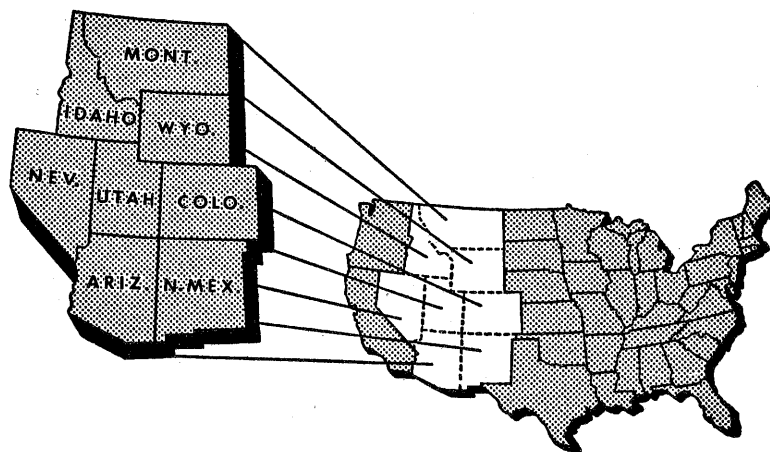


AMERICAN WEST CENTER

Occasional Papers

THE INDIAN CAUSE IN THE SPANISH LAWS OF THE INDIES



No. 16

University of Utah
Salt Lake City, Utah

1980

Series Title

WESTERN CIVILIZATION AND NATIVE PEOPLES

Occasional Papers:

- No. 15: CONCERNING THE INDIANS LATELY DISCOVERED.
The Indian Cause Before the Law of Nations: Colonial Period.
- No. 16: THE INDIAN CAUSE IN THE SPANISH LAWS OF THE INDIES.
With an introduction and the first English translation of Book VI, "Concerning the Indians" from the Recopilación de Leyes de los Reinos de las Indias (Madrid, 1681).
- No. 17: SPANISH LAWS CONCERNING DISCOVERIES, PACIFICATIONS AND SETTLEMENTS AMONG THE INDIANS.
With an introduction and the first English translation of the New Ordinances of Philip II, July 1573, and of Book IV from the Recopilación de Leyes de los Reinos de las Indias relating to these subjects.

No. 17 also includes an index to references to Indians found in Spanish laws included in Occasional Papers no. 16 and no. 17.

Series editor:

S. Lyman Tyler

THE INDIAN CAUSE
IN THE
SPANISH LAWS OF THE INDIES

With an introduction and the first English translation of Book VI, "Concerning the Indians," from the Recopilación de Leyes de los Reinos de las Indias (Madrid, 1681).

S. Lyman Tyler
Editor and Compiler

American West Center
University of Utah
1980

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RULERS OF SPAIN, 1474-1700

| | |
|--|-----------|
| Isabella | 1474-1504 |
| Ferdinand | 1474-1516 |
| Charles I (V of Holy Roman Empire) | 1516-1556 |
| Philip II | 1556-1598 |
| Philip III | 1598-1621 |
| Philip IV | 1621-1665 |
| Charles II | 1665-1700 |

PREFACE

We have concluded in our discussions that a knowledge of the law developed to guide the interactions between Indians and European-Americans is necessary to an understanding of Indian history. I made that statement to a seminar on the historiography of the Indians of the Americas, and a colleague, an Indian and a historian herself, responded: "Yes, but Indian history is also necessary to an understanding of Indian law." The members of the seminar readily agreed that each is necessary to the other.

The librarians for law libraries meeting to discuss "Sources of American Indian Law," (Law Library Journal, Vol. 67, p. 497) also expressed their respect for these ties between Indian law and history:

Indian law and Indian history are truly a seamless web, two sides of the same coin. Indian history defines Indian law, and Indian law dominates Indian history. Decisions relating to Indian law and policy rest in a peculiarly historical setting. The dominance of historical questions in Indian law and policy is indisputable.

If you question the importance of historical material for real world Indian legal problems, I refer you to the Indian Claims Commission Decisions where hardly a page passes without elaborate historical analysis--much of which would do the history Ph.D. proud. I can testify from my personal experience that a key factor in the successful litigation of many Indian tribes has been an intricate knowledge of tribal history possessed by tribal counsel.

In the preparation of research materials to support a Program for Graduate Training in the History of the Indians of the Americas

funded by the William H. Donner Foundation, Inc., of New York, with an additional grant for curriculum development from the National Endowment for the Humanities, it has been possible to include Spanish laws basic to an understanding of relationships between Indigenous and European Americans that have been awaiting translation for hundreds of years. It is our hope that in this format they will be available to many additional students of Indian history and law in the United States and elsewhere, and that they will help these scholars secure the perspective necessary to draw conclusions concerning the how, the when, and the why of these relationships which are sought by numerous Indian-European-Americans today.

Appreciation is expressed to colleagues in the American West Center and the History Department at the University of Utah who have assisted us in many ways: María J. Aragón, Laura Bayer, C. Gregory Crampton, Gertrude R. Elsmore, Larry R. Gerlach, Roger M. Haigh, Virginia A. Kezele, Brigham D. Madsen, Vincent Mayer, Jr., David E. Miller, Glenn W. Olsen, Floyd A. O'Neil, Veronica E. Tiller, Gregory C. Thompson, Richard S. Tompson, Renata von Glehn, Charles W. Wonder, and Gloria N. Zapata.

Chad Flake, Curator for Special Collections at the Brigham Young University Library, kindly made the rare books from the J. Reuben Clark, Jr. Research Collection in Law available to me.

My appreciation is also expressed to Bessie, and to members of our extended family, without whose patience and understanding an improbable schedule would have been impossible.

A lifetime could be spent in the refinement of translations such as these: choosing words to sharpen meanings expressed 300 to 400 years ago; tracing down elusive words no longer found in dictionaries of pertinent languages; deciding what words, titles, and expressions should be left in the original language and explained in a glossary, because there is not a precise English word or expression that carries the desired meaning, etc. Our time and financial support have run out for this project, and we make the results of our efforts available to you in this form because we have an obligation to do so and with the understanding that future scholars will continue the labor that we have commenced. We encourage you to make these materials more widely available.

Notes on Translation, Footnotes, and Abbreviations

Credits for translation are given below in the order the material appears.

The captions were provided for the Laws of Burgos, 1512, and the Amendments, 1513, by Lyman Tyler, who is also responsible for the captions for the version of the New Laws of 1542-43, which are numbered as they appear in the Philip II compilation of 1571. Captions for laws relating to Indians selected by Lyman Tyler from Books I to V and VII to IX of the Recopilación of 1681 are included as examples of the treatment of the Indians in laws other than those found in Book VI and were translated by Gertrude R. Elsmore and reviewed by Lyman Tyler.

The translation of Book VI of the Recopilación de Leyes de los Reinos de las Indias, 4 vols. (Madrid, 1681), which is a codification of laws concerning the Indians, was done by María J. Aragón and Gloria N. Zapata. The review and revision of translation was done by Charles W. Wonder, M.A. in Languages, University of Utah, 1936; Language Officer, U. S. Navy, World War II; Chief, Division of Language Services, U. S. Department of State, 1951-56; Administrative Officer in the U. S. Foreign Service, 1957 to 1963; and after retirement, he served in various administrative capacities at the University of Utah. Subsequent reprints of the Recopilación, almost without change, appeared in 1756, 1774, 1791, and 1841. The translator's text was the 1943 facsimile of the edition of 1791.

I have made a final review of all translated materials to give continuity in presentation. In the interest of readability, continuity, and completeness of thought for the reader of the English translation, very long, involved sentences are sometimes replaced by shorter sentences, in logical sequence of thoughts expressed, with subjects repeated as necessary for clarity. Rhetorical expression has been rearranged in some instances and words added to offset, what seemed to us, the clumsy rhetoric of the original, and occasionally to clarify meanings implied but incompletely expressed in the original.

Some words or expressions that do not have appropriate equivalents in English and are, therefore, not easily translatable, have been left in the original Spanish. In these cases, translations and/or explanations are included in the Glossary.

We have followed the practice of capitalizing pronouns, possessives, etc., that refer to the Crown and have used the Royal plural where it seems appropriate. In the quotation of translations, we follow the practice of the document in hand. We capitalize nouns, names, and titles that are normally capitalized in the Spanish laws.

In matters relating to good treatment of the Indians, there are periodic references to the need to do certain things for the sake of the King's conscience, or statements by the King that if officials do not do certain things, the weight of their actions, or failure to act, will be upon their conscience and not upon His. These are matters of spiritual and not temporal concern and have to do with salvation or damnation. In temporal matters, the King orders that certain things be done or not done "under the pain of losing Our favor."

There are basically three kinds of notes: first, those that are a part of a particular document we are translating or otherwise working with, or that are intimately related to its meaning--these are marked by asterisks; second, at the end of many titles of the books of the Recopilación of 1681, notes are included which are part of that work itself; and, third, the regular footnotes we have supplied which are numbered and placed at the end of the work. When we refer to a work in the text, we include author, title, and date of publication, with the understanding that the complete citation will be included in the bibliography.

In making reference to particular Books, Titles, and Laws in the Recopilación de Leyes de los Reinos de las Indias, "B" will

stand for Book, "T" for Title, and "L" for Law, as follows: B6, T6, L6. This form will be used for footnotes and other references. "LB" stands for Laws of Burgos, 1512-1513, and "NL" stands for the New Laws of 1542-1543.

INTRODUCTION AND ESSAY ON SOURCES

There was a body of recognized legal theory available to the Spaniards, and other Europeans, to guide relations with Indian nations at the time of the conquest of the Americas. And, the Native American peoples, themselves, were not without ideas concerning proper ways to proceed when individuals or groups acted in ways that were unacceptable. Professor E. Adamson Hoebel, in The Law of Primitive Man (1970), pp. 329-30, points out that the Indians of the Americas, along with other so-called primitive peoples, had developed their own law-ways. In Peru and in the Valley of Mexico, as is suggested by Professor Hoebel, particularized law systems had been developed.

It is apparent to us today that when Europeans and the Indians of the Americas met, each had definite ideas of how a proper man should act. At that time, however, long before the studies in the field of primitive law were available, the early European theorists of natural law believed that anciently men lived in freedom and equality, and all things were held in common.

Whatever the theorists in the sixteenth and seventeenth centuries believed about the nature of man and how he changed from a state of innocence, the condition they described did not exist among the native peoples of the Americas at the time of discovery. Much

of the two Americas south of the present Canadian border was inhabited by peoples who practiced some form of agriculture, along with hunting, fishing, and gathering; there was no unoccupied territory awaiting European settlement.

Francisco de Vitoria held that "according to the Law of Nations that which has no owner becomes the property of the seizer"; but, he added, "the possessions we are speaking of [the Indies] were under a master, and therefore they do not come under the head of discovery."¹ Speaking of the Indians, Vitoria added, "there is a certain method in their affairs, for they have polities which are orderly arranged and they have definite marriage and magistrates, overlords, laws, and workships, and a system of exchange, all of which call for the use of reason; they also have a kind of religion."²

The recognition of aboriginal Indian governments is also given expression in the law of the United States in the case of Worcester vs. Georgia [6 Peters 515(1832), pp. 559-60]: "The Indian nations had always been considered as distinct, independent, political communities, . . . and the settled doctrine of the law of nations is, that a weaker power does not surrender its independence--its right to self-government--by associating with a stronger, and taking its protection."

Thus, the law of the United States and the position taken by Vitoria in 1532 suggest that each Indian tribe, or people, began its relationship with a European-American nation as a sovereign power. These powers were not delegated by the European-American nation but

were inherent in the Indian tribe, or people, as a self-governing entity.³ Under England and the United States, recognition was given to the sovereign power of the Indian tribe through the treaty relationship. Under Spain, recognition was given to the governmental structures of the Indians, from the beginning, by the respect shown to the Caciques, or Indian leadership structure (see B6, T7, "Concerning the Caciques").⁴ In the Reducciones, or already established Indian towns, Indian officials chosen at regular elections had the authority to carry on local government. Spaniards, Negroes, Mestizos, and other outsiders were not to live in Indian towns. Traders were not to remain there for more than three days (see Recopilación, B6, T3, "Concerning Reducciones and Towns of the Indians").

In his lectures, "On the Indians Lately Discovered" and "On the Law of War Made by the Spaniards on the Barbarians," Francisco de Vitoria explained that "the seizure and occupation of those lands of the barbarians whom we style Indians can best, it seems, be defended under the law of war."⁵ Thus, the concept of a Just War became a basic consideration of Spanish Indian policy, and the term appears again and again in relation to the right of Spaniards to take Indians as slaves or to benefit from their labor in lieu of the collection of tribute and through the repartimiento, the mita, and the encomienda.

When the Europeans arrived in the Americas, their particular form of Christianity, their particular polity as interpreted at local and national levels, and their particular societal patterns affected

their relations with the Indians. Wherever they established their own kind, they would eventually want to reproduce social and behavioral norms and organizational structures similar to those they were accustomed to in their homeland.⁶ At the time of the conquest, social, religious, and political institutions were closely intertwined in the European as well as the Indian way of life. The complete separation of church and state is a relatively recent idea, and within some nations where it is purportedly practiced today, it is still, in various ways, more theoretical than actual.

For los reyes catolicos, religion was a tie that helped to hold the separate kingdoms together and would help to unify the still fractious elements under one Crown. After the discovery of America, the Crown insisted on holding the Indies as Their personal fiefdom. They did not want the difficulties experienced in gaining preeminence over the nobility in Spain to have to be repeated there. Although the Spaniard wanted to have the labor of the Indian available to him in perpetuity in the Indies, as he had that of the peasant in Spain, the Crown would continually remind the Spaniard that the Indians were Their vassals, and that the right to collect tribute or to use the labor of the Indians was at Their sufferance and could be withdrawn at Their pleasure or for cause.

The Bull of May 4, 1493, which assigned dominion over the newly discovered territories to the Kings of Spain, made it clear that the primary justification for the assignment was the acceptance by the Spanish crown of the special responsibility for teaching the Christian

religion to the inhabitants of those regions. Thus, the Kings of Spain became spiritual viceroys of the Holy See. In order to accomplish the conversion of the Indians, however, they would need to encourage conquistadores to explore and occupy the Indies at their own expense, to seek material rewards, and thereby help to meet the temporal needs of the Crown by payment of the Royal fifth.

Bartolomé de Las Casas quoted Columbus thus in regard to the use of native labor: "It is they who dig and produce the bread and other food for the Christians and get the gold from the mines for the latter, and perform all the services and labor of men and of draft animals." The Admiral saw that the future of Spain in the Indies depended on the native peoples, who "were and are its riches."⁷

This dual responsibility of the Crown would not be easily administered. If the colonists exploited native labor, there would be complaints from the religious orders. If the Crown followed the lead of these orders and freed the Native peoples from Spanish exploitations, the colonists would plead poverty and remind the Crown that such policies would cause the loss of indispensable revenue and, possibly, of the Indies.

Thus, it seemed to the mendicant orders, after the promulgation of the Laws of Burgos in 1512, that these measures were merely a way of giving royal sanction to then current methods of exploitation of the Indians. In reaction, the colonists claimed that by nature Indians were inclined toward idleness and vice and that it would strengthen efforts to teach Christian virtues if Indians acquired

habits of labor and industry; besides, what the Spaniards expected, it was argued, was not a new demand, for the colonists reported that the Indians had traditionally been required to give such service to their native leaders, the caciques.

Pressure from the religious orders, with such men as Bartolomé de Las Casas as leaders, led to a request that the controversy be referred to the University of Salamanca for study. Francisco de Vitoria voiced his conclusions that the Indians were true owners of the New World; that "the Emperor is not the lord of the whole world"; that the Pope is not "the civil or temporal lord of the whole world"; but that, on the other hand, the Spaniards "have the right to go to the lands of the Indians, dwell there and carry on trade, so long as they do no harm, and they may not be prevented by the Indians from so doing"; and that the "Christians have the right to preach the Gospel Among the barbarians. The Pope has the right to entrust the conversion of the Indians to the Spaniards . . ." and "if the Indians do not hinder the preaching of the Gospel they may not be subjected by war, whether they accept it or not."⁸

Such statements gave rise to further controversy, of course, and became an excuse for a royal attack upon the encomienda. From the Indies came back the argument that the resources of those kingdoms could not be developed without the labor of the Indians. The New Laws promulgated by the Crown in 1542 threatened those who had used the encomienda as a step toward virtual enslavement of the Indians. From Spanish leaders in the Indies came the counter-threat

that the application of the New Laws would strip the Indies of those who had claimed their wealth to enrich the Kings of Spain.

The contest between the Crown and the Conquistadors continued, but after the commencement of the reign of Philip II, the settlement of the controversies between Indian and Spaniard was left more and more to local authorities in America, operating under the viceroys acting as the personal representatives of the Crown in the Americas.

Analytical Studies of Colonial Programs

For the American Indians

Professor Samuel Eliot Morison explained in the Oxford History of the American People (1964), p. 34, that the European nations conquered the Indian peoples of the Americas by colonization, "a form of conquest in which a nation takes over a distant territory, thrusts in its own people, and controls or eliminates the native inhabitants." The subject matter of Professor Morison's penetrating statement, conquest and colonization, has been treated in various publications in recent decades. Today, one of the first orders of business in approaching a work that will present sources for the study of the Indian cause in the Spanish laws of the Indies is a discussion of the analytical studies which provide the introduction needed to more fully understand the original sources.

The standard, dependable, and still essential treatment of Spanish colonial institutions for the government of the Indies is C. H. Haring's The Spanish Empire in America (1947). Particularly

important to this study are the first three chapters: I. "The Beginnings of Royal Government in America," for the Spanish background and the transfer of their governmental systems to the Indies; II. "Race and Environment: El Pueblo Conquistador," for a look at Spaniards of the fifteenth and sixteenth centuries and what happened to them when they arrived in the Americas; and, III. "Race and Environment: El Pueblo Indígena," for an explanation of the effect of the arrival of Spaniards on the native inhabitants and the methods devised to make certain that a supply of Indian labor was always available. Chapter X, "The Church in America," deals with the church in the Spanish program but should be supplemented by Friede and Keen (1971), and Hanke (1974).

A Mexican scholar, Silvio Zavala, has contributed several works which are basic to the study of relationships between the Spaniard and the Indian. Those which are pertinent to our present interests are La Encomienda Indiana (1935); De Encomienda y Propriedad Territorial en Algunas Regiones de la America Española (1940); The Political Philosophy of the Conquest of America (1953); Las Instituciones Jurídicas en la Conquista de America (1971); New Viewpoints on the Spanish Colonization of America (1943); and Fuentes para la Historia del Trabajo en Nueva España, 1575-1805, with Maria Castelo (8 vols., 1939-46).

Lewis Hanke's The Spanish Struggle for Justice in the Conquest of America (1965) first appeared in 1949 and has made an important contribution to the English-speaking student's understanding of the

effort on the part of the religious orders and the Crown to change the direction of relations between Spaniards and Indians, first in the Caribbean Islands and then on the mainland.

Professor Hanke's Aristotle and the American Indians (1959), begins with the Aristotelian idea that some men are born to be slaves, carries this through the "Great Debate," 1550-51, between Bartolomé de las Casas and Juan Ginés de Sepúlveda, and discusses the effect this had on Spanish colonial policy for the Indians.

Lesley Byrd Simpson's The Encomienda in New Spain first appeared in 1929, was published in a new edition in 1950, and was reprinted with an added appendix in 1966. It has had an important influence on the thinking of scholars in relation to Spanish tribute and labor programs for the Indians. Robert S. Chamberlain's "Simpson's The Encomienda in New Spain and Recent Encomienda Studies," The Hispanic American Historical Review 34 (1954), pp. 238-50, and other pertinent studies included in these pages should be considered along with Simpson.

Charles Gibson's The Aztecs Under Spanish Rule (1964) demonstrates the historian's ability to use the great store of Spanish documents as evidence of the application of Spanish institutions to the development of a program for Indian relations with a European government. In his The Inca Concept of Sovereignty and the Spanish Administration in Peru (1948), Professor Gibson uses another body of sources to present a historical study of relationships between Spaniards and Indian groups in Peru.

Sally Falk Moore's "Inca Law and Government" (1957), discusses I. "The Land, the Forms of Tenure"; II. "The Tax System; III. "The

Political System and Its Judicial Functions"; and, IV. "Some Rules of Substantive Law and Their Implications," as these were applied under the Inca, the rulers of Peru at the time of the Spanish conquest.

Carlos H. Alba's Estudio Comparado entre el Derecho Azteca y el Derecho Positivo Mexicano (1949) calls attention to similarities and differences between an artificially constructed Aztec legal code and modern Mexican law.

Bartolomé de Las Casas in History (1971) was edited by Juan Friede and Benjamin Keen, who state that "the purpose of the collection of essays by eleven scholars from seven countries is to broaden the general understanding of Las Casas's life and work by making available in English translation the findings of leading modern European and Latin American specialists on Las Casas." After bringing the materials together for this book, the editors expressed the belief that "four centuries after his death [in 1566], the star of Las Casas's reputation stands higher than ever in the firmament of world opinion." Benjamin Keen has written a very useful general introduction, "Approaches to Las Casas, 1535-1970," after which the contributions of other scholars are listed, as follows, under four headings:

I. The Life of Las Casas: "Fray Bartolomé de las Casas: A Biographical Sketch," by Manuel Giménez Fernández; and, "Las Casas and Indigenism in the Sixteenth Century," by Juan Friede.

II. The Ideology of Las Casas: "The Spanish Theological-Juridical Renaissance and the Ideology of Bartolomé de Las Casas," by Venancio D. Carro; "The Controversy between Sepúlveda and Las Casas in the Junta of Valladolid," by Ángel Losada, and "Las Casas on the

Conquest of America," by Manuel M. Martínez.

III. Las Casas in America: "The Clérigo Casas, Colonist and Colonial Reformer," by Marcel Bataillon; and "Bartolomé de Las Casas and Verapaz," by Benno M. Biermann.

IV. The Heritage of Las Casas: "Historical Reality and the Detractors of Father Las Casas," by Juan Comas; "The Literary Heritage of Bartolomé de Las Casas," by V. Afanasiev; "Las Casas in Literature," by Raymond Marcus; and "Las Casas: A Selective Bibliography," by Raymond Marcus.

Lewis Hanke's All Mankind Is One (1974) is "A Study of the Disputation Between Bartolomé de Las Casas and Juan Ginés de Sepúlveda in 1550 on the Intellectual and Religious Capacity of the American Indians." It "describes the nature of the Indian according to the Spaniards, explains the position set forth by Sepúlveda, analyzes Las Casas's treatise in defense of the Indians, and describes the far reaching consequences of this first confrontation of humanism and slavery in the New World."

Fray Bartolomé de Las Casas's In Defense of the Indians (1974) is an annotated translation of "The defense of the late Bishop of Chiapa against the persecutors and slanderers of the peoples of the New World discovered across the seas." It is representative of the ideas presented by Fray Bartolomé in his debate with Juan Ginés de Sepúlveda, 1550-1551. It includes arguments against the then prevalent thinking concerning the Indians as barbarians and against the use of "Just War" to assist with the conversion of the Indians, treats methods of conversion, and develops other thoughts in behalf

of the Indians resulting from a long life spent in their interest.

Attitudes of Colonial Powers Toward the American Indian (1969), edited by Howard Peckham and Charles Gibson, with essays by Lewis Hanke on the Spaniards, Dauril Alden on the Portuguese, Allen W. Trelease on the Dutch, Mason Wade on the French, Wilbur Jacobs on the English, and Edward H. Spicer, also on the Spanish, give us further opportunity to use the comparative approach to studies of relations between European-Americans and Indians. Professor Spicer's Cycles of Conquest, the Impact of Spain, Mexico, and the United States on the Indians of the Southwest, 1533-1960 (1962) is a perceptive study which also offers a comparative approach to governmental administration of Indian programs.

Possibilities for the use of ethnohistory, history, and the law as approaches to the study of the Indians of the Americas lead us to the Handbook of Middle American Indians, vol. 13, which is part 2 of 4 parts of the "Guide to Ethnohistorical Sources." This volume lists "Sources in the European tradition," and includes materials on the history of law that relates to the Indians.

Under the heading "Published Collections of Documents Relating to Middle American Ethnohistory," Charles Gibson includes "Legislative Compendia," with the section titled "Documentary Collections Published before 1810." Here we find reference to the collection of laws published in Mexico after compilation by Juan Pablos in 1548 and by Vasco de Puga in 1563. Reference is also made to the Cedulaario indiano of Diego Encinas, to the great Recopilación of 1681, and to the compilations of the late seventeenth and eighteenth centuries

which were guides for the administrative representatives of the King and the Council of the Indies and for Spaniards, generally, in their relationships with Indians in the Americas. In a summary statement concerning these compilations of laws, Professor Gibson states that:

Taken as a whole the legal compilations published in the colonial period provide an enormous quantity of information on Spanish attitudes toward Indians, on administrative regulation affecting Indian life, and on Indian history itself. As one would expect, the laws have little to tell us about pre-Conquest conditions, and their substantive data on natives of the early colonial period are also relatively sparse.

This entire section should be examined closely by scholars interested in Indian history and legal history as it relates to the Indians.

Under the heading "An Introductory Survey of Secular Writings in the European Tradition on Colonial Middle America, 1503-1818," J. Benedict Warren includes information and brief biographical sketches concerning Antonio de León Pinelo (1596-1660), and Juan de Solórzano Pereira (1575-1655). Both these men played an important part in the compilation of the Recopilación of 1681, but neither lived to see it published as the Recopilación de Leyes de los Reinos de las Indias, in four volumes in Madrid (1618), although they felt it was ready for publication in the 1640s.

The Spanish kings used law as a tool to try to shape a new social order for a new world, to create a governmental and religious system according to an existing Spanish pattern for the Indians, and to control the actions of Spaniards as administrators who had a role to play within the System. We include captions from the early Spanish Laws for the Indies in these source studies, because they fit here both chronologically and according to the spirit of the time. They are

examples of Spanish kings' experimentation with legislation concerning indigenous peoples. The sovereigns tried to do this in ways that would not be offensive to the laws of Spain, the laws of the Church, and the Law of Nations, probably in that order.

Sometimes we think the records of these long discussions between Spanish missionaries, theologians, and jurists in the sixteenth century concerning the proper relationships between the Indians, the Spanish kings, and their representatives in the Americas are only of antiquarian interest. Actually, the matter of relations between native peoples and persons of European-American origin are of current concern in Africa, in the Americas, in the Pacific, and elsewhere. What happened over 400 years ago may still be used as precedent for decisions to be reached today and tomorrow. Also, these native peoples now attending the colleges and universities of the world as scholars are interested in their past--how matters came to be as they are today.

Recently, while reading Vine Deloria, Jr.'s Behind the Trail of Broken Treaties (1974), I was intrigued by this statement found on pages 261-62:

We would strongly recommend that the United States government face the Indian problem squarely. That it acknowledge to the nations of the world the international status of Indian nations as perhaps among the smallest and weakest nations of the world but yet as nations with an inherent right to political and cultural existence comparable to any other nation.

There may yet be many interesting twists and turns in the process of working out relationships between Euro-Americans and the native peoples encountered by Western Civilization. The record of these relationships

can never be relegated to the past; it continues with us, eternally present, to be studied in detail again and again. The sources referred to here, and others cited in the bibliography, may help give us a better understanding of the present and of the changes that will come, as well as those that have occurred.

The Law of Nations and the Laws of the Indies

As one reads the Spanish laws of the Indies, one soon observes that there is an adversary relationship between Indian and Spaniard and that the Spanish kings made a serious effort to protect their Indian vassals from the damages that grew out of the Spanish-Indian relationship. An early example is the will of Queen Isabella, found in Law I. Title X, Book VI of the *Recopilación de Leyes de los Reinos de las Indias* (Madrid, 1681) under the heading "Concerning the Good Treatment of the Indians," which includes the testament of the "Most Serene and Great Catholic Queen Doña Isabel of glorious memory," which was dictated just a few days before her death in 1504 to express Her continuing concern for Her vassals the Indians:

When the Holy Apostolic See granted to Us the Islands and Continent of the ocean Sea, that were discovered or to be discovered, Our principal intention, at the time when We petitioned the well remembered Pope Alexander the Sixth who granted this concession to Us, was to try to persuade and attract the inhabitants and convert them to Our Holy Catholic Faith, and to send Prelates, Priests, Clerics, and other learned and God-fearing persons to those islands and continent in order to instruct their townspeople and inhabitants in the Catholic faith, to give them religious instruction, to teach them good customs, and to give all necessary attention to these things, as they are amply dealt with in the letters of the concession. I very affectionately entreat the King My Lord, and I charge and command my daughter, the Princess, and her husband, the Prince, that they shall act on these intentions and fulfill them, that this shall

be their principal objective, and that they shall not allow, nor give occasion, for the townspeople or inhabitants of those Islands and Continent, occupied or to be occupied, to receive any harm to their persons and properties. They shall, moreover, command that the inhabitants be well and justly treated, and if the inhabitants have received any harm, they shall provide remedy, and make provision for it in such a way that there may be no transgression with regard to anything that is forbidden or commanded in the Apostolic letters of the said concession.

As we examine the Law of Nations and the early Laws of the Indies, we see the efforts made by Europeans to justify their actions toward Indian peoples as they occupied Indian lands, replaced Indian leaders, and upset Indian ways of life.

Spaniard and Indian--The Effect of Experimentation

The first European nation to attempt to deal with the problems involved in legalizing the relationships between European-Americans and Indians was Spain, and Spanish law became the basis for French, English, Portuguese, and United States law pertaining to the Indians, as well as that of the republics of Latin America after they gained their independence from Spain and Portugal.

The Spanish Code frequently referred to at the time of the conquest was Las Siete Partidas (The Seven Parts), completed under the direction of King Alfonso X of Castile in 1265 but not promulgated for almost a century because of the reluctance of the Spanish people to trade their native institutions for regulations they believed carried the influence of Roman rule.

The Partidas, updated by the Leyes de Toro, promulgated at the time of Doña Juana la Loca (1505) and the Nueva Recopilación, promulgated during the reign of Philip II (1567) continued to affect Spanish

law in America as supplements to the Laws of the Indies, not only throughout the Spanish period but as carried over into the national codes of Mexico and other Latin American nations to become applicable in what is now the southern and southwestern part of the United States.

At the beginning of the "Age of Discovery" the power of the papacy was an element in the establishment of areas of operation for particular nations by the granting of exclusive rights for the propagation of the faith, as was done by Alexander VI through the Bull Inter Cetera, 1493.

Actually, we should speak in this case of Bulls in the plural, for somewhat different Bulls were apparently issued in May and underwent further revisions until the final version of September 1493. Portuguese dissatisfaction with this document, after negotiations with Spain, led to an agreement formalized in the Treaty of Tordesillas June 7, 1494, which had the approval of the Papacy. The line of demarcation was thus fixed 370 leagues west of the Cape Verde Islands, or about halfway between these islands and the first discoveries by Columbus. This helped to secure Portugal's late claim to Brazil.⁹

We have followed the copy of the Bull reproduced in John Fiske's The Discovery of America; With some account of ancient America and the Spanish Conquest, 3 vols. (Boston and New York: Houghton, Mifflin and Company, 1902). Vol. III, pp. 416-29, includes copies in both Spanish and old English. We have modernized the English version to make it more easily understood.

The Bull Inter Cetera, 1493

The copy of the bull or donation, by the authority whereof, Pope Alexander the sixth of that name, gave and granted to the kings of Castile and their successors the Regions and Islands found in the West Ocean sea by the navigations of the Spaniards.

Alexander, bishop, the servant of the servants of God; To our most dear beloved son in Christ King Ferdinand, and to our dear beloved daughter in Christ Elyzabeth [Isabella] Queen of Castile, León, Aragón, Sicily, and Granada, most noble Princes, Greetings, and Apostolic benediction.

Among other works acceptable to the Divine Majesty and according to our hearts desire, this certainly is the chief, that the Catholic faith and Christian religion, especially in this our time, may in all places be exalted, amplified, and enlarged whereby the health of souls may be procured, and the Barbarous nations subdued and brought to the faith. And therefore, whereas by the favor of God's clemency (although not with equal deserts) we are called to this holy seat of Peter, and understanding you to be true Catholic Princes as we have ever known you, and as your noble and worthy acts have declared unto the whole world in that with all your study, diligence, and industry, you have spared no travails, charges, or perils, adventuring even the shedding of your own blood, with applying your whole minds and endeavors hereunto, as your noble expeditions achieved in recovering the kingdom of Granada from the tyranny of the Saracens in these our days, do plainly declare your actions with so great glory of the Divine Name. For which, as we think you worthy, so ought we of our own free will favorably to grant all things whereby you may daily with more fervent minds to the honor of God and enlarging the Christian empire, prosecute your devout and laudable purpose most acceptable to the immortal God. We are credibly informed that whereas of late you were determined to seek and find certain Islands and Mainlands far remote and unknown (and not heretofore found by any other) with the intent to bring the inhabitants of the same to honor our Redeemer and

to profess the Catholic faith, you have hitherto been much occupied in the expurgation and recovery of the kingdom of Granada, by reason whereof you could not bring your said laudable purpose to the end desired. Nevertheless as it has pleased almighty God, the foresaid kingdom being recovered, willing to accomplish your said desire, you have, not without great labor, perils, and charges, appointed our well beloved son Christopher Columbus (a man certainly well commended as most worthy and apt for so great a matter) well furnished with men and ships and other necessaries, to seek (by the sea where hitherto no man has sailed) such Mainlands and Islands far remote and hitherto unknown. Who (by God's help) making diligent search in the Ocean Sea, have found certain remote Islands and Mainlands which were not heretofore found by any other. In the which (as is said) many nations inhabit living peaceably and going naked, not accustomed to eat flesh. And as far as your messengers can conjecture, the nations inhabiting the foresaid lands and islands, believe that there is one God creator in heaven: and seem apt to be brought to the embracing of the Catholic faith and to be imbued with good manners: by reason whereof, we may hope that if they will be instructed, they may easily be induced to receive the name of our Savior Jesus Christ. We are further advertised that the forenamed Christopher has now built and erected a fortress with good ammunition in one of the foresaid principal Islands in the which he has placed a garrison of certain of the Christian men that went thither with him: as well to the intent to defend the same, as also to search other Islands and Mainlands far remote and yet unknown. We also understand, that in these lands and Islands lately found, is great plenty of gold and spices, with divers and many other precious things of sundry kinds and qualities. Therefore all things diligently considered (especially the amplifying and enlarging of the Catholic faith, as it

behooves Catholic Princes following the examples of your noble progenitors of famous memory) whereas you are determined by the favor of Almighty God to subdue and bring to the Catholic faith the inhabitants of the foresaid lands and Islands.

We, greatly commending this your Godly and laudable purpose in our Lord, and desirous to have the same brought to a due end, and the name of our Savior to be known in those parts, do exhort you in our Lord and by the receiving of your holy baptism whereby you are bound to Apostolical obedience, and earnestly require you by the bowels of mercy of our Lord Jesus Christ, that when you intend for the zeal of the Catholic faith to prosecute the said expedition to reduce the people of the foresaid lands and Islands to the Christian religion, you shall spare no labors at any time, or be deterred with any perils, conceiving firm hope and confidence that the omnipotent God will give good success to your Godly attempts. And that being authorized by the privilege of the Apostolical Grace, you may the more freely and boldly take upon you the enterprise of so great a matter, we of our own motion, and not either at your request or at the instant petition of any other person, but of our own mere liberality and certain science, and by the fulness of Apostolic power, do give, grant, and assign to you, your heirs and successors, all the Mainlands and Islands found or to be found, discovered or to be discovered toward the West and South, drawing a line from the pole Arctic to the pole Antarctic (that is) from the North to the South: Containing in this donation, what so ever Mainlands or Islands are found or to be found toward India, or toward any other part what-so-ever it be, being distant from, or without the foresaid line drawn a hundred leagues toward the West and South from any of the Islands which are commonly called the Azores and Cape Verde.

All the Islands therefore and Mainlands, found and to be found, discovered and to be discovered from the said line toward the West and South, such as have not actually been heretofore possessed by any other Christian king or prince until the day of the nativity of our Lord Jesus Christ last past, from the which

begins this present year being the year of our Lord. M. CCCC. lxxxxiiii. when-so-ever any such shall be found by your messengers and captains, We by the authority of Almighty God granted unto us in Saint Peter, and by the office which we bear on the earth in the stead of Jesus Christ, do forever by the tenure of these presents, give, grant, assign, unto you, your heirs, and successors (the kings of Castile and León) all those lands and Islands, with their dominions, territories, cities, castles, towers, places and villages, with all the right, and jurisdictions thereunto pertaining: constituting, assigning, and deputizing you, your heirs, and successors, to be lords thereof, with full and free power, authority, and jurisdiction. Decreeing nevertheless by this our donation, grant, and assignation, that from no Christian Prince which actually has possessed the fore-said Islands and Mainlands unto the day of the nativity of our Lord before-said their right obtained to be understood hereby to be taken away, or that it ought to be taken away.

Furthermore we command you in the virtue of holy obedience (as you have promised, and as we doubt not you will do upon mere devotion and princely magnanimity) to send to the said Mainlands and Islands, honest, virtuous, and learned men, such as fear God, and are able to instruct the inhabitants in the Catholic faith and good manners, applying all their possible diligence in the premises.

We furthermore straightly inhibit all manner of persons, of what state, degree, order, or condition so ever they be, although of imperial and regal dignity, under the penalty of the sentence of excommunication which they shall incur if they do to the contrary, that they in no case presume without special license of you, your heirs, and successors, to travel for merchandises or for any other cause, to the said lands or Islands, found or to be found, discovered or to be discovered, toward the west and south, drawing a line from the pole Arctic to the pole Antarctic, whether the Mainlands and Islands found and to be found, to be situated toward India or toward any other part being distant from a line drawn a hundred leagues toward the west from any of the

Islands commonly called the Azores and Cape Verde: Notwithstanding constitutions, decrees, and Apostolical ordinances what-so-ever they are to the contrary: In Him from whom Empires, dominions, and all good things do proceed: Trusting that Almighty God directing your enterprises, if you follow your Godly and laudable attempts, your labors and travails herein, shall in short time obtain a happy end with felicity and glory of all Christian people. But for as much as it should be a thing of great difficulty for these letters to be carried to all such places as should be expedient, we will, and of like motion and knowledge do decree that whithersoever the same shall be sent, or wheresoever they shall be received with the subscription of a common notary thereunto required, with the seal of any person constituted in ecclesiastical dignity, or such as are authorized by the ecclesiastical court, the same faith and credit to be given thereunto in judgement or elsewhere, as should be exhibited to these presents.

It shall therefore be lawful for no man to infringe or rashly to contradict this letter of our commendation, exhortation, request, donation, grant, assignation, constitution, deputation, decree, commandment, inhibition, and determination. And if any shall presume to attempt the same, he ought to know that he shall thereby incur the indignation of Almighty God and his holy Apostles Peter and Paul.

Given at Rome at Saint Peters: In the year of the incarnation of our Lord M. CCCC. LXXXVIII. The fourth day of the month of May, the first year of our seat.

This Bull was referred to time and again by the commentators on the legal rights of the Spanish Crown to the land and inhabitants of the Americas, in both political and spiritual matters.

Another interesting document produced for the Spanish Crown in this period as a statement of their rights in the Americas, and in justification of their actions in the contacts with the Indians, is titled the Requerimiento (Requirement). It was prepared with the idea

that it would be read to a group of Indians at the time the Spanish encountered them. If the reaction of the Indians was friendly, the Spanish would not attack them. If a battle ensued, it was the purpose of the document, in theory, to be read audibly and in a language that could be understood, to explain to the Indians that they were the ones at fault and not the Spaniards who had attacked them.

As it became apparent to the Crown in Spain that Spaniards engaged in conquests in the Americas would take actions that resulted in harm being done to the persons and property of the Indians and in order to meet the requirements of the theories concerning Just War and to free their conscience of responsibility, Dr. Juan López de Palacios Rubios, an eminent Spanish jurist, drafted the Requerimiento sometime between 1509 and 1513.

This document was based on the assumption that the Pope, by inheritance from Saint Peter and acting for Christ, had authority over the kingdoms of the earth and, thus, could delegate to selected rulers temporal and spiritual responsibilities in relation to those who were not Christians.

Various stories indicate that Spanish Conquistadors did not always treat the Requerimiento with the respect the Crown anticipated, and that Indian rulers, when they had the document read to them in a language they could understand, frequently took it as an affront that they should be expected to relinquish their respected rulers and recognized Gods for those of these strangers that they did not know and had not yet learned to respect.¹⁰

The Requerimiento

On the part of the king, Don Ferdinand, and of Doña Juana, his daughter, queen of Castile and Leon, subduers of the barbarous nations, we their servants notify and make known to you, as best we can, that the Lord our God, living and eternal, created the heaven and the earth, and one man and one woman, of whom you and we, and all the men of the world, were and are descendants, as well as all those who come after us. But on account of the multitude which has sprung from this man and woman in five thousand years since the world was created, it was necessary that some men should go one way and some another, and that they should be divided into many kingdoms and provinces, for in one alone they could not be sustained.

Of all these nations God our Lord gave charge to one man called St. Peter, that he should be lord and superior to all the men in the world, that all should obey him, and that he should be the head of the whole human race, wherever men should live, and under whatever law, sect, or belief they should be; and he gave him the world for his kingdom and jurisdiction. . . .

One of these pontiffs, who succeeded that St. Peter as lord of the world, in the dignity and seat which I have before mentioned, made donation of these islands and mainland to the afore-said king and queen and to their successors, our lords, with all that there are in these territories, as is contained in certain writings which passed upon the subject as aforesaid, which you can see if you wish.

So their highnesses are kings and lords of these islands and mainland by virtue of this donation; and some islands, and indeed all those to whom this has been notified, have received and served their highnesses, as lords and kings, in the way that subjects ought to do, with good will, without any resistance, immediately, without delay, when they were informed of the aforesaid facts. . . .

If you do so you will do well, . . . and we in their name shall receive you in all love and charity, and shall leave you

your wives and your children and your lands free without servitude, that you may do with them and with yourselves freely what you like and think best, and they shall not compel you to turn Christians unless you yourselves, when informed of the truth, should wish to be converted to our holy Catholic faith, as almost all the inhabitants of the rest of the islands have done. And besides this, their highnesses award you many privileges and exemptions and will grant you many benefits.

But if you do not do this or if you maliciously delay in doing it, I certify to you that with the help of God we shall forcefully enter into your country and shall make war against you in all ways and manners that we can, and shall subject you to the yoke and obedience of the Church and of their highnesses; we shall take you and your wives and your children and shall make slaves of them, and as such shall sell and dispose of them as their highnesses may command; and we shall take away your goods and shall do to you all the harm and damage that we can, as to vassals who do not obey and refuse to receive their lord and resist and contradict him; and we protest that the deaths and losses which shall accrue from this are your fault, and not that of their highnesses, or ours, or of the soldiers who come with us. And that we have said this to you and made this Requerimiento we request the notary here present to give us his testimony in writing, and we ask the rest who are present that they should be witnesses of this Requerimiento.

Bartolomé de Las Casas and the Dominicans were not supporters of the theories that justified the use of the Requerimiento, and the excuse it gave Spaniards to take actions so detrimental to Indian persons and property. The presentation of their arguments to Cardinal Cisneros and to Charles I eventually led to the preparation of the lectures "On the Indians" and "On the Law of War" by Francisco de Vitoria.

The Laws of Burgos, 1512-13

The first comprehensive Spanish code compiled specifically for the Indians was the Laws of Burgos, promulgated December 27, 1512, with amendments added July 28, 1513. Professor Lewis Hanke writes in regard to this compilation:

These laws furnish the most complete statement we have of the Crown's conception at that time of the ideal relationship between the Indians and their Spanish masters, and covered an extensive range of subjects, from the diets of the Indians to the holy sacraments.¹¹

From the beginning, Queen Isabella had felt the responsibility of the charge to teach Christianity to the inhabitants of the lands newly discovered by Columbus, and when the admiral returned from his first voyage with Indians who had been enslaved, she ordered that they be returned and in disapproval asked by what authority he so treated her vassals.

The Queen had suggested that Indians should be treated in the same manner as free Spaniards. In 1500, it was decreed that they should enjoy personal liberty and, in theory, be able to freely dispose of their persons and property. By December 20, 1503, on advice of her representatives and in order to more fully include the Indians in the framework of the economic, political, and social life of the colony, Queen Isabella issued instructions which resulted in the entrustment of Indians to selected Spaniards who held lands and who were required to care for her vassals and see that they were taught the Christian faith. Thus, the encomienda system began to unfold.

In a codicil to her will dictated three days before she died in 1504, Isabella again instructed her representatives to see that the native peoples were well treated. Although this pro-Indian stance underwent some change in the years under Ferdinand, it was his decision to sanction the Laws of Burgos, 1512, and the revisions of 1513 when he heard how some of the Indians were being mistreated and had come under some pressure from the Dominicans to seek corrective measures. This was the first body of laws directed to the protection of the Indians.¹² We include captions representative of these laws, because we feel that they are a part of the historical development of Spanish juridical ideas necessary to an understanding of later Spanish laws that pertain to the Indians.

Captions Representative of the Laws of Burgos,
1512, and the Amendments of 1513¹³

Laws 1 to 8: The Indians were to be settled in villages near their encomenderos,¹⁴ and were to be brought with the least possible harm to caciques and Indians.¹⁵ In each new village the encomendero was to build a church and teach his Indians.¹⁶ They were to be taught with love and gentleness, and every two weeks the encomendero was to examine the Indians to see what they had learned.¹⁷ The churches were to serve all Indians within a league, they were to be brought to hear the Mass, and were to be fed better on Sundays.¹⁸ Prelates were to see that priests were continually available for the Indian churches,¹⁹ and there were to be churches provided for those who worked at the mines.²⁰

Laws 9 to 15: Encomenderos with 50 or more Indians were to have one of the boys taught to read, write, and understand the faith so that he might later teach others. Priests were to attend the sick and dying and were to hear confessions once a year without charging the Indians a fee. All children were to be baptized within a week of birth, and the encomendero was to officiate if there was no priest available. The Indians were not to be used as carriers at the mines²¹ and were to mine gold five months of the year, then rest 40 days. None but slaves were to be used for mining during the rest period.²² Indians were to be allowed to perform their customary dances on Sundays and feast days,²³ and encomenderos were to see that they had sufficient food, especially on Sundays and feast days.

Laws 16 to 20: Sons of the caciques, age 13 or under, were to be taught by the Franciscans for four years, and then returned to the encomienda.²⁴ Indian men were not to have more than one wife, and they were to be lawfully married.²⁵ After the fourth month, no pregnant woman was to be sent to work in the mines but was to be engaged in light tasks.²⁶ Encomenderos were to give each Indian a hammock and not allow them to sleep on the ground. They were also to give each Indian a gold peso every year for clothing, in addition to the said hammock.

Laws 21 to 25: An encomendero was not to employ Indians that belonged to another, and caciques were not to have more than a specified number of Indians for their personal service.²⁷ Inspectors were to keep records of the increase or decrease of Indians held in

encomienda and of the amount of gold produced. No person was to dare to beat an Indian or to call him an improper name,²⁸ and persons having Indians were not to use them in private trade or commerce.

Laws 26 to 28: Indians brought from villages remote from the mines were to be well provided for, and Indians brought from neighboring islands were to be treated in the same form and manner as commanded for Indians of the specified island. Upon the death or removal of an encomendero, the Indians were not to be required to change their residence.

Laws 29 to 33: Two inspectors were to be appointed for each Indian village,²⁹ and the inspectors were to be appointed by the Admiral, or other royal officials, and were to be compensated by receiving Indians in encomienda. Indian villages were to be inspected twice each year, once by one inspector, then by the other. Inspectors were not to retain runaway Indians but were to deposit them with a person of good conscience until their "master" was discovered. Inspectors were to keep copies of these ordinances, the Laws of Burgos, in their possession, signed by Royal officials, and were to obey them.

Laws 34 and 35: Once every two years, a residencia was to be taken of the inspectors. Not more than 150 and not fewer than 40 Indians were to be held by one person.³⁰

Done in this City of Burgos, December 27, 1512.

Amendments

After due consideration of the laws of 1512, they were amended and modified by laws given in the City of Valladolid, July 28, 1513.

Laws 1 to 4: Married women were not to be forced to serve with their husbands, at the mines or elsewhere, unless by their own free will.³¹ Indian children were to serve in tasks proper for children and were not to be compelled to do adult tasks.³² Unmarried Indian women were to work with their parents on their lands and were to be with other women, to prevent their becoming vagabonds or bad women.³³ Within two years, Indian men and women were to go about clad, and when they were capable of governing themselves they were to be allowed to do so.³⁴

These laws were to be brought to the knowledge of everyone, public officials and individuals, and they were to be obeyed under penalty of law.

The New Laws of 1542-43

The year 1542 may be thought of as a high point for the Indianist movement in Spain. Bartolomé de Las Casas had returned to Spain after a period of success in the conversion of the Indians of Tuzulutlan by peaceful persuasion; that is, without the force of arms or "Just War." Charles I had finally determined to devote himself to the affairs of the Indies and to bring together the necessary persons to decide what must be done. Cardinal Loaysa, president of the Council of the Indies,

and a majority of its members were adherents to the Las Casas theories. In response to a request from the King, Francisco de Vitoria had reached a decision favorable to Las Casas and against Fray Toribio de Motolinia concerning mass conversions of Indians.

The New Laws were largely devoted to a solution of the problems growing out of relations between Spaniards and Indians. Following the lead of the Las Casas school of thought, the King was determined to end the use of his vassals, the Indians, as slaves.³⁵ There were also laws that would have improved conditions for the Indians under encomienda and, eventually, would have eliminated the Encomienda system, but this was too much for the conquistadors and their descendants. There was a revolt and rioting in Peru, and in New Spain it was decided that it would be better to not promulgate the laws that were particularly offensive until the most abrasive elements could be ameliorated, for fear of revolt.

This new version of the New Laws is taken from a compilation of Philip II published in 1571. It is almost identical to earlier versions except for a somewhat different division and numbering of the laws which results in some differences in the headings provided.³⁶ Again, we include captions representative of these laws, because we feel that they are a part of the historical development of Spanish juridical ideas necessary to an understanding of later Spanish laws pertaining to the Indians.

Captions for the Laws of 1542

Laws 1 to 12, concerning the Council of the Indies: Members of the Council were to meet three hours every morning and in the evenings, when it was necessary. In causes of 500 pesos and upwards, there were to be three votes agreeing, and causes of less than 500 pesos were to be determined by two agreeing. No causes were to be advocated that were contrary to these ordinances [the New Laws].

The servants of the Presidents or of members or officers of the Council were not to be attorneys or solicitors. Members of the Council were to keep the laws of "these kingdoms" [of Castile]: especially those against receiving bribes, and they were not to write letters of recommendation to the Indies nor were they to engage in private business. Only the Residencias and Visitas of the governors were to be carried to the Council.

They, of the Council, were to take especial care of the preservation of good government and treatment of the Indians,³⁷ and they were to confer sometimes to think of, and ascertain in, what ways His Majesty could be justly advantaged. The Fiscal was to take care that what was ordained be observed and fulfilled.

Laws 13 to 23, concerning the Audiencias: There was to be a Viceroy in Peru and an Audiencia of four Oidores which was to reside at the city of Los Reyes [Lima]. There was also to be an Audiencia in the confines of Guatemala with four Oidores, with one presiding. All criminal causes pending, or which should pend, were to be determined in the Audiencias at first hearing, without further review.

Civil causes moved, or which should be moved, were to be determined in the Audiencias at first hearing and in review, and for those of 10,000 pesos and upwards, there was to be a second motion. Judges to whom the second petition was committed were to determine the cause by the same process. Audiencias were to provide and expedite with title of His Majesty and with His Royal Seal.

In the Audiencia there were to be three votes agreeing from 500 pesos upwards, and in less amount two votes in entire conformity were to suffice. When they appealed from the Governors there was not to be a second petition. The Audiencias were to keep the Ordinances made at Granada and Valladolid: and "Chapters of the Corregidores," etc. The Presidents and Oidores might send to take a Residencia of the Governors, which were to be sent to the Council of the Indies, and the Audiencias were to determine those of the ordinary justices.

Laws 24 to 38, concerning the Indians: The Audiencias were to inform themselves of bad treatment done to the Indians, and were to punish it.³⁸ In suits between Indians there were not to be ordinary processes. The Indians were not to be made slaves for any cause,³⁹ and Indian slaves were to be set at liberty if the owners were not able to show a title.

In places where lading of Indians could not be avoided, the rules here declared were to be kept,⁴⁰ and they were not to be laden without their consent. No free Indian was to be taken to the pearl fisheries against his will.⁴¹ Indians held by Viceroy, Governors, and other persons and houses were to be placed under the Royal Crown.⁴²

Excessive Repartimientos were to be moderated: and from what was taken away support was to be given to the original Conquerors who had

no Repartimiento.⁴³ The Audiencias were to take the Indians away from those who justly deserved such action. In Peru the Indians were to be taken away from the principal persons blameable in the disturbances of Pizarro and Almagro.

Indians were not henceforward to be held in Encomienda by any title, and those that fell vacant were to be placed under the Royal Crown.⁴⁴ Presidents and Oidores were to take care that the Indians who were taken away and fell vacant were to be well treated and instructed. In emoluments the first conquerors and the married settlers were to be preferred. Suits concerning Indians were not to be heard in the Indies but were to be remitted to the Crown.

Laws 39 to 43, concerning the discoveries: This rule was to be kept in the discoveries.⁴⁵ Neither Viceroy nor Governors were to be engaged in new discoveries. The Governors who held contracts and agreements for discoveries were to observe the Ordinances, and they were to assess the tributes that the Indians had to give, and the tribute was to be brought to the Comendero.⁴⁶ The Spaniards engaged in discoveries were to have no authority over the Indians, except the enjoying of their tribute.⁴⁷

Laws 44 and 45: He who prayed for any favour from the Crown was to bring information from the Audiencia, with their opinion. The Indians of San Juan, Cuba, and Española were to be treated like the Spaniards who resided therein.

Captions for the Laws of 1543

Laws 46 to 54, concerning Repartimientos, Tributes, and Indians:

(These laws are numbered and presented according to Philip II's Compilation of 1571.) The Conquistadors who did not have Repartimientos of Indians were entitled to certain tributes, and the sons of the first Conquistadors were to be given preference in the entitlement to tributes. Those who had Repartimientos of Indians were not to absent themselves from the provinces where they had them without a license from the Viceroy and Audiencias.⁴⁸ The Presidents and Oidores were to appraise the tributes that the Indians paid.

The Indians were to be treated as free persons, as His Majesty's vassals, "as are those of these Our Kingdoms."⁴⁹ No one was to take more than the appraised tribute from Indians held in encomienda, under penalty of law.⁵⁰ Officials were to send a record of what they had received each year, and every three years they were to send an account for the three years.

These ordinances were to be printed, and administrative officers were to see that they "be observed, fulfilled and executed inviolably, and that they have the strength and force of laws as if they had been made and promulgated in Cortes" [the representative body for the Kingdom of Castile].

Granted a reprieve in the application of the most troublesome of the New Laws (as a result of the revolt in Peru and the threat of revolt in New Spain): xxvi and xxvii that would have set Indian slaves "at liberty unless owners can show title," and would have ended the

taking of Indian slaves; xxxi-xxxiv and xxvi concerning repartimientos and encomiendas, and, particularly, Law xxxv that would have ended the holding of Indians in encomienda "by any Title"; the encomenderos wasted no time in the preparation of arguments which were dispatched at once to Spain to be presented to the King by attorneys representing their cause. As a result, "Emporor Don Carlos" ordered on October 20, 1545, that "Notwithstanding that which has been provided by the New Laws, the Indians be distributed in encomiendas to meritorious persons."*

The King had to slow down the process required by the New Laws of 1542-43, but he withheld the granting of encomiendas in perpetuity and, under continuing royal surveillance, the worst features of the institution were gradually eliminated.

Fray Bartolomé de Las Casas vs. Juan Ginés de Sepúlveda⁵¹

As the encomenderos from the Indies sent petitions requesting a more liberal interpretation of the New Laws and involved scholars, such as Sepúlveda, in the presentation of their arguments against those laws and in favor of granting of encomiendas in perpetuity before the Council of the Indies, the old arguments were dusted off and presented anew; Aristotle was cited as authority for the argument that because Indians were inferior in reasoning power, could not be educated, and engaged in many sinful customs, they were not capable of conversion and were, therefore, fit only to be slaves to those of superior intelligence

* Reproduced as Law IV, Title VIII, Book VI of the Recopilación of 1681.

(Spaniards); the papal bulls had conveyed both temporal and spiritual authority on the Spanish kings, and that they thus had every right to rule over the "barbarians" and to use force to put down their customary rulers and replace them with Christian princes who would cause them to be congregated into towns, live in houses, wear clothes, stop their idolatrous ways, and assist their Spanish masters as they continued to harvest the wealth of the Indies.

Professor Lewis Hanke, in the recent work All Mankind Is One, page 9, states that "the Las Casas-Sepúlveda disputation of 1550 was the last important event in the controversy on Indian capacity that bitterly divided Spaniards in the sixteenth century. . . ." The work produced by Bartolomé de Las Casas as a reaction to the arguments of the encomenderos and the scholars, who supported their cause, is now available to us in English as In Defense of the Indians (1974). In evaluating this work, Professor Hanke said, "If we could save only one of Las Casas's numerous writings, this is the one that would give the world the most universal view of the doctrine that undergirds all the battles he fought as Protector of the Indians."

In further praise of Las Casas's erudition, Professor Hanke continues, "In these pages the reader sees that combination of legal theory, Christian principles, his special views on the Spanish Conquest, and--especially--his convictions on the capacity of the Indians that endows his words with their enduring vitality."

Fray Bartolomé considers Sepúlvedas' arguments, each in turn, and gives his refutations at some length. In relation to the Aristotelian theory that some men are slaves by nature, Fray Bartolomé explains

that there are four kinds of barbarians, infers that one kind includes some Spaniards but that the Indians are barbarians who have their own rulers and maintain political systems.

Even though they lack the art and use of writing, they are not wanting in the capacity and skill to rule and govern themselves, both publicly and privately. Thus they have kingdoms, communities, and cities that they govern wisely according to their laws and customs. Thus their government is legitimate and natural, even though it has some resemblance to tyranny. From these statements we have no choice but to conclude that the rulers of such nations enjoy the use of reason and that their people and the inhabitants of their provinces do not lack peace and justice. Otherwise they could not be established or preserved as political entities for long. This is made clear by the Philosopher [Aristotle] and Augustine. Therefore not all barbarians are irrational or natural slaves or unfit for government. Some barbarians, then, in accord with justice and nature, have kingdoms, royal dignities, jurisdiction, and good laws, and there is among them lawful government.⁵²

Fray Bartolomé goes on to hold that as self-governing peoples, the Indians should not be subject to Christians; that Spaniards in the name of the Church have no right to use force to put down idolatry; and that the Pope could not convey temporal power over unbelievers to Christian princes.

Because the Indians were not Christians and not Spaniards, they should not have been bound by the laws of Christians and Spaniards, as was shown by Grotius, De Jure Belli (1925), pp. 45, 514-15, in reference to Hebraic law.

That those not of Jewish birth have never been bound by the Hebraic law.

Among all peoples there is one to which God vouchsafed to give laws in a special manner; that is the Jewish people, which Moses thus addressed (Deuteronomy, iv. 7): 'For what great nation is there, that hath a God so nigh unto them, as Jehovah our God is whensoever we call upon Him? And what great nation is there, that hath statutes and ordinances so righteous as all this law, which I set before you this day?'

Similar are the words of the psalmist (Psalms, cxlvii):

He showeth his word unto Jacob,
His statutes and his ordinances unto Israel.
He hath not dealt so with any nation;
As for his ordinances, they have not known them.

But we may not punish others in like manner, as is shown by an argument from the Hebraic law.

1. Other ideas are not equally evident, as, for example, that there are not more gods than one; that none of the things which we see is God, neither the earth, nor the sky, nor the sun, nor the air; that the earth is not from all eternity nor even its matter, but that they were made by God. Consequently we see that the knowledge of these things has disappeared among many peoples through lapse of time, and is as it were extinct; and the more easily so because the laws gave less attention to these ideas, seeing that some religion at any rate could exist without them.

2. The law of God itself was given to that people which the Prophets, and also prodigies, in part seen and in part brought to them by the report of indubitable authority, had imbued with a knowledge of these things neither obscure nor uncertain; and although this law most strongly censures the worship of false gods, nevertheless it does not punish with death all who are convicted of guilt in this matter, but merely those whose cases present a peculiar circumstance. . . .

3. Moreover, God did not judge that the Canaanites and the neighbouring peoples which had formerly fallen into base superstitions should be immediately punished, but only when they had increased this iniquity by heinous crimes (Genesis, xv. 16). So also among other peoples he excused the times of ignorance about the worship of false deities (Act, xvii. 38). Beyond doubt it was rightly said by Philo that to each one his religion seems the best, since this is most often judged not by reason but by affection. Not very dissimilar is the saying of Cicero, that no one approves any philosophic system except that which he himself follows. He adds that most men are held in bondage before they are able to judge what is the best.

4. Just as those are worthy to be excused, and certainly not to be punished by men, who, not having received any law revealed by God, worship the powers of the stars or of other natural objects, or spirits, either in images or in animals

or in other things, or even worship the souls of those who have been pre-eminent for their virtue and their benefactions to the human race, or certain intelligences without bodily form, especially if they themselves have not invented such cults, nor deserted for them the worship of the supreme God, so we must class with the impious rather than with the erring those who establish with divine honours the worship of evil spirits, whom they know to be such, or of personified vices, or of men whose lives were filled with crimes.

. . .

While Philip II was king of Spain, the government of the Indies became more regularized, laws were codified, and it was less probable that a missionary-preacher of a monastic order such as Fray Bartolomé de Las Casas could gain access to the Royal Presence. The affairs of New Spain and Peru were largely decided there; some special items could be referred to the Council of the Indies. The King, even one who gave as much attention to detail as Philip II, did not have eyes to see or ears to hear everything that transpired. The governmental system had to handle routine matters at the level where they occurred. Only the most extraordinary could be referred to the Council, and to the Crown. And, thus, the Indians continued to suffer in distant lands at the hands of the Spaniards who considered them to be inferior beings, even though their religious leaders had held, and continued to hold, a different view of them.

King, Encomienda, and the Indians after 1550

After the publication of the New Laws of 1542-43, the encomenderos had convinced the King that the institution of the encomienda was necessary to keep the support of landed Spaniards in the Indies. They did not, however, cause Him to favor that institution. Because He was

unable to eliminate it, Charles I, and his successors, proceeded to pick at it piecemeal by writing laws to limit the free use of the Indians held in Encomienda.

A network of royal officials was established to check on the activities of the encomenderos and local officials in order to assist with the enforcement of these laws. Frequently, the language of the law would include the idea that if the official did not see to it that the law was enforced, the neglect should be on his conscience. In Catholic Spain, this meant that it would be to his eternal damnation. The blame was being transferred from the conscience of the King to the conscience of His representative.

As a further check, the fine attached to the failure to honor a certain law was sometimes divided between the royal treasury, the officiating judge, and the informer. The royal policy thus sought to always put someone to watching everyone and put everyone guilty of disobeying royal edicts at their own risk. In the distant Indies, however, powerful people seemed to find ways to bring their influence, and wealth, to bear upon those who might try to bring them down.

The failure of Bartolomé de Las Casas and his followers, with the support of the King, to have the encomienda eliminated eventually resulted in the preeminence of temporal officials over the spiritual in matters that related to the Indians. "The change in the Crown's Indian policy, which began with the accession of Philip II, was reflected in innumerable cases, and especially in the growing disinterest of the Council of the Indies in Indian problems. . . ." Cédulas which referred to

Indians were once a major part of the total; now, they decreased sharply "as the council relegated Indian affairs to the civil authorities in the colonies." A studied effort was made to avoid friction between the religious and the encomenderos. "Clearly, such provisions excluded direct action by the church, the basis of Las Casas's policy."⁵³

Another significant defeat was the revocation of the decree of 1549 that prohibited new conquests. Great damage was done to the Indians by the conquistadors, and Las Casas had exerted considerable effort to have their activities curtailed. The excuse for the revocation, by the decree of May 13, 1556, was the need to rid Peru of a number of "idle and licentious" persons who could be occupied by such pursuits without regard to the possible damage to the Indians.

Philip II replaced the 1556 decree with the ordinance of July, 1573 "for the New Discoveries, Conquests and Pacifications" that very carefully guarded against the use of force in carrying out new expeditions for the "pacification" of the Indians and the occupation and establishment of settlements in new territory.⁵⁴ This codification, along with earlier and later laws that were accumulated on the subject, became Book IV of the *Recopilación* of 1681. This work, the greatest compilation for the entire colonial period, was the Recopilación de Leyes de los Reinos de las Indias, published in four volumes at Madrid in 1681, to be followed, almost without change, by several later reprints. Work on such a compilation had begun more than a hundred years earlier. Philip II had a "Compilation of Laws" published in 1571 which included the laws of Charles I, the "New Laws" considered above, and 122 laws of His own dealing with the organization of the Council of the Indies. He

refers to these as "Book II of the Recopilación," and Book II of the Recopilación of 1681 does cover the Royal Council of the Indies. It was this Council that governed the Indies, in the name of the King.

In the closing statement to the 1571 compilation, Philip II makes further reference to the forthcoming Recopilación: "Later, you will have these laws printed and incorporated into the said Recopilación so that with the rest of the laws already in the Recopilación, they shall be published, preserved and perpetually observed."

We are including a translation of the opening and closing statements and captions which refer to the Indians, with other pertinent information from the 122 laws in Philip II's 1571 compilation, so the reader can make comparisons with that which appeared in Book II of the 1681 Recopilación.⁵⁵ Philip II had ordered the Recopilación of 1567 published for the Kingdom of Castile. When the compilation of 1571 was completed, it was apparent that He expected the entire Recopilación for the Indies to be finished relatively soon. Actually, it was to be 110 years, after many orders had been issued by subsequent kings, before the great Recopilación He had anticipated was published and distributed.

Philip II and the Compilation of 1571⁵⁶

Know ye that We have commanded that the laws and provisions which until now have provided for the good government of the Indies be newly compiled and published. In order that all of these laws and provisions may be known and understood, those that are no longer in effect will be eliminated and that which was left out previously will be included, and the dubious and uncertain laws will be clarified and made known. For these reasons the laws have been classified and made available under common titles and subject matter for everything resolved in earlier legislation. It is Our wish that said laws agreed to

and resolved by the members of Our Council of the Indies shall be published so that they may be understood and obeyed by all.

Since the laws to be included in Book II of the Recopilación that give the authority to govern in temporal affairs to the Council have already been reviewed and discussed, We order and command that these laws be published so that they may be observed and enforced by the Council according to the instructions included therein while the Recopilación is being continued and completed.

I. The Council of the Indies⁵⁷

Laws 1 to 4: Consideration was given to the benefits and favors which the Lord had granted to His Majesty, and the Council was given supreme jurisdiction over all the Indies and allowed to consult with His Majesty concerning the laws and general and particular affairs of state as they might arise. The Council was to endeavor to secure a complete and accurate description of the conditions of everything in the Indies over which they might have administrative authority, and they were to take charge of dividing and distributing the territories of the Indies into viceroyalties, provinces, etc., so that one should conform with the other.

Laws 5 to 8: The Council was to give precedence to the principal concern which was to be the conversion and teaching of the Indians, and toward that end, they were to take all necessary means in order to unburden His Majesty's conscience;⁵⁸ also, they were to make sure that everything concerned with the care and good treatment of the Indians should be done in such a manner that they would understand that Our Lord had placed them under the protection and shelter of His Majesty for their own good. The Council was to always take the utmost care to

search for ministers of justice who would be suitable for the service of God and of His Majesty; and they were to endeavor always to know and understand how to fulfill and execute what had been resolved and commanded, punishing with rigor those who failed to comply.

Laws 9 to 12: Every Wednesday of every week, and as many more times as they were able, the Council members were to talk over and occupy and make themselves aware of those things which might serve His Majesty and the ways his treasury might be benefited most advantageously in the Indies; and, as much as possible, the Council was to abstain from involving themselves in affairs of justice between private factions. The Council was always to make certain to provide that the confidentiality of whatever subject was discussed by the ministers and officials in the Council meetings should be guarded; and, whenever the Council was obliged to resolve and establish laws or general provisions, they were to first fully and accurately apprise themselves regarding the matters which would come before them for their decision.

Laws 13 to 16: As soon as any letters and dispatches were received, they were to be taken to the Council and read immediately. Even when they were reading, the Council was not to delay themselves by providing anything which was requested therein other than making a note of what the message appeared to contain and dictating this for the clerk of the Cámara's responsibility. The Council members were to endeavor to pattern the [form and manner of government of the] provinces they established according to the form and system by which those of Castile were ruled and governed. Loss of time was considered the greatest problem of all, and, therefore, the King advised members of the Council, Viceroys, and

Audiencias to resolve whatever they must with speed and promptness. The Council was to always endeavor to give an order for publication of the decrees of His Majesty whenever and wherever it was advisable, except when it appeared to the Council that a particular decree should be kept secret.

Laws 17 to 22: On the first Monday of each month, the Council was to notify His Majesty of any business matters and transactions which should be referred to Him for consultation in order that He might direct when and how the Council was to conduct the consultation. In the meantime, if there should be some matter which required a prompt decision, the President might conduct the consultation alone, if it did not appear necessary for one of the other members to be taken along, in which case, he might take them along. There were to be two books in the Council: one to make a record of the rest of the consultations as a reminder for the consultant, and in the other was to be written down the consultations [which had taken place]. Both books were to be protected in the Council in secrecy. In the referrals made to His Majesty for favors and compensation for services, the Council was to describe in full the meritorious qualities and services of those who had served, how and where, and any compensation which had already been given to them, as well as the information and testimony on which these favors and compensations were based, and whether or not the Crown attorney opposed it. The scribe of the governing Cámara was to be in charge of the Council's book in which was recorded the favors that were given in those kingdoms, just as he was responsible for those which were bestowed in these kingdoms. No petition for favors was to be acted on or resolved, either for

favours or compensation for services, by the Council unless the President and members of the Council were present, and testimonial information was not to be returned to the informants; in the official quarters, great care was to be taken to keep this information guarded and secret.

Laws 23 to 25: Members of the Council were to abstain from becoming involved in matters of justice between parties in order that they might have more time for government business, inasmuch as they were to be informed of the official inspection and judicial action for second petition and the rest of the legal action. Neither the court's alcaldes nor other judges of this Kingdom were to interfere in any way where the said Council was in residence, either to know about or be informed of transactions and pending cases of the Indies. No ecclesiastical judge was to interfere by inhibiting members of the Council, and members of the Council were to be able to issue promptly any documents and decrees which they considered necessary in order that their power might increase.

Laws 26 to 29: Members of the Council were to meet and remain together for three hours every day, and on Monday, Wednesday, and Friday, they were to assemble together for two hours in the evening as well. The Council was not to begin to consider matters until at least three members were present, at which time they were to begin to count the time. If a courier with an official message should arrive during the day when the Council was not in session, or a case demanding a brief reply should present itself, the President might assemble the Council at his home and advise the scribe of the governing Cámara of his action. At the beginning of each meeting, the Council was to resolve government matters or those

matters which had been referred to the Council, following which the President was to distribute the cases to judicial courts according to the order which therein referred to them. The President was to use extreme caution in making judgments on legal matters and lawsuits of parties who were absent, especially those concerning Councils, provinces, and universities.

Laws 30 to 32: No petition which had been read one time by the Council might be returned again to be read; nor might the secretaries receive petitions without permission from the President; and, no transaction related to services or any other petition was to be considered by the Council a third time. A majority vote of the Council was to determine the judgment in cases of government and favors. Should the vote be equal, His Majesty was to be consulted and the matter was not to be referred to any other judge outside the Council.

Laws 33 to 37: In those controversies involving 500 pesos and over, three members of the Council were to be in agreement. In controversies involving less money, two votes in agreement were to permit sentencing. Only two councilors were to be required to assemble to learn about and to determine cases involving lesser amounts. No less than three judges were to be required to determine lawsuits involving at least 500 pesos or in criminal cases which might require corporal punishment, removal from office, or monetary judgment in the above amount. Each member of the Council was, in his turn, to dispatch the draft of all judgments made for the week, except for the executory, which was to be signed and dispatched by the most recent member of the Council. All authorized transactions of the Bulls, briefs, documents, and important legal instruments were to be recorded in the Council's book, and the originals of these papers were to be kept in

the Archive of Simancas. No member of the Council was to be permitted to have Indians in Repartimiento, even though he should have residence in the Indies, nor were any of his sons or daughters to be allowed to marry any person who had Indians in Repartimiento at the time of marriage.⁵⁹

Laws 38 to 42: None of the officials of the Council nor their children, relatives, servants, intimate friends, or persons closely connected with them were to be legal representatives or petitioners in transactions of the Council. Members of the Council were not to be accompanied by nor should they perform any service for either the negotiators or the litigants unless it was while coming from or going to the Council. Members of the Council were ordinarily to remain in their homes during the time they were not serving in the Council so that they might provide easy and gracious hearings. They were neither to bring nor introduce petitions into the Council, nor were they to ask that they be read. Neither members of the Council nor any judge of the Council was to accept anything, whether lent or given by parties of a lawsuit which was in negotiation, nor from persons who had or hoped to have negotiations with them. Neither should the members of the Council write letters of recommendation to the Indies.

II. The Presidents of the Council⁶⁰

Laws 43 to 50: If the President was well-versed in law, he was to have a vote in matters of government, favors, grants, Visitas, and Residencias. If the President was not versed in the law, he was to be

able to vote only in matters of government, favors, and grants. The President of the Council was to take pains to understand what was suitable to ordain and provide for the good guidance and care of the Indians and for the increase of the Royal fortune. He was to explain this in the Council so that they could talk this over and settle upon what was necessary.

No kind of compensation was to be allowed for any appointment to office, and the well-deserving persons who had served in those parts or those who were just going to serve or should later serve were to be given preference for offices and benefits. No relative closer than the second degree of kinship, nor servants or intimate friends, of members of the Council or the officials or employees of the Council, or those of the Viceroys, presidents, judges of the Indies, or any other person they had to provide, might be appointed to any office or be provided with any benefice.

The President was to segregate important matters and entrust them to members of the Council. He was to personally write his recommendations on each case, and these cases were to be taken back to the Council every Monday, Wednesday, and Friday. The President was to go to the Council meetings every morning and evening and was to assign the courtrooms to the best of his ability and distribute the lawsuits according to the command which had been given. Should the President not be present, the person with the most seniority was to preside. The President was to have a record of all the transactions which had been handled.

III. The Attorneys of the Council⁶¹

Laws 51 to 64: The Attorney of the Council was to take care to investigate and to know how to fulfill his obligation and protect that which had been resolved and ordained for the good government of the Indies and was to demand that the laws be kept and executed. The Attorney was to receive the same salary and financial aid as any member of the Council, and his place was to be first after those of the Council. In order that the Attorney might be able to fulfill his duties of office, the Council was, at his request, to provide him with all official dispatches so that he might send them on to the attorneys of the Indies, and they were to take care of the necessary proceedings and petitions.

The Attorney was to be given all information, recorded requests, subject matter of letters, and other matters which he might find necessary to conduct the business of his official capacity, and when judicial inquiries and residencias were to be heard in the Council, the Attorney was to have previously studied these matters. In order that he might have more time to do this, he was to be excused by the President from the evening meetings of the Council at his own request. The Attorney was to keep a book in which was recorded the contracts and agreements which were made and was to petition for their completion; also, the Attorney was to keep a book and record of all judicial actions and the status of each. He was to refer these cases to the Council each week with the request that they be examined.

The Attorney was not to postpone court action when the Treasurer

was the accused, nor was he to delay the procedures. In order that all notifications should be considered as legal, they had to be certified by a notary. The Attorney was to be able to say and to allege whatever he deemed advisable against petitions for grants, compensation, information, and opinions, and copies of information he requested were to be given to him. When any new claim concerning affairs dealing with the Indies was put before the Council by the Attorney, it was to be accepted. The same should be true if any person was to present a claim against the Attorney of the Council. The accusations that the Attorney might make were not to require the usual penalty fee deposit if he would name the Treasurer of the Council as depository.

The Attorney was to keep a book for recording all of the maravedís which were issued for the prosecution of court cases, and he was to be responsible for being cognizant of what persons among those who held office or served His Majesty in the Indies had neglected to send a report each year of the fulfillment of obligations with necessary explanations. There was to be a Solicitor for the Council.

IV. The Secretaries of the Council

Laws 65 and 66: A statement was included concerning that which was delegated to the Secretary to do and what his responsibility was to be. The Secretary was not to enter into the Council room except when he might be summoned, and he was not to be present at discussions over voting or discussions to determine any business matters of the Council. He was to be instructed what seat he should have.

V. Notaries of the Cámara

Laws 67 to 71: There were to be two Notaries of the Cámara: one was to handle government matters, and the other was to handle all other negotiations and judicial actions. The Notaries were to register and authenticate the decisions and responses of the Council, and they were to issue the dispatches to conform with the Council's decrees; they were also to read and make summary reports of all petitions, and they were to put the decisions made at the bottom of each one. The Notaries were not to be Recorders nor were they to keep the book which recorded and sealed all decisions and dispatches in their homes; they were to customarily be present at their offices whenever they were not in the Council.

VI. Notaries of the Governing Cámara

Laws 72 to 77: These Notaries were to keep the Record Book in which they were to record to the letter everything that was officially decreed and that had to be done; and in the Record Book, no dispatch was to be recorded until it had been approved by His Majesty. These Notaries were to have the Record Books bound properly and placed in their archives and chests without letting anyone who was not officially entitled to either see or read them, and a Notary was to be responsible for the Book of Inscriptions which had to be kept for the Council. The Notary was to be responsible for making a summary of every decree, document, and charge in letters and general and particular dispatches which were concerned with government matters; and, the Notary was to summarize the important and main points of everything that was requested or written in letters

of petition or in legal briefs concerning government matters, and then he was to have books made, as has been described.

Laws 78 and 79: The Notary was to have a continual and perpetual record in books showing all positions and offices, both as to rank and monetary benefits, which had been granted in the name of His Majesty or by His command, and was to keep a separate book from the Registry in which all contracts were to be recorded.

Laws 80 to 85: These laws were concerned with the documents and letters which referred various cases to the ministers or judges of the Indies or which requested information on certain matters. The Notaries were to keep a separate Report Book for those orders which were dispatched to the Indies, and judicial decrees and dispatches for these kingdoms were to have the signature and seal of His Majesty. Decrees, certificates, letters, and instructions were to be signed and have the mark of each member present in the Council. All dispatches were to be sent in duplicate and each by a different ship; the Secretaries of the Cámara were to fold the documents and seal the envelopes holding them.

Laws 86 to 91: When a Notary first entered into the services of his office, all official papers were to be given to him to inventory, and he was to continue to take inventory of all documents which were brought to him and was to be aware of those which were taken away from his office. All the legal briefs, papal Bulls, and other documents and papers relating to the State and Kingdom of the Indies which were in the Council and in the House of Seville and which were no longer needed were to be sent to the Archives of Simancas; and in addition to the other inventories, there were to be two additional inventories with complete descriptions of

all papers being taken to the Archives. There was to be a book wherein was recorded everything taken out of the archives. This law concerned the inventories which the Notaries of the governing Cámara of the Council were to make and record and, also, those of the audiencias and Accountants of the House of Trade and of the Indies.

Laws 92 to 94: The Notary was to have a book which gave the form for the oath of office which the members and officials of the Council had to swear to. The Notary was to be responsible for copying and putting in order all papers which had to be written in the book which had to be kept in the archive of the Council, and he was to make a compilation of all the titles of official correspondence and other ordinary dispatches.

VII. Notaries of the Juridical Cámara

Laws 95 to 99: These Notaries were to keep an inventory of the processes for which they were responsible. All reports and other documents had to be taken to the official notaries to be written, and each Notary was also to have an official Secretary. The Notaries were to observe the laws of these Kingdoms. These precautions were to be taken for the security of the legal actions and papers, and to each paper was to be affixed the date of presentation.

VIII. Court Reporters

IX. The Bailiff of the Council

X. Officials

XI. Accountants of the Council

XII. The Treasurer of the Council⁶²

XIII. The Chronicler-Cosmographer⁶³

117: Concerning the cosmographic tables which the Cosmographer has to make; 118: Concerning the determination of eclipses of the moon and other signs; 119: The Chronicler-Cosmographer shall write the general history of the Indies;⁶⁴ 120: He shall compose a natural history; 121: He shall make a compilation of ship's courses and routes of navigation; and, 122: The Notaries of the Cámara shall take all papers and documents to the Chronicler that he shall need.

[Closing Statement]

We command each and every one of you to read the above-described laws and sections of ordinances contained in this decree We have made. You shall obey them and shall consider them law. You shall observe the order and method of procedure in negotiations that Our Council of the Indies has to deal with, talking them over and executing them, following them exactly and carrying out each law precisely in regard to what is contained in it.

In the interim until said Recopilación is completed, the above-mentioned laws and ordinances shall be placed in the Archive of the Council. These laws and ordinances and those which are to be resolved and proclaimed later on, as well as this, Our decree, shall be copied and dispatched to our Viceroy, Audiencias, and chancelleries in the Indies, and We command they be distributed to whoever would like a copy. Later, you will have these laws printed and incorporated into the said Recopilación so that with the rest of the laws already in the Recopilación, they shall be published, preserved and perpetually observed. Neither one person nor all, with no exception, shall do the contrary of what We have commanded under the pain of losing Our favor.

Enacted in El Pardo the 24th of September, 1571. I, the King.

Preparation of the Recopilación of 1681

There are nine books or major sections in the four-volume Recopilación de Leyes de los Reinos de las Indias (Madrid, 1681). The nineteen titles of Book VI deal specifically with the Indians. Philip II (1556-1598) was involved with the writing of the greatest number of the 556 laws of the nineteen titles of Book VI; Philip III (1598-1621), with the second greatest number; and Charles I (1516-1556), with the third greatest number. The names of Ferdinand and Isabella appear in the collection; Philip IV (1621-1665) makes his greatest contribution in connection with the Indians of Chile; and Charles II (1665-1700), in whose reign the Recopilación of 1681 was published, contributed in numbers most to laws concerning the treasures in Indian communities and to the Indians of Chile.

Although Book VI is the only one devoted entirely to the Indians, each of the nine books has some laws that refer to Indians. As we might expect, Book I, which includes laws relating to the "Holy Catholic Faith," and its organization, administration, and functions in the Indies, stands next to Book VI in the number of references to the Indians. Book II, which covers the organization and functions of the Royal Council of the Indies, follows Book I in the number of references; and Book IV, which deals with discoveries, pacification of the Indians, and the establishment of settlements among them, has the next greatest number.

Professor Clarence H. Haring, in his important modern work on The Spanish Empire in America, refers to the Recopilación de Leyes of

1681 as "one of the most humane, and one of the most comprehensive codes published for any colonial empire." He makes the important point that "the shortcomings of Spanish colonial legislation often lay rather in the lack of observance than in the intention of the legislator," and states further that some of "the most difficult problems in fact were those arising from the government of an Indian population which could not be reduced to the norms of Spanish law." Because of these problems, "the crown tried to incorporate into its American legislation some of the juridical customs of the aborigines."⁶⁵

In his article, "The Spanish Origin of Indian Rights in the Law of the United States," Felix S. Cohen (1942), who has contributed so much to our knowledge of the Indian law of the United States, points out that many threads in the tapestry of our Federal Indian law are of Spanish origin.

Just a brief excerpt to whet the appetite to read all of this important study:

In the Anglo-American literary and historical tradition the Spaniards' treatment of the Indian has been so long held up to view as a pattern of cruelty and treachery that it may be considered heretical to argue at this late date that the humane principles which guide our own law in Indian affairs all faithfully follow the teachings of Spanish theologians and the edicts of the Spanish kings. And yet this thesis will not sound so startling once we recognize that although the behavior of our own citizens and officials towards the Indians has frequently been marked by acts of cruelty and treachery, it is by our own courts and laws that these acts of cruelty and treachery have been denounced, the perpetrators of these acts punished, and the victims of these acts, or their descendants, recompensed in the only kind of measure that human compensation for such acts can follow. So it was with Spain.

Felix Cohen again expresses his awareness of the fact that Indians were widely oppressed under Spanish rule but suggests that "the oppression

was in defiance of, rather than pursuant to, the laws of Spain."⁶⁶

The destruction of the Indians by Spaniards did not end with the passing of Spain's first century in the Americas. To include Professor Charles Gibson's assessment of some 300 years of the application of Spanish institutions to the Aztec peoples in the Valley of Mexico, I quote here the first paragraph of Gibson's concluding chapter from The Aztecs Under Spanish Rule:

The Black Legend provides a gross but essentially accurate interpretation of relations between Spaniards and Indians. The Legend builds upon the record of deliberate sadism. It flourishes in an atmosphere of indignation, which removes the issue from the category of objective understanding. It is insufficient in its awareness of the institutions of colonial history. But the substantive content of the Black Legend asserts that Indians were exploited by Spaniards, and in empirical fact they were.

Compilers of the Recopilación of 1681⁶⁷

We know that work on a compilation of the laws of the Indies, referred to as a Recopilación that would be organized into various Books according to subject matter, was in process at least as early as 1571 when the compilation of Philip II was made. When Juan de Solórzano y Pereira was sent to Peru in 1609, as oidor of the Audiencia of Lima, it was with the understanding that the assignment would give him experience that would help him improve the organization of the laws of the Indies.

Twenty years later (1629), Solórzano replaced Rodrigo de Aguiar as Councilor of the Indies to continue Aguiar's work on the organization of the laws of the Indies. Antonio Rodríguez de León Pinelo had reduced some 400,000 royal decrees to over 11,000 laws by October 1635. These had received Solórzano's approval by the following May. By the late 1630's,

it had been determined that these laws would be divided into nine books, apparently the same division that would appear in the 1681 publication; and, in 1646, the Recopilación was said to be ready for the press, although it was not to be published for another 35 years. Solórzano's Política Indiana appeared in two volumes (Madrid, 1648). Since it serves to some extent, as a commentary on the Recopilación and refers to the organization much as it appeared in 1681, we know that the main form had been agreed upon by this period.⁶⁸

We are not certain who is responsible for precisely what part of this major undertaking, but we do know that the three persons we have mentioned made a contribution. As we have indicated, others were involved with beginning to compile the laws and with preliminary organization a hundred years before they were finally published, and the final revision that reduced the number of laws to approximately 6,400 was made under the direction of Fernando Jiménez Paniagua, a Judge of the Casa de Contratación, while in the Council of the Indies. Further information concerning preparation of the Recopilación is included in the statement explaining the authority of these laws, below. This was included as part of the preface to the Recopilación of 1681, and we also use it to begin our section including materials from the Recopilación of 1681.

Using the Recopilación

Spanish titles and other words that do not have concise equivalents in English are left in the original Spanish spelling and are not necessarily italicized. Translations and explanations are included in the glossary.

Each law includes a heading, historical information concerning the origins of the law, and the body of the law. At the end of each title or section within a Book are references to laws from other titles in that Book and from the other eight books in the Recopilación that pertain to the laws contained in that particular title.

To refer to a particular law, it is necessary to also cite the title and book where that law can be located: B1, T1, L1, as an example, would be the first law (1) in the title (1) that deals with the "Holy Catholic Faith," and in the Book (1) containing laws and titles that relate to the organization and functions of the Catholic Church in the Indies, as seen below.

To enable the reader to relate references to topics included and agencies and officers covered in particular titles and books, and to see how Book VI on the Indians fits into the total work, we include the following outline of the contents of the Recopilación:

- Book I: The Church in the Indies (ecclesiastical government)
- Book II: The Royal Council of the Indies and the Royal Audiencias
- Book III: The Dominion and Government of the Indies (political and military)
- Book IV: The Discoveries, Pacifications, and Settlements
- Book V: The Provincial Governments and Justice
- Book VI: Concerning the Indians
- Book VII: Criminal and Penal Law
- Book VIII: Accounts and the Royal Treasury
- Book IX: Trade, the Fleets and Passage to the Indies

In the codification of the Laws of the Indies, these nine books represent an attempt to bring together in each book the most important laws relating to the Church, the Council of the Indies, the Indians, the functions of the Royal Treasury, etc.; but, a codification or classification system can never cut matters quite that clean. There are important interrelationships that can be understood fully only by seeing them from various points of view, as they appear in these various books.

As an example, Book I, the Church in the Indies, contains many references to the Indians, but here they are approached generally from the point of view of the Church and its functionaries. If we want to understand the role of the Doctrinero, the priest given the assignment to teach the Holy Catholic Faith in the Indian parish, or Doctrina, our approach should be through Book I rather than Book VI.

The Indians were vassals of the King, and the institutional structures referred to in the various Books of the Recopilación had them in mind as well as the Spaniards. In the following pages, captions are included for laws that relate to the Indians in Books I through V and VII through IX to help provide a fuller concept of Spanish relationships with the Indians and a better framework for Book VI, which is devoted entirely to laws relating to the Indians and translated completely.

Our intention is to have the captions in English, based on the headings given for each law, include enough information to convey the sense of the law referred to there. We have grouped laws treating particular subjects into a paragraph format to as nearly as possible achieve for the

reader a running commentary on the content of these books, titles, and laws as they relate to the Indians. To give better continuity in reading this material, disregard the law numbers, which are included as reference points to help the reader find that particular law in the Recopilación. For further information at any point, the reader should turn to the particular law, title, and book cited in the Recopilación, itself (in the original Spanish).

Abbreviations

In making reference to particular books, titles, and laws in the Recopilación de Leyes de los Reinos de las Indias, B will stand for Book, T for Title, and L for Law, as follows: B6, T6, L6. This form will be used for footnotes and other references. LB refers to the Laws of Burgos, 1512-1513; and NL refers to the New Laws of 1542-1543.

THE RECOPIACIÓN
DE LEYES
DE LOS REINOS DE LAS INDIAS

1681

Law Declaring the Authority that the Laws of

This Recopilación Are to Have

May 18, 1680

Don Carlos, by the Grace of God: King of Castile, León, Aragón, the two Sicilies, Jerusalem, Navarra, Granada, Toledo, Valencia, Galicia, Mallorca, Seville, Sardinia, Córdoba, Corsica, Murcia, Jaen, the Algarves, Algecira, Gibraltar, Canary Islands, East and West Indies, Islands and Continent of the Ocean Sea; Archduke of Austria; Duke of Burgundy, Brabante and Milan; Count of Hapsburg, Flanders, Tyrol and Barcelona; Lord of Biscay, Molina, etc.

To you: Dukes, Counts, Marquesses and Nobles; Presidents, Governors and Grand Chancellor; Members of Our Council of the Indies; Our Viceroy, Presidents and Oidores of Our Royal Audiencias, Governors, Corregidores, Alcaldes Mayores, Alcaldes Ordinarios, Our other Judges and Justicias, Receivers of Accounts, Officers of Our Royal Treasury in These Kingdoms and in the Indies, Islands and Continent of the Ocean Sea; Prior, and Consuls of the Consulates of Seville, Mexico and Lima; Our President, Official Judges and Counsellors of the Casa de Contratación of Seville, Generals, Admirals, Commanders, and the other Ministers and officers of the Armadas, Fleets and merchant ships in the Indies; and, any other persons to whom the contents of This Our Letter pertain or may pertain.

Know Ye: that since the time of discovery of Our West Indies, Islands and Continent of the Ocean Sea, the main concern of Our glorious, Predecessor Lord Kings and Ours has been to provide laws by which Those Kingdoms may be governed in peace and with justice; and that many Cédulas, Letters, Provisions, Ordinances, Instructions, governmental decisions, and other communications have been sent that have not come to the attention of Our vassals because of delay and the distance from some Provinces to others. This may have been cause for great harm to good government and the rights of the parties concerned. We have wished to remedy these problems and have considered that, as the matters are so diverse and there are so many difficult cases, it is rightful that all that is ordered and agreed to by Us should come to the attention of all people, in order that they may all know: the laws by which they are governed, and which they must observe in matters of government, justice, war, property, and other matters; and the penalties incurred by transgressors. We have ordered very diligent and careful examination of the records of Our Secretarías, and all the communications, which have grown to excessive number because so much time has passed. We have noted: that some books, printed volumes and manuscripts, in which there is no authority, deliberation, order, or clarity, as required by Our Royal laws, are not sufficient, nor is it appropriate to make a resolution in any matter by referring to them; and that Our Predecessor Lord Kings ordered and commanded that all that had been ordered and determined up to their times was to be assembled according to

subjects and clear decisions, especially for the years 1552 and 1560. Various communications were sent to Don Luis de Velasco, Our Viceroy of New Spain, upon the petition of Doctor Francisco Hernandez de Liébana, Fiscal of Our Council of the Indies, charging him to assemble the Cédulas, Provisions, and chapters of Letters concerning good government and justice, that might be in Our Royal Audiencia of Mexico, and that might be printed. He in turn delegated this order to Licenciado Vasco de Puga, Oidor of that Audiencia, who assembled and had printed a book of Cédulas in the year 1563. When Don Francisco de Toledo became Viceroy of Peru with a special instruction to immediately have a re-compilation made of all the Cédulas, he ordered that they be re-compiled in one book with definite titles and subjects. This work was not undertaken then because it was agreed that it be done in These Kingdoms, where in the year 1570 the Lord King Don Felipe II commanded that a proclamation and recopilación be made of the laws and provisions issued for the good government of the Indies, in order that they might all be understood and communicated, by deleting those that were no longer suitable, adding those that were lacking, explaining and adjusting those laws and provisions that were doubtful and contradictory, and by arranging them by titles and common subjects. It was only possible to print and publish the Title concerning the Council and its Ordinances, which were ordered to be observed and executed by the Cédula of September 24, 1571. In view of the great activity in Our Council of the Indies, and in order to make up for this

deficiency, Diego de Encinas, Officer of the Secretaría, was ordered to copy the Provisions, Cédulas, chapters of Ordinances, Instructions, and Letters, that had been issued and communicated at various times, up to the year 1596. This made up four printed volumes which still did not satisfy the purpose of a recopilación in an appropriate way, because they did not have the necessary arrangement and distribution. In the year 1608, at which time the Count of Lemus was President of the Council, a Junta was formed and a room was assigned in order that Licenciados Hernando Villagomez and Don Rodrigo de Aguiar y Acuña of the Council might continue this work and resolve its questions. They were unable to pursue it because of the hindrance that it caused with respect to the necessary duties of their positions, even though the President, Licenciado Don Fernando Carrillo, exercised very special attention toward its accomplishment, but did not succeed, for the same reasons. As it was of such necessity and importance, Licenciado Don Rodrigo de Aguiar was assigned to pursue it, with the assistance of Licenciado Don Antonio de León, a learned Judge of the Casa de Contratación of the Indies. In the year 1628, during which such an extended work was being completed, in order that the resolutions and decisions contained in it would be made known, the book was ordered and made available, which book has been circulated until now under the title of Summaries of the General Recopilación of Laws. Upon the death of the said Don Rodrigo de Aguiar, Doctor Don Juan de Solórzano Pereyra of the same Council continued the work under the direction of the Count of Castrillo, who also

exercised special attention toward its completion. In the year 1660, the Governor, Licenciado Joseph Gonzalez, after having reviewed, with the entire Council, the progress that had been made up to that time, and having consulted with Us, decided to form a Junta comprising the Governor and Licenciados Don Antonio de Monsalve, Don Miguel de Luna, and Don Gil de Castejón. They were succeeded by Don Alvaro de Benavides, Don Tomas de Valdes, Don Alonso de Llanos, Dan Juan de Santelices, Don Antonio de Castro, Don Juan de Corral, and Don Diego de Alvarado, all members of Our Council of the Indies. They were to be assisted by Licenciado Don Fernando Ximenez Paniagua, learned Judge of the Casa de Contratación, so that they could communicate with each other and resolve with the Council points that would require greater deliberation. After that, the Governor, Doctor Don Francisco Ramos del Manzano, the Count of Peñaranda, the Count of Medellin, and the Duke of Medina-Celi, Presidents of Our Council of the Indies, continued this same attention, investigating as much as was necessary for Our Royal Service and for the welfare of the public cause, in order that the work would be pursued and perfected, employing the necessary means to achieve the objective We desire, so that the work might come forth with the proper authority. Having reviewed, and Prince Don Vicente Gonzaga governing the Council having consulted with Us, We agree and command: that the laws that are contained in this book and that are issued for good government and administration of justice in Our Council of the Indies, the Casa de Contratación of Seville, East and West Indies, Islands and Continent

of the Ocean Sea, north and south, navigation, armadas and ships, and all that is adjacent to and dependent thereon, all of which We rule and govern through the said Council, shall be observed, fulfilled and executed; and that, by these laws, all the disputes and affairs that may arise in These Kingdoms and Those Kingdoms shall be determined, even though some of these laws may be newly issued and ordered but not published or proclaimed, and even though they may be different from or contrary to other laws, chapters of letters and orders of These Our Kingdoms of Castile, Cédulas, Letters from Courts, Provisions, Ordinances, Instructions, government edicts, and other written or printed communications. It is Our will: that all these other laws, etc., shall have no authority whatever from now on; and that there shall be no judgments made in accordance with them, because such judgments are to be made in another way. Or, they are expressly revoked, as We more fully revoke them by this law, but only in accordance with the laws of this Recopilación, remedying imperfection of the laws by observing that which is ordered by Law 2, Title 1, Book 2 of this Recopilación, with the Cédulas and Ordinances given to Our Royal Audiencias remaining in force and in effect insofar as they are not contrary to the laws of the Recopilación. We command that, when it is printed: it shall be placed as one volume and book in the Archives of Our Council of the Indies; it shall be revised and signed by members of Our said Council which will be the place of its original registry, so that, whenever any doubt or difficulty arises concerning the meaning of these laws, it shall be corrected

and amended by the Council; and likewise, there shall be another volume and book in Our Archives of Simancas, which will be corrected and collated with the one the Council has, and will have the same authority of registry and original. This is Our will. Issued in Madrid on May 18, 1680.

Book 2

Title 1: Concerning Laws, Provisions,
Cédulas, and Royal Ordinances

Law 1: The laws of this Recopilación shall be observed according to the way and in the cases herein provided.

Don Felipe IV in this Recopilación.

We have considered how important it is that the laws for good government of Our Indies, Islands and Continent of the Ocean Sea, north and south, that have been issued in various Cédulas, Provisions, Instructions and Letters, should be combined and reduced to this body and form of law, and should be observed, fulfilled, and executed. Therefore, We order and command: that all the laws contained in this body shall be observed, fulfilled and executed as Our laws, according to and in the way provided by the law that is placed at the beginning of this Recopilación; that only these laws shall have the force of law and pragmatic sanction in what they decide and determine; and that, if it is

necessary to issue more laws than those contained in this book, the Viceroy, Presidents, Audiencias, Governors and Alcaldes Mayores shall notify Us, and shall inform Us through the Council of the Indies as to the motives and reasons for it, in order that after close examination, the most appropriate resolution may be made, and the laws may be added in a separate book. We command that no change shall be made in the municipal ordinances and laws of any city, or in those issued by any communities or Universidades, or in any ordinances for the welfare and usefulness of the Indians that have been issued or confirmed by Our Viceroy or Royal Audiencias for the purpose of good government, provided that they are not contrary to the laws of this book. And after being confirmed by the Audiencias, they are to remain in force and be observed pending the time that the Council of the Indies reviews them, and either approves or revokes them. In the case of anything that is not decided by the laws of this Recopilación, with respect to judgment of cases and their determination, the laws of the Recopilación, and the Partidas [Ley de Las Siete Partidas] of These Kingdoms of Castile, shall be observed, in accordance with the following law.

Law 2: The laws of Castile shall be observed in cases not decided by the laws of the Indies.

Emperor Don Carlos and the Governing Empress in the Ordinances of Audiencias of 1530. Don Felipe II in Ordinance 312. Don Felipe IV in this Recopilación.

We order and command that in all cases, affairs and proceedings in which it is not decided or stated what should be provided by the laws of this Recopilación, by Cédulas, Provisions or Ordinances for the Indies that are issued and unrevoked, and by those laws, etc. that are communicated by Our order, the laws of Our Kingdom of Castile shall be observed, in conformity with the Law of Toro, with respect to substance, resolution and decision of cases, affairs and proceedings, as well as with respect to the form and order of arriving at judgments.

Clarence H. Haring in The Spanish Empire in America (1947), pp. 110-111, speaks of the importance of the Recopilación during the colonial period and states further that some of the "most difficult problems in fact were those arising from the government of an Indian population which could not be reduced to the norms of Spanish law." Because of these problems, "the Crown tried to incorporate into its American legislation some of the juridical customs of the aborigines." There is a law following the two cited above in the Recopilación of 1681 that explains what respect Spanish officials should pay to the Laws of the Indians (B2, T1, L4):

The laws of the Indians which were made in antiquity for their governance shall be respected, as well as those newly-made.

Emperor Don Carlos and the Governing Princess Doña Juana in Valladolid on August 6, 1555. See also Law 22, Title 2, Book 5.

We order and command that the laws and good customs that the Indians had in antiquity for good government and general welfare, as well as the uses and customs observed and retained since they became Christians, shall be respected and enforced as long as they do not conflict with Our Sacred Religion nor with the laws of this book or the new laws which have been ordered and commanded. Inasmuch as it is necessary for the present, We shall approve and confirm them, except that We shall be able to add some which prove useful and appear to Us to be worthwhile to the service of God and Ourselves, and for the care and Christian polity of the natives of the provinces, without damage to those laws they made or to their good and just customs and statutes.

The Partidas, updated by the Leyes de Toro, promulgated at the time of Doña Juana la Loca (1505), and the Nueva Recopilación, promulgated during the reign of Philip II (1567), continued to be used by Spanish officials in the Americas as supplements to the Laws of the Indies, not only throughout the Spanish period but as carried over into the national codes of Mexico and other Latin American nations, also affecting laws in what is now the southern and southwestern part of the United States. The compilation of the laws in 1567 became a standard work for Castile (These Kingdoms), as the compilation of 1681 was the standard for the Indies (Those Kingdoms). The Nueva Recopilación, however, was added to in later editions, until the Novísima Recopilación de las Leyes de España, or the Newest [or Latest] Compilation of the

Laws of Spain, was published in 1805. The Recopilación of 1681 for the Indies was never added to or revised. Revisions were ordered, and considerable work toward a revision was done in the eighteenth century, but the work was not completed.

BOOK I

THE CHURCH IN THE INDIES⁶⁹

Title 1: Concerning the Holy Catholic Faith: L2: When the representatives of the King arrive at any Province and new discovery in the Indies, they will immediately proclaim the Holy Faith to the Indians; L3: The Ecclesiastical Ministers will first teach the Articles of our Holy Catholic Faith to the Indians; L4: If the Indians do not wish to accept the Holy Faith peacefully, the Ministers will use whatever means necessary to comply with this law; and, L5: The viceroys, Presidents, and Governors will take great pains to see that the Indians shall be instructed well in the Holy Catholic Faith.

L6: The Viceroy, Presidents, and Governors will help rid the Indians of their idolatries; L7: The Idols of the Indians will be destroyed and taken away, and the Indians will be forbidden to eat human flesh; L8: The Indians will be separated from their false, idolatrous priests; and, L9: The stubborn Indians will be reduced and placed in religious communities.

L10: In the repartimientos, locations for Indians, and other undeveloped areas, there will be a Priest who will teach the Christian doctrine in accordance with the Royal Decree; L11: There shall be a Doctrina for the Indians who work in textile plants and sugar mills; L12: In each town, a time will be determined when the Indians and Negroes must gather to hear the Christian doctrine; and, L13: The

slaves, Negroes and mulattoes will be instructed in the Holy Catholic Faith, just as the Indians are.

L14: Nothing will be done to prevent the Indians from attending Mass on Sundays and Holy Days; L15: Those who have infidel Indians in their care will send them every morning to be taught the doctrine; L16: When the Indians attend Mass on Holy Days, the Justicias will not come to the portals of the churches to make inquiries of them. A 1626 addition to this law allows tithe collectors to make arrangements with Indians concerning tithes at the portals of the churches; and L17: The Indians, Negroes and Mulattoes are to be spared from working on Sundays and Fiestas.

L18: The Indians who are baptized will not have to cut their hair; L19: The Holy Sacrament of the Eucharist will be given by the Prelate to the Indians who possess understanding; L20: The Prelates will have the Holy Sacrament put in the churches of the Indians, and this will be used to administer the last rites; also, L23: A Papal Brief will be published whereby the Indians may earn plenary indulgence solely through the Holy Sacrament of Confession.

Notes⁷⁰

The Inquisitors, in proceeding against the Indians, will follow the instructions in Law 17, Title 19 of this book.

The principal concern of the Council shall be the conversion of the Indians, including the placement of qualified Ministers. Law 8, Title 2, Book 2.

The governing officials and Judges have to work with the Indians and bring them into the Church. Law 23, Title 2, Book 5.

Title 2: Concerning the Cathedrals and Parochial Churches:⁷¹

L3: The Parochial Churches will be erected at the expense of the King, the citizens, and the Indians; L6: In the principal towns among the Indian villages, churches will be erected by means of the tributes; L7: The churches that are erected in the Indian villages will each be given a sacred ornament, a chalice with paten and bell; L19: The Indians will build houses which are annexed to the churches for the priests; L22: The Prelates will inspect the funds intended for the building of churches and hospitals for the Indians and will make a record of them, assisting in accordance with the Royal Patronage; and L23: The Encomenderos will provide what is necessary for divine worship as well as ornaments for the churches.

Title 3: Concerning the Monasteries and Convents, Asylums and Orphanages.

Title 4: Concerning the Hospitals and Sodalties: L1: Hospitals will be built in every Spanish and Indian village; L4: That which is reserved for the Hospitals for Indians will not be taken away for the seminaries, and the donations therefore will be protected by the Provincial Council; and L7: The Corregidores will keep an account of the tomin which the Indians contribute for the hospitals.

Title 5: Concerning the Immunity of the Churches and Monasteries, and that in this respect the Law of the Kingdoms of Castile be followed.

Title 6: Concerning the Royal Patronage of the Indies: L30: The Clerics and Religious will not be granted parochial jurisdiction unless they know the common language of the Indians with whom they must work;

L37: In the absence of the Bishop for the examination of the Doctrineros, the Governor will appoint someone who can assist with the examination; L41: The benefices of villages of Indians will be strengthened; L44: The chief official in charge of building churches and hospitals for Indians will be selected in accordance with the Royal Patronage; and L46: The Prelates who are informed concerning the Doctrinas will determine the districts and will not assign more than 400 Indians to each one, taking into account the nature of the land.

Notes

The Prelates will inspect the funds intended for the building of churches and hospitals for Indians, and will make an inventory of them, assisting in accordance with the Royal Patronage. Law 22, Title 2.

Title 7: Concerning the Archbishops, Bishops and Ecclesiastical Visitadores:⁷² L7: The Prelates will ordain the Mestizos as Priests, giving them information regarding the life and customs, and shall also provide that the Mestizas may become Nuns of the same quality; L8: Those Clerics and Religious who may have gone to the Indies without permission from the King will not be given permission by the Bishops to administer the Holy Sacrament, that is to say the Mass, nor take charge of the Doctrina of the Indians, and they will be made to embark for these Kingdoms; L11: The Prelates will punish the Clerics who commit offenses against the Indians or mistreat them; L12: The Prelates will punish the wrongdoing of the Doctrineros, in accordance with the law; and L13: The Prelates will strive for the education and good treatment of the Indians during their inspections and on all occasions.

L15: The Archbishops and Bishops will not collect a share of the funeral contributions from the Clerics; L23: The Indians do not have to provide food for the Prelates when they come to visit, and the Viceroy and the Audiencia will give them sanctuary and provide them with the necessary provisions; L27: The Prelates and Ecclesiastical Judges will not take Indians away from their villages; and if some offense may have been committed, they shall be punished in their own villages; L29: The Audiencias will provide that the Prelates and Visitadores will not collect unauthorized tributes from the Indians; L31: The Royal Audiencias will judge the offenses committed by the Bishops and Visitadores in cases that are not from their jurisdiction; L32: The Prelates will not employ Fiscales unless it be in the cities where cathedrals are located, and they will not go beyond their jurisdiction; and L33: The Bishops will collect what the Indians give for Ecclesiastical benefice and pious work and will make a record of the funds.

Notes

The Prelates will inspect the funds intended for the building of churches and hospitals for the Indians and will make a record of them, assisting in accordance with the Royal Patronage. Law 22, Title 2 of this book.

The Clerics and Religious will not be granted parochial jurisdiction unless they know the common language of the Indians with whom they must work. Law 30, Title 6 of this book.

The Doctrineros will not take from the Indians more than is due them, and the Prelates will not take from the Doctrineros a share of the funeral offerings or any other contributions which they would not customarily be entitled to. Law 13, Title 13 of this book.

The Royal Judges who make diligent efforts in investigating the offenses against Indians will not be censured, even though it results in charges being brought against the Ecclesiasts. Law 27, Title 14, Book 3.

Title 8: Concerning the Provincial and Synodal Councils.

Title 9: Concerning the Bulls and Apostolic Briefs.

Title 10: Concerning the Ecclesiastical Judges and Conservators:

L6: The Ecclesiastical Judges will not sentence the Indians to pay fines of money; L7: These Judges will not sentence the Indians to workshops, nor permit that they be defrauded of their salaries; L8: They will not be allowed to sentence Indians to be hired out for extended periods; and L14: In order to provide more support for the Indians, the Royal Judges will not take away their rights nor molest them.

Title 11: Concerning the Dignitaries and Prebendaries of the Metropolitan Churches and Cathedrals of the Indies.

Title 12: Concerning the Clergy.

Title 13: Concerning the Curates and Doctrineros:⁷³ L3: If the Bishops persuade the Clerics to accept the Doctrinas, the Audiencias will determine the manner in which the Indians should be instructed; L4: The Viceroy, Audiencias and Governors will take great care to see that the Doctrineros can speak the language of the Indians, or they will be removed; L5: The Curates will give the Indians lessons in the Spanish language and will teach the Christian Doctrine in Spanish, as well; L6: The Clerics and Doctrineros will not seize the Indians nor

pass judgement on them, nor will they choose Fiscales, and they will protect the Aranceles [Ecclesiastic tariffs]; and L7: The Indians will not be compelled to make an offering in the Mass.

L8: The Doctrineros will pay the Indians out of their own wages for whatever they take from them, and if they go to the extreme, they will be removed from the Doctrina; L9: The excesses of the Doctrineros will be corrected according to the testimony of the Indians; L10: The Curates and Doctrineros will neither detain nor take in Indians under mita who escape from the mines; and L11: The vexations of the Indians caused by the Doctrineros shall be corrected, and the culprits shall be dismissed from their duties.

L12: If the Doctrineros take food or other things from the Indians without paying the true value, the Royal Audiencias will remedy the situation; L13: The Doctrineros will not take from the Indians more than is due them, and the Prelates will not take from the Doctrineros a share of the funeral offerings or any other contribution which they would not customarily be entitled to; L14: In the Philippines an accounting will be made regarding the financial support of Doctrineros, as has been commanded; and L19: The wages for the Doctrineros will be paid out of the tributes from their Doctrinas.

Notes

The Curates and Doctrineros will comply with the decrees of the Council, the lawful customs, and tariffs in the laws which have been formulated for the Indians under their administration. Law 10, Title 18 of this book.

Title 14: Concerning the Friars: L36: The Prelates will inform the Viceroy and the Bishop concerning the Friars who are sent to the new lands; L37: The Prelates will not remove Friars who have been assigned a certain area by order of the King, Presidents or Governors for the purpose of pacification and conversion of the natives; L38: Those Priests who leave on missions will be given all necessary assistance; L39: The Friars shall not be hindered from preaching in Indian villages; L47: A Papal Brief shall be published which authorizes the mendicant Friars to administer the Holy Sacrament to the Indians; L59: The Friars will be permitted to choose through their Chapters where they would like to serve, unless they are assigned to Indian villages; L78: In the Convents, there will not be a Baptismal Font; nor will the Prelates perform baptisms or marriages; and L81: The Religious are not to be served by the Indians, and in the event this is necessary, they are to pay them.

Notes

The Clerics and Religious will not be granted parochial jurisdiction unless they know the common language of the Indians with whom they must work. Law 30, Title 6 of this Book.

The Viceroys, Audiencias and Governors will take great care to see that the Doctrineros can speak the language of the Indians or they will be removed. Law 4, Title 13 and Laws 5, 6, 7, 8, 10, Title 15 of this book.

Title 15: Concerning the Doctrineros⁷⁴ (Friars or Priests assigned to Indian parishes or Doctrinas): L1: The Doctrineros must be appointed in the same manner as are the Clergy; L2: The nomination of Doctrineros

shall be done by their Prelates; and L3: Strict compliance with the instructions given by Royal Authority shall be followed in providing the Religious for Doctrinas.

L4: The Doctrinas, Benefices and Ecclesiastical Offices shall be vacated by Doctrineros if these offices were taken without nomination and appointment, and other means shall be used in compliance with the Royal Authority.

L5: No Religious shall be in charge of a Doctrina unless he knows the language of the natives there, and those Religious who come from Spain shall learn the language well; and the Archbishops and Bishops shall see that this is complied with; L6: The Doctrineros shall be examined by the Prelates of the Diocese to determine their competence as well as their knowledge of the language of the Indians in their Doctrina; L7: Religious who have been approved for Doctrinas may be re-examined; also L8: The Governing Prelates shall determine and enforce what has been ordained for the examination of the Doctrineros, and only the competent shall be chosen.

L9: In order to propose someone or to remove someone as Doctrinero, notice shall be given to the Government and to the Diocese; L10: Appointments shall not be given to the Religious who were sent to a Doctrina in the place of someone who was removed unless it is obvious there will not be cause for another removal, such as lack of knowledge or proficiency in the language, and providing they have been approved by the Ordinario in new proposals; also L11: The Religious shall be brought into the Doctrina before those who have been there shall leave.

L12: The decision concerning the appointment of a Doctrinero to a Doctrina shall be referred to the Viceroys, Presidents and Governors;

L13: The Viceroy and President Governors shall be able to remove Doctrinas from one religious community to another for just cause, and they may commend the Indians to surrounding Doctrinas; and L14: The Regular Prelates shall provide whatever is necessary for the sustenance of the Doctrineros.

L15: When the Bishops request Doctrineros for Doctrinas, the Prelates shall provide them; L16: The penalties imposed on the Clerical Curates for absences shall apply to the Doctrineros as well; L17: Religious who administer (the Holy Sacraments) shall not be appointed in the interim by the Regular Prelates; and L18: The Religious in Doctrinas shall not be prohibited from administering the Holy Sacrament to their Spanish parishioners.

L19: The Doctrineros shall live in the vicarage; L20: The positions which Doctrineros may hold do not include those of Superiors of the convents, as this law declares; and L21: The Order of St. Francis shall be able to name Doctrineros but not Guardians in the Doctrinas of the Indies, in strict observation of the Royal Patronage.

L22: The Doctrineros shall not take advantage of the services of Indians to carry burdens on their backs for them, and the Royal Justices and their Prelates shall not consent to this; L23: Presentations may be awarded to Mendicant Priests as well as to the Clergy, and their rights shall not be taken away by these presentations; and L24: In the causes that are brought against the Doctrineros by the Convents or the Indians, the laws shall be observed as for any other person.

L25: When members of the Franciscan Order are appointed to Doctrinas, it shall be declared that their stipend shall be charity only; L26: In the event that the Religious shall leave the Doctrinas, the

Monasteries shall remain as parish churches; and L27: The Religious of the Society of Jesus shall be allowed to go out to the Doctrinas as before.

L28: For the present, the Doctrinas shall remain and the Religious shall continue; and the providing of and removal of the Religious shall be done by the Viceroy as has been the custom in Peru; and the Ordinarios or their Visitadores shall personally make an inspection in officio officiendo with regard to the Curas, and no more, using whatever punishment is necessary but not to excess, and they shall then advise their Prelates; if they do not punish them, the Ordinarios shall use the authority given them by the Holy Council of Trent regarding all Religious persons except Curas, and shall appeal to the Viceroy for their removal, all without detriment to Ecclesiastical and Secular jurisdiction; and the Viceroy and Audiencias shall give all support possible for this to be done.

L29: The Bishops and Visitadores shall visit only the churches of the Doctrinas and not the convents; L30: The Religious have and shall serve the Doctrinas non ex voto charitatis, but out of justice and obligation; also L31: The Audiencias shall not permit the Religious to use forceful means when they wish to excuse themselves from visits by the Bishops.

L32: Whenever a Religious has been established in a Doctrina to teach the Holy Faith, another shall not enter; L33: In the Philippines, the Doctrina of each province shall be placed in the charge of one of the Religious Orders, not only in the case of new spiritual conquests but also for the present ones; L34: The Doctrineros shall observe the laws of the Synod in the Diocese where they reside; and L35: The Doctrineros are to contribute to the seminaries.

Notes

The Doctrineros will not seize nor pass judgment on the Indians, nor will they choose Fiscales, and they will protect the Aranceles. Law 6, Title 13, Book 1.

According to the testimony of the Indians, the excesses of the Doctrineros will be corrected. Law 9, Title 13, Book 1.

The Curates and Doctrineros will neither detain nor take in the Indians under mita who escape from the mines. Law 10, Title 13, Book 1.

The vexations of the Indians caused by the Doctrineros shall be corrected, and the culprits shall be dismissed from their duties. Law 11, Title 13, Book 1.

If the Doctrineros take food or other things from the Indians without paying the true value, the Royal Audiencia shall remedy the situation. Law 12, Title 13, Book 1.

The Doctrineros will not take from the Indians more than is due them, and the Prelates will not take from the Doctrineros a share of the funeral offerings or any other contribution which they would not customarily be entitled to. Law 13, Title 13, Book 1.

A Papal Brief shall be published which authorizes the Mendicants of Religious Orders to administer the Holy Sacrament to the Indians. Law 47, Title 14, Book 1.

Title 16: Concerning the Tithes:⁷⁵ L11: The Indians are not obligated to the collectors of tithes for the tithes of the Spaniards; L12: The Encomenderos shall pay tithing on the tributes they collect from the Indians, in accordance with this law; and L13: The Indians shall pay tithing, as has been explained.

Notes

It shall be permitted that the Indians may make arrangements concerning tithes at the portals of the churches with the Doctrineros and the Caciques present. Law 16, Title 1 of this book.

Title 17: Concerning the Ecclesiastical Allowance.

Title 18: Concerning the Burials and Ecclesiastical Fees: L10: The Curates and Doctrineros will comply with the decrees of the Councils, the lawful customs, and tariffs in the laws formulated for the Indians under their administration; and L11: An area will be blessed as a burial ground for the dead at a distance from the church.

Title 19: Concerning the Tribunals of the Holy Office of the Inquisition and Their Ministers: L1: Concerning the establishment of the Holy Office of the Inquisition in the Indies; and L17: The Inquisitors, in bringing legal action against the Indians, will remember the instructions which were given to them.

Title 20: Concerning the Holy Crusade: L10: Bulas will not be distributed in villages of the Indians, nor will those who receive them be harrassed; and L11: Alms shall not be removed from the community strongboxes to supply Bulas to the Indian poor.

Title 21: Concerning the Questors and Alms.

Title 22: Concerning the Universities and General and Particular Studies: L1: Establishment of the Universities of Lima and Mexico; L46: In the Universities of Lima and Mexico and cities where there is a Royal Audiencia there shall be classes where the Indian language is spoken;

L48: The salary of grammar teachers shall not be paid from the Royal Treasury; L51: The Priests of the Company of Jesus shall be able to teach the Latin language and other languages in their College of the City of Los Reyes at the hours that are announced, and if the students do not take the course they will not graduate from their studies; and L56: The Prelates shall not bestow the Holy Order without approbation from the Professor of the language.

Notes

The Clerics and Religious will not be granted parochial jurisdiction unless they know the common language of the Indians with whom they must work. Law 30, Title 6, of this book.

Title 23: Concerning Colleges and Seminaries: L11: The Colleges established to train the sons of Caciques shall be favored, and others shall be established in the principal cities; L12: The College and Hospital of Michoacan shall enjoy the Royal Favor; and L14: The statutes of regulation for the College for the poor children of Mexico shall be observed and they shall be administered properly.

Title 24: Concerning the Books that are Printed and Taken to the Indies: L3: Books which use the art, or vocabulary of the Indian language shall not be printed without first being examined and approved in accordance with this law; and L4: Profane and fictitious books shall not be permitted in the Indies.

BOOK II

THE ROYAL COUNCIL OF THE INDIES

AND THE ROYAL AUDIENCIAS ⁷⁶

Title 1: Concerning the Royal Laws, Provisions, Cédulas, and

Ordinances: L1: The laws of this Recopilación shall be respected in the form and according to the circumstances under which they are transmitted; L4: The laws which the Indians had from ancient times for their government and those which are newly made shall be respected; L5: The laws made according to the custom of the Indians shall be enforced regardless of appeal; and L6: The Ordinances, Provisions and Mandates promulgated for the preservation of the Indians will be forwarded to the Council.

L18: Vacated tributes, decrees concerning grants, and bills of exchange are not to be entrusted to the Audiencia; L19: The Royal Decrees ordering assignments of repartimientos shall not be detrimental to the rights of the earliest settlers unless the King shall command otherwise; and L20: The Royal Decrees concerning grants of vacated Indians will also apply in cases where claims are pending.

L21: The Decrees concerning revenue shall be enforced first according to the anteriority of their time and date, and those of later date shall be carried out accordingly; and L24: The Decrees of the King shall be carried out in the Indies, regardless of supplication, in a manner not to cause irreparable harm or scandal.

Title 2: Concerning the Royal Council and Military Junta of the

Indies: L1: The Royal Council of the Indies shall be in residence in the Court and shall have in attendance the Ministers and Officials that this law declares; L2: The Council shall have supreme jurisdiction over

the Indies and shall make laws and examine statutes. They shall be obeyed in these laws throughout those Kingdoms; and L7: The Government of the Indies shall be organized in such a way that the temporal and the spiritual will agree.

L8: The principal concern of the Council shall be the conversion of the Indians and the appointment of Ministers capable of accomplishing this; and L9: The Council shall provide whatever is advisable for the good treatment of the Indians.

L14: In serious government matters, the entire Council shall concur; in others less serious, three members shall be in agreement, and in lawsuits concerning justice, those members who are designated shall concur; and L79: Recompense will be awarded by the War Council for services performed in war or for conducting trade between Spain and the Indies, but these gratifications shall not include encomiendas.

Notes

The Council posed the problem to His Majesty that a Treasurer from the Royal Treasury of Yucatán had begged that he be granted the honor of serving in the office, in spite of the fact that he had married a woman with an encomienda. The Council stated several causes and examples relating to him, and His Majesty was gracious enough to respond: "He must search for something else which will not result in consequences for others." Auto 21.

In the consultation of January 30, 1608, in which the Council explained to His Majesty the distress caused to those in the Indies by the granting of repartimientos of Indians to persons who remained in these Kingdoms, His Majesty was gracious enough to respond: "Very well, and the Council has permission to consult me about this whenever it appears to be advisable." Auto 25.

Title 3: Concerning the President and Those of the Royal Council of the Indies: L15: No member of the Council shall be permitted to have Indians in encomienda, nor shall their sons or daughters marry any person who has Indians in encomiendas or who may have claims pending which concern them without dispensation from the King.

Title 4: Concerning the Grand Chancellor and Registrar of the Indies, and His Lieutenant in the Council.

Title 5: Concerning the Attorney of the Royal Council of the Indies: L1: The Attorney shall be in charge of judicial proceedings, inheritances and the Royal Treasury, and shall understand how to fulfill his obligations; and he shall be responsible for the protection of the Indians.

Title 6: Concerning the Secretaries of the Royal Council of the Indies: L1: The Council of the Indies shall have two Secretaries; each Secretary shall have two major and two minor officials to help them. These assistants to the Secretaries shall have no knowledge of the Indies, nor shall they be agents of anyone living there; L2: One of the two Secretaries shall be in charge of matters concerning Peru, and the other shall handle everything concerning New Spain, as has been commanded; L26: In the certificates of title for Governors and others there shall be a clause that they shall not help themselves from the silver of the Community Strongbox, nor shall they take advantage of the Indians; and L36: All dispatches for the Indies shall be sent in duplicate.

Title 7: Concerning the General Treasurer of the Royal Council of the Indies.

Title 8: Concerning the Alguacil Mayor of the Royal Council of the Indies.

Title 9: Concerning the Notaries of the Royal Council of the Indies.

Title 10: Concerning the Court Reporter of the Cámara of the Royal Council of the Indies.

Title 11: Concerning the Accountants of the Royal Council of the Indies.

Title 12: Concerning the Chief Chronicler of the Royal Council of the Indies: L1: The Chief Chronicler shall write the History of the Indies and the member of the Council in charge of the Archive shall be the Commissioner responsible for its safekeeping; and L2: The Chief Chronicler shall also write the natural history of the Indies.

Title 13: Concerning the Cosmographer and the Professor of Mathematics of the Royal Council of the Indies: L4: The Cosmographer shall make the cosmographic tables and a book of descriptions.

Title 14: Concerning the Bailiffs, Attorneys, Public Prosecutors, Porteros, Assessors, and other officials of the Royal Council of the Indies.

Title 15: Concerning the Royal Audiencias and Chanceries of the Indies:⁷⁷ L1: The discovered lands in the Indies shall be divided into twelve Royal Audiencias and Chanceries, and each of these districts shall be divided into Governorships, Magistrates and Mayoralities; L2: The Royal Audiencia and Chancery shall be located in the city of Santo Domingo on the Isla Española; and this law describes their Ministers,

district and jurisdiction; and L3: Concerns the Royal Audiencia and Chancery of Mexico in New Spain; L4: The Royal Audiencia and Chancery of Panama on terra firma; L5: The Royal Audiencia of Lima in Peru; L6: The Royal Audiencia of Santiago in Guatemala in New Spain; L7: The Royal Audiencia of Guadalajara in Galicia in New Spain; L8: The Royal Audiencia and Chancery of Santa Fé in the New Kingdom of Granada; L9: The Royal Audiencia and Chancery of La Plata in the province of Charcas; L10: The Royal Audiencia and Chancery of San Francisco in Quito; L11: The Royal Audiencia and Chancery of Manila in the Philippines; L12: The Royal Audiencia and Chancery of Santiago in Chile; and L13: The Royal Audiencia and Chancery of Trinidad, Port of Buenos Aires.

L81: Two times a week and on Saturdays the judicial actions of the poor shall be handled, and should there be none, the complaints of the Indians will be considered; L83: The Audiencias shall be vigilant that the Indians are well treated, and that their complaints shall be handled quickly; and L123: In legal controversies concerning Indians, the Audiencias shall proceed according to the Law of Malinas, and shall dispatch to the Council already mentioned all evidence, well substantiated, which will be guarded by all.

The Emperor D. Carlos in Malinas on the 20th day of October, 1545 instructed His Ministers as follows:

We command that if someone claims to have the right to have Indians that someone else possesses, he shall appear in our Royal Audiencia in the district where the Indians are located and he shall file his complaint there. The President and Judges shall have the party against whom the action is directed informed, and both the defendant and plaintiff shall be commanded to present within three months all information they have

from witnesses, up to twelve persons and no more, together with their qualifications.

The President and Judges shall send to Us at Our Council of the Indies the testimony, closed and sealed without any other conclusion nor any proclamation thereof, and the parties cited for all petitions and judgements incurred thus far up to the review by the Council, as well as an appraisal of costs and designating a Court room.

The above-mentioned persons and the other Ministers and Officials shall take great care to assure that the legal materials which they dispatched for judgement, and those which must arrive at intervals for a second petition, do not arrive lacking anything for these circumstances and formalities.

Everything stated above shall be required, in accordance with the law.

L124: The Audiencia shall be able to postpone the time limit of the Law of Malinas, as has been commanded; L125: The Audiencias shall know about the victimizing of Indians and shall then proceed according to the Law of Malinas; L126: The Law of Malinas and its declarations shall deal with these victimizings, including the illegal deeds which Judges have committed; L127: The Governors shall know about occasions when Encomenderos take Indians from another encomienda, and also instances of when they pass them on from one encomienda to another; and L128: The final decisions regarding the law of succession between the grandson and the nephew shall not alter the Law of Malinas.

L129: The Audiencia shall make decisions regarding lawsuits for Indians involving a thousand ducats or less, and the Law of Malinas shall be applied for anything over this amount; L130: In cases of encomiendas

being vacant after a succession of owners to the third or fourth generation, the Law of Malinas with its declarations shall be observed; and L131: The Audiencias shall not form or arrange encomiendas, nor shall they have access to the cashboxes unless they have received special mandates.

L138: The custom described shall be observed in the form of the provisions for the Ecclesiastical Judge in trials of Indians; and L176: The Viceroy and Presidents shall not assign Judges without the consent of the Audiencias, and all shall procure the vindication of the rights of the Indians.

Title 16: Concerning the Presidents and Judges of the Royal Audiencias and Chanceries of the Indies:⁷⁸ L54: The Presidents and Judges of the Audiencias shall not use, hire or have dealings with the Indians, nor shall they be involved in commercial enterprises with them; L76: The Presidents and Judges and the rest of the Ministers shall pay the Indians for whatever they buy from them; and L77: The Indians shall be permitted to work for the Judges in the same manner that they work for other citizens.

Title 17: Concerning the Criminal Justices of the Audiencias of Lima and Mexico: L3: The criminal cases shall be directed to the Audiencias for examination and review or before the Judge Magistrate who shall handle the case if there is no other recourse; L21: The Criminal Justices shall not be involved with cases of the Royal Court outside of the five league limit unless it shall be in cases which occur between Indians in grave matters and after having consulted with the Viceroy or President; and L28: The Criminal Justices shall not be informed

concerning the claims regarding Indians as these shall be submitted to the Council.

Title 18: Concerning the Fiscales of the Royal Audiencias and Chanceries of the Indies: L34: The Fiscales shall be the protectors of the Indians and shall defend them and shall declare for them; L35: If the Fiscal is involved in a lawsuit with an Indian, someone will be appointed by the Audiencia to defend the Indian; L36: When the interested parties are summoned in order for lands to be given, the Fiscal shall be summoned on behalf of the Indians; and L37: The particular obligation of the Fiscales shall be to defend the liberty of the Indians.

Title 19: Concerning the Provincial Courts, and the Judges and Criminal Justices of the Royal Audiencias and Chanceries of the Indies.

Title 20: Concerning the Chief Constables of the Audiencias.

Title 21: Concerning the Lieutenants of the Grand Chancellor of the Royal Audiencia and Chanceries of the Indies.

Title 22: Concerning the Notaries of the Royal Audiencias and Chanceries of the Indies: L28: The Notaries shall dispatch the lawsuits of the Indians quickly and with moderation.

Title 23: Concerning the Court Reporters of the Royal Audiencias of the Indies.

Notes

The Reporters for the Cámara and Government shall be in attendance at the Audiencias with the Viceroys and Governors in negotiations involving Indians. Law 9, Title 8, Book 5.

Title 24: Concerning the Attorneys of the Royal Audiencias and Chanceries of the Indies: L25: The Attorneys shall not postpone lawsuits, and they shall be paid in moderation for their defense of Indians.

Title 25: Concerning the Treasurers, and also Penalties of the Cámara, Expenses of Court, Justice, and Pious Works of the Royal Audiencia of the Indies.

Title 26: Concerning the Assessors and Repartidores of the Royal Audiencias and Chanceries of the Indies.

Title 27: Concerning the Ordinary Treasurers and their Repartidor of the Royal Audiencia and Chanceries of the Indies.

Notes

In case of unimportant lawsuits, Treasurers shall not be sent to the Indian villages nor to other places. Law 84, Title 15, Book 2.

The testimonial evidence in transactions of the Audiencia shall be entrusted to the Secretaries of the villages. Law 91, Title 15, Book 2.

Title 28: Concerning the Attorneys of the Royal Audiencias and Chanceries of the Indies.

Title 29: Concerning the Interpreters: L1: The Interpreters for the Indians shall have the necessary skills and qualifications, and their salary shall be paid by the Court of Justice in the Halls of Justice, under pain of chastisement by the Cámara.

L2: There shall be a number of Interpreters in the Audiencias, and they shall take an oath to conform with this Law; L3: The Interpreters shall not receive bribes nor gifts; L4: The Interpreters shall be present at the Acuerdos and also administrative sessions of the Audiencia

as well as during visits to the jails; and L5: When the Audiencia is in session, an Interpreter shall be present in the office of the Court Reporters.

L6: The Interpreters shall not hear testimony which they must translate for trials in their own homes nor in the homes of the Indians, and they shall only do their work before the Audiencia; L7: The Interpreters shall not be Attorneys nor Petitioners for the Indians; L8: The Interpreters shall not absent themselves without permission from the President; L9: When the Interpreters must go to transactions outside of their own towns, they shall not charge more than their usual salary from the other parties; and L10: The salary for the Interpreters who leave their towns shall be determined on a daily basis, and they cannot receive anything else.

L11: The Interpreter shall inform each witness of the rights he has by law; L12: Each Indian who has to testify shall be permitted to take another Christian ladino with him to be present in court; L13: The appointment of the Interpreters shall be made as commanded, and they shall be given a residence, and they cannot be removed without cause; and L14: The Interpreters shall not ask for nor receive anything from the Indians, nor shall the Indians give more than they owe to their Encomenderos.

Title 30: Concerning the Portereros and Other Officials of the Royal Audiencia and Chanceries of the Indies.

Title 31: Concerning the Judges and Ordinary Visitadores of the Districts of the Royal Audiencias and Chanceries of the Indies: L1: From each Audiencia a Judge will leave to make an inspection of the region

every third year or before that time if it should appear necessary to the President and Judges of the Audiencia; L7: Before leaving on the inspection and evaluation trip, the Royal Attorney and Royal Officials shall be summoned, and if any of them wish to go on the trip as well, they may do so; L8: The Judge who leaves on the inspection shall be informed concerning the Doctrina of the Indians, their assessments and tributes; and L9: He shall endeavor to see that the Indians have the advantage of the benefits of the community and that they plant trees; and shall give them directions regarding these things.

L10: The Judge Visitador shall inquire concerning the treatment the Indians have received and shall punish the culprits; L11: The Judge Visitador shall investigate the treatment that the Indians have received from their Caciques; and L12: Shall be informed concerning the freedom of the Indians.

L13: The Visitadores shall determine whether the locations of the estancias are detrimental to the welfare of the Indians, and they shall rectify these matters; L14: The Judge Visitador shall punish excesses in the workshops; and L15: The Visitador shall not be admitted into the Audiencia, nor shall he be paid his salary unless he swears to an affidavit that he has determined what the controversies are and has performed his duties.

L21: The Visitador for the Philippines shall be provided with a vessel and shall visit the peaceful lands, and shall not take with him soldiers or other people who might harass the Indians; and L29: He shall travel by means of his living allowance which has been declared, and shall not receive anything from the Spaniards or the Indians.

Notes

Refer to Laws 53 and 54, Title 5, Book 6.

The Judge Visitador shall allot the Indians. Law 28, Title 1, Book 7.

Title 32: Concerning the Court of Properties of the Deceased and Their Administration and Accounting in the Indies; Fleets and Ships.

Title 33: Concerning Information and Opinions of Services: L15: Matters concerning Ecclesiastical problems shall be of primary consideration when they involve the conversion of the Indians.

Title 34: Concerning General and Particular Visitadores: L45: The Visitadores assigned to farms shall uphold this law, and they and their Recorders shall endeavor to keep themselves from committing these offenses; and L46: The Judges chosen to reappraise the tributes shall not accept salary, provisions, rights to deeds, or writs at the expense of the Indians.

Notes

Where wrongs have been committed against the Indians, the Audiencia shall be advised so that a Visitador may go there. Law 22, Title 10, Book 6.

BOOK III

THE DOMINION AND GOVERNMENT OF THE INDIES (POLITICAL AND MILITARY)⁷⁹

Title 1: Concerning the Dominion and Royal Jurisdiction of the Indies: L1: The West Indies shall always remain united to the Crown of

Castile and they cannot be alienated; and L2: In the cities where the Audiencia is in residence, the Alcalde Ordinario shall not request assistance.

Title 2: Concerning Mandates for Positions, Gratifications and

Grants: L1: The posts and positions for the Indies shall be at the mandate of the King, and those which the Viceroys and Governing Presidents have authority to appoint shall conform to the laws and the usual pattern; L7: The Merchants, Shippers and Encomenderos who come to Spain and return with positions shall not be recognized until they pay what they owe; and L13: Positions and grants that are provided shall be given to well-deserving persons.

L17: Native inhabitants and citizens, Encomenderos, landowners and miners cannot be Corregidores in their own villages; but they may be rewarded in them; L18: The Viceroys and Presidents shall be permitted to appoint Encomenderos to positions, as this law declares; and L43: The Government Recorders shall not dispatch titles unless it has been verified that the persons receiving them do not owe anything to the Royal Treasury or the Indian Community, and that they have made an accounting of taxes and paid the money due.

L54: The Corregidores appointed over Indian villages shall be satisfactory persons, and they will be punished for their excesses; and L55: The Governors shall not appoint Corregidores or Alcaldes Mayores in the villages of the Indians.

L63: Concerning the manner for naming Judges with authority to supervise water distribution, and how they shall carry out their decisions; L64: Concerning the consummation of the Corregimiento of the Valley of Guatemala; and L65: In the Province of Guatemala, they shall

have Judges of controversies concerning corn fields.

L66: The Pacification of New Mexico shall proceed, and the Viceroy of New Spain shall name a Governor there; and L67: Persons appointed to offices by the Governor of the Philippines shall not require confirmation from the King.

Title 3: Concerning Viceroy and Governing Presidents: L1: The realms of Peru and New Spain shall be ruled and governed by Viceroy; L2: The Viceroy shall have the authority which is declared by this law; L3: The Viceroy shall be Captain-General of their districts; L4: The Viceroy shall be Presidents of their Audiencias; and L5: Shall be Governors of their own districts and subordinate Provinces.

L6: The Viceroy of Peru shall take over the governorship of the kingdoms of Charcas and Quito, and he shall provide whatever is lacking in his districts; L10: The Viceroy of Peru shall not be obliged to pay taxes on what is sent to him up to eight thousand ducats each year; L53: The Viceroy shall have the authority to have roads built and to have bridges put in convenient locations, and to apportion out the levy necessary for the work; and L55: The Viceroy and Presidents shall take great care in the collecting of money and administration of the Royal revenue, and this shall be accomplished without detriment to their subjects.

L62: The Viceroy and Presidents shall keep a journal to record repartimientos of Indians; L63: The Viceroy shall not consent to the Indians being burdened with the responsibility of taking care of the roads and public works; and L64: The Viceroy shall have to study the Ordinances for good government of the Indies, and they shall so inform the King.

L65: The Viceroy shall be the first to know about trials of Indians through appeal to their Audiencias; and L66: The Viceroy of Peru shall have the authority to place vacated Indians in encomiendas, and the Viceroy of New Spain shall follow the usual procedures there.

Title 4: Concerning War: L8: Kind, gentle methods shall be used to attempt to bring rebellious Indians to peace; L9: The stipulations in this law shall be followed for making war on the Indians; and L10: Armed men shall not be sent to reduce the Indians, and if it is necessary to punish them this law shall be obeyed.

L11: The Governor shall make a decision regarding punishment for Indians guilty of an offense after the three month time limit has expired; L12: Assistance which is sent to the provinces shall be in the form of experienced, expert persons who will be in subordination to the Governors; and L15: Neither Mestizos nor Mulattoes shall be sent to New Spain or to the Philippines to give aid.

Title 5: Concerning Arms, Powder and Munitions: L14: Experts in the manufacture of arms shall not teach their art to the Indians.

Notes

Arms shall not be sold to the Indians, nor shall Indians own arms.
Law 31, Title 1, Book 6.

Mulattoes and Zambaygos shall not carry arms, and Mestizos may carry arms only with permission. Law 14, Title 5, Book 7.

Concerning Mestizo and Mulatto slaves of Viceroy, Ministers, Chief Constables and others, particularly in Cartagena, and the prohibition of giving them authority. Laws 16, 17 and 18, Title 5, Book 7.

Title 6: Concerning Construction and Fortifications.

Title 7: Concerning Castles and Fortresses.

Title 8: Concerning the Wardens and Jailers of Castles and Fort-
resses.

Title 9: Concerning the Bequests and Income for Forts and Fortresses:
L13: Venezuela shall be taxed two thousand ducats in vacated Indians to
be applied to expenses for the Fort of Guayra.

Title 10: Concerning the Captains, Soldiers and Artillerymen: L12:
No positions shall be given to Mulattoes, Morenos or Mestizos.

Title 11: Concerning the Cases of Soldiers.

Title 12: Concerning Payments, Wages, Additional Pay and Supplementary
Allotments.

Title 13: Concerning the Corsairs and Pirates and Regulations Con-
cerning Spoils and Treatment of Strangers.

Title 14: Concerning the Information and Relations of Individual
Services and Their Condition, Regarding which an Account Must be Made to
the King: L11: The Viceroy and Presidents shall be cognizant of and
shall be informed regarding the conduct of the Governors and Corregido-
res; L15: The Viceroy and Presidents shall report on the treatment and
status of the Indians; and L20: The Viceroy, Presidents, Audiencias and
Governors shall dispatch a report of wages and salaries and the effect-
iveness of repartimientos and novenas.

L26: The Prelates shall inform Us of the number of persons, Doctrinas and parishes in their districts; and L27: The Ecclesiastical Prelates shall not proceed with censures against Royal Justices who work diligently to investigate the mistreatment of Indians, even though this may result in the blame pointing toward the Ecclesiasts.

Title 15: Concerning the Precedents, Ceremonies and Courtesies.

Title 16: Concerning Correspondence, Mail Service and Chasquis Indians: L3: Whenever someone has to give information to the King of matters which have to be provided through correspondence, he should present his intentions first to the Viceroys, Presidents and Audiencias.

L21: The Chasquis Indians, or mailmen, shall be fittingly paid, well treated and protected by the Justices; and L22: The Chasquis shall be paid what is owed them every four months.

BOOK IV

DISCOVERIES, PACIFICATIONS AND SETTLEMENTS⁸⁰

Title 1: Concerning the Discoveries: L1: Before any concessions are granted for new discoveries, those [regions] which have already been discovered must be settled with people; L2: The discoveries shall be under the direction of competent and zealous persons; L3: No foreigner shall be in charge of discoveries, nor shall persons prohibited from traveling to the Indies be given authority to make discoveries; L4: No person shall undertake new discoveries by his own authority, nor shall he conduct any exploration or establish towns or settlements; L5: The President-Governor of the Philippines may conclude agreements for discoveries in accordance with this law; and L6: The word "conquest"

shall be avoided in agreements and instead the words "pacification" and "settlement" shall be used.

L7: The discoverers shall describe their travels, reading aloud each day what has been written and having one of the principal members of the expedition sign what has been recorded; L8: The discoverers shall give names to the provinces, forests, rivers, ports, cities and towns; L9: The discoverers shall bring Interpreters with them so that everyone may be informed of what this law declares; L10: The discoverers shall not involve themselves in wars or factions between the Indians, nor shall they harm the Indians or take anything from them; L11: No discoverer shall enter into a district already assigned to someone else for the purpose of establishing a settlement; and L12: The discoverers shall observe the law in favor of the Indians, and they shall observe the instructions which they have carried with them.

L13: No Governor shall make entradas or conduct trade with Indians in territory controlled by another government; L14: The discoverer shall return to give an accounting, he shall be rewarded, and a report shall be sent to the Council; L15: The discoverers shall not take Indians along with them unless they are to be used as interpreters; L16: The discoverers shall return to give information of what has been discovered when one-half of their supplies has been used up; and L17: No discovery or settlement will be supported at the expense of the King.

Notes

The Ministers shall not be involved with fleets, discoveries or mines. Law 60, Title 16, Book 2.

In order to make contracts regarding discoveries and other matters, the regular Court of Justice shall first be informed. Law 19, Title 33, Book 2.

Title 2: Concerning the Discoveries by Sea: L1: No one may go to the Indies to make new discoveries without permission from the King; L2: Anyone who receives permission to undertake discoveries by sea shall take at least two vessels which do not exceed sixty tons; L3: In each ship will be two pilots and two priests; L4: The ships shall always sail in pairs; L5: Each ship shall be provisioned for a year, including two rudders and necessary tackle; L6: No more than thirty persons shall sail on each ship; and L7: Small ships shall search for harbors where the larger ships will be safe.

L8: The pilots shall keep a written record of the ship's courses, and shall consult one another; L9: The discoverers shall trade by barter as has been commanded; L10: The Captain or person in charge of the discovery shall not disembark without the consent of the Royal Officers and the Priests; and L11: Upon disembarking, they shall take possession of the land in the name of the King.

Title 3: Concerning the Discoveries by Land: L1: The Governors shall be informed whether there are lands yet to be discovered, and when the discoveries are agreed upon, the discoverers shall be advised how to proceed; L2: Permission shall not be given for lands to be discovered within borders under the jurisdiction of a Viceroy or Audiencia; L3: The Adelantado shall have the authority to recruit people in the Kingdoms of Castile and León, and to appoint Captains, and they shall obey him; and L4: The Justices shall favor and aid the Adelantado; they shall give

him supplies; and he shall lead the people, according to the laws of the House of Seville.

L5: The Adelantado shall be permitted to sail two armed ships with provisions each year, free of payment of duty; L6: The Adelantado shall be given Royal Decrees permitting him to transport the livestock he will need; also, he shall not be hindered from bringing people who may be delinquent; L7: The Adelantado shall be given Royal Decrees permitting him to transport slaves, tax free, as has been agreed; and L8: The Adelantados, Alcaldes Mayores and Corregidores shall make agreements regarding establishment of cities.

L9: The Adelantado shall be in command of the forts that he builds; L10: The Adelantado shall have the authority to appoint Regidores and other public officials; L11: The Adelantado may appoint Officers of the Royal Treasury in the interim; and L12: The Adelantado, or person in charge, may initiate the use of markers and gravers for marking metals.

L13: The Judges of a Province shall relinquish jurisdiction to the person who takes charge; L14: The Adelantado and his successor shall have civil and criminal jurisdiction in appeals within their district; and L15: In the legal cases of the Adelantados and lawsuits involving their governments, the council shall be the judge.

L16: The discoverers may make divisions of the lands in their provinces, and may appoint Alcaldes mayores and Corregidores with salary, and may confirm the local Alcaldes; L17: The discoverers may issue ordinances which must be confirmed within two years, and which in the meantime shall be observed; and L18: The leaders may withdraw funds from the Royal Treasury in order to repress rebellions.

L19: The settlers shall not pay more than one-tenth of the metals and precious stones mined for ten years; L20: The settlers shall not pay sales tax for twenty years; and L21: The settlers shall not pay customs duties for ten years, and the leader for twenty.

L22: When it is time for the residencia of the Adelantado, how he has served will determine whether he may retain jurisdiction during the period of his residencia; L23: Those who have fulfilled their agreement well shall be given vassals and a title in perpetuity; and L24: After completing the settlement, the principal settler may bestow rights of succession to what he has; and he shall have possession of the minerals, paying the quinto to Us.

L25: In the case of lands that border jurisdictions of Viceroy or Audiencias, the discovery shall be conducted as ordered; L26: The agreements that are made shall conform to the laws included in this Title according to the circumstances which occur, having as the principal motive service to God and the Holy Catholic Faith; and L27: No discoveries shall be made in Santa Cruz de la Sierra in the region of Brazil, nor shall commerce be introduced there.

Title 4: Concerning the Pacifications: L1: In order to bring about pacification, procedures stated in this law shall be diligently observed; L2: Once friendship is established with the natives, the Holy Faith shall be preached to them, as ordered; L3: If there are members of Religious orders who wish to make discoveries, they shall be given permission and all necessities at the expense of the King; and L4: If there are enough preachers for pacification, other persons may not enter the area.

L5: The Clerics and Religious who accompany the discoveries shall strive for the good treatment of the Indians; L6: When the people have been pacified, one of the Religious may remain in the land, if he wants to remain; L7: If it should appear more advisable for reasons of security, fortified rather than ordinary houses may be built, as long as it results in no harm to the Indians; L8: Under no circumstances shall the discoverers make war against the Indians, nor damage or harm them, and nothing shall be taken from them without payment; and L9: The immunities and privileges which have been conceded to the Indians shall be observed.

Notes

When the representatives of the King arrive at any Province and new discovery in the Indies, they will make known the Holy Faith to the Indians immediately. Law 2, Title 1, Book 1.

If the Indians do not wish to accept the Holy Faith peacefully, the methods that are herein described shall be used. Law 4, Title 1, Book 1.

Title 5: Concerning the Settlements: L1: The lands and provinces chosen for settlements shall possess the qualities described in this law; L2: The lands that are to be settled shall have good access both in and out by land and sea; L3: Indians may be brought on a voluntary basis to serve as laborers and skilled workmen; L4: Workers who are required shall be paid from the public treasury; and L5: Single residents shall be persuaded to marry.

L6: The agreement to provide a town with local Alcaldes and Regidores shall be made in accordance with this law; L7: After having made

contracts with several or few settlers, agreements shall be made concerning boundaries and territories, with the same conditions; L8: The sons and kinspeople of settlers shall be considered residents, as has been declared; L9: The principal settler shall make a contract with each individual who may register for the new settlement; L10: If no one is willing to accept responsibility to make a new settlement and there are no less than ten married couples available, the couples shall be granted the right to settle; and L11: The person who organizes the settlement shall have jurisdiction, as agreed to by this law.

Notes

In the province of Potosí, settlements of Indians shall be made for service in the mines. Law 17, Title 5, Book 6; and in those which mine mercury the Indians shall also be settled. Law 22, Title 5, Book 6.

The Indians shall be reduced into settlements. Law 1, Title 6, Book 6.

The reducciones shall be made according to the stipulations of the law. Law 8, Title 3, Book 6.

Title 6: Concerning the Discoverers, Pacifiers and Settlers: L1: This law declares who the first discoverers of New Spain were; L2: The settlers shall not pay duty on anything they bring with them on their first voyage; L3: The first discoverers and settlers shall be allowed to bring both offensive and defensive weapons; L4: The discoverers, pacifiers and settlers and other persons who have served shall be favored; L5: The discoverers, pacifiers and settlers shall receive preference for themselves, even though they are not married; L6: The principal settlers and their sons and legitimate descendants shall be

hidalgos in the Indies; and L7: The procedures provided by this law shall precede the rewarding of the discoverers, pacifiers and settlers.

Title 7: Concerning the Settlement of the Cities, Villages and

Towns: L1: The new settlements shall be established under the conditions of this law; L2: When the site has been decided upon, the Governor shall declare whether the location shall be a city, village or town and thus establish its government; L3: The ground and vicinity shall be abundant and healthful; L4: No seaports shall be settled if they are not suitable and necessary for commerce and defense; L5: Towns shall be established near rivers, and occupations that produce refuse shall be located there; and L6: Territory and boundaries for a new settlement shall not include seaports or any place which might result in a harmful situation.

L7: The territory shall be apportioned between the person who makes the agreement and the settlers, as is ordered; L8: The main Church, and other churches and monasteries, shall be built on the sites and in the location that is ordered; L9: The site, size and arrangement of the plaza shall be followed as ordered; L10: These are the directions for laying out the streets; L11: House-lots shall be distributed by lot; and L12: Houses shall not be built within three hundred paces of the exterior walls of the settlement.

L13: There shall be sufficient public land designated for the town; L14: Pastures and other lands shall be designated for public use; L15: After planting their crops, the settlers shall begin to build their houses; L16: After the plan of the settlement is completed, each person shall pitch a tent on his house-lot, and a stockade shall be built around the plaza; and L17: The houses shall be arranged in accordance with this law.

L18: Concerning the persons who will be going to the new colony as settlers, and how they are to be qualified; L19: A Justicia and governing body shall be chosen from among the settlers, and the assets of the settlers shall be registered; L20: The contracts made for settlement shall be executed; L21: The Governor and Justicia shall require fulfillment of the contracts of the settlers; and L22: The Declaration concerning which persons are to look after the work on the settlement.

L23: If the natives obstruct the new settlement, they shall be persuaded to be peaceful, and the settlers shall continue; L24: During the work on the settlement, communication with the natives shall be avoided; L25: If the settlement is not completed within the time limit because of unforeseen circumstances, an extension may be made; and L26: The settlers shall do their planting right away, and pasture their cattle in locations which will not be injurious to the Indians.

Notes

The hospitals shall be built in conformance with Law 2, Title 4, Book 1.

Title 8: Concerning the Cities and Villages and Their Privileges:

L3: The Justicia of the City of Mexico shall have jurisdiction within the fifteen leagues of his district; L4: The City of Cuzco shall be the principal city of Peru and shall have the first voice in the province of New Castile; and L7: In the large cities, neither natives or landholders shall be Tenientes or Corregidores.

Title 9: Concerning the Municipal and General Councils.

Title 10: Concerning the Offices in the Municipal Councils: L6:
Citizens of the village must be elected as officials.

Title 11: Concerning General and Particular Attorneys of Cities
and Towns.

Title 12: Concerning the Sale, Composición and Repartimientos of
Lands, House-lots and Waters: L1: The new settlers shall be given lands
and house-lots and Indians in encomienda; and a peonía and a caballería
are defined; L2: These directions are to be followed in making apportion-
ments in new settlements; L5: The apportionment of lands shall be
according to the decision of the Cabildo, and the Regidores shall receive
preference; L7: The lands shall be apportioned without favoritism and
without causing harm to the Indians; L9: No lands shall be given which
would be detrimental to the interests of the Indians, and if this should
occur, the lands shall be returned to the original owners; and L12:
Grazing lands for cattle shall be located a good distance from the Indian
villages and the fields for their crops.

L14: The owners of lands, estancias, farmlands and caballerías who
have legitimate titles shall be protected with regard to their possession,
and all other lands shall be restored to the King; L16: The lands shall
be given and sold under the conditions of this law, and the parties
concerned shall obtain confirmation; L17: Lands that have been held
by the Indians or that have false titles shall not be admitted to
composición, and the Fiscales and Protectors [of the Indians] shall
enforce justice and the law; and L18: Lands shall be left to the Indians.

L19: No one shall be entitled to composición unless he has possessed
the lands ten years, and the Indians shall receive preference; L20: The

Viceroy and Presidents shall have the power to revoke the grants of land made by the Cabildos, and to make them available for composición; and L21: The Viceroy and Presidents shall not issue authorizations for composición and sale of lands unless the necessity is evident, and the King shall be notified.

Notes

Concerning the manner for naming Judges with authority to supervise water distribution, and how they shall carry out their decisions. Book 4, Law 63, Title 2.

The Encomenderos shall not succeed as owners to lands left vacant by the death of the Indians. Book 6, Title 1, Law 30.

The lands previously held by Indians shall not be taken from them when they are placed under Reducción. Book 6, Title 5, Law 27.

Concerning affairs which involve the City of Varinas, and the ban on allotment of lands. Book 7, Title 5, Law 27.

Title 13: Concerning the Public Lands and Granaries: L1: Public lands shall be designated when new settlements are established.

Title 14: Concerning the Alhóndigas.

Title 15: Concerning the Excise Taxes, Assessments and Contributions: L3: The Audiencias, being informed, may allow an assessment as high as two hundred pesos de oro; and if the amount does not exceed fifteen thousand maravedís, the authority of the Ordinary Justicia shall be sufficient; L4: The Audiencias shall have the authority to give permission for repartimientos when appeals for public works are made to them from villages who do not have Indians available; L5: The cost of destroying plagues of locusts may be apportioned among Ecclesiasts,

secular persons and the Royal Treasury; L6: The Indians shall be relieved of repartimientos and assessments; however L7: The Indians shall contribute toward the building of bridges which are deemed necessary and justifiable.

Title 16: Concerning Public Works.

Notes

As is stated above, the Indians shall contribute toward the building of bridges which are deemed necessary and justifiable. Book 4, Title 15, Law 7.

Title 17: Concerning Public Roads, Lodgings, Inns, Taverns, Boundaries, Pastures, Forests, Waters, Groves and Vineyards: L5: The pastures, forests, waters and boundaries shall be used in common, also what is to be observed in the Island of Española; L6: After the grain is harvested, lands that were planted shall serve as common pastureland; L7: The forests and pastures of the lands under Seigniorship shall also be for the common good; and L8: Wild fruit shall be for common use.

L10: Cattle shall not be put on the farmlands of the Indians; L11: The lands are to be watered in accordance with this law; L14: The Indians shall be permitted to cut wood from the forests for their own use; and L16: The Encomenderos shall have trees planted for firewood.

Notes

The Judges Visitadores of the Province shall endeavor to see that the Indians have the advantage of the benefits of the community property and that they plant trees, and they shall be given instructions regarding these things. Book 2, Title 31, Law 9.

The Governors, Corregidores and Alcaldes Mayores shall inspect the taverns and inns, and these shall be provided where necessary in the Indian villages, and they shall pay the Indians for their hospitality (Book 5, Title 2, Law 18).

Wherever there is a tavern or roadside inn, no one may go for lodging to the home of an Indian or Macegual. Book 6, Title 3, Law 25.

The travelers shall take nothing from the Indians by force. Book 6, Title 3, Law 26.

Title 18: Concerning Commerce, Subsistence and Produce of the Indies: L18: In the Province of Guatemala there shall be no transporting or contracting of wine from Peru; L20: The Viceroys and Governors shall have flax and hemp planted and cultivated; and Law 21: The Indians shall not be hindered from sending grain and cochineal to these Kingdoms on their own account.

Notes

Concerning the pulque drink used by the Indians of New Spain. Book 6, Title 1, Law 37.

The Indians shall not be punished because they bring supplies to the cities. Law 10, Title 10, Book 6; nor shall they be molested when going to the market places. Law 11; nor shall they be compelled to bring fowl to the Judges. Book 6, Title 10, Law 12.

Title 19: Concerning the Discovery and Working of the Mines: L1: All vassals of the King, both Spanish and Indian, shall be allowed to discover mines and benefit from them; L8: In the contracts for mine work it shall be understood that provisions shall be provided; and

monopolies shall not be allowed; L9: Great care shall be taken of the mines and their profits; and L13: Spaniards, Mestizos, and free Negroes and Mulattoes shall be induced to work in the mines.

L14: The Indians shall be permitted to have and operate gold and silver mines just as the Spaniards do; L15: The Indians who discover mines shall be protected in their rights as this law indicates; consideration shall also be given to Spaniards and Mestizos; and L16: With regard to staking out the boundaries of the mines, those of the Indians shall be respected as much as those of the Spaniards.

Title 20: Concerning Mine Operators and Amalgamators and Their Privileges.

Notes

The Indians in mita and volunteers shall be paid and the Judges shall perform this function; and the mercury of the King shall be given to the miners at cost price. Book 6, Title 15, Law 3.

Title 21: Concerning Alcaldes Mayores and Scribes of the Mines.

Title 22: Concerning the Assaying, Casting and Stamping of Gold and Silver: The gold received in barter with the Indians and which has been worked into gold pieces or jewelry shall be assayed, melted, stamped and divided into five portions.

Title 23: Concerning the Mints and Their Officials.

Title 24: Concerning the Value of Gold, Silver, and Money and Their Commerce.

Title 25: Concerning Pearl Fishing and the Transport of Pearls and Precious Stones: L1: A settlement shall be formed where pearl beds are discovered; L2: A fortified house shall be built in the settlement; L19: The Alcalde and his Deputies shall have the jurisdiction to enforce the laws under this Title, and there shall be no exceptions.

L30: The Indians shall be allowed to fish for pearls; L31: The fishing teams shall be composed of Negroes and not Indians, and those persons who force Indians to comply shall incur the death penalty; L41: No one shall disembark unless the Royal Officers are present, and everyone will display what pearls they have taken from the fishing grounds; and L42: The shells and oysters shall be taken directly to the building designated and there they shall be opened; those who do not comply shall be punished.

Notes

Even though the Indians shall volunteer, they shall not work at hunting for pearls or in sugar factories, and they shall be allowed only to serve in the cutting and transporting of sugar cane. Book 6, Title 13, Law 11.

Title 26: Concerning the Workshops: L6: If workshops are in Indian communities, they can be rented; and L7: In Paraguay there shall be no hand mills, but pilones for pounding manioc shall be permitted.

Notes

The Indians in workshops and mills will be given religious instruction. Book 1, Title 1, Law 11.

See Law 23, Title 10, Book 6, including the clause handwritten by the King, Our Lord Don Felipe Quarto, on the occasion of the bad treatment received by the Indians in workshops and elsewhere.

BOOK V

THE PROVINCIAL GOVERNMENTS AND JUSTICE⁸¹

Title 1: Concerning the Boundaries, Distribution and Aggregation of Governments: L1: The Governors, Corregidores and Alcaldes Mayores shall give attention to the boundaries of their territory; and L6: The Presidents shall be allowed to execute all laws and commands which are in favor of the Indians when they first arrive in their districts even though they have not yet taken over the command of their new possession.

L8: The back part of the Gulf of Urabá shall belong to Tierrafirme; L9: The province of Veragua shall be the seat of the government for Tierrafirme; and L10: The Río Grande de Magdalena and the islands in the river shall be under the jurisdiction of the government of Santa Marta.

L14: The Corregimiento of Oruro shall constitute the division with the government of Paria; L15: The Islands of the Guanaxes shall be included under the jurisdiction of the government of Honduras; and L17: No citizen or person may leave his province without permission from the Governor.

Title 2: Concerning Governors, Corregidores, Alcaldes Mayores and Their Lieutenants and Alguaciles: L1: The forming of governments, corregimientos and alcaldías mayores shall be the prerogative of the King, and the leaders shall be named by the Council of the Indies; L2: Those villages which have been separated from governments and corregimientos

by decree of the King shall be returned to them; and L3: The villages of Indians in encomienda shall be placed under the jurisdiction of the Corregidores and Alcaldes Mayores.

L4: The Viceroy and Presidents shall provide temporary Governors, Corregidores, Alcaldías Mayores and other officers in the interim until permanent officials may be established; L5: In bestowing the titles of Corregidores and Alcaldes Mayores, the requirements of the clause in Law 26, Title 6, Book 2 shall also be emphasized; and L6: Assignments shall not be given to Corregidores and Alcaldes Mayores other than those they received at the time of their mandate.

L7: The Governors, Corregidores and Alcaldes Mayores who were appointed in Spain for positions in the Indies shall go before the Council and give the oath included in this law; L8: The Governors, Corregidores and Alcaldes Mayores shall make an inventory of their wealth and present it, in accordance with Law 68, Title 2, Book 3; and L9: The Governors, Corregidores, Alcaldes Mayores and their Lieutenants shall post bonds before they shall be officially installed.

L10: The Governors, Corregidores and Alcaldes Mayores who were appointed in the Indies shall serve for three years and those who were appointed in this Kingdom shall serve for five; L11: The Governors, Corregidores, Alcaldes Mayores and their Lieutenants shall carry the staff of justice, and they shall show mercy in listening to all; and L12: The Governors and the Alcaldes of fortresses shall have a good relationship and a common understanding among themselves.

L13: The Governors and Judges shall conduct the Audiencia in the accustomed place and not in the offices of the Court Recorders; L14: The Governors shall not intercede in cases which concern the lower courts

of the Alcaldes, nor shall they alter jail sentences; L15: The Governors and Corregidores shall visit all their outposts and shall advise the Audiencias of the results; L16: The Governors and Corregidores shall not accept salary nor fees for these visits; and L17: When they go out on these tours of inspection, they shall not become guests of the citizens against their will.

L18: The Governors, Corregidores and Alcaldes shall examine the hostelries and inns and shall provide that they be available in the Indian villages, and they shall pay the Indians for having lodged with them; L19: The Governors and Corregidores shall visit the Indian villages and shall give them an understanding of the way justice will be conducted; L20: When the Governors leave one village for another they shall transfer the pending cases to the Judges; and L21: No Governor, Corregidor, or Local Alcalde shall inspect his district more than one time during his term of office.

L22: The Governors shall recognize the beliefs of the Indians and shall accept their customs insofar as they are not in opposition to our Sacred Religion; and each person shall fulfill the duties of his office well, and the earth shall be made productive and clean and the public works in good condition; and L24: The Corregidores and Alcaldes Mayores of Indian villages shall endeavor to make certain that the Indians are free from molestations by their Caciques, and these instructions shall be given to them.

L25: The Governors shall not compel the Indians to wash clothes for them; L26: The Corregidores and Alcaldes Mayores shall not take food or anything else from the Indians, nor shall they have Indians work for them without paying them; and L27: The Governors, Corregidores, Alcaldes

Mayores, their Lieutenants and the Officers of our Royal Treasury shall not be served by the Indians.

L28: The Governors shall strive to see that the land is developed and cultivated under penalty of punishment; L29: The Governors shall apprehend the lawbreakers and shall endeavor to put them in a stronghold or some place where they shall be locked up, and they shall so advise the Audiencias; and L30: The Governors shall correspond with each other, and they shall give aid to each other on occasions of their services to the King.

L31: In the district of New Galicia, the salaries of the Corregidores and Alcaldes Mayores shall not be paid from tributes; L32: The salaries of the Corregidores de Seigniorie shall be paid from the tributes they have collected and not from those of the community; L33: The Governor of Nueva Vizcaya shall reside in the city of Durango; L34: The Governors shall not absent themselves from the principal villages without permission; and L35: If any Governor should absent himself without permission, he shall not be paid his salary.

L36: The Viceroys, Presidents and Audiencias shall not appoint Lieutenants to the Governors, Corregidores and Alcaldes Mayores; L37: If the Governors of Popayan, Cuba, and Potosí are not attorneys, they may appoint Lieutenants who are; and the same applies to the Corregidores of Mexico and Mérida in Varinas; L38: The Lieutenants who are not needed shall be released, and the others shall be allowed to post bonds; L39: The Attorney Lieutenants shall be examined; L40: The Royal Officers shall not be permitted to be Lieutenants of the Governor; L41: The Governor of the Philippines shall provide a Lieutenant General for Pintados, and a revision of the salary shall be approved; L42: The

Corregidores of Indians shall not acquire Lieutenants without permission, and they shall visit their districts; L43: The Governor in the New Kingdom [of Granada] shall not have a Lieutenant General; and L44: The Governors, Corregidores, Alcaldes Mayores and their Lieutenants shall not be permitted to marry in the districts under their jurisdiction.

L45: The Governors shall not appoint as Ministers native officials from the Province or relatives closer than the fourth degree of kinship; L46: The Viceroy shall endeavor to rectify situations whereby Governors make illegal profits; and L47: The prohibition from making agreements and contracts includes the Governors, Corregidores, Alcaldes Mayores and their Lieutenants.

L48: The Governors shall live in Governors palaces; L49: The Governors, Corregidores and Alcaldes Mayores shall serve in office until their successor arrives; L50: Should the Governor of Cartagena die, the war shall be put under the command of the Sargento Mayor, and the ships under the command of the chief naval officer until the President of the Royal Audiencia shall appoint someone for the New Kingdom; L51: Should the Governor of the Island of Trinidad die, the Lieutenants or local Alcaldes shall govern; and L52: The salaries of those who die while serving shall be paid up to the day of death and no longer.

Notes

See Law 23, Title 13, Book 1 concerning agreements and contracts for Corregidores and Alcaldes Mayores.

The Governorship of Río de la Plata, Paraguay and Tucumán shall extend to the district of the Royal Audiencia of Buenos Aires by the new resolution and establishment of this Audiencia, Law 13, Title 15, Book 2. This Audiencia is now abolished.

No more than a portion of the salary shall be given to persons appointed to offices in the interim. Law 51, Title 2, Book 3.

The Governor of Chile shall be subordinate to the Viceroy of Lima, and they shall communicate with each other regarding matters in his charge. Law 3, Title 1, Book 5.

The Governor of Yucatán shall observe the orders he receives from the Viceroy of New Spain. Law 4, Title 1, Book 5.

The subordinate Presidents shall have the right to make decisions in some cases. Law 5, Title 1, Book 5.

Should a Governor not have a Lieutenant at the time of his death, the Alcaldes Ordinarios shall govern. Law 12, Title 3, Book 5.

The Governors and Alcaldes Mayores who do not show respect for the freedom of the Indians shall give account to the Audiencias, and the Fiscales shall seek the causes. Law 10, Title 2, Book 6.

The Governors, Corregidores, and Alcaldes Mayores shall post additional bonds stating they will pay the balance of tributes, and this shall be paid in thirds. Law 64, Title 5, Book 6.

The Corregidor shall be present during inspections of prisons. Law 6, Title 7, Book 7.

The sealed letters directed to the Governor and Royal Officers shall be opened when everyone is present and not by the Governor alone. Law 15, Title 16, Book 3.

The Governors and Corregidores who shall be in attendance in court shall be sworn in by the Council. Auto 24 referido allí.

The Council shall provide Lieutenants for Governors in Cartagena, Yucatán and Havana for the present, Auto 138, referred to in Law 1 of this title.

With regard to the prohibition of Lieutenants of Governors to marry anyone in their districts, and extended to Governors and their sons, and particularly concerned with Governors marrying sons or daughters of Ministers, a relaxation can be seen at the end of Title 16, Book 2 of this Recopilación.

Title 3: Concerning the Alcaldes Ordinarios (Indians could not be Alcaldes Mayores, but were sometimes Alcaldes Ordinarios): L1: Alcaldes Ordinarios shall be elected in the cities; their jurisdiction is described; L2: That which has been commanded shall be observed in the elections of Alcaldes Ordinarios; instructions are given to the Ministers regarding free elections; L3: In the elections for Alcaldes, those who served the previous year shall be present; L4: Only persons who can read and write and are competent shall be chosen as Alcaldes Ordinarios; L5: The descendants of discoverers, pacifiers and settlers shall be taken into consideration for Alcaldes Ordinarios; L6: Royal Officers cannot be Alcaldes Ordinarios; L7: Those who are in debt to the Royal Treasury shall not be elected to be Alcaldes Ordinarios; L8: No one who is not a citizen may be elected as an Alcalde, and where there are armed forces, it shall be someone who has established his home there; and L9: No one may be elected as an Alcalde Ordinario until after having passed two years in a city and having established his residence there.

L10: The Viceroys, Presidents, Governors and Corregidores shall confirm the elections of Alcaldes Ordinarios; L11: The Alcaldes Ordinarios shall not be involved with decisions on government matters, nor shall they make agreements; L12: If the Governor should die and he has not appointed Lieutenants, the Alcaldes Ordinarios shall govern; L13:

Should one of the Alcaldes Ordinarios be absent or die, the oldest Regidor shall serve in his place; L14: Where there is a Governor or a Corregidor, the Alcaldes shall not take the lead in the Cabildo; and L15: The Alcaldes Ordinarios shall have a vote in the Cabildo.

L16: The Alcaldes Ordinarios shall be the first to be notified of the lawsuits of Indians with Spaniards; L17: The Alcaldes Ordinarios shall be able to inspect the roadside inns and taverns of their jurisdiction and assess fees for them; L18: The Alcaldes Ordinarios shall know about the settlements which do not have an Alcalde de la Hermandad; and L19: The Alcaldes Ordinarios shall fulfill their jurisdictional duties in accordance with customs.

L24: The Alcaldes Ordinarios of Manila shall not be the first to be notified of the trials of the Parian of the Sangleyes; and in regard to the government, that which has been arranged shall be observed; and L25: No innovations shall be made in the Philippines in regard to the Alcaldes Mayores of the Indians, and the Alcaldes Ordinarios shall be acquainted within the five leagues.

Notes

In the cities where the Audiencia is in residence, no assistance shall be demanded. Law 2, Title 1, Book 3.

The Governors shall not intercede in cases which concern the lower courts of the Alcaldes Ordinarios. Law 14, Title 2, Book 5.

The Alcaldes Mayores shall know only by appeal of the cases pending before the Alcaldes Ordinarios. Law 12, Title 12, Book 5.

The appeals of the Alcaldes Ordinarios of Lima and Mexico shall go to the Audiencias of those cities. Law 13, Title 12, Book 5.

When the sentences of the Alcaldes Ordinarios are confirmed in the Audiencia, they shall be sent back to the Alcaldes for execution. Law 21, Title 12, Book 5.

There shall be Alcaldes and Regidores in the reducciones [of Indians]. Law 15, Title 3, Book 6; and the Alcaldes shall have the jurisdiction which has been declared, Law 16; and they shall be able to detain Negroes and Mestizos until the regular Judge returns. Law 17, Title 3, Book 6.

The Alcaldes Ordinarios shall not be permitted to place Indians in encomienda, even though they are in charge of the government. Law 9, Title 8, Book 6.

Title 4: Concerning the Provincials and Alcaldes de la Hermandad:

L1: There shall be an officer for the Provincials of the Hermandad, and they shall work in the Indies; L2: The Provincials of the Hermandad shall not receive more salary than that which was agreed upon; and L3: The creation of Provincials de la Hermandad shall be done without detriment to the election of Alcaldes de la Hermandad.

L4: The Ministros de la Hermandad shall proceed against the Indians in accordance with this law; and L5: In order to bring legal action against Indians, they shall be taken to the jail.

Notes

The Alcaldes Ordinarios shall know about the settlements which do not have an Alcalde de la Hermandad. Law 18, Title 3, Book 5.

The Royal officials of Lima shall have access to knowledge of what is collected by each Negro as salary from the Hermandad. Law 50, Title 15.

Title 5: Concerning the Alcaldes and Hermanos de la Mesta (Indians frequently worked as herders for livestock men): L1: The ordinances of the Mesta shall be observed in New Spain, and they shall be introduced in the other Provinces of the Indies; L2: The Alcaldes de la Mesta shall be elected by the Cabildo of the City, and they shall give their oath to fulfill the duties of their office well; L3: Two Council meetings shall be held each year according to the format given in this law; L4: Before the Alcaldes gather together in the Council of the Mesta, a public proclamation shall be made that all stray livestock shall be rounded up; and whose animals these are; and L5: The Council shall not be convened unless at least five Hermanos de la Mesta are in attendance.

L6: Those persons who own three hundred head of livestock shall be Hermanos de la Mesta, as has been declared; L7: The ordinances which the Council of the Mesta shall have authority to make cannot be enforced until they have been approved and published; L8: No one shall have livestock bearing someone else's brand among his own animals; L9: No one shall use earmarks as brands; L10: If two persons have the same brand, the Council shall give a different brand to one of them; L11: The stray livestock which is rounded up shall be displayed in public, and if no owner claims them, they shall become the property of the Cámara; and L12: Each year an official inquiry shall be made regarding thefts, and the culprits shall be punished.

L13: The same judgements and penalties imposed by the Mesta in these Kingdoms of Castile shall be duplicated in the Indies; L14: The types of punishment shall be specified; L15: The Alcaldes de la Mesta shall have the same legal authority as the Alcaldes Ordinarios; and L16: When the Alcaldes and Majordomos have completed their services in office they

shall render an accounting, and they shall set everything in order for the querulous.

L17: Livestock shall not be removed from one Province to another; L18: Permission shall not be given for the slaughter of cows, ewe sheep and female goats; L19: Jueces [to oversee] the slaughtering of livestock shall not be provided, and in the event these are necessary, they shall be agreed upon; and L20: The President of Santo Domingo shall give permission for the slaughtering of animals and the making of leather articles from the hides at his own discretion.

Notes

The Indian herdsmen shall not pay for lost livestock if this has not been agreed upon, and for this risk they shall receive equivalent extra compensation. Law 17, Title 13, Book 6.

Title 6: Concerning the Royal Physicians, Doctors, Surgeons and Pharmacists.

Title 7: Concerning Alguaciles Mayores and Others of the Cities:
L17: There shall not be Alguaciles Mayores in Corregimientos for Indians, and in each village they shall be allowed to appoint an Indian as Alguacil.

Title 8: Concerning the Government Court Reporters, Cabildo and Number, General and Royal and Ecclesiastical Notaries: L9: The Court Reporters for the Cámara and the Government shall be present to assist the Viceroys and Governors during sessions of the Audiencia where there are negotiations concerning Indians; L13: The Government Court Reporters shall dispatch all transactions concerning Indians through the Protectors

[of the Indians]; and L23: The Indian Alguaciles in charge of the roadside inns shall not have fees levied against them.

L24: All the officials provided for in Indian villages shall be designated in a mandate, and they shall be paid from the public funds;

L25: The Indians shall not pay fees, and the Caciques and communities shall pay the mitad de Arancel de Castile; and L40: No testimonials shall be permitted concerning requests that Mestizos and Mulattos be made Court Reporters.

Title 9: Concerning Competitions or Rivalries.

Title 10: Concerning Lawsuits and Sentences: L10: The lawsuits of Indians shall be acted upon, and they shall determine the truth of the matter; L11: The Indians shall not be held as offenders for the purpose of prosecution because they use injurious words among themselves, or quarrel, if weapons are not used; and L12: Law 86, Title 15, Book 2 is amplified here.

L13: Authority is given to the Viceroys to be the court of first instance in trials concerning Indians, and this right shall be observed by the rest of the Governors of the Indies; also L14: The Indians shall be allowed to join together in court in order to be more forceful, and in particular cases they shall be permitted to appear alone.

Title 11: Concerning Recusancy.

Title 12: Concerning Appeals and Supplications or Petitions.

Title 13: Concerning the Second Supplication.

Title 14: Concerning Conveyances and Executions: L15: The Indians shall not pay the décima, and other fees are to be assessed with moderation.

Title 15: Concerning the Residencias and the Judges that Must Take Them: L12: The Visitadores for Indians shall undergo residencia; L13: The Jueces repartidores for factories and grain mills shall undergo residencia; and L28: The proclamation of residencias shall be made in a way that they will come to the attention of the Indians.

BOOK VI

Title 1: Concerning the Indians⁸²

Law 1: That the Indians be favored and protected by the Ecclesiastical and Secular Justicias.

Don Felipe III in Madrid on the 24th of December of 1580. Don Carlos II and the Governing Queen.

The subject matter of this book being the Indians, their freedom, increase, and relief, as contained in the titles which it comprises, it is Our will to charge the Viceroy, Presidents, and Audiencias with their care, and to give the proper orders that they be protected, favored, and sustained, because it is Our desire that the ills they suffer be remedied and that they be allowed to live free from annoyance and ill-treatment. Once this has been affirmed, and fully bearing in mind the laws of this Recopilación, which favor, protect, and defend the Indians from any injustices whatsoever, the authorities will observe the laws and will require their exact observance, punishing offenders as a particular and rigorous example. We entreat and charge the Ecclesiastical Prelates to do everything in their power to achieve these ends as true spiritual Fathers of this new Christendom, to preserve the privileges and prerogatives of the Indians, and to keep them under their protection.

Law 2: That Indians may marry freely, and not be impeded by any Royal order.⁸³

Don Fernando V and Doña Juana in Valbuena on the 19th of October of 1514, and in Valladolid on the 5th of February of 1515. Don Felipe II and the Governing Princess in Valladolid on the 22nd of October of 1556.

It is Our will that Indian men and women enjoy, as of course they should, complete freedom to marry whomever they wish, to marry Indians as well as natives of our kingdom or Spaniards born in the Indies, and that no impediment be imposed in this respect. And We command that no order of Ours, given or to be given, may or shall impede marriage between Indian men and women with Spanish men or women, and that all shall have complete freedom to marry whomever they wish; and, that our Audiencias shall see to it that this law is observed and enforced.

Law 3: That Indian women not be permitted to marry unless they have reached legal age.

Don Felipe II in Tomar on the 17th of
April of 1581.

Some Encomenderos, in order to collect the tribute which is not required from unmarried Indians until such time as they have reached the appropriate age, force young girls who have not yet reached legal age to marry, thus offending God our Lord, harming their health, and hindering their reproductive potential. And because this violates the law and all good reason, We order our Royal Audiencias and Justicias, together with the Ecclesiastical Prelates of their districts, to establish whatever course of action is most appropriate, punishing offenders in such a manner that such serious misdeeds will cease. And We charge the Prelates to intercede on their behalf and obtain relief.

Law 4: That Indian men and women who take two wives or husbands be punished.

Emperor Don Carlos and the Governing
Empress in Madrid on the 13th of July
of 1530.

Were it to come to light that any Indian man who has been converted to Christianity took a second wife, or an Indian woman took a second husband, the first spouse still being alive, they shall be separated and admonished; and if twice being warned they do not separate but continue to cohabit, they shall be punished as a corrective measure, and as an example to others.

Law 5: That no Cacique, or any Indian, even if he is an infidel, shall take more than one wife.

Emperor Don Carlos and the Governing Kings
of Bohemia in Madrid on the 17th of December
of 1551.

No Cacique, or any other Indian, even if he is an infidel, shall take more than one wife; and he shall not have the others confined nor prevent them from marrying whomever they wish.

Law 6: That Indians may not sell their daughters for the purpose of marriage.

Don Felipe IIII in Madrid on the 29th of
September of 1628.

At the time of their heathendom, the Indians were wont to sell their daughters to whomever offered them the most to marry them. It is not proper to permit in Christendom so pernicious an abuse against the service of God, and since marriages are not freely contracted if the Indian women do so to obey their parents, and their husbands treat them as slaves, love and fidelity of marriage are lacking, and they live in perpetual abhorrence, causing disquietude in the towns. We, therefore, order and command that no Indian man or woman shall receive anything, whether in large or small amount, nor in service or any other kind of payment, from the Indian who might marry his or her daughter, upon

penalty of fifty lashes, the loss of authority to hold public office, and the return of what he collected to our Cámara. If he is an Indian chief, he is to be lowered to the status of macegual, and those Indians who are Justicias shall enforce this order. The Governor and Justicia Mayor of the Province shall require enforcement of these penalties upon the negligent ones; otherwise they will take cognizance of responsibility for enforcement during their residencia.

Law 7: That the married Indian woman is to be from the town of her husband; and if widowed, to be allowed to return to her place of origin; and if Guaraní, to keep her children with her.

Don Felipe III in Madrid on the 10th
of October of 1618.

We command that: the married Indian woman shall go to her husband's town and live there even though he may be absent or may have run away; and if she be left widowed, that she may remain in her husband's town or return to her own, whichever she wishes, so long as she leaves her children in her husband's town, if they have been raised there for at least three years. And because the settlement pattern of the Guaraní people of Paraguay calls for each Cacique to be with his subjects in large quarters, We order that the Indian man and woman be from the same Reducción, but if they were to belong to different Caciques, the mother may keep her children with her until they marry. And We declare: that the Indian woman who marries shall follow her husband, even though he may have persuaded or induced her to marry him, so that this law shall be observed without any exception.

Law 8: That the Indian woman, who has children by a Spaniard, will be free to come with them or move her domicile, if she wishes to do so.⁸⁴

Emperor Don Carlos in Burgos on the 21st of
May of 1524. Emperor Don Carlos and the
Governing Princess in Valladolid on the 30th
of August of 1555.

Whenever a Spaniard has children by an Indian woman whom he has married,
and wishes to bring the Indian woman and his children with him to
these Kingdoms, or if the Indian woman says that she wishes to come
with them, the Governor of the Province shall have her appear before
him, and it being her will to come with her children, he shall let
them do so, and he shall consent that they may freely do so, and bring
their children with them. Should they wish to move to another place or
Province of the Indies, no impediment shall be placed in their way.

Law 9: That Indians not be separated from their parents.

Don Felipe III in Madrid on the 10th of
October of 1618.

We order that unmarried Indians who are separated from their parents
shall be reduced, and shall join a Town or Reducción.

Law 10: That the children of married Indian women continue to
be in their father's village, and that those of unmarried Indian
women continue to be in their mother's town.

Don Felipe III in Madrid on the 10th of
October of 1618.

In view of the harm that has been experienced admitting evidence in
cases concerning filial relationship of Indians, and in order to be in
conformity with the law, We declare: that the children of married Indian
women shall be presumed and are considered to be those of her husband,
evidence to the contrary not being admissible; that, being the children
of the said Indian man, they shall remain in their father's town, even
if it is claimed that they are the children of a Spaniard; and that

the children of unmarried Indian women shall remain in their mother's town.

Law 11: That Indians may put their children to work as long as they do not pay tribute.

Don Carlos II and the Governing Queen.

We order: that the Indians who wish to put their sons to work, so long as they are of the age where they do not have to pay tribute, or to have their daughters instructed in other occupations, may do so wherever and however they wish; and that no one shall prevent this.

Law 12: That Indians may move from one location to another.⁸⁵

Emperor Don Carlos and the Governing
Empress in Valladolid on the 3rd of
November of 1536. (See Law 18, Title 3,
and Law 7, Title 7 of this Book.)

If it is evident that Indians have moved from one location to another of their own will: neither the Justicias nor the Ministers shall impede them; and they shall allow them to live and reside there, except where there may be opposition because of the Reducciones which are established by Our command, and provided that the Encomenderos are not wronged.

Law 13: That Indians from cold climates not be removed to hot climates, nor vice versa.

Emperor Don Carlos and Cardinal Tavera,
Governor of Talavera, on the 28th of
January of 1541. Don Felipe II in Madrid
on the 23rd of March and on the 19th of
December of 1568. (See Law 29, Title 12
of this Book.)

We order that Indians of cold climates not be taken to another where the temperature might be hot, nor vice versa, even though it may be in the same Province, because this difference is quite detrimental to their health and lives; and We order that the Viceroys, Governors and Justicias

shall issue the necessary and appropriate ordinances in this regard, and see that they are observed and enforced.

Law 14: That the Indians of Santa Cruz not be removed to another Province.

Don Felipe III in San Lorenzo on the 3rd
of October of 1614.

Because, for the settlement and growth of the Province of Santa Cruz de la Sierra, and for the Province to be defended against the Chiriguanaes Indians, it is necessary that its natives not be removed from it to the Province of the Charcas or to other places, and because it is necessary that the Presidents and Governors require observance of this law, We command that this law shall be accordingly executed with great care.

Law 15: That the Indians of the Philippines not be forcibly removed from one Island to another.

Don Felipe II in Madrid on the 7th of
November of 1574.

We order that the Indians of the Philippine Islands not be removed forcibly from one island to another and against their will, except in very necessary cases, and that then they be paid for their occupation and labor, that they be well-treated and not receive harm.

Law 16: That Indians not be brought to these Kingdoms, nor moved from their lands.

Emperor Don Carlos in Toledo on the 4th of
December of 1528, and the Governing Prince
in Valladolid on the 25th of September of
1543. Don Felipe II and the Governing Princess
on the 21st of September of 1556. (For this
law and the following one, see Law 99, Title
1, Book 9.)

We prohibit and distinctly forbid all inhabitants who live and reside in the Indies and Islands of the Ocean Sea, regardless of their status, class, or condition, from bringing or sending to these Kingdoms, or to any other part of those Provinces, Indian men or women, even though they may have license from us or from our Governors or Justicias, and even though the Indian men and women may say they want to come with them of their own free will. If this happens, the penalty for whomever might bring or send them, or in any way give consent, favor, or aid in this process, will be: to incur a fine of 100,000 maravedís, to be paid in thirds to our Cámara, to the Judge who sentenced him, and to the Denunciador; to be perpetually exiled from the Indies; and at his own expense, to have the Indians returned to the Provinces and Islands from which they were taken. And We therefore command that these orders be executed upon their persons and assets, without any other sentence or declaration, and We revoke and consider null the general or specific licenses that We might have issued for bringing Indians to these Kingdoms. Should the guilty party have no assets from which to pay the above-mentioned fine, We command that one hundred lashes be given to him publicly, and that the rest of the sentence be carried out as well. And We likewise prohibit the Viceroys, Presidents, Oidores, Governors, and Justicias from issuing such licenses for bringing Indians to these Kingdoms, under penalty of the deprivation of their offices.

Law 17: That there being Indians in these Kingdoms, they be given whatever they need from the Cámara for their return to their lands.

Emperor Don Carlos and the Governing Prince
in Valladolid on the 25th of November of 1552.

Notwithstanding the prohibition against Indians coming or being brought to these Kingdoms, considerable excess and facility in their coming or being sent here have been experienced, and because they are poor, they have no means of returning to their lands. Because We have pity and compassion lest they become impoverished and mendicant, We command: that all Indian men and women who are here already or who might come to these Kingdoms, and who of their own volition wish to return to their lands, may return there freely; and that the Presidents and Official Judges of the Casa de Contratación de Sevilla shall give them license. They shall be paid that which they need for transportation and mess charges from Cámara fines until they are back in their lands, if it is not known who brought them. But if it is known who brought them, the cost will be at his expense, and in these matters our Council of the Indies will be particularly careful.

Law 18: That wherever possible, Castilian language schools be set up for the purpose of teaching the Castilian language to the Indians.⁸⁶

Emperor Don Carlos and the Governing Kings
of Bohemia in Valladolid on the 7th of June
and on the 17th of July of 1550.

Having done a special study as to whether the Mysteries of our Holy Catholic Faith can be conveyed effectively and precisely in even the most perfect of the Indian languages, it has been found impossible to do so without resulting in considerable disagreement and imperfection. Although Cátedras have been established for the instruction of the Priests who indoctrinate the Indians, this is not a sufficiently adequate solution due to the great variety of languages that exist. And having resolved that it will be proper to introduce the Castilian language,

We order that teachers be assigned to instruct those Indians who voluntarily request instruction, in whatever manner may be the least inconvenient for them, and without charge. It appears that this might be done very well by the sacristans in the same manner in which reading, writing, and the Christian Doctrine are taught in the towns of Our own Kingdoms.

Law 19: That the Indians be placed under the rule of law without being oppressed.⁸⁷

Emperor Don Carlos and the Governing
Empress in Valladolid on the 23rd of
August of 1538.

In order that the Indians may best benefit from Christianity and the rule of law, it should be arranged for them to live together and with orderliness and in so doing become known to their Prelates that they may better attend to their welfare and indoctrination. And because this is desirable, We command the Viceroy and Governors to achieve this end by all possible means, without oppressing the Indians, yet giving them to understand how useful and beneficial it will be for their growth and good government.

Law 20: That infidel Indians, after being reduced for five years, be introduced to work.

Don Felipe III in Madrid on the 10th of
October of 1618. (See Law 3, Title 5 of
this Book.)

Although recently converted Indians are not compelled to forced labor or payment of taxes at this time, it is right that: at least five years after their reduction they begin to gently understand the situation and to develop a liking for earning a day's wages and working for it; and,

likewise, that they become familiar with the ancient Indian form of government, giving them Alcaldes, Fiscales, and other Officials of Justice.

Law 21: That Indians occupy themselves with their crafts, farming, and occupations, and that they be clothed.

Emperor Don Carlos and the Governing Prince in Madrid on the 5th of June, and in Monzón on the 11th of July of 1552. Don Felipe III in Madrid on the 10th of October of 1618.

The Indians who are craftsmen shall apply themselves and learn their crafts, and the farmers shall apply themselves and learn about cultivation, tilling, and seeding of the land, providing themselves with oxen to lighten their personal labor, and with food for their own sustenance, sale, and exchange with others. Those who are not occupied in any of the above-mentioned ways may be applied to jobs and work in the Cities and the countryside. It is necessary that they be required not to be idle, since this is very important to their life, health and preservation. This is to be accomplished and enforced by Our Justicias. We order the Spaniards not to compel them in this, even though they are Indians of their encomiendas, or they, the Spaniards, shall be severely punished. We order the Doctrineros: to persuade the Indians to abide by what is referred to in this Our Law; and especially, to be clothed, for more personal modesty and decency.

Law 22: That Indians may raise all kinds of livestock, large and small. 88

Emperor Don Carlos and the Governing Prince in Madrid on the 17th of December of 1551.

The Indians shall not be prohibited from raising any and all kinds of livestock, large and small, just as the Spaniards can do, without any difference whatsoever, and the Audiencias and Justicias shall give them whatever support is necessary in this regard.

Law 23: That time be set aside for the Indians to take care of their properties and farms, and that it be assured that they retain possession of them.

Don Felipe III. (Ordinance 10 with reference to personal service, 1609.)

It is just that the Indians have sufficient time to work their properties and those of the community. The Viceroys and Governors shall designate how much time they need in order for them to attend to their farms. They will make sure that they retain their properties so that they will be helped and the ground will be improved. It is so commanded.

Law 24: That between Indians and Spaniards there be free commerce to the satisfaction of both parties.

Emperor Don Carlos in Burgos on the 6th of September of 1521, in Valladolid on the 6th of June of 1523, and in Toledo on the 21st of May of 1534.

The manner of conduct, exchange, and dialogue between Indians and Spaniards will unite them in friendship and voluntary trade and be to the satisfaction of both parties. The Indians are not to be induced, intimidated, or compelled, and everyone is to act in good faith, free and common for all. Offensive or defensive weapons are not to be exchanged or given to the Indians because of the complications which might arise. He who, against the tenor of this law, makes such a contract with the Indians against their will, whether it be known at

that time or later in another manner, shall incur as penalty the loss of everything which he might thus barter or possess in this connection, and in addition, half of his assets are to go to our Cámara, Juez, and Denunciador.

Law 25: That Indians be allowed to freely trade their produce and food stuffs.

Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 12th of May of 1551. Don Felipe II in the Pardo on the 30th of January of 1567.

It has come to pass that the Justicias, Regidores, and Encomenderos of Indians do not permit them to freely trade the foodstuffs and other goods which they bring to the Cities, under the pretext of good government or because they belong to their encomiendas, whereby the Indians by force and violence receive many abuses and injuries. They are thus unable to sell their produce and foodstuffs. Sometimes the products they need to support their wives and children are taken away from them. We order our Audiencias and Justicias not to permit such abuses, and to allow the Indians to sell their goods and products freely and without impediment.

Law 26: That efforts be made for the Indians to receive special consideration with regard to the provisions and goods which they buy.

Don Felipe III in Valladolid on the 24th of November of 1601.

We hereby charge and command the Viceroy, Audiencias and Justicias of the Indies: since the natives of the land are needy people, to give them special consideration in the matter of prices for provisions and other goods, in mining locations as well as in other places, charging

them with fairness and moderation, in order that the Indians might obtain them more cheaply than other people in consideration of their poverty and labor; and to render exemplary punishment for excesses.

Law 27: That Indians may sell their properties under the authority of the law.

Don Felipe II in Aranjuez on the 24th of May and the 23rd of July of 1571. In San Lorenzo on the 6th and in Madrid on the 18th of May of 1572.

When the Indians sell their real estate and movable property, in accordance with what is permitted them, they shall be announced for public auction in the presence of the Justicia, real estate being on thirty-day terms, movable property on nine-day terms, and that which may be bartered in another way shall be of no value or consequence. Should the Judge, for a just cause, deem it advisable to shorten the terms with regard to movable properties, he may do so. Because the goods the Indians normally sell are of little value, if all sales were to follow the aforementioned procedures, it would cost them such high fees as to equal the amount of the principal. We, therefore, order: that this law shall be observed and enforced in any case that exceeds a value of thirty pesos de oro común, but not in any case of less value, because in the latter case it will suffice for the Indian seller to appear before an ordinary judge to ask for license to make the sale; and that, upon verification that what he wants to sell is actually his and that it is not detrimental for him to deprive himself of it, the judge shall give him the license with his written authorization, which the buyer, who must be of legal age and competent for the transaction, may execute.

Law 28: That Indians may establish their markets and sell therein their merchandise and goods.

Emperor Don Carlos and the Governing Prince in Madrid on the 2nd of March of 1552. Don Felipe II in Madrid on the 26th of April of 1563.

The Indians shall not be prohibited from establishing markets, including their old-style markets, in their towns, nor shall Spaniards or anyone else be permitted to harm or annoy them, even on the pretext that the Indians may then have to go to the Cities to sell their merchandise, blankets, chickens, corn and other things. Going to the cities results in harm and ill-treatment to the Indians.

Law 29: That no agreements be made concerning Indian labor and profit.

Emperor Don Carlos and the Governing Queen in Valladolid on the 12th of May of 1551. Don Felipe III in Aranjuez on the 26th of May of 1609. (Cap. 22.)

We command the Spaniards not to make agreements with the Calpizques (native overseers) or Mayordomos (administrators of an estate) in quartas or quintas or any other quota part of the Indians' labor and profit. He who violates this law shall incur, on the first offense, a fine of two thousand pesos de oro for our Cámara and Fisco, and, for the second offense, shall be exiled from the land for two years, in addition to the above-mentioned fine.

Law 30: That Encomenderos not inherit the lands vacated by death of the Indians.⁸⁹

Emperor Don Carlos and the Governing Prince in Madrid on the 14th day of May of 1546.

The Encomenderos may not inherit the lands and estates vacated by the Indians of their encomiendas upon their death when they die without heirs or successors. In these cases the towns in which they resided or lived nearby shall be the inheritors, to the extent of the amounts properly needed for the payment and settlement of the tributes which they may be duly assessed, as well as some additional charges. The balance of what is left over shall be applied to our Patrimonio Real.

Law 31: That weapons may not be sold to the Indians, nor shall they be permitted to have them.⁹⁰

Don Fernando V and Doña Isabel in Granada on the 17th of September of 1501. Emperor Don Carlos on the 16th of February of 1536, and the Governing Prince in Madrid on the 17th of December of 1551. Don Felipe II on the 25th of January of 1563, on the 10th of December of 1566, on the 18th of February of 1567, and on the 1st of March of 1570.

We order and command that no one shall sell or trade offensive or defensive weapons to the Indians, nor with any one of them singly. Whoever acts to the contrary, if he is a Spaniard, for the first offense he shall pay ten thousand maravedís, and, for the second, he shall forfeit half of all his assets to our Cámara and Fisco, and corporal punishment shall be at Our mercy. Regarding the above-mentioned fines, the accuser shall receive one fourth of the amount, and the Justicia who pronounces sentence another fourth; if he is an Indian who carries a sword, dagger, poniard, or any other type of weapon, they are to be taken from him and sold, and, further, he shall be sentenced to additional penalties as deemed appropriate by the Justicia, except in the case of any Indian chief whom we permit to be given a license to carry weapons by the Viceroy, Audiencia or Governor.

Law 32: That Indians be free to dispose of their effects.

Don Felipe II in the Pardo on the 16th
of April of 1580.

If some rich Indians, or Indians in any way propertied, are ill and seek to execute their testaments, it happens that curates, priests, clerics and other religious persons may endeavor and so order the Indians to bequeath either to them or to the Church all or the greater part of their estate, even though they may have direct heirs. This is a prejudicial excess, and it is against the law. We command the Vice-roys, Presidents, and Audiencias to provide and issue appropriate orders to ensure that the Indians are not to be wronged, and that they have complete freedom to dispose of their effects without any violence against them. And We charge the Ecclesiastical Prelates not to allow this to happen, and to observe Law 9, Title 13, Book 1.

Law 33: That Indians may not ride horseback.

Don Felipe II in Madrid on the 19th of
July of 1568. In Córdoba on the 1st of
March of 1570.

We prohibit Indians from riding horseback, and We order the Justicias to ensure that this law is observed and enforced without exception.

Law 34: That the Governors not collect fees from Indians in connection with what is ordered by this law.

Don Felipe IIII in Madrid on the 1st of
August of 1633.

Even though the Indians are prohibited from riding horses, the Governors, exceeding their authority, are giving them permission to have horses; and they are collecting excessive fees for this, for public appointments, and for other different occupations. We therefore command that they

shall observe and shall comply with what has been stipulated and with orders that have been given, which shall be executed without exception.

Law 35: That the Ordinary Ecclesiastics have the right of action against Indians in matters having to do with the Faith; and the Royal Justicias in matters having to do with sorcery and curses.⁹¹

Don Felipe II in Madrid on the 23rd of February of 1575. (See Law 17, Title 19, Book 1.)

Because the Apostolic Inquisitors are prohibited from bringing action against the Indians, punishment shall be the concern of the Ordinary Ecclesiastics, and their orders are to be obeyed and carried out. Punishment of sorcerers, who kill with their spells and use other curses as well, shall be carried out by our Royal Justicias.

Law 36: That wine may not be sold to the Indians.⁹²

Don Felipe II in Madrid on the 15th of May of 1594. Don Felipe IIII on the 5th of April of 1637, and on the 6th of June of 1640. (See Law 26, Title 1, Book 7.)

We order that wine shall not be taken into Indian places and towns, nor may it be sold to them, and that the Alcaldes Mayores and Corregidores shall not countermand these orders, nor shall they directly or through the intervention of others, allow wine to be traded, because of the severe harm that results to the health and preservation of the Indians. We order that the Viceroy and Audiencias shall render punishment in these cases, with appropriate severity, and as an example.

Law 37: With regard to drinking pulque as is done by the Indians of New Spain.

Emperor Don Carlos in Toledo on the 24th of August of 1529. Same Emperor and the Governing Prince in Valladolid on the 24th

of January of 1545. Don Felipe III on
the 3rd of October of 1607. Don Carlos
II and the Governing Queen in Madrid on
the 6th of July of 1672.

The Indians of New Spain are accustomed to a drink called pulque, distilled from the maguey plant which is very beneficial for many different effects, and although drinking with temperance might be tolerated, since they are already accustomed to it, notable harm and detriments have been experienced due to the manner of production in which they introduce into the mixture certain ingredients that are noxious to their spiritual and temporal health, because under the pretext of preserving it and preventing its decomposition, they mix it with certain roots, boiling water, and lime, with which the mixture assumes such strength as to cause them to lose their senses. It injures the principal limbs of the body, makes them ill and torpid, and easily kills them. They become alienated, commit idolatries, perform heathen ceremonies and sacrifices, and in anger they engage in quarrels, lose their lives, and commit many carnal, vile and incestuous vices. All of this has forced the Ecclesiastical Prelates to make denunciations, and through proceedings and resolutions of the Viceroy and Royal Audiencia, it is prohibited. Desirous of removing such vices and the situations which cause them, thus desiring the spiritual and temporal well-being of the Indians, and of the Spaniards who use it as well, We order and command that no kind of root or any other ingredient shall be added to the simple and natural juice of the maguey plant, which might result in a stronger, hotter, or more pungent mixture, whether by mixture, distillation, or infusion, or by any other method which might cause the aforementioned or other similar effects, even if it be for the purpose

of preserving it from alteration or putrefaction. And We order the Viceroy and Audiencia of Mexico: to be especially careful with regard to the enforcement of this Our law; to permit no additional pulque shops, places, or locations where it can be sold, other than those that are already registered; and to require observance of the ordinances enacted for this purpose through regular judicial proceedings, imposing the appropriate penalties, so long as they are not of a pecuniary nature. And because We later learned that the Viceroy and the Acuerdo de la Real Audiencia of Mexico, on the 23rd of July of 1671, had formulated certain ordinances, consisting of eight headings, regarding the use of this drink and the effect which thereof results, these ordinances were read by our Council with the attention and care required by the importance and seriousness of the matter, and it was seen fit to approve them. They are to provide: that the number of pulquerías is not to exceed thirty-six, of which twenty-four shall be for use by men and twelve by women, each one to be inspected by the Alcaldes del Crimen, Corregidor, and other Justicias, according to the wards, or quarteles, in which they are located; that only lesser Ministers are to make the complaints; and that the Justicias are to substantiate and judge the cases with the greatest care and vigilance. And We charge and command the Viceroy and Audiencia: to pay particular attention to the remedy of these abuses; to require precise faithful enforcement of what is stipulated in said ordinances, punishing offenders with all severity and as an example, so as to show warning by example to others; and to remove and deprive of his duties the Conservador assigned to oversee the Arrendador, or supplier.

Law 38: That dances for the Indians not be approved without permission from the Governor, and that they be held with sobriety and modesty.

Don Felipe II in the Pardo on the 2nd of November of 1576. Don Carlos II and the Governing Queen. (See Law 63, Title 16 of this Book.)

Public dances and other Indian celebrations are not to be approved without permission from the Governor, and provided they are not in ranches or repartimientos, nor at harvest time; and on no occasion will they be permitted to become disorderly or to become inebriated through drink at such assemblies and feasts, since many excesses and improprieties have been experienced on such occasions.

Law 39: That the Viceroys of New Spain honor and favor the Indians of Tlaxcala, and their City and Nation.⁹³

Don Felipe II in Poblete on the 16th of April in Zaragoza on the 25th of March of 1585.

Taking into consideration that the Indians of Tlaxcala were among the first in New Spain to receive the Holy Catholic Faith and to give Us their obedience, and that the Viceroys call upon them for burials, honors, Princely ceremonies, reviews, aid, assistance in meeting needs that arise, and for other public acts, it is Our will and We command the Viceroys to be particularly careful to honor and favor them, to invite them to occasions of Our Royal Service, and to take account of their City and their Nation. This is so that others, seeing the grace We show them, will serve Us with the same loyalty.

Law 40: That the Tlaxcala ordinances be observed.

Don Felipe II in Madrid on the 26th of April of 1563.
In Barcelona on the 10th of May of 1585.

The chiefs and Caciques of the four Tlaxcala capitals begged Us Our grace to keep their ancient customs in order to preserve their Province, City, and Nation in accordance with the ordinances passed by the Government of New Spain in the year 1545 and confirmed by Royal Provision. And inasmuch as they are very just and proper, and until now have been observed, and through them they are well administered, and the City is quiet and peaceful, We once again approve and confirm the ordinances; and We command that they be kept, observed, and enforced by our Viceroys, Audiencias, and Justicias, and that they not allow any violation whatsoever of the content of the ordinances.

Law 41: That the Alcalde Mayor of Tlaxcala be given title of Governor.

Don Felipe II in Poblete on the 17th of April of 1585.

Taking particular notice of the good zeal and loyalty with which the Indians of Tlaxcala have served Us, serving Us as their predecessors served Us, and for which reason their City is the most important one of New Spain, it is Our will and We command that the Alcalde Mayor be given the title of Governor, and that this new title be used in titles dispatched by Us or Our Viceroys, whom We order to be especially careful to provide for this responsibility subjects of quality, experience, and goodness, of long-time residence, and living in Mexico City.

Law 42: That the Governors of the Indians of Tlaxcala be native-born.

Don Felipe II in Poblete.

By virtue of one of the Tlaxcala ordinances, it is ordered that the

Governor of the Indians shall not be a foreigner. Because this is appropriate for the preservation of that Nation, We command the Vice-roys to provide as Governors only Indian chiefs who are natives of that Nation, as has always been the practice, without allowing or giving occasion for any Indian of another Province to govern them.

Law 43: That monopolies of wine and meat markets shall not be allowed in Tlaxcala.

Don Felipe II in Poblete.

It is Our will: that in the City and Province of Tlaxcala there shall be no monopolies of wine or meat markets; and that they shall be leased out by auction in that City before the Justicia and the Regimiento, as is the custom in the cities of These Kingdoms. And We command the Viceroy and Audiencia of New Spain that they shall not allow establishment of these monopolies under any circumstance or for any reason.

Law 44: That the Indians of Tlaxcala not be compelled to serve in another area.

Don Felipe II in Lisbon on the 10th of
December of 1582. And in Denia on the
15th of February of 1594.

By Our Royal Cédula issued in the year 1539, the Indians of Tlaxcala were promised that after four years they would not be obligated to give further service to the Spanish inhabitants of the City of los Angeles, and this was confirmed again in the year 1563 in recognition of services rendered by them in the pacification of those Provinces. Because it is just that this Cédula be observed and enforced, We order the Viceroy not to compel nor allow the Indians of this Province to be compelled to serve in the Valley of Atrisco, City of los Angeles, or in any other place.

Law 45: That the Indians of Tlaxcala may write to the King.

Don Felipe II in Lisbon.

Should the Indians of Tlaxcala be presented with important business pertinent to Our Royal Service and to the welfare of their Nation, concerning which they should notify Us, or should they suffer any ill-treatment, it is Our will that they are to have free access to Us, and to write to Us freely about whatever they consider important, and that the Viceroy, Audiencia, Judges and Justicias shall not prevent them from doing so.

Law 46: That the privileges of the Indians of Guazalco be observed, and that they be favored.

Don Felipe II in Aranjuez on the 10th of
May of 1583.

All the privileges, exemptions, and freedoms granted by Us to the Indians of the Town of Guazalco shall be observed and enforced in the manner stipulated in the privileges, Cédulas, letters, and in any other dispatches, because Our will is that they not be harmed in any way, and that they be protected and favored in all respects.

Law 47: That the Juzgado de los Indios in Mexico, and wherever it may have been established, be preserved.⁹⁴

Don Felipe III in Valladolid on the 19th
of April of 1605. In San Lorenzo on the
5th of October of 1606, Don Carlos II and
the Governing Queen.

The general Juzgado de los Indios of Mexico has been found to be very convenient and necessary for good government and for the quick handling of their affairs. We therefore order that it be preserved and maintained by means of the fees obtained each year from the half real which each

Indian pays for salaries. Should any amount be left over, it is to be carried over to the next year so that the Indian does not have to be charged as much and all the more benefit accrues to the Strongbox where collections are held for the benefit of their communities. We order that the Viceroy elect as Asesor for this Juzgado an Oidor or Alcalde del Crimen, whichever might appear more appropriate and suitable, with only 400 pesos de oro común as salary each year, which is to be paid from whatever is available from the half real. Wherever this Juzgado has been established by Our orders or legitimate custom, We order that it be preserved and maintained.

Law 48: That the Viceroys and Governors provide that navigators and travellers not take Indian women with them.⁹⁵

Emperor Don Carlos in Talavera on the 31st
of May of 1541.

Navigators and travellers by land or sea are accustomed to taking married or single Indian women with them, which is a disservice to God our Lord and a peril to decency. And because it is just that this transgression be prohibited, We order the Viceroys and Governors to provide the necessary correction so that all bad examples will be prevented.

Notes

That the Viceroys and Presidents send reports on the treatment and condition of the Indians. Law 15, Title 14, Book 3.

That the Justicias not allow the killing of Indians for burial with their Caciques. Law 15, Title 7, Book 6.

That the Indians who live in concubinage not be fined the marco. Law 6, Title 8, Book 7.

Title 2: Concerning the Freedom of the Indians ⁹⁶

Law 1: That the Indians be free, and not be subject to servitude.

Emperor Don Carlos in Granada on the 9th of November of 1526. In Madrid on the 2nd of August of 1530. In Medina del Campo on the 13th of January of 1532. In Madrid on the 5th of November of 1540. In Valladolid on the 21st of May of 1542. In Castellón de Ampurias on the 24th of October of 1548.

In conformity with what is stipulated regarding freedom of the Indians, it is Our will and We command that no Adelantado, Governor, Capitán, Alcayde, or any other person, of whatever status, rank, office, or position, in times of peace or in times of war, though just and ordered by Us, or by whomever acts in Our behalf, shall dare to: undertake the capture of the natives of Our Indies, Islands and Mainland of the "Ocean Sea," discovered or to be discovered; or to keep them as slaves, though they be of the islands and lands on whom We, or those who may have been or who may be empowered by Us, have declared that war can be justly waged; or to kill, apprehend, or capture them, except in those cases and nations where it might be permitted by the laws under this Title. All permissions and declarations which have to date been issued, including those not restated in these laws, and those which might be issued and enforced but are not issued by Us with specific reference to this Law, are hereby revoked by Us and suspended with regard to the capture and enslavement of the Indians in war, though it be a just war which they have caused or are causing. Nor shall there be any barter of those Indians who might have been captured by other Indians in the wars which they wage among themselves. And likewise We command that no person, in war or out of war, may take, apprehend, hold

in employment, sell, or exchange into slavery any Indian, nor may he keep any Indian as his own slave, saying that he has acquired him in a just war, or by purchase, ransom, barter, or exchange, or in any other manner whatsoever, or for any other reason, even if it be from the Indians themselves, who may have had, may have, or might keep slaves amongst themselves. If anyone is discovered who has captured, or holds any Indian as a slave, he will suffer the loss of all his assets which will be payable to Our Cámara and Fisco; and the Indian or Indians shall thereafter be returned and restored to their proper lands and natural surroundings, with complete and natural freedom, the cost being borne by whomever captured them or kept them as slaves. And We order Our Justicias to be especially careful in their investigations, and to render rigorous punishment in accordance with this Law, upon penalty of the loss of their office, and payment of 100,000 maravedís to Our Cámara, if they act contrary to this law and are negligent in the fulfillment of this law.

Law 2: That the Encomenderos who sell their Indians be rigorously punished.

Emperor Don Carlos and Cardinal Tavera,
Governor in Fuensalida, on the 26th of
October of 1541.

The Viceroy, Audiencias and Governors shall find out if any Encomenderos have publicly or secretly sold or are about to sell the Indians of their encomiendas, and if so, to whom. If they learn that one of them has committed such a serious offense: they shall punish him severely and as an example; they shall release the Indians to their natural freedom; and for this offense, the Encomendero shall be deprived of his encomienda and of the right to acquire another one.

Law 3: That the Caciques and Principales not hold their subjects as slaves.

Emperor Don Carlos and the Governing Empress in Toledo on the 6th of November of 1538. Cardinal Tavera, Governor in Fuensalida, on the 26th of October of 1541. Don Felipe II on the 8th of February of 1588.

We prohibit and forbid the Caciques and Principales from having, selling, or exchanging into slavery the Indians who may be their subjects. Likewise, We prohibit the Spaniards from buying or bartering them. Whosoever shall violate this law shall incur the penalties stipulated in the above-mentioned law, and the Indians who were held, sold, or exchanged, will be free.

Law 4: That the Marañón Indians taken to the Ports of the Indies be set free.

Don Felipe IIII in Madrid on the 18th of May of 1629.

Vessels arrive at the Indies, dispatched by the Governor of the discovered Marañón, with Indians from the Brazilian populations, bearing dispatches and registrations which show that they are true slaves. We order the Audiencias and Governors not to allow them entry unless they have a special license from Us, and to set free those who already may have entered.

Law 5: That the Indians from Brazil or from the Portuguese demarcation zone have their freedom in the Indies.

Emperor Don Carlos and the Governing Bohemian Kings in Valladolid on the 7th of July of 1550. Emperor Don Carlos and the Governing Princess in Valladolid on the 21st of September of 1556.

What has been determined with regard to the freedom of the Indians is

to be understood, observed, and carried out, even with respect to the Indians from Brazil or from the Portuguese demarcation zone, who have been taken to our Indies, and is to hold true for them as well.

Law 6: That those from Villa de San Pablo del Brasil who go to Paraguay to capture Indians be punished.

Don Felipe III in Madrid on the 12th of September
of 1628.

The Portuguese of the Villa de San Pablo in Brazil, which is a journey of ten days from the remote Indian Reducciones of the Province of Paraguay, go there each year, against all Christian piety, to capture Indians and take them for sale in Brazil as if they were slaves. And since it is proper to curb all manner of insolence, contempt, and transgression committed in disservice to God our Lord, We order and command the Governors of the Río de la Plata and Paraguay to strive in every way possible to apprehend and punish, as a strong example, the offenders and any others who commit such transgressions, and who in so doing abandon the propagation of the Holy Gospel and upset peace and tranquility. The Governors shall take all possible steps to insure execution of the above-ordered punishment, without any exception, so as to achieve the punishment, correction, and redress with which We charge their conscience.

Law 7: That in Tucumán and Río de la Plata, Indians called "de rescates" not be sold or bought.

Don Felipe III in Madrid on the 10th of October of 1618.

The Guaycuri Indians of Tucumán, Río de la Plata, and Paraguay are wont to wage war against others whom they then capture and sell, killing

many on these occasions. Other Nations do the same, and even wayward Spaniards have taken and removed Indians, bringing them from one place to another and selling them in the same way, which in addition to the seriousness of the offense, may result in destruction of the land. We therefore command that such commerce or dealings called rescates not exist or be allowed, penalty for this offense being that the Indian will regain his freedom and his price will be paid to our Cámara, Juez, and Denunciador. We prohibit the buyer from making use of the Indian's services or keeping him in his home, farm, ranch, or village, even if the Indian should want it. In the case of any Spaniard or Mestizo who might sell, gamble, exchange, or barter the Indian, if he is of low status, he shall be condemned to six years in the Galleys, or other equivalent service; if he is of higher status, he shall serve the same amount of time in the Kingdom of Chile; and if he is a Negro or Mulatto, he shall receive the same above-mentioned Galley sentence.

Law 8: That the prohibition against slavery be understood as well with regard to the Indians imprisoned on sorties into Indian lands.

Don Felipe III in Madrid on the 10th of October of 1618.
We order that the general prohibition against enslavement of the Indians also be observed in the Provinces of Tucumán, Río de la Plata, and Paraguay, with regard to Indians taken on sorties into Indian lands, or acquired in any other manner whatsoever.

Law 9: That a Minister or other qualified person to judge matters of Indian liberty be appointed.

Don Felipe II in Madrid on the 7th of November of 1574.
Don Felipe IV in Madrid on the 26th of March of 1631.

We command that no Spaniard may own an Indian slave in the Philippines for whatever reason, notwithstanding that the Indian might have belonged to another Indian or Spaniard or was obtained in a just war. It has come to light that many Indians have been enslaved in those Islands and other parts, and that they have been tyrannically enslaved by other chiefs, saying that they have owned them for many years, and that they sell and trade parents and children. Wishing their liberty, We order the Viceroys and Presidents of all the Royal Audiencias to name a Minister or other qualified person of good conscience to visit each Province and to judge these cases in order that slavery, not allowed by law and by the laws of this Book, may be nullified by him and that he may give the Indians their natural freedom, without being restrained by any possession of them.

Law 10: That Corregidores and Alcaldes Mayores not pass judgment in matters of freedom of the Indians, that they send reports to the Audiencias, and that the Fiscales defend their cases.

Emperor Don Carlos and the Governing Prince in Monzón de Aragón on the 11th of August of 1552.

It is not appropriate for the Corregidores and Alcaldes Mayores to pass judgment in first-instance matters of freedom of the Indians, but they are to send reports to the Audiencias with all promptness, diligence, and care. If the distance is so great as to impede their being granted their freedom, Our Fiscales shall defend their cases, and observe Law 37, Title 18, Book 2.

Law 11: That Indians not be lent or transferred under any title rights, nor be put up for sale with haciendas.

Don Felipe III in Aranjuez on the 26th of May of
1609.

The Indians shall not be lent or transferred from one Spaniard to another nor transferred via sale, donation, testaments, payment, barter, or any other manner of contract, along with workshops, livestock, farms, mines, or without them. This shall apply to all haciendas of this kind or any other kind which are benefitted by Indian labor given freely and voluntarily. No mention shall be made concerning said Indians or their service in the deeds executed by the owners of residual estates or above-mentioned haciendas, nor in any other manner whatsoever, because they are by nature as free as the Spaniards themselves, and therefore are not to be sold, bequeathed, donated, or transferred with the property on which they might have been working, there being no distinction between those who are on mita and those who come voluntarily to work thereon. And he who might violate this law, if he is of low status, shall incur as penalty public shame and perpetual exile from the Indies, whether he bought, sold, received, or donated the Indians in any of the above-mentioned ways. If he is of an importance or status which may not permit these penalties, he shall incur as penalty: the loss of said Indians; prevention from receiving another apportionment of this kind; and furthermore a fine of two thousand ducados, payable in thirds, two-thirds for the Juez and Denunciador, and the last third for the Indians described in the deed or contract. We thereupon annul and revoke said deeds and We declare them to be of no validity or effect. The same penalties shall apply to any of the cases mentioned, even if no deeds are presented. Notaries who may be attested such deeds shall be deprived of their office, and shall pay two thousand ducados, payable

in the same manner as stated above. Any Justicia who conceals an offense of this sort shall incur as penalty the same fine, payable in the same manner, and shall be exiled from the Indies.

Law 12: Concerning freedom or enslavement of the Mindanaos.

Don Felipe II on the 4th of July of
1570. Don Felipe III in Madrid on the
29th of May of 1620.

Near the district of the Philippine Islands and its confines are the Islands of Mindanao, whose inhabitants have rebelled, joined the sect of Mohammed, and formed a confederation with the enemies of Our Crown. They have committed great offenses against Our vassals, and as a means of facilitating their punishment an effective way seems to have been to declare as slaves those captured in war. We command that this may be done in accordance with the following distinction: if they are pure Gentiles the Mindanaos are not to be made slaves; but if they are Moors by birth and nationality and came to these Islands to preach and instruct in their Mohammedan sect, or to wage war against the Spaniards or the Indians who are Our subjects or who belong to Our Royal Service, they can be made slaves. Furthermore, those who are Indians and who may have joined the sect are not to be made slaves, and they are to be persuaded by good and legitimate means to convert to our Holy Catholic Faith.

Law 13: That the Caribes who go to the Islands to wage war be made slaves, as it is ordered.⁹⁷

Don Felipe II in Madrid on the 25th
of January of 1569.

The residents of the Islas de Barlovento have permission: to wage war against the Caribes, who invade the Islands bearing arms and eat human

flesh; and to make slaves of those they capture, so long as they are not less than fourteen years of age or females of any age. We order that this shall be done, observing the instructions given by the Audiencia of Santo Domingo for further support.

Law 14: Concerning freedom of the Indians of Chile, and that they be restored to freedom.⁹⁸

Don Felipe III in Ventosilla on the 26th of May of 1608. Don Felipe IIII in Aranjuez on the 13th of April of 1625. In Madrid on the 9th of April of 1662 and on the 1st and 5th of August of 1663. Don Carlos II and the Governing Queen.

Having tried all possible means to reduce the Indian natives of the Provinces of Chile to the Brotherhood of the Holy Roman Catholic Church and to obedience to Us, We have attempted to persuade them through peaceful and docile means, and they have failed miserably in taking advantage of these offerings, and have repeatedly broken the peace, and feigned peace, and if they kept the peace at all it was only until it was opportune to break it, denying obedience to the Holy Mother Church, taking up arms against Spaniards and friendly Indians, destroying forces, villages, and cities, demolishing and desecrating Temples, murdering many of Our Religious and vassals, capturing the people whom they have been able to overcome, holding on obstinately for many years, and committing other offenses worthy of punishment and rigorous action. For these reasons they deserved to be given as slaves, being foes of the Church and Christian Religion. And finally, the land being at its greatest peace, they fomented a general uprising, with many invasions and hostilities everywhere the opportunity was possible. And We, showing the greatest mercy and clemency, saw fit to pardon and forgive this

offense, and to graciously concede that they were not to be made captive, imprisoned, molested, or accused for these acts, nor their lands or other property be taken from them, nor any embargoes placed on them. And now, in order to further extend Our mercy and kindness, recognizing that the dissemination of the Holy Gospel, peace, and tranquility is obstructed and even made impossible in that Kingdom and with the people of that land through enslavement of the Indians: We order and command the Viceroy of Peru, the Governors, Capitanes Generales, and Audiencias of those Provinces: to observe, enforce and execute the orders given regarding the prohibition of slavery; and that all the men and women who under the pretext of slavery were sold and removed from those Provinces to the City of Los Reyes or other parts of Peru, be recovered and reduced to their lands, in effect, reserving, as We reserve, for the actual owners their right to recovery from the sellers who took them away. It is understood that this or any other law shall not hinder or hamper efforts to reduce said Indians to settlements, because this reduction is to be carried out inviolably and without delay. And We order the Viceroy of Peru and the Governor of Chile that as the Indians are being reduced to settlements they shall be turned over to their Encomenderos. Everything contained in this Our law, shall be observed at this time and until such time as additional provisions are made.

Law 15: That those who owned slaves with legal title not be sentenced to make any payment to them.

Don Felipe II and the Governing Princess
in Valladolid on the 7th of September of
1558.

When some Indians who had been kept as slaves petitioned and obtained their freedom, there was a question as to whether the owners would have to make any sort of payment to them for services rendered. It was declared that if the owners had owned them with legal title and good faith, they were not obligated to make payment for their service until the day their freedom was obtained, and that the owners were not to incur any penalty. It is Our will that in such cases it thus be regulated.

Law 16: Reaffirms orders for the freedom of the Indians, and makes provisions for the Indians of Chile.

Don Carlos II in Madrid on the 12th of June of 1679.

Though resolved that the Indians of Chile were to enjoy complete freedom, it became the practice that those captured in war were to be made slaves by right of war or servitude, and that those Indians captured at a young age served until the age of twenty and then were set free. Also, in accordance with another right, called custom, parents and close relatives sold their children and relatives in exchange for jewels as a pledge for a given period of time. We decided to command the Governor of those Provinces: to set free all Indian slaves, reserving for the owners and buyers the right of recovery against the sellers; not to permit imprisoned Indian men, women, and children to be sold as slaves nor taken out of the Kingdom of Chile; and to reduce the Indians, who may have been sold, to their own lands within the Kingdom of Chile, without being hindered or delayed by the claims of the buyers against the sellers, or by any other claim, and regardless of any petitions, new reasons, or representations that might be introduced. It is highly important that

the Indians of those Provinces be treated lovingly, as Our vassals, and not be oppressed or molested, that attention be given to their comfort and preservation, and that rigorous legal action be taken against those who might harm them, even if they do so under the pretext of saying that the Indians are enemies and wage war. We have charged the said Governor with good treatment, conversion, and reduction of these Indians by the kindest and most gentle means possible, mainly through preaching of the Holy Gospel and propagation of our Holy Catholic Faith, in order that the Indians may depart from their miserable condition. The Governor of Chile has suspended these resolutions under various pretexts, because of the good faith of the owners, and has allowed them to have Indians, with the condition that they treat them well. The Governor was given a hearing in Our Council and consulted with Us, and We have resolved that the contents of this, Our law, be precisely and promptly observed, enforced, and executed, without permitting anything to happen that might violate the provisions of this law for any reason whatsoever. In the future, under no pretext or motive of a just war, nor under any other pretext, shall it be allowed to keep or sell as slaves those who have been captured in war or otherwise, nor those who are in servitude or are slaves by custom. Therefore, all who now live in slavery, their children, and their descendants, shall be, in effect, free from all three categories: war, servitude, and traditional slavery. We therefore command that this be proclaimed as general law in the Kingdoms of Peru and New Spain, and that it be included in this Recopilación. To remedy difficulties that may be caused by the Indians of said Provinces of Chile who abuse their

freedom, return to idolatry, and join the enemies, We command the Governors to have them all shipped to the City of Los Reyes each time there is a need to go there for the allowance that is available from the Caxas Reales of that City, for the maintenance of the Army of that Kingdom. This shall be done regardless of the order that all Indians, male and female, sold in said Kingdom and other places, are to be reduced to their lands, inasmuch as Our will is, as We have stated in this case, that they be transported to Lima, since their life and health will not be risked by taking them to a better climate. And We command the Viceroys of the Provinces of Peru that when said Indians are sent, they be distributed to the encomiendas, or if their numbers are too great, that they be distributed to newly established encomiendas. And We likewise command the Royal Audiencia of Los Reyes to attend to compliance with the provisions of this Our law, with respect to that part which is their responsibility, and, whenever these occasions arise to keep Us informed concerning actions being taken and execution of the law.

Notes

That the Fiscales have specific responsibility for the freedom of the Indians. Law 37, Title 18, Book 2.

That the Viceroys judge Indian cases in the first instance..... with appeals to be made to the Audiencias. Law 65, Title 3, Book 3.

That the Ecclesiastics and Seculars advise the Protectores, Procuradores, and Defensores if there are any Indians who are not enjoying their freedom. Law 14, Title 6, Book 6.

That Indian women not be confined to spin and weave in fulfillment of their husbands' tribute obligations. Law 15, Title 10, Book 6.

Title 3: Concerning Reducciones and Towns of the Indians⁹⁹

Law 1: That the Indians be reduced to settlements.

Emperor Don Carlos and the Governing Prince in Cigales on the 21st of March of 1551. Don Felipe II in Toledo on the 19th of February of 1560. In the Bosque de Segovia on the 13th of September of 1565. In the Escorial on the 10th of November of 1568. Ordinance 149 (concerning settlements in 1573). In San Lorenzo on the 20th of May of 1578.

With careful and particular attention, effort has always been made to use the most appropriate means for instructing the Indians in the Holy Catholic Faith and Scriptural Law, and so that by forgetting the errors of their ancient rites and ceremonies, they may live in fellowship and under the rule of law. In order for this to be executed with the greatest success, Our Council of the Indies and other Religious persons met several times, and the Prelates of New Spain were assembled in the year 1546, by command of the Emperor Don Carlos V, gloriously remembered; and with the desire to be of service to God and to Us they resolved that the Indians would be reduced to towns, and that they would not live divided and separated by mountains and forests, depriving themselves of spiritual and temporal benefits, assistance of Our Ministers, and the obligation to help one another with regard to human necessities. In recognition of the appropriateness of this resolution through the different orders decreed by Our predecessor Kings, the Viceroy, Presidents and Governors were charged with and were commanded to proceed, in a mild and moderate manner, with the reduction, settlement, and indoctrination of the Indians.

They were to proceed with such gentleness and mildness, without causing any inconvenience, that those who could not be settled immediately, might be motivated to voluntarily come forward, having witnessed the good treatment and protection received by those already reduced. And it was commanded that they not pay higher tribute than ordered. Because the above-stated law was carried out in the greater part of Our Indies, We order and command: that it be observed and carried out in the rest of Our Indies as well; and that the Encomenderos comply with it in accordance with and in the manner decreed by the laws of this Title.

Law 2: That the Ecclesiastical Prelates assist and facilitate the Reducciones.

Don Felipe III in Valladolid on the 21st
of June of 1604.

We charge the Archbishops and Bishops to assist in the settlement of the natives of their districts and to resolve difficulties that may arise, and that they see to it that the Curates, Ministros de Doctrina, and Priests do likewise.

Law 3: That in order to establish Reducciones qualified Ministers be appointed, and that those who in any way cause hindrance be punished.

Don Felipe III in Madrid on the 16th of
April of 1618.

The Viceroy and Governing Presidents shall appoint Ministers and persons of the highest competence for the establishment of Reducciones for the Indians in their places of origin, and shall see to it that it is done without undue influence and with such gentleness that there will be no compulsion or any other form of pressure which might turn benefit into detriment for them, and by presenting it to the natives for their own

welfare and comfort. They shall caution Corregidores and Caciques who are involved not to employ ill-treatment or to cause hindrance, and they shall punish severely and exemplarily any Seculars discovered to be offenders. If offenders are Ecclesiastics, they shall notify their superiors who will bring action against them, and remove and correct them as persons who oppose peace and public government.

Law 4: That in each Reducción there be a Church under lock and key.

Don Felipe III in Madrid on the 10th of
October of 1618.

In every Reducción, even though there may be just a few Indians, a Church must be built, where Mass can be said with decency, and which will be under lock and key. This must be done, even if the Reducción is subject to a Parish, and is distant from it.

Law 5: That Indian towns have religious instruction paid for from the tributes.

Don Felipe II in the Bosque de Segovia on the 8th
of October of 1560.

Indian towns are entrusted to the Spaniards upon condition that they instruct them in the Doctrine and defend them, and that they provide them with Curates paid for from the tributes. The same shall apply to those towns which may have been incorporated under Our Royal Crown, as ordered.

Law 6: That each town have two or three singers and a Sacristán.

Don Felipe III in Madrid on the 10th of October
of 1618.

All towns having more than one-hundred Indian inhabitants shall have two or three singers, and each Reducción shall have a Sacristán to look after the ornaments and to sweep the Church. All of these persons shall be

exempt from paying tribute and from personal services.

Law 7: That the towns have Fiscales who will assemble the Indians for religious instruction.

Don Felipe III in Madrid.

If the town has at least one-hundred Indians, it shall have one Fiscal to assemble the Indians to learn the Doctrine; and, if it has more than one-hundred Indians, it shall have two, but not more than two Fiscales, even if there are a greater number of Indians. Fiscales shall be between fifty and sixty years of age, and the Curates may not assign them to other services beyond their office unless they pay them for such services.

Law 8: That the Reducciones be established in accordance with the provisions of this Law.

Don Felipe II in the Pardo on the 1st of
December of 1573. Don Felipe III in Madrid
on the 10th of October of 1618.

The locations in which Towns and Reducciones are to be established shall have the conveniences of water, land, and forest, entrances and exits, and arable lands, and a space of land with a length of one league where the Indians might keep their livestock so that it does not get mixed-up with the Spaniards' livestock.

Law 9: That lands the reduced Indians had before their reduction not be taken away from them. 100

Don Felipe II in Toledo on the 19th of
February of 1560.

The Indians will be reduced to settlements with greater willingness and promptness if the lands and farms which they left behind are not taken away from them. We command that no change be allowed in this regard, and that they keep them as they did before their reduction so

that they may cultivate their lands and profit from them.

Law 10: That efforts be made to establish Indian towns near the mines.

Don Felipe III in Valladolid on the 24th of November of 1601. Ordinance 21, with reference to Personal Service.

Indians are distributed for the benefit and labor of the mines, and if they are brought from faraway Towns and Provinces, this results in harm and detriment to them. And because We are desirous of preventing this in every way possible, We order and command the Viceroy and Governing Presidents, once having selected comfortable and wholesome locations in the vicinity of the mines, to construct and found Indian settlements, so that the Indians might be gathered to live in established towns where they can receive religious instruction, can have Hospitals, and whatever else may be necessary for the treatment of the sick, and so that they might come forward more voluntarily for the benefit which will result from their labor. Thus it will not be necessary to bring other Indians from farther away for allotment to the mines. And because the working and maintenance of the mines is of such importance, that it should not be diminished in any case, and because it should continue to increase, We consider it wise and so command that, should the necessary number of Indians needed in each mining location not be available, either at the outset or after the establishment of the settlements, they shall be brought from the nearest places in order that the mines will be manned. The transfer of Indians shall not be from cold to hot climates, nor vice versa. Orders contained in Law 17, Title 15, Book 6, with reference to the Cerro de Potosí, shall be observed in every way, said

orders providing for and ordering that which is necessary for execution and enforcement of the law and with regard to kind treatment, and wages of the Indians.

Law 11: That the Reducciones be constructed and paid for from the tributes which the Indians will pay.

Don Felipe II in Madrid on the 18th of
February of 1588.

We command that the Reducciones be funded from the tributes which the Indians pay in connection with their recent settlements, as it is ordered. The same applies to towns which accommodate the greatest number of Indians possible on the basis of the capacity and conveniences of their locations. The Indians are not exempt from this obligation.

Law 12: That the Indians of the farms shall not be regarded as Yanaconas, and they shall have Reducciones, even though this may have been previously handled otherwise.

Don Felipe III in Madrid on the 10th of
October of 1618. Ordinance 5.

If the Indians wish to remain on farms or landed properties, they shall not be hindered in a violent manner, and they may go to their Reducciones. If they have not gone to a Reducción within two years, they shall have as their Reducción the location where they rendered service, and space is to be set aside within the area of the farms for this purpose in order that they may live together, because such location is to be considered their Reducción. It is not to be considered that the Indians are Yanaconas, even though this may have been previously handled otherwise. Thus reduced, they will be given sufficient land in accordance with the conditions that govern other Reducciones.

Law 13: That Reducciones may not be moved without an order from the King, Viceroy, or Audiencia.

Don Felipe III in Madrid on the 10th of
October of 1618.

No Governor, Corregidor, Alcalde mayor or any other Justicia may alter or move the Towns or Reducciones once they have been established and founded, without Our express order or that of the Viceroy, President or Audiencia Real of the district, even though the Encomenderos, Curates or Indians may request or consent to it, and offer and give useful information. Because these petitions are most often made on behalf of private interests and not on behalf of the Indians, reports regarding this law will be made, and dispatched secretly. The law will thus be observed, upon penalty of one thousand pesos from the Judge or Encomendero who violates the law.

Law 14: That in matters pertaining to Reducciones, what is decreed in this law shall be observed.

Don Felipe III in Madrid on the 20th of
October of 1598.

If, for the compliance and enforcement of the Reducciones, the Viceroys and Governing Presidents make decisions in the course of which some persons might be wronged and file an appeal, they will consent to presentation of the appeal before Our Council of the Indies, and not before any other Tribunal. Nevertheless they are to carry out the provisions of the law in such a manner that the Reducciones will be effected. And because land, water, and forests are to be set aside and given to the Indians, if they are taken from Spaniards, the Spaniards are to receive just compensation somewhere else. In this case, a Tribunal composed of

two or three Ministers of the Audiencia is to be set up to hear the complaints of any who feel wronged and to compensate for the wrong. We prohibit Audiencias from further proceedings in these cases.

Law 15: That the Reducciones have Indian Alcaldes and Regidores.¹⁰¹

Don Felipe III in Madrid on the 10th of
October of 1618.

We order that: each Town and Reducción shall have an Indian Alcalde from the same Reducción; if it has more than eighty houses, it shall have two Alcaldes and two Regidores, also Indian; and even if the Town is very large it shall have no more than two Alcaldes and four Regidores. If the town has less than eighty but at least forty Indians, it shall have no more than one Alcalde and one Regidor. Successors are to be elected each year in the presence of the Curates, as is the practice in Spanish and Indian towns.

Law 16: That the Alcaldes of the Reducciones have the jurisdiction herein stipulated.

Don Felipe III in Madrid.

Indian Alcaldes shall have jurisdiction only to investigate, arrest, and to bring offenders to the Spanish town jail of their district. But they may impose punishment of one-day imprisonment or six to eight lashes on any Indian who fails to attend Mass on religious holidays, or who becomes inebriated or has committed another similar offense. If many are inebriated, they are to be more severely punished. Except for leaving to the Caciques matters that pertain to the mita of their Indian subjects, governing of the towns will be under the responsibility of the Alcaldes and Regidores in matters of general concern.

Law 17: That the Indian Alcaldes may arrest Negroes and Mestizos pending arrival of the ordinary Justicia.

Don Felipe II in Madrid on the 11th of
August of 1563.

In the towns that have ordinary Indian Alcaldes, when the Corregidor, Alcalde mayor, or his deputy are absent, We permit the Alcaldes to arrest and hold in jail any Negroes or Mestizos, who commit violations or cause injuries, until the Corregidor, Alcalde mayor or his deputy arrive and make judgment.

Law 18: That no Indian leave his Town to go to another.

Don Felipe III in Madrid on the 10th of
October of 1618.

We command that in no Indian town is there to be any Indian from another Reducción. Penalty will be twenty lashes for the Indian, and payment of four pesos by the Cacique to the Church each time he permits it to happen. Law 12, Title 1, of this Book shall be observed.

Law 19: That Indians not be given license to live outside their Reducciones.

Don Felipe III in Madrid on the 4th of
February of 1604.

Considering how important it is that the Indians not go to live outside the area of their Reducciones, We order and command the Governors, Judges, and Justicias of each Province not to issue them licenses for this purpose except in some rare case, as in the case of an orphaned Indian. Penalty for violation shall be suspension of office for three years, and payment of five hundred ducados, half for Our Cámara and half for charitable works to benefit the Indians. They will be held accountable

for this in their residencia. The Judge will require the Indians to be returned and restored to their towns, at the expense of the guilty parties. In case of noncompliance, this command shall be executed by the successor in office, with the same penalty in force.

Law 20: That livestock ranches not be located near Reducciones. 102

Don Felipe III in Madrid on the 10th of October of 1618. Don Carlos II and the Governing Queen.

We order that ranches of large livestock not be located within a league and a half of old Reducciones, and that ranches of small livestock not be located within half a league. In the case of newly established Reducciones, these distances are to be doubled, upon penalty of the loss of the ranch and half of the livestock in it. All owners shall keep close watch of this, upon penalty of paying for any damages they might cause. The Indians are allowed to kill livestock that might enter their land, without any penalty. In all respects, Law 12, Title 12, Book 4 shall be observed.

Law 21: That Spaniards, Negroes, Mestizos, and Mulattoes not live in Indian Towns. 103

Don Felipe II in Madrid on the 2nd of May of 1563, and on the 25th of November of 1578. In Tomar on the 8th of May of 1581. In Madrid on the 10th of January of 1589. Don Felipe III in Tordesillas on the 12th of July of 1600. Don Felipe IIII in Madrid on the 1st of October and 17th of December of 1646. (For this Law and the following one, see Law 1, Title 4, Book 7.)

We prohibit and restrain Spaniards, Negroes, Mulattoes, or Mestizos from living in Indian Reducciones and towns, because it has been Our experience: that some of the Spaniards who deal, trade, live, and move about among the Indians are restless men who have evil ways, are thieves, gamblers, vice-ridden and wayward persons, and they cause the Indians to leave their

towns and Provinces in order to escape possible harm; and that the Negroes, Mestizos, and Mulattoes, in addition to treating them badly, take advantage of them, teach them their bad habits, laziness, mistakes, and vices, which may result in the corruption and perversion of Our efforts toward their salvation, growth, and tranquility. We command: that they be severely punished and not allowed in the towns; that the Viceroy, Governors, and Justicias pay particular attention to the enforcement of this law when they can personally attend to the matter, or that they avail themselves of Ministers of integrity to do so when they cannot; and that Mestizos and Zambaygos who are children of Indian women, born amongst them and who are to inherit their houses and properties, may be exempt because it is a difficult thing to separate them from their parents.

Law 22: That Spaniards, Mestizos, or Mulattoes not live among the Indians, even though they may have bought land in their towns.

Don Felipe VIII in Zaragoza on the 30th of
June of 1646.

Even though Spaniards, Mestizos, and Mulattoes may have bought lands in Indian towns or within their limits, they are still subject to this prohibition. And We so command that under no circumstances shall they be permitted to live in said Indian towns and Reducciones, because this is the principal cause and origin of the oppression and ill-treatment which the Indians suffer.

Law 23: That no Spaniards remain in an Indian town longer than the day of his arrival plus an additional day.

Emperor Don Carlos and the Governing Empress
in Valladolid on the 20th of November of 1536.

No Spaniard, en route to wherever he is going, shall prolong his stay without just cause, or remain in any of the Indian towns through which he may be passing longer than the day of his arrival plus an additional day, and on the third day he shall depart and leave the town. Penalty for each day he might remain after that period shall be fifty pesos de oro de minas, half payable to our Cámara and Fisco, and the other half to the Judge and Denunciador, in equal parts.

Law 24: That no trader remain in an Indian town longer than three days.

Don Felipe III in the Pardo on the 21st
of November of 1600.

We command Spanish or Mestizo traders to observe ordinances of the Province regarding residence or staying in Indian towns, and wherever there may not be such ordinances, to remain no more than three days, during which time We prohibit them from trading in the streets and in the homes of the Indians.

Law 25: That where hostels or roadside inns are available, no one shall lodge in the home of an Indian or Mazegual.

Don Felipe II in Madrid on the 11th of
August of 1563.

A Spaniard travelling with his servants, horses, or beasts of burden, is not to lodge in the private home of an Indian or Mazegual if there are hostels or roadside inns or other places in which to take shelter available along the way. If there are no such places and they lodge in private homes, they shall pay the hosts and owners for everything they receive, including lodging, provisions, and whatever else is given to them, and for the cost of that which they are served, in accordance with the customary rates.

Law 26: That travellers not take anything from the Indians by force.

Emperor Don Carlos in Toledo on the 4th
of December of 1528.

We order that in Indian towns, Reducciones, and farms, travellers shall not take provisions or anything else from the Indians against their will, and they shall pay them a just price for anything they purchase from them. In the case of anything taken by any other means, the Justicias shall assess a penalty of restoring twice its value to the Indians, plus payment of four times its value, half payable to Our Cámara and the other half divided between the Judge and the accuser.

Law 27: That Calpizques not be installed in towns without approval and security bonds.¹⁰⁴

Emperor Don Carlos and the Governing Queen
of Bohemia in Valladolid on the 6th of May
of 1550. Don Felipe II in Monzón de Aragón
on the 2nd of December of 1563.

When the Encomenderos have to install Calpizques or Mayordomos in their towns, they shall select persons of such competence that they will not cause harm or wrongdoing against the Indians. After being appointed and before entering the town to assume their occupation, they shall appear before the Audiencia or before the Governor of the district, being duly qualified, in order to receive their license, without which they cannot enter the town or assume their duties. At the same time, the Encomenderos and Calpizques will furnish bonds that are "legas, llanas y abonadas," in whatever amount is deemed proper, from which they will make payment and render justice in any case of harm or wrongdoing caused by the Calpizques against the Indians, and any other plaintiffs. They will be instructed in everything so that they may know what they must do and what they must observe. The Encomenderos shall always be careful to

find out if the Calpizques are complying, and to punish those who transgress the content of this law.

Law 28: That Calpizques not carry the staff of justice.

Don Felipe II in the Bosque de Segovia
on the 10th of August of 1562.

The Calpizques shall not be permitted to carry the staff of justice before the Indians, even though they be in towns of Seigniorship. The Governor of the Province shall punish any Calpizque who carries it, imposing whatever penalty he judges to be appropriate.

Law 29: That proprietary positions not be allowed or sold in Indian towns. 105

Don Felipe II in Madrid on the 5th of
February of 1592. Don Felipe III on the
28th of December of 1634.

We order that in Indian towns no proprietary positions or officials other than those granted by the Government of each Province shall be permitted. And because it is ordered, wherever they are absolutely necessary, that offices of Alguacil and Escribano may be sold, Our will and intention is that they be sold only under the condition that the Escribano must be of Royal designation, have a title, and have authority of Notary from Us, as provided for by general law.

Notes

That Encomenderos proceed with the reduction and teaching of the Doctrine to the Indians. Law 2, Title 9, Book 6.

That Encomenderos not be given license to be present in their towns (Law 13), and which persons are prohibited (Laws 14 and 15, Title 9, Book 6).

Title 4: Concerning Revenue Strongboxes, Community Goods, and Their
Management 106

Law 1: That the Viceroy, Presidents and Audiencias comply with the laws under this Title. 107

Don Felipe III in Madrid, on the 13th of
February of 1619. Don Felipe IIII in Madrid
on the 16th of April of 1639.

Having learned of the wastefulness and disorder that exist in the management of revenues and common goods of the Indians, We saw fit to apply the most appropriate remedy, on the basis of which various orders have been sent, in accordance with the different times and occasions. And because the matter is so very serious, requiring special application, We command the Viceroy, Presidents, Audiencias, and Justicias to be particularly attentive to the fulfillment and execution of these orders, as We hold them responsible.

Law 2: That all common goods of the Indians, and the basic and legal documents, be entered in the Community Strongboxes.

Don Carlos II and the Governing Queen.

All goods of the body and aggregate of the Indians of each Town are to be entered in the Community Strongboxes, so that from there whatever is necessary may be expended for the common benefit of all, and so that care may be given to their preservation and increase, and everything else that is necessary. There is to be distribution by payment orders, and precise accounting. Likewise to be entered are the basic and legal documents corresponding to their wealth and assets.

Law 3: That other goods not be deposited in the Community Strongboxes.

Don Felipe III in Madrid on the 13th of
February of 1619. Don Carlos II and the
Governing Queen.

Other properties of gold, silver, reales, ingots, jewels, and items
or amounts that may not belong to the Indians collectively, are not
to be entered in the Strongboxes. And anything else that is entered in
them and accepted by the Ministers who assume the responsibility, there
being no other judgement or deposition, shall, ipso jure, be confiscated,
considered lost, and shall belong to the community. A penalty of four
times the amount involved shall be imposed upon those who violate this
law.

Law 4: That the proceeds from this treasury be put into a separate
coffer.

Don Felipe III in Madrid.

All proceeds from this treasury shall be put into a separate coffer that
is adequate and suitable in strength, security, and size, and in which
everything that pertains to their value shall be collected, deposited, and
kept.

Law 5: That money in the Strongbox be invested, with separate
accounting for each Community.¹⁰⁸

Don Carlos II and the Governing Queen.

We command the Oidor, Fiscal, and Officers of the Royal Treasury to be
always informed concerning the amount of money in the Community Strong-
box. If it seems to them that it is a considerable amount, they shall
seek to invest it, and shall invest it for new and secure income, so that
it does not lie in idleness. There shall be a separate accounting for
each community of the amount invested, with its payments due and proceeds,

or there shall be a joint investment and apportionment as stated in the following law. The above-mentioned officials are advised that these joint investments are not to be made if separate and sufficient amounts are available for separating investments in such a way that each community shall have those which belong to it, and in which case there will be less confusion and complication.

Law 6: That if a censo is paid off, a new censo shall be established.

Don Carlos II and the Governing Queen.

If it happens that the investment [censo] of some Indians is paid off, and from it there are accrued proceeds, an order shall be given that together with the principal it shall be newly invested so that the income may continue to increase. If a considerable amount is not available to the Indians to whom the proceeds belong, but a considerable amount is available from another Community, or from other Communities, and if the security appears to be good and sound, the separate amounts including principal and interest may be combined and a new investment may be made. An apportionment shall be made of the amounts which belong to each Community. This apportionment shall be recorded in an orderly way in the accounting ledgers, and as ordered, must be on record clearly and distinctly for each Community.

Law 7: Proceedings, as stated, and resolutions made by the Acuerdo of the Audiencia shall precede establishing new censos.

Don Carlos II and the Governing Queen.

When any Community censo is paid off, or when a new censo is to be established, the Officers of the Royal Treasury will immediately make

record of the total amount, post decrees in the four corners of the public square and wherever else they deem appropriate, or have the necessary announcements made so as to inform everyone. There is to be no delay, and the Officers of the Royal Treasury will receive reports on individuals, properties and securities, which they will bring to the Oidor and Fiscal responsible for these properties so that they may review and select those which appear to them to be the best, most sound, and secure. Before making any determination, they shall submit a report to the Acuerdo of the Audiencia so that through it the most appropriate decision for everyone will be made, care being taken that, because of favoritism or other aspects, they do not fail to examine matters very carefully and that they do not fail to recognize the soundness of mortgages. Losses and bankruptcies which have been experienced will thus come to an end.

Law 8: That the Strongbox have cash reserves.¹⁰⁹

Don Carlos II and the Governing Queen.

Even though, as ordered, care must be taken that the money in the Strongboxes does not lie in idleness, this is to be done with the precaution that enough is kept in them to aid the Indians in the payment and securing of orders for payment and other obligations which may arise for them. Because an exact and precise amount cannot be determined for this purpose, it will be subject to the discretion and opinion of the Oidor, Fiscal and Officers of the Royal Treasury who are responsible for it.

Law 9: That, in the interest of good accounting procedure and reckoning, two books be kept in the Community Strongbox for the total body of assets, and two additional books for the revenues.

Don Felipe III in Madrid on the 13th of
February of 1619.

Four books for accounting and reckoning are to be kept inside the Community Strongbox. Two books shall be for the double-entry bookkeeping of its assets and for the drafts and payments made from the Strongbox for the necessary and regular expenses of the community divisions concerned. In one of the two other books a reporting will be maintained, for purposes of inventory, of all revenues distinguished according to the Community to whom they belong. The reporting will show which private individuals are debtors, or which Royal Strongboxes, and on what terms, and on which assets they are based. It will show the date, month and year of the documents and the names of the Escribanos before whom the documents were notarized. Sufficient space will be left to make additional entries. In another section of the same book a separate accounting shall be made for each one of the Censualistas: what is due; what is paid; and to which Community the account pertains. In the other book, there must be an inventory and the most clear and complete report possible of the Indians, towns, and Communities that participate in these investments, showing the amount of income for each, on which assets it is based, and that which may be due to them from whatever money there may be in the Strongbox for use. This having been done with precision and clarity, what is collected and put in the account for each Community, and payments made through payment orders, will be entered in another part of this book in detail. Entries will be repeated from one book to the other, so that it will be easier to compare, see, and understand that which is owed, and also what each community division has collected and spent. We command that no other account of any type or class be mixed,

be entered, or cause confusion in these accounting ledgers for community assets and revenues, because it is desirable that the ledgers be kept in order and separate from others for the purpose of clarity, collection, payment, and security of this treasury.

Law 10: That treasury monies not be withdrawn from the Community Strongbox.

Don Felipe III in Madrid (Chapter 6).

We mainly desire and order that the Community treasury not be defrauded nor be of disadvantage to the Indians, and in no way, intended or not, extraordinarily or fortuitously, will it be allowed to issue or withdraw money from its Strongboxes, whether in large or small amounts, under the pretext of loans, even if it is intended to be returned to the Strongboxes at a later time. Nor will it be allowed for payments for guards, public buildings, assistance in meeting costs, or any other needs that may arise or that may be called public expenses. There is no need more general or privileged than that of the Indians to whom this treasury belongs. Those who hold keys to these Strongboxes shall not consent to the removal of money or assets that are under their care for the above-mentioned purposes or any other such purposes. Nor shall those who give such payments approve or order them, concerning all of which We charge their conscience. We give notice that criminal charges will be brought against any violators, sentencing them with a fine of four times the amount issued and paid in violation of this law, which amount We designate for the benefit of the Indians. We command that a copy of this law be placed inside the Community Strongbox along with the rest of what belongs to the Indians, and that it be thus observed and enforced.

Law 11: That the Community Strongboxes be under the charge of the Officers of the Royal Treasury.

Don Felipe IIII in Madrid on the 16th of April of 1639 (Chapters 1 and 2).

We order that, within the jurisdiction of each Audiencia, the Community Strongboxes be located in the cities in which the principal Officers of Our Royal Treasury reside. The Officers shall keep everything that is deposited in the Strongboxes, under separate accounts, if there are three. If not, it shall be kept under two separate accounts in the same way as in Our Royal Treasury, with each ledger and account separate from the rest, as ordered by Law 9 under this Title. No Oidor, Fiscal or any other person is to participate or intervene in the management of the Strongbox unless expressly authorized by Us. The Strongbox of the Ciudad de la Plata shall be moved to the Villa Imperial de Potosí.

Law 12: That administration and collection for the Community and Revenue Strongboxes be under the authority of the Officers of the Royal Treasury.

Don Felipe IIII in Madrid (Chapter 3).

Collections pertaining to community goods, and the Strongbox for Indian taxes, including principal and proceeds, are also to be under the control of Our Officers of the Royal Treasury whom We command to exercise the utmost care and vigilance, and likewise to provide for the safety of the revenue capital and the security of its income, and to provide for said collections to be made from any persons who owe to the Strongbox, by reason of administration or any other reason.

Law 13: That taxes be paid from goods and income.¹¹⁰

Don Felipe IIII in Madrid (Chapter 4).

Payment of the amounts owed to Us and which may be owed by the Indians as taxes, is to be made from the proceeds accrued from revenues and community goods, without touching the principal.

Law 14: That Community goods be used for the common benefit, and to pay the tributes.

Don Felipe II in the Bosque de Segovia on the 13th of November of 1565. In San Lorenzo on the 29th of August of 1598. Don Carlos II and the Governing Queen.

The money that accrues from goods, revenues, and income of the Community is to be used solely for the aid and relief of the Indians and is to be applied to their advantage and use, and to assist them to the extent necessary in paying their tributes in the manner and measure observed thus far, without their being troubled. No money is to be removed from said Strongboxes without the approval of the Indians, and unless it is distributed and spent for their needs, and for the other expenses for which the Strongboxes were established. If these conditions are not met, and even if the Indians give their consent, no money is to be removed. Ordinarily, what they should pay in kind is not to be supplied from these funds. The Indian Caciques and the Corregidores should be given to understand this, so that the Indians will come forward to work, farming and stockraising, and not be idle and vagabond. And we order the Corregidores, in place of the orders for payment which they used to give to the Administrator, to write a letter, personally signed, and to submit a deposition notarized by the Escribano of the jurisdiction concerned, stating what is needed for support and supplement of the tributes. They will send this to the Oidor Diputado so that in conformity with the law, payment may be made or whatever is appropriate may be provided.

Law 15: That expenses of Missions and of the Indian Seminary be paid from community goods.

Don Felipe III in Madrid on the 17th of March of 1619.

The expenses of maintaining the Missions which uproot and exterminate Indian idolatry, Retreat Houses, and Seminaries for the sons of the Caciques, may be taken from the Community goods of the Strongbox of the City where they are incurred. We order that such expenses be very moderate, and that under this pretext, salaries are not to be paid nor shall payments be made for extra compensation, or any other kinds of allowance, the purpose of this order being that the parties concerned shall not cause detriment to the public treasuries of the Indians, nor unwittingly cause them to be guilty of idolatry. When an occasion arises, responsible persons will send Us a report of the costs so that after review by Our Council, they may be reduced and kept within reasonable limits.

Law 16: That the Doctrineros not spend from the Community Strongboxes without permission from the Viceroy and Audiencia.

Don Felipe II in Toledo on the 16th of February of 1561.

Recognizing the fact that Doctrineros and Religious are in the habit of spending monies from the Community Strongbox for paintings, food, and festivities, and that they must not be permitted to do so, We prohibit these and similar expenses; and We command that the Governors, Alcaldes, Regidores, or persons who might intervene in this respect, shall not order or permit this, because such expenses will not be accepted or paid for from the account. Should funds be needed for the worship and service of God, and for the benefit of the Churches or Monasteries, and there are no other

sources from which to draw, it is Our will that the funds be obtained from the Strongbox, but only with permission and command from the Viceroy or President, and from the Audiencia of the district, and not in any other way.

Law 17: That support and payment of tributes be made from the proceeds without touching the principal.

Don Carlos II and the Governing Queen.

We order that payments and support of Indian tributes shall be derived from proceeds of investments of the Communities in whose accounts they have accrued, without mixing or confusing the treasury of some Indians with the treasury of other Indians. Nor shall the principal be touched, unless such a serious and urgent need confronts the Indians that it cannot be helped or remedied in any other way.

Law 18: That the Corregidores collect taxes from the Indians properly.¹¹¹

Don Felipe III in Valladolid on the 6th of April of 1601. Don Carlos II and the Governing Queen.

The Indians wish to sell and divert revenues and goods of their Communities to pay their tributes and balances due without distinguishing between principal and proceeds. If they are permitted to carry on in this way by any means, they will neglect their work as well as any further increase in the common wealth, with great detriment to the public works and personal needs which they have; and they will be unable to achieve their goals, thus resulting in notable detriment to all. Because it is desirable that they receive help and favor, by having their remaining taxes and other

amounts paid from the proceeds, We order the Corregidores to properly collect the amounts from these proceeds.

Law 19: That the Officers of the Royal Treasury furnish bond for the community goods of the Indians, and that they give an account of them every year.

Don Felipe II in Madrid on the 4th of March of 1592. Don Felipe III in Madrid on the 16th of April of 1639. (Chapters 9 and 14).

For the greater security of this treasury, We command the Viceroys and Presidents: to require the Officers of the Royal Treasury to furnish bonds to cover that of the Indians which is under their authority, such bonds being "legas, llanas y abonadas" in the same way as the ones furnished for their office; and to obtain an accounting from them every year.

Law 20: That jurisdiction and accountability for collection of goods and taxes from the Indians be under the responsibility of an Oidor in each Audiencia.

Don Felipe II in Madrid on the 17th of November of 1629, and on the 16th of April of 1636. (Chapters 6 and 7).

It is deemed appropriate that there be a special judge to preside over judicial proceedings in matters of collection, and that he shall take care that the goods, taxes, and proceeds are collected and placed in the Strongboxes. The Viceroys of Peru and New Spain, in their separate jurisdictions, and the Pretorial Presidents, shall appoint the Oidor whom they consider most suitable, and whom they may remove and dismiss whenever necessary, with or without cause, in the interest of good administration of justice and collection of this wealth. We thus order and command them, and also the Oidores who are appointed, to take great

care and exercise diligence in seeing to it that the collections are made, that they are placed in the Strongboxes, that they are not allowed to be placed elsewhere, and that We be informed on all occasions. We grant to the above-mentioned officials the jurisdiction that is necessary in these matters, as stipulated in the following law.

Law 21: That the Oidor be a Judge of first instance, and that appeals be brought before the Audiencia where decisions will be final.

Don Carlos II and the Governing Queen.

We consider it appropriate to grant to the Oidor all the privilege and authority necessary for him to intervene in the administration of justice with regard to the effective collection of community goods. We therefore command: that he be a Judge of first instance of all pending lawsuits, ordinary and executory, civil and criminal, that are brought before him and pertain to collections and payments of the treasury; and that he exercise exclusive jurisdiction, excluding other Justicias, in the same way it is exercised by the Oidores Jueces in cases involving intestate property in Our Audiencias of the Indies. Appeals of decrees or sentences issued by the Oidor must be brought before the Audiencia under which he functions, and there they will be finally judged with another sentence, without the right of further appeal, as is the practice in that tribunal.

Law 22: That the Fiscales defend Community lawsuits.

Don Felipe III in Madrid on the 13th of
February of 1619. (Chapter 12). Don Carlos
II and the Governing Queen.

The Fiscal of the Audiencia is to bring whatever action he deems appropriate in cases dealing with Community revenues and goods, as defender for the

Community, and as their attorney for all claims, petitions, answers, objections, and any other judicial proceedings, giving full attention to all these matters as he is obligated to do. He is to be responsible for these lawsuits in conformity with the responsibility assigned to all Fiscales, for the protection and defense of the Indians and their goods. If it appears to him that his caseload does not allow him sufficient time for these duties, he will refer the cases to the attorneys, Protector and solicitors who have been appointed in the City and salaried for Indian affairs. We command the latter to attend to and assist with those cases that are referred to them, and to assume responsibility for them as they do in other court cases.

Law 23: That the Officers of the Royal Treasury justify orders for payment and that the Judges not send executors.

Don Felipe IIII in Madrid on the 16th of
April of 1636. (Chapter 8). Don Carlos II
and the Governing Queen.

If the Oidores Jueces de Censos present orders for payment from Community Strongboxes, or if they approve action on those submitted by the Corregidores, the Officers of the Royal Treasury who are responsible for these Strongboxes, as ordered by Us, shall take care to justify them and to make adjustments before they are effected. We warn them that, if they do not do as they should, they will be accountable, and it will be at their own risk. The Oidores Jueces may not send executors or anyone else for these collections at the expense of the Strongbox, because they are to be entrusted to the Governors or Corregidores, and if they are remiss, it will be on their account and at their expense. With this admonition, and the exception or support given by Our Officers, the orders for payment

will be presented to the Audiencia in order that it may decide on the matter. They may not be paid without having been preceded by these requirements.

Law 24: Regulation of collection.

Don Felipe III in Madrid on the 13th of February of 1619. (Chapter 10). Don Carlos II and the Governing Queen.

In order that collection may always be made punctually and effectively, the Oidor Fiscal and Officers of the Royal Treasury who are responsible for it shall order withdrawal, and shall withdraw, at the beginning of each year a list or register of everything that is to be collected for that year in revenues, remaining amounts due, and anything else that may pertain to the Communities, which they will then turn over to the Collector, along with the necessary records, legal documents, and correspondence, that are in the Strongbox. They shall leave a receipt in the Strongbox which will be erased when the Collector returns them, and for this purpose a book or notebook will be kept in the Strongbox. All concerned shall see to it that collections are conducted with all possible care, without letting amounts due fall in arrears, and by collecting upon completion of every tercio, without losing any time.

Law 25: That the Acuerdo appoint an Escribano and an Alguacil in its jurisdiction.

Don Carlos II and the Governing Queen

Wherever there is a Community Strongbox, the Acuerdo shall appoint a competent and intelligent Escribano to certify the accounts, and he shall witness all lawsuits, writs, and all other judicial and extrajudicial sentences relating to administration, collection and payment of revenues,

official documents, taxes, and redemptions. He shall collect fees from the Spaniards in accordance with the regulations. He is not to make any collections from the Indians unless they are allowed by the laws of this Recopilación nor is he to receive salary or extra compensation for his labors. Likewise the Acuerdo shall appoint an Alguacil to execute judicial orders, embargoes, arrests, summonses and other proceedings that pertain to the jurisdiction, and he shall be one of the Tenientes de mayor de Corte who is considered to be most competent. He shall collect fees in the same way as the Escribano. In consideration of what may happen, in addition to the bonds which he furnishes for his office of Teniente, he shall furnish other special bonds for his jurisdiction, up to the amount of one thousand pesos ensayados.

Law 26: That a Collector of taxes and goods be appointed by the Audiencia.

Don Carlos II and the Governing Queen.

We order and command that wherever there is a Community Strongbox, the Acuerdo of the Audiencia shall appoint a Collector, a person of complete satisfaction and trust who, in accordance with what is stipulated, shall learn to know everything he must know about revenues and communities, making collections of the tercio tributes that have fallen due and may fall due, and attending to his other necessary tasks. The Acuerdo shall confer upon him the title of Collector, and each time the post becomes vacant, it shall make a new appointment in the same way.

Law 27: That the Collector give oath and furnish bonds in accordance with this Law.

Don Carlos II and the Governing Queen.

We command that the Collector must give oath and that he shall swear that he will carry out his duties well and faithfully. He shall furnish bonds, "legas, llanas y abonadas" in the amount of two thousand pesos ensayados, which will cover payment of everything that may arise within his responsibility, and against him.

Law 28: That each month the Collector give account of what he has done and what he has collected.

Don Felipe III (Chapter 13). Don Carlos
II and the Governing Queen.

The Oidor Fiscal and the Officers of the Royal Treasury, on the day they consider most convenient each month, shall call the Collector, and entry by entry, following the list and report for that year, they will ask him for an account of all he has to do, and the status of each collection. He will give the account in order that what he has done and what he has failed to do may be seen. Accordingly, he shall be ordered to do what appears to be necessary, so that collections may continue to improve.

Law 29: That the Collector be given moderate compensation.

Don Felipe III (Chapter 13). Don Carlos
II and the Governing Queen.

The Collector shall be paid for his work and duties with an adequate and proportionate allowance, without exceeding just moderation. It shall be determined by the Judge, Fiscal, and Officers of the Royal Treasury.

Law 30: That collections made be entered in the Strongbox, and receipts be given to the debtors.

Don Carlos II and the Governing Queen.

Once the Collector has prepared and settled on the collections and payments that are under his responsibility, he shall advise the debtors or

persons who are to make payment to deliver their payments to the Strongbox at the time and hour indicated by all the Ministers who have the keys, so that payments may actually be made in the Strongbox. Record shall be made of receipts and payments, and an appropriate certification shall be given to the payer, which may serve as a receipt, attested to by the Oidor, Fiscal and Officers of the Royal Treasury. The same procedure shall be followed with respect to mortgages that are paid off. In no way shall the money and wealth of the Communities be allowed to enter or remain in the possession of the Collector or any other person, even though it is for a short time.

Law 31: That the Indians of New Spain work ten brazas of land for their Communities each year, and that this law be introduced in Peru.

Don Felipe II in Lisbon on the 4th of
June of 1582.

The Government of New Spain has ordered that each Indian is to work ten brazas of land each year for corn in place of one and a half reales which they have been paying to their Communities. We command that this order be continued, with the provision that the Caciques Principales be given some exemption. This same order shall be put into effect in Peru.

Law 32: That the Governors and Corregidores collect that which is due within their districts, notify the Officers of the Royal Treasury, and not impose taxes.¹¹²

Don Felipe IIII in Madrid on the 16th of
April of 1639 (Chapter 5). Don Carlos II
and the Governing Queen.

The Governors and Corregidores, each in his own district and time, are to be entirely responsible for their collections, and that which they do not collect is to be on their account and at their risk, and may be

withheld from their salary. No one is to be excused for any deficiency of collections that are owed to Our Strongboxes, because collection is not made until it is at first clear what the obligation is. We command that, as they are being gathered, these collections shall be entered in the General Depositories in Governments, Corregimientos, and Alcaldías mayores, where there are neither Officers of the Royal Treasury or their Tenientes. If there are no General Depositories, they shall be placed under the charge of the most securely bonded person whom the Cabildo or Council may appoint at their risk. The Justicia Mayor shall then give an account of this to the principal Officers of the Royal Treasury in order that the collections may be placed in their Strongbox to be used and spent for the purposes for which they were intended, in accordance with the laws of this Title. The Governors and Corregidores shall not impose taxes, because this comes under the authority of the Oidor, Fiscal of the Audiencia, and Officers of the Royal Treasury of the principal Strongbox.

Law 33: That every year the Corregidores send to the Viceroy and Jueces de Censos an accounting of the Community Strongboxes.

Don Felipe IIII on the 11th of June of 1621.

We charge the Viceroys and Jueces de Censos to order the Corregidores of Indians to submit each year an accounting, a balance sheet showing collections of Community goods, and a report of the condition of all Strongboxes in their districts. The purpose of this is for the Corregidores to exercise greater care and to remedy damages that have been occurring. The Fiscales shall see to it that this law is complied with and enforced.

Law 34: That dealings of the Corregidores with respect to the Community Strongboxes be corrected.

Don Felipe III in Ventosilla on the 26th
of October of 1615. Don Carlos II and the
Governing Queen.

Despite the prohibition against contracts and enterprises on the part of the Corregidores of Indian towns, particularly with respect to the Community Strongboxes, not only do they fail to enforce the prohibition, but they continue their excesses to a greater extent, more freely and openly. Relief is not available through the residencia, because the successors do the same as their predecessors, and they do not try to investigate nor to satisfy the Indians. Instead, they try to hide the truth, hoping to be allowed the same practice at the time of their residencia. Since these persons clear each other of any charges, and since it is necessary to observe legal limitations, there is no effective remedy available. Among the things that do most harm to the Indians are contracts and enterprises which are negotiated by the Corregidores and employ the Indians. This prevents the Indians from attending to their obligations, from payment of their taxes, and from the work of their own farms with which they support themselves. The Corregidores take money from the Community Strongboxes for these purposes. In view of the importance and scruples involved in this matter, We command Our Viceroy and Audiencias to provide the necessary remedy in such a way, that by applying all legal means, they shall prohibit and remove such great hardships and troubles from the Indians, and that they shall proceed to investigate and to render punishment with all severity, in keeping with the laws and justice.

Law 35: That cases brought against Corregidores regarding Community goods be treated as criminal cases, even if the death penalty is applicable.

Don Felipe IIII in Madrid on the 10th of June
of 1621.

Cases against Corregidores of Indians which involve accounts of Strongboxes and Community goods are to be handled as criminal cases, in which the death penalty may be applicable, according to the nature of the theft which is referred to as debt. Any withdrawal which the Corregidores make from public monies and from the Communities, under pretext of their duties, is properly considered to be theft, and as such, it is to be punishable, with possibility of the death penalty. Because the best government consists in the prevention of violations rather than punishment after the fact, wherever there are Community Strongboxes, the Viceroy and Governing Presidents: shall give advice concerning steps that may be taken, besides those provided for under this Title, in order that the Corregidores may in no way be able to touch these monies or use them; and they shall impose the penalties of law.

Law 36: That Justicias and Judges of residencia take account of properties, and advise the Administrators. ¹¹³

Don Felipe III in Madrid on the 28th of
March and on the 7th of June of 1620.

With reference to accounting reports received from the Councils, We command that all Governors, Corregidores, Alcaldes mayores and ordinarios, Judges of residencia, and other governing officials of the Province, be required to exercise care with respect to investments made on behalf of Indian Communities, to collect amounts due and other proceeds, and to put them in the nearest Strongbox in their district. If mortgaged properties have passed to third holders, or if the principal Censualistas die, the officials shall provide for the necessary inquiries to be made, and for obligations to be legally recorded. If the officials are remiss or

negligent in these matters, We order that their persons and personal assets shall be charged for an amount equivalent to the damages and detriment. They will be held responsible for this in their residencias. Also, they shall notify the Oidor, Fiscal and Officers of the Royal Treasury concerning all of their transactions, so that in all cases necessary collection may be made.

Law 37: That the Viceroy, Presidents, Oidores, Judges and Officers of the Royal Treasury protect the Treasury, and advise the King.

Don Felipe IIII in Madrid on the 16th
of April of 1636.

We order the Viceroy, Presidents, Oidores and Officers of Our Royal Treasury that they shall pay close attention to their respective responsibilities, not only so that the regular and current collections of taxes and goods from the Indians may be diligently effected, but so that the collections of all overdue debts may really be made. For it is not right that, because of omission, negligence and private interests, the collections may be poorly conducted, or that large amounts of this kind of wealth that is due may be lost. We charge the Viceroy, Presidents, Oidores who are judges over these assets, and Officers of Our Royal Treasury who have responsibility for them, to inform Us once a year of all their transactions, in accordance with what is stipulated, and of the status of the entirety of these Strongboxes. Attention and diligence in this matter will serve Us well.

Law 38: Assignment of responsibility to Viceroy and Presidents for collection of overdue debts owed to the Community Strongboxes.

Don Carlos II and the Governing Queen in Madrid
on the 14th of August of 1668.

Advice was given through Our Royal Cédulas concerning means which appeared to be sufficient for good government, safety, and conservation of the Revenue Strongboxes, and so that the Indians might have in them the amounts necessary for their relief and for aiding them in meeting their necessities, a matter of such importance that We always keep it in Our minds. The problem has reached such a state and condition, through poor administration, that the remedy introduced for relief has resulted in damages and detriment. On the basis of various reports, it has become evident in Our Council that the Indians are burdened by trying to help increase their common wealth, that they are defrauded of their wealth in various ways, and that revenue collections are very much in arrears. Concentrating all Our care and attention on such a serious and critical matter, We order the Viceroys and Governing Presidents to see to it that all amounts that are due shall be returned, paid and restored to the Revenue Strongboxes of their districts. This shall be done, without omitting or sparing any measure that can lead to carrying out of this resolution, and regardless of the laws under this Title that concede jurisdiction to an Oidor for judgement and collection of this treasury, its assets and proceeds, until the Strongboxes are completely restored with everything that is now owed. Once this is done, they will advise Us, at the first opportunity. With regard to the fact that in some places Our Royal Treasury is the greatest debtor, and in large amounts, because of loans that have been made from Community assets, We command that under no pretext can any amount be taken from said Strongboxes, this being contrary to the laws and ordinances of those jurisdictions. As for profits accrued on amounts that have been taken for Our Royal Treasury,

they shall be given and restored to said Strongboxes as conveniently and promptly as possible, so that the Royal Treasury may be free of this obligation. Following this example, and that given by the Viceroy and Presidents in enforcing the provisions of this Our law, their successors in their responsibilities and duties shall comply fully with the above provisions. In those cases where it appears appropriate to the Viceroy and Presidents to refer the matter to the Acuerdo of the Audiencia, they may do so, in the interest of prompt action, and they will give Us a complete account.

Notes

That salaries of Corregidores of Seigniorship shall be paid from seigniorship tributes, and not from the Community. Law 32, Title 5, Book 2.

That the Oidor Visitador of the Province endeavor for the Indians to have Community goods and to plant trees, and that the Indians be given instruction.... Law 9, Title 31, Book 2.

Title 5: Concerning Tributes, and Taxes from the Indians.¹¹⁴

Law 1: That once the Indians are distributed and reduced, they shall be persuaded to pay some moderate tribute to the King.

Emperor Don Carlos in Valladolid on the 26th of June of 1523. (Ordinance 5.) Don Felipe II. (Ordinance 146, 1573, Concerning Settlements). Don Carlos II and the Governing Queen.

It is just and reasonable that the Indians, who are pacified and reduced to Our obedience and vassalage, serve Us, pay tribute in recognition of authority, and that they render service, as they are obliged to do as Our subjects and vassals. They also had the custom of paying tribute to

their Tecles and Principales. We therefore command that, for the above reasons, they be persuaded to pay some moderate tribute to Us from the products of the land at the times and manner specified by the laws of this Title. It is Our will that the Spaniards to whom the Indians are entrusted, by Us or by Our authority, collect these tributes in order to carry out their responsibilities, reserving for Us the capitals and seaports, and the other encomiendas and towns that have been incorporated, and that are being incorporated under Our Royal Crown.

Law 2: That the Indians reduced and assembled in settlements pay half the normal tribute for two years.

Don Felipe II in Madrid on the 27th of February of 1575, and on the 13th of June of 1594. (Chapter 2). Don Felipe III in Madrid on the 9th of November of 1598.

The Indians who are pacified and congregated in towns, and who used to pay tribute at the time of their infidelity, are to pay tribute for a period of two years during their reduction, in an amount not to exceed half the tribute paid by the others. If they are infidels, the part assigned for religious instruction is to be put into a separate Strong-box for the founding of hospitals for their benefit and to provide them with religious instruction.

Law 3: That infidel Indians converted to Our Holy Faith through preaching not be assigned to an encomienda, not pay tribute, and not render service for ten years.

Don Felipe III in Madrid on the 30th of January of 1607, and on the 10th of October of 1618.

We order that if infidel Indians are converted of their own free will to Our Holy Catholic Faith, and if they receive baptism only through preaching of the Holy Gospel, they may not be assigned to an encomienda, nor

pay taxes for ten years, nor be compelled to render any service. But if they wish to agree to serve, they may; and the Justicias shall be careful that they suffer no harm. Law 20 under Title 1 of this Book shall thus be enforced.

Law 4: That the Mitimae Indians pay tribute as they did formerly.

Emperor Don Carlos and the Governing
Empress in Madrid on the 18th of October
of 1539.

In some towns of Peru, which are under encomienda and taxed, live the Mitimae Indians who at the time of their heathendom used to move about, serve, and contribute together with their Caciques and Principales, and later excused themselves from serving by saying that they were not natives of the land, and that they came from other places. If they are permitted to do this way, the other Indians will be wronged, and the services they used to do all by themselves will be diminished, the Mitimaes being excused even though they enjoy the benefits and advantages of the land and its environs. We therefore command that if it is true that the Mitimaes have served and contributed to their rulers, they shall be compelled and forced, along with their Caciques and Principales, to contribute whatever is assessed to the Encomenderos in the towns in which they live, without any excuse.

Law 5: That the Yanaconas contribute as do the other Indians, and that it be for the King.

Don Felipe II on the 30th of December
of 1571.

It was ordered that in the Indies there was to be no personal service from the Yanaconas Indians, and they remained on a wage basis on the ranches of the Spaniards. Some joined together and established settlements

in places of their own choosing. None of them paid tribute to Us nor to anyone else because they were not under encomienda. With the realization that it would be worthwhile for them to pay tribute according to the condition and productiveness of the lands where they live, as do the Indians of other Provinces, it was ordered for them to be reduced to particular towns, and especially to the Cities, and henceforth to contribute toward religious instruction. The matter of payment of tributes was referred to the Viceroy so that they might take the most appropriate measures and see to it that justice is served. If tributes were to be paid, they were to be for Us, and the Officers of the Royal Treasury were to be ordered to make the collections. We command that these arrangements shall be complied with and observed, as they are introduced and ordered in each Province, and in all possible conformity with the above stated provisions.

Law 6: That taxes be collected from Indians living outside their Reducciones.

Don Felipe IIII in Madrid on the 9th
of April of 1628.

We command that taxes shall be collected from Indians living outside their Reducciones as they are collected from the Yanacunas, who do not have and do not recognize Encomenderos. The same taxes shall be paid by those Indians who have Encomenderos but who live apart from the Reducciones.

Law 7: That unmarried Indians pay tribute from the age of eighteen years, unless another time is brought into practice.

Don Felipe II on the 5th of July of
1578. Don Felipe III in Madrid on the
10th of October of 1618.

The Indians who were under paternal authority were not paying tribute nor

rendering services as the others did, and in order to continue enjoying their freedom, many would not marry until they were twenty-five or thirty years old, whereas during their heathendom they were accustomed to marrying before reaching twelve years of age. Because this was the cause of their poor living situation, as noted by the Religious who were giving them religious instruction, and asking for remedy, it was ordered that they not be exempt from the same public service which the others rendered, and that, being shiftless and vagabond people, they do somewhat more to help relieve the others. We command that this order shall be observed and enforced, and We charge the Doctrineros to endeavor to get them married so that they may cease their offense to God our Lord and may live in a Christian and civil way, and to see to it that those who are older than eighteen pay tribute until they reach their fiftieth birthday, unless greater or lesser periods of exemption have been introduced in some Provinces.

Law 8: That the children of Negro men and Indian women, born from their marriage, pay tribute as Indians.

Don Felipe II in Madrid on the 18th of
May of 1572, and on the 26th of May of
1573.

We declare that the children of free or enslaved Negro men, born of Indian women to whom the Negro men are married, must pay tribute as do the other Indians, even if they claim that they are not Indians, and even if their parents did not pay tribute.

Law 9: That Indians who work in mines, gardens and other properties pay tribute.

Don Felipe II in Madrid on the 15th of
February of 1575.

In some Provinces there is a large number of Indians, natives as well as from other Provinces, who are occupied in mining crews, ranches, gardens, and properties of Spaniards, and who never pay any tribute despite the fact that they could very well do so, especially those who work in the mines. They mine a large amount of silver, and most of them earn four or five pesos a month and could comfortably afford to pay tribute of at least two pesos a year. It seems that in recognition of their vassalage to Us, those who do not pay the regular tribute can and should pay something, as is the general practice in the Indies. We command that they shall be ordered to pay a modest tribute, in such a way that none of them will abandon the mines, and that they be well instructed in the Doctrine and treated as is suitable for their salvation and preservation.

Law 10: That Indians working on ranches, in workshops, and in other occupations pay tribute to the King.

Don Felipe II in San Lorenzo on the 4th
of July of 1593.

Many Indians who work in ranches, workshops, farms, livestock, and mines, with pack animals and wagon trains, and who render service to Spaniards in the principal towns, do not pay tribute. It is reasonable that they do so, as do the other Indians who are apportioned and under encomienda. We command the Viceroys and Governing Presidents: to determine the number of Indians who are employed in these occupations and who are not in the habit of paying tribute to the Encomenderos; to order that they be assessed a reasonable tribute on the basis of their earnings in their occupations; and to see to it that this tribute be collected for Us, in complete accordance with the laws of this Title and any particular determinations in this regard.

Law 11: That Indian tradesmen not be subject to mita, that they pay their tribute in money, and that they live without scandal.

Don Carlos II and the Governing Queen. (See Law 44, Title 16, this Book.)

Indians who are masters in their trades, as carpenters, masons, blacksmiths, tailors, cobblers and other similar tradesmen, from whom services are ordered and supplied as they are in the case of Spanish master tradesmen, shall not be subject to mita, and they shall pay their tribute with money or by rendering services. We leave it to the arbitration of the Governors or Corregidores, or in their absence, the Tenientes, to decide which Indians fall in these categories, and the wages they receive when they are hired. If the Encomendero has need of them to render services to him, and not to his relatives or friends, he shall have priority over others. And We command: that these Indians live in the cities without scandal; that they not engage in festivities nor excesses in food or drink, from which they receive much harm; and that they must be liable to greater punishment than the other Indians.

Law 12: That excessiveness of taxes from the Indians who work in the mines be moderated.

Don Felipe III (Ordinance 20 regarding personal service) in 1601.

We order the Viceroy to inquire if the taxes paid by and assessed against Indians who work in the mines of Potosí are excessive. If it is not inadvisable, they shall moderate them and send Us a report of what they have decided, so that We may provide the most suitable decree in this regard. The Governing Presidents shall do the same within their districts.

Law 13: That the Indians who work in the mines not be charged a greater tribute than they should pay.

Don Felipe IIII in Madrid on the 31st
of December of 1626.

In order to relieve the Indians as much as possible, and especially those who work in the mines, We order that those who do so not be assessed more tribute than they should pay, and that it be collected in a very considerate manner.

Law 14: That alien Indians of the type herein referred to are not to pay tribute in the mines for the time being.

Don Felipe II in Badajoz on the 26th of
May of 1580. In Lisbon on the 4th of June
of 1582.

Complaints have arisen between Encomenderos and alien Indians who come to work in the mines and production of metals, because the Encomenderos contend that, since there are silver mines in their Towns, and the Indians benefit from the forests and waters, they should pay tribute the same as the other native Indians. We consider that some of these alien, newcomer Indians do their share in the work of smelting from which We receive many taxes, and that the benefit provided by one of these Indians is greater than that provided by twenty of the ordinary taxpayers. We declare that for the time being it is not advisable to ask for taxes from those who fit this description. Rather, they should be relieved from payment of taxes in the mines, and thus the number of workers will be increased. And We order that the Encomenderos shall be given some compensation proportionate to the number of Indians of this kind they have working in the mines. We refer this to Our Viceroys, Audiencias and Governors who, having determined if compensation should be given, will

give it in moderation, so long as they do not do so from Our Royal Strongbox and Treasury.

Law 15: That the Indians not be abused by having to pay tribute for deceased or absent Indians.

Don Felipe III in San Lorenzo on the
6th of June of 1609.

We are informed that when it comes time to collect tributes from the Indians, they are made to pay the entire amount, in conformity with the last collection, disregarding the fact that some tribute payers are deceased or have run away. Since payment is made by the Caciques, they collect from the wives, brothers, children, and relatives of the deceased or runaways. We command the Viceroy, Audiencias and Governors to provide a remedy in this regard so that the Indians and Caciques may not be wronged.

Law 16: That the Indians pay in service the requinto and tostón to the King in addition to their other tributes.

Don Felipe II in the Pardo on the 1st of
November of 1591. Don Carlos II and the
Governing Queen.

Because of the public needs which occurred in the year fifteen-hundred ninety-one, We saw fit to order that all Indians who are native to the Provinces of Peru, New Kingdom of Granada, Tierra Firme, and adjacent Provinces, and who had been paying taxes, render service to Us in addition to the tributes they had been paying to Us or to their Encomenderos, and in an amount equivalent to one-fifth of the tributes they pay. We ordered that in the case of a repartimiento whose gross profits are taxed in the amount of five thousand pesos in gold, silver or in kind, having been reckoned according to their value, services shall be rendered

to Us at the equivalent of one thousand pesos each year, to be rendered at those same times and with the same order and form as is the five thousand peso taxation. There shall be no ten-percent discount nor other adjustment because this is a service, and not a tax, which is rendered to Us for the purpose originally announced. This same shall apply to other repartimientos whether they are taxed in larger or smaller amounts, regulating them on the basis of one-fifth so that it will be uniform and equal. Indians of the Provinces of New Spain and Guatemala and their adjacent Provinces were to serve Us with the equivalent of four reales per person each year instead of the one-fifth paid to Us by the Indians of Peru, New Kingdom, and Tierra Firme. As for those repartimientos that were not taxed in Peru, New Kingdom, and Tierra Firme, they were to render this service to Us on the same basis of a fifth; and in order for the Indians to obtain the said amount and pay it in the most convenient and prompt manner, they are to be given necessary time off for their farming. Likewise the Yanaconas, those who are exempt from paying taxes, and all others not covered in any of the above-mentioned repartimientos, due to the fact that they are employed in other occupations and tasks, or that they render service, must all pay in the said Provinces of Peru, New Kingdom, and Tierra Firme, one peso de plata ensayada. Those others who are in the Provinces of New Spain and Guatemala pay on the basis of four reales. Although the Indians of the Province of Tlaxcala, by special privilege, are exempt from paying tribute, it is just, since this service is necessary and for the public cause which is generally of interest to everyone, that they contribute without exception, as do all others who are in any way exempt. And inasmuch as the above, at the time of its first

promulgation, was executed entirely in some Provinces, and in others, moderately, and in still others, not at all, because they were more poor, We command, in virtue of Our orders, that all the above shall be observed and fulfilled in accordance and in the way it was then executed and is now being observed and executed, because it is Our will that there shall be no change in the collection, except where there is a special limitation granted by Us.

Law 17: That the Indians of the New Kingdom not pay the tom¹n of the Corregidores, nor those of warm climates the requinto.

Don Felipe III in Madrid on the 14th of
March of 1614.

We relieve the Indians of the warm climates of the New Kingdom of Granada from payment of the requinto, which in the year fifteen hundred ninety-one was ordered to be paid, because of their impoverished and wretched condition. In the towns of cold climates, where they are more literate and have larger farms, and can more easily afford to pay it, the collection thereof shall be continued. And We order that from neither the Indians of cold nor warm climates shall the tom¹n be collected, which used to be paid for the salaries of their Corregidores. In accordance with this, the Real Audiencia shall issue appropriate orders.

Law 18: That the Caciques and their eldest sons not pay tribute.

Don Felipe II in Madrid on the 17th of
July of 1572. Don Carlos II and the
Governing Queen.

We declare that Caciques and their eldest sons are exempt from paying tribute or from being subject to the mita. With regard to their other children and descendants, who do not benefit from such status, no changes shall be made, nor shall the Audiencias provide for exemptions. As for

the Mitimaes, provisos of Law 4 under this Title shall be observed.

Law 19: That female Indians not pay taxes.

Don Felipe III in Madrid on the 10th of
October of 1618.

Females of any age whatsoever need not pay taxes.

Law 20: That the Indian Alcalde not pay tax or render service.

Don Felipe III in Madrid on the 10th of
October of 1618.

The Indian Alcalde shall not pay tax or render personal service of any sort, even though such an order may be issued during the year of his office.

Law 21: That the content of this law be observed in assessing

Indian tributes.

The Emperor Don Carlos and the Governing
Empress in Valladolid on the 19th of July
of 1536. Cardinal Tavera, Governor of
Madrid, on the 19th of June of 1540. The
Governing Prince in Valladolid on the 14th
of August of 1543. The Governing Queen of
Bohemia in Valladolid on the 8th of June of
1551, and the Governing Princess there on the
29th of September of 1555.

In order that the Indians not suffer abuses by having to pay more tributes than they can properly pay, and that they may benefit from all conveniences, We charge and command that Our Viceroys, Presidents, and Audiencias, each within his district, shall have the tributes assessed, and that the Comisarios who are assigned for this purpose shall observe the following order and procedure.

First, the Assessors shall attend a solemn Mass of the Holy Ghost to illuminate their understanding, so that they may make assessments properly, fairly, and correctly. Upon completion of the Mass, they shall

promise and solemnly swear before the officiating Priest that they will make the assessments, properly and faithfully and without ill will or affection. Then they will personally observe: all the towns of the Province that are to be taxed, and that may be under encomienda in Our name, or that are to be given under encomienda to discoverers and settlers; the number of settlers and natives in each town; and the condition of the land where they live. And, they shall apprise themselves concerning: what the Indians formerly used to pay to their Caciques and to others who ruled and governed them; what they are now paying to Us and to their Encomenderos at taxation time; and what they rightly should pay from now on, with enough remaining for them to be able to get along, support and feed their children, for their maintenance and some reserve for treatment of their illnesses, and enough for meeting other common needs.

After being well informed concerning what the Indians can fairly and comfortably pay as tribute by reason of Our rule, the Assessors shall declare, assess, and adjust the taxes, according to God and their conscience, taking care that the Indians are not mistreated, that the tributes are reasonably adjusted, and that enough is left for the Indians to meet the above-mentioned needs and other similar needs, so that they may live rested and relieved. It is better that they prosper than suffer poverty, because it is not fair if they came in obedience to Us and were in worse condition than Our other subjects. It is Our will that on none of these occasions shall there be feasts, banquets, expenses or other superfluties, or any service rendered to the Comisarios, Ministers, Corregidores, Tenientes, or Alguaciles, whether they be present or absent

from the towns concerned. In no case shall there be a cost to the Indians.

Emperor Don Carlos (Ordinance 10) in 1528. Don Felipe II in Monzón de Aragón on the 29th of November of 1563, in Toledo on the 6th of June, and in San Lorenzo on the 25th of August of 1596.

The Indians, who are subject to Our Royal Crown and who are under encomienda to Spaniards and to private individuals, shall pay the tributes that are owed to Us and to their Encomenderos, from the products which they raise, harvest, and have in their own towns and in lands where they are residents and natives, and not from any other source. They shall not be compelled to search nor to engage in bartering anywhere else for the purpose of paying their tributes. This shall be announced by the Assessors, and Our Royal Audiencias shall see to its enforcement and not permit any violation, because this would constitute a disservice to Us.

The Assessors shall observe that which We have commanded with regard to taxation, that there shall be no personal services, and that the Indians shall not be sent by their Encomenderos to the mines. They shall make adjustment to the laws of this Book as expressed therein.

Once the assessment has been declared and made, the Assessors shall prepare a register and an inventory of the towns and settlers, and of the tributes that are determined, so that the Indians and natives may know what they must pay, and no more. Our Officers and Encomenderos at that time, or their successors, shall know what they have to collect. They are advised and commanded by Us that no Officer of Ours, or any other private person, shall be so audacious, publicly or secretly, directly or indirectly, by himself or through another person, as to

collect, nor shall he collect from the Indians more than the amount of the declaration and assessment. Penalty for a first offense shall be four times the value of that which he has collected, to be given to Our C mara and Fisco. Penalty for a second offense shall be loss of the encomienda, loss of any claim from the tributes, and one-half of his personal assets, to be given to Our C mara. With regard to assessment of tributes, the Comisarios shall give to the Cacique or Principal in each town a statement of what is to be paid, signed by the Comisarios and authorized in public form. They shall explain to the Cacique or Principal, verbally, or through an interpreter, the contents of the statement, and also the penalties that will be incurred by those who are in violation. They will give a copy to the person who makes collection of the tributes so that the parties concerned may not feign ignorance.

Once completed in this manner, they shall send a transcript of the entire assessment to Our Council, along with substantiating documents.

In addition to the content of this Law, the Viceroy, President and Audiencia will further instruct, as they see fit, the Oidor or Judge who administers the assessments, as ordered by the laws of this Title, and they will give the necessary warnings and any other advice which is apropos.

Law 22: That the kinds and standards of things that the Indians are to pay in tribute be specified.

Emperor Don Carlos and the Governing
Prince in Monz n de Arag n on the 18th
of December of 1552.

Taxes shall be levied in a clear, distinct, and specific manner, specifying all that the Indians are to pay, and the Assessors are not to propose

common items, but are to order the tribute in such a way that in each town they may pay with only two or three kinds of the goods that are produced and that the Indians have. The Indians shall not be made to suffer the hardship of construction and repair of houses and farms of the Spaniards. The Assessors shall also specify that where tribute is to be paid in the form of clothing, blankets, and cotton, each repartimiento and town is to pay tribute with only one kind, and not many different kinds of blankets, underclothing, tablecloths and bedding. In this connection there have been great excesses and abuses, such as giving the Encomenderos a sample each day of what they wanted. It is necessary that weight and measurement of blankets be noted so that they cannot be lengthened or widened. A custom which shall be brought to an end is the bad custom in some places whereby the Caciques make the women gather in one house to weave blankets, where they commit many offenses against God Our Lord. It shall be ordered that the Indians do their plantings in their own towns and not in the Capitals, and that from that point on the Encomendero is to bear the cost of transportation. If during any year wheat is not harvested because of crop failure or stormy weather, the Indians shall not be required to make payment to the Encomendero at that time or later. All of the above-mentioned provisions are necessary, and We order that they shall be included in the tax system, thus relieving each Province of any hardships.

Law 23: That the tax registers show children and their ages.

Don Felipe III in Madrid on the 10th of
October of 1618.

With regard to the registers of taxes of the Indians, in which We command the children also be included, the ages and obligations to pay taxes are

to be verified. They are to be kept in very good order to avoid complaints and not to have to refer to the registers kept by the Priests, for in no way shall the Indians be led to believe that the Priests' registers are kept for the Spaniards. Instead, they should understand that they are kept for the purpose they had as Ministers of the Church.

Law 24: That tributes not be assessed or commuted in the form of personal service.

Emperor Don Carlos and the Governing
Kings of Bohemia in Valladolid on the
22nd of February of 1549.

Tax assessments in towns of Our Royal Crown, or in private towns, if they include any personal service, shall be stopped, whether effected as regular taxation or by commutation, because it is Our will that such taxation shall not be effected or commuted, notwithstanding any remonstrance on the part of Our Officers or Encomenderos.

Law 25: That taxes in the form of personal service be eliminated, and that they be assessed in the form of produce or goods.

Don Felipe IIII in Madrid on the 9th
of April of 1633.

It has been ordered that the personal service of Indians shall cease and shall be completely eliminated, and that taxation shall be limited to: money in certain cases where it is permitted, wheat, corn, yuca, chickens, fish, clothing, cotton, grain, honey, and other products, vegetables, and goods that are available and easily obtained, and which the Indians can afford to pay, according to the climate, condition, and nature of the lands and places where they live, because none of the lands fail to provide something that is of value and of some benefit for human needs, use, and commerce. Nevertheless, there are some Provinces in which personal

service still exists, with serious hardship and annoyance to the Indians. And We, attentive to their protection, aid, and relief, command that in these and all other Provinces personal service be lifted and removed, regardless of how it was introduced, because this is important to the Indians for their preservation and increase, and to the Encomenderos for a greater duration and security of the tributes, observing that which has been decreed by the laws with regard to these matters. We order that, following the mildest procedures possible, secular government officials join with the Bishop, Prelates of the Religious Orders, Officers of the Royal Treasury, and other well-informed persons not representing special interests in the Province, to discuss and deliberate concerning which products, goods and other things may be taxed and conveniently assessed as tributes that may correspond and be equivalent to what the personal service might fairly and legitimately amount to, without any excess in its use, requirement and procurement. Once this commutation is decided upon, they will see to it that each Indian is informed concerning what he must give, and pay in money, according to these references, in products or other goods. They will then prepare a new register of assessments and taxes. The Encomenderos may not request, take or collect from the Indians any greater amounts. We warn the Viceroy and Governing Presidents that any delay, omission, or deception in these matters will be considered a disservice to Us, that they are to be responsible for them at the time of their residencias, and that they will be punished for any damages or losses which the Indians may suffer, and We charge their conscience in this.

Law 26: That tributes not be assessed in the form of game animals or other favors.

Emperor Don Carlos and the Governing
Prince in Madrid on the 17th of April
of 1553.

Tributes shall not be levied in the form of game animals or other favors, but they are to be commuted in other goods of the kinds referred to, as it appears this will be better for the Indians.

Law 27: That the Visitadores visit and investigate the towns where they are going to assess taxes.

Emperor Don Carlos and the Governing
Prince in Madrid on the 11th of July
of 1552.

Very often the assessments for tribute are made on the basis of information, without the Visitadores being present, visiting, or investigating the towns and their conditions, and difficulties result from this. We command that the Visitadores visit the towns in person and investigate the number of Indians and their ability to pay, in order that they may proceed with more justification and complete knowledge.

Law 28: That taxation of towns under the Crown be arrived at jointly with the Officers of the Royal Treasury.

Emperor Don Carlos in Monzón on the
19th of December of 1534.

Tribute assessments on Indians who live under Our Royal Crown are to be arrived at jointly with the Officers of the Royal Treasury who are informed concerning Our treasury. It is proper that they be completely well informed concerning Our treasury, and that they be advised concerning taxes that have been levied and that might be levied on the Indians.

Law 29: In case of having to decrease tributes of the Crown, the Fiscal and the Officers of the Royal Treasury shall be present, and if they are absent, they shall appoint a Procurador.

Don Felipe II and the Governing Princess in Valladolid on the 29th of October of 1556. Don Felipe II in Madrid on the 17th of March of 1567, and in Córdoba on the 19th of March of 1570.

When the time comes to tax the Indians who are under the Royal Crown, the Fiscal of the Audiencia and the Officers of the Royal Treasury shall be present, and if they are absent, they shall appoint a Procurador whom they shall grant sufficient authority. The Procurador shall appear before the Assessor and the Judge who prepare the reports, accounting and assessments, and on behalf of Our Royal Patrimony he shall affirm and respond to the requests of the Indians regarding tax reductions and other matters, and he shall provide all justifications that may be appropriate.

Law 30: That separations provided by this law with reference to taxes be made.

Don Felipe II in Madrid on the 4th of August of 1561. Don Carlos II and the Governing Queen.

Every time that an assessment or reassessment of taxes from the Indians is made, particular care shall be taken to keep separate that which is due to the Caciques and Principales and which they may need for their communities and religious instruction, and so that the Caciques, as interested parties, will not conceal the Indians. Attention shall be given to the tributes they have paid to Us, or to their Encomenderos, Caciques and Principales, and to other needs for religious instruction and preservation of the communities. All shall generally observe that, in addition to what is assessed, no other tribute or repartimiento is to be imposed on the Indians by their Caciques, Principales or by any other

person. In the assessment of taxes, it shall be clearly expressed, declared, and separately stated, what amounts are to be given to Us, to the Encomenderos, the Caciques and Principales, in such a way that what is intended for the Caciques and the communities may not come into the possession of Our Royal Officers for Our Treasury. The same shall be observed with respect to the stipend for the Doctrinero, unless there is a custom or resolution to the contrary.

Law 31: That the part corresponding to the Churches of towns under the Crown be kept separate.

Emperor Don Carlos and the Governing
Empress in Madrid. (Chapter 2).

In the case of towns under the Crown where tributes or their equivalent value come into the possession of Our Officers of the Royal Treasury, these Officers shall be obligated to keep separate the amount specified for construction, vestments and ministry of the churches of each town, and to place this amount in a separate coffer, and not to keep it together with the other amounts which belong to Us as tributes.

Law 32: That tributes to be applied to the Churches not be removed from the coffer without a license or order for payment.

Emperor Don Carlos and the Governing
Empress in Madrid. (Chapter 4).

We order that Our Royal Officers have separate keys to this coffer, and that they may not spend or distribute any portion of the tributes therein deposited, except by command from the Viceroy or the Governing President, and with the advice of the Prelate of the Diocese of the towns from where the tributes are paid.

Law 33: That the amount of the tributes to be used for the Churches and vestments be adjusted.

Emperor Don Carlos and the Governing
Empress in Valladolid on the 31st of
May of 1538.

If, in the assessment of taxes in towns that are under Our Crown and are under encomienda in charge of different persons, the amount to be spent for Churches, vestments and their ministry is not declared, We command that it shall be specified and declared, and, if necessary, that taxes shall be assessed and regulated, adjusting the portion of the tributes to be assigned in each town for the above-mentioned Church purposes. The same action shall be taken with regard to towns of Seigniory.

Law 34: That a ledger be kept for recording the part of the tribute that is intended for the Churches.

Emperor Don Carlos, in Valladolid.
(Chapter 6).

In order to know and understand what part of the tributes of each town may be applied to the Churches, and for better accounting procedure, We command Our Officers of the Royal Treasury to keep a ledger which separates the Bishopric and the Province, and which indicates the amount of tributes for each town, and the portion thereof for each church, so that every year withdrawals and expenditures shall be made in accordance with what is ordered.

Law 35: That repartimientos, which are not taxed at a time when they are vacated, be taxed.

Don Felipe II on the 27th of September
of 1563.

If repartimientos, during the time and prior to their being placed under a new encomienda, are not taxed, they shall be taxed by way of a citation from Our Fiscal, because, being vacated, this will not be inconsistent. Those who receive them in encomienda will adapt themselves in good faith to the taxation which is assessed. Those who are empowered to receive encomiendas will be thus advised.

Law 36: That concerned parties be notified when taxation in Indian towns is necessary.

Emperor Don Carlos and the Governing
Princess in Valladolid on the 31st of
July of 1554.

In the assignments given to those who go to assess tributes, it shall be ordered that the parties concerned, Encomenderos as well as Indians, be notified that, within the period specified, evidence may be gathered as necessary. If there is an appeal, it is to be determined on the basis of that evidence, without gathering any more evidence. Thus, this law shall be observed and enforced.

Law 37: In case of decisions regarding tax disputes, the Oidores shall be present with the Royal Officers in the Acuerdo, and in Mexico the Contador of tributes shall attend.

Don Felipe II and the Governing Princess
in Valladolid on the 10th of May of 1558.
Don Felipe II in Madrid on the 3rd of July
of 1571. Don Felipe III in Madrid on the
13th of December of 1618.

There has been a question whether it is appropriate for Our Officers of the Royal Treasury, or persons designated by them in their absence or illness, to meet with the Oidores in the Acuerdo when voting on matters of hearings, reviews, changes, assessments, or reassessments, that pertain to some Indian towns under the Crown, and in case they come, whether they

should remain in the Acuerdo, or whether they may depart after having cast their votes and after having conferred on the matter, thus making it possible for the Oidores, without their presence, to vote and render a proper decision. We declare and command that in the situation referred to, there shall be no change from that which has been customary in each one of Our Audiencias, and that Our Officers who enter into its proceedings shall swear to keep secret and to observe what they should in the service of God Our Lord and for the welfare of the Indians, and that this shall be observed. Furthermore, We command that the Contador of tributes shall be present in the Acuerdo of the Audiencia of Mexico when taxes are assessed, and that he shall have a seat behind the Officers of the Royal Treasury as is the general practice when he meets with them.

Law 38: That the tax ledger be taken to the Acuerdo, and that in it the Officers of the Royal Treasury sign their approval of its provisions.

Emperor Don Carlos and the Governing
Prince in Monzón on the 11th of August
of 1552.

When adjustments or commutations of tributes and services for Our Royal Crown need to be made for any reason, the Contador or Royal Officer shall be required to take the tax ledger, for which he is responsible, to the Acuerdo of the Audiencia so that therein, and in another ledger, which is to be under the responsibility of the Government Notary, the provisions may be recorded, Our Officers may sign them, and both ledgers may be in conformity with regard to the order and substance of everything.

Law 39: That, if it seems appropriate, tributes in money be commuted to products.

Don Felipe II and Don Carlos II and
the Governing Queen.

Due to many tributes from Indians having been commuted to money in some places, wheat, corn, poultry, provisions and products have risen to excessive prices, and by paying tribute in money, the Indians do not care to work nor to apply themselves to planting or other beneficial gains. There is a lack of products which by means of labor might be abundant in the Province and reasonable in price. This is an inconvenience worthy of remedy. In order to remedy this, We command that in the districts and places where the Viceroy, Presidents, Audiencias and Governors find that the Indians are paying tribute in money, and that it is advisable to commute the tribute to products for the reasons referred to, they shall be commuted to whatever can be harvested and raised on their lands and farms so that they can more easily pay tribute with that which they harvest and raise. This requirement accrues to their benefit and the public cause.

Law 40: That if the Indians, for a just cause and for a certain period of time, wish to pay their tribute in money, they receive fair treatment.

Don Felipe III in Ventosilla on the 28th
of October of 1612.

In the particular instances where the Indians ask, for a just cause, that for a certain number of tercio tributes, or for a certain number of years, they be allowed to pay all their tributes in money, in accordance with the assessment, the Viceroy, Audiencias and Governors shall favor

them to the extent possible (without causing injustice or hardship to them).

Law 41: That if the Indians pay their tributes in gold or silver, it shall all be assayed and marked.

Don Felipe II on the 1st of December
of 1573.

We command that if the Indians pay their Encomenderos in gold or silver, it shall all be assayed and marked.

Law 42: That the Indians of Mexico and its environs not have a specific obligation to pay their tribute with chickens.

Don Felipe III in Valladolid on the 24th
of November of 1601.

It was introduced in New Spain that the Indians within twenty leagues of Mexico City should pay one chicken each year in place of one real of the eight reales which they pay as tribute. Because they were mistreated with this commutation and have to purchase the chickens at a higher price, We order that they shall be exempted from this form of collection and that they shall pay the ordinary tax as it was previously paid, if they do not wish to give the chickens voluntarily. The Viceroys shall see to it that this law is observed.

Law 43: That an account be obtained from the Indian Alcaldes each year, based on the registers they have.

Don Felipe III in Madrid on the 12th of
December of 1619.

In the collection of the tostón which the Indians of Guatemala and other places of New Spain pay Us, some errors have been noted, resulting from obtaining accounts of Indians from their Alcaldes based on old assessments, and not in conformity with the registers that the Alcaldes

hold. We command that the accounts shall be obtained each year based on those registers, and not on the old assessments, and that good accounting shall be maintained in this respect.

Law 44: That the Indians pay their tributes in their own towns.

Emperor Don Carlos and the Governing Princess in Valladolid on the 12th of May of 1551.

We order that the Indians shall pay their tributes in their own towns in the amount and form in which they are due, and that they shall not be forced to pay their taxes in another place outside their towns.

Law 45: That when there is pestilence in Indian towns, the taxes shall be moderated.

Emperor Don Carlos and the Governing Prince in Madrid on the 10th of May of 1546.

If the Indians suffer from pestilence and mortality, it is Our will that they be relieved. And We command that assessments made of taxes that should be paid shall be examined in the case of those who are under Our Royal Crown and also who are under private encomiendas. With regard to the damages the Indians may have suffered, the Visitadores and the Comisarios shall inform themselves concerning what the Indians can reasonably pay in tribute and service without hardship. They shall assess taxes and moderate them in such a way as to be sure that, in such special and common need, they are favored and alleviated. It is ordered that We shall be advised of what action is taken.

Law 46: That there be no allotment of corn from the Indians for the homes of Viceroyes or other Ministers.

Don Felipe IIII in Madrid on the 19th of August of 1631.

In Mexico City allotments of corn from the Indians, valued at five or six reales, are given to the homes of the Viceroy, Oidores, Alcaldes, Fiscales of the Audiencias, Contadores de Cuentas, Officers of Our Royal Treasury, and other Ministers. Each of these officials obtains his allotment from the town with which he is concerned; and subsequently, he conveys, sells or gives it to another person, or he sends him to collect the equivalent in money from the Indian, and on the basis of a higher value than recognized in Our Royal Strongbox. We prohibit these allotments of corn, and We order and command the Viceroys to not allow those Ministers, or any others to take such payments or authorization of allotments, under penalty of incurring legal action against those who do not comply with Our orders and mandates.

Law 47: That in the case of grants, tributes from Indians be levied in compliance with the assessments.

Don Felipe II in Madrid on the 7th of
February of 1563.

We grant favors to some well-deserving individuals amounting to a certain number of pesos in the form of repartimientos which may be unpossessed or may become unpossessed; and they levy lesser or lower tributes on the Indians than what at that time or previously they ordinarily amounted to. This is in their private interests, it is fraudulent, and does great damage to Our Royal Treasury, because as soon as the repartimientos have been granted, the possessors levy a new tax on the Indians not just on the basis of the old taxation, but in a greater amount of tributes, thus exceeding by way of this expedient the amount of the favor We granted them by an additional amount. We command that the Viceroys and Governing Presidents shall not allow this nor shall give occasion for it, and if any taxes are levied with this fault, they shall be considered null. An

accounting of what the repartimientos are worth shall be prepared and shown to those who received Our favor, this accounting being based on a levying of taxes which at that time and previously the Indians were easily and properly able to pay as tribute. In this way, there shall be no fraud.

Law 48: That no Encomendero collect tributes from the Indians without their having been assessed, and that he not receive anything else.

Emperor Don Carlos and Cardinal Tavera,
Governor of Fuensalida, on the 26th of
October of 1541. The Governing Prince
in Valladolid on the 13th of September
of 1543. (Ordinance 5).

No Spaniard who has Indians in encomienda may collect tribute unless it has first been assessed and adjusted by the Viceroys, Presidents, or other persons empowered to do so. Once the assessment is completed, he may not receive anything else from the Indians, directly or indirectly, for himself or for anyone else, or for any reason or pretext, even though he may say that the Indians gave it voluntarily in barter or compensation for something else. For it is Our will that he shall not receive more than has been assessed, under penalty of the deprivation of his encomienda, which We then command to be placed under Our Royal Crown, and in this proceeding, the known facts shall be observed, without the slightest chance of appeal. However, We of course give Our permission for the Encomendero to buy food, beverages, and other necessaries of life from the Indians, by paying fair prices the same as any other alien Spaniard would pay. And We order that this same law be observed by Our Officers of the Royal Treasury with respect to the tributes which they

collect from the Indians who are under Our Royal Crown, under penalty of losing their office, and with the provision that the Indians who have been wronged shall be reimbursed in the amount of the excess in their taxes, and the remainder of four times this amount shall be paid to Our Cámara.

Law 49: That the Indians not be wronged by paying more than their assessments, nor in connection with their profits.

Emperor Don Carlos and the Governing
Kings of Bohemia in Valladolid on the
22nd of June of 1549.

The Encomenderos of New Spain, in addition to the tributes which they receive, require the Indians to grow silk for them, through use of the mulberry trees they have on their lands, and this leads to their detriment and loss by depriving them of their products and profits. We command that Our Audiencias shall provide the most appropriate remedy and shall take action in such a way that the Indians are not wronged, and that they may freely enjoy the benefits of their property, without hampering of their income and advantages, as free persons and as Our vassals.

Law 50: That the Audiencias send Executors, with allowances and salary, to take action against those guilty of excessive taxation.

Emperor Don Carlos and the Governing
Prince in Valladolid on the 4th of
September of 1551.

If, after the Encomenderos have been notified concerning tax assessments, Our Audiencias learn that they are exceeding the assessments and are not observing them, they shall provide Executors, with allowances and salaries at the cost of the guilty parties, for the purpose of: requiring the Encomenderos to observe and comply with the assessments; and making them

pay, personally and with their own assets, the penalties they may have incurred, including costs and salaries. They shall submit necessary official notifications and claims, and they shall take special care in this matter which is so important to Our service, to the clearing of Our Royal conscience, and to the welfare and preservation of the natives.

Law 51: That the amounts collected from the Indians beyond the assessment be returned to them, and that excesses in taxation be moderated.

Emperor Don Carlos and the Governing
Kings of Bohemia in Valladolid on the
7th of July of 1550.

Everything in excess and wrongly taken from the Indians is to be returned to them or to their heirs. If, on the occasion of the last tax levy, it is discovered that the Indians are being wronged, or that taxes are excessive due to depopulation or mortality, or any other accident, such that the Indians cannot easily pay and thus obtain relief so that they may maintain their homes, marry their children, and attend to their other needs, the taxes shall be moderated and adjusted to these conditions in conformity with that which has been ordered by Us.

Law 52: That if the Encomendero in his testament suspends tributes for some years, justice shall be done and his will shall be enforced.

Don Felipe II in Madrid on the 30th
of July of 1568.

It happens that Encomenderos order in their testaments, for the purpose of unburdening their conscience, that the Indians of their encomiendas shall not pay tribute for some years, an order which is to be fulfilled by their successors. The successors, and especially women who want to get married, fail to comply with this will. We command Our Audiencias,

when such a case presents itself, and if the successor takes over by right of succession and not because of the encomienda being unpossessed, that they carry into effect and administer complete and precise fulfillment of justice in such a way that the will of the testators may be observed and enforced, and that there may be no need to appeal to Us.

Law 53: That the Oidor Visitador make the computations and assessments.

Don Felipe II in Monzón on the 22nd of August of 1585.

The Oidor in each Audiencia, on the occasion of his visit in the Province, shall make the computations and assessments of the Indians, and he shall not entrust this to another person, lest he be considerably misled.

Law 54: Stating who may request reassessments, and that the Oidor Visitador make these reassessments as his function.

Don Felipe II in Monzón on the 22nd of August of 1585.

Reassessments or computations in the case of Indians in encomienda shall not be made except at the request of Our Fiscal, of the Encomendero, or of the Indians. If the Oidor Visitador of the Province discovers that some Indians are overly burdened by the tributes, he shall nevertheless not fail to relieve them, because, in such a case, by his authority, even though they may not request it, the tax may be moderated and the grievance may be remedied.

Law 55: That visits of reinspection of towns be entrusted to the Corregidores.

Don Felipe II in Madrid on the 23rd of December of 1595.

We command that when it is necessary to make visits of reinspection of assessments and tributes, and the Oidor does not make the visit, or he is very far away from the town, the visits shall be entrusted to the Corregidores of the districts.

Law 56: That reassessments be entrusted to the Corregidores and Alcaldes Mayores in order that they be accomplished at the least possible cost.

Don Felipe IIII in Madrid on the 13th of June and 9th of October of 1623, and on the 2nd of October of 1624.

If the Indians request computation and reassessment because of a decrease in their numbers, Judges shall not be assigned to do this. It shall be assigned to the Corregidores and Alcaldes Mayores, without salary or expenses. If they are not available, persons of total satisfaction shall attend to it, at the least possible cost, and they shall not receive presents, nor shall they subject the Indians to other expenses. The Vice-roys, Presidents, and Audiencias shall impose appropriate penalties in case of transgression.

Law 57: That whoever requests assessment or reassessment shall pay the salaries.

Don Felipe II in Monzón on the 23rd of August of 1585.

We order that if the Oidor sets out to conduct assessment of the Indians, or if he is busy with his visit of inspection, and being very far away, he sends a Comisario, the salaries shall be paid by whomever requests the computation, assessment, or reassessment.

Law 58: That the Indians not pay the salaries of Comisarios for assessments.

Emperor Don Carlos and the Governing
Queen of Bohemia in Valladolid on the
28th of February of 1551. Don Felipe II
in Madrid on the 29th of July of 1578.
Don Carlos II and the Governing Queen.

When the Indians request an assessment and moderation of tributes, or if it is done officially by a Comisario, and not by the Oidor Visitador or by the Governor, the Indians shall not be burdened by salaries, subsistence costs, documentation fees, and other costs. Such costs and salaries shall be paid with funds available from vacated Corregimientos or from any other of Our treasuries. The Oidor or Governor shall not receive such payments because these functions are within their responsibilities and duties.

Law 59: That Indians under the Royal Crown not be reassessed until three years have passed after the last assessment.

Don Felipe II in Madrid on the 1st of
June of 1567.

Indian towns that are under Our Royal Crown shall not be reassessed until three years have passed after the last assessment, unless they declare that they are suffering mortality, crop shortage, or some other unexpected circumstance. In that case, Our Royal Audiencias shall determine what is just.

Law 60: That reassessments state the fixed amount that the Indians have to pay.

Emperor Don Carlos and the Governing
Empress in the year 1550.

In some towns there are confusing assessments which do not show a number of fixed amount that the Indians have to pay, with the result that many times they pay more tribute than they should. We command that reassess-

ments shall be made clear, fixed and definite in order that this difficulty may come to an end.

Law 61: That the sending of Judges to count Indians be avoided, and that ordinary Judges be assigned.

Don Felipe III in Madrid on the 14th
of March of 1620.

It is customary to send Judges to the towns solely for the purpose of counting the Indians that pay tribute, whereas this can be done by the ordinary Justicias without salary. We order that this shall be avoided, and that the Governors, Corregidores, and Alcaldes Mayores shall have this task very carefully performed before the Public or Royal Notaries of their jurisdictions; or a person will be sent at their expense for this purpose.

Law 62: That a new visit of inspection, or computation, not suspend payments currently due.

Don Felipe II in Toledo on the 20th of
February of 1561.

Although, upon request of some Indian towns that are under Our Royal Crown, the letter of approval from the Audiencias may be given for them to be inspected and counted, the Officers of the Royal Treasury are not to suspend collection of payments that are due and are owed to Us pending issuance of the provision. That which is to be provided will apply afterward.

Law 63: That tributes be awarded, and that they be collected in accordance with this law.

Don Felipe II and the Governing Princess
in Valladolid on the 2nd of June of 1557.

Tributes of Our Royal Crown shall be awarded in the Junta de la Hacienda when the time comes. The money shall be put in Our Strongbox; and authority for collection shall be sent to the person who obtains it through auction, so that he may collect from the Indians in the capital city and transport tributes on pack animals without having further communication with the Indians or causing them any hardship.

Law 64: That the Governors, Corregidores, and Alcaldes Mayores furnish new bonds to cover tributes that are due, and that they deposit the tributes by tercios.

Don Felipe IIII in Madrid on the 25th of August of 1637. Don Carlos II and the Governing Queen in Madrid on the 20th of November of 1668. (See Law 9, Title 9, Book 8).

We order that all the Governors, Corregidores, and Alcaldes Mayores of the Indies, before they assume their duties, shall be required to furnish, and shall so furnish, bonds to cover tributes from the Indians that become due during their terms of office, these being in addition to the bonds they furnish for the exercise of their official duties. And We order that, in the assignments of titles that are sent to them by Our Council, or by the Viceroy, Governors, Captains General, and Presidents of Audiencias, the above-mentioned shall be made known and ordered. And because it is desirable, We command that the taxes shall be put in the Royal Strongboxes by tercios; and if the Governors, Corregidores, and Alcaldes Mayores do not do this within the specified period of time, they shall be deprived of their offices, and they shall immediately be held accountable in residencia.

Law 65: That the Indians of the Philippines pay a tribute of ten reales in money or in kind, provided there is no lack of products.

Don Felipe II in San Lorenzo on the 9th of August of 1589. Don Felipe III in Zamora on the 16th of February of 1602.

In order to provide religious instruction in some towns of the Philippine Islands where they did not have it, or if they had it at all, it was not sufficient, it was resolved to increase the tributes, which used to be eight reales, or their equivalent value, for each peso, to ten Castilian reales for each peso. It was ordered that this increase be deposited in Our Royal Strongbox, applying one-half real to pay the obligations which were to be met with the tithe, and the remaining one and one-half reales for the salaries of the militia and other bills payable. It was understood that Our Royal Treasury provides necessary funds to send Religious who learn to preach the Holy Gospel, and that the Encomenderos were required with the eight reales to pay for the necessary, ordinary religious instruction, and also whatever amount they were able to pay for the construction of churches. The Indians were to be able to choose whether to pay their tributes all in money, all in products, or partly in one and partly in the other. These resolutions were enforced and made a matter of record. We command that there shall be no change in these resolutions, keeping in mind the welfare and preservation of those Provinces and their natives, and that the choice of paying tributes with money may not result in a lack of products or crop shortage.

Law 66: That tributes not be distributed without order from the Council, and that the Officers of the Royal Treasury keep an accounting of what they amount to.

Don Felipe IIII in Madrid on the 19th
of June of 1627.

In the assignment of titles to encomiendas all provisions of the Laws of this Book must be stated. The Viceroy and Governing Presidents shall not distribute anything from the tribute without an order from Our Royal Council of the Indies. And We command that the Officers of Our Royal Treasury shall keep an accounting of what the tributes amount to, and that they shall send a report of this each year to the Council.

Notes

That Reduccionen be established at the cost of tributes which the Indians pay. Law 11, Title 3 of this Book.

That Negro men and women and Mulatto men and women pay tribute to the King. Law 1, Title 5, Book 7. And also the children of Negroes, free or enslaved, born from marriage with Indian women (Law 2). That free Mulattoes and Negroes live with known masters, in order that their tributes may be collected. Law 3, Title 5, Book 7.

Title 6: Concerning the Protectors of the Indians¹¹⁵

Law 1: Despite the reformation of the Protectors and Defenders of Indians, they may continue.

Don Felipe II in Madrid on the 10th
of January of 1589.

Despite the old orders by which Protectors and Defenders of the Indians were ordered to be removed and suppressed, in the execution of which great problems have been experienced, We order: that they may continue and shall be appointed and newly provided by Our Viceroy and Governing

Presidents in the Provinces and places where they were; and that they shall be persons of sufficient age, and shall perform their duties with the Christian spirit, purity and punctiliousness that are required, for they are to protect and defend the Indians. We command the Ministers who are responsible for providing them, to give them instructions and ordinances, so that in accordance therewith, they shall abide by them and exercise their duties. And We command the Judges responsible for inspections and residencias, and the other Royal Justicias: that they keep close account and exercise continuous care to observe how the Protectors and Defenders are proceeding with their duties; and that they render rigorous and exemplary punishment for transgressions.

Law 2: That instructions be given in Peru in conformity with the ordinances issued by the Viceroy, Don Francisco de Toledo.

Don Felipe II in Madrid on the 10th
of January of 1589.

In the Kingdoms of Peru instructions are to be given to the Protectors in conformity with the ordinances issued by the Viceroy, Don Francisco de Toledo, adding, in consideration of the difference in times, anything that is necessary for the protection and defense of the Indians.

Law 3: Wherever there is an Audiencia, an Attorney and a Procurador for the Indians be appointed, with salary.

Don Felipe II in Madrid on the 10th of
January of 1589, and on the 9th of April
of 1591. Don Felipe III in Ventosilla on
the 17th of October of 1614.

We command that in those cities where there is an Audiencia, the Viceroy or the President shall appoint an Attorney and a Procurador who may attend to complaints and lawsuits of the Indians and may defend them. They

shall be given an adequate salary from fines or from community assets that are not especially allocated. We order that in no case may they charge fees, for if they do, the Viceroy and Presidents shall impose severe penalties at their discretion. With regard to the Fiscal Protector in the Audiencia of Lima, these provisions shall be particularly observed.

Law 4: That the Ministers who charge the Indians for more than their regular salaries be punished.

Don Felipe IIII in Madrid on the 13th
of June of 1623.

Every Indian of New Spain pays a half-real which is distributed for the salaries of the Assessors, Court Reporters, Cámara and Government Notaries, Attorneys, Procuradores, Solicitors, and other Ministers, for the litigations and negotiations that they conduct in the Government, Audiencia, and other Tribunals, and these officials are not allowed to take additional fees. Although the Indians are benefitted, they are overcharged by way of larger amounts and presents, and they are detained and delayed, much to their aggravation and annoyance. We command the Viceroy and Audiencias of New Spain, Peru, and the other Provinces of the Indies, that they shall: completely remedy this difficulty; require observance of the laws; not allow taking of more fees, presents or anything else; see to it that cases are well conducted and expedited; and punish offenders.

Law 5: That the General Protectors of the Indians not be removed without legitimate cause.

Don Felipe III in Madrid on the 4th of
July of 1620.

The Viceroy and Presidents shall not remove or terminate the General Protectors of the Indians once they have been appointed, unless there is

a legitimate, positive reason, and it has been considered by Our Royal Audiencia with each member in attendance.

Law 6: That the General Protectors not designate substitutes.

Don Felipe III in San Lorenzo on the
2nd of April of 1608.

We command that the General Protectors shall not designate substitutes, and that they shall attend to their duties personally with the care and vigilance required by their office.

Law 7: That Mestizos not be appointed as Protectors.

Don Felipe II in Madrid on the 20th of
November of 1578.

We order the Viceroys and Presidents that, when they appoint Protectors of Indians, they shall not appoint Mestizos, as this is advisable for the defense of the Indians. Otherwise, they may suffer harm and prejudice.

Law 8: That there be a Protector of the Indians in the Philippines.

Don Felipe II in chapter of a Letter from
Madrid on the 17th of January of 1593.

We had charged the Bishops of the Philippines with the protectorship and defense of those Indians, and We now realize that they cannot attend to the requests, decrees, and judicial proceedings which require their personal presence. We order that the Governing Presidents shall appoint a Protector and Defender, and that they shall designate an adequate salary for him from Indian taxes, prorated among those who are under Our Royal Crown and those who are under encomienda of private individuals, without taking funds from Our Royal Treasury which may be acquired from other sources. We declare that with this action it is not Our intention to take away from the Bishops the superintendency and protection of the Indians in general.

Law 9: That a Protector be established for the Indian rowers of the Río Grande.

Don Felipe II in Madrid on the 13th
of February of 1593.

It is Our will that there shall be a General Protector of the Indians who are rowers in the Río Grande de la Magdalena, in order that he may protect them and see to it that the ordinances are complied with. He shall notify the Justicias concerning everything he learns about what is done in detriment to the Indians, trying to obtain remedy for offenses against them, and to have punishments rendered. We charge the Justicias, and the Protector, to give the Indians all consideration, and to strive for their increase and preservation.

Law 10: That the Viceroy, Presidents and Governors give free audience to the Protectors.

Don Felipe IIII in Madrid on the 27th of
March of 1622.

We charge and command the Viceroy, Presidents, and Governors that they shall give free audience to the Protectors and Defenders of the Indians. When they come to give an account of their actions and causes, and ask for enforcement of the laws and cédulas in their favor, they shall be listened to very attentively, and in such a way that as a result of the courteousness with which they are received and heard, they may be more encouraged in their defense and protection of the Indians.

Law 11: That Indians under Seigniorship contribute to the salary of their Protectors just as the other Indians do.

Don Felipe II in Toledo on the 25th of
May of 1596.

The Indians under Seigniorship shall support and contribute to payment and apportionment for salaries of their Procuradores and Protectors, in the

same way as the other Indians under encomienda, as it is generally commanded.

Law 12: That the Protectors send reports to the Viceroy and Presidents on the status of the Indians, and that these be transmitted to the Council.

Don Felipe II in San Lorenzo on the
28th of August of 1596. Don Carlos II
and the Governing Queen.

In order for Our Royal Council to be informed about the treatment of the Indians and whether they are protected and defended as they should be, it is very important that at all times reports be sent to Us concerning: the status of their good government, preservation and relief; whether the Viceroy, Presidents and Justicias are being especially careful to look after the Indians, as We have commanded them to do; whether they are requiring observance and are inviolably observing all that is provided for the benefit of the Indians; and, whether they have other reports and information which the Protectors have to send them in which it might be indicated whether all that is provided for the benefit of the Indians is being observed, where they are increasing and diminishing, and how they are treated, whether they are suffering abuses, hardships and annoyances, from what persons and in what respects, whether they need religious instruction, which ones, in what places they are increasing or diminishing, and how they are treated, making particular references and advising what will be necessary for their instruction, relief and preservation, along with all else that might lead to this end. The Viceroy, Presidents and Justicias shall transmit these reports to the Fiscal of Our Council of the Indies for its official consideration, and so that

We may, with more basic information, make appropriate provisions.

Law 13: That if there is a dispute between Indians, the Fiscal and the Protector defend them, and the Indians be excused if the case is further pursued.

Don Felipe II in Madrid on the 9th of
April of 1591. Don Felipe III in Madrid
on the 12th of December of 1619.

When a dispute between Indians comes before Our Royal Audiencias, the Fiscal shall defend one party and the Protector and the Procurador the other party, as provided. If the dispute first comes before the Governor, Corregidor, or Alcalde Mayor, and needs to be appealed to the Audiencia, without the Indians being able to leave their lands, and if the nature of the case permits: documents and judicial records shall be sent, so that through them claims and pursuit of justice may be effected; and after they are concluded, the decision shall be returned to the Governors, Corregidores, and Alcaldes Mayores.

Law 14: That the Ecclesiastics and Seculars inform the Protectors, Procuradores, and Defenders, if some Indians do not have freedom.

The Emperor Don Carlos and the Queen
of Bohemia.

We charge the Prelates and Ecclesiastics, and We command all of Our Ministers and Secular persons of the Indies, that they shall notify and give warning to the Protectors, Procuradores, Attorneys, and Defenders of Indians, if they learn that some Indians are enslaved in the homes, ranches, mines, farms, properties, and other places, in service to Spaniards or Indians, and their number and names, in order that they may immediately and without delay demand for the Indians their freedom to which they are naturally entitled. Because this task is of such

mercy, in which God Our Lord will be served, the aforementioned shall attend to it with all diligence and care, and the Protectors, Procuradores, and Defenders shall apply all their efforts, without losing time, and shall pursue these cases.

Title 7: Concerning the Caciques¹¹⁶

Law 1: That the Audiencias justly listen to the Indians with reference to the Cacicazgos.

Don Felipe II and the Governing Princess
in Valladolid on the 26th of February of
1557.

Some natives of the Indies were Caciques and Lords of towns during the time of their infidelity. After their conversion to Our Holy Catholic Faith, it is just that they shall retain their rights, and that having come to Our obedience shall not worsen their condition. We command Our Royal Audiencias that, if these Caciques or Principales who are descendants of the first ones claim succession to that kind of Lordship or Cacicazgo, and on this basis ask for justice, they shall be given justice as soon as possible after the parties concerned have been called and heard.

Law 2: That the Audiencias fully comprehend these rights, and take official cognizance.

Don Felipe II in Valladolid on the 19th
of June of 1558.

The Audiencias are to fully comprehend the right of the Cacicazgos; and if the Caciques or their descendants claim succession to the Cacicazgos, and to the jurisdiction which they formerly had, and if they ask for justice, the Audiencias will proceed in accordance with what has been ordered. Likewise, they will be officially informed concerning what

happens in this respect, and if there is evidence that some are unjustly deprived of their Cacicazgos, jurisdictions, rights and income which were due to them in connection with their Cacicazgos, they will have them restored, advising the parties concerned. And, they will act similarly if some towns are deprived of the right they have had to elect Caciques.

Law 3: That the custom of succession of the Cacicazgos be observed.

Don Felipe III in San Lorenzo on the 19th
of July of 1614. Don Felipe IIII in Madrid
on the 11th of February of 1628.

Since the discovery of the Indies, it has been the custom that the sons succeed their fathers in the Cacicazgos. We command that there shall be no change in this respect, and that the Viceroy, Audiencias, and Governors shall not have authority to take Cacicazgos from some and give them to others, but that they shall allow succession to continue in accordance with the old law and custom.

Law 4: That the ordinary Justicias not remove the Caciques, and that the Audiencias and Oidores Visitadores judge these cases.

Don Felipe II (Ordinance 82 concerning
Audiencias, 1593), and in Toledo on the
25th of May of 1596.

The ordinary Justicias may not deprive the Caciques of their Cacicazgos because of any criminal cause or dispute. If they do, the penalty shall be loss of office and fifty thousand maravedís for Our Cámara. Judgement of this shall be restricted to the Audiencias and Oidores Visitadores of the district.

Law 5: That the Indian Caciques and Principales not have the title of Señor.

The Emperor Don Carlos and the Governing Empress
in Valladolid on the 26th of February of 1538.

We forbid the Caciques to call or entitle themselves Señores of the towns, because this is in the interest of Our service and Our Royal privilege. We command the Viceroy, Audiencias, and Governors that they shall not consent to this nor allow it. They may only call themselves Caciques or Principales. If anyone, contrary to the intent and form of this law, calls or entitles himself otherwise, the Viceroy, Audiencias, and Governors shall impose penalties on him, as they consider appropriate.

Law 6: That the Caciques not be Mestizos, and if some of them are, that they be removed.

Don Felipe II in Madrid on the 11th of January, and on the 5th of March of 1576.

We command: that Mestizos may not be Caciques; that, if some are, they shall be removed immediately from the Cacicazgos; and that the Cacicazgos shall be given to Indians in accordance with the established law.

Law 7: That the Indians continue to be subject to their native Caciques.

Don Felipe II in Madrid on the 20th of October of 1568.
(See Law 28, Title 8, Book 6.)

In some parts of the Indies, many Indians have been separated from their Caciques, and it is not right to permit this. We order: that every time the Indians are vacated, they shall be returned to the government and jurisdiction of their native Cacicazgos where they belong; and that their Caciques and Principales shall not be wronged by these separations, as this is ordered by Law 12, Title 1 of this Book, with regard to reductions and Encomenderos.

Law 8: That the rights of the Caciques be recognized, and excesses be restrained.

The Emperor Don Carlos and the Governing Prince in Toro on the 18th of January of 1552. Don Felipe IIII in Madrid on the 1st of February of 1628, and in San Lorenzo on the 19th of July of 1654.

In some towns, the Caciques and Principales have oppressed and subjugated the Indians so much that they use them as much as they want and take more tributes than are permitted, the result being that the Indians are overworked and harassed. It is necessary to remedy this wrong. We command that the Viceroy, Audiencias, and Governors shall investigate in their districts and jurisdictions, and that they shall ascertain in their Provinces what tributes, services and servitude the Caciques are exacting, for what cause and reason, and if these practices follow the old tradition, inherited from their parents, are complacently accepted by the Indians, and are a legitimate right, or whether they are tyrannically imposed contrary to reason and justice. If they find that the Caciques and Principales are benefitting from the above-mentioned practices, or any part of them, unjustly or without proper entitlement, they shall provide justice to the Indians. If they are benefitting from those practices with proper entitlement, and there is an excess in the amount and form of the tributes, the Viceroy, Audiencias and Governors shall moderate the tributes and assess taxes, complying with what has been ordered with respect to tributes and taxes, so that the Indians may not be troubled nor overworked by their Caciques taking more from them than they justly owe.

Law 9: That if the Caciques claim that their Indians belong to their noble family, they be heard with justice.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 16th of April of 1550. The Emperor Don Carlos and the Governing Princess in Valladolid on the 10th of May of 1551. Don Carlos II and the Governing Queen.

The Caciques shall not be permitted any excesses in what they claim, and the Viceroy, Audiencias, and Visitadores of the district shall punish those who are guilty. If any Cacique claims to have rights by reason of his noble lineage, saying that his Indians belong to the noble family, or that they belong to him for another similar reason such as seigniorship or vassalage, Our Audiencias shall provide justice, after having heard the parties concerned.

Law 10: That the Caciques pay wages to the Indians who work on their farms.

Don Felipe II in San Lorenzo on the 8th of July of 1577.

The Caciques ordinarily employ the Indians of their towns on their farms, properties, and in other enterprises; and they oppress them and force them to work without paying them. In order that they may be rightly and completely satisfied with their wages, it would be expedient to order that the Indians, whom the Caciques need to cultivate the land and do the other necessary work, be paid in the presence of the Doctrinero. This would put an end to the many hardships they suffer which result in the common need and poverty in which many Indians live, and they would enjoy tranquility and would survive. Because it is Our will that this shall be acted upon and achieved, We command the Viceroy and the Audiencias to

very carefully prepare, provide and issue the most expedient orders to the end that the Indians may be paid. Nothing shall be lacking in their wages, and there shall be no deception or fraud, by way of excuse, resulting otherwise. The Governors, Corregidores, and Alcaldes Mayores, shall in their capacities execute this law.

Law 11: That the Caciques not be wronged in having to provide the repartimiento (allotment).

Don Felipe III in Aranjuez on the 26th
of May of 1609.

Because some Provinces are depopulated, the Caciques are unable to fill their allotment quota, and the Justicias and mine owners force them at their expense to hire and provide the number of Indians that they lack; and in doing this, the Caciques suffer great detriment and loss that merit remedy. We order and command the Viceroy and Governing Presidents that, if there is any transgression in this respect, they shall provide a remedy for it, and that they shall not allow the Caciques to be wronged.

Law 12: That with regard to transgressions and complaints of Caciques and Principales, the form of this law be observed.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid
on the 22nd of February of 1549.

No ordinary Judge may arrest a Cacique or Principal, except in case of a serious crime committed during the time when the Juez Corregidor or Alcalde exercises jurisdiction; and then he shall send a report on this to the Royal Audiencia of the district. But if the crime is committed at a previous time, or before the Judge has jurisdiction, the Justicia will notify the Audiencia; and if the Judge is a person with the qualifications and character that are required for him to proceed and to render justice, the case may be entrusted to him.

Law 13: Declaration of the jurisdiction of the Caciques.

The Emperor Don Carlos and the Governing Prince in Madrid on the 17th of December of 1551. Don Felipe II and the Governing Princess in Valladolid on the 19th of December of 1558.

Criminal jurisdiction which the Caciques are to have with respect to the Indians of their towns is not to apply to criminal cases in which there is a penalty of death, mutilation of a limb of the body, or other atrocious punishment. Supreme jurisdiction, in civil as well as in criminal cases, and rendering of justice where the Caciques do not do so, always remains reserved for Us, and for Our Audiencias and Governors.

Law 14: That the Caciques not receive as tribute the daughters of their Indians.

The Emperor Don Carlos and the Governing Empress in Valladolid on the 17th of December of 1537.

It is a matter deserving punishment and correction that the Caciques may receive as tribute the daughters of their Indians, and it must not take place. We command that if it does take place in any Province, the Cacique shall lose his title, and his Cacicazgo, and he shall be exiled from the Province forever.

Law 15: That the Justicias not allow the killing of Indians in order to bury them with their Caciques.

The Emperor Don Carlos and the Governing Prince in Toro on the 18th of January of 1552.

In some Provinces a barbarous custom has been observed whereby the Caciques at the time of their death command that some Indian men and women be killed for this purpose. Although We have persuaded Ourselves that such

a pernicious transgression has ceased, We command Our Justicias and Ministers: that they shall be very much on their guard not to allow it in any case; and if it is in fact committed, that they shall see to it that punishment is rendered with all the severity that such a detestable crime demands.

Law 16: That the Indian Principales of the Philippines be well treated, and that they be in charge of their government as they used to be.

Don Felipe II in Madrid on the 11th of
June of 1594.

It is not just that the Indian Principales of the Philippines be in worse condition after having been converted. Rather, they should be given treatment that may inspire their affection and maintain their fidelity, so that, with the spiritual virtues that God has given them, and by calling upon them to have true faith in God, their temporal life may be in harmony, and they may live with contentment and comfort. We therefore command the Governors of those Islands that they shall give the Principales good treatment, and that they shall put them in charge, in Our name, of the government of the Indians whose masters they were before. In all other respects, the Governors shall see to it that the Principales have this advantage, and that the Indians shall give them some recognition in the same way they did at the time of their heathendom, with the understanding that this may not interfere with the tributes that the Indians must pay to Us, or whatever is due to the Encomenderos.

Law 17: That no Cacique or Principal may come to these Kingdoms without permission from the King.

Don Felipe II (Ordinance 85 concerning Audiencias, 1563) in Madrid on the 10th of December of 1576, and in Toledo on the 25th of May of 1596.

We command: that no Cacique or Indian Principal may come to these Kingdoms without special permission from Us; and that the Viceroys, Audiencias, and Governors may not give permissions nor allow it to be given. If anyone wishes to inform Us concerning his services, he shall follow procedures as ordered under the title of information and reports. They shall have no need to come or to send other Indians personally in order that We may express Our appreciation to them.

Notes

That the Caciques and Principales not hold their subjects as slaves. Law 3, Title 2, Book 6.

Title 8: Concerning Repartimientos, Encomiendas, and Pensions of Indians, and Conditions of Titles.¹¹⁷

Law 1: When the land is peaceful, the Governor shall allot the Indians in it.

Don Fernando V in Valladolid on the 14th of August, and on the 12th of November of 1509. Don Felipe II in Guadalupe on the 1st of April of 1580. (And in Ordinance 145 concerning Settlements.)

As soon as pacification is attained and the natives are reduced to Our obedience, as ordered by the laws dealing with that matter, the Adelantado, Governor, or Peacemaker, who has the authority, shall apportion the Indians among the settlers. Each of the settlers shall assume responsibility for the Indians apportioned to him, and he shall defend and protect

them, providing a Minister to instruct them in the Christian Doctrine, to administer the Sacraments, respecting Our Patronage, and to teach them to live in order. The Encomenderos shall do everything else they are required to do in their repartimientos, as ordered in the laws of this Book.

Law 2: That, in allotting Indians to be under encomienda, the capitulations of the Adelantados, and that which is especially ordered, be observed.

Don Felipe II (Ordinances 58, 61, and 62).

The Adelantado shall comply with his capitulation, and if it gives him authority to allot encomiendas, this shall also be understood to include Indians who become vacated in Spanish districts and cities that are already settled. He shall award encomiendas for two generations, reserving ports and capital cities for Us. In the districts of each Spanish town, he may select a repartimiento for himself and establish it as an encomienda for two generations; and he may have the further benefit of taking another one that becomes vacated. He may bequeath these repartimientos to his eldest son, or he may distribute them among his eldest son and his other legitimate children, or natural children if he has no legitimate children. Each repartimiento shall remain intact, without being divided, for the child to whom it is bequeathed, and if the Adelantado has a legitimate wife, the law of succession shall be observed. Likewise, the Adelantado may have Indians under encomienda in another Province if he assigns an attendant through whom he may establish residence, and those Indians may not be taken away from him. All the above shall be understood to be in conformity with the capitulation.

Law 3: That the Indians who are pacified be distributed in encomiendas to neighboring residents.

The Emperor Don Carlos and the Governing
Empress in Valladolid on the 13th of May
of 1538.

We command that the Indians who are pacified be distributed in encomiendas to settlers of the district where the Indians live.

Law 4: That notwithstanding that which has been provided by the new laws, the Indians be distributed in encomiendas to meritorious persons.

The Emperor Don Carlos in Malinas on the
20th of October of 1545.

It had been permitted and ordered: that all Indians that were pacified in Our Indies should be given under encomienda to the discoverers, settlers and other meritorious persons; and that when they were vacated by death of the last possessors in accordance with the law of succession and its declarations, being in Provinces where it was in conformity with Royal Cédulas, contracts or capitulations, practice and custom, they would again be given under encomienda by the Viceroys or Governors who had authority through one of the so-called new laws that were promulgated in 1542. It was then ordered and commanded: that no Viceroy, Governor, Audiencia, Discoverer or other person could give Indians under encomienda by way of a new provision, renunciation, grant, sale, or in any other way or manner, or by reason of being vacated, or through inheritance; and that when those who had Indians died, the Indians would be placed under Our Royal Crown. After that, for certain good reasons, because Our will and that of Our predecessor Lord Kings has always been that those who have served and now serve in Our Indies might be favored with those encomiendas and might have the means to support themselves, and

in view of the appeals from many Provinces and Islands as a result of the aforementioned law, it was revoked and disregarded as having no validity or effect; and the matter and its determination have reverted to the point and status in which it was before and at the time when the law was promulgated. We command that in this way it shall be done, observed and enforced, as it is now being observed, enforced and executed. And We order: that those of Our Council of the Indies, Viceroy, Audiencias of the Indies, and any of Our other Justicias, shall not proceed, resolve or make determination against this in any way; that there shall be no change with regard to the Indians who are incorporated or who are to be incorporated under Our Royal Crown; and that the laws and cédulas issued shall be observed.

Law 5: That encomiendas be granted to the descendants of discoverers, pacifiers, and settlers.

Don Felipe II in Aranjuez on the 28th of November of 1568. (and in the Instruction to Viceroy, Chapter 17, 1595.)

We have learned that the rewards given by Us to meritorious persons in the Indies as reward for their services, have not been transferred, and may not be transferred, as would be just, to the benefit of those who are children and grandchildren of the discoverers, pacifiers, and settlers, and who personally have merits and qualities to acquire them, and are forgotten, poor, and in need. We therefore command and again charge all those who have authority to assign encomiendas in the Indies, that they shall proceed with all justification in this matter, taking special care to give preference to those who have the greatest merits and have rendered the greatest services, and to those who are descendants

of the first discoverers, pacifiers, settlers, and oldest residents, and who have best and most faithfully served on occasions of Our Royal Service. We command that in all instances since the last one, along with the notifications concerning repartimientos that are assigned as encomiendas, they shall inform Us by separate letter as to what profits the encomiendas yield, the persons to whom encomiendas have been assigned, and their qualifications and merits. In this, there shall be no postponement or omission. We give them authority to the end that they may further benefit those who have served Us most, and that they may honor them in other respects, because this is important in order to motivate the others, so that they may not fail to take advantage of the opportunities offered to them, by not having any trust in the rewards. That which has been ordered and commanded by the many laws of this Book, with respect to all of the above-mentioned, shall be complied with and enforced.

Law 6: That, with respect to the encomiendas in Chile, preference be given to the children of those who died in that war.

Don Felipe III in Lisbon on the 29th of
June of 1619.

The children of soldiers who died in Our service in the war in the Kingdom of Chile are to be given preference and always placed ahead in the assignment of encomiendas in Chile.

Law 7: That the Viceroy of Peru assign the encomiendas in Quito and Charcas.

Don Felipe II in Brussels on the 15th of
December of 1558, and in Badajoz on the
23rd of July of 1580.

Our Royal Audiencias of the Provinces of Quito and Charcas may not assign Indians under encomienda, because this is reserved to the Viceroy of

Peru by whose authority those who have served Us are to be rewarded.

Law 8: That the Governors who have authority, and those who are appointed ad interim, may assign encomiendas.

Don Felipe IIII in Balsain on the 24th
of October of 1655.

We permit and consider it proper that the regular Governors, and those who are appointed as Governors ad interim by Our Viceroys or Presidents during the absence of a regular Governor, may provide and assign encomiendas in accordance with the authority they receive from Us, the Royal Law of the Indies, and the procedure allowed by Our Council, to provide encomiendas that are vacated, or may become vacated within their districts. Those who are appointed ad interim may do so during the time they are exercising the responsibilities of Governors and until the regular Governors whom We appoint arrive, in the same way the regular Governors have been able to do, and as the practice has been to date.

Law 9: That the ordinary Alcaldes not be allowed to allot Indians under encomiendas, even though they have responsibility for the Government.

Don Felipe IIII in Balsain on the 24th of
October of 1655.

We command that the ordinary Alcaldes of the cities of Yucatán, Venezuela, and any other cities of Our West Indies, even though they have responsibility for the political government as a result of the death or absence of the regular Governors, or ad interim Governors, who have authority to provide encomiendas, shall not be allowed to exercise that authority, nor shall they exercise it, or allot any Indians under encomienda. We command that if they violate this law, they shall incur the penalties

that are imposed on those who exercise jurisdiction that is not of their concern and that does not belong to them. We order that assignment of encomiendas that are vacated, or may become vacated, at a time when the Alcaldes are governing, shall continue to be reserved for the regular Governors or ad interim Governors as ordered, notwithstanding cédulas that have been sent to Yucatán, Venezuela, or any other places, in which case insofar as they may be contrary to this Our law, We revoke and annul them, and consider them to be of no validity or consequence.

Law 10: That the Governor of Yucatán not assign any tributes of the Adelantado Montejo that are not vacated.

Don Felipe III on the 31st of July of
1611, and in Irun on the 8th of November
of 1615.

With respect to the tributes which belonged to the Adelantado Don Francisco Montejo in the Province of Yucatán, and which were deposited under Our Royal Crown in order to provide for financial aid, subsidies, and allowances for meritorious persons, We order the Governors of that Province that they shall not give, allocate, or grant any amount until the persons to whom the tributes were given and assigned might benefit from them, and in that event, the Governor will administer that which is then vacated. And We order that he may not give, nor shall he assign any right to that which is to be vacated; or action will be taken against him, and the encomienda, allowance, or appointment will be nullified, and without effect.

Law 11: That the Governor of the Philippines assign encomiendas within a certain period of time, or that they be returned to the Audiencia.

Don Felipe III in Madrid on the 4th
of June of 1620.

The Governor and Captain General of the Philippines shall assign encomiendas, abiding by what has been ordered with respect to meritorious persons, and without any other consideration than that of service to God Our Lord and to Us, the public welfare, and the reward that is due to the most meritorious persons. Within sixty days after any vacancy of encomiendas comes to his attention, he shall be obligated to reassign them; and if he does not do so, the right to assign them shall be returned to and shall belong to Our Audiencia of those Islands. We command that the Audiencia shall make these assignments within six days, observing the laws and referring to the edicts and measures taken by the Governor, and without taking further measures. In case the Governor has not taken the necessary measures, the Audiencia shall do so, and shall make the assignment within twenty days.

Law 12: That Indians not be allotted, nor assigned in encomiendas, to Ministers or Ecclesiastics.

The Emperor Don Carlos and the Governing Empress on the 12th of July of 1530, and on the 20th of March of 1532. The Emperor Don Carlos in Barcelona on the 20th of November of 1542. The Governing Kings of Bohemia in Valladolid on the 1st of March of 1551. Don Felipe II (Ordinance 113 concerning Audiencias) in 1563. (See Law 34, Title 9, Book 6, and Law 13, Title 2, along with Law 53, Title 4, Book 8).

Irregularities in treatment of the Indians have come about as a result of having Indians allotted under encomiendas to Viceroy, Governors, and other Ministers, Prelates, Clergymen, Convents, Hospitals, Religious, monetary and treasury establishments, and other persons favored by their

positions. We command that the Viceroy, Governors, and any other Ministers and Officers of the Judiciary and of Our Royal Treasury, Prelates, Clergymen, Religious and monetary establishments, Hospitals, Guilds, and other similar establishments, may not have Indians, nor shall they receive them under encomienda. If they have Indians, under any title or for any reason, the Indians shall be taken from them and shall be placed under Our Royal Crown. Although the said Governors, Ministers and Officers may say that they wish to resign from their governmental activities and duties, and remain with the Indians, this shall not suffice, nor shall enforcement of this law be neglected for such a reason.

The Governing Prince in Valladolid on
the 29th of August of 1544.

Because it is Our will to make exception for the present in the case of those who have been Tenientes of Governors, Corregidores and Alcaldes Mayores of towns, We order that the Indians shall not be taken from them, and if they have been taken, that they shall be returned and restored.

Law 13: That Indians not be allotted in encomiendas to wives, sons or daughters of Ministers, except for those specified by this law.

The Emperor Don Carlos and the Governing
Prince in Guadalajara on the 3rd of
August of 1546.

We command that Indians may not be given under encomienda, nor shall they be given under encomienda, to wives, sons and daughters of any of Our Governors and Officers, except in the case of sons who are already married and in charge of their families at the time that they are given encomiendas.

Law 14: That Indians not be allotted under encomienda to foreigners.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 22nd of February of 1549. Don Felipe II on the 11th of September of 1591.

Indians may not be given under encomienda, as a repartimiento or in any other way, to those who are foreigners to these Our Kingdoms of the Crown of Castile, and who are and reside in the Indies, unless they have Our express permission granted for that purpose. Those who have served Us and who serve Us now, in such a way that they deserve to be rewarded, shall be honored and favored in other ways, and not with encomiendas for which they are not qualified.

Law 15: That Indians not be allotted under encomienda to persons who are absent.

Don Felipe II in Madrid on the 15th of January of 1592.

No absent person may be given Indians under encomienda. Penalty for this shall be deprivation of the encomienda, and the return and restoration of everything that the absent person has received in that connection.

Law 16: That Indians may not be given under encomienda by way of donation, sale, renunciation, transfer, exchange, or any other claim that is prohibited.

The Emperor Don Carlos and the Governing Cardinal in Madrid on the 10th of June of 1540, and in Barcelona on the 20th of November of 1545. The Emperor Don Carlos and the Governing Prince on the 11th of July of 1552. Don Felipe II and the Governing Princess in Valladolid on the 15th of July of 1559. In the Bosque de Segovia on the 5th of October of 1566. In Madrid

on the 15th of August of 1570. (and in the Instruction for Viceroy, Chapter 54). In Madrid on the 21st of January and the 19th of October of 1574. In Lisbon on the 26th of February of 1582. Don Felipe III in Madrid on the 2nd of July of 1618. Don Felipe IIII in Aranjuez on the 13th of April of 1628. Don Carlos II and the Governing Queen.

It had been ordered and commanded that allotments of Indians not be given under encomiendas to any person by way of donation, sale, renunciation of claim, transfer, exchange, or for any claim that is prohibited, whatever the pretext may be, and that any action contrary to this would be of no validity or consequence, and that the encomiendas would remain vacated. In no case might the Viceroy, Presidents, or Governors, assign such encomiendas, as they should be referred to Our Council of the Indies, so that We might allot them and assign them to whomever We choose. These orders have not been observed or executed. Rather, it has been well confirmed that some resident Encomenderos have been disposing of their encomiendas through donation, renunciation of claim, relinquishment, sale, and transfer, in order to leave their communities or to come to these Kingdoms, or under the pretext of joining a religious order, or for other different reasons, and in reality these are sales that have been dissembled and concealed. After the Encomenderos made arrangement with the buyer, and the sale was settled, they were going to the Governor or Minister who had authority to assign encomiendas, and once the relinquishment or renunciation of claim was effected, the title was sent according to the agreement. In other instances the Encomenderos have brought their relinquishments or renunciations of claim to encomiendas, which they had as last generation, to the attention of Our Viceroy

and Governors, so that they might assign the encomiendas to whomever they wish, or again to the same person, a son, or another person, whereby more generations would accrue. This has resulted in many wrongs and difficulties: because the encomiendas are not given to meritorious persons; because through bad treatment of the Indians they recover the price they have paid, by making the Indians work for them regularly on their properties and farms; and because of many other vexations. It is not just to allow this, and a remedy is necessary. We command that the Viceroy, Presidents, Governors, and the others who are empowered in Our name to assign encomiendas, shall precisely and inviolably observe the laws referred to and all other provisions that have been made with regard to this matter, regardless of the authority they have received from Us, however ample, general, or special it may be. If they do not, We shall consider Ourselves disserved, and they will be charged on the occasions of their inspections and residencias. We declare: that encomiendas of this nature will be null and void; and that, as possessors in bad faith, the Encomenderos are obligated to restore, return and pay to Our Royal Strongbox any native, industrial or community products that they collect from these encomiendas by virtue of their titles. This is to be without regard to precedence of any contention or request that is presented, but only with regard to the time the products are collected. Assignment of these encomiendas is to be reserved to Our Royal Person in consultation with Our Council of the Indies. We command that the Fiscales of the Royal Audiencias shall support these causes and assume responsibility for them.

Law 17: That Indians may not be rented or given as pledges.

The Emperor Don Carlos and the Governing
Cardinal in Fuensalida on the 7th of
October of 1541. Don Felipe II in Seville
on the 7th of May of 1590.

We prohibit and forbid that Spanish residents, occupants and inhabitants in the Indies shall be so bold as to rent out their Indians or to give them to creditors as pledges, and in payment of debts. Penalty for this shall be loss of the Indians, and fifty thousand maravedís for Our Cámara.

Law 18: That more encomiendas not be given to Encomenderos except to improve their situation, in which case they give up the encomiendas they already have.

Don Felipe III in Valladolid on the 29th
of October of 1602.

Some persons who already have encomiendas and what they need for their comfort are accustomed to asking for more benefits. We order that the Viceroy and Governors shall take care not to give them anything more until the others in that land, who are without any reward befitting their services, are provided and rewarded with encomiendas and other occupations and advantages. But if there is a good allotment that is vacated and it seems appropriate to give it to someone who has a lesser allotment and who deserves more, they may give it to him provided he gives up the one he had before, so that it can be given to another meritorious person.

Law 19: That if an allotment is given up by someone for the purpose of improving his situation, notation be made of his services.

Don Felipe IIII in Madrid on the 9th of
October of 1623, and on the 25th of
February of 1625.

Confirmation is requested from Our Council with respect to some encomiendas that are given in place of a relinquishment, and no reasons are shown in the titles, explaining whether encomiendas were given up in return for a better allotment, and if they are given for services worthy of comparable rewards and compensation. We command the Viceroys and Governors that they shall have particular clauses included in the titles, concerning the conditions under which the encomiendas are given, and the services that merit the award, so that confirmation may be granted or denied.

Law 20: That two encomiendas not be given to one person without judging the case.

Don Felipe III in Madrid on the 21st of
May of 1616.

It is in the interest of Our service that two encomiendas of Indians shall not be given to one person, without judging the case, investigating, and having information on the basis of which they should be combined, in conformity with the laws.

Law 21: That encomiendas not be divided.

Don Felipe III in Madrid on the 10th of
October of 1618.

One of the foremost reasons that have brought about a decrease in the number of Indians has been the occurrence of many divisions of encomiendas, reducing some of them to thirty Indians, twenty and less, and this has been followed by serious difficulties. We order that the encomiendas in each Province shall not be divided nor partitioned, affecting the number of Indians they have at the present time, either because they have been vacated or given up, or for the purpose of marriages, or

in any other way, and even though it is stated that neither families, kin, or factions are being divided. For We command generally that in no way, nor in any case, nor for any reason, shall there be a division or partition of whatever is at the present time in an encomienda in the possession of an Encomendero. Penalty for violation of this law shall be one thousand pesos from the Governor who violates it. The division and resulting encomiendas shall be nullified and of no consequence, and the Indians shall be placed under Our Royal Crown.

Law 22: That Indians in encomiendas not be divided, and that such actions be corrected.

Don Felipe III in Madrid on the 19th of June of 1620. Indian men and women of some encomiendas have been allotted to other encomiendas, by making certain separations and divisions which affect the number of persons, and heads of family, and which specify their proper names. This is a transgression, it is of no validity, and it is a kind of reward that is prohibited, because those who should be together and united are divided and disunited, and from this many difficulties arise. A new form of encomiendas and bad government are introduced, offending the Indians with this separation, and subjecting them to personal services and other hardships, from which they are exempt. We command that such division and separation shall not be allowed by any person, whatever his importance or rank may be, or in any case, or for any reason. Those who hold Indians or request them, or acquire them, against the intent of this law, shall, without any further judgment or declaration, be immediately disqualified and without power to have or to acquire such an encomienda or any other. We herewith declare and make null all such

encomiendas which up to the present time have been established and given as noted herein, because they are unlawful and prohibited. And We order that all the Indians thus separated, and those others who were disunited and divided, shall be assembled and joined to their encomiendas. With regard to any favors, concessions, or confirmations that We may have granted or given to any persons in these cases, they shall not be benefitted nor shall title be given, in view of the fact that they were obtained deceitfully and clandestinely, and they were not corrected or reported as necessary for comprehension of the matter. It is Our will that the Viceroys, Presidents, Audiencias, and Governors, and all the other Ministers concerned, shall see to it, officially and on request from Our Fiscales, that the provisions of this Our law shall be maintained, and precisely and faithfully observed, without dissemblance, or exception of any persons.

Law 23: That encomiendas be reduced according to the number as ordered.

Don Felipe III in Madrid on the 10th of October of 1618. (Ordinance 78).

As the encomiendas of a community or town become vacated, they shall be grouped so that: in the Government of Paraguay they shall be limited to eighty Indians, ten more or ten less; in the City of Santa Fé and in Río Bermejo of the Government of Río de la Plata, they shall be limited to thirty, five more or five less; and in the Cities of Corrientes and Buenos Aires of that Government, they shall be limited to twelve, two more or two less; and in the other Provinces, depending upon the number of Indians and encomiendas, they shall be accordingly reduced, combining the small ones. In doing this, no generation shall be added

to any encomienda which is joined and applied, as the newly acquired encomienda must conform to the term of that which is already held. It is Our will that once an encomienda has been formed by combining, it shall remain forever without being divided. This includes small encomiendas. The larger encomiendas of the number indicated must not be reduced to smaller ones. Rather, they must continue with their increase, because it is right that there shall be large encomiendas for persons of greater merit.

Law 24: That encomiendas and groups be enabled to have sufficient religious instruction.

Don Felipe II (Chapter in Instruction)
in Toledo on the 25th of May of 1596.

The Viceroy and Governors shall take care, with respect to the repartimientos of Indians which they provide and establish, that provision be made for religious instruction, and for the support of the Encomenderos. They shall arrange, in reducing the Indians to settlements, for them to have sufficient religious instruction. Because this is of the greatest importance, and must be attended to with the greatest care and attention, for the good of the souls and Christianity of the Indians, and because it is what We desire, and it is necessary that it have preference over everything else, the Viceroy and Governors are hereby directed that, if small encomiendas are vacated, and can be conveniently combined, they shall combine them, and unite them, in order that the above-stated purpose may be achieved. When the products and income of the encomienda are insufficient for both religious instruction and support of the Encomendero, religious instruction shall have preference, even if the Encomendero is deprived of income.

Law 25: That the Indians of every small encomienda be assigned to one town, and that they not be separated.

Don Felipe III in Madrid on the 10th
of October of 1618. (Ordinance 79).

If an Encomendero dies, or vacates a small encomienda which is separated in different towns, the encomienda shall be assembled in such a way that the Indians may live in one town, all being assigned to the Encomendero who has his encomienda in that town.

Law 26: That another encomienda not be given to a person who has an encomienda that may not be joined with another, nor that a pension be given to an Encomendero, or an encomienda to a Pensionario.

Don Felipe III in Madrid. (Ordinance 80).

As it is conducive to good government that encomiendas not be very small, it is also right that many encomiendas not be given to one Encomendero, thus adding more to what he has and what is sufficient for him in that Province, or even if he has a smaller encomienda in a different town, whereby, according to what is ordered, it may not be joined. We order that such joining and addition may not be effected or accepted, unless the Encomendero gives up his first encomienda. If the Encomendero does accept an addition, in view of that acceptance alone, We declare the first encomienda to be vacated.

Don Carlos II and the Governing Queen
in Madrid on the 2nd of July of 1666.

We command that no encomienda shall be given to anyone who already receives a pension from another one, nor shall a pension be given to anyone who already has an encomienda.

Law 27: That small encomiendas, from which the benefit is personal service, be joined.

Don Felipe III in Madrid on the 5th of
February of 1611.

In the poor Provinces, where there are few Indians and small encomiendas, if there is any encomienda which is of such a condition that the Encomendero cannot benefit from or have recourse to tributes, except in the form of personal service, We command that once it is vacated, it shall be joined and added to another larger encomienda, with the understanding that by doing this: another generation shall not be added; and personal service shall be discontinued.

Law 28: That the provisions of Law 7, Title 7 of this Book be observed, and that pensions be allowed in very profitable repartimientos.

Don Felipe II in the Instruction for
Viceroys of 1594, Chapter 53.

It is ordered by Law 7, Title 7 of this Book, that Indians shall not be separated from their Caciques, and that if they are vacated, they shall be returned to the Caciques without causing grievance to them. We command that this shall be complied with and observed, and if the repartimiento is very profitable, it shall be given as an encomienda to only one meritorious person, and pensions shall be set for others. The Corregidores shall make the collections, and the Caciques shall make the payments.

Law 29: That some of the income be reserved for the Encomendero, and that not all of it be used for pensions.

Don Felipe II in San Lorenzo on the
21st of September of 1591.

We order the Viceroys and Governors that they shall not give under

encomienda Indians that are vacated, without allotting a certain part of the income and benefit to the Encomendero, because if it is all used for pensions, the result is that the Encomenderos may try to unjustly secure more benefit from the Indians than what is permitted.

Law 30: That large repartimientos provide two thousand pesos for the Encomendero, and the rest be distributed in pensions.

Don Felipe II in Aranjuez on the 30th of
November of 1568. (Chapter 18 of Instruction).

In large repartimientos pensions may be assigned to reward meritorious persons for their services, in such a way that no Encomendero may have more than two thousand pesos of income, and the rest of the proceeds shall be given to those who have served Us, insofar as this presents no problem.

Law 31: That no pension be given which exceeds two thousand pesos.

Don Felipe II. (Chapter 23 of Instruction).

No pension is to exceed two thousand pesos, and it is to be awarded in the same way as ordered for encomiendas.

Law 32: That vacated Indians may be given under encomienda to the brother of the last possessor.

The Emperor Don Carlos and the Governing
Kings of Bohemia in Valladolid on the
7th of July of 1550.

Upon death of a son who succeeded his father in possession of an encomienda of Indians, the encomienda shall become vacated, and it shall be up to the Viceroy or Governor to decide whether to assign them to the brother of the one who died, or to another more meritorious person. They shall not be given to a relative, servant, or to a friend of the one who assigns the encomienda.

Law 33: That gains be calculated when a specified amount is granted to anyone.

Don Felipe II on the 28th of July of
1557.

Some repartimientos, although they yield little income, are of much value because of lands, farming, raising of livestock, and other gains. Therefore, when We grant a specified amount as reward for services, in which case a question has arisen as to whether delayed proceeds (demoras) are to be taken into account, We declare that the entire amount at which the Indians are valued in gold, or in blankets, or in any other gain, is to be taken into account for the person who receives the grant. This applies to encomiendas that have been given as well as those that are to be given, without exception of any persons. And We command that their true assessment and value shall be determined.

Law 34: That what is allocated in tributes from the Indians to provide extra compensation be apportioned among the persons who are in need, and that it not exceed the amount available for each year.

Don Felipe III in San Martín de Rubiales
on the 17th of April of 1610.

In some Provinces part of the tributes is allocated for relief and extra compensation for meritorious person, for the poor, and for the daughters and granddaughters of discoverers, and these payments are usually excessive, because the amount distributed is greater than the available income. We command the Viceroys, Presidents, and Governors, who are responsible for the distribution of these payments, that they shall make distribution to the most meritorious and needy persons in that land, and that they shall not distribute more than the amounts available for each year.

Law 35: That assignment of any repartimiento may be deferred if it appears that there are just reasons.

Don Felipe II on the 1st of December
of 1573.

When a repartimiento is vacated, the Viceroy and Governors may defer its assignment for just reasons, so that, with the proceeds during the vacancy and depending upon the time and occasion, they may satisfy certain claimants, support charitable activities, and make certain payments, managing the repartimiento in a way most suitable for Our service, and the public welfare.

Law 36: That no one hold or take possession of more Indians than those who belong to his encomienda.

The Emperor Don Carlos and the Governing
Empress in Valladolid on the 20th of
November of 1536. (Chapter 5). The Emperor
Don Carlos and the Governing Queen of
Bohemia in Valladolid on the 18th of
July of 1551.

We order that no Encomendero shall have authority to hold or take possession of any Caciques, towns or natives, except those who are clearly assigned in the title or cédula that is sent to him. Nor shall he use them in any way, directly or indirectly. As soon as he learns about any Indians who are vacated, and who are not in an encomienda, he shall so state and bring it to the attention of the Governor of the Province. If it is proven or evident that he has held them, and that he has been using them: he shall incur the penalty of being deprived of his own Indians whom he has had in his encomienda; and he shall lose his authority and right to receive others. He shall also be deprived of all the products and interests he has obtained from the Indians whom he

took possession of and held; and We assign half of those products and interests, in equal parts, to Our Cámara, the Judge and the Denunciador, and the other half to the Indians who were taken and held.

Law 37: That the Yanacónas not be used in an encomienda as domestics, or for personal service against their will.

The Emperor Don Carlos and the Governing Empress in Madrid on the 19th of November of 1539. The Governing Kings of Bohemia in Valladolid on the 11th of March of 1550. Don Felipe II in Madrid on the 23rd of November of 1566.

We consider that it is prejudicial and inappropriate for the Yanacónas Indians to be in an encomienda. Likewise, We consider that no one should require them to serve as domestics, personally, or in any other way, against their will. We command: that this consideration shall be observed; and if some of them do serve, that they shall be paid for their work, in the amount they justly deserve.

Law 38: That the Officers of the Royal Treasury collect the tercio (third of tributes) from encomiendas in goods.

Don Felipe IIII in Madrid on the 13th of July of 1627. (With reference to this Law and the following one, see Law 20, Title 9, Book 8).

We command that, in cases where the Encomenderos are responsible for providing the tercio (third of tributes) for Our Strongboxes, the Officers of the Royal Treasury shall collect the amounts in the form of the same goods that the Indians pay as tribute, in accordance with the assessments, and that they shall administer the amounts, according to Our reckoning of price increase or decrease, on the basis of which they will issue the necessary orders. And We order the Viceroys and

Governors that, at the time of assigning encomiendas, they shall clarify these conditions, and thus this law shall be precisely and punctually observed.

Law 39: That the tercio (third of tributes) from the encomiendas be deposited in the Strongboxes of the district.

Don Felipe IIII in Madrid on the 28th
of June of 1621.

Likewise, it shall be ordered and declared in the titles, that the Encomenderos shall comply in providing the tercios (thirds of tributes) for the Royal Strongboxes of the districts where they are located, and that they shall observe that which has been ordered.

Law 40: That repartimientos in Peru not be assigned as encomiendas without being vacated the first year, and that proceeds that are due (demoras) be applied to the Royal Strongbox.

Don Felipe IIII in Madrid on the 10th
of April of 1628.

We command the Viceroys of Peru: that they shall not assign as encomiendas repartimientos that have been vacated and that are being vacated until they have been vacated for one year; and that they shall apply those tributes and proceeds that are due (demoras) to the deposits for vacated tributes. If they assign them as encomiendas, they are to be responsible for giving to Our Royal Strongbox all that each one amounts to and yields the first year. In this connection, they are to give assurance to Our Royal Officers by their certification. Titles to repartimientos that the Viceroys assign as encomiendas shall not be issued in any other way before the year is past.

Law 41: That grants of Indians who are vacated not be given in the case of those Indians incorporated under the Crown.

Don Felipe III in Madrid on the 17th of January of 1612. (See Law 1, Title 9, Book 8).

The Viceroys of New Spain have carried out Our Cédulas bestowing income for one generation, by use of Indians who are vacated, and by giving titles in towns that are already incorporated under Our Royal Crown, and this is not Our intention. We order that grants and Cédulas bestowing income, that have been given, or that are given by Us, and that are of Indians who have been vacated or who become vacated, shall not be fulfilled, either by way of encomienda, pension, or subsidy, if the Indians are already incorporated under Our Royal Crown, because Our will was not and is not to make such grants.

Law 42: That income from Indians not be considered beneficial unless it includes responsibilities.

Don Felipe IIII in Madrid on the 25th of November of 1637.

We declare that whenever We make a grant, and give it in the form of a particular income from Indians with an encomienda of specified value, it is not to be considered beneficial unless it is given like the encomiendas in these Kingdoms, along with its responsibilities and obligations, and even though this may not already be what We expressly ordered, or even though We order something else. These responsibilities and obligations shall be provided, given, and enforced, by the Viceroys, Presidents, Audiencias, and Governors who have authority to assign encomiendas.

Law 43: That the Indians of Paraguay and Río de la Plata be incorporated under the Crown.

Don Felipe IIII in Madrid on the 23rd
of February of 1633.

The Governors of Paraguay, and Río de la Plata, shall not put the Indians of those Provinces in encomiendas under private persons, even if the ten years of their reduction and conversion have elapsed, because Our will is that the Governors shall incorporate them under Our Royal Crown, unless We expressly command otherwise. Penalty for violation of this law shall be at Our discretion, and one thousand pesos for the Cámara.

Law 44: That the Encomenderos and residents defend the land, and that this be expressed in the titles to encomiendas.

Don Felipe II on the 1st of December of 1573, and in Madrid on the 27th of February of 1575. Don Carlos II and the Governing Queen.

The Encomenderos and residents have the obligation to defend the land, and to comply with the other provisions relating to them in this Title. It is Our will that this obligation be expressed in the titles to encomiendas, so that the Encomenderos shall have it understood that they must respond to occasions that arise in Our Royal Service, as good vassals who enjoy the benefits of Our favor and generosity.

Law 45: That Indians may not be taken from the Encomenderos without the Encomenderos being heard.

The Emperor Don Carlos and the Governing Prince in Monzón on the 25th of October of 1533. The Governing Empress in Madrid on the 30th of May of 1536.

We command: that Indians shall not be taken or removed from any Encomendero until he has been heard and overruled, in accordance with the law; and that the Viceroy, Audiencias, and Governors shall observe this and comply with it, under penalty at Our discretion, and ten thousand maravedís which We apply to Our Royal Cámara.

Law 46: That Indians may not be taken from an Encomendero, if he has not committed a crime that carries with it a penalty of loss of property.

Doña Juana and Don Fernando V in Burgos
on the 9th of November of 1511.

Viceroy, Audiencias, and Governors, shall not take, or allow to be taken, from any Encomendero, the Indians that We may have granted to him by way of a new repartimiento or confirmation of title, if he does not commit a crime which, in accordance with the laws of these Kingdoms of Castile, carries with it a penalty of loss of property. If it does, it is Our will that he shall lose, and shall have lost, the Indians that he holds by way of a repartimiento, encomienda, or grant from Us.

Law 47: That when encomiendas are assigned, they be preceded by proclamations, and that a special clause concerning this be included in the titles.

Don Felipe II in Madrid on the 15th of
May of 1594. Don Felipe III in Aranjuez
on the 10th of December of 1598, in
Denia on the 2nd of August of 1599, and
in Madrid on the 28th of April of 1602
and on the 3rd of June of 1620.

We order that encomiendas may not be given without being preceded by proclamations, in order that qualified applicants may have a sufficient period of time, of twenty or thirty days, in which they may apply. When their services are taken into consideration, the encomienda shall always be given to the most meritorious person, preference being given to discoverers, pacifiers, settlers, their children and grandchildren. A special clause shall be included in all titles, stating how these requirements and procedures were complied with in order to make the

assignment. It is warned: that a title sent without this clause will not be accepted, nor will confirmation of the title be given to the person in whose favor it is issued; that he will be ordered to return and restore the produce of the encomienda which will be considered vacated; and that the holder of the encomienda will be without authority to acquire it.

Law 48: That titles to encomiendas not be given for more generations than allowed, upon penalty of nullification, and return of that which was collected.

Don Felipe II in Badajoz on the 14th of October of 1580. Some Governors of the Indies, without authority from Us, have increased the number of generations applicable to repartimientos of Indians, allowing a third generation to be added to those which were being vacated in the second generation. With regard to this, and because it deserves considerable reform, We command the Viceroy and Governors that they shall not grant more generations than are permitted by the law of succession. And We command Our Audiencias that they shall nullify titles that are sent with generations added, ordering that if they have obtained anything for this reason, after the necessary investigation is conducted, it shall be turned over to Our Royal Strongboxes.

Law 49: That the number of Indians, and the value and district of the encomienda, be stated in the titles, that this be verified by the Fiscal, and that the Royal Officers give notice in accordance with this law.

Don Felipe III in the Pardo on the 2nd of December of 1614, and in Madrid on the 2nd of December of 1618 and on the 19th of December of 1619. Don Carlos II and the

Governing Queen in Madrid on the 10th
of May of 1667.

The true value of the encomienda and the number of Indians must always be stated in the titles, based on an investigation that has been made under the supervision of Our Fiscal, if the encomienda is in a district where there is an Audiencia. Everything is to be in particular detail, with regard to what items the tributes consist of, and the area and district of the encomienda. In that way, We may have sufficient information about it and the grant We award, and the Royal Officers may give notice of the vacancy, information about it, and an enumeration of the Indians.

Law 50: That titles to encomiendas be dispatched in the form, and with the clauses, that this law provides.

Don Felipe IIII in Madrid on the 15th
of March of 1627, and on the 1st of
February of 1648.

We order and command the Viceroy, Presidents, and Governors, that, at the beginning of the titles to encomiendas, they shall have stated very distinctly and clearly: how the encomienda was vacated, whose death may have occasioned it, how these facts were ascertained, how long the encomienda has been vacated, how proclamations were issued for its assignment, period of time allowed for applications, in which cities and places the proclamations were posted, who the contestants were, their names, and the dates they made their claims. If someone alleges a cause or particular reason in addition to general services and merits, note shall be made of this in the assignment with reference to the services of the one who is to receive the assignment. As it has been ordered that there shall be stated in all titles the number of Indians in each

encomienda, what tributes they pay, what forms of tribute they are assessed, and what the gross amount is for the Encomendero, which is reduced by costs of religious instruction, the Royal Justice, excise taxes, tithe, hospital costs, and other costs that are incurred, We order and command that investigation of the value of the encomienda and its costs shall be conducted under the direction of Our Fiscal if there is an Audiencia, and if there is no Audiencia, that it shall be conducted under the direction of the Officers of Our Royal Treasury, and certified by them. If some Indians are not taxed, steps shall be taken to assess them according to how much they can pay each year, and this will be made known, so as not to disregard what has been ordered for all Indians with regard to taxation and proceeds. As for the half-year income of each encomienda, the entire amount shall be deposited in Our Royal Strongbox; and if for part of it a pledge to pay within a specific time limit is given, there shall be a record of the amount, who the Notary was, with date, month, and year, which persons authorized the pledge, how they were presented to the Officers of Our Royal Treasury, and if acceptable to them. And because it is resolved that wine and oil that We contribute to the convents is to be located in encomiendas, as has been the practice, and in some places there are other similar conditions, or the tribute of the encomiendas that are vacated is incorporated under Our Royal Crown, We order: that any of these conditions that is complied with and executed shall be expressed in the title of each one of the encomiendas with all precision and clarity; and that the clause requesting confirmation shall be put at the end. For the purpose of obtaining confirmation, sufficient documentation shall be sent in the customary

form, relating to encomiendas, pensions, and extra compensation, for which Our confirmation may be needed. Said titles will be sent, making references to the original judicial decrees, which must remain in the government offices, so that it can always be verified what the titles include. They shall be signed and countersigned, in order for confirmation to be requested. If it is desired to send duplicates, because of the risk of travel and navigation to these Kingdoms, they shall be sent, providing the titles are transcribed to the letter, by requesting them from Our Justicias in the presence of Our Notaries Public and of the Government, and from whom they may come authorized, signed and legalized, in the same way as testimonies and other documents from the Indies come and must come. It is not enough to bring only the judicial decrees of assignment of encomiendas, as they have sometimes been brought, because if the titles are not submitted, the presentation will not be accepted, nor will it be considered as presented in the Council, nor shall We order confirmation to be given. Moreover, We command that with the titles there shall be copies of all the original judicial decrees that have been issued, or that may be issued, and also an accounting of the pensions and extra compensation that the encomienda supports, from the time of the vacancy of the encomienda to the time of the dispatch of the title, publicly authorized by the Government, Public and Royal Notaries, with the same aforementioned precautions.

Law 51: That composiciones of encomiendas not be given in the Indies, and that they be referred to the Council.

Don Felipe IIII in Aranjuez on the 13th
of April of 1625.

The Viceroys, Presidents, Oidores, and any others among Our Ministers, who

have had, or who may have, authority and commission, given to them contrary to the laws of the Indies, to give composiciones of encomiendas, shall not do so, nor shall they allow any person to have composiciones, as it is Our will that anyone who wants this concession shall appeal to Our Council of the Indies which will make whatever provision is most appropriate.

Notes

That in the case of grants, tributes from Indians be levied in compliance with assessments. Law 47, Title 5, Book 6.

That repartimientos of Indians not be considered for persons who are in these Kingdoms. Auto 25, referred to in Title 2, Book 2.

In the Consultation of the Cámara on the 24th of April of 1652, concerning one thousand ducats of income from Indians who are vacated in Peru, the New Kingdom of Granada, Guatemala or Yucatán, His Majesty chose to respond as follows: "From what is ascertained in this Consultation, it can be seen how difficult it is to increase the income from Indians, which is given to those who reside in Our Kingdoms, and to generally apply the orders given for placing the Indians under encomienda, unless they can be reduced to encomienda within only one Province, as has been done in the past. And thus it is well that the Cámara refrain from proposing to Me that such concessions be granted. When there are grants of this nature, the interested parties shall select only one place, except in the case of the Viceroy of New Spain, because the encomiendas in that Province are subject to My Royal Treasury. And with this in mind, Don Cristóbal de Moscoso will be told to select the place where he may wish to have an encomienda, and it shall be given to him for

that place only, not to be considered as general, but in a particular place, such as Guatemala, the New Kingdom, or Peru." Auto 173.

Title 9: Concerning the Encomenderos of Indians 118

Law 1: That Encomenderos provide religious instruction, protect, and defend their Indians, both their persons and their property.

The Emperor Don Carlos and the Governing Prince in Valladolid on the 10th of May of 1554. Don Carlos II and the Governing Queen.

The motivation and origin of encomiendas was: for the spiritual and temporal welfare of the Indians; for their acceptance of the doctrine and instruction in the Articles and Precepts of Our Holy Catholic Faith; and for the Encomenderos to assume responsibility for them, and defend them, both their persons and their property, seeing to it that they receive no harm. We grant encomiendas to the Encomenderos with these inseparable conditions, and if they do not comply with them, they shall be obligated to give back the proceeds that they have received, and are receiving, and it will be a legitimate reason to deprive them of their encomiendas. With regard to this, We command the Viceroy, Audiencias, and Governors: that they shall very carefully and diligently investigate and find out by all possible means whether or not the Encomenderos are fulfilling this obligation; and that, if they find they are failing in this obligation, they shall proceed with all strictness of law to deprive them of their encomiendas, and to make them give back the income and proceeds which they have received and are now receiving, without attending to their personal obligations. They will provide these incomes to be spent in connection with conversion of the Indians.

Law 2: That the Encomenderos attend to the reduction and religious instruction of the Indians.

Don Felipe II (Ordinance 148 concerning Settlements.)

We command: that the Spanish Encomenderos shall very carefully see to it that their Indians are reduced to towns; and that they shall build churches in them for their doctrine and instruction, observing the laws pertaining to Reducciones.

Law 3: That Encomenderos, who are negligent in fulfilling their obligation to provide religious instruction, not receive tributes, and that those who obstruct it, be deprived of their encomiendas and be exiled from the Province.

The Emperor Don Carlos and the Governing Empress in Valladolid on the 20th of November of 1536. (Ordinance 1). The Emperor Don Carlos and the Governing Queen in Valladolid on the 9th of May of 1551.

As for Encomenderos who are negligent and careless in making the proper and necessary effort and in fulfilling their obligation, by not trying to have or failing to have Ministers to attend to religious instruction and administration of the Sacraments for the Indians of their encomiendas, and who have not maintained their churches sufficiently or supplied necessary vestments for worship, nor have paid the Ministers for their services, in accordance with the laws of this Book, We declare that, besides having been and being seriously guilty, they are obligated to make restitution for all that they rightfully should have expended in the aforementioned respects. And if there are any Encomenderos who have diabolically taken all measures to prevent and hinder Ministers from coming to their towns, and if for that reason the Indians have been in

need of the Doctrine, the light of the Faith, the Holy Sacrifice of the Mass, and the grace of the Sacraments, and have been deprived of all that good, with great detriment to their conscience, and with irreparable spiritual and temporal harm to them, greatly offending God Our Lord, those Encomenderos are under much greater obligation for restitution and atonement than are the ones who are careless and negligent. In this situation, We ask the Archbishops and Bishops to have the Confessors be closely responsible, and to exercise their ecclesiastical jurisdiction for correction and punishment. And We deprive the Encomenderos forever of their encomiendas, and condemn them to exile from the Province. We declare that the Encomenderos must ask for and with all diligence endeavor to obtain Ministers of religion, or Clergymen, as may be suitable, and to provide them with appropriate stipends for their sustenance, whatever is needed for worship, vestments, wine and wax, at the discretion of the Diocesan, and according to the distance and kinds of the towns. The Officers of Our Royal Treasury must make similar provisions for the Indians who pay tributes and are under Our Royal Crown. If because the town is large, they are not satisfied with only one Minister, they should ask the Diocesan for two or three, or however many are needed, in view of the size of the town, remoteness, and the number of Indians. If the towns are small, and of little interest, it will be suitable for two or three of the closest Encomenderos to have at least one church in a convenient location, providing the Minister with what is necessary.

Law 4: That the Encomenderos be obligated to defend the land.

The Emperor Don Carlos and the Governing
Prince in Valladolid on the 11th of
August of 1552.

We also award grants of income to Encomenderos which they receive from their encomiendas for defense of the land, and for this reason We command them to have some arms and horses, and if they have richer encomiendas, they are to have a greater number of arms and horses. It is thus Our will, and We command, that in events of war, the Viceroy, Audiencias, and Governors shall: compel them to join in the defense at their own expense, being assigned in such a way that some may not be more burdened than others, and that all may serve on such occasions; assemble them at appropriate times in order that they may be prepared and trained; and, if the Encomenderos do not wish to rally to the defense of the land when the occasion arises, deprive them of their Indians and enforce upon them the penalties they have incurred by failing in their obligation.

Law 5: That the Encomenderos within the districts of two cities select one in which they will reside, and assign an Attendant in the other.

Don Felipe II in the Pardo on the 8th
of November of 1590.

Encomenderos who have a repartimiento within the districts of two cities shall be ordered to select which of the cities they wish to live in, and having made that selection, they shall be required to live in the cities they select, and they shall assign an Attendant in the other city. This shall be enforced in all Our Indies, without remissness or exception of any persons.

Law 6: That Encomenderos appoint their Attendants, and the Government approve them and determine their salary.

Don Felipe II on the 30th of December of 1571, and in the Pardo in 1573 and 1578.

When the Encomendero is permitted to be absent from his community, he shall be allowed to appoint and assign the Attendant, whom in accordance with orders, he must leave in order to attend to his obligations; and the one he appoints shall be a qualified person. The Viceroy or Governor will approve him and will determine his salary which the Encomendero must pay.

Law 7: That the Tutor or Guardian of a minor be allowed to appoint an Attendant.

Don Felipe II in Madrid on the 10th of November of 1578.

Tutors or Guardians of Encomenderos, who are wards or less than twenty-five years of age, shall appoint an Attendant during the period of tutelage or guardianship. The Viceroys or Ministers of the Government shall not remove such Attendants as long as they are competent to meet the requirements of the community and have the other necessary qualifications, and they shall not set any salary for them.

Law 8: That the obligation of the Encomenderos to have arms and horses begin within four months after they receive the Cédula.

The Emperor Don Carlos and Governing Cardinal Tavera in Fuensalida on the 28th of October of 1541. The Governing Empress in Valladolid on the 20th of November of 1536. (Ordinance 10).

Within four months after they receive the Cédula of confirmation of their encomiendas, the Encomenderos shall be obligated to have, and they shall have, a horse, lance, sword, and any other offensive and defensive weapons that the Governor of the district considers necessary, accord-

ing to the importance of the repartimientos, and the kind of warfare that may be involved. They shall be prepared for any occasion, and if not, the penalty shall be deprivation of the Indians they have under encomienda.

Law 9: That the Encomenderos in the new lands build houses of stone wherever the Governor indicates.

The Emperor Don Carlos in Toledo on the 4th of May of 1534. The Emperor Don Carlos and the Governing Empress in Valladolid on the 19th of September of 1536. The Emperor Don Carlos in Toledo on the 20th of December of 1538.

As the Indians are under encomienda in new lands, the Encomenderos shall build houses of stone in the place, location, and form, and with the design, as specified under the Title concerning settlement of cities in Book 4, and as decided by the one who is in charge of the government, and who shall indicate the sites that are necessary. It is Our pleasure and We command that these sites and the houses that are built on them shall be their own, and as such, they may make any disposition of them at their own free will, during their life or on occasion of their death. If any Encomendero avoids this, or does not wish to do it, the Governor shall arrange for the houses to be built with the tributes from that encomienda, and tributes shall not be given to the Encomendero until the houses are built. If there is not enough stone in the land or district for building, it shall be done with the most durable materials available, such as mortar, mud, or other materials. The houses shall be built and finished within two years from the day the encomienda is awarded.

Law 10: That the Encomenderos occupy houses in the principal cities of their encomiendas.

Don Felipe II in Madrid on the 31st of
March of 1538.

It is an obligation of the Encomenderos to occupy houses in the principal cities of their encomiendas, and it is an obligation of the Fiscales of Our Royal Audiencias to request this and to see to it that it is done.

Law 11: That no Encomendero have a house in a town of his encomienda, nor that he stay in the town more than one night.

Don Felipe III in Madrid on the 10th of
October of 1618. (Ordinance 11).

The Encomenderos must not build or have a house or hut in the towns of their encomiendas, even though they say that it is not for their lodging, but that it is for storage or produce, and that they will give it to the Indians when they die, or soon thereafter. Penalty for this offense will be loss of the building, which We give to the Indians, and another payment, equal to the value of the building, to Our Cámara. We likewise prohibit the Encomenderos from sleeping in their towns more than one night, and the penalty for this offense shall be twenty pesos for every time they commit the offense, to be given in third parts to the Cámara, the Judge, and the Denouncer.

Law 12: That the Indians not be obligated to build houses, nor that they build houses, for their Encomenderos.

Don Felipe II in Monzón de Aragón on the
29th of November of 1563.

We declare and command that the Indians, who pay tribute to their Encomenderos as assessed, do not have any obligation to build, nor shall they build, houses or buildings, nor shall they do such work in any place, as this has been declared in the Title concerning tributes and assessments.

Law 13: That the Encomenderos not be given permission to stay in their towns.

Don Felipe III in San Lorenzo on the 6th of June of 1609.

Considering how troublesome it is for the Encomenderos to stay in the towns of their encomiendas, and that despite the prohibition against it, they do obtain permission from the government to do so, We order and command: that it shall not be allowed to give such permission or authority to any one of them, for any cause or reason; and that this law shall be observed and enforced.

Law 14: That the Encomenderos, their wives, parents, children, relatives, guests, servants, and slaves, not enter or reside in the towns of their encomiendas.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 24th of April of 1550. The Governing Princess in Valladolid on the 17th of June of 1555. Don Felipe II in Monzón de Aragón on the 29th of November of 1563, in Madrid on the 15th of January of 1569 and on the 3rd of June of 1571, in San Lorenzo on the 5th of September of 1590 and on the 6th of October of 1596, and in el Campillo on the 28th of May of 1597. Don Felipe III in San Lorenzo on the 6th of June and in Segovia on the 25th of July of 1609, and in Madrid on the 10th of October of 1618.

We order that no Encomendero of Indians, nor his wife, parents, children, relatives, servants, or guests, nor Mestizos, Mulattoes, free Negroes, or slaves, may reside or enter towns of his encomienda. For as a result of this association and presence, the natives are oppressed with personal services which they are obligated to render, without cause or reason, by gathering plants and fruits from long distances, fishing, grinding wheat, and kneading dough. And in doing these things, the Indians undergo con-

siderable and excessive work and hardship, although these things are done under the pretext of usefulness for the Indians, or to attend to their health, or to be restored to health, because of the difference of climate. Penalty for violation of this law shall be fifty pesos, to be given in third parts, to Our Cámara, the Judge, and the Denouncer. We command Our Royal Justicias that they shall not allow or permit this, and that they shall execute said penalty. We entrust to the Ecclesiastical Prelates that they shall punish and correct any such excesses that the Doctri-
neros commit.

Law 15: That the Negroes of the Encomenderos not have communication with the Indians.

The Emperor Don Carlos and the Governing Prince in Madrid on the 17th of December of 1541. Don Felipe II in Badajoz on the 3rd of September of 1580.

The Negroes of the Encomenderos are very prejudicial to the Indian towns, because they lead the Indians to drunkenness, vices, and bad habits, and they steal their property, and do many other damages. As it is necessary to provide remedy so that they shall in no way have transactions, commerce, or communication with the Indians, We command that the Justicias shall require observance and compliance with the law to the effect: that the Negroes shall not live with the Indians; that they shall be excluded from any kind of communication with the Indians; and that they shall be severely punished if they are in the Indian towns, or if they have any kind of transaction or commerce with them.

Law 16: That the Encomendero pay for damages and interest due to the Indians on behalf of his family, relatives, and guests.

Don Felipe III in Madrid on the 10th of
October of 1618. (Ordinance 14).

The Encomenderos have to be responsible for damages caused to the Indians by their children, relatives, guests, servants or slaves; and they must also pay the interest due to them, as well as any penalty in that connection. The interest must correspond to the penalty.

Law 17: That the Encomenderos not have ranches within the limits of their encomiendas, nor be served by the Indians.

Don Felipe IIII in Madrid on the 31st of
March of 1633.

We order that no Encomendero may have ranches, for himself or by way of an intermediary, within the limits of a town of his encomienda. If he does, the ranches shall be taken from him and sold. The Encomenderos shall not be served by the Indians. The Viceroy, Audiencias, and Governors shall provide the necessary remedy, and shall see to it that the laws are observed.

Law 18: That the Encomenderos not have workshops within their encomiendas, nor near them.

Don Felipe IIII in Madrid on the 28th of
May of 1621.

It shall not be allowed that the Encomenderos have workshops within their encomiendas, nor so near to them that it may be suspected that they are using the Indians for personal services, that they are taking undue advantage of their possessions, and that they are being served by the Indians themselves, their children, and their wives.

Law 19: That the Encomenderos not raise hogs in their towns, and that they observe the laws.

The Emperor Don Carlos and the Governing
Kings of Bohemia in Valladolid on the
1st of May of 1549.

We command that it shall not be approved or allowed that Spaniards raise hogs in the towns of their encomiendas, in places where the Indians do their farming, or in other places where damage may result. Hogs shall be kept in uncultivated lands that may be available, and where it is not prejudicial to the Indians or to anyone else. Provisions of Law 12, Title 12 of Book 4, and Law 20, Title 3 of this Book, shall be observed.

Law 20: That no Encomendero may have in his house Indian women of his repartimiento.

The Emperor Don Carlos in Toledo on the
4th of December of 1528. (Ordinance 3).

The Encomenderos shall not have in their houses Indian women of their repartimientos; nor shall they make use of them for another purpose. They shall let them be with and live with their husbands and children, even though they say that they have them on the basis that the Indian women are willing, and that they pay them. Every time there is a violation, and this law is not observed, the Encomenderos shall be fined one hundred pesos de oro for every Indian woman they have had, this amount to be applied to Our Cámara.

Law 21: That no Encomendero, or any other person, prevent marriage of Indians.

Don Felipe III in Madrid on the 10th of
October of 1618. (Ordinances 82 and 83).

The Encomenderos have a habit of preventing marriages of their Indians on the pretext that they are defending them and that some Ecclesiastical Judges have appointed them as defenders. This is a critical matter, and it deserves to take into account the prohibition that is generally

effective in all justice, and is provided for by Law 2, Title 1 of this Book. Because it is just that marriage and the parties to be married shall have complete freedom, We order and command that any Encomendero who prevents marriage of an Indian man or woman of his encomienda, shall suffer loss and deprivation of his encomienda, and that the Secular Judge shall carry out the punishment for this transgression. We charge the Priests not to perform marriages of Indian men with Indian women of the same encomienda or house when the owner brings them, without making particularly sure whether the Indians are intimidated or if they come freely. In no way, directly or indirectly, is it proper that the Encomendero, or any person who has an Indian woman in his house, shall have the authority to object to her marriage, or to have her marry against her will, because in such marriages, which have the pretense of being legitimate, there is constraint. And because women transgress very much in this respect, We command that the provisions of this law shall also be understood to apply to those women who have encomiendas; and if they do not have encomiendas, they shall incur a penalty of one hundred pesos and shall never again be allowed to be served by any Indian women, even though the Indian women may wish to serve them. This same provision shall apply to men who are not Encomenderos.

Law 22: That the Encomenderos, and the holders of Indians in sequestration or reserve, not put the Indians in mines.

The Emperor Don Carlos and the Governing
Kings of Bohemia in Valladolid on the 7th
of February of 1549.

No person who holds Indians under encomienda, in administration, sequestration, or in bond, or in any other way, directly or indirectly, shall be

so bold as to put them in mines to mine gold or silver. Penalty for this violation shall be loss of the encomienda, and in addition, one hundred thousand maravedís, which We apply to Our Royal Cámara, the Judge, and the Denouncer.

Law 23: That no Encomendero hire out his Indians or lend them as pledges.

The Emperor Don Carlos and the Governing Empress in Segovia on the 28th of September of 1532. The Emperor Don Carlos and the Governing Cardinal in Fuensalida on the 7th of October of 1541.

We command that no Encomendero may let out the Indians of his encomienda for hire or rent, or to lend them as pledges to his creditors in order to pay them. Penalty for violation shall be loss of his Indians, and fifty thousand maravedís to be applied to Our Cámara.

Law 24: That no resident of a Province may have Indians in another Province.

The Emperor Don Carlos in Burgos on the 24th of November of 1527.

Residents of a Province, being in that Province, may not have Indians under encomienda in another Province. If someone is found to have Indians in this way, those Indians he has in any Province where he does not reside shall be taken from him.

Law 25: That the Encomenderos not be absent to go to another Province without permission.

The Emperor Don Carlos in Toledo on the 18th of April and on the 21st of May of 1534. The Governing Empress in Madrid on the 13th of November of 1535. The Governing Prince in Ordinance 2 of 1543. Don Felipe II in Madrid on the 27th of February of 1575, and on the 15th of January of 1592.

We command that the Encomenderos may not be absent from the Province or Island where they reside and where they have their encomienda. In case they are given some duty or necessary business to attend to, and it is for a brief period, and if they leave an Attendant in charge: the Governor may grant permission; he shall not grant any extension; and he shall require that they return to their residences and communities to fulfill their other obligations within four months. If they do not comply, the Governor shall consider the encomiendas to be vacated, and he shall assign such encomiendas to meritorious persons.

Law 26: That, considering there are so many permissions from the Government for the Encomenderos to be absent, the Audiencias may revoke some of them.

Don Felipe II in Madrid on the
2nd of September of 1561, and on the
26th of May of 1573.

Our Royal Audiencias shall keep informed concerning the resident Encomenderos of each City, whether they are residing in their Cities, or if they have absented themselves with permission from the Government. If it is verified that they are absent, the Audiencias shall issue appropriate orders to them to maintain and support their communities and the welfare of their Indians as they are obligated to do, regardless of the fact that they may say or allege that they have permission from the Viceroy or Governors. Exception shall be made in the case of those who have or show authority from Us, or who have such a legitimate reason that We would be impelled to grant permission.

Law 27: That permission not be given to an Encomendero to come to Spain, except for very important reason.

Don Felipe II on the 30th of December of
1571, and in San Lorenzo on the 17th of
October of 1593.

We command that permission not be given to any Encomendero to come to these Kingdoms, except for very important reason, because of the damaging effect and the weakness of defense which results in the cities. This law shall also be enforced in the Philippines.

Law 28: That men, married or betrothed in these Kingdoms, who have encomiendas, may come for their wives.

The Emperor Don Carlos and the Governing
Prince in Valladolid on the 16th of
October of 1544.

We permit that the Encomenderos, married or betrothed in these Kingdoms, may come without fraud or pretense, and may be in these Kingdoms for a period of two years, beginning on the date they leave their last port. We command: that during this time the Indians and other benefits the Encomenderos have shall not be taken from them or removed; and that they shall be obligated and shall post bond to the effect that they will return with their wives within the time specified. Penalty for violation of this law shall be the loss of all that is yielded by their encomiendas and benefits during their absence, and these shall be paid by the Encomenderos personally and from their assets. We order that Our Royal Officers shall place the bonds in the Chest of three keys, and that they shall attend to compliance with and enforcement of this law.

Law 29: That the Encomenderos not be given duties, or assignments as Captains, away from their communities.

Don Felipe IIII in Madrid on the 19th of
June of 1628.

We order that the Encomenderos shall not be assigned duties, as this is specified by Law 17, Title 2 of Book 3, nor shall they be assigned as Captains, away from the places where they must live and maintain residence, because it is necessary that they shall not abandon their encomiendas.

Law 30: That the Pensionarios have the same residence requirements as the Encomenderos.

Don Felipe III in Lisbon on the 10th of August of 1619, and in Madrid on the 27th of November of 1620. Don Felipe IIII in Madrid on the 19th of March of 1636.

We command that all those who have pensions in encomiendas shall live and reside in the towns of the districts where the encomiendas are located. They shall observe the law the same as the owners do in this respect, and they shall be subject to the same penalties. We order that a special clause to this effect shall be inserted in titles granting pensions, and also that they shall be confirmed as ordered. All of the above shall be observed and complied with, unless the Viceroys or Governors give pensions which, for proper reasons, specify another residence.

Law 31: That the Encomenderos in the Province of Cartagena reside in the City of Cartagena.

The Emperor Don Carlos and the Governing Prince in Serreta on the 9th of October of 1553.

We declare and command that, regardless of what has been resolved and ordered, all the resident Encomenderos, subject to the Governor of the Province of Cartagena, shall reside in the City of Cartagena. The Indians of their encomiendas shall not have to bring, nor shall they bring, their tributes to that City, or to another place. It shall be sufficient for

the Indians to pay their tributes in their towns.

Law 32: That the residents of Cuyo and Chile be present in their communities, except for those who are engaged in war.

Don Carlos II and the Governing Queen.

We command that all the residents and Encomenderos from the other side of the Cordillera of Chile shall now go to live in their communities and settle the cities where they are residents, and for the settlement of which the Indies were given under encomienda. A resident who is not in his community for a year shall not be given the tributes from the mita thereafter; the mita shall be assigned and hired out to persons in need; and We apply the tributes of that one year to Our Cámara. If the resident is not in his community for two years, his Indians shall be taken from him. The only ones to be excepted from this law shall be the residents of Cuyo who are presently serving in the armies of Arauco and Yumbel, or in some fort on those frontiers, as they will be allowed to leave persons to take their place. The same exception will apply to those who serve in La Concepción or Chillan, under Our service and pay. We order and command that the same law and the same penalties shall apply to all the Encomenderos of the Kingdom of Chile who are away from their communities. All the above law shall be observed and complied with by the residents of Cuyo, if they are not so necessary in the war of Chile that may be exposed to danger.

Law 33: That the Encomenderos of Cuyo establish residence in Santiago de Chile.

Don Felipe IIII in Madrid on the 30th of
March of 1627.

It had been ordered that the Encomenderos who were residing in the City

of Santiago of the Kingdom of Chile, and who were from the district of the Province of Cuyo, should establish their residence in Cuyo. It became apparent that they would be very necessary in the Kingdom for the war, and that their residing in Cuyo was ineffective. Therefore, the Governor and Captain-General ordered that they establish residence in Santiago, and that each one of them assign an attendant for his encomienda, and provide it with a quantity of oxen and livestock. Necessary religious instruction was provided so that the Indians might be instructed in Our Holy Catholic Faith. It is Our will and We command that these orders shall be observed and enforced as long as the public welfare does not require any further attention.

Law 34: That no Encomendero may be a Notary, and if he is, he is to choose between the office of Notary or the encomienda.

Don Felipe II in the Pardo on the
14th of November of 1590.

We command that no Encomendero of Indians may be a Notary of Cámara, Government, Town Council, Public or Royal. He who holds any one of such notarial offices shall choose whether to be an Encomendero or a Notary, and he shall vacate the other of the two. If he vacates the office of Notary: he may resign from it; he shall resign immediately, in accordance with the laws concerning resignation from offices; and he shall observe the prohibition as expressed in Law 12, Title 8 of this Book.

Law 35: That tributes not be given as extra compensation to children of Royal Officers in the Indies.

Don Felipe IIII in Madrid on the 21st of
October of 1637.

We order the Governors, who have authority to assign encomiendas of

Indians, that they shall not give income or extra compensation to children of Officers of Our Royal Treasury from the tributes that are intended to be rewarded to meritorious persons and to be given to the poor. It is Our will that these awards shall be requested from Our Royal Council of the Indies, where after review and evaluation of services, We shall then grant whatever is deserved.

Law 36: That the Prelates and the Governor persuade those who have Indians, that they be married within three years.

The Emperor Don Carlos and the Governing Empress in Valladolid on the 12th of February of 1538, and in Madrid on the 8th of November of 1539. The Emperor Don Carlos in Toledo on the 29th of June of 1539.

The Encomenderos who are not married shall be married within three years from the time they receive their encomiendas, and they shall bring their wives to the Province of their residence, unless they are of such an age or reasonable impediment that might exempt them. And, because it is not Our wish to apply any force or harassment upon them, We charge the Prelates of the Province, and We order the Governor, that, if they discover no impediment after having investigated, they shall carefully persuade and advise the Encomenderos to enter into matrimony, especially if they have the capacity for it. The Governors, in the assignment of encomiendas, shall give preference to married men over those who are not married, in accordance with the provisions of Law 5, Title 5, Book 4.

Law 37: That the Encomenderos swear that they will treat the Indians well.

The Emperor Don Carlos and the Governing Empress on the 20th of March of 1532.

We command that the Encomenderos shall make a judicial oath in the

presence of the Governor, and attested to by a Notary, that they will treat the Indians well and in accordance with what has been resolved and ordered by law.

Notes

That the Encomenderos not receive lands left vacant by the death of the Indians. Law 30, Title 1 of this Book.

That no Encomendero take tributes without the Indians having been assessed, and that he not receive anything else. Law 48, Title 5 of this Book.

That if the Encomendero in his testament suspends tributes for some years, justice be done, and his will be enforced. Law 52, Title 5 of this Book.

The Council ordered by the Decree of May 16, 1635, that, thereafter, consideration be given: to the benefits that the Encomenderos, who are in these Kingdoms, may receive from their encomiendas; and also to the matter of postponements. Auto 92.

Title 10: Concerning Good Treatment of the Indians¹¹⁹

Law 1: That the provisions in the clause of the testament of the Catholic Queen concerning instruction and good treatment of the Indians be observed.

The Catholic Queen, Doña Isabel, and the
Governing Queen in this Recopilación.

In the testament of the Most Serene and Great Catholic Queen Doña Isabel of glorious memory, the following clause is noted: "When the Holy Apostolic See granted to Us the Islands and Continent of the Ocean Sea,

that were discovered or to be discovered, Our principal intention, at the time when We petitioned the well-remembered Pope Alexander the Sixth who granted this concession to Us, was to try to persuade and attract their towns and convert them to Our Holy Catholic Faith, and to send Prelates, Priests, Clerics, and other learned and God-fearing persons to those islands and continent in order to instruct their residents and inhabitants in the Catholic Faith, to give them religious instruction, to teach them good customs, and to give all necessary attention to these things, as they are amply dealt with in the letters of the concession. I very affectionately entreat the King My Lord, and I charge and command my daughter, the Princess, and her husband, the Prince: that they shall act on these intentions and fulfill them; that this shall be their principal objective; and that they shall not allow, nor give occasion, for the Indian residents and inhabitants of those Islands and Continent, occupied or to be occupied, to receive any harm to their persons and properties. They shall, moreover, command that the inhabitants be well and justly treated, and if the inhabitants have received any harm, they shall provide remedy, and make provision for it in such a way that there may be no transgression with regard to anything that is forbidden or commanded in the Apostolic letters of the said concession." And We, in keeping with her Catholic and pious zeal, order and command the Viceroy, Presidents, Audiencias, Governors, and Royal Justicias, and We charge the Archbishops, Bishops, and Ecclesiastical Prelates, that they shall observe that which is provided by the laws with respect to conversion of the natives, their Christian and Catholic doctrine and instruction, and their good treatment.

Law 2: That good treatment of the Indians be such that they do not fail to serve and to be occupied.

Don Felipe II (In Chapter 47 of Instruction).

Indians of some Spaniards, Corregidores, Religious and Clerics, suffer great harm, wrong and oppression against their persons and properties in all kinds of work in which they are used for profit; and as they are in misery, they offer no resistance or defense, submitting to everything that is ordered of them. The Justicias who should protect them either do not know about it (although they are obligated to know about it and to remedy it), or they tolerate it and allow it for their particular interests, contrary to all Christian and political reasons and contrary to the preservation of Our vassals. As We have recognized that what has been provided and ordered as a remedy for such evils is insufficient, We charge and command the Viceroys and Governing Presidents that they personally, and with the other Ministers and Justicias, shall investigate and render punishment for the transgressions and harm from which the Indians suffer. They shall apply such moderation and prudence that the Indians may not fail to serve and do all that is necessary, as much as is necessary for the Indians themselves, and for their preservation. (In this Recopilación, the laws and decisions which command and assign responsibility for good treatment and relief of the Indians have been gathered together and repeated very intentionally.) They shall make adjustments of service and work of the Indians so that there may be no excesses, or violence or failure to be paid, observing the laws governing these matters; and they shall take particular care that, next to the spiritual government, this shall be the first and principal thing that

they shall accomplish. If it appears necessary for a new and greater remedy, they shall consult their Audiencias and other zealous persons who are in the service of God Our Lord and Us, and with their opinion and that of the Audiencias, they shall inform Us so that We may make the most suitable provision.

Law 3: That the Viceroy and Audiencias be informed if the Indians are mistreated, and that they punish the guilty ones.

Don Felipe II (in the Ordinance for Audiencias of 1563), and in Longuisana on the 24th of April of 1580. Don Felipe IIII in Madrid on the 26th of September of 1635.

One of the greatest concerns that We have always had is to strive by all means to the end that the Indians be well treated, and that they recognize the benefits from God Our Lord in freeing them from the miserable state of their heathenism, bringing them to Our Holy Catholic Faith and to Our vassalage. Because the severity of subjection and servitude might be the thing most likely to divert Our principal and most desired intention, We decided upon freedom of the natives as a suitable means of carrying out this intention, by resolving that they all enjoy freedom, as provided for in the Title that deals with this matter, and by combining it with the preaching and doctrine of the Holy Gospel, so that with the gentleness of the doctrine, it might be the most effective means. And it is necessary that good treatment be added to this freedom. We command the Viceroy, Presidents, and Oidores of Our Royal Audiencias: that they shall always take much care, and shall be informed concerning excesses and bad treatment that have been suffered or may be suffered by the Indians who are incorporated under Our Royal Crown, and who are assigned under

encomienda to private persons, as well as all the other natives of those Kingdoms, Islands and Provinces; that they shall find out how orders have been observed and are observed, punishing the guilty with all severity; and that, having remedied the situation, they shall arrange for the natives to be instructed in Our Holy Catholic Faith, very well treated, protected, defended, and supported with justice and freedom, as subjects and as Our vassals, so that with the matter being settled, the Ministers of the Gospel may secure more abundant benefit for the natives. In these matters, We hold everyone to his conscience.

Law 4: That the Royal Justicias take action against those who are guilty of bad treatment, and that they punish them severely.

The Emperor Don Carlos in Valladolid on the 26th of June of 1523. The Governing Prince in Valladolid on the 13th of September of 1543. Don Felipe II in Lisbon on the 11th of June, and on the 27th of May of 1582. Don Felipe III in Madrid on the 12th of December of 1620.

We command Our Justicias and Officers who in Our name collect tributes from Indians, and any other persons who hold them under encomienda, and also, all Our subjects, natives and inhabitants in the Indies: that they shall do no wrong to the Indians, or harm to their persons or properties; and that they shall not take anything from them against their will, except the tributes according to their assessments. Penalty for anyone who kills, injures or strikes any Indian, or who takes away his wife, daughter or housemaid, or who commits any other violence or harm, shall be punishment in accordance with the laws of these Kingdoms of Castile and the Recopilación. We charge and command Our Viceroy, Governors, and Ministers, that they shall proceed with the greatest watchfulness,

attention, and care, to learn about and to make official inquiry, through the Protectors, Priests, and other impartial persons, with regard to Encomenderos, other townspeople, residents, or rural inhabitants, who harass or cause hardship in the cases referred to, or in other similar cases. If they find that some are probably guilty, they shall assign the investigation and punishment to disinterested parties who do not have Indians, nor blood relationship or any connection with the Encomenderos or other guilty parties, in order that they may punish them as an example, and severely, under the direction of the Fiscales of Our Audiencias. If the Viceroy, Governors, and Ministers, consider that a more effective remedy is needed, they shall consider it and make a decision that will be effective with regard to this matter which is of such importance in the service of God Our Lord and Us, and for the preservation of the Indians.

Law 5: That much attention be given to how the Corregidores support good treatment of the Indians.

Don Felipe II in Madrid on the 23rd of
December of 1595.

The Viceroy and Governors shall always be very vigilant and careful, and shall try to learn about and know how the Corregidores and Administrators of Indians attend to their good treatment, and they shall note those laws and orders issued by Us and by Our Viceroy and Audiencias in favor of the Indians that the Corregidores may not be following or carrying into effect. They shall make them comply with the laws and faithfully observe everything that is necessary for service to God, to Us, and to the welfare of the natives.

Law 6: That all Ministers and residents in the Indies shall attend to good treatment of the natives.

Don Felipe II in Lisbon on the 27th of
May of 1582. Don Felipe III (Ordinance
26 concerning personal service).

All that has been ordered in favor of the Indians shall be complied with and precisely enforced in such a way that they cannot be oppressed, with such moderation and temperance however, that neither shall there be occasion or consent for them to be idle or lazy. Measures shall be taken for them to work, and to attend to their tasks and other services, as provided by the laws of this Recopilación. Attention to and enforcement of these laws shall be principally the responsibility of the Viceroy, Presidents, and Governors. But it applies generally to all classes of people who are inhabitants of the Indies: to the Judges for enforcement of Our orders; to the Prelates for their obligation to look after the spiritual and temporal welfare of the natives; and to the Spaniards for the growth, preservation and increase of those Kingdoms, where the Encomenderos benefit from their repartimientos. And all the others have such a great opportunity for farming and enterprises, that they should all look after the Indians, because all would come to an end if there were no Indians. Thus We charge everyone with great responsibility, particularly the fulfillment and observance of what is provided for and contained in the laws issued concerning good treatment of the Indians, in order that the laws shall be completely effective, as it is Our intention and will that the laws shall be observed and fulfilled.

Law 7: That the Prelates always report concerning the condition, treatment, and doctrine of the Indians, in accordance with this law.

Don Felipe II in Lisbon, and in San Lorenzo
on the 25th of August of 1596.

We ask and leave to the responsibility of the Archbishops and Bishops, that at each time of the arrival of a fleet or squadron, they send Us a very detailed report concerning: treatment accorded to the Indians in their districts, if they are increasing or decreasing, if they are being troubled or harrassed, and in what respects, if they need religious instruction and where, if they have freedom or are oppressed, if they have Protectors and who they are, if the Protectors are helping them and defending them by faithfully and diligently discharging their duties, or if they are careless and negligent, if they receive anything from the Indians, what instructions they have and how well they observe them, what will be necessary for their better instruction and preservation, and whatever else is considered to be pertinent in this connection. This reporting shall be directed to Our Fiscal of the Council of the Indies, who is responsible for the protection of the Indians: in order that he may submit requests as he is obligated to do; and so that We may make provision as necessary to unburden Our conscience and to assign responsibilities that are being neglected.

Law 8: That the laws and provisions be observed whereby Priests and Religious treat the Indians well.

Don Felipe II in Lisbon on the 13th of
November of 1582.

Our Royal Audiencias have been issuing Provisions in order that Priests, Doctrineros, Clerics, and Religious may not tax the Indians under any pretext, even if it is necessary to make expenditure for construction of churches, or to make vestments; and they shall order that, if anything like that is necessary, the matter shall first be brought to the attention

of the Viceroy or the Governing President, who, according to the need and potential of the Indians, may declare that which is to be allotted, and who must pay for it and who must collect it. In order that neither the aforementioned or other Religious may charge the Indians, or compel, persuade or advise them to contribute, even if it be by Maniple, and in order that they may not have keys to the Community Strongboxes or take anything from them, even under the pretext of their sustenance, in which connection appropriate orders have been issued, and in order that they may not change towns from one location to another, as they have been doing with notable harm and harassment to the Indians, and may not suppress, weaken or take away Cacicazgos, and in order that those who claim succession to Cacicazgos may come to Our Audiencias to ask for justice, and, because the said Provisions are well issued, just, and necessary for the tranquility, quietude, and good government of the Indians, We command: that thus they shall be observed and fulfilled; that the Audiencias shall issue them and have them executed however and whenever necessary; and that the laws dealing with this or any part of it shall be completely observed.

Law 9: That the Indians not make clothing for Ministers or Priests, nor that the Ministers or Priests buy from them more than is necessary.

Don Felipe II in Campillo on the 19th of
October of 1595.

Likewise, We prohibit that Indians be compelled to make clothing for Corregidores, other Ministers of Justice, Priests, or persons who govern them; nor shall these officials take from them or buy from them more than they need for use in their households, or anything else for enter-

prises; nor may they take anything to other places. Penalty for Justicias and Secular Administrators who are in violation of this shall be deprivation of office, and also one thousand ducats, half for Our Cámara and half for the Indians. As for Priests and Ecclesiastical Ministers, Law 23, Title 13, of Book 1 shall be observed, as well as the other laws that prohibit enterprises in which Ecclesiastics have Indians occupied.

Law 10: That the Indians not be wronged in carrying supplies to the towns.

The Emperor Don Carlos and the Governing Prince in Madrid on the 2nd of March, and in Monzón on the 23rd of September of 1552. The Governing Princess in Valladolid on the 3rd of July of 1555.

If in order to provide supplies for the towns, it is necessary to require Indians to carry some supplies, it shall be in such a way that they may not be mistreated, and may sell freely and without fixed rates, whereby they will come of their own will, and there will be an abundance of all that is needed. And in case it is necessary to establish rates: the prices will be fair; the Indians will be paid; and they need not travel such a distance as to cause them any hardship.

Law 11: That the Indians not be troubled when they go to the market, and if they go, it is to be within three leagues.

Don Felipe II in Pobos on the 12th of May of 1581.

Indians who have to go to the market with supplies and other things, shall be those who live within about three leagues from the town; no one of them shall be required to bring or sell what he might not have; and the Indians shall not receive any harm or harassment for this reason.

Law 12: That the Indians not be forced to bring poultry to the Ministers, but that they sell them in public.

Don Felipe II in the Bosque de Segovia
on the 13th of July of 1573.

Ministers of Justice in some places require the Caciques and Indians to bring hens and other things to their homes in order to buy them, and they do not pay them their fair price. We command that this shall not be done or allowed, and that the Indians shall go to the squares or public markets where everyone will be able to buy what he wants.

Law 13: That the Indians not be required to construct fences or clean the streets without pay.

Don Felipe IIII in Madrid on the 8th
of October of 1631.

When bullfights are held in some cities, the ordinary Alcaldes and Justicias require the Indians to construct fences and clean the streets; and they do not give them any recompense for this. We command Our Audiencias: that they shall not allow these requirements; and in case it is appropriate to employ the Indians because of public need or utility, that they shall be paid very competent wages. If this is not done: those who are in violation shall incur the penalties specified for violators of Our orders; they shall immediately be considered to be condemned by Us; and Our Fiscales shall request fulfillment and execution.

Law 14: That Indians not be employed in searching for graves, nor in digging for treasures.

The Emperor Don Carlos and the Governing
Kings of Bohemia in Valladolid on the 9th
of October, and on the 9th of November of
1549.

It shall not be allowed to assign or use Indians to look for graves or to

dig for treasures. The Judges shall impose penalties equal to the violations, according to their discretion, and they shall execute the penalties.

Law 15: That Indian women not be confined for spinning and weaving for tributes that their husbands must pay.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 9th of October, and on the 9th of November of 1549.

No Encomendero or other person shall force Indian women in any situation or in any way to be confined to enclosures or other places to spin and weave cloth for purposes of tribute. They shall be free to do this in their own houses, and no harm shall be done to them, nor shall they sustain any harm. Law 22, Title 5 of this Book shall be observed.

Law 16: If it is necessary to use Indians for any personal work, it is to be at the time ordered.

The Emperor Don Carlos (Ordinance 11 of 1528). Don Felipe III in Madrid on the 6th of March of 1603.

On certain indispensable and unavoidable occasions the Indians must be used, with the understanding however, that on those occasions they cannot neglect their own planting. On those occasions, payment of their wages must be very punctual, and definitely given to the wage earners themselves.

Law 17: That no Spaniard travel in a hammock-carriage or litter unless he has an obvious infirmity.

The Emperor Don Carlos and the Governing Queen in Valladolid on the 20th of November of 1536.

No Spaniard of any rank or condition shall arrange for or allow Indians to carry him in a hammock-carriage or litter unless he is beset with an

obvious infirmity. Penalty for violation shall be one hundred pesos de oro of perfect legal standard, one-half for Our Cámara, and the other half in equal parts for the Denouncer and for the Judge who imposes sentence. He who has used the Indians contrary to this law shall pay damages and interest, and he shall be sentenced according to the nature and amount of the loss suffered by the Indians.

Law 18: That if the Indians of Seigniorship are wronged, they be allowed to make complaint to the Audiencias.

Don Felipe II in the Bosque de Segovia
on the 10th of August of 1562.

If Indians of Seigniorship suffer any wrong from the Alcalde Mayor, the Justicia or any other person, they may go freely to the Royal Audiencia of the district to make their complaint and to request satisfaction for the wrong done to them. They shall be dealt justice, and they shall not be restrained.

Law 19: That a Negro who mistreats an Indian be punished in accordance with this law.

The Emperor Don Carlos and the Governing Empress in Valladolid on the 20th of November of 1536.

A Negro who badly mistreats an Indian, but without drawing blood, shall be tied to the pillory of the city, village, or town, where it happens, and there he shall be given one hundred lashes in public. If he injures the Indian, or draws blood: in addition to the one hundred lashes, he shall be sentenced to penalties, depending upon the nature and seriousness of the injury, and in accordance with the law and custom of these Kingdoms of Castile; and his master shall pay for the damages, losses, and costs suffered by the Indian. If the master does not wish to pay, the

Negro shall be sold for this purpose, and recompense shall be made from the proceeds of the sale.

Law 20: That the Indians of Chile who serve be well treated and be given religious instruction.

Don Carlos II and the Governing Queen.

All the Indian domestics of the Kingdom of Chile who voluntarily serve in families shall be well treated, and their masters shall look after their sustenance, clothing, shelter, treatment for illnesses, and religious instruction, in order that they shall be instructed in Our Holy Catholic Faith. The President, Audiencia, and Protectors shall protect and defend them with special care, and they shall not wait until they are called upon to do so.

Law 21: That punishment for crimes against Indians be more severe than for crimes against Spaniards.

Don Felipe II in Madrid on the 19th of
December of 1593.

We order and command that Spaniards who injure, offend, or mistreat Indians shall be punished more severely than would be the case if the same crimes were committed against Spaniards, and We declare them to be public crimes.

Law 22: That wherever offenses committed against the Indians do not cease, this be reported so that a Visitador will go there.

Don Felipe II in Lisbon on the 11th
of June of 1582.

It is necessary to send Jueces Visitadores to the Provinces of the Indies in order that they may learn about offenses against the Indians, and that they may correct abuses which have been brought in against Our will, which will always be to provide relief for those who suffer, and to

prevent the harassments and hardships which result in the Indians being offended and mistreated. Although provisions have been made for this with the Oidores Visitadores of the Audiencias, We order and command that the Viceroy, Presidents, Audiencias, and Governors, shall send to Us on every occasion a report of what they consider to be needful of remedy and the best measures to be taken, in order that We may make the decision which will be most conducive to freedom and good treatment of the Indians.

Law 23: That what has been ordered in the clause written by the Royal Hand of the King, concerning good treatment of the Indians, be observed....and the laws that have been issued.

Don Carlos II and the Governing Queen.

King Don Felipe the Fourth, Our Father and Lord, may He be in Holy Glory, was informed about the bad treatment the Indians receive in textile workshops, where they are without total freedom (at times imprisoned and in chains), and without permission to go to their homes, or to attend to their wives, children, and personal labors. It was prohibited that the Indians be constrained in this way as penalty for crimes or for debts, that they be required to carry burdens on their backs, and that they be distributed for service in the homes of Viceroy, Oidores, and Ministers. After consultation with Our Royal Council of the Indies, His Majesty saw fit to resolve that the laws issued concerning prohibition and moderation of personal service should be observed, and He added the following clause, written by His Royal Hand: "I desire that you shall render satisfaction to Me and to the world in the manner of treatment of those My vassals. If this is not done in such a way that, in response to this letter, I may

see some exemplary punishments that have been imposed on those who have transgressed these laws, I shall consider Myself disserved, and you shall rest assured that even if you do not provide remedy, I must provide remedy and command that you shall be very heedful of the slightest omissions in this matter, as they would be against God, against Me, and would lead to the total ruin and destruction of those Kingdoms, whose natives I esteem and whom I desire to be treated as they deserve, as vassals who serve the Monarchy so much, and who have made it so much greater and more illustrious." Because it is Our will that the Indians shall be treated with all gentleness, mildness, and endearment, and shall not be offended by any Ecclesiastical or Secular person, We command the Viceroy, Presidents, Audiencias, and Justicias, that, having seen and considered what His Majesty saw fit to command, and everything that is contained in the laws of this Recopilación, in favor of the Indians, they shall observe it and comply with such special care, that they shall give no reason for Our indignation. And for everyone, this matter shall be subject to review in his residencia.

Notes

That the Encomenderos swear that they will treat the Indians well.
Law 37, Title 9, Book 6.

Title 11: Concerning Succession to Encomiendas, Allowances, and Extra Compensation ¹²⁰

Law 1: Concerning succession.

The Emperor Don Carlos and the Governing Empress in Valladolid on the 28th of September of 1534, and in Madrid on the

26th of June of 1535, and on the 26th of
May of 1536. The Governing Prince in Madrid
on the 26th of May of 1546.

If an Encomendero dies and leaves a legitimate child born of a legitimate marriage in that land, the Viceroy or Governor shall give under encomienda to the child the Indians who were held by the father, in order that the child may benefit from the proceeds, and may lead the Indians and instruct them in matters of Our Holy Catholic Faith, observing, as We command to be observed, the laws and ordinances that have been issued and may be issued concerning good treatment of the Indians. Until the child is of an age to bear arms, the child shall have an Attendant who shall serve Us in war, as the father served and was required to serve. If the Encomendero does not have a legitimate child born of a legitimate marriage, the Indians shall be given to his widow. If, however, she becomes married and her second husband has other Indians, he shall be given whichever one of the repartimientos he chooses. If the second husband does not have other Indians, he shall be given those who are held by the widow whom he has married.

Law 2: That if the oldest son does not succeed, the others succeed in order.

The Emperor Don Carlos and the Governing
Prince in Madrid on the 5th of April of
1552. Don Felipe II on the 4th of April
of 1582.

If the Encomendero dies and leaves two or three sons or daughters, or more, and if the oldest son, who would ordinarily succeed in accordance with the law of succession, does not wish or is unable to succeed because he has entered a religious order, or because he has other Indians,

or because he is married to a woman who has Indians, or because of some other impediment or incapacity, there may be some doubt as to whether the second son is to succeed. We therefore declare that: if it happens that the oldest son does not succeed to the Indians from his father for any of the above-mentioned reasons, the succession shall pass to the second son; and if it does not pass to the second son, it shall pass to the third son, and so on, until there are no sons left. In case there are no sons to succeed, the oldest daughter shall succeed, and if she does not succeed, succession shall pass to the second daughter, and so on in the same way as in the case of the sons. If the holder of the Indians dies without leaving sons, and he leaves daughters, and if the oldest daughter does not succeed because she does not wish to succeed or because of some other impediment, succession shall pass to the second daughter, and consequently to the third daughter, and so on until there are no daughters left; and in the case of lack of sons and daughters, succession shall pass to the wife of the holder of the Indians, in accordance with the law of succession, and in such a way that, after the generation of the first holder of the Indians, there must be no more than one succession, either to a son, a daughter or a wife, and the Indians are not to be given under encomienda again to another son, or daughter, or wife, of the said first holder.

Law 3: That the son who succeeds support his brothers and sisters, and his mother as long as she does not remarry.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 7th of July of 1550. (Chapter 8). The Governing Prince in Monzón de Aragón on the 28th of August of 1552.

We command that, although the Encomendero who dies leaves sons and daughters, the encomienda shall be given only to his first son who, even though he may be a minor, shall be obligated: to support his brothers and sisters as long as they are unable to support themselves; and to support his mother as long as she does not remarry. This is as provided by the following law with respect to daughters.

Law 4: That the daughter, who is a successor, get married within one year, and that she support her mother and sisters.

The Emperor Don Carlos and the Governing Prince in Madrid on the 4th of March of 1552. The Governing Kings of Bohemia in Valladolid on the 7th of July of 1550.

We declare and command that if there are no legitimate sons, born of legitimate marriage, the encomienda shall be given to the oldest legitimate daughters, born of legitimate marriage, if they are present at the time their fathers die. These oldest daughters are to get married, and shall get married, if they are of age, within one year from the time they are given the Indians. If they are not of legitimate age to engage in matrimony, they shall get married when they reach that age, in accordance with the declaration referred to in Law 39 (sic), Title 9 of this Book, and the Indians shall be given to them with the same responsibilities for them that their fathers had. Likewise, the oldest daughter who inherits Indians shall be obligated to support her sisters as long as they are unable to support themselves, and to support her mother as long as she does not remarry. This support shall be according to the condition of the persons, the size of the encomienda, and the need of those to be supported.

Law 5: That if the oldest son dies while his father is alive, the son, grandson, or descendant of the oldest son is to succeed.

Don Felipe II in Madrid on the 31st of
January of 1580.

Although the oldest son may die while the holder of the encomienda is still alive, if the oldest son leaves a son, daughter, grandson, granddaughter, or legitimate descendant, who meets the other conditions and requirements for inheriting the Indians, in accordance with what has been ordered, those descendants of the oldest son shall in that sequence have preference in succession over the second son of the holder when the holder dies.

Law 6: That in order for a husband to succeed his wife, and in order for a wife to succeed her husband, they are to have been married for six months.

Don Felipe II in Madrid on the 27th of
February of 1575. Don Felipe III in
Madrid on the 8th of July of 1603.

Those men who in conformity with the law of succession are to inherit any encomiendas or repartimientos of Indians from their wives in a second or third generation, as well as those women who are to inherit from their husbands, may not do so if they have not been truly married in facie Ecclesiae for six months. This order shall be observed, fulfilled and obeyed in all and any places whatsoever in Our Indies, Islands, and Mainland of the Ocean Sea. If they have not been married for the time and in the way stated herein, the repartimientos and encomiendas they might inherit shall be vacated.

Law 7: That if an Encomendero marries a woman who has an encomienda, and if he chooses her encomienda, that encomienda is to remain subject to its conditions.

Don Felipe II on the 1st of December
of 1573.

If an Encomendero of Indians marries a woman who has other Indians, and if the Indians of the husband are for two generations and the Indians of the woman are for one generation, and if he chooses the Indians of the woman and she dies, there has been some doubt whether the husband ought to retain the Indians for life. We declare: that the repartimiento chosen by the husband is to be subject to its conditions, and if it is not for more than one generation, it shall come to an end with that generation; and that if the repartimiento is that of his wife, it shall come to an end upon her death.

Law 8: That if the husband dies, the Indians remain for the wife to whom they belonged before.

Don Felipe II and the Governing Princess
in Valladolid on the 16th of May of 1573.

If it happens that some Spaniards marry widows of Encomenderos, and the encomiendas are given or may be given to the second husbands, and the second husbands die, the Indians shall be returned to their widows, to whom they belonged before, so that they may have them and retain them for the rest of their generation; and the Indians shall not be taken from them or removed.

Law 9: That, if there is a third generation, the children of a second marriage inherit the Indians that the mother has inherited from her first husband.

Don Felipe II in San Lorenzo on the
3rd of June of 1574.

The children of the second husband shall not inherit the encomienda of Indians of the first husband whom their mother succeeded, in view of the

first husband having died without children, and being in conformity with the law of succession that there shall not be more than two generations. We declare that if a third or fourth generation is conceded, the children of the second husband may inherit the encomienda of the first husband.

Law 10: That if the holder dies, the encomienda pass ipso jure to the successor, who may reject it, as is declared.

Don Felipe II in the Escorial on the 17th
of May of 1564.

We declare that if the holder of the encomienda dies, the encomienda passes, ipso jure, without new acceptance, to the first successor in conformity with the law of succession and Law 45 of the Toro. If the first successor wishes to reject it, he may do so within fifteen days, being present in the Province where his predecessor died, and in that case he shall be considered not to be a successor; and the next successor in conformity with the law shall succeed. If within the fifteen days the first successor dies without rejecting the encomienda, he shall be counted as the second generation, in accordance with this declaration; and thus, because there has been no rejection within the time specified, his succession shall be counted as the second generation, and We may freely dispose of the repartimiento as We please. If the first successor is in another place in the Indies, outside the Province where the encomienda is located, or where the Encomendero dies, he shall have an additional twenty days within which he may reject the encomienda.

Law 11: That, if the successor to an encomienda dies before title has been sent to him, the encomienda is to be vacated.

Don Felipe II in Alcalá on the 31st of
May of 1562.

If the Encomendero dies leaving children, and the oldest son or daughter that he leaves is to succeed according to the law, and the successor then dies, even though the encomienda of Indians has not been given to him or to her: the encomienda shall be considered to be vacated; and no other brother or sister of the successor, or wife of the first holder, in case he may have a wife, may inherit the Indians. This is because ordinarily, according to the law, no one is to succeed beyond the oldest son or daughter of the first holder, or the wife in case there are no children.

Law 12: That the successor to an encomienda present himself within six months, under the penalty of loss of benefits.

Don Felipe II in Madrid on the 19th of
December of 1568. Don Felipe III in San
Lorenzo on the 19th of July of 1614. Don
Felipe IIII in Madrid on the 18th of
February of 1628.

We order that the successor to an encomienda shall, within six months from the date of its vacancy, be required to appear personally, or that his legal representative appear on his behalf, before the Viceroy, or before the Governor of the Province in which the encomienda is located, to present his claim and the title he holds for the Indians, in order that a new title to the encomienda for the corresponding generation may be sent to him. If he does not appear, or send a legal representative on his behalf, within six months, he shall lose the benefits that the repartimiento has yielded from the time it was vacated until he appears to request the new title. The benefits shall be for Us, and shall be collected for Us.

Law 13: That the profits from an encomienda may be given over as a fund or dowry.

The Emperor Don Carlos and the Governing Empress in Valladolid on the 3rd of February of 1537. Don Felipe II on the 7th of May of 1574.

When an Encomendero wishes for his son or daughter to be married, and wishes to give profits from the encomienda as a fund or dowry, and for these or other purposes, he gives up profits from the encomienda, the son or the daughter shall then benefit from those profits. The Viceroy and Governors may allow that such a permission to the children may begin during the life of their fathers, so that they may benefit from the encomienda during the life of their fathers, for this presents no problem. We command that this shall be done by way of permission, without giving title to the encomienda to either the son or daughter until their father dies.

Law 14: That in New Spain the encomiendas which were given prior to 1607 be extended to a third and fourth generation.

The Emperor Don Carlos and the Governing Princess in Valladolid on the 3rd of June of 1555. Don Felipe II and the Governing Princess in Valladolid on the 11th of June of 1559, on the 7th of June of 1576, and on the 28th of February of 1588. Don Felipe III in Madrid on the 4th of March of 1607.

Consideration having been given to the just reasons that led to reward and remuneration for the services rendered by the first discoverers and settlers in the Provinces of New Spain, they were granted repartimientos and encomiendas for first and second generation. And, because these were coming to an end by being incorporated under Our Royal Crown,

because the children and descendants were becoming very poor, and because the memory of the services of their forefathers had declined, it was ordered to allow a third generation, and afterward they were allowed a fourth generation. We command: that these orders shall be observed and fulfilled with respect to the encomiendas that were given prior to 1607, as provided in the following law; and that, upon conclusion of the fourth generation, they shall become vacated and be incorporated under Our Royal Crown.

Law 15: That income from Indians given in New Spain after 1607 be for two generations.

Don Felipe IIII in Madrid on the 25th of
November of 1637.

Some meritorious persons, to whom We have granted income from Indians that have been vacated in New Spain after 1607, and who have stated that they have the right of such income in conformity with the law of succession, have claimed that it is understood to be for more than two generations. In order to avoid misunderstanding, and so that the procedure will be very clear in such an important matter, We declare and it is Our will: that it shall be understood that it is to be for only two generations, as is the case in the other Provinces of the Indies, in accordance with the law of succession, and as long as there is not or has not been any express indication in the decrees or resolutions from Our consultations, and in cédulas, that have been or are sent after 1607, with regard to how many generations are to be enjoyed by the person or persons who have been granted or are granted vacated Indians in New Spain; that this law shall thus be precisely and inviolably observed, fulfilled and executed, as long as We do not command otherwise; and

that this shall be expressly stated and declared in all cédulas that are sent after the date of this law.

Law 16: That in the third and fourth generations, the same form of succession be observed as in the second generation.

Don Felipe II and the Governing Princess
in Valladolid on the 9th of June of 1559.

We command that, with regard to the fact that the oldest son or oldest daughter, and their children, who inherit Indians in the third or fourth generation, will be obligated to support their mother, brothers and sisters, that which is provided and ordered for the first and second generations shall be observed.

Law 17: That the wife succeed her husband, and that the husband succeed his wife, in the third and fourth generations in the same way as in the second generation.

Don Felipe II on the 9th of February
of 1561.

It was questioned in New Spain whether, after the passing of two generations according to the law of succession, and if there are no children, the wife would succeed her husband, and the husband would succeed his wife, and whether collateral relatives would succeed. We declare that collateral relatives are never to inherit. And We command that in the cases of husbands succeeding their wives and wives succeeding their husbands, it shall be allowed in New Spain in the way provided for by the laws of this Title.

Law 18: That upon the death of a discoverer who receives extra compensation from the Strongbox, it be distributed among his children, or given as aid to his wife.

The Emperor Don Carlos and the Governing
Prince in Castellón de Ampurias on the
24th of October of 1548. (Chapter 4).

If in New Spain We have granted to discoverers, who do not have Indians under encomienda, any allowance from Our Royal Strongbox, which in turn is income from towns that are incorporated under Our Royal Crown, and if the discoverer dies, leaving children or a wife, We command: that whatever was given to the father shall be given from Our Royal Strongbox for distribution among his sons and daughters; and that, if there are no children, a suitable amount shall be given to his wife for her support.

Law 19: That if allowances are given to clerics and nuns who are secular, they receive the allowances as long as they live.

Don Felipe II on the 24th of November
of 1568.

Extra compensation designated for discoverers' children and wives who are secular is to be given for their lives: to the sons even though they may be clerics, and to the daughters and wives even though they may be Religious.

Notes

In a Consultation on March 5, 1611, concerning the request of a resident of Mexico that 150 ducats, which he had as an allowance, be transferred to his oldest son in order that he might establish himself in life, His Majesty replied: "Let it be so, and the Council shall take charge of these successions so that they may not be made without considerable reason." Session 35.

In a Consultation on September 22, 1637, concerning the generations of encomiendas which His Majesty has granted and has been granting in

New Spain since 1607, it was the opinion of the Council: that His Majesty should declare that as long as he does not precisely indicate the number of generations for an encomienda in His Decrees, only two generations should be considered to apply in all Provinces of the Indies, in conformity with the law of succession; and that with such a declaration, the matter will be settled beyond doubt, with respect to the encomiendas from now on as well as the encomiendas that have been given since 1607. His Majesty chose to reply: "This is obvious," He added that: "whenever I have given a specified income from Indians under encomienda, it is not to be considered beneficial unless it is given along with the responsibilities of the encomienda, as it is in the case of the encomiendas in Castile. Since I have not awarded any grant with this condition, everything that is in excess has been granted through misunderstanding." Auto 103.

By decree of the Cámara, issued on March 15, 1649, it was resolved that no request for benefits shall be accepted which calls for extension of the generations of an encomienda, for any future succession to it, or for any other favor that may be related to such a request, and this resolution shall be effective for both Secretarías. Auto 150.

Title 12: Concerning Personal Services¹²¹

Law 1: That prohibits the old form of personal service, and permits it under certain conditions.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 22nd of February of 1549. Don Felipe II in Monzón de Aragón on the 2nd of December of 1563. Don Felipe III in Valladolid

on the 24th of November of 1601. Ordinance 1 concerning personal service.

It is realized that the repartimiento, which was introduced at the time of the discovery of the Indies for the purpose of personal services, is to some extent harmful and prejudicial to the Indians, and because it has been misrepresented by some Ministers, the Indians have been and are harassed and troubled in their occupations and activities; and with respect to this, through many Cédulas, Letters, and Provisions, issued by Our predecessor Lord Kings, everything has been ordered and commanded that might be conducive to their good treatment and preservation, and elimination of personal services, because these services exhaust them and exterminate them, particularly in view of their absence from their homes and properties, without their having time left to be instructed in Our Holy Catholic Faith, and to attend to their enterprises, sustenance, and preservation of themselves, their wives, and children.

It has been noted: how much excess there has been in this respect, which is prejudicial to their natural freedom; that it was also important for their own welfare and increase in numbers not to permit them to be idle and indolent, as they are naturally inclined to be; and that through their industry, labor, and enterprise, we should achieve general and individual welfare in those Provinces. Therefore, We order and command that the repartimentos which formerly were composed of Indian men and women for work in the fields, construction, tending of livestock, services in homes, and for any other services, shall come to an end. And because occupation of the Indians for these services is indispensable, and because those Provinces, or the Indians who have to live from their work, would be unable to support themselves if there were no one to

assist and to be occupied in those activities, We order that in all Our Indies the practice shall be introduced and observed whereby: the Indians shall be brought and shall go to the squares and customary public places for this purpose, where at their greater convenience they can go without harassment or harm, other than obligating them to go for work, in order that the Spaniards, or Our Ministers, Prelates, Religious, Priests, Doctrineros, Hospitals, or Indians, and any other congregations, and persons of all conditions and ranks, may deal with them and secure their services by the day or by the week, and in order that the Indians may go with whomever they wish, and for whatever period of time they wish, without anyone being able to take them or detain them against their will; vagrant and idle Spaniards, and Mestizos, Negroes, Mulattoes, and free Zambaygos, who have no other occupation or duty, shall be compelled in the same way, in order that they may all work and be occupied in public service with suitable and fair wages; and the Viceroys and Governors within their respective districts shall, with the necessary moderation and justification, determine these wages and meals that are to be given to them, according to the nature of the work, occupation, climate, scarcity or productivity of the land, and with the conditions that the work of the Indians shall not be excessive or more than their physical and personal condition can endure, and that they shall be paid directly by hand, as they wish to be and as is better for them. All of the above-mentioned shall be very carefully fulfilled and shall thus be observed, with no exception other than that which has been resolved with respect to the Mitayos wherever and however expressly permitted by the laws of this Recopilación.

Law 2: That Indian laborers or tradesmen not be forced to serve for wages.

Don Felipe II and the Governing Princess in Valladolid on the 28th of November of 1558.

Indians must not be forced to serve for wages by reason of the laws which order that they shall be occupied and that they shall work in their lands, except in the case of idlers who are not occupied with jobs or drafted for work in the fields, and those who can and must serve under mita and repartimiento. Even those who are idle, and do not understand the above-mentioned requirement, shall not be forced to leave their places, except to go to Spanish towns where there are no Indians available to work; and in this case, they shall be paid their fair wages, as determined by Our Justicias.

Law 3: That Indians be paid for the time they work, including travel to and from their work, and may travel ten leagues away.

Don Felipe II in Monzón de Aragón on the 2nd of December of 1563. See Law 3, Title 15, of this Book.

Indians who are hired for work in the fields, in town buildings, and in other ways necessary for the public welfare, must be paid wages that are fair: for the amount of time they work; and for their travel to and from work until they return to their homes. They may travel, and they shall travel, as far as ten leagues away, and no further.

Law 4: That Indians may work voluntarily, and that they be paid effectively.

The Emperor Don Carlos and the Governing Empress in Medina del Campo on the 20th of March of 1532. Don Felipe II in the Escorial on the 25th of February of 1567.

If Indians wish to work in buildings: they shall not be prevented; they shall be paid for their work in the amount they fairly deserve; it shall not be allowed that they be harassed if they do not come to work voluntarily; and they shall really be paid, and effectively, so that there may be no fraud.

Law 5: That Indians may not be sentenced to personal service for private persons.

Don Felipe III in Aranjuez on the 26th of May of 1609.
(Chapter 27). See Law 10, Title 8, Book 7.

We command that Indians may not be sentenced for their crimes by having to render any personal service to private persons. If there is any such service being rendered, it shall be stopped, and the penalty shall be commuted to another penalty that appears to be just.

Law 6: That the Indians cannot be burdened against their will, or even if they are willing.

The Emperor Don Carlos in Toledo on the 4th of December of 1528. The Governing Kings of Bohemia in Valladolid on the 1st of June of 1549. Don Felipe III (Ordinance 3 concerning personal service) in 1601, and in Aranjuez on the 26th of May of 1609.

Indians may not be burdened with any kind of load that they might carry on their backs, publicly or secretly, by any person in any situation, district or place, regardless of his condition, rank, or ecclesiastical or secular status, even with the willingness of the Indians, or by the authority or order of the Caciques, with or without pay, or even though it may be with license from the Viceroy, Audiencias, or Governors, whom We command not to give, permit or conceal such a license, under penalty of suspension from office for exactly four years. And We sentence anyone who burdens the Indians, with or without license, to a

penalty of one thousand pesos, to be given in third parts: to Our Cámara, the Judge and the Denouncer; and as for those who are unable to pay that penalty, being persons of humble condition and circumstances, the sentence shall be commuted to public shame and exile from the Indies. We charge the Ecclesiastical Prelates that they shall pay particular attention to that which pertains to their jurisdiction, so that their subordinates may not transgress in this matter.

Law 7: That when the Indians carry necessary supplies to places on their backs, it is personal service.

The Emperor Don Carlos and the Governing Prince in Valladolid on the 23rd of September of 1552.

We declare that when the Indians carry on their backs, food and supplies, such as firewood, corn, hens, and other things, for the cities, it is personal service, and it is the heaviest among those services that hinder their conversion, multiplication, and health. We command that no Indians shall be burdened, or required to carry food, supplies, or anything else, by way of service to the cities or to other places, and that in this connection, as in the others, prohibition of personal services shall be observed.

Law 8: That supplies and other things not be carried to mines, or to other places, by Indians carrying loads.

The Emperor Don Carlos in Toledo on the 4th of December of 1558. The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 1st of June of 1549.

Encomenderos and other persons are engaged in: providing supplies from the towns of their encomiendas or residences; having them sold to mines and other places; and having Indians carry them on their backs. We command that no one shall dare to bring Indians carrying loads to mines,

or to any other place, in order to sell supplies, or anything else, or for any purpose. Penalty for violation will be that: for the first offense, he shall pay one hundred pesos de oro for each Indian; for the second offense, three hundred pesos de oro; and for the third offense, he shall have lost and shall lose his possessions. All of the above shall be given in third parts, to Our Cámara, the Judge, and the Denouncer. If he is an Encomendero, he shall be deprived of the Indians whom he has under encomienda. If he is a common man, who can otherwise be sentenced by law, he shall be given one hundred lashes in public, and he shall lose all the supplies he had, one-fourth for the Denouncer, and the rest for Our Cámara.

Law 9: That the Indians not be burdened, except in the cases and under the conditions provided by this law.

Don Felipe III in Aranjuez on the 26th of May of 1609. However pressing the need may be, and although the load may be light and the Indians may be willing, the Indians are not to be loaded as carriers, because this would give rise to greater excesses. We only give Our permission for them to carry the bed of the Doctrinero or Corregidor when they move from one place to another, with the restriction: that the load shall be distributed among several Indians, more or less, depending on the weight and kind of load, and if the journey is short, and in proportion to the strength and stamina of the Indians; and also that they shall be paid the wages that the Viceroys and Governors determine according to their just evaluation. Likewise, in a Province where this is permitted, there should be no large or small animals or other pack animals, because if there are, the Indians must not serve in these capacities.

This also applies to any Province where it is tolerated as there are no large animals, small pack animals, or other beasts of burden, because if there are, the Indians are not to serve in these capacities; and therefore because it is Our will that this shall not be done through excuse, We command, that in districts where there is a lack of beasts of burden and small pack animals, they shall be introduced, so that therefore such work being done by the Indians may cease.

Law 10: That where there are no open roads, or pack animals, this law be applied.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 1st of June of 1549. Don Felipe II in Toledo on the 14th of June of 1579.

Where using of Indians to carry burdens is indispensable, due to lack of open roads and pack animals, the Audiencias, Governors, and Justicias, in accordance with the law, seeing that there is a need, and that there is no other way to fill the need, shall determine and make known how many Indians are to be made available, the weight of their loads, the roads to be used, the distances, and the wages they are to receive. And in this way, they shall grant license for the Indians to carry loads, and in no other way. No person shall dare to take the Indians on his own authority, as penalties will be imposed on those who violate this prohibition.

Law 11: That Indians may be hired to unload ships in the seaports, and to carry the goods one-half league.

The Emperor Don Carlos in Valladolid (Ordinance 6).

We order that neither supplies or any other cargo may be carried by Indians from seaports to towns. We do permit that, if at their own will

they wish to be hired in the ports just to unload the ships and to carry the cargo inland, they may do so, but for a distance no greater than one-half league. We order the penalties that are set for violation of this prohibition.

Law 12: That action be taken against Ministers who have Indians carry burdens, or who take away their properties or wives.

Don Felipe II in Lisbon on the 27th of May of 1582.

Viceroy, Presidents and Oidores are exhorted to look after the Indians, and not allow that they be made to carry burdens; and, in order to provide an example to others, they shall severely punish Corregidores, Alcaldes Mayores and other Ministers who, in their districts, have had the Indians carry burdens, or have taken their wives and properties away from them. This is with the warning that, if they do not comply with this, they will be held responsible for the offense and harm that result from their neglect and nonfulfillment of what has been ordered in favor of the Indians. The punishment will be equal to the crime, and to the hardships that result.

Law 13: That no Mestizo who is not a resident, or legitimate son of a resident, may have Indians carry loads in cases where it is otherwise permitted.

The Emperor Don Carlos and the Governing Kings of Bohemia in Lisbon.

In those cases where it is permitted to use Indians as carriers, no Mestizo who is not a resident or legitimate son of a resident shall be given this permission; nor may he be allowed to use Indians as carriers, even though the places do not have open roads or pack animals. If he

does, he shall incur penalty for violation of the prohibition, even though the Indians say that they are doing it voluntarily, and even if it is true that they want to do it and ask to do it, and that such is the custom in the Province.

Law 14: That in the cases permitted, Indians may not be used as carriers until they are eighteen years of age.

The Emperor Don Carlos and the Governing Empress
in Valladolid on the 26th of February of 1538.

Permission to use Indians as carriers at times and on occasions specified by these laws is to be understood and to be applied only in case the Indian has reached the age of eighteen years.

Law 15: Where it is necessary to use Indians as carriers, the load be not heavier than two arrobas.

The Emperor Don Carlos in Monzón on the 13th of September
of 1533.

The loads that the Indians may carry, in the cases permitted, are not to exceed the weight of two arrobas, including that which they carry for their own subsistence, unless in the opinion of the Justicias, according to the condition of the road and other circumstances, this weight should be lightened or may be somewhat increased.

Law 16: That Negroes and Mulattoes not have Indians in their Service.

Don Felipe II in San Lorenzo on the 14th of June of 1589.
See Law 7, Title 5, Book 7.

We order and command that no Negro or Mulatto may have Yanaconas or any other Indians in his service. If they have any, the Justicias shall not allow it, and the Indians shall be taken from them and set free.

Law 17: That if there is a cause or reason contrary to that which has been ordered, the Ministers inform the King.

The Emperor Don Carlos and the Governing Prince in Valladolid on the 17th of October of 1544. Don Felipe II in Madrid on the 13th of November of 1563, and on the 11th of November of 1566.

We command: that all that has been ordered concerning cessation of personal service shall be observed and fulfilled; and that the Indians, as free persons exempt from personal service, may personally do what they wish to do, without hindrance. If there is any cause or reason to the contrary: Our Royal Ministers shall send Us a report concerning what they think should be done; and meanwhile, they shall observe that which is contained in the laws of this Book, so that there may be no impedance in their free-will, as regulated by law.

Law 18: That the Corregidores not give orders for Indians, but that the Caciques attend to carrying of goods, and that they allot the Indians.

Don Felipe IIII in Madrid on the 18th of May of 1640.

Some Corregidores and Tenientes have introduced the practice of sending orders to allot Indians to traders and others who transport, collecting for each Indian ten pesos for each trip, as though they were tariffs; the Indian is given two reales a day for his work, along with the obligation of paying for any losses that occur along the way, and for which he is held responsible; and the losses are excessively evaluated at the will of those in charge. And, because with this practice the Indians are obstructed in their natural freedom, they fail to do their planting, they do not live with their wives, and they suffer other

serious hardships, finding themselves obligated to repeat trips at times when they have barely returned from their first trips, resulting in deaths and illnesses of many of them, We order the Corregidores and Tenientes: that they shall not make these allotments; that they shall release and return the Indians freely to the Caciques, in order that they may make the allotments in cases that are permitted, and in order that the ten pesos, more or less, that they have collected may be given to the Indians that are hired, or may be applied to their taxes; and that no Indian shall be obligated to make more than one trip each year, nor shall it be allowed to provide these Indians, except under very necessary circumstances. We command: that if the Corregidores, Tenientes, or Caciques collect any amount in this way, they shall be held responsible in their residencias, and they shall be sentenced to restitution of the amount and to other penalties corresponding to the transgression; and that the Viceroy and Presidents shall take special care to execute these penalties, and to employ other juridical means that may provide remedy and corrective measures with regard to the Caciques.

Law 19: That Indians may be allotted under mita for work in the fields, raising of livestock, and work in the mines.

Don Felipe III in Aranjuez on the 26th of May of 1609.

With regard to general and public utility, We permit assigning repartimientos of the Indians that are needed for work in the fields, raising of livestock, and service in mining of gold, silver, mercury, and emeralds; and with reference to wool and cotton workshops, Law 2, Title 26 of Book 4 shall be observed. Realizing the aversion that the Indians have with regard to work, but that they must be compelled, this matter

shall be attended to with such care that assignment of repartimientos may not be introduced where the Indians have not yet been accustomed to them. However, if in the course of time and change of customs, the disposition of the Indians improves, and other lazy ones are converted to working, so that the problem referred to comes to an end in all the districts of every government, or in any one of them, and if there are a sufficient number of natives, or others, who may voluntarily come for day labor, and employment in these public services, and if slaves are introduced into these services, the repartimientos will continue to be eliminated in every place where they can be. Or there may be increases or decreases in the number of Indians who, more or less, or at the time of their assignment to repartimientos, may be sufficient for maintenance of the mines, work in the fields, growing of produce, and raising of livestock, as necessary for the accommodation and support of the land. Everything else in this range is for the interest and benefit of private persons, and in no way should repartimientos in these cases be allowed, even though many Spaniards may come to request mitas and repartimientos, under the pretext that new mines are being discovered, or that old mines are being renewed, family properties are being cultivated, and livestock is being raised.

Law 20: That assignment of Indians in repartimientos be entrusted to the ordinary Justicias, that the Comisarios be persons of satisfaction, and that they bring the Indians, treating them well, and not at the expense of the Indians.

Don Felipe II in San Lorenzo on the 28th of August of 1591.
Don Felipe III in "Personal Service." See Law 33, Title 12,
Book 6, and Law 28, Title 1, Book 7.

If assignments of repartimientos of Indians cannot be avoided, this authority shall be entrusted to the ordinary Justicias, in order that they shall assign them in conformity with the distribution determined by the Government. There shall be no Jueces Repartidores. Any Minister, who commits an excess with respect to the number of Indians or the time of the repartimiento, shall incur a penalty of deprivation of his office of Justicia, and one thousand pesos to be given in thirds to the Community Strongbox of the Indians of the town concerned, to the Judge, and to the Denouncer. We order that the Caudillos and Comisarios who are sent to bring the Indians to their service in the mines, and to other labors, shall be men of much kindness, very pious, and of great satisfaction, so that they may bring the Indians with the consideration, good treatment, and disposition that are necessary. They shall make these trips as comfortable as possible, arranging each day's journey so that, if possible, the Indians may not fail to hear Mass on any holy day. If the Caudillos or Comisarios are to receive salary for this occupation, it shall not be collected in any way from the Indians, and in this matter, the Government shall make the decision and appropriate arrangements, either by charging the cost to those who are to benefit from the use and work of the mines and repartimientos, or by some other means preferred by the Government. We command that the Caudillos shall be very severely punished, if they mistreat the Indians during the trip.

Law 21: That the mita in Peru not exceed one-seventh (of the population), and if it appears necessary to increase the number, that the Viceroy inform Us.

Don Felipe III in "Personal Service."

For the mita and ordinary repartimiento in Peru, no more than a seventh part of the actual residents may be taken from each town, with the understanding that not as much consideration should be given to greater or lesser mining of silver and gold as should be given to the preservation of the Indians, without whose work and diligence the working and labor of the mines would terminate. If it still appears necessary to increase the number of Indians from each vicinity, the effect of this law shall be suspended, and the Viceroy shall inform Us with an explanation of the reasons that compel him.

Law 22: That in New Spain repartimientos of Indians not exceed four percent.

Don Felipe III in Madrid on the 15th of December of 1614.
We order that in New Spain repartimientos of Indians for mitas shall not exceed four percent, as they have been so far.

Law 23: That no greater number for mita be taken from the Indians than their share.

Don Felipe III in Lisbon on the 24th of August of 1619,
and in Madrid on the 12th of December of 1619.
No greater number for mita shall be allotted from the Indians than their share, or what they should afford. Our Ministers, taking much care to look after the welfare of the Indians, and seeing to it that they are not oppressed, shall not, therefore, admit claims or efforts from anyone who asks for Indians for his own convenience and personal purposes. To act contrary to this is an excess, it is prejudicial to parties concerned, and it is against all good government. The Fiscales of Our Royal Audiencias must be very attentive to this matter, and they must request compliance with this law, as We command.

Law 24: That the Indians return to their towns, having completed the period of their mita.

Don Felipe III in Madrid on the 16th of April of 1618.

Our Viceroy, Audiencias, and Justicias shall take particular care to see to it that, once the time is completed during which the Indians have to serve under mita or repartimiento, they shall all be returned, without fail, to their homes and settlements. They shall consider as guilty of serious crime and theft, anyone: who detains the Indians for a longer time than they are obligated to work; or who diverts them to other services so that they are unable to return to their towns; or who takes from them any kind of advantage or service, even though it is given freely. Because this crime is so serious, We command Our Viceroy, Audiencias, and Justicias, that they shall proceed with investigation and punishment according to law, relieving Our conscience with their proceedings, for they will be the authors of very great wrongs if they do not avoid them.

Law 25: That the Indians not be in a second mita until the time of the first mita is ended.

Don Felipe III in Aranjuez on the 26th of May of 1609.

Those who manage the governing of the Indians will determine the period of time for mitas and repartimientos in such a way that the Indians may not be returned to work a second time until all the numbers of Indians for the first draft have served and it may be necessary to make allotments for the next draft. And the Indians shall be given sufficient time to attend to their property, farms, and community enterprises. Particular attention must be given to these matters, determining the days, and

making necessary arrangements, in order that, by this means, the land may be abundant with its products.

Law 26: That the Indians not be detained for excessive periods, and that the Viceroys, Presidents, and Governors determine the hours.

Don Felipe III in Aranjuez, and in Madrid on the 12th of December of 1619.

No Indian, under mita or voluntary, shall be detained at work longer than he should be under mita, or longer than he has agreed to, because, as a result of these forceful detentions, the Indians suffer innumerable hardships. This is one of the abuses that must be prevented with great care and for which punishment must be given. The Indians must be favored and precautions must be taken with regard for their freedom, so that they may not suffer violence or constraint. We command the Viceroys, Presidents, or Governors: that they shall determine the hours that the Indians are to be occupied each day, with consideration given to their limited energy and weak constitution, and to the custom generally observed in all well-regulated governments; and that they shall impose necessary penalties. Our Fiscales shall officially, and upon solicitation of parties, request that this law be observed and fulfilled.

Law 27: That Caciques be punished if they do not properly select the Indians to serve under mita.

Don Felipe III in Aranjuez on the 26th of May of 1609.

We have learned that in the repartimiento for service under mita, made up by selecting from districts and groups of the towns, the Caciques commit excesses, sending some Indians who were already in the first draft to serve again under mita in the second draft. We command that those who transgress in this way shall be very severely punished.

Law 28: That the Indians under mita be well-treated and helped, that supplies be sold to them at reasonable prices, and that storehouses be established wherever advisable.

Don Felipe III in Aranjuez.

Effort shall always be made to help the Indians who are under mitas or repartimientos, by the most effective means possible, as provided by law, generally, and with particular precautions. The Justicias shall see to it that supplies and personal clothing are given to the Indians at reasonable prices, and they shall severely punish those persons who obstruct this. In the mining locations, storehouses shall be established, where all income and all kinds of useful things that come to Our Strong-boxes from encomiendas that are incorporated under Our Royal Crown, shall be taken and collected, in order that buyers may not resell them to the Indians. In each Province whatever seems necessary in this respect shall be ordered; the Indians shall have these things at the reasonable prices referred to; and they shall be distributed only among those who are serving under mita and in work where they are assigned, and without any significant expense to Us. If any problem arises in connection with the practice of having the storehouses, Our Ministers will give Us a complete account of the matter, with their opinions.

Law 29: That Indians not be sent under repartimiento for planting, or for other purposes, to different climates.

Don Felipe II in San Lorenzo on the 20th of July of 1588. Don Felipe III in San Lorenzo.

The Indians whom We permit to be drafted under repartimientos shall not be from Provinces that are far away, or from climates that are markedly different from the climate of the place where they are to work, thus

observing the general rule expressed in Law 13, Title 1 of this Book. If this is unavoidable, whatever is within the realm of possibility and circumstances will be done, selecting those who are closest to the mines and occupations, providing that the help and benefit to some may not cause harm and hardship to others. Whenever advisable, a general visit of inspection can be made within each Province: requesting a report from the Corregidores concerning the mines, farms, and herds of livestock that are in their districts, and the sections, settlements, and distances; and requesting from the Caciques an accurate list of the Indians who are under their control and whom they have assigned at the time to the occupations referred to, this being so that allotments of Indians may be made with all possible uniformity. We command that the Indians of the town of Tepexi de la Seda shall be reserved to go with corn for planting in the Valle de San Pablo, as has been ordered by the Government of New Spain.

Law 30: That no one use Indians other than those under repartimiento, and that they use them for the work designated.

Don Felipe III in San Lorenzo.

No miner, farm owner, cattle owner, or any other person of any rank or importance, may use Indians under mita or repartimiento if they are not the Indians that are allotted to him. He shall not employ them or divert them for uses, occupations or work, other than what are designated for his mita or repartimiento. He who violates this law shall incur a penalty of one thousand pesos, to be given in third parts, to the Community Strongbox of the town, the Judge, and the Denouncer; and he shall not be allotted, nor may he be allotted, Indians for any purpose.

Law 31: That more Indians or longer terms of service not be requested by any illegal means or favors.

Don Felipe III in San Lorenzo.

Anyone who, because of his greed or need, or in violation of the law, and by way of arrangements and favors, as has been the practice, asks the Corregidores, ordinary Justicias, or Caciques for Indians, for Indians to be given to him for a longer term of service, or in greater numbers, shall incur, for the first offense: a penalty of four hundred ducats; and exile from his place of residence for two years. For the second offense: he shall lose his mine, or mill, farm, ranch, and any other property where he has committed the offense; and he shall be exiled from the Indies. And, he who is responsible for the property shall, for the first offense, be exiled ten leagues away, and he may not be engaged anymore in the same occupation; and for the second offense, he shall be condemned to four years aboard the galleys. Justicias who are remiss in investigation and punishment in these cases shall incur penalty of five hundred ducats, and deprivation of office. We apply financial penalties to be given in third parts: to the Community Strongbox of the town, the Judge, and the Denouncer.

Law 32: That Indians under Seigniorship be treated the same as the other Indians with respect to personal services.

Don Felipe II in Toledo on the 25th of May of 1596.

In all matters that do not pertain to jurisdiction, Indians under Seigniorship in all the Indies must comply, the same as all the other Indians of Our towns, with respect to community contributions for: salaries of Protectors and Defenders; compensation to Notaries for attesting to

their legal affairs (as Notaries cannot collect fees); and personal services which they are obligated to render. This is to be in accordance with what is resolved, without any difference in this or in other respects pertaining to their preservation and increase. The Viceroys and Audiencias will see to it that this law is observed.

Law 33: That in places of private Seigniorship repartimientos be drafted in accordance with this law.

Don Felipe IIII in Madrid on the 22nd of November of 1631.
Don Carlos II and the Governing Queen. See Law 20 of this Title.

If there are Indians from a private Seigniorship in towns that are under the jurisdiction of Corregidores or Alcaldes Mayores, and if the principal town of the district is under Royal Patrimony, the Viceroy shall designate a Corregidor of Royal Patrimony to draft repartimientos, even though they may include some Indians of the Seigniorship. If the principal town of the district is under a Seigniorship, the Viceroy shall entrust the Corregidor of the Seigniorship to draft repartimientos, even if some town of Our Corregimiento or Alcaldía Mayor is included. This practice shall be observed generally in all such cases.

Law 34: That Indians of Canta and Guamantanga not be occupied with removing and carrying snow.

Don Felipe III in Madrid on the 30th of March of 1609.

Because of the harm received by the Indians under repartimiento in Canta and Guamantanga, by removing and carrying snow on their backs from the mountains to the inn at Acaybamba for the City of The Kings, We command that the Corregidor in Canta shall not allow them to remove and carry

snow, even though they do so voluntarily. Penalty for violation of this law, will be deprivation of office, and fifteen hundred pesos de oro for Our Cámara and Fisco. And We command that the Viceroy of Peru and the Royal Audiencia in Lima shall execute this penalty without remiss or exemption.

Law 35: That Indians of the town of Bogotá assist in digging a moat and keeping it in repair.

Don Felipe VIII in Madrid on the 23rd of November of 1628. After the depopulation of the town of Bogotá, the principal one of the towns of the New Kingdom, wherefrom it derived its name, it was found to be necessary: to settle it; to rebuild it; and to dig a moat and construct an enclosure that would prevent intrusion by livestock and that would protect the houses and fields from damage. And, in consideration of the public welfare, We command: that on the first day of each month, or on the following day if the first day is a holiday, all Indians of that town, along with their wives, children and families, shall participate equally in rebuilding and restoring everything that is demolished, and if necessary, they shall deepen and clean the moat and restore the enclosure, so that it will always be maintained; that the Corregidores shall see to it that this is precisely and faithfully observed and fulfilled, by compelling the Indians of that town, even though they may live and reside in the City of Santa Fé, to personally work on this project, restoration and repair, and by assigning deputized Ministers, with the warning, that in case of any fault or negligence, they will be held responsible in their residencias; and that this shall be made known publicly every day in the new year during the time of the election of

Alcaldes, where all the Indians are together, and where Indian Ministers may be assigned to this project.

Law 36: That the residents of Rió de la Hacha not use the Indians from the City of The Kings against their will.

Don Felipe II in San Lorenzo on the 24th of May of 1578.
The residents of Rió de la Hacha seize the Indians by force from the Valley of Upar, who belong to Lima, to work on their ranches and other properties; and because of this the Indians suffer much harm and considerable hardship which should not be permitted. We command: that they shall not seize or take away the Indians against their will; and that the Justicias shall not allow it.

Law 37: That the Indians in Venezuela not be taken to Cumaná, la Margarita, or anywhere else, to serve as rowers.

Don Felipe II in the Pardo on the 6th of March of 1590.
We order that the Indians in the Province of Venezuela shall not be taken to the Island of Margarita, or to the Province of Cumaná, or anywhere else, to serve as rowers on pirogues.

Law 38: That the Indians in Venezuela not go to work in the fields, or to mine gold, at a further distance than allowed.

Don Felipe II on the 24th of November of 1587.
It shall not be allowed that the Indians in Venezuela go further than six leagues from their homes to work in the fields, or further than twelve leagues to mine gold, because experience has shown that this endangers their health and their lives.

Law 39: That the Indians in Yucar not be compelled to go away to work.

Don Felipe III in Los Carvajales on the 22nd of February
of 1601.

Consideration has been given to the situation that: few Indians have remained in the town of Yucar in New Spain; they have much work of their own to which they must attend; they supply most of the food for the neighboring areas, the City of Mexico, the City of Los Angeles, and Our Ships, and it works a hardship on their persons and properties when they are away from their native surroundings. We therefore command that: they shall not be compelled to leave against their will to do any work for Spaniards near that town; they do as they wish in this respect, without any other specific obligation; and likewise, they shall be free to go to the Villa de Carrion, and to the Valley of Atrisco, as has been declared in decrees obtained from Our Royal Audiencia of Mexico, which decrees shall be observed and implemented.

Law 40: That with regard to service and repartimientos of the Indians in the Philippines, this law be observed.

Don Felipe III in Aranjuez on the 26th of May of 1609.

We command that in the Philippine Islands Indians shall not be drafted under repartimiento in any number for private or public enterprises. The Chinese and Japanese who are available in the City of Manila are to be hired, as they are being hired at the present time, for lumbering, navigation of barges, and other industries of this kind, which are important to Our Royal Treasury and to the public welfare. It is understood that there is probably a sufficient number of such workers who may do this work for a fair wage, and from among them those who wish to be hired will be hired, freeing the concurrent number of Indians in case the

repartimiento may not be entirely withdrawn as ordered. If the Chinese and Japanese do not wish to work, or if they are unable to fulfill the need for these public industries, the Governor and Captain-General will take whatever steps he considers necessary, in order that the Indians may come freely and voluntarily to help with this work. However, if there is a lack of voluntary workers, we allow that some Indians may be compelled to work in these occupations under the following conditions, and in no other way:

That this repartimiento shall not be drafted except for strong and indispensable reasons, because neither a greater benefit to Our Royal Treasury, or any increase in the public welfare, is sufficient justification for such an odious undertaking. Any consideration that is unnecessary for the preservation of the Indians is less important than their freedom;

That the number of Indians under repartimiento shall be reduced, as voluntary workers, Indians or others, are brought in;

That they shall not be brought from distant places, and climates notably different from the climates of the places where they live; that in selecting them, there shall be no partiality; and that with consideration to the distance of their travel, the burden of their work, and the effect of other circumstances involving more or less hardship, they shall be equitably apportioned and treated, in order that they may all share in providing these services, which vary in their difficulty, and without the welfare and relief of some resulting in aggravation to the others;

That the Governor shall determine the hours that they are to work each day, bearing in mind their limited strength and physical weakness;

That they shall be given the full wages they deserve for their work, and that they shall be paid by hand each day or at the end of the week, as they wish;

That repartimientos shall not be drafted at times when planting and harvesting might be hindered or prevented, or on other occasions and times when the Indians have to attend to their own work and care of their farms, because it is Our intention that their crops may not be lost, and that the Indians may attend to everything. With this in mind, We order the Governor that at the beginning of the year he shall make arrangements ahead for the industries and other activities of Our service in which the Indians are to be occupied, so that, as time permits, these things may be accommodated without the Indians suffering any considerable hardship to their properties or to their persons; and

That, considering the poor arrangement and design of the barges, and that many Indians die rowing in them, by navigating without cover and exposed to inclement weather, We command that these vessels shall be improved, and that they shall be built in such a way that the Indians can handle the oars without risk to their health and life.

In all the aforementioned respects pertaining to the preservation and increase of the Indians, We command the Governor that he shall proceed accordingly with the care and vigilance that We entrust to him, and that he shall render punishment severely and as an example for any bad treatment that the Indians receive from their Caciques or from the Spaniards, especially if they are Our Ministers, in which latter case it is appropriate to execute more severe penalties. We entreat and leave to the responsibility of the Secular Prelates and to the Heads of the

Provincial Religious Orders, that they shall apply the same attention to punishment for offenses of this nature committed by the Doctrineros and other Ecclesiastical persons. And We desire that any negligence on the part of the Governors, Justicias, and Ministers, who are partly or entirely responsible for observance and fulfillment of this law, shall be subject to review in their residencia.

Law 41: That personal service of the Tanores in the Philippines be stopped, as well as their contribution of fish.

Don Felipe III in Madrid on the 17th of March of 1608. Every week the Religious, Ministers of the Doctrine, and Alcaldes Mayores, of the Philippine Islands have a repartimiento of Indians, whom they call Tanores, who serve them without pay, and also the towns supply them with fish which they need to have on Fridays; and this is contrary to reason and justice. We command that the Governor and Captain-General, the Audiencia, and any of Our other Justicias shall stop and not allow this personal service and contribution, so that under no circumstance may the towns make this contribution. We consider those towns to be free of any such obligation that they have or may have.

Law 42: That Indians not be drafted under mita for any Ministers of Justice, Inquisitors, Accountants, Royal Officers, or others.

Don Felipe III in Aranjuez on the 26th of May of 1609. Don Felipe IIII in Madrid on the 3rd of July of 1627, and on the 22nd of December of 1635. See Law 19, Title 3 of this Book.

We command that Indians shall not be given under mita or repartimiento to Viceroyes, Presidents, Oidores, Alcaldes, Fiscales, Inquisitors, Accountants, Officers of Our Royal Treasury, Ministers of Our Audiencias, Governors, Corregidores, Alcaldes Mayores or their Tenientes, or to anyone

else who is prohibited by justice, laws, or cédulas, from dealing and trading. Nor shall they be given permission to raise livestock, or to plant wheat, corn, or other crops, even though they ask to do so for the precise and necessary support of their homes, and in this respect, the law shall be observed.

Law 43: That Indians not be allotted to Priests or Doctrineros, and that this law be observed with respect to the Tanores of the Philippines.

Don Felipe III in Madrid on the 17th of March of 1608,
and in Ventosilla on the 26th of June of 1610.

Indian men and women are allotted to Priests of the towns so that they may cook for them, make cornbread, and fish for them at times of abstinence or Lent. Because this is harmful and prejudicial to the Indians, We order that such a repartimiento for these or any other purposes shall not be permitted, and that laws concerning personal services shall be observed. The same laws shall be executed with respect to the Tanores Indians of the Philippines who are being allotted to the Ministers of Doctrine and to the Alcaldes Mayores for the same purposes. We consider those Indians to be free of any obligation that they have or may have, in accordance with Law 41 of this Title. And We command that in case they use the Indians, they shall pay them for their work and occupation, without forcing them.

Law 44: That repartimientos of Indians be given to Doctrineros in Paraguay, Tucumán, and Río de la Plata, and that Indians not be taken away from their towns.

Don Felipe III in Madrid on the 10th of October
of 1618.

In Paraguay, Tucumán, and Río de la Plata there shall be given to each Doctrinero one or two boys, between seven and fourteen years of age, to serve him, and one Indian under mita and one old Indian woman for cooking, all of whom must be provided with food and clothing; and if he requires anything else from them, he must pay them as anyone else does. The Doctrinero may not remove them from one town to another, even though they are very young, or he will not be given further benefit.

Law 45: That Indians be given under mita to the Convents in Paraguay, Tucumán, and Río de la Plata.

Don Felipe III in Madrid.

Because Indians are being given under mita in the Provinces of Paraguay, Tucumán, and Río de la Plata, the religious orders shall be accommodated. To each Convent there shall be assigned as many Indians as there are Religious, but not to exceed eight.

Law 46: That salaries for executors who obtain Indians be moderate, and that the Caciques not be subjected to monetary fines.

Don Felipe III in Aranjuez on the 26th of May of 1609.

Payment to Alguaciles and Receptores, who go to request Indians from their Caciques or Superiors, shall be moderate and shall be charged against those to whom the Indians are allotted. The Caciques shall not be fined monetarily in any amount for their customary oversights in sending Indians to serve under mita or repartimiento, because We have been informed that the poor Indians pay for these fines later; therefore, the monetary fines will be commuted to physical punishment.

Law 47: That taxes not be commuted to personal service, and that the Indians pay taxes on an equal basis.

Don Felipe III in Aranjuez.

We order that neither the Encomenderos, Judges, nor Comisarios of taxes shall commute or arrange for the tribute from the Indians to be paid in personal service, nor shall the Viceroy allow this. Law 24, Title 5 of this Book shall be observed. So much hardship and clamor on the part of the Indians has resulted from this abuse, that when it was completely allowed, it had to be changed in this respect. To be effective, the aforementioned will see to it: that the Indians who are paying tribute in this way shall be taxed; and that what they have to pay may be received from them in the form of products that they have and harvest on their lands, or in the form of money as determined, and so as to be of greater relief and convenience for the Indians. Any Encomendero who violates anything that has been resolved and ordered in this connection shall lose his encomienda; and the Minister who is guilty of this offense, or who conceals it, shall be deprived of his office. We are informed that the Indians in Chucuito pay tribute of eighteen pesos, and that the others who stay home pay only four pesos, which usually results in great hardship and injustice. Although discrimination would come to an end if the Caciques were to provide Indians on an equal basis to be under repartimiento, and providing they were not to continue sending Indians to serve under mita who have already served under another, precaution in this matter, which can be exercised with greater certainty and firmness, is not to be left to the inclination of the Caciques. And thus We command the Viceroy: that they shall immediately equalize taxes so that some

Indians may not pay more than others, because the gain that results in this way may still be to the benefit of those who are actually occupied in Potosí, since in this case they will go more willingly to work in their jobs.

Law 48: That all Ministers and Prelates execute what has been ordered concerning service of the Indians.

Don Felipe III in Aranjuez.

Because the Cédulas concerning personal service of the Indians have been poorly observed, some persons have raised question as to legality. We hold Our Viceroy, Presidents, Audiencias, Governors, and other Justicias, very much responsible for the punishment of transgressors in this matter. If the Caciques, miners, and owners of farms, services, and other enterprises, observe the carelessness and negligence shown in these matters thus far, the laws, to remedy abuses and crimes, that might be strengthened and renewed, will not be effective, and the poor and miserable Indians would not have the protection and security that We wish them to have. Because this is one of the most important points, We command and again charge the aforementioned officials: that, in complying precisely and diligently with provisions and orders of these laws, which We entrust to their care, they shall pay particular attention to those persons who are responsible for and who manage the Indians; and that if they find any violation against freedom and good treatment of the Indians, they shall render punishment as an example, without disregarding any of the laws and penalties that are in force. And We charge the Archbishops, Bishops, and Heads of Religious Orders: that they shall punish Doctrineros and other Ecclesiastics who mistreat the Indians by harassment or injustices; and

that they report to Us frequently in the Council of the Indies concerning the care given to compliance with and execution of this law. We likewise order and command all Our Ministers and residents in the Indies.

Law 49: That a clause prohibiting personal service be included in titles to encomiendas.

Don Felipe II in 1568. Don Felipe III in Lerma on the 10th of November of 1612.

Among the clauses that must be contained in titles to encomiendas, in accordance with Laws 49 and 50, Title 8 of this Book, it is Our will, and We command: that a clause be included to the effect that there shall be no personal service by Indians.

Notes

See Law 11, Title 1, Book 7.

The Alcaydes and Jailers shall not use Indians. Law 9, Title 6, Book 7.

The Indians may be sentenced to personal service in Convents and for the public welfare. Law 10, Title 8, Book 7.

Title 13: Concerning Service in Farms, Vineyards, Olive Plantations, Workshops, Mills, Pearl Fisheries, Inns, Pack Trains, Wagon Trains, Homes, Livestock, and Rowing ¹²²

Law 1: That mitas and repartimientos important to the public welfare be continued.

Don Felipe III in Aranjuez on the 26th of May of 1609.
(At the beginning and in Chapters 8, 9, and 15).

Our Council of the Indies has considered how inadvisable it would be to terminate some of the repartimientos on farms, ranches, and other public works and occupations, in which the Indians are concerned, which are basic to the preservation of those Kingdoms and Provinces, and to which everyone is obligated. And, considering that if the Indians were freed from these repartimientos, they would refuse the work and benefit of these occupations because of their natural inclination toward an idle and easy life, We have had to make this obligation more justified and tolerable so that the Indians may not live under notable oppression and as slaves. Because it is necessary to prohibit other repartimientos that are not directed as much to the public welfare as they are to the private enterprises and facilities of the Spaniards, We command that these mitas and repartimientos shall be continued in the cases and under the limitations specified by the laws of this Title and of the other Titles concerning personal services.

Law 2: That if the Indians are not moderate with respect to the amount of their wages, the Justicias determine the wages.

The Emperor Don Carlos and the Governing Kings of Bohemia in Valladolid on the 22nd of February of 1549. The Emperor Don Carlos and the Governing Prince on the 5th of June of 1552. The Governing Princess in Valladolid on the 21st of January of 1559. Don Felipe III (Ordinance 24 concerning personal service) in 1601. Don Carlos III and the Governing Queen.

Wages that the Indians should earn shall be as they wish, and no rate shall be set. If in some places the Indians ask for such excessive amounts that they may exceed a fair and reasonable evaluation, and if

for that reason there is a stoppage of those mines, farming enterprises, and other public and private enterprises permitted for their own welfare and employment, the Viceroy, Audiencias, and Governors, after making inquiries of well-informed persons, shall make a determination, in consideration of the times, hours, scarcities, and work, and in such a way that the Indians, mines, enterprises, and properties may not be subject to hardship. These wages shall be paid to them by hand each day or each week, according to the wish of the Indians.

Law 3: Allowance of repartimientos for inns, pack trains, and wagon trains if they are indispensable.

Don Felipe III in Aranjuez on the 26th of May of 1609. Chapter 3.

Because repartimientos for inns, pack trains, and wagon trains cannot be dispensed with without great inconvenience, We allow that they may be continued with the understanding: that Indian women may not go to the inns unless they are accompanied by their husbands, parents, or brothers, in order to avoid offenses against God Our Lord; and that the Indians who are engaged in these occupations are given full compensation for their services, regulated according to law and to the circumstances in each Province. The Governors will order that the passage and travel of the pack trains and wagon trains shall be divided into three or four journeys, more or less, as most suitable, so that the Indians may not be absent from their homes so long and may be able to better attend to the preservation of their lives and properties. The wages they earn will be adjusted in such a way that they may be fully paid for their work and for the service of the pack trains and wagon trains.

Law 4: That the Indians in the inns provide bread, wine, meat, and corn.

Don Felipe II in El Campillo on the 19th of October of 1595, and in Aranjuez on the 2nd of March of 1596.

We command: that the Indians shall not be forced to render personal service in the inns to travelers, nor to give pack animals; that they shall comply by providing travelers with bread, wine, and meat, and by providing corn for their animals; and that the Corregidores shall be particularly careful to comply with this, by keeping it in mind, and so that no wrong may be suffered by the Indians. Otherwise, We will command that a remedy be imposed as a strong example.

Law 5: That Indians in the inns not give anything without being paid.

Don Felipe II in Monzón de Aragón on the 29th of November of 1563.

As for the Spaniards, servants, and friends who come to the inns, where they come to eat or sleep, the Indians shall not give them anything, either lodging, or any food, or feed for their animals, unless they are paid the fair price and value. The Audiencias and Justicias shall not allow the Indians to be wronged or harassed; and they shall rigorously punish those who violate this law.

Law 6: That Indians not be drafted for coca plantations, vineyards, and olive plantations.

Don Felipe III. (Ordinance 8 of 1601, and on the 26th of May of 1609. Chapter 24.)

Indians shall not be drafted for planting, growing, and harvesting of coca, and the laws in this matter shall be very precisely observed. Nor shall the Indians be drafted for cultivation in vineyards and olive plantations, because of the considerable difficulties that have been experienced in such repartimientos.

Law 7: That wages not be paid to any Indian in the form of wine, chicha, honey, or yerba.

Don Felipe III in Aranjuez on the 26th of May of 1609,
and in Madrid on the 10th of October of 1618.

Wages shall not be paid in the form of wine, chicha, honey, or yerba from Paraguay, to the Indians who engage in the work and occupation of vineyards and in any orro (perhaps misspelling of "otro" meaning "other" work). All that is paid to them in these forms shall be considered lost, and the Indian shall not receive them as payment. If any Spaniard tries to give them as payment, he shall incur a penalty of twenty pesos for each occasion, because it is Our will that payment shall be in the form of money.

Law 8: That Indians not serve in workshops or in sugar mills.

Don Felipe II in Madrid on the 23rd of December of 1595.
Don Felipe III (Ordinance concerning personal service) in 1601. Don Carlos II and the Governing Queen.

In no Province or in any part of the Indies may the Indians work in workshops, having to do with textiles, wool, silk or cotton, in sugar mills and plantations, or in any other similar occupation, even though the Spaniards may have the workshops jointly with the Indians. The Spaniards shall operate workshops with Negroes, or another kind of service, and not with Indians, either forced or voluntary. In the case

of the Indians, they shall not use: force; persuasion, with or without pay; intervention and consent of the Caciques; authority from the Justicia; or any other means. We do permit that, if the Indians have workshops among themselves, without the involvement, partnership or participation of a Spaniard of any status, condition, or rank, they may help one another. We order and command the Justicias: that they may not sentence Indians, nor shall they sentence them, to serve in workshops or mills as penalty for any crime; and that they shall release and set free those who are sentenced to workshops in this or in any other way, commuting their penalty to another arbitrary penalty. The Viceroy, Presidents, and Oidores of Our Royal Audiencias shall have this order executed without remiss. The Judges and Justicias who violate this order shall be sentenced to suspension of office for two years and a fine of two hundred ducats for the first offense. The sentence shall be doubled on a second offense. The owners of workshops and mills, who hold Indians, shall be sentenced for their first offense to a fine of two hundred ducats and exile from their localities for one year. For a second offense their sentence shall be doubled. In case they violate the order a third time, in addition to the same sentence, they shall not be given permission to have, nor may they have, a workshop or mill thereafter. Likewise, it is Our will: that if the Viceroy, Presidents, and Oidores, being duly informed, conceal a violation, and fail to render punishment and to provide correction, besides the fact that We will consider Ourselves very much disserved, they will be held responsible in their residencias and on visits of inspection; and that We will be advised concerning the offense so that We may command

appropriate action to be taken according to the law. With regard to all of this, the Oidores Visitadores of the land will take very special care, without pretense or tolerance, to investigate and to render punishment for all the crimes committed in violation of this law, under penalty of a one-year suspension from their offices. This is with the special admonition that Law 10, Title 31 of Book 2 is to be understood and carried out in this way: having the Indians set free, without allowing them to be where they have not been specifically granted; and observing the conditions contained in this law.

Law 9: That wives and children of Indians on ranches not be required to work.

Don Carlos II and the Governing Queen.

We order that wives of Indians on ranches, and children who have not reached the age to pay tribute, shall not be required to do any work. If a boy, of his own will and with the will of his parents, wishes to be a herder, he shall be given two and one-half reales each week, which amounts to ten reales each month, or five pesos each year, to be paid in currency. In addition, he shall be given food and clothing as customary for Indians.

Law 10: That Indian boys may serve voluntarily in workshops.

Don Felipe III in Aranjuez on the 26th of May of 1609.
(Chapter 19.) Don Carlos II and the Governing Queen.

If some Indian boys wish to serve voluntarily in workshops where they may learn the trade, and may acquire skill in simple things, they may be employed in such workshops, with the condition that they may always have complete freedom.

Law 11: That although the Indians may be willing, they not work in fishing for pearls or in sugar mills, but they may work at cutting and hauling of sugar cane.

Don Felipe III in Aranjuez.

That which has been ordered to the effect that it shall not be allowed for Indians to work in sugar plantations and mills, or in fishing for pearls, in accordance with Law 8 of this Title, and Law 31, Title 25, Book 4, shall be inviolably observed, even if the Indians go voluntarily to these occupations, labors, and tasks, because Our experience has been that this work is injurious to their health, and that other difficulties result. Only voluntary work of cutting and hauling sugar cane should be allowed and tolerated, if it appears that in these two occupations the aforementioned results do not occur.

Law 12: Permission for Indians to hire out on jobs, if it is with the consent of the Justicia.

The Emperor Don Carlos and the Governing Prince in Valladolid on the 24th of July of 1548.

We permit that Indians may hire out on jobs, with the understanding: that the Indians, and not their Caciques, may actually receive effective payment; and that the Indians do the work voluntarily, and with the consent of the Justicia. The Spaniards may not hire Indians on their own authority.

Law 13: That Indians may not agree to serve for more than one year.

Don Felipe III in Madrid on the 10th of October of 1618.

The agreement that Indian men or women make to render service may not be for more than the period of one year, for this is appropriate, and it is Our will.

Law 14: Concerning service of married and single Indian women in homes of Spaniards.

Don Felipe III in Madrid.

No married Indian woman may agree to serve in the home of a Spaniard, nor shall she be forced to do so, unless her husband serves in the same home. Nor shall single Indian women serve in the home of a Spaniard, if they wish to remain and reside in their towns. A single Indian woman, who has a father or mother, may not agree to such service against their will.

Law 15: That if an Indian woman gets married while rendering service, she complete the term of her agreement to serve in the same home.

Don Carlos II and the Governing Queen. See Law 58, Title 16 of this Book.

We order that if an Indian woman is serving in some capacity, and if she marries an Indian from another family before expiration of the term of her agreement, she shall complete her term where she is, and her husband shall go there to sleep. And if, after her term of service expires, both she and her husband wish to continue to serve voluntarily in that same home, they may do so, with the understanding that no force may be imposed.

Law 16: That Indians not incur any penalty nor be required to take care of the property and effects of Spaniards.

Don Felipe III in Aranjuez on the 26th of May of 1609. (Chapter 30.)

Indians are held responsible for taking care of properties and effects of Spaniards; and anytime they lose anything or anything is stolen from them, without fault or negligence on their part, they are brought before

Our Justicias and sentenced to pay the costs. We command: that such demands may not be placed against them; and that they shall not incur any civil or criminal penalty in any case of this nature.

Law 17: That the Indian herder not pay for livestock that has been lost, unless this is agreed upon, in which case, commensurate compensation is given to him.

Don Felipe III in Aranjuez.

The Indian who takes care of the livestock has no obligation to pay the livestock owner for the heads of livestock lost during the time of his service, unless a commensurate compensation for this risk is given to him, as determined by the Government. Such a determination is based upon an assessment of the importance and amount of the risk to which the herders are exposed, and according to other circumstances in each Province.

Law 18: That no one transfer to another the Indians whom he has hired.

Don Carlos II and the Governing Queen.

We order that the Indians who have agreed or who have been hired out to serve for a limited time may not be hired out or transferred to other persons for more or less than the time of the obligation. The Encomenderos are prohibited from doing this, and it is Our will that this law shall be observed with regard to Indians under mita.

Law 19: That repartimientos for gardens, buildings, water, wood, and other such occupations, be terminated.

Don Felipe III in Aranjuez. (Chapter 29.)

All repartimientos and services for homes, gardens, buildings, wood, grass, and other similar occupations, that are not voluntary, and that have been brought into domestic use for ecclesiastical and secular Spaniards, shall be terminated, thus observing the prohibition contained in Law 42, Title 12 of this Book, which concerns Ministers referred to therein, and all other Ministers of Justice. Although this may be of some inconvenience for the Spaniards, freedom and preservation of the Indians is of greater importance.

Law 20: That Indian workers may sleep in their homes.

Don Felipe III in Aranjuez.

Freedom shall be given to Indians who work in the fields or in the mines to sleep in their own homes, or in other homes, whether they are under mita, repartimiento, or hired out. As for those who have no such convenience, the owner of the property shall accommodate them with a place where they may sleep under a roof and be protected from the rigors and roughness of storms.

Law 21: That the Indian day-laborers be given health care, attend Mass, not work on holy days, and that they live a Christian life.

Don Felipe III in Aranjuez.

We hold all Our Justicias responsible: for good and careful treatment of Indians who become ill in their occupations and work, whether they are under mita, under repartimiento, or working voluntarily, in such a way that they may receive the help of medicines and necessary comfort, all of which the Justicias will very carefully attend to; and for seeing to it that the day-laborers attend Mass, and not work for the Spaniards on holy days, even though the Spaniards may have Apostolic Bulls and

privileges from His Holiness, because Our Holy Father probably made such concessions in a wrong connection, and even if the miners and farmers say that the Indians do such work voluntarily, for this is never verified, and always presents very great difficulties. The Justicias will see to it that the Indians may live a Christian life, without vices and drunkenness which offend Our Lord.

Law 22: That Indians who serve in homes be given religious instruction, and sustenance, and that they be treated for illness, as ordered.

Don Felipe III in Madrid on the 10th of October of 1618.
In addition to wages and other pay, religious instruction and food, including supper, shall be given to the Indians who work in a home where they are allowed to work, whether under mita or by monthly or yearly employment. Those who receive services from the Indians shall care for them during their illnesses, and bury them if they die. Indians who serve as rowers on the Río de la Plata shall be given provisions for their return trip. We declare that with respect to caring for the Indians during their illnesses and burying those who die, this law shall be observed and enforced in places where there is no hospital, in which case they shall be cared for as necessary.

Law 23: That a sick Indian may leave the home of his master for treatment of his illness.

Don Felipe III in Madrid.

If an Indian who is serving under mita or contract of employment becomes ill and wishes to leave the home of his master for treatment of his illness, he may do so freely, and the master shall be required to release

him and to pay him what he owes him. The Indian shall not be required to complete the term of his contract after he is well.

Law 24: That neither the Justicias, Royal Officers, or other persons, be served by the Indians of the King.

The Emperor Don Carlos and the Governing Prince in Valladolid on the 14th of July of 1548. Don Felipe II in the Bosque de Segovia on the 23rd of July of 1573.

We order Viceroy, Governors, Royal Officers, and all other Ministers of Justice that: they shall not be served, or allow any other person to be served, by Indians who are under Our Royal Crown, either with or without pay; nor shall they make them carry loads of wood; nor shall they enjoy these or any other uses of them--because this befits Our Royal Service, and We will command that provision be made as necessary.

Law 25: That it not be allowed to assign overseers who by agreement receive a quota of the products.

Don Felipe III (concerning personal service) in 1609.

We command Our Governors and Justicias that they shall not allow overseers to be assigned to manage any of the properties that are served by Indians under repartimiento, if there is an agreement whereby a quota of the products is to be for the overseer, because great wrongs have been suffered by the Indians in some Provinces where this custom has been allowed, and it is probable that in order to secure greater profit, the overseer must increase the amount of work to be done by the workers. Those who violate this command shall incur penalties as provided by Law 29, Title 1 of this Book.

Law 26: That Negroes be bought for rowing on the Río de la Magdalena, and that Indians may serve in the interim.

Don Felipe III in Valladolid on the 24th of November of 1601.

Although it is recognized that this presents difficulties, it is indispensable for the present that the Indians continue the work they are doing as rowers on the Río Grande de la Magdalena, in order that there will be no cessation of the commerce among the Provinces of the New Kingdom, nor of the trade of merchandise and other things that are brought from Spain, and in which the Indians are also interested. In order to provide for what is most advisable in this matter, We order: that the President shall arrange for the owners of the canoes to buy Negroes to serve in rowing and navigation; that, as long as there are a sufficient number of Indians, as few of them as possible shall continue to be used; that the Indians may not be compelled by force or against their will; and that the matter shall be dealt with in such a way that the Indians, being impressed by their good treatment, wages, and compensation for their work, may continue in this service, the President seeing to it that the ordinances relating to it are observed. And We command the Oidor Visitador: that in his inspection, he shall begin with the limits and district of the navigation and the towns where the repartimiento is assembled and where the Indians are drafted for rowing; that he shall very carefully take note of everything that happens that is harmful or prejudicial to the Indians; and that he shall seek to provide as much remedy as is possible so that the health of the Indians is not endangered, by reducing excessive labor, and to the end that they

may be preserved and continue their work. After having taken note of what he considers should be done with regard to these matters, the good treatment of the Indians, and payment of their wages, the Oidor Visitador shall make a report to the Audiencia, which will issue the orders that are most necessary, and will promptly advise Us concerning the entire matter.

Title 14: Concerning Service in Cultivation of
Coca and Indigo¹²³

Law 1: That the Indians who work in cultivation of coca be well-treated, and that they not use it for superstitions and witchcraft.

Don Felipe II in Madrid on the 18th of October of 1569.

We are informed that as a result of the custom followed by the Indians of Peru in the use of coca and its cultivation, great difficulties arise, because it is very much a part of their idolatries, ceremonies, and witchcraft, and they imagine that by carrying it in their mouth, it gives them more strength and energy for their work. According to those who are experienced in this matter, this is an illusion of the Devil, and as a result of it, a great number of Indians perish because of the hot, unhealthful places where it is grown and because many of the Indians who go there from cold lands die, and others leave so ill and weak that they cannot recover. Although We have been asked to command that it be prohibited, because We do not wish to deny the Indians this kind of relief for their work even if it is only in their imagination, We order the Viceroy that they see to it that the Indians who are employed

in the cultivation of coca be well-treated in such a way that there is no impairment of their health and that all difficulties come to an end. With regard to the use of coca for superstitions, witchcraft, ceremonies, and other evils and corrupt purposes, We charge the Ecclesiastical Prelates that they be very careful and vigilant in not permitting such uses, not even in the smallest portion, exercising their authority and jurisdiction in this matter, and We charge the Priests and Doctrineros that they seek to learn about and verify these practices, and report them to their superiors.

Law 2: Ordinance concerning Coca.

Don Felipe II in Madrid on the 11th of June of 1573.

Trade in coca which is grown and cultivated in the Provinces of Peru, is one of their greatest trades, and it enriches the Provinces the most because of the considerable amount of silver that is mined as a result of its use. Having understood how necessary it is to remedy some confusion associated with its growth and cultivation, its benefit, and the treatment and service of the Indians, We have decided to order and command as follows.

No person may have a farm that produces more than five hundred baskets of coca with each mita, nor may he grow coca plants with more branches than the Justicias consider sufficient to produce that quota. Fine for violation of this order will be five hundred pesos: half of which We apply to Our Cámara; and the other half to be divided into two parts, one part to be given to the hospital for the Indians who cultivate coca, and the other part to be given in equal amounts to the Judge who

renders sentence and to the Denouncer. This penalty shall not apply to farms of Indians which are designated for payment of taxes and tribute. With regard to coca of the Yanaconas and the Corpas, and the coca that is given as payment to the Indians who are hired for its cultivation, it will always be their choice whether to receive coca or money.

Those who at the time of issuance of this ordinance do not have the five hundred baskets allowed for their mita may not have or add more than what they now have; nor shall they plant any more coca, unless allowed to do so by the Viceroy, and he may not allow any more than the five hundred baskets. Otherwise, the aforementioned fine shall be applied, to be given to Our Cámara, and to the hospital for the Indians.

All owners of coca farms, in addition to providing quarters for the Yanaconas and Corpas Indians to live in, shall provide large quarters with high bedsteads in which the Indians who are hired, and their wives and children, may live and sleep. In case of violation of this order, the same, aforementioned fine will be applied.

Because the land where coca is grown is humid and rainy, and the Indians ordinarily get wet in their work, and they become ill by not changing from their wet clothing, We order: that no Indian may do this work unless he has spare clothing to change to; and that the owner of the coca farm shall take special care that this be provided. For violation of this order, the owner will pay a fine of twenty baskets of coca for each time that he is found to employ an Indian contrary to this order. The fine will be applied as previously indicated.

No person may take the coca from where it is grown and cultivated to the high mountains for transportation to Potosí, by having the Indians

carry it on their backs. Penalty for violation of this order will be five hundred pesos for Our Cámara and also forfeiture of the coca carried. We do allow that the Indians may assist in loading the coca to be carried by pack animals and other beasts of burden.

At the time when the owners of farms hire Indians to work in them, they shall be obligated to give to the Indians as much food each month as the Justicia considers necessary for their sustenance. Any contract that is made otherwise shall be void, and the Justicia shall take special care to ascertain that this obligation is fulfilled.

Because the owners of the coca farms often detain the Indians they have hired for a longer period than agreed upon in the first contract, and for which reason the Indians become ill, We command that no Indian shall be detained longer, even though he is paid for it. Penalty for violation of this command will be five hundred pesos to be applied as previously indicated.

No Indian, even though he wishes to do so, may be hired for more than the period of one mita, which shall include gathering, packing, and supplying the farm with coca. The Justicia shall determine this period of time; and a contract made in any other way shall be void.

In order that Indians who engage in cultivation of coca may be well cared for, the owners of the farms shall have salaried doctors, surgeons, and pharmacists who may come to the hospital; and the Justicia shall attend to distribution of the salary among them on a pro rata basis.

The Justicia shall determine the salary to be given to the Indians who engage in cultivation of coca; and it shall be paid to the Indians themselves, and not to their Caciques.

The Indians who become ill shall not be obligated to provide other Indians to serve for them; nor shall the owners of the farms compel them to do so. Fine for violation of this order will be five hundred pesos to be applied as previously indicated.

Don Felipe II in Toledo on the 23rd of December of 1560, in Monzón de Aragón on the 2nd of December of 1563, and in the Escorial on the 25th of February of 1567.

No Indian shall be forced by the owners of the farms, nor by his Caciques, to engage in cultivation of coca against his will. For violation of this, the fine and its application shall be the same as previously indicated.

On any day when the Indians work in cultivation of coca, they shall not be compelled by the owners or overseers to do any work connected with grass, water, wood, or anything more than cultivation of coca, for which they are hired. This same order shall be observed with respect to their wives and children, and he who violates this order shall incur the same fine to be applied as previously indicated.

No one may sell or buy coca by payment in advance. Fine for violation of this will be five hundred pesos from both the seller and the buyer, to be applied as previously indicated.

Don Felipe II in San Lorenzo on the 6th of April of 1574.

Any person who buys coca from the owners of the farms may not sell or exchange it, except in a mining settlement that is settled. Fine for violation in this case shall be the same as specified in the preceding chapter.

The owners of coca farms and their overseers shall investigate and find out if the women, whom the Indians engaged in cultivation of coca

bring with them, are their own wives, or if they are persons under suspicion; and they shall report these cases to the Justicia and to whomever is responsible for the Doctrina.

One of the things that prevents the Indians, who are engaged in the cultivation of coca, from attending Mass on Sundays and holy days, and from going to their religious instruction, is that the owners and their overseers occupy the Indians on those days with the task of drying coca. They shall not do this, or they shall incur the aforementioned fine and its application. Instead, they shall take special care to have the Indians attend Mass, and go for their religious instruction on such days.

The aforementioned orders shall be observed and fulfilled with regard to coca that is cultivated and grown in the Andes del Cuzco, and wherever else the same reasons and considerations apply.

Law 3: That Indians not work in the cultivation of indigo, even if they do so voluntarily.

Don Felipe II in 1563.

The Spaniards who live in the Province of Guatemala have discovered and have cultivated the leaves of the indigo plant, which the hot land produces in abundance. Because it is a very profitable commodity, and there are no Negroes, they have brought in the Indians to cultivate it and to gather it. Our Royal Audiencia, having understood that this work was very harmful to the Indians, and that they would perish from it within a few years, ordered that the Indians not do this work, even if they wished to do it voluntarily. Because We desire the welfare and preservation of the Indians more than the advantage of their labor,

especially where there is a manifest danger and risk of their lives,
We command that the order issued by the Audiencia shall be observed,
and that the same order shall be observed in the Province of Yucatán.

Title 15: Concerning Service in Mines¹²⁴

Law 1: That Indians may be drafted for mines under the conditions of this law.

Don Felipe II in Madrid on the 10th of January of
1589. (Chapter 46.)

We declare that the Indians may be ordered to go to the mines provided that: there is no change of climate that may be harmful to their health; they may have religious instruction and a Justicia who protects them, supplies with which they can sustain themselves, good pay for their wages, and a hospital where those who become ill may be treated, attended to, and comforted; their work may be moderate; and there shall be a Veedor to be responsible for the above-mentioned conditions. As for the salaries for religious instruction and for the Justicia, they shall be at the expense of the mine operators, because the repartimiento of Indians is for their benefit. The miners shall also pay whatever is necessary for treatment of the Indians who become ill.

Law 2: That Indians may work in the mines if they wish to do so.

The Emperor Don Carlos in Insburg on the 25th of December of 1551. Don Felipe II in the Pardo on the 1st of December of 1573.

We allow that the Indians may voluntarily go to labor, and to work in gold, silver, and mercury mines, if they are paid fair wages. No encomendero shall bring his own Indians. We give permission for Indians from one encomienda to go to work in the mines of other Encomenderos.

Law 3: That Indians under mita and those who work voluntarily be paid, that the Justicias execute this order, and that the mercury of the King be given to the miners at the established price.

Don Felipe II in Madrid on the 24th of January of 1594, in San Lorenzo on the 26th of August of 1595, and in Madrid on the 22nd of February of 1597. Don Felipe III (Ordinance 15 concerning personal service) in 1601, and on the 10th of December of 1618. Don Felipe IV in Madrid on the 13th of January of 1627.

Wages shall be adequate and proportionate to the work of the Indians and according to other circumstances that determine the fair value of things; and the Indians shall be paid for their travel to and from work, as ordered by Law 3, Title 12 of this Book. Their travel shall be computed on the basis of five leagues per day. The Viceroy and Governing Presidents shall apply great diligence and care in order to ease the situation of the mine operators. Considering the great value of mercury, We command that mercury which is sold on Our account shall be given to the mine operators at the price and value as established in Potosí and in the other mining centers. The desired equality and justification will be applied to pay and wages for the Indians, even if for this reason the profit of mine operators, and owners of farms, livestock, and works is lessened. If payment for travel and increase in wages raises the cost so much that it brings ruin to mines, farms, and livestock, at least the equal treatment and pay that is practicable within such limitations will be given to the poor and miserable Indians. Since Indians in workshops are to be voluntary, Law 2, preceding this law, and fair determination of their wages, will be executed, without regard and attention to what We say above about labors. Wages

that are determined for the Indians will be paid to them in reales, and will be paid to them by hand each day, or at the end of the week, as they desire, and in the presence of the Justicia or Protector. Because there are none of Our Ministers near some of the occupations in unpopulated areas, nor persons who come to the defense of the Indians, and this practice and precaution might not be followed, We order all the Justicias of the towns that provide Indians under mita and under repartimiento: that they shall take particular care to inquire by way of public proclamation, or in some other way, as to whether there are any Indians who return from work under repartimiento and who are not paid for their work and occupation; and that, if they find anyone to whom part of his wages is still owed, they shall see to it that he is immediately paid. We command: that no more Indians for any purpose shall be given to the person who violates the provisions of this law in any way; and that the Judge who is remiss or negligent in the execution and fulfillment of this law shall incur deprivation of his office, and shall pay from his personal assets whatever is due to the Indians, and that they are unable to collect from their debtors. Because it is necessary to avoid inequality in the amount of pay which the miners must give to the Indians for their travel to and from work, in view of the fact that some mines are further away than others, We command that repartimientos for all mine operators shall be prorated, with complete equality, according to their operation and responsibility.

Law 4: That Indians not be assigned under mita to persons who are not the owners of mines, mills, and works.

Don Felipe II in Madrid on the 29th of December of 1593, and on the 21st of January of 1594.

In many Provinces of the Indies, Indians are given under mita for mines and other works to persons who do not own such operations. These persons obtain such awards from the Governors and Justicias by means of favors and other illegal means, profiting from the large sums that the owners of mills, mines, and works give them in return for the work of the Indians. Because this is such a grievous kind of slavery for the Indians, and because it is an equally bad precedent for owners of mines, mills, and works, that in no way should it be allowed, We command the Viceroy, Presidents, and Governors, and all other Justicias concerned: that they shall not consent, nor shall they permit, that the Indians under mita for this purpose be given to persons who are not owners of mines, mills, and works, working the mines and grinding ore with their own capital; and that in no case shall Indians be given or assigned to others, nor to persons who are in partnership with owners of mills or mines unless it is truly established that they do have a part, so that in no case, or for any reason or cause, may Indians be given through the hands of a third party. Distribution shall be made equally, according to the condition of the properties of each person. As penalty for violations, the Judges and those who make distribution will be deprived of their offices; and the Viceroy, Presidents, and Audiencias will execute this penalty without remiss. Those who sell the work of the Indians and do not use them for the purpose for which they are allotted, shall lose all their property and be exiled from the Indies; and this penalty shall likewise be executed.

Law 5: That Indians be given under repartimiento to owners and lessees of mines, and that the Indians not be occupied with other work.

Don Felipe III (Ordinance 18 concerning personal service in 1601).

Indians shall not be allotted to anyone who does not own mines in the Cerro de Potosí, or other place, and who does not work the mines under his responsibility at the time, regardless of the quality and condition of the mines. However, We do permit that Indians may be given to those who obtain mines under lease, including Our mines and mines of any other persons or communities, and who actually work and develop the mines.

Indians may be given to these lessees in the same way that they are given to owners of other mines, with consideration and respect for the condition and extent of the mines, and for the duration of the lease, work, and operation. Moreover, We command that those who hold and work their own mines or mines under lease may not be given or allotted more Indians than are necessary, according to the extent and condition of the mines that they have and are actually working and developing, and in order that they may occupy them only in the work and operation of the mines, and not for any other purpose or task. If they do occupy the Indians otherwise, the Indians shall be taken from them and not be given to them again.

Law 6: That the Indians who are assigned under repartimiento to the mines not substitute or pay for those who are absent, or who have escaped or died.

Don Felipe III on the 10th of December of 1618.

Because of the harm and injustice whereby the Indians under mita are held responsible for obligations and payments for those who are absent or who have escaped or died, and because this requires a remedy, We

command that in no case shall it be permitted that, by reason of service or any other reason, the Indians be treated unjustly because some Indians are absent, or have escaped or died. After the Indians have completed the time and obligation of their service, they may return, and they shall return freely and without hindrance, to the vicinity from where they were drafted.

Law 7: That action be taken against the mine operators who receive money from the Indians under mita by excusing the Indians from work.

Don Felipe III in Madrid on the 15th of July of 1620.

Many Indians assigned to work in the mines stop working in them, because the mine operators to whom they are assigned relieve them from their work and collect a certain amount of money from each Indian for the weeks they are relieved; and the mine operators say that they will hire others with that money. Although it is true that some operators do this, it is more often true that they keep the money and there is no one to do the work; and as a result of this lack of conscientiousness and justice, Our Royal fifths are diminished. We command the Viceroy and Audiencias: that they shall take action against those who transgress in this way; and that they shall not only be deprived of their Indians, but that they shall be sentenced to whatever corporal punishment and fines that are considered just. And We command: that this shall be subject to judicial review or residencia of the Corregidor of Potosí, and other mining settlements and towns, if they conceal or consent to such a transgression; and that the Fiscales of Our Royal Audiencias shall pursue these matters and shall request appropriate penalty against those who are guilty.

Law 8: That Indians not be given to poor mines, and that they be allotted only to persons who possess mines or mills.

Don Felipe III in Aranjuez on the 26th of May of 1609. (Chapter 21.)

In assigning repartimientos to mines, particular attention shall be given to the productiveness and quantity of the metals, and to their value and profit, in order that: Indians may not be given to mines that are poor and of little utility; and only those that each mine operator must occupy in mining work may be allotted. In no case shall repartimientos be given to persons who wish to sell them to owners of mines and ore-crushing mills; nor shall Indians be given, except to those who are actually responsible for operating mills and mines that they own or hold under lease. This same law shall be observed with respect to other properties.

Law 9: That Indians and workers in the mines be paid punctually on Saturday evenings.

Don Felipe III (Ordinance 15 concerning personal service) in 1601, and in Aranjuez on the 20th of April of 1608.

We command: that very adequate wages, corresponding to the work and occupation, shall be paid by hand to all the Indians under mita, to those who work voluntarily, and to other persons who in accordance with the law work in the mines, in order that they may have some leisure and rest on Sunday, or everyday as they wish; and that the Ministers shall take special care with regard to their health, to their spiritual and temporal accommodation, and to very good treatment of those who are ill.

Law 10: That religious instruction be given to Indians and slaves who work in the mines.

The Emperor Don Carlos in Toledo on the 4th of December of 1528. Don Carlos II and the Governing Queen.

Clerics or Religious, who may administer the Holy Sacraments and who may teach the Christian Doctrine, shall be provided for the Indians and slaves who work in the mines; those who operate the mines shall pay their stipends; and the Diocesan Prelate, observing the Patronage in its purpose and practice, shall see to it that the Indians and slaves may attend Mass on Sundays and holy days, and that they may assemble for religious instruction.

Law 11: That mines not be worked in dangerous places, and that the Indians be induced to work in mines voluntarily.

Don Felipe III in Aranjuez on the 26th of May of 1609.
(Chapter 18.)

Mines shall not be worked in places that are dangerous to the health and life of the Indians. Those who may be occupied in mining of mercury shall be assigned to their occupations in such a way that they share equally in the occupations that are more or less arduous. Effort will be made for them to go voluntarily to their work, by allowing them some privileges and according them all other conveniences on a proportionate basis. In case these motivations are not enough to persuade and attract them to the work and labor: the required number of Indians will be assigned as ordered; and their wages will be increased to such an amount that, besides what is necessary for their daily sustenance, they may obtain enough income to also pay their tributes to their Encomenderos, unless they already deserve even more for their work, in which case their work will be commensurate to their pay.

Law 12: That mines not be drained by Indians, even if they volunteer.

Don Felipe III (Ordinances 23 and 26 concerning personal service).

The work that the Indians suffer from in draining mines is very considerable, and illnesses result from its continuation. Because it is Our will that they shall be relieved from such work as much as possible, We order that the mines shall not be drained by Indians, even if they wish to do so of their own will, but that this work shall be done by Negroes, or by some other kind of person. We hold the Viceroy's responsible for this, and We command that they shall take special care to provide and order that this law be observed and fulfilled to the extent that is possible and necessary for the greatest benefit, security, and safety, and with less harassment of the Indians, and in such a way that the operation and work of the mines may not come to an end because of the aforementioned situation.

Law 13: That the Indians who go to the mines of Las Laxas be given salary, sustenance, and pay for travel to and from the mines, in accordance with this law.

Don Felipe IV in Madrid on the 18th of December of 1630. The Indians in the New Kingdom of Granada, who go to the City and Province of Tunja to work in the mines of Las Laxas, shall be given the corn that is necessary, in addition to the ration (ad mud) that is given to them each week, on the basis of one and one-half pesos for one fanega. For their travel to the mines they shall be paid four tomines, and they shall be paid the same amount for their return travel. The

Alcalde Mayor of the mines shall take great care that the Indians are not wronged.

Law 14: That granos not be collected, as they have been, from the Indians who work in the mines.

Don Felipe III in Madrid on the 10th of December of 1618.

When the mining settlement of Potosí was established, it was ordered that the Indians pay so many granos each day, and this was deducted from their salary, to be paid to the Alcalde Mayor of the mines, the Veedores, the Protector, the Judge in charge of collection, other Ministers, and to the hospital. As this practice has continued, causing resentment among the Indians, and because We realize the wrong they suffer in this way, We consider it well to command that this exaction and collection shall be discontinued. And We order that neither for these purposes nor for any other purpose shall any amount be taken or deducted from the salary of the Indians of Potosí or of any other mining settlement. Penalty for violation of this order will be: restitution of seven times the amount; and that action be taken against those who commit this violation or who serve as go-betweens, to the end that the most exemplary and appropriate penalties will be imposed.

Law 15: That the Indians under mita from Potosí serve in the mines without being occupied in anything else.

Don Felipe II in Toledo on the 11th of August of 1596.

The Viceroy of Peru will order: that one-third of the total mita of Indians shall be necessarily and scrupulously occupied in the labor and operation of the mines and mills of the Cerro de Potosí; that these

Indians may not neglect that labor and operation, nor be occupied in any other kind of activity; that the remaining two-thirds of the Indians shall be hired out freely, and at their own will, as long as they do not leave the Cerro; and that there may not be, nor shall there be, a monopoly of the Indians in any way. We command that this law shall be heeded and observed.

Law 16: That the general repartimientos of Indians for Potosí be equitably allotted to owners of mines and mills.

Don Felipe III in Madrid on the 18th of March of 1618.

In the general repartimientos that are given to owners of mines and mills of the Cerro de Potosí, there has generally not been the justification that is necessary, because: a great number of Indians from good communities and towns contributing to the repartimiento are assigned to some; and just a few Indians from towns that have a shortage of Indians, and are unable to meet the quota, are assigned to others. Although this matter, being so serious, serves as warning, and calls for great care and consideration, and although it is one of the matters for which we hold the Viceroy particularly responsible, because of the wrongs that result from inequity of repartimientos, giving Indians to persons who do not have mines and who by corrupt practice sell the Indians to owners of mines and mills, besides being unjust, is a matter of much doubt. We therefore command the Viceroy, with regard to repartimientos under mita for work in the Cerro de Potosí: that they shall distribute the Indians equitably, giving them to owners of mines and mills, according to the condition of their properties; that they shall do so without allowing or granting any favor, intercession, negotiation,

interest, or profit, to any party; and that no Indian shall be allotted to anyone who does not truly hold and develop his operations in the Cerro. We hold the Viceroys responsible to their conscience with regard to this command. If the Viceroys act to the contrary, We shall consider Ourselves disserved, and they will be subject to very serious judicial inquiry in their residencias. We order that they shall send Us a very detailed report with reference to the dispatches they send each year concerning the above, including: the mills that are being operated, who operates them, what Indians are allotted, to which persons, and for what reasons.

Law 17: That settlements of Indians be established in the district of Potosí for service to the mines.

Don Felipe III in Aranjuez on the 26th of May of 1609.
(Chapter 4:) See Law 20, Title 3, of this Book.

In order that the obligation to serve under mitas and repartimientos may become easier and more tolerable for the Indians, and in order to avoid bringing them from far away, We order and command the Viceroys of Peru, or the Ministers responsible for the government of that Kingdom: that they shall attend to settling the necessary Indians in the district of the mines of Potosí and other operations of that kind that are permitted, so that it will be possible to use the Indians who voluntarily choose to settle in these vicinities, whether they are those who are at and presently come to the Cerro de Potosí and other mining centers, or others; that they will have a list made of these Indians; that in case the Indians do not wish to settle, or are not enough, they will select those needed, and will in the meantime continue the mitas as

much as needed, bearing in mind that the mitas may continue to decrease as the settlements increase; that in the selection of Indians that they select for the settlements, they will proceed with the fairness and justification that the matter requires, and without partiality; that they will give lands that are available for occupation in each vicinity to all the Indians who of their own will are being reduced to these settlements, in order that the newly congregated Indians may work the lands and cultivate them, with the condition that they may not rent or sell the lands to Spaniards; and that they will choose the most healthful and convenient sites where it will be suitable to establish hospitals--and for this We hold them responsible in order that those who are ill may be cared for. The Indians will be attracted to this vicinity by providing all of them with the conveniences and advantages that appear to be suitable. Among other privileges, they will be exempted from other repartimientos, and they will not enter into service in the mines until after a period of six years, which period will begin from the day they go to live in the place that the Viceroy indicates. From the beginning of these settlements, a register will be kept of the Indians who are there, so that if anyone abandons the new home, he may be returned and punished; and the Caciques will be notified and ordered, under threat of severe penalty, that they are not to admit into their towns the Indians, native or from elsewhere, who have been settled in the new settlements. The Viceroys or Ministers will charge the Corregidores that they are to attend with great vigilance to the observance and execution of this Our law, and to that which has been generally ordered by Law 10,

Title 3 of this Book, with the warning that punishment will be rendered for any negligence on their part. And We so order.

Law 18: That Indians in the Cerro de Zaruma and other towns not be allotted to anyone who does not possess a mine or mill that is well-equipped.

Don Felipe II in San Lorenzo on the 17th of October
of 1593.

We command: that the Indians who are under repartimiento for work and operation of the mines of the Cerro de Zaruma, and who are settled there, as well as those who are allotted and come to serve from the Province of Los Paltas, Canaribamba, and other towns, shall be given or assigned under repartimiento only to the owners who have mines or mills in that Cerro that are well-equipped to grind the gold ore that is extracted there; that the Indians shall not be given or assigned to any person who does not possess his own mine and who does not personally attend to the operation and work of the mine and grinding of the ore; and that the Indians shall not be given or assigned to any person who possesses the mine in partnership with owners of mills, unless it is truly evident that he is in partnership. Special care must be taken to see to it that the repartimiento is equitable according to the condition of the property in each case.

Law 19: That the provisions of this law be observed with respect to the Indians who work in the mines of Zaruma.

Don Felipe II in San Lorenzo.

Indians under mita shall work in the operation of the mines at Zaruma from six o'clock in the morning until shortly after ten o'clock, and

from two o'clock until five o'clock in the afternoon, in order that their health may be better protected, and that there will be none of the harms to them which result from not keeping with these hours. The Alcalde Mayor shall enforce this law precisely, and it shall be included as a provision in the Instruction of his residencia. Each Indian shall earn one and one-half tomines of gold for each day's wages, and his work will be limited. His pay shall be given under supervision of the Justicia; and for this no fees or any other advantage shall be required of him. Because the Mulattoes, Mestizos, and Negroes treat the Indians badly, We order: that they shall go separately, or in groups, and not with the Indians; that they shall not have dealings or exchanges to any extent with the Indians; and that they shall not reside or stay in the Indian towns. Penalty for violation of the above shall be lashing, and it shall be rigidly executed. The Alcalde Mayor shall take care that no Indian enter any passage or mine, unless the Alcalde Mayor or the Veedores have seen and examined it to make sure that there is no risk, that it is completely safe, and that it is shored up if necessary; and all this shall be made a matter of written record in the presence of a Notary as witness. Likewise, the Alcalde Mayor and the Justicias shall attend to the repair of bridges on which the Spaniards and natives must necessarily cross back and forth for the work and business of the mines. We prohibit and forbid that Indians be loaded with metal, even if it is a small amount. We command: that all that is taken to the mills for grinding shall be carried by mules and horses; and that no person, whatever his status may be, shall load the Indians with boxes or any other kind of cargo to be carried from the cities of Cuenca, Loja,

or any other place, to the Cerro or other places. Penalty for violation of this command will be forfeiture of the cargo; and the Alcalde Mayor and the Justicia will impose other penalties at their discretion.

Law 20: Concerning the repartimiento of Indians for the mines of Guancavelica.

Don Felipe IV in Madrid on the 18th of February of 1631. Don Carlos II and the Governing Queen.

We order that the repartimiento assigned for service in the mines of Guancavelica shall be continued. If, because of the circumstances of the time, and because of unforeseen occurrences, it appears necessary and urgent to increase the repartimiento from other nearby Provinces, the Viceroy may do so, so that by assigning the repartimiento from among many Indians, the burden of the Indians will be less. We command that with respect to payment of their wages, the laws regarding personal service shall be observed. And to achieve greater relief for the Indians, it is Our will that the Justicias of that district shall condemn to work in the mines the delinquent Mulattoes, Negroes, and Mestizos, who deserve such condemnation for their crimes. The Justicias shall see to it by the most necessary means that they, being introduced to that work, shall attend to it with all certainty and orderliness; and as a result, there will be less Indians under mita. Because in this way it is conducive to the universal welfare and to the preservation of Our Kingdoms, We charge and command the Viceroy, in accordance with the above, that they shall see to it that this law is executed, for We place Our trust in their care and vigilance, from which We shall receive very acceptable and gratifying service.

Law 21: That Indians be settled near the mercury mines, and that they be dealt with favorably.

Don Felipe III (Ordinance concerning personal service)
in 1601.

It has been learned through experience that it is impossible to produce silver without the use of mercury, and therefore how necessary it is to pursue and continue the work and production of the mercury mines. Because this work cannot be accomplished without the industry and labor of the Indians, We command the Viceroy, Presidents, and Governors, that they shall arrange for the Indians to be settled near these mines, in order that when the repartimiento is needed, it shall be drafted from among them. If possible, Indians shall not be brought from other places, and the work shall be made tolerable by distributing it equitably among all of the Indians, in such a way that those who are occupied with extraction of the metal will not always be the same ones. We order that the freedom, good treatment, and pay, that are given to the Indians who work in mines, and in the production of mercury, shall be observed the same as in all other cases.

Notes

That efforts be made to establish Indian towns near mines (Law 10, Title 3 of this Book.)

That the Encomenderos, and the holders of Indians in sequestration or in bond, not put the Indians in mines. (Law 22, Title 9 of this Book.)

Title Sixteen: Concerning the Indians of Chile¹²⁵

Law 1: Prohibition of personal service in Chile.

Don Felipe IV in Madrid on the 17th of July of 1622.

We prohibit personal service of the Indians in the Kingdom of Chile; and We order and command that it shall not occur nor be allowed to occur. We declare that all the titles and rights that the Spaniards have claimed in this connection are null and of no consequence, whether they are claimed: by reason of encomienda, custom, prescription, or protection; or because they are settled on the farms or ranches of the Spaniards; or because they have been accustomed to services, brought up or born in the homes of the Spaniards; or because they had been formerly captured in war, bought or exchanged, or acquired in any other way. All such rights are annulled, and are of no validity or consequence; and all the Indians acquired in peace and in war are to be freed from such personal service.

Law 2: That the Presidents, Audiencia, and Protectors in Chile observe that which has been ordered with regard to good treatment of the Indians.

Don Felipe IV in Madrid. Don Carlos II and the
Governing Queen.

Treatment and support shall be accorded to domestic Indians of the Kingdom of Chile as ordered by Law 20, Title 10 of this Book; and the Presidents, Audiencia, and Protectors shall very precisely observe that law.

Law 3: That the Indians in Chile are subject to encomienda, unless they have special exemption.

Don Felipe IV in Madrid.

We declare that all the free Indians in the Kingdom of Chile are subject to being drafted under encomienda, unless they are specifically exempted. They are ordered to be subject to assessment and payment of tribute as provided by these laws. They must pay tribute as soon as they are eighteen years of age, and not before, even if they are married. They must pay tribute until they attain the age of fifty, at which time they are exempted in accordance with this law.

Law 4: That the Caciques and their oldest sons not pay tribute, nor serve under mita.

Don Felipe IV in Madrid.

That which is ordered by Law 18, Title 5 of this Book, to the effect that the Caciques and their oldest sons are exempt from payment of tribute, and from serving under mita, shall be observed and executed in Chile.

Law 5: That the Indians in Chile, as specified in this law, belong to the Royal Patrimony, and not be subject to encomiendas.

Don Felipe IV in Madrid.

We declare that, through Royal Privilege and promise, all the Indians of Huemira and of the Provinces of Arauco, Tucapel Catiray, and Los Coyunchos, whose lands are on the other side of the Río de la Laxa, even though they have departed from those lands, are not subject to

being drafted under encomienda. Included among these are: all the Indians of Colcura, Coronel, Chibilenco, Laraquete, Chichirinebo, Longonobal, Tablebo, Arauco, Penguertiva, Millarapu, Quiapoquidico, Labayore, and Cebo: all the Tucapeles and Araucanos who are settled in those places; the Indians of the Isla de Santa María, or who have come from there to live in the cities or ranches; all the Indians of Talpellanca, Ileva, Neculhue, and Picul; and the Indians who have been reduced to settlements in Santa Fé, Paylihua, and the other forts at the mouth of the Río Claro, La Laxa, and the Río Viobo. King Don Felipe III, Our Father and Lord, commanded, for just and urgent reasons, that all these Indians be placed under His Royal Patrimony. And We order the Officers of Our Royal Treasury that they shall not hold these Indians subject to being drafted under encomienda; and We nullify any such encomiendas that have been assigned, and all other such encomiendas that might be assigned. We declare that the right to have such encomiendas is abolished.

Law 6: That the Indians in the war, since the beginning of the defensive war, not be subject to draft under encomienda, and that they be placed under the Royal Crown.

Don Felipe IV in Madrid.

We declare that, by Royal Promise, from the date that the defensive war in Chile was declared, all the Indians who came or who come in peace during the war, or who at that time and subsequently are prisoners, are not subject to draft under encomienda. All those Indians are under Our Royal Crown and Royal Patrimony. We nullify all the old encomiendas of

Indians who are engaged in the war at the present time or who have been so engaged since 1614, as well as all the others from the time of their first rebellion. We consider as terminated the right to have such encomiendas.

Law 7: That the Indians who are not subject to draft under encomienda, and who are placed under the Royal Crown, not be assigned under mita nor be hired out.

Don Felipe IV in Madrid.

We order and command: that all the Indians who are at peace on the frontiers, and who are under Our Royal Crown, as well as those who are in the same status hereafter, shall not be subject to draft under encomienda; nor shall they be assigned under mita to private persons or communities; nor shall they be denied the Royal privilege granted to them, whereby they cannot be required to work on the properties of the Spaniards, unless they wish to do so at their own will. The Captains who are in charge of them shall not allow them to neglect Our Royal Service, and they shall distribute the work equally among them. If, at other times, the Indians wish to be hired by the Spaniards, they shall be paid their fair wages in the presence of the Captain, and they may not be paid in wine, as this is a general order.

Law 8: That the General Interpreters be Protectors in Chile without additional salary.

Don Felipe IV in Madrid.

The Protector of the Indians who are from Tucapel, the state of Arauco, and all the other states, and who are at peace, shall be the one who has the responsibility of General Interpreter in Arauco. The Protector of the Catiray and Cuyomohe Indians, the Indians in the forts of the La Laxa and Viobo Rivers, and the messengers or Indians who are at peace in that area, shall be the one who serves as General Interpreter and assists the Governor. No pay, in addition to that which they already receive for their regular duties, shall be given to either of these two Protectors.

Law 9: That the Indians who were taken prisoners, and who have been set free, be subject to encomienda.

Don Felipe IV in Madrid.

All the Indians from the State of Arauco, Tucapel, Catiray, and Chuyunchos, and the other Indians, who were formerly taken prisoner in the offensive war, and who were set free by Royal Cédula, are subject to encomienda, and they do not have the same privilege as the other Indians in the frontiers referred to in the laws of this Title. We only make exception for those who are Caciques. If the Caciques are Christians, We grant them the privilege in order that they may carry out their responsibilities as Caciques. If they are not Christians, We grant them the privilege when they voluntarily become Christians.

Law 10: That the Indians under the Crown be occupied with the activities of the Royal Service in the manner and with the pay as stated by this law.

Don Felipe IV in Madrid.

We order that the Indians under Our Royal Crown, subjects, and vassals, shall be occupied in all moderation with: the activities of Our Royal Service which are related to the defensive war; construction of the forts; keeping the forts in repair; and sawing wood for the boats. We order that they shall be paid for this work from the harvests of wheat that are planted in Our land. They shall be paid a daily wage of not more than one real for each Indian, considering that they are exempt from payment of tribute. Each Indian shall be paid no more than one-half real for the task of carrying business correspondence back and forth for Our Royal Service, considering, among other fair reasons, that the distance from one fort to another is short. Each Indian shall be paid at the rate of eight reales per month for work on boats from the passage of Santa Fé, San Pedro, mouth of La Laxa, Talcamavida, and the Fort of Jesús, considering that all this work is in the Indians' own area. We command: that all the Indians who are engaged and paid in accordance with the law shall be given sustenance in addition to their pay on all the days of their labor and service; and that they shall be paid in such a way that it is attested to by Captain or Cabo of the fort where they are attached, and by the Interpreter who assists them. Those who attest shall specify and attest to the days that the Indian workers have been engaged, and to what their occupations have been. These payments shall not be given for other occupations, such as standing guard, occupying roads, or rendering any punishment that is ordered for their own defense, considering that the Indians themselves are benefitted by these occupations; and they shall only be given the sustenance they need for the days they are engaged in such occupations.

Law 11: That Indians from outside Chile not be drafted under encomienda, nor pay tribute, and that they may be occupied at their own will.

Don Felipe IV in Madrid.

The Indians who have come to the Kingdom of Chile from Perú, Tucumán, or other Provinces, and who are of the age to pay tribute, shall be registered for future consideration. For reasons of justice, they shall not be drafted under encomienda at this time, nor shall they be assessed or pay tribute. Instead, they shall be respected in their freedom, and they shall serve whomever they wish. If they are on ranches or in homes in the cities voluntarily, they shall be paid in the same way as the other Indians, and they may move away whenever they wish. If they are craftsmen, or wish to be so, no one may prevent them from working wherever or however they wish.

Law 12: Concerning the tribute to be paid by the Indians of Santiago, La Concepción, San Bartholomé, and La Serena, and cessation of the salary that the Corregidores in the Indies obtain from goods of the communities and of the Indians.

Don Felipe IV in Madrid. See Law 15 of this Title.

We command that the Indians in the cities of Santiago, La Concepción, San Bartholomé de Gamboa, La Serena, and in all those districts, shall pay tribute of eight and one-half pesos, the peso being equivalent to eight reales. From this tribute, six pesos shall be for the Encomendero, one and one-half pesos for religious instruction, one-half peso for the Protector. It is declared that the amounts that the two Corregidores of La Concepción and San Bartholomé de Gamboa receive from

tributaries of their districts shall be reduced by the amount of the salaries they receive from Us as Captains of their companies; and Our Officers of the Royal Treasury shall comply accordingly, providing explanation in their records. As for the other Corregidores of other cities and districts of Indians, any salary that they have been obtaining up to now from community or Indian assets shall terminate.

Law 13: That the Indians of these four cities have a Protector.

Don Felipe IV in Madrid.

In each of the four cities referred to above, there shall be a Protector with the salary due to him from payment of tributes. Any other salary which the Protectors may have collected up to now from sesmos, wages, or from Indian contributions and goods shall cease.

Law 14: Concerning the tribute to be paid by the Indians from the cities of Mendoza, San Juan, and San Luis de Loyola.

Don Felipe IV in Madrid.

We command that the Indians from the cities of Mendoza, San Juan, and San Luis de Loyola, and from those districts, whether they are absent from or present in their lands, shall pay tribute of eight pesos, the peso being equivalent to eight reales. From this tribute, five and one-half pesos will be for the Encomendero, one and one-half pesos for religious instruction, one-half peso for the Corregidor, and one-half peso for the Protector. Any salary they may have obtained up to now by way of goods from the Indians, sesmos, or from their wages must cease. The Corregidor of these three cities shall visit them every

year, and shall reside in each of them for some time. The Protector shall not reside in the city of Santiago but shall reside in these cities, attending with the Corregidor to the protection of the Indians; and their penalty for not doing this shall be to not give them any salary.

Law 15: Concerning the tribute from the Indians of the city of Castro and Chiloé.

Don Felipe IV in Madrid.

We order that the Indians from the city of Castro and from the islands of Chiloé shall pay tribute of seven pesos and two reales. Five and one-half pesos shall be for the Encomendero, one peso for religious instruction, one-half peso for the Corregidor, and two reales for the Protector. They shall pay this tribute, and no more, wherever they are, even if they are absent from their lands. We declare that if the Corregidor, the Justicia Mayor, or the Cabo, obtains any salary from Us, the amount due to them from the tribute of the Indians shall be accordingly reduced by the amount of such salary. All other provisions of Law 12 of this Title shall be observed.

Law 16: That the Indians under repartimiento not mine gold, and that they be employed in farming and raising of livestock.

Don Felipe IV in Madrid.

Indians under repartimiento in the Kingdom of Chile shall not mine gold, and the obligation to pay quintos (fifths) and sesmos (sixths) shall cease, for just reasons, and in view of the present need to have

Indians for farming and raising of livestock. Those who are available shall help in this way as much as they can and as may be proper without any harm to them, although it is generally prohibited that the Indians pay tribute by way of service; and We permit that all the Indians under encomienda, who according to these laws are assigned under mita for farming and raising of livestock, shall pay their tribute from their wages. For those who are under mita, determination will be made concerning the part that is deducted from their wages for tribute, as this is provided for in Law 37 of this Title.

Law 17: That the Indian who becomes ill at the time of his mita not pay tribute during his illness.

Don Felipe IV in Madrid.

Bearing in mind that the Indians are commanded to pay tribute from their working wages in farming and raising of livestock, it is Our will that if anyone becomes ill at the time of his mita, he shall pay tribute only for the time he has worked in good health. Once this time is finished, he shall be allowed to go free for the remaining time of his assignment under the laws of this Title, in order that he may attend to his own planting.

Law 18: Concerning wages that are to be paid to each Indian in Santiago, La Concepción, San Bartholomé, La Serena and other cities.

Don Felipe IV in Madrid.

The daily wages to be paid to each Indian under repartimiento from the four cities of Santiago, La Concepción, San Bartholomé de Gamboa,

and La Serena, shall be one and one-half reales for each day of service under mita, and their meals shall be provided in addition. For the Indians under repartimiento from the districts of the three cities on the other side of the Cordillera, the daily wage shall be one and one-fourth reales, and their meals shall be provided in addition. For the Indians from the city of Castro, Chiloé, and those districts, the daily wage shall be one and one-fourth reales, but without meals, in view of the fact that food is very scarce among the residents, and the Indians bring their own food. We command that wages shall be paid in current money and by hand, after deduction has been made from wages for payment of tribute.

Law 19: That one-third of the Indians be drafted under mita for farming and raising of livestock.

Don Felipe IV in Madrid.

We order and command: that each year, from among the Indians who are under repartimientos and in the homes and ranches of the residents and Encomenderos, and the other Indians who are ordered to be reduced in accordance with Law 38 of this Title, one-third of all these Indians shall serve under mita for farming and raising of livestock, and shall serve for the entire period of their assignment; and that the other two-thirds of the Indians who pay tribute shall be at rest for that year, no one may require them to be hired against their will, and they shall be free to go as they wish with whomever pays them the most in money or goods, provided that they go to places where Sundays, holy days, obligation to attend Mass, and the Doctrina are observed.

Law 20: Concerning drafting of the Indians.

Don Felipe IV in Madrid.

For the present time, the third of the Indians who serve under mita shall first be assigned to the Encomendero if he needs all of them; or if he does not, a part of that third shall be assigned to him for his farming and raising of livestock. In case the Encomendero does not need all of the Indians, this fact is to be known to the President and to the Governor, and in their absence, to the Corregidor; and according to their judgment, the remaining part of the third of the Indians under mita shall be let out to another Encomendero whose apportionment of Indians is so little that it does not come to three Indians, or they shall be let out to another equally worthy person who lacks service on his property.

Law 21: Concerning declaration of the time that the Indians must serve.

Don Felipe IV in Madrid.

This mita of one-third of the Indians shall serve in farming and raising of livestock for two hundred and seven days each year, which amounts to twenty-three days of work for each of nine months. These days shall be assigned in the way considered to be most advisable by the President and Governor, or by the person who assigns the Indians, to the end that the Indians may have three months each year during which they may rest, plant, and do their harvesting, and that they have the time they must spend going to and from their service under mita. This shall be done in such a way that the third of the Indians under mita shall leave their land in the middle of November, at which time they will have done

their planting and gathered their corn. They shall begin to serve under mita from the first of December until the fifteenth of March, devoting eighty days of work to slaughtering of livestock and harvesting of barley and wheat; and on the sixteenth of March [sic] that third of the Indians shall return to their land to harvest their crops and they will be doing this harvesting until the fifteenth of April. On the sixteenth of April, they shall leave again to serve under mita, and they shall work for one hundred and twenty-seven days, from the twenty-fourth of April until the eighth of October; and on the ninth of October, they shall leave for their land, having completed the harvesting of grapes, planting, plowing, cultivation, and pruning of the vines. If this manner of distribution of the two hundred and seven days is not suitable in some places, the President, the Governor, or by his direction, the Corregidor of each district, will make whatever arrangement that appears to be more suitable to the purpose, so that the distribution of the days shall be observed in such a way that the Indians under mita are to be their own masters for three months of each year in order to attend to their own plantings. The Indians shall not be prevented from access to their land for those three months if they wish to go there; and the period of mita shall be only for the specified two hundred and seven days, and no more. The Encomenderos shall understand: that this is a limited mita for the time of the year as indicated; and that it is not a matter of obtaining people from the Reducciones in order to settle their ranches, and to have authority to command them for the entire year. The Encomenderos shall understand that they are being given this mita for the time that they are still procuring slaves and Indian volunteers. When it is necessary to assign this mita to landholders, as

fitting for the public welfare, it will be like paying the tribute in current money to the resident. We order and command the Corregidor of each district that he shall require and compel the Indians under this mita of one-third that they completely fulfill the two hundred and seven days of the mita, making exception only for the Indians who became ill under mita.

Law 22: That the Indians rest on holy days and that they may hire out on some days.

Don Felipe IV in Madrid.

The Indians of the third part under mita shall rest on Sundays and holy days observed by the Holy Church; and on those days which they are privileged not to observe, they are to be free to hire out, or not to hire out, to anyone, as they wish. If they hire out to other persons, they shall be no more than four leagues away, so that they are not missing on the day set for their service under mita. Also, they shall report where they are going.

Law 23: That the Indians return to their lands upon completion of the time of their mita.

Don Felipe IV in Madrid.

The entire third part of the Indians under mita shall return to their land upon completion of the time of their mita. No Indians shall be required to remain on the property where he came to serve under mita nor shall the President or Governor allow this, for the reason that the Indian Reducciones and towns may not be lessened.

Law 24: That the Indian under mita pay the tribute for himself and two other Indians.

Don Felipe IV in Madrid.

We order and command that each Indian of the tercio (third part under mita) shall be required to pay his entire tribute, and the tribute of two other Indians, from his daily wages during the year he serves under mita. In this way, the one-third of the Indians under mita shall pay from their wages each year the tribute for all the tributary Indians under repartimiento, observing the exceptions and procedures declared in the laws of this Title. In the four cities where the Indians are assessed to pay eight and one-half pesos, each Indian under mita must pay twenty-five and one-half pesos for himself and for two other Indians; and this comes to two hundred and four reales, which he will pay in one hundred and thirty-six days from his daily wage of one and one-half reales. In the three cities of the Province of Cuyo where the Indians are assessed to pay eight pesos, one peso being equivalent to eight reales, each Indian must pay twenty-four pesos for himself and two other Indians. This comes to one hundred and ninety-two reales, which he will pay in one hundred and forty-three [sic]*days from his daily wage of one and one-fourth reales. Three-fourths of one real are left over that will be due to each Indian. In the city of Castro and its district where the Indians are assessed to pay seven pesos and two reales, one peso being equivalent to eight reales, each Indian in the third part under mita must pay twenty-one pesos and six reales for himself and for two other Indians. This comes to one hundred and sixty-four [sic]*reales which he will pay in one hundred and thirty-nine days from his daily wage of one and one-fourth reales.

*
Computation error

Three-fourths of one real are left over that will be due to each Indian of the tercio.

Law 25: That the allocations for the Doctrina, the Justicia, and the Protector, be paid in money.

Don Felipe IV in Madrid.

The resident Encomendero must collect from wages and services the entire tribute from the tribute-paying Indians of all the repartimiento, and in the way expressed by these laws. Because allocations for the Doctrina, the Justicia, and the Protector, are provided for from this tribute, he shall be required to pay them in current money.

Law 26: That, after the days of wages which are for payment of tribute, the Indians serve an additional fifteen days without pay.

Don Felipe IV in Madrid.

After the days of wages which are for payment of tribute, each Indian of the tercio must be required to serve an additional fifteen days without pay. In this regard, We order and command the resident Encomendero, or the person to whom the mita of Indians is committed: that he shall attend to the Indians who are ill at the time they are under mita; and that payment shall be made for the Doctrina, and the Protector for all the Indians of the repartimiento, whether they are in good health or ill, and whether or not the illness continues. We also require each Indian of the tercio, as long as he is healthy, to serve these additional fifteen days without pay, and there is no need to make any allocation to the hospital from the tribute of the Indians, as this

is a matter for the Encomendero. And thus, in the four Cities, in addition to the twenty-five and one-half pesos which each Indian of the tercio must pay for his own tribute, and for the tribute of two other Indians, he will pay twenty-two and one-half reales more, as the tribute for each Indian increases by seven and one-half reales, which makes it come to nine pesos and three and one-half reales. The tribute from the Indians of the other Provinces also increases proportionately, with the fifteen days which they must serve without pay in addition to those days indicated for tribute. For all the other days they serve under mita that are in addition to those days that are necessary for payment of tribute and the fifteen days, until completion of the two hundred and seven days specified for their service under mita, each Indian of the tercio must be paid in current money as determined for their wages. With regard to the Indians of the four cities of Santiago, La Concepción, San Bartholomé de Gamboa, and La Serena, who must serve one hundred and thirty-six days for payment of tribute, and fifteen days more without pay according to this law, totalling one hundred and fifty-one days, each Indian must additionally be paid for fifty-six days at one and one-half reales per day. In the Province of Cuyo where each Indian must serve one hundred and fifty-three days for payment of tribute and fifteen days more without pay, totalling one hundred and sixty-eight days, each Indian must additionally be paid for thirty-nine days at one and one-fourth reales per day. In the city of Castro and its district where each Indian of the tercio must serve one hundred and thirty-nine days for payment of tribute and fifteen days more without pay, totalling one hundred and fifty-four days, each

Indian must additionally be paid for fifty-three days at one and one-fourth reales per day, deductions being made for any malicious and voluntary neglect of work.

Law 27: That, if the President or Governor considers it to be advisable, the two hundred and seven days of mita be distributed among all the Indians.

Don Felipe IV in Madrid.

Where the Indians are so close to the properties of the Encomenderos that they can go to them within one or two days, or less, and if the President or Governor by his authority, or the Corregidor of the district by his authority, considers that it will be more advantageous to the properties and to the Indians for all the Indians under repartimiento to be distributed in such a way that each third part may serve sixty-nine days, he may order this immediately, so that it may be thus observed. The tribute shall be entirely paid to the Encomendero from wages, and the Indians shall be released during the other days of the year for their rest and freedom, without requiring them for other services except those they wish to do at their own will, and in order that they may attend to their own fields as free persons. In this case, the fifteen days specified by Law 31 [sic]* for service without pay, in addition to the tribute, shall be distributed among the three tercios, in such a way that each Indian of the tercio under mita shall serve five days each year, and the nine months of service shall be distributed among the three tercios wherever all three tercios serve each year.

Each tercio shall serve three months which amounts to sixty-nine working

* See Law 26

days; and attention shall be given to what has been ordered with respect to the pay that must be given to each Indian during the days remaining after he has paid his tribute and has served his five days without pay. Thus, in the four cities of Santiago, La Concepción, San Bartolomé de Gamboa, and La Serena, each Indian must serve fifty-one days in order to pay his tribute and to serve the additional five days, and one real will be due to him. And in order to complete his sixty-nine days under mita, he serves eighteen days more for which he is to be paid one and one-half reales per day. In the three cities of the Province of Cuyo where each Indian must serve fifty-six days and will owe one-fourth of one real, after having fulfilled his obligations, he will still have thirteen days to earn wages for himself during the three-month period. In the city of Castro, where each Indian must serve fifty-two days in order to pay his tribute, and then serve five more days, three-fourths of one real will be due to him; and to complete the sixty-nine days, seventeen days remain for him to earn wages for himself at one and one-fourth reales per day, deductions being made for any neglect of work.

Law 28: That the wives, sons, and daughters of Indians not be required to serve under mita.

Don Felipe IV in Madrid.

The wives, sons, and daughters of Indians within the tercio of a mita who go with their husbands, parents, or relatives shall not be required to serve against their will. In case they freely wish to help, they shall be paid whatever is fair.

Law 29: That the boys may tend to livestock, if they and their parents are willing.

Don Felipe IV in Madrid. Don Carlos II and the Governing Queen.

If any sons of Indians wish to serve as herders for a year, and they and their parents are willing, they shall be paid two and one-half reales each week, not being of age to pay tribute, in accordance with Law 9, Title 13 of this Book.

Law 30: Ordering observance in Chile of Law 11, Title 1 of this Book.

Don Felipe IV in Madrid.

Law 11, Title 1 of this Book, by which We order that the Indians may put their sons to work until they are of age to pay tribute, and likewise may have their daughters trained in another occupation, shall also be observed with respect to the Indians in Chile.

Law 31: Concerning the number of Indians that the Encomenderos may use as herders, and the days that the herders are to serve.

Don Felipe IV in Madrid.

With respect to the third part of the Indians under mita that are assigned to the Encomenderos: the Encomendero who has five or less Indians under mita may use one as a herder; he who has ten Indians under mita may use two as herders; he who has fifteen Indians under mita may use three as herders; he who has more than fifteen Indians under mita may use more herders, yet, in the same proportion; and these herders must attend to their task for the entire year. Each one of the herders shall pay his tribute from the same amount of wages as the other

Indians, and also the tribute of two other Indians, being no different from the others who are under tercio de mita; and he must serve fifteen days without pay as the others do. But, for all the remaining days that the herder is to be paid, and these are many more because the herders tend livestock on Sundays and holy days, the herders shall be paid only one-half real per day. Thus, by subtracting from the three hundred and sixty-five days of the year the one hundred and fifty-one days that he must serve as the others do for payment of tribute and for service without pay, he is to be paid for two hundred and fourteen days at one-half real per day, which comes to thirteen pesos and three reales. Deductions are to be made for neglect of work, and the Judge will determine with fairness any instances of neglect of livestock.

Law 32: That the resident whom the Indians under mita serve ensure that payments are made.

Don Felipe IV in Madrid.

If by chance any part of a tercio de mita of Indians is hired out by the Governor, or by the Corregidor on his behalf, because the Encomendero or other person does not need them, payment of the entire tribute to the Encomendero must be assured, so that the Encomendero, the Doctrinero, the Justicia, and the Protector may be paid in current money the amount that is due to them from the Indians given under mita. Deduction of the amount for tribute will be made from the first wages of the Indians. The fifteen days that are to be served without pay will be for the person who has the Indians under mita; it will be up to him to care for the Indians if they become ill; and for the remaining days of their service under mita, he shall pay them as has been ordered.

Law 33: That no one may hire out or give as a favor the Indians under mita.

Don Felipe IV in Madrid.

No Encomendero or any other person may hire out to another person the Indians, or any one of the Indians, who are assigned to him as the third part of a mita. As penalty for violation of this law the first time, he will be deprived of that year of tribute from the mita, and for violation a second time, the Indians will be taken from him. For this would be a reintroduction of personal service, and it would be an unjust exercise of authority over the free Indians, as though they were slaves. Nor may he go so far as to give the Indian as a favor, and without authority from the Justicia and willingness of the Indian, for this would be improper.

Law 34: That the Indians under mita not be engaged in buildings or other enterprises.

Don Felipe IV in Madrid.

We command that the third part of the Indians who are under mita, and who are assigned to farming and raising of livestock, may not be engaged in buildings, other enterprises, or occupations without express permission from the Governor. In such cases, the Governor shall make inquiry to find out if there is another person who may wish to hire those Indians, or some of them, at a higher wage for such work, and the Indians shall be hired at that wage, and no more, that the other person may give for the period of the mita. The amount that that wage exceeds the wage ordinarily specified for farming and other

activities, must be for the Indians, after the tribute is paid to the Encomendero. This hiring of the Indians in other enterprises shall be with the willingness of the Indians; and the Governor will not allow that it be done in another way, nor that there be a further increase.

Law 35: That the Indians, declared to be in the third part under mita, not cross over to this side of the Cordillera in Chile, and that they remain there for farming and raising of livestock.

Don Felipe IV in Madrid.

We order that the third part of the Indians under mita on the other side of the Cordillera of the cities of Mendoza, San Juan, San Luis de Loyola, and their districts, shall not cross over any more to serve under mita on this side of the Cordillera. No Encomendero shall forcibly detain those Indians who are on this side, but they shall allow them to return freely to their lands. Those Indians are not drafted for the tercio (third part) under mita, because where they have their community, they shall serve under mita in farming and raising of livestock. The Encomenderos shall not hire those Indians out to other persons, nor expose them to the danger and labor of crossing the snowbound Cordillera with their wives and children. This law shall be strictly observed, and the first time that the Encomenderos have those Indians, or any one of them, cross over, or force them to do so, so that they cannot return to their lands, they shall lose their tribute for that year; and the other two parts for Our Cámara. For a second offense, the Encomenderos shall immediately be deprived of the Indians, and the Governor can assign them

under encomienda to whomever he should in accordance with the law, and without delay.

Law 36: That with regard to the residence of the Encomenderos in Cuyo and Chile, the laws of this Book be observed.

Don Felipe IV in Madrid. Don Carlos II and the Governing Queen.

In Laws 32 and 33, Title 9 of this Book, that which must be observed is ordered with regard to the Encomenderos of Cuyo and Chile, their service, and their residence. We command that these laws shall be observed and fulfilled with regard to the subjects they contain and in the manner they indicate.

Law 37: That, if there are more than enough Indians under mita in the city of Castro and on the other side of the Cordillera, they pay the tribute in accordance with this law.

Don Felipe IV in Madrid. (See Law 16 of this Title.)

If, in the city of Castro, the third part of the Indians under mita is very large and, therefore, in the opinion of the residents and other inhabitants, not all of them are needed for farming and raising of livestock, the remaining Indians that are not needed shall pay their tribute in the amount specified, but in the form of native clothing, honey, wages from cutting wood, or in some other form, as decided by the Governor. The same shall be done with respect to the Indians on the other side of the Cordillera who are not needed, and they shall pay their tribute in the forms decided upon by the Governor. First, however, the

order shall be carried out whereby those Indians, who have been assigned to Encomenderos and others who need them, shall pay their tribute from their wages for farming and raising of livestock.

Law 38: That the Indians in Chile be settled in Reducciones in their towns.

Don Felipe IV in Madrid.

It is Our will that all the native Indians who are under repartimiento in the peaceful land shall be settled in their towns. Exception is made only with respect to: those who have been absent and settled on ranches or in homes of other Spaniards for ten years; and those who, for reason of better common welfare, have been married on the frontiers to Indian women who are related to the Indians there. We are impressed by this reason. But, no exception will be made hereafter to: those absent for ten years, even though they are settled on other ranches or in homes of Spaniards; nor those who are married on the frontiers.

Law 39: That the Indians who are exempt from being in Reducciones pay tribute wherever they are settled.

Don Felipe IV in Madrid.

Wherever the Indians who are exempt from Reducciones may be, they shall pay the entire tribute to the Encomenderos, and in addition to this, they shall pay for the Doctrina, the Justicia, and the Protector in the place where they are settled if it is apart from where the Corregidor and Doctrinero are in attendance. The Spaniards who are served

by the Indians must assure that these payments are made and must collect them from the daily wages of the Indians.

Law 40: That, if any Indian wishes to remain in the home or on the farm or ranch of the Encomendero, it is to be with permission from the Governor.

Don Felipe IV in Madrid.

We order and command that if any single or married Indian, among those who are not paying tribute, wishes of his own free will to remain in the home or on the farm or ranch of the Encomendero, he cannot do this without consent from the Governor, who will either grant or deny permission on the basis of need. The Governor will first verify: that the Indian asks and wishes to do so; that the Indian is not subject to draft under the tercio de mita; and that if he remains in the home of the resident, or on his ranch, the laws that have been ordered and commanded with respect to the other Indians in homes and on ranches will be observed with respect to him.

Law 41: That no one may remove the Indians from their Reducciones.

Don Felipe IV in Madrid.

No resident, Encomendero, or other person may remove either an Indian man or woman from the Reducciones, regardless of the age of the Indians, without express permission from the Governor, if he is present, or from his Teniente or the Corregidor if the Governor is not present. Permission shall not be granted except in a case that is rare and of great need, such as in the case of some Indian orphan. Severe punishment

shall be dealt to the person who removes an Indian man or woman and, also, to the Corregidor who gives his consent. The persons who commit such an offense shall be ordered, at their own expense, to restore the Indians to the condition, home, and place from where they were removed.

Law 42: That the two-thirds of the Indians elect an ordinary Alcalde in each town.

Don Felipe IV in Madrid.

For better government and policy, We command that in each Indian town, the two-thirds of the Indians who are present shall elect an Indian Alcalde each year. This Alcalde shall have and exercise Our Royal jurisdiction in the same way that the ordinary Alcaldes of Indians do in Peru.

Law 43: That livestock ranches not be near the Reducciones.

Don Felipe IV in Madrid.

No ranch of small livestock belonging to Spaniards shall be allowed within one-half league of the towns or Reducciones in Chile; nor shall any ranch of large livestock be allowed within two leagues. There shall be at least one league of land without ranches in each town where the Indians, who are in Reducciones and have been assigned, may settle and plant crops.

Law 44: That Law 11, Title 5 of this Book be observed in Chile.

Don Felipe IV in Madrid. Don Carlos II and the Governing Queen.

In Chile that which has been ordered by Law 11, Title 5 of this Book shall be observed. The provisions are: that the Indians who are masters in their trades shall not be subject to mita; that they shall pay their tribute with money or services; that the Governors, Corregidores, or Tenientes, shall have authority to classify the Indians according to their trades, to determine their wages, and to give priority to the Encomenderos for their services. All the other provisions contained in this law shall be observed.

Law 45: That, if the Indians are not skillful in their trades, they be drafted in the third part under mita.

Don Felipe IV in Madrid.

If the Indians are not skillful in their trades, they shall be reduced to their towns, and they shall be drafted in the third part to go with the other Indians under mita; and if they are engaged in their trades while under mita, they must each be paid two reales per day. After they have paid the tribute for themselves and two other Indians, as do the other Indians of the tercio who serve nine months under mita, and also the twenty-two and one-half reales in the four cities where they serve fifteen days without pay, the remaining wages shall be paid to those who are engaged in their trades at two reales per day. And whether or not they have completed their days under mita, they shall not be prevented from earning their sustenance by working at their trades, even if they leave tasks that have begun.

Law 46: That the Indians settled in ranches not be removed without permission.

Don Felipe IV in Madrid.

The Beliche Indians who came from deserted cities, and who were prisoners of war, and who are settled in ranches shall not leave the ranches nor shall another person remove them without permission from the Governor. The Governor shall give permission only in case of obvious harm that the Indian is suffering. The same applies to any Indians who are settled in ranches. The Governor shall take action against the guilty parties in accordance with the law, and he may impose penalties according to his judgment.

Law 47: That the Indians referred to in the preceding law serve one hundred and sixty days.

Don Felipe IV in Madrid.

We command that the Indians referred to in the preceding law shall serve one hundred and sixty days under mita in those ranches in order that they may comfortably meet the needs of themselves and their families. They shall be distributed at certain times of the year in the way decided by the Governor. In the case of each Indian: ten days will be applied to slaughtering, thirty days to harvesting of wheat and barley, fifteen days to harvesting of grapes, ten days to cultivation of grapes, ten days to pruning, twenty days to planting of wheat and barley, and other twenty days to ploughing. Each ranch owner will know about these working days, and he will arrange, as he is able to, for planting, harvesting, and working of the land to fill those working

days, and no more. And the Indian will know about the days that are free for him in each ranch and that can be used for times when he may plant, plough, harvest, and complete the gathering of his own crops before the time passes. He will also understand that he may hire out, providing he is not missing at the time of his mita. The one hundred and sixty days will be distributed in this way or some other way; and any days in excess will be for other occupations, and there will be no more days of obligation.

Law 48: That lands and tools of labor be given to the Indians on ranches.

Don Felipe IV in Madrid.

There is an obligation for the Indian to assist on a ranch and to be there without spending a year of leisure, such as is unavoidable at the present time. To remedy this, the ranch owner must give to each of the individual workers, even if they are father and son: separate lands in which he may plant one almud of corn, two almudes of barley, and two almudes of wheat and vegetables; and oxen, iron ploughs, and tools for planting. The Indian will not have control or possession of these things, but he will only have the right to have them, and a house, as provided by this law, as long as he is obligated to assist and serve under the mita referred to. The ranch owner cannot take from the Indian nor exchange the lands designated for him by the Corregidor on this first visit of inspection to the ranches.

Law 49: That the Indians on a ranch earn one real each day and no more.

Don Felipe IV in Madrid.

The ranch owner is obligated: to give lands to the extent referred to, oxen, and the other things to the Indian; to care for him in his illnesses for the whole year; and to pay the Doctrina, the Justicia, and the Protector for him, even if he is ill. If the Indian becomes ill during the days specified for him to work, this time is not to be counted or to be compensated for. Therefore, We order and command that the daily wage of the Indian on a ranch shall be one real, and no more. From these daily wages, after deducting for the tribute specified in the laws of this Title, which in the four cities is sixty-eight reales paid from wages of one real per day, twenty-nine days are left for which the Indians are to be paid in current money, except for times of voluntary absence. The same applies to the other cities in proportion to their tributes.

Law 50: That the Indian on a ranch, having completed his one hundred and sixty days, be free for the other days to do as he wishes.

Don Felipe IV in Madrid.

The working days that remain after completion of the one hundred and sixty days, not counting Sundays and holy days of the Church but taking into account the days that the Indian is allowed to work otherwise, are free for the Indian to use as he wishes: resting, hiring out to whom-ever he wishes, working as much and in whatever way he desires for money or clothing, and as a free person. This is with the condition that he is not to hire out to any place that is farther than four leagues from the ranch and that, first, he is to give notice where he is going and for how many days.

Law 51: Concerning that which is ordered with respect to wives and children of Indians in Chile.

Don Felipe IV in Madrid. Don Carlos II and the Governing Queen.

With respect to the wives and children of Indians on ranches, that which is ordered by the laws of this Book shall be observed in Chile. These laws order that they are not obligated to work and that the sons may be herders with the consent of their parents.

Law 52: That a fourth part of the Indians on ranches may be used as herders.

Don Felipe IV in Madrid.

He who has four Indians or less on his ranch may use one of them as a herder, and this occupation may be rotated each year. He who has eight Indians may use two as herders, and so on in that proportion. The herders must serve for an entire year. They are to be paid for the time that corresponds to their tribute, which in the four cities is sixty-eight days at one real per day. But, for the remaining days of the year including Sundays and holy days, they are to be paid one-half real per day which, after payment of tribute, comes to seventeen pesos and one real each year. These wages shall be paid in current money.

Law 53: That the ranch owner pay the Doctrina, the Corregidor, and the Protector in current money.

Don Felipe IV in Madrid.

In view of the fact that the ranch owner collects the entire tribute from wages for distribution, he will be obligated to pay the Doctrina, the Corregidor, and the Protector in current money.

Law 54: That if the Indians on ranches are vacated, they not be removed from their Reducciones.

Don Felipe IV in Madrid.

Great confusion would result if the Indians settled on a ranch were vacated and the new Encomendero removed them from where they were settled and happy; and this would be detrimental to the ranches. Therefore, We command: that the person to whom the Indians are newly assigned under encomienda may not remove them from where they are; and that he shall only have the right to collect the pesos that they have been assessed to pay as tribute. He shall not make distributions to the Protector, the Justicia, and the Doctrina, for they are only to be paid in the place where the Indian lives and nowhere else. We order the Governor, in order to better manage this situation, that whenever Indians on ranches are vacated, he shall assign them under encomienda to meritorious persons in that governmental jurisdiction who can collect their tribute from close by.

Law 55: That the Indians on ranches be assigned to the nearest town.

Don Felipe IV in Madrid.

Although it is ordered that the Indians on ranches shall not be removed from where they are settled, the Governor must sometimes remove Indians from a ranch because of obvious hardships, such as some of the ranches

being deserted and others being manned by Negroes, so that no wages are paid to the Indians, or for other similar reasons. We order that in the case of Indians who are on ranches and who do not have towns, the Corregidor of the district, on his first visit of inspection, shall assign those Indians as residents of the nearest town as though they were from that town, in order that the Indians may go there to live when they have no lands. For, it would not be reasonable in such cases that the native Indians of the Kingdom of Chile might be without lands. With this in mind, it has been ordered that Reducciones be established in the towns and that a sufficient amount of land be left there for the Indians who are yet to be settled in Reducciones.

Law 56: That the Indians in the cities serve in them and that the Governors provide that they be well treated.

Don Felipe IV in Madrid.

We command that the Indians, prisoners of war, newcomers who are serving in the cities and are needed, in the opinion of the Governor, shall be kept in the cities. No Indians shall leave their repartimientos, and they shall be treated as free persons. The Corregidor will visit the families each year, assuring himself of those who are content for the following year, and he will try to put those who are not content in a place where they may be well treated, thus accommodating the families the best he can. He shall have them render their service in accordance with the law that follows this one. The residents and inhabitants shall be advised to employ the Indians with all moderation, and to accommodate themselves as best they can with voluntary persons, Negroes,

or slaves. Thus, there may be no violence against the Indians or service from them against their own will. Their freedom shall be observed in such a way that their obligation to serve may be by way of their own agreement as to whom they wish to serve, or who treats them and pays them best.

Law 57: Concerning the pay that is to be given to the Indians in the cities according to their age.

Don Felipe IV in Madrid.

Pay for the Indians who work in the cities who are more than eighteen years of age and who are subject to service under encomienda, shall be twenty-two patacones* each year. From this, the Indian must pay tribute for his Encomendero, the Protector, and the Justicias, which in the four cities amounts to seven pesos. The remaining amount, which comes to fifteen pesos, must be given to the Indian because there is no pay for the Doctrina in the four cities. Pay for Indian women who are more than eighteen years of age shall be sixteen pesos each year. Pay for Indian boys and girls who are more than twelve years of age and less than eighteen years of age, shall be twelve pesos each year. Children under the age of twelve shall receive one set of clothes each year. We declare that this pay is only for domestic services and not for special occupations such as making adobe, being laborers, or working at tasks that deserve more pay. The Corregidor shall look into this situation, and he shall prohibit and serve penalty against anyone

*A variant for pesos.

who proceeds against the will of the Indians without giving them their fair pay. Pay shall be in current money.

Law 58: That Law 15, Title 13 of this Book be observed in Chile.

Don Felipe IV in Madrid. Don Carlos II and the Governing Queen.

That which has been ordered by Law 15, Title 13 of this Book shall be observed in Chile. The law states that if any Indian woman in service becomes married to an Indian of another family within the period of her service, she shall complete her period of service and her husband may go there to sleep. After the period of service, if they wish to serve in the same home, they may do so without any force being imposed.

Law 59: That no one hire out or give as a favor the Indians who serve families.

Don Felipe IV in Madrid. Don Carlos II and the Governing Queen.

No one shall hire out the Indians who are in service to his family. Nor shall he give them as a favor. Penalty for violation of this order will be to take the Indians from him. Also, that which is ordered by Law 38 of this Title, concerning Indians who serve families, shall be observed.

Law 60: That there be Mass at dawn on holy days for Indians in domestic service.

Don Felipe IV in Madrid.

The Justicias shall arrange: that there shall be Mass at dawn on Sundays and holy days in the cities; and that the Indians serving in the cities shall attend Mass, observing it with any of the religious orders that hold this service. We, thus, hold the Justicias responsible for this. On Sunday afternoons, at least half of the Indians in the service of each family shall go with their Interpreter for religious instruction and the sermon, in order that they may be well instructed. When the Corregidor visits the families, he shall inquire as to the fulfillment of this order, and he shall take the service of the Indians away from those who are not complying with this order or who are hindering it.

Law 61: That what has been ordered be observed with respect to the Indians who serve in military camps and forts, and that single Indian women be kept together.

Don Felipe IV in Madrid.

All which has been ordered in the preceding law shall be observed with respect to those Indians who serve captains and soldiers in the camps and forts. Each year, the Cabo Mayor will make a visit of inspection of the Indians in service, protecting their freedom, and seeing to it: that the soldiers whom the Indians serve verify to the Officers of the Royal Treasury that payment of their salary is made; and at the same time, if the Indians pay tribute, that the tribute that the Indians owe to their Encomendero is paid. No foot soldier shall have an Indian in his service only without permission, but the Indian can be for a group of two or three soldiers. Anyone who wishes to have an Indian must be

a cavalryman, and the Cabo shall accommodate him with service, taking the service from the foot soldiers. We command that in the two camps of Arauco and Yubel there shall be two or three houses where all the single Indian women shall be kept together at night to go to sleep at the hour indicated, in order to avoid concubinage and dishonors. The Cabo, the Vicar, and the night patrol shall visit them frequently as an example by those in charge upon which reformation of the others depends. No Captain or Officer may have a single Indian woman in his service, and in such a case, We charge the Governor that he shall take severe action against them, and that he shall not continue or increase the military ranks of those who do not comply with this order.

Law 62: That the Corregidores make lists of the Indians subject to payment of tribute and require them to serve under mita, noting which ones are not obligated to pay the increased tribute.

Don Felipe IV in Madrid.

As soon as these Our laws are published, the Corregidores of all the Kingdom of Chile shall make lists of the Indians who are in cities, repartimientos, and ranches, and who are subject to payment of tribute. Each year, the Corregidores shall visit these places; they shall comply with what has been ordered in favor of the Indians, and see to it that it is complied with; they shall require the Indians to serve under mita in repartimientos and ranches; and they shall especially require that payment of wages is made as indicated for payment of tribute. We declare that the increase in tribute referred to in Law 31 is to be understood to apply only to the Indians of the third part under mita,

and not to the others nor to those on ranches and in families whose taxes are only as indicated in the laws dealing with them.

Law 63: That dances and festivities of the Indians not take place at times of labor and harvests.

Don Felipe IV in Madrid. Don Carlos II and the Governing Queen.

Suitable provision with respect to public dances and celebrations of the Indians is contained in Law 38, Title 1 of this Book. We order: that that law shall be observed in the Provinces of Chile and in all of its jurisdiction; that these dances and celebrations shall not take place at times of working the lands and harvesting; that those who bring wine to such festivities or send it to be sold there shall be punished; and that the Corregidor or another person on his behalf shall attend such festivities.

Law 64: That the Protectors protect the Indians or be subjected to inquiry and be punished.

Don Felipe IV in Madrid.

The Protectors shall protect the Indians in every respect as provided by these laws and the laws of the Title concerning them. If they fail to do this, they shall be subjected to inquiry and shall be punished.

Law 65: That to each Doctrina, two-hundred Indian tributaries be designated and that it be administered according to this law.

Don Felipe IV in Madrid.

Wherever possible, and by combining neighboring ranches for this purpose, two-hundred Indians subject to payment of tribute shall be designated for each Doctrina for the Indians. Where the third part of a repartimiento is present for the nine months under mita, the stipend for the Doctrina shall be paid there, thus corresponding to the nine months of the third part under mita for the Doctrinero of that district; and the rest shall be paid to the Doctrinero of the repartimiento. If the district of the Doctrina includes ranches that are very distant, two or more parishes shall be established; and the Doctrinero shall be present for three, or four, or more months in each parish, depending on whether the number of parishes is more or less. The specific times of the year when the Doctrinero is to reside in each parish shall be made known, so that the Indians a league or less away may come to the parish for Mass and the Doctrine; and the Corregidores, Vicars, and ranch owners shall obligate and compel the Indians to come in order that they may find the Doctrinero in cases of need. On each ranch, there shall be a suitable chapel where the Doctrinero, who must visit at least two times each year, shall give instruction, shall hear confessions, and shall give communion to those who may receive it. In each parish, if there is no other means, the Corregidor shall appoint a well-trained boy who, in the absence of the Priest, may teach the Catechism to the other Indians so that there will be no lack of religious instruction. We hold the Doctrinero Fathers responsible for keeping a book that will last forever and will contain a record of the baptisms, from which one may learn the ages, for purposes of marriages, tributes, and future reference.

Law 66: That the other two-thirds of the Indians make materials for the churches and that everything else be assigned to the ranch owners.

Don Felipe IV in Madrid.

In view of the fact that none of the tribute is allocated for construction and vestments, We order that the Corregidor shall see to it: that the two-thirds of the Indians that remain shall make the necessary adobe bricks, shall cut the wood, and shall construct the churches and parishes referred to; and that the nailing, doors, keys, bell, altar-pieces, and all that is necessary to hold Mass shall be assigned proportionately among the residents and ranch owners in each Doctrina district, according to the number of Indians that each of them has. The Doctrinero shall be assigned as much as a ranch owner who has fewer Indians.

Law 67: That Indians incorporated under the Crown, and those in repartimientos, build their churches.

Don Felipe IV in Madrid.

The Captain who has charge of Indians incorporated under Our Royal Crown will order the Indians themselves to build their churches. The King, Our Lord and Grandfather, left ornamentation and furnishings for Mass in charge of the Fathers of the Order of Jesuits, and they will support the Indians who work on those churches. The Indians, for their own good, will do this work without being paid wages. The Indians under repartimientos will also work without pay on their own churches.

Note

Law 16, Title 2 of this Book revalidates the orders concerning freedom of the Indians and makes a new provision with respect to the Indians of Chile.

Title Seventeen: Concerning the Indians of Tucumán, Paraguay, and Río de la Plata.¹²⁶

Law 1: That encomiendas for personal service not be assigned in Tucumán, Río de la Plata, and Paraguay.

Don Felipe III in Madrid on the 10th of October of 1618.

In the provinces of Tucumán, Río de la Plata, and Paraguay, encomiendas shall not be assigned in such a way that the Indians will render service to their Encomenderos, giving such service as tribute, even if they are regarded as Yanaconas. They shall not be assigned in that way or in any other such way, as some Governors have been doing in those Provinces. If the Governor does assign encomiendas in that way, We declare them to be invalid, and the Governor to be suspended from his office and lose his salary for the period that any such encomienda was assigned. Also, We declare the Encomendero, who uses the personal service, to be deprived of the encomienda; and We immediately place the encomienda under Our Royal Crown. It is Our will that the prohibition of personal service shall be understood to apply not only to the encomiendas that are being assigned, but also to those that have been assigned prior to this time. We order that the encomiendas that have been assigned prior to this time be composed of Indians who pay tribute, as are the other encomiendas in Our Indies.

Law 2: That the Indians may hire out in the Río de la Plata, Tucumán, and Paraguay.

Don Felipe III in Madrid.

For more service and production on properties, We permit that the Indians, like the Spaniards, may hire out, by the day or by the year. If they hire out by the year, the amount agreed upon for payment may not be less than the amount determined in each Province.

Law 3: That the Indians may agree to hire out for other services, except for gathering yerba in Paraguay, as is ordered.

Don Felipe III in Madrid.

The Indians may agree voluntarily to render other services, in addition to those which they are permitted to render under mita. And especially, they may render services in the Provinces of the Río de la Plata and Paraguay as rowers of rafts on the Río de la Plata. We order the Indians in Paraguay that, even though they wish to do so, they may not go to Maracuyo to gather leaves that are called yerba of Paraguay during those times of the year when it is harmful and bad for their health, in view of the many illnesses, deaths, and other detriments that result from gathering yerba. Penalty for doing this will be: one hundred lashes to the Indian who goes; a fine of one hundred pesos against the Spaniard who brings or sends the Indian; and deprivation of office of the Justicia who allows it. However, during those times when it is not harmful: the Indians may go to gather yerba; and the Governor may provide for their welfare, preservation, and health, with the care and attention that are necessary. We permit

that Indians may voluntarily agree to serve as rowers of rafts on the Río de la Plata; and We declare that they shall in no way be compelled to do this. We sentence the Judge who compels or forces them, as well as the Spaniard who brings them, to pay a fine of one hundred pesos for each Indian.

Law 4: That this law be observed with respect to loading the Indians in Paraguay.

Don Felipe III in Madrid.

The Indians may not be loaded as carriers, even if it is for the purpose of carrying wood to the homes of their masters. They shall be given a horse or cart for carrying it. This is to be all the more understood in Xérez and Guayra in the Province of Paraguay, in the carrying of wax. We condemn the Encomendero, trader, or traveller, who is in violation of this order, to a fine of fifty pesos, and those who load the Indians with yerba from Maracuyo, to a fine of one hundred pesos for each offense. We apply these fines to be paid in equal parts to Our Cámara, the Judge, and the Denouncer. We permit the Indians to carry water for use in the homes where the towns are located next to rivers. We hold the Governors responsible for making provision and giving orders to the end that the Indians may, with moderation, attend to the tasks that are absolutely necessary and unavoidable, particularly in the city of Xérez, Ciudad-Real, and Villa-Rica, and in such a way that the public welfare, and support of trade, traffic, and commercial use of the roads, are all benefitted. The Governors shall see to it that the Indians are not harassed or burdened. When the Indians must

tolerate burdens in any cases that are unavoidable and necessary, this shall be managed with such moderation that without offense or considerable harm to the Indian, the public welfare may not be neglected. We hold everyone responsible to his conscience in this matter.

Law 5: That one-twelfth of the Indians of Tucumán, Paraguay, and Río de la Plata, serve under mita, and in the way as indicated.

Don Felipe III in Madrid.

For the reason that the Indians of Tucumán, Río de la Plata and Paraguay may be persuaded to hire out and to serve, the Governors will arrange for at least one-twelfth of them to serve under mita. There is to be no compulsion or force, and the Governors will employ very gentle means until, with the passage of time, it will be easier. Those who go to serve may come to an agreement with whomever they wish, without the Justicias assigning them, after they have fulfilled their obligations to their Encomenderos, paid their taxes, and finished their time. As for those who come and are to be assigned under mita and for manual labor, the Justicias shall assign them with complete justification to the persons who need them most, seeing to it: that they are given good treatment and pay; and that when they have completed their mita, they will not be detained in any case, and will return to their Reducciones. The Justicias and the Alcaldes shall be very careful to learn from the Indians, separately and privately, or in whatever way is most convenient, the method of their pay and of what it has consisted. If they discover any grievance with regard to the pay, they

shall resolve the matter in favor of the Indians; and there shall be no appeal, petition, or official action permitting any delays, with regard to the resolution they make. We also declare: that the mita shall be composed of Indians who are subject to payment of tax, from eighteen to fifty years of age, not to include old people, children or women; and that the Indians shall not be compelled to pay taxes in kind. And, We order at this time: that one of every six Indians shall be drafted under mita; and that care shall be exercised in its fulfillment.

Law 6: That Indians may not be taken away from their Reducciones. . . . and from which towns and how far they may go.

Don Felipe III in Madrid.

It has been recognized that the greatest harm to the Reducciones results from taking Indians away from their towns to be used as carriers or to serve travelers. We therefore command: that no person, regardless of his rank or circumstances, may, in any case, take away an Indian woman unless she is with her husband; and that no Indian shall leave his Province, however urgent the reason may be, except within the jurisdictions of the Río de la Plata, Paraguay, and Tucumán, from the towns of Río Bermejo to the towns of Santiago and Santa Fé, and from Buenos Aires to Córdoba. Within those jurisdictions, they may not go farther than the nearest town of Spaniards. Thus, the Indians of Villa-Rica shall go no farther than Guayra; those of Guayra or Xérez no farther than Asunción; those of Asunción no farther than Las Corrientes; those of Las Corrientes no farther than Río Bermejo by

land or Santa Fé by way of the Río de la Plata; and those of Santa Fé no farther than Buenos Aires, Córdoba, or Santiago, within the jurisdiction of Tucumán. The same order shall apply to farther up river, because Indians are not to be taken away from any place to a place farther than the nearest town of Spaniards; and there the Indians are to be paid by hand and registered before the Justicia; and after their arrival, they are to be given provisions for their return trip, without anyone detaining them. As there are very few Indians in the city of Siete Corrientes, and it may happen that there are no Indians available at times when there are a number of rafts there, We permit that the Indians who carry passengers there may voluntarily proceed from there to the nearest town; but in all other cases, that which is ordered by this law shall be observed: and he who violates this law will be fined fifty pesos, to be applied in third parts to Our Cámara, the Judge, and the Denouncer. In case the one in violation is an Indian, he shall be given twenty lashes. We declare that when the residents, traders, or other persons who have dealings and commerce in those Provinces have occasion to go from one place to another within those Provinces, and they need some Indians for the trip, they may not take them or bring them, either in large or small numbers, or even if it is voluntary on the part of the Indians, without first having a license which is specific and in writing from the Governor. The Governor, after noting and investigating the purpose for which the license is requested, may grant it; he will accordingly assign the Indians as he considers suitable; and he will determine the period of time they are to be occupied, and the wages they are to receive. The

Governor will require bonds and security from the licensed party to make sure that he will return the Indians to their towns within the period of time determined by the Governor; he will impose penalties within his discretion; and, also, the bonded party and the bondsmen will be required to make exact payment of wages by hand for all the days that the Indians are occupied in service and in returning to their towns.

Law 7: That the Indians in these Provinces pay tax with money or produce.

Don Felipe III in Madrid.

Each Indian in these three jurisdictions who are subject to payment of tax shall pay six pesos each year in local currency. This may be reduced to things, and if they are sold on the basis of the real de plata, six reales will be equivalent to one peso in local currency. Thus, the Indian is obligated to pay each year a tax of six pesos, or the same number of pesos in the form of six reales per peso, or in products such as: corn, wheat, spun or woven cotton, wax, garavata fiber, or wicking. In order to remedy any difficulty in placing value on these items, We declare that: one fanega of corn is worth one peso; one hen is two reales; sixteen palms of wicking are one peso; three pounds of garavata fiber are one peso; one arroba of cotton, without the seeds being extracted, and native to Paraguay, is four pesos; or five pesos, if it is native to Río Bermejo or Tucumán; one yard of cotton cloth is one peso; and one fanega of beans is worth three pesos. The Indians may pay their taxes with these items, provided

that the Encomendero is not obligated within one year to accept more than one fanega of corn and two hens at these values; and the remaining tax is to be paid with the other items, or with money, as has been ordered. This tax is to be paid, half at Christmas harvest time, and half at harvest time of Saint John's Day.

Law 8: That, after harvest is completed, the Indians who are eighteen years of age be placed on the tax roll, and that those who are fifty years of age be removed.

Don Felipe III in Madrid.

The Governor, or Ordinary Alcalde who is appointed in the Provinces of Paraguay, Río de la Plata, and Tucumán shall visit the towns after harvest is completed; he shall place on the tax roll the Indians who have arrived at the age of eighteen years; and he shall remove those who are over fifty years of age.

Law 9: That in Tucumán, Río de la Plata, and Paraguay, even if an Indian is married, he is not subject to tax until he is eighteen years of age.

Don Felipe III in Madrid.

We declare that in the Provinces of Tucumán, Río de la Plata, and Paraguay, even if an Indian is married, he is not subject to tax until he is eighteen years of age. We command that whoever violates this law shall return four-fold the amount he collected.

Law 10: That the Administrators or Majordomos draft the mitas and collect the taxes.

Don Felipe III in Madrid.

Drafting of the mitas and collection of the taxes in the Provinces of Tucumán, Río de la Plata, and Paraguay shall be under the charge of the Administrator or Majordomo whom the Governors appoint, and they shall see to it that the Indians meet their obligations.

Law 11: That the Indians not be given only carob beans for their sustenance.

Don Felipe III in Madrid on the 10th of April of 1609.

The Indians who live in some of these Provinces sustain themselves with carob beans, and the Encomenderos and persons whom they serve do not give them corn. We command the Governors and Justicias: that they shall not allow or tolerate this; and that they shall require that corn be given to the Indians and sustenance necessary for their life, health, and preservation.

Law 12: Determination of wages for the Indians in these Provinces.

Don Felipe III in Madrid.

For the Indians in these Provinces who serve under personal mita, We declare the wage to be one and one-half reales in local currency each day. For those who serve by the month on ranches, the wage is to be four and one-half pesos each month. Those who row rafts up and down the Río de la Plata from the city of Asunción to Las Corrientes are to be given four pesos per month in the form of four yards

of wool or cotton cloth. If they row from Las Corrientes to Santa Fé, the monthly wage is to be six pesos, from Santa Fé to Buenos Aires, six pesos; and from Asunción to Guayra, six pesos. And, thus, these payments of wages shall be observed and enforced, as long as the justification for them is very carefully and diligently confirmed by Our Royal Audiencia in the place concerned, the Audiencia keeping itself informed concerning the facts and what is necessary in their opinion, without any new assessment or change of what has been ordered. The Audiencia shall fulfill and execute this order, noting that in determination of wages, consideration shall be given: to the number of days that the Indians are occupied in coming from and returning to their towns; to the expense they have depending upon how far they are away from their homes; and to the fact that for the days they spend coming to and returning from their work, the wage shall be half the amount of wage they receive for the rest of the time they are in service.

Law 13: That no Indian woman may leave her town to nurse a child of a Spaniard if she has a child of her own who is alive.

Don Felipe III in Madrid.

From experience, We have learned of serious troubles that result from taking Indian women from their towns in order to serve as wet nurses. We, therefore, command that no Indian woman who has a child of her own alive may leave to nurse a child of a Spaniard, particularly if the Spaniard is her Encomendero. Penalty for violation of this law shall be the Encomendero's loss of his encomienda, and a fine of

five hundred pesos against the Judge who gives such an order. We permit that if the child of the Indian woman dies, she may nurse the child of the Spaniard.

Title Eighteen: Concerning the Sangleyes.¹²⁷

Law 1: That the number of Chinese and Japanese be limited, and that the Governors exercise caution.

Don Felipe III in Ventosilla on the 4th of November of 1606, and in Madrid on the 29th of May of 1620. Don Felipe IV on the 31st of December of 1622.

For the security of the city of Manila and the Island of Luzon, and everywhere else within that jurisdiction, it is necessary that the number of Chinese shall be very limited, and that it shall not exceed six thousand, because that number is sufficient for service in the land, and because troubles that have been experienced may increase, regardless of the authority granted by Law 55, Title 15 of Book 2, which is therefore to be understood to apply up to this limitation. Likewise, it is necessary that there shall not be so many Japanese in that city, for there are already more than three thousand because of neglect and carelessness in not expelling them. The number of Chinese has increased because of greed for the eight pesos that each one pays for his license. With regard to this matter, We command the Governor and Captain-General that he shall provide the necessary remedy. Licenses shall not be given for money or for anything else that benefits the Governor himself or other Ministers; and consideration shall be given only to that which is necessary for the public

welfare, security of the land, business, commerce, and a welcome reception of foreigners, neighbors, and other nations, with whom We are at peace and are continuing to have commerce and correspondence. All care and caution shall continue to be exercised, so that the number of Chinese and Japanese may not be so great, and so that those who are there may live quietly with concern and submission, without this being any reason for not affording them good treatment.

Law 2: That the licenses be given under supervision of the Royal Officers, and that they register them.

Don Felipe III in Madrid on the 12th of January of 1614. Don Felipe IV in Madrid on the 21st of November of 1625.

Licenses that the Governor of the Philippines grants so that some Chinese Sangleyes may remain are to be given under the supervision of Our Royal Officers who will register all of them. The money that is collected (eight pesos for each person) shall be deposited in Our Royal Strongbox, where there shall be a separate book. Entries shall be made in the book with separate names and notes in such a way that there can be no concealment.

Law 3: That fees not be collected from Chinese Christians for licenses to engage in trade.

Don Felipe II in Madrid on the 11th of June of 1594.

In order that communication and living among the heathen may not cause the Chinese Christians to fall into the danger of apostasy, the Bishops do not permit those Chinese Christians who are converted to

Our Holy Catholic Faith in the Philippine Islands to return to their lands. We realize that these Chinese Christians have no other way to sustain themselves except by trading in the area and buying supplies for the public, and the Governor does not allow them to leave Manila without a license, which is a very great obstacle and hindrance for others who might be converted. We, therefore, command: that fees shall not be collected for these licenses; and that the Governor shall give considerable attention and care in preventing any hardship that may result because of these licenses, as they affect the Chinese Christians in moving about freely in those Islands.

Law 4: That the Sangleyes not be subjected to personal services, and that they be well treated.

Don Felipe III in San Lorenzo on the 5th of September of 1620.

The Governor shall exercise special attention in seeing to it: that the Sangleyes are not subjected to personal services, aside from their regular employment and responsibilities; and that good treatment of them may motivate and attract others to come to be converted to Our Holy Catholic Faith.

Law 5: That what has been resolved by Law 55, Title 15 of Book 2 be observed.

Don Carlos II and the Governing Queen.

That which is resolved by Law 55, Title 15 of Book 2 shall be observed in the government of the Parian, including jurisdiction, communication, and everything else contained in that law.

Law 6: Amplification of Law 24, Title 3 of Book 5, concerning judgment of cases in the Parian.

Don Felipe III in Ventosilla on the 15th of October of 1603, and in the Pardo on the 12th of June of 1614.

Since the Ordinary Alcaldes in Manila had been trying, together with the Alcayde of the Parian, to judge legal proceedings and cases of the Chinese who are in the Parian, We issued a command as contained in Law 24, Title 3 of Book 5, conceding first instance only to the Alcayde, and providing for appeals to the Audiencia. It is now Our will and We command the Governing President and Captain-General, and the Audiencia, that they shall not allow any Ordinary Judge, or specially appointed Judge, to judge in the first instance civil or criminal proceedings and cases of Sangleyes, even if the Judges are Oidores from the Audiencia, acting as Criminal Justices, or on the basis of price-fixing or inspections of establishments and their business. For the Alcayde of the Parian has the exclusive right to judge in these matters, except in a case that is so extraordinary, necessary, and obligatory that it may become necessary to limit this ruling.

Law 7: That the Sangleyes who are converted not pay tribute for ten years.

Don Felipe IV in Madrid on the 14th of June of 1627.

The Sangleyes who are converted to Our Holy Catholic Faith shall not pay tribute for the first ten years of their conversion. When these years are past, tribute shall be collected from them as it is from the natives of the Philippines.

Law 8: That the Chinese who are married in Manila be together in a town.

Don Felipe III in San Lorenzo on the 25th of August
of 1620.

Many Sangleyes who marry native Indian women in the Philippine Islands, and who live in the environs of the city, are converted to Our Holy Catholic Faith. If they were given space in the uncultivated lands where they might be together and form a town in order to cultivate the land and plant crops, as they are very well experienced in doing, they would be very useful for the public welfare, and they would not be engaged in retailing and trading of supplies. And, even though the number of these Sangleyes might increase, they would be more domestic and peaceful, and the city would be more secure. We order the Governor and Captain-General that he shall carry out this plan, and that he shall protect the Sangleyes and look after them with the care that is necessary.

Law 9: Some conditions applied to Sangleyes and their trading.

Don Felipe II in Madrid on the 11th of June of 1594.

The Sangleyes, who come to trade in the Philippines with merchandise from China, sell the merchandise in quantity at a price through persons who are designated for this, and this practice is called a pancada. The Sangleyes are allowed to keep clothing in their possession, with the assurance that they shall not dispose of it without an order from the Governor. No price shall be set for small items, except in the case of certain special merchandise. Because this is

suitable, We command that the Sangleyes who are to return to those Islands shall be notified that they must come and abide by the laws and orders that are applied to them. As for the pancada, it shall continue with all moderation in such a way that the Sangleyes are not wronged, and they are not given any reason to stop coming to trade.

Law 10: That no wrong be done to the Sangleyes in the Philippines, particularly in the ways mentioned in this law, and that they be well treated.

Don Felipe II in Madrid.

We have been informed as follows:

The Sangleyes Indians who come from China to trade in the Philippines are wronged and receive bad treatment from the Spaniards; and, particularly, the guards assigned by Our Royal Officers to their ships request and bribe the Sangleyes to let them take some of the things that they bring from their lands, so that they can be given to private persons.

The Ministers who go to register the ships take and remove all the best merchandise, leaving what is not so good, so that the Sangleyes suffer a considerable loss with what is left; and often, they have no outlet for what is left, as they would have had if they still also had the good merchandise that is taken from them.

When the Chinese, whom the Ministers register, bring high-quality merchandise, the Ministers say that they will pay for it at the same price at which the remaining merchandise is sold, and in that way, they pay only the price of the worst and ordinary merchandise;

and, therefore, the Chinese lose the greater amount that they would have had if they were to sell all of it in free trade.

The Chinese, fearing that the Ministers who come to register the ships may not clear the merchandise at the time of its evaluation, put a higher price on the merchandise than it is really worth; and they pay the duties that correspond to that evaluation. The fact is that they sell the merchandise later at a much lower price than the evaluation.

The masts are taken from the Chinese ships to be installed in the ships that are built in those islands, because they are light; in exchange, the Chinese are given other masts that are so heavy that their ships are ruined because they cannot support them; and this causes the Chinese to be very resentful.

It is just when people come to trade that they should be treated with affection and that they should receive a good welcome, so that when they return to their lands with good reports of the treatment and reception accorded to them by Our vassals, others may be inspired to come; and by way of this communication, they may accept the Christian Doctrine and profess Our Holy Catholic Faith. Our main desire and intention is directed to this, and We, therefore, command the Governors: that, after ascertaining the facts of these offenses, they shall give the necessary orders to remedy such troubles; that they shall not allow the Chinese Sangleyes or any traders to be offended nor to be subjected to hardship or harassment in the ways mentioned or in any other way; that they shall give great attention and care to their good

treatment and to facility of their trading; and that they shall punish anyone who offends or does any wrong to them. We hold the Governors particularly responsible for this, as it is a matter of great concern to Our Royal Service.

Law 11: That in Manila, no supply of hens be required from the Chinese.

Don Felipe III in Madrid on the 29th of May of 1619.

In the city of Manila, it became the practice that a certain number of hens were sold each year at a price lower than the regular price to the President, the Oidores, and the Officers of the Audiencia. The Governor of the Chinese was ordered: to obtain this supply of hens from all the Chinese requiring them each week to provide so many hens at a specific lower price; and to punish those who did not comply. A notable offense results from this practice, and the Governor of the Chinese has been obtaining additional hens at that price. We command: that such a supply shall not be required or requested from the Chinese; and that it shall be up to them to determine that each person may buy the hens he needs, and at the price that they are available for sale.

Law 12: That, if there is any excess in the Strongbox of the Sangleyes, a correspondingly lesser amount be assessed for the following year.

Don Felipe IV in Madrid on the 10th of September
of 1627.

The Chinese Sangleyes in the Philippines have a Strongbox with three keys where each person pays twelve reales each year in order to meet

expenses, as they are required to do in Our Royal Service. We command that if there is any excess from one year to the next: it shall not be withdrawn; and the Sangleyes shall be assessed an accordingly lesser amount for the following year.

Law 13: That no resident of Manila have Sangleyes in his home.

Don Felipe III in Madrid on the 6th of May of 1608.

We command the Governor and Captain-General: that he shall not allow residents and occupants of Manila to have Sangleyes in their homes; and that he shall prohibit the Sangleyes from sleeping within the city. If necessary, he shall order the Judge of the Foreigners to rigorously punish and to impose heavy penalties against any person who does not comply with this law.

Note

That the Audiencia of the Philippines abstain from interfering in matters pertaining to the Parian of the Sangleyes, and that their government remain under the sole charge of the Governor. Law 55, Title 15, Book 2.

Title Nineteen: Concerning Confirmations of Encomiendas, Pensions, Incomes, and Subsidies.128

Law 1: That there be confirmation of encomiendas, pensions, incomes, and subsidies.

Don Felipe III in Valladolid on the 20th of September of 1608, in Madrid on the 20th of December of 1620,

and in Lerma on the 10th of November of 1611. Don Felipe IV in Madrid on the 12th of May of 1624, and on the 12th of June of 1625. See Law 6 of this Title.

We hereby establish and issue as a command to the Viceroys, Presidents, Royal Audiencias of the government, and to Governors of the Indies, who have authority from Us to assign encomiendas, pensions, subsidies, and any other amount or kind of income, with or without indicating the amounts, that in the titles and dispatches, they shall have included and shall include a specific clause, with all distinctness and clarity, to the effect that all who receive these grants or rewards shall obtain Our confirmation within the period indicated by Law 6 of this Title. This period shall begin from the day that the award or grant is made in Our name, and note shall be made that if they have not obtained confirmation by the time this period is past: they shall lose the encomienda, pension, subsidy or income; they shall no longer benefit from it; and the benefits they have received shall be turned over to the Royal Strongbox and shall remain in Our Treasury. The Royal Officers shall collect these benefits from any of these persons, and they shall return them under separate accounting consigned to the Treasurer of Our Council of the Indies. We order the Fiscales of Our Royal Audiencias that they shall attend to these claims and shall take other actions necessary to execute this law.

Law 2: That titles of grants issued by Royal Cédulas be confirmed.

Don Felipe III in Madrid on the 17th of December of 1614.

We order that the requirement to obtain confirmation of encomiendas, pensions, incomes, and subsidies shall be observed without any distinction, whether they are given by the Viceroys and Ministers referred to in the laws of this Title and in accordance with Our authorizations, or whether they are given by Us through Cédulas. And, We order that in all of these cases: the parties concerned shall be required to obtain Our confirmation within the period indicated; and that this shall be entered in the titles, along with the aforestated obligations and penalties.

Law 3: That services rendered be stated in the titles to pensions, and that the titles be confirmed.

Don Felipe III in Lisbon on the 10th of August of 1619,
and in Madrid on the 9th of March of 1620.

In the titles to pensions, there must be an explanation of the services that are deserving of the award, with a statement of the requirement to obtain Our confirmation within the period indicated, being subject to the same penalties, as ordered with respect to the holders of encomiendas.

Law 4: That grants, benefits, and incomes not be acquired by the parties concerned until confirmation is obtained.

Don Felipe III in Madrid on the 17th of January of 1612.
Don Carlos II and the Governing Queen.

We command that the parties concerned shall not have the benefits, incomes, and further proceeds from encomiendas of Indians, pensions, subsidies, or any other incomes that have been given or are given in

the Indies, whether from Our Royal Strongbox or from repartimientos, until they obtain Our confirmation.

Law 5: That a clause be included in the titles granting the right to request and obtain confirmation through the Council.

Don Felipe IV in Madrid on the 31st of December of 1622.

In the titles that are dispatched for encomiendas, pensions, financial grants, and incomes, for which it may be necessary to obtain Our confirmation, We order that along with the other clauses specified in Laws 49 and 50, Title 8, and in Law 49, Title 12 of this Book, which deal with this matter, a clause shall be included to the effect that the parties concerned shall send special authorization, with necessary substantiation, in order to request and obtain confirmation and in order to pursue the matter on all occasions and by direction of the courts.

Law 6: Determination of the period for obtaining and presenting confirmations of encomiendas.

Don Felipe IV in Madrid on the 7th of February of 1627, on the 28th of July of 1629, and on the 25th of August of 1646. See Law 1, Title 22 of Book 8.

We have considered the fact that in view of the distance and travel involved in some of the Provinces of the Indies, the Encomenderos need more or less time in order to present to the Council titles to encomiendas, pensions, subsidies, awards, and incomes--including time for requesting, obtaining, and appearing with the confirmations. There have been various resolutions concerning this matter. We have,

therefore, considered it advisable to declare that in all the districts of Our Royal Audiencias of Los Reyes, La Plata, Santiago de Chile, and Manila in the Philippines, the period of five years, which was designated without any distinction for obtaining confirmations, shall be, and must be, six years from the day of the assignment of an encomienda, pension, subsidy, income, or award until the Encomenderos appear with the confirmation before the Governor or Justicia Mayor of the Province. As for the districts of all the other Audiencias of the Indies and adjacent Islands, the period shall be five years under the same conditions. If the persons concerned do not comply within this period, it is Our will that the established penalties and restitutions ordered by Law 1 of this Title shall be executed. In view of the fact that even though all of the above-mentioned was ordered before now, the Viceroys, Presidents, and Governors have extended these periods, We command them, and all those who have or may have authority to assign encomiendas, establish pensions, or assign allowances, incomes, or awards in Our name, that they shall not designate, extend, or concede a longer period than the period specified in this Our law, which they must observe precisely and inviolably, with no contravention whatsoever, as this is Our will.

Notes

That, in confirmations subjected to litigation, there shall be included the resolutions of examinations, reviews, or judgments that have been made. (Auto 11 referred to in Title 2 of Book 2 which applies to confirmations of appointments and encomiendas.)

In all the confirmations, the day of presentation shall be included. An Officer, and not the parties concerned, shall bring the confirmations, as has always been the custom. (Decree of the Council in May of 1624. Auto 55.)

In the cases of all the dispatches to be submitted to the members of the Council, the first step is for the parties concerned to take them to the appropriate Secretaría in order that notation may be made of their submission. These dispatches shall be brought by an Officer to the President of the Council, or to the most senior member of the Council in case the President is absent or unavailable, in order that he may pass them on to the members of the Council, as he wishes. After this is done, the dispatches shall again be assembled by the Secretaría, where a book is established; and a record of the dispatches that are submitted shall be entered in the book, noting the members of the Council to whom the dispatches are submitted. The dispatches will be brought to them by an Officer, without giving them to the parties concerned, or to any other person. After they are cleared in the Council, they will be turned over to the Secretaría. The dispatches will be brought to the Secretaría in order to process and execute those that are agreed upon, and they will be given to the parties concerned. Decree of the Council on the 26th of May of 1646. Auto 139.

EXAMPLES OF REFERENCES TO INDIANS IN BOOKS VII TO IX

BOOK VII

CRIMINAL AND PENAL LAWS¹²⁹

Title 1: Concerning Investigators and Commissioned Judges: L11:

The Viceroys and Presidents shall have the authority to appoint someone who will make secret investigations of Corregidores and Judges; and L12: It shall not be necessary for a Judge to post a bond in order for him to be dispatched when offenses are committed by Governors and other authorities upon Indians and wretched people.

L26: The Governors of Yucatán shall appoint Judges in accordance with this law; L27: The Governor of Yucatán shall not provide Judges for planting nor for damages; and L28: The repartimientos of Indians shall be under the jurisdiction of the Justicias Ordinarias; also the Judges for grain and sugar crops and for butchering livestock.

Notes

The Judges shall be excused from being sent out to count Indians, and this task shall be assigned to the Justicias Ordinarias. Law 61, Title 5, Book 6.

Title 2: Concerning Games and Players (Gambling).

Title 3: Concerning the Husbands and Recently Married Men in Spain and the Indies Who Are Absent from Their Wives and Women.

Title 4: Concerning the Vagabonds and Gypsies: L1: Vagabonds shall not be tolerated; L2: The vagabonds shall be put to work, and the incor-

rigibles and disobedient shall be banished; also L4: The Spanish, Mestizo and Indian vagabonds shall be reduced to villages, and the orphans and abandoned children shall be returned to the village where they were raised.

Title 5: Concerning Mulattoes, Negroes, Berbers and Sons of Indians

(Laws concerning slaves included for comparison, since Indians were also enslaved): L1: Free Negroes and Negresses, Mulattoes and Mulatto women, shall pay tribute to the King;¹³⁰ L2: Children of free Negroes or Negro slaves born from a marriage to an Indian must pay tribute; L3: Free Mulattoes and free Negroes shall live with recognized masters so that they will be able to collect the required tributes these persons owe; and L4: Free Negroes and Mulattoes shall work in the mines, and those persons who commit crimes shall be condemned to the mines.

L5: It shall be arranged where possible that Negro men marry Negro women, and slaves shall not be freed just because they have married; L6: When children of Spanish fathers and Negro mothers are to be sold, the fathers shall be favored if they wish to buy them; and L7: Negroes and Mulattoes, whether free or slaves, shall not be served by Indian men or women.

L8: The Audiencias shall hear and provide justice for all those who proclaim their freedom; L12: Negroes shall not walk around at night through the cities; and L13: The Justices shall take great care in proceedings involving slaves, Negroes and distraught persons.

L14: Mulattoes and Zambaygos shall not carry weapons, and Mestizos may carry arms only by permission; L15: Negroes and Loros (dark-skinned persons) whether slave or free, cannot carry arms; L16: Slaves,

Mestizos and Mulattoes of Viceroy's and Ministers shall not carry arms, but those of Alguaciles Mayores and certain others are not included in this restriction; L17: In Cartagena, no slave shall carry arms unless he be accompanied by his master; and L18: The Ministers shall not give permission to anyone to have Negroes armed with weapons.

L19: The settlers shall not molest the free Morenos who have been pacified; L20: When the Negroes Cimarrones have to be reduced, it shall be done according to the form and with the repartimiento that this law declares; L21: The fugitive and delinquent Negroes Cimarrones shall be punished, and their punishment is described; L22: In the reduction of the Negroes Cimarrones, during war or peace, the instructions given in this law shall be observed; and L26: In punishment of Negroes guilty of mutiny and insurrection, no trial shall be conducted.

Notes

Neither Mestizos nor Mulattoes shall be sent to give the required assistance to the Philippines. Law 15, Title 4, Book 3.

No positions shall be given to Mulattoes, Morenos, or Mestizos. Law 13, Title 10, Book 3.

The Indian Alcaldes shall be allowed to detain Negroes and Mestizos until the Justicia Ordinaria returns. Law 17, Title 3, Book 6.

Spaniards, Negroes, Mestizos and Mulattoes shall not live in Indian villages, Law 13, Title 21; even though they have purchased lands in those villages. Law 22, Title 3, Book 6.

Negroes and Mulattoes shall not have Indians in their service. Law 16, Title 12, Book 6.

Title 6: Concerning Jails and Jailers: L6: The Jailers shall have a record book, and they shall not trust the keys to Indians or Negroes; L9: The prisoners shall be well treated, and they shall not be served by the Indians; and L21: The Indians shall not pay costs nor jail fees.

Title 7: Concerning Visits to the Jails: L12: In Mexico two Oidores shall visit the cells of Indian prisoners on Saturdays; L13: The Oidores Visitadores for Indians shall see and examine the depositions of witnesses; and L14: This law gives instructions to be followed in settling a case where an Indian has been imprisoned because of his debts, and what has to be arranged with his creditors.

Title 8: Concerning Crimes, Penalties and Their Application:¹³¹
L6: Indians who live together without benefit of marriage will not pay the penalty of the marco; and L10: Indians may be sentenced to personal service in convents and to the Republic.

Notes

Crimes against Indians shall be punished more rigorously than those against Spaniards. Law 21, Title 10, Book 6.

BOOK VIII

ACCOUNTS AND THE ROYAL TREASURY¹³²

Title 1: Concerning the Auditing of Accounts and the Ministers:
L77: The Auditors of Accounts shall not take into their accounting vacancies, residuals, treasuries of the Indians, or lodging houses if these do not belong to the King.

Title 2: Concerning Auditors of Accounts, Vacancies, and Chief Auditors.

Title 3: Concerning the Tribunals of the Royal Treasury: L16: The Judges in charge of the estates of deceased persons or the census of Indians shall not interfere with trials pending before the Officials of the Royal Treasury concerning their collection of money.

Title 4: Concerning Royal Officers and Auditors of Tributes, Their Lieutenants and Chief Guards: L55: The Royal Officers shall not be allowed to have Indians, nor their children, while they are under the jurisdiction of their parents.

Title 5: Concerning Scribes for Mines and Registers.

Title 6: Concerning the Royal Treasury.

Title 7: Concerning the Royal Books: L9: There shall be a book in which to register tributes to the Royal Crown.

Notes

The Viceroy and Presidents shall keep a journal to record repartimientos of Indians. Law 62, Title 3, Book 3.

Title 8: Concerning the Administration of the Royal Treasury: L3: Everything which belongs to the King shall be placed in the Royal Treasury in the presence of the Royal Officers.

Title 9: Concerning Tributes of Indians Under the Royal Crown and Other Proceeds from Unoccupied Encomiendas:¹³³ L1: The repartimientos of Indians and the tributes incorporated under the Crown are the property

of the Royal Treasury; L2: Concerning the tributes committed to communities; and persons who are prohibited from collecting for the Royal Treasury; L3: Tributes to the Crown shall be collected every trimester, and instructions are given as to how this should be done; and L4: The Royal Officers shall keep a book which accounts for all tributes.

L5: Every Saturday the Accountant shall administer an oath to the Factor who shall swear to the truth regarding the collection of tributes; L6: The Royal Officers shall administer for the Indians under the Crown; L7: The Royal Officers shall take charge of the tributes to the Crown for assessments; and L8: The Royal Officers shall send requisitions for the collection of tributes.

L9: The Corregidores and Alcaldes Mayores shall collect tributes, and they shall post bonds regarding the money handled; L10: The Corregidores shall collect tributes, and they shall post bonds so they will remit them to the Treasury, and until this is done they shall not be appointed; L11: The Corregidores shall not take tributes they collect to their homes; L12: The persons who collect tributes shall take them to the Royal Officers; L13: This law describes the penalties which the Corregidores, Alcaldes Mayores and their Lieutenants shall incur if they retain tributes; L14: The Royal Officers and Corregidores shall take great care in the collecting of tributes for the Crown; L15: The Corregidores and Alcaldes Mayores shall not postpone their accounting and adjustment of tributes for the Crown until the residencias; L16: The tributes shall be collected with as little trouble as possible for the Indians and the Royal Treasury; and L17: The Corregidores shall give an account of the tributes which they have collected and placed in the

Treasury in their district; and of the recourse by appeal.

L18: The Governors shall appoint Calpizques (administrative officials) for villages under the Crown: the Audiencias shall verify and approve; and the Royal Officers shall conduct the accounting; L19: ~~No one shall take advantage of the Indians who have come under the~~ guardianship of the Crown; L20: The tercio shall always be collected from the encomiendas which yield more than eight hundred ducats; L21: The vacated tributes shall be placed in the Royal Treasury, and there shall be proper accounting in its distribution; L22: The vacated tributes shall be distributed as commanded; and the Viceroys shall account for these when they are commanded; L23: The proceeds from vacated tributes shall be remitted separately according to instructions; and L24: The income from encomiendas which have been denied confirmation because of having gone beyond the time limit or for any other cause, shall be collected and put into the Royal Treasury.

Notes

The tributes shall be remitted and collected to conform with the laws 28 and 63, Title 5, Book 6.

Title 10: Concerning the Royal Quintos (the Royal Fifth): L2: The quinto shall be paid from all gold, silver, pearls and precious stones taken in battle, from villages, or recovered [mined, etc.]; L3: The King shall be given his share, the quinto, from everything recovered whether it be from ransom, prison, or death of a person, as this law and others declare; L7: The gold and silver that the Indians shall give in tribute shall be marked for the quinto first of all; L8: The Encomenderos shall mark and pay the quinto only in their own province; and

L47: No one shall be in possession of any gold, silver, pearls, or precious stones unless the quinto has first been taken out.

Title 11: Concerning Administration of the Mines and Shipment of Copper and Sulphur to These Kingdoms: L4: The copper which is taken out of Havana and other places shall not be disposed of without an order from the War Council.¹³⁴

Title 12: Concerning Treasures, Places of Deposit and Trade: L2: After first taking out the fees and the King's fifth, half of all treasures discovered in tombs, oques (?), temples, altars, or estates of the Indians shall belong to the King.

Title 13: Concerning the Sales Tax: L3: All citizens and Encomenderos shall pay sales tax, and frauds and falsehoods shall be investigated; L24: The sales tax shall not be collected from the Indians; and L33: A list shall be made in each village of everyone who shall pay sales tax.

Title 14: Concerning the Customs Tax.

Title 15: Concerning Import and Export Duty and Royal Taxes.

Title 16: Concerning Evaluations, and General and Particular Assessments.

Title 17: Concerning Contraband, Misplacements and Confiscations.

Title 18: Regulations Concerning Slaves (Laws concerning slaves included for comparison): L1: Slaves shall not be brought into the Indies without permission from the King or Asentista (the contractor); L2: Negroes shall not be put ashore in the Indies without permission

from the Justices and the Royal Officers; and L3: Slaves shall not be brought into Peru from the Provinces of Río de La Plata, Paraguay and Tucumán.

L4: All slaves taken from the Philippines to New Spain shall be registered and the tax shall be paid for each; L5: Prompt and efficient service shall be provided for the ships which bring in supplies of slaves; and L6: The Alcaldes for exports, tolls and tithing shall not collect taxes from the slave ships for provisions and supplies.

L7: In Cartagena, six reales shall be paid to the armed fighters for each Negro Cimarrón who is captured in the struggle for the pacification of the Cimarrones.

L8: When the King graciously granted relief from payment of duty on slaves, this privilege was intended to apply only for licensed slaves in the Indies; L9: The Audiencias shall not distribute nor make use of duties on slaves, and they shall remit these to Spain; L10: The Asentistas (contractors) for slaves shall be able to contract directly with their Factors (agents) if it is not in opposition to what has been agreed upon; and L11: No great care shall be taken in recording the number of slaves that are put aboard in Guinea, but attention shall be paid to the number of slaves who shall disembark in the Indies.

Title 19: Concerning the Media Anata.

Title 20: Concerning the Selling of Offices: L1: In the Indies the offices which this law specifies may be sold; L3: the offices of Alguaciles Mayores and Notaries for Indian villages may be sold; L5: The office of Depositario (public treasurer) shall not be sold when that particular treasurer is responsible for the assets of the Indian

communities; and L29: The Royal Officers shall observe what has been commanded in remitting all official proceeds, and they shall ask for corroboration for each transaction and keep a book to record the accounting.

Notes

In the Indian villages offices shall not be sold nor shall there be proprietary offices. Law 29, Title 3, Book 6.

Title 21: Concerning Renunciation of Office: L1: Any office which may be purchased may also be resigned from, paying each time the amount stipulated in this law.

Title 22: Concerning Confirmation of Office: L1: All offices which have been purchased or renounced must receive confirmation.

Title 23: Concerning Monopolies: L13: There shall be a monopoly on salt where it might be profitable and still not cause serious hardship to the Indians.

Title 24: Concerning Novenos, and Vacancies of Bishoprics.

Title 25: Concerning Public Auctions.

Title 26: Concerning Salaries, Gratuities, Allowances and Income.

Title 27: Concerning Situations: L5: The supplementary allowances derived from the tributes from Montejo shall be paid for years of service; L8: Regarding matters which involve the defense of the Indians in Peru, the instructions concerning the lodging places for the Council shall be

preferred; L10: The contributions and allowances deposited in the treasury shall be derived from tributes; and L11: The funds which have been deposited in the Royal Treasury for Indians since vacated shall remain in the Treasury until they are redeemed.

Title 28: Concerning Drafts.

Title 29: Concerning Accounts: L17: The accounting for income, tributes and expenses incurred in the duties of the Royal Officers shall conform to this law; L18: The Governors and Corregidores whose accounts show a deficit shall incur the punishment described in this law; and L25: This ordains what shall be entered in the accounts of tributes of Indians to the Crown and what they should be able to verify.

L31: Every year an accounting shall be made of the Postmaster, the Accountant for tributes, and the Accountant for quicksilver in New Spain.

Title 30: Concerning Remittances to the Royal Treasury.

BOOK IX

TRADE, THE FLEETS AND PASSAGE TO THE INDIES¹³⁵

Title 1: Concerning the Royal Audiencia and House of Trade which is situated in Seville: L23: The President and Judges of the House of Trade shall be obliged to keep information for Encomenderos regarding encomiendas in confidence; and L99: The House of Trade shall be obliged to return Indians who were taken to these Kingdoms back to their natural environment.

to him in encomienda, but ways were found that resulted in de facto occupation of these vacant lands by Spaniards. Charles Gibson explains the Spanish acquisition of Indian land thus:

It is often said, with an implication of significance, that the lands of America were the property of the Crown of Castile. ~~But the point is at best legalistic, and for Indian history it is immaterial.~~ The Crown played an insignificant role either in fostering or in inhibiting latifundia. Legal possession of land by the Crown did not mean that land usurpation, too, was a state-controlled enterprise. It was private and frequently illegal, though the state came to tolerate it and to profit from it through the devices of denuncia and composición.¹³⁷

The gradual evolution in the nature of the Indian labor system is concisely described by Silvio Zavala:

In summary, in the face of many obstacles the system of colonial labor progressed from slavery, from unpaid personal services in lieu of tribute, from forced labor, and from debt peonage, toward a standard of free paid labor, that is toward the economy common to the modern world.¹³⁸

Throughout the colonial period in Spanish America, and largely elsewhere in the Americas, the local Indian community, and the right of the Indian to a modicum of self government within that community, had survived. This survival had come as a product of many twists and turns. As Silvio Zavala explains further:

As a rule, the colonial stage of Hispanic-American history has been thought of as one characterized by great tranquility and by a minimum of problems. This idea, however, is perhaps due to the preference that had been given to political history as understood by the nineteenth century, and to the neglect of social history. For as soon as we fix attention on the tremendous problems of organization and labor presented by the period of colonization, this illusion is at once dispelled; and in its place we see a spectacle of constant change in the basic structure of a labor system-- a social phenomenon manifestly of exceeding interest.¹³⁹

FOOTNOTES

There are basically 3 kinds of notes: first those that are a part of a particular document we are translating or otherwise working with or that are intimately related to its meaning; these are marked by asterisks; second, at the end of many titles of the books of the Recopilación of 1681, notes are included that are part of that work itself; and third, the regular footnotes we have supplied that are numbered and placed at the end of the work.

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¹Francisci de Victoria. De Indis et de Iure Belli. Edited by Ernest Nys (Washington: Carnegie Institution of Washington, 1917). Introduction, p. 86. The spelling of the author's name is latinized in the citation above. I will follow the Spanish, as shown, since Francisco de Vitoria was a Spaniard.

²Ibid., p. 127; item 23 of the first section of the first lecture.

³Felix S. Cohen. Handbook of Federal Indian Law (Washington: GPO, 1941). Reprint by the University of New Mexico Press, p. 122.

⁴In citing parts of the Recopilación de Leyes de los Reinos de las Indias, 4 vols. (1681): B stands for Book, T stands for Title, and L stands for Law, each followed by the appropriate number.

⁵See the introduction to the Second Lecture, "On the Law of War Made by the Spaniards on the Barbarians."

⁶Silvio Zavala, "The Legal Claims of Spain in the Indies," Chapter I of New Viewpoints on the Spanish Colonization of America (Philadelphia: University of Pennsylvania Press, 1943). Pp. 5-16.

⁷Carl O. Sauer. The Early Spanish Main (Berkeley: University of California Press, 1966), pp. 155 and 291.

⁸Vitoria, De Indis, selected from pp. 115-187.

⁹Zavala, "The Papal Bulls of Alexander VI Relative to the Indies," Chapter II of Spanish Colonization of America, pp. 17-28. Also see Bartolomé de Las Casas, Defense of the Indians, pp. 349-360.

¹⁰Vicente de la Fuente, Palacios Rubios: Su Importancia Jurídica, Política, y Literaria. In Revista General de Legislación y Jurisprudencia (Madrid, 1870), Vol. 36, p. 242. There are several English translations of the Requerimiento. The most accessible is in Gibson, The Spanish Tradition in America (1968), pp. 58-60, which is an adaptation from the translation of Sir Arthur Helps.

¹¹Lewis Hanke, Spanish Struggle for Justice, p. 24. The full text of the Laws of Burgos is found in L.B. Simpson, The Laws of Burgos 1512-1513. Royal Ordinances for the Good Government and Treatment of the Indians (San Francisco: John Howell, Books, 1960).

¹²Zavala, "Evangelical and Political Problems of Penetration in the New World," Chapter III of Spanish Colonization of America, pp. 29-37.

¹³See "Reducciones and Towns of the Indians" in the Recopilación, B6, T3.

¹⁴Ibid.

¹⁵See NL: 10, 24, 35, and 50. Also see "Concerning the Good Treatment of the Indians" in the Recopilación, B6, T10.

¹⁶See NL: 31-36. Also see "Concerning the Encomenderos of Indians" in the Recopilación, B6, T9, particularly L3.

¹⁷See "Concerning the Holy Catholic Faith" in the Recopilación, B1, T1.

¹⁸See "Concerning the Cathedrals and Parochial Churches," in the Recopilación, B1, T2.

¹⁹See "Concerning the Doctrineros," the friars or priests assigned to Indian parishes or Doctrinas, in the Recopilación, B1, T15. In regard to the steps taken in the achievement of complete conversion of the Indian see Fray Bringas Reports To The King. Methods of Indoctrination on the Frontier of New Spain 1796-97 (1977), translated and edited by Daniel S. Matson and Bernard L. Fontana, p. 13: "It was a program of planned assimilation which began with founding a mission (misión) for pagans, that is, those presumed to be without religion, which advanced either to reductions (reducciones) or conversions (conversiones) for beginners in the Christian Faith; which further progressed to doctrines (doctrinas) for those who were at least partially instructed in the Catholic faith; culminating in curacies (curatos), fully secularized churches administering to the religious needs of full-fledged Catholics who by now had become tax-paying vassals of the crown." P.48, in the words of Fray Bringas himself: "The dispositions of the royal patronage provide different types of ministros for the doctrinas and the conversiones. It was necessary to recognize that this had to be done if the faith was to be propagated. This is the duty solely of the conversores or ministros. This contrasts with the doctrineros and curas, whose duties are to preserve the faith after it has already been propagated in the pueblos they minister." Also see p. 55, paragraph 26, and f.n. 24, for further use of these terms.

²⁰Doctrinas, or Indian parishes, are to be established for those who work at the mines; the Recopilación, B6, T15, L10.

²¹See NL: 28-30; and concerning the burdening of Indians against their will, the use of Indians as carriers, etc., see "Concerning Personal Service," in the Recopilación, B6, T12, L6-18.

²²See NL: 26 and 27; and concerning the use of Indians in the mita or repartimiento see "Concerning Personal Service," in the Recopilación, B6, T12, L19-31, and ff.

²³Concerning the performance by Indians of their customary dances, see "Concerning the Indians," in the Recopilación, B6, T1, L38.

²⁴See "Concerning Colleges and Seminaries," in the Recopilación, B1, T23, L11, where the colleges that have been established to train the sons of Caciques are discussed, and it is recommended that others be established in principal cities.

²⁵In relation to the punishment of Indian men or women that have two wives or husbands, see "Concerning the Indians," in the Recopilación, B6, T1, L4.

²⁶Also see Law i in the Amendments to the Laws of Burgos, 1513.

²⁷See "Concerning the Caciques," in the Recopilación, B6, T7, and particularly L7 and 8.

²⁸See NL 24; and "Concerning the Good Treatment of the Indians," in the Recopilación, B6, T10.

²⁹See "Concerning the Protectors of the Indians," in the Recopilación, B6, T6.

³⁰See "Concerning Repartimientos, Encomiendas," etc., in the Recopilación, B6, T8, and L20-27 concerning the size of encomiendas.

³¹See "Concerning Personal Service" in general, and in relation to particular kinds of service, in the Recopilación, B6, T12-15, for various references to service of women and children. Also see index to this work.

³²Ibid.

³³There are references to the rights of, and treatment of Indian women scattered throughout the Recopilación; see B6, T1, L2-10, and L48 with footnote for a sampling of these. Also check the index to this work.

³⁴See the Recopilación, B6, T1, L19-21, and note to accompany L19.

³⁵Friede and Keen, Las Casas in History, pp. 168-176, for a discussion of "Las Casas and the New Laws of 1542;" also see pp. 339-341; Simpson, "The New Laws," chapter 10 of Encomienda in New Spain, pp. 123-144ff; Hanke, Spanish Struggle for Justice, pp. 91-105, for a discussion of the New Laws and the result of their promulgation; and Zavala, "The Emancipation of the Indian Slaves," Chapter VI of Spanish Colonization of America, pp. 59-68.

³⁶Colección de Documentos Inéditos ... de América y Oceanía (Madrid, 1871). Tomo XVI, pp. 376-460. The full text of the New Laws of 1542-43 in English can be found in The New Laws For The Government Of The Indies And For The Preservation Of The Indians, 1542-1543 (Amsterdam: N. Israel, 1968). This is a facsimile edition of the translation by Henry Stevens and F. W. Lucas, London, 1893.

³⁷See LB, 1512, Introduction, and Laws 29-34 concerning the role of the Inspectors appointed for Indian villages; also LB, 1513, Introduction, and Law 4. The Recopilación, B6, contains much that relates to good government for the Indians, but see particularly T1-3, and 6-9.

³⁸Concerning treatment of the Indians see LB, 1512, Introduction, and Laws 2, 4, 10, 18-20, 24; and LB 1513, Introduction and Laws 1-3. In the Recopilación, B6, T1, 2, and 10 particularly have to do with the treatment of the Indians.

³⁹ See Zavala, Spanish Colonization of America, Chapters V and VI, pp. 49-68, on slavery and emancipation of Indian slaves; also see Recopilación, B6, T2 and notes at the end of T2.

⁴⁰ Concerning the burdening of Indians, see LB, 1512, L11, and the Recopilación, B6, T12, L6-18.

⁴¹ Concerning Indian service in pearl fisheries see the Recopilación, B6, T13, L11.

⁴² Concerning Encomenderos, Repartimientos and Encomiendas see LB 1512, L1, 3, 9, 12, 13, 19, 20, 28, and 35; LB 1513, L1-3; and the Recopilación, B6, T8 and 9.

⁴³ The policy of favoring Conquistadors, their heirs, discoverers, and other meritorious persons is continued in the Recopilación, B6, T8, L4-6.

⁴⁴ For a reversal of this position, see the Recopilación, B6, T8, L4.

⁴⁵ Concerning the New Discoveries see Philip II, Laws concerning, 1573, and the Recopilación, B4, "The Discoveries, Pacifications, and Settlements."

⁴⁶ Concerning tributes, see the Recopilación, B6, T5, and B8, T9.

⁴⁷ That it was also necessary for the King to change this position is made apparent in the Recopilación, B6, T2, 8 and 12, along with other parts of B6.

⁴⁸ For further reference to this matter see the Recopilación, B6, T9, L25-28.

⁴⁹ See "Concerning the Liberty of the Indians," in the Recopilación, B6, T2.

⁵⁰ Further references to tribute are found in Note 46 above.

⁵¹ Hanke, Spanish Struggle for Justice, pp. 113-132; Hanke, "The Great Debate at Valladolid, 1550-1551;" Chapter VI of Aristotle and the

Indians, pp. 62-73; Hanke, All Mankind Is One, throughout; Las Casas, Defense of the Indians, throughout; and Ángel Losada, "The Controversy between Sepúlveda and Las Casas in the Junta of Valladolid," in Friede and Keen Las Casas in History, pp. 279-306, with notes.

⁵²Las Casas, Defense of the Indians, p. 42.

⁵³Juan Friede, "Las Casas and Indigenism in the Sixteenth Century," in Friede and Keen, Las Casas in History, p. 196.

⁵⁴For further references to New Discoveries see Laws 39-43 of the New Laws of Charles I; and the titles and laws from Book IV, concerning the Discoveries. These instructions, as first codified by Philip II in 1573, were the basis of the contract with Juan de Oñate for the occupation of New Mexico in 1598. The Spanish version of this codification is found in Colección de Documentos Inéditos ... de Américas y Oceania (Madrid, 1871). Tomo XVI, pp. 142-187. Ernesto de la Torre Villar gives us an overview of the Spanish laws of discovery in Las Leyes de Descubrimiento en los Siglos XVI and XVII. Junta Mexicana de Investigaciones Históricas. Mexico, 1948.

⁵⁵Compare Titles and Laws from Book II of the Recopilación.

⁵⁶Colección de Documentos Inéditos ... de Américas y Oceania (Madrid, 1871). Tomo XVI, pp. 376-460.

⁵⁷Haring, Spanish Empire in America, chapter VI, "The Council of the Indies," pp. 102-118; also see Ernesto Schafer, El Consejo real y supremo de las Indias (Seville, 1935). Also see the Recopilación, B2, "The Royal Council of the Indies and the Royal Audiencias."

⁵⁸For comparable statements to 5 and 6 here, see the Recopilación, 1681, B2, T1, L4-6.

⁵⁹Compare the Recopilación, B2, T3, L15.

⁶⁰ Compare the Recopilación, B2, T3, "Concerning the President and Those of the Royal Council of the Indies."

⁶¹ Compare the Recopilación, B2, T5, "Concerning the Attorney of the Royal Council of the Indies."

⁶² Compare the Recopilación, B2, T7, "Concerning the General Treasurer of the Royal Council of the Indies."

⁶³ Compare the Recopilación, T12, "Concerning the Chief Chronicler of the Royal Council of the Indies;" and T13, "Concerning the Cosmographer and Professor of Mathematics of the Royal Council of the Indies."

⁶⁴ Compare 119 and 120 here with the Recopilación, B2, T12, L1 and 2.

⁶⁵ Haring, Spanish Empire in America, pp. 110-111.

⁶⁶ Lucy Kramer Cohen, editor. The Legal Conscience. Selected papers of Felix S. Cohen (New Haven: Yale University Press, 1960). Pp. 230-252.

⁶⁷ Haring, Spanish Empire in America, pp. 111-115.

⁶⁸ Javier Malagón y José M. Ots Capdequí. Solórzano y la Política Indiana (Mexico-Buenos Aires: Fondo de Cultura Económica, 1965).

⁶⁹ Haring, Spanish Empire in America, Chapter X, "The Church in America," pp. 179-208. Also see Manuel Josef de Ayala, Notas a la Recopilación de Indias. Origen e Historia Ilustrada de las leyes de Indias. 2 vols. (Madrid, 1945-46). Vol. 1 contains notes on the Titles and Laws of Book I, which is concerned with the Church in the Indies. This is an unedited work. The transcription and preliminary study are the contribution of Juan Manzano Manzano.

⁷⁰ The notes at the end of Titles refer to other pertinent information in the same or other Books of the Recopilación. Since we have only included examples of references to Indians from Books I through V and VII through IX, the notes may sometimes refer to material we have not

included, for which you are referred to the Recopilación itself.

⁷¹Concerning the churches in the reducciones see B6, T3, L2-7.

⁷²See B6, T1, L1, concerning the responsibilities of ecclesiastical persons toward the Indians.

⁷³See B6, T3, L2-7, and ff. "Concerning the Reducciones and Towns of the Indians."

⁷⁴Concerning the Doctrineros, their Doctrinas, and relationships to Indians, Indian towns, etc., see B6, T3, L5, 7; T8, L24; T9, L2 and 3; T12, L43 and 44; and T15, L10; also other general statements to be covered by the index to this work. Also see Note 19.

⁷⁵Juan de Solórzano y Pereyra, Política Indiana. Corrected and illustrated, with notes by Francisco Ramiro de Valenzuela (Madrid y Buenos Aires: Compañía Íbero-Americana, 1972), 6 books bound in 5 vols., Libro Segundo, Capítulos XXII and XXIII. Concerning tributes see also B6, T5; and B8, T9.

⁷⁶See Philip II, Compilation of Laws, 1571, on the Council of the Indies, above; also see Haring, Spanish Empire in America, pp. 102-118; and Manuel Josef de Ayala, Notas a la Recopilación de Indias. 2 vols. (Madrid, 1945-46). Vol. 2 contains notes on the Titles and Laws of Book II, the Royal Council of the Indies and the Royal Audiencias.

⁷⁷Haring, Spanish Empire in America, chapter IV, "Territorial Organization in New Spain," pp. 75-88; and chapter V, "Territorial Organization in Peru," pp. 89-101.

⁷⁸For further information relating to titles 16 through 34 of Book II, see Haring, Spanish Empire in America, chapters VII and VIII on "Royal Government in the Indies," pp. 119-157.

⁷⁹For further information pertaining to Book III, see notes 77 and

78 above, and also see Haring, Spanish Empire in America, chapter IX, "The Cabildo," pp. 158-178.

⁸⁰ Compare Book IV with Philip II's Ordinances on the New Discoveries, 1573. Also see Torre Villar, Las Leyes de Descubrimiento (1948).

⁸¹ For further information pertaining to material in Book V, see notes 77, 78, and 79 above, and use the index for particular topics in Haring, Spanish Empire in America.

⁸² For other statements concerning the good treatment and freedom of the Indians, see the introduction to LB and to NL, above. Also see the section on legal, social and economic condition of the Indian in Malagón y Ots Capdequí, Solórzano y la Política Indiana, pp. 49-59; and José María Ots Capdequí, El Estado Español en las Indias (Buenos Aires-Mexico: Fondo de Cultura Económica, 1965), pp. 24-33, on the same subject.

⁸³ For laws 2 through 7, see references cited in note 82 above. In El estado Español en las Indias, also see pp. 95-112, on the legal condition of the woman.

⁸⁴ For laws 8 through 11, see references cited in note 82 above; see also pp. 73-95 in El Estado Español en las Indias, on the legal regulation of the family.

⁸⁵ In laws 12 through 17, concerning the movement of Indians from one location to another, we find law 12 beginning with the statement that the Indians are free to move, then, as is frequently the case in other expressions concerning the liberty or freedom of the Indians, the laws begin to list exceptions.

⁸⁶ There are several laws instructing the Religious to learn and know the language of the Indians they are working with, but it is apparent

that Spanish administrators also wanted the Indians to learn the Spanish language.

⁸⁷In laws 19 through 21 we find justification for the statement of Edward H. Spicer, Cycles of Conquest (Tucson: University of Arizona Press, 1962), pp. 281-282, concerning the basic elements of the Spanish program for the Indians: "There was no uncertainty at high policy levels as to what it was that the Spaniards had to offer the Indians. Church and civil officials were in agreement from the start on what the Indian would be made to accept as fundamental elements of civilization. It was agreed that Spanish regal authority and law must be the framework of Indian life. It was also agreed that the setting for these primary elements of civilization must be town life. In addition, the Indians must be made to dress in the Spanish manner at least to the extent of trousers and shirts for men and skirts and upper garments for women. They must also practice monogamy and employ formal marriage ceremonies, and they ought to live in adobe or stone houses. It is doubtful that any Spaniard who thought about a program of civilization would have omitted any of these items, although there were certainly differences of opinion about precisely what features of each trait-complex were essential."

⁸⁸For laws 22 through 29 and 32, see Ots Capdequí, El Estado Español en las Indias, pp. 141-149, on the property rights of the Indian under the law.

⁸⁹See José María Ots Capdequí, Instituciones (Barcelona, Madrid, etc.: Salvat Editores, S.A., 1959), pp. 533-538, on Indian property rights in land. Permission is sometimes given to Spaniards to occupy lands vacated by Indians when a town (Reducción or Congregación) is left without occupants, frequently as a result of disease. The use of denuncia and composición should also be considered.

⁹⁰In laws 31, 33 and 34 we find some specific evidences of Spanish discrimination against the Indians, the effort to hold the Spaniard in a superior position. This was considered necessary for protection against the Indians in some places. In other places these laws were ignored and the Indians had horses and guns as allies of Spaniards against other Indians.

⁹¹The Crown frequently divided responsibility between civil and religious so that the one would act as a check on the other. In law 38 it is the Governor who is required to give Indians permission to hold public dances and celebrations, although they were frequently religious in nature.

⁹²Law 36 is an interesting forerunner of a general trend among European-American nations to try to keep liquor away from the Indians; but a particularly Spanish element is law 37 which permits the Indians to use their native drink called pulque, under proper conditions. Apparently it could be doctored up so it would have a real kick, and thus be detrimental to health.

⁹³Laws 39 through 46 formalize in law the appreciation of Spaniards for the role of Tlaxcala particularly, and also Guazalco, as allies.

⁹⁴Indians of Mexico, Peru and elsewhere had courts before the advent of Europeans. In New Spain, and later in Peru, the Juzgado de los Indios was established as a court of appeals from actions of Spanish officials in cases involving Indians. See Haring, Spanish Empire in America, pp. 61-64, and 131; and for an example of an Indian system of justice see Alonso de Zorita, Life and Labor in Ancient Mexico. The Brief and Summary Relation of the Lords of New Spain. Translated and edited by Benjamin Keen (New Brunswick, New Jersey: Rutgers University

Press, Second Printing, 1971), pp. 112f., 123-126, 128-135, 154f., and 169. Also see Title VI below on the Protectors of the Indians.

⁹⁵Here; in Book 7, T3; in the note to L6, T8, B7 below; in L24 and 25, T26, B9; and in other laws concerning adultery, concubinage, and marriage we see examples of the continuing concern of the Crown, the Church, and the Council of the Indies about relationships between Spanish men and Indian women. The fact that many nations of Latin America are predominantly a mixture of Spaniard and Indian, or mestizo, today is evidence that the Spanish male did not share that concern.

⁹⁶The freedom or libertad of the Indians is a matter of continuing concern to the Crown and the Church beginning with Isabella and continuing particularly through the first half of the sixteenth century. The Laws of Burgos and the New Laws of 1542 reflect this concern. Bartolomé de las Casas and his followers helped keep the pressure on the king's conscience. These laws were the result.

⁹⁷See Zavala, Spanish Colonization of America, Chapters V and VI, pp. 49 to 68, on slavery and emancipation of Indian slaves; also see references to the freedom and enslavement of Indians in earlier law codes, above, and in notes at end of T2 below.

⁹⁸See T16 of this Book for further references to the Indians of Chile.

⁹⁹For the early establishment of Reducciones see LB above. In New Spain the term Congregaciones was used; for references to their establishment, history, and use see Gibson, Aztecs Under Spanish Rule, pp. 28, 47, 56f., 282-286 (history), 286-7 (table), and 293ff. Also see Lesley Byrd Simpson, Studies in the Administration of the Indians of New Spain. I. The Laws of Burgos; II. The Civil Congregation (Berkeley, 1934).

Ibero-Americana: 7.

¹⁰⁰As I have noted above, there are exceptions to this in practice.

¹⁰¹In L15 through 17, attention is called to the fact that Indians are selected as officers for the Indian towns at elections held each year. Reference is also made to positions in Indian towns (Reducciones) in T2, B3 above.

¹⁰²Attention is called to the fact that Indians may kill livestock "that might enter their land, without any penalty." L7, 9 and 12, T12, B4, state that Spanish settlements are to be placed where they will not damage Indian towns; the lands are to be chosen without prejudice to Indian lands; and L12 suggests a remedy in regard to Spanish livestock: "the justices will cause the owners of cattle, and persons interested in the public welfare, to place herdsmen and keepers, which may be sufficient to avoid damage; and in case any should happen, the owners shall make satisfaction therefor."

¹⁰³L21 through 26 are for the protection of Indian towns against persons that the Crown and the Council know are in a position to take advantage of, and engage in practices that are detrimental to the Indians and their communities. They are to pay a fair price for anything they purchase from the Indians.

¹⁰⁴The purpose of laws 27 and 28 is to protect the Indians from mayordomos or overseers hired by the Spaniards to assist with the administration of affairs among Indians under encomienda.

¹⁰⁵Although the sale of offices was common in the Indies, the practice is to occur only under prescribed restrictions in Indian towns.

¹⁰⁶Charles I and Philip II set the precedents in much of the legislation in Book VI concerning the Indians, but in T4 that deals with the handling of community assets, revenues, investments, etc., only a few of

the laws in the Recopilación of 1681 are from Philip II, more from Philip III (1598-1621), a similar interest is shown during the period of Philip IV (1621-1665), and more of the laws in Title 4 come from the period of Charles II (1664-1700) than any other period. B5, T2 and 3 above deal with Governors, Corregidores, and other local officials who had most to do with Indian communities in the Indies.

¹⁰⁷L1 through 4 charge the top officials in the Indies with bringing order to what has been an unsatisfactory system for handling these assets and the records concerning funds in the community treasuries. Other funds are not to be mixed with those of the communities.

¹⁰⁸L5 through 7 are concerned with how community funds are to be invested and reinvested, and who is to be involved in decisions concerning investments.

¹⁰⁹L8 through 12 specify that cash reserves shall be available, that there is to be a system of double entry bookkeeping maintained, and that the administration of assets and revenues in the community strongboxes is to be under the charge of Officers of the Royal Treasury.

¹¹⁰L13 through 17 contain instructions for the use of the assets and revenues, and suggest that the payment of taxes, tributes, and contributions to missions and seminaries should come from accrued revenue so the principal could be maintained intact.

¹¹¹L18 through 22 discuss the roles of such officials as the Corregidores, Officers of the Royal Treasury, and Oidores in the collection of taxes, handling of revenue, keeping records and making reports concerning community assets. Officials who are involved with these funds are required to "furnish bonds to cover the treasury of the Indians which is under their authority." The Fiscales are to defend Indian interests in lawsuits

that involve community assets.

¹¹²L32 through 35 call attention to the role of Governors, and particularly Corregidores in handling and reporting on uses of community revenues. There is an indication that the Corregidores were sometimes dishonest, and they are put on notice that these are criminal actions that include the possibility of use of the death penalty.

¹¹³L36 through 38 discuss the roles of Justices, Judges of Residencia, Viceroys, Presidents, Oidores, Judges, and Officers of the Royal Treasury in accounting for assets, advising the King through reports, protecting the treasury, collecting overdue debts, etc.

¹¹⁴Title 9 of Book 8, below, also contains laws relating to Indian tribute; also see Zavala, Spanish Colonization of America, chapter VIII, "The Encomienda as an Economic Institution," pp. 80-92; also Juan de Solórzano y Pereyra, Política Indiana. Corrected and illustrated, with notes by Francisco Ramiro de Valenzuela (Madrid y Buenos Aires: Compañía Íbero-Americana, 1972), 6 books bound in 5 vols., Libro Segundo, capítulos XIX, XX, and XXI; also Ots Capdequí, Instituciones, capítulo V, "Los indios: el tributo," pp. 99-115; and Haring, Spanish Empire in America, pp. 282-3.

¹¹⁵See Book 2, Title 18 above. Also see Protector and Procurador of the Indians in Haring, Spanish Empire in America, pp. 49ff., 57, and 61; C. Bayle, "El Protector de Indios," Anuario de Estudios Americanos, II (Sevilla, 1945); "Los Indios y sus protectores," Boletín del Archivo Nacional (Caracas), Tomo 33 (1945), pp. 65-69; and Solórzano, Política Indiana, Libro Segundo, capítulo XXVIII.

¹¹⁶See Caciques in LB, above; also in B1, T23, L11; B5, T2, L24; B6, T2, L3; and B6, T5, L18 above; as well as B6, T12, L18, 27 and

46 below; and Solórzano, Política Indiana, Libro Segundo, references or notes in capítulos 7, 20, 23, 26, 27 and 28. Capítulo 27 gives particular attention to "the caciques or curacas of the Indians." Robert Kern, editor, The Caciques, Oligarchical Politics and the System of Caciquismo in the Luso-Hispanic World (Albuquerque: University of New Mexico Press, 1973), treats the word for what it was and what it has become; chapter 2 discusses "Anthropological Antecedents," and chapter 3, "Caciques in Postconquest and Colonial Mexico."

¹¹⁷ For Repartimientos and Encomiendas see the Laws of Burgos and the New Laws of 1542 above; B2, T2, L79; B2, T3, L15; B2, T15, L123 and 131; B4, T6, L5; and B4, T12, L1 above; B6, T11, Succession to Encomiendas; and Auto 103, and L14, 15, 16, and 17, Lives of Encomiendas; along with B8, T4, L55, and B8, T9, L20 below concerning Repartimientos and Encomiendas. There is an extensive literature concerning Repartimientos and Encomiendas including chapters VII and VIII, pp. 69-92, that we have already referred to from Zavala, Spanish Colonization of America; Simpson, The Encomienda in New Spain, entire work; Haring, Spanish Empire in America, refer to index; Ots Capdequí, Instituciones, capítulo IV, "Los Indios: Su Condición Jurídica, Repartimientos de Indios y Encomiendas," pp. 63-90; Solórzano, Política Indiana, Libro Tercero, throughout, treats the Encomiendas of the Indians, and Libro Segundo treats the conditions of the Indians, and personal service, which are necessary background to an understanding of the encomienda. The discussion of sources in the Introduction above includes other works pertinent to studies of Repartimientos and Encomiendas, and the bibliography lists additional titles. Other titles of Book 6 below that relate specifically to Encomiendas are: T9 (Encomenderos); T11 (Succession of Encomiendas); and T19 (Confirmations of

Encomiendas). The work of another Latin American scholar, Guillermo Feliú Cruz, Las Encomiendas Según Tasas y Ordenanzas (Buenos Aires, 1941), should be included.

¹¹⁸All references cited in note 117 are also pertinent here. B1, T2, L23; B2, T29, L14; B3, T2, L17 and 18; B6, T1, L30; B6, T2, L2; and B6, T5, L52; all refer to Encomenderos above; also B8, T10, L8; and B9, T1, L23; refer to Encomenderos below.

¹¹⁹This Title appropriately begins with the Testament of Queen Isabella; actually the good treatment of the Indians was a continuing concern of the kings of Spain throughout the Colonial period. Much of the material included above, contains indications of this concern; as do the works listed in the discussion of sources included as part of the introduction. Much of the legislation from the Crown beginning with the Laws of Burgos, 1512-1513, the New Laws, 1542-1543, and on through the Recopilación of 1681, includes references to and charges Spanish officials with the good treatment of the Indians. For specific references from the Recopilación of 1681, see B1, T7, L13; B2, T2, L9; B2, T15, L83; B2, T31, L8, 10 and 11; B3, T14, L15; B4, T4, L5 and 8; B5, T1, L6; and B6, T9, L37; all located above in this work. Solórzano, Política Indiana, Libro Segundo, capítulos 28 and 29 should be examined; as well as Ots Capdequí, Instituciones, pp. 530-533. The point is frequently made by writers on relations between Spaniards and Indians that the kings had reason to be concerned about the welfare of the Indians considering the way Spaniards generally treated them.

¹²⁰References cited in note 117 and 118 are also pertinent here. Ots Capdequí, El Estado Español, under the heading "El Derecho de Sucesión," treats rights of succession to Encomiendas of Indians, pp. 112-123.

¹²¹Materials included above, and the discussion of sources in the Introduction, contain much material that is pertinent to the controversy concerning the rights of Spaniards to the personal service of the Indians; the Laws of Burgos, 1512-1513, outlines a system that resulted in Indians being moved into towns, convenient to the Spaniards, so their labor would be more readily available; the New Laws of 1542-1543 would have done away with rights of personal service through the Encomienda system entirely, but Spaniards in Peru and New Spain would not stand for it; Solórzano, Política Indiana, Libro Segundo, with the exception of Capítulo Primero which is concerned with the liberty or freedom of the Indians, is devoted to matters relating to the personal services of Indians in various capacities; Ots Capdequí, Instituciones, capítulo VI, "Los Indios: Instituciones Reguladoras del Trabajo," pp. 117-124, and Capítulo VII, pp. 519-524, (c) "El Regimen de Trabajo y los Servicios Personales de los Indios;" Ots Capdequí, El Estado Español en las Indias, pp. 24-33, discusses "Los Indios: Su Condición Jurídica, Económica y Social," and on pp. 176-181, "El Derecho de Obligaciones y los Indios;" and in Malagón y Ots Capdequí, Solórzano y la Política Indiana, pp. 49-59, the juridical, social and economic conditions of the Indians receive further treatment. For specific references to personal services of the Indians in the Recopilación of 1681 see B1, T10, L8; B5, T2, L5; B6, T2, L22; B6, T5, L24 and 25; B6, T9, L17; and B6, T10, L16; above; all of Title Twelve; and also T13, 14 and 15 below. In T16, 17 and 18 below, references to Indians in particular regions are found which include personal service along with other matters. B7, T8, L10; and B8, T9, L19 below, also pertain to personal service. Of the material included in the discussion of sources and the bibliography, particular attention should be called to Haring, Spanish Empire in America, chapter III, pp. 42-74, and

check index under Indians, forced labor of, and slavery of; Gibson, Aztecs Under Spanish Rule, chapter IX, pp. 220-256, and check index under labor; Zavala with Mariá Castelo, Fuentes Para la Historia del Trabajo en Nueva España, 1575-1805 (8 vols., Mexico, 1939-46); Ruth Kerns Barber, Indian Labor in the Spanish Colonies. Historical Society of New Mexico, Publications in History (Vol. VI, October, 1932); and John Francis Bannon, S.J., editor, Indian Labor in the Spanish Indies: Was There Another Solution? (Problems in Latin American Civilization, Boston: D.C. Heath and Co., 1966), with other sources listed in bibliography, are also pertinent.

¹²² Since Title 13 also refers to personal service of Indians pertaining to certain specified kinds of employment, the material referred to in note 121 will relate to T13 as well as T12.

¹²³ Title 14 also refers to personal service of Indians in relation to coca and Añir (Indigo), and the material referred to in note 121 will relate to T14 as well as T12 and 13.

¹²⁴ Title 15 also refers to personal service of Indians in relation to work in the mines, and the material referred to in note 123 will relate to T15 as well as T12, 13 and 14. Also see Ots Capdequí, Instituciones, pp. 147-8, and 179-89; and Solórzano, Política Indiana, Libro Sexto, Capítulo Primero y Capítulo II.

¹²⁵ Most of the laws in T16, Concerning the Indians of Chile, were effected during the reign of Philip IV (1621-1665) because there were particular problems prior to and during that period that called for special legislation. Some went into effect during the reign of Charles II (1665-1700), before the Recopilación of 1681 was published. Since this was largely a matter of selecting from other legislation what

seemed pertinent to the situation in Chile, we refer you to parallel information in notes to other Books and Titles of the Recopilación, and suggest that you review the history of Chile, with particular attention to relations with Indians, for this period, and check pertinent works listed in the bibliography.

¹²⁶All of the laws in T17, Concerning the Indians of Tucumán, Paraguay and Río de la Plata, come from the reign of Philip III (1598-1621). Because of the work of the Jesuits in the Paraguay region, and since there were matters that required particular attention concerning the Indians of the entire region, special laws were put into effect and pertinent matters were selected from other legislation as it related to work with the Indians. Thus, we refer you to parallel information in notes to other Books and Titles of the Recopilación, and suggest that you review the history of the region, with particular attention to relations with Indians, for this period, and check pertinent works listed in the bibliography.

¹²⁷Legislation Concerning the Sangleyes, Chinese, Japanese or other East Asian traders in the Philippines, included in T18 of the Recopilación, began with Philip II (1556-1598), with about half of the total laws appearing during the reign of Philip III, continuing under Philip IV, and with the last law from the reign of Charles II. The same suggestions are appropriate here that are made in notes 125 and 126. Notice that the natives of the Philippines are referred to as Indians as are the native peoples of the Americas. Spanish holdings in the Pacific as well as the Americas are covered by the legislation for the Indies.

¹²⁸Title 19 also contains legislation from a later period (beginning after 1600). Since it is concerned with ratification of titles and other

matters relating to Encomiendas and Encomenderos, you are referred to Titles and Laws on related subjects found above in this Book. Also see pertinent terms in the index to this work.

¹²⁹ Although there was a regular organization for hearing and trying the causes of Spaniards, Mestizos, Indians and Negroes in tribunals of the Indies, the King and the Council of the Indies wanted to be sure that affairs were proceeding in an orderly way, in ways that would please them. To secure this assurance there were numerous special investigators dispatched here and there as the eyes and ears of the King, to ascertain whether the laws and orders from Spain were obeyed. Matters were to proceed properly: the law extended to Indians, Negroes, and Mulattoes as well as Spaniards; it was a matter of concern to the King and the Church that there were men without their mates in the Indies, for those in authority knew by experience that Spaniards would not do without women; gambling was a vice that could take on criminal proportions, and thus is listed in the section that has to do with crimes, penalties, jails and their keepers. Of interest in the matter of criminal justice is Eusebio Bentura Beleña, Recopilación sumaria de todos los autos acordados de la real audiencia y sala del crimen de esta Nueva España, y providencias de su superior gobierno (Mexico, 1787), 2 vols. In matters concerning Indians, Mestizos, Negroes, Mulattoes, and their relationships with each other and with Spaniards, the following items are of interest: Frederick P. Bowser, The African Slave in Colonial Peru: 1524-1650 (Stanford: Stanford University Press, 1974); Robert L. Brady, "The Emergence of a Negro Class in Mexico: 1524-1640." Dissertation for Ph.D. (University of Iowa, 1965). Norman F. Martín, Los vagabundos en la Nueva España: Siglo XVI (Mexico: Editorial Jus, 1957); José Antonio Saco, Historia de la esclavitud

de la raza africana en el nuevo mundo y en especial en los países Américo-hispano (Barcelona, 1879-93. 2 vols.); and Silvio Zavala, "Relaciones históricas entre indios y negros en Ibero-américa," Revista de las Indias (Bogotá), no. 88, pp. 53-66. Also see Pedro Carrasco, "El barrio y la regulación del matrimonio en un pueblo del valle de México en el siglo XVI," Revista Mexicana de estudios antropológicos, XVII (1961), pp. 7-26.

¹³⁰ Concerning tribute see B6, T5; and B8, T9.

¹³¹ Concerning the treatment of Indians refer back to B6, T10.

¹³² Chapters XIV and XV of Haring, Spanish Empire in America, pp. 274-312, deal with the operation of the Royal Treasury in the Indies and bear the title "The Royal Exchequer." Pp. 375-6 in his bibliography include contemporary sources and modern works for further research on the subject.

¹³³ See note 114 above; also José Miranda, El tributo indígena en la Nueva España en el siglo XVI (Mexico, 1952); and Ots Capdequí, Instituciones, pp. 91-98, "Los indios: pueblos o reducciones no dados en encomiendas; corregimientos." Tributes of Indians are also treated in B6, T5, above.

¹³⁴ For the services of Indians in the mines see B6, T15, above, with notes that accompany that title.

¹³⁵ Chapter XVI of Haring, Spanish Empire in America, pp. 313-334, with the title, "The Spanish Commercial System," covers industry and the controlled trade between Spain and the Indies. In the bibliography, pp. 370-373, further source materials and published works are listed for those interested in additional information. More recent works are Ralph Davis, The Rise of the Atlantic Economies (Ithaca: Cornell University Press, 1973), which provides a synthesis of the economic development of Portugal, Spain, France, England, the Netherlands and their colonies from the 14th to the close of the 18th centuries; and James Lang, Conquest and Commerce.

Spain and England in the Americas (New York: Academic Press, 1975).

¹³⁶ For information concerning Indian women in these laws see note 95, which accompanies B6, T1, L48, above.

¹³⁷ Gibson, Aztecs Under Spanish Rule, p. 406.

¹³⁸ Zavala, Spanish Colonization of America, p. 102.

¹³⁹ Zavala, Spanish Colonization of America, pp. 102-3.

GLOSSARY

Definitions given in the Glossary usually emphasize connotations that are applicable in particular laws we have translated from the Recopilación

A

| | |
|------------------------------|---|
| Acordada | Decision of a court; the court itself |
| Acuerdo de la Real Audiencia | Concurrence of the Royal Audiencia; Administrative Session of the Audiencia |
| Adelantado | Commander of a frontier expedition; governor of a frontier or a recently conquered province |
| Adelantamiento | Office or jurisdiction of the Adelantado |
| Admud | See Almud |
| Adoratorios | Temples of Aboriginal Americans |
| Alcabala | Sales tax |
| Alcaide or Alcayde | Governor or warden of a castle, fortress, or prison |
| Alcalde | Magistrate of a town or other jurisdiction who in addition to administrative duties possessed certain judicial powers as a judge of first instance. |
| Alcalde de la Hermandad | Administrative official of the Hermandad |
| Alcalde de vara | Official governing a barrio, the smallest political division (so named because of his staff, or vara) |
| Alcalde del crimen | Criminal justice |
| Alcalde Mayor | Royal magistrate, administrator of a province (Alcaldía mayor); Spanish official usually in charge of a lesser territorial extent than that of a Governor |
| Alcalde ordinario | Local justice |
| Alcaldía | Jurisdiction of an Alcalde |
| Alcaldía Mayor | District or jurisdiction of an Alcalde Mayor |
| Alcayde | See Alcaide |

| | |
|-----------------|--|
| Alguacil | Constable, peace officer |
| Alguacil Mayor | Chief constable or peace officer of a community or province |
| Alguacilazgo | Office of the Alguacil |
| Almojarifazgo | Ancient import duty or export duty; post of customs officer. (Adelantados were sometimes exempted from paying this tax as well as the alcabala.) |
| Almud | About one-half bushel |
| Almud de tierra | About half an acre |
| Añir | Archaic for añilar: to dye indigo, blue |
| Arrendador | Renter of concession or property |
| Arroba | Weight of 25 pounds, approximately, or a liquid measure of about 4 gallons |
| Asentista | Person holding contract to furnish Negro slaves to overseas colonies; contractor |
| Asesor | Usually legal advisor; occasionally assessor |
| Asiento | Contract; contract to export slaves; mining district |
| Audiencia Real | The highest royal court of appeals within the jurisdiction, serving at the same time as a council of state to the viceroy or captain general |
| Auto | Legal documents pertaining to case; decision, resolution or documents pertaining thereto |
| Auto acordado | Decision made by Audiencia |
| Auto de fé | Public ceremony of the Inquisition in which the sentences of the accused were read; the resulting punishment |
| Ayuntamiento | Town council; also called Cabildo and Regimiento |

B

| | |
|---------------------------|--|
| Baldío | Uncultivated or abandoned land |
| Barrio | Division of a community; ward, town, subdivision |
| Braza | Unit of measure, commonly two varas (less than 6 ft.); Usually equivalent to 1.68 meters |
| Bulas de la santa cruzada | Indulgences sold to provide funds for the wars against the infidels |

C

| | |
|--------------------------|--|
| Caballería | Agricultural land allotted to a caballero; about 100 acres to 105 acres |
| Cabecera | Head town of a province |
| Cabildo | Municipal Council; council room; town hall |
| Cabo | Officer; cape; headland; end; tip; handle |
| Cabo Mayor | Major officer |
| Cacicazgo | Office of a cacique or Indian leader; and the place from which he exercises his leadership |
| Cacique (Arawak) | Indian leader; local ruler; local boss. Fem.: cacica |
| Caja (Caxa) de comunidad | Community strongbox or treasury |
| Caja (Caxa) Real | Royal strongbox in each collection center, or part of the Royal Treasury |
| Calpizque | Hispanization of an Aztec word, Calpixqui. Major-domo; overseer; administrative official |
| Cámara | Exchequer. Supreme Council of Castile. King's Court, officials or agencies of his court. |
| Cámara y Fisco | Exchequer and treasury |

| | |
|----------------------|--|
| Cámara de Indias | Tribunal of Ministers of the Council of the Indies |
| Capitán-General | Captain-General. Highest military authority in district; usually viceroy or governor |
| Capitán de guerra | War captain |
| Casa de Contratación | House or Board of Trade, controlling all overseas trade with America |
| Castellano | Gold coin of the fineness of 23-3/4 carats |
| Cátedra | Professorship; lecture room in a university; or similar usage in connection with the training of Religious |
| Caudillo | Political or other leader |
| Caxa | See Caja |
| Cédula | Order, decree or warrant |
| Censo | Pension; right; quitrent; tax; investment (according to contextual connotations); also census |
| Chasqui | Messenger, long-distance, afoot or mounted, originally Inca, under Spanish used for mail service |
| Chicha | Alcoholic beverage made by fermenting corn |
| Cimarrón | Term applied to runaway Negro slaves who formed colonies in the wilderness and lived by brigandage |
| Ciudad de los Reyes | City of the Kings; old name for Lima, Peru |
| Clérigo | Cleric or priest |
| Coca | Shrub, of Coca leaf; a drug |
| Colonia | Colony |
| Comisario | Deputy or delegate, sometimes assigned to assessment of taxes, etc. |
| Composición | Legalization by payment of a fee for title to land sometimes acquired illegally; also composition |

| | |
|---------------|---|
| Comunidad | Municipal corporation; settlement of free Indians enjoying communal use or lands; community |
| Congregación | In New Spain, a native community forcibly set up by the Crown; same as Reducción |
| Contador | Accountant or Paymaster |
| Convento | Convent or monastery |
| Cordillera | Used to designate the Andes mountain range |
| Corregidor | Magistrate; governing official of province ranking next to governor |
| Corregimiento | Institution, office or jurisdiction of a corregidor |
| Cortes | Parliament in Spain |
| Cuentas | Computation; calculation; account; bill; answer; report; bead (of a rosary) |
| Cura | El Cura - parish priest, vicar. La Cura - cure, treatment |

D

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|-------------|--|
| Décima | One-tenth; tithe |
| Defensor | Defender |
| Definidor | Definitor. Also used by Franciscans to represent the 4-man council of a provincial or old-time Custos; member of governing body of religious order |
| Dehesa | Vacant or abandoned land; <u>also</u> , enclosed pasture; common pasture land |
| Demasías | Surplus lands |
| Denuncia | Accusation or statement of land claim |
| Denunciador | Denouncer, accuser |
| Deputado | Member of representative body; deputy |
| Derecho | Law |

| | |
|------------|---|
| Diezmo | Tithe, tenth part |
| Dinero | Standard weight of silver valued at one time at 198 maravedís; also money |
| Doctrina | Indian parish. Religious instruction. District under religious instruction, before establishment of curacy |
| Doctrinero | Friar or priest in charge of an Indian parish or Doctrina |
| Ducado | Ducat; coin worth eleven reales or tomines, or 1-3/8 silver pesos (q.v.). <u>Also</u> , ancient gold or silver coin |

E

| | |
|---------------|---|
| Eclesiásticos | Clergymen; ecclesiastics; priests |
| Ejido | Community land; land held in common for future growth of community; later applied to the common agricultural land of an Indian village |
| Elección | Election; choice |
| Encomendero | Possessor of an encomienda |
| Encomienda | Grant or allotment of Indians who were to serve the holder with tribute and/or labor, technically as tribute payers. Also referred to as the area occupied by Indians so granted--incorrectly |
| Esclavo | Slave |
| Escribano | Scribe; notary; court recorder |
| Estancia | a. Grant of land for running sheep or cattle b. Subordinate Indian community; farm |
| Estanco | Monopoly; place where monopoly goods are sold; tobacco shop |

F

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|----------|----------------------------------|
| Fabricas | Factories; manufactured products |
|----------|----------------------------------|

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|---------------------|--|
| Facie Ecclesiae | (in facie ecclesiae) In the presence of the Church |
| Fanega | Dry measure; a hundredweight; about 1.5 bushels, according to place and time. Fanega de sembradura--area planted with one fanega of seed |
| Fiscal | Fiscal; crown attorney; prosecutor; legal advisor to government. <u>Also</u> , an Indian official appointed to assist the priest or missionary and see to it that the Indians performed their religious duties |
| Fisco | Fiscal, officer of Royal Treasury |
| Fortificaciones | Fortifications |
| Fray, fraile, friar | Used only as title, never as substantive, and never apart from first or religious name; may be used with full name of a friar, but not with surname alone. Abbreviated as Fr. in many languages |

G

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|----------|---|
| Ganados | Cattle (in group, herds) |
| Garavata | (old variant form of caraguatá) part of agave plant used as textile |
| Gobierno | Government |
| Grano | Grain; seed; one-twelfth part of a tomin |

H

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|-----------|--|
| Hacendado | Proprietor of an hacienda, landowner |
| Hacendero | The worker on an hacienda |
| Hacienda | In New Spain, a large rural estate; the house on it. <u>Also</u> , landed property, wealth, a treasury |
| Hermandad | Brotherhood, sodality, union of Spanish cities |

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|---------|---|
| Hidalgo | A lesser noble; gentleman |
| Huebra | Measurement; the extent of ground a yoke of oxen can plough per day |

I

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|---------------------|--|
| Idolatoria | Place of idolatry |
| Intendente | Administrator set up by central government, 18th century, for more effective supervision of super province-- <u>intendancy</u> |
| Intérpretes | Interpreters |
| Ipsa jure | By the law itself |
| Islas de Barlovento | Windward Islands |

J

| | |
|----------------------|---|
| Jueces | Judges |
| Jueces Eclesiásticos | Ecclesiastical judges; clerical judges |
| Jueces Oficiales | Judicial officers |
| Juez | Judge; sometimes used like an inspector |
| Juez de residencia | Judge entrusted with the conduct of a residencia or judicial review |
| Juez repartidor | Officer in charge of distributing Indian labor |
| Juez visitador | Official visitor; examiner; inspector |
| Juicio de residencia | Judgment handed down by a juez de residencia in a judicial review of an office holder |
| Junta | Committee; also applied to revolutionary committees |
| Junta de guerra | War council |
| Justicia | Justice or judge; magistrate; tribunal |

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|-----------------------|---|
| Justicia Mayor | Official appointed to preside as chief magistrate |
| Juzgado | Tribunal, judicature |
| Juzgado de los Indios | General Indian Court. Tribunal of the Indians |

L

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|--------------------------|---|
| Laborío | Hacienda worker or resident |
| Ladino | Spanish-speaking Indian; also, acculturated Indian |
| Latifundismo | Institution of holding land in large estates worked by peons or contract labor at low technological level |
| Legajo | File or docket; bundle of such papers |
| Legas, llanas y abonadas | Refers to bonds or securities that are: civil (non-ecclesiastical), plain and secured |
| Legua | League, 2.6 miles (differences in time and place) |
| Lepero | Leper; applied to beggars and vagabonds of cities |
| Letrado | Lawyer (civil law) |
| Ley | Law |

M

| | |
|------------------------------|--|
| Macehual, Macegual, Mazegual | Aztec term for peasant, commoner, laborer |
| Maese (maestre) de Campo | Obsolete title of top ranking Spanish army officer |
| Maguey | Agave. The century plant, used for making pulque and fiber |
| Malocas | Sortie into Indian lands, to pillage and to capture slaves. <u>Also</u> , (Col.) Indian village or hideout |

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|-------------------------|---|
| Marañón | Gum-producing tree of Cuba; river in west central Peru; <u>also</u> , people from that region |
| Maravedí | Ancient Spanish coin, 450 to the gold peso. 34 maravedís commonly equalled one real |
| Marco | Ingot of gold or silver. Mark. In old Spanish, used as a standard weight corresponding to approximately 12 dineros |
| Mayordomo, Majordomo | Custodian; steward. Civil or ecclesiastical official. Superintendent |
| Mazegual | See Macehual |
| Mercadería | Commodities; trade goods; merchants; dealers |
| Mescal | Beverage distilled from a species of agave |
| Mesta (Hermanos of the) | Association and meetings of livestock men |
| Mestizaje | Race mixture |
| Mestizo | Offspring of Spanish and Indian parents. Also, person of mixed white and Indian ancestry. Mestiza, female |
| Milpa | Plot of land usually planted in maize |
| Milpero | Field watchman |
| Ministro de Doctrina | Minister in charge of Indian parish; doctrinero |
| Mita | (See Repartimiento) Forced labor; unit of work; work in the mines by Peruvian Indians. Assignment of work for Indians |
| Mitayos | a. South American Indian assigned to paid public or forced labor b. Indian collecting his fee for forced or public labor |
| Mitimaes | The class of colonists used by the Inca to consolidate their political territory; particular Indians in Peru |
| Mulato | (Person) Mixture of Spanish and Negro blood |

N

Naboría (Arawak) Free worker; also called Naborío and Laborío. Also, Indian household servant or laborer of semi-servile status usually attached to a Spanish master or estate; ~~compare yanacona~~

Notarías Notaries

O

Obedecer y no cumplir "Se obedece pero no se cumple" ("I obey but do not execute") formula employed by a colonial official to suspend inconvenient or unworkable royal laws

Obrages, Obrajes Textile factory or workshop

Obras Públicas Public works. Work for the good of the community

Oficiales Reales (Oficiales Reales de hacienda) Officers or officials of the royal treasury

Oficio Office, trade, craft

Oidor Judge; Judge of the Audiencia; Auditors; sometimes given other administrative duties

Oidor Visitador Oidor with responsibility for inspection

Ordenanza Ordinance; order; statute

P

Pacificaciones Pacifications (areas that have been pacified); peaceable areas

Pancada Sales practice of East Asian traders in the Philippines

Parian The place where the East Asians (Sangleyes) lived in Manila

Pastos Pasture lands; grazing lands; also, grass, hay

Patacones Variant of pesos

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|---|---|
| Patrimonio Real, Patronato, Patronazgo | Patronage - royal authority in ecclesiastical affairs. Real Patronato - powers in ecclesiastical affairs exercised by the Crown of Spain in the New World by virtue of papal bulls granted to Catholic Kings shortly after the discovery of America, in all matters except doctrine and religious instruction |
| Pensión | Pension; annuity |
| Pensionario | Pensionary |
| Peón | Foot-soldier; laborer. Same as Gañán. Unskilled Indian worker; hacienda worker |
| Peonía | Agricultural land allotted to foot-soldier (peón); usually 1/5 the size of a caballería. (After the conquest of a territory) |
| Peso | The Spanish dollar, or piece-of-eight; that is, eight reales, or bits. The silver peso contained 278 maravedís; the gold peso, or castellano, 450 maravedís, or tomines of 34 maravedís each |
| Peso de Oro común | Standard gold pesos, worth about 300 maravedís |
| Peso de oro de mina | Gold peso. Peso [22 or 22 1/2 carats] of slightly less value than the ducat or its predecessor the castellano, because of crude methods of assay and smelting. Used in New Spain |
| Peso de plata ensayada | Peso reckoned at lower value than ordinary peso because of cost of coinage at the mint, i.e. Peru in sixteenth century |
| Peso fuerte | Silver peso (8 reales) sometimes called duro (or) real de a ocho |
| Peste | Plague; pestilence; corruption - depravity |
| Pleytos, pleitos | Lawsuit; court or judicial action or proceedings; fight or battle; controversy |
| Poblaciones | Populations (populated or inhabited places - poblados), settlements |
| Pobladores | Inhabitants; settlers, founders |

| | |
|---------------------------------|--|
| Prebendados | Prebendaries; part of the income of a church given to the clergyman as his salary |
| Predicador | Preacher, orator |
| Principal | Indian noble. Member of Indian upper class. Relative of Caciques. In the Philippines, a chief. |
| Procurador | Attorney, legal representative; Procurator; supply officer. <u>Also</u> , solicitor in charge of protecting the Indians |
| Propios | Public land or property of which the income was reserved for the municipality; unremunerated Indian carriers and transport workers |
| Protector General de los Indios | Protector General of the Indians. Also see Juzgado general de los Indios: Tribunal of the Indians |
| Protectores | Protector, defender; protectors or defenders of the Indians |
| Pueblo | Town; village, city; settlement, Indian village |
| Pueblo de visita | Town too small to support a priest, visited periodically |
| Pulque | Liquor made of sap of the maguey, manufactured by Indians |
| Pulquería | Tavern for the sale of pulque |

Q

| | |
|---------|---|
| Quarta | Portion of one-fourth |
| Quarto | Quota part of tributes for the King |
| Quinta | Portion of one-fifth |
| Quintal | Hundred-weight |
| Quinto | One-fifth; a royal tax on (profits) from the mines; the king's portion, a fifth part of revenues from gold or silver bullion, pearls, precious stones, etc. |

R

| | |
|-------------------|---|
| Rancho | Ranch; small town; stock farm; a farm smaller than a hacienda; <u>also</u> , camp |
| Real | A bit, 1/8 peso; also, silver coinage. A camp, <u>real de indios</u> , <u>real de esclavos</u> . A Spanish coin originally equivalent to 34 maravedís |
| Real de minas | A mining community, incorporated under the Crown |
| Realengas | Unappropriated or royal lands |
| Reales Audiencias | Royal Tribunals; also governing bodies |
| Receptor | Treasurer or custodian of funds |
| Recopilación | Compilation; codification (of laws), of various derivations |
| Reducción | Administrative resettlement of dispersed Indian groups in new urban centers; reduction; <u>also</u> , see congregación |
| Reducciones | Settlements of converted Indians. <u>Also</u> , reduction, exchange; congregaciones |
| Regidor | Alderman, member of the town council, Cabildo or Regimiento; some were elected, others held their offices in perpetuity (regidores perpetuos) |
| Regimiento | Institution, office, or jurisdiction of regidor rule |
| Registro | Special license for individuals sailing to minor ports |
| Relación | Memoirs, report |
| Relección | Lecture or reading |
| Religiosos | Religious; monks; priests |
| Repartidor | Official in charge of making a repartimiento or labor force |
| Repartimiento | a. An assignment of Indians or land to a Spanish settler during the first years of the Conquest; |

| | |
|---------------|--|
| | <p>b. The periodic conscription of Indians for labor useful to the Spanish community; see mita</p> <p>c. Also, distribution, forced sale, sometimes synonym for encomienda</p> |
| Requerimiento | Proclamation that emerged after the debate on the Indian question; it called upon the Indians to acknowledge the supremacy of the Pope and the Kings of Castile; it declared the Crown's title to dominion in the Indies and the just cause of war against the natives; and every Spaniard was required to read it to the Indians before aggressive action and before territory could legally be taken |
| Requinto | One-fifth of a certain quantity. Extra service imposed on Indians in Peru during the reign of Felipe II. Extraordinary impost |
| Rescate | Trade by barter. Esclavos de rescate--slaves acquired from the caciques. Supposedly they had been slaves and could be continued in slavery |
| Residencia | Judicial and administrative review; <u>also</u> Residence; stay; sojourn; audit; Court or trial held at the end of a term of office calling a public officer to account for his administration; <u>also</u> , impeachment |
| Residenciado | Official under investigation |

S

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| Sacristán | Sacristan or Sexton |
| Sangleyes | Chinese, Japanese (or other East Asian) traders in the Philippine Islands |
| Santa Fé Católica | Holy Catholic Faith |
| Sargento Mayor | Army officer of second rank, inferior to maestre de campo |
| Secretaría | Executive or Secretarial office |

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|-------------------|---|
| Señoría (Señorío) | Seigniorly; <u>also</u> , government under local native lords - senores naturales |
| Señor natural | Natural lord, tlatoani |
| Servicio | a. Service or labor b. Grant of money to the King, provision of goods |
| Servicio personal | Service, personal, of the Indians |
| Sesmo, Sexmo | A sixth; special assessment of one-sixth; a division of territory in some Spanish provinces |
| Sitio | Location; property |
| Situaciones | Location; site; position (as of employment) |
| Subdelegado | Late colonial official who served as assistant to Intendente |
| Suerte | Plot of land |
| Sujeto | Subject town |
| Surco | A furrow; here, a unit (undefined) for measuring water |

T

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| Tambo | Way station along road or trail in Peru; inn |
| Tameme | Aztec term for carrier; Indian carrier |
| Tanores | Philippines natives required to serve in Spanish houses |
| Tasación | Tribute or tribute assessment record |
| Tasas | Assessment; assize; tax |
| Tecle | Nahuatl titular designation |
| Teniente | Deputy or assistant (to government official or military officer) |

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| Tercio | One-third; one-third of a year or a period of four months (term of labor). <u>Also</u> , quota part of tribute owed by the Indians to the King. Tribute due every 4 months. <u>Also</u> , third part of Indian population drafted for service under mita or repartimiento. |
| Términos | Limits, boundaries. <u>Also</u> , term, end |
| Tiangues, Tianguis | Market place |
| Tierra firme | Mainland as compared to Islands. The northern coast of South America. The province that included what is now Venezuela and Colombia, known then as the New Kingdom of Granada |
| Tomín | Smallest division for gold of the mark, the basic unit of monetary weight, consisting of 12 grains (0.575 grams) |
| Toro | Laws of Toro, promulgated in that city in 1505 |
| Tostón | Four silver reales |
| Tribunal de cuentas | Tribunal of accounts; central accounting office |

V

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| Vara | The Castilian yard of about 33 inches, 5,000 to the league. (Equivalent to 0.84 meters). <u>Also</u> , staff of office |
| Vara de Justicia | Wand or staff of justice, carried by all officials as a badge of authority, the length of the vara determining the degree |
| Vecindad | The rights of a Vecino |
| Vecino | Citizen; member of a municipal corporation. Property-owning town dweller |
| Veedor | Overseer of Crown's fiscal interests. Attached to the Audiencia |
| Viceroy | Vice-King, King's Representative. See <u>Virey</u> |

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| Villa | A small city. In New Mexico, a town of relative importance; Santa Fé at first, later also Cañada, Albuquerque, and El Paso. Ciudad is larger--city |
| Virey | Viceroy; vice king. President of Audiencia sessions; Governor and Captain-General of his district |
| Visita | Visitation--official inspection. An investigation of an official's conduct, a tour of inspection, or other official visit. Judicial inquiry. Community or church ministered by non-resident clergy, or by a priest on an irregular basis |
| Visitador | A royal visitor, appointed by the King (the Council of the Indies) or by the Audiencia; the Visitador frequently had the power to execute justice by his own hand; usually, however, he laid his findings before the higher authorities |
| Visitador general | Inspector general, under direct orders to investigate on behalf of King and Council, and to report directly to them |

Y

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| Yanaconas | Indians who at one time rendered personal service to the Spaniards. Hereditary Indian servitors, attached to the lands. Special class of natives in the vice-royalty of Peru |
| Yerba del Paraguay | Herbs grown in Paraguay used to make a beverage, or tea |
| Yuca | Farinaceous plant widely grown in Amazon basin, Peru, etc., not to be confused with Yucca |

Z

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| Zambaygos | Offspring of Chinese and Indians |
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