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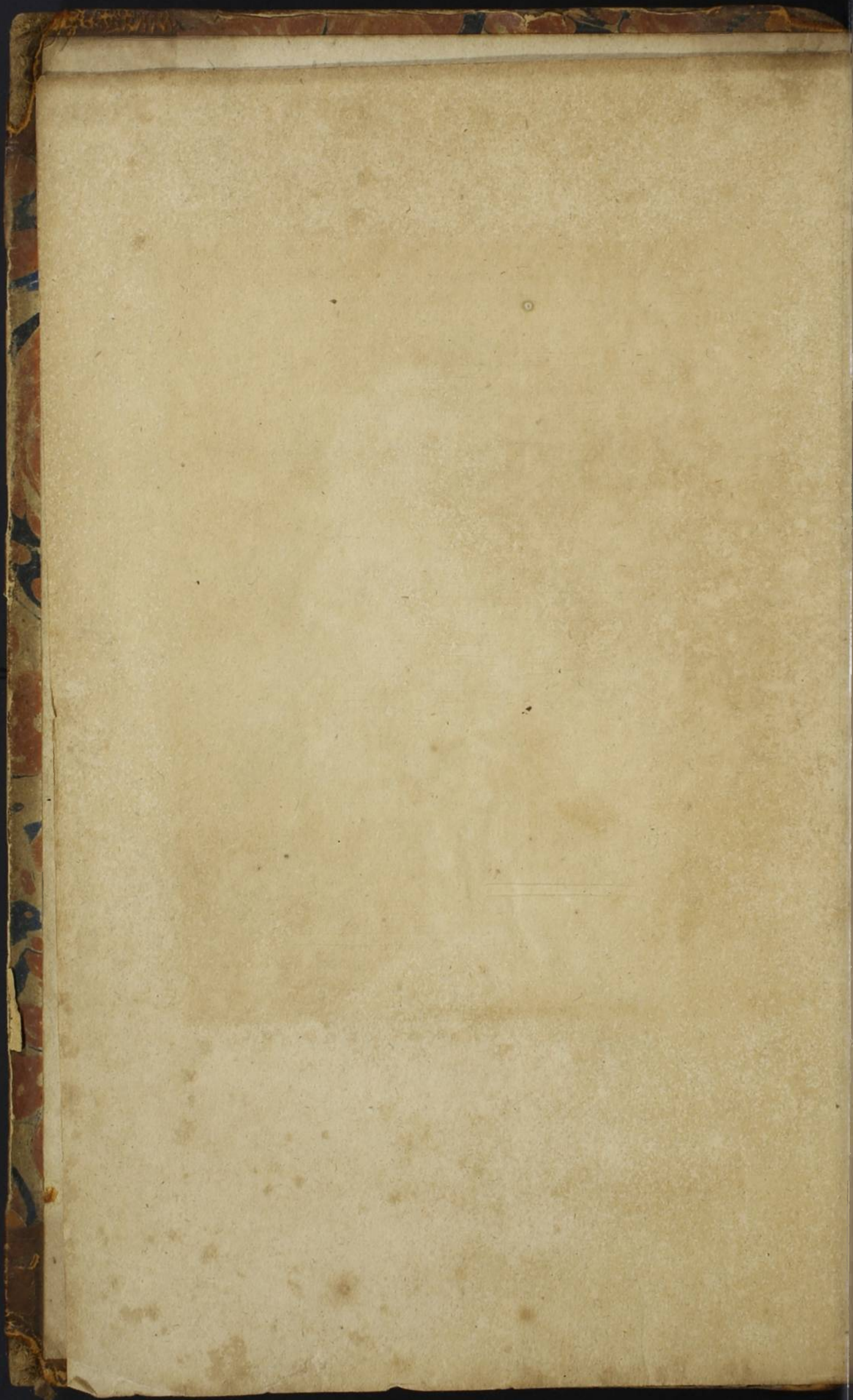
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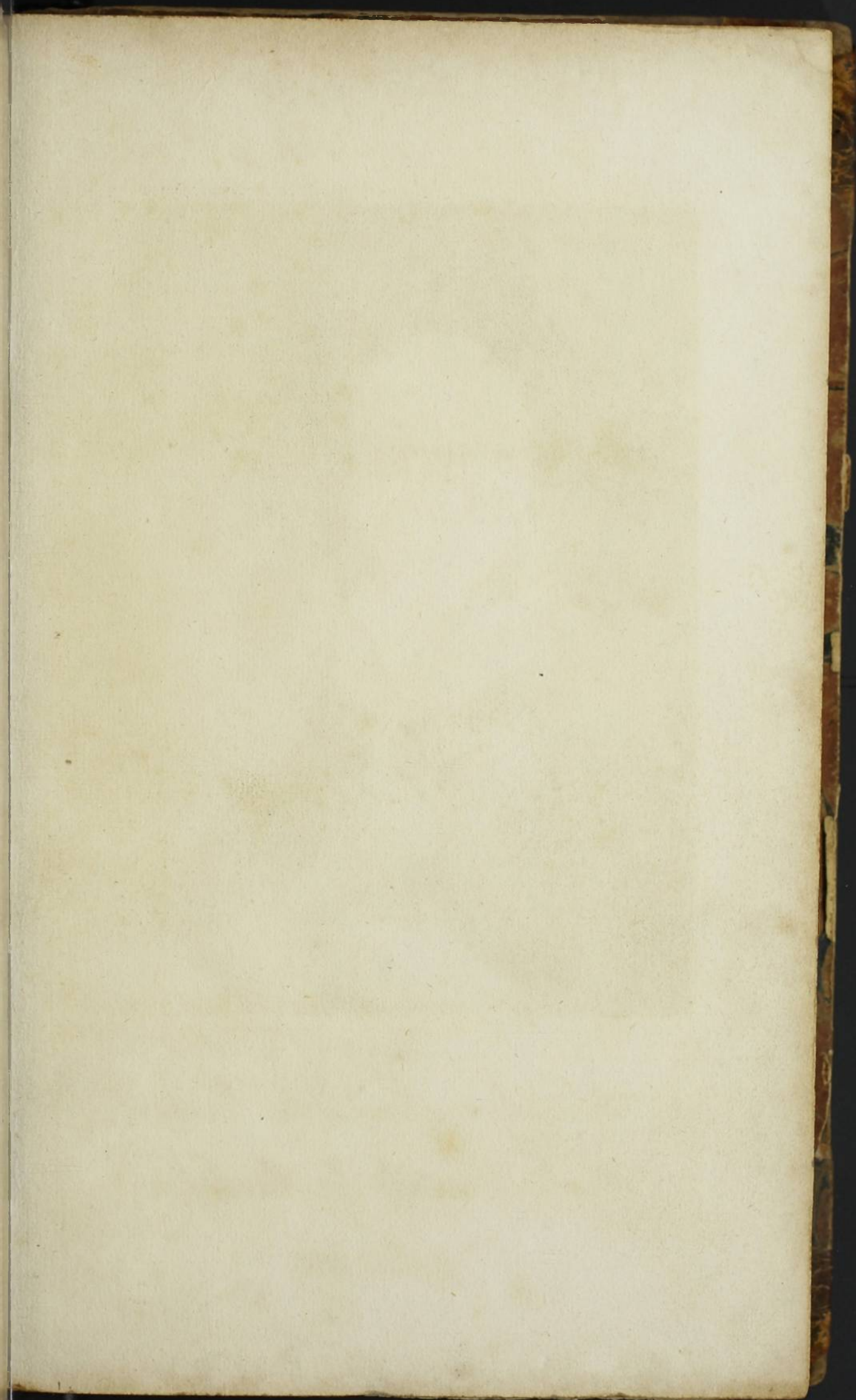


The Right Honorable
Washington Sewallis Carl Ferrers

Whitely









Printed by G.H. Harlow.

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Hippolyto Joseph da Costa
Pereira Furtado de Mendonca.

Anno 1811.

A
NARRATIVE

OF THE
PERSECUTION

OF
HIPPOLYTO JOSEPH DA COSTA PEREIRA
FURTADO DE MENDONÇA

A native of Colonia do Sacramento, on the River La Plata,

IMPRISONED AND TRIED IN LISBON, BY THE INQUISITION, FOR THE
PRETENDED CRIME OF APOSTASY

To which are added,

The Bye-Laws of the Inquisition of Lisbon,

BOTH ANCIENT AND MODERN,

(never before published.)

Taken from the original in use of the Royal Librarian in Lisbon.

IN TWO VOLUMES.

VOL. I.

LONDON:

PRINTED AND SOLD BY W. LEWIS, PATERNOSTER-ROW,
AND MAY BE HAD OF SHERWOOD, NEELY, AND
JONES, PATERNOSTER-ROW; AND OF
ALL OTHER BOOKSELLERS.

1811.



Alfonsus Joseph da Costa
Francisco da Mendonça
1784

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NARRATIVE
TO THE BRITISH NATION AT LARGE

AND MORE PARTICULARLY

TO THE MOST ANCIENT AND VENERABLE SOCIETY

OF FREE AND ACCEPTED MASONS,

WHO HAVE THE HONOUR AT THIS TIME,

AND HAVE HAD FOR THESE THREE YEARS, OF POSSESSING

HIS ROYAL HIGHNESS THE PRINCE REGENT

FOR THEIR GRAND MASTER,

THIS WORK IS MOST HUMBLY AND MOST RESPECTFULLY DEDICATED,

AS A TOKEN OF HIS ADMIRATION

FOR THEIR CONSTITUTION,

AND AS A TESTIMONY OF GRATITUDE

FOR THEIR UNIVERSALLY ACKNOWLEDGED PHILANTHROPIST

WHICH IS NOT MERELY CONFINED TO EUROPE,

BUT HAS EXTENDED ITS BENEFIT TO THE MOST DISTANT

CORNERS OF THE GLOBE,

BY

THE AUTHOR.

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AND MORE PARTICULARLY
TO THE MOST ANCIENT AND VENERABLE SOCIETY
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CORNERS OF THE GLOBE.

BY

THE AUTHOR.

NARRATIVE
OF THE
PERSECUTION
TO THE READER.

FROM my earliest infancy I had accustomed myself to consider the existence of the inquisition in Europe as a system formed by ignorance and superstition, and therefore I had always viewed it with horror: but little did I ever dream of becoming myself a victim of its persecution. It is hardly credible that, in the nineteenth century, a tribunal should exist, that, without any apparent cause, or without any violation of the laws of the country, should feel empowered to seize individuals, and try them for offences which must be considered imaginary, if they are not to be found, which is the case in the criminal code of the country.

In stating such a plain and obvious fact, and calling the attention of the British nation to these circumstances, I consider that I perform a duty imperative on my part, since it is to the wisdom of the sovereign of England, who has so gloriously reigned for more than half a century, and to the advice of his present enlightened ministers, that Europe is indebted for an engagement (which I trust in God will be faithfully kept) to annihilate for ever a tribunal, the existence of which is as insulting as it is degrading to human nature.

Should I be so fortunate as to succeed in the attempt, the recollection of the horrors I have endured will be viewed by me as a triumph of innocence over oppression, and while I feel grateful for the kindness I have received from many individuals of a nation which I have so gladly adopted for my own, I shall feel happy in congratulating it on possessing a monarch to whom they may erect an everlasting monument of their glory and affection, in the words, "HE ABOLISHED SLAVERY, AND DESTROYED THE INQUISITION."

PREFACE.

THE respect due to virtue naturally leads us not only to abstain from vice, but also to avoid even the appearances of crime: hence men, generally speaking, are actuated by such an anxious zeal for their good name, that scarcely an individual is to be found insensible to calumny, unless he has lost every sensibility of shame; and, what is of more consequence, the innate wish of being esteemed by his fellow-beings. Few, indeed, are those, who have arrived at this height of misfortune; for we daily see, that even the most undeserving aspire to a good reputation—an honorable tribute that crime is compelled to pay to virtue, and from the discharge of which those only claim an exemption, who, by

an inveterate adherence to vicious habits, have wilfully deprived themselves of those pleasures and comforts which result from the society of virtuous men, and the unruffled tranquillity of an innocent conscience.

Having seen my reputation unjustly attacked, and having suffered, under the name of justice, such a severity of treatment, that nothing less than the presumption of my actual guilt could have been entertained, it is but natural, that I should feel desirous to exonerate myself from unmerited accusation, and to recur to self-defence, the first law of nature. It is, certainly, a disagreeable task to become an egotist, and to plead my own apology; but necessity compels it: for I have been assailed in my reputation, and I can resort to no other remedy. Besides, is it not my duty to rescue my character from obloquy, and to put an end to the wretchedness and anxiety which the machinations of my persecutors have occasioned to my friends and relatives? It is, therefore, absolutely necessary to prove, that the several slanders disseminated concerning me, have sprung from nothing else than the antient practices of Inquisitors and their abettors, who always strive to abate the public odium, generally consequent on

an exposure of their barbarity to their ill-fated victims, by inventing against them the most improbable calumnies, and the most contradictory rumours; and thus, by their bewildering the intellects of those who feel an interest in the case, the truth is enveloped in obscurity, and the sympathy and zeal of the friends, or protectors of these victims, are paralyzed. It is this motive, and this motive only, which induces me to request the public attention to my case and treatment; though, if they be read only by the small circle of my friends and acquaintances, I shall be satisfied: for the obscurity in which I live, renders it unnecessary to inform the public of my affairs; unless my being an innocent and persecuted individual—unless my testimony, as another witness of the manner in which justice is administered in Portugal, should be deemed worthy of public notice.

It is very certain, that many well-disposed persons, whose situations and circumstances enable them to remedy abuses, cannot exert their influence, in administering the necessary relief, unless the abuses are previously made known to them. Under these circumstances, to prohibit the miserable and oppressed from publishing their grievances, or ap-

pealing for assistance, is nothing less than to shut the door against all remedy, and to perpetuate the evil.

My case will consist of a simple narrative of facts, except where I shall be under the necessity of giving some legal and historical quotations; for being unacquainted with the motives of many of my persecutors, it would be idle to fill my pages with the origin of rumours, to which I can assign no author, or to weary the reader with my own conjectures, whatever might be their probability.

As to the veracity of my assertions, I have only to say, that I appeal to those persons who know me familiarly; and as for the proofs, I was, unfortunately, deprived of them, at the period of my imprisonment; when all my papers were taken from me, and my trial was, always, so private, that I have no witness upon whom I might now call for the confirmation of my statement—in a word, every precaution was taken, that I should have no document to justify my innocence: but this want of proofs is not imputable to me; on the contrary, I flatter myself, that it will conduce to my justification, in the eyes of all, who may think it necessary to decide on the truth of my narrative.

As it is possible, however, notwithstanding my endeavours to discuss the subject with proper forbearance, that the abettors of the Inquisition may accuse me of intemperate expressions, particularly when I have to explain the customs and practices of the Inquisition, the reader is referred to the preface to the Bye-laws of the Inquisition, made by Cardinal da Cunha, Inquisitor-general in 1774; on which I shall make no other observation than to remind the reader, that the individual who speaks there, is a grand Inquisitor, and not an opponent, or enemy of the Inquisition; and, consequently, as I do not inveigh more strongly against the Inquisition than he has done, I may feel justified in these expressions.

As it is possible, however, notwithstanding all the
endeavour to discuss the subject with proper sober-
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more strongly, against the indignation than
though I may feel justified in these expressions.

The necessity of proving the ability of my
to describe here the situation of the
of the appearance of myself, and that I
and that the reader may be well informed of the general
of the indignation, of whom I have written. The
of the indignation, and consequently, it is do not
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NARRATIVE
OF
THE PERSECUTION, &c.

THREE or four days had elapsed, after my arrival at Lisbon from England, in the latter end of July, 1802, when a magistrate abruptly entered my apartments, and telling me who he was, informed me, likewise, that he had orders to seize all my papers, and to conduct me to prison, where I was to be rigorously kept aloof from all communication. I knew this man by name,* but not personally;

* The necessity of proving the fidelity of my narrative, compels me to describe here the character of this magistrate, in order to avoid the appearance of incredibility in any facts I have to relate; and that the reader may be well informed of the personal qualities of this and other men, of whom I have to speak. The reluctance I feel in fulfilling this task, can be equalled only by the necessity of self-defence.

The name of this magistrate is Joseph Anastacio Lopes Cardoso, who, according to report, is the son of a fisherman in Trafaria, a small village on the banks of the Tagus near the Bar; where is the depôt prison for all convicts that are exiled. His first employment in the magistracy was as municipal judge (yuiz de fora) at Almada, from whence he removed as criminal judge to one of the wards of Lisbon (Bairro Alto) and in the same situation he received the appointment of corregidor. He next had the place of adjutant or assistant to the intendant-general of police, and at the same time the honourable post of desembargador (judge in high court) of Oporto, together with

and, indeed, I doubted whether he was or was not the person he represented himself to be, not only on account of his unpolished manners, but also because he had nei-

a seat in the supreme court of justice at Lisbon. During the time of his studies in the university of Coimbra, he was always thought to be a violent jacobin, and by this name were at that time described (or characterised) all those who entertained political principles in opposition to monarchy. Afterwards, intending to follow the magistracy, and knowing, that, by pleasing the intendant-general of police, he should rise both in rank and fortune, he, dexterously, affected to change sides, and pretending to feel the most cordial hatred to all those, who either avowed or were supposed to possess the same political principles as those which he had formerly espoused, he never lost any opportunity that offered, to exhibit his zeal. And as the aversion, which the intendant-general of police entertained for every man of letters was well known, the new magistrate followed his steps; and, by these artifices and vile meannesses, he became such a favourite of the intendant, that he appointed him his adjutant, and to him only was entrusted the performance of such services, as no honourable magistrate would undertake to perform: in short, this magistrate was considered not the minister of justice, but the minister of the intendant. Let us now exemplify this supposition.

A certain German, of the name of Zeigler, being found with his throat cut in the secret prisons of Lisbon castle, the public did not hesitate to say, that the horrid deed had been perpetrated by the corregidor. The reasons assigned in favour of this opinion were, first, that this magistrate was the person who apprehended the man, and took him in his own carriage to the prison, where it is not likely that he should have permitted him to carry on his person any instruments with which he could have killed himself: secondly, that it being an invariable custom, with the gaolers, to search scrupulously all prisoners, before they put them into the prisons called *secret*, most assuredly the concealment of any weapon could not have been practised by a prisoner of such consequence, and even if he had attempted it, the weapon must have been found in his possession: and thirdly, that the gaoler was neither tried or punished, nor did he suffer the least inconvenience on account of this event, when he ought to have been made an example of; because, at all

ther his official staff, nor any other sign of power that could induce me to respect him in his public capacity; and though I knew very well that this circumstance was an error of

events, he had committed a great neglect of duty, by permitting a prisoner in a secret prison to be the master of any instrument that might occasion his death; and, I *myself*, heard it said of the corregidor, that, notwithstanding he had inquired into the case, he was yet in doubt, whether the prisoner had killed himself, or was murdered: however, this very magistrate and the intendant-general of police reported it as a certainty to the public, that the prisoner had himself inflicted the deadly wound.

I am very sensible that little credit is due to popular rumours; but, without examining the question whether this particular report was founded or unfounded, it is enough for my purpose; and it should also be known, that it was this magistrate who apprehended and took to prison the man there found murdered, and that the public considered him, and not the prisoner, as the author of the deed. He knew what was said, and never attempted to clear himself from the imputation, which he might easily have done by setting on foot a judicial inquiry on the case, and giving to it such a solemn publicity, as to rescue himself from every suspicion, that he had not acted with the intent only of pleasing the intendant-general of police, but to prove that his sole view was to administer justice: it would likewise have convinced the public, that he was not so devoid of regard for his character, as to be insensible to such a flagrant attack upon his honour.

At another time, being asked why he had committed for trial a certain man, whom he had apprehended on suspicion of uttering counterfeit bank-notes, upon very slight grounds, he answered, that indeed the suspicions were not enough to warrant his trial, but the man must be assured, that no harm would happen to him, although he had been compelled to comply with the intendant's wishes, that the prisoner should be fully committed.

Finally, amongst an immense number of persons, whom he apprehended and committed for trial, after subjecting them to the torture of the *secret* prison, according to his usual custom, not one has been found guilty in the high court of justice (Relaçãõ). In another instance, when a family had been murdered near Mafra,

such essential consequence, in a magistrate, that it justified me in impugning his authority, and considering him as a mere intruder upon the sacred asylum of my abode,* yet I did not avail myself of the strength of my ground, but adopted measures of a contrary tendency. I invited him civilly to sit down, and entreated that he would have the goodness to shew me the order he pretended to possess, or, at least, to tell me by whose authority it had been issued. He then shewed me a letter from the intendant-general of police, which I would most willingly copy here, if my memory would enable me to do it, in his own words and orthography. This note directed my imprisonment, the seizure of my papers, *and that endeavours should be made to find upon, or about me, some masonical decorations.* The motive of this proceeding, as stated in the order of the intendant-general, was, that I had been to England, without a previous passport.

I had scarcely read this fatal note, when all the sorrowful consequences of an imprisonment rushed upon my mind, for I was but too sensible that the fury of my persecutors would know no limits. I had sufficient coolness, however, amid my mental uneasiness, to represent to this myrmidon of justice, that the harsh treatment of the

in 1804, he apprehended more than a hundred persons. How was it possible that any of those should be found guilty, when all of them were imprisoned without the least ground for suspicion? But perhaps he wished to have his name echoed as the author of a rigorous examination. With arts like these he has not only deceived his government, but has been able to escape payment of enormous sums of public treasure, amassed during his receiving the military subsidy-tax in the years 1795 and 1796, which amounts, as I have been informed, to 27,358,192 reis.

* Mendes a Castro, p. 2. lib. 5. cap. 1. n. 15. Leitaõ de Jure Luzit tract. 3. q. 3. n. 57. Pegas ad Ordin. Lib. 1. tt. 58, § 37.

intendant-general of police, without having any previous information of my case, was not a little surprising, since, so far from having gone to England without a passport, I had previously procured one from his Royal Highness the Prince Regent, which leave I had solicited, in consequence of being employed in the royal service, as one of the literary directors of the royal printing-office, and my not deeming it proper to leave the kingdom without my sovereign's permission; that I had not only obtained leave of absence in writing, from the secretary of state's office in the competent department, and procured a formal passport from the minister of foreign affairs, but further, that the minister of finances had charged me by the sovereign's command to transact some business relative to the royal service in London; and that, in proof of this, I could shew him the official letters, some of which were directed to me in Lisbon before my departure, and others were forwarded to London after my arrival in that city. I pleaded, therefore, my right to expect, that the intendant-general of police should have been informed of all this before he proceeded against me with such severity, or alleged as a cause of his proceedings against me, that I had gone to England without a passport.

The corregidor, deputed on this errand of justice, willing to shew me that there had been no precipitation in his way of proceeding, accused me of rashness for thinking that so excellent a magistrate, as the intendant-general of police, *whose probity was equal to his knowledge and learning*, would have proceeded in a case of such importance, without mature deliberation; and to convince me of this, he shewed me another letter. In this he was ordered by the intendant of police, to take care of every thing that I might have brought from England belonging to the royal service, such as a collection of books I had purchased for the public library of Lisbon, some instruments

directed to be made in England, and some books and other things belonging to the royal printing-office.

The reading of this second letter produced in me sentiments rather at variance with those which I had entertained of the first: for, if the idea of the misfortunes I was about to suffer, had impressed my mind with a natural dejection, I now reflected on the meanness of the souls that could prescribe orders so manifestly contradictory, and so indicative that their authors had not even the wretched talent of inventing a plausible pretext, with which it is generally customary to cover unjust proceedings. This reflection inspired me with such a contempt for the orders, and for those who had sanctioned and were to carry them into execution, that the recollection of it proved no small consolation to me during my troubles, and even excited, at the time, such ideas of superiority over my foes, that although, at the very moment, I could not help contrasting their apparent prosperity with my actual misfortune, yet I feel resolved to declare it here, that the humiliation I suffer in such a confession, may inflict some punishment on my vanity.

Enclosed then in a solitary cell, in the prison called Limoeiro, without any other company than that of sorrowful thoughts, labouring under a perfect uncertainty as to my fate, and sustaining every possible inconvenience attendant on such prisons, which are too notorious to need insertion here, I remained for eight days; until one night the gaoler came to my dungeon, and told me that he had orders to take me before the corregidor, my judge, who wished to proceed in the necessary interrogatories, preparatory to the commencement of my trial. I appeared of course before the judge, in a small room of the gaol, appropriated to the purpose of interrogating the prisoners; when I immediately requested the corregidor to order, that I should be released from my solitary confinement, the five days having already elapsed, which form the precise

term allowed to the criminal magistrates for subjecting a prisoner to such a punishment, as I apprised him, by a quotation from the laws.* In answer to my request, he stated, that the laws I quoted had no reference whatever to my case; because my imprisonment had taken place under the cognizance of the police, whose magistrates, under the law establishing that department,† were not bound to follow any general principles of law, in the trial of their prisoners, all this being left to their own discretion, with the most unlimited powers to investigate crimes, and to bring the culprits to punishment. And lastly, to prove that such was the practice, he added, that the intendant-general of police was in the habit of detaining his prisoners in solitary confinement, for days, months, and years; indeed, so long as he thought convenient, without any notice being taken of it.‡

* Decree of 7th August, 1702, and Edict. (Alvará) 5th March, 1790.

† Law of the 25th of June, 1760.

‡ The unjust, arbitrary, and tyrannical proceedings of the barbarous intendant-general of police, Diogo Ignacio de Pina Manique, are so notorious in Lisbon and all over Portugal, that scarcely a Portuguese can be found, who is ignorant of them. His manner of administering justice was more like a Kaimacan of Constantinople, than the magistrate of a civilized nation; and, although the name of intendant-general of police was bestowed on this magistrate, I never observed, however, that he took any particular care of objects, generally comprehended under this department in other parts of Europe. For instance, the lamps in the streets were always shamefully neglected; and every inhabitant of Lisbon knows, that to have the city lighted, even as it is now, it was necessary to withhold its management from the self-called magistrates of police. Cleaning the streets is another branch of the public duty at Lisbon, and this was entrusted to the care of the city corporation (senado da Camera), as the body to whom the economical management of the town most properly belongs: but the intendant, availing himself of his influence, and through intrigues, took upon himself to blend this duty

In reply to these observations, I remarked, that his interpretations of the police laws were so vague and unde-

with his own immediate department; receiving for that service from the corporation (if I rightly remember) eighty millions of reis, an enormous sum, and infinitely more than sufficient to keep the streets of Lisbon cleaner than the generality of the Portuguese keep the floors of their houses. Such, however, is the abuse in this instance, that people called him, in derision, the intendant-collector of mud, and he merited the appellation in some respects; for he took excellent care, that those streets, in which individuals resided who might compel him to perform the task he had undertaken, for his own benefit, should be always well cleaned.

As for the public safety, during the period of its being entrusted to the care of this intendant, it was so little consulted, that individuals in Lisbon were under the necessity of walking armed, as if travelling through a desert. With respect to thefts, robberies, and assassinations, it was customary to compare Lisbon to the Sierra Morena in Spain, or the woods of Azambuja in Portugal; and so true is this, that, notwithstanding the despotic insolence of the new guard of police, called the bats (*morcegos*) it is an absolute good, when the actual state of safety now enjoyed by individuals is contrasted with the perpetual fears of the citizens, during the administration of the intendant-general. But how could it be otherwise? This intendant, insensible to all public estimation, was continually resorted to by spies, robbers, and notorious malefactors—wretches who had no other mode of retaining his favours but by imparting intelligence; and when they had none to tell, were compelled to invent something; agreeably to the general custom of spies and private informers. As to the manner in which this too well-known intendant administered justice, I will mention one single fact, from many circumstances I could relate, which will serve to give some idea of his public life. With respect to his private character, it is nothing to us.

A man, generally known by the gaolers of the Limœiro, by the name of Romeiro, (though that perhaps was not his real name) during the last war commanded a Neapolitan privateer in the Mediterranean, when he had notice that war had been declared between Portugal and France. Being a Portuguese by birth, and actuated

find, that no Portuguese lawyer, I believe, would be found of a similar opinion; because, should they be liable to

by the natural love of his country, he resolved to return to Portugal, and quitting the comforts of his situation, to offer his services in the cause of his countrymen; justly conceiving, that, from his naval experience, he might prove useful to them. In adopting this resolution, however, he found no better way of reaching Portugal, with safety and dispatch, than by crossing France and Spain, which course he followed, in the disguise of a pilgrim, and under the assumed errand, that he was going a pilgrimage (or Romeria as they term it) to our Lady of Loretto in Italy. As he had to pass near the French armies his passes were signed by the French generals, but this giving some grounds of suspicion to the Portuguese general officer commanding on the frontiers, he ordered Romeiro to be arrested, and sent him to the chief magistrate of Oporto. Romeiro was by him sent to the intendant of police at Lisbon, as an affair belonging to passports. When the prisoner was delivered at the gaol of Lisbon, he was apprised by the gaolers of a general order issued by the intendant of police, that all prisoners presented under his order should be immediately placed in a solitary prison, unless the contrary should be specified in the order. In obedience to this order, Romeiro was confined in a solitary cell; and whether it arose from the intendant's not having read the letter which accompanied the prisoner from Oporto, or from some other motive, this unfortunate man was immured in this horrible situation for two years, without a single individual ever asking for him. Indeed, as he had no friends in Lisbon, and could see nobody, to whom he might address himself for a release, he was left in total oblivion. At length, the gaolers taking pity on his long confinement of two years, and hearing him often exclaim, that his misfortune had originated solely in his desire to be useful to his country, they requested an insignificant man, called Aleixo, a noted spy of the intendant, who was Alcaide at Almada, and an intimate friend of the corregidor, my judge, to exert his influence for the discharge of this unhappy being.

During the next day the same spy brought an order from the intendant for releasing the prisoner, pleading in excuse for the intendant that he did not know such a man was in confinement.

such a construction, the police laws, instead of considering a magistrate in the light of a watch on the police, or as an observer of the due execution of its laws, would, in fact, exhibit him as a violator of justice, as a disturber of the public tranquillity, and as an infringer on the safety of individuals; consequently that, according to the forced interpretation of these laws by the corregidor, it not only made the intendant superior to every other law, but was evidently in opposition to the intention of the legislator, and for that very reason inadmissible. Besides, even granting, which I denied, that the police laws should have invested the intendant of police with this pretended authority and power, they certainly bore no reference to my case: for the

Thus Romeiro at last escaped from his dungeon, though he had never been tried or even examined. Under these circumstances, what right have the Portuguese to call the Algerines a barbarous nation, since the magistrates of Algiers administer justice only according to their will, and not according to the laws?

In reply to those who would excuse the deeds of the intendant, and attribute to ignorance the malversations and misapplications of the public money, which have been practised during his administration, it is here necessary to declare, that not many years ago he actually solicited a royal decree that all his accounts might be considered settled, in regard to the large sums he had received for different purposes; and it is clear that no man, without imperious motives for shunning the investigation of his accounts, would have accepted, much less have entreated, such a favour. Ignorance, surely, can never be considered an excuse for such proceedings, although I by no means intend to say, that he is not ignorant: his ignorance, indeed, is such, and of such notoriety, that in determining on the ignorance of another magistrate, it is frequently made the medium of comparison. I could adduce several other anecdotes relative to this man, whose apparent improbability I could substantiate by proofs: but they need not publicity, (having said sufficient for my purpose), and are also foreign to the nature of my defence.

law I last quoted* expressly says, that “the prisoners ought not to be solitarily confined for more than five days, nor deprived of a communication with the other prisoners, unless the regidor (chief justice), and two more judges, shall think it necessary to prorogue this time, which prorogation must never be excessive, for this is a species of torture which has no existence now; and the same shall be done by the intendant of police. This shall be observed notwithstanding all other laws or dispositions to the contrary, or in opposition to this, which I declare to be repealed from henceforth to this effect.” Now this law being of a later date than the police law, the latter law is evidently rendered nugatory by the former, it being a maxim of law that the latter law shall repeal the former.†

With respect to the practice of the intendant-general, of subjecting prisoners to a solitary confinement for a period longer than the law allows, as the corregidor pleased to inform me was the case, I replied, that such a practice was so ill calculated to occasion my acquiescence or tacit acknowledgements as to its propriety, that I, on the contrary, regarded it as a manifest and flagrant violation of the law; and for that reason incapable of becoming a precedent in future cases: because a custom, in order to possess the force of law, and to be quoted as law in future courts, must, amongst other circumstances, never be permitted to operate against an express law.‡

From these premises, I argued, that if a magistrate, either through ignorance, or by malicious violations of the law, dispenses with justice, then, that in every such in-

* Alvará, 5th March, 1790.

† *Lex posterior derogat priori.*

‡ Law of the 18th of August, 1769, § 14.

stance he is actually guilty of so many crimes; and even supposing that he continues to persevere in a repetition of such acts, still that this repetition can never constitute a lawful custom. I then protested against the injustice I was labouring under, and requested permission to lay my complaint before the superior authorities. To this the judge answered, that it never was allowed to people in solitary confinement to petition; and that I had better prepare for what was necessary, my interrogation, as I was bound to answer the judicial queries he was about to put to me, by order of the intendant-general of police, which formed, in fact, the commencement of my trial.

It is unnecessary to enter minutely into all the queries, answers, and replies put to and given by me during my trial, which trial consisted of interrogatories, and a judicial enquiry into the circumstances of my life. I will merely advert to the essential points, that I may not render my narrative too tedious: otherwise I could, without difficulty, detail every word of this transaction; for deep wounds require some time to cicatrize.

After the ordinary queries about my name, person, parents, place of nativity, age, &c. the magistrate demanded what were the motives of my voyage to England. To this I answered, by declaring, that some business I had there relating to my pecuniary affairs had principally induced me to visit its capital, though I, at same time admitted, that curiosity to see those large cities of Europe, which I had never previously visited, formed no small inducement for the journey, particularly as the circumstances of my life had not permitted me before to do it.

It would be idle to mention the insolent replies and answers that passed on this particular point. To all that the magistrate could allege, this general answer was more than sufficient, viz. that I was not a prisoner in Portugal,

or such a slave, as not to have it in my power to go out of the kingdom when I might deem it convenient; I was subject to the laws, it is true, in paying obedience to which I felt a pride: but I had sufficiently complied with them, in asking leave to go out of the kingdom, and obtaining the necessary passports, as it was very easy for me to prove that I had done.

It must be observed, however, that the corregidor never directed any question to me, in relation to the passports, though this subject was expressly mentioned in the order that I saw, as I have already intimated. Did this omission arise from his being ignorant that the queries he was bound to put to prisoners in secret confinement should comprehend, not only what might lead to the justification of the prisoner, but what might eventually tend to his conviction, according to the known impartiality that should characterize every proceeding in a judge? Or did it arise from the circumstance of his having found, amongst my papers, my licence and passports, which rendered my justification, even in his private opinion, equally easy as it was decisive? Or did it arise from my papers affording to him a better ground for persecution than the pretended want of passports?

I omit here, likewise, many other queries that the corregidor put to me, because, they were not only irrelevant and beyond the limit of his power, as well as the cognizance of the law, but because they were not insisted upon, and chiefly related to persons of such high character and rank, that I could not detail them without adverting to names. By this silence I avoid giving offence to many individuals of great consequence, although I am sensible that it favours my enemies. Still I conceive it best to doom these circumstances to a perpetual silence; and, perhaps, I shall not repent it, for I shall have the satisfaction, at least, of shewing the difference that exists

between me and my adversaries, in the point of honourable principles.

I must also observe to the reader, that I replied to many extraneous questions, from a wish to exhibit my respect for the laws, and the magistrates;—obedience that every honest citizen must be proud of shewing: otherwise, I knew very well that I was justified in refusing to answer such questions, by the laws themselves.*

When I remarked before, that amongst my papers, some were found that gave my persecutors an opportunity of setting aside my pretended crime of a want of passports, I meant my certificate as a freemason, and other documents relating to freemasonry. Sensible of no cause for shrinking from such a confession, I did not hesitate for a moment in acknowledging, as soon as I was interrogated, that the certificate was mine, and that I had actually been admitted a freemason in the city of Philadelphia, in the United States of America. The corregidor minutely enquired what motives had induced me to enlist myself in that society; to which I answered, that being informed of several persecutions which some magistrates of Portugal had excited against several individuals, whom they were pleased to denominate freemasons, although perhaps they were not freemasons,† and to whom, according to public report, these magistrates had imputed

* This is determined in the orden. lib. iii. tt. 63. § 11.

† A Portuguese magistrate, who imprisons a man for freemasonry, has no means of ascertaining whether the prisoner is or is not a freemason, though he may think proper to say so: because the magistrate being absolutely ignorant (as they generally are) of the internal government of masonic societies, and of other circumstances connected with freemasonry, he has no basis or criterion by which he can determine the truth or falsehood of a prisoner's allegations.

many crimes, of which they entirely cleared themselves, after having been treated with the most unjustifiable harshness ; and observing likewise, that these measures of the Portuguese magistrates were so much at variance with the general estimation in which masonic societies are held in America, where individuals of almost every degree of respectability, both as to rank and talents, enroll themselves as members, this opposition was the powerful motive that raised my curiosity, and induced me to seek admission into the society, that I might be able to form a personal judgment if such a difference really existed between the opinions and proceedings of two different countries.

The corregidor, in replying to this answer, exhibited a considerable degree of discomposure, and called on me to declare, who were the magistrates I had alluded to as the persecutors of the freemasons, and whom I had compared with the learned people in other parts of the world, and the civilized nations of Europe, which either protected or were members of this society.

I rejoined to this reply, that I did not know positively who these magistrates were, having received the intelligence through the vague and uncertain channel of public report, to which, of course, I could attach no author, and the more so as I had become acquainted with it some years since, though the fact itself, in my opinion, was incontrovertible. As to the conclusion drawn by the corregidor from my contrasting the conduct of some of the Portuguese magistrates, as the persecutors of the freemasons, with the opposite behaviour of sensible persons in other civilized nations, such a conclusion was his, not mine : I had only stated circumstances on both sides, which by their variance had first excited my curiosity to ascertain their truth, and these it was necessary for me to state, in order to answer his questions, and to explain my motives for entering the society ; without

my intending to decide who were in the right or who in the wrong, the magistrates of Portugal, or all the other civilized nations.

After a few more questions, answers, and replies from and to the corregidor, he began to interrogate me about the order of freemasonry, and the method of my introduction into that society. But to all these questions I made no answer, after mature deliberation; and I assigned the following reasons to him for my refusal.

As there is no law whatever in Portugal that prohibits freemasonry, it never could have been a crime to become a member of such a society; it being a natural consequence of civil liberty, that every man should enjoy the moral faculty of doing every thing which is not prohibited by the laws.*

* *Cives ea omnia libere, et impune facere possunt, quæ civitatis legibus specialim non inveniuntur prohibita: et hic necessarius effectus est libertatis civilis.* Paschoal Jose de Mello; Institutiones Juris Civilis Lusitani, Crim. vol. t. 1. § 7.

Indeed, this is the only difference that exists or can exist between a just and regular government, and a despotic or arbitrary one; in both of them the will of the *summum imperans* is the rule for the subject's actions: but in the former, the just and regular government, that will is perpetual, constant, fixed by the laws, and made known by a sufficient promulgation; on the contrary, in the latter, the despotic government, though the will of the sovereign, or the *summum imperans*, be likewise the rule of the subject's actions, that will, however, is arbitrary, inconstant, and never dependent on permanent laws. A despotic government, therefore, might be accidentally good, and useful to its subjects, if the despot were a wise and virtuous man, and were constantly to direct the public business for the good of the people; but still this never can be called a free government, that is to say, a government where the subjects may be said to enjoy civil liberty. These principles are applicable to all governments, whether monarchical, aristocratic, or democratic, because in all of them, they (arbitrary principles) may be established, and of course all civil liberty must be destroyed.

But even allowing that there was a law in Portugal prohibitory of freemasonry, it could neither be considered as a crime in my case, nor could I be tried for it; because I entered into the society in a foreign country, far removed from the dominions of Portugal, and where it was so far from being considered as a crime, that it received support from the laws of the country: and further, was composed of the greater part of the most respectable people in the nation. Consequently, it is evident, that actions, (not intrinsically bad by the natural law) must be deemed lawful or unlawful, according to the laws of the country where those actions are committed.*

Neither would I confess or allow, indeed I positively denied, that freemasonry was a crime either in Portugal, or in the United States, where I was initiated into the order; neither could I be tried in Portugal for a crime committed in another country; to whose jurisdiction, if it were a crime, and not to that of Portugal, I was amenable. I explained this with an instance: a man com-

* Two principal reasons are given by the jurists to establish this principle: 1st. Because, as the obligations arising from contracts are regulated according to the laws of that country where the contract was entered into or performed, so the obligation resulting from an offence must be weighed by the laws of the country where the action supposed to be, a crime was perpetrated. 2d. Because a foreigner is obliged to obey the laws of the country he lives in; which obligation he contracts during his residence in that country, in consequence of enjoying, in return, the protection and franchises of those laws. For instance, nobody will say, that when I live in Russia, I must not regulate myself by the sumptuary laws of that country with respect to my dress, or pay the duties in the custom-house of Russia; but reject them for the sumptuary laws of Portugal, or the regulations of the Lisbon custom-house. It follows, then, that actions must be deemed lawful or unlawful, according to the laws of that country where those actions were perpetrated.

mitted a murder in China, and is now in Portugal; murder is a capital crime both in China and in Portugal: I ask, now, if a magistrate in Portugal has a right to try that man for the murder? No.*

The corregidor replied, that I was bound to answer his questions concerning freemasonry, because he was a magistrate lawfully authorized to interrogate, and try me; that my disobedience in not answering his interrogatories was a crime in itself, inasmuch as it exhibited a want of the necessary respect due to the dignity of a magistrate; that I ought to consider, that this refusal might do me great harm; and that I was only compelling him to use all the means which he had in his power, to oblige me to speak and obey him.

I answered to this, that I knew him to be a magistrate, but that I very much doubted his being lawfully authorized to try me in this case; and that I was aware how dan-

* One of the reasons of this decision, say the jurists, is, the difficulty of adducing proofs in favour of the accusation, or defence of the accused person, when the trial takes place in a country different from that where the crime was committed. But, generally speaking, it is a rule that the crime must be tried where it was committed. *Delicti quidem intuitu forum competens sortitur reus, in illo loco, in quo crimen commissum, sive illic inveniatur, sive non.* Voet ad Pandect. v. L. tt. 1.

Binkersoek, says the same, in the Opusc. *De foro Legatorum.* c. 3. Fachineus says the same: Jur. controvers. L. IX. cap. xx. These are his words:—*Inquisitio pertinet ad publicam vindictam, quæ minime competere videtur judicii domicilii, vel originis, ex eo quod nulla injuria illi reip. facta est, sed potius ea republica offensa sit, intra cujus territorium delictum commissum est.*

On this subject might be adduced the authority of Farmaceus Tr. crim. tt. *de Inquis.* q. 7. n. 7. Berlich. p. 5. concl. 45. n. 42.

L. 20. ff. *de Indiois et ubi quisque agere* l. *si cui* § ult. ff. *de accusat.* Barbosa, in l. *hæres absens* § *provinde* ff. *de Judiciis*; and lastly, the ordinances of our kingdom. L. 1. tt. 76. § 1. and L. 3. tt. 6. in pr.

gerous it was to my rights to answer his questions; because the prisoner who answers or produces his defence before an incompetent judge, suspends his own jurisdiction; that is to say, by the act of defending himself before an incompetent magistrate he tacitly approves, and establishes in that magistrate a sort of right, which before he had not, of taking cognizance of the case. So much so, indeed, that after a prisoner has subscribed to an authority, he cannot, according to our laws, retract or avail himself of what the lawyers call a power to protest against an abuse or incompetence of authority; this being the first and most essential step, before any defence is entered on.* In these circumstances I considered it to be of the highest importance to me not to answer his interrogatories on this point, and I accordingly announced my determination not to comply with his request, until I should be permitted to consult with some lawyer, or at least to examine such books as I should deem necessary. As this was not possible to me, on account of the peculiar nature of my confinement, I declared that my final resolution was taken on the subject, which was, not to answer. I then appealed for my rights, and protested against any violence that he the magistrate might practise, in order to oblige me to answer or to renounce those rights; at the same time solemnly avowing the profound respect, submission, and obedience, with which I was actuated for the laws, and the character and dignity of the magistrate: but, with due respect, I repeated again and again, that I could not answer his questions without committing my own rights, giving to him a jurisdiction which he had not, and tacitly confessing that I had been guilty of an action, which I did not consider unlawful, at least in the civil court.

* Ordinances of the kingdom. Lib. 3. tt. 49. § 2; lib. 3. tt. 20. § 9.

The corregidor came again the next day, and again insisted that I could not be ignorant that the police persecuted the freemasons, and punished them with severity; and that a knowledge of their practice in this respect should, necessarily, oblige me to confess that my entrance into the order was a crime: he urged besides, that this society was expressly prohibited by the edicts of the holy office, so that I had not the smallest reason for refusing to answer his questions, under the pretended excuse that freemasonry was not a crime.

I answered to this, that I was ignorant of the species of persecutions, or prosecutions and punishments, which the freemasons had suffered by the police, though I had received some vague notices of them: but whatever might have been the nature of such proceedings of the police, I conceived it to be certain, that no magistrate could ever have a right to establish a new crime, or consider as a crime, any action which the law did not recognize as such. That in designating crimes, and establishing competent punishments, consisted the chief, and indeed, peculiar office of the legislator; but that the magistrate, who, by his own authority, established a new crime, was guilty, not only of a very great attack upon the rights of the sovereignty, but manifestly, also, of the crime of high treason, (*læsæ majestatis*): indeed, this point was so delicately considered with us, that our legislators had determined that the magistrates should interpret the criminal laws, not by extending them to similar cases, but, on the contrary, by understanding them as applicable only to the case detailed or clearly specified in them.* Besides, even in the establishment of laws by the will of the sovereign, it was an essential point, before they could operate on subjects, that a previous promulgation of them should

* Ordinances. Lib. II. 13 in fin. pr.

take place; without which, the law has no force or obligation:* and by the expression of him, the interrogating magistrate, one would have believed, that the intendant-general of police not only had usurped the sacred rights of sovereignty, by establishing new crimes, but had gone so far as to attempt to oblige us to obey his will or law without any promulgation of it, so that the subjects had not only to respect the will of the intendant-general of police as law, but moreover even to guess that will; since he, the intendant, had not as yet been pleased to manifest his will by any edict or otherwise. As to the prohibition of the holy office, that was a point of ecclesiastical discipline, which only regarded my conscience, and it was not necessary to submit it to the secular court, or civil magistrate. Should I be interrogated about that by my confessor, or by the ecclesiastical judge, I would answer what I might think necessary.

Amongst my papers were some, from whence they pretended to prove that I had, during my residence in England, managed some business with the grand lodge of London, relative to the lodges of freemasons in Portugal, which are supposed to be under the jurisdiction of the grand lodge of Lisbon. This was indeed the great point on which they felt most sore, as they thought that from this connection with England, great evils might arise to the Portuguese. But, as on this subject I gave the corregidor nearly the same answers that I, afterwards, gave to the inquisitors, when I was interrogated upon the same points, I will, in a proper place, speak of this to avoid a repetition, and only now notice a request which I

* This is clear from the very definition of law, which is, the will of the legislator sufficiently promulgated. Heineii. Element. jur. civ. tit. de Just. et jur.

made to the magistrate on the affair, which might be deemed interesting. Having observed that all questions put to me apparently arose from the desire of ascertaining some crime, and not from a wish to discover the truth, I represented to the corregidor, that of the many papers which he had taken from me, he had made choice only of those that could in some measure induce a belief of my being guilty; and even these were so mutilated and distorted for the purpose, (as could be perceived by my answers to several questions, when I was interrogated in relation to those papers;) that, in consequence of this, there should be included also in the evidences of my trial, all such papers as could favour my defence; such for instance were my passports, the royal licence, official letters, &c. &c. I requested also that my letter-copy-book should be brought forward whole and intire in the same form as it had been found in my possession, and not unbound, as it lay before me, with the deficiency of many sheets, and having only those letters that the corregidor thought proper to produce, as evidences against me.

He answered to this request, that it was by no means necessary to take into consideration my licence to go to England, or the passports; observing, that he did not ask me any thing about them. As for the other documents that I had spoken of, some were not found amongst my papers, others were irrelevant or foreign to the purpose; and consequently, it would have been an absurdity to bring them forward, since they were useless: besides, it was his duty only to collect those that might tend to the verification of the crime. I again urged that this refusal might, and probably would, prove very prejudicial to me; because the mutilated papers, without the others, would naturally be understood in a very different sense from the genuine interpretation they ought to have; and as he (the corregidor) had said, that some of the papers most necessary

to my defence had not been found, I requested that this circumstance also might be declared in the records of the trial: otherwise, as he, the corregidor, when he was about to seize my papers, had refused to make an inventory of them, a just ground for suspicion would be created, that the papers I was asking for had been concealed; particularly since he had just declared that he deemed it to be his duty to collect only those documents which might tend to the verification of the crime. This, in my opinion, was exactly the same as if he had said that, being desirous of fixing some crime upon me, whatever might be its nature,* he had made choice only of such papers as could best produce the meditated end, without thinking of the other papers that were necessary to my defence and the execution of justice; some of which he represented as lost, when I was positive that they were with those then before me, when he first took them into his possession.

The foregoing particulars formed the chief articles of the interrogatories, which lasted many days with several interruptions; as the corregidor used to avail himself of his right to go to the prison to interrogate me: thus violating the laws even in a stated solemn determination of our code, which orders that no act of jurisdiction shall be performed before sun-rise, or after sun-set;† as if on purpose to prove to me, that there was no other law but the arbitrary will of the magistrate.

The interrogatories were protracted for the period of two months, the multitude and repetition of questions not only requiring some time, but frequently many

* In Portugal the criminal magistrates are advanced in rank in proportion to the number and quality of criminals they discover: of course, it is always their chief aim to find people guilty, right or wrong.

† Book of ordinances, 3. tt. 1. §. 6.

whole days elapsing without any questions, notwithstanding my repeated request to the corregidor, every time I spoke to him, that he would release me out of my solitary confinement, for he knew very well that he was acting against the law, in retaining me in that situation more than five days. At first, he was pleased to assign some miserable excuse to me for his proceedings, as I have already stated: but subsequently, he did not trouble himself with giving any answer.*

In the meantime, as the interrogatories were going on, the same corregidor employed himself in making judicial enquiries about me; and during the prosecution of these, he

* I might be too prolix and tedious were I to relate all the incidents that occurred during these interrogatories; but I must tell one fact, which will shew, in the absence of other circumstances, the character of the magistrate who interrogated me, and the manner in which the business was carried on. On one of these occasions, when the corregidor came to continue the interrogatories, he behaved with such moderation and affability, that the most ignorant man in the world would have perceived that this sudden change covered some deep scheme. In fact, after the act of interrogating me was over, he called me near the window, and said, that he knew very well why I had denied any concern with the transaction of some business in London relative to the freemasons of Portugal, which was to avoid declaring the names of several persons, who were all well known: he then added, that I ought to consider that charity begins at home; that, to exonerate myself from every trouble, I had nothing more to do than to mention such and such individuals, repeating several names; and that, should I persist in my refusal, I should expose myself to very severe inconveniences, without any other end than that of concealing the names of people who did not care the least about me. The magistrate, in this step, evidently committed one of the greatest crimes that a judge can be guilty of: but as this conversation took place only between ourselves, and in such a manner that I could adduce no proof of it, I did nothing else but treat him with all the contempt which such vile suggestions deserved.

shewed such an anxiety to find me guilty, that he asked some witnesses, if they knew I had committed or if they suspected me of any other crime besides that on which they were examined. An unjust and iniquitous proceeding, that is reprobated in every law, and the punishment of which I would not have failed in requesting from the sovereign, had I not been kept aloof from every communication; it having been ascertained that not one single witness could say any thing against me: for which reason it was afterwards thought necessary to destroy the records of my trial, whose publicity would have been sufficient to prove my innocence.

The interrogatories they put to me served, however, as a pretext for keeping me in a solitary dungeon, notwithstanding such a measure was in opposition to the laws; when at length these interrogatories had finished, without furnishing any proofs of my guilt, of course all pretext for my confinement ceased at the same time: but such was not the case—for I was still kept immured in a secret or solitary prison, for the long period of six months; without being allowed to see any body, or to obtain any means of representing the injustice I was suffering, to any one who could put a stop to it.

It is true that, during this time, the customary visit of the high court (*Relação*) to the prisons and prisoners took place, but as to me I was not even allowed to appear before the lord-chief-justice (*Regedor das justiças*), though for this there was no want of laws in my favour: it being enacted,* that the lord-chief-justice, in his visits to the gaols, together with the judges of the supreme court, shall inquire about every prisoner, not excepting even those prisoners who might have been confined under the immediate order of the

* *Alvara*, 5th March, 1790.

king, in order to prevent the commission of violence or neglect in the execution of the laws by any magistrates. How it happened, then, that the police could have so entrapped and kept me in a private prison for six months, without any notice of the fact, by the lord-chief-justice, I shall not, for the present, enquire: but I must remark, that I am not so unreasonable as to vociferate against a miserable executer of orders, of the mediate or immediate causes of which he is totally ignorant; or to turn my indignation against those, who, impelled by a secret hand, are obliged to yield to the circumstances of times, and perform the duties of executioners: but I think I have a right to cast imputations, when I reflect in what a manner men, invested with the character and insignia of magistrates, have acted against a victim most clearly innocent; and it is such conduct that designates the real character of such individuals.*

There is, however, one consolation for me, which my

* Puffendorff, in his *Treatise De Jur. nat. et Gent.* Lib. VIII. Cap. 1. § 7. explains very judiciously the difference that exists between the execution of the order of a superior by an inferior, which the latter is bound to do in consequence of his situation, and the voluntary act of the inferior, in employing his talents to palliate the injustice of his superiors, or his own injustice, and, what is still more, in taking upon himself the respectable name of judge. Something very worthy of attention may be found on this subject, in what Tacitus says, in *Ann.* Lib. iii. cap. xvi. on the proceedings of the Roman senate with Pison, who pretended to excuse himself of the death of Germanicus, under a secret order from the emperor Nero. The famous lawyer Papinianus, refused also to make a speech before the senate and Roman people, in justification of the death of Geta, who had been murdered by his brother the emperor Caracalla. It is clear, however, that if that speech had been framed by any body else, and Papinianus had been ordered to read it, he ought to have obeyed the mandate without scruple, for

persecutors cannot deprive me of, and that is, my innocence. Though I was treated with as much, or perhaps more severity, than it is customary to exert, even against the greatest criminal, my persecutors will most assuredly fail in their end of defaming me with the few persons that know me; for let it be recollected, that it is the crime and not the punishment which inflicts infamy.*

in that case the justification contained in the speech was not his, but was presented to the public as the excuse of another.

This should be, beyond all doubt, a fundamental rule to every man who has the least spark of piety left, or a sentiment of conscience, things very difficult certainly to be found, in people whose actions all tend to their own advancement, through the dishonourable medium of adulation and servile condescension.

And this rule, which is laid down by common sense, and should be natural to every person that is honoured with the name of magistrate, is expressly enacted in the Ordinances of the Kingdom, Book III. tt. 76. § 3. in the following words: "The executer to whom any business is committed, on which adjudication has not been passed by the king, or any other judge, must inquire into the affair and act as if the cognizance of the business had been committed to him, though this power of cognizance should not be expressly recognized in the order of execution." An excellent ordinance, that does honour to our legislators, at the same time that it takes away every excuse with which a certain class of executers pretend to palliate their acts of injustice,

* "*Ictus fustium infamiam non irrogat, sed causa propter quam id pati meruerunt, si ea fuit, quæ infamiam damnato irrogat. In cæteris quoque generibus penarum eadem forma statuta est. Digestorum, Lib. III. tt. 2. De is qui notantur infamia.*"

It is, nevertheless, true, that my persecutors found people to applaud them for this very persecution, and among this number were individuals of high rank, who, when I did not want their assistance, pretended to be my protectors; of whom I have every reason to say, however elevated their situations may be, that they are men without probity, or sentiments of honour, or at least so weak

But to shew that I was treated by the police magistrates with the most decided injustice, it is enough to adopt the following premises:—I was either guilty or not guilty of crimes, whose cognizance belonged to the civil magistrates. If I was guilty, why did they not declare me so; and forward the proofs to the court of justice, according to law and custom? If I was not guilty, why did they keep me for six months in solitary confinement? They will, perhaps, say, that I had committed crimes which subjected me to the cognizance or jurisdiction of the holy office: but in this case I ask again, why they did not send me to the proper tribunal, instead of subjecting me for six months to solitary confinement?

I beg the reader's pardon for these expressions, if they be not correct: my argument can receive no other answer, except this, "I shall because I will, and my will is the law." For it is certain that the corregidor, the executer of these mighty acts of injustice, went so far as to issue orders, that every person who might enquire for me at the prison should be also imprisoned immediately, and confined in a secret or solitary cell. The same order was

and cowardly as to be incapable of declaring themselves in favour of innocence. The man of honour will always act in such a manner as to deserve what Lucan says of Cato: "*Victoris causa diis placuit sed victa Catoni.*"

I must, however, declare, in justice to mankind, and as a token of my gratitude, that if I have unfortunately met with such men, I have had the happiness to find many more who tendered a beneficial hand to me in my distresses, and most loudly disapproved of the conduct that had been pursued towards me. In this number were persons in no way related to me either by friendship or otherwise. But I am compelled to forego the pleasure of mentioning their names, and of expressing my gratitude to them, to avoid offending their modesty, or exposing their virtues to the unmerited animosity of wicked men.

intimated to the gaoler with respect to any person that should send me either food or any other relief. My own brother was directed, when he sent my victuals every day, not to go himself near the prison gate, but to send them by a servant to the turnkeys, that they might be examined before they were given to me: so that even my own brother could not so much as make enquiries relative to my health of the gaolers. A proceeding, indeed, natural enough in a *billiguin* (the executer of magisterial orders), but certainly a most indecent one in a magistrate.

Six months had I passed in solitary confinement, when one night the gaoler came to the cell where I was, accompanied by four or six men. As they evidently came to take me with them, I asked, whither? They answered, they did not know. This mysterious and absurd way of proceeding immediately rendered it apparent to me that I was going to the prison of the Inquisition; an event which I had long anticipated, as the natural course of things, according to the pre-concerted plan laid down by the persons who had agreed to act in the demi-tragedy of my persecution. In fact, I was taken in chains to a carriage, where I found a silent companion, and being surrounded by constables, or others, officers, of the Inquisition, who walked by the side of the carriage, I was conveyed to Joseph Street, until the carriage reached St. Anton Gate. There, to prevent any body from guessing my destination, I was ordered to alight, and being led through an alley, the party returned again to the square, called Rocio, leading to the gate of the palace of the Inquisition, which communicates with the prison: here I found the people of the prison in waiting for me.

I was then conveyed to a room, where they entered my name in the books; made an inventory of the few clothes I had; and asked me if I had any knife, razor, or scissars, or any other instrument; also, if I had any gold, silver,

or jewels ; and, on their saying that they would rely on my word in this respect, I produced some pieces of golden coin, (most stupidly,) relying on their assertion ; but as soon as they obtained this, and found that I had nothing else to produce, they began the most scrupulous search over every part of my body.

The gaoler, who, for greater dignity, has the name of Alcaide, that is, keeper of the castle, addressed to me almost a little sermon, recommending me to behave in this respectable house with great propriety ; stating also, that I must not make any noise in my room, nor speak loud, lest the other prisoners might happen to be in the neighbouring cells and hear me, with other instructions of a similar kind. He then took me to my cell, a small room 12 feet by 8, with a door to the passage ; in this door were two iron grates, far from each other, and occupying the thickness of the wall, which was three feet, and outside of these grates there was, besides, a wooden door ; in the upper part of this was an aperture that let into the cell a borrowed light from the passage, which passage received its light from the windows fronting a narrow yard, but having opposite, at a very short distance, very high walls ; in this small room were a kind of wood frame without feet, whereon lay a straw mattrass, which was to be my bed ; a small water-pot ; and another utensil for various purposes, which was only emptied every eight days, when I went to mass in the prisoner's private chapel. This was the only opportunity I had of taking fresh air during such a period, and they contrived several divisions in the chapel in such a manner that the prisoners could never see each other, or know how many were granted the favour of going to mass. The cell was arched above, and the floor was brick, the wall being formed of stone, and very thick. The place was consequently very cold in winter, and so damp, that very frequently the grates were covered with drops of water

like dew; and my clothes, during the winter, were in a state of perpetual moisture. Such was my abode for the period of nearly three years.

The day following my entrance into these prisons, the gaoler came to my cell early in the morning, dressed in a state black cloak, which he always wore on those days, when the tribunal did business: he asked me, whether I was accustomed to pass the day only with a dinner, or if it was necessary for my health that I should eat another meal during the day. I answered, that it was very unpleasant to me to go without breakfast, being in the habit of taking some tea or coffee every morning. The gaoler replied, that this was not a house for luxuries, though the prisoners had what they really wanted; that for the present he would send to a coffee-house for a dish of coffee for me, as I had passed the night before without supper: but, for the future, he would report what I said to the lord inquisitor, and act agreeably to his orders. At nine o'clock in the morning the gaoler came again, with another turnkey, and said that I must accompany him to the hearing of my case by the lord inquisitor, appointed by the holy tribunal to be my judge, and what they call reporter (rellator) of the cause, who happened to be the first inquisitor and president of the small board, Manoel Stanislao Fragoso. The affability with which this priest treated me, when I first spoke to him, knew no abatement during the time of my imprisonment, except in one or two instances, when his temper was ruffled.*

* It is certain, however, that this affability and seeming moderation were so unnatural to his character, that from their artificial assumption I knew immediately I had to do with the most refined hypocrite. This inquisitor had very superficial principles with respect to science: but he possessed keen penetration; a still greater dissimulation; and was highly estimated by the grand inquisitor. We may suppose from this, that his character was not a good one;

Notwithstanding all that I had either heard or read about the inquisition, I was persuaded that the proceedings of this tribunal did not possess that character of cruelty which had been ascribed to it in former times: but this arose as much from the ignorance of their ministers as to the criminal law, as it did from their unbounded avarice, which rendered them most anxious to acquire other people's property, under the name of confiscation. I fully expected that my trial would have soon terminated, flattering myself with the hope of having some sentence speedily passed on the cause. Whatever this might be it could not but be grateful, as it would, necessarily, in some way or other, put a period to a confinement to which, however, I was to be doomed for so many years.

I must however acknowledge, as a warning to others, that my childish credulity, in entertaining the hope of finding in the holy office meekness, clemency, or dispatch in my trial, had no other ground except the popular rumour in every corner of Portugal, that the holy office is very much altered, and does not now practice those

particularly as friendship or intimate connexions are almost universally founded on a similarity of dispositions. Be this, however, as it may, it was the grand inquisitor who appointed this man to a place in the supreme council of the inquisition, and made him at the same time first inquisitor and president of the small board, or inquisition properly so called; and, as the trials or causes are carried by way of appeal from this board to the supreme council, the circumstance of this inquisitor's assisting at both must give him a considerable influence on the general business of the tribunal. Besides, he was the best informed of all the inquisitors with respect to the practice in all criminal causes and judicial proceedings, having been secular judge (*juiz de fora*) formerly: but being disabled from continuing to act as a magistrate he became a priest, and obtaining the place of inquisitor at Evora, was removed from thence to be an inquisitor at Lisbon, and to a seat in the supreme council.

cruelities which it before committed, and the reason assigned for this was, that the tribunal is now composed of enlightened ministers, who are thoroughly conversant with the criminal law, and execute with prudence the new regulations prescribed to them, during the reign of the late King Joseph I.

It was perhaps inexcusable in me to attach any credit to such reports, in contradiction to the opinions of the better informed and more sensible part of the world, and without reflecting that they must have had their origin in the artifices of the inquisitors; who, at all times, have been sufficiently artful to disseminate opinions in favour of their views, and to uphold their credit for some time: such were, for instance, the ridiculous stories they spread concerning the Jews, which, having the effect of irritating all nations against those unfortunate people, disposed every one to regard their persecution by the inquisitors, and the enrichment of the latter by the despoiled property of their innocent victims, not only without pity, but without at all considering the injustice of these transactions. As I shall hereafter take an opportunity of saying something more about the tribunal, I will now continue the sequel of my narrative, which will be found to afford a better description of the actual state of the holy office than any general reasoning about it could do.

The inquisitor was in the audience-room with another priest, who acted as clerk, or as they call it, notary, and he commenced the interrogatories first by inquiring my name, parentage, and place of birth; next, if the familiar, who brought me to the prisons of the holy office, had done me any violence; or if I knew the cause that had subjected me to the notice of the inquisition. He then observed to me, that I was before the most just and most merciful tribunal on earth: but to obtain its mercy and pardon for my crimes, it was necessary that I should, of my own free will and accord, confess all crimes

of which I had been guilty, without concealing my accomplices, frauds, or any other circumstances; and that this confession must be immediate, because the present time was the most favorable moment a prisoner in the inquisition could have—for, should I confess afterwards what I might deny in the beginning, the lenity of the tribunal would be very different.*

I replied to the inquisitor, that having been first imprisoned by the police, on the ground of having gone to England without passports, although I was not interrogated about this subject, but only with respect to my having entered into the order of freemasonry I was led to conjecture that my being a freemason was the cause of my trial by the inquisition. If, indeed, this was the crime of which I was accused, I was disposed to confess it, not only because it was true, that I was a freemason, but with a view that I might obtain the mercy he, the inquisitor, had promised me: but if I was mistaken in my conjecture, and the crime I was accused of was different, I begged that its nature might be disclosed to me, and I would reply to the accusations as should be necessary. The inquisitor replied, that he could do no otherwise than praise my laudable resolution to confess my crimes: but it was his duty again to admonish me, (and he said this with a great deal of apparent charity,) that I ought to examine my conscience thoroughly, and not leave any thing untold of all that I had done in any period of my life; that I had committed crimes whose cognizance belonged to that holy tribunal, and that I was accused of them, and informed against on that account; that I should remember his recommendation, that to confess my crimes was highly important to the clearing of my conscience, to the salvation of my soul, and to the successful issue of my

* Those admonitions are expressly ordered in the Bye-laws of the holy office; and may be seen in Book II. tt. 5. pr.

cause ; and that he, to do me a favour, would send me back to my solitary prison, that I might have time to examine my conscience. I told him, that the greatest possible favour he could confer upon me was, that of accelerating my cause ; for having been more than six months in prison without being allowed to communicate with any one, my health was so seriously injured, that all I wished was, to have a sentence, in order to get free from my painful situation and suspense ; and however rigorous that sentence might be, it would always be preferable, in my estimation, to being in a solitary prison, under circumstances that could only lead to an inevitable ruin, which was the more to be feared, as I was literally dying by inches in slow torments.

I was then immediately remanded to my prison, and the gaoler came to inform me that the goodness of the lords inquisitors extended so far as to order that I should have, besides the ordinary allowance, some coffee for breakfast, and in consideration of the state of my health, a daily allowance of wine. The ordinary allowance he spoke of was half a pound of boiled meat, (which, as some people who have heard about the allowances of the inquisition, say, is without bones, but the bones enter into the weight of this half pound ; and on some days this allowance is very scanty ;) a few spoonsfull of rice, a cup of gravy, and some bread. This allowance is cooked in the kitchen of the inquisition by a proper cook, and in order that no letter may be sent to the prisoners in the victuals, it is regularly served at noon. The steward gives to the cook what money may be required for buying the articles intended for the prisoners, and these expences are defrayed at the time by the treasury of the tribunal : but at last, when the costs of the trial are settled, all advances for the prisoner's maintenance, are taken into consideration, and recovered with exactitude out of his estates or property. The only persons who are

allowed to have any access to the prisoner, or who can see and speak to him, are the gaoler, and four guards, called the faithful of the prisons, who convey the prisoner backwards and forwards to the audiences, and are at the same time the executioners who administer the tortures.* These guards also wait upon the prisoners, and bring them what they want, such as food, water, &c. I shall have an opportunity hereafter of mentioning some exceptions to this rule: but it is necessary to observe here, that these guards are, properly speaking, spies set upon the prisoner to observe every thing in the prisons and to relate it to the inquisitors, not only what they can gain by listening to the conversation of the prisoners, but also what they can see through small holes they make in the ceiling, just at the corners of the cells.

When I saw myself plunged again into my cell, for the purpose of examining my conscience, I reflected well upon every word I had heard, and comparing this with what I had been told about the inquisition, by those who had perused the story of some person that, after his release from the dungeons of the inquisitors, had published an account of his sufferings, I had little room to doubt the duplicity of those expressions which had offered to me so much pity and mercy: time, afterwards, thoroughly justified my suspicions. I also clearly perceived the motive for the air of mystery assumed by the inquisitor, in recommending me to accuse myself of every crime I should be conscious of: this measure is intended to excite fears in the mind of a prisoner, that the inquisitors have perhaps exact information of every transaction of his life, and to terrify him into the disclosure of things, of which the inquisitors had

* The Bye-laws of the holy office, book 1. tt. xv. §. 6. say, "And when the Inquisitors shall order any person to be tormented, the guards shall execute the office."

not the least previous idea. This source of fear, together with the promise of mercy in the case of a voluntary confession on the part of a prisoner, has generally proved one of the most efficacious means resorted to by the inquisitors, to get from the innocent and ignorant many circumstances that otherwise it would have been impossible for them to know. As for myself, I was perfectly convinced, that I could not have been informed against in the holy office upon any other ground than that of masonry; this I had already acknowledged: but even if I had had any reason, which I had not, to entertain a doubt whether I was accused or not of other crimes, I was not so ignorant, or such an idiot, as to become my own accuser; * it being clear as the light of the day, that the duty of a defendant is to make his defence good, and not to bring forward his own accusation.

Eight days afterwards, I was again taken to an audience, when the inquisitor asked me if I had examined my conscience, as I had been ordered to do; and if I was determined to accuse myself very sincerely of all crimes I had, or was at all conscious of having, committed. I answered, that the result of my reflections in my confinement during these eight days, was a strong suspicion that I had been merely imprisoned on account of my being a freemason, which crime, if it were any, I had already confessed; and

† *Imo ea natura est omnis confessionis, ut possit videre demens qui de se confitetur.* Quintilianus Decclam. cccxiv. In fact, no legislator in the world ever thought till now about enacting a law, by which he might order the thief to present himself to the magistrate, that he might hang him. The laws merely direct the magistrate to apprehend the thief and cause him to be hanged: so that this maxim of self-accusation is without precedent or example in history; and, indeed, is so singular, that it will probably remain a long time without being followed.

that he, the inquisitor, ought to know whether my confession in this respect was true or not, as he, most probably, was in possession of my certificate of freemasonry, which, of course, as I considered, had been sent to him by the intendant of police.

The inquisitor replied, that I abused his goodness, in having waited for my confession, only to do me good, by my contumacy in not confessing my crimes of my own accord; and that my having only confessed that I was a freemason, would be of no avail to me: he then admonished me again, with a great deal of seeming charity, to confess all the crimes I had committed, which might belong to the cognizance of that tribunal; adding, that I had been informed against, and that it was my duty to reflect how beneficial such a confession would prove, not only to my conscience, but to the salvation of my soul, and to the good issue of my cause. He concluded by saying, that to do me a favour, he would remand me back to my cell, in order to afford me more time for looking into my conscience, and reflecting upon what was of so much importance to me.

Encompassed thus, as it were, in a circle, by mine enemies, I lost, immediately, all hopes, even of a speedy sentence, which in the beginning I had flattered myself with, and which indeed was my only desire. However, I again represented to the inquisitor, that the imagined favour he intended, of remanding me to my cell, was less preferable than that of beginning and advancing my trial, until some sentence should be obtained, which, in my present bad state of health, was certainly the most convenient thing for me. I requested also that they would send to my house for my clothes, and particularly some linen; because I had only one shirt, which I had worn eight days, and it was necessary to change it. The inquisitor ordered me to go to my prison, with great marks of affability, at the same time assuring me, that there I should find all succours,

both spiritual and bodily, which I might be in want of; and that they would order some clothes to be made for me if I wanted them, or if I preferred it, they would send for my own.

After a delay of eight days more, I was again conveyed before the inquisitor. I began this conference by representing to him the urgent necessity I was in for clothes, particularly of a change of the shirt I had worn for a fortnight. None of his offers had yet been realized, though this, perhaps, might have been the fault of the officers to whom he had given his orders: and though at this time I was well persuaded of the inutility of my appeals, yet I again solicited a compliance with the favour I was so much in need of, a speedy termination to my trial. But apprehensive that I shall tire the reader with so many repetitions, I will say here, once for all, that during every interview between me and the inquisitor, I always repeated the formality of praying for the acceleration of my trial, which he constantly rebutted with his charitable admonitions, as he called them, entreating me to look into my conscience, and to confess every crime I might have committed, as it could not prove otherwise than beneficial, by clearing my conscience, administering to the salvation of my soul, and promoting the success of my cause. It may hardly be necessary to observe here, that these repeated admonitions always produced the same effect on me, that my request had on the inquisitor.

In this examination, however, something more than usual was done, for the inquisitor told me that, as I had declared myself to be a freemason, and to be also disposed to confess this, his charity would be extended so far as to receive my depositions on that day; and that I might be persuaded of the sincerity of his assertions, he would declare to me, not in the capacity of my judge, but as my friend, that the bare declaration of my being a freemason,

availed nothing, though the confession might prove of some service to me, if I permitted it to comprise all circumstances attending the transaction, particularly the names of all persons whom I knew to be freemasons, and also the places where the money coffers belonging to the society or order of freemasonry were kept.

In consequence of this solicitation, I immediately declared the time I was made a freemason, the lodge where, and by whom: as for the names of the persons present, I could only remember those who signed my certificate; and if I could recollect any others, I would relate them; because those persons who were present at my introduction, lived in a country where they had not the smallest hesitation that their names should be published. As for the coffers, I answered, all the world knew, that lodges had their particular coffers, and treasurers, and that grand lodges had a general coffer and grand treasurer: but the administration of these funds was entrusted to proper persons appointed by the society, for encouraging, in different ways, the several branches of their internal and economical government—that this was all I could mention from memory—but if he wished to know more, he would be pleased to ask and I would then answer, to the best of my knowledge. I was directed to retire to my cell, after he had repeated his customary admonition, and I had made my usual appeal for a speedy trial.

Between this time and the next conference a fortnight elapsed, during which period I employed myself in all those acts of reflection that were necessary to arm me with patience, and to provide me with all that collected spirit and calmness, which my case required. These repetitions of hypocritical admonitions, of delay and of artifices, whose perpetual recurrence must, I fear, have proved very tedious to my readers, were susceptible of no other remedy but that derivable from the most consummate prudence, or

stoical indifference, which I was incapable of; because these qualities are, if not incompatible with, at least very difficult to be found at the age of eight and twenty, of which age I was, and with a temperament naturally sanguine and spirited like mine. But as, very frequently, extreme necessity calls forth unexpected resources, I was enabled, after a great deal of reflection, to collect a small fund of patience and tranquillity, at the expence of all my other feelings and passions: though this fund of coolness was very unequal to the demands I had to make upon it, in my present circumstances. In this explanation, the reader will find the reason why I did not answer to many questions, as many others would have done in my place; and the frankness of it will, I trust, plead my excuse, with those persons who know how to make allowances for the invincible weakness of mankind. One of the greatest tortures I suffered in the inquisition was the multitude of interrogatories, varied, on purpose, to make me lose the thread or connection of my deposition, and to confuse my head with allurements, acts of kindness, threats—all in vague words, undetermined, or false—constant promises of a speedy end to my trial, exhortations to patience, protestations of charity, all in ambiguous words, which consequently gave rise to the most sad conjectures.

When I went again before my judge a fortnight afterwards, I immediately remarked to him, that I had worn the same shirt for nearly two months, though I had requested him so often to send for my clothes, and he had so repeatedly offered to procure them: that having asked the gaoler for some soap, I had washed my only shirt, being in the mean while naked; but as it was the first time I had employed myself in such a business, I did it so badly, that I was not able to take off all the soap from the linen, and this imparted strength to a cutaneous eruption that had begun to appear all over my body, which was a necessary consequence of the alteration of humours

resulting from the moral as well as physical state of my health. This representation had this good effect, that the gaoler came afterwards to my cell and told me that he had orders to buy me one shirt: such as it was, I was obliged to accept it, in consequence of my wanting it so greatly; and henceforward, those two shirts were alternately one on my body, the other in the washerwoman's hands, though when the cast-off shirt was taken by the guardstobe washed, it was sometimes detained for a month: as for clothes, I was compelled to wear the same nearly eighteen months, until they sent for my own clothes, not to do me a favour, but from motives which I will hereafter explain. The reader will excuse me for descending to these trifles; but without stating them, I could not well shew, that the great offers, and seeming goodness of my persecutors, were only the effects of hypocrisy, a quality which I had before attributed to my judges. There is, however, nothing in this hypocrisy that should excite wonder, hypocrisy being always the companion or attendant of fear, which is a natural consequence of an usurped and cruel power,* such as that of the inquisition, who detest and hate no men so much as those devoted to or fond of the sciences.

Two months had elapsed after I had been in this prison, when the inquisitor resolved to begin the interrogatories, which, according to the regulations of the holy office, are divided into three sections;† and must begin within ten days. The first is called the section of genealogy; the second is called *in genere*, or questions in general subjects; the third *in specie*, or questions on the spe-

* *Qui scepra duro scævus imperio regit*

Tinet timentes: metum in auctorem redit.

Seneca in Oedip. ver. 705.

† Regulations of the holy office, book 2. tit. 6. §. 2.

cial crimes or matters the prisoners are accused of. Each of these sections lasted many days, and constantly, when the conference ended, and the inquisitor ordered me to be taken to my cell, he repeated his protestations of the charity of that tribunal, and the necessity I was under of confessing all my crimes. Leaving the order of days, I will continue my narrative by the order of the sections, in their different subjects. In the section of genealogy, I was examined as to the names of myself, my father, mother, and relations, the places of their nativity, their situations in life, and their respective ages; I was also questioned if I knew that any of them had ever been in the inquisition, and for what crimes. Then followed queries respecting the christian or baptismal names of my godfather and godmother; what sacraments I had received; what care and solicitude had been taken by the persons entrusted with my education to teach me the duties of the christian religion, and the respect due to the sacred tribunal of the inquisition: finally, I was ordered to answer some questions relative to the catechisms and prayers.

An incident happened during this conference, that proved the pride and inordinate self-esteem of the persons composing this tribunal. The inquisitor ordered me to kneel down before him to say the prayers: but I replied, one of the points I had been taught in these very prayers and catechisms which he told me to repeat, was that of the three worships or adorations in latria, hyperdulia, and dulia. To God only could I give that of Latria, in which was included kneeling with both knees; and to offer this worship to any creature, was one of the greatest sins. Though he insisted upon my compliance, I could not persuade myself to do it, and constantly refused, under the apprehension, that this request might be an artifice of him, the inquisitor, to make a trial of my faith, and to ascertain if I was capable of committing the crime of

idolatry, by adoring him. He positively assured me, however, that this was the general custom in that tribunal, not only when the prisoners were examined about the prayers and catechisms, but also when they were on the eve of being sentenced; and, he assigned as a reason for it, that the prisoners, when brought before their judges, might have the opportunity of imploring their mercy, with proper humiliations;* adding that, subsequently also, when the sentence was to be passed, the prisoners were to hear it given upon their knees.

The second section is called *in genere*, because the inquisitors may ask questions of the prisoner, respecting all crimes of which they may suspect him, without speaking of those of which they may have had especial information; and as the artifice, concealed in this, cannot be well explained without relating, minutely, at least some of the questions, I shall be obliged to notice some particulars, which otherwise I would have omitted. The following were the principal questions:

Q. At what age did you begin your studies?

A. I cannot say with precision.

* Indeed, the regulations say so. Book 2. tt. 13. §. 6. But this custom is not general. I know of some prisoners who never knew that the process was at an end, until they were called to hear the sentence. This, after the government began to deny permission to the inquisitors to perform *their solemn auto da fe*, they read to the prisoner in presence of the inquisitor, before whom the cause was tried, or in a full convocation before all the inquisitors and deputies; either with doors closed or open, that the officers of the inquisition may be present, and even some strangers whom they may be pleased to invite to hear the sentence. Sometimes the prisoner is ordered to go to a church to hear the promulgation of his sentence, at the time of the most frequented mass during a Sunday. Though I know instances of all these circumstances, I cannot assign a reason for such differences in practice.

Q. Mention the most probable period, at which you left the writing-school to go to the Latin-school ?

A. Perhaps at the age of nine.

Q. Do you know, or suspect, why you was sent to the Latin school at so early an age ?

A. No.

Q. Was the Latin grammar you learned by according to the old method of the Jesuits, or a more modern mode ?

A. It was the new method of Father Antonio Pereira.

Q. What dead languages, besides the Latin, did you learn ?

A. Greek.

Q. Did your masters, when they instructed you to translate the heathen class, at all warn you of the abominable errors, often propagated by those books, wherein may be always found some traces of the false superstitions of the ancient *gentiles* ?

A. Yes.

Q. What living languages did you learn ?

A. All those that are most necessary in Europe, either in consequence of the intercourse of the respective nations with us, or on account of the scientific works that have been written in these languages ?

Q. What motives had you for acquiring those languages ?

A. The wish of placing myself in the situation of learning some sciences, which I could not do without understanding the books written in those languages.

Q. Was you, when you began to learn the living languages, at all sensible of the danger attendant on your reading the impious books written in those languages, chiefly in French, English, and German ?

A. As the tribunal of the holy office has the care of prohibiting books of a bad tendency, and of sanctioning

those only that are good, I could not suppose it possible that any impious book should come to my hands : so that on this point, my conscience was tranquil, because I could not, without offering an offence to the reputation of this tribunal, persuade myself that a tribunal so attentive to its duties would permit books of such nature to circulate so generally as to come into my hands.

Q. What academical degrees have you taken ?

A. I am doctor of laws, in the university of Coimbra, where I was also bachelor of philosophy.

Q. What sciences more have you acquired besides those by which you obtained your academical degrees ?

A. Mathematics, geography, history in general, and the *belles lettres*.

Q. Were the books you made use of in acquiring those sciences, national or foreign : and who were their authors ?

A. I always had recourse to any book that I thought good, or that had been recommended to me as applicable to the subject I intended to learn, without enquiring any thing more than if it was written in a language which I could understand. As to the names of the authors of those publications, it is impossible for me to recollect them, even on my own peculiar science of law, but much less on other subjects, to which I only paid a secondary attention ; either because I found that they had little connection with my particular profession of jurisprudence, or because I was stimulated to read them for mere pleasure and amusement.

Q. Declare, at least, the elementary books by which you learned the sciences you have spoken of ?

A. With respect to my peculiar studies in the university of Coimbra, I followed the elementary books approved of by that university ; as to my other studies, not being bound to follow any particular method, I indif-

ferently used any book which I thought convenient. To give a complete catalogue of all those books would be so difficult a task, that I wonder how any one could imagine that a man, devoted to books and the sciences, would be able to give a satisfactory or precise answer to such a question.

Q. I remark that, at the very time when you exhibited so great a desire to learn so many different branches of the sciences, entirely foreign to your intended profession of the law, you do not seem to have thought of divinity, or of the sciences connected with it, from whence I might argue that you, deliberately, neglected theology, the most sublime and interesting of all the sciences.

A. Scarcely any man can assign the reason why he feels a greater attachment for one science than he does for another. With respect to myself, I did not lean towards theology, on account of the idea I entertained of the difficulty there was in acquiring that science, and the danger I should incur in perusing books relating to it, without the necessary and laborious preparatory studies of the Hebrew and Syriac languages, and other things, for which indeed I could spare no time from my other avocations.

Q. Are you persuaded that the study of divinity is highly interesting; and even comprehends many curious questions deserving the attention of the christian philosopher?

A. As I know that for our salvation, it is sufficient to understand the catechism of the christian doctrine, I have felt satisfied with the acquisition of that; and I leave to more superior talents, in that avocation, the further prosecution of such studies.

Q. In your study of the canon law, which necessarily comprized a part of the second year of your juridical course in the university of Coimbra, had you an oppor-

tunity of examining into some ecclesiastical questions and matters relating to religion? Declare sincerely on what points you felt any doubts, and if you intended to elucidate them?

A. In the second year of the juridical course we only learnt the canon law in an elementary and compendious manner; as the studies of that year do not comprehend any thing more than the sacred and ecclesiastical histories, and the rudiments of canon law, both public and particular; nor did I pay any more attention to those matters than what was sufficient to enable me to fulfil the daily duty of the academy.

Q. In your studying philosophy, surely you met with some circumstances to excite your enquiries, relating either mediately or immediately to the truths of our religion—for instance, in metaphysics, the existence of a Supreme Being, and the immortality of the soul: in ethics, the *summum bonum*, and other things? Declare, then, if you studied any authors who oppose these truths?

A. It is true, that I was obliged to learn these subjects: but as I studied metaphysics and ethics in the university of Coimbra, it is clear that the elementary books I had recourse to were those approved of by the university, and consequently orthodox.

Q. Have you at any time disputed with any persons about such points?—Who were those persons; and at what periods did the disputations happen? In agitating such questions did you follow the affirmative, or the negative side, and from what motives?

A. In the course of my life I have frequently had opportunities of talking about these subjects, either in consequence of my duty in the weekly exercise of the academy, or in the course of conversations: but it is impossible for me to recollect now who the persons were with whom I spoke, or the precise nature of the points

that were made the subjects of these literary conversations.

Q. Do you remember, if, in consequence of these disputes or conversations, any doubts remained in your mind about the truths of our religion, or if you consulted any body about them ?

A. No.

At last this long and tedious interrogatory terminated with my being examined about the journies I had taken, either in the kingdom or out of it ; the motives of those journies ; the persons I spoke to ; and the objects that attracted my curiosity. In these queries it was cautiously endeavoured to discover if at any time I had doubts about the truth of the Christian religion, in which I was brought up ; the legitimacy of the tribunal of the holy office ; and its utility both to the church and state. I do not relate these questions circumstantially, because the instance before adduced is sufficient to give an idea of the impertinent minuteness of the interrogatories, which, by their latent artifice, were intended to entrap me into a discovery of my real sentiments.

The third section is called *in specie*, because special enquiries are made concerning the crime of which the prisoner is accused ; and it began with the question : “ If I had any recollection of having confessed before him, the inquisitor, that I was a freemason, and whether I was disposed to confirm or deny that confession ? ” I answered, that I was ready to confirm it. The inquisitor rejoined, by asking, how I could dare to do a thing prohibited by the holy office ? and called on me to declare whether I did it from mere contempt of that holy tribunal, or in consequence of being seduced by some sordid motive of interest, or some specious but false reasons that had misguided me. I replied, that curiosity, to know the internal organization of the society of freemasons, was

one of the motives that had induced me to become a member of it : but previous to my taking this step, I deliberated, and consulted an ecclesiastic, who was considered to be a man of learning in his profession. It is not, I added, my intention to defend, or by any means to support his reasons : but I will refer to them to answer this question.

The prohibition of the holy office, that nobody can be initiated into the order of freemasonry, I then proceeded, is by no means general or obligatory upon all Christians, nor does it relate to any essential point of our religion. It is only a regulation of mere ecclesiastical discipline, and has reference to those churches in particular of which the tribunal of the inquisition has cognizance ; since the laws of the church intended to operate upon every true believer, originated in general councils, or at the least were ordained by the pope, and the bishops all over the world were directed to take care of their execution. But this power of prohibiting freemasonry, being entrusted only to the holy office, it is evident that it was intended to have effect only in those countries where this tribunal exists : and as I was initiated in a country where no inquisition existed, and where many freemasons, publicly known as such, were not only Roman catholics but even bishops, without any notice being taken by any individual of the practice, it is clear, that, there, I was not subject to the prohibition of the inquisition, particularly as it is acknowledged, that the catholics must conform themselves to the discipline of the church in the country they live in.

The inquisitor replied to this, that these reasonings were the purest sophisms : because the prohibition in question proceeded from the pope, to whom all the faithful are subject, at whatever place they may reside ; so that instead of entering into the society of freemasons, it was my duty to obey the prohibition of the inquisition, in

preference to listening to the opinions of a private individual, whoever he might have been.

To this I replied, that I did not intend, as I had already remarked, by any means, to defend or adopt the reasons of the divine; and I expressed a wish to submit myself and my cause to the decision of that tribunal, in every thing that should be considered as a rule of faith. But, as he, the inquisitor, had directed me to state the reasons which had induced me to become a freemason, and conceiving myself that an exposition of these reasons might do me some service, by shewing at least, that, misled by their influence, I had committed the crime of which I was accused, and that I had not done so from a positive contempt of that holy tribunal, I thought it necessary to declare, amongst other reasons brought forward by the ecclesiastic, (which I conceived might be an answer to the inquisitor's reply), that in the bulls of Pope Clement XII. and Pope Benedict XIV. establishing the prohibition in question, the reason and motive assigned for such a measure were, that the society of the freemasons was heretical. From hence it followed, that the tenour of these bulls was grounded upon a false supposition; because my own experience, and the attestation of every man who had treated on the subject, fully proved that the society of freemasons so far from being heretical, had nothing to do with religious opinions—a regulation certainly of the first necessity in a body composed of members belonging to every sect or religion in the world. Should they ever permit themselves to enter into religious subjects, it would be the source of immediate discord, and would tend perhaps to the speedy dissolution of the ties connecting the society, on account of the natural tenacity with which men in general defend their opinions on religion. As the fact, therefore, of the supposed heresy on whose presumption the bulls were

grounded, did not exist, it was evident that the same bulls could have no obligatory power whatever, since, in fact, there was no cause for claiming such a power.*

To this I added, that, according to the concordats, and laws of the realm, in Portugal, the Portuguese were subject to no bull of the Pope if that bull has not previously received the royal assent.† And as the sovereign had not yet declared his royal approbation of the bulls adverted to, it was not only clear that the Portuguese were not subject to their operations, but moreover self-evident that the magistrates who acted upon them must necessarily commit a crime.‡

The inquisitor, on hearing this, interrupted the interrogatories, by remanding me to my dungeon, though the conference had only lasted for ten minutes, or a quarter of an hour. This somewhat surprised me, as our conferences generally used to continue for two hours. But as in the following and subsequent days the inquisitor had written on paper a list of queries he meant to put to me, (which I could perceive in consequence of being seated, not opposite to but near him, at the top of the table, and at his right hand,) I was led to imagine that the queries and interrogatories he had at various times put, were either framed by him in private, or the result of a consultation with his companions. And I was the more persuaded of this, because always when my answer indicated nothing that he expected, he suspended the interrogato-

* *Quod de legum vi, atque officina, omnium ferme consensu receptum est, ut si lex fundetur in presumptione aliqua facti, quod factum revera, ita se non habet, tunc ea lex non obliget, quia veritate facti deficiente deficit totum legis fundamentum.* Grotius de jur. bell. et pacis, L. 11. cap. xi. § vi. n.

† Paschoalis Josephi Mellii. Instituit. Jur. Civ. Lusitani. L. 1. tit. 5. § 14.

‡ Id. Just. jur. civ. Lus.

ries, and the next day either pressed his question or rejoined to my answer.

In compliance with this practice, on a subsequent day, the inquisitor argued against my answer in the following manner: reflecting upon what I had said, it was very apparent that I had adopted for my own the reasons attributed to the divine, whose advice I had taken; because in detailing those reasons I had remarked that my own experience taught me that the society was not heretical; so that he, the inquisitor, felt it necessary to order me to explain the true meaning of the words I had uttered. To this I replied, that the meaning of these words was no other than what obviously presented itself in their common signification. All I meant to say was, that what I had learned from the divine, my adviser, and many other persons, as to the society of freemasons not being heretical, was corroborated by my own experience during my visits to the lodges, or assemblies of freemasons, in which I neither heard or saw any thing practised against religion. Of course, I was justified in saying that nothing in the society of freemasons was to be found, to which I could apply the name of heresy.

The inquisitor insisted, that my words not only proved me to be guilty of the crime of heresy, like the rest of freemasons, but also shewed that I was contumaciously obstinate, bigotted to my own opinion, contradictory, lame in my replies, and very positive in my affirmations.* In answer, I expressed my surprise that he, the inquisitor,

* These distinctions and peculiar phrases are to be found in the Bye-laws of the holy office; but the ignorance of the inquisitor is clear in applying to me, in a connected state, epithets so incompatible with each other, for an affirmer or positive person is the prisoner, who actually defends an heretical opinion, and having once maintained it, perseveres in adhering to and maintaining it: while

should heap so many accusations upon me, for it was never my intention to defend any proposition contrary to the tenets of faith, having never applied myself to such subjects, and in this respect I had always submitted myself entirely to the decision of the church, and to what the tribunal should prescribe to me as a rule of faith. Having been interrogated on the subject of a fact, I gave in reply to the question, every particular that I had either heard, seen, or witnessed; and in doing this it became my duty to say, that I had never observed, in the society of freemasons, any thing inimical to religion, which was the truth of the fact I was asked for, and they only would call me contradictory, or guilty of falsehood, who could affirm or prove that I had not spoken the truth in this assertion, which I was very certain nobody could; not only because I had never witnessed any thing that could be termed heretical, but also because I knew, by my personal acquaintance with the society of freemasons, that they never discuss any religious subjects. With respect to the accusation of the inquisition, that I had been guilty of the crime of heresy, it was such a severe attack, and so unmerited, that I desired he would immediately inform me, in what point I might be called an heretic, that I might, in the same instant, absolve my conscience, by renouncing the heresy.

The inquisitor observed, that I convicted myself of heresy, by attempting to maintain that the society of freemasons was not heretical, when the supreme pontiffs had declared it to be so.

I immediately rejoined, that as the crime of heresy consists in the pertinacious defence of any tenet or proposition condemned by the universal or catholic church,

he who denies the heretical opinions he is accused of, as well as the fact of having ever maintained such opinions, is said to answer in the negative.

and in opposition to the catholic creed,* I should feel obliged, by the inquisitor's having the goodness to inform me, what was the tenet I had maintained, because as soon as he had convinced me of its impropriety, I was ready to acknowledge my fault, and to retract my opinions. It was evident, therefore, that I could not have made a pertinacious defence, which could alone render me guilty of the crime of heresy; so I entreated him to point out to me the tenet, or tenets of faith he wished me to acknowledge, which I was ready to do. Of course, if I was not immediately permitted to make a protestation of the articles of faith, which he might possibly suppose I did not acknowledge, the fault was his, not mine, and as I had offered to submit with readiness, there could be no pertinacity in the case, and of course no heresy.

The inquisitor again insisted, that my heresy consisted in the refusal to confess and declare, that the society of freemasons was heretical, as the supreme pontiffs had declared it to be. To this I answered, that, without entering into any dispute or controversy, whether the pontiffs had or had not the right of declaring or establishing a tenet of faith, it was incontrovertible that no pontiff whatever had declared the society of freemasons to be heretical; for the bulls said only that they suspected it to be so,† perhaps on account of their ignorance at that time, with respect to this society. And much less could I declare the society of freemasons to be heretical, when the popes themselves had not said so: that for my part I could do nothing more

* *Heresis crimen definitur: Pertinax defensio dogmatis Ecclesie Universalis judicio condemnati, symboloque catholicæ fidei contrarii.* Mello. Inst. Jur. Crim. Lusi. lt. 2. § 4. can. 26. e 27. caus. xxiv. quæst. iii.

† Both the bulls make use of the ambiguous and doubtful terms, *ut heresin suspectos.*

than give the fact as I had stated it from what I saw and heard, which I had done, by declaring that I never observed in the society any thing against religion; and that if he, the inquisitor, knew that the society was unfavourable to religion, of which I was ignorant, and would make me acquainted with the particular circumstance, I would then perform all abjurations, renunciations, and protestations, which he might consider necessary.

The inquisitor replied, that it was impossible for him to comply with my request, as he was totally ignorant either of the secret views or the internal economy of the society; and that it was for me to make them known, and generally to renounce the society as heretical. I answered again, that should I declare that I renounced the society on account of its being heretical, I should virtually, though tacitly, accuse it of heresy; this I thought it wrong for me to do, for two reasons: first, because I should act against my conscience, in defaming a society by an accusation of heresy, in which I had never observed any thing to which such a term could apply; secondly, because I should act directly against myself—for as soon as I might say that I renounced the society, because it was heretical, I gave the inquisitor an opportunity of asking me, and with great reason, what were the heresies I was renouncing and abjuring: in such a case I should have no other alternative but to contradict my previous assertion, that there was no heresy in the society I was (even then) renouncing as heretical, or I should falsely accuse the society by imputing to it things I never observed, and at the same time, tacitly acknowledge myself to be guilty of crimes I had never committed. This could never be the intention of that tribunal, which had more than once told me, that in my deposition I was not requested to declare any thing false, either against myself, or against others.

At this time the inquisitor shewed himself better informed than I expected; as he pointed out to me, very minutely, many things that are practised in the society of freemasons: but, with this truth, he combined a great deal of fiction and falsehood, from whence I perceived that he had not perused any of the publications written at different periods, about the society of freemasons, both in its favour and disfavour. He described to me, for instance, some of the ceremonies made use of by the freemasons, at the reception and installation of a new member, the formula of the oath (though with many alterations,) the different degrees and dignities in the order, and the decorations made use of by the freemasons in the lodges; all which practices he, in conclusion, declared to be superstitions, and he ordered me to declare, sincerely, what I really thought of the practices he had related.

I answered, that ceremonies had been introduced into every society or assembly of men throughout the world; because they were considered necessary to maintain order, without which any assembly would soon degenerate into a scene of tumult. In the eyes of the philosopher, all ceremonies and formalities are equally ridiculous, whether they be symbolical or ordinal; but every body confesses, nevertheless, that they are necessary, and we accordingly find them employed in the administration of justice, in the performance of military functions, in the solemnity of courts, &c. and even amongst private individuals in domestic societies, where nobody dares to violate the little rules, ceremonies, and usages, which, however indifferent in their nature, were established by custom, under the names of civility and politeness, or introduced with the interesting view of maintaining the requisite harmony and order in companies and assemblies. In this, and no other light, did I regard all the cere-

monies practised by freemasons, notwithstanding their disagreement with the customs and usages of the present day, among European nations, which variance I ascribed to a retention of the customs and usages of those nations where freemasonry is supposed to have had its origin, and to the wishes of the freemasons to preserve those ancient ceremonies, under the idea, that though they might be indifferent, and perhaps equally as ridiculous as other formalities of politeness, it was better to preserve the old, than to establish or invent new ones; for the former might conciliate some respect on account of their antiquity, whereas the latter might be attended with inconveniencies, not known in the ancient practices. But, nevertheless, although this was the opinion I entertained of the ceremonies practised by the freemasons, I would change my opinion, if the holy office could prove to me that I ought to do it.

The inquisitor insisted still more, that I laboured under a great error in my ideas, relative to the ceremonies practised by the freemasons, by considering them merely as formalities of order or politeness; because all decorations used by the freemasons in their assemblies, a circumstance publicly known, and, of which they made no mystery, were symbolical and allusive to the mason's trade, from whence arose the denomination of freemasons; and though every freemason used an apron, still the figures embroidered in it were different, according to the different degrees of the mason who wore it: the jewels worn about the neck were also different, for some had the compass, some the hammer, &c. the rule, and other instruments, but all, nevertheless, were symbolical of and taken from the masons: and notwithstanding they made a public use of these decorations, they concealed the reasons for using them under the most impenetrable veil of mystery, so that even

to the present time, no one had given any satisfactory account of the relation that existed between the trade of a mason, and the order of freemasonry : and all freemasons who had been interrogated on the subject, gave accounts so contradictory to each other, that the world continued still in the same ignorance.*

Possibly well-informed persons may here think it proper to accuse me, some more and some less, of a want of prudence, in disputing with, or producing any reasons before a tribunal like this, where they make it a point to insist on an abandonment of reason, at least in the prisoner. They may also conceive that it is prudent to yield to a superior force ; and as the man attacked by highway robbers in a solitary situation, must do what he is ordered to do, and surrender his property, though the claimants most clearly have not the least right to it, with a view to save his life ; so a prisoner in the inquisition must coincide with the inquisitors in every respect, in order to free himself from their unjust persecutions, and to avoid greater evils, it being well known that nothing irritates the inquisitors so much as contradiction, or a man who reasons. This observation may have some foundation in a certain degree ; but my sentiments are different, for several reasons : first, because the replies and examples which the inquisitor

* The reader will naturally feel as much surprize as I did at the inquisitor having the weakness to make such a confession : but such was the fact ; and it proceeded particularly from the inquisitors having no criterion by which to distinguish the truth of depositions, when they are contradictory to each other. I could, if I chose, have given some good and correct information on those subjects to the inquisitors, but I did not feel disposed to gratify the curiosity of my foes, when it was clear, that it would be productive of no good to myself.

brought forward were, for the most part, so extremely absurd, and so manifestly devoid of all reason, that I was really afraid to shew even an apparent acquiescence only with his reasoning, lest he should suspect me of duplicity, in so readily conforming to his opinions, without some resistance: second, because the habit of acting always with sincerity, renders it very difficult to disguise our sentiments, on occasions, in which a person conceives that he is unjustly persecuted, and that his ruin is attempted under the name of justice: third, because I did not think it proper, by being silent, to sanction the inquisitors in saying, as they frequently do, that they are forced to condemn some prisoners against their real inclinations, as a prisoner's mere denial does not create any defence, inasmuch, as no excuses are assigned in extenuation of the crime: and fourth, because, at my age, and with my disposition, it is very difficult, indeed, to find that cool temperament of blood and tranquillity of soul requisite to enable any one to hear unjust attacks without offering some resistance. I am sure I shall not be guilty of exaggeration in saying, that sometimes when I heard the arguments and reasons produced to me, the phlegmatic slowness of the interrogatories, and the cool exhortations of the inquisitor, to bear my troubles with patience, as some atonement to God for my sins, that I laboured under a considerable trepidation of spirits: nor will this find any difficulty of credit in the persons who know me personally, and are acquainted with the vivacity of my disposition.

But to return to our former subject of the interrogatories.—The inquisitor continued to press his assertions, that the impenetrable secrecy with which the freemasons envelope all their proceedings, is a sufficient reason in itself to excite a suspicion of the general wickedness of those proceedings, according to the saying of the old Latin poet,

that honest things delight in publicity.* And he finally urged, that the communication existing between heretics and persons of different religions in that society, was more than a sufficient motive that every good catholic should feel inimical to it, independent of the suspicion attached to his faith, in consequence of his having communications with men of different religions. The inquisitor then called on me to state what influence these reasons possessed with me.

I immediately replied, that I had been, and always should be, ready to follow, and respect the commandments of the church, and what the tribunal of the holy office should direct me to do in its name: but, in regard to the reasons he, the inquisitor, had just produced to me, I could not allow them to possess that convincing force which he seemed to attach to them; and I thus expressed my doubts, because, I was desirous not only of being better instructed, but also of obeying his command:†

* *Honesta semper publico gaudent*

Scelera secreta sunt.

This remark was made by Minucius Felix, and is one of the authorities cited by the bull of Benedict XIV. in declaring freemasonry liable to the suspicion of heresy. Such, indeed, was the paucity of reasons on the occasion, that the pontiff was obliged to authorise a decision of the church with the saying of a poet—a pagan too!

† It is necessary to repeat here, for my own justification, that I was positively obliged to pay some deference to this, and declare whether I was or not convinced by the inquisitor's arguments; therefore, if I had said that I was convinced by their cogency, I should have said an untruth, and exposed my fiction to an inevitable discovery. I know, however, beyond any doubt, that amongst other reports which they spread to my disadvantage, one was, that I was playing the doctor in my trial, and that they were under the necessity of treating me with additional severity, and delaying the trial, not only on this account, but because I shewed a pride and self-con-

declaring, at the same time, that it was by no means my intention to defend the society of the freemasons; and protesting again and again, that I only expressed my doubts of his reasoning, with a view of having them satisfactorily cleared up; for if I had not manifested those doubts, he would have had no opportunity of clearing them up, neither could I be enabled to pay obedience to his commands.

As for the first reason assigned by the inquisitor, which was founded on his supposing the ceremonies of the freemasons to be superstitious, because they were symbolical, and allusive to the tools used by masons, I answered, that I did not think it proper to advert to the cause why the symbols of the freemasons had been rendered allusive to the body of masons—a circumstance that any one might easily know who would read the history of that society, which had often been printed, and in some respects might be deemed authentic, as it was published by order, or at least with the consent of the society, or some lodges of freemasons. Besides, any thing I could say in explanation of the meaning of those symbols, would be suspected; for he, the inquisitor, had already declared to me, that the great discordance in answers received from freemasons, threw a discredit on the stories of every individual. Without entering, therefore, into any particulars of the signification and meaning of these symbols and ceremonies, I should generally ob-

sideration that wanted to be repressed. Undoubtedly, if I had acted the part of a perjured hypocrite, and had been cunning enough to shew myself absolutely convinced by the inquisitor's reasons, when the contrary was the case, I might, perhaps, have acquired the good-will of this most honest tribunal: but even in this case, I should not have gone without a punishment, though against their inclinations, because I had no grounds, as he said afterwards, for defending myself!!!

serve, that he, the inquisitor, being ignorant, as he confessed himself to be, of the meaning, views, and motives of the ceremonial of the freemasons, it would appear that he had no right to call them superstitions. The inquisitor then said, and insisted upon it, that the numbers three is used by the freemasons as a peculiar token or signal by which to know each other whenever they meet, to designate each other in the lodges, and to serve almost every purpose they can execute as freemasons, from whence it should be concluded, that they had a superstitious veneration for the number three, in the same manner as was the case with some of the ancient pagans. This, however, was an arbitrary supposition on the part of the inquisitor, because the tokens and signs in existence amongst them, depend on a mere agreement that they shall be considered as such. What he remarked of the number three, he might as well have applied to the numbers four, five, &c. that they might have chosen, and with equal reason could he, the inquisitor, ask me why the freemasons use no other numbers, but four, five, &c. Besides, the respectable qualities of those who now form and have formed this society at various periods, make it evident, that it is not the superstition of worshipping an abstract number which constitutes the tie that unites freemasons together in one society.

As for the second argument, I expressed my surprize that, in accusing the freemasons of heresy, the inquisitor should endeavour to corroborate his assertion by adducing the authority of a pagan poet; that the crime of heresy was the greatest known amongst catholics; and that to support so serious an accusation, other proofs were requisite besides a bare conjecture founded only on the lines of a poet. Moreover, the necessity of secrecy was so apparent in every business of the world, that even the father of a family did not treat of his domestic affairs before strangers; and every body considered this conduct to be not

only prudent but polite. And, indeed, the inquisition was the last place where one would expect to find secrecy alleged as a proof of guilt, for the secrets and mystery of the inquisition were proverbial.*

* The mystery that prevails in the inquisition, even with respect to the most insignificant trifles, is indeed extremely ridiculous: two prisoners, for instance, are taken out from the inquisition tied to each other, to be whipped or pilloried in the street. Their punishments are inflicted by the public executioner, who goes in the middle of the day, with many officers and guards, to fetch the prisoners, and of course the business is a matter of the greatest notoriety. The prisoners are conveyed back again to the prisons of the inquisition, when they are kept as before, in separate cells, that they may not see or communicate with each other. They are then sent to the galleys, where they are to live together; but still they must quit the prisons of the inquisitions at night, that nobody may see them go out, and singly too, that they may not see each other.

The prevention of all communication with the prisoners is another proof of the ridiculous secrecy that pervades the inquisition; for the prisoners are allowed to hear nothing that has passed out of doors, however trivial the intelligence may be. Soon after my imprisonment, I heard an alarm of fire, and afterwards asking one of the guards, who was a little more kind than the rest, where it had taken place, and if it had caused much damage: I was told, that the prisoners in the inquisition were not to busy themselves concerning any thing that passed out of doors. Another time I asked, whether that was to be a day of business, or holy day in the tribunal, as I intended to solicit an audience from the inquisitor. The answer was, that I could not be informed: if I wanted an audience I might solicit it, and, perhaps, if convenient, the request would be granted. This practice, however, is sanctioned by the bye-laws of the holy office. Book i. tt. 1. § 7, wherein it is said, "As secrecy is a circumstance of the highest importance to the holy office, we do ordain, that it shall be observed by all with especial care, not only in those matters, from the discovery of which any injury might result, but even in things of lesser importance, because in the holy office there is nothing where secrecy is not required."

The third argument against freemasons was that of the communication with heretics, or people of different religions. This argument had no right to be considered as conclusive. The merchants who met on the Exchange to trade, and with the sole intention either to buy or sell, did not think it necessary to enquire what was the religion of those with whom they treated, because the purpose of commercial dealing was the only thing of importance to them, and indeed was the only end of their meeting together. Nobody, then, had any reason to say that the merchant in Lisbon, who was a Roman Catholic, ought to be suspected in his faith, because he bought wheat from a Mahometan, or sold his sugar to a protestant, or disposed of his bills of exchange to a Jew. The officers also in the army associated indiscriminately with their comrades, whether they were catholic or not catholic, without any stain upon his faith, because the purpose of their association was war, and not religion. So the faith of freemasons was not to be suspected, because they mixed with people of different religions, for a similar reason—that their purpose in occasionally associating together was to perform the

But every body must be sensible of the abuses to which this practice is liable, independent of its intrinsic cruelty. To interdict the prisoners from every communication, except with the guards or turnkeys, is to entrust these despicable men, for only men of a despicable character will condescend to perform such offices, with the means or power of taking every advantage of the miserable situation of the prisoners. Carena (p. i. tt. 15. n. 11.) relates, on the authority of some letters written by Cardinal Arigonius, dated 13th of January, 1610, and directed to the inquisitor of Cremona, that the congregation of the general inquisitors condemned a gaoler of the holy office to the galleys for seven years, and perpetual banishment from the place where the crime was committed, for criminal intimacy with a female prisoner in the secret prisons of the inquisition.

business belonging to the society, and not to debate on religious topics.

But even admitting that the circumstances attendant on the proceedings of this society might furnish motives for suspecting that their views were criminal, there was no reason to say that the society was heretical; because this accusation of a certain and determined crime required irrefragable and positive proofs, and not mere conjectures, to substantiate it. I finished my arguments by saying, that whichever might be entitled to superiority, his reasoning or mine, I was ready to detest, abjure, and renounce all errors or heresies of the freemasons, provided he, the inquisitor, would tell me what they were, for I could not but think it just that I should be made thoroughly sensible of what I did abjure or renounce.

The inquisitor being reduced by this remark to the utter inability of telling me what I had to abjure, (and I knowing no way of performing an abjuration without being made acquainted with what I was required to abjure,) he was pleased to say, that I must abjure or renounce the society of freemasons, because it was prohibited, without declaring it to be heretical. I now requested him to explain what he meant by my renouncing the society of freemasons. The inquisitor replied, that having contracted mutual obligations with the society, I ought to disengage myself from all and every stipulation I might have entered into, and to disclaim all rights I might have acquired in consequence of belonging to it; and as it would be known by the result, whether, after such an abjuration, I had exercised any right I enjoyed from being a member of the society, or had complied with any duties to the same, I would, in case of having done so, become liable to the severe penalties to be inserted in the instrument, which I had to sign, when my sentence would be pronounced.

As this disavowal was deferred to the time when I was

to hear my sentence, I did not insist any more upon this ; I told the inquisitor, however, that my duties or rights in that society could never be known, except my necessities should compel me to apply to the society for relief, or I should be enabled to relieve any member in distress ; and that, in being called on by the inquisitor to renounce these conveniencies and mutual duties, it was the same as to be directed to renounce one of those natural laws which no man must disobey—for it was evident that in all cases of necessity, the natural law allowed and commanded us not only to accept a charity from any man, whether Mahometan, or of whatever other religion he might be, but even to appropriate, against the will of the owner, what we were in absolute want of to maintain life. Consequently, I was at a loss to know how I could be obliged to sign a bond, and bind myself not to accept a bit of bread from a freemason, but rather to die of hunger. Besides, to renounce the obligation I was under of helping my fellow-creatures when in need, was in express violation of the laws of nature, and the maxims of the gospel ; since the charity so invariably recommended in the gospel did not recognize any distinction of persons : but should the inquisition insist upon my depriving the freemasons of the name of my fellow-beings, and excepting them from my charity, I should notice the subject when the time came for hearing my sentence.

The inquisitor warned me that my behaviour deprived me of all claim to the mercy of that tribunal, and rendered useless the confession I had made of being a freemason ; which might have proved of some service to me, if it had not been so frittered away by explanations, and if I had not concealed some circumstances that there was the most necessity for my revealing. He then called on me, in the name of Jesus Christ our Lord, to make satisfactory replies to the following questions, in order to exo-

nerate my conscience, and deserve the mercy of the tribunal.

First. Who are the Portuguese freemasons with whom you are acquainted ?

Second. Where is the coffer, or money-chest, kept, belonging to the Portuguese freemasons ?

Third. What business did you negotiate relating to the Portuguese freemasons in the grand lodge of London ?

Fourth. What is the actual state of freemasonry in Portugal ?

The inquisitor added, that he could not doubt my being sufficiently well informed on these subjects to answer all his questions, there being ample proofs on record in the tribunal that I was a member of the lodges in Portugal ; that I had been sent over by them to England, to arrange some of their business ; and that this business was the sole, or at least the principal, motive of my voyage to London.

I observed to the inquisitor, that I was not a little alarmed by seeing my judge so absolutely prejudiced against me, and so inimical to my interest, as to construe the crimes I had been accused of into positive facts or actual guilt, even before he had heard my defence. This partiality certainly gave me too much reason to believe that I should be found guilty, and condemned, whatever might be the reasons I should allege in proof of my innocence. Nevertheless, although he had discouraged me by declaring that his mind was made up on my cause before he had heard me, still I should not shrink from a performance of my duty to answer his questions.

To the first question I replied : In order to prove whether I knew or was acquainted with any Portuguese freemasons, it was necessary that such a fact should be substantiated by them, and this I was very sure nobody

could do. Should any person, however, pretend the contrary, then, when I might be confronted with such an individual, or when his deposition should be shewn to me, I would make a proper answer.

To the second: That I knew nothing of the coffers or pecuniary affairs of freemasons; and even had I known any thing concerning them when I was committed to prison, he, the inquisitor, ought not to view the prudence of the freemasons in so despicable a point, as to suppose that they would not have removed such things from the place where they were usually kept, in order to prevent any evil that might arise from my being induced, in a moment of weakness or cowardice, to betray the secret. On the contrary, I declared most positively, that I knew nothing of their finances, nor what might be their amount, nor of what they consisted, nor, in short, any thing else; and I repeated what I had said once before, that the money of the society was always entrusted to some proper person appointed by the brethren to direct the economical concerns of the society, and having been myself never appointed to such an employment, it was totally out of my power to say any thing about it. What connection, however, the pecuniary affairs of the freemasons could have with the exoneration of my conscience, or how the crime of freemasonry could be extended to the money of the freemasons I was at a loss even to guess; and yet I was, in fact, called on to declare it, that even the money of the freemasons, might be brought to the prison of the inquisition as criminal; as if the inquisition had a right to deprive the freemasons of their property, when not even the bulls of the pope, much less any other law, prohibitory of masonry, had decreed any confiscation of the money belonging to the society.

To the third: That though he, the inquisitor, had thought it proper to assert that he knew I had gone to England on purpose to negotiate some business for the

Portuguese lodges in the grand lodge of London, it was, nevertheless, in my power, when I should be permitted to enter on my defence, or to see the bill of indictment, to produce proofs that I had other interesting business to execute in London, not at all connected with freemasonry. As to the papers they took from me, they were certainly written in London, but not for the purposes which had been alleged by the inquisitors. The greatest part of those papers consisted of exercises in the English, French, and German languages, with a view to my being better acquainted with them; and this was the reason why translations from English into French, from Portuguese into German, and vice versa, were found among them, the subject of these exercises being generally a matter of indifference to me: but it sometimes happened, that some were copied from books, published in several languages, relative to freemasonry in general, which probably gave occasion to the minister of police, who seized my papers, to fix on those concerning money, and to mutilate and arrange them in such a manner, as to give them the appearance of belonging to some masonic transactions, carried on in a systematical manner. This I could fully demonstrate by evidence, when those papers might be submitted to my inspection, and I should be at liberty to make my remarks on each, as should be required.

To the fourth: That I had passed many years out of Portugal, at different times, during my travels, and at the time of my imprisonment I had just arrived from England; and this circumstance formed in itself a sufficient explanation why I could not answer this question, or give any satisfactory information about the immediate state of freemasonry in Portugal.

The inquisitor insisted, that he knew me to be acquainted with N. N. (declaring their names) who were also freemasons, and whom I must have recognized as

such. To shew, however, his charity and pity towards me, he declared that I should ameliorate my situation, and promote the success of my cause very considerably, by confessing that those persons were freemasons—a circumstance not only of undeniable truth, but which they themselves had no scruple in publicly acknowledging to be the case: besides, some of the persons whom he had named to me were in such high situations, that no harm could reach them by my confession. That my confessing also where the masonic funds existed, and what might be the most efficacious means of obtaining the money, was highly necessary to the exoneration of my conscience, and the final success of my cause: for it could not be disputed, that these funds enabled the freemasons to carry on their crimes and iniquities; and that to deprive them of these means, would necessarily prove advantageous to the service of God and of the state. With respect to the papers, it was requisite that I should conclude every thing that I had to observe about them, before they were entrusted to my examination, which he, the inquisitor, had purposely intended for my own good; as the answers I might give, when unprepared, would be entitled to more credence, and be considered more satisfactory by the tribunal and the judges, who had to decide on my case, than premeditated ones.

In answer to this I remarked, that I had nothing to add to my former answers; that the particular declaration by the inquisitor of the names of several persons, had a much less resemblance of an interrogatory than it had of a suggestion, which was expressly prohibited by law; and that it was impossible for me to say, in what the funds of the freemasons consisted, much less their amount, or the place where the coffers were kept: besides, how could I think of inventing plans to enable the inquisition to get hold of them. As to the papers, I declared my utter inability to give

particular answers, without having previously looked at them: and as I had not retained the subjects of them in my memory, and could only say, that they were generally exercises in different languages, in order to give me a greater proficiency in those languages, I wished to know, whether the subjects on which my answers were required had a real, or only a fancied existence. I also remarked, that it was one of the rules of critics, that the explanation or meaning assigned by a writer to his publications, should be allowed a preference to the interpretations which any other person might be pleased to give to them; for it was but fair to suppose, that no person could understand the meaning or sense of writings so well as the writer himself: according to which rule it evidently followed, that my papers ought to be construed by the meaning I annexed to them; or otherwise, that my accuser should be obliged to prove that this meaning was not that which I had in view, when I wrote them. I was well assured, however, nobody in the world could produce a single proof in evidence, that the explanation I had affixed to my papers was not the correct and genuine one.

At length, after many discussions, the papers were presented to me; but as the particular remarks I made, by way of answer, on the subjects of each, depended on their analytical examination, I shall not detail here the various arguments, interrogatories, cross-examinations, and answers, employed on the occasion; which, unless the contents of these papers were made known, would be unintelligible to the reader: I shall, therefore, content myself with observing, that the passages could not be made, by any force of construction, to indicate the traces even of any methodical transactions carried on upon particular business. On the contrary, I think that I clearly demonstrated these passages to be what they really were, as I have already said, mere copies or transcripts from books, made with ne

than that of exercising myself in the different languages in which they were written: to prove this I used the following arguments:

First. The total want of connection between the subjects of all the papers relating to masonry, which was very visible, notwithstanding the sedulous care that had been taken to give them the appearance of being connected with each other, and of having a reference to the same transaction.

Second. The glaring anachronisms in the dates affixed to some of the papers, and the epochs of my life, and even my age, which evidently shewed that they could not have been written really for the end which their contents seemed to indicate: of course it was clear that they were invented subjects, and had no relation to real events, as had been pretended.

Third. The confusion that prevailed in all the papers, it being unnatural to suppose, if all had referred to any real transaction of masonry, that any of them should have been mixed with many papers relating to commercial matters, or scientific discussions—indeed, in such a manner, that those heterogeneous subjects were frequently blended together in the same papers; which incontestibly evinced that they were solely intended as exercises in the acquisition of different languages, without any other end being in view.

Fourth. The form of these papers, which proved that they would bear no relation to any real or serious transaction; for almost all of them were on detached pieces of paper, some in half sheets, some in covers of letters, and some lying between the leaves of books, but still having the marks of alterations and corrections as to the phrases, and some of them having the same phrases applied to different subjects, by which it was undeniable, that a wish to write the languages correctly had been the sole end of such exercises, without any consideration what was the subject.

This laborious part of my answers took up some time, as may very easily be conceived, in examining all the papers, and combining the meaning of one with that of another, for on this combination and comparison chiefly rested the interpretation I gave to them: still I never was permitted to have them in my power; I was only allowed to look at them during the audience, each being exhibited to me, when I asked for it, separate from the others, and no permission being granted to me to touch them with my hand, though I frequently represented, that it was impossible for me to recollect every thing I had written in those papers, much less to answer the questions they put to me concerning each, without having previously examined their nature. As to my general answers concerning the papers, taken collectively, I have already said more than sufficient.

These interrogatories lasted eight months; but had not this delay been wilfully occasioned, they might have been very easily concluded in two months: for not only innumerable useless questions foreign to the subject, and whose connection with my cause was not perceptible, were resorted to, but intervals also of many days were left between the different interrogatories, either to give me time to form the resolution of avowing and declaring what they wished, (and indeed were justified in expecting, on account of the impatience naturally felt by every body at the *sang froid*, and tediousness with which they torment their prisoners;) or to follow the same maxim as the police magistrate who interrogated me in the civil prison.

Six months elapsed after the termination of the interrogatories, without my knowing any thing about the situation of my trial; and during this period, I often requested an audience, or a *board*, as they call it, which they refused me twice only. In the other instances, as soon as I intimated a wish to the gaoler to have an audience, the inquisitor

used to give orders that I should be conducted to his presence ; but to all my representations and requests that they would proceed with my trial, or tell me in what situation it was, or give me leave to employ a lawyer to advocate my cause, and accelerate the termination of my trial, agreeably to the common indulgence allowed to prisoners by law, I could obtain no other answer than this : that it was my duty to rest assured of being before a just and merciful tribunal, and that I had no occasion for any other solicitor but himself, the inquisitor, as he considered himself more in the light of my solicitor and defender than of my judge—but still something was required to be done on my part, to deserve the pity and mercy of the tribunal, and that would be best effected by my confessing the crime I was accused of. At last, as I never could obtain any other answer, I abandoned the task altogether, of making any representations or requests.

Fourteen months after my imprisonment in the holy office, without my having received any information as to the final result of my case, I was taken to the room of audience, with the intention, as I supposed, of being again questioned by the inquisitor : but such was not the case in this instance, for I now met with a man who told me that he was a lawyer, and that his name was Anthony Joachim Torres de Abreu.* He shewed me the records of my trial, which he then had in his hands, as well as a kind of defence that he had drawn up in my favour, a letter of attorney, written by one of the notaries of the inquisition in my name, appointing him to be the advocate of my cause, also an act of renunciation of all conditions, or

* Such is the low nature of the secrecy observed in the inquisition, that, when the prisoner is ordered to leave his cell for any part of the prison, he is neither told, nor does he know to what place he is going, until he reaches the destined spot.

other formalities prescribed by the law, that the trial might have an immediate end, and the sentence be pronounced, and finally, the bill of my indictment, by the promoter of justice in the inquisition, that I might reply to it.

I immediately requested the advocate to permit me to look at these records of my trial, and to examine the depositions of those witnesses who might have testified any thing in my disfavour, and their names, that I might instruct him as to the necessary answers; I also solicited leave to look over the papers, that formed part of the proofs alleged against me, in order that I might peruse them with attention, and be enabled to contradict and render nugatory, the arguments deduced from their contents, which I could not do during the interrogatories, for I was never permitted to examine them.

To this the advocate replied, that as I must be convinced I was in a house where the greatest secrecy was maintained, so he had reason to doubt whether he was justified in shewing me the records of the trial: besides, he gave me his word, that not one single witness amongst those whose depositions were therein mentioned, had testified any thing against me; and he could not therefore but deem it absolutely useless to waste my time in examining their depositions: as for the papers, it was his opinion, that the answers given by me to the interrogatories were more than sufficient to my defence.*

* That this proceeding of the advocate may be well understood, it becomes necessary to enter into some explanation of it. The regulations of the holy office contain express instructions, that the prisoners shall not be made acquainted with the names of the witnesses, and also direct that their depositions shall be read to the prisoner, with such omissions as may be necessary to prevent the prisoner from guessing who the witnesses may be. Bye-laws of the holy

The promoter in the bill of indictment, and the articles of accusation preferred against me, remarked, that

office, book ii. tt. 9. §. 1. and 4. During the ministry, however, of the famous Marquis de Pombal, king Joseph issued an order to the inquisition, (new Bye-laws of the inquisition, book i. tt. 6. §. 7.) that the names of the witnesses, as well as the whole of their depositions, should be declared to the prisoner, that he might avail himself of every answer and argument possible to be urged in his favour. This is further determined in the same new bye-laws (Book ii. tt. 4 and book ii. tt. 1. §. 10.) wherein it is said, "When the time of necessary delays is over, both parties shall be deprived of the privilege of producing any proofs, and the depositions of the witnesses and other judicial acts must be then permitted to lie open and public, and shall be delivered to the solicitors of the prisoners, who, on seeing the depositions and names of the witnesses, shall be at liberty to contradict them, if they think it necessary." But the inquisitors contrive to elude this law by insinuating to the advocate, that he must use every possible pretext for concealing the records from the prisoners, as well as the names of the witnesses. It is for this reason, that the inquisitors lay claim to an act of humanity, in appointing an advocate for a prisoner, when, in fact, the prisoner has an absolute right by law to make the choice. If the prisoner object to a lawyer appointed to be his advocate, he is allowed to name another; but if the inquisitors suspect, that this new lawyer may be a friend or relation of the prisoner, they then direct him to appoint another. I know instances where the inquisitors refused to comply with the nomination of three out of four, successively appointed by the prisoner, nor did they consent to the fourth, until it had been ascertained that he had been named by the prisoner, not because he was acquainted with him, or had any reliance on his talents or probity, but because he was the only lawyer whom he knew at the time by name. To those advocates who are not among the pensioners of the inquisition, the inquisitors avoid recommending what they say to the others: but it has sometimes happened, that on the prisoner's insisting on his right to see the names and depositions of the witnesses, and to ascertain if they were inimical to him, the inquisitors have had the effrontery to tell the prisoner, that such a thing could be permitted only to take

my being a freemason had been proved by my own confession, and the certificate found upon me, which I avowed to be mine; and consequently that I ought to be punished with all the rigour of the law, without being permitted

place in the secular prisons and not in that prison, where a certain law prevailed for prohibiting the prisoners from learning the names of the witnesses. I could here give the names of the inquisitors as well as of the prisoners, besides other circumstances illustrative of such cases and facts, but these I reserve for another opportunity.

The utility, nevertheless, of refusing credit to private informers, on account of public as well as of private security, is a point so well established by all modern writers on criminal law, that it is unnecessary for me to demonstrate it here. But with respect to the witnesses in the inquisition, of whom I will more particularly speak, it is not unworthy of remark, that the inquisitors in this respect follow rules and regulations which are at absolute variance with rational legislation; for in no tribunal whatever, that I am aware of, except the inquisition, is it permitted that such witnesses shall be listened to, as individuals of infamous character, prostitutes, perjurers, blasphemers, drunkards, traitors, &c. &c.: moreover, (as is stated in the bull called *Innocenciana*) the testimony of a single witness is sufficient to effect the condemnation of the accused person; and this, with a hardihood scarcely to be credited, has been recognized as law in the new Regulations of the holy office, (Book 4. tt. 4. §. 4.) with only this modification: that the accused shall be exempted from the ordinary punishments, and subjected only to those arbitrary punishments, which the inquisitors may think convenient. In the second §. of the same tt. a single witness is again admitted as legal, with a delusive modification explained in the doubtful terms of having the concurrence of the three juridical identities of the time, fact, and place. In §. 3. of the same tt. the same is again established, as an exception in those cases where the prisoner must be absolutely condemned by the simple assertion of a single witness; iniquity that can have no other foundation but the rancour which ecclesiastics always feel against persons of a different persuasion.

to derive any benefit from the confession that I was a freemason: for I had denied that I managed any business for the Portugueze lodges, in the grand lodge of London, and therefore that I could expect nothing less than to be treated as *negative diminute*.*

* It is necessary that I should here address a few remarks to this promoter, whose name was Bernard de Figueiroa Barbudo e Seixas, and who could not, and ought not to have accused me as *negative*. Whether he did this from any wickedness by laying his hand heavier than his office permitted him to do, or from ignorance, in not understanding his duty, it makes no difference, and I submit to his perusal, the regulations applicable to the performance of his task in framing the bill of accusation. Bye-laws, book ii. tt. 7. §. 16.

“ The promoter, as soon as the acts may have been delivered to him, shall proceed with the bill of accusation against the prisoner, in the first article of which he shall follow the same rule as in the bill of accusation of the *negatives*, tt. 6. §. 8: in the second, he shall say, that the truth of the aforesaid has been proved by the confession of the defendant himself: in the third, he shall state the substance of his (the prisoner's) confessions, taking them from these parts of the records or acts where they are inserted; and shall add, that he accepts those confessions, inasmuch as they operate against (or are proofs of the guilt of) the defendant: in the fourth, he shall mention, in general terms, the diminutions, contradictions, and improbabilities, he may find in the confessions, and shall form the accusation into as many articles as he shall think necessary, according to the interrogatories, as the section *in species* were made to the defendant by the depositions of the witnesses: in the last, he shall accuse the defendant of not finishing his confession, after being admonished so to do; and he shall conclude by requesting the admission of the bill of accusation, and that the defendant, in consequence of having shewn himself artful, dissimulating, *confitent*, and *diminute*, be punished with all the rigour of justice and law.”

From this it is clear, that the promoter, if he thought that I had not confessed all I was suspected or accused of, ought to have used the terms *confitent diminute*, for in his *hypothesis* I did not confess all; but he could not say *negative diminute*, because I never denied being a freemason, of course he could not call me *negative*. This

The defence written by the advocate in my favour, was contained in a page of folio leaf; and he said, that he had inserted an offer on my part to confess, because he conceived it might lead to my receiving a milder punishment, and a greater portion of the mercy generally used in that tribunal towards prisoners. With respect to the accusation of the promoter of my being *faulty or diminute*, he alleged the answers I had given to the questions of the inquisitor; at the same time asserting, that the explanation I had annexed to my papers deserved more credit than that which had been ascribed to it, agreeably to a determination in a title in the Justinian Code, "*Plus valere.*"

This was all my advocate urged in my favour, who did not adduce a single law from that very title that might have been applied to my case. I observed this to the

diversification of terms, whether the promoter adopted it from malice or from ignorance, is considered of great importance by the inquisitors; because, according to their regulations, the punishments of the *negatives* must be severer than that of the *confitent defendant though diminute*. Besides, the bill of accusation was framed in such a manner as to be against the very laws of that tribunal, for there being no witness who had testified any thing against me; and the supposed diminution or alteration in my confession, having arisen only from my deducing the proper presumptions, from the papers they had seized, the promoter ought to have framed his bill of accusation according to the regulations prescribed to him in book ii. tt. 5. §. 8. vers. *E quando*, relating to those crimes, in favour of the commission of which there are no witnesses but only suspicions; which certainly constitutes a great variation from what he had dared to say on the subject; for he spoke as if the diminutions or alterations in my confession, of which he accused me, had been really proved. These, and other errors of office, however, as well as every thing else that passes within the doors of the inquisition, however horrid and infamous may be its nature, are very well buried by the holy secrecy they keep in that tribunal.

advocate: but he contented himself with saying, that his memory was not capable of retaining the numbers or words of those laws, and that the lawyer was prohibited by the inquisition, from taking the acts or records to his own house, or even from making extracts, so that it was impossible for him to say more than his memory allowed him to do.*

I did not press my observation; not only because I knew that what the advocate said was partly true, but also because my desire of having a sentence passed in my cause, which should liberate me from the prisons of the inquisition, induced me to look forward to any sentence however rigorous, as a happy circumstance, provided my being released from the tortures of my habitation should attend it. Besides, I had not the least confidence in the advocate, nor could I place any in any other attorney, in such a tribunal, when I considered that by the oath they take before they are appointed advocates in the inquisition, they oblige themselves to betray their clients.† The truth of my defence was obvious, and

* The Bye-laws of the Holy Office, Book II. tt. 8.

† The following is the formula of the oath of the advocate, copied from Simancas (De Cath. inst. T. 5. § 6. 7. & 8.) “ J. N. Doctor in both laws, being here before you, most reverend fathers, inquisitors of the holy inquisition, against all heretical wickedness, touching the holy gospels of God, now before me, do swear, and promise, that I will sincerely and faithfully, without cavilling or fraud, defend N., whose defence has been committed to me, and who is now imprisoned as a criminal in the inquisition, for such causes as appeared in the records of the same holy office, and that I will support his cause, endeavour to prevail on my client to confess the truth, and that on those points in which I shall be convinced of his guilt in the matter or matters he is tried for, I will entirely abandon his defence. And moreover, as soon as I shall have become acquainted, during the management of his cause, that he has had any

grounded on the strongest arguments, there being no law of the realm that prohibits freemasonry, nor any king's *placet* to the bull of the pope, establishing this prohibition, having ever been published or promulgated: consequently the inquisitors, so far from possessing a right to punish, had no jurisdiction over me, and they undoubtedly committed a crime in keeping me in their prisons, as the inquisitor general Cardinal da Cunha is pleased to confess in the preface to the New Byc-laws of the Holy Office. But of what avail was it for me to insist on my right in a despotic tribunal, which assigns no reasons for any of its proceedings, and with an advocate too, who was expressly chosen by it, and forced to act, by the miserable pittance he received for his services? By preserving silence I conceived that I should accelerate my sentence, for I did not care about its severity.

The letter of attorney I have before alluded to, stated, that I, by my own free-will, had chosen and appointed this individual to be my advocate. I did not hesitate, however, in the least, to sign this falsehood; because I had not written the documents, and the uneasiness I felt induced me to consider every delay as an insupportable evil: besides, I knew very well that my being guilty of the pretended crime of freemasonry did not subject me to an ignominious punishment; and of course any other punishment was good compared with my situation.

I signed the act or renunciation of all delays and other formalities of law, which I might have pleaded a right

accomplice or accessory to the crime he is accused of, I promise and engage to make immediate discovery of the same to the said holy office, under penalty of having incurred the guilt of perjury, and merited the punishment of excommunication, from which I cannot be absolved but by this holy office. So help me God, and this holy gospel."

to, with the most unfeigned pleasure, because it contained a desire for my immediate sentence, and it was this, perhaps, that made me overlook every other consideration. On the other hand, the least reflection upon what had passed was enough to convince me, that all these formalities were nothing else but a farce, under the name of a trial, and would have availed me nothing: my fate, I was assured, had been long determined on, however calculated the arguments of my advocate, or the truth of my defence, might be to call its justice in question.*

* I cannot refrain here from giving the observations of Paschoal Jos. de Mello, in his Institutions of the Criminal Law of Portugal, tt. 2. § 11, that people may know how difficult it is to write in Portugal with the freedom required by the philosopher. This worthy and learned Portuguese lawyer, whose memory I respect, on this point, did not act with his usual candour, and perhaps by the reasons he alleges, he gives occasion to some people to guess that he willingly mistook himself; for he had also a seat in the general or superior council of the inquisition in Lisbon.

He says, (in a note to the quoted paragraph,) that the prisoners in the inquisition are, and always were, very well treated; that their trial is fair and regularly conducted with all due formalities of law; that the names of the witnesses are faithfully made known; and that the refutation of their testimony is never prohibited, &c. His words in Latin are these; *Accusationis totius series, tempus et locus delicti, et testium nomina eidem bona fide exhibetur, nec prohibetur eosdem refutare.* Even when experience had not shewn to me the want of correctness in these remarks, the very Bye-laws of the Holy Office were enough to prove the want of sincerity in the author.

Bye-laws of the Holy Office, Book i. tt. 6. § 22. vers. Equando: "When the defendant requests that the place where the crime was committed shall be made known to him, the inquisitor shall immediately ordain that it shall be declared, and the promoter shall do it, concealing, however, the exact spot or place where the crime was committed: for instance, if the crime was committed in the church of St. Dominick, in Lisbon, he shall declare the place to be Lisbon, and conceal the spot, which is the church, and so in like cases,"

Six months more passed away after this conference (the only one I had) with my pretended advocate, without

“ And when the places where the prisoners have committed their crimes shall be so inconsiderable, or shall have such circumstances attached to them, that the declaration of it might enable a prisoner to guess who were the witnesses against him, the promoter considering the distance between that place and the most remarkable city or town, shall only say that the defendant committed the crime at such a distance from this city or town, viz. when the defendant committed the crime at a country seat one league distant from Lisbon, he shall declare that the crime was committed about one league from Lisbon.”

“ And if the crimes were committed in the very prisons, the defendant being an inhabitant of the city where the inquisition resides, or it being certain that he became an inhabitant of it, at the time that the proofs of the justice establish his guilt, the promoter shall declare, that the defendant has committed the crime in such city; but if he be not an inhabitant, or has not become one in that time, then he, the promoter, shall say that the crime was committed in the archbishoprick or bishoprick, where the inquisition resides.”

These words of the Bye-laws themselves are the best commentary I can make on the remarks of Paschoal Joseph de Mello—*locus delicti bona fide exhibetur.*

As to what the same Mello says about declaring the names of the witnesses to the prisosers—*testium nomina---exhibentur*, which he says have always been so; as I have before treated of its present state, to the previous state of it before the ministry of the Marquis of Pombal, the same Regulations (Book II. tt. 9. § 1.) will answer for me. “ After the inquisitor's have decreed the defence of the prisoner, and arranged the testimony that can be obtained against him, the promoter shall request a copy of those documents, and his request being registered in the records, he shall be informed that they will be provided for him, according to justice, and then the depositions of the witnesses shall be transcribed in the same form in which they were made, committing their names, the day, month, and year the depositions were made in, and a computation of the time when

my receiving any further intelligence about my cause; though I believe that any other person in the same situation would have been persuaded, like me, that he was

the witness said the crime was committed, until the period of the publication. No declaration is to be made of the place where the crime was committed, but it must be stated to have been in a certain part," &c.

In the fourth paragraph, under the same title, are these observations: "In the case of any witness having deposed against the prisoner for crimes committed in the prison of the inquisition, his testimony shall be made to appear when published, as if it had been given five or six months before the imprisonment, or that it was given a long while since, and very particular care must be taken that no circumstance shall be mentioned in the publication, by which the defendant may come to a knowledge of the place where the crime of which the witness accuses him was committed."

Now, I should be very glad if Mello could inform us, if this be the good faith and sincerity he speaks of, when he says, *tempus, et locus delicti, et testium nomina eidem bona fide exhibetur*. Other mistakes are to be found in the same note, but those perhaps are errors in printing, which ought, however, to be corrected; for the first Bye-laws of the inquisition were made by the inquisitor-general D'Henrique, cardinal, afterwards king of Portugal, on the 1st of March, 1570, and were approved of by King Sebastian, on the 15th of the same month and year. The second Bye-laws were made by the inquisitor-general D. Pedro de Castilho, printed in 1613 (not in 1643, as Mello says): the edition of these Bye-laws is in small folio, and very badly printed. I know no other edition. The third Bye-laws were made by the inquisitor-general D. Francisco de Castro, in the year 1640, published in folio, on good paper, and in a good type, and printed in the Estaos, or palace of the inquisition: the title is in a cut, in the form of a frontispiece, with the arms of the inquisition at the top. The whole is written in good language, and there is a copious alphabetical index to the subjects it contains. The fourth and last were made by the inquisitor-general Cardinal Da Cunha, and sanctioned by King Joseph, on the 1st of September, 1774.

about to be sentenced ; seeing the papers I had signed, and the assurance the advocate had given to me. But at the end of these six months, which formed the twentieth of my imprisonment in the holy office, I was summoned to an audience, and immediately enquiring of the inquisitor concerning the state of my cause, he interrupted me by saying, that there was no occasion to advert to the subject, that I ought to rely upon the mercy and benevolence of that tribunal, and trust to the tenderness of him, the inquisitor, who had so often assured me that he would do every thing in his power to shorten the time of my trial. He then told me, that he had required my presence there concerning my clothes, and that in consequence of my complaints that I had none to put on, he had resolved to send for them : but he was obliged to inform me, that the landlord wanting the room they occupied in his house, and having intimated to the police department that I ought to appoint some of my friends to take charge of my effects, he had sent some of them to the public depository.

I had not been detained so long in the prisons of the inquisition without having learnt by experience the motives and views of such charitable offers ; and accordingly I replied to the inquisitor, that my effects, such as furniture, clothes, &c. were not in my house, or in any house hired by me, but in the house of a friend of mine, to whom I gave them in charge when I went to England : if he, the inquisitor, had resolved now, after a delay of almost two years, notwithstanding my continual requests, to send for my clothes, this favour was the more entitled to thanks, because my surprise could not be concealed at the change of his proceedings in regard to this point. As for my effects I did not care about them, nor did I recollect the name of any friend whom I could name to take charge of them.

The inquisitor insisted upon my naming some friend on whom I could most rely for the protection of my effects: "for," said he, "there is no reason why you should permit them to be lost; and were it not unbecoming for me to take care of them, I myself would do you this act of kindness: but it is absolutely incompatible with the office of a judge." I became so irritated at the obvious duplicity of these expressions, and my fund of patience was so completely exhausted, that I plainly told him that my effects were of so little value in my estimation, that I would not, to save them, endanger in the slightest degree the most insignificant person, much less sacrifice one of my friends, which I should do, without doubt, were I to mention any name: indeed I was so certain of this, that if I could be capable of shewing revenge, I should be sure to gratify it by naming one of my enemies to take charge of my effects.

Here the subject ceased: but the inquisitor sent for part of my wearing apparel, either to save appearances as to his so much vaunted charity, or that he might have an opportunity of renewing, as he did, his recommendations to me of naming one or more of my friends, because, said he, if one of those friends should not be in town another might do it. As these recommendations were made in an underhand manner by the gaoler, in the inquisitor's name, and no doubt by the inquisitor's orders, I studiously avoided saying any thing to the purpose in my replies.

I now thought it necessary to embrace a resolution which I had long formed, of escaping from confinement, and rescuing my health from the total ruin of it, that was rapidly approaching; and I felt justified in this determination, not only by perceiving that all the preparations I have spoken of were meant to create an intentional delay in my cause, but by receiving positive information of certain measures which were taking to postpone the final de-

cision of my cause to such a period, that, under the present circumstances of my bad health, there could be little hope of my living to see its arrival.

I also learnt, that the inquisitors had passed a sentence on my cause, in the lower or inferior court of the inquisition: but as the majority of votes could not be gained over in my disfavour (for they were of opinion that I could not be subjected to any other punishment than some species of spiritual penance in a convent of friars,) the arch plotters determined to keep the business in silence and quiet, till an opportunity for intrigue should occur in some other quarter.

Those individuals who are at all acquainted with the circumstances under which I laboured, will not find much difficulty in imagining that the iron grates which secured me, and the rigorous precautions they took to deprive me of all possibility of communication with any one, should be measures calculated to produce the effect wished by my persecutors, only in case of being imprisoned for some atrocious or infamous crime; for then I should be deserted by my friends, and they might have been induced, instead of endeavouring to protect an infamous criminal, to acknowledge the justice of his punishment. But I was innocent. I had neither offended the rights of any man in particular, nor had I attempted any thing to the prejudice of the public, the nation, or the government. Neither had I violated any law—of course I was justified in placing a reliance upon the good wishes of every honest man, who might know me, or be informed of my cause.

Here some individuals may exclaim, that such a severe imprisonment as I was compelled to endure for three years, must have been an insupportable torment to one who thought himself innocent. I answer, that no sacrifice is too great, except that of one's honour, in setting an

example of the obedience due to our superiors; and such was the good opinion I entertained of those persons with whom I was connected, either by the ties of blood or friendship, and to whom I felt obliged to account for my conduct, that, notwithstanding the duration and severity of my confinement, I should never have fled from my persecutors, if the bad state of my health had not been rapidly conducting me to the grave, and what is of more consequence to me, if I had not had it in my power to urge such reasons in my favour as I have before mentioned: under any other circumstance, I trust, I should have been found to possess sufficient spirit to have had my persecution protracted, until my conduct had been justified, and my friends fully satisfied with my behaviour.

The chief consideration that excited my anxiety to escape from prison, was the infamy that might attach to my character, in case I should die there; in which case, as the presumption would exist, that I had really committed crimes worthy of the proceedings taken against me, I should have been deprived by death of the means of making known the injustice of such proceedings, and this must have proved a perpetual source of sorrow to every person who respected me: of course, I felt as if I were called on by gratitude, to make every endeavour to justify myself, and spare the feelings of those individuals, which I could not have done, had I submitted to death in prisons where all communication with my friends was cut off, and I could speak only to my tormentors.

Besides, as it was in my power, in the manner I intended to effect my escape, to go out of the prison without resorting to any actual violence, I certainly was not guilty of the least crime; because, according to our laws, the crime of self-liberation by a prisoner, is constituted by

his demolishing any part of the jail, escalading, &c. but I was going out without having recourse to such extremities. The mere escape of a prisoner, without the commission of violence, through the principal gate of the prison is considered a crime by no framer of laws; I was not *on my parole*, therefore they cannot say that I broke my word; the guard of my person was not entrusted to myself but to others; nobody had forbidden me from running away, and why?—Because they considered that the multitude of grates and keys, the strength of the walls, and the caution of the guards, were fully sufficient to secure me.*

I was sensible also, that in case of my decease in the prisons of the inquisition, my trial would still continue until the passing of some final sentence: if, then, during my existence, they could treat me with such glaring injustice, what could be expected after my death, but an endeavour to attach obloquy to my memory, by mockeries of trial and an unjust sentence, in order to distress my innocent relatives, and to be enabled to seize the little property I had left behind me.†

* On this subject might be adduced the authority of Perez ad Cod. *de custodia reorum*, n. 14.

† That no one may suppose that this trial after death is not resorted to, I give a transcript on this precise point, from the Byelaws of the inquisition. Book ii. tt. 18. §. 2.

“ The cases of those persons who may die in the prison, shall be speedily dispatched by the inquisitors, though there may be little proof for coming to a determination, and they shall not delay the trial, in order to wait for proofs, unless the hope of obtaining them shall rest on some sufficient grounds or probable opportunity; as, for instance, if the deceased belonged to the same country as any other persons in the prison at the time, or was implicated with any of them, or if he had in the prison any relations with whom he

At length the time arrived when I thought my resolution to escape would meet with the approbation of every good man; for every thing must have a limit, and what cannot be untied must be cut, or broken: as my release seemed impossible to be obtained, notwithstanding the justice of my cause, an endeavour to liberate myself, became a measure of absolute necessity. However, before I put this scheme into execution, I solicited an audience, with the intention, as it might prove to be the last, to avail myself of the opportunity of convincing this anomalous tribunal, that I was still consistent with myself, and with my moral principles.

The inquisitor president declined seeing me this time, but he deputed the inquisitor next to him, to give me an audience.* Notwithstanding this unexpected change, I resolved to address to him, if not the whole, at least a part, of what I had intended to say to the president

might be presumed to have had any communication. The case, however, must be delayed, when there are any persons in the prison, who, from being interested in the defence of the deceased, must be summoned for this purpose: but in this case particular care must be taken, that the trials of such prisoners shall be proceeded on, without any delay being occasioned, by the dispatch used in that of the deceased."

* This second inquisitor, António Velho da Costa, formerly laboured under a mental derangement, and was sometimes raving mad, though he had his lucid intervals; as such he was confined in the convent of the friars at Mafra: but his knowledge, or rather his want of it, is such, that nobody ever ascribed his lunacy to a too great application to books. This, it is almost unnecessary to notice here, since in Portugal the ignorance of the inquisitors is absolutely proverbial; so much so indeed, that when any nobleman, or rich man, has occasion to converse on the subject of bringing up his sons, he says, "as to my son, who is the most stupid of his brothers, we must send him to learn divinity or the canon law, that he may become an inquisitor, or a canon."

judge, in relation to my cause. I began with explaining in a plain and perspicuous manner, that he might not affect to misunderstand me, the bad state of my health, which required the immediate application of some medicines, hitherto absolutely unattainable by me, under the rigorous circumstances in which I had been kept a prisoner for more than three years: I then quoted to him minutely, all laws that operated in my favour, and demanded some sentence, which, whatever it might be, could not but be infinitely useful to me in my situation; finally, if he did not conceive it to be within the line of his duty, to pass a sentence in my cause, which I thought he was bound to do as an act of justice, I requested over and over again, as I had formerly done in other audiences, that I might have leave to lay my case before the sovereign, and to state to him the great injustice I had received. I proved to him that this appeal to the sovereign, though not frequently resorted to, cannot be refused to any prisoner under any pretence whatever; because the sovereign has a right to be made acquainted with every thing passing throughout his realms, in order that the laws he has enacted may have their proper efficacy, and be properly executed, from which general rule the holy office was not justified, by any principle whatever, in claiming exemption.

The inquisitor at once depriving me of every hope of ameliorating my condition, even if I had entertained any such hope, said, that I was a teasing, impatient man, for so perpetually complaining that the rigorous imprisonment I had endured for three years was the sole cause of my bad health, when I must know, that the whole blame was not attributable to the holy office, for, during six months, I had been detained, in the secret prison of *Limoeiro* by the order of the intendant-general of police: that I perhaps, as well as the other prisoners, might think,

that to pass a sentence was the same thing as throwing the ball in the game of hazard; but it was our duty to consider, that judges must think and reflect before they pass a sentence, and that this cannot be done without the lapse of some time; that my request of being allowed to petition the sovereign was useless, because nobody knew better than the sovereign, that, in the upright tribunal of the inquisition, injustice was never committed; besides, as it was not customary to allow such extraordinary appeals, that I must abandon the idea altogether, as an unnecessary expectation; that when the proper time arrived, a sentence would be passed in my cause; that I ought to lay my hand on my heart and acknowledge my obstinacy, in not confessing my crimes; that he considered it adviseable for me to embrace the only advantage I could derive from this case, and this was to offer, with an humble heart, the troubles I endured as a propitiation to God, that he might be induced to forgive my sins; that it was always the prisoner's own fault when his cause was delayed, for the holy office wished nothing more than to expedite the business. He at length concluded, by prescribing patience as one of the best remedies I could adopt.

This, indeed, was all he knew how to say: but as this inquisitor had the unfortunate habit of stammering, and repeating the same words from a want of language, or rather ideas, his speech was protracted to some length, notwithstanding his being occasionally assisted by another priest, clerk, or notary, that was present; a petulant man, who shewed a behaviour very different from that tranquility and coolness which I always found in the president.

Leaving, then, without comment, what the inquisitor said, for the state of his mind compels me to overlook every

thing in him, I now turn to notice the insults of the other priest. If the present publication should fall into his hands, it may serve to teach him the necessity of altering his conduct, or at least, should he peruse it, he may receive a just punishment for the bitter sorrow he inflicted on me on this occasion, independent of the knowledge which my friends, to whom the publication is chiefly addressed, will acquire of the individuals composing the inquisition, and particularly of their conduct, when circumstances permit them to throw off the mask of hypocrisy.

This priest was pleased to say,* that when the freemasons and other freethinkers, and the would-be philosophers, committed their various crimes, it was their duty to think that God could bring their wickedness to light, and cause them to endure grievances similar to those of which I complained. That when bold spirits, such as I was, assembled together for the purpose of reviling religion and its ministers, they never thought of the possibility of being punished by justice; that I, as well as many other prisoners, had been the cause of delaying our trials, for had we confessed our crimes at first, our respective trials would have been of shorter duration, and we should have been treated with more indulgence; that were I inclined to speak with candour, I must confess that the inquisition was the chief pillar that supported both religion and the state, which the freethinkers worked night and

* I am unacquainted with the name of this petty tool of the inquisitors; he is a short thick man, about fifty years of age, with grey hairs, and rather bald—perhaps his name may be one of these, Cypriano Jose d'Amorim, or Miguel Martinz d'Azevedo, both of those individuals being notaries in the inquisition; and he who spoke to me could not have been one of the rest of the notaries because I know them all personally.

day to overturn; that freemasons addicted themselves to no other employment but that of blaspheming God and his saints; that instead of my exhibiting any repentance, by informing, as it was my duty to do, against my brethren, I preferred implicating myself in the guilt of their crimes, by concealing their names; that I had constantly chosen to deny the atrocity of such infamous practices, when all the world very well knew, that the freemasons were men as devoid of morals, as of virtuous practices, and whose chief aim was to be considered foremost in the ranks of atheism; and finally, that I ought to give a thousand thanks for being so fortunate as to experience confinement in the inquisition, since the troubles I was there enduring might have the effect of impressing me with the necessity of reconciling myself with God, as there was no chance of my avoiding the punishment intended to be inflicted on me by worldly justice.

These invectives were uttered without connection, being interspersed at intervals during the harangue of the inquisitor, who permitted this uncouth priest to speak at the same time that he was speaking: but their substance was exactly what I have before stated, and in his own coarse terms, which it has pained me to use. It is far from my intention to justify the behaviour of all freemasons, and much less still, to blame every man who may be a priest or ecclesiastic; on the contrary, I confess, that amongst the ecclesiastics I know many a man worthy of being pointed out as an eminent example, and whose moral virtues deserve praise and imitation. With respect to this priest, who attacked me, not only unjustly, but under such circumstances, that I was disabled from replying to him as he deserved, let me here make a comparison between class and class, and draw a parallel between priests in general and the freemasons in general, as societies.

In the first place—ambition to govern, and a desire of inflicting vengeance upon their enemies, are the two ruling passions of three-fourths of the priesthood in all communities of christians; and many proofs could be adduced in evidence of this, independent of the common sentiment and judgement of all impartial and learned men: but whenever any one turns his mental eye to the system of ecclesiastical hierarchy, and looks at its influence on civil society, particularly amongst the Roman catholics, the proposition becomes self-evident and conclusive. It may be enough to recal to the recollection, the pomp, the extravagance, and the pride of the court of Rome, the pretensions of the pope to a superiority over all free and independent sovereigns, contrasted with the humility, both real and prescribed, of the first pontiff in the christian church, to be convinced of the immense difference that exists between the precepts inculcated by ecclesiastics, and their general practice.

Such, indeed, has been the bigotted fury of some ecclesiastics, that it would exceed the bounds of credibility, had not facts in corroboration of it been so established by witnesses, that nothing can shake them. Among ecclesiastics of this denomination, we may mention that pontiff, who, from a vile principle of hate for his predecessor, to whom he had been an enemy, as soon as he ascended the papal chair, directed the corpse to be taken out from the grave, had the fingers and the head cut off and thrown into the sea, ordered the remainder of the body to be burnt to ashes, and excommunicated the soul. Could revenge be carried farther than in this instance? The institution itself of the inquisition, and the cruelty with which its members persecute those whom they suspect of adherence to tenets different from their own, may well excite surprise. In their eyes, the tortures and the death of their fancied enemies are a mere amusement. They

burn some of their prisoners alive, render their memories infamous, and persecute their children, and all the connections of these unhappy sufferers; they deprive orphans of the inheritance of their parents, dishonour families in every possible shape, and, at length, have recourse to the *auto da fe*; on which occasion, while the miserable wretches are lingering in torments, the members of the inquisition not only feast their eyes with this infernal spectacle, but regale themselves with their friends, at the expence of their unhappy victims. Such are the practices of the inquisition!!! I have told them, in language that every Portuguese must understand, who does not hesitate to confess that such circumstances occur amongst them; and I have noticed them at a time when many individuals, who have been present at these banquets of the grand inquisitor on the day of the *auto da fe*, are still living, to prevent the possibility of their existence being disputed.

The remarks of Simancas* render it impossible to deny that the inquisition is actuated by the most violent thirst of vengeance against all heretics. "The heretics, deserve," says he, "not merely one death, but many deaths, because a single death is the punishment of an ordinary heretic; but these, (the heretics) are deserving of punishments inflicted without mercy, and particularly the teachers of the Lutheran heresy, who must by no means be spared." Pegna says also, "that the dogmatical heretic must be punished with death, even though he should give the most unequivocal proof of his repentance."

I will now enquire if it be possible to point out to me such atrocities and horrors in the society of freemasons—can we accuse those men of ambition or pride, who, so far

* De Cath. inst. tt. 47. §. 54. 71. 63.

from seeking to excite the public notice, on the contrary, make it a point to hide the acts of the society; even those that, if known, would entitle them to the highest respect? Can we impeach those for revengeful principles, who, as a society, live in the greatest retirement and obscurity, from which, indeed, their foes are obliged to drag them out for the purposes of persecution; and who never, until now, have attempted to convince the world of the injustice of their persecutors, not only with regard to their conduct as a society, but also in respect to their subservience to the laws of government?

The evil designs of the inquisition are in nothing more apparent than in their incessant zeal to perpetuate ignorance. All the world knows, that after they had formed a large prohibitory catalogue of a multitude of books, they then extended their restraint to all books whatever, written by an heretic. Soon, however, not satisfied with this, they proceeded to such lengths as to prohibit every book printed in any office, from whence any heretical publication might have previously issued, and they in particular pointed out sixty-two printers, the most famous in Europe, as liable to this prohibition: so that at last, scarcely a book remained (or rather was permitted) to be read; and what rendered this prohibition the more grievous, the penalties of excommunication, infamy, and other punishments, were to be inflicted on those who should read prohibited books. Indeed, to such a pitch was carried this desire of perpetuating ignorance, that, when the fathers in the council of Trent held some deliberations relative to the publication of a catalogue of such books as ought to be prohibited, Lewis Beccatelli, archbishop of Ragusa, said, that there was no occasion for books, because more of them had been published since the invention of printing, than were required; and that it was

much more advisable to prohibit many books without any cause, than to pass over one without notice, which actually deserved to be prohibited.*

* This circumstance is stated in the history of the council of Trent, by Sarpi, p. 553.

The following sentence of the justly celebrated Galileus, condemned to death by the inquisition, for approving of the astronomical system of Copernicus, is another remarkable proof of the persecuting spirit of the inquisitors against the sciences; and though an account of it may be found in other works, this must not debar me from giving it here, as the fact cannot be too generally known.

“ We, Garpar Borgia, Saint Croix de Hierusalem,
 Friar Felix Centino d’Ascoli, of St. Anastatia,
 Guido Bentivoglio, of St. Mary del Populo,
 Friar Desiderius *seuglia di cremona*, of St. Charles,
 Friar Anthony Barberini, called Mesroy,
 Lewis Zachia, of St. Austin,
 Fabritius Verospius, called Presbiter, of St. Lawrence, of *in pane et perna*,

Franciscus Barberini of St. Lawrence *in Damaso*, and
 Martius Ginetus, St. Maria Nuova, deacons, by the mercy of God, cardinals of the holy Roman church, and specially deputed, by the holy apostolic see, to be inquisitors against heretical wickedness throughout the whole christian republic.

Whereas, you Galileus, son of the late Vincentius Galileus, of Florence, aged seventy, were informed against in the year 1615, in this holy office, for maintaining as true, a certain false doctrine, held by many, viz. that the sun is in the centre of the world, and immoveable, and that the earth moves round it with a daily motion. Likewise, that you have had certain scholars to whom you have taught the same doctrine. Likewise, that you have kept up a correspondence with certain German mathematicians concerning the same. Likewise, that you have published certain letters concerning the solar spots, in which you have explained the same doctrine as true, and that you have answered the objections which in several places were made against you, from the authority of the holy scriptures, by construing or glossing over the said scriptures, according to your own opinions. And finally, whereas the copy of a writing

Charity is a virtue unknown to ecclesiastics, and dwells only on their tongues: they pretend to say, that

under the form of a letter, reported to have been written by you to one who was formerly your scholar, has been shewn to us, in which you have followed the hypothesis of Copernicus, which contains certain propositions contrary to the true sense and authority of the holy scriptures:

“ Now, this holy tribunal, being desirous to provide against the inconveniencies and dangers which this statement may occasion, to the detriment of the holy faith, by the command of the said N. and the most eminent lords, and the lords cardinals of this supreme and universal inquisition, have caused the two following propositions concerning the immovability of the sun, and the motion of the earth, to be thus qualified by the divines, viz.

“ That the sun is in the centre of the world and immoveable, with a local motion, is an absurd proposition, false in philosophy, and absolutely heretical, because it is expressly contrary to the holy scriptures.

“ That the earth is neither the centre of the world nor immoveable, but that it possesses a daily motion, is likewise an absurd proposition, false in philosophy, and, theologically considered, at least erroneous in point of faith.

“ But as it pleased us in the first instance to proceed kindly with you, it was decreed in the sacred congregation, held before our lord N. Feb. 25, Ann. 1616, that the most eminent lord cardinal Belarmine should command you, that you should entirely depart from the aforesaid false doctrine, and in case you should refuse to obey him, that you should be commanded by the commissary of the holy office to abandon the same, and that you should neither teach it to others, defend it, nor say any thing concerning it, and that if you should not submit to this order, you should be put in gaol. In execution of the said decree you were commanded by the same commissary of the holy office for the time being on the day following, in the palace, before the aforesaid most eminent lord cardinal Belarmine, after you had been kindly admonished by the said lord cardinal, in the presence of the notary and witnesses, that you should wholly desist from the said false opinion; and that it should not be lawful for you in future to defend it, or by any means to teach the

if people pay the tenths, first-fruits, and other emoluments of the church, which the ecclesiastics enjoy, that

same, whether by word or by writings: and upon your promising obedience you were dismissed.

“ And that so pernicious a doctrine might be wholly removed, and not spread any further, to the great damage of the catholic truth, a decree was issued by the sacred Congregation of the Index, in which the book treating of the said doctrine was prohibited, and therein declared to be false, and altogether contrary to the holy and divine scriptures; and whereas, in the following year, there appeared a book published at Florence, the title of which shewed that you was the author of it, because it runs thus: *Dialogo di Galileo Galilei delle due massime systeme del mundo, Tolomeico, e Copernicano.* And whereas the sacred congregation at the same time knew, that by the impression the aforesaid book was calculated to make, the false opinions concerning the motion of the earth, and the immoveability of the sun, did daily gain ground, the aforesaid book was diligently considered, and there plainly appeared therein a disobedience of the aforesaid command, of which you had intimation, because in the said book you defend the aforesaid opinion, which has been already condemned, and declared to be so in your own presence, inasmuch as you endeavour, by various ambiguities in the said book, to persuade persons that you leave the said opinion as undecided, although highly probable, which certainly aggravates your offence: because no opinion can by any means be considered probable, which has been declared and determined to be contrary to the divine scripture. Wherefore, by our command, you were cited to this holy office, in which, after being examined upon oath, you have confessed that the said book was written and published by you. You have moreover confessed, that about ten or twelve years ago, you began to write the said book after you had received the above command; likewise, that you desired a licence to publish it, without signifying to the person who gave you the licence, that you had been prohibited from holding, defending, or by any means endeavouring to teach such a doctrine. You have likewise confessed, that the aforesaid book is so framed in several places, as to induce the reader to think that the arguments adduced

these good things actually belong to the poor, and that the ecclesiastics are intrusted only with the power of distri-

on the false side of the question are more calculated to convince the understanding by their strength, than to admit of a refutation, excusing yourself that you have run into an error, so foreign as you have declared it to be from your intention, because you wrote by the way of dialogue, and with a view to enjoy that natural pleasure which every one takes in his own subtleties, and shewing himself to be more shrewd than the generality of men in finding out ingenious arguments, which have the appearance of truth, even though it be only in favour of false propositions.

“ And whereas, after there had been assigned to you a convenient space of time for making your defence, you produced a certificate under the hand of the most eminent Lord Cardinal Belarmine, procured, as you said, by you, in order to enable you to defend yourself from the calumnies of your enemies, who reported, that you had abjured, and was punished by the holy office, in which testimonial it is declared, that you had neither abjured, nor had been punished, but only that you had been made acquainted with the declaration made by our lord, and published by the sacred congregation of the Index, in which declaration it is maintained, that the doctrines of the earth's motion, and the sun's immoveability, are contrary to the holy scripture; and therefore ought not to be defended or supported. And inasmuch as in the said testimonial there is no mention of two particulars contained in the command given to you, viz. *docere*, to teach, and *quovis modo*, by any means, it is to be believed, that during the course of fourteen or sixteen years, these particulars might have escaped your recollection, and that on this account you concealed the injunction with which you had been served, when you demanded a licence to print your book, and that you said all this, not with any intent to plead excuses for your error, but that it might be imputed to vain ambition rather than to malice. But, nevertheless, this very testimonial that has been produced in your defence, has rendered your cause only the worse, for as much as therein it is said that the aforesaid opinion is contrary to the holy scripture, yet you have dared to treat of it, to defend it, and to persuade others of its probability. Neither can you derive any advantage from the licence you so artfully and surreptiti-

buting them, after deducting the expences of their decent maintenance. Now let me ask if the pomp, luxuries,

ously procured, because you did not make known the injunction you had received.

“ And whereas, it appearing to us that you have not declared the whole truth concerning your intention, we have decided on its being necessary to proceed to a rigorous examination of you, in which, without at all weakening your own confession, or the proofs which have been alleged against you, concerning your said intention, you have answered in a catholic manner. And therefore, upon seeing, and maturely considering the merits of this your cause, together with your aforesaid confessions and excuses, and all other things proper to be considered by the law, we shall now proceed to the following definitive sentence.

“ Invoking, therefore, the most holy name of our Lord Jesus Christ, and that of his most glorious mother, Mary, ever a virgin, we do, by this our definitive sentence, which, sitting in our tribunal, we pronounce in these writings, with the advice and judgment of the reverend masters, doctors of divinity, and both laws, with whom we have consulted concerning the cause and causes now depending before us, between the magnificent Carolus Sincerus, doctor of both laws, and procurator of the exchequer of this holy office of the one part, and you Galileus Galilei, a criminal here under the power of the inquisition, by this present written process, examined and confessed as above, of the other part, We do say, judge, and declare, that you the aforesaid Galileus have, upon account of those things, which are produced in the written process, and which you have confessed as above, subjected yourself to a strong suspicion of heresy to this holy office, by believing and holding to be true a doctrine which is false and contrary to the sacred and divine scripture; viz. that the sun is the centre of the orb of the earth, and does not move from the east to the west; and that the earth moves, and is not the centre of the world, and that these things may be considered and defended as probable opinions, although they have been declared and determined to be contrary to the sacred scripture; and consequently, that you have incurred all the censures and penalties appointed and promulgated by the sacred canons, and other general and particular acts against such offenders;

&c. so generally enjoyed by the ecclesiastics in Roman Catholic countries, are at all consonant with such professions?

from which it is our pleasure that you should be absolved, provided that you do first, with a sincere heart, and a true faith, abjure, curse, and detest before us the aforesaid errors and heresies, and every other error and heresy contrary to the catholic and apostolic Roman church, in the form which shall be prescribed to you by us.

“ But that your grievous and pernicious errors and transgressions may not pass altogether unpunished, that you yourself may be rendered more cautious for the future, and that your example may induce others to abstain from similar crimes, we decree that the book of dialogues by Galileus Galilei, shall be prohibited by a public edict, and we formally condemn you to be imprisoned in this holy office for a time determinable by our pleasure; and we enjoin you, as a salutary penance, that, for the three years next ensuing, you repeat, once a week, the seven penitential psalms, with the reservation, nevertheless, to ourselves of the power to modify, alter, or remove, either wholly, or in part, the aforesaid penalties and penances.

And thus we say, pronounce, and by this our sentence declare, ordain, and condemn, and also reserve, as well in the present as in any other better manner and form which we can find, and may avail ourselves of by law. Thus we, the underwritten cardinals, pronounce.

F. Cardinal d' Ascoli,

G. Cardinal Bentivoglio,

F. Cardinal di Cremona,

Fr. Cardinal a Mesroy,

B. Cardinal Gypsius,

F. Cardinal Verospius,

M. Cardinal Ginettus.

The abjuration of Galileus.

“ I, Galileus, son of the late Vincentius Galileus, a Florentine, aged 70, being here personally upon my trial, and on my knees before you, the most eminent and reverend the Lords Cardinals, inquisitors-general of the Universal Christian Commonwealth, against heretical wickedness, and having before my eyes the most holy gospels, which

What a parade do they not make when at the gate of a convent they give a bowl of dirty warm water, which

I touch with my proper hands, do swear that I always have believed, and do now believe, and by the aid of God I will in future believe, every thing which the holy catholic and apostolic Roman church doth hold, preach, and teach. But whereas, notwithstanding, after I had been legally enjoined and commanded by this holy office, to abandon wholly that false opinion, which maintains that the sun is the centre of the universe and immoveable, and that I should not hold, defend, or in any way, either by word or writing, teach the aforesaid false doctrine; and whereas also, after it had been notified to me, that the aforesaid doctrine was contrary to the holy scripture, I wrote and published a book, in which I treated of the doctrine that had been condemned, and produced reasons of great force in favour of it, without giving any answers to them, for which I have been judged by the holy office to have incurred a strong suspicion of heresy, viz. for believing that the sun is the centre of the world, and that the earth is not the centre, but moves. Being, therefore, willing to remove from the minds of your eminencies, and of every catholic christian, this strong suspicion, which has been legally conceived against me, I do, with a sincere heart, and a true faith, abjure, curse, and detest, not only the aforesaid errors and heresies, but generally every other error and opinion which may be contrary to the aforesaid holy church; and I swear, that, for the future, I will never more say or assert, either by word or writing, any thing that shall give occasion for a like suspicion; but that if I should know any heretic, or person suspected of heresy, I will inform against him to this holy office, or to the inquisitor or ordinary of the place, in which I shall then be. Moreover, I swear and promise, that I will fulfil and fully observe all the penances which have been or shall be hereafter enjoined me by this holy office. But if, which God forbid, it should happen that I should act contrary to my word, promises, protestations, and oaths, I do hereby subject myself to all the penalties and punishments which have been ordained and published against such offenders by the sacred canons, and other acts, both general and particular. So hel me God, and these holy gospels which I now touch with my own proper hand. I, the above-mentioned Galileus Galilei, have abjured,

they are pleased to call by the name of soup; when, perhaps, at the same time, the community of monks has but just partaken of a profuse entertainment? Were these individuals the administrators of the property of the poor, as they pretend to be, they would most assuredly perceive how unbecoming it is for them, as administrators, to eat the flesh, while they give to their principals, the poor, only the bones boiled in dirty water. I remember I heard once from one of the superiors of the Franciscans at Lisbon, that it had been calculated almost to a nicety, that the food distributed by the convents of the mendicants only in the city of Lisbon, by way of charitable donations, amounted to twenty-four thousand crusados every day. Let us suppose, for argument sake, that this calculation is perfectly correct. What then must the amount be of the charitable gifts these mendicant friars receive from the people for their own maintenance, since these friars have no other revenue but that arising from the daily bounty of the people, and what they give away is the residue only of those luxuries which originally sprung from the charity of the people? But this good friar, perhaps, found it convenient to publish a calculation of the charities they distribute, without troubling himself with a calculation of the charities they receive—he, no doubt, thought it was unnecessary to speak about these: however, I must observe, that until this or any other reverend friar may be able to furnish better proofs of their charities than a mere *ipse dixit*, so

sworn, promised, and bound myself as above, and in testimony of these things I have subscribed, with my own proper hand, this present instrument of my abjuration, and have repeated it word by word at Rome, in the convent of Minerva, this 22d day of July, anno 1633.

I, Galileus Galilci, have abjured, as above, with my own proper hand.

long I shall suspect that this calculation has more of imposture than veracity.

Now let the reverend notary of the holy office remark how the charities of the freemasons are dispensed amongst the needy, which they do in the most private way, and in such a manner that the individuals relieved cannot recognize the hand that performs the benevolent office, an office performed too in subservience to principles established, recommended, and practised by the same freemasons in their lodges. Be it his task also to learn, that the mutual succours given by freemasons to each other are always secret, and that the expences necessary in the maintenance of the society, although considerable, all arise from the property acquired by the individual industry of its members, and not from the substance of the people.

When Joseph da Costa Torres, bishop of Funchal, in the island of Madeira, persecuted various respectable families, merely because some individuals belonging to them were thought to be freemasons, many persons fled to the United States of America; and on one of the ships which conveyed them, hoisting a white flag on her arrival at New York, with the motto, "*Asylum quærimus*," immediately the principal freemasons in town went on board, and on returning to shore carried with them these persecuted families, to which they gave the most generous and hospitable reception. This case made so strong an impression on the public mind in Portugal, and indeed throughout all Europe, that government, in order to exonerate itself from the general imputation of bigotry and ignorance, removed this bishop from Madeira to Elvas—a change of some value to the bishop; for he was afterwards promoted to the archbishopric of Braga, where he still continues, by his intolerant and persecuting disposition, to disgrace the national name, and the justice of his government.

The ecclesiastics lay claim also to another virtue, as if

it were peculiar to them, and this is chastity ; and which, indeed, is so great a virtue in their opinion, that it can belong only to those who devote themselves to the service of the altars.

If these gentlemen mean to consider that as chastity which consists merely in not supporting a wife, and not contributing to the population of the state, by becoming fathers and instructors of children ; if they call that chastity which has prescribed celibacy to them, in order that they may be free from the troubles and cares of a family, which impels most men to greater assiduity and economy in their domestic affairs, and of course constitutes a kind of life more active, regular, and virtuous ; we may, in these cases, certainly allow that they practise chastity. But if we are to understand that one word, chastity, in the same sense as the ecclesiastics consider it in their pulpits, then the justice of their claim to such a chastity may very easily be decided by the experience and knowledge almost every one must have of ecclesiastical virtues, and it will not be difficult to come to a conclusion. I should be ashamed to relate the proofs which I could produce from history on this point, without going further than the lives of the popes, who, it might be presumed, should have been equally exalted in virtue as high in dignity. Alexander VI. alone would furnish me with superabundant particulars,

But least it might be said, that the corruption of the ecclesiastics in our times has nothing to do with the purity of those fathers who established the celibacy of the clergy, it will be proper to observe, that when the general council of Constance was celebrated in 1414, no picture of the virtuous paradise of Jesus Christ was to be observed in that city, agreeably to the connection between the precepts and practice of the priests, which, under such circumstances, might have been expected : on the con-

trary, the city of Constance presented a perfect and full image of Mahomet's paradise, where mussulmen might have found a great number of the most beautiful houries. Spanenberg says,* that the city of Constance was then honoured, on the assembling of this council, by the presence of 346 archbishops and bishops, 564 abbots and doctors, and 7000 prostitutes, who followed the fathers of the council, without reckoning the concubines, whom the same holy fathers had about their persons. It is clear, that if these tenacious defenders of celibacy had been married, the prostitutes would not have been so eager in following them. But—oh, inconsistency!—in this very council the celibacy of the clergy was definitively decreed.

Another admirable instance of their continence in this respect presents itself in Gonsalvius,* during his relation of what happened in Spain, when the bull of Pope Paul IV. enjoining to the holy office the cognizance of the crime of *solicitant*, † was published. Before I advert to the fact, I shall state those words of the bull, that are applicable to the subject: “Whereas certain ecclesiastics,” says the bull, “in the kingdom of Spain, and the city and dioceses thereof, having the cure of souls, or exercising such cure for others, or otherwise deputed to hear the confessions of penitents, have broken out into such heinous acts of iniquity, as to abuse the sacrament of the penance in the very act of hearing the confessions, not fearing to injure the same sacrament, and him who instituted it, our Lord God and Saviour, Jesus Christ, by enticing and

* Epist. ad Cor. p. 252.

† Reginaldi Gonsalvi Montanis Sanctæ Inquisitionis Hispaniæ artes Aliquot detectæ, ac palam traductæ. Heilderberg, 1567, p. 185.

‡ A priest, who, in the act of confession, solicits the penitent confessing, to indecent acts.

provoking, or trying to entice and provoke, females to lewd actions, at the very time when they were making their confessions."

When this bull was first introduced into Spain, the inquisitors published a solemn edict in all the churches belonging to the archbishopric of Seville, that any person either knowing, or having heard of any friar or clergyman's having committed the crime of abusing the sacrament of confession, or in any manner of having improperly conducted himself during the confession of a female penitent, should make a discovery of what he knew within thirty days to the holy tribunal; and very heavy censures were attached to those who should neglect or despise this injunction. When this edict was first published, such a considerable number of females went to the palace of the inquisitor, only in the city of Seville, to reveal the conduct of their infamous confessors, that twenty notaries, and as many inquisitors, were appointed to minute down their several informations against them: but these being found insufficient to receive the depositions of so many witnesses, and the inquisitors being thus overwhelmed, as it were, with the pressure of such affairs, thirty days more were allowed for taking the accusations, and this lapse of time also proving inadequate to the intended purpose, a similar period was granted not only for a third but a fourth time. The ladies of rank, character, and noble families, had a difficult part to act on this occasion, as their discoveries could not be made of any particular time or place. On one side, a religious fear of incurring the threatened censures, goaded their consciences so much as to compel them to make the required accusation; on the other side, a regard to their husbands, to whom they justly feared to give offence, by affording them any motives for suspecting their private conduct, induced them to keep at home. To obviate these difficulties they had recourse to the measure of covering their faces with a veil,

according to the fashion of Spain, and thus went to the inquisitors, in the most secret manner they could adopt. Very few, however, escaped the zealous vigilance of their husbands, who, on being informed of the discoveries and accusations made by their wives, were filled with suspicions: and yet, notwithstanding this accumulation of proofs against the confessors, produced to the inquisitors, this holy tribunal, contrary to the expectations of every one, put an end to the business, by ordering, that all crimes of this nature, proved by lawful evidences, should from thenceforth be consigned to perpetual silence and oblivion.

With what justice, then, did this reverend priest reckon, among the evils of the state, and attribute to freemasons, a peculiar disrespect towards the ecclesiastics? Was it consistent with charity? Certainly not.* But

* As it has been the constant aim of the inquisition to inculcate the great benefits resulting to the state from their support of religion, it may not be irrelevant to take notice of the sophism contained in their pretensions. If the state be interested in punishing those persons, who, in any point separate themselves from the religion which they have adopted, such a separation can be considered only as a civil crime, and why may it not be tried in the secular court, where all other crimes are tried, and brought to a judgement? The advantages attendant on such a method of proceeding would be very great in several respects, but in none more than that of saving two hundred thousand crusados every year, for so much does the support of the inquisition cost in Portugal; and those two hundred thousand crusados nobody can deny would be much better employed in defending their shores from the attacks of the Moors, or redeeming the wretched Portuguese captives from their slavery in Barbary. But the friends of the inquisition will, perhaps, say, that crimes affecting religion are beyond the reach and power of the civil magistrate. I assent to this with considerable readiness, though not for the reasons they produce: for I conceive that the cognizance of these crimes belongs to the bishops, who, by divine

such is the cloak with which they endeavour to conceal the hatred they bear to those men whom they believe to be their enemies; and, in order to gratify this vengeful spleen against the freemasons, they are ever busy in spreading rumours inimical to them, which rumours, being without a known origin, indispose the public against the society, and induce government to credit the false accusations so perpetually insinuated, so that they have little fear of being interrupted in their work of persecution. It seems incredible, that the individuals composing the inquisition should have the hardihood to level accusations against any one on the point of fidelity or loyalty to the state—men who have so often not only attempted to overturn the rights of sovereigns, but to assassinate them, (as for instance, the inquisitor-general and the archbishop of Braga, who concerted a plan to kill the king, D. John the Fourth, and deliver up the kingdom to the Spaniards)—men, who have even rebelled against the pope, (as may be clearly seen in some letters of the jesuits, published among the proofs of the Chronological Deduction of Seabra—men, who dared to excommunicate king D. John IV. merely because he restored to the children of some persons, condemned by the inquisition, the property of their parents!

law, are the proper judges of all matters of faith; and who, by all the canons of the church, are bound, on account of their office, to do all they can in preserving and propagating the faith. Should the bishops and their ecclesiastical courts be permitted to take cognizance of those crimes which are now exclusively within the jurisdiction of the inquisition, and to make use of such censures, and other spiritual penances, as the church enables them to do, two hundred thousand crusados would be entirely saved, that are now uselessly squandered away upon the inquisition; and I have no reason to suppose that the treasury of Lisbon is so overloaded with money, that such a sum is too paltry to merit notice.

Of instances of conspiracies, where the priests played the principal part, our histories are full, and facts, equally authentic as those I have related concerning the inquisition at Lisbon, may be found in their various pages. In other countries too, so innumerable are the instances of combinations of the ecclesiastics, not only against their own government, but which, perhaps, is still more monstrous, against whole nations, that I should attempt an endless task were I to endeavour to enumerate these plots. Be it sufficient for my present purpose, to recal to the recollection the Sicilian vespers in Italy, the massacres in France on the matins of St. Bartholomew, and the assassination of the great Henry the Fourth at Paris.

Let me now request that this notary-priest or priest-notary would have the goodness to declare, if the commission of such heinous crimes was ever proved against the society of freemasons; and if so, that he will say when, where, and by whom they were committed.

How many instances have occurred in Portugal of men being seized at night, and taken, with the greatest precaution and secrecy, to the prisons of the holy office, while their property, at the same time, became the prey of the inquisition. Some years afterwards these individuals, whom no one ever suspected, appear at an *auto da fe* with a gag in their mouths, that they may not have the power of uttering their wrongs. On these occasions, a priest ascends the pulpit, and thunders out against these wretched beings a catalogue of their crimes. When this mockery is finished, the victims are led to perish in the flames, without being permitted to utter even a groan—and yet the inquisition would fain persuade us, that these horrors are the acts of justice!

All men are ruled by various passions; in all tribunals, throughout the world, acts of injustice are at times committed; and the legislator presuming on the possibility of

injustice, has on this presumption or possibility wisely grounded the appeals, revisions, and other remedies, to which the parties aggrieved or injured in their rights may resort—except in the inquisition. Is the holy office, then, the only tribunal in which it is impossible to commit an act of injustice?

It must be known to all, that one of the greatest obstacles and restraints to the judges in the commission of injustice, is the fear of losing their reputation—and this because in every civilized society and nation the party aggrieved may arraign the injustice of his judge, by publishing a true statement of his case; and because a copy of the proceedings and acts of the courts, as well as the defence made for the prisoner by the advocate, are also made known by printing or any other way—circumstances that often take place amongst us, both in civil and criminal actions: of course any judge, and chiefly one in the latter capacity, has a powerful curb upon his passions in the fear of sacrificing his character, by committing an act of injustice that may possibly be made public. But inquisitors have entirely liberated themselves from this inconvenience; and they inflict their punishments without deigning to assign the smallest reason to the public for their proceedings: the process is issued, and the trial is conducted by themselves in secret; they are the only party aggrieved, for in this tribunal those acts only receive punishment which offend the church, or rather the interests of the ecclesiastics; they also profit by the confiscation of the property of the condemned, and notwithstanding their being so deeply interested, are at the same time the judges; nobody can examine upon what proofs, if any proofs, they chose to condemn the prisoner; and if he escapes with his life, he is obliged to sign an instrument, by which he binds himself on oath, and under the severest penalties, never to reveal any thing that has occurred during the

course of his trial and imprisonment; and fatal does it generally prove to him, who dares afterwards to say that the holy tribunal can commit injustice.

What obstacle, then, is there to prevent the inquisitors from being swayed by the influence of their passions? None that I am aware of. And as all men are liable to passions, I have every reason to conclude, that the inquisitors are induced by them to do injustice without apprehension, for they are safe from all evil consequences attendant on their actions. If the case be otherwise, let the inquisitors prove that they are virtue itself, and I will allow them to be free from those frailties which are inherent in human nature. But as the inquisitors can, with impunity, commit any iniquity dictated by their wanton wills, under the full reliance that the secrecy tenaciously observed in all their proceedings, frees them from all regard for public opinion, from which even the greatest sovereigns on earth are not exempt; on them (the inquisitors) devolves the task of proving that they neither abuse or have improperly availed themselves of their state of impunity—an abuse so strongly to be suspected, even from the nature of man when uncontroled.

Besides these reasons, arising from the nature and constitution of mankind, we have positive facts of the highest authority. In the general council of Vienna, at Delphinat, several complaints were made to Pope Clement V. against the inquisitors, accusing them of exceeding the limits of their jurisdiction, to the great injury of the faithful: for which reason, says this pontiff, “it is deemed convenient to the glory of God, that their affairs should be managed in a better manner, and with more prudence, and that rules should be established to obviate any irregularities hereafter.” Those observations are to be found in the Book of Canon Law, chap. 1. *De hereticis*: of course, they are not given as conjectures, but, as a

fact, than which, on account of the place where it occurred, nothing can be more authentic.

In the vale of Camunica, in the territory of Venice, several persons were informed against for witchcraft, in the year 1518, when the inquisitors behaved in such an oppressive manner, and carried their acts of pillage and tyranny against those individuals to such a degree, that a rebellion was the consequence. The council of Decemviri, satisfied of the innocence of the prisoners, annulled the sentences passed on them by the inquisitors, and appointed new judges to examine into the causes: but even after these judicious measures, the government of Venice had no small difficulty in quelling the insurrection. This fact is attested by the celebrated Sarpi, or Father Paul Veneto, in his history of the inquisition, ch. 4; and Pope Clement VI. gave express directions to the cardinal legate of St. Mark's, to make enquiries into the excesses of which the inquisitors had been guilty, and that he should refuse to act upon the accusations of the complainants.

The severity of the inquisition at Rome, exasperated the people in such a manner, that after the death of Paul IV. the mob attacked the palace of the inquisition, burnt the archives, demolished the prisons, and reduced the building which Paul IV. had caused to be erected during his life time, entirely to ruins.

Our celebrated historian Faria e Souza, in an appendix to the reign of king Emanuel, in his *Europa Portugueza* relates the case of a man whom the inquisition ordered to be burnt alive, for being accused of stealing a sacred vase from a church. No other proof was alleged against this unhappy victim, than that he was seen to pass near the church at the time of the night when the theft was supposed to have been committed: he solemnly protested, however, in his last moments, that he died innocent and

a believer in the creed of the catholic faith. On this case of horror being made known at Rome, it was even there considered highly improper, that the inquisition of Lisbon should have burnt the man alive, in such a case, and particularly under the circumstance of his declaring, at the very period when the approaching tortures of his death were most likely to excite despair, and to induce him to curse his God, that he wished to live and die in the communion of the catholic faith. Some years after, a criminal being condemned to be hung at Galicia, in Spain, for murder, he made a solemn declaration at the gallows, that he was the individual who committed the theft of the sacred vase in Lisbon, of which the other, who had been burnt alive, was wholly innocent.

Carena, an author who defends the inquisition in every part of their conduct, and was procurator fiscal of the same tribunal, published in one of his works,* a certain ordinance made by the supreme council of the inquisition at Rome, in which are the following remarks: "It has been observed for a considerable time past, in the congregation of the general inquisition at Rome, that scarcely any process has been found to be rightly and legally issued, that it has been necessary to censure most of the judges, and frequently to punish them for vexatious investigations and imprisonments not justified by law, as also for having recourse to several bad and irregular methods of issuing the processes, interrogating the criminals, and inflicting excessive tortures, insomuch, that not unfrequently, their sentences have been declared illegal and unjust, even in cases of death, or relaxation to the secular court. Indeed, it has moreover been found that many judges have been infinitely too credulous and

* *Tractatus de Officio Sanctissimæ Inquisitionis.*

hasty in believing some women to be witches, from light proofs, or perhaps without any proofs at all, in which cases they tried all measures, not excepting the most unlawful ones, to extort confessions from those women, notwithstanding there were so many improbabilities and differences in contradiction to each other, that one would suppose that little, if any hesitation, could have been required on the subject."

Why, then, does this reverend priest think it necessary to insult an individual merely because he has become a member of the society of freemasons? Against this society nothing has been proved—against that of the inquisition there is a mass of evidence—independent of the proofs alleged of the cruelty of their punishments, whatever may be the nature of the crimes for which they are inflicted, and the full information and knowledge we now have of their laws, and their savage principles, which, as we have seen, do not arise from the bad dispositions of this or that inquisitor, (for then it would not be a fault that could be generally imputed to the society of the inquisition) but from the very system adopted and followed, approved of and determined, by their laws and private regulations.

The ecclesiastics complain of the writings of the modern philosophers, which, according to them, have done very serious injury to the christian religion, by treating it with disrespect and discredit: but if they were to reflect on the cruelties which the inquisition has practised, they would then find the most natural cause of the evils they deplore. Nothing that partakes of cruelty can be really useful.* The writings of the philosophers can have inspired a real contempt for religion, (should we admit

* *Nihil quod crudele utile.* Cic. lib. III. de Officiis, §. XI.

that they had such an intention) in very few persons; since their publications are read by few, and understood by still fewer persons—whereas the cruelties of the inquisition are most publicly displayed, in consequence of their vanity, which induces them, when it is compatible with their interest, to give the greatest possible publicity to the triumph they have obtained over some poor victims whom they supposed guilty of opposing their views: while the difference between the horrid barbarity of an *auto da fe* and the morality of the gospel is so clearly manifest and self-evident, that the most ignorant man cannot be blind to it, if he reflects, or is permitted to reflect, on the principles of the christian doctrine. The gospel enjoins and persuades us, to preach and to pray: the inquisition says, “love God or I will punish you.” The gospel says, “preach, and if you shall not be believed, if they do not chuse to hear you, go your way, shake off the dust from your shoes: be meek as lambs, learn from me, for I am meek, and of an humble heart.” The inquisition says, “obey my commands, or I will burn you alive, seize your property under the colour of confiscation, and reduce your wife and your children to a state of beggary.”

Innumerable are the passages which I could adduce from the fathers of the church, to prove how contrary too much violence in matters of religion is, to the spirit of christianity. A few of these passages I will give here. St. Athanasius in his epistle to the anchorets, complaining of the persecution which the Arians had been guilty of to some other christian sects, says, “Satan, not having the truth on his side, has recourse to violence, and inculcates his doctrines by the means of force: whereas our Redeemer says, “If any one wish to be my disciple, let him follow me.” He presses no one into his service by force, he does not break the door of the house into which he wishes to enter.

but he knocks softly; and in order to gain admittance, employs the most humble words: "Open the door," says he, "my sister;" if the door be open, he goes in; if not he retires; for truth cannot be introduced by force, or violence, but only by softness and persuasion."

St. Ambrose says, "our Lord sent the apostles to sow the seeds of the faith in the heart, and to teach, but not to force any individual."

St. Martin Turonensis exerted his authority against the Spanish bishop Itacius, and his accomplices, on account of the persecutions they carried on against the heretics, and their obtaining permission from Maximilian, that Priscilian, and other heretics, should be condemned to death. But that the inquisitors may be rendered sensible who are those that have followed their opinions, and who have rejected them, I must observe here, that while St. Martin is considered as a virtuous man, the persecutor, Itacius, is represented in history, as a most worthless character.*

The celebrated Simancas,† assigns a ridiculous reason why he thinks that the inquisitors must punish heretics, instead of endeavouring to convince them by arguments, drawn out of the holy scripture. "We," says this doctor of the inquisition, "must not dispute with heretics, or

* Sulp. Severus Hist. sacræ lib, II. p. 168. 169. sais. "*Seculi etiam accusatores Idacius & Ithacius Episcopi; quorum studium, in expugnandis hereticis non reprehenderem, si non studio vincendi plus quam oportuit certassent. Ac mea quidem sententia est mihi tam reos quam accusatores displicere. Certe Ithacium nihil pensi, nihil sancti habuisse definitio. Fuit enim audax, loquax, impudens, sumptuosus, ventri & gulæ plurimum impertiens. Hic stultitiæ eo usque processerat, ut omnes etiam sanctos viros, quibus aut studium inerat lectionis, aut propositum erat certare jejuniis tanquam Prisciliani socios in crimen accesserent.*"

† Simancas, de Cath. Inst. tt. 59. §. 11.

avail ourselves of passages in the scriptures, because the victory is rendered uncertain and doubtful by this method."

From which passage we can draw no other conclusion, than that the inquisitors, persuaded of their inability to plead any thing like reason, have recourse to force and horrid punishments, as substitutes for it.

But as it is necessary for me to prove that the cruelties inflicted by the inquisition are not merely the result of a bad disposition in this or that particular inquisitor, but of vice absolutely inherent in the society itself, I will extract some passages from their own book of Regulations or Bye-laws.

1. In the first place, the dreadful system of listening to private informations, is admitted in the inquisition to its full extent, and consequently all the evils attached to secret denunciations, are necessarily caused by it. In the Bye-laws of the holy office, book 2. tt. 3. §. 1. it is said, "secret informations, are one of the principal means by which the legal proceedings against criminals can be prosecuted." In §. 6. of the same title, it is directed that informations, at all unfavourable in their nature, shall be received even on the hearsay evidence of any witness; and in some cases a power is given to proceed only on written informations, even though the informer should omit to sign his name to the letter or paper in which he lays his information. What an open road is this to every sort of abuses! What can be more productive of any man's ruin than this facility to the admission of false witnesses!

At the present period, scarcely a legislator exists that does not acknowledge how necessary it is to the public tranquillity, to reject entirely all private informations, but with still more reason, all secret legal proceedings.*

* Beccaria *Dei delitti e delle pene*, tom. 1. pag. 28. edict. Venet. 1781. Bernardi, *Principes des Loix criminelles* III. p. §. II.

If any individual commit an offence that deserves to be punished, why shall not that crime be publicly reprobated? If the accused person be innocent, neither the good faith due from man to man, nor the laws of nature allow permission that he shall be insidiously attacked by an enemy, who is unknown to him, and whose treacheries he has no means of obviating, because he is ignorant of their existence.* It is most certain, that even amongst the most barbarous nations, provided there be a legal form for enquiring into and punishing crimes, the witnesses are heard before the defendant, that he may have an opportunity of contradicting their evidence, or at least of seeing it on record, as the lawyers express it. Amongst us such a practice prevails in the secular courts, by the express determination of our laws.†

2. The regulations of the holy office, book II. tt. 4. offer another very remarkable instance of the cruelty of this tribunal. In this title are detailed the proceedings toward persons informed against, and in § 3. is the following passage :

“ If the person informed against be so young, that he has not attained the age required in book the third, title first, paragraph twelve, to enable him to make an abjuration, the inquisitors shall order him to be brought before them, and shall examine into the information they may have obtained against him; and on his confessing the error he has been guilty of against the faith, then shall be done what we have directed in the second title of this book, paragraph the fifth: but on his denying the

* The arguments of Cicero, in his speech, *pro Sexto Roscio Amerino*. §. xx. are very decisive on this subject.

† Ordinances of the kingdom, book 3. tt. 62. §. 1. and Ord. book 7. tt. 24. §. 20. and book 3. tt. 32. §. 1.

crime of which he has been accused, they shall order the criminal to be confined in the house of some officer of the inquisition, and both by entreaties and threats, they shall endeavour to make him confess, inflicting, if necessary, some punishment, instead of torture, according to the directions of the law."

From this we learn, that the person who may be above the age determined in book 3. tt. 1. § 12. as aforesaid, is subjected to the tortures and every other sort of rigorous treatment prescribed in the same book of Regulations; and that even under that age he is not to be exempt from the punishments ordained in the before quoted paragraph. But that the cruel inhumanity of this legislative paragraph may be fully understood, it is necessary now to apprise the reader, what is the age which the inquisition has determined to be a proper one for making an abjuration. He will gain the knowledge of this in the following extract, from book 3. tt. 1. §. 12.

"To remove all doubts that might arise concerning the abjurations of persons under age, we do declare, that the male under ten years and a half, and the female under nine and a half, shall not abjure either in public or in private at the board, whether they shall present themselves or be informed against; and subsequent to this age, until the years, commonly called years of discretion, which are to be considered as fourteen in the male, and twelve in the female, after it has been proved by witnesses, as well as by the examination of the same persons, certified by the notary, who was present at it, that they have understanding and are capable of evil intentions to sin, and fall into the commission of crimes, they shall be permitted to abjure at the board, even though they may not have attained the said respective ages of twelve or fourteen years: because, under these circumstances, the malice propense exhibited supplies the age required by law; and as soon

as the female shall have completed twelve years, and the male fourteen, they shall abjure in public, in the same manner as persons of full age."

Consequently, according to the legislature of the holy office, a female child, provided she has attained the age of nine years and a half, is liable, not only to be tortured by the inquisitors, but to be ordered to execution.

History indeed affords many instances of tyrants, who have exercised their cruelty even against innocent children and tender infants, as has been said of Herod and others—this happened, however, through arbitrary orders, dictated by an impulse of rage, or perhaps in some momentary derangement of the mind: but to ordain such horrid barbarities, in cool blood, to make them part of a legislative system, which has been considered, revised, corrected, examined, and meditated upon, from time to time, for years and for centuries, was reserved only for the holy office of the inquisition—for men who inculcate the religion of a God of mercy, of lenity, and of goodness.

3. Another instance. Piety towards our parents has always been, and is still, deemed by all nations of the world, a point of extreme delicacy: filial love is recommended by all laws, and the respect children owe to their parents, is not only an instinct of nature, but also a strict command of the law of nature, and a maxim of essential consequence, in every civil society. Let us see, now, how the holy office inculcates and promotes this paramount obligation on every man, or more properly speaking, on every living being, for even in animals whom we call irrational, this mutual love is observable between parents and their offspring, at least before the latter arrive at maturity.

Bye-laws of the holy office, book 3. tt. 4. relative to those who confess, but with certain qualifications or subterfuges. (*Confitentes diminutos*) §. 1. "When any crimi-

nal who has confessed the crime of heresy, for which he was imprisoned, shall omit to make a full confession, and this deficiency shall take place with respect to his accomplices, whether they comprise parents or children, husband or wife, the confession shall not be received; and as it must be deemed to have been made with some artful view, the prisoner shall be delivered up to the secular court, as guilty of subterfuge and dissimulation: and if the accomplices are persons related to the criminal in the first transversal degree, it shall be at the option of the inquisitors to decide whether the confession shall or shall not be received."

To understand thoroughly the nature and tendency of this paragraph, it is necessary to observe, that in the holy office the prisoner who fully confesses the crime of which he is accused, and whose confession is received, has a lesser punishment inflicted on him, than he would receive in case he had denied the commission of the crime alleged against him. If the criminal confess only a part of his crimes, he is found guilty of subterfuge or wilful diminution; and this diminution, according to the Bye-laws of book III. tt. 4. is extended not only to his concealing his accomplices, or a part of those things which he committed, but also to his concealing that particular period of time during which he committed them. In this paragraph, speaking of the case when the diminution consist in a concealment of the accomplices, the bye-laws direct, that if the accomplices whom the prisoner conceals are related to him, either in the ascending or descending degrees, the confession shall not be received; that is to say, he must be treated with all possible rigour; if the accomplices he conceals be his collateral relations in the first degree, it is then permitted to the inquisitors, either to receive or reject the confession, notwithstanding the diminution, as they may think proper, and to treat him with more lenity:

but if the accomplices shall not be related to the prisoner, the inquisitors shall take no notice of the diminution, shall receive his confession, and treat the prisoner, as having made a full confession, in order that he may receive the mercy in such cases allowed to prisoners.

Can a greater offence than this be imagined against the law of nature? If the insincerity shewn in not discovering the accomplices be entitled to forgiveness in any case, it certainly is in that where the criminal endeavours to rescue his father, or his mother: to forgive the want of sincerity when the criminal conceals those accomplices who are not related to him, and to withhold forgiveness when he tries to save his nearest relatives, is a barbarity for which no excuse can be pleaded. Nor can I perceive any other motive, or view, in such an act of legislation, but that of exciting distrust and disunion amongst the nearest relations, of dissevering the most sacred ties of union amongst men, and of taking advantage of these general suspicions and mutual fears in different individuals, to rule and extend the priestly sway, agreeably to the Machiavelian maxim, "*Divide et impera.*"

4. Another instance. An ambition to govern and an avidity for riches is so manifest in the laws of the inquisition, that we are fully justified in concluding that they are the principal motives which have induced the inquisition to practice all those cruelties that have cast such a horrible gloom over, in every other respect, the brilliant history of Portugal. Ample proof of this is furnished in the Bye-laws of the holy office, book III. tt. 26. §. 6.

"And in case of the death of any criminals, after being confined in the prisons of the inquisition, if, at the time of their decease, they had confessed their crimes, and properly answered the enquiries of justice, they shall be received into the community and union of our holy mother the church. In the public *auto da fe*, their sentences shall

be read, that they may enjoy the prayers of the church, and the confiscation of their property shall be adjudged from the time when they committed their respective crimes: but in this case, their effigies shall not be taken to the *auto da fe*."

51 If a cupidity of money did not dictate this law, I am really ignorant what other motive could have given birth to such an act of jurisprudence—since the confiscation of the property of the deceased cannot, in this case, administer to his correction, for being dead he is beyond the reach of all earthly laws; nor can it be to punish his crime, or give an example to others—for the crime received a pardon in consequence of the confession, which the law supposes; for, being pardoned, he is directed to be admitted into the bosom of the holy mother, the church. Every thing then is dispensed with, except his property.

52 The same remarks are applicable to the confiscation ordered with respect to those, who, being absent, cannot defend themselves, and in many other cases; from which practices we may be satisfactorily convinced that the end of the inquisition is merely to acquire the property of the unhappy.

53 Another instance. I could excuse, in some measure, the fury of these persecutors, were I able to ascertain the existence of any sincerity in their proceedings—that is, that ignorance and fanaticism only excited them to be persecutors and barbarians, and they shewed a persuasion that such tyrannies and violences were acceptable to God. At all events, it would be but a bad method to attempt the support of a religion of meekness, goodness, and mercy, as they themselves describe it, with the sword: but when we look at the open hypocrisy of the pretended allegations made by the inquisitors, little, if any room, is left to plead even this sorry excuse of ignorance.

They are pleased to say, that their views in imprisoning and punishing their prisoners are to convert them to the true path of religion, by proper admonitions, agreeably to the ordinances of the inquisitors in their regulations, to induce them also not only to confess their crimes, but to renounce them, and to adopt those unerring principles which they ought to be persuaded must finally lead to their obtainment of salvation. If the intention of the inquisitors be to persuade the criminals, in the manner they pretend, they ought to permit their prisoners to receive admonition from other persons: but so far from this being the case, the few persons allowed to have access to the prisoners are the gaoler and his turnkeys, who are strictly forbidden to say any thing to them on that very point, in which, according to the inquisitors, they should receive instruction. In the Bye-laws of the holy office, book I. tt. 14. § 18. will be found the proofs of what I have said, and particularly in relation to the gaoler.

“ He shall accompany the prisoners when they go to the board, or return from the board to the prison, having always one of the guards, and he shall never permit the prisoners to speak when they pass by the corridors, nor shall he speak to them, nor shall he persuade them to confess their crimes; and when the prisoners shall commence any discourse with him on that subject, he shall inform them, that this matter can be noticed only at the board of the holy office.”

If the end of these pretended admonitions by the inquisitors were a sincere wish to obtain from the prisoners a confession of their errors, that they might rectify them, and that they might be taught and instructed for the good of their souls, as they, the inquisitors, so often repeat and assert, in this case, other individuals, not immediately connected with the prison, should be allowed to admonish the prisoners, it being evident that the judge must al-

ways be liable to suspicions in the mind of a criminal; whereas any other individual is more readily listened to than the judge, whom the criminal always dreads, because his advice is always given under an air of authority, and in a decisive dogmatical way, which, instead of producing conviction in the criminal, excites only fear and mistrust.

Another instance. That dissimulation and hypocrisy are vices of the inquisition can also be proved, from their legislative dictata in the Bye-Laws of the holy office, Book ii. tt. 14. § 6.

“ If it should happen to be necessary that severe torture should be inflicted fifteen days before the *auto da fe*, in order that the prisoners may not go to it with the marks of the torture, this shall be performed in the colt (*equuleum*), and in the session of interrogatories made in the torturing-room, the reason shall be always declared why the torture was given upon the colt, and not in the poley; and in all sessions of interrogatories, the hour when the torture began, and at what hour it ended, shall be also declared.”

Let me now ask, if the tortures inflicted by the inquisition are so just and necessary, why the inquisitors should be so desirous, before the wretched victims make their appearance, that all marks or signs of the torture should be obliterated? The answer is obvious—because it is the constant practice of the inquisitors to commit the greatest cruelties in private, and to exhibit to the world the deceitful appearances of moderation, meekness, and mercy.

Another instance. The studied care with which the inquisitors endeavour to persuade the public that they treat their prisoners with humanity, while at the same moment they are privately harassing them with every possible barbarity, is a circumstance fully ascertained by my own experience: but that people may not consider the facts I

could relate as an exaggeration, I will content myself with transcribing here the Bye-laws on the subject, by which, I think, that the defenders of the inquisition will be entirely precluded from saying that I am guilty of exaggeration, for I give their own words, from their Bye-laws, in Book ii. tt. 22, where the arrangements necessary previously to the celebration of the *auto da fe* are thus noticed in § 3.

“Be it ordained, that all penitents (or rather condemned persons) shall go decently dressed, and for this purpose, eight or ten days before the *auto da fe*, they, (the inquisitors) shall make enquiries of the gaoler, what persons are in want of clothes, and shall order each to be provided with the necessary quantity, according to his quality.”

If the clothing, I ask, be given to the prisoner to shelter him from the rigour of the season, why do they not take a similar care during the whole time they retain him in their prisons? It is evident, then, from this extraordinary attention to clothing the prisoners only on the occasion of the *auto da fe*, that the aim of this seeming charity is to impose upon the public, by endeavouring to convince it with this show, that the criminals are very well treated in the prisons of the inquisition.

Another instance. The admonitions, professions of charity, and advice, which the inquisition says are given to the prisoners, are a mere farce, for their sole intention is to extract evidence from the prisoners against others, under imagined but vain hopes of mercy and pardon, and with the view of concealing their thirst of vengeance under the appearance of virtue. The following is a scene in one of these farces, taken from their Bye-laws, Book ii. tt. 14. § 5. vers. *And when*, where directions are given how to administer the tortures.

“And when the prisoner is tying up, the notary shall

go to him, and in the name of the inquisitors, and other ministers, who have taken any share in the prosecution of the cause, shall protest, that if he, the criminal, should die during the infliction of the torture, have any limb broken, or lose his senses, the fault must be considered his own, (for he voluntarily exposes himself to such a risk, which he might avoid by confessing his crime), and not be imputable to the ministers of the holy office, who sentenced him to the torture, according to justice and the merits of the cause."

The canons of the church inform us, that any clergyman who may wound, or cause bloodshed, shall be deemed irregular; and the priests bring forward these canons as proofs of the excellence of their customs: but with what face can they publicly boast of the humanity of their laws, when their practices in private are such as are declared in the foregoing quotation? This protest partakes more of comic merriment than of any thing serious, where it says, that the prisoner voluntarily exposes himself to the risk of the torture. If the prisoner be tied up, and surrounded by executioners, can it be said that he is there voluntarily? It says that he voluntarily subjects himself to a punishment, which he might avoid by a confession: but suppose he may be innocent, and have nothing to confess? The inquisitors do not yet know whether he be guilty or whether he be innocent, and therefore the torture is ordered, that the confession of the prisoner may fill up the vacancy in their suspicions or presumptions of his guilt, and that some proof may be had which did not exist before. But even supposing that the crime should be proved, the inquisition is still liable to the prohibitory canons of the church; because, according to those canons, no priest can pass a sentence in any criminal cause, to which a bloody penalty is annexed. So well known is this particular prohibition to the inqui-

sition, that to save appearances in the public eye, some of the judges of the secular high court of justice, or other bar ministers, are always present at the *auto da fe*, who sign the sentences of capital punishments; and this they call in their technical phrase *relaxing* (or giving up) criminals to the secular court. And it is also known that these secular ministers are not at liberty to pass judgment on the merits or demerits of the various cases, and they have no other alternative but to do what the inquisitors order them to do, as is expressly remarked by Simaneas;* which writer asserts, that the lay judge is obliged to condemn and to execute the sentence, in cases of heresy, with his eyes closed as it were, and without taking any cognizance, or informing himself at all as to the circumstances of the cause. This then forms the pretended sincerity, candour, and frankness of the proceedings of the inquisition.

9. Another instance. If charity had any influence over their actions, if the inquisitors really wished to treat their prisoners with propriety, they would shew the sincerity of their wish, by not intercepting the kindness of others to these wretched beings: but the case is quite the reverse, for all those individuals, who are allowed to gain access to the prisons, with a view to speak to their inhabitants, are expressly prohibited from doing them the most trifling favour. That I may not be suspected of any exaggeration in this respect, I give an extract from the Bye-laws, Book I. tt. 14. §. 11. which treats of the gaoler.

“ He shall deliver also to the prisoners, all that may have been ordered and provided for them, in this visit, as soon as he shall have received the same from the treasurer: but he must do no more, neither must he give them any thing belonging to himself, or permit the prisoners to offer money to buy it.”

* Simaneas de Cath. Inst. tt. 36. §. 4. 5.

In the same book I. tt. 15. §. 3. is the following passage, relative to the guards or turn-keys of the prisons.

“To all prisoners they (the turn-keys) shall behave with civility, and without partiality to any of them, and they shall give to them every thing which the board shall direct, by the order of the gaoler, in its proper time: but, independent of this, they shall not let them have any thing more, even though it belongs to themselves (the guards) or the prisoners should offer them money to entice them to sell it.”

The exquisite caution in providing against the possibility of the prisoner's offering money for any thing he wishes to have, is truly admirable; because prisoners, on entering the prison, are searched most minutely, and all money is taken away from them, as well as every thing of value, which may be found about their persons.

But such is the charitable mania of my lords the inquisitors, that they cannot think of allowing any one to perform an act of charity towards the prisoners, lest it should deprive them of that opportunity of exercising their virtues!! This charity, assuredly, is not the same as that enjoined by the gospel of Jesus Christ; but I must confess, it is strictly in unison with the morals of those who, vauntingly stiling themselves his imitators, adopt for their arms the cross and the sword: I wish very much that my lords the inquisitors would have the goodness to explain to me (for I have not yet made the discovery in any books of heraldry) whether this sword is that which Jesus Christ ordered St. Peter to put up into the scabbard, or if it be the exterminating axe, with which the inquisition has almost depopulated Portugal and Spain.

10. Another instance. I must observe here, that the prisoner is not only obliged to become his own accuser, an iniquity justly reprobated by the laws of all nations, but he is under the necessity also of swearing to the truth

of such evidence, which in Portugal is a crime; for the ordinances of the kingdom expressly forbid the tender of any oath to defendants, while they are undergoing an interrogation about their own crimes: but this, like many other practices and artifices of the inquisition, is calculated to appal the timid and pious. It is with the same views that the inquisitors make use, now of soft words, now of threats, now of promises, that, in some instances, they order the prisoner to sit down during the interrogatories, and in others affect to pity his misfortunes, in order to tempt him to confess; as was my case when the inquisitor told me that I might demand an audience at any time I should like, even supposing that I should have nothing else to say, except to unbosom myself, and to alleviate my sorrows by communicating them to some individual. Sometimes he had a paper in his hand to induce me to believe, that he was reading those facts there, which formed the subjects of his arguments.*

As for the promises of mercy and favour with which the inquisitors delude their prisoners, it is necessary to remark, that the most insignificant condescension they can shew to them, is sufficient, in their opinion, to save their word, and to induce them to consider those promises as completely fulfilled: because, to use the language of inquisitors, even punishments to an heretic are favours, and the more so, as, by those promises of mercy and

* If the reader should hesitate to believe these facts, he may be assured of their truth by recurring to the *Directorium inquisitorum* of the celebrated Nicholas Eimeric, where, in p. 3. he will find pointed out the methods in which the inquisitors must vary the manner and form of the interrogatories, according to the circumstances of the prisoner, and the dictates of their own judgment. This book, according to the Bye-laws of the inquisition, must be always kept upon the table among the other necessary books.

favour, they mean only a remission or modification of those penalties that are within the power of their will to inflict, and by no means those ordinances of the law and canons, which they are obliged and ought to obey.*

In short, that no wickedness may remain unexecuted, which may conduce to the grand end of knowing every thing they can about the prisoner, they send to him some person who, either as a prison associate, or under some other pretext, may insinuate himself into the confidence of the prisoner, and at length prevail on him to confess all. Such a thing certainly did not happen to me; but nobody can alter the persuasion I feel, that the infamous dominican friar, appointed to be my confessor, was properly instructed in his lesson to me; for all his endeavours tended to impress me with a belief, that I ought to confess all, and that on doing this depended the happy issue of my cause. Availing himself too of sacramental confession, he was always making enquiries about many minute circumstances, which, unless such conduct may be ascribed to excessive curiosity, could have arisen, in my opinion, from no other motive than that of complying with the instructions he had received.

Now, let us turn our thoughts a little to those arguments which the defenders of the inquisition may urge in their favour. Against authorities cited from their own jurisprudence, they most assuredly can say nothing. It is true, however, that they may use the general assertion, that the horrible laws of the holy office are obsolete, though the laws themselves are not repealed. This, however, is a popular rumour unjustly spread by the inquisition, which can mislead those only who do not consider the subject with

* So says Pegna. Com. 23.

sufficient deliberation. I once gave credit to this delusion, but I could not well help being convinced of my mistake, when the inquisitors themselves gave me a practical proof of the real truth. I then naturally began to reflect upon what I had never before suspected, and to feel assured, that mere reflection is not sufficient to make the world acquainted with the actual practices of this tribunal. It is much in the favour of the inquisitors, that they have the power of spreading every where their false reports that they treat their prisoners with great humanity, reports which they not only direct their officers and dependants to insinuate at every opportunity, but at the same time they artfully prohibit their prisoners, particularly those who have the most information to communicate to the public, from saying any thing concerning the scenes they have witnessed in the inquisition, under severe penalties; and on their promising this, an oath is extorted, which is rendered binding by a formula written by a notary, and signed by the prisoner: excellent care too is taken, at the same time, to intimate to a prisoner, (as they did to me very often) through the medium of the confessor, gaoler, and guards, that he is at liberty to say what he pleases in favour of the inquisition, as to the good treatment he has received during his confinement, and the mercy exerted towards him, notwithstanding the enormity of his crimes. And who is he that, after experiencing the rigour of such a tribunal, shall dare to defy the vengeance of those priests, by revealing the particulars of their conduct? He only can do so, who, like me, has to endure the melancholy satisfaction of knowing that he is doomed to perpetual banishment from his own country, where safety for him no longer exists, while such despotism shall prevail there.

Let us now analyze what are the component materials of the difference alleged by the inquisitors, between the

present proceedings of the inquisition, and those which took place some years ago.

First. They say that *autos da fe* are no longer in existence—but in what respect does this prove a reformation in the proceedings of the inquisition? Every body knows, that if there are no *autos da fe*, it is not from a want of will or anxiety on the part of the inquisitors: indeed, the present inquisitor-general, a man of bad heart, and whose disposition is such, that if he could let loose the reins, Portugal would soon be deluged with blood, has used great exertions in this respect; and he would have obtained his point through the powerful interest which his elevated situation commands, had he not found the most determined opposition in the ministry; and had he not, which was still more fortunate, been luckily out of favour at court, where his behaviour has rendered him not a little notorious.

The wishes of the inquisitors to renew these *autos da fe*, arise chiefly from motives of pride, and the vanity of giving the greatest eclat to the triumph they obtain over their enemies: did they consider, however, their real interest, instead of sacrificing it to vanity, they would easily perceive how advantageous the discontinuation of the *autos da fe* would prove to them, for two reasons: first, because these *autos da fe* would rouse the ministry, already dissatisfied with the evils the inquisition has brought upon the state, in diminishing the population, by their persecutions, in obliging so many people, through their vexatious proceedings, to leave the kingdom, and in procuring for the Portuguese nation, not only a ridiculous character, but the most studied contempt on the part of other nations, who conceive that they are the most superstitious and ignorant people of Europe, for suffering such a thing as the inquisition to be among them—and secondly, because the Portuguese nation, in the present day, begins

to acquire more knowledge than it possessed fifty years ago, notwithstanding the great care taken by this tribunal and its partizans, to keep the people in ignorance. Under such circumstances as these, if the persecutions and cruelties of the inquisition were so manifest as they were formerly in *autos da fe*, it would soon, perhaps, have strong cause to repent it: from whence it becomes evident, that the discontinuation of the *autos da fe* by no means detracts from the injustice of the general proceedings of the tribunal; particularly as the existence or non-existence of the *autos da fe* is, and always was, a matter of indifference in the exercise of its powers. Of course, if the institution be a bad one, and if their laws are cruel and sanguinary, the *auto da fe* neither adds to or diminishes its intrinsic badness.

The craft exhibited by the inquisitors, particularly by the Cardinal Da Cunha, grand inquisitor in 1774, in suspending the practice of the *auto da fe*, is very well known, even from the hypocrisy and duplicity of their own assertions, which are to be found in the last Bye-laws of the inquisition, ordained by the same Cardinal Da Cunha, in order to appease the Marquis of Pombal, who was meditating its total destruction. Book II. tt. 15. pr.

“ History having shewn us, by incontestible facts, that the *autos da fe* ordered in the Bye-laws of D. Pedro de Castilho, and D. Francisco de Castro, which were fabricated by the Jesuits, and even sanctioned by having the impress of the arms of that perverse and already extinct society, were another malignant invention of the same regulars, to extend the ignorance and fanaticism they had introduced into these kingdoms, with the general reprobation of all foreign nations, notwithstanding which, and though it was capable of illustration, that neither in good and sound philosophy, in christian morals, religion, or politics, any reason or ground whatever was to be as-

signed, in excuse for or justification of these ostentatious acts of horror and public agony, yet they calmly looked on solemn and pompous processions of wretched prisoners to a theatre or scaffold, erected in a church, that they might there hear their sentences read, thus profaning the temples dedicated to God, and to his holy worship, with indignities and indecencies, and exciting the public curiosity, both in the native and foreign ministers of the higher authorities, to witness such sights, and enabling them to make known in their writings, all over enlightened Europe, the deplorable state of these kingdoms; when such *autos da fe* were required only in cases of indispensable necessity, and to avenge affronts offered to religion, particularly in such cases when, as must be known to the people, arch-heretics and dogmatists in disguise, which they are obliged to resort to, to avoid detection, as happened a few years ago with the monster Gabriel Malagrida, having precipitated themselves into errors, then endeavour to disperse them like contagion, and shake religion in its most solid and firm foundations. Such was the wickedness of those regulars, who not only introduced the said *autos* into common and general practice, but even published the names and crimes, and numbers of the unhappy prisoners, that appeared in the *autos da fe*, in a printed list, with a view of perpetuating the infamy of the miserable criminals, and disgracing their descendants, to the great horror of all the pious and civilized world."

Such is the preface of this remarkable title, and who does not descry in it hypocrisy, adulation, and falsehood? How can the lying inquisitor-general dare to impute to the Jesuits the invention of the *autos da fe*, when every body knows, that many years previous to the existence of the society called Jesuits, the *autos da fe* were practised in Spain, and other parts, and that if they were

not then in use in Portugal, it was because no regular inquisition at that time had been established in that country? To allege that the Bye-laws of the holy office, made by D. Pedro de Castilho, in the year 1613, bear the arms of the Jesuits, is another remarkable proof of their cavilling. I have read and possess a copy of these regulations, and what they are pleased to term the arms of the Jesuits, is nothing more than a kind of ornament, wherein those arms are found, between the title and the date of the print, an ornament in common use with almost every printer, and in those times customarily employed as a decoration to the title-pages of books: in proof of which it is only necessary to observe the editions of most of the books printed at that period, and even after the abolition of the order of the Jesuits, and these ornaments will be found to have been commonly used by printers. The grand inquisitor, Da Cunha, of course, could not be ignorant of this, and therefore only produced this ill-founded calumny against the Jesuits, in order to flatter the Marquis of Pombal, who was endeavouring, at the time, to expose to the public odium, other, but better founded, evils which the Jesuits had caused.

Besides, the inquisitor affects a willingness to abolish the *auto da fe*, and states such strong reasons in proof of his readiness, as to persuade the reader, that another *auto da fe* will never take place: but so far from this being the case, he himself establishes exceptions with the view of leaving open some door for renewing such scenes whenever it might be deemed convenient; and, in fact, as soon as the Marquis of Pombal died, the inquisition endeavoured and obtained permission to restore the *autos da fe*. Accordingly, in the beginning of the reign of her present majesty, three *autos da fe* were celebrated, one at Lisbon, another at Evora, and another at Coimbra, in which many prisoners appeared, none of whom were

either arch-heretics, or dogmatists. Such is the sincerity of the inquisition.

In the eleventh and last paragraph of the same title, the inquisition prohibits the printing of lists of condemned prisoners, assigning as a reason, that ill-intentioned people have taken advantage of those lists, to render disservice to God and the king. Admirable piety indeed! I know of no use that has been made or that can be made of these lists, except that which some writers have availed themselves of, by reckoning up the number of victims the inquisitors have sacrificed to their ambition and tyranny; and shewing, in this authentic way, the evils which the inquisitors have produced, both to religion and to the state. This is the only reason why the printing of these lists is now prohibited.

Second. They allege, that from the time of the ministry of the Marquis of Pombal, the inquisitors have been under the necessity of exhibiting the names of the witnesses to the prisoners. But I have already shown, in another place, by what methods the inquisitors elude an obedience of this royal order: besides, as they still continue to keep every proceeding of the tribunal in inviolable secrecy, it is absolutely impossible to ascertain or detail all the abuses which the inquisitors may commit in this respect

Third. They boast that the mildness of their present punishments is humanity itself, compared with the butchery formerly practised by the inquisition. But to whom is this moderation to be ascribed? All the world knows, that it is no difficult matter for the inquisitors to burn their prisoners, and at the same time to evade an absolute infringement of the ecclesiastical canons, which prohibit the priest from interfering in bloody sentences, by resorting to the subterfuge of making the secular judges perform the office of writing the sentences. As the ministry does not allow them now to avail themselves of the assist-

ance of these judges, of course they are precluded from relaxing or giving up criminals to the secular court, as they say, when they order any wretch to be burnt: consequently, it is necessity alone that prevents them from burning people. But what is the consequence? They kill the miserable prisoners themselves with bad treatment, by condemning them to perpetual secret imprisonment in their dungeons; and the nature of these dungeons, the food, &c. are such, that the inquisition has seldom the trouble of maintaining its prisoners for many years.

The inquisitors have also sedulously spread reports that the mildness of their punishments is at present such, that even torture is abolished: this assertion is a downright falsehood, because in the very last Bye-laws of the holy office, of 1774, in Book II. tt. 3. the torture is positively ordered, and even the cases are specified wherein it must take place, particularly the case when the prisoner is required or wanted to discover his accomplices; and what is still more remarkable, this determination, too, comes after a long preamble, wherein it is said, that torture is against the law, against the intentions of the most merciful mother, the church, and against the very end of the processes.*

* I never suffered the torment of torture, properly so called; but who can doubt that the form of the whole of my trial was calculated to have effects similar to those of the torture? I had moreover an opportunity of observing one of their instruments of torture, called the colt, or equuleum. This is a frame of wood in the form of a bedstead, about the length of a man, two feet wide, and one foot and a half above the ground. Lengthways, in this frame, there are several pieces of wood crossing from side to side like the steps of a ladder: but these steps are in the figure of triangular prisms, with one of the angles turned upwards, and upon their edges the person who is to be tortured is laid naked, with his back over the steps, and his neck encircled by an iron bolt or ring, fixed in one of the

All punishments not affecting life, which the inquisition has the power to inflict without committing itself, and without the intervention of secular judges, are in frequent practice, and executed with all possible rigour.

tops of the frame. The prisoner is then tightly fastened with many slight ropes by the arms, legs, and other parts of the body, in such a manner, that the different ligatures of the ropes not only have a severe pressure on the different limbs, but they keep down the whole body against the steps of the frame to which the sufferer is tied, with the greatest violence.

Julius Clarus, in his criminal practice, (§ fin. quest. 64. vers. *nunc de gradibus*) explains the method of torture in the following manner: "Now as to the degrees of torture there are five, viz. first, the threat of torture; secondly, being carried to the place of torture; thirdly, by stripping and binding; fourthly, being hoisted upon the rack; and fifthly, dislocation of the limbs. Gonsalvus (p. 16.) says, that this stripping is performed without the least regard to humanity or decency, not only to men but to females, whether married or unmarried, and of the most discreet and virtuous characters, of the latter of whom they have some times many in their prisons. They first cause the females to be stripped to their very chemises, which are afterwards also taken off, so as to reduce them to a perfect state of nudity, and they then put on them straight linen drawers, permitting their arms to be uncovered quite to their shoulders. As to dislocation of limbs, it is thus performed: the prisoner has his hands bound behind his back, and a weight tied to his feet, and then he is drawn up above ground, by the rope tied to his hands, till his head reaches the very pulley. He is kept suspended in this manner for some time, that by the greatness of the weight hanging at his feet, all his joints and limbs may be stretched; when, on a sudden, he is let down with a jerk, by slackening the rope, but not permitted to descend quite to the ground, by which terrible operation his arms and legs are all disjoined, and he is put to the most exquisite pains, while the shock which he receives by the sudden stop in his fall, and the weight at his feet, stretch his whole body more intensely and cruelly.

Besides these, they make use of other tortures, as the application of fire to the soles of the feet, pouring water by degrees into the mouth of the prisoner until he is ready to burst, &c. &c.

The public knows nothing of this, as the sentences are no longer published in the *auto da fe*, and the criminals, instead of suffering their punishments at the same time, as was the case at the *autos da fe*, now undergo them at different periods, one after the other, and in such a manner that nobody thinks of it: but during the time of my confinement in the prisons of the inquisition at Lisbon, seven persons, five men and two women, were whipped and publicly pilloried at different times, many were condemned to transportation, to the galleys, to hard labour in the king's rope manufactory, and other punishments, without reckoning those unhappy wretches who died in that horrid abode, without any one knowing what became of them.

In these respects, indeed, I am acquainted with facts that the inquisitors perhaps very little suspected would have come to my knowledge: but I deem it right, for the sake of humanity, and the credit of the nation, to defer the publication of these until a more convenient period. The documents, nevertheless, are in my possession; and when their publication may really tend to remedy the evils complained of, which it might not do at the present moment, they shall appear.

The case that occurred six or eight years ago, at Coimbra, is very well known. A clergyman came to the windows of the palace of the inquisition, which face the street of St. Sophia, and within the iron grates of the window of the upper apartments loudly entreated, that for God's sake somebody would pick up the little bits of paper written on with brick-dust, which he was throwing into the street, as they contained a narrative of his troubles, and the injustice he had suffered for fourteen years in the secret prisons of the inquisition; and he begged also that from motives of charity some one would represent his case to her majesty, that she might give instructions for

investigating the cause of the unmerited tortures to which he was continually subjected. This clergyman had by chance escaped out of his cell, and found his way to that window; but some guards immediately followed, and pushed him from the grates of the window, as was observed by many persons in the streets: but no one dared to touch one of the little bits of papers, which lay undisturbed until one of the officers of the inquisition came out and picked up all of them. A few days after this affecting incident, the president of the inquisition at Coimbra precipitated himself from a window, and died instantly—his companions reported, that he did this from mental derangement: but many people said that the president feared being either reprimanded or punished by the grand inquisitor, for his want of care, in permitting to transpire to the public ear that the unfortunate clergyman had been undergoing confinement there for fourteen years. Whatever might have been the motives of the president for killing himself, we are fully justified, from the whole case, in presuming, that the torments complained of by this unhappy prisoner were not confined to him alone, but that many others may be suffering the same martyrdom, whose existence perhaps it will never be possible to ascertain. Such then have been the proceedings of the inquisition since they have been withheld from inflicting the punishment of death!

Besides, the secrecy which is still continued to be allowed to them in their proceedings, gives them ample power and full opportunity to commit as many atrocities as they may think proper. The following is another instance in direct proof of the manner in which they actually conduct themselves, and how they abuse the authority entrusted to them.

During the period of my imprisonment in 1803, a man was sent to the prisons of the inquisition from the island

of Madeira, whom the commissary of the inquisition in that island, from particular motives of his own, but under the pretence of his having committed crimes cognizable by the holy office, had previously kept in prison there for more than a year: when the man arrived at Lisbon, the inquisitors found he had been unjustly treated, and in a few days they set him at liberty. On this individual being released, agreeably to advice given him, he requested the president of the holy office to furnish him with a certificate, or any other document, by which he might convince his countrymen, when he returned to Madeira, that he was innocent, and be thus enabled to free himself from suspicion and infamy, which await an imprisonment by the holy office. The inquisitor reprimanded him very severely for making this request, and refused to give him what he asked, assigning, as a reason for his conduct, that such a certificate would be to the disadvantage of the commissary who had thrown him into prison. He, then, threatening to send him back again to prison if he did not immediately depart for his own country, or quit Lisbon, in the first ship that should sail from thence.

Fourth. They allege, that the *new* Christians, or people descended from the Jews, do not any longer suffer those manifest oppressions which in former times the inquisitors were accustomed to exhibit towards them. This assertion is partly true: but no praise belongs to the inquisition for this alteration of their conduct; since, if they had the power, the daily imprisonment of the Jews, and the confiscation of their property, would prevail as much as ever. I will explain this.

During the reigns of kings D. Emanuel and D. John II. the Jews were forced, by the intrigues of the priests, to be baptised, in order to avoid the great persecutions then instituted against them: but afterwards the same priests took occasion, from their baptism, to confer a title of infamy

on the Jews, by calling them, by way of contempt, new Christians, and, what is still worse, considering the same thing in the light of a crime; for the least act, or suspicion of an act, against religion, committed or excited by one of these new Christians, was fully sufficient to subject the unhappy person to imprisonment in the inquisition, and it was at the same time alleged against him, that he was a new christian. He was then told in the tribunal, that it was his duty to confess every thing comprised in the information against him, if he wanted to save his life, without informing him what the crimes were of which he was accused: consequently, the poor wretch accused himself of every thing that his imagination could conceive, to make his evidence credible, without caring what crimes he heaped together upon his own head, under the impression, that if he were to deny the justice of the information against him, and refuse to reply to the accusation, that he should be burnt alive as negative: * but that by becoming his own accuser, he might be thought confitent, † and have his life spared. Such a prisoner was of course tried and condemned, in consequence of his own accusation, and he moreover appeared in the *auto da fe*, where a sentence was read against him, declaring him guilty of the crime of judaism, which merits the severest punishment, but from which he was exempted, in consequence of his confession, and submitting to other penances: his property, however, in all cases, was confiscated for the use of the holy office. This practice continued from the time of the establishment of the inquisition, until the reign of king D. Joseph.

The celebrated law called the Jews law, enacted during

* So they call in the inquisition the prisoner who pleads not guilty, or denies the crime.

† Confitent is called in the inquisition the prisoner who pleads guilty, or confesses the crime.

the ministry of Pombal, decreed that infamy or any mark of disgrace should not attach to the descendant from a new Christian, either in public or in private; that such a circumstance should not be considered as a crime; that the descendants from such baptised Jews should be deemed the same as other Christians; and that they should be punished only for those crimes which they actually committed, and were convicted of in the same manner as other persons. Notwithstanding the obvious justice of this law, one of the gaolers of the inquisition dared to intimate to me, that this irreligious law was obtained by the Jews through the means of an immense bribe. It is rational to suppose that this gaoler had heard this singular report from his employers, or perhaps they had ordered him to spread it abroad for some purpose or other among the people.

Fifth. They complain of a circumstance which they no doubt lament—of the little authority that government has permitted them to retain. But if this be so, it is more a matter of fact than of law; for as the laws of the inquisition are still in existence, the inquisitors may, most assuredly, be expected to revive and put them in force, as soon as circumstances will permit them to do so. The whole court of Lisbon is well aware of the disgrace of the present grand inquisitor,* and of the little influence he

* The present grand inquisitor is D. Joseph Maria de Mello. He was formerly a priest of the Congregation, in which convent he gave early symptoms of his hypocrisy and fanaticism, which were misrepresented to the court as eminent virtues; so that what with his nominal virtues, and his being descended from one of the most distinguished families in Lisbon, the ministers were induced to confer upon him the bishopric of Algarve, which he afterwards resigned, on being made inquisitor-general, although he still retained the title of bishop of Algarve. This resignation has been held out as a proof of his disinterestedness; but it is my duty to observe here, what he gained, by leaving the poor and troublesome bishopric of Algarve. In the first place, D. Joseph Maria, obtained an addition of

possesses in the palace, on account of his misconduct during the time he occupied a conspicuous situation there, and for other reasons equally well known: his only support is the intendant-general of police. But as soon as the Portuguese shall be so unfortunate as to be cursed with another grand inquisitor of greater influence in the ministry, or should the present grand inquisitor succeed hereafter, in re-acquiring his former interest, there can be little doubt that the laws of the holy office will be

dignity, because the place of grand-inquisitor is, and always has been, considered the highest ecclesiastical dignity in Portugal, though the rank of patriarch, since established in Lisbon, is undoubtedly higher. Secondly, he gained by being enabled to reside in Lisbon, near his family and relatives, instead of being exiled, as it were, at Algarve; for every body knows of what importance it is to the ambitious to be in the vicinity of a court. Thirdly, he gained in consideration and consequence, by obtaining the post of confessor to the queen, which naturally gave him the first interest, which he might have still enjoyed, had he not forfeited it, by making too many demands upon it, as is well known, though prudence prevents me from going into further particulars. Fourthly, he gained in rents, because he resigned his poor bishopric of Algarve for 12,000 crusados, the salary of the grand inquisitor, independent of other emoluments, which emoluments arise from the fees to counsellors in the inquisition high council, and amount to a considerable sum in the year. The chair of principal in the patriarchal church was suppressed, on purpose that he might enjoy the salary, in order to make some addition to his small revenue, as grand inquisitor, of only 12,000 crusados. A famous palace was also assigned him to live in, in the best square of Lisbon, with the benefits at Coruche, of 500,000 reis, a coach, horses, and servants from the king's stables, which altogether cannot be estimated at less than 800,000 reis a year. He received rations also from the king's kitchen, until the illness of her majesty, when he had a pecuniary compensation instead, with a present of as many pieces of six-mil-four every year, on the 17th day of December, as her majesty had completed years of age on that day. He is moreover president of the tribunal for bettering the religious orders; so that a person cannot be said to have been very disinterested, who resigned a poor benefice when such profits accrued from the resignation.

again enforced—so that it is not from an expectation absolutely vain, that these laws have been permitted to lie dormant, without being repealed.

The *auto da fe* celebrated at Madrid on the 30th of May, 1682, was preceded by an interval of forty years, during which there was no *auto da fe*, the circumstances of the times not allowing the inquisitors to indulge their cruelty. From whence we may learn, that the silence of the inquisitors for a time, is merely the delay occasioned by their waiting for the precise moment when they may revive their system of public tyranny and terrorism.

Of this we have some modern and decisive instances in the later *autos da fe*, celebrated at Lisbon, Coimbra, and Evora, in which appeared many persons for crimes committed during the reign of king D. Joseph, and the ministry of Pombal. The inquisitors did not dare to interfere with these cases, during the continuance of a ministry which was unfavourable to them, but kept their rancorous wishes buried in silence. Immediately, however, after the death of king D. Joseph, they attacked those crimes which seemed to have been consigned to oblivion, pursued their intrigues with ministers, and when no one had the least expectation of such an event, the guilty individuals, guilty at least in the eyes of the inquisition, made their appearance in the *autos da fe*, amongst whom were some of such merit, that they would have proved ornaments, and an honour to the nation, had their talents been valued as they deserved to be.

After such an instance as this, no one who reflects in the least, can help acknowledging that the principles of the inquisition are still the same identical ones that they always were, and that the inquisitors will not hesitate to carry them into execution, whenever circumstances shall afford them the wished-for opportunity.

Sixth. They allege also, that it will be very difficult for

the inquisitors to obtain permission to revive their system of persecution; because, say they, the present times are not favourable to it; there are in the nation more men of science and learning than formerly; and the spirit of fanaticism being so damped, the representations of the inquisitors can have very little effect, though circumstances may allow them a greater influence in the ministry. But this reasoning can persuade only those persons who are not acquainted with the character of priests in general, beginning with the court of Rome, and descending all the way down to a capuchin small convent, which they would find like theameleon, wonderfully fond of accommodating itself to all circumstances, and to the ideas even of those individuals with whom it comes in contact. Under a ministry of devotees, and in ages of superstition they speak only about conscience, adduce arguments from the holy scripture, which they of course construe in their own way, talk of respect and veneration for the censures of Rome, and the like; but if they gain admittance into a ministry of activity, and desirous of promoting the real interests of the people, you will see them immediately change batteries. In this case their arguments of persuasion seem to spring from motives tending to the good of the state or the safety of the throne, and they endeavour to impress the necessity of maintaining religion, in order to preserve good morals, and other like reasons, which though in themselves absolutely true, are relatively to them and to their intentions, merely impostures; since the vanity of inflicting public summary vengeance on their enemies, a cupidity of money to enable them to maintain their pompous way of living, their pride, and other vices, form, as all the world must know, their real views—for by a true regard for religion, such men never were nor ever will be actuated.

Among the proofs of the Analytical and Chronological

Deduction, &c. of Seabra, a letter appears from king D. Pedro II. to the pope then reigning, in which he informs his holiness of the crimes and abuses committed by the inquisition, and of the confusion and want of order prevailing in their modes of trial, chiefly on account of their listening to secret informations: but what was the result? As the king did not think his authority sufficient to enable him to support his supreme power by punishing those who had been guilty of unjust oppression towards his subjects, the pontiff ordered his nuncio, or collector, at Lisbon, to take cognizance of the case: but the inquisitors refused to pay obedience to the pope, who, at last, thought it most prudent to overlook the matter, in order to avoid the necessity of inflicting a punishment on the inquisition, which might not only have thrown a considerable discredit on the priesthood; but would have lessened the profits that the court of Rome derived from supporting the influence, and maintaining the dignity of this tribunal.

I could say a vast deal more concerning the establishment of the tribunal of the inquisition: but I have said sufficient, I conceive, in reply to the unjust attack of that man, alias priest, alias notary of the holy office. I will now, then, say a few words more about my own affairs.

The inquisitor and his little civil notary, in the last audience I had, continually asserted, that I and the other prisoners were the sole causes of the delay which occurred in our various trials; for the tribunal of the holy office, said they, always uses the greatest expedition in the dispatch of business.

Let me now retort in answer to this, which I did not think it right to do then, as I intended that that audience should be my farewell one, and under such circumstances it was more convenient to hear than to speak.

The trials in which the inquisition really uses great

expedition, are of such necessitous people only who have no money to pay the expences of their maintenance in the prisons! as for those who have any property from which the inquisitors may be repaid the amount of their expenditures on the prisoners, they are every thing else but expeditious, though, even then, it is necessary to observe, that they use means enough every day to remind their prisoners, as it happened with me, of the miserable scanty allowance they chuse to allow to them, alleging this as a proof of their pretended charity; and yet, at the end of the trial, they enter amongst the costs, those called expences of imprisonment, and God knows what price they affix to the various articles, and with what conscience they can set them down. But these mockeries of pretended charity are essentially necessary to aid their views. Would to heaven that this charity had been withheld from me! for being denied all communication with others, and not being permitted to send out for clothes, food, or money, if they had not allowed me some miserable rations to support life, the pleasure they derived from tormenting me would have been put an end to long before the expiration of eight days, as without eating I must undoubtedly have been starved.

But let us return again to the point: In what respect had I been guilty, or indeed was I capable of delaying my trial? If the delay arose from my not petitioning and proceeding as I ought to have done, it was their fault—not mine; for I acted, as I conceived, for the best, and suitable to the justice of my case, and they never thought it proper to advise me how to act; on the contrary, keeping me always from all access to, or communication with others, of course, I was most entirely ignorant how to proceed, although they might have rescued me from that state of ignorance, which they did not chuse to do:

Whose fault, then, was it, if I did not petition and proceed according to their wishes?

If the fault of the delay may be attributed to me, it was occasioned by my refusing to confess, as a crime, what, though they chose to say so, was never considered a crime in any individual, by any laws. The whole of my case is this:

I was imprisoned for being a freemason; to this accusation I answered, confessing the fact, because it was true, and because I wished, by that confession, to obtain the favourable treatment which they promised me: but they will, no doubt, say, that I forfeited the benefit which I intended to gain by my confession, since it was necessary for me to confess more, and particularly to tell what was the situation of the freemasons' lodges in Portugal, under the jurisdiction of the grand lodge of Lisbon; to give up the names of those freemasons who were my associates; and to give the particulars of the business I had transacted in the grand lodge of London, relating to the lodges of Portugal.

But if such an argument as this be allowed any weight, no confession could be of service to a prisoner, by obtaining for him a milder treatment, since whatever might be the amount of his confession, and his confidence in the promises of the inquisitors, they have merely to say, that he must confess more, and do this or do that; and as the prisoner cannot perhaps confess more than he has already acknowledged, they immediately consider as useless all his former confessions, so far as mercy is concerned, and what is more, take advantage of these confessions to condemn him.

They may say, too, that in the secular courts of justice the judges avail themselves of the prisoner's confession to condemn him; but, to this I answer: first, that in the

secular courts the mere unsupported confession of a criminal is not sufficient to authorise his condemnation, unless there are other proofs; and secondly, that the judge is absolutely forbidden, by law, to hold out any promise of pardon to a criminal as an incitement to confess: and the judge guilty of such an act, would commit a flagrant breach of his duty.*

They said, that, in my case, they did not direct me to confess crimes invented by them, with a view to annul or invalidate the merits of my having confessed that I was a freemason; but they brought forward facts which appeared to be proved by the papers which they found in my possession; such as my knowledge of the actual state of the lodges of freemasons in Portugal, my intimacy with persons belonging to the same order, whom they pointed out, and my negotiating business in London for the Portuguese lodges.

Be it so: but my denial, in this case, could not nor ought not to have delayed my trial, since, if they knew that what I denied was true, they ought to have condemned me, and not to have delayed my cause, as a punishment for my denial; neither ought they, because I tried to defend myself, to have punished me a second time, for again denying what I was accused of. This double punishment for one single crime was indeed visiting me with severe injustice.

Besides, that part of my examination in which I refused to answer, was not essential to the formation of my crime, but merely incidental. The principal crime was, that I had become a freemason; this I confessed—to have negotiated business in London, relating to the freema-

* Some remarks, illustrative of this point, may be seen in *Ferreira Practic. crimin. tom. 4, cap. 1 and 2.*

sons of Portugal, or to know the persons composing the lodges, was evidently extraneous to the crime, supposing it to have been one; I was therefore justified in refusing to answer, on topics so irrelevant to the proper subject of my examination. In this very part, to which I withheld my answers, the inquisitors had no proofs to adduce against what I said: as no witness could be procured to say that he knew, or even heard, of my having ever entered any lodge of freemasons in Portugal, and I had resided for so short a time in Lisbon, after having become a freemason in Philadelphia, that it was not likely I could be sufficiently well informed as to the state of the lodges in Portugal, to make the discoveries the inquisitors required. And even, had it been presumable that I could have given the desired information, it is clear that presumption is not, nor ever was, sufficient to constitute actual crime: to do this, proofs are requisite, which the inquisition could not command in any shape.

As to my negotiating business in London, and their deducing indications of it, from the papers they found in my possession, I have before said and proved, that from such papers no indications of my having transacted business could be had; for all of them were written by myself, and of course would admit of no other construction but that which I could give to them, as I have already explained. Even, however, if this had not been the case, and the papers had been written by other persons, or contained allusions to circumstances which my own wanted, still they could prove nothing; for no papers are deemed to be evidence on, or proof, except the public records.*

* *Litteræ privatae nunquam sunt probationes. Justinianus Imperator in Nov. 73. Probationes sunt testes vel chirographa. Heinee. Elem. Jur. civ. lt. De probationibus, et presump. in pr.*

And if the inquisitors should say, that when there is no proof, indications of guilt may be admitted as such, I answer, that nobody can be condemned by indications; * in short, if the inquisition conceived that those indications could be construed as proofs, and that they were sufficient to justify my condemnation, they were bound to pass a sentence, and to subject me to such penalties as they thought proper, with which I should have been satisfied, as I often told them, and not to delay my cause, by postponing the publication of the sentence. As long, therefore, as they shall be unable to assign sufficient reasons in justification of their conduct, so long I shall continue to elevate my voice as loud as I can against them, and to assert, that their motives for delaying the sentence were to punish me, and their accusing me of delay, nothing more than an attempt to wound my feelings, by an imputation equally unjust as it was mortifying.

* That I was unacquainted with the actual state of the masons' lodges in Portugal, and still more ignorant where their coffers, so much wished for, were kept, was my bare assertion. As nobody could testify that I knew these circumstances, or that he had seen me in a Portuguese lodge, a bare supposition also could only be entertained that I might know them in consequence of my being a freemason; but what legislator on mere supposition, unsubstantiated by a single proof, can constitute a crime? As for the suspicion of my having transacted some masonic business, however strong they might conceive it to be, still this did not amount to a certainty, notwithstanding any circumstances or coincidence tending to increase the probability. Amongst the innumerable legislators who have maintained this principle, let me be permitted to quote Bohemer. Elem. Jurispr. crim. sect. 1. cap. xi. §. ccxvi. and following. Coccei, Jur. controvers. ad tt. de probar. quæst. x. Cujacius ad. tt. 8. cod. lib. ix. Puttman. Elem. jur. crim. Lib. 2. cap. ix. & xvii. Pastoret. tom. 1. cap. x. Benjamin Conrad. tom. ii. cap. i. Bernardi; Discours couronnées, page 105. Servant. legisl. crim. Dissert. de la Nature, e force de preuves, e presomptions. Brissot, tom. iv. Bibliotheque, p. 245. tom. vi. pag. 155, and following; tom. vii. pag. 223 and 345. Criminal Tract. of Ferreira, tom. 4. cap. 1. n. 1, 2, and 3.

The truth is, that in the inquisition, either from ignorance or malice, these questions are multiplied, and facts are alleged without order or connexion, apparently with no other end but that of discovering some crime, whatever it may be; a method of proceeding that has no resemblance in any court of justice whatever. I will give an instance of this, which shall be the last.

A captain of a man of war, of 74 guns, previously to his sailing from Lisbon, signed a letter of attorney to one of his friends, enabling him to receive his pay from the treasury, and to deliver it to the captain's wife and family. The treasury delayed payment at the time when the pay became due, and the captain's friend observing, that this delay occasioned great distress on the family, he represented the case to one of the freemasons' lodges, stating, that it would be a great service to their absent friend if the amount of his pay were to be advanced to his family, and that as he had no money at the time, he thought it right to make the circumstance known to the lodge, that it might lend the money, as the captain of the man of war was himself a freemason. The lodge readily listened to the representation, and the secretary of the lodge wrote a note to the gentleman who made the communication, acquainting him, that the decision of the lodge was favourable to his wishes, and that he was at liberty to call on the treasurer of the lodge to receive the full amount of the pay. He also inclosed in his letter the letter of attorney given by the absent officer, which instrument was executed in due form by a public notary, that it might enable the gentleman to receive the amount of his friend's pay from the treasurer of the navy. This letter, by some means, with which I am unacquainted, got into the hands of some spy or emissary of the inquisition; and was one of the papers presented to me, and I was directed to reply to the arguments they founded upon its

contents, which, of course, did not tend to lessen the accusations against me. It must be observed, that this letter of attorney was dated at Lisbon, and at a time when I was at Paris; the instrument was not given to me, nor was I the secretary of the lodge who wrote the note before alluded to, on the treasurer, to pay the money; this paper was not found amongst mine, nor at my house; surely, then, it was a downright absurdity, to amplify the proceedings of my trial, and create still greater confusion by requiring me to answer concerning such a transaction. The inquisitor, however, laid great stress on this point, and used many pompous words about the truth and authenticity of the fact; "for," said he, "it is even authorised by a public notary;" but this authority of the notary extended no farther than his power to prove that the signature of the letter of attorney was genuine, and actually made by the hand of the captain of the man of war who executed it, with the view that his friend might be enabled to receive the money from the treasurer of the navy during his absence. The other circumstances were known only from the before-mentioned note, which was written in an unknown hand, and with abbreviations sometimes used by freemasons, on which the inquisitor put such constructions as he could guess from the context of the whole, though of course he was ignorant whether he understood the note in its proper sense or not. The inquisitor, nevertheless, ordered his notary more than once to write down in the process the proceedings of my trial, that I denied my crimes with great pertinacity, even though the proofs of my guilt were evident, from those papers, which were authenticated by a public notary, and were decisive proofs in law; and I do not doubt that in the sentence they meant to have passed against me, they would have made use of some imposing expressions to mislead those who did not know that a pa-

per authenticated by a public notary is produced as evidence against me, when it had not the least reference to my case.

Besides, to accept a power of attorney from an absent person, in order to receive his pay, and deliver it to his family, is a friendly action that is no way reprehensible, and to advance this money on default of payment in the proper quarter, to remedy the distresses of that family, is most undoubtedly a virtuous action, and none but the inquisitors would term it a crime. They may say, that the lodge lent this money in consequence of the absent captain being a freemason, and their associate. Be it so: still this does not lessen the goodness of the action; and, above all, which is the chief point, why should I be interrogated about such a fact? They may answer, because it proves the existence of lodges of freemasonry in Lisbon: and so it does, but it does not tend to prove that I was acquainted with these lodges, which was the question. With what propriety, then, could the inquisition order such a falsehood to be inserted in the proceedings, amongst the facts too; facts which I positively denied. That some things had been proved against me as authentic, by the signature, &c. of a public notary; whereas I never intended to say that there were no lodges of freemasons in Portugal, for I knew better than that, but merely said that I knew nothing of them, and that nobody was capable of proving, in the inquisition, that I possessed such a knowledge.

To conclude: if I have been so wicked, and have committed such atrocious crimes, as to deserve to be confined three years in a solitary dungeon, and to undergo the most rigorous treatment, why did not the inquisition publish my trial? It would have been proper, by way of giving an example, to make my punishment known, and to state the proceedings of my trial in such a manner that

the proof of my crimes should be open to every one. On the contrary, every thing has been kept in secrecy, and why? The reason is obvious, I ought to have been convicted by the evidence of witnesses, but nobody could be found to depose the least thing against me.*

My trial, and the reasons they had for punishing me as they did, must exist in the inquisition. I defy, then, my persecutors to publish the names of the witnesses who have deposed against me; to shew, if they dare, their depositions in the same open manner as I have proved, by extracts from their own laws, the enormities committed in the inquisition.

Yes, I avow my innocence. That they oppressed, persecuted, vexed, and totally ruined me is known to every body: now let it be shewn, with the same evidence, whether that oppression was justice, whether I merited such treatment, whether there are any proofs of my having committed any crime.

Let it be shewn by any individual on the face of the earth in what respect he has cause to complain of my having offended his rights.

* *Quid tam inauditum quam nocturnum supplicium? cum latrocinium tenebris abscondi soleat; animadversiones, quo notiores sunt plus ad exemplum emendationemque sufficiunt.* Seneca 3. de ira.

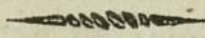
I know some person said that I was a dangerous person, and much to be feared; but what a weakness is this in powerful men? They would no longer remain safe and undisturbed, if it were not for injustice? If I had committed no crime, why did they punish me, or allow me to be punished; and if I was justly punished, why not publish their motives for this punishment. Perhaps they pretend that they have a right to punish even my thoughts? Even this too is against law. *Cogitationis poenam in foro nemo patitur.* L. 19. D. de Poenis. Though Plutarch says, that Dionisius, the tyrant, ordered a certain man of the name of Marsias to be put to death, because he dreamt that he was killing the tyrant!!!

Nobody can do so! That I am innocent I again declare. The lords inquisitors, and their abettors, must know that privately to oppress any man is no difficult matter to those who possess, as they do, authority and power to harass and oppress, without being amenable to the public; but the justice of these cruelties, it is not equally easy to prove, particularly when force, not reason, authorises it.

During my imprisonment, these men had the insolence to spread many reports against me, while they kept me aloof from all communication, giving out that I behaved so ill in the prison, that they were compelled to treat me with severity. These, and other calumnies, they also uttered in confidence to some persons, in order to give them a species of credit, and that such rumour might bear the aspect and probability of truth. It is certain, that to attack a person when he is totally incapable of defending himself is an act of cowardice, at least it proves that conscience will not permit an exposure to the probable risk of a defence. At present I can defend myself, and call upon them openly to publish my trial, and to prove whether their conduct to me has been sanctioned by justice.

THE END.

THE
B Y E - L A W S
OF THE
H O L Y O F F I C E
OF THE
I N Q U I S I T I O N .



*Compiled with the Royal Approbation and Regal Aid,
by the Right Rev. and most Eminent Lord Cardinal
DA CUNHA, of the Councils of State, and Cabinet of
his Majesty, and Inquisitor-General in these King-
doms, and all its Dominions. Printed in Lisbon, at
the office of Michel Manescal Da Costa, in the
year 1774.*

BY-LAWS
OF THE
ROYAL SOCIETY

W^hereas the Statute in that behalf made, touching the better
order of the said Society, and for the more perfect
and more exact performance of the same, and for the
general in their Kingdoms, and the better ordering of them,
and for the more exact performance of the same, and for the
maintenance of a series of the most considerable
methodically and chronologically, as is expressed in the work
entitled "The Chronological and Antiquary Dic-
tionary," and also in the Historical Compendium, which
established the basis of the new foundation of the uni-
versity of Coimbra, that there has been no useful im-
provement in these Kingdoms, in the order of those that
could give them a respectable appearance in the eyes of
the Christian Nations of Europe, which the wickedness of
the present has not improved, diminished, or reduced to
a miserable situation, in order to make them comparable
with their despotic maxims, and with the empire of the
barbarous and blind ignorance which they imposed on
the same realms, even to the point of reducing them from
that sublime splendor and respect which they had ac-
quired in the preceding reign, to a final ruin and de-

BYE-LAWS, &c. &c.

WE, the Cardinal Da Cunha, Archbishop of Evora, one of the council of state, and cabinet of the king my lord; regedor of the courts of justice, and inquisitor-general in these kingdoms, and the Lordships of Portugal, &c. &c. do make known, that it having been made manifest, by a series of the most incontestible facts, methodically and chronologically exposed, in the work entitled, “The Chronological and Analytical Deduction;” and also in the Historical Compendium, which established the basis of the new foundation of the university of Coimbra—that there has been no useful establishment in these kingdoms, in the orders of those that could give them a respectable appearance in the eyes of the other nations of Europe, which the wretchedness of the jesuits has not injured, annihilated, or reduced to a miserable situation, in order to make them compatible with their despotic maxims, and with the empire of the barbarous and blind ignorance which they imposed on the same realms, even to the point of reducing them from that sublime splendour and respect which they had acquired in the preceding reigns, to a final ruin and de-

gradation, to which the same dreadful society began to subject them, from its first admission into these said kingdoms, till the most happy epoch of its expulsion. It appearing to us impossible that the Bye-laws and fundamental directions which had prescribed the rules for the government of the holy office, should be preserved in their primitive purity, without being contaminated, in the course of time, by the malignant influence of the aforesaid society; we entered into the most assiduous, exact, and scrupulous investigation, to know whether, in the said bye-laws and directions, the Jesuitical poison had insinuated itself. And having made the necessary arrangements, experience shewed that our inquiries had not been useless.

For, the inquisition being established in these kingdoms, at the request of king D. John III. by the brief of the holy father, Paul III. in the year 1536, who, with such ample powers, committed to the said king the appointment of an inquisitor-general; that the king having accepted the resignation of this great dignity, tendered by the first inquisitor-general, D. Diogo da Silva, in order to be enabled to nominate into this office the king's brother, Cardinal Infante D. Henry, who officiated only under the king's commission, the tribunal of the council-general of the inquisition was created by the same king, according to the spirit of the said bull; and always maintained as a royal tribunal, agreeably to the terms expressed in the judicious letter signed by the royal

hand of the king my lord; and addressed to us on the 15th of November, 1771, which is registered in the same council, and the bye-laws of the same tribunal were compiled by order of king D. Sebastian; by the said cardinal infante, inquisitor-general, on the 1st of March, 1570, whereby it was to be governed as a tribunal of the crown, as it had been from the beginning, according to its nature. And lastly, the said bye-laws were approved and confirmed by the said king D. Sebastian, by his decree, dated at Evora, on the 15th of the said month of March, in the same year aforesaid.

This being the lawful and true tribunal, which formed the object of the requests of king D. John III.; the same which the said king erected and furnished with the aforesaid bull of the holy father, Paul III. as to what belongs to spiritual and doctrine; with the express reservation of what belonged to his royal jurisdiction; the same which king Sebastian approved and confirmed as a royal tribunal: and to which he gave rules and laws equally pious and agreeable to the indispensable separation of the priesthood and empire, in which essentially consist the union of both, as consistent with the submission from which the same tribunal and its ministers could not deviate, in regard to the sovereign lord kings of these realms, in whose royal name only it could be permitted to them to erect themselves into a tribunal to try for crimes, to erect prisons, and to inflict temporal punishments.

Such were the exertions of this Jesuistical malignity, that every thing was disturbed and thrown into a state of confusion; people being improperly made to believe, during the course of their intrigues and machinations, that the very same tribunal, erected by the two kings D. John III. and D. Sebastian, was purely ecclesiastic.

To effect this persuasion, these obnoxious regulars had recourse first to the expedient of the bye-laws prescribed by the Cardinal Infante D. Henry to the subordinate inquisitors, sixteen years after the establishment of the inquisition in these kingdoms, which bye-laws, though formed by the order of the same king D. John, as it is declared in their commencement, there is no record of their ever having been approved or confirmed by the said king. The same were clandestinely kept in manuscript, during the five years that the king lived after the period of their being framed, by the artful intrigues of the Jesuit Leaõ Henriques, who was absolute master of the said cardinal inquisitor-general; in consequence of the idea being entertained by this terrible regular, and his colleagues, that an absolute and unlimited authority, as well in spiritual as in temporal concerns, should be ascribed to the pope, in order to banish all light, and to have darkness predominant; there was not proper time then to send forth from the press that work of darkness, before some others were prepared, as barbarous and sacrilegious as those which were to make their appearance in succeeding periods.

It was first necessary, that the council of Trent, which fulminated such deadly threats against the authority and independence of the regal sovereignty, should receive a pure and unqualified obedience from the said Cardinal Infante, in the time of his being regent of the kingdom, during the minority of his nephew, king D. Sebastian, which obedience these infamous regulars obtained, not merely by causing the bull made on its conclusion to be published on the 7th of September, 1564, but by issuing also circular letters for an indistinct, and unqualified, observance of the decrees of the council. The same Leão Henriques, and his colleagues, as late as the year 1569, for the purpose of extorting the compliance of the said Cardinal Infante to the said end, passed a most irregular decree, which is mentioned in the Chronological Deduction, part i. divis. 5. § 127.

It was necessary that they should assassinate and drown in the waters of the Tagus, upwards of two thousand learned men, who, forming the splendour of the moral as well as of the literary world, were likewise the strongest bulwarks that could be opposed to the Jesuitical project of establishing that unnatural ignorance in which they plunged these realms.

It was necessary to alter and give a new form, in the court of Rome, to the issuing of the bulls of the inquisitor-general, which was effected with such an unrestrained despotism, that the inquisitors being, by the very bull of their establishment, dependant on the royal

appointment of the kings of these realms, a fact acknowledged by all who have written the history of this inquisition, and this nomination being attributed uniformly to the said kings, and only the confirmation thereof to the holy fathers, the said Leão Henriques, Martin Gonçalvez, and Lewis Gonçalvez, from the beginning of the reign of king D. Sebastian, caused the said bulls to be issued, in the form of *motu-proprio*, without adverting at all to the royal appointment. This abuse was continued till the most happy reign of the king my lord, who, by the appointment of us to the dignity of inquisitor-general, re-united and vindicated the prerogative, usurped from his royal crown almost for two centuries, according to the said letter addressed to us by the same lord the king, on the 15th of November, 1771.

It was lastly necessary that the Bellarminos should write, and at the same time inspire all the colleagues of his confederation in favour of the Ultramontan opinions; that all the authors should be held out as suspected in their faith, who should declare against them in their writings, and in favour of the truth. And finally, that according to the same ideas, and the same erroneous principles, the ordinances or book of laws of the kingdom should be compiled; and the laws and statutes of the university of Coimbra should be formed.

After ignorance and superstition had been thus introduced into the kingdom by means so barbarous and sacrilegious, it was then easy to persuade an unenlightened

people, without books to read, and labouring under the circumstances of the bull of the grand inquisitor being already reduced to *motus proprius*, that the tribunal of the inquisition was purely and merely ecclesiastical; that it meant nothing less than a legatine deputation, emanating solely from the pope; that he appointed an inquisitor-general with unrestricted powers, to act against all persons whomsoever, from the highest to the lowest order, without any exception or distinction.

Such and so superstitious were the effects of this unnatural ignorance, which made it possible that a tribunal established, and regulated by the kings, and royal in its nature, and from its very beginning, should be a tribunal purely ecclesiastic, without the same kings who gave it its form having the power to alter it whenever necessary; and what is still more, without being able to know the transformation that had taken place, through these clandestine and treacherous means.

The new form of this tribunal being thus settled, it was then a proper time to print, without any cloak or fear of the second Bye-laws of the subordinate inquisitions, which perverted still more than they had been perverted at their origin, and extended further, in the most exorbitant manner, the first manuscript Bye-laws, till then buried in the impenetrable secrecy of the said subordinate inquisitions.

To be able to carry into effect this rash work, and others of a similar nature, erected on the ruins of the

inquisition, and of these realms, the barbarous Jesuitical despotism took up from the dust of the earth D. Pedro de Castilho, and made him appear in the improper character of inquisitor-general, president of the supreme tribunal, called Desembargo lo Paço, and even viceroy of the kingdom.

This irregularly-created inquisitor-general having thus sapped, on the one hand, the foundations of the legislation of the kingdom, by rendering it more jesuitical than regal, was the same who, on the other hand, abandoning and repealing, without any royal permission, the said first Bye-laws, in manuscript, formed with the royal authority, and constituting himself ecclesiastical superior, absolute and independent of the supreme jurisdiction of the crown of these realms, and despotic executer of the ultramontane maxims, already introduced and predominant in them, on account of the preceding machinations already stated, had the sacrilegious temerity to cause a book to be printed by his own authority, within the secrecy of this inquisition, which was thus entitled: "*Bye-laws of the holy office of the Inquisition of Portugal, compiled by order of the most illustrious and right reverend D. Pedro de Castilho, inquisitor-general, and viceroy of the kingdom of Portugal; printed in the inquisition of Lisbon, by Pedro Craesbeck, in the year of our Lord 1613.*" A title, the daring rashness of which increased our horror, when we saw printed, between the title and the date, the very same identical coat of arms that had been always used by the company called of Jezus;

being in the centre a sun, darting rays all the circumference of the circle, and which was there introduced, to signify that the same rash company did enlighten, and rule all the universe.

Accordingly, in consideration of the above, and what we have observed in the contents and dispositions of the said second Bye-laws, revoking the others in manuscript; and seeing also all that passed till then, we had no reason even to doubt that the said second Bye-laws were not only ordained and dictated by the said Jesuits, but at the same time were a sort of compliment that D. Pedro de Castilho paid to the said society, under whose arms he printed it, to shew that they were entirely their own. All; however, was plotted in vain, because there was no royal approbation or confirmation, and it was indispensably necessary to have in these kingdoms the sanction of law, to bind the subjects thereof.

To this rash inquisitor-general succeeded the famous D. Ferdinand Martins Mascarenhas, who would have acted with more decency had he not disgraced his birth by a submission equally blind and servile, which he always professed to the society of those terrible regulars. Uniting hand in hand with them, he made current in these kingdoms the index-expurgatorius of the court of Rome, in order to extinguish the books of sound doctrine, as has been made manifest in the first part of the "Chronological Deduction." He caused to be written in Santo-Antaõ, by the Jesuit Balthazar Alvares, another index, still more voluminous, by which he took from the

hands, houses, and public commerce of men, all useful books, to substitute, in their stead, those that were thought better adapted to mislead than to instruct. Lastly, it was he who, by these means, gave the final and mortal blow to the Portuguese name and reputation.

D. Francisco de Castro succeeded to the dignity of inquisitor-general. This prelate, finding the royal authority entirely usurped and domineered over, with such a degree of pride as is exemplified in the superb pantheon which he caused to be built in the convent of St. Domingo, at Bemfica, had the presumption to constitute himself an absolute and independent legislator in the third Bye-laws, which he prescribed to the subordinate inquisitions. And being persuaded that these did not depend on any other approbation or confirmation than his own, he caused to be printed, in the front of the same Bye-laws, the arrogant, daring, and sacrilegious decree of the 22^d of October, 1640, by which he approves and confirms the said Bye-laws.

The substance of these Bye-laws was framed according to the spirit of the Decretals of Boniface VIII. title *De Hereticis*, in 6^o—one of the popes, who suffered himself to be more than commonly led by the enthusiasm of the two powers. In the same spirit have written the Eymericos, the Penhas, the Simancas, the Carenas, the Delbenes, and many others, in whose works the said Bye-laws are grounded. And as those decretals, as well as their espousers, have departed from the pious and benign senti-

ments of the church, have totally confounded the priesthood with the empire, and have attributed to the popes a direct as well as an indirect temporal power over the kings, it was impossible to suppose, that from such sources there could emanate, as actually did emanate, any but the most irregular doctrines and practices, which at the same time that they provoked an irreconcilable animosity, conceived by the most civilized powers of Europe against the inquisition, necessarily became intolerable in this kingdom, after it had been second in knowledge to none of the other monarchies.

Led by this consideration, and passing by the defects of jurisdiction, to examine the substance of the dispositions established in the same Bye-laws, we found the following pernicious errors to pervade them :

First. That of refusing to inform the prisoners of the names of the witnesses who accused them, of the particulars of the places where, and the times when, the crimes were committed; as also, of all circumstances that could give to them the individual personal knowledge of the said witnesses: thus leaving the prisoners in the dark, and blind, and deprived of the sight of their accusers, with a violence contrary to the natural and divine law, formally expressed in the 3d chap. of Genesis; and in cap, 1. des Caus. possess. et propr. in the Ordenaçãõ, l. 1. tt. 9. § 12. and in all other enactments of positive law, according to which redress is daily given in the court of the crown, to those who feel aggrieved by the barbarous injustice of ecclesiastical judges in this respect.

The second error is that of proceeding to relaxation, which means natural death, confiscation of property, and infamy attached even to the second generation, by the mere testimony of a single witness, without the necessary concurrence of the three juridical identities of fact, place, and time; likewise, with another violence against the natural and divine law, formally expressed in the 17th and 18th chapters of Deuteronomy, wherein it is determined, that no one shall be punished by the testimony of a single witness, however great the crime might be. This divine ordinance is the same in all human laws that are well defined, when the case is not that of solicitation, or inquiring for the accomplices in the confessionary; under which circumstances, from its being absolutely impossible to find any other proof, the deficiency is supplied by resorting to many and very circumspect precautions, through which means it has happened, that till now, no solicitant has suffered innocently: besides, in regard to these, there is no loss of life or property. It necessarily followed, from this refusal to the prisoners of seeing the witnesses against them, united with the circumstance of admitting of a single witness as proof, that the unfortunate prisoners were obliged to have recourse, either to the unaccredited allegation of a negative, both vague and general, or to the alternative of saying that they had declared themselves Jews, for instance, to every person of their acquaintance, whom their memories enabled them to recollect.

These absurdities were most deplorably manifested in

the fatal tragedies of the *auto da fé* at Evora, in the year 1563, where the city of Beja, without the commission of a crime, was seen ruined; of another *auto da fé*, at the city of Coimbra, in the time of the government of King D. Filip II. when, against the innocence of the city of Braganza, new and great desolations were accumulated; of another *auto da fé* at Lisbon, held not many years since, in the time of the inquisitor-general, Nuno da Cunha de Ataide, where there were made known, with the sentence of the famous perjurer, Francisco de Sa e Mesquita, other numerous and irremediable ruins of innocence; and lastly, of the *auto da fé* in the same city of Lisbon, at a still later period, in which was published another horrid case of the innocent prior of the convent of Vidiguiera, who died in prison.

The third error was, that the heathen Greeks and Romans having established the torture only for slaves, under the titles of Digest. and Cod. *de questionibus*, Castille was the first to adopt those dispositions into its laws, in law 2d and 3d, tt. 30. part 7th; and next, Portugal, in imitation, did the same, in the Ordenaçãõ, Liv. v. tt. 134, in order to subject free men to that cruel species of the investigation of crimes. The clamours of humanity, however, having prevailed against it, as well as the juridical opinions of the most learned professors, and experience having shewn that human frailty is so unequal to the constancy required to enable any one to bear the pains of tortures; that those who are tortured, to release themselves from their torments, do confess what they never

have done, or thought of doing—from all this it followed, that the said Ordenaçãõ, Lib. v. tt. 134. has been considered obsolete, and abolished by the law of custom: yet, nevertheless, these proceedings, whose severity the secular courts had abolished as cruel and fallacious, are the same which by these very Bye-laws are ordered, and have been carried into practice till now, in the name of the church, which as a mother, most pious and most merciful, never had a right to kill, wound, or torture.

This deformity, incompatible with a tribunal established on a well understood basis of law, could have had no object to effect, but that of creating a conformity between the spirit of the inquisition and that of the cabinet, as to state crimes and conspiracies against royal persons.

In the courts of *inconfidence*, torture is only permitted in combinations of many persons, when it becomes necessary to extirpate the very roots of so obnoxious a pestilence until they are extinguished: for without this there can be no security for the persons and lives of the monarchs, on which depends the preservation of the monarchy; and for this reason such a case constitutes an indispensable necessity for preserving the public security in preference to the individual convenience of the criminal who is tortured.

In the courts of the inquisition this indispensable necessity ceases entirely in ordinary cases; for the supreme Divine majesty, though so often offended by the innumerable sins committed against it, can never be hurt, nor

be in peril. This is always impossible, for it is always immutable and eternal in its very essence and divine nature. All that can be altered is religion, if against it innovators and *heresiarchs* should arise who may scatter and disseminate their pernicious tenets; and in case (which God forbid) that there should be any criminals, actuated by the worst of qualities, to diffuse and disseminate pernicious errors, as the greatest common good of all states is to preserve religion pure and inviolate, free from schisms and heresies, this public necessity should prevail over the individual convenience of such supposed schismatics and heresiarchs, on its being known that they had made proselytes to their errors, and they may and ought to be put to the torture till they make known all the persons whom they have perverted, that those venomous plants may be rooted up from the vineyard of the Lord, even to the smallest fibre.

The fourth error was that of perverting in the said Byelaws the order of Providence, both divine and human. By the former, all sinners truly repentant and pardoned became pure and free from every stain of those sins they had committed—by the latter, all criminals imprisoned and condemned in fines, or made subject to extraordinary corporal punishments, not immediately connected with death, and inflicted for crimes not infamous, after they have paid their fines, or ended the time of their banishment, are as capable and free as before, like the other citizens and inhabitants of their respective countries; because the prisons erected for the security of prisoners do not cast any

infamy; but the infamy is measured by the crimes for which the criminals have been condemned, according to their nature. Notwithstanding this, with another irregularity, incompatible with the secular courts, and still more incompatible with the most benign disposition of the church, it has been deemed sufficient for any person to become infamous, and for this infamy to devolve on his descendants, that he should have been tried in the inquisition for any crime whatever belonging to its jurisdiction, even after he had complied with the penalties that had been imposed, however slight, or however remote from the last punishment of death—a proceeding this, that would be thought incredible, could it not be rendered so manifest and authentic.

The fifth error was, that there not being, nor being possible to be, any other form of proceedings at law against the subjects of his majesty, except those prescribed by the laws of the realm, which are so comprehensive that in all ecclesiastical proceedings, when defective in the order or forms established by the said laws, an appeal lies to the court of the crown, in which redress is infallibly procured, these very laws were forsaken and abandoned in the said Bye-laws, a new order or form being established for the trials of criminals without any other authority but that of the arrogant D. Francisco de Castro, who ordered and established it; for which reason it was absolutely null and of no effect.

Seeing, therefore, such cogent motives, and that neither our loyalty or conscience, nor that of the loyal and reli-

gious deputies, of whom the council-general of the inquisition is actually composed, could allow, after such motives had come to our knowledge, that there should any longer be kept concealed, among the secrets of the inquisitions, so many works of disloyalty, malice, and iniquity, as those accumulated together in the said Bye-laws, by which the said inquisitions are still misgoverned; or why, since the said Bye-laws are notoriously null and void, for want of authority and the royal confirmation, persons should persevere in trying and condemning so many subjects of the king my lord in such heavy penalties, with mere proceedings of fact, for such are all those that are committed without legal jurisdiction; we have taken, by unanimous opinion, the resolution of recurring to the king my lord, and denouncing in his royal presence the distressing dilemma, in which we have been placed, by our sincerity in following the paths of our predecessors, and in placing such confidence in the great ostensible authority of D. Francisco de Castro; for it did appear incredible, that he should have dared to do so much as it is clearly seen he has done, when from the surface we passed into the substance of the said Bye-laws.

And as the said lord the king, having graciously received our ingenuous confession, and condescended to regard the loyalty and zeal of the truth with which we made it known to his royal presence, was pleased to order that other Bye-laws, more legal and just, should be submitted for his royal approbation; declaring therein the notorious nullity of the former, and thereby being

worthy of pointing out a rule to the tribunals of faith, we have established, with the same royal authority, the following, which the said lord the king was pleased to approve and confirm, by his royal decree of the 1st of September, 1774.

BYE-LAWS
OF THE
HOLY OFFICE
OF THE
INQUISITION
OF THE
KINGDOMS OF PORTUGAL.

BOOK I.

Of the Ministers and Officers of the Holy Office, and of the Things necessary to be attended to in the Fulfilment of their Duties.

TITLE I.

1. WHEREAS the number of inquisitors, deputies, notaries, and other subordinate officers, has always depended upon the will of the inquisitors-general, in all the cities of these kingdoms, where the holy office may reside, there shall be such inquisitors, deputies, promoters, notaries, and other officers, as we may think necessary, according to the proportions of duty to be performed in the inquisitions, because the same good order which renders it indispensable to have the necessary officers, obliges us not to admit of those that may be superfluous.

2. The ministers and officers of the holy office shall be of regular life and good morals, competent to be entrusted with business of importance, without infamy attached to them for actions committed, or by the law, in their pro-

per persons, or by descent from their fathers or forefathers, as in the cases expressed in the ordinances and laws of these kingdoms. The lay officers, as are the Meirinho, or officer to take up the prisoners, the Alcaide or keeper of prisons, the porters of the inquisition, and others, shall know how to read and write; and if married, or wishing to marry, their wives or children, any way begotten, shall not have any infamy attached to them by law, in the aforesaid manner.

3. That the aforesaid qualifications of the several ministers and officers of the holy office may be known, enquiries shall be made (always preceding a sufficient deposit for the expences) by order of us, or of the council-general, in the places of which their fathers and forefathers were natives and inhabitants. The inquisitors will begin in this, by ordering a search to be made in the *secrets*, whether any crimes of judaism have been proved against the candidates, or whether any were committed by their fathers or paternal grand-fathers, for which they were tried, and condemned in the penalties established by the laws of the kingdom; and on their finding any crimes or sentences of this nature, all further proceedings shall be suspended, and the same shall be reported to us: but if there be none such, then certificates of the same shall be given, which shall be joined to the rest of the proceedings.

4. Whereas it is convenient that these proceedings should take place with great circumspection, especially in relation to the inquisitors, deputies, promoters, and notaries, on account of the great inconvenience of suffering those to vote in the causes of heretics and apostates, who, in their persons, or in those of their fathers or grand-fathers, have been condemned in the aforesaid manner, we do ordain, that the inquisitors shall institute those enquiries themselves concerning their ministers and notaries, if in a place where the holy office resides: but if residing in

other places, then the same shall be entrusted to some deputy of known abilities; and all other investigations shall be made by commissaries, or persons whom the inquisitors may appoint.

5. When the necessary information relative to the persons who are to enter into the service of the holy office has been acquired, the inquisitors shall forward it to the council-general, to be seen there, always preserving the order of an equal distribution amongst the deputies; and on the information being approved, we shall order letters patent to be issued for their holding the places or offices to which they may have been appointed; and these letters patent shall be signed by us, and delivered to them by the secretary of the council-general; and with these, before they begin to serve, they must present themselves to the respective boards of inquisition, and there take the oaths prescribed by the laws of the realm, of secrecy, and well and faithfully discharging the duties of their offices; and of this a notary shall make an entry, which the officer shall sign before the inquisitors, in the book of creations, where also shall be registered the said letters and provisions. And this oath shall not be taken by proxy, without especial permission from us.

6. That all may fully understand every thing that they have to do and execute, we do ordain, that the inquisitors, deputies, and promoters, shall have these Bye-laws at their homes; and to the rest of the officers, the inquisitors shall direct copies to be given of the particular title of that department, the duties of which they will have to perform; that they may have a perfect knowledge of them, and may fulfil the duties of their offices, and not have a pretext for neglect, by pleading ignorance of what is prescribed to them under their respective titles.

7. They shall proceed in every thing in such a manner, that they may afford good examples; they shall conduct

themselves with a modesty and decency suitable to their situations ; they shall not injure or offend any body in carrying into execution the powers of their offices, or under the pretext of those privileges, which the kings of these kingdoms have been pleased to grant to them.

8. No minister or officer of the holy office shall accept any commission, except in the service of his majesty, without our especial permission ; and without this also, they shall not absent themselves from the inquisition where they serve ; it being understood, that if the absence be authorised by his majesty, it will be sufficient for them to make it known to us, that they want to be absent in the service of the said lord the king. The inquisitors, however, in the place where we are not present, may grant leave of absence to the deputies, promoters, notaries, and officers, on a sufficient cause being produced for it, for eight days in the year, either together or at intervals, provided it be not to come to court, nor four leagues near it.

9. The ministers and officers in attendance, who are at the board for the dispatch of business, shall, with punctuality and devotion, hear mass, which is to be celebrated in the private chapel of the inquisition half an hour before business commences ; that through the means of this holy sacrifice, all persons may be better enabled to fulfil the duties of their respective offices.

10. Every day, not being a holy day, according to the table which is to be signed by us, and kept in the *secret*, there shall be a dispatch of business, three hours in the morning and three in the afternoon, when a great accumulation of affairs may require it, except Saturday afternoon, when the dispatch of business shall last only two hours, and on the days of general council, when the same hour in which they leave off shall put an end also to the business of the board of the inquisition. From the first of

October till Easter Sunday, the hours of business will be from 8 till 11 o'clock in the morning, and from two till five in the afternoon; and from Easter Eve to the end of September, they shall be from 7 till 10; and from 3 till 6.

11. And as it is expedient to the good administration of justice, that between the ministers of the holy office there should not be a degree of relationship so near as might influence the liberty of their votes, we do ordain, that one inquisitor, as to another, or an inquisitor as to a deputy or promoter, or a deputy as to another deputy, or to the promoter, who serve in the same inquisition, shall not be relations within the second degree of consanguinity, reckoned according to the canon law, except when such and so remarkable circumstances shall occur, as to be worthy of our dispensing with this prohibition.

12. The ministers and officers shall, annually, receive such allowances and salaries as might have been assigned to them in their letters patent. And when, by order of the holy office, they may be sent upon any service out of the town in which the tribunal is seated, the ministers shall have the same salaries as were established by the law of the year 1750, for the civil judges called *Dezem-bargadores dos agravos*, the notaries shall have one half of what the ministers have, and the rest of the officers shall receive one third.

TITLE II.

Of the Inquisitors.

1. The causes which come under the cognizance of the tribunal of the holy office, are so weighty and of such importance, that the persons whom we shall appoint to be inquisitors, must not only possess the qualifications required in the first title of this book, but it is necessary

besides, that they should be licenciates, by private examination, in some of the faculties of divinity, canon law, or civil law; that they should be at least 30 years of age, noble, and in holy orders; that they should have been previously deputies, in which occupations they should have given proofs of their prudence, knowledge of letters, and abilities, both in the decision of the causes to them committed by us, and in the strictest integrity of behaviour and modesty; and, above all, that they should be persons of such authority, as to prove entirely worthy of the great confidence we place in them, and fully competent to the discharge of their duties, to the satisfaction of us and of their own consciences.

2. Although there is no difference amongst the inquisitors, in regard to the jurisdiction that must be exercised by all, with equal authority, still the order of good government requires that, in all tribunals, some superiority should be given and entrusted to their senior ministers; therefore we do ordain, that the senior inquisitor shall go in and come out of the tribunal, on the right hand of the other inquisitors and ministers; that he shall take his seat in the first chair at the table, for the dispatch of business; that he shall ring the bell; that he shall recite the prayers to the holy ghost which are usually said before the commencement of business; and that he shall distribute between himself and the other inquisitors, the trials, informations, and other business to be transacted in the holy office, in such a manner, that the labour should devolve equally upon all.

3. All dispatches, orders, and papers whatsoever, sent from the council-general to the board, and documents, letters, matters, &c. that may come from abroad, and belong to the cognizance of the holy office, shall be delivered to the senior inquisitor, at the board, who shall inspect them, with all possible expedition, and communi-

cate their contents to the rest of the inquisitors, that all may come to such resolutions on their contents as they may think convenient, and which shall be determined by the majority of votes.

4. The senior inquisitor shall execute our orders, with the resolutions of the council-general, and the decisions of the board, and shall cause to be carried into execution all the acts which may be determined on as convenient for accelerating the transaction of business in the holy office.

5. When the senior inquisitor is absent, or there shall be any thing to prevent him from attending at the board, the next inquisitor shall do his duty, and in the absence of both, the next shall perform it. Should the senior inquisitor be in town, and not attend at the prescribed hour, the other inquisitors shall wait for him till a quarter of an hour after the time, without beginning to do business: but on the quarter of an hour having elapsed, the business shall proceed under the direction of the senior inquisitor that may be present at the board.

6. If it happen that the senior inquisitor does not propose to the board, those matters that are expedient to be proposed, or omits to execute what has been ordered, the next inquisitor shall remind him of it, in the most delicate and decent manner possible; and if he shall not assign a just cause whereon to ground the delay, the next inquisitor shall report the circumstances to us immediately, that we may provide such remedies in the case as may be expedient, and in such a manner that we shall not fail in accelerating the expedition of business, and also avoid every interruption of that harmony which is necessary to be preserved amongst the inquisitors.

7. On the table, for the dispatch of business, the inquisitors shall always have the present Bye-laws, with the ordinances of the kingdom, of which they shall make

frequent use, not only as to the exterior form of the trials, but as to the infliction of penalties, for both these things belong to the secular jurisdiction, and to the holy office only is their use allowed, by delegation from his majesty.

8. Every year, on the first Sunday in lent, the inquisitors shall cause the edict of faith to be published in all the convents and parishes of their district, in the same form as that in which it has been lately constructed ; at the same time enjoining all priors, abbots, and curates, to publish the same in their churches, and to sign a certificate on the back of the edict, that this order has been complied with.

9. They shall take cognizance of all crimes committed against their authority, according to law, to the bulls of the pontiffs, and the royal decrees, observing in the trials the form prescribed by the ordinances of the kingdom, as to the criminals to whom a power of justifying themselves is permitted.

10. Whereas it is convenient that we should be informed of all the crimes belonging to the cognizance of the holy office, before those who committed them shall be ordered to be taken to prison, particularly when they are persons of distinction, ecclesiastics, or monks, or are possessed of any dignities, whether secular or ecclesiastic, we do ordain, that the inquisitors shall not proceed to imprisonment against persons of the aforesaid qualities, without first making a report to us, and having permission from us, and from our council-general.

11. Whereas it is of essential importance to the credit and reputation of the holy office, that the proceedings against the criminals should be so well regulated, and in such a form, that not even a presumption may exist of any act of violence having been committed, we do ordain that, after the informations against any criminals have been re-

ceived, the inquisitors shall proceed immediately, *ex officio*, or at the request of the promoter, to a rigorous investigation of the credit, honesty, and integrity of the witnesses or informers; and should they discover, after the said investigation, that these witnesses have blemishes or defects which altogether destroy, or at least weaken the strength of their testimony, or finally, that when there is no circumstantial evidence, these informations are not sufficient to authorize the condemnation, the inquisitors shall neither proceed upon the said informations, nor shall they subject the criminals to their operation.

12. The inquisitors shall take cognizance of all circumstances, civil as well as criminal, relating to the ministers and ecclesiastical officers of the holy office, to the ministers, and servants of the ministers, and to the privileges respectively granted to all of them, agreeably to the powers committed to them (the inquisitors) by decrees and royal provisions, observing, however, the ordinances and other laws of the kingdom, as to the institution of the causes, and the sentences they may pass upon the offenders.

13. Whereas it is necessary that we should regulate the precedency amongst the inquisitors and other ministers of the holy office, when they concur with ministers of the inquisitions of other districts, or with the bishops of the same place, or of other places, in order to avoid all disputes which may disturb the tranquillity of the holy office, we do ordain, that the inquisitors in their own districts shall take precedence in their seats over the persons who may assist instead of the ordinaries, though they may be titular bishops; and such persons shall take precedence over all inquisitors out of office; these over the deputies, and the deputies over the promoter.

14. The inquisitors of the same district shall have precedence amongst themselves according to their seniority,

which is to be regulated by the time when they were first installed into their offices.

15. The inquisitor, in his own district, though he may be junior, shall have precedence over a senior inquisitor in any other district, when they both concur in any act, except when we shall direct to the contrary.

16. On inquisitors of different districts concurring or assembling together, the precedence shall be established according to their seniority : but when we shall send an inquisitor to another inquisition, he shall be allowed precedence according to the seniority of his office.

17. Amongst assemblies of the deputies, he shall be entitled to the precedence who has been an inquisitor ; and the others shall have rank according to their seniority. If any of them should be bishops elect, or be entituled “ of the council of his majesty,” they shall take their places immediately after the last inquisitor. If two or more deputies shall concur, bearing the same title “ of his majesty’s council,” they shall have precedence according to the seniority of the title ; because, in this way are regulated the other tribunals of the court, and in the general council, which we accordingly ordain shall be observed at the board. The deputy removed to the board shall have precedence according to his seniority in office.

18. Should the promoter be a deputy, and be in the exercise only of the jurisdiction of a deputy, he shall have precedence according to his seniority as a deputy : but if exercising the office of promoter, he must rank next to the deputies, although his juniors.

19. Taking into consideration the respect due to the bishops on account of their dignity, we do ordain, that when the ordinary of the place where the tribunal resides (being a bishop) comes to the board, in those cases when he may do so, the inquisitors, and the rest of the ministers then present, in the first instance of his visiting

them, shall go to receive him in the saloon, and shall give him a chair at the top of the table, where he shall ring the bell, and vote in the last place: in subsequent instances, they shall wait for him at the door of the antichamber, inside, and when he goes away they shall accompany him so far as the last door of the saloon.

20. When, however, the same bishop may happen to delegate another person, not belonging to the holy office, to act in his place, such rules of precedence shall take place as in the aforesaid order. If any inquisitor or deputy should be entrusted with such a commission, he will have only the precedence belonging to his office. If the ordinary be not a bishop, and shall come to the board for the dispatch of business, he shall have the same place as is given to the person who comes by commission from the ordinaries, who are bishops, because this is the place allotted to them by law.

21. The inquisitors shall treat every body, not of the holy office, that may come to the board, either in consequence of being summoned there, or in order to discharge their consciences, with the courtesy due to their rank or gradations. Arm-chairs, out of the platform, shall be placed for the *fidalgos* (noblemen), *desembargadores* (judges of the high court), dignitaries, canons of the cathedrals, and collegiates, prelates of religious orders, abbots, *oidores*, and judges *de fora*, doctors, *licenciates*, and other persons, who, by their nobility or office, shall appear, by the majority of votes, to be entitled to this mark of distinction.

22. If any of the aforesaid persons shall be guilty of any impropriety for which they may deserve to be reprimanded and admonished at the board, the inquisitors shall not summon them before it, without first reporting the same to us, with the necessary particulars of the case, that we may instruct them how to proceed therein.

TITLE III.

Of the Deputies.

1. The deputies of the holy office shall possess all the requisites which are declared in the first title of this book ; and moreover, shall be noble persons, clerks of sacred orders, 25 years of age, licenciates by private examination in one of the faculties of divinity, canon law, or civil law ; and of such good parts and behaviour that they may in-time serve the office of inquisitor.

2. They shall pay an absolute obedience to all that is prescribed concerning them in the first title of this book. They shall come to the board whenever summoned by the inquisitors ; and shall endeavour to avoid being absent, particularly at the time allotted for the general dispatch of business. It must be their chief care, that the expediting of the trials shall not be delayed on their account ; when they are not summoned, we do release them from their attendance at the board of the holy office.

3. In their seats and votes they shall have the precedence mentioned in Title II. concerning the inquisitors. At the board they shall be always very composed, and comport themselves with the respect due to the tribunal ; they shall not talk but with the greatest decency ; nor shall they dispute amongst themselves, or interrupt those who are voting ; nor after voting shall they enter into disputes about the votes given.

4. They are at liberty to ask at the board for a sight of the documents or papers relating to the finished trials, and those which are of a more intricate nature or of greater difficulty, to see them there, that they may thereby instruct themselves in the manner of trying and judging causes, and be enabled to decide what should be their votes in similar cases.

5. They may request the inquisitors to call them when they give audience to the prisoners ; and then they shall

be very attentive; observing the manner in which the prisoners are treated, and the form preserved in such audiences, that when any are committed to them they may know how to act. And when the prisoners shall come to the board to hear the final judgment, every deputy may ask them such questions as he may think necessary, to make him better acquainted with the case, and to enable him to vote in it with more security.

6. They shall vote in all definitive sentences, and in those incidental sentences also which may have an equal operation in force, or cause irreparable injury; and in any matters which may be treated of after the trials are brought before the board, and in the declaration of the crimes which may result from propositions that the board has ordered to be qualified; and in those which the Ordinaries may send to the holy office: having in all these cases, and in the others, in which they may vote, a decisive vote; and they shall sign all the resolutions decided upon as to the matters wherein they may have voted.

7. In the tribunal, as well as out of it, they shall perform all the business that the board may entrust to them, preserving throughout the same order as the inquisitors, agreeably to what has been declared on this head.

TITLE IV.

Of the Promoter.

1. The Promoter of the holy office shall have all the qualifications mentioned, as requisite for the deputies, in these Bye-laws, according to what is declared in Title I. of this book.

And whereas this office is of great trust, and on it depends the just and well-regulated progress of business,—we shall always chuse for it a person, from whom it may

be expected that he will use the utmost expedition in the matters belonging to his office.

2. The promoter shall have the custody of one of the three keys of the *secret*, and shall always come to the holy office at the prescribed hour, lest on his account the ordinary dispatch of business may be delayed: and when it should happen that he cannot come, on account of some just impediment, he shall send the key by some person of confidence, who shall deliver it to one of the inquisitors that may be at the board; at which the promoter is not required to appear, except when he may have something to request, or some libel to present, or when he shall be called upon by the inquisitors.

3. In the *secret* he shall keep the papers, books, and documents of trials, with such order and precision, that they may be easily found when necessary; and when taken from their place, he shall take care to replace them after they have served the purposes for which they were wanted, on account of the inconveniencies that might result from a contrary practice.

4. In all informations relating to crimes, the cognizance of which belongs to the holy office, the promoter shall request, that, before any thing is done in consequence of such informations, the inquisitors shall give the necessary orders for the credit and honesty of the witnesses to be inquired into, with the greatest rigour and exactitude, and that they shall proceed to the rest of the necessary business, for the purpose of ascertaining whether the witnesses have well and truly given their depositions, and without hate, passion, or animosity: after which, he shall also request, that the existence and identity of the persons shall be ascertained, and that their sayings shall be ratified. Without such inquiries and circumstances, no proceedings shall take place upon the informations.

5. If the informations or denunciations should bear

reference to persons resident in different districts, he shall remind the inquisitors of this, that letters from the board may be sent to the respective inquisitions, to whose authority these persons are properly subjected, making a memorandum of the day, month, and year, in which such letters were forwarded; and should the information come from the ordinary or commissaries, he shall request, by petition, that commissions may be issued for investigating the said examinations, enquiries, and ratifications; and the papers which may result from the investigations, he shall join to the order in virtue of which they were made.

6. On the informations having been made legal and qualified in the aforesaid form, and the papers relating to them having been prepared and presented to the board; and on its being pronounced that the accused are obliged to defend themselves, before the promoter requests any further steps to be taken against them, he shall cause the *secret* to be examined, in order to ascertain whether there is any thing in it which may serve for the defence of the criminal; and all he may find, he shall cause to be joined to the proceedings; and, should he know that in the other inquisitions there is, or may be any thing in favour of the same criminal, he shall request at the board that the necessary requisitions and enquiries be made on this point; and the result of these shall be added in proper form to the proceedings, that entire justice may be done to all, and that the guilty may be punished, and the innocent be defended.

7. After executing what has been before prescribed, he shall request a warrant of imprisonment against the individuals who have been pronounced criminals, and who are to defend themselves in the prison; and from thenceforward he shall observe the form of promoting, as is ordained in the second book of these Bye-laws.

8. He shall always have in the secret the ordinances and laws of the kingdom, to regulate himself by, in the form and order of the proceedings he has to follow; and he may also have in the secret, some authors on criminal law, of good name, for the same purpose.

9. He shall take great care that the proceedings of the trial are so framed, that when presented for final judgment, nothing therein shall be deficient: he shall see and examine whether they were framed according to the laws of the kingdom, and the declaration in the second book of these Bye-laws, and on his finding that any deficiency exists, as to any substantial circumstances, he shall call the attention of the board to the fact, which shall be remedied.

10. When business, and the proceedings of the trials, are in a sufficient state of forwardness for general dispatch, the promoter shall make out a list for the council-general, of all prisoners and persons who defend themselves out of prison, declaring in it the names, ages, and ranks of the criminals, where born, and of what places the inhabitants, the time of imprisonment, the nature of their crimes, the proofs against them, and in what forwardness the proceedings are.

11. Should it appear to the promoter, that justice has been effected in the decisions or sentences of the inquisitors, he may appeal to the council-general; and when the board shall not attend to his appeal or petitions, he shall present a petition of redress to the same council, in which he shall state the case, and request the proceedings to be laid before them, and his prayer shall be attended to as justice may require; and this same redress shall be for the advantage of the criminals, through the persons of their attorneys, in case they should think themselves aggrieved by the decisions or sentences of the inquisitors.

The equality that should prevail in justice requires this.

12. He shall receive the appointments mentioned in his letters patent, and be allowed besides to receive such fees as may accrue, not only in the causes of the criminals, but in those also of the privilegiates of the holy office, when called for on the part of justice.

TITLE V.

Of the Notaries.

1. The notaries of the holy office shall be clergymen in sacred orders, know well how to read and write, and be of approved sufficiency and capacity, equal to the discharge of the duties of their office; when graduates can be found, they shall have the preference, and all shall possess the qualifications mentioned in Title 1. of this book.

2. Two of the seniors shall have two keys of the door of the secret; and in the absence of one of these two, such one of the others shall have the key as the inquisitors shall determine. When the seniors can assign a just cause for not coming to the holy office, they shall send the keys in the manner prescribed to the promoter.

3. Every day that is not a holy day, the notaries shall come to the holy office in the manner prescribed, and one of them in the morning, half an hour before the tribunal sits, shall say mass in the private chapel of the inquisition; and that this duty may be discharged with the more facility, it shall be performed weekly by each. The mass shall be performed to whom they please; and for the trouble of saying it, every one of the notaries shall have the offerings received by them at present: it being understood, however, that if any one of these shall fail in attending to his weekly duty, he shall be severely reprimanded and fined.

4. They shall assist in the secret at all times; when the ministers continue in the tribunal, they shall not go out without just cause, or being called by the inquisitors; and then they shall only employ themselves in those things which appertain to their office: but when not employed by the inquisitors, they shall ask the promoter what business they are to attend to, in preference.

5. They shall perform their peculiar duty, that of writing in all causes in which the inquisitors are the judges, not only in those which affect the faith and purity of religion, but in those relating to the privileges, of which the same inquisitors take cognizance, in virtue of the decrees, or royal provisions; they shall assist also in all acts and sessions held over the criminals and other persons, except only in such cases wherein the contrary shall be ordered. They shall prepare the proceedings, taking care to insert in them all proper terms and conclusions; shall make out the warrants, letters of enquiry, requisitorial, commissorial, and precatatorial, that are to be expedited; and shall do every thing else that may be required from them by the inquisitors.

6. In the audiences to the prisoners, they shall not address any thing to the parties, but write faithfully the tenor of all questions which the inquisitor may put, with the answers returned to them; and when it may so happen that the inquisitor shall go out during the audience, with the intention of returning shortly to continue it, they shall remain in the place where they may be, without writing any thing else.

7. Whereas, according to law, a curator is to be appointed to a minor not more than 25 years of age; in the first audience granted to such a one, the notary shall make a term, separate from the session, which term shall be signed by the curator, special care being always taken, that the observance of this important formality shall be

attended to before any judicial act takes place, with respect to the minor; as well as that the curator be present at all sessions; that he sign them after they are read; and that in the term, mention shall be made of his having been actually present, and given his signature.

8. Of all causes, which from their nature must go up to the council, as well as others which may be sent there, by way of appeal, made by the promoter, or by the parties which think themselves aggrieved, the notaries shall send the original papers, with the necessary attendant documents, and not the copies.

9. The notaries shall receive, for each seal they may affix to the papers prepared by them, the fee which they at this present moment receive; and for what they write in the proceedings, they shall receive what the promoter may mention it to be in the account, which they shall have when the other costs of the proceedings are paid; and these allowances shall be independent of their appointments under the letters patent.

TITLE VI.

Of the Procurators, or Attornies of the Criminals.

1. The procurators, or attornies of the criminals, shall be well informed persons, possess prudence, and be worthy of confidence, be graduates either in the canon law, or civil laws, and shall have all the requisites declared in title I. of this book.

2. From henceforward there shall be no fixed or established procurators in the holy office; but the criminals shall be at liberty to chuse such as may better please them, provided they are possessed of the aforesaid qualifications. To such procurators as they may prefer, the criminals shall sign powers of attorney, if they know how to read and write; but if they do not, the notary shall

enter a *term* of it, signed by the procurators whom they chuse, and this shall be joined to the proceedings.

3. When the procurator chosen by the criminal shall wish to have an interview with him, to take his instructions, and consult with him concerning the defence of his cause, he shall be immediately conducted by an officer of the holy office to the place where the prisoner is confined, and there the officer shall leave them both at full liberty, placing himself at such a distance that he may not hear them; and when the conversation is finished, the officer shall accompany the said procurator to the door which he entered. This shall be observed on all other occasions, when the procurator is desirous of conversing with his client upon points or articles connected with his defence.

4. The same procurator, before he contravenes or calls in question the acts of justice, which the promoter may have brought forward against criminals, may request that all declarations as to the fact, place, and time, in relation to the commission of the crimes, and all other documents which he may think necessary for the better defence of the criminal may be granted to him; the inquisitors assuring the said procurators, that they may ask this, and that the papers shall be given to them, whenever they require it.

5. In replying to or contesting any act of justice, he must name six witnesses, but no more, to every article, in which he shall declare their quality, whether they are related to the criminal, where they live, and all other necessary circumstances, that they may be afterwards easily ascertained.

6. If in replying he should wish to state any article of defence, he may require that every thing shall be detailed to him, in relation to the day and time, in which the crime is said to have been committed; and the inquisitors shall

make, in this respect, all declarations that may be asked of them.

7. When the proof on the part of justice is made public, judicially, which in the second book of these Bye-laws we have ordained, shall be done according to the ordinances of the kingdom, and the other courts and audiences of justice, without concealing or suppressing the names of the witnesses, should the procurators wish to bring forward any articles in contradiction to this proof, they shall do it with all possible distinctness and clearness, forming separate articles, as they refer to each of the witnesses, in such a manner, that what is stated in the articles may be readily understood, the proof grounded upon them may be better regulated, and to each of those articles they may name witnesses, in form aforesaid; and all articles which they may frame either of defence, or of contradicting witnesses, shall be signed by them, as well as by the criminals.

8. Whenever the procurators say that they have no defence or evidence in contradiction to produce, they shall declare the same by writing, signed in the same form, and deliver it at the board, to be joined to the proceedings.

9. When the procurators may wish to plead the final defence of criminals, they shall be permitted to do it, as well as to appeal from the sentences passed against the criminals, after they have been intimated to them, as they ought, within the period prescribed by law.

10. There shall be given to the procurators named by the criminals a copy of these Bye-laws respecting them; that they may better regulate and conduct themselves in the defence of the criminals; and it is recommended to them that they shall not take any paper with them out of the holy office.

11. For each interview they may have with the prison-

ers, they shall be allowed to receive a fee, which shall be paid to them, at the time when the rest of the costs is paid.

TITLE VII.

Of the Qualificators.

1. The qualificators of the holy office shall be few in number, and shall be doctors of the university, in the faculty of sacred theology; and shall have all other requisites and conditions declared in the first title of this book.

2. Their principal duty is, to censure and qualify propositions; but they shall neither censure or qualify, except in such cases as shall be committed to them by the council-general, or by the board; sending their censures closed up and sealed to the tribunals from whence they have received them.

TITLE VIII.

Of the Commissaries, and Clerks of their Department.

1. The commissaries of the holy office, besides the qualifications mentioned in title I. of this book, shall be ecclesiastics of known prudence and virtue, and if graduates, shall be preferred to others.

2. They shall execute in person the commissions entrusted to them, and shall never at their own pleasure commit them to others. In case of having just cause or lawful impediment not to do this, they shall report the circumstance to the board, in order to be excused, should the cause assigned appear entitled to attention; or they shall be ordered to do it, notwithstanding the reasons produced.

3. In commissions for enquiring into the qualifications committed to them, they shall not exceed the terms of the interrogatories delivered to them, neither asking, nor suffering to be written, any thing that the witnesses may wish to declare, except to the substance of the same interrogatories;

and after the witnesses have been interrogated, they shall with their own hands deliver to the board particular information, as to the faith and credit they deserve, as well as to the abilities of the person, to fill the office to which he aspires.

4. To fill up these commissions, they shall call the person therein named, and if none is mentioned, the clerk of their office; and not having one, they shall chuse some ecclesiastic or secular person that can be found, who shall be capable and know well how to write.

5. If in the towns where they live any thing happens, of an extraordinary nature, which may be inimical to the purity of our holy faith, or occasion scandalous superstitions, or false worships, that may disturb the quiet of the people, they shall give information by letter to the inquisitors, that they may provide in the case; and if any apprehension is to be entertained, that the criminals might escape, or the business shall be of great importance, they shall communicate the information by express, the expense of which the inquisitors shall cause to be paid.

6. When the inquisitors shall commit to them the power of imprisoning any person, they shall do it with every possible precaution and secrecy, following in every respect the orders that may be given to them; and after the imprisonment takes place, they shall deliver the warrant of commitment to the persons appointed to bring up the prisoner, that the same may be presented to the board.

7. For the business entrusted to their management by the inquisitors, they shall not demand any thing from the parties in satisfaction for their trouble; nor accept any thing from them, though voluntarily offered, as they will receive from the holy office a compensation for their trouble.

8. When any condemned to do penance shall present themselves before them, with letters from the inquisitors,

in which the place, where they are to fulfil the penances, may be pointed out, they shall order them to be performed in the manner prescribed; and in case of non-compliance, they shall admonish them with meekness and suavity of manner, reminding them of their duty, in the presence of the clerk of their office; and in case of this non-compliance being persisted in, they shall report it to the board, by letter, and follow their orders.

9. When they leave the places where they reside, to execute any commission of the holy office, they shall have appointments, such as are established; and when the business is executed, they shall order the clerk to certify how many days have been occupied on it.

10. The clerks of the commissaries must have the qualifications declared in the first title of this book, and besides, shall know how to write a very plain and legible hand. When called by the commissaries to any commissions or business belonging to the holy office, they shall attend with all possible expedition; and shall report with fidelity and integrity all that the commissioners may put by way of question to witnesses, with their answers, without adding or diminishing any thing, however trivial; and after they have written any deposition, before the same shall be signed by the witness, the same clerk shall read it to him, and so it shall be declared in the term.

11. When the commission they had to execute out of the places where they reside has terminated, they shall declare the days thereon employed, and shall have the salary they at present enjoy. For such commissions as may be done in the place of their residence, both the commissioners and clerks shall receive what is already established, without demanding from the parties any other satisfaction, or accepting any thing that they may

voluntarily offer. If the commissioners order any witness to be fetched from abroad, they shall also declare the time spent by the person employed to go for him : and should the witness be poor, that he has absented himself from his home for that purpose.

TITLE IX.

Of the Familiars of the Holy Office.

1. The familiars of the holy office shall be persons of known capacity ; shall have ample property to live upon ; and possess the qualifications declared in the first title of this book.

2. They shall attend the board of the holy office with punctuality, whenever called upon by the inquisitors ; and in doing the same, shall execute every thing they may be ordered to do.

3. On the eve of the day of St. Peter the Martyr, they shall go to the inquisition of their district, to accompany the tribunal ; and shall be present in the church where the festivity of the saint is celebrated. On these days only, or when any imprisonments are committed to them, they shall wear the medals, which they are to have as familiars of the holy office.

4. When the inquisitors shall enjoin them to imprison any person, they shall not only observe every thing declared in the Bye-laws, relative to the *Meyrinho*, when they have taken up the prisoner, (not being in the place where the holy office resides) but they shall carry their staffs, and with them shall accompany the prisoner.

5. If in the places where they reside, any thing should happen, which may appear in their eyes as offensive to our holy faith, or if the persons directed to do penance shall not fulfil their penances, with all possible expedition, they shall report it secretly to the board of the

inquisition, should there be any in the place; and, if there be none, to the commissary; and should there be no commissary, they shall report it by letter to the inquisitors, and never of their own accord shall act otherwise, in matters relating to the inquisition, on account of the great inconveniencies which may result from a contrary practice.

6. They shall receive, for the time employed in the service of the holy office, what is at present established; and shall not take with them more than one man, on foot, to whom a salary shall be paid, according to the custom of the country; and when more men are necessary, they shall report it to the inquisitors that they may give the necessary orders what is to be done.

The duties of meyrinhos, aleaides, turnkeys, porters, solicitors, stewards, men of the meyrinho, physicians, surgeons, and barbers, are declared in a separate By-law, that we have prescribed for them, as well as every thing else which belongs to the well-regulated economy of the inquisitions.

BOOK II.

Of the Form and Order in which Criminals are to be tried for such Offences as belong to the Cognizance of the Inquisition.

IN the cases of crimes spiritual or ecclesiastical, it belongs to the church to point out the errors in the doctrine, and to inflict spiritual penalties or penances. To the temporal jurisdiction are confided the external form of the trials, the establishment of prisons, and the imprisonment of criminals, as well as the inflicting of penalties, both corporal and pecuniary. Those, therefore, who are guilty of such crimes cannot, and must not, be tried, externally, by any other laws except those of the catholic kings and princes, who as protectors and defenders of the church in their kingdoms and dominions, have granted to, and for this purpose, delegated the use of their royal jurisdiction to the church. With this evident consideration, following the forms prescribed by the laws of the kingdom, as to the trials of such criminals and offenders as are permitted to signify themselves in the ordinary form, stated in the Ordenação of the king D. Emanuel, Liv. 5. tt. 124, We do ordain as follows:—

TITLE I.

Of the Form in which the Denunciations or Informations against Criminals are to be received.

I. Whereas denunciation is one of the principal means whereby to proceed, in the courts of justice, against the guilty; the inquisitors shall hear every person who may come to reveal any thing to the board of the holy office; and shall personally receive such informations without employing any deputy to do it for them, under

a commission; and they shall examine every thing therein said with mature consideration. They shall also oblige the denouncers to state in their several depositions, their age, quality, place of nativity, and abode; the time and place where and when the crime, concerning which they give testimony, was perpetrated; the persons who know of it; and the reasons which induced them to make the denunciation. If much time has elapsed since the crime was committed, they shall be asked why they did not come earlier, and all other circumstances that may be deemed necessary, to the better ascertaining the degree of credit to which the declarations may be entitled. They shall also be called on to declare the age and quality of the accused; of what place they are natives and inhabitants; if at the time they committed the crime, they were in their perfect senses; or if, on the contrary, they were overtaken with wine, or labouring under any particular passion that might disturb their mind; if they were admonished or reprehended by the persons then present, and what answers they gave to this; with all other questions that may appear calculated to obtain a full and true knowledge of the persons accused, and of their crimes.

2. The inquisitors shall summon the persons named in the denunciations, and referred to by the denouncers, to attend them with all possible speed; and shall examine them with the same care as they examine the denouncers, asking them, in the first place, if they know, or have heard, of any thing against our holy faith, or any thing else, the cognizance of which belongs to the tribunal of the holy office; and should they enter upon those parts of the case that refer to them, their depositions shall be received with much particularity, in order that it may be seen whether they agree with those of the denouncers. Their answers, however, as to the points relating to them,

shall not prevent their being asked in particular for the substance of the denunciation in which their names were mentioned ; and in this case should they not declare the place where the crime was committed, with the names of the denouncers, or denounced, or decline to give satisfactory answers to the questions, they shall be told, that information has been received at the board of the holy office, of their being acquainted with the circumstances concerning which they are asked ; that they must think of discharging their consciences ; and shall be sent away in peace. In case, however, those persons shall be accomplices, they shall merely advert to things, and not ask them.

3. If the persons mentioned in the denunciations be nuns, or ladies of great quality, or married to noblemen, or kept in convents, or have any other lawful impediment why they should not come and give their testimony in the holy office, the inquisitors shall order them, if persons of the first quality, to be examined at their own habitations, by a deputy and a notary ; if of well known nobility, in some church, by a deputy and a notary ; and if of ordinary quality by two notaries.

4. If from the depositions of the denouncers, and the witnesses referred to in them, an accusation of crime against the denounced shall result, two indispensable requisites must be immediately attended to : first, the ratification by the denouncers and witnesses to whom they have referred in their several depositions ; and second, a most rigid investigation shall be instituted as to the lives, habits, integrity, and reputation of the denouncers, and witnesses : whether the one or the other were upon good terms with the denounced, or if amongst them there has been any animosity, or quarrel, and what has been the cause of it. The necessity of obtaining this previous information is very much recommended to the inquisitors,

who must employ on the task some persons of known character, zeal, and integrity.

5. After these previous steps have been taken, and it subsequently appears from them that the denunciations were made by persons inimical to the denounced, and who were in a conspiracy with the witnesses to oppress and vex them; the inquisitors shall not proceed to take any further steps on such denunciations: and the said denouncers and witnesses shall be immediately taken to prison, to be proceeded against as false witnesses, according to law, as well as the laws of this kingdom.

6. But if by the said enquiries their persons should be identified, and their depositions qualified, the documents of the proceedings shall be laid before the board; and the accused pronounced guilty shall be ordered to go to prison, and to defend themselves; the papers relating to them being delivered over to the promoter, to enable him to prefer the accusation.

7. Before the promoter brings forward his indictment, he shall request the board to cause it to be examined at the other inquisitions, that it may be ascertained whether there be any thing that may prove advantageous to the defence of the criminal; and all that may result from the several enquiries he shall connect with the proceedings, as we have ordained under the head of the promoter. When this has been done, and the inquisitors have observed the admonitions prescribed to them hereafter in the §§ 21, 22, 23, 24, 25, and 26, the promoter shall draw up his accusation with the necessary perspicuity, clearness, and detail.

8. The promoter having brought forward the accusation on the part of justice, the board shall permit it to be examined by the procurator, whom the defendant may have appointed to contest, or deny it; and before any thing else is done, the same procurator may request the

board, that in the papers of the proceedings, they should cause to be declared to them the time, and place when and where the crime is said to have been committed, and all other declarations which he may deem convenient to a denial or confession of the facts, and which may better enable him to produce a defence, the board shall cause to be made, whenever the same promoter shall ask for them.

9. When the procurator of the defendant has replied to the proceedings of justice, should the promoter not wish to give any further reply, the cause shall remain for proof, and the defendants shall have the power of availing themselves of those legal delays or periods of time for alleging the proofs, according to the distance of the places to which they may have occasion to send letters of inquiry; which shall be addressed to the most expert commissaries; unless the defendants have any thing to except against them, when the same shall be addressed to the provisor, or vicar-general of the district, to which the defendants may belong.

10. When the time of the delays is elapsed, the parties shall be debarred from alleging further proof, the evidence of the witnesses is to be considered legal, and the causes shall be opened and publised, the same being made known to the procurators of the defendants, who on examining the depositions of the witnesses, and their names, shall be admitted to contradict them, if they wish it. Having framed articles in contradiction to the testimony of the witnesses, the procurators shall arrange them distinctly, clearly, and so as only one or two articles shall apply to each witness; naming therein, what witnesses they have to produce; and concerning these, letters of enquiry shall be forwarded in the same manner as before-mentioned.

11. Lastly, the procurators may draw up the pleadings

in favour of their clients, which they must only do at the holy office, or at home; provided that they do not carry away with them any paper or papers whatever relating to the proceedings: on account of the great inconveniences that may result from a contrary practice. They may take memorandums however, from the proceedings as they may think proper.

12. After the procurators of the defendants have offered their final defence, the proceedings shall be transferred to the promoter, to enable him to say what he thinks necessary on the part of justice; and after his answer has been given, the proceedings shall be concluded, and laid before the board for judgment, according to the merits, either immediately, or when there is a general dispatch of business; the deputies, ordinary and extraordinary, being always called in, for the decision of each of the causes.

13. When a sentence has been passed, it shall be notified to the promoter and to the procurator of the defendant, and either of them may, if he feels himself aggrieved, appeal directly to the council-general; and both in the first instance, as well as in the circumstance of appeal, the procurator of the defendant shall be heard first, and then the promoter; and the appeals shall be entered within the time prescribed by the law.

14. All the aforesaid things shall be equally observed in the denunciations that may come to the board from the ordinaries, after it has been decided at the board by a majority of votes, that the cognizance of them belongs to the board: but when the board is found incompetent to this, it shall return the documents of the proceedings to the ordinaries, stating, by letter, without entering at all into the subject of the same proceedings, that so far as regards the holy office, there is nothing to be done in the matter. And the same shall be observed, should the

communication come from a secular judge; only taking care, that in case there be any thing to call for the cognizance of the holy office, before any other step is taken, enquiries must be made of the witnesses.

15. Should it come to the knowledge of the holy office, that any person has been imprisoned, by the order of any minister, either ecclesiastical or secular, for any crime, the cognizance of which belongs to the holy office, the inquisitors shall send letters of entreaty, requesting such proceedings to be sent back to them, and desiring that the criminal should be kept in prison, until they come to a determination on the business. On finding after these letters have been forwarded, that the case actually belongs to their cognizance, they shall issue other letters of entreaty to request the person of the prisoner, and on his being sent, they shall keep him in custody, till they see by a re-examination of the witnesses, and the ratification of their depositions, and other enquiries before prescribed, whether the criminal is to be kept in prison: but when they find that there is not sufficient proof for doing this, they shall set him at liberty, without sending him back to the prison where he was originally confined, save and except, if he has been guilty of any other crime besides that for which he was sent to the holy office.

16. If the inquisitors should order any person to be taken to prison, who may already be imprisoned for crimes belonging to the cognizance of the ordinary or secular judge, they shall issue letters of entreaty for the prisoner to be sent to them; therein declaring, that as soon as the business is finished, for which the prisoner has been demanded, he shall be restored to the place in which he was, which shall be done, and in such a manner, that the sentence of the holy office shall have the precedence in point of execution. And if any inconvenience happen, which may render it necessary to alter this order

of proceeding, the board shall report it to us, in writing; that we may provide in the case what we may think proper.

17. In those cases where the ordinary or secular judge does not execute or comply with the letters of entreaty issued by the holy office, the board suspending all proceedings, shall report the same to us; and shall wait for the determination we may take upon the subject, after his majesty has given us orders in the case.

18. When the denunciation is against any confessor for soliciting *ad turpia* during confession, the inquisitors shall abstain from asking the denouncers any more questions than those necessary to obtain a proper knowledge of the crimes of the denounced; and moreover shall inform them, that they are not obliged to say any thing of their own persons, but only to mention those things which relate to the denounced; and they shall order records to be made of that only which relates to the guilt of the criminals: save and except when the person (without being obliged) declares any act of sodomy, or any other act which may aggravate the crime of the denounced; that he may in consequence receive a greater punishment.

19. On a denunciation being made, that any person has married twice, they shall not proceed without first ascertaining the fact of both marriages, and that both were contracted according to the forms of the sacred council of Trent; and that at the time when the second marriage was contracted, the first wife or husband was alive: which circumstances must be proved in such a manner, that even the confessions of the defendants shall not be considered sufficient to prove both marriages, unless those confessions are verified by certificates extracted from the register of marriages, or by persons who attended them. Nor will it be sufficient to shew that the first wife, or first husband, was alive at the time when the

second marriage was celebrated, without having judicial information, save and except when the circumstance occurred in such distant countries, that great delay must take place in obtaining such proofs, in which case, the confession made before the board shall be held good, and the resolution taken in such case shall be sent up to the council-general.

20. Should the denunciation relate to words concerning circumstances at all doubtful in tenets, *a qualification, by two or three qualifcators*, shall proceed, they being graduated in the form determined in the title of qualifcators; which the inquisitors shall order, to the end that, on the nature of the crime being made certain, they may better proceed against the guilty; and the resolutions taken thereon, in all cases, where the crime requires qualification, shall be sent to the council-general.

21. Before the promoter proceeds with his allegations on the part of justice, the defendants shall be called to the board, or to any of the places of audience, and there they shall be admonished, three times, with an interval of ten days between each of the admonitions. All of those shall commence with the oath of the defendants, to confess the truth; and, at each time, they shall be asked, whether they have ever thought of examining their crimes, and wish to confess them in order to discharge their consciences and obtain a good issue to their causes; and if the criminal be a relapse, or accused of sodomy, it shall be then said, for discharging their consciences, and the salvation of their souls.

22. In the first admonition, enquiries shall be made into their names, age, employment, place of nativity, and abode; whether married, and to whom; what children, or grand-children, they may have had alive or dead, and of what age they are; whether they have received christian baptism, and where and by whom they were baptized,

and who were the sponsors; if after they arrived at the years of discretion, they used to go to confession, and take the sacrament, as well as to comply with all the other duties of a catholic. And, on their answering yes, they shall be ordered to bless themselves with the cross, to say, the Lord's Prayer, the Ave Maria, the Creed, the Salve Regina, the commandments of God and of the Church; they shall also be asked, whether they know how to read and write, whether they have acquired any science, and where; if they have any sacred orders; if they have been out of the kingdom; to what places they have travelled; in what countries they have been; whether they have been imprisoned before, and ordered to do penance by the holy office; and all these declarations shall be taken with a great deal of minuteness.

23. Such defendants as are not imprisoned for crimes of formal heresy, shall be asked only for their names and ages; and those imprisoned for the second time, shall be asked for their names, whether they have changed their estate since the first imprisonment; or being married, if they have had more children, or if after they went out of the inquisition they left the kingdom.

24. In the second session the prisoner shall be interrogated generally as to his crimes, or for those for which he had been denounced: that should he find himself guilty in any respect, he may confess his crimes as is expedient to the salvation of his soul; and in this session, the questions shall be multiplied, according to the nature of the crimes for which he is denounced; and on his replying to all questions, that he has not committed any crimes in the matters asked of him, the second admonition shall be given with much charity and meekness, wherein he must be told, that he should think of discharging his conscience.

25. Should the defendant be accused of any heretical

principles or act, forming the tenets of any sect of heretics, he shall be asked, whether he holds as true, and believes the errors of such sect, and in particular the ceremonies used by those who follow it; if he has read any books that teach these errors; if he travelled or was brought up in countries where such a sect is professed; and questions shall be proposed to him, on all matters that may be thought expedient, to ascertain the nature of his crimes.

26. When the aforesaid sessions are finished, the third shall be made *in specie*. In this the depositions of the witnesses, who have given testimony against the defendant, shall be particularly examined into, by questions in the same manner as they have deposed; and on their being found as they ought to be, in conformity to each other, as to the fact, place, and time, one question only shall be formed of the whole. The questions proposed must not exceed the force of the depositions, because by this excess, they would be rendered null and void, which we do most earnestly recommend the inquisitors to avoid.

27. Should the defendant refuse to confess the crimes of which he is accused, in any of the aforesaid sessions, the proceedings shall be sent to the promoter, who must proceed against him, with the instruments of accusation, and from henceforward, what is already determined shall be observed. But should the defendant confess in any of the aforesaid sessions, his confession shall be taken, and he shall be dealt with in his cause agreeably to the mode prescribed in the following title.

TITLE II.

How the Confessions of the Prisoners are to be received.

1. Whereas the confessions of the criminals, in cases of heresy, are circumstances that render them more worthy

of the mercy of the church, and are the principal foundation to the holy office, for proceeding against the persons denounced; we do ordain, that if any prisoner should begin to confess his crimes in any of the sessions, which we have appointed in the preceding title, or in any other stage of his trial, the inquisitors shall receive that confession in their proper persons, without committing the same to any deputy, save and except, there should be any serious impediment to the contrary, in which cases they may be received by the deputies, who have for that purpose our especial permission; and should the prisoner be ill, or wish to begin or continue his confession, an inquisitor shall go immediately to hear him, and when the confession has been taken, it shall be ratified in the same session.

2. Whenever any prisoner may declare that he wishes to confess his crimes, the inquisitors shall admonish him, particularly, that it is very convenient, as well to the good of his soul, as to the acceleration of his cause, to say nothing more than the truth, without uttering any falsehood, either against himself or against any body else; since he must know, that if he does not do this, he will not only deprive himself of that mercy, which he expects from his confession, but he exposes himself to the serious and very rigorous punishment which is inflicted on the persons who depose falsely in their confessions; that he shall be tried and punished as a false witness, and become liable to the penalties imposed by the ordinances of the kingdom; and this admonition shall be entered at full length in the proceedings, before the defendant begins his confession.

3. If the confession relate to heretical errors, before the defendant makes it, he shall be asked the name or names of the person or persons who have taught him these errors; the time and place, and the persons present; if he

listened to these doctrines, in what form they were taught, and how long he continued to learn and believe in such errors.

4. When the defendant in his confession wishes to speak of persons to whom he has communicated his errors, another oath shall be administered to him, as to what relates to a third person, and he shall be reminded and admonished anew, agreeably to the form stated in the § 2; and on his talking about any other person with whom he has communicated, he shall be desired to mention the place of their abode, estate, age, and time of the declaration, with the greatest possible certainty, and in such a manner, that the confession shall not be foreign to truth, or if the accomplices are alive or dead, if they have been imprisoned by the holy office, and whether the communication was before or after they were so confined, if they are related to them. And, at the end of each session, they shall be called on to declare what reason they had for placing a confidence in each other, with any thing else they may have to say.

5. Though the prisoner may persist in his confession to say something improbable or inconsistent, that may contradict himself, the inquisitors shall not interrupt his confession with questions or replies; but merely tell him, to say only what is true, without incumbering his conscience, by means which he thinks may exonerate it: and after this, in a separate session, the defendant shall be examined as to the contradictions, repugnances, and inconsistencies in his confession, being admonished anew, to tell the truth, without imputing to himself, or others, any circumstances that have not really occurred.

6. Whereas experience has often shewn, that the prisoners, to free themselves from imprisonment, and advance their causes, make very ample confessions, saying that they have declared themselves to every person they can

recollect, whether they know them or not; the inquisitors shall pay particular attention to the manner of these declarations, looking particularly into the facts, time, and place, and attentively considering all the circumstances that may demonstrate its falsity and improbability, not only inasmuch as regards the prisoner himself, as what relates to the accomplices whom he names. And after the prisoner is remanded, they shall order the notary to certify all that passed; and declare particularly in the term, those circumstances or indications that were observed in contradiction to the truth, with the conclusions they formed from them, that it may better appear to what credit they are entitled, as well against the prisoner, as against other persons of whom he may have spoken: such certificate to be signed by the inquisitor present at the examination, and annexed to the proceedings.

7. And as experience has also shewn this point to be of great importance, and that it is worthy of great and vigilant care, and of every precaution which prudence and judgment may dictate, to come to the knowledge of the truth; we do ordain, that as soon as a prisoner has declared in his confession, that he had accomplices, in all extraordinary sessions that may take place, he shall be asked, without reading to him his declaration, whether he recollects all the persons who have declared themselves with him, and what they said in the preceding sessions; and on his answering yes, he shall be made to repeat the facts, with the names, places, and times; and the notary shall proceed constantly in committing to paper every thing the prisoner may say on these points, that it may be seen whether he agrees with himself in his subsequent declarations, as well in what regards the names and number of his accomplices, and the places and times of the declarations. The inquisitors, however, shall observe, that they must note the diminutions or amplifica-

tions, incoherencies, and informalities of these declarations, in order to decide from them upon the improbability of the former declarations, and the title and credit they deserve, as to what the prisoner says of himself, and also of others.

8. Should the confession and declarations of the prisoner agree, in every respect with his former ones, and thus they would substantiate the proofs adduced against him on the part of justice, he shall only be told, that if his conscience is burthened with any other scruple, he ought to declare it, as he may be certain that much of that mercy will be extended to him, which the church practices towards those who make a faithful and true confession.

9. Then follows the session of creed, in which the prisoner shall be desired to state the time when he separated himself from our holy faith, and attached himself to the creed of those errors he has confessed; who taught them to him; in what God he believed at the time of his errors; if he believed in the mystery of the holy trinity, and in Christ our Lord; if he held him to be the true God and Messiah, promised in the law of the Jews; or whether he expected him yet to come, as do the Jews; if he believed in the sacraments of the holy mother the church, and held them to be good and necessary for the salvation of the soul; if he ever treated them with irreverence, and chiefly that of eucharist; if he used to confess the errors of which he has now accused himself, to his confessors, and believed them to be really such; if he knew that to believe in the law of Moses, or to follow the errors he has confessed, was repugnant to the tenets, belief, and doctrines of the holy mother the church, and in violation of the common practices of the catholics; how long his error continued; what induced him to separate himself from them, and what belief he

entertains at present. If the prisoner be a priest, he shall be asked besides, whether when he said mass, or administered the sacraments of baptism and penitence, he had any intention to consecrate and absolve.

10. Should the prisoner give satisfaction to justice, and exhibit a firm belief that he has been in error, what is said at the end of §. 8. shall be repeated to him: but if this belief be not fixed and steady, a second admonition shall be given, in which he shall be reminded, in particular, of the deficiencies in his confession, and the repugnances, contradictions, and inconsistencies resulting from it. The inquisitors shall bear in mind, however, that the defendant must not be too hardly pressed, because the contradictions and repugnances, observed in such cases, may proceed more from ignorance and fear, than actual design. If it appear on the part of the defendants, that during the time of their errors, they did not believe in any other law but in that of Moses, and that they persevered in it, although when repentance came, they resolved to confess it, this is sufficient to absolve them from the charge of those contradictions.

11. It is to be understood, as a general rule, that the confessions of all be ratified, before the session of creed is held on the prisoners, except when it may appear necessary to the inquisitors to defer this to another time.

12. The ratifications shall be made in the presence of two ecclesiastical persons, approved by us, who shall always be selected from those not of the holy office, save and except, when the confession or denunciation, either from its own nature, or from the rank of the individuals, is of such importance, that the inquisitors may consider it improper to make the same known to any person abroad: in such a case, the ratification may be performed before any two deputies or notaries, whom we may name.

13. Should the first confessions of defendants agree

With the subsequent ones in substance, number of persons, place, and time, they shall be read to them before the aforesaid two ecclesiastical persons; and afterwards they shall be asked, whether these are their own confessions, whether they are truly written, and in the same manner as they were made, and whether in reality the fact be as therein stated, whether they have any thing else to declare, or any thing to amend, whether they thus ratify them in every respect, as being the whole truth and nothing but the truth? All this the notary shall write down in the aforesaid form, and the prisoners shall sign it if they know how to write, or to make a mark: if not, the notary shall sign for them, with their consent, together with the inquisitors, and the persons present at the ratification. On a prisoner's being remanded, those persons shall be asked upon oath, whether they think that the prisoner spoke the truth, in what he confessed, according to their observations, and what they may answer shall be written down separately, but near the ratification, and this shall be signed by the inquisitors, and by the persons who may be present. Should the ratification be made at such a time or place that no ecclesiastical person can conveniently attend, some secular persons may be admitted to perform the duty, provided they are persons of authority, good conscience, and regular habits.

14. When the declarations are inconsistent with each other, and repugnancies may exist, either in regard to the defendant himself, or in regard to the accomplices whom he may have named, as we have mentioned before in §. 7. the inquisitors shall not proceed to their ratification, as long as the declarations shall remain in this state; because the ratification cannot rectify or clear up the absurdities they contain; but they shall be examined anew, *in specie*, respecting these inconsistencies and repugnances; and in case no such explanations can be

obtained, as are worthy of attention, and no reason can be alledged, to induce the inquisitors to form a certain opinion that the confessions of the defendants are founded on truth, at least in what they say of themselves, they shall then be ratified. The inquisitors, however, are reminded of the little credit to which such declarations are entitled, so far as relates to a third person.

15. Should the defendants not correct, according to the aforesaid form, the defects, inconsistencies, and improbabilities before adverted to, the inquisitors shall order the proceedings to be examined by the promoter, who shall accuse the defendant of the same, and shall insert in his process, that he accepts the confessions of the defendants, inasmuch, as they operate against them, pointing out, by separate articles, very clearly and distinctly, each of the said defects and inconsistencies, in regard to the accomplices; and he shall conclude by saying, that the defendants ought to be suitably punished for the said falsities.

16. The promoter having brought forward the process, and the same being received *si et in quantum*, the inquisitors shall continue the proceedings to the view of the procurator, named by the defendant, who shall have a conference with the same defendant, in the manner we have already ordained, concerning the business of his defence, which he shall divide into articles, being received from thenceforwards in the manner prescribed in title I. of this book, §. 8. and the following.

17. Should the defendant say, through his said procurator, that he has no defence to make, he shall declare the same by writing in the proceedings, which shall be delivered over as concluded, to the inquisitors, who shall preclude him from any defence he might produce, and shall order the cause to proceed in the ordinary terms. But should the inquisitors see, that the defects discovered

are of such a nature that some explanation of them may and ought to take place, they shall order it to be done, *ex officio*; and in any stage of the proceedings, should the defendant express a wish to produce a defence, or to add any thing to that already produced, he shall be permitted to do it without any difficulty.

TITLE III.

Of the Torture.

As torture is a most cruel method of investigating crimes, entirely foreign to the pious and merciful sentiments of the mother church—the most sure invention to punish innocent weakness, and to favour hardened guilt, or to extort falsehood from both—the most arbitrary of all ordinary forms of law, which do not permit the infliction of a certain and horrible punishment, for a crime still doubtful, has been abandoned in the secular courts of these kingdoms, by a custom contrary to the laws, but lawfully *prescribed*, with the knowledge and approbation of the most august lords kings of the same kingdoms, and only permitted in cases (which may never happen) of conspiracies against the lives and dignities of the said monarchs, when the indispensable necessity of extirpating the roots of such an obnoxious pestilence renders it expedient that public security should preponderate over the individual convenience of the guilty; there not being any cases like these in the holy office, nor any others that may bear a resemblance to them, according to the rules of a just combination, except those of innovators, heresiarchs, and free-thinkers, who may have diffused and disseminated their pernicious sects; in the extirpation of which, the rule to be followed is only the common good of the state, which consists in preserving religion pure and

undefiled by sects, schisms, or heresies, which may shake its firm foundations; and as this common good is likewise superior to all particular considerations in favour of the tortured, for all the foregoing reasons, and others which have been made manifest throughout all illuminated christendom, we do determine in regard to this article as follows:

1. If there shall be no proof against a defendant, sufficient to render him deserving of the infliction of the competent punishment; or if he be deficient in his confessions, or if there be strong indications that he has actually committed the crime for which he is tried, the promoter shall notice these diminutions, in the manner declared in title II. §. 15. of this book, without having recourse in any of the said cases, or any others, to the torture, as it cannot be permitted, that in the holy office such a species of investigation of crimes, or rather of intended perpetrations, should exist.
2. Should the defendant accused of the said deficiencies or diminutions satisfactorily explain them in any stage of his trial, with signs of repentance, his confession shall be received and treated as confitents; but in case he should not do so, with respect to the said diminutions, and particularly when they shall be of such a nature as not to admit of being ascribed to, and have been lawfully and legally proved, the cause shall follow its ordinary course, according to its merits, and the defence thereto made.
3. But if the defendants are heresiarchs or dogmatists, and it is known that they have disseminated errors, and made proselytes, should they not confess their crimes, or conceal any of the persons whom they have seduced to their opinions, they shall be put to the torture, which shall be proportioned to the nature of the proofs adduced against them, and is rendered necessary by the great importance of

rooting out from amongst the faithful, such deadly and pestiferous roots.

4. At the infliction of the torture, the ordinary shall be called in, or that person to whom he may have committed his authority; and also two inquisitors shall be present, with a deputy, or at least one inquisitor and one deputy; and should the ordinary not come, there shall be present two inquisitors, with two deputies, in such a manner, that whenever torture is to be inflicted, three votes shall be always present.

5. After the ministers have seated themselves at the table in the room of torture, they shall order the defendant or person intended to be tortured to be brought before them, and shall previously admonish him to discharge his conscience, and avoid at the same time the trouble and uneasiness which he is about to suffer: on his still refusing to confess the crimes for which he is sentenced to the torture, the executioners shall be called in, with the physician and surgeon, who are to be present, and an oath shall be administered to them, that they will properly execute their duty, and they shall order the criminal to be taken to the place of torture, to receive punishment according to the decision.

6. When they begin to tie up the prisoner, a notary shall go to him, and in the name of the inquisitors, and other ministers, who passed sentence on his trial, he shall protest, that if he, the prisoner, dies during the torture, has any limb broken, or loses any sense, the fault shall be his own, as he voluntarily exposes himself to the peril, which he might avoid by confessing his crimes, and not the fault of the inquisitors, who have merely done justice according to the merits of the case.

7. On the defendant's being negative, and saying in the house of the torture, either before or after it has begun, that he wishes to confess his crimes, the executioners

shall be ordered out of the room, and his confession shall be taken in the place where he is; and after he has been ordered to sit down on his bench, his confession shall be received, and the torture suspended. In case of his being confitent, or wishing to continue his confession, the same thing shall be observed, and what he may say shall be written down without the least omission. But, if on an examination of what he has declared, it shall appear unsatisfactory, they shall order the torture to continue; and having altered the decision taken, the ministers then present shall vote, and their decision shall be enforced.

8. Should any prisoner faint in the house of torture before his punishment begins, or any other circumstance should happen, to interrupt the infliction of the sentence, the ministers shall order the prisoner to be taken back to prison, declaring in the session then going on, the reason why the torture was not continued; and on the cause of delay ceasing, the prisoner shall be again conducted to the house of torture, to have the sentence inflicted upon him. If the fainting shall return, or any other impediment still occur after the punishment has began, they shall order it to be suspended, and the same declaration to be entered in the session, and the proceedings shall be laid again before the board to enable it to decide what is to be done in the matter.

9. The confession made by the prisoner, in the house of torture, or after he has had notice of the decision that orders the torture to be administered to him, shall be ratified, after four and twenty hours have elapsed, should it appear convenient so to do, according to the state in which the defendant may happen to be; and the ratification shall not take place before that period has elapsed, nor much longer afterwards. At this ratification shall not be present the two ecclesiastical persons before-men-

tioned as necessary to the other ratifications; and in this the defendant shall be asked, whether he recollects the confession he made upon such a day, and under such circumstances: whether what he then said is true; whether he affirms it, and perseveres in the same, without being under the impulse of fear, force, or violence; and afterwards in a different session, held with him, the ratification shall be renewed before two ecclesiastical persons in the form before determined.

10. Should any new suspicions or indications of guilt arise against the heresiarch or dogmatist, after the torture has been inflicted, his cause shall be proceeded in according to the nature of their indications, and the business shall be laid again before the board, when if it should be determined, that the torture is to be repeated, it shall be stated in the decision, that, in consideration of new circumstantial evidence having arisen against the defendant, and its nature, they order the torture to be inflicted upon him again, and it shall be executed in the form aforesaid; and the torture shall not be repeated but once, even if there be great cause for it, without previously apprising the council-general of the circumstance.

11. If the defendant negative, or confitent diminute, be sentenced for torture, and as often as he begins in it to confess his crimes, as often as he revokes them again, without consenting to ratify his confessions, after the prescribed four and twenty hours have elapsed, he shall again be put to the torture; and though he may say that he is willing to confess his crimes, he shall suffer the torture to which he was sentenced, to such a degree as the inquisitors may think proper: and, on his continuing to say that he wishes to confess his crimes, they shall stop the torture, and take his confession; and if again after the four and twenty hours he should revoke what he has said, he shall not be again put to the torture; and at last they

shall take into consideration, in what respect he was defective, and the revocations he made, when the final punishment is to be inflicted.

12. When the defendant, after the four and twenty hours have elapsed, revokes his confessions, made during the infliction of the torture, the inquisitors shall accept of that revocation, and he shall be examined again, as to its circumstances, and shall have another accusation preferred against him, for the new indication or circumstantial evidence arising therefrom; and the proceedings shall be laid before the board, to enable it to come to a decision, whether the torture is to be repeated, or increased: this is to be understood of a confession of something that the defendant had been accused of; for if it relate to any thing with which he is not charged, no notice shall be taken, either of such a confession, or of its revocation, and the sentence of torture shall be inflicted. And if the defendant revokes the confession after it has been ratified according to law, and the §. 9. of this title, what is ordered in the 3d book, title 5, shall be observed.

13. Should the defendant be convicted as an heresiarch, according to the proofs of justice, and at the same time he shall be suspected of having accomplices of the same sect, he may be put to the torture, *in caput alienum* (on account of others) that he may declare them; and in the sentence of torture issued in his case, it shall be said, "that, seeing the circumstantial evidence resulting from the proof of the justice, which proves, that he knows of other persons whom he has made proselytes to the errors of which he has been accused, they order that he shall be put to the torture to declare them." And in the admonitions made to him in the hour of torture, he shall not be asked concerning that which relates to himself as a party, but concerning that which has reference to his accomplices; it being at the same time declared to him, that this is the

only reason why he is ordered to suffer torture; but this proceeding shall only be put in practice in cases of weight and importance, when great advantages may be expected from it, and never without first laying the proceedings to the council-general, with the decision formed by the board.

14. The tortures administered to the prisoners, according to the importance of their crimes, the state of their bodily strength, and the will of the judges, shall increase by degrees, according to the ordinary scale, from the first tie, till they come to a severe torturing.

TITLE IV.

Of the Proofs which are alone to be held as legal, for convicting the Defendants negative or diminute.

According to the rules of all law, to convict a negative, or diminutive defendant, it is necessary to have one proof only, which must be of the most lawful description, clearer still than the light of the day at noon, which proof is not, nor can be, dependent on a single witness, unfit or defective; and chiefly too, when the question is about surrendering defendants to secular justice, in which case the weight of the penalty renders it indispensable, that a more secure and circumspect proceeding should take place; it being sufficient that, in one instance only, innocence should have been relaxed to the last punishment, for the proofs to be qualified, when only those must be admitted which leave the judges without hesitation or scruple; much more still with the experience of so many instances, as we have quoted in the preamble to these Bye-laws, which cannot be read or heard of without horror, and which go to the last pitch of excess; wherein, on one side, an infinite number of prisoners is seen to be tried and relaxed, on the mere authority of D. Francisco de Castro; and on

the other side, is to be remarked the notorious nullity of sentences passed without the necessary jurisdiction, which could come only from the king my lord, with such other proofs published by ecclesiastical judges, who forgot every rule of meekness that should be inseparable from their character, and is incompatible with severe and violent proceedings. It being our duty to provide remedies for so many wrongs, after we had seen, with the most serious consideration, that their origin proceeded in the first place from this: as the proofs on the part of justice against the criminal were published, and the names of the witnesses who accused them were suppressed, the defendants were thus exposed to the unsatisfactory defence of a negative, vague and undefined, or were induced by consternation to depose, as they were in the dark, that they had declared themselves to every person whom they could recollect; in order to see whether by those means they could find out or discover the persons who had accused them: all these declarations were joined in the holy office, the same defendants becoming witnesses against those persons with whom they say they have had connection, and coming to the competent number, proceedings were had against them, without properly reflecting, that declarations so vague, and proceeding entirely from the consternation in which the same holy office had placed the defendants, by concealing from them the names of the persons who accused them, and that under this impression, the fear of death obliged them to invent declarations which never existed. And in the next place, that those injuries were occasioned by the improperly called custom of the holy office, unlawfully tolerated, though mentioned as singular, in the bull denominated *Innocentiana*, which admitted the proof even of a single witness, however unfit and defective. The first cause of these calamitous injuries having already ceased, as to the future, by virtue of the provisions established

in the first title of this book, §. 10, where the publication of the proof of justice has been ordained, by making known to the defendants, or their procurators, the original depositions of the witnesses, in the same manner as they made and signed them, wishing now to provide for the second cause of the said injuries, we do ordain as follows :

1. We banish and abolish from the holy office the practice and method of proceeding against defendants by the testimony of single witnesses, as the same are contrary to the divine and human law ; and we do ordain, that their depositions, under such circumstances, however great the number of them may be, shall always be deemed of no vigour and effect, either to pronouncing on the guilt, or sentencing the guilty to punishment.

2. Single witnesses shall only be admitted in the simultaneous concurrence of the three juridical identities of fact, place, and time ; and on the failure of any one of the identities, the depositions shall be void, and no proceedings shall take place upon them.

3. We do except from this general prohibition the crime of solicitation, in which the impossibility of finding another proof renders the testimony of a single witness of indispensable necessity ; in this case, the want of more testimony being remedied, in the practice of the holy office, by such and so circumspect precautions, that it has never occurred, in such cases, to inflict on innocence an unjust punishment. We except also the crimes of *sigilism* and sodomy, which would remain unpunished, though ever so abominable, if in such cases proof of all sorts were not admitted.

4. We abolish, as to the ordinary punishment of death, confiscation, and infamy, the admission of proofs by witnesses unfit and defective ; there only remaining

to the extraordinary penalties, that by them those indications or circumstantial evidence may be cleared up, which the said witnesses made good against the defendant. And this we ordain, notwithstanding the said bull called *Innocentiana*, both because it refers to a practice already established in the inquisition, which is untenable in matters of such importance, and because the royal approbation of his majesty had not been obtained, which was indispensably necessary to enable the said bull to be observed in these kingdoms, and is even still more indispensable in matters belonging to the royal jurisdiction, such as the external form of proceedings in the holy office, and the qualifications of proofs against the defendants, who are subjects of the same lord the king, to inflict on them the capital punishment, which it is only competent for the high and supreme power of the princes of the earth to do.

5. We do except also, from this general rule, the crimes of heresiarchs and dogmatists, on account of the resemblance they have, in affecting public injury, to conspiracies against the life and dignity of the king, and the necessity that exists of extirpating even the roots of those monsters, which so much shake religion in its solid foundations. In crimes of this nature, any sort of proof shall be admitted, which may bring to the knowledge of the criminals, and their accomplices, since those crimes are of an order superior to the ordinary rules of law, by which the proofs of other crimes are regulated.

6. To convict a negative defendant, who may have actually committed the crime of judaism, of which he may have been accused, the same number of witnesses shall suffice (being lawful, creditable, and without juridical defect) as is requisite in the civil courts of justice, in the proofs of other crimes; for no difference must be

admitted in the ordinary way between one or the other, so far as there is a necessity for legal proof, in order to effect a competent punishment.

7. When the defendants confitent are diminute in their confessions, and this diminution takes place as to an accomplice, a relative, either in the ascending or descending line, or a husband or wife, in which forgetfulness is not presumed, as by the provisions of these Bye-laws, which order, that the names and original depositions of the witnesses shall be made known to the defendants, the presumption ceases that they conceal their names because they are ignorant of their imprisonment, and their depositions; and this presumed simulation in their confessions cannot longer be charged to the defendants, the legal and concludent proof of the said accomplices becomes necessary, to convince the defendants fully about them.

8. When the diminutions relate to accomplices who are persons out of the degrees before stated, as in regard to them, forgetfulness may be presumed, especially when the defendants have spoken of themselves, or of other persons as near or nearer in connexion, it is not necessary that the proof of these diminutions should be qualified; because, without charging the defendants confitent with them, their confessions must be received.

9. We do except, from this general rule, the aforesaid heresiarchs, or dogmatists diminute; for the same proof that is sufficient to convict them as negatives, for the reasons stated in the 5th §. of this title, is sufficient to convict them in this state.

10. When the defence of the prisoner for judaism is so limited, or in the proof of it, considering the rank of the defendants and the witnesses on the part of justice, it may appear to the inquisitors, that the circumstances of the case have not been well considered by the procurators

of the defendant, and consequently that they are not well defended, before the proceedings are finally laid before the board, the inquisitors shall, *ex officio*, order new proofs to be alleged in the defence, and all other examinations which they may deem necessary to the better ascertaining of the truth; and so they shall order in the proceedings, giving in them this additional proof of the regularity of their conduct.

TITLE V.

How the Ordinaries are to be requested to attend the final Dispatch of the Proceedings on Trials.

1. Before the inquisitors enter into the final dispatch of the trial, they shall cause the ordinary of the district to which the defendant belongs to be requested to come, or to send some person in his name, to be present at the dispatch, which form shall be observed, not only in cases of heresy or apostasy, but also in all other cases entrusted to the cognizance of the holy office. But the proceedings on the trials of those who present themselves, and confess their crimes of heresy, not publicly, but privately, may be dispatched without the attendance of the ordinaries being required.

2. When the ordinary, after having been requested, does not come personally to the dispatch, the person to whom he commits his authority shall, before he is admitted, produce his commission, formally signed by the ordinary; and in the proceedings a notary shall enter a term certifying that commission. In case the ordinary do not come to the holy office, nor give a commission to any other person, a term of this shall be entered in the proceedings, and dispatch shall be proceeded in according to the practice of the holy office.

3. Should the ordinary name any person, in whom the

qualifications required by these Bye-laws in the ministers of the holy office are wanting, it shall be notified to him, that he must name another, and on his not doing so, the business shall proceed in the aforesaid manner.

4. For dispatch of the causes of persons lawfully exempt from the ordinary jurisdiction, the ordinary of the place where the holy office resides shall be requested to attend, in the same manner as it would be if such persons were not exempt from their jurisdiction. If the defendants are monks, the ordinary of the place where their convents are situated shall always be requested to attend.

TITLE VI.

Of those who come to accuse themselves, and are called Apresentados, and of the Form to be observed in the Dispatch of their Causes.

1. Any person of any rank, estate, and condition whatsoever, who, having committed crimes of formal heresy against our holy faith, shall present himself, and confess them voluntarily, before the board of the holy office, with demonstrations and signs of true repentance, shall be treated with much lenity, that others may be induced to do the same, and procure the remedy of their souls; and after his confession has been taken down, and the session of belief has been made, in the form ordained in these Bye-laws, the proceedings shall be laid before a full board, by the ordinary, or the persons who represent them, which board must take down every thing that those voluntary apresentados declared, both as to the facts and to the intentions with which they were committed; and the person shall be admitted to the bosom of, and union with, the holy mother, the church.

2. Should no witness appear at the board of the holy office against the person who voluntarily presents him-

self, to accuse him of any crime, though it may be understood, the presentation of such voluntary confessor is not to be delayed, even though it may be understood that some witnesses will come to testify against him, nor shall he be deprived of the privileges attached to *apresentados*: his presentation shall be received, and he will be admitted into the bosom of the church.

3. If after these persons have presented themselves, and a reconciliation has been effected, any witnesses shall appear of the first degree, who may shew that the confession has been diminute, should such a diminution be proved by witnesses, sufficiently identified of integrity, at the request of the promoter, the presentation shall be cancelled, and they shall proceed to imprisonment, and to an examination and accusation for those diminutions, as to the accomplices of the said degree; and if the prisoner give a satisfactory reply immediately, he shall be absolved of the excommunication he incurred by concealing his accomplices; and if he should not, his cause shall be proceeded on in the ordinary form.

4. If the *apresentados* are heresiarchs or dogmatists, and be afterwards found diminute, as to the aforesaid accomplices, proceedings shall take place against them, in the manner prescribed in the §. 9 of the 4th title of this book.

5. Should any person, not of sufficient age to abjure his errors, come and present himself to the holy office, not having compleated 17 years of age, after his confession has been taken down and examined by him, and the session of belief has been made, the inquisitors shall cause him to be instructed in the matters of faith, and to receive the sacrament of confession, and to be absolved of the excommunication he has incurred, in the manner they may think proper, or they may judge best adapted to his capacity, it being understood, that before that age, it

shall not be considered, that there is the necessary discerning faculty, for an act so solemn, and of such consequence, as the abjuration, which, *at the reincidence*, brings with it a capital punishment.

6. Should the crime be bigamy, though the *apresentados* may confess both marriages, no decision is to be taken in his cause, without the crimes being first ascertained, by witnesses or certificates, from the book of marriages; and juridical information having been received, that the first wife, or first husband, was alive at the time the second marriage was celebrated, except in the case when the proof is to be made in so distant a place, that a great delay may be occasioned; for, in this case, his confession shall be examined at the board, and there such a decision shall be entered as may appear proper, and this shall be sent up to the council-general.

7. Whenever any person, a native of these kingdoms, shall present himself to the board of the holy office, and confess his crimes of judaism, or any other heresy, which he may have committed in foreign countries, declaring that he communicated the same to other persons, or that there are some who saw him commit them, should such person not be accused by legal proof, he shall be received into the bosom of the holy mother church, in the manner declared in Book III. Title I. §. 1.

8. Should any foreign heretic present himself to the holy office, and confess that he separated himself from our holy faith, but that he wishes to be admitted into the bosom of, and in union with the catholic faith, the inquisitors shall receive him with kindness, and shall take his confession, examining him by it, that it may be upon record, whether it proceeded from true repentance; and should any thing to the contrary result from this enquiry, he shall be reconciled in the form declared in Book III. Title VII.

9. Should any person, brought up amongst parents and relations who are heretics, and in a place where he had not, nor could have, a true knowledge of the catholic faith, nor receive sufficient instruction in the mysteries of it, come to the board of the holy office, and ask to be admitted into the bosom of the holy mother the church, the inquisitors shall cause him to be instructed by some learned ecclesiastic, and after he has been instructed, shall order him to go to confession, and be absolved *ad cautelam* of the excommunication he might have incurred and both to him and to any other heretic that may be reconciled, such spiritual penances shall be prescribed as are directed in Book III. Title I. §. 2.

10. Should the aforesaid person present himself through his confessor, and this confessor shall possess sufficient abilities for having the instruction of such a person entrusted to him, the inquisitors may commit this to him, with the power of absolving the said person in the sacrament, in which cases no proceedings will be necessary to be formed to the *apresentado*.

11. If any person presents himself to the board of the holy office, and there confess crimes of heresy, not publicly, but in private, and ask absolution of them, the inquisitors may reconcile him judicially, declaring in the decision, that if the same person shall again fall into the same crimes, it shall not be held as a relapse: and if the said person does not wish to go to the board of the holy office, one of the inquisitors may reconcile and absolve him in his own house; and when through his confessor it shall appear, that a person cannot come to the board, nor before any of the inquisitors, after it has been found ineffectual to make him personally present himself, if the confessor be learned, and worthy of confidence, the inquisitors may give him the power of absolving the person in so far as regards his conscience.

12. Any person imprisoned in the holy office, for crimes not amounting to formal heresy, who shall confess at the board crimes of formal heresy, of which he had not been denounced, shall not be deemed an *apresentado*, if the confession be made before the accusation of justice is offered against him; but he shall be reconciled, on abjuring his errors, because, in this case, the confession has not the requisite qualities of the law for the confitent to enjoy the benefits of *apresentado*. But if he confess after the libel, he shall make his abjuration at the board. On the contrary, if he be imprisoned for crimes of heresy, and confess others of a different nature, of which he had not been denounced, with sufficient proofs to warrant his being imprisoned, he shall be held as an *apresentado*, and shall hear his sentence pronounced as to the crime which he confesses at the board of the holy office, before the inquisitors and notaries only.

13. When persons who were slaves in the country of the moors were obliged by tortures to adopt the sect of Mahomet, and to take a moorish name and dress, or to perform any of their ceremonies, shall come to the board of the holy office, to entreat for mercy and pardon for their crimes, the inquisitors shall receive them with much charity, and dispatch their cases with all possible expedition, considering how important it is to exercise the greatest kindness towards such persons, that others who may have committed like faults, may be encouraged to confess them; and on their being reconciled, as prescribed in Book III. Title VII. they shall be sent to be instructed in the matters of our holy faith, by learned and ecclesiastic persons.

14. Should any of the aforesaid persons be natives or inhabitants of another kingdom, after the inquisitors have dispatched their cases, they shall give them, in their name, letters of reconciliation, with the decisions, and

shall order them to go and live in the countries of which they are natives, or were inhabitants, and to present themselves with those letters to the tribunals of the holy office, if there are any, and if not, to the ordinary, that, by these means, they may not be again disturbed for the said crimes, and the scandal may cease that has resulted from them.

15. If the said persons who come from the country of the moors present themselves before the commissary of the holy office, provisor, or vicar-general, to each of those we grant permission to absolve them with a relapse, provided they shall order them, within the period assigned to them, to present themselves to the holy office, and to this end they shall cause certificates to be issued to them, in proper form, in virtue of which the inquisitors shall receive them in the manner before prescribed; and that the commissary, provisor, or vicar-general may be aware of, and execute the power hereby granted, the inquisitors shall cause a copy of this to be sent to the bishops or commissaries in their respective districts.

TITLE VII.

Of the final Dispatch of the Proceedings, and Votes that must take place upon them.

1. Whenever the proceedings are ready to be concluded for the final dispatch, the inquisitors shall send a list of them to the council-general, and having received our order to enter on the dispatch, they shall request the ordinary to be present, as we have ordained, and shall summons all deputies, ordinary as well as extraordinary, who may be in the inquisition where the dispatch is to take place.

2. In the dispatch of proceedings, there shall not be less than five votes between the inquisitors and deputies,

besides the ordinary, when he is present in person, or by the individual representing him, not belonging to the board, because should he give his authority to any of the inquisitors or deputies, it will suffice that with him there should be five votes. And if there be not a sufficient number of deputies for the five votes, the inquisitors shall report to us in time the failure or delay in the dispatch, that we may provide a remedy in the case as we may think proper.

3. The inquisitors, ordinary, and deputies, being assembled, the inquisitor judge of the cause shall advert to the proceedings that are to be dispatched, and read every thing in them, both on the side of justice, and on the part of the defendant; and those that have to vote, may make memorandums of what they think necessary to enable them to come to a better determination in their deliberations.

4. The minister reporter of the proceedings, when reading the depositions of the witnesses on the part of justice, shall declare, at the time and in each of the depositions, the nature and their opinion of the credit to be attached to them, or whether they have any other object, that the voters may thereby better decide how far they may be believed.

5. When the proceedings relate to a defendant who has been imprisoned a second time for crimes of heresy, either of the same or a different nature, the former proceedings shall be inspected, and if the crimes for which he was a second time imprisoned were committed before the first sentence, the inquisitors shall not charge the defendant with them, because they must be supposed to have been atoned for by the penalties inflicted by the first sentence, and by the abjuration made by the same defendant. If the crimes, however, were committed subsequently to the first sentence, and if then he abjured

lightly (*de leve*) the new proofs may be joined to the former; but if he then abjured in form, or vehemently, he shall only be sentenced for the subsequent crimes, committed after the first sentence, for then he became a relapse.

6. If the proceedings relate to a defendant who has relapsed, the inquisitors shall always advert to the time in which the first crimes were committed, and why the abjuration was done in form or vehemently, because as the defendant has been sentenced by the Bye-laws and customs till now observed, what we have ordained and declared in the preface to the VIth Title of the IIIId Book of these Bye-Laws, shall be attended to.

7. After the whole proceedings have been proposed and read, the inquisitors shall order the prisoner to be brought before the board, and there, after he has been commanded to kneel, the inquisitor, who reads the proceedings, shall inform him, that the proceedings have been inspected, and that the ministers there present are going to dispatch them; that if he has any thing to say in favour of his cause, he is at liberty to speak: and should any of the ministers wish to address any questions to him upon the merits of the proceedings, they may do so; and after he has been heard, and has replied to what he has been asked, they shall remand him to his prison.

8. After the defendant has been remanded, the minister reporter shall give his vote, reflecting with minuteness on the proofs alleged on the part of justice, and the defence of the prisoner, and he shall conclude by stating the opinion he has formed upon their respective merits, either by condemning or absolving the prisoner; after him the deputies shall vote, beginning with the junior; and should the ordinary be present at the board in person, he shall be the last to vote, after the inquisitors; but if he is not present, the person who attends in his place shall vote

after the deputies, and before the inquisitors; which forms also shall be observed, in case any one of the deputies has had a commission from the ordinary, because though seated in the place that belongs to him, according to his seniority in the proceedings, however he votes as ordinary: and with reference to this we do ordain, that he shall precede all deputies, though they may be his seniors, and the inquisitors shall vote according to their seniority, the junior following, and the senior voting in the last place.

9. If after the proceedings have been proposed, either before they vote upon them, or after the votes have begun, it appear to any of the inquisitors, the ordinary, or the deputies, that it is expedient to examine any thing else, the senior inquisitor shall order it to be put to the vote, and if the majority is in favour of it, a decision shall be entered upon the case, and the dispatch of those proceedings shall be stayed, till the other business has been performed and joined to them: but if the majority is of opinion, that the proposed examination may be dispensed with, the votes shall be taken for the cause, and the proceedings shall be dispatched.

10. The senior inquisitor shall collect the votes, and after all have voted, shall regulate them to ascertain their state, in conformity to which the decision shall be taken, which shall immediately be entered among the proceedings, and signed before they go with the dispatch of any other cause; but if there is no time to write, then the decision shall be taken with all possible expedition, and shall be signed by all voters, in the same order as they voted, and those who may have been of a contrary opinion to the decision carried, if they should wish to alter it, they may do so, even after they have signed, on producing the reasons which have induced them to this step.

11. To avoid any doubt that may occur in the final dispatch of the proceedings, which will be arranged by the variety of votes, we do ordain that that condemnation shall be deemed as having been carried by a majority, in which the greatest number of votes shall concur, whether the punishment be of exile, pecuniary fine, or any other; or that the defendant shall abjure vehemently or lightly, as being suspected in his faith. But if the votes are even, either as to acquittal or condemnation, whether those that condemn agree or not in quantum or nature of the punishment, another vote shall be called in, if there is a voter, and by this the majority shall be decided; but if there is no voter, the proceedings shall go up with the decision to the council-general, that such a decision may take place thereon as shall and may be just.

12. Should there be only two condemnations in different penalties, if the majority of votes does not agree in any of them, the decision shall be taken according to the minor condemnation; and should three different condemnations be written, that shall be chosen, which is greater than the smallest, or should there be four or more between which a difference may exist, that one shall be chosen which is next to the greatest.

13. Should it appear to the inquisitors that there is a difficulty in reducing the votes to the rules before established, on account of the variety, or great inequality found in them, or on account of the nature of the case, the proceedings shall go up to the council-general, with the decision taken thereon.

14. Should the proceedings for whatever reason, be carried up to the council-general, whether the votes be unanimous or not, the reasons and causes for each vote shall be always written in the decision. When they all agree, it shall be said, "And appeared to all votes;" and when different, "And appeared to the inquisitor and deputies,"

(declaring them by their names). And when the board shall decide that the prisoner should be absolved in the first instance of the court, besides what has been before prescribed, it shall be declared in the decision, whether there will be any inconvenience in reading the sentence to him in public; taking into consideration for this the rank of the person, and the circumstances of the case, that the council-general may determine thereon what may be conducive to the good of justice.

15. If the proceedings are not laid before the council-general, nor are likely to go there by appeal, it shall be so declared, and appear to the majority of votes the motives and reasons for which it shall be so declared, and in all of them the ordinary shall be named; and when in the final decision the prisoner is condemned to the confiscation of his property, the time in which the crime was committed shall be adverted to; by declaring that the same appears by the proofs on the part of justice, or by the confession of the defendant, or by both means, that at all times what has been decided on may be seen, and proper certificates may be issued to the exchequer, when required, for the decision of causes that relate to the confiscated property.

16. Besides those proceedings which are to go to the council-general in consequence of appeals, interposed either by the promoter or by the defendant, all proceedings shall go, with the final decision, to the council-general, when the defendants are absolved in the first instance; and also all those in which the decision is, that the prisoner shall be relaxed to the secular justice; also the proceedings of those persons who were sentenced by a decision of the same council-general to be committed to prison, or have ever been at the council with a definitive decision; also those of the person accused of false swearing; those of the heresiarchs, dogmatists, or renegados, in the

country of the Moors ; those of persons who affirm that the body of Christ is not in the consecrated host equally perfect as in heaven ; those of any other person that may be sentenced to light abjurations, or pecuniary fines ; besides all others who are mentioned in these Bye-laws.

TITLE VIII.

Of the Proceedings in relation to Prisoners convicted of Heresy.

1. Whenever any prisoner shall be condemned as guilty of the crime of heresy, by legal proofs, without defect, the sentence shall be notified to him fifteen days before the *auto da fé*, to which purpose he shall be called to the board ; where the inquisitors, after making him precisely acquainted with the situation in which he is, shall admonish him to think of discharging his conscience, by confessing the truth of his crimes, when he has yet the opportunity of being treated with mercy ; and if he be confident diminute, it shall be said to him, that the proceedings in his cause have been examined, that it has been decided that he was guilty of the crime of heresy, since his confessions being diminute could not be received ; that he should think of finishing the confession of his crimes, by declaring the truth respecting them, if he would deserve the mercy he aspires to, and of this notification an entry shall be made in the proceedings by the notary then present.

2. To the prisoners, who may be convicted lawfully and legally for crimes of relapse, both the former and the latter case, committed after the date of these bye-laws, whether they be confident or negative, a simple notification shall be made without any admonition ; and the same shall be observed with respect to those who may be found guilty of the crime of sodomy.

3. Should any prisoner, after the decision has been notified to him, in the aforesaid form, demand an audience, the inquisitors shall hear him with great attention; and should he wish to confess, or to continue the confession of his crime, whatever he may have to say shall be taken down without delay, after he has been first admonished in the prescribed form; and the proceedings shall be viewed anew at a full board, and with the decision therein taken shall be sent up to the council-general.

4. Should the decision remain unaltered by the declaration of the prisoner, three days before his sentence is notified to him, a notary shall go to his prison, and again shall declare to him the situation in which he is, with the day in which he is to hear his sentence, that he may think of what is convenient for his conscience, and the salvation of his soul; and to the sodomite he shall say, that the next day the sacrament of the eucharists shall be administered to him as *per viaticum*, which shall be administered to him by a notary, in the private chapel of the inquisition.

5. Should any prisoner demand an audience during the said three days, at whatever hour it may be, the inquisitors shall hear him with great care, after having ordered him to be brought up to the board for that purpose; and if he confesses his crimes, or continues his confession, being diminute, what he says shall be taken down and ratified immediately; but at this ratification shall not be present, as honest persons, those ecclesiastics whom the board may have named to assist the prisoner. After this confession has been examined, the proceedings shall be laid without delay before a full board, and on full satisfaction of justice the prisoner shall be received into the bosom of the church, with the penalties and penances declared in the third book, title 3. §§ 4 and 5. And if it

appears to the majority of voters that the confessions of the prisoner, though seemingly true, must be again juridically examined; the prisoner shall be kept reserved, and his proceedings shall continue in the form before declared.

6. When the proceedings of the persons, condemned as convicts by a decision of the council-general, are altered, after the second decision has been notified, the inquisitors shall send the proceedings up to the council-general, with the confession of the prisoner, and decision taken thereon, that it may be seen whether what had been previously determined upon is to receive any alteration or not.

7. If any prisoner negative, or confitent diminute, wish to confess his crimes, or continue his confession, after he is in the place where his sentence is to be published, one of the inquisitors shall go to hear him, and shall hear him in the chair that must be set for this purpose, and shall take down what he has to say, and there in full board his confession shall be examined; and on its appearing to the majority of votes that the publication of the sentence ought to be suspended, and the prisoner reserved for a farther juridical examination as to his confession, such decision shall be communicated to the council-general, and the council may determine what shall be executed. The inquisitors, however, must be aware, that under the new provisions of those bye-laws, which ordain that the depositions and names of the witnesses who accused the criminals shall be made known to them, the presumption that was formed against the confessions made at that time and place entirely ceases, because then the persons who have deposed against them are there seen, though till then they were ignorant of them.

8. The person thus reserved shall be kept shut up in the room where he made his confession, and shall be placed

amongst the other penitents; and, after taking from him the *habit of penance*, shall be conducted to the same prison by two familiars of great confidence, out of the order of the other prisoners.

9. When the prisoner, after his sentence has been published to him, and he has been delivered up to secular justice, shall desire the inquisitors to hear him, because he wishes to discharge his conscience, should he still be in the place where he heard his sentence, one of the inquisitors shall go to hear him, as is before ordained; but if he be already gone to the secular court (*Kellaçaõ*), a deputy shall be sent to hear him there, with a notary to write; and his deposition shall be ratified and joined to the proceedings, to be credited according to what it deserves in law.

TITLE IX.

Of the Affirmative Heretics.

Should there be in prison for crimes of heresy any defendants who may affirm that they believe in the errors for which they have been denounced, or in any others against our holy faith, after their confessions have been taken down in writing, and they have been admonished with charity, to separate themselves from their errors, the inquisitors, by all just means in their power, shall endeavour to make them acquainted with a knowledge of the truth, and to lead them into the path of their salvation; and if they cannot succeed in this with the admonitions they make to them, they shall ask the prisoners whether they wish that learned persons should communicate with them concerning their belief; and should they answer in the affirmative, they shall call to this purpose some friars, or other ecclesiastical persons, on whom they may rely with great satisfaction, as to learning, virtue, and capacity; and after previously giving to them at the board an account of the state of the prisoners, the nature of the errors which he

persists in, and the belief he has, they shall order them to communicate with the prisoner, one at a time, in various audiences; and after they have been with him for so long a time as may be thought expedient, they shall order the said commissaries to be brought before the board, and there they shall be asked juridically what they did in their interviews with the prisoner, and what is the opinion they have formed of his belief and capacity; and if from their testimony a crime should result against him, they shall ratify the deposition in the accustomed form.

2. Though the prisoner may say, that he does not want learned persons to consult with, and does not wish to have interviews with them, nevertheless the inquisitors, *ex officio*, and as ministers of the church, whose principal intention shall be to effect the salvation of souls, and to lead them to the knowledge of the truth, shall send to him learned persons, in the aforesaid form; and this shall be repeated twice before the promoter comes with his libel against the prisoner, and once after the proceedings are concluded, and before they are proposed to the board for a sentence, except when it may be deemed necessary to repeat it oftener.

3. And as it may happen that, through illusion, or want of judgment, or any other fault in the understanding, the prisoner might persist in affirming his errors, and the belief he holds, the inquisitors shall cause an exact inquiry to be made, as to his capacity, in the place of which he was an inhabitant at the time of his imprisonment; and the same shall be made of his gaolers, that it may appear whether, after he was in prison, any particular passion was predominant in his mind, so as to affect it with any failing; and the inquiries shall be prosecuted before the presentation of the libel of justice.

4. Should it appear by the said inquiries that the prisoner, as well before as after his imprisonment, had, and

has a sound judgment and capacity, he shall be tried in the ordinary form, after he has been allowed a proper time for coming to the knowledge of his errors; and the proceeding, with the decision therein taken, shall go up to the council-general. If, however, any witnesses depose with doubt as to the judgment or understanding of the prisoner, new inquiries shall be made, with the assistance of physicians, who shall converse with the prisoner, and ask him questions about different matters, and observe the coherency of his answers.

TITLE X.

Of Prisoners who may turn mad while in Prison.

1. Should the prisoner, either confitent or negative, become mad in prison, the inquisitors shall cause the necessary inquiries before stated to be made, in order to ascertain whether his madness be real or fictitious, and on finding it to be fictitious they shall proceed in the cause in the ordinary manner; but should they find it to be real, they shall suspend the cause, and shall order every possible care to be taken of the prisoner, and cause such medicines to be administered to him as the physicians may think proper for the restoration of his mental faculties; and should it not be possible to apply them with efficacy in his imprisonment, they shall order him to be taken to the hospital, that his cure may there be properly attended to, as may be expedient.

2. When the prisoner recovers his faculties, the cause shall be continued in the usual manner; but should a relapse take place of the same madness, the cause shall be stayed, and the prisoner shall be delivered to one of the nearest of his relatives, which relation shall give security that he will deliver up the prisoner whenever asked for; and without

this security the prisoner shall be remanded to the hospital, where his relations shall support him ; and, in default of property, he shall be supported in the hospital as the rest of the poor. Should he die, however, in this state, they shall cause his death to be juridically certified, joining the proof of it to the proceedings.

3. Whereas the experience of the best professors of medicine has shewn and demonstrated, that madness does not consist merely in the melancholy of a maniac, which incapacitates him from talking and conversing with people, or in the passion of a fanatic, who tears himself, and wishes to injure those who appear before him ; but in the imagination of the mad man having fixed on a certain and determined point, to which he lives invincibly attached, in such a manner that he only shews the wildness of his mind when he is touched upon that particular point ; talking otherwise, in every other respect, in a very orderly and proper manner. Whenever information is received that a prisoner is become mad, inquiries shall be ordered to be made, by the said physicians, who shall be instructed as before-mentioned, and shall be desired to declare which of the three species of insanity is that of the prisoner's, and what the signs and proofs for finding them ; that, from these previous informations, the true state of those who are the subject of the enquiries may be ascertained ; because, in the case of being guilty of heresy, should a prisoner have no positive system that has been followed up, but have fixed his imagination only on one or two abstract points, without reason, to maintain their pertinacity, in such cases it may be seen that he is a partial madman, though otherwise, he may answer with precision in all other respects, so that he may be kept shut up in confinement, to avoid the scandal he might give to the vulgar, should his nonsense be permitted to be heard by those who have not the necessary instruction to judge about

his cause, and the absurdity of relaxing as an affirmative heretic, or confirmed mad-man, as has frequently happened.

TITLE XI.

Of the Dead.

1. After the proper instrument has been drawn up of the death of a prisoner, with the assistance of the physicians and two notaries, in which it shall be declared whether his death was natural or violent; and after it is ascertained whether the prisoner went to confession in his last illness, and performed other christian acts, the inquisitors shall dispatch his cause with great celerity, though there may be few proofs to be alleged on the part of justice not delaying the dispatch to wait for new proofs; and should there be prisoners in the holy office, to whom the right of defending the dead may belong, the inquisitors shall forward the causes of such prisoners, that those of the dead may not be retarded on that account.

2. Should the dead have been imprisoned for crimes of heresy, either confitent or negative, the inquisitors shall immediately order the proceedings to be made conclusive as to them, and shall see this done in a full board; and in case of their having been confitent, and their confessions being found to be satisfactory, and that they must be received; the causes shall be dispatched, without the heirs being summoned for the purpose; and the same practice shall take place with the negative, on its appearing that they must be absolved in that instance. On its being resolved that the confession is not satisfactory, and that it cannot be received, the relatives of the dead shall be personally summoned, if in the kingdom, or by edicts if they live out of it, and with them the cause shall proceed till its final conclusion; but, on their not coming, a de-

fender shall be appointed *ex officio*, and the same shall be done in the case of the negative, when it appears that there is legal proof for going to conviction, or when there is doubt whether they must be absolved in that instance. In all of the aforesaid cases, the proceedings shall go up with the decisions to the council-general.

3. When the heirs of the deceased, or persons to whom his property may belong, shall come, after being summoned, to defend his memory, and name, and property, they shall give a power of attorney, in due form, to the advocates whom they may chuse; to whom a view of the proceedings shall be granted, in their original and true shape, that after those advocates have received the necessary information from their employers, they may be enabled to produce such arguments and allegations in favour of the deceased as they may think necessary to his defence.

4. Should any affirmative heretic die in prison, who may have professed the law of Moses, or any other heresy against our holy faith, saying that he lived and that he wished to die in the same, though it may appear that no power of defence belongs to him, nevertheless his heirs shall be summoned, because they may produce such allegations as to relieve him from condemnation.

5. When, after the necessary enquiries have been made, it appears that the prisoner killed himself, the inquisitors shall order an enquiry to be made in the place of which the deceased was an inhabitant, about his capacity, and to ascertain whether he laboured under any defect in his understanding, from which his death may have proceeded, and after this enquiry has been made, his proceedings shall go on in manner aforesaid.

6. Should the deceased have been imprisoned for crimes not heretical, after the declarations before mentioned are finished, the proceedings shall be examined in full

board, and a decision shall be taken, that seeing the crime is extinguished by death, the cause shall not continue, and the same shall be put an end to, and notice shall be given to the heirs of the deceased, declaring to them that they may send for the body of the deceased, to inter it in sacred ground, and perform for his soul all the rights of the church; and a certificate also shall be granted to them, by which it may appear that the deceased was not imprisoned for crimes of heresy.

7. The inquisitors shall pay great attention to the proofs with which they intend to proceed against the dead, which must be as great, legal, and conclusive, as possible, even more so than would have been sufficient to convict them when alive, since the dead cannot defend their own causes, and the defence made by a third person is attended with many difficulties. In case they are not able to charge the dead with crimes in the aforesaid manner, the memory and fame of the deceased shall be absolved from blame in this instance.

TITLE XII.

Of the Absent.

1. Should any persons, guilty of the crime of heresy and apostacy, absent themselves from this kingdom, after a summary of their absence has preceded, without its being known to what place they are gone, or though the place be known, if it be such that they cannot be committed to prison, nor summoned in their proper persons, and after it has been ascertained, by proper certificates or witnesses, that such persons have been baptised as christians, and are held and reputed to be such, on its appearing to the inquisitors that sufficient has been adduced against the absentees to convict them of the crimes of heresy and apostacy, they shall be summoned personally,

if in a place where this may be conveniently done, or by letters of edict, requiring them to appear within a period to be defined, and which shall be more or less in duration, according to the distances of the places where it is presumed they are.

2. The letters of edict shall be published at the doors of the houses where the absentees lived at the period of their going away, and the same shall be notified to the persons in the houses, if there be any, or if there be none, to the next-door neighbours. After this, they shall be published one Sunday, or holy day, at the parochial mass, in those churches of which the absentees were parishioners; and the same shall be affixed to the principal doors of the said churches, for the period therein allowed to the absent; and of their being thus published and affixed, a certificate shall be written on the back of the said letters, and signed by two or three persons who heard and saw the same published and affixed.

3. Should the absentees come in person to the board of the inquisition, within the period assigned to them, or afterwards, before sentence is passed in their causes, they shall be heard, and the causes shall proceed in the prescribed form, and the inquisitors shall order them not to go out of the city in which they live, without their permission, assigning to them certain days in which they shall come to the audiences; and if, in the progress of the causes, information should be received that they wish to absent themselves, they shall be put into custody.

4. Should the absentees not appear within the period assigned in the letters of edict, their causes shall be carried on without a defence, and in three distinct periods, from one *auto* till the other; and the proclaimer of those shall be the porter of the board, who shall certify that they did not appear, and the notary shall enter the same in the records of the undefended: after the expiration of

these periods, the promoter shall produce his libel, the proofs of justice shall be published at different times, as assigned in each of the days determined on, and on such days the non-appearances of the absentees shall be proclaimed, and they shall be accused; the proceedings shall then be made up for dispatch by the board, and, with the decisions thereon taken, they shall go up to the council.

5. Should there be no sufficient legal proof against an absentee to convict him, but strong circumstantial evidence of his having committed the crime of heresy, which is not lessened by his absence, the inquisitors may proceed against him, according to what is prescribed in the ordinances, book 5. tt. 126.

6. When the absentees, legally summoned in the aforesaid form, do not appear, and shall persevere in their contumacy, no advocates shall be appointed for managing their causes; but should any person appear, to whom by law their defence may belong, and express a wish to say that the said absentees are dead, or have just cause for their absence, this shall be admitted, and the cause shall proceed according to law.

7. Should the absentees come after their crimes have had sentences passed thereon, and they have been condemned according to the laws of the kingdom; or if, when taken to prison, they should confess their crimes, such confessions shall be admitted, and heard; and on their wishing to defend themselves, their cause shall be proceeded in according to law, and the ordinances of the book 5. tt. 126. § 7.

8. If any persons, after presenting themselves to the board, and confessing crimes of heresy, shall absent themselves from these kingdoms, before a decision takes place as to their causes, the inquisitors shall proceed in the aforesaid form, by virtue of their own confessions; and

the trial shall proceed in the manner before ordered in § 5; but if, besides these confessions, there be any witnesses from whom a legal presumption of the crimes which they have confessed themselves guilty of, may result, the trial may proceed according to either of the aforesaid forms.

TITLE XIII.

Of legal Suspicions.

Should any criminal say that he has legal causes of suspicion against any of the inquisitors, ordinaries, deputies, notaries, or commissioners of the holy office, the ordinances of the kingdom, book 3. tt. 21. shall be observed in this case. The judge-reporter of such suspicions shall always be the senior inquisitor; and should he be the one suspected, the next inquisitor shall propose the articles in full board, provided these suspicions be brought against any of the ministers of the board. Should they, however, be against a notary or commissary, it will be sufficient to make them known to the ministers then present; following, in every other respect, the form of the said ordinances, and granting an appeal to the council-general.

TITLE XIV.

Of the Appeals.

In all interlocutory decisions, or definitive sentences, where the promoter or defendants may find themselves aggrieved, they may appeal to the council-general, and the inquisitors shall receive such appeals, and complaints of grievances, without the power of rejecting them either as unjust or frivolous, for such a declaration only belongs to the superior court; and the final decision made by the council-general upon the said complaints of grievances, or appeals, shall be intimated to the defendants, or their procurators.

TITLE XV.

Of what is to be observed in Cases when Circumstances shall render it indispensable to have Public Exhibition of an Auto-da-fé.

History having proved, by incontestible facts, that the so-called *autos-da-fé* ordered in the Bye-laws of D. Pedro de Castilho, and D. Francisco de Castro, framed by the Jesuits, and even authorized with the coat of arms of that perverse and already extinct society, were another invention of the malignity of the said regulars, to foster that ignorance and fanaticism which they had introduced into these kingdoms, to the general scandal of compelling nations, sensible, from their state of civilization, that neither in good and sound philosophy, nor in Religion, nor in Politics, there is any reason or foundation by which such public demonstrations of horrors and misery could be palliated; to see numerous and wretched prisoners walk in pompous procession to a theatre or platform erected within a church, to hear their sentences read, thus profaning the temples dedicated to God, to worship, and to prayers, with indecencies and indignities; and inviting the public curiosity of the most authorized ministers, both native and foreign, to witness with their eyes, and to make known in their writings throughout all civilized Europe, the deplorable situation of these kingdoms; when such *autos-da-fé* were only necessary in cases of indispensable necessity, and the vindication of Religion, such as, for instance, to make known to the people the heresiarchs or marked dogmatists, that the people may avoid them (as some years ago happened with the monster Gabriel Malagrida), in order that the contagion of their errors should not spread, and shake religion in its most solid foundations; yet the depravity of those regulars was such, that, without any regard to the aforesaid reasons, they brought these

autos-da-fé into common and general use; and even published the names, crimes, and number of the miserable criminals doomed to perform their parts in them, by printing lists, for the purpose of perpetuating by them the infamy of the unfortunate prisoners, and their descendants, to the inexpressible horror of the pious and illuminated world.

And whereas, by the mercy of God, these dreadful tragedies have ceased to take place in these kingdoms ever since the said extinct jesuits, and with them ignorance and superstition were expelled the country; their places being occupied by the light of knowledge, which the king my lord is diffusing from the height of his royal throne; it is just and necessary that those productions of darkness should vanish before it. We do, therefore, determine as follows:—

1. We ordain that there shall no longer be any *autos-da-fé* either public or private; and the prisoners who may have been tried on account of any crime whose cognizance belongs to the holy office, after their causes have been concluding according to the forms before established, shall be called up before the board of the inquisition, to hear their sentences there; and the same sentences shall be read to the prisoners by one of the notaries of the same inquisition, after a consultation has been had concerning the same, in the accustomed form, with the council-general, in which a specific information shall be given of the number of crimes, and the nature of the proofs resulting from the proceedings against the prisoners.

2. But should any prisoners be convicted of the crimes of being heresiarchs or dogmatists, hypocrites, or sigilists, (who are those confessors that violate the secrecy of confession) or of being guilty of any other crimes, which, on account of their extraordinary nature,

scandal, danger of spreading, or any other aggravating circumstances, should require public satisfaction, we do ordain, that the inquisitors to whom the notice of such criminals may belong, after they have tried their causes, shall consult the council-general on the proceedings, substantiating, in that consultation, the crimes that have been proved against the said prisoners, with all their circumstances, that we may determine the time and place when and where such pernicious criminals must go to hear their sentences.

3. And even in those cases when the said sentences are to be read publicly, in *auto da fé*, we forbid their being read and published in churches, but ordain, that if the criminals are tried in the inquisition of this court, they shall be read and published in the saloon of the palace of our residence, which leads to the tribunal of the council-general, and to the board of the inquisition. Should the prisoners, however, belong to the other inquisitions of Coimbra and Evora, the said sentences shall be read in the public saloon of the same inquisitions, if it be convenient, if not, they shall make the same known to the council-general, that we may determine the place where the sentences are to be read and published, or that we may order that such prisoners shall be forwarded to the inquisition of this court, to hear their sentences, which will accompany them, read in the aforesaid saloon.

4. Before the *auto da fé* is made public, the inquisitor-general shall make the same known to his majesty, asking his royal permission to cause it to be made public. If there is no inquisitor-general, the said information shall be given by the senior deputy of the council-general to the secretary of state, whom his majesty may have appointed to transmit to the royal presence the business belonging to the holy office of the inquisition.

5. The royal permission of his majesty being obtained, the said *auto da fé* shall be proclaimed in all churches eight days previous: we do forbid, however, that the court or any other persons be invited to come and be present at the said *auto da fé*, for the proclamation of it is sufficient to give information of the day, to those who may wish to be present. The board, however, may apprise the ministers, familiars, and other persons, whom they may think it necessary to employ in the solemnity of the *auto da fé*.

6. We do ordain that the sentences of the criminals, before joined to the proceedings of the trials, be sent with the proceedings to the council-general, to be there arranged in such a manner as to be fit for publication.

7. If there are any persons to be relaxed to secular justice, the board of the inquisition shall inform the corregidor of the criminal department in the court, or the person who is his deputy at the time, that he may come and be present at the *auto da fé*; and on the sentence being published, the senior inquisitor shall deliver the same to the same corregidor, who shall go to receive it, where the inquisitor is, both behaving to each other with due attention and courtesy.

8. We do ordain, that, for the instruction of the prisoners, before the *auto* takes place, the board shall consult with the council-general concerning such learned and prudent ecclesiastics, both secular and regular, whom the council-general may select, from amongst the fittest, to assist the aforesaid prisoners.

9. In all other cases where any dispositions are necessary, both before and after the *auto*, the board shall always consult the council-general, that we may provide what may be convenient and necessary.

10. If amongst the sentences that are to be read to the prisoners at the boards of the inquisitors, as we have or-

taind, there be any that ought to be relaxed to secular justice, the board shall make it known to the council-general, in consultation, that we may determine how to act in such a case, and in what manner the said criminals are to be dispatched.

11. Lastly, we do ordain, that from the date of these Bye-laws, no more lists shall be formed, not even in manuscript, of the criminals who have been tried and sentenced at the several boards of the inquisitions, on account of the many inconveniencies which would result to the service of God, and of the king my lord, and to the general good, from curious or malignant collections of such lists.

BOOK III.

TITLE I.

Of those who present themselves to the Inquisitor, to prefer their own Accusation, called Apresentados.

1. Though against the apostates, who, either by facts or words, have contumaciously receded from our holy faith, and as such have been judged and sentenced, the church has declared the penalties of excommunication and irregularity, and the laws of the kingdom, both antient and modern, have prescribed those of infamy, privation of honours, offices and benefices, confiscation of estates, and the last punishment by fire; yet should these come and present themselves to the board of the inquisition, and there confess their crimes, not being accused at the time of their presenting themselves by lawful witnesses (though these may afterwards appear) they shall be received into the bosom of the holy mother the church, without any other penalty but abjuration, which they must do in the proper form, at the board, without the penal dress, before the inquisitors, a notary, and two witnesses, who, together with the apresentado, shall sign the instrument of abjuration, and afterwards shall be absolved of the excommunication, and shall be pardoned for their irregularity by the inquisitors.

2. The inquisitors shall inflict such spiritual penances on the aforesaid apresentados as they may think convenient, observing, however, that they must be such as to be well complied with, without making known the offences which the criminals have confessed.

3. Should the apresentados who have confessed crimes of judaism, or any other heresy, be accused of other

crimes, the cognizance of which also belongs to the holy office, they shall be received and reconciled in the aforesaid form; and if the apresentados be prisoners in the holy office for any other crime, and confess at the board crimes of heresy of which they had not been accused, their causes shall proceed, as ordained in Book ii. tt. 5.

§ 12.

4. The heresiarchs and dogmatists who may present themselves with signs of true repentance, shall be entitled to reconciliation; but, though they may not be accused, they shall abjure, in the dress of penance, in such public place as his majesty may appoint, after we have made the same known to our lord the king, the evil they have done, and the public scandal they have caused, by their false doctrines. Moreover, they shall have other penalties and spiritual penances inflicted on them, and be sentenced to seclusion for some time in a monastery, or any place that the inquisitors may appoint, to be there instructed and retrieved from the errors which they have believed and taught.

5. Should the crimes of the apresentados consist of relapses to the crime of judaism committed both in the first and second instances, after these Bye-laws have been promulgated, if they have not been accused of them before, at the holy office, by legal witnesses, their confessions shall be received, without abjuring anew, if in the first instance (or lapse) they had abjured in form; but they shall be absolved at the board of the excommunication, which they have incurred, and such spiritual penances shall be imposed upon them as may be deemed convenient; a person learned and virtuous being appointed to confess them, and to instruct them in the mysteries of the faith. But if they present themselves after being lawfully and legally informed against by witnesses, whose testi-

mony may be sufficient to convict them, their presenting themselves shall be of no avail, and their cause shall go on according to the terms and laws of the kingdom.

6. The same shall be observed, if after they have been once presented, they shall present themselves a second time for crimes committed in a third lapse, to the end that such confessions may be always received as long as there is no lawful proof at the time of the presentations, which may deprive the *apresentado* of this benefit.

7. The same shall also be observed as to those who present themselves for crimes of judaism committed in foreign countries, to the end that their confessions may be received, and that they may abjure at the board, without the habit of penance.

8. To take away and put a stop to all doubts as to the age required for the abjuration of minors, we do declare, that whether they be *apresentados* or denounced, they shall abjure either in public or at the board, if they have completed seventeen years, and not before; because the abjuration in form, or of vehement, is an act very solemn and weighty, for which a clear discernment is required, as it carries with it capital punishment in cases of relapse.

TITLE II.

Of the Negative.

1. There being a lawful proof, qualified in manner ordered in Book ii. tt. 4. that any person declaring himself a believer and observer of the law of Moses, should such a person deny the commission of the crime, and in such a manner persist in his negative, that it may be necessary to convict him of the said crime, he shall go to such *auto* as we may determine, and be there condemned in the penalties inflicted on heretics, by the ordinances of the kingdom, in Book v. tt. 1.

2. If the negatives are heresiarchs or dogmatists, convicted according to the form prescribed in Book ii. tt. 4. § 5, they shall go to the *auto* with a *carocha* (a mitre of paste-board), whereon shall be inscribed the title of heresiarch or dogmatist; and the house wherein it may be proved they held their synagogue or meeting to teach their errors, shall be rased to the ground, and have salt thrown on the foundations, and on the ground whereon it stood a monument shall be erected, at which the cause shall be declared why the building was ordered to be pulled down, and the ground to have salt thrown thereon.

3. If any person in holy orders is to be relaxed to secular justice, he shall go to the *auto*, dressed in a clerical dress, and as soon as the sentence has been read and published to him, it shall be made known to the ordinary, that he may cause his degradation to be proceeded in, if he thinks it necessary; and should he not send till the end of the *auto*, the dress of the relaxed shall be put on him, and he shall be delivered over to the secular justice.

4. If the individuals are regulars of any of the approved orders, they shall not go to the *auto* in the frocks of their orders, but in the long clerical robe; and the nuns that are relaxed to secular justice shall go in a secular dress, and in the sentences of their relaxations the orders they profess shall not be noticed, expressing only generally, professed in a regular order.

5. If against the negatives there shall not be legal proof sufficient to decide on their guilt, but only circumstantial evidence, so strong as to indicate that they committed the crimes of which they had been accused, and that they must be cleared, except from some penal ties, besides the spiritual which the inquisitors are to impose, among which is to be reckoned the most solemn abjura-

tion, they may condemn them (if they have estates or chattles) to pecuniary penalties, which shall be applied to the exchequer and royal chamber of his majesty: and they may inflict the same in a proportionate ratio on those who abjure lightly.

6. If the aforesaid persons against whom there is strong circumstantial evidence shall be in holy orders, besides the abjuration and pecuniary fine, they shall be suspended from the exercise of their orders, and rendered unfit to be promoted to those to which they aspire for a certain time, according to the nature of the proofs, and the abjurations they may make. And if they hold any dignity, office, or benefit, to which any jurisdiction is annexed, they may be suspended from it in the aforesaid manner.

7. When those that may abjure in a solemn manner are regulars or nuns of any approved order, they shall also be deprived of all voice and vote, either personal or by proxy, for such a time as may appear to be convenient; and they shall be directed, during the time of their suspension and privation, to serve in their respective monasteries, in the inferior offices of their religion.

8. If any individuals, who are not fully convicted of heresy, are of such rank that it may be improper to order them to make their abjuration in public, either lightly or vehemently, it shall be sufficient, for the satisfaction of justice, that the same should be made in private, the inquisitors shall cause the cases to be carried up to the council-general, with the decisions taken thereon, that we may determine on the necessary proceedings therein, after we have reported the same to his majesty.

9. Should any criminal be imprisoned for crimes of heresy, and absolved in the first instance of judgment, the choice of the place where he may wish to hear his

sentence will depend on himself, and on his making choice of a more public place than the one he was in, he shall be separated from the other criminals, and sent thither.

TITLE III.

Of the Confitent.

1. All those who, after being lawfully denounced, imprisoned, and accused at the holy office for crimes of heresy, shall confess the same with signs of true repentance, shall be received into the bosom of, and a re-union with, the holy mother the church, and in such places as we shall appoint they shall hear their sentences in a penance dress, and they shall abjure in form; and besides the penalty of confiscation from the time in which they committed the crime, other penances shall be inflicted on them, according to the nature of their crimes, and the stage of the proceedings in which they confessed: they shall be instructed in the mysteries of the faith, and obliged to send a certificate that they went to confession during Lent; but they shall be informed, that they must not receive the holy sacrament without especial permission from the holy office.

2. Those who confess their crimes as soon as they are taken to prison, or in the first session allowed to them before they are accused by the justice, shall be treated with greater charity, and their confessions, if satisfactory, shall be received, and the reclusion and other penances shall be favourable.

3. Should they begin to confess their crimes after the libel of justice has been intimated to them, or after the proofs have been made known, and published to them, even then, if they exhibit good signs of conversion and repentance, their confessions shall be received, but the penalties and spiritual penances shall be less favourable in

such cases, according to the ordinary manner, save and except when such circumstances occur that may render them worthy of every possible moderation and pity.

4. Should a prisoner confess his crimes after a sentence, convicting him of the crimes of heresy and apostacy, has been passed, after the same has been notified to him, and fifteen days before it is published, if he make a satisfactory confession, it shall be received; and besides the penalties and penances *pro gravioribus*, he may, if a male, be exiled to any foreign part of this kingdom, for the period of five years, and if a female for the period of three years.

5. If a prisoner confesses, after the last notification made to him, within the three days previous to that in which he is to hear his sentence, and his confession shall be satisfactory, and made with a true knowledge and repentance of his errors, it shall be received, but subject to the same penalties and penances as are before determined, besides the said exile.

6. Though the heresiarchs and dogmatists confess before they are accused, their confessions must always be examined as to the injuries and prejudices occasioned by the errors which they have believed and taught, and if their confessions are fully satisfactory they shall be received, subject to such spiritual penances as correspond with the case, and they shall be secluded for such a time as may appear convenient for their instruction in the faith, and they shall hear their sentences in such places as his majesty may appoint, in the penance dress and carocha, having the inscription of heresiarch or dogmatist.

7. Should a prisoner confitent be a clergyman, besides the aforesaid penalties, with which he must be reconciled, according to the time and stage of the proceedings in which he may confess his crimes, he shall be suspended for ever from the exercise of the orders he holds; shall be

incapacitated from receiving any other, and shall incur the privation of all offices and benefits, honours, and dignities, he may possess, as declared in the laws of the kingdom; he shall become unfit to obtain others, and the revenues of the said officers and benefits shall belong to the exchequer as long as the condemned may live. Being a regular or nun, besides the said penances he shall be reclused in the prison of his or her monastery for such a time as may appear proper, according to the nature of the crime, and its circumstances; he shall be deprived for ever of all vote, whether personal or by proxy, and shall be ordered to serve in his monastery in the humble offices of his or her religion.

8. As to what regards the infamy of the sons and grandsons of those who may be condemned as heretics, this matter must be extricated from the great confusion in which it has been kept till now in the preceding null and void bye-laws; and the same must be reduced to such solid and true principles as those in which the most holy law of the 25th of May, of this present year, has placed it. First: those sons and grandsons shall be deemed infamous, the fathers or grandfathers of whom have been heretics and apostates to our holy faith, and tried as such, and condemned to the penalties inflicted by the ordinances and other laws of the kingdom, such as natural death, by fire, and confiscation of estates and chattels. Secondly, in this same case the infamy comprehends the grandson, descended from his grandfather in the male line, but not the grandson descended in the female line. Thirdly, those must not be held as infamous who are sons or grandsons of persons that did not incur all the said penalties, but, truly confessing their crimes, were re-united and entered again into an union with the holy mother the church, and satisfied the spiritual penances inflicted on them; because such sons or grandsons are capable of

possessing all honours and dignities, according to the ancient and modern laws of these kingdoms, as they were by those of the church capable of holding purely spiritual ones, according to the decisive declaration of the chap. statutum 15 de hereticis, in 6^o. which agrees with the former Bye-laws, Book III. tt. 27. § 5.

TITLE IV.

Of the Confitent, called Diminute.

1. When the prisoner who confessed those crimes of heresy for which he was imprisoned, is defective or imperfect in his confession, he shall be called diminute; and should this diminution relate to accomplices in the ascending or descending lines on husbands or wives, and such accomplices shall be lawfully identified by perfect and legal witnesses, such confession shall not be received; because it is diminute as to such an accomplice where no forgetfulness could be presumed, and they shall be relaxed to secular justice. In order to this, however, it is to be observed as necessary, that the said accomplices in relation to whom the prisoner was judged diminute, are neither dead nor absent, for in regard to these circumstances forgetfulness is to be presumed.

2. Should the accomplices be relations in the first collateral degree, which till now was left to the judgment of the inquisitors from hence forward, according to the date of these Bye-laws, there shall be no impediment to receive the confessions, because the penalty of death must be declared by an express law, and never left to the will and pleasure of the judges.

3. If the accomplices before declared in § 1. are not identified by three legal and perfect witnesses; but only by strong circumstantial evidence, the confessions shall be received, and the prisoners shall be subjected to the penalty of exile, from three to five years, to some of the conquests of these kingdoms.

4. Should the confitent diminute, as to the aforesaid accomplices, be heresiarchs or dogmatists, it shall be sufficient to relax them to the secular justice, that the said diminutions are proved in such a manner as we have declared in Book II. tt. 4. §§ 5 and 9. if, when put to the torture, they do not chuse to declare them.

5. Should the heresiarchs or dogmatists be diminute as to accomplices not standing to them in any of the aforesaid relations, and when it may be known that he has converted to his errors, and persists in not declaring them notwithstanding the competent degree of torture to which they might have been condemned; the inquisitors shall cause the proceedings to be sent up to the council-general, with the decisions taken thereon, that we may determine what may be more expedient for the good of religion, the service of God, and the king my lord.

6. Should a prisoner in a state of negative keep any fast days, or perform any other ceremonies of the Jewish religion in the prison, and afterwards, when he confesses his crimes, and says that the belief of his errors continued only till the time in which he was imprisoned, he shall conceal such fasts and ceremonies, and the times and places where done. On the said Jewish fasts and ceremonies being proved by lawful witnesses, who may have observed them, and seen them performed, such confession shall not be received, on account of the strong presumption there is of its being feigned and dissembled: but if the prisoner, after having performed such fasts and ceremonies, should first give in confession of his crimes, and then a confession also of the said fasts and ceremonies, though he may not declare them to have been done in the prison, and how long he has believed in his errors, his confession shall be received; because, since it comprehends also such fasts and ceremonies, he satisfies the proofs of justice, though,

what is a great aggravation, he may conceal the place in which they have been observed.

7. Though according to the enactment of these Byelaws, which order the depositions and names of the witnesses against the accused to be made known to the prisoners, contradictions in belief, and diminutions as to time, *à parte post*, when there are witnesses who impute to the prisoner posterior acts, entirely cease; nevertheless we recommend to the inquisitors, that, in such cases, they do not take notice of such diminutions, for experience has shewn, that they proceed more from ignorance and confusion than from design.

8. The affirmative heretics, who persist in their errors until the final conclusion of their causes, shall be delivered over and relaxed to secular justice; and should there be any reason to fear that they may utter any thing in public against our holy faith, they shall go with gags in their mouths to prevent them from speaking, and in the dress of the relaxed; but if they acknowledge their errors, and become converts to our holy catholic faith, making an entire confession of their crimes, they shall be received into the bosom of, and union with, the holy mother church; and shall be reclused in a monastery, or college of learned regulars, who shall instruct them in matters of faith.

TITLE V.

Of those who revoke their Confessions juridically made.

1. If any person spontaneously confesses in the holy office crimes of Judaism, heresy, or apostacy, for which he had been denounced, and afterwards, with an interval, he shall revoke his confession, without proving that there was an error in it, or any other cause that might justly excuse him, the inquisitors shall examine the nature of the proofs which may have been alledged against him; and

on their being proved to be full and legal, together with the confession, if the prisoner does not become a convert and repent, he shall be relaxed to secular justice as an impenitent negative, and the same shall be understood, as to the heresiarch or dogmatist who may revoke the confession he has made, under any degree of torture, after the same has been ratified four-and-twenty hours; but if he revokes it before ratification, the torture shall be repeated; and if he revoke three times, coming to any fixed point, he shall be publicly whipped, and sent to the galleys, according to the strength of the circumstantial evidence which there may be against him.

When any prisoner, not denounced, shall confess crimes of heresy, and after some time shall revoke his confession; if before the revocation any proof of guilt shall appear, provided the proof is legal, and, with the circumstantial evidence resulting from the confession, sufficient to convict him, on his persisting in the contumacy of his revocation, he shall be relaxed to secular justice.

3. Should the proof subsequently obtained be posterior to the revocation, and the person so revoking shall not have been denounced, it will be necessary, in order to relax the prisoner, that the proofs be so full, legal, and conclusive, as to convict him lawfully.

4. When neither before or after the revocation any proof appears against the revoker, nor any thing else besides the circumstantial evidence resulting from a confession revoked without cause or error, the prisoner shall abjure, *of vehement*; be exiled; and suffer all other penalties and spiritual penances that the inquisitors may think proper.

5. He, who at the board of the inquisition shall revoke his confession, after having been, in consequence of it, reconciled to the bosom of, and in union with the church, on his being examined as to the revocation, and persist-

ing in it, he shall be deemed an impenitent heretic : but if he does not persist in the revocation, besides the other penalties and spiritual penances, he shall be publicly whipped, and exiled from three to four years to some of the foreign parts of these kingdoms.

6. Any person who, after being reconciled by the holy office, shall assert in public, or at least before any persons, that he did not commit the heresy or crime which he has confessed, he shall be immediately taken to prison ; and on being convicted by the proofs of justice, or by his own confession, should he not have as yet fulfilled the penances already inflicted by his sentence, besides those that are to be inflicted, he shall be condemned to be publicly whipped, and sent to the galleys from five to seven years ; and shall hear his sentence in the place where we may determine. Being a woman, she shall be exiled to Brazil or Angola.

7. Should this crime, however, be committed after he has fulfilled the penances declared in his sentence, the prisoner shall be subjected, for his temerity, to the aforesaid penalties of whipping and exile ; but, in this case, there shall be some mitigation as to the exile.

8. Should the proofs be insufficient to bear out the full commission of the crime, besides the spiritual penances, the prisoner shall be exiled, the time of exile being in proportion to the nature and to the strength of the circumstantial evidence which may result from the proofs : and if the prisoner, after being taken to prison, persists in revoking what he had confessed, he shall be condemned as impenitent, and a revoker, to the penalties declared in § 1. of this title.

TITLE VI.

Of him who relapses.

Whereas he is to be deemed guilty of a relapse, who being once convicted by legal proof of having fallen into any heresy, which he formally abjured by his confession, or, from other proofs equally legal, is known to have fallen into heresy, though not of the same species, a second time; and whereas, by a fiction of law, he is held as guilty of relapse who having abjured *of vehement*, is convicted a second time of a crime of formal heresy; these rules to be applied only to those criminals who commit the first and second lapse after the date of these Bye-laws; and not to those who, having abjured in form, or *of vehement*, during the time of the operation of the Bye-laws of D. Francisco de Castro, again fell into the same crimes, and for them were sentenced since these new Bye-laws; because, as the former Bye-laws are undoubtedly null and void, and have been declared to be such, for want of authority and the royal confirmation, it is indispensably necessary to render invalid the trials, judgments, or condemnations, in ordinary or extraordinary, that have taken place under them, and the penalties inflicted on the subjects of the said lord the king; the sentences passed by virtue of those Bye-laws being grounded only on proofs, extorted either by the torture, or reprobated by all laws; besides, these dispositions and sentences being notoriously null and void, cannot produce any valid effects in prejudice of the defendants; nor serve against them as any sort of lawful hindrance; nor would it be compatible with our conscience; with the meekness, inseparable from our character; or with the rules of justice, that such prisoners should be treated as guilty of relapse, who, according to the aforesaid hypothesis, have been unlawfully sentenced: on the contrary, by a neces-

sary consequence of the reasons before explained, any one who has been condemned by the aforesaid null and void Bye-laws, and invalid proofs, must be treated as a criminal of the first lapse; therefore we do declare it so, and for the future we determine as follows:

1. If any person imprisoned for the crime of heresy, shall be convicted of relapse in any of the aforesaid cases, he cannot be reconciled and received into the bosom of the holy mother the church, though he may give signs of repentance and conversion, but shall be relaxed and delivered over to secular justice, and shall lose his goods and chattels, which shall be confiscated to the royal chamber from the time when he committed the second crime.

2. If the same prisoner gives signs of repentance, and make his confession in such a satisfactory manner that he shall appear to be truly converted to the faith, the inquisitors shall order him to be absolved, in the sacrament of confession, of the excommunication which he has incurred by the crime of relapse; and they shall cause the holy sacrament of communion to be administered to him in the private chapel of the inquisition; but as to the relaxation and sentence, what is determined as to the convicted negative shall be observed.

3. If the individual guilty of relapse be impenitent, without confessing the crime of relapse of which he may be lawfully convicted, he shall be relaxed to secular justice, in like manner as the negatives, without being absolved of his excommunication, or having the sacrament of Eucharist administered to him.

4. In case that the crime of relapse is not lawfully proved against the prisoner, but there should be strong circumstantial evidence of his return to error, he shall hear his sentence in such place as we may determine; shall not abjure anew, and shall be condemned to a pecu-

niary fine or exile out of the kingdom, in proportion to the nature of the proofs.

5. Should the prisoner be an heresiarch or dogmatist, but not have sufficient proofs against him to convict him of a relapse, except such as may arise from circumstantial evidence, he shall be put to the torture, which shall be greater or less according to the nature of the proofs, and on his confessing, and ratifying the confession, he shall be relaxed; but if he does not confess, he shall hear his sentence in the *auto*, wherever his majesty may determine, and shall be condemned to pecuniary fine and exile, either greater or lesser in proportion to the crimes of this species of criminals.

TITLE VII.

Of the Apostates, Renegados, and Heretics, who commit their Crimes in these Kingdoms.

1. Should any apostate, or renegado, present himself to the board of the holy office, as a baptized christian, and confess that he separated himself from our holy faith, and went over to the sect of Mahomet, he shall be received with great mercy, and shall abjure at the board, without wearing the dress of penance before the inquisitors; and shall be absolved of the excommunication which he incurred; and upon him shall be inflicted those spiritual penances which may be deemed convenient, without confiscation of goods and chattels; and directions shall be given for his being instructed in such matters of faith as are necessary for the salvation of his soul.

2. If such a renegado, so presenting himself, shall confess that out of fear, or on account of ill-treatment, he became a renegado only by words, saying, that he always had in his heart our holy faith, his confession shall be received, and he shall hear his sentence at the board of the holy office; he shall abjure only *de leve*; shall be

absolved, *ad cautelam*, of the excommunication which he may have incurred, and shall perform such spiritual penances as may be deemed convenient.

3. If a renegado, after being imprisoned, or sent by the secular justice to the holy office, shall confess his crimes, saying, that out of violence, fear, ill-treatment, or the necessity of being relieved with charities, he made himself only externally a follower of Mahomet, or of any other sect, though in his heart he never separated from our holy faith, he shall also abjure *de leve*, in such *auto* as we may determine; and such penance shall be inflicted on him as the inquisitors may think expedient.

4. But if, when he confesses his crimes in manner aforesaid, it shall appear that he became a renegado, and professed the said sect at such an age and time, when he had not as yet attained that full knowledge and instruction which those who are seventeen years old may be presumed to possess, he shall not abjure in form or vehemently, but shall be merely absolved of excommunication, and ordered to be instructed in matters of faith.

5. When renegados do not present themselves, and confess their crimes, when it shall be known that they have committed them; and if, on being imprisoned, they shall persist in denying them, they shall abjure in such place as may be determined, according to the credit of the witnesses, and the nature of the circumstantial evidence against them, and such spiritual penances shall be inflicted as may be deemed convenient.

6. If, after being imprisoned, the prisoner confesses his crimes, saying, however, that out of violence, fear, or ill-treatment, he became a renegado only externally, and still had our holy faith in his heart; in such case, when no proofs are alleged to the contrary, he shall abjure, *de leve*, in order to purify himself, by that, of the suspicions produced by the testimony of the witnesses, by whose de-

positions they were imprisoned; he shall also have such other penalties and spiritual penances inflicted on him as the inquisitors may think proper, but he shall be absolved, *ad cautelam*, of excommunication, and instructed in matters of faith.

7. Should there be legal proofs adduced against such criminals, that they, without violence or fear, but of their own free and spontaneous will, attached themselves to the sect of Mahomet, or any other such, by practising their rites and ceremonies, they shall be proceeded against in the same manner as all other heretics and apostates from our holy faith.

8. Those who fall again into the said crimes, and who in the first lapse have abjured *de leve*, in the second shall make the abjuration *vehemently*, and shall have such ulterior penances inflicted on them as the inquisitors may determine; but if in the first lapse they abjured *vehemently*, in the second they shall not make any abjuration, but shall be proceeded against as guilty of relapse.

9. Though foreign heretics are admitted into these kingdoms, as well as to all the catholic countries of Europe; and there is a concordat, that those who come from other foreign kingdoms shall not be molested here, on account of their religion or points of conscience; nevertheless, if they commit crimes in these kingdoms, productive of public scandal, or manifest derision and contempt of the catholic religion, beyond those limits that were prescribed to them on their being admitted and tolerated, the inquisitors, on having certain proof of the said crimes, without going any further, shall make the same known to us, that we may submit their cases to his majesty, to whom only belongs the knowledge and interpretation of treaties, and the precise cases and circumstances in which such crimes are to be punished.

10. As to infidels, if they are guilty in the same manner

in those kingdoms, they shall be condemned to the punishment of public whipping, and sent to the gallies, with such other penalties as may appear necessary to the inquisitors; and should their crimes be of such a nature as to make the criminals deserving of the ordinary penalties, they shall be relaxed to secular justice.

TITLE VIII.

Of Blasphemers, and those who utter heretical, daring, or scandalous Opinions.

1. Any person who shall be guilty of heretical blasphemy, by affirming any thing of God which does not belong to him, or by denying any thing which does belong to him, or by attributing to any creature what belongs only to God, shall abjure, *de leve*, in the place we may appoint, as suspected in his faith, provided his rank, and the circumstances of the crime, do not require a greater abjuration, such other penalties and spiritual penances, at the option of the inquisitors, shall be inflicted on him as may appear proper; a due regard being had to the gravity of the blasphemies, the rank of the person who uttered them, and the place and time, and occasion, where, when, and on which they were spoken.

2. Should the person be frequently accustomed to utter heretical blasphemies, with emotions of anger, however slight, he shall go to such *auto* as we may appoint, and shall there make his abjuration *vehemently*, (if there are no circumstances to call for moderation) proceeding thither with a gag in his mouth; he shall be condemned to the punishments of public whipping and exile; besides such other penalties and spiritual penances as the inquisitors may think convenient, which shall be more severe than those inflicted on persons not accustomed to blaspheme, and who only occasionally give way to that crime. The inquisitors,

however, shall observe, that the habit of blaspheming is proved by its having been long adhered to, by the repetition of the act, and not by its occasionally occurring.

3. Should any person blaspheme the mysteries of the Holy Trinity, or the Divinity of Christ our Lord, or his being conceived by the influence of the holy spirit, or his redeeming us with his sacred death and sufferings, or by inveighing against his incarnation, or against the purity of the Virgin Mary our Lady; if the person guilty of such sayings be a plebeian, besides the abjuration which he shall make in the *auto*, that we may determine where he shall go to hear his sentence, he shall be publicly whipped, and condemned to the galleys for a period not exceeding from three to five years; if a woman of the same rank, she shall also be publicly whipped, and exiled for the same term of years to S. Tomé, or Angola; if a noble person, he shall abjure in the same manner, and instead of a public whipping and the galleys, shall be condemned to pecuniary fines, and a milder exile, according to his rank, the property he may possess, and the circumstances of the crime and scandal he caused by it: on all such crimes such spiritual penances shall be inflicted as may appear convenient.

4. Persons, either ecclesiastical or regulars, who may utter such blasphemies as by the law are deemed atrocious, they shall abjure, *de leve*, or vehemently, regard being had to this, that if they are men of letters, the presumption against them is greater, and consequently the degree of abjuration, and the other penalties and penances which are to be inflicted, must be greater in such a manner, that they may be punished according to the scandal they occasioned, and they shall be secluded for some time in such places or monasteries as may be thought convenient.

5. Should a prisoner deny his having uttered the blasphemies for which he has been imprisoned and denounced in the holy office, and should, from the proofs of justice, such circumstantial evidence arise, as strongly to indicate that he wishes to conceal some error in his opinion; and on being admonished, he shall persist in his denial, he shall abjure in such place as we may appoint; and after he has been instructed in matters of faith, he shall be condemned to exile out of the kingdom.

6. Should the prisoner confess his blasphemy, and say that he uttered it because he lived at variance with the faith, and believed in the law of Moses, or in any other impious or pernicious sect, he shall be proceeded against as a formal heretic; and if any of the blasphemies be of any atrocious nature, such as against Christ our Lord, against the purity of his most holy mother, or any thing similar, and the crime shall have been public, and the criminal shall have been received into an union with the holy mother church, besides the dress of penance which he must wear to the *auto*, he shall have a gag in his mouth, and shall be sentenced to be whipped, and exiled, in order to satisfy the scandal which the faithful have received from his crimes.

7. In case of his relapsing into the same crimes, if in the first instance the criminal abjured *de leve*, in the second he shall abjure vehemently, and the penalties and penances shall be proportionably more rigorous; regard being had to the rank of the criminal, and the circumstances of the crime: if he has abjured vehemently, he shall not abjure a second time; but if plebeian he shall be, on the second lapse, publicly whipped, and sent to the galleys, for a period not exceeding from seven to ten years; and if a woman, the same punishments of whipping and exile to St. Thomé or Angola shall be inflicted on her; if a noble person, or a gentleman, he shall be subjected to a

pecuniary fine and exile, and all other penalties and penances in proportion to the extent of the blasphemy.

8. Any person who shall affirm that *simplex fornicatio* is not a sin; if an ignorant person, he shall be condemned to hear his sentence in such *auto* as we may determine, where he shall abjure, *de leve*, as suspected in his faith, and such spiritual penances shall be inflicted on him as may be convenient for the good of his soul; and he shall also be instructed in the mysteries of the faith. The same shall be observed with respect to him who says that usury and simony are permitted and not sinful, but if a person of quality, he shall abjure at the board.

9. Should the cause of an heretical blasphemer be tried before any ecclesiastical or civil judge, the inquisitors shall order such a cause to be removed to the board of the holy office; for on account of the suspicion arising against the prisoner accused of heretical blasphemies, that he does not think well of our holy faith, the consequence of this crime shall belong to the holy office, by which only such blasphemies are to be examined and punished; but before this, the particulars of the case shall be made known to the council-general, as well as when the letters summoning the prisoner, and the proceedings on his trials, shall not be complied with, and given up by any of those judges, that we may in such cases make the same known to his majesty.

10. When an heretical blasphemer has been punished by secular justice, he shall not be called to the inquisition for a new punishment, but only to make the competent abjuration of the errors he has professed.

11. Whereas, to the holy office have been entrusted the cognizance of all, for the sake of avoiding the injury to the faithful which always arises from blasphemies that are rash and scandalous, to the detriment of good customs, and the purity of our holy faith; we do ordain, that if any person shall be guilty of uttering rash and scanda-

Ious blasphemies, which may virtually contain errors, or excite suspicions of heresy, though not absolutely heretical, the inquisitors shall take notice of it; and if the person be a plebeian, and the crime has been public, they shall order his sentence to be read in his parish church, when the criminal is present; and if a person of quality, at the board of the holy office, inflicting on both the necessary spiritual penances; but if the said blasphemers should have been already punished in other courts, the holy office shall not proceed against them.

TITLE IX.

Of those who disrespect the most Holy Sacrament, or sacred Images, or receive the same most Holy Sacrament after eating on the same Day.

1. Whereas the immediate adoration of *latria*, which is due to the most holy sacrament, and the relative one due to the image of Christ our Lord, and his sacred cross; and the veneration and worship due to the images of the Virgin our Lady, and the Saints, cannot be denied without an error against the faith, should any person be so daring, in disrespect or contempt of the most holy sacrament, as to break, overturn, or anywise treat with insult the consecrated host, or consecrated chalice, or any image of Christ our Lord, or of the Virgin Mary our Lady, he shall be examined as to the said crime, and on the presumption arising that he does not think well of our holy catholic faith, and on his confessing that he acted in such a manner because he lived at variance with the faith, he shall be proceeded against as a formal heretic, and besides the penalties to be inflicted on him, if the crime was public, and required public satisfaction, he shall be sentenced to be publicly whipped, and sent to the galleys, according to the circumstances of the crimes: and if he denies having committed the crime, or though he confesses it, if he

denies having had intention to separate himself from the faith, he shall abjure, *de leve*, or vehemently, in the place assigned to him ; but if the crime is public, it shall not be sufficient for him to deny this intention, in order to avoid the punishments of whipping and the gallies : for, besides these punishments, he shall suffer under other penalties, as may appear commensurate with his crimes.

2. But should a criminal have led a libertine life, or one not very consonant to the true belief, and on confessing the fact, he shall deny the intention, and aggravating circumstances shall have occurred as to the publicity of the crime, as well as to the general scandal resulting from it ; but it may appear to the inquisitors that, for the satisfaction of justice, the arbitrary penalties will be sufficient, after having examined the case with great attention, they shall enter a decision on the proceedings, and shall send the same up to the council-general.

3. Any person who, out of contempt for the sacred images, shall commit any act of disrespect, or irreverence towards any saint, he shall abjure, *de leve*, in such place as we may appoint. Should the rank of the person, or the circumstances of the crime not require a greater abjuration, and the singularity of the fact shall be such as to excite scandalous notice in the place where the crime was perpetrated, he shall be exiled from three to five years, to any of the foreign parts of the kingdom, and there such penances shall be inflicted on him as may appear proper.

4. Should it be proved against any person, that without necessity he went to receive the sacrament, after having eaten or drank any thing during that day ; for the first offence he shall be called to the board, and there reprimanded for the daring temerity of his conduct ; for the second fact he shall be proceeded against, and the trial, with the decision made thereon, shall go up to the council-general.

TITLE X.

Of Jacobism.

Whereas, after these kingdoms, by the mercy of God, and through the most vigilant care of our most religious monarchs, had been always preserved from all heretical errors, and from all sects and schisms that might have divided and separated them from the christian union, and from the pure sentiments of true and solid religion, there has appeared in Portugal, in later times, a combination of individuals of the secular and regular clergy; and of lay sectaries, who, restricting themselves to a particular and novel method of spiritual life, and directed by chiefs destituted of a lawful mission; and by statutes, principles, and rules, formed without any canonical authority, which has dared to constitute, in the law of grace, a regular sect, in every respect similar to the Farizean, in the written law, which is reprobated by the gospel.

And whereas the aforesaid sect was governed, by maxims of the most insidious hypocrisy, and practised notorious abuses, not only of the moral and theological virtues, but even of the secrecy required in sacramental confession, to the ruin of the second plank of our salvation; and with a breach of the public peace of the people, and the quiet of families and their houses; and being directed according to the ends of its sectaries, to acquire interests and honours, and riches, and sought at all times to satisfy their depraved passions of love and hatred.

In this manner proceeded the abominable chiefs and heads of the said sect, as terrible monsters of pride and covetousness, of sedition and vengeance, until they were overthrown by the royal board of censure, in their decisive judgment of the 10th of March, 1769; and in their definitive sentence of the 3d of April in the same year, in which it is ordained that the original of that most false

system entitled "*Theses, maxims, and spiritual exercises, of the Jacobea,*" should be kept secret in the office of the secretary of that tribunal, in which all copies or originals taken from it, after being delivered at the said board, should be publicly burnt, with a proclamation by the hangman, in the grand square of the exchange, as was actually done on the 4th day of April, in the aforesaid year.

Consequently, the council-general of the holy-office, induced by the indispensable obligation of its ministry, interfered in every respect in its power to prevent the further extent of a system so repugnant to the tenets of religion, and so adverse to the maxims of the gospel, a system which had for its bases hypocrisy and superstitious sedition, by causing an edict to be published, dated on the 7th of July, in the same year, wherein they enjoined that all persons who should consider the said system to be good and worthy of being followed, or should practise it either as to the whole or part, or should defend or favour its principles should be denounced to the holy office.

And whereas it is just and necessary that, in these Byelaws, some provisions should be established against the transgressors of the aforesaid edict, with competent penalties to restrain them, we do ordain that, in regard to them, the following circumstances shall be observed.

I. All persons of any sex, state, or condition, who are denounced for having uttered opinions tending to maintain and defend the aforesaid reprobated system, was or is lawful, either wholly or in part, after the reality of such opinions has been proved, and the same opinions qualified by qualificators of the greatest rank, and critically remarked upon by divines, who may judge the opinions comprehended in the spirit of the said edict, they shall be conveyed to the prisons of the holy office, and there tried in a summary and verbal manner, according to the truth resulting from the proceedings. In case they should

confess their crimes, they shall be condemned to the punishment of public whipping, and sent to the gallies or to Angola, for the space of six years, not being noble; but should they be noble, they shall be condemned to ten years the exile to S. Thome, or Angola; which is to be the case always after they have formally abjured the errors which might have been proved against them, and have begged pardon as true and repentant confitents.

2. Should the prisoners convicted and confitent be ecclesiastical persons belonging to the clergy, either secular or regular, after the aforesaid abjuration and penance have been attended to, they shall be suspended from the exercise of their orders, and condemned in ten years exile to the island of S. Thome, or to the kingdom, or garrisons of Angola, according to the magnitude of the crime they have committed, and in proportion to the injury they may have caused by their false and daring doctrines.

3. If, however, the aforesaid prisoners, after their opinions have been proved and qualified, and the proper censure of the same has been intimated to them; and after charitable admonitions have been given to them, and such other endeavours have been made as may be considered necessary, either to the end that those convicted of errors should desist from them, or to prove that they contumaciously persist in them, and yet, notwithstanding all these endeavours, they should still continue in the pertinacity of maintaining and holding such errors to be good and lawful, they shall be proceeded against with the penalties established by the ordinances of these kingdoms, in relation to the schismatics who separate themselves from the indivisible union of the church, and the heretics who secede from it to follow novel and particular systems or opinions.

4. We do ordain that such prisoners as shall pertinaciously and incorrigibly persist in denying that they have uttered the opinions juridically proved against

them, they shall be condemned to the same penalties: it being understood, however, that the said penalties shall take place only when the opinions denied as aforesaid contain formal heresy. Should they be of another nature, then the said negative prisoners shall be condemned to a public whipping, and afterwards sent for ten years to the galleys, or to Angola, according to their different ranks.

5. In case of their relapsing to the same crimes, when on the first relapse they abjured in form, the penalties established by law against relapse shall be inflicted on them.

6. Moreover we do ordain, that if any of the aforesaid persons be of the female sex, professed in any of the regular orders, but under the sentence of exile, they shall be sent instead to the remotest convents of their respective orders, and there imprisoned from five to ten years, according to the greater or lesser enormity of their crimes; and they shall be deprived of the black veil, and of all vote, whether of electing or of being elected.

TITLE XI.

Of Witches, or Wizards, Sorcerers, Diviners, Judiciary Astrologers, and Maleficent Conjurers.

Whereas the divine conqueror of the aerial and infernal powers, when he visited this corrupt and idolatrous world, and redeemed mankind in it with his most precious blood from the bondage of the sin, left the devil broken down, imprisoned, and restrained from enjoining mankind, as has been the constant tradition of many fathers of the church, and the established doctrine of great divines, and ecclesiastical authors, of the most improved and pious erudition.*

* Sanctus Athanasius in Epist. Encyclic. adversus Arianos. Dio. Aug. lib. 4. de civit. Dei. cap. 30. Idem ibid. lib. 18. cap. 18.

Whereas the same thing that dictates to us sound and good theology has been demonstrated by natural reason itself, and by experience; for, on one hand, it is well understood that malignant spirits, notwithstanding their covenants with witches and wizards, sorcerers, diviners, and judiciary astrologers, could not break through the fundamental laws of the order of nature, which the providence of the Supreme Author of the same nature has made inviolable and immutable, for the preservation of the world; and, on the other hand, it is to be concluded, that if the contrary were the case, no one could escape from the injuries of the hatred congenial to the same spirits who have been always inimical to miserable humanity; and no one could repress the bad dispositions of all the wretches who are said to conspire with them; because, whenever all of them should be free, they would wish to range themselves under the banner of Satan, that united together in one common cause they might destroy all rational souls.

For the argument of theology, that there may be some cases, in which the said diabolical spirits, who can do nothing of themselves, may torment human beings, if God permitted them so to do, has no application whatever to the jurisdiction of this legislation; because, as no person has hitherto doubted that Divine Omnipotence has the power of performing miracles, by the means of such, and so disproportionate instruments, as are the devils; and because this is not the question to be agitated in these laws,

S. Iren. lib. 1. pag. 1. Sanctus Cyprianus de idol. vanit. Sanctus Joan. Chr. tom 4 & 11. Sanct. Greg. Nazian. in Exami. tom. 6. S. Clemens. Alex. in sua Epist. apud S. Hieron. S. Epiph. Harc. 21. ex Synod. S. Patricii in Hibernia circa ann. 450. can. 16. Tertul. de idol. cap. 9. Huetius Demonstr. Evang. cap. 39. Propos. 9. § 4. Maffei in Art. Mag. lib. 3. Grimaldi in dissert. Trium Mag. Cartina. Litt. Tart. Euseb. de Evang. Præparat. lib. 5. cap. 1 & 3. Vandal. de Oracl. vet. & Etnicor. dissert. 2. cap. 1.

which will consider only another doubt, whether there be in this world such an art as by the means of invocations of the same devils, or the formation of lines straight or oblique, or of circles, is capable of transporting human bodies with velocity through the air, from one part of the world to another, however remote; of forming ferocious animals; of observing the sun and stars; of rendering rational creatures morbid and unhappy, by exciting languor of body, dullness of spirits, and inflicting barbarous and cruel deaths at the will of the professors of so dangerous an art. Because, whoever believes in such things is guilty of an absurdity no less than that of ascribing to the devil those attributes which belong only to the God of Jacob; besides confounding the miracles of Divine Omnipotence with the operations of hell; besides, supposing, which is an offence to the divine goodness, that it could permit a vile wretch, or an infamous astrologer, with mere figures in ink or in charcoal, with decoctions of herbs, or similar superstitions, to be able to deprive persons of their goods, their health, and even of their lives. And as the church does not extend its decisions to internal acts, and as the laws are not established to notice facts merely possible, or rare; and as, from all the foregoing remarks, it follows, that neither of the two covenants or pacts to which those powers have been attributed, there has been hitherto any proof, not of the implied pact, under which, as was supposed, the said superstitious facts or words of sorcery occurred; because it is incapable of proof, from its very nature, for there are no human means of knowing whether the devil comes at the invocations implied in the said facts or words of sorcery; but, on the contrary, the negative of this diabolical agency or concurrence must be believed. Not the other expressed pact, because it is not only improbable and incredible, for the reasons before stated, but also because it has been shewn to be ill-founded

by proofs of denial in a great number of proceedings or crimes, during the long period of nearly two centuries, and the sentences passed by the inquisitions of these kingdoms, and the independencies against pretended wizards and witches, sorcerers, diviners, and astrologers. All the proofs ever alledged against such prisoners were always reduced to their own single and insulated judicial or extra judicial confessions, without the manifestation of any other circumstances by which a juridical opinion could be formed of the said *explicit pact* by them affirmed, no doubt with a view to keep up the idea of their fictions and impostures in the public opinion, they knowing perfectly well that there were no means whatever to prove their falsity.

And whereas, by the deduction and combination of all the aforesaid, a conclusion has been formed, theologically, juridically, and geometrically, that witchcraft, sorcery, divinations, enchantments, and maleficent acts since the redemption of the world have manifestly been impostures, invented either by powerful persons, who to sanctify or render formidable their avarice and tyranny, and to gratify their depraved passions, made use of magicians, and of priests of the gentiles, as proper instruments for establishing upon the ignorance and fanaticism of the people, a blind submission to their cruel atrocities, as we read of the inhuman emperors Heliogabalus, Julian, Maxence, Valerian, and other persons addicted to metaphysical and mathematical studies, which magi and other persons, in order to gain access to sovereigns, and their ministers, and to obtain interest with them, and for other human and carnal ends, employed themselves in spreading marvellous theories, and supernatural facts, with which, abusing the innocence of the people, and fomenting ignorance, kept alive in the public that ardent fanaticism which incapacitates men from the use of their reason, as was practised

(for instance) in high Germany, by Friar Henry, institutor, and Friar Didacus Sprenger, in the publication of his work entituled, "*Malleus Maleficarum;*"—in lower Germany, by the Jesuit denominated Martinho Del Rio, in another work entituled "*De Magia;*"—in Italy, by Friar Hieronimus Savanarola; in France, by Friar Thomas Campanella; in Portugal, by another famous Jesuit, Antonio Vieira, all of whom took advantage of the darkness of the times; and when also were read, with great attention, all the impostures dreamt by Nicholas Remigio, John Nider, Nicholas Jaquero, and many other sophists and fanatics of similar dispositions;—or the said inventions were ideas of other persons, poor and needy, who had recourse to these superstitions for the purpose of satisfying their hunger, without fatiguing their bodies with work, as happened with a great number of those who were punished by the sentences passed in the aforesaid proceedings at the inquisitions of Lisbon, Evora, Coimbra, and Goa; or they were the natural offspring of the new discoveries, or of the operations before known in experimental physics, chemistry, and botany, or they arose from the influence of hysteric passions, and inflamed imaginations in the female sex.

And whereas, in the present illuminated age, it would be incompatible with the gravity and decorum of the boards of the holy office to institute voluminous proceedings with juridical and serious formalities, in regard to an ideal and imaginary crime, and from which it must follow, that in proportion to the seriousness with which it might be treated, would be the credit it would gain with the people, to the multiplication amongst them of so many more believers in those doctrines, that hold the existence of the aforesaid cheats and impostures to be real, there being mean and ignorant men enough to credit them; when, on the contrary, if the same were des-

pised and ridiculed, it would soon become extinct, as experience has shown to be the case among the civilized nations of Europe. With all the said motives operating upon us, we do ordain in the said respect as follows:

CHAP. I.

Of the Commitment and Order of Proceedings in the Trial.

1. We do ordain, that all persons, of any sex, state, or condition, who may be denounced of any crime of witchcraft, sorcery, divination, judicial astrology, prediction of futurity, enchantment, malificence, or other similar superstitions, shall be tried in mere verbal proceedings; that the necessary proofs of the facts for which they may be proceeded against, shall be immediately produced, and on there appearing to be cause sufficient to warrant commitment, the imprisonment of the criminal shall be immediately decreed, and when taken to prison, the proceedings on their trials shall take place in the form hereafter determined.

2. We do also ordain, that when the aforesaid criminals are called to the board to whose cognizance they belong, 1st. After they have been questioned for the ordinary answers, as to their names, ages, places of nativity, parents, and whether they know or suspect the cause of their imprisonment, and have satisfied the aforesaid questions, the crimes which have been proved against them shall be declared to them in their full extent. 2dly. They shall be asked, whether they confess that those circumstances really happened with which they were charged. 3dly. In case they should not confess immediately, they shall be tried and sentenced, as the said crimes may deserve, and shall be condemned for them in the penalties hereafter declared. 4thly. In case they should deny

the aforesaid facts, and show an intention to persist in such a denial, by impeachments or cross-examinations, the witnesses whom they may name shall be forthwith examined, and their depositions shall be added to the proceedings on the trials, as well as the documents to which they may refer. 5thly. If the criminals substantiate their defence, the proceedings shall be sent to the council-general, with the information of all particulars that may have been ascertained, in order that the same criminals may be absolved in this instance, and that they may be liberated without any other formality of law or loss of time. 6thly. Should the prisoners fail in superceding the proofs of justice, they shall be called again to the board, where it shall be declared to them that they are convicted of the crimes for which they were accused; that they must declare the true motives for having invented and plotted the fictions and impostures of which they are convicted, it being proved at the board that the whole consisted of stratagems, of their own invention, arising from malice propence, and without any basis on which their delusive deceptions might be founded; and the same deceptions, consisting of superstitions, which mingled the faith of the church with the worship of the true God, and as such condemned by the holy fathers and ecclesiastical doctors, by many general and provincial councils, and by the synodal constitutions of almost all the christian establishments; they must declare also when they dared to practice those superstitious acts, ceremonies, or inventions, of which they are convicted; when it shall be observed to them, that the prohibitions and excommunications aforesaid are against both them and their practices; and that they might render themselves worthy of the mercy which the holy tribunal of the holy office always extends to the true confitent, they must confess not only their crimes, but also the intention and motives for

committing them, without any concealment or reservation whatsoever. 7thly. After the proceedings and admonitions before ordained, and after they have been repeated in three successive audiences, whether the said criminals are confitent or negative, they shall be definitively sentenced without delay, according to the merits of their cases, in the following manner:—

CHAP. II.

Of the Sentences and Punishments therein ordered to be inflicted on the Criminals.

1. Whereas we have observed, in the preface to this Title, that nobody ought to believe, that between the criminals accused of the errors here treated of, and the malignant spirits, there is any compact either real or implied, but that the malicious designs of the said criminals proceed either from affectation or their own foolish invention, or from ignorance and foolish credulity, as to such or such signs, such or such words, such or such mixtures of herbs, such or such benisons learnt from tradition, in the families of the criminals, and acquired by them from simple persons among low people, who always have a propensity to give credit to every thing that appears extraordinary, it would not be consistent in us to condemn the aforesaid criminals as guilty of heresy, to which is annexed a capital punishment, but only as guilty of fiction, imposture, and superstition; we do therefore ordain, that in sentencing the said criminals, the following forms shall be observed:

2. The preambles of the sentences shall always be conceived in general terms, or by stating, “that the crime of superstition is so detestable, and of such gravity, that injuries to the faith of the church, and the worship of the true God, are not only condemned in the first command-

ment of the decalogue, but since that have been successively reprobated, proscribed, and anathematised by the holy fathers, by the councils both general and provincial, and by the synods of all christian establishments," it being most certain, that we may call superstitious, 1st. All those facts, writings, words, or ceremonies, which have not in themselves any natural virtue to produce those effects which they ostentatiously pretend. 2d. All those acts, in which the same effects are not attributed either to God or to nature, but exclusively and solely to the foolish operations of magicians, sorcerers, and astrologers. 3d. That persuasion under which they endeavour to make it appear credible, that facts not proceeding from God or from his church, will give birth to effects by no means to be attributed to nature. 4th. The belief or persuasion that the said charms, sorceries, divinations, and similar things, operate by their own virtue, and the force of real or implied compacts made with the devil.

3. In the subsequent decisions, the sentences shall conclude with saying, that the criminals (of which they speak) being accused of having incurred punishment for the said detestable crimes of superstition, and their having perpetrated facts so contrary to the said irrefragable principles as are [*Here the crimes of each of the criminals shall be substantiated, without the minute specifications before made*], and shall thus finish: therefore we order that the criminal (if a nobleman) shall be exiled to the kingdom of Angola, for the period of from five to ten years, according to the greater or lesser enormity attached to his crime; if not a nobleman, he shall be publicly whipped, and sent to the gallies, in the aforesaid manner; if an ecclesiastic, of the male sex, he shall be exiled either to Angola, or to the gallies, as before determined; and moreover, deprived of the exercise of

his orders for all the time of his exile; and if regular, of the female sex, she shall be sent to the most remote convent of his or her order, and condemned to similar exile, with the penalty of being deprived of her black veil, and of her vote, both of electing and of being elected for life.

4. If amongst the aforesaid criminals there should be any who, in the practice of the aforesaid crimes, should go so far as to maintain and defend such speculative acts as right and authorised, and obstinately persist in endeavouring to persuade others—1st. that they made with devils some compact, either real or implied; that they have power from the same devils to injure or hurt mankind; that their words, operations, or compositions, possess sufficient virtue to affect persons in good health with illness, or to restore to health such persons as are ill; to predict the contingencies of futurity, to excite the affections of love or hatred, or to create any other supernatural effects; and that any of the aforesaid things are right and proper, considering that a pertinacious adherence of the said rash, vain, foolish assertions, which are destitute of all probability, can only be the miserable effects of gross ignorance, or of a furious insanity, excited by one of those ardent fanaticisms which, disorganising the heads of men, leave them incapable of perceiving the light of truth, and indisposed to listen to the voice of reason; we do ordain, that all criminals, labouring under the aforesaid situation, be definitively judged as madmen, without the necessity of any other proof or examination, and that they be sent as such to the royal hospital of All Saints; that they shall be kept private in the prisons allotted to madmen, until the council-general shall give directions to the contrary; and that in the said prisons they shall be treated by the persons who superintend the infirmary of madmen, in the same manner as they treat others labouring under the same infirmity, whether phrenetics or maniacs, according to

the indication in the symptoms of each of the aforesaid madmen.

TITLE XII.

Of the Bigamist.

1. Any person, male or female, of any condition whatsoever, who, having contracted matrimony, *by words of present*, in the form of the Tridentine council, shall marry a second time, the first wife or the first husband being yet alive, or without having a legal certainty of his or her death, as is requisite at law, after the intention and spirit with which the crime was committed, shall abjure, *de leve*, if the rank of the person, and the nature of the crime do not require a greater abjuration; but if of a plebeian race, he shall be publicly whipped through the streets, and sent to the galleys from five to seven years. The same punishment of whipping shall be inflicted on a female, and she shall be exiled for the said time to Angola, or some part of Brazil, and shall receive the ordinary instruction, and perform the penitential penances.

2. Being a nobleman of that rank which the ordinances of the kingdom excuse from a degrading punishment, he shall be exiled from six to eight years, to any of the foreign parts of these kingdoms.

3. If any single person should marry, *by words of present*, with another, whom he or she knows to be already married, on the proof of this knowledge, in manner required by law, in order to constitute the crime of bigamy, he or she shall abjure *de leve*, and be condemned in the aforesaid manner to whipping and the galleys, for a period of from three to five years.

4. Should any person be punished by the holy office for the crime of bigamy, if the same person fall again into the same crime, after having on the first lapse abjured *de leve*, in the second he shall abjure vehemently, and shall be condemned (not being a nobleman) to public

whipping, and sent to the galleys for the period of from eight to ten years; and being a woman, she shall be exiled for the same time to Angola or S. Tomé, and on a repetition of this crime, there shall be inflicted more rigorous spiritual penances; if in the first instance they have abjured vehemently, they shall not abjure in the second, but shall incur the penalties of whipping and exile; but if noble persons, instead of whipping, the time of their exile shall be increased.

5. The witnesses who may have falsely sworn, or used any prevarication, as to the commission of the said crime of bigamy, by swearing that the first husband or wife was dead, and this be to the end of enabling the criminals to marry a second time, should this crime be committed in such a manner that the holy office takes cognizance of it, the same office shall also take cognizance of the crime of the witnesses, who, by their false swearing, were the cause of the second null marriage being effected, on account of the suspicion which in such cases arises against them, that they do not think well of this sacrament. After they have abjured *de leve*, they shall receive the same punishments of whipping and exile, as are declared in the first section of this title.

6. The clergyman holding sacred orders, who shall marry *by words of present*, shall abjure, *de leve*, in such place as we may determine, should the quality of the person, and the circumstances of the crime, not require a greater degree of abjuration, and besides the great excommunication which he has incurred, he shall be deprived of the benefice he may have; be forever suspended from exercising his orders, and rendered incapable of obtaining any further promotion, and shall be sent to the galleys for such a time as may appear proper, according to the nature and enormity of the crime, and the revenue and profits of his benefits shall be paid into the coffers of the exchequer.

7. Should he be a professed regular of any of the approved orders, though expelled from it, if he has not lawfully abrogated his profession, he shall make a similar abjuration, and shall be sent to the galleys, or to any of the places in foreign parts.

8. Any person who may marry *by words of present*, with any professed nun, shall abjure *de leve*, and shall be exiled for a period of from five to seven years to Angola, or to any of the islands on the coast of Africa.

9. Should any persons present themselves to the board, to confess having been guilty of the crime of bigamy, such proceedings shall take place as are ordained in Title I. of this book; with this difference, that though the persons may be denounced at the time of presenting themselves, and with sufficient proof, they shall enter on their defence without going into prison, but shall abjure, *de leve*, in such *auto* as we may determine, according to the quality of those persons, and the scandal they may have caused, and shall be condemned to be exiled to Brazil for a period of from three to five years; and if of the female sex to the city of Miranda.

TITLE XIII.

Of those who, after being married by Words of Present, take sacred Orders.

1. He, who having been married according to the form of the Tridentine council, shall leave his wife, and without her consent, or the other requisites of law, shall take sacred orders, shall be punished as a person suspected in the faith, and for thinking ill of the sacrament of orders, to which is annexed the vow of chastity; he shall abjure, *de leve*, according to his quality, and the circumstances of the crime; shall be incapable of being promoted to other orders, and, having a benefice, shall be deprived of it, and its profits and revenue shall be applied in the form aforesaid: there shall be inflicted, moreover, such other

penalties and spiritual penances as may be deemed proper for his crime. Those who come voluntary to present themselves as guilty of the said crime, shall have the cases dispatched in the manner prescribed in the first title of this book, and the last paragraph of the preceding title.

TITLE XIV.

Of those who celebrate Mass, or hear Confessions, not being Priests.

1. The crime of those who say mass, not being priests, comes under the denomination of idolatry; because those who commit this crime thereby cause the faithful to adore the bread of the host, and the wine of the chalice, as if they were the true body and blood of Christ our Lord, and had been consecrated as such; and those who hear confessions, without being priests, are guilty of an injury to the sacrament of penance, besides committing a remarkable detriment to their fellow-creatures, who falsely think that they have been sacramentally absolved of their sins: persons of these descriptions are suspected in their faith, and as such shall be subject to the judgment of the holy office, and be punished.

2. Therefore, if a secular clergyman, who has taken the only orders of subdeacon or deacon, shall say mass, or hear confessions, if apprehended and imprisoned for either of these crimes, he shall abjure *de lexe*, in such *auto* as we may determine. Provided circumstances should not require a greater degree of abjuration, he shall be suspended also for ever from the orders he may have, be incapacitated from receiving any other, and be sent to the gallies for a period of from five to ten years, besides having the ordinary instruction, and spiritual penances, that may be enjoined.

3. Being a regular he shall abjure in the same manner,

and besides the said penalties shall be deprived for ever of his vote, both of electing and being elected : but if the quality of the person, and the circumstances of the case be such, that it may appear convenient to diminish the punishment, he shall abjure in the saloon, or at the board of the holy office, and shall be exiled for a period of from seven to ten years to any place in the foreign parts of this kingdom, where there may be a convent of his order ; and in the prisons thereof he shall be kept secluded for one or two years, being fed only upon bread and water, and performing other spiritual penances ; and should there be no convent of his order in the foreign parts aforesaid, he shall be reclused in the remotest convent of the kingdom for the period of ten years; and for the first two or three years of this time, in its prison, where he shall fulfil the said penances.

4. Those who commit any of the said crimes, not having sacred orders, and being plebeians, shall abjure *de leve* in such *auto* as we may determine ; they shall be incapacitated for ever from being admitted into orders, shall be condemned to the gallies for a period of from six to ten years, and to be publicly whipped ; and such other penalties and penances shall be inflicted as may appear proper. Noble persons, who are entitled to attention by their rank, shall abjure in the saloon, or board of the holy office, and shall be exiled to some place in the foreign parts of this kingdom for a period of from eight to ten years.

5. When any person, either secular, ecclesiastical, or regular, or of any rank whatsoever, after being condemned and punished by the holy office for committing any of the said crimes, shall again fall into the perpetration of them ; if in the first lapse they abjured *de leve*, in the second they shall abjure *de vehemente* ; and they shall be sent to the gallies for the period of ten years : but when in the first lapse they abjured *de vehemente*, in the second they shall be proceeded against as guilty of relapse.

6. Should any person present himself voluntarily to confess the commission of any of the said crimes, whether before or after he has been denounced, there shall be observed in every thing what has been determined in the first title of this book, or at least inasmuch as the same may be applicable to these crimes.

TITLE XV.

Of Confessors guilty of Solicitation, while administering the Sacrament of Confession.

1. If any confessor in the act of administering sacramental confession, or immediately before or after it, or on the occasion and under the pretext of hearing a confession in the confessionary or place destined for receiving confessions, or other place for this purpose chosen, while he pretends to listen to the confession shall solicit, or in any manner provoke to illicit and immodest acts, either by words or immodest actions, and either for himself or for other persons, any individual, whether male or female, that may resort to him for the purposes of confession, on sufficient proofs being produced of this, even by a single witness, if he be a secular clergyman he shall abjure *de leve*, (except any cause may require a greater abjuration,) shall be deprived for ever of the power of receiving confessions, and shall be condemned to the other penalties justly imposed by the holy father Benedict XIV.; he shall be exiled also out of the bishopric for a period of from eight to ten years, and for ever from the place where the crime was committed, on account of the scandal which he has there occasioned by his crime.

2. Should a confessor be convicted of continuing to practice the same crime with licentiousness, besides the aforesaid penalties he shall be exiled to some place in the foreign parts of the kingdom; and the same punishments shall be inflicted on him, if with the solicited person he

may have committed any sin of fornication, self-pollution, or a detestable crime.

3. Should the confessor be a regular, he shall make the same abjuration ; and, besides the penalties before declared, shall be deprived of his vote, both of electing and being elected, and shall be exiled to the most remote convent of his order for a period of from eight to ten years, of which he shall be kept secluded at least one or two in the prisons thereof, and shall not again enter into the place where the crime was committed : in his seclusion he shall be fed only upon bread and water, and shall perform such other spiritual penances as may be deemed convenient ; and should he be still licentious, additional penalties shall be imposed.

4. The abjuration to be made by a confessor guilty of solicitation shall be performed in such *auto* or place as we may determine, and being a regular, after he has heard his sentence, the same shall be read by a notary, in a chapter of the same regular's convent, and in the presence of the prelates and associates thereof.

5. When a solicitant confessor shall not be so licentious as before represented, and it shall not be known that he has completely accomplished any act, or been publicly infamed for this crime, the aforesaid penalties may be moderated, according to the quality of the persons, number of acts, and the circumstances under which they were committed.

6. Should any of the confessors, imprisoned and accused at the holy office for this crime, deny the crime for which he is denounced ; and should it be found that the proof is not sufficient to convict him fully, he shall not make any abjuration, but may be deprived of the power of receiving confessions, exiled from the place where the crime was committed, and suspended from exercising his orders for such a time as may appear proper to the inquisitors, according to the nature of the proofs, and the cir-

cumstantial evidence resulting from them, in proportion to which the necessary penances shall be enjoined.

7. Should any confessor be found out as guilty of a second lapse, when in the first he abjured *de leve*, in the second he shall abjure *de vehemente*; he shall also incur the other penalties before determined, be deprived of any office, benefit, or dignity he may have, the revenues of which shall be applied in the aforesaid form; be incapacitated, for ever, from obtaining any other, and be sent to the galleys for the time of from eight to ten years. If he is a regular, besides the aforesaid penalties, he shall be for ever deprived of his vote, both personal and by proxy; and when in the first lapse he abjured *de vehemente*, he shall not in the second make any abjuration, but shall incur all the aforesaid penalties, with such additional ones as may appear proper; except relaxation, on account of the preponderance of human frailty, which has more influence, perhaps, in the commission of this heavy crime than premeditated malice.

8. If, however, the aforesaid solicitants be at the same time Molinists, then the same proceedings shall be observed in regard to them as have been established with respect to all heretics.

9. Those who may present themselves voluntarily, and confess the commission of this crime before they have been denounced by two witnesses at least, shall abjure at the board before the inquisitors, notaries, and two witnesses; and they shall be ordered to abstain as much as possible from confessing, the aforesaid being recommended to them as a direction to their consciences; and they shall incur only spiritual penances. Should the said *apresentados* be parsons or curates, and very licentious in the crime, they shall be ordered to appoint immediately one or more curates to do their duty in the confessionary, or to leave and renounce their benefices; and if they

have been already denounced by two witnesses at least, they shall abjure in such place as we may determine; shall be deprived of the power of hearing confessions; suspended from exercising their orders for such time as may appear proper; and there shall be inflicted on them all those penances and penalties that may appear expedient.

10. Those confessors who may say and teach to the penitents confessing to them, and whom they have solicited, that such penitents are not obliged to denounce them (the confessors) to the holy office, although they know them to have been guilty of solicitation in administering the sacrament of confession, when such fact is known at the board of the holy office, they shall be punished with such penalties and spiritual penances as the inquisitors may deem proper, according to the nature of the crime, and its circumstances.

TITLE XVI.

Of the Sigilist, or him who reveals the Secrets of Confession.

1. Whereas the king, my lord, by his law of the 12th of June, 1769, was pleased to grant his royal sanction (Placito Regio), and royal assistance, to the bulls of the holy father Benedict XIV. of the 7th of July, 1745; the 28th of September, 1746; and the 9th of December, 1749, which declared the cognizance and punishments of the crime of revealing the secrets of sacramental confession to belong to the holy office, in order that such bulls might be duly observed in these kingdoms, he thereby giving a retrograde effect to his own royal sanction, as to the time when the said bulls were promulgated; and whereas, in the spiritual powers of this tribunal, condign punishments could not be comprehended for so abominable a crime,

which after having exhausted all the mercy of the church was crying, by its atrocity, for the most public satisfaction; he was otherwise pleased to determine that those guilty of the same crime should be punished with the penalties inflicted upon heretics by the ordinances of the kingdom, in Book V. tt. 1. by delegating unto us for this purpose all the necessary powers. Availing ourselves, therefore, of the powers declared in the said bulls, and laws of the same lord the king, we do ordain as follows :

2. Any confessor, either secular or regular, who may be convicted, by proofs adduced in the testimony even of single witnesses, (so qualified, weighed, and circumstanced, as to be rendered certain by a prudent judgment), of having revealed the secrets of sacramental confession, whether the discovery of them be real or qualified he shall be relaxed as an heretic to secular justice, being first deprived of his orders, in the same manner as before declared, and his property, if he has any, shall be confiscated; and in this case such proceeding shall take place, and in the same manner as we have ordained therein with regard to negative heretics.

3. If, however, they should confess their crimes with signs of conversion, and shall abjure in form in the appointed *auto*, being clergymen they shall be exiled for a period of from six to ten years to Angola, according to the greater or less scandal they may have occasioned by their crimes; and in every other respect they shall be treated in the manner determined on as to the confitent heretics: if regulars, what has been enjoined in tt. 3. § 7. of this book shall be observed.

4. When there shall be no proofs to convict them fully of the errors of which they have been accused, however strong the circumstantial evidences may be that they committed the crime, they shall abjure *de vehemente*, in

such *auto* as we may appoint; and shall incur such other arbitrary penalties and spiritual penances as the inquisitors may deem proper.

5. Should they relapse, however, into the same crime which they have abjured on the first lapse in form, or *de vehemente*, they shall be treated and punished as those guilty of relapse, if there be sufficient proof to convict them of relapse, or if they should confess their guilt in this respect.

TITLE XVII.

Of those who offer the Worship due to the Saints, to those that have not been beatified or canonized by the Church. Of the Books which treat of their Miracles and Revelations, and of those who invent or feign them.

1. Whereas, according to the repeated determinations of the church, it is impossible to give any worship or veneration to the image of a dead person, unless that person has previously been beatified and canonized by the same church; we do ordain, that if any person shall worship or venerate the image of any dead person, though he might have died, according to report, full of sanctity, and have it in a private oratory, chapel, or other public place, with the splendour, or glory round the head, without previous approbation, beatification, and canonization, according to the common usage of the church, he shall be condemned to forfeit such images, as well as the other articles with which the worship is done, and shall be harshly reprimanded at the board of the holy office, and exiled to Castro Marim, or the city of Miranda, for the space of three years. If an ecclesiastical person, he shall be punished with a greater degree of severity, at the will of the inquisitors.

2. If the same person continues, and falls again into the same crime, the said penalties shall be increased, and the duration of the exile shall be extended to six years to some foreign part of these kingdoms.

3. The same penalties shall attach on those who may place, or cause to be placed, in the graves of the dead any board or cloth having a picture, writing, or description of any of his miracles; or an image of any thing painted, engraved, fixed, or hanging; or who may cause lamps or other lights to be there placed; or perform any other worship or veneration, without due permission.

4. In the same manner it shall be proceeded against those who may write, retain in their possession, or communicate to a third person, any manuscripts, books, documents, or papers relating to miracles, revelations, and other benefits obtained from God our Lord by the intervention of the dead.

5. Whereas some persons, with impostures and pretensions to virtue, and aided by their spiritual directors, make known and divulge for sinister motives, and pretend to show that they have revelations from heaven, and perform miracles, by which means they cause a great scandal and disturbance among Christians; and as it is customary through the same means to introduce false and injurious doctrines, to prognosticate evils, and other events, to the great detriment of our holy faith and the public tranquillity, we do therefore ordain that all those shall be punished by the holy office who commit such crimes; and being persons of ordinary condition, they shall be condemned to be publicly whipped, and sent to the galleys for a period of from five to seven years; and being nuns, they shall be deprived of their votes, both of electing and being elected, and secluded in the prisons of the most remote convent, for a similar number of years. If noble persons they shall be exiled to Angola or S. Thomé for ten years; consideration

being always had for the scandal they may have caused, and the injury produced by their crimes.

6. If, from the examinations of the same persons, their directors shall be found guilty of the aforesaid pretended revelations and fictions, they shall be punished with great severity by the inquisitors, according to the nature of the proofs, and circumstantial evidence resulting from them; and the proceedings shall be sent up to the council, with the decisions which they may adopt.

TITLE XVIII.

Of those who obstruct or disturb the Business of the Holy Office.

1. Whereas the lords, kings of these realms, have always efficaciously protected the ministry of the holy office, of which there is a most decisive proof in the decrees and orders, by which directions are given that every possible assistance and favour should be given to the ministers and officers of the holy office, in order that the business entrusted to the same might be more speedily executed; it would be as strange, should the said ministers fail in executing what is determined in the said decrees and orders, as the proceedings threatened against them, by the Bye-laws of D. Francisco de Castro, in case they should neglect the observance of those royal orders, are wrong; for in such cases it is only proper to seek redress from his majesty. From these considerations, we do ordain, that if any minister, on account of his jurisdiction or office, shall impede, hinder, or obstruct, the ministers and officers of the inquisition, in carrying arms (especially those prohibited for the benefit of the public) when they go to execute any business belonging to the cognizance of the tribunal; or shall place any impediments to prevent the same business from being effected; the board, on ascertaining the facts, shall make them known immediately to us, that we may consult his ma-

jesty about bringing the said minister to a condign punishment.

2. Those, however, who, not in the exercise of their jurisdiction, but *de facto* shall impede or disturb the business of the holy office, by injuring or maltreating its ministers in contempt of the inquisition, shall be tried, and their cases shall be communicated to us, that we may order such proceedings against the offender, with such corporeal punishment as may be adequate to the enormity of their crimes.

3. But the persons who shall impede or disturb the ministry of the holy office, either in its business or matters of faith, by offending, threatening, or intimidating the witnesses, or informers, who may wish to come, or have been, to depose or denounce at the board of the inquisition; who shall take from it, or any other place, the documents of the trials or other papers thereunto belonging, and burn or destroy them, or shall take from the prison any criminal, help him, or favour him in his escape, or conceal him that he should not be apprehended, they shall abjure, *de leve*, and shall be condemned in the same penalties as before declared; and this even in cases wherein, from such facts or impediments, no bad effects have arisen. The said penalties, however, may be lessened, if the criminal shew, by a lawful proof, that the crime was not committed out of contempt for the holy office, but from some other particular motive; in which case, he shall not abjure.

4. If any bishop shall make any constitution or statute, that may disturb or hinder the jurisdiction of the holy office, the board shall immediately make it known to us, that we may lay the business before the royal presence of his majesty, of whom we shall request that he may provide such a remedy as shall cause all further impediments to cease.

5. Those who may offend, and either by words or deeds injure, or maltreat the ministers or officers of the holy office, unless it should be in natural self-defence; they shall also be subjected to the penalties established by the laws of these kingdoms, with respect to those who offend or injure the royal ministers and magistrates.

6. When any minister or officer of the holy office shall forget his duty so far as, out of malice, entreaties or bribes, to do any thing in prejudice of his ministry, or of the business he may be entrusted with, by hindering or obstructing it in any manner, should the crime he has committed be that of subornation; being a minister, he shall be deprived of the employment he holds, and excluded from the service of the holy office; and he shall suffer such other arbitrary penalties as may correspond with his personal rank; being an officer, besides losing the office he may hold in the inquisition, he shall be removed from its service, and exiled for ten years to the kingdom of Angola.

7. Whereas, those who corrupt, or intend to corrupt the ministers or officers of the holy office, through the influence of entreaties, presents, or bribes, are also disturbers and hinderers of the ministry of the holy office; we do ordain that if any person shall commit this crime, and if what they by these means have effected with the ministers and officers of the holy office be matters of importance, they shall be condemned to be banished to any of the foreign parts of the kingdom for a period of from three to five years: but if they are only slight matters, the punishments shall be determined by the will and pleasure of the inquisitors, who shall inflict such ones as they may think convenient, according to the rank of the criminals, and the circumstances of the crimes.

TITLE XIX.

Of those who pretend themselves to be Ministers or Officers of the Inquisition.

1. It being equally expedient to preserve the authority of the holy office, as to proceed on its part with all possible purity and truth, in the matters belonging to its cognizance: therefore, if any person shall be so daring as to pretend to personate or to act as if they were ministers or officers of the holy office, in order that under such assumed characters they may deceive others, extort money from them, or any other thing; or pretend that they have orders from the holy office to transact any business; on its being found out that they have been guilty of these or like crimes, they shall be condemned to go to such *autos* as we may determine, to hear their sentences; and shall not abjure, except when in the commission of the crime any thing should appear to have taken place against the faith. Being plebeians they shall be publicly whipped and exiled, which penalties, however, may be diminished, according to the quality of the criminal, and any circumstances which may extenuate the crime. If they are persons of quality, they shall be exiled, and incur such other punishments as may be agreeable to the will of the inquisitors. And the criminals of both descriptions shall restore to the parties all things which they may have extorted from them.
2. If any minister or officer of justice shall imprison any person suspected in the faith, who may absent, or be about to absent himself from fear of the holy office, without an order from the same holy office for such purpose, and after the person has been imprisoned he shall release him in consideration of bribe, the board, after having ascertained the facts, without any other proceeding, shall make them

know not us, that we may consult his majesty upon the case, and appoint the punishment. The same shall be observed whenever any minister or officer of justice, wishing to take any person into prison, or to execute any other business, shall use the name of the holy office, without having any order from it.

3. Those who pretend that they have to denounce crimes committed by any person to the holy office, and who by means of such pretences shall extort or obtain from such person any money, shall also be condemned by the holy office to pecuniary fines, and to such other penalties, at the will of the inquisitors, as may be proper, according to the rank of the persons, and the circumstances of their crimes.

TITLE XX.

Of those who escape from Prison; and those who do not fulfil the Penances inflicted upon them.

1. The prisoner who, either by himself, or with the aid of persons from without, shall escape from the prisons of the inquisition, by breaking the grates, or pulling down the walls; or without adopting any of these means, being a plebeian, he shall be publicly whipped; but the punishment shall be more moderate with respect to him who escapes by his own industry, or the carelessness of the keeper or turnkeys. He who shall give any assistance, or favour such an escape, shall be punished as an impeder of the ministry of the holy office, according to the nature of the prisoner's crime, in the manner before prescribed in Title XVII. of this book.

2. He who shall run away from the place assigned to him for fulfilling the penances inflicted on him at his reconciliation, in the first instance shall be imprisoned; and on his begging for mercy, he shall be condemned to go to

hear his sentence, and the penalties as well as penances directed on his being reconciled shall be increased.

3. If he runs away from the place assigned to him as a prison, after being punished for not having fulfilled his penances in the manner he ought to have done, and on his appearing to be incorrigible, besides the said penalties, he shall be exiled to the kingdom of Angola, for as many years as may appear proper; subject to the convenient penances: but before he is banished he shall be imprisoned in the public goal of the place nearest to his own parish, from whence he shall be publicly conducted to hear the mass most frequented, in order that he may thus satisfy the scandal caused by his crimes.

TITLE XXI.

Of false Witnesses.

1. The crimes of witnesses, who swear falsely, being severely punished in all courts, it ought to be more so in that of the holy office; not only because innocence, so often punished on this account, requires it; but also because this being one of the charges brought by the adversaries of its ministry, must be done away by examples of the most rigorous punishments in all such cases, as so many proofs of the extreme rectitude and impartiality of justice in its proceedings. Therefore, any person who may falsely swear at the board of the holy office, as to any crime, the cognizance of which belongs to the office, and on proof of which crime against the criminal he is to be delivered up to secular justice, whether the false swearing be to cause absolution or condemnation, the false swearer shall be publicly whipped, and sent to the galleys for the absolute space of ten years. We shall also request his majesty to order, in satisfaction of justice, that the sentence be read in a public *auto*, whither he shall go with a *carocha*, (a long pasteboard mitre,) and inscribed with a

label containing the word *perjurer*. The same punishment of whipping and the gallies shall attach to him who shall effectually induce, corrupt, or cause any witness to forswear himself as to any crimes.

2. When the perjury was committed in order to absolve a prisoner of the crime of heresy, both he who perjures himself, and he who induces him so to do, shall abjure *de leve*, or *de vehemente*, according to the greater or lesser presumption that may result against them of being abettors of heretics; and should the crime be such, that, if proved, it would not incur the ordinary penalty, he who is guilty of perjury in such a case, and he who induces him to forswear himself, shall have the punishment of whipping, and be sent to the gallies for a period of from five to seven years.

3. He who corrupts a witness, with the promise of money or any other thing, to swear falsely at the board of the holy office, whether the witness accepts the same and withholds by deposition or not, should the crime be of such a nature, that, when proved, the criminal ought to be subject to secular justice, the person guilty of this corruption shall be condemned to a whipping, and to be exiled to Angola for a period of from five to seven years; but if the crime be not of such a nature as to admit of the ordinary punishment, he shall be only condemned to the said exile. If the attempt however was to absolve heresy, he shall make the abjuration in the form before declared in § 2. and shall be condemned to exile, the duration of which we leave to the will of the inquisitors; and to the same penalties he shall be condemned who produces false witnesses at the board of inquisition; though after they are offered, he says that he did it to avail himself of them.

4. Any person who shall falsely accuse another of the crimes of heresy and apostasy, by which testimony, and the proofs of justice, he might have been subjected to secu-

lar justice; on this crime of false swearing being sufficiently and legally proved for his conviction, or by his own confession, he shall be subjected to secular justice.

5. If any ecclesiastical, secular, or regular person is condemned for a crime of perjury, from which no death ensued, or any other remarkable injury, though such evils might have resulted from it when lawfully proved, he shall go to a public *auto*, if his majesty pleases, but shall not wear a *carocha*; he shall also be suspended for ever from the exercise of the orders he may hold, be incapacitated from receiving any others, and be sent to the galleys, or exiled to S. Thomé, or Angola, for the period of ten years.

6. If, however, from the falsity of such an oath on the part of the clergyman or regular, the death of the accused should ensue, on his being convicted of the said perjury, either by a lawful proof, which shall render it indubitable, or by his own confession, he shall be punished in the manner declared in § 4.

7. Those who, before their leaving the prisons of the holy office, shall confess the crime of having sworn falsely in their confessions, against any person or persons, shall go to the *auto* with the *carocha*, shall be condemned to a whipping, and sent either to the galleys, or exiled to Angola or S. Thomé for so many years as may appear proper to the inquisitors, after they have considered the nature of the crimes, and the injury they have caused. The person, however, who shall revoke what he might have said against another, by shewing that he did so through inadvertency, or because his recollection of circumstances had become more correct since the time when his confession took place, he shall not incur the said penalties attached to perjury.

8. In case any may deny their having committed the crime of perjury, who are imprisoned for it; and there

should not be sufficient proof to convict them ; but only strong circumstantial evidence of the same perjury, on their persisting in this denial, they shall be sent to the galleys for a period of from four to five years, or to S. Thomé, Angola, or Brazil, according to the nature of the proofs, and the circumstances of the crime

9. Should any person swear falsely in any business transacted on the part of the holy office, the inquisitors shall proceed against him, and shall inflict such penalties that to them shall seem to correspond with the quality of the person, and the injury occasioned by his testimony.

TITLE XXII.

Of those who commit the nefarious Crime of Sodomy.

1. For the crime of sodomy, both jurisdictions have always proceeded according to the customs and usage of these kingdoms; therefore they shall proceed against those who may be imprisoned and tried by the inquisitions in the following manner.

2. Those who may voluntarily present themselves to the board of the holy office to confess crimes of sodomy, without there being any witnesses against either before, after they present themselves they shall not be subjected to any penalty; but after their confessions have been received, they shall be admonished not to commit the crime any more, because should they relapse they will be punished with great severity.

3. If against those who may present themselves any witnesses have already appeared, or any witnesses shall afterwards appear, they shall not receive on this account a public punishment, lest through the fear of it, and of the attendant infamy, the guilty should refrain from confessing their crimes, and disclosing the accomplices with whom they committed them. They shall incur, however, some penalty and penances, which shall not be public, but such

only that nobody shall obtain a knowledge of their crime, by means thereof.

4. When the confessions of such *apresentados* are diminute, or fraudulent, in such a manner that it may be proved, or vehemently suspected that they were made with a bad design, the *apresentados*, notwithstanding their confessions, shall be punished according to the enormity of their crimes, in the same manner as heretics diminute, first guilty of and impenitent.

5. If the *apresentados* are licentious in the commission of this crime, they shall be secretly condemned to exile; since this penalty does not hinder the confession, by which the criminals intend to avoid their infamy; and with it the scandal ceases that might exist with those who are acquainted with such crimes, and it avoids also the injury which might be done to others through their dealing and communication with them.

6. In case there should be any so licentious and publicly scandalous in this crime, as, for instance, to keep a house for the commitment of this crime, or to persist in the practice for many years, in whatsoever station he may be, he shall be subjected to a public punishment, at the will of the inquisitors, notwithstanding the circumstance of having presented himself to the holy office; because, in this case, the criminal does not receive a greater punishment by the infamy of receiving a public punishment, than that which is due for the scandal he has occasioned by the licentiousness of his crimes.

7. Those who, after having presented himself the first time, shall commit the same crime a second time, and present himself for the new offence, if at the second lapse there be no witnesses against him at the time of his presentation, nor any shall afterwards appear, he shall be privately condemned also in the penalty of exile, by which he will be removed from the place where his crimes were com-

mitted; because, considering the little improvement that there is in general in criminals of this description, it is justly to be dreaded that they may be incorrigible, and it is expedient, for the sake of the public, to exile them to places where they cannot do any harm.

8. If those who present themselves for the second offence, shall have any witnesses as to this second lapse, or any shall afterwards come forward, but not with sufficient proofs to convict them, being persons of distinction, we shall communicate it to his majesty, that he may provide in the case in such a manner as to put a stop to the crimes, as well as to the disgrace of the nobility, and the scandal the criminals may have caused; and being persons of a different description they shall be condemned to arbitrary and proper punishments, when it may be known that the scandal occasioned by their crimes may require this extraordinary severity. But if plebeians or insignificant persons have been convicted by the proof of justice, as publicly scandalous, or very licentious in their crimes, they shall be condemned to be whipped, and to be exiled for ten years to the gallies.

9. Those who, after they have presented themselves in two instances, shall commit the same crime a third time, if on this third lapse there be no proofs against them, except those afforded by their own confession, shall be punished with their arbitrary penalties; but if there be lawful proofs against them, though only by single witnesses, (which in this crime, as well as in those of solicitation and of sigillism, must indispensibly be admitted), they shall be subject to secular justice, as incorrigible and licentious.

10. Any person found guilty of and imprisoned for the crime of sodomy, before he comes to confess it at the holy office, whether he be a layman or ecclesiastical secular or regular; and whether convicted by the proofs of justice, or by his own confession, made after his imprisonment,

he shall be punished in the aforesaid manner, as the case may be, amongst those before described.

11. Should any particular cause or political reasons exist why the ordinary punishments should not be inflicted on the persons convicted by the proofs of justice, or by their own confession, in the various cases before described, we shall have recourse to the king our lord, that he may provide in the aforesaid manner.

12. In case a female should be found guilty of the crime of sodomy, and be sentenced to be punished for it at the holy office, she shall hear her sentence at the saloon, or board of the inquisition, on account of the great scandal and prejudice that may result from rendering such crimes more public, and shall be exiled to S. Thome or Angola; but if there are stronger reasons than those observed, why her punishment should be public, she shall be condemned to a public whipping, and to such exile as may appear proper to any of the aforesaid places.

TITLE XXIII.

Of the Absent and Dead, who died before or after Imprisonment. Of those who destroy themselves, or become mad in the Prisons.

1. When any person accused or denounced at the holy office for crimes of heresy and apostacy shall be absent, or absent themselves after being accused there, they shall be proceeded against in the manner we have declared in Book II. tt. 13; and if, on the part of justice, there be proofs sufficiently strong and legal to convict them of the said crimes, shall be declared in their sentences to be heretics and apostates of our holy faith, and shall have their property confiscated, from the time when, according to the proofs of justice, it may appear that they committed the said crimes.

2. Should there be no legal proof on the part of justice

sufficient to convict the said absent or dead of these crimes, but there should be strong circumstantial evidence of their guilt, when they may have been summoned in a legal manner, according to the ordinances of the kingdom, after a year has passed, and the juridical forms have been observed, and they should not appear to produce their defence, they shall be condemned unheard to the forfeiture of all their property to the exchequer and royal chamber, from the time when they were convicted of contumacy.

3. And when such persons, after they have been thus convicted, wish to prove their innocence, they shall be permitted to do so in the manner ordered in Book I. tt. 13. § 7; but they shall not recover back the property that was confiscated, unless they can legally prove themselves to be innocent of the crimes established against them, or that they had just impediments for not coming within the year to defend their cause. If such absentees die within the year, they shall not be proceeded against with the said penalties, because they cannot be executed for the want of legal proof, except in instances where they are convicted of contumacy, which cannot be ascertained in the cases of the deaths of absentees.

4. When the absentees, after being condemned, are imprisoned by the holy office, and confess their crimes, they shall be received into the bosom of, and in union with, the holy mother the church, in dresses marked with devices of fire; and shall be condemned also to the galleys for a period of from three to five years, according to the nature of their confessions; but if they come and present themselves voluntarily, and confess in such a manner as to be received, though they are to receive the other penalties, they shall be exempted from banishment, and in no case whatsoever shall there be any portraits or statues in the churches of criminals relaxed, for the purity of our religion does not allow, that, in the sacred places, any other

images or paintings should be placed, but those to which worship is due on account of those whom they represent.

5. If, after proceedings have taken place against the dead in the manner prescribed in Book II. tt. 12. they should be deemed as guilty of the crime of heresy, they shall be declared to be heretics in their sentences, and their memory shall be condemned in the confiscation of their property from the time when it was proved that they committed the crime; provided that the period prescribed by the ordinances of the kingdom with respect to the dead has not elapsed; and excepting also such cases, wherein it may appear that the criminals, at the times of dying, exhibited signs of contrition, and from the shortness of the time could not be judiciously absolved, for in this case their memory must be absolved.

6. In case any person shall happen to die after imprisoned by the holy office, and at the times of their death they shall have confessed their crimes, and have satisfied the information required by justice, they shall be received into the bosom of, and in union with, the holy mother, the church, and their sentences shall be read in such *auto* as we may appoint, that they may enjoy the suffrages of the church; they shall be condemned also to the confiscation of their property from the time in which they committed their crimes; but in this case their statues shall not be carried in the *auto*.

7. Should the criminals prove negative at the times of their deaths, but there should not be sufficient proofs to convict them, they shall be absolved in this instance of law, and the sequestration ordered, as to their property, shall be suspended; and in this case also their statues shall not be carried into the *auto*, nor in their sentences shall those errors be stated of which they were accused, because they were not proved; and when it may appear that, from the publication of the sentence, any injury might

result to the memory of the deceased, or to their relatives, the sentences shall be published at the board.

8. If, on the part of the heirs, in case of the criminals being absolved, or reconciled, the remains of the deceased should be solicited in order to give them ecclesiastical burial, the inquisitors shall order them to be delivered up, according to their sentences, without asking or accepting any thing for them, and the remains of those who were not imprisoned for crimes of heresy, shall be interred in sacred ground.

9. Should any person kill himself in the holy office, whether confitent or negative, and should it be proved that at the time of killing himself he was in his perfect senses, the crime shall be held as proved against him, and if guilty of the crime of heresy, his memory shall be condemned, and his property shall be confiscated from the time when it may appear by the proofs of justice that he committed the crime; but if in the confessions of the criminal such circumstances arise as to destroy or diminish the presumption that results against him for his death, he shall be received into the bosom of, and in union with, the church.

10. On those who may become mad in the prisons of the holy office, no corporal punishment shall be inflicted, because the mad are not capable of sustaining this; and in regard to them, as well as to their causes, such proceedings shall take place, and in such a manner as we have prescribed in Book II. tt. 11. § 3.

Therefore we do enjoin the inquisitors, deputies, and other ministers of the inquisitions of these kingdoms, and other ministers thereof, to fulfil and observe every thing that we have ordered and ordained in these new Bye-laws, notwithstanding any other bye-laws, provisions, declarations, and instructions whatsoever, to the contrary; because we do abolish, and declare them to be null, and of

no vigour or effect; and it is our will, and we do command and direct that the present Bye-laws only shall be attended to and observed, in all the inquisitions of these kingdoms. Given at Lisbon, at the council-general of the holy office, under our hand, on the 14th day of August, 1774, Emanuel Ferreira de Mesquita, one of the clerks to the chamber of his majesty, and secretary to the council, having caused the same to be written.

J. CARDINAL DA CUNHA,

Inquisitor-General.

I, the king, do make known to those who may see this decree (*alvará*) of law and confirmation, in a particular manner, that the council-general of the holy office, having represented to us, in a consultation of 6th of July of last year, 1773, that, upon a just consideration of the circumstances which occurred in the fatal period of the last two centuries, during which the ordinances of the kingdom, the statutes of the university of Coimbra, and Christian morality, had suffered so many and such pernicious innovations, that it could not but be supposed that the fundamental bull, the laws of creation, and the Bye-laws which gave form to the good government of the holy office of the inquisition, must have suffered equal or greater injuries, by the effects of the same stratagems of the terrible jesuits, who had committed in the aforesaid Bye-laws such enormous devastations; the same council-general having also represented to us that they were proceeding to examine, with the most minute care, what had happened to the said Bye-laws; that, by means of their zealous and assiduous diligence, they had discovered that the obnoxious power of this jesuitical society, taking advantage of the calamities of the times, in which they governed these kingdoms under a foreign subjection, had on the one hand caused

several general-inquisitors to be appointed, which were composed of their notorious partizans, who, conspiring with them, perverted the fundamental laws, and the very nature of the royal tribunal, which in reality is the same as the council-general; and on the other hand, in the face of the most clear and evident truths, (as made manifest in the bull of the foundation, and laws of creation of the said tribunal, and substantiated in my royal letter, addressed on the 15th of November, in the year 1771, to the cardinal inquisitor-general, and inserted in the collections of the inquisitions,) had dared to persuade and divulge, in many writings by them invented, that the ministry of the holy office was introduced into Portugal by a false nuncio, called Saavedra, who still pursuing all the said machinations, trampling on the most clear truths, and the true institution of the holy office, as well as on all the most sacred rights of Christian union, and civil society, and covering themselves with the tenebrious darkness of that ignorance which they scattered over the three estates of these kingdoms and its dependencies, made it to be believed in all their writings, that the same supreme tribunal of the inquisition (royal by its foundation, and royal in its very nature,) consisted of a congregation of ecclesiastics, independant, and despotic; of a body without head, and absolute, in the midst of a monarchy, and of a monster so terrible, as to cause fears to Portugal and its dominions, and great horror throughout all Europe, as is notorious to all the world; that, at the same time, when the said despotism was increasing, in imitation of that practised in the accumulation and multiplication of statutes for the university of Coimbra, the authors of it were forming their verbal dispositions, their cruel and arbitrary abuses into bodies of laws, as to be seen in the three systems of Bye-laws printed under their mischievous direction, and even under the sanction of the arms of their society, thereby offending

all natural, divine, and positive laws, and all moral principles, all Christian charity, and even the dictates of humanity itself; that with the same abominable views they established other unwritten laws, to which they gave the name of styles or customs, when in reality they were nothing else but cruel abuses and savage corruptions, not only sanguinary, but incompatible with the principles of natural reason and religion, and concealing all these atrocious laws, both written and unwritten, under the impenetrable veil of superstitious mystery, under the persuasion that nobody could dare to scrutinize it, without committing a crime against religion; that by creating on one hand a malicious distinction between old and new Christians, (a distinction made in the aforesaid Bye-laws and customs,) they endeavoured to ensnare all the inhabitants of these kingdoms, one with the other, by lighting up amongst them a general discord, which thenceforward never permitted them to enjoy the peaceful fruits of civil society and christian union; that they caused the harmony of civil society to be changed into mutual aversion and reciprocal animosity amongst the Portuguese, sons of the same church, and subjects of the same monarchy; that during the operation of these attempts, laws, and cursed customs, from the unhappy period of their commencement till the year 1732, (to which period had been brought up the calculations of the lists of the *autos-da-fé*,) they caused to appear on the stage of public execution, in dresses of infamy, no less a number of criminals than twenty-three thousand and seventy-eight, and condemned one thousand four hundred and four to the flames, thus increasing astonishingly the number of criminals against the spirit of all lawful and sound legislation, which always had in view to put a stop to, and extinguish crimes; and whereas the clear and evident causes of these deplorable effects on the honour, lives, and property of the Por-

tuguese have been made known in our presence, by the council-general, with the most conclusive evidence, and the most demonstrative proofs; and they have solicited that I should permit them to organize a new system of Bye-laws, in every respect conformable to the true tenets of the church, and the sage laws and laudable customs of these kingdoms; entreating me also, that on these things coming up to my royal presence, I should resolve upon them what I might find expedient. And whereas, in another consultation of the 14th of last month, the aforesaid Bye-laws were presented to us, written in the seventy half sheets of paper which I now send down, and signed at the end of each by the marquis of Pombal, of my council of state, and the minister elected by me, exclusively, to expedite all the business belonging to the holy office of the inquisition; and whereas, having caused it to be examined, and having examined the said Bye-laws, with every thing therein contained, it has been found that the execution and observance of them must be very advantageous to the service of God, as well as to our service. It is my will and pleasure to approve of these laws in an especial manner, and in virtue of this I do confirm and approve, and have confirmed and approved the said Bye-laws, as to all things and matters therein declared, which belong to the exchequer, to my royal crown, and to my royal jurisdiction. I do order the regedor of the supreme court of justice, the governor of the civil court, the high judges of both courts, all governors, captain-generals of the provinces of these kingdoms, and ultramarine dominions, corregidores, ouvidores, judges, justices, and other individuals of my kingdoms and dominions, to fulfil, keep, execute, and cause so to be done, the said Bye-laws, with every thing therein contained; because I consider it to be for the service of our Lord, and as a thing very expedient to our own service. I do moreover order, that this de-

cree, (*alvará*) be registered in the books of the supreme court of justice in both houses, where such laws are registered; and be valid, and have equal force and vigour as if it were a charter, made in my name, and signed by me, and passed through my chancery, though it is not to pass by it; and though its effect is to last for more than one and for many years, notwithstanding what is determined to the contrary in the ordinances of the kingdom; Book 2. tt. 39 & 40, which to this effect I do repeal of my own will, certain knowledge, and royal, full, supreme power, leaving the same as before in other respects. I do order, moreover, that a duplicate shall be made of this decree, which shall be deposited with the council-general of the holy office, and that the original shall be placed in our royal archive of the tower of records, after the same has been registered in the aforesaid manner. Given in the palace of our Lady of Ajuda, on the 1st of September, 1774.

(Signed) THE KING,

(Signed) MARQUIS OF POMBAL.

END OF VOL. I.

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