

stitution with any special functions that conflict with the division of powers under Title 3, Article 50.

The Constitution protects all persons in certain individual rights, such as those of carrying arms for personal security; travelling through the territory without letters of security, and others therein mentioned. But in time of war, or a disturbance of the public peace, those individual guaranties may be *suspended*, if public safety require it. Article 29 provides for that suspension as follows:

"In cases of invasion, serious perturbation of the public peace, or any other events that place society in imminent danger or conflict, only the President of the Republic, conjointly with the council of ministers, and with the approbation of the Congress of the Union, and in the recess of Congress of the permanent deputation, can suspend the guaranties granted in this Constitution, always excepting those which guarantee the life of man; but it shall be done for a limited time, by means of general laws, and such suspension shall not be to the prejudice of any particular individual. If the suspension should take place, Congress being in session, it (Congress) shall grant the powers it deems necessary, in order that the executive may meet the exigencies of the situation. Should the suspension take place during a recess of Congress, it shall be summoned immediately, in order to give its consent."

The Mexican government confounds the right to *suspend* certain rights with that of making laws. The divisional lines of powers are great monuments of governmental functions that cannot be changed unless by an amendment, as provided in the Constitution.

It has been held by the Mexicans, that in time of war the Constitution loses its force and vigor. And yet they invoke that instrument whenever it supports their position; and in the same breath they deny its validity,

if they desire to exercise powers not within its limits. Upon an examination of their Constitution, it is clear that some parts of it never can be of practical use except in time of war or great public danger. The very suspension of certain guaranties can only be made during such a period; but even *then*, that which guarantees the life of man *cannot* be suspended.

They declare that by the Constitution they suspend certain individual rights; and if they wish to take the life of the individual, they then hold that the Constitution has no force, inasmuch as war exists. It is convenient for a vindictive executive, who desires to have his power circumscribed by his will only, to thus argue: but the argument is an exhibition of a great poverty of reason. And further: Article 128 says that "This Constitution shall not lose its force and vigor, although its observance may be interrupted by an armed rebellion. If, in case of public disturbance, a government contrary to the principles sanctioned in it be established, as soon as the people recover their liberty, its observance shall be re-established; and those that figured in the government springing out of the rebellion, as well as those cooperating in its establishment, shall be tried according to the Constitution and the laws issuing therefrom."

After the Republican party had taken a given place from the enemy, and exercised complete control over the same, how they can seriously aver that the force of the Constitution is destroyed, when the said 128th Article still exists as a part of their fundamental jurisprudence, is difficult to understand.

To amend the Constitution, requires a two-third vote of the members of Congress present; which vote must be approved by a majority of the Legislatures of the States. No amendments having been thus made, the Constitution of 1857 was and is in force.

The President of Mexico assumes, under the provi-

sions of Art. 29, which declares "Congress shall grant the power it deems necessary in order that the executive may meet the exigencies of the situation," that Congress may vest him with legislative function. But such is not the true construction of the language; and if it were, it would be in conflict with other parts of the Constitution. It only authorizes Congress to empower the President to make orders or executive regulations in regard to individual rights during war-time; and these orders and regulations must cease to be in force after a certain period fixed therein.

It is somewhat analogous to the principle adopted in the United States, where the Legislature authorizes the judiciary to make rules which shall govern the practice in courts. That never has been considered a power to make laws. The laws of Mexico can only be made by the Legislature, and that body is not compelled to specify therein how long the same shall remain in force. They will thus remain until repealed by that body; which clearly shows that there is a broad distinction contemplated by the framers of the Mexican Constitution between their laws and the orders made by the President by virtue of his powers received from the Legislature, under Art. 29.

There is one great principle of law that pervades the jurisprudence of all civilized countries, and that is, when a person has a bare power or authority from another to do an act, he must execute it himself, and cannot delegate his authority to another. It is a trust or confidence reposed in him personally. The old common-law maxim is, "*Delegata potestas non potest delegari*" (a delegated power cannot be delegated). Such is the civil law, although the language of their maxim is not the same, but is, "*Procuratorem alium procuratorem facere non posse*" (the agent of one person cannot appoint another agent). Therefore, when the people of Mexico delegated their

law-making power to the Congress of the Union, without authorizing that body in their Constitution to delegate the same power to another, they placed a certain trust and confidence in Congress which cannot be executed by any other person.

Efforts were made by the Legislatures of several States, of the United States, to relieve themselves of the responsibility of their functions by submitting statutes to the will of the people. Such proceedings were held unconstitutional. The New York Court of Appeals said, "The Legislature have no power to make such submission, nor had the people the power to bind each other by acting upon it. They voluntarily surrendered that power when they adopted the Constitution."

The Legislature makes, the Executive executes, and the Judiciary construes the law. The learned Chief Justice Marshall, in the Supreme Court of the United States, in the case of *Wayman vs. Southard*, 10 Wheaton, 46, observed, "It will not be contended that Congress can delegate to the courts, or to any other tribunals, powers which are strictly legislative."

As has been observed, in article 23 of the Mexican Constitution, the punishment of death for political crimes has been abolished except for treason in a foreign war, and other cases therein mentioned. It is clear then, that prisoners guilty of political crimes in a *civil* war are not subject to the death penalty. That the late war in which Maximilian figured was a *civil* war will hardly be denied. After the French left, the main body of both armies were Mexicans, struggling for their respective forms of government.

Such being the facts, and the Liberal party standing by and endeavoring to sustain the Constitution, why political prisoners taken by them should not have been protected in their constitutional rights, is not easy to be comprehended.

It is true that the executive made a law declaring that whoever should take up arms against the constituted government would no longer be considered *political* prisoners, but felons, to be punished according to the law of 1862.

The first question which legally presents itself under this head is, What are political crimes?

The adjective, "political," means that which pertains to government. Political rights are those which may be exercised in the formation or administration of government. Civil rights are those which a man enjoys as regards other individuals, and not in relation to government.

Political crimes are those acts of a person or persons in violation of the political government of the country, under the belief that he or they are justified in so acting according to their honest convictions. And the crime is as distinct from a felony as black is from white. The man who robs or wilfully kills with malice aforethought, makes no pretensions to justification, because he is acting contrary to his own conscience. Any one act as much as another against the regularly constituted government, by a dissident, is a political crime. The Constitution has made no classification of political crimes, but has declared that no person shall suffer *death* who may commit them. Undoubtedly Congress could classify such crimes, as the prohibition in the Constitution is only on the *limit* of punishment.

The Supreme Court of the United States said, in *Martin vs. Hunter's Lessees*, 1 Wheaton, 304, that "The words of the Constitution are to be taken in their natural and obvious sense, and not in a sense unreasonable or enlarged."

One of the Circuit Courts of the United States held that the words, "admiralty and maritime jurisdiction," in the Constitution of the United States, had a signifi-

cation which could not be extended or curtailed by Congress.

It is manifest then, from the plain import of the Mexican Constitution :

- 1st. That the President has no legislative power.
- 2d. That the Congress of Mexico cannot delegate its powers to the President.
- 3d. That among the individual guaranties which may be suspended, that which affects the life of man is not included.
- 4th. That the powers of suspension in regard to individual guaranties do not authorize either the President or Congress to deprive the Constitutional Courts of their jurisdiction.
- 5th. That neither the Legislative nor Executive branch of government can change the signification of the language of the Constitution from its usual and general sense.
- 6th. That the Constitution provides that its provisions shall not be inoperative during the time of war.
- 7th. That the ordinary Council of War which tried Maximilian had no jurisdiction of the cause.

It follows from this review that the law made by Juarez, dated January 25th, 1862, upon which the accusations against Maximilian were based, is in violation of the Mexican Constitution, and therefore void.

Passing from the questions of constitutional and municipal laws of the Republic of Mexico, which have been applied to the case, it becomes necessary to investigate the rights of the parties under the law of nations. This has become quite essential, in order to arrive at just conclusions, inasmuch as the severest criticisms have been passed upon the Emperor for issuing the decree of October 3d, 1865. That decree engendered a great deal

of bitterness in Mexico, and it has been alleged to be the cause of the Emperor's death. Those who were the bitterest in their denunciations of him were under the necessity of presenting some kind of an argument to support their position; and the severity of that decree was advanced as sufficient therefor. It has been so much commented upon by the Mexicans, and by their press, while they have been silent as to the terrible law of their own enactment, that the people of the United States and Europe have been inclined to attach considerable blame to Maximilian for issuing it without knowing the circumstances and facts which surrounded the Emperor, and which so clearly, in the eyes of the law, justified him in issuing the same.

When Maximilian executed that decree, he was the sovereign of the *de facto* government of Mexico, beyond any doubt. He was so recognized by several powers. The fact that the United States did not so recognize him, did not change the real condition of things in Mexico. It brings to my mind an observation once made by that distinguished American jurist, Chief-Justice Marshall, who said, "If Congress should pass a resolution, declaring that Hume never wrote the History of England, I do not think that it would change the fact."

The United States, for certain political reasons, did not wish to recognize any new Empire on the American continent, particularly in an adjacent territory. Those reasons were not based upon the true state of facts as to the actual possession of the one or the other contending parties in Mexico.

If the relative position of the two parties had been changed, the United States would not for a moment have doubted that the same facts which surrounded Maximilian would have been ample, upon principles of international law, to hold that he was the sovereign *de facto* and *de jure*.

The law of nations is governed by the state of facts which exist in a country, not what some nations may say of it. Suppose a nation declares certain ports blockaded, does the proclamation *ipso facto* render them blockaded in the eyes of the law? Will not the law inquire whether adequate physical and material force is actually on the spot to support the blockade?

The same reason applies to a nation. The question is, what party holds and exercises control over a country. Whatever party does, that is the government *de facto* of that country. If no other nation on earth had recognized the Empire of Maximilian, still the fact of its having the possession and control of the territory, made it the government *de facto* and *de jure*. The internal sovereignty of a State requires no such recognition. It is a State because it exists.

Nor did the fact that foreign troops aided the Empire change its rights. The settled doctrine of the law of nations, which was adhered to by the United States Supreme Court, is, that a weak power does not surrender its independence and right to self-government by associating with a stronger and taking its protection. It would be a singular doctrine to advance that the nationality of some of the troops of the Empire could change the rights of its Sovereign.

One of the *absolute* rights of a State is to protect itself, and to make all needful laws; and no other power has a right to dictate to it in regard to those municipal laws. And the judicial investigation and punishment of a sovereign for enacting laws within the jurisdiction of his territory, is what will not be found on the records of any nation but those of Mexico. Such an investigation may well be considered a judicial curiosity.

After the intervention ceased, and Maximilian assumed the reins of government, at the request of a large number of Mexicans, and, as he believed, in accord-

ance with the will of a majority, the war was a civil one. Wheaton says, and it is not denied by any other writer on international law, that "the general usage of nations regards such a war as entitling both of the contending parties to all the rights of war as against each other, and even as respects neutral nations." (*Wh. on Laws of Nations*, part 4, ch. 1, § 7.)

What, then, are the rights of war? One among the many is that of *retaliation*. That is, one nation may apply in its transactions with another the same rule of conduct by which that other is governed under similar circumstances (*Ibid.*, Section 1st). Notwithstanding the severity of the decree of October 3d, executed by Maximilian, we fail to find less in the law of January 25th, 1862, made by President Juarez. According to said law of 1862, if any Mexican should be caught who had served in any manner the foreign troops in the country, which were the enemies of the Liberals, he would be punished with death. (See Article 2d.)

Under that law, if the Liberal party contained only one-eighth part of the whole population, and the other seven-eighths wished to change the form of government, and should attempt it, and any one of them should be caught so doing by the Liberals, he would be subject to the punishment of death.

If a Mexican boy should carry wood to build a fire for one of the enemies of the Liberal party, he would be liable to the same punishment if caught. And yet the party that promulgated that harsh and bloodthirsty law charge the Imperial ruler with cruelty in issuing the decree of October 3d, 1865.

Not only was the law of January 25th, 1862, on the statute-books of the Juarez party, but the bloody act was carried into execution.

Was not General Robles caught on the road to Vera Cruz without arms, and shot in cold blood by the Juarez

party, merely because it was suspected that he was going to talk to the French forces? The shocking crimes, covered by the law of 1862, were numbered by hundreds, nay thousands, long before the decree of October 3d was issued. Will not the surprise of the reader be rather that such a decree was not issued earlier, than that it was issued at all? Was the Emperor not justified upon the principle of *retaliation*, based on international law, in issuing that decree?

Let us suppose another case for illustration. If the Liberals were composed of only one-third of the population, and possessed all of the arms in the country, and should see proper to issue decrees contrary to the Constitution, and to enforce them upon the unarmed two-thirds, and if the latter, in their defence, should invite foreign aid, in the way of men and munitions of war, and be subsequently caught by the Liberal party, they would be liable to a death punishment under the law of 1862. Such a case might well arise, because one-third of a nation well armed could hold in subjection the remaining unarmed two-thirds.

It appears, not unfrequently, by observation among men, that many persons first determine in their own minds which of the contending parties have the right side of the issue, and then conclude that that party is authorized to enact laws, however severe, which its judgment may dictate, while they deny the same right to the other party. The rule of law is, that the justness or unjustness of the war is not to be taken into consideration, when passing upon the question of the method of warfare.

There are certain principles of international law which are founded on the rights of humanity, and enforced by moral sanction; and it makes no difference what has caused the war, for when it has once commenced, certain rules based on international morality, and acknowl-

edged by the civilized world to be just and humane, are to govern the acts of the contending parties.

And the fact that one party in a civil war is vastly superior in numerical strength, does not alter the rights of either. Nor is there any rule of international law that will support the position that, if the head of one party in a civil war be a foreigner, the rights of that party as to the method of warfare are lessened thereby. And Maximilian, as the sovereign head of the Empire, was entitled to all the rights which any Mexican would have been had he held the same position.

It would be difficult for any moral man, be he professional or layman, to advance any good reason why that principle of law, which holds that no use of force is lawful except so far as it is necessary,—and that a belligerent has no right to take away the lives of the subjects of the enemy, whom he can subject by any other means,—should not have governed in the war between the Imperialists and Liberals in Mexico.

If a man declares that he justifies the shooting of the Emperor because he is opposed to the establishment of an empire in Mexico, or because some secessionists in the Southern part of the United States favored Maximilian's policy, he would give no room for discussion, and would be rather an object of pity than of admiration, on account of his prejudices and great want of argumentative powers.

While the law of January 25th, 1862, stares the world in the face, the complaint of inhumanity against Maximilian comes with a bad grace from the lips of the Juarez party.

It will be readily admitted that there was a time in the barbarous ages, as even now among the wild savage tribes, when warriors considered it their right to take the lives of prisoners of war; but we have long indulged the hope that the torch of science had dispelled such

a doctrine; and that there was a universal desire among the civilized nations of the present age to adopt measures that would mitigate that ancient practice of cruelty. And it is with no very kind feelings that we can view that people who claim a place in the great family of nations, who cannot consent to respect the principles of international morality.

As we closely review the individual acts of His Majesty, which pertain to the Empire, we shall perceive a steady aim on his part to avoid cruel treatment and to keep within the rules of warfare that are sanctioned by the general consent of mankind, as being just and humane. If we investigate the treaty of Miramar, we shall ascertain that the position of Maximilian was not an enviable one for a sovereign. Wherever there was a body of French troops or allied forces of French and Mexican soldiers, they were under the control of the French commander by virtue of that treaty. And thus, while they were acting in accordance with instructions from a French general, they were committing acts obnoxious to the feelings of the head of the nation, and upon whom was placed all the blame for the committal of those acts.

As soon as the Emperor was freed from the dictation of the French commander Bazaine, he annulled the decree of October 3d, 1865; which act took place about the 21st of October, 1866. Thus, for many months prior to the capture of the Emperor, that decree which infuriated the Liberals was not in force, while their murderous law of January 25th, 1862, was still unrepealed.

And further, even while the said decree of October was in full vigor, Maximilian never consented to its enforcement in any given case; but, on the contrary, issued strict orders to his commanders not to execute it. Wherever executions were rendered under the law, it was without his prior knowledge, and met subsequently with his

disapproval. At the same time, hundreds of prisoners taken by the Liberal forces were sent to their graves under the stern provisions of the law of 1862.

Humanity, and the just principles of war, demanded that the Liberals should have ceased to carry out the law of 1862, after the annulment of the October decree, by His Majesty. Is there any rule of law or conscience that would hold the life of the Emperor responsible for every murder, or unjust act committed by French soldiers, against the will of the Emperor? The rule of law is, that the conduct which is observed by one nation toward another, will be reciprocally observed by the latter toward the former. And the moment the rigor of a law is abated by one party, the other should immediately repeal that law which was enacted by it as retaliatory of the one which was abated. Reason and good faith could not support any other doctrine.

There is a very short argument advanced by some who favored the murder of Maximilian, and that is, that he had no business to come to Mexico.

Let us examine that question in a legal and moral point of view.

The generally recognized doctrine that a people have the right to change their form of government, is expressly laid down in the 39th Art., Sec. 1, Title 2, of the Mexican Constitution, in these words: "The people have at all times the inalienable right to alter or modify the form of their government."

The Imperial party attempted to avail themselves of that right. The next question which would naturally present itself is, Did that party represent a majority of the people of Mexico? Upon that point there are two opinions in Mexico.

As I am in favor of the stability of the Republic, and against the Empire, upon principle, I hope I shall not be charged with prejudice against the Liberal party.

And as I wish to make no incorrect statement in regard to Mexico, I will not state which way the majority of the people would have decided that issue had a test vote been taken. I will give some facts from which conclusions may be drawn.

I have visited Mazatlan, Durango, Zacatecas, San Luis Potosi, Queretaro, the city of Mexico, Puebla, Orizaba, Cordova, and Vera Cruz. With the exception of Zacatecas and Vera Cruz, a large majority in those places were in favor of the Empire. That Guadalajara, Guanajuata, Puebla, and Orizaba were strongly in support of the Empire was never doubted. I have thus mentioned nearly all of the *large* cities of Mexico. The majority of the educated and refined people of those cities do not mix with the Liberals. There is also a marked change noticed by those who observed the government under both *régimes*, in regard to the activity of business and the gayety of social life; showing that progress was making headway under the Empire. When the Emperor and Empress entered the country they were greeted with unbounded enthusiasm. Many who witnessed that entrance have frequently remarked that no one could have doubted that the majority were for the Empire.

I witnessed the entrance of President Juarez into the city of Mexico, on the 15th of July last, and I was completely surprised at the want of enthusiasm. It appeared more like a funeral than a joyous reception. Several Liberal officers standing by me could not help remarking what a silence prevailed. A large portion, if not a majority of the intelligent people in Mexico, dressed in mourning for the demise of the Emperor. In consequence thereof it was difficult to obtain many articles of mourning wearing-apparel at the mercantile establishments.

As an admission from the Liberals, we take the following article from the "*La Sociedad*," May 25th, 1866,

which copied the same from the "*Revista*," of Vera Cruz, a Liberal journal.

"Before the Emperor Maximilian arrived in this country, when the Assembly of Notables in the Capital proclaimed the Monarchy, and elected him the arbiter of the destinies of Mexico, he wished to know the will of the entire country, or at least of the localities occupied by the French-Mexican army; and a call was made on the inhabitants of those localities, the only object of which call was to know the true opinion of the Mexicans.

"In fact, *in each locality* a declaration was made, which was subscribed by thousands of citizens, and among them, certainly, very few figured that were not in feeling favorable to the new order of things.

"The Archduke Maximilian, in view of these acts, which we cannot deny were numerous, accepted the imperial crown which the Mexican deputation, who were sent for that purpose, offered him at Miramar. . . .

"We who, whatever may be our ideas, cannot deviate from the path we have marked out, *believe ourselves obliged to confess that if any ruler ever had reason to believe himself really called by the people, the Emperor Maximilian had in the highest degree.*

"And it is so far so, that we even recollect the first words which the new Emperor dictated to the Mexicans on his arrival to our shores, words which were in *complete harmony with the facts already referred to.*"

The rejoicing exhibited wherever the Emperor went in Mexico, and the foregoing admission of one of his political enemies, ought to be considered as some evidence that a large party of the Mexicans were friendly to the Empire, if not a majority of them. The admission of that Liberal journal is so strong, that it relieves

the Emperor of the charge of an *intent* to act *contrary* to the *will* of the Mexican people.

The fact that the Liberals conquered the Imperialists, is no proof that the former are supported by a majority of the people. Any one acquainted with the history of Mexico, will well understand how that may be. No party can long remain in power in that country. And it is immaterial what principles are advocated by the reigning party, they are destined, sooner or later, to be overthrown. As I have in another place observed, the supreme power of a nation is always with the party who happen to have the arms in their hands, although that party may not number one-third of the whole.

Out of the whole population of Mexico, there is not a million that have anything to say about the affairs of government. The common soldier has no opinion on political matters, and knows not the difference between an empire and a republic. And the man who thinks that the soldiers volunteered in the Liberal party, never had a more erroneous idea. They were forced into the service, not by any law regulating a draft as in other countries, but by sending armed men to take them wherever they could be found. I have this information from persons who have lost their working men in that manner. I adduce these facts in support of the proposition that the numerical strength of the Liberal army is no criterion of the correct views of their political opinions.

I went to Mexico in the beginning of the year 1867, strongly impressed with the idea that the Liberal party was far in the majority—and I must confess, against my wish, I have had that opinion shaken. That the majority of the wealthy people were in favor of the Empire, I think no well-informed and unbiased man will deny.

More improvements were made under the Empire than under any President, during the same length of time.

It has been difficult for the people in Europe and the United States to obtain correct information as to the condition of affairs in Mexico. Many correspondents of newspapers have visited Mexico with a view to obtain profitable concessions from the Government, and with a view of aiding their contemplated projects: they have written highly favorable to the Administrative power. And others strongly biased, have written in opposition thereto. The poorer class care but little who governs; the rich are in favor of an empire, but do not wish to do the fighting; and the middle class, together with some of the rich, are the most energetic, and belong to the Liberal party; hence their success, added to the fact, that the Imperialists had no sufficient army of native element formed when Bazaine left.

To sum up then, it is obvious that a number so large, of the Mexican people, were in favor of Maximilian as their ruler, that he was not wholly without proof that the party was composed of a majority. The weight of evidence is in his favor sufficiently to acquit him in a moral point of view.

And further, it is too clear and conclusive to admit of a serious argument, that the law of January 25th, 1862, is in conflict with the provisions of the Mexican Constitution; and that international law cannot support the execution of Maximilian.

The sustaining of Mexico in that brutal act, is only on a par with the praise of Booth, for murdering President Lincoln. The latter was a cold-blooded murder *without* a trial; the former was murder after a farcical one.

Mexico has long witnessed calamities flowing from mutual persecutions, but it was to be hoped that in this age some benefits and improvements were to be expected from the light, and human sympathy acquired from the advancement of science. When the Mexican people formed their present Constitution, they were not un-

mindful of the barbarity and injustice indulged in during their many intestine conflicts; and in order to impress moderation upon their minds, and to work up to the standard of modern ideas of civilization, they wove into that Constitution certain principles in harmony with justice, and which were, that life should not be forfeited on account of political opinions, nor for any acts honestly committed in support thereof; and that confiscation of property should not take place. And yet the party that stands upon that Constitution as its political platform, pays but little respect to its prohibitory clauses.

And admitting, for argument's sake, that the law of January 25th, 1862, was in perfect harmony with the Constitution, and that the Court had jurisdiction of the cause, then it can be safely said that the judgment was fraudulent, and unsupported by the evidence presented, according to the rules of the Civil Law, which governs judicial proceedings in Mexico. Public notoriety, hearsay testimony, nor secondary evidence never were sufficient under the Civil Law, nor by the legislative laws of Mexico, to sustain a judgment of guilty in a criminal cause.

It was not from ignorance that the authorities of Mexico committed their deed of horror, nor from any mistaken notion of law and justice.

It was considered too good an opportunity to lose to show the world that Mexico was an independent nation, and that however much sympathy the adjoining Republic might have heretofore shown in the hour of need, it was by far insufficient to permit that Republic to assume an advisory position which savored in the slightest degree of dictation. Such has been given by Mexicans themselves as one reason why the executioner should have done the bloody work.

As we review all the circumstances of the case, we

cannot but conclude that they justify the suspicion that revenge and cupidity dictated their acts rather than the spirit of a manly foe.

We have seen, in this case, great questions of constitutional and international law considered and decided within a few hours by not very wise and learned men—questions that learned tribunals in other lands would have considered for days before giving a final decision. That is, although they might have considered at first blush the questions not difficult, yet the magnitude and importance of the cause would have demanded from learned jurists a complete and serious examination before the rendition of a definite judgment thereon.

Had the goddess of Justice been present during the trial of the Emperor, she would have hung her head in shame as the judgment was read.

It is apparent that the scales and beam of justice were broken into fragments, and that there was no weighing of the evidence.

The trial was the prelude to the tragedy, in order to increase the assumed dignity, and to extend the great dramatic play of the nation. It was, indeed, a bombastic farce, and the tragedy that followed a terrible one. And both are recorded as a stain on the pages of the history of the Mexican nation which can never be effaced therefrom, though steeped in the sulphurous fumes of the infernal regions.

CHAPTER XIV.

Application for pardon—Pardon denied—Sentence approved—Pardon again asked and denied—Execution postponed—Letter from Maximilian to Baron Largo—Pardon asked by Baron Magnus—Refused—Despatch from Maximilian to Juarez—Preparations for execution—Last words of the victims—Execution.

AFTER the decision of the Council of War, or court-martial, and the approval thereof by the Commander of the Division, General Escobedo, there was but one other mode to pursue on the part of the defendants—that was, to seek the clemency of the Executive. Before, and during the time of the trial, Messrs. Palacio and De la Torre, two of the Emperor's counsel, were at San Luis Potosi exercising their influence with the President and Cabinet.

The said counsel having learned that, on the 14th of June, at ten minutes past twelve o'clock at night, the three prisoners, Maximilian, Miramon, and Mejia, had been condemned to death, immediately applied for the pardon of the three, without waiting to ascertain whether the decision of General Escobedo would be in approval or disapproval of the said sentence. In answer to that application, the Minister of War transmitted to the said counsel the following note:

“SECRETARY OF STATE, WAR, AND NAVY:

“You have set forth in your new petition that having notice that the Council of War assembled in Queretaro have condemned to the extreme penalty Fernando Maximilian of Hapsburg, you ask, as his counsel, the Government to grant him a pardon, or, that if even it