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The History and Adjudication of the Common Lands of Spanish and Mexican Land Grants

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COMMENT

The History and Adjudication of the Common Lands of Spanish and Mexican Land Grants

To appropriate common pastures without compensation may ruin a whole village; it is to seize a piece of free capital without which cows and horses cannot be fed, and thus it is virtually to confiscate the beasts, which are the peasant's tools. When that is done he must either re-assert his rights, or throw up his arable holding, or hire pasture for a money rent; sometimes—a bitter thought—he must hire grassland from the very man who has robbed him.

Tawney, *The Agrarian Problem in the Sixteenth Century* (1912), at 241

INTRODUCTION

An article in the July 1982 issue of the local magazine *La Tierra* reviewed the events of May 11, 1982, involving an injury to Russell Edwards, Jr.¹ Edwards, 19, an employee of the 77,524-acre Taylor Ranch in Costilla County, Colorado, had been treated for a large-caliber bullet wound in his upper arm.

An inquiry into the shooting, including a polygraph test administered to Edwards, had indicated the wound to be self-inflicted, the journal disclosed, relying on an interview with Charles Kalbacker, an investigator with the District Attorney's office in nearby Monte Vista. Furthermore, the investigation had revealed that on the evening he was injured, Edwards, the son of another Taylor employee, former Alamosa County deputy sheriff Russell Edwards, Sr., had discharged more than forty rounds of ammunition from several large-caliber weapons despite the fact that he had not been fired upon.²

That same evening two young residents of San Pablo, Colorado, Alex Mondragon, 22, and his brother Eddie, 15, were driving home after refueling a tractor on private property adjacent to the Taylor ranch. Suddenly, a 30.06 bullet punctured the cab of Mondragon's pick-up. The slug came dangerously close to Alex—"exploding" his down jacket and "ripping the scabbard of his knife."³ The Mondragon brothers, who were without firearms, returned home and reported the incident to authorities

1. *Taylor Hand Shoots Self in 'Gun Battle'*, LA TIERRA, July, 1982, at 7-8.

2. *Id.* at 7.

3. *Id.* at 8.

fifteen minutes before Edwards called the sheriff's office to report a gun battle and request an ambulance.⁴

This exposé shed new light on an incident which had been reported on the front page of the Valley Courier, the daily Alamosa newspaper, several months earlier under the headlines "Poachers Sought After Shooting."⁵ The daily had recounted the elder Edwards' tale of the evening's events. He, his two sons and another ranch employee were "arranging to observe" the return of poachers they had espied "at work" the previous day. The junior Edwards surprised the poachers returning "to carry out the elk they had killed, gutted and hidden the day before," and, as a result, "came under fire and was wounded."⁶

Edwards' controversial injury was merely the most recent episode in the conflict between North Carolina lumber baron Jack T. Taylor and local residents—many of whom are descendants of the original settlers of the southern portion of the one-million-acre Sangre de Cristo land grant. The struggle has entered its third decade and has involved "[t]hreats . . . assaults, shootings, bombings and arson."⁷ Taylor himself was almost "lynched by an angry mob"⁸ in 1962 after he was convicted of assault for beating three local young men who maintained they had only wandered on his property in search of a stray cow.⁹ Then in October 1975 Taylor's ranch house was peppered with bullets from a high-powered rifle fired from a nearby hillside. The North Carolinian was struck in the leg as he slept and his ankle was shattered.¹⁰ Taylor renewed his claims of a conspiracy to drive all Anglos from Costilla County¹¹ and inspired headlines such as "Valley on Brink of Vigilante Rule."¹²

Although the dispute has been marked by both racial overtones and some lawless behavior, such allegations are hyperbolic. Violence is not uncommon in the voluminous history of Spanish and Mexican land grants,¹³ and the Sangre de Cristo grant is no exception. When Taylor bought the mountain property in 1960 and immediately began to erect barriers and

4. *Id.*

5. Endley, *Poachers Sought After Shooting*, The Valley Courier, May 13, 1982, at 1, col. 1.

6. *Id.* at 1, col. 2, 3.

7. Pueblo Chieftan, Sept. 18, 1977, at 16B, col. 2; see generally Trillin, *U.S. Journal: Costilla County, Colorado, A Little Cloud on the Title*, 52 NEW YORKER 122 (1976).

8. Pueblo Chieftan, *supra* note 7, at 16B, col. 2.

9. Trillin, *supra* note 7, at 125.

10. *Id.* at 128.

11. *Id.*; see also Earle, *Land War Renewed in Costilla County*, Denver Post, November 30, 1975, at 1.

12. Earle, *supra* note 11, at 36C.

13. See generally Knowlton, *Violence in New Mexico: A Sociological Perspective*, 58 CALIF. L. REV. 1054 (1970); R. ROSENBAUM, MEXICANO RESISTANCE IN THE SOUTHWEST: "THE SACRED RIGHT OF SELF-PRESERVATION" 69-124 (1981); Knowlton, *The Study of Land Grants as an Academic Discipline*, 13 SOCIAL SCI. J. 1,2 (1976); P. BLAWIS, TIJERINA AND THE LAND GRANTS, MEXICAN AMERICANS IN STRUGGLE FOR THEIR HERITAGE (1971).