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# BOOK REVIEWS

THE SPANISH STRUGGLE FOR JUSTICE IN THE CONQUEST OF AMERICA. By Lewis Hanke. Philadelphia: University of Pennsylvania Press for American Historical Association, 1949. Pp. xi, 217. \$3.50.

Few chapters in history have stimulated the imagination of mankind more powerfully than those which followed the dramatic discovery of a New World by Columbus and his successors. Poets, historians, even novelists, have described with vivid detail the exploits of Cortés and his men in Mexico, of Pizarro and his followers in Peru and Chile; the tragic, fruitless quest for el Dorado or the Seven Cities of Cibola, or the fabled City of the Caesars. Tragedy lay alongside of the gold and glory that the Spaniards sought and sometimes found. America was in very truth a "new world," new in plants, animals, terrain, and most fascinatingly new in its inhabitants. For the first time Europeans came face to face with men as real and human as themselves who, apart from all the rest of the historical world, had developed a completely unique civilization.

In these Indians and in the lands which they occupied lay a complex problem of justice that puzzled Spanish minds. By what right did Spain rule these newly-discovered lands? A just basis for rule was an absolute necessity to the legalistic-minded Spaniard of the sixteenth century. Closely allied was the second great question: How should these Indians be governed? Only by deciding the true nature of the Indians could the proper laws be applied to them. Were these Indians rational men to be treated as human beings or inferior creatures born to be slaves?

For nearly a century the battle raged. Colonists, ecclesiastics, conquistadors, Indians, and hosts of royal officials from the farthest corners of America wrote personally and vigorously to the king. They explained, with the freedom of expression demanded by, and permitted to, the Spaniard of that day, not only what was wrong but pointed out what must be done instead in order to treat the Indians either more fairly or to handle them more effectively, depending on whether the author belonged to the "noble savage" or "dirty dog" school of thought. At home the king encouraged such letters and demanded the professional advice of his most learned theologians and jurists as to the just course of action to be adopted. Theory was followed by legal novelties and social experimentation. Policies were adopted only to be swept aside as doubt followed conviction and new laws and new methods were tried.

Although historians have long recognized that this basic struggle for justice existed during the Spanish conquest and have steadily become more interested in the subject, this book, by the distinguished director of the Hispanic Foundation of the Library of Congress, is the first attempt to set forth the story as a whole with the conflict of men and ideas described historically as an integral part of the conquest, and to base the account on a foundation of copious printed and manuscript material in the archives and libraries of Europe and America. (Most of these are listed or described in the footnotes and bibliography whose excellence adds much to the value of this work.)

Few books have attracted more attention in the making. For the past two decades Dr. Hanke has been presenting his views throughout the Western Hemisphere (including a lecture at the University of Miami in the Hispanic-American Institute of 1948). The present volume represents the synthesis or the final polishing and revision of those ideas which have thus had time in which to mature, to be checked and re-checked as new evidence presented itself, and to have their strength tested by exposure to the withering criticism of those Hispanic-American critics (usually, like Edmund O'Gorman of Mexico, close personal friends of Dr. Hanke) who are convinced that North Americans are fundamentally incapable of understanding the intricacies and depths of the more philosophic mind of a Spanish-American.

In its English form it won the Albert J. Beveridge Memorial Fellowship of the American Historical Association for 1947. The Spanish edition (*La lucha por la justicia en la conquista de America*, Buenos Aires: Editorial Sudamericana, 1949) is longer and contains many illuminating details which, for brevity's sake, were omitted from the English edition.

Dr. Hanke divides his book into three parts. It begins with the first cry for justice in America—the passionate appeal of the Dominican friar Antonio de Montesinos to his Spanish countrymen in Hispaniola in 1511, “Are these (Indians) not men? Have they not rational souls? Are you not bound to love them as you love yourselves?” (p. 17) thus opening a controversy on the double question of Spain's right to rule and the proper way of treating the Indians. Within two years there resulted: 1. the first substantial study of Spain's title to the Indies, by Juan López de Palacios Rubios, one of the most distinguished jurists of his day; 2. the Laws of Burgos, designed to protect the Indians; 3. the Requirement, also drawn up by Palacios Rubios, a curious document designed to be read by interpreters to the Indians in which they were required to acknowledge the ruler of Spain as rightful king, his power coming from the Pope, and to allow the Christian faith to be preached to them. Acceptance implied Indian

recognition of Spain's title, refusal gave Spain the right to punish the Indians for spurning the true gospel.

In the second section Dr. Hanke takes up in turn the four kinds of social experiments authorized by the Spanish Crown during the next half-century in order to determine the correct administration of the New World. "Each experiment asked a question and found for Spain an answer?" (p. 39).

1. Could the Indians learn to live like Christian Spaniards? Experimental towns were established in various parts of the West Indies to test this point.

2. Was it possible to colonize the New World peacefully with Spanish farmers (and thus do away with the necessity of Indian labor)? The first American Utopia was designed and Bartolomé de las Casas brought over a group of farmers in an unsuccessful attempt to settle in Venezuela.

3. Could the faith be preached by peaceful means alone? Las Casas and his fellow Dominicans proved this point in the Land of War in Guatemala which they transformed by Christian love into the Land of True Peace.

4. Could the encomienda system, by which Indians supported Spaniards, be abolished? The New Laws attempting to do this met opposition verging on, and in some cases breaking out in, civil war, so that they had to be abandoned.

The third and last section of the book deals with the problem as it was discussed during the last half of the sixteenth century.

By 1550 attention had become focused on the issue raised four decades before by Montesinos. Could wars of conquest *justly* be waged against the defenseless Indians of America without sullyng the royal conscience? The affirmative was upheld learnedly and vigorously by the Aristotelian scholar, Juan Ginés de Sepúlveda, humanist and royal cosmographer. Las Casas, venerable after half a century of experience in America, ripe with theological study, denied with fiery emphasis that such wars could be waged. So much heat was generated and so much honest concern troubled the royal conscience that the Emperor Charles V, then the most powerful ruler in Europe, peremptorily called all wars of expansion or conquest in America to a halt until a decision could be reached by an assembly of fourteen judges as to the justice of the king's policy. The debates were held in Valladolid in 1550-51, with Sepúlveda and Las Casas each at his best, each the spokesman for diametrically opposite points of view. The weary judges were unable to reach any decision although both sides claimed victory.

The question continued to be a matter of fierce controversy throughout the Spanish world for the rest of the sixteenth century, and Hanke's last chapters deal with later phases of the conflict in such remote areas as the Philippines and Peru. Although these chapters are illuminating in them-

selves and follow in correct chronological order, there is something of an anticlimatic effect about them after the drama of the debate at Valladolid. Perhaps Dr. Hanke has done this deliberately, to emphasize his theme that the struggle which Montesinos started is not yet over.

For those readers whose Hispanic-American history has been gleaned from the few remaining writers who still glibly refer to the Spaniards as ruthless, thoughtless gold-seekers and Indian enslavers, Dr. Hanke's carefully-documented study of the Spanish struggle for justice in the conquest of America will come as a surprising but welcome revelation of the truth. This book, however, has a deeper significance than the mere setting straight of the historical record. In the shock of the impact of a new world culture on the Spanish character of the sixteenth century—with its individualism, legalism, religiosity, and passion for extremes—a struggle of ideas began, or took on new significance, to add important chapters in the story of man's attempt to get along with his neighbor. Dr. Hanke concludes:

“Whatever means men develop, however, to destroy their fellow men, the real problems between nations do not lie in the realm of mechanics. They lie in the more difficult field of human relationships. Some Spaniards long ago discerned this truth, which the whole world must understand today if it is to survive. The specific methods used to apply the theories worked out by sixteenth-century Spaniards are now as outmoded as the blowguns with which Indians shot poisoned arrows at the conquistadores, but the ideals which some Spaniards sought to put into practice as they opened up the New World will never lose their shining brightness as long as men believe that other peoples have a right to live, that just methods may be found for the conduct of relations between peoples, and that essentially all the peoples of the world are men.”

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COURTS ON TRIAL. By Jerome Frank. Princeton: Princeton University Press, 1949. Pp. xii, 441. \$5.00.

LAWYERS, Judge Frank believes, “half believe a lot of stork-stories concerning the birth process of judicial decisions.” Too few lawyers, judges and law professors have “been willing to speak out plainly, even to other lawyers, about the actualities of court-house behavior.” “Legends and myths have grown up about the judiciary which serve to obscure realities.” Consequently, there is a needless public cynicism about lawyers and courts. In this book, Judge Frank takes all lawyers and laymen into his confidence and tells them the facts of life about the judicial process.