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UNJUST PROCLAMATION

OF

HIS SERENE HIGHNESS

THE INFANTE DON MIGUEL.

NOTICE TO THE PUBLIC

UNJUST PROCLAMATION

OF

HIS SERENE HIGHNESS ·

THE INFANTE DON MIGUEL

AS

KING OF PORTUGAL,

OR

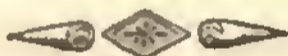
AN ANALYSIS AND JURIDICAL REFUTATION OF THE ACT
PASSED BY THE DENOMINATED THREE ESTATES
OF THE KINGDOM OF PORTUGAL ON
THE 11TH OF JULY, 1828.

DEDICATED

TO THE MOST HIGH AND POWERFUL,

DONA MARIA II.

QUEEN REGNANT OF PORTUGAL.



BY

THE DESEMBARGADOR ANTONIO DA SILVA LOPES ROCHA,
ADVOCATE OF THE COURT OF APPEAL IN LISBON.

Translated from the Portuguese.

S'ils veulent être Rois par le principe de la force, ils font l'aveu de
leur illégitimité, car la force est le principe de l'injustice.

LE CARDINAL DU PERRON.

London:

PRINTED BY R. GREENLAW, 36, HIGH HOLBORN.

1829.



J. F. G. REBELLO DA FONSECA.

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MADAM,

THE enemies of the Throne and Altar, fanatics, hypocrites, profligates and tyrants, as the August Father of Your Majesty terms them in the proclamation of the 25th June 1828, had scarcely conceived their wild and daring project of usurpation, when ill-fated Portugal and all Europe were inundated with publications in every language, seeking to maintain that the first born of Don John VI. had forfeited his rights to the sovereignty of Portugal, by accepting, independent, the Imperial Crown of Brazil. This political schism of the illegitimacy of Don

Pedro IV. was promulgated in that unfortunate country with impunity, even from the pulpit ; and so far did some degenerate Portuguese carry their baseness, as to assert, in utter contempt of the public law of Portugal, that Your Majesty, the first-born of Don Pedro IV., a Portuguese by birth, called by the fundamental law of the country to the succession of the Throne, in the default or inability of that Monarch, had lost by that act of another your own inviolable right to the Portuguese Crown.

A band of men, composed of rebels, traitors, and perjurers, the whole illegally convoked, and for the most part illegally elected, who assumed the title of—**The Three Estates of the Kingdom**,—were the tools selected to consummate the work

of iniquity, by passing and publishing the Act of the 11th of July, 1828.

It is the juridical analysis and refutation of this revolting Act, forged in the den of rebellion and treason, that I have the honor of presenting to Your Majesty; an undertaking, I am aware, from its magnitude, surpassing my abilities, although most congenial to the loyal feelings of a Portuguese, a Martyr to Legitimacy, who here endeavours to shew to the Kings and nations of the world the justice, with which Your Majesty ascends the Throne of your Ancestors.

Deign, Madam, to favor with your royal protection a service performed, equally for Your Majesty, and the Kingdom.

May the Almighty preserve Your Majesty many years, in compliance with the constant prayer of all loyal Portuguese, whose future welfare so much requires it.

Respectfully tendering my obedience,

I am,

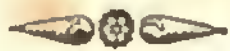
Your Majesty's

Faithful subject,

The Desembargador,

ANTONIO DA SILVA LOPES ROCHA.

INTRODUCTION.



IN the Lisbon Gazette of the 2nd of August 1828, No. 182, there appeared an article entitled—"Act of the Three Estates of the Kingdom, assembled in Cortes in the city of Lisbon, passed on the 11th of July 1828," endeavouring to prove the legality of the proclamation of the Infante Don Miguel as king of Portugal.

An Act passed for the purpose of demonstrating to the world, that usurpation is not usurpation, that rebellion is not rebellion, that the trustee may lawfully embezzle the deposit confided to his supposed honor and fidelity, and that the most solemn oaths are not binding on those that take them, ought surely to be abandoned to the con-

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tempt it deserves; for it is not in the present state of Europe that such doctrines can be tolerated; but coupled with, and linked to these moral monstrosities, come—"rights of succession"—"general will of the nation"—"public rights of Portugal"—"ancient Cortes"—"fundamental laws"—and other such like common-places, which possibly might succeed in fascinating the Portuguese public, and render doubtful the light in which the sovereigns and nations of Europe, ought to regard the events occurring at this moment in unhappy Portugal; and, therefore, the publication of a juridical analysis, and refutation of such act, appeared to be necessary.

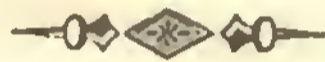
The subject, from the transcendency of the object, and the high dignity of the August Client whom it became necessary to defend, was no doubt beyond our limited powers; but it belonged to our profession, as a jurisconsult, and was considered by us a tribute due to his majesty Don Pedro the IV., and therefore we did not hesitate a moment in undertaking it.

In the ingenuous acknowledgement of our literary insufficiency, in the varied parties for whom we write, and in the scarcity of Portuguese books and ancient records in London, where we find ourselves as refugees, our readers, we trust, will find sufficient motives to excuse the imperfections they may meet with.

UNJUST PROCLAMATION

OF

HIS SERENE HIGHNESS, THE INFANTE DON MIGUEL,
AS KING OF PORTUGAL.



EVEN admitting, that his highness the Infante Don Miguel, after he had commenced his career of treachery towards his Brother and King, by abusing the powers granted him, (under such circumstances justly to be considered null and void)*, had the authority, as Regent of Portugal, to convoke the ancient Cortes of the

* The powers given to Don Miguel, that is, the decree of his nomination, expressly declared—*That he was appointed Lieutenant of his majesty Don Pedro IV., King of Portugal and Algarves, to rule and govern these kingdoms in conformity to the constitutional charter.*—This is the

kingdom at a time when a new and different fundamental law ruled the monarchy* ; a law, which he himself had voluntarily and solemnly

source, and this the origin of his authority and power ; the conditions on which he was to exercise that same authority and power, being, that he should govern in the name of him who conferred them, and in conformity to the constitutional charter. From the moment, therefore, that he ceased to govern as Lieutenant of his Brother, and instead of ruling according to the constitutional charter, began to destroy it, and so visibly to prepare for the usurpation, his power ceased, he became a private individual ; and, therefore, without any authority to convoke the cortes, or exercise any act of sovereignty ; the authority which he had possessed, having been delegated to him for purposes, and with conditions entirely opposite. The cabinets of Europe cannot avoid acknowledging this doctrine true, since they caused their diplomatic intercourse with Don Miguel's government to cease, as soon as he published the decree of the 3rd of May, convoking the ancient Cortes.

* The constitutional charter of the Portuguese monarchy, granted by his majesty Don Pedro the IV, legitimate king of Portugal, was solemnly accepted, and sworn to in that kingdom, by the whole nation, on the 31st of July, 1826 ; and shortly afterwards, this act of acceptance and oath was ratified by the noble Peers of the kingdom, and by

swore to maintain: even, admitting that, under such circumstances, those spurious and proscribed Three Estates of the kingdom, could be considered as the national representation, it by no means follows, that the act passed and published by them, on the 11th of July 1828, could legitimate the proclamation of the Infante Don Miguel as king of Portugal.

That Act, considered, either extrinsically with reference to the circumstances which preceded and accompanied it, or intrinsically from

the Deputies of the Portuguese nation, who constituted the *legal Estates of the kingdom*; the only national representation which the people, in conjunction with their lawful king, acknowledged, admitted, and swore to maintain and preserve. From that moment, by this solemn act were abolished, *de facto* and *de jure*, the cortes of Lamego, and all other laws, ancient usages and customs, which were not renewed by the new social compact; founded on the basis of the ancient one, and adorned with those improvements which the march of time, the lessons of experience, the progress of civilisation, and the well understood interests of kings and nations, had rendered necessary.

the doctrine it contains, abounds with such defects, and is founded on perversions, so glaring, of Portuguese jurisprudence and history, that it is utterly impossible to regard it as entitled to any authority..

The demonstration of this proposition will be the object of the present dissertation, which we shall divide under the two heads just mentioned.

FIRST PART.



EXTRINSIC CIRCUMSTANCES, PRECEDING AND ACCOMPANYING THE ACT OF THE *DENOMINATED* THREE ESTATES OF THE KINGDOM.



“It was a misfortune for Portugal, *says the author of the Future Destinies of Europe*, that the Portuguese constitution was not put in execution by the sovereign himself, who granted it. To send to Europe from the distant parts of America a constitution, with its merits alone to support it, was to deliver it up to the spirit of faction, and to the opposition of those prejudices and abuses it came to attack. The primitive strength of an infant constitution depends chiefly on its author; to separate one from the other is, to smother in the former, its vital principle. Mere decrees alone never reform a state. He who wishes

to reform, must personally enforce the reform, if he does not wish to expose his orders to contempt. The gift was certainly that of a generous king; but the abandonment is ill advised."

This political sentence has been verified. The constitutional charter of the 29th of April 1826, being the work of legitimacy, and calculated to insure the happiness of the Portuguese nation, was received with a degree of joy, and enthusiasm, surpassing description. There was not a village, however small, which after returning thanks to the Almighty, for so gracious a gift, and celebrating the act of fealty, by splendid and sumptuous festivities, abstained from transmitting their cordial thanks to his Majesty Don Pedro IV., through the medium of his government. On the other hand, however, a majority of the *Desembargadores*, public functionaries, priests, and friars, who at the first mention of the arrival of a constitution, foresaw an end to their domineering power, to fanaticism, extortion, peculation and abuses, formed a species of *jesuitical club*, and strong from the union of their common interests,

swore to spare neither trouble, gold, nor intrigue, to destroy it. A high personage, who had espoused by turns all parties, royalist, republican,* constitutional, apostolical, and whose political

* As soon as Spanish America proclaimed its independency and divided itself into republics, this high personage took an active part in the revolution, and undertook to direct it, so that it might become consolidated!! All these intrigues were then well known at the court of Rio de Janeiro, and throughout Europe. They were published in the public papers of those times. Vide—*A Narrative of Facts connected with the Change effected in the political Condition and Relations of Paraguay, under the direction of Dr. Thomas Francia, London 1826.*

† The following documents, which we can warrant to be correct having copied them from the originals, prove our assertion.

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| <p>1º. Considerando atentamente la deplorable situacion de nuestra amada Patria, no puedo mirar con indiferencia los males, y desgracias que ella sufre con la opression del tirano de la Europa, con la falta de su</p> | <p>When I reflect on the deplorable state of our beloved country, I cannot be indifferent to the evils and misfortunes which it suffers from the oppression of the tyrant of Europe, from the absence of its lawful sovereign, and</p> |
|--|--|

principles will always be in opposition to any government over which she does not exercise a despotic sway, placed herself at the head of this faction, which aimed at nothing less than the violation

Legitimo Soberano, y con la division systematica, que enemigos y estrangeros por sus fines particulares procuran introducir y establecer entre mys muy amados Compatriotas.

Yo quixé evitar en tiempo todas las calamidades que en el dia experimenta la Peninsula; pero constituida por mi estado a ser una simple expectadora de quanto pasaba en las Cortes de Lisboa y de Madrid, nunca pude realisar mys justo deseos, apesar de algunas diligencias praticadas en medio de riesgos y peligros y asi fué tambien, que nunca pude ser util á España, ni al mismo Portugal.

La obligacion que en aquel entonces tenia de mirar siempre por el bien

from the systematic dissensions which enemies and foreigners, for their own private ends, have endeavoured to introduce and establish, among my endeared countrymen.

It was my wish, timely to avert those calamities which the Peninsula now experiences; but my situation limiting me to be a mere spectator of the events which took place at the courts of Lisbon and Madrid, prevented me from carrying my just wishes into effect, though some efforts were made in the midst of risks and dangers; thus, it happened, that I never could make myself useful either to Spain or even to Portugal.

The obligation under which I then found myself, of al-

the tutelary principles of legitimacy, on which is founded the venerable monarchical system of Europe. Immediately were seen, with horror and indignation, printed and circulated garbled

de mis muy amados Españoles, es mas rigorosa en el dia, en que por la ausencia y cautividad de su Legitimo Soberano mi muy querido hermano Fernando los veo expuestos à caer en una terrible Anarquia, cuyas consecuencias seran sin duda mas funestas, que las de la misma guerra.

Esta consideracion y los deberes que me impone el derecho de sangre, de defender y velar por la conservacion del Trono de mis muy queridos hermanos, y de los eventuales derechos que en su defeto me pertenecen me han movido a encargarte y rogar-te, que al momento de recibir esta mi carta pongas en pratica todos los buenos oficios que

ways forwarding the interests of my beloved Spaniards, is now become doubly imperative, when the absence and captivity of their lawful sovereign, my dear brother Ferdinand, exposes them to the terrible effects of anarchy, more dreadful still than war itself.

These considerations, together with the duty which the ties of blood impose on me, of guarding and protecting the integrity of the throne of my dear brothers, and the eventual rights which, in their default, devolve on myself, have induced me to trouble you, and entreat; that on the receipt of this letter, you will use your utmost endeavours, within the sphere of your influence,

extracts of the constitutional charter, granted by his majesty Don Pedro the IV., entirely altered in their meaning, for the obvious purpose of deceiving the people, and in disposing them towards

quedan en la esfera de la jurisdiccion de tu empleo ; para que los individuos de tu Santa Religion cooperen por aquellos medios, que prescribe la fidelidad, el honor, y el bien general de la Monarquia, y de los pueblos, que esencialmente dependen de ella ; á que quanto antes se restablezca en su antiguo ser el Gobierno de mi Augusta Caza de España: si bien que yo misma convengo, y deseo para bien de los Españoles, y de mis propios hijos, que sea con aquellas modifieaciones que se conceptuen capaces de acabar con toda especie de despotismo tan contrario à los intereses de los pueblos y a los de los mismos Sobera-

so that every individual of your holy religion may cooperate, with the means prescribed, by fidelity, honor, and the general welfare of the monarchy, and of the public, which essentially depends upon it, in order that the government of my august house of Spain, may be re-established on its former footing ; it being understood that, for the welfare of the Spaniards, and of my own children, I agree, and wish, *that it may be with those modifications, which shall be thought capable of entirely putting an end to despotism, so contrary to the interests of the people, and of the sovereigns themselves, who*

the charter. No intrigue was spared, in order that the governors of the kingdom and ministers of state, should at least postpone the publication of the constitutional charter, and the solemnity of swear-

nos, que solo por ignorancia pueden ejercer-lo.

Yo creo tener todo derecho para hacer-te esta demanda; y no dudo que conociendo que en ella se incluye la seguridad de nuestra amada Patria, la integridad y aumento de la Monarquia, y la estabilidad de esa propria Religion que gobiernas, realizaras mis esperanzas fomentando la opinion publica, afin de que las Cortes tomen sobre el indicado objecto una pronta y justa deliberacion.—Dios te Guarde en su Santo servicio.—Dada en el Real Palacio del Rio de Janeiro à los 24 de Julio de 1811.—Tu muy affecta Infanta—Carlota Joaquina de Borbon.—Al R. P. F. Joze

can only exercise it through ignorance.

I consider that I am entitled to request this of you, and convinced as you must be that it embraces the interests of our dear country, the integrity and aggrandizement of the monarchy, and the stability of that religion which you are placed at the head of; I doubt not that you will realize my hopes, exciting the public opinion, to the end that the Cortes may come to a just and prompt resolution on this subject.—May God preserve you in your holy office—Given at the Palace of Rio de Janeiro on the 24th of July, 1811—Your very affectionate Infanta Carlotta Joaquina de Borbon.—To the Rd. P. Fr. José Ramires,

ing to it: and so heartily did they enter into this infamous project, that it never would have been sworn to on the 31st of July, 1826, if the conduct of the inhabitants of Lisbon and Oporto, as well

Ramires, Vocal de la Junta de Sevilla.

2º. Yo vos ruego que hagades presentes al Augusto Congreso de las Cortes mis sinceros y constantes sentimientos de amor y fidelidad a mi mui quèrido Hermano Fernando, y el sumo interese que tomo por el bien y felicidad de mi amada Nacion: dandoles al mismo tiempo mil enhorabuenas y mil agradecimientos *por haber jurado y publicado la constitucion.*

Llena de regocijo voi a congratular-me con vos otros por la buena y sabia constitucion que el Augusto Congreso de las Cortes acaba de jurar y publicar con tanto aplauso de todos,

Member of the Junta of Seville.

I beg that you will present to the august assembly of the Cortes, the assurance of my sincere and constant sentiments of love and fidelity towards my dear brother Ferdinand, and of the intense interest I feel for the welfare and happiness of my beloved country; tendering them at the same time my hearty congratulations, and a thousand thanks *for having sworn to and published the constitution.*

Filled with pleasure, I now turn to congratulate you also upon this excellent and wise constitution, sworn to and promulgated by the august assembly of the Cortes, with the approbation of every

as of the kingdom generally, anxious to see their monarch's orders fulfilled, had not manifested

y mui particularmente mio : pues la julgo como base fundamental de la felicidad e independencia de la Nacion, y como una prueba que mis amados compatriotas dan a todo el mundo del amor y fidelidad que professan à su legitimo Soberano, y del valor y constancia con que defienden sus derechos y los de toda la Nacion : guardando exactamente la constitution, venceremos ; y arrojarémos de una vez al tirano usurpador de la Europa — Dios vos Guarde muchos años Palacio del Rio de Janeiro à los 28 de Junio de 1812 — Vuestra Infanta — Carlota Joaquina de Borbon — Al Congresso supremo de Regencia de las Españas al nombre de Fernando septimo.

one, and particularly of myself, for I regard it as the fundamental basis of the prosperity and independence of the nation ; and a proof given by my beloved countrymen to the world, of the love and fidelity which they profess to their legitimate sovereign, and of the valour and constancy with which they defend their own rights, as well as those of the whole nation : preserving strictly our constitution, we shall conquer, and hurl from his seat the usurping tyrant of Europe — May God preserve you for many years. — Palace of Rio de Janeiro, 28th of June, 1812 — Your's Infanta Carlotta Joaquina de Borbon. — To the Supreme council of Regency of Spain, in the name of Ferdinand the VII.

that there was a decided majority in favor of its execution.

The charter having been sworn to, and the Infanta Dona Isabel Maria declared sole regent, every thing promised a consolidation of the representative system in Portugal; for as yet the political schism concerning his majesty Don Pedro the IVth's rights to the throne, had not been suggested, and the Infanta appeared to have entered into her august Brother's views, and to have resolved on fulfilling the solemn promises made to the nation in her proclamation of the 1st of August: but this princess, as she inherited from her august father his timidity, and his desire always to act for the best, inherited also the fate of being ever duped. The men who successively composed her ministry were, *with very few exceptions*, either unfit to serve at such a period, or they temporized too much with the spirit of moderation, which was preached up as necessary; and affairs began to take such a turn, that it soon became apparent, that the charter, *though the offspring of legitimacy, and essentially monarchi-*

cal, could never be consolidated. Such were the batteries daily permitted with impunity, to be levelled against the charter, and to effect its destruction!

The apostolical party, not content with having reduced the government of the Infanta to a mere nullity, imagining that this nullity, led things too slowly to the desired end, issued orders to their associates in Traz os Montes, Alemtejo, and Algarve, to break out into open rebellion.

The correspondence of the Captain Mór, of Alandroal, with the chiefs of the rebellion, who resided at Lisbon, was about this time intercepted: it revealed the conspiracy; but what availed it? Barbacena and Barradas, who held the situations of minister of justice, and of war, slumbered at their posts, and allowed Magessy, with the 17th regiment infantry, and 2nd cavalry, as well as his brother, Viscount Montalegre, and nearly the whole race of the Silveiras, to fly into Spain with the 24th regiment infantry, where they were

received, accoutred, and armed, in order to re-enter Portugal, with the 14th regiment Infantry, and the 7th *caçadores*, who had in the mean time gone out to join them ! There were then to be seen simultaneously proclaimed as kings of Portugal, The Infante Don Miguel, the Infante Don Sebastian, Ferdinand the VII, and even *Emanuel the II.*!

The invasion by these new *barbarians*, notwithstanding their numbers, and the exhortations of the contumacious clergy, and although it was clear, that they were supported by our neighbours the Spaniards, † could not obtain for them their

* The Marquis of Chaves.

† We are fully persuaded that this support resulted from the influence, which the oracles of *theocracy* have always exercised over unhappy Spain, and who, now united into one body, are known under the denomination of the *Apostolical Junta*. Ferdinand the Seventh could not countenance rebels, who attacked the principles of legitimacy, by which he reigned. From the moment that he were to do so, he would sanction his own ruin, and

criminal object. The nation declared itself against an attempt so abominable and revolting ; clearly proving the love and attachment, which the great majority of the people bore to his majesty Don Pedro the IV., and to his institutions. The then existing ministry displayed some degree of energy, and Count Villa Flor's brave division so completely defeated the rebels in Alemtejo, Beira, and Traz os Montes, that had the other divisions of the north but afforded that effective co-operation, which might have been expected from their strength and situation, not one of them would have returned into Spain. *

would place the crown on the head of his brother, whom the Spanish rebels wish to proclaim ; too bitter are the proofs, which his Catholic Majesty has had of the existence of such a faction, to need our enlarging upon the subject. Moreover, Ferdinand VII. not having acknowledged the independence of Brazil, nor Don Pedro as emperor of those states, and, therefore, not able to adopt the apostolical principle, that he is a foreigner, for having accepted another crown, it would be inconsistent with his own principles were he to uphold rebels, who proclaimed another king of Portugal.

* It is true, that a division of British troops, landed at

The rebels, having received this chastisement and retired into Spain, did not, it is true, attempt a fresh incursion. In Portugal, however, affairs continued to be so ill conducted, the apostolical intrigues developed themselves in such force, and the system of impunity observed towards the rebels, (counselled by their confederates, who behind the curtain, always directed affairs, constantly preaching moderation) was carried to so scandalous an excess,* that the ministry of her

this time in Portugal, but confined itself to the environs of Lisbon; never coming within sight of the rebels. As no *foreign invasion* took place, they remained stationary, and even abandoned Portugal at the very moment that the usurpation of the crown of His Majesty Don Pedro IV., was about to be consummated, and when it was already so manifest that Sir Frederick Lamb and General Clinton took upon themselves the responsibility of delaying the embarkation of the troops, till the arrival of fresh instructions from their government, respecting this unlooked for event. Nothing, however, resulted; the troops were embarked, and this unexpected withdrawal contributed materially to increase the moral force of the Miguelites.

* At the same time that the rebels were allowed to retain their honours and titles—that men notoriously guilty of

highness Dona Isabel Maria, (this princess then being dangerously ill, and consequently taking no part in business,) entirely lost the public confidence.

This state of affairs, the illness of her highness the Infanta, represented as likely to terminate by her death, and the erroneous opinion that his Majesty Don Pedro the IV. entertained of his brother's character, who with studied dissimulation disguised his most ambitious and criminal designs, * brought the Infante Don Miguel to Portugal, as *Regent of the kingdom, and Lieutenant*

rebellion and perjury, were restored to their former situations, and that those who had been apprehended with arms in their hands against Don Pedro, went unchastised, the faithful adherents of His Majesty were punished for endeavouring to maintain his institutions and authority, and thrown into the public prisons of Lisbon, and persecuted as *demagogues and republicans*.

* Occulta consilia, quibus aliud agitur, aliud simulatur agi.

DE ARCANIS IMPERII.

of his Brother the legitimate King, Don Pedro the IV.

In the mean time, the *Apostolico Miguelite* party, were using every exertion so to arrange matters, that they might proceed to the consummation of their plans. The conspirators, some prostituting their honor, others infringing the laws, or profaning their religion, and all violating the oath of fidelity they had taken to their legitimate sovereign, had either themselves, or through their emissaries, caused it to be promulgated throughout the kingdom, that his majesty Don Pedro the IV. was a foreigner, that he wished to reduce Portugal to a colony, and that by the Cortes of Lamego, he was excluded from the succession to the throne. The people, *says a modern writer*, know nothing about political questions, and in this respect, are on a par with the greater part of those, called learned; but the friars! they are the interpreters, the commentators, and expounders, of every kind of fraud and artifice, calculated to deceive the people, as well as kings. From the pulpit they persuade the multitude, families in the re-

tirement of their own dwellings, and in the confessional, each particular individual: it is in this tremendous tribunal, above all, which they call the *tribunal of penance*, where they exercise the most revolting practices of public demoralisation. It is there, that armed with the terror of the pains of hell, they threaten the people with eternal damnation, if they do not place implicit trust in them, and follow their doctrines; thus, becoming at once, the ruin and the tormenters of the same people. It is there, that under the strictest injunctions of secrecy, they persuade their hearers, that an *usurper* is the legitimate king; that the defenders of legitimacy are *traitors*; that the true royalists are *republicans*; that the honorable, loyal, and faithful Portuguese are *free-masons*;^{*} and that the zealous declaimers against vice, corrupt practices, fanaticism, and superstition, or in a word, against the friars themselves, are heretics, blasphemers, and atheists;[†] and when they have

* An association held in the greatest horror, by the common people in Portugal.—THE TRANSLATOR.

† A very recent occurrence proves how far they have succeeded in instilling fanaticism into the minds of the

thus succeeded in instilling into the minds of a credulous and obedient multitude these fanatical ideas, they sally out at their head, to attack legitimacy, honor, and the true interests of the nation.

people. Some military officers, and also some private individuals, part of those who lately emigrated from Oporto to Spain, not finding any one in the village of Villa Meañ, who would sell them a morsel of bread, entreated the woman, at whose house they had taken up their quarters, to let them purchase some Indian-corn flour, which she had destined for her pigs. Although so small a quantity as scarcely to measure one alqueire (a third of a bushel) they offered her 4800 reis for it, (about twenty shillings) but found it impossible to prevail upon this bigotted Galician to sell it; and she very coolly went and gave it to her pigs in their presence; being remonstrated with for her inhumanity, she said, that she should have committed a mortal sin, if she had either given, or sold it to them, as they were heretics, and that the priest of the village had so stated it to the inhabitants. This is the religion and humanity of those degenerate ministers of the gospel, who have nothing on their lips, but charity and religion.

* Les desseins de Rome aujourd'hui sont trop vastes pour ses moyens, car ils ne vont à rien moins que de rétablir sa monarchie démembrée. Des esprits grands et hardis, mais

Notwithstanding all these measures, so basely adopted by the enemies of his Majesty Don Pedro the IV., they for some time only succeeded in alluring to the rebellious standard, a few *vagrants, ruffians, lackeys, and abandoned wretches*, who were the first to raise the seditious cry of—*Viva Don Miguel I., our absolute king—Death to Don Pedro the IV.*;—down with the constitution; shouts which, though heard by the Infante, far from being punished, were applauded with smiles! *

emportés loin de leur siècle, l'ont flattée de cette espérance; mais les emportemens de l'imagination ne sont pas la nature des choses; c'est un monde idéal promis à une puissance idéale. Rome qui a nourri le monde de chimeres s'en repait à son tour: en religion, comme en politique, les rêves de monarchie universelle sont dissipés pour toujours. Napoléon fit le dernier songe en politique; Rome et les Prêtres font aujourd'hui leur dernier songe de domination universelle.

Des Destinées futures de l'Europe.

* From this moment we saw at the Palace of Ajuda, where his Highness at first took up his residence, a gang of *desperadoes, ragged and bare-footed*, to whom *John dos San-*

The first act of the Infante's administration, encouraged the conspiracy.* His ministers, chosen from the most decided absolutists; the government of the provinces, the magistracy of the country, and the command of the several corps, taken from the faithful adherents of Don Pedro the IV., and given to men, notorious for their rebellious exploits, treasons, perjuries, and assassinations, and above all, for their services on the 30th April, 1824, opened the eyes of the incredulous, and removed all doubts as to Don Miguel's future

tos and others, distributed every night, sixpence each. It was the charge of these fellows to proclaim his Highness—*absolute king*—to yell out—death to Don Pedro the IV.,—and to insult and pelt with stones every one suspected of fidelity to that Monarch. So unbridled was this rabble, that the foreign Prince Schwartzemberg could not escape their fury.

* *Est humanum ingenium ita comparatum, ut, ubi facultas et occasio est, fere ambitio eos capit, et qui potest imperare vix negligit occasiones, etiam si id contra jus fiat.*

BESOLD.

intentions.* From this moment the mask was thrown aside, and all dissimulation abandoned. The Cortes were dissolved;† those of Lamego, convoked; the individuals who were to compose them, designated; and the usurpation was completed.

A great dread, however, prevailed among the

* His Highness on his landing in Portugal, instead of calming the public agitation, by a proclamation expressing his determination to put down the rebellion, and to restore tranquillity to the nation, threw himself into the arms of the Dowager Queen, the head of the rebel party, who had formed it, who directed it, and who paid it; and with blind obedience, followed her commands, whether directed against the king, or against the charter.

† The decree by which they were dissolved was neither signed by any of the ministers, nor did it declare why the interests of the state required such an extraordinary measure, as it was necessary it should by the Constitutional Charter, Art. 74, § 4, to which the decree referred: and therefore ought not to have been carried into execution—on this subject see the Appendix to the *Padre Amaro* for May and June of the year 1828, where the point is fully discussed.

fomenters of this treacherous rebellion, during the whole of this period. The mournful silence of the nation, the fidelity of part of the army, the great number, and distinguished character, of the faithful adherents of His Majesty, Don Pedro the IV., alarmed them. No one, better than tyrants, knows that it is an imprudence, attended with serious consequences, to inspire horror* without inspiring terror; they had recourse, therefore, to the means of instilling it. The dwellings of citizens, were violated; the *canaille*, were ordered to arrest whoever they pleased; the numerous fortresses of Lisbon, the men of war, and other ships in the Tagus, the prisons of Traffaria, of the Castle,

†C'est une grande faute que d'inspirer de *l'horreur* sans la *terreur*; mais des règnes violents ne sont pas une existence politique, pas plus que les tempêtes ne sont pas un état de l'atmosphère. Un sceptre peut ravager comme le feu du ciel, mais tous deux ne font que passer, ils s'éteignent dans leurs désastres. C'est le gouvernement du glaive, sa maxime d'état est dans le sang = *Crudelitas unicum fundamentum imperii*. On ne peut rien dire de ce monstrueux empire, si ce n'est; *qu'il perisse!* Il est hors du droit des gens.

Limoeiro, Belem, and even the private one of the Aljube, (*an ecclesiastical prison*) were crowded with upwards of three thousand persons of all ranks, whose only crime was being faithful to their legitimate king, and to their oath: and those who escaped imprisonment, either withdrew themselves into the most unfrequented parts of the kingdom, or fled, to seek in foreign countries, an asylum, denied them among their own countrymen.

Some of the prisoners were found dead, in the dungeons; among others, the merchant *Leiria*, and a captain of cavalry, who were both chained by the feet, from the first day of their imprisonment!! This, however, was not judged sufficient to terrify the nation. Nine youths of distinguished families, who were in prison, charged with the murder of two professors of the university of Coimbra, apostolical agents, and determined enemies of His majesty Don Pedro the IV., were executed *in one day*, by a most illegal and barbarous sentence: neither the want of *proof* on the trial, nor their *minority*, to which the laws of all nations pay attention, could avail them!!!

This was the situation of the kingdom, when the *Cortes of Lamego* were convoked, and the order for electing the members to compose them was given!!!

One would imagine, after so many horrors, (it not being probable, that there could be a single faithful Portuguese, true to Don Pedro the IV., who was not either in prison, absconded, or exiled) that the elections might have been entrusted to the free choice, and appointment of the municipal corporations, and of the people, since there scarcely remained any one to be elected but the accomplices of this infamous rebellion, and these, moreover, inflamed by the most seditious proclamations: * nevertheless, the fear that some of the

* To avoid making this pamphlet too bulkey we shall only transcribe the following:—How far will you allow yourselves to be dragged by those traitors, who after poisoning your king, went to sell you to the Brazils, as vile slaves, in order to carry into effect their atrocious designs, and obtain pardon for their crimes? How far will you carry your perverse cowardice; will you allow your arms to support the treacherous usurpation of the Portuguese

municipalities might do their duty, and that in the provinces, some *Egas Moniz*, *Martin de Freytas*, or an *Alphonso de Albuquerque*, might still be found, they caused the following instructions to

crown, to the injury of his Highness the Infante Don Miguel, and to rivet the ignominious fetters imposed on the nation by the intrusion of republican institutions, in direct opposition to the fundamental laws and rights of the kingdom? Will you allow the glory of the Portuguese banner to be obscured, suffering it to be unfurled for the purpose of making Portugal a colony of the Brazils, to the disgrace of your name, and for the advantage of ambitious England? Separate yourselves from those bastard Portuguese, unworthy of the land that gave them birth. It is time to put an end to delusion. Imitate the honourable feelings of your countrymen, of those brave soldiers, who still covered with the blood of the late war left their country, now the seat of crime, and exposed their life in defence of their king and of the true religion. Let not perfidy find a place in your hearts, nor the sacrilegious outrages of others, be an example to you. Wrest the royal standard from the hands of traitors, who pollute it; hoist it, hailing as your king, Don Miguel the I., called by your fundamental laws to wield the sceptre, and to wear the crown. Be assured of his royal approbation, though the contrary may come from his lips, or may be asserted in his name. Rescue your country from the bondage that oppresses it, and save it

be transmitted by the secretary of state, for the home department, to all the municipalities:*

“That they should entreat His Royal Highness—
1st, That in compliance with the general wish of the nation, and the interests of the people, he would be pleased to declare himself lawful sove-

from the abyss of anarchy, where the disorganizing faction have precipitated it. Fear not their impostures; make legitimacy your own cause; and in the redress of so many wrongs, appear and avenge at one blow, the altar, the throne, and the nation. Shew yourselves the worthy offspring of those brave Portuguese, who with the sword in one hand, and lance in the other, were at all times examples to the world of fidelity and heroism; and finally, let the whole universe know, that in the country where loyalty formerly had her throne, even now crime cannot overcome honor.—Viva the religion of our ancestors! Viva Don Miguel the I., our Lord and Absolute King! Viva the restored monarchy! Viva the loyal Portuguese!

* Observe, it is not the municipalities of the kingdom who entreat his Highness to proclaim himself king. It is his Highness, who *beseches the municipalities* to request it of him! This is the nature of Don Miguel's titles to the crown of Portugal.

reign of these kingdoms, and the natural successor to the throne ; not only because by the fundamental laws of the monarchy, the rights of legitimacy resided in his royal person, but also because it was the general wish of the people. 2d, To abolish the new institutions, because they are contrary to the ancient laws of the country, destructive of its primitive social compact, and the offspring of the same democratic faction that usurped the sovereignty in 1820."*

* Ils ont comparé l'opinion constitutionnelle à ces opinions, qui s'engendrent au hasard, qui remplissent un siècle et s'éteignent dans une autre ; et qui prenant leur source dans l'exaltation de l'esprit, ou du cœur, sont regnantes et passagères comme les passions, ou les préjugés, qui les produisent. Qu'ils se trompent!! L'opinion Constitutionnelle est le fruit des méditations des sociétés humaines ; elle est née de la plus longue expérience politique ; elle est le produit des lumières, des sentiments, du génie, et de la raison des peuples ; elle est le principe créateur d'un nouvel ordre politique composé de droits et de devoirs puisés dans la justice ; elle est la preuve et la marque du plus haut degré de civilisation, ou le monde soit parvenu, ou, pour mieux dire, est elle même la civilisation.

Even this was not considered sufficient by the conspirators: such was the dread they entertained, from a conviction of the villainy of their own machinations, and of the majority, which they knew to exist in the country, in favor of the lawful sovereign, that orders were issued for the army to join in the conspiracy; and then the military governors of the several provinces and districts, addressed to the municipal corporations, through the medium of their presidents, the following official letter:—“Illustrious Sir, it being positively known to me, that some of the municipalities of the kingdom have addressed a representation or solicitation to His Royal Highness Don Miguel, entreating him to proclaim himself king, on the basis of the principles detailed in the enclosed paper,* I hasten to communicate this circumstance to the municipal corporation of —, certain that you will not lose a moment (your loyal feelings and ideas, as well as those of the entire

† It was an exact copy of the instructions from the secretary of state for the home department, which we transcribed above.

population, being already predisposed to concur, to this effect,) in the furtherance of a measure which will indubitably tend to promote the welfare of the nation, by rendering to His Royal Highness Don Miguel, his indisputable rights to the crown of these realms.”

The municipal corporations of the kingdom finally obeyed these coercive insinuations; they made the representations that were required, or rather ordered;* and as soon as these had reached

† The fatal spectacle at the palace of Ajuda served for the order of the day, and became the political thermometer for the whole kingdom; from this moment, every one trembled for himself; the faithful adherents of His Majesty Don Pedro IV., feared to expose themselves to the licentious mob, who insulted, hooted, and pelted whoever dared appear. This circumstance, coupled with the character of the members of the municipal corporations, who had been previously selected with Machiavelian policy by the *Desembargo do Paço*, was the cause of the deputations sent from the provinces to Lisbon, being entirely composed of individuals, who servile by nature, and grown callous in the practice of habitual slavery, had nothing to fear from the gang of ruffians, who assembled in

the hands of the competent secretary of state, and the municipal corporations were considered compromised, the following mandate was addressed to them. “ *In order to ascertain the application of various important points of the Portuguese law, and by this means, restore peace and concord to the nation; and that the momentuous affairs of the state, may be finally arranged and prosperously conducted, I have resolved to assemble Cortes in this city of Lisbon, within thirty days from the date of these presents. As soon as you shall have received this my present decree, you shall proceed in the customary manner to elect the representative or representatives, as you may be entitled, and according to the practice observed in the ancient elections, which representative or representatives, shall, on behalf of your city, attend at the celebration of Cortes, and you shall fully empower them to treat upon whatever subjects may be*

the court of the palace, exercised the office of determining the character and qualification of such as came to have an audience with the Infante Don Miguel.

there proposed. I recommend also to your attention, that at all times, *and particularly at present, it is requisite, that the greatest discrimination should be observed in the election, that the choice may fall on persons, who from their principles and deportment, aim only at the service of God and the throne, and the welfare of the public; being careful not to admit any vote in favor of an individual undeserving of this reputation; in conformity with the rules laid down on similar occasions, by the kings of these realms, from the foundation of the monarchy.* Given at the palace of Nossa Senhora da Ajuda, on the 6th of May, 1828. Infante Regent."

This royal decree clearly contained a stern intimation that no one was to be admitted as representative to the Cortes, unless an accomplice in the rebellion against His Majesty Don Pedro the IV.; for, as it recommended that such persons only should be elected, whose sole aim was *the service of God and the throne*, and it having previously been disseminated, and even preached from the pulpit, that every one, who

was faithful to his oath, and Don Pedro the IV., was an enemy to God and to the throne, who else could the municipalities elect but those notoriously implicated in the rebellion? But as it was still possible that some of the municipal corporations might not comprehend the true envenomed meaning of this decree, the intendant-general of police received orders to write in more explicit terms to the local authorities, presidents of the different municipal corporations; which he did, on the 17th of May, 1828, in the manner following:

“ As it may happen, that in the election of the
 “ representatives of the municipalities for the
 “ Cortes of the *Three Estates of the Kingdom*,
 “ in pursuance of the decree of the third of the
 “ present May, forwarded to you, some ill dis-
 “ posed and factious persons, enemies to the an-
 “ cient institutions and laws of the kingdom, may
 “ attempt to suborn the electors, in order to
 “ obtain their votes, for the specific purpose of
 “ disturbing, and subverting the important object
 “ of such convocation of the Three Estates; it

“ believes you, as the law directs, immediately to
 “ proceed to the judicial examinations relative to
 “ bribery, which the same law has ordained on
 “ the occasion of elections, considering and clas-
 “ sifying as suborned all such votes, as shall ap-
 “ pear to be given in favor of any factious indivi-
 “ duals, who, by their sentiments and political
 “ opinions, may have shown themselves enemies
 “ to the true principles of legitimacy, and *secta-*
 “ *ries of the new institutions*; because such indi-
 “ viduals, can never form, or constitute, the true
 “ national representation. This inquiry ought to
 “ proceed *pari passu* with the elections; so that
 “ when these are finished, the judicial examina-
 “ tions may be closed; and the result thereof you
 “ shall communicate to this office, at the same
 “ time that you transmit the returns of the repre-
 “ sentatives to the secretary of state for the home
 “ department: the whole of which, by direct or-
 “ ders of His Royal Highness, the Infante Don
 “ Miguel I., strongly enjoin to you, under the
 “ strictest responsibility—God preserve you—Lis-
 “ bon, 17th of May, 1828. The assistant Dezem-
 “ bargador, José Bernardo Henriques de Faria.”

In spite of so many novel precautions, insinuations, and orders, tending to deprive the municipalities of all freedom in the choice of their representatives, there were some, who absolutely refused to elect any,* and others, who despising such vile recommendations, as well as the riotous yells of the lawless mob, (purposely paid by the Miguelite party, to insult and overawe the few individuals who came to vote,) elected men, worthy of the charge, and capable of freely delivering their sentiments upon the *application* of the before-mentioned points of law. Of this number, was the municipality of Pombal, who elected Luiz Godinho Valdez, and another, both considered men of honor and integrity. The Desembargo do Paço, however, fearing the character of such representatives, ordered this municipality to re-elect other members who might have the qualifications that had been recommended; and those who had been returned, though

* They are those we enumerate further on, as unrepresented.

their diplomas were found perfectly legal, were dismissed, and shortly afterwards, obliged to fly to England, to avoid being arrested!

On the 23rd of June, the Three Estates of the Kingdom at last assembled. The Bishop of Vizeu, well known as the principal agent of the Apostolical Junta,* opened the Cortes with an homily, bearing (a strong resemblance to those of the latter times of the Archbishop of Grenada,) in which, to shew, to the world the prodigious elasticity of his conscience, he pronounced the right of Don Miguel to the Portuguese crown, to be indisputable; it passing for nothing with him, that he himself had accepted the highest employments

* When we make use of the word *apostolical*, it is always in an opposite sense to that which it originally had: in its original sense, indeed, it is an object of our veneration and respect; in the modern acceptance, we cannot but recognize, in the individuals it designates, the tartuffes, and hypocrites, who so much disgrace the religion of Christ.

in the state, in the name of His Majesty Don Pedro the IV.; to whom he had sworn allegiance, and whom he had acknowledged, as legitimate king of Portugal. * By this *political sermon*,

* First of all, as Bishop, on the 31st of July, 1826, and afterwards, as Peer of the realm, in the Chamber of Peers. These oaths were taken by his excellency, *of his own free and spontaneous will*. And who shall absolve his excellency from these oaths? On any other occasion, and even on this, will this profound Theologian, tell those who take the oath of fealty to Don Miguel, that His Holiness the Pope, and the Pope alone, has the power of absolving them from such oaths, by the rule—*Papa est omnia et super omnia—Papa potest ex injustitiá justitiam facere; de jure contre jus dispensare; et facere infecta facta*.

It is reported that his holiness's Nuncio in Lisbon, seeing how readily the people in Portugal, were swearing, and committing perjury, wrote to His Eminence, the Patriarch Patricius the I., expressing his astonishment that such practices should take place, without a bull from the Apostolical See; and deploring that a schism, should thus be tolerated in the Portuguese church, so prejudicial to christianity in general, and to the Roman church in particular. We do not know what the answer of his Eminence was, but it is not unlikely, that it would partake of that profound erudition, which his Eminence acquired

it was declared, that all these *chosen worthies*, were there assembled to decide—Whether the Infante Don Miguel, was called by the laws of the country, to the succession of the throne of Portugal.

Although no one doubted how this question would be decided, from the ministerial manœuvres, that had taken place, and the promises given in the private conferences which preceded the public meeting, still the Desembargador José Accursio das Neves, an avowed agent of the Dowager Queen, and the oldest and most guilty accomplice in the plot of usurpation, thought it advisable to read a discourse *meditato temperamento*, for the purpose of demonstrating the presumed right of the Infante Don Miguel, to the Portuguese crown. We willingly forgive him the

while a member of the committee for the temporal amelioration of the monastic orders; and at the feet, (for humility!) of the Bishop Inquisitor General, whose levee he attended every morning, that the committee assembled.

plagiarism of repeating, *verbis ipsis*, the whole of the stale arguments used in the *political pamphlets*.—"Who is the legitimate king?—Don Miguel and his rights"—and "*Moi je ne suis pas un rebelle.*" We also willingly pass over his scholastic distinctions, between the natural meaning, and the subtle definitions of the law, &c., &c. But what we cannot tolerate is, that a *Desembargador*, should proclaim in the face of Europe, where the codes of the Portuguese law are accessible to every one, that the character of alien and native, according to Portuguese law, arises rather from domicil than birth : such an assertion betrays this *Desembargador*, to be either totally ignorant of the Portuguese ordinances, that he so profanely abuses in his shallow harrangue, or else, establishes his unparalleled perfidy, which latter, considering his general conduct, seems the most probable.* To this we answer, by merely refering him to the ordinance, Book 2d., Title 55th.

* There is not a single individual in Lisbon, who does not know Senhor José Accursio das Neves, *secretary to the Board of Commerce*. It was he who had the honor of

“ We order and decree, that such persons as
 “ shall not have been born within these kingdoms
 “ and their dependencies, shall not be considered
 “ natives of them ; although they may live and re-
 “ side therein, or be married to natives of them,
 “ and be constantly living, and have their domicile
 “ and property in them.”

Well then *most learned* Dezembargador is the character of foreigner, or native, derived accord-

planning and directing all the conspiracies against his late Majesty. He sometimes has had the *misfortune*, it is true, of being arrested, and tried ; but his colleagues, as honest as himself, always found *a deficiency of proof* in the proceedings, and therefore acquitted him. He possesses the wonderful secret of eluding all inquiries. When the constitutional government of 1821 wished to obtain an account from him, of several millions of *cruzados* (a cruzado is about two shillings) belonging to insolvents, which the Board of Commerce had received, and not divided among the creditors ; a general conflagration of the building, in which the business of the Board was conducted, destroyed all the documents belonging to the committee, thus, delivering him at once from this emergency.

ing to Portuguese law, rather from residence than birth? *Proh pudor!*

According to the practice constantly observed in all deliberative assemblies, on the conclusion of José Accursio das Neves's harangue, the discussion of the proposed question should have followed; but none took place; every thing had been previously arranged; and the Infante Don Miguel, was immediately, and *without further ceremony*, proclaimed King of Portugal.

We do not discover that there were present, at these mock Cortes, any representatives from the cities of Oporto, Miranda, Guarda, Braga, Vizeu, Pinhel, Aveiro, or from the towns of Monte-Morvelho, Guimarens, Valença, Monção, and Tarouca, nor from some others, to which this privilege was granted in 1642; as mentioned by Thome Pinheiro da Veiga, in his writings upon these Cortes, and those of 1641. This defect alone, renders null every resolution taken by the above Cortes, the people not being therein fully represented.

We see however, that the Act passed by them, is signed by one *Francisco de Assiz da Fonseca* on behalf of *João Diogo Mascarenhas*, who had been elected representative for *Faro*—by one *Manoel José Corrêa de Freitas Abreu Carreira de Gouvêa*, on behalf of *Francisco de Paula Leite*, one of the representatives for *Alcacer do Sal*;—by one *Antonio Maria Cardoso da Costa Cabral*, on behalf of his Excellency the *Bishop of Castello Branco*, elected representative for the city of the same name;—and again by the same *Francisco de Assiz da Fonseca*, on behalf of *Bernordo Thomaz de Gouvêu e Vasconcellos*, the representative for *Moncorvo*;—by one *Joaquim Manoel de Moraes de Mesquita Pimentel*, on behalf of *Ayres Guedes de Coutinho Garrido*, the representative for *Penela*;—and by one *Balthazar de Souza Botelho de Vasconcellos*, on behalf of the *Dezembargador João Gaudencio Torres*, one of the representative for the town of *Pombal*. Thus we see men signing as representatives of representatives, when the powers delegated to these never authorised such transference; nor in fact could they, such authorisation being contrary to the

very nature of those elections, which always demand the personal performance of the duty required, and are strictly limited to those elected; and that no defect might be wanting to so illegal and revolting an Act, besides the absence of several noblemen and prelates, who ought to have been present at the Cortes, and have signed the Act, we see, as if in compensation for this deficiency, the signature of one *Reverend Joaquim de Carvalho*, Representative for *Gôa*, subjoined to it, as though it had been possible for this man to have been elected by that city, and his nomination to have been returned from India to Lisbon, in the short interval of between the 3rd of May, 1828, when the decree of convocation was issued, and the 11th July of the same year, when the act was signed!!

In the sermon of the orator who opened these mock Cortes, it was stated, as already mentioned, that they were convoked for the purpose of deciding the question, (for as such it was proposed by the same orator) "Who was the legitimate king:

of Portugal?"—a formal trial was then instituted for their adjudication, between his Majesty Don Pedro the IV. and the Infante Don Miguel, as to the rights of succession to the Portuguese crown; a question which was to be decided by these Cortes, for that was the declared object of their convocation: we see also from the miserable speech of the Dezembargador, secretary to the Board of Commerce, that this brave *Palladin* had taken upon himself to be the advocate of the Infante Don Miguel, and the supporter of his pretended rights; but we do not see that his Majesty Don Pedro was ever summoned to appear at this court, nor that any one was appointed, even *prô formâ*, to plead his cause, or defend his rights.

All the writers who, *from particular motives*, have had to maintain, under similar circumstances, that a prince who is in the possession of a kingdom may be dispossessed of it, without a hearing, notwithstanding all their efforts to support this doctrine, have only been able to discover the two following reasons, on which to ground

their arguments;—1. Because the nation so situated acts with *supreme power*, without acknowledging a superior, in consequence of such circumstances having arisen, as to justify its re-assuming the *sovereign power*, originally delegated by the people to their kings. 2. Because many circumstances and just motives, pointed out by the learned, who have treated upon the subject, may concur to justify the act: as for instance the notorious fact of the excluded prince having no right to the succession, &c.

We do not expect that the champions of His Highness the Infante Don Miguel will be more successful upon this matter, than were the very learned men, who in 1641, and following years, undertook to reply to the charges made on the same subject, on behalf of Castile, against the proclamation of His Majesty Don John the IV.: From the writings of these learned men, we have extracted the above reasons; and shall therefore content ourselves with replying to those two arguments only.

We are well persuaded, that neither the Infante Don Miguel, nor his Dezembargador Accursio, nor his illustrious advocates, will admit *the sovereignty of the people*, on which the first argument is founded, although they have had recourse to this principle, in their endeavour to legalize the treacherous usurpation of the Portuguese crown, to the prejudice of His Majesty Don Pedro the IV.; covering their guilt under the plea of its being the general wish of the nation: but admitting the proposition as true, it does not follow, that he, who has the power of doing a thing, has also the right of doing it, by trampling under-foot every dictate of justice, and the immutable principles of natural law, which forbid the condemnation of any man without *a hearing*. How will these men, with God always on their lips, reconcile their conduct with the example and precept, in Gen., chap. III., where it is said, that God, before he condemned Adam, called to him, saying: “Adam, where art thou? What hast thou done?” How will they be able to reconcile their conduct also, with the following texts, taken from their adored *Decretales*?—*Nec non contra inauditam partem*

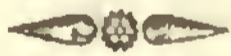
possumus aliquid definire—from chap. 1. *Le Caus. Possession. et Propriet.* : and with the other—*Non citatum legitime juris caret effectu*—from the *Clementina Pastoralis*, in the paragrah, *cæterum de re judicata*? What will they say for his Holiness, who in that *Clementina Pastoralis* annulled, on the ground of the want of legal summons, the sentence passed by the Emperor Henry, against Robert, king of Sicily, in the case mentioned in the same text? Enough.

The second argument, grounded on *the public notoriety*, is—*contra producentem*, for it was public and notorious, to the whole kingdom and to Europe, that His Majesty Don Pedro the IV. was in possession of the kingdom; that he was the legitimate successor to His Majesty Don John the VI.; that he had been recognized as such by his august father, by the regency of the kingdom, by all the authorities, and by the nation at large; by the foreign powers, and even by the Infante himself, who more than once confirmed it in his own hand-writing, and swore allegiance to him. What was notorious to the whole kingdom, and to

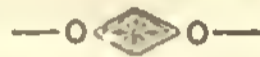
all Europe, was the treacherous usurpation, which was about to be perpetrated. Thus, even supposing that illegal assembly, to which the name of Cortes was given, to have had the authority necessary to decide the question, still they never could lawfully do it without His Majesty Don Pedro the IV. being heard.

Taking a summary view of what has been stated, if the Three Estates of the Kingdom were convoked by one who had no authority for so doing; if that was no longer the mode of forming the national representation; if, notwithstanding the terror that had been instilled into the nation, and the violent persecutions instituted against all who were not accomplices of the rebellion, they even stooped to suborn the election of the representatives in the most glaring and scandalous manner; if even so, many cities and towns, entitled to send representatives to that assembly were unrepresented; if some of those even, that had been elected, did not appear, and their names to the act were affixed by substitutes; if others were admitted, who had never been elected; if a great

portion of the clergy and nobility were not present at this sitting of Cortes ; if no discussion took place on a matter of such transcendancy ; and lastly, if there was no one, even *pro forma*, appointed to advocate, and defend the rights of His Majesty Don Pedro IV., upon the merits of which those Cortes, were about to pass sentence ; it is evident, that such an Act, from the circumstances which preceded and accompanied it, labours under illegalities so irreparable, that it can never be considered as possessing any validity, much less, to have the power of legitimating the proclamation of his Highness Don Miguel, as king of Portugal ; and therefore, we think the first part of this dissertation should terminate here.



SECOND PART.



INTRINSIC CIRCUMSTANCES, DOCTRINE OF THE ACT.



ALL Portuguese writers, from 1700 downwards, as well as all the juridical treatises, printed by order of government, have invariably maintained that our kings derived their power and authority, either from grant, or conquest. The following are undeniable facts, say they:

“ That Ferdinand, the Great, king of Leon and Castile, was the first who, after the overthrow of Spain, began the conquest of the Moors, who then occupied Portugal, taking from them cities and

towns, which he gradually annexed to his kingdom of Leon : *

“ That the kings, his successors, continued this *holy conquest* ; so that Ferdinand the III., and Alphonso the wise, of Castile, began also, to attack, and wrest from the Moors the kingdom of Algarves : †

“ That consequently, the kings of Spain became the sole, and independent masters of these kingdoms and their dependencies : ‡

“ And that the said kingdoms, having been conquered in a just war against the infidels, became the property of the said monarchs of Spain.” §.

* Garribay, Book II. and Book XXXIV., Chap. 2.

† Chronicles of King Don Alphonso the II. and III. of Portugal. Chap. 6. and following.

‡ Gloss. Pen. in Cap. Hadrianus 2 Dist. 63. Covar, Roxas, and others.

§. According to the law—*Naturalem §. ult. ff. de acquirend. rerum. dom. &c.*

It is equally certain and notorious: "That the said Ferdinand, king of Castile, when he divided his dominions among his children, left to the youngest, Don Garcia, Galicia together with the towns, which he had conquered in Portugal, giving it the name and title of kingdom:*

"That, therefore, when the kingdom of Portugal was first, dismembered from that of Leon it devolved by inheritance:

"That the kingdoms of Castile, Leon, and Portugal, subsequently becoming united under king Don Alphonso, he constituted Portugal a free sovereignty, independent of the kingdom of Leon, and gave it as a marriage portion, with his daughter Dona Tareja, to his son in law, Count Don Henrique, and his successors: †

"That in this manner, the said sovereign coun-

* Garribay, Book XXXIV., Chap. 4., pag. 773. João de Roxas, in Epitom. Success. Chap. 5.

† Chronicles of King Don Alphonso III. Chap, 10.

ty, on the death of Don Henrique, passed in the order of succession to his son Don Alphonso Henriques: *

“ That on this shewing, the kingdom of Portugal was neither separated from that of Leon by the *voice of the people*, nor was the first Count *elected by them*: on the contrary, he possessed it in virtue of the grant, from his father in law, as a marriage portion; the said county, thus becoming the property of him and his successors: † nor was the above mentioned prince, Don Alphonso Henriques, elected by the people of Portugal, but succeeded to his father:

“ That the said Prince Don Alphonso Henriques was proclaimed king by his army, and by the people who were present, on the eve

* In his Chronicles, Chap. 5. Garribay, Chap. 8.

† Vide the aforesaid Chronicles, Chap 1—Pala de Just. et Jur. et retin. Regni.

of the celebrated battle of the Campo de Ourique: *

“That notwithstanding this, neither those people, nor that army did, or could confer on him, either the territory, the government, or the supreme power, which had already been vested in his royal person by the right of dowery, and further, of conquest, the title of Count being merely substituted by that of King: thus the kingdom remained substantially, and as regarded the succession, virtually the same, as when a county†; according to the common law which regulates such changes:

“That the said King Don Alphonso, the wise, of Castile, granted in dowery to his daughter, the Queen Dona Brites, and her husband, King Don Alphonso of Portugal and to his successors,

* The same, Chap. 16. Garribay, Book 34—Monarch. Luzitana of Brandão, Part III., Book I., Chap 3.

† Argum. text. in Leg. si cum, 16 §. ult. ff. si quis caution.

all the towns, which he had conquered from the Moors in the kingdom of Algarves :*

“ And that according to these facts, it was also clear and manifest, that the said kingdom of Algarve was neither separated from that of Castile, by the *voice, or election of the people* ; nor, being a grant, declared at the time to be for the benefit of those on whom it was conferred, and their lawful successors, could the election of *the people* have any thing to do with it. ”

It is equally notorious, continue they :—“ That the said Count Don Henrique and the kings, his descendants, carried on, and completed the conquest of Portugal and Algarves—viz, the Kings Don Alphonso Henriques, Don Sancho I, Don Alphonso II., and Don Alphonso III. †

“ That therefore, to the monarchs of these

* Chronicles of King Don Alphonso III., Chap. 10.

† Vide the Chronicles of the said Monarchs.

kingdoms, in addition to the title vested in them by the said grant, belonged also the right of conquest, which had previously only appertained to the kings of Spain: *

“And that in this manner, the kingdoms of Portugal and Algarves, having been given by the crown of Leon, and conquered in a just war, became the property of those kings to whom they had been granted, and who had conquered them, to devolve in the order of succession whole and undivided, to their royal descendants, or nearest relatives of the last possessors, unless these should determine to the contrary.”†

The political writers of all ages have constantly argued against the principle of considering such grants and conquests, as capable of conferring

* Ferret de Justo et Injusto Bello, &c.

† Text. in Leg. Naturalem §. ult. supra citat. Code of the Portuguese law, Book II. tt. 35 §. 8. and tt. 96 in princip.

sovereign authority; maintaining, that such power can only be derived from the people, agreeable to the social compact entered into between them and their first rulers.

Cardinal *Bentivoglio*, say they, “that *ultra-montanean colossus*, the patron and staunch supporter of despotism,* could not avoid confess-

* The description given by the prophet Samuel, of arbitrary power, is as remarkable as true; we transcribe it from the bible—

“This will be the manner of the king who shall reign
 “over you: he will take your sons and appoint them for
 “himself, for his chariots, and to be his horsemen; and
 “some shall run before his chariots. And he will appoint
 “him captains over thousands, and captains over fifties;
 “and will set them to ear his ground, and to reap his har-
 “vest, and to make his instruments of war, and instru-
 “ments of his chariots. And he will take your daughters
 “to be confectionaries, and to be cooks, and to be bakers,
 “and he will take your fields and your vineyards, and your
 “olive yards, even the best of them, and give them to his
 “servants. And he will take the tenth of your seed,
 “and of your vineyards, and give to his officers, and to
 “his servants. And he will take your men-servants, and

ing that—In the beginning, kings were no more than chiefs of republics, and not kings of kingdoms—*Furono veramente tutti à rè da principio capi, e non rè ; de repubbliche, e non di regni.*” Here then we have it proved by the avowal of the absolutists, that no one was born, as the great politician Burlamaqui has established, with a natural and inherent right of supremacy. If nobody then, came into the world with a natural and primitive right of governing, this prerogative must have been acquired ; but what was the origin of such acquisition? Was it the will of God, or the act of man? Let us pass over the sacred writings that we may not be startled at the anathemas, fulminated by them against absolute and arbitrary kings. No one in the present age, endowed with

“ your maid-servants, and your goodliest young women,
 “ and your asses, and put them to his work. He will take
 “ the tenth of your sheep, and ye shall be his *servants*.
 “ And ye shall cry out in that day, because of your king
 “ which ye shall have chosen you : and the Lord will not
 “ hear you in that day.” Will any one still be in love
 with despotism ?

common sense searches in the enigmas of sacred policy, for the origin of royalty. The fundamental laws of all known and existing monarchies negative this divine origin, unless we take it in the mystical sense, that nothing is done without the will of God. If the divine laws did not institute royalty, continue the supporters of this opinion, then it was the human laws that adopted it, as the form of government considered the best; and thus, royalty becomes a delegated authority, derived from a greater power, which is that of the nation; and it must necessarily be so, unless we mean to affirm that a point is larger than a line, and that a part is greater than the whole.

To assimilate royalty to property, and to endow it with the same privilege of *legal prescription*, is to be ignorant of the true nature of royalty. There is no resemblance between the two. Royalty is purely intellectual; property, altogether material. With property, it is possession that confers right; with royalty, it is right that confers possession; for since this prerogative appertains to the most worthy, it is evident, that legitimacy

must exist before the possession. Royalty being originally elective, must have been deserved before it was obtained. Besides, property having only a material existence, is so connected with the owner, that it cannot be separated from him; but the connection between the Monarch and the throne, is not so strong that the man may not be separated from his power; and it has long been decided by a wise policy, that the person of the Monarch is distinct from his authority. *Est persona imperatoris ab imperio distincta, ut illâ sublatâ hoc nihilo minus duret.*

As to the right of conquest, say they in conclusion, the feelings of the age refuse to give this title to *usurpations* and *aggressions*: the proper answer to this point, may be given in the words of Cicero *De republicâ*—*Si principes justitiam sequi velint ac suum cuique restituere, quod vi et armis occupaverunt, ad casas et egestatem reversuri sunt.*

We do not interpose our humble opinion upon the subject; because as regards the point in question, it is indifferent whether our readers adopt the

one or the other ; as all must agree, that the laws, which are said to have been enacted at Lamego by Don Alfonso Henriques, jointly with the Three Estates of the Kingdom had been received from a certain period, * as the fundamental laws of the monarchy, until the Constitutional Charter

•Brandão himself, who, doubtless, was the first Portuguese writer, who mentioned these Cortes, expresses his opinion, with regard to their having ever existed, in the following terms, in his Lusitanian Monarchy, Book IX. Cap. 13. “ I at first doubted, whether I should here insert a copy of the proceedings of these Cortes, for I never saw any original document concerning them, and this copy includes matter which may excite remarks ; neither had I the necessary certainty of their having existed, nor could I give my readers any assurance of it.—But having declared that I only saw a copy of them in a manuscript, which came into my hands, containing other matter belonging to the archives of Alcobaça, and some men of sound understanding having advised me to publish them with this explanation, I think, that in so doing, I comply with my duty,” Chap. 14. “ This document bears neither date nor signature, but as it mentions the Bishop of Vizeu and Lamego, the Cortes to which it alludes, must have taken place, in the latter end of 1143, or subsequently ; for, previous to that period it appears, from authentic records, that there never were bishops especially appointed for those cities, which were subject to the see of Coimbra.”

of the 29th April, 1826, was published and accepted.

The Cortes of Lamego regulating the succession to the throne say—“*Pater si habuerit regnum cum fuerit mortuus, filius habeat.*”—*On the death of the father, the son shall inherit the kingdom*—the same rule was determined afterwards by the Portuguese laws to apply to crown property, and mortmains, in the ordenances of the kingdom, Book 2d. title 45 §. 3d. and 34th, title 100. Confirmed in this respect by the law of the 3rd of August 1770.

Ord. book 2d. title 45, §. 3d, he also decreed that crown lands should not be divided among several heirs, nor in any way alienated, but that they should always pass undivided to the first born legitimate male child of him, who died possessed of the said lands.”

Ord. Book 4th, title 100. “To remove the difficulties, which occasionally arise regarding the succession to entails, we decree that in the succession to these, as well as to mortmains, although

the eldest son may die *during the lifetime of his father*, or the possessor of the mortmain, if this eldest son should leave a child or grand-child, or legitimate descendants, the said descendants shall be preferred in their order to the junior child."

This order of succession by right of blood, regulated by the said fundamental law of the Cortes of Lamego, and by the invariable custom of the kingdom, confirmed by the above mentioned statutes, became the public law of the country;* and as there is not a single individual, who doubts his Majesty Don Pedro the IV. to be the first born son of his Majesty Don John VI. last possessor of the crown, how can it be doubted that he is also the legitimate King of Portugal, called to the succession of the throne by the fundamental laws of the monarchy?

So true is it that his Majesty Don Pedro IV.

* This is also the order of succession established in all the hereditary kingdoms of Europe—In England, see the *Magna Charta*—In France, the *Salique Law*—In Germany, the *Golden Bull*—In Denmark, the *Royal Law*.

is the lawful successor to the crown, and the natural King of Portugal, that as such he was acknowledged by his own father, King John the VI.; and after his death by the regency and the authorities of the kingdom, by the whole nation, by all the courts of Europe, and by the Infante himself, who now usurps the throne. We proceed to exhibit the proofs of these acknowledgments.

His Majesty Don John VI., during his lifetime, acknowledged his Majesty Don Pedro the IV. as his legitimate successor to the kingdom of Portugal.

1st, by his letter patent of the 15th of May, 1825, delivered to Lord Stuart, on his mission to the court of Rio de Janeiro. By this document his Most Faithful Majesty, not only actually recognizes the separation and independence of the Brazils, but regulates also the order of succession to both crowns, and very expressly declares his Majesty Don Pedro IV. to be his rightful successor to the crown and kingdom of Portugal. These letters patent, to which his Majesty alludes in the article below, will be published by one

of the representatives of his Majesty Don Pedro IV., and should they appear before this work comes from the press, we shall annex them at the end.

2d, By his decree, general constitution, and perpetual edict, of the 15th of November, 1825, in these words—It has pleased me to cede and transmit to my beloved and esteemed son, Don Pedro de Alcantara, heir and successor to these Realms, &c.*

3d, By the private instructions given, agreea-

* Don John, by the grace of God, King of the United Kingdom of Portugal, &c. to the subjects of all my States and dominions health.—Be it known to every one, to whom this my decree may come, *that by my letters patent granted on the 13th day of May, of the present year, I was pleased to take into my high consideration, how desirable and necessary it had become for the service of God, and the welfare of the people, entrusted by divine providence to my sovereign care, to put an end to the evils and dissensions, which have taken place in the Brazils, to the serious injury and loss, as well of the natives there, as of Portugal and its dependencies. My paternal solicitude has been unceasingly occupied in devising measures, for the re-establishment of the union and friendship between*

bly to his Majesty's orders, by the Baron Porto Santo, then minister for foreign affairs in Lisbon, on the 19th of November, 1825, to the Marquis of Palmella, ambassador at the court of London,

two nations, whom the sacred ties of kindred ought ever to unite, and preserve in perpetual alliance. To obtain these important objects, promote the general welfare, to consolidate the political integrity, and secure the future destinies of the Kingdoms of Portugal and Algarves, as well as of the Brazils, which with pleasure I raised to that dignity, preeminence, and denomination by the charter of the 16th of December, 1825, on which occasion the inhabitants renewed their oath of allegiance to me, on the solemn act of my proclamation at the court of Rio de Janeiro:—wishing, at once, to remove every obstacle which might impede and prevent the said alliance, concord, and happiness of both countries, like an anxious father, who only seeks the advancement of his children; it has pleased me to cede and transmit to my beloved and esteemed son Don Pedro de Alcantara, heir and successor to these realms, all my right to those States, creating them and acknowledging them as independent, with the title of Empire; reserving, however to myself, the title of Emperor of the Brazils. My intentions on this important subject are detailed in the treaty of friendship and alliance, signed at Rio de Janeiro, on the 29th day of August of the present year, and ratified by me this day, which shall be made public to all my faithful subjects,

for him to solicit from that Court the recognition of Don Pedro IV., as rightful heir and successor to His Majesty Don John VI., King of Portugal, notwithstanding the Treaty of the 29th of August 1825, relating to the independence, and

promoting by this treaty the various interests of my people, the most anxious care of my paternal heart: under these circumstances I am pleased to assume the title of Emperor of the Brazils, recognising in my aforesaid beloved and esteemed son Don Pedro de Alcantara, Prince Royal of Portugal and Algarves, the title of Emperor, and the prerogatives of sovereignty throughout the Empire. I further order that, for the future, I may be recognised with the etiquette corresponding to this dignity. I also decree, that all laws, letters patent, diplomas, or documents whatsoever, usually passed in my name, shall be worded as follows—Don John, by the grace of God, Emperor of the Brazils and King of Portugal and Algarves on this, and on the other side of the seas in Africa Lord of Guinea, and of the conquest navigation and commerce of Ethiopia, Arabia, Persia, and of India, &c. &c.—That all charters shall be conceived in the following terms,—I, the Emperor and King, make it known, &c.—That all petitions and papers, which are directed to me, or to my offices to which I have granted my Royal Prerogative shall be drawn up as follows—To your Imperial and Royal Majesty—That all dispatches directed to myself, either through the Secretaries

separation of the Brazils; which caused that Ambassador to write the following official note to Mr. Canning on the 7th December, 1825.

The undersigned Ambassador Extraordinary, and Minister Plenipotentiary of His Most Faithful Majesty, had the honor of officially addressing himself to his Excellency Mr. Canning, His Britannic Majesty's secretary of State for Foreign Affairs, for the purpose of requiring in his August Master's name the guarantee of His Britannic Majesty for the execution of the Treaty and convention signed at Rio de Janeiro on the 29th of August, 1828; he has now to submit to his Excellency another requisition which His Most Faithful Majesty, considers of great importance and which as well as the former

of State, or through any of the public offices, shall be addressed thus,—On his Imperial and Royal Majesty's service.—The present which I sign with the title of Emperor and King, *com guarda*, shall be executed in every respect as therein decreed, without doubt or impediment whatsoever; for which purpose I have given orders to the Desembargadores do Paço, &c.—Given at the Palace of Mafra, 15th of November, 1825.

originates in the stipulations entered into at Rio de Janeiro under the friendly mediation of His Britannic Majesty.

“The silence observed, in the Treaty of the 29th of August, respecting the succession to the crown of Portugal, unquestionably can never in any manner prejudice the rights, which His Majesty, the Emperor of the Brasils derives from his birth, as heir to his August Father: but it is equally clear that, from the distance at which the Emperor Don Pedro is placed from Portugal, the period of his accession to the throne may prove a time of difficulties and agitation to the Portuguese nation, which His Majesty’s paternal solicitude would gladly avert, at the cost of almost any sacrifice.

“The undersigned refrains from mentioning to the Illustrious Minister of His Britannic Majesty some of the political considerations, which, according to his view of the subject, bind the interests of Great Britain to the conservation of the two Crowns of Portugal and Brazil, in the same Line of the Royal House of Braganza. Such

considerations are so obvious, that it is unnecessary to recapitulate them; but he may be allowed to remind his Excellency Mr. Canning, that besides the motives suggested by political interests, there are others identified with the principles of good faith and honor, which the Cabinet of St. James's can never overlook, when called upon to adopt the final steps indispensable for the completion of a negociation, terminated under their auspices and agreeably to their wishes; and which, without this necessary step, far from leading to the proposed end of re-establishing peace between the two parts of the ancient Portuguese Monarchy, would leave the intentions of the venerable sovereign, who adopted the advice of his ancient and powerful ally, in a state of great perplexity, and would threaten Portugal, in the event of his decease, with dissensions, whose result no one can foretell."

From the tenor of this communication his Excellency Mr. Canning will no doubt perceive, that the object of the present note is formally to require, in His most Faithful Majesty's name, that

England should guarantee the succession of the Crown of Portugal to his son and lawful heir, the Emperor Don Pedro.

The undersigned, in the execution of the orders received for this purpose from his August Master, avails himself of the opportunity of reiterating to his Excellency the assurance of his high consideration—Signed, Marquis Palmella—To his Excellency Mr. Canning.

4th, In the decree of the 6th of May, 1826 *

* Deeming it convenient that the Government of these Realms and their Dependencies, should be provided for, during the illness which at present afflicts me, in order that the interruption of business, though short, may not accumulate arrears, so as to be an inconvenience hereafter, I am pleased to intrust the said Government to the Infanta Dona Isabel Maria, my beloved and valued daughter, in conjunction with the Counsellors of State, the Cardinal Patriarch Elect, Duke of Cadaval, Marquis Vallada, Count d'Arcors, and the Ministers, Secretaries of State, for each of the six departments, who will decide all questions by a majority of votes, the Infanta having the casting vote when the numbers are equal; all of whom will,

in which, after appointing a Regency to govern the kingdom, he adds——“ During the interval that the Portuguese shall not obtain ulterior dispositions from my lawful successor”—who, according to the before mentioned letters patent of the 13th May, and decree of the 15th November, 1825, and the instructions communicated to the Mar-

I trust, administer justice to my faithful subjects, and act in every respect with that wisdom which I so much desire. This, my Imperial and Royal determination shall also be equally effective in the event of the Almighty calling me to his presence, during the interval that *the lawful Heir and Successor* to this Crown, may not take the necessary ulterior measures. And that this my Imperial and Royal will may be known, I order that the Counsellor of State, Jozé Joaquim de Almeyda e Araujo Correa de Lacerda, my Minister and Secretary of State, for the Home Department, shall, on this decree having been signed by me, transmit copies of it to all the respective public stations in the kingdom, to which copies, subscribed by the said Minister and Secretary of State for the Home Department, the same full credit shall be given as to the original; any laws, regulations, or orders to the contrary notwithstanding. Palace of Bemposta, on the 6th of March, 1826—with the signature of His Majesty our Lord the Emperor and King.

quis Palmella, could be no other than His Majesty Don Pedro IV. already designated as such.

The Regency of the kingdom, also, acknowledged His Majesty Don Pedro IV., as lawful King of Portugal:

1st. By the Circular of the 20th March, 1826, by which all diplomas, orders and appointments, were ordered to be passed in his name.*

* The Regency of these kingdoms, created by the royal decree of the 6th of March, of the present year, presided by Her Serene Highness the Infanta Dona Isabel Maria, taking into consideration the necessity of regulating the forms for the expedition of public business, orders as follows:—That all laws, letters patent, sentences and charters, and other diplomas or documents, which it is customary to pass in the name of the sovereign, shall for the future be expressed as follows:—Don Pedro, by the Grace of God, King of Portugal and Algarves on this, and on the other side of the sea in Africa, Lord of Guinea, and of the conquest, navigation, and commerce of Ethiopia, Arabia, Persia, and India, &c., &c., &c.—Also, that all charters be drawn up thus:—I, the King, make known;—

2d, By the Deputation, which on behalf of the kingdom, the same Regency sent to congratulate His Majesty Don Pedro IV., and to tender him homage and fealty, as King.

that decrees be worded in the same style they always have been; that notices and despatches be written in the same manner as they are at present, viz.—The Government of these realms, created by the royal decree of the 6th March of the present year, presided by Her Highness the Infanta Dona Maria, &c.—That petitions and other papers, which are directed to the Sovereign, or to the superior offices of state, be draw up in the same manner as formerly, viz—On the top of the sheet—Sire—in the body of the writing, the style of Majesty, and on the direction, 'To the King our Lord, through such or such office.—The official communications remitted to the Sovereign, either through the Secretaries of State, or any of the public offices, as well as all other official communications, be addressed according to past custom—To His Majesty—On His Majesty's service, &c.

The Regency further determines, that all seals to public documents be regulated in the same manner as previous to the law of the 16th December, 1825, with the following inscription—*Petrus IV. D. G. Port. et. Alg. Rex*;—and in the same conformity shall the royal coat of arms used in these realms, which was altered by the law of the 13th May 1816, be regulated: every thing else

This deputation composed of the Archbishop of Lacedemonia, Duke of Alafoens,* and Dr. Francisco Eleutherio de Faria e Mello, presented to His Majesty the following address.

“Sire, the Regency, *pro interim* governing the kingdom of Portugal, have considered it their duty to send the deputation, who now have the honor of appearing before your Imperial and Royal Majesty, to testify the grief of the Portuguese nation, for the melancholy loss of the August Father of your Imperial and Royal Majesty, King John VI, whom the Almighty has been pleased to call to himself; and to present on

being restored to the same state as previous to those alterations, which have now ceased in consequence of the state of affairs, &c. See Padre Amaro for March, 1826, page 247.

* This Duke of Alafoens is the very same man, who lately, by the most shameless inconsistency, went about seducing the nobility to request the Infant to proclaim himself absolute king. How soon he forgot what he had declared and signed in this address!

behalf of *that loyal nation, their homage to your Majesty, our natural King and legitimate Sovereign*.... So great an affliction required consolation, and Providence, ever watchful for the interests of our country, has sent us the most opportune relief, in the August person of *your Majesty, fortunately called by the order of succession to occupy the throne of your glorious Ancestors*.... The well formed hopes of that loyal, and brave nation, did not deserve to be entirely disappointed; and if they cannot obtain, agreeable to their most ardent wish, the advantages of being governed by your Majesty in person, they secure, however, an important benefit, in receiving the first born daughter of your Majesty, Dona Maria II., for their Queen; in whose person, the distinguished dynasty of the most Serene House of Braganza will be continued."

3rd, By all the public acts of administration, every one having been in the name of His Majesty Don Pedro IV.

4th, By the fact of ordering a coinage to the

money of the realm with his name, which was issued, and accepted by the whole nation.

The civil departments of public administration throughout the kingdom, acknowledged His Majesty Don Pedro IV. as King of Portugal, by passing all charters, orders, grants and sentences, in his name, as did also the ecclesiastical and military authorities, * who, exercised any jurisdiction, or had any command in Portugal after the death of his Majesty Don John VI.

The Portuguese nation also acknowledged his Majesty Don Pedro IV., as their legitimate King, not only by freely, and spontaneously obeying, from the first moment, the government established in his name, but also by the decided

* There was not one single one in Portugal, including the Religious Orders, who did not swear allegiance to Don Pedro IV.; and actually obeyed his orders. How shall they absolve themselves now from this oath? And how will they evade this allegiance?

proof which they gave of their good will, in the public rejoicings, with which they celebrated the gift of the Constitutional Charter from His Majesty Don Pedro IV., and by freely and spontaneously attending to vote at the election of Representatives for the Chamber of Deputies: a fact, not only implying a full acknowledgement of the sovereignty of His Majesty Don Pedro the IV, who had ordered these elections; but which is also a formal acceptance of the new fundamental law which they had sworn to extinguishing, abolishing and revoking those of the Cortes of Lamego, which, founded on mere tradition, had hitherto, always served for the rule of government.

His Majesty Don Pedro IV. was also acknowledged King of Portugal, by all the foreign Courts, not only in the official communications directed to the Minister for foreign affairs in Portugal, in answer of those announcing his accession to the throne of that kingdom; but also by the new credentials with which they furnished their Ambassadors and Chargés d'Affaires to the Government then established in Portugal, in the name of

the same Sovereign ; and lastly, by the fact of their re-calling their Ambassadors and Chargés d'Affaires from Lisbon, as soon as His Majesty Don Pedro ceased to govern in that kingdom, through the treacherous usurpation of Don Miguel.

On the part of the Infante Don Miguel, the acts of recognition of His Majesty Don Pedro IV. as his legitimate King, Lord, and Sovereign, could not be more spontaneous, more frequent, more constant, or more explicit. We will enumerate the most striking.

The first is his letter of the 6th April, 1826, referred to in his subsequent one of the 12th May, of the same year, of which the original is preserved at the court of Rio de Janeiro: in that letter the Infante Don Miguel, not only expressly acknowledges his August Brother Don Pedro IV. as his rightful Sovereign, and King of Portugal, but also professes the greatest respect and obedience to him.

The second, is his letter of the 12th May,

1826, in which His Highness expresses himself as follows :

“ Sire, The intended visit of your Imperial and Royal Majesty’s Minister to London offers me an opportunity, of which I gladly avail myself to confirm those inviolable and faithful professions of obedience, respect, and love towards your Majesty, expressed in the letter I had the honor of addressing to your Majesty on the 6th of last month, to which I refer, renewing on the present occasion those *pure sentiments of loyalty*, which animate me towards the August Person of your Majesty, in whom alone, I contemplate the legitimate Sovereign, kindly preserved me by Divine Providence to alleviate the grief, which oppresses me for the loss of a Father so worthy of our sorrow. I continue here, employing my time to the best advantage in my power, and enjoying the truly paternal affection, with which their Imperial Majesties deign to honor me, and of which it shall be my constant aim to render myself deserving, as well as of the approbation of your Imperial and Royal Majesty, the highest object of

my ambition, &c., &c. Your Imperial and Royal Majesty's most faithful subject, and loving and obliged brother, Infante Don Miguel. Vienna, 12th May 1826."

The 3rd is his pure and simple oath to the Constitutional Charter, granted to the Kingdom of Portugal by his August Brother, Don Pedro IV. This oath was taken on the 4th of October, 1826, before the Baron Villa Seca, the Minister of Portugal at the court of Vienna; the whole in the hand-writing of the Infante, and by him sent to his August Brother; as the Baron Villa Seca declares in his communication of the 6th of October, 1826, transcribed in the Appendix to the Padre Amaro of the month of April and May, 1827.*

* Most Illustrious and Excellent Sir,—Since his Majesty the Emperor's return from Oremberg to this court, not only arrears of business, but also the presence of his Imperial Highness the grand Duke of Tuscany, and other princes of the Imperial Family, who were met here together, have prevented that Sovereign from appointing an earlier interview with his Most Serene Highness the Infante

The 4th., is the Contract of Espousals which the Infante Don Miguel celebrated at Vienna with her Faithful Majesty Dona Maria II., Queen of Portugal and Algarves on the 29th of October,

Don Miguel, on the subject of His Highness's oath of allegiance. The interview has finally taken place, and in the advice given by that Monarch to His Highness the Infante, the latter had the satisfaction of finding his own intentions, of *conforming in every respect* to the sovereign will of the King our master, *confirmed* by so wise and prudent a sovereign. Accordingly his most Serene Highness the Infante Don Miguel, on the 4th of this month, took his *pure and simple oath to the Constitutional Charter*, granted and decreed to the Portuguese nation by the King our master, on the 29th of April of the present year.

This oath written and signed by His Highness, was taken before me, and in the presence of the Viscount Rezende, Minister of His Majesty the Emperor of Brazil, whom his Highness *desired should assist at this solemn act*; reserving to himself the transmission of the said document direct to his August Brother, it having been so requested of him by the King our master.

Immediately afterwards, his Highness, on his part, and myself on the behalf of the Queen our mistress, Dona Maria II., addressed ourselves to his Holiness the Pope, for the purpose of obtaining the necessary dispensation, on account of the consanguinity existing between our said

1826; in which the Sovereignty of his Majesty Don Pedro, and of his August Daughter is repeatedly acknowledged: it is as follows:

“Contract of Espousals between Her Most Faithful Majesty Dona Maria II., Queen of Portugal and Algarves, represented by her proxy the Baron Villa Seca, of his Most Faithful Majesty’s privy-council, Ambassador extraordinary, and Minister plenipotentiary, at the Court of Vienna, and His Most Serene Highness the Infante Don Miguel, celebrated in the presence of His Imperial and Royal Austrian Majesty at the Imperial Palace of Vienna, on the 29th day of October, 1826.

“Her Most Faithful Majesty Dona Maria da Gloria, Queen of Portugal and Algarves, &c.

August Mistress, and His Most Serene Highness the Infante Don Miguel, in order to proceed to the celebration of espousals, which are to take place on the arrival of the said dispensation.—God preserve your Excellency. Vienna, 6th of October, 1826.—To his Excellency Don Francisco de Almeida.

BARON VILLA SECA.

having arrived at the age, when, by canonical and civil law, she may contract espousals, and having, in conformity with the same laws, and the laws of her country, obtained the royal, express, and legal permission of her August Father and natural guardian, his Most Faithful Majesty our King, to betrothe her to her August Uncle His Most Serene Highness the Infante Don Miguel, as also to appoint as her proxy for that purpose the Baron Villa Seca, of His Most Faithful Majesty's privy council, and his Envoy extraordinary and Minister plenipotentiary at the Court of Vienna; and His Most Serene Highness the Infante Don Miguel being also of proper age, with the requisite qualifications, in like manner to contract espousals with his August Niece her Most Faithful Majesty Dona Maria II., Queen of Portugal and Algarves, they agree to enter into the aforesaid contract of espousals, on the basis declared in the following articles."

"Art. 1. Her Majesty Dona Maria II., Queen of Portugal and Algarves, &c. represented by her above mentioned proxy, and his Most

Serene Highness the Infante Don Miguel in person, bind themselves by mutual engagement to carry into effect their future nuptials; the same august contracting parties declaring, that they regard these espousals as a promise to complete their future marriage, *per verba futuri*; according to the doctrine of the Apostolical Roman Catholic church, having previously obtained from the Holy Apostolical See, a dispensation for the canonical impediment of consanguinity existing between the two august contracting parties.

“ Art. 2. The two august contracting parties declare, that their future nuptials shall take place as soon as the August Female contracting party shall have attained the proper age, or there shall have been obtained an indulgence from the Holy See to obviate this impediment; and in either of which cases shall be carried into complete effect the powers, which the August Male contracting party shall transmit to the court of Rio de Janeiro, for the purpose of his being represented in the solemn act of nuptials by such person, as it shall please his August Brother to appoint; and

in order that *so happy an union* may take place, whenever his most Faithful Majesty, our King and Lord, shall deem most convenient and proper.

“ Art. the 3d. The August contracting parties hope, that it will please the same *Sovereign Authority*, that empowered them to enter freely into the matrimonial contract, to remedy whatever defects may arise from the absence of any of those formalities, customary with these species of contracts, and which, perhaps, may not have been strictly observed on the present occasion, in consequence of the circumstances and distance at which it took place. And for the due force and validity of this contract, of which the necessary and authentic copies were taken, written by Don Luiz Maria da Camara, Secretary to the Portuguese Legation at the Imperial Court of Vienna, acting as royal Secretary, and drawn up under the auspices of His Imperial and Royal Austrian Majesty; signed by the Baron Villa Seca, of His Most Faithful Majesty’s privy counsel, and Envoy extraordinary at the Court of Vienna, as proxy of

Her Majesty Dona Maria II. *Queen of Portugal and Algarves, &c. &c.*, and by the other August contracting party in person; which contract was also signed, in the quality of witnesses, by their Most Serene Imperial and Royal Highnesses the hereditary Prince Archduke Ferdinand,—Francis Charles, second Son of his Imperial and Royal Austrian Majesty—Charles and Joseph, Palinates of Hungary, and also by His Highness the Prince Metternich, Chancellor of the court and state, and of the royal household—as well as by his Excellency the Count Rezende, who officiated at the present contract as his Imperial Majesty's Envoy extraordinary and Minister plenipotenciary—Given in duplicate at Vienna, on the 29th of October, 1826—Infante Don Miguel—Charles, witness—Joseph, witness—Viscount Rezende, witness—Baron Villa Seca as proxy for Her Most Faithful Majesty Dona Maria II., Queen of Portugal and Algarves, &c. &c.—Ferdinand, witness—Francis Charles, witness—Prince Metternich, witness.”

The 5th are the conferences at Vienna with

the Ministers of Austria, England, France, Brazil and Portugal previous to his departure for Portugal, in the protocols of which the Infante Don Miguel promised, under his own signature, an implicit obedience to the orders of his August Brother as legitimate King of Portugal, on the 18th, 20th, and 23rd of October, 1827.

The 6th, is the letter written to the noble peers of the kingdom on the 25th of February, 1827, in which his Highness expresses himself in the following terms:

“ Noble Peers of the Kingdom, I received the letter, which you, Noble Peers, collectively addressed to me, in congratulation of the happy event of the solemn celebration of espousals, contracted between Her most Faithful Majesty Queen Dona Maria II., and myself.

“ This happy union, in which, as you so judiciously expressed it, the venerable laws of the monarchy were adhered to perpetuating the royal authority in the August family of Braganza, and

fulfilling the paternal and prudent wishes of my August Brother, and Sovereign, as well as my own inclination, will insure, under the protection of the Almighty, the peace of the kingdom, and the prosperity of the Portuguese nation.

“The congratulations, which you, Noble Peers of the Kingdom, addressed to me on so auspicious an occasion, filled me with the most heartfelt joy and gratitude, conscious as I am that they spring from that pure love and irreproachable fidelity, derived from your ancestors, who always gloried in devoting themselves to the service of their princes, in which you so exemplarily imitate them. I pray heaven, Noble Peers of the Kingdom, to favor you with every blessing, so earnestly desired by your friend the Infante Don Miguel.—Vienna, in Austria, 25th February, 1827.”

The seventh, is the letter of the 19th October, 1827, to His August Sister, the Infanta Dona Isabel Maria, in which Don Miguel writes as follows :

“ My dear Sister, Although I have no doubt that you are already acquainted with the sovereign determinations of our August Brother and King, in appointing me *his Lieutenant, and Regent* of the Portuguese dominions to govern them according to the Constitutional Charter, granted by him to the Portuguese nation; yet I cannot refrain from communicating to you, that the decree of the 3rd of July, 1828, has already reached my hands, in virtue of which I am fully authorised to assume the Regency of the Kingdoms of Portugal and Algarves, and their dependencies. Determined to maintain inviolable the laws of the kingdom, and the institutions lawfully granted by our August Brother, and which we have all *sworn to maintain and cause to be observed, and by them to govern the aforesaid kingdoms*, it behoves me thus to declare it, in order that my Sister may give to this solemn declaration its due publicity; and also to request you to make known my firm resolution to repress all factions, that under any pretence whatever may attempt to disturb the public tranquillity of those kingdoms: it being my wish that all

past errors and offences should be buried in total oblivion, and that concord, and the pure spirit of reconciliation, should succeed to the deplorable agitations, which have disunited a nation celebrated in the annals of history for its virtues, valour, loyalty, and respectful attachment to their princes.

“To carry into effect the royal intentions of our August Brother, I am making the necessary arrangements for my return to Portugal; and therefore, beg my sister will send, as soon as possible, a frigate and a brig of war to the port of Falmouth, from whence I intend sailing for Lisbon.

“May the Almighty preserve you, my dear sister, the length of years, so ardently desired by your very affectionate brother—Infante Don Miguel—Vienna in Austria, 18th October, 1827.”

Lastly, not to waste more time on a subject so fully demonstrated and established, the Infante Don Miguel once more acknowledged Don Pedro IV., as his lawful sovereign, when before the

whole nation represented by the noble Peers, and the Deputies of the kingdom, and in the presence of the several foreign ministers, he solemnly said, placing his right hand on the Holy Evangelists:—
 “I swear fidelity to His Majesty Don Pedro IV., and to Her Majesty Dona Maria II., lawful Sovereigns of Portugal, and promise to deliver up the government of the kingdom to Her Majesty, the Queen Dona Maria II. as soon as she shall become of age; I also swear to maintain the Apostolical Roman Catholic Religion, and the integrity of the kingdom; *to observe, and cause to be observed, the political Constitution of the Portuguese nation,* and other laws of the land; and to forward the general welfare of the nation as far as shall lay in my power.”

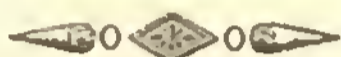
After so many, and such solemn oaths and promises, so freely and spontaneously given, many of them even unrequired and unasked, it would seem incredible that Don Miguel should have betrayed them all; and in a few days afterwards, usurp the throne, and cause himself to be proclaimed King; employing for this purpose the

basest and vilest means ever used by an usurper ; but all Europe are witnesses, including those Monarchs whom he has deceived and mocked with his repeated promises of obeying his Brother, and respecting the institutions granted by him to the Portuguese nation.

From acknowledgments so solemn as those we have described, and from the spontaneous obedience manifested towards Don Pedro IV. as King of Portugal, by all ranks of the Portuguese nation, without a single exception, it is a necessary conclusion, that this monarch was in possession of the full exercise of his authority as Sovereign of Portugal, and had effectively possessed the same from the death of his August Father, until lately dispossessed of it by the most perfidious treason and criminal rebellion : so that not even the right of *possession*, to which the jurisconsults of every country give so much weight, was wanting to constitute him legitimate King of Portugal.

We are now come to that part of our analysis

destined to refute the arguments, alleged in the monstrous Act, passed by the *self-styled* Cortes of Lisbon, on the 11th July 1828, against the legitimacy of his Majesty Don Pedro IV. We shall follow this production step by step in our refutation.



ACT OF THE THREE ESTATES OF THE KINGDOM,
ASSEMBLED IN CORTES, IN THE CITY OF LISBON,
PASSED ON THE 11TH JULY, 1828.

I.

Although each one of the Three Estates of the Realm, assembled in Cortes, in the discharge of the duties imposed upon them in the opening speech, pronounced on the 23d of June in the current year, presented to his Majesty an Act, in which they embodied the strong reasons why they acknowledged that, by right, the Crown of Portugal had devolved to his august person; it nevertheless appeared expedient and even necessary, and was therefore decreed by his Majesty, that, besides the special Acts, they should collectively draw up one single resolution, comprising the whole of the several bases thereof, and ob-

viating the doubts (unquestionably specious ones) which on this subject may be, or already have been raised by interest or party spirit; so that the same, being generally agreed to and signed by the members, of which the Three Estates are composed, *might become the united voice of the whole nation*; exhibiting and maintaining the fundamental law of the succession to the Crown, with that unbiassed impartiality and firm resolution suited to a people *seriously determined* neither to commit, nor admit injustice.

II.

Wherefore the Three Estates appointed a Committee, composed of an equal number of members of each, and members of acknowledged talent, proved gravity, and love of their country: this Committee, after meeting and again conferring on a point of such great importance, at length made a report, on a view of which the Three Estates un-animously agreed to the following:—

The first two paragraphs of this Act are destined to shew the reason why, three different and special Acts having been drawn up, one by each of the branches of the Three Estates, they were



not published under that form, and one only was published out of the whole. The reason is, says the Act, *because it was deemed expedient, and was so decreed by Don Miguel.* With this we have nothing to do. The peculiarity however of these two motives gives us to understand, that the said special Acts were considered equally unfit to meet the public eye, as to disguise the enormity of the usurpation ; and therefore, were not approved of, but others were ordered to be prepared in their stead. It is worthy of note the unceremonious manner, in which these styled Representatives of the nation were treated ; they who were *seriously determined to maintain the fundamental laws and dignity of the kingdom, and to frame a something, which should be the united voice of the whole nation.* This last compilation was not, however, so trifling a matter, but it consumed seventeen days, from the 23d June to the 11th July : so incongruous and ill arranged was the original mass ! Let us pass on.

The Act commences with establishing the following propositions :

1st, That His Majesty Don Pedro IV. is a foreigner.

2nd, That at least he became so from the 15th November, 1825, on which day he accepted, independent, the Crown of Brasil.

3rd, That the Cortes of Lamego exclude foreign princes from the throne, and also those who, though natives, are unable to reside in the kingdom; this they prove: 1st, by the petition of the people, in the Cortes of Thomar, to King Philip of Castile, and by that King's answer: 2nd, by the case of Queen Dona Beatrice: 3rd, because Don Alphonso III, Sovereign Count of Bologne, and therefore, according to their doctrine, a foreigner, became King of Portugal, not by his right of succession; but by the nomination of the Pope and the election of the people: 4th, by the advantage resulting to the kingdom, in being governed by a Sovereign who resides within it.

4th proposition. Lastly, that His Majesty Don Pedro IV., being a foreigner at least since the

15th November 1825, could not transmit to his children rights, which he could only acquire on the decease of King Don John VI., on the 6th of March of the following year.

These are the points which occupy the paragraphs 3rd to 12th of the Act. We copy them here to shew, that though it was a difficult task to reduce their contents to order, we have not omitted to notice every circumstance contained in them.

III.

If the laws of the kingdom excluded Don Pedro from the succession to the Crown, at least from the 15th November, 1825, the Portuguese Crown on the 10th of March, 1826, incontestably belonged to the Most High and Most Powerful King and Lord, Don Miguel the First; because, as the two Princes would be called to the throne, one after the other, on the first born being legally excluded, the Crown, by that legal exclusion, necessarily devolved to the second brother. In vain should we endeavour to discover among them another Prince or Princess, entitled to the succession on the legal exclusion of the first born,

for as no other, than a descendant of Don Pedro, could be found, it would be necessary to argue, what would be repugnant to reason and to every idea of law, that, being excluded, he still possessed a right to the succession ; or else it must be admitted, which would be equally as great, if not a more glaring absurdity, that on the 10th of March he could transmit rights, which, according to the supposition above stated, he had ceased to possess. Such Prince or Princess, while a minor, and under the controul of foreign parents, could not fail to be reputed also a foreigner in Portugal ; but even if this were not supposed to be the case, still he or she could not acquire rights, of which the only person who could transmit them was already deprived by law.

IV.

Here is the great, the immovable foundation, on which the Three Estates have acknowledged their legitimate King and Lord, in the august person of Don Miguel I. His elder brother was legally excluded : the descendants of the first-born, supposing the said exclusion legal, could not therefore derive from him, and much less from any other

person, rights to the succession : and the laws in such case indisputably call the second line to the succession.

V.

Who in fact, acquainted with the fundamental laws of Portugal, can doubt their excluding from the throne every foreign Prince, as well as every other prince politically disabled from residing in the kingdom ? And who can doubt that Don Pedro, at least from the 15th of November, 1825, alienated himself, by holding and considering himself as the Sovereign of a foreign State ? and that he disabled himself from residing in Portugal, not only by the act of constituting himself Sovereign of that same foreign State, but also by binding himself by oath to the laws thereof, which so expressly and peremptorily forbid it ?

VI.

The political alterations and changes of Brazil are still fresh in our memories : the Constitutional Charter of Brazil is also very generally known throughout Europe ; and any attempt on the part of the Three Estates to prove the existence of laws, and events, so notorious would be su-

perfluous, and even objectionable. Besides, it must be permitted to true Portuguese to spare themselves the pain of probing the still bleeding wounds of their unhappy country, of reviving the bitter recollection of their lavished kindnesses and benefits, either regarded with base indifference, or purposely ill requited?

VII.

To foreigners, however, who may be unacquainted with the fundamental laws of Portugal, and to certain natives, who may affect to forget them, the Three Estates allege and call to mind the literal and clear resolution of the Cortes of Lamego, couched in these words: "Let not the kingdom come to foreigners * * * * we wish that the kingdom, may not at any time, pass to foreigners:" the sense of which is so clear and distinct, that any commentary thereon would be useless and misplaced. They also allege, or call to mind, the petition (*unquestionably granted*) of the Three Estates in 1641, and particularly of the nobles, that genuine and signal monument, of loyalty and zeal for the country's good, as well as of the political wisdom of our ancestors. And it should further be observed, that it is not to be inferred from the aforesaid peti-

tion, *that there then existed any doubt respecting the decision of the Cortes of Lamego in this respect*; on the contrary, this decision constantly served as an argument to repel the pretensions of the Castilians, and as such it is adduced in the 5th clause of the famous resolution passed in the Cortes of that year. *In that petition no innovation was sought regarding the exclusion of foreigners*; it only aimed at *repealing, strengthening, and placing superior to all doubts, even the most fantastical of interested parties, the known and always prevailing laws of the country*; if we except the time of the frontiers being threatened by a formidable army, when pusillanimous judges have been terrified into decisions.

VIII.

Prevail most assuredly it did, as is seen in the plain narrative of those memorable events, in the controversy that was raised on the death of King Ferdinand, when Dona Beatrice, who was in the same situation as Don Pedro, experienced as regards the royal succession, the same repulse. Dona Beatrice was born in Portugal; she was the first born and only daughter of the preceding Monarch, yet, nevertheless she was excluded from the

throne. Why was she excluded? Was it on account of her sex? But females succeed to the Crown in Spain. The scruples respecting the marriage of Queen Leonora? But these scruples as recorded in history, only acquired form and consistency in the Cortes of Coimbra. Entering Portugal by force of arms? *But this hostile entry had been provoked by resistance.* The cause consequently, clearly arose from her being a foreigner; and this also was the ground of resistance. This was the reason, though the public records of those times do not dwell on the point, which caused the repugnance and resistance of the people. They knew the Portuguese laws; and the value of a native King, that is, one born and living among those over whom he rules, was justly appreciated by those true lovers of their country; their noble feelings rejected with horror the perils of foreign dominion; *and the mechanics of Lisbon and Santarem,* as described by the impartial chronicler of that age, evinced more honorable feeling and judgment in their resolutions, than some of the supposed Solons of the 19th century.

IX.

But they tell us that the Count of Boulogne was alienated from Portugal, and yet reigned in Portugal. The

Count of Boulogne, however, *did not reign by right of succession*; he reigned extraordinarily by *election*. The principle men of the kingdom went to France to fetch him; the Pope's authority confirmed the choice, and by immediately proceeding to Portugal he regained his birth-right. *He did not assume the title of King* until afterwards, when as it were by dispensation, he was specially empowered by the Estates. It was, besides, a very peculiar circumstance, that there was not at that time in the kingdom any other person belonging to the royal family; for the Infante Don Ferdinand was married in Castile, and the Infanta Dona Leonora was also married in a country still more remote so that the laws were not violated in the case of the Count of Boulogne, but rather in him an extraordinary remedy was sought for the most urgent wants of the kingdom; the spirit of the laws and the national customs being at the same time followed with the greatest possible scrupulosity.

X.

So mighty and glaring are the inconveniencies, or rather the evils, of a foreign King, whether he be such from birth or choice, that they could not escape the wis-

dom of our legislators, *and the instinct*, if the expression may be allowed, of the whole nation ; whence arose, that disreect and express laws are not wanting to guard us against such contingencies ; nor could the opinion and determinations of the people fail, in all cases, to correspond with these laws. In truth, the King being a foreigner by birth, though by ascending the throne he should become a Citizen, the ties of blood would be wanting, and with these would necessarily be lost those of reciprocal confidence and affection. A perfect knowledge of the feelings, habits, and real interests of the people would also be wanting, and thereby, one of the most important means of governing them with justice and success, lost. Should the King, notwithstanding his having been born within the kingdom, absent himself by taking up his residence in a different State, the kingdom would be thus delivered up to viceroys and lieutenants ; its interests overlooked, and in a great measure sacrificed to those of the people, with whom he may have chosen to reside ; and thus on the one hand, we should have discontent with its sad and ruinous effects ; and on the other, suspicious precautions and oppression, which would soon degenerate into tyranny.

XI.

The laws, therefore, held the want of birth, as well as the inability to reside within the kingdom, as sufficient grounds for exclusion from the throne. Alphonso III. did not govern Portugal from Boulogne ; nor did the Portuguese, his contemporaries, ever dream that it would be possible to reconcile the Government of Portugal with a perpetual, and morally invincible, absence from the Kingdom. It is true that this political monstrosity took place with the intrusion of the Kings of Castile ; but the absence of the Kings of Castile does not prove more against the Portuguese law of residence, than does their want of birth against the law for the exclusion of foreigners. It ought however to be observed, not only that, as soon as *the the galling yoke was shaken off by the gallantry of our ancestors*, the law which excluded residents was immediately repealed in the Cortes of 1641, but also that the nobles of the kingdom, even in their second chapter of the Cortes of Thomar, had the courage to petition that the *King should reside among us as much as possible* ; to which Philip found himself compelled to answer in the following words : “ I will endeavour to satisfy you.” How forcibly ought not the Portuguese to have been persuaded of

the necessity, whether *de facto* or *de jure*, of the King's residence within the kingdom, when neither negotiations nor terror stopped the mouths of the nobles, or prevented them in 1591 from presenting a petition of this kind; nor could the King, powerful and self-willed as he was, venture to return a less suitable answer.

XII.

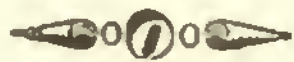
The laws therefore, thus clear, and thus prepared against all risks, whether of foreign domination, or of serious inconveniences in the internal government; the national opinion declared at various periods, and in the various events of our history; the inherent and sufficient reason of both the one and the other, exclude from the right of succession to the Crown of Portugal the actual first-born of the distinguished House of Braganza, and in his person, as obviously understood in law, all his descendants. A foreigner, by his own choice and preference, a foreigner by treaties, the laws of Lisbon exclude him in accordance with those of Lamego. Deprived of present, future, and morally speaking, of all possible residence within the kingdom, *he was in like manner excluded by the*

letters patent of 1642. And as, of course, the exclusion takes effect at the very point where its essential causes and foundation began to operate, if the plea of foreigner, and the moral impossibility of his residence were anterior, as in fact they were, to the 10th of March, 1826, when death deprived Portugal of a revered Monarch, the laws, as well as all Portuguese who respect and love them, award to the second son the succession to the Crown, from which the same laws had so justly excluded the first.

We will analyse and refute each of the propositions contained in these paragraphs.

FIRST PROPOSITION.

HIS MAJESTY DON PEDRO IV. IS A FOREIGNER.



REFUTATION.

THE public law of Portugal has not left undetermined the constituent quality of a native of the kingdom or of an alien, as the Dezembargador Accursio insinuates in his speech. In the existing ordinances we have the following title—Of the persons who are to be considered natives of these realms—See Book II., tt. 55, of the Philippine Ordinances by which the kingdom is governed. It says thus :

“To remove any doubts, which may arise as to what persons are to be considered natives of these realms of Portugal and their dependencies, to enjoy the privileges,

grants, favors and liberties accorded to the natives thereof, we order and determine that those persons, who shall not have been born in these Kingdoms, or their dependencies shall not be considered natives of them ; though they may dwell and reside in them, and may be married to natives, and may constantly live and have their abode and property in them.”

“§. 1st, Item, he shall not be considered a native who shall have been born in these kingdoms of a foreign father and native mother, unless the foreign father shall have his domicil and property in the kingdom, and shall have lived ten successive years therein ; because in such case, his children born in the kingdom shall be considered natives thereof ; but the foreign father can never be considered a native, although he may live in the kingdom, and have had his domicil therein for any length of time, as already declared. And those born in the kingdom of a foreign mother and native father shall be considered natives thereof.”

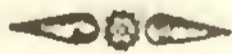
“§. 2nd, And should it happen that any native of the kingdom, who shall have been sent by us or by any of our

successors, or being employed in our service, or in that of the public, or on his way to such service, shall have any children born to him out of the kingdom, these shall be considered natives the same as if born therein.”

“§. 3rd, But if any native shall voluntarily leave the kingdom and its dependencies, and take up his residence in any other province or place, either alone, or with his family, his children, which shall be born out of the kingdom and its dependencies shall not be considered natives; because the father absented himself voluntarily from his native country, and the children were not born therein.”

Consequently those are to be considered foreigners relatively, to Portugal;—1st, who were born out of the kingdom and its dependencies, though they may reside, marry, constantly live, and have their domicil and property therein.—2d, Those who were born in the kingdom, but of a foreign father, and native mother, except when the foreign father shall have had his domicil and property in the kingdom more than ten successive years.—3rd, Those who were born out of

the kingdom, of parents who, although natives of the kingdom, voluntarily left it, and took up their abode elsewhere. Every one, therefore, not included in either of these three classes is to be considered a native of the kingdom; according to the *dictum* of the public law: and in which of these three classes of foreigners shall His Majesty Don Pedro IV. be included? Not in the first, for he was born in Portugal; nor in the second, for his father was a Portuguese, who always resided in the kingdom of Portugal and its dependencies; nor in the third, for he was neither born out of the kingdom, nor of a Father, who either voluntarily or involuntarily absented himself from it: it follows then, beyond all doubt, that he is a Portuguese and native of the kingdom: this is the first error in jurisprudence, and the first false position which the Act presents.



SECOND PROPOSITION.

HIS MAJESTY DON PEDRO IV. BECAME A FOREIGNER
AT LEAST FROM THE PERIOD OF THE 15th NO-
VEMBER 1825.

REFUTATION.

THOUGH we have seen how outrageously the *Accurcian* sectaries have tortured the texts of the law to colour their treacherous rebellion, we must confess, that we are at a loss to conceive how they can possibly infer from the following words of the Cortes of Lamego, which they cite:—"Let not the kingdom pass to a foreigner"—"We will not that the kingdom should at any time pass to foreigner" that His Majesty Don Pedro IV. lost his rights to the Portuguese Crown, by declaring himself Emperor of Brazil, an Empire independent of Portugal.

The words quoted were used on that occasion to shew the reason, why the daughters of the King were prohibited from marrying foreigners, and never were meant to convey more, than that those Cortes did not wish that the Kingdom should pass to any one, not born in the Kingdom of a native father; and never that a prince born in the Kingdom, whose father was a Portuguese, should be considered a foreigner, because he either lived elsewhere, or had accepted another Crown.

This is so true that even those Kings of Portugal who reigned nearest to the period, when the Cortes of Lamego began to be spoken of, never gave them this interpretation; on the contrary, they often resided abroad, and accepted of as many crowns as devolved to them by inheritance. The following decree which we transcribe is worthy of notice and removes all doubts on the subject.

“ Don Emanuel by the Grace of God, King of Portugal and Algarves on this, and on the other side of the seas

in Africa Lord of Guinea ; to all, to whom this our decree shall come, be it known ; it having pleased God that the Prince Don Miguel, my much beloved and esteemed son, should be the heir to the Kingdoms of Castile, Leon, Aragon, and Granada, and of many other dominions, &c. *and being heir to those dominions, and to these our Kingdoms of Portugal and Algarves, so when it shall please God that he shall inherit them all, he shall be the King of them all ;** and it being requisite on this account, as these Kingdoms will thus become united under one head, that it should be determined how they may be so ruled and governed, as best to promote the service of God, our own, and of the said prince our son, and succeeding heirs who may come after him, as well as the welfare of these our kingdoms, with the least possible ground for complaint on their part ; the principal object requisite for this purpose being, that the aforesaid Prince my son, and his successors, should conduct the affairs of these Kingdoms with native officers, to whom shall be intrusted all matters relating to them, and not to foreigners, who neither know the usages of the country, nor can conform to the feelings of the natives : considering all these things, we have

* Well then, can different kingdoms be united under the same sovereign, or can they not? what will the authors of the Act say to this?

thought it expedient to order and declare, by this our decree, the manner in which the affairs of these Kingdoms shall be governed, as well during the lifetime of the aforesaid Prince my son, as of his heirs, successors, and descendants, who may come after him, and *who shall inherit the whole of these Kingdoms united* ; * and it is our will and pleasure, that this our decree, with the whole of its contents, shall have the full force and validity of law, as if made in Cortes ; so that these our Kingdoms may enjoy for ever all the privileges granted thereby ; and being united under one Crown with those of Castile, they may be ruled and governed, and their affairs administered in the following manner :

“ Item, First we order and determine and establish by law, that whenever it shall please God, that my son or any of his heirs, who may succeed him, shall inherit these our Kingdoms, no situation whatever, appertaining to the administration of justice, shall be conferred upon or occupied by any foreigners, but by Portuguese exclusively ; whether it be President of the Court of Appeals, or of the Civil Court, Lord Chancellor, Chancellor of the Civil Court, *Dezembargadores* of the Criminal Court, or Com-

* We think that there cannot be a more decided expression, as to the union of different kingdoms under one sovereign.

mon Pleas, Especial Judge of our own causes, Corregedores Dezembargadores of either Courts, Corregedores of the different Departments, Officers of Justice, either of our own Court, or of any other ; Clerks of the above mentioned Courts, or any other office or employment appertaining to the administration of justice, of whatsoever description it may be, high or low whether Officers of Justice, Clerks, or Notaries public.

“Item, Should there be a *Lieutenant, or Viceroy, or Governor, or Assistant, or Prime Minister, appointed over these Kingdoms, ** whether only one or a greater number of these offices, or others similar to them, they shall not be conferred upon any other than Portuguese; so that neither in the Kingdom, nor in the districts, cities, towns or villages, shall there be any one appointed to the government, or to any situation belonging to it, except Portuguese.

“Item, that the Court of Appeals shall never be withdrawn from these kingdoms, but on the contrary, shall always exist therein.

* What an impudent falsehood then to assert, that the fundamental laws obliged our kings to reside in the kingdom.

“ Item, Whenever the aforesaid Prince, my son, or his heirs, shall visit these kingdoms, as soon as he or they shall have passed the frontiers, the officers from Castile and Aragon, who may have accompanied them, shall give up their wands of justice to the Portuguese officers, to whom from that moment shall be intrusted the administration of justice, and no foreign officer shall have any jurisdiction whatever during their stay in Portugal; excepting that those of their council, who may hold situations in Castile and Aragon, may deliberate on such subjects and affairs as may belong to the said kingdoms.

“ Item, That there shall always exist in these kingdoms the following officers; namely, Steward of the King's household, Lord Chamberlain, Assizer in Chief, Master of the Horse, King's Porter, King's Huntsman, King's Harbinger, King's Chaplain, and King's Almoner, who must all be Portuguese; and whenever the said Prince my son, or any of his successors shall come to these kingdoms, during their stay in them*, each of these officers shall personally serve his respective office, and no one else.

* Where then is the obligation to reside in the capital? Can the Kings of Portugal, or can they not, govern other states, and reside out of the kingdom?

“ Item, Whenever the said Prince my Son or any of his successors, be residing in Castile, or Aragon, or in any other part of the said kingdoms and their dependencies, or elsewhere out of Portugal, they shall always be accompanied by the Lord Chancellor, and Desembargadores of Common Pleas, Chief Secretary of State, and Clerks of the Chamber and by a Comptroller and Clerk of the Exchequer, who shall be all Portuguese, in order that by them and through them all affairs relative to Portugal, which may require to be *provided for from thence**, shall be expedited; and all dispatches, which may be forwarded to Portugal, and charters, grants, privileges and sentences, or any other writings or decrees, *which may be sent, or enacted regarding matters belonging to these kingdoms*, shall be written in the Portuguese language.

“ Item, That the situations of Comptroller of the Exchequer of these kingdoms, both of Lisbon, (and of Oporto, if

* This is something more (and a great deal more!) than what occurs in our present case; for these regulations were adopted for the purpose of actively, directly, and immediately governing Portugal from abroad: and this is not what his Majesty Don Pedro IV. has determined, who abdicates his Crown in favor of his daughter Dona Maria II., Queen of Portugal, whom he sends to Europe to reside and live among the Portuguese.

any) Clerks of the Exchequer, and Auditors of the different departments, and Auditor of the Treasury of the said city of Lisbon, Comptrollers, Receivers, and Judge of the Custom-house, Commissioners of Excise, clerks of all these offices, or of any other department of the revenue, whether high or low, shall not be conferred upon, nor held by any but Portuguese, nor of any other public office or establishment in the kingdom, of whatever description they may be.

“Item, That the posts of Lord High Constable, Admiral, Commander-in-Chief on the frontiers, Chief of the Staff, Marshall, Captain of the Navy, Captain of Cavalry, and all other Captainships whatsoever in the kingdom, shall not be conferred upon, nor held by any but Portuguese; that whenever they shall employ any of the inhabitants of the kingdom, either by sea or by land, their Commander shall always be a Portuguese.

“Item, That the Government, on the other side of the sea in Africa, of those parts belonging by conquest to the Portuguese, as well of those already conquered, as those which may hereafter be conquered, shall be given to no one but Portuguese; and all other offices and departments in those parts shall be regulated in the same manner, as determined in this decree with regard to Portugal; and

also the government of the islands as well those, which already are, or shall hereafter be discovered, belonging to this kingdom, shall be conferred upon Portuguese exclusively, and all offices and employments connected with them, shall be regulated in the same manner, as determined in this decree with regard to Portugal.

“ Item, That the trade of Guinea, and the establishment belonging to it, shall always be confined to these our kingdoms of Portugal, and shall be administered and conducted as at present ; and the commissioners, treasurers, clerks, and all officers of the same, as well as the governor, chief magistrate, and factor, and all other officers and persons, who are in the fort of St. George of the Mine, or in any of the fortresses which already are, or shall be erected ; also the captains, writers, and sailors, of the ships, employed in the said trade, and all other persons, who shall be engaged in the said traffic shall be Portuguese, and shall navigate ships of the kingdom.

“ Item, That the officers of the mints of these kingdoms shall be all Portuguese, and all gold which may come from the mine or from Guinea, shall be coined therein into cruzados.

“ Item, Whenever Cortes shall be convoked on the af-

fairs of these kingdoms and their dependencies, they shall assemble within the said kingdom, and in no other place whatsoever; and it shall not be lawful to summons their representatives to any Cortes, which shall assemble out of them; nor to propose, treat or decide upon any matter, which may, or shall in any degree relate to the said kingdoms and their dependencies, or to persons belonging to them, in Cortes celebrated out of the same; and we will, command, establish and decree, of our free will, knowledge, absolute and full power, any defect or deficiency, *de facto* or *de jure*, which may be urged relative to each or any of these matters herein contained, to the contrary notwithstanding, that the whole of the above mentioned be kept, observed, and maintained for ever, and have all the force and validity of law or privilege, or any other concession or grant, or of any other formality whatsoever, so that the above-named matters, and each one in particular, may be carried into full and complete effect, as declared: and we command, and desire, and recommend to the Prince, my much beloved and esteemed son, and to all his descendants, who may inherit the said kingdom of Portugal, that they keep, and execute, and maintain, and cause to be kept, executed, and maintained, every injunction contained in the above, without diminishing anything; and so doing, as we expect from him and his suc-

cessors, may the blessing of God the Father, the Son, and the Holy Ghost, and of the Glorious Virgin Mary, and of the blessed Apostles St. Peter and St. Paul, and all the celestial Host, and mine own, be with them.—In testimony of this we have ordered the present decree to be drawn up, signed by us, and sealed with our seal of lead—Given at our very noble and ever loyal city of Lisbon on the 27th day of March—Written by Antonio Carneiro, in the year of our Lord Jesus Christ, 1499—The KING.

That same law of Lamego, which excluded from the throne the Infantas married to foreign princes, became null and void from the time of the Cortes of 1385, when Don John I. was elected King. This is no assertion of our own, invented to serve the occasion; it is from Fr. Antonio Brandão, the Portuguese Historian, in his *Luzitanian Monarchy*, Book X. Chap. 14. These are his words:

“What appears beyond all doubt is, that the influence of these Cortes of Lamego in excluding foreigners, as well as in every other respect, prevailed only till the time

of King Ferdinand, the ninth Monarch of this Kingdom ; for the legitimate lineage of King Alphonso Henriques becoming extinct with this Prince the throne not only became vacant, but the Kingdom also revolved to its primitive state, for the people to elect a King, with those conditions they might deem proper The throne, therefore, becoming vacant on this occasion, and the resolutions of the Cortes of Lamego with regard to the succession no longer prevailing, the Three Estates assembled anew in Cortes at Coimbra, and accepted for their King, Don John I. ; and, as there was no condition then imposed prohibiting the Infantas from marrying foreigners, or debarring them on that account from succeeding to the throne, *a new and different system from that time commenced*, and the Portuguese Infantas thence forward, enjoyed the same freedom in this respect, as those of the other Kingdoms of Spain ; who are admitted to the throne, though married to Foreign Princes.” *

* What occurred on the marriage of the Princess Dona Beatrice, daughter of King Ferdinand, proves that in the reign of this King, either the Cortes of Lamego were not yet known, or that this article was become obsolete, as was the case with the other respecting the sons of the King's Brothers not ascending the throne, without being previously elected. That Princess, after having been successively promised in marriage, and betrothed to all the three sons of Don Henrique, was finally married to the King of Castile ; one

The third paragraph of the ordinance before quoted, very clearly and expressly declares, that “The natives of the Kingdom and its dependencies, who shall voluntarily quit the Kingdom, and take up their abode in any other country, *shall not forfeit their qualification as natives, but that their children only, born out of the Kingdom, shall not be considered as such.*”

It follows then that His Majesty Don Pedro IV, even supposing that it was by his own choice, and not in obedience to his August Father, and compelled by the imperious circumstances, in which he was placed, that he came to reside out of Portugal, did not, nevertheless, forfeit, according to the public law of Portugal, his inherent qualification of native of the Kingdom; neither did any of his children, born in the Kingdom, or in its dependencies, forfeit theirs: consequently

express condition of the marriage contract being that, if she died without children, her husband, the King of Castile, should succeed her in the Crown of Portugal; which was solemnly sworn to at Elvas, by the Portuguese Plenipotentiaries, by the King of Castile, the Queen, the Prelates and Nobles of the Kingdom.

the assertion on this head, so rashly advanced in the thing called an "Act," is false.

The Cortes of Lamego deliberated upon those cases, in which a Portuguese Prince *could possibly lose, by any act of his own, the Crown which he was entitled to inherit*, and declared, that the only case of this nature was—"His submitting to foreign dominion, and paying tribute to another King:"*

* And the King's Attorney General, Laurence Viegas, said—"Is it your wish that our Lord the King should go to the Cortes of the King of Leon, or pay tribute to him or to any one else? And they all rose up and with their swords drawn, exclaimed:—We are free. Our King is free. Our own hands achieved our liberty, and he who shall consent to such a proposition let him die: and if he be King, let him not reign, but lose his throne.—Then the King, with the Crown upon his head rose again, and with his sword in hand, thus addressed them:—You are well aware how many battles I have fought in defence of your liberties, of this you are good testimony, as are also my arm and sword; if any one consent to such a proposal, let him die for the offence; and should he be a son of mine, or grandson, let him not reign.—And every one exclaimed:—Be it so, let him die; the King, should he submit to Foreign dominion, let him not reign.—And the King again said:—Be it so.

neither of these circumstances occurring, by His Majesty Don Pedro's accepting, independent, the Crown of Brazil, how can it be deduced from the Cortes of Lamego, that he lost by that act the Crown of Portugal.

We have further in support of the doctrine we are espousing, that the law of succession, being prohibitory, can never be applied to individuals, whom it does not expressly prohibit from succeeding: and, there being no law excluding the Prince, who has accepted a foreign Crown, from the Throne, there can be no reason, on this ground, for debarring Don Pedro IV. from succeeding to the Crown of Portugal.

In further corroboration of our argument we have also the law of succession to mortmains, regulated, in every respect, on the same principle as the succession to the Throne, according to general opinion, and as declared by Dr. João das Regras, at the Cortes of Coimbra. It is the first born, who always succeeds to the entail, although he may reside in a different Kingdom or State:

there is no law, which debars him from the inheritance; and that it belongs to him, is declared by *Meyres De Majorati* 1st p. q. 57 No. 69 *Alciato Consult.* 638, *Petrus Ant. de Fidei Comm.* 911 No. 521. Therefore, why should the case of His Majesty Don Pedro IV. be made the first exception to the general rule?

Our opponents say, *that a series of decisions upon identical facts constitutes law.** We willingly agree to this principle: let us see then if we can discover any Kings of Portugal, who have lost their Crown by accepting that of a foreign Kingdom.

Notwithstanding the very particular care, with which we have perused the History of Portugal and its Chronicles, we confess most frankly, that we have not been able to find a single instance, to support the doctrine of the Miguelites on this

* Who is the legitimate King? Political Investigation respecting the lawful Successor to the Crown of Portugal, page 17, Lisbon 1828.

subject. Perhaps they may be more fortunate, if so, we shall be glad to see their new King grant them a *patent* to publish this discovery. What we did meet with was as follows :

“ Don Sancho II., having given himself up entirely to the charms and fascinations of his wife, Dona Mencia, without either power or the means of suppressing the violence and arrogance of the Nobles, the Clergy, and of Don Pedro of Portugal, who was plotting also to dethrone him, to crown his misfortunes, was deprived at this juncture of Don Payo, who lost his life most gallantly at the assault of Paderno ; by which the frontiers of the Kingdom were laid open to the incursions of the Infidels, who ravaged and destroyed every thing before them.

“ The malcontents now, more incapable of being governed, than of establishing the negligence and incapacity of the unhappy Don Sancho, to justify his deposition, petitioned Pope Innocent IV. to deprive him of the administration of the Kingdom. This unjust, arbitrary, and rebellious petition ought to have been instantly rejected by

that Pontiff, if for no other reason, than that he had no authority to give or take away any Kingdom, but that of Heaven: but Rome, who never lost an opportunity of usurping jurisdiction and authority from, Kings and people, both, deposed Don Sancho II. by the Bull, which is embodied in the Chapter—*Grandi de Suplend Neglig. Prælat.* Book VI; * and his Brother Don Alphonso, who had become Sovereign Count of Boulogne, (having married the Countess Dona Matilda, Sovereign of those States,) was called to the throne of Portugal; continuing however still to govern the States of Boulogne, jointly with the Kingdom of Portugal, where he was called Don Alphonso III.”

“ King Ferdinand assuming the title of King of Castile, as the great grandson of Don Sancho the Brave, ordered money to be coined with the Arms of Portugal and Castile united, and also

* This Pontiff, on the same occasion and year 1245, further disgraced the papal chair by the deposition of the Emperor Frederick!

that no distinction should be made at Court between the individuals of the two Nations; and further, bestowed the most liberal grants of lands, and other property, on the Nobles of Castile”*

“King D. Alphonso V., on his second marriage, had for his wife Queen Dona Joanna: their nuptials were celebrated at *Placencia*, where he was proclaimed King of *Castile, Leon, and Portugal*, appointing his son Don John, his heir and successor to the Kingdoms of Portugal, by the decree of the 16th Feb., 1476, written at Touro.”

“Don Emanuel, King of Portugal, having married Dona Isabella, heiress to the Kingdoms of *Castile, Leon, and Aragon*, left *Portugal* to be the King of, and govern, these three kingdoms, which he even did by virtue of a solemn decision of the Cortes assembled in 1498.”

“The Prince of Peace Don Miguel, King Don

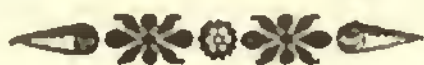
* Nunes, Faria de Souza, Ferreira, Le Quein, and others.

Emanuel's son, born at Saragossa, was acknowledged heir to the Kingdoms of *Castile*, *Leon*, and *Aragon*, on the 7th March 1449, and subsequently, heir to the Kingdoms of Portugal and Algarves, in the Church of St. Domingos in Lisbon.

Then, *if a series of decisions upon identical facts constitutes law*, if Alphonso III., notwithstanding his having accepted the Crown of Boulogne, was not excluded from that of Portugal, but, on the contrary, called to the Throne of these realms: if D. Ferdinand, although he assumed the title of King of Castile, and commanded a coinage with the arms of both kingdoms united; and also ordered that no distinction should be made at court between the individuals of the two nations, did not forfeit the crown of Portugal: if Don Alphonso V. was at the same time King of *Portugal*, *Castile*, and *Leon*: if King D. Emanuel was in like manner King of *Portugal*, *Castile*, *Leon*, and *Aragon*: and if his Son Don Miguel was also proclaimed heir and successor to all these independent kingdoms: if

none of these, from the fact of their having accepted these Crowns, were considered foreigners, and debarred from the Crown of Portugal; and if such is the public law of Portugal; by what law, reason, or fatality, shall his Majesty Don Pedro IV. be considered a foreigner, and excluded from the Crown?

We must therefore conclude, as a correct and necessary inference from the examples produced, that it is totally erroneous, false, and contrary to the Portuguese Public Law, and to the history of the Portuguese monarchy, that a Portuguese Prince, by accepting any other Crown, becomes a foreigner, and forfeits his title to that of Portugal.



THIRD PROPOSITION.

THE CORTES OF LAMEGO EXCLUDE FOREIGN PRINCES,
AND THOSE WHO RESIDE OUT OF THE KING-
DOM, FROM THE SUCCESSION TO THE THRONE.

REFUTATION.

THE analysis of the first and second proposition, proves this third one to be entirely false and erroneous; we may therefore, limit our reply to the arguments drawn from—the Petition of the Cortes of Thomar—the exclusion of the Queen Dona Beatrice*—The accession of the Count of Boulogne—The interests of the kingdom—with which they pretend to support this proposition: and to this we now proceed:

* Brites, Briatiz and Beatrice, are all to be found in the Chronicles and Histories of those times,—we have adopted the last, as the one used in the Act of the Cortes of Lisbon.

PETITION OF THE CORTES OF THOMAR.

It is ridiculous to infer, from the answer of Philip of Castile to the Cortes of Thomar, when he was requested to reside in the kingdom as much as possible, "I shall endeavour to satisfy you," that the Kings are obliged to reside in their respective kingdoms; on the contrary, the tenor of the petition, and the general terms of the answer, prove that this was not considered as an obligation imposed by law, and much less by the fundamental law of the kingdom.

There is however, in this article of the Act, a false assertion, namely, that the non-residence of the Philips in Portugal produced the revolution of 1640, which the authors of the Act characterize, *a gallant exploit of our forefathers to shake off the galling yoke, which oppressed them.*

We would willingly forbear touching upon the history of those calamitous times, that we might

be spared the recollection of what is now passing in ill-fated Portugal, in every respect similar to the times of the Phillips ; but we are provoked to it ; and as the circumstances are identical, we pray God, that the oppressed Portuguese may now also prove themselves *equally gallant, and shake off, at once and for ever, the opprobrious yoke which disgraces them.*

The causes which produced the revolution of 1640, are as follows :

“ The punishment of those who uttered a word against the government, and of *those who had not assisted the King in obtaining possession of the kingdom,* was so universal, although concealed, that few or none escaped ; those whom tyranny suspected, were *suddenly seized and hurried to the Tower of St. Gião, from whence they were thrown into the sea,* which unwilling to conceal so much atrocity, brought the bodies to the fishermen’s nets, the fish flying from them as if offended at the insult, refusing to become the food of

men, who, reversing the order of nature, wished to give them men for food.*

“The kingdom was overrun with *police-officers and spies* for the purpose of hearing what was said about the King and his ministers, and their conduct, and who approved or blamed them.†

“There were many *commissioners* who gave the most *iniquitous decisions*, depriving the subjects of their property : these, as well as the spies, were in high favor, esteemed and rewarded, and had every facility given to them ; while virtuous men were *threatened, persecuted, and compelled to quit the kingdom.*‡

* The Count of Ericeira in his *Portugal Restored*, Part I. Book 1st, pag. 39.

† Francisco Vellasco de Gouvea, *Just Acclamation of King John IV.*, Part II., paragraph 2nd, No. 42.

‡ The same author in the place quoted. *History of Portugal*.

“ Many noblemen and persons of all ranks were arrested, prosecuted and treated with extreme rigor, and were, either capitally punished, or sent prisoners to Spain; they did not even spare the women, whose property was confiscated and some of them imprisoned and others carried off to Castile.*

“ Numerous families in the kingdom were reduced to a state of beggary, and money was exacted from those not yet completely exhausted, for the purpose of ruining them entirely; if they refused, they were ill-treated by the government.†

“ The rights and privileges granted by their former Kings, far from being observed, were treated with contempt, and every thing carried on in opposition to them.‡

* History of Portugal by a Literary Society, Vol. 2 p. 228.

† Same Work, Section 7. p. 243.

‡ Francisco Velasco de Gouvea, in the place quoted.

“The Portuguese were carried away to fight in *unjust wars*, for the purpose of weakening the kingdom, *to satisfy the whims of those who governed it, and to indulge in cruelty and injustice.*”*

“The *Portuguese commerce and agriculture* were so entirely ruined, that the labourers, and artisans found no employment, and the merchants were without the means of gaining their living, much less of supporting their reputation and credit.”†

These, and *other acts of tyranny*, practised by the Philips of Castile, which are to be met with in all the records of those times, and which had been recommended by Philip II. to his successors, ‡ were the motives which compelled the

* The same Gouvea, and all the Histories of the time.

† La Clede, Damiaõ Antonio, and all the other Historians.

‡ Phillip II. left to his son the following written legacy, “That it was absolutely necessary to subjugate the king-

Portuguese to shake of the Castilian yoke, and by no means the non-residence of the Philips in Portugal, whose presence would certainly have been no obstacle to the execution of the systematic plan of subversion they had adopted.

dom of Portugal entirely : that to effect this, instead of oppressing the people with taxes and contributions, it would be advisable to grant them all the privileges and favors they might request ; to supply them gradually with Spanish Judges and Magistrates, to extinguish the Nobility, withdrawing them to Madrid, and commissioning them to serve in Italy, Germany, or Flanders. That having engaged by these arts the favorable opinion of the people, it would be desirable to foment discord among the principal families, always keeping a strict eye on the Duke of Braganza, and the relatives of his family, and seize every favorable opportunity of gradually extirpating their privileges ; and, any occasion or pretext being given or procured, that the Duke and his family should be arrested, their property confiscated, and after pacifying the nation by some mild and palliative measures, that all traces of a separate government should be abolished, and Portugal reduced, if not in name, at least in substance to a province of Castile : in the meanwhile he recommended, that the Vice-Royalty of Portugal should always be given to some Prince or Princess of the Royal Family of Spain, whose ministers alone should be in the confidence of go-

If the reader will compare what we have just transcribed, with the events actually occurring in Portugal, they will find that usurpers are the same at all times, and that *noble deeds of gallantry alone, can shake off their oppressive yoke*, as the act of the Cortes of Lisbon expresses it; the only truth it contains:—

EXCLUSION OF THE QUEEN DONA
BEATRICE.

The framers of the Act pretend here to assimilate the case of His Majesty Don Pedro IV. to that of Queen Dona Beatrice, in order to draw the inference, that as she was excluded from the Throne of Portugal, so also, ought Don Pedro IV. Every part of their argument on this point is truly curious.

vernment: that should there be any Portuguese, who might be depended upon, it would be politic to employ them, *and thus expose them to the odium of their own countrymen*; preventing any understanding between the two and debarring them from deriving any benefit from their intercourse."—These were the lessons of the Spanish Solomon to his son! La Clede, Vol. II., Pag. 392.

In order to establish the conclusion, that she was excluded on the ground of being a foreigner, *a circumstance at the time not thought of*, they reply to the real motives for her exclusion, by arguments, that would seem rather to belong to the *mechanics of Lisbon and Santarem*, (to whose sense of honor and discretion they ascribe the rejection), than to the Representatives of the nation, as they style themselves. These are their words: "*Why was she excluded? On account of her Sex? But women in Spain are admitted to the Throne.*"—This is admirable; were they treating of the Succession to the Crown of Portugal or of Spain? The question regarded the Crown of Portugal, and they answer with the laws of Spain! "*The scruples concerning Queen Leonora's Marriage? But these scruples, as history relates, only acquired form and consistency at the Cortes of Coimbra.*" Why! was it not in those Cortes that the question was decided? and those scruples; did they fall from the sky? were they a divine revelation? or were they laid before those Cortes as a national affair, known to every one? What! because they then acquired con-

sistency, that is, were brought forward and investigated does it follow that they were not previously known? What pitiful stuff! "*Entering Portugal by force of arms? But to this she was provoked by resistance.*" We thank them for establishing this principle as correct, that we may turn it against themselves by and by. "*Being a foreigner was the motive.*"

Our readers must have remarked that, however strongly some of the passages of this curious Act may have tempted us to attack them with ridicule, we have carefully abstained from availing ourselves of this weapon: the insincerity of the framers of this Act, in describing the motives of Queen Dona Beatrice's exclusion from the Throne of Portugal, forms one of these instances.

The puerile manner, in which they aim at concealing the true motives of her exclusion, and so gratuitously produce another which at the time was not alluded to, seems really incredible. For answer we shall merely present them with Dr.

João das Regras' speech in the Cortes of Coimbra, and then the truth of the matter will be ascertained, and also the degree of credit due to the arguments of our opponents.

“Queen Dona Brites might cause us to hesitate, as the daughter of the last King Don Ferdinand; but can you banish from your minds the ideas, excited by the certainty of her being the spurious offspring of an illegitimate marriage? Are you ignorant that the Queen Dona Leonora was married to João Lourenço da Cunha, by whom she had a daughter, who died an infant, and Alvaro da Cunha, whom you see there before you? Are you not aware that she deceived King Don Ferdinand, declaring that Alvaro da Cunha was not her son, but the son of her attendant Elvira and Lopes Dias de Azevedo: that João Lourenço had never known her; and that the King, as if bewitched, boasted of having found her a virgin? Have you any doubt that João Lourenço da Cunha, lately deceased at Lisbon, declared in his dying hour, that Alvaro da Cunha was his son, and as such bequeathed to him the

whole of his property? Do you not actually know that João Lourenço, although related to Dona Leonora in a prohibited degree, obtained a dispensation from Rome; a dispensation which the old Count, Dona Leonora's Uncle, had in his possession, and which many of you, who are present, have seen with your own eyes?

“ Under these circumstances, and the marriage having been consummated, Dona Leonora could not be married to a second husband, during the lifetime of the first, and therefore, Queen Dona Brites the daughter of Don Ferdinand is illegitimate. Besides this she *cannot inherit the Crown, from her breach of the marriage contract, which has all the force of law.* She and her husband promised and swore not to enter Portugal by force of arms, nor to claim the government of the kingdom so long as they should be without offspring: that infringing this agreement they would forfeit all right to the inheritance, and subject themselves to the payment of fines, that, were they to be exacted, all Castile, sold twice over, would not be sufficient to satisfy the penalty. Who is there

among you, ignorant that these same Sovereigns before they had any offspring claimed the government of our Monarchy, that they invaded the country sword in hand, and waged a cruel war against it, as the very stones of our streets are loudly proclaiming? After weighing these facts you will also consider, whether the Kings of Castile being schismatics, and supporters of the Anti-Pope, declared as such by the Papal See, are, or are not, debarred from the Succession to the Throne of Portugal?"

Now on a view of what we have transcribed, what resemblance has the case of the Queen Dona Beatrice, to that of Don Pedro IV., *legitimate son* of King John VI, and against whom no *breach* of matrimonial contract is alleged?

ACCESSION OF THE COUNT OF BOULOGNE.

Malice and bad faith are the predominant features of this Act: what ground could there possibly be to represent the Count of Boulogne, as a disnaturalized Portuguese—The King Don Al-

phonso never forfeited the qualification of a Portuguese, or of a native of the kingdom, by marrying a foreigner: the Cortes of Lamego never went so far as this; and much less did he forfeit the qualification of a native by accepting a foreign Crown; for the law of Portugal is contrary to such doctrine, as we have shewn: it is therefore the height of inconsistency to style him disnaturalized. It suited their purpose, however, thus to introduce this word, as if at random, at the commencement of the paragraph, that it might pass without observation, and enable them afterwards to apply this doctrine of disnaturalization to His Majesty Don Pedro IV. What shameless artifice!

The announcement, that Don Alphonso III. did not commence his reign immediately from Boulogne, is puerile in the extreme! Don Sancho II. continued to govern Portugal, until the daring Dominican Friar Don Gil, who valued life as nothing when risked in the service of the Pope, announced to him the Bull of his deposition, fulminated by Innocent IV. Don Sancho, knowing

at this time, that Don Alphonso was already arrived in Portugal, and that he had sworn at Paris to maintain the Portuguese laws and preserve the rights and privileges of the nation, and unwilling to excite a civil war, abandoned the kingdom and retired to Castile.

There never were two Kings, at one time, governing *de jure* the same kingdom, and therefore it is evident, that Don Alphonso could not have commenced to reign at Boulogne while Portugal still obeyed Don Sancho II. : he began however, his reign from the moment that he arrived in the kingdom, where the Towns, as he passed through, paid him immediate homage.

Our patience however is really exhausted at the assertion that Don Alphonso III. ascended the Throne of Portugal, by the appointment of the Papal See, or by the election of the people ; when in reality he was called by the law of heritage, which governs the succession to the Crown. Don Sancho, neither at the time of his deposition, nor afterwards had any issue : what then did the law of Portu-

gal prescribe in such a case ? The Cortes of Lamego say, “ If the King die (being deposed, is politically the same) without children, his Brother shall succeed to the Throne.” This Brother was Don Alphonso, eldest son of Don Alphonso II., after Don Sancho : it follows then that the Crown devolved to him by hereditary right, independent of any election of the people—election which never took place.* As soon as he arrived in Por-

* We also discover here the want of veracity and folly of one, who giving a fictitious genealogy of the Kings of Portugal, to induce the idea of many elections of Kings in the History of this Kingdom ; states that the Count of Boulogne was elected Administrator and Defender by the people, who on the death of Don Sancho also elected him king : the fact being, that as Administrator he was opposed, to the exception of a few malcontents who petitioned the Pope to appoint him ; and as Successor to his Brother, he neither could nor ought to have been elected, the Throne belonging to him, and to no one else, as the deceased King's Brother, and legitimate son of King Don Alphonso.

Duarte Nunes de Leão, Chronicles of King Don Sancho II., page 225.

tugal we find him commencing to govern the nation, under the title of Administrator and Defender of the kingdom ; and subsequently proclaimed King at Coimbra, and receiving the keys of that City, on the return of the worthy Martin de Freitas, who had been to Toledo to assure himself of the death of Don Sancho.

The designation, made by some of the Nobles to Pope Innocent IV. of Don Alphonso III., as the proper successor to the Throne, neither was, nor could be, considered as an election of the people. They were not empowered to represent the nation, and did no more than point out to the Pope who was the Prince, called by the laws of the country to the Throne in default of King Don Sancho. *

* The Pope, who was well informed upon the subject, told them that they ought to elect the party, whom they considered entitled to it—The Embassy, previously determined upon their choice, having kissed the Pope's feet, told him that the most proper person for the charge was the Infante Don Alphonso, Count of Boulogne, Brother to King

INTEREST OF THE NATION.

This description is truly pathetic, and sufficient to move the very stones. We do not wish to be the apologist of Vice-regal Governments, but among those of other descriptions, we know one still worse, and that is the Government, called *legitimate and natural*, at present ruling *de facto* in Portugal. This Government consulting the true interests and liberties of the people, keeps immured in loathsome dungeons the most distinguished and virtuous characters, and the men of the greatest abilities, possessed by the nation, who could neither leave the kingdom nor yet would join in the rebellion. Under the title of sequestration it plunders them of all their property, and leaves their worthy but unfortunate families, to perish in the midst of want and misery. Treading in the

Don Sancho, and to whom the Throne devolved by right, in the event of that King's having no issue.

Duarte Nunes de Leão.—in the said Chaonicles, page 208.

steps of the *humane and beneficent Sylla*, it pollutes the Portuguese soil with the most general and iniquitous proscriptions; ordering search for crimes of political opinions, which the good sense of their Majesties Don John VI. and Don Pedro IV., had either overlooked or forgiven. And, that nothing might be wanting to the happiness of the people, they deprive proprietors of the means of cultivating their lands, and the labourer of the possibility of earning his bread. So effectually have they paralyzed Commerce, that not a foreign ship is to be seen in the Portuguese Ports, unless for the purpose of transporting the wretched inhabitants from the fangs of persecution, misery and death: the customs at Lisbon are reduced to 300,000 Reis, [about £80 per month] which formerly yielded upwards of 300,000 crusados, [or £3200] and thus they have the opportunity of displaying their humility, collecting alms throughout the different parishes of the kingdom to defray the expenses, and urgent necessities of the State!!!*

*There were orders issued to all the parishes to beg Alms, and the Lisbon Gazette published a list of the humane

We repeat that we are no apologists of Vice-regal Governments : Vice-regal however, was the Government of Portugal from 1808 to 1814, and yet during this interval the nation performed those prodigies of heroism, which preserved on the head of their King the Crown, which he inherited from his Ancestors, and which the victorious Conqueror of almost all Europe, vainly tried to usurp ; and it was no obstacle to this success, that King John VI. found himself precisely at the same distance, that His Majesty Don Pedro IV. now is !

Supposing however that there should be every thing to fear in a Vice-regal Government, particularly if Bishops of Vizeu, Counts of Rio Pardo, Viscount Santarem, Furtados, Bastos, Baratas, Semblanos, and others of this stamp, are to be the men in power, yet, what has this to do

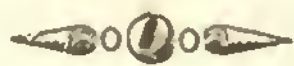
and charitable, who succoured the State with their benevolent contributions.

with the question; when His Majesty Don Pedro has abdicated the Crown in favor of his daughter, who is already arrived in Europe to reside among us.



FOURTH PROPOSITION.

D. PEDRO IV. COULD NOT ON THE 6TH MARCH, 1826
TRANSMIT TO HIS CHILDREN RIGHTS WHICH HE
HIMSELF HAD LOST, ON THE 15TH NOVEMBER, 1825.



REFUTATION.

FROM our exposition in the analysis of the 1st and 2nd Proposition, it is clearly evident, that the exclusion of Don Pedro IV. from the Crown and Throne of Portugal, not being verified on the ground of his being a foreigner, or becoming such by accepting the Crown of Brazil, on the 15th of November, 1825, the political anathema fulminated against his Accession in the Act of the Lisbon Cortes becomes a dead letter. But this *Accurcian* sect in their monstrous production betray such ignorance of the

Portuguese public law, as not to have perceived, that according to this same law, supposing even Don Pedro IV. to be legally debarred from the Throne of Portugal, the Crown could not pass to his Brother Don Miguel, while there existed a single descendant in the primogenial line; and they advance the erroneous and absurd proposition, that on the legal exclusion of the first born, the Crown naturally devolved to the second brother, *who in such case was called to the Throne.* But we will not content ourselves with mere declamation, like the compilers of the Act; we proceed to the proof, which shall be after our usual mode, with the laws before us.

The Cortes of Lamego say thus:

“On the death of the father, the son shall inherit, *then the grandson, afterwards the great grandson,* and finally, the sons of the sons *to all succeeding ages.*” *

* Pater se habuerit regnum cum fuerit mortuus, filius habeat, postea nepos, postea filius nepotis, et postea filii filiorum in secula seculorum per semper.

The National Code Book IV. title 100, at the beginning says——

“To remove any doubts which may arise re-
 “garding the succession to mortmains, we deter-
 “mine, that, in the succession to them, and to entail-
 “ed property, *although the eldest son may die dur-*
 “*ing the life-time of his father*, or of the posses-
 “sor of the mortmain, if the said eldest son shall
 “leave a son or grandson or legitimate descen-
 “dants, *the said descendants in their order of*
 “*succession, shall be preferred to the second*
 “*son.*”

THE LAW OF THE 7TH OF AUGUST 1770, DECLARES
 THE SAME.

Now if by the laws of Lamego, which are called the fundamental laws of the monarchy, and if by the subsequent legislation, it has been laid down as an incontrovertible principle, that the descendants of the first-born, *in all ages to come*, should be preferred, in the order of their succession, before the second son, as heirs to the throne;

it follows as a natural consequence, that, even supposing His Majesty Don Pedro IV. to labour under any impediment in succeeding to the sovereignty of Portugal, (and none greater can there be than death, expressly alluded to by the law,) still Don Miguel, the second son, could not succeed; legitimate children existing of Don Pedro IV. entitled to the Crown, in preference to the second son. Consequently, there cannot be the smallest doubt, that Dona Maria da Gloria, a Portuguese by birth, and daughter of Don Pedro IV., who unites in her person, in addition to these hereditary rights, those also conferred on her by her august Father's legal abdication, is the legitimate Queen of Portugal, whom the nation had already acknowledged, and sworn allegiance to, before it was drawn into the commission of perjury and treason by the accomplices of Don Miguel.

If this was the *great, the immovable foundation* as announced in the Act of Cortes, which led its authors to devolve the Crown to Don Miguel, and if its fallacy and utter inconherency are fully proved, it is impossible to avoid considering

Don Miguel, as an usurper of rights he has no title to, and an intruder on the Portuguese Throne, which indubitably belongs to Dona Maria II.

XIII.

It did not escape the Three Estates of the Realm, that there was another very powerful motive for the exclusion of Don Pedro. The Letters Patent above mentioned, *granted the petition of the Cortes*, “that the oldest son when the King possessed two distinct sovereignties, should succeed to the larger, and the smaller should be given to the second.” It is undeniable that the last King, on Brazil being raised to the rank of a kingdom, possessed two distinct, *though not separate*, sovereignties, and that, on their being separated by the law of the 15th November, 1825, he possessed them precisely within the conditions, which the said Letters Patent supposed or had in view. To pretend that, to be applicable to the case in point, the last King ought to have possessed them separate some length of time, and possessed them by inheritance, is a gross perversion of the law, to the manifest injury of its spirit, and unworthy of a cause which ought to be treated with candour and gravity; to pretend that the petition of

the people, *granted by the legitimate Sovereign*, does not constitute valid law, is either a tergiversation to which the weak only could recur, or it proceeds from a total ignorance of the nature of our laws made in Cortes. It is true that the people at that time petitioned, that the external formalities of the other laws should be given to this, and with them that it should be incorporated in the national code: but, when they so petitioned, they had not in contemplation the essence of the law; they looked, as they themselves declared, to its notoriety, and to the *higher degree of respect and force, given to laws by their external formalities**. The Estates, nevertheless, do not hesitate to put aside this basis, which, though certainly entitled to every consideration, they do not consider to be necessary.

It would appear that, the Doctors of the *Ac-*

* If Kings admit and tolerate this principle, that the people may, independently of their Sovereigns, give the validity of law to whatever they may request, every pure and mixed monarchy will disappear from the face of the earth, and nothing remain but pure democracy.—Such are the authors of the Act! The title of Republicans more justly belongs to them, than to those victims they accused and prosecuted as such in July 1827.

curcian School, the authors of the Act we are confuting, never read the petition of the nobles to the Cortes of 1641, when they can assert, in Article 7, where they also treat upon this point, that it was presented, "*not because their existed any doubt as to the exclusion of foreigners by the Cortes of Lamego, but for the purpose of repeating and strengthening the established and prevailing laws, and placing them beyond all doubt, even the most fantastical, of interested parties!*"

Well then, we will copy that part of the Petition of the nobles, which refers to this subject, and two things will then become apparent to every one.—1st, The true reason alleged by the nobles for making the petition: and 2nd, The bad faith, with which these mock Cortes of Lisbon dare to falsify the ancient records of the kingdom, in order that they may serve their criminal purposes!

The petition of the Estate of Nobles, runs thus —"*And as this law (that of the Cortes of Lamego on the exclusion of foreigners) never took effect after the time of our King Don Ferdinand, the*

Ninth of this monarchy ; and as, at the Cortes of Coimbra assembled by King Don John I., there was no condition whatever imposed prohibiting the Infantas from marrying with foreigners, or debarring them on that account from succeeding to the Throne ; and afterwards during the reign of King Don John I., that Sovereign attempted to renew the law, as recorded in the Memorials and Chronicles of those times ; the Estate of the Nobles pray, &c. —”

Let us not lose our time over these disgraceful falsehoods and barefaced effronteries.—They are not from the Representatives of the Portuguese nation, but from a *set of rebels*, traitorously assembled to rob his Majesty Don Pedro IV. of his inheritance. We proceed to the arguments as they call them of this part of the Act. They are two ; which, with their accustomed good faith, they assert to have been established by King John IV.—1st, 'That foreigners should never succeed to the Throne, nor their children, although they might be the nearest relatives to the last King.—2nd, That if the King possessed two separate

kingdoms, the eldest son should succeed to the greater, and the second son to the smaller.

Although the Act itself might exempt us from replying to these arguments ; having, at the end of the article in question, (as if conscious of its weakness,) this addition, “ *The Estates however do not hesitate to put aside this basis, which though certainly entitled to every consideration, they do not consider to be necessary*”. But we do not choose to take advantage of their carelessness, that we may not leave the slightest doubt upon such a subject.

It is true that there were two petitions, to the above effect, made by the Estates to King Don John IV., but what was his answer? The following :

“ I shall order a law to be made in the manner designed by King John III.,* with those declara-

* In the reign of King John III. they assembled to review the clause of the Cortes of Lamego, that the Infan-

tions and modifications, which may be thought expedient for the welfare of the kingdom.”

Was this law made, and was it embodied in the Portuguese code of laws, as the Estates also requested? No.—Neither was the law made, nor embodied, for it never existed. What conclusion then can be drawn from the Cortes of 1641 on this subject?

Those Cortes were so fully aware that His Majesty's answer was no accomplishment of their request, that on that very same occasion they replied, urging him to its immediate execution: but they only succeeded in obtaining the appointment

tas who should marry out of the Kingdom, should be debarred from succeeding to the Throne; and I saw an excellent Treatise which was written at the time on this and other subjects. It is said that it was the Queen Dona Catherine who prevented its passing, in order that her daughter the Princess Dona Maria, who had married in Castile, should not be deprived of the right of succession to the Throne, which might, by chance, devolve to some of her children—Fr. Antonio Brandão's Lusitanian Monarchy, Book I. Chap. 14.

of the Doctors, Thomé Pinheiro da Viegã, Luiz Pereira de Castro, Jorge de Araujo Estaço, and Antonio Paes Viegas, to examine into the matter and frame a law. The affair, however, went no further; and the law was never made: perhaps, these juriconsults deemed it advisable that, the same degree of freedom in contracting marriage should continue to prevail, which the Cortes of Coimbra of 1385, had expressly bequeathed to them.*

These styled Cortes of Lisbon could not avoid acknowledging that the law was never made, and that the measure never went beyond the *request of the Estates*; and they have therefore had recourse to the absurd artifice of stating, that the letters patent of the 12th of September, 1642, by confirming the proceedings of those Cortes, granted the Petition—God help us with such arguments. Every one is aware that, in those as well as in all other Cortes,

* In the Cortes of Coimbra of 1385 it was positively determined that no one should be compelled to marry: on the ground that every one ought to be at liberty to marry as pleased.

which never were but deliberative assemblies, (except on the Throne becoming vacant,*) there were requests made by the Three Estates which were immediately *acceded to* by our Kings, and others which were either *refused or reserved to* be settled by a special law, in such manner, as might appear most convenient to the interests and

* The Chronological and Analytical Annals, Part I. Divis. 12, Art. 669, contain the following: "From actual inspection of all the records of the Cortes mentioned, it is clear: 1st, That the practice, of the Three Estates assembled, was to petition for whatever they thought conducive to their interests: 2nd, That the respective Monarchs listened to all those, who presented requests, as well with the authority of supreme masters, as with the benign clemency of Fathers of their subjects: 3d, That after duly weighing the petitions they assented, to such as they thought founded on justice, in the manner they deemed most convenient; and rejected, with the same sovereign free will, such propositions or petitions as they considered either not to require their interference, or to be destitute of justice; expressing themselves on all occasions in that imperious style, which is so remarkable on an inspection of the records of those Cortes: so that it never entered the minds of the Representatives that they had the least authority to give the law as sovereigns.

general welfare of the kingdom: therefore the letters patent, which followed the closing of those same Cortes, could only confirm such measures as had been definitively agreed upon; and not that, which *had been deferred for a special law*, to be framed more at leisure, and which was to be the result of a special committee appointed for the purpose. If this is not so, and every request made in those Cortes became law, by the letters patent of the 12th of September, 1642; why publish afterwards the law of the 9th September, 1647, respecting the King's oath for the maintenance of the privileges and customs of the nation, which had been brought forward in those Cortes, and like the Law of Succession deferred to be afterwards decided upon, as might be thought most convenient?

For once we will condescend with the Authors of the Act of the denominated Cortes of Lisbon—we will suppose that it passed into law,—“that foreigners should be debarred from succeeding to the Throne of Portugal, and that, when the king possessed two separate kingdoms, his eldest

son should succeed to the greater and the second son to the smaller."—What follows? it is already proved, that, by the law of Portugal, Don Pedro IV., born in Portugal of a Portuguese father, neither is a foreigner nor did he become such by accepting the Crown of Brazil: The first of these propositions therefore, can form no impediment with him; and the second far from constituting any impediment, is absolutely, *contra producen-tem*.

King John VI. after the separation of Brazil from Portugal, by the Treaty of Independence of the 15th November 1825, never possessed, nor had any authority over that empire. The first Portuguese King, who reunited these two Crowns after their separation and independence, was undoubtedly his Majesty Don Pedro IV., and consequently the determination of those Cortes could only be carried into effect in the case of his children. And this is exactly what has taken place: Don Pedro reserving the Empire of Brazil, which was the greater, for himself and his eldest son born in the Brazils subsequently to its becoming

an independent nation ; and abdicating the Crown of Portugal, which was the lesser, to the eldest of his daughters, Dona Maria II., born in the Brazils while it formed a part of the Portuguese Monarchy.

XIV.

Neither were there wanting moral grounds, as the *shameful violation of the country's laws . . . unjustifiable and despotic assumption of power* ; in a word, they have not forgotten *their venerable country, either attacked with hostile fury, or neglected and insulted in its rights and dignity* ; but, as they have declared, *they feel a repugnance in touching upon wounds yet tender and only half-closed*, and they leave the vindication of their offended and outraged country to the *justice of Divine Providence*, and moreover, to the confusion of the guilty themselves, as well as to the severe censure of a contemporary world, and posterity.

Here we have neither the resignation to Divine Providence, nor that Christian Charity which the

Authors of the Act so hypocritically preach up : but in lieu of them we have the well known Machiavelism of recurring to general facts, and inflammatory expressions, as—Shameful Violation of the Laws—Unjustifiable and despotic assumption of power—hostile fury,—and, insulted dignity of the Venerable country—endeavouring thus to hoodwink the nation, since a frank, sincere, and true detail of the facts, relative to the separation of Brazil, would not answer their purpose.

Europe knows that, so early as in 1817, the turbulent spirit of republicanism had developed itself at Pernambuco, and that this province as well as Alagoas, Paraiba do Norte, Rio Grande do Norte, and part of Ceará, had withdrawn their allegiance from King John VI. It is equally well known with what rapidity the political ideas of public liberty, then circulating in Portugal, spread over the whole of Brazil, not excepting the Capital St. Sebastian of Rio de Janeiro, where the King was obliged to swear to the Constitution promulgated by the Cortes of Lisbon, and shortly afterwards to the Spanish Constitution, on the

memorable night of the 21st April, 1821, when a few demagogues wished to give the law to all Brazil. They also know that King John VI. quitted that empire on the 26th of the same month and year, leaving his son, the Prince Royal Don Pedro of Alcantara, Regent of Brazil, and his Lieutenant in that country. The provinces of Brazil adhered to the cause of Portugal, and sent their respective Representatives to form part of the Constituent Cortes: the policy however of this Assembly towards Brazil, was in every respect so ill-judged and betrayed such a disposition for *domineering* over that empire, that the Brazilian Deputies withdrew themselves from the Cortes. From this moment every one possessed with common sense foresaw the inevitable separation of the two countries: it being utterly impossible that men, so bent on their liberty and emancipation, *

* Omnibus mortalibus libertatis desiderium est innatum, et iis qui inviti, et coacti, miserias perferunt, quævis vel levissima occasio ad res novas idonea videtur.

Dionysius Italic

should submit to the theoretical and ill framed plan of government, which the Portugese Cortes had concocted for that country.

Some of the provinces did actually declare themselves against Portugal, and a similar desire was perceptible every where. What measures then did the Portuguese government take? They sent land and sea forces to compel the Brazilians to submit to that domination, and form of government, which they had rejected. The inhabitants of Brazil prepared for their defence, and eventually succeeded in obliging the Portuguese troops to return to their country. On which side here, is the *aggression* and *hostile fury* mentioned in the Act? on that of the Brazilians, who only defended themselves, or of the Portuguese, who attacked them?

The different provinces of Brazil, at this time, manifested every symptom of a volcanic explosion near at hand, and Don Pedro IV., unable to oppose it, saw himself under the imperious

necessity of giving a direction to the course of its already smoking lava.

His August Father and King, on leaving Rio de Janeiro, told him—"Pedro, if the separation of Brazil must take place, I would rather you were master of it, who will always respect me, than some daring adventurer."*—This moment was arrived: had Don Pedro hesitated a moment, Brazil would have been deluged with blood, and we should have seen revived those scenes of carnage, which have overwhelmed other countries. It being impossible for him to withdraw to Portugal, which he had repeatedly requested of his August Father, it became necessary to accede to the independence of Brazil, the object for which the Brazilians contended, and to give to the revolution that direction, known to all Europe.

What blame then can be attributed to His Majesty Don Pedro for the courage and ability, which

* See a letter to the Marquis of Lansdown on the Affairs of Portugal and Spain, by William Walton, page 37.

he displayed? Where is the Prince who could have deported himself better under circumstances so critical? But supposing for a moment, that Don Pedro did not behave on this occasion, towards his Father and King, as a dutiful son and subject, would he therefore forfeit his right to the Crown of Portugal? The Act asserts, in the case of Queen Dona Beatrice, that she did not forfeit her right to the Crown, *because her entry by force of arms had been provoked by resistance.* Then the provocation and resistance will create a right in favor of Dona Beatrice, which is so bluntly denied to Don Pedro IV.? What indecent inconsistency! We will however expose a little more the total incoherency of the arguments.

In the absence of national laws, for there are none applicable to this case, respecting heirs presumptive to the Crown, we naturally recur to the History of the Kingdom to ascertain if there is *any series of facts, which may constitute law* and serve us for a precedent.

The Infante Don Alphonso, son of King Don

Deniz, by advice of the Dowager Queen of Castile, whom he consulted as his oracle, and who incited him to rebellion, after publishing a manifesto against his father, in which he accused him of petitioning the Pope to legitimate his natural son Don Alphonso Sanches, attempted at the head of his band, not only to make himself master of Lisbon, obliging the King to muster his troops in his own defence, but even marched against him in battle array, took Leiria, Santarem, and Coimbra; laid siege to Guimaraens, and, having ravaged and laid waste those parts which remained faithful to his own Father and King, actually engaged him in battle at Lumiar, after having fled from him at *Cintra and Alvogas*; and to such a pitch did he carry his villainy, as to murder in the most inhuman manner Don Gerardo, Archbishop of Evora,* whom his Father had sent to dissuade him from his iniquitous proceedings.

* He was not of the house of Loulé, but he was a highly distinguished character for his knowledge, piety and virtues.

The Prince Don Pedro, son of King Don Alphonso IV., on hearing that Alvaro Gonçaves, Diogo Lopes Pacheco, and Pedro Coelho, had barbarously murdered Don Ighes de Castro, became so enraged and frantic with grief, that he put to *fire and sword* the whole province of Entre Douro e Minho, and would have carried his excesses still further, had it not been for the intercession of the Queen and the Archbishop of Braga, who represented to him the inhumanity of wreaking vengeance, for his Father's injustice, on the innocent people, whom he would shortly have to govern.

Both these Princes were presumptive heirs to the Throne, both of them waged open war against their Father and King, and both laid waste part of the kingdom *by fire and sword*.

Did this ill conduct debar them from succeeding to the Crown? No. Both of them became Kings, and good Kings: therefore, although Don Pedro IV. had actually waged an offensive war

against Portugal, why should he be dealt with differently from Don Alphonso IV., and Don Pedro I.

But who rebelled more clearly against his Father than the Infante Don Miguel on the fatal 30th April 1824? The Infante imprisoned his Father in his own palace, and interdicted all ingress and egress, even to his servants. The Infante surrounded the Palace of Bemposta with a whole batallion of Caçadores, commanded by a cousin of the *Baron de Sande*, who was in the secret. The Infante ordered the whole garrison of Lisbon under arms, without giving the least intimation to his Father, with whom he was living in the same Palace. The Infante on the night of the 29th, ordered the arbitrary arrest of a great number of all ranks, military and civil, without any authority from his Father, who was kept in profound ignorance of the matter.

Among the number arrested were the Counts of Paraty and Villa Flor, *Chamberlains to his Majesty*; the Marquis of Palmella Secretary of

State for Foreign Affairs, one of the most able Statesmen of his country, at present Ambassador at the court of London from His Majesty Don Pedro IV., whose only crime consisted in having constantly advised the King to grant a Constitution to the nation. The Infante, having assembled all the disposable forces in the Square of Rocio, proceeded to the Palace formerly belonging to the Inquisition, and there surrounded by his Staff and Privy Counsellors, the *Marquis of Abrantes*, *Paiva Rapozo*, and others of similar notoriety for their depraved character (and of this stamp unfortunately were the constant associates of the Infante) issued an order for the closing of all the Public offices; a prerogative belonging only to the King: he nominated a new Ministry, which the King only could do: he appointed a new Intendant General of the Police, and two Assistants; an Act also of Sovereign authority: in short on that dreadful day the Infante usurped and exercised all the prerogatives of sovereignty belonging to his Father; or in other words, the Infante rebelled against his Father and King; who afterwards formerly declared all the proceedings of

that day to have been rebellious. And how far would not that open rebellion * have been carried had not all the Foreign Ministers hastened to the Palace of Bemposta, and surrounded the King whom they found almost dead with grief and ter-

* We do not know by what fatality his Highness Don Miguel acquired the habit of always betraying the trust confided to his charge.

When His Highness fled to Santarem in 1823, accompanied by a part of the army, his plan was to declare King Don John VI. incapable of governing the kingdom, and to establish as Regent his Mother *Dona Carlota Joaquina*, who had prompted this step. The discovery of this plot led to the assassination of the faithful subject, who revealed it to the king : he was daringly murdered in the very palace and almost in the presence of the Sovereign.

On the 30th of April the Infante availed himself of the authority conferred upon him by his Father, of General and Commander-in-Chief of the Army, to usurp the Crown, and carry into effect the plot of Santarem. See the Trial of Lieutenant General Mousinho, printed at Lisbon 1828, *Royal Press*, and the evidence of witnesses No. 8, 25, 56, 57, 65 and 73, in confirmation of the statements of this note.

ror, and there protested against any act in violation of His Majesty's dignity !!!*

XV.

On the view of such weighty reasons the Three Estates justly confide, that their decision as to the exclusion of Don Pedro, and the award of the Crown of Portugal to his August Brother, will meet with none but specious objections. As some, however, might attribute to fear what proceeded only from contempt, they have resolved to confront *these specious objections*, and shew even to the most shallow, that these same objections are no better *than phantoms*, which interest and party spirit have conjured up for the want of better weapons.

This Article is intended to shew the connection between the subsequent parts of the Act and those preceding, and to give us the reason why they enter into a contest with these *phantoms and spe-*

* Second letter in answer to the author of the letter which appeared in the *New Times and Courier* of the 23d of May 1827.

cious objections opposed to the rights of Don Miguel, and to *the great and immovable foundation*, on which the Three Estates proclaimed him King of Portugal—Let us proceed to this *contest*.

XVI.

Don Pedro is the first born, and who denies it? *It is readily granted that he possessed the rights of primogeniture*, and which, if he had not forfeited them previous to the 10th March, *would have been still promptly and firmly recognised*. Notwithstanding the love, which our August Sovereign is entitled to from his people, and which they have long devoted to him, it is not in the Portuguese nation to sacrifice justice to its passions even to the most praise-worthy. Our Monarch *would be the first to repulse any attempts on the part of the people*, if they, which is impossible, sought to confer upon him a *right plundered from another*. The moderation of his royal mind is fully proved and well known. But, cannot the rights of primogeniture, like any others, be alienated or lost? Most assuredly they can; and it has been clearly shown that Don Pedro had actually lost them previous to the 10th March, 1826. It is a very different thing to disregard and violate a right still acknowledged, and to ac-

knowledge that a right has been lost. It is in the latter case that Portugal, without the least idea of injury, of which she has no conception, has been called upon to act towards Don Pedro.

This paragraph may be divided into three parts. 1st, The ingenuous avowal that Don Pedro is the first born, and that he possessed the rights of primogeniture. 2nd, That these rights may be lost or alienated like any others. 3rd, That Don Miguel would be the first to oppose any attempt of the nation to proclaim him King, if this title did not belong to him.

We accept the confession that Don Pedro IV. was the first born son of Don John VI., and that the rights of primogeniture belonged to him, and also that these rights may be alienated, and then we say: If Don Pedro IV. was the first born, that is the legitimate successor to the Portuguese Crown, and had the power to alienate his rights, that he has legally done so, by the Decrees of the 3rd of May 1826, and 3rd of March, 1828; and then the Crown belongs to his Daughter, Dona Maria, to

whom he abdicated it; for he did not (as this article persists in supposing) lose on the 15th November, 1825, those rights of primogeniture, afterwards abdicated to his Daughter, as we have already too clearly proved, to need repetition here.

As to the assertion, that the Infante Don Miguel would be the first to reject the Crown, which *the people wished to place upon his head*, if he was not entitled to it, our readers may combine what we have described in the first part of this work, as to the contrivances and measures employed to obtain this end, and to urge the people to this criminal result, and then they will judge of the sincerity of this declaration, and of the conscience with which he still retains possession of the Throne *

XVII.

How then did it happen that Portugal had him for her King immediately from March, 1826? How was it that

* His Majesty Don Pedro IV., in his proclamation of the 2d of July 1823, supposes His Highness Don Miguel to be under coaction, but His Imperial and Royal Majesty adds his reasons, which are, *that he cannot believe His*

she accepted, swore to, and carried the Charter of the 29th April into execution? How was it that he remained in possession, and that the Kingdom continued to be governed in his name, and according to the law given by himself, till May, or April, 1828? The answer is easy: *In exactly the same manner as she once had for her Sovereigns the three Philips of Castile, when Portugal was*

Highness capable of such wickedness, to be a traitor to the protestations made to him, while his King, and a perjurer to the oath, which he so freely and spontaneously took in Lisbon before the Legal Representatives of the Nation. His Imperial and Royal Majesty was not yet aware of the extent, to which His Highness had carried matters in Portugal: he did not know that His Highness, in all his actions had displayed such self-will, that nobody dared to oppose his inclinations, much less to govern them. He was not aware that every one trembled in his presence, even his own Counsellors and Ministers, and that under such circumstances, he is only to be ruled by his own insatiable ambition. We feel confident that His Imperial and Royal Majesty, however painful it may be to his feelings, will express himself in other terms in the first orders which he may send from Rio de Janeiro, as the Guardian of his August Daughter.

Amicus Plato, sed magis amica veritatis—

held under their subjection for sixty years. She arrived at the same point, although in some respects by different ways.

XVIII.

The Three Estates would have wished to have been spared the necessity of alluding to the low cunning, the criminal means and the secret and wicked stratagems, of which a faction availed itself, in order to ruin the Kingdom, imagining with truly shallow judgment, that it could found its own elevation on the general ruin. But it was necessary in order to defend the honor of our country, and every consideration should give way before so sacred a motive. There was not a well disciplined army cantoned on the Portuguese frontiers, under the orders of a distinguished general; *but, perhaps, gold and promises were not wanting, and the insidious negociation of a Don Christavão de Moura was certainly actively engaged,* alluring some and lulling others, deceiving with specious reasons and equivocal expressions, and even falsely alleging the concurrence and support of the great Powers.

XIX.

The good faith, inseparable from minds truly loyal, was thrown off its guard; the voice of a wise and zealous council was silenced; the opposing efforts of some honorable individuals were undermined by intrigues and disloyal expedients; and the *scene of Ayamonte, adapted to their ends, was renewed*. What, in this case, could the unhappy Portuguese nation do? The legitimate heir, purposely placed by anticipation at a distance of four hundred leagues from the kingdom, could ill direct us; *the Three Estates, whose duty it was to protect our liberties, were not convened*; the people, without a leader, without any legal point of union, could not do otherwise than fluctuate amidst anxiety and doubt; the true Portuguese bewailed their condition in secret; whilst some of the most resolute retired beyond the frontiers, there to record their protests: but the disgraceful work prevailed, and the kingdom was dragged on and forced to submit to the yoke. And will all this give more validity to the rights of Don Pedro, than the events of 1580 did to those of the King of Castile?

All these paragraphs have but one object; to reply to the undisturbed possession of Don Pedro IV. on the death of his father, and to the right resulting to him from the acknowledgment of the nation, not only in March, 1826, but also when they accepted and swore to maintain, and actually put in force, the Constitutional Charter of the 29th April, by which the kingdom was governed till April 1828: and the reply is, "That the kingdom obeyed Don Pedro IV. for the same reason that it obeyed the Philips of Castile. That neither gold nor promises, nor the insidious negotiation of a *Don Christovão de Moura*, were wanting; that the scene of *Ayamonte* was repeated: that the sincere advice of a wise and zealous council was silenced: and that every thing was effected without convoking the Three Estates of the Kingdom." It is indeed hard to believe how these doctors dared to depicture so exact an image of their own crimes, without reflecting that it might revert upon themselves! Let us see how far this catalogue is correct.

Every one knows that, on the death of Don Sebastian in Africa, the Cardinal Don Henriques as-

cended the Throne. His Highness deputed himself very ill in his government: *he separated himself from men of merit, and more particularly from men of talents; and employed in his ministry parties unfit for the situation at such a juncture. This unfortunate conduct, his natural indecision, want of courage, firmness and the necessary activity to put in force those measures best calculated to avert the calamities with which he was threatened, as also his dread of exciting a civil war*—had the effect to intimidate him from nominating the Duchess of Braganza, and causing her to be acknowledged in Cortes as his successor, which he might easily have done; and determined him to refer the point of succession to the decision of eleven persons, chosen from among twenty-four whom the Estates should present to him.

King Philip, though he feigned not to enforce his own pretensions, did not forget to send *Don Christovão de Moura*, as ordinary ambassador, and subsequently the Duke of Ossuna, with the title of Ambassador Extraordinary, to protect his interests. He wrote to the principal cities of the

kingdom, reminding them, that he was a descendant of their ancient Kings, and also, of the assistance he had rendered to the Portuguese in Africa: at the same time he offered to increase their privileges; in short, he exposed to them, on the one hand, the favors they might expect to receive, and on the other, what they had to fear from his power. His Ambassadors employed money, and with large bribes suborned many individuals, to whom they made still greater promises.*

The governors of the kingdom, who succeeded to the Cardinal King, three of whom were partisans of Castile, *dissolved the Cortes* that were as-

* There is a curious record in the hand-writing of D. Christ. de Moura, which was found by Manoel Faria de Souza in the Archives of the house of Castel Rodrigo, and copied into the third Vol. of his "Portuguese Europe," Part II, Chap. 1, page 119 where, after giving the names of those who sold themselves to Philip, and betrayed their country, he adds, that this was "an *Auction* in the literal sense of the word—Don Philip was the buyer, those personages the sellers, and Moura the Auctioneer."

sembled to decide upon the question, as soon as they suspected that the members intended to act as Representatives of a free nation; and assuming an appearance of confidence, *appointed as governors of the frontiers* Noblemen, whom they either suspected, or had full confidence in; the latter that they might second the usurpation, and the former to bring them within the immediate reach of Philip II's. army. At this time the Duke of Alva had already entered Portugal at the head of twenty thousand men, and it was then that the decision of *Ayamonte* took place, proclaiming Philip II. King of Portugal, at the very crisis when he was on the point of obtaining the Crown by force of arms.

Now what resemblance does this history bear to the succession of Don Pedro IV. in Portugal? The death of Don John VI. was as sudden, as unexpected. The grief and lamentations for his death had not subsided, when the regency which he had appointed, in the execution of his will, and orders, already transcribed in the first part of this work, proclaimed Don Pedro IV. legitimate

King of Portugal, and Successor of Don John VI.: and the whole nation without the least demur acknowledged him as such. Where then is the resemblance? Our readers will find a very striking one between the said history, and the events that took place under the Regency of the Infanta Dona Isabel Maria, against her real inclinations, to prepare for the usurpation of Don Miguel; and a stronger still, during his administration until he was proclaimed King. If in these days any *Christovão de Moura* made his appearance, the nation recognizes him among the accomplices of Don Miguel; and if there was the decision of *Ayamonte*, beyond a doubt it was that of the denominated Three Estates, which we are refuting. The public papers of Europe have denounced to whom the gold belonged, which was circulated on that occasion; and the rebellion of a part of the army, their flight into Spain, and subsequent invasion of Portugal, proclaiming the Infante Don Miguel, King, sufficiently proves in whose favor it was distributed.

The convocation of Cortes to acknowledge, as

King, Don Pedro IV., the legitimate and first born son of Don John VI., last Sovereign of Portugal, would be contrary to the public law of the country. Such convocation never took place, but when the lawful heir of the Crown was the son of the King's Brother; and even then the Cortes of 1697 declared, with the approbation of Don John V., that this convocation was unnecessary, according to the true meaning of the Cortes of Lamego.

If the Authors of the Act, when they speak in this article of the convocation of the Three Estates, allude to the fact of a new Constitution having been given to the Portuguese nation, what better proof can they require of this Constitution having been accepted, than the public rejoicings which took place throughout Portugal at the time it was sworn to? Rejoicings which were not commanded by those in authority, as was the case with the cold demonstrations which took place on the return of Don Miguel to the Kingdom. What better proof can they require of the spontaneous acceptance of that Constitution, than the solemn oath tendered by the Noble Peers and

Deputies of the Kingdom, on the opening of the Cortes of 1826, where all the Estates of the Kingdom were fully represented, and that of the people more decidedly so than in any of the ancient Cortes; for there was not a City, Town, or Village, however small, that had not a vote in the choice of Representatives; when in the ancient elections only certain privileged Cities and Towns had this advantage.

This argument of the want of convocation of Cortes on so important an occasion, as they say, reminds us, that if the denominated Three Estates assembled in Lisbon refuse to acknowledge, the right of His Majesty Don Pedro IV. to the Crown, and also the Constitution granted by him to Portugal, because the Three Estates of the Kingdom had not previously been heard and consulted on the subject; then, neither can they acknowledge as valid the separation of Brazil, which took place without the intervention of the Three Estates; and therefore cannot avoid acknowledging Don Pedro the IV. as lawful King of Portugal; for, under such circumstances, the *great and*

immoveable foundation, of his having accepted a foreign and independent Crown, vanishes into air.

XX.

The Three Estates view the sacredness of an oath with the profound respect, that is due to the supreme Sovereign who is therein invoked, and which its serious importance in the government of human society demands. They most sincerely regret, in our times, to see it prostituted, and consequently brought into contempt by such sacrilegious irreverence towards the Divine Majesty, to the irreparable injury of individuals and commonwealths. They cannot, however, but allow that the oath becomes null and void, *when applied to an illegal act, when it has been extorted by violence*, and when from its observance would necessarily result the violation of the rights of individuals and nations, and above all, the complete ruin of the latter. *Such, in fact, is the oath to which the present objection alludes.* To keep such an oath would be nothing less than depriving our country of life, and no sanctity of an oath can compel any one to become the parricide of his country.

XXI.

If, however, the Portuguese received by violence, and endured with repugnance, a yoke which they abhorred, was not Don Miguel also induced, or forced *in foreign countries, to forswear his right to the Crown of Portugal, and to promise to come and govern the Kingdom as Regent, and in the name of his Brother—Forswear and promise, in a foreign country! !.....* Why, and wherefore?.....It appears to the Three Estates that by this interrogation alone the vaunted objection itself is destroyed. They expect to obtain no answer; *but if, contrary to their expectations, any should be given, Portugal will break the silence, which the respect due to illustrious nations imposes upon her representatives at present.* They will, nevertheless: add, even although Don Miguel should have been disposed to forego his own interests, to avoid involving himself in disputes, which might, although unjustly, have been attributed to ambition; even although he were to have practised the most extreme moderation, could his forbearance annihilate his right? But whether they were to be considered annihilated or not, on account

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of his moderation, does it not belong to the Portuguese nation, and to the Portuguese nation alone, to decide ?

We had formerly read in the Appendix, Chap. II, Part II., of the historical Annals of the University of Coimbra that, at the time of the invasion of the Jesuits, their fourteenth crime was, that, for the purpose of promoting disunion in States, thwarting the administration of justice and securing success in any law-suits *they might institute to usurp the property of others*, they invented and propagated that perjury was lawful : and we thought that this wicked and abominable creed of Manoel de Sá in his *Maxims for Confessors* ; of Francisco de Toledo in his *Instructions for Priests*, of André Endæmon, Francisco Soares Gratanense, and others, would never have been heard of again, after having been so ably confuted in the above mentioned work, and in the Chronological and Analytical Annals, both of them *printed by order of our Kings* ; but to the disgrace of Portugal, under the government of the Infante Don Miguel, and as a proof of the high degree of de-

moralization, into which the nation has been plunged by an usurpation, which never, otherwise, could have taken place, we see the same doctrine reproduced, even by *Bishops and Ecclesiastics*, in an Assembly which assumed the title of 'The National Representation! How shameful! How infamous! And yet they talk of religion! Most assuredly theirs is not of Jesus Christ, for this, far from teaching such atrocious maxims, *condemns them and commands the contrary*. Let us see.

The 45th Chapter of the 4th Council of Toledo, assembled with *Santo Izidoro*, the Metropolitan Bishop of Seville, as President, and attended by sixty-two Bishops, and six Vicars as proxies, in the year 633, is conceived in these precise words.*

“Whereas, the perfidy of heart in many nations (as we are informed) is so great, that they con-

* See Vol. III, Page 363, Collection of the Councils of Spain, compiled by Aguirre—Rome, 1735.

temptuously betray *the fidelity they have sworn to their Kings*, and feign, by their words, to take the oath, while, with *impious perfidy*, they cherish a *mental reservation*.

“Whereas, they swear to their Kings and break their faith with them, without the least fear of the word of God, which has pronounced heavy curses, and future punishments, against all those who shall *swear falsely in his name*.

“What hope therefore can remain to these people, in the time of trouble, against the aggressions of their enemies?

“What pledge of honor shall they in future give to other nations on making peace with them? What treaties will they not violate? What engagements, though ratified by their oath, will they fulfil towards their enemies, when they do not even preserve the fidelity they have sworn to their Kings? *Listen to our sentence*

“Whosoever among us shall be induced by any

conspiracy or project to betray the oath of fidelity by him taken or lay violent hands on his King, or attempt to deprive him of his kingdom, or usurp the Sovereign Power, LET HIM BE EXCOMMUNICATED in the presence of God, the Father, and his Angels, LET HIM BE SEVERED FROM THE CATHOLIC CHURCH, which he has profaned by his perjury, AND LET HIM NEVER MORE BE ADMITTED TO THE COMMUNION OF CHRISTIANS, neither him, nor the accomplices of his impiety."

The XVIII Chap. 6th Council Toledo in the year 638 * also says:

"We adjure you before God That no one conspire against the King's life; that no one cause him to die: That no one deprive him of the Government of his kingdom That if any of our own order shall be found rashly daring to attempt the violation of any of these Articles, LET HIM

* The same Aguirre, Vol. III. Page 407.

BE SMITTEN BY GOD WITH ETERNAL EXCOMMUNICATION, WITHOUT HOPE OR REMEDY, AND CONSIGNED TO ETERNAL DAMNATION; *and he who shall succeed to the Throne, if he wishes to be judged innocent of so heinous a crime, let him punish the death of his predecessor as he would punish that of his own father, under pain of bearing the opprobrium and contempt of all other nations.*"

Lastly not to draw this dissertation to too great a length, the *General and Universal Council*, assembled in the city of Constancia in the year 1414, also endeavoured, in the fifteenth Session, to extirpate this pernicious error in the following manner.

"This Holy Council, earnestly wishing to promote the extirpation of errors and heresies, has been lately informed that certain erroneous *Doctrines* have been authoritatively enforced and propogated, *contrary to the faith and good customs, and in the highest degree scandalous*, tending to the subversion of all States and the good order of the commonwealth; among which doctrines is the

following—A tyrant whoever he may be, may, and ought to be, lawfully, and meritoriously killed by any of his subjects *notwithstanding any oath that they may have taken to him.*— This Holy Council ardently desiring to counteract and effectually extirpate such an error, after mature deliberation *declares, orders and defines,* such doctrine *to be erroneous, contrary to the faith and good customs ; and reproves and condemns it as heretical, scandalous, and designed to open and lead the way to fraud, deceit, falsehood, treason, and perjury ;* and further it declares, orders and defines, that those, who maintain and defend such doctrine, are heretics, and ought to be punished as such, agreeable to the articles of the Holy Canons.”

With such express judgments and definitions before us of the Roman Catholic Church, represented by these Councils, will there be any one found still to defend the perjury of His Highness Don Miguel, and his *ex-communicated* accomplices? The Portuguese nation, who have ever regarded the Catholic Religion as the controlling

guide of their conduct, in obedience to these Councils, are bound to withdraw themselves from the society of men, *who are excluded from the Pale of the Church, and ex-communicated in the eyes of God, and eternally condemned by him*: let us however proceed with the analysis.

The oaths taken by Don Miguel were of “obedience and subjection to his August Brother, as King of Portugal:” how then could they be considered *unlawful*? What! is the obedience due to Kings, ordained by God, and recommended by all the authorities of the Roman Catholic Church, unlawful?

As to the coercion, which they pretend was used at the court of Vienna with the Infante Miguel, to induce him to address those letters of protestations to his Brother and King, on the 6th of April and 12th of May 1826,—in the oath he took to the Constitutional Charter;—in his espousals with Dona Maria II.—and in the other letter of the 19th of October 1827;—we shall content ourselves, in the interval of the Austrian go-

vernment not returning the suitable answer to this assertion, which may be expected from its high dignity and character, with merely observing, that our readers must be fully aware that no coercion could have taken place in a foreign country, where he was perfectly at liberty to refrain from any act, which that country had no right to demand of him, as in effect they never did.

And how is it possible to consider the Infante to have been constrained to write letters to his August Brother, which were never requested of him, and at the same time suppose him at full liberty to refuse obeying Don Pedro IV., by remaining at Vienna, when the latter had sent a man of war to fetch him to the Court of Rio de Janeiro.

XXII.

The law of the 15th of November, 1825, has been alleged, in which his Majesty King John VI., whom God preserve in glory, treats Don Pedro de Alcantara as Prince Royal of Portugal and Algarves, and as Heir and successor

t o these Realms, at the very time that he decrees the separation between Portugal and Brazil. But that this was a direct and positive declaration of the perpetuation of Don Pedro's rights, certainly cannot be admitted; because such a construction is evidently unwarranted, the essential object of the law being very different: and if it was, as the Three Estates judge most probable, either *a mere conformity to custom, of no consequence in the narrative part, or an inadvertent repetition of the ancient forms, which escaped the composer*, it proves nothing either way, as regards our question.

XXIII.

If, however, it is said, that it was neither a positive declaration, an indifferent usage, nor a mere oversight of the composer, but rather a provident insertion by which the legislator sought to uphold the rights of Don Pedro, which, by the formal act of separation, he saw were tottering in the opinion of the world, then three objections immediately occur: first, that this very acknowledgment of the tottering state of Don Pedro's rights, instead of being favorable to him, strengthens the cause of his brother: secondly, that it cannot be true that King John VI. should wish to

sacrifice the rights of one prince to the aggrandizement of the other; nor is it credible that he should have wished to resolve a point of such immense importance *without the concurrence of the Three Estates of the Realm*, which he had so judiciously and clearly declared, a short time previous, to be indispensable in matters relating to the fundamental laws, by his memorable decree of the 4th of June 1824: thirdly, that if such had been the will of the legislator, which is impossible, the Three Estates could not and do not agree thereto.

XXIV.

Every thing which without the *consent of the Three Estates*, at least legally, clearly, and readily inferred, shall be determined and practised relative to the fundamental law, and *especially as regards the right of succession to the Throne*, is not only an abuse and an illegality, but also *invalid and of no effect*; an assertion which the Three Estates do not borrow from the public writer Vattel, but from universal law, or rather reason, and in which they agree with the declarations of our ancestors, when assembled in Cortes in the year 1641. “And pre-supposing,” (says the Act passed in that year) “*as a certain rule in law, that it*

belongs to the nation alone to judge and declare who is the legitimate successor to the Throne, &c.

As to the first proposition of these paragraphs, that the designation of Don Pedro IV., in the law of the 15th November, 1825, as Heir and Successor to the Kingdoms of Portugal, *had been a mere conformity to custom, of no consequence in the narrative part, or an inadvertent repetition of the ancient forms*; we have already proved in the first part of this work, that Don John VI., had effectively recognized Don Pedro IV., as his Successor to the Crown of Portugal; not by that law alone, but also by his instructions sent to the Marquis of Palmella, at London, to require of the Cabinet of St. James' a guarantee of this measure; in the decree of the 6th of March, 1826, and in the letters patent of the 13th May, 1825, in which His Most Faithful Majesty, not only acknowledged Don Pedro IV., as his lawful Successor to the Crown of Portugal, but following the example of his Predecessors, also lays down rules for the administration of both

States, and thus removed all those doubts which they wish so gratuitously to raise.

As to the acquiescence of the Three Estates, which the Act supposes necessary to the confirmation of Don Pedro IV.'s title, we have already answered, that no Portuguese law required it, when a son succeeds his father in the Crown: nevertheless, as the Act in addition to this says, "that it belongs to the nation alone to judge and declare the legitimate Successor to the Throne," and refers for authority to the Cortes of 1641, it will be requisite to say a little more on this subject.

Every man moderately informed is acquainted that certain distempered brains of that class, who, heedless of consequences, always contrive to attract notoriety by their exquisite conceptions, gave birth to that horrible Sect, known in the literary world, by the name of *monarchomachy*.

This Sect was expelled from France in 1595, after having exemplified their doctrine by the

cruel assassination of King Henry III., by the impious, horrid, and cold-blooded massacre of St. Bartholomew's, and by the atrocious attempts on the life of King Henry IV.*

In the years 1604, and 1606, they were expelled from the whole of the *British Dominions*, where they had been the authors and abettors of all the conspiracies against James I., and Queen Elizabeth, exciting their subjects to rebellion and disobedience.†

They were expelled from the States of *Venice*, from the Hanseatic Town of Dantzic, and from Prussia in 1606.‡

In 1618 and 1619, they were expelled from *Bohemia*, *Hungary*, and from the States of Mo-

* Annals of the Jesuits—Paris 1764, Vol. I. p. 592.

† Sentence of King James I, Letter and Sentence of Queen Elizabeth, Vol. II. of the same Work p. 28 and 29.

‡ Same Volume, p. 75, 85 and following.

ravia, charged with having incited certain murderers to assassinate the Kings of those respective Kingdoms, and being the instigators of all the disorders, which had agitated those countries.*

And in 1622, they were expelled from the States general of the United Provinces, by whom they were denounced to the world as a pernicious Sect, inimical to the human race.†

Notwithstanding all this, the Society of Jesus, as it was called, whose principle object in their ambitious plan was to devise and form the means, and modes of subverting the authority of Monarchs and Sovereign Princes, to reduce the world to that state of confusion and disorder, which they so eagerly promoted, the more easily to govern it; seeing that Sect established, immediately adopted it with the greatest ardour and commenced the publication of a horde of books,

* Same work p. 650 to 657, where are transcribed also the Sentences.

† Ditto, p. 669 and following.

stuffed with the sophisms of those Sectaries, interlarded with their own, artfully set off by their *Arabico—peripatetic* logic : they took by surprize the fidelity and pious feelings of the many worthy and respectable individuals, who acted the principal parts in the *Cortes of January 1641*, and abusing the simple honesty of their minds, actually introduced at the opening of those *Cortes*, to serve as a basis for the resolutions that were to be subsequently adopted, no less than a perfect epitome of the errors of that detestable Sect, and among the rest, the following; that “*to the Nation alone it belongs to judge and declare who is the Legitimate Successor to the Throne.*”

The falsity of this principle required no further proof than what has been adduced ; it was sufficient that it was a maxim of that Sect, condemned by all Europe, and more particularly so in Portugal by King Joseph I., in the numerous laws of his reign against the Jesuits, not to require the least attention from us; but as unfortunately this principle is again revived by the *Monarchical, Jesuitical, and Apostolical Cortes of*

1828, we will now add that it was always condemned by our Portuguese Public law, and all our ancient Cortes, over whom the Jesuits had no influence.

In the Cortes of *Coimbra*, 1385, John das Regras said, that the Throne was become vacant by the demise of King Don Ferdinand, that nobody possessed it, and that *consequently they were at liberty to choose and appoint a King*. A solemn Act was signed to this effect, declaring the vacancy of the Throne, *and it was only after this decree had been read and signed*, that they proceeded to the election of a King, which through the exertions of the same John das Regras, devolved on Don John I.*

At the Cortes of *Almeirim* on the 9th January, 1580, the Representatives of the people, imitating *Phæbo Moniz*, aware that the Cardinal King

*Damião Antonio de Lemos. Hist. Port. Vol. II. Chap. 18.

was in communication with Philip of Castile, and was endeavouring to procure his election to the Throne of Portugal, openly declared, "that they had a right to elect their Sovereign, *only when the throne should become vacant.*" Now as this is not our case, His Majesty King John VI. having left a first born son already possessed of issue, whom the laws and that Sovereign himself, called to the Crown, how can they apply such principle here?

If we except the Cortes of Lamego (that is, if they ever existed), our Cortes never exerted this right but in one single instance in 1385, when Don John I. was elected King. In 1640, the Throne devolved to Don John IV. by hereditary right, which had always governed the Succession to the Throne, and not by *election of the Cortes* in 1641, convoked after he had been already proclaimed, acknowledged, and obeyed, as King.

A book having been published in Portugal, entitled "Just Proclamation of Don John IV.," ascribed to Doctor Francisco Vellasco de Gouvea, in which this principle was proclaimed and de-

fended, King Joseph I. ordered the following Act to be filed in the Secretary of State's office.

“The book printed in Lisbon in 1644 in the name of Doctor Francisco Vellasco de Gouvea, and also the Treatises or Commentaries delivered by the same Doctor in the University of Coimbra, at his lectures in the chair of—Clementinas—Hebrew-text—Decretalis—and Vespera—and especially those on the following subjects—*in integrum restitutione—de officio, et potestate judicis delegati—Qui prior 54 de Regulis Juris in 6º.—in Alternativis 7º.—is qui conqueritur final de solutionibus—Fidei jussoribus alienatione judicii mutandi causa facta*—having been presented by order of his Majesty with the advice of the Attorney-General, to the undersigned Ministers; after a very attentive and circumspect review of the said work, entitled “Just Proclamation,” comparing and combining it with all and each of the above recited Treatises, which were unquestionably publicly delivered at the University of Coimbra by the said Francisco Vellasco de Gouvea; the said ministers unanimously agreed, and declared, that

the above mentioned book, "Just Proclamation," never could have been written by the same author as the Treatises above recited; because those Treatises are written, as far as relates to their doctrine, with deep and extensive knowledge of the true principles of canonical and civil law, and firmly grounded on these, with sound and skilful jurisprudence, so that it is never mere external authority but, innate judicial reasoning, which determines the conclusions drawn by the same Doctor Vellasco de Gouvea, in the proof of the different premises established in the said treatises; and also, with respect to the style, it is equally evident, that the deductions in each and every one of the said treatises are very methodical; the unity of the parts very regular and clear; and the diction pure and good Latin, as might have been expected from so learned and skilful a professor as the said Master Francisco Vellasco de Gouvêa. But all these characteristics were found, on a careful investigation, to be wanting in the said work called, "Just Proclamation," for the whole of the five articles from page 20 to 61, forming the first part of the book, are founded on five absurdities con-

trary to every principle of natural and divine law, taught by the sacred writings in the Old and New Testament, and understood from the works of the Apostles, and the Doctrines of all the Elders and Fathers of the Church, Ecclesiastical writers, and Councils, which admits of none but impious and fool hardy doubts: it concurring, further to establish this opinion, that the author of the said Book never recurs to legal arguments in support of his positions, as customary with professors, and as the said Master Francisco Vellasco Gouvêa, invariably practises in the above recited treatises: on the contrary the Author limits himself to the specious arguments of the Jesuitical writers, *Bellarmino, Soares, Mendonça, Molina, Azor, Valença*, and other such like disciples of Buchanan, Rossius, Hottoman, Bucherius, and similar libertines, who have pretended that there was no Supreme Power in the Universe to curb their seditious and short-sighted licentiousness; so that all the said five propositions, or arguments, remained without any other foundation, than the said authorities, diametrically opposed to reason, and to all true, fixed, and clear principles of law;

and moreover, betraying the same variance also in the style; the said work, "Just proclamation," being without method or coherence, the subjects discussed, (many of them irrelevant to the matter at issue,) are incoherent in themselves, and preserve no unity one with the other; nor do they bear the marks of that correct phraseology, which prevails in the genuine writings of that distinguished Master. For which reasons, and after mature consideration, the said Ministers certify on the faith of their office, as Professors in the University of Coimbra, and Senators of the Court of Appeals, that the said book, called "Just Proclamation," is decidedly at variance with all and every one of the treatises, before mentioned, of Dr. Francisco Vellasco de Gouvêa, and that it is also equally inconsistent with common sense, that the Author of these Juridical treatises should have written that irregular, absurd, and ignorant book—Palace of Nossa Senhora da Ajuda, 30th April, 1767. Domingos Luis Ribeiro Vieira—Bento de Barros Lima—Antonio Manoel Nogueira de Abreu—Bartholomeu Joze Nunes Cardozo

Geraldes—Manoel Pereira da Silva—Manoel Gomes Ferreira.

XXV.

Persons impugn, or rather pretend to impugn, the rights of our Sovereign King, and those of the Portuguese nation; by reminding us, that the recognition by the Sovereigns of Europe, of Don Pedro, as King of Portugal, was *de jure* and not *de facto*.

XXVI.

The Three Estates ought, and wish here to abstain, from every answer that may not be sufficiently circumspect, or that might wound the respect due to those sovereigns, or the decorum of their own character; as, however, that same respect due to the sovereigns requires that some reply should be given, the Three Estates present the following.

XXVII.

They are aware that the turbulent and rash faction, by craftily employing the words "*Ancient Laws, Natural,*

Primogeniture," &c., dazzled and deceived the European Powers, who, discreetly adhering to their noble system of legitimacy, acknowledged and authorised, without perceiving it, by their recognition, a confirmation of the most outrageous deviation from the laws, as well as the most daring insult hitherto offered to the noble and respected principles of legitimacy. But this is no more than a deception practised on the said Powers, or, another crime committed by factious men, who abound in such enormities. And can an error on the part of the said Powers, or rather, one more crime committed by factious men, injure the rights of our Sovereign, or our own? If the European Powers were to condescend to answer this question, most assuredly they would say——No.——

XXVIII.

What therefore remains, is to request, of the said powers, and hope, as the Three Estates of the Realm confidently do, from their well known wisdom and justice, that, on the internal affairs of Portugal, and particularly as regards the fundamental laws thereof, and the right of succession to the Throne, they will listen to the solemn testimony of the Portuguese nation in preference

to the sophisms and treasonable insinuations of a faction ; confident, that in such case, they will not hesitate immediately to alter their judgment, regarding the pretended rights of Don Pedro to the Crown of this Realm.

The Authors of the Act, after *charging*, in the 20th paragraph, the Emperor of *Austria* and his government, with having *extorted by violence from Don Miguel his protestations and oaths of fidelity* ; after threatening, in the following one, *the Sovereigns of Europe to break the silence, which they had imposed on themselves, out of respect to those illustrious nations* ; and subsequently adding, in the 27th,—and the same Sovereigns were *so much dazzled and deceived as to allow themselves to have been deluded WITHOUT PERCEIVING IT* ;—they declare, that they do not reply to the acknowledgment, given by the said Sovereigns, of His Majesty Don Pedro as King of Portugal, *from motives of prudence and decorum, and that they may not lessen the respect due to them !!!* We trust that the Sovereigns of Europe, so serious and outrageously insulted by these *impudent declarations*, will assert their dignity, and

faithful to the principles of Legitimacy, which they have proclaimed, will enable His Majesty Don Pedro, as the natural guardian of his August Daughter, to chastise the Usurpation and humble the scribblers of such insolent trash; and in this hope we conclude our dissertation, having also exhausted the contents of the monstrous Act, which we undertook to analyze and refute.

THE END.

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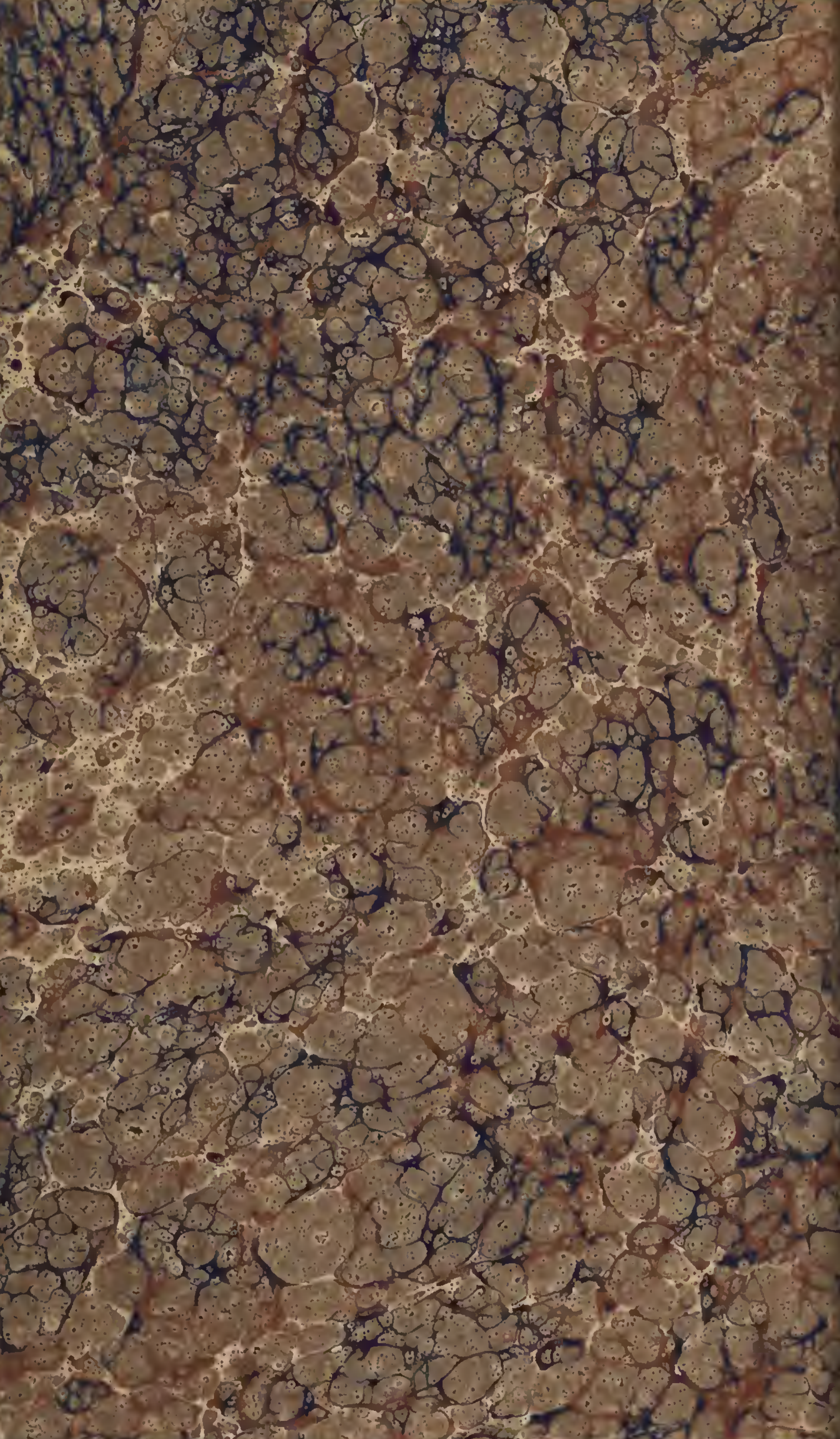
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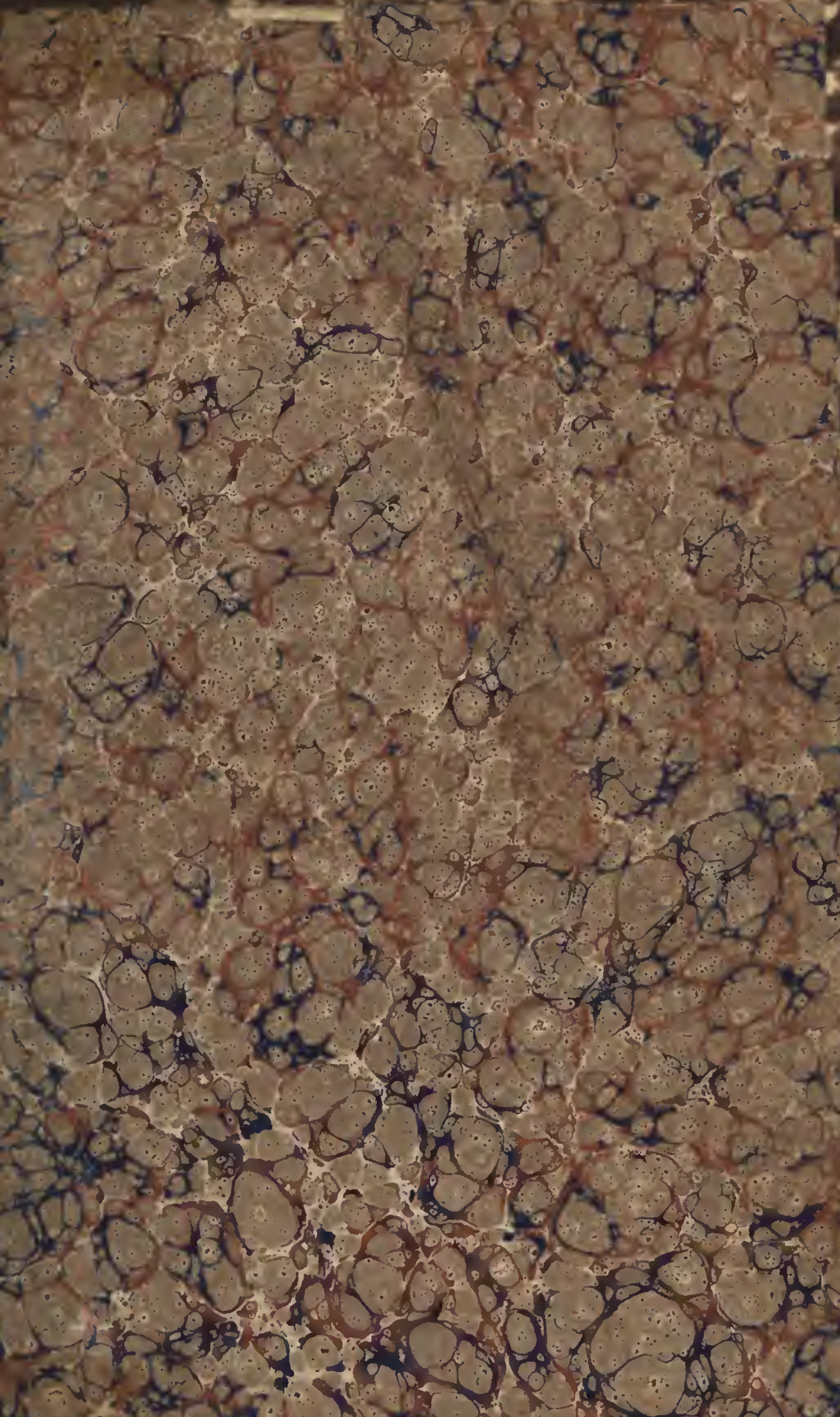




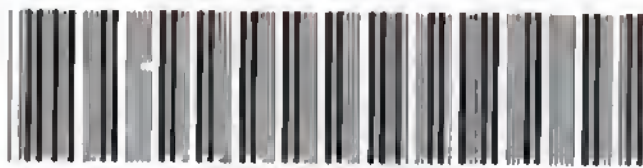








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