

“ 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 usurpation 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 consequences. 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 fraudulent or criminal intention which moved the author or doer of the act. For example, in a case of homicide, to constitute 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 designation; 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 prohibited 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 exercise 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. Therefore, 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 Congress of persons called ‘Notables,’ who proclaimed the Monarchy, and named Maximilian as Emperor. Such a form of procedure was not without examples in the constitutional 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 Juarez 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 Diaz, 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 century 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 communion would explicitly refuse to accept it. If the proceedings 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 tantamount to the renunciation of those generous principles.

"On our continent there exists a great people, profoundly 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 emancipation, 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 partisans 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 intended to destroy, in the territory which recognised him, the principles adopted by the Government which he attempted 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 sanguinary 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."