

only serve to put others upon their guard. It will therefore be better to wait for new proofs, or new indications.

V.

*Appeal to the council, if opinions be divided and the matter serious.*

If the inquisitors agree relative to the imprisonment, they shall proceed to execute it in the manner determined upon; and in cases in which the affair is of a serious nature, seeing that it may affect persons of quality, or for other motives, they shall consult the council\*, before they execute their sentence; and if opinions differ, the sentence shall be sent to the said council to be finally determined on.

VI.

*Order for imprisonment and sequestration.*

The inquisitors shall sign the order of imprisonment, which shall be given

\* The supreme council of the inquisition, called *La Suprema*.

to the alguazil of the holy office, and to no other person, unless it be to one legally employed. The imprisonment shall be accompanied with sequestration of property, conformable to the instructions of the holy office. Not more than one person shall be named in the warrant of imprisonment, in order that if it be necessary to communicate it to a person who is a stranger to the holy office, the names of the others may remain secret; and to the end that the order of arrest against each prisoner may be entered in his particular process. The sequestration of property is to take place when the imprisonment is for formal heresy, and not in other cases, in which the inquisitors have a power to imprison; and in the sequestration, the property in the possession only of the person to be arrested shall be intended, and not that in the hands of another which may belong to him. The decree which shall pronounce the imprisonment of the criminal, shall be inserted in the process, and the day in which

which the decree shall have been passed, and the person to whom it shall have been given shall be therein expressly mentioned.

## VII.

*Who are to be present at the execution of the arrest.*

The receiver of the inquisition, or his deputy (if the former be employed in the duties of his office) with his alguazil and the notary of the sequestrations, shall be present at the execution of the arrests made by the inquisition, that the receiver may approve of the person whom the alguazil shall name to receive the sequestration; and that in case he should not approve of him, he may require another more properly qualified for the purpose.

## VIII.

*The manner in which the sequestration is to be made.*

The notary of the sequestrations shall take the most particular account of the  
above

above sequestration, that when the receiver takes possession of the property, or the sequestration is taken away, an exact statement of it may be prepared, taking care to express at the beginning, the day of the month, and to have it signed at the bottom by him, or those, to whom it shall be confided, jointly with the alguazil, in presence of witnesses, and requiring sufficient security of him to whom it shall be entrusted. This person shall receive from the notary a simple copy, without expence, of the sequestration; but if any other person shall require a copy, the notary shall not be obliged to give him it, without a certain fee.

## IX.

*What the alguazil is allowed to take from the sequestered property.*

The alguazil shall take from the sequestered property the money which shall to him seem necessary to conduct the criminal to prison, and six or eight ducats



ducats more for the expences of the latter, and his food, but what the beasts of burthen, which carry him, his bed, and effects, shall consume, shall be at his own charge. If no money be found among the things sequestered, the alguazil shall sell a part of them, selecting the least useful, as far as the amount of the above sum; and he shall express and sign at the bottom of the sequestration what he shall have received; and shall pay, in presence of the notary of the sequestrations, who shall insert it in the process, the surplus to the officer charged with the expence of the prisoners; and an account of all shall be rendered to the inquisitors, in presence of whom the latter shall receive what is to be put into his hands.

## X.

*Conduct to be observed by the alguazil with respect to the prisoners.*

The criminal being arrested, the alguazil shall imprison him in so secret a manner as to prevent his being seen or spoken

spoken to by any person, or receiving advice, either verbally or in writing; and he shall take the same measures with all the other prisoners, between whom he shall prevent all communication, unless the inquisitors shall have informed him that no inconvenience can arise from permitting it. He shall leave them neither arms, papers, money nor jewels; he shall afterwards conduct them to the prison of the holy office, and deliver them into the custody of the alcaydes, who shall certify, on the warrant of imprisonment, brought him by the alguazil, that he has received the prisoners, adding the day and hour of their being committed into his custody, that the state of their expences may be properly regulated. The warrant shall be inserted in the process, and the alguazil shall immediately give an account to the inquisitors of the execution of their orders. The alcayde shall observe all these formalities with respect to each prisoner, before he locks him up, examining all his clothes, lest he should  
intro-

introduce any of the things above-mentioned into the prison, or any thing dangerous; all which is to be done in the presence of one of the notaries of the holy office. Whatever is found upon the prisoner shall be stated in the sequestration, and deposited with some person whom the inquisitors shall name.

### XI.

#### *Injunction to the alcayde.*

The alcayde shall not put the prisoners together, nor suffer them to communicate with each other, unless it be in consequence of a positive order from the inquisitors.

### XII.

#### *The same.*

He shall also keep a register in which he shall enter all the linen and clothes brought by each prisoner, which register shall be signed by himself and the notary of the sequestrations. He shall observe the same method relative to every thing he shall re-

ceive during the imprisonment, giving an account of these, before he accepts them, to the two inquisitors, that he may obtain their permission so to do; he shall carefully examine them to assure himself that they conceal nothing, and shall give them to the prisoners according as their wants shall require.

### XIII.

*First audience, and questions to be asked by the inquisitors.*

The prisoner being already in prison, the inquisitors, when they shall think proper, shall have him brought before them, and, in presence of a notary enjoined to secrecy, after having administered to him an oath, shall ask him his name, age and profession, his former place of abode, and how long he has been a prisoner. The inquisitors shall treat the prisoners with *humanity* according to their rank, preserving over them a proper authority, without endeavouring to irritate them. Prisoners are commonly seated upon a bench or a low chair,

chair, that they may give their answer more at their ease; but they stand to hear the accusations against them.

## XIV.

*The same.*

Immediately afterwards they shall be ordered to declare their pedigree for as many generations as they are acquainted with it, beginning with their father and mother, and proceeding to their grandfather, &c. and naming all their collateral relations as far as they can recollect, stating what have been their professions, and indicating their places of abode; to whom they were married; whether they be dead or living, and what children they have left; to whom they themselves are or have been married; how many times they have entered that state; the children they have had, how many of them are living, and their age; and the notary shall take down in his notes this account of their pedigree, placing the name of each person at the beginning of the line,

and expressing whether or not any one of their family has been punished by the inquisition.

## XV.

*Admonitions to be given to the accused.*

This done, the accused shall be asked where he was brought up, and with whom; if he has studied any profession; if he has ever been out of the kingdom, and with whom? And when he shall have answered to these questions, he shall be asked in general terms, if he has any knowledge of the cause of his imprisonment; and according to the answer he shall give, other questions, relative to his case, shall be put to him; and it shall be observed to him, that he must confess the truth, conformable to the style and instructions of the holy office, in giving him three admonitions upon different days, and after some interval of time. The notary shall state in his papers what the accused shall have confessed, and every thing that shall have passed during the audience. The  
prisoner

prisoner shall likewise be questioned concerning prayer and the christian doctrine; he shall be asked where, when, and to whom he went to confession, and the inquisitors are cautioned to take care neither to be too pressing nor negligent in their enquiries, not to omit those which are essential, and to ask no questions irrelevant to the information of which they are in possession, unless the accused gives room for such by his own confession; and, whilst he is giving his answers, they are to let him speak freely, without interrupting him, unless he says *improper* things.

## XVI.

*Advice to the inquisitors.*

In order that the inquisitors may be enabled to fulfil these conditions, and judge with justice, they ought constantly to be on their guard against being led into error, as well in the depositions as in the confessions; and it is with this precaution they shall examine and impartially decide the cause conformable to truth and justice.

## XVII.

*The inquisitors, except in the exercise of their functions, shall have no communication with the accused.*

The inquisitors shall neither communicate with nor speak to the accused, neither during nor after the audience, except concerning things relative to the business in question. The notary, in presence of whom the audience shall be given, shall write down every thing the inquisitor or inquisitors shall say to the prisoners, and the answers of the latter; and, the audience being finished, the inquisitors shall order the notary to read all he has written, that the prisoner may, if he thinks proper, add or correct any thing, and that his answers once finished and taken down, it may no more become necessary to hear witnesses on the subject.



## XVIII.

*Accusation of the fiscal.*

The fiscal shall be careful to explain the charges against the accused in the terms prescribed by the mandate, charging him with heresy in general, and of every other offence of which information shall have been given in particular, whether by the depositions of witnesses, or the confessions the accused shall have made; and although the inquisitors can have no cognizance of crimes unconnected with manifest heresy, if the witnesses have deposed against him in other matters, these shall also form a part of the accusation of the fiscal; not that the inquisitors may punish him for it, but to *aggravate* his crime of heresy, to prove his want of Christianity, or his perverse life, and thence to draw information relative to the matters of faith in question.

## XIX.

*He who confesses, is to be accused, that he may be brought to trial.*

Although the accused may have confessed what the witnesses have deposed, the fiscal is to accuse him in form, that the prosecution may be proceeded upon according to his request, as it is begun upon his information, and that the judges may pronounce more freely the pain or penitence they are to inflict; *experience* having proved, that a different form may produce *inconvenience*.

## XX.

*The accused is always to declare what he has to say upon the oath he has taken.*

The accused having, at the beginning of the prosecution, sworn to speak the truth, he is to be put in mind of his oath every time he appears at the audience, that the oath may always precede the deposition; a precaution of great effect, when he is to speak of other persons.

## XXI.

## XXI.

*The fiscal is to require that the accused may be put to the torture.*

At the end of the accusation, it seems convenient and useful, that the fiscal should demand, in case the intention of the accused be not clearly proved, and that it appears necessary, that the torture should be applied, because, as he ought not to suffer it but upon the requisition of the public prosecutor, and not without its being notified to him, it cannot be given at a part of the prosecution which furnishes him less opportunity to prepare for it, or when he would be thereby less affected.

## XXII.

*Admonition to the accused. An advocate to be allowed him.*

The fiscal shall present the accusation to the inquisitors; the notary shall read the whole of it, in presence of the accused; the fiscal shall take the usual oath, and the audience shall immediately  
ter-

terminate. The accused shall answer article by article in presence of the inquisitor or inquisitors, before whom the accusation shall have been laid; and, to avoid confusion, the answer shall be written in the same form although the accused may have answered in the negative to all the articles.

## XXIII.

*Sentence of proof, without fixing a term.*

The inquisitor or inquisitors shall observe to the accused of what consequence it is to him to tell the truth; and this done, they shall name to make his defence, the *advocate* or *advocates of the holy office*, deputed for that purpose; and in presence of any one inquisitor whatsoever, the accused shall have communication with this man of the law, and, according to his advice, shall answer verbally or in writing to the accusation; and the man of the law, before he charges himself with the defence, shall swear to defend him well and faithfully, and to keep secret all that he shall

shall see and come to the knowledge of; and although he was sworn when he was received in the holy office as a man learned in the law, he ought, as a christian, to *exhort* the accused to tell the truth, and to ask for punishment if he be culpable. His answer shall be notified to the fiscal; *and the parties being present as well as the advocate, the cause being terminated, the proof shall be received. In this sentence it is not the custom to fix a certain term, nor to summon the parties to be present at the oath of the witnesses, because neither the accused nor any person in his behalf are then to be present.*

## XXIV.

*What is to be communicated to the advocate.*

That the man of the law may better advise and defend the accused, the confessions made during the prosecution are to be read in his presence, provided they regard no third person; but if the accused will continue his confessions, the advocate shall be obliged to retire.

If

## XXV.

If the accused be under twenty-five years of age, he shall be provided with a guardian in form, before he answers to the accusation, and shall confirm the confession he has made; and the prosecution shall be carried on against him under the authority of the guardian, who may not be one of the ministers of the holy office, but either the advocate himself, or any other person of a good conscience and worthy of credit.

## XXVI.

*Functions of the fiscal after the sentence of proof.*

The fiscal shall afterwards, in presence of the accused, produce the depositions and proofs against him, as well there in the process as in the registers and writings of the holy office. He shall require the answers to be examined, that the witnesses may, according to form of law, ratify their depositions; and, this done, that the depositions be published,

published, and that what the accused or his advocate may have to say be inserted in the process.

## XXVII.

*New accusation to be brought against the criminal upon what may afterwards arise.*

The parties having been present at the reading of the evidence, if in any part of the prosecution new incidents come to light, or the accused should commit a new crime, the fiscal shall accuse him a-new. The accused shall answer in the form already prescribed, and the prosecution shall be continued; although in case the new incident be connected with the chief crime, it seems sufficient to inform the accused that another proof is obtained against him.

## XXVIII.

*Audience to be granted to the accused whenever he shall desire it.*

As there is generally some delay between the sentence of proof and the publication of the depositions, every time

time the prisoner demands an audience he shall be sent for by the alcaide (as is the custom) The audience ought to be granted him as well because it is a consolation to the accused to be heard, as that it often furnishes them an opportunity of adding something to their justification, and that these delays may give them new ideas.

## XXIX.

*Ratification of evidence.*

The inquisitors shall immediately proceed to the ratification of the evidence, and every thing which the fiscal shall have further demanded, to prove the crime and come at the truth.

## XXX.

*Form to be observed in the ratification of evidence.*

The parties being received at the ratification, the witnesses shall confirm their depositions, according to the forms of law, before two ecclesiastics properly qualified, christians of an ancient race,  
who



who shall have been sworn to secrecy, and who shall bear a good character with respect to their morals and manner of life. In their presence the witnesses shall be told that the fiscal presents them as such; they shall be asked if they recollect to have said, before a judge, things relative to the faith; and if they answer in the affirmative they shall repeat the substance of what they have said; and, if they have no remembrance of it, they shall be asked such general questions as may bring it again to their recollection. If the witness requires what he has already said to be read to him, his request must be complied with, whether he be one of the prisoners or any other person. The notary shall write down what passes, and the situation of the witness; whether or not he be a prisoner, and if he be, upon what account; whether he be ill or well; whether he has been heard in the audience chamber or in a room in his prison; and the reason why he was not brought to the audience; the whole to be inserted

serted in the process of the person against whom he shall have deposed, that the process may contain every thing relative to itself.

## XXXI.

*Publication of evidence.*

The evidence having been ratified in the manner before mentioned, every thing relative to the same shall be literally published, conformable to the deposition of the witnesses, omitting nothing but that which might discover who they were; and if their depositions be long, and capable of being separated, they shall be divided into articles, that the accused may answer thereto more particularly, article by article, after having been sworn. All the depositions must not be read to him at one time, neither the whole of that of each witness, if each of them have given his particular deposition in articles or chapters. The inquisitors shall take care to give the publications briefly, and not to keep the accused long in suspense, telling  
ing

ing them, or giving them to understand, that the depositions against them contain things they have not confessed: this to be observed even though the accused should deny them.

## XXXII.

*The inquisitors shall give the publications signed with their names and additions.*

The inquisitors, or one of them, shall make the publication, either by reading to the notary what he is to write, or by writing it themselves, and signing the instrument according to the mandate; and as this is of great consequence it is not to be confided to any other person; the month in which the depositions of the witnesses were made shall be expressed therein, the day being omitted if there be any inconvenience in mentioning it. The place and time of the crime shall, as circumstances appertaining to the defence of the accused, be mentioned in the publication; and the deposition of the witnesses shall be rendered as literally as possible to the accused. It must

moreover be observed that although the witness speaks in the first person when he declares he has had such and such connexions with the accused, his deposition in the publication is to be given as coming from a third person, who shall say that he has seen and been informed that the accused has had that connexion with a certain person.

## XXXIII.

*Instruction concerning the publications in what regards accomplices.*

If an accused person has at first spoken of a great number of other persons and is afterwards desirous of giving to what he has said a general and indefinite turn, such a deposition is not to be inserted in the publication, as the accused may have easily been mistaken in his expressions, in not declaring in particular what each of the persons may have said, and since his evidence is not valid without this form. Therefore whenever this happens, the inquisitor shall oblige the accused to particularise,

as

as much as it shall be possible for him so to do, without vaguely referring to his former confession.

## XXXIV.

*The publication to take place, although the accused should have confessed.*

The depositions shall be communicated to the accused although the latter should have acknowledged the accusation, that they may be convinced they have not been imprisoned without information; that they may look upon themselves as convicted; that sentence may thereupon be pronounced against them; and that the liberty of the judges may be less restrained; for an accusation not published cannot lie against them, especially since by the nature of the cause they can neither be present when witnesses take the oath nor know who they are.

## XXXV.

*The advocate of the accused to see the publication in the presence of the inquisitor.*

The accused having thus replied, shall consult upon the publication with his advocate in the same manner as upon the accusation; for he is not to be suffered to communicate either with his lawyer or any other person, except in the presence of the inquisitors and the notary, who are to certify what passes, and the inquisitors are to take care that neither relations, friends, nor other persons speak to the accused, were it even to persuade him to confess his faults. If however this were necessary and should seem convenient, it may be permitted to some learned and religious persons to speak to him *with that intent*, but still before the inquisitors and the notary; for neither the inquisitors themselves, nor any other officer of the tribunal, except the alcaides, are permitted to speak in private to the prisoners,

soners, or to enter the prison, although it be established by the mandate that an attorney shall be allowed to the accused, this however must be withheld from them; experience having proved that great *inconvenience* may result therefrom, nevertheless it sometimes happens in cases of great necessity that full power is given to the advocate.

## XXXVI.

*In what manner paper is to be given to the accused.*

If the accused asks for paper to write what relates to his defence, sheets counted and marked by the notary shall be given to him; the number of them shall be expressed in the papers of the process, and they shall be counted when he returns them, so that none may remain in his possession; the state in which he renders them shall also be specified. When he asks for his advocate, he shall be conducted to him; he shall communicate to him whatever he may think proper, and give him the

papers relative to his defence but not any thing else, and his advocate, when he shall have received the necessary order, shall come with the accused, and present him at the audience. The accused, to prove the articles of his interrogatories, shall name for each a great number of witnesses, that such of them as are most able and worthy of credit may be examined. It shall be intimated to him not to name any of his relations, or servants, and that these witnesses must be christians of the ancient race, if it be not that the circumstances are of such a nature as not to be proved by other persons except the former; and if the prisoner wishes to see the defence which his lawyer has drawn up before the latter presents it, his request may be complied with. The inquisitors are to take care that neither the lawyer nor any other person converses with the prisoners upon any subject except what relates to their defence, and that they do not bring them any information from  
without,



without, because no good can accrue from such a communication, and evil frequently results from it to the persons and causes of the prisoners. The advocates are not to keep a copy of the accusation, the publication, or the reasons for excepting against certain witnesses, but shall return all in presence of the inquisitors.

## XXXVII.

*The fiscal is to see the papers of the process after the audience.*

In every part of the process, the fiscal, each time a prisoner comes from the audience, shall see the account of what has passed. If the accused has confessed, he shall accept the confessions as far as they may be in his favour. The fiscal shall write in the margin his notes upon those confessions, and upon every thing proper to clear up the affair, and the above acceptance shall be made judicially.

## XXXVIII.

*Proceedings relative to the audiences.*

The inquisitors shall immediately take measures to receive the defence which the accused shall have desired to present, examining the validity of the evidence, and what he shall have to alledge against it. They shall take care to neglect nothing which may tend to exculpate him, as it was also their duty to do to prove his crime, considering well that the accused in prison is prevented from taking such measures of defence as he would adopt, provided he were at liberty to pursue his cause.

## XXXIX.

*Admonition to the accused before the conclusion.*

After having received the principal materials of the defence, the inquisitors shall have the accused brought before them, with his advocate, and shall certify to him, that the defence he had called to his aid has been made; therefore

fore

fore he may, if he pleases, conclude, by adding what he has farther to say. If he does not ask to be farther heard, the cause is to be concluded. It is, however, more prudent that the fiscal should not conclude; for besides his not being obliged to do it, he thereby remains in situation to demand a-new such or such measures to be taken as may be agreeable to the accused. But if the latter demands the copy and publication of his defence, his request is not to be complied with, as he might thereby acquire a knowledge of the witnesses who have deposed against him.

## XL.

*Examination of the proceedings. The order of voting.*

The cause having been brought to this state, the inquisitors shall associate with them the ordinary and counsellors of the holy office, to whom they shall communicate all the proceedings, omitting nothing essential. When the necessary persons shall have been made  
fully