crop, and in time to establish manufactories of cotton and wool, and raising stock of every description. . . .

Thus was launched the enterprise which became the Maxwell Land Grant.

Miranda, however, felt rather less confidence in the project than Beaubien. Therefore, in 1858, he sent L. Pablo Miranda as his agent to sell his share to Lucien B. Maxwell, Beaubien's son-in-law, for \$2,475. The price included a sum to be paid to the Congress of the United States, and a sum to be paid to Charles Beaubien.¹ Maxwell eventually acquired all the property for what today would buy a fully furnished home of nine rooms.² Then he sold out (1870).

The recently formed Maxwell Land Grant and Railroad Company, which paid him \$1,350,000,³ in turn gave way to foreign interests. These sent their agents to northern New Mexico to protect their interests, especially when it was found out that the land was rich in gold, coal, copper, and other minerals, and in good farming land. At the same time, never bothering about deeds or abstracts, squatters put up their homes here and there, and raised their cattle.

Communities developed. One of the articles of incorporation in the Grant Company's organization called for "laying out towns and villages, and to erect houses, Manufactories, plant machinery and other buildings upon any property of the company."⁴ Cimarron, Maxwell's former home, was one of such towns; it was the county seat in the early days of the Anti-Grant agitation.⁵ Another settlement, likewise for a time the county seat, was Elizabethtown.

1. See Transfers of Title in *Transcript of Title of the Maxwell Land Grant* (Rand McNally Co., Chicago, 1881.)

2. In 1864, Frederick Muller and Teodora Muller Beaubien sold their share for \$500; Joseph Clouthier and Juana Clouthier sold out for \$3,500; and Vital and Eleanor Trujillo sold out for \$3,000. In 1867, J. G. Abreu and Petra Beaubien Abreu sold their share for \$3,500. Pablo Beaubien sold his share in 1870 for the same consideration. Aloys Scheurich and Teresina Scheurich Bent had sold theirs in 1866 for \$6,000; Alexander Hicklin and Estefana Hicklin Bent received the same amount. In all about two million acres were involved. (O. C., pp. 37 and 44.)

3. *Ibid.*, p. 69.

4. *Ibid.*, p. 67.

5. Colfax County.

To this section, between Elizabethtown and Cimarron, Rev. T. J. Tolby had dedicated his life as a circuit rider for the Methodist Church. He died in 1875—murdered. To the scene of the crime hurried Oscar Patrick McMains, a fellow-minister of the Gospel. He put aside the cloth to turn detective, and find the criminal. But two weeks later (October 1), the body of Cruz Vega was found hanging to a telegraph pole.⁶ The finger pointed to McMains, who was brought to trial for murder at Taos. The case, however, was dismissed by Judge Samuel Parks; under the evidence received the minister could not be properly convicted. This much did develop—that Cruz Vega, on being hanged, had protested to the masked men about him (one of whom actually was McMains) that he had had nothing to do with Tolby's death—that perhaps Manuel Cárdenas might know something about it. Perhaps it is significant that Cárdenas was shot to death on November 10, 1875.

This is what led McMains to the land grant question. While investigating the death of his confrère, he for the first time fully realized, among other facts, that there were two types of settlers: those who had bought their property from the Grant people, and those who had made themselves at home on the Grant. Always a crusader, and himself a squatter, he espoused the cause of the Anti-Granters.

He proposed to act. Feeling that the vicinity of Cimarron was too Pro-Grant, he settled near Raton. There he established a printing shop in order to issue a newspaper called *The Comet*, which he designated as the official paper of the Anti-Granters. Now he became a general aligning forces for action. And Colfax County was to see some action! Too busy on his ranch when he was not traveling to and from Washington, D. C., he passed the newspaper project to another Anti-Granters—though he still dictated its policy. His successor called it *The Raton Guard*. Here is an example of McMains's argument:

The survey of the Beaubien & Miranda, or the Maxwell Land Grant, a vast tract of country lying in New Mexico and Colorado

6. Cf. W. A. Keleher: *Maxwell Land Grant* (Santa Fe: Rydal Press, 1942), pp. 75-107.

which was patented about twenty years ago without adequate examination, and in spite of protests, letters, and papers from this country, showed that the survey erroneously included in the southwest corner Elizabethtown, and Elizabethtown Valley which is rich in minerals. This valley is V shaped, pointing north with a chain of mountains on each side. These papers showed that the boundary line there described in the Grant ran on the east side of the valley instead of the west as surveyed. It is true these protests were not formal because all the lawyers of the country were either employed or intimidated by the Land Grant office. It was customary to make at least, the basis of an investigation but the survey was approved and the patent issued without any time being given for the opposition or the settlers and miners in the valley to take legal steps. . . . Life in the Capital of this great country, with its many examples of successful villainy is very apt eventually to root out the belief providentially planted in men's breasts that the square thing is what pays.⁷

Later (November 1882) he bought back the paper, this time establishing a partnership with Adams. Re-naming the paper *The Raton Comet*, he again took up the pen. In his first issue he wrote:

. . . Greetings to our friends; defiance to our foes. Here is the *Comet* again with the same old motto: Open War Against Secret Fraud. The Fraud is a towering, majestic two million acres known as the Maxwell Land Grant. It has fed on fraud; fraud will kill it. Its demise, however, can be hastened by a newspaper as well as legal treatment. . . .⁸

Meantime he gave a little attention to his ranch south of town; between Dillon and Raton. He sought the best of stock for it and had as his brand the letters M A X. He had been collecting from the Anti-Granters for trips to Washington to induce the Land Office there to reverse its decision that the Grant people possessed title beyond doubt. Commented the editor of the *Guard* before McMains repurchased it: "McMains has purchased a fine brood mare from Frank VanHaren last Monday at seventy-five dollars cash. If the 'Agitator' keeps on buying horses the next Land Grant sale at his ranch will be large."⁹

7. *The Raton Guard*, Nov. 25, 1881.

8. *The Raton Comet*, July 14, 1882.

9. *The Raton Guard*, June 16, 1882. The editor here refers to an incident which took place in March, 1882. Five men rode in while McMains was attending Court Sessions at Cimarron, and took all his stock as rent for the Maxwell Land Grant

But most of his time went to organizing the movement. Everywhere there was an amalgamation of forces. Every stranger was approached. McMains gained more and more popularity among Anti-Land Granters. From as far away as Nebraska S. D. Stout wrote:

The Maxwell Land Grant is a huge swindle. I have seen this Ring [the name given a politics and land faction in Santa Fe, Springer, Taos, Raton, and other places at the time] remove the court to Taos and then send the sheriff a regiment of Negroes [soldiers stationed at Fort Union] to arrest the best citizens of Colfax County.¹⁰

So powerful was McMains' influence that the editor of *The Raton Guard* found himself writing (March 26, 1882):

The Maxwell Land Grant from the day of its fraudulent existence has been noted for taking every little, mean, dirty advantage that it has in its power. And as the last, low fling at the settlers, just on the eve of the trial of the case in the United States Court of Colorado, and just a few days before the bill in equity could be filed, they served their ejection notices on the settlers in the northern end of the town [the northern end of Raton at the time was known as Boggstown; it was upon Boggs and the settlers near him that the notices were served] and upon O. P. McMains at his place near town. So long as the bill of equity has not been actually filed and official notice of suit thus actually given, this obnoxious company still has in its power to molest the settlers. The case will come up in Cimarron next week, but if at that time the bill has been filed, or an order received from the attorney-general Brewster to stay proceedings as he ordered the suit, we think the court will continue the cases. McMains not being at home when the officers of the law arrived he was not dispossessed, but they levied on his hay and his goods and they say they will put him out when he returns. The settlers need feel no alarm for the days of the Maxwell Land Grant are numbered.

because McMains was a squatter. In April he made a speech in Cimarron which was so vitriolic that the Grant people decided to oust him once and for all. They advertised that, on April 19, 1882, all of McMains' effects would be auctioned off as a payment of the property he called his but for which he had no deed. Two hundred of his followers collected at the auction with Winchesters. The sale was started by Sheriff Wallace and Deputy Bowman. Began Wallace: "Who will bid on the mare next to the fence?" Silence. Only hostile looks and gleaming Winchesters. The Sheriff, seeing he could do nothing, then produced a form and read the reasons why McMains had to be ejected, commenting further that he was only doing his duty. The spokesman for the Anti-Granters told him to get going. Next time they wouldn't be so kind. They would march on Cimarron, the county seat, and kill every Pro-Granter there. The ranch was saved.—*Cf. The Raton Guard*, April 21, 1882.

10. *The Raton Guard*, March 21, 1882.

Feeling became more tense and more bitter. Tavern brawls ended as partisan fights. Everyone was either pro or con; there was no middle ground. George F. Canis, publisher of the Raton paper, *The New Mexico Press and News*, had espoused the Land Grant's side, so that to McMains he became the official spokesman of the opposition. Other papers throughout the Territory took up the cry either for or against. Raton became a terribly bad place to live in, according to their lights, where

life and property is considered of no importance by the bloodthirsty inhabitants of this burg. This impression has gone abroad through the disjointed, garbled, maliciously false statements found in several newspapers. . . . George F. Canis, editor of the *New Mexico Press and News* is blamed mostly. He published a supplement of seven columns to his paper on October 30, 1882, wherein he charged Rev. O. P. McMains with murder. . . . Mr. McMains has had to suffer martyrdom on more occasions than one, by this exposure of corruption and fraud by which the people of Colfax County were threatened to be engulfed. . . .

When Parson Tolby, several years ago, was waylaid and shot in the back while performing his duties, Mr. McMains nobly came to the rescue and was instrumental in tracing the murderer of his brother minister. This was an act on his part that placed him at the mercy of the terrible bad element that infested this country at the time. When McMains went to Canis asking for proof of his statements Canis said he didn't have them whereupon McMains addressed a large gathering telling them the facts that led to the killing of Parson Tolby, and of the arrest of Cruz Vegas, as the murderer. When he finished, Canis got up and addressed the crowd and apologised for his writing and promised to write a retraction. Everyone knows that Canis did not do this of his own self but with instructions he dare not disobey. He was used as a catspaw to pull some one else's chestnuts out of the fire. Instead of injuring McMains it is on the whole the very best thing that could be thought of to elect him as a representative of the people of this county to the legislature at Santa Fe.¹¹

Canis was shortly afterwards appointed postmaster at Deming. The Anti-Granters' cries followed him; his effigy was burnt by the settlers there,¹² as McMains promptly informed the people of Raton.

The Great Agitator, as he was now known, then had

11. *The Raton Comet*, November 4, 1882.

12. March 11, 1883.

himself elected to the legislature the better to study the records in his effort to disqualify the claims of the Maxwell Land Grant people. Whenever a flicker of hope gleamed, he promptly sent the news to the newspaper in Raton. For instance: "The Maxwell Land Grant Fraud is doomed on unimpeachable record testimony. The patent has by high judicial authority already been decided to have been obtained by fraud in the survey and this fraud in the survey renders uncertain the boundaries of the Maxwell Land Grant as confirmed by Congressional decree. The Grant is entitled to just eleven square leagues."¹³

Up and down the length and breadth of the Southwest went McMains, agitating against the Grant: Bloosburg, Raton, Santa Fe, Deming, Folsom, Trinidad, Denver, Pueblo, Dallas, Fort Worth, Springer, Cimarron, Elizabethtown, Baldy, Fort Union, Watrous, Tiptonville. When he returned from Denver, a large crowd met him at the Santa Fe station in Raton and escorted him to the McPherson & McAuliffe Hall to hear from his lips once again the story of the cause to which he was dedicating his life.¹⁴

Up in Trinidad, *The Trinidad News* took up the cry:

Nobody acquainted with the Maxwell Land Grant pretends to believe that it even approaches the limits now claimed by the swindlers who call themselves the Maxwell Land Grant Company. All the facts go to show that the claims of the Grant Co. are preposterous and fraudulent. It is worth millions of dollars and these thieving rascals have no more right to it than the James Brothers. O. P. McMains, who is familiar with the whole history of the outrage from its incipency, has followed them like a sleuth hound; he has been persecuted and imprisoned by the swindlers but never faltered in his work, meeting with little encouragement, poor in purse and armed only with the spears of truth and justice, he has battled with these money grants.¹⁵

However, some Anti-Grant leaders finally began to question McMains. When C. F. Martin, editor of *The Springer Stockman*, was asked if he was for or against McMains, he answered:

13. *The Raton Comet*, Nov. 10, 1882.

14. *The Raton Comet*, March 13, 1883.

15. March 21, 1884.

We are for the settlers only, first, last, and for all time. We are opposed to McMains because it is McMains. We do not like the man; we do not think he is keeping faith with the people, and consequently not the proper man to dictate the actions of so many intelligent and honorable people as there are in Colfax County. We oppose him, his personal record and mode of action; not the cause he pretends to champion. Secondly, we are decidedly anti-grant, and desire the people of Colfax County to understand that when the *Stockman* can be of service, to them or their cause, we want a reserved seat in the front row.¹⁶

This was the first note of opposition against McMains. Everywhere people had contributed money to keep McMains in Santa Fe and Washington, D. C. All they got were words, promises, prophecies—"O. P. McMains, who has just returned from Washington, says that the whole Grant will soon be public lands."¹⁷ People became tired and nervous. The agitation at Springer, in which Rogers, Curry, and Jack Williams lost their lives, became a Grant War. Soldiers, sent from Fort Marcy, Fort Union, and Springer, placed the Colfax County seat under martial law. Vigilantes were organized in Raton—most of them Anti-Granters. The acting governor of the Territory was tricked into recognizing a militia for Raton, and Masterson and his men, through with their fight for the railroad, were hired to do a little fighting. Tired of hatred, agitation, mobs, bloodshed, however, the Vigilantes escorted Masterson and his henchmen over the Colorado border with the admonition never to set foot into New Mexico again.

McMains was to be handled by different means. He was to be punished by ridicule. The very newspaper he had once founded was to turn against him. He lost out among his own followers. People would go out of an afternoon to hear him harangue against the Grant just as they would go to see their favorite actor or pet bear:

McMains has indeed pursued a strange course since he commenced this fight. He has been the agent of some of us settlers; he has drawn himself up to his full height, and declared that he was born and created for this special mission of unearthing and defeating the gigantic

16. *The Springer Stockman*, July 4, 1884.

17. *The Taos Herald*, July 15, 1885.

fraud of the Maxwell Land Grant; that for every great era of national reform there sprung up some gladiator to fight its causes in the arena. But, settlers, notwithstanding all the enthusiasm which has bubbled up from that devoted heart, he forgot all about the great mission for which he was created when he went to Frank R. Sherwin, upon the latter's arrival at Cimarron, and while struggling for the mastery of the great love he had for the downtrodden ignorant settler (in which battle he claims to have come off victorious), then and there offered to bury the hatchet and think no more of wars—to let this immense fraud, which he has raged so much against, to go unfought so far as he is concerned, if the Grant Company would give him title to the ranch and meadow for which the settlers are willing to fight on.¹⁸

Will those who blindly follow this fanatic, to the neglect of their own interests, and manly independence, never tumble on the fact that he pretends to be supporting himself at Washington with his own money.¹⁹

McMains to the Settler said, "Ho.
I tell you that the land must go.
Just put up your wealth
I'll go east for my health
And laugh at you, sabe, just so."²⁰

"Judge Hunt finds that there is nothing to McMains but wind, so he squeezes some of it out, and then leaves him entirely collapsed."²¹ "O. P. McMains left for Washington on Tuesday. He found the atmosphere here a little chilly; the wind blowing in the wrong way. Everything has gone wrong, and everybody is dishonest but McMains. He secretly had a little pamphlet published in Trinidad. He couldn't risk having it published at Raton."²² All this only a few months after the glowing columns that made him a hero! What a come down from this, printed only the year before:

The Rink was crowded almost to suffocation last Friday night, the event being the reception tendered the citizens of Raton to Governor Ross and the Honorable O. P. McMains. There were seats for six hundred, but many had to stand. The estimated attendance was about thirteen hundred. Land grabbing monopolies were brought into

18. *The Raton Range*, May 28, 1886.

19. *Ibid.*, April 19, 1886.

20. *Ibid.*, May 28, 1886.

21. *The Raton Range*, April 30, 1886.

Ibid., May 7, 1886.

22. *Ibid.*, May 27, 1886.

his speech by O. P. McMains who said "He has carried on the great fight against land thieves and corrupt officials almost unaided and alone."²³

For a while his influence, though on the wane, was still felt. "Col. Chas. T. Russell has been notified by the Territorial officials to hold fifty men in readiness to go to Colfax County next month when the district court convenes. Maxwell Land troubles are expected," said *The Socorro Chief-tain*.²⁴ "The irrepressible agitator, O. P. McMains," *The Raton Range* said, "last year issued an incendiary public circular declaring that the only way that the settlers could get their rights was by raising a 'rumpus.' He finally produced the rumpus and says it was the Maxwell Land people."²⁵

Finally, however, he could not escape the fact that he availed nothing in Raton. He tried Texas. For a long time, he knew, Texas had claimed a boundary that included the land taken in by the Grant. In 1842, as a Republic, she even sent an expeditionary force to take over the disputed land by force of arms.²⁶ Even here he was baffled; Texas would not deny that the United States Land Claims Office made a mistake in conceding that the Maxwell Land Grant was within its rights in retaining every acre purchased of Lucien Maxwell. It was now an obsession. He sold the few effects he had at Raton and moved to Stonewall, Colorado. There, too, he was soon in hot water.

"O. P. McMains and S. D. Bell and Anderson Duling were arrested in Trinidad yesterday," *The Raton Range* reported, "as the result of a riot at Stonewall last August, on charges of manslaughter growing out of the death of Squire Russell, a deputy-sheriff, amongst others who were sent to Stonewall to bring peace. They were anti-grant rioters and were let out on bail of five hundred dollars each, which they paid."²⁷ "McMains is at last reaping some of the fruit for

23. *Ibid.*, July 10, 1885.

24. August 5, 1888.

25. August 14, 1888.

26. For a good account of this expedition, see Kendall's *Santa Fe Expedition* (N. Y.: Harpers, 1844).

27. Feb. 22, 1889.

himself which he has prepared for others. On Wednesday, he was lying in the Trinidad jail with ten indictments over him, calling for \$19,000 in bond. Eight separate indictments were found against him for assault with intent to murder John Sells, Ed Brown, John Hannon, William C. Hunn, John Pembroke."²⁸

One newspaper mourned his ruin—*The Clayton Enterprise*: "*The Raton Range*, and a few other papers of like ilk, seem to rejoice in the fact that the alien land-grabbers put poor McMains in jail for defending the settlers in their rights. We don't see any occasion for rejoicing over the defeat of McMains and the defeat of justice by a set of unscrupulous men and a big pocket book. But what is the use of talking, such is only the illustration of human nature and of the way people are built. So long as there are some people who believe that might makes right and that the big fish are made to eat the little fish just so long will Darwin's theory of human evolution hold good. They are built that way and can't help it."²⁹

After this the records are silent. Whether McMains, because of his poverty, languished in prison, or whether he returned to Stonewall a disillusioned, broken old man, has not been told. He just drops from sight. He probably died in the 90's. No one who has been questioned, no courthouse files, no newspapers have yielded the information. However he may have lived or died, may the poor fellow rest in peace.

28. *The Raton Range*, March 28, 1889.

29. *The Clayton Enterprise*, April 25, 1891.