

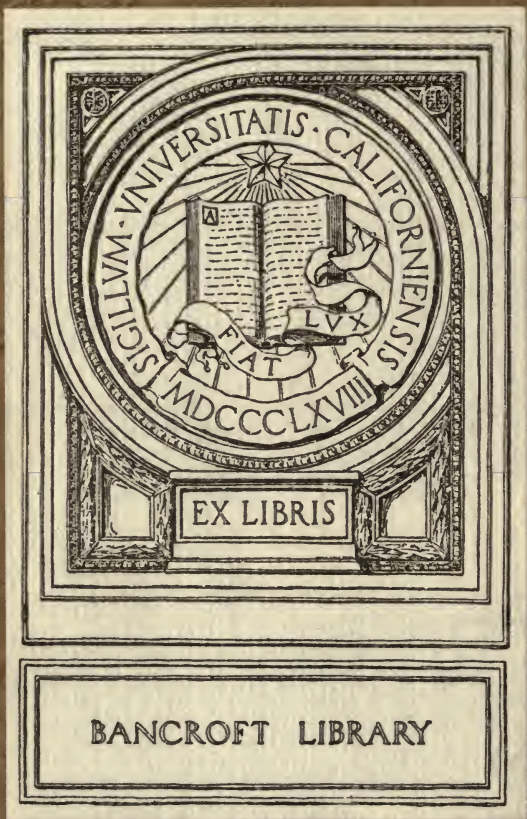
F

1413

.H4

III Office of Admittance

EMERSON



BANCROFT LIBRARY

Herbert Ingram Priest

THE OFFICE OF ADELANTADO

BY

ROSCOE R. HILL

REPRINTED FROM POLITICAL SCIENCE QUARTERLY
VOLUME XXVIII, No. 4, DECEMBER, 1913

NEW YORK
PUBLISHED BY GINN & COMPANY

1913

THE OFFICE OF ADELANTADO

*With compliments of
the author.*
Roscoe R. Hill.

BY
ROSCOE R. HILL

REPRINTED FROM POLITICAL SCIENCE QUARTERLY
VOLUME XXVIII, No. 4, DECEMBER, 1913

NEW YORK
PUBLISHED BY GINN & COMPANY
1913

THE OFFICE OF ADELANTADO

THE office of *adelantado* was one of the oldest conferred in mediæval Spain. "In the history of San Pedro de Arlança it is said that Nuño Nuñez, judge of Castile, married Theudia, daughter of Theudio, adelantado of León."¹ This statement carries the title back to the tenth century. More definitely it is known that Fernan Fernandez was adelantado of Estremadura in the time of Alfonso VIII, the Good (1158-1214). The first mention of the office in Spanish legislation is found in the time of Ferdinand III (1217-1252), but it is not until the reign of his successor, Alfonso X, the Learned (1252-1275), that the nature, qualifications and functions of the adelantado were set forth in legal terms. They appear in the two general codes, *El Espéculo*² and *Las Siete Partidas*,³ as well as in a special code entitled, *Leyes para los Adelantados Mayores*.⁴ During the succeeding reigns, as occasion demanded, modifications and additions were made to this early legislation.

There were two kinds of adelantados. The *adelantado del rey, de corte* or *mayor* was a more immediate representative of the king, while the *adelantado de comarca, fronterizo* or *menor* was the more common type. Although of great importance, the former office seems early to have fallen into disuse, its functions passing to other high officials, since all mention of it is omitted from the later codifications.

¹ Salazar, *Origen de las dignidades seculares*, fol. 60 b.

² Libro 4, título 2, ley 11.

³ Partida 2, título 9, ley 19.

⁴ The several codes may be found in convenient form, reprinted in full, in *Los Códigos Españoles*, edited by San Martín in twelve volumes. There is a very satisfactory introduction to each code. Martínez Alcubilla, *Códigos de España*, is a one-volume work of no especial merit. It contains only a brief note on the *Espéculo*. For a summary in English of *Las Partidas* and *El Espéculo*, see Walton, *Civil Law in Spain and Spanish America*, pp. 72, 75-77.

⁵ *Ordenamiento Real* (1346), lib. 2, tit. 13; *Nueva Recopilación* (1681), lib. 3, tit. 4.

According to the provisions of the earlier codes, the *adelantado mayor* was preëminently a judicial officer, occupying the highest rank in the judicial system as it was then established.¹ The name of the office was derived from the fact that the subject was put forward into the king's place.² Because of the many complaints about the decisions of the lower judges, the king was naturally unable to hear all the appeals that were brought to him; and he accordingly appointed a supreme judge, who was called the *adelantado mayor* and who should act in his stead.³ The original jurisdiction of this officer extended even to controversies between nobles (*rieptos*), which might lead to wager of battle. His appellate power included all cases subject to appeal from the lower judges.⁴

The incumbent of so responsible a position was to be a man not only of noble family (*de grand linaje*) and loyalty, but also of prudence and wisdom. Besides these characteristics, he must possess the general qualifications prescribed for the judges of the realm. According to the law the judge had to be of good family (*de buen linaje*), in order that he might be ashamed to make any mistakes in his judgments. He should be a man of clear intelligence, so as to understand the arguments presented by the lawyers, capable of avoiding all undue influence and of judging rightly. He should be able to read and write, that he might himself examine all papers, documents and petitions, which might be presented. He should be even-tempered, so as not to complain or become irritated at the accusations of the parties. Finally, he should render exact justice to every one.⁵

The purpose of the brief code of five laws, known as *Leyes para los Adelantados Mayores*, was to "establish the rules of conduct to which the said functionaries should conform them-

¹ For a discussion of the judicial system of Spain in this period, see Danvila, *El Poder Civil en España*, vol. i, p. 175.

² "El Rey lo adelanta, poniendolo el Rey en su lugar." The vague notions prevailing among writers on the Spanish dominion in America as to the meaning of the term is illustrated by Lowery's definition: "Adelantado, a title derived from the verb adelantar, which signifies to advance, to keep on, to surpass." *The Spanish Settlements in the United States, 1513-1561*, p. 135.

³ Partida 2, título 9, ley 19.

⁴ *El Espéculo*, libro 4, título 2, ley 11.

⁵ Partida 2, título 9, ley 18.

selves in the exercise of the duties of their elevated rank." The first of the laws prescribes that the incumbent shall take a double oath concerning the interests of the king and of the people. He must swear to honor his lord and counsel him rightly, to keep his secrets and protect his rights. He must also swear to judge justly and not to be influenced by love or hate or fear or supplication, or by any gifts that might be offered. The second law deals with the matter of jurisdiction in the same terms as the *Partidas*, except that it goes more fully into detail. The third law provides the form of the oath to be taken. The fourth law deals with the procedure of the adelantado mayor upon his entry into the office. He should challenge all noblemen who were not keeping the peace—this being rather a form than anything else. He should make a tour of inspection of the minor judicial districts (*merindades*), confirming in their offices the minor judges (*merinos*) who had honestly performed their duties, and removing the incompetents, at the same time causing them to make good any injuries or injustices that they might have committed, and putting in their places men who would enforce the laws with equity. Careful instructions, also, were given as to the procedure of the adelantado mayor in the ordering and carrying-out of investigations that had to do with misdemeanors and crimes of subjects, high and low. The last of the laws enumerates the interests that the adelantado mayor was obliged to protect. He should guard the kingdom against robbery and other crimes; see that the churches were not injured, burned, destroyed or entered by force; and protect the interests of the clergy, the military orders, the religious brotherhoods, the nobles and women of rank. He must keep the highways in a safe condition for travel and see that no new castles were built without the consent of the king. He should prevent the holding of judicial proceedings on specified feast days. He must avoid the use of torture, except in rare cases, and then only before a number of honorable witnesses. In the appointment of minor judges, furthermore, he must not be influenced by any gift or service.

The office of *adelantado menor* came into existence about

1239.¹ The derivation of the name was the same as that of the higher official, for the adelantado menor was also to take the place of the king. According to the *Partidas* he was a very important official, "placed by the king over all the merinos, not only over those of the districts and regions but also over those of the villages."² The chief distinction between the two offices lay in the fact that, whereas the judicial functions of the adelantado menor were not supreme, his administrative functions were more extensive than those of the adelantado mayor. He was thus a judicial officer, endowed with extensive administrative powers, and placed in charge of a certain designated district.³ As late as 1681, in the codification known as *La Nueva Recopilación*, provisions were included dealing with the adelantado menor. From that time onward the office fell into complete disuse. Because of the abuses committed by the adelantados menores they were supplanted by the *alcaldes mayores*.

The *Siete Partidas* provides that the adelantado menor must be a man neither proud nor haughty⁴; and the *Nueva Recopilación* further specifies that he must be able to care for the royal interests and especially to protect the frontier districts from evil and danger.⁵ Like all other royal officials, he was obliged to take an oath to guard the life, honor and priority of the king; to give his good counsel; to protect the royal property; to obey all the royal commands; and to fulfil the duties of his office well and loyally.⁶

The judicial functions of the adelantado menor were both original and appellate. His original jurisdiction extended to all civil cases involving either the personal or real property of

¹ "The first adelantado de la frontera was the valiant Fernando Ruiz de Castro, who died in Orgaz about the year 1239, taking relief to Cordova at the command of the king." Salazar, *Monarchía de España*, vol. i, p. 155.

² Partida 2, título 9, ley 22.

³ *Ibid.* It is the adelantado of this second and later type who is described by one of the older writers (Salazar, *Origen de las dignidades seculares*, fol. 61 a) as, "in time of peace, the president or chief justice of some kingdom, province or district, and, in time of war, the captain general," and is defined by a modern writer on jurisprudence (Escriche, *Diccionario de legislación y jurisprudencia*, vol. i, p. 287) as "the military and political governor of a frontier province, corresponding to the Roman provincial president."

⁴ Partida 2, título 9, ley 22.

⁵ Libro 3, título 4, ley 1.

⁶ Partida 2, título 9, ley 26.

the residents of his district (*adelantamiento*) as well as to certain "specified matters of other districts." He had cognizance of all cases of justice, with the exception of *riepto*, broken truces, security of the king and counterfeiting.¹ Later legislation took away from the adelantado menor original jurisdiction over civil matters, leaving him only in possession of appellate powers in that respect. In criminal matters his powers could be exercised only in the place where the crime was committed.²

The adelantado menor was placed over the lesser judicial officers (*merinos* and *alcaldes de villas*) of his district, and was empowered to hear appeals from their decisions in all matters. In the performance of this appellate function, as well as in the exercise of all judicial powers, he was to be accompanied by persons learned in the law (*sabedores del fuero*) and also by a clerk,³ who should be provided with a book in which a record of all decisions should be kept.⁴ Upon petition therefor, he was obliged to grant appeals from his decisions to the king; and in case complaint was made before him by a noble in form of *riepto* or he had knowledge of treachery justifying *riepto*, he should refer the matter to the king at once, since matters concerning the nobility were beyond his powers.⁵

Not less important for the welfare of the adelantamiento were the administrative functions of the adelantado menor. He had to visit his district periodically, punishing evil doers and seeing that all received justice. Having finished the visit, it was his duty to make a report to the king on the condition of the country. He was charged to take care of the interests of the district, especially avoiding excessive expense and annoyance to the inhabitants.⁶ He could appoint lieutenants,⁷ but these must not be nobles or powerful persons.⁸ He also possessed the power of nominating *alcades menores*.⁹

In order to protect the adelantado menor from dishonor and

¹ Espéculo, libro 4, título 2, ley 12.

² Nueva Recopilación, libro 3, título 4, ley 15 (Pedro, 1369).

³ Partida 2, título 9, ley 22.

⁴ Nueva Recopilación, libro 3, título 4, ley 18.

⁵ Partida 2, título 9, ley 22.

⁶ *Ibid.*

⁷ Nueva Recopilación, libro 4, título 4, ley 3 (Henry II, 1407).

⁸ *Ibid.* ley 5.

⁹ *Ibid.* ley 16 (Ferdinand and Isabella, 1476).

to cause the people to hold him in due respect, a series of penalties were provided in the *Espéculo*.¹ For injury by word of mouth, a fine of five hundred *sueldos* should be paid. If the adelantado were wounded in hand or foot by a common person, the offender paid two hundred and fifty *maravedís* or forfeited the hand causing the injury. In case the injury caused the loss of a member to the official, the offender forfeited a hand, and one-fifth of his goods went as an indemnity to the wounded judge. The murderer of an adelantado lost his life, and one-fourth of his property went to the king. In case the offender were a "*rico ome de pié ó mano*," he paid five hundred *maravedís* to the wounded judge and a like amount to the king, and if he were a "*rico ome de arma*," besides the preceding penalty, he lost all his royal lands.

The office being one of great power, the *Siete Partidas* imposed various restrictions upon its holders. The adelantado menor was not permitted to bring accusations against any one during his term of office.² Neither he nor his dependents could have any business interests, directly or indirectly, except that they might buy needful food and clothing, and, in case they received any inheritance, they might dispose of it as they saw fit.³ To guard against possible abuses of authority and against individual influences, the adelantado menor was forbidden to marry during his term of office, though he might take a concubine if he so desired.⁴ Because of the nature of the office he was not allowed to enter certain privileged towns; he must not take more than the prescribed fees, under pain of losing his office; and he was not permitted to receive more than one hundred and fifty *maravedís* a year for maintenance while visiting each locality.⁵ At the close of his term he was held judicially responsible for all of his acts, and even his relatives might testify against him.⁶ In case it were shown at the trial that any injuries or crimes had been committed because of his negligence, he was obliged to pay a fine equal to double the amount of the losses.⁷

¹ Libro 4, título 2, ley 5.

² Partida 7, título 1, ley 2.

³ Partida 5, título 5, ley 5.

⁴ Partida 4, título 14, ley 2.

⁵ Nueva Recopilación, libro 3, título 4, léyes 8, 9 and 11.

⁶ Partida 3, título 16, ley 1.

⁷ Nueva Recopilación, libro 3, título 4, ley 4.

Such were the nature and functions of the office of adelantado menor in Spain at the time when she was laying the foundations of her colonial empire in the New World.¹ Since the dominions acquired beyond the seas were regarded as provinces of Castile, it was natural that the term adelantado menor or fronterizo, as it had been employed during the Moorish conquest, should be applied to the persons who were appointed to represent the crown in these dominions.

The main problem that arises in connection with the study of the office in its new environment is to determine whether it was actually an office or merely an honorific title. The difficulty arises from the fact that the adelantado in America possessed other titles, and there is no clear distinction as to what functions or powers were associated with each title.

The first adelantado in America was Bartholomew Columbus,² to whom the office and title were granted by his brother Christopher in 1497. The grant caused displeasure at court, since the appointment of an official of such high rank was distinctly a prerogative of the crown.³ However, the king and queen saw fit to confirm the title and office to Bartholomew Columbus in return for the services he had rendered in the Indies.⁴

From the beginning of the sixteenth century, capitulations or contracts were made by the Spanish crown with ambitious men who sought to win fame and fortune through discovery and exploration in the New World. In the first years of the century, however, no higher office or title was granted than that of local governor of the region concerned, and even this was accorded only in exceptional cases.⁵ By the capitulation drawn

¹ In the reign of Ferdinand and Isabella the adelantados of Spain were those of Castile, León, Andalusia, Murcia, Granada and Cazorla. Altamira, *Historia de España*, vol. ii, p. 454.

² Bernard Moses, *Establishment of Spanish Rule in America*, p. 69, states that Christopher Columbus was given the title of adelantado. A search of the capitulations and patents concerned has failed to reveal any such grant.

³ Partida 2, título 1, ley 2.

⁴ Herrera, *Historia general de las Indias*, dec. 1, lib. 2, cap. 15, gives an account of this affair. The patent confirming the office and title was issued July 22, 1497, and is printed in full in Navarrete, *Viages etc.*, vol. ii, pp. 217-218.

⁵ Of thirteen capitulations made between 1500 and 1512, only two, those with

up in 1512, however, Juan Ponce de León was promised the title of adelantado¹ in case he found the land of Bimyny.² In this promise of 1512 and in the actual grants of 1514 to Vasco Nuñez de Balboa of the adelantamiento of the coast of the South Sea, and to Ponce de León of the adelantamiento of Bimyny and Florida is seen the real beginning of the use of the term adelantado in America.³

As there was no direct legislation on the subject during the early period of colonization, the inception of the office and title of adelantado in the New World must be studied in the agreements (*asientos*) and contracts or capitulations between the crown and the early discoverers, and in the patents granted to the latter. From the patents alone little information can be secured. They contain only an indication of the territory in which the powers of the adelantado were to be exercised; a statement that his powers and prerogatives were to be the same as those of the adelantados of Castile, thus demonstrating the

Vicente Yañez Pinzón and Alonso de Ojeda (1501), promised the office of governor; the other offices promised were those of captain of the ship or expedition, or captain and corregidor of the area concerned. In a number of the capitulations no mention whatever is made of office or title. See Documentos Inéditos de Indias, first series, vols. xxii, xxxi and xxxviii, *passim*.

¹ "Item que vos hago merced del título de Nuestro Adelantado de las dichas Yslas é de las otras que en la forma susodicha descubriereis." *Ibid.* vol. xxii, pp. 26 *et seq.* In common with other writers, Lowery errs in stating that the first capitulation conferred upon Ponce de León the title of adelantado. *Op. cit.* p. 135.

² The name is variously spelled in the documents of the time.

³ The capitulation with Ponce de León (February 23, 1512) is printed in Documentos Inéditos de Indias, first series, vol. xxii, pp. 26-32. The patent to Balboa was granted September 23, 1514, and is preserved in copy in the Archives of the Indies, est. 109, caj. 1, leg. 5, no. 1, fol. 174 b-175 b. At this time Balboa was in America and the patent was sent to Alonso de Puente, treasurer of Castilla del Oro, in a letter of the same date (*ibid.* fol. 171; Documentos Inéditos de Indias, first series, vol. xxxvii, pp. 287-288); but this did not reach Balboa until well into the year 1515 (Oviedo, *Historia etc.*, vol. iii, pp. 42-43; Quintana, *Vida de Balboa*, in *Biblioteca de Autores Españoles*, vol. xix, p. 297). Ponce de León's patent was granted four days later (September 27), and is preserved in the Archives of the Indies, est. 139, caj. 1, leg. 5, no. 5, fol. 19 b-21 a. As he was then at the court in Valladolid, he received the patent at once (September 30), as is shown by his autograph receipt for it (*ibid.* fol. 1). It is thus seen that although the patent to Balboa was dated a few days earlier than that to Ponce de León, the promise to the latter had been made two years earlier, and he came into the exercise of the powers and privileges of the office of adelantado several months before Balboa did.

identity of the office in the two hemispheres; and a command to all servants of the crown, both high and low, to render due obedience and respect to the possessor of the title.¹ Not in the patents, then, but in the capitulations is to be found the history of the changing thought of the rulers of Spain regarding the organization of their colonial empire in America; and in their provisions the nature of the office is best exhibited up to the time when the regulations of the crown took statutory form and were duly codified.

During the course of the sixteenth century, which was the active period of Spanish discovery and exploration in America, some seventy individuals made contracts with the crown to undertake the extension of the new realm. To less than half

¹ Throughout the period of the use of the term *adelantado* in America the patent was drawn up in the same phraseology. That to Ponce de León (a copy of which is preserved in the general registers of orders, appointments *etc.*, Archives of the Indies, est. 139, caj. 1, leg. 5, no. 5, fol. 19 b-21 a) is typical, and as the patents are unpublished, a translation is here given: "Don Fernando, by the grace of God *etc.* In order to grant benefit and favor to you, Juan Ponce de León, esteeming the services which you have rendered to me and those which I expect you will render in the future, especially in regard to that which you have done and performed in the discovery of the island of Bimyny and the island Florida, which are in the Indies of the ocean sea, which you have discovered, and on account of the great service which you have rendered there in everything which in the Indies has appertained to our service, and confiding in your sufficiency and ability, in order that there shall remain a memory of you and your services, it is my desire and will, with respect to that which appertains to me, that now and in the future during all your life you shall be my *adelantado* in the said islands of Florida and of Binyny, which you have discovered, and in the other islands and lands, which you shall discover in those parts at our command, which have not been discovered by any other person. And you may be able to use and may use the said office in everything connected with and appertaining to it, according to and in the manner of our *adelantados* in these kingdoms of Castile; and you may enjoy all the honors, concessions, favors, exemptions and liberties, preëminences, prerogatives and immunities which by reason of the said office you may and ought to enjoy and should be rendered to you. And you may have and possess all the rights and other things appertaining to and concerning the said office of *adelantado*, according to law in the manner in which our other *adelantados* of the said Indies enjoy them. And by this my order I command the councillors, judges, magistrates, knights, squires, officials and gentlemen of all the cities, villages and towns, which there shall be in the future in the said islands which, you shall discover in those parts, that when you, Juan Ponce de León, have made the oath and formality, which are required in such cases and which you should make, they shall have, receive and consider you as my *adelantado* of the said islands and they shall exercise with you in the said office and in all the cases and things appertaining to and connected with it and shall observe and cause to observe toward you all the honors, concessions, favors,

of this number was the office and title of adelantado promised.¹ As no grant has been noted later than 1600, the use of the term adelantado may be considered as confined to this period.

Notwithstanding their general similarity of tenor, the individual clauses of the capitulations show a great deal of variation in order, form and substance. Four clauses are common to all the capitulations: (*a*) a statement of the object of the expedition, together with a permission or license to undertake it; (*b*) a promise of the grant of the title of adelantado; (*c*) a promise of the office of governor of the region to be discovered and settled; and (*d*) a promise to fulfil the agreement on the part of the crown, provided that the individual shall comply with all the stipulations of the contract.

Usually the statement of the object of the expedition was brief and was accompanied by a recognition of former services as a basis for the grant. The region in which the operations were to be carried on was specified as accurately as the existing

exemptions and liberties, which by reason of the said office you should have and enjoy and which should be observed toward you. And they shall support and cause to support you in all the rights connected with and appertaining to the said office according to and with that with which they support and must support our other adelantados of these said kingdoms and of the said Indies, and nothing more nor beyond, and in conformity with the said laws. For I, by these presents, admit you and have admitted you to the said office, and I give you power and faculty to use and exercise it in the form above indicated. And I command the illustrious prince, Don Carlos, my very dear and much beloved son, the princes, dukes, prelates, marquises, counts, grandees, masters of the orders, priors, commanders, sub-commanders, wardens of the castles and fortified and unfortified houses, members of my council, judges of my audiencias, mayors, sheriffs, justices of the peace, magistrates, knights, squires, officials and gentlemen of all the cities, villages and towns of the said Indies, that this favor, which I thus grant, of the said office of adelantado of the said islands of Bimyny and Florida, and the other islands which you shall discover, they shall observe and fulfil and cause to observe and fulfil this my order, in everything as is contained in it; and against the tenor and form of it they shall not go nor contravene it at any time nor in any manner, under the penalty of my favor and of ten thousand for my exchequer. Given in the city of Valladolid, the 27th of September, 514 years. I the King. Countersigned and signed by the same."

¹Of seventy capitulations examined, twenty-nine promised the title of adelantado.

Following is a list of those who are known to have borne the title of adelantado during the sixteenth century, given as far as possible in the order in which they made their capitulations with the crown. No capitulations or patents have been seen for those marked x, and the dates of these, which in some cases are conjectural, have been determined from secondary sources.

DATE	ADELANTADOS	REGION ASSIGNED	TERM
1497	Bartholomew Columbus	Indias (i. e. the New World).	
1512	Juan Ponce de León	Bimyny and Florida	One life.
1514x	Vasco Nuñez de Balboa	South Sea.	
1518	Diego Velazquez	Certain islands	One life.
1519	Ferdinand Magellan and Luis Falero	Spice Islands	Forever.
1519	Francisco Garay	Pánuco.	
1523	Lucas Vazquez de Ayllon	Lands north of Hispaniola	Two lives.
1524	Rodrigo Bastidas	Santa Marta.	
1526	Francisco Montejo	Yucatán and Cocomel	Forever.
1526	Panfilo de Narvaez	Rio de las Palmas to Florida	Forever.
1527	Fernan Camelo	Bermuda	Forever.
1527x	Pedro de Alvarado.	<i>South Sea Is.</i>	
1528	Enrique Cinquer and Guillermo Sayller	Santa Marta	Forever.
1529x	Simon Alcazaba	Coast of South Sea from Chinchu, 200 leagues.	
1529	Francisco Pizarro	Tumbez	One life.
1530	Diego Ordaz	Marañon to Cape de la Vela	One life.
1532x	Antonio Sedeño	Trinidad.	
1534	Diego de Almagro	200 leagues toward the Straits of Magellan	One life.
1534	Pedro de Mendoza	Rio de la Plata	Forever.
1535	Pero Fernandez Lugo	Santa Marta	Two lives.
1536	Licenciado Espinosa	From R. San Juan to Cartagena and Peru	One life.
1536	Juan Despes	200 leagues from Rio Salado, New Andalusia	One life.
1536x	Juan de Salinas Loyola	Yguarsongo	Two lives.
1537	Hernando de Soto	Rio de las Palmas to Florida.	Forever.
1539x	Pascual de Andagoya	Rio San Juan.	
1540	Alvar Nuñez Cabeza de Vaca	Rio de la Plata to Straits of Magellan.	
1540	Sebastian de Belalcázar	Popayán.	
1540	Pedro de Heredia	Cartagena	One life.
1544	Francisco Orellana	Amazon	Two lives.
1547	Juan Sanabria	200 leagues from mouth of Rio de la Plata	Two lives.
1555x	Domingo de Irala	Rio de la Plata.	
1564	Alvaro de Amendaña	Western Islands	Two lives.
1564	Pedro Marvaez de Silva	Omagna, Yomeguas, Quivandto, in New Estremadura.	
1564	Juan de Villora	Rio de Darien.	
1565	Pedro Menendez de Avilés	Florida	Forever.
1568	Pedro Marvaez de Silva	New Estremadura	Forever.
1568	Diego Hernandez di Lerpa	New Andalusia.	
1569	Juan Ortiz de Zarate	Rio de la Plata	Forever.
1575x	Juan de Garay	Rio de la Plata.	
1587x	Juan de Torres	Rio de la Plata.	
1591x	Hernando Arias	Rio de la Plata.	
1600	Juan de Oñate	New Mexico.	

geographical knowledge of the time would permit; and the earlier capitulations commonly contained a prohibition against encroachment upon Portuguese territory.¹ Permission or license to make the expedition was then specifically given, accompanied by the provisions that all expenses were to be paid by the party entering into the contract. The purpose of the undertaking was set forth as being one or more of the following, *viz.*, discovery, exploration, conquest, pacification or settlement. In the earlier capitulations the emphasis is on discovery and conquest; later the use of the term conquest fell into disfavor, and for it was substituted in most cases the word pacification. Settlement was almost always included as one of the chief objects of the expedition. To the later capitulations was usually prefixed a species of introduction, consisting of a long and elaborate statement of the propositions advanced by the person seeking the grant. If the demands were not in excess of what the crown was willing to concede, most of the clauses of this preliminary statement were repeated in the main body of the capitulation.

The capitulation proper determined the obligations of the individual and of the crown and the privileges accorded to the former. There was no fixed order in the arrangement of the clauses and no separation of them into distinct groups: they seem to have been put down at the caprice of whatever person happened to draw up the document. Constant repetition and the drafting of legislation on the subject of discoveries made the order of the later capitulations somewhat more uniform.

In addition to carrying into effect whatever might be incidental to the work of discovery and exploration, the adelantado undertook to conquer or pacify and settle the region entrusted to him and to seek the conversion of the natives to Christianity. To these ends the proposed expedition had to be duly equipped and provisioned, and a number of priests or brothers

¹ General registers of orders, appointments *etc.*, Archives of the Indies, est. 139, caj. 1, legs. 1 and 2. Many of the capitulations are printed in Documentos Inéditos de Indias, first series, vols. 22 and 23. Misprints and other errors are so numerous in this series that, wherever possible, the originals should be consulted. Cf. Lowery, *op. cit.* p. 146, note.

of the religious orders had to be taken along. In every case it was specified or implied that all this must be accomplished at the expense of the *adelantado*, but with the hope of reimbursement from the profits of the new colony, should the expedition be successful.

The size of the expedition and the extent of the settlements to be made were not always specified. The number of vessels was usually stated to be that needful for the accomplishment of the task, or that which the applicant desired or was able to send out. Provision was often made for the fitting-out of fleets over a period of years. The number of settlers or of persons to take part in the expeditions, wherever mentioned, varies from twenty to five hundred, but the number rarely fell below one hundred. At times the capitulations fix the number of settlements to be founded, each of which usually was to have at least a hundred inhabitants.

As it was customary to grant a monopoly of the privilege of discovery, conquest and trading rights, it was found convenient to place a time limit for the fulfilment of the terms of the contract. The common limit was one year; but in some cases it was slightly less and in a few considerably more, the extreme limit of ten years being found in the capitulation with Magellan.

The protection of the newly established colony was almost always the subject of a clause in the capitulation. The individual entering into the agreement was obliged to build a number of forts, usually from two to four, in suitable locations, either chosen by himself or in conjunction with the advisers indicated by the crown. These were to be of a size and strength sufficient to afford ample protection to the settlers and were to be built at the expense of the *adelantado*. In some cases it was provided that the initial cost of them should be repaid out of the profits accruing to the crown from the venture. In return for this outlay the *adelantado* was given the command of each of the forts for one or more lives,¹ with an

¹ The term "one or more lives," as used in this paper, refers to the period of time for which offices and titles conferred by the Spanish crown were to be held. One life indicates that the grant was to last during the life of the grantee only; two lives, during that of the grantee and that of his son or heir; and so on. The expressions commonly used were: one life, two lives, three lives, and forever.

annual salary for each one ranging from sixty thousand to one hundred and fifty thousand *maravedís*. In order also to protect the new possessions from dangerous influences, it was provided that certain classes of persons, including foreigners, lawyers and individuals under the ban of the Inquisition should not be taken on any of the expeditions.

The treatment of the Indians was the subject of much attention in the capitulations. The adelantado was bound to observe all ordinances and laws regarding these new subjects of the crown, particularly those which guaranteed them the status of freedom. After 1526 it was customary to include in each capitulation, either integrally or by title, the general enactments of Charles V on the subject.¹

Certain special rights were usually conferred upon the adelantado, some of which were to be exercised in Spain. Thus he was authorized to recruit followers in Castile or other specified places, and he had permission to purchase all necessary supplies, often free of taxation. He was to receive all possible aid, also, in the preparation of his expedition, and officials of every kind were specifically forbidden to interfere in any way with his plans.

In the adelantamiento proper very extensive powers were bestowed. The adelantado had the privilege of granting land and

¹ These enactments were issued at Granada, November 17, 1526. After an introduction describing the abuses that had prevailed in the founding of settlements and in the treatment of the Indians, they provide (*a*) that an investigation of such abuses shall be undertaken; (*b*) that the Indians shall be treated as free subjects of the crown; (*c*) that two priests shall be taken on each expedition; (*d*) that these priests shall see that the enactments are obeyed; (*e*) that no landings shall be made at other than specified places; (*f*) that the Indians shall be notified on landing that the purpose of the expedition is to convert and civilize them; (*g*) that forts shall be built if necessary; (*h*) that no bartering shall be carried on by force; (*i*) that no Indians shall be enslaved unless they refuse to accept religious instruction and to yield obedience, and then only with the consent of the priests and after the fulfilment of due legal forms; (*j*) that the Indians shall not be compelled to work, but may be hired for the purpose; (*k*) that Indians may be granted in *encomienda* (*cf. infra*) to Christian persons, when this shall be for their benefit; (*l*) that the expedition shall be recruited in Castile; and (*m*) that the discoverer shall receive due reward if the terms of the capitulation are complied with. The enactments are given substantially in the capitulation with Panfilo de Narvaez. *Documentos Inéditos de Indias*, first series, vol. xxii, pp. 231-244.

water rights to the settlers whom he took with him. He could assign Indians in *encomienda*,¹ usually only for one or two lives. Exemptions from taxation were allowed, not only to the adelantado, but also to the settlers and even at times to such merchants as might go to the colony. The adelantado was freed for life from the payment of import duties (*almojarifazgo*), and the settlers were granted the same exemption for periods ranging from six to ten years. The tax on sales (*alcabala*), also, was usually waived for either ten or twenty years. Another valuable favor to the adelantado was the grant, for life or for a term of years, of a share (ordinarily a twentieth or a twelfth) of the entire amount of the profits of the colony accruing to the crown. In the ecclesiastical tithe, however, which in America was a perquisite of the crown, the adelantado had no share, though a portion of the proceeds of the tithe was often assigned for the building of churches in the new colony.

Gold and precious metals were the articles from which the greatest profit was expected, and the crown was naturally desirous of securing the most ample share of them. It seems that the ultimate aim was always to secure a fifth; but as this percentage was evidently considered rather high for the first few years of a new enterprise, it was customary to make concessions by which the adelantado and his followers were not obliged to pay the full fifth. At first a progressive scale was arranged, *viz.*, one-tenth the first year, one-ninth the second and so on until the crown's share should be one-fifth. Later a distinction was made between mined gold and that secured by barter or otherwise. Mined gold paid one-tenth for a period of six or ten years and then was subject to the progressive scale, whereas gold secured by barter paid one-fifth from the beginning, and that found in sepulchres and like places paid one-half.

In many of the later capitulations there was a clause regard-

¹ Literally "commandery." The term indicates the arrangement, which early became usual, under which a group of Indians were assigned, usually under their "cacique" or chief, to some Spaniard of good repute who would oblige them to work under humane conditions and who would see to it that they were taught the Christian faith. Both coercion to labor and conversion to Christianity were viewed as means of uplifting them from barbarism to civilization.

ing the disposition of the property or ransom of captured princes. Of this property or ransom, the king was to receive one-sixth and the remainder was to go to the captors; but in case the chief were killed, one-half of the property was to go to the king.

The obligations of the crown consisted, as a rule, in the bestowal of honors rather than in the assumption of any financial liability. Of course the protection of the government was given to the adelantado, assuring him due honor and respect, not only in his own adelantamiento, but also in all parts of the kingdom. Ordinarily he was to enjoy a monopoly of carrying on expeditions to the colony and of trading and fishing rights within his district.

The office of adelantado was granted for one or two lives or in perpetuity, usually with the power, in case the incumbent had no heir, to name his successor. No specific salary was connected with the promise of the office, but in some of the later capitulations it is stated that he shall enjoy such salaries as appertain to the office. Furthermore, as a rule, the adelantado was made high sheriff (*alguazil mayor*), but separate patents were granted for each of the offices. The term of the latter office was generally the same as that of the office of adelantado, and no salary was connected with the position. The most important power of the alguazil mayor was the appointment of the ordinary sheriffs or bailiffs.

Every adelantado was made governor of the province that he might settle, thus giving him control of the political administration. This office was granted for one life or for two lives, and carried with it not only a considerable salary but also, at times, a yearly grant of financial aid. When stipulated in *maravedís*, the salary ranged from 150,000 to 725,000; when in ducats, from 1000 to 5000. The larger salaries carried with them the obligation to pay an extensive retinue or certain prescribed lesser officials.¹ The salary was always to be provided from the income of the province, never from the royal exchequer at home.

¹ In 1530 Diego de Ordaz was obliged to pay a justice of the peace, ten squires, thirty laborers, a physician and a druggist. Archives of the Indies, est. 139, caj. 1, leg. 2, no. 3, fol. 5.

In order that the adelantado might control the military organization of his province, he was made captain-general. The promise of this office often appears in the same clause with that of governor, although separate patents were usually issued. An ample salary was provided, sometimes separate from that as governor and sometimes included in it.

The final clause of every capitulation was a promise of the sovereign to comply with the terms of the agreement, in case the adelantado fulfilled all that was required of him. A typical example of this clause is to be found in the capitulation of 1526 with Francisco Montejo, adelantado of Yucatán:

If you do that which is indicated above at your own expense and in the manner already set forth, observing and complying with the said provision which is incorporated above and all the other instructions which we shall order you to observe and to do for the said land and for the conversion of the natives to our holy Catholic faith, I say and promise that this capitulation and everything contained in it shall be fulfilled exactly to you as is indicated above.¹

A study of the capitulations entered into by persons who did not receive the office of adelantado shows a remarkable similarity to those examined above. In fact, every clause of importance in the capitulations of the adelantados is to be found in one or more of the capitulations of the non-adelantados, with the exception, of course, of the clause promising the office and title in question. Except for the fact that the expeditions of the non-adelantados, as a rule, were not so large as those of the adelantados, and that the non-adelantado was obliged to build only one or two forts, the form and content of the capitulations of the two classes of discoverers was substantially the same.

Formal legislation regarding the office of adelantado in America is first found in the *Ordenanzas sobre descubrimiento nuevo é poblacion*, issued by Philip II at Segovia in 1563.² These ordinances were confirmed ten years later,³ and finally were incorporated, practically without change, in the legal code

¹ Documentos Inéditos de Indias, first series, vol. xxii, p. 223.

² *Ibid.* vol. viii, pp. 484-537.

³ *Ibid.* vol. xvi, pp. 142-187.

known as the Laws of the Indies.¹ After the publication of these ordinances, the capitulations were little more than a repetition of their provisions. They specify, in a minute and orderly manner, all the customary obligations, duties and privileges of persons making contracts with the crown for discoveries and settlements, and receiving in return therefor the office and title of adelantado, or some other. They show, also, that the adelantado was the highest in rank of the three offices conferred for the purposes in question, *viz.*, adelantado, alcalde mayor and corregidor.

From the language of the *Ordenanzas* and from the terms of the capitulations themselves it is clear that the adelantado possessed administrative, legislative and judicial powers in his colony. Among his administrative functions was that of granting in *encomienda*, for purposes of labor and of religious instruction, all Indians, not otherwise assigned, and all who might become available therefor during his term. If they were within the district of a Spanish settlement, the grant could be for two lives and, if without, for three lives. There was, however, one important limitation: the power to assign Indians living in ports and capitals of the provinces was not conferred upon the adelantados but was always reserved to the crown.

The power of appointing lesser officials was conferred upon the adelantado; in some cases absolutely, in others only to a limited extent. Having organized his province by dividing it into suitable districts known as *alcalalías mayores*, *corregimientos* and *alcaldías ordinarias*, he could fill the first two offices by appointment and confirm the elections made by town councils to the last. A suitable salary had to be provided by him for each of these officials. He could also name the *regidores* and other town officials of the new settlements, in cases where they were not otherwise provided for by the crown, subject to the condition that they should be confirmed by royal order within four years. In conjunction with the councils (*cabildos*) of the new towns, the adelantado had to provide commons, watering-

¹ The Spanish title is *Recopilación de leyes de los Reynos de las Indias*. The first edition was published in 1681, by order of Charles II. For a discussion of the code *f. H. H. Bancroft, History of Central America, vol. i, pp. 285 et seq.*

places, highways and roads needful for the development of the settlement.

The financial powers of the adelantado were not inconsiderable. He and his successor could make dies for the coinage of money. With the consent of the officials of the royal treasury of the colony, he might employ its funds to such an extent as should be necessary for the suppression of rebellion. He could also make temporary appointments to fill vacancies in the treasury department.

The ordinary military power necessary for the general administration of the colony was vested in the adelantado. In particular, he was to build three forts and to arm and provision them. The command of these forts was vested in him and his heirs perpetually, with a suitable salary to be paid by the royal treasury from taxes collected in the province itself.

The legislative power of the adelantado included the making of ordinances for the government of the colony and for the working of the mines, provided that such ordinances were not contrary to justice or to royal orders. The ordinances of the adelantado were valid for two years; in order to continue longer in force, they had to be confirmed by the king.

Both civil and criminal jurisdiction was placed in the hands of the adelantado, but only on appeal from the lieutenant-governor, alcalde mayor, corregidor or alcalde ordinario. From his decision an appeal might be taken to the Council of Indies, in civil cases involving amounts greater than six thousand dollars, and in criminal cases where the penalty imposed was death or mutilation. It was also provided that the adelantado should be directly responsible to the Council of the Indies; and viceroys and audiencias were forbidden to meddle in the affairs of the adelantamiento.¹

¹The viceroy in the Spanish provincial organization was the representative of the crown and the highest administrative officer, having also judicial and military powers. The first viceroyalty was established in 1534 in Mexico. Later three others were formed to govern the whole of Spanish America, *viz.*, Peru (1542), New Granada (1717, 1739) and Buenos Aires (1776). The audiencia was a high court of justice, exercising at times certain administrative powers. It also served in an advisory capacity to the viceroy and formed a check upon his powers. The first audiencia was established in Santo Domingo in 1511.

As already observed, the adelantado enjoyed many privileges and exemptions, both because of his rank and because of the great expenses to which he might be put. The privileges in question fall into two classes: those to be enjoyed in Spain before the departure of the expedition, and those to be enjoyed in the colony itself. The first class included such favors as would aid in the preparation and execution of the work projected. The leader of the expedition could enlist men anywhere in the kingdoms subject to the crown of Castile and León, and avail himself of all means of advertisement necessary to attract public attention to his undertaking. While this was being done, the local officials were especially charged not to interfere in the least with his plans, but rather to do whatever they could to further them. Whoever enlisted in the expedition of the adelantado, furthermore, was compelled to obey him and must not desert him or join any other expedition, without due permission, under pain of death. All officials were instructed to grant every facility for the passage of the expedition through their districts and for its departure. It was especially provided that no restrictions should be placed upon the inclusion of the necessary live stock in the supplies to be taken to the colony. The House of Trade (*Casa de Contratación*) at Seville was obligated to do everything in its power to aid the undertaking, even to the extent of not investigating the character of the persons who were enlisted in it. However, the adelantado should see to it that all his followers were persons of good character and that none of the prohibited classes were included.

The greatest privilege enjoyed in the adelantamiento as such was the right of the adelantado to select for himself in the district of each Spanish settlement a repartamiento and to exchange it for a better one should the occasion arise. This he could bequeath to his eldest son or divide among his children, either legitimate or natural. He was also permitted to own encomiendas in provinces outside of the adelantamiento. The adelantado, also, could import each year a fixed number of negro slaves and two shiploads of arms and provisions, free of duty.

In the customary judicial investigation (*residencia*) at the end of the term of office, the services of the adelantado were

to receive due consideration, and the conduct of the trial was to be regulated accordingly. If the contract had been fulfilled, the crown would grant to the adelantado encomiendas in perpetuity, together with the title of marquis or some other of like rank, as well as extensive tracts of land.

Finally, it was provided in the *Ordenanzas* that "discovery, settlement and pacification with the title of adelantado should be given and conceded only in provinces not contiguous with the district of the province of a viceroy or royal audiencia, from which the region could be easily governed, and the discovery, settlement and pacification could be made."¹ Where the settlements were to be formed within the jurisdiction of a viceroy or an audiencia, the title of alcalde mayor or corregidor was to be granted.

Such then was the dignity offered to induce the ambitious Spaniard to leave his home and to brave the wilds of an unknown wilderness for the purpose of extending the dominions of his sovereigns in the New World and of seeking the conversion of its native inhabitants to the religion of his race, always, of course, with the hope that great wealth would come to himself. The size of the expedition, the obligations imposed and the expense involved limited the holding of the office of adelantado to members of the nobility or to men of ambition who had served as subordinates in earlier expeditions and had been enabled to acquire the financial means for more ambitious projects.

On the basis of the foregoing study, the attempt can now be made to determine whether, in America, adelantado was merely an honorific title or designated an office with functions actually to be performed. The confusion on this point arises from the incompleteness of the legislation of the time, from the fact that identical functions, powers and privileges were granted to officials bearing different titles and ranks, and that the adelantado always held a number of other offices which were never clearly differentiated from that of adelantado.

¹ Ordenanza 87, Documentos Inéditos de Indias, first series, vol. viii, p. 513. This had not been the rule up to this time (1563), nor was it strictly adhered to afterwards, as is seen in the case of Juan de Oñate, adelantado of New Mexico.

At first glance it would appear that adelantado was nothing more than an honorific distinction. In substantiation of this view two facts may be cited: first, that the adelantado was *ipso facto* governor, captain general and high sheriff of his colony and that the duties he had to perform belonged to these offices; and second, that many of the local governors who were not adelantados possessed the same functions as the latter.

On the other hand there are several considerations that tend to prove that adelantado was more than an ornamental title; that it designated an office with functions of its own, even though these functions were at times discharged and later taken over completely by other officials.

The relation of the term as used in America to its use in Spain precludes the idea that it was merely an honorific title. In the establishment of a colonial system, offices and functions common in Spain would naturally be transplanted. In Spain the adelantado was a judicial and executive officer of high rank. The dignity was commonly conferred upon persons who undertook the conquest of territory from the Moors.¹ The same crusading spirit was carried over to America, and the use of the term adelantado may be considered as identical in the two hemispheres. If this be true, it can hardly be supposed that an office endowed with such important functions could suddenly be transformed into a title simply, because applied to conditions which were not, after all, so very dissimilar to those prevalent in Spain during the period of the Reconquest.

This view of the matter is supported by the language of the capitulations themselves.

You may use the said office in everything connected with and appertaining to it, according to and in the manner of our adelantados in these kingdoms of Castile, and you may enjoy all the honors, concessions, favors, exemptions and liberties, preëminences, prerogatives and immunities, which by reason of the said office you may and ought to enjoy,

is the phraseology used to indicate the extent of the adelan-

¹ The grant of the adelantamiento of Cazorla to the bishop of Toledo, in return for the conquest of the region, is a notable example.

tado's powers and privileges. A reference to the legislation of the *Siete Partidas* and of other early codes shows the duties that he had to perform and the privileges that he should enjoy.

Again, in the ordinances of 1563, the offices of adelantado, alcalde mayor and corregidor bestowed upon the leaders of expeditions for discovery and settlement are differentiated from one another in rank and in the stipulations to be fulfilled. This legislation must be regarded as the crystallization of earlier practice and an evidence of what had been the custom during the preceding half century. The two latter titles certainly carried with them functions, and it is reasonable to infer that the same was true in the case of the adelantado. The ordinances, furthermore, provide that there shall be an investigation (*residencia*) of his administration, precisely as in the case of other officials who had served the crown. And if this were not enough, a survey of the actual administration of their respective provinces by adelantados, such as Ayllon, Montejo, Pizarro, Mendoza, Cabeza de Vaca, Belalcázar, Irala, Menendez de Avilés, Garay, Oñate and others,¹ who succeeded in exercising the authority with which they were invested, would show that the title was one of office and not simply of honor.

The reason for the discontinuance of the office and title of adelantado in America lies in the fact that their bestowal belonged in a peculiar sense to the period of discovery and conquest. By the beginning of the seventeenth century most of the territory claimed by Spain had been brought under the administrative control of viceroys and under the judicial power of audiencias. Since no region was left in which administrative and judicial functions could be combined to the advantage of colonial organization in the hands of a special officer like the adelantado, the office necessarily disappeared along with the circumstances responsible for its introduction.

ROSCOE R. HILL.

COLUMBIA UNIVERSITY.

¹ Cf. *supra*, p. 655, note 1.

THE ACADEMY OF POLITICAL SCIENCE

IN THE CITY OF NEW YORK

The Academy of Political Science is affiliated with Columbia University and is composed of men and women interested in political, economic and social questions. The **annual dues** are five dollars. Members receive the Proceedings and the Political Science Quarterly—each issued four times a year—and are entitled to free admission to all meetings, lectures and receptions under the auspices of the Academy.

Communications regarding the Academy should be addressed to **The Secretary of the Academy of Political Science**, Columbia University.

THE POLITICAL SCIENCE QUARTERLY

Managing Editor

THOMAS REED POWELL

Assistant Editor

ROBERT MURRAY HAIG

The Quarterly follows the most important movements of foreign politics but devotes chief attention to questions of present interest in the United States. On such questions its attitude is nonpartisan. Every article is signed; and every article, including those of the editors, expresses simply the personal view of the writer. Each issue contains careful **book reviews** by specialists, and in March and September numerous recent publications are characterized in brief **book notes**. In June and December is printed a valuable **record of political events** throughout the world.

Communications in reference to articles, book reviews and exchanges should be addressed to the **Political Science Quarterly**, Columbia University, New York City. Intending contributors are requested to retain copies of articles submitted, as the editors disclaim responsibility for the safety of manuscripts. If accompanied by stamps, articles not found available will be returned.

Subscriptions should be forwarded and all business communications addressed to the publishers, **Ginn & Company**, Lancaster, Pa., or 70 Fifth Avenue, New York.

Yearly subscription, three dollars; single number, seventy-five cents. Back numbers and bound volumes can be obtained from the publishers.

Lithomount
Pamphlet
Binder
Gaylord Bros.
Makers
Stockton, Calif.
PAT. JAN 21, 1908

