

half possesses, perhaps, the largest share of the mineral and vegetable riches of the New World.

It is not, therefore, a mere theory to suppose that the progress of such a country must exercise a considerable influence upon the manufacturing industry of the Old World.

Of its future consumption, (as I stated in the first section,) no estimate can be formed by that of former times, when its resources were prevented from developing themselves by the jealous policy of the Mother country, which will form the subject of the following section.

Its probable importance may be more easily deduced from the facts which I shall endeavour to embody in the present work, in order to enable my readers to form their own conclusions upon data, the authenticity of which I need not add that I have taken all possible pains to ascertain.

## SECTION IV.

### SPANISH COLONIAL SYSTEM.

UNDER this head, it is my intention to give some account of the mode in which the Internal government of the former Spanish Colonies was carried on, before the year 1810, and to add a short sketch of those prohibitory laws with regard to foreign trade, which formed so marked a feature in the policy of the Mother country. It is true, that these laws have ceased to exist, but an acquaintance with them, as well as a knowledge of the political institutions by which they were supported, are essential to a right understanding of the events that have since taken place; for it is in the complication of abuses, to which the Old System gave rise, that we must seek the causes of that Revolution, which has changed the face of the New World.

With the exception of Brazil, Dutch and French Guiana, and our present colonies of Demerara and Esequibo, the Spanish possessions occupied the whole of South America, the Isthmus of Pánamā, and a portion of the Northern continent, which extended to the confines of the United States.

This vast territory was divided into four Viceroyalties,\* Mexico, Peru, Rio de la Plata, (Buenos Ayres,) and New Granada; and five Captain-general-ships, which comprised the Peninsula of Yucatán, Guatémala, Chile, Vēnēzuēla, and the Island of Cuba. The Captains-general, although holding situations of minor importance, were independent of the Viceroys, as were the Viceroys of each other: indeed, in most cases, natural barriers precluded the possibility of communication.

The government of each of the Colonies was rested in the hands of one of these great servants of the crown. In Mexico, the Viceroy was endowed with all the prerogatives of royalty, and considered as the *alter ego* of the King himself. The only checks upon his authority were the "*Residencia*," or legal investigation of his conduct, to which, at the King's pleasure, he might be subjected, on his return to Spain, but which was seldom, if ever, enforced; and the "*Audiencia*," or court of appeal in dernier resort, with which, as honorary president, he had many means of cultivating a good understanding. The *Audiencia*, however, which was composed entirely of Europeans, possessed con-

\* Originally, there were only two Viceroyalties, (those of Mexico and Peru,) on which all the other colonial establishments depended. The abuses to which this system gave rise, led to the establishment of a separate government in New Granada in 1718; in Venezuela in 1731; in Chile in 1734; and in Buenos Ayres in 1778.

siderable power and influence: it had a control over all other tribunals, ecclesiastical as well as civil, in all cases where the value of the object in litigation did not exceed ten thousand dollars;\* and it enjoyed the privilege of corresponding directly with the sovereign, and with the Council of the Indies; a board created in 1511, by Ferdinand II., and remodelled by Charles V. in 1524, for the exclusive superintendence of the affairs of the Colonies. At this board the King was supposed, constantly, to preside in person; orders and decrees, though emanating from the crown, were to be communicated through it, before they acquired the force of law; and all projects of reform were to receive its sanction, before they could be carried into execution.

The right of communicating directly with this formidable tribunal, gave, of itself, great weight to the *Audiencia*; and this was increased by the care with which its members were usually selected, and by the pains that were taken to keep them distinct from the natives in interest and feelings. They were forbidden to intermarry with a Creole, (as were the Viceroys and their children;) or to engage in trade, or even to hold property in the country in which they resided. As some compensation, they were entrusted with the vice-regal power, in the event of the Viceroy's decease, which was held by the Regent,

\* In this case, an appeal lay to the Council of the Indies.

or eldest Oidor, until a new viceroy was appointed; and enjoyed a number of other privileges, which left them but little reason to regard the position of any of their countrymen as more advantageous, (even in a pecuniary sense,) than their own. In the more extensive Colonies, branches of the Audiencia were established in the provinces most remote from the seat of government,\* but these exercised no independent jurisdiction, and an appeal lay from them, in all cases, to the Audiencia of the capital.

The "Recopilacion de las Leyes de las Indias," or General collection of the laws of the Indies, is the name given, in Spanish jurisprudence, to that heterogeneous mass of statutes, by which, during the last three centuries, the decisions of these tribunals were supposed to be determined. These statutes were, originally, nothing more than Decrees upon different subjects, emanating from the King, or from the Council of the Indies, often contradictory, and generally unconnected with each other, but bound up at last together, and published in four folio volumes. No pains having been taken to class, or reduce them, to any thing like system, they were full of the most glaring inconsistencies; and, as every new case became the subject of a new Decree, which, from the moment of its publication, had the force of law, it is hardly possible to conceive a more complete chaos than that presented by the legislative code

\* As in Mexico, where three Audiencias were established, at Valladolid, Guadajalara, and Chihuahua.

of America. As early as the reign of Charles III. the decrees *not* included in the Recopilacion, were more numerous than those which it did contain: many of these, again, were annulled by others of a later date; so that, at last, not even the lawyers knew what decrees were in force, which had fallen into disuse, and which had been suspended, either in their application to particular Provinces, or to the Colonies in general. The consequences of this confusion were such frequent discrepancies in the Royal orders, as to render it extremely difficult, even in the clearest cases, to prevent the defendant from sheltering himself under the sanction of some decree unfavourable to the injured party; a circumstance, which encouraged, not a little, that corrupt system of administering justice, which has so long disgraced the Mother country, and which it is almost impossible to correct, where there is no check from publicity, and where, in the multiplicity, and inconsistency, of the laws themselves, the judge is sure to find a plea for the most glaring injustice.

The special privileges, or *Fueros*, enjoyed by the different professions, and Corporate bodies, greatly increased this confusion. There were *Fueros* of the clergy, which embraced all dignitaries of the church, canons, inquisitors, and their dependents, and all members of colleges; *Fueros* of all persons employed in public offices; *fueros del Consulado*, or merchants *Fueros*; special *Fueros* of the militia, the navy, the

engineers and artillery corps ; and *Fueros* of the army in general. Each of these *Fueros* exempted those who chose to plead it, from the jurisdiction of the ordinary authorities, and made them amenable, in all civil and criminal causes, to the tribunal of the chief of that corporation, or body, to which they belonged.

In this clash of interests and jurisdictions, the native Americans were usually the sufferers, as it increased the difficulty of obtaining redress in any dispute with an European, who usually enjoyed a double, or triple *fuero* as a merchant, a government officer, or, at least, as holding some rank in the militia.

The municipal establishments, throughout the New World long retained some vestiges of that spirit of freedom, and that predilection for popular institutions, which Charles V. so effectually quelled in the Peninsula, upon his accession to the throne. We can desire no better proof of the importance originally attached to them, and of the authority with which they were supposed to be invested, than the fact, that Cortez, when desirous to emancipate himself from the jurisdiction of Velasquez, from whom his original commission for the conquest of Mexico emanated, could devise no better method of effecting his purpose, than by forming a *Cabildo*, or Municipality, for the infant settlement of Veracruz, into whose hands he resigned the commission, which he held of the Governor of Cuba, and from whom he received, in return, authority to act as Generalissimo,

until the Emperor's pleasure should be known. The Regidores and Alcaldes, who composed the Municipalities, (*Ayuntamientos*), were originally elected by the inhabitants of each town ; and though the institution was soon perverted, it was always looked up to with affection, and respect, by the people, who regarded the members of the Cabildo as their natural protectors : and such they almost invariably proved ; for they were connected with them by a thousand ties, which the higher officers of state were forbidden to form ; and by a community of interests, which could not exist between the Europeans, and any class of the Natives. At the commencement of the revolution, the Cabildos became, every where, the organs of the people, and the great advocates of their right to an Independent, Provisional government, during the absence of the King : indeed, it was the line which they took, in opposition to the Audiencias, which were devoted, of course, to the European interest, that first brought matters between the Creoles, and the Mother country to a crisis. It is remarkable that this spirit should have been so long preserved, amidst the changes of form to which the institutions had been subjected. In Mexico, until the establishment of the Constitution in Spain, in 1812, the privilege of election was merely nominal. The situations of Alcalde, and Regidor, were, in fact, put up to auction, and disposed of to the best bidder. In some parts of the country, they were even made use of as an inducement to engage people to