

THE GOLDEN EMPIRE

Spain, Charles V, and the
Creation of America



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NEW YORK

The first time that Bartolomé de las Casas was engaged as a Dominican in controversy as to how to treat natives was in 1533, when the judges of Santo Domingo complained to the Council of the Indies that the friar had been refusing absolution to *encomenderos*. Then, the same year, Las Casas, still in his convent of Santo Domingo, protested about two slave expeditions from Puerto Plata to the South American mainland, one dispatched by Judge Zuazo (that was financed by the royal accountant, Diego Caballero) and the other by Jacome de Castellón, one of the many Genoese-Spanish sugar merchants. The supreme court supported Las Casas. Two hundred fifty or so Indians brought back from northern South America were distributed as *naborias* (servants), and afterwards, it was understood, they would be freed.

But Las Casas or no Las Casas, these slaving expeditions continued all through the 1530s along the north coast of South America. Slaving in those days was still what brought the most profit of all commercial undertakings. With the sale of Indians, the purchasing of ships, armaments, tools, and provisions for expeditions into the interior of the continent could be financed. There were already thirty-four sugar mills in Santo Domingo, whose efficient working required labor. Black slaves were thought to work harder than Indians, something especially noticeable in the hot climate. But they were not easy to secure and, where there was a shortage of Africans, Indian slaves could serve.

By then, letters between the senior Dominican thinker Fray Francisco de Vitoria and Fray Miguel de Arcos regarding the former's concern about the treatment of natives in Peru had begun to be exchanged. Erasmus himself was not silent. In 1535, his *Ecclesiastes* pointed out that those who talked of the decay of Christianity could be reminded of the great new Christian territories in Africa and Asia. He added, "What should one say of the countries hitherto unknown, which are being discovered in the Americas every day?"⁵

Vitoria, probably born about 1480, was the decisive leader in a new Thomist revival. Vitoria entered the Dominican order in 1504 and then went to the Collège de Saint Jacques in Paris. He was there for nearly eighteen years, first as a student, then as a lecturer on Aquinas's summary of theology.⁶ In 1523, he went back to Spain and was soon elected to the prime chair of theology in Salamanca, a position he held till his death in 1546. Since Vitoria published nothing, his views can be discovered only by

This was a time when churchmen were beginning to advocate seriously the cause of Indians.

In 1533, Julián Garcés, bishop of Tlaxcala, every year more Erasmian, made a remarkable announcement: The time had come, he said, to speak out against those "who have judged wrongly these poor people, those who pretend that they are incapable and claim that their incapacity is a sufficient reason to exclude them from the church . . . That is the voice of Satan . . . a voice which comes from the avaricious throats of Christians whose greed is such that, in order to slake their thirst for wealth, they insist that rational creatures made in the image of God are beasts and asses."⁴ He added that the children of some Indians spoke better Latin than the children of many Spaniards. Erudite and well-read, Garcés had once been confessor to Rodríguez de Fonseca. He had founded a hospital in Perote and had always concerned himself with the sick. His personality had evolved remarkably.

Bishop Garcés wrote to the pope asking him to take up the cause of the Indians; and at the same time, Dr. Rodríguez de Fuenleal wrote letters to protest against statements that he had heard in Mexico claiming that Indians were incapable of assimilating Christian doctrine.

reading his manuscript lecture notes. But he had an immense impact as a teacher. When he died, thirty of his students held professorships in Spain.

In 1535, Las Casas was heard complaining about what he had heard of "the Germans'" actions in Venezuela: "This is not the path, my lord"—he was writing to someone at court in Spain—"which Christ followed. This is . . . rather a Muslim practice, indeed worse than what Muhammad did."⁷ His comments perhaps reflected the attitude of the clever, benign, and beautiful Empress-Regent Isabel. After hearing that many Indians from the region of Coro, Venezuela, were being kidnapped and sold in Santo Domingo, she ordered them to be returned. However, the German controllers of the "colony" of Venezuela did nothing to put the royal order into effect. These complaints had to be judged against the impression made by the publication in 1535 of Oviedo's history, much of which gave a negative picture of the Indians' capacity.

At this moment, Pope Paul III, Alessandro Farnese, took an important stand. He was obstinate but shrewd. He was surrounded by his family and was ambitious for them. His lovely sister, Giulia, was the chief cause of his rise at the court of Alexander VI, for "it is certain that Alexander VI had given the dignity of cardinal not to him but to his sister."⁸ Paul III enjoyed the life of a Renaissance prelate, and his papacy was a time of remarkable tranquillity. Titian's painting of him shows him with two grandsons, of whom one, Ottavio, duke of Camerino, married Margaret, an illegitimate daughter of Charles V by a Dutch girl; the other became another Cardinal Alessandro Farnese.

When elected pope, Alessandro Farnese was then the oldest cardinal. Guiccardini says that "he was a man gifted with learning and, to all appearance, good morals, who had exercised his office as cardinal with greater skill than that whereby he had acquired it." He completed the Palazzo Farnese in Rome, "with the cornice of all cornices," with the help of Antonio da Sangallo. Pasquino the pamphleteer put up a notice in the Vatican: "Alms are requested for this building." He also built a palace for the popes in the garden of the friary of the Franciscans facing the Corso, now, alas, replaced by the monument to King Victor Emmanuel. His first action had been to offer Erasmus a cardinal's hat, which he declined.⁹

The pope was influenced by correspondents in the New World, by Fray Minaya but also by the bishop of Tlaxcala, Julián Garcés.

Influenced by these intelligent and humane men, Pope Paul recalled, in his bull *Sublimis Deus* of 1537, that Christ had said, "Go ye and teach all nations." Pope Paul continued: "He said all, without exception, for all are capable of receiving the doctrines of the faith. The said Indians, and all other peoples who may be discovered by Christians, are by no means to be deprived of their liberty or of their property, even though they may be outside the faith of Jesus Christ; and . . . they may, and should freely, and legitimately, enjoy their liberty and the possession of their property; nor should they be in any way enslaved; should the contrary happen, it shall be null and of no effect . . . the said Indians should be converted to the faith of Jesus Christ by preaching the word of God and by the example of good and holy living."¹⁰

This bull, despite its benevolence, infuriated the emperor Charles. He thought that it infringed his powers. But Paul's motive was benign. His subsequent bull *Altitudo divini consilii* found the Franciscans at fault when they did not administer the complete ceremony of baptism to the Indians. Henceforth, the pope declared, they should not omit the smallest parts of the ceremony except the rites of salt, the ephphatha,¹¹ the wearing of white robes, and the candles. For it was good that the Indians should be impressed by the grandeur of the ceremony.¹²

Pope Paul's interests in these matters, whatever his motives were, helped to dictate events.

In early 1540, Cardinal García de Loaisa, the long-serving president of the Council of the Indies, held a meeting in Valladolid to discuss seriously how to treat Indians. He had with him Dr. Ramírez de Fuenleal, who, as we know, had been a successful and noble president of the *audiencias* in both Santo Domingo and Mexico. He was now bishop of Tuy, a pretty city in Galicia on the riverine frontier with Portugal—about as far as anyone could be from anything to do with the Indies. Also attending were the commander Juan de Zúñiga, younger brother of the Count of Miranda, Prince Philip's *mayordomo*, and a great friend of the emperor Charles, whom he served well;¹³ the Count of Osorno (García Fernández Manrique), who had been acting president of the Council of the Indies for much of the 1530s; Licenciado Gutierre Velázquez, a kinsman of the first governor of Cuba, Diego Velázquez, and related, too, to the great chronicler Bernal Díaz; Cobos; and the eternal and corrupt bureaucrat Dr. Bernal.¹⁴ By then,

Fray Bartolomé de las Casas was again in Spain, and he sent a memorial to García de Loaisa about how to bring to an end the "vexation of the Indians," proposing the end of all *encomiendas*.

The discussion, led by García de Loaisa, lasted off and on almost two years. It began with six interesting questions put by the President, who, it will be remembered, was for many years confessor to the King: How should those who had treated Indians badly be punished? How could Indians best be instructed in Christianity? How could it be guaranteed that Indians would be well treated? Was it necessary for a Christian to take into account the welfare of slaves? What should be done to ensure that governors and other officials carried out the government's orders to be just? And how could the administration of justice be properly organized?

At that time, there were many royal orders in Spain designed to assist or, where necessary, complete plans for peaceful conversion. For example, the Franciscans had been asked to provide Las Casas with the names of Indians who had musical talent.

An equally important development was the extraordinary experiment associated with the new Franciscan house at Tlatelolco, the town that had been Tenochtitlan's immediate neighbor on the island to the north. It had been independent till the 1470s and then had been effectively absorbed by the Mexica's capital till the conquest. There had been a good deal of fighting there in 1520–21. The dedicated and meticulous Franciscan Fray Bernardino de Sahagún presided over an attempt to educate the sons of Mexica noblemen. This was the Colegio Imperial de Santa Cruz de Santiago de Tlatelolco, founded on January 6, 1536. The other Spaniards and friars from other orders who observed the founding of this institution "laughed broadly and jeered, thinking it beyond all doubt that no one could be clever enough to teach grammar to people of such small aptitude. But after we had worked with them for two or three years, they had attained such a thorough knowledge of grammar that some understood, and not only spoke and wrote Latin, they even composed heroic verses in it . . . It was I [Sahagún] who worked with these pupils for the first four years and who introduced them to the Latin language. When the laymen and [regular] clergy were convinced that the Indians were making progress, and were capable of prospering still more, they began to raise objections and to oppose the enterprise."¹⁵

This school was not comparable to Pedro de Gante's institution, which was concerned with apprenticeship. It was a center of learning comparable to the Jesuit College in Goa. It was from the beginning trilingual (Spanish, Nahuatl, and Latin). It had the support of Bishop Zumárraga. The syllabus reflected the seven liberal arts, and the teachers were enlightened Franciscans. The aim was to educate the future elite of the indigenous population in both European culture and Christian theology. Another intention behind Santa Cruz was to serve as a seminary for indigenous priests. Bishop Zumárraga wrote in 1538 that he had "sixty Indian boys already able to do Latin grammar and who know more grammar than I."¹⁶ But the indigenous priests did not, as a rule, want to become Catholic priests, because they did not wish to renounce marriage.

There were some Spaniards who were seriously perturbed by the consequences of this program of education. They argued that the case of Don Carlos Ometochtl, a Mexican condemned for seeking to revive the ancient religion, showed the risks. (Ometochtl was executed in 1540.) These Spaniards did not include Viceroy Mendoza who, on December 10, 1537, wrote to the Emperor that not only had the old indigenous lords accepted this innovation but that he, the Viceroy, had decided to reestablish—Christianized and Hispanized—the solemn ceremonies by which they, the "Tecles," became aristocrats or leaders.¹⁷ Mendoza even founded an "Order of Teclé Knights," which would regularize the method of education for these Indian *señores*.¹⁸ These new Indian aristocrats would be transformed into a new rung of the Spanish social hierarchy.

The emphasis given to conversion by the three main orders in these years was notable. The Franciscans were more concerned with linguistic and even ethnographic studies, for that is what Sahagún's great book really was (*The General History of the Things of New Spain*). It was written between the 1550s and the 1580s. The Franciscans were optimistic about the possibilities of training Indian clergy. The Dominicans were more doubtful, though they were generally more pessimistic about the capacities of Indians. The Augustinians were more concerned with building monasteries and were perhaps more competent at organizing indigenous communities, and even more interested in securing for their novices real training.¹⁹ All the same, the three orders could collaborate, and in New Spain, on the suggestion of Bishop Zumárraga, they met regularly to discuss their different experiences.

Zumárraga was a man of great interest, because at the same time as being the promoter of the College of Santa Cruz, as later of the University of Mexico, and an admirer of Thomas More, as of Erasmus, he was also a fierce opponent of indigenous religions. Several challenges were made that put Zumárraga on his mettle: not simply that of Don Carlos, earlier mentioned, but also one from Marcos Hernández Atlaucatl, judge of Tlatelolco. These were met with firmness, decision, and ruthlessness.

From this time on, there were few years that did not see some kind of publication in Spain by Las Casas. In 1542, for example, he completed his *Remedy for Existing Evils*. In this, he insisted that the pope had wished to do the Indians a favor, not do them harm, by granting them to the King of Spain. The Indians, he said, "are free and do not lose that status on becoming vassals of the King of Spain."²⁰ The same year, he completed the most famous of his works, *A Very Brief Account of the Destruction of the Indies*. Las Casas claimed that fifteen or twenty million Indians had been killed by the Spaniards. That was a vast exaggeration. Yet the book was presented to the emperor Charles and became the most famous of Las Casas's works, being translated into all the main European languages, often with horrifying illustrations. In this, he argued that the pope had had no right to give the Indies, much less Indians, to the Christian rulers. There was no justification for the numerous aggressive *entradas*: "All wars which are called conquests are and were very unjust, and are characteristic of tyrannies, not wise monarchies. All the lordships of the Indies we have usurped. For our Kings to achieve their principality in the Indies validly and correctly, that is without injustice, would necessarily require the consent of the Kings and the people concerned."²¹

Cieza de León, the best of the chroniclers of the conquest of Peru, was in rough support. "I knew from experience," he said, "that there were great cruelties and much injury done to the natives . . . All know how populous the island of Hispaniola [Santo Domingo] used to be and how, if the Christians had treated the Indians decently, and as friends, there would be many more of them there now . . . There remains no better testimony of the country having once been so peopled than the great cemeteries of the dead and the ruins of the places where they lived. In Tierra Firme [Venezuela, in the region of Coro] and Nicaragua there is not an Indian left. Benalcázar was asked how many Indians he found between Quito and Cartago . . .

'There are none.'²² Did the King ever consider abandoning the Indies? That was improbable, especially after Francisco de Vitoria had begun to insist that "Spain should not leave the Indies till they are capable of being maintained in the Catholic faith."²³ Even cities accepted that Spain had a role to fulfill.

From the middle of 1542, there ensued a string of humane regulations. Thus on May 21, 1542, a royal decree forbade "any captain or any other person to make slaves of Indians, even if they were captured in a just war. No one was to be sold at all." Then a special section of that decree condemned practices that might lead to the death of slaves "*así indios como negros*"—a very rare reference at that time to black slaves—while looking for pearls off Venezuela. The decree insisted that the life of those slaves was more important than any benefit that might be gained from the pearl fisheries.

This order clashed with the views of the noble Vitoria, who in his *Reflexiones de Indios* of that same year wrote that the capture of Indians in a just war could result in slaves. Yet also in 1542 there came the Franciscan Fray Alonso de Castro's treatise *Utrum indigenae novi orbis*,²⁴ which argued that Indians should receive higher education. He added that the Bible should become generally available to Indians, a view he shared with Bishop Zumárraga, who, in his eloquent *Conclusión exhortatoria*, had urged that the Bible should be translated into the Indian languages so that it might be studied by everyone who could read in Mexico. After all, "no one could be called a Platonist if he had not read Plato. So no one could surely be called a Christian unless he had read the doctrine of Christ."

Castro wrote his *Utrum*, incidentally, at the request of the Crown in consequence of arguments about the school at Tlatelolco.²⁵ That treatise was praised by all the prominent theologians of the day. Then Fray Luis de Carvajal commented, "It is ridiculous to admit [the Indians] to baptism and to absolution and the forgiveness of sins but not to a knowledge of the scripture."²⁶

they be treated as [vassals] of the Crown of Castile, for such they are." Indians who "until now have been enslaved against all reason and right were to be put at liberty." Indians were not "to carry heavy loads unless absolutely necessary and then only in a manner that no risk to life or health of the said Indians" may ensue.

As for *encomiendas*, those who held them without a proper title would lose them, and those who held an unreasonable number were also to lose them. Those who had been engaged in Peru in the "altercations and passions" between Pizarro and Almagro would have their *encomiendas* confiscated, as would all royal officials and churchmen (including bishops) and institutions. There would be no new *encomiendas* and, when the present *encomenderos* died, their lands would revert to the Crown. Their children would be looked after since they would be granted a sum drawn from their fathers' revenues. That was a very complicated compromise.

All Indians placed under the protection of the Crown would be well treated. "First conquistadors"—that is, those who had first been involved in the conquest of the place concerned—would be preferred in royal appointments, all new discoveries were to be made according to certain rules, no Indians were to be brought back as loot to Spain or New Spain, and the scale of tributes imposed on new Indians would be assessed by the governor. Indians living in Cuba, La Española (Santo Domingo), and San Juan (Puerto Rico) were no longer to be troubled for tribute but were to be "treated in the same way as the Spaniards living in those islands." No Indians would be forced to work except where no other solution was possible.³⁰

These laws, proclaimed in Spain in November 1542, were published in July 1543 and were received with *desasosiego* (disquiet) in New Spain. Even before they were published, they caused "a true panic."³¹

Sometime in the early part of 1542, a further series of meetings was held between Cardinal García de Loaisa and Cobos. Probably other advisers were at the meetings: for example, Granvelle, a good Latinist and linguist from Burgundy, who had become de facto chancellor of the empire, though he never had the title, and Dr. Juan de Figueroa and Dr. Antonio de Guevara, both of the Council of Castile. Dr. Ramírez de Fuenleal, with his experience in both Santo Domingo and New Spain—and, as we have seen, now as bishop of Tuy—was also called on to advise. They produced the so-called New Laws of the Indies.

These laws deserve much consideration—first, because they were just, and second, because their proclamation in Peru and Mexico, as well as elsewhere in the Spanish imperial dominions, caused a crisis, as we have seen.

The laws began with a personal statement by Charles. For years he had wanted to involve himself with greater intensity in the organization of the affairs of the Indies. Now he had settled to do so. We must assume that, though most of the rest of the text was written by Cobos and García de Loaisa, the Emperor himself made a contribution.

In the text, dated November 20, 1542, there are forty paragraphs.²⁹

Paragraphs 20 to 40 constituted the heart of the new legislation, and it was these that caused such difficulties in the empire. The Indians were declared free if they were vassals of the King, as had been specifically urged by Las Casas in *Remedy for Existing Evils*. In order to free the natives who had been enslaved against all reason, the law now would provide that the supreme courts should act summarily and with true wisdom if the masters of Indian slaves could not show that they possessed them legitimately. The supreme court was to "enquire continually into the excesses and ill treatment which are (or shall be) done to [natives] by governors or private persons . . . henceforward [and this was a passage that caused outrage throughout the empire] for no cause of war nor in any other manner can an Indian be made a slave and we desire that