

banner of which you sustain. May Providence save you, and make me worthy of myself. "MAXIMILIAN."

It is quite clear, from the reading of the foregoing pretended proclamation, that the feeling that prevailed in the mind of its author was based upon a deep-rooted hatred, and void of that magnanimity which flows from a brave and noble-minded conqueror.

On the 20th of May, the Emperor was permitted to visit General Escobedo. He went accompanied by Prince Salm Salm and wife. He empowered the Prince to treat with General Escobedo; and in order that the latter might show his authority thus to act, the following written power was executed by the Emperor:

"I authorize Colonel and Aid-de-camp Prince Salm Salm to treat with General Escobedo, and I acknowledge the acts done by him as done in my name.

"MAXIMILIAN."

Prince Salm Salm, accordingly, wrote down certain propositions which were presented to, and rejected by, General Escobedo. One of the main ones was, that the Emperor, if permitted to leave Mexico, would never return to it again.

## CHAPTER XII.

Convent—Prison of Maximilian—Author's visit and conversation with Maximilian—Arrival of lawyers from the city of Mexico—Foreigners ordered to leave Queretaro.

THE convent of the Capuchinas, in Queretaro, is an ancient, spacious building, all over which the hand of Time has drawn its dingy strokes; and as you gaze at its exterior, observing its dimensions, its domes, its statuary, and carvings, you are reminded that the pile of silver and gold that reared that massive temple, could be enclosed in no small compass.

Year after year, mite after mite, was contributed by rich and poor, to raise its lofty dome toward the heavens; beneath which, the ever faithful daily gathered to offer up, on bended knee, thanks to our Maker for the many blessings they had received. Those who gave their mite, those who laid stone upon stone, upward, upward rising in the sky, little thought that they were walling in their descendants for sustaining political opinions honestly formed, and conscientiously advocated. They never dreamed that they were erecting warriors' abode, a depository for bristling bayonets, polished swords, powder and balls;—where the bugle, the fife, and drum were to summon the inmates to service; where the armed sentinel paces to and fro, with a measured tread. Those workmen reared that costly structure for a house of Peace; where the multitude, armed with the word of God only, were to be taught, "Vengeance is mine, saith the Lord."

As you approached the door of that temple, after the taking of Queretaro by the Liberals, you observed two

sentinels at the door, armed with muskets and fixed bayonets. If you passed there in the day-time, they said not a word; but if darkness had overspread its folds, you heard at a distance of fifty yards therefrom, "*Quien Viva?*" ("Who comes there?") You then answered, "*Libertad,*" or "*Amigo.*" ("Liberty," or "Friend.") If you wished to enter there, to visit His Majesty, you first reach a not spacious room; then, turning to the left into another of like dimensions, and going straight ahead in the same direction as you first entered, a distance of about twenty feet, you there meet two other sentinels; passing still onward into the court to the stairway, two more persons stand in armor arrayed. No questions are yet asked you, and you wind your way up that pair of stairs; at the top thereof you turn to the right, and walk straight on in a direction at right angles with that which you pursued in entering, until a promenade of fifty feet or more brings you to the end of the passageway, where stands another sentinel, who exclaims, in a stentorian voice, "*Cabo!*" ("Corporal!") The corporal appears, asks you your business. If you expect to proceed further, you must present a written order. The corporal calls the captain of the guard, who reads your order, and if correct, the soldier is ordered to let you pass. In advancing, you turn half around to the left, in the opposite direction from that which conducts you to the first entrance of the building. You enter the corridor around the court,—passing first, before reaching the court, on the right, a small room occupied by the captain of the guard. On the left you pass two doors—one enters the room of His Majesty's servant, the other into that of his physician, Dr. Samuel Basch. The corridor is six or seven feet wide, running on two sides of the court only, protected by a balustrade about three and a half feet high. As you first enter that corridor, on the opposite side of the court, a door is seen

directly in front of you; that leads to the room of the Emperor. As you advance a few feet further, at your right, on the opposite side of the court, two more doors are observable in a line with that of the Emperor's;—one of them, which is nearest to that of His Majesty, opens into Miramon's room; the other, into that of Mejia. In front of the Emperor's room is a vacant space, nearly fifteen feet square. In front of the other two rooms, the space is only of the width of the corridor.

The apartment of the Emperor is about eighteen by twenty feet, measuring to the ceiling nearly twenty feet. In front, and to the left of the door as you enter, is a window, which opens out to the vacant space in the corridor. The door and that window were the only apertures that gave light and air. When clouds darkened the sky, his room was not as light as one would have desired; and on warm days the space in front was more comfortable than the room itself, in which he found a fan an agreeable article.

The furniture of His Majesty exhibited no proof that it was prepared for an Imperial mansion. It consisted of an iron bedstead surmounted with brass, and a tolerably comfortable bed; a pine table twenty by thirty inches in dimensions, another double its size, one rocking-chair, three or more common ones, and a small box which contained some private articles.

The room itself had a brick floor, plastered walls without any ornaments, and as much the appearance of a prison as though it had been built for that purpose. The rooms occupied by Generals Miramon and Mejia were once used as chapels, and presented a little better appearance than that of His Majesty. The space in front of the latter made that one a little more desirable. The three prisoners were allowed to visit each other, and to walk in the corridor, or sit there, all of which they frequently did.

That convent contained all the prisoners who were of the rank of general. Prince Salm Salm, who was registered as a colonel when taken, but who had been commissioned as a general a few days prior to the capture of Queretaro, was permitted, at the solicitation of His Majesty, to occupy the same building on the first floor. As the Prince was German, and a person in whom the Emperor had confidence, it was a favor to him to be allowed the company and service of the Prince. Although the latter was below, he had the permission to ascend to the room of His Majesty when the latter requested his presence. The consequence was, the Prince spent a great deal of his time with the Emperor. At or near each door of the three prisoners stood a sentinel. The prisoners were thus guarded day and night. A battalion of soldiers was quartered in the convent also.

On Tuesday morning, May 28th, 1867, I left San Luis Potosi, and reached Queretaro on the following day at five o'clock, P. M. I there met, at the hotel, Mr. Bansen, the Hamburg Consul resident at San Luis Potosi. Wednesday morning, the day after my arrival, he observed to me that the Emperor was desirous of seeing me. A few hours later the wife of Prince Salm Salm met me, and remarked that she had just come from the room of His Majesty, and that his request was that I should visit him. I therefore escorted her to the convent where the Emperor was, first obtaining a written permit from the Fiscal, the law-officer of the Government, who had charge of the prosecution of the three mentioned prisoners. It appeared that the Fiscal was the proper officer to grant that permission, rather than the commanding-officer of the division. I was requested to converse with His Majesty in Spanish, so that the officer of the guard would be able to understand all that I said. The Emperor met me most cordially, and as though it was a treat to see anybody who was friendly disposed towards him.

After quite a long social conversation, he commenced to relate some facts pertaining to himself and government, first prefacing his remarks with the observation, "I wish to tell you all, that the world may know the truth." He further remarked, that when he came to Mexico it was with a sincere belief that he was called by the will of a majority of the people; that he told the Mexican deputation, when they first visited him at Miramar in the fall of 1863, that he would not accept the throne of Mexico until he was satisfied that the majority would sanction it. That the deputation then said to him that they believed that the majority were already in favor of his coming. The evidence at that time was inadequate to convince him. He observed that when the deputation appeared the second time, in the following April, the proof which they presented left no doubt on his mind as to the condition precedent having been complied with. His consent to accept the crown was based upon that belief. He further stated upon that point, that when he arrived at Vera Cruz, and witnessed the demonstration in his favor, which continued to the capital of the nation, he was more convinced than ever of the truth of the statement made by the Mexican deputation. He said, that on the way to the capital he remarked to the Empress, "Surely the deputation were right when they said a majority of the Mexicans were in favor of our coming to be their ruler." He then added, "I never in all Europe saw a Sovereign received with such enthusiasm as greeted us."

I might well testify in his behalf that, according to the statements related to me by many persons who witnessed parts of that demonstration, the Emperor could not have come to any other conclusion.

I do not think there is the slightest room for doubt that His Majesty was perfectly sincere in his reported belief.

He said, in speaking of his capture, that General Escobedo promised that he should be treated like a prisoner of war. If that promise had been carried out, he never would have been shot.

As to the decree of October 3d, 1865, issued by him, he remarked that it originated with Marshal Bazaine; that Bazaine appeared before the Council and pressed the matter, saying some severe law was necessary to put down the dissidents; and that Juarez was then in Texas. He said further, that he himself was opposed to the decree; and putting up his hands in the attitude of surprise at the severity of the decree, said: "That is against all rules of warfare in Europe; and I did not wish to sign it; but the ministers being also in favor of it, and believing Juarez to be out of the country, I signed it." Statements had been so made to him that he did not for one moment doubt that Juarez had been, and was, in Texas when he signed that decree. In fact, he said to me that he was almost certain that there was documentary evidence to prove that Juarez had been out of the country. He further remarked, "That is what makes Juarez mad, to think that it can be proved on him."

I asked him if he had ever signed a decree or order to have any particular person or persons executed for a political crime? He replied, "Never."

He then observed that he ordered the telegraph office to be kept open day and night; that an operator should be there at all hours, and should immediately deliver dispatches which contained a statement of the capture of prisoners, whether received in the day or night; and if during the latter period, to wake him up, so that he might forthwith send orders that none of the prisoners should be executed. He observed that he had frequently gotten up in the night for that purpose. He said, in speaking of executions, that the trouble with himself was, that he was too tender-hearted; that he had been

told by the Empress that he was not willing to punish when justice demanded it.

He felt very much annoyed at the many acts of cruelty which had reached his ears, and which were alleged to have been committed by the French.

I think I never saw a man more opposed to cruelty than the Emperor. In that regard his feelings were as tender as those of a lady. Yet, in battle, he was as brave as Cæsar, as all who saw him in that position will testify. We were speaking about some battles; during which time the names of Prince Salm Salm came up. His Majesty said of him: "He was as brave as a lion, Sir." He had no good feelings toward Marshal Bazaine, nor his own general, Marquez. He considered that he himself had to suffer, and perhaps to lose his life, through the actions of Bazaine.

I said to him, "The treaty of Miramar placed Your Majesty in an exceedingly difficult position; while it gave the French commander full control over the military actions and movements of the French troops, as well as over any body of mixed French and Mexican forces: it made the Sovereign head responsible for their acts." He replied, "Yes, I know it, and I am almost ashamed of it; but I submitted to it, thinking it would be the best for the country."

In speaking of President Juarez, he said, "I believe he is a good man." I never heard him say any unkind words of Juarez.

After my two first visits, I requested the Fiscal to allow me to speak in English or French, as I could therein best express the law to the Emperor, inasmuch as I was one of his counsel; to which he assented. In speaking in English, he sometimes hesitated for a word, and would place in its stead a French one, when I would give him the English of it. After a few days' conversation, he remarked, "Since my practice with you, I speak better

English. I do not speak as well as I did fifteen years ago: when in the navy, I was in the habit of meeting officers who spoke it." He spoke English very well, and read it better. He had but two books, I think, in his room to read. One was a Universal History in Spanish, and the other I have forgotten. I carried him, "*Wheaton on the Law of Nations*," in Spanish. He asked if I thought the translation good. I replied, "Very good."

When conversing about his case, he remarked, on several occasions, placing his hand on his heart, "I have never done anything against my conscience." He spoke it with such a sincerity of expression, that no man could have heard him say it without believing it. Two or three times he said to me, "I should like very much to see the Empress, my dear wife, my mother, and other relatives; but my honor before life." The name of her Majesty Queen Victoria was mentioned in conversation between us alone, on one or two occasions, when he spoke in a very kind and brotherly manner of her. His expression indicated that he looked upon her as a warm friend.

He held Americans in high estimation. He said: "The Americans are a great people for improvements. And besides, they are great lovers of justice. They pay such respect to the laws, that I admire them. And if God should spare my life, I intend to visit the United States, and travel through them." He further said of them, "You can rely on the word of an American gentleman." The idea of improvements and progress seemed to occupy a good deal of his attention. He was anxious to see Mexico advance. He frequently alluded to the lavish bounty of nature to the country: he was much delighted with its natural beauty and resources. We were much in hopes that the point raised as to the jurisdiction of the court would be decided against it, in order that more time might be obtained, as that would

decrease the excitement against his Majesty; and that after such a favorable point gained, the government might determine to bring the matter before Congress. His Majesty said: "If my case can go before the Mexican Congress, I am not afraid. I will speak myself, without any lawyers." He then turned towards me, and smiled a little, and observed, "I might need a lawyer to point out some of the law, but I would do the talking."

When I pointed to several articles in the Mexican Constitution, which were in his favor, he took his own copy of it, and marked the articles with a red pencil, read them carefully, and became quite animated. They had not been suggested to him before. He sent immediately for Mr. Vasquez, one of his lawyers. When he came, he alluded to what I had said in regard to the unconstitutionality of certain laws. Mr. Vasquez replied that he believed that I was correct in my opinion; but as the Government was still, in some respects, acting contrary to the Constitution, he could not say what view would be taken of those questions. He further said, that the Minister of Foreign Affairs, Señor Lerdo Tejada, when a member of Congress, had expressed his opinion upon the Constitution in conformity with mine.

Afterward I set forth my opinion upon the case, in a written document, which was translated into Spanish. This, he said, he would like to have sent to the United States and Europe: a copy thereof is inserted herein among the papers of his cause.

After I had read the accusations in the law-office of Señor Vasquez, I visited His Majesty, and found him in bed, not very well, but sitting up. I said to him, "I have just read the accusations." "Have you?" he observed; and smiling, said, "When they were read to me, I had to put my hand over my mouth to keep from laughing, they were so silly." I remarked that I could

not say that they appeared to be written in a lawyer-like style.

On Tuesday morning, June 4th, soon after I entered his room, the Emperor said, "We must hurry with business. I have been talking with Miramon. He has counted up the time, and says that he thinks they will shoot us Friday morning." I replied to him that I thought not, that more time would be given by the President. We had been anxiously waiting the arrival of the lawyers from the city of Mexico. They had been expected for several days, and what detained them we could not learn. As the city of Mexico was besieged, we thought it possible that the difficulty might be that they were not permitted to pass the lines. They arrived that evening, the 4th.

For two days the wife of Prince Salm Salm had been doing her utmost to procure mules or horses to convey her to the city, to ascertain the reason of the delay of the lawyers. She had been able to obtain a carriage, but no animals. I went in search of animals. I called on General —, of the Liberal army, whom I knew, and solicited animals of him, saying that I wished them to go only to the first station, where the stage line changed. He replied that he had not sufficient for his own use. At first I did not tell him the urgent reason of my desire for the animals. After I ascertained that he had none to spare, and as he asked me why I wished them, and if I were going to Mexico myself, I told him that I wished them to send for the lawyers whom the Emperor was desirous of having to assist in his defence. He then observed to me, that if he had a thousand to spare, he would not let one go for that purpose. In other words, he would deprive the Emperor of any defence, if he could. That class of officers caused the death of the Emperor. General Escobedo is among that number. It has been said by those in Mexico, that he could

have saved the life of Maximilian if he had desired it; notwithstanding, he communicated the statement to the President, that if Maximilian was not shot, that he, Escobedo, could not hold his army together. The truth will some day make its appearance. It has already to me, on good authority. And I attach more blame to Escobedo than to Juarez. When Escobedo appointed the members of the court-martial, he knew what their decision would be. There were many officers of the Liberal army that would have rejoiced at the verdict of not guilty, in the Emperor's case.

On one occasion I visited the convent about the middle of the day. I found the Emperor, Generals Miramon, Mejia, Prince Salm Salm, and Dr. Basch, around a table in the space in the corridor, in front of His Majesty's room, playing dominoes. As I entered, they were about to stop, through politeness; but I insisted that they should proceed with the game. They requested me to join them. I did so—placing myself between General Miramon and Prince Salm Salm, and opposite the Emperor. They all smiled a little, and His Majesty looked up at me and said, "This is a stupid game; it's like children's play." He seemed to be impressed with the idea that I might think it was a silly occupation for men of talent to be engaged in. He made that same remark twice. I replied that it was by no means stupid; that it occupied the mind, and made the time pass pleasanter than sitting idle. I think we played an hour. The Emperor asked me one day if I thought that he and his two generals, Miramon and Mejia, would be justified in escaping, if they could. I answered him, "Certainly, by all means; I have no idea that the court-martial will do you justice: the law is clearly in your favor; but from my discussion on some of the principles of law with the officers of the government, I am quite satisfied that the determination is to

convict you at all hazards." He preferred to have a fair trial before Congress, rather than to have escaped; but believing that they were anxious to murder him, he had no scruples about saving his life the best way that might be provided. He remarked, "I have never given my word that I would not escape; I was *cléver* about that." But if he had ever promised not to escape, he would have kept his word. He was punctilious about his honor.

He then told me of a plot formed to save them. One Henry B. del Borgo, an Italian rascal, a captain in the Liberal army, had received two thousand dollars of the Emperor's money to purchase six horses, saddles, equipments, and pistols. He purchased that number of horses of an ordinary class, and the accoutrements. I do not think, from an examination of them, that they could have cost over seven or eight hundred dollars. The horses were to be ready on the night designated, at a given point, and the three prisoners were to be let out at the proper time, to mount their horses, and to rush for the mountains. It was known that Mejia was well acquainted with the whole country, and that with him, there would be no danger of being lost. Much to the surprise of us all, the Italian left one morning early, taking with him the balance of the money; and it was believed that he had made known the plot: but as to that, we did not positively know. I think he left on the morning of the 5th of June.

That night the guard was increased, and a light kept burning all night near the Emperor's room. We began to conjecture as to the cause. Finally, it was rumored that Miramon's wife had attempted to bribe the officers; that she had succeeded with several, but one of them had told the secret. We therefore considered that the Emperor's plot was yet undiscovered.

The getting out of the convent was the difficult part.

They considered that once out, there would be no danger. How to pass the officer and nine or ten sentinels, was the great question. The Emperor once said to me: "Cannot we get out with ropes—putting one hand over the other, like sailors in climbing? You know I am good at that—I have been in the navy." I answered him, perhaps that might be done, but I thought it would be difficult, as there was no outside window to his room. I did not think it feasible, as the most difficult part would be to pass the first guards in the corridor, which he would have to do to reach any opening.

After the foregoing had taken place, I was requested by the officer of the guard to speak entirely in Spanish to His Majesty. He said that was the order which he had received. As he remained near us when we conversed, I was compelled to talk in that language. At one time I knew that the wife of Prince Salm Salm was to be there within a half-hour or more; I therefore prolonged my visit, knowing that she could talk but little Spanish, and was under the necessity of speaking in English to the Emperor. As they conversed I joined in, of course in English; and then I availed myself of the opportunity of saying to His Majesty what I did not wish the officer of the guard to understand.

The lawyers from the city of Mexico visited His Majesty the next day after their arrival. They suggested that the laws were unconstitutional, and that they would attack the laws on that ground.

His Majesty said to me on the following day, that when they made those observations to him he immediately said to them that those points, as to the unconstitutionality of the laws, had already been made. They inquired, "By whom?" "By an American lawyer." They exhibited a little surprise, His Majesty said, that a foreign lawyer should be so familiar with their constitution and laws. The Emperor pointed out

the favorable positions which I had assumed, and gave them a translation of my legal views. They did me the honor to say that they agreed perfectly with all my opinions. They requested that I should meet them in consultation the next day at ten o'clock in the morning. Before that hour arrived, they thought it best for Messrs. Palacio and De la Torre to go forthwith to San Luis Potosi to see what could be done with the President and Cabinet.

The lawyers all worked very hard to save the Emperor. They did all that was in their power as lawyers, and with their influence as men.

I asked the Emperor if he thought he would have been able to sally out of Queretaro had he not been sold by Lopez, and had the plans formed on his part been executed. He replied, "Yes." He believed that he would have been successful in reaching Vera Cruz. He observed that he had at that time, May 14th, five thousand men in Queretaro. He did not seem to have any doubt in his mind that he would have fought his way through.

While he was sitting up in bed one day, the name of Lopez came up in the conversation, and the wife of Prince Salm Salm was present, who remarked to me, "What do you think? A few days ago His Majesty heard that some man was in pursuit of Lopez to kill him, and His Majesty sent a person to inform Lopez of the fact, and to be on his guard." I looked at the Emperor, and observed, "Did Your Majesty do that?" He smiled, and blushed a little, and answered, "Yes, I did." I then said that that was more than I could have done to a man that had sacrificed me. He made some remark to the effect that he supposed but a few persons would have done it.

I asked him if I could have one of his photographs; to which he replied, "With the greatest pleasure; and you will please give me yours, with your signature on it."

He gave me one of his, observing that it was taken some time ago, but that if God spared his life he would give me a better one. I gave him my own, with my signature. He thanked me very kindly. He further said, "If God spares my life, and you go to Europe, the castle of Miramar shall be your home." I thanked him, and said I hoped we would meet there; and that if he and I lived, we should probably see each other in Europe. It was his custom, when speaking of what he would probably do if he lived, to preface the remark with the words, "*If God should spare my life.*"

His Majesty was dressed in citizen's clothes, having on black pants and vest, a dark-blue single-breasted frock-coat, black necktie, white socks, and a pair of variegated cloth slippers. His health was not very good; and frequently, when I visited him, he was sitting up in his bed, somewhat feeble.

On the seventh of June, I was sent for by General Escobedo. I called at his office. After a few moments' conversation, he observed that he had just made an order requiring all foreigners to leave the city on the following day. He further said that I was not alone included in the order. I inquired of him if any accusations had been made against me; to which he replied, "Not any." I then called upon the Emperor, and informed him of the fact; at which he was very much displeased. He wished me to say to General Escobedo that I was one of his counsel, and on that ground, to request that I could stay with him through the trial. He also desired that I should solicit Mr. Vasquez, one of his counsel, to call upon General Escobedo, and ask of him permission for me to remain. I called on Mr. Vasquez, and made known to him the desire of the Emperor. He refused to comply, saying that he had once that day called upon the general, and found him in a bad humor, and quite enraged about something. I bid His Majesty good-



bye that afternoon, saying that I did not see how it was possible for me to remain any longer, as the order of the commanding officer was positive, and must be obeyed. He said to me "Good-bye" most affectionately, with a very complimentary additional remark; and then we parted. That parting I never shall forget.

Subsequently, I saw General Escobedo again, and said to him that I was one of the Emperor's counsel, and that it was his wish that I should remain with him. He replied, "Foreigners cannot practice in our courts." I might further add, that if he had the control of the nation, and the law-making power, he would not allow a foreigner to live in the country. He did say, that were it in his power to govern the rights of foreigners, he would not permit them to live in Mexico, unless they became citizens of the country. The following morning I left the city for Tacubaya.

### CHAPTER XIII.

Court-martial—Accusations—Defence—Trial and judgment—Maximilian's decree of October 3d, 1865—Law of Juarez, 1862—Treaty of Miramar—Correspondence between United States and Mexico—Parts of the Mexican Constitution—Comments on the law.

BY an order of Señor Don Benito Juárez, as President of the Republic of Mexico, General Mariano Escobedo, chief of the forces at Queretaro, was commanded to form an Ordinary Council of War, which should be authorized and required to try His Majesty Maximilian, and his generals, Miramon and Mejia.

The Government of Mexico recognized Maximilian only as Archduke of Austria, and the other two prisoners as mere citizens, not acknowledging their titles as generals, but as the "*so called generals.*"

They were thus entered on the records.

General Escobedo telegraphed to the Minister of War on the 27th of May, 1867, that, in answer to his note of the 21st, he had the honor to say that proceedings had been taken toward the trial of the three mentioned persons.

In accordance with the foregoing order, General Escobedo appointed the following persons as members of that Council of War: Lieutenant-Colonel Platon Sanchez (President), Captain José Vicente Ramirez, Emilio Lojero, Ignacio Jurado, Juan Rueday Auza, José Verastigui, and Lucas Villagran.

Lieutenant-Colonel Manuel Aspiroz was appointed by the general as Fiscal, and Joaquin M. Escoto as Asesor. Both are law-officers of the Government. The Fiscal's duty is to write the accusations, take the evidence, and