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THE TWO LAND GRANTS OF GERVACIO NOLAN

MORRIS F. TAYLOR

ON THE NORTHERN frontier of the Republic of Mexico during the years 1841-1845 intensive efforts by Mexican citizens, both native-born and naturalized, to acquire land south of the international boundary of the Arkansas River bequeathed questions that have not been fully answered. The munificent hand of Governor Manuel Armijo, in Santa Fe, authorized grants of land to pairs of individuals: Cornelio Vigil and Ceran St. Vrain, Carlos Beaubien and Guadalupe Miranda, Stephen Luis Lee and Narciso Beaubien (the minor son of Carlos). And there was a single recipient of unusual generosity—two land grants. He was Gervacio Nolan, whose tracts turned out to be one in Colorado and the other in New Mexico. He and his grants are the subjects of this paper, which attempts to place them in the context of the times and to provide some illumination of the questions.

Gervacio Nolan was a French Canadian, whose first name in French is rendered as Gervais. His inability to write and the phonetic efforts of others resulted in variations of his surname—Nolain, Nollin, Noland—in public documents. He evidently arrived in New Mexico in 1824 with a group including his fellow countryman, Carlos Beaubien. Both men were British subjects, and they were the first to obtain Mexican citizenship under a new and less stringent naturalization law on June 25, 1829. They settled in Taos, and from 1835 Nolan also had business interests in the mining town of Real del Oro, southwest of Santa Fe. In December of 1843 Carlos Beaubien and Stephen Luis Lee were assisting witnesses who signed documents issued by Cornelio
Vigil, a justice of the peace at Taos, putting Gervacio Nolan in possession of land on the south bank of the Arkansas River across from the Pueblo Fort, a trapper-trader post built in 1842 on the American side. Vigil acted in response to a decree from Governor Armijo approving Nolan's petition for a grant dated November 14, 1843.³

Personal information about Gervacio Nolan is scarce, but it appears that he was a gunsmith by trade and became a man of property, interested in gold mining, following his experiences as a fur-trapper.⁴ Through Beaubien he had entrée to a little group of influential Taoseños who were active in a remarkably interlocking fashion in promoting grants to some of the best lands south of the Arkansas River. In a sense the group was a prototype of the later Santa Fe Ring.

Those who were native-born Mexican citizens may have been motivated by some degree of patriotism to create a buffer against westward-moving Americans, but hardly to the extent suggested by one historian.⁵ And it is difficult to believe that the recently naturalized ones would have been that interested or would have switched allegiance so completely in so short a time. There was an easy chance taken that if American sovereignty should be extended south of the Arkansas, existing patterns of land ownership would not be seriously disturbed, and a favored few would have control of tracts far larger than those permissible under American land law. At any rate, the first American system of law imposed on New Mexico, the Laws of the Territory of New Mexico (commonly known as the Kearny Code) promulgated on October 7, 1846, provided for the preservation of such land patterns, and the Treaty of Guadalupe Hidalgo, 1848, did the same.⁶

Original grantees did not think they were getting huge tracts, in some instances ranging from about 1,000,000 acres to more than 4,000,000 acres. Such figures enter the record much later, the petitioners having accepted 48,000 or 96,000 acres (or less) as legal amounts. In an evaluation of Mexican land grants a cautionary summary by the late Professor Harold H. Dunham is helpful:
The problems that arose from the grants are at least partially attributable to the vagueness or the irregularities found in their title papers. Even a casual study of land grant records will reveal the fact that some of the Mexican grants far exceeded the legal amount of 48,000 acres authorized for donation to any person; some grants had mutually overlapping boundaries, even to the extent of several hundred thousand acres; some grants have been proven to be completely, as well as at times, crudely, fraudulent; and some grants required an unusual amount of litigation to determine their validity, extent, location or ownership.

Carlos Beaubien was one of the recipients of the Beaubien and Miranda Grant early in 1843, possession being given by Cornelio Vigil. When Vigil put Gervacio Nolan in possession of land on the Arkansas in December, with Juan Ortega, Jose Gabriel Vigil, and Ceran St. Vrain as instrumental witnesses, Carlos Beaubien and Stephen Luis Lee assisted. A week before, Cornelio Vigil and Ceran St. Vrain together petitioned for a grant of land immediately south of the Arkansas, which was approved by Governor Armijo the next day, December 9. Vigil and St. Vrain were given possession by Jose Miguel Sanchez, justice of the peace at Taos, on the second day of January 1844, with Juan Ortega and Stephen Luis Lee as two of the three instrumental witnesses. Just after Christmas 1843, Stephen Luis Lee and Narciso Beaubien, the thirteen-year-old son of Carlos, asked for a grant west of the Sangre de Cristo Mountains in the San Luis Valley. Governor Armijo recommended it, and on January 12, 1844, Jose Miguel Sanchez put the petitioners in possession of their land. Among the witnesses were Ceran St. Vrain and Juan Ortega.

One gathers from reading the documents, that justices of the peace, grantees, and witnesses actually paced the outboundaries of those properties (sometimes in winter) and put up markers, with the grantees symbolizing their ownership by pulling up weeds and tossing earth into the air, a ceremony said to be equivalent to the livery of seisin in deed of the English Common Law. Disbelief that all that was really done has already been expressed by others in connection with the Vigil and St. Vrain and the Lee and Beau-
bien Grants,\textsuperscript{12} the present writer fully concurs and extends his doubt to all of the grants approved by Governor Armijo.

It seems unlikely that Gervacio Nolán ever saw his claim on the south bank of the Arkansas River,\textsuperscript{13} but whether such was the case with his second grant obtained in 1845 is less certain. Petitioned for by Nolán, Juan Antonio Aragón, and Antonio María Lucero, the act of juridical possession was made on November 30 for land in New Mexico south of the Beaubien and Miranda claim and east of the Mora Grant, the latter made by Governor Albino Pérez in 1835.\textsuperscript{14} Nolán’s second tract was approved by Governor Armijo on November 18, 1845, and possession was given on the last day of the month by Justice of the Peace Tomás Benito Landa, Nolán’s brother-in-law. Later Nolán acquired the interests of his two associates in the claim.\textsuperscript{15}

The second Nolán grant, sometimes called the Santa Clara Grant, was the last one authorized by Governor Manuel Armijo on the northern frontier of the Republic of Mexico. War with the United States (1846-48) resulted in the transfer of much of northern Mexico to American sovereignty. The Treaty of Guadalupe Hidalgo eradicated the international line at the Arkansas River and provided, in Articles 8 and 9, for the protection of established property rights in the area taken over by the United States.\textsuperscript{16} Meanwhile, the Taos Revolt of January 1847 had destroyed three claimants to grants made by former Governor Armijo: Cornelio Vigil, Stephen Luis Lee, and Narciso Beaubien.

Not until July 22, 1854, did Congress create the office of Surveyor General of New Mexico “to ascertain [among other things] the origin, nature, character, and extent of all the claims to land under the laws, usages, and customs of Spain and Mexico.”\textsuperscript{17} And on August 21 the Commissioner of the General Land Office issued instructions to New Mexico’s first surveyor general, William Pelham, on how to handle land grant matters. The responsibility thus added to his office produced some rather superficial investigations. He was allowed to either number or alphabetize the claims he would submit for confirmation.\textsuperscript{18} Pelham chose the numerical system, and on January 12, 1858, he provided a schedule of
eighteen private land claims for congressional disposal. Among those were No. 4, the Lee and Beaubien (Sangre de Cristo) claim; No. 15, the Beaubien and Miranda (Maxwell) claim; and No. 17, the Vigil and St. Vrain (Las Animas) Grant. All three were located in the immense Taos County. In the subsequent Act of June 21, 1860, Nos. 4 and 15 (among others) were confirmed by Congress, and No. 17 was not. Also confirmed by the same Act was No. 32, the Mora Grant, south of the claim of Beaubien and Miranda.10

Gervacio Nolán died January 27, 1857, leaving four sons and a daughter, and two children of a deceased daughter, as heirs-at-law.20 Nolan's two claims had not been examined in time for congressional decision in the Act of June 21, 1860, but the heirs hired attorneys to take the required steps towards approval of their claims. Lawyer Theodore D. Wheaton submitted their petition for the New Mexico tract, dated February 27, 1860, to Surveyor General Pelham, who approved on July 10 and assigned the number 39.21 Wheaton was a well-known speculator in land grants,22 as was the Santa Fe lawyer, Judge John S. Watts, who was retained in the case of the Colorado claim, which was given the number 48 and recommended by New Mexico's second surveyor general, Alexander P. Wilbar, on October 8, 1861.23 Because the Nolan No. 48 (Colorado) was the earlier of the two grants awarded by Governor Armijo, and because it ceased to be in active controversy long before the Nolan No. 39 did, further detailed consideration will be given first to the Colorado claim.

The petition submitted by Judge Watts reads as though the two Nolan tracts were one—"lying and being situate in the county of Mora, in the Territory of New Mexico, and partly in the county of Arapahoe, Territory of Kansas, and known as the Cuerno Verde [Greenhorn] grant. . . ."24 But the description is clearly that of the one adjacent to the Arkansas River, which claim was in Kansas Territory from 1854 to 1861, when Colorado Territory was created. In conclusion the petition stated that "the said heirs
and legal representatives . . . cannot show the quantity of land claimed, except as set forth in the documents of said grant as within the above described metes and bounds; nor can they furnish a map or plat of the same, as no survey has ever been made, but present the accompanying documents as full proof of title to the said land, and prays its confirmation.”

The documents referred to included testimonies given by Ceran St. Vrain and Kit Carson, as well as those of Nolan’s sons-in-law, Eugenio Lovato and Fernando Delgado. The latter two simply identified the heirs, so if the Colorado claim depended mainly on the testimonies of St. Vrain and Carson, it rested on flimsy foundations indeed. Their statements about ownership and occupancy were vague. St. Vrain observed: “I do not know whether he [Nolan] occupied the said grant in person, but know that it was occupied and cultivated by persons under his employ,” and he added that occupancy was disrupted by Indians pretty regularly. Carson commented that Nolan “has been regarded as the owner” and that he [Carson] had seen “large crops of corn growing on said tract; its occupancy often was interrupted by Indians.”

Citation of Indian opposition as an extenuating circumstance was not new. In his testimonies in behalf of the Vigil and St. Vrain Grant and the Beaubien and Miranda Grant, both given on July 28, 1857, Carson made substantially the same point, and he was supported by another witness for Vigil and St. Vrain, William A. Bransford. A partial solution of the danger to settlers was expressed in a memorial to Congress from the New Mexico legislature in 1858:

... Therefore we ask that that portion of the law of Congress which grants donation claims to lands to actual settlers shall be so amended that an actual cultivation of the land, for four years, shall be sufficient, but that the parties entitled shall not be required to reside upon the land claimed, for the reason that there is great risk of life in settling said land, on account of the depredations of the savage Indians.
Whatever the practical merits of such concerns, they really were incidental to the central issue of the status of the grants under Mexican law.

In recommending the Nolán claim in Colorado, Surveyor General Wilbar raised no question of Mexican law, saying that the papers were in order and that the supreme authority of New Spain—afterwards the Republic of Mexico—exercised from time immemorial certain prerogatives and powers which, although not positively sanctioned by congressional enactments, were universally conceded by the Spanish and Mexican governments; and there being no evidence that these prerogatives and powers were revoked or repealed by the supreme authorities, it is to be presumed that the exercise of them was lawful. The subordinate authorities of the provinces implicitly obeyed these orders of the governors, which were continued for so long a period that they became the universal custom or unwritten law of the land wherein they did not conflict with any subsequent congressional enactment.

Governor Armijo's approvals of petitions for land suggest, in their brevity and perfunctoriness, that he acted on such a premise, but it is difficult to believe that the extent of a claim would not have been clarified in terms of Mexican land laws before final confirmation could have been obtained under the Republic of Mexico. That, of course, is an academic point, because sovereignty changed so soon after the grants were made. The official instructions to Surveyor General Pelham in 1854 stated that it would be his duty "to ascertain the origin, nature, character, and extent of all claims, to lands under the laws [italics mine], usages, and customs of Spain and Mexico." For the Nolán No. 48 Surveyor General Wilbar altered the priorities and laid primary stress on the usages and customs rather than the laws of Mexico. His emphasis on the extraordinary power of the governor had precedents in Pelham's decision in 1856 to recommend the Lee and Beaubien (Sangre de Cristo) Grant and in 1857 in approving the Vigil and St. Vrain (Las Animas)
On the same day—September 17—that he recommended the Vigil and St. Vrain, Pelham also gave his support to the Beaubien and Miranda (Maxwell) Grant, but in the latter case he made no mention of the prerogatives of supreme authority in remote provinces, simply saying that Armijo had, "in conformity with the laws," granted the land to the petitioners to make such use of it as they saw proper." The shift in emphasis is difficult to evaluate. Perhaps Pelham thought the Beaubien and Miranda claim, as it then stood, was well based on the intent of Mexican land law because of a notable degree of occupation and cultivation at Rayado, a special circumstance that is evident in the testimonies and could not be matched on the other two claims. In other words, the Vigil and St. Vrain and the Lee and Beaubien Grants had little going for them beyond the alleged power of the political governor and military commander, Manuel Armijo.

The laws to which the governor presumably conformed in the Beaubien and Miranda case were the Mexican Colonization Act of 1824, providing for grants to empresarios (promoters) for colonization by many families, and the regulations of 1828, limiting grants to individuals to eleven square leagues. Surveyor General Wilbar apparently saw the similarity of the Nolan claim on the Arkansas to the Lee and Beaubien (confirmed by the Act of June 21, 1860) as an exercise of the extraordinary powers of governors to make grants. But that kind of executive action was a factor also in common with the Vigil and St. Vrain Grant, which Congress, upon recommendation of the Senate Committee on Private Land Claims, had refused to confirm. The committee's objection was not to the alleged power of the governor but to the excessive size of the claim, blaming the justice of the peace for putting them in possession of not "less than one hundred square leagues, and possibly much more," when "eleven square leagues [ca. 48,000 acres] for each claimant would be the utmost they could fairly expect, and would not only be a fair but a liberal compliance with the obligation imposed on the good faith of the United States under the terms of the Treaty of Guadalupe Hidalgo." The very strong inference is, of course, that the claims of
Beaubien and Miranda and of Lee and Beaubien were so limited, whatever their basis for approval, but the Congress of the United States confounded logic by confirming them without apparent limitation, while limiting the Vigil and St. Vrain to about 96,000 acres.

In his petition Gervacio Nolan asked for land in the valley (rito) of the Don Carlos, a tributary of the Arkansas, and in giving possession, Justice of the Peace Cornelio Vigil referred to land on the Don Carlos, which gives some substance to the story that the stream was named for Carlos Beaubien. Today it is known as the San Carlos, or St. Charles, but it may originally have been called the Rio de Dolores. The documents appear to provide a grant to an individual, limited under Mexican law to eleven square leagues. Although the Nolan heirs were unable to provide a map of the claim, an extremely crude and inaccurate "plat of survey" was published with the documents in Private Land Claims in New Mexico (House Executive Document No. 112, 37th Congress, 2nd Session, 1862, Serial 1137) with no indication of when or by whom it was made.

The House of Representatives sent claims No. 39 and No. 48 (and others) to its Private Land Claims Committee on February 10, 1868. Reporting on July 1, the committee withheld the two claims "for further investigation," because they had been approved by Mexican authorities long after the Mexican Congress had passed its regulations of 1828 limiting the amount of public land per individual to eleven square leagues. Since the claimants were proposing No. 48 as good for about a million acres and No. 39 for about 576,000 acres (as colonization grants under the Mexican law of 1824), the committee's report in effect said that the claims were greatly in excess of authorized size and that Nolan could not legally have received two grants, therefore the heirs would have to make a choice. And there the matter rested in Washington for the time being.

The Nolan heirs' attorney, John S. Watts, after having served a term as New Mexico delegate to Congress, had returned to his
law practice in the territorial capital. In the spring of 1868 he approached Fernando Nolán and asked if the heirs wanted to sell their Colorado claim. Following consultation with the others, Nolán told him they were ready to sell. By mid-July it was known that Charles H. Blake, an early Colorado settler then residing at Philadelphia, had negotiated a purchase of the Nolán No. 48. That Blake would press for confirmation of more than eleven square leagues was hinted in a news story about a month before:

The grant to Gervacio Nolan lies almost entirely in Pueblo Co. [Colorado], and contains about 300,000 acres. The confirmation of this grant has never been urged upon Congress, and the rights of the heirs of the grantees remain as left by the report of the Surveyor-General of New Mexico.

The editor was ignorant of Washington developments in the matter, and “300,000 acres” may have been a typographical error, but it is clear that interested parties were presenting No. 48 as an empresario grant, good for all the land within its alleged outboundaries. Precedents existed. Surveyor General Pelham had recommended both No. 4 (Lee and Beaubien) and No. 15 (Beaubien and Miranda) for confirmation, but he gave no opinion about what type of grant they were. Nor was the Act of June 21, 1860, any more explicit, saying simply that the recommended private land claims were confirmed, with two exceptions. One of the latter was No. 17 (Vigil and St. Vrain). There was no clear reason for limiting No. 17 and not Nos. 4 and 15. Surveyor General Wilbar had said nothing about limiting No. 48, and the House committee report was not a final disposition. So why not try to get it in the same category with Nos. 4 and 15?

Blake and Watts may have had private doubts about securing more than eleven square leagues. Nevertheless, Blake continued his plans for development, and with Peter K. Dotson built a flour mill on Dotson’s ranch on the upper St. Charles. Premature dispatches from Washington in early 1869 told of congressional con-
firmation, but reports that the Nolan heirs had conveyed the claim by warranty deed to Blake and Dotson were substantially correct. Actually the claim was sold to Annie, the wife of Charles H. Blake, on November 8, 1868, for $10,000, a price which suggests that the Blakes and associates had given up on an acreage of more than 48,000.\(^{44}\)

Another sign of things to come was a communication of February 22, 1869, from George M. Chilcott, Colorado’s delegate to Congress, saying that he had obtained passage of the bill concerning the Vigil and St. Vrain Grant.\(^{45}\) The bill (amending the Act of June 21, 1860) was approved on February 25, and it provided that the 96,000 confirmed acres should be located as compactly as possible, adjusting to the public surveys and allowing for derivative claims.\(^{46}\) Chilcott, incidentally, was currently engaged in negotiations which made him, along with two other Coloradans, a recipient of the bond of Lucien B. Maxwell and his wife (Carlos Beaubien’s daughter) for purchase of the Beaubien and Miranda, or Rayado, Grant.\(^{47}\)

Sanguine that at least 48,000 acres would be confirmed, the Blakes on February 1, 1870, quitclaimed a one-third interest in the Nolan No. 48 to the Texas cattleman, Charles Goodnight, whose partner, Oliver Loving, had trailed the first cattle from Texas into Colorado in 1866. Livestock ranges based on Mexican land grants, of which this is an early example, became commonplace in the next few years. On February 14 the Blakes gave a similar quitclaim to Peter K. and Jacob C. Dotson.\(^{48}\)

The several interested parties retained a Washington lawyer, A. H. Jackson, to keep the unresolved Nolan No. 48 before the House Private Land Claims Committee, and on March 29 he filed a brief, which said in part:

It may not be improper to state in this connection that this claim, No. 48, was sent to Congress with others for confirmation, but was dropped from the bill because the claimants requested two grants, in order that they might determine which they preferred.\(^{49}\)
On April 23, 1870, the committee brought out a bill to confirm for eleven square leagues. The bill was tabled in the House, but the Senate Private Land Claims Committee adopted the House report and sent out a similar bill, which Congress finally enacted on July 1, 1870. The act stipulated that the tract in Colorado should "be held and taken to be in full satisfaction of all further claims or demands against the United States," which almost certainly was an oblique reference to the Nolan No. 39 in New Mexico.

Annie Blake, Goodnight, and the Dotsons agreed not to dispose of their holdings without giving the others a chance to buy, and they also planned to appraise their improvements if they should make a joint sale. British capitalists, including William Blackmore, who was actively interested in the Sangre de Cristo Grant, were dickering for control of the Nolan No. 48, but it was the Central Colorado Improvement Company, a subsidiary of the Denver and Rio Grande Railway, that purchased the three interests for $130,000 on March 30, 1872.

It is not intended here to relate the development and/or disposal of the Nolan No. 48 by the Central Colorado Improvement Company. Suffice it to say that the new owners hoped to secure eventual confirmation of several hundred thousand acres, but nothing came of that. General William Jackson Palmer and his associates in the railroad and the improvement company used the property for siting the new town of South Pueblo, across the Arkansas River from Pueblo, and they projected an elaborate promotional program for the "Pueblo Colony." And exploitation of agricultural possibilities was part of the overall scheme.

There were predictable problems in allowing 6,565.42 acres of derivative claims within the 48,000 acres and selecting by the grant claimants of an equal amount from the public domain under terms of the Act of July 1, 1870. But those were nothing as compared with the scale and duration of derivative claims controversies on the nearby Vigil and St. Vrain. One such contest reached the Supreme Court of the United States as late as 1900.
A litigation involving the Nolan No. 48 was heard by the Supreme Court of the United States in the October term, 1877. It was taken there on appeal from the Colorado Supreme Court by the Commissioners of Pueblo County after the latter court had denied the right of the commissioners to tax lands on the grant, thus overturning a decision of the district court. The nation's highest court overruled its state counterpart, affirming the judgment of the district court that the lands were taxable. While the case was in the courts a Patent of the United States of America was issued to the heirs of Gervacio Nolan on March 3, 1875.

The patent was the first issued for a grant within the group approved by the Mexican governor, Armijo, in 1841-1845. Limitation to 48,000 acres reflected an interpretation of Mexican law which provided guidelines for similar cases, but it turned out that they never were applied in another instance. A civil suit then in progress would alter the circumstances completely.

The United States Freehold Land and Emigration Company had commenced litigation in Pueblo County, Colorado, to oust John G. Tameling from a parcel of land on the Costilla Estate (part of the Sangre de Cristo Grant) claimed by the company. Tameling lost the original action and appealed to the Colorado Supreme Court in 1874; losing again, he took his complaint to the Supreme Court of the United States in the October term, 1876. In finding against Tameling, the high court rested its opinion on a dictum which permitted a claim to all the land within the alleged outboundaries of a grant:

Congress acted upon the claim as recommended for confirmation by the Surveyor-General referring to the Act of June 21, 1860. The confirmation being absolute and unconditional, without any limitation as to quantity, we must find it as effectual and operative for the entire tract ... as the settled doctrine of this court, that such an Act passes the title of the United States as effectually as if it contained in terms a grant de novo, and that a grant may be made by a law as well as by a patent pursuant to law.
Whatever its logic, and however chary of the sovereign will of the Congress of the United States, the decision made it possible—probably inevitable—that the claimants to the Beaubien and Miranda (Maxwell) and the Sangre de Cristo Grants, both confirmed by the Act of June 21, 1860, would receive the entire acreage within their alleged out boundaries. There was not much surprise when the two were patented in 1879 for 1,714,764.94 acres and 998,780.46 acres respectively.\textsuperscript{61} In other words, any question of validity under Mexican law was irrelevant when Congress, in effect, created a grant \textit{de novo}—a new grant. The Tameling decision, of course, did not apply to the Vigil and St. Vrain, which was restricted by the Act of June 21, 1860, nor to the Nolan No. 48 that was similarly limited by the Act of July 1, 1870. It is pertinent to note here that the Tameling case was a key factor in the opinion of the Supreme Court of the United States upholding the Beaubien and Miranda (Maxwell) patent in 1887.\textsuperscript{62}

The Nolan No. 48 slipped from public consciousness as a viable descriptive term, its place being taken by the Central Colorado Improvement Company and related enterprises. But for a short time in the 1880's references to the grant again became common. An attempt was made to secure an alleged one-sixth interest in it by Casimiro Barela, an influential Democratic politico and state senator from Las Animas County. He asserted that Gervacio Nolan's son, Eugenio, had conveyed his share many years before to José María Barela, the senator's father.\textsuperscript{63} The conveyance had only recently been discovered,\textsuperscript{64} and its authenticity was acknowledged by Fernando Nolan, Gervacio's eldest son, in a newspaper interview in Trinidad, Colorado. He said that Judge Watts and Charles Blake insisted that someone sign for the absent heir, Eugenio, when the grant was made over to Annie Blake in 1868, which he, Fernando, did. In 1871 Blake and attorney George A. Hinsdale told the Nolan heirs that the first deed was void and that another was necessary without anyone signing for Eugenio, so a second deed was made out to Annie Blake, Charles Goodnight,
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and the Dotsons. But Senator Barela's projected lawsuit seems not to have been carried through.

A Walsenburg (Colorado) newspaper noted that the Nolan grant was part of the property of the Colorado Coal and Iron Company and speculated that a one-sixth interest might then be worth about $1,000,000. But today the big steel-mill complex of that company's successor, The C.F.&I. Steel Corporation, dominates the scene there, and few passersby ever heard of the Central Colorado Improvement Company or Gervacio Nolan.

Yet there still remains the question of why Congress limited the Nolan No. 48 and the Vigil and St. Vrain (No. 17) to eleven square leagues to each grantee, while imposing no such limitation on the Beaubien and Miranda (No. 15) and the Lee and Beaubien (No. 4). So similar were the origins of the four grants that it seems as though the Beaubiens, the Maxwells, and their successors simply had more influence in Washington than did the St. Vrains, the Nolans, and other interested parties. And it should be noted that the Vigil and St. Vrain and the Nolan No. 48 were north of the Raton Mountains and east of the Sangre de Cristos, a region in which Spanish-Mexican culture had not taken deep root. Perhaps there was a tacit agreement in Washington that those two grants might better be left mainly as public domain and subject to American land laws.

The other Nolan Grant, in New Mexico, fared rather differently. Some recapitulation will be necessary. Awarded to Gervacio Nolan, Juan Antonio Aragón (sheriff of Bernalillo County), and Antonio María Lucero (no further identification) on November 30, 1845, it became solely Nolan's claim in 1848 when he bought the interests of the other two. Initiative for obtaining it had been taken by Nolan while he was a resident of the mining town of Real del Oro in the district of San Francisco del Tuerto, near the New Placers, southwest of Santa Fe. In his petition he said that he had observed much vacant land; being desirous of
providing for a large family, he found a suitable piece in the little cañón of Red River [the Canadian] south of the lands of Beaubien and Miranda.\textsuperscript{70} The general area was not all that vacant, however. In 1846 eleven settlers and the justice of the peace at Santa Gertrudis de lo de Mora, the second settlement in the Mora Valley and now known as Mora, signed a declaration stating that they had, of their own free will, relinquished a portion of the watering places on the Rito called the Ocate to Nolan's claim; a development that indicated an overlap with the Mora Grant (1835), which would be an item of future controversy.\textsuperscript{71}

Possession was given by Tomás Benito LaLanda, Nolan's brother-in-law and alcalde of Mora, who said he performed the customary ceremony, taking "him [Nolan] by the hand" et cetera. Attending witnesses were Crestino Tapia and Severiano Gómez.\textsuperscript{72}

After Gervacio Nolan's death in 1857, his heirs retained Theodore D. Wheaton to press for approval of the grant by the surveyor general of New Mexico in 1860, Pelham giving it on July 10, and assigning the number 39. There was subsequent litigation in which the Mora County district court awarded an undetermined portion of the Nolan claim to Juan María Baca.\textsuperscript{73}

Matters then apparently lay dormant for some years, becoming active again in mid-February 1875, only about two weeks before the Nolan heirs received a United States patent on March 3 to No. 48 in Colorado. In other words, they and other interested parties did not interpret the Act of July 1, 1870, confirming No. 48 for eleven square leagues, to have invalidated No. 39, even though the act stated that the Colorado tract should "be held and taken to be in full satisfaction of all other claims or demands against the United States."\textsuperscript{74}

Fernando Nolan and his co-heirs, as owners of the Nolan or Santa Clara Grant\textsuperscript{75} of 600,000 acres more or less, gave bond in the penal sum of $100,000 to Truman T. Chapman, of Las Vegas, who paid one dollar for an option to purchase, or to induce others to purchase, the property upon issuance of a patent to it. Within sixty days after issuance Chapman was to give $50,000, payable at Fort Union, to secure the grant, except the portion
received by Baca. The bond would become null and void thirty days after Chapman and his representatives stopped working for confirmation. 76

That was in February of 1875, and on September 30 Chapman and his wife sold the west one-half of the Nolan No. 39 to William Pinkerton for $40,000. The transaction was followed on October 2 by a quit-claim deed from Fernando Nolan to William Pinkerton, of Sonoma County, California, of the west one-half of the grant, excepting the Baca portion, and on the same date Pinkerton leased the same land to Fernando Nolan for one year commencing October 5. 77 These maneuvers, of course, were purely speculative because there was neither confirmation by Congress nor a patent from the executive branch.

William Pinkerton was a Scotsman who had spent some years in Australia and New Zealand (starting in 1838), introducing improved breeds of sheep at the behest of the British government. Then he came to California with some of those breeds when land was available there after 1848, and later appeared in New Mexico to engage in the same business in the vicinity of Wagon Mound on the Nolan No. 39. There he and his wife lived simply in an adobe house with dirt floors, not far from the Santa Fe railroad tracks. By 1881 he was said to have about 10,000 sheep. 78

Rapid expansion of surveys, both public and private, began soon after Henry M. Atkinson became surveyor general of New Mexico in 1876. In fact, the greatest extension of the surveys occurred during his tenure, to the accompaniment of many irregularities including an extreme use of the deposit system, under which “settlers” would pay for surveys and their deposits could be used in part payment for their land. 79

In the summer of 1877, Atkinson asked J. M. Williamson, Commissioner of the General Land Office, to approve a contract with John T. Elkins and Robert G. Marmon for certain surveys of public lands and private land claims, among them being the Nolan No. 39 and the contract (dated August 15) to survey the Beaubien and Miranda (Maxwell) Grant. 80 Elkins was the brother of Stephen Benton Elkins, former president of the Max-
well Land Grant and Railway Company and recent delegate to Congress from New Mexico, who was regarded as a major figure in the so-called Santa Fe Ring.\textsuperscript{81}

Commissioner Williamson, in a letter dated September 1, 1877, informed Surveyor General Atkinson that acceptance by claimants of Nolan No. 48 in Colorado under the Act of July 1, 1870, had satisfied their claim against the United States; therefore the claim [No. 39] “embraced in surveying contract with Messrs. Elkins and Marmon has no legal status, and must be eliminated therefrom.”\textsuperscript{82} The Commissioner’s ruling was taken by most people as the final extinction of No. 39, and settlers began to make their entries for portions of the claim under the public land laws.\textsuperscript{83}

But not everyone acquiesced. Truman T. Chapman maintained his efforts to obtain official acceptance of the Nolan No. 39; he was joined by Dr. Joseph M. Cunningham, to whom the Chapmans deeded their interest, excepting the tract sold to Pinkerton, for one dollar in hand paid January 9, 1878.\textsuperscript{84} The transaction was conditional and dependent upon eventual success in Washington. They worked through one Martin Andrews, making application for an estimate of the cost of survey and for permission to make the survey upon deposit of the estimated cost.\textsuperscript{85} Andrews had a personal interview with the commissioner and then wrote to him on November 19, 1880, with the result that Williamson informed the surveyor general of New Mexico that he had no objection to a preliminary survey of No. 39 under the deposit system. On the strength of that, Surveyor General Atkinson had a survey made by a man named Shaw,\textsuperscript{86} which action brought widespread protest and coordinated resistance. One of the first challengers was the \textit{Raton Comet} with its motto “Open War Against Secret Fraud,” a newspaper published in the new railroad town of Raton by O. P. McMains, an ex-Methodist minister and tireless opponent of most of the land grants in northern New Mexico and southern Colorado.\textsuperscript{87}

No. 39 was said to extend on a north-south line about forty miles (embracing land in the counties of Colfax, Mora, and San Miguel) and in width east to west about twenty-five miles—all
together about a thousand square miles. More particularly, it was south of the Beaubien and Miranda claim and east of the Mora Grant, with out boundaries that allegedly were: on the north, the south line of Beaubien and Miranda; the cañón of Red River on the east; the Sapello River on the south; and on the west the little cañón of the Ocaté and a line west of Los Cerritos de Santa Clara (the Little Hills of Santa Clara). The Public Land Commission listed No. 39 in 1883 as pending for 575,968.71 acres, the out boundaries being shown on an accompanying map. 88

Epifanio and Julián Ledoux in 1875 took up a quarter section under the public survey in the northwestern part of the claim. The latter may have been José Julián Ledoux, born the son of Abrán Ledoux in 1827, and Epifanio may have been his son. 89 In any event, their occupancy was challenged by William Pinkerton in an ejectment action commenced in Colfax County in July of 1881 and transferred to Mora County by agreement. In 1884 Pinkerton brought several more actions in the Colfax County district court against squatters on the Nolan Grant, but some of them were dropped when he decided to concentrate on the case of William Pinkerton v. Epifanio Ledoux, in which the Mora County district court found in favor of the defendant. 90

Pinkerton decided to appeal to the territorial supreme court, which heard the case in 1885. A few words should be said about some of the legal talent involved, if only to underscore some of the complexities through which a historian has to pick his way. The Santa Fe law firm of Catron, Thornton and Clancy represented Pinkerton; the senior member, Thomas Benton Catron, invested in several land grants and was a prominent member of the Santa Fe Ring. 91 Counsel for Ledoux were Melvin W. Mills and William Breeden. Having a settler for a client was rather anomalous for an active promoter of the Beaubien and Miranda (Maxwell) Grant like Mills, who was district attorney at the time, 92 while Breeden, attorney general of the territory, had filed a tax delinquency case, The Territory of New Mexico v. The Nolan Grant, in the Mora County district court. The summons in the case was served by Sheriff John Doherty on William Pinker-
ton, at Wagon Mound, as claimant to the grant. Catron, Thornton and Clancy were Pinkerton's counsel in this case also.\textsuperscript{93}

While those litigations were in court, the anti-grant champion, O. P. McMains, went after the Nolan No. 39 from another angle. He filed a petition in 1884 with the Department of the Interior, asking Secretary Henry M. Teller to restore the plats of the public survey of the grant to the land office at Santa Fe. In that he was unsuccessful, twice being rebuffed at the General Land Office, whose advice the Secretary accepted. McMains' contention was that No. 39 was public domain under the Act of July 1, 1870, and he mounted the same attack in 1885 after the new Democratic administration of President Grover Cleveland had settled in with L. Q. C. Lamar as Secretary of the Interior and William A. J. Sparks as Commissioner of the General Land Office.\textsuperscript{94} That time his petition was very favorably received by the commissioner, who informed the Secretary on May 30, 1885, that "it is my judgment that its prayer should be granted, and that the whole of the said lands, except the eleven leagues 'confirmed, conveyed and patented,' as aforesaid [referring to No. 48 in Colorado], legally and justly belong to the public domain of the United States, and should be open to entry as other public lands. The papers referred to are returned herewith."

Although the Commissioner's decision still awaited approval by the Secretary, there was great cause for celebration by settlers on the Nolan No. 39, who had organized to resist ejectment.\textsuperscript{95} And it was an important victory for O. P. McMains in his struggle with claimants of several land grants. He had similarly petitioned against the Maxwell Grant, indicating why it should be limited to ca. 48,000 acres and the huge balance of its 1,714,764 acres restored to the public domain despite the United States patent of 1879. McMains argued fraudulent expansion, and Commissioner Sparks again supported him on June 10, 1885. Sparks regretted that the Maxwell patent had removed the case from the Interior Department's jurisdiction, but he urged the Secretary to ask the Attorney General to bring a second suit in the eighth judicial
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The government had already instituted a suit against the patent in Colorado. The New Mexico Supreme Court early in 1885 upheld the district court in favor of the defendant in Pinkerton v. Ledoux. Plaintiff had failed to prove that Ledoux's homestead was within the Nolan No. 39. Defendant did not try to deny plaintiff's title in the grant. A map was shown to the jury purporting to indicate the south line of the Beaubien and Miranda (Maxwell) Grant, but there was no evidence "to definitely fix the location of the Beaubien and Miranda grant which the Nolan calls for as its northern boundary." That awkwardly phrased bit apparently was the court's way of saying that the preliminary survey of No. 39 had not been admitted as evidence because it had not been accepted by the General Land Office. The court felt that the location of the Nolan No. 39 had not been determined.

Secretary of the Interior Lamar came down solidly on the side of Commissioner Sparks and O. P. McMains when he reviewed the circumstances of No. 39 on January 9, 1886:

As this is a matter touching the administration of the Department and a continuing subject for investigation, I do not under the circumstances consider the action of my predecessor [Secretary Teller] binding upon me. Disagreeing with him in his conclusion, I now determine that the plats of public survey, so long withheld, shall be restored to the local office and that the land held in reservation for and under said pretended claim for nearly thirty years now be thrown open to entry and settlement.

Sparks had told Lamar that Pinkerton would appeal to the Supreme Court of the United States. That information came from Mills, Ledoux's attorney, who urged that the Attorney General of the United States should take charge of the case because the settlers were very poor. Lamar made that recommendation to his cabinet colleague. But it seems that Pinkerton had little faith in an appeal and was thinking ahead in terms of suing the government in the Court of Claims.
The Colfax County Stockman, published in Springer, declared that the opening of the Nolan Grant to settlement "was a new plume in the cap of M. W. Mills, of this town," a news item that was copied by the Las Vegas Daily Optic. That the Stockman and the Optic should ignore McMains' leadership in the matter rested on two factors. They were anti-McMains as well as, in this instance, anti-grant, and the Stockman counted Mills among its founders in 1881.

Since neither paper was anti-grant in principle, they opposed the Nolan No. 39 for practical reasons. Confirmation of No. 39 was worrisome to men interested in the adjacent Mora Grant. Influential names—Catron and Elkins—were associated with that property, and O. P. McMains inveighed against it along with other claims. The Mora owners were concerned about an alleged overlap with No. 39 of ten to twelve thousand acres on the Mora's northeast corner, and a contemporary pamphlet on the Mora asserted that the Nolan claim was much larger than could legally have been made to three grantees under Mexican law. The defensive point was that the Mora was rightly patented in 1876 for 827,621.1 acres because it had been made to José Tapia and seventy-five others (a colonization or empresario grant), and the Nolan claim was not good for its 575,968.71 acres. Also the Mora claimants were then in litigation over an alleged 13,000 acre overlap with the small grant of John Scolly.

Arguments in the case of Pinkerton v. Ledoux were heard by the Supreme Court of the United States in the October term, 1888. Frank W. Clancy (of Catron, Knaebel and Clancy, formerly Catron, Thornton and Clancy) was Pinkerton's attorney, as he had been since initiation of the case. A former Master in Chancery of the First Judicial District Court (New Mexico), Clancy was quite familiar with land grant matters. Messrs. Davis and Padgett were counsel for Ledoux. Mr. Justice Bradley delivered the opinion of the court on February 4, 1889, and once again Pinkerton lost the case.

The court did not allow the preliminary survey as evidence because the grant had not been confirmed by Congress. It settled a
technical point, ruling that, in case of differences, the description in the petition and grant should prevail over that in the act of possession, and if a jury could not reconcile the two descriptions it must find for the defendant. Some doubt was cast by the court on one aspect of No. 39's history—the act of Congress confirming No. 48 in Colorado in full satisfaction of further claims by Nolan and his heirs. Mr. Justice Bradley concluded by saying:

> Whether this provision was not intended to affect the entire claim of Nolan for any grant of lands in New Mexico may be a serious question. Without expressing any opinion on the subject, it suffices to say that we see no error in judgment of the Supreme Court of the Territory of New Mexico, and it is therefore affirmed.¹⁰⁷

Epifanio Ledoux still held his 160 acres because a jury could not determine the boundaries of the Nolan No. 39. For some reason the Colfax County Stockman chose to sympathize with Pinkerton, not scrupling to publish his letter charging that Secretary Lamar had accepted "the petition of a man named McMains, a man who had been convicted of murder, who now lies under indictment for manslaughter." And the paper later said that Pinkerton had "purchased the Nolan grant in good faith many years ago, paying a large sum of money for it and then had it snatched from him by the arbitrary edict of a government secretary."¹⁰⁸ The "good faith" argument hardly rings true, unless Pinkerton were so gullible that he paid $40,000 without knowing all the circumstances. It is more likely that he gambled with his eyes wide open and lost.

Attorney Clancy urged Pinkerton to apply for a rehearing, and advice was sought from the eminent lawyer, Frank Springer, who had recently had the rare experience of a rehearing before the Supreme Court in the Maxwell Land Grant Company case, which he had won for the company in 1887 and for which government counsel had obtained the rehearing. Pinkerton, however, clung to his idea of suing the government in the Court of Claims. Both Clancy and Springer did their best to dissuade him, but he was
not to be deterred, retaining a Washington attorney, Van H. Manning, about whom Springer had strong professional doubts.109

Pinkerton wondered if "the Supreme Court intends to turn over a new leaf and commence a course of spoliation on Mexican grantees in accordance with the views of Democratic officials such as Sparks & Julian [George W. Julian, Surveyor General of New Mexico]. . . . the language used in this last decision . . . looks like it as Democratic influence is visible in every line."110 Putting blame on the Democrats reflected, of course, the active probing into alleged land frauds by Interior Department officials in the first Cleveland administration, whose efforts rested on investigations by their counterparts in the previous Republican administration.111

"Poor Pinkerton is crazy over his troubles about the Nolan title," was Springer's observation to Clancy in a letter stating that the rehearing still would be sought without regard to Pinkerton and he (Springer) would "find means to pay for the brief."112 Presumably Frank Springer felt that the influence of a last ditch victory in support of the Nolan claim would be important to a settlement of land grant controversies in New Mexico and elsewhere. Involvement in the Nolan case may have contributed to Springer's thinking expressed in his speech as retiring president of the New Mexico Bar Association in 1890, which pointed to establishment of the Court of Private Land Claims in 1891 to secure final adjudication of pending cases.113 As it turned out, a rehearing was denied, and Pinkerton did not pursue the matter in the Court of Claims.114

Today the four-lane highway, Interstate 25, traverses both the Nolan No. 39 in New Mexico and the Nolan No. 48 in Colorado. But there is no sign to indicate that there was a point on the map of New Mexico, not far south of the Colfax-Mora County line, known as Nolan.115 There probably was a siding on the Atchison, Topeka and Santa Fe Railroad, which was built across the grant about three years before William Pinkerton began his lengthy litigation in 1881. The landscape of New Mexico has not been
greatly disturbed—still mainly ranch country—but in Colorado much of the Nolán No. 48 has long known the smoke from the big steel mill on the south side of the Arkansas and other marks of urbanization.
NOTES


8. Transcript of Title of the Maxwell Land Grant Situated in New Mexico and Colorado (Chicago, 1881), pp. 5-8, 16-19, hereafter referred to as Transcript of Title; House Ex. Doc. 112, p. 33.


14. Mora County (New Mexico) Record No. 3, p. 342; *William Pinkerton v. Epifanio Ledoux*, 129 U.S. 346 (1888); *The Mora Grant of New Mexico*, p. 17. For an outline map of Nolan's claim see Donaldson, facing p. 1155.


19. *Transcript of Title*, pp. 28, 29-30. No. 4 actually was referred to as the Beaubien claim (control having come into the hands of Carlos Beaubien), but the term Lee and Beaubien will be continued herein to avoid confusion. See also U.S., *Statutes at Large*, 12, pp. 71-72; *Decisions of the Department of the Interior and General Land Office in Cases Relating to the Public Lands from July, 1884, to June, 1885* (Washington, 1885), p. 146, hereafter referred to as *Decisions of the Department, 1885*.

20. The four sons were Fernando, Eugenio, Antonio, and Francisco; the daughter was Leonora (wife of Guadalupe Abeyta). Manuelita Martina Delgado and Eneria Delgado were the grandchildren, daughters of the deceased Eneria Nolan Delgado. House Ex. Doc. 112, p. 36.


23. House Ex. Doc. 112, pp. 36, 39. Judge Watts (he had served as one of the original associate justices of the territorial supreme court) was also representing the interests of Ceran St. Vrain about that time. Twitchell, vol. 2, p. 392, n317; U.S. Congress, Senate, *Report of the*

24. House Ex. Doc. 112, p. 36. The source of the St. Charles River is on the eastern slope of Greenhorn Mountain, and the outboardaries of the claim include part of the drainage of Greenhorn Creek, a tributary of the St. Charles. The mountain and the creek were named for the Comanche chief Cuerno Verde (Greenhorn), who was killed in the vicinity in battle with a force commanded by Governor Juan Bautista de Anza in 1779.

25. Ibid.

26. Ibid.


29. The surveyor general referred to a similar opinion of his predecessor expressed in the matter of Carlos Beaubien as assignee of his late son's claim in the Lee and Beaubien Grant, and he also cited the Supreme Court decision in the case of Fremont v. the United States, 17 Howard 542 (1854). House Ex. Doc. 112, p. 39. Wilbar served as surveyor general for a little over a year, August 29, 1860 to October 9, 1861. He had served as deputy and clerk under Pelham, who then served as deputy surveyor under him. Victor Westphall, The Public Domain in New Mexico, 1854-1891 (Albuquerque, 1965), pp. 13, 19-20, 123.


32. Transcript of Title, p. 25.


36. Notes on Jacob Beard, Samuel W. DeBusk Papers, Trinidad State Junior College Library, Trinidad, Colorado.

37. Governor Anza in 1779 designated a stream in the approximate location on a map as the Rio de Dolores. Albert Barnaby Thomas, Forgotten Frontiers: A Study of the Spanish Indian Policy of Don Juan Bautista de Anza, Governor of New Mexico, 1777-1787 (Norman, 1932), facing p. 1. The Englishman, George Frederick Ruxton, called it the St. Charles when he camped at its mouth on April 30, 1847. George Frederick Ruxton, Wild Life in the Rocky Mountains, ed. by Horace Kephart (New York, 1937), p. 231.


41. Colorado Chieftain (Pueblo), July 16, 1868, p. 3. Charles H. Blake was prominent in the affairs of the St. Charles Association, one of the early promotions on the banks of Cherry Creek, Kansas Territory, during the 1858 gold rush. LeRoy R. Hafen, ed., Colorado and Its People: A Narrative and Topical History of the Centennial State (New York, 1948), vol. 1, p. 154. The name St. Charles in connection with the town company and with the location of the Nolan claim is coincidental.

42. Colorado Chieftain (Pueblo), June 18, 1868, clipping in CWA Interviews, Pam. 344/73, p. 4, in the Library of the State Historical Society of Colorado, Denver.


44. Colorado Chieftain (Pueblo), September 3, 1869, p. 3; January 7, 1869, p. 3; Pueblo County (Colorado) Records, vol. 2, pp. 489-90.

45. Colorado Chieftain (Pueblo), March 11, 1869, p. 1.

46. U.S., Statutes at Large, 15, pp. 275-76.

47. The bond was issued to Chilcott, J. B. Chaffee, and Charles T. Holly on May 26, 1869. Transcript of Title, p. 60.

48. Pueblo County (Colorado) Records, vol. 2, pp. 509-10, 546-47. Blake and his family had moved from Philadelphia to the grant in May of 1869. In 1873 he became a director of the People's Bank of Pueblo, the first national bank in southern Colorado. Colorado Chieftain (Pueblo), May 20, 1869, p. 3; Frank Hall, History of the State of Colorado (Chicago, 1891), vol. 3, p. 460.


50. Congressional Globe, Part IV, pp. 2932-35. The record of the debate shows that some senators were sensitive to the possibilities of fraud.

51. O. P. McMains, Conspiracy to Defraud! (pamphlet, n.p., n.d.). McMains was a leading opponent of land grants and was a member of the New Mexico legislature. He published a broadside with the same title and some of the same points, dated April 24, 1886, which probably was close to date of the pamphlet's publication. Copies of both are in the writer's possession, copied from originals in the Mrs. Marion Russell papers in the
possession of her daughter, the late Mrs. Marion Duling, of Trinidad, Colorado.

52. U.S., Statutes at Large, 16, p. 646.
53. Pueblo County (Colorado) Records, vol. 2, pp. 582-86.
55. Board of County Commissioners of the County of Pueblo v. Central Colorado Improvement Company, 2 Colo. 628 (1875); U.S., Statutes at Large, 15, p. 275.
56. Las Animas Land Grant Company v. United States, 179 U.S. 202 (1900).
57. Board of County Commissioners of the County of Pueblo v. Central Colorado Improvement Company, 2 Colo. 628 (1875); Central Colorado Improvement Company v. Board of County Commissioners of the County of Pueblo, 95 U.S. 495 (1877).
59. Tameling v. United States Freehold Land and Emigration Company, 2 Colo. 411 (1874).
61. Donaldson, p. 1152.
63. The Barelas had gone from Embudo, New Mexico, to Trinidad, Colorado.
64. See the transfer Eugenio Nolan to J. Ma. Barela in Mora County (New Mexico) Record No. 1, p. 75. Fernando Nolan said that the Mora County records were without an index for a long time, making it very difficult to locate a deed. Trinidad Daily Citizen (Trinidad, Colorado), April 19, 1889, p. 2.
65. See the quitclaim deed of the Nolan heirs to Blake, Goodnight, and the Dotsons, Pueblo County (Colorado) Records, vol. 3, p. 521.
66. Walsenburg World (Walsenburg, Colorado), April 19, 1889, p. 1; Trinidad Daily Citizen (Trinidad, Colorado), April 19, 1889, p. 2; June 9, 1889, p. 2; June 22, 1889, p. 4.
68. House Ex. Doc. 28, pp. 11-15; Mora County (New Mexico) Record No. 3, pp. 346-48. The consideration in each case was $50.


70. Mora County (New Mexico) Record No. 3, p. 342.

71. Ibid., p. 345; The Mora Grant of New Mexico, p. 21. Santa Gertrudis de lo de Mora was established ca. 1833 and was preceded by San Antonio de lo de Mora (present Cleveland) ca. 1818. Fray Angelico Chavez, "The Mora Country," New Mexico, vol. 50 (1972), pp. 32-33:


73. Mora County (New Mexico) Record No. 1, p. 253, and Record No. 3, p. 473; House Ex. Doc. 28, pp. 15-19. Pelham said the grant was given because of the grantees' military service.

74. U.S., Statutes at Large, 16, p. 646.

75. It appears that the property occasionally was called the Ocaté Grant. Brayer, vol. 1, p. 154.

76. Mora County (New Mexico) Record No. 2, pp. 607-09.

77. Ibid., pp. 472-73, 474-75.

78. C. M. Chase, The Editor's Run in New Mexico and Colorado (Fort Davis, Texas, 1968), pp. 120-21; Raton Range (Raton, New Mexico), October 28, 1887, p. 2; Colfax County Stockman (Springer, New Mexico), April 6, 1889, p. 1.

79. Westphall, pp. 24-29.


83. Ibid., p. 123.

84. Mora County (New Mexico) Record No. 3, pp. 474-75.

85. Letter from William Pinkerton to F. W. Clancy, May 17, 1889, PC29 bx3, No. 1535, Thomas Benton Catron Papers, University of New Mexico Library, Albuquerque, hereafter referred to as Catron Papers. Dr. Cunningham, of Las Vegas, was a cattleman of some importance. See Colfax County Stockman (Springer, New Mexico), July 17, 1886, p. 3. His ranch was on the northern part of the Nolán Grant about fourteen
miles southeast of Springer. Chase, Editor's Run, pp. 120-21. Martin Andrews is elusive. O. P. McMains said that he was a relative of President Rutherford B. Hayes; that his letter to Williamson was on Executive Mansion stationery; and that he offered to secure the survey for $10,000. McMains, pp. 7-8. In his report on the Nolan Grants in 1885, Commissioner of the General Land Office William A. J. Sparks said Andrews gave no evidence of authority to represent any claimant, and it was not shown that he appeared in the case professionally as an attorney. Annual Report, p. 123.


87. Raton Comet (Raton, New Mexico), July 14, 1882, p. 4; and November 10, 1882, p. 2. It is this writer's opinion that McMains' significance has been underrated and misinterpreted by some historians, who dismiss him as a crank and a crackpot.

88. 129 U.S. 346 (1888); Donaldson, p. 1154 and folded map insert facing p. 1155. The Santa Clara Hills also were known as the Canadian Hills. See the General Land Office Map of the Territory of New Mexico, 1879.


90. Pinkerton entered a *nolle prosequi* (no further action) as to Julián Ledoux. 3 New Mexico 403 (1885); Record of the District Court (Colfax County, New Mexico) B, 1884-86, Nos. 358, 392, 438, 439. About the same time that Pinkerton appealed, another action was entered against the Nolan No. 39 by D. N. Baca, of Las Vegas. Decisions of the Department of the Interior and General Land Office in Cases Relating to the Public Lands from July, 1885, to June 1886 (Washington, 1886), p. 313, hereafter referred to as Decisions of the Department, 1886.

91. Westphall, p. 54.

92. Trinidad Daily Citizen (Trinidad, Colorado), August 7, 1888, p. 1, and August 31, 1888, p. 1; Westphall, pp. 74, 93, 115.

93. Records of the District Court (Colfax County, New Mexico) B, No. 662 and filed papers of the same case.

94. Annual Report, pp. 121-25; Decisions of the Department, 1886, pp. 312-13. See also the McMains pamphlet, Conspiracy to Defraud.

95. Annual Report, pp. 124-25; Raton Comet (Raton, New Mexico), April 19, 1886, p. 5.

96. Las Vegas Daily Optic (Las Vegas, New Mexico), March 20, 1884, p. 2. Anti-grant settlers organized in March 1884 with J. C. Leary, president; Joseph Holbrook, vice president; J. S. Elzea, treasurer; and Price Lane, secretary. In addition to the officers, an executive committee had H. T. Sinclair, E. D. Watkins, and O. K. Chittenden as members.
98. 3 New Mexico 403 (1885); Las Vegas Daily Optic (Las Vegas, New Mexico), February 5, 1885, p. 4.
99. 3 New Mexico 403 (1885).
100. Decisions of the Department, 1886, pp. 311-14. An effort in the spring to obtain a rehearing of the Nolan case at the Department of the Interior failed. Raton Comet (Raton, New Mexico), April 9, 1886, p. 5.
102. Letter from Frank Springer to F. W. Clancy, April 8, 1889, PC29 bx 3, No. 1306, Catron Papers.
103. Las Vegas Daily Optic (Las Vegas, N.M.), January 18, 1886, p. 2.
104. Stephen W. Dorsey was a co-founder also. History of New Mexico: Its Resources and People (Los Angeles, 1907), vol. 1, p. 473.
105. Trinidad Weekly Advertiser (Trinidad, Colorado), April 7, 1884, p. 1; Las Vegas Daily Optic (Las Vegas, New Mexico), January 31, 1885, p. 1, and October 10, 1885, p. 1; letter from Stephen Benton Elkins to Thomas Benton Catron, October 5, 1888, PC29 bx1, No. 337, Catron Papers; The Mora Grant of New Mexico, p. 21; Donaldson, pp. 1152, 1154.
107. 129 U.S. 346 (1888). Henry M. Porter, financier-speculator and prominent figure in the annals of the Maxwell Grant, was a director of the Red River Cattle Company, which moved its cattle to the Gila River country in southwestern New Mexico when the court decided the Nolan Grant case. Keleher, Maxwell Land Grant, p. 96n. Before the transfer, the range of the Red River Cattle Company was given as Red River, Ocate Creek, and Piedra Lumbré Creek. The post office address was Springer, New Mexico. New Mexico Stock Grower (Las Vegas), September 19, 1885, p. 8.
108. Pinkerton alluded to an aftermath of the bizarre Tolby murder at Cimarron in 1875. The case against McMains was dismissed in 1878. Keleher, Maxwell Land Grant, pp. 76-77. (That kind of insinuation was frequently used against McMains.) Colfax County Stockman (Springer, New Mexico), April 6, 1889, p. 1, and September 14, 1889, p. 1.
109. Letter from William Pinkerton to F. W. Clancy, December 7, 1888, PC29 bx2, No. 740; Clancy to Pinkerton, February 14, 1889, PC29 101, vol. 1, p. 290; Pinkerton to Clancy, February 16, 1889, PC29 bx 3, No. 1015; Frank Springer to Clancy, April 1, 1889, PC29 bx 3, No. 1253; Clancy to Pinkerton, April 4, 1889, PC29 101, vol. 1, p. 362; Pinkerton to Clancy, April 6, 1889, PC29 bx 3, No. 1268 and April 9, 1889, No. 1312;
Springer to Clancy, April 8, 1889, PC29 bx 3, No. 1306; Pinkerton to Clancy, May 9, 1889, PC29 bx 3, No. 1496; Catron Papers. 121 U.S. 325 (1887); 122 U.S. 365 (1887).


111. Westphall, p. 53.

112. Frank Springer to F. W. Clancy, April 6, 1889, PC29 bx 3, No. 1268, Catron Papers.


114. The Court of Claims *Reports* list no litigation involving Pinkerton.