

the ratification, that if the question be repeated the following day, he may prove whether it be before or after the expiration of the twenty-four hours. If the accused ratifies his confessions, and the inquisitors be satisfied with them and his conversion, they may admit him to reconciliation, although, during the torture, he may have acknowledged himself culpable. The instruction of Seville of the year 1484, chap. 15. states, that he who during the question confesses himself guilty shall be reputed convicted, whence results his delivery to the secular power; but what is herein established is more conformable to custom. However, the inquisitors ought to pay attention to their manner of treating criminals of this class, and to the nature of the heresies of which they shall have declared themselves guilty; whether they have learned them from any person, or taught them to others. The want of these precautions may be attended with great inconvenience.

LIV.

What remains to be done if the accused endures the torture without confessing.

If the accused endures the torture and makes no confession, the inquisitors ought to consider the extent of the proofs, the nature and manner

of the torture, and the character and age of the person who suffers it, and when, all these having been properly weighed, it shall appear that he has sufficiently cleared himself from the informations, they shall absolve him from the accusation; although, if for any reason, it appears to them the torture was not sufficiently severe (considering the abovementioned circumstance) they may prescribe him the abjuration *de levi*, or *de vehementi*, or any pecuniary fine: this, however, must not be done but upon mature reflection, and when the information seems not sufficiently disproved. The inquisitors ought to observe, that when an accused person shall have been sentenced to the torture, it must not at the same time be determined what is afterwards to be done in case he confesses or denies; as the torture may produce different results. These determinations ought not to be made until afterwards.

LV.

Who are to be present at the torture; and of the care afterwards to be taken of the criminal.

The judges, notary, and executioners, are the only persons who are to be present at the infliction of the torture: when it is finished the inquisitors ought strongly to recommend the curing of the patient, if his person be any way

hurt ; and great attention is to be paid to those among whom he is placed, until he has ratified his confession.

LVI.

The alcayde to have no communication with the accused, nor is he to be their solicitor, defender, or substitute to the fiscal.

The inquisitors are to be particular in their orders to the alcayde, forbidding him all communication with the prisoners which may relate to their cause : he is neither to speak to them concerning it, nor give them advice, but to leave each to his own manner of acting ; and the inquisitors shall punish him if they discover that he disobeys them in any one of these respects. To prevent suspicion, the alcayde must not be the guardian or defender of a minor, nor exercise the functions of the fiscal in his absence ; he is to be permitted, and even ordered, in case a prisoner cannot write, to write for him his defence, but this after the prisoner's dictating, without speaking to him upon the subject, or adding any thing from himself.

LVII.

Examination of the proceedings after the question.

The proceedings being brought to this state,

the inquisitors shall assemble with the ordinary, and the counsellors shall examine them again; they shall pronounce according to law, and the order before mentioned. The fiscal shall assist at the examinations of the proceedings, that he may take notes of the articles then in question; but, as it has already been regulated, he shall retire before the matter is put to the vote.

LVIII.

Those who shall be freed from imprisonment without having been delivered up to justice, shall be examined relative to the advice and communications they may have received.

When the inquisitors shall give a prisoner his liberty, in whatever manner it may be, if he has not been delivered up to justice, they shall examine him, upon oath, relative to the particulars he may have observed in the prison; whether or not he has seen or remarked any communication between the prisoners, or betwen them and persons without doors; how the alcajde has discharged his duty, and whether any prisoner has given him information; and if the thing be of consequence, they shall command him, under severe pains, to keep it secret, and to say nothing of what he has observed in the prison. This formality shall be mentioned in the proceedings.

and inregistered, provided the prisoner consent to it. If he can write, he shall sign his name; which will make him still more fearful of violating the law he has been enjoined to observe.

LIX.

If the prisoner dies, the prosecution to be carried on with his heirs.

If any prisoner dies in prison before the prosecution against him be concluded, and if, although he may have confessed, his confessions do not sufficiently correspond with the depositions of the witnesses, so that he may be admitted to reconciliation, his children, heirs, or persons to whom his defence belongs, shall be informed of his death; and if they undertake to defend him, a copy of the accusations and depositions shall be given them, and all they shall legally alledge in defence of the deceased shall be admitted.

LX.

A guardian shall be appointed to the accused whose mental faculties shall be deranged.

If any accused person shall, whilst his case is in the state above mentioned, become deranged in his mental faculties, he shall be provided with

a guardian or defender ; but if, whilst he retains his reason, his children or relations wish to alledge any thing in his defence, they shall not be received as parties to the proceedings, because they are not so of right ; but the inquisitors shall admit the allegation, and do, independently of the prosecution, every thing they shall judge necessary to come at the truth, without communicating their private proceedings either to the accused or to the persons who shall have pleaded in his behalf.

LXI.

The manner of proceeding against the memory and reputation of the accused.

When it shall happen that the memory and reputation of the deceased are to be proceeded against, after having obtained the proofs required by the instructions, the accusation of the fiscal shall be notified to the children or heirs of the deceased, and to other persons whom it may concern. To this effect the inquisitors shall endeavour to discover whether or not he has any descendants, that they may be called upon to appear : after which (that no person may make ignorance a pretext) they shall be summoned by a public edict to appear at a certain time, and after that, in case no one appears, the inquisitor shall

name a defender, and continue the proceedings according to the forms prescribed by law. If any person presents himself, he shall be permitted to defend the memory and character of the deceased, and the prosecution shall be carried on with him as a party, although he shall be attainted of the crime of heresy in the registers of the holy office, for it would be an injury to refuse him permission to make his defence; he, besides, is not to be excluded should he be confined in the same prison. In this case he shall be allowed to act by attorney, if he can, and shall appoint a person to take, in his name, such measures as shall be necessary; he ought to be permitted to leave the prison to defend the deceased. As long as neither one nor the other are as yet condemned, they ought not to be deprived of these means of defence, the survivor being interested in the defence of his relation as well as his own. In such circumstances, although the proofs against the deceased be clear and sufficient, the sequestration of property is not to take place; for this property being in the hands of other persons, these ought not to be dispossessed of it before the deceased has been declared a heretic, and they themselves have evidently lost their cause at law.

LXII.

The sentence which absolves is to be read in a public Auto.

When the defender of the memory and reputation of the defendant shall have legally sustained his cause, and the deceased is to be absolved from the charge brought against him, the sentence or decree shall be read in a public *Auto*, in the same manner as the edicts were promulgated. His effigy, however, is not to appear at the *Auto*, nor are the offences of which he has been accused to be particularised, because they have not been proved. The same caution is to be observed with respect to persons who having been accused shall be acquitted, and have asked that favour.

LXIII.

If no defender appears, one shall be appointed by the holy office.

No person presenting himself to make the defence, the inquisitors shall name, for defender, a proper and able person, who is not an officer of the inquisition, and prescribe to him the manner in which he is to observe secrecy, communicating to him the accusations and depositions concerning which he is to confer with the learned of the

holy office, and not with others, without a particular permission from the inquisitors.

LXIV.

These instructions to be observed in prosecutions against the absent.

In prosecuting the absent the inquisitors shall observe the forms prescribed by the instructions; and above all they are to pay strict attention to the terms fixed by the edict, by lengthening or shortening the interval, according to what they learn relative to the absence of the accused, taking care that he be three times summoned, and that at the expiration of each term the fiscal accuse him of *rebellion*; a necessary formality that the proceedings may be complete.

LXV.

Corporal punishment shall not be inflicted in defect of pecuniary penalties.

The inquisitors frequently proceed against accused persons upon charges which render their faith suspicious, and, considering the nature of the crime and the quality of the person, do not judge them heretics; such as those who contract two marriages or publicly utter blasphemies or ill sounding words; and the inquisitors impose on

them different pains, according to the nature of their crimes, consulting the law, and founding on it their opinion; but on these occasions, they shall not, in defect of the sum of money which they shall condemn the delinquent to pay, inflict upon him corporal punishment, as whipping, the galleys, &c. or other degrading pains, but they shall simply pronounce their sentences without conditions or alternative.

LXVI.

Reference to the council in case of disagreement between the inquisitors, or between them and the ordinary. The same thing in serious cases.

In cases in which there is a difference of opinion between the inquisitors and the ordinary, or between themselves, in the decision of the cause, in any other part of the proceedings, or in an interlocutory sentence, the cause ought to be sent up to the council; but when the persons abovementioned are unanimous in their opinion, though the majority of the council should think differently from them, the decision of the inquisitors and the ordinary shall be carried into execution. Nevertheless, in important cases, the sentence of the inquisitors, the ordinary, and the counsellors, although they all may be of the same opinion, shall not be executed without first being

communicated to the council, as is the custom and prescribed by law.

LXVII.

The depositions to be stated in the proceedings against the accused.

The confidential notaries are carefully to state, in the proceedings against each of the accused, all the depositions found in the records, and not to refer for them from one process to another; a contrary method would produce much confusion: therefore the rule herein prescribed must be adhered to, although it occasions more trouble to the notaries.

LXVIII.

Necessary proceedings in cases of communication, and which are to be stated in the general proceedings of the prosecution.

If it be discovered that prisoners have communication with each other in the prisons, the inquisitors are to endeavour to find out who they are, whether they be accomplices in the same crimes, and what has been the subject of their communication, the whole to be stated in the proceedings against each of them. These communications are to be immediately suppressed,

as they cannot but render suspicious whatever the prisoners may declare against others, or even against themselves.

LXIX.

Whatever may be further brought against the accused during the prosecution for the first public offence, is to be added to the proceedings.

When a prosecution against a person is decided, or, without being finally determined, is postponed, although it be not for formal heresy, yet, for other reasons, within the jurisdiction of the holy office, if proofs of new crimes be brought against the same person, the charges must be collected together, to aggravate the offence, and the fiscal is to mention them in the accusation.

LXX.

Persons not to be removed from one prison to another without sufficient cause.

The prisoners who shall have been once together in the same chamber, are not to be separately sent to others: all intercourse within the prison will thus be avoided; for it is apparent that when they change their companions they relate to each other what they have seen. If, however, such a change be indispensable, it shall

be mentioned in the proceedings against the person whom it concerns, that he may know the legitimate cause of his removal; a thing of importance, especially when a prisoner shall have revoked or modified his confessions.

LXXI.

Care to be taken of the sick, who are to be provided with a confessor if they require one.

If a prisoner falls sick, besides the inquisitor's being obliged to take the greatest care of him, and to provide him with every thing necessary to the re-establishment of his health, according to the advice of the physicians who shall have him under their care, if he asks for a confessor, one of reputation and worthy of confidence must be given him, and who shall be sworn to secrecy, and that if the penitent should in his confession tell him a secret, praying him not to speak of it in the world, he will not reveal it; but if before or after the confession the prisoner shall communicate to him any secret, he shall reveal it to the inquisitor, observing to the penitent that seeing he was arrested as an heretic, and has been accused, he cannot be absolved but by making confession of his heresy according to juridical forms: every thing else must be left to the dis-

cretion of the confessor, who ought to be a learned man, that he may the better know how to act in such cases. But if the prisoner in good health demands a confessor, the safest method is not to grant him one, unless he has confessed to justice and confirmed his depositions; in this case it appears convenient to give him one to comfort and encourage him; but as he cannot absolve him from the crime of heresy until he has been reconciled to the church, it seems the confession would not have its whole effect unless the prisoner be upon the point of being executed, or a woman ready to be delivered of a child; in which cases what the law has provided shall be observed with respect to them. If the prisoner do not request a confessor, and the physician thinks him in danger, means must be taken to persuade him to confess. When his confessions, made judicially, shall have confirmed the depositions, before he dies he must be reconciled in form, pronouncing the required abjuration; and when he shall have been judicially absolved, the confessor shall absolve him sacramentally; and if it be not found inconvenient, he shall have Christian burial in the most secret manner possible.

LXXII.

The witnesses shall not be confronted with the accused.

Although in the other tribunals the judges, the better to come at the proof of crimes, are accustomed to confront the witnesses with the accused, such a proceeding is, and ought to be, unusual in the tribunal of the inquisition; because, besides that the secrets of the witnesses, which ought to be kept, would thus be violated, experience has proved that if some times this has been practised, inconvenience rather than advantage has been the result.

LXXIII.

No persons shall be seized during the visits of the inquisitors, without the advice of the colleagues or counsellors, when it is not suspected that those against whom depositions have been received design to escape.

That the causes relative to the holy office may be treated with proper discretion and authenticity, when the inquisitors shall make their visits and receive offers of depositions, which may bring on the confinement of the persons against whom they are made, the imprisonment shall not take

place without the consent of the colleague and the counsellors resident in the district, except the person criminated be suspected of having an intention to escape; in which case the inquisitor, to avoid that danger, may, after consultation, order the seizing of his person; and, with all necessary dispatch, he shall send the prisoner and the deposition to the prisons of the inquisition where the prosecution is to be carried on. This is not to be applied to affairs less important, which commonly are terminated without imprisonment, such as heretical blasphemies which are not sufficiently characterized. Causes of this nature may, according to custom, be discussed by virtue of the full power of the ordinary. But the inquisitor ought in no manner to *hold a prison (tener carcel)* to form a prosecution for the crime of heresy, because he would neither have the ministers nor the measures which a secret prison requires, and from the omission of these circumstances inconvenience prejudicial to the success of the cause might arise.

LXXIV.

In what manner the time when the accused began to be a heretic is to be declared.

When the proceedings against persons to be declared heretics, with confiscation of property,

are to be examined, the inquisitors, the ordinary, and counsellors shall make a declaration of the time when they began to commit the crimes for which they are declared heretics, that it may be given to the *receiver* (*receptor*) if he should require it, to present it in some civil cause. It shall be therein specified, whether the crime be proved by their own confessions, the evidence of witnesses, or by both these means. Under this form it shall be given to the receiver, who, in case it be not thus drawn up, may demand it of the inquisitors assembled, or, in their absence, of the counsellors.

LXXV.

Provisions to be given to the prisoners.

The subsistence the prisoners receive from the inquisition shall be rated according to the times and the price of provisions; but if the prisoner be a man of quality who is rich, and is desirous of expending more than the ordinary allowance, it will be proper to give him whatever he pleases, which shall seem convenient for him and his *servants*, upon condition that neither the *alcayde*, nor the person charged with furnishing the provisions, shall profit by the surplus, which is to be given to the poor.

LXXVI.

In what manner the wife and children of the accused are to be maintained.

As the property of persons who are imprisoned by the inquisition is entirely sequestered, if a prisoner has a wife and children, who ask for food, this shall be communicated to him, that his wishes thereupon may be known. At his return to the prison, the inquisitors shall call the receiver and the notary of the sequestrations, and fix the alimentary pension according to the amount of the property and the rank of the persons. If the children be of an age to earn their maintenance, and of such a rank in life as not to make this *mortifying* to them, they shall not be furnished with provisions. If they be old, or very young, if they be daughters, or if, for any other reason, it be not decent for them to live out of their own houses, necessary subsistence shall be assigned them, fixing for each person a certain sum of money, and not a portion of bread; but these appointments ought to be moderate, seeing that the persons to be maintained may reap benefit from their own industry.

LXXVII.

The day of the Auto shall be agreed upon, and notified to the chapters of the cathedral and the city.

When the opinions on the prosecution against the prisoners shall have been taken, and the sentence drawn up, the inquisitors shall fix upon the solemn day of celebrating the *Auto-da-fé*, which shall be notified to the chapters of the church and to the city, in the places of audience, to the presidents and auditors who shall be invited to be present. The inquisitors shall make the necessary regulations that the *Auto* may be celebrated at an hour which will permit the execution of the persons delivered to justice to take place in the day time. All these regulations are to avoid confusion.

LXXVIII.

None but the confessors to enter the prisons the night preceding the Auto.

As inconvenience would arise from suffering persons to enter the prison the night preceding the *Auto*, the inquisitors shall take care that none but the confessors be admitted, and, whilst they are there, the officers of justice, into

whose hands the prisoners shall be delivered, by virtue of an instrument in writing, signed before one of the notaries of the holy office, that they may give an account of them. They who are to be delivered over to justice and the secular power are excepted. The officer shall not suffer, on the road, or in presence of the tribunal, any person whatsoever to speak to the prisoners, or communicate to them any intelligence.

LXXIX.

Declaration to such persons as are reconciled of what is prescribed them, and their commitment to the custody of the alcajde of the perpetual prison.

The day following the inquisitors shall order the persons who are reconciled to be taken out of the secret prison, when they shall declare to them their sentences, and warn them of the punishment they will incur if they are not found real penitents; and after having examined them in particular, and each apart, upon matters relative to the prison, they shall deliver them to the alcajde of the perpetual prison, recommending him to guard them carefully, to observe that they fulfil their penances, and to inform them of their negligence, if they remark any. He ought also to take measures to assist them in procuring what

may be necessary for their subsistence, and furnish them with the means of working at their trades or professions, thus to increase their comforts and alleviate their misery.

LXXX.

Visit to the perpetual prison.

The inquisitors shall visit the perpetual prison several times in the year, to see how the prisoners are treated, and to be informed of the kind of life they lead. As in several places where there are tribunals of the holy office there is no perpetual prison (which is nevertheless very necessary) houses must be bought and set apart to this purpose; as for want of a perpetual prison the manner in which the reconciled accomplish their penances cannot be known, nor what kind of care is taken of such as may be in need of it.

LXXXI.

Where and how the sambenitos are to be renewed.

It is well known that all the *sambenitos* of the condemned, living or dead, present or absent, are placed in the churches of the parish to which they belonged at the time of their imprisonment, death, or escape. The same rule is observed with

respect to such of the reconciled as have completed their penances, and whose *sambenitos* have been taken from them, even when they have not had these, except at the time they appeared before the secular tribunal to hear their sentences read. This custom is to be inviolably preserved, and no person has a right to alter it. The inquisitors are always charged to place and renew them, especially in the districts in which they make their visits, in order that monuments of the infamy of heretics, and their *descent*, may always exist. The time of their condemnation must be therein expressed, and whether their crime be Judaism, Mahometanism, or relate to the more recent heresies of Martin Luther and his sectaries. But they who shall have been reconciled in time of grace shall have no *sambenitos*; because since one of the articles of grace states, that none shall be put on them, and that they had none when they were reconciled, placing them in the churches would be contradicting the principle of the favour conferred.

To the foregoing chapters, and each of them, we recommend and command your observation in the affairs which shall come before all the inquisitors, notwithstanding some of them may have had contrary forms of proceeding; because it is thus fitting to the service of God our Lord,

and to the good administration of justice. In testimony of which we have sent these presents, signed with our name, and sealed with our seal, and countersigned by the secretary of the inquisition-general. At Madrid, September 22, 1561. Fr. Hispalen, by order of M. Juan Martinez de Lasso.

APPROBATION
OF THE
FRENCH CENSOR.

I HAVE read, by order of the lord keeper of the seals, a manuscript intituled *Nouveau Voyage en Espagne, ou Tableau de l'Etat Actual de cette Monarchie*. According to the knowledge my employment has given me of that kingdom, and the care I have taken to assure myself of the accuracy of this new work, I can certify that its contents are exactly true, and present a perfectly correct picture of the present state of Spain. The critical observations it contains are besides offered with so much modesty, that they cannot but be acceptable to every nation that is a friend to truth, and which would not be offended but by an exaggeration of its defects. This work was wanting to the French to give them a just knowledge of Spain, and perhaps to the Spaniards themselves, to enlighten them in the progress they have still to make before they arrive at that degree of improvement to which they tend.

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