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Fray Antonio De Montesinos and the Laws of Burgos,1512-1513

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FRAY ANTONIO DE MONTESINOS AND THE
LAWS OF BURGOS, 1512-1513

A Thesis

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
in partial fulfillment of the
requirements for the degree of
Master of Arts

in

The Department of History

by
Mirtha Alicia Hernández
B.A., University of Puerto Rico, 1975
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MANUSCRIPT THESES

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ABSTRACT

On the fourth Sunday of Advent in 1511, in a rustic Cathedral in the city of Santo Domingo on the island of Española, a Dominican friar, Antonio de Montesinos, delivered a sermon which, for the first time, publicly denounced the encomienda system, by which the Indians were abused and exploited. Montesinos' exhortation raised two questions: Did the Crown have a right to wage a just war against the Indians because they were infidels? Did the Crown have legal titles to the Indies as a result of Pope Alexander VI's grants? These questions threatened the Crown's sovereignty in the New World and the economic, socio-political system it had established in the Americas.

In order to answer these controversial questions, the King of Spain, Ferdinand, summoned the Junta of Burgos of 1512, composed of jurists, theologians, and royal officers, to justify the Crown's presence and actions in the New World.

The Junta of Burgos drafted the Laws of Burgos of 1512 and its clarification in 1513, which became the first Spanish colonial code of Indian legislation. They described the treatment for the Indians, stated the premises upon which much of the subsequent Indian legislation was based, and regulated the relations between the Spaniards and the

Amerindians. Even though this Code was never fully enforced, its articles embodied advanced social legislation, especially protectionist ordinances for women and children.

Fray Antonio de Montesinos was responsible for the enactment of the Laws of Burgos, which were a commitment to improve the Indians' condition. At the same time, his sermons were the first cries which launched the struggle to attain social justice in the New World and in Spain.

Fray Montesinos was the first historical figure to denounce Indian slavery in the New World, yet few people have ever heard about him and know this fact. Details of his life are scarce and what is known of him is scattered throughout different sources, which has been a hindrance in writing a biographical account or a study of this personage. For all these reasons it is justified to present, in a single work, a fairly complete historical profile of Fray Antón by illustrating the most important events of his life, gathered from the information contained in different sources.

Chapter 1

INTRODUCTION

Christopher Columbus was the first representative of Western civilization to reach the shores of what he mistakenly called the Indies. The discovery was the culmination of several years of trying to convince a European prince to provide financial aid for an expedition. From information Columbus had gathered in his travels, he had reached the conclusion that the earth was round and that he could reach the East by sailing West. With this theory in mind he went to the Portuguese Court in search of financial support for his enterprise. Failing to interest Portugal in his plans, Columbus turned to Spain. The future Admiral could not have chosen a better time to bring his scheme to the Spanish Monarchs. A spirit of conquest and adventure prevailed in Spain, which was now a united country largely because of the successful conclusion of the Reconquista by which the Moors had been expelled.¹ Thus the Catholic Kings gave Columbus their support, and after outfitting an expeditionary force, the discoverer set sail to the Far East.

¹Carl Ortwin Sauer, The Early Spanish Main (Berkeley: University of California Press, 1969), p. 70.

Columbus' three caravels, the Niña, the Pinta, and the Santa María, left the port of Palos on August 13, 1492, and by October 12, they had reached the Indies. The rest of October was spent exploring a number of Bahamian islands. The eastern part of the Cuban north shore was then reconnoitered. During December and early January, the vessels surveyed the north coast of Haiti, named Española by the Admiral. One of the vessels, the Santa María, was wrecked on the northern shores of Haiti and from its remains the first fort in the New World was established. It was named Navidad and thirty-nine men were left at the fortress.²

On this first trip three important elements of the history of the conquest and colonization of Spanish America make their appearance: the search for gold, the exploitation of the Indians, and the problems of Crown-Church relations. Because Columbus was interested in gold, the search for it began immediately upon landing.³ The Admiral encountered the Indians as soon as he reached the New World. He described them as being kind, gentle, and affectionate, yet at the same time he made the distinction between good and bad Indians and for the latter he introduced both the names

²John Edwin Fagg, Cuba, Haiti, and the Dominican Republic (New Jersey: Prentice-Hall, Inc., 1965), p. 114; Samuel Eliot Morison, Admiral of the Ocean Sea: A Life of Christopher Columbus (Boston: Little, Brown and Company, 1951), p. 306.

³Sauer, Early Spanish Main, p. 24.

of Caribs and Cannibals.⁴ Furthermore, the Admiral looked upon them as a potential source of profit as slaves.⁵

On March 15, 1493, the expedition reached Spain. The Admiral went to see the Monarchs and presented them with a number of natives, samples of gold, and some native products. Meanwhile, in Rome, the Spanish Crown had already informed Pope Alexander VI about this exploration. At their request he issued a series of Bulls acknowledging the discovery and the privileges and duties that it entailed. The Pope granted the Catholic Kings the overseas territories both discovered and to be found, and imposed a moral obligation on them to bring the Catholic faith to the inhabitants.⁶ The Pope recognized the validity of possession as supported in the founding of Navidad.⁷ This grant became the answer to all legal, moral, and theological accusations later made against the Crown. Furthermore, almost all the actions the Monarchs and their representatives performed in the New

⁴Ibid., pp. 29, 31-32.

⁵Ibid., p. 31.

⁶On Pope Alexander VI and the Papal Bulls see: Manuel Giménez Fernández, Nuevas consideraciones sobre la historia, sentido y valor de las bulas alejandrinas de 1493 referentes a las Indias (Sevilla: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1944); Charles E. Nowell, "The Treaty of Tordesillas and the Diplomatic Background of American History," in Greater America: Essays in Honor of Herbert Eugene Bolton, ed. Adele Ogden and Engel Sluiter (Berkeley, 1945), pp. 1-18; Paul E. Hoffman, "Diplomacy and the Papal Donation, 1493-1585," The Americas, XXX (1973), 151-83.

⁷Sauer, Early Spanish Main, p. 36.

World arose in response to the task entrusted to them by the Church.

Columbus himself set the pattern for the future colonizing schemes:

. . . here it is only needed to make a settlement and order them [Indians] to do what one wishes . . . and thus they are good to be ordered about, to be made to work, plant, and do whatever is wanted, to build towns and be taught to go clothed and accept our customs.

They will make good servants of good understanding, as I see that they repeat promptly what is said to them and I think that they will easily become Christians. . . . [Hence] when your Highnesses may so order, all can be carried to Castile or they can be held as captives on the same island.⁸

Thus, Columbus' colonial plan, as outlined above, included suitable locations for the settlements, the establishment of sovereignty over the land and the Indians, the search for mines, and the use of the natives as laborers in conjunction with their Christianization and subjection. With this plan in mind, Columbus embarked on his second voyage to the New World.

The second expedition consisted of a fleet of seventeen ships which left Cádiz on September 23, 1493. The crossing was made in twenty days and immediately upon arrival Columbus started searching for new lands where the

⁸Ibid., p. 32; Cecil Jane, The Journal of Christopher Columbus (London: The Hakluyt Society, 1960), pp. 24, 28, 101; Martín Fernández de Navarrete, Colección de los viajes y descubrimientos que hicieron por mar los españoles desde fines del Siglo XVI, con varios documentos inéditos concernientes a la historia de la Marina Castellana y de los establecimientos españoles en Indias (5 vols.; Buenos Aires: Editorial Guaranía, 1945), I, 168, 170, 232.

Spanish society was to be established. This time some of the Lesser Antilles (Marie Galante, Dominica, Guadeloupe, Saint Croix) were discovered together with Puerto Rico.⁹

When Columbus returned to Española he found Navidad in ruins, and, therefore, he had to look elsewhere for the establishment of a permanent town, the first Spanish settlement in the New World.¹⁰ In 1494, the site was found, a harbor on the north coast near the gold fields, and the town was named Isabela. After Isabela was founded and its activities were running smoothly, Columbus once again set sail in order to explore the surrounding areas. He ventured towards the west reaching Cuba and Jamaica and by 1496 he was back at Española and ready to depart again for Spain. By this time the number of Indians was decreasing and the city of Santo Domingo had been established as the seat of government and trade.¹¹

While Columbus was at the Spanish Court trying to reassure the Crown that everything in the Indies was running smoothly, the Crown issued a royal decree--Instrucción de las Reyes Católicos al Almirante para la publicación de las

⁹Ibid., I, 327-50; R. H. Mayor (ed.), Select Letters of Christopher Columbus, with Other Original Documents, Relating to His Four Voyages to the New World (London: The Hakluyt Society, 1870), pp. 19-41.

¹⁰Morison, Admiral of the Ocean Sea, p. 428.

¹¹Sherburne F. Cook and Woodrow Borah, Essays in Population History: Mexico and the Caribbean (2 vols.; Berkeley: University of California Press, 1971), I, 395-96.

Islas y Tierra Firme descubiertas y por descubrir en las Indias--on April 23, 1497, by which the colonists were reminded that the natives had to be attracted peacefully and quietly to serve the Crown and were to be under benign subjection so that they could be converted to the Catholic faith.¹² Thus did the Crown start constructing the policies which would guide the Spaniards in their relations with the Indians.

At the end of May, 1498, six ships were ready to sail on Columbus' third voyage. They stopped at Trinidad, the island of Margarita, and then headed to Española. There Columbus was confronted with an immediate problem: the revolt of one of his men, Francisco Roldán, the alcalde mayor at Isabela, in the western part of the Island. This revolt divided the control of Española.¹³ In an effort to end the rebellion, the Admiral undertook negotiations with Roldán by which he and his followers were allowed to settle where they wished, receiving allotments of Indian communities or repartimientos. The Indian communities were at the disposal of each recipient, and the natives could be ordered to till the soil, to provide personal services, and to labor in the mines. These allotments became the origin of the system of repartimiento.¹⁴

¹²Sauer, Early Spanish Main, p. 95; Navarrete, Colección, II, 215-19.

¹³Sauer, Early Spanish Main, p. 100.

¹⁴Ibid., pp. 100-101.

Because of complaints about Columbus' government, on May 21, 1499, Francisco de Bobadilla was named as governor of the Indies. During his regime the conditions for the Spaniards, and even for the Indians, were improved.¹⁵ A royal cédula of June 20, 1500, declared that the Indians of Española were to be free vassals of the Crown.¹⁶ Yet, the Spaniards who held repartimientos did not release any as the mines were worked by Indians and food was supplied from the crops raised on the natives' land.

Fray Nicolás de Ovando, Commander of the military order of Alcántara, was named to succeed Bobadilla as governor in 1502. Ovando had been given an elaborate instruction on the good treatment of the natives. In these instructions the Crown declared that the Indians were its subjects and as such they had rights and duties. At the same time the Monarchs recognized that they had some rights and obligations towards the Indians, too.¹⁷ The Crown had to Christianize them, keep them well fed, clothed, educated, and protected from any danger.

¹⁵Ibid., p. 106.

¹⁶Ibid.; José M. Ots Capdequí, El estado español en las Indias (México: Fondo de Cultura Económica, 1946), p. 34.

¹⁷Colección de documentos inéditos relativos al descubrimiento, conquista, y organización de las antiguas posesiones españolas de América y Oceanía sacados de los Archivos del Reino y muy especialmente del de Indias (42 vols.; Madrid: 1864-1884), XXXI, 156-74, 209-12. Cited hereafter as CDI.

The Papal grants made the Crown responsible for the natives' Christianization and well-being. Queen Isabel took this task very seriously. However, the Catholic Kings, especially Ferdinand, needed the natives as laborers in the mines for the extraction of gold, the main revenue Spain got from the Indies, and to harvest agricultural products for the sustenance of the colonists.¹⁸ These aims led Ovando and later governors to conclude that the encomienda was the best way of Christianizing the Indians and, at the same time, keeping the economy going.

Ovando's orders might have been given in good faith but there was no way to check on the exploitation of the natives by the encomenderos. This was especially true after Queen Isabel's death. She was more interested in the natives' well-being than was King Ferdinand. He was more concerned about revenues, and mining provided the best way to obtain them.¹⁹

In 1509, Ovando retired and his successor was the Admiral's son, Diego Colón. Under this new governor the Crown kept a reign on the Indies by sending Miguel de

¹⁸Roland D. Hussey, "Text of the Laws of Burgos (1512-1513) Concerning the Treatment of the Indians," Hispanic American Historical Review, XII (1932), 302; Frank Moya Pons, La Española en el Siglo XVI, 1493-1520: Trabajo, sociedad y política en la economía del oro (Santiago, República Dominicana: Universidad Católica Madre y Maestra, 1971), pp. 39, 48.

¹⁹Ibid., p. 62; Hussey, "Text of the Laws of Burgos," p. 302.

Pasamonte as the Royal Treasurer. He was the representative of the Crown and he exercised the actual command.²⁰

During the Colón-Pasamonte government, the native population was reduced to alarming numbers, from 3.7 million in 1496 to 61,600 in 1509.²¹ Ferdinand became alarmed and he urged the colonists to take better care of the Indians in order to secure the revenues for the Crown.²² Nonetheless, gold was more important than preserving the natives because the state needed funds. Ferdinand showed additional evidence of how he viewed the natives when he allowed the enslavement of Indians from the neighboring islands, in order to be used as laborers. This led to further exploration and conquest, but it hastened the destruction of the native populations of the Antilles.

A first step in replacing the Indians who were dying on Española was taken in 1509 when King Ferdinand allowed the enslavement of the Caribs from the Lesser Antilles.²³ In 1503, Queen Isabel had permitted the Caribs to be enslaved for not professing the Catholic faith and for being

²⁰Manuel Giménez Fernández, Bartolomé de las Casas: Delegado de Cisneros para la reformatión de las Indias (Sevilla: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1953), p. 29.

²¹Cook and Borah, Essays in Population History, I, 401.

²²Moya Pons, La Española, p. 245.

²³CDI, XXXVI, 270-72; Sauer, Early Spanish Main, p. 159.

uncivilized and infidels.²⁴ Even though they were brought to Española to increase the work force, the number of Indians there kept decreasing. As a result, the fewer the Indians, the more they were in demand and the more work they had to accomplish. Thus, the native population was subjected to a destructive exploitation.

This was the situation on Española when the first Dominican friars arrived in 1510. They did not approve of this modus vivendi and denounced it publicly in a sermon preached by Fray Antonio de Montesinos in which he held the Spanish responsible for the Indian's plight. Montesinos was sent to the Spanish Court to plead in defense of the natives and as a result the Laws of Burgos of 1512-1513 were enacted. Even though this Code was rarely enforced, it contained very humane ordinances which became the first legal code of Indian legislation during the colonial period.²⁵

The Conquest raised a very complex social problem: the incorporation of the Indian into the new colonial society without bringing about his material and spiritual annihilation. This was the goal; however, the natives' decimation was the real outcome of the process.

Two groups holding different points of view about

²⁴Ibid., p. 161.

²⁵Rafael Altamira, "El texto de las Leyes de Burgos de 1512," Revista de Historia de América, IV (1938), 69; Moya Pons, La Española, p. 131.

the Amerindians' incorporation into society appeared in Spain and in the New World. The first group believed that the Indian was not a rational human being and as such he did not have the intellectual capacity to take care of himself nor to learn society's norms.²⁶ Therefore, as an inferior he had to be subjected to a superior who could guide, orient, and protect him. Those who defended this point of view were influenced by Aristotle's philosophy of natural servitude. Some institutions had to be adopted in order for this custodianship to take place. Consequently, the repartimiento and later the encomienda were transplanted to the New World.²⁷

The second group defended the idea that the natives were free, rational human beings and as such their civilization would come naturally, free from all subordination to the colonists. In other words, if the Indians were made subjects of the Crown and if they were converted to the

²⁶Juan Friede, "Las Casas y el movimiento indigenista en España y América en la primera mitad del Siglo XVI," Revista de Historia de América, XXXIV (1952), 347.

²⁷There is a distinction between the repartimiento and the encomienda and their etymology makes the difference clear: repartimiento derives from repartir, to allot or distribute Indian work parties or the labor gang itself thus allotted. Encomienda derives from encomendar, to give in trust to an encomendero a group of Indian towns or communities with their cacique to engage in mining, tillage, building, to provide personal services and tributes for the Crown. The encomendero undertook to look after the welfare of his charges by Christianizing, educating, protecting, and sustaining them.

Catholic faith by zealous friars, their incorporation into society would take place spontaneously.²⁸

Let us analyze each group.

The first group, the colonialistas, believed that the Indians' intellectual incapacity, laziness, idleness, and moral laxity compelled the Spaniards to subjugate them in order to save them. The colonists searched Spain's past for institutions that would help them in the process of civilizing the Indians. The situation in the New World offered a close parallel to that which existed in the Peninsula immediately after the Reconquest: Spanish conquerors had taken and occupied lands which were inhabited by non-Christian peoples.²⁹ At that time the Crown used the repartimiento and the encomienda in order to bring the Spanish way of life to these areas. These institutions had developed from old Castilian forms and practices. They had their origins in usages and conditions which were in part common to Western Europe as a whole during the Middle Ages and the Renaissance and in part peculiarly Spanish as a result of the occupation of Spain by the Moslems and the subsequent Reconquista.³⁰ Nonetheless, the colonists in America borrowed the repartimiento and the encomienda

²⁸Friede, "Las Casas y el movimiento," pp. 346-47.

²⁹Robert S. Chamberlain, "Castilian Backgrounds of the Repartimiento-Encomienda," Contributions to American Anthropology and History, XV (1939), 24.

³⁰Ibid., p. 23.

because both institutions adapted to the special conditions which existed in the New World. The Crown allowed the Spaniards residing in the Antilles to use the institutions and practices which had existed in Castile over a long period and which were an established part of the structure of society, although these were adapted and transformed to meet the special conditions and circumstances they encountered in the Antilles.³¹

The Catholic Kings favored the idea of establishing the repartimiento and the encomienda in the New World for three reasons:³² (1) It was a means to reward the faithful servants and their descendants for the services they had rendered the Crown; (2) it would ensure a permanent colonization of lands that were acquired; (3) the encomenderos could offer protection to the natives, indoctrinate them in Christianity, and impart to them the norms of civilization. In this way the Crown was fulfilling the duties it had acquired in exchange for the Papal concession of sovereignty over the New World.³³

That the Crown was interested in implanting the repartimiento and the encomienda in the New World is an

³¹Ibid., p. 45.

³²Ibid., p. 24.

³³The Papal Bulls, Inter Caetera I and II, dated May 3, 1493 and June 28, 1493, respectively, granted the Spanish Crown dominion over the New World, and by 1508 the Crown had the Patronato Real, in exchange of a series of moral and spiritual duties such as the organization of the Church in the Indies and the Christianization of the Indians.

obvious fact. Even though Queen Isabel promoted it in order to protect the Indians, King Ferdinand supported it in order to keep the colonial economy running, the gold coming, and the royal coffers ringing with sounds of bullion coming from America.

Columbus was the first to start the repartimiento in the New World.³⁴ He gave land grants and group of Indians to till these lands to satisfy the demands of Roldán and his followers and to stop their revolt. Even though the Admiral had received letters patent which gave him permission to grant repartimientos of lands to Spaniards, the letters patent did not authorize him to give away the natives. Thus, Columbus unofficially established the system in the New World. It would be one of the things that would precipitate the downfall of his government in the Indies because Queen Isabel would censure the Admiral for giving away her subjects without consulting her.³⁵

By 1501, when Nicolás de Ovando was sent as governor of the Indies, he was ordered by the Crown to initiate officially the encomienda system in order to Christianize and protect the Indians.³⁶ On December 20, 1503, Queen

³⁴Sauer, Early Spanish Main, p. 101.

³⁵Ibid., pp. 101-102.

³⁶Edwin A. Levine, "The Seed of Slavery in the New World: An Examination of the Factors Leading to the Impressment of Indian Labor in Hispaniola," Revista de Historia de América, LX (1965), 41.

Isabel issued a royal decree, Ordenanza real de Medina del Campo (see Appendix A), which legalized and institutionalized the system of the encomienda in the island of Española.³⁷ The royal decree justified the Indians' forced labor in America.

When Diego Colón came as governor in June, 1509, he was ordered to follow the royal decrees that had been enacted during Ovando's time and to continue Ovando's practices in giving repartimientos and encomiendas (see Appendix B).

In the New World, the repartimiento and the encomienda originated in the Antilles and from there they branched out to other areas in America. The repartimiento was the allotment of a group of Indians or gangs of Indian laborers to do work necessary for the good of the colony while receiving a fair wage for the labor done.³⁸ The encomienda, a royal grant assigned to the colonists by governmental officers in the name of the sovereign, was a system whereby an encomendero was given in trust a group of Indian communities with their cacique to work in the mines, to till the soil, to build, to transport or be burden-bearers, and to do household services. The encomenderos were obliged to provide for the spiritual and for the temporal welfare of the natives assigned to them. The

³⁷Moya Pons, La Española, p. 130.

³⁸Lesley Byrd Simpson, The Encomienda in New Spain: The Beginning of Spanish Mexico (Berkeley: University of California Press, 1950), pp. 10, 183.

Indians were required to give personal services and to pay tribute to their encomenderos in exchange for their Christianization, sustenance, aid, and protection.³⁹ This, then, was the system defended by the group known as the colonialistas.

The indigenous group, indigenistas, was born from a social necessity: stopping the natives' decimation.⁴⁰ The indigenistas denied the axiom postulated by the colonists about the Indians' intellectual inferiority. They advocated the principle that the Indians were entitled to their freedom and argued that those who denounced the natives' irrationality merely wanted to take advantage of this in order to exploit them. If the encomenderos accepted the Indians' freedom, they also had to admit that the natives had rights over their own lands, goods, and persons which curtailed the encomenderos' chances of attaining material wealth. The indigenistas wanted to abolish the special prerogatives that the Spaniards had in regards to the Indians by placing the latter directly under the sovereignty of the Crown. They believed that the Indians, as human beings and despite the Conquest, kept all their natural rights.⁴¹

This second group had the backing of some members of

³⁹Ibid., p. 183; Chamberlain, "Castilian Backgrounds," pp. 25-26.

⁴⁰Friede, "Las Casas y el movimiento," p. 408.

⁴¹Ibid.

the Church and it influenced the Crown. The Church and some friars sided with the Indians because it was the duty of this institution to defend and protect the Indians as men. The Spanish Crown presented a divided front. Queen Isabel believed that her moral obligation was to convert, Christianize, and protect her new subjects and she declared them free vassals of the Crown.⁴² For her, the New World was a kingdom to be gained for God and its inhabitants were to receive kind treatment, proper maintenance, spiritual instruction, and payment for their labor. On the other hand, under King Ferdinand the encomiendas were consolidated as an institution of the Indies.⁴³ As a good politician he saw the Indies as a source of needed bullion, a land full of resources that needed to be exploited, and saw the Indians primarily as a source of labor.

The colonialistas triumphed and the encomienda was firmly established in the New World. At the same time the decimation of the Indian became a reality. The encomienda disrupted their social, political, and economic structures while it did not offer any mechanism for incorporation into a Spanish society by a gradual process.⁴⁴ The change was too fast and radical and the resultant cultural shock was severe indeed.

⁴²Sauer, Early Spanish Main, p. 106; Ots Capdequí, El estado español, p. 34.

⁴³Moya Pons, La Española, p. 61.

⁴⁴Simpson, Encomienda in New Spain, p. 55.

From the indigenous movement rose a voice clamoring on behalf of the Amerindians. Although it was not a loud voice, its echo reached other human beings and the clamor of all these voices found its way to the Spanish Court, to the King, to theologians, jurists, and led to the formation of a junta which enacted a set of laws that tried to quiet the utterances in defense of the Indians. Fray Antonio de Montesinos initiated the protest against the excesses of the encomenderos. He raised a great clamor against the practice of the encomienda and set in motion a train of events that was ultimately to influence the greatest Indian defender of them all: Bartolomé de las Casas.

Before Las Casas appeared thundering against the encomiendas, Fray Antón had already opened the struggle for social justice by his sermons delivered on Española in 1511. While Las Casas was enjoying his encomienda in Cuba, Montesinos was already making his first journey to Spain in order to speak against the system. Hence, Fray Antonio de Montesinos was the precursor of Bartolomé de las Casas; Fray Antón was the first to denounce the encomiendas and to defend the natives by opposing Indian slavery.⁴⁵ His words influenced Las Casas and found their way to Bartolomé's heart and intellect.

⁴⁵Lewis Hanke, The Spanish Struggle for Justice in the Conquest of America (Philadelphia: University of Pennsylvania Press, 1949), p. 17.

* * *

This thesis is a historical profile of Fray Antonio de Montesinos, the first Spaniard to defend the Amerindians by publicly denouncing Indian slavery and the encomienda system in America. This is not a comprehensive study of Indian slavery nor of the encomienda system. Rather, it focuses on the activities of Fray Antonio de Montesinos in the Antilles and Spain in order to show how his actions influenced royal policy. Within this framework special attention is paid to Montesinos' connection with the enactment of the Laws of Burgos of 1512-1513.

Montesinos' sermons raised questions about Spain's legal title to the Indies, the right of Spaniards to wage a "just war" against the infidel, and the right of Spaniards to keep the Indians under the encomienda system. In order to answer these questions King Ferdinand summoned the Junta of Burgos of 1512 which in turn drafted the Laws of Burgos of 1512 with their Clarification in 1513. The Laws became the first code of Indian legislation, and although they were never fully enforced, they stand as a monument which honors Spain, because of the advanced social legislation they embodied, and Fray Antonio de Montesinos, who was the motor behind the passage of the Laws of Burgos and the struggle to attain social justice.

Chapter 2

REVIEW OF LITERATURE

In the history of the sixteenth century struggle for justice in the New World, the name of Fray Antonio de Montesinos always appears as the friar who delivered two famous sermons at Santo Domingo. Usually he is the introductory figure to the most famous Indian defender, Fray Bartolomé de las Casas. For this reason the facts of Montesinos' life are scattered in different sources and a biographical account of Fray Antón does not exist. Justo Cuervo is the only one who attempted to provide a biography of Montesinos, yet the result is a very incomplete biographical essay which emphasizes Montesinos' entrance to the Convent of San Esteban, his sermons, and his death as a martyr in Venezuela.¹

Manuel Giménez Fernández² and Justo Cuervo³ offered

¹Justo Cuervo (ed.), Historiadores del Convento de San Esteban de Salamanca (3 vols.; Salamanca: Imprenta Católica Salmanticense, 1915).

²Manuel Giménez Fernández, Bartolomé de las Casas: Delegado de Cisneros para la reformación de las Indias (Sevilla: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1953).

³Justo Cuervo, Historiadores del Convento.

what little is known of the friars' early years. Bartolomé de las Casas,⁴ Lewis Hanke,⁵ and Luis A. Getino⁶ contain most of what is known about the period from Montesinos' arrival in America through the aftermath of his sermons.

Several works provide data on Fray Antón's wanderings after 1513. Sometimes the information they offer is contradictory. For example, Antonio Cuesta Mendoza's work⁷ says that in 1520 Montesinos was on his way to Spain.⁸ The Colección de documentos inéditos⁹ says that this trip took place in 1528.¹⁰ Cuesta Mendoza¹¹ covered the endeavor of Montesinos in founding the Dominican convent in Puerto Rico.

⁴Bartolomé de las Casas, Historia de las Indias (3 vols.; México: Fondo de Cultura Económica, 1951).

⁵Lewis Hanke, The Spanish Struggle for Justice in the Conquest of America (Philadelphia: University of Pennsylvania Press, 1949).

⁶Luis A. Getino, "Influencia de los Dominicos en las Leyes Nuevas," Anuario de Estudios Americanos, II (1945), 265-360.

⁷Antonio Cuesta Mendoza, Los Dominicos en el Puerto Rico colonial, 1591-1821 (México: Impenta Manuel León Sánchez, 1946).

⁸Ibid., p. 285.

⁹Colección de documentos inéditos relativos al descubrimiento, conquista, y organización de las antiguas posesiones españolas de América y Oceanía sacados de los Archivos del Reino y muy especialmente del de Indias (42 vols.; Madrid: 1864-1884).

¹⁰Ibid., XXXVII, 417.

¹¹Antonio Cuesta Mendoza, loc. cit., Footnote 7.

Silvio Zavala,¹² Venancio Carro,¹³ Joseph Hoffner,¹⁴ and León Ybot¹⁵ mentioned Fray Antón as they described the juridical-theological issues with which he was involved.

Montesinos' assignment as the protector de indios in the Alfínger's expedition to Venezuela and his death are treated by Justo Cuervo¹⁶ and Luis Alonso Getino.¹⁷

Montesinos' sermons and the questions they raised made King Ferdinand summon the Junta of Burgos of 1512 which drafted the Laws of Burgos of 1512. For the discussion of these Laws the main sources are the manuscripts from the Archivo General de Indias,¹⁸ Lesley Byrd Simpson,¹⁹

¹²Silvio Zavala, La filosofía política en la conquista de América (México: Fondo de Cultura Económica, 1947); Servidumbre natural y libertad cristiana según los tratadistas españoles de los Siglos XVI y XVII (Buenos Aires: Peuser, S.A., 1944); The Defence of Human Rights in Latin America: Sixteenth to Eighteenth Century (Paris: UNESCO, 1964).

¹³Venancio Carro, La teología y los teólogos-juristas españoles ante la conquista de América (Madrid: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1944).

¹⁴Joseph Hoffner, La ética colonial española del Siglo de Oro: Cristianismo y dignidad humana (Madrid: Ediciones Cultura Hispánica, 1957).

¹⁵León Ybot, La iglesia y los eclesiásticos españoles en la empresa de Indias (Barcelona: Salvat Editores, s.a.); "Juntas de teólogos asesores del estado para Indias, 1512-1550," Anuario de Estudios Americanos, V (1948), 397-438.

¹⁶Loc. cit., Footnote 1.

¹⁷Loc. cit., Footnote 6.

¹⁸Archivo General de Indias, Indiferente General, legajo 419, libro IV, folios 83-96; Patronato, legajo 174, ramo 1.

¹⁹Lesley Byrd Simpson, The Laws of Burgos of 1512-

Antonio Muro Orejón,²⁰ and Rafael Altamira.²¹

This brief bibliographical survey shows that there is information about Fray Antonio de Montesinos' life but that it is scattered in different sources. Most books do not emphasize Montesinos' life except for the sermons and their outcome, The Laws of Burgos of 1512-1513. As many of the authors who write about the struggle for justice are clergymen, they tend to focus on the religious issues especially the part played by the members of their particular religious orders. Furthermore, many of the sources were written in the early and middle twentieth century, which affects the reliability of their information. For all of these reasons an historical profile of Fray Antonio de Montesinos is justified.

1513: Royal Ordinances for the Good Government and Treatment of the Indians (San Francisco: John Howell Books, 1960).

²⁰Antonio Muro Orejón, "Ordenanzas reales sobre los indios," Anuario de Estudios Americanos, XIII (1956), 417-71.

²¹Rafael Altamira, "El texto de las Leyes de Burgos de 1512," Revista de Historia de América, IV (1938), 5-79.

Chapter 3

THE BIOGRAPHY OF FRAY ANTONIO DE MONTESINOS

Fray Antonio de Montesinos, an almost unknown friar, touched off the struggle for justice on behalf of the Indians in the New World.¹ No writings of Fray Antón have come down to us, nor any picture. Of his life we know little except for some outstanding facts such as the famous sermons he preached at Santo Domingo and the time when he spoke with King Ferdinand at the Court in Spain in the interest of the Indians and thus helped bring about the calling of the Junta of Burgos of 1512. Almost nothing can be said with certainty about Fray Montesinos' birthplace, parents, and youth. Probably he was born at the end of the fifteenth century, around 1480.² But this date is vague for there is not enough evidence to prove it. Nothing is known about his childhood and early youth up until the time when Fray Antón decided to become a priest. On July 1, 1502, he professed

¹Lewis Hanke, The Spanish Struggle for Justice in the Conquest of America (Philadelphia: University of Pennsylvania Press, 1949), p. 22.

²Manuel Giménez Fernández, Bartolomé de las Casas: Delegado de Cisneros para la reformación de las Indias (Sevilla: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1953), p. 44.

at the convent of San Esteban de Salamanca.³ This event was the turning point of Montesinos' life because at Salamanca he was influenced by all the theological principles and canons of St. Thomas Aquinas, Aristotle, and others. These ideas caused him to side with and defend the Amerindians.

The convent of San Esteban de Salamanca had a great history since its foundation in the thirteenth century. The Convent housed the best scholars and students in Spain, and many of its graduates had taught theology at the University of Salamanca. In its classrooms the greatest theologians, and the most politically eminent and intellectually controversial figures of the sixteenth century were to be formed and educated. Montesinos was one of the lucky friars who attended this school, becoming a recipient of one of the best clerical educations of the times. The generation of men trained with Montesinos at San Esteban would add to that history during the sixteenth century by raising and helping to rule on the issues of the encomiendas and the King's just titles over the Indies. San Esteban was unquestionably one of the great centers of learning in sixteenth-century Spain.

Aristotle was one of the philosophers whose doctrines were taught at San Esteban. His theory about natural servitude was used during the conquest and colonization

³Justo Cuervo (ed.), Historiadores del Convento de San Esteban de Salamanca (3 vols.; Salamanca: Imprenta Católica Salmanticense, 1915), III, 532.

because it could be applied to the Indians in America. Aristotle believed that one part of mankind is set aside by nature to be slaves in the service of masters. Aristotle believed that among men there were some who had to be placed under the guidance of others due to some defect, to a lack of reasoning, and to similar causes. The guardianship of some men over others was something natural.⁴ The settlers adopted Aristotle's doctrine because they believed that the Amerindians were natural slaves as a result of their intellectual incapacity, their savageness, their primitive life style, and their vices. It was lawful and expedient to enslave the natives in order to Christianize and civilize them.

St. Thomas had elaborated on Aristotle's reasonings and theories and adapted some of them to serve Christian purposes. In the Summa Theologica, St. Thomas stated that human beings had certain inalienable rights arising from man's natural state.⁵ St. Thomas argued that if a community developed and prospered according to the natural principles, which were established by God, not only was the well being of its members promoted but also the realization and glorification of God. All men had a right to live freely in

⁴Silvio Zavala, Servidumbre natural y libertad cristiana según los tratadistas españoles de los Siglos XVI y XVII (Buenos Aires: Peuser, S.A., 1944), pp. 25-27.

⁵Joseph Hoffner, La ética colonial española del Siglo de Oro: Cristianismo y dignidad humana (Madrid: Ediciones Cultura Hispánica, 1957), p. 334.

politically organized communities. Infidelity was not a reason in itself to withhold from the gentiles their civil rights. The infidels' political communities were as legitimate as the Christians' because they were both based on rights which stemmed from man's natural state.⁶ All men including infidels, had political dominion, together with civil and property rights in their own land because of their human nature. These rights were not contingent upon receiving baptism nor upon the Pope's grant, and infidelity and sin did not annul them. St. Thomas' principles called for the sovereignty of all political communities even if they were made up of infidels who denied the Pope's universal realm.⁷ The state, which included gentiles, was a natural institution required by God. Pagan states could not be subordinated to Christian ones due to corruption and idolatry. "Dominion is based on titles of natural rights, not on faith or charity. The infidel could have liberty, property, and jurisdiction."⁸

St. Thomas' view was not, however, the only one among scholastic authors. As early as 1271 Henry Susa, known as the Ostiense, stated that the Pope was the universal representative of Christ on earth. He could rule over the Christians and the infidels. After Christ's coming all dominions and jurisdictions were taken away from the

⁶Ibid., pp. 333, 342.

⁷Ibid., p. 407.

⁸Zavala, Servidumbre natural, p. 29.

infidels and transferred to the Christians by right and just cause. The titles that by natural right the infidels could have had in their kingdoms before the coming of Christ disappeared because of this event. Christ delegated to the Pope all His authority and temporal powers as His representative on earth.⁹

Scholarly application of these various theories to the Indians and their conquest began soon after the turn of the sixteenth century. In 1510, a Scottish professor, John Major or Maior, was the first to refer to the Indians when applying the Aristotelian doctrine of natural slavery.¹⁰ Yet, Major did not accept the Ostensian view, for he argued that the kingdom of Christ was not of this world and that the Pope was His vicar in the spiritual sphere only. Christ's vicar could not grant the Catholic Kings the right to have just titles over lands that were not under his realm.¹¹

It was only natural for a Dominican priest, who was imbued with Thomistic principles acquired at San Esteban de Salamanca, to raise his voice in defense of the Indians on the grounds that the natives were men and as such had all the natural rights that pertained to human beings which

⁹Silvio Zavala, La filosofía política en la conquista de América (México: Fondo de Cultura Económica, 1947), pp. 26-27.

¹⁰Zavala, Servidumbre natural, p. 29.

¹¹Ibid., p. 32.

could not be taken away because of the Amerindians' primitive state. The natives, as rational human beings, could legitimately possess their domain and properties because they were their natural right.¹² Montesinos argued that natural law granted the natives a right to have sovereignty over their goods, property, and domain.

Following St. Thomas, Montesinos drew a line between the temporal domain, belonging to the Monarch, and the Pope's spiritual realm. The Pope had no power to grant the Catholic Monarchs jurisdiction over the New World because the Pope's sovereignty was over the spiritual realm. The friar thus denied any Papal claim to dispose of the infidel's temporal possessions, and argued against the right claimed by some to wage a "just war" to impose the Catholic religion.¹³ The Pope and the Spanish Crown had no temporal jurisdiction over the princes, whether Christian or infidel. The Amerindians were rational beings, naturally free, and their lack of faith gave no grounds to enslave them, to make war against them, nor take away their dominions.¹⁴

Montesinos' first sermon raised all of these issues.¹⁵

¹²León Ybot, La iglesia y los eclesiásticos españoles en la empresa de Indias (Barcelona: Salvat Editores, s.a.), p. 125.

¹³Ibid., pp. 174-75; Hoffner, La ética colonial, p. 341.

¹⁴Ybot, La iglesia, pp. 125, 174-75.

¹⁵Hanke, Struggle for Justice, p. 36.

It originated the theological-juridical controversy which led to the struggle for the establishment of social justice in the New World. As he asked the worshippers at Mass in the rustic Cathedral at Santo Domingo in 1511,

. . . by what right or justice do you keep these Indians in such a cruel and horrible servitude? On what authority have you waged a detestable war against these people, who dwelt quietly and peacefully on their own land? . . . Are these not men? Have they not rational souls? Are you not bound to love them as you love yourselves? . . .¹⁶

Major and Montesinos were not the only authors to bring up the issues of natural servitude, just titles over a territory, and the right to wage a "just war" as they applied to the Indies. During Fray Antón's time, Palacios Rubios, the jurist and theologian who participated in the Junta of Burgos of 1512, represented the beliefs enunciated by Ostiense.¹⁷ Rubios believed in natural servitude, defended the Crown's legal title over the Indies based on the Papal grant, and approved the waging of "just wars" against the infidels if they did not recognize the Church's domain over them.¹⁸ Taking the Thomistic line were Bartolomé de las Casas and Fray Francisco de Vitoria, the famous theologian and jurist of the sixteenth century. Las

¹⁶Venancio Carro, La teología y los teólogos-juristas españoles ante la conquista de América (Madrid: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1944), p. 54; Ybot, La iglesia, pp. 123-24.

¹⁷Hanke, Struggle for Justice, p. 29; Zavala, La filosofía política, p. 29.

¹⁸Ibid., p. 54; Hanke, Struggle for Justice, pp. 29-30.

Casas and Vitoria, both products of the Convent of San Esteban, believed that the Papal grant had no temporal value. The Spanish Monarchs were not the rulers of the whole world and for such matters, neither was the Pope, who had no temporal power over the Indians nor the newly discovered territories.¹⁹

The Convent of San Esteban de Salamaca and its intellectual environment prepared the Dominican friars for missionary activities. An opportunity for mission work in the New World soon arose. At the initiative of Fray Domingo de Mendoza--brother of Fray García de Loayza, confessor of Charles V, Archbishop of Seville, and President of the Council of the Indies--a group of fifteen Dominican priests was sent to Española in order to bring the Catholic faith to the natives. One of the members of this Dominican representation was Fray Antonio de Montesinos, who at the time was living at the Dominican Convent of Santo Tomás de Avila which was famous for its religious austerity.²⁰ The Superior of this first group was Fray Pedro Tomás de Córdoba. With King Ferdinand's permission and special favor, the missionaries set sail for America in 1509. They landed in the island of San Juan (Boriquén) and from there they continued their journey, arriving at their final destination--Santo Domingo, Española--in September, 1510.

¹⁹Ibid., p. 151.

²⁰Cuervo, Historiadores del Convento, III, 29.

The friars were greeted by Pedro de Lumbreras, a resident at Santo Domingo, who offered them a place to stay until they could arrange for a place of their own. The first Dominican missionaries on Española resided in a small straw-thatched hut, slept on mattresses made out of dried leaves and branches, ate cassabe, eggs and fish, and dressed in woolen tunics in spite of the hot climate. This hut became the center from which they branched out to other places in order to preach God's word, Christianize the natives, hear confessions, and officiate at Masses. This group of men, who dressed so differently from the other colonists, led such austere lives, and contrasted with the other Spaniards because of their humbleness and spiritual disposition drew the attention of the Indians.

It did not take long for the Dominican priests to realize the inhumane treatment, indeed the atrocities, to which the Amerindians daily fell victim. The Dominicans were especially outraged at the encomienda system and at the death of those Indians who were brought as slaves from the neighboring islands. The incident which precipitated the storm was the entrance into the Dominican convent of a former rich encomendero called Juan Garcés.²¹ He had been an outlaw for four years because he had killed his adulterous wife. Garcés wanted to expiate his crime by becoming a friar.

²¹Luis A. Getino, "Influencia de los Dominicos en las Leyes Nuevas," Anuario de Estudios Americanos, II (1945), 279.

After his ingress, Juan informed the Dominicans of the natives' maltreatment and the exploitation due to the encomienda system. Garcés had been all over the Island and he had been a witness of the infamous behavior of the Spaniards towards the Indians.²² The priests decided that they could not stand by and let this happen as it was their duty, not only to convert the Indians, but to protect and aid them.

The priests held a council and after deliberating they decided to put a stop to these practices by denouncing them publicly from the pulpit. They would make use of a Sunday sermon to let the colonists know about their resentments and feelings about the whole system. All the members of the community were in favor of this idea and they decided to carry out their plan the following Sunday, the fourth Sunday of Advent.²³

In order to have the attention of all the colonists, Fray Córdoba had to employ an effective and resourceful instrument. And the best they had was Fray Antonio de Montesinos and the fiery way in which he preached the sermons.²⁴ The responsibility of preaching fell upon Fray

²²Bartolomé de las Casas, Historia de las Indias (3 vols.; México: Fondo de Cultura Económica, 1951), II, 440; Getino, "Influencia de los Dominicos," p. 279.

²³Las Casas, Historia, II, 440.

²⁴Ibid.

Antón's shoulder because he was the best preacher the Convent had. Las Casas comments: "He [Montesinos] had the power of a preacher, he was harsh in denouncing vices, and above all, his sermons and words were very violent, fierce [and] effective, thus his sermons would prove to be fruitful."²⁵

After Montesinos had chosen his topic, based on the Gospel of St. John The Baptist, Ego vox clamantis in deserto (I am a voice crying in the desert), the other priests approved and gave their consent to its content.²⁶ In this way, they were acknowledging that Montesinos' assignment was sanctioned and supported by a general consensus.

On December 21, 1511, the Sunday before Christmas, Fray Antonio de Montesinos ascended the pulpit in the Church in Santo Domingo and started preaching his famous sermon in defense of the Indians:

In order to make your sins against the Indians known to you I have come up on this pulpit, I who am a voice of Christ crying in the wilderness of this island, and therefore it behooves you to listen, not with careless attention, but with all your heart and senses, so that you may hear it; for this is going to be the strangest voice that ever you heard, the harshest and hardest and most awful and most dangerous that ever you expected to hear. This voice says that you are in mortal sin, that you live and die in it, for the cruelty and tyranny you use in dealing with these innocent people. Tell me, by what right or justice do you keep these Indians in such a cruel and horrible servitude? On what authority have you waged a detestable war against these people, who dwelt quietly and peacefully on their own land? . . . Why do you keep them so oppressed and weary, not giving them

²⁵Ibid.

²⁶Ibid.

enough to eat nor taking care of them in their illness? For with the excessive work you demand of them they fall ill and die, or rather you kill them with your desire to extract and acquire gold every day. And what care do you take that they should be instructed in religion? Are these not men? Have they not rational souls? Are you not bound to love them as you love yourselves? . . . Be certain that, in such a state as this, you can no more be saved than the Moors or Turks (see Appendix C).²⁷

This sermon was the first important and deliberate protest against the kind of treatment being accorded the Indians by the Spanish colonists.²⁸ Using the desert as a symbol, Montesinos wanted to portray how the sterile and barren desert resembled the colonists' conscience. They were blind in their treatment of the Indians and consequently they were doomed to eternal damnation. The Spaniards were not aware that because of their insensibility they were always in a state of sin and that many died in such circumstances. The sermon rested upon humanitarian principles and in the juridical-theological Thomistic tradition of all men's right to be free because of their human nature.²⁹

After the sermon was over, Montesinos stepped down from the pulpit, with his head very high, and left the Church accompanied by the other friars. The Spaniards who

²⁷Ibid., pp. 441-42; Hanke, Struggle for Justice, p. 17; Silvio Zavala, The Defence of Human Rights in Latin America: Sixteenth to Eighteenth Century (Paris: UNESCO, 1964), p. 35.

²⁸Hanke, Struggle for Justice, p. 17.

²⁹Carro, La teología, pp. 33, 55.

had attended the Mass and heard the sermon were left bewildered and astonished at the accusations leveled against them.

Montesinos' sermon created an uproar among the officials and the colonists of Española because it attacked the backbone of the colony's economy.³⁰ By eliminating the encomienda system and releasing the Indians, the colonists would lose their main source of labor and thus their means of obtaining wealth. The acceptance of Montesinos' request implied a complete rearrangement of the colony's way of life and the Spaniards were not willing to do this. The encomenderos and some royal officers went to see the governor, don Diego Colón, in order to inform him about the incident and to ask him to put an end to the Dominicans' preaching on the grounds that it questioned the King's sovereignty in the Indies. Some encomenderos wrote to King Ferdinand, to Lope Conchillos, the King's Secretary, and to the Vicar of the Dominicans in Spain, Father Alfonso de Loayza, denouncing the scandalous behavior of the friars.

As soon as the governor of Española don Diego Colón learned about the incident he sent a commission to the Dominican convent in order to obtain an apology and a retraction from Fray Antón. The colonists believed the

³⁰Frank Moya Pons, La Española en el Siglo XVI, 1493-1520: Trabajo, sociedad y política en la economía del oro (Santiago, República Dominicana: Universidad Católica Madre y Maestra, 1971), p. 121.

friar had to be reprimanded for slandering the King by questioning his sovereignty in the New World and for condemning the colonists who had encomiendas.³¹

The Superior, Fray Córdoba, received the delegation and listened to the complaints. They insisted on seeing Fray Montesinos, declaring that he had preached scandalous things. Fray Córdoba explained to them that it was not necessary for them to see Fray Antón because he had spoken on behalf of the whole Dominican community and anything they wanted to tell Montesinos could be disclosed to his Superior, Fray Córdoba himself, because he had sanctioned Fray Montesinos' sermon. Córdoba explained that it was their duty as priests to speak against the encomienda and that its abolition was the initial step towards attaining the salvation of the encomenderos as well as the preservation of the natives' lives.³² The members of the group threatened the Superior, stating that if Montesinos did not take back his words the monks were to be expelled from the Island because they were advocating a new doctrine that called into question royal sovereignty and endangered the economy of the colony by asking for the abolition of the encomienda.³³ Fray Córdoba was unimpressed with this threat. He replied that as priests they had a moral obligation towards the Indians, and at the same time they were being faithful to the King by carrying

³¹Las Casas, Historia, II, 443.

³²Ibid.

³³Ibid., p. 444.

out his desire to protect and Christianize the natives.³⁴ However, he promised that Fray Montesinos would preach the next Sunday on the same topic. Happy to hear these last words, the colonists left the convent believing that in the next sermon Montesinos would make a retraction.

The following Sunday the principal encomenderos and the highest royal officers crowded into the Church. Once again Montesinos mounted the pulpit and announced the text of his sermon which was based upon the Book of Job, Chapter XXXVI: Repetam scientiam meam a principio et sermones meas sine mendatio esse probabo (I will repeat the science I preached in the first sermon to prove that my words are the truth):

Again I will refer to my science and truth, of which I preached last Sunday, and I will prove that my words, which embittered you, are the truth. Suffer me a little, and I will show thee that I have yet to speak on God's behalf.³⁵

Instead of repudiating his previous statements, Montesinos proceeded to elaborate upon them with more passion, providing more reasons than before. He condemned the encomenderos to hell for the way they held the Indians in such tyranny and oppression, warning them that the friars would no longer confess them or grant them an absolution--they would be treated just as thieves were treated. The community would not be pardoned its sins because they were killing the

³⁴Ibid.

³⁵Ibid.; Hanke, Struggle for Justice, p. 18.

Indians by making them work at the mines and as their servants, and were also depriving the natives of their lands. Montesinos even invited his listeners to inform the Spanish officials, including the King, of the Dominicans' decision.³⁶ As soon as the sermon was over, the priests returned to their convent, leaving the colonists, who had expected a disavowal, even more incensed.

Fray Montesinos' sermons marked the beginning of an active participation of the religious sector in the struggle for the Indians' welfare.³⁷ He initiated the process by challenging the colonial system. Fray Antón condemned the encomiendas as inhuman and declared that the colonists exploited the Indians, therefore they had to make some restitution to them or else absolution would be denied to the encomenderos. Montesinos believed that the Amerindians should not be governed despotically, but politically as vassals of the Spanish Crown, rather than as slaves.³⁸ These were the principles of St. Thomas' doctrine of natural law, which he had learned at the Convent of San Esteban de Salamanca. Following them, Fray Antón declared that the Indians were rational beings and thus naturally free with

³⁶Las Casas, Historia, II, 444-45.

³⁷Juan Friede, "Las Casas y el movimiento indigenista en España y América en la primera mitad del Siglo XVI," Revista de Historia de América, XXXIV (1952), 345.

³⁸Getino, "Influencia de los Dominicos," pp. 275, 286-87.

all the rights inherent to the human person such as personal liberty, the faculty of being the sole owner of his person, of his goods, of his craftsmanship, and the right to organize in communities headed by legitimate princes and leaders and to have political dominion over them and over their lands and estates. The Indian, as a human being and in spite of the Conquest, retained all his natural rights vis-à-vis the colonists' desire to encroach upon these rights, and an attempt to do so was like an act of robbery. Montesinos denied that the colonists had a right to possess the Indians even if they were savages and infidels.³⁹

The colonists of Española decided to put an end to this nonsense. They were not going to stay with their arms crossed while their way of life, the system for obtaining laborers, and the island's economy were threatened. They sent King Ferdinand several letters informing him of the content of the sermons and of the behavior of the Dominican priests and at the same time making him aware of the encomenderos' point of view and how they felt about the matter. King Ferdinand was informed that these friars were preaching a new doctrine by which they were condemning all the colonists because they had Indians in encomienda working in the mines and doing other personal services in spite of the fact that the Catholic Kings, the Supreme authority in

³⁹Friede, "Las Casas y el movimiento," pp. 349, 362-63.

the Empire, had given the royal officers permission to grant lands and encomiendas to the colonists in the New World.⁴⁰ The Dominicans were opposing the Crown, their representatives, and the cédulas reales. Even royal officials wrote to the highest circles in the Metropolis to move support on behalf of their cause. One of them was the Royal Treasurer of the Indies, Miguel de Pasamonte, whose letter was very influential because he was the real representative of the Crown on Española.⁴¹ He had to safeguard the King's economic interests in the Indies as well as his own encomiendas and other enterprises. The Crown gave him exclusive power over the economic affairs and absolute control over all the financial aspects of the colony including the encomiendas in the mining area of Concepción de la Vega. As soon as Pasamonte sensed the danger posed by the Dominicans' exhortations he informed the King, by means of a direct correspondence using a private code, of the situation on the Island. Pasamonte was Ferdinand's most complete and trustworthy source of information and Pasamonte's letter on behalf of the colonists' interests, which were also his own,

⁴⁰Colección de documentos inéditos relativos al descubrimiento, conquista, y organización de las antiguas posesiones españolas de América y Oceanía sacados de los Archivos del Reino y muy especialmente del de Indias (42 vols.; Madrid, 1864-1884), XXXII, 372-79. Cited hereafter as CDI. Archivo General de Indias, Indiferente General, libro III, folios 265-67, 276-78.

⁴¹Giménez, Bartolomé de las Casas, pp. 35-49.

and those of the Crown and its officers, carried a lot of weight.⁴²

These letters disturbed the Spanish Court and the King sent a letter to governor Diego Colón ordering him to talk the matter over with Montesinos and the Dominicans (see Appendix D). In the letter, dated March 20, 1512, the King expressed his disapproval of Montesinos' sermons because their principles were not based on any theological doctrine, canons, or laws. The Monarch believed that the Dominicans were not aware that Queen Isabel had issued a royal decree which allowed the colonists to use the Indians for personal services. This decree, which was issued on December 20, 1503, was based on the donation Pope Alexander VI made to the Spanish Crown in 1493 (see Appendix A). The King believed that if someone had to feel guilty because of the Indians' condition, that someone had to be him and those who advised him, and not the encomenderos who had the Indians because the Monarch had permitted it.⁴³ Yet, King Ferdinand stated that according to his own criteria he did not have to feel guilty and in his conscience that feeling did not exist. Ferdinand went on to tell Colón that he had been so irritated with the Dominicans that at first he thought of sending them back to Spain so that they could be admonished

⁴²Ibid.

⁴³CDI, XXXII, 372-79. Archivo General de Indias, libro III, folios 265-67, 276-78.

by their Vicar. But then he decided against this, believing that the Dominicans' attitude was caused by their ignorance. The priests were allowed to stay at Española but they were forbidden to talk about the subject. In the royal communication Diego Colón was ordered to send the friars back to Spain if they persisted in their ideals in order to prevent them from spreading such dangerous doctrines and so that the Vicar of the Dominican Order could punish them.⁴⁴

King Ferdinand asked the Vicar of the Dominicans, Fray Alfonso de Loayza, to censure and instruct these friars in this matter. On March 23, 1512, the Vicar sent a letter to Fray Córdoba ordering him to stop the friars from preaching the new doctrine, under the threat of excommunication (see Appendix E). Fray Loayza warned Fray Córdoba that no more friars would come to America if they kept questioning the established system. If any friar was too scrupulous and could not accept this order to keep quiet, he was to abandon the New World and return to Spain.

The Spaniards decided to send a Franciscan priest, Fray Alonso del Espinal or Espinar, to represent them at the Court and to discuss the issue with the King. Espinal had come to America in 1502 and he was the Superior of the Franciscan Convent at Concepción de la Vega on Española. He supported the colonists' point of view because the Franciscans also held Indians in encomiendas and they had to safeguard them; besides they could not see any harm in having them

⁴⁴See Appendix D.

or in the system itself.⁴⁵

The Dominicans were not detained in the pursuit of their objective either by the letter of the King or by the one from their Vicar. When the encomenderos sent Espinal to represent them at the Spanish Court, the Dominicans also decided to send a special emissary to represent them at the Court. Montesinos himself was entrusted with the assignment of representing the Indians and speaking on their behalf.

Fray Espinal was welcomed at the Court by Ferdinand and other royal officers. Because Espinal was representing and defending the status quo for the islands, the royal officials such as the King's Secretary, Lope Conchillos, and the Bishop of Burgos, Luis Rodríguez de Fonseca, were pleased to receive him and to influence the King in favor of the Franciscan.⁴⁶ Upon his arrival, the Franciscan priest found all the doors open because he was recommended by those who wanted to keep the system, by Pasamonte, and had been sent to see the encomenderos' allies across the ocean, Conchillos and Rodríguez Fonseca.

After Queen Isabel's death, Ferdinand became Castile's sovereign and Aragón and Castile were united under one Crown. The Indies, while technically a Castilian dependency, passed under Ferdinand's hand. To govern it, the King appointed a group of Aragonese: Lope Conchillos,

⁴⁵Las Casas, Historia, II, 448-49.

⁴⁶Ibid.

Rodríguez de Fonseca, and Miguel de Pasamonte, men who were his allies and in whom he could have confidence. This clique took over the government of the Indies as if they were the absolute rulers of it. Lope Conchillos, as the King's secretary, appointed his close friend Rodríguez de Fonseca to the Council of the Indies and both, from Spain, monopolized the affairs of the Indies. Conchillos needed an ally in the New World, thus he named another Aragonese who merited all his confidence, Miguel de Pasamonte, as Royal Treasurer. He became Conchillos' and Fonseca's protégé while he gave away the best lands, mines, and encomiendas of Española to his friends, to the rest of the Aragonese clan, and to himself. The royal officers became very rich while they exploited the Indians.⁴⁷ It is not surprising that they started to use all their influences when their source of income and their power was threatened. When Espinal arrived he was immediately courted by the clan and by the King because their interests were at stake and they needed to befriend those who wanted to keep the encomiendas in the Island. Espinal could ask for an interview with the King whenever he pleased, he was allowed to sit in the Council, and the King sided with him and with the colonists against the Indians and their representatives.

On the other hand, Fray Antón de Montesinos found all the doors closed and locked. The officials knew that

⁴⁷Giménez, Bartolomé de las Casas, pp. 11, 28-29.

Montesinos wanted to defend the natives, proclaiming that it was against natural justice to have them in encomienda; he was accused of favoring a scandalous new doctrine which would upset the King's Empire.⁴⁸ Montesinos was not allowed to have an interview with the King in order to inform the sovereign about the Indians' plight. Montesinos was kept away from the Court and he was prohibited from entering the King's Chamber.

Nonetheless he got to see the King. One day Montesinos was petitioning the guard, who was stationed at the entrance of the Chamber, to let him in because he had to discuss with the Monarch some important information. The guard disregarded Montesinos' petition, but the friar did not leave and stood by waiting for an opportunity to go in. Suddenly, while the guard opened the doors to let other persons out, Montesinos dodged the guard's vigilance, crossed the door and made his entrance into the King's Chamber. When the friar found himself in the royal presence he asked Ferdinand for an interview because he wanted to inform him of very important things. The sovereign acceded; Fray Antón accomplished his goal.

Immediately Montesinos presented the King with a memorial which enumerated the cruelties that were perpetrated against the Amerindians. The document was based on what the Dominicans had witnessed and upon what Fray Juan Garcés had

⁴⁸Las Casas, Historia, II, 449.

told them. Montesinos told the King how the Indians died from the forced labor at the mines, of hunger, of sickness, of maltreatment, and so forth. He detailed how women were violated, separated from their husbands, compelled to do hard labor while they were pregnant, and so forth. Fray Antón concluded by stating that the natives' condition could not be improved while the encomienda system was in effect.⁴⁹ The King could not believe that all these atrocities were possible and that they were taking place in his domain.⁵⁰ And when Montesinos asked him to put a stop to them in order to prevent the Indians' disappearance, the King replied that he would tend to the matter with all possible diligence so that these calamities did not happen again. Fray Antonio, satisfied at accomplishing his mission, kissed the sovereign's hands and left. Ferdinand kept his promise and without delay summoned a Junta, composed of jurists and theologians, that would study the matter and offer him some advice. This committee was known as the Junta of Burgos of 1512.

In order to make the King and the newly organized Junta aware of the issues that the Dominican priests were enunciating and defending, Montesinos wrote a small treatise, his only written material, Informatio juridica in Indorum

⁴⁹Ibid., pp. 450-51; Getino, "Influencia de los Dominicos," p. 284.

⁵⁰Carro, La teología, p. 64.

defensionem (Juridical Information in Defense of the Indians). In it he proposes three main ideas that were the guidelines of his sermons:⁵¹

(1) The King cannot rule in the Indies with a despotic type of government. He should rule the Indians as subjects, not as slaves.

(2) The King can govern the Indies and the natives politically.

(3) If the King's rule was political and not despotic, he could not give Indians in encomiendas to the Spaniards for it implied the slavery of vassals that were free citizens. Therefore, under a political domain, those who made use of the Indians, demanding from them a slave's work would be obliged to make restitution of the earnings obtained from a serfdom which was incorrectly imposed.

These assumptions were derived from the main theme that the Indians were rational human beings and as such the King could not give away his subjects in encomienda to other subjects.⁵²

Although Fray Antón had been the fountainhead in the struggle for justice towards the Amerindians, he was not invited to be a member of the Junta of Burgos of 1512. The discussions were carried on secretly, behind closed doors so that he had no knowledge of the deliberations and decisions. Montesinos could not resist the temptation of finding out

⁵¹Getino, "Influencia de los Dominicos," pp. 286, 313; Luis A. Getino, El Maestro Fray Francisco de Vitoria: Su vida, su doctrina, e influencia (Madrid: Imprenta Católica, 1930), p. 190; Cuervo, Historiadores del Convento, III, 532.

⁵²Getino, "Influencia de los Dominicos," p. 286.

what went on behind closed doors, so he decided to approach Fray Espinal, who was allowed to sit with the Junta, in order to obtain some information. Even though they represented different viewpoints, Montesinos won Fray Espinal to the Indians' side by telling him with an open heart and in a very sincere plea, about the natives' predicament and the inhumane conditions in which they were kept, and by telling his adversary that he was being used by the encomenderos and this was endangering his reward for a life of sanctity (see Appendix F). Fray Antón convinced the Franciscan of his error and from that day they became very good friends. Fray Espinal became Montesinos' confidant and reported to the latter the discussions that took place at the famous Junta of Burgos of 1512.⁵³

⁵³Las Casas, Historia, II, 453-55; Getino, "Influencia de los Dominicos," pp. 287-89.

Chapter 4

LAWS OF BURGOS OF 1512 AND ITS SUPPLEMENT OF 1513

Fray Antonio de Montesinos' sermons were not a voice lost in the desert. His defense of the Amerindians before the Crown made King Ferdinand aware of the abuses that were taking place in the Indies, sometimes in the Crown's name.¹ At once the Catholic King summoned a junta, which met at Burgos, where the court was at the time.

The Junta was composed of theologians, jurists, and members of the King's Council. This was the first time that the State called upon theologians asking for counsel in an affair related to the Indies.² The members of the Junta were Juan Rodríguez de Fonseca, the Bishop of Palencia and the presiding member because of the fact that he was the president of the Council of the Indies; Hernando de Vega; the Licenciado Luis Zapata; the Dominican Tomás Durán; the Dominican Matías de Paz, who was present at the insistence

¹Venancio Carro, La teología y los teólogos-juristas españoles ante la conquista de América (Madrid: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1944), p. 64.

²León Ybot, "Juntas de teólogos asesores del estado para Indias, 1512-1550," Anuario de Estudios Americanos, V (1948), 402.

of Fray Montesinos; the Licenciado Gregorio López, royal preacher and councilor; the Licenciado Santiago, another royal preacher and member of the King's Council; Fray Bernardo de Mesa, Fray Alonso del Espinal, Superior of the Franciscans at Española; Fray Pedro de Covarrubias; the Licenciado Sosa; Doctor Palacios Rubios; Fray Tomás Matienzo, professor at the University of Valladolid; and Fray Alonso de Bustillo.³ Fray Montesinos was never given a seat in the junta nor was he called to give his testimony concerning the Amerindians' conditions. Fray Bartolomé de las Casas remarked about this situation: "Due to Montesinos' great diligence and undertakings the King order that Matías de Paz be called and father fray Antón was treated as a stranger by all and the members of the court could not stand his sight. Everything was kept from his knowledge and he did not know what was happening."⁴

The Junta met more than twenty times to discuss the main issues raised in Fray Montesinos' sermons: the injustices of the encomienda system and the need to abolish it, the right of Spain's sovereignty over the Indies based on Pope Alexander VI's grants, and Spain's justification in waging "just wars" against the Indians because they did not

³Bartolomé de las Casas, Historia de las Indias (3 vols.; México: Fondo de Cultura Económica, 1951), II, 453; León Ybot, La iglesia y los eclesiásticos españoles en la empresa de Indias (Barcelona: Salvat Editores, s.a.), p. 218.

⁴Las Casas, Historia, II, 453.

profess the Catholic faith.⁵

The debates at Burgos show that there were defenders of the different points of view raised by each of these issues. Some based themselves on Aristotle and his philosophy of natural servitude together with the Papal authority to grant lands to the Crown in order to Christianize infidels, if necessary, by waging war against them. There were others defending the Indians as human beings with intelligence. These individuals believed there was no reason to have an encomienda system, nor to wage just wars against the infidels, nor any justification for using the Papal grant to claim legitimate political sovereignty over the Indies.

Although we do not have any written record of the debates we can elaborate an overall view by analyzing the treatises left by three participants: Matías de Paz, the Licentiate Gregorio López, and Fray Bernardo de Mesa. They were asked by the King to present their views in writing.⁶

Matías de Paz expressed his disagreement in a book

⁵Lewis Hanke, The Spanish Struggle for Justice in the Conquest of America (Philadelphia: University of Pennsylvania Press, 1949), pp. 26-27, 36, 174, 178; Luis A. Getino, "Influencia de los Dominicos en las Leyes Nuevas," Anuario de Estudios Americanos, II (1945), 287; Frank Moya Pons, La Española en el Siglo XVI, 1493-1520: Trabajo, sociedad y política en la economía del oro (Santiago, República Dominicana: Universidad Católica Madre y Maestra, 1971), pp. 121-22; Ybot, La iglesia, p. 107.

⁶Hanke, Struggle for Justice, p. 27.

that was written in fifteen days. In it he clearly stated that the report of the junta was insufficient because it did not mention the legitimacy of Spain's sovereignty over the Indies, the waging of a just war, nor the issue of the justice or injustice of the encomiendas. Paz argued that the Amerindians did not belong to the group of infidels whom Spain could subjugate by declaring just war upon them. It was not right for Spain to undertake a war upon infidels because of a desire to dominate or to take over their wealth; a war could be waged but only as a means to spread the faith. The King could not invade the territory of those Indians who wished to listen and receive the faith. A "just war" could be undertaken only if the natives had been invited to accept the Catholic faith and required to Christianize and they had rejected the proposition. But if the invitation to accept Christianity had not been extended, the Indians had the right to defend themselves.⁷

With regards to Spain's title over the Indies, Paz argued that the Pope was the Vicar of Christ on earth. Therefore, when infidels were brought to a knowledge of Christ all the powers and rights of dominion held by them passed to Christ, Who became the Lord in the spiritual and temporal sense, and the Pope as His representative on earth inherited a direct political power over the world as well as

⁷Ibid., pp. 27-29; Loida Figueroa, Breve historia de Puerto Rico (Río Piedras: Editorial Edil, Inc., 1971), p. 66.

spiritual authority. So, the title of Spain over the Indies rests and is established upon the donation of Pope Alexander VI to the Spanish Crown. Papal concession given for the conversion of the Indians, and that alone, justified the Spanish title.⁸ The Spanish King, by the authorization of the Pope, could incorporate the Amerindians into his Empire and govern them in his political realm as his subjects. Then it was lawful to require some services from them, as the King did with his other vassals. These services would be equivalent to the expenses derived from their conversion. From them would be exacted greater services than those required from the Christian vassals.⁹

With reference to the encomienda system, Paz stated that the Amerindians could not be held as slaves unless they refused to obey the King or accept Christianity. He did not consider them as slaves but as infidels to whom the faith had not been preached. The Indians were required to accept the faith and the Spaniards who used them as slaves or that mistreated them had to make due restitution. Matías de Paz opposed the method of using the services of the natives despotically and he argued that Indians could be governed as free persons.¹⁰

Fray Bernardo de Mesa, one of the King's preachers, presented a thesis in which he argued that Spain had

⁸Hanke, Struggle for Justice, pp. 27-29.

⁹Ibid.

¹⁰Ibid.

sovereignty over the Indies and that the natives were free, yet idleness was one of the greatest evils from which they suffered. This idleness made absolute liberty injurious to them because they were naturally inconstant and some kind of servitude was necessary to compel them to work.¹¹ The King was obliged to promote the conversion of the Indians by means of zealous prelates and preachers.

Although Fray Mesa believed that the Indians were the Crown's subjects, he insisted that the natives had to be kept away from idleness, their worst vice. It was acceptable to distribute the natives among Christians of good reputation so that the Indians could be taught in the faith. These Christians had the obligation to feed them well and to teach them the Catholic religion, at the same time, the natives had to render the King some tribute for being his subjects and as they had no assets or resources they had to pay by providing personal services.¹²

Another royal preacher, the Licenciado Gregorio López, after quoting from Aristotle and St. Thomas Aquinas, reached the conclusion that the Indians were slaves by nature. The King could rule them and they had to serve if they were well treated and governed.¹³

¹¹Ibid., p. 23; Ybot, "Juntas de teólogos," p. 405; Ybot, La iglesia, pp. 219-20.

¹²Hanke, Struggle for Justice, p. 23.

¹³Ibid.

Fray Bernardo de Mesa and the Licenciado Gregorio López held similar views about the Amerindians since both of them were royal preachers and thus in their arguments and expositions they defended royalist views. On the contrary, Matías de Paz sympathized and defended the Indians. He was a Dominican who had received his education in the Convent of San Esteban de Salamanca where he was influenced by the theological ideals and principles based on Saint Thomas Aquinas and the belief of the equality and rationality of man.¹⁴ These he illustrated in his treatise De Dominio Regnum Hispaniae Super Indos (Spain's Royal Government Over the Indians).

An analysis of the preceding arguments indicates that the principle of natural servitude was accepted by some of the participants but most of them believed that the Indians were subjects of the King with all the privileges and duties that this entailed. The encomienda system was looked upon as an instrument for taking care of the Indians by Christianizing, feeding, and keeping them away from idleness. The just titles of Spain over the Indies was also defended by the argument that the Pope, as the representative of Christ on earth, granted the Spanish Crown these lands and its inhabitants, the King had a legal and a spiritual right over them as a representative of Christ and the Pope.

¹⁴Ibid., pp. 27-29; Ybot, "Juntas de teólogos," pp. 404-405; Las Casas, Historia, II, passim.

The issue of the just wars was more controversial as some members of the Junta argued that the Indians were infidels and the Crown had a right to wage war against them in order to Christianize them while others believed that they were infidels as a result of a lack of knowledge and not by their own will; hence a just war could be undertaken if they were introduced to the Catholic faith and its practice was rejected.

After much discussion and although the members of the Junta of Burgos never reached a general consensus, because of disagreements between theologians and jurists, some of the participants did agree to draw up seven propositions in which they recognized the freedom of the Amerindians and their right to humane treatment while at the same time stating that the natives had to be subject to coercion and kept close to the Spaniards in order that their conversion could be effected (see Appendix G).¹⁵ The following were the seven propositions they presented:¹⁶

(1) The Indians are free and must be treated as such; they were not slaves.

(2) The Indians must be instructed in the Catholic religion with all possible diligence.

(3) It is lawful to oblige the natives to work but in such manner as not to impede their religious instruction.

¹⁵Ybot, "Juntas de teólogos," p. 403.

¹⁶Silvio Zavala, La encomienda indiana (Madrid: Centro de Estudios Históricos, 1935), p. 14.

(4) This labor should be such as they can stand, with time to rest every day and all through the year at convenient times.

(5) They should have houses and property of their own, such as seem fit to those who govern them now and hence forward, and they should be allowed time to farm and keep their property in their own manner.

(6) It should be provided for them always to have contact with the settlers, so that they may be better and more rapidly instructed in the Holy Faith for their prompt and authentic Christianization.

(7) They should be given suitable wages, not in money, but in clothing and things for their houses.

The seven propositions of the Junta of Burgos could have been used as a basis for the enactment of a set of laws applicable to the Indians in America, but the authors, because of their conflicting views, did not dare go further than to propose them. They stated that they had drawn up the rules but the King had to name a council to make the laws.¹⁷

In no time the Catholic King appointed Fray Alonso del Espinal, Pedro García de Carrión, and the Bachiller Martín Fernández del Enciso to gather at the convent of San Francisco in Burgos to make some ordinances, based on the seven propositions, that would allow the Indians to live better and become good Christian subjects. In this way the Laws of Burgos of 1512 come into being.¹⁸ The Laws are the

¹⁷Ybot, La iglesia, p. 219.

¹⁸José Antonio Saco, Historia de la esclavitud de los indios en el nuevo mundo seguida de la historia de los repartimientos y encomiendas (2 vols.; Habana: Cultural, S.A., 1932), II, 280.

basis of the first Spanish colonial code of Indian law.¹⁹

It is a complete code prescribing the treatment of the Indians and stating the premises upon which much of the subsequent Indian legislation was based.²⁰ This code reflected a comprehensive effort to regulate the relations between the Spaniards and the Amerindians by laying down certain principles and ideals which were never entirely abandoned by the Spanish government such as, the Indians that were capable of governing themselves should be set free.²¹

The Ordinances, which were primarily directed towards the salvation of the natives' souls and the conservation of their lives, have abundant chapters dealing with spiritual matters. This fact confirms the King's desire to Christianize the natives.²² These articles pertained to the erection of Churches, the type of prayers, the religious instruction that had to be given with love and care especially during the Amerindians' free time, the sacraments such as baptism, marriage, confession, burials, and masses.

¹⁹Lesley Byrd Simpson, Encomienda in New Spain: The Beginning of Spanish Mexico (Berkeley: University of California Press, 1950), pp. 10-11.

²⁰Ibid., p. 32.

²¹Hanke, Struggle for Justice, p. 24; Roland D. Hussey, "Text of the Laws of Burgos (1512-1513) Concerning the Treatment of the Indians," Hispanic American Historical Review, XII (1932), 304.

²²Antonio Muro Orejón, "Ordenanzas reales sobre los indios," Anuario de Estudios Americanos, XIII (1956), 458.

Other articles referred to the Indians' incorporation into the Spanish system and their living according to civilized norms such as wearing clothes and sleeping in hammocks, not on the floor. Some were directed to the issue of the ownership of property, land, and houses which were to be used as a means of attracting the natives to the faith. They were given property, which was inheritable by their heirs, as an indemnization for the houses they had to abandon as they were transferred to the Spanish villages.²³ Several articles regulated the Indians' diet, basing this on the principle that good treatment is shown by providing good food which, in turn, would result in an increase of the population with the result that the colonists and the Crown would have more Indians to work in the mines.²⁴

The Junta laid down the general principle that the Indians had to work; there were some entries that referred to labor and laborers in agricultural and mining enterprises.²⁵ Some established the time for working and for vacationing. Others regulated childrens' and women's labor describing their special protections and exemptions. In addition to these provisions, the rights and duties of the encomenderos were strictly specified as well as the services that the Indians had to provide to the encomenderos.²⁶

All throughout the Laws there is an insistence on

²³Ibid., pp. 459-61.

²⁴Ibid., p. 461.

²⁵Ibid., p. 463.

²⁶Ibid., p. 467.

the subject of the good treatment that had to be bestowed to the natives, which shows a royal interest to protect them.²⁷ There were articles that prohibited bad treatment by word and deed towards the Amerindians, with emphasis on women and children. Indian women were one of the social worries within the Spanish colonial society.²⁸ Their work was strictly regulated, especially for the pregnant ones. And single women were protected owing to reasons of public morality.

The Laws of Burgos received royal approval and were duly promulgated on December 27, 1512, and issued simultaneously for Española, Cuba, and Puerto Rico (see Appendices H and I).

The following pages contain an abstract of these thirty-five articles and its preamble:²⁹

The preamble established the motives for the enactment of the Laws. The fundamental principle was the

²⁷Ibid., p. 462.

²⁸Ibid., p. 465.

²⁹The following pages contain the description of the Laws of Burgos, 1512-1513, based on: Archivo General de Indias, Indiferente General, legajo 419, libro IV, folios 83-96; Rafael Altamira, "El texto de las Leyes do Burgos de 1512," Revista de Historia de América, IV (1938), 5-79; Roland D. Hussey, "Text of the Laws of Burgos (1512-1513) Concerning the Treatment of the Indians," Hispanic American Historical Review, XII (1932), 301-26; Antonio Muro Orejón, "Ordenanzas reales sobre los indios," Anuario de Estudios Americanos, XIII (1956), 417-71; Lesley Byrd Simpson, The Laws of Burgos of 1512-1513: Royal Ordinances for the Good Government and Treatment of the Indians (San Francisco: John Howell Books, 1960), passim.

conversion of the Indians to the Catholic faith.³⁰ For its attainment the preamble prescribes the removal of the Amerindians to the villages where the Spanish colonists lived. In this way the natives would benefit from a continuous Christian teaching, while receiving the sacraments, and following the example that the Spanish colonists offered them. The Indians would receive better treatment, especially women and children, and the protection of the inspectors or Visitadores. At the same time, if the Indians resided in the villages a life of idleness and vice would be prevented. If they were gathered in the villages where they could watch and follow the example of the Spaniards and learn Christian habits and doctrines while keeping away from idleness, which was considered the greatest impediment in their Christianization, they could be saved. The Laws were directed towards the salvation of the Amerindians' souls and the safeguard of their lives.

The residence of the Indians in the villages was considered the fundamental method for consolidating their recent Christianization. This would prevent the Indians from going back to their bad habits and inclinations, as had happened when they were allowed to return to their old residences once their laboring period was over.

After examining the preamble, let us review the Laws, which are in abstracted form:

Article 1: The Indians shall be settled in villages

³⁰Simpson, Encomienda in New Spain, p. 32.

near the Spaniards. The persons to whom the said Indians are given, or shall be given in encomienda, shall at once build for every fifty Indians four huts (bohios), and plant five thousand hillocks (conucos), which should be distributed as follows: three thousand of cassava and two thousand of yams, two hundred and fifty pepper plants, and fifty cotton plants; increasing or decreasing the amount according to the number of Indians they have in encomienda. And these Indians shall be settled next to the estates of the encomenderos who must have them well housed and under the eyes of the Visitador.

And the persons who have the Indians in their charge should have them sow half a fanega of maize, and shall also give them a dozen hens and a cock to raise and enjoy the fruit thereof, the chickens as well as the eggs. As soon as the Indians are brought to the estates they shall be given all the aforesaid as their own property. It shall not be sold or taken from them, not even by their encomendero or by anyone else. It shall belong to the Indians and to their descendants.

Article 2: All caciques and Indians dwelling on the Island of Española shall be brought from their present dwelling places to the villages and communities of the Spaniards. The removal shall be done gently in the manner that seems best, with the least possible harm done to the chiefs and Indians. The transfer shall be done with much care, diligence, and with great regard for the good treatment

and conservation of the Indians.

Article 3: The encomendero shall be obliged to erect a structure to be used for a Church with an image of the Virgin Mary and a bell with which to call the Indians to prayer in the mornings and in the evenings. The encomendero shall go with them to prayer and teach his Indians to make the sign of the Cross, and to recite the Ave Maria, the Pater Noster, the Credo, and the Salve Regina.

Article 4: The Indians shall be examined by the encomendero in order to ascertain the progress the Indians have made in learning the things of the Faith. Every two weeks he must check on the Indians to see what each one has learned and to teach them what they do not know. He must teach them the Ten Commandments, the Seven Deadly Sins, and the Articles of Faith to those who have the capacity to learn them. All this must be done with love and gentleness.

Article 5: A Church shall be built where there are four or five estates within the distance of a league. The encomendero should bring the Indians to hear Mass and the good advice of the priests, and afterwards the encomendero shall give the natives pots of cooked meat so that on that day they eat better than on any other day of the week.

Article 6: Churches shall be erected to serve several estates that are within the distance of one league. The best means shall be used to persuade the Indians to accept the things of the Church.

Article 7: Bishops and clerics shall supply and

keep priests in the Indian Churches so that they can give Masses and hear confession.

Article 8: Churches shall be built at convenient places at the mines.

Article 9: Whoever has fifty Indians or more shall be obliged to instruct a boy in reading, writing, and things of the Faith, so that he, in turn, may instruct other Indians. The others will accept his teachings better than those the Spaniards give them. If the encomendero has one hundred Indians he shall instruct two boys.

Article 10: Priests shall attend the sick and the dying Indians; they shall oblige the Indians to confess once a year and assist in burials free of charge. The Indians shall be buried in the estates' Church.

Article 11: The encomendero and others are forbidden to use Indians as carriers at the mines. The Indians may carry their own household goods when they move.

Article 12: All children shall be baptized within a week of birth. If no priest is at hand, the encomendero is to perform the sacrament.

Article 13: Indians shall be obliged to mine gold five months of the year. At the end of that period they will rest for forty days. No Indian may be used for mining during the resting period unless he is a slave.

Article 14: Indians shall be allowed to have their areitos or ceremonial dances on Sundays and feast days. Also on work days if they do not neglect their work.

Article 15: An important consideration is the Indians' subsistence. The encomendero shall feed their Indians with bread, yams, peppers, and cooked meats, at least on Sundays and feast days. The Indians working at the mines shall be given a pound of meat per day, or a pound of sardines and fish on the days of fasting.

Article 16: Indians should be taught that polygamy is wrong. They should have only one wife and she should not be abandoned. The encomenderos should be responsible for the lawful marriage of their Indians if the encomenderos consider that the natives have the knowledge to undertake matrimony and govern their households. The Indians should be taught that their female relatives can not be taken as wives.

Article 17: All the sons of the caciques, thirteen years and under, shall be entrusted to the Franciscans for four years so that they are taught reading, writing, and the things of the Faith. Afterwards they are to be returned to those who had them in encomiendas so that they can teach other Indians for they will accept it more readily from their own kin. If the cacique has two sons, he must give one to the friars and the other must be taught by the encomendero.

Article 18: No pregnant women, after four months of pregnancy, shall be sent to work in the mines, or made to plant conucos. They should be kept in the estates doing light household tasks, such as making bread, cooking,

weeding, and so forth. The women will nurse their child until he is three years old. And all this time she should not be sent to the mines or to plant conucos or be used in doing anything that will harm the infant.

Article 19: The encomenderos should supply their Indians with hammocks and should not allow them to sleep on the ground. The Visitadores should admonish them not to exchange their hammocks because if they do they will be punished.

Article 20: Each Indian shall be paid a gold peso per year for the purchase of clothing. One real must be deducted from this peso and given to the Visitador to buy clothing for the cacique and his wife, so that they be better dressed and treated than the other Indians.

Article 21: Each encomendero may employ only the Indians he has in his encomienda, and he may not employ or receive in his house, estate or mine, Indians belonging to another encomendero. The Indians may not change their masters. The Indians traveling from one place to another are permitted to stay for one night on an estate provided that immediately on the following morning he is sent forth to his master.

Article 22: Caciques may use a limited number of their subjects for their personal service. If the cacique has forty subjects, two can be set aside for his service; if he has seventy, three are to be set aside for his service; if he has one hundred, four are to be set aside for

his service; if he has one hundred and fifty or more, six should be set aside for his service. The cacique shall choose his servants from among those belonging to the encomendero who has the subjects of the cacique in encomienda. The caciques shall be well treated and they should not be forced to work save at light tasks in order to keep them occupied and not idle, in order to prevent the difficulties that might occur if the cacique is doing nothing. The Visitador should take care of the caciques, feeding them well and teaching them things of the Faith; in this way they can instruct the other Indians who will accept it more readily from their caciques.

Article 23: Official inspectors shall keep records of all the encomiendas, noting their increase or decrease. The encomendero must give an account to the Visitadores of the Indians who died and those who are born within ten days. The Visitadores shall have a book in which to enter every person who has Indians in encomienda, and the number of Indians each one has, with their names; so that those who are born may be entered, and those who die removed. Thus, the Visitador shall have a complete record of the increase or decrease of the Indians. The Visitador shall bring to each founding an account of all this information and present it to the officers so that they may know if the number of Indians has increased or decreased between one founding and the next and the amount of gold produced.

Article 24: No person or persons shall dare beat

any Indian with sticks, whip him, call him "dog," or address him by any other than his proper name. If an Indian deserves to be punished, the encomendero shall bring him to the Visitador for punishment.

Article 25: The encomendero shall bring one-third of his Indians to the mines to extract gold. But the encomienda Indians can not be engaged in private trade and commerce.

Article 26: Those encomenderos whose estates are so remote from the mines that they can not supply provisions for the Indians, shall associate with other encomenderos, who have their estates in the vicinity; the former encomendero shall provide the Indians, and the latter shall supply the provisions for the sustenance of the natives. The master of the Indians shall send along with them a miner who will see that they do not lack necessities.

Article 27: Many Indians have been brought and are daily being brought from neighboring islands. These Indians should be sustained, indoctrinated, and taught the things of the Faith. Owing to their condition as slaves, they may be treated by the owner as he pleases. But they shall not be treated with cruelty and harshness as other slaves, but rather with love and gentleness in order to incline them to the things of the Faith.

Article 28: Every time any person vacates the Indians he has in encomienda, either by death or removal of an encomendero, the person to whom the estate is granted

shall be obliged to purchase it from the one who possessed it before, or from his heirs; after the estate has been appraised, under oath, by two persons whom are acquainted with it. The owner is obliged to sell the estate at the price established by the appraisal. The persons, to whom the encomienda and the Indians were allotted, must be residents of the community so that the natives do not have to change their residence.

Article 29: Two Visitadores or inspectors shall be appointed for each village. They will be in charge of inspecting the whole community including its mines and estates. They shall report on how the Indians are being taught the things of the Faith, how they are treated and maintained, and how the encomenderos are fulfilling and obeying these Ordinances.

Article 30: These Visitadores shall be chosen from the oldest inhabitants of the communities, by the Admiral, royal officials, and judges and they shall be compensated by giving them encomiendas in addition to those they may already have. If the Visitadores are negligent in making the encomenderos comply with these Ordinances, especially the ones referring to the Indians' subsistence and their hammocks, they shall lose their encomienda.

Article 31: The Visitadores shall inspect the villages twice a year; at the beginning and at the middle of the year. Once by one inspector and then by the other, so that each may know what the other is doing.

Article 32: The Visitadores may not keep runaway Indians, but must deposit them with a person of good conscience whom he shall select, until they are restored to their masters.

Article 33: The Visitadores shall be given copies of these Ordinances.

Article 34: Royal officials shall inquire--every two years--whether the inspectors are fulfilling their duties. The Visitadores shall have a residencia in order to ascertain how they have enforced these Ordinances.

Article 35: The number of Indians who may be held by one encomendero may be not more than one hundred and fifty and not less than forty.

Many of the articles included a description of a penalty that was to be imposed if the law was not obeyed. Each mandate entailed a different penalty and by their break down we can inquire which laws were the most important for the Crown. There were two kinds of penalties, those that required the payment of a fine and those that required the encomiendas to be taken away from the transgressor. There was a special type which combined both of the above.³¹

In terms of money, the toughest penalties were imposed for the non-enforcement of articles dealing with spiritual affairs such as the construction of Churches

³¹Altamira, "El texto de las Leyes de Burgos," passim.

within a certain distance and at the mines, the examination the encomenderos had to conduct to inquire about the natives' progress in learning things of the Faith, and for beating or calling the Indians bad names. The second type of penalty, loss of encomienda, was imposed when the encomenderos kept some Indians without permission, which shows how scarce and how important the Indians were. Also if the Visitadores and other royal officials did not enforce the laws or if they kept some Indians, the second kind of penalty was applicable to their case. The combination was levied to such offenses as making pregnant women work and for not complying in giving the Indians the required diet, and if the Visitadores and other royal officials did not enforce these Ordinances or obey them. This proves that for the Crown the spiritual matters and the conservation of the Amerindians' lives were very important issues in the conquest and colonization of the Indies.

* * *

These Ordinances were officially printed and edited in a legal text. Fifty copies were sent to America and distributed among the authorities and the encomenderos.³² They brought to the attention of all by the usual procedure: by reading them in the squares and markets and other customary

³²Muro Orejón, "Ordenanzas reales," p. 470.

places by a public crier, in the presence of a notary and royal officials.

Up to 1512, there was no general law dealing with the Indian issue.³³ There was a need for this legal document, which would have taken longer to be enacted if it would not have been for the revolutionary push given by the Dominicans of Española.³⁴ The Dominicans, especially Fray Montesinos, suffered a defeat because the Laws did not put an end to the encomienda system, but on the contrary turned out to be yet another royal confirmation of it.³⁵ This Code sanctioned the encomiendas with certain protections and guarantees for the Indians.³⁶ But it did not benefit the Amerindians very much because these Laws were not obeyed even though they were the central and basic Indian statute.³⁷

The disappointment of the Dominicans of Española with the Laws is indicated by the sudden return to Spain of their Superior, Fray Pedro Tomás de Córdoba in order to

³³Altamira, "El texto de las Leyes de Burgos," p. 67.

³⁴Carro, La teología, p. 57; Altamira, "El texto de las Leyes de Burgos," p. 68.

³⁵Henry Raup Wagner, The Life and Writings of Bartolomé de las Casas (Albuquerque: The University of New Mexico Press, 1967), p. 10.

³⁶Altamira, "El texto de las Leyes de Burgos," p. 68.

³⁷León Lopetegui and Félix Zubillaga, Historia de la iglesia en la América Española (2 vols.; Madrid: Editorial Católica, 1965), I, 74-76.

reform the Laws because they were inadequate, incomplete, difficult to enforce, and represented meager gains in protecting the Indians.³⁸

The friars were disillusioned because even though the Laws had already been promulgated in Española the encomenderos did not obey many of their articles. Even the royal officials did not enforce them, using the obedezco pero no cumplo principle.³⁹ Because the Code sanctioned the encomiendas, it gave the encomenderos a legal guarantee of their claims over the Indians and bases for more abuses and exploitation. The articles which regulated labor, the number of Indians in each encomienda, the diet, clothing, Christianization, the protection for children, women, and working Indians, and the rest period, were seldom put into effect. But the ones referring to the privileges of the encomenderos and of the Visitadores were carefully enforced. In addition, the Visitadores, the representatives of the Crown whose job was the enforcement of the Ordinances, were the first to trespass them to the degree of using the Indians as a secondary source of livelihood.⁴⁰ Fray Córdoba

³⁸Hanke, Struggle for Justice, p. 25; Moya Pons, La Española, pp. 130-35; José M. Ots Capdequí, El estado español en las Indias (México: Fondo de Cultura Económica, 1946), p. 18.

³⁹Ibid.

⁴⁰See C. E. Castañeda, "The Corregidor in Spanish Colonial Administration," Hispanic American Historical Review, IX (1929), 446-70.

could not allow this corruption to persist, as the Dominicans had been the spark that had ignited the movement for the elaboration of the Code.

Following his arrival at Seville, Fray Córdoba went with other friars to Valladolid where he was given an interview by the King. In this consultation the Superior explained to Ferdinand that the Laws did not improve the conditions of the Amerindians. In response, the King ordered Córdoba to resolve the issues in ways more favorable to the Indians but at the same time safeguarding the rights of the Crown and of the Spanish colonists. But Córdoba did not want such a great and grave task.⁴¹ The King summoned another junta in 1513 to study the Laws of 1512, in order to reform them, especially in regards to the encomiendas. The members of this committee were the Licenciado Santiago, Palacios Rubios, Bishop Fonseca, the Dominican Fray Tomás de Matienzo (the King's Confessor), the Dominican Fray Alonso de Bustillo, and the Licenciado Gregorio López (a royal preacher).

After studying the circumstances in which the Indians were living, the junta modified the Code by creating a supplement. This addendum consisted of four laws whose objective, as stated in the preamble, was to modify the Laws of 1512 for the benefit of the natives, especially women and children, and to introduce the Amerindians to the norms

⁴¹Iybot, La iglesia, p. 223.

followed in a civilized society in order to instill in them the humane and political capacity to live, work, and govern themselves freely as subjects of the Spanish Crown (see Appendix J).⁴² The committee emphasized the regulation of the natives' work in the mines, the labor of pregnant women and of children. These items were considered to be bulwarks against the mistreatment of the Indians and illustrate the Crown's concern for social justice. The article dealing with clothing reveals the desire to acquaint the Amerindians with civilized norms of behavior. These laws were as follows:⁴³

Article 1: Married women shall not be compelled to work in the mines or any where else, except by their own or their husbands' consent. They could work on their own estates, or for certain wages, on the ones owned by the settlers. This permission did not extend to pregnant women.

Article 2: Children under fourteen are not to be compelled to work, except at tasks fitting for children, such as weeding. Children fourteen years and over should be under the tutelage of their parents until they reach an age at which they were fit to work, to get married, or to learn

⁴²Las Casas, Historia, II, 492.

⁴³The following description of the Clarification of the Laws of Burgos of 1512 is based on Archivo General de Indias, Patronato, legajo 174, ramo 1; Hussey, "Text of the Laws of Burgos"; Muro Orejón, "Ordenanzas reales"; Las Casas, Historia, II, 492-94; Simpson, The Laws of Burgos.

a trade. Orphans were to be placed in the custody of persons designated by the royal officials. Unmarried girls were to be in the custody of their parents who were to keep them occupied, and thus removed from vice and idleness. They were also to be taught the Christian faith.

Children might learn trades, if they wished, and nothing could interfere with their religious instruction.

Article 3: Indians must work nine months per year, resting three. The natives must spend their free time working on their farms, or working for wages in order to prevent them from spending their time in idleness and to assure that they learn to live and govern themselves as Christians.

Article 4: Men and women will wear clothing and be kept away from vice. In the course of time their indoctrination and association with Christians would make the Indians so apt and ready to become civilized and educated that they will be capable of governing themselves and leading the kind of life that the Christians lead here.

Therefore, We command and will that the Indians who become competent to live by themselves and govern themselves, under the direction and control of our said judges, shall be allowed to live by themselves and shall be obliged to serve only in those things in which our vassals in Spain are accustomed to serve, so that they may serve and pay the tribute which they are accustomed to pay their princes.⁴⁴

This appendage did not put an end to the encomienda

⁴⁴Simpson, The Laws of Burgos, p. 45.

system either. It was kept as the center of the whole system. What is more, the clarification of the Laws of Burgos authorized the giving of encomiendas for life or until the King revoked them.⁴⁵

The Supplement received royal approval and was promulgated in Valladolid on July 28, 1513. The four laws were printed and sent to the Indies, where they were proclaimed by the public crier in the squares, markets, and other customary places, in the presence of a notary public and royal officials.

The deliberation of these juntas resulted not only in the enactment of the Laws of Burgos and its Supplement, they also brought forth an exceptional document--the Requirement. This charter dealt with the question of just wars and titles which had been omitted by the Ordinances (see Appendix K).⁴⁶

The defenders of the Amerindians convinced the King that he should not allow a single expedition to sail for the Indies until a proper set of instructions had been drawn up for the prospective colonists to make certain that no unjust wars would be waged against the natives.⁴⁷ Meanwhile, Pedrarias Dávila was preparing his expedition to set sail to the province of Darién and the King held its departure until

⁴⁵Zavala, La encomienda indiana, p. 14.

⁴⁶Hanke, Struggle for Justice, p. 149.

⁴⁷Ibid., p. 30.

a decision was reached. The Bachiller Martín Fernández de Enciso, a lawyer and cosmographer, who was to accompany the expedition, petitioned the King to call a group to prepare the instructions. Ferdinand convoked several Dominican priests, the King's secretary López Conchillos, and Enciso at the convent of San Pablo in Valladolid to prepare this document.

The first day the group met Enciso addressed the committee and he discussed a Memorial he had written which became the foundation of the Requirement.⁴⁸ Enciso was a defender of the royal point of view. In his treatise he argued that the Pope, as God's representative, had granted the Indies to the Catholic Monarchs in order that they might introduce Christianity there. King Ferdinand was the ruler over these lands and its inhabitants and as such he could require the Amerindians to become his vassals. If the natives obeyed they were obliged to serve their King but if they resisted, the Monarch could wage war against them and compel them into slavery.⁴⁹

These postulates were accepted by the junta with the proviso that the Indians who gave over their land peacefully to the King's representative should be allowed to continue to live thereon as his vassals.⁵⁰

Afterwards the King commanded a formal proclamation

⁴⁸Muro Orejón, "Ordenanzas reales," p. 455.

⁴⁹Hanke, Struggle for Justice, p. 31.

⁵⁰Ibid., p. 32.

to be drawn up. Using Enciso's Memorial as the guiding work, the Requirement was written by Enciso and Palacios Rubios.⁵¹ The document begins with a brief history of the world since its creation with an account of the establishment of the papacy leading to the donation by Alexander VI of these lands to the Spanish Kings. The second portion requires the acceptance by the Indians, who are hearing it, of two obligations: (1) to acknowledge the Church and the Pope as ruler and superior of the world and, in his name, the Spanish Monarchs, as their lords by virtue of the Papal donation; (2) to allow the Faith to be preached to them. If the Indians accepted these obligations it was good. If not, the Spaniards could engage in wars in order to subjugate them to the Church and the Crown.

This text, which contained the theories held valid at the time, was approved and copies were given to the conquistadores before they sailed for America.⁵² It was to be announced to the Indians, by interpreters in the presence of a notary, before hostilities could legally be launched.

The formulation and proclamation of the Requirement demonstrate that the sermons preached by Fray Montesinos disturbed the court. This document was the immediate result of the question on just war that had been raised by the

⁵¹Ibid., pp. 68, 71; Muro Orejón, "Ordenanzas reales," p. 456.

⁵²Hanke, Struggle for Justice, p. 35.

predecessor of Bartolomé de las Casas.⁵³

Issuance of the Requirement answered the third of Montesinos' three questions. The Junta of Burgos of 1512 had discussed the issues of natural servitude (propositions 1, 2, and 5) and affirmed that the Amerindians were not slaves by nature and it had upheld the Crown's title to the Indies on the bases of the Papal donation and the Christianizing mission it ordered (propositions 2, 3, 6, and 7). The question of waging "just wars" had been dropped from the deliberations very early because the junta's members believed that they were not dealing with infidels such as the Turks or Saracens, but with another type of non-believer, ones who did not have faith because they knew nothing of God. The laws drawn up to give substance to these views had reaffirmed the freedom of the Indians (Article 1) while at the same time imposing the encomienda on them as a means to the end of converting them to the True Faith (Articles 1-12, 15-20, 24, 27-28). The Junta of 1513 took this set of affirmations for granted and concentrated its efforts on improving the treatment of the Indians within the encomienda system. When Fray Córdoba demanded a statement on the justice of wars waged on the Indians, a new junta drew up the Requirement. Thus by the end of 1514, Fray Anton's three questions--by what right do you own this land? by what right do you enslave the Indians? and by what right

⁵³Ibid., p. 72.

do you make war on them?--had been answered in terms of the Ostensian theory of Papal power and related ideas about "just war."

The Laws of Burgos of 1512 and their Supplement of 1513 were not perfect and because they were not enforced they did not accomplish anything to remedy the maltreatment of the Indians which stemmed from the encomienda. They were the first comprehensive code of Indian legislation and the most complete statement we have of the Crown's conception, at that time, of the ideal relationship between the Indians and their Spanish masters and of the norms which should apply to the living and working conditions of the Indians.⁵⁴ As Hoffner observed "[the Laws of Burgos] are the beginning of a colonial legislation for the Indians. Because the social movement raised these issues, the Laws demanded an end to child labor, compulsory work for women, and the exploitation of working men."⁵⁵ In these areas the Laws contain principles which are still the cornerstones of our notions of social justice and fair labor practices.⁵⁶ But the Laws and their Supplement did not accomplish the main

⁵⁴Silvio Zavala, New Viewpoints on the Spanish Colonization of America (Philadelphia: University of Pennsylvania Press, 1943), p. 53.

⁵⁵Joseph Hoffner, La ética colonial española del Siglo de Oro: Cristianismo y dignidad humana (Madrid: Ediciones Cultura Hispánica, 1957), p. 242.

⁵⁶Ibid., p. xv.

goal of Fray Montesinos. The encomienda remained.

Chapter 5

MONTESINOS RETURNS TO AMERICA

After the Laws of Burgos of 1512 were drafted, decreed and then revised in 1513, Fray Antonio de Montesinos returned to Española where he quietly faded into the background until 1515 when he was sent on an assignment to Tierra Firme to found a mission on the Pearl Coast near Cumaná.¹ King Ferdinand had ordered the exploitation of the pearl beds that existed in the area, and the mendicant orders were ordered to try to convert the Carib Indians, who were the laborers at Cumaná and lived there.² The Franciscans established themselves in Cumaná and the Dominicans at Piritú, eighteen leagues farther to the west.

Fray Pedro Tomás de Córdoba, the Superior of the Dominicans at Santo Domingo, had petitioned the King for some territory near the coast, far away from where the encomenderos lived, where the friars could preach the word

¹Eduardo Arcila Farias, El régimen de la encomienda en Venezuela (Caracas: Universidad Central de Venezuela, 1966), pp. 23-72.

²Venancio Carro, La teología y los teólogos-juristas españoles ante la conquista de América (Madrid: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1944), p. 117.

of God to the Caribs by using peaceful means. When the Monarch granted them the area known as Piritú, Fray Córdoba sent Fray Antonio de Montesinos, who believed in utilizing peaceful methods to preach and to attract the Indians to the Catholic faith without the need of weapons, together with Fray Francisco de Córdoba, and Fray Juan Garcés.³ At first the enterprise was very successful because no encomendero dwelled in this territory. But this headway was lost as soon as the colonists made their appearance.

All three friars set sail from Española and upon their arrival at the island of San Juan (Boriquén), Montesinos fell seriously ill. He was not allowed to continue with the journey because it could endanger his life. He was ordered to stay in San Juan to convalesce while the others departed for Piritú. As a result he was saved from the first killing of missionaries that occurred in Piritú.⁴

Upon their arrival, Fray Córdoba and Fray Juan Garcés were welcomed by the Indians but this promising beginning came to a sudden end months later when a Spanish ship stopped at the Pearl Coast to carry on some trade with the natives. The Captain invited the Indian chief, his wife, and seventeen men on board and made off to sell them

³Ibid., p. 253; Juan Pérez de Tudela (ed.), Obras escogidas de Bartolomé de las Casas (Madrid: Ediciones Atlas, 1957), p. 30.

⁴Carl Ortwin Sauer, The Early Spanish Main (Berkeley: University of California Press, 1969), p. 192.

as slaves. A report of this event reached Fray Pedro Tomás de Córdoba and he entrusted Fray Montesinos, who had returned to Santo Domingo from San Juan, with the task of going to the royal authorities in order to obtain the release of the Indians by capturing the Spanish vessel and saving the lives of the missionaries who were held prisoners in Piritú by the Caribs until their chief was brought back. Montesinos went to the oidores, the royal judges of the Audiencia at Santo Domingo, and begged them to capture the Spanish ship so that the Indians could be released and sent back to their tribe. His request went unheard.⁵ Angered, he left for Spain to personally tell the King what had happened and to ask that the Pearl Coast remain closed to all those Spaniards who were not friars or their companions. In the summer of 1515, he set sail for Spain but the ship was forced to return to Española when it encountered bad weather near the coast.⁶

Time went by and as the royal officials of Española did not do a thing, the captured Indians were not returned. The Caribs killed Fray Córdoba and Fray Garcés, who became the earliest martyrs of the New World.⁷

⁵Manuel Giménez Fernández, Bartolomé de las Casas: Delegado de Cisneros para la reforma de las Indias (Sevilla: Escuela de Estudios Hispano-Americanos de la Universidad de Sevilla, 1953), p. 680.

⁶Pérez de Tudela, Obras escogidas, p. 88.

⁷Sauer, Early Spanish Main, p. 192.

This evil event seemed to bring the advocates of peaceful means of conversion to a low point. However, a new advocate was entering the struggle, a man who ultimately won the battle, if not the war.

By the end of 1515, Fray Bartolomé de las Casas, already engaged in his battle against the Indians' maltreatment, was convinced that nothing could change the colonists' attitudes towards the natives. He wanted to obtain some reforms of the Laws of Burgos. He talked with Fray Antón and both of them went to Spain in September. They sailed in the ship Santa Maria del Socorro belonging to Diego Rodriguez Pepino. They arrived at Puerto de las Muelas in Seville on November 6, and immediately started to work.

Upon their arrival Montesinos and Las Casas went to the Dominican convent to wait for an interview with King Ferdinand, who at the moment was sick. They hoped to describe to him the Amerindians' serious predicament and the ill-treatment in the Indies even though the Laws of 1512 were in force.

Las Casas could not get an audience but at Montesinos' request the Archbishop of Seville, Fray Diego de Deza, gave a letter from Fray Antón to the King's Regent, Cardinal Francisco Ximénez de Cisneros, and introduced Montesinos and Las Casas to the Regent. During their conversations, both friars explained the plight of the Amerindians while Cardinal Cisneros expressed his desire to appoint a small committee to formulate some remedies for the Indians. This committee had

to be composed of men who had lived in the Indies, knew the problems and social conditions of the Indians, had experience in the affairs of the Indies, and had been in contact with the natives, the encomenderos, and the royal authorities. Because Las Casas and Montesinos fulfilled all these requirements, they and Palacios Rubios were designated as a junta of 1516.⁸

The junta met several times to discuss the excesses committed against the Indians. The end product of its deliberations was a memorial presented to Cardinal Cisneros in 1516: Proyecto de las instrucciones del Plan Cisneros para la reformación de las Indias.⁹ It consisted of articles that modified the Laws of Burgos.¹⁰ Although the Memorial was presented by all three members, the real author was Fray Las Casas.¹¹ Montesinos approved and endorsed it while Palacios Rubios edited it in a more formal language, suitable for the court.

This report supported the principle that the Indians were free vassals of the Spanish King and it offered some proposals which would improve the Laws. The reforms called

⁸León Ybot, "Juntas de teólogos asesoras del estado para Indias, 1512-1550," Anuario de Estudios Americanos, V (1948), 408.

⁹Giménez, Bartolomé de las Casas, p. 143.

¹⁰León Ybot, La iglesia y los eclesiásticos españoles en la empresa de Indias (Barcelona: Salvat Editores, s.a.), p. 229.

¹¹Ybot, "Juntas de teólogos," p. 408.

for were (1) the suppression of the Indians' transfer from one place to another as well as their work as carriers; (2) a daily rest of three hours; (3) the elimination of women's work except on their own estates; (4) the encomenderos to provide the Indians with meat everyday and with fish on days of fasting plus a salary of more than one peso; (5) the right of the miners to receive a fixed wage instead of the usual payment which was in accordance to what they extracted; (6) the annulment of the encomiendas given to the Visitadores; and (7) an increment in the number of these inspectors to more than the customary two per village. The Memorial ended with a proviso that stated that those Indians who were capable of living freely and of governing themselves should be allowed to do so.¹² The three-man junta presented the Memorial to Cisneros, who approved it and ordered its enforcement.

If we compare the Laws of Burgos of 1512 and its Supplement of 1513 with the requests that were made in the Memorial of the Junta of 1516, we reach the conclusion that their roots were exactly the same although the Memorial was more liberal in its reforms and more advanced and outspoken in the principles it set forth. This resulted from the fact that its author was the indefatigable defender of the

¹²Ibid., pp. 408-10; Ybot, La iglesia, pp. 228-30; Lesley Byrd Simpson, The Encomienda in New Spain: The Beginning of Spanish Mexico (Berkeley: University of California Press, 1950), p. 39.

Indians, Bartolomé de las Casas, who was not deterred by any obstacle and used every opportunity that came within his grasp to advocate new and radical measures for the natives' well being.

The Laws, the Supplement, and the Memorial were based on the postulate that the Indians were free vassals of the King with the rights and duties that this entailed.¹³ All three documents proposed articles to regulate the Indians' life, labor, and relations with the Spaniards. Like the Supplement, the articles contained in the Memorial focused on the issue of the Indians' well being and their treatment. The articles stipulated the suppression of the Indians' transfer from one place to another, their labor as carriers, and women's work (as did the Supplement of 1513). Others laid down the details related to the natives' rest, their diet, their salary, and the miners' wage, which was the material incentive that would compensate their efforts as they extracted more gold in order to increase the Crown's revenue. Las Casas included a very strict entry depriving the Visitadores of encomiendas. In the Indies, Las Casas had been a witness of the corruption of these royal officials and of the treatment they bestowed upon the natives.¹⁴ Las

¹³The Laws of Burgos of 1512-1513 and the Memorial of 1516 were based on the seven propositions which were drawn up by the Junta of Burgos of 1512, and they clearly stated that the Indians were free vassals of the Spanish Crown.

¹⁴See C. E. Castañeda, "The Corregidor in Spanish

Casas advocated the reform of appointing more than two Visitadores, as this could prevent some corruption by putting into function a checks and balances system. The document of the Junta of 1516 ended with the same proviso as the Supplement of 1513--that some day the Indians would be capable of living freely and of governing themselves. This postulate was always sustained by the Crown and it usually came up in all the treatises and documents that were related to the Indians.¹⁵

The Plan Cisneros para la reformati3n del gobierno de las Indias was the central project that the Junta of 1516 drafted. But Bartolom3 de las Casas went ahead and prepared a second one which contained more radical proposals. Las Casas' Plan called for the abolition of the encomienda system, the complete liberation of the Indians, the administration of the native population by the religious, an end to the enslavement of the Carib Indians from neighboring islands, and the suppression of the encomiendas that had been granted to royal officers and absentee encomenderos.¹⁶ Las Casas firmly believed that the Indians were rational human beings

Colonial Administration," Hispanic American Historical Review, IX (1929), 446-70; Gim3nez, Bartolom3 de las Casas, pp. 35-49.

¹⁵Silvio Zavala, New Viewpoints on the Spanish Colonization of America (Philadelphia: University of Pennsylvania Press, 1943), p. 53.

¹⁶Simpson, Encomienda in New Spain, pp. 39, 43-44.

and as such had a right to be free.¹⁷ In his plan he stated that the Indians had a right to their personal freedom and were capable to govern themselves. He proposed the establishment of Indian villages governed by caciques and supervised by friars who would teach the natives the Catholic doctrine.¹⁸

The Plan Cisneros and Las Casas' Plan were given to the Hieronymites when they were assigned as governors of Española. They were to put into effect the Plan Cisneros, which called for gradual reforms. They were ordered to investigate and survey the real conditions of the Island to see if it was possible to grant freedom and their own government to those Indians who seemed capable of using them in a "rational" way. Las Casas' ideas were thus to be tested against reality. Needless to say, the Hieronymites found no Indians capable of self government.¹⁹

The Junta of 1516 dealt with the same issues as the preceding juntas and contained two of the men who had sponsored and participated in them, Montesinos and Palacios Rubios. These friars shared the same beliefs and principles because they were Dominicans followers of Thomistic doctrine. This Junta could have been the climax in the battle for attaining social justice for the Amerindians. Its three members were staunch defenders of the natives and this time they were not confronted by any opposing views from those representing the royalist interests. This small group established a precedent, and at the same time was a unique event

¹⁷Giménez, Bartolomé de las Casas, p. 178.

¹⁸Simpson, Encomienda in New Spain, pp. 41-42.

¹⁹Ibid., pp. 45, 49.

because never again were the Indians so well represented in a junta which was sanctioned by the Crown. Its accomplishment were minimal taking into consideration that it was made up of the three strongest supporters of the natives' rights.

Although Montesinos and Las Casas failed to obtain any major changes in the laws governing Indian labor in the Antilles, they did obtain permission to try their ideas of peaceful conversion. On September 3, 1516, the King's Regent granted Montesinos his request that only friars and their companions could go to the Pearl Coast and Cumaná; access to this territory was prohibited to any other person.²⁰

That accomplished, Montesinos set about preparing for his return to Española. In 1517, he was granted sixteen ducats for his trip.

As soon as Fray Antón returned to Santo Domingo he engaged in his missionary work, protecting the Indians, preaching against the encomienda system, and advocating peaceful methods of conquest and colonization to attract the natives to the Faith and to stop their decimation.²¹

But there was much to be done in the Caribbean so he was never idle nor did he stay in one place for too long, thus he decided to go to Spain to propose the establishment of a Dominican convent in San Juan (Boriquén). Montesinos had been thinking about starting this enterprise since he had been convalescing on the Island.²² During his sickness

²⁰Giménez, Bartolomé de las Casas, p. 820.

²¹Carro, La teología, p. 253; Pérez de Tudela, Obras escogidas, p. 30.

²²Antonio Cuesta Mendoza, Los Dominicos en el Puerto Rico colonial, 1521-1821 (México: Imprenta Manuel León Sánchez, 1946), p. 47.

he had become aware that the colonists needed priests to tend to their spiritual needs. Thus, he returned to San Juan in 1518, accompanied by the Superior, Fray Córdoba, who was en route to Spain in order to persuade the highest officials of the Dominican community to found a convent on that Island.

There are no written records of Fray Antón's endeavors in Spain from 1518-1521, while he was trying to accomplish his objective. But he must have been successful because he returned to America in 1521 with the permission to organize the convent with the aid of four friars.²³

In between Montesinos' trips to Spain, his good friend and counselor, Fray Pedro Tomás de Córdoba, died on April 30, 1521, and Montesinos preached the sermon at the burial as his tribute to the man who had been by his side and supported him in his fight to protect the Indians and obtain some reforms on the natives' behalf.²⁴

Nothing further is known of Fray Antonio de Montesinos until 1524. In that year he returned to Spain to secure funds for the Dominican convent on Española and to recruit more priests for their new house at San Juan. His mission was accomplished; he was granted four thousand gold pesos for the monastery on Española and the assignment of seven more friars for San Juan. They arrived there on March 3, 1525. Hence, Fray Antón de Montesinos was responsible for establishing and organizing the first Dominican

²³Ibid., p. 52.

²⁴Bartolomé de las Casas, Historia de las Indias (3 vols.; México: Fondo de Cultura Económica, 1951), II, 374; Giménez, Bartolomé de las Casas, p. 1089; Luis A. Getino, "Influencia de los Dominicos en las leyes Nuevas," Anuario de Estudios Americanos, II (1945), 337.

convent of San Juan.²⁵ But he did not stay permanently on this island owing to his main interest: the Amerindians and his zealous desire to Christianize and protect them.

Montesinos had an adventurous spirit and in the middle of July, 1526, he decided to accompany a royal judge and auditor of Española, the infamous Licenciado Lucas Vázquez de Ayllón, on an expedition to explore and settle the southeastern part of what is now the United States. The cruise's destination was South Carolina.²⁶ Vázquez de Ayllón set sail from Puerto de Plata on the northern side of Española with a fleet of six vessels and a large boat. His company consisted of five hundred men and women, three Dominican friars--Fray Montesinos, Fray Antonio de Cervantes, and Brother Pedro de Estrada--and eighty-nine horses. Pedro de Quexo was the pilot. Upon reaching the coast above the Florida Peninsula, Ayllón landed at a mouth of a river (Murrell's Inlet) losing one of his ships but not her crew. After exploring the interior and sending ships along the coast to search for a strait, Ayllón, dissatisfied with the locality where the settlement had been established, abandoned the place and proceeded towards the southwest sailing along

²⁵Cuesta Mendoza, Los Dominicos, pp. 58, 256.

²⁶Germán Bleiberg, Diccionario de Historia de España (2 vols.; Madrid: Revista de Occidente, 1968), II, 1545. For the details of the expedition of Lucas Vázquez de Ayllón to South Carolina see Woodbury Lowery, The Spanish Settlements within the Present Limits of the United States, 1513-1561 (New York: G. P. Putnam's Sons, 1911), pp. 164-68, 171; Gonzalo Fernández de Oviedo, Historia general y natural de las Indias (4 vols.; Madrid: Imprenta de la Real Academia de la Historia, 1851-1855), III, 627.

the coast for about forty to forty-five leagues until he came to a great river he called the Gualdape. There he established the settlement of San Miguel de Gualdape. It did not prosper due to the approach of an intense winter. The colonists sickened and died. Among the dead was Ayllón. After his death dissension started in the expedition. A group of colonists were not happy about their situation, therefore they proceeded to usurp authority. The other colonists rebelled and captured the usurpers and after settling the dispute decided to abandon the settlement and head back to Española. Thus, Ayllón's last expedition for exploring, conquering, and settling the new lands, ended abruptly in 1526 when the one hundred and fifty survivors returned to Española without accomplishing their objective.²⁷

However, the failure of the Ayllón expedition did not stop Fray Antón from embarking on other trips. In April, 1528, he set sail for Spain again. He was accompanied by Fray Tomás de Berlanga in the vessel of Jerónimo Rodríguez, Francisco López, and Domingo de Ybarrola.²⁸ This time Fray Montesinos had to give the royal officers a report of Lucas Vázquez de Ayllón's ill-fated venture to South Carolina, as

²⁷Ibid., p. 630.

²⁸Colección de documentos inéditos relativos al descubrimiento, conquista, y organización de las antiguas posesiones españolas de América y Oceanía sacados de los Archivos del Reino y muy especialmente del de Indias (42 vols.; Madrid: 1864-1884), XXXVII, 417. Cited hereafter as CDI.

he had been a participant.²⁹ Also, he was entrusted with letters asking the King, Charles I, for funds for building a new convent on Española, for improving the one on San Juan, and for permission to petition the Pope for permission to make the convent of San Juan independent from the one on Española. Montesinos obtained some funds for the convent on Española but the other two petitions were filed to be studied.³⁰ They never became a reality during the friar's life time.

By the late 1520's the Spanish Crown was highly in debt to German and Italian moneylenders. The Spanish Monarch did not have the bullion to redeem these loans, therefore the King decided to make the payment by granting a concession to conquer, explore, and colonize some territory in the New World.³¹ In 1528, the Germans Ambrosio Alfinger and Bartolomé Sayller, representing the Welser Company, were allotted the province and the Gulf of present-day Venezuela.³² The concession granted Alfinger and Sayller the right to conquer, colonize, and extract gold that was found

²⁹CDI, XI, 347.

³⁰Cuesta Mendoza, Los Dominicos, p. 167.

³¹Juan Friede, Nicolás Federman, conquistador de Venezuela (Caracas: Ediciones de la Fundación Eugenio Mendoza, 1959), p. 56.

³²Arcila Farías, Encomienda de Venezuela, p. 27; Oviedo, Historia general, II, 269.

in the abundant mines of this territory.³³ The Crown expected that this arrangement would compensate the Germans in kind. As was the case with the Spanish conquistadores and their expeditions, the Germans had to bring along priests in order to protect the Indians and to prevent violence being committed against them.³⁴ Hence, on March 27, 1528, the King assigned Fray Montesinos to head and direct a group of twenty Dominican friars who would go along in this expedition.³⁵ Montesinos was designated the chaplain and defender of the natives. As a protector of the Indians, Fray Antón, had to convert the natives to Christianity, watch over the natives' well being, and make sure that the Germans accorded them good treatment.³⁶ An excerpt of King Charles's letter to the new Dominican Superior, Fray Tomás Berlanga, shows why Montesinos was chosen as the protector de indios:

. . . for the good treatment of the Indians of the said province and for their conservation and conversion to our Catholic faith and so that no harm is done against them . . . Fray Montesinos is

³³Arcila Fariás, Encomienda en Venezuela, p. 254; Friede, Nicolás Federman, p. 9.

³⁴Ybot, La iglesia, p. 390.

³⁵King Charles I assigned Montesinos as protector de Indios in the Alfinger and Sayller expedition to Venezuela in 1528 but the expedition did not arrive at Coro, Venezuela until February, 1529.

³⁶José Antonio Saco, Historia de la esclavitud de los indios en el nuevo mundo seguida de la historia de los repartimientos y encomiendas (2 vols.; Habana: Cultural S.A., 1932), I, 270.

chosen trusting the Christian life he has led and the example this devoted friar has given. Thus we deposit our trust on him.³⁷

Montesinos' fame as the good Samaritan of the Indians had also reached the coasts of New Spain. In a letter written by the bishops Julián Garcés and Juan de Zumárraga and dated August 7, 1529, they petitioned the King to send some Dominican friars from Española or San Juan to New Spain in order to establish the same kind of organization and system that the convent and its missionaries had in these islands. The bishops considered that the most suitable priests who could be appointed to carry out this assignment were Fray Antonio de Montesinos, Fray Tomás de Berlanga, Fray Bartolomé de las Casas, and Fray Diego de Acevedo.³⁸ But it was too late, Montesinos had already been commissioned to go to Venezuela to accompany the Alfinger expedition, so he could not engage in this reformist activity.

Once the Germans landed in Venezuela they began to rob and enslave the Amerindians. The explorers were only after their own material benefit and tried to obtain as much gold and wealth as possible.³⁹ Neither Alfinger nor Sayller paid much attention to the exhortations of Montesinos regarding the good treatment they had to give the Indians. Las Casas goes so far as saying that Fray Antón was killed by the

³⁷Getino, "Influencia de los Dominicos," p. 339.

³⁸Cuesta Mendoza, Los Dominicos, pp. 291-92.

³⁹See Arcila Farías, Encomienda en Venezuela, passim.

German captain, who was a Lutheran, when Montesinos tried to defend the Amerindians and stop the cruelties that were perpetrated against them.⁴⁰ Father Luis Getino elaborates on Las Casas by stating that Fray Antón was killed by the Germans because Montesinos was constantly reprimanding the foreigners for their treatment of the Indians:

Since Montesinos had been appointed by the King as Protector de los Indios, for defending these poor wretches, for protecting some children for the Church and some vassals for the King, he [Montesinos] was opposed so strongly by the Germans, that they, whose captain was a Lutheran, took his life away.⁴¹

Since we have no further information about Fray Montesinos' life until 1540, it is assumed that he stayed in Venezuela in the service of the Indians. On June 27, 1540, he died as a martyr, probably at the hands of the Germans as Las Casas states, spending his last days in his never ending quest to be the benefactor and protector of the Amerindians. In modern times Montesinos has become a heralded historic figure whose sermons started the struggle for justice in the Spanish Empire.

⁴⁰Bartolomé de las Casas, Relación de la destrucción de los Indios de Venezuela, cited in Carro, La teología, p. 666; Justo Cuervo, Historiadores del Convento de San Estaban de Salamanca (3 vols.; Salamanca: Imprenta Católica Salamanticense, 1915, III, 532-33.

⁴¹Getino, "Influencia de los Dominicos," pp. 312, 338.

Chapter 6

SUMMARY

Today, as in the sixteenth century, the world faces a series of problems and conflicts which result when people from different races, cultures, and customs come into contact with one another. Such a clash occurred in the Spanish Empire after Admiral Christopher Columbus discovered America in 1492. Without knowing it, the Admiral had discovered a New World which was inhabited by millions of Amerindians, whose peculiar life style, culture, customs, and languages posed a very complex political and socioeconomic problem for Spain.

The Spanish Crown wanted to Christianize the natives and to teach them how to live according to civilized norms of society. At the same time, however, the Crown was determined to secure revenues from the New World. To achieve that goal, the Crown had to consent to and indeed encourage, the exploitation of the natives as a labor force in mines and fields. There was no inherent contradiction between these two goals, but in practice Christianization presupposed the preservation of the Indians while the exploitation of them as laborers resulted in their deaths due to over work,

disease, and cultural shock.¹ The Crown was thus trying to carry out contradictory policies. Some of the Dominican missionaries on Española realized this quite early and proceeded to raise questions about the exploitive policies, questions which ultimately encompassed much larger issues such as the nature of man, social justice, what conferred rights of sovereignty, the justice of slavery, and the justice of wars under certain circumstances.

These issues were first raised in the Advent sermon of Fray Antonio de Montesinos and elaborated on in a second sermon whose content was harsher than the first one, going to the extreme of denying confession to the encomenderos.²

Montesinos' exhortations threatened the Crown's political and economic edifice in the New World by questioning the keeping of encomienda Indians, the titles of Spain over the Indies, and the right of Spain to wage "just wars" against the natives because they were infidels.

It was not long before King Ferdinand learned about Montesinos' sermons with their implicit challenge to the Crown's actions, even its presence, in the New World.³ In

¹Lesley Byrd Simpson, The Encomienda in New Spain: The Beginning of Spanish Mexico (Berkeley: University of California Press, 1950), p. 55; Carl Ortwin Sauer, The Early Spanish Main (Berkeley: University of California Press, 1969), pp. 220-204.

²Lewis Hanke, The Spanish Struggle for Justice in the Conquest of America (Philadelphia: University of Pennsylvania Press, 1949), pp. 17-18.

³Frank Moya Pons, La Española en el Siglo XVI, 1493-

order to justify the Crown's policies and to settle the matter, the King summoned the Junta of Burgos of 1512 whose final verdict was the Laws of Burgos of 1512 and their clarification in 1513.

Theoretically, the Laws recognized that the Indians were free and rational human beings capable of learning the Catholic faith and, at the same time, declared that they were subjects of the Crown. Nonetheless, the Laws sanctioned the encomienda system as the only way of placing the Indians under the tutelage of the Spaniards in order to civilize and Christianize them.⁴

In practice the Laws of Burgos failed. They did not reconcile the contradiction between Christianization and the result of the methods used. Indeed, the Laws reaffirmed the basic principle that the Indians should work, the very principle which, because of their culture, was destroying them and allowing the sorts of abuses of women and children, not to mention grown men, which the Laws tried to correct.⁵ This fatal flaw made concern for the justice of the enslavement of the Indian, or concern about whether Spain had any

1520: Trabajo, sociedad y política en la economía del oro (Santiago, República Dominicana: Universidad Católica Madre y Maestra, 1971), pp. 121-22.

⁴See the Preamble of the Laws of Burgos of 1512; Moya Pons, La Española, pp. 50, 85-86.

⁵Antonio Muro Orejón, "Ordenanzas reales sobre los indios," Anuario de Estudios Americanos, XIII (1956), 463.

right to be in the New World beside the point. Nonetheless, the Laws of Burgos are a unique piece of colonial legislation because, not only do they show a concern over philosophical and moral issues while a conquering nation was undertaking the conquest of new territories, but also some articles are an example of social legislation which sought the advancement and welfare of women and children from a minority group within the Spanish Empire while showing some indications that there was social awareness in the Spain of the sixteenth century. Although the Junta of Burgos and the Laws of Burgos 1512-1513 added little to the regulations that were already in existence in the royal decrees of previous years, they did arrange the ordinances found in these past cédulas reales according to a defined legal pattern.⁶

The indigenistas were very dissatisfied with the new Indian legislation and as a result a new Junta was summoned in order to propose a plan which would alleviate the natives' plight. The members of the Junta of Valladolid of 1516 did come up with a plan which called for the abolition of the encomiendas without disrupting the colonial economy.⁷ The Las Casas-Montesinos Plan was given to the Hieronymite friars in order for them to investigate the feasibility of putting the plan into effect. Even though the Hieronymite's

⁶Moya Pons, La Española, p. 130.

⁷Ibid., p. 195.

commission failed in relieving the Indians of their precarious state, it did set a precedent as a new type of colonial government for the Antilles and for the social and political experiment--Indian communities administered by friars--which would be established on Tierra Firme later on.⁸

The other issues raised by Montesinos--the Crown's legal titles to the New World and its inhabitants and the right to wage "just wars" against the Amerindians for being infidels--were not settled. The latter was superficially treated by issuing the Requerimiento. With this legality the Crown could be assured of the justice of any war which was carried on in the Americas against the infidels. The question of the Crown's titles to the Indies was not fully explored. Because of royal sovereignty over the New World, the Indians were considered subjects and thus were expected to labor and pay tribute. These facts served as justifications for the encomienda. We can argue that the friars believed that if this right of sovereignty, which rested on the Papal grants, were eliminated the labor issue would no longer exist and the encomienda could be abolished because the Crown would not be responsible for the Indians and they would not be vassals of the Crown. Yet, if the friars argued against the Crown's legal titles, that would also eliminate the Patronato Real which provided the friars with

⁸Simpson, Encomienda in New Spain, pp. 39-55.

the financial support to carry on their activities in the New World. Thus, the friars were caught in the logic of their own reasonings and so did not push the issue at this time.

Montesinos' role in the on-going controversy over how to deal with the Indians became less vocal and more action oriented after 1517. As a result he was named Protector de Indios,⁹ one of the first friars ever to receive this official title, and his last mission is a testimony that he had exchanged the words for deeds, when he accompanied the Welsers to Venezuela in order to actually Christianize and protect the Indians of Tierra Firme. While he was diligently carrying out his assignment, he was killed, becoming a martyr.

The life of Fray Antonio de Montesinos is a minute speck in the complicated tapestry of Hispanic America colonial period, yet he launched Spain into the quest for social justice in the New World while his sermons gave him a place in the history of Latin America. These exhortations raised certain issues and ideas that were to disrupt the tranquility of the conquering nation and make some Spaniards aware of the new responsibilities they had acquired by discovering new lands and new civilizations. Fray Bartolomé de

⁹Constantino Bayle, "El protector de Indios," Anuario de Estudios Americanos, II (1945), 54; José Antonio Saco, Historia de la esclavitud de los Indios en el nuevo mundo seguida de la historia de los repartimientos y encomiendas (2 vols.; Habana: Cultural S.A., 1932), I, 270.

las Casas, an encomendero in Cuba, was one of these Spaniards who was deeply affected by the content of Montesinos' sermons.¹⁰ From an encomendero, he became the most outspoken and famous defender of the Amerindians. Furthermore, Montesinos made the Spanish Crown summon a series of juntas and sponsor discussions in order to solve the issues he had raised. Among the results of this aspect of Montesinos' work were the Laws of Burgos of 1512-1513, treatises on the issues, the Las Casas-Montesinos Plan, and the Hieronymites instructions. Fray Antón started a chain reaction which gave Spain a place of honor as a concerned conquering nation and at the same time made Montesinos' name recognized as one of the first and faithful defenders and protectors of the Indians.

¹⁰Joseph Hoffner, La ética colonial española del Siglo de Oro: Cristianismo y dignidad humana (Madrid: Ediciones Cultura Hispánica, 1957), p. 247; Agustín Yáñez, Fray Bartolomé de las Casas: El conquistador conquistado (México: Ediciones Xochitl, 1942), p. 171.

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APPENDICES

APPENDIX A

QUEEN ISABEL'S ROYAL DECREE--ORDENANZA REAL DE

MEDINA DEL CAMPO--DECEMBER 20, 1503

Carta acordada para que los indios de la isla Española sirvan a los cristianos de ella y labren sus granjerías y les ayuden a sacar oro pagándoles sus jornales.

Doña Isabel por la gracia de Dios y por cuanto el Rey mi señor e yo por la instrucción que mandamos dar a don fray Nicolás de Ovando comendador mayor de Alcántara al tiempo que fue nuestro Governador a las islas y Tierra Firme del mar Océano hemos mandado que los indios vecinos y moradores de la isla Española fuesen libres y no sujetos a servidumbre según más largamente en la dicha instrucción se contiene y ahora soy informada que a causa de la mucha libertad que los dichos indios tienen huyen y se parten de la conversación y comunicación de los cristianos por manera que aún queriéndoles pagar sus jornales no quieren trabajar y andan vagabundos y menos lo pueden atraer para doctrinar y que se conviertan a nuestra santa fe Católica y que a esta causa los cristianos que están en la dicha isla y viven y moran en ella no hallan quien trabaje en sus granjerías y mantenimientos ni les ayude a sacar ni coger el oro que hay

en la dicha isla de que a los unos y a los otros vienen perjuicio y porque deseamos que los dichos indios se conviertan a nuestra santa fe Católica y que sean doctrinados en las cosas de ellas y porque esto se podrá mejor hacer comunicando los dichos indios con los cristianos que en la dicha isla están andando y tratando con ellos y ayudando los unos a los otros para que la dicha isla se labre y pueble y aumenten los frutos de ella y se coja el oro que en ella hubiere para que estos mis reinos y los vecinos de ellas sean aprovechados. Mande dar esta mi carta en la dicha razón por la cual mando a vos el dicho nuestro governador que del día que esta mi carta vieréis en adelante compelaís y apremiéis a los dichos indios que traten y conversen con los cristianos de la dicha isla y trabajen en sus beneficios en cojer y sacar oro y otros metales y en hacer granjerías y mantenimientos para los cristianos vecinos y moradores de la dicha isla y hagáis pagar a cada uno el día que trabaje el jornal y mantenimiento que según la calidad de la tierra y de la persona y del oficio vos pareciere que debiere haber mandando a cada cacique que tenga cargo de cierto número de los indios para que los haga ir a trabajar donde fuere menester y para que las fiestas y días que pareciere se junten a oír y a ser doctrinados en las cosas de la fe en los lugares destinados y para que cada cacique acuda con el número de indios que vos señalaréis a la persona o personas que vos nombres para que trabajen en lo que las tales personas les mandaren pagándoles el jornal que por vos

fuere tasado lo cual hagan y cumplan como personas libres como lo son y no como siervos y haced que sean bien tratados los dichos indios y los que de ellos fueren cristianos mejor que los otros y no consintáis ni déis lugar que ninguna persona les haga mal ni daño ni otro desaguizado alguno y los unos ni los otros no hagáis ni hagan ende al por alguna manera so pena de la mi merced etc.

Dada en la villa de Medina del Campo a veinte días del mes de diciembre año del nacimiento de Nuestro Salvador Jesucristo de mil y quinientos y tres años.*

*Source: José Chacón y Calvo, Cedulario cubano: Los orígenes de la colonización, 1493-1512 (Madrid: Compañía Ibero-Americana de Publicaciones, S.A., 1929), pp. 85-87.

APPENDIX B

KING FERDINAND'S LETTER AUTHORIZING DON DIEGO COLÓN

TO GIVE INDIANS IN REPARTIMIENTOS---

VALLADOLID, AUGUST 14, 1509

Don Fernando y a vos don Diego Colón nuestro Almirante y gobernador de las Indias salud y gracia: sépades que después que las Islas Indias y Tierra Firme del mar Océano por gracia de Nuestro Señor fueron descubiertas se han repartido a los pobladores que a la Isla Española han ido a residir los indios que al gobernador que hasta aquí ha sido ha parecido para que las tales personas a quien así se encomendasen se sirviesen de ellos en cierta forma y manera; y ahora yo he sido informado que en el repartimiento de los dichos indios de la dicha isla no se guarda ni ha guardado aquella igualdad que para el bien de los vecinos conviene según la calidad de cada uno de ellos ni se ha tenido la forma que se debía tener porque a unos se daban muchos y a otros pocos y a otros ninguno y a causa de no estar bien repartidos no hay indios que los que tienen indios no curan de los traer en las minas sino haciendo estado de ellos trayendo a unos por pajes y a otros por mozos de espuelas y andarse con ellos holgando sin los poner a trabajo de lo

cual a nos se recrece mucho deservicio y a los vecinos de la dicha isla mucho daño y queriendo proveer y remediar sobre ello fue acordado que debía mandar dar esta mi carta en la dicha razón y confiando de vos que lo haréis como conviene es mi merced de vos encomendar lo suso dicho y por la presente vos mando que toméis la razón del repartimiento de los dichos indios y los tornéis a repartir y repartáis ahora y de aquí en adelante en la forma siguiente: que a los oficiales y alcaides que fueren proveídos por mí y por la serenísima Reina princesa mi hija les déis y señaléis de repartimiento cien indios y al caballero que llevare su mujer ochenta indios y al escudero que así mismo llevare su mujer sesenta indios y al labrador que así mismo llevare a su mujer treinta indios y así hecho el repartimiento de los dichos indios en la forma suso dicha por todas las personas dicha.

Y si sobraron algunos indios Repartís lo que así sobrare por todas las personas suso dichas al dicho respeto y así mismo si faltan indios para cumplir con todas las dichas personas el número aquí contenido que los que faltaren se den menos por Renta a todas las dichas personas al respecto suso dicho y que tales personas a quien así repartieréis los dichos indios los tengan y se sirvan de ellos no para otra cosa y mando que los que así tuvieran los dichos indios los instruyan e informen en las cosas de la fe y les den los vestuarios y otras cosas según se ha acostumbrado hasta aquí y queremos y es nuestra voluntad que las

personas a quien así dieréis los dichos indios por repartimiento no les puedan ser quitados ni embargados sino por delitos que merezcan perder los bienes y en tal caso sean confiscados para la nuestra y mando que las personas que de los dichos indios quisieren gozar hayan de pagar y paguen en cada año a la cámara por cada cabeza de indio un peso de oro y para hacer y dar y señalar el dicho repartimiento por esta mi carta vos doy poder cumplir a vos el dicho mi gobernador y mando que cualesquier indios que cualesquier personas tuvieren de otra manera y en más del número suso dicho que así por vos le fuere dado y señalado se los podáis quitar y quitéis y repartáis entre las otras personas que no los tuvieren y porque lo suso dicho sea notorio.

Y de ello ninguno pueda pretender ignorancia mando que esta mi carta o su traslado firmado de escribano público sea pregonada públicamente porque venga noticia de todos dada en Valladolid a catorce días de agosto de quinientos y nueve años, yo el Rey.*

*Source: José Chacón y Calvo, Cedulario cubano: Los orígenes de la colonización, 1493-1512 (Madrid: Compañía Ibero-Americana de Publicaciones, S.A., 1929), pp. 179-81.

APPENDIX C

FRAY ANTONIO DE MONTESINOS' FIRST SERMON--

ESPAÑOLA, DECEMBER 21, 1511

Para os los dar a cognoscer me he subido aquí, yo que soy voz de Cristo en el desierto de esta isla, y por tanto, conviene que con atención, no cualquiera, sino con todo vuestro corazón y con todos vuestros sentidos, la oigáis; la cual voz os será la más nueva que nunca oísteis, la más aspera y dura y más espantable y peligrosa que jamás no pensastéis oír. Esta voz proclama que todos estáis en pecado mortal y en él vivís y morís, por la crueldad y tiranía que usáis con estas inocentes gentes. Decid, ¿con qué derecho y con qué justicia tenéis en tan cruel y horrible servidumbre aquestos indios? ¿Con qué autoridad habéis hecho tan detestables guerras a estas gentes que estaban en sus tierras mansas y pacíficas, donde tan infinitas de ellas, con muertes y estragos nunca oídos habéis consumido? ¿Cómo los tenéis tan opresos y fatigados, sin darles de comer ni curarlos en sus enfermedades, que de los excesivos trabajos que les dáis incurren y se os mueren, y por mejor decir, los matáis, por sacar y adquirir oro cada día? ¿Y qué cuidado tenéis de quien los doctrine, y

conozcan a su Dios y criador, sean bautizados, oigan misa, guarden las fiestas y domingos? ¿Estos, no son hombres? ¿No tienen ánimas racionales? ¿No soís obligados a amarlos como a vosotros mismos? ¿Esto no entendéis? ¿Esto no sentís? ¿Cómo estáis en tanta profundidad de sueño tan letárgico dormidos? Tened por cierto, que en el estado que estáis no os podéis más salvar que los moros o turcos que carecen y no quieren la fe de Jesucristo.*

*Source: Bartolomé de las Casas, Historia de las Indias (México: Fondo de Cultura Económica, 1951), II, 441-42.

APPENDIX D

KING FERDINAND'S LETTER ADDRESSED TO DIEGO COLÓN REPRIMANDING FRAY ANTÓN DE MONTESINOS AND THE DOMINICANS--MARCH 20, 1512

Don Diego Colón, Nuestros Almirante etc, a Nuestros Oficiales que residen en la dicha Isla Española: . . . Vi así mismo el sermón que decís que hizo un fraile dominico que se llama fray Antón Montesinos, e aunque él siempre hubo de predicar escandalosamente, me ha mucho maravillado en gran manera de decir lo que dijo, porque para decirlo, ningún buen fundamento de Teología ni Cánones ni Leyes tendría, según dicen todos los letrados, e yo así lo creo, porque cuando yo e la señora reina mi mujer que gloria haya, dimos una carta para que los indios sirviesen a los cristianos como agora les sirven, mandamos juntar para ello todos los del nuestro consejo e muchos otros letrados teólogos e canonistas, e vista la gracia e donación que nuestro muy santo padre Alejandro sexto nos hizo de todas las Islas e Tierra Firme descubiertas e por descubrir en estas partes, cuyo traslado autorizado irá con la presente, e las otras causas escritas en derecho e conforme a razón para ello habrá, acordaron en presencia e con parecer del Arzobispo de

Sevilla que agora es, que se debían de dar e que era conforme a derecho humano y divino; pues por la razón que los legos pueden alcanzar, e vosotros vedes cuán necesario es que esté ordenado como está en cuanto a la servidumbre que los indios facen a los cristianos; mucho más me ha maravillado de los que no quisieron absolver a los que se fueron a confesar sin que primero pusiesen los indios en su libertad, habiéndoseles dado por mi mandado, que si algún cargo de conciencia para ello podía haber--lo que no hay--era para mí e para los que Nos aconsejaron, que se ordenase lo que está ordenado, e no de los que tienen los indios; e por cierto que fuera razón que usáredes así con el que predicó, como con los que no quisieron absolver, de algún rigor porque un yerro fue muy grande; e para sosegar el pueblo e para que los indios no creyeran que aquello era así como aquellos decían, porque este es negocio de tanto inconveniente como vosotros vedes, para el bien de esas partes, visto que no estaba solo el dicho error el que lo predicó, mas aún otros de los frailes dominicos que en esa Isla residen, todos los del Consejo fueron de voto que debían embiaros a mandar, que les metiérades en un navío a todos ellos e los embiáredes acá, a su Superior, para dar la razón que les movió a hacer cosa de tan gran novedad e tan sin fundamento, e él los castigará muy bien como es razón. Yo mando hablar sobre ello con el su Provincial; e para más justificar la causa, el cual e otros de estos Reinos me suplicaron que Yo no mandase traerlos presto, caso que él conosció muy bien que los dichos frailes

no solamente merescían aquel castigo mas otro muy mayor, certificándome que su yerro no había sido de sobrada caridad, e por no estar informados de ninguna de las causas que Nos movieron a Mí e a la Reina a mandar dar los indios por repartimientos, e aún creyendo que no teníamos donación de esa Isla e de las otras tierras de esas partes, de Nuestro Señor Santo Padre en la Sagrada Escritura como sería razón que luego que fueran avisados por él, conocerían su falta e se enmendarian enteramente, e remediarian lo que han dañado; e así les escribe él, para que no prediquen más esta materia ni hablen de ella; e Yo, porque siempre tuve mucha devoción a esta orden, no quería que en Mi tiempo recibiesen alguna afrenta, hube por bien que quedasen allá, con tanto que no hablen en púlpito ni fuera de él, directa ni indirectamente más en esta materia, ni en otras semejantes.

Por ende, Yo vos mando, que vos el Almirante tenéis con vos a Pasamonte, e los dos, dar las dichas cartas al Vicario General e a esos otros Padres, e hablales por la mejor manera que allá vos pareciese, e si hubiesen por bien de asentar con vos, que ellos ni otros frailes de su Orden, no hablarán en esta materia ni en otras semejantes, en púlpito ni fuera de él, en público ni en secreto, salvo para decir como si ellos estaban en aquella opinión era por no estar informados del derecho que tenemos a esas Islas, e aún también por no haber las justificaciones que había para que esos indios no solamente sirvan como sirven, más aún para tenerlos en más servidumbre; déjalos estar en esa Isla, e

ayudarlos y favorecerlos para que puedan hacer todo el fruto posible en esas partes en las cosas de Nuestra Fe; e si por ventura no quisieren venir, e a vosotros os pareciere que dejándolos allá continuarán en su mal propósito, por la mejor e más honesta manera que a vosotros pareciere, envíalos acá a su Superior, para que los castiguen, en cualquier navío; e todo esto debéis hacer con toda diligencia, porque cada hora de las que ellos estén en esa Isla, estando de esa dañada opinión, harán mucho daño para todas las cosas de allá. Por la mucha prisa de este despacho, no se vos podrá responder a todo lo que escribís; con otro se vos escribirá largamente, respondiendo a todo. Fecha en Burgos a veinte días del mes de Marzo de mil e quinientos e doce años. Yo el Rey--Por Mandado de Su Alteza; Lope Conchillo--Señalada del Obispo de Palencia.*

*Sources: Archivo General de Indias, Indiferente General, legajo 418, libro III, folios 265-67; 276-78.

Colección de Documentos Inéditos relativos al descubrimiento, conquista, y organización de las antiguas posesiones españolas de América y Oceanía sacados de los Archivos del Reino y muy especialmente del de Indias (Madrid, 1864-1884), XXXII, 372-79.

Silvio Zavala, La encomienda indiana (Madrid: Centro de Estudios Históricos, 1935), p. 12.

APPENDIX E

LETTER OF FRAY ALFONSO DE LOAYZA, PROVINCIAL OF THE DOMINICANS IN SPAIN, REPRIMANDING FRAY ANTONIO DE MONTESINOS AND THE DOMINICANS--1512

Reverendi in Christo amantissimi patres:

Miércoles, que se contaron XVI de Marzo de este presente año, estando en Burgos, supe como los del Consejo del Rey nuestro señor proveyan en que a todos os trajesen a España, y la causa por ciertas proposiciones que uno de vosotros predicó en daño de nuestra Religión. Pues tal afrenta se os intenta hacer en confusión de los que vinieréis y de los que esperamos acá, recibiréis muy grave la pena que nos avéis dado a todos en ver que personas tan religiosas y de letras como vosotros, y que con tanto celo y fervor de dilatar nuestra santa fe católica y hacer tan acepto sacrificio a Dios, y a Sus Altezas señalado servicio y a nuestra sagrada religión tanta honra, y a vuestras ánimas tan crescido merescimiento de obra y santo celo de las ánimas, que ahora, por no mirar bien la sana doctrina y a tan gran fruto y provecho favorable, diésedes en vuestra predicación motivo a que todo esto se pierda y todo se estorbe y que toda la India, por vuestra predicación, esté

para revelar, y ni vosotros ni cristiano alguno pueda allá estar. Mucho soy maravillado de ello, y no sé a que lo atribuya, salvo quod Sattanas qui sduxit Addam, cuius invidia mors introivit in orbem terrarum, qui etiam dispersit ea que Christus Ihesus proprii sanguinis effusione congregat asidue eam, sit divisionis caput et radix, et quedam forte indiscreta pietate corda nostra in simplicitate decepit et alia predicare subgessit. Y allende de esto, huviéredes de acordaros de aquella tan saludable y necesaria doctrina que el maestro Vinbero, in titulo De predicationibus, de la modestia y templanza que han de tener en sus sermones en el reprehender, en las doctrinas que han de predicar, y como han de ser muy circumspectos en su decir y sin escándalo, et nanque ponat os suum in celo, y otros semejantes, los cuales si vosotros bien mirásedes, muchos errores y escándalos se evitarían, y dado que vuestra proposiciones se pudieran ver y fijar en otra materia pero en este caso, si bien miráis, no a lugar, pues que estas islas las ha adquirido Su Alteza jure belli, y Su Santidad ha hecho al Rey nuestro señor donación de ellas. Por lo cual ha lugar y razón alguna de servidumbre; pero dado caso que no fuese, aún así no hubieras de predicar ni publicar tal doctrina sin consultarla primero acá con los del Consejo de Su Alteza y Consejo del gobierno suyo que allá tiene, y con acuerdo de todos decir aquello que más pacífico y provechoso fuese a todos, pues al fruto de la predicación se requiere ganar y tener las voluntades de todos; y porque el mal no proceda

adelante y tan gran escándalo cese, vos mando a todos e a cada uno de vos en particular, in virtute Sancti Spiritus et sancte obedientie et sub pena excommunicationis late sententie quam contra faciendo unica paterna canonica monitione premissa, in hiis scriptis pro tribunali sedens proffero, que ninguno sea osado predicar más en esta materia; in nomine Patris et Filii el Spiritus Sancti, amen. Y pues tantos prelados de letras y conciencia, y también nuestro muy Santo Padre lo permite, paréceme que debéis submittere intellectum vestrum con el mayor y más principal, y también os mando por obra procuréis sin notable afrenta vuestra enmendar lo pasado con toda prudencia y discreción de aprovechar a estas ánimas que perdidas estaban, y en esto haréis lo que debéis como religiosos e hijos de obediencia, y cobraréis favor y voluntades de todos para poder perseverar y continuo aprovechar. Tenga Nuestro Señor, etc. Si alguno tiene escrúpulo de no poder hacer otra cosa, véngase, que en su lugar yo proveeré de otro, porque no os traigan a todos so la mesma pena; no hablen en la materia a los que confesaréis. V.P. et servus, fr. Alfonsus de Loaysa, Prior provincialis.*

*Sources: Juan Pérez de Tudela (ed.), Obras escogidas de Bartolomé de las Casas (Madrid: Ediciones Atlas, 1957), p. 29.

Manuel Serrano y Sanz, Orígenes de la dominación española en América (Madrid, 1918), XXV, 348-49.

Silvio Zavala, La Encomienda indiana (Madrid: Centro de Estudios Históricos, 1935), p. 13.

APPENDIX F

DIALOGUE BETWEEN FRAY ANTONIO DE MONTESINOS AND

FRAY ALONSO DE ESPINAL

Saliendo, pues, del monasterio de San Francisco el padre Fray Alonso, llegóse a él el padre Fray Antón Montesinos, y dijo que le quería hablar; paróse a oírle, y el padre Fray Antón hácele una vehemente y conminatoria plática, diciéndole con vehemencia, como el solía predicar:

Vos padre, ¿habéis de llevar de esta vida más de este hábito andrajoso, lleno de piojos, que a cuestras traéis? ¿Vos buscáis otros bienes, mas de servir a Dios? ¿Por qué os enfrascáis con estos tiranos? ¿Vos no véis que os han tomado por cabeza de lobo, para en sus tiranías se sustentar? ¿Por qué sois contra aquellos tristes indios desamparados? ¿En esto les pagáis los sudores de que hasta ahora vos y vuestros frailes habéis comido? ¿Vos no habéis visto mejor que yo las detestables crueldades que en las injustas guerras, contra ellos han cometido, en las cuales os habéis presente hallado? ¿No sabéis y habéis visto, y no dudáis que hoy y cada día los matan en las minas y en los trabajos, con tanto olvido de humanidad, que a las mismas bestias no pueden peor tratar? ¿Y plugiese a Dios que como

a sus bestias los tratasen! ¿Por qué, padre, queréis perder tantos años que habéis traído a cuestras ese hábito en tanta penitencia y religión, por cosa que no echáis en vuestra bolsa nada, sino por agradar, yendo los ojos cerrados, a los que no se hartan de beber sangre humana, no viendo el daño tan manifiesto que hacéis a aquellos desventurados, sin persona viviente que vuelva por ellos, haciendo obra como hacéis contra justicia y caridad? . . .

Cuasi de esta manera ocurrió al padre Fray Alonso de Espinal, que tornando sobre sí (como en fin fuese buen religioso y no pecase sino por ignorancia) dijo al padre Fray Antonio de Montesinos:

Padre sea por amor de Dios la caridad que me habéis hecho en alumbrarme: yo he andado engañado por estos seglares; ved vos lo que os parece que yo haga y así lo cumpliré. Respondiéndole Fray Montesinos: Padre [Espinal], que en todas vuestras obras, pareceres y palabras defendáis de esta y de esta manera los indios, y siempre sed contra esos pecadores españoles, que sabéis vos cuánto por destruirlos con sus codicias trabajan; y cuando se tratare esto, responded esto, y cuando viéredes cosa que convenga decirme, avisadme.*

*Sources: Bartolomé de las Casas, Historia de las Indias (México: Fondo de Cultura Económica, 1951), II, 453-54.

Luis A. Getino, "Influencia de los Dominicos en las Leyes Nuevas," Anuario de Estudios Americanos, II (1945), 288-89.

APPENDIX G

THE SEVEN PROPOSITIONS OF THE JUNTA OF BURGOS

1512

Muy poderoso señor: V. Alteza nos mandó que entendiésemos en ver las cosas de Indias, sobre ciertas informaciones que cerca dello a V.A. se habían dado por ciertos religiosos que habían estado en aquellas, así de los dominicos como de los franciscos, y vistas aquéllas y oído todo lo que nos quisieron decir, y aún habida más información de algunas personas que habían estado en las dichas Indias y sabían la disposición de la tierra y la capacidad de las personas, lo que nos parece a los que aquí firmamos, es lo siguiente: Lo primero, que pues los indios son libres y V.A. y la reina, nuestra señora que haya santa gloria, los mandaron tratar como a libres, que así se haga. Lo segundo, que sean instruídos en la fe, como el Papa lo manda en su bula y vuestras altezas lo mandaron por su Carta, y sobre esto debe V.A. mandar que se ponga toda la diligencia que fuere necasaria. Lo tercero, que V.A. les puede mandar que trabajen, pero que el trabajo sea de tal manera que no sea impedimento a la instrucción de la fe, y sea provechoso a ellos y a la república, y V.A. sea

aprovechado y servido por razón del señorío y servicio que le es debido por mantenerlos en las cosas de nuestra santa fe, y en justicia. Lo cuarto, que este trabajo sea tal que ellos lo puedan sufrir, dándoles tiempo para recrearse, así en cada día como todo el año, en tiempos convenientes. Lo quinto, que tengan casas y hacienda propia, la que pareciere a los que gobiernan y gobernaren de aquí en adelante las Indias, y se les dé tiempo para que puedan labrar y conservar la dicha hacienda a su manera. Lo sexto, que se dé orden como siempre tengan comunicación con los pobladores que allá van, porque con esta comunicación serán mejor y más presto instruidos en las cosas de nuestra santa fe católica. Lo séptimo, que por su trabajo se les dé salario conveniente, y esto no en dinero, sino en vestidos y en otras cosas para sus casas.*

*Source: Silvio Zavala, La encomienda indiana (Madrid: Centro de Estudio Históricas, 1935), p. 14.

APPENDIX H

LAWS OF BURGOS OF 1512--PREAMBLE

Doña Juana, por la gracia de Dios, reina de Castilla, etc.: Por cuanto el rey, mi señor y padre, e la reina, mi señora madre (que haya sancta gloria), siempre tuvieron mucha voluntad que los caciques e indios de la isla Española viniesen en conocimiento de nuestra sancta fe católica, y para ello mandaron hacer e se hicieron algunas ordenanzas, así por Sus Altezas como por su mandado, el comendador Bobadilla y el comendador de Alcántara, gobernadores que fueron de la dicha isla Española, e después D. Diego Colón, nuestro Almirante, visorrey e gobernador della, e nuestros oficiales, que allí residen; y según se ha visto por luenga experiencia, diz que todo no basta para que los dichos caciques e indios tengan el cognoscimiento de nuestra fe, que sería necesario para sus asientos y estancias tan lejos como los tienen apartados de los lugares donde viven los españoles, que de acá han ido y van a poblar a la dicha isla; porque, puesto que al tiempo que los que vienen a servir los doctrinan y enseñan las cosas de nuestra fe, como después de haber servido se vuelven a sus estancias, con estar apartados y la mala intención que tienen, olvidan

luego todo lo que les han enseñado y tornan a su acostumbrada ociosidad y vicios, y cuando otra vez vuelven a servir, están tan nuevos en la doctrina como de primero, porque aunque el español que va con ellos a sus asientos, conforme lo que allá está asentados y ordenado, se lo trae a la memoria y los reprende, como no le tienen temor no aprovecha, y responden que los deje holgar, pues para aquello van a os dichos asientos, y todo su fin y deseo es tener libertad para hacer de sí lo que les viene a voluntad, sin haber respeto a ninguna cosa de virtud; y viendo que esto es tan contrario a nuestra fe, y cuánto somos obligados a que por todas vías y maneras que ser pueda se busque algún remedio, platicado con el rey, mi señor y padre, por algunos de mi Consejo e personas de buena vida y letras y conciencia, habida información de otros que habían mucha noticia y experiencia de las cosas de la dicha isla e de la vida y manera de los dichos indios, pareció que lo más provechoso que al presente se podría proveer, sería mandar las estancias de los caciques e indios cerca de los lugares y pueblos de los españoles, por muchas consideraciones: porque por la conversación continua que con ellos ternán, como con ir a las iglesias los días de fiesta a oír misa y los oficios divinos, y ver cómo los españoles lo hacen, y con el aparejo e cuidado que, teniéndolos junto consigo, ternán de les mostrar e industrial en las cosas de nuestra santa fe, es claro que más pronto las aprenderán, y después de aprendidas, no las olvidarán como agora; e si algún indio adolesciere,

sería brevemente socorrido e curado, y se dará vida, con ayuda de Nuestro Señor, a muchos que por no saber dellos e por no curarlos mueren, y a todos se les excusará el trabajo de las idas y venidas, que como son lejos sus estancias de los pueblos de los españoles, les será harto alivio, y no morirán los que mueren en los caminos, así por enfermedades como por falta de mantenimiento, y los tales no pueden rescibir los Sacramentos, que como cristianos son obligados, según se les darán adoleciendo en los dichos pueblos, los niños que nascerán serán luego bautizados, y todos servirán con menos trabajo y a más provecho de los españoles, por estar más continuo en sus casas, y los visitadores que tuvieren el cargo de los visitar, los visitarán mejor y más a menudo, y les harán proveer de todo lo que les falta, y se les seguirán otros muchos provechos, así para la salvación de sus ánimas como para el pro y utilidad de sus personas y conservación de sus vidas. Por las cuales cosas y por otras muchas que a este propósito se podrían decir, fue acordado que, para el bien e remedio de todo lo susodicho, sean luego traídos los dichos caciques e indios cerca de los lugares e pueblos de los dichos españoles que hay en la dicha isla, e para que allí sean tractados e industriados y mirados, como es razón y siempre lo deseamos, mando que de aquí en adelante se guarde y cumpla lo que adelante será contenido en esta guisa.*

*Source: Bartolomé de las Casas, Historia de las Indias (México: Fondo de Cultura Económica, 1951), II, 476-77.

APPENDIX I

SUMMARY OF THE LAWS OF BURGOS OF 1512

Preamble: Provides the reasons for the enactment of the ordinances.

Article 1: Provides that the Indians be settled in villages near the dwellings of their encomenderos.

Article 2: Provides that the removal shall be done gently, with the least possible harm to the Indians.

Article 3: Provides for the construction of a Church in each new village with a description of the prayers that the Indians have to recite.

Article 4: Provides for an examination of the Indians, conducted by the encomendero, to ascertain what they have learned about things of the Faith.

Article 5: Provides for the construction of Churches to serve all the villages within the radius of a league. With the provision that the encomenderos shall bring their Indians on Sundays to hear Mass; that they feed the Indians better on Sundays.

Article 6: Repeats the provision that no village be more than a league from a Church.

Article 7: Charges bishops and clerics to supply

priests for the Indian Churches.

Article 8: Provides for the construction of Churches at the mines.

Article 9: Provides that encomenderos having fifty or more Indians instruct a boy in reading, writing, and matters of the Faith, so that he, in turn, may instruct the others.

Article 10: Provides that priests attend the sick and the dying and that they collect no fee for this service or for confession. It provides for the Indians' burials.

Article 11: Forbids the encomenderos and others to use Indians as carriers at the mines. Permits Indians to carry their own household goods when they move.

Article 12: Provides for the baptism of newborn babies.

Article 13: Provides that Indians be obliged to mine gold for five months, and at the end of that period they shall rest for forty days.

Article 14: Permits the Indians to perform their ceremonial dances on Sundays and feast days.

Article 15: Provides that encomenderos feed their Indians. It provides a description of their diet.

Article 16: Provides that an Indian may have only one wife and that the encomenderos shall be responsible for the lawful marriage of their Indians.

Article 17: Provides that the sons of the caciques, thirteen years of age and under, be educated by the

Franciscans for four years and then return to their encomenderos.

Article 18: Provides that no pregnant women with more than four months of pregnancy be sent to the mines and that they be kept in the estates doing light household tasks.

Article 19: Provides that the encomenderos supply their Indians with hammocks not allowing them to sleep on the ground.

Article 20: Provides that each Indian be paid a gold peso per year for the purchase of clothing.

Article 21: Provides that Indians may not change masters and that the encomenderos may not take one another's Indians.

Article 22: Provides that caciques may use a limited number of their subjects for his personal service.

Article 23: Provides that official inspectors keep records of all the encomiendas; noting their increase or decrease, and the amount of gold produced.

Article 24: Forbids the beating or verbal abuse of Indians.

Article 25: Provides for the encomendero to bring one-third of his Indians to the mines to extract gold but it forbids the use of encomienda Indians in private trade and commerce.

Article 26: Provides for the maintenance of Indians brought from villages remote from the mines.

Article 27: Provides for the indoctrination and

maintenance of Indians brought from other islands; unless they be slaves, as they can be treated as their masters please, but not with cruelty and harshness.

Article 28: Provides that upon the death or removal of an encomendero his successor shall compensate him or his heirs by purchasing the encomienda at a price fixed by the appraisers.

Article 29: Provides for the appointment of two inspectors, Visitadores, for each village.

Article 30: Provides that these inspectors be chosen by the Admiral, royal officials, and judges and they they be compensated by being given Indians in encomienda.

Article 31: Provides that villages be inspected twice a year, once by one inspector and then by the other.

Article 32: Provides that inspectors may not keep runaway Indians, but must deposit them with a good person until they are restored to their masters.

Article 33: Provides that inspectors be given copies of these ordinances signed by the governor.

Article 34: Provides for the residencia of inspectors.

Article 35: Limits the number of Indians who may

be held by one person; not more than one hundred and fifty and not less than forty.*

*Sources: Archivo General de Indias, Indiferente General, legajo 419, libro IV, folios 83-96.

Rafael Altamira, "El texto de las Leyes de Burgos de 1512," Revista de Historia de América, IV (1938), 5-79.

Antonio Muro Orejón, "Ordenanzas reales sobre los indios," Anuario de Estudios Americanos, XIII (1956), 417-71.

Lesley Byrd Simpson, The Laws of Burgos of 1512-1513: Royal Ordinances for the Good Government and Treatment of the Indians (San Francisco: John Howell Books, 1960).

APPENDIX J

SUPPLEMENT OF THE LAWS OF BURGOS DONE BY THE JUNTA OF VALLADOLID--1513

Muy alto y muy poderoso principe, rey e señor:
Vuestra Alteza nos mandó, que porque algunos religiosos y personas de conciencia, que tenían alguna noticia de las cosas de las Indias, habían informado a Vuestra Majestad que en las ordenanzas que mandó hacer para el buen tratamiento y conversión y doctrina de los indios de la isla Española, y de las otras islas, Indias y tierra firme del mar Océano, había algunas cosas que para el saneamiento de la conciencia de Vuestra Alteza convenía enmendarse; y porque nosotros, los que de yuso firmamos nuestros nombres, vistas las ordenanzas, y oídas otras personas que de las Indias tenían mucha noticia y experiencia, y después de muy bien visto y platicado y haber estudiado sobre ello, lo que en Dios y en nuestras conciencias nos parece que se debe añadir y enmendar en las dichas ordenanzas, son las siguientes: Primeramente, que las mujeres indias casadas no sean obligadas de ir ni venir a servir con sus maridos a las minas ni a otra parte ninguna, si no fuere por su voluntad dellas o si sus maridos las quisieren llevar consigo; pero que las tales mujeres

sean compelidas a trabajar en sus haciendas propias o en las de los españoles, dándoles sus jornales que con ellas y con sus maridos se convinieren, salvo si las tales mujeres estuvieren preñadas; porque con estas tales Vuestra Majestad debe mandar que se guarde lo contenido en la ordenanza que sobre esto está hecha. Que Vuestra Majestad debe mandar que los niños y niñas menores de catorce años no sean obligados a servicio en cosas de trabajo hasta que hayan la dicha edad de catorce años, pero que sean compelidos a hacer y servir en las cosas que los niños pueden bien comportar, como en desherbar las heredades y cosas semejantes en las haciendas de sus padres, los que las tuvieren; y los mayores de catorce años que estén debajo del poder de sus padres, los que los tuvieren; y los mayores de catorce años estén debajo del poder de sus padres hasta que tengan legítima edad o sean casados; y los que no tuvieren padres ni madres, lo hagan debajo de las personas a quien Vuestra Alteza los mandare encargar, conforme al parecer de los jueces, así en la edad, como en el trabajo que han de hacer, con tanto que por esto no sean impedidos a ser doctrinados y enseñados en las cosas de la fe, a las horas que lo han de aprender, dándoles de comer y pagándoles sus jornales que fueren tasados por los dichos jueces; y si alguno dellos quisiere aprender oficio, pueda libremente hacerlo, y éstos no sean compelidos a otra cosa, estando en el oficio. Asimismo debe Vuestra Alteza mandar que las indias que no fueren casadas, las que están so el poderío de sus padres o madres, que trabajen con ellos

en sus haciendas o en las ajenas, conviniéndose con sus padres, y las que no estuvieren debajo del poder de sus padres o madres, porque no anden vagabundas, ni sean malas mujeres, y que sean apartadas de vicios, que sean doctrinadas y constreñidas a estar juntas con las otras y a trabajar en sus haciendas, si las tuvieran, y si no las tuvieran, en las haciendas de los indios y de los otros, pagándoles sus jornales, como a las otras personas que trabajan por ellos. Que asimismo Vuestra Alteza debe mandar que los dichos indios sean obligados a servir nueve meses del año, como por Vuestra Alteza en las dichas ordenanzas cuasi lo tiene declarado y mandado, y que los tres meses contenidos en la dicha ordenanza, que a los dichos indios se les da de huelga, por que no tornen a sus vicios y a su manera de vida ya acostumbrada, sean compelidos a trabajar en sus haciendas mismas, o por jornales en las de los otros vecinos, y que esta manera de servir sea por el tiempo que a Vuestra Alteza paresciére; y porque los dichos indios podrían con el tiempo y con la conversación de los cristianos hacerse tan políticos y tan entendidos y capaces y tan aparejados a ser cristianos, para que por sí sepan regirse y vivan y sirvan como acá lo hacen los otros cristianos, Vuestra Alteza ha de mandar que anden vestidos; y como se fuere cognosciendo la habilidad de cada uno, se les vaya dando la facultad para vivir por sí, teniendo la dicha policia y habilidad para ser cristianos; y este capítulo se entiende de los hombres; y sobre todo, Vuestra Alteza debe mandar que las mujeres se vistan dentro

de cierto término, so alguna pena. Este servicio que a Vuestra Majestad es debido por los dichos indios de la manera susodicha, Vuestra Alteza puede hacer merced dello a quien fuere servido, por vida o por el tiempo que Vuestra Majestad fuere servido de hacer dello merced. Y con estos aditamentos suso contenidos, decimos que en Dios y en nuestras conciencias, Vuestra Alteza tiene muy justas y moderamente ordenadas las cosas de las dichas Indias, así para el buen tractamiento y conversión y doctrina de los dichos indios, como para la gobernación de aquellas partes, y que debe Vuestra Alteza mandar que en todo y por todo se guarden las dichas ordenanzas que Vuestra Majestad tiene mandadas hacer con estos dichos aditamentos, y que haciéndose así, su real conciencia será enteramente descargada. Y así firmamos aquí nuestros nombres. Tomás de Matienzo, Alonso de Bustillo, Lic. Santiago, Palacios Rubios y el Lic. Gregorio.*

*Sources: Archivo General de Indias, Patronato, legajo 174, ramo 1.

Fray Bartolomé de las Casas, Historia de las Indias (México: Fondo de Cultura Económica, 1951), II, 492-93.

APPENDIX K

THE REQUIREMENT--1513

De partes del rey D. Fernando, y de la reina doña Joana, su hija, reina de Castilla y León, etc., domadores de las gentes bárbaras, nos, sus criados, os notificamos y hacemos saber como mejor podemos, que Dios, Nuestro Señor, vivo y eterno, crió el cielo y la tierra y un hombre y una mujer, de quien vosotros y nosotros y todos los hombres del mundo fueron y son descendientes y procreadores, y todos los que después de nosotros vinieren. Mas por la muchedumbre de la generación que éstos ha salido, desde cinco mil años a esta parte que el mundo fué criado, fué necesario que los unos hombres fuesen por una parte y otros por otra e se dividiesen por muchos reinos y provincias, que en una sola no se podían sostener ni conservar. De todas estas gentes, Dios Nuestro Señor dió cargo a uno, que fué Sant Pedro, para que de todos obedeciesen y fuese cabeza de todo el linaje humano, doquier que los hombres viviesen y estuviesen, en cualquiera ley, secta y creencia, y dióle el mundo por su reino y jurisdicción; y como quier que le mandó poner su silla en Roma, como en lugar más aparejado para regir el mundo, mas también le permitió que pudiese estar y poner su

silla en cualquiera otra parte del mundo y juzgar e gobernar a todas las gentes, cristianos, moros, judíos, gentiles y de cualquier otra secta o creencia que fuesen. Este llamaron papa, porque quiere decir admirable, mayor padre y gobernador de todos los hombres. A este Sant Pedro obedecieron y tomaron por señor, rey y superior del Universo los que en aquel tiempo vivían, y asimismo han tenido a todos los otros que después de él fueron al Pontificado elegidos y así se ha continuado hasta agora y se continuará hasta que el mundo se acabe. Uno de los pontífices pasados, que en lugar de éste sucedió en aquella dignidad e silla que he dicho, como señor del mundo, hizo donación destas islas e tierra firme del mar Océano a los dichos rey y reina e a sus sucesores en estos reinos, nuestros señores, con todo lo que en ellas hay, según se contiene en ciertas escripturas que sobre ello pasaron, según dicho es, que podéis ver si quisiéredes; así que Sus Altezas son reyes y señores destas islas y tierra firme, por virtud de la dicha donación, y como a tales reyes y señores algunas islas más y casi todas, a quien esto ha sido notificado, han recibido a Sus Altezas y les han recibido y servido y sirven como súbditos lo deben hacer, y con buena voluntad y sin ninguna resistencia, luego sin dilación, como fueron informados de lo susodicho, obedecieron y rescibieron los varones religiosos que Sus Altezas les enviaban para que les predicasen y enseñasen nuestra sancta fe, y todos ellos, de su libre y agradable voluntad, sin premia ni condición alguna, se tornaron cristianos y lo son

y Sus Altezas los rescibieron alegre y benignamente, y así los mandaron tractar como a los sus súbditos y vasallos, y vosotros sois tenudos y obligados a hacer lo mismo. Por ende, como mejor podemos, vos rogamos y requerimos que entendáis bien esto que os decimos, y toméis para entenderlo y deliberar sobre ello el tiempo que fuere justo, y reconozcáis a la Iglesia por señora y superiora del Universo mundo, y al Sumo Pontífice, llamado papa, y en su nombre al rey o a la reina doña Joana, nuestros señores, en su lugar, como a superiores y señores y reyes destas islas y tierra firme, por virtud de la dicha donación, y consintáis y déis lugar que estos padres religiosos os declaren y prediquen lo susodicho. Si así lo hicieréis, haréis bien y aquello que sois obligados a Sus Altezas, y nos en su nombre vos recibiremos con todo amor e caridad e vos dejaremos vuestras mujeres e hijos y haciendas, libres, sin servidumbre, para que dellas e de vosotros hagáis libremente lo que quisieréis y por bien tuvieréis, e no vos compelerán a que vos tornéis cristianos, salvo si vosotros, informados de la verdad, os quisieréis convertir a nuestra sancta fe católica, como lo han hecho cuasi todos los vecinos de las otras islas; y allende desto, Sus Altezas vos darán muchos privilegios y exenciones y vos harán muchas mercedes; y si no lo hicieréis, y en ello dilación maliciosamente pusieréis certíficos que con la ayuda de Dios, nosotros entraremos poderosamente contra vosotros y vos haremos guerra por todas las partes y maneras que pudiéremos, y vos subjetaremos al yugo y

obediencia de la Iglesia y de Sus Altezas y tomaremos vuestras personas y de vuestras mujeres e hijos y los haremos esclavos y como tales los venderemos y dispondremos dellos como Sus Altezas mandaren, e vos tomaremos vuestros bienes y vos haremos todos los daños y males que pudiéremos, como a vasallos que no obedecen ni quieren rescibir a su señor y le resisten y contradicen; y protestamos que las muertes y daños que dello se recrecieren sea a vuestra culpa y no de Sus Altezas, ni nuestra, ni destos caballeros que con nosotros vienen; y de como lo decimos y requerimos, pedimos al presente escribano que nos lo dé por testimonis signado, y a los presentes rogamos dello nos sean testigos, etc.*

*Source: Fray Bartolomé de las Casas, Historia de las Indias (México: Fondo de Cultura Económica, 1951), III, 26-27.

VITA

Mirtha Alicia Hernández was born in Havana, Cuba, on February 27, 1953. She studied her secondary education at the Academia San José High School, Bayamón, Puerto Rico, from where she graduated in May, 1971. Having decided to pursue a career in History, the author attended the University of Puerto Rico, Mayagüez Campus, where she obtained her Bachelor of Arts Degree in May, 1975. Since the fall of 1975, she has been a graduate student at Louisiana State University working towards a Master's Degree in History.

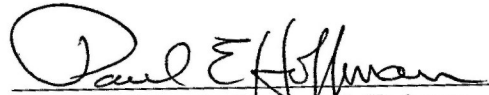
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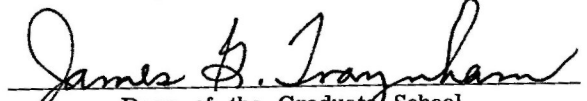
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Major Field: History

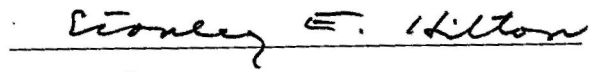
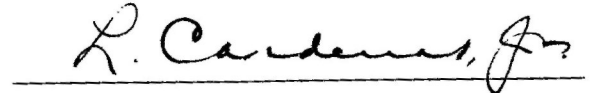
Title of Thesis: Fray Antonio de Montesinos and the Laws of Burgos,
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Approved:


Major Professor and Chairman


Dean of the Graduate School

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