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*FRAUD WITHOUT SCANDAL: THE ROQUE LOVATO  
GRANT AND GASPAR ORTIZ Y ALARID*

BRUCE T. ELLIS

FEW ACCOUNTS OF fraudulent land grant claims in territorial New Mexico say much about the men who made the claims. Most historians merely name them, perhaps convinced that injection of a swindler's personal background, idiosyncracies, and social attitudes into discussion of his claim would only confuse history with psychology—an intolerable insult to Clio. Yet a published account of a bogus land grant scheme that tells all the cold facts of the case but nothing of the schemer except his name is likely to leave the reader curious about him. What sort of person was he, and how did he happen to be the one who engineered the fraud? The present paper will avoid a one-sided story by reviewing a documented case of land grant manipulation while adding a biographical sketch of the man who did the manipulating. First, however, some categorizing is necessary.

One might infer from the literature that almost all New Mexican land grant swindling was hotly protested. This was not the case. Most published studies have dealt with only two types of fraud: the chipping away, bit by bit, of Pueblo Indian lands by Hispanic ranchers<sup>1</sup> and—occurring later and on larger scale—the ousting of bewildered *campesinos* from their ancestral acres by Anglo speculators.<sup>2</sup> These types indeed were denounced, always by the defrauded victims and sometimes by their aroused sympathizers.

But there was another type of swindling, seldom mentioned in the literature, which met with little or no local censure simply because it had no local victims, Indian or Hispano. This kind, prevalent during much of the United States territorial period, was

aimed only at unoccupied land that lay within the public domain. There was much public domain—and in those days, so lamentably different from ours, any effort to transfer federal holdings to the private sector by irregular means was not considered to be fraud, but commendable business enterprise. If successful in his effort the claimant received his community's plaudits; if he failed he was condoled for the ineptness of his legal counsel and wished better luck next time.

The Roque Lovato land grant claim of 1871 typifies this socially sanctioned theft. Affably conducted by everyone concerned, the case posed no threat to anyone's ancestral acres, its only nominal adversary being the federal government. Thus there was no cause for criticism except perhaps from Washington—and in its first heady decades the territorial press, reflecting popular sentiment, customarily brushed this criticism aside as petty, politically inspired, and irrelevant to the process of making a living in the far Southwest.<sup>3</sup>

When in 1785 Roque Lovato, armorer of the Santa Fe Presidial Company, submitted a petition to Governor Juan Bautista de Anza, all he wanted, he said, was a "piece of unoccupied land at the north edge of the city" upon which he could build a house and maintain his family. He described the piece he had in mind merely as *las chorreras*<sup>4</sup> of José Moreno and Vicar Santiago Roybal, both deceased. The requested land was granted him by Anza, its boundaries were measured and marked off to the satisfaction of the current neighboring property owners (*colindantes*), and Roque was placed in possession on 26 September 1785 by Lieutenant José Maldonado, acting for the governor. He pulled grass, threw stones, and shouted "God save the King!" as legally prescribed—and then promptly disappeared from the local land records (authentic records now surviving, that is). What he did with his grant from that day on is unknown.

Twenty years later, however, the grant evidently had come into government ownership. In 1805, on land that lay just within the grant's western border on the *loma* (low hill) about 600 yards northeast of the city plaza, Governor Joaquín Real Alencaster started building a little adobe fort, using funds of the presidial company for the project. At the same time, also with presidial

funds, he reconstructed a nearby old adobe hut for use as a powder magazine (*garita de pólvora*).<sup>5</sup>

The latter structure, although within twelve yards of the fort, apparently stood just outside Lovato's grant, on the eastern edge of land then belonging to a retired soldier, José Pacheco, who had been one of Roque's satisfied *colindantes* in 1785. In 1805 Pacheco, then seventy-six and drawing an invalid's pension and whose large residence was in the flatlands below the loma, west of an old road to Tesuque, made no recorded objection to the government's repair and use of the little hillside hut. In time, continued usage may have led to the government's assumption that it owned this structure as well as the fort. If so, this assumption was not to last.

Pacheco died in 1814.<sup>6</sup> In 1793 one of his daughters had married a presidial soldier named José (or Josef) de Jesús Rivera,<sup>7</sup> who soon after his father-in-law's death, through his wife's inheritance and other means, was in possession of much of the former Pacheco property including, evidently, the loma site of the rebuilt *garita de pólvora*.<sup>8</sup> In 1835 Rivera, then retired, started charging the government with rent for the structure.

His ownership is attested by eight rental agreements, payment orders, and receipts for the years 1835–1836 and 1843–1845.<sup>9</sup> The first agreement, signed by the presidial captain, states unequivocally that the “*garita in which the powder is kept*” is situated on Rivera's property and that he is the building's legitimate owner.

Against this untidy background the sharper lines of the grant's later mishandling may now be sketched. No one seems to have questioned the grant's ownership in the early 1850s when Gaspar Ortiz y Alarid entered the scene as ostensible new holder of title. Although details of just how or when he attained such status are unclear, he occupied the old residence on the grant for a few years and soon after 1857 remodelled the nearby old fort for civilian use. Then his horizons evidently broadened. Government approval of old Spanish and Mexican land grants had become a territorial issue, so on 11 April 1871 Don Gaspar (as he was known to his associates) petitioned United States Surveyor General T. Rush Spencer for confirmation, by Congress, of the Roque Lovato grant

in his name. His attorney John Gwyn, Jr., prepared and presented the case.<sup>10</sup>

Gwyn's first exhibit consisted of Roque's original grant papers, in the usual four sections. All appeared to be in good order except the last, the act of possession. This was incomplete, its script breaking off in mid-sentence at the bottom of a page. What should have been the crucial following page, containing a description of the grant's boundaries and dimensions, was missing.

The second exhibit was in the form of a Spanish deed dated 18 October 1795. It stated that on that day Josefa Armijo, widow of Roque Lovato, in order to satisfy a debt incurred by her late husband, transferred all her interest in Roque's house and granted lands to the "soldier of this town, Josef Rivera." The boundaries of the transferred lands (the grant) were described as

on the east some black hills, on the west the royal road that goes from this town as far as the divide between the drainages of the Tesuque and Santa Fe Rivers, and on the south the road on the north side of the *Muralla*. . . .<sup>11</sup>

The document bore the names, as signatures, of José Miguel de la Peña, officiating alcalde, and two witnesses.

Submitted with the deed was a recently drawn map, based on the deed description and noting the estimated dimensions of the grant as two miles along the southern border and three miles along the western border. In the southwest corner was a small square marked "House of Roque Lovato."

Don Gaspar's petition for confirmation, next presented, cited the grant's boundaries as the same boundaries, slightly rephrased, as those stated in the Josefa Armijo document. It added that although no survey had ever been made, the accompanying map showed the grant to contain about six square miles, or 3,840 acres.

A deposition, signed by Don Gaspar, explained the loss of the grant description. It stated that from 1850 through 1853 the complete grant papers had been in his possession. About 1854 he turned them over to two local attorneys in connection with a trespassing case on the grant. The attorneys kept them for several months, and when they were returned to him the final page of the act of possession was missing. Although a long and diligent search

had been made, it was never found. Both attorneys were by then dead.

Attorney Gwyn introduced two witnesses in support of his client's claim. Each swore that he had no personal interest in the case. The first witness, Antonio Sena of Santa Fe, said that the complete grant papers had been shown to him in 1829 or 1830 when Jesús Rivera, who then owned the grant, had tried to sell it to him. As he recollected from having seen the now missing page of the act of possession, the boundaries were those set forth in the claimant's petition.

The second witness identified himself as Ramón Sena y Rivera, age 53, born in Santa Fe. His father was Jesús Rivera, who had bought Roque Lovato's house and land and lived there for forty or fifty years. The witness had lived in his father's house until 1840, when he married and moved away. While living in the house he had often seen the grant papers, then complete and in his father's possession. As he recollected, the grant's boundaries described in the now missing page were the same as those in the claimant's petition. His father had sold the grant about 1850 or 1851.

Surveyor General Spencer questioned neither the documentary exhibits nor the oral testimony. In his recapitulation and signed decision, dated 8 July 1871, he explained that disinterested witnesses had declared, under oath, that they had seen the missing page of Roque's act of possession and that the grant boundaries stated thereon were the same as those now being claimed, which he quoted in full. He therefore judged the grant to be a valid one and approved its title being vested in the claimant for the full amount of land within the stated boundaries. Accordingly, he would recommend to Congress that the grant be confirmed. At this happy conclusion, presumably, hands were shaken all around.

Among the several factors that were either skimmed over lightly or completely ignored in Spencer's handling of the case, however, was the means by which Don Gaspar had obtained possession of the grant. No deed from Rivera was offered as proof of title, and no mention of such a deed was made. Also taken at face value was the alleged granting to Roque Lovato of a six-square-mile tract in response to his petition for a piece of land described as mere *chorreras*. Spencer's bland acceptance of this contention matched his lack of curiosity about the claimant's two "disinterested" wit-



Don Gaspar Ortiz y Alarid

nesses. Although it undoubtedly was known to Attorney Gwyn and probably (in small-town Santa Fe) to Spencer himself that each of these men was a brother-in-law of Don Gaspar,<sup>12</sup> mention of the relationship was avoided at the hearing, and thus it was kept out of the record. Also avoided was any mention of the discrepancy between Ramón Sena y Rivera's claim to be the son of Jesús Rivera and his stated surname, which in normal Spanish usage would have made his father a Sena.<sup>13</sup>

Spencer's complaisance in Santa Fe, however, did not produce the expected results in Washington. Suspicious of what was going on in New Mexico and elsewhere in the West, Congress in 1870 suspended confirmation of all pending land grant claims.<sup>14</sup> Although this action left the Roque Lovato case temporarily pigeon-holed, work on it continued slowly in Santa Fe. In 1877 the claimed tract was surveyed as required and was found to contain 1,619.87 acres, much less than the "about 3840" acres estimated in 1871 but still an amount that would have astounded Roque Lovato had he lived to know about it. And in 1880, with the grant still unconfirmed, Don Gaspar sold the major part of the surveyed tract, which was described in his deed as "the land known as the Roque Lovato Grant."<sup>15</sup>

Don Gaspar died in 1882. The federal Court of Private Land Claims was established in 1891, and in 1893 the case was reopened before the court in Santa Fe by local attorney N. B. Laughlin, representing Don Gaspar's widow Magdalena Lucero de Ortiz.<sup>16</sup>

This second try was disastrous.<sup>17</sup> Attorney Laughlin offered as exhibits three new documents as well as the material that had been produced in 1871. The first of the original witnesses, Antonio Sena, was now dead, while according to Laughlin the surviving witness, Ramón Sena y Rivera, was too infirm to testify in the current case.

The incomplete grant papers were shown to the court by New Mexico Surveyor General C. F. Easley, who said they evidently had never been filed in the official archives but had been placed in the surveyor general's office in 1871 by Attorney John Gwyn, Jr.<sup>18</sup> One of the court's two handwriting experts, W. D. Tipton, examined the papers and found that the signatures of Governor



Anza and the two attesting witnesses were genuine. When Laughlin moved to place the papers in evidence the court attorneys objected; under Spanish law the documents, as originals, should have been filed in the official archives. The present petitioner was entitled only to the grantee's copy, or *testimonio*, of the final decree of possession and should have produced this instead of the original papers.

Although in the hearing of 1871 the Josefa Armijo deed of 1795 had not been questioned, in 1893, when submitted to the scrutiny of Tipton and his fellow expert, Clarence Key, it ran into trouble. In a lengthy, point-by-point discussion, corroborated by Key, Tipton stated that

- 1) the signatures of the executing alcalde, José Miguel de la Peña, and at least one of the two witnesses were spurious. All three signatures had been written by a single person, who was not Peña. This person also had written the entire text of the document;

- 2) the entire document had been written with a steel pen, an instrument not used in New Mexico until long after 1795.

In short, the document was a forgery.

Tipton's testimony would have been unnecessary, although interesting, if the court had seen local records then existing and now on microfilm in the New Mexico State Records Center. These show that Roque Lovato was very much alive and still serving as *armero* of the Santa Fe Presidial Company in 1795, when his alleged widow was reported to have deeded away his grant. He was transferred to the *inválido* (retired or disabled) corps in 1798 and did not die until 1804, in which year he was buried in the Santa Fe parroquia.<sup>19</sup>

Upon the conclusion of Tipton's and Key's destructive comments, Attorney Laughlin moved to place the deed of 1795 in evidence "for what it might be worth." United States Attorney Reynolds objected.

The next document presented was another deed, also written in Spanish although dated 2 February 1852. It stated that it was executed on that day by Jesús Rivera before Jesús María de Herrera, justice of the peace at Pojoaque, Precinct No. 1 of Santa Fe County. By its terms, Rivera sold to Don Gaspar his residence and lands in Santa Fe, the lands being in two parcels divided by the road

running north from Santa Fe to the Tesuque River. The parcel east of the road was “the land described in the grant originally made to Roque Lovato.” Inserted towards the end of the text was the clause:

*incluyendo también la casa de la garita que también corresponde a toda la propiedad* (including also the garita, which likewise belongs to the whole property).

Unlike the discredited deed of 1795, this deed dated 1852 was neither submitted to Tipton’s examination nor given such attention by the court. Tipton had already broken the chain of title—and thus the entire case—by proving the basic deed of 1795 to be a forgery.

Nevertheless, the new deed has several interesting features. As has been stated, no such deed had been produced or even mentioned in the hearing of 1871. It was not recorded until 3 January 1880,<sup>20</sup> well after Don Gaspar’s claim for a six-square-mile grant had been approved for confirmation and only nine months before he sold all but a small part of the claimed land. This sale to two astute lawyers would have made it advisable that a seller’s ownership deed be on record. The grant’s boundaries described in the deed were the same, slightly rephrased, as those given in the forged deed of 1795 and also the same as those sworn to in 1871 by Don Gaspar’s two witnesses. And although in 1871 one of those witnesses, Ramón Sena y Rivera, had said nothing about a deed being passed, his name was written as that of a witness on this new deed allegedly covering the sale in 1852 of the grant to Don Gaspar.

Two additional features deserve mention:

1) the deed purports to have been executed before Pojoaque Precinct Justice of the Peace Jesús María de Herrera. According to the New Mexico Governor’s Record Book of the period there was no Jesús María de Herrera serving as justice of the peace in Pojoaque, Precinct No. 1 of Santa Fe County, on 2 February 1852, the deed’s stated date;<sup>21</sup>

2) the insertion of the awkwardly worded clause including the garita in the sale was unnecessary for deeding purposes; the Roque

Lovato grant, as defined in the deed, included the land on which the building stood. For another reason, however, the clause was important. The rental records of 1835–1845, previously noted, provide the only authentic surviving documentation of Rivera's ownership of any land east of the Tesuque road. Their proof that he owned the garita might also be read as proof that he owned the entire grant (*toda la propiedad*) to which it was stated to belong.

Evidently to bolster this point, the eight rental records were next introduced by Laughlin. How they happened to be in his client's possession when they obviously belonged with the presidial accounts in the archives was neither revealed nor asked.<sup>22</sup> The court paid no more attention to them than it had to the deed dated 1852.

The justices' interest revived, however, when Laughlin presented his final exhibit, which gave the case a surprising new turn. He explained that only a few days earlier, while searching the archives on quite another matter, he had come across a bound book containing transcripts of papers on seven New Mexican land grants made during Anza's administration.<sup>23</sup> Among the transcripts was a copy of the Roque Lovato grant documents, including the act of possession in its entirety. He had not had time to make and file typed copies, so he would offer the original transcript in evidence.

The book was examined by Tipton, who said that the transcripts had been made by one of Anza's secretaries and that the governor's certifying signature at the end, dated 21 August 1787, was genuine.

The boundaries stated in the transcript of Lovato's act of possession were:

on the east a road that leaves the house of Phelipe Sandoval, and on the west the edge of the road that leaves this city by way of the lane to a house of Pacheco's, the distance from one course to the other being 275 Castilian varas. On the north a dry arroyo that comes down from the mountain, and on the south the edge and foot of the low hills, the distance between both courses being 325 varas. . . .

Converted, the measurements in varas would be about 756 feet from east to west and 894 feet from north to south. These would delimit a tract of not more than fifteen and a half acres.

Laughlin said that his client would claim only the amount of

land noted in the transcript. If the justices had anything to say about this new development, which completely refuted the sworn testimony of the hearing of 1871 and the boundary descriptions in the forged deed of 1795 and the deed dated 1852 as well, their comments were omitted from the stenographic records of the case.

No attempt was made to tell the court exactly where the boundary lines of Lovato's little grant had lain, on the loma. This would have been difficult; the two old roads cited in the act of possession and the stone markers that Lieutenant Maldonado had ordered set had long since disappeared.

And it would not have mattered anyway; the court rejected the claim on 28 April 1894. On the following day the *Santa Fe New Mexican* bluntly informed its readers that

in the case of the Roque Lovato grant . . . the court decided that one of the deeds in the chain of title was a forgery and therefore the claimant had no right to the land.<sup>24</sup>

So much for Roque's little chorreras. But what about the man who tried to stretch them as far as the distant mountains? He may have a better claim to a modest place in New Mexico history than the claim he made for the Roque Lovato grant.

Gaspar Antonio Nemesio Ortiz y Alarid was born in Pojoaque on 2 March 1824, the son of Juan Luis de Jesús Ortiz and María de la Cruz Alarid, and grandson of Gaspar Ortiz y Páez and Francisca Martin.<sup>25</sup> When about ten years old he was placed in a private school in Santa Fe conducted by his brother-in-law Antonio Sena. At age eighteen, in 1842, he enlisted in the Taos troop of the Santa Fe Presidial Company, then commanded by his former tutor Bvt. Capt. Antonio Sena, and within four months was classified as a *cadete* (a young soldier especially qualified by birth and private income). In April 1843 he received an appointment to the Military College in Chapultepec, Mexico. Graduated as second lieutenant in February 1845, he was back in New Mexico by March of that year.<sup>26</sup>

His bright prospects as a New Mexican army officer ended suddenly on 18 August 1846, when General Kearny's Army of the West entered Apache Canyon, en route to Santa Fe. Of the New Mexicans with Gov.-Gen. Manuel Armijo at the planned canyon confrontation, only Capt. Antonio Sena, twenty-two-year-old

Lieutenant Ortiz y Alarid, and another officer stayed with their commander on his flight to El Paso.<sup>27</sup> Sena and Ortiz went on with Armijo to Mexico City, where they remained about four months. Promoted as major and first lieutenant, respectively, they were first dispatched to Durango to raise a force for the retaking of New Mexico, but a change of orders sent them to Chihuahua and then to San Elizario, below El Paso on the Rio Grande. Here they were rejoined by Armijo.

According to testimony given by Don Gaspar as a witness in a grant claim of 1878,<sup>28</sup> he served as aide-de-camp and private secretary to Armijo in 1846. During their trip to Mexico City, he said, Armijo was in "a condition of greater or less intoxication" most of the time.

Armijo and the two officers did not rendezvous in San Elizario until long after Doniphan's Missourians had taken El Paso in December 1846 and gone on to Chihuahua. Ferguson, marching south with a detachment of General Price's troops about a year later, noted in his diary on 8 November 1847 that a few days earlier Armijo had surrendered himself to an advance party of Price's army that had entered El Paso. Placed on parole, he had stayed in the city several days; then, Ferguson wrote,

it is believed that he has fled toward Chihuahua. Ortiz, his lieutenant, is here—a prisoner on parole. I understand that he said that as contemptible as was his opinion of Armijo, he did not think that he [Armijo] would break his parole. Ortiz is a middle-size man of polished manners, intelligent countenance and appears to be well educated.<sup>29</sup>

When news of this happening reached Santa Fe, an editorial in the 27 November 1847 issue of *Santa Fe Republican* castigated Armijo for breaking his parole, but then continued:

They [United States troops] also took a Mr. Ortiz [sic] who is a lieutenant in the regular army and was with Armijo a prisoner, who refused to violate his parole and under a passport is coming up here. We hope the last will be well treated for his honorable conduct and receive the notice which a true and high-minded soldier deserves. . . .

Don Gaspar was back in Santa Fe shortly thereafter, but despite the *Republican's* good wishes, he evidently was not finding his reception wholly that of a hero returned from the wars. An anonymous letter in the paper's Spanish section on 12 February 1848 suggests that not all the problems faced by New Mexico's native citizens in this transition period were of the weighty type now discussed in the history books.

At a dance in Santa Fe a few weeks earlier, the writer had seen a good-looking young man who, he was told, was an officer from the military college in Mexico who had been taken prisoner at El Paso a short time ago. The officer asked a young lady to dance with him. She at first assented, but when the waltz began she walked off and left him standing there, looking like a fool. Embarrassed, as was natural under the circumstances, he returned to his seat, where his friends had a hard time restoring his composure.

In the writer's opinion, this was disgraceful. The officer, who was still depressed by his ill luck in the field, deserved better treatment. His services to his mother country were well known to all New Mexicans. In the past year he had been one of the few who had not abandoned his worthy general but had accompanied him across the desert all the way to Mexico City. Back at El Paso, still attempting to defend the integrity of his native land, he had been seized by an American officer in command of about two dozen men.

Witnessing the young officer's humiliation at the dance pained the writer deeply. Perhaps if the episode became publicly known, young ladies on future occasions might be persuaded not to refuse to dance with him but to offer sympathy for the wounding of his spirit by his capture. If, therefore, the editors could find space for this letter . . . etc., etc.

Whether the letter had anything to do with succeeding events is unknown, but less than two weeks after it appeared ex-Lieutenant Ortiz y Alarid, on 20 February 1848, married Magdalena Lucero, one of the four daughters of Diego Lucero whose big house at Los Luceros, near San Juan pueblo, still stands. After running a store in the Rio Arriba country near Alcalde for about two years he gave up this position to engage in trade with the Ute and Jicarilla Indians. In or about 1854, apparently, he and his wife moved to Santa Fe. From this new base he began trading down into Mexico

and across the plains to Missouri, at the same time starting real estate investments in Santa Fe that after the early 1870s became his main commercial interest. He acquired considerable property west of the plaza between San Francisco Street and the river, building a large two-story residence (later remodeled as the Montezuma Hotel, now a business block), a warehouse, and several shops, which he rented. Present Don Gaspar Avenue and Ortiz Street, which cut through his lands, commemorate his name in that area.

For generations, members of his family had been Santa Fe's leading supporters of the Catholic Church. In 1869 Don Gaspar himself contributed generously to the construction of Bishop Lamy's new Cathedral of St. Francis.<sup>30</sup>

When Sibley's Confederate forces were preparing their advance up the Rio Grande from Texas, Governor Connelly on 11 November 1861 commissioned Don Gaspar a captain of militia (at the same time commissioning his two brothers-in-law, Antonio Sena and Ramón Sena y Rivera).<sup>31</sup> Although his company was not mustered into service, his obituary states that he was at the battle of Glorieta.

A year after his apparently successful claim in 1871 to the six-square-mile Roque Lovato grant, he participated in the New Mexico statehood movement, led by members of the Santa Fe Ring who believed that with statehood New Mexico land values would be greatly increased. He was chosen as one of the movement's four vice-presidents at the "State Meeting" held in Santa Fe on 26 May 1872.<sup>32</sup> In the following year he filed another land grant claim—this time for an alleged 100,000-acre "Sierra Mosca grant" east of Nambe Pueblo, said to have been made to his father by Governor Armijo in 1846.<sup>33</sup> But despite this involvement (in which he ultimately failed), Santa Fe County Republicans during the same year elected him probate judge for the 1874–1875 term. He was not renominated for the following term and switched parties, thereby incurring the wrath of the Ring's loyal organ, the *Santa Fe Daily New Mexican*.<sup>34</sup> Failing to win the next election as a Democrat, he returned to the Republican fold and again was elected county probate judge for 1881–1882, with the *New Mexican's* blessing. He died in office on 9 July 1882 and was buried in Rosario Cemetery,

his funeral—according to the *New Mexican*—being attended by more than two thousand persons. At a special meeting the same day, the Board of County Commissioners offered resolutions in his honor and went into ten days' mourning. On the following day, at a public meeting in the Palace of the Governors chaired by Attorney General William Breedon, main founder of the territory's Republican party and a power in the Santa Fe Ring, speakers eulogized Don Gaspar's civic and military services and expressed the community's deep sense of loss at his death.

The *New Mexican*, forgetting its diatribes in 1876 against Don Gaspar, reported on the day of his funeral that he was one of the county's few probate judges who had left office with any county funds remaining in the till. At the expiration of his term of 1874–1875 he had turned over \$5,000 to his successor.

Don Gaspar was among the few native New Mexicans of the reputed *rico* class who adapted to the post-1846 hegemony of the immigrant Anglo politicians and lawyers with some appearance of success. A series of early efforts to go it alone, in the old way, evidently convinced him that to maintain his *rico* status he had to learn and play the Anglo game as best he could. Part of the game was the out-and-out thievery of parcels of the public domain, which when managed by crafty lawyers (helped along by official collusion) sometimes worked. When he attempted it, however, the phoniness of the cards he played made him a predestined loser, both in 1871 and in his vain bid in 1873 for the "Sierra Mosca grant" (in which his attorneys were the renowned S. B. Elkins and T. B. Catron, the latter winding up as part owner of the claim). Compared to some of his contemporaries more active in the game he was notably unskillful. But he tried, and as his obituary honors show, his methods were not held against him.

Why did he try, gambling his wits and the local prestige of his name against the unpredictable fiats of the federal government? Neither in 1871 nor in 1873 could the acquisition of free ranchland, for his own use, have been his intention; unlike his father and paternal grandfather, who were known as Pojoaque area rancheros, Don Gaspar never tried his hand at raising livestock. During the 1870s his sole business was Santa Fe real estate development; in 1878 he stated his occupation to be "house-building."<sup>35</sup>



This required capital and credit—and at the time, with even Santa Fe's little money market disrupted by the nationwide financial panics of 1869 and 1873, these were hard to come by. What Don Gaspar apparently needed—and needed urgently—was the ready cash that sales of large unencumbered tracts of land might bring.

His personal fortune was not and never had been comparable to those of the downriver Pereas, Chavezes, Armijos, Oteros, and other well-off Hispanic traders and sheepmen or of the newly rich Anglo merchants and speculators with whom, during the latter half of his life, he associated. The trader James J. Webb, a shrewd observer (and one of the few Anglos to say a good word for the much maligned Governor Armijo), in giving his impressions of Santa Fe as he first saw it in 1844, wrote:

the people were nearly all in extreme poverty and there were absolutely none who could be classed as wealthy except by comparison. The Pinos and Ortizes were considered "ricos" and those most respected as leaders in society and political influence, but idleness, gambling and the Indians had made such inroads upon their means and influence that there was but little left except the reputation of honorable descent from a wealthy and distinguished ancestry.<sup>36</sup>

Don Gaspar had been trained as a soldier, not as a businessman. He did not last long as a Rio Arriba storekeeper, his first commercial venture after his soldiering coming to its sudden and mortifying end, or next as a trader to the Utes and Jicarillas (violent outbreaks of these two tribes in 1854 perhaps helping to cut this enterprise short). His switch to the Missouri-Santa Fe-Chihuahua caravan trade, in which he continued at least through 1868,<sup>37</sup> seems to have been more successful. But although his wagon-train trips are glowingly reported by his grandniece Cleofas M. Jaramillo, who calls him "The Piñon King,"<sup>38</sup> they did not loom large in the total caravan commerce. His name is not mentioned in standard sources on the trade.<sup>39</sup>

More to the point, Jaramillo notes the financial difficulties in which Don Gaspar's widow found herself after his death in 1882. The mortgaged and tax-burdened Santa Fe properties that he had developed and managed to hold together while he lived had to be

sold, piece by piece. One of the principal shops, rented to a merchant, burned down. A nine thousand dollar note, cosigned as security for another merchant who later absconded, had been paid in full by Don Gaspar before he died. He was survived by three sons as well as his wife and three daughters, but the sons, "brought up in luxury and riches, had learned only to spend money."<sup>40</sup>

So, apparently to get the spending money and enough funds to keep his impressive Santa Fe manorial holdings intact—in short, to continue living in everyone's view as befitted a rich Ortiz—Don Gaspar started to dabble in New Mexico's shady land grant industry. But his special kind of dabbling was not deemed shady at the time, at least not by those of his respected fellow citizens who were also busy altering facts to fit the circumstances. And for a while all seemed to be going well for his formula for making much out of little—until Washington came up with that business about steel pens.

#### NOTES

1. As examples, see: Myra Ellen Jenkins, "The Baltasar Baca 'Grant': History of an Encroachment," *El Palacio* 68 (Spring 1961): 47–64; (Summer 1961): 87–105; Jenkins, "The Puebló of Nambe and Its Lands," in *The Changing Ways of Southwestern Indians*, ed. Albert H. Schroeder (Glorieta, N. Mex.: Rio Grande Press, 1973), pp. 91–104.

2. Consult, for example: William deBuys, "Fractions of Justice: A Legal and Social History of the Las Trampas Land Grant, New Mexico," *New Mexico Historical Review* 56 (January 1981): 71–97. As an interesting treatment of the most-discussed New Mexican grant of all, see Morris F. Taylor, *O. P. McMains and the Maxwell Land Grant Conflict* (Tucson: University of Arizona Press, 1979).

3. Many of the ingenious schemes employed for shifting large chunks of public domain into individual or corporate ownership or usufruct without benefit of law are noted in Victor Westphall, *The Public Domain in New Mexico 1854–1891* (Albuquerque: University of New Mexico Press [UNM], 1965).

4. *Chorreras*, as written in old Spanish deeds, meant strips of land at the sides of buildings, to be kept clear for the drainage of rain falling from roof canales. As used by Roque, it could have meant a vacant tract lying between or adjoining lands formerly owned by others, so gullied by surface-water run-off as to be of little worth—and hence the more likely to be granted him without protest by anyone.

5. Ralph Emerson Twitchell, *The Spanish Archives of New Mexico*, 2 vols. (Cedar Rapids, Iowa: Torch Press, 1914), 2:467, item 1818a; 512, item 2058, nos. 1, 3 in New Mexico State Records Center and Archives (SRCA), Santa Fe. For a detailed history of the fort and magazine with brief mention of the Roque Lovato grant, see Bruce T. Ellis, "La Garita, Santa Fe's Little Spanish Fort," *El Palacio* 84 (Summer 1978): 2-22.

6. Book of Burials (Bur) 51, Santa Fe Castrense, Archives of the Archdiocese of Santa Fe (AASF).

7. Books of Marriage (M) 51, Santa Fe Castrense, AASF.

8. Book H, Deeds, p. 285, Santa Fe County Records, Santa Fe County Clerk's Office, Santa Fe.

9. U.S., Bureau of Land Management, Surveyor General's Reports, New Mexico Land Grants, Records of Private Land Claims Adjudicated by the U.S. Surveyor General, 1855-1890, Roque Lovato Grant, report no. 52, file no. 133, SRCA.

10. Surveyor General Reports, report no. 52, file no. 133. Spencer's personal financial interests in New Mexico land grants during his term of office and his cooperation with the grant-dealing Santa Fe Ring, as well as Gwyn's suspected involvement in land grant frauds are noted in Westphall, *Public Domain*, pp. 21-23, 40, 54, 101.

11. The term *muralla* as given in late eighteenth-and early nineteenth-century Santa Fe documents did not mean "wall" in the literal sense but was the local appellation of the roughly twenty-five acre presidial compound completed in 1791 and enclosed by solid, wall-like rows of barracks and other structures on four sides. Recent and earlier writers have translated *muralla* literally, thus crediting Santa Fe with a "town wall," "city wall," or "wall of the capital," which in fact it never had.

12. Antonio Sena married Refugio Ortiz, a sister of Don Gaspar's, on 6 August 1831 (M-25, San Ildefonso, AASF). Ramón Sena y Rivera married María Manuela Ortiz, another sister of Don Gaspar's, on 20 February 1842 (M-54, Santa Fe, AASF).

13. When Sena y Rivera married Don Gaspar's sister in 1842 his parents were named Diego Sena and Manuela Rivera, a parentage that agrees with his surname. These two also were listed as his parents in his enlistment papers of 1 May 1840 (Military Records 1840, Santa Fe, Service Records, Mexican Archives of New Mexico [MANM], SRCA).

14. L. Bradford Prince, *Report of the Governor of New Mexico to the Secretary of the Interior, 1889* (Washington, D.C.: Government Printing Office, 1889), p. 4.

15. Book K, Deeds, p. 248, Santa Fe County Records.

16. U.S., Bureau of Land Management, New Mexico Land Grants, Records of Private Land Claims Adjudicated by the U.S. Court of Private Land Claims, Roque Lovato Grant, case no. 180, p. 183.

17. It and others of its kind had not been helped at all by New Mexico Governor Ross' statement, seven years earlier, that

it is undeniable, as shown by the investigations of the surveyor general [reformist George W. Julian, who along with Ross was detested by the New Mexico establishment including the Santa Fe Ring], that very large areas of the public lands, amounting to many hundred thousands of acres, have been illegally and fraudulently absorbed in pretended Spanish and Mexican land grants . . .

(Edmund G. Ross, *Report of the Governor of New Mexico to the Secretary of the Interior, 1886*, [Washington D.C.: Government Printing Office, 1886], p. 6).

18. Don Gaspar's explanation in 1871 of how the papers' last page had been so unfortunately lost received some irreverent comment nineteen years later from none other than Attorney Gwyn himself. In a letter written on 20 September 1890 to E. F. Hobart, then New Mexico surveyor general, Gwyn said that a recent examination had shown that the boundary calls (descriptions) were missing. He mused that "perhaps Don Gaspar Ortiz Alarid, the claimant, had torn the boundary calls from the grant papers before filing his claim" (Court of Private Land Claims, case no. 180, p. 183).

19. Twitchell, *Spanish Archives*, 2:415, item 1552a; Bur-50, Santa Fe, AASF.

20. Book J, Deeds, pp. 27–29, Santa Fe County Records.

21. The book (Executive Record Book No. 1, 26 June 1851 to 18 July 1867, Territorial Archives of New Mexico [TANM], SRCA) contains county-by-county lists of justices of the peace commissioned each year by successive territorial governors between the dates noted. Herrera's first appearance in the book is dated 30 December 1856, as a justice of the peace of Rio Arriba County, not Santa Fe. Three years later he turns up as a justice of the peace in Santa Fe County.

22. The records seem to have surfaced only after 1871, as Attorney Gwyn did not use them in support of the 1795 deed. They probably were on hand at least by 1880, when the deed of 1852 with its peculiar mention of the garita was recorded. And in 1891, perhaps as groundwork for the renewed claim to the grant soon to be made, the rental records too were recorded (Book W, Deeds, pp. 7–8, Santa Fe County Records).

A possible explanation of the records' late appearance on the scene, in private hands, may be suggested by a reference to the notorious "sale of the New Mexico archives" by territorial librarian Ira M. Bond in 1870 (*Santa Fe Daily New Mexican*, 24 April 1894). The paper reported that a 200-page section of the original Vargas diary had recently come to light in the possession of Antonio Ortiz y Salazar, "who received it from the late Gaspar Ortiz who, in turn, purchased it from Ira M. Bond. . . ."

23. Twitchell, *Spanish Archives*, 1:364–65, item 1261. Twitchell's accompanying statements about the Roque Lovato grant and Roque himself are incorrect.

24. Tipton's and Key's expert demolition of the deed of 1795 in the Roque Lovato grant case is noted in Richard Wells Bradfute, *The Court of Private Land Claims: The Adjudication of Spanish and Mexican Land Grant Titles 1891–1904* (Albuquerque: UNM Press, 1975), pp. 129–30.

25. Book of Baptisms (B) 21, Nambe, AASF.

26. Don Gaspar's lengthy obituary in the 11 July 1882 *Santa Fe Daily New Mexican* supplies some of the data for the present sketch. Additions and corrections have been made from military records in the Santa Fe archives, contemporary press notices, and other sources as credited.

27. Letter, 20 August 1846, Armijo to Ugarte, in George Rutledge Gibson, *Journal of a Soldier Under Kearny and Doniphan, 1846-1847*, ed. Ralph P. Bieber (Glendale, Calif.: Arthur H. Clark, 1935), pp. 201-2, n. 345.

28. Surveyor General's Reports, Uña de Gato Grant, report no. 94.

29. Philip Gooch Ferguson, *Marching With the Army of the West, 1846-1848*, ed. Ralph P. Bieber (Glendale, Calif.: Arthur H. Clark, 1936), p. 340.

30. *Santa Fe Daily New Mexican*, 8 October 1869.

31. Executive Record Book No. 1, TANM.

32. *Santa Fe Daily New Mexican*, 28 May 1872.

33. Surveyor General's Reports, Sierra Mosca Grant, report no. 75, file no. 119. His two brothers-in-law were witnesses for Don Gaspar, testifying to the genuineness of the granting document, which later was shown to be a forgery. See also Bradfute, *Court of Private Land Claims*, pp. 130-31, 192-93.

34. *Santa Fe Daily New Mexican*, 26, 28 October 1876.

35. Surveyor General's Reports, Uña de Gato Grant, report no. 94.

36. Ralph Paul Bieber, "The Papers of James J. Webb, Santa Fe Merchant, 1844-1861," *Washington University Studies* 11, Humanistic Series no. 2 (St. Louis, 1924): 275.

37. *Santa Fe Daily New Mexican*, 19 August 1868.

38. Cleofas M. Jaramillo, *Shadows of the Past (Sombras del Pasado)* (Santa Fe: Seton Village Press, 1941), p. 16.

39. With few exceptions, however, neither are those of many other Hispanic New Mexicans who engaged in the trade, some as major operators. As several writers have noted, the published "standard sources" are of Anglo origin and give the impression that the trade was almost wholly an Anglo enterprise, which it was not.

40. Jaramillo, *Shadows of the Past*, p. 93.