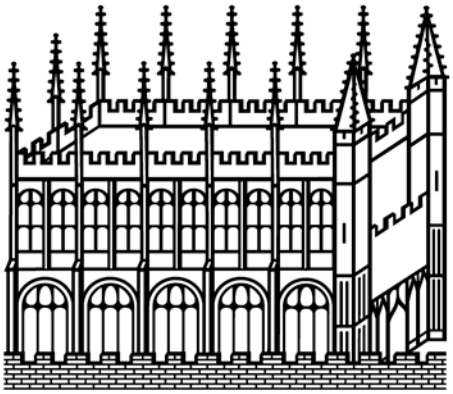

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THE

ORDINANCES OF THE MINES

OF

NEW SPAIN.

S. H. 1825.

THE

ORDINANCES OF THE MINES

OF

NEW SPAIN;

TRANSLATED FROM THE ORIGINAL SPANISH.

WITH

OBSERVATIONS

UPON THE

MINES AND MINING ASSOCIATIONS.

BY CHARLES THOMSON, ESQ.

OF LINCOLN'S INN, BARRISTER AT LAW.

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OBSERVATIONS,

&c. &c.

THE Supreme Council of the Mines of New Spain was established in the year 1777, and a School of Mines shortly afterwards instituted, for the advancement of the Science of Mining. These improvements were followed by the compilation of a New Code of Laws, for the purpose of simplifying and rendering uniform the legislation of the Mines, under the title of "Royal Ordinances of the Mines of New Spain," of which a translation is now given to the public. This Code of Laws was framed in the reign of Charles III. and during the ministry of Joseph de Galvez, in the year 1783.

Before that time the legislation of the Mines had been in a state of infinite confusion, arising from the circumstance of different laws and customs, having been introduced in the different Mining Districts: a total want of communication amongst them, and of comparison of their mutual progress, had been a necessary bar to the improvement of the general system.

Whether these Ordinances will become matter of much interest in this country must depend of course upon another question, namely, whether the connection at present subsisting between this country and the Mining Districts of America, in consequence of the Associations for working the Mines, shall be transitory and unprofitable, or shall be, for a certain number of years at least, a continuing and flourishing connection. In the latter of these events it seems probable that these Ordinances will become interesting in some degree to all persons in this country, and to those whose property is embarked in mining speculations, a subject of frequent reference and investigation.

It is to be observed, in the first place, that although

they bear only the title of the Laws or Ordinances of the Mines of New Spain, they were adopted into, and became part of, the other great Mining Districts of Spanish America. As, however, New Spain or Mexico, to which they principally relate, and the other countries in which they have been adopted, were then under the single dominion of an European nation, but have since resolved themselves into distinct independent Governments, it is necessary to ascertain how far they still remain in force in those countries. There is no doubt that they are fully and completely in force in Mexico, and that they are also the acknowledged laws of the Mines of Chili, and that they were before the Revolution of equal force in Peru. In support of these facts, I refer to the statements quoted in the Appendix, proceeding from persons who are best qualified to make such statements, and who have favoured me with their authorities for the purpose*. With regard to Peru, its unsettled state, and the absence of any authorised minister, makes it impossible to define with precision the mine laws acknowledged at the present moment

* See Appendix I.

in that country, but there seems every reason to believe that these Ordinances will either still continue in force, or will be the model of any new system of legislation for the government of their Mines. The Ordinances, therefore, may be considered as of very general application throughout those countries which formerly composed Spanish America.

This being premised, and the publication of this translation at the present moment speaking for itself, the object of these Observations is to discuss some of the interesting points which arise out of the present Mining Associations. And the natural order which the subject suggests is to consider,

First, Whether the Mines of America are so circumstanced that they cannot be beneficially worked by the Natives, but may be so worked by the English.

Secondly, The nature of the contracts entered into by the Associations, and their validity according to the laws of America.

Thirdly, The legality or illegality of those Associations according to the laws of this country.

Lastly, The general expediency or inexpediency of embarking property in them.

As to the first—In order to arrive at a conclusion upon this question, it does not seem necessary to consider the Mines, or the mode of working them, either before the Spanish conquest, or during the long interval that elapsed between that event and the establishment of the Supreme Council of the Mines in 1777, which may be regarded as the date of the improved system. That whole period was fertile in ignorance and abuses, and I will only remark upon it, that unskilful modes of procuring and preparing the precious metals were so habitually adopted, and corrupt practices on the part of those persons who had the superintendance of the Mines were so firmly established, that it was a work of great difficulty for those who acted under the improved system to eradicate the one, or reform the other;—indeed, they have never completely done so: but it will be sufficient for our purpose to examine the defects even of this improved system, and to look at the Mining operations as they have existed from 1783 till the present time. In doing this, I rely principally upon the

authority of two persons who have examined these Mines, under circumstances the most likely to enable them to form a just estimate. One is Helms, who, having been assayer of the Mines and Mint at Cracow, was employed in the Spanish service to survey the South American gold and silver Mines, and for that purpose was furnished by the Government with all the authority necessary for such an undertaking. The other is M. de Humbolt. Helms set out upon his expedition in 1789, six years after the date of the Ordinances of the Mines, and returned to Madrid in 1793. Humbolt made his observations in 1802 and 1803. The remarks of the former apply to the Southern Districts "from Buenos Ayres by Potosi to Lima:" of the latter principally to Mexico. The extracts, which I think it necessary to make from these authors, I have thrown into the Appendix, in order to avoid extending these remarks to an unnecessary length.*

The Revolution in Mexico, which, independently of other causes, would have put an end to Mining opera-

* See Appendix, No. II.

tions in that country, broke out in 1810, and was followed soon afterwards by the political contests in the southern districts, which produced the same effect there, so that the observations of these travellers, particularly Humboldt, may be regarded as developing the state of the Mines down to a very recent period; from these observations the reader will judge whether the cessation of profitable working arose from the exhaustion or nonproductiveness of the Mines, or simply from such causes as the English Associations, with the advantages they possess, would be likely to remedy.

The principal defects of the American Mining system, as stated by these writers, are the existence of corrupt practices in those persons who are entrusted with the administration of the Mines, and the collection of the duties, and great imperfections in the mode of working them.

With regard to the corrupt practices, they existed principally in Peru, and were owing partly to the conduct of the administrators of Mines who had often no other view in the contracts they made

and the persons they employed, but their own immediate advantage; and partly to the king's officers, who, in consequence of the monopoly in quicksilver and other fiscal regulations, had great power over the Mines. The monopoly of quicksilver is put down, and the Independent Governments, far from encouraging the interference of their officers in the Mines, are most anxious to promote the interests of the Mining Companies.*

With regard to the imperfections in the mode of working the Mines, they appear very susceptible of improvement at our hands: the principal evils complained of are,—the wasteful mode of blasting with powder, which leads, in the opinion of Humboldt, to an unnecessary consumption of that article to the amount of two thirds more than would be actually required with proper management; the want of communication between the different works, by means of lateral galleries or passages; the im-

* For this, as far as regards Mexico, I have the authority of Mr. Rocafuerte, the Secretary to the Mexican Embassy, now in this country.

perfect mode of draining the inundated Mines, owing to a want of proper pump apparatus; the expensive mode of reducing the ores into metal, by smelting or amalgamation;* the irregular supply and distribution of quicksilver to the Mines, where analgamation is the method pursued: there are others, of a less important kind, mentioned in Humboldt, which I have not thought it necessary to extract.

Notwithstanding all these defects, it appears that the annual net produce obtained from the American Mines at the beginning of the present century, was above eight millions sterling:† that in Mines which had been once ascertained to be capable of being

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* Smelting is the extraction of the metal by the application of fuel, or by fusion.

Amalgamation is performed by triturating the ore with quicksilver, which unites with the metal, from which it is afterwards separated by pressure and by heat.

† Humboldt, Vol. III. p. 394. 43,500,000 dollars, or £8,500,000 sterling, nearly.

profitably worked, and where there was capital sufficient to meet the necessary expences of working them, the profits had continued nearly the same, or progressively increasing. He mentions the Valenciana mine as having for forty years never yielded less than a sum of above £120,000 sterling annual net profit to its proprietors.* (Humboldt, Vol. III. page 193). He mentions the annual profit of the proprietor of the Rayas mine† as still greater, because there, he says, owing to the superior richness of its ore, and the smallness of the expences of working, the mine yields a larger profit, (ib. p. 211). He says that the actual produce of the Mines on the vein of Catorce, in New Spain, is nearly 400,000 marks of silver annually, (ib. p. 212). He mentions that the Count de Regla had drawn between the years 1762 and 1774, a net profit of more than one million sterling from the Lode of Biscaina‡ (ib. p. 217).

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* This Mine is in the possession of the Anglo-Mexican Company.

† This mine is in the possession of the United Mexican Company.

‡ This lode is the Real del Monte Mine, and is in the possession of the Company known by that name.

He further relates of the Mines of Veta Negra, (Sombrerete, of which the Veta Negra is the principal vein), that they produced, in the space of a few months, a net profit of more than £800,000 sterling, to the family of Fagoaga* (ib. p. 208); and he mentions many other instances of great productiveness.

To shew that the great evil of national distress, and consequent want of capital, which arose out of the Revolution, was the real cause of the decayed state of the Mexican Mines, we have the report of Senior Don Lucas Alaman, formerly deputy in the Cortes of Spain, and at present Minister for Foreign Affairs, and for the Home Department in Mexico; it is dated October, 1823. Parts of this Report, as they are peculiarly applicable, I will here extract:—

"The Revolution began in the districts where the richest Mines are situate, and their proprietors were the first victims.

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* These Mines, called the Pavillion and Veta Negra, have lately been acquired by the United Mexican Company.

"The inundation of the Mines has been the inevitable consequence of their abandonment during the war. The working of them cannot be resumed until the water has been discharged; and to effect that, the Miners of Mexico, poor in the midst of riches, have neither the machinery required to accomplish it, nor the capitals to procure such machinery.

"By the massacre of some, by the ruin of others, from the war and the excessive requisitions, and the consequent want of necessaries and utensils, to continue the works, the Mines ceased, as it were, almost in a moment."

That this continued till very lately to be the case, and to be the view taken by intelligent persons visiting those countries, we may see from Mr. Caldcleugh's work on South America, containing an account of his travels there in 1819, 1820, 1821. Speaking of the South American Mines generally, he says:—

"The great excavations subsequently made (i. e. subsequently to the first working of the mines),

have become full of water, from which the proprietors have not a sufficiency of capital to clear them. From this cause, many of the Mines, which yielded a large proportion of silver, have become entirely unproductive. The chief falling off, therefore, *has been owing to a deficiency of capital*, which the Revolution has naturally much aggravated." *

We may perceive this also from a work lately published by Mr. Poinsett, a native of the United States, containing a journal of his observations in Mexico, during the autumn of 1822. He has these passages:—

"It will be seen by what I have already observed, that the state of these Mines is deplorable. The expences of working them have already been prodigiously augmented by the depth of the shafts, and prolongation of the galleries; *and it will require a large capital to establish forcing pumps to extract the water.* In many instances it will be impossible to

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* Caldcleugh's Travels in Brazil, Beunos Ayres, and Chili. Vol. I. p. 353.

employ steam, as the moving power, from the great scarcity of fuel."*

"There can be no doubt that the product of the Mines of Mexico is capable of being considerably augmented. The free introduction of quicksilver, and a diminution of the duty and charges on coinage,† will tend very much to that effect, and under a government, which will inspire confidence and secure credit, it is impossible to conjecture to what extent the extraction of the precious metals may be increased."‡

All these statements are amply confirmed by the fact, that the owners of the richest Mines, such as the Valenciana, Rayas, Real del Monte, and Veta Negra, have willingly entered into contracts with the Mining Companies, to whom they give up the management and large shares in the profits for a number of years, on condition of advances of sufficient capital

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* Poinsett's Notes on Mexico, p. 222.

† Precisely the effects which have since occurred.

‡ Poinsett's Notes on Mexico, p. 233.

to put their Mines in a working state, *which advances are to be repaid out of the first profits.*

The want of an adequate capital, then, is to be added to the deficiencies and imperfections before quoted from Helms and Humboldt: to supply all these defects, the Mining Companies will have in the first place, a large subscribed capital; a larger capital probably than was ever before at the disposal of persons undertaking to work any of the Mines, and it is by no means clear that the English Companies by dint of their capital alone will not be able, independently of any improvements they may introduce, to pay all their expences and make a considerable profit in a short time; on the contrary, if their Mines be well chosed, experience shows they will be able to do so. They will have the advice and assistance of experienced Miners taken over from this country, and they will be able to apply to the Mine-works a highly improved state of machinery; in the application of this machinery they will not have to contend with the prejudices of persons already pre-possessed against such new methods, as may be seen from another part of the Report of Alaman the Minister, November, 1823.

"Several foreign capitalists are ready to invest large funds in draining and working the principal Mines, which, from the disastrous consequences of the war, have been overflowed, and not regularly worked. The steam engines, which it is intended to introduce, and of which two are now being erected, the one in Temascaltepec, the other in Catorce, will powerfully contribute to so important a result."*

If these vast and powerful engines, in all the Districts where there is fuel to supply them, could once be set in motion, they would speedily operate to draw off the water from the inundated Mines, and thus furnish a complete and ample remedy for the principal evil. It is to be observed, however, that the application of the steam engine will be by no means an easy atchievement, on account of the vast expences of introducing foreign iron, of the very little attention which has been paid to the manufacture of iron, and of the extreme dearth of fuel which prevails in many parts of the

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* So far from being unpopular the English are hailed in Mexico, as the restorers of the Valenciana Mine, the success of which is considered as interwoven with the national prosperity, and which is called "The Mine of the People."

country. In some places it will be much more easily accomplished than in others; in South America more easily than in Mexico, and in parts of South America, Chili for instance, where there is wood and coal, according to Caldcleugh, to be procured in abundance,* more easily than in others. In Mexico, it seems probable that the draining of the inundated Mines, must be accomplished by the methods formerly in use, with the assistance of English capitals; and the remarkable abundance of horses and mules trained to this object, with the cheapness of their labour, will probably effect all that is necessary in this way.

With regard to the want of communication between the different works, some idea of the importance of such an improvement may be formed from the consideration that in the American Mines, it frequently happens that where two galleries in a Mine are situated at a very small distance from each other, a workman wishing to go from one to the other, must, from the circumstance of there not being any lateral

* Caldcleugh, Vol 1, p. 355.

cut or communication, trace his steps back to the entrance shaft, and thus proceed, perhaps, half a mile, round, to gain the desired spot.

It will be observed in one of the extracts, that, Humboldt, speaking of the modes of remedying this evil, suggests in some cases, "the making of railways on which the ores destined for amalgamation might be easily rolled along." If iron railways be here intended, they must be effected, one would suppose, by undertaking the manufacture of iron in the interior, but very little has been accomplished hitherto, towards so desirable an object. There are undoubtedly, both in South America and in Mexico, mountains containing iron, copper, lead, quicksilver, and other valuable mineral substances, besides the precious metals, which would be useful in agriculture and the arts,* but their working has been much neglected,

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* Humboldt, Vol. III. p. 104 to 107. See also the Abbé Clavigero's History of Mexico. "In New Spain, Chili, and many other countries of America, numerous Mines of good iron have been discovered, and if it was not prohibited to work them, in prejudice of the commerce of Spain, America could

because the Spanish Government discouraged it, in order to make America dependant upon the Biscayan iron and the quicksilver of Almaden.

The expences of introducing foreign iron for the purpose of making railways would be enormous. In Mexico particularly, where the country rises in all directions immediately on quitting the coast, and is, in fact, a continual Table-land, there is very great difficulty in the transportation of the machinery and other bulky articles, and the country wants also the advantage of inland navigation: a few rivers, such as the Santander and Panuco, are navigable to some extent, but even with these and other inlets, there remains so great a tract of country to be travelled over by land, as makes the introduction of foreign iron, for such a purpose almost impracticable.

For the supply of quicksilver, an article so necessary

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furnish Europe all the necessary iron, in the same manner as she supplies it with gold and silver. He adds, upon the authority of Herrera, that in Tzacatecas, a maritime province of Mexico there are two sorts of copper, &c." Vol. III. p. 369.

to the process of amalgamation, the natives of America have almost always been obliged to trust to foreign countries. During the latter years of the working of the Mines, the Spanish Government caused them to be supplied with the quicksilver necessary for amalgamation from its own Mines in Almaden, and by Austria, under the well-known Idrian contract.

At present, it is quite open to the Mining Companies, either to work the Mercury Mines of America, for this purpose, (i. e. to contract with natives for the working of them), or to supply the Mines, in which they are engaged, in any way which they may consider the most economical.

How conducive a cheap and regular supply of quicksilver is to the procuring of the metals, may be seen from the following table, quoted by Humboldt, from a Spanish author:* it shows the influence of the price of mercury upon its consumption,

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* Humboldt, Vol. III. p. 285.

	Price of Mercury per quintal.	Quintals consumed.
From 1762 to 1766	82 Dollars	35750
1767 to 1771	62	42000
1772 to 1777	62	58000
1778 to 1782	41	59000

The larger consumption of mercury indicating, in all cases, a greater quantity of metal procured.

Quicksilver has, for some time past, been bought in London at about two shillings per lb. and there seems no reason to apprehend either a rise of price, or an insufficiency of supply. In those districts of America where fuel is abundant, such as Chili and parts of Rio de la Plata, and even some places in Mexico,* the process of smelting appears likely to supersede that of amalgamation, so that it will be practicable for many of the Mining Companies to add greatly to the quantity of metals produced, without increasing the

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* In Sombrerete, i. e. the Mines last mentioned, as having been acquired by the United Mexican Company, 18 or 19 furnaces are effectually and constantly at work: this I mention upon the best authority, upon which such a fact, not hitherto published, can be communicated.

consumption of mercury. Besides, the attention of ingenious chemists, now strongly directed to the methods of reducing ores, will, in all probability give birth to processes more expeditious, or less expensive, than either smelting or amalgamation in their present state.*

Now without being sanguine enough to hope that all these improvements will grow under the hands of the Mining Companies, and still less that they will start up instantaneously, let us only suppose that some few of them may be effected; let us consider for a moment the effect of one such change; if it takes place in one Mining District with benefit, it will be followed in another, and though trifling in itself, yet when repeated a thousand fold in its operations, it will be productive of very important consequences. Suppose, for instance, it shall be discovered that the metal in a Mine can be prepared with less labour, with less loss of quicksilver, or by any other improvement

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* An important discovery has lately been submitted to the Mining Companies, and has been approved of by Sir Humphry Davy, and Dr. Woollaston.

that shall effect ever so small a saving in the reduction of one pound of ore: in every pound that shall be reduced, this same advantage will arise; and when it is considered that the annual produce of an average Mine, amounts to many thousand pounds of ore, the sum of these savings will be very large, and the benefit accruing from one such change highly deserving of consideration; but suppose two or more of these beneficial changes, of which it has been shown the mining system is susceptible, to take effect, then we shall have fresh advantages, of equally extensive operation, to add to the former; and if the English Associations could so far perfect the system as to introduce all the improvements that have been pointed out, undoubtedly a very great result would arise from the combined effects of so great a saving in expence, labour, and time.

To these considerations there is one very important fact to be added. Almost all the Mines, which are the subject of the mining speculations, are such as have in former times been profitably worked, but in which, owing to some of the causes above suggested, a cessation has been occasioned; the money embarked,

therefore, will not be squandered away in vain attempts to discover what may only exist in the imagination of the speculators, but will require only good management, and a certain interval to elapse for defraying the expences of the first outlay, in order to yield a profit.

Notwithstanding all these facts and reasonable prospects of the Mining Companies, there are many persons, who, not contented with doubting the possibility of their making such a profit as will more than cover all their necessary expences, or not confining their apprehensions to an alteration in the relative situation of America and Great Britain, by the breaking out of direct or the adoption of indirect hostilities towards each other, either of which might be reasonable grounds of distrust, carry their timidity to an unaccountable length, and profess to doubt whether there be after all, any real intention of working the Mines, or whether there really are any Mines capable of being worked with advantage: woful pictures are drawn of unhappy natives who have been ruined in former times, by a too eager pursuit of the precious metals, and we are informed that such under-

takings are notoriously ruinous, and have led to the proverb, " A silver Mine brings misery, a gold one ruin." That this very saying may have been verified in former times may be admitted, but let persons who are inclined to lay any stress upon it, call to mind the circumstances under which it arose. The Mining operations were often carried on in former times by persons who seemed to have supposed that the mere possession of a gold or silver Mine was the unfailing road to wealth, and who, being wholly engrossed with this idea, overlooked all the material circumstances, which, by going hand in hand with the progress of their speculation, could alone insure the acquisition of such wealth; they attended only to the search after the metals; they neglected not only the cultivation of their own country, which, properly attended to, would have supplied them with the natural objects of a nation's consumption, but even the mineral productions of their own soil, which would have furnished them with the means of working those very Mines. In preference to the iron, copper, lead, quicksilver, and other minerals, which the New Continent undoubtedly possesses, the natives have generally chosen, or Spain has chosen for them, to trust to foreign nations for

these most important articles. When the communication with the countries furnishing them with iron, or quicksilver, has been cut off, the greatest distress has prevailed, and though upon such occasions the natives, thrown upon their own resources, have discovered that these articles might be procured at home, they have, upon the very first opportunity, returned to the former system, and devoted themselves exclusively to the search after the precious metals, without any security for a regular supply of either iron or quicksilver.

They have often pursued their schemes at the instigation of profligate agents, who have worked upon their minds by absurd prognostics of approaching wealth, till mining speculation has become a blind and desperate passion, instead of a rational undertaking, and they have, in many instances, improvidently expended their capital, in the investigation of places, where no gold or silver actually existed, or have begun the erection of large works with slender means, trusting to contingent assistance, which has been afterwards refused, when most they stood in need of it. The reverse of all this is true of the Mining Com-

panies. They commence their undertakings with a full knowledge of the true interests of persons engaged in such enterprises; with improved means of carrying on the necessary works; with information as to what supplies will be required; with a capital to procure them, and lastly, with the satisfaction of knowing, in most cases, that the very Mines in which they are engaged, have, when properly worked and supplied, yielded an abundant profit.*

What then is to prevent them from so far succeeding as to be able to do with greater means what has been before accomplished with less? Or does a Mining Company possess a quality the reverse of that which is related of Midas, of turning, by its touch, what is already gold to dross?

We may conclude that large returns will be made

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* It may be observed here, that the arguments which have been adduced against Mining by Adam Smith (Wealth of Nations, Vol. II. p. 155), and by Robertson following him (Amer. Vol. IV. p. 66, and seq.) are directed entirely against *the search after new mines.*

from the Mines; whether they will be suffcient, and how soon, to cover all the expences necessary in the first instance, and to yield the companies a profit may be estimated by considering,

Secondly, The nature of the contracts entered into by the Associations, and their validity, according to the laws of America.

Upon this part of the subject it is necessary to observe, in the first place, that there is nothing unusual in this mode of working, or supplying, Mines by contract; but that in so doing, the Mine-owners and the Associations are following exactly the track pointed out by the Ordinances themselves. In the working of Mines, the magnitude and expence of the operations have generally made it necessary that the undertaking should be borne jointly by several persons. The manner of arranging such transactions was usually this; the Mine-owner contracted with one or more adventurers, who undertook to carry on the works at their own expence; the expences of the working and the duties* to the King upon the

* The duties then payable to the King are now payable to

metal procured and coined, were generally paid first of all out of the gross proceeds of the Mine, and then the net profits were divided between the Mine-owner and the contractor, or contractors, in the proportions previously settled by the contract.

One whole chapter of the Ordinances* is directed to the relative situation of the Mine-owner and such contractors, who are there called Mine-suppliers (*Aviadores*), and to their mutual rights and interests. In the situation of such supplier or contractors the Mining Associations have placed themselves; let us see what degree of property in Mines they are capable of acquiring.

By several statutes in different Spanish codes, and particularly by the Ordinances, Chap. VII. Sect. 1. foreigners are prohibited from acquiring or working and supplying Mines. These disabling laws have been repealed, to a certain extent, by a law of the Sovereign

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the Governments. Humboldt calculates them for all Spanish America at 13 per Cent. They are now very considerably reduced under the different Governments.

* Ordinances, Chapter XV.

Congress of Mexico, dated October 8, 1823.* In South America the Governments have, in some cases, passed similar laws, in others have granted an express authority to foreigners to work and supply the Mines, and to acquire rights in them or their produce.

This Mexican law, enabling foreigners to work and supply the Mines, requires some attention, as it implies a doubt as to the extent to which they may acquire a property in Mines.

The second clause of this law, which professes to explain the degree of property they may acquire, says expressly, "This repeal shall extend only to enable foreigners to contract with Mine-owners for supplying them with capital in all the modes which are usual in such contracts upon the terms that shall be most convenient to both parties," which expression is sufficiently clear; but it adds, "so that they may even acquire in property shares in the concerns to which they supply capital," *(hasta poder adquirir en propiedad acciones en las negociaciones que habiliten)*, which is not quite so satisfactory.

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* See Appendix, No. III.

The fifteenth Chapter of the Ordinances, which treats of Mine-suppliers, particularizes two methods in which they may be repaid for the supplies they advance; one, by their taking the gold and silver extracted at a price below the real value, which method is called *(aviar á premois de platas)*, having the benefit of the difference; the other by the proprietor giving the supplier a share in the Mine, making him a perpetual proprietor thereof, or of the metals for a certain time, by a species of partnership, *(interesándose el Aviador en parte de la Mina, haciéndose para siempre Duéno de ella, ó de los metales por algun tiempo por especie de compañia.)* The precise words used in this last expression, which contains the largest right vested in the native Mine-supplier by the Ordinances, have not been adopted in the new law respecting foreigners, but the words "perpetual proprietor thereof by a species of partnership," are at least as strong as those in the new law, "acquiring in property shares in the concerns which they supply." We may therefore conclude, that the new law did not contemplate the giving to foreign suppliers a greater right than was permitted by the Ordinances to persons in that situation being natives. Let us see then how the fifteenth Chapter of the Ordinances explains the sort of

proprietorship, which it has enabled the suppliers to acquire.

In the first place, several of the Sections of that Chapter, in reference to the mutual rights and duties of the Mine-owner and Mine-supplier, describe the contracts as subsisting between these persons by the name of Owner, on the one hand, and Supplier, on the other, as well in cases where the contract is in the way of partnership, as where it is by premium on the metals. For instances of this, take Section v. of this Chapter, " Accidents happening on the road shall be at the expence of the Mine-owner where the contract is by premium upon the metals; but where the contract is in the way of partnership, such costs shall be at the expence of both, unless any other mode be particularly expressed in the deed of agreement:" Take the latter part of Section VI.—" If the capital supplied to such Mine has not been furnished *in the way of partnership between the Contractor and Mine-owner*, in which case," &c. And also Sect. IX. " When the contract of supply is made in the way of partnership in the property of the Mine, the capital invested, until the time when there shall be a surplus profit, over and above the expences, is not to be immediately deducted from the profits with preference

to the contractor, but the profits are to be divided, the capital remaining so invested *during the continuance of the partnership.*" This last section alludes, expressly, to the termination of the partnership, by which expression I understand the termination of the contract, either according to its original terms, or by some new agreement made between the parties.—It may be said that the termination here alluded to is that which might take place upon the sale or transfer by the supplier of his share in the Mine, considering him as a proprietor, and as having a right to alienate his share. But by inference from this clause the capital invested is to be withdrawn at the conclusion of the partnership, a proceeding wholly inconsistent with his having become an absolute proprietor of any part of the Mine, for that capital is the very price which he has paid for having become such proprietor.

Besides, if this construction were to prevail, and the supplier to become an absolute proprietor in partnership, the Mine would then become one of those Mines worked in partnership, which form the subject-matter of another whole Chapter of the Ordinances,* and

* Chapter XI.

would no doubt, have been referred to, and placed under the provisions of that Chapter; for the Ordinances are a very minute and particular Code of Laws, which continually refer to provisions previously laid down, wherever such provisions will apply.

At any rate, according to this construction, there would have been found in Chapter XV. itself, some provision for the very probable cases of sale or alienation by the supplier of his share in the property; and yet no such provision any where occurs. If it be asked, What, then, is the right which is conferred upon suppliers, by this second mode of being repaid for their supplies, I answer, it is the being entitled to the whole proceeds of a certain part or parts of the Mine, whatever such proceeds may be, as distinguished from a premium, or per-centage, upon the proceeds of the whole Mine.

These reasons appear to me conclusive that the Mine-supplier, and above all, that foreign Mine-suppliers, have not the right of acquiring any absolute property in the Mines, according to the laws of Mexico; but I have entered into this discussion, because I find that there are persons of great intelli-

gence and of experience in the Mines of Mexico, who think that they have a right of acquiring such absolute property.*

Whatever may be the true construction of the laws relating to Mine-suppliers, whether native or foreign, it appears, at any rate, more for the advantage of foreigners to supply the Mines upon the terms of receiving a premium, or per-centage, upon the metals, than upon the footing of becoming the absolute proprietors. For upon this latter supposition, they must be supposed to pay the full value of the mine in question, either in number of years purchase, or by whatever other mode the value of property in that country may be estimated. Now this is the very situation which they ought to avoid; for in case of a rupture between the countries, which, though highly improbable, at present, may possibly arise at some

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* Upon this part of the subject see some valuable information at the end of these Observations, page 74, which has been communicated to me, since they were sent to Press, by Mr. Mornay, a gentleman of great intelligence, and of high consideration in the mining world, and which was too important to be crowded into a note.

future time, they may be unable to enforce their rights, and will therefore have made an unnecessary sacrifice. Their object, on the contrary, ought to be to place themselves on the footing which will most certainly and most speedily repay them for the capital they have advanced.

By the Chapter above quoted, suppliers upon the terms of premium, or per-centage, enjoy advantages over the other class of suppliers. They are exempted from the expences occasioned by risks and accidents, to which the others are liable, (Chap. XV. Sect. v.) and the capital advanced may be paid off in the first instance, out of the profits, in the former case, but not in the latter (ib. Sect. IX.).

While upon the subject of this Chapter, I would observe, that by Section XIV. the inspector, who is an officer placed in the Mine to watch over the interests of the *supplier*, is prohibited from interfering with the working of the Mine, which is there said to belong entirely to the *Mine-owner;* this prohibition must be taken to apply only in cases where the agreement is not by a regular signed contract, such as is described in Section I. of this same Chapter: where

such contract exists, as is almost always the case, the management of the Mine, and the mode of working it, may be vested in either party, according to the provisions of the contract.*

The proprietors thus letting their Mines to the Associations, have a perfect right so to do, being the absolute and undoubted proprietors of the Mines. It may have been supposed that an authority from the Government would be requisite to enable the Associations to work the Mines, as considering the real ownership of them to reside in the government: this is not the case. The mode of acquiring original Mines, i. e. such as have never been worked at all, and decayed or inundated Mines, will be seen in Chapter VI. of the Ordinances. For the vesting of this species of property in the subject, see the King's Grant, Ordinances, Chapter V. Section 11. from which it appears, that on condition of paying certain duties

* I am informed, by persons intimately connected with the Mining Companies, that they have, in almost all cases, stipulated that the management of the Mines shall be vested in them.

to the king, and complying with the Ordinances, the Mines* are vested absolutely in the individuals acquiring them; these duties, and not any property in the Mines, being the source of the large sums received in former times by the Spanish Government.†

The Mine-proprietors then have the right of letting their Mines to be worked by the Associations, and the Associations of entering into contracts for working and supplying them, by the laws of America. In addition to this, the Governments are lowering the duties, and offering every facility to the Associations, for the purpose of enabling them to work the Mines with advantage.‡

How soon may the Companies expect such returns

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* The tenure by which the Mines are held, seems to be what would be called in our law, that of a fee simple conditional.

† Humboldt says, "All the metallic wealth of the Spanish Colonies, is in the hands of individuals; the Government possesses no other Mine than that of Theanca Velica, in Peru, which has been long abandoned."

‡ See an Extract from the Mexican Tariff. App. IV.

as will pay their expences, and yield a profit? After that, how long may they fairly expect to work the Mines at such profit?

Undoubtedly they have been, and are at, a very great expence, in restoring the Mines to a working condition, and supplying them with the necessary materials. The chance of an adequate return in any case, depends upon the state of the Mine in question, at the commencement of the undertaking; upon the magnitude of the works, and the expences incurred. As yet no complete accounts of the progress made, have been transmitted; indeed, only sixteen months have elapsed since the formation of the earliest of these Societies;* and the commencement of operations did not take place till some time after. This Company was associated for the working of the Valenciana and other Mines; and as it was the first formed in point of time, and as Humboldt gives a detailed account of the expences and profits of working its principal mine for a certain number of years,

* The Anglo-Mexican Company was formed in January, 1824.

perhaps, in the absence of immediate information, we may form some estimate of the probable result from his account. This Mine is situated on the vein of Guanaxuato, in Mexico. Humboldt says, that the part of the vein where it is situated, had not been much worked till the year 1760, when it was undertaken by Monsieur Obregon, afterwards the Count de Valenciana.*

In the year 1771, the first great profits commenced, and continued for above thirty years, the Mine during that period never yielding an annual produce of less than £583,000 sterling. The period for which he gives the detailed account of its whole proceeds, expences and profits, is from 1794 to 1802, inclusive.† During these nine years, the average annual expenditure was 890,000 dollars, or £178,000 sterling, nearly; and the average annual

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* The early history of this Mine, the disappointments, perseverance, and ultimate triumph of Monsieur Obregon, are a most interesting account.

† Humboldt, Vol. III. p. 199.

net profit, about 640,000 dollars, or somewhat above £120,000 sterling.

In the first year, the expences will be much larger than afterwards, on account of the necessary repairs and refitting of the Mines: whether in the course of that year, or how soon afterwards, a clear return over and above all expences may be expected, must depend upon the first accurate accounts of the proceeds and expenditure, and of the progress made. Whenever that time shall come, the Mining Companies have a right to calculate upon working the Mines for a considerable length of time, in conformity with their contracts; and if the profits should be in proportion to those which are detailed for the nine years, quoted from Humboldt, of the Valenciana Mine, it will be seen in the case of the Company which is working that Mine, (and which is only taken for an example, as corresponding with the only Mine mentioned in this particular manner by Humboldt), that the clear profits would, in a very short time, pay off all conceivable expences, and yield a large profit. The capital of the Anglo-Mexican Company is called one million, but this is only nominal, at least, until farther advances

shall be called for by the directors, the sums hitherto advanced by the shareholders are £20 upon each share, there being 10,000 shares; the real capital, therefore, is £200,000. The net profits to be divided among the shareholders, for the years quoted from Humboldt are £120,000 sterling, per annum; i. e. more than twice the interest at five per cent upon the whole nominal capital, supposing it to be all advanced, and considerably above half of the whole capital hitherto advanced, or above sixty per cent. profit. If the part of the Valenciana Mine, to be worked by this Company, be not so extensive as the part which was worked by the proprietors, at the time of which Humboldt speaks, then the whole profits will not be so large, but neither will the expences of working for the same reason, so that the clear profits may still remain in the same proportion.

The duration of the partnerships is, in most cases, limited by the contract. Even if this were not the case, it could not be expected that the English Companies should continue to work the Mines for a very long period after they are once restored to a profitable state of working. The natural causes which have contributed to the undertaking of these operations by

the Companies, will, by their cessation, point out the natural conclusion of the undertakings.

The time will come, supposing the undertakings to prosper, when the native proprietors of Mines, if not indulging in extravagant expenditure, will have acquired sufficient capital to continue the working of their own Mines,; and when the improved methods, which may be introduced by the English Companies, shall have become a part of the Mining System of America. With a view, no doubt, to the arrival of such an epoch, the contracts have, in general, been framed of a limited duration. Until it arrives, we have the best possible security, the interests of America, that the contracts will not be violated; afterwards, and till the proposed expiration of the contracts, it is not too much to suppose that, made as they have been, at the anxious wish of the natives of that country, and sanctioned by many, if not all, of its different governments, they will remain valid and effectual, and entitle the Companies to all the benefits that shall result from the successful working of the Mines.

Thirdly. We are to consider the footing upon which these Mining Associations stand in point of legality, and in so doing it will be proper to dismiss from our attention that part of the subject which relates to the liability of partners, as this, though perhaps the most important part of the question, falls properly under the head of the expediency of the Associations, and will be considered afterwards. Confining ourselves to their legality, all associations of this kind, not having the sanction of Parliament, are in their nature nothing more than private partnerships, upon a larger scale, liable to a continual charge of interest, and fluctuation of persons in the partnership; and if there be no fraudulent intention on the part of persons so associating themselves, and nothing proposed which is contrary to the enactments of any statute, there is nothing to make this particular sort of partnership illegal; that this has been, and continues to be, the case, may be inferred from the circumstance that where it has been thought advisable to prevent more than a certain number of persons from carrying on any particular business, an act of Parliament has been necessary to limit the number in such cases accordingly; from which it follows, that, in the view of the legislature,

without such enactment the business might have been carried on by an unlimited number, and that in other cases, where no such enactment has taken place, the privilege of carrying on the business in the same unlimited manner still remains. A familiar instance of this species of regulation, is the statute 6 Anne, c. 22, which, out of favour to the Bank of England, prohibits any number of persons exceeding six, from uniting themselves in partnership, for the purpose of issuing banker's promissory notes.

At common law, therefore, it appears that such Associations are good and valid, and we must look to some statute, before we can throw any doubt upon their legality, which brings us to the statute, 6 Geo. I. This statute was passed, as is well known, in the year 1720, to restrain a spirit of speculation which prevailed very generally about that time; its preamble is very vague and general, and its enacting clauses so uncertain, that it has necessarily been left to the interpretation of the Judges: however, the offences which appear to be marked out by it, are, 1. The instituting any speculative undertakings to the prejudice and inconvenience of the public. 2. The presuming to act as a corporate body. 3. The raising, or pretending

to raise, transferable stock. The last of these, with the interpretation put upon it by the Bench, is, that which principally deserves our attention.

The first of them surely must have been intended to apply solely to Associations where the object proposed was one, which, in the opinion of a competent tribunal, would be injurious to the country, as being injurious to any branch of its trade or manufacture; holding out to the world, that they possess some advantage, which they either do not, or ought not in law to possess, and so temping persons to become share-holders upon false premises, or by any other means, which would obviously produce some injurious consequence to the public. It never could have been intended to comprehend under the mischief and injury mentioned in the statute, any but a direct ill consequence, not, for instance, that remote evil which might arise to the speculators themselves, where the object of such speculations might be otherwise unexceptionable, because that would have been in effect to have prohibited speculation altogether, or to have left it to be enquired in each case, whether the speculation was likely to be attended with success.

Then as to the presuming to act as a corporate body, how great a difficulty would there be in determining what should be considered as usurping the privileges of a corporation. Many acts, which, from their having been always adopted by corporate bodies, might be from custom almost defined as the privileges of a corporation, are in reality no more than acts which may be practised with perfect legality by every private partnership in the kingdom. Any number of persons associated together for the purpose of trading or doing any other legal acts whatsoever, may style themselves by a common name, may make bye-laws for the regulation of their mutual conduct, and do other things which are in general practised by corporate bodies.

By looking at the cases which have come before the Courts under this statute, it will appear that the Judges have directed their attention principally to the last head, namely the raising, or pretending to raise, transferable stock.

The King *v.* Dodd,* brought before the Court of

* 9 East's Reports, 516.

King's Bench in the year 1807, is the first case under this statute. It came on in the shape of a motion by the Attorney General, on the part of a private relator, for a criminal information against the defendant as the promoter of two schemes, both alleged to be contrary to the 6 Geo. I. c. 18. s. 18. By one of these it was proposed to raise by subscription £50,000 by 2500 transferable shares of £50 each,* payable by instalments not exceeding £10 per cent. the whole to be under a deed of trust or enrolment in Chancery, *by which no party was to be accountable for more than the sum for which he should subscribe under the regulations of the Company.* This was called a "Prospectus for a London Paper-manufacturing Company." The other was called a "Prospectus of the intended London Distillery Company," by which it was proposed to raise £100,000 by two thousand shares of £50 each, payable by instalments not exceeding £10 per cent. at twenty days notice, adding a like clause about the enrolment of a deed in Chancery, and the non-accountability of the party beyond the sum stipulated to be subscribed. The

* There is some mistake in the numbers or sums here, but it is so stated in the Report.

information was refused, not upon the merits of the case, but partly on account of the length of time that had elapsed (eighty-seven years) since any legal proceedings had been enforced against offenders under this statute, and partly because the person, at whose suit the information had been moved for, did not shew that he had himself been injured, and therefore was not of that class of unwary and deluded persons for whose protection the statute was passed. The Court therefore declined to interfere in that extraordinary manner, but intimated a strong opinion against companies composed of joint stock and transferable shares (*i. e.* generally transferable), and said expressly that the clause holding out to the world that no person should be accountable beyond the amount of the share for which he should subscribe, *was a mischievous delusion*—had the Court therefore thought this a proper case for their interference, this latter would have been a sufficient ground for their granting the information. In this judgment not a word is said about such societies as should make their shares transferable under certain limitations, as with the consent of directors, &c.

The next case of importance is the King *v.* Webb and others, 14 East, 406. The offence charged was the subscribing to raise a sum not exceeding £20,000, to be divided into not more than 20,000 shares, for the purpose of buying corn, grinding it and making and selling flour and bread for supplying Birmingham and its neighbourhood. The offence had been laid in various ways in the indictment,* one count of which charged the defendants with presuming to act as a corporate body; another with pretending to raise transferable stock, assignable from the holders thereof to others at the pleasure of such holders; another with countenancing an undertaking which tended to the grievance, prejudice and inconvenience of the public—this indictment, therefore, comprehends all the offences of which we have been treating—let us see how the Court of King's Bench disposed of it.—Upon some of the counts in the declaration the defendants had been acquitted—upon others the Jury had found a special verdict which, after setting out a deed, containing covenants to be entered into by the

* The indictment had been found at the Quarter Sessions, and removed into the Court of King's Bench by certiorari.

originals holders, or partners, stated among other things (many of which I need not particularize, because they do not seem to have influenced the Court in their judgment,) *That according to the regulations of the Company, no person should at any time sell or transfer any share to another, or in trust for any other, unless the person to or for whom the same should be sold or transferred should enter into such covenants with the rest of the partners, for the time being, or their trustees, in the same manner as he must have done had he been an original partner and party to the original deed.* The verdict also found that each holder in respect of his share should weekly purchase from the co-partnership, at the prices fixed by their committee, a certain quantity of flour and bread, not exceeding in value one shilling per week for each share, on pain of forfeiture of the share, and that the Company *was originally instituted from laudable motives, and had been and continued to be beneficial to the inhabitants of Birmingham and its neighbourhood, but was prejudicial to the bakers and millers of the said town and neighbourhood.* In delivering the judgment of the Court, Lord Ellenborough divided the acts supposed to be made out

against the defendants into,—First, raising a large capital by subscriptions to enable them to buy and grind corn for making bread and flour; Secondly, having transferable shares, and presuming to act as a corporate body. He said the first was clearly established—as to the having transferable shares he said, that as there was an obligation on every holder to enter into covenants to conduct himself as if he had been an original partner, and as the regulations of the Company made it necessary that each holder should reside at or near Birmingham, or have an agent there for the purposes of the Company, the shares *could not be said to be generally transferable*—and he added, that for any thing which appeared in the deed of the Company it *might* be essential that upon each transfer of a share the consent of the other Members, or of the Committee, should be obtained.* With regard to the presuming to act as if they had been a corporate body, Lord Ellenborough said, "How many unincorporated insurance companies, and other descriptions of persons, are there that use a common

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* In the principal Mining Associations it *is* actually a condition that the consent of the Directors should be obtained.

name, and have their committees, general meetings, and bye-laws—are these all illegal? or which of these particulars can be stated as being of itself the distinctive and peculiar criterion of a corporation?"—And after going through the act, he concludes thus: "The subscriptions, therefore, which the statute contemplated, were subscriptions upon dangerous and mischievous projects, where the pretences of public good were false, and where the unwary were drawn in to subscribe—the act does not apply indiscriminately to all subscriptions. The purpose in this case is found to be beneficial—therefore the only question is, whether as the shares in this institution are, to a certain degree, transferable, the defendants have offended against this act, in respect of having raised a subscription of such transferable stock? It may admit of doubt whether the mere raising transferable stock is in any case *(even generally transferable stock therefore)* per se an offence against the act, unless it has relation to some object of an injurious tendency. But without entering particularly into that point it may be sufficient to say here that in the qualified extent to which such shares are transferable, there has not been such a raising of transfer-

able stock as to fall clearly within the scope of the act." And judgment was accordingly entered for the defendants.

One case which was decided shortly afterwards, I think it necessary to mention—Pratt *v.* Hutchinson, 15 East, 511. It was an action of debt brought by the Treasurer of a Society for raising subscriptions for the purpose of building houses, against a person who had bound himself in a bond, conditioned for the fulfilment by third persons, of certain undertakings connected with the society. That the condition of the bond was broken was not disputed, but the defence was that, the society not being instituted by act of parliament, or other legal authority, the obligation was void in law by force of the statute 6 Geo. I.

There was a deed of rules for the regulation of this society by which it was declared, among other things, that every member should have full power at all times to *sell his shares privately*, whenever, and at what price, he should think proper—that the secretary should transfer the same in the transfer book of the society—every purchaser becoming a

member was on his admission to become a party to these articles, and no person permitted to purchase a share till he should have been first proposed and approved at a meeting of the said society, by at least three-fourths of the members present—there was a stipulation in the articles that certain particular tradesmen, and no others, should be employed by the society, and upon this it was objected on the part of the defendant, that such a stipulation was in restraint of trade, and against the general policy of the law. But the objection was not allowed, and as to the other point of more general application, the transferability of the shares, Lord Ellenborough called upon the defendant's counsel to state upon what grounds it could be contended that the shares created by this agreement were transferable stock, within the meaning of the statute 6 Geo. I. when the holder had not the power of transferring his share, except upon certain conditions, namely, upon the purchaser being approved by the society, and becoming a party to the articles—and the Court gave judgment for the plaintiff.

The result of these cases is that where the shares

in a society are only transferable upon certain conditions, the society is not, in respect of the transferability of the shares, illegal: if we look to these conditions in the cases which have been decided, we shall find that the purchaser of a share by complying with them, puts the directors of the society, or whatever body may have been appointed to conduct its affairs, in possession of the facts which it is most important for them to know, the name, character, and responsibility of the new shareholder—by means of such conditions the managers for the Company, and through them the public, can at all times reach the present possessors of the shares—without them it would very difficult and sometimes impossible to do so, the managers or directors would have no names on their boards, but those of persons who might have parted with all their interest, and might not even know where to apply for the occasional advances of money which are necessary for carrying on the affairs of the Company. This is a reasonable and just principle, and has no doubt governed the cases that have been decided under this statute.

And it appears also from these cases that the clause

in the statute about usurping the privileges of a corporation is little else than a mere nullity. For what privilege of a corporation can these companies affect or desire; above all, the companies for Mining in America, who want no authority to do any corporate or other acts for which application is usually made to Parliament? the single privilege they could desire would be a dispensation from the laws relating to partners—to be put in such a situation that each holder should be responsible only to the amount of the sum for which he should subscribe—and this privilege if they presume to hold out to the world that they possess, without the authority of Parliament, they are acting illegally, not on account of the accidental resemblance to the situation of corporate bodies, but on account of the mischievous delusion which they are practising upon the public, and which brings them in that respect within the statute.

With this view of the act 6 Geo. I. let us look at the case, which was decided under this act a short time ago in the Court of King's Bench. It was the case of Joseph *v.* Peberers, Hil. Term, 1825. The plaintiff sought to recover from the defendant the

price of certain shares bought for the defendants by the plaintiff in the Equitable Loan Bank Company. It was proved that the shares were generally transferable. The plaintiff had a verdict, with liberty to the defendants to move to set aside the verdict, and enter a nonsuit. On the Court being moved for this purpose, the rule was made absolute for the defendant, and the judgment proceeded upon two grounds—1st. That the Company had made their shares generally transferable; and 2dly. That they were usurping the privileges of a corporation. Now with perfect acquiescence in the judgment itself, it seems the fair result of the cases already considered, and of the view which has been taken of this statute, that the grounds of this judgment are not equally strong, and that it may be most safely rested upon the first of these grounds. No particular acts appear in this case, and none are set forth in the judgment, from which it can be inferred that this society were usurping the privileges of a corporation; and therefore, as the shares were generally transferable, and as that alone would, in conformity with the other decisions under the statute, make the society illegal, we may fairly enough attribute its illegality to that ground alone.

Upon the whole, then, if there be no misrepresentation, designed or otherwise, in the expectations which are held out to the public; if the immediate object of the Association be not mischievous, and if the shares be transferable only upon the consent of the body of shareholders, or persons appointed to act on their behalf, in such manner as to disclose the real possessors of the shares to the public, these Associations, as the law now stands, appear to be on a footing of perfect legality.

The last head which remains to be considered, is, the general expediency or inexpediency of embarking property in them. The danger which attends them arises out of several circumstances;—their liability to the laws affecting partners; the difficulty of ascertaining the real value of the property which is the subject of speculation; the possible interference of Parliament.

As to their liability to the partnership laws, there seems no reason why persons becoming members of such Associations, should not be subjected to the same laws which affect persons entering into other

partnerships. The liability of a shareholder may be considered in two ways; 1st. as it imposes upon him the obligation of making good the engagements of the Company towards third persons; and, 2ndly. as it subjects him to all those which subsist among the members of any partnership towards each other, by the laws of the country, as administered in courts of equity; the dealings of partners, both as among themselves, and as between themselves and the world, forming under the head of account, a subject of equitable cognizance.* In the dealings between the partnership and third persons, it is perfectly clear that, in the absence of any express contract, the liability of each shareholder is of the most extensive description: it cannot be more strongly expressed, than in the language used by the Lord Chancellor, in his judgment in the case of Kinder *v.* Taylor.† "It is fit that the public should know that, however the shareholders may limit the responsibility as between themselves, they cannot limit it as to third

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* Blackstone's Commentaries, Vol. III. p. 437.

† On Tuesday, the 29th of March, 1825.

persons; and every man who engages in these undertakings, is liable to the extent of every shilling he has, or ever will have, and of every acre of ground he possesses, or ever may possess." *

It is equally clear, that no stipulation inserted in the deed by which the Company is constituted, can restrict this liability. Lord Ellenborough said, in the case of King *v.* Dodd (before alluded to) "As to the subscribers themselves, indeed, they may stipulate with one another for this contracted responsibility, but as to the rest of the world, it is clear that each partner is liable to the whole amount of the debts contracted by the partnership."

To obviate these inconveniences, and the confusion which would arise from there being so great a number of parties to the contracts, as there would be, if they were made in the name of the whole Company, certain persons are generally appointed Directors, and

* By this I presume is meant, for all liabilities, incurred previously to his quitting the partnership, and even afterwards, till legal notice of his having quitted it shall be given.

empowered to make contracts in their own names only; and provided third persons, with whom they contract, expressly engage to look for the fulfilment of such contracts to the Directors alone, there seems no ground in law or equity why they should not be bound by the terms of their own contract. Having stated the purpose for which the Directors are chosen, it is hardly necessary to observe, that the smaller their number, the more completely that purpose will be answered: it is desirable also that those persons who, as Directors, are entrusted with the management of the Company, should be the trustees of their funds, in order that those who make the contracts, should have the disposal of the funds which are to answer them, and that circuity of proceeding may be avoided. Another, and perhaps a more effectual expedient for accomplishing the same object, would be the constituting as Directors a certain number of persons at fixed salaries, who should not share in the profits and losses; whereby, the Company and the Directors, standing in the relation of principal and agents, would not be reciprocally responsible; and third persons contracting, having elected to accept

the responsibility of the agent, could not afterwards sue the principal.*

The shareholders are also liable to be harassed by the caprice or discontent of any of their own body. Partnerships subsist either indefinitely, or for a fixed number of years, agreed upon at their commencement; and they have, in most cases, a mutual deed, containing certain terms or conditions upon which the partnership is to be carried on. By the settled usage of the Court of Chancery, any one partner may, at any time, terminate a partnership subsisting indefinitively.†

In such cases, the partner, disposed to act in this manner, prays the court by bill to wind up the partnership concern, to collect all the outstanding effects, sell the partnership property, and pay off the partnership debts; and this, in the case of a legal partner-

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* See Addison *v.* Gandasequi, 4 Taunt. 574. and Paterson *v.* Gandasequi. 15 East, 62.

† Peacock *v.* Peacock, 16 Vesey's Reports, 49.—Featherstonhaugh *v.* Fenwicke, 17 Ves. 298.

ship, if all the proper parties be made defendants in the suit, the Court will do, appointing for the purpose a receiver, in whom the management of the concern is temporarily vested, and who is accountable to the Court for his conduct. And even where the partnership is carried on for a fixed period, upon a case made out, of mismanagement, or breach of the articles, the same remedy may be enforced;* and it will be no objection to such proceeding, that the body of partners in general, are averse to the dissolution; on the contrary, the Court, in another case, refused to interfere, for the purpose of giving any relief at all, unless the bill actually prayed for a dissolution of the partnership.† Fresh difficulties would be created by the death or bankruptcy of any shareholder, whereby such share would vest in executors, or assignees; also by marriage, in the case of a woman being a shareholder, and innumerable other contingencies may arise, which would operate a change in the property, and give a handle to persons

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* 1 Sim *v.* Stuart, 129. note (*b*) see the cases collected.

† Forman *v.* Homfray, 2 Ves. and Bea. 329.—Marshall *v.* Colman, 2 Jac. and Walker, 268.

who should be disposed to throw difficulties in the way of the partnership.

To obviate or diminish these difficulties, provisions, carefully worded, may be inserted in the deed which constitutes the Company, regulating the mode in which the interest of a person ceasing to be a partner, should be calculated. This might be either according to the market-price of his share, in which case a right of pre-emption might be reserved to the Company, or upon a calculation of the profits of the preceding year, or in any manner that might appear more desirable. There seems no reason to doubt that, where a person had executed a deed, containing such a covenant, his executor, in case of his death, or even his assignee, in case of his bankruptcy, would be bound by it.

Another mode would be, to insert a clause, referring all disputes to the decision of arbitrators appointing for arbitrators certain individuals, with a power of filling up any vacancy that might occur among them.

It is impossible to say with certainty, that such a clause would be sufficient to oust the jurisdiction of a Court of Equity, but it does not seem that the point has ever been decided; and even in cases where the arbitrators have not been named, and where, on that account, the clause has been held inoperative, to prevent the interference of the Court, yet some attention is generally paid to this expression of the wish of the parties, and the Court has even refused to interfere, till they have tried the remedy, so pointed out by themselves, and found it ineffectual.*

But, perhaps, the strongest security against this interference of the Court of Equity, is another rule which subsists also in the same Court. By the practice of that Court, all persons interested in the subject matter of the suit, must be joined as parties on the record. It will easily be seen that this necessity is likely to operate in the most effectual manner, to deter persons from sueing so large and fluctuating a body of men as generally compose an

* Waters *v.* Taylor, 15. Ves. 10.—Carlen *v.* Drury, 1 Ves. and Bea. 159.

Association of this kind; and so long as the Companies do not take advantage of this rule to screen themselves from the payment of any just demands, one can hardly regret the existence of such a difficulty.*

The other difficulties which attend the Associations, are such as will diminish with the lapse of time, and the progress of information upon the subject, and they bring us to those considerations which ought, after all, to be the real criterion of the expediency of the undertakings. Is the Mine, towards the working of which we are about to contribute, likely to repay the capital employed, and yield a profit?

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* This difficulty has been exemplified in a late case of Van Sandau, *v.* the British Annuity Company. A bill was filed against the Directors and Trustees of the Company, and it was successfully objected to it, that every member of the Company was a necessary party to the suit. Mr. Van Sandau has, therefore, the option of either abandoning his suit, or bringing before the Court a number of parties little short of 300, subject to the perpetual imperfections on the record, which may arise from death, bankruptcy, and other changes in the situation of the parties.

Has it been profitably worked in former times? Has it begun already to yield a profit? This information is, at present, difficult of attainment. The distance of the property in question, the necessity of relying upon other persons for the necessary details, and of placing money at the disposal of other persons, to be expended by them as occasion may require, leaving them to determine when the occasion does require it, all conspire to excite considerable apprehension: at the same time, this is only a greater degree of the danger which is encountered by some of the partners in almost every considerable private partnership, where the concern is often left to the management of some, or even one, of the partners. The difficulty of procuring information, is constantly diminishing, in proportion as intelligence arrives from America; and when once such intelligence is procured, of the actual beneficial working of the Mines, the Associations may continue without fear of any of the liabilities which have been suggested. I do not mean to say that, sanctioned by an act of Parliament which should limit the responsibility of each shareholder, to the extent of the sums for which he should subscribe, any Association would not have an advantage over others

not enjoying a similar protection; but let the chance of success rest upon its just foundation, the goodness or worthlessness of the Mine in question; not the being incorporated, or the getting an act to limit the responsibility of the shareholders, or any other advantage which Parliament could bestow, which, in the case of an ill-advised undertaking, would, perhaps, have the effect of converting the ruin from complete to partial, but in the case of a good and substantial one, would be unnecessary. As long as the undertaking should continue to prosper, it is obvious, that there would be no danger from any extent of liability, as the creditors of the Company, finding its general fund ready to meet their demands, would have no occasion to resort to its individual members; and as to the power of any individual shareholder to dissolve the Company, (even if, notwithstanding the objections above stated, he could succeed in that attempt), there is the best of all securities that such an event will not occur, namely, that it is for the interest of all parties that the Association should continue.

I cannot dismiss the subject, without adverting to

the general expectation, that some legislative enactment is about to take place with regard to the Associations of this kind.

Of what nature is such enactment to be? Is it to prescribe the number of persons capable of forming themselves into a partnership, or the object for which they shall associate, or the nature of the interest they may acquire, and the mode of acquiring and parting with it? As to the number, it would seem impossible with any reasonableness, to draw the line. Equally ineligible would it be to proscribe by name any particular class of objects; this would be only to drive speculation from the proscribed to some other class of objects, which would easily suggest themselves to persons desirous of speculating, and would lead to a continual interference of the legislature. The proposed enactment, then, would probably relate to the nature of the interest to be acquired in such Associations, and the mode of acquiring or parting with it. The criterion of the transferability of the shares introduced by the 6th Geo. I. may be said to have failed, for (as has been pointed out above) the judges have been obliged to construe the clause,

respecting the transferability of the shares, in such a manner, as to leave them open to almost unlimited speculation. If I could presume to suggest a mode of regulating the interest to be acquired in such Associations, and the manner of acquiring or parting with it, so as to protect the public from being drawn in, to participate in ill-advised projects, it should be by *an act to prevent persons from selling their shares in a society within a certain time (say a twelvemonth) of the formation of such society.* I would suggest this for the consideration of those who think this evil a fit subject for a legislative remedy, as a law more intelligible and definite than the 6th Geo. I.; it would leave all persons at liberty to form what partnerships they pleased, for the purpose of carrying on any undertaking which they really had in view, and would prevent that hasty and inconsiderate purchase of shares at a premium, before the merits of the undertaking could be ascertained, which is the real evil in the case: but I would not be understood as expressing an opinion, that an interference by the legislature, with the manner in which men shall choose to employ their money, is, in general, or in this case, advisable, or that the pecuniary interests of

persons of disposing age and condition may not be safely left to their own management.

To return to the Mining Companies, supposing some satisfactory method to be devised for regulating such Associations, let us consider whether it is probable that the Legislature will pass any law without first protecting those companies which at present exist, and which, however alarming or dangerous they may now be considered, at the time of their formation were legal. The object for which a law is made is to promote the general good of society, and to suppress mischief, unless the law would itself produce an equal or greater mischief. One may safely conclude that no act will be passed expressly to illegalize any societies at present existing, for to expect such a measure would be to suppose an absence of good faith on the part of the legislature. But what would be the effect of an act to discourage or impede the transfer of shares in societies of a certain description? One effect would certainly be to lower the value of all the shares of such societies in the hands of the present holders; it would destroy the possibility of parting with them which existed at the time when they were bought, and would condemn

the holders to continue in the possession of them, which might be distressing and injurious to them, independently of any wish to profit by the speculation. As far as regards the societies at present existing, the principal mischief is already done; it is hardly conceivable that any of their shares should rise to a higher premium from any cause, but the real ascertained value of the undertaking.

With regard to those of the Companies which are not founded upon a good basis, it seems that the consequence of such an act would only be to affect one set of holders with the loss instead of another, *i. e.* the present holders, instead of those who might in the course of events become so: and in the case of those which are well-founded, it would throw difficulties in the way of undertakings, which, when their real merit is once ascertained, it can hardly be supposed the Government would wish to discourage.

*** **Since the above Observations were sent to Press, notice has been given in Parliament of the intended repeal of the statute of 6 Geo. I.**

ADDITIONAL OBSERVATIONS.

With reference to the construction of the Mexican Law of October 1823, *alluded to in note to page* 35.

THE public will be much indebted to the intelligence of Mr. Mornay, for an entirely new view of this part of the subject.

From his information, it appears that the expression "hasta poder adquirir en propiedad acciones en las negociaciones que habiliten," has been always understood to mean that Foreigners becoming Aviadores to any Mine, *i. e.* supplying it with capital, have a right to purchase, and become proprietors in full and absolute property of, any number of shares in such Mine which they shall so supply:

and also, that there are many Mines in which Shares have been so purchased, and are so held in full property by foreigners. As long as foreigners confine themselves to their contract of supply, they are entitled only to the privileges of Aviadores, and have a character quite distinct from that of absolute proprietors, as pointed out in pages 32, and seq. of the Observations; but, by being Aviadores, they acquire the right of purchasing in any Mine which they supply *any number of shares, less than the whole number of shares, or whole property in the Mine.* (Every Mine being divided into 24 shares or barras, as explained in the Ordinances).

It is not only true that this construction of the law of 1823 prevails in Mexico, and that the practice is in conformity with it, but the opinion of the Chief Justice of Oaxaca has been taken upon the subject; and *this opinion not only sanctions in the strongest manner the right of Foreigners to acquire absolutely in any Mine which they supply with capital, any number of shares less than the whole property in the Mine, but asserts that it was with a view to*

make Foreigners capable of such acquisitions that the law of October 1823 *was passed.*

The opinion expressed upon this part of the subject in the Observations, unassisted by any local or personal experience, is founded upon the Ordinances, and upon the common acceptation of the language used in the law of 1823, and must be taken to apply to foreigners confining themselves to their situation of Aviadores, and not assuming the new character which has been created for them by this law.

ROYAL ORDINANCES

FOR THE

DIRECTION, REGULATION, AND GOVERNMENT

OF THE IMPORTANT BODY

OF THE

MINERS OF NEW SPAIN,

AND OF ITS

Royal Tribunal General.

By Order of His Majesty.

MADRID: 1783.

BY THE KING.

By a Letter of the twenty-fourth of December, 1771, my Viceroy of New Spain represented to me, among other things, that in order to ameliorate the declining condition of the Miners of that kingdom, to correct effectually and suitably the mischievous abuses which have been introduced among the Mine-Proprietors,* and persons working in the Mines, and to obviate the mutual complaints resulting therefrom, he considered it a matter of extreme importance that a new Code of General Ordinances should be framed for the said establishment *(of Miners)*, in such manner as to render the government thereof more uniform and complete; proposing, at the same time, the means which he judged most likely to secure a right method in the execution of so important a work. From his information, and from what

* The Spanish word here is *Mineros;* it has been found necessary to translate this word occasionally by "Mine-owners, or Mine-proprietors," and occasionally by "Miners," *i. e.* all persons working in or having any connection with mines.

my Supreme Council of the Indies laid before me upon this subject in a Consult of the 12th of June, 1773, I thought fit to enjoin and command my said Viceroy by Royal Letter, (*Cedula*) of the 20th of July next following, among other things, that there should be formed the new Ordinances as above proposed, with explanations and additions of all that might seem necessary with a view to the actual state of affairs; and after consultation with the Mine-Owners, and a certain number of Surveyors (*Peritos**), keeping in view all the documents referred to in his said Letter, and also the collection of Laws and Statutes of my said dominions, and especially those which are referred to by my said Royal Letter. Afterwards, conformably to a Report which was laid before me on the 7th of August of the said year, 1773, by a Junta of Four Ministers, formed under my Orders, and with my entire approbation, it was commanded to my said Viceroy, by a Royal Order of the 12th of November then instant, that in the Ordinances which, in consequence of the said Royal Letter, were about to be formed for the Government of the Miners, they should be regulated and established in an United Body,

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* *Peritos*, literally "skilful persons;" but in order to make it consist with the duties which are afterwards appointed to such persons, I have translated it surveyors.

upon the model of the Consulates,* in such manner as to secure to its members the necessary encouragement, permanency, and support: afterwards, by a Letter of the 26th of September, 1774, my said Viceroy represented to me that the Miners of those my dominions had petitioned, in a printed representation, dated the 25th of February of the same year (and accompanying his Letter), not only to be established in a body, similar to the Consulates, as already ordained, but that a Bank of Supplies *(Banco de avios)* should be instituted for the encouragement of the Mines; that a College of Metallurgy should be erected for improving the construction of machinery; and for other scientific purposes; and that a new Code of Ordinances should be framed for the Mines, proposing to derive the funds necessary for the support of these establishments from the amount of the double seniorage duties payable on the metals, from which they hoped to be relieved, by reason of what they had stated in their said representation; and upon all these points my said Viceroy suggested what he considered most expedient. Wherefore, and after considering the Report laid before me thereupon

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* Consulates of Commerce. These are courts consisting of a judge and assistants, for the hearing and determining, in a summary manner, causes arising out of commercial transactions.

by my Supreme Council of the Indies, on the 23d of April, 1776, I was pleased to determine, amongst other things, and to command by my Royal Letter of the 1st of July of the same year, that the important Society of the Miners of New Spain should be erected into a Corporate Establishment, similar to the Consulates of Commerce in my dominions, giving them, for that purpose, my Royal Consent and necessary Permission; and granting them the power of levying upon their silver one half, or two third parts, of the double duties, payable before that time to my Royal revenue in the way of seniorage; but from which I relieved them by the said Royal Letter: in consequence of all which, by a Public Act or Sitting *(Acta)* of the representative Deputies of the said Society, held on the 4th of May, 1777, they proceeded to incorporate themselves accordingly, to determine the offices of which their Tribunal should consist, and to appoint the proper persons to fill those offices. Their proceedings were laid before the Viceroy, who approved of them in my Royal Name, by his Decree of the 21st of June of the same year; permitting to the said Tribunal, until my Sovereign Pleasure should be known concerning it, the exercise of all the powers of administration, direction, and management, as enjoyed according to law by the Consulates of the Monarchy in all respects in which the exercise of

such powers should be conformable to my Will, restraining them only from the exercise of judicial authority, which is permitted to the tribunals of the said Consulates of Commerce, and that restriction only to operate till the said new Ordinances should be framed and approved of by me. And the Viceroy having informed me of all this by letter of the 27th of the said year 1777, I thereupon thought fit to confirm the same by my Royal Order of the 29th of December then following, addressed to the said Viceroy, commanding him thereby, and again by another Royal Order of the 20th of January, 1778, that if the New Tribunal of Miners had not as yet formed their Ordinances, and laid them before him, he should cause the same to be done with the utmost despatch: this having been completed on the 21st of May of the said year, they were transmitted to me by the Viceroy, with a letter of the 26th of August, 1779, in order that, after considering them, and the representations made concerning them by the Fiscal of the Royal Audiency* *(Real Audiencia)*, and by the Assessor-General of the Vice-Royalty, I might express my Royal Approbation thereof.

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* Royal Audiency. These were courts of justice, eleven in number, established by the Spaniards, and extending respectively over the eleven districts, into which their American dominions were divided.—*See Robertson's America, Vol. IV. p. 16. and seq.*

Lastly, having consulted with Ministers of approved zeal and probity, and considered the best means of reconciling most justly the true interests of the State with the particular welfare of the said important body of Miners, I have, for the direction, regulation, and government of that body, and of their Tribunal, commanded the publication of the following ordinances.

ORDINANCES.

CHAPTER I.

OF THE TRIBUNAL GENERAL OF THE MINERS OF NEW SPAIN.

SECTION I.

THE New Tribunal of Miners shall be styled "The Royal Tribunal General of the Important Body of the Miners of New Spain," and shall be esteemed and considered by all other Tribunals with that respect which is conducive to the important purposes for which my Royal Pleasure has created it.

SECTION II.

THE Tribunal shall be perpetual, conformably to the act of its creation approved by me, and shall at all times be composed of an Administrator-General, who is to be its President; a Director-General; and three Deputies-General; which latter persons may, in case of necessity, be reduced to two, but never be increased.

SECTION III.

THE said offices are to be filled only by practical and intelligent Mine-Proprietors *(Mineros)*, qualified for the office by an experience of more than ten years in the operations of mines; this

qualification is to be strictly observed; and these persons must be real American or European Spaniards, of unmixed descent, sons and descendants of ancient Christians, and born in lawful matrimony, with preference always, under these circumstances, to such persons as may have been Judges and Territorial Deputies of the mines, or may in other manner have rendered service to the mines, and have been much experienced in them.

SECTION IV.

The Administrator and Director General of this New and First Creation, in consideration of their extraordinary merit in having suggested and promoted the reform of the mines, and the establishment of the body of Miners, by having directed their attention for many years past to the means most conducive to that end; and in consideration also of their especial knowledge and experience in such concerns, of the length of time during which they have followed the mining profession, their families having pursued no other since their first settlement in New Spain; and lastly, in consideration of the time which is necessary to accomplish such a project, and that no persons can be more likely to succeed in its accomplishment than those with whom it has originated, shall hold their said offices for their lives; but the Deputies-General, now first appointed, shall only hold their offices for the time regularly allotted to them, according to the rule that shall be laid

down for their alternate succession, over and above the time already elapsed since their appointment.

SECTION V.

For the elections of Administrator and Director General, after the death or failure of the present, and for those of Deputies-General at all times henceforward, there shall be held in Mexico, in the beginning of the month of December, once in every three years, commencing from the present time, a Meeting, consisting of one Deputy from each mining district, provided with sufficient powers from the Miners of such district; and if any such Proprietors shall not send a Deputy on account of their being too remote, or too poor to pay the expences of his journey to Mexico, and his residence therein, it shall be sufficient if they send full power and instruction to any person residing in that capital to act for them, provided the same be not a Deputy or Agent for any other mining district; but he must be a Mine-Owner or Mine-Supplier.* (*Person who lends money to carry on mining operations.*)

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*The Spanish word is *Aviador*, a word well worthy of attention, for it describes the class of persons to which the mining associations belong. Its largest sense seems to be, "to advance money for the working of mines, and to carry on the operations therein, either entirely or in part, on condition of sharing the profits with the proprietor."

SECTION VI.

To enable a Mine Town to have a vote at the Election, it must be proved to contain an inhabiting population, and a church and Curate, or Deputy, a Judge and Deputies of the Miners, six mines in actual working, and four reducing Establishments (*Works for the reduction of metal from ore*).

SECTION VII.

THE city of Guanajuato shall have six votes in the said Election; that of Zacátecas four; that of San Luis Potosi three; that of Pachuca and Real del Monte three; and, generally speaking, the mining districts which bear the title of city shall have three votes each; and those which bear the title of town, or in which there are Provincial Treasuries (*Caxas Reales*), two votes each.

SECTION VIII.

BEFORE proceeding to the Election, there shall be held three scrutinies on three several days, for the qualification of persons eligible to these offices, with this proviso, that the person to be elected Administrator-General must have been one of the Deputies-General during one of the preceding triennial periods, except in the case of re-election, when it will be necessary to observe what is laid down in the 10th Section of

this present Chapter; observing also, that, at the expiration of each triennial period, only one new Deputy-General shall be appointed to supply the place of the one about to resign, which person so resigning at the end of the first three years, is to be the one who, at the time of the original appointment, had the smallest number of votes. The same rule is to be observed at the end of the second triennial period, and again at the end of the third, with regard to the last of the three original deputies: Afterwards, at the end of each succeeding triennial period, the Senior-Deputy shall always resign in favor of the one newly elected. Conformably to these regulations, each Deputy will, in future, hold his said office for nine years, excepting in the case of the death of any of them before the expiration of that time: in which case, at the next Triennial Meeting, besides the Deputy that is to supply the place of him who resigns, from having completed his nine years, there shall be another appointed to fill the vacancy occasioned by such death, which latter, in point of seniority, shall stand in the place of his predecessor, in order to depart as little as possible from the established rule of succession.

SECTION IX.

THE Administrator, the Director, and Deputies-General, shall preside over the said meeting of

electors, and shall have votes therein: and the election shall take place on the 31st day of December, by secret lots *(Cedulas Secretas)*, and those shall be considered duly elected who have the greatest number of votes; and in case of any dispute arising, the election shall fall upon that person for whom the Administrator-General shall give his vote.

SECTION X.

To enable any person to be re-elected to any of the said offices of the Royal Tribunal, an interval of three years must have elapsed since his last service, and he must have more than one half of the whole number of votes.

SECTION XI.

No person elected to any of the said offices can excuse himself from serving it; but every such person must accept the same on the day of his election before sun-set, under the penalty of 2000 dollars, and of being obliged to serve such office even after the payment of the penalty.

SECTION XII.

In case of the death of the Administrator, the Director, or any one of the Deputies-General, or of their resignation (which can only be allowed upon just and indispensable cause), the other members of the Tribunal shall elect a temporary substitute, who shall hold the office till the expi-

ration of the triennial period then subsisting, and till the next general meeting, when a proper person shall be elected, conformably to the 8th Section of this present Chapter.

SECTION XIII.

THOSE who shall be elected Administrator-General and Director-General, in succession to the persons now filling those offices, and others hereafter, shall hold the said offices, the first for six years, and the second for nine; with a view to this consideration, that from the circumstances already explained, and which are applicable to all persons who compose the Tribunal, the Director ought to be a person well acquainted with the interests, concerns, and resources of the establishment, with the management and working of the mines, and with the theory and practice of the sciences relating thereto, all which is not to be acquired in a short time.

SECTION XIV.

THE Factor, the Assessor, and the Notary may be appointed and removed with or without cause at the free will and pleasure of the Royal Tribunal General.

SECTION XV.

IN the first General Meeting to be held in Mexico, for the purpose of carrying the present ordinances into effect, there shall be chosen 12 Advisers *(Consultores)*, experienced Mine-Pro-

prietors, or Mine Suppliers of distinguished reputation, four of whom shall be persons resident in Mexico, and the Royal Tribunal may consult all or any of them in difficult cases, whenever it shall be necessary; and in order that their employments may be temporary, and to avoid the inconvenience which might arise from their being all changed at the end of each triennial period, six others shall be appointed at the next General Meeting, to supply, for the second triennial period, the places of those six of the first elected twelve who shall have been chosen by the smallest number of votes; and afterwards, at the end of each triennial period, the six newly elected shall replace the six who shall have then been the longest in office; so that the number of twelve will always remain complete; and I hereby declare, that the re-election of such Advisers, in the aforesaid General Meetings, shall be permitted, without regard to those intervals of time and other formalities established in the tenth Section of this present Chapter for the regulation of the offices therein mentioned; observing only, that their seniority is to be reckoned from the period of their re-election; and I grant to the said Advisers a seat in the Public Sittings of the Royal Tribunals, next after the Deputies-General; and when any *Mine Proprietor*, from any of the mine dis-

tricts shall be in Mexico, I grant to him the honour, dignity, and office of Adviser of the Royal Tribunal as long as he shall remain there.

SECTION XVI.

On the days of scrutiny, and before proceeding to the election, there shall be laid before the General Meeting a clear and correct statement of the funds with which the body of Miners have been endowed, what they have produced, and how they have been applied during the preceding triennial period, as well as of the Bank of Supplies, its gains and losses, shewing, at one view, the condition of the body of Miners at that time, their concerns and possessions in money and effects, their claims, debts, dues, and affairs of all kinds.

SECTION XVII.

Before proceeding to the scrutinies, the permission of the Viceroy must be obtained; and after they are concluded, an account thereof must be rendered to him similar to the practice of the Tribunal of Commerce of that capital (*Mexico*).

SECTION XVIII.

To the Director-General shall also belong the offices of Fiscal and Promoter of the important body of Miners, and he shall, in consequence, represent, suggest, and propose to the Royal Tribunal, whatever he may judge conducive to the advancement and success of that establishment;

giving them also, in proper time, such advice and caution as might tend to obviate whatever he may consider as prejudicial to their interest.

SECTION XIX.

THE Royal Tribunal shall transmit to me annually, through the Viceroy, an account of the working of the mines and of the concerns of the body of Miners; and, moreover, they may communicate with me, extraordinarily, through the same channel, upon great occasions, when it may seem necessary.

SECTION XX.

THE Royal Tribunal may have a Representative at the city and court of Madrid, for the protection of its interests; and, in case it should seem necessary, upon any weighty occasion, to send a confidential person to communicate with the same Court, they must, in the first instance, satisfy the Viceroy of the importance of the matter which obliges them to incur such expense, and must procure his certificate of the same, which will precede my *Royal Licence*.

SECTION XXI.

THE Clerk of the Royal Tribunal shall keep a minute book of resolutions, in which shall be entered, all the determinations relative to the administration and economy of the mines, whether the same be intended only to last for a time, or to be permanent and perpetual.

SECTION XXII.

THERE shall be preserved in the Royal Tribunal, the originals of the Royal Letters Patent, Orders, and Declarations, which have proceeded, or may proceed, from me; as also the official letters from the Viceroys, and copies of the Orders that have been, or shall be, received through their hands; and lastly, all Acts and fundamental Decrees relating to the creation or administration of the Royal Tribunal; all which shall be carefully preserved in the archives; and there shall be a book kept, in which there shall be an accurate account of the same, which may be referred to as occasion may require; and I prohibit the originals from being ever taken out to be exhibited, but permit accurate copies or extracts to be taken, compared, and corrected in due form, according to law.

SECTION XXIII.

BEFORE proceeding to the Triennial Elections, an inventory shall be drawn up, and the papers, both of the archives, and of the office of the Tribunal, shall be inspected by two of the Deputies, in order that it may be ascertained whether they correspond with the inventory of the preceding triennial period, and the papers received within the last three years shall be then added to the former.

SECTION XXIV.

THE Secretary of the Royal Tribunal shall be

one of the Royal Notaries (*Escribanos Reales*), duly instructed and admitted to his office, and possessing all those qualifications required by the law in persons filling that office, and must be moreover a person of good birth, character, and education, and of good conduct and respectable habits, in order that by these means the office may be held in honour, and that he who holds it may be respected and esteemed both in the Tribunal and elsewhere, and he is to be addressed by the title of Don.

SECTION XXV.

THE Secretary shall propose to the Royal Tribunal three persons, one of whom is to be appointed chief Official (*Oficial Mayor*) to the court, and another second Official, if necessary; but he shall have free permission and authority to appoint and remove at his pleasure the writer or writers whom he shall employ for the Tribunal.

SECTION XXVI.

THE Royal Tribunal shall appoint two Messengers or Porters, who are to execute its orders, provided that they be persons of good character, and Spaniards.

SECTION XXVII.

THE Royal Tribunal shall draw up a Table of Fees or Wages to be received by persons employed in Mexico, and in the mining districts, but the same is not to be reduced into practice until

it shall have been laid before the Royal Audiency of each district, qualified or regulated by them, and transmitted to me for my Royal Approbation.

SECTION XXVIII.

THE Administrator, the Director, and Deputies-General of Mexico, and all other persons employed, shall, at the time of entering upon their respective offices, make oath that they will truly and faithfully discharge the duties thereof, that they will observe these Ordinances, and cause them to be observed, and that they will observe secrecy in the causes and affairs submitted to them; and also that they will maintain the mystery of the Immaculate Conception of Our Lady.

CHAPTER II.

OF THE JUDGES AND DEPUTIES OF THE MINING DISTRICTS.

SECTION I.

THE respective *Royal Courts (Justicias Reales)* shall be Judges of the Mines, conformably to the laws established for the Government of the Indies, in all cases which are not expressly referred by these Ordinances to the Deputations of the body of Miners.

SECTION II.

ALL those who, for more than one year, shall have worked one or more mines, applying, as owners thereof, in whole or in part, their capital, labour, or personal attention and care, shall be enrolled amongst the Miners of the district, and their names shall be noted in the book of enrolment to be kept by the Judge and Clerk of that mining district.

SECTION III.

THE Miners so enrolled, and the Mine-Suppliers (being Miners), the persons who reduce by

contract *(Maquileros)*,* and the Proprietors of Works for stamping and smelting ores in each district, shall assemble in the beginning of January in each year, according to custom, at the house of the Judge, for the purpose of electing the persons who are to exercise the office of Deputy for such district, for the ensuing year; which persons either must be, or must have been, Mine-Proprietors of superior practice and intelligence, men of good conduct, trust-worthy, and possessed of all the qualifications requisite for such office.

SECTION IV.

EVERY one of the Miners thus enrolled, shall have one vote at such elections; moreover, of the Mine-Suppliers, being Miners as aforesaid, the Reducers by Contract, and the Owners of such works as are mentioned in the preceding Section, each two persons shall have one vote between them, and they shall not themselves be eligible as Deputies, unless they be also Mine-Owners, and possess the necessary qualifications.

SECTION V.

WHERE there is a very great number of voters, as in Guanajuato, the same practice which has hitherto prevailed, shall be continued in such

* Literally Millers—the persons who reduce the ores into metal; they are so called from the mills used in their operations.

district, namely, of choosing beforehand the Electors who are to proceed to the election of the Deputies.

SECTION VI.

THE Administrators of Mines may vote instead of their principals, provided the latter do not reside in that neighbourhood *(Territorio)*, and provided such Administrators be fully authorized by their principals for that purpose, and such Administrators shall be eligible as Deputies, if their occupations permit it, and they have the necessary qualifications.

SECTION VII.

THE Judge of Mines of each Mine-Town, or establishment, together with the Deputies of the preceding year, shall preside at and regulate the election, and shall have votes at the same, and in case of any dispute, the vote of the Judge shall be decisive, and those persons who have the greater number of votes, qualified and computed as before determined, shall be considered as duly elected.

SECTION VIII.

IN each Mine-Town, or establishment, there shall be a deputation, consisting of two Deputies; and to the end that those employments may be for the duration of two years, and that one of such Deputies may be a person well qualified for the office, in the first year alone of carrying

this Ordinance into effect, two Deputies shall be appointed, but in every succeeding year only one, who is to replace the Deputy then oldest in office, and as this provision cannot be complied with at the second Election (*i.e.* at the end of the first year), that Deputy of the two first elected shall remain in office during the second year, who at the first appointment was elected by the greatest number of votes, so that the other of the two first elected Deputies will be in office only for one year.

SECTION IX.

THERE shall also be elected in the same manner, in each Mine Town, or establishment, four Substitutes (*Substitutos*), who are to supply the place of the Deputies, in the case of their refusal to serve, their death, illness, necessary absence, or other just impediment, and to assist at the several Courts of Appeal in such cases and circumstances as may occur, and which will be treated of in their proper place: but in districts where the electors themselves are to be nominated, according to the Fifth Section of this present Chapter, those four who shall have the greater number of votes are to be the Substitutes for the first year, and it is to be understood that these offices are to be also for the duration of two years, and in each successive year only two new Substitutes are to be chosen, observing, with regard to

them, the same rule which has been laid down for the election of Deputies in the preceding Section; and for the sake of greater perspicuity, and to prevent all arbitrary acts in the succession, either to the said offices of Substitutes or to those of Advisers, as directed by several Sections of these Ordinances, those persons shall always be preferred, who shall have had the greater number of votes at their respective elections, when the elections have been on one and the same day; but in other cases those who have been longest in office shall be preferred.

SECTION X.

THE said Substitutes shall also be Recorders (*Procuradores Sindicos*) of their respective districts; and shall observe and procure whatever may appear necessary for the common interests of the Miners in their neighbourhood, and by virtue of this office shall have a superior claim to be elected as Deputies, or to other offices connected with the mines.

SECTION XI.

THE persons elected as Deputies must accept the office within three days of the time of their election, under a penalty of 1000 dollars, which penalty is to go to the fund of that district, and the person refusing to accept shall be obliged to serve the office, notwithstanding the payment of such penalty; and even though there

may appear a just cause for his refusal, he must accept the office notwithstanding, and serve it until such cause shall have been admitted by the Royal Tribunal General of the Miners, to which body it must be submitted.

SECTION XII.

It is forbidden to re-elect any person to any one of the before-mentioned offices until the expiration of two years from his last serving in such office, and the person re-elected, after such interval, must accept the same office under a penalty of 500 dollars, which penalty is to be paid to the general fund of the district, and he shall be obliged to serve the office, notwithstanding the payment of such penalty; without prejudice, however, to any sufficient cause of exemption which he may have; but this must be submitted to the Royal Tribunal General of Mexico, and he must serve the office in the mean time as directed by the preceding Section.

SECTION XIII.

All the Mine-Proprietors, Mine-Suppliers, persons reducing by contract, and Owners of reducing establishments of the respective districts, shall confer on the new Deputies power to promote their interests and pretensions, and for all the usual purposes, and shall swear to obey them in all that relates to the exercise of their

offices; and the Deputies themselves shall take upon them their office according to law, and swear to observe these Ordinances (which are to be read at every election at the time of their entering into office), and to maintain secrecy in the causes which come under their cognizance.

SECTION XIV.

As soon as the election is over, an account of it, and proper notice, shall be immediately transmitted to the Royal Tribunal General of the Miners, in order that if there shall appear to be no defect or irregularity in the conduct of it, it may be approved of by the Supreme Government of New Spain: and be it understood, that no charges whatever shall be made for the procuring of such approval, nor for any of the formalities which must precede it.

SECTION XV.

THE Territorial Deputies (*Diputados Territoriales*), the Inspectors, and the Surveyors of Mines, shall receive no pay from my Royal Treasury, but shall be supported from the profits of the respective mines, agreeably to the laws upon that subject; for which purpose, the Royal Tribunal General of Mexico shall impose certain moderate duties, according to the conditions and circumstances of each mine district, in the manner and under the rules laid down by Section XXXVI. of Chapter III. of these Ordinances.

SECTION XVI.

In the month of February in every year, the Territorial Deputations (*Diputaciones territoriales*) shall submit to the Royal Tribunal General of Mexico, a report upon the condition of the mines and Miners in their respective districts, and their dependencies, suggesting such measures as may appear to them conducive to the preservation and better advancement of the same, and also upon the quantity of silver produced, and of quick-silver consumed in the preceding year; upon the number of mines which are in a course of actual working, as well as such as have been abandoned, and why they have been so abandoned; and upon those which have been newly discovered, or re-established; requiring for this purpose, from the Provincial Courts and Treasuries, and other offices, all certificates, attestations, and other documents which may be necessary: And it is hereby ordered, that the said reports and documents be laid before the Viceroy, in order that, after acquainting himself with their contents, he may submit them to me, with a suggestion of such measures as he may deem advisable, and likely to meet with my Royal Approbation.

CHAPTER III.

OF THE JURISDICTION IN MINING CAUSES, AND THE MODE OF TAKING COGNIZANCE, OF PROCEEDING, AND PASSING JUDGMENT AND SENTENCE IN THE SAME, IN THE 1ST, 2ND, AND 3RD INSTANCES.

SECTION I.

I GRANT to the Royal Tribunal General of the Miners the power of hearing and deciding all concerns relating to the administration, direction, and management of the body of Miners, and I therefore declare that the territorial deputations of all the mining districts shall be fully and entirely subordinate to it in all such matters of administration.

SECTION II.

THE Royal Tribunal General shall, moreover, take cognizance of all causes, arising out of the discovery, denunciation,* right of property, ex-

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* *Denunciacion, Denunciar, Denunciante.* These words deserve particular attention, as they denote the mode of acquiring mines, and are continually occurring throughout the ordinances

tent, draining, desertion, and (*despilaramientos*) destruction of the supports or pillars of the mines, and of all that may occur in the same to the prejudice of the operations therein, and in contravention of these Ordinances, and also of whatever relates to the supply of mines, the sale or exchange of ores, or of silver and gold, of copper, lead, and other mineral substances, instruments for reducing, (*Maquilas*), and of other things of the same nature; but I declare, that such power of deciding causes shall only be exercised by the said Royal Tribunal General within twenty-five leagues of the capital of Mexico.

Denunciar relates as well to original mines, *i. e.* mines which have never before been worked, as to mines which have once been worked, but have fallen into a ruinous state: in the former case it means, "to give notice that a certain mine exists, and that the person so giving notice, intends to work it." Whereupon, after complying with certain conditions required by the Ordinances, the mine is allotted to such person. In the latter it means, "to give notice that some mine-owner has either neglected the working of his mine, so that it is reduced to a state of decay, or that he has acted in contravention of these Ordinances, which points being proved, the person so giving notice himself acquires the mine." The word has generally been rendered "to inform of," or "to acquire by informing of," but as it implies a great deal more than this, and as it has a peculiar technical signification in the Spanish, I have preferred translating it by the word "*denounce.*"

SECTION III.

WITHOUT detracting from the peculiar jurisdiction of administration granted to the Royal Tribunal by the First Article of this Section, the same power shall be exercised by the territorial deputations in their respective territories, in causes which may occur, but only by the two Deputies jointly, for the support and encouragement of the mining operations in their particular district, the interest and advantage of the Proprietors of mines, the preservation and increase of the population, the due administration of justice, the welfare of the inhabitants, and the relief of the poor: be it, however, understood, that the same shall be done in immediate subordination to the Royal Tribunal General, as directed in the said first article; with this proviso, that they are not to exercise any formal acts of jurisdiction, except in such causes as are expressly referred to them by these Ordinances.

SECTION IV.

THE territorial deputations shall, in their respective districts, have the peculiar power, or jurisdiction, of deciding causes, which I have in the Second Article of this Section granted to the Royal Tribunal General in all such matters as are there expressed, proceeding in, and deciding the same, in a manner wholly independent of the said Royal Tribunal General; since, in the exercise of

such jurisdiction, they are not to act subordinately to the said Tribunal, which is hereby prohibited from taking cognizance of, or interfering with any such causes and proceedings out of their own jurisdiction.

SECTION V.

SINCE all the foregoing causes and disputes are to be determined between the parties in the shortest and most summary manner, according to justice, and the customary good faith of commercial transactions, without any of the usual delays and written declarations, or petitions of lawyers, it is my Will, that whenever any person shall appear before the said Royal Tribunal, or before the Territorial Deputation of any of the mining districts to commence an action or suit, they shall not allow any complaints or proceedings to be presented in writing, until after they shall have cited before them both parties, where it is practicable to do so, and heard orally their several causes of actions, and replies or objections, and endeavoured to compromise and settle the matter in dispute between them, with the utmost possible dispatch; but if they should not succeed in bringing about the arrangement between the parties, and if the subject in question shall exceed the sum or value of 200 dollars (for all causes relating to sums not exceeding that amount are to be decided orally, whether the parties consent to it or not), then the petitions or claims in

writing, may be received, provided the same have neither been drawn up, arranged, or signed by lawyers; and whenever it shall be necessary to proceed in any cause, in consequence of not having been able to arrange and settle the same orally between the parties, then the demands or requests of the complainant shall all be received and attended to, previously to the hearing of any on the part of the defendant.

SECTION VI.

In consideration of the object above expressed, of procuring a decision in all causes and disputes in the shortest and most summary manner, according to justice and good faith, I hereby ordain and command, for the better attainment of that end, that in actions before the said Royal Tribunal and Territorial Deputations in the first instance, as also in causes of appeal and in the judgments to be pronounced therein, they shall pay no regard to any defect in the proceedings, or want of attention to the minute formalities of the law, or any irregularity of diction, but shall, in all causes, decide and judge with a strict regard to the merits of the case, and for that purpose, they shall officially examine the necessary witnesses, provided they do not exceed the number of ten, and take the depositions of parties where it may be thought requisite, and shall thereupon give and pronounce their determination, and judgment or sentence.

SECTION VII.

In order to avoid all useless and malicious appeals, which are made for the sole purpose of preventing the course and execution of justice, I ordain that no one shall be allowed to appeal from the Judges of the said Royal Tribunal, or from the said Territorial Deputations, unless it be in consequence of definitive judgments or interlocutory decrees, containing irreparable aggrievement (*gravamen irreparable*), and any appeal which may be made in contravention of this article shall not be valid, and neither the Judges of the said Tribunal, nor the Territorial Deputations are to admit the same, but shall proceed in the cause, and pronounce their judgment or sentence definitively.

SECTION VIII.

All interlocutory decrees, and judgments or sentences, are to be signed by the Administrator-General, and by both the Deputies-General of the Royal Tribunal, even if any one of them should dissent from the other two: for the opinion of the Administrator-General, and of one Deputy-General, or that of the two Deputies-General, is to decide the sentence or judgment, and the one who dissents is to sign the same notwithstanding.

SECTION IX.

The Territorial Deputies may each separately

proceed in causes, for the sake of that brevity and dispatch which are so desirable for the interests of the body of Miners; but in passing and pronouncing definitive judgments or sentences, and interlocutory decrees, which might cause irreparable aggrievement, they shall act in conjunction; and if they should not agree concerning the same, they shall call in the respective Substitute, according to the rules already laid down, in order that the matter may be decided by a majority of opinions, and such determination shall be signed by all three, as provided in the preceding Section.

SECTION X.

In all points of law, which are not clearly laid down in these Ordinances, the Royal Tribunal General shall avail themselves of the assistance of any able and conscientious lawyer whom they may select for the purpose, and the Territorial Deputations may confer with any such person who may be in the town or place where they reside; and in case he should be objected to, or if there should be no lawyer in the place, then they shall act with the assistance of the respective Provincial Judge appointed by me, which latter is not to be objected to, unless there be another person who can supply his place; and I further declare, both with regard to this, and the preceding Section, that any person who may have given his opinion in causes in the first instance, shall not give it in the second.

SECTION XI.

WHEN the proceedings in any cause are concluded, and final decision is about to take place, or at any time, whenever the Judges of the Royal Tribunal, or the Territorial Deputations may think it necessary, such proceedings shall be submitted to them by the Clerks of the Court, before whom they were taken down, who are to sum up the contents in the usual manner, and with that brevity which is so desirable for the interests of the Miners.

SECTION XII.

THE decrees and judgments, or sentences, of the Tribunal General, and of the Territorial Deputations, if not appealed against, and when they have acquired the authority of a final decision, are to be carried into effect, in a short and summary manner; those of the Tribunal by their two messengers, or porters, who are to exercise the functions of executive Bailiffs (*Alguaciles Executores*), and those of the Territorial Deputations by the ordinary Bailiffs (*Alguaciles*) of the places where they reside, and the former, as well as the latter, shall command and desire all other Judges and *Courts** (*Justicias*), whom it may concern, to afford them any aid or assistance which they may require.

* Tribunals over which the Magistrates of the country preside, as distinguished from any tribunal composed of Miners.

SECTION XIII.

In causes of appeal against any such definitive sentences or decrees, by either of the parties, where the matter in dispute shall exceed the value of 400 dollars (for in all causes regarding a less amount no appeal shall be admissible, and the decisions of the Judges of the Royal Tribunal, or of the Territorial Deputations, shall be finally carried into effect), those from the Royal Tribunal General shall be received by the Court of Appeals (*Jusgade de Alzadas*) about to be established in Mexico, and which is to be composed of a Judge of the Real Audiencia of that place, to be appointed by the Viceroy, in the same manner, and for the same term, as the one intended for the Royal Tribunal of the Consulate or Chamber of Commerce; of the Director-General of mines, and of a Proprietor of mines, who is to be elected for that purpose every third year, in the General Assembly of Miners, from amongst such as have been Administrators, Directors, Deputies-General, or one of those Four Advisers (*Consultores*), who are to reside constantly in Mexico, as directed in a former Section; and the appeals from the Territorial Deputations, within the distance of twenty leagues, in every direction from the city of Guadalaxara, shall be in the same manner received by the Court of Appeal, which I have ordered to be created there, and which is to be composed of one of the

Judges of the Real Audiencia of that place, to be appointed by the Acting President thereof for the time, and in the same manner as the one for the Consulate, or Chamber of Commerce, in Mexico, and of two Proprietors of mines, of known character, and possessing all the requisite qualifications, who shall be appointed Co-Judges of Appeal in the city of Guadalaxara, from amongst those residing there in the said General Assembly of Miners, to be held every three years in Mexico, as before directed; but if there should not be any resident Proprietors of mines in the aforesaid city, possessing the necessary qualifications for such office, then others, who reside elsewhere, may be chosen at the said triennial election; provided, that under the same circumstances of eligibility, preference shall be given to such as live at the shortest distance, even if they be substitutes for any mining district; and the appeals from all the other Territorial Deputations shall be received, in the manner prescribed, by the respective Courts of Appeal to be erected in each province, and which are to be composed of the principal Provincial Judge appointed by me, and of such two of the four Substitutes of Miners for the mining district as may be nearest to the residence of such Judge respectively, according to the rules already laid down; and if in the same place, or at an equal distance,

there shall reside any one or more of the twelve Advisers before mentioned, they shall, by preference, be appointed Co-Judges of Appeal; and wherever the said Judge shall not be of the profession of the law (*detrado*), the court in which he presides, shall, in all points and matters, where it may be requisite, avail themselves of the assistance of an able and conscientious lawyer.

SECTION XIV.

ALL such causes of appeal shall be conducted in a short and summary manner, according to the practice in commercial causes, without introducing any new terms or expressions which may give rise to unnecessary delays or proofs, or admitting proceedings and writings of lawyers, or any others, except a statement of the cause of the appellant, and the replies of the other party or parties, with a strict regard to truth, and the customary good faith of commercial transactions; and in like manner the cause shall be decided.

SECTION XV.

ALL such appeals are to be entered on or before the third day, after the notification of the decree or sentence, and in no other manner, and they may be commenced by a letter from the Appellant, stating, either that he will transmit full power for carrying on the proceedings, or that he will appear in person.

SECTION XVI.

WHENEVER the Courts of Appeal shall confirm the sentence of the Royal Tribunal General of Miners or of the Territorial Deputations in the several causes, no further appeal shall be admitted, and such sentence shall be immediately carried into effect, and for that purpose shall be forthwith sent back to the respective judges.

SECTION XVII.

BUT in case they, (the Courts of Appeal), should reverse the same, either altogether or in part, and either of the litigant parties should appeal or apply for a new trial, the Judges of Appeal shall appoint in the respective cases, two other Co-Judges, who, in Mexico, are to be chosen from the four Advisers (*Consultores*) residing in that capital, in Guadalaxara from the Proprietors of mines residing there, with preference to such as are Advisers, if there be any in that city, and in default of either, they may be chosen from the Proprietors of mines, residing elsewhere, regard being shewn to the considerations expressed in the thirteenth Section of this Chapter; and in all the other Courts of Appeal, the judge may appoint any of the four respective Substitutes, provided, however, that there be no legal objection to any such individuals, and if there should be such objections in respect to all of them, the nomination may fall on any other Proprietors of mines, having the ne-

cessary qualifications; observing, however, that where any one or more of the twelve Advisers of the Royal Tribunal General shall reside, they shall be preferred to the Substitutes.

SECTION XVIII.

From the judgment or sentence, to be given in this third instance (whether confirming, reversing, or amending, the former sentence, either altogether or in part), there shall be no further appeal; and the cause shall then be returned to the court to which it belongs, for fulfilment and final execution, which are also to be proceeded with, in a short and summary manner, as before directed; but I hereby declare, that there shall still remain open to the parties, the legal remedy of a further application to my Royal Person, in my Supreme Council of the Indies, provided it shall appear that the sum in dispute amount to 20,000 dollars or upwards, on finding the security required by law, and without prejudice to the execution of the sentence already pronounced, and after providing further security, that they will submit, to the final decision, whatsoever it may be.

SECTION XIX.

In the decision of the before-mentioned causes of appeal, the sentence shall be determined by two opinions out of the three, whether they be those of the Judge and one of the Co-Judges of

the respective Courts of Appeal, or those of the two Co-Judges, without that of the presiding Judge, and in either case the same shall be signed by all three.

SECTION XX.

CAUSES relating to possession and property, shall be determined jointly (by all the Judges); and in the first place, restitution shall be made to persons who may have been forcibly dispossessed of any property; but this shall not apply to persons who may have been deprived of possession by the decree or sentence of any Judge, even if the same shall be represented to be unjust.

SECTION XXI.

No mine in dispute, shall, for any reasons, or on any account, be shut up, nor shall its working be suspended, even at the request of the parties; but an Inspector (*Interventor*)* shall be appointed, with the approbation of the party requiring the same, without, however, removing from the mine any thing belonging to it, yet such Interventor shall be dispensed with on full and sufficient security being given to the satisfaction of

* Inspector is perhaps the nearest English word; but as interventor expresses most correctly the duty of a person who is occasionally to interpose his services, and as we have, in English, the words intervent and intervention, henceforward the word interventor will be used in the translation.

the opposite party, and I declare that the working a mine is then only to be suspended when the same shall be represented to be in a ruinous condition, without the necessary support of timber work, and such shall appear to be the fact in the opinion of Surveyors (*Peritos*), who shall immediately, without loss of time, inspect and proceed to re-establish the said works, and restore them to a good condition, in order that, whenever the working shall be resumed, it may be carried on without danger.

SECTION XXII.

ALL executive demands shall be proceeded in according to law, as far as respects the order of process, but with a strict regard to truth and good faith, and without letting in any of those delays or subtilties which retard and interrupt the dispatch.

SECTION XXIII.

WHENEVER it shall be necessary to carry into effect an execution in any mine or reducing establishment (*Hacieuda de Beneficio*), the same shall not be sequestered, nor put up for sale, nor yet the machines, iron-work, or tools, implements, slaves, cattle, buildings, materials, or any of the necessary stores or provisions; but such execution shall only be put in force with regard to the gold and silver ores, and other produce of the

mine, after deducting what may be necessary to meet the expence of carrying on the reducing of such ores, which is by no means to be interrupted; for which purpose an Interventor shall be appointed to be approved of by the plaintiff, if the latter does not choose to undertake the management of the mine himself; or by the defendant, in case the plaintiff shall take the same on his own account; and such Interventor is to be immediately withdrawn on the liquidation of the debt; and in either case he shall render weekly accounts of the produce and expences of the mine, to be in due time laid before the Judges in the cause, together with the several receipts, or vouchers, and proper affidavits on such items, which cannot otherwise be verified, for the benefit of which, every party may be entitled thereto, according to the definitive judgment or sentence pronounced in the cause.

SECTION XXIV.

If the defendant shall give up his property, and the same should comprise any mine or mines, notice shall be given to his creditor or creditors, to undertake the working thereof on their own account, and not to suffer them to be suspended; and in default of their compliance before the expiration of the time to be fixed by these Ordinances, such mines shall be considered as deserted and abandoned, and shall belong to the

first person who may denounce the same, to the exclusion of all former claims.

SECTION XXV.

THE wages of the labourers of any mine or reducing establishment taken in execution, and the salary of the Interventor, shall by no means be placed on the same footing with the other debts, but shall be paid immediately out of the first proceeds, although the whole of such proceeds should not amount to more.

SECTION XXVI.

IN case of the suspension of the working, if any one of the creditors shall offer to undertake the same with his own capital, the others having refused to contribute their proportions, such creditor shall have preference, not only in the management thereof, but also with respect to his former claims, even where the same may not have arisen from the supply of such mine or establishment.

SECTION XXVII.

WHENEVER, in causes before other courts, whether relating to judgments concerning inventories, hereditary succession, general partnerships, contests of creditors, or cession of property, any mines and the establishments, or other dependancies belonging to the same, are comprised amongst the other property depending in the cause, I ordain that the Judge of such court shall transmit an official letter, with notice thereof to the respective

Court of Miners, whose duty it shall be to take care that the working of such mine or establishment be kept up without prejudice to the rights or claims of the party or parties concerned; and the said Court of Miners shall reserve the proceeds thereof for the disposal of the principal Judge in such cause, and shall also, in case of any widows, minors, or absent persons being interested therein, effectually protect and support their claims, and thus maintain that firm and reciprocal union, which contribute to the preservation, welfare, and prosperity of the whole body.

SECTION XXVIII.

In all causes and suits respecting mines, the restitution of term completed (*Termino Cumplido*) shall be allowed, but on condition that such restitution be not interrupted, during the whole term of the law, except that, unless for the purpose of relieving those who are privileged, the half of such term shall be granted.

SECTION. XXIX.

In all criminal causes, such as the purloining of ore, gold or silver, lead, tools, and implements, or any other articles belonging to the mines or the reducing establishments, offences committed in the same, whether by one workman against another, or in consequence of any breach of subordination on their part towards the officers or captains set over them; or by the misconduct of either of these classes towards their masters, the

Proprietors of the mines; and finally, in cases of insult, contumelious language, or want of respect towards any of the Courts of Miners, the Royal Tribunal General in Mexico, or the Territorial Deputations, shall take cognizance, each in their respective districts, proceeding in and deciding such causes as are of minor importance, in the most summary manner according to law, and the nature of such offences, with a strict regard to good faith, and in the order already established for civil causes; but in those, which on account of their magnitude and aggravation, require by law the infliction of severe penalties, mutilation, or other corporal punishments, the said Courts of Miners shall only exercise the limited jurisdiction of apprehending the criminals, drawing up the processes, and transmitting the same to the Royal Judge of the respective provinces, in order that the latter may, in due time, lay them before the criminal chamber of the Real Audiencia of the district for their final decision.

SECTION XXX.

If, in such criminal causes of minor importance as are treated of in the preceeding Section, and the jurisdiction of which has been granted to the Courts of Miners, for their cognizance and determination, provided they proceed in and decide the same in the manner directed, any parties shall appeal, they are to be entitled to all the legal remedies to be determined by the Courts of Ap-

peal, in the manner and form already prescribed with regard to civil causes, observing the order required in cases of this nature.

SECTION XXXI.

WHENEVER any contentions shall arise between the Tribunal General of Miners, the territorial jurisdictions, and any other courts or tribunals, concerning the extent of their several jurisdictions, I ordain and command, that the Viceroy of New Spain shall decide the same, and that his determination shall be observed and complied with, without any other appeal; and that the Viceroy shall, in such cases, take the opinion of learned and able lawyers not connected with either of the courts between whom such question may have arisen.

SECTION XXXII.

I EXPRESSLY prohibit the arbitrary application of the pecuniary fines to be imposed by any of the Courts of Miners, in the exercise either of the criminal or civil jurisdiction, granted to them; and I ordain that they shall be applied in equal third parts to my Royal Exchequer, the expences of justice, and to such further objects, as by law directed.

SECTION XXXIII.

THE Administrator and the Deputies General, shall assemble in court every day (except on holy

days, and those on which it is necessary to hear Mass,) from the hour of eight to that of eleven; and also on extraordinary occasions in the evening, and on any day whatever when the urgency and importance of any affair may require it.

SECTION XXXIV.

THE Director General shall have a vote in all matters relating to the direction, administration, and management, the jurisdiction of which has been granted to the Royal Tribunal General in Mexico, and due and special notice shall be sent to him on all such occasions to attend; but I declare that he shall have no vote in the substantiation and determination of any pleadings or suits, except only in causes before the Court of Appeal in Mexico, of which he has been appointed a member.

SECTION XXXV.

ALL matters relating to public works or supplies (*Abastos*), to those of the roads or highways, and other objects of the same nature, are to be under the peculiar cognizance and jurisdiction of the Royal Judges and Magistrates of each District, but the Royal Tribunal General in Mexico, and the Territorial Deputations shall give such instructions as they may deem expedient, to the said Judges and Magistrates, in order that all such works and supplies may be regulated and pro-

portioned in the most fair and equitable manner, proceeding therein with a mutual understanding, and acting in concert together.

SECTION XXXVI.

ALL taxes, and duties, or imposts, as well public as private, between individuals of the mining body, which immediately affect the advancement and working of the mines and reducing establishments, the remuneration or salaries of those who compose the territorial jurisdictions of Miners, and of persons appointed to any of the new offices or situations treated of in these Ordinances, are to be proposed and regulated by the Royal Tribunal General in Mexico, and by the Territorial Deputations, each in their respective districts, but the latter shall be obliged to lay them, together with the requisite proofs or attestations, before the Royal Court (*Justicia Real*) of the district, for their sanction, but such taxes, duties, and imposts, shall not be established or carried into effect, without having been previously submitted to the Viceroy of New Spain, in order that, after the necessary enquiries respecting them by his superior power, they may be laid before me for my sovereign determination, for which purpose a report thereof shall be transmitted to me by the Viceroy.

SECTION XXXVII.

THE Royal Tribunal General in Mexico shall also immediately lay before the Viceroy, an exact estimate of the salaries to be allowed to the principal individuals filling offices in the Tribunal, and of the inferior officers appointed, or to be appointed, in pursuance of these Ordinances; in order that the same may be referred to me by the Viceroy, with his remarks thereon, for my Royal Approbation, which is necessary to the secure establishment of the said Tribunal.

CHAPTER IV.

OF THE ORDER OF PROCEEDING IN THE SUBSTANTIATION AND DETERMINATION OF LAW-SUITS, IN CASES OF A VACANCY OR NECESSARY ABSENCE OF ANY OF THE JUDGES OF THE MINERS, OR OF THEIR REFUSALS *(RECUSACIONES)* IN THE 1ST, 2ND, AND 3RD INSTANCES.

SECTION I.

THE Royal Tribunal General of the mines shall not enter upon any business which is in litigation, without the assembling of three of its Members; and if at any time on account of illness, necessary absence, or any other just and lawful impediment whatsoever, as by the Judge being interested in the question, or by his being related to any of the litigating parties, that number of Judges cannot be assembled, there shall be substituted such of the four Advisers residing in the capital of Mexico as are properly eligible to the same office, by the rules already laid down; and the proper number shall be thus completed; and the same thing shall be done with regard to the number of the Judges of Appeal, which is never to be less than three, according to what has already been laid down in these Ordinances; and when-

ever in consequence of any of the before-mentioned impediments, any one of the Territorial Deputies cannot, or ought not, to be Judge in any such litigated cause, his place shall be supplied by the proper substitute accordingly.

SECTION II.

I PROHIBIT the absolute refusal (*recusacion*), of all the Judges of the Royal Tribunal General, and of those of Appeals; but one or two particular members may refuse, assigning reasons, and giving security; it being understood that those refusing shall not be heard, or any refusal admitted, after a determination has been made concerning them.

SECTION III.

IN the same manner the two Territorial Deputies, acting as judges of the mines, shall not refuse, though either of them may.

SECTION IV.

IN cases where the refusal shall be lawful and admitted, whether in causes in the first instance, or in those before the courts of appeal, the vacancy shall be filled up in the first instance according to the first Section of this present Chapter, and in the latter, by the appointment of the respective Judges of Appeal, according to Section XVII. of Chapter III. of these Ordinances.

CHAPTER V

OF THE ORIGINAL OWNERSHIP OF MINES; OF THE GRANTS TO INDIVIDUALS, AND THE DUTIES TO BE PAID BY THEM FOR THE SAME.

SECTION I.

THE mines are the property of my Royal Crown, as well by their nature and origin, as by their re-union, declared by the fourth law of the thirteenth Title of the sixth Book of the new compilation (of Laws and Statutes.)

SECTION II.

WITHOUT separating them from my Royal patrimony, I grant them to my subjects in property and possession, in such manner that they may sell, exchange, (pass by will, either in the way of inheritance or legacy), or in any other manner, dispose of all their property in them, upon the terms on which they themselves possess it, and to persons legally capable of acquiring it.

SECTION III.

BE it understood that this grant is made upon two conditions: First, that they (my subjects) shall pay to my royal treasury the proportion of metal reserved thereto; and secondly, that they shall carry on their operations in the mines sub-

ject to the provisions of these Ordinances, on failure of which, at any time, the mines of persons so making default shall be considered as forfeited, and may be granted to any person who shall denounce them accordingly.

CHAPTER VI.

OF THE MANNER OF ACQUIRING MINES; OF NEW DISCOVERIES; REGISTERS OF VEINS, AND DENOUNCEMENTS OF MINES ABANDONED AND LOST.

SECTION I.

As it is most just and proper to reward with particularity and distinction those persons who devote themselves to the discovery of new mineral places, and metallic veins found therein, in proportion to the importance and utility of such discovery, I order and command that the discoverers of one or more mineral mountains *(Cerros Minerales)*, wherein no mine or shaft has been opened before, acquire in the principal vein as much as three portions *(pertenencias)*, together or separate, where it best pleases them, according to the measures hereafter signified; and that on having discovered more veins, they shall acquire a portion in each vein, fixing on and making the said portions within the term of ten days.

SECTION II.

THE discoverer of a new vein in a mountain known and worked in other parts, may hold in it two portions together, or separated by other mines, on condition that he specifies them within ten days, as mentioned in the preceding Section.

SECTION III.

HE who proposes for a new mine in a vein already known and worked in part, is not to be considered a discoverer.

SECTION IV.

THE persons referred to in the preceding Sections must present a written statement to the Deputation of Miners in that district, or in case there should not be one in that district, to the nearest thereunto, specifying in it his name, those of his associates (if he has any), the place of his birth, his place of habitation, profession, and employment, together with the most particular and distinguishing features of the tract, mountain, or vein of which he claims the discovery: all which circumstances, as well as the hour in which the discoverer shall present himself, must be noted down in a register, kept by the deputation and clerk (if they have one); and after this, the said written statement, shall, for his due security, be restored to the discoverer, and notices of its object and contents shall be affixed to the doors of

the church, the government-houses, and other public buildings of the town, for the sake of general notoriety. And I ordain, that within the term of ninety days, the discoverer shall cause to be made in the vein or veins so registered, a pit of a yard and a half in diameter or breadth, and ten yards *(varas)* in depth, and that immediately on the existence of the vein being ascertained, one of the deputies in person shall visit it, accompanied by the clerk (if there is one), or, if there be no clerk, by two assisting witnesses, and by the Mining Professor *(Perito Facultatioo)* of that territory, in order to inspect the course and direction of the vein, its size, its inclination on the horizon, called its falling or declivity, its hardness or softness, the greater or less firmness of its bed, and the principal marks and species of the mineral; taking exact account of all this, in order to add the same to the entry in the register, together with the act of possession, which must immediately be given to the discoverer in my Royal name, measuring him his portion, and making him enclose it by poles at the limits as hereafter declared; after which an authentic copy of the proceedings shall be delivered to him for the security of his title.

SECTION V.

If during the above named ninety days any one should appear asserting a right to the said dis-

covery, a brief judicial hearing shall be granted, and judgment given in favour of him who best proves his claim; however, if this should happen after the stated time, he (the new claimant) shall not be heard.

SECTION VI.

THE restorers of ancient mines which have been abandoned and left to decay, shall enjoy the same privileges as discoverers, of choosing and possessing three portions in the principal vein, and one in each of the others, and both revivers and discoverers shall, as an especial reward, be on all occasions preferred to other persons, under parity of circumstances.

SECTION VII.

IF there arises any question as to who has been the first discoverer of a vein, he shall be considered as such who first found metal therein, even though others may have made an opening previously; and in case of further doubt, he who first gets it registered, shall be considered as the discoverer.

SECTION VIII.

WHOEVER shall denounce in the terms hereafter expressed, any mine that has been deserted and abandoned, shall have his denouncement received, if he therein sets forth the circumstances already declared in Section IV. of this Chapter, the actual existence of the mine in question, the name of its

last possessor, if he is acquainted with the same, and those of the neighbouring miners, all of whom shall be lawfully summoned, and if within ten days they do not appear, the denouncement shall be publicly declared on the three following Sundays; this meeting with no opposition, it shall be signified to the denouncer that within sixty days he must have cleared and reinstated some work of considerable depth, or at least of ten yards perpendicular, and within the bed of the vein, in order that the Mining Professor may inspect its course and inclination, and all its peculiar circumstances, as is declared in the above-named Section IV. The said Professor should, if it beposible, examine the pits and works of the mine, and see if they are decayed, destroyed, or inundated; whether they contain a draft-pit or adit, or are capable of such; whether they have an outer court, (*galera*), a whim, (*malacate*), machines, rooms for habitation, and stables; and an account and register of all these circumstances must be entered in the corresponding book of denouncements, which should be kept separately. And the said examination being made, the portions being measured, and bounded by stakes in the ground, as shall hereafter be explained, possession of them shall be given to the denouncer, without regard to any opposition, which cannot be attended to, unless made within the term before

described; however, if during that time any opposition is brought forward, the parties shall have a brief judicial hearing, and the cause be determined accordingly.

SECTION IX.

If the former Mine-owner should appear, in order to oppose the denouncement, when the three public proclamations are over, and when the denouncer has commenced the sixty days allowed for reinstating the pit of ten yards, he shall not be heard as to the possession, but only as to his right in the property; and if he succeeds in establishing this, he must make good the expences incurred by the denouncer, unless the latter is proved to have acted fraudently, in which case he must lose such expences.

SECTION X.

If the denouncer does not make, or complete, the shaft as prescribed, nor take possession within the sixty days, he loses his right, and any other person has the power of denouncing the mine. If, however, from the ground being entirely broken up, or otherwise difficult and impracticable, or for any other real and serious obstacle, he has been unable to complete the same within the said sixty days, he must have recourse to the respective Territorial Deputation, when his difficulties being examined and proved, the period may be prolonged for as long a time as the Depu-

tation may think necessary for the purpose, and no more; no opposition to his claim being admitted after the ordinary term of sixty days.

SECTION XI.

If any one denounce a mine as forfeited, on account of the non-observance of any of these Ordinances, which bear that penalty, such claim shall be allowed to him, provided he can lawfully establish any such cause of forfeiture.

SECTION XII.

If the former possessor of the mine, or any person claiming in right of him, shall declare the having left therein, any exterior or moveable works made at his expence, such as coverings of outer courts (*galeras*), machines, or other things of this class, and of which the denouncer may usefully avail himself, he shall be paid for them according to the valuation of surveyors.

SECTION XIII.

If any one shall denounce any intermediate space (*demasia*), in the vicinity of mines already occupied, it can only be granted him in case the owners of the adjoining mines, or any one of them, should not desire it for themselves; however, if these persons have not occupied it, or shall not do so within the time which the Deputation of that territory, after considering the circumstances of the case, shall prescribe, it shall be adjudged to the denouncer.

SECTION XIV.

ANY one may discover and denounce a vein, not only on common land, but also on the property of any individual, provided he pays for the extent of surface above the same, and the damage which immediately ensues therefrom, according to the valuation of surveyors on both sides, and arbitration in case of disagreement; the same is to be understood with regard to denouncing convenient places for erecting establishments, and also waters for moving the machines employed for the reduction of ores, commonly called reducing establishments, (*haciendas*), provided in each case, that no more of the ground, and no more of the water be used, than is necessary for such purposes.

SECTION XV.

IF, however, any one denounces a mine or establishment within a town or village, whereby its principal edifices might be injured, or other similar inconvenience might arise, the denouncement shall not be admitted without previous application to the Royal Tribunal General of Mexico, in order that they, after consulting with the Supreme Government, may determine the case with all due prudence and circumspection.

SECTION XVI.

ANY one may denounce the ancient site of an establishment, without paying any thing for the same, although there may be found thereon, walls,

drains, yard, washing-places, furnaces, chimneys, dwelling house, &c. provided they are totally deficient in roofs, machines, tools, and timber-work; if these latter exist, the former proprietor must have notice sent him to re-establish, sell, or let them, within the space of four months, and on his failing to do so, they shall be granted to the denouncer, on condition of his paying the said proprietor for all useful moveables, according to the appraisement and judgment of surveyors.

SECTION XVII.

I PROHIBIT any one (not being the discoverer), from denouncing two contiguous mines upon one and the same vein; but I permit any person to acquire and possess one by such denouncement, and another or more, by purchase, gift, inheritance, or other just title. And I further declare, that if any one desires to attempt the re-establishment of several inundated or decayed mines, or other considerable enterprise of this kind, and for this purpose claims the grant of several portions, although they be contiguous and upon the same vein, such claim must be laid before the Royal Tribunal General of Mexico, in order that the circumstances and importance of the undertaking being ascertained, they may acquaint the Viceroy therewith, who on finding therein nothing prejudicial to the body of the Miners, the Public, or my Royal Treasury, shall grant him this and other

privileges, exemptions, and aids, on condition that my Royal approbation is previously obtained to all such favours, which cannot be granted by the ordinary authority of the Viceroy.

SECTION XVIII.

BEDS of ore (*placeres*) and all other depositories (*criaderos*) of gold and silver, on being discovered, shall be registered and denounced in the same manner as mines or veins, the same being understood of all species of metal.

SECTION XIX.

INASMUCH as the waste ground (*desechaderos*), and earth heaps (*terreros*), of abandoned mines, are generally the support of the widows and orphans of the working miners, the old men and invalids, and all other distressed persons of that employment, and even of all the inhabitants of the district, when the mines are not in a course of working, I prohibit any individual from denouncing them, in order to appropriate them to himself, unless he at the same time denounces the mines to which they belong.

SECTION XX.

THE same prohibition is to be understood with regard to the dross, (*escoriales*) rubbish, and refuse, (*lameros*), of those smelting houses and establishments of which nothing is left but the walls; but I order that if they have an owner, notice shall be given to him, and a certain time allowed,

in which if he does not avail himself of the vessels (*resocas*) and other remains, nor the community derive any benefit therefrom, they shall be granted to any person denouncing them.

SECTION XXI.

THOUGH in the regular veins, or in the banks, beds, or other mineral depositories, (*rebosaderos*) great natural masses of virgin gold and silver may be found, I declare that the owners of the mines are to acquire and possess them, on paying the just duties; and I also declare that only ancient deposits of money or jewels, of ingots, or grains, and any other fragments, smelted by man, and buried by thieves, or in any other manner from time immemorial, so that the owner thereof is unknown, shall be retained as treasure.

SECTION XXII.

I LIKEWISE grant, that in the prescribed form, may be discovered, claimed, registered, and denounced, not only mines of gold and silver, but also those of precious stones, copper, lead, tin, quicksilver, antimony, zinc, bismuth, rock salt, or other fossils, whether perfect or mixed metals, bitumen, or other production of the earth, the denouncers thereof receiving grants of the same, according to the circumstances: but I declare that although the free discovery and denouncement of the quicksilver mines is permitted, it it must be on the express condition of giving an

account of them to the Viceroy, and to the sub-delegate of the quicksilver mines of Mexico, in order that it may be considered and determined whether the said mine or mines shall be worked at the expence, and for the advantage, of that individual who discovered and denounced them, on his punctually delivering all the quicksilver extracted from them into the Royal storehouses, under the terms and prices stipulated; or whether it shall be done on the account of my Royal Treasury, indemnifying the party by some equitable award, having regard to the circumstances of the said discovery and denouncement, the whole of this important subject being regulated according to my sovereign intentions recently declared upon this subject.

CHAPTER VII.

OF THE PERSONS WHO MAY OR NOT DISCOVER, DENOUNCE AND WORK THE MINES.

SECTION I.

To all the subjects of my dominions, both in Spain and the Indies, of whatever rank or condition they may be, I grant the mines of every species of metal, under the conditions already stated, or that shall be expressed hereafter, but I prohibit foreigners from acquiring or working mines, as their own property, in these, my dominions, unless they be naturalized or tolerated therein by my express Royal licence.

SECTION II.

I ALSO prohibit regulars of religious orders, of both sexes, from denouncing, or in any manner acquiring, for themselves, their convents, or communities, any mines whatever; it being understood that the working of the mines shall not devolve upon the secular ecclesiastics, as being contrary to the laws, to the orders of the Mexican Council, and to the sanctity and exercise of their profession; and therefore, in consequence of this prohibition, all such secular ecclesiastics shall be expressly obliged to sell or place in the hands of

lay subjects, the mines or establishments for smelting ore, and reducing establishments, which have devolved on them by inheritance or other cause, the same being completed within the term of six months, or within such time as may be considered necessary to ensure a useful result, which is to be fixed by the Viceroy, with a previous intimation to the Royal Tribunal General of the mines, provided that if it is ascertained that, by artifice or fraud, the effects of this article are attempted to be eluded, to the prejudice of the working of such mines and establishments, in which the state is so much interested, they shall be denounced, and disposed of in the same manner as mines in general.

SECTION III.

NEITHER shall mines be held by Governors, Intendants, Mayors, Chief Judges, nor any other public officers whatever, of the Mine-towns and districts, nor their clerks; but I permit such persons to hold mines, in any territory out of their own jurisdiction.

SECTION IV.

NEITHER shall Administrators, Stewards, Overseers, Keepers of Tallies,* Workers or Watchers

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* See this word explained in Chapter XII. Sect. VII. *post.*

of mines, nor in general any person in the service of Mine-owners, whether of superior or subordinate class, be permitted to register, denounce, or in any other manner, acquire mines within a space of a thousand yards round those of their masters, but I allow them to denounce any mine for their said master, even though not authorised by them to do so, provided the aforesaid masters make good the denouncement in the terms prescribed by Section VIII. of Chapter VI. of these Ordinances.

SECTION V.

No one shall denounce a mine under any circumstances of concealment or fraud for another, nor even publicly, unless he has his power or letter of attorney for that purpose, according to established usage.

SECTION VI.

NEITHER shall any one denounce a mine for himself alone, if he has previously had partners in the transaction; and I ordain that the denouncer shall declare his partners in his written statement, under penalty, if he fail so to do, of losing his share thereof.

CHAPTER VIII.

OF PROPERTIES, AND INTERMEDIATE SPACES BETWEEN PROPERTIES, NOT BELONGING TO EITHER; AND OF THE MEASURES, HENCE-FORWARD TO BE USED IN THE MINES.

SECITON I.

EXPERIENCE having shown that the equality of the mine-measures established on the surface cannot be maintained under ground, where in fact the mines are chiefly valuable, it being certain that the greater or less inclination of the vein upon the plane of the horizon, must render the respective properties in the mines greater or smaller, so that the true and effective impartiality, which it has been desired to show towards all subjects, of equal merit, has not been preserved; but on the contrary, it has often happened that when a Miner after much expence and labour, begins at last to reach an abundant and rich ore, he is obliged to turn back, as having entered on the property of another, which latter may have denounced the neighbouring mine, and thus stationed himself with more art than industry. This being one of the greatest and most frequent causes of litigation and dissension among the Miners, and considering that the limits established in the mines of these kingdoms, and by which those of New Spain

have been hitherto regulated, are very confined in proportion to the abundance, multitude and richness of the metallic veins which it has pleased the Creator of his great bounty to bestow on those regions, I order and command that in the mines where new veins or veins unconnected with each other, shall be discovered, the following measures shall in future be observed.

SECTION II.

On the course and direction of the vein whether of gold, silver, or other metal, I grant to every Miner, without any distinction in favour of the discoverer, whose reward has been already specified, two hundred yards (*varas,*) called measuring yards (*varas de medir*) taken on a level, as hitherto understood.

SECTION III.

To make it what they call a square, that is, making a right angle with the preceding measure, supposing the descent or inclination of the vein to be sufficiently shewn by the opening or shaft of ten yards, the portion shall be measured by the following rule.

SECTION IV.

Where the vein is perpendicular to the horizon (a case which seldom occurs,) a hundred level yards shall be measured on either side of the vein or divided on both sides, as the Miner may prefer.

SECTION V.

BUT where the vein is in an inclined direction, which is the most usual case, its greater or less degree of inclination shall be attended to in the following manner.

SECTION VI.

IF to one yard perpendicular the inclination be from three fingers (*dedos*) to two palms, (*palmos*), the same hundred yards shall be allowed for the square (as in the case of the vein being perpendicular.)

SECTION VII.

IF to the said perpendicular yard there be an inclination of

2 palms and 3 fingers, the square shall be of 112½ yards
2 . . . . . 6 125
2 . . . . . 9 . . . . . 137½
3 150
3 . . . . . 3 . . . . . 162½
3 . . . . . 6 175
3 . . . . . 9 . . . . . 187½
4 200

So that if to one perpendicular yard there correspond an inclination of four palms, which are equal to a yard, the miner shall be allowed two hundred yards on the square on the declivity of the vein, and so on with the rest.

SECTION VIII.

AND supposing that in the prescribed manner

any Miner should reach the perpendicular depth of two hundred yards, without exceeding the limits of his portion, by which he may commonly have much exhausted the vein, and that those veins which have greater inclination than yard for yard, that is to say, of 45 degrees, are either barren or of little extent, it is my sovereign will that although the declivity may be greater than the above mentioned measures, no one shall exceed the square of two hundred level yards; so that the same shall be always the breadth of the said veins extended over the length of the other two hundred yards, as declared above.

SECTION IX.

HOWEVER, if any Mine-owner suspecting a vein to run in a contrary direction to his own, (which rarely happens), should choose to have some part of his square in a direction opposite to that of his principal vein, it may be granted to him, provided there shall be no injury or prejudice to a third person thereby.

SECTION X.

WITH regard to the banks (*placeres*) beds, (*rebosaderos*), or any other accidental depositories of silver or gold, I ordain that the portions and measures shall be regulated by the respective Territorial Deputations of Miners, attention being paid to the extent and richness of the place, and

to the number of applicants for the same, with distinction and preference only to the discoverers; but the said Deputations must render an exact account thereof to the Royal Tribunal General of Mexico, who will resolve on the measures which they, in their judgment, may consider the most efficacious, in order to avoid all unfair dealing in these matters.

SECTION XI.

THE portions being regulated in the manner described above, the Denouncer shall have his share measured at the time of taking possession of the mine, and he shall erect round his boundaries, stakes or landmarks, such as shall be secure, and easy to be distinguished, and enter into an obligation to keep and observe them for ever without being able to change them; though he may alledge that his vein varied in course or direction, (which is an unlikely circumstance); but he must content himself with the lot which Providence has decreed him, and enjoy it without disturbing his neighbours: if, however, he should have no neighbours, or if he can, without injury to his neighbours, make an improvement, by altering the stakes and boundaries, it may be permitted him in such case, with the previous intervention, cognizance, and authority, of the Deputation of the District, who shall cite and hear the parties,

and determine whether the causes for such encroachment are legitimate.

SECTION XII.

In the mines already opened and worked, the old measures of the portions shall be retained; but they may be extended to the limits prescribed in these Ordinances, whenever such change can take place without prejudice to third persons.

SECTION XIII.

The immutability of the stakes or boundaries already defined in Section XI. of this Chapter, shall also be observed henceforward, in those mines which are in a course of working, or which shall be denounced as deserted or lost, the limits being ascertained in those cases where there are none at present, and each being attended to in their order, beginning with the oldest; and as to any intermediate spaces, (*demasias*), they shall be regulated according to the provisions of Section XIII. of Chapter VI.

SECTION XIV.

As it has been found that the licence or permission of following a vein into another person's property, by working lower down and within the vein, and having enjoyment thereof, until the owner himself has also bored it, has been, and is the most fruitful cause of bitter dissensions, litigations, and disturbances among the mine-owners, and further considering that such intrusion is

more generally the result of fraud or chance than of the merit and industry of the person so intruding, and that the consequences thereof occasion, for the most part, nothing but serious detriment to, or the total ruin of, the two mines and the two neighbouring Miners, to the great prejudice of the public, and of my Royal treasury, I order and command that no Mine-owner shall enter the property of another, even though merely by continuing his own vein at a greater depth, but that every one shall keep and observe his own boundaries, unless he makes an agreement and stipulation with his neighbour, to be permitted to work in his property.

SECTION XV.

But if a Mine-owner, pursuing his operations fairly, comes to the property of another while in pursuit of a vein which he is working, or discovers it at that time without the master of the property being aware of its existence, he shall be obliged to give such proprietor immediate notice thereof; and the two neighbours shall thenceforward divide the cost and profit equally between them: one for the merit of the discovery, and the other as owner of the property; all which, until there shall be a communication effected between the mines, either by the principal vein, or a cross lode, or in any manner that may be most conve-

nient; whereupon after erecting a mutual boundary (*guarda-raya,*) each proprietor shall remain within his own boundaries. But if any one so discovering and following a lode, into the property of his neighbour, fails to give immediate notice thereof to such neighbour, he shall not only lose his right to the half of all the metal, that may be extracted, but also shall pay double the value of what he has already extracted, it being understood, that before exacting this penalty, fraud and misconduct of persons so encroaching must be proved in the plainest and most satisfactory manner, according to the form prescribed in Chapter III.

SECTION XVI.

And in case a Mine-owner shall have advanced so much in his subterranean operations as to have passed beyond the limits of his own property, whether in length or square measure, I declare that he shall not on this account be obliged to turn back or suspend his work, provided the ground he has entered be unclaimed (*terreno virgen*) or within the limits of a deserted mine: he must however denounce this new property, which shall be granted him, observing always that such new portion must not exceed its former size, and that he must move his boundary marks to his new limits, in order that they may be generally known.

SECTION XVII.

THE Mine-owner shall not only possess a portion of the principal vein which he denounced, but likewise of all those, which, in any form or manner whatever, are to be found in his property; so that if a vein takes its rise in one property, and, passing on, terminates in another, each proprietor shall enjoy that part of it which passes through his particular limits, and no one shall be entitled to claim entire possession of a vein from having its source in his portion, or on any other pretence whatever.

CHAPTER IX.

OF WORKING, SUPPORTING, AND PROTECTING THE MINES.

SECTION I.

IT being of the greatest importance that the lives of workmen, and other persons obliged continually to enter and go out of the mines, should not be endangered, and that the mines should be kept in the state of security and convenience necessary to their being successfully worked, even although they may have been judged useless and

impracticable by their first possessors, and abandoned accordingly; and it not being possible to establish any general and absolute rule on the subject on account of the variety of circumstances of each mine, the greater or less hardness, tenacity, and adherence of the sides, (*respaldos,*) and of the substance of the vein itself; its greater or less inclination, width, and depth, inducing much diversity in the size and number, of the pillars, arches, beams, (*testeras*), cross-beams (*intermedios*), and other props, which may be left or constructed to support the sides, and also in the distribution of the works necessary to proper ventilation, and the convenient removal of the substances extracted from the mine; all which cannot be effected without true practical skill and science in the working of mines; I ordain and command as follows·

SECTION II.

It shall not be permitted to any one to work the mines without the assistance and direction of one of those able and intelligent surveyors, who are called in New Spain, Miners, (*mineros*) or mine-watchers, (*guardaminas*) who must have been examined, qualified, and approved by the Mining Professor (*perito facuttativo*) appointed to be in every Mine-town or district, of whom mention will be made hereafter, Chap. XVII. Sect. 1. However, in the very poor and remote

Mine-towns, where there may be neither Mining Professor, nor qualified and approved surveyor, they may be allowed to proceed under the direction of the most accredited and intelligent surveyors who can be found there, until these, or others, shall be examined and licensed: the same being understood in all cases which require the direction or intervention of a surveyor, in order that, in judical proceedings, they may meet with the confidence and credit they deserve.

SECTION III.

For the design and execution of shafts *(tiros)* levels, (*contra-minas*) or adits, (*socabones*) and other great and difficult works, which, if they do not turn out successfully, render useless the great expences which have been bestowed upon them, the direction of one or more of the Guardaminas, shall not be sufficient, but the inspection or intervention of one of the aforesaid Professors of Mining shall be necessary, with the obligation on his part of visiting the work once every month, or once in two months, as the progress of it may require, in order that, if he perceives any error in the execution, he may amend it in time, and before it occasions further expences.

SECTION IV.

In mines opened on a vein, of which the sides and interior substance are soft, and have so little tenacity, or adhesive property, that on being ex-

posed to the air they moulder away, and open into cracks and crevices, or which, from any other causes, are perceived to be insufficient by themselves to maintain the security and firmness of the mine, I ordain and command that the works shall be lined and secured with large solid timber of known durability, and such as is least liable to decay under ground, cut and prepared according to the rules of art; or with good mason work of stone and mortar, if the value and other circumstances of the mine permit or require it: for which purpose there must be in all the mining places, towns, and districts, a certain number of those artificers, carpenters, and masons, who are called liners, (*ademadores*), and these must have journeymen and apprentices, in order to preserve and continue the exercise of this important business, which ought to be well paid and encouraged.

SECTION V.

In order to prevent the introduction of artificers who have not the requisite experience and intelligence in subterranean architecture, none shall be admitted *(in any place)*, who have not been examined and approved by the Mining Professor of that place, or of some other.

SECTION VI.

If any mine-owner, in consequence of the great richness of the metallic substances in his vein, is desirous of substituting for the pillars, beams,

or sufficient and necessary supports, made of the metallic substance itself, others constructed with mason-work of stone and mortar, he may be permitted to do so, under the inspection of one of the deputies of the district, assisted by his clerk, and with the approbation of the Mining Professor.

SECTION VII.

I STRICTLY prohibit any one from taking away, or in any degree weakening and diminishing the pillars, beams, and necessary supports of the mines, under pain of ten years' imprisonment, to be inflicted according to the form prescribed by Chapter III. of these Ordinances, by the respective judge in each case, upon any workman, searcher *(buscon)*, or investigator, *(cateador)* who shall have committed such offence, and the same upon the Miner or Mine-watcher who has permitted it; and the master of the mine shall lose the same, together with the half of his property, *(bienes)*, and be for ever excluded from all mining employments.

SECTION VIII.

I ORDAIN and command that the mines shall be kept clean and unobstructed, and that the works necessary or useful for the circulation of air, the carriage and extraction of the metal, or other purposes, although they may contain no more metallic matter than such as may remain in the pillars and partitions (*intermedios*), shall not be

encumbered with rubbish (*atierres*), and clods of earth (*tepetates*), but that all these must be carried out, and thrown by each person on the earth-mound of his own property, but on no account upon that of another person, without his express leave and consent.

SECTION IX.

In the mines there must be proper and safe steps or ladders, such and as many as are considered necessary by the Mining Surveyor, for the purpose of ascending and descending to the farthermost works, so that the lives of persons employed in the mines may never be endangered by their being weak, insecure, rotten, or much worn.

SECTION X.

In order to avoid the violation of the provisions of any of the Sections contained in this Chapter, it is my sovereign will that the Deputies of the Miners, accompanied by the Mining Professor of the district, and by the clerk if there be one, or, in default of him, by two witnesses in aid, shall once in every six months, or once in every year, (in places where the former is impracticable) visit all the mines in their jurisdiction which are in a course of actual working; and if they find any failure in the points referred to in the above-mentioned Sections, or in any others whatever, which regard the security, preservation, and bet-

ter working of the mines, shall provide immediately a remedy for such defect, and take means to assure themselves that such remedy is carried into effect. And if the remedy be not applied, or if the same failure shall occur again, the proper penalties must be exacted, multiplying and aggravating them even to the extent of dispossessing the person so offending of the mine, which shall then belong to the first person who may denounce it; provided the Deputies proceed in the form prescribed by Chapter III. of these Ordinances.

SECTION XI.

I MOST rigorously prohibit all persons from piercing through adits or cross levels (*cruceros*), or other subterraneous passages, from works which are higher and full of water, or from leaving between them and others such slight supports as may allow the water to burst through; on the contrary, persons owning such works, must have them drained by engines before they shall attempt to communicate with new ones, unless the Mining Professor should judge that such piercing through will not be attended with danger to the workmen engaged in it.

SECTION XII.

ALSO I prohibit all persons from introducing workmen into any works containing noxious va-

pours, until they have been properly ventilated, according to the rules of art.

SECTION XIII.

WHEREAS the mines require incessant and continual working in order to procure the metals, certain operations being indispensable, which cannot without much time be accomplished, and which, if interrupted, generally require as great expences in their re-establishment, as they did in their original undertaking; wherefore, to remedy such inconvenience, and also to prevent masters of mines, who either cannot, or will not, work them, from keeping them in an useless state for a length of time, by pretending to work them, and thus depriving them of the real and effective labour which others might bestow on them, I ordain and command, that whosoever, during four successive months, shall fail to work any mine with (at least) four paid workmen, *(operarios rayados)* occupied in some exterior or interior work of real utility, shall, by so doing, lose all his right in the said mine, which shall belong to any person denouncing it, upon his satisfactorily proving, according to the provisions of Chapter VI. such act of desertion on the part of the owner.

SECTION XIV.

EXPERIENCE having shewn that the provisions

of the preceding Section have been eluded by the artful and fraudulent practice of some owners of mines, who cause their mines to be worked during some days in each (interval of) four months, keeping them in this manner many years in their possession; I ordain that whosoever shall fail to work his mine in the manner prescribed by the said Section, during eight months in the year, counting from the day of his coming into possession, even though the said eight months should be interspersed with some days or weeks of labour, shall by such failure forfeit the mine; and it shall be adjudged to the first person who denounces the same, and satisfactorily proves this second species of desertion; unless for this, or the one mentioned in the preceding Section, there be just cause assigned, such as pestilence, famine, or war, in that same mining place, or within twenty leagues thereof.

SECTION XV.

CONSIDERING that many Mine-owners, who have formerly worked their mines with ardour and diligence, expending large sums in shafts, adits, and other expensive undertakings, may often be obliged to suspend their operations, while soliciting supplies, or from want of workmen, or necessary provisions, and other just and sufficient causes, which, combined with their former merit, render them worthy of equitable consideration;

I declare that any such Mine-owner, keeping his mine in disuse in the manner and for the time above mentioned, shall not forfeit it at once in the manner described above, but his mine shall nevertheless be liable to denouncement before the respective new Tribunals of Miners, in order that both parties having been heard, and the alledged merits and causes considered and proved, justice may be done between the parties.

SECTION XVI.

SINCE many Mine-owners abandon their mines, either for want of the capital necessary for carrying on operations therein, or because they do not choose to consume that which they may have already acquired from them, or because they have not spirit to venture on the difficulties of those undertakings, from which they may have conceived great hopes, or for other causes; and since persons are not wanting, who might be desirous of taking such mines, if they were informed of their intended abandonment; and as it is much easier to maintain a mine when in a course of working, than to reinstate it after it has suffered the injuries of time, it is my will that no person shall abandon the working of his mine or mines without making the Deputation of the district acquainted therewith, in order that the Deputation may publish the same, by fixing a notification on the doors of churches and other

customary places, for the information of all persons.

SECTION XVII.

In order to avoid the false or equivocal reports which are often spread concerning deserted mines, the consequence of which reports is to augment the distrust in which this profession is ordinarily held, deterring many persons from engaging therein, who do not otherwise want inclination to follow it, I ordain,—

SECTION XVIII.

That no one shall abandon the working of his mine without giving notice to the respective Deputation, in order that an inspection may immediately be had thereof by the Deputies, accompanied by the Clerk and Surveyors, who must examine and measure the mine, particularizing all its circumstances, and draw up a map describing its plan and outlines, which, together with all the necessary information, must be preserved in the Archives, with liberty of access to all persons who may wish to see it, or to take a copy thereof.

CHAPTER X.

OF DRAINS IN MINES.

SECTION I.

As in most of the mines springs and currents frequently occur, from whence the water issues continually, and in such abundance as might in a short time inundate and overwhelm the works, to the hindrance of all progress in the extraction of the metals; I desire and command that the owners of such mines shall keep their works constantly drained and evacuated, so that at all times the operations may be carried on, and the metals extracted, without interruption.

SECTION II.

As it is much the most convenient and least expensive method of draining to countermine *(contraminar)* the veins by means of adits, I ordain that in all those mines which require draining, and whose situation will admit of it, and where benefit is likely to arise therefrom, according to the judgment of the Mining Professor of the district, the owners be obliged to make an adit sufficient for the draining and clearing of the works,

provided the riches and abundance of the ores are likely to repay such expence.

SECTION III.

WHEREAS several mines may sometimes be drained and cleared by one and the same adit, though each of them singly might be insufficient to support the expence thereof, I declare that the adit shall be made and completed, and the expence divided among all the proprietors in proportion to the benefit they will each derive from it: and if this proportion cannot at the time be ascertained, the expence shall be divided among them in the mean time in equal parts, such parts being fixed according to the sum which the poorest of them can afford to pay, and should this one improve in condition, then the said parts shall be regulated according to what the poorest of the others can pay; so that the works of the adit may not be suspended; and all these points must be estimated and regulated by the Deputation of the district, according to the judgment of the respective Mining Professor.

SECTION IV.

IF any individual should offer to make an adit by which one or more veins, or the mines opened in them, might be drained and cleared, although he be not the proprietor of any of them, either entirely or in part, his denouncement shall be received in due form, and immediate notice given

to the owners of the said mines, who, if they will undertake such work themselves, are always to have the preference; but, on their refusal, it shall be assigned to the adventurer under the following conditions:

SECTION V.

THAT the adit be really useful, and its formation practicable, according to the judgment of the Mining Professor, who must be charged with tracing out and determining the plan of the work, and directing its execution in the manner above expressed.

SECTION VI.

THAT the countermine shall be drawn, as far as it is possible, in a right line, and at the least possible distance from the vein or veins intended to be drained and cleared, or in the line and direction of one of them.

SECTION VII.

THAT the necessary openings for the admission of air be constructed, or that a counterlevel (*contracanon*) be made, or some other means adopted to preserve a free circulation of air for the health and advantage of the workmen.

SECTION VIII.

THAT its size (the size of the adit) must depend on the judgment of the Mining Professor, which will be regulated by circumstances; but that it shall never exceed two yards (*varas*) in width,

and three in height, and that it be properly secured and lined (*ademado*).

SECTION IX.

THAT if the adventurer, in the progress of his work, meets with one or more new veins, he shall therein enjoy the right of a discoverer, and the reward which is assigned to him as such by these Ordinances; but if they are already known and opened in other places, I grant him the liberty of acquiring one portion in each of them, and if there be not sufficient space remaining for that purpose, he shall have the enjoyment of all that may remain, until he enters upon the property of another.

SECTION X.

THAT if the work should pass through any deserted mines, the adventurer shall thereby become master of the same, and may denounce them as soon as he projects the work; it being understood that he should maintain these and his new portions during the progress of his operations as far as lies in his power. But I declare that as soon as his work is concluded, he must have them distinctly portioned out, under pain of losing them, as before enjoined.

SECTION XI.

AND finally, that if the adit should pass through mines already occupied and situated in the direction of the vein, half of the metals thence

extracted shall belong to the adventurer, and half to the owner of the property; but the costs are to be all defrayed by the adventurer; and he must not exceed in his adit the dimensions before prescribed, nor may he undertake any other works, unless with the consent of the owner, in which case the expences must be divided between them. But if the adit should pass across the vein, the adventurer may open other works in pursuit of the same, and the metals, as well as the expences, shall be divided equally between them, until there shall be some communication established with the works of the master of the mine; and if the adventurer does not give notice immediately on discovering the metal, he shall not only lose his right to the half thereof, but shall be obliged to make restitution of all he may have already extracted, and to pay double its value; proof of such fraud and malice having been previously made out, according to the form declared by Chapter III.

SECTION XII.

ALL things contained in this present Chapter, from the fifth section inclusive, with regard to adventurers, is likewise to be understood, as far as it is capable of being adapted, in cases where Mine-Owners shall be disposed to attempt the clearing of their own mines or those of others, by means of an adit or countermine in common,

whether the work is undertaken by all jointly, or by some without the rest, or in company with adventurers, in all of which cases the stipulations which they may have made must be punctually observed, provided they do not interfere with the injunctions and objects of these Ordinances.

SECTION XIII.

THE owners of mines which require draining, but are in a situation which will not admit of the formation of an adit, must work them by means of a general and continued shaft, which in New Spain is called *tiro*, and serves by means of machines and engines to draw off the water, and extract the ore and other materials from the mines; and which must be made in such situation, and of such dimensions, and be secured in such manner, as the Mining Professor of the district may determine and direct. And the Territorial Deputations are enjoined to take especial notice concerning this matter in their visits, inflicting and increasing the corresponding penalties, in proportion to the offences which may be proved to have been committed.

SECTION XIV.

INASMUCH as experience has shewn the general utility of the above-mentioned works, as well as the omission and inattention by which they are sometimes made of a less depth than the other works, in order to avoid the expence of such

undertakings, which become much more serious and expensive by the delay; and if the owners have not sufficient capital, they are obliged to clear the lower works by interior drains, carrying up the water to the *tiro*, by means of engines moved by men, with great expence and little effect, and at times with an intolerable waste of human strength, I ordain and command that all owners of mines which require draining, shall be obliged to make the base or foundation of the *tiro* deeper than the lowest works, so that sufficient support may remain for their being worked, and enough room in the *tiro* for the water: the observance of all which must be watched with particular care in the visits of the Territorial Deputation, the proper penalties being imposed, as enjoined in the preceding Section.

SECTION XV.

If any owner of mines requiring drains does not choose to keep them up, contenting himself with working in the upper parts of the mine, which the inundation does not reach; and any person shall denounce the said mine or mines, offering to drain and clear the lower works, immediate information thereof shall be given to the owner, in order that if he be either unwilling or unable to drain them effectually within the period of four months, they may be adjudged to the denouncer, he giving security for the expences

of the drain, according to the taxation of proper Surveyors, and the satisfaction of the Deputies of the District.

SECTION XVI.

If the owner of any mine, of which the works are lower than those of the mines belonging to his neighbours, whether from its situation, or from the circumstance of greater progress having been made in the works thereof, should be put to extraordinary expence, by his neighbours not draining such higher mines, or draining them insufficiently, in such manner that the waters from the higher works shall descend upon the lower, I ordain and command, that the owners of the higher mines shall keep up all the draining which they require; or, on failure thereof, shall pay respectively to the owners of the lower mines, in silver or good money, the value of all the damage they may have sustained, estimated by Surveyors, who shall first of all enquire and make all possible experiments to ascertain the real truth and circumstances of the case.

SECTION XVII.

To all persons who will take upon themselves the expence of draining and clearing several mines, by making shafts *(tiros)* in common, or other works, and of constructing and maintaining costly machines (where an adit is not practicable), I grant the ownership of all the deserted mines

and portions which they shall effectually clear; even though they may be contiguous, and upon one and the same vein; and I command that the Viceroy, at the representation of the Royal Tribunal General of Mexico, shall dispense to them all the customary privileges, exemptions, and aids: but I declare that the owners of occupied mines, deriving benefit in any manner from such works, shall be obliged to contribute to the expenses of the same, only in proportion to the advantage their mines may have received, according to the valuation of Surveyors, with the approbation of the Deputies of the District.

CHAPTER XI.

OF MINES WORKED BY COMPANIES.

SECTION I.

INASMUCH as mines are often worked by Miners joined in companies from the time of the denouncement of such mine, or according to contracts entered into subsequently in various ways, to the great advantage and improvement of the operations in mines, since it is much easier to engage therein when many persons concur, each subscribing a part of his capital, and as where the wealth of one alone is not sufficient for great undertakings, that of an united company may be ample; in such cases, I desire and command that such companies, whether public or private, may be encouraged, promoted, and protected by all convenient measures, my Viceroy granting to those who may form themselves into such companies, every favour, aid, and exemption which can be granted them, according to the judgment and discretion of the Royal Tribunal of Miners, and without detriment to the public or my Royal Treasury.

SECTION II.

ALTHOUGH by these Ordinances I prohibit any individual Mine-owner, working within the ordinary limits, from denouncing two adjoining mines on the same vein, yet notwithstanding, to those who work in companies, although they be not the discoverers, and without prejudice to the right which they might derive from becoming discoverers, I grant the right of denouncingfour new portions, or four deserted mines, even though they should be contiguous, and on the same vein, *(rumbo.)*

SECTION III.

THE accustomed usage in New Spain of dividing a mine into twenty-four imaginary equal parts, commonly called barras, subdividing also each of these into suitable smaller parts, shall continue to be observed, as heretofore, without any alteration.

SECTION IV.

BY consequence, no one of the partners may claim, or have a right to work the part A, or any determinate part of the mine, or any other to work the part B, or place therein any fixed number of workmen; but they must work in common, as far as it is possible, and make a division of the expences, by sharing the amount of the same in equal proportions among all the partners, and there shall be the like division of the

produce in metals of all kinds and qualities, whether in a rough state, or after they have been wrought, as may have been agreed upon by the parties.

SECTION V.

In order to avoid the disputes and differences which usually occur in Mining Companies about the direction of the works, applications for supplies, the administration, and other points connected with the operations, I ordain and command, that all the measures necessary to be taken shall be determined by plurality of votes, with the intervention of one of the Deputies of the District, who shall always endeavour to preserve harmony among the parties.

SECTION VI.

The votes shall be valued and counted according to the shares (*barras*) which each partner shall possess in the mine; so that if one or more shall be owners of one and the same share, they shall have only one vote, and he who holds two shares shall have two votes, and so on for the rest; but if one partner alone possesses twelve or more shares, the owner of such a number of shares shall have a number of votes less by one than half the number of such shares.

SECTION VII.

In all cases where any dispute may arise, either from an equality in the numbers of votes,

or from any other cause, the Mining Deputy who shall preside at the Junta, or Meeting, shall decide the same as above declared, and I charge the said Deputy to attend always to justice, and to the common interest of all the partners.

SECTION VIII.

If, in the course of operations, a mine should be worked which produces no profit, or which does not repay, either entirely, or in part, the expenses which have been bestowed upon it, and any one of the partners does not chuse to contribute his share of the expense, in this case the others shall give notice to the respective Deputation, in order that the day may be noted down, on which he ceased to contribute; and if he persists in this conduct during the continuance of four months, I declare that, thereby he forfeits, reckoning from the day on which he ceased to contribute, all his share in the mine, which shall go to increase the portions of those who have continued their contributions, without any obligation on their part to denounce the same: but if, before the expiration of the four months, he shall contribute his share of the expenses, he shall be still a partner, provided he pays all arrears that shall have accrued from the time when he ceased to contribute, to the satisfaction of the parties concerned.

SECTION IX.

If, while any mine is in a course of profitable working, any partner should refuse to concur in the expenses of the dead works (*faenas muertas*) (established according to the forms before prescribed), upon the ground that such dead works would consume a part or the whole of the produce of the mine, the rest of the partners may retain and devote to this purpose a part or the whole of the produce which falls to his share.

SECTION X.

If one or more mines are worked by two partners, and they desire to break up the partnership, on account of disagreement, or other cause, they shall not be reciprocally obliged to sell or buy their shares to or from one another, but each of them has the right of selling his share to a third person, giving his partner, however, the first offer thereof.

SECTION XI.

The company is not to be considered as broken up by the death of one of the partners; but the obligation devolves on his heirs, who have, however, the privilege of selling their share, according to the terms prescribed in the preceding section.

SECTION XII.

If any share in a mine, or any entire mine, should be sold, after having been appraised and

valued by Surveyors, according to its condition at the time of the sale, and it should afterwards become of great value; I declare that the sale shall not on that account be rescinded, on allegation of the great loss sustained, nor on demand of being restored to his former situation, (*i. e.* on the part of the seller) nor of any similar privilege.

CHAPTER XII.

OF THE LABOURERS IN MINES, AND IN THE WORKS OR ESTABLISHMENTS FOR THE REDUCTION OF THE METALS.

SECTION I.

FORASMUCH as it is a notorious and well established fact, that the working Miners are a very poor class of people, and very useful to the state, and that they ought to be adequately remunerated for the severe toil they undergo, I ordain and command that no Mine-owner shall presume, on any ground or pretext whatsoever, to alter the rate of wages established by long usage, and adopted in all the mining districts, but that the

same shall be observed, as well in regard to persons employed in the works and machinery, as to the labourers in the mines, under the penalty, if at any time any Mine-owner shall diminish the established wages, of paying the said labourers the double thereof; and the labourers shall be obliged to work according to the said established rate of wages.

SECTION II.

THE workmen in the mines must be registered by their own proper names, and must mark with plain and distinguishable strokes, each occasion of their leaving their work; so that they themselves may know and recognise the same, even when they are not able to read; according to the forms hitherto adopted in New Spain.

SECTION III.

THE amount of the wages are to be paid every week to each workman, according to his tallies, (*rayas**), and with the greatest punctuality delivered in ready money and into their own hands, in current coin or in silver or gold bullion of good quality, if there be no ready money, or by part of the metal which may have been extracted, if

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* Literally, the strokes or tallies which represent the wages due to them. In future, wages will be used in the translation, as being a more familiar expression.

it shall have been so agreed between the parties. And I strictly prohibit their being compelled to receive such payments in merchandize, effects, fruits, or provisions.

SECTION IV.

At the time when their wages are paid, they (the workmen), shall not be forced to satisfy the debts and charges for which they may be liable, even though they be such as are usually termed privileged, without a judicial order for so compelling them, except as to those which they may have contracted with the Mine-owner, with an understanding that the same should be paid out of their labour, and even in these cases, not more than a fourth part of their wages shall be so retained.

SECTION V.

I prohibit the making demands upon the workmen for alms, charity, collections for brotherhoods, (*cornadillos de cofradias*), or any similar purposes, until they have received their dues, and these being settled, such donations shall be left entirely to their free will and disposition.

SECTION VI.

Where the workmen are paid by weekly rations and monthly salaries, the rations supplied must be of good wholesome meat, wheat, maize, Indian corn, pinole, (a fruit of the country), salt, red pepper, (capsicum), and such other articles

as may be usual, according to fixed and exact measures and weights, to all which particular attention must be paid in the visits, (of the Territorial Deputations).

SECTION VII.

EACH workman or servant of the mines, referred to in the preceding Section, must keep in his possession a paper, in which shall be marked the parts of his monthly salary which shall have become due, as well as every thing which he may have received on account, all written by the accountant, (*Rayador**), or paymaster of the mine or establishment, and the dollars and reals distinguished by circles, lines and half-lines; so that each workman may adjust and understand his own account, and have a proper statement thereof in his possession.

SECTION VIII.

THE duties or tasks (*tequios o tareas*) of the workmen shall be assigned by the captain of the *Barras*†, who must attend to the hardness or soft-

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* *Rayador*, literally, the inspector or settler of the rayas or tallies, alluded to and explained in Section III. of this Chapter; as it evidently means accountant, in future that expression will be used for Rayador.

† These *Barras* are the shares, twenty-four in number, into which every mine is divided.

ness of substance, the abundance, scarcity and other circumstances of the work, proceding with the greatest justice and equity in moderating the said tasks, in allowing good pay to those employed in such tasks, and in encreasing the same, under any change of circumstances; and in case any party should complain of any particular grievance, the respective Mining Deputation shall proceed to redress all injuries by a verbal decree, or by judicial process, if the parties cannot otherwise be brought to an agreement, all which shall be done in the form prescribed by Chapter III. of these Ordinances.

SECTION IX.

It is also my Royal will that no supplies shall be afforded to the Indians of allotment*, (*repartimiento*), in order that immediately on concluding their tasks they may return to their villages and habitations, and others be employed in their stead as the law requires. And that the free Indians alone may receive supplies, as far as five dollars to each, conformably to an act granted by my Royal Audiency of Mexico; although in cases of any peculiar urgency, such as the celebration of their marriages, or the funerals of their wives or children, I permit that on the same being pro-

* *Indios de repartimiento,* the Indians who are lotted in divisions from time to time, and sent to work in the mines; in opposition to free Indians.

ved to the satisfaction of the Mine-owner, Administrator, or Overseer, (*Mandon*), by a certificate from the curate (of the parish of an Indian so circumstanced), he may be furnished with what is necessary for such purpose.

SECTION X.

BOTH the Mine-owners and the workmen shall be entirely at liberty to agree between themselves whether they shall be paid for their work by the task, by a share of the profit, (*a partido*), or by salary and share of the profit.. Supposing this mutual liberty understood, when the mine is not worked by share of the profits merely, the owner or administrator shall pay the workmen such wages or salary as shall be conformable to the First Section of this Chapter; and if, when the arrangement is for task-work, any one of the labourers, called *Barreteros**, having finished his task, shall continue voluntarily for all or part of the time remaining, to extract further ores, the Mine-owner shall not be obliged to pay otherwise than in money, and in proportion to his daily rate of wages, for all such ore as may be extracted. But if in order to promote and stimulate the exertions of the workmen, the Mine-owner or administrator should agree to pay them at a certain rate for every sack

* *Barretero*, literally, a person employed in such barras or shares as are explained above, Section VIII. Note.

or bag (*tenate*) of metal which they may extract beyond their task, or to pay them for the same with a part of such metal, all such contracts shall be fulfilled according to the engagements on both sides, provided the circumstances shall not have materially changed in the opinion of the respective Mining Deputies; and if these should disagree, the respective Substitute shall decide according to the rule already established in such cases; but in all that regards the terms on which labourers are to work in the mines, whenever there shall arise any dispute between them and the master or steward of the mine, (*Mayordomo*), which may occasion injury to its working and progress, and consequently to the State, and either of the parties shall make an appeal, the respective Deputation shall decide the same, and eventually if necessary, the said Substitute, conformably to the practice established in the mine in question, or, if it be a new mine, then in conformity with the practice of the district.

SECTION XI.

THE ore extracted in the course of the task-work, and that extracted in working for a share of the ore, shall be received and attested by the accountant, or inspector, or other person, appointed for that purpose by the Mine-owner; and if he thinks the ore delivered by any labourer as his share-work, better or purer than that of his

task, they shall both be mingled together in the presence of the workman interested, and shall be stirred about as much as he may desire, in order that he may chuse, from whatever part of the heap so mingled he may prefer, as many sacks, bags, or measures as there were in his share before such mixture was made: it being understood that no Mine-owner, his steward, overseer, or other servants shall, on any pretence whatever, prevent the labourers interested from being present during all these proceedings, or cause the sacks to be filled from any other part of the heap than that which the said labourers shall choose.

SECTION XII.

THE Inspector may examine all those who go in and out of the mines, observing, with the greatest care, whether they are in a state of intoxication, or whether they carry with them any intoxicating liquors; and he may also register all that comes in or out of the mine under the head of breakfasts, dinners, and so forth; and if he should discover any stolen metal, tools, gunpowder, or any thing of the like kind, he shall preventively apprehend, confine, and secure the thief; and thereupon, give notice to the Territorial Deputation, in order that due proceedings may be instituted, conformably to the regulations established by Chapter III. of these Ordinances.

SECTION XIII.

IDLE persons and vagabonds, of whatsoever cast or condition they may be, who shall be met with in the mining districts, or the neighbouring villages, may be seized and compelled to work in the mines, as well also as the labourers who from mere idleness shall have withdrawn themselves from this employment, without engaging in any other; for which purpose the Mine-owners may appoint proper officers, (*recogedores*) by licence of the courts, and the Territorial Deputations of the districts, as usual in such cases; but it is to be understood, that no Spaniard, or Spanish Mestizo,* the latter being considered as a Spaniard, can be included in such a regulation, as both one and the other are by law exempted; and when such persons have incurred punishment by their idleness or offences, other penalties must be inflicted on them, by the proper judge, according to the nature of their offences.

SECTION XIV.

IN the distribution and allotment of the Indians of the Villages near the mining districts, commonly called the Indians of the Quatequil, or

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* Mestizos are a mixed race, the offspring of an European and Indian: they are mentioned by Robertson as the third class of inhabitants in the Spanish Colonies.—*See Rob. Amer.* Vol. iv. p. 33.

Mita,* to the reducing establishments, the rights and pretensions, acquired at different times by the proprietors of such establishments, shall be maintained and observed in those which are in a course of working, and have continued so without interruption; but in establishments which have been deserted and abandoned, and whose allotment of Indians may have passed to others more recently established, the latter are to be maintained in the possession of the same; and, in case the former should be re-established, they shall only be entitled to the quatequil of such villages as shall have before belonged to them, and shall not have since passed to other establishments; and the same is to be observed in respect of the working companies (*quadrillas*), both of mines and of reducing establishments: but in neither case shall such distribution and allotment of Indians exceed the proportion of four out of every hundred, according to the established practice in

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* The Mita, or compulsory labour in the mines, by chosen bands of Indians, so many out of every hundred, is by Humboldt said to be wholly abolished in New Spain.—*Humb. New Spain*, Vol. i. p. 124.

I can find no account of the word Mita. Perhaps the number of Indians taken for this purpose out of every hundred may have been originally the half, (*mitad*); this conjecture is rendered more probable from the circumstance of the final *d* being often omitted in the Spanish pronunciation.

New Spain, and in order that the Mitas may be regulated as much as possible in favour of the Indians, I ordain and command, that, in the execution and fulfilment of the law, Article 1. Chap. 15, Book 6, and Article 4, Chap. 15, Book 7, the negroes and free mulattoes, who wander about as vagabonds, and the mestizos of the second class, who are without occupation, may be compelled to work in the mines; and that criminals condemned to hard labour, and not excepted by the preceding section, may be taken to work in the mines, with the consent of the mine proprietors, who are to be in that respect entirely free, either to admit or not to admit such criminals to work in the mines, according to the greater or less degree of facility which there may be of guarding them during the intervals of their occupation.

SECTION XV.

WORKING Companies belonging to deserted establishments shall not be allowed to establish themselves in villages, even though they may construct a chapel and erect a belfry, because by so doing they appropriate to themselves the earth and water intended for the supply of such establishment; thus impeding and wholly preventing its re-establishment; to avoid which I desire and command them always to bear in mind that such situation may be at any time denounced, and in case of works being again re-established there,

they are again to become part of the working company, and to be dependant upon the proprietor of such establishment.

SECTION XVI.

THE labourers belonging to working companies of mines or establishments, shall be obliged to work on the establishment to which they are attached, rather than elsewhere, and shall only be allowed to work elsewhere by the consent of the proprietor of such establishment, or in case he shall have no employment for them.

SECTION XVII.

As it is found by experience, that in unproductive mines there is generally a default of workmen, by reason of their all flocking to those mines which are in a course of working, particularly where the proprietors allow them a share of the produce, thereby interrupting and impeding the working of the other mines; for remedy thereof I ordain and command that the Territorial Deputations shall cause such workmen as are in a vagabond state, and not attached to any establishment, to be alternately employed in each of these classes of mines, so that they may enjoy the benefit of being employed in those which are in a course of profitable working, and not deprive the others altogether of their services; with the same view, it is my sovereign will that no workman going from one mine into another, shall be

admitted by the proprietor of such other without producing a certificate of good behaviour from the master he has left, or his administrator; otherwise such mine proprietor so admitting him, as well as the workman himself, shall be punished in proportion to the evil intention with which they appear to have acted; the observance of all which things shall be strictly attended to by the Territorial Deputations, as pertaining to their jurisdiction.

SECTION XVIII.

WORKMEN who, having contracted debts while working in any mine, shall engage themselves to work in another, may be compelled to return to the former, with a view to the discharge of such debt by their labour therein, according to the fourth Section of this chapter, unless the creditor shall consent to accept security for his debt from the proprietor of such other mine.

SECTION XIX.

IN cases of thefts committed by the workmen of mines on the establishments, whether of metallic ores, tools, gunpowder, or quicksilver, punishments shall be inflicted according to the nature and circumstance of the offence, and the repetition of the same; imposing whatsoever is by law established, and measuring the punishment due to the offences of the Indians by the damage sustained, and the malice evinced; the

respective judges in the cognizance of such causes, regulating themselves by the rules laid down and declared by Chapter III. of these Ordinances.

SECTION XX.

WORKMEN who, for slight offences, debts, or other causes, are imprisoned according to custom, and remain there a long time to their own destruction, and to the distress of their families, may be removed from prison, and placed to work, provided that in the mine or establishment where they are employed, there may be the means of securing them during the intervals of their labour, to the end that, after setting apart a proportion of their gains for their own support, and that of their families, the rest may be applied to the discharge of their debts, the confirmation of their marriages, the payment of pecuniary penalties, and the satisfaction of parties whom they may have aggrieved, and of all this the proprietor or administrator of the mine or establishment must keep a clear and distinct account.

SECTION XXI.

IF any barretero, or other workman, or person serving in the mines, shall work improperly, leaving any metal adhering to the surface of the mine, or in any other manner maliciously concealing metal, he shall be punished in the manner prescribed by Section XIX. of this present Chapter.

CHAPTER XIII.

OF THE SUPPLY OF WATER AND PROVISIONS TO THE MINES.

SECTION I.

THE supply of water for drinking being an object of the greatest importance in mining districts, I ordain and command that its introduction thereto, the preservation of its source, and the good condition and cleanliness of the conduit pipes be particularly attended to, and that no water be used that is impregnated with mineral particles.

SECTION II.

I PROHIBIT most rigorously the emptying of any water from the mine drains, and from the washing places of the works and smelting-houses, into the streams or aqueducts by which the population is supplied; and I command that the said water be carried off by canals or otherwise.

SECTION III.

I DESIRE and command that in the immediate neighbourhood of mining districts, there may be a sufficient number of grazing places and watering places for the cattle which work the machinery,

necessary to the reduction of the metal from the ore, or which are employed in the transportation thereof, or for other purposes connected with the mines; and I ordain that such places shall be common property, incapable of being sold to any individual, church, or religious community; and I ordain that if any such places are at present situated within private limits, they shall be purchased of the owners thereof, who shall be paid for the same, if their possession be lawful, according to the valuation of a surveyor appointed on each side, and of a third in case of disagreement; with this express understanding, however, that such sales shall only happen in cases of lands which can lawfully be granted, and to the extent which may be necessary for the above-mentioned purpose, and, as to any excess over and above, that shall only take place with the free consent of the owner of such lands.

SECTION IV.

ALL persons are permitted to go with and drive the said cattle through all common and public lands, meadows, or pastures belonging to other mining districts, or through places not possessing any mines, without paying any thing on that account, although their masters may not reside in such district; and they shall enjoy the like exemption from such payments on lands belonging to individuals where it is not the custom for other pas-

sengers or mule drivers to pay; but where it is the custom for others to pay, then they also shall pay what is usual and just; and I declare that persons going about to search for mines shall be allowed to have one beast to ride on, and one to carry their luggage, without paying any thing for their pasture, either on public or private property, and whether it be customary or not to pay for the same; but, in order that this privilege may not be abused, any excess shall be watched with the greatest care, and if such be committed, to the prejudice of a third person, application shall be made to the respective Royal Court, for the proper remedy.

SECTION V.

In order to restrain any extraordinary rise in the price of provisions and clothing in the mining districts, when they are in a flourishing state, and that the same may be equitably regulated according to the circumstances which ought to influence it, the Territorial Deputations shall make proper representations thereupon to the Courts of the District, according to what is laid down in Section xxxv. of Chapter III. of these Ordinances; and also for the restraining and punishment of monopolies, extortions, usuries, and all unfair or fraudulent contracts or practices whatsoever.

SECTION VI.

All persons shall be at liberty to carry to the

mines maize, wheat, barley, and other provisions and necessaries, such as charcoal, wood, tallow, hides, &c.; more especially when they have been sent for them by the miners themselves; and for this purpose I grant them permission to bring such provisions from all cities, towns, villages, and establishments whatsoever, even if situated in other districts, provinces, or governments, provided there be just cause for so doing; and therefore I command all governors and magistrates of the different places not to obstruct them in so doing, nor to allow the price of such articles to be improperly raised, but rather to assist and favour them, in order that the mines and the persons employed in them, may be always sufficiently provided with what is necessary.

SECTION VII.

WITHOUT prejudice to the jurisdiction and cognizance granted to the Royal Courts by Section xxx. of Chapter III. of these Ordinances, the Territorial Deputations are to be allowed frequently to visit and inspect the fountains and sources which supply the waters for putting the machinery of the mines in motion, in order that they may be able to make representations thereupon to the said Courts as occasion may require, and in order that all persons may be prevented from cutting down any of the woods in the neighbourhood which serve to protect them, or clearing

them away for tillage, or otherwise reducing them; as also from making any hollows in the neighbourhood lower than the waters, or doing any other thing by which they may be drained off, or diminished; but on the contrary that they may be cleansed and purified with all the precautions of scientific practice.

SECTION VIII.

THE said Deputations shall likewise take care that the rivers and streams preserve their ancient courses and beds, representing to the Royal Courts in proper time, and before the said evils shall have become irremediable, the impediments which have occurred, either from the current leaving islands, or banks which change the direction of the stream, or from the overflowing of the banks, or from other causes, which might be remedied by proper diligence in many cases; and, to the end that the provisions of this and the preceding Section may be carried into effect, the Deputies and the Surveyor of each mining district shall twice in every year visit the fountains and springs, within their boundaries, once just before the rains, and once immediately after, carefully examining them, and if they find that they require any cleansing, repairing, alteration, or amendment, in order to preserve their proper channel and direction, they shall make representation thereof to the Royal Courts, who shall, with the intervention of the

said Deputies and Surveyor, order the same to be repaired at the expence of the owners of the estates and others interested in such waters; and in case of there being no such interested persons, or their contributions not being sufficient, the said Deputies shall appoint such arbitrators as they shall consider competent and impartial, who are to determine according to the provisions of Section XXXVI. of Chapter III. of these Ordinances, whether or no such repairs shall be undertaken at the public expence.

SECTION IX.

To the end that the high roads and private ways necessary for the intercourse of villages in the neighbourhood of mines, with the rest of the district on which they depend for supplies, may be kept in as good and secure a condition as possible, considering, that generally those in the immediate neighbourhood of the mine districts are much broken up, difficult, and dangerous, particularly during the rainy season, I ordain and command that the Territorial Deputations shall promote this important object by all the means in their power, before the respective Royal Courts, by carrying the same into effect, either at the expence of the owners of mines or establishments, or by imposing a toll upon passengers and mule drivers, if this be agreeable to the practice of such place, or in any

other manner, provided only, that the Court be guided in this respect by the provisions of the said Section XXXVI. of Chapter III.

SECTION X.

For the better preservation and security of private roads between villages and mines, between mines and mines, and also between mines and establishments, the provisions of the preceding Section shall be acted upon, even though such works ought in the particular case to have been effected by the owners of the respective mines or establishments; moreover, the Territorial Deputations are enjoined to visit the said roads frequently, with the utmost attention and care, inasmuch as the said roads and ways, being in general narrow and broken, are rendered still more dangerous by the constant traffic, carelessness, and negligence of those who frequent them.

SECTION XI.

As to the rivers, streams, and currents, which it is necessary to pass over, in order to go to or from the mining districts, there shall be built substantial bridges of stone and lime-work, or at least of timber, on solid foundations of stone and and cement, which are more proper for such rivers, as those which run between high grounds, at no great distance from each other, are generally deep and rapid, rather than of great width; for the necessity of their construction, the amount of

their expence, and the ascertaining of the parties upon whom such expence is to be levied, proceedings are to be had according to Section xxxv. and xxxvi. of Chapter III. of these Ordinances.

SECTION XII.

The mountains and woods in the neighbourhood of mines, are to be used for the purpose of providing them with timber for their machinery, and with wood and charcoal for the reduction of the ores, and the same is to be understood with regard to those which are private property, provided a fair price be paid to the owners; and I hereby prohibit all persons from exporting or removing their timber, wood, or charcoal from their respective districts, to others which might be more properly supplied elsewhere.

SECTION XIII.

The cutters and carriers of wood shall not cut at any other time nor deliver in any other manner than shall be prescribed by the particular regulations which are to be drawn up by the Royal Tribunal General of Miners, by which they are to be regulated, provided that these regulations shall in the first instance be approved by the Viceroy, and authorized by my Royal approbation.

SECTION XIV.

All dealers in wood and charcoal are strictly prohibited from cutting young shoots for fire-wood or charcoal, and I ordain that plantations of

young trees shall be formed, where there are none; particularly in those places where there have been such plantations formerly, as from the consumption and failure of re-production, the two species of wood most necessary in the working of mines and reduction of metals have become scarce; and be it understood, in order to attain this important object that the Royal Tribunal of Miners shall draw up particular instructions and directions, which must be observed under certain penalties, to be named therein for that purpose, there being the same necessity for the approval of the Viceroy, and my approbation as in the preceding Section.

SECTION XV.

WELLS of salt water and veins of rock-salt, which are frequently met with in some mining districts, may be denounced, the greatest care being used to authenticate such discoveries, and no impediment being thrown in the way thereof by any judge or individual; provided however, that notice thereof, and of such denouncement, be given to the superior Government, in order that they may take account of and determine as to the working, and distribution and price of the salt, so that no injury shall accrue to my Royal Revenue, and that the miners, and more particularly the discoverer and denouncer, may derive the utmost benefit therefrom; observing, however, that the Indians, are by no means to be deprived of the

salt works which are conceded to them by law, nor prevented from the use thereof, in the same manner as is now permitted to them.

SECTION XVI.

THE judge and deputies of each mine-establishment shall take particular care that in the prices of timber, wood, charcoal, hides, tallow, cordage, salt, magistral, (*sulphate of iron*) (*chalk*), ashes, barley, straw, and other things of indispensable necessity in the working of mines, the sellers thereof shall not act with extortion; for which purpose the said judge, acting in concert with the Territorial Deputation, shall fix the prices of the said articles, with due regard to justice and equity, so that neither the seller shall lose the regular profit of his trade, to which he is justly entitled, nor fall into the other extreme of demanding exorbitant prices, which would paralyse the labour of miners, who, generally speaking, are not in flourishing circumstances.

SECTION XVII.

THE distribution by retail or parcelling out of quicksilver in small quantities, shall be provided for in the manner directed by my Royal Orders of the 12th of November, 1773, and 5th of October, 1774.

SECTION XVIII.

WHOEVER shall work mines in a different district to that in which he resides, and shall derive

considerable advantage from such working, shall be obliged either to build a house in that village which is in the neighbourhood of his mine, or to construct some work of public utility to be estimated by the Deputies of Miners, and shall also be liable to all the charges which are or ought to be paid by the miners of the said district.

SECTION XIX.

No dealer or miner shall, under any pretence, whatsoever, intercept on the roads, the sellers of fruit, grain, or other commodity, even though they pretend that they are buying for their own consumption, and not for the purpose of selling such articles again; but I grant to mine-owners liberty to purchase such articles in other villages, and to conduct them, on their own account, to the mines, and I permit the sellers generally to carry them thither without obstruction.

CHAPTER XIV.

OF THE MILLERS, *(MAQUILEROS)* PERSONS WHO REDUCE ORES FOR THE MINERS BY AGREEMENT, AND PURCHASERS OF THE METALS.

SECTION I.

CONSIDERING the measures which may best promote the advancement of the mines, as well the increase and support of the mining population, and observing the customs which have hitherto prevailed in New Spain, by which it is permitted to all persons to buy and sell ores, and also to erect establishments for reducing the same, although they may not themselves be the possessors of mines, I will and ordain that both these customs be kept up and encouraged, provided that in so doing, the strictest attention be paid to the enactments of the eleven following Sections.

SECTION II.

ALL persons are prohibited from purchasing ores, otherwise than in the outer courts of the mines, or in some public place adjoining thereto, within the view, and by the permission of the owner, administrator, or accountant of the mine, from whom such purchaser must receive a ticket,

expressing the day on which the metal is purchased, its weight, quality, and price, and whether it be the property of the master, or of any person working or serving in the mine.

SECTION III.

If any miner shall lay information of any of his metal, which has been stolen, being in the possession of a purchaser, and such purchaser, on examination and comparison of the metal, cannot justify himself by the production of such a ticket as is mentioned in the preceding Section, the same shall be considered as having been stolen, without the necessity of farther proof, and shall be restored to the miner; but if the latter by any other means shall clearly prove it to have been stolen, and there shall have been a repetition of the offence, the offending party shall not only restore the stolen property to the miner, but such penalties shall be inflicted on the offender, by the proper judge, as are directed by Section XXIX. of Chapter III. of these Ordinances, with attention to the nature and all the circumstances of the offence.

SECTION IV.

No one shall be allowed to purchase from persons working or serving in the mines quicksilver, either fused, or in a crude state, metallic grains, gunpowder, ashes, chalk, or lead, under a penalty to the buyer of paying double the amount thereof

on conviction; and to the seller, of being severely punished, according to the nature of the offence, even though no one should come forward expressly to convict him.

SECTION V.

In order that the owners of establishments for reducing the metals may not exorbitantly raise the price thereof, to the prejudice of the miners; and, on the other hand, may not fail to realize a fair profit, I ordain and command that the judges of the respective mining districts shall every year, acting in concert with the Territorial Deputations, establish and fix the proper dues to be taken during that year for every quintal of ore, regulating the same according to the price of timber, of iron, and of labour, and of whatever else ought to be considered for the purpose; and shall establish the same by a table of fees, which is to be prepared under the authority of the said judges, and to be affixed to and exhibited in public places, and to be kept in every establishment where metals are reduced in the manner here mentioned, and its provisions to be strictly complied with.

SECTION VI.

The said reducers are on no account to charge the owners of the metals a higher price for quicksilver than is paid for it in the same district by

those Mine-owners, who procure it on their own account, and for their own consumption.

SECTION VII.

In the articles of salt, magistral, chalk, powder of lead, charcoal, wood, and other ingredients, used in the reduction of metal by quicksilver, or by fire, the said reducers shall not be allowed to take more than twelve per cent. profit on the actual price at which they may be bought at first cost by those who purchase them on their own account, and for their own consumption.

SECTION VIII.

The tickets which are usually given to owners of metal, containing an account of the expences and produce, are not only to express the same generally, but are to particularize the reducing expences, the price of each ingredient, the price of the labour, the consumption of quicksilver, and the produce of gold, &c. and must be signed by the owner and administrator of the establishment, and by the amalgamator or smelter, and in the event of any of the preceding Sections being transgressed, proceedings shall be had by the production of such ticket against the owner or administrator of the establishment, so as to indemnify the owner of the metal; and if intentional fraud shall be proved against them, they shall pay him three times the value.

SECTION IX.

No reducer of metal shall compel the owner of metals to pay the costs of reduction with the silver or gold so reduced, but only in money; but if there shall have been an agreement to pay in bullion, the same is to be taken at its full value without any premium or deduction; and the same thing is to be observed with respect to the amalgam, *(silver and mercury combined)*, which it may be sometimes necessary to leave at the establishment as a pledge duriug the continuance of such agreement.

SECTION X.

In order to prevent the frauds and impositions which frequently arise from the uncertainty of the reduction by quicksilver and by fire, sometimes to the injury of the owners of the metal, by taking away part of the silver or gold produced; sometimes to the injury of the reducers, when the metal is not sufficient to pay the costs of its reduction, I ordain and command, that, until the establishment of a Public Office in the Mining Districts, which ought to be done as soon as possible, for the reduction by way of assay of one or more quintals of metal, for the purpose of ascertaining its intrinsic richness, either the owner of the metal or of the reducing establishment, when he shall entertain any doubts concerning the results of the reduction, may choose out and have

deposited one or more quintals of the metal, to be reduced afterwards for his satisfaction, by surveyors appointed in the usual manner, one on each side, and a third in case of their disagreement.

SECTION XI.

WITH the same view that directed the preceding Section, no owner of metal, who sends it to be reduced by such an establishment, belonging to another person, shall be prevented from attending either personally, or by a confidential agent, all the operations of the reduction, from making trials, from assaying any part of the mass in various ways, and doing every thing else that he may think conducive towards the better reduction of the metal, or the satisfying himself of the manner in which it is done.

SECTION XII.

THE amount of carriage to be paid to the mule drivers, upon metals taken from the mines to the establishments, whenever any excessive charge is made, shall be settled by the judge of the district, acting in concert with the Territorial Deputations, having a due regard to justice and equity, and making a difference between the dry and rainy seasons.

SECTION XIII.

AND if any of the said mule drivers shall be proved to have stolen or sold any of the metal on the roads, replacing the same by other materials,

they shall be proceeded against accordingly, by the proper judge, and Section XXIX. of Chapter III. of these Ordinances, shall be observed in the infliction of penalties on such persons; and also, in case of the offence being repeated, always with due regard to the nature and character of the offence, deciding the same according to law, and in the form prescribed in said Chapter III. and be it understood, that if in any of the cases comprised in Section XIII. of this Chapter, the imposition of penalties, or the loss of property, beasts of burthen, or other thing whatever, come under consideration, proceedings shall be had according to Section XXXII. of Chapter III.

CHAPTER XV.

OF THE CONTRACTORS FOR SUPPLYING MINES, (WITH MONEY AND OTHER ARTICLES), AND OF THE DEALERS IN (GOLD AND) SILVER.

SECTION I.

It often happens that Mine-owners carry on the works in their mines with the capital of other persons, either because they have not at first sufficient funds of their own, or from having exhausted their own funds in various operations, before the extraction of sufficient metal to make them a return, and in such cases they are in the habit of agreeing with contractors for supplies, (*Aviadores*), in one of two methods; either by letting them have the gold and silver which they may extract, at a price somewhat below the real value, leaving the said contractors the benefit of the difference, which method is called *allowing a premium upon the metals*, (*aviar á premios de platas*), or by giving the contractor a share in the mine, making him a perpetual proprietor thereof, or of the metals for a certain time, *by a species* of partnership; and whereas, the necessities of the Miners, and the

facility of some of the contractors often lead to contracts, which, being unjust or usurious, or ill understood from the beginning, or appealed against by one or other of the parties, give rise to litigation, which suspends the supplies, and occasions injury to the mines, and the loss of the capital laid out upon them; it is my sovereign will and pleasure, that no Mine-owner shall conclude any agreement for supplies without a regular signed contract, leaving it at his option to complete the same, or not, before a notary or witnesses; and no agreements that may be entered into without such signed contract shall be capable of being enforced, but such cases to be determined according to the general rules.

SECTION II.

In all agreements of the first mentioned kind, (*á premios de plata*), attention and consideration must be given to the number of marks* in each delivery, and how often such deliveries take place, so that if, through any accidental circumstances in the mine, the number of deliveries should increase or diminish considerably, either of the contracting parties may be allowed to increase or diminish the premium upon the metals, without violating the original contracts in other respects; for which purpose in the instrument as

* Eight ounces to a mark.

originally drawn up, the number of annual deliveries shall be specified, and the number of marks in each delivery; or the parties, if they please, may renounce altogether any right to avail themselves of such accidents as are above mentioned, in which cases the original contracts shall remain in force for all purposes.

SECTION III.

If the Mine-owner shall secure to the Mine-contractor, a certain sum for the supplies, either by deposit, or security, to the satisfaction of the contractor, the latter shall not receive in the way of premium more than would amount to five per cent. per annum on the capital advanced.

SECTION IV.

The contractors shall furnish the supplies in ready money, or in bills payable without discount or loss, or, if the Mine-owner should prefer having goods and effects such shall be delivered to him of a good quality, and in a good condition; and at the price at which they could be bought for ready money, at the place where the contractor resides, and in no other manner whatsoever.

SECTION V.

Risks and accidents happening upon the road in the transport of supplies, and the freight and (excise) duties payable upon the supplies, shall be at the expence of the Mine-owner, where the contract is by premium upon the metals; but

where the contract is in the way of partnership, such costs shall be at the expence of both, unless any other mode be particularly expressed in the deed of agreement.

SECTION VI.

In case of the capital supplied being entirely expended, or of a part of it not being covered by the remaining effects, the Mine-owner shall not be responsible for the same, in his person, nor in any other property which he may possess, excepting only that connected with the mine, and the reducing establishment, supposing this latter to be erected out of the capital advanced; but the mine, and the effects and profits thereof, after deducting the expences, shall go to the payment of the contractors one after the other, beginning with the last or most recent; be it understood, however, that this being a privilege granted by the law only to creditors who advance second supplies* for the restoring and refitting of mines, it is necessary that the three qualifications should all concur, in order to its being enjoyed; but if the Mine-owner, from actual necessity, shall abandon the mine, without any fraudulent intention, and having given notice thereof to the creditors, it shall not remain liable for former claims, when it is in the hands of the new possessor; and it is further declared, that if the

*See note at page 186.

capital supplied to such mine, and in regard to which such deficiency occurs, has not been furnished in the way of partnership, between the contractor and Mine-owner, in which case, the profit or loss is to be in common between them, but in the way of loan, and the Mine-owner shall have made his property answerable, either by choice, or because the contractor required it for greater security; under such circumstances, the said obligation shall remain complete in all its parts, notwithstanding the general provisions of this section.

SECTION VII.

If no agreement shall have been made at first, as to the mode of securing the advances contracted for, when they are supplied in the way of premium upon the metal; the contractor shall not require the same in any manner prejudicial to the Mine-owner in the working of his mine, by cutting off the supplies: nor shall he be obliged to receive back from the Mine-owner in small sums, the supplies he may have advanced.

SECTION VIII.

Although the Mine-owner may not have observed at any time that his silver contains a mixture of gold, the separation of which from the silver would be expensive; or that there be silver amongst the gold of a baser quality, and the contractor should have discovered the same, either by assaying or other method; be it understood that

the profit thereof shall not go to the said contractor, but shall be placed to the credit of the Mine-owner, or proprietor of the metal, in the account kept between him and such contractor.

SECTION IX.

WHEN the contract of supply is made in the way of partnership in the property of the mine, be it understood that the capital invested, until the time when there shall be a surplus profit, over and above the expences, is not to be immediately deducted from the profits, with preference to the contractor, but the profits are to be divided,* the capital remaining so invested during the continuance of the partnership, *(mientras no se separe la compañia)*.

SECTION X.

THE Merchants or Dealers in silver who receive it without having advanced any thing to the owners, or encountered any risk, shall pay for it at the full value, and if they give in exchange for it any goods, the latter shall be charged at the regular price, and shall be of good quality; and I strictly ordain and command that the said Merchants or Dealers in silver shall receive it from the Mine Owners, being assayed, and the fifth

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* It must be understood, I presume, that the profits are to be divided in proportion to the number of barras or shares so held in partnership by the supplier.

part deducted therefrom (as Royal duty) conformably to law, and as repeatedly enacted by Royal Decrees, in order to prevent its being illegally disposed of in any of the different ways in which my Royal rights are infringed: And I further declare that, in those districts where such assaying or deducting of the fifth part cannot conveniently be managed, on account of their distance from the Royal treasuries or marking offices, the Merchants or Dealers shall bind themselves before the Royal Court and Territorial Deputation, to take the metal forthwith to the office (*caxa*) of the district, in order to fulfil the said obligation of paying my Royal dues, and to verify the performance of the like as regards quicksilver, according to the established custom in New Spain, the said court and Deputation, allowing them a certain time for carrying all this into effect, and giving notice of the said obligation to the Royal officers whom it may concern, so that, if the said persons should fail to fulfil the same, such silver shall be deemed to be confiscated, and the said officers shall take steps to obtain possession of it, and to inflict the other penalties imposed by the laws upon the defrauders of my Royal rights.

SECTION XI.

ALL the Merchants of the mining districts shall keep a correct and light balance and scales, in which only all the silver and gold shall be weighed;

and they shall never use for this purpose steel-yards, however large the masses or quantities of the metal may be; and they mnst also keep weights marked and properly adjusted, according to those which they have received from the proper Royal authorities; and I permit the respective Deputies to inspect the same from time to time, (without prejudice to the regular inspection by the Royal Court and public Magistrate), and to take care that the weighing be always justly and correctly performed, to the end that, in case any fraud should be discovered, and also in case of the repetition of such fraud, proceedings may be had before the competent Royal Court for the imposition of penalties proportioned to the nature and character of the offence, the said Court hearing and receiving information on the subject from the Deputies of the District.

SECTION XII.

ALL the working Miners must keep their tools and utensils marked, and if any one shall purchase them from any workmen, or receive them in pledge, he shall pay for them double the value.

SECTION XIII.

THE aforesaid merchants and contractors may, for their satisfaction, and that of the owner, heat the blocks or ingots of silver (mixed with quick-silver) over a charcoal fire, but not over a flame, or in any manner by which it might be reduced to a state of fusion, except in crucibles; and they

may also be allowed to separate them so as to examine them within, but this must be done, as well as the trying its quality, by heating it upon a counter, or in such manner that the owner may be able to collect and carry away all the waste and refuse fragments of his silver.

SECTION XIV.

EVERY contractor has the right of appointing at any time an inspector *(interventor)* to any Mine-owner whom he has contracted to supply, although it be not so expressed in the contract; but be it understood, that such interventor is only to attend to the correctness of the accounts, and to have power over the money and effects; but not to interfere with or obstruct the working of the mine, which belongs entirely to the Mine-owner; he may, however, defer the carrying on of the operations, by presenting an account to the Deputies, requesting the Appointment of surveyors, but this only in cases which will admit of such delay.

SECTION XV.

WHEREAS the operations of mines in a course of working, particularly where they relate to the draining thereof, cannot be impeded without great injury, I command that if the contractor for furnishing supplies from time to time shall neglect to provide them in such manner that at the proper time of paying the wages, *(rayas)*, there shall not be sufficient to pay them, and the Mine-owner,

foreseeing this event, shall have called upon the contractor accordingly, and given notice thereof to the Deputation, then not only the wages shall be paid with the best furnished part of the mine, and even with the very implements and utensils, but the Mine-owner shall be entitled to demand immediate execution against the contractor for what is due to him, and to apply for money to any other person, or treat with a new contractor, whose claim shall be preferred to that of the preceding one, whenever the mine begins to yield a profit.

SECTION XVI.

THOSE who, under pretence of obtaining supplies of mining operations, shall in any way misapply the capital and effects furnished to them for that purpose, shall not only be bound in their persons, and all their property, for the repayment of the same, and for all damage done, or interest due to the party, without being allowed the privilege of miners, or any other whatsoever, but shall be punished in manner suitable to the nature, heinousness, and circumstances of the offence; more particularly so, if they shall have received the advances in confidence or trust, all this being regulated by the dispositions of Section XXIX. of Chapter III.

SECTION XVII.

THE searchers, (*cateadores*) workers who are

paid by receiving part of the metal, (*buscones*) and labourers in general, and any other persons who shall offer stones and specimens, falsely pretending that the same are the produce of a mine, thereby soliciting supplies for such supposed mine, with intent to defraud and deceive the unwary, shall be punished with all the rigour of the law, according to the circustances, heinousness, and maliciousness of the offence, to be proved before the proper court, according to the provisions of Section XXIX. of Chapter III. of these Ordinances.

CHAPTER XVI.

OF THE FUND AND BANK OF SUPPLIES.

SECTION I.

WHEREAS by my above-quoted Royal Decree, of the 1st of July, 1776, I was pleased to relieve the body of miners of New Spain from the double duty of one real in each mark of silver, formerly paid to my Royal Treasury, under the name of Seigniorage, granting them, at the same time, the

right of imposing upon their silver the half, or two third parts, of the said contribution, for the purpose of aiding and promoting the new and respectable establishment to which these Ordinances have reference; and considering at the same time that the destination of the same, most conformable to my beneficent intentions in this respect, would be the formation of a fund for advancing supplies to the mines, the present insecure and fluctuating state of the mines in general being, for the most part, occasioned by the want of capital, with the aid of which there is no doubt they would be put in a more secure and flourishing condition, to the great advantage of my Royal Treasury and of the public. For these purposes, and keeping in view the proposition laid before me by the Royal Tribunal of the important body of the said miners, I have thought proper to decree and command, that all the silver entered in my Royal Mint in Mexico, or in any other that may be established in the Kingdom of New Spain, and all silver that shall be remitted to those in Spain on account of individuals, (and which must at all times have been at first assayed, and the fifth part deducted) shall henceforward pay two thirds of a real (*probably per mark*) towards the formation, preservation, and increase of a fund for the mines, and that no Mine-owner whatever shall be exempted from such contribution, not even those to

whom for any just cause I may have granted, or may in future grant, a remission or diminution of the duties on metal, which appertain to my Royal Treasury.

SECTION II.

THE management, collection, and custody of the monies to be raised in this manner, shall be always at the disposal, and under the controul, of the said important body of miners, to whom they belong, by means of their Royal Tribunal General in Mexico, which represents them: after deducting from these monies whatever may be necessary for the support of the said Royal Tribunal, and of the college, and for the instruction of young persons intended for the mining business, of which mention will be made hereafter; and all extraordinary and particular expences which may be incurred for the common interest and advantage of the said body of Miners, all the rest, and the successive augmentations thereof, shall be entirely devoted to furnishing supplies for the working of the mines throughout the kingdoms and provinces of New Spain, a bank being established for that purpose, according to the regulations laid down in the following Sections.

SECTION IV.

FOR the management and business of the said bank, there shall be one principal factor, or more if necessary, a person of intelligence and expe-

rience in the method of supplying mines by contract, who shall be subject to and dependant upon the Royal Tribunal General of the Miners, and be appointed by them in the way of election, by a majority of votes; they also having the power to remove him at pleasure, and without being obliged to assign any reason for such removal.

SECTION V.

SUCH factor either may be paid by a per centage on the property of the bank, or by a fixed salary, or in both these ways, as may be deemed expedient by the Royal Tribunal, according to circumstances; but he must give bail and such securities for his conduct, as shall be satisfactory in the opinion of the chiefs of that Tribunal.

SECTION VI.

THE gross amount of the capital of the bank, which shall be in money, or in gold and silver bullion, shall be preserved in chests, of which there shall be four keys, which shall be in the possession and keeping of four of the principal persons belonging at the time to the Royal Tribunal; but the goods and merchandize for the supplies of the mines, and such part of the capital as shall be necessary for the current business and operations, shall be in the possession and at the disposal of the said factor, he and the said persons above-mentioned, being respectively respon-

sible for what may be entrusted to his and their care.

SECTION VII.

The Royal Tribunal General of Miners shall cause to be made out in the factory every year, in the month of December, an account of the contents of the warehouses and stores, and a cash account and balance; two of the said principal persons of the Tribunal assisting at such operations; and moreover, they shall take the accounts of the factor without prejudice to their right of inspecting the said accounts at other times, whenever they shall think it proper and prudent to do so.

SECTION VIII.

The Royal Tribunal shall keep an account and correspondence with the Mine-owners, who have their supplies by contract from the bank, and shall receive and reply to their letters, and give the necessary orders to the factor for these purposes.

SECTION IX.

For carrying on the business of the factory there shall be such writing clerks engaged as the factor shall think proper, he having the power of proposing them; but they are to be appointed, and their salaries are to be fixed, by the Royal Tribunal, and they are to be paid by the bank; and the factor is to have the power of dismissing

them, on giving verbal notice thereof to the Royal Tribunal.

SECTION X.

THE factor shall receive all silver which is remitted by Mine-owners contracting for their supplies with the bank, and shall exchange it for coined money at the mint in Mexico, paying in the first instance into the principal treasury all duties on the metals which may not have been paid in the provincial treasuries; with this understanding, however, that, before it is remitted to Mexico, the said mine-owners shall make declaration at the treasuries, or marking offices, in their respective districts, of the quantity of silver intended to be remitted without paying the duties on metals, and shall take out the proper permits for its removal, under an obligation to make a return afterwards to the said treasuries, shewing that the said duties have been paid, so that all frauds may be avoided, and the necessary quicksilver properly purified, under the penalty of confiscation of all that shall be sent in any other manner, and of incurring the punishments imposed by law upon defrauders of my Royal rights; and the officers in the districts shall give notice to those in Mexico, in order that the latter may take care that the provisions of this present Section be complied with.

SECTION XI.

THE said factor shall pay the interest (*réditos*) on the capital received at the bank, the salaries of persons employed, and all other sums whatsoever, upon warrants from the Royal Tribunal, by means of which, and the corresponding receipts, he shall make out and justify his accounts; but for the purpose of remitting supplies, whether in money or in effects, to persons with whom an account current is kept, no particular warrants shall be necessary, but it shall be sufficient for him to act under the general orders of the said Tribunal, given conformably to Section VIII. of this present Chapter, as to whatsoever shall be at his disposal, according to Section VI. of the same.

SECTION XII.

IT shall be the duty of the factor to buy the goods and merchandize necessary for the supplies of the mines, according to the best of his judgment, and agreeably to the orders of the Royal Tribunal, entering them in a separate book, and preserving the invoices.

SECTION XIII.

ALL goods delivered on account of the bank in the way of supplies to Mine-owners, must be of the best quality; and when in Mexico, at the current prices of Mexico; and when in the mining districts, at the current prices in those districts, if the bank shall have a warehouse or

magazine in the same, or the goods be carried thither on account of the bank.

SECTION XIV.

To qualify all proposals or demands relating to the supply of mines, the Royal Tribunal shall require the owners to produce their titles of property and possession, and such certificates, informations, and further proofs, as may be necessary to establish whatever they may have asserted concerning the actual state and condition of the mine; in order that, after the papers have been properly examined by the assessor, the required credit may be given, if the proposals appear to be fair and well founded; in which cases the Royal Tribunal is to make all necessary enquiries, both officially and secretly, with the greatest prudence and circumspection; taking, or causing to be taken, such measures, judicial or extra-judicial, as shall appear to them necessary for regulating their conduct with regard to such supplies; and all these documents are to be kept in their archives.

SECTION XV.

During the time that the funds of the bank shall be insufficient to furnish all the mines for which there shall appear to be a fair and well-grounded claim to be supplied, the claims of those Mine-owners shall be first attended to, who are most in want thereof, without any distinction of

persons, and without any preference being shewn, except on the score of the necessity and urgency of the case, the Royal Tribunal in such cases acting with that justice and impartiality which ought to be observed in all their transactions.

SECTION XVI.

When the claim is thus ascertained to be proper and admissible, the terms and conditions, under which the supplies are to be furnished, shall be settled with the Mine-owner, and before the contract is concluded, it shall be laid before the Royal Tribunal, conformably to the provisions of Chapter XV. of these Ordinances; the great bank of supplies not enjoying any privileges to the prejudice of other banks, or of individuals who supply mines; and afterwards the contract, thus approved of, shall be executed in writing before the clerk of the Tribunal, and orders shall be given for furnishing the supplies accordingly.

SECTION XVII.

In mines which are thus supplied by the bank, Interventors shall be appointed, who shall be trust-worthy persons, of good character; and they shall, jointly with the Mine-owner, receive and keep, the money and goods supplied by the bank, in cellars and chests, whereof there shall be two keys; they shall apply them in the manner they think best, and they shall be present at the payment of the wages, shall sign the accounts,

shall watch and inspect the workmen as they go into and out of the mines, and also the metals that are taken thereout, and shall be present at the reduction of the metal from the ore; and, in short, shall concern themselves in all that is done in the name of the bank, agreeably to the instructions given them, until the time when the supplies shall have been repaid.

SECTION XVIII.

THE Interventors shall not oppose any arrangements that are made by the Mine-owner or administrator, in regard to the economy and management of the labour, or any works which may have been determined on in the mine; provided, however, that in cases where considerable expence must be incurred, the Royal Tribunal shall first of all be consulted.

SECTION XIX.

THE Interventors shall not interfere in the appointment of persons employed in a subaltern situation in the mines, but they may observe the conduct of such perons, in order to represent to the Mine-owner any thing which they may think requires amendment; and if the same be not amended, they shall inform the Royal Tribunal thereof, in order that this latter body may make provision for its amendment, and may do all in its power to keep the Interventor and the Mine-owner upon good terms, acting in concert to-

gether, and uniting their services toward the advancement of the operations.

SECTION XX.

THE Interventors shall be paid weekly the salaries that are allowed them, on account of supplies; and when these shall have been repaid, their servicess shall be rewarded in proportion to the benefit which the bankers receive from them, and to the time and labour which they devoted to the cause, and their good conduct: but if, on the contrary, any fraud, concealment, or other improper practice shall appear on their part, whether to the prejudice of the bank, or to the Mine-owner, they shall be severely punished in proportion to their offences, by the proper judge, according to the provisions of Chapter III. of these Ordinances.

SECTION XXI.

In case of any competition arising between any individual and the said bank, as to the supplying of a mine, I declare that the individual contractor shall have the preference, provided, that the proposed terms of supplying the mine, are the same in both cases; and in order that the said bank may not throw any impediments in the way of a free supply of the mines, I declare also, that this kind of business shall continue to subsist as before, the bank having no other object but to remedy the scarcity of supplies, and to promote as much as possible, the flourishing condition of the mines.

CHAPTER XVII.

OF SURVEYORS FOR THE OPERATIONS OF THE MINES, AND THE REDUCTION OF THE METALS FROM ORE.

SECTION I.

In order that the mines may be worked with stability and good effect, and that the full attainment of riches they contain may be accomplished, it is desirable that their operations should be directed by persons well acquainted with the principles and rules of the natural and practical sciences, and arts connected therewith, and who understand the best means of applying such knowledge, in consequence of their own experience; for which purpose, and in order that Mine-owners may not be misled in the appointment of persons whom they shall take into their employment, accounting perhaps some persons to be well informed who may only possess a superficial knowledge, or choosing others who may be no otherwise qualified than by having resided a certain time in the mining Districts, without possessing either judgment or science, and without any claim but the recommendation of their friends; and observing how much difficulty there is in correcting such errors, be they voluntary or involuntary, all which leads the Mine-owner into placing a blind

and dangerous confidence upon important points, in persons unworthy of such confidence, and has occasioned them very serious losses: in order to guard against these evils, and that the surveyors may be worthy of public confidence in all things connected with their art, I ordain and command that in every mining district there shall be one or more intelligent persons, who are well instructed and practically acquainted with geography, subterraneous architecture, and hydraulics, and also, with mechanics, and the arts of carpenters, smiths, and masons, as far as such arts are necessary in the operations of mines, which persons are to be called Mining Professors;* and also other persons well skilled in the science of minerals, commonly called mineralogy, and in the modes of extracting metals from ore, and reducing them to a state fit for use, commonly called metallurgy, which persons are to be called Surveyors of reduction; (*Peritos Beneficialos*); and these latter, as well as the former, are to be examined, approved, and appointed by the Royal Tribunal General of Miners, and without such qualification they shall not be entitled to any credit, in causes which may arise, or otherwise, but shall be considered

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* Literally, practical Surveyors, (*Peritos Facultatioos*), but I have used the expression Mining Professor, as most consistent with the duties assigned to them.

as intruders, and shall be excluded and fined whenever they shall interfere in any thing which relates to the surveyorship of mines, although they may offer themselves as bachelors of arts, land surveyors, architects, or masters of works, or as having been administrators of mines, or as having been in any way employed in the same.

SECTION II.

THE said Mining Professors shall have in their possession the necessary and proper instruments for measuring mines, whether subterraneously or on the surface, which instruments must be always true and correct, and made according to rule, so that there may be no failure, or irregulariry in the performance of such operations; for which purpose they shall be inspected and examined at the time when the said persons are appointed, and afterwards on the occasional visits (*of the Deputies.*)

SECTION III.

THE Surveyors of reduction shall have a suitable public laboratory, provided with furnaces and machines for grinding and washing the metals, as also with the proper ingredients, utensils and correct balances and weights, and every thing that may be necessary for making assays, on a small scale, and also for reducing by smelting, or amalgamation, one, two, or three quintals of ore.

SECTION IV.

THE Mining Professors are to examine at the

proper time, and to give certificates of examination to all persons desirous of being employed as miners, or mining-captains, to direct the under-ground operations, and to persons employed in the lining of mines, and in the brick-work, and to the carpenters and smiths; and I prohibit all persons from exercising such offices, or from employing themselves in the quality of masters in any place, where such business shall be going on, without having the above certificates of examination, under the penalty of three months imprisonment for the first offence, and of being banished from such place for the second, which punishments are to be imposed by the respective Territorial Deputies.

SECTION V.

THE Surveyors of reduction of each mining district, shall examine, and give a certificate of approbation to all persons offering themselves as amalgamators, smelters, and refiners, without which certificate, no one shall be capable of being employed in any of these capacities, at any work, or reducing Establishment, under the penalties contained in the preceding Section; and I ordain that, all these examinations, and all others, treated of in the present Chapter, shall take place, without any fees being received thereupon, and altogether gratis.

SECTION VI.

If any person shall pass from one Mining District to another, after having been examined and approved by the proper authorities in that which he has left, there shall be no necessity for a further examination, but he shall produce his certificate, signed by the proper professor, and attested by the clerk, or in default thereof, by the Deputies of the District and two witnesses.

SECTION VII.

The said Mining Professors, and Surveyors of reduction, shall, at the time of their appointments, take a solemn oath before the Royal Tribunal, in due form, but gratis, that they will at all times, and in all cases, discharge their offices well and faithfully, to the best of their knowledge, without fraud, deceit, or any bad intention whatsoever; after which, they shall not be required upon every occasion which may arise judicially or extra-judicially to repeat the same; since, when the oath has been once administered, as above, they are ever afterwards to remain bound by it.

SECTION VIII.

The most perfect credit is to be given to the said mining Professors and Surveyors of reduction, in all matters connected with their office, but they may be objected to in case they have been appointed by the Judges; and when one has been appointed by one party in a suit, the other party

may appoint another, and the Judge elect a third in case of their disagreeing, although they need not belong to the same District; but these objections and appointments of new Professors, shall not take place where there is reason to suspect that they originate in fraud or malice, or a wish to delay the determination of the cause.

SECTION IX.

THE Mining Professors and Surveyors of reduction, shall be present at all the visits (of the Deputies) to the Mines and Establishments, and shall observe and comply with every thing that is laid down in these Ordinances, and shall give their assistance in all cases properly belonging to their business, in which it may be required by the Judges and Deputations; taking, on account thereof, such fees as shall be settled by a proper table of fees, which fees shall be proposed by the Territorial Deputations to the Royal Tribunal General; and when that body shall have gained information upon the subject, and consulted with the Viceroy thereupon, the said Viceroy, shall, by means of such information, resolve and determine what fees are to be received, and without this previous authority the taking of fees shall not be carried into effect.

SECTION X.

IN the interval that must elapse before the College for the education and instruction of young

persons intended for the business of metallurgy, mineralogy, and other sciences necessary in the operations of mining, (the establishment of which college will be treated of in the next Chapter), shall supply a number of persons properly qualified, according to the provisions of the preceding Section, to fulfil the object of these Ordinances, I command that all persons at present employed in the operations of measuring mines, projecting shafts, and pits, and other important works, connected with the operations of the mines, whether appointed from having the name of land surveyors and measurers of mines, or from having been highly esteemed in the Mining Districts for their practical knowledge, shall present themselves before the Royal Tribunal General, in order to be examined, and to obtain the certificate of examination, without any fees being required, (as is provided by Section v. of this Chapter), and to exhibit the instruments which they use, in order that they may be examined and approved of; and in default thereof, they shall not be entitled to any credit either in causes which may arise, or otherwise; and if in any works directed by them any mischief should happen, the Mine-owner or Administrator who has employed them, shall not be excused from the responsibilities and penalties imposed by these Ordinances, and by the laws in general, upon all persons acting without the

authority of surveyors, in cases where surveyors are required.

SECTION XI.

ALL persons to be appointed Mining Professors, or Surveyors of reduction must be either Spaniards, Mestizos derived from them, or noble Indians of known birth, parentage and education, and of good life and manners; under which circumstances these employments are always to be accounted honourable and meritorious, and persons who have served in them with fidelity, shall enjoy all the privileges of miners, and shall be eligible to higher occupations either in the mines or otherwise, having their seat in the public sittings next to the Judge and Deputies of the District, in the order of the seniority of their appointments, and without any distinction being made between the Mining Professors and the Surveyors of reduction, who are to be treated with like and equal honours and distinctions.

CHAPTER XVIII.

OF THE EDUCATION AND INSTRUCTION OF YOUNG PERSONS INTENDED FOR THE MINING BUSINESS, AND FOR THE ENCOURAGEMENT OF THEIR INGENUITY.

SECTION I.

To the end that there may never be wanting a supply of persons of good education, and instructed in all the learning necessary for carrying on the operations of the mines, and that what has been hitherto acquired by long and painful experience, in the course of many centuries, being the result as well of the progress of the different Mining Countries, as of the individual skill and industry of the American Miners, may be preserved in a more certain and effectual manner, than by mere tradition, which is usually scarce and fallacious; I will and ordain that the College and Schools of Miners, which have been proposed to me for these purposes by the Deputies General of the said important body of Miners, shall be erected and established, or, if already established, that they shall be maintained and supported in the form and manner contained in the following Sections.

SECTION II.

THERE shall be for the present maintained, and provided with board and clothing in a suitable manner, twenty-five children, either Spaniards or noble Indians of legitimate birth, the near relations, or descendants of Miners, having always a preference in such appointments, and particularly those whose ancestors have resided in the Mining Districts.

SECTION III.

I GRANT besides free entrance into the Schools, and gratuitous instruction therein, to all children whose fathers or tutors may wish to bring them up to the mining business, such children being sent every day from their homes to attend the lessons; and I further command that all children of the above mentioned quality and birth shall be admitted to live in the College as pupils, upon paying the expences of their maintenance while they are in the College.

SECTION IV.

THE necessary secular professors are to be appointed at the said College with proper salaries, for the purpose of teaching the mathematics and experimental physics, which are conducive to the carrying on and advancement of mining operations.

SECTION V.

THERE shall also be appointed masters in such

parts of mechanics as are necessary for the preparing and working of timber, metals, stones, and other materials used in the construction of buildings machines, and instruments for carrying on the operations of the mines, and the reduction of the metals, and there shall also be a master of the arts of drawing and designing.

SECTION VI.

THE said College is to bear the Title of "The Royal Seminary of Miners," and two secular Priests of mature age are to reside in it, one as Chaplain-rector, the other as Vice-rector, who are to superintend the religious and political education of the children, to see that they devote a due proportion of their time to these purposes, and to say Mass to them every day in the year.

SECTION VII.

THE immediate controul and direction of the said Royal Seminary shall be entrusted to the Director General of Miners, to whom I grant the privilege of proposing to the Royal Tribunal the proper persons to be appointed to the professorships, and to other employments; and also the nomination of the children who are to be admitted as collegians, (*colegiales de ereccion*), or pensioners, supposing them to possess the necessary qualifications; and he shall also, after hearing the opinions of the respective masters of the

college, propose the arts and sciences proper to be taught therein, and the method to be pursued in teaching them, so that the Royal Tribunal may be able to determine upon what is most proper; and it shall also be entrusted to the said Director to observe and take care that all persons employed in the college fulfil the duties of their situation, and to form particular rules for the government in detail of the said college, which he shall also lay before the Royal Tribunal, by them to be submitted to the Viceroy, who after obtaining the necessary information on the subject, shall lay them before me for my Royal approbation, having obtained which the said regulations shall be observed and carried into effect, with exactness and punctuality.

SECTION VIII.

THE expences of erecting, preserving, and supporting the said Royal Seminary, shall be defrayed out of the general fund of Miners, according to the provisions of Section III. of Chapter XVI. of these Ordinances.

SECTION IX.

THE said Seminary shall be under my Royal protection, and immediately subject to and dependant upon the Royal Tribunal General of Miners, in all its concerns and appurtenances.

SECTION X.

FOR the election and appointment of master

professors of the sciences, which are to be taught in the schools of the college, there shall be issued, at a certain fixed time and place, letters of convocation; and to those who present themselves for the appointments certain problems in the respective sciences shall be delivered by lot, which they are to return with their solutions within three days, on condition, however, that before the delivery of problems to such persons, the director shall have presented to the Royal Tribunal the solutions of each of them separately folded and sealed up, which are not to be opened till each candidate shall have delivered in his solution; when a due comparison shall be made between the sealed solutions and the solutions of the candidates respectively, and on the day when all this takes place, the candidate shall hold a public sitting of two hours, lecturing upon such points as the Director shall propose to him at the moment, in the presence of the Royal Tribunal, and its secretary, who shall attest all that has been done (*acto*) upon this occasion, and enter it in his register.

SECTION XI.

After the conclusion of the said public act, the Director shall propose three of the Candidates for each professorship, one of whom shall be elected by the Royal Tribunal by secret ballot, and in case of a difficulty arising, by there being

an equal number of votes, (for any two or three of them), he who was first proposed shall have the election.

SECTION XII.

THE said master Professors of the College, besides lecturing every day theoretically and practically, shall be each of them obliged to deliver, once in every six months, a treatise or dissertation upon some useful subject connected with the mining business, and the sciences relating thereto; which dissertations shall be read to the Royal Tribunal, and preserved in their archives, in order to be printed and published at a convenient opportunity.

SECTION XIII.

THE Collegians and Students of the Seminary shall every year hold public exercises in the presence of the Royal Tribunal, in order that, having shewn the progress they have respectively made, they may be rewarded and distinguished according to their merit.

SECTION XIV.

THE above-mentioned young persons, when they have concluded their studies, shall go for three years to assist in the Mining Districts, and to practice the several operations under the Mining Professor, or the Surveyors of reduction, of that district to which they are attached, in order that, having received a certificate signed by

such Professors or Surveyors, and by the Territorial Deputies, they may be examined before the Royal Tribunal, as well in theoretical as in practical knowledge, and on being approved of by the same, shall receive their diploma (*titulo*), without paying any fees whatever; and they may be then appointed Mining Professors, or Surveyors of reduction, of the Mining Districts, or Interventors, where the supplies are furnished by the bank, or to any other suitable situation.

SECTION XV.

In order, more effectually, to advance the cause of instruction and improvement in the several important objects of the said College, and in the manner most useful to the mines; I ordain and command that, the Mine-owners and Mine-suppliers who bring their silver to Mexico, shall be obliged to deliver to the said College, specimens of their ores, in sufficient quantities to admit of their quality and properties being examined, and of the most advantageous method of reduction thereof being ascertained, in order that, the Royal Tribunal, judging by the result of these experiments, may determine what will be most conducive to the improvements which are the object of the present arrangements.

SECTION XVI.

Considering that industry and ingenuity will make the most common productions of nature use-

ful to man, and that, on the other hand, without them, the great advantages and profits expected from productions naturally rich and abundant, are often altogether defeated; I ordain and command that industry and ingenuity in the mining business, which is of such vast importance therein, be excited, encouraged, and supported, with all possible activity, intelligence, and discretion; and that, particular care and attention be bestowed in observing the use and effects of the machinery, and the operations and methods at present employed in the application of it; in order, that whatsoever is really useful and complete in its kind, may be preserved in full perfection, without being gradually lost or depreciated, as often happens in such cases; and that, whatsoever, by comparison with better and more complete methods, shall appear capable of reform, may be brought into practice with the greatest degree of perfection and efficacy, without either suffering ancient prejudices founded on ignorance and caprice, to obstruct the progress of ingenuity, or ill-founded innovations, to disturb what is good and perfect in its present state.

SECTION XVII.

All persons who shall invent or propose any kind of machines, engines, expedients, operations, or methods, for facilitating the working of the mines, which shall produce any advantage, how-

ever small the same may at first appear, shall have a fair hearing and attention; and if, on account of their poverty, they are unable to make the experiments requisite for exhibiting their inventions, the expense thereof, as well as the construction of the necessary machines, shall be defrayed out of the general fund of the Miners, provided that they shall demonstate and calculate the effects of such projects; and that, the Director General of Miners, and the Professor of the College, shall approve the same, and consider them capable of being carried into effect: but ill-founded projects, arising out of erroneous principles, or want of practical knowledge, and from which the deluded authors are easily led to expect vast and imaginary profits, shall be rejected as useless and contemptible; and if, the authors of such projects shall renew their applications, they shall receive no attention, unless they make the experiments at their own expense, and establish themselves the utility of their inventions; and in all cases, the papers relating to such inventions shall remain in the archives of the Royal Tribunal, in order to be referred to, if necessary.

SECTION XVIII.

ALL useful and approved inventions, which, after being established and put in practice generally for the space of more than one year, shall be found to succeed, are to be rewarded with a

patent (*privilegio exclusivo*), to continue for the life of the author, in order, that no one may make use of his invention, without his consent, and without allowing him a reasonable share of the profits, actually derived from the use of such invention.

SECTION XIX.

WHOEVER from his own experience, study, and observation, or from having travelled in other countries, shall offer for adoption any machine, expedient, or mode, employed in other countries, or in former times; and the same on examination and experience be approved of in the manner laid down by Section XVII. of this Chapter, he shall be considered and rewarded in the same manner as if he had been the actual inventor; since, although his ingenuity may be less, his merit and trouble may perhaps have been greater, and the public advantage will be exactly the same, whether such mode result from an invention absolutely new, or from the introduction and application of a practice never before adopted in the place where it may be proposed.

CHAPTER XIX.

OF THE PRIVILEGES OF THE MINERS.

SECTION I.

ALTHOUGH the regulations laid down in these Ordinances for the discipline, economy, and method of working, which are to be adopted in the mines of New Spain, are calculated to diminish considerably the dangers and difficulties which have hitherto occurred in carrying on this most important business, rendering by their powerful co-operation the riches of the mines more accessible, and the lawful modes of acquiring them less hazardous; nevertheless, considering the difficulties and uncertainties which usually attend operations of this kind, and that their precious produce is the especial grant and favour of Providence to my dominions in Spanish America, and is the chief source of the prosperity of my subjects, the support of my Treasury, and the spring and moving power of the commerce of all my dominions, and to a great degree of that of the whole world; I have therefore granted and do grant to those persons who apply themselves to

to the working of the mines of New Spain, all the favours and privileges which have been granted to the Miners of Castille and Peru, in all respects in which they are capable of being adapted to the local circumstances of Spanish America; and are not at variance with any thing established by these Ordinances.

SECTION II.

MOREOVER, I award to the scientific profession of mining, the privilege of nobility, to the end that all persons who devote themselves to that important study and occupation, may be esteemed and treated with all the distinctions which are due to so honourable an employment.

SECTION III.

MINE-OWNERS shall not be liable to be arrested for debts, neither shall the administrators, superintendants, (*veladores*), keepers of tallies, (*rayadores*), nor other persons, serving in the mines or establishments be so liable, provided that each of these persons in every such case remain in confinement within the mine or establishment to which he belongs, with an obligation upon his master to apply the third part of his salary or dues to the payment of his debts, as long as he remains in the service of such mine or establishment, and if he quits the same without engaging himself in any other mine or establishment, then he may be imprisoned.

SECTION IV.

If a sequestration be laid on the Mines or Establishments of any proprietor, in the interval during which the silver extracted therefrom is being applied in satisfaction of the debt, he shall only receive out of the produce what is absolutely requisite for his support, according to the circumstances of his family and condition; but always with a view to this circumstance, that the situation of the creditor be not prejudiced, instead of amended, by the sequestration.

SECTION V.

If an execution be levied upon the other property of a Mine-owner, there shall always be reserved to him, a horse, with bridle and saddle, a baggage mule, his arms, bed, and the clothes commonly used by himself, his wife and children, and absolutely necessary to their decent appearance; but all costly dresses, ornaments, jewels, or trinkets may be seized under the execution.

SECTION VI.

The Royal Tribunal of Miners shall inform me, through the Viceroy, of all deserving persons belonging to the Mining profession, especially of such as may have quitted it on account of having consumed their capital therein, or of being too old or infirm to pursue it; pointing out also such of them as the Tribunal may consider to be the most deserving of my Royal favor, in order to their

being appointed to the offices of judges in the Mining Districts or Establishments, if that should appear expedient; as well for the purpose of rewarding them according to their merits, as of filling the said offices with practical and intelligent persons, such as the law requires.

SECTION VII.

CHILDREN and descendants (*hijos y nietos*) of Mine-owners, and Mine-suppliers, who have been extensively concerned in the Mines, deserve also particular consideration; and for that purpose the Royal Tribunal shall also inform me, through the Viceroy, of the merits of their ancestors; in order that my Royal favor may appoint them to civil, military, and ecclesiastical appointments in America, if I shall think proper to do so.

SECTION VIII.

I DECLARE that Mine-owners and Administrators shall not be prevented, or in any way impeded by their said employments, from obtaining and serving the offices of magistrates and governors, (*justitia y regidores*), of the cities, towns, and places of the Mining Districts, or of any others; but they are not compellable to accept such offices, nor to be fined for declining the same, during the time of their employment in the Mines, if they desire to excuse themselves on that account.

SECTION IX.

IN the allotment of ground for the purpose of

building houses, in renting such as may be already built, and in providing themselves in the squares and market-places of the Mining villages, towns, and districts, not only with the articles necessary for the Mines and Establishments, but also with the supplies and provisions which may be wanted for their homes and families, the Miners are to be preferred to other persons, and to be treated with that respect which is due to their important profession: and I grant them the liberty of hunting and fishing in the mountains, forests, and rivers, of cutting wood, and making charcoal, and of pasturing their cattle in the grazing places and watering places, *(exidos y aguages)*, in the same manner as any other inhabitant is permitted so to do, supposing such mountains, forests, rivers, grazing places and watering places, to be public property; for in all such as are private they must pay the proper dues, as before enacted: and, finally, they are to enjoy all the customs and privileges enjoyed by the inhabitants of any Mine-town, although they (the Miners) may not reside therein; provided only that, in order to entitle them to these privileges, their Mines or Reducing Establishments be situated in the same district as such Mine-town.

SECTION X.

THE excessive profusion of Miners in the employment of their capital, and their extreme im-

prudence, and irregularity, whereby themselves and their families are speedily reduced to distress, and their capital is diverted from the operations of Mining into other channels, being as notorious as they are destructive; I will, and ordain, that the Judges and Deputies of the Mine-towns and Districts shall advise thereupon, and in cases of necessity, expostulate with the Miners, particularly with those who are in prosperous circumstances, cautioning them against extravagant expense or idle profusion; and if this should be found insufficient, then that they shall make a report to the Royal Tribunal General of Miners, in order that the latter, after satisfying themselves of the reprehensible conduct of the Miner, concerning whom such report is made, may appoint a person to watch over his interests *(curador)*, or in some other manner, provide for the preservation of his property, as in the case of an incorrigible spendthrift.

SECTION XI.

In order to avoid the evil and injury, spiritual as well as temporal, occasioned by games of stake (*envite*), and hazard, and even by those which are permitted, when carried to excess, and also by other public diversions and festivities; I prohibit most rigorously, in all Mine-towns and Districts, among masters as well as workmen, all those games at cards which have been before

prohibited by Royal Edicts and Decrees, and also all playing at those games which are permitted, for a larger stake than is compatible with fair and moderate relaxation and amusement. And with equal rigour, I prohibit all playing at dice or tabas, and also cock fighting, and all other shameful diversions; since they not only occasion the loss of time which might otherwise be devoted to labour, but lead to vast loss of property, and sometimes even to outrages and murders. Wherefore, I strictly enjoin the Judges and Deputies of all Mine-towns and Districts, to enforce with the utmost vigilance, the provisions of this present Section, on pain of being themselves wholly responsible for the neglect of the same, and of being liable to the penalties imposed by the said Royal Edicts and Decrees against all transgressors.

SECTION XII.

THE Royal Tribunal General of Miners, shall observe, and carry into effect, whatsoever is contained in the present Ordinances, and shall cause them to be observed and fulfilled by all the subalterns, dependents, and inferior persons of their body, each in his particular department, without any injurious evasions which might alter and corrupt their true spirit and intent, maintaining them always in their full vigour, and causing others to do the like. And the Territorial

Deputations of Miners shall also observe, and carry into effect, whatsoever relates to them in these Ordinances, and shall cause them to be observed and executed with the utmost punctuality and correctness; and they shall not, any more than the Royal Tribunal General, act, or permit others to act, in contravention of their real tenour and meaning, in any manner whatsoever; and I only allow, in case of any point arising, which is not comprehended herein, or provided for in the Royal Orders which I have issued upon this subject, that both the one and the other (the Royal Tribunal General and the Deputations) should regulate themselves, in the decisions thereof, according to the form and practice of the Consulates of Commerce of my European and Spanish Dominions, as far as the same shall be practicable in such cases; but all doubts which may at any time arise, as to the true meaning of any one or more of the Sections of these Ordinances, shall be proposed by the Royal Tribunal General to the Viceroy, in order, that he, after obtaining the necessary information thereupon, may transmit them to me for my Royal determination.

SECTION XIII.

Finally,—I order and command, the Governor and persons composing my supreme Council and Chamber of the Indies, the Royal Audiencies and Tribunals of New Spain, the Viceroy thereof, the

Captains and Commandants General, the Governors, Intendants, Ministers, Judges, and all other persons whatsoever whom these enactments may in any degree concern, to conform themselves precisely to these Ordinances, observing and fulfilling them, each in his respective department, with the most rigid exactness; regarding their contents, as positive and perpetual Laws and Statutes, and maintaining them, and causing them to be maintained inviolably, notwithstanding any other laws, ordinances, observances, customs, or practices, which might militate against them; since, if any such there be, I revoke them expressly, and declare, that they shall be of no effect, prohibiting, as I do hereby prohibit, that they (the present Ordinances) should be explained or interpreted in any manner whatever, since it is my will, that they shall be understood literally, as they are written. And, in like manner, I most strictly enjoin all Tribunals, Magistrates, and Courts, comprehended in this and the preceding Section, to give their most effectual aid and assistance to the provisions and enactments of these my Royal Ordinances; preventing, as far as it is possible, all kinds of disputes and contentions, which will always incur my Royal displeasure, as being prejudicial to the administration of justice, and to the good government, tranquillity, and happiness of the important body of Miners of those my

Dominions; for which purpose, I have commanded the dispatch of this present Decree *(cédula)*, signed by my Royal hand, sealed with my private seal, and and countersigned by my underwritten Secretary of State, and of the general Department of the Indies, and which shall be entered in the General Office for the dispatch of the affairs of the Indies, and in the several offices in New Spain, which it may concern. Done at Aranjeuz, the twenty-second day of May, in the year one thousand seven hundred and eighty-three.

I, THE KING.

JOSEPH DE GALVEZ.

Entered in the General Office of the Indies, Madrid, the twenty-fifth day of May, in the year one thousand seven hundred and eighty-three.

D. FRANCISCO MACHADO,
A true Copy.

JOSEPH DE GALVEZ.

ERRATA.

For Section XXVIII. Chap. III. page 47, *read the following:—*

In causes and suits relating to Mines, an extension of the whole term may be granted; but be it understood that this utmost term allowed by the law, shall not take place, except on behalf of certain privileged persons, in which cases half of the original term may be granted.*

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* *Termino cumplido* is a law expression. To illustrate this Section, which, translated literally, would be quite unintelligible, and which, as translated above, is not sufficiently clear; suppose a person denouncing a mine, eighty days are allowed for fulfilling certain duties on the part of the denouncer; if, at the expiration of the eighty days, these duties have not been fulfilled, generally speaking, the claim of such denouncer is forfeited; but on behalf of certain persons privileged by the law, as widows or orphans, an additional period of forty days, being half the original term, may be allowed.

Note at page 139.

Refaccion.—This word imports that the supplies advanced by the first suppliers being exhausted, and the Mine hitherto unproductive, a contract is made with a second set of suppliers, whose inducement to advance their money is, that their claims shall be preferred to those of the former suppliers, as soon as the Mine shall become productive; in which arrangement the former suppliers acquiesce, in the hope of thus restoring the Mine to such a state of profitable working, as that ultimately all their demands may be satisfied. What the three qualities of refaccion here alluded to are, does not distinctly appear: if they are to be inferred from the present Section, I would offer, as a conjecture, that they may be—"That the whole capital advanced shall be exhausted,"—"that the said creditors shall be those who have last advanced supplies to the Mine,"—and "that the machinery connected with the Mine or Establishment, shall have been erected out of such last advanced supplies."

APPENDIX.

No. I.

THE Royal Ordinances for the direction, regulation, and government of the Mines of New Spain, are recognized by the present government of that country, as the laws of its Mines, and continue to be in force there at this moment, with the modification introduced by the law of the Congress of October, 1823, relating to foreigners.

VICTE. DE ROCAFUERTE,
Chargé d'Affaires for Mexico.

7th June, 1825.

The Ordinances of the Mines of Mexico are the laws now in force for the government of the Mines of Chili. They were also formerly established in Peru, having been introduced there by the authority of a Royal decree *(cedula.)*

MARIANO DE EGAÑA,
Minister for Chili.

6th June, 1825.

No. II.

Helms, octavo edition, 1806, page 45, in relation to the Mines of Potosi :—

"They had no proper machinery. The pits became filled with water. We found good red and other silver ores, which, by proper management, might yield the proprietors a considerable quantity of metal; but it would be still more to their advantage, if they employed skilful men to erect machinery, for the purpose of clearing the bottom of the Mines from water: still greater, if possible, was the ignorance of the directors of the smelting-houses and refining works at Potosi; by their method of amalgamation they were scarcely able to gain two-thirds of the silver contained in the Paco-ore (the rude ore); and for every mark of pure silver gained, destroyed one, and frequently two, marks of quicksilver. Indeed, all the operations of the Mines at Potosi, the stamping, sifting, washing, quickening, and roasting the ore, are conducted in so slovenly, wasteful, and unscientific a manner, that, to compare the excellent method of amalgamation practised in Europe, with the barbarous process used by these Indians and Spaniards, would be an insult to the understanding of my readers."

Page 49—Speaking of the same Mines :—

"As soon as the water in the pits can be got under, the Mines of Potosi will be in a more flourishing condition than ever."

Page 86—Speaking of the Peruvian Mines generally :—

"The scarcity of money caused an almost total stoppage in the working of the Mines, and it seemed as if this source of wealth in Peru would be wholly dried up."

Page 87:—

"Government depresses the Mine-proprietors by vexatious processes and chicanery, and by executions on the slightest refusal. The sub-delegates, or judges in the Mining Districts, are more especially the greatest villains, who enrich themselves by unjust acts of tyranny; while the Viceroy, who resides in the capital, gives himself little trouble about the oppressions under which the people groan."

Page 89—Speaking of the mode of furnishing materials:—

"I soon discovered that the Governor had no other end in view but his own profit, I protested against these proceedings, and began to make my own bricks, which cost no more than *half a piastre* per hundred, though the Governor's workmen had charged *twenty-five piastres* for the same quantity."

Page 102—

"Almost all the Mines in Peru were first opened by deserters from the army and navy, and other vagabonds, and continued to be worked without observance of the Mine-laws and regulations, as if merely for the sake of plunder, and most of them are even at present in this wretched condition."

From Humboldt the following extracts may be sufficient for our purpose.—Vol. III. p. 219, Mr. Black's translation. He is speaking of the mode of drawing off the water:—

"It is surprising that they never thought of substituting to this wretched plan of drawing off the water by bags, proper pump apparatus, put in motion by horse baritels, by hydraulical wheels, or by machines moved by a column of water."

Page 222—Speaking of the great Mines of Moran:—

"The Mines of Moran, formerly of great celebrity, have been abandoned for forty years on account of the abundance of water, which they could not draw off. In this district of Mines, which is in the vicinity of that of Real del Monte, near the mouth of the great level Biscaina, there was placed in 1801, a machine, à colonne d'eau, of which the cylinder is 26 centimetres in height, and 16 in diameter. This machine, the first of the kind ever constructed in America, is much superior to those of the Mines of Hungary; it was executed agreeably to the calculations and plans of M. del Rio, professor of mineralogy in Mexico, who has visited the most celebrated Mines of Europe, and who possesses at once the most solid and various acquisitions. The merit of the execution is due to M. La Chaussée, a Brabant artist of great talents, who has also fitted up for the School of Miners of Mexico, a very remarkable collection of models, for the use of students of mechanics and hydrodynamics. It is to be regretted that this fine machine, in which the regulator of the suckers is put in motion, by a particular mechanism, was placed in a situation where there is great difficulty in procuring a sufficiency of water to keep it going. When I was at Moran, the pumps could only work three hours a day; the construction of the machine and the aqueduct cost eighty

thousand piastres, they did not at first calculate on more than half of the expence, and they imagined the mass of water to be very considerable, but the year in which the water was measured, being exceedingly rainy, it was believed to be much more abundant, than it really was. It is to be hoped that the new canal which was going on in 1803, and which will be five thousand metres in length, will remedy this want of water, and that the vein of Moran, (hor. $9\frac{1}{8}$, inclined 84° to the north-east), will be found as rich at great depths, as the share-holders of the Mine suppose. M. del Rio on my arrival in New Spain had no other view, but that of proving to the Mexican Miners, the effect of machines of this nature, and the possibility of constructing them in the country. This object bas been in part attained; and it will be much more evidently attained when such a machine shall be placed in the Mine of Rayas, at Guanaxuato, in that of the Count de Regla, at Real del Monte, or in those of Bolanos, where M. Sonneschmidt, counted nearly four thousand horses and mules employed in moving the baritels."

Page 234—Speaking of the method of blasting with powder:—

"The holes for the reception of the cartridges, are generally too deep, and the Miners are not sufficiently careful in diminishing the mass of the rock intended to yield to the explosion, a great waste of powder is consequently occasioned by these defects. The Mine of Valenciana consumed from 1794 to 1802, powder to the amount of six hundred and seventy three thousand, six hundred and seventy six piastres, and the Mines of New Spain annually require from twelve to fourteen thousand quintals. It is probable that two thirds of this quantity is uselessly employed. At Chapollepic, near Mexico, and in the Mine of Rayas, near Guanaxuato, some experiments have been made of the method of blasting proposed by

M. Bader; a method by which a certain volume of air must be left between the powder and the wad. Although these experiments have proved the great advantages of the new method, the old has still continued to prevail, on account of the small degree of interest taken by the Master Miners in reforming the abuses, and perfecting the art of Mining."

Page 237—

"The greatest fault observable in the Mines of New Spain, and which renders the working of them extremely expensive, is the want of communication between the different works, they resemble ill-constructed buildings, where to pass from one adjoining room to another, we must go round the whole house: this Mine of Valenciana is very justly admired on account of its wealth, the magnificence of its walling, and the facility with which it is entered by spacious and commodious stairs, but yet it exhibits only a union of small works, too irregular to merit the appellation of gradual works, *(ouvrages à gradins)*, they are, as it were, sacks with only one opening at the top, and without any lateral communication; I mention this Mine, not because it is more faulty than the others in the distribution of its labours, but, because it ought naturally to be better organized. As subterraneous geometry has been entirely neglected in Mexico, till the establishment of the School of Mines, there is no plan in existence of the works already executed.

Page 240—Speaking of the severe and expensive mode of transporting the metal upon the shoulders of the Indian tenateros, who are used like beasts of burden for the purpose, he says,—

"These enormous expences of transportation, would be perhaps, *diminished more than two thirds*, if the works communicated with one another by interior shafts, or by galleries adapted for conveyance by wheelbarrows and dogs."

Page 241—

"The smelting and amalgamation works of Guanaxuato, and Real del Monte, are so placed, that two navigable galleries with their openings, near Marfil and Omitlan, might serve for the carriage of ores, and render every sort of draught above the level of the galleries superfluous; besides, the descents from Valenciana to Guanaxuato, and from Real del Monte to Regla, are so rapid, that they would admit of the making of railways, on which waggons loaded with ores destined for amalgamation, might be easily rolled along."

Page 243—

"It is to be hoped that they will introduce at last, into the Mines of New Spain, pump apparatus, moved either by horse baritels, of a better construction, or by hydraulic wheels, or by machines á colonne d'eau. As wood is very scarce on the ridge of the Cordilleras, and coal has only yet been discovered in New Mexico, they are unfortunately precluded from employing the steam engine, the use of which would be of such service in the inundated Mines of Bolanos, as well as in those of Rayas and Mellado."

No. III.

Office of the principal Secretary of State, Mexico.

The Supreme Executive Power has directed to me the following decree:—

The Sovereign Mexican Congress has resolved and decreed,

1st. That for the present, there shall be a suspension of the Law 12, Title 10, Book 5; and of the Law 5, Title 18, Book 6, of the Collection of Castille; and also of the Law 1, Title 10, Book 8; and of the Laws comprehended in Title 27, Book 9, of the Collection of the Indies, together with the Article 1, Title 7, of the Ordinances of the Mines; which Laws enact that foreigners, in order to acquire and work Mines, on their own account, should be naturalized, or tolerated with the express permission of the Government.

2dly. This suspension only enables foreigners to contract with the owners of such mines, as are in want of capital, for supplying them with capital, in all the modes which are usual in such contracts, upon the terms that shall be most convenient to both parties, so that they may even acquire in property shares in the concerns to which they supply capital; *(hasta poder adquirir en propriedad acciones en las negociaciones que habiliten;)* such foreigners remaining liable, in all respects, to our Ordinances, concerning the working of the Mines, and the reduction of the ores, and to all the taxes and duties, subject to which the nation grants to its citizens the right of enjoying such property.

3dly. By consequence they are prohibited from registering new Mines, from denouncing those which have been deserted, and from acquiring a share in any Mine, except those to which they supply capital, under any colour or pretence whatsoever.

4thly. No alteration whatever shall take place for the present, in respect of the excise duties, and the law relating to quicksilver, which article is excepted from all duty; all others used in the Mines, remaining subject to the usual excise duties.

The Supreme Executive power are desirous that the above article should be generally understood and carried into effect, and order that it be printed, published, and circulated.

Mexico, 7th October, 1823.

FRANCISCO MANUEL SANCHEZ DE TAGLE,
Presidente,

JOSE ARCADIO DE VILLALOA,
Diputado Secretario,

MANUEL TEXADA,
Diputado Secretario, &c.

Addrest to DON LUCAS ALAMAN.

ALAMAN.

No. IV.

The Mexican Tariff, dated 1821, expressly declares, that the following articles shall be admitted into their ports, free from all duty whatsoever :—

Quicksilver.

All kinds of instruments used for scientific purposes.

All machinery used in the Mines.

The exemption of quicksilver from all duty is recognised in the 4th clause of the law of 1823. App. III. ante.

FINIS.

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2246K