



MEXICO.

FALL OF
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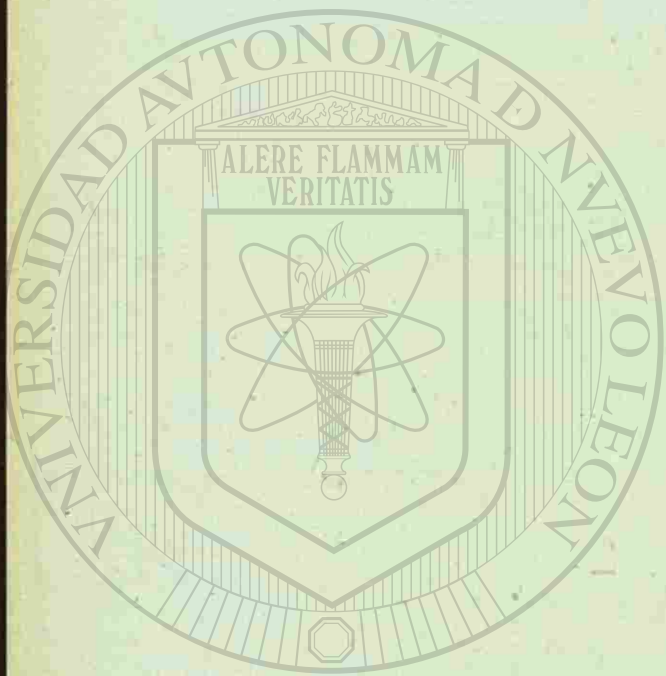
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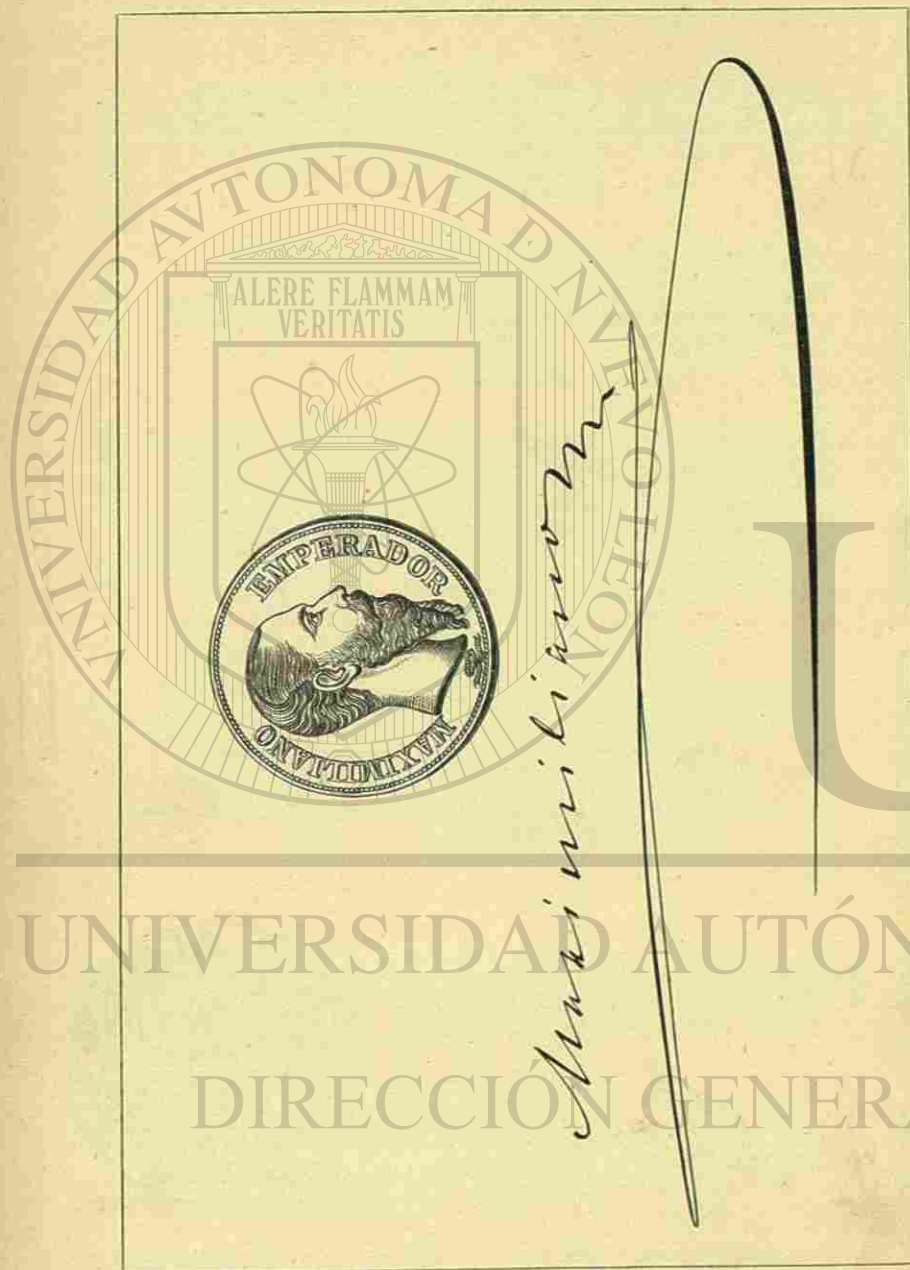
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THE FALL
OF
MAXIMILIAN,

Late Emperor of Mexico;

WITH AN HISTORICAL INTRODUCTION,
THE EVENTS IMMEDIATELY PRECEDING HIS ACCEPTANCE
OF THE CROWN,

AND A PARTICULAR DESCRIPTION OF THE

CAUSES WHICH LED TO HIS EXECUTION;

TOGETHER WITH A CORRECT REPORT OF

THE ABLE DEFENCE MADE BY HIS ADVOCATES BEFORE THE COURT-MARTIAL,
AND THEIR PERSEVERING EFFORTS ON HIS BEHALF AT THE
SEAT OF THE REPUBLICAN GOVERNMENT.

By W. HARRIS CHYNOWETH, ✓

TWENTY-FIVE YEARS RESIDENT IN MEXICO.

"La historia no tendrá un criterio uniforme para juzgar la muerte de Maximiliano."—
The Advocates' Reflections. ®

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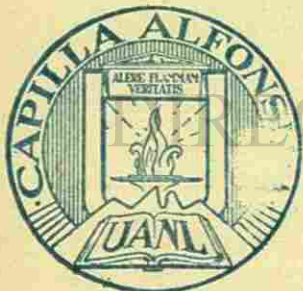
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FONDO
FERNANDO DIAZ RAMIREZ

PREFACE.

THE erroneous conceptions which prevail in Europe generally, touching the facts connected with the deplorable execution of Maximilian, late Emperor of Mexico, on the 19th of June, 1867, cannot fail to be wondered at by those who, residing in Mexico at the time, were well acquainted with the real circumstances of the case. The sensation created in England, when the intelligence was first received, that the Emperor had been "*assassinated*," must still be vividly remembered; but no relation of the particulars which led to that so-called "*assassination*" was given; nor does it appear that the main facts connected with the trial and the able defence made on that occasion have ever yet been published, either in this country or on the Continent. The communication of the important event of the Emperor's execution was of itself sufficient to fill the public mind with horror, under the conviction that he had unhappily fallen into the hands of assassins—who, in flagrant violation of every principle of law, justice, honour, and humanity, had most cruelly put him to death. This

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impression was caused by the hurried and excited remarks of the Public Press, on a nation which had been struggling for a series of years to rid herself of the evil which had been exhausting her resources, and consuming her vitality. She was just emerging from the chaos in which she had been engulfed—triumphant in crushing and exterminating the intestine war that prevented her from progressing in the scale of nations—when she was interfered with by a colossal European Power, which prided itself upon having reached the pinnacle of civilisation. This Power espoused the cause of her internal foe—a corrupted Priesthood—adverse to Liberty and Education, and, consequently, opposed to the progress of true civilisation. An attempt was made to establish a Monarchy, which signally failed, and terminated in a lamentable event.

In justice to a severely-criticised people, an effort is now made to place before the world a true and impartial statement of the circumstances which led to the sad fate of the Archduke Maximilian, sometime Emperor of Mexico.

Ambitious to occupy an exalted position—deluded by the fallacious representations of an unauthorised body of men, styled a "Committee of Notables," who pretended to represent the Mexican nation—fascinated by the support of the Emperor of the French, who recalled his protection when it was most needed—this European Prince was sacrificed through an unfortunate concurrence of circumstances.

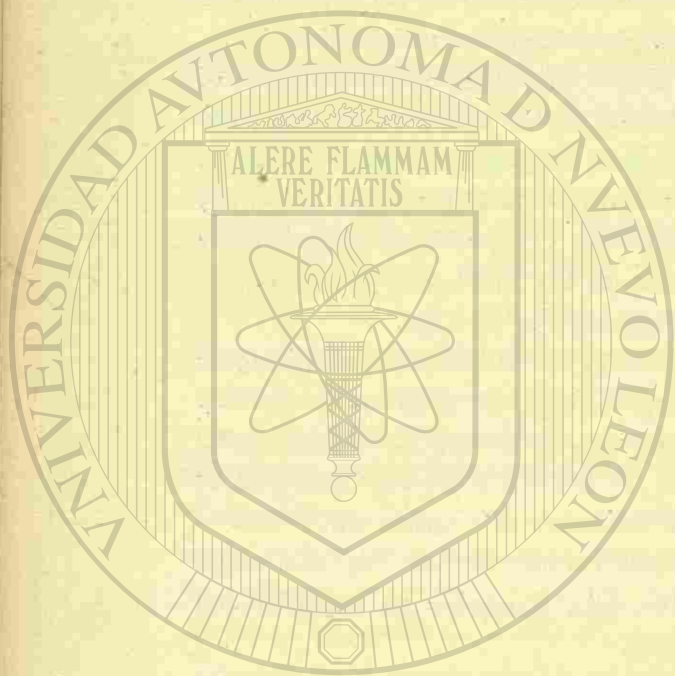
It is always easy to censure, though sometimes most ungracious to do so; but as it is not the writer's intention to make *comments* on the facts connected with this epoch in the history of Mexico, *they* alone are now submitted to the

judgment of the public without fear. A scrupulous adherence to truth is maintained in this work, the sole object of which is to give general publicity to the particulars of the events which transpired during the period referred to.

A sketch of the events precursory to the entrance of Maximilian into Mexico, and of others which transpired during his reign, comprises the principal matters of interest connected with the invasion, and the most important features of his brief career. They are here given in order to prepare the reader for the intelligent perusal of the judicial proceedings embodied in the Trial.

The address delivered by the Advocates for the Defence before the Court-martial, fairly represents the feelings of a considerable portion of the Mexican people, including the President Juarez, who, of himself, would have been glad to grant a pardon; but the voices of relatives and friends of the victims, executed as Traitors for defending their homes and the Law of the land, demanded an impartial and dispassionate judgment.

London, June 1872.



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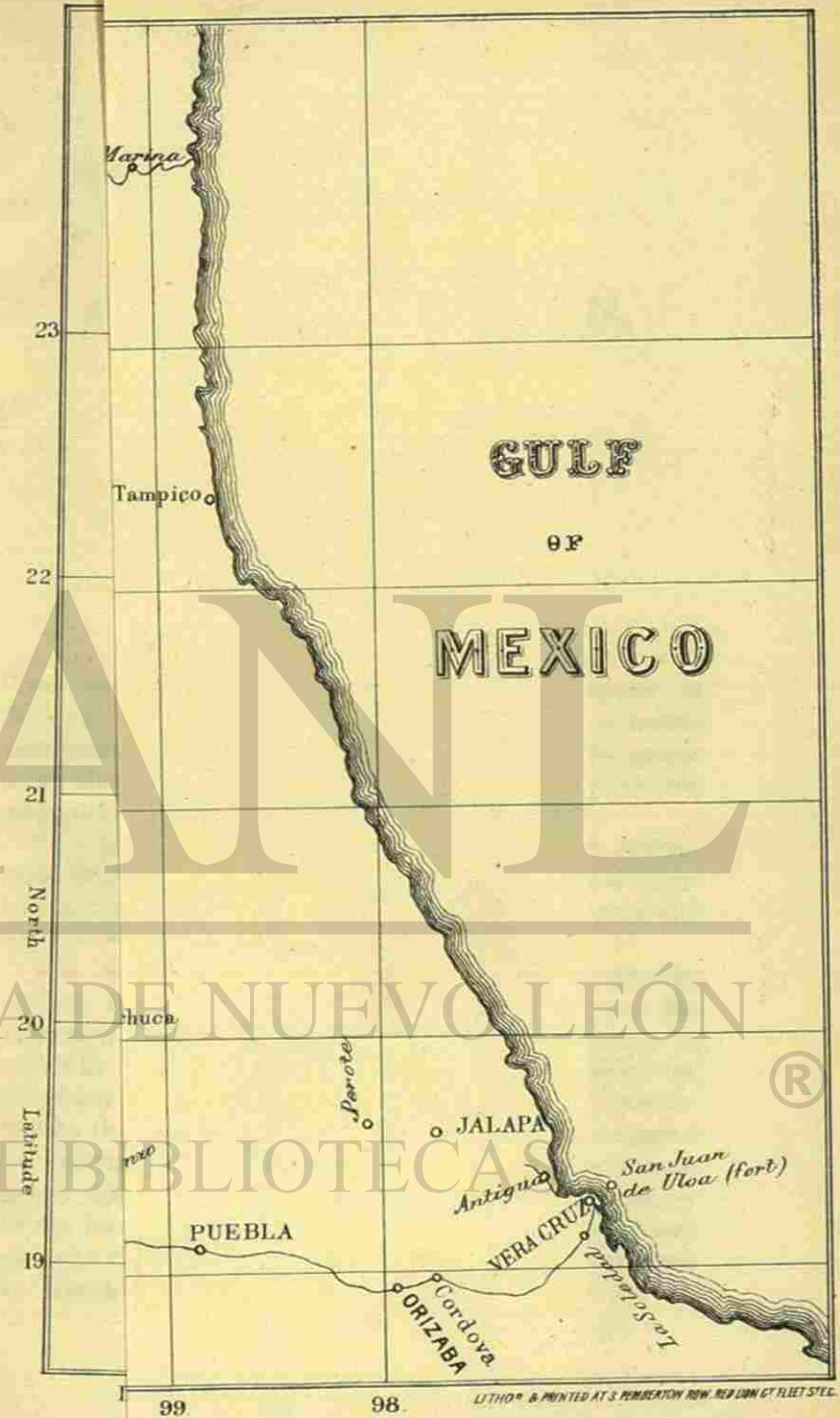
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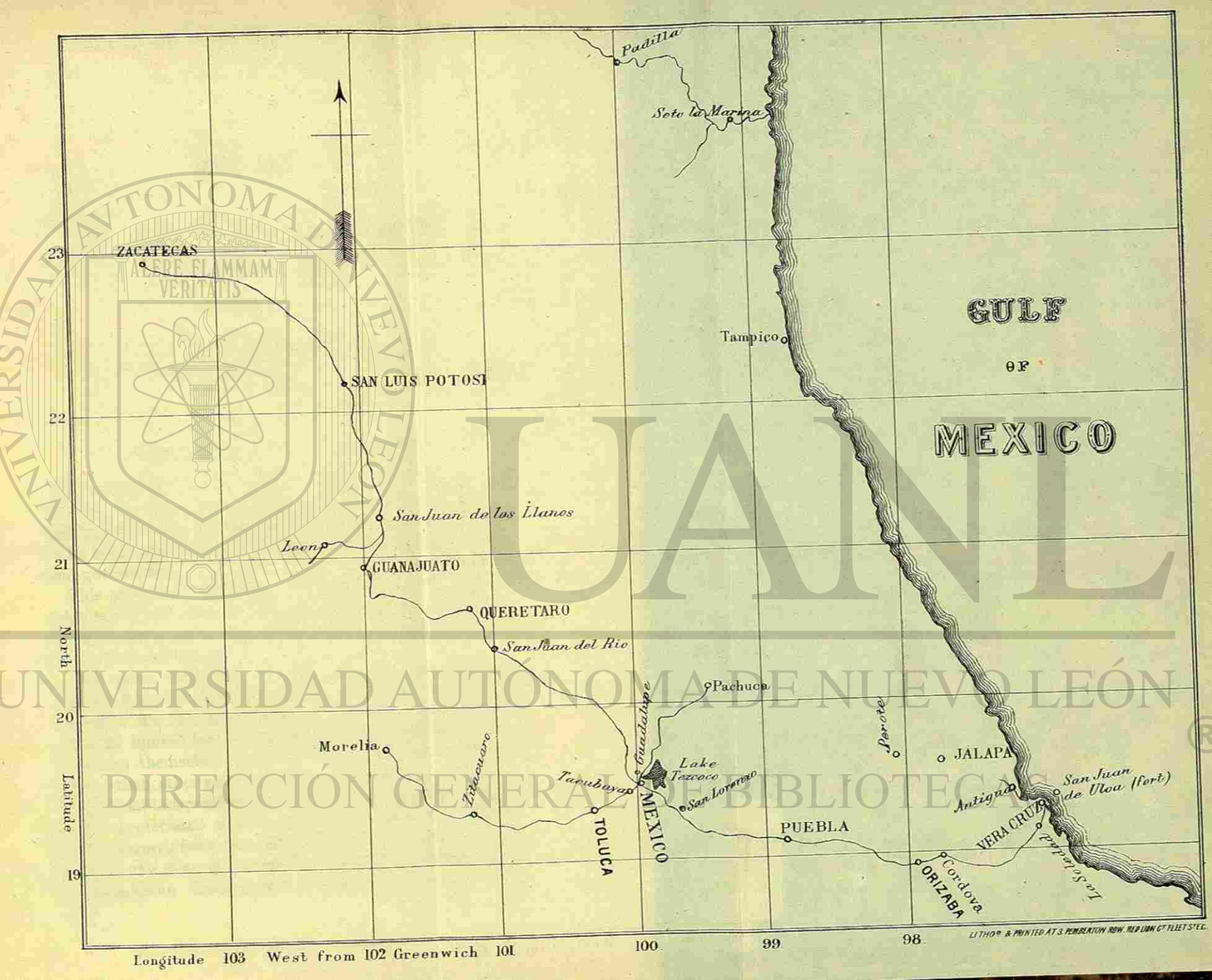
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GUANAJUATO

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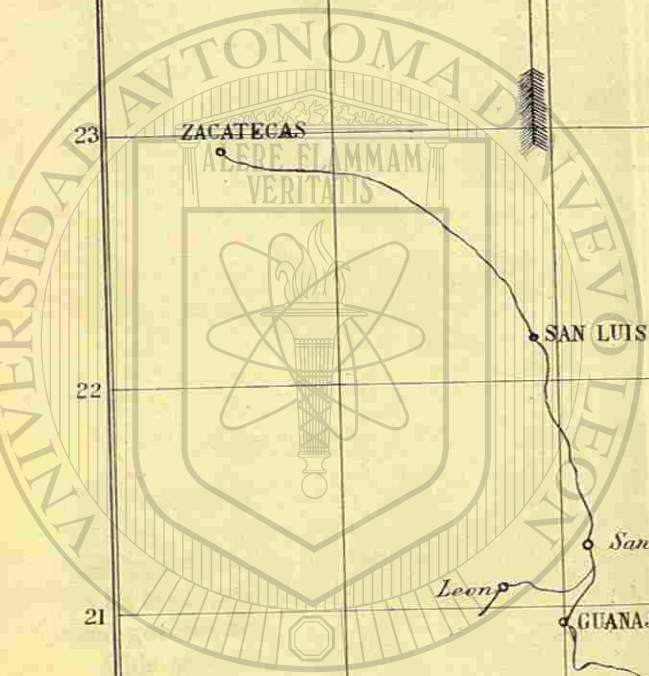
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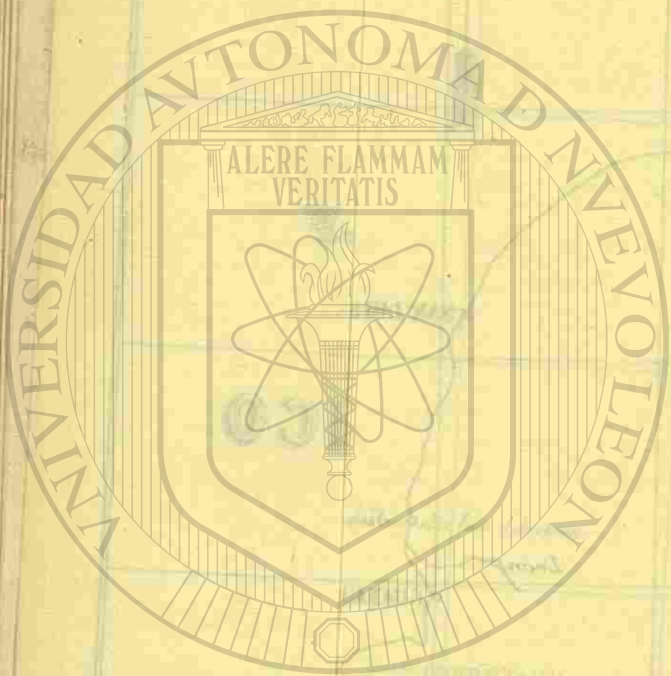
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THE FALL
OF
MAXIMILIAN,

LATE EMPEROR OF MEXICO.

PART I.
HISTORICAL INTRODUCTION.

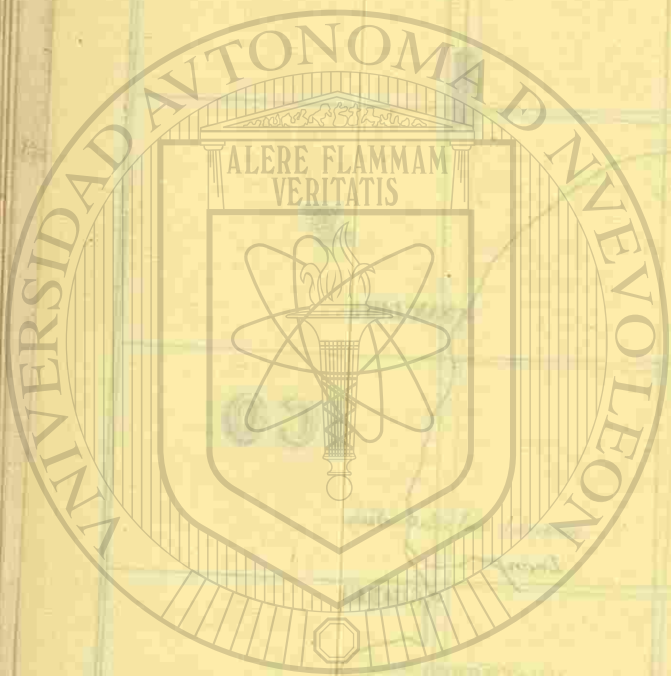
SECTION I.

General History prior to Independence.

THE execution of Maximilian, sometime Emperor of Mexico, has been but too commonly regarded as a lawless and ferocious act, perpetrated by a semi-barbarous people in its blind and insensate intolerance of all wholesome rule and government.

This erroneous impression is, to a great extent, attributable to the fact that the chequered history of that interesting country and community is by no means generally known and understood.

The more charitable, though, probably, less popular, opinion that the deplorable episode referred to was the natural, if not inevitable, outcome of a series of events in which he himself had neither part nor lot, and in which the Mexicans themselves were but little if any more blame-worthy than other nations who have successfully struggled for national independence, can scarcely be duly and intelligently appreciated without a brief review of the history of the country from the early part of the present century down to the date of the establishment of a Constitutional or Republican Government, to supersede which he was



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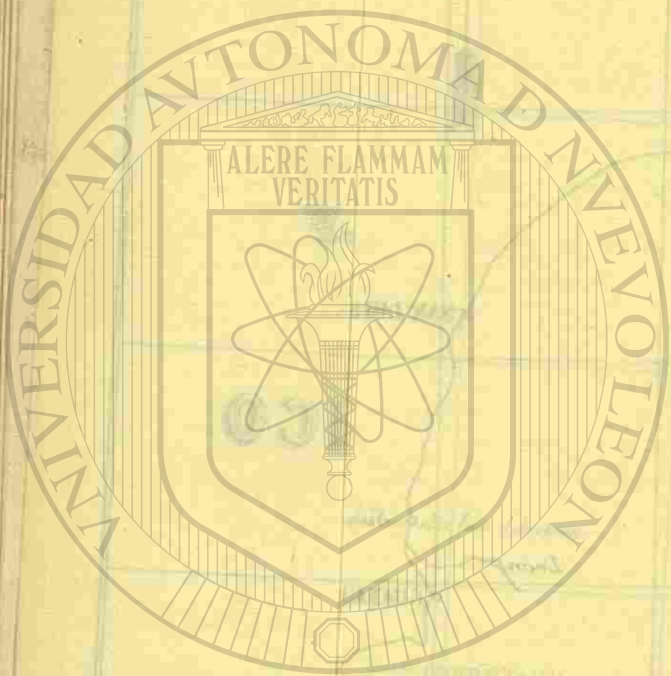
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unfortunately beguiled to make an unsuccessful, though, probably, a well-intentioned attempt.

From the Conquest of Mexico, effected in 1521 for the Spaniards by Cortes, to the year 1821, Mexico was an appanage of Spain, governed by a Viceroy. The latter year may be accepted as the date of a new era in her history.

The changes which then took place originated in the sympathy excited in the breasts of the people of New Spain for Ferdinand VII., when a captive at Bayonne.

By it their minds were roused to the consideration of political principles. Their religion and patriotism were invoked to stimulate their hearts in the maintenance of national honour and the right of peoples to choose and determine how and by whom they should be pacifically governed. A popular agitation ensued, which resulted in an appeal to the Viceroy, demanding the convocation of an assembly of Delegates from all the provinces, to support the House of Bourbon; and the appeal was accompanied by a declaration of the willingness of the people to make any sacrifice in the effort to attain their object.

The Viceroy recognising the justice and propriety of this appeal, gave umbrage to the Spaniards at that time in power in Mexico; and they, by bribes and threats, induced about three hundred of the guards of the palace to seize him and his two elder sons, whom they threw into the prisons of the Inquisition, and consigned to a convent his wife and the other members of his family. This happened on the 16th of September, 1808.

A considerable number of the people were also dragged into prison, with a view of "stamping out" the defection; and the arrogant Spanish cabal assumed the functions of a self-constituted military Junta, to resist and crush by force of arms any encroachment on their usurped right to secure their own aggrandisement, at the expense of those whose welfare it ought to have been their chief care to promote.

But the spark that had been struck in Mexico was not to be so easily extinguished.

The violent deposition of the Viceroy Iturrigaray, who suffered for his reasonable attention to the prayer of the people, was followed up by a systematic course of imperious and vexatious treatment by his successor Venegas, who was Viceroy in 1810; which resulted in the erection of a permanent and insuperable bar to reconciliation.

The Mexican people were effectually alienated from their Spanish rulers, and two powerful factions were created, whose antipathy speedily deepened into animosity, which, degenerating into dogged obstinacy, ere long confirmed itself in deep-rooted mutual hatred.

The parties thus ranged against each other were known as the "Guadalupes" and the "Gachupines;" the former designation being adopted by the Mexicans in honour of "Our Lady of Guadalupe," the tutelar protectress of Mexico; while the latter was a sobriquet gratuitously bestowed upon the Spanish faction.

A formidable insurrection ensued in the district of Guanajuato. The provincial Assembly of Michoacan had already rebelled, and was supported on all sides by those who advocated the rights of the people.

In the contest, the superior discipline of the Spanish soldiers prevailed, and the insurgents were defeated, without having attained any definite object of importance. Beaten, they were, but not vanquished; and they only waited a fresh opportunity to renew a struggle, the aim and end of which was Liberty and Independence.

What they lacked was a leader who would inspire them with courage, and by his patriotic devotion to their cause, stimulate them to persist in their endeavours to achieve their end.

Nor were they long wanting such a champion.

The little village of Dolores, in the state of Guanajuato, was noted for its fine vineyards and prolific mulberry trees; but the cultivation of these was thought to interfere with the products of the mother country, and the inhabitants were therefore peremptorily forbidden to cultivate them;

they were also compelled to destroy all the vines and mulberry trees in the district. From this barbarous act of the Spaniards sprang the hero of the hour in the person of the Padre of the village, Don Miguel Hidalgo y Castilla.

Stung by the injustice of the Spaniards in thus cutting off the fruits of industry so long enjoyed by his parishioners, Hidalgo raised the first general shout for Independence, and unfurled the standard of rebellion, attaching himself to the military captains of the "Guadalupes." On this becoming known, troops were instantly marched to put down the insurrection; but the Padre was equal to the occasion. He summoned the people to defend themselves.

A large number of Indians responded to the call, and on the following day Hidalgo surprised and took two adjacent towns, seizing the property of the Spaniards, and distributing it amongst his soldiers as a compensation for the injuries they had sustained.

A few days subsequent to this found Hidalgo at the head of 40,000 men, with whom, although inefficiently armed, and without any regular discipline, he marched on Guanajuato, one of the richest silver mining districts in Mexico.

Now ensued a fearful conflict which was conducted in such a spirit of ferocity and revengeful hatred as to stamp its record on the page of history with indelible characters. The insurgents rushed wildly on the Spaniards, and a fearful massacre followed, which Hidalgo made not the slightest attempt to check, being desirous, by such scenes, to terrify his enemies. But on this occasion he went too far, and alienated the creoles from his side. They were disgusted at the carnage which marked his steps.

Three millions of dollars and the spoils of the houses were the reward which fell to Hidalgo and his followers, who were thereby incited to further deeds of plunder. This drew to their side large numbers who were actuated by revenge or cupidity, both of which ignoble passions seemed to be in a fair way of being glutted.

Town after town fell to the insurgents, each victory casting additional stigma on the character of Hidalgo, whose followers defied all laws or rules of civilized warfare, and disregarded the common dictates of humanity.

Hidalgo received no support from the inhabitants of the city of Mexico, who were even discouraged by his wild excesses. He therefore retreated towards the interior, hotly pursued by General Calleja, who overtook him on the plains of Aculco, and routed the insurgent army. The fugitives were sabred by the cavalry under the command of the Conde de la Cadena.

This victory on the part of the Spaniards inspired them with fresh ardour in putting down the rebellion and revenging their countrymen who had been massacred.

Hidalgo again put himself at the head of a large army which he had gathered while his lieutenant, Allende, retreated to Guanajuato, followed by Calleja, who seized the city, and in turn stained his victory by some horrible acts of barbarity by way of reprisal for the cruelties the insurgents had inflicted on his countrymen. Fourteen thousand human beings, comprising men, women, and children, were penned up in the public square of the city, where—powder and shot being considered too precious for such a service—they were in deliberate detail literally butchered with the knife!

Various were the conflicts which followed these events in the rebellion; each party vieing with the other in atrocities which can scarcely find a parallel in history. But at last Hidalgo suffered a crushing defeat at the hands of Calleja at the Bridge of Calderon, when the Mexican chief, with but a remnant of his followers, fled to the frontiers of the United States. Here he fell a victim to the treachery of one of his own officers (Ignacio Elizondo), who, for the sake of the pardon offered by the Spaniards, betrayed his friends.

With the exception of those who were Ecclesiastics, these were at once slaughtered. Hidalgo and his brethren of the cassock were beyond the powers of a military tribunal, but

their degradation by the Ecclesiastical authorities soon followed,—that of Hidalgo being made as public as possible. He was afterwards condemned by the secular authorities and shot *in the back*.

But the rebellion, although materially weakened by the defeats it had lately sustained, was far from being suppressed. Other leaders appeared and kept up the revolt, and the insurgents had now sufficient experience in warfare to recognise discipline as one of the primary conditions of success.

Soon after the execution of Hidalgo the insurgents elected as their general-in-chief José Maria Morelos.

Son of an Indian, Morelos at an early age chose the profession of an Ecclesiastic. He became Padre of Caracuaro, and was ardently devoted to the duties of his profession. Espousing the cause of the insurgents, he soon evinced military ability of a high order, and his subsequent bravery in the field, his energy, activity, and rare combination of talents, entirely justified the selection of his compatriots. He came off conqueror in forty actions, although at times he was but indifferently supported by his subordinate generals, many of whom, however, also possessed talents of no mean order.

Among his generals may be here noticed—Bravo, liberal and honourable; the Padre Matamoros, clever military organizer; Teran, remarkable for his intelligence; and Guerrero, the unfortunate patriot.

Morelos, however, was a host in himself; and his bravery and intelligence drew from the Viceroy Calleja this remark, "If that man had come to me I would have made him a Field-marshal."

As a pleasing contrast to the character of Hidalgo, Morelos strove to infuse amongst his own men humane feelings in his mode of warfare, and endeavoured to induce the Spaniards to make an exchange of prisoners; but in the latter he was not successful.

The successes which attended Morelos filled the Spaniards with dismay, especially when at the battle of Palmar they

lost a regiment of veterans fresh from the Peninsula, where they had been in action against the French. At this battle the insurgents, under the command of Matamoros, inflicted a severe defeat on the Spaniards.

Here may be noted a remarkable instance of the rare military talent of Morelos. At Cuautla he was besieged by the army under the command of Calleja. For three months the siege was sustained, until famine, which was decimating the besieged, prompted Morelos to bring matters to an issue. He determined to beat a retreat. This he effected, taking with him a portion of the population; and so cleverly was this operation performed, that the Spaniards were unaware of the fact at the time; but on its being made known to Calleja, he instantly ordered an indiscriminate massacre of all who had been unable to escape from the town.

The years 1812 and 1813 were remarkable for the successes of the Insurgents, and the greater portion of Mexico was under their power at this period. But on the 15th of December, 1813, the fortune of war changed. At Santa Maria, near Valladolid, they sustained a defeat, having observed but an indifferent martial attitude; and on the 5th of January, 1814, the army was completely routed at the battle of Puruaran, owing, it is said, to the density of a fog which prevailed at that time. On that morning Matamoros was captured and put to death.

In order to legalize the actions of his party, Morelos convoked an assembly, which he had himself instituted, calling it a "National Assembly." The first sitting was held at Zitacuaro, in the province of Valladolid, on the 13th of September, 1813. But this proved a miserable failure. His discursive power stultified the actions of the Executive, and general dissatisfaction ensued.

The continued success of the Spaniards alarmed the Insurgents, for they had been beaten in battle on several occasions lately. The National Assembly had to be constantly shifting its position; Morelos affording it protection in the rear by means of the remaining forces at his disposal.

Zitacuaro was captured by the Spaniards, and reduced to ashes as a warning to other towns which were more or less affected by the rebellion.

On the arrival of the National Assembly at Chipalcingo they proclaimed the Independence of Mexico. The proclamation falling into the hands of Calleja, was sent by him to the Royal Council, which ordered it to be burnt by the public executioner.

During the year 1815 Colonel Iturbide, a creole attached to the army of Calleja, had nearly captured the Congress. Morelos, in order to provide for the safety of the deputies, undertook an expedition to Tehuacan, in the State of Puebla, where Teran had already collected a large force.

With only 500 men, Morelos undertook his perilous expedition, having to traverse 200 miles through a country occupied by the enemy. He expected, however, to be joined by Teran and Guerrero; but his couriers were intercepted, and his two generals remained in ignorance as to the position of their chief.

This bold attempt on the part of Morelos caused the Spaniards to hesitate before attacking, as they suspected that he had a much larger force at his disposal. It was not long, however, before they were made acquainted with the real circumstances, either through the agency of spies or by traitors.

On the morning of the 3rd of November, 1815, Morelos was surprised by finding himself suddenly confronted by two corps of the enemy. Seeing how hopeless the case stood against him, he, with a bravery and self-devotion which had ever actuated his military career, determined on securing the safety of the Congress; and for this purpose he despatched his lieutenant, Nicolas Bravo, to escort its members to a place of safety. Morelos remained behind with only fifty men, and these fled as soon as the engagement commenced, leaving him an easy prey to his enemies. He made no effort to save himself, but quietly submitted to the indignities with which the Spanish soldiers treated him. He was loaded with

chains and brought before the commanding officer, Concha, who, to his honour be it said, observed towards the captive those marks of respect to which his position entitled him. Morelos was sent by Concha to Mexico to be tried.

The capture of this celebrated man caused great excitement, and everyone on the road was eager to gaze on one whose name and fame had been so blazoned in the country, and whose conduct had won the admiration even of his opponents. Morelos maintained the same coolness which had ever characterized his movements, and bore the vulgar stare and free comments of the people with imperturbation. At the close of his career one thing only appeared to disturb his equanimity—his ecclesiastical degradation, which, as in the case of Hidalgo, was made as public as possible.

The scene at his execution was, however, marked by his usual calmness and dignified demeanour. Facing the firing party, he knelt and uttered these words:—

“Oh, God, if I have acted rightly, Thou knowest it; if “I have done wrong, I commend my soul to Thy mercy.” After this he bound the handkerchief over his own eyes. That done, he gave the signal to fire, and instantly fell dead, his last words being a prayer for his country, to the promotion of whose welfare, and to obtain *Liberty and Independence*, he had devoted all his energies—his life.

Thus died a man, whose name will ever be remembered in Mexico—a name which, through a period of unequalled excitement, never was tarnished by an unworthy action, and whose military career stood out in bold relief against that of his predecessors, and even commanded the respect of those to whom he was bitterly opposed.

One act alone of his appears to have occasioned him remorse. It occurred when the Padre Matamoros was in the hands of the enemy, and about to suffer death. Morelos offered 200 Spanish prisoners in exchange for his friend; this was refused, whereupon Morelos ordered his prisoners to be put to death.

Bravo was on a somewhat similar occasion more temperate

and generous, although the circumstances of the case were more calculated to engender revengeful feelings. Bravo, hearing that his father was in the power of Calleja, and about to be executed, at once offered the exchange of 300 Spaniards for the liberty of his father. This was peremptorily refused, and his father was at once shot. On hearing this, the spirit of revenge possessed him for a moment, and the immediate slaughter of his prisoners was contemplated as a justifiable reprisal for such a barbarous act of cruelty. But, no! his soul disdained to disgrace his name by so foul a deed, and he instantly put away from himself the temptation by the liberation of his prisoners, saying to them, "Away, away! stay not another moment here, for fear that the desire to avenge my father may return."

Miguel Bravo fell a victim to the cause, being executed at the same time as Morelos.

Shortly afterwards Matamoros was captured, and, referring to Morelos and Bravo, he exclaimed, "I have lost both my arms!"

The Congress which had been organized by Morelos was soon dissolved, and confusion overspread the ranks of the Insurgents. During this period the Spanish Viceroy Calleja, with his generals, Cruz, Truxillo, and others, vied with each other in acts of cruelty and barbarism towards all who came into their power.

After the death of Morelos, Victoria alone remained capable of taking the command.

In 1816 the Spanish army was reinforced by two divisions under the command of Mayarés and Apodaca, and these soon terminated the struggle which Victoria endeavoured to carry on. His attempt was frustrated. The vigour which the new divisions showed, disheartened his troops, and in the conflicts which ensued they were captured and shot. In a short time Victoria found himself alone. He sheathed his sword.

Indignantly refusing the honours offered to him by

Apodaca on condition of surrender, Victoria determined to retreat into the forests of the state of Vera Cruz.

Apodaca immediately ordered him to be hunted like a wild beast, and for this purpose a thousand men were divided into small parties with orders to fire every village which had succoured him. This terrified the Indians, who, fearing the wrath of the Spanish general, became eager to dislodge and hand him over to his enemies.

An interrupted chase of six months was terminated on its being rumoured that Victoria was dead. The rumour was received as true by the Spaniards, and officially noted in the *Gazette of Mexico*.

But it was not true. Victoria was still alive, enduring extraordinary privations and dangers; his only sustenance being the wild fruits of the forest, which were so scanty in winter as to cause him sometimes to be without food for days together.

Victoria continued in this state until the revolution under Iturbide took place, when two Indians, after a long search, discovered him. His appearance was such as to shock even them, and they conducted him to their village.

His re-appearance was at first doubted; but the intelligence being confirmed, he received from his fellow-patriots an enthusiastic welcome.

Shortly after the death of Morelos the rebellion was joined by Padre Torres of Cuchilinga, a small village in the State of Valladolid. This Ecclesiastic rose to the rank of field-marshal; but the army had lost the standing it had formerly held. Patriotism had to give way to a class of men whose aim was plunder and the gratification of their evil passions. Men of intelligence, who had the cause of Independence at heart, shrank from coming into contact with such mercenaries; preferring even to be under the yoke of the Spaniards to an alliance with banditti.

The low state into which the insurgent army had fallen, just suited Torres, and enabled him to act in accordance with the dictates of his vulgar ambition. He

therefore took no pains to raise the cause of Independence from its then fallen condition.

Torres disgraced his command by acts of despotism amounting to tyranny. His name soon became a by-word and a terror to the populace, and the cruel decrees which he caused to be carried out spread devastation among his own party as well as that of his adversary.

On the 11th of April, 1817, appeared on the stage another personage who was destined to play an important part in the cause of independence. Xavier Mina, nephew of the celebrated Spanish warrior, being excited by the struggle which the Mexicans were carrying on, resolved to come to their aid.

In the United States he had recruited about eight hundred men, with whom he started for the scene of action. Landing at Soto la Marina, he became aware of the confusion which existed.

The Mexican Congress, from its low and feeble character, had failed to establish any discipline, and its orders were so conflicting as to occasion the utmost disorder in the army. Teran, who had suffered severely by the action of this Assembly, dissolved it, and appointed an Executive Council, composed of himself and two others. But dissensions prevailed among them, which were taken advantage of by the Viceroy, who besieged Tehuacan where Teran was lodged, and made him prisoner.

Torres then became chief in command of the insurgents; and by his despotic acts he brought the cause of Independence into obloquy with the people themselves.

Even these circumstances failed to disconcert Mina. Uniting the insurgent troops of the States of Guanajuato and Morelia, he determined on resuscitating the cause of Liberty by convening a "Grand Council." With only 300 men he crossed the States of Tamaulipas, San Luis Potosi, and the south of Zacatecas. He was constantly attacked by the Spaniards, but his daring courage inspired his men with energy, and in one engagement he compelled

the Spanish General Arredondo with 1500 men to beat a retreat.

In one fearful encounter he had only 162 men; the rest being too wearied and worn to go into action. With this small body he charged 700 Spanish infantry under the command of Arniman. Fearing hesitation on the part of his little troop, and desiring to fire them with enthusiasm, Mina threw away the scabbard which hung by his side, exclaiming, "I require no other scabbard than the breasts of the Spaniards." These words acted like magic. His men charged a second time, and completely routed the enemy.

Following up this remarkable victory by other feats more or less daring, Mina in one month had traversed 250 leagues in the enemy's country with the loss of only forty men.

The successes of Mina excited the envy of Torres and his officers, who regarded him as an intruder and a dangerous rival. Although powerless themselves to guide the cause of Independence, they were too selfish to acknowledge the superior military talents of Mina.

On the 28th of June, Mina, with 200 infantry and a few cavalry, attacked and defeated 700 Spaniards at San Juan de los Llanos under the command of Colonel Castaños, one of the bravest as well as most cruel of the Royalists. This action is noteworthy on account of the fact that the Spaniards on running short of ammunition, emptied their coffers and loaded their guns with silver dollars, which afterwards served to strengthen their opponents' sinews of war.

Torres continued hostile towards Mina, neglecting to second the wishes of that young warrior, or to come to his aid when he was besieged in the fortress of Sombrero by the Spaniards. Scarcity of provisions rendered the fall of his garrison inevitable, and Mina determined to break through the ranks of the besiegers, and procure that help which Torres had promised, but failed to afford.

He effected his escape, followed by three aides-de-camp, and soon discovered the infidelity of Torres. Finding his attempt to bring succour to be in vain, he sent to the officers in command of the fortress, advising them to capitulate on the best terms.

The Spaniards promised that their lives should be spared, but afterwards cruelly butchered the half-starved prisoners who had surrendered, trusting to the "honour of Castile."

Mina, indignant on learning this, gathered a few men who were but indifferently armed, and devoid of courage; but with these he captured San Luis. He was, however, defeated at Guanajuato, and had to fly to the farm of Venadito, where, after some time, like his predecessors—Hidalgo, Morelos, and others—he was betrayed. In his hiding-place he was surprised by the enemy, and taken prisoner.

The news of his capture was received by his old comrades in arms with deep sorrow, and they projected a sudden attack to rescue their brave chief. Two hundred men responded to the call; but Torres, fearing that the release of Mina would be to his disadvantage, forbade the enterprise.

The Viceroy, on hearing of the capture of Mina, ordered his immediate execution. This was carried into effect on the 11th of November, 1817, just six months after his landing in Mexico.

The fall of Sombrero and the death of Mina gave the Spaniards reason to hope that but little remained to be done to crush the revolution. One fortress (that of Los Remedios) remained apparently impregnable. This place was invested by 6000 Spaniards, and the siege was sustained until famine compelled Torres and his companions to decide on a course of action.

The remembrance of former cruelties practised on those who had surrendered to the Spaniards in other places, induced them to evacuate the place. On the night of the 1st of January, Torres heading the advanced guard, commenced the retreat; but only a few who were with him effected their escape: the remainder, including women and children, the

sick and the wounded, met a fate at the hands of their enemies, the relation of which would disgust the reader.

The Spaniards hoped that the fall of Los Remedios would put an end to the insurrection; but no! their deeds of cruelty and acts of demoniacal barbarity only intensified hatred in the hearts of the Mexicans against the Spanish rule, and men who before were simply indifferent now burned with fiery passion, eager to avenge the fall of their countrymen. The insurrection, regardless of organization, resolved itself into an irregular system of guerilla warfare, pending the advent of some one competent to rally them to united action.

Shortly after the fall of Los Remedios, Torres disappeared, and the end of his unworthy career is to this day unknown.

The Constitution of 1812, which was proclaimed in the Peninsula and afterwards in the colonies, conferred electoral rights on all the white population in the Spanish possessions; and this act did more to alienate the Mexicans from the mother country than all the previous efforts of the revolution. At the election which followed, the choice of the people was in favour of the Mexican patriots: the Castilians were excluded.

The effect of this was the inspiring of the people with greater courage to retain and augment that power which had then been put into their hands by the Act of the Constitution.

This Act was afterwards suspended, both in Spain and in Mexico, but it was then too late for Ferdinand to attempt to tamper with the spirit of liberty and independent action to which the revolution had given birth, and which the recent Constitution had fostered, insomuch that Ferdinand, in 1820, fearing the colonies would shake off his authority, raised a formidable army under the command of the ex-Viceroy Calleja, then Count Calderon, in order to re-establish his authority. But among that army were many officers who had been imbued with the principles of the French Revolution. These, with their regiments, revolted; and, under Colonel Riego, they re-established the Constitution of 1812.

Ferdinand yielded unwillingly to the views of the insurgents, and the aristocracy of Mexico feared that the evils of the French Revolution would influence the future of their own country.

Now arose a division of opinions. The great party of Independence divided itself into several sections, each striving for the adoption of its own peculiar views as to the treatment of the Spaniards and the mode of government.

It was at this juncture—when such dissensions were at the highest—that the Viceroy entrusted the command of the Army of the South to Colonel Iturbide.

This soldier, who afterwards played so important a part, and rose to such prominence in Mexico, was a handsome and highly-cultured creole. Although devoted to his country, he remained inactive during the odious scenes which attended the early stages of the revolution; in fact, he presently opposed himself in arms and refused to be allied with the cause which had been dishonoured by the misdeeds of many of its leaders.

It has been said that "Buonaparte in Europe and Iturbide in Mexico are the two most extraordinary men referred to in modern history."

Receiving his promotion from the rank of ensign to that of colonel, in consideration of his bravery in the field, he eventually obtained the command of the Army of the North; but being falsely accused of acts of violence (of which he was afterwards honourably acquitted), he was disgusted at the conduct of his accusers, and retired into private life, and held himself aloof from 1816 to 1820.

It was during this recess that the ideas of Iturbide underwent a complete change. His cultivated intellect grasped the meaning of the "Plan of Iguala," and duly estimated its value in all its bearings. It was as follows:—

ARTICLE I.

The Mexican nation is independent of the Spanish nation and of every other, even those on this continent.

ARTICLE 2.

Its Religion shall be Catholic, which is that professed by all its inhabitants.

ARTICLE 3.

The nation shall be *one*, without any distinction between Americans and Europeans.

ARTICLE 4.

The Government shall be a Constitutional Monarchy.

ARTICLE 5.

An Assembly shall be elected, composed of persons enjoying the highest reputation in the different societies in which they move.

ARTICLE 6.

The Assembly shall meet under the presidency of his Excellency the Conde de Venadito, the present Viceroy.

ARTICLE 7.

It shall govern in the name of the nation according to the laws now in force; and its principal function shall be to convoke—adopting such dispositions as it may deem expedient for that purpose—a Congress to form the Constitution most suitable for the country.

ARTICLE 8.

His Majesty Ferdinand VII. shall be invited to occupy the throne of the Empire; and in case of refusal on his part, then the Princes, Don Carlos and Francisco de Paulo, shall severally be invited.

ARTICLE 9.

If His Majesty Ferdinand VII. and his august brothers decline to accept this invitation, the nation shall be free to call to the imperial throne such member of the reigning families as it may please to choose.

ARTICLE 10.

The formation of the Constitution, and the oath of the Emperor to observe it faithfully, must precede his entry into the country.

ARTICLE 11.

The distinction of caste, established by the Spanish laws, which deprives some of the rights of citizens, is abolished. All the inhabitants of the country are citizens and on an equality, and the means for advancement are open to virtue and merit.

ARTICLE 12.

An army shall be organized to defend Religion, Independence, and Union; and being charged to guarantee these three grand interests, it shall be called the army of the Three Guarantees.

ARTICLE 13.

It shall solemnly swear to defend the bases of this plan.

ARTICLE 14.

It shall strictly observe the military ordinances now in force.

ARTICLE 15.

There shall be no other promotions than those due to seniority, and such as become necessary for the benefit of the service.

ARTICLE 16.

This army shall be considered as troops of the line.

ARTICLE 17.

The former partisans of the Independence who immediately give in their adhesion to this Plan shall be considered as belonging to the Army.

ARTICLE 18.

The patriots and peasants who may hereafter adhere shall be considered as provincial Militia.

ARTICLE 19.

The secular and regular priests shall remain in the same position in which they may be found.

ARTICLE 20.

All public functionaries, both civil and ecclesiastical, political and military, who may adhere to the cause of Independence shall remain in office, without any distinction between Americans and Europeans.

ARTICLE 21.

Functionaries of every description who do not attach themselves to the cause of Independence shall be deprived of office and leave the country, taking with them their families and effects.

ARTICLE 22.

The military officers shall act in accordance with the general instructions conformable with the Plan, which shall be sent to them without delay.

ARTICLE 23.

No accused person shall be condemned to capital punishment by the military commandants. The individuals accused of treason towards the nation, which is the greatest crime after treason to our Divine Master, shall be sent to the fortress of Barrabas, where they shall remain until such time as the Congress may be able to decide on the punishment to be inflicted.

ARTICLE 24.

As it is indispensable that this Plan—the object of which is the prosperity of the country—be put into execution, every individual belonging to the army must defend it if need be to the last drop of his blood.

From the Town of Iguala, the 24th February, 1821.

But Iturbide was unable to carry out this Plan, which he was convinced would be to the benefit of his country; he therefore offered himself to the Viceroy and was received into active service. He was selected by Apodaca to oppose Guerrero, the last of the chiefs of the insurrection of 1810, who had, since the death of Mina, been carrying on a guerilla warfare against the Spaniards.

Iturbide was surprised by this famous soldier, who was accompanied by only 140 Indians, one night when encamped on a plateau with 1500 men under his command, and had to retreat; the darkness of the night deceiving him as to the number of the attacking party.

Iturbide, struck by the audacity of this manœuvre, and being acquainted with the antecedents of Guerrero, forbore to renew the fight and desired a coalition; in which he was willingly supported by his subordinate officers.

Guerrero, enchanted with the "Plan of Iguala," which Iturbide brought under his notice, agreed to join him in carrying it into effect.

Iturbide became the hero of the day; and his name was received with great enthusiasm by the people, who eagerly co-operated in the endeavour to establish those principles which were so consonant with their feelings.

A proclamation, drawn up in a moderate tone, was issued, in which Iturbide was styled "Conciliator," and his adherents, the "Army of Deliverance."

Bravo reappeared and joined Iturbide. Other generals of note soon allied themselves to the popular cause; and the subsequent triumphant march of the insurgents—a march unstained by any act unworthy of civilized warfare—sealed the fate of the Spanish rule.

The Spaniards, however, determined not to yield their hold on the country without a final struggle; but the increasing forces of their opponents appeared to overawe their soldiers, and Apodaca, who was unable to restore order, was replaced by Novella.

Santa Anna, one of the insurgent chiefs who afterwards

became famous, offered his services to Iturbide and hastened to form a junction with him.

Leaving La Soledad with 200 veterans and 1000 pardoned criminals, he marched triumphantly across the country, proclaiming *en route* the "Plan of Iguala," and within a few months he was at the head of 10,000 disciplined troops.

On arriving at Vera Cruz, where he met with a cordial reception, Santa Anna himself unfurled the tricolor flag.

On the 23rd of July the new Viceroy, General O'Donoju, disembarked at Vera Cruz to take command of the Spanish army; but on the arrival of Santa Anna, who immediately besieged the town, O'Donoju discerned the effect which previous defeats had made on the Spanish soldiers. Discouragement and disaffection pervaded the garrison; and, perceiving that resistance was hopeless, he asked for, and obtained, an interview with Santa Anna.

This led to a cessation of hostilities pending the arrival of Iturbide, to whom Santa Anna deferred the settlement of affairs.

Iturbide directed the conference to be held at Cordova, and that the person of O'Donoju should be respected.

On the 24th of August was signed the "Treaty of Cordova," which recognised the principles of the "Plan of Iguala" and declared the independence of Mexico.

Three distinct representatives of parties combined in establishing an Independent Monarchy in Mexico;—Iturbide, the creole; Guerrero, the revolutionary Indian; and O'Donoju, the Spaniard.

On the 27th of September 1821, Iturbide, at the head of 16,000 men, made a triumphant march through the City of Mexico. The Act of Independence was proclaimed, and as an acknowledgment of the services rendered to his country Iturbide received a million dollars, twenty square leagues of land, and was made General in Chief of the Army.

PART I.

HISTORICAL INTRODUCTION.

SECTION II.

Independence—The First Empire under Iturbide.

THE first meeting of the Assembly in the Independent Empire took place on the 15th of September, 1821. On the 28th of the same month an Executive Government was formed, which was composed of men of high order and intelligence.

A deputation was selected to proceed to Spain to offer the Crown of Mexico to Ferdinand VII.

On arrival, this deputation met with a different reception from that which had been anticipated. Ferdinand refused to exchange the Castilian Crown for that of Mexico. The latter being attached to a Constitutional Monarchy was distasteful to him; accustomed as he had been to be assisted solely by his nobles, and in no wise to hold himself answerable to, or to be restrained by, the people of his kingdom.

Don Carlos, the heir presumptive to his brother's throne, also rejected the offer. The deputation succeeded better with Don Francisco de Paulo, who was willing to accept the proffered Crown; but the Cortes refused to ratify, and treated with contempt the "Treaty of Cordova," and thus the mission of the Mexican deputation ended in failure.

The Assembly in Mexico, which had been formed for the purpose of carrying into effect the "Plan of Iguala," became divided in their opinions, and dissensions in the council soon prevailed. Three distinct parties were formed, comprising Iturbide and his followers; the Bourbonists; and the Republicans.

Iturbide was thoroughly opposed to a Republic, believing that such a form of Government was at that time unsuited to the Mexican people. The Bourbonists again desired to be under the domination of the Spanish Court.

But the voice of the people at large was in favour of Iturbide, and his principles and opinions. The Assembly had shown signs of its inefficiency to carry out the details of the "Plan of Iguala." In arranging the electoral districts and the election of Deputies, great injustice was done; the privilege of voting being restricted by the Assembly. The franchise was given to the municipal authorities of the chief towns only, in order to secure their own election. In this *ruse* they were successful, and they were returned to the Congress which was inaugurated on the 24th of February 1822, under the presidency of Don Hipolito Odoardo.

The Congress, composed of all classes, honourable and dishonourable, was in the aggregate sadly deficient in those qualities which should belong to such an assembly. Procrastinating, and neglectful of the urgent necessities of the people, the direst disorder reigned.

In vain did Iturbide endeavour to stir them to more decided action, and the consideration of the great questions which demanded immediate attention. They were indifferent to his appeals.

On the 3rd of April, Iturbide was summoned to attend the Congress and report on the public safety. But on his presenting himself the Deputies refused to hear him; and requested him to leave. He refused; exclaiming, "I cannot abandon my country to the hands of infidels." He then accused some of the members of treachery to their country, and the Congress broke up in great disorder.

On the 11th of April the Deputies dismissed several officers who were friends of Iturbide, appointing in their places others who were his enemies. A resolution was also passed to take the command of the army out of the hands of the Executive.

This act was the prelude to a still more important, yet

unexpected, affair. On the evening of the 18th of May a cry was heard in the streets of Mexico: "Long live Augustin the First—[Iturbide]—Emperor of Mexico!" It proceeded from a small body of soldiers, who were soon joined by others, until thousands of persons were marching and taking up the refrain. As if by magic the whole city presented an animated appearance. Illuminations and gaily-draped balconies enhanced the effect of a scene which was a demonstration of the affection of the people for Iturbide.

He endeavoured to evade the honours which were paid to him; but deferred to the earnest entreaties of his friends, who represented to him that his refusal would be fatal to the interests of the country.

On the meeting of the Congress to discuss the nomination of the future Emperor, in obedience to the popular voice, the Deputies, with the exception of those of the pure Republican party and the Bourbonists, who deemed it prudent not to offer any resistance, were unanimous.

The election of Iturbide as Emperor received the cordial assent of the provincials, who, by their subsequent expressions of enthusiastic approval, ratified the choice of the City of Mexico.

The coronation of Iturbide took place on the 21st of June 1822, and it was fondly hoped that the peace and repose of which Mexico stood so much in need would then be established.

Scarcely had the Empire of Iturbide been inaugurated, when the ever-restless spirits who, under cover of profuse protestations of attachment to the person of the Emperor, were secretly devising means to overthrow him, unmasked themselves. Of this class Santa Anna was the most conspicuous. He was persistent in urging Iturbide to extreme measures against those who were accused of conspiring against the Empire, and at last the Emperor ordered the arrest of the guilty parties.

The Congress, annoyed by this act of Iturbide, peremp-

torily demanded the release of their colleagues. This was refused, and angry discussions ensued.

The abeyance in which the "Plan of Iguala" was apparently held irritated the people; and they refused to contribute to the expenses of their representatives.

On the 30th of October the Emperor declared the Congress to be dissolved, and soon after convoked another Assembly which was to act only in cases of urgency.

The public mind was again relieved. The commercial prosperity of the country, which had sadly deteriorated during the late wars, was again considered.

But a great evil soon threatened the existence of the Empire. The financial condition of the country was very low; and the revenues, which had been sadly neglected, were insufficient to meet the requirements of the nation. The pay of the army was in arrear, and the various officers of the State could not obtain their salaries.

The fort of San Juan de Uloa, which dominated the town of Vera Cruz, was still occupied by the Spaniards. Santa Anna, under the orders of Echevarri, commanded this province. These generals, who were instructed to capture the fort, disagreed; being jealous of each other. Prompted by Echevarri, and influenced by other complaints against Santa Anna, the Emperor cancelled his commission, but as a recognition of his former bravery he received the Order of Guadalupe, and was made Brigadier-General.

The Republican party had, by this time, become strong, through the intriguing efforts of the agents of the United States. They enlisted Santa Anna into their cause, feeding his ambition by styling him the "Mexican Washington."

Santa Anna returned to Vera Cruz before the fact of his being relieved from his command became known; and seduced the officers to his side by promises of advancement. He was so successful, that on the 2nd of December 1822, he boldly proclaimed the Republic; in which he was supported by Victoria, Guerrero and Nicolas Bravo.

Following up this proclamation, he soon captured the

adjacent towns of Alvarado and Antigua ; but was defeated on attacking Jalapa.

Echevarri, who had received numerous tokens of favour at the hands of the Emperor, was ordered to attack Santa Anna ; but the confidence of his master in his fidelity was ill requited. Echevarri betrayed his cause ; and although commanding a superior force to that of the enemy, he surrendered and made a compact with Santa Anna to overthrow the Empire.

Betrayed by him in whom he had confided, Iturbide, instead of taking the field in person and vigorously endeavouring to crush the rebellion, consented to abide by the decision of the country, as to the future fate of the Empire.

But the provinces had been influenced by the agents of the Republic, and they sided against the Emperor ; but demanded that his person should be respected.

Stung by the base ingratitude of the country, and fearing further resistance would be the cause of bloodshed, he, on the 20th of March 1823, signed his abdication, and transmitted it to Don José del Valle, one of the Deputies who had been imprisoned by the Emperor for conspiracy, but had now been released by the Republicans, and made Minister of Foreign Affairs.

In this document Iturbide desired to retire to a foreign country, and asked that the debts he had contracted during his rule might be liquidated.

It may here be noted that he had scarcely received sufficient during his reign to pay necessary expenses.

These requests were granted, and a pension of £5000 a year was allowed him ; Italy being chosen as his future place of residence.

Accompanied by a guard of honour, the ex-Emperor arrived at Antigua ; from which place he embarked for Europe.

In order to carry out the principles of the Republic, the Congress on the 31st of May, 1823, nominated Generals Victoria, Bravo, and Negrete, as controllers of the executive power.

The abrogation of the decree which placed Iturbide on the throne, destroyed any chance of the "Plan of Iguala" being established in Mexico.

On the 5th of November 1823, the second Congress was convoked under the presidency of Doctor Don Miguel Guridi y Alcocer.

Two distinct parties were then formed ; the Centralists and the Federalists ; the former being composed of the Bourbonists, who wished for a centralised or autocratic government ; the latter of the old insurgents, the Republicans and the Iturbidists. The sentiments of the Federalists were in accordance with the feelings of the people, and Democracy became the ruling power.

The national exchequer was very low, and recourse was had to foreign countries for loans to meet the exigencies of the country.

The conflicting policies of these factions kept the nation in a troubled state. Presidents were deposed and fresh governments were established in rapid succession.

In the meantime Iturbide, weary of exile, determined to regain possession of the Mexican throne. Arriving in England, he was earnestly solicited by his countrymen there to return to Mexico.

He was ignorant of the existence of a decree which had been passed on the 8th of April, 1824, by which he was outlawed ; and he embarked on the 11th of May for Soto la Marina, at which port he arrived on the 14th of July, and despatched an aide-de-camp to General la Garza, who was commander of that district, soliciting permission to land ; which was immediately granted.

As soon as Iturbide stepped on shore, he was arrested and lodged in the prison of the town. It was then that he was first made acquainted with the purport of that fatal decree ; being now informed by the Alcalde of its existence, and that he had but three days to live. This news did not disconcert him ; he declared he was not come to oppose the Republic, appealing to the absence of any army as a con-

firmation. He begged to be sent before the Congress which was then sitting at Padilla; and that his chaplain, who had accompanied him to Mexico, should be allowed to attend him.

La Garza, fearful of incurring the responsibility of carrying into effect the decree, determined on granting his request; and immediately sent a letter to the Congress, informing them of the return of Iturbide, and of his intention to bring him before them.

This news created great consternation. The remembrance of the services rendered by Iturbide to the country, seriously affected them, and they endeavoured to evade, if possible, the spirit of the Act; but unhappily without avail. Only six deputies remained in session, who ordered the immediate execution of the unfortunate Emperor.

At six in the evening, he was conducted to the place of execution, accompanied by his chaplain, to whom he entrusted the rosary which had hung on his neck, to be given to his eldest son, also a letter for his wife.

Distributing among the firing party the contents of his purse, he addressed these words to the crowd in a firm and distinct tone:—

“Mexicans! At the moment I am about to die, I commend to you the love of your country and the observance of our holy religion; it is that which must conduct you to glory. I die for having come to your aid; and I die content, because I die amongst you. I die with honour,—not as a traitor. I would not leave that stain to my children and to posterity. No; I am not a traitor! Observe subordination and be obedient to your chiefs. In executing their orders you accomplish the will of God. My words are not inspired by vanity, I am far from possessing it.” At the conclusion of this address, he desired the adjutant, Castillo, to fire; and immediately fell, pierced by five bullets.

He was buried in the cemetery of Padilla, without any solemnity; but his death has been a lasting sorrow to the nation.

PART I.

HISTORICAL INTRODUCTION.

SECTION III.

The Republican Era.

THE Republics which succeeded on the fall of Iturbide were remarkable for the constant change of Presidents through national dissensions, of which the clergy were credited as being the chief cause.

The clergy had obtained a great hold on the country, and were continually in opposition to the wishes of the people.

Possessed of enormous wealth which they had gradually accumulated; and having the army on their side, the whole country was virtually in their hands.

This state of affairs continued up to 1847, when on the invasion of the country by the United States, the inefficiency of the executive was proved, and a Government succeeded which introduced several reforms both clerical and military.

In 1853 Santa Anna was proclaimed Dictator; the result of a revolution in which the clergy took a prominent part; and the despotic rule which followed the proclamation of Santa Anna as Dictator was the result of a combination between the clergy and the army.

The people became dissatisfied; and in the same year the standard of rebellion was raised by Ignacio Comonfort in the State of Guerrero; this insurrection soon became general, and terminated in the complete overthrow of Santa Anna and the clergy.

In 1855 Comonfort became President, but after two years of turbulent rule he found himself unable to carry on

firmation. He begged to be sent before the Congress which was then sitting at Padilla; and that his chaplain, who had accompanied him to Mexico, should be allowed to attend him.

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the Government satisfactorily, he therefore abdicated in favour of Don Benito Juarez.

For some time the Conservative and Liberal parties in the country had been bitterly opposed to each other.

During the presidency of Comonfort, the Conservative General Zuloaga proclaimed himself President, and he, in his turn, was supplanted by Miramon.

Here were two powerful parties, each with a President at its head, contending for supremacy; and many desperate conflicts ensued, until a decisive victory won at the battle of Calpulalpan by the Liberals, placed Juarez in possession of the capital.

Juarez set to work to repair the losses suffered during the late war, and to carry out those liberal measures which had been commenced by Comonfort. The suppression of monasteries, the confiscation of the vast wealth of the clergy, the principles of civil and religious liberty were the chief reforms which were established.

The clergy, with the Bishops Munguia and Labastida at their head, continued to conspire against the Government of Juarez, but at length they were expelled the country, and Europe became their scene of action.

Their aim was the establishment in Mexico of a Spanish monarchy; for which purpose they endeavoured to bring about the intervention of France.

During the pseudo-presidency of Miramon, bonds were issued by his party to the extent of several millions of dollars for the purpose of carrying on the struggle. These, known as the Jecker Bonds, were taken by several European capitalists, and the hope of redemption lay in the successful overthrow of Juarez, who repudiated the debt.

The religious enthusiasm of the Empress of the French was enlisted in behalf of the exiled party, and the riches of Mexico was a bait temptingly held out in order to obtain the support of the French nation.

The Governments of England, France, and Spain were petitioned to intervene in order that the bondholders should be enabled to obtain payment of their claims.

Earl Russell, on the part of England, was unwilling to interfere, but finding France and Spain had determined on acceding to the request, he at last consented, and on the 31st of October, 1861, was signed the "Convention of London."

Shortly after the signing of the Convention, naval forces from each Power, with the addition of military on the part of France, proceeded to Vera Cruz, the principal maritime town and port of Mexico, where they arrived on the 7th of January 1862. The first Liberal Government in Mexico was then in power, having at its head Don Benito Juarez, as President of the Republic. To him despatches from the combined representatives of the three European Powers were forwarded, demanding payment of the debt due to them respectively by the Mexican nation, and with the avowed object of ascertaining in what manner the Government purposed to liquidate those liabilities. With that frankness and sterling honesty of principle which characterizes President Juarez, he explained the pecuniary position of his Government, which had very recently been established, after overthrowing the fatal sway of the Clerical party: stating that the coffers of the nation were in an impoverished condition, consequent on the contentions of many years' civil war; that it was the desire of the Government not only to satisfy the creditors of the nation as to all existing obligations, but also to make arrangements respecting the future—for all which time only was solicited.

It was obvious, both to the then British Minister in Mexico (Sir Charles Wyke), as well as to the representatives of France and Spain, that the Juarez Government was desirous to avoid any outbreak of ill-feeling or hostilities, by acceding to any reasonable propositions that might be made, or could be entertained, for the fulfilment of the conditions of the existing treaties, and that they were willing at the same time to offer material guarantees by way of security.

On the 10th of January a proclamation was issued by the allied representatives to the Mexican people, in which was stated, that the treaties violated by the various Governments of Mexico, by which the guarantees of their countrymen

were incessantly menaced, rendered the expedition necessary; they had no pretensions of conquest, nor any aspiration to intervene in the politics or administration of the Mexicans; they simply desired to obtain reparation for grievances inflicted on their countrymen; they tendered a friendly hand towards a people whom Providence had favoured with gifts, but who used their forces and exhausted their vitality in civil wars and perpetual convulsions: it was the object of the three powers to work for the future of Mexico, and not to make war: it was exclusively for Mexico without any foreign intervention, to constitute itself in a solid and durable manner; and they only wished to assist in their regeneration to order and liberty.

On the 25th of January a manifesto was published by Juarez against the Interventionists; in which he declared his intention to inflict punishment on them for offences committed against the nation; against order, public peace and individual security.

Amongst the offences against the independence and stability of the nation were comprised:—

First. The armed invasion made on the territory of the Republic by foreigners, not having been preceded by a declaration of war on the part of the powers to which they belong.

Second. The voluntary service of the Mexicans amongst the foreign troops of the enemy, whatever may be the character in which they accompany them.

Third. The invitation made by Mexicans or foreigners residing in the Republic to the subjects of other powers to invade the national territory, whether to change the form of the Government of the Republic, or on any other pretext.

Fourth. Every kind of complicity to incite or prepare the invasion, or to favour its realization.

Fifth. Every attempt to organize even the semblance of a new Government, by giving votes, or otherwise assisting at meetings to make resolutions with that view, or by accepting office or commission whether it be under the invader himself or other persons delegated by him.

In spite of this, despatches were forwarded from the French representatives, asking permission from the Mexican Government to march their troops to a more salubrious part of the country, as the excessive heat on the coast had caused much sickness amongst them.

Señor Doblado replied on the 6th of February: "As the Government of the Republic is unaware of the nature of the mission which the Commissioners of the allied powers have come to fulfil in Mexico, because, up to this moment they have only indicated vague promises, of which no person understands the veritable object, it cannot permit the invading troops to advance, unless there be arranged with clearness and precision, certain general bases explaining the intentions of the Allies, upon which important national interests may be deliberately discussed.

"The Citizen President commands me to say for more ample explanation, that if you send promptly to Cordova a Commissioner to discuss with one from the Mexican Government the bases indicated, he will give orders to permit him to advance to such points as may be agreed upon."

The Allies replied to that note on the 9th of February as follows:—

"Desirous of attempting a last effort to prevent a conflict which they would sincerely regret, the undersigned representatives consider it their duty to invite His Excellency the Minister of Foreign Affairs to come in person to meet the Conde de Reus, who will in their name give every necessary explanation, to dissipate injurious doubts as to the loyalty of the high powers signing the Convention of the 31st of October, 1861.

"The Conde de Reus will, accordingly, be at the Rancho de la Pulga—a point equidistant from La Tejeria and La Soledad—on the 18th of February, at 11 A.M. The representatives trust that the Minister of Foreign Affairs may be able to present himself at the rendezvous with a guard of honour of fifty cavalry and

" fifty infantry. The Conde de Reus will be attended by a " similar escort."

This arrangement for an interview having been accepted, General Prim went to the place designated; and from thence proceeded, accompanied by Señor Doblado, to La Soledad—a town in the interior, about thirty miles from Vera Cruz. They immediately retired to an isolated house, where they remained several hours in secret conclave.

To facilitate an amicable arrangement, a Conference was held at that town. This Conference was called the "Preliminary Convention of La Soledad." It was held on the 19th of February 1862, and provided (between the Mexican Government of the one part, and the Plenipotentiaries of Great Britain, France, and Spain of the other part):—

" ARTICLE 1.

" The Constitutional Government, which is actually in " power in the Republic of Mexico, having informed the " Commissioners of the Allied Powers that it did not re- " quire the assistance offered with so much courtesy to the " Mexican people, because they possess in themselves suffi- " cient elements of force to preserve themselves from any " internal revolution; the Allies will have recourse to the " existing treaties to present all claims which they are " charged to make in the name of their respective nations.

" ARTICLE 2.

" With that object—all the representatives of the Allied " Powers protesting that they have not, by any means, the " intention to injure the sovereignty or integrity of the " Mexican Republic—negotiations shall be opened at Ori- " zaba, where the Commissioners of the Allied Powers and " the Ministers of the Republic shall meet, unless delegates " be named by both parties by mutual consent.

" ARTICLE 3.

" Whilst these negotiations proceed, the forces of the

" Allied Powers shall occupy the towns of Cordova, Ori- " zaba, and Tehuacan.

" ARTICLE 4.

" In order that it may not in any manner be supposed " that the Allies have signed these preliminaries with the " object of obtaining their admission to the fortified posi- " tions now occupied by the Mexican army, it is stipulated " that, in case the negotiations, unhappily, shall be broken " off, the allied forces shall retire from the said towns, " and take up their positions in line before the fortifica- " tions, on the road to Vera Cruz, the extreme points being " Paso Ancho on the road to Cordova, and Paso de Oveja " on the road to Jalapa.

" ARTICLE 5.

" In case, unhappily, the negotiations shall be inter- " rupted, and the Allies shall retire within the lines before " indicated, the hospitals of the Allies shall remain under " the protection of the Mexican nation.

" ARTICLE 6.

" The day on which the Allies shall commence their " march to occupy the points mentioned in the 3rd Article, " the Mexican flag shall be hoisted over the town of Vera " Cruz, and on the fort of San Juan de Uloa.

(Signed)

" CONDE DE REUS.
MANUEL DOBLADO.
CHARLES LENNOX WYKE.
HUGH DUNLOP.
A. DE SALIGNY.
E. JURIEN."

" La Soledad, 19th February, 1862.

" In exercise of the full powers with which I am in- " vested, I approve these preliminaries.

(Signed)

" BENITO JUAREZ,
" President of the Republic.
" JESUS TERAN, SECRETARY."

The French plenipotentiaries, acting on instructions which reached Vera Cruz on the 24th of February, commenced a course of action independent of that of the representatives of England and Spain, who were in harmony with each other. The French wished the terms of the Convention of London to be strictly adhered to, *irrespective* of the preliminaries of La Soledad.

This difference of opinion was the prelude to still greater difficulties, the French being determined to adopt an aggressive policy, in order to pave the way for the establishment of a monarchy in Mexico.

In accordance with the preliminaries of La Soledad, the French troops were permitted to march into the interior, to the salubrious and luxurious climate of Cordova, Orizaba, and Tehuacan, where the invalids rapidly recovered from the effects of their residence on the seaboard. Shortly after this, General Lorencez arrived from France, accompanied by the exiled Mexican General Almonte, who in Europe had concerted plans for securing the Mexican throne to the Archduke Maximilian of Austria. Almonte lost no time in initiating a system of intrigue, for the purpose of inducing the supporters of Juarez to revolt against his Government, by issuing invitations to the Mexican people to pronounce against him.

On the 9th of April, 1862, a Conference was held at Orizaba between the allied representatives, to take under consideration the reply which should be given to a communication received from the Mexican Government, demanding the re-embarkation of General Almonte and those who accompanied him. At that Conference the Commissioners disagreed; M. Saligny avowing, that "for his part he formally declared he would not treat with that Government; and his opinion was, that the allied forces ought to march on Mexico." The Conde de Reus and Sir Charles Wyke dissented, and considered that what had been said was unjustifiable.

"Sir Charles Wyke wished to know if it were true

that M. de Saligny had said that he considered the preliminaries of La Soledad as not worthy the paper on which they were written." To which the latter replied, that "he never could have the least confidence in whatever emanated from the Government of Mexico; no more in the preliminaries than in the other engagements." After further discussion, M. de Saligny repeated that he considered the march of the troops on Mexico as "indispensable for the security of his countrymen," and declared his irrevocable resolution "not to treat with the Government of President Juarez." To which the English and Spanish Commissioners replied that they "did not know any motive to justify such a resolution," and declared their intention to retire their forces from the Mexican territory.

On the 16th of April the French Commissioners published the following proclamation, which was the commencement of hostilities against Juarez:—

"Mexicans. We have not come here to take a part in your divisions: we have come to terminate them. We would invite all good and true men to co-operate in the consolidation of order, to the regeneration of your beautiful country. To demonstrate the sincere spirit of conciliation with which we are animated, we first addressed ourselves to the Government itself, against which we had the most serious grievances. We have asked it to accept our assistance in order to establish in Mexico a state of affairs which would spare us in future the necessity of these remote expeditions, the gravest inconvenience of which is the suspension of commerce and the interruption of the course of relations which might be so profitable to Europe and to your own country.

"The Government has responded to the moderation of our conduct by measures to which we never intended to lend our moral support; such as the civilized world would reproach us for if we sanctioned them by our presence. Between that government and us, war is this day declared; but we do not confound the Mexican people with an oppressive and violent minority. The Mexican people are

always entitled to our liveliest sympathies. It is for them to show themselves worthy of this. We appeal to all who have confidence in our intervention, to whatever party they may belong.

"No sensible man would believe that the Government created by the suffrages of one of the most liberal nations of Europe could have, for a moment, the intention to restore ancient abuses amongst a foreign people, and to revive institutions which are not of this century.

"We desire equal justice for all, and that that justice may not have to be enforced by our arms. The Mexican people ought of themselves to be the primary agents of emancipation. We have no other object than to inspire the honest and peaceable portion of the country, that is to say, nine-tenths of the population, with courage to make known their wishes. If the Mexican nation remains inert, if she will not comprehend that we offer her an unhopèd-for opportunity to escape from ruin, if she does not by her own efforts, give a direction and a practical moral significance to our support, it is evident that we shall only have to attend to the precise interests for which the Convention of London was ratified.

"Let those men divided for so long a period by quarrels without an object, hasten then to come to us. They have the destiny of Mexico in their hands. The flag of France has been planted on Mexican soil; that flag will never recede. Let those wise men welcome it as a friendly standard. Let the foolhardy dare to fight against it.

"Cordova, 16th April, 1862.

"The French Plenipotentiaries to Mexico.

"V. A. JURIEN,

"COMTE DE SALIGNY."

General Lorencez, on the 26th of April, marched at the head of his forces, amounting to about 5000 men, towards the Capital of the Republic, under the conviction that no Mexican opposition could prevent his entering the city of Mexico: but he was brought to a halt by a

formidable barrier, which presented itself at the city of Puebla, where the Mexican Government had concentrated about an equal number of troops, under the command of General Zaragoza, and thrown up temporary fortifications.

The French General did not delay in attacking the Mexicans with all the forces at his command; but, after some severe fighting, which lasted for several days, an attempt was made, on the memorable 5th of May, to carry the city by assault; the French General, however, found he had too cheaply estimated his foe, who repulsed the daring invader.

Never did a General more deservedly receive chastisement. Lorencez having sacrificed the honour of his country by violating the Treaty of La Soledad; and the glory of France being thus tarnished by the failure of the attack on Puebla; he retired to the city of Orizaba (from whence he had so recently marched), to await reinforcements from Europe. Many months of inactivity followed, bordering on a complete cessation of hostilities, until fresh troops arrived from France, accompanied by General Forey, who arrived at Vera Cruz on the 22nd of September, and immediately deprived General Almonte of the powers which had been conferred upon him by the small town of Cordova.

Forey had received instructions from the Emperor of the French respecting the line of conduct to be observed by him, as follows:—

"THE EMPEROR TO GENERAL FOREY.

"Fontainebleau, 3rd July, 1862.

"MY DEAR GENERAL,

"On the moment of your departure for Mexico, entrusted with political and military powers, I consider it desirable to make my thoughts known to you.

"This is the line of conduct you have to pursue:

"*First.* To issue a proclamation on your arrival, the principal ideas of which will be indicated to you.

"*Second.* To receive with the greatest consideration all Mexicans who offer themselves to you.

" *Third.* Not to espouse the quarrel of any party ; but to declare that all is provisional as long as the Mexican nation shall not have declared itself ; and show great deference to religion, but at the same time encourage the holders of national property.

" *Fourth.* To nourish, pay, and arm the Mexican auxiliary troops according to your means ; causing them to take the principal part in the battles.

" *Fifth.* To maintain amongst the troops, as well as amongst the auxiliaries, the strictest discipline ; to rigorously repress every act, all gossip, offensive to Mexicans ; for their characteristic pride must not be forgotten, and it is important to the interests of the enterprise, above all, to conciliate the feelings of the people.

" Having reached Mexico it is to be hoped that notable persons of every shade, who may have espoused our cause, will come to an understanding with you to organize a provisional Government. That Government will submit to the Mexican people the question of what political régime ought to be definitively established. An assembly will be immediately elected according to the Mexican laws.

" You will aid the new power to introduce into the administration, and especially in the finance, that regularity of which France offers the best model. For that purpose, persons capable of assisting in its new organization will be sent.

" The object to be attained is not to impose on the Mexicans a form of government which would be distasteful to them ; but to aid them in their efforts to establish, according to their own will, a Government which may have a chance of stability, and may be able to secure to France redress for the grievances of which she has to complain.

" Of course, if they prefer a monarchy, it is the interest of France to support them in that view.

" There will not be wanting some who will ask you why we have provided men and money to establish a regular Government in Mexico.

" In the present state of civilization of the world the prosperity of America is not indifferent to Europe ; for she it is who feeds our manufactures, and keeps our commerce alive. It is to our interest that the Republic of the United States may be powerful and prosperous, but by no means that she should take all the Gulf of Mexico, and hence command the West Indies as well as South America, and be the sole dispenser of the products of the New World. We see to-day, by a sad experience, how precarious is the fate of an industry which is reduced to seek for its principal products in one market only, where it undergoes every kind of vicissitude.

" If, on the contrary, Mexico conserves her independence and maintains the integrity of her territory ; if a stable Government be constituted there with the assistance of France, we shall have restored to the Latin race, from the other side of the ocean, its strength and its prestige ; we shall have guaranteed their security to our colonies of the West Indies and those of Spain ; we shall have established our beneficent influence to the centre of America ; and that influence, by creating immense openings to our commerce, will procure for us the indispensable materials for our industry.

" Mexico, thus regenerated, will always be favourable to us ; not only by acknowledgment, but also because its interests will be in harmony with ours, and it will find a point of support in its good relations with the European powers.

" Now, therefore, our military honour pledged, the exigence of our politics, the interest of our industry and our commerce make it our duty to march on Mexico, to plant there boldly our standard, to establish there, — a monarchy, if it is not incompatible with the national sentiment of the country — but at all events a Government which promises some stability."

" NAPOLEON."

General Forey now took command of the troops and advanced on Puebla, which had been placed in a state of defence, and was occupied by the bulk of the Mexican army. He formed his encampment in front of that city, against which he laid siege. Hostilities were carried on, with varied success on either side, for several weeks; repeated attacks were made by the French troops without any decided result; and it has been doubted whether they would ever have conquered the Mexicans, if a more formidable enemy than French soldiers had not crept into the besieged city. The supplies having been cut off by the French, *hunger* came effectually to their help. During this state of affairs the President Juarez was not idle; another small army was formed, which, under the command of General Comonfort, advanced to the relief of Puebla. That small army, however, was composed of volunteers and raw recruits; and although these were not wanting in courage, and fought with intrepid bravery, it is not to be wondered at that undisciplined troops were routed by the French: some hard fighting, nevertheless, preceded their defeat, and General Forey lost a considerable number of men. But the stores and ammunition intended for the besieged army having fallen into the hands of the French, and the relieving forces of the Mexicans having disappeared, the defenders of Puebla destroyed their arms and fled in great confusion, entirely abandoning the city to the victors.

No obstacle now remained to prevent General Forey from pressing on with his troops to the Capital of the Republic. No effective resistance could now be made to his advance from Puebla. The President Juarez resolved on saving the beautiful city of Mexico from the consequences of a prolonged siege, and its inhabitants from the hardships to which by it they would inevitably be exposed. The Mexican Government withdrawing to San Luis Potosi, abandoned the Capital, leaving the gates unprotected, and the French army made its triumphant entry on the 10th of June, 1863.

Without any sacrifice of time, measures were taken by the Mexican intriguers, under the protection of France, to form a new Government. General Almonte, previous to his departure from Europe, had secretly arranged his course of tactics with the Emperor Napoleon in reference to the establishment of a Monarchy in Mexico; and the opportune moment having arrived, he commenced his operations by setting up a Regency, represented by General Salas, Father Ormaechea, and himself. An "*Assembly of Notables*" was summoned to co-operate with the Regency, to take into consideration and resolve upon the form of Government it would be most prudent to establish for ruling the nation. This mockery, as a matter of course, resulted, without a dissentient voice, in the adoption of the decision which had months previously been arrived at in Europe by Almonte himself.

At that sitting the Assembly named a commission to decide on the form of government that should be adopted for Mexico; and on the 10th of July, that commission read to the Assembly a report which concluded in favour of a monarchy, submitting to the deliberation of that Assembly the following propositions:—

"*First.* The Mexican nation adopts a *monarchical, temperate, and hereditary* form of government under a Catholic prince.

"*Second.* The sovereign shall take the title of Emperor of Mexico.

"*Third.* The Imperial Crown of Mexico shall be offered to His Imperial and Royal Highness the Prince Ferdinand Maximilian of Austria for him and his descendants.

"*Fourth.* In case, from circumstances which cannot be foreseen, the Archduke Ferdinand Maximilian should not take possession of the throne which is offered to him, the Mexican nation shall place it under the *consideration* of His Majesty Napoleon III., Emperor of the French, that he

may indicate another Catholic Prince to whom the Crown shall be offered.

"Mexico, 10th July, 1863.

"AGUILAR.
VELAZQUEZ DE LEON.
OROZCO.
MARIN.
BLANCO."

These propositions were accepted and published in the form of a decree. A commission was then named to convey to the Archduke Maximilian the decree of the Assembly of Notables, and to offer him the Crown of Mexico.

That commission was received on the 3rd of October, 1863, by the Prince at his palace of Miramar. It would appear that the ambition of Maximilian was too strong to allow him to refuse the Crown, inasmuch as he at once accepted it, under the proviso that it should be made manifest to him that the offer came from the Mexican nation in general.

In a letter dated the 3rd of September, 1863, addressed to General Almonte by the Archduke, he says:—"If the votes of the entire country ratify the wishes of the capital; if the other conditions on which depends the accomplishment of those wishes be realized, I shall not hesitate before the difficulties of that grand enterprise."

The Regency was in a happy position to prevent any public demonstration in opposition to the proposed Monarchy, as the army of the Republican Government was destroyed at the siege of Puebla, and the forces which had rallied round the Regency, and were now amalgamated with the French, spread themselves over the principal part of the country. In all the towns and villages they occupied, the Conservative or Clerical party appointed and coerced the local authorities, so as to prevent any apparent want of unanimity in expression of feeling on the part of the inhabitants in favour of this Monarchy; and, consequently, it became an

easy matter to frame documentary evidence of such a nature as to beguile the credulity of the Archduke Maximilian, who, on its being placed before him at Miramar, no longer vacillated, but at once resolved on accepting the proffered Crown.

When the Archduke was at Brussels, at the end of February, he decided on going to Mexico; and in order to give to his acceptance of the Crown all the solemnity possible, the following letter was written, by his command, to General Woll:—

"Brussels, 29th Feb., 1864.

"MY MUCH ESTEEMED FRIEND,

"I am commanded by His Highness the Archduke to write to you and say that he wishes the prisoner generals who have adhered to his august person, and whom you may consider worthy, to present themselves at Miramar; but that this be done without their knowing that the Archduke desires it, and as a voluntary act on their part, to assist at the solemn acceptance of the Crown of Mexico, which will take place at Miramar in the presence of our Commission and several Mexicans, invited for that purpose, when the registers arrive—the votes—which as yet are wanting. You will present those generals, and His Highness hopes that for that purpose you will arrange with Señor Escandon, because he has recommended several prisoners, amongst whom there are one or more Indian officers; the Archduke desires that the last named may also assist at the solemnity at Miramar.

"The Archduke desires, besides, on account of the knowledge you possess respecting the Mexican army, that you should propose, if they meet with your approbation, one or more experienced officers who are able by their special acquaintance with arms and their skill, to select and receive the armament which has to be purchased here; if not, a commission will be named here for these transactions.

"J. VELAZQUEZ DE LEON."

PART I.

HISTORICAL INTRODUCTION.

SECTION IV.

The Second Empire, under Maximilian.

THE Emperor Maximilian commenced his reign under the most favourable and even flattering auspices. Instead of declaring himself a staunch Conservative, and a firm supporter of the Clerical party, which had been instrumental in placing him on the throne, he showed signs of possessing Liberal principles—while, on the other hand, he evaded the principles of ultra-Liberalism by adopting a medium course; and, in the formation of his Ministry, he displayed much wisdom and discernment, by appointing men of moderate Liberal ideas, who had made themselves conspicuous and acceptable in former Administrations, and through whom he hoped to conciliate the influential men of that party, many of whom entertained misgivings as to the ultimate success of their own cause; but who, fatigued and nauseated with perpetual intestine feuds, were half inclined to believe in the possibility of peace being permanently restored by the establishment of a Monarchy.

Whilst this feeling existed, Maximilian, in conjunction with the Empress Charlotte, made a tour of the newly-created Empire, and was everywhere received with demonstrations of confidence and rejoicings, which increased his popularity beyond all precedent.

The Emperor departed about the middle of August to make a journey into the interior. During that journey, which occupied two months, the personal qualities of His Majesty attracted the sympathies of all those who had the honour to approach him. The Emperor was pleasing in

the highest degree by his simple, affable, and courteous manners; he was sure to enlist the affection of all those who had not been touched by his foreign politics; the population received him with sincere enthusiasm. On the 16th of September, the anniversary of Mexican Independence, His Majesty was at Dolores, the village where Padre Hidalgo raised his first cry of war in 1810. On that occasion the Emperor pronounced, from the very house of Hidalgo, a discourse, wherein he said:—

“Mexicans. More than half a century, full of turbulence, has elapsed since, from this humble home, went forth from the heart of a priest the grand word of INDEPENDENCE, which resounded like thunder from one ocean to the other, throughout the whole extent of Anahuac,* and before which the servitude and despotism of many centuries fell paralysed.”

It would appear that Maximilian was pleased with his tour. A few days before he returned to the capital he wrote as follows: “My journey has been very happy up to this moment, and I trust it will not be without utility. “Everywhere I observe the same facts, an excellent population, very submissive.”

The Mexican people began to regard him as the saviour of their country, and were not unwilling to believe that, under his rule, war would cease, and all political contentions die out.

In the commencement of his short-lived reign in Mexico, Maximilian gave such strong evidence of possessing Liberal sentiments, that even some of the most influential of the Liberal party, and a large number of their partisans, were inclined to rally round his standard: convinced, from his having, in several instances, favourably entertained the views and supported the measures of the former Government, that his principles were similar to their own; and that by uniting with him in the restoration of order—in reorganizing the ruling of the country, hitherto so

* Ancient name of Mexico.

disturbed and confused by civil war—permanent peace would be secured, and the consequent progress and prosperity of the nation would be rendered all but certain.

This was the time for Maximilian to consolidate his power. Unfortunately, however, he was not a diplomatist, and could not resist the insidious flatteries and artifices of the Clerical party, who trembled at their own apparently prospective failure under the Empire, which seemed to threaten the annihilation of their hopes to re-establish the power of the Church, whose sway had been crushed by the Liberals after a prolonged existence of three centuries, propagating superstition in its most hideous phases, and swallowing up the wealth of the nation. The priests were impatient to regain the enormous landed property of the Church, which had been confiscated by the Liberal Government; and were naturally filled with alarm at the liberal ideas expressed by their newly-elected Emperor: knowing full well, that a germ of esteem for him in consideration of his professed principles was taking root in the breast of their enemies, and that if time were allowed for such ideas to be matured and propagated, they themselves would be displaced by the pressure of the Liberals, who were ready to sacrifice their ultra-Republican proclivities, and concert with the Emperor. Fearing such a catastrophe, the Conservatives resorted to every description of sophistry and deception, to make the Emperor vacillate, and, if possible, swerve from the plans he had formed. Unhappily, he was too easy a victim to flattery and credulity. The cunning of his courtiers overreached his better judgment, and, when too late, he discovered that the new laws he had enacted, instead of cementing the stability of the throne, had caused the alienation of a considerable number of his friends, who then augmented the ranks of the enemy: the ripening esteem of the Liberal party fell from him for ever, and a system of guerilla warfare was organized, in which the Imperial troops were harassed, until it became manifest that to conquer the country was an impossibility.

On the 3rd of October, 1865, a fatal decree,* which ultimately operated against himself and decided his fate, was issued by Maximilian. Its nature was arbitrary and condemnable.

This cruel decree was carried out to the very letter. "General Don José Maria Arteaga was one of the first victims of this sanguinary edict. He had been twice Governor of the State of Queretaro, and several times in

* "MAXIMILIAN, EMPEROR OF MEXICO, Our COUNCIL OF MINISTERS, and Our COUNCIL OF STATE, with one accord, decree :

"Art. 1. All persons forming a party or band, or an armed gathering existing without legal authority, whether or not they proclaim a political pretext, whatever may be the number of those who form the band, the organization of the latter, the character and the denomination it takes—shall be judged militarily by court-martial; if they are found guilty, even if it be only of the act of belonging to an armed band, shall be condemned to capital punishment, and the sentence shall be executed within twenty-four hours.

"Art. 2. Those who, forming a party or band—as mentioned in the foregoing article—shall be made prisoners in battle, shall be judged by the commander of the force into whose power they may fall. That officer shall, without any delay exceeding twenty-four hours, institute an inquiry, hearing the defence of the accused. He shall set up on that enquiry a *procès-verbal* terminating in sentence. Capital punishment shall be pronounced against the guilty, although no other act be imputed to them than that of belonging to an armed band. The officer shall have the sentence executed within the twenty-four hours, taking care to procure spiritual aid for the condemned, after which he shall forward the *procès-verbal* of the enquiry to the Minister of War.

"Art. 5. There shall be judged and condemned according to the terms of the 1st article of the present law :

"1. All persons who may have voluntarily procured money or any other kind of succour for the *guerrilleros*.

"2. Those who may have given to them any warning, news, or advice.

"3. Those who voluntarily and without being ignorant of the nature of the *guerrilleros* may sell or procure for them arms, horses, munition, provisions, and, in general, any article of war."

“ high military command, where he might with impunity
 “ have abused his position, during the chaos consequent on
 “ civil war, to become rich; but his integrity was un-
 “ blemished, and he died in absolute poverty. At the time
 “ of his death he held the commission of Juarez as Chief to
 “ the Liberal army in Michoacan, but, notwithstanding all
 “ these circumstances, he was executed as a robber, together
 “ with General Salazar, and a number of other officers
 “ taken in war; and the Imperialist who shot them, Colonel
 “ Don Ramon Mendez, was promoted by his master to the
 “ rank of General, and chief commander in the Department
 “ of Michoacan.

“ Also, it is notorious that on several occasions the
 “ French and Imperialists shed the blood of their opponents
 “ most unmercifully. For example, Baron d’Aymard, in
 “ command of a French division in Michoacan, surprised
 “ the camp of Regules, and made a terrible slaughter; and
 “ he then stated, in his despatch to Marshal Bazaine,
 “ that his men had made a free use of the bayonet, and
 “ that they had taken no prisoners! But, in the published
 “ version of this despatch, it was merely said that he had gone
 “ through the Liberal camp at the point of the bayonet.” *

It has been published that 11,000 men of every rank in
 the Republican army, ranging from General to common
 soldier, were shot down in cold blood, after falling prisoners
 of war, without the slightest inquiry of any description.†
 They had been guilty of carrying arms in defence of their
 country—fighting for their Liberty, and the protection of
 that glorious Independence, to obtain which their fore-
 fathers had sacrificed their lifeblood in a ten years’ war!
 For this *crime* they were massacred. They were declared
 TRAITORS! But, let it be asked, *To whom were they*
Traitors? To a foreign enemy, who had invaded their
 territory; who had spread devastation by fire and sword

* Letter published (in 1868) by Mr. Edmund Stephenson, of Guan-
 axuato.

† Vide p. 69. Baron de Lago states 40,000.

throughout the land, endeavouring to extinguish the sacred
 flame of *Reform*, which had been kindled on the altar of
Liberty and Freedom of Religion, by the first Liberal
 Government that ever exercised power in Mexico since the
 date of her Independence: a Government which succeeded,
 after many years of civil war, in extirpating the evil—that
 curse of the country, which had and ever would have
 hindered its progress in civilization—the power of a vitiated
 Roman Catholic Priesthood! This having been achieved,
 the crafty and revengeful monk appealed for aid to a
 foreign nation, to reinstate him in his former position. It
 was reserved for France to be that Power, by whom the
 Archduke of Austria was induced to accept the fragile
 sceptre of the prospective Empire of Mexico.

The 5th article of the edict alluded to, provided, that
 all persons, who, in any manner whatever, may aid or
 assist the Liberal forces, by supplying them with money,
 provisions, fodder for their horses, or shelter of any de-
 scription, should be shot. Many were the victims who
 suffered from this tyrannical and unjust law; and many, who
 were so fortunate as to escape by flight, had their habita-
 tions and homesteads burned to the ground by the ruthless
 forces of the Imperial Government—simply because they
 were at the mercy of both parties. The Liberals, in their
 marchings, levied contributions and requisitions for the
 support of their troops; but it was *decreed*—woe betide
 the individual civilian, native or foreign, who received an
 unwelcome visit from those whom he was thus *compelled* to
 aid, according to his means, either by money or provisions!
 No protection was afforded him by the Empire, which ex-
 pected him to resist by force of arms* the demands of the
 Republicans. Such a man was doomed, by the decree of
 the 3rd of October, 1865, to expiate his *crime* by an igno-
 minious death!

Too faithfully and fatally was that edict carried out: and
 many of the most respectable and pacific of the community,
 let it be repeated, were shot; whilst others, who, to avoid a

similar fate, fled from their homes (afterwards laid desolate by fire), were thus unmercifully hurled from the height of domestic affluence to the lowest depths of abject poverty.

Such heartrending scenes do not require the forcible pen of a sensational novelist to give them colour: the simple facts speak for themselves, and will for ever stand out in bold relief, as a reply to the world, which too hastily condemned Mexico for an act, which, much as it may be deplored, could not be obviated, in the face of the painful wailings, the agonizing lamentations, of a multitude weeping over the memory of the unresisting victims who were thus deliberately slaughtered. Parents for their sons, widows for their husbands, children for their fathers, sisters for their brothers, friends for their former companions—all united in one tremendous clamour for revenge. But what a poor revenge! How inadequate to the irretrievable losses they had sustained—the execution of one, who in fact, though not perhaps in intention, infringed the sacred rights and liberties of an unoffending people, innocent of any deed to excite by hostility, or through either fear or envy, the jealous ire of any foreign Power, he being ambitious only to establish a Monarchy on the Mexican soil!

After this sweeping onslaught, without any consideration for the sentiment of the soldier-patriot defending his domestic hearth from invasion by a foreign foe, or for the life or property of the pacific citizen placed in a helpless position,—can it be wondered at that Maximilian became a victim to his own unscrupulous decree of wholesale devastation?

At length the Washington Government, resolving to vindicate the Monroe doctrine, that no Monarchy shall be established on the continent of the New World, sent an intimation, couched in unmistakable terms, to the Emperor Napoleon, that unless he at once recalled the French troops from Mexico, a rupture between France and the United States must inevitably take place.

It is well known that that intimation had the magic effect of causing the speedy withdrawal of the French arms.

The letter of Mr. Seward (United States Secretary of State) of the 23rd of April, 1866, says:—"The Government has received the satisfactory assurances of the Emperor of the French that all the French troops will be recalled from Mexico, and that France will observe a policy of absolute non-intervention in the affairs of Mexico. Our Government will *exact* the same policy on the part of all European powers. Official information has been received from Paris and Vienna that the Emperor of Austria has offered to furnish Maximilian with troops to replace those of France, and that a large number of Austrian soldiers are ready to be embarked for Vera Cruz. Mr. Seward has given orders to Mr. Motley (United States Plenipotentiary) to demand his passport as soon as the first vessel shall have sailed with troops on an expedition of that nature, and to notify to the Government of Vienna that the Austrian Minister at Washington will receive his passport on the receipt of such news. The intervention of any European power in the affairs of Mexico will henceforth be considered by our Government as a *casus belli*. France has been engaged in a war with Mexico; endeavouring to obtain redress for the wrongs and injuries which she has suffered. She has now accepted the policy of non-intervention, of which the United States, as far as regards Mexico, will themselves be the guardians in future."

Here it may be stated that the Emperor Maximilian had several months previously made preparations to leave Mexico and return to Europe. The Austrian frigate *Isabel* was lying in the port of Vera Cruz, waiting for any emergency; and the principal portion of Maximilian's luggage had been despatched from the city of Orizaba, where he was residing, and had actually reached Vera Cruz. On its arrival there, the French Consul at that port became cognisant of an occurrence so significant; and not having previously received the slightest intimation from the Commander-in-Chief of the French forces that such might

happen, he instantly telegraphed to Marshal Bazaine, in the city of Mexico, communicating the intelligence, and asking instructions how to act in the case. That General—between whom and Maximilian an official estrangement had for some time existed—replied by a peremptory command that the luggage should not be permitted to be embarked; and at the same moment sent a telegram to the officer in command of the forces at Orizaba, to place Maximilian under arrest, as he contemplated a departure from Mexico without that formal abdication which Bazaine desired, probably in order to be left free to treat with the head of the Liberal party—Juarez—whose position was now daily growing stronger, and whose ultimate triumph was gradually becoming more apparent, whilst that of the Imperial Government was becoming more desperate every hour.

Here, again, during this critical state of affairs, the Clerical party exerted their strongest influence over Maximilian to prevent such a disaster to their prospects, and to induce him to remain in possession of the throne, promising him an increase of his army, and 20,000,000 dollars for their support.

On the 22nd of November, by command of the Emperor, the Ministers and Councillors of State assembled at Orizaba to confer with his Majesty.

Led away by false representations and delusive hopes, which could never be realized, Maximilian returned to the city of Mexico, in spite of the advice to abdicate, given privately by sterling friends at Orizaba, whom he consulted on the matter: one being a highly respectable English gentleman and manufacturer, whose knowledge of the Mexican Clerical party, acquired by a thirty years' residence, enabled him to form a correct judgment of the probable result.

Another fatal step was also taken at this juncture by the now tottering Empire—the recall from exile of those notorious Generals, Miguel Miramon and Leonardo Marquez. The former had been deposed from the Presidency on the success

of the Liberal arms in the year 1860; and he it was, it will be remembered, who attached the large sum of 600,000 dollars belonging to the English bondholders, which was held in trust by the British Legation. Marquez had served under the Presidency of Miramon, and in his prowlings over the country, was infamous for acts of brutal ferocity, casting even the barbarities of Caligula into the shade. Many horrifying and well-authenticated examples of this might be related, but a full portraiture of them would be unfit for any publication. They were of such a description, however, that, on his return, the remembrance of the foul and flagrant deeds that he gloried in perpetrating, caused Mexico to blanch with terror; and a thrill of horror went through the land, in dread of a repetition of his former diabolical acts. Any appeal for support made to such wretches could only damage Maximilian's already critical position, and exasperate the Liberal party to an exterminating war, beyond all hope of pacification. The presence of these Generals at the consultation at Orizaba, above alluded to—the assurances of success they held out, combined with the persuasions of the Priesthood and ultra-Clerical party—prevailed on Maximilian to continue at the head of the Empire after the withdrawal of the French troops, and thus to renew the fearful strife which had formerly raged between Conservatives and Liberals, spreading desolation throughout the land for more than ten years previously. It was no longer a contest for the support and protection of the Monarchy—it had now merged into a struggle for ascendancy between the original contending factions: and if the Clerical party had succeeded in reinstating themselves with stability by annihilating their rivals, it is more than probable that the position of the Emperor would then have been treated with but scant respect, and his person with but grudging courtesy, even if they had not openly repudiated his right to govern as soon as their own purposes had been served. So far, it must be evident, Maximilian was made a tool of; and it is needless to speculate on what might have resulted if the Clerical party

had conquered: but true it is, as the sequel will show, that the "tiger" Marquez (such was his well-merited *sobriquet*) disregarded any power superior to his own, even before the final overthrow of the Empire, by the entrance of the Liberals into Queretaro on the 15th of May, 1867, when the Emperor was made prisoner.

On the 30th of November Maximilian resolved to retain power and to return from Orizaba to the city of Mexico—only two months previous to the departure of the French troops from the Capital. Early in the morning of their leaving, they were reviewed by Marshal Bazaine, on the open space in front of the Ciudadela (citadel), on the western side of the city, from whence, in marching across to the coast side of the Capital, they had to pass in front of the Palace, under the open windows of the room in which Maximilian (Emperor to them no longer) was seated: but he did not make his appearance, to exchange the usual courteous valedictory salutations with the Commander-in-Chief of the French forces and his officers; which manifested the unfriendly feeling that now, and for some time previously had, existed.

The music selected for the "march-past" (*Partant pour la Syrie*) is said to have been a studied affront, in ridicule of the position of the abandoned—the forsaken Emperor! Who can estimate the real state of Maximilian's feelings as the expiring notes of the martial air were lost in the distance?—separated now, and for ever, from the army which had placed him on the throne, and had been pledged to support him there—whose simple presence inspired a feeling of security!—Gone, all gone! A tremulous sensation of solitude, and a dark foreboding, could scarcely have failed to pass through his mind at that moment, when the tramp of the French troops ceased to be heard. Distant from his affectionate and amiable wife—who had fruitlessly journeyed to Europe, to solicit further aid in support of the Empire, which was rapidly losing its prestige, and was crumbling to the ground—deprived of her counsel under such trying

circumstances, he must have been cowed with dejection, if not overwhelmed with despondency: left to comparative strangers; surrounded by courtiers, jealous solely of their own personal interests—who had nothing to lose, but who were keenly alive to the desperate aspect of affairs.

Now came the decisive struggle. The retreat of the French army was closely followed up by the Liberals, who, as the former receded to the coast, posted troops along the line of route from the Capital to Vera Cruz; and so the Empire was reduced to the small portion of territory, and the few towns still held in occupation.

Maximilian must have been obstinately blind not to have recognised his precarious position at this moment. It is incredible that he could have been ignorant of the qualities which characterised the two Generals Miramon and Marquez—whom he now placed in command of the Imperial forces—inasmuch as, at the instigation of the British Government, they had been exiled from Mexico, that Government having withheld its recognition of the Empire until such a step had been taken. To recall these men, who were held in such general detestation by the people, irrespective of differences in political opinion, could not fail to exasperate, more than ever, the opponents of the Conservatives, and naturally arouse their indignation against Maximilian—for whom they entertained a certain amount of compassion, in consequence of the deception that had been practised on him at Miramar by the Committee of Notables, and the influence which France had exercised over his actions. This flagrant error was unpardonable; there were no extenuating circumstances in the case, to warrant such a censurable, such a suicidal, measure as that of recalling Marquez, and appointing him General-in-Chief of the Imperial forces, and Governor of the capital of Mexico. A monster who had revelled in the foulest crimes, causing his name to ring like a death-knell through the land,—his barbarous cruelties will never be obliterated from the memory of Mexicans. In his maraudings over the country

in every direction, previous to his exile, he, with his followers, butchered an entire family at Tepeji del Rio—he himself crowning the dark deed by taking up an innocent baby by the feet, and smashing its head against the wall! At Tlascalala he had women bound by ropes, hung to the branches of trees by their breasts, and flogged; and then abandoned them to a horrible death of lingering torture. In the town of Pachuca he visited the domicile of an English family; and, not content with his booty, dragged the lady of the house into the courtyard, and threatened to shoot her if she did not disclose more hidden treasure. Her cries reached the hearts of the more merciful soldiers, who saved her life from the savage monster whom they called captain. The recollection of such atrocities excited the Liberals to the highest pitch of indignation, and caused their ranks to increase daily. The struggle of the Mexicans with each other was thus renewed: the Conservatives, or adherents to the Empire, were arrayed against the Juarez or Liberal Government, which was temporarily installed at Zacatecas.

At an assembly of Ministers held in the city of Mexico on the 14th of January, 1867, the Minister of War declared that he counted on an effective force of 26,000 men; the Minister of Finance believed he could provide eleven millions of dollars from the actual revenue, which could be increased to twenty-four millions, and then to thirty-six, as the Imperial Government re-established its authority in the country.

The campaign was opened by General Miramon, who marched from the Capital to Zacatecas, levying *en route* forced loans on the towns and villages. In this expedition Miramon was defeated, and retired on Queretaro, at which place the Emperor resolved to concentrate the principal part of his army, and where he made his appearance, in the early part of February, 1867, at the head of his forces, with his General-in-Chief, the notorious Marquez. Immediately after his entrance into Queretaro the Liberals besieged the place, simultaneously with Vera Cruz and Puebla, and

cut off all supplies from those fortified places, which were as yet occupied by the troops attached to the Empire.

Whilst the contest was being carried on at these different points, General Marquez managed, by a strategic manœuvre, to steal away from Queretaro with about 500 cavalry, with the ostensible design of joining the besieged at Puebla, who were sorely pressed. He first marched to the Capital, to gather together as many troops as possible; and there prepared a train of artillery, ammunition, provisions, baggage-waggons, and bullion, with which he proceeded towards Puebla with a bold front, sanguine of success. The Liberals were not less active, and being watchful, and well-informed of the movements and intentions of Marquez, they resolved on giving him no chance of relieving Puebla, but to take the town at once by assault. This was bravely effected, at a sacrifice of nearly 3000 men, in the beginning of April, 1867, by the forces under the command of General Porfirio Diaz, who directly afterwards marched to encounter Marquez on his way from the city of Mexico. They signally defeated him at San Lorenzo, and captured the entire paraphernalia of war, as well as the bullion. The Imperialists fled in all directions. Marquez succeeded in escaping, and reached the city of Mexico with less than a score of his panic-stricken comrades. General Porfirio Diaz followed up his victory by approaching the Capital, which he soon after surrounded and vigorously besieged, cutting off all supplies, at the same time that Queretaro was in a precisely similar position. Both these fortified cities were suffering from the same causes, although the fighting at Queretaro was the most severe. Soon the scarcity of provisions began its slow but certain work.

On the night of the 14th of May, 1867, the Emperor presided at a council of war, when it was resolved to make an attempt to break through the lines of the enemy on the following day, and fight them on the open field. This manœuvre might or might not have been effected. However, dark treason was undermining his plans. An officer

(Colonel Lopez) in whom Maximilian implicitly confided,—on whom he had bestowed unlimited favours—whom he had countenanced and trusted as a friend—at that eventful moment betrayed his benefactor and Emperor. Lopez, who has been universally execrated, and by none more so than by the Mexican Liberal party, delivered up the fortification of Santa Cruz, in which Maximilian unsuspectingly reposed. It appears that Lopez had an accomplice called Jablonski, a native of Poland, in this odious infamy. The Emperor and his generals were surprised on the morning of the 15th of May, and had to capitulate without striking a blow.

The particulars of this perfidious act are fully explained in the two following declarations.

Colonel Guzman, second staff-officer of the Imperial army, states:—"About four o'clock, A.M., on the 15th of May, the secretary of the Emperor (Señor J. L. Blasio) entered the apartments occupied by General Castillo and myself; he informed me that the enemy was in the cemetery. I instantly told the General, and rushed out. . . . I retired with much precaution, when I met approaching, at the beat of the drum, five or six officers, behind whom Lopez was coming on.

"I made a step in advance in the middle of them, and addressing myself to Lopez, said, 'What is the matter, Colonel?' He did not reply, and I could observe that he seemed desirous to keep behind that group of officers. I had scarcely pronounced those words when one of them, who was behind me, said in a loud voice, 'Secure this person.' This was done by seven or eight soldiers who were behind, and whom I had not observed. That small guard marched me towards the garden about twenty-five yards from the door, where we remained.

"At that time I supposed Lopez had been made prisoner like myself, but I could not conceive why he did not join me, seeing him continue to march with those officers towards another door of the edifice, from twenty to twenty-

"five yards distant, which led to the quarters of the company of sappers, thence to a guard of military police, and to the interior of a fortified work which commanded the road leading to La Cruz.

"For about a quarter of an hour I could observe that some persons, coming from the interior, went towards the detachments of infantry, and made them advance on the convent by its two entrances, and by a large court-yard, which they reached by a hole in the wall. That court communicated on the south with the line of San Francisquito, and on the north with the hospital. At that moment I heard Lopez, at a short distance, say, in a loud voice, marching rapidly on,

"'This way, General, this way.'

"I had a moment of extreme joy, for I momentarily supposed that Lopez had succeeded in escaping, and that it was to General Castillo that he pointed out the road by which the enemy had advanced; but that illusion was of short duration, for quickly afterwards I was marched towards a platform constructed against the wall of the left enclosure, where I was joined by seven or eight of my comrades, already prisoners. It was not till then that I could comprehend all that had passed before my eyes with such order and silence, because no firing was made from any post, and the movement was not observed from the tower.

"Amongst the prisoners were commandants of all the various posts, except that of the tower, and each one began to relate what Lopez had said to them in order to divide them. To the commandant of the cemetery he said, that a battalion of General Marquez, eluding the vigilance of the enemy, had succeeded in reaching the 'Plaza,' and that it was from detachments of that troop that he relieved the guard, which had to join his battalion to undertake an operation at the break of day. He induced Lieut. Hans to draw his piece towards La Cruz, because a detachment had revolted at that place; withdrew him

“from that post, and retained him prisoner, leaving the piece under the guard of fresh soldiers. In fact, every one described the manner in which they had been made prisoners; and all pointed out Lopez as the author of all the events.”

The declaration of L. Echeagaray (commandant) states:—
 “My battalion was under arms on the night of the 14th to the 15th of May, and there only remained in the corridors of the hospital about forty prisoners, which had been turned over to us to occupy the empty space. About half-past four o'clock in the morning, an officer of the guard of my troop, Lieut. Molinères, entered my room, situated in front of the barracks of La Cruz, and said to me, ‘Major, it appears that the enemy is in the garden and the cemetery.’ At the moment that I went out to go to the barracks, I saw a body of troops walking by the side of the church, going towards the pieces of artillery which were in the small square near the entrance to my barracks. I asked Molinères what troop that was. He replied that they looked like the enemy. At the same instant I saw them seize the artillery.

“On arriving at the door of the barracks I met General Castillo, who probably came from his room. We had just entered when we saw Lopez coming out, who had disposed of the arms of the forty men of whom I have spoken. General Castillo demanded of Lopez, ‘What is the matter, Colonel?’ He did not reply; he came to me and said, ‘Save the general, all is lost!’ I then told him that I would go and gather together some picquets of my battalion, who defended the fortified line, to see what he would do. ‘No, no,’ he said, ‘let everything remain as it is.’ Several Republican officers, who were unknown to me, were there with pistols in their hands. I went away and hurried to the nearest posts where the troops of my battalion were, in order to rally them; but it was in vain, as Lopez, at the head of a column of the enemy, accompanied by their officers, marched to all the points occupied

“by our troops; surrounded and disarmed them. I believe that confusion was the reason why we were not then made prisoners. I followed Lopez, who executed with great rapidity the operations of which I speak, up to San Francisco, where I left him. When I descended to the ‘Plaza’ I saw picquets of the Imperial corps defiling in the same direction, *Exploradores de Mexico*, hussars, the escort of the Emperor, and the small troops commanded by Jablonski. The first three picquets were stopped, surrounded, obliged to dismount and to deliver up their arms; but Jablonski, with his section, crying ‘*Viva la Libertad!*’ freely passed on, and, turning to the right, took the road to the ‘*Congregacion*,’ where I was made prisoner.”

“At the break of day the Emperor had risen,” says an eye-witness of that tragedy, “and almost immediately he apprehended that an extraordinary event had occurred. Awakening the Prince Salm-Salm, his aide-de-camp, Maximilian went towards the outer yard of the convent; but he had scarcely taken a few steps when a detachment of soldiers, under the command of Colonel Rincon Gallardo, surrounded him. Lopez accompanied that detachment; it was he who pointed out the Prince to his enemies, calling out in a hoarse voice, ‘*Aquel es, agarrale!*’—‘That’s he, seize him!’”

To the honour of that Liberal officer, however, be it here remarked, that he, with a heart full of sympathy and generosity for the fallen Emperor, being internally desirous that he should escape, and disgusted with the treason, approached him as though he did not recognise who it was (Maximilian being in civilian costume), saying, “*Usted es un particular y no un soldado; no tenemos que decirle usted. Andale!*”— (“You are a private individual and not a soldier; we have nothing to say to you. Away!”) and he delicately put the Prince outside the convent.

This opportunity of escape was not taken advantage of. The game was now up—all was lost; still, with an inexplicable obstinacy, and an extraordinary lack of judgment, being apparently unwilling to succumb without a final effort,

the Emperor hurried away to the heights of La Campana, at the other extremity of the city.

"Towards that same point the Imperialist officers and soldiers who had not yet been captured were going in confusion, pursued by the cavalry of the enemy.

"Up to that time only a few shots had been fired. General Corona, at all times prompt in his movements, had made the principal part of the Liberal army enter into the convent first, and afterwards into the town. He then flanked all the positions of the Imperialists, when the defenders threw down their arms, exclaiming, '*Viva la Libertad!*' But Miramon was not disposed to yield so easily. Rallying a portion of the regiment of the Empress, which he met in the street of *Las Capuchinas*—the principal street of the city—he checked the assailants. The first discharge wounded Miramon in the face, under the left eye, which momentarily deprived him of sight. Before he had recovered from the shock all his soldiers had surrendered, and he was prisoner in a neighbouring house!

"During this time Maximilian had reached the Cerro de la Campana, a fortified hill which commanded the northern part of the city; he had been rejoined by his generals, Mejia, Castillo, and Avellano, by the Prince Salm-Salm and several others of his officers; but it soon became evident that all resistance was impossible. Four battalions of infantry and all the Liberal cavalry surrounded the Cerro.

"The white flag was then hoisted, and the Emperor, with all his staff, surrendered to General Corona. Permission was granted to the prisoners to retain their horses, their arms, and their personal effects, and some hours afterwards they were conducted to the convent of La Cruz."

The siege had continued for sixty-eight days. "The Emperor lived like a common soldier; full of hope, illusions, and abnegation, he exposed himself with singular indifference. His conduct has not ceased to be an example of chivalrous courage, and a matter of admiration to all."

The following despatch from Baron de Lago, the Austrian Minister, on the events of Queretaro, is replete with interest:—

"Mexico, 25th June, 1867.

"I trust your Excellency has received my letter of the 30th ultimo, and will permit me to give you an abridged account of the events which have happened since, so far as time and circumstances will allow me, reserving details for another occasion.

"Notwithstanding the obstacles which Lieutenant-General Marquez placed in my way, I was able to leave Mexico on the 31st ultimo, by the Chalco canal, and, after a journey of three days, I arrived at Queretaro on the night of the 3rd of June. On the following day I obtained from the general-in-chief (Escobedo) permission to see the Emperor as often as I pleased. I immediately went to the prison of the Convent of Capuchinas, where I found his Majesty on a sick bed, suffering from dysentery, but in good spirits and courageously resigned.

"Some hundreds of soldiers were lying on the stairs and in the passages through which it was requisite to pass, in order to reach His Majesty, so that it was necessary literally to pass over their bodies. The chamber itself was a cell situated at the bottom of a corridor on the first story, about ten yards long and three yards wide. It contained nothing but a camp-bed, a cupboard, two tables, an arm-chair, and four other chairs, all rush-bottomed; the floor was roughly paved with tiles; it had a door and window opening on to the corridor.

"At the door a sentry was placed, and before the window an officer was lying on a mat. At night, a general and three colonels stood sentinel before the Imperial chamber, with revolvers in their hands.

"The two Imperial generals, Miramon and Mejia, were confined in two cells adjoining that of the Emperor, and were able to converse freely with their Sovereign. At a short distance (not in the character of prisoners) were

Doctor Basch, the private physician of Maximilian, and two European servants.

"From the moment of my arrival I had almost daily interviews of several hours with His Majesty, who invariably treated me in the kindest and most courteous manner. His Majesty also frequently saw my colleagues, who had likewise arrived at Queretaro; the resident minister of Prussia; the Charge-d'affaires of Belgium, Monsieur F. Hoorickx; and the Charge-d'affaires of Italy, Monsieur Curtopassi, towards whom he showed much courtesy and amiability.

"In the interval, in consequence of the grave and desperate aspect of affairs, we were persuaded that the two advocates, Riva Palacio and Martinez de la Torre, who had come from Mexico, would act more efficiently in the interests of the cause of Maximilian in San Luis, the seat of the Republican Government, and, therefore, the place where the case would be definitively decided, than at Queretaro, where the other two advocates, Ortega and Vasquez, had better remain.

"Shortly after the arrival of the first two advocates at San Luis we heard from them, by telegraph, that their efforts had completely failed, and that the request they had made, that the tribunal appointed to try the Emperor should be declared incompetent, had been refused.

"That tribunal was composed of six captains, presided over by a lieutenant-colonel. The advocates had proposed that the cause should be sent before a Court-martial composed of generals, or before the National Congress.

"On the receipt of this unfavourable news, conveyed to us the same day by express from the advocates at San Luis, Baron de Magnus, Minister of Prussia, departed immediately for that city, to attempt a last effort for a better result, or to obtain, at least, a suspension of the judicial proceedings. In order that nothing should be wanting on my part in whatever way I could be useful to the unhappy Imperial prisoner, I offered, even though I might not be called to San Luis by telegraph, to accompany my Prussian

colleague, particularly as his chancellor was very ill in Queretaro.

"It was not until after the solemn declaration made by the advocates who were staying with me and my colleagues, that the presence of an Austrian Minister at San Luis could only injure the cause of the Emperor, that I renounced the project of going, for which His Majesty heartily thanked me the same evening, as he wanted me very much to be at his side. The Emperor placed no hope in the negotiations commenced at San Luis; and with reason, as the result has shown, he anticipated absolutely nothing from that quarter for his life and honour.

"On the 12th and 13th the process commenced in the theatre of the city; the Court-martial as well as the accused were on the stage, and the public were in the stalls and boxes; the theatre was faintly lit up. As His Majesty, partly on account of his indisposition, but principally from a sense of wounded honour, would on no condition, short of actual compulsion, appear in such a place, the proceedings respecting him were suspended, and the court began with the generals Miramon and Mejia, who also had to be forced to appear on the stage.

"At length, on the morning of the 14th, the Imperial advocates commenced to plead, after they had shown that the process might take place and the judgment be legally pronounced without the presence of the accused before his judges. At a future time I shall be in a position to render to your Excellency a more detailed account of the thirteen points of accusation and the defence. Besides the usurpation of supreme power, civil war, &c., the most prominent point in the accusation was the sanction given to the law of the 3rd October, 1865, in conformity with which, according to Liberals of note (*notabilites liberales*), 40,000 persons had been executed in the country after that date.

"At nine o'clock in the morning of the 14th an adjutant of General Escobedo came to look for Messieurs Hoorickx, Curtopassi, Forest (late French Consul at Mazatlan

and chargé of confidential powers of the Ambassador of France), and myself, and conducted us to the head-quarters. There the order was given for us to leave Queretaro within two hours. We had scarcely time to inform his Majesty of that measure and to pack up our luggage, when a second order enjoined us to quit the city immediately.

"A quarter of an hour afterwards a diligence which was placed at our disposal conveyed us from Queretaro. A passport for the towns of Cuautitlan and Tacubaya was given to us by the adjutant, who declared to us in the name of General Escobedo that if we did not instantly leave Queretaro, or if we returned within seven or eight days, it would cost us our lives.

"On the evening of the 16th, after a tedious journey, we arrived at Tacubaya, where we learned that General Marquez did not by any means intend to surrender the city of Mexico, but that he continued to despoil and ill-treat the inhabitants in the most shameless manner, whilst he caused it to be officially announced that the Emperor had obtained brilliant victories, and that he might be expected daily.

"Famine had made fearful progress in the capital; one-third of the inhabitants had run away towards the positions occupied by the Liberals, where extreme misery reigned and horrible epidemics began to make their ravages.

"In the camp of the Liberals exasperation against General Marquez, against the other Imperial generals, and against the officers and soldiers serving under their orders, reached its highest pitch, seeing that it was impossible to admit that these could be still in doubt as to the fate of the Emperor. They were therefore reproached with a desire to cause useless effusion of blood without any chance of success, from sheer passion and obstinacy.

"All the superior officers, Mexican and European, were then on the list of those who should be executed after the taking of Mexico. On the other hand, His Majesty the Emperor had described General Marquez to me—as well

as to my colleagues—as the greatest traitor, who, from the time that he left Queretaro, had always acted in a manner directly opposed to the instructions which he had received from the Emperor. Thus, the Emperor told me that General Marquez had never been authorized to march on Puebla, but that he had received orders to repair with the garrison of Mexico and the money deposited in that city to Queretaro, where he might then have offered a decisive battle to the principal army of the Liberals, the issue of which would certainly have been favourable.

"Having waited some weeks in vain for the return of General Marquez, it had been resolved, after many combats always successful against the besieging army (six times more numerous), to abandon Queretaro and march on Mexico; he should have left on the morning of the 15th; but at 3 o'clock, A.M., the traitor Lopez, up to that time a great favourite of the Emperor and commander of the fortified convent of La Cruz, had introduced the enemy into that position, which commands all Queretaro.

"The Emperor himself related to me that with the intention of rejoining his troops there he had gone to the well fortified hill of the Cerro de la Campana, which is on the west side of the town.

"There he would have awaited General Miramon, but in the interval the latter had received a severe wound in the face and had been made prisoner. Thus the precious time, which might have been utilised by opening to himself a road for escape, passed away without benefit. When the Emperor heard of the fate of Miramon he thought no more of flight.

"The majority of the Imperial troops, who during the siege had shown themselves so brave and so faithful, had been surprised and found themselves prisoners all scattered about. Even General Mejia advised the Emperor to surrender, seeing that assaulting columns of the enemy were approaching from all points with a terrible fire. The

Emperor himself at that moment took the white flag, and surrendered himself to the General Riva Palacio, the son of his present advocate.

"Four days previously, Colonel Lopez—that traitor!—had presented himself at the quarters of General Escobedo, and traded his treason for the sum of 2000 doubloons, on account of which, however, it appears he only received about 7000 dollars. The Emperor himself told me that Lopez had sold him and his troops for about eleven rials (five shillings and sixpence) per head.

"As soon as I arrived at Tacubaya, I addressed an official communication to the officers of the Austrian staff, to inform them of the fall of Queretaro and the captivity of His Majesty. At the same time I stated that an autograph letter from the Emperor, in which he requested them to put an end to a useless effusion of blood, and which I had sent to them by Baron Magnus, had been intercepted by General Marquez; and I told them that, under the circumstances, it was my duty to hold them responsible before His Austrian Majesty, our gracious master, for the life of every Austrian soldier lost in a useless manner.

"I offered to have an interview in the trenches during the night with Colonel Khevenhuller, to divest him of the least doubt as to the authenticity of the fate of the Emperor. At the same time I entered into communication with General Porfirio Diaz, for the purpose of obtaining the most favourable conditions for the Austrians. General Porfirio Diaz declared a proposition from the Austrian officers, to be allowed to present themselves at Vera Cruz with arms and baggage, to be wholly inadmissible, because the foreign troops had for two months supported the violent and cruel tyranny of General Marquez.

"Ultimately General Diaz and myself agreed on the conditions of the capitulation of the Austrian troops and their officers—conditions which the General designated as the extreme concessions of which he could take the responsibility in the face of his Government. General Diaz

refused to give me a written declaration, but declared to me and to the witnesses present—Monsieur Frederic Hube and Governor Baz—that he, on his word of honour, engaged to have the stipulations observed. It was in that sense that I communicated to the Austrian superior officers the last conditions of the General, which were nearly as follows:—

"1st. The principal condition of the present convention is that from this moment the Austrians shall withdraw themselves from all participation in hostilities against the Republican forces.

"2nd. If, between this and the morning of the 21st—that is to say, within forty-eight hours after receiving the stipulations—the Austrians leave the city and deliver up their arms, General Porfirio Diaz guarantees to send them to Vera Cruz at the expense of the Republican Government; but he desires that the arms and horses should be given up, with the exception of the swords and horses of the officers.

"3rd. In case of a fight, if, without taking any part therein, the Austrians retire within the palace and hoist the white flag, the General can only guarantee their lives; in all other respects the Republican Government will decide.

"4th. These conditions also apply to the other soldiers, not being Mexicans, placed under the command of Austrian officers, according to the second condition.

"At five o'clock in the evening of the 20th we heard at Tacubaya that these points had been accepted without reserve by the Austrian officers. They declared at the same time that, on the following day, at ten o'clock in the morning at latest, the Austrians would leave Mexico, and deposit their arms at Tacubaya. Unfortunately, negotiations had been entered upon, with the object of a capitulation, by General Tabera, Commandant of the City of Mexico in the place of Marquez—who had concealed himself—which were completed about midnight.

"On the 21st, about five o'clock in the morning, the Republican troops were to enter Mexico—which, in fact,

took place. Therefore the fulfilment of the second point on the part of the Austrians became impossible, without any fault on their side.

"The Austrians were concentrated in the palace, and after the entry of the Republican troops their arms were not demanded from them. The Austrians and a party of foreign troops were to leave the next day for Puebla; there they would await the decision which the Republican Government might definitively arrive at respecting them."

All the Austrians were subsequently sent to Vera Cruz, from whence they embarked.

Completing this sketch in the words of Mr. Stephenson's letter:—

"The besiegers, immediately after the fall of Queretaro, advanced to join Porfirio Diaz in the siege of Mexico, which was defended by Marquez with the energy of desperation.

"For a long time neither provisions nor fuel had been allowed to pass into the Capital, and already many of its inhabitants were perishing of hunger when Queretaro fell.

"Marquez was officially advised of the capture of the Emperor with all his officers, and he was requested to deliver up the Capital, which he no longer had a legitimate motive for defending; but he sternly refused, and concealing the intelligence, he actually ordered rejoicings to be celebrated for a fictitious victory of Maximilian, which he invented in order to deceive his soldiers and the people.

"Now did Maximilian experience the sad result of his own bad act, in appointing the savage Marquez to be his General-in-Chief and Governor of the Capital; for this monster, taking counsel only of his own ferocious nature, heeded not the peril of his master and of his old companions, but, regardless of what their fate might be, resolved to continue a useless defence—and thousands of people miserably perished by battle, pestilence, and famine!

"Not only did Marquez disregard the death and suffer-

"ings of the poor, but in order to extract money from the rich, he imprisoned all that refused to comply with his demands—not merely natives, but likewise British and foreign merchants, without distinction; and we are told that, with a characteristic refinement of cruelty, he had them placed in rooms at the highest storey, exposed to the greatest heat, and to the flying balls—and refused to give them food until the money he wanted was paid.

"Of course, all business and trade were suspended, and the streets deserted by all the men of peace; because the press-gang was ever active to catch all it could, to oblige them to take part in the defence, so that only women or children, or aged men, could venture in search of the scanty means of subsistence.

"We are not yet fully acquainted with the horrors of that dread time in the City of Palaces, the beautiful Mexico; but the following incident, related in a letter from that place, dated the 27th of June, may afford an idea. The writer mentions, that in a family consisting of father, mother, and three small children, the mother sickened and died, and nothing to eat remained in the house. The father ventured out to seek provisions for his little ones, locking the door to keep them safe until his return. He was caught by the remorseless press-gang, who hurried him off, regardless of his prayers and deep despair; and when, after three days, he by some means succeeded in reaching home, he found all his young children sleeping with their mother—in death!

"When such heartrending disasters were being caused by Maximilian's officers in Mexico, for above a month after the Emperor became a prisoner; and similar miseries were taking place, although on a smaller scale, at Vera Cruz, which port also refused to surrender; when people in all parts of the country were being distressed by ruinous exactions to maintain the war; and when more than 20,000 men, women, and children had perished in the sieges of Mexico, Queretaro, Puebla, and Vera Cruz—

" can we wonder that at length arrived the hour of retri-
" bution for the man, who, by his culpable folly and wrong-
" headedness, had made himself the direct visible cause
" of all these sufferings and deaths ?

" In Mexico it is well known that Juarez is not a san-
" guinary man, but that he is, on the contrary, averse to the
" shedding of blood; and when he previously triumphed,
" in 1860, in that second great contest with the Conserva-
" tives, he allowed all his enemies to escape, and did not
" order a single execution, after concluding by force of arms
" a civil war of three years.

" The delay which took place in the execution of
" Maximilian and of his principal Generals was doubtless
" owing to the secret desire of Juarez to find some plausible
" occasion for sparing their lives; and if Mexico and Vera
" Cruz had capitulated when their commanders received
" official advice of Maximilian's capture, such an oppor-
" tunity for the exercise of clemency probably would have
" been furnished in the universal joy of the nation at the
" restoration of the long-desired peace.

" It had been expected that, as a consequence of the
" signal triumph at Queretaro, the Capital and Vera Cruz
" would be delivered up; but when Maximilian's own
" General-in-Chief continued a useless but terrible conflict,
" the indignation of the impatient people could no longer be
" restrained; and on the 19th of June, after thirty-five days
" of suspense, the decree of a court-martial was carried into
" effect, and Maximilian, together with his Generals, Miguel
" Miramon and Tomas Mejia, was launched into eternity."

Wednesday, the 19th day of June, 1867, is a memorable
date in the history of Mexico. Ere the sun, which on that
day seemed to shine with more than usual splendour, should
have set, Maximilian would be no more.

At 6 A.M. the *cortège* left the convent of the Capuchinas.
The glories of that beautiful morning burst suddenly upon
them as they entered their carriages, each prisoner being
attended by a priest. Their sombre garments and saddened

faces stood out in striking contrast to the charm which
nature yields so unsparingly in that delightful climate.
Maximilian, enthusiastic to the last, could not refrain from
expressing his admiration. On reaching the threshold,
turning to his advocate, Ortega, he exclaimed: "What a
" beautiful sky! It is just like this that I should have
" wished the day of my death to be."

Four thousand soldiers formed an escort. The procession
slowly wended its way to the Cerro de la Campana, a hill
in the suburbs of Queretaro, which was the place selected
for the final scene in the life of the illustrious prisoner and
of his companions in arms, Generals Miramon and Mejia.

On arriving at the place of execution—about one hun-
dred yards from the spot where he had surrendered himself
on the 15th of May—the calm demeanour and courageous
bearing of the ill-fated Emperor testified to the dignified
resolution with which he met his fate.

On alighting from his carriage, he coolly brushed off some
dust from his dress, and then, with head erect and with a
firm step, he walked to the spot where he was to be shot.

To each of the firing party he presented a twenty-dollar
gold coin, and enjoined them to aim at his breast.

The young officer who was in command approached the
Emperor, and said how much he dreaded that their blood
would be on his head, whilst he disapproved from the
bottom of his heart the mission he was forced to fulfil.

"Young man," the Emperor replied, "the duty of a soldier
" is to obey. I thank you for your compassion; but what
" I request is that you may accomplish the order which
" has been given to you."

The Emperor then approached Generals Miramon and
Mejia, and, with emotion, embraced them, saying: "We
" shall soon see each other again in the other world."
The Emperor, who was in the middle, addressed himself
to Miramon: "General, sovereigns also admire the brave;
" and on the point of death I wish to cede to you the place
" of honour." Then, turning to Mejia, he added: "General,

"he who has not been rewarded on earth will certainly be so in heaven." Mejia was the most affected of the three. A few minutes previously he had seen his wife—her infant in her arms and her bosom bared—run across the street as though she had been struck with insanity.

The Emperor advanced a few steps, and in a clear voice, with remarkable self-possession, addressed the troops—[vide p. 178.] He then retired a few yards; and, with one foot forward, lifting his eyes toward heaven, he calmly pointed to his breast, and tranquilly awaited death.

Miramón drew a paper from his pocket, looked around like a commander on the 4000 men stationed before him, and said: "Soldiers of Mexico! citizens! here you behold me condemned to death for treason. At the moment in which my life is no longer my own—when in a few minutes I shall be dead—I declare before all of you, in the face of the whole world, that I have never been a traitor to my country. I have fought in the interests of order, and it is for that cause that I this day fall with honour. I have children, but they can never be hurt by the calumny with which I have been basely assailed. Mexicans! long live Mexico! long live the Emperor!" He spoke in a stentorian voice. All hearts were moved, and many eyes were filled with tears. The Emperor was so near to the muzzles of the muskets of the firing party that his dress caught fire. The Baron de Magnus, Doctor Basch, and a Mexican surgeon attended that horrible scene. By their care the fire was immediately extinguished, and the corpse of His Majesty, covered with a pall, was delivered into the hands of the medical men, who forthwith embalmed it.

The Emperor Maximilian was born on the 6th of July, 1832, and married the Princess Charlotte, daughter of the King of the Belgians, who was born on the 7th of June, 1840.

He died on the 19th of June, 1867, in the 35th year of his age, and the fourth of his reign.

PART II.

INCIDENTS

CONNECTED WITH THE JUDICIAL PROCEEDINGS
AND DETAILS OF THE
EFFORTS MADE BY THE ADVOCATES
AT THE SEAT OF THE REPUBLICAN GOVERNMENT.

Translated from the original Spanish.

THE ADVOCATES' PREFACE.

A DEFENCE of the life of a human being is one of the gravest trusts that can be undertaken.

To defend the life of a public character is to accept a trust of still greater gravity, inasmuch as it involves the profoundest anxiety.

The attainment of the desired result of a defence affords the keenest satisfaction. To raise a scaffold as its termination implies a melancholy series of emotions: hope is displaced by anxiety, anxiety is succeeded by dismay, and dismay ends in deepest grief.

The death of the Archduke of Austria, as a judicial result, was destined by the statute of the 25th of January, 1862, which, in obedience to the highest authorities, was

"he who has not been rewarded on earth will certainly be so in heaven." Mejia was the most affected of the three. A few minutes previously he had seen his wife—her infant in her arms and her bosom bared—run across the street as though she had been struck with insanity.

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adopted for the regulation of the trial of this unfortunate Prince.

That conflict of uncertainty, in which hope overcomes fear, was impossible.

To justify a reasonable hope of any favourable issue, it was necessary to give timely support to the Defence by petitions—by considerations of policy, the advantages of peace, and the future aggrandisement of our country.

In order to cope with the power of adverse fortune, it was deemed most desirable to divide the opposition, by providing a just and energetic Defence before the Court-martial, and, at the same time, to call the attention of the Supreme Government to the extremes of opinion that the country might go to: to point out the danger of severity, and the incalculable advantages of moderation, in the exercise of—on the one hand, power to avenge—on the other, justice.

This latter portion of the trust we accepted as the only hope. The labours of a judicial defence were confided to the esteemed Licentiate Don Eulalio Maria Ortega and Don Jesus Maria Vazquez; while our own efforts were in duty directed to whatever else the Archduke, the Baron de Magnus (Minister of Prussia to the Empire), and Señor Hoorickx (Chargé-d'Affaires from Belgium) our fellow-travellers to Queretaro, believed to be of moment, as involving the life or death of the Prince, who had taken upon himself the ruling of the destinies of Mexico. Concurring in our general views, we travelled together to San Luis Potosí, on a mission, to the proper discharge of which we bent all the powers of our mind and will.

In the tempests of the political life of nations, there is a conflict of opinions, of desires, and of passions. And the means of arriving at the truth (the safest criterion of justice) lose their power, if events are not, from time to time, indelibly recorded as they actually transpire.

Such is the object of this statement, which, without any higher pretension, we now publish.

The Supreme Government ordered the publication of the Resolutions come to on our expositions, and commanded that the process be printed. That publication, however, still leaves a desideratum, since no written record was made of our verbal consultations—which, in fact, constituted our greatest efforts.

Besides, the inaccuracies with which the European Press has referred to the tragical death of the Archduke are so numerous, and some of their publications are so full of offence to our country, that it would be wrong to permit the true history of the process to slumber in the tomb of our client. Mexico has seen the consideration with which the Austrian generals, officials, and soldiers, have been treated, who surrendered at discretion to the Commander-in-Chief. The representatives of France, England, Spain, Austria, Italy, Belgium, and the United States, have witnessed this forbearance, and they have also witnessed that foreigners have enjoyed full liberty and every kind of protection; but notwithstanding this public behaviour on the part of the authorities of our country Mexico has been calumniated, and held up to the world as unworthy of being a nation.

The death of Maximilian raised that outcry, and it becomes our duty, as his defenders, to depict the history of that melancholy episode in its true colours. This will afford to commentators more trustworthy materials from which to make their impartial deductions.

The only merit of this statement is, that its narration has been guided by the pen of truth.

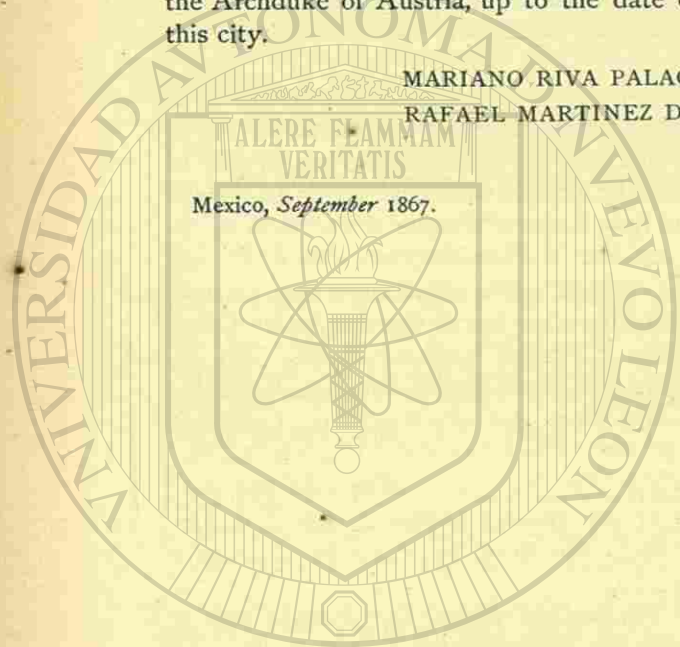
Contemporaneous history should concentrate a pure light upon such important events, as they take place; so that the Future, at its inexorable tribunal, may pass a just and true verdict on the actions of men and the conduct of nations.

A writer who details events in which he himself took part, should give such a faithful description of occurrences as they happened, that it may constitute a clear echo of his own conscience.

The simple history which follows, is the reproduction of what we observed and experienced, from the moment we received the appointment as Counsel for the defence of the Archduke of Austria, up to the date of our return to this city.

MARIANO RIVA PALACIO.

RAFAEL MARTINEZ DE LA TORRE.



UNIVERSIDAD AUTÓNOMA DE NUEVO LEÓN
DIRECCIÓN GENERAL DE BIBLIOTECAS

INCIDENTS

PRECEDING THE TRIAL BY COURT-MARTIAL.

IN order to clearly understand the particulars which should be published respecting the trial of the Archduke Maximilian of Austria, it is requisite to give a slight idea of the state of the city of Mexico, when, by accident, we were informed of our being appointed by that Prince as his defenders.

Nearly forty days had elapsed from the initiation of the siege of Mexico by the approximation of the Liberal forces, when we learned that the Archduke had named us as Counsel for his defence.

Letters which came from Tacubaya, and which were received in the city of Mexico, notwithstanding the cautious vigilance of the Imperial forces to prevent any communication, contained this information, which was imparted to us through some friends.

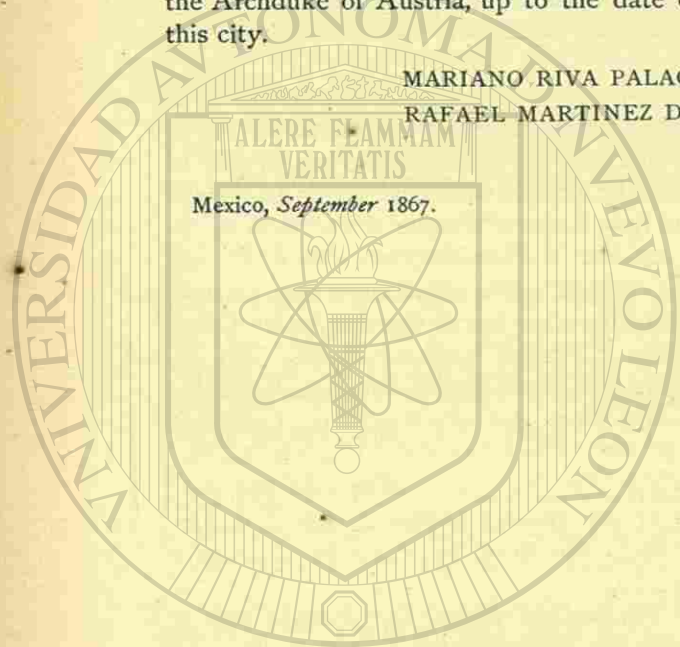
The extreme desire to prevent the sacrifice of Mexican blood was such, that every event, which, according to the judgment of conscientious men, should tend to draw the struggle of arms to a termination, excited an indescribable pleasure; and the most patriotic conversations affirmed, as a matter of certainty, that the Imperial forces besieged in Mexico would instantly open their eyes to a reality which was disregarded by only an obstinate few.

Maximilian had surrendered himself in Queretaro, at the discretion of General Escobedo, on the 15th of May, and

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Maximilian had surrendered himself in Queretaro, at the discretion of General Escobedo, on the 15th of May, and

remained prisoner from that day. From the jubilant demonstrations made by the besiegers in the Villa de Guadalupe, the city of Mexico apprehended that the Imperial army in Queretaro had succumbed. That which was a conjecture on the 15th was circulated as positive information on the following day, and the grenades thrown by the besiegers' artillery enclosed the following despatch:—

ALERE FLAMMAM
VERITATIS "Guadalupe Hidalgo, May 15, 1867. Telegram remitted from San Juan del Rio at 5.20 P.M.

"SEÑOR GENERAL DIAZ,

"Queretaro has fallen into our power this morning, at six o'clock. I will communicate particulars. Maximilian, with his forces—including the generals, arms, ammunition, artillery, &c.—has fallen into our power, having surrendered at discretion.

"ALCERRECA."

These projectiles were hollow, and passed over the fortifications of the city, conveying the most saddening intelligence that could be given to the forces struggling for the Empire. The explosion of these grenades wounded more hearts than the simultaneous discharge of any amount of ordinary missiles the Republicans could throw into Mexico.

The first impression caused by this intelligence was a source of unbounded rejoicing for the Republicans, and of astonishment for the partisans of the Empire. The particulars of such an important action were awaited with extreme anxiety. The different versions which circulated respecting this event opened the field of discussion to the opposed parties, with a feeling of bitterness full of irony and boasting on the one hand, and indignation on the other. Whilst the Republicans proclaimed the blow as a decisive one, the Imperialists believed, or affected to believe, that

their arms had conquered, and that the siege of Queretaro had resulted in the severest loss yet sustained by the Republican forces. In their anxiety to ascertain the truth, the populace were untiring in their endeavours to procure information from a truthful source, to clear from any exaggeration an event which would, with irresistible power, decide the future, and liberate the country from a disastrous war, and the capital from the horrors of a siege which embittered the existence of a multitude of people.

In that state of anxiety a printed official communication was received from General Escobedo, as follows:—

"Telegram. Camp in front of Queretaro, May 15, 1867. Received at 4 P.M.

"To the Citizen Minister of War,
"San Luis Potosi.

"At 3 o'clock this morning our forces captured La Cruz, where they surprised the enemy. Shortly afterwards the garrison was taken, and occupied by our troops; the enemy retreated in great disorder to the Campana Hill, effectually beaten by our artillery. In fine, Maximilian, with his Generals Castillo and Mejia, surrendered at discretion on the said hill, at 8 o'clock in the morning.

"Please present my congratulations to the Citizen President on this important triumph of the national arms.

"MARIANO ESCOBEDO."

Although this despatch confirmed that which was previously given by Señor Alcerreca, it produced no effect in the city of Mexico, which continued to endure the cruel penalties of the siege, and to be tormented with the fears of a much darker future. During these days of anguish, repose and tranquillity were unknown. It was the opinion of many that the protracted resistance of Mexico city arose

from ignorance on the part of certain functionaries that Maximilian had fallen prisoner, whereas others believed it to be an effort of despair, whilst the last resource should be decided upon.

In this perplexing state of uncertainty as to what the morrow would bring forth to a besieged city, the news was communicated as if by an electric shock—as though by a magnetic wire of sympathy—amongst the Republicans; and each new datum which confirmed or explained the surrender of Maximilian in Queretaro was regarded with profound interest.

At 2 P.M. on the 19th of May the following printed matter was received:—

“La Victoria. Second supplement to No. 5.
Toluca, May 17, 1867.

“The Supreme Government has just received by courier the following:—

“To the Citizen Colonel GERMAN CONTRERAS.

“Hacienda de Carretas, May 15th, 1867.

“MY DEAR GERMAN,

“Queretaro has fallen into our hands, fortune crowning our efforts. At 3 o'clock this morning, La Cruz was surprised by a column of the 2nd Division of the North, which is under my command, and covered the right of this line supported by a body of Supreme Poderes. In conformity with instructions from headquarters, Generals Velez and Chavarria marched at the head of the column. By 5 o'clock in the morning the whole of Queretaro was ours, and at 10 o'clock Maximilian, Miramon, Mejia, Severo del Castillo, Reyes, a large number of superior and other officers, and above 8,000 troops, were prisoners—besides which 70 pieces of artillery and all the arms and munitions of war belonging to the enemy were taken.

“The army will commence marching to-morrow, and probably I shall be in command of the vanguard, leaving at 3 o'clock in the afternoon. Communicate this news to our friends, and receive the esteem of your friend,

(Signed) “VICENTE RIVA PALACIO.

“Certified Copy. Toluca, May 17, 1867.

“ANGEL PADILLA,
“Secretary.”

This printed circular was sent from Tacubaya to the wife of the General and Licentiate Don Vicente Riva Palacio, having on the reverse, in manuscript, other details relating to the approach of the general with his forces to the city of Mexico.

A few hours after the general circulation of a copy of this letter, the sensation it produced caused an *employé* in the Ministry (Ministerio de Gobernacion), to ask Riva Palacio, the father of the General, for the letter, which was instantly delivered; but the public were divided in their opinion respecting the authenticity of a circular without the original signature, and the force of the truth of that communication was weakened.

This vacillation of opinion appears also to have been entertained by the Minister (Ministro de Gobernacion) himself, if we are to judge from the indifference with which the news was received by him.

The escape of an individual flying from the horrors of the siege to seek a place of refuge in Tacubaya afforded an opportunity to inform General Riva Palacio of the obstinacy with which the fall of Queretaro and the imprisonment of Maximilian were denied in the city of Mexico.

The full and absolute recognition of a truth is at times an unpleasant duty; but if upon such an acknowledgment the lives of thousands of men and the existence of a multitude of families depend, all men of common

humanity would fain have the power of God to make it manifest. The strife of civil war is like a duel between brothers, who whilst in the enjoyment of life are determined to destroy each other, and although both are in jeopardy, yet each clings to the hope of prolonged existence. But war without a standard, without a head, or a principle to proclaim, is like the terrible scene of shipwrecked mariners, engulfed in the billows of a tempest which has already bereft the vessel of its pilot.

Beyond the bright colours with which belligerents bedeck the bodies of their soldiers and pander to political passions, there was nothing but a miserable and distracted people—people who in every direction were suffering and perishing—a spectacle at which men possessing souls inspired to do good, were but too anxious to publish whatever they knew or heard that they deemed likely in any way to terminate the agonies of the siege.

By some the capture of Maximilian was considered as doubtful, whilst others wholly disbelieved it. To entertain a doubt, however, was to be visited with reproach on the one hand; whilst, on the other, the intelligence was viewed as a stratagem on the part of the Republicans, who, having been conquered, resorted to every available means to conceal the truth. However incredible this may appear, a thousand instances might be adduced of the different views taken of an event in which, as was well known throughout the Republic, more than twenty thousand combatants were engaged.

The practice of modern warfare has suppressed the ancient custom of adopting some stipulated plan of attack on a fortified place. No intimation is now given, and the public, being ignorant of this new rule in military tactics, were wondering at the absence of any written official announcement to explain the existing doubt as to what had occurred. This line of conduct is not confined to Mexico; the Army of the Intervention did not announce

their operations by sending any intimation whatever. The French also acted in like manner when they attacked the city of Puebla.

This non-observance of an old and very usual solemnity gave rise to doubts, which each party explained according to its own interests and desires. The imprisonment of Maximilian, according to some, was quite *en règle*, and by others it was regarded as an unavoidable necessity, by way of proclamation of a victory to those who still operated in favour of the Empire. Apparently the head of the besieged forces could not have been ignorant of these incidents; but the fact is that there was no cessation of hostilities.

In that state of extreme perplexity intelligence arrived, which, it was believed, would dissipate any shadow of doubt that might be entertained by the Ministro de Gobernacion. A letter was received from General Riva Palacio as follows:—

“May 25, 1867. Ixtapalapa.

“DEAREST JOSEFINA,

“I have written to you twice since I left Queretaro, “but do not know if my letters have reached their destination. I expected to have seen you very soon, but am “astonished at the bad faith of the parties in whom Maximilian placed confidence. He personally told me that “on his departure on his disastrous expedition, he left his “formal abdication in the hands of Lacunza, who promised “to publish it immediately on the event of Maximilian’s “death, or of his falling prisoner. Well—they are aware, “without the least doubt, that Maximilian has fallen prisoner; “he lives (thanks to the generosity of the Republicans), “and still they obstinately continue the war without a “standard. Let them do as they will, and on their heads “let the responsibility fall for the blood which may be “shed. Adieu! we shall meet soon.

(Signed) “VICENTE.”

That dark horizon might have been illumined by the revelation of facts which were not known at that time to any one in the city of Mexico, although they had been published in Queretaro and circulated throughout the country.

The abdication of Maximilian was in the possession of Señor Lacunza.

General Riva Palacio's letter was taken, and delivered by his father, to Señor Iribarren in person, stating that, although it came directed to the General's wife, it was believed to be really intended for his father; inasmuch as the General never wrote on political matters in his letters to his family, and that the present one revealed a patriotic feeling, to the effect that it should be published in the city of Mexico, where the abdication of Maximilian was lodged.

In the history of all countries there are certain incidents which pass unnoticed; or the simple fact of their having transpired is not properly explained, so that they may be correctly judged by the world. A noble intention is, perchance, made to appear, in the eyes of the public, as an indifferent action, and not unfrequently as one deserving censure, because it does not flatter the passions in the terrible days of fratricidal war. The most genuine patriotic feeling—which, however, was liable to be construed into a party motive—guided the footsteps of Riva Palacio (the father) in visiting, at his own house, a Minister personally unknown to him.

The interview was characterised by frankness; and, as a means to reach the desired object, Riva Palacio solicited Señor Iribarren to present him to Señor Lacunza with the letter. The conference was a most painful one; but when the welfare of a nation is the object in view, no sacrifice is too great for those who love their country. The request of Señor Iribarren, who also attended the interview, having been granted, Señor Lacunza expressed his entire disbelief of the Republican arms having triumphed at Queretaro, and concluded by confessing the truth of the abdication being in his possession. As a proof of the false dignity

Lacunza arrogated to himself at that moment,—having read the letter,—he said: "The Emperor commands, that previous to publishing his Abdication, the evidence should first be convincing to me that he is a prisoner. Can I say that this letter is sufficiently so? Does this afford me the necessary evidence? To this letter, which is worthy of credit on account of the signature it bears, there should be added for my guidance some other proof deserving to be regarded as indisputable." The letter of a son of renowned probity, addressed to his father, surely deserves to be credited as true. To practise deception on a parent in a matter so transcendently grave in its nature, could only emanate from those who are entirely divested of moral principles and the sentiments of family honour—whereas General Riva Palacio possessed the former to the fullest extent, and the latter to its utmost limits. Besides which, his heart was replete with sympathy for the good of his country, and his public career was a guarantee for his veracity.

It would be superfluous to relate all the particulars of this interview, which terminated in a resolve that Riva Palacio (the father) should speak with General Don Porfirio Diaz. On the 28th of May he departed, and on the same day that General handed to him the following telegram:—

"Remitted from San Juan del Rio, May 25,
1867. Received in Guadalupe Hidalgo at
9.12 A.M.

"The Emperor MAXIMILIAN to Baron DE MAGNUS,
"Prussian Minister in Mexico.

"Have the goodness to come to see me as quickly
"as possible, with the lawyers Don Mariano Riva Palacio
"and Don Rafael Martinez de la Torre, or any other
"whom you may judge talented to defend my cause;
"but I desire that this should be immediate, as there is
"no time to lose. Do not forget the necessary documents.

"MAXIMILIAN."

It has been necessary to bring together some antecedents in order that it may be understood in what manner the appointment of the advocates became known. We leave it to history to explain the sterility of the eagerness with which it was desired to put an end to the siege of Mexico; and confine ourselves simply to what relates to our charge.

The following day, on the return of Riva Palacio (the father), we were informed of the contents of the telegram appointing us, and summoning Baron Magnus, the Prussian Minister. Without a moment's delay, Riva Palacio called on that gentleman, and, having handed him the telegram, it was arranged that we should meet at 6 o'clock in the afternoon. At that hour we naturally consulted on certain matters which were indispensable in order to fulfil our mission. Passports to enable us to leave the city were required, as well as documents for the defence. The person whose duty it was to provide all these requirements was Father Fischer, the private secretary of Maximilian. We hoped that everything would be arranged by 11 o'clock on the following morning, and we having accompanied Father Fischer to the Baron's house, Fischer said: "In the first place, I ought to inform you of an incident, which I consider it my duty to explain, in order that you may advise me how I ought to act. It is now about eight days since, suspecting it might be true that Maximilian was a prisoner, I consulted with a friend on the propriety of seeking for a defender, and deciding as to whom it should be. He replied, by commending the case to the care of Licentiate Don Eulalio Ortega. Neither that gentleman—who with some hesitation accepted the retainer—nor myself could, at that time, have known that the Emperor would appoint you."

Instantly interrupting this explanation, we expressed our great pleasure at an incident which would afford us the aid of a colleague of such studious intelligence as Señor Ortega, and sent immediately for that gentleman, with whom we were intimately acquainted. He delayed not a moment in

responding to the call. We then arranged our journey for 4 o'clock on the following afternoon.

It was obligatory to inform General Diaz, the Commander-in-Chief of the besieging forces, of our proposed departure; and accordingly Señor Magnus, the Prussian Minister, sent him an official letter. Father Fischer manifested an intense desire to accompany us, and as his position as private secretary to Maximilian might raise some difficulty to our passing the camp of the Republicans, he addressed a letter to General Diaz, which was accompanied by another from Señor Otterbourg, United States Consul in Mexico. This gentleman assisted us by every means in his power, and took great interest in overcoming the obstacles to our journey.

The difficulties which usually present themselves to prevent any person from leaving a besieged town, were so far overcome that we obtained the required answer; but a passport for Father Fischer could not be procured.

Everything was arranged for our departure at 4 o'clock in the afternoon, and General Diaz ordered hostilities to be suspended at that hour, and temporary bridges to be placed for the passage of our carriages.

Our commission awakened many from the lethargy of those political dreams which are too frequently followed by anguish and death. People asked how it was that we departed to defend Maximilian, who was accused by the Republicans, whilst the forces in the city of Mexico still defended the Empire.

The journals invented ridiculous absurdities, and a multitude of persons wished to take advantage of this temporary suspension of hostilities to effect for themselves also a safe exit from the city. This circumstance must, undoubtedly, have caused anxiety to the General-in-Chief, who, at 1 o'clock in the afternoon, sent us a verbal order, communicated through Colonel Arrieta, in the name of General Marquez, prohibiting us from leaving that afternoon. A large number of private carriages with families, and a multitude of neces-

sitous people, returned to the city of Mexico on ascertaining that we were not permitted to depart, having lost their time in waiting at the line of fortifications. Señor Arrieta, Father Fischer, and the Prussian Minister, who were at the residence of Martínez de la Torre, immediately went to General Tabera, with the object of endeavouring to obtain passports for the following day. This gentleman offered to confer with General Marquez, who acted as Deputy Lieutenant of the Empire, and from whom the prohibition proceeded. At 5 o'clock in the afternoon Señor Magnus was informed that his solicitations were acceded to, and that he might leave, with the legal defenders of Maximilian, early on the following morning.

We know not how this intelligence became public, but the fact is, that on our arrival at the first fortification there were undoubtedly more than two thousand persons—on horseback, on foot, and in carriages. The besieging forces had received no intimation of the hour of our departure. On the previous day we had been fruitlessly awaited, and this morning was not so quiet as the preceding afternoon. Several grenades had been thrown just before from the contending batteries, and that crowd of people were exposed to danger in the advanced position they occupied.

Taking advantage of a momentary cessation of firing, we sent Don Eduardo Scholler, Chancellor of the Prussian Legation, forward, with a white flag, to ask for a suspension of hostilities during our egress. On his return with the reply, he stated that only Señor Magnus and those who accompanied him, in two carriages, would be allowed to pass. This resolution struck consternation into the fugitives, who wished, at all hazards, to leave the city, in which there were now such lamentable sufferings. The order was received from the officer in command of the line; but, confiding in the probability that on our arrival at Tacubaya a modification might be obtained from General Díaz, all the fugitives remained where they were—amongst whom were the Chargés-d'Affaires of Belgium and of Austria. On reach-

ing the fortified line of the Republican camp, we entreated the Captain in command to permit other carriages to pass, which were waiting in hopes of being allowed to do so, as well as the poor, unfortunate, and suffering people, who, pressed by hunger, were earnestly seeking a chance for their life outside the besieged city. Permission was obtained for a certain number of families; and on our interview with General Díaz, it was arranged for all the remainder, who were waiting, to pass. We lost all the morning on the road; and it was nearly 1 o'clock before we could speak with the General.

Amongst the multitude which came out was the Chargé-d'Affaires of Belgium; but Señor Lago, Chargé-d'Affaires of Austria, remained behind. To the extreme effort made to leave the besieged city, the head of the Imperial forces offered many obstacles, which could not be overcome.

Our interview with General Díaz commenced by making a solicitation to permit Señor Lago to pass on to Querétaro, at which the General manifested great surprise, inasmuch as he understood that that gentleman had already received a communication allowing him to leave. On giving this explanation, he instantly asked for a copy of the permission, and handed it to us, translating it to Señor Magnus and Señor Scholler. The following is a copy:—

“ Mexican Republic. Head-quarters of the East.
Telegraph Section: Querétaro, May 28,
1867, 2 A.M. Received in Tacubaya on
the 29th.

“ To Citizen General DIAZ.

“ The Minister of War, by telegram received to-day

“ at 1.57 A.M., communicates the following:

“ ‘ The Citizen President has received the petition made
“ ‘ by Maximilian, asking that General Díaz may permit
“ ‘ Baron Magnus, with two advocates, to take charge of his
“ ‘ defence, as well as the Ministers from Austria and Belgium,
“ ‘ who have been commissioned by the said Maximilian, or

“ in their stead those from Italy and England, in order to
 “ arrange with them matters of a family nature, to leave
 “ the city of Mexico, occupied by the enemy, and vigor-
 “ ously besieged by the said General Diaz. In reference
 “ to the said petition, the Citizen President has deigned to
 “ decree, that if the personages requested by Maximilian
 “ can come to Queretaro in time to fulfil his desire, without
 “ interrupting the progress of the proceedings at the trial,
 “ and the terms provided by law for its conclusion, no
 “ difficulty whatever shall be put in their way, and that
 “ with this object you transmit this telegram, officially, to
 “ Citizen General Porfirio Diaz. This I communicate to
 “ you, that the orders of the Supreme Government may
 “ be complied with.

“ ESCOBEDO.”

“ Copy of the original, which remains in the Secretary's
 “ office.

“ JUAN B. ACOSTA,
 “ Secretary.

“ PARDO.
 “ Copy. Tacubaya, May 30, 1867.”

The events of this and the previous day formed the sub-
 ject of our conversation. Señor Diaz expressed the pain
 caused him at not being informed in the morning of our
 intention to depart, and referred to what we were already
 aware of—the suspension of hostilities on the previous
 day, and the orders given to prevent any annoyance on
 our leaving.

At the conclusion of our conversation, permission was
 asked to forward a telegraphic message to the President ; and
 on its being granted, Señor Magnus sent the following :—

“ Telegram deposited in Queretaro for San
 Luis Potosi. Received at 8.10 P.M.

“ Citizen Minister SEBASTIAN LERDO DE TEJADA.

“ I have received the telegram sent to me by General
 “ Porfirio Diaz, dated Queretaro, 25th May ; and I beg that

“ you will give my thanks to his Excellency, for the kind-
 “ ness with which he has facilitated the means whereby
 “ I am enabled to obey the summons made to me by a
 “ Prince in distress. Unfortunately, the authorities in the
 “ city of Mexico occasioned me some delay, and I have only
 “ to-day been able to leave the capital with the defending
 “ licentiates. In order that the defence may be complete, I
 “ shall be ever grateful to obtain from his Excellency a
 “ suspension of the trial for a sufficient time to allow the
 “ advocates to reach their destination and fulfil their
 “ mission.

“ A. V. MAGNUS.”

It was General Diaz's pleasure that the licentiate and
 commandant, Don José Flores, with ten other soldiers as
 a guard of honour, should escort us as far as Queretaro.

Although we could count on a few relays for the road
 (the running of the diligences not being re-established on
 the direct route to Queretaro, which had been, for some
 months, only a military line), the journey occupied us three
 days, on the first of which we reached Tepeji. From this
 village a telegram was sent—which was communicated to
 the Minister, Señor Lerdo de Tejada, by General Escobedo—
 in the following terms :—

“ Telegram from Queretaro for San Luis
 Potosi. Received 6.15 P.M., June 3rd,
 1867.

“ Señor Minister LERDO DE TEJADA.

“ To-day I received a message from Señor Magnus,
 “ remitted from Tepeji at seven o'clock last night, in which
 “ he informs me that he will continue his journey to-day ;
 “ and another from Señor Riva Palacio, addressed to a
 “ person in this city, states that Señor Magnus, and others
 “ who accompany him, will arrive here to-morrow. The
 “ time, according to the law, for the defence of Maximilian

H

"expires at 6 o'clock this afternoon, which I communicate
"in reply to your telegram of to-day.

"ESCOBEDO."

At 2 o'clock in the afternoon of the 3rd of June we met, on the road, Señor Don Guillermo Daus, who, as he informed us, came in search of Señor Magnus to hasten the arrival of the advocates at Queretaro. He gave us several explanations as to the state of the case, and in effect said, that on our arrival at that city, we should only have twenty-four hours to make the defence; the licentiate, Don Jesus M. Vazquez, having acted as counsel for the Archduke in the process which was being conducted against him.

On the 4th of June, Señor Magnus received a reply to his telegram, sent from Tepeji, as follows:—

"Telegram. San Luis Potosi, June 3, 1867,
9.15 P.M.

"To Señor General D. MARIANO ESCOBEDO, Queretaro.

"I have received your message of this afternoon,
"informing me that the Baron de Magnus, and the lawyers
"who accompany him, will arrive in your city to-morrow;
"that the time conceded by law for the defence of the
"Archduke Maximilian would expire this afternoon; and
"that the time for the defence of Don Miguel Miramon
"would immediately after commence. The Minister of
"War informed you, on the 28th of May, that in case the
"advocates called by Maximilian did not arrive within the
"period specified by law for his defence, you might concede,
"in accordance with his request, further time, which was to
"commence from the hour of their arrival, in order that
"they may be able to prepare the defence. In conformity
"with this resolution, the Citizen President of the Republic
"has directed me to say, that as the period for the defence
"of Don Miguel Miramon, who is one of the accused, in-
"cludes to-morrow, by which time the Baron de Magnus

"and those who accompany him ought to arrive, you are
"authorized to grant that, on the expiration of the time for
"the defence of Don Miguel Miramon, the extension of time
"for the defence of Maximilian shall recommence; this
"further extension may also be taken advantage of by the
"other two accused in preparing their defence. Pray com-
"municate this to the Baron de Magnus, in reply to his
"message received last night.

"S. LERDO DE TEJADA."

The delay in receiving the reply was caused by the telegraphic wire not reaching Queretaro,—San Juan del Rio, distant twelve leagues from that city, being the nearest station in connection with San Luis Potosi.

The information brought to us by Señor Daus, together with the tenor of this message, made us accelerate our journey, travelling on the 4th of June from Arroyozarco to Queretaro, although we were not provided with the necessary relays. This city we entered half an hour after midnight. We ascertained through Señor Daus that at the commencement of the trial Maximilian had consulted with Señor Vazquez as his defender. So judicious an appointment inspired us with confidence. Señor Vazquez is an advocate of high intelligence, upright conduct, and great learning—qualities which made it a pleasure to be associated with him, and rendered his assistance very valuable. Our first interview took place early on the 5th of June, when, it is well to confess, we were convinced that, in all probability, the result of the trial would be a lamentable one.

The cause was headed with an order from the Minister of War, that Prince Ferdinand Maximilian should be tried by an ordinary court-martial, in conformity with the law of the 25th of January, 1862. This arrangement was of itself sufficient to foreshadow a tragic conclusion, which became more evident when it was considered that this order constituted a practical bar against the plea "*declinatoria de jurisdiccion*," Señor Vazquez contending that a court-martial was

incompetent. It became our duty to make a fresh effort in the same direction, and our first consideration was whether we could stay the hasty proceedings of the trial. Señor Vazquez went to announce our arrival to Maximilian, who was, he said, anxiously expecting us. The Prince, affected at the hardships he imagined we had experienced on leaving the city of Mexico, sent to express his gratitude. Previous to seeing him, we deemed it prudent to speak with General Escobedo, commanding-officer of the forces in Queretaro.

The profound and mournful conviction of the unhappy final result which the process portended, constrained us, almost at the beginning of our conversation, to attack the most serious points of the hurried manner observed in disposing of the most notable cause that had ever transpired in this Republic. We asked for such time as should be ample to prepare the defence, such as corresponded to the paramount interests at stake; but nothing could be obtained, and we were answered by Señor Escobedo, that only twenty-four hours were granted to us for that purpose—such being the instructions from the Supreme Government. This General stated, that his conduct was entirely guided by obedience to the law and the supreme resolutions, and that therefore he could not deviate one iota from the course marked out for the trial.

We instantly went to the ex-convent of the Capuchinas, the prison of Maximilian.

The grief of one who contemplates the proximity of death to a client was, undoubtedly, not comprehended by the Archduke on our first interview, which took place at 10 o'clock in the morning of the 5th of June. He received us with emotion, and, without consideration for his own most perilous position, enquired after various persons who resided both in the capital and outside. He could not understand why his Abdication had not been published, and how it was that the city of Mexico still held out.

In order to fix some points for the defence, it became necessary to interrupt this somewhat desultory conversation,

so strange at such a solemn juncture. In the afternoon, we were officially notified, that our appointment as Counsel for the defence having been accepted unanimously, the twenty-four hours given for the defence commenced to run.

In the meantime, the following despatch was sent to the Minister for Foreign Affairs, the Licentiate Don Sebastian Lerdo:—

“ Telegram from Queretaro to San Luis Potosi : June 5, 1867, at 3.16 P.M.

“ To Citizen Minister LERDO DE TEJADA,
San Luis Potosi.

“ Last night, at half-past 12, I arrived here accompanied by the other Counsel for the defence of Maximilian, and, admitting the resolution to place him on his trial, the process will be perused throughout, and examined with the most careful attention. In this trial the fate of Maximilian is compromised; but you are aware how much it interests the honour of the country that the defence should be rigorously just—not only in appearance, but actually and fundamentally so. Can this be done in twenty-four hours, when double that time would be insufficient to peruse the documents which are to be delivered to us this afternoon by Maximilian? To prepare the defence within such a peremptorily limited space of time is a matter of impossibility; and neither the nation nor ourselves will be able to answer anything satisfactorily touching the fact of leaving a man defenceless, who believes himself to possess in these documents one of the principal supports of his plea—to prepare which a few days are indispensable. These, we pray the President to concede, and also to permit me to visit and speak to the prisoner on these matters. But in order to undertake this journey, it is requisite that I should be informed if my colleagues can count on the necessary time for completing their labours. If you, as I pray, accede to these desires,

" I will, on receipt of your reply, immediately proceed by
" the diligence.

" M. RIVA PALACIO."

Shortly afterwards the following answer was received :—

" Telegram. San Luis Potosi, June 5, 1867,
7 P.M.

" To Citizen MARIANO RIVA PALACIO, Queretaro.

" The Citizen President of the Republic having
" taken into consideration the message forwarded by you
" to-day, received at half-past 3 o'clock this afternoon, has
" already communicated by telegraph to the Citizen Minister
" of War such further prolongation of time for the defence
" as the Government have considered it possible to grant.

" LERDO DE TEJADA."

Referring this message to that which had been sent to
Señor Escobedo, we ascertained that the definitive period
of three days more was given. The message in which this
was communicated to him was as follows :—

" Telegram. San Luis Potosi, June 5, 1867,
7 P.M.

" To Citizen General MARIANO ESCOBEDO.

" In consideration of the petition made by Citizen
" Mariano Riva Palacio in the name of the advocates of
" Maximilian, soliciting an extension of time for the defence,
" the Citizen President of the Republic has decreed that, in
" addition to the former adjournment, three more days
" shall be conceded, to commence on the expiration of the
" adjournment previously conceded. These three days are
" conceded conjointly to Maximilian and the other two
" accused, in order that they also may avail themselves of
" it for their defence ; with the understanding that no further
" adjournment will be granted, this being the second that

" has been conceded by the Government to afford ample
" time for the defence, and all that it is compatible with
" reason and the spirit of the law to allow.

" Please cause this resolution to be communicated to the
" three accused.

" MEJIA."

Such a strictly limited space of time as even this, was
quite useless for the purpose required. We considered that
the Commission of Advocates ought to divide their labours ;
that Señores Ortega and Vazquez should remain in Quere-
taro, and that we should proceed to San Luis Potosi, the
latter place being the seat of the Republican Government ;
and if nothing could be obtained there, all efforts in defence
would be useless, however brilliant they might be.

This projected journey—which was determined on after
studying the fundamental incompetency of the jurisdiction
of a court-martial, and having prepared a declaration to
that effect—was submitted to the Archduke for his conside-
ration. He received the idea with unqualified approbation,
applauding it as the only measure affording any reasonable
hope.

Every arrangement having been made for the journey
—which of necessity had to be rapid, in order to profit
by the extra three days conceded—we immediately re-
turned to speak with the Archduke, who gave us his final
instructions.

On the morning of the 8th we reached San Luis, where
our arrival was anticipated. From general enquiries, we
were instantly convinced, that even if it were the desire of
the majority of the population to save the life of Maxi-
milian, there existed but very remote hope of obtaining any
favourable result.

A long and sincere friendship, which existed between
some of the members of the Cabinet and ourselves, war-
ranted us in reckoning at least on the liberty of declaring, so
far as was conducive to his interests, the rights of our client.

We did not deceive ourselves, and received every proof of personal consideration. We had an interview, which lasted above three hours, with Señor Lerdo, who patiently listened to our remarks without any restriction, when we pointed out for that Minister's consideration all that which, according to our judgment, might affect the future welfare of the nation by saving the life of Maximilian.

Fate, which is superior to the foresight of man, presented a picture which is afforded by the vicissitudes of a civil war. Out of three men, united together for some years past by the same principles of love for liberty and by a reciprocal friendship, two discussed and sustained the propriety of saving the life of Maximilian; which the Minister by his vote and influence could effect for the benefit of the Republic. Departing from that official reserve, so confusing and tedious when conversing with individuals who have been intimately acquainted, this gentleman abandoned the position he held at first in reference to the sentence of the Court-martial, and sternly adhered to the justice and necessity of proceeding in every respect in conformity with the law of the 25th of January, 1862, which we designated as terrible. At that interview, various points were discussed which were considered as offering a chance of life to Maximilian, if we obtained a respite of one month only; or the mournful omen of his death, if the Government, in its inflexibility, refused to modify the fixed time named for the sentence. How strenuous were the efforts made to procure an extension of time for the trial!—how arduous the exertions made that another tribunal should judge Maximilian! Vain efforts!—fruitless labour!

It is difficult to commit to paper a conference in which the topics treated were the life of Maximilian and his companions—the country and its prosperity—national justice, and oblivion of the past—the errors of the conquered, and the duties of the Government—the sad consequences of a misconstrued energy, and the beneficial effects of a general amnesty—the sincere adhesion with which the most ardent

antagonists of the Constitution of 1857 now supported that code, the same Government respecting its fundamental principles—the exterior dangers, both present and future—the advantages of a crisis which, being led on to a union, might give to Mexico a prestige and a name: whereas an exacerbation of the passions of the Republic might be a forfeiting of the grandest opportunity to consolidate and perpetuate peace.

We had great hopes that this informal debate before judges in such an exalted position, pregnant as it was with conscientious and energetic ideas created by the imagination, might result in our obtaining ample time for the trial of Maximilian. We believed we had succeeded in awakening, so to speak, a doubt in the mind of the Minister who listened to us: but his measured and cold reply was, that he had dispassionately considered and meditated on all the points, without animosity or the spirit of reprisal; that the actions of the Government were solely guided by the exigencies of justice, which would not admit of any modification of the terms of the law; that, for the sake of equity, a few days had been conceded to await our arrival, and three more had afterwards been granted for the defence.

That was his opinion; but he wished us to speak instantly with the Citizen President, promising that, notwithstanding what his own opinion was at that moment, all the arguments adduced by us should be taken into consideration at a Council of Ministers.

Not a glimpse of hope did this conference now afford. It was put an end to by our passing on to the Citizen President's chamber, where he received us as friends who had not seen each other for many years. The prelude of our conversation with him embraced the particulars of our departure from the city of Mexico; and we immediately afterwards presented our credentials as Counsel for the defence, soliciting a change of tribunal, and an extension of time, for at least one month, to prepare our proofs and pleas.

In the President we met with the same calm reasoning (expressed in different words) as that which characterised Señor Lerdo. Not a phrase of enmity or revenge transpired; but in his replies there was a depth of inexorable resolution that increased our fears. He also concluded by saying that our remarks should be weighed at a Council of Ministers, in order to decide according to justice.

It was now late, 8 o'clock having struck; and we did not consider it prudent at this hour to see the other Ministers, Señores Don José Maria Iglesias and Don Ignacio Mejia.

During that interview, in which our skill was sharpened by the dark foreboding of a mournful execution, we did not observe the slightest vacillation without availing ourselves of the propitious moment to implore the Liberal party to extend a generous hand towards the conquered, by all uniting together for the welfare of our country, under the constitutional precept which prohibits capital punishment for political offences. The conquest of a day, we urged, would be to the President the peace of the country by means of a pardon; whereas Maximilian's blood shed might open up an abyss of unhappiness for Mexico.

On reference being made by the President to the probable decision of the Court-martial in conformity with the law, it is necessary to repeat that the remotest hope of any amnesty that might be solicited instantly vanished.

The night was spent in meditation on the discussions of the day, and with sorrow we contemplated the lives of the Archduke of Austria and his comrades, in such imminent danger as the power of God alone could frustrate. We delineated, with such clearness as appeared to us to be perceptible even to men of mediocre intelligence, the objections to the law of the 25th of January, 1862—a law, in our judgment, both cruel and sanguinary; and at variance with the philanthropic principles of the Constitution. We explicitly represented the interest felt by the Federation that the trial should be at its tribunals, and not before a court-martial: a process of such abstruse complexity (the

natural consequence of the rapidity of the proceedings) might cause the decline of Mexico, whereas an open trial before the tribunals of the Federation would reflect honour and glory on the country. We called attention to the advantages which the Republic would derive from abroad by adopting a fair public debate on the trial—to the objects of the Intervention—to the stipulations that preceded it, and to the compromises therein comprehended. We emphasised the interest which the United States might entertain, to the benefit of Mexico, on our sparing the life of a Prince connected with the Sovereigns of Europe: by granting a free pardon, such a generous example would be recognised as worthy the civilisation of our calumniated country. To all these suggestions the reply was made, with the calmness of a person who has arrived at an unalterable resolution, that during many days of mature deliberation, carried on coolly and without any animus, and with due consideration for the interests of national justice, the rights of the Republic, the necessity for its existence, the consolidation of its institutions—the resolution was formed and fixed, to hand over Maximilian and his accomplices to a trial by court-martial.

When we reflect on the past, we call to our memory the incidents of that afternoon. With inexpressible pain we felt a presentiment that there was nothing which could avert the death-stroke from the Archduke and his fellow-prisoners. It was not the febrile exaltation of triumphant passions which was hurrying them to the scaffold. Such feelings, we reasoned, would have subsided on a calm exposition of the evils that might follow the erection of a platform raised for the decapitation of a party; and at least retard the advent of that peace whose blessings every one desired.

The abyss which we foresaw would be opened up by the shedding of blood, we were told had already been contemplated; and the Government, in the conscientious discharge of its duties, it was repeated, was compelled to act on this occasion irrespective of those milder dictates of

humanity whose claim to regard in a thousand instances has been, and ever will be, acknowledged. Frank expressions, divested of all hypocrisy, which sealed the fate of the first prisoners who were to be tried! The proximate tomb of Maximilian and others was the redemption of the rest who had deviated from political rectitude.

On that night of the 8th of June we thus interpreted the words of the President and his minister Lerdo.

The same language as was made use of by these gentlemen was also employed by the Minister of Justice, Licentiate Don José Maria Iglesias, and the Minister of War, Don Ignacio Mejía. Each of these referred to the resolution of the Court-martial. The entire Government was composed of these four gentlemen, and, looking at the situation, it was impossible to entertain any flattering hopes of success.

At midday on the 9th of June, the hour appointed to inform us of the decision on our verbal solicitation, we went to the palace, when the President sent a message, asking us to be kind enough to return at 3 o'clock in the afternoon, as he was then presiding at a Council of Ministers on our petition. When we returned at the latter hour, he stated that the resolution of the Government—arrived at by the Council in the morning—was, not to alter in any particular the procedure which had already been marked out for the trial, and that everything would be conducted in conformity with the statutes. We were separated by a distance of seventy leagues from the place where that trial was in progress, which might be concluded in a short time, and the prisoners sentenced to the extreme penalty of the law. Such, indeed, would most probably be the result of a trial instituted in conformity with a law of circumstances which prescribed the penalty of death to those who participated in the Intervention.

This law, like all others enacted by way of intimidation, is nothing more than an instrument of war which destroys the leader of the enemy wherever he may be met with. The summary mode of proceeding, the severity of the

penalty, and the imminence of the execution, detained us in the city of San Luis Potosi, in order immediately to present a solicitation for a reprieve, recapitulating with the most rigorous conciseness what we had verbally advanced.

The course which these considerations led us to take was communicated to our colleagues by telegraph to Queretaro as follows:—

“Telegram. San Luis Potosi, June 9, 1867.

“To Señores Licentiate DON EULALIO ORTEGA and DON JESUS MARIA VAZQUEZ.

“Notwithstanding every effort which we have made to obtain from the President and his Ministry an adjournment of a month, we have been just informed (half-past 3 o'clock P.M.) by these gentlemen, that it is impossible to extend it for another moment. As the time for the trial is on the point of expiring, we should not, even if we were to travel all night, arrive in time (probably within some hours) to present the defence, which you will have already prepared. We have lost all hope; but it is, nevertheless, absolutely necessary that, in case of an adverse sentence, you should take measures, so that the intelligence may reach the President before the execution of it be carried into effect.

“MARIANO RIVA PALACIO.

“RAFAEL MARTINEZ DE LA TORRE.”

In the morning of the same day, desirous of meeting with some support from the army in soliciting a free pardon, we repaired to the residence of General Don Geronimo Treviño. Although a young man (scarcely twenty-nine years of age), this military chief is highly esteemed in the army; and his assistance in soliciting a pardon might, we ventured to hope, on that day save Maximilian from the scaffold, as well as many others who might be doomed to die with him.

We candidly expressed our desires to this young General,

whose countenance clearly revealed the marked attention he paid to our entreaties, and he replied: "My sentiments, I cannot deny, are on the side of the pardon of Maximilian. Death, apart from war, I always look upon with a degree of repugnance; but there are so many who believe that the welfare of the country demands an exemplary punishment, and that the national honour exacts it, that perhaps I should stand alone in this solicitation, in which case it would be of no service. In this city of San Luis Potosi," he added, "there are few military officers of influence, because the troops are in Queretaro and Tacubaya. Do you not think I ought to write to General Escobedo on the subject, in order to prepare the way in some convenient manner for the reception of your arguments?"

This suggestion could not be objected to, as, according to our judgment, a general solicitation from nearly all the army would be required to enable us to count with any degree of probability on a felicitous result. We therefore approved it, and in the afternoon despatched a courier to our colleagues at Queretaro, with General Treviño's letter to General Escobedo.

The idea of looking to the troops at Queretaro to support the petition for pardon did not present any probabilities of a fortunate issue; as in that city—the theatre of the horrors of nearly a seventy days' siege—the remembrance of numerous incidents constantly renewed an excitement which could only be allayed by time and distance. The camp was not in a position to produce that which could emanate from calmness and repose alone; but it was absolutely necessary not to spare any effort to obtain a happy result, however remote our hope might be.

In our judgment there existed in the army a certain discipline, even of opinion, which shone forth amid the black tempest about to discharge itself on the head of the Archduke of Austria. The promise of a few officers of rank would be the hope of salvation, and its initiation the letter from General Treviño, who was a popular officer, and

recognised as a man of feeling and valour by his companions in arms.

On our departure from the city of Mexico, in consequence of the state of isolation during the siege, we could not form any accurate idea of the opinion held in the Republic touching the life of the prisoner Maximilian. Tacubaya was the point where we were first to meet with General Porfirio Diaz, a commander renowned throughout the country for his courage, his discipline, his love of liberty, and his recent victories.

Puebla—the point where the latest triumph of his arms had afforded him an opportunity of demonstrating, by his actions, what he thought respecting the lives of the conquered—presented the following aspect: pardon to those who surrendered at discretion, death to those who had arms in their hands. This was an indication, but by no means a sufficient datum, from which to deduce, with logical precision, what might be the judgment of this officer, so high in influence and power.

On the evening of our arrival at Tacubaya, one of us had a long interview with this General; and his conversation—which evinced superior talent as a politician—touched, although in a vague manner, on the blood shed by execution; and with an accent of truth which is the reflection of a frank conscience, he observed: "The blood shed at the taking of Puebla was a painful yet a necessary warning. It prevented further sacrifices on the surrender of the forces that occupied the heights of Guadalupe. Probably on the victory of that day depended the speedy advent of the Republic, or its delay. The blood which was shed in the course of the combat obviated many evils. On the surrender of the forces that occupied the heights, their lives depended, as I refused to make any stipulation whatever. A fearful law threatened the prisoners, and for nearly ten hours I allowed that moral sword to hang over their heads. I was desirous that the remembrance of that day should remain indelible on the

“consciences of those men who, during the great distress
 “of their country, had reversed the natural direction of their
 “arms. When the prisoners were gathered together in the
 “afternoon, I said to them: ‘The law condemns you to
 “capital punishment, but the Supreme Government knows
 “how to be generous. My supplications—and my influ-
 “ence, so far as it may extend—will be placed on your
 “side. In the meantime you remain at liberty, under the
 “condition that you present yourselves, to answer for your
 “conduct, when the Supreme Government may be pleased
 “to summon you.’ Every one accepted this compromise
 “with pleasure. The assault of Puebla cost some blood,
 “which was shed for the good of the country. In its name,
 “and with a quiet mind, I granted that liberty.”

All this, it is necessary to repeat, was simply a weak reason on which to rest any hope in seeking for support to obtain pardon. The only possible inference to be drawn from that conversation was, that the General, in obedience to the high resolutions of the Government, would neither incite a speedy termination of the process, nor the application of capital punishment to Maximilian.

The trial was continued in Queretaro, in conformity with a law which we shall always condemn, because it leaves the accused without defence: the process is carried on with great despatch; the sentence is pronounced without delay; and it is executed, immediately on its being confirmed by the military officer in command.

In order to prepare that petition for pardon on which the general Government had to resolve, we exposed to Señor Iglesias and Señor Lerdo the monstrosity of the law of the 25th of January, 1862. That law, like all others which constitute partisans the judges of their own cause, reminded us that death is the shout of patriotic enthusiasm in those days when a conflict is threatened, and that eventually more blood than enough is spilt. When the foundation of society is disturbed, the banner of death is a flag for the future; bloodthirsty rage is the glory of national brilliancy; but

society, and not the conquerors, ought to be the judges in the day of definitive triumph. The fury of a period of indignation, just and holy in its cause, ought to give place to law in dealing with the vanquished. When a law is promulgated, it is addressed to that unknown future which in its darkness is impenetrable. Law cannot discriminate between the criminals on whom its rigour may fall. It can make no provision for extenuating circumstances, and the justification of measures on the plea of purity of intention. How many men have we seen, who, in voting for a law, have defied the future, and in course of time have become victims to their own enactments! How many, unfortunately, in Mexico, from the year 1821 to the present day, have wept over the votes they recorded for dictatorships, created in hatred, and violence to principles which since then they have had cause to revere! How many Republicans were entangled in the meshes of the Empire! How many of the Imperialists of 1863, with a contrite heart, ardently prayed shortly afterwards for the advent of the Republic!

On laying this before Señor Lerdo, he said that the law of the 25th of January, 1862, was a pre-existing one, and that its severe enactments must have been known to the Archduke previous to his arrival in Mexico. He stated also that an agent of the Constitutional Government, Licenciado Don Jesus Teran, a person well known for his intelligence and probity, went to Miramar, and pointed out to the Archduke the danger attending the enterprise of establishing a Monarchy: that for this project a basis was wanting in the Mexican people, who, having been born during the period of the Republic, were ignorant of any other rule; that democracy was deeply rooted in the New World, and was closely banded together with Republican institutions; that the individuals who might support the Empire were not amongst those who held a firm position in the country, nor could they ever count on the necessary elements to make it popular; that it would fall to the ground as soon

as, from necessity, it was deprived of the Intervention as its support. In those interviews—Señor Lerdo urged—the Archduke should have informed himself of his false position, and the probable consequences of the enterprise which brought him to Mexico. He also energetically maintained the necessity of putting these rigorous laws in force in cases of extreme perturbation. On our part, we argued against the tenability of that law, designating it as a transitory one, and not to be applied to a Government which, however illegitimate it might have been, had existed for several years; and explained all the particulars relating to his acceptance of the crown, after a deliberate examination of documents of such a nature as to convince Prince Maximilian that he was acting rightly. From these premises we deduced, that he being free from the depraved intention of committing a premeditated injury, it was unjust to inflict on him the penalty of capital punishment.

On the basis of profound conviction we stood with a clear conscience, sternly opposed to a severe penalty for political offences. Undoubtedly we had been chosen as advocates to defend Maximilian, because, having been summoned to his Government—when many individuals of reflection looked upon the Empire as the probable salvation of the nation—we refused to co-operate personally. This might, indeed, have been of little importance, but it was not in accordance with our feelings to render it any aid. At all times candid as to our motives for resistance, our sentiments were known to Prince Maximilian, who, in his turn, exerted himself in demonstrating to us, that the noble sons of Mexico could not be ignorant of his upright intentions for the aggrandisement, liberty, and independence of his adopted country.

The remembrance of those days, when the Constitutional Government took refuge on the banks of the Bravo River; the acceptance of a multitude compromised in the Empire; the efforts made by Maximilian to nationalise his government; his conflicts with the leaders of the Intervention, and his resistance to the exactions of that force, afforded us

abundant reason to oppose the application of the law of the 25th of January, 1862; and to urge, that if it could be justifiable in opposing the Intervention, THAT time had gone by, and the laws of circumstances are not eternal. Such laws are not founded on the generally recognised duties of society, and where such an element is wanting, that justice, which alone can contravene the vicissitudes of life, does not exist.

We—who do not believe either in the justice, in the efficacy, or in the policy of capital punishment for political offences, of which many are guilty—were most anxious to save Maximilian from so severe a penalty; and with his life preserve that of many Mexicans, who, having gone astray during a period of the most serious perturbation, might yet become worthy sons of our beloved country.

In our estimation, all such executions are sinister omens, which, in silent language, presage discord and its concomitant horrors.

Forgiveness opens the heart to fraternal sentiments; that which is not reached by force is obtained as by enchantment, when we say to the vanquished: "You are my brother; you lost your arms in the conflict; but these, the victors, will not spill your blood, which may one day serve to elevate my country." Then comes into play an instinctive gratitude. It is in these grand crises that nations become consolidated, because the idea of strife, the tendencies to revolution, and the use of force disappear. Then it is that conflicting opinions are fused together under the irresistible pressure of great events, and unexpectedly wholesome fruit bursts forth from the tree of rebellion in the very midst of its rankly luxuriant verdure.

The victorious and the vanquished then combine in recognising and accepting one legitimate government; and this recognition produces the peace and prosperity so ardently desired by all nations that have been the victims of fratricidal wars.

With what absolute sincerity did we verbally represent these things to the Constitutional Government!

As the faithful narrators of this melancholy history, it is incumbent on us to candidly state, that both the President and his Ministers always granted us the time we desired for such long and frequent interviews; that in answer to our arguments they responded with others, which demonstrated the mature and profound study of a resolution which brought the Empire to a tragic end.

"The pardon of Maximilian," they said, "would be a complete justification of the cruelty of the Intervention which acted in his name; it would be the pardon of a multitude of individuals, who, under the shadowy protection of a so-called Government, shed blood, devastated the country, and committed numberless depredations, &c. It would be absolution from the crimes of that terrible scourge which was inflicted on society by the law of the 3rd of October, 1865.

"With respect to the pardon, everything must be reserved until the sentence has been pronounced. Before that, it is impossible to enter into the question, for which the proper moment is assigned."

To these objections we gave the same reply that we had received from the accused. He was well aware of the nature of the accusations embodied in the process raised against him. Maximilian never admitted the charge of being a tool of the French, against whose unjust exactions (he repeatedly told us) he had always fought, because the vehement desire of his Government—his sole idea—was to nationalise the Empire. He felt aggrieved that any intentions contrary to the liberty, independence, and integrity of Mexico should be imputed to him; and respecting his acts of administration, as he informed us, they were instigated by the necessities of war; and these he endeavoured to modify by forgiveness, which was always granted without any exception. So far as regards the rigour of the law of the 3rd of October, besides the frequent exercise of pardon, he declared that he and all his Ministers had firmly believed that the Republican Government had already disappeared

from the country, and that this belief, founded on data which discreet men would have deemed well authenticated, led to that enactment which was itself copied from former laws.

We committed these considerations, which we expounded to the Government, to the fleeting impression made by what was talked over: and being deeply convinced as to the inevitable termination of the trial—supposing the law was held inflexible in its application, and that on the passing of the sentence it might happen that there would not be sufficient time to interpose an appeal, since we were seventy leagues from the place of trial—we deemed it high time to meditate on that sad eventuality. The execution of that sentence might be immediate, and the General-in-Chief might even refuse to reverse it, if a pardon were presented at the last moment.

Amongst our readers there will be some who have experienced the painful agitation, the gloomy inquietude, of the advocate of an accused person, whose life may be extinguished instantaneously by the omnipotent iron hand with which judges may be armed by a law; but there will be many others who may be unacquainted with those violent emotions of the mind. The advocate for the defence is the physician, who searches out the secrets of his science for the most efficacious remedy against the gnawing power of an acute disease. He is full of anxiety; but, encouraged by the sacred duties of his office, he becomes superior to emotions of fear, and is converted into an athlete who struggles against that adversity which renders a weak man the victim of its power. He is a philosopher endowed with certain sacred functions, who, placing the law and criminal actions in the balance, palliates the conduct of the accused, by availing himself of whatever may seem likely to further his cause. Finally, at the sound of the harsh sentence, he becomes the representative of the family, the closest and sincerest friend of the accused, the interpreter of all the sentiments of pity and clemency in man to induce pardon for his life. How horrible is the

sentence, to an advocate who fails to snatch the accused from the gallows! How much more deeply painful is it, if behind that gallows there are many other victims, whose families are weeping over the dark future of a father, a brother, or a son, who is suffering in his solitary cell the bitterness of a cloudy horizon to the life which he is on the point of forfeiting; leaving unprotected, in misery, in grief, in orphanage, the beloved pledges of their affections!

Adored country! oh, that your sons may all be brothers, that all may embrace each other in tender friendship: that Cain and Abel may not be the mirror of your conduct!

A dark shadow covered the hope of our defence, when we felt all the weight of an adverse verdict which might soon be communicated to us. But without being disheartened by so sad a conviction, we immediately sent a telegraphic message to Queretaro, summoning Baron Magnus, the Prussian Minister, to San Luis Potosi.

We had previously received from Queretaro a despatch from our colleagues for the defence; the object of which was to solicit from the Supreme Government a change of tribunal. That despatch referred to one of the documents attached to the proceedings previous to the defence, and we presented it with the following petition:—

“CITIZEN PRESIDENT,

“We, Mariano Riva Palacio and Rafael Martinez de la Torre, advocates appointed for the defence of the Archduke Ferdinand Maximilian, most respectfully approach the Citizen President, showing: that at half-past 10 o'clock this morning we received a despatch, written on nine pages, which accompanies this. Our colleagues for the defence specially request us, on the receipt of those sheets, to approach the Supreme Government, and lay before it, in as strong terms as our judgment may deem prudent, our convictions of the incompetency of an ordinary court-martial to which the Archduke Maximilian has been submitted; but the hurried manner in which the cause is

“being tried does not admit of further delay, nor of more explicit explanations than those absolutely necessary for the purpose. *An ordinary Court-martial cannot judge the conduct and administration (during a period of three years) of the Archduke Ferdinand Maximilian of Austria, the Federation having paramount interest in an open debate, as to the full justification of all the acts by which its rights are being affected in the very violation of the principles of its Constitution.*

“The simple representation herein made is superior to any meretricious illustration, and the statesmen who govern in the name of the Republic will undoubtedly perceive, better than ourselves, the necessity of calling attention to the important events which have transpired during the period which has elapsed between the year 1862 and the present date, and the responsibilities which arise therefrom. The Federation, represented by the Supreme Magistrate of the nation during the grand crisis, has, of a certainty, an interest in preventing the evils of at least a dubious future for the country, against which dangers, at any trial, no hand can be uplifted more powerful than that of well-established truth, which defies the scrutinising criticism of the whole world.

“If the Court-martial, supported by the law of the 25th of January, 1862, does not admit the vindications of the accused, it will condemn him to suffer the rigour of that law; but the mystery resorted to in this cause, which so deeply affects the rights of our country, will leave it disarmed, and impotent to prefer an evidently just demand for reparation of those evils which are brought upon us by an unjust war.

“Without time for more, and relying on the conviction that all the observations we had the honour of presenting to the consideration of the Citizen President and his worthy Ministry will be borne in mind, we conclude by praying, that, having regard to the reasons set forth by our colleagues for the defence, you may be pleased to

"command that the cause raised against the Archduke
 "Ferdinand Maximilian of Austria be taken to the tri-
 "bunals of the Federation; and if it be considered that
 "this appeal should be made to the Tribunal of Justice, so
 "to instruct us; naming, at the same time, the place where
 "application should be made, inasmuch as no tribunals are
 "as yet organised in Queretaro.

"This request is obviously just; we therefore pray
 "that the Citizen President may be pleased to accede
 "thereto; in doing which he will act in conformity with
 "justice.

"MARIANO RIVA PALACIO.
 "RAFAEL MARTINEZ DE LA TORRE.

"San Luis Potosi, June 10, 1867."

The answer given to the above was as follows:—

"To Citizens MARIANO RIVA PALACIO and Licentiate
 MARTINEZ DE LA TORRE.

"Office of the Secretary of State of War
 and Marine. 1st Section.

"To the solicitation, bearing this day's date, presented
 "by you, accompanied by a copy of another presented in
 "the city of Queretaro, respecting certain points of juris-
 "diction raised at the trial, now in hand in the said city, of
 "the accused Maximilian of Hapsburg and his so-called
 "Generals, Don Miguel Miramon and Don Tomas Mejia:
 "the Citizen President has determined according to the
 "following answer:—

"Make known to the exponents that the course of the
 "trial being in conformity with the pre-existing law of the
 "25th of January, 1862; that the provisions of that law
 "not being contrary to the principles of the Constitution
 "respecting the offences defined therein; that, moreover,
 "the constitutional *régime* being suspended by the natural
 "effects of the war still carried on by the nation; that there
 "being no cause for an appeal which the said law does not

"permit, touching the incidents of the trial decided by the
 "constituted authority in the said case; and that, also,
 "there being no question of law that the Government
 "would have to resolve, there is no cause why the Govern-
 "ment should decree any resolution on the points referred
 "to in this memorial, and the copy of another presented
 "therewith.

"This I communicate to you as the result of your
 "memorial.

"MEJIA.

"Independence and Liberty.
 San Luis Potosi, June 10, 1867."

By submitting the Archduke unalterably to the Court-
 martial which had to try him, in conformity with the law of
 the 25th of January, 1862, the sentence of death was cer-
 tain. Nothing remained to be done but to ask for a pardon,
 and a petition was presented of the following tenor:—

"CITIZEN PRESIDENT,

"Mariano Riva Palacio and Rafael Martinez de la
 "Torre, advocates named by the Archduke Ferdinand
 "Maximilian of Austria, in the cause instituted against
 "him as prisoner of war, who surrendered on the morning
 "of the 15th of May last past, beg to approach the Citizen
 "President of the Republic, and most respectfully to show
 "—that as in this cause sentence is about to be pronounced,
 "and fearing, according to the rigour of the law by which
 "he (Maximilian) is tried, that our client may be con-
 "demned to capital punishment, we approach in his name,
 "praying the clemency of a free pardon. ®

"Perhaps in the annals of political trials there is not
 "one registered in which the clemency we solicit could be
 "more justified.

"Our country being oppressed by civil war, in which
 "many of her noblest sons have been sacrificed, the passions
 "became excited; and three European nations, alleging

" themselves to be aggrieved at a suspension of payments,
 " came to a resolution to intervene in our domestic affairs.
 " The object of the invasion having been discussed on the
 " shores of our country, the Governments of England and
 " Spain retired from the enterprise. France alone con-
 " fronted the dangers of a struggle in which the national
 " spirit of Mexico was compelled to play the heroic part of
 " a conqueror; and being unprovided with the elements of
 " wealth and strength, victory depended on the ardent love
 " borne by the Mexican people for their Independence.
 " Like wanderers, her faithful sons marched about with a
 " bold front, because the cause they defended was a national
 " and just one, and the future never closes its portals to
 " Justice.

" The supreme magistrate of the nation, after the la-
 " mentable occupation of Puebla, was obliged to abandon
 " the city of Mexico, in consequence of the irresistible
 " pressure of circumstances; and on the 10th of June, 1863,
 " the French army marched into the Capital. Shortly after-
 " wards steps were taken for the purpose of establishing a
 " new Government in the country.

" No one is ignorant of the history of that period, and
 " we are only called upon to say, that the Archduke of
 " Austria, being nominated, by a Committee of Notables,
 " Emperor of Mexico on the 10th of July, 1863, that ap-
 " pointment was insufficient to persuade him to come over,
 " because he did not consider himself chosen by the freewill
 " of the Mexicans. Fresh conditions of legitimacy were
 " drawn up for his consideration. After a lapse of some
 " months, various acts were presented to him, which, accord-
 " ing to his judgment (we are assured), and the judgment of
 " respectable lawyers of Europe and America, gave him the
 " right to consider himself elected by Mexico to exercise
 " the authority or power of an Emperor. This belief de-
 " cided him (according to what we have also been in-
 " formed) to come to this country, animated by a firm
 " determination to defend at all hazards the Independence

" of Mexico and the integrity of its territory, which he
 " believed to be in danger. This is accredited by many
 " acts of his administration, and a large number of proofs
 " might have been produced at the trial, if the process
 " adopted had permitted it. Documents of indisputable
 " credit would have been seen by the judges, and perhaps
 " the rigour of the law might have been mitigated. It
 " would have been easy to demonstrate (as our client him-
 " self explained to us in all sincerity) the rectitude of his
 " intentions in accepting the throne of Mexico, and his firm
 " determination to sacrifice himself for the independence of
 " his adopted country, and the integrity of its territory.

" In the mystery of a process entirely military, are
 " shrouded the important facts which constitute the defence
 " of the accused, who remarked to us, with the earnestness
 " of the profoundest conviction, that history would here-
 " after, without prejudice, make known his anxiety and
 " efforts to prevent Mexico from becoming complicated in
 " grave international questions. The Archduke repeated to
 " us, that for himself this was the object of his ambition;
 " and if his limited defence could not be accompanied by
 " documents in justification of his conduct, there would
 " hereafter be persons who would honour his memory, by
 " faithfully presenting to the Mexican people, and the whole
 " world, the truth, to which was linked the rectitude of his
 " intentions.

" The defence being surrounded with difficulties in that
 " particular, which demands time to adduce proofs, we deem
 " it an imperative duty, in this exposition, written in great
 " haste, to make remarks which, to the sense of the nation
 " itself, bear the indisputable stamp of truth. Of whatever
 " nature the responsibility may have been which rested on
 " the Archduke of Austria, can any criminal intention be
 " attributed to him of a higher degree than the scale of
 " common offences? Should it not be taken into account,
 " that in his innermost conscience—entertaining a certain
 " doubt as to the legality of his election—steps were taken

“ which apparently gave validity to the origin of his nomination, and that these representations were presented to him with every appearance of truth ?

“ Whilst conversing on this point, the Archduke said to us : ‘ I did not come to undermine the institutions of this country—which, agitated by civil war, was victimized, long before my arrival, by an invasion which I purposed to oppose, by obtaining for my adopted country the promises of the Governments of Europe, without humiliating the purest patriotism of the nation. The probability of success in the issue of the enterprise may be held in doubt, but not the good faith of my conduct. On coming to Mexico, never did I believe that I should have been made responsible for a position of affairs not created by me, and for which neither God nor posterity will judge me as an offender. I may be responsible for the acts of my administration, but never for events in which I had no participation. In the fate of the Government which I had to establish, my own was also committed—my name, and that of my family. For many months I calmly and dispassionately believed it to be in my power to do good to this nation, which for gratitude’s sake I loved !’

“ Is it possible that this error can be a crime which deserves capital punishment ? Can the penalty of an error in judgment be as severe as that of the greatest delinquent of the common order ?

“ We are well aware, that by weighing in the political balance the damages caused by public disturbances, there are those who consider them of greater importance than the highest offence which a private individual could commit ; but this opinion is condemned by judicious men, because the crime of an individual receives the reprobation of the whole universe, and in order to commit it, he forfeits that tranquillity of conscience which is the foundation of excuse.

“ Our client does not, indeed, acknowledge himself to

“ be the cause of the disturbance of the country. The banner of the Republic waved far away from the Capital, and from many of the States, when he arrived as Emperor. He was never held to be either a conspirator or a revolutionist ; and ‘ the unsuccessful issue of the enterprise,’ he said to us, ‘ proves the strength of the Republican opinions of the country ; but never a crime on my part, who in what I did was actuated by an upright and patriotic intention. If the instinct of humanity be to do good, I desired, and judged that it was in my power to do so to a people by whom I believed I was called.’

“ On hearing this declaration, which appeared to us both frank and sincere, we comprehended the possibility for persons of honour to compromise themselves in political matters, and yet to merit every indulgence from the Ruler on the re-establishment of his power.

“ The severer the troubles through which Mexico has passed, the more is she exalted : both her name and her future will increase in greatness in proportion to her clemency towards one who—having surrendered at the discretion of the Commander-in-Chief—can never admit the charges of an unpardonable perversity of intention, in accepting power which, by mistake, he believed to be conferred by the public voice. Submitting the picture of these events to the scrutiny of reason, the law of the 25th of January, 1862, is not applicable, because it could not have been the intention of the Legislature to oppose the Constitutional Government by another Government, which (let it be called *de facto*, or by usurpation) subsisted during three years, and was recognised throughout Europe, by Brazil, Russia, &c. ®

“ The frigid arguments of statesmen cannot deny to time and events their proper names, their being, and the consequences derived from their existence. If politics possessed that power, the omnipotence of man would be an actuality, and truth would be subordinate to the authority of Rulers. Therefore, be it called empire, dictator-

“ ship, usurped power, or what not, the existence of that
 “ power has been a reality which it could not have been
 “ the intention of the Legislature should be tried before a
 “ court-martial, by persons incompetent to judge on ques-
 “ tions of so grave a nature, and from which the charges
 “ emanated, against one who acted in virtue of that
 “ power.

“ But since this was a reality, it is incumbent on the
 “ part of the advocates for the defence, in consequence of
 “ the unfortunate event referred to, to ask for a pardon,
 “ which they pray may be granted on the considerations
 “ hereinafter explained.

“ In the month of December 1861 the Spaniards had
 “ already invaded Vera Cruz, and on the following 5th of
 “ May the triumph of the arms of the nation affirmed that
 “ France alone struggled with our country. During all this
 “ period, even if the name of the Archduke of Austria was
 “ ever mentioned, he was not connected with that epoch by
 “ any compromise; and the French troops having retreated,
 “ it required nearly a year to gain possession of Puebla.
 “ The entire year 1863 had expired when he (the Arch-
 “ duke) was called. From that time to his arrival another
 “ year elapsed, and the Regency had legislated and
 “ governed, not by his request or instruction, as the first
 “ acts of the Archduke testified. Even when he arrived,
 “ prior to the formation of a Ministry, he states he was
 “ desirous to ascertain the opinion of the country; and, on
 “ legislating as Emperor, he was under the conviction that
 “ the Republic was reduced to a very limited tract of
 “ territory.

“ So true is this, that the number of persons who ac-
 “ companied the Citizen President of the Republic so far as
 “ Paso del Norte have always been spoken of with eulogy.
 “ This honour—a true testimony of the constant patriotism
 “ of some Mexicans—is a monument which morally has
 “ been raised to the supporters of our institutions; but it is
 “ also an authenticated fact that that Power, which was

“ called an Empire, had an indisputable existence, which a
 “ thousand facts attest.

“ The physical force by which it was supported could
 “ not be relied on, as an element of power sufficiently
 “ invincible to silence the voices that proclaimed the
 “ Republic.

“ In some places these indomitable defenders of the
 “ Republic sustained with their life-blood the sacred senti-
 “ ments of patriotism; but they were also reduced to a
 “ small number of defenders, who, if they relied on the
 “ ultimate success of their cause, did so because behind that
 “ apparent calm, or indifference of the nation, they observed
 “ that the shout was only temporarily suppressed, which
 “ would some day be raised unanimously in proclaiming
 “ Liberty, the Republic, and the Independence of their
 “ nation. This may be the foresight of a superior spirit,
 “ or perhaps solely the inspiration of unsullied patriotism.
 “ Passing events tend to support this view, and those men
 “ deserved well of their country: their names will one day
 “ be written in the indelible characters of an affectionate
 “ tradition, which the remembrance of generations accords
 “ to public men who honour the place of their nativity.
 “ But does not this of itself bear evidence that Maximilian
 “ may in good faith have deceived himself in his apprecia-
 “ tions?—that to him the success of his first step may have
 “ appeared to arise out of the concern of a people who
 “ wished for a king—the obedience of a nation which had
 “ grown tired of a Republic?

“ That spirit existed in the heart of every one, and
 “ silence, for a certain period, was simply astonishment at
 “ unforeseen successes, and was in nowise connected with
 “ the affections of the people. But it was sufficient to, and
 “ actually did, perturb the judgment of this Prince, who, in
 “ his error, compromised other persons.

“ Should not this consideration have some weight on
 “ the minds of those who form the Government, in miti-
 “ gation of a punishment which is repugnant to our

“ Constitution?—Horrible penalty, reserved in modern times solely for the worst of criminals!

“ The colossal insurrection in the Republic of the United States is a fact of recent date, and all the clamorous expressions of hatred and revenge, during that armed conflict, were transformed into calm and repose when the Government became conscious of having conquered in the revolution. There, the blood of an infamous assassin only has been shed: but the political disputes did not terminate with the dramatic end of all the men who were prominently connected with the insurrection.

“ In Europe, also, we have, in our days, examples of pardon granted to the leaders of rebellions, notwithstanding that the Governments had been established many years; and to this mercy the internal peace of those nations is probably due.

“ Mexico, unfortunately, has witnessed, amongst the foremost of her sons, the deaths of Iturbide and Guerrero, colossal monuments of our Independence. A prolonged struggle has followed that system of extermination, without producing any beneficial result upon the welfare of the country; serving only to prove that political disputes do not count on fewer adherents when the gallows terminates the existence of men.

“ Undoubtedly that conviction was the most powerful reason why the legislators who framed the Constitution of 1857 sustained, with a valour worthy of praise, the abolition of capital punishment for political offences, as enacted in its 23rd Article.

“ In the wisdom of those legislators—besides the estimable virtue of doing good—there existed the maxim, that the faults of their fellow-creatures should not be chastised by a punishment which might impede the rectification of the error itself. Revolutions are fought out by arms; but there must always exist a fund of right ideas, which inspires love for the national flag: the contrary exasperates the feelings, excites the fanatical

“ delirium of a cause, and the scaffold is then a cross of martyrdom which elevates the principles contended for.

“ The terrible idea entertained by victorious Governments to arm themselves with a powerful energy, which frequently precipitates the highest interest of the country into an abyss, is, perhaps, the most solid argument of those who maintain that capital punishment cannot be applied to political offences. A Government, in the hour of victory, becomes the accuser, prosecutor, judge, tribunal, executioner: in short, Governments are composed of men susceptible of impressions, which may influence them (without any premeditated and injurious design) to an obstinate determination not to appreciate the just motives for the commutation of a penalty. Such severity, which makes no allowance for pardonable errors—but, by closing the eyes and stopping the ears, avoids seeing or hearing the prayers, complaints, pleas, and exculpations—the excuses of the vanquished party—may be regarded as an act of revenge rather than a righteous application of justice; and so by transpositions of the public power, society would be always exposed to the dangers of an endless chain of executions.

“ The legislators of 1857 had before them the sad picture of our revolutions, which have already supplied matter to offend the whole world; and in that same epoch of excitement—the greatest we have ever experienced—they manifested by their public conduct, with a force which is reserved for posterity to appreciate, that they did not desire the extermination of their opponents, but aspired to a change for which that simply was not the most propitious epoch, wherein the germ of good was only planted, the fruit of which was to be gathered at a future date. What time can be more appropriate than the present?—when can a more opportune occasion present itself? The contending parties have never been in a better position to understand each other, and the Constitution should be a link of union for Mexicans, who,

“ having been unfortunately divided, ask the conquerors to
 “ extend a fraternal hand in the observance of a humane
 “ prescription from Holy Writ. How much good would
 “ be secured by profoundly respecting the 23rd Article of
 “ the Constitution! This example would be more effectual
 “ than a thousand places of execution that might be raised
 “ to drown the vanquished in their own blood!

“ The advocates for the defence are aware that the
 “ Citizen President believes the Constitution of 1857 to be
 “ suspended, even in its fundamental bases or principles;
 “ but that said suspension—admitting it as a fact—does it
 “ compel the imposition, in an irregular manner, of capital
 “ punishment on the Archduke of Austria? Is it not more
 “ logical and humane to mould the use of discretionary power
 “ to the fundamental principles of a Constitution for which
 “ the Republic has fought, and does not wish to look upon
 “ as a dead letter?

“ The fundamental laws deserve such reverence and
 “ respect, that even in the exercise of that power with which
 “ Governments are at times invested, it is considered, by
 “ distinguished publicists, that they cannot be interfered
 “ with. This is the opinion of Vattel, who says:—

“ It essentially belongs to society to make laws,
 “ both in relation to the manner in which it desires to be
 “ governed, and to the conduct of its citizens:—this is
 “ called legislative power. The nation may intrust the
 “ exercise of it to the prince, or to an assembly; or to
 “ that assembly and to the prince jointly, who have then a
 “ right to make new laws and to repeal old ones. It is
 “ asked whether their power extends to the fundamental
 “ laws—whether they may change the Constitution of the
 “ State?

“ The principles we have laid down lead us to decide,
 “ with certainty, that the authority of these legislators
 “ does not extend so far, and that they ought to consider
 “ the fundamental laws as sacred, if the nation has not in
 “ very express terms given them power to change them.

“ For the Constitution of the State ought to possess sta-
 “ bility; and since that was first established by the
 “ nation, which afterwards intrusted certain persons with
 “ the legislative power, the fundamental laws are excepted
 “ from their commission.

“ In short, it is from the Constitution that those legis-
 “ lators derive their power; how then can they change it
 “ without destroying the foundation of their own au-
 “ thority?*

“ This doctrine is a natural inference, according to this
 “ learned writer, who has previously stated that the Con-
 “ stitution of the State and its laws are the bases of public
 “ tranquillity, the most solid support of political authority,
 “ and the guarantee of the liberty of citizens.

“ The struggle of the institutions during five years
 “ (glorious for the Democracy of Mexico) would be barren,
 “ if, at the hour of invoking their principles—when heroic
 “ efforts are crowned by the most brilliant triumph—it
 “ should be said that those institutions have no value or
 “ power whatever; that the existing law is the terrible one
 “ of the 25th of January, 1862. Few defenders would
 “ maintain that doctrine, when the emblem of the union,
 “ the starting-point and the object of the war, has been
 “ the sacrifice of every principle, of every aspiration which
 “ was not explicitly recognised by the Constitution of 1857.
 “ For what time, then, is the application of the article cited
 “ reserved? When there is no rebellion!—when there is
 “ no one to be punished! The rigid application of the
 “ law of the 25th of January, 1862, would amount to this:
 “ so many places of execution would be raised, as to cause
 “ the imagination to fly from the picture of horror which it
 “ might easily conceive. By that law the Citizen President
 “ is omnipotent to summon the vanquished to a place of
 “ execution; but in the exaggeration of patriotic frenzy,
 “ that law would drink up the blood of many a friend of
 “ the Republic.

* Vattel on the 'Laws of Nations,' Book I. ch. iii. § 34.

“ If it were possible to see in two parallel lines the courses
 “ here indicated, following in one the mark traced out by
 “ blood, and in the other that left by mercy—that of
 “ extenuation—the Citizen President would shrink with
 “ horror from the sight of the first, which could have no
 “ less direful effect than that of filling Mexican hearts with
 “ sorrow and bitterness, extinguishing for the future the
 “ most flattering hopes of union and the happiness of our
 “ country.

“ We must repeat that there has never before existed in
 “ the nation more generous sentiments of adhesion to the
 “ Code of 1857; and that it behoves the Citizen President of
 “ the Republic, the constant defender of Liberal principles
 “ (far from intensifying the punishment of the vanquished,
 “ and exciting the anger and revenge of the victors), to pro-
 “ cure solely the reparation of those evils that have befallen
 “ the sons of this unfortunate country. Are these evils to
 “ be remedied by showing to them the tomb of the Arch-
 “ duke of Austria? Would it be a satisfactory reparation to
 “ say to the people of Mexico, ‘ Queretaro is the sepulchre
 “ of one whom Mexico saw for three years exercising the
 “ power of a usurper, calling himself Emperor? Would
 “ the nation prefer the swift death of Maximilian, although
 “ the history of events, from the year 1861 to the present
 “ date, should remain entombed with him in the mystery
 “ of a military process? By the death of a man—executed
 “ in hot haste—would the country be content to forfeit the
 “ right to its heavy claims, and disarm itself before all the
 “ world, when this Archduke of Austria himself has said:
 “ ‘ I desire that Mexico should judge me without the pre-
 “ cipitation of a process which is simply a military one,
 “ because I am anxious that it should be made acquainted
 “ with revelations of importance for its existence and wel-
 “ fare? When can there be a cause of greater interest
 “ to the Federation? Then, of what use are its tribunals?
 “ What interest can there be in a mysterious execution,
 “ which may, hereafter, be wrongly interpreted? The

“ sentence of death passed by a court-martial will, transi-
 “ torily, satisfy the impatience of a few; but that cannot
 “ be the desire of the country. The death of Maximilian,
 “ a prisoner, may by some be called a just national retribu-
 “ tion; but it can never deserve the honour of grave medi-
 “ tation by statesmen. If death ought to be the punishment
 “ of Maximilian, the process which prepares it should be,
 “ at least, worthy of the most notable case of violation that
 “ can be found in the history of the American continent.
 “ No enquiry has yet been made into the origin of that
 “ invasion which three great European nations sent to our
 “ shores; nay, rather than make such an important investi-
 “ gation, and ascertain the immense responsibilities the con-
 “ templated execution might give rise to, this trial chokes
 “ up the source of all information, to the grave and irre-
 “ parable injury of the whole Republic. Let Maximilian
 “ live, and it becomes obligatory on his honour to elucidate
 “ the truth, and, in his name, we promise that he will do
 “ so; for in the instructions he gave to us, he repeatedly
 “ remarked, that he considered it an imperative duty that
 “ the mysterious history should be made known—the secret
 “ part of our international relations. What would other
 “ countries in the world give to have at hand a living
 “ pledge of such interest for their future! How many
 “ advantages might be obtained for the existence of Mexico
 “ as a truly independent nation, from the life of a Prince
 “ connected by so many titles with the reigning Sovereigns
 “ in Europe!
 “ The American Republic itself has manifested great
 “ interest in the life of this Prince; and if the note which
 “ it passed for that recommendation has, possibly, in the
 “ slightest degree wounded the honour of the nation—which
 “ has viewed it as an admonition—it is proper that the repre-
 “ sentatives of this Republic should, with all the calmness
 “ which they ought to possess, recognise therein, not an
 “ assumption of superiority, but a good desire, on account
 “ of the sympathies and friendship it has demonstrated in

“favour of our Independence, by asserting the rights of
“Mexico against the Intervention.

“Dictation is not acceptable, even in a moral point of
“view, let it come from whatever Government it may, and
“in this particular the best interpreter of public opinion has
“been the Supreme Government. This is, undoubtedly,
“the highest title which Mexico has for her worthy Presi-
“dent, and the Ministers who have attended him during so
“perilous a crisis.

“But should not good counsel, therefore, be listened
“to?—Should any recommendation be despised? Does the
“power of this friendly nation and the style of its note
“furnish any reason to depreciate the value of its good
“offices? If the recommendation be founded on a moral
“principle—if it be true that Republican principles abhor
“those gibbets which are raised by political passions—
“should a truth, notwithstanding, be ignored, simply be-
“cause it has been expressed in a style which might give
“offence?

“The spirit of the public men of Mexico is far superior
“to the susceptibilities of those who view matters biased
“by a proclivity to take umbrage in formulas at the expense
“of justice. For a question of style, the services received
“in adversity should not be forgotten; and if anything has
“been asked for, which can be approved in conformity with
“justice and Liberal principles, that voice should be listened
“to with all the attention merited by the interest of brothers,
“who ought to have a common bond of union.

“Can there possibly be any person who would wish to
“reply to that note with the instant death of Maximilian?
“But there is no fear that so illustrious a Government can
“even listen to that clamour of passion, which, even if it
“were patriotic, resembles delirium more than a prudent
“and discreet expression of real love of country.

“On occasions in which Mexico can manifest its grati-
“tude, there is nothing more judicious than to evince it: and
“now a most favourable opportunity does present itself for

“Mexico to demonstrate that it is grateful for the kind
“offices of friendly nations.

“The execution of Maximilian would certainly be a de-
“monstration of power; but, it must be repeated, it would
“not be an act of political prudence or of wisdom on the part
“of the Government. To disarm the country of its undeni-
“able rights—which might be made use of hereafter—by
“executing the Archduke of Austria, may be all very well;
“but if the nation could be heard, its best interpreters would
“not be those who desire that death, and who fain would
“sacrifice the opportunity of presenting Mexico as magnani-
“mous, and worthy of the position to which she is called.

“In those solemn moments of confidential interview
“which an accused person has with his advocates, we were
“forcibly impressed by the tone of truth in which the Arch-
“duke said to us: ‘I regret from my soul that my death
“should be the cause of any painful days to the Republic.
“My life would never be hurtful to the country, for whose
“happiness I offer up a thousand prayers!’

“The aspect of our international affairs is gloomy
“enough, but that best support to our plea for the clemency of
“pardon is an answer to the charges made against our client.
“The minute particulars of such would require so much
“space that we must forego them, and confine ourselves
“to the most prominent points in issue.

“‘I am accused,’ said Maximilian, ‘of a crime which
“it is attempted to identify with, or make at least similar
“to, that of treason against the country; but I can only be
“tried for my personal conduct, and the acts of adminis-
“tration dictated by me.’

“He particularly requested us to call the attention of
“his judges to various acts, which he pointed out; but, now
“that the pressure of time, and the necessity of coming to
“this place, to obtain an interview with the Citizen Presi-
“dent and his worthy Ministry, have rendered it impos-
“sible for us to return in time to join in the defence, as we
“were denied any further adjournment or time to produce

‘ any proof, we may be permitted to insert here some of those points on which the Archduke hoped to be acquitted of such unjust charges, as, according to his judgment, could not possibly be considered in the brief and hasty examination of a court-martial. He pointed out, in the first place, as a repudiation of any idea of acting contrary to the National Independence, his spontaneous oath, made before the Commission of Notables on the 10th of April, 1864, saying:

“ I Maximilian, Emperor of Mexico, swear to God by the Holy Evangelists, to procure, by every means that may be in my power, the welfare and prosperity of the nation—to defend its independence, and to conserve the integrity of its territory!

His discourse, delivered on the 16th of September, in the town where the Independence of Mexico was proclaimed, fifty-four years before, by the meritorious patriot Hidalgo, was a remarkable one.*

He assured us that with France he had never entered into any compromise or compact which would imperil his honour, and that, in relation thereto, it would be of great interest to the Republic to be fully informed of the history of these four years; that he had not entered into any treaty engagements with foreign Powers which might occasion the slightest embarrassment to Mexico.

Respecting internal politics, he was most anxious for the decree of the 6th of July, 1864, to be read, in which a general amnesty was granted; and in order to take away every motive of discord by which any ill-feeling might be revived, he dictated a circular, dated the 27th of that month, as follows:—

“(Circular.)

Secretary of State for the Home Department, Mexico, July 27, 1864.

“ It being the most ardent desire of His Majesty the Emperor, and his most constant anxiety, to obliterate

* Vide p. 49.

‘ even the traces of the dissensions which for so long a period have afflicted the country, and to unite in the bonds of fraternity the great Mexican family, he cannot observe with indifference, that on reference being made to certain individuals, odious epithets are employed, which are at variance with his policy and benevolent sentiments.

“ On these accounts it is, that in the decree issued on the 6th instant, calling around him those who had fought and are still fighting against the Empire—not having committed crimes—the word “pardon” is not mentioned.

“ His Majesty therefore commands me to caution you not to exact from those who lay down their arms, and wish to retire into private life, any other declaration than that they will live quietly and peacefully, without entering into the question of their opinions or sentiments.

“ His Majesty also commands me to recommend to you the greatest circumspection and moderation in official language; eliminating those phrases and epithets with which, up to the present moment, the factions have been upbraided, and which only serve to fan the flame of discord.

“ His Majesty finally commands that this vigilance be extended to all the publications of the Press, by visiting on the violators such punishment as their faults may deserve, and may be requisite for the maintenance of union and concord amongst the Mexicans.

(Signed) “ JOSÉ M. GONZALEZ DE LA VEGA,
“ Sub-Secretary of State for the Home Department.”

“ Another circular, dated the 2nd of December of the same year, was issued, conveying precisely the same sense, which stated, in its first paragraph:—

“ The Emperor has observed, with profound displeasure, the measures dictated by your Prefecture, respecting the chiefs, officials, and *employés* of the former Government, who have sought security under the

“ protection of the Empire. The return of these persons
 “ implies, in itself, a solemn declaration of obedience,
 “ without its being necessary to exact from them other
 “ demonstrations, which, by possibly humiliating them,
 “ are of no benefit whatever for the public peace,’ &c. &c.

“ There is one charge—that of the publication of the
 “ law of the 3rd of October, 1865—which he explained to
 “ us, thus. That an erroneous impression respecting the
 “ abandonment of the national territory by the President
 “ of the Republic was, probably, the only ground for a law
 “ which he, the said Maximilian, had afterwards to repeal ;
 “ taking advantage of every opportunity that presented
 “ itself to moderate that rigour, which (as he said to us) was
 “ taken from another law given previously by some one of
 “ the Mexican Governments.

“ He decreed full pardon for political offences, although
 “ by the same law all petitions were prohibited.

“ So far was he from entertaining any displeasure, so to
 “ speak, at the defence made by Mexico in the war against
 “ foreigners, that he cherished the respect with which those
 “ heroic actions inspired him ; and his demonstration of
 “ sympathy for the memory of General Zaragoza is well
 “ known.

“ He said to us : ‘ Personally, Señor Juarez will not
 “ meet, amongst the multiplicity of laws and decrees pro-
 “ mulgated, with a single sentence derogatory to his reputa-
 “ tion. I have always considered the constancy of his
 “ efforts to be honourable.’ And on speaking of his high
 “ estimation of them, he added : ‘ My only object in return-
 “ ing from Orizaba was, not to complicate the affairs of the
 “ country with any fresh element of discord—such as was
 “ attempted to be raised by the French forces, by obliging
 “ me to leave the country, in order to hasten the result of
 “ the operations initiated by several months of anticipa-
 “ tion. I returned with the firm determination of procur-
 “ ing an amicable understanding with the Chief of the
 “ Republic, by means of a Congress ; which would give

“ peace to the country, and which idea had been accepted
 “ with gusto by the persons who accompanied me. Military
 “ strife, and the firm resolution of Señor Juarez not to
 “ accept any arrangement whatever, caused me to lose all
 “ hope. Nevertheless, not despairing, with this object I
 “ came to Queretaro, and commissioned the Licentiate
 “ Don Antonio Garcia to prepare the way for mediation.
 “ Nothing was attained, and the result is the process now
 “ raised against me. Feeling a presentiment of the un-
 “ fortunate position into which I might fall, if the Con-
 “ gress or any other medium of pacification should not be
 “ accepted, I purposely deposited my Abdication in the
 “ hands of a person who possessed my confidence, in case
 “ of my being taken prisoner. It was a voluntary act on
 “ my part, to which I was desirous that the interpretation
 “ of compulsion should not be given by any one. Every
 “ step was directed towards a pacification, which I had
 “ not the good fortune to accomplish.’

“ It is now time that we, the advocates for the defence,
 “ without any further remark on our instructions, should
 “ apply ourselves solely to the pardon solicited—not for
 “ those whom the sentence may have declared to be
 “ absolved, but for him who, being condemned to death,
 “ prays for life. We entreat that that punishment, reserved
 “ by the thinking men of this century solely for certain
 “ crimes of the common order, may not be executed on the
 “ person of the Archduke of Austria.

“ We come, in the name of Humanity, of the Democracy,
 “ of Liberty, of the Constitution, to ask for the suspension
 “ of the stroke of death on Maximilian ! This is not the
 “ only punishment the law can impose ; and in asking
 “ pardon for his life, we would remind the Citizen President
 “ that this mercy, which he can grant, is one of the noblest
 “ prerogatives of his power.

“ Clemency is the virtue of Republicans, from whence
 “ irreparable evils never emanate ; these being always the
 “ mournful consequences of the power of tyranny, which,

“ by rigour, marks the footsteps of unbridled passions, and
“ overwhelms society with grief.

“ Reflection has produced, after a certain time—even
“ in the minds of the most discontented—the profound con-
“ viction that peace can only proceed from the triumph of
“ the principles of the Constitution; and the great hope of
“ the country is that, the difficulties of the situation being
“ moderated by the observance of the same principles as
“ it proclaims, they may be a bond to unite the contending
“ parties without giving place to the menacing agitation
“ of violent passions.

“ What a prosperous future would be in store for the
“ Mexican people, if, to the wisdom of the Government and
“ to the prestige of its triumph, it were possible to add the
“ precise and unswerving observance of the principles sus-
“ tained by the Constitution!

“ The mercy of pardon may be for our country an inex-
“ haustible fountain of good, which is most esteemed when
“ most required. To-day society asks for peace, and this
“ is not attained by the sacrifice of life, which spreads
“ sorrow and consternation throughout the land. By the
“ shedding of blood—if there be any who would applaud—
“ the people in general would witness the yawning of an
“ unfathomable abyss of misfortune; because rigour is an
“ evil of direful contagion, which carries the conquerors
“ where they think not—where they believe not—where
“ they know not; but everywhere grief and desolation are
“ encountered.

“ In all crises of great moment, there exists an insensi-
“ bility which is only dissipated when the party governing
“ speaks as a father who loves the people he governs; when
“ that terrible threatening of death—the offspring of discord
“—is scared away; when the excuses of the misguided
“ are received with benignity. Mexico is a nation where,
“ scattered abroad, the majority of her sons weep over the
“ misfortunes of a fratricidal war: and the scenes of fresh
“ executions would be a prophetic announcement of new

“ calamities, which would embitter the existence of the
“ victors as well as of the vanquished.

“ We ask pardon for the life of Maximilian; and that,
“ without doubt, will be well received by this generous
“ country, which already understands the full value of the
“ philanthropy of Liberal principles. In these days the
“ prison-doors of Jefferson Davis have been thrown open;
“ and his liberation has been applauded by the very people
“ who experienced the horrors of civil discord.

“ We, the defenders of Maximilian, in interposing this
“ appeal on his behalf, discharge a painful but an honour-
“ able duty, since we were undoubtedly chosen because we
“ stood aloof from his politics; our anxiety, therefore,
“ must naturally be increased by his misfortune. Being
“ obliged, unfortunately, to visit this city, time would not
“ permit us to be present at the court-martial, and this
“ sacred duty will have been performed by our colleagues
“ for the defence.

“ It may possibly be weak in consequence of the hurried
“ manner in which it is made, without the opportunity of
“ supporting it by proofs which our client has considered
“ to be of much interest both for himself and the country.
“ Would to God that his judges—convinced of the im-
“ possibility of deciding actions superior to their military
“ competency—might mitigate the severity of a law (the
“ offspring of exceptional circumstances), which was framed
“ *ad terrorem* against those who might act treasonably
“ towards their country! Maximilian and his acts of
“ administration are, in our opinion, beyond the intention
“ of the Legislature, which, on promulgating the law of the
“ 25th of January, 1862, in the great struggle of our country
“ with the foreign forces, simply wished to terrify, or to
“ impose such penalties, during a transitory crisis, as should
“ not leave, to our injury, the traces of an administration
“ which, however illegal it might be, subsisted during a
“ period of years, with the cognisance of several Govern-
“ ments in other parts of the world, and with the passive

“obedience of some of our own States, although that submission might not really be spontaneous.

“The proceedings of a Government of long-standing usurpation cannot, certainly, be comprised within the narrow limits of that law; and this circumstance, with many others, strongly justifies a pardon, which is not only a case of humanity, but highly politic, and such as will be acknowledged by our country, our sister Republics, and the world at large.

“If we were not detained here by our anxiety to achieve the salvation of the life of the Archduke Maximilian, we, with the necessary data for his defence at hand, however scanty they might be, should have endeavoured to support this solicitation by descanting on the advantages which would arise to the country by not closing with the tomb of Maximilian all inquiry into an important era in the history of Mexico—a most critical and cruel situation, from which she has emerged with honour. Providence watched over her life as a nation, and the particulars of so many episodes in this partial suspension of the Republic, ought to be treasured as so many proofs of valour in the army, of intelligence in the statesmen, and of abnegation and patriotism on the part of the Mexican people.

“In order that our history may be resplendent with honour, we ask for the pardon of the Archduke of Austria. If it be obtained, the nation will know how to appreciate the valorous actions of her worthy sons during the struggle, and their generosity in the days of victory.

“The Republic and the Democracy have deep roots in the Mexican bosom, and it is not necessary to shed blood or to erect scaffolds to give solidity to her institutions. They will live without further danger, because experience has taught the Mexicans—divided at other times—that the greatest of evils is to confide their troubles to the alleviation offered by foreign bayonets. These have experienced the energetic resistance with which they were

“opposed by the decision of the Mexican people, whose indomitable resolution not to accept any other institutions, or any other Government, than those which its sovereign will might appoint, has undoubtedly established for ever a new era for this country, which witnessed the invading army retreating in a manner that has already been criticised by the world. There is, therefore, now no danger to overcome; and the life of Maximilian, if the Citizen President should think fit to grant a pardon, in case he should be condemned to the punishment of death, will be the highest testimony that the Government, which knew how to resist an unjust foreign war, was generous towards the vanquished—thus ennobling the name of Mexico, free and independent!

(Signed) “MARIANO RIVA PALACIO.
“RAFAEL MARTINEZ DE LA TORRE.

“San Luis Potosi, June 12, 1867.”

The above petition, the work of a few hours, together with the observations presented to the consideration of the Government at the interview a few days previously, may be termed a brief *résumé* of our verbal exposition.

The following answer was given:—

“To the Citizens MARIANO RIVA PALACIO and RAFAEL MARTINEZ DE LA TORRE.

“Secretary of State's Office and Department of War and Marine: Section 1.

“In reply to your solicitation, dated the 12th instant, and presented by you yesterday—asking that, in case Ferdinand Maximilian of Hapsburg should be condemned to suffer capital punishment, by the trial to which he is subjected, the mercy of pardon be conceded—the Citizen President of the Republic has commanded me to notify to you, that it is impossible to resolve on a petition for

"pardon previously to being informed as to whether the
 "accused has been condemned or not; and that in case he
 "should be condemned, if then it be opportunely submitted
 "to the decision of the Government, to resolve as to whether
 "the clemency of pardon may be granted or not, in such
 "a case, amongst all the considerations which must be
 "weighed by the Government, the petition presented by
 "you will not be lost sight of.

(Signed) "MEJIA.

"Independence and Liberty.

"San Luis Potosi, June 14, 1867."

The arrival of Baron de Magnus broke ground, which, although it was not new in our conferences, had lacked the weight of authority invested in a Minister from a powerful nation, in the consideration of its full value.

This gentleman, the representative of Prussia in the Empire, informed us that he could speak also in the name of Austria, Belgium, and Italy,—“in the name of all Europe,” he concluded, “if necessary, to solicit the pardon of the unfortunate Emperor Maximilian!”

On the 13th, Señor Magnus was presented, accompanied by Don Juan H. Bahansen, and the Señores Lerdo and Iglesias.

This presentation was solicited by us. We know what passed at that interview, by the particulars they gave us.

Señor Magnus was solemnly earnest whilst conversing with Señor Lerdo, and with great facility and clearness in his fluency of speech portrayed the benefits which would result to Mexico by not executing the sentence of death which might be pronounced on an unfortunate Prince; he endeavoured to demonstrate that, for the peace of the country, this would be a prudent step; and finally offered, if that pardon were obtained, the intervention of his King with the European Governments on whatever matter was desired by Mexico. He referred to the law of the 25th of January, and dwelt upon the interest with which the world at large

would regard the sparing of the life of a Prince to whom fortune had been so adverse.

Señor Lerdo listened with marked attention to all the observations made by Señor Magnus, and said: “The Government, on submitting Maximilian to a court-martial, in conformity with a pre-existing law, has acted with justice; and at present it would be impossible to deviate from its prescription. We must, consequently, await the sentence of the Court-martial. That law is applicable to Mexicans, and there is no reason to justify an exception in favour of the very ringleader of the rebellion.”

Señor Magnus explained the history of our relations with Prussia—her services many years since in a question with the United States; and invoked the remembrance of good-fellowship with Mexico while asking for the pardon of Maximilian, if, unfortunately, he should be sentenced to capital punishment.

Señor Lerdo, in few words, sought to demonstrate the justice of the proceedings in the form in which the trial was carried on; but, respecting a pardon, he volunteered no remark which might hold out any hopes of a life for which Señor Magnus so earnestly pleaded. He reserved this question for discussion at a Council of Ministers, and promised to lay before the President whatever might be said by the Baron de Magnus in support of his pretensions. This gentleman immediately called on the President: the interview, we understand, was at first limited to an interchange of courtesies, which presently led up to the matter in hand, comprising certain references to the Baron's conversation with Señor Lerdo. The President, although frank in his personal attention to Señor Magnus, was very reserved respecting the position of the Archduke. ®

Hope, which is frequently the offspring of desire, is so sensitive, that at the simple breath of contradiction it withdraws all the elements of its existence, and exposes to view the melancholy picture of the reality by which it is tormented.

Such was the impression of Señor Magnus on leaving the department of the Minister, Señor Lerdo; but his intense desire to save the Archduke reinspired him with hope of a rescue, which he contemplated as the true fountain of general good for the Republic. His agitation under these painful circumstances was extreme.

On relating to us the particulars of that interview, Señor Magnus considered it would be prudent to make a written appeal, and during the night he dictated the following letter:—

“ To His Excellency Señor Licentiate
DON SEBASTIAN LERDO DE TEJADA.

“ San Luis Potosi, June 14, 1867.

“ SEÑOR,

“ I feel compelled to tender to your Excellency my most grateful acknowledgments for the kind reception yesterday accorded to the verbal observations I had the honour of making in favour of the unfortunate Prince who is now a prisoner in Queretaro—also to His Excellency Señor Juarez, as well as to your Excellency personally, and the Señores Iglesias and Mejia.

“ I have at this moment been informed that the debates commenced yesterday before the Court-martial, and that, in all probability, the sentence will be pronounced to-day.

“ The critical and solemn moment draws near for the final resolution of the intelligent statesmen in whose hands the fortune of war has placed the life of the illustrious prisoner.

“ Your Excellency will therefore permit me, in these supreme moments of such grave consequences, humbly to add to our frank conference of yesterday the following observations.

“ In the first place, I repeat to your Excellency that the Government of His Majesty the King of Prussia,

“ whom I have the honour to serve, has maintained, ever since the Independence of Mexico, the most friendly relations with this beautiful country. I therefore considered it my duty to hasten to this city under such painful circumstances, when the future of Mexico is at stake, to interest myself, in the name of my Government, for the life of a Prince; and in virtue of his sincere friendship, absolutely divested of any direct political motives, but solely guided by considerations for the welfare and peace of Mexico, in the most confidential manner, without any pretension, and free from all official character.

“ Faithfulness of counsel, and an uninterrupted and sincere friendship, confirmed by many years, influence my exertions to the end that the life of this Prince be conserved,—a Prince who is worthy of compassion, particularly when the Mexican nation is in a high degree interested therein; because, your Excellency is well aware, that history elevates nations in proportion to their noble and generous actions, and the greatest of all these is to have pity on the vanquished.

“ Your Excellency cannot conceal, from the powerful discernment which distinguishes your Excellency as a statesman, that the United States, as well as the European Governments, esteem the life of the imprisoned Prince as an object of the highest value; therefore, gratitude towards those who concede it will compel them to offer such guarantees as the Mexican nation may desire, to preserve its Independence and Liberty.

“ My distinguished Government has always felt a sincere interest in the peace and welfare of Mexico, which it even now retains; and if my mediation, as persistent as it is respectful, to save the life of the captive Prince, should have effect, I doubt not that the Government of His Majesty the King of Prussia will with pleasure exert itself, and co-operate for the welfare and peace of Mexico to the uttermost of its power.

" Therefore, for the well-being—for the future of Mexico
 " —for the sake of humanity, permit me, your Excellency,
 " again to repeat, in full confidence, my most respectful sup-
 " plications—availing myself of the opportunity to assure
 " your Excellency of my high consideration.

(Signed) " A. V. MAGNUS."

A reply to this was received, on the following day, in
 these words:—

" San Luis Potosi, June 15, 1867.

" Señor Baron A. V. MAGNUS, &c., &c., &c.

" SEÑOR BARON,

" In the communication which you have been pleased
 " to address to me under yesterday's date, you again refer
 " to what you put before me at the conference of the pre-
 " vious day, in a manner entirely confidential and free from
 " all official character, respecting the position of the Arch-
 " duke Maximilian of Hapsburg, submitted to trial in
 " Queretaro.

" Both at the conference, and in the communication,
 " you have referred to the friendly relations of the Govern-
 " ment of Prussia with Mexico from the date of its Inde-
 " pendance.

" The persons who compose the Government of the
 " Republic duly appreciate those relations of friendship
 " which the Prussian Government maintains towards it.
 " They also appreciate and respect the sentiments by which
 " you are guided in taking an interest in the fate of the
 " Archduke in his misfortune.

" Duly replying to your communication of yesterday,
 " I will again repeat, as I already had the opportunity of
 " showing you in our previous conference, that in a case of
 " such grave importance, and so worthy of the deepest
 " attention, as that of the fate of the Archduke Maximilian
 " and of all the prisoners in Queretaro—the persons who

" compose the Government of Mexico have meditated
 " together, and will continue to regard what you have ex-
 " pressed as to all the considerations which they should
 " have before them, in order to weigh with the most mature
 " deliberation all the motives for clemency and benignity
 " consistent with the duties of justice, and the necessity to
 " secure peace to the Republic.

" I avail myself of this occasion to assure you, Señor
 " Baron, that I am your very respectful and obedient ser-
 " vant,

(Signed) " LERDO DE TEJADA."

On the 14th we received a telegram, informing us that the
 trial was proceeding. That telegram was as follows:—

" Telegram from Queretaro, received in San
 Luis Potosi on the 14th of June, 1867,
 at 10 P.M.

" To Señores Don MARIANO RIVA PALACIO and Licentiate
 Don RAFAEL MARTINEZ DE LA TORRE.

" At 8 o'clock this morning the Court-martial was
 " opened, and at 8 P.M. it has been suspended, to resume
 " to-morrow morning at eight. All the defence has been
 " read. To-morrow the Fiscal's conclusion will be read, to
 " which we shall reply if it be necessary.

" VAZQUEZ.—ORTEGA."

The law of the 25th of January, 1862, destroyed all hopes
 that anything short of capital punishment would be imposed
 on our client; and the precipitate trial being on the point
 of conclusion, it was necessary to seize every resource which
 might in any way support our prayer.

We again returned to speak with Señor Lerdo; and

although, amongst the considerations in favour of the Archduke, we had already explained under every aspect, including our foreign relations, the expediency of a pardon, still we again entered into a discussion thereon.

Mexico, by granting a pardon, would be looked upon as a generous nation—which, energetic in her national troubles, was wise and merciful towards a Prince, who, having been seduced by the enchantments of a Crown in the New World, could not imagine that it would end on the scaffold, because his mind was possessed with one idea—the happiness and felicity of the aggrandisement of an Empire which was described to him as willing and desirous to submit to that new régime: and where the remorse of a premeditated injurious intention is wanting, scaffolds are not presented to the imagination, because the love of a people who proclaim a king is not considered a crime of such a nature as to cause their erection. That proclamation might not be universal, nor the spontaneous feeling of a country; but if factions are deceived, why cannot a man also deceive himself? The vote of a faction, or the fractional part of a faction, is frequently the basis of a power opposed at its inception, but which at last conquers by winning the affections of the contending parties themselves. Might not this have been the intention of Maximilian? Is there nothing of an extenuating character in an intention which is as far from crime as good is from evil? In the scale of penalties itself, must we necessarily strain for the last, which is so repugnant to a fundamental principle of our Constitution? Would it not be more glorious and beneficial to Mexico to detain Maximilian as a prisoner, either in the fortress of Perote, or elsewhere, well guarded, in the meantime that Congress resolved on his fate? Is it not evident that we should then see the monarchies of Europe asking from the Republic—the Mexican democracy—the life of a Prince, his liberty, and his salvation? What grander monument could history raise to the democracy of Mexico than to say: “It conquered the Empire and consolidated the Republic, which was defended with the valour

“and enthusiasm that liberty inspires: it pardoned the Emperor, and spared his life from the scaffold, because the fundamental law of the victorious Constitution, in its philanthropic wisdom, prohibits capital punishment!”

This was an idea which presented itself in a thousand phases—to save from death the Prince who confided his defence to the honour of a few Liberals.

This idea—our final effort up to the latest moment—was morally a great hope of reconciliation, because from three to four months had to expire before the meeting of Congress, in which the feelings of the Mexicans would experience that inexplicable emotion which moves the fraternal affections of brothers, who, divided to-day, to-morrow weep together in the family circle over the sufferings of the misguided.

The tears of the vanquished are the most irresistible appeal for pardon.

During this struggle against the Empire, an incident occurred in which a father, captured by his own sons, was presented by them to the officer, who had the power to decapitate him. Overwhelmed by anguish, because the life of their parent was most dear to them, the sons vacillated in their actions; they trembled at the law, which condemned those who served the Government (Empire) that emanated from the Intervention; but they feared that some other partisan of the Republic would capture that man who was the author of their existence. Conceal him!—Where?—why? Is there not a severe law against those who do not present themselves? Was not death, then, most probable? The only prudent resolution was to deliver up their father, and ask for his life in the name of the services rendered to the Republic by the sons. ®

How many instances may be cited in which fathers who were in the services of the Empire had sons in the ranks of the Republic! How many brothers, previously divided, embraced each other in an encounter of arms! In the face of this picture, could the world (divested of political feeling) believe the application of capital punishment to the servants

of the fallen Empire to be just? Would the pardon of its Chief, which reflected the conscience of a nation, meet the disapproval of history? Would it not be more honourable for Mexico that, pending the pardon, intercession should come from all Foreign Courts asking for the life of Maximilian? Would there not be greater glory in receiving petitions from all the Sovereigns, and in laying before the country on the opening of the General Congress, raised to so high a position, the fact that they who brought the Intervention prayed as a favour for the life of the Prince compromised in that expedition?

If, morally, a pardon signified the reconciliation of the Mexicans, and the aggrandisement of our country in its external relations, what objection could be raised against that pardon by those who possess feelings of patriotism? By a debate in the Chamber, on this grave question, the country would rivet the attention of the Sovereigns themselves, who, breaking the links of friendship with the Republic, despatched their invading forces to a friendly nation, which had offered no offence to Europe calling for a war. Whilst the life of Maximilian depended on the vote of the nation, represented by its deputies, the electoral camp, perhaps for the first time, would have been visited by men of all sections. The life of Maximilian was the rainbow which announced to the conquered the end of their calamities; his death was an alarm for the unfortunate, who, possessing in their hearts remorse on account of a grave deception in the Empire, had to tremble before the threatening power of a law enacted as a reply to the challenge of the Intervention. That anxiety—that false position—could not be prolonged, because it was pernicious to the country. It would appear that the death of Maximilian was a concession which the Government made to party exigence, and that concession would raise many scaffolds which would cause tears to flow in abundance.

Señor Lerdo, ever attentive to all our observations, said: "We have been debating on a question of pardon prema-

"turally, because you look upon the verdict of the Court-martial as the certain announcement of the death of Maximilian; and without being able to say that the resolution of the Government is taken, *inasmuch as that is a point reserved for deliberate and serious consideration*, I am anxious to give you some reply to the considerations which you have presented in this conference.

"The pardon of Maximilian might be very disastrous to the country, because, judging from what is known of his changeable character, there would be but little probability that he would abstain from every other temptation. The civil war may, and ought to, conclude with the reconciliation of the contending parties; but for that purpose, it is incumbent on the Government to destroy the principal elements of any confusion that might be probable. In this trial justice fulfils one of its duties, and the nation would demand from us an account of an indulgence which might expose it to the dangers of a renewed agitation. Internally, forgiveness, far from being a link of union, would, for ever, be the cause of recrimination between the supporters themselves of the Mexican nationality; that, indeed, would produce a dangerous disquietude, which might compromise all the future, by relaxing all power of authority. The Government has already meditated, and still meditates, with the greatest deliberation, on the danger of a pardon, and the consequences of death; and if the Government should resolve on refusing a pardon—which question it will study when the time arrives—be assured that it will have considered the national feeling, justice, public safety, and the necessity of establishing peace in a country which, without this new monarchical element, had experienced, during a period of more than fifty years, sufficient to crush it. Who can believe that those obstinately unforgiving men would remain tranquil, to whom the advance of society, its progress, and its institutions, are evils to which they are averse—and which excite them to revolution? Who can guarantee that Maximilian would

"reside at Miramar, or wherever Providence might take
 "him, without sighing to return to a country of which he
 "considered himself to be the elected Ruler? What gua-
 "rantee could the Sovereigns of Europe give, that we should
 "not have another invasion to restore the Empire? Euro-
 "peans do not wish to behold the Mexicans as men worthy
 "of forming a nation. They entertain towards us the
 "meanest ideas; they imagine that Republican institu-
 "tions are the vertigo of a demagogic people, and they
 "might persuade themselves that it would be of more
 "service and greater honour for this country to promise
 "Maximilian before long to again attempt the establish-
 "ment of the Empire. The fatal inspiration which animated
 "the Intervention might revive, and the Governments of
 "Europe, under the pretext of moralising us, by wounding
 "the purest morals, would equip fresh legions, who, although
 "foreigners, would carry the Mexican banner to re-establish
 "the power of one whom they called an Emperor. Pardon
 "might in such a case be disastrous; and to the disdain
 "and ingratitude with which this conduct would be viewed,
 "we might add, perhaps in a greater degree, the repulsion
 "of factions: we should increase their hatred, and gradu-
 "ally might be raised the fearful cry of reproach for treason.
 "By one faction continually casting their glances on Mira-
 "mar, a new violation of the principles of national rights
 "would probably not be remote; and the Independence of
 "Mexico might then have to pass through even greater
 "dangers than those which, at the cost of so much sacrifice,
 "it has been found possible to overcome in the present crisis.
 "It is indispensable that the existence of Mexico as an
 "independent nation should not be permitted to remain
 "subject to the arbitrary will of the European Governments;
 "it is necessary that our reform, our progress, and our liberty,
 "should not be at the mercy of any European sovereign
 "who might wish to patronise some one, who, styling him-
 "self Emperor of Mexico, might aspire to be the dictator of
 "the degree of national liberty, or slavery, most desirable

"to himself. The existence of Maximilian might be the
 "cause of attempting the establishment of a Viceroyship,
 "and foster a hope to nourish by that subterfuge the reci-
 "minations of factions, the seditions of a desperate situation,
 "and so to incite a mutual antipathy, more deeply rooted
 "than any which, up to the present time, has been expe-
 "rienced by political discord. The return of Maximilian to
 "Europe might serve as a weapon put into the hands of
 "the calumniators and enemies of Mexico, which would be
 "used as a means of restoration, by ever provoking a con-
 "flict to create transformation in the institutions of the
 "Republic. It is bordering on fifty years since Mexico has
 "been observing a system of clemency and mildness, the
 "fruits of which conduct have been anarchy at home and
 "contempt abroad. Now, or perhaps never, may the
 "Republic be able to consolidate itself."

It is impossible to repeat, with precise exactness, every-
 thing which Señor Lerdo stated in support of his opinion,
 that of the Ministry, and of the President, in case the
 pardon was refused; but we perfectly well remember his
 concluding remark:—"The Government, which has fought
 "for the Republic with a blind unfaltering faith in the
 "future, will not now compromise any of its grave interests
 "by the precipitate resolution of pardon to Maximilian.
 "The Government will faithfully study what you have ex-
 "pressed, and the resolution it may arrive at will emanate
 "from a dispassionate conscience."

We found ourselves at the last extreme of our solicitude,
 as at a later moment it would be fruitless, and we exerted
 our judgment to argue against the ideas expressed.

We portrayed the country already master of its fate, free
 from any new enterprise that might upset the Republican
 institutions; and predicting their more permanent establish-
 ment, and the most speedy advent of peace, we asked for
 pardon.

This was not the time to dispute that right to avenge
 which protects nations, and which every country has availed

itself of in their great commotions. We had to create an idea to lay before statesmen, which, operating on the passions of the multitude, might produce the effect of a merciful, liberal, and magnanimous resolution. We had to eliminate those dark questions of crime and treason to the country, which inflame the passions, and to say to the Government:—The nation will be greater by extending pardon, than by its triumphs. The country is more noble when it pardons than when it chastises. Pardon is a national benefit, which binds by gratitude; blood, shed as a punishment, is the poisonous product of a spirit of vertigo and ruin, which terrifies even those who have spilt their own blood for their country in the struggle. The world, which now contemplates Mexico, will render justice, on observing her institutions raised on the ashes of the Empire. Then will be displayed the force of virtue in the Republic, which, with the majesty of an upright judge, and in conformity with the most brilliant conquest of our Constitution in its prohibition of capital punishment for political offences, calmly and dispassionately considers those who undermined her institutions. That moral triumph will be greater than arms could accomplish; and all men of reflection in Europe and the United States, as well as those of feeling, will extol this patriotic nation, which possesses, besides the name, the virtues of a Republic. It has been victimized to the projects of a Monarchy, but the people of nations generally have retained the highest esteem for Mexico. Our exiled soldiers have received innumerable demonstrations of regard in Spain and France. The former distinguished herself by opening subscriptions for the distressed Mexicans, after giving them a cordial hospitality.

Every farthing received in Europe by our soldiers, in that bitter situation, ought to cement our union with those nations, which, in the face of their Governments, raised their voices in favour of the Mexican Republic.

The Government, superior to the exigence of the moment, with that impartiality with which it considers all opinions

that are expedient and honourable—with that wisdom which should ever guide its actions—may, by pardoning Maximilian, manifest to the understanding of this generous people, that it is an act of great political prudence to retain him prisoner, in the meantime that the nation takes into consideration, pending the important day of the assembling of Congress, the verdict of the Court-martial, and the reasons for its commutation.

Our ultimate hope rested in the reservation of the Government to deliberate at leisure over our suggestions.

On the 14th we received the following message:—

“Telegram from Queretaro. Received in San Luis Potosi at 3 P.M. on June 14, 1867.

“To Señores Don MARIANO RIVA PALACIO and Licentiate Don RAFAEL MARTINEZ DE LA TORRE.

“The Court-martial rose at half-past 12 to-day,—the Fiscal’s conclusion having been read—DEATH—and the defenders having replied. The Court-martial is de-liberating at this moment with closed doors.

“ORTEGA.—VAZQUEZ.”

On the 15th we received this:—

“Telegram from Queretaro. Received in San Luis Potosi at 10.50 A.M. on June 15, 1867.

“To Señores Don MARIANO RIVA PALACIO and Licentiate Don RAFAEL MARTINEZ DE LA TORRE.

“Last night, at half-past 11 o’clock, the deliberation of the Court-martial concluded. Although we do not know the result, we fear it, and consider that steps should be taken the same as if it were made known. At this moment, 9 o’clock A.M., we despatch your courier, whom we had detained.

“VAZQUEZ.—ORTEGA.”

It was then necessary to present a second and hasty memorial in writing, which was as follows :—

“ CITIZEN PRESIDENT,

“ Mariano Riva Palacio and Rafael Martinez de la Torre, to the Citizen President of the Republic, approach with due respect; showing :—That news of the adverse verdict given by the Court-martial held in Queretaro on the Archduke Maximilian has reached this city. He has been sentenced to capital punishment, and we his defenders, recalling the attention of the Supreme Government to the former Appeal we presented, soliciting a pardon, in the event of its being necessary to sue for it, again repeat our supplication praying for the pardon of the life of the Archduke.

“ The verdict which has been pronounced is, according to what we foresaw under existing circumstances, the inevitable result of the application of the terrible law of the 25th of January, 1862, which, by placing in certain hands an immense power for the safeguard of liberty, exposes it to humiliation and misapplication, by sacrificing all the formalities of a trial, which are the guardians of life and honour. By that law everything is left to the caprice of judges incompetent to form a correct opinion on the nature of the excuses and defence of the accused.

“ The death of Maximilian and the other persons who accompany him—having surrendered at the discretion of General Escobedo—weighed in the balance of political justice, may be a merited punishment; but that, morally, has been satisfied already by the sentence pronounced, and his execution is unnecessary and inconvenient. The termination of the Empire is definitive, because the existence of the Republic is secured. Any debate of the nation on those two forms is an impossibility: party passions and interests might, perhaps, adopt another banner, if discord and anarchical agitations were not suppressed by the President, who has so effectually liberated the country from the dangers of a foreign domination. The way to attain this

object was, undoubtedly, that of the most unflinching energy. The Intervention had no other worthy enemy than the most complete resistance to all military and diplomatic powers. The soldiers of the Intervention were, nevertheless, frequently exempted from capital punishment; and the Government, undoubtedly, acted wisely in moderating a regulation which cannot be an invariable rule of conduct. Above and beyond what is inscribed in the law, there is the discretion of Governments, which, guided by a true and fair criterion, is the most efficacious power for good. The power of the so-called Empire being ended, the most urgent requirement is peace, which will follow on moderation of the excessive rigour of the law enacted under quite exceptional circumstances.

“ Unflinching energy to resist the Intervention cannot be of the same effect for internal questions. The object of the former was the departure of the foreign forces from the ports of the Republic; and the latter ought to have a solution which should not be one of extermination, although such may be authorized by law. The vanquished having received a lesson by sad experience, the remembrance of the painful events which we have witnessed will be sufficient to establish tranquillity, which cannot be obtained by that exasperation of their troubles, and that threatening of their existence, which is to be feared in the execution of the sentence of the Court-martial.

“ To prevent evil is the wisest step of all Governments, and in the order of probabilities, rigour prepares rather than excuses the lamentable scenes which precipitate the people into divisions and anarchy.

“ How much grief and sacrifice would have been obviated in some countries, if the heads of the Governments could have foreseen the mournful consequences of excessive rigour! Never has this served to establish peace.

“ The President will forgive the repetition of any remark made use of in our former communications; but, at the same time that we are the defenders of the Archduke

Maximilian, for whom we implore the pardon of his life, we are Mexicans, who love our country, and are interested in her future, and her good name.

"The distance which separates us from the seat of trial, and the promptness with which the sentence may be executed, oblige us to supplicate the President, if he cannot immediately grant a pardon, to be pleased to suspend the effects of the sentence until it be definitively confirmed.

"This supplication is the more urgent, when we observe the resolution come to on our former application. We did not wish for a premature decision; and in order to reconcile our profession with the decision of the President, we now make our supplication in the terms just set forth.

"It would be deplorable if any material error in the telegraph—if any incident causing a loss of time—should impede the question of pardon being taken under consideration; and that a cause which, morally, is of the highest importance to the country, should conclude fatally in consequence of an accidental privation of the means of communication.

"The world at large, which watches the important episodes in the history of a nation in all their details, would have reason to censure us, if, fearing as we do a momentary suspension of communication with Queretaro, we did not cause this to be foreseen; and now that we have referred to those who, outside our country, are interested in this proceeding, the President will permit us to call his attention to this point.

"Mexico, by her relations with Europe, should fix her attention on our international right, from which the felicity of the nation may in a great measure be derived. Can it exist isolated? Can it sever its relations, almost all, in consequence of Spain, France, and England having taken the initiative in the question, and because Belgium and Austria despatched a portion of their forces as a foreign legion?

"All nations, in their differences and conflicts, have their obligations or rights, which, justly established by the ability

and wisdom of their governors, promote the felicity of the country just as, on the other hand, their prejudices, if the opportunities to do good be despised, expose them to an isolation, to a general and constant enmity, which is at all times perilous, and fraught with direful consequences.

"Nations, the same as individuals, have propitious opportunities for enhancing their interests, and the most favourable occasion is that in which the justice of a cause is universally proclaimed. On the return of the remaining forces of the Intervention to France, a heartfelt shout of condemnation of that fruitless adventure escaped from every soul. In the termination of the Empire, European diplomacy—casting a retrospective glance of ten years—must recognise the right of Mexico to maintain, in a just manner, those rules of conduct observed between nations.

"Such a brilliant opportunity will undoubtedly be followed by a felicitous result, if, by pardon, the life of the Archduke Maximilian be spared. In his tomb, if he should die, the country, unhappily, would bury five years of its international history, with their important elements of external reparation. By that sacrifice, Mexico would afford a sad instance of momentarily destroying, by one act, the most powerful element of its victory. Mexico would have said, to satisfy an ill-understood exigency of the moment, 'I close the best road which the efforts of my sons have opened up to me for their future well-being.' Mexico, by the execution of the Archduke Maximilian and his comrades—rashly seizing a banner, always fratricidal—would neither be prudent, great, nor generous. To sacrifice all the benefits that might be derived from a great victory, simply to pander to the passions of civil discord, can never meet with the approval of the nation. History and posterity will decide if there has been any error in these calculations: God grant that condemnation may not be cast back upon an irretrievable action!

"The feeling of the nation is with us. Men of all parties will consider the pardon of Maximilian as a highly politic

act, demanded by clemency, and supported by the desire for peace.

“ MARIANO RIVA PALACIO.

“ RAFAEL MARTINEZ DE LA TORRE.

“ San Luis Potosi, June 15, 1867.”

To this memorial the following reply was given:—

“ Office of the Secretary of State and War.

“ To Citizens MARIANO RIVA PALACIO and Licentiate

“ RAFAEL MARTINEZ DE LA TORRE.

“ In your communication of this date you state that, having received intelligence that the Court-martial assembled in Queretaro has condemned Ferdinand Maximilian of Hapsburg to the extreme penalty of the law, you, his defenders, ask the Government to grant a pardon; or, in case it could not yet decide on this point, that it might in the meantime order a suspension of the sentence.

“ The President of the Republic having read this new Appeal, has commanded me to inform you that, as I stated in my official letter of yesterday, it is impossible to resolve on a petition for pardon before the sentence at the trial is known, there being no sentence which can take effect until that of the Court-martial be confirmed by the military officer in command, in accordance with the ordinance and the relative laws; and, furthermore, I repeat what I stated in my official communication of yesterday, that if the Government do not alter the dispositions of the law, and in case the sentence of the Court-martial be confirmed, it may then be referred to the decision of the Government to resolve on the question whether a pardon shall be granted or not: in that case, amongst the many considerations which must be weighed by the Government, both documents presented by you will be laid before them.

(Signed) “ MEJIA.

“ Independence and Liberty.

“ San Luis Potosi, June 15, 1867.”

A multitude of the inhabitants of San Luis Potosi were desirous of associating themselves with us in our endeavours to obtain a pardon.

Amongst those who had no party-feeling, there existed an instinctive repugnance to the shedding of blood; and with a pleasure which, as defenders, we cannot find words to express, we observed many Liberals, who, superior to that satisfaction in a triumph which assumes an appearance of delight, longed for peace, initiated by mercy and accompanied by pardon.

To those men whom we love—to the Mexicans, of whatever opinion they may be, if in politics they keep within the orbit traced by morality—an example, rarely shown by more civilised nations than our humble but much-beloved country, was presented to us in the towns and cities *en route* from Mexico to San Luis. This example affected us with pleasure. Those cities and towns, in the triumph of the Republic, have not witnessed the excesses of that intoxication of victory, nor any factious or party wrath: no sanguinary scene has marked the restoration of the institutions, and the cries of “ *Viva la Republica!* ” were accompanied by generous actions in favour of the vanquished. General Escobedo—who afterwards, as Commander-in-Chief, had to confirm the sentence of death on our client—gave, during the days which preceded its execution, evident proofs that any idea to excite the passions against the conquered was far from him.

San Luis, the theatre of our fruitless efforts, is a city in which a certain spirit of moderation in political questions dominates, and that spirit of moderation was particularly manifested by the almost unanimous efforts of all classes of society in soliciting pardon. Women and men, Mexicans and foreigners, made express memorials asking for indulgence, which met with the same fate as our own. The Government was diligently occupied on the question of pardon, but held out no hope whatever; and by this course repeated, that justice and the public conscience would

decide what ought to be done when the time arrived. We had no hope that Señor Escobedo would not confirm the sentence of the Court-martial, and on the 16th (June), about noon, we received the following telegraphic despatch:—

“Telegram from Queretaro. Received in San Luis Potosi at 11.45, June 16, 1867.

“To Señores Don MARIANO RIVA PALACIO, and Licentiate Don RAFAEL MARTINEZ DE LA TORRE.

“At this moment, half-past II A.M., the sentence, confirmed by the Commander-in-Chief, is being published. “Six o'clock in the afternoon is named for the execution.

“ORTEGA.—VAZQUEZ.”

Awaiting that revision in the most anxious suspense, we had arranged with the telegraph not to observe on that day the custom to close their office at 1 o'clock, as was usual on holidays.

The message, notwithstanding all our forebodings, produced in us the sad impression which may have been experienced by all who have had the life of a criminal entrusted to their attention, to their care, to their solicitude, to their efforts. The Baron de Magnus was with us, and we instantly went to the palace, to present the last appeal for mercy.

In the street we met a clerk from the telegraph office, who said: “I am advised from Queretaro that the execution will take place at 3 o'clock this afternoon, and not at six, as was erroneously stated in the telegram.”

Señor Lerdo received our appeal, and immediately carried it to the chamber of the President to confer on it. That was our only hope, and we verbally supported it by every means that suggested itself to our minds. Señor Magnus also made a strenuous effort. His profound grief gave a tone to his words which, to us, appeared irresistible.

Our appeal was as follows:—

“CITIZEN PRESIDENT,

“Mariano Riva Palacio and Rafael Martínez de la Torre, to the Citizen President of the Republic, with due respect state: That the verdict of the Court-martial has been confirmed by the Commander-in-Chief, imposing capital punishment on Prince Ferdinand Maximilian. For the last time we are compelled to trouble the Supreme Magistrate of the nation, asking from him this day clemency towards our client.

“The sentence of the tribunal which has tried this cause is now passed, and in the face of this fact the defenders avoid making any new observations on the law, in order now to implore the grace of pardon.

“Everything we expressed in our former appeals was promised to be taken under consideration by the Citizen President, and it is now our only remaining duty to protest: that, as lovers of Liberty, we esteem it one of our greatest privileges to set forth truthfully whatever we deem beneficial to the nation. The life of Maximilian will never be the cause of internal disturbance in the country, and may elevate Mexico, morally and materially, in her exterior relationships. His grave would constitute the nucleus of serious mischief; since it would form a starting-point for the renewal of civil discord; commencing with blood, and terminating—no one can foresee where. So far as foreign Powers are concerned, it would signify the alienation of Europe, and a motive of displeasure for the neighbouring nation—dark picture of a future which we should be sorry to predict!

“But we will no longer speak of any consideration of public order. From the clear insight of the Citizen President cannot be hidden the powerful effect which a pardon would have on a vanquished faction, which recognises in the hands of the Supreme Magistrate the power of public salvation.

“It cannot be possible that the heart of a citizen who has

struggled for the philanthropic principles of liberty, should wish to embitter the existence of families by a punishment which annihilates the criminal. The life which is swallowed up in death on the scaffold for a political offence is but a black shadow of existence; but that spectre—which, at the time of executing a culprit in the name of political justice, escapes observation—history informs us, in course of time, not unfrequently haunts that man who sincerely believed he was but discharging a duty imposed on him by law.

“The Citizen President, the affectionate father of a family, educated with sentiments repugnant to the horrible spectacle of blood shed for political offences, may imagine that, if he were to listen to the voices of his dear children and beloved wife, they would ask him, in the name of the revered mother of Maximilian, and of the unhappy Princess Charlotte, for the life of this unfortunate Prince, who, by involving himself in the politics of our unfortunate country, fell into that fathomless and dark abyss which is created by civil dissensions. Poor mother!—how little does she think that her son is on the brink of the grave, if he be not saved in time by the Citizen President opening his generous heart, which ought to reflect the sentiments of the people he governs!

“The sentiment of mercy may at present be suppressed by the terrible tyranny of an exigency, by some unwisely designated patriotism; but that sentiment ought surely to be dominant towards one who has been misled, and from whom a sincere repentance would shortly follow.

“Let those who may be called upon to vote with the Citizen President on the question of this pardon, imagine what would be the prayer of the members of their families, if they were in this city; and we should be certain of the pardon we implore. By granting it, the Citizen President will have followed the dictates of his own conscience, and shown himself to have been the worthy interpreter of the sentiments of the Republic.

“We still have an abiding hope in your generous heart, and entreat that you may be pleased to grant a pardon, and give your immediate orders for a suspension of the execution, in order to avoid the misfortune which might otherwise be occasioned by the slightest delay attending the despatch of this appeal, and which might unhappily render it ineffectual by arriving when it was too late.

“MARIANO RIVA PALACIO.

“RAFAEL MARTINEZ DE LA TORRE.

“San Luis Potosi, June 16, 1867.”

After waiting anxiously for three-quarters of an hour, Señor Lerdo returned, and read the message addressed to Señor Escobedo, as follows:—

Telegram. San Luis Potosi, June 16, 1867, 1 P.M.

“To Citizen General MARIANO ESCOBEDO, Queretaro.

“The advocates of Maximilian and Miramon have just presented themselves before me, to intimate to the Government that the sentence of the Court-martial has been confirmed, condemning them and Mejia to the punishment of death, and that orders have been given for their execution to-day. Pardon has been solicited for the three condemned persons, which the Government has refused, after most mature deliberation on the point. In order that the condemned may have the necessary time to arrange their affairs, the Citizen President of the Republic has determined that their execution shall not take place until the morning of Wednesday the 19th instant. Be pleased to issue your orders in conformity with this resolution, and advise me immediately of the receipt of this message.

“MEJIA.”

The following official reply to our appeal was delivered to us shortly afterwards :—

“ Department of the Secretary of State and of War and Marine, 1st Section.

“ To the Citizens MARIANO RIVA PALACIO and Licentiate RAFAEL MARTINEZ DE LA TORRE.

“ To the document presented by you, under this date, to the Citizen President of the Republic, soliciting the grace of pardon to Ferdinand Maximilian de Hapsburg—who has been sentenced in Queretaro, by the Court-martial which tried him, to suffer the extreme penalty of the law—the following answer has been given :—

“ This petition for pardon, together with all the others which have been presented with the same object, having been examined, with such deliberation as the graveness of the case requires, the Citizen President of the Republic has been pleased to resolve—that he cannot accede thereto, as the most important considerations of justice, and the necessity of securing peace to the nation, stand opposed to such an act of clemency.

(Signed) “ MEJIA.”

“ San Luis Potosi, June 16, 1867.”

A profound silence expressed our feelings. That silence cannot be explained. It was a prolonged farewell to a hope which had fled; it was the presence of a sepulchre which deprived us of the power of speech; it was the goblin of three scaffolds, announcing that Maximilian, Mejia, Miramon, are dead to the world; it was an irrevocable act, in the form or figure of justice for the Government—of death, of material extinction, for the condemned.

The Minister had gone in person to order the telegraphic message to be forwarded instantly, suspending the execution until the following Wednesday; and on his return, in subdued but expressive words, we still repeated our prayer, which he answered by saying: “The Government has experienced inexpressible pain on taking this resolution, by

“ which they believe a quiet future may be marked out for the country; justice and public convenience exact it. If the Government commit an error, it will not be the offspring of passion, but of a tranquil conscience: that conscience dictates this painful refusal.”

The sad destiny of the Archduke of Austria was about to be fulfilled. A superior Power called him to another tribunal, where, freed from the distortions with which the imagination enshrouds them, the actions of man are displayed in a light so pure that the crucible of reason is not required: that light illumines, with refulgent clearness, the goodness of our acts; or, being itself extinguished by the vileness of our deeds, resolves in dark obscurity the hope of eternal life.

Perhaps these are the ideas which were concentrated in our souls. Our heart was oppressed. A philosophical contemplation, or a religious awe, must have taken possession of our minds, which now took no note of history or of mundane affairs, neither of its tribunals nor their judges. There was something more exalted in the silent grief of our wounded spirits.

That silence of pure reverence for God and immortality, which is induced by the contemplation of man reduced to his own nothingness in death, was interrupted by the necessity of taking into consideration what the circumstances of the case now demanded of us.

What ought we to do? Should we still remain here, to take advantage, if it were possible, of any opportunity to renew our supplication; or did our duty call us to the side of our client?

This was our doubt, and that vacillation had to be determined by a quick resolution. Time was running on, and nearly two hundred miles of bad road separated us from the unfortunate Archduke.

We begged the Baron de Magnus to decide the question. His feelings, deeply affected by the impressions of that day, riveted his thoughts upon that scaffold which, in

imagination, he already saw erected; and for some time he was unwilling to speak.

In the evening he said to us that he ought to return to Queretaro, and that we should still exercise our efforts in San Luis, in order not to lose the remotest hope.

The following telegram announced to our colleagues the resolution of the Government:—

“Telegram from San Luis Potosi for Queretaro, June 16, 1867.

“To Señores Licentiate Don EULALIO M. ORTEGA and Don JESUS M. VAZQUEZ.

“Our efforts have been fruitless. Pardon has been refused; an order was sent for the execution to take place on Wednesday. We write to you to-morrow.

“M. RIVA PALACIO.

“R. MARTINEZ DE LA TORRE.”

The execution having been deferred from Sunday, the 16th of June, to the following Wednesday, we received the following message:—

“Telegram from Queretaro. Received in San Luis Potosi at 8.13 P.M. on June 16, 1867.

“To Señores Don MARIANO RIVA PALACIO and Licentiate Don RAFAEL MARTINEZ DE LA TORRE.

“When the order for suspending the execution arrived, the three condemned had already confessed, and received the Sacrament. They had, therefore, morally expired at the moment in which they were to have been taken out for execution. It would be horrible to put them to death a second time on Wednesday, after having experienced the first death to-day.

“ORTEGA.—VAZQUEZ.”

What, we thought, will the Sovereigns of Europe do when they hear of the imprisonment of Maximilian? How great their efforts, it is to be hoped, to prevent the pain of death!

Certain circumstances demand prompt action, because the inefficiency of a step taken is often attributable to loss of time. The opportune moment is the useful one in public life. This must be well understood by the statesmen of Europe.

Has the submarine cable broken? Why this silence since the imprisonment of Maximilian?

We daily believed that a despatch would be received from abroad, renewing the solicitation for pardon; and on that night in particular, we hoped to receive something which might frustrate that fatality which now possessed almost all the characters of a *fait accompli*, since, otherwise, it must irrevocably be consummated. Vain hope!—Europe and the United States had become dumb. Not a letter, a note, a message, nor any news, was brought by the American mail. Everything is gloomy when the fatal destiny is drawing near.

The Baron de Magnus left for Queretaro at midnight. An incident which occurred in that city, between the Chargés-d’Affaires of Austria, Belgium, and Italy, caused us to ask from Señor Lerdo a letter of recommendation for the Baron to Señor Escobedo, which he immediately sent us.

On Monday and Tuesday various steps were taken by the defenders of Mejia and Miramon to obtain a pardon. In their efforts they were associated with several other persons. The ladies of Queretaro asked permission from Señor Escobedo to allow a message to be forwarded to San Luis Potosi, craving pardon for the condemned, but, although the message was sent, nothing could be obtained. The same fate attended the efforts made by the ladies of San Luis itself.

Amongst that multitude there was a lawyer, Don Prospero Vega, who, after defending General Mejia in Queretaro,

made a rapid journey to San Luis to plead for mercy. His heart overflowed with hope, and his soul was full of illusions. He associated himself with a colleague and friend of Señor Iglesias, and, together, they presented themselves in solicitation of a pardon. They also presented a judicious exposition, in writing, which, a few hours after, received the like sad denial. Never have supplications been met by a more energetic resolution—never has inflexibility been more positive.

We had to take leave of the persons who composed the Government; nevertheless, at the risk of being considered importunate, we would not retire from the field without a last effort, which we made by speaking to all the Ministers and to the Señor President; but the reply was uniform. The conviction of the Government had hermetically sealed the door of pardon. Maximilian himself had asked for the lives of Mejia and Miramon, saying that his own blood might be shed to save the others; but his desire, his entreaty, received no satisfactory reply. The message containing this supplication was the following:—

“Central Telegraphic Line. Official Telegram.
Deposited in Queretaro. Received in San
Luis Potosi at 1.50 P.M. on June 18, 1867.

“CITIZEN BENITO JUAREZ,

“I should desire that the lives of Don Miguel Miramon and Don Tomas Mejia, who, the day before yesterday, suffered all the tortures and bitterness of death, be conserved; and that, as I intimated on being made prisoner, I may be the only victim.

“MAXIMILIAN.”

The death which the condemned had already morally suffered, afforded abundant matter for renewed exertion, and we urged our entreaties by every means in our power. Absolutely nothing was obtained.

With that anguish which may easily be felt, but cannot be expressed, we wrote the following farewell message:—

“Telegram from San Luis Potosi to Queretaro, June 16, 1867.

“Señores Licentiated Don EULALIO M. ORTEGA and Don JESUS MARIA VAZQUEZ.

“FRIENDS,

“All has been useless. We feel it in our very souls, and beg Señor Magnus to present to our client this expression of our sentiment of profound grief.

“MARIANO RIVA PALACIO.

“RAFAEL MARTINEZ DE LA TORRE.”

On Tuesday night, after having complied with a painful request from Señor Magnus respecting the embalming of the Archduke's body, a lady suddenly called on us, exclaiming: “My sister has arrived, and, converted into a maniac, desires to speak with you; she wishes to know if the Government will pardon Miramon. Only a few moments remain to be taken advantage of; I beg of you to come and see her.”

We instantly went to a neighbouring house, where the wife of General Miramon had just arrived, in a distracted state. Surrounded by fifteen or twenty ladies, who wept for the agony of the General, or mingled their tears of sympathy for the Señora, she instantly asked us, “Is there any hope for the life of Miguel?” From our reply was gathered the simple version—*None!*

Vague, incoherent, and impassioned words were the expressions of that moment of anguish. The heart of that woman must have burst, and her days would have ended, if she had not given vent to her feelings, which were those of a wife and a mother, who wept over her anticipated widowhood and the prospective orphanage of her children. She asked us to see the President, to solicit the favour of granting her an interview, that she might, on her knees, implore him for the life of a General who still cherished an idea of

expatriating himself for ever—to return only, if he could shed his blood in a war against a foreign invader.

Ten days' continuous conversations about forgiveness, blood, pardon, death, clemency, energy, mercy, justice, peace, and scaffolds, wrought up our feelings to a state of the highest sensitiveness, and the spectacle from which we had just taken off our eyes touched our hearts in their most delicate fibres.

We immediately presented ourselves before the President, and, speaking to him on behalf of a lady, who begged for the life of her husband in the name of her children and the country, we poured out our heart in a multitude of sentiments, expressed with an earnestness which can only be comprehended by those who can imagine that sorrowful picture which impelled us to go there.

It was impossible to obtain anything.

We asked the President to receive the wife of Miramon, and he replied: "Excuse me, Gentlemen, from that painful interview, which would cause much suffering to the lady, by the irrevocability of the resolution come to."

The brain of man is weak in comparison with the superior power of his physical organization, and the mind is frequently overpowered in the vicissitudes of life by the sudden emotions of the heart. Martinez de la Torre, on bidding farewell to the President, unable to suppress his feelings, and scarcely able to speak, took him by the hand and said: "Señor President, no more blood!—let there be no gulf between the defenders of the Republic and the vanquished!—let the imperious necessity of peace, which is approximate, be satisfied by pardon! It is not the defender of Maximilian who addresses you, Señor President: I see him in his tomb, as well as Mejia and Miramon. I am a man who loves his country with enthusiasm, and that love inspires this appeal. Let not the future of Mexico be overcast by the blood of her children; let not the redemption of the erring ones be at the cost of any life; because the mourning of families

"would be, for the victorious party, a dark reproach on triumphant Liberalism."

The President then said to us: "In fulfilling, Gentlemen, your duty as defenders, you have suffered greatly by the inflexibility of the Government. At this moment you cannot comprehend the necessity for it, nor the justice by which it is supported. That appreciation is reserved for Time. The law and the sentence are at this moment inexorable, because the welfare of the nation exacts it. That may further counsel the economy of blood, which will be the greatest pleasure of my life."

This concluded our mission in San Luis Potosi. The President committed the judgment and appreciation of his conduct to the future. Throughout that night we saw nothing but scaffolds!

On the following morning we left that city, and at the same hour (6 o'clock) in Queretaro, Maximilian marched to the Cerro de las Campanas (the Hill of the Bells), the point from which, during the siege, he issued his orders of command; but on that day it was the theatre of his tragic end.

Previous to his death, Maximilian addressed to each of his advocates a letter of gratitude, with a copy, signed by himself, of that which he wrote to the President, which we will style the last expression of his sentiments—the farewell to his adversary, whom he conjured to act for the good of his country, by reconciling the Mexicans.

True copies of these documents are as follow:—

Queretaro, June 18, 1867.

"MY DEAR LICENTIATE ORTEGA,

"The energetic and bold defence which you have made for me calls for the expression of my most sincere gratitude for so noble and generous a service, which remains deeply engraven on the heart of

"Yours affectionately,

"MAXIMILIAN."

“ Queretaro, June 18, 1867.

“ MY DEAR LICENTIATE VAZQUEZ,

“ The energetic and bold defence which you have
“ made for me calls for the expression of my most sincere
“ gratitude for so noble and generous a service, which
“ remains deeply engraven on the heart of

“ Yours affectionately,
“ MAXIMILIAN.”

“ Prison in Capuchinas, Queretaro, June 18, 1867.

“ MY DEAR RIVA PALACIO,

“ The perseverance and energy with which you have
“ defended my cause in San Luis Potosi, and the trouble you
“ have taken for that purpose, notwithstanding your age
“ and delicate state of health, call for a demonstration of
“ my sincere gratitude for so generous and noble a service,
“ which remains deeply engraven on my heart.

“ I regret not to be able to make this expression verbally,
“ and in the same manner to beseech — as I do also in
“ writing — that in your prayers you will not forget

“ Yours affectionately,
“ MAXIMILIAN.”

“ Prison in Capuchinas, Queretaro, June 18, 1867.

“ MY DEAR LICENTIATE MARTINEZ DE LA TORRE,

“ I have heard with great pleasure of the energetic
“ constancy with which you have defended my cause in San
“ Luis Potosi, without losing a moment in undertaking your
“ journey for that object.

“ Such noble conduct demands, on my part, that I should
“ express to you my profound acknowledgments for such
“ signal service, which has deeply affected the heart of,

“ Yours affectionately,
“ MAXIMILIAN.”

“ Queretaro, June 19, 1867.

“ SEÑOR DON BENITO JUAREZ,

“ On the point of being executed, as the consequence
“ of having been desirous to prove if new political insti-
“ tutions would have the effect of terminating the sanguinary
“ civil war which has devastated this unfortunate country
“ for many years past, I shall deliver up my life with
“ pleasure, if its sacrifice can contribute to the peace and
“ prosperity of my adopted country. Fully persuaded that
“ nothing solid can be founded in a territory drenched with
“ blood and agitated by violent commotions, I conjure
“ you, in the most solemn manner, and with the sincerity
“ becoming these moments, that my blood may be the last
“ that is shed, and that the same perseverance (which it has
“ been my pleasure to acknowledge and respect in the midst
“ of prosperity) with which you have defended the cause
“ that has just triumphed, may be consecrated to the most
“ noble task of reconciling the minds, and establishing in
“ a stable and durable manner the peace and tranquillity of
“ this unfortunate country!

“ MAXIMILIAN.”

According to the accounts given to us by witnesses who were present with him, the idea of death did not intimidate Maximilian. These letters were signed during the last moments of his imprisonment. He marched to death with the serenity of one who believes that he fulfils a fatal destiny. Some days previously, he wept for the Princess Charlotte as dead; and being afterwards indifferent to his own unhappy position, he was also insensible to impressions which otherwise would have affected him. He believed in the death of the Princess, and considered it as certain. His heart was possessed with a feeling of having lost an immense treasure, and he bedewed with grief a memory both sad and holy in all the vicissitudes of life. These were the last days of his existence, and the story of her death (circulated by no one knows whom) produced in

his spirit, wounded at the loss of a wife to whom he paid the homage of respect and love, the reaction of a certain indifference and philosophical resignation. "The hand of God," he said, "had sent him an emollient in his misfortune—that the death of the Princess Charlotte inspired him with greater fortitude in bidding adieu to the world."

Previous to his death, he presented to each of the soldiers detailed for the firing-party, a gold maximilian, a coin of the value of twenty dollars. He embraced his companions in misfortune, and said, in a sonorous voice: "*I die in a just cause—that of the Independence and Liberty of Mexico. May my blood seal up the misfortunes of my adopted country! Long live Mexico!*"

These were the last words—communicated to us by a person worthy of credit—of the unfortunate Archduke; but the following allocution has been publicly attributed to him:

"MEXICANS!—Persons of my class and origin are appointed by God, either for the happiness of nations, or to be martyrs. Called by you, I came for the good of the country: I came not in ambition, but I came animated by the best desires for the future of my adopted country—for that of the brave men to whom, before death, I express my gratitude for their sacrifices. Mexicans! may my blood be the last that is shed, and may it regenerate this unhappy country!"

The Baron de Magnus, solicitous as a good friend, scrupulous in the discharge of his duties as a diligent representative of Italy, Austria, and Belgium, and devoted to the unfortunate Archduke, had arranged with Señor Bahnsen and two friends of the latter to immediately take charge of the body; but the authorities intervened, and directed the corpse to be embalmed, and kept in charge at Queretaro until further orders.

The high designs of God are fulfilled irrespective of every other prevision. The throne of Moctezuma has had no possible succession. Two scaffolds proclaim this. The

first was raised on the 19th of July, 1824, for the great Iturbide; the second, on the 19th of June, 1867, for the Archduke of the House of Austria. Iturbide, a soldier of the Viceroy of Spain, and afterwards the renowned hero of the Independence of Mexico, wore, for a short time, a crown which he abandoned to the Republic, and departed for a foreign land. On returning to this country, he was put to death, in conformity with an inexorable law, which extinguished an existence linked with one of the greatest glories of our country, and which is celebrated annually on the 27th of September.

Maximilian—heir to an illustrious name, a relative of nearly all the Sovereigns of Europe—aspired to be, in the New World, the illustrious exponent of both the Empire and the Democracy. Descended from a hundred Kings, who have governed the opulent nations of Europe; in the impenetrably secret Book of Fate alone could it have been written that he would be the restorer of the Empire in Mexico: a perilous restoration, even though it were the offspring of a spirit which understood the progress of the century, and had to deal with a docile and good people, to whom scenes of bloodshed are repugnant: an impossible restoration, even if the dynasty of a Charles V. should unfurl the banner of Equality and Liberty!

This had been the theme of our conversations, for the past three years, and that truth ascends from the sepulchre of the Archduke. Peoples, by instinct, are the best judges of statesmanship. The masses of Europe and America were convinced of the impossibility of a Mexican Empire, and the popular expression of that opinion is now a consummated fact. Mexico has returned to a Republic. Will this be as tumultuous as in late times?—Will it be as indifferent as in the beginning? In sight of recent successes, can yet another banner be waved, to agitate a division amongst the Mexicans? Will the country again present the repugnant picture of a people divided into two classes, executioners and victims? Will the vanquished press.

the springs of civil war? Or, on the other hand, will the day arrive in which Mexicans, united, will convert this beautiful territory into a nation worthy of the respect and esteem of foreigners, and of the fraternal affection of her children? Will not the sacred fire of patriotism dispel the fanaticism of factions? Will there not follow upon the sorrowing reclusion of some, and the cheerful complacency of others, a truce in order to promote desires for the national welfare? Will not that light which guides the intelligence of political men shine on Mexico? Will not the Mexican heart open itself to those national sentiments which obliterate the memory of civil war, by cicatrizing those wounds, which, if reopened, would cause it to expire through its own suicidal acts?

The painful period of our persevering labours in San Luis was followed by a few days' travelling, in which we calmly reflected on the past, and confronted the future. Events were marching on with rapid strides, and the full advent of the Republic might be the work of a most unexpected moment.

Broken conversations on some incidents of our mission, as defenders, prepared the mind to judge better of the future than of an event which was already submitted to national appreciation. God, the fountain of truth, will be the only Judge who, in His wisdom, can justly measure the conscience of men. Humanity, always divided—because its heritage is fallibility—cannot pronounce a verdict worthy of being regarded as the expression of a universal conscience. Solely in the presence of God are our actions exhibited in their truest moral bearings.

History will not possess a uniform criterion by which to judge of the death of Maximilian.

Immediately after the tragic end of the Empire, it was natural to meditate on the impression it would make on factions: what would be their conduct?—what position would they take in the politics of the country?—what would the conquerors do?—what could be expected from the

military?—what hopes were presented by the triumphant cause?—what would be the fate of the vanquished?

The spirit which has passed through the agitated struggle between life and death—although these may not be its own—most fully appreciates the necessity of cool contemplation. On the overthrow of some of the institutions, it became necessary, amidst their ruins, to consider the elements of the nascent Republic, because the death of Maximilian was a transparent decoration of the triumph of democracy; but it was not such a change, perhaps, as to permit the concourse of all the national elements. Adversity did not yet induce the Mexicans to feel, universally, the same enthusiasm on hearing the victorious rejoicings of the Republic. Prayers for peace, which would produce constitutional triumph, burst forth from the depths of every heart; but in a certain section of society there were many who suffered the agony of fear, and whose prayers were drowned in a flood of tears.

The last armed shock of the passions had been witnessed; and, on the approach of the moment in which some of the victorious were most eager to display their power, it must be confessed that the hope of temperate conduct was not universal. The general fear was that the Constitution, which, as a standard, had triumphed, would not be a reality.

Never were more elements associated together for general good; never had there been greater danger of taking the road to evil.

In the midst of that moral affliction into which the defender falls who fails to save from the scaffold one who has confided his life to him, the attention was arrested by the picture presented by the army: we observed General Riva Palacio proclaiming, by actions which will never be obliterated from history, *that he cherished no animosity for the past, nor fear for the future.* This, as a motto, was the expression of his sentiments, the exposition of his convictions, and the mirror of his conduct, as a military chief, and as the Governor of the State of Mexico.

That motto, the proclamation of a man of independent character, was a voice heard in the midst of agony, as the promise of pardon to the misguided; it was the hope of reconciliation for the future. May God bless those sentiments, the only remedy for our unhappy country!

In the northern section of the army, General Escobedo—who commanded troops of excellent discipline, tried valour, and patient endurance rarely equalled—had told us, in accents of unalterable obedience, that, faithful to the law, he would ever be the blind instrument of the Government he might represent.

General Corona, between whom and General Riva Palacio an intimate friendship existed, also fraternized in his ideas, and the noble ambition to do good to the Republic by the triumph of the principles of liberty. To procure their acceptance by the vanquished was, according to the testimony of some of his friends, his only anxiety. As this General was so little known in the Capital of the Republic, the association of his name, in such a politic and humane idea, was heard with delight.

General Diaz displayed in his career a combination of political wisdom and military prowess. To him, talent, good-luck, or Providence furnished an important position in the beginning and at the end of the Intervention and of the Empire. He had given proofs of comprehending the importance of the rapid movements of the army—of possessing courage to take Puebla by assault, and of economising blood by means of a successful siege. As a military man he had gained well-merited laurels, which were not tarnished on his subsequent entrance into the city of Mexico.

Notwithstanding the hope entertained by a portion of the city, that the transition would be conducted without the slightest excess, the alarm at the crisis was almost general, inasmuch as unanimity of ideas was scarcely possible. Popular feeling is not always restricted to the noisy acclamations of public rejoicings, when strict law and a people's generosity are not in perfect unison.

At times a dread abyss opens, where congratulations and rejoicings on account of a national victory should alone be heard and seen.

On our return from San Juan del Rio, we learned that the tact and firmness of General Diaz had corresponded to the hopes of the sons of Mexico, who were enthusiastically possessed with a belief, that this liberal, reflecting, and humane chief would not permit a stain to fall on the national flag.

The entrance of the Liberal army into the city of Mexico,—where, in consequence of the long duration of the siege, men of extreme opinions were to be found—will always be a glorious page in the history of this country, of its army, of its chief, and of those who accompanied him. "Would to God," we said to ourselves, "that the nation may, in honour, match that of its army on its entrance into the Capital!"

Withdrawing attention from the military picture to meditate on the future fate of Mexico, we brought to mind a multitude of ideas, that, in the discussions on the mission which caused our visit to San Luis Potosi, had transpired, from the members of the Cabinet, touching the severity observed in the administration of affairs. All that we gathered from them cleared to us that horizon which, to the greater part of the country, was still clouded.

Señor Lerdo had repeatedly said to us, that the Government having received a lesson in the painful experience of the Intervention, he had studied the requirements of the Republic; and in order to meet them he should leave nothing undone; that the Government would rigorously observe justice, and would not permit the spread of evil passions; that it was resolved to make a stand in order to promote aspirations for justice, order, and true liberty.

The President, profoundly convinced of this necessity, had told us, that his efforts to give to the nation the peace it required would be as great as his desire to see the country prosperous and happy—free from all foreign domination.

We refreshed ourselves (so to speak) with these reminiscences, in our conversation on the road; and on arriving at the Capital, we read with much pleasure, in the public journals, a great number of well-written articles, which were free from any abusive or offensive expressions of revenge. The Liberals, on breaking the silence of four years, were circumspect; and their souls, centred in the welfare of their country, opposed all wild outbursts of indignation on account of past sufferings.

At the very time that, during the greatest and most perilous crisis through which our country has passed, all the world considered that we were consigned to perpetual barbarism, elements of consolatory hope burst forth from the abyss into which it was apparently sinking.

True patriotism was invigorated by misfortune; and most of her children were desirous to blot out the past, and open a new account, wherein should be registered, solely, actions worthy of hearts yearning to do good.

Union is already the instinctive topic of general conversation, which, ere long, will become cordial. The general acceptance of liberty cannot now be doubted. Liberty, at this moment, is the universal desire expressed by the victorious, with incessant reclamations for a return to constitutional order; and also by the vanquished, in their solicitude for the upright and practical application of constitutional principles.

From this struggle, it is clear that the greatest moral victory should arise, for a country accused of being criminal and barbarous. The victory must be that of Justice. Instead of invidious triumphs, Mexico must set the example of a league of honourable men, who, by their power, exorcise the demon of anarchy, and liberate their country from the disasters of moral depression.

The tomb of Maximilian provoked acrimonious exclamations from the exterior against Mexico. The memory of this Prince will be idolized by some and impugned by others. Abroad, it will become an historical question, in

the appreciation of which the passions—anger, prejudice, and blindness—will play their part. These must be met by facts, demonstrating that in Mexico liberty is an achievement restrained by law—that justice is the guiding-star of her rulers.

If, on the one hand, some Mexicans, who are held to be worthy the respect paid to patriotism, raise an altar to the memory of Maximilian; and if by others he be regarded as a person justly condemned, and the proper object of imprecations, we all feel, in our heart of hearts—at the tribunal of our own consciences—what our country demands for the future; and we may open a new register for the record of the deeds of our public life. May we never renew the dissensions of the past, by perpetuating in memory a continuous drama, which would not be to the honour of Mexico! Divisions amongst brothers—their rivalries and rancour—are the worst inheritance we can bequeath to our children. Let us consider *them*, and the irritable wound of civil war will begin to heal. Let us forget our passions, to give place to the just requirements of a community desirous of light, right, intelligence, and virtue. The irresistible force of events, the recognition of which alone constitutes the true means of support for legitimate aspirations, must be comprehended—the Constitutional Republic. To think of anything else is a dream—a delirium—a crime!—yes, an unpardonable crime, because we should convert this charming country into an arena of fratricidal war; and the shed blood of a brother brings upon us the curse of God and man. By our dissensions we should open the ports of our nation to foreign invaders, who might some day consider us as superfluous on that earth which God created for the well-being of mankind; and believe that we (as the world at present proclaims) conceal its fruits, store up its riches, and drown its children in the blood of its own family.

Let us demonstrate that the vitality of party-spirit, the energy of strife, the revolutionary frenzy, the valour, the heroic bravery of death on the scaffold, which Mexico has

so repeatedly displayed, will all now be merged in one idea—the welfare of the country.

Then, in the place of the devastating turmoil of anarchy, the execrable vertigo of political passions, the victorious turbulence over the tombs of brothers, the moral degeneration, the acclamation of war, the black odium of strife, the anxiety of suspense, the painful confusion of uncertainty, the profanation of sacred rights, the gloomy future of our children, the raid on property, the slaughter of man by man (horrible picture! which is the basis of accusation against Mexico)—we shall substitute that sincere and pure patriotism which unites the sons of the nation in bonds of amity, and makes practical liberty a priceless treasure—the un-failing security for the full enjoyment of the rights of man.

A few days' self-denial, the almost momentary sacrifice of a mere passion, will give to the national spirit a force superior to the miseries of that blind antagonism of civil war, which leads man to ignore the sentiments of virtue and justice and honour, in his own brother, children, parents; and so, with inexplicable injustice, to dishonour his family, his country, and his race,—a fatal error, jeopardizing that nationality and independence, of which Mexico neither is nor should be guilty. The recriminations of factions are so far from the truth, that they constitute the envenomed weapon of an involuntary suicide, who, wildly and madly attacking his adversary, himself absorbs the deadly poison to his own destruction.

This is the reason why Mexico, so worthy of the esteem of right-thinking men, has been the victim of all the calumny that could be thought of, conceived, or imagined. There is not a reproach with which our country has not been insulted, nor a stain which has not been attempted to be cast on us. But Mexico will be relieved from this opprobrium, because this defamation is the offspring of the intemperate clamour of our own dissensions.

In Mexico there exists a great regard for virtue and justice; there are men of foresight and reflection, who are

conscientious, and distinguished writers; there is pure reasoning, an artistic imagination, sound judgment, patriotic enthusiasm, proved valour, and love of liberty: but we throw over all these the dark veil of our dissensions, which alone the world sees, and consequently exaggerates our miseries, in order to expose and misrepresent us, as a people who are a dishonour to humanity. And in the cloud of anathemas which menaces our country, there is a prophetic augury, that we, ourselves, are doomed to avenge those outrages against humanity, by devouring each other. Our soil—still in a primitive state with regard to labour, and soaked with blood—will become, according to divinations, populated by another race, who will, in obedience to the ends of creation, cultivate this fruitful country, and thus establish both private and public felicity.

This extreme of anarchy, with its fearful consequences, will be the reprobation of our quarrels, according to the general expressions of the European Press.

The spirit of union, the sacrifice of evil passions, will give us, in a short time, the reality of a tranquil life, the benefit of labour, the pleasures of home, the charm of fraternal affection, a secure future for our children, a sincere and ardent enthusiasm for the country.

The worship of patriotism will then be free from any stain, alien to any remorse; and a unanimous desire to establish that new order of things, will present to the world—in vindication of the outrages received—the noble spirit, the pure conscience, and the elevated intelligence of the sons of Mexico.

That day, perhaps, is not far distant. The year 1867 may prepare for our country an abyss of evils; or, by the unanimity of her good sons, it may be the starting-point to realise the most flattering hopes. With this object, it is necessary that the victory of Liberty should be always present to all Mexicans, for whom the most solemn crisis of the Republic may have opened up and marked out the road for their truest aspirations.

Mexico, in the foreground of the picture of discord, will neither enjoy well-being nor honour. The strength of factions, in their divisions, will be a road leading away from that happy destiny to which we might aspire. Union is the foundation of all good in the nations of recent enrolment amongst free peoples.

Would to God that the storm-cloud which lowers over us may be dissipated by Mexico illuminating her horizon with the brilliancy of her good actions! Would to God that the fraternity of those who have been born in this country may be a reality, which may prepare the rich inheritance of a happy nation to our sons, and of a friendly and generous people towards foreigners! May God grant that from the abyss of evils, into which we were engulfed by discord, a light may burst forth to guide the footsteps of the Republic.!

(Signed) MARIANO RIVA PALACIO.
RAFAEL MARTINEZ DE LA TORRE.

Mexico, July 1867.

POST MORTEM.

THE life of a public character is oftentimes an unforeseen series of contradictions. A testimony to this truth is presented in the arrival of the Vice-Admiral Tegetthoff in Mexico.

The Conqueror of Lissa changes his character, and, invested with a noble position—that of a friend of the family of the Archduke of Austria—undertakes the mission of soliciting from the Mexican Government the mortal remains of Prince Maximilian.

Humanity, in the march of destiny, leaves engraven on the heart by death a mournful history, which increases its dark pages from day to day. The reminiscences of this book, as a memoir, are inexhaustible. There is no date to its beginning, and it can only end with our existence. They will ever be the companions of the heart of the mother who mourns for her son; of that of the son who has lost a mother. They will incessantly renew the lives of our fathers—the existence of our children. But this book of memory, the fountain of so much melancholy, is not enough. We want, we desire, we are eager to see the place where the body reposes, the ashes of those who form the family—who are a part of our existence, of our being.

To mourn over a tomb is a pain which relieves the heart; it is a sacrifice which resolves itself in confidential love; it is a tender conversation, in which the presence of God mingles His infinite goodness, that there may be hope where man could only meet with misery, pain—an empty void.

Yonder, where the end of life is seen—where all is dark and gloomy—where our souls might fall into despair and doubt, there bursts forth a light, not the only one, which opens the fount of our tears. They are often the benign outcome of the current between the soul and the heart,

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The soul illumines the dark caverns of our misfortunes, and the heart mourns in the presence of that light which is ever pointing to Eternity.

All humanity is obedient to this law of God. That condition of nature is general. No hierarchy rules that sentiment. Humanity, at large, receives its inspiration by one course only—grief!

The Archduchess Sophia, the mother of the unhappy Maximilian—his brothers and relatives—on receiving intelligence of his death, thought on his ashes: and despatched, in the character of a friend, the Vice-Admiral Tegetthoff to ask from the Mexican Government the inanimate matter of man—the body of the Archduke of Austria.

The Vice-Admiral applied to us, to assist him in the fulfilment of his mission.

We immediately solicited an interview with Señor Lerdo, who said that on the following day, the 3rd of September, at 5 P.M., he would receive Señor Tegetthoff.

We then directed our steps to General Don Ignacio Mejia, Minister of War, to whom the Vice-Admiral was desirous of expressing his acknowledgments, for the attention shown to him by ordering a guard to accompany him from Vera Cruz to the Capital.

At the appointed hour on the following day, the interview with Señor Lerdo took place.

The history of both conferences, with their antecedents, is gathered from the memorandum published in the *Diario Oficial* of the 9th of September, 1867 (No. 21), as follows:—

THE MISSION OF THE VICE-ADMIRAL TEGETTHOFF.—We publish, in continuation, all the official documents relative to the mission of the Vice-Admiral Tegetthoff, and the various steps taken at the seat of the Supreme Government, for permission to transport the corpse of the Archduke Ferdinand Maximilian to Europe. By these documents it will be seen what the intentions of the Government were from the beginning, which alone have given to this affair that importance which really attaches to it. These documents

also deny the absurd and ridiculous comments of the foreign journals, and contain at the same time appreciative remarks on the national press.

“Telegram from Vera Cruz to Mexico. Received in Mexico on August 26, 1867, at 7.29 P.M.

“To the Citizen Minister of War.

“The Austrian Admiral Tegetthoff arrived at Sacrificios this morning, in the war-steamer of his nation, *Elizabet*. He has sent a message to the military commandant, stating that he desires to pass on to the Capital, in order to solicit of the Supreme Government permission to take away the corpse of Maximilian. I wish to know if it be my duty to prevent his proceeding to the city of Mexico.

“ZEREGA.”

“Telegram. Department of War and Marine, Mexico, August 26, 1867.

“To the Citizen Military Commandant at Vera Cruz.

“The Citizen President has been informed of the arrival of the Admiral Tegetthoff at your port, and that he wishes to come on to this city. You may allow him to pass without any obstacle.

“MEJIA.”

“Department for Foreign Affairs, Mexico, September 3, 1867. (R)

“(Memorandum.)

“Don Mariano Riva Palacio and Don Rafael Martinez de la Torre, who were the advocates for the Archduke Maximilian of Austria, visited this Department yesterday, stating, that the Vice-Admiral Tegetthoff, of the Austrian

" Marine, had arrived in this city, and desires a conference
" with the Minister for Foreign Affairs.

" This morning, at the appointed hour, the Vice-
" Admiral presented himself, accompanied by Señores
" Riva Palacio and Martinez de la Torre.

" The Vice-Admiral stated that he had come to Mexico
" with the object of asking, from the Government of the
" Republic, permission to convey to Austria the mortal
" remains of the Archduke Maximilian.

" The Minister for Foreign Affairs replied that he
" would submit the petition to the President of the Re-
" public, and, in order to take it under consideration, he
" desired that the Vice-Admiral would be pleased to state
" in what character he made it.

" The Vice-Admiral said, that on his visit to Mexico
" being determined upon, it was considered that it might
" appear better to the Government of the Republic that he
" should not come with any official mission from the
" Austrian Government, but simply with one of a private
" nature on behalf of the family, who, under the natural
" feelings of affection and piety, wished to receive the mortal
" remains of the Archduke. Under that consideration he
" had come solely as a private commissioner from the
" august mother of the Archduke, and his brother, His
" Majesty the Emperor of Austria.

" At the instigation of the Minister for Foreign Affairs,
" the Vice-Admiral was pleased to state, also, that he had
" not brought any written document, and that he had only
" verbally received the mission from the family of the Arch-
" duke. The Vice-Admiral added, that, if it were necessary,
" he should be willing to state, in writing, that he had come
" for this purpose.

" The Minister for Foreign Affairs repeated that he
" should submit the petition to the President of the Republic,
" and that on the following day he might communicate his
" decision.

(Signed) "LERDO DE TEJADA."

" Mexico, September 4, 1867.

" The Vice-Admiral Tegetthoff returned to the Depart-
" ment to-day, accompanied by Señores Riva Palacio and
" Martinez de la Torre.

" The Minister for Foreign Affairs stated to Señor
" Tegetthoff as follows:—

" That permission to take away the mortal remains of
" the Archduke had previously been solicited by the Baron
" de Lago, who acted as Chargé-d'Affaires from Austria;
" the Baron de Magnus, who acted as Minister from Prussia;
" and Señor Dr. Basch, the private physician to the Archduke.

" That the Government replied to those three, that there
" were motives why the petition could not be acceded to;
" because the Government considered that, in order to re-
" solve whether it be permitted to transport to Austria the
" corpse of the Archduke, it is requisite that it should be
" enabled to take into consideration, either an official act of
" the Austrian Government, or an express act of the family
" of the Archduke, asking for the corpse from the Govern-
" ment of the Republic.

" That although the Vice-Admiral Tegetthoff, in con-
" sideration of his social position in Austria, and on account
" of his personal standing, is worthy of the consideration of
" the Mexican Government, it cannot resolve to permit him
" to take away the corpse of the Archduke, inasmuch as
" he has not brought a document, to fulfil either of the
" two alternative conditions necessary in the case.

" And that the President of the Republic has autho-
" rized the Minister for Foreign Affairs to say to the Vice-
" Admiral Tegetthoff, that on the fulfilment of either of the
" two requirements—whether it be by an official act from the
" Austrian Government, or by an express act from the
" family, asking for the body of the Archduke—the Govern-
" ment of the Republic will be disposed to permit its being
" taken to Austria, in consideration of the natural senti-
" ments of piety on which the petition is made. That the
" Government has already directed that the body should be

"embalmed, and be deposited and conserved, with all the care and decorum due to a corpse, in the same natural sentiments of piety.

(Signed) "LERDO DE TEJADA."

"Telegram. San Luis Potosi, June 18, 1867,
9 A.M.

"To Citizen General MARIANO ESCOBEDO, Queretaro.

"The Government has been asked whether, after the execution of Maximilian, permission will be given to prepare the body for transit to Europe. No permission has been granted; but, in the event of such a petition, the Citizen President of the Republic has commanded that you will be pleased to act in conformity with the following instructions:

"*First.*—As soon as the execution of the condemned is verified, if the relatives of Don Miguel Miramon and of Don Tomas Mejia ask to dispose of their bodies, you will immediately permit them to do so without restraint.

"*Second.*—You alone will order what may be convenient respecting the body of Maximilian, refusing to permit any other person to interfere in any way.

"*Third.*—You will, in due course, order coffins of zinc and wood, to enclose in a proper manner the body of Maximilian, and the same for those of Don Miguel Miramon and Don Tomas Mejia, if their relatives should not ask for their bodies.

"*Fourth.*—If any person should ask permission to embalm or inject the body of Maximilian, or to do anything else which may not be objectionable, you will prevent the interference of any other person; but in such a case you will see it performed, and take care that (the presence of foreigners not being refused) it be done by Mexicans in whom you have confidence, and that all be done in a proper manner at the expense of the Government.

"*Fifth.*—On the verification of the execution, if their

"relations do not ask for them, you will provide for the immediate care of the body of Maximilian, and also of those of the others, in a becoming manner, after justice has been satisfied.

"*Sixth.*—You will arrange that the body of Maximilian be deposited in a convenient and secure place, under the surveillance of the authorities.

"*Seventh.*—In the interment of the body of Maximilian, and of the others, if their relations do not ask for them, you will take care that the accustomed religious rites be performed.

"LERDO DE TEJADA."

"Telegram from Tacubaya to San Luis Potosi.
Sent from Tacubaya, June 19, 1867. Received in Potosi 9.25 P.M. on June 20.

"CITIZEN PRESIDENT,

"I pray you to concede to me the body of Maximilian, in order that I may convey it to Europe.

"BARON DE LAGO."

"Telegram. San Luis Potosi, June 20, 1867,
10.15 P.M.

"To the BARON DE LAGO, Tacubaya.

"The President of the Republic has requested me to state, in reply to your telegram of yesterday, received this evening, that, for grave reasons, he cannot consent to your disposing of the body of Maximilian.

"S. LERDO DE TEJADA."

"To His Excellency Señor Don SEBASTIAN LERDO DE TEJADA."

"San Luis Potosi, June 29, 1867.
SEÑOR,

"The Prince prisoner of Queretaro, on the eve of his death, expressed—in a letter under his hand, and addressed

" to General Escobedo—a desire that his mortal remains
 " should be entrusted to me and Dr. Samuel Basch, the
 " physician to the deceased, in order that Señor Basch
 " might accompany the body to Europe; and that I should
 " undertake to have the corpse embalmed, as well as make
 " every other arrangement concerning its removal to Europe.

" In conformity with the desires of the deceased Prince
 " —who expressed to me, verbally, his wish that the trans-
 " portation of his remains should be made without any
 " ostentation, and in such a manner as carefully to avoid
 " everything that might excite demonstration, or even
 " simple public curiosity—I repeat the request which I
 " have had the honour of placing before your Excellency,
 " that you may be pleased to issue the necessary orders, so
 " that the mortal remains may be entrusted to me. I would
 " willingly conform to any stipulation that might be made
 " relative to the transportation of the body to the coast,
 " and the placing of it on board one of the vessels of the
 " Austrian Marine stationed at Vera Cruz.

" I avail myself of this opportunity to repeat to your
 " Excellency the assurances of my high consideration.

(Signed) "A. V. MAGNUS."

" San Luis Potosi, June 30, 1867.

" To the BARON A. V. MAGNUS, &c. &c.
 " SEÑOR,

" I have received the communication which you were
 " pleased to address to me yesterday, stating that the Arch-
 " duke Ferdinand Maximilian of Hapsburg, on the eve of
 " his death, expressed a desire that his mortal remains
 " should be entrusted to you and Doctor Samuel Basch, in
 " order that they might be removed by them to Europe.

" As I have previously had the honour of stating to
 " you, the Government of the Republic considers that, for

" various reasons, it cannot permit the mortal remains of
 " the Archduke to be taken to Europe.

" It is therefore my painful duty to say, in reply, that
 " the Government cannot issue the orders which you desire
 " with that object.

" I avail myself of this opportunity to repeat to you,
 " Señor Baron, that I am, your very respectful and obedient
 " servant,

(Signed) "S. LERDO DE TEJADA."

" To the Citizen LERDO DE TEJADA, Minister for Home
 and Foreign Affairs.

" The undersigned, most respectfully, has the honour
 " to inform you, Citizen Minister, that as the private phy-
 " sician of the deceased Archduke Maximilian, I was com-
 " missioned by him to convey his body to Europe, with the
 " object of delivering it to his family.

" That such was his desire is shown, both by the letter
 " signed by himself, dated the 16th of June last, addressed
 " to Don Carlos Rubio, in Queretaro (a copy of which I beg
 " to subjoin), as well as by that of the 18th of the same
 " month, the original of which is in the possession of the
 " Citizen General Escobedo, as shown by the subjoined
 " letter of Citizen Colonel Richard Villanueva.

" The fulfilment of that order I consider a sacred duty;
 " and that I may perform it, I venture to pray, that you,
 " Citizen Minister, will be pleased to order that the body
 " may be delivered to me: supporting this my request with
 " the fact, that, by superior orders, the bodies of his two
 " companions in misfortune have been delivered to their
 " families, and that never and on no occasion has the
 " Supreme Government refused to deliver any corpse to
 " the relations who might ask for it.

" I pray, in conclusion, that you will deign to reply to
 " this my respectful request—whatever may be the answer

"—in order that, on my return to my native land, I may be able to justify myself before the family of the deceased Archduke, as having done all in my power to obtain the extradition of the body referred to.

"By which the most respectful of your servants will be obliged.

(Signed) "DR. SAMUEL BASCH.

"Citizen Minister, Mexico, July 27, 1867."

"Ministry of Home and Foreign Affairs,
Home Department, Section 1.

"To Señor Dr. SAMUEL BASCH.

"Regarding your petition of yesterday's date, to permit the removal of the mortal remains of the Archduke Maximilian to Europe, the Citizen President has resolved that, for various and grave reasons, he cannot accede to the petition.

"LERDO DE TEJADA.

"Independence and Liberty.
Mexico, July 29, 1867."

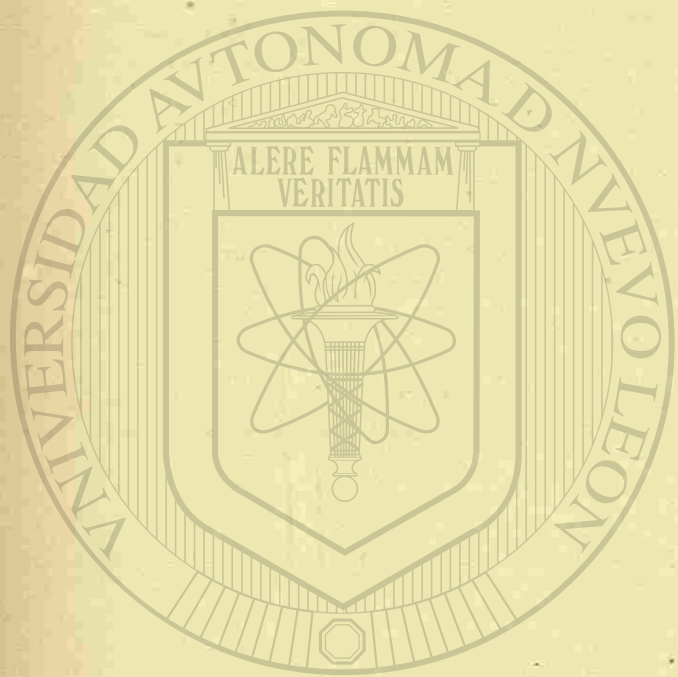
The memorandum of the trial had already been printed, as well as the following defence, when the Vice-Admiral arrived. This incident delayed its publication, in order to give, in an Appendix, any information respecting the result of Señor Tegetthoff's mission—to fulfil which, certain formalities, which probably present no other difficulties than that of time, remain to be performed. Time is the only agent which steadily keeps its course, and it will undoubtedly be a question of a few days only, when the family of the Archduke will witness the arrival of the inanimate remains of an unfortunate Prince at the mausoleum of his ancestors.

On visiting that sepulchre, let the epitaph to his memory be whatever it may, the reader will remember the birthplace of Maximilian, and the spot where he died.

Thousands of miles separated him from his country, from his relations, and from the position his ancestors established for him. In the presence of that tomb, the tumult of passions and political calculations being excluded, the following reflection cannot fail to suggest itself. The destiny of man and his end are a mystery which covers with its dark mantle the fate of kings, as well as that of the whole human family. Prevision is not permitted to man—Providence ordained this law; and that impenetrable obscurity ought to arrest our footsteps, when they are not guided in life by justice, to prevent us from falling into that chaos where the light of eternity does not penetrate—where the absolution of the tribunal, which is infallible in its judgment of our actions, does not reach.

MARIANO RIVA PALACIO.
RAFAEL MARTINEZ DE LA TORRE.

Mexico, September 1867.



UNIVERSIDAD AUTÓNOMA

DIRECCIÓN GENERAL DE

PART III.

THE TRIAL.

Translated from the original Spanish.

SECTION I.

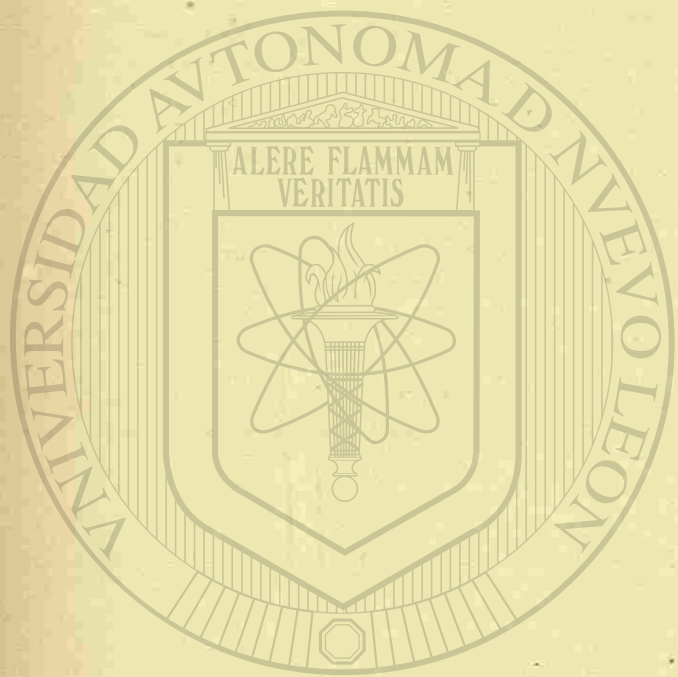
Maximilian's Declaration and Protest.

" To the General-in-Chief of the Army of Operations :

" The declaration of Maximilian, a prisoner of war in
" the ex-convent of Capuchinas, in this city, showeth :—

" That the principles of justice and dignity compel
" me to protest against the proceedings which are being
" taken against me in conformity with the law of the 25th
" of January, 1862, and to repudiate the military jurisdic-
" tion created thereby ; it being, in fact, incompetent to
" conduct and judge in the trial to which I must be sub-
" mitted. In making this declaration—which I will endea-
" vour to establish briefly, not having time for more—I am
" very far from seeking to evade a trial, for I ardently
" desire it, that my public conduct may be made known
" to all the world ; but I must urge my just claim that
" it be examined and scrutinized by competent judges, and
" with that deliberation, calmness, and circumspection,
" which are demanded by the nature of a process, so grave
" and so exceptional—the only one in the country.

" The more the said law of the 25th of January is
" read and studied, the more the conviction is established,



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" and so exceptional—the only one in the country.

" The more the said law of the 25th of January is
" read and studied, the more the conviction is established,

" that its object is those crimes, those consummated actions,
 " which may be proved upon such evidence as may easily
 " be produced, and be elucidated in a few hours so clearly,
 " that decision upon it may well be referred to common
 " sense, unaided by science or forensic skill. Every legis-
 " lative enactment (however emergent the circumstances
 " which dictated it may be supposed to be) should always
 " comprise, as an essential element, practicability and justice
 " —otherwise it would cease to be a law. Attributing, then,
 " to the law referred to these indispensable qualities, it
 " becomes evident that those crimes above indicated, and
 " those only, constitute its proper object : because it would
 " be impossible to substantiate anything satisfactory touch-
 " ing acts and questions of a complicated and difficult
 " character in seventy hours—not time enough to produce
 " evidence ;—and it is not to be assumed as practicable, in
 " such a case, to defend the presumed delinquent in twenty-
 " four. Moreover, this is plain, because it would not be
 " just that such acts and questions, without sufficient and
 " proper examination, should be decided by an ordinary
 " court-martial, on whose decision the life or death of a
 " person depended. After these simple and reasonable
 " reflections, let us see if my case, which is here referred
 " to, can be included within the defined circle of the law of
 " January.

" Residing tranquilly in my Castle of Miramar, a person
 " of high rank in Austria presented himself to me, announc-
 " ing that several Mexicans projected the establishment of
 " an Imperial form of government in their country, and the
 " nominating of me as their Emperor. I replied that, unless
 " it were shown to be the actual will of the Mexican people,
 " I would not accept the nomination. A short time having
 " transpired, an important commission of the Junta, called
 " Notables, placed in my hands a unanimous Resolution, in
 " virtue of which they adopted that form of government,
 " and elected me Emperor. Persisting in my reply, after
 " the expiration of many months I received innumerable
 " professions of adhesion to the aforesaid nomination. Mis-

" trusting, however, my own personal judgment in this
 " matter, I handed the documents to able jurists, who were
 " acquainted with the customs, population, and territorial
 " extent of Mexico, for their advice. After a scrupulous
 " examination—after profound study—these counsellors gave
 " their opinion, that it was evidently, in a legal manner, the
 " actual freewill of a majority of the Mexican people
 " to have an Imperial Government, with myself as their
 " Emperor. I then decided to accept, and did accept, the
 " nomination, making arrangements to come over imme-
 " diately ; and, in fact, I came—without any army or the
 " appearance of war—accompanied by my family only, and
 " with the conscience of one who had been elected without
 " any solicitations on his own part. I arrived at Vera Cruz ;
 " and from that port to the Capital my road was like a
 " triumph, in which I was continually receiving indubitable
 " evidence of esteem for my person. This confirmed me in
 " my resolution. Shortly afterwards, in various journeys,
 " I visited many populous places of the nation, where the
 " same demonstrations of rejoicings were repeated. Under
 " these favourable impressions, I governed, for nearly two
 " years, almost the whole of the country ; and my Govern-
 " ment was not without the honoured seal of recognition
 " and approbation of all the nations of Europe, as well as
 " of some others no less powerful and important. The time
 " arrived in which I doubted the stability and consolidation
 " of my throne ; and as my only object in occupying it had
 " ever been the welfare and felicity of Mexico, I absented
 " myself from the Capital, and remained at Orizaba, to
 " meditate, and form with deliberation and maturer wisdom,
 " a definitive resolution, free from any extraneous influence.
 " I called to my aid Councils of Ministers of State, in which
 " I frankly expressed the reasons of my doubts. Having
 " heard their opinions, I resolved on returning to the Capital,
 " with the determination of convoking a Congress, in order
 " to ascertain the feelings of the nation at large. Insuper-
 " able difficulties, known to all, frustrated my design. I
 " then proceeded to place myself at the head of the 'Army

“ ‘ of the Interior’—not with the exclusive object of sustain-
 “ ing my throne by arms, but always with that of procuring
 “ a pacific and honourable conclusion, by any mode which
 “ would terminate differences without the effusion of blood.
 “ But, much to my sorrow, in this city was urged a terrible
 “ struggle, to which I have succumbed.

“ The foregoing—necessarily very compendious—state-
 “ ment presents to the simple view, complicated facts, events
 “ of great moment, and political and international questions
 “ of considerable intricacy, and difficult of solution. Can
 “ such facts, events, and questions be sufficiently ventilated
 “ and discussed in the very few hours allotted by the
 “ law of the 25th of January, for substantiation, when not
 “ even time for simple proofs is conceded? Can they be
 “ examined and decided satisfactorily by the military
 “ ordinances, and by persons who, although they belong to
 “ the noble and honourable profession of arms, are not, nor
 “ ought to be expected to be, possessed of that knowledge
 “ and skill in such matters which are indispensably requisite
 “ for that examination and decision?

“ General! answer me with your hand on your heart!
 “ May your Government also be pleased to reply, since
 “ amongst its duties it cannot be wanting in justice!

“ Do not be offended, if, in support of my remarks, I
 “ cite an example afforded by the illustrious neighbouring
 “ Republic—as full of jealousy for public liberty as she
 “ is admirable in her respect for individual security, and
 “ scrupulous obedience to her laws.

“ Certain States, desirous of constituting themselves an
 “ independent nation, rebelled; they established their Go-
 “ vernment, and aspired to be acknowledged by other nations,
 “ but were recognised as belligerents only. Notwithstanding
 “ their gigantic prowess, they were in the end conquered,
 “ and the ex-President of the Confederation was imprisoned.
 “ In the case of this leader, notwithstanding that the circum-
 “ stances connected with his cause were less favourable than
 “ mine, some years have passed without his being subjected
 “ to a trial. It cannot be alleged that this is for want of

“ integrity, energy, and justice there; but rather in conse-
 “ quence of the absence of judges and tribunals competent
 “ to hear and decide on the grave political questions which
 “ attach to the high position of the prisoner,—a calm and
 “ circumspect procedure, which has been applauded by all
 “ civilized nations.

“ Another case of actual occurrence in this country
 “ comes also very opportunely in favour of my cause.

“ Don Jesus Gonzalez Ortega proclaims himself, in a
 “ foreign country, President of the Mexican Republic; he
 “ succeeds in entering it, and secretly marches to the capital
 “ of one of the most important States (Zacatécas) where, in a
 “ public manner, he insists on his proclamation. He is im-
 “ mediately apprehended and made prisoner; but neither
 “ has he been subjected to a trial—waiting, undoubtedly,
 “ for a high tribunal, invested with full and competent
 “ authority to decide on the culpability of Señor Ortega,
 “ and to declare who is the legitimate trustee of the execu-
 “ tive power. May Heaven forbid that a different course,
 “ with respect to my person, should afford occasion to the
 “ civilized world to deduce that which would by no means
 “ be convenient! I acknowledge, and any one would confess,
 “ that there are notable differences between the case of
 “ Señor Gonzalez Ortega and mine. That gentleman was
 “ born in Mexico, and I in Austria; but universal justice
 “ makes no distinction as to our respective birthplaces.
 “ That gentleman, supported by a few partisans, proclaims
 “ himself abroad, President:—I, whilst in Miramar, am pro-
 “ claimed its Emperor, here in Mexico itself, by a multitude
 “ of villages, towns, and cities. Señor Ortega enters the
 “ Mexican territory secretly; and I present myself publicly,
 “ in the light of day, and before the face of the universe.
 “ That gentleman is consigned to a prison, and I am
 “ received with hearty demonstrations of popular rejoicing.
 “ That gentleman achieved no power over a foot of the
 “ soil; but my Government extends to nearly the whole
 “ country. In fine, Señor Gonzalez Ortega was not recog-
 “ nised by any foreign potentate; whereas I have been

" recognised, as Emperor, by all the European nations, and
" by some others.

" In making the preceding remarks, I do not, most
" assuredly, entertain the odious intention of constituting
" myself censor of your Government, Señor General ;
" neither am I the accuser of Señor Gonzalez Ortega : I
" have made them, because I have considered them to be
" relevant to the defence of my rights, and the demonstra-
" tion of that incompetency which I allege.

" The circumstance of my having consented to the
" adoption of any measure in the process which is being
" drawn up against me, ought not to be placed in opposition
" to my allegation ; because it is well known that the error
" of material incompetency cannot be remedied, either by
" consent, or by the appearance of the parties before a
" judge.

" Having no time for further remarks, I conclude by
" asking :—

" *First*, that you avow yourself to be incompetent.

" *Secondly*, that you order the suspension of all pro-
" ceedings in the process which is being drawn up against me
" in conformity with the law of the 25th of January, 1862.

" *Thirdly*, and consequently, that the ordinary court-
" martial provided by that law be not nominated, and much
" less installed. Its competency I do not recognise, but
" deny ; and decline its jurisdiction from this moment in due
" form.

" *Fourthly*, and lastly, that instructions be given in
" the proper quarter for ulterior measures.

" Finally, I say, that, in conformity with the frankness
" of my character, I ought not to conceal from you, Señor
" General, that an exact copy of this document remains
" in the possession of the Consul of Hamburg, in order that
" he may transmit it when an opportunity occurs, to the
" Diplomatic Body accredited to my person.

(Signed) " MAXIMILIAN.

" Licentiate JESUS MARIA VAZQUEZ.

" Queretaro, May 29, 1867."

PART III.

THE TRIAL.

SECTION II.

The Preliminary Defence made by the Advocates, Jesus Maria Vasquez and Eulalio Maria Ortega.

" To the Citizen General-in-Chief of the Northern Division
of the Army.

" We, the undersigned, Counsel for the defence of the
" Archduke Maximilian, before the Citizen General-in-Chief
" of the Army of the North, in accordance with law, and
" reserving all rights of protestation, say :

" That on our being informed that we had been named
" as the defenders of the said Archduke, who is to be tried
" before an ordinary court-martial, the first impression
" which such information had on us was an instinctive
" repugnance to admit that the present cause—so com-
" plicated and difficult—on which the eyes of the entire
" world will be fixed—can be decided with dignity by a
" military tribunal composed (with the exception of the
" President) of officers of an inferior rank in the army.
" The questions which are to be discussed and resolved in
" this case are so complicated, so grave, and so delicate,
" that it is impossible for subaltern officers—most worthy
" of the national gratitude for their valour, and the im-
" portant services recently rendered to the cause of the
" National Independence, but inexperienced in the neces-
" sary knowledge—to form a just opinion of the case, so as
" to be able to decide thereon in a manner which would not,
" in the opinion of civilised nations, compromise the good

“ name of the country, whose cause, nevertheless, they
 “ have so heroically defended with the sword. And if
 “ this was the immediate impression made on us by the
 “ first particulars which we received touching this affair,
 “ the deliberate meditation, the conscientious and impartial
 “ study we have since devoted to them, have only served to
 “ confirm and strengthen that opinion.

“ The Constitution of 1857—which introduced into our
 “ society such important and radical reform, and conse-
 “ quently provoked on the part of its enemies a resistance
 “ the tenacity of which has only been exceeded by the per-
 “ severance of its patriotic defenders—foresaw, in Article
 “ 128, that *its observance might be interrupted by any rebel-
 “ lion which, from public discord, might establish a Govern-
 “ ment contrary to what its principles sanctioned*; and it
 “ determined that, in such a case, as soon as the country
 “ should regain her liberty, its observance should be re-
 “ established; and that, in conformity with it, and the laws
 “ that might be enacted in virtue thereof, such persons as
 “ might have figured in the Government emanating from
 “ the rebellion, should be tried, as well as those who
 “ had co-operated in its establishment. Our client, the
 “ Archduke Ferdinand Maximilian, is to be tried for having
 “ been the Head of a Government which was established
 “ contrary to the principles of the Constitution of 1857; and
 “ therefore, according to the determination of Article 128 of
 “ that Constitution, he must be tried in conformity with it,
 “ and with the laws enacted by virtue of the same.

“ The said Constitution, referring to the judicial power
 “ of the Federation, provides, in Article 97, which is con-
 “ current therewith, Federal tribunals, to hear, amongst
 “ other causes, those in which the Federation should be a
 “ party. The Federation is a party in all causes in which
 “ it has an interest; and in what can it be more interested
 “ than in those in which it is intended to try actions which
 “ have infringed its rights—acts which have tended to
 “ destroy the Federal bond that unites the various States

“ of our great Confederation, by establishing in its place a
 “ personal Government, *i.e.* a Monarchy? It is very clear,
 “ then, that the case which has been ordered to be drawn
 “ up against the Archduke Ferdinand Maximilian, is one
 “ of those which devolve to be heard, according to Article
 “ 97 of the Constitution of 1857, by the tribunals of the
 “ Federation. In conformity with Articles 100, 104, and
 “ 105 of the same fundamental Code—of that Code which,
 “ in consequence of the contraventions it suffered almost im-
 “ mediately after its publication, was destined to be short-
 “ lived, but which, nevertheless, has struck deep roots into
 “ the heart of the Mexican people—the tribunals of the
 “ Federation are the Courts of the District and Circuit, the
 “ Supreme Court of Justice, and the Congress of the Union,
 “ in the exercise of its judicial functions. Upon these, and
 “ upon no other—upon them, and not upon any court-
 “ martial, either ordinary or extraordinary—does it then
 “ devolve to hear the cause in which the unfortunate accused
 “ has done us the honour to name us as his defenders.

“ But we may be told that these observations would
 “ be unanswerable if the law of the 25th of January, 1862,
 “ were not in existence, in conformity with which the present
 “ process was instituted, and is nothing less than that fore-
 “ seen by Article 128 of the Constitution of 1857, providing
 “ that those who may have figured in the established Govern-
 “ ment, in opposition to the principles of the Constitution,
 “ will be tried in accordance with the same, and with the
 “ laws which may have been enacted in virtue thereof. In
 “ reply to the objection which we thus voluntarily suggest,
 “ nothing remains to be done but to examine if the law of
 “ the 25th of January, 1862, according to which the present
 “ cause has been raised, is one of those enacted by virtue
 “ of the Constitution of 1857; and it is sufficient to pro-
 “ pound the question, since it cannot be answered except
 “ in the negative. Amongst the great conquests made by
 “ that Code, which has been adopted as a banner by the
 “ great Liberal party, and on which the dearest affections

“ of the Mexican people have been concentrated, the 1st
 “ section of the 1st chapter—which conserves and guarantees
 “ the rights of men, and secures their observance by the
 “ highest authority—is the part of that Code which (if
 “ there be therein any portion that merits greater eulogy
 “ than another) is the most important to society—the most
 “ worthy of profound meditation by thinking and intelligent
 “ men—the greatest title to glory that can be handed down
 “ to posterity, which the patriotic authors of that legislative
 “ monument can bequeath to their descendants. In that
 “ section they compressed, in precise and energetic terms,
 “ all the grand principles that political philosophy and the
 “ intellectual movement of the past and present century
 “ have succeeded in establishing in favour of humanity and
 “ progress. The titles of the dignity of man and of citizen
 “ are registered therein; his complete inviolability is esta-
 “ blished, and his absolute exemption from all control, with
 “ the exception of that of the law. And in that section
 “ principles are enunciated, against which the law of the
 “ 25th of January, 1862, is most distinctly at variance.

“ The 13th Article of that section declares—that no
 “ person in the Mexican Republic (no one, and therefore
 “ neither a native nor a foreigner) can be tried by *special*
 “ laws, nor by *special* tribunals. And the law of the 25th of
 “ January, 1862, is a *special* law; and the ordinary court-
 “ martials, to which the hearing of those causes referred
 “ to in the said law is confided, are *special* tribunals. It
 “ is true that the said article contains an exception—which
 “ is, that of military ordinances which subsist solely for those
 “ crimes and offences which are intimately connected with
 “ the military service. But the Archduke Ferdinand Maxi-
 “ milian did not belong to the army of the nation, and,
 “ consequently, the acts for which he is to be tried have
 “ no connection, either immediate or remote, with military
 “ discipline.

“ In the same section is the 23rd Article, which, besides
 “ announcing for a future period the complete abolition

“ of the penalty of death in all descriptions of crime (to
 “ prepare for which abolition the immediate establishment
 “ of the penitentiary system must be determined upon),
 “ declares that that penalty is, from that moment, *abolished*
 “ for all political offences. And the attempt to apply to Maxi-
 “ milian the law of the 25th of January, 1862, has no other
 “ tendency than the infliction of the penalty of death for a
 “ political offence; since that law imposes no other in the
 “ majority of cases it is intended to repress, and amongst
 “ them that which is charged against our client.

“ It is true that the article to which we refer esta-
 “ blishes another exception—which is, that the penalty of
 “ death may be imposed on a traitor to the country in a
 “ foreign war. But it is clear that Maximilian not being a
 “ native of Mexico, but of Austria, the charge of treason to the
 “ country does not operate against him; and therefore we
 “ find in this case, not the exception, but the general rule.
 “ Consequently, it is impossible, unless the simplest inspira-
 “ tion of common-sense be set aside, to pretend that the
 “ law of the 25th of January, 1862—which in its character,
 “ in the tribunals it establishes, and the penalty it imposes,
 “ is in perfect contradiction to the Articles 13 and 23 of the
 “ Constitution of 1857—must be regarded as one of the
 “ laws issued in virtue of that same Constitution. It is also
 “ true that the 29th Article of the Constitutional Code
 “ to which we are referring, authorizes, in case of public
 “ danger (such as that which has been experienced by our
 “ nationality in the French invasion, and the attempt to
 “ establish a Monarchy), a suspension, by certain acts and for-
 “ malities, of the guarantees decreed by the said Constitution.
 “ But it is equally true that the said article does not, even in
 “ the extreme cases to which it refers, authorize the suspen-
 “ sion of guarantees which protect the life of man; for they
 “ are therein expressly excepted, and of this class are those
 “ which are at variance with the law of the 25th of January,
 “ 1862. This law, therefore, even by virtue of extraor-
 “ dinary powers—decreeing the suspension of individual

“ guarantees—could not legally dictate the course which
 “ has been taken. In order to do so (since such a step
 “ would be tantamount to the derogation of the before-
 “ mentioned constitutional articles, and therefore a reform
 “ of the Constitution), it would have been necessary, accord-
 “ ing to Article 127 of the said code, that that change in
 “ the legislation should be effected by the votes of two-
 “ thirds of the members of the Congress of the Union, and
 “ with the approbation of the majority of the Legislatures
 “ of the States.

“ At all events, Señor, there is nothing more worthy of
 “ respect than the invocation of the law, particularly when
 “ it is a fundamental law which has to be obeyed. But if
 “ this be the case, even treating of a cause which neither in
 “ its nature, nor in the person of the accused, attracts public
 “ attention; the duty to respect the prescriptions of the law
 “ reaches an extreme point, when it relates to an affair
 “ which will be echoed throughout the entire civilized
 “ world, and on which both Mexicans and foreigners have
 “ to freely express their opinions. If in it the fate of Maxi-
 “ milian is to be decided, all civilized countries will, in due
 “ course, examine critically all and every one of the acts
 “ of the process; they will pronounce on the conduct of
 “ every person who takes a part therein; and that judgment
 “ will be so much the more grave in so far as, if it be favour-
 “ able, it will operate in honour of the country; but if it be
 “ adverse, it will operate to its prejudice. One of the prin-
 “ cipal duties of man is that which is incumbent upon him
 “ in the conservation of his own reputation; but when that
 “ is closely linked with the religious sect to which he
 “ belongs, with the political community of which he is a
 “ member, with that of the nation in which he was born—
 “ that duty assumes proportions almost infinitely more pro-
 “ minent. A private duty is converted into a public one,
 “ the fulfilment of which constitutes one of the relatively
 “ most important acts of patriotic abnegation. The public
 “ man who, in raising himself above the transient outburst

“ of passion, does that which he believes will promote the
 “ fame of the nation, and conduce to its properly understood
 “ interests, deserves well of the country. Thus, the Citizen
 “ General whom we have the honour to address—who, during
 “ the protracted days of the siege of Queretaro, opposed the
 “ imprudent impatience which existed to undertake the im-
 “ mediate possession of the city, by forbearing to make
 “ hazardous operations, which might have compromised the
 “ result of the cause under his charge—witnessed the
 “ triumph of his efforts in the most complete victory
 “ recorded in the annals of our wars.

“ The force of the foregoing observations prodigiously
 “ increases, if it be considered that, in consequence of the
 “ struggle which the nation has had to sustain to save
 “ her independence, the public and judicial organization of
 “ the country, required by the Constitution of 1857, is in-
 “ complete. The Federal tribunals ordered to be established
 “ by that Constitution, and which, in conformity with
 “ Articles 97 and 128 of the same, should take cognisance
 “ of the acts of which our client is accused, do not at this
 “ moment exist. If they existed, we should have appealed
 “ to them, in order that, in defence of their constitutional
 “ jurisdiction, they might demand the hearing of the
 “ present trial. As this impossibility *de facto* exists,
 “ preventing us from making use of this appeal, our client
 “ is deprived, *de facto*, of one of the remedies granted to him
 “ for his defence by the laws of the country in which he
 “ is being tried. And that deprivation, which is not legal,
 “ but has emanated purely from *de facto* circumstances,
 “ would immediately constitute a bar to the proceedings.

“ It is very certain that the jurisdiction to which this
 “ grave cause is committed should be impartial; inspiring
 “ every kind of confidence, that the high interests of the
 “ Federation which are to be ventilated, will be thoroughly
 “ discussed; and that too with the jealous care which, ac-
 “ cording to constitutional principles, they ought to receive.

“ The district tribunal does not exist, nor does any other

“ of the Federation, to which an appeal ought to be made in
 “ order to initiate a competence which justice exacts and
 “ the public necessity demands. There is no tribunal to
 “ recur to in case of the refusal of an appeal. Will not this be
 “ worthy of being taken into consideration by the General-
 “ in-Chief, or by the Supreme Government, in the most
 “ notable cause which, perhaps, can be found in the annals
 “ of the political proceedings of this continent? Tribunals
 “ of appeal hold a sacred trust, for they constitute a
 “ guarantee against undue influence, or resolutions come to
 “ under excitement. What course, then, should be adopted
 “ under such exceptional circumstances as those of this
 “ cause? The honour of the defenders, their love for the
 “ country and Liberal principles, demand that if any doubt,
 “ however slight, exists in the mind of the General-in-Chief,
 “ the prosecutor or assessor, they should consult the
 “ Supreme Government as to whether these tribunals may
 “ be organized, in order to prevent the accused being
 “ deprived of his legal means of defence.

“ Therefore, we, in the most respectful and earnest
 “ manner, supplicate the General-in-Chief of the Army of
 “ the North, that he may be pleased to declare that an ordi-
 “ nary court-martial is incompetent to hear the cause raised
 “ against the Archduke Maximilian; and direct that it
 “ should be heard by the tribunals of the Federation, in
 “ conformity with the Constitution of 1857: or at least, if it
 “ should appear to him that this resolution is of so grave a
 “ nature as to prevent him from taking upon himself the
 “ responsibility of dictating it, that he will consult with the
 “ Supreme Government on the points referred to, remitting
 “ to it the original, or a copy, of this document, which would
 “ be just.

(Signed) “ LICENTIATE JESUS MARIA VAZQUEZ.

“ LICENTIATE EULALIO MARIA ORTEGA.

“ Queretaro, June 6, 1867.”

PART III.

THE TRIAL.

SECTION III.

DEFENCE

OF THE

ARCHDUKE MAXIMILIAN,

Read in the Theatre of the City of Queretaro, on June 13, 1867,

BY HIS COUNSEL,

CITIZENS LICENTIATES JESUS MARIA VAZQUEZ,

AND EULALIO MARIA ORTEGA,

Before the Ordinary Court-Martial, composed of

CITIZENS LICENTIATE COLONEL PLATON SANCHEZ,

PRESIDENT;

CAPTAINS JOSÉ VICENTE RAMIREZ AND EMILIO LOJERO,

(Commanders of Battalion.)

CAPTAINS IGNACIO JURADO, JUAN RUEDA Y AUZA,

JOSÉ VERASTEGUI, AND LÚCAS VILLAGRÁN,

JURORS;

FISCAL, LIEUT.-COL. LICENTIATE MANUEL AZPIROZ;

ASSESSOR, LICENTIATE JOAQUIN M. ESCOTO.

“ MR. PRESIDENT AND GENTLEMEN,

“ The advocates of the Archduke Maximilian, in the
 “ fulfilment of the grave and delicate duties they contracted
 “ by undertaking his defence, which they had the honour
 “ to have entrusted to them, considered it legally incumbent

“ of the Federation, to which an appeal ought to be made in
 “ order to initiate a competence which justice exacts and
 “ the public necessity demands. There is no tribunal to
 “ recur to in case of the refusal of an appeal. Will not this be
 “ worthy of being taken into consideration by the General-
 “ in-Chief, or by the Supreme Government, in the most
 “ notable cause which, perhaps, can be found in the annals
 “ of the political proceedings of this continent? Tribunals
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 “ guarantee against undue influence, or resolutions come to
 “ under excitement. What course, then, should be adopted
 “ under such exceptional circumstances as those of this
 “ cause? The honour of the defenders, their love for the
 “ country and Liberal principles, demand that if any doubt,
 “ however slight, exists in the mind of the General-in-Chief,
 “ the prosecutor or assessor, they should consult the
 “ Supreme Government as to whether these tribunals may
 “ be organized, in order to prevent the accused being
 “ deprived of his legal means of defence.

“ Therefore, we, in the most respectful and earnest
 “ manner, supplicate the General-in-Chief of the Army of
 “ the North, that he may be pleased to declare that an ordi-
 “ nary court-martial is incompetent to hear the cause raised
 “ against the Archduke Maximilian; and direct that it
 “ should be heard by the tribunals of the Federation, in
 “ conformity with the Constitution of 1857: or at least, if it
 “ should appear to him that this resolution is of so grave a
 “ nature as to prevent him from taking upon himself the
 “ responsibility of dictating it, that he will consult with the
 “ Supreme Government on the points referred to, remitting
 “ to it the original, or a copy, of this document, which would
 “ be just.

(Signed) “ LICENTIATE JESUS MARIA VAZQUEZ.

“ LICENTIATE EULALIO MARIA ORTEGA.

“ Queretaro, June 6, 1867.”

PART III.

THE TRIAL.

SECTION III.

DEFENCE

OF THE

ARCHDUKE MAXIMILIAN,

Read in the Theatre of the City of Queretaro, on June 13, 1867,

BY HIS COUNSEL,

CITIZENS LICENTIATES JESUS MARIA VAZQUEZ,

AND EULALIO MARIA ORTEGA,

Before the Ordinary Court-Martial, composed of

CITIZENS LICENTIATE COLONEL PLATON SANCHEZ,

PRESIDENT;

CAPTAINS JOSÉ VICENTE RAMIREZ AND EMILIO LOJERO,

(Commanders of Battalion.)

CAPTAINS IGNACIO JURADO, JUAN RUEDA Y AUZA,

JOSÉ VERASTEGUI, AND LÚCAS VILLAGRÁN,

JURORS;

FISCAL, LIEUT.-COL. LICENTIATE MANUEL AZPIROZ;

ASSESSOR, LICENTIATE JOAQUIN M. ESCOTO.

“ MR. PRESIDENT AND GENTLEMEN,

“ The advocates of the Archduke Maximilian, in the
 “ fulfilment of the grave and delicate duties they contracted
 “ by undertaking his defence, which they had the honour
 “ to have entrusted to them, considered it legally incumbent

" on them to decline the jurisdiction of the court-martial,
 " before which they have the honour to speak, and to pro-
 " test against the evident unconstitutionality of the law of
 " the 25th of January, 1862, by the prescriptions of which
 " the proceedings in this cause have been regulated. This
 " cause is unique in its character; not only in the judicial
 " annals of our nation and continent,—embracing such
 " grave and delicate questions—but so new, also, in common,
 " international, and constitutional law, that even for pro-
 " fessors of jurisprudence, who have made the study and
 " consideration of this science the occupation of their lives,
 " it would be difficult, without profound, prolonged, and
 " conscientious meditation, to form a proper and just opinion
 " thereon; to make a defence which would embrace all the
 " points that should be touched upon; or to pronounce, as
 " jurists, a verdict on each of these points with impartiality,
 " equity, and justice.

" If these difficulties be encountered even by persons
 " who have grown old in the direction of judicial affairs, the
 " study of which has been the business of their life, what
 " difficulties may not be encountered in order to pronounce
 " a sentence!—How great the gravity of the errors which,
 " even in the utmost good faith, might be incurred in doing
 " so, by young officers who have just demonstrated on the
 " battle-field their martial valour and their patriotic senti-
 " ments, unfurling victoriously from tower to tower the
 " banner of the Independence of the Republic and Liberty,
 " but who are wholly strangers to the study of moral
 " science, and whose very youthfulness, and the consequent
 " ardour of their passions, incapacitates them from pro-
 " nouncing on an affair, which, in order to arrive at a just
 " decision, demands, as the principal qualities, circumspec-

" tion, prudence, and moderation! Without neglecting their
 " duties in a most flagrant manner, in the presence of such
 " obvious and natural reflections—which are instinctively
 " inspired by the slightest attention to the affair—it was
 " impossible that the advocates for the defence should fail to
 " oppose a court-martial by the plea '*declinatoria de juris-*
 " '*diction,*' which is based not only on the law referred to,
 " but also on the most express and definite provisions of
 " the Constitutional Code of 1857, which most effectually
 " triumphed in 1860, and which has also just now obtained
 " a more splendid victory in the present year 1867.

" It is according to *that* Code (Article 128)—in con-
 " formity therewith and with the laws that may have been
 " made by virtue of the same—that the acts which may
 " have contributed in establishing a Government contrary
 " to the principles of that constitutional ordinance ought to
 " be tried.

" According to that Code—Article 97, Division III., as
 " to the Federal tribunals, which, by Articles 104 and 105,
 " are the Congress of the Union (when it exercises judicial
 " functions); the courts of districts, of circuits, and the
 " Supreme Court of Justice—it belongs to them to hear
 " causes in which the Federation may be a party.

" In no cause is the Federation more clearly a party;
 " in none has it a graver or more legitimate interest, than
 " in those, like the present, in which the accused are charged
 " with actions directed to destroy the said Federation—to
 " break the Federal bond, and to substitute in its stead per-
 " sonal or autocratic political institutions, such as are the
 " monarchical.

" Article 13 of the said Constitution of 1857 prohibits
 " in the most formal terms the enactment of special laws

“ and the establishment of special tribunals; and a *special law* it is which commends the repression of a certain class of crime to a jurisdiction which is not an ordinary constitutional jurisdiction; and *special tribunals* are the military tribunals, whose jurisdiction is reserved, by the same article, solely for those crimes and offences which have positive connection with military discipline, to which a person like the Archduke Maximilian is not subjected; for he, not having previously belonged to the army of the country, is not subjected to the *special* rules and laws by which that army may be governed.

“ The same constitutional Code (Article 23) declares the immediate abolition of capital punishment for political offences, with the only exception of treason to the country in a foreign war; an exception in which our client cannot be comprehended, inasmuch as he, not having been born in Mexico, but in Austria, the acts of which he is accused cannot be construed into the crime of treason to the country: for it is avowed that these acts were committed, not to the injury of the latter, but to the former of these two nations; and even if they had been committed to the injury of the latter (Austria), the Mexican tribunals would not be competent to chastise injuries done to a Germanic country.

“ And although the law of the 25th of January, 1862, was enacted, putting into full force the extraordinary powers which were granted by virtue of the provisions contained in Article 29 of the Constitution of 1857, the suspension of guarantees which this article authorises in extreme cases of public danger, on one hand does not embrace the guarantees which protect the life of man, to which class belong those consigned in Articles 13 and 23; and, on the other hand, they cannot be maintained after

“ the public danger has passed away. This has already occurred, thanks to the repeated and splendid victories obtained by the gallant Republican troops.

“ Notwithstanding the arguments which precede the appeal, this has not been admitted. We have appealed against the proceedings which contain that resolution, but that appeal has also been refused; we have interposed the plea on a denial of appeal, and although instructions were given to deliver the proper certificate, that was not handed to us without considerable delay, in consequence of the first issue not having been framed in due form; and even in that which has at last been delivered to us, is to be observed the omission of not having designated therein, as ordered by law, the time in which it should be presented, (taking the distance into consideration.)

“ It has been impossible to make use of this certificate as yet, as the tribunal which should hear the plea on the rejected appeal does not exist, in consequence of the political and judicial organisation of the Republic being incomplete, arising from the circumstances which the country has just gone through.

“ Neither do the tribunals of the Federation exist to which we should have had recourse in order that, in defence of its constitutional jurisdiction, they should call on the military authorities to deliver to them the hearing of the cause.

“ In this way our unfortunate client, who has experienced the extremes of prosperous and adverse fortune, has been deprived, by circumstances over which he has no control, of the use of the legitimate defence which our laws freely concede to him,—laws, whose humane, liberal, and philanthropic principles have drawn praise from an

“ eminent American juriconsult on the Mexicans as an
 “ enlightened people.

“ The brief remarks just made—which show that, without
 “ any legal ground, the doors to a legal appeal and defence
 “ to which our unfortunate client had an incontrovertible
 “ right, have been again and again closed—would justify
 “ the advocates, in conformity with the laws, to decidedly
 “ refuse entering into a discussion on the merits of the case.

“ Every step taken by an incompetent tribunal labours,
 “ *ipse jure*, under an irretrievable error of nullity, from the
 “ very commencement of the process which ordered the
 “ proceedings to be opened, even to the definitive sentence
 “ which terminates it by absolving or condemning.

“ After the appeal, twice made, was rejected, and the
 “ accused was deprived of the right to examine the judicial
 “ proceedings that decided those two articles by the
 “ Tribunal of Appeal, which could either confirm or revoke
 “ them, the defenders might legitimately refuse to debate
 “ on the merits of the case before an incompetent tribunal,
 “ whose sentence, for want of any jurisdiction, must be held
 “ as invalid. But as this conduct, although legal, might
 “ produce an unfavourable effect against our client, by evil-
 “ disposed and prejudiced persons attributing it to a want
 “ of sufficient grounds to establish the fact that he ought to
 “ be absolved, the consideration of convenience compels us,
 “ as defenders, to depart from what would be the strict
 “ practice in law, and to adduce only some of the numerous
 “ observations which tend to exculpate the accused, as it is
 “ impossible to go through the whole of them, in consequence
 “ of the painfully limited period in which it has been com-
 “ pulsory to prepare and draw out the defence.

“ This, however, will not be a perfect fulfilment of the

“ duty of the defenders, which comprises that of protesting,
 “ in the most formal and solemn manner, that the discussion
 “ on the merits of the case, which they are about to enter
 “ upon, does not on their part imply in the slightest degree
 “ the acknowledgment that the ordinary Court-martial, which
 “ they have the honour to address at this moment, is com-
 “ petent to judge the Archduke Maximilian, nor that the
 “ law of the 25th of January, 1862, is constitutional. On
 “ the contrary, the opinion they have given in the pro-
 “ ceedings on both points is profound, conscientious, and
 “ insurmountable; and therefore, they, in every legal form,
 “ and in the most explicit manner, reserve all the rights
 “ which their client has on those points to declare, at all
 “ times, null and void all and every one of the steps
 “ taken, as well as the sentence which may be given in this
 “ cause; together with his further right to make use of
 “ them in such a manner, time, and place as he may think
 “ fit, notwithstanding the former reservation. The duties
 “ undertaken by the defenders impose upon them the im-
 “ perative obligation to declare, most distinctly, that they
 “ do not in any respect admit the competency of the tri-
 “ bunal, nor that the law is constitutional, in conformity
 “ with which we shall continue the proceedings in defending
 “ the Archduke Maximilian, and in demonstrating that he
 “ cannot in any way be condemned, and that he must
 “ necessarily and inevitably be acquitted.

“ The principal ground of this argument is taken from
 “ the nature of the process which has been raised.

“ The object of the process in criminal cases is to gather
 “ and produce the data which may exist as to whether a
 “ certain crime has been committed or not; and, on finding
 “ that it has been committed, to determine what is the

“ position of the delinquent : in a word, to obtain the proofs
 “ which should go to establish the charges against the
 “ accused. But in the process which now occupies our
 “ attention, the production of such proofs has not in the
 “ least degree been thought of. The process is composed
 “ of the supreme orders given for the formation of the cause
 “ and its prosecution ; the preparatory declarations of the
 “ accused ; the charges brought against them ; and of the
 “ incidents connected with the plea of incompetency.

“ Neither does there exist a single proof, by way of
 “ witness or document, by which it can be attempted to
 “ establish any of the charges made against our client.

“ We are in error if there is any proof whatever as to
 “ one of the charges—viz., that which is made against our
 “ client of having declined the jurisdiction of the incom-
 “ petent tribunal by which he is being tried, in virtue of an
 “ anti-constitutional law such as that of the 25th of January,
 “ 1862. For, in the first place, this pretended accusation is
 “ no such thing, for never, by any legislation in the world,
 “ has it been accounted a crime on the part of a person
 “ accused to employ in his defence the resources conceded
 “ by law, even when the tribunal which had to judge of
 “ their validity might not consider them tenable ; and,
 “ again, the proof of this pretended accusation which exists
 “ in the judicial proceedings, is no other than the very docu-
 “ ment itself containing the plea as to incompetency. It
 “ is not the enquiry which ascertained the existence of that
 “ proof, and took care that it should remain in the judicial
 “ proceedings ; but it was the accused himself who supplied
 “ it, in his availing himself of the plea, by making use of
 “ which it is attempted to constitute one of the charges
 “ made against our client. Not in his favour, but in honour

“ of the country and the Republican cause—for, before and
 “ beyond being advocates, we are Mexicans, Republicans,
 “ and Liberals—we should have been glad if the judicial
 “ formality of accusation in a cause, the particulars of
 “ which will be published in all languages by the Public
 “ Press of the Old and New World, had been prepared
 “ with greater meditation, circumspection, impartiality, and
 “ deliberateness. Now that the fortune of war has been
 “ adverse to the Archduke Maximilian—now that he suffers
 “ imprisonment, breathing in a hot climate the fetid and
 “ insalubrious miasms of a barrack—now that he endures
 “ the horrible anxiety and moral sufferings connected with
 “ the torturing tests of a political process, in which honour
 “ and life are at stake,—what could be more desirable
 “ than that the groundless charges made against him should
 “ reveal the violence and blindness of the political passions,
 “ under whose influence the progress of this affair is pro-
 “ ceeded with ? The Fiscal, Lieutenant-Colonel Azpiroz (to
 “ whom the defenders are happy to render this homage of
 “ justice), is a person as intelligent as he is moderate and
 “ well-educated ; his manners and customs are those of a
 “ perfect gentleman ; his original profession, that of a lawyer
 “ —from the exercise of which he was drawn by the patriotic
 “ sentiments which impelled him to defend his country with
 “ his sword—has created in him habits which manifestly
 “ should have protected him from the infection of those
 “ passions. Nevertheless, the whole tenor of the indictment
 “ shows that he has not been able to completely withdraw
 “ himself from its influence : for if he were not under that
 “ influence, it would be inexplicable that amongst the
 “ charges should be included the exercise of a legal remedy
 “ which is not denied to the greatest criminals, when they

“ are submitted to the action of the law. We repeat that
 “ in the mournful situation in which our client is placed, there
 “ could not have been for him a more favourable circum-
 “ stance than that indicated ; inasmuch as it discloses the
 “ fact that he is being tried by passion and prejudice, and
 “ not by justified impartiality. And if this be the case, our
 “ duty, as defenders—with perfect consistency as Mexicans,
 “ as Liberals, and as Republicans—has compelled us to make
 “ the preceding observations, which, at the same time that
 “ they invalidate the accusation, also manifest that it is not
 “ the reasonable, humane, and magnanimous nation, but
 “ the terrible effervescence of the passions consequent on a
 “ hard, cruel, and long-sustained war, which desires to act
 “ with severity towards our client.

“ The obvious and natural reflections inspired by one of
 “ the charges made against him—a frivolous and puerile
 “ charge, which ought not to have been allowed to pass
 “ without rectification—have for a moment caused us to
 “ wander from the point to which we were referring : namely,
 “ the nature of the process that has been raised, which is not
 “ in compliance with the object of every process in law—that
 “ is, to collect and file amongst the judicial proceedings all
 “ the proofs which justice succeeds in obtaining respecting
 “ one or more crimes having been committed, and that such-
 “ and-such a one is the person who committed them. We
 “ repeat, that no proofs of the charge, either by witnesses
 “ or documents, exist in the judicial proceedings, with the
 “ exception of a frivolous one, in which it is attempted to
 “ pervert the legitimate use of a certain resource expressly
 “ sanctioned by the laws. Not a single witness has been
 “ examined, not a single document has been produced,
 “ which tends to prove that the crimes have been committed

“ with which the Archduke Maximilian has been charged,
 “ nor that he is the author of the acts that constitute those
 “ crimes. The preparatory declaration of our client was
 “ taken—no formal examination relative to his person was
 “ afterwards entered into—for all those charges which exist
 “ in the judicial proceedings refer to the appointment of ad-
 “ vocates for the defence, applications for postponement, and
 “ questions as to the competency of the tribunals ; and with-
 “ out any other steps these charges against our client were
 “ proceeded with. With such depositions it was legally im-
 “ possible to make those charges. Thus, our client might
 “ have been guilty of the most odious crimes of the common
 “ order—treacherous and secret assassination, poisoning,
 “ and parricide ; but on depositions, such as *they* are, upon
 “ which the present process has been based, neither of those
 “ charges could be made against him : he could not be con-
 “ demned for either ; he must necessarily be acquitted from
 “ all, because there does not exist in the cause any data on
 “ which the accusation is grounded. It is evident that this
 “ difficulty was not foreseen by the Fiscal, but that, practi-
 “ cally, he stumbled upon it in the act of receiving the
 “ accusation, as it was requisite to allege *something* on
 “ which to ground the charges which he made ; and he could
 “ do nothing more than refer, in a vague and indefinite
 “ manner, to public notoriety. But a person of such intelli-
 “ gence as the Fiscal who—having been a man of the law
 “ before he was a man of the sword—knew how to apply
 “ himself to the practice of his previous profession, when the
 “ circumstances do call him to do so, cannot be
 “ ignorant ; and if in the discharge of his new duties he has
 “ forgotten it, it is easy for him to recollect that, in order to
 “ allege public notoriety as a proof of an act, it is necessary

“ also to prove public notoriety in evidence by those means
 “ and conditions which are required by law ;—as is clearly
 “ laid down by authorities. To allege public notoriety in
 “ support of an act, without establishing the existence of
 “ that public notoriety in some other way than the *ipse dixit*
 “ of the prosecutor making use of it—for the Fiscal has no
 “ other character than that of prosecutor—is a thing never
 “ seen nor heard of in the judicial annals of any country.

“ That we may not be accused of inventing at our plea-
 “ sure a theory which harmonises with our case, with the
 “ simple object of defending the accused, this tribunal will
 “ permit us to adduce a few precedents, amongst the thou-
 “ sands which we might refer to, on the nature, conditions,
 “ and requisites by which public notoriety should be proved
 “ in order that it may serve as judicial proof of an act. And
 “ it cannot be wondered at that the precautions required
 “ by law are so numerous, and of so rigorous a nature,
 “ in the admitting of public notoriety as one species of
 “ judicial proof—because, philosophically considering the
 “ matter, it is apparent that the admission of it (which is
 “ allowed) is the introduction of an exception to the grand
 “ principles of our laws in the matter of proofs. According
 “ to our legislation, hearsay testimony is not received. The
 “ Law 28, cap. 16, sec. 3, on deciding what must be the
 “ origin of the evidence of the witness touching the question
 “ on which he gives his testimony, demands, in order that
 “ it may have any effect, that he speaks from having wit-
 “ nessed it ; but if he should say that he was aware of the
 “ fact from hearsay, the law decides, *Non cumplo lo que*
 “ *testigua*. According to our laws, two respectable wit-
 “ nesses, actually present, form a full proof. Therefore,
 “ when two attestations of this nature are produced, by

“ which an act is fully and directly proved, it is unnecessary
 “ to appeal to indirect proof, such as public notoriety.

“ Escriche, in his ‘ Dictionary on Legislation ’ (Paris edi-
 “ tion of 1852), under the head ‘ *Fama*, ’ says, respecting it
 “ (public notoriety), the following : ‘ To admit common fame
 “ as proof, it is necessary, first, that it should be derived
 “ from certain persons who are serious, honest, trustworthy,
 “ and disinterested, without taking into consideration that
 “ which emanates from malicious, suspicious, or interested
 “ persons ; secondly, that it be grounded on probable causes,
 “ so that the witnesses who bear testimony respecting the
 “ existence of the report, have not only to declare the per-
 “ sons of whom they heard the matter in question, but
 “ they must also explain the reasons which induced the
 “ public to believe in it ; thirdly, that it refer to a period
 “ anterior to the charge, for otherwise it may be presumed
 “ that the charge gave rise to the report ; and fourthly,
 “ that it should be uniform, constant, persistent, and incon-
 “ trovertible, so that one report should not be contradicted
 “ by another report. Even in the clashing of a good report
 “ with another that is bad, the good is to be preferred,
 “ although the witnesses may not be so many who bear
 “ testimony to the former as those who affirm the latter.
 “ Common fame or notoriety is held to be proved by the
 “ testimony of two or three witnesses, who are serious,
 “ worthy of credit, and of age when they swear that it is
 “ the mind of the greater part of the people.’

“ But, for the same reason that the admission of public
 “ notoriety, as a legal means of proof, is an exception to the
 “ principle laid down by our laws, that hearsay testimony
 “ cannot be received, that exception is not admitted in law

" except on the most cautious and limited terms. It does
 " not constitute full proof, in any other than civil causes of
 " little moment, and in cases wherein grave interests are
 " not compromised. When the question is of a grave nature,
 " it is only admitted as imperfect proof, and in criminal
 " cases it is of no value whatever. This doctrine is sup-
 " ported by the same author, as well as by others. The
 " words of Escriche are as follows:—'Common fame, al-
 " though it may be proved, does not of itself constitute a
 " full proof, because it is often fraudulent and deceptive;
 " and, as the canonical law says (*cap. cum in multitudo 12*
 " *de purgation. can.*), *dictum unicus facile sequitur multitudo.*
 " It occasionally happens, that a man capriciously speaks
 " against another without any other foundation than
 " that of an inexact information, or from a secret an-
 " tipathy, the cause of which is perhaps unknown even to
 " himself; hearers directly take a pleasure in spreading
 " the report; the particulars become multiplied, and
 " steadily increase; an opinion is formed, and communi-
 " cated like a disease; it is insensibly adopted by the cre-
 " dulous populace, who are easily surprised; and thus
 " common fame is formed, which, perhaps, may condemn
 " the innocent. Of what weight, then, is common fame?
 " An echo which repeats sound, and multiplies it infinitely:
 " the echo of the voice of a man who, perhaps, spoke in
 " jest—who, perhaps, wished to impair the reputation of a
 " virtuous person opposed to his wicked designs—or, per-
 " haps, who purposed to hoax the public. Common fame,
 " then, will not be a sufficient proof to impose a penalty,
 " because, for such a purpose, proofs clearer than light are
 " required; nor even to arrest a person, and force him to
 " the tribunal of justice. But if any substantial evidence

" of a crime exists, it will be a sufficient warrant for making
 " an enquiry; and, in case of there being any confirma-
 " tory indication against the person named by the common
 " voice, proceedings may be taken against him, inasmuch as
 " it is important that crimes should not remain unpunished.'
 " *Vera es Baldi sententia*, says Argenteo; '*famam non*
 " *esse per se speciem probationis, sed egere adminiculis et sub-*
 " *stantia veri, et valere ad inquirendum, non ad judicandum,*
 " *et circa preparatoria, non circa decisoria.*' Ferraris also
 " states, in an express and formal manner, as follows:—
 " *Fama regulariter loquendo de per se non facit plenam pro-*
 " *bationem . . . facit tamen semiplenam probationem in*
 " *causis civilibus, secus autem in criminalibus, ubi requi-*
 " *runtur probationes indubitatae et luce meridiana clariores.*'

" Murillo, under the same head, inculcates doctrines
 " substantially in accord with the foregoing. He says:
 " *Fama igitur in civilibus facit plenam probationem, quando*
 " *res est modici prejudicii, vel quando agitur de peccato*
 " *vitando . . . In criminalibus autem, etiam legitime pro-*
 " *bata, cum in his causis ob earum gravitatem et præjudi-*
 " *cium liquidissimæ probationes requirantur, nec semiplene*
 " *probat, nec ad torturam sufficit, sed tantum ut ad inquisi-*
 " *tionem specialem diffamati procedatur.*'

" Also Febrero, under the same head (Book iii. tit. 2,
 " chap. 12, No. 108), denies all probatory value to public
 " report in criminal cases; and even in civil causes, he con-
 " cedes to it still less force than the authors referred to, ex-
 " pressing himself thus: 'The evidence of common report,
 " given by persons fearing God and worthy of credit, is ordi-
 " narily produced as imperfect, or half-proof, although it be
 " left to the discretionary power of the judge to consider the
 " attention it deserves; bearing in mind the nature of the

“ ‘ proof, the causes, conjectures, and persons from whence
 “ ‘ it originated, the graveness of the matter in dispute, and
 “ ‘ other circumstances ; it being understood that authors
 “ ‘ are at variance on the point as to whether report is indeed
 “ ‘ half-proof, even in civil causes—it being so fallacious, and
 “ ‘ also so easy for the many to be led by the report of one
 “ ‘ individual. Be this as it may, it is not proof in criminal
 “ ‘ cases, because that ought to be as clear as light, conclu-
 “ ‘ sive and indubitable ; and no decision can be given on
 “ ‘ suspicion.’

“ For the same reason, in virtue of the preceding ob-
 “ servations—besides that the Archduke Maximilian cannot
 “ be tried by an incompetent tribunal, nor by any anti-con-
 “ stitutional law, even if the jurisdiction and the procedure
 “ were not exposed to such grave objections—he could not
 “ be condemned, but, on the contrary, he should certainly
 “ be acquitted, in consequence of the process having been
 “ made in such a manner that there does not exist therein
 “ any proof whatever on which to support the charges
 “ alleged. Everything that is adduced in their support is
 “ a vague and indefinite public notoriety, the existence of
 “ which (as has been shown) it would have been necessary
 “ to prove ; but that has not even been attempted. But
 “ even if it could be maintained in the manner required in
 “ criminal cases—in which proofs are exacted as clear as the
 “ light of noon, and which, according to Febrero (Law 12,
 “ tit. 14, part iii.), cannot be decided upon suspicions—public
 “ notoriety is in every respect inadmissible in the present
 “ case as a means of legal proof, even if it legitimately
 “ appeared in the proceedings.

“ Nor let it be said that the preceding observations
 “ would be applicable if the procedure were an action at

“ common law, but not in a case supported in accordance
 “ with a law of circumstances, particular, special, and excep-
 “ tional, and that, consequently, by observing this law, there
 “ is no necessity to observe, in the present case, the rules just
 “ referred to, because they are only applicable to common
 “ law, from which we find ourselves excluded : for, in the
 “ first place, however exceptional this law may be supposed
 “ to be, it is not so determined in any of its articles, and
 “ it could not have intended that any person should be con-
 “ demned on charges of which no proofs are presented ; and
 “ in this case the sole allegation is founded on public noto-
 “ riety, which, itself being ‘ non-proven,’ is reduced, in a last
 “ analysis, to the simple statement of the accuser. And in
 “ the second place, so far from there existing in the law of the
 “ 25th of January, 1862, any article which could convey an
 “ idea so inadmissible, the contrary is the case ; for that law
 “ contains a clause which confirms, that even in the excep-
 “ tional legislation, on the point which we have to discuss,
 “ those principles ought to be observed that have been esta-
 “ blished by the preceding observations. In the 6th article
 “ of the law of the 25th of January, 1862, it is provided, that
 “ as soon as the military authority receives intelligence of
 “ either of the offences specified therein having been com-
 “ mitted—whether through public report, an informer, or
 “ accusation, or by any other means—it shall proceed to
 “ institute the proper investigations, in conformity with the
 “ General Ordinance of the Army and the law of the 15th of
 “ September, 1857. Observe, in the first place, that the
 “ said law, by assigning public report as one of the warrants
 “ for proceeding to form a process, does not, in criminal
 “ matters, give it any other power than that which is set
 “ out by one of the authors above cited, viz. Murillo, when

" he says: '*Tantum sufficit ut ad inquisitionem specialem*
 " '*diffamati procedatur.*' That article treats of both denun-
 " ciation and accusation; and, inasmuch as these do not
 " possess the character of judicial proofs of the charge,
 " but can only serve as warrants to proceed in virtue thereof
 " to form the process, that is also the only legal result
 " that can be effected by public report, in the treatment
 " of a criminal case, as in the present instance; but, more-
 " over, in the said Article 6 of the law of the 25th of
 " January, 1862, on which we are now occupied, it is not
 " only declared that the only legal result that it can have is
 " simply a ground for enquiry; but it also provides that, in
 " the causes referred to by the said law, the investigation
 " shall be instituted in conformity with the general Ordi-
 " nance of the Army, and the law of the 15th of September,
 " 1857, which, in its terms, remits to the same ordinance all
 " the points which it does not especially decide upon.
 " Well, then, it is sufficient to peruse chapter 5, treatise 8,
 " of the said ordinance, and that part of Colon's work on
 " Military Tribunals, in which he explains the doctrine con-
 " tained in the said chapter and treatise, to meet at every
 " step with provisions and doctrines, which manifest that
 " all the allegations that can be made in favour or against
 " the accused before a court-martial, must necessarily and
 " positively be founded on the statements made in the
 " process. Colon, in his work cited (vol. iii. No. 558), ex-
 " plaining the mode of making out an indictment against an
 " offender, declares, that one of the most important obliga-
 " tions of the prosecutor is not to make the charges with
 " cavillations and sophisms, without attending to those points
 " which throw light on the judicial proceedings; and at the
 " end of the said number he explains that the charges and

" criminations are according to the tenor of the declara-
 " tions he himself may have given, and those made by
 " witnesses. Further on, in No. 560, he recommends to the
 " fiscal prosecutor, that in order carefully to prepare the
 " judicial formality of an accusation, he should previously
 " deliberately make himself perfectly acquainted with the
 " declarations of the witnesses, and with those which the
 " accused may have made, in order to take upon himself
 " the responsibility of what may result in the process
 " against him; and from all, to form a concise abstract for
 " direction in the interrogatory, which abstract must be ex-
 " plicit, distinguishing that which is fully proved from that
 " which is not, in order to make a distinct charge against the
 " prisoner, and to convict him. The same author, in No. 555,
 " speaking of the same formality of indictment against the
 " prisoner, says that he is to be indicted by making the charge
 " of the offence which may be provable against him, and
 " that he is to be proceeded with and convicted by what is
 " stated in the judicial proceedings, and also by such state-
 " ments of the declarations, as evidently serve to convict
 " him, together with what he himself has said and declared.
 " In the formality of an indictment in a case of robbery—
 " which is found in the same vol. iii. of Colon on Military
 " Tribunals—accusing the prisoner, according to antece-
 " dents, of spending money with a woman with whom he
 " lived in a certain place, and with whom he was on in-
 " timiate terms, the author makes the following observation,
 " contained in a marginal note: 'Observe,' he says, 'that in
 " consequence of the intimacy supposed to exist between
 " the prisoner and the woman not being proved, it might
 " be argued that there is some antecedent; but it cannot
 " be said that it appears from the judicial proceedings, and

" 'is proved by witnesses.' Lastly, the same author again
 " touches on the same point in No. 606, vol. iii., referred to,
 " and says: 'And from what may appear in the judicial
 " proceedings, the charges and criminations are to be
 " made, it not having been already done on his first ac-
 " cusation, or if anything substantial or grave be wanting
 " with which to oppose him.' The doctrines of Colon, just
 " made use of, and which might be multiplied to any
 " extent—for that author, in every step, insists on the opinion
 " we are taking as a principle (for which reasons our
 " citations from him have been taken indiscriminately,
 " without the trouble of selecting them in preference to
 " others analogous)—are nothing more than the doctrinal
 " exposition of express dispositions contained in various
 " articles of the military ordinances. In the 13th Article,
 " chapter 5, treatise 8, it is admitted, 'that the proof of the
 " crime is the foundation of all criminal cases.' In the
 " 26th Article of the said treatise, on stating the form in
 " which the prosecutor should write his conclusion, he ex-
 " plains that this should be grounded on the informations,
 " charges, and confrontations with the accused, and that he
 " ought to ask against the prisoner the penalty imposed by
 " law for the crime of which he is charged, when he is con-
 " vinced of it; adding, in the same article, that in case of
 " the crime not being proved, the prosecutor must declare
 " in his conclusion what he believes, *according to his convic-
 " tions, from the knowledge of what is stated in the process.*
 " Article 29 of the same chapter imposes, in the most
 " formal manner, on every member of a court-martial, the
 " obligation to vote according to his conscience and honour,
 " and *the inference drawn from the informations; and*
 " although in the second part of Article 43, the right is

" admitted to interrogate the accused for better information,
 " a restriction is put upon the exercise of that right by a
 " condition, to the effect that it may be done *by limiting the
 " questions to what appears in the proceedings.* Article 46
 " authorizes the members of the court-martial to condemn
 " only when the accused is convicted of the crime of which
 " he is charged; when he is not, it imposes the obligation
 " to acquit him; and when the matter shall be doubtful,
 " there being insufficient proof to condemn him, or many
 " reasons to acquit him, they are permitted to decide on
 " taking new information, expressing the particular points
 " on which they are to be made. Lastly, Article 55 of the
 " same chapter and treatise—which ought to be written in
 " letters of gold, for the noble principle of humanity with
 " which it is inspired—explains in the following manner the
 " sacred respect which ought to be paid to the life of man:
 " 'To warrant the verdict of death, every judge should re-
 " member, *that there must be convincing proof of the crime*
 " *in case the prisoner has not confessed.*'

" Therefore, whether we observe the principles of
 " common legislation, or those especially military, in con-
 " formity with which it is attempted to substantiate this
 " process, it is legally impossible to condemn the Archduke
 " Maximilian, for he has not confessed himself to be the
 " author of the criminal acts with which he is charged;
 " neither is there in the process any evidence produced of his
 " having committed them; nor is it proved that they are of
 " public notoriety; although even this not being proved, the
 " former is admissible proof in a criminal matter. Con-
 " sequently, for the reason that the Archduke Maximilian
 " is not convicted, by the statements in the judicial pro-
 " ceedings (as he should be in order to be condemned), of

" having committed the acts of which—as crimes defined by
 " law—he is charged, in conformity with the express dis-
 " positions contained in Articles 46 and 55 of the military
 " Ordinance of the Army, he ought, certainly, to be ac-
 " quitted. But, allowing (without conceding it) that we
 " found ourselves in the last extremity foreseen by the first
 " of these articles—that is to say, that according to the
 " opinion which had been formed, it was doubtful as to
 " whether the accused ought to be condemned or acquitted—
 " even in that article the first of these extremes could not
 " be adopted; for in conformity with Article 46, chap. 5,
 " treatise 8 of the general Ordinance of the Army, what
 " ought to be done would be to take new informations,
 " which in this case would be equivalent to drawing up an
 " entirely new process. But we do not find ourselves in this
 " position of doubt, because the doubtfulness referred to in
 " Article 46 is that which arises out of conflicting evidence,
 " some of which affirms and some refutes the charge. Such
 " confirmation, with its reciprocal confutation, leaves the
 " mind in a state of vacillation and doubt:—the position
 " in which we do find ourselves is, that there does not exist
 " in the process any evidence which proves the charges;
 " there is an entire absence of proof, and no contradiction
 " therein. This places the mind not in a state of doubt, but
 " in a position to declare that the accused is not convicted
 " of having committed the crime with which he is charged;
 " and that, consequently, he ought to be acquitted and placed
 " at liberty, in conformity with the provisions in the second
 " case, foreseen by the Article 46 referred to.

" And let it not be said that if any proof exists in the
 " process of the charges made against our client—such as
 " that of a tacit, feigned, or presumed confession, implied on

" the refusal to reply to the interpellations which the judicial
 " authority put to him in the process, either at the time
 " of taking his preparatory deposition, or on receiving his
 " accusation—because this observation has many answers,
 " all of which are decisive, and admit of no reply. In the
 " first place, even supposing (presently we shall show that
 " such is not the case) that the tacit, feigned, or presumed
 " confession, which is inferred from silence, ought to have
 " the same effect as an express confession—which consists
 " in acknowledging an act in explicit terms—that maintain-
 " ing silence is, in itself, tantamount to a confession, when
 " it is done capriciously and without any motive; yet it
 " cannot be so when a person, with reason, declines to reply
 " from some legal and just cause. And, in the present case,
 " the reason why our client refused to reply cannot be more
 " just, legal, and well-founded—namely, that the tribunals,
 " to which it was intended to submit him were incom-
 " petent, and that the law by which it was intended to try
 " him was unconstitutional. Under such circumstances
 " (as has been previously shown), even we the defenders
 " should have the right, without neglecting our duties,
 " to abstain from speaking. From principles of prudence—
 " not because we lack legitimate power to do so—we have
 " abstained from exercising that right. With greater reason
 " the accused himself had that right. On his conduct an
 " opinion may, perhaps, be formed that it was not con-
 " venient, but by no means that he was not authorized
 " by the laws to do so. All the importance attaching to a
 " tacit, feigned, or presumptive confession is, that a refusal
 " to reply may constitute a contempt of court—contumacy,
 " and disobedience to the authorities. But in all those cases
 " wherein an accused has proper and legitimate grounds

" to consider himself not compelled to reply, the character
 " of contempt of court, contumacy, and disobedience
 " to the authorities, completely disappears; and indeed
 " silence, in such a case, cannot be construed into a tacit,
 " feigned, or presumptive confession. But, in the second
 " place (as we before stated), it is not true that it can
 " have the same legal effect as an express confession. For
 " instance, a confession which in explicit terms acknow-
 " ledges a personal act, not only constitutes a full proof
 " thereof, but, according to juridical axiom, relieves from
 " the necessity for any other whatever. A tacit, feigned, or
 " presumptive confession, which resolves itself into a con-
 " tempt of court in refusing to reply, is very far from having
 " the same probatory force. In order to demonstrate this, it
 " would be very easy to multiply the authorities; for there
 " are innumerable writers on the science of law, who treat
 " on confession, its different species, characters, and legal
 " probatory force. The pressure of time, by which we are
 " impelled to despatch—the limited time granted for the
 " defence—constrains us, on this point, simply to refer to an
 " eminent author, namely Escriche, who explains the current
 " doctrine on the matter, and his opinion is universally
 " accepted. In his 'Dictionary of Legislation,' at the end
 " of the article under the word 'Silence,' he says as follows:
 " 'But if the explicit and real confession has no force
 " ' against the criminal only in case it is supported by
 " ' other proofs, his silence cannot supply an inference of
 " ' greater force; and justice even demands that previ-
 " ' ous to drawing any deductions from the silence of an
 " ' accused person, the judge should give him timely intima-
 " ' tion, in order that he may be acquainted with the risks to
 " ' which his conduct exposes him; bearing in mind, never-

" ' theless, that no one is obliged to accuse himself, and that
 " ' it is not a culprit who has confessed, but he who has
 " ' been convicted who ought to be condemned.' But,
 " ' lastly, there is another circumstance, which is, that if in a
 " ' civil matter the refusal to respond constitutes a tacit con-
 " ' fession, in a criminal matter it is only so constituted by
 " ' flight, or by its being maintained in certain cases and
 " ' under certain conditions. This doctrine is laid down by
 " ' authors, whose opinions Escriche, perfectly and with pre-
 " ' cision, condenses in the following paragraph, which is to
 " ' be found in the 'Dictionary of Legislation,' under the
 " ' article 'Express and Tacit Confession': 'He who refuses
 " ' to make the confession which is judicially required from
 " ' him, or does not wish to respond, or responds only in
 " ' an equivocal and obscure manner, or after having pleaded
 " ' to the action, abandons his position; and he who, being
 " ' accused of any crime, should escape from prison or com-
 " ' promise with the accuser, in certain cases, and under
 " ' certain circumstances, it is understood that he tacitly
 " ' confesses the acts on which he is interrogated, and of
 " ' which he is accused. But this tacit or feigned confession
 " ' does not deprive the assumed confessor of the right to
 " ' be heard and to prove his own explanation, or his inno-
 " ' cence, in the event of his presenting himself; for it pro-
 " ' duces no other effect than that of imposing on him the
 " ' "onus probandi"—the obligation of proving—which obli-
 " ' gation previously belonged to the opposite party.' In
 " ' that doctrine, two notable considerations are embraced:
 " ' —first, that already mentioned, viz., that in a criminal
 " ' matter it is not the refusal to respond, but the escape
 " ' from prison, or a composition with the accuser in certain
 " ' cases and under certain conditions, which constitutes

" the tacit, feigned, or presumptive confession ; and secondly,
 " that this does not produce any other effect than that of
 " imposing on the assumed confessor the obligation of prov-
 " ing, which previously did not lie upon him : and as in the
 " present case our client and ourselves have been denied
 " the opportunity to prove that the charges made against
 " him are not true, as well as that they lack proof in
 " the process, we are justified in limiting ourselves to a
 " denial of them ; and accordingly, in order that we may
 " do even so, we ask that the case may be received on
 " proof, which has been denied us. On our part, we have been
 " ready to fulfil the obligation which might result from the
 " supposed tacit, feigned, and presumptive confession ; and if
 " we have not fulfilled it, it has been in consequence of the
 " same authority having denied to us the means to do so : that
 " is to say, we have been prevented by circumstances foreign
 " to our own will, and by an impediment placed in our way
 " by a power which we have been unable to overcome.

" But, since the public accuser—whose cause is not
 " more, but rather much less, plausible than that of the
 " accused—has been permitted, for the purpose of establish-
 " ing the charges (there being no proofs in the process), to
 " resort to extrajudicial data, which do not appear therein
 " —such as that pretended, vague, and indefinite public
 " notoriety, the existence of which has not been proved
 " in the proceedings, and, even if it were proved, would be
 " of no benefit to the party who accuses—it ought to be
 " lawful for the defence, in order to answer the charges, to
 " use similar means to those which have been resorted to
 " in the attempt to establish the proof ; but we must pre-
 " viously explain that to the doctrines just adduced—in
 " order to demonstrate that the prosecutor cannot support

" the charges except by the evidence in the proceedings
 " and that to act in any other manner is contrary to law—
 " the following is to be added from Colon, which we most
 " earnestly beg the President and members of the Court-
 " martial to take into consideration, in arriving at their
 " verdict in this very important transaction. That author
 " says, in No. 178, p. 118, vol. iii. of his treatise on Military
 " Tribunals :—

" ' The laws, in order to adjudge condign punishment,
 " ' demand proof of the crimes on their consummation, with
 " ' such precision, that it may easily happen that a real
 " ' murderer, against whom, from carelessness, the gravamen
 " ' of the crime has not been proved in the cause for lack of
 " ' eye-witnesses, or indications which might have criminated
 " ' him, is set at liberty ; because the sentence has to be
 " ' awarded according to what is positively proved in the
 " ' process, and not to what is extrajudicially ascertained.'
 " But, assuming that the prosecutor has endeavoured to find
 " weapons with which to attack the accused outside the
 " arsenal of the process, we repeat, that it ought to be lawful
 " for us to take others from whence he endeavours to find
 " his, in order to defend our client.

" ' Usurper of public power !'—' Enemy to the indepen-
 " ' dence and security of the nation !'—' Disturber of order
 " ' and public peace !'—' Trampler on the laws of nations and
 " ' of individual guarantees !'—such are, in epitome, the prin-
 " cipal charges made against the Archduke Maximilian.
 " But these sonorous and resonant phrases—which serve to
 " adorn a discourse in a club, or to fill the columns of a
 " newspaper—are very far from being sufficient to satisfy the
 " mind of a tribunal in pronouncing a sentence which is to
 " decide the life or death of a fellow-creature. Legal, solid,

“ and cogent reasons, not vain and hollow declarations, are
 “ the only ones which, in such a case, can tranquillize the
 “ spirit of public functionaries called to pronounce a penalty
 “ of such irreparable consequences as capital punishment.
 “ Let us examine, then, more narrowly and impartially, the
 “ charges made against our client, and we shall easily com-
 “ prehend that what is said by an eminent Spanish poet,
 “ respecting certain pompous literary works, is very appli-
 “ cable to those charges :

“ Mas la razon se acerca, y con desprecio
 Ve el bulto informe entre el ropaje vano.”

“ The closer one's reason approaches
 The misshapen bust one beholds ;
 With deeper contempt one reproaches
 It—wrapped in bedizening folds !”

“ It is true that the rebellion of a village, of a city, of
 “ a province, of a small minority of a nation, against the
 “ institutions adopted by the country, is a grave crime,
 “ which ought to be punished, though we will presently
 “ examine whether by the penalty of death, or by some
 “ other ; but between the case of a rebellion—that is to say,
 “ the rising of a few against the immense majority of a
 “ nation—and that of a veritable civil war, that of a rigor-
 “ ous social schism, in which society divides itself almost in
 “ equal numbers—one portion in favour of a new path, and
 “ the other against separating themselves from the beaten
 “ and familiar track—there is an enormous distance : these
 “ two social conditions are entirely diverse, and the legal
 “ rules applicable to the one and to the other are also en-
 “ tirely different. When a nation, or when society, is under
 “ the former conditions of rebellion, that is to say, the rising
 “ of an insignificant minority against the majority, the

“ minority necessarily and inevitably succumbs, and the
 “ majority has the right to chastise them—because they
 “ have committed the crime of disturbing the public peace,
 “ without any legal motive warranting them to do so. But
 “ at times societies, particularly those ruled by popular
 “ institutions, find themselves in another condition, which is
 “ that of dividing themselves almost in equal numbers—one
 “ portion wishing one thing, and the other affecting the con-
 “ trary. When a minority, relatively small, opposes what
 “ is decided upon by the majority, it is the duty of the
 “ former to resign and submit ; because that is the law of
 “ all associations—that is to say, that the minority has to
 “ submit to the majority in everything which does not alter
 “ the constitution of the society. But when there is a real
 “ and rigorous division between its members ; when the
 “ force of both sections into which a nation may be divided
 “ is almost equal ; when both sections take an ardent inter-
 “ est in the questions which divide them ; when neither of
 “ them is inclined to make concessions to the other, then
 “ such a conflict—the same as if it had happened between
 “ two proud and independent nations—cannot be decided
 “ in any other manner than by a recourse to arms. In order
 “ to decide international questions, without appealing to the
 “ disastrous and sanguinary resource of arms—in order to
 “ cause war to disappear from among nations, century after
 “ century has produced philosophers and philanthropists,
 “ who have formed with that object various systems, which,
 “ up to the present time, have remained inefficacious and
 “ fruitless ; so that in the present state of political science,
 “ the problem of a perpetual peace amongst nations is still
 “ as insolvable in the science of the laws of nations, as the
 “ squaring of a circle is in the science of mathematics. A

“ defect, analogous to that which we have just noted in the
 “ laws of nations, is met with in the constitutional law. Up
 “ to the present time no country has been able, in its constitu-
 “ tion, to enounce a solution of the problem, how to terminate
 “ in a pacific manner those social schisms which at times
 “ break out in nations: and when they do transpire, they are
 “ still seldom decided in any other manner than by resorting
 “ to the sword. When civil war breaks out in a district it is
 “ put an end to by the same means as those which are
 “ international. Sometimes factions, after being fatigued in
 “ destroying each other, terminate the strife by means of
 “ an arrangement, the same as when two belligerent nations
 “ put an end to the war by means of a treaty. At other
 “ times, one faction in process of time overpowers the other,
 “ and conquers and subjugates the opposing faction. Of
 “ that nature were the religious wars which broke out in
 “ various nations of the centre and North of Europe, in con-
 “ sequence of the so-called Reform in religion, initiated by
 “ Luther in Wittemberg. Of the same nature are those
 “ political wars which, ever since the end of the last century,
 “ have agitated society, and will continue to conflict with
 “ those traditions which (without any reason for continued
 “ existence) have been bequeathed to the modern world,
 “ until societies follow the examples of the nations of
 “ Europe and America, where new ideas of liberty and pro-
 “ gress are discussed and disseminated through the world
 “ by modern philosophy, and the advancement of the human
 “ understanding. When one of those great social schisms
 “ occurs in a nation, and when one of the belligerent factions
 “ succeeds in overcoming and conquering the other, the
 “ victorious faction might abuse their triumph to any ex-
 “ tent, because its exercise of force cannot be limited but by

“ a contrary force, which, by the terms of the proposition,
 “ has already been suppressed and subjugated. But there
 “ is an immense distance between what is done and what
 “ ought to be done—between an act and a right. The con-
 “ quering faction, moved by the passions of the moment,
 “ and by the instincts of revenge which a prolonged and
 “ sanguinary struggle always awakens, may abuse their
 “ victory without limit; but history and right, which do not
 “ participate in similar passions, look across a different
 “ prism to that of contemporaries. Sanguinary executions
 “ mark those passions with a stamp of severe reprobation,
 “ and testify that they are useless and unjustifiable. The
 “ Government of Charles V., after he had conquered the cities
 “ of Castile, and the force of arms had pronounced against
 “ them, caused the Chief of Villalar to die on a scaffold,
 “ but history has been very far from seeing that execution
 “ in the same light as it was regarded by those who decreed
 “ it. History, with its burin of fire, has recorded it in the
 “ annals of the human race as an act of useless barbarity, as
 “ an extravagance of ostentatious tyranny. The popular
 “ faction of Paris, after having conquered Louis XVI., on
 “ the 10th of August, with a derisive mockery of judgment,
 “ caused his head to be cut off, but the impartial opinion
 “ of all the world, even in Republican countries, has been
 “ very far from approving of that act, notwithstanding that
 “ at that time a terrible European coalition threatened France
 “ by sea and land, by shore and frontier; and it is no secret
 “ to any one that Louis XVI. had called foreigners to his
 “ aid, and was most anxious for their arrival, that he might
 “ see their troops march through the streets of Paris. Not-
 “ withstanding these apparently extenuating circumstances,
 “ impartial history has passed sentence, without appeal, that

“ under such circumstances the French nation had the right
 “ to deprive Louis XVI. of the exercise of royal power, be-
 “ cause he ought not to confide the direction of war *à l'ou-*
 “ *trance* to a coalition with a secret ally—yet has it discour-
 “ tenanced the right it exercised to deprive him of his life!
 “ Afterwards, nearly forty years later, in 1830, the French
 “ popular faction obtained a new triumph over royal power,
 “ and conquered Charles X. in the same city which had
 “ witnessed the victory of the 10th of August; but the ideas
 “ of right, and the true political principles which ought to
 “ regulate civil war, had been submitted to the discussions
 “ of half a century; and the life of Charles X. was respected,
 “ and he terminated it in a foreign land. Eighteen years
 “ afterwards, the Republican King of the Barricades of 1830
 “ was in his turn conquered; and his fate was the same as
 “ that of his immediate predecessor, and not that of the
 “ monarch of the epoch in which the guillotine governed.
 “ Either history is a science of pure curiosity, vain and
 “ barren; or the examples it contains stand recorded in its
 “ immortal pages, that some may be imitated, and others be
 “ avoided. And who would not prefer to imitate the
 “ examples which the history of France in the nineteenth
 “ century offers, much rather than those of France in the
 “ epoch called, by a significant figure of speech, the Reign of
 “ Terror, which dominated the French territory, converting
 “ it into a vast and lugubrious cemetery?

“ Amongst the most memorable civil wars in the annals
 “ of the human race, that which is most worthy of observa-
 “ tion—England being the founder of modern constitutional
 “ institutions—is the long struggle of half a century between
 “ the English popular faction and the House of the Stuarts.
 “ One of the most interesting incidents of that civil war is

“ the trial and execution of Charles I., after having been
 “ conquered and made prisoner by his political adversaries.
 “ Let us see, then, how that event is viewed by modern
 “ English historians, who belong, not to the Tory party, but
 “ to that of the Whigs, or Liberals—that is to say, to the
 “ same political communion which, centuries ago, took upon
 “ itself the responsibility of the decree for the execution of
 “ Charles. And observe, that in all countries governed
 “ by free institutions, the two parties who struggle for power
 “ —one representing the past, and the other the future—the
 “ one not inclined to alter anything, and the other bent
 “ on innovation: these parties, which in different Countries
 “ and epochs have various names, and which are now re-
 “ spectively called by us Conservative and Liberal, are
 “ undergoing, with the times, this modification—viz., the
 “ enemy to innovation is resigning himself, little by little, to
 “ some of the proposed changes, and therefore daily becomes
 “ less retrogressive; while the leader of that party which
 “ day by day demands fresh novelties, instigated, as it con-
 “ ceives, by new necessities, each day advances a step in his
 “ ideas, so that both parties maintain the same separateness
 “ and the same relative position. If the greatest advocate
 “ for progress of two centuries ago were placed, with all his
 “ ideas, in one of our liberal societies of the present day, we
 “ should consider him more ignorant and retrogressive than
 “ the most unenlightened of our times. It thus happens that
 “ the Liberal English historians of the present century—
 “ whose opinions on the trial and execution of Charles I.,
 “ we are about to lay before our judges—are infinitely more
 “ liberal than their co-religionists of two centuries ago,
 “ who took part in that cruel act. Well, then, Mr. Hallam,
 “ in his ‘Constitutional History of England,’ condemns the

“ execution of Charles I., in the following severe and precise
 “ language : ‘ The vanquished are to be judged by the rules
 “ ‘ of national, not of municipal law. Hence, if Charles,
 “ ‘ after having by a course of victories, or by the defections
 “ ‘ of the people, prostrated all opposition, had abused his
 “ ‘ triumph by the execution of Essex, or Hampden, or
 “ ‘ Fairfax, or Cromwell, I think the latter ages would have
 “ ‘ disapproved of these deaths as positively, though not
 “ ‘ quite as vehemently, as they have of his own.’ Mac-
 “ aulay, the greatest of the English writers of the present
 “ century, in his critical essay on Mr. Hallam’s ‘ Constitu-
 “ tional History of England,’ referring to the trial and
 “ execution of Charles I., expatiates against the opinion of
 “ the English Tory party, and contends that, constitution-
 “ ally, Charles I., by having infringed the laws, could be
 “ tried and executed ; but, considering that event under the
 “ aspect of Charles I. conquered and made prisoner in a
 “ civil war, Macaulay fully adheres to the opinion of Hallam
 “ on that point, saying : ‘ Mr. Hallam decidedly condemns
 “ ‘ the execution of Charles, and in all that he says on that
 “ ‘ subject we heartily agree. We fully concur with him in
 “ ‘ thinking that a great social schism, such as the civil war,
 “ ‘ is not to be confounded with an ordinary treason, and
 “ ‘ that the vanquished ought to be treated according to the
 “ ‘ rules, not of municipal, but of international law.’ It
 “ therefore cannot be disputed in the present age, that in
 “ the case of civil war the conquerors have not the right to
 “ take away the life of the vanquished ; and accordingly, it
 “ only remains to examine if the struggle in which the
 “ Archduke Maximilian has succumbed had the character
 “ of a civil war, or of a simple rebellion.

“ The French Intervention, and the attempts made to

“ establish an Empire under its protection—in sustaining
 “ which our client was made prisoner—are the last efforts
 “ made by the party at enmity with the social innovations
 “ contained in the so-called laws of Reform, in order to
 “ oppose itself to the establishment and consolidation of
 “ those innovations. And can it be questioned that the
 “ strife has been a veritable civil war, which has been pro-
 “ longed for ten years, between the Liberal party, determined
 “ to establish and consolidate them, and the Conservative
 “ party, not less decided to impede their establishment and
 “ consolidation ? The division of opinions, of which that
 “ strife is nothing more than a symptom, has in every State
 “ deeply penetrated all classes, even to the very heart of
 “ families : frequently has it been witnessed, that a father
 “ has been fighting in the ranks of one faction, and his son
 “ in those of the other ; and in the besieged and the be-
 “ siegers of this city, cases of the like nature have been
 “ seen—one such having afforded, in the act of taking this
 “ very city, a most noble, beautiful, and pathetic example of
 “ filial piety. Cities, entire states, are marked amongst us
 “ for their decided opinions on one side or the other. Nor
 “ is such a phenomenon to be wondered at. The spirit of
 “ innovation enters and is slowly and steadily propagated
 “ in societies. In the first place, it emanates from the brain
 “ of a profound and bold thinker, to whom the thought-
 “ less public—at first calling him a bigot, a dreamer—
 “ become by degrees proselytes ; and only with time does
 “ that idea—the germ of which appeared solitary and
 “ isolated in the head of a daring innovator—germinate,
 “ unfold itself, gain strength, and take root in the bosom of
 “ society. The greater and more radical the innovations
 “ are which it is intended to introduce, the more decided

“ and general is the resistance which is opposed to them, by
 “ that numerous class of society content to continue living
 “ as it has been accustomed to do ; and it would be diffi-
 “ cult to meet with a conglomeration of innovations more
 “ complete and radical than that comprised in the law of the
 “ 25th of June, 1856, the Constitution of 1857, and the laws
 “ of the 12th and 13th of July, 1859. The remembrance
 “ of what passed in the discussion of a single article of the
 “ Constitution of 1857, will be sufficient for us to form an
 “ opinion, as to whether this strife of ten years is or is
 “ not a veritable civil war, more terrible and sanguinary
 “ than that which our heroic fathers had to sustain in
 “ order to emancipate us from the mother-country. In the
 “ Congress which framed the Constitution of 1857, only
 “ one of these innovations was discussed—namely, the
 “ independence of Church and State, and the consequent
 “ toleration of religion. One of the orators who opposed
 “ that reform was—not a fanatical and superstitious person,
 “ not a statesman of backward ideas, but, on the contrary,
 “ one very advanced in his opinions—Citizen Juan Antonio
 “ de la Fuente, afterwards our Constitutional Minister in
 “ 1863, and one of the patriots most firmly devoted to the
 “ National, Liberal, and Republican cause. And why did
 “ he oppose that reform? Was it, forsooth, because it was
 “ at variance with his ideas and principles? By no means :
 “ but because he considered that it was at variance with the
 “ ideas and prepossessions of the majority of the nation ;
 “ because he believed that the nation was not prepared to
 “ receive it ; and because he feared that it would provoke a
 “ resistance which would kindle a long and sanguinary civil
 “ war. Perhaps there never has been so complete and
 “ literal a fulfilment of any political prophecy as of that

“ contained in the speech of Señor Fuente to which we are
 “ referring. If it had been possible to present, conjointly,
 “ and in view of the authors of the Laws of Reform, the
 “ thousands of battle-fields in which, for a space of ten
 “ years, it has been necessary that the Mexican blood
 “ should run in torrents in order to consolidate the inno-
 “ vations introduced by it, perhaps they would have ab-
 “ stained from confirming them ; perhaps they would have
 “ considered it prudent to reserve them for an epoch in which
 “ the progress of knowledge had more fully prepared the
 “ nation to receive them ; perhaps they would have con-
 “ sidered the price too costly, which, from the public funds
 “ and in human lives, it has been compulsory to pay in
 “ order to establish them. But, as men, it was not in their
 “ power to tear away the veil of the future—they decreed the
 “ Laws of Reform ; these provoked resistance, and civil war
 “ was kindled ; the enemies of those laws have been con-
 “ quered, the fortune of war has turned against them ; but it
 “ has not conferred the right to sacrifice them after victory.
 “ If, as Liberals, we do not wish to disguise the truth—with
 “ the hand on the heart we ought to acknowledge that when
 “ the Reform was initiated, the party favourable to it was
 “ numerically inferior to the opposition ; but their intelligence,
 “ valour, and energy—the fact of having reason, justice, and
 “ public convenience on their side—caused them to triumph
 “ against all human probabilities. But these noble qualities,
 “ by which Reform overcame its adversaries and obtained
 “ the victory, imposes the duty to show afterwards all its
 “ moral superiority over its enemies, by giving a great and
 “ immortal example of magnanimity and clemency.

“ But we will consider the matter under another aspect,
 “ and analyse more distinctly the charges made against our

" client. The foundation of the whole of them is the usur-
 " pation of the public power. All the other charges are
 " no more than the reproduction of the same act under
 " diverse aspects, or the enumeration of some of its con-
 " sequences. That our client exercised the supreme public
 " power in those places where he attained the rule, is a fact
 " which we acknowledge, although it is not proved in the
 " process, as it ought to have been, in order to base thereon
 " an accusation, as we have before demonstrated. But in
 " every crime there are two elements: first, the material
 " act prohibited by law; secondly, the deceitful and fraudu-
 " lent or criminal intention which moved the author or doer
 " of the act. For example, in a case of homicide, to con-
 " stitute that crime, the material act is necessary—that a
 " man has been violently deprived of life; the moral element
 " is also necessary, that he who has taken it away had a
 " malign, fraudulent, and criminal intention to deprive that
 " man of his life—intentionally, and with contempt of the
 " law which prohibits it. If he who has killed another has
 " done it accidentally—in a state of insanity or dreaming,
 " or in strict and legitimate self-defence—there is a physical
 " act of homicide, but not the crime which has that desig-
 " nation; its material element exists, but not its moral
 " element, which wholly consists in the intention. These
 " principles are common to all crimes; in all of them there
 " is a material element, which consists in the existence of
 " the act foreseen and prohibited by law—and a moral
 " element, which consists in the intention. When this is
 " either absolutely wanting, or the intention is justified by
 " the same law, there is no crime; because, although the
 " material element exists, the moral element is wanting,
 " which is the most essential in the imputing of an action.

" Therefore, when we treat of a person accused of a crime,
 " there are three points to examine: first, if an act pro-
 " hibited by law has taken place; secondly, if that act has
 " been committed by the accused; thirdly, what was his
 " intention when he committed it?

" Applying these principles to the present case, we
 " have to determine in what the material element and the
 " moral element of the crime of usurpation of the public
 " power consist. Its material element consists in the exer-
 " cise of that power; its moral element in the knowledge
 " possessed by him who exercises it of having exercised it
 " of his own authority, or of having received it from one
 " who was known to have had no right to bestow it. There-
 " fore, when public power has been exercised without having
 " done so on one's own authority, but as having received it
 " from those who—even in error or mistake—it was believed
 " possessed the faculty to bestow it, the crime of usurpation
 " of the public power does not exist, because its moral
 " element does not exist. And it is the easiest thing to
 " demonstrate that such are the circumstances of the case
 " in which the Archduke Maximilian has been found. In
 " June 1863 there assembled in the city of Mexico a Con-
 " gress of persons called 'Notables,' who proclaimed the
 " Monarchy, and named Maximilian as Emperor. Such a
 " form of procedure was not without examples in the con-
 " stitutional history of our country. A Congress of Notables
 " framed the Constitution of 1843, known by the name of
 " '*Bases Organicas*,'—which is that of our other Constitutions
 " anterior to that of 1857—which better defined and secured
 " the rights and guarantees of the man and the citizen, and
 " under whose dominion (proclaiming it as a banner) was
 " verified one of the most national and popular movements

" that has taken place in our country—the Revolution of the
 " 6th of December, which overthrew one of the many sad
 " and disastrous dictatorships of Don Antonio Lopez de
 " Santa Anna. Another assembly of Notables in Cuerna-
 " vaca, in the year 1855, named one of the patriarchs of our
 " Independence as President of the Republic—the meritorious
 " Citizen Juan Alvarez, who has never committed an act
 " unworthy of his brilliant antecedents, and has always been
 " a firm and decided defender of the Republican party, of
 " the popular principles, and of the national cause. Our
 " client, then, even if he had committed the imprudence of
 " accepting the Crown which was offered to him by the sole
 " vote of the Congress of Notables, would have had, in
 " order to save his good faith—particularly being a stranger,
 " and born above two thousand leagues from our country—
 " these two examples of a Constitution formed, and a Presi-
 " dent appointed, by a Congress of Notables, which appoint-
 " ment had not any popular origin ; besides other analogous
 " cases which our history affords, as is perfectly well known
 " to the individual gentlemen of the Court-martial whom
 " we have the honour to address, but which we omit for the
 " sake of brevity. But our client wished to show such
 " respect to the will of the Nation, that—considering the
 " vote of the Congress of Notables simply as the expression
 " of the personal opinions of the individuals of which it was
 " composed—he refused to accept the Crown on that vote
 " alone, and protested that he would only do so when it
 " was confirmed by the Nation. Consequently, the agents
 " of the monarchical faction procured and obtained its
 " ratification by the municipalities, and only then our client
 " —after having consulted European jurists, who were of
 " opinion that the acts of the municipalities were the ex-

" pression of the national will—decided to accept the proffered
 " Crown. It must not be forgotten that the accused is a
 " foreigner, born far from our country, ignorant of our cus-
 " toms and our history ; and that, therefore, he might easily
 " be led into error, by the persons who had taken the
 " responsibility of making him believe that the Mexican
 " nation desired to have him as their monarch. Although
 " the votes of the municipalities were obtained by the
 " pressure exercised in the country by the invading army of
 " France, the persons interested in seducing our client (he
 " being a stranger, and not knowing us) easily made him
 " believe that the vote of the municipalities was the general,
 " spontaneous, and free will of the people at large, especially
 " when such was the opinion formed on certain documents
 " by the European lawyers who were consulted thereon.

" The facts just referred to, of which no one is igno-
 " rant, prove in the most conclusive manner, that although
 " the material element of this crime of usurpation of public
 " power may exist in this case, the moral element, or the
 " knowledge that it had been bestowed by those who had
 " no power or right to do so, is entirely wanting ; for although
 " it was by error and misconception he believed, yet was
 " he justified in believing, that his appointment emanated
 " from the nation at large ; and if this had been certain, his
 " power could not possibly have had a more legitimate
 " source. And if our client understood, or was in a position
 " to understand, in good faith, that the nation called him to
 " the throne of Mexico by the acts which preceded his
 " coming, that belief could not but be confirmed by those
 " events which transpired after his arrival in this country.
 " He came to the country without troops, alone with his
 " family and a few friends ; and in the capital, and in the

" cities through which he passed, and in the country places,
 " he was received with entertainments and demonstrations
 " of joy, such as even a Mexican, and much more a foreigner,
 " might take for expressions of the public will. The same
 " festivities and expressions were repeated when, later on, he
 " visited a few cities in the interior, and when, afterwards,
 " his lady made a journey to Yucatan and back. Various
 " persons, known up to that time for their Republican
 " opinions—and amongst them even a General-in-Chief of
 " one of the main bodies of the Army of the Republic—
 " recognised the Empire, gave in their adhesion to him, and
 " offered to him their services. He must needs be wanting
 " in that self-respect which every man possesses, or be en-
 " dowed with deeper than human insight, to have been able
 " to discern, in the votes which called him to govern Mexico,
 " and in the demonstrations of joy which were made on his
 " arrival—and which were afterwards repeated, whenever he,
 " for the first time, visited any place—in such acts of com-
 " plimentary assurance the simple manœuvres of a faction,
 " the mere pressure of the foreign invading army. An adver-
 " sary of the Monarchy—even an impartial person—might
 " have seen this distinctly; but it cannot be expected that
 " a person so deeply interested in these acts, and so directly
 " affected by them, should form an opinion on them with his-
 " torical accuracy and impassibility. It cannot therefore be
 " proved that the Archduke Maximilian has exercised in
 " Mexico the supreme power with the conviction that the
 " nation had not conferred it upon him; but his words, his
 " actions, and his conduct in every respect directly prove the
 " contrary. And the singular thing is, not that our client
 " believed that it was by the free and spontaneous vote of
 " the Notables, and apparently of the municipalities in

" general, he was called by the Mexican nation to reign
 " over it; but that a member of the House of Austria
 " should thus recognise in principle the sovereignty of the
 " people as the legitimate origin of political power, ignoring
 " the theory of Divine Right, which for so long a time has
 " been traditional in his House. This is the veritable pheno-
 " menon which the events to which we are referring present,
 " and which manifest the real and actual progress made by
 " sound principles in our time. Let it not be said that the
 " good faith of having been called by the nation ought to
 " have been shaken by the knowledge possessed by the
 " Archduke Maximilian, that numerous persons whom he
 " attempted to bring over to his side were enemies of the
 " Monarchy, and firm adherents of the ancient Republican
 " institutions; because there is not actually any Government
 " in the world, however legitimate it may be, or however
 " firm the conviction of its rights, which is not aware that
 " with the majority that supports it, there exists a minority
 " which is hostile to it. Nor let it be said that that con-
 " ception of good faith ought to have ceased from the
 " moment in which the French troops retired, and those of
 " the Republic occupied the entire country; the Empire
 " being reduced to the peninsula of Yucatan, and the cities
 " of Vera Cruz, Puebla, Mexico, and Queretaro. Gentle-
 " men, when a Government, in error or otherwise, is con-
 " vinced of its legitimacy, that conviction does not vanish
 " before military reverses. When the Spanish nationality,
 " by the invasion of the Mussulman, saw itself reduced to
 " the mountains of Asturias, the repeated triumphs of the
 " Agarian arms did not for a moment cause their conscience
 " to vacillate respecting the right it had to the possession
 " of Spanish territory. When, at the end of the past and

"beginning of the present century, the armies of the First
 "Napoleon effaced one by one, and successively, from the
 "political map of Europe the various preconstituted
 "nationalities, their Governments did not actually believe
 "that the victories of Marengo, Austerlitz, and Jena were
 "convincing arguments that they were not legitimate
 "Governments of Austria and Prussia. And the fact that
 "our national Government in 1859 saw itself reduced to the
 "city of Vera Cruz, and to the last confines of the Republic,
 "and in 1865 saw itself limited to a small portion of terri-
 "tory on the frontiers by the victories of its enemies, did
 "not, with reason, cause it to hesitate for a moment as to
 "the justice of its cause. The victories and reverses of
 "arms prove nothing for or against the justice of a cause,
 "for or against the legitimacy of a Government. There-
 "fore, the fact of our client having seen the greater part of
 "the Mexican territory occupied by the armies of the
 "Republic, after the French invading forces had retired,
 "could not constitute a sufficient cause of doubt respecting
 "the opinion he had previously formed on the legitimacy
 "of his title. Such doubt might have occurred to him if the
 "towns—as soon as the pressure of the foreigner had been
 "withdrawn, and before they were occupied by the Liberal
 "forces—had of themselves raised the banner of the Re-
 "public. But whether it was from fatigue, whether from
 "fear that the retreat of the French forces might be feigned,
 "or whether from a certainty that the National forces would
 "soon place them in security against all invasion by their
 "own people or by foreigners—the fact is that the generality
 "of the towns observed a neutrality, which could not serve
 "to correct the error into which our client had fallen, of
 "having believed himself called by the nation; and the

"triumphs of the Republican forces ought simply to cause
 "him to perceive that the fortune of war had begun to be
 "adverse to him. Demonstrated as it is that our client
 "was in a position to believe, and in fact did believe, in good
 "faith, that the Mexican nation had called him to govern
 "it, all the other charges made by the accusing party
 "necessarily fall to the ground, because they themselves
 "are no other than the exercise of public power which he
 "believed he had received at the hands of the nation. But
 "amongst those charges, there are three which affect the
 "good name of our client; and his fame—not his personal
 "security only—is under our protection. These three
 "charges, upon which we have received from him special
 "instructions, demand our special attention. They are—
 "Filibusterism; that of having been a tool of the French;
 "and that which is grounded on the issuing of the law of
 "the 3rd of October, 1865.

"A Filibuster, in the sense given to that word in the
 "present day, is one who—without any public character—
 "of his own authority, and by armed force, invades a country
 "with the sole object of committing acts of vandalism. The
 "Archduke Maximilian did not come to Mexico without
 "credentials, but in virtue of votes which, although forcibly
 "obtained by the pressure of the French army, would, in the
 "sight of foreigners, bear the character of generality, free-
 "ness and spontaneity, to such an extent as might justify
 "the legitimacy of his enterprise. He came to the country
 "without any armed force; he did not invade it, either of
 "his own authority, or in the name of any other State;
 "and the object with which he reached its shores was
 "not that of sacking the country, but to establish the
 "monarchical organization which he believed the nation

“ desired, and to govern it in a manner that might be
 “ esteemed most conducive to its prosperity. He may be
 “ called a filibuster in a declamation, because declaimers,
 “ like poets, are permitted to say what they please. But
 “ such a charge, judicially made, will not bear the slightest
 “ scrutiny, and is, indeed, in every respect absurd.

“ His having been a tool of the French is no less false.
 “ Louis Napoleon exacted that, in the Treaty of Miramar,
 “ an article should be included, in which all the acts of the
 “ so-called Regency should be ratified. The object of that
 “ stipulation was, that a treaty concluded between the
 “ diplomatic Minister of France and the so-called Regency,
 “ which amounted to the loss of Sonora to the nation, and
 “ its acquisition by the French Government, should be rati-
 “ fied. The Archduke, after having accepted the Crown,
 “ declared that he would rather abstain from coming to
 “ Mexico than sign such a stipulation; and, in fact, the
 “ Treaty of Miramar was compiled without containing it.
 “ After arriving in Mexico, one of his first acts was to
 “ remove Don José Maria Arroyo, who had sided with the
 “ French Minister in the signing of the treaty relative to
 “ Sonora—our client having had, on that matter, several
 “ highly disagreeable discussions with Monsieur Montholon,
 “ which completely alienated from him the good-will of
 “ the French.

“ Previous to his coming to the country, he demanded
 “ and obtained from the French Government, the restoration
 “ to liberty of the Mexican prisoners who were in France,
 “ declaring that he could not tolerate that an allied Power
 “ should retain as prisoners the natives of a country
 “ which he was about to govern. Having arrived in
 “ Mexico, all his efforts were directed to diminish, as far as

“ possible, the influence of the French, considering the
 “ special exigencies of his position; and in that direction, by
 “ dint of perseverance, he succeeded in abolishing the courts-
 “ martial of the French, which were superseded by others
 “ composed of Mexicans. And these being established,
 “ he never refused pardon in the case of a capital sentence
 “ pronounced by them. During the exercise of his power,
 “ he demonstrated his profound respect for the life of man,
 “ by arranging, as a general rule, that at whatever hour
 “ of the day or night, and of whatever importance the
 “ matter on which he might be occupied, a petition for the
 “ remission of capital punishment might arrive, he should
 “ be informed of it; he never refused it, and often, at ad-
 “ vanced hours of the night, his sleep was disturbed in order
 “ to inform him of business of that nature. With pleasure
 “ he rose to write, on the margin of the warrant, that the
 “ pardon was granted. One of the principal reasons which,
 “ in Orizaba, obliged him to take the resolution to remain
 “ in the country, was his being presented with data, which
 “ caused him to believe that a combination existed, between
 “ the Government of the United States and the Govern-
 “ ment of France, to impose on the Mexican nation a
 “ Government contrary to their will. Thus was our client
 “ very far from being a blind instrument of the French
 “ Intervention.

“ As we have already stated, the special exigencies of
 “ his position at times imposed upon him the sad necessity
 “ of making certain concessions to the French authority;
 “ and one of them was the issuing of the law of the 3rd of
 “ October, 1865, in which there are some articles drawn up
 “ by Marshal Bazaine himself, and he dictated that law in
 “ virtue of information, given by the French themselves.

" that Señor Juárez had abandoned the country. But once
 " admitting the good faith, which has been before demon-
 " strated, with which the Archduke believed himself to be
 " the Sovereign of Mexico, that of taking those measures
 " directed to the defence of his Government against the
 " political adversaries which opposed it by arms, could not
 " be imputed to him as a crime: for a Government, which,
 " in error or otherwise, is convinced of its legitimacy, to
 " provide for its conservation and security is not a matter
 " of simple right, but a strict duty. Nevertheless, although
 " the law of the 3rd of October, 1865, was proposed, on the
 " part of the Government of the Archduke, with similar
 " objects to those with which the National Government pro-
 " posed the law of the 25th of January, 1862, and in accord-
 " ance with which it has been pretended to substantiate the
 " present case, and notwithstanding that the former was
 " dictated by those who had no constitutional restrictions
 " to respect, we consider that the comparison between these
 " two would not be unfavourable to the first, and that
 " the vanquished of to-day might cheerfully resign them-
 " selves to be measured by the same standard as that by
 " which they proposed to measure their adversaries. But
 " that law, however odious it may be considered, was only
 " given *ad terrorem*; unfortunately, in a few cases—but only
 " in a very few—it was executed; moreover, these very
 " cases were those in which disastrous circumstances, inde-
 " pendent of the will of the Archduke, impeded the possibi-
 " lity of asking for pardon, which he never denied when it
 " was possible to present the petition to him in time. On this
 " point we have special pleasure in repeating (and we are made
 " aware of this, not from his own mouth only, but by instruc-
 " tions received from persons who served him as Minis-

" ters), the accused was so frank and liberal, that more than
 " once he differed from the opinion of his councillors, and then
 " never on the side of rigour, but always on that of clemency.
 " Whatever may be the fate which Providence may have in
 " store for him, he will always have for consolation the testi-
 " mony of his conscience, that in the midst of a cruel and
 " sanguinary civil war, he demonstrated a respect for the life
 " of man which does great honour to his heart—a respect
 " which is very rare in the annals of the strife of political
 " passions. To that noble conduct is due the fact that the
 " life has been conserved (to give days of public rejoicings to
 " the nation) of one of the most noble champions of the cause
 " of Liberty, of the Republic, and of Independence,—Citizen
 " General Porfirio Díaz, who, by an uninterrupted series of
 " splendid triumphs, has just carried victoriously our ancient
 " tricolour from Oajaca to Puebla, from Puebla to San
 " Lorenzo, from San Lorenzo to the environs of the Capital;
 " and who, it may be, at this very moment—and as we
 " earnestly hope—is placing it with a strong hand on our
 " National Palace. He who behaves himself thus in pros-
 " perity, when the hour of his adversity is come, has a good
 " right and title to be revered.

" But even allowing, without conceding, that our un-
 " happy client could be regarded as a usurper of the public
 " power, the use which is made of a usurped power ought to
 " be taken into consideration, if it be resolved to proceed
 " with justice in the trial of a person who has exercised that
 " power; and if the monarchical principle be excepted,
 " which was the condition *sine qua non* of its existence, in
 " every other respect the administration of the Archduke
 " Maximilian in Mexico has constantly, and without excep-
 " tion, been directed in the fullest sense to Liberal principles,

" to the favour of the progressive ideas of the epoch, and to
 " the true interests of the nation. Notwithstanding that he
 " was not, nor could be, ignorant of the fact that the Con-
 " servative party had been the principal agent in calling
 " him, immediately on his arrival in the country he sum-
 " moned the most notable of the Liberal party to direct his
 " counsels. Some of them, unfortunately, presented them-
 " selves, and consented to take part in the Imperial Govern-
 " ment; but they who had the firmness not to desert the
 " Republican flag, were not for that reason subjected to the
 " slightest act of persecution. The Archduke always showed
 " the greatest indulgence to every class of political opinion.
 " The most ardent desire of the party who had prepared the
 " establishment of the Monarchy, was the radical modifica-
 " tion, if not the complete abolition, of the Laws of Reform;
 " and in nothing did our client show greater perseverance
 " than in the firmness with which he maintained these laws
 " even in the last days of his Government, in which the force
 " of circumstances impelled him, against his well-known
 " inclinations, to employ the services of military chiefs of
 " strongly-marked Conservative ideas. We have already
 " seen the resistance he opposed to the French influence, so
 " far as it was in his power, in his special situation, and the
 " energy and firmness with which he sustained the national
 " interests in the question of Sonora. And could justice
 " permit that, in judging even a usurper, no reservation
 " should be made in consideration of what use of power he
 " had exercised, as to the weal or the woe of the nation he
 " had governed?

" But even supposing that there was the crime of usur-
 " pation, and that it was not considerably extenuated by
 " the use which has been made of the usurped power, it is

" evidently a political crime, and not one of the common
 " order. And it is some time since modern science has pro-
 " nounced, definitively, the reprobation of capital punish-
 " ment as a means of repressing political crimes, and that
 " denunciation has been sanctioned and adopted by our
 " public law, in the constitutional article which was cited in
 " the beginning of this defence. Society has no right to
 " impose a penalty—above all, an irreparable one such as that
 " of death—when it is wanting in efficacy to repress the
 " crimes to which it is applied. The efficacy of a penalty
 " is of two kinds—material and moral. Material efficacy
 " consists in the destruction of the person of the delinquent;
 " moral, in the example it produces by preventing others,
 " through fear, from committing the same crime. In poli-
 " tical offences, capital punishment is wanting in efficacy of
 " either kind. In these offences, the delinquent is not an
 " isolated man, but a band, a party, an association, spreading
 " and ramifying throughout society. By destroying one or
 " more of the chiefs—if the party has not been efficaciously
 " broken up—other individuals will presently spring up. It
 " is the reproduction of the fable of the Hydra, in which
 " nine heads appeared for every one that had been cut off.
 " Neither is there moral efficacy, because punishment in
 " political offences cannot be imposed until after they who
 " are to be punished are conquered; and as the party which
 " succumbs always finds excuses for not having conquered,
 " and reasons for hope to conquer at another time, when
 " the fortune of war shall again be tried, the punishment
 " imposed for political offences is not looked upon by the
 " coadjutors of those who suffer it as a penalty, but as an
 " accidental misfortune consequent on the hazards of war.
 " The patriotic authors of the Constitution of 1857, moved

" by these and other humane reasons, which time will not
 " permit us to set out in detail, adopted in that code the
 " great principle of the abolition of the penalty of death in
 " political matters. Every party which, in the present cen-
 " tury and in the present state of knowledge, imposes capital
 " punishment for political offences, commits a crime against
 " civilization and humanity. But if that were done in the
 " name of the Liberal and Republican party, whose very
 " creed contains the principle of the abolition of the penalty
 " of death in political matters, the inconsistency would be
 " inexcusable, and, in truth, that generous political com-
 " munion would explicitly refuse to accept it. If the pro-
 " ceedings of the trial had not been so rapid, there would
 " have been time for the opinion of the Liberal party to be
 " pronounced, as it has already begun to be; but, whether in
 " time or not, that party will sooner or later speak out, and
 " it will decidedly refuse to establish an act which is tanta-
 " mount to the renunciation of those generous principles.

" On our continent there exists a great people, pro-
 " foundly versed in the administration of free institutions.
 " The Republic of the United States, in its conduct towards
 " Jefferson Davis, usurper of the public power, as President
 " of the rebel South, presents a noble example for imitation.
 " Jefferson was a subject of the Government he attempted
 " to overthrow. Maximilian was not born in Mexico, but
 " came to it believing, in good faith, that he was called by
 " the nation to govern it. The one provoked a civil war in
 " the country which, ever since it effected its political emanci-
 " pation, had enjoyed a peace which became proverbial. The
 " other came to a country involved for years in civil war,
 " with a noble intention to endeavour to terminate that; but,
 " led away by the force of ungovernable circumstances, he

" was impelled to take part in the one which already existed.
 " The former cruelly and persistently persecuted the par-
 " tisans of the Government of the American Union: the
 " other not only tolerated, but showed a decided inclination
 " to, and supported and protected, his political adversaries,
 " partisans of the Republican institutions. The former in-
 " tended to destroy, in the territory which recognised him,
 " the principles adopted by the Government which he at-
 " tempted to supersede: the latter, with the only exception
 " of a monarchical principle—an essential condition of his
 " political existence—conserved, defended, and sustained,
 " to the displeasure and disgust of his natural allies, the
 " principles established by the Constitutional Government.
 " Nevertheless, Jefferson Davis, conquered so long ago as
 " 1865, has neither been tried by an exceptional tribunal, nor
 " by a special and anti-constitutional law, nor has he been
 " deprived of the guarantees granted by the Constitution of
 " the country whose public peace he disturbed; and, after
 " being conquered for two years, no public accuser has yet
 " appeared, asking in the name of the law the sacrifice of his
 " life.

" Soldiers of the Republic! who have just gained such
 " glory on the battle-field, and have given days of such
 " ineffable pleasure to the country, do not tarnish your
 " laurels, do not sully such pure public joy—abusing your
 " victory over a vanquished enemy—by decreeing a san-
 " guinary execution, useless in itself, and alien to the noble
 " character of the compassionate and generous Mexican
 " people!

" LICENTIATE EULALIO MARIA ORTEGA.

" LICENTIATE JESUS MARIA VAZQUEZ.

" Queretaro, June 13, 1867."

CONCLUSION.

THE arduous duty, fulfilled with such unremitting assiduity, by the Advocates who nobly maintained the apparent interests of the Republic, while they magnanimously wielded the legitimate weapons of defence for the unfortunate individual—the Emperor Maximilian—failed to avert from him the fearful penalty which he had unhappily incurred.

Maximilian met his death with placid resignation and heroic fortitude. As before related, marching to his tomb, he, with characteristic nobleness and dignity, presented to each of the firing-party a gold coin (*see* Frontispiece), with a pathetic request that they would aim at his heart, over which, at the last moment, he calmly placed his hand, which was instantly pierced with bullets. A tremulous motion in his body was perceptible as he fell, and the "*coup de grâce*"—that finale, which, although apparently cruel, is dictated by humane intentions—completed the tragic scene.

Maximilian sacrificed himself by his error in attempting to establish a Mexican Monarchy, in spite of the sound advice proffered to him by the agent of the Constitutional Government, the Licentiate Don Jesus Teran (*vide* page 113), who, at Miramar, gave him timely warning of the perils he would encounter in the acceptance of a Crown at the hands of an unauthorized faction, which did not, and could

not, worthily represent the mind and will of the Mexican people at large.

Let it never be believed, nor so much as suspected, that the day of his execution was one of rejoicing to Mexicans. *Not an inhabitant of Queretaro witnessed the execution—even the houses were closed, and the streets for the time were deserted!* An eloquent testimony of the sympathy of the people with the unfortunate Emperor—an example of reticence which will ever redound to the honour of that city. As soon as the fatal sentence was carried out, their true position was realised. No unseemly joy, but a sympathetic sadness, pervaded that section of society which regarded him as a noble and generous, but mistaken because misguided, Prince. And all the people grieved that he had so irredeemably compromised himself, by lending his sanction to measures that had caused widespread suffering to be inflicted on an unoffending community, together with such fearful national loss, that a pardon could not consistently be extended to him.

With tears and throbbing hearts, Mexicans mourned his fate, although, by the peculiar circumstances of the case, they were constrained to suppress the utterance of their sentiments of sympathy.

From the place of execution at Queretaro, the Emperor's remains were conveyed, with decorous ceremony, to the city of Mexico; and in solemn silence they were carried into the Palace where he had passed so many eventful days with his beloved Consort, now his pitiable and sincerely-pitied widowed wife. Thousands of Mexican hearts bled when his inanimate body passed the portals of his temporary resting-place; and earnest were the prayers they offered to the Most High for the repose of his soul!

The formal application, that the Mexican authorities deemed requisite, at length arrived from Austria, whither the corpse of the Emperor was forthwith transported, and finally deposited in the mausoleum of his illustrious ancestors.

The Intervention!—The frustrated Monarchy!—The Finale! A miserable mistake throughout, and a deplorable failure in the end, over which, in charity to both the invaded and the invaders, it were perhaps better to draw a veil. As to the effects, immediate and remote, produced on Mexico and Mexican affairs by the death of Maximilian, the writer refrains from offering any comment. But, apart from any political bias, he would fain point out one source of her national weakness—the sparsity of her population, with its usually concomitant crudity of social organisation.

Let encouragement be given for immigration to that wealthy country. This would develop her vast resources, and at the same time strengthen and consolidate her institutions; and so, accelerate the time when the world will rejoice in that bright and glorious territory, which has been—not inappropriately—designated “the Paradise of the Earth!”

FINIS.

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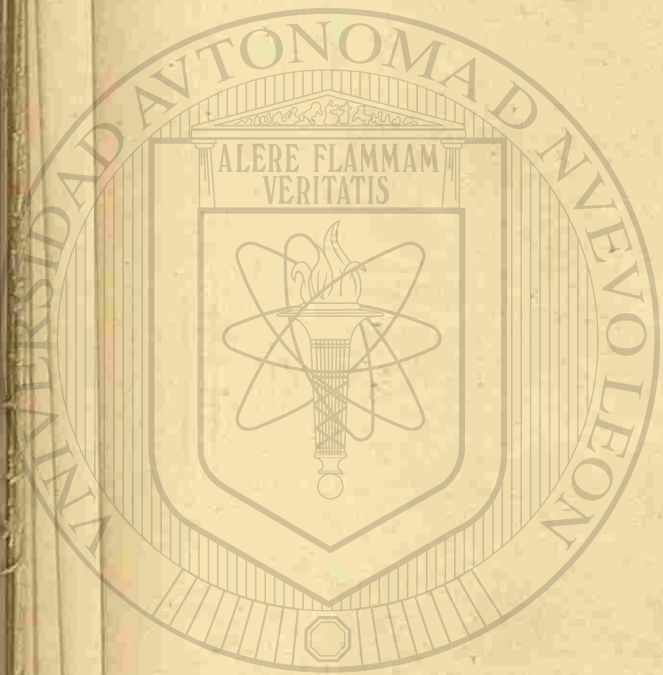
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