

In This Issue**The Alcaldes Of California**

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The multicultural American heritage sometimes produces surprises. For example—how many of us know that in the years before California joined the Union it was governed under a system with roots reaching back to the Arabs? Not many. But the system's genealogy can be clearly traced across the world and through the years.

In the early 1840's foreign visitors to California—then a part of Mexico—noticed "an absence of government—even its forms and substance set aside . . ." In a sense this was true; long neglect by Mexico City had weakened executive authority in what was then called Alta (Upper) California. Actually, however, there was a system—one administered by local functionaries known as *alcaldes*. This is a Spanish term derived from the Arabic *al-qadi*, meaning judge, and bearing more than a semantic resemblance to the *qadis* of Islam.

The first *qadi* is said to have been appointed by the second Caliph, Omar, so he would be relieved of the constant need to settle local disputes personally. In a fairly simple society the *qadi* was at once responsible to superior authority and for the well-being of the people. With the expansion of Islam, government became more complex. Subsequent leaders continued the practice of appointing *qadis*, but gradually their role expanded from simple arbitration and rendering judgments to include administrative matters such as managing religious bequests or acting as guardians for orphans. In villages, towns and city wards, *qadis* filled a basic social need. As their role increased in importance specific qualifications for the position were stipulated, the most important of which was that the appointee should be able to administer justice under the Shari'ah—the law of Islam. In practice, over the years, it was also augmented by a fund of common sense.

When the Arabs invaded Spain in A.D. 711 they brought the institution of the *qadi* with them (See *Aramco World*, September-October, 1976). They not only introduced an artistic and intellectual renaissance, but a considerable degree of justice and social stability. By and large, during the centuries of Muslim control, Spanish Christians and Jews were able to work and worship freely within the society. In this amalgam of cultures it was only natural that as areas where Christians lived in contact with the Muslims returned in time to Christian control the proven role of the *qadi* in society should be appreciated and maintained, albeit in somewhat modified form. Thus evolved the *alcalde*, and for a period the two functionaries coexisted in different parts of the country.

Gradually the *alcalde* system of the Christians grew and changed. Following the fall of Granada, the last Islamic stronghold, in 1492, Spanish society became increasingly formal and stratified. In the hierarchy the *alcalde mayor* functioned on a local level; the *alcalde de corte* in and about the royal court. In both cases their duties were at least in part judicial.

The title *alcalde* crossed the sea with the conquest of Mexico by Spain in the early 16th century. The government of the Viceroy was patterned on the mother country—and was perhaps even more formalized than at home, as provincialism is apt to be. But curiously enough, the simple, personal element in the role of the *alcalde* (such as had existed under the first *qadis* in Arabia) returned through 17th-century missionary activity. As small military expeditions moved northward from Mexico City toward what is now the United States' border, they were accompanied by priests bent on converting the natives to Christianity. Since there were few priests and many Indians, religious instruction often made tactful accommodation with old beliefs. For administrative purposes the missionary-explorers simply turned the village chiefs into *alcaldes*, empowered to dispense justice under the supervision of the nearest priest.

With the settlement of Upper California in 1769 the *alcaldes* arrived on the Pacific Coast. In theory they were to work judicially with the *ayuntamientos*—town councils—

under government supervision. In fact, they became almost autonomous.

After the break between Mexico and Spain in the early 19th century California was left adrift. By the 1840's the handful of educated leaders realized they could no longer depend on the central government for support and there began to be talk of an alliance with a foreign power. There were several aspirants: England, France, Russia and the United States. With the outbreak of the Mexican-American War, Commodore Sloat solved the problem by raising the American flag at Monterey in July 1846.

The conquest of the vast, almost empty territory had been virtually bloodless and the U.S. military authorities were anxious to keep it that way. To this end they too, like the missionaries before them, began working through the system that was already there. *Alcaldes*—Americans, native Mexican-Californians and occasionally reservation Indians—were appointed as needed.

In Monterey, Sloat's successor, Commodore Stockton, bestowed the office of *alcalde* on a surprised Naval chaplain, Walter Colton. The first American *alcalde* had come on the scene. Initially Colton—a man of some worldly experience from service in the Mediterranean and Levant—regarded the position with awe:

"It devolves upon me duties similar to the mayor of one of our cities, without any of those judicial aids which he enjoys. It involves every breach of peace, every case of crime and every land grant within a space of 300 miles. From every other *alcalde's* court in this jurisdiction there is appeal to this and no higher tribunal ..."

This was the situation, however, that had evolved during the last years of Mexican administration and so Colton, and some equally surprised colleagues, accepted and successfully worked with it. The American military regime did provide some central authority, but as manpower was limited and the territory nearly unlimited, the *alcaldes* became to the governor as the *qadi* had been to the Caliph.

The success of Colton and his fellow *alcaldes* was based on the old qualifications: a strong moral regard for law (in this case Mexican) and down-to-earth common sense. Every sort of problem, serious and absurd, turned up in court. The "Reverend Alcalde" not only passed sentence but, like the traditional *qadi*, arbitrated both legal and domestic disputes—remarking dryly that the task was made easier by the almost total lack of young lawyers.

Following local custom, obstreperous teenagers were not spared the rod—but it was kept in the family. Colton saw to it that parents chastised their children under his alcaidean eye, on occasion stopping the procedure to deliver a lecture on the parental bad example that had caused the children's misbehavior.

There being few public buildings Colton discontinued the previous practice of fines—for Caucasians—and floggings—for Indians—in favor of work gangs for all offenders. "Every bird should build its own nest," said he, as the future tenants raised the jailhouse walls. Later a handsome schoolhouse—which still stands today—went up. Education would surely prove a deterrent to further crime, Colton believed.

Across the bay in Santa Cruz, Colton's colleague William Blackman handed down other imaginative decisions. On one occasion a vaquero (cowboy) pulled a pregnant woman from the path of a wild bullock, while also, unfortunately, causing her to miscarry. The husband hauled the rescuer into court, demanding damages for the unborn child. This the *alcalde* granted—but stipulated that the vaquero should put the woman back "in the state in which he found her." The case was not pressed. It was a solution worthy of Goha, the famous wise man of Middle East folklore (See *Aramco World*, May-June, 1971).

With the discovery of gold in California in 1848, mining towns burgeoned in the foothills. In the gold camps *alcaldes* were elected by the drifting population, but as the military governors didn't have enough forces to police the camps, "miner's law" soon reduced the office and its authority to impotence. Just nine days after the discovery of gold, however, the Mexican-American War formally came to an end with the signing of a peace treaty which gave much of the Southwest, including California, to the United States. This in theory should have ended the military governorship, but since Washington was slow in sending new instructions and the flood of Forty-Niners was paralyzing the simple and highly personal administrative and judicial system, the last military governor, General Riley, bowed to increasing public pressure and called a constitutional convention at Monterey in August, 1849.

There the *alcaldes* functioned for the final time, as inspectors of elections. Many were of

such caliber that they continued in other public office after the territory became a state the following year, but the first American *alcalde*, Reverend Colton, was not one of these; he returned to his family on the East Coast, where he died shortly after, in 1851.

Old California has receded into history, a picturesque memory. But what would have happened in the volatile transitional years if the American military governors had not found the *alcaldes* there at hand? Certainly, these judges never worked within the standard codes of Western jurisprudence—nor would those codes have suited the frontier circumstances. But the *alcaldes* were the inheritors of a very old tradition which, for some 80 years, served California as well as it had Arabia centuries before.

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