

In Memoriam

MANUEL GIMÉNEZ FERNÁNDEZ.*

THE life of Don Manuel Giménez Fernández reminds us of those lines of Alberto Lista y Aragón: "Happy is he who, when old, can shelter himself in the shade of the same tree under which he played as a child, where he first felt the call of love as a youth, and reflected in his maturity." His entire life was spent in Seville, where he was born May 6, 1896, to a Sevillian family originating from La Rioja. Receiving his elementary and secondary education from the Jesuits, he went on to the Universidad Hispalense where he received the Licentiate in Philosophy and Literature in 1917, and in Law in 1919. He was auxiliary professor at Seville from 1923, the year in which he obtained the Doctorate in Law at the University of Madrid; there his thesis, *Studies on Contemporary Electoral Law*, had merited the highest praise.

He occupied the chair of "Instituciones de Derecho Canónico" at the University of Seville from 1930; in 1944 he added courses in "Historia de la Iglesia e Instituciones Canónicas Indianas" to his teaching repertoire; and there he remained until his retirement in 1966. He always refused to leave the city, despite the fact that his friends on this side of the Atlantic repeatedly urged him to visit Mexico or Argentina, and perhaps give a few courses or at least a series of lectures. His response to these invitations was consistently negative: "I shall never leave Spain, not even Sevilla, as long as obtaining a passport is a favor, rather than a right . . ." ¹

His life's work has been a matter of devotion to teaching or to politics. I first knew him in 1930, when he was competing for the chair of Canon Law at the University. My major professor, Don Eloy Montero Gutiérrez, a member of the examining board, introduced me to him. Don Eloy told me that Giménez Fernández had no real rival from the beginning; so on December 12, Feast of Our Lady of Guadalupe, he attained the Sevillian chair.² He had begun his political career as coun-

* Translated by Michael B. McCloskey, O. F. M.

¹ Letter to the author, May 8, 1948.

² Biographical information has been taken from *Guía de personas que cultivan la Historia de América* (México, 1951), whose data was provided by Giménez Fernández,

cillor (1923), and later served as Deputy Mayor of the Ayuntamiento of his native city.

On the proclamation of the Second Republic (April 14, 1931) he entered politics on a larger scale and in the first regular Cortes was elected Deputy for Badajoz (1933). He was a member of the party of the Spanish Confederation for Autonomous Rights (CEDA), and of the liberal group within that, which was, to some degree, Christian Democratic in ideas. He was a vehemently honest and just politician. This fact was established when he impartially defended the rights to their seats of Pradal, the Socialist Deputy, in 1933, and Primo de Rivera, founder of the Spanish Falange, when Manuel was Deputy for Segovia in 1936. Since he was one of the leaders of his party, he was named Minister of Agriculture on October 4, 1934. In that capacity he prepared and had approved by the Cortes the "Law of Ploughmen" (1934), intended for the social and economic protection of the numerous poor families of Estremaduran laborers; and in 1935 he did the same in the case of the "Law of Country Rents." This latter, for the first time in the history of Spain, gave tenant farmers the opportunity to attain ownership. These laws and a series of practical means taken by Don Manuel were intended to resolve "the anarchy of the countryside, not with violence for that only accentuates it, but rather by reforms directed toward the creation of small proprietors . . ." ³ Like Canalejas, he understood that "nothing lasting will exist in Spain as long as the regime of agrarian property remains unchanged. . . ." In this task Giménez Fernández gained national fame, but met with strong resistance from the majority of his coreligionists. When he reminded them that there was really nothing new in this, merely the putting into practice the Church's judgment stated in the social encyclicals of Leo XIII, a land-holding Deputy answered: "If you want to take away our lands with appeals to encyclicals, you will end by making us schismatics!" ⁴ These were hard times for Don Manuel. I recalled them the last time I saw him, in May, 1967, when I spent an entire afternoon at his home, talking about everything divine and human, or rather, listening to him speak. In a governmental change of May, 1935, he gave up the agriculture

also from the "Estudio biográfico-doctoral" which José Antonio Calderón Quijano wrote for the *homenaje* volumes which the *Anuario de Estudios Americanos* devoted to Giménez Fernández (vols. XXIII and XXIV, Seville, 1966, 1967).

³For more details on his work as Minister, see Antonio Ramos Oliveira, *Historia de España* (México, 1952), III, 222, and Gabriel Jackson, *The Spanish Republic and the Civil War (1931-1939)* (Princeton, 1965), pp. 169-170; José M. Gil Robles, *No fue posible la paz* (Barcelona, 1968), pp. 173-188.

⁴Ramos Oliveira, *op. et loc. cit.*

portfolio. Reentering the political field, he was newly elected a Deputy in 1936 and vice president of the Cortes. These were the tense moments in Spanish life which brought on the Civil War, destroying peace and immediately closing off any possibility of converting Spain into a twentieth-century country. The World War, of which this was the first stage, removed Don Manuel from all public activity. He devoted himself to teaching and the study which led to the publication of his *Instituciones jurídicas en la iglesia católica*, summarizing the teaching emanating from his titular chair.

It was at this time that he turned to American studies. The start of these stemmed from an earlier period: in the contest for the university chair he had presented a study on *El Concilio IV Provincial Mejicano*, though it was not published until years later. This work had been developed from unpublished documents of the Archivo de Indias "which enabled one to reconstruct the history almost completely, for it can be said that up to the present it has been only fragmentarily known." The work is very critical of "the disorderly regalistic politics of the party of the magistrates, the true despots of Spain in the second half of the 18th century . . ." ⁵ In the introduction he examines the regalistic movement and those social and personal factors which surrounded the history of the IV Mexican Council, then continues with the history of the Council proper: its opening, celebration, that most important incidental question on the petition to the Holy See and the Crown to obtain the suppression of the Jesuits, the unfortunate, long-drawn out, and fruitless effort to secure pontifical and royal approval of the canons; an analysis of the body of the canons; finally, a study appraising their legal and binding force.

This was followed by monographs on *La política religiosa de Fernando V en Indias* and *Nuevas consideraciones sobre la Historia, sentido y valor de las Bulas Alejandrinas*. Both appeared in the first volume of the *Anuario de Estudios Americanos*, published by the School of Hispano-American Studies; the institution which in 1942 continued the study begun by the Center for Studies for the History of America, the latter founded and directed by José María Ots Capdequí about 1934 at the University of Seville, where he was professor. Don Manuel joined the School and worked with such enthusiastic dedication that much of his work thereafter appeared in the *Anuario*.⁶ Cortés was one of the personages who attracted his attention, and on the holding of the II Ameri-

⁵ *El Concilio IV Provincial Mexicano* (Seville, 1939), p. 3.

⁶ See numbers 10, 12, 14, 15, 17, 25, 28, 35 and 40 of the bibliography which appears at the end of this article.

canist Assembly in Seville to commemorate the fourth centenary of the death of the conqueror of Mexico, he published his study on *Hernán Cortés y su revolución comunera en la Nueva España*. In this he broaches the thesis that the actions of Cortés and his followers were the American counterpart to the revolt of the communes against the Emperor Charles V, and demonstrated the political aptitude of the Estremaduran leading those comuneros of Veracruz, who saw his own work recognized "and the head of this rebel chieftain was crowned with the coronet of a marquis, while the less knowledgeable comuneros of Castile were falling in Villalar."⁷

Another topic which attracted Don Manuel was the origin of the independence of the American nations. This resulted in *Las doctrinas populistas en la Independencia de Hispanoamérica* (1947), in which he pointed out, as some Spanish American writers had already sketchily indicated, that the ideological antecedents of independence might be found in the peculiarly Spanish concept of freedom, specifically in Suárez; as well as in the fact "that in the teachings of Las Casas the ideology of the precursors and effectuators of independence was latent."⁸

All the foregoing was really so much ground-clearing for his study on Las Casas.⁹ He devoted so much intensity, enthusiasm, and perseverance to this that it might truly be said that he lived for it. He planned the work on the grand scale, proposing to study in the first volume Las Casas' and Cisneros' undertakings in reforming the Indies; the second volume to consider the early political organization of America under Charles I; missionary activity, especially that in Verapaz (1522-1539), would occupy the third; the fourth to relate Las Casas' part in the New Laws of the Indies and as bishop of Chiapas (1539-1549); the next volume to concentrate on Las Casas as a legal and political commentator (1549-1558); and the sixth and last on Las Casas as a counsellor of Philip II (1558-1566). Two of the six volumes have appeared to date. In May, 1967, the author stated that the third was far advanced, and the material for the remainder thoroughly organized. However, he had given up any hope of ever completing it. He did not believe that his health would permit it; besides, he was already greatly afflicted by defective vision which had delayed him in preparing his manuscript for the press.

⁷ *El Alzamiento de Fernando Cortés* (RHA, Mexico, 1951, No. 31), p. 52.

⁸ Preface to *Bartolomé de Las Casas*, I, x.

⁹ See the interview which he granted J. Holgado Mejías in 1959, printed in *El correo de Andalucía*, February 28, 1968.

Why did he choose Las Casas as the subject of his work? Don Manuel himself explained it in this fashion: "He was a Sevillian, like myself; like myself, he confronted the injustices of the society in which he lived." I recall how he smiled as he said, in that characteristically blunt speech of his, "He struggled with a hostile society and fought against the interests of the ruling minority who tried by every means to beat him down. But he had a greater fate than I, because he managed to have many of his ideas, or, to put it better, his actions, accepted by Charles V.¹⁰ My work is my students and my writing. My political career was far too short, but something was accomplished, and now they wish to take advantage of it; but the truth of the matter is that the Republic alone, not my party colleagues—save for a minority within the minority—understood and supported it." In reading his writings one can see how he continually unites criticism of persons and times of Las Casas with that of present-day conditions. Yet perhaps this may give him an historical insight better adjusted to truth and reality. "Man is man in every moment of history, and yesterday's political intrigue differs not at all from that of today."

All his work was polemical because he was always bringing new insights, often unpopular ones. Yet, like Américo Castro whom he admired greatly, he opened new avenues of historical investigation by calling attention to hitherto neglected aspects, or by demolishing myths which had previously been considered self-evident truths.

He has done more than anyone else in these days to bring fame to the work in American history of the "Seville School." For proof of this, it is only necessary to note that without leaving his native city and publishing all his work in limited editions there, he was the subject of study and comment as much or more outside Spain as he was within it.¹¹ Professional reviews in the *New World* sought his collaboration.¹² It can safely be said that a great many works on Las Casas and on themes

¹⁰ Don Manuel called attention to similarities between his own life and that of Las Casas at different places in his works. To take just one example:

Notwithstanding the fact that Las Casas would say that the nearness of death forces us to look at things *sub specie aeternitatis*, our day, unfortunately for us, allows us to resist the temptation to develop new ideas by being traitors to our mission as intellectuals; the steadfast purpose which could crown our life by remaining faithful to an ideal freely embraced for many years, *we see exemplified in the subject of our biography*. . . .

Bartolomé de Las Casas, II, xiv.

¹¹ See, for example, the commentaries on the first volume, which he partially lists in the Preface to the second volume (pp. xv and xvi).

¹² From 1951 he began to publish in America. See Nos. 21, 22, 26, 30, 31, 37, 42, 43, 44 and 47. Prior to this almost all his publications were in Seville.

on which Don Manuel had concentrated were a consequence of his research. The topic of the independence of America is one of those where, from the publication of his monograph on national doctrines, there has been a major literature either for or against his thesis.

In his writings one can see the influence of four contemporary historians, for whom he had especial respect; most of all, that of Américo Castro; but also two Spaniards: Rafael Altamira, the old professor of the University of Oviedo who died in Mexico in 1951, to whom he dedicated one of his works; and Salvador de Madariaga, whose volumes on America he admired and utilized; finally, the Frenchman Marcel Bataillon, author of *Erasmus y España*, certainly a fundamental work in Spanish historiography.

He kept abreast of historical bibliography and logically read everything pertaining to that *terrible trouble-making pesty friar*, as don Ramón Carande characterized him; and in his "Sobre Bartolomé de Las Casas" gives us a complete inventory of everything he read on the subject.

He has collaborated with Lewis Hanke, the United States' historian, as well as the professor of the University of Madrid now of Maracaibo, Agustín Millares, that great paleographer and editor of numerous works on American history, various items on Las Casas among them. His relationship with Hanke was close. He admired Hanke's capacity for work, but disagreed with him on many things. He really did not believe that a Protestant could grasp many facets arising from Las Casas' Catholicism or the circumstances of the Counter Reformation; this arose from Don Manuel's concept of Christian orthodoxy, which he never lost an opportunity to reaffirm:

He who writes this [he says in the preface to the first volume on Las Casas and repeats in the second], resisting every contrary opinion, goes on firmly believing in God, in Christ, and in the Catholic Church, to whose supreme authority he submits his teaching and conduct.

Don Manuel's life, centered as it was in Seville, had three aspects. There was the profession of the law by which he earned his living, and which made him peculiarly aware of the problems of his city and his people, a life with all the advantages and disadvantages of a provincial one.

Another aspect was his political life. Even though he said that this ended July 18, 1936, when the military rising against the Republic began, the case is not so clear. Granted that he held no public posts, he followed a really active political career within the limits imposed

by the actual regime in Spain, being the visible head of one of the social Christian groups which have a much larger following than is commonly supposed. He kept in contact with those political clusters, which exist *de facto* in Spain in spite of being prohibited, who agreed with his desire for liberty and democracy in his native land. He refers to the last in his study "Actualidad de las tesis lascasianas" when he writes:

The impeccable example which [Las Casas] offers the intellectual[?] Christian oppressed by adverse historical circumstances may be found in the duty to proclaim the Truth, to seek Liberty, to defend Justice and love with Charity [and] demonstrates, considering inevitable blunders and oversights, the necessity of avoiding every pragmatic motivation in political activity. . . .

And in another work he adds:¹³

. . . . [Las Casas] anticipated with prophetic faith at the beginning of the 16th century that which those grouped in Vatican Council II only came to state in the middle of the 20th (liberty as the greatest prize of man, the abomination of war and oppression, peaceful persuasion and example as the only proper means to preach the Gospel). Only around his teaching properly actualized will it be possible to gather those who disappointed today by disruptive individualism, by ultrapersonalist totalitarianism and by apparent juridicism, that vile adorer of all the Sigismunds.

His political passion led him to carry on a voluminous correspondence with the former directors of the Republic now migrated to America, with whom he exchanged impressions on how one might organize Spanish life on whatever day liberty and justice might exist so that all Spaniards might freely live according to their ideas or parties.

The third aspect was the life of the university, in which he devoted himself to his profession as canonist and historian. The University itself interested him to the degree of insisting that to it only the best professors and students should come; something never realized in either case.¹⁴ He never limited himself to the classroom or to academic publications, but also collaborated with periodicals, giving an occasional lecture, or conversing with his disciples, foreign as well as Spanish. Thus he went sowing the seed of a University which would rise above the mere work of teaching to wrestle with the problems of the world in which we live, those of the country and of the region, all entirely shot through with the true Christian social sentiment.

Don Manuel, the good family man, knew well how to rise above the disappointments and bitter reverses that life brought him. He was a

¹³ *Bartolomé de Las Casas en el IV Centenario de su muerte*, p. 65.

¹⁴ See the statements cited above from *El Correo de Andalucía*.

passionate man, but it was only for what was true and just; never did his passion lead him to hate anyone. He died in his native town, Seville, February 27, 1968, "after dedicating his life to the defense of Truth, of Justice, of Liberty, and of Peace," as narrated in the obituary notice which his friends and collaborators inserted in a Seville newspaper.

Would that the part of his work which remains unedited might be promptly published! This would be the greatest tribute which might be dedicated to his memory.

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(The complete bibliography will be found in the *Anuario de Estudios Americanos*, vol. XXIV [1967]).

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