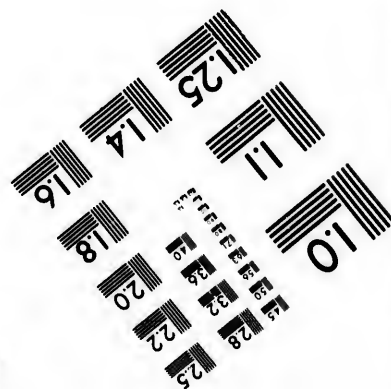
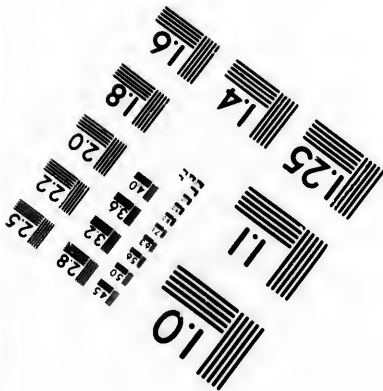
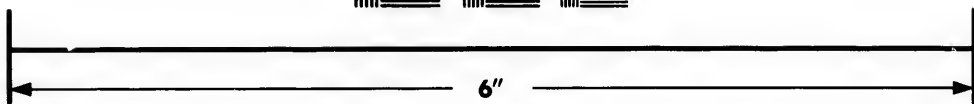
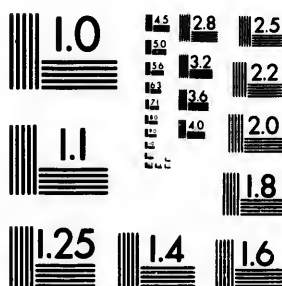


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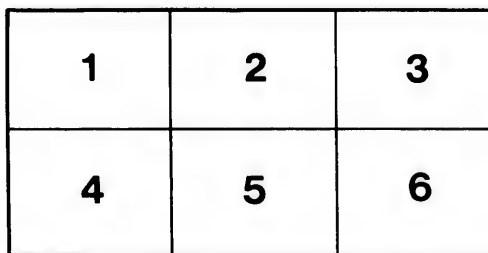
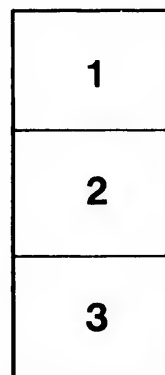
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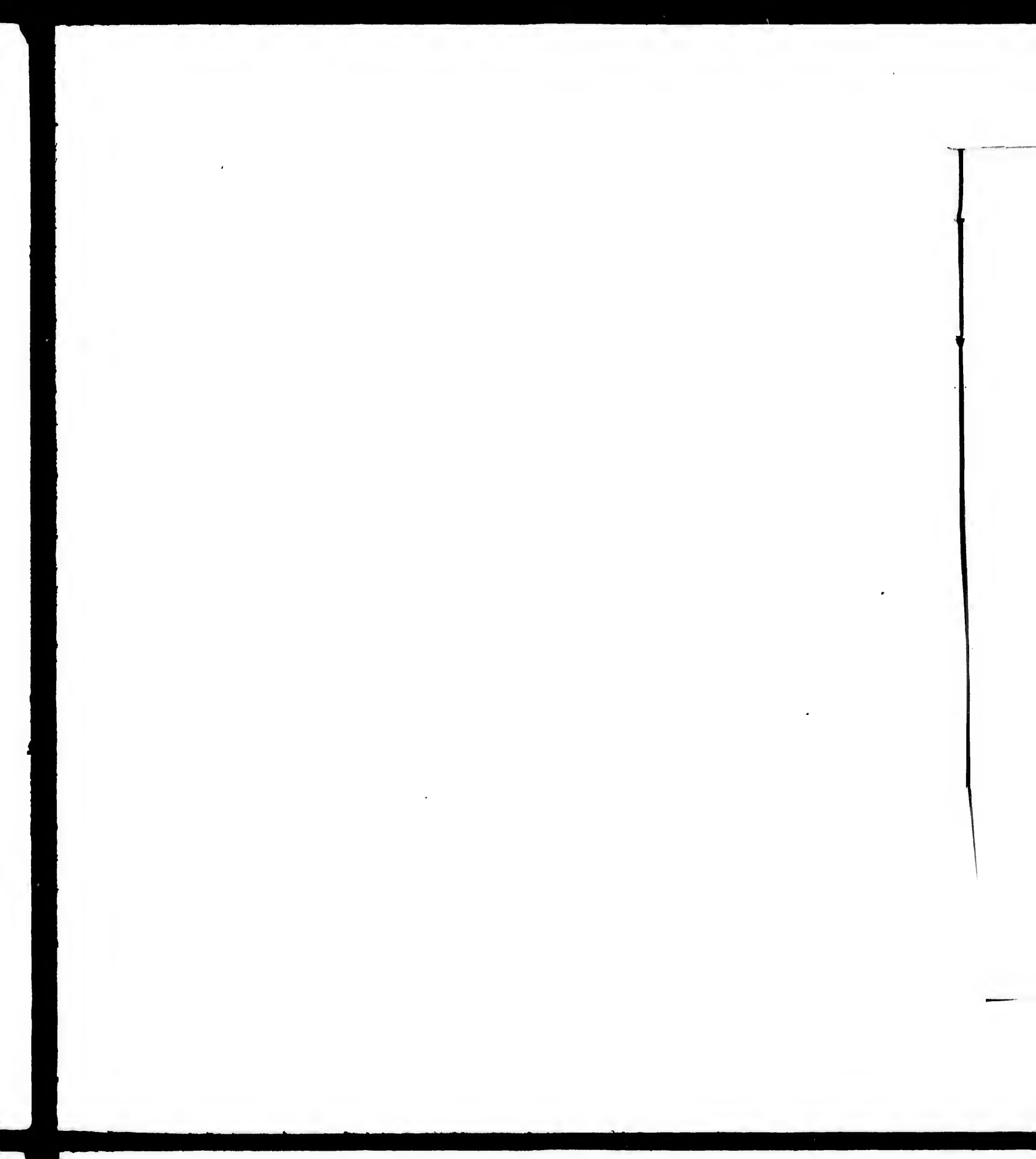
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MEMOIR  
ON THE  
PRESENT STATE OF LOUISIANA:

BY  
CHEVALIER DE CHAMPIGNY,

TRANSLATED FROM THE FRENCH.

## PREFACE.

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Louis XV. had just, by the treaty of Versailles, restored to France the repose and tranquillity which had become an urgent necessity. The multiplied and brilliant victories of the English had totally changed the face of America. Canada had fallen a prey to the conqueror, Florida had been ceded to him in exchange for Havana, and the limits of French Louisiana had been rolled back to the right bank of the mighty Mississippi; the whole left bank, except the isle of New-Orleans, formed by the Mississippi, and Iberville or Manchac River, having been surrendered to the English. They thus became the possessors of the immense tract of country which, running from east to west, lies between the Mississippi throughout its course, and the ocean which bathes the coasts of Florida, New-England and Canada. Hudson's bay bounded these possessions on the north, and the gulf of Mexico in part on the south.

What remained to France of her vast province of Louisiana, comprised a strip eighty leagues from east to west, from the mouth of the Mississippi to Mexico. The Del Norte (Rio Grande) on the west and the Mississippi on the east bounded these possessions, which extended from 29° N. to 50° N., and even beyond.

At the moment of the cession of a part of Louisiana to England, we shall see flashing in its French inhabitants a spark of that fire of loyalty that bound them to their king. We shall see this spark, secretly kindled, burst forth in all its violence at the moment when Spain undertook to enter into possession of a province which France, (through private arrangements, incident however to the treaty,) had ceded to that country to indemnify her for the expenses of the war.

It will, however, I believe, be better to give first a short sketch of what part of Louisiana had been, from its discovery to the treaty of peace in 1762; then, consider it from the dismemberment, to which it was then subjected, till the arrival of the Spaniards, and finally from their arrival to the present time.

These three epochs will form the three ages of the colony; they will divide, accordingly, this memoir into as many parts. The last will be subdivided into two sections: the first will comprise the period between the arrival and departure of Don Antonio de Ulloa; and the second, the subsequent period down to the present.

MEMOIR  
OF THE  
PRESENT STATE OF LOUISIANA:

BY  
CHEVALIER DE CHAMPIGNY.

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FIRST PART.

FRANCE will not long forget the famous projector, Law,\* who was the first to give any impulse to the colony of Louisiana. After the attempt at discovery by M. de la Salle,† Iberville, a Canadian gentleman,‡ laid the foundations of an establishment in 1699 and 1701 at Mobile and Biloxi, and went around the isle of New-Orleans to reconnoitre the famous river Mississippi, the principal object of his voyage.

As long as that great man lived, he protected this rising colony, composed then of some Canadian families who had come after him. After his death, in 1706, the court neglected Louisiana; the wretched state of the kingdom excluded every

\* John Law was the comptroller-general of the finances of France, and projector of the famous "Western Company." See the charter of, in the third volume of the *Historical Collections of Louisiana*.

† For a full account of the discovery and exploration of the Mississippi valley see the first and fourth volumes of the *Historical Collections of Louisiana*.

‡ Iberville was the first royal Governor of Louisiana.—*Historical Collections of Louisiana*, vol. iii., p. 10.



idea of colonization and expense. Louisiana was ceded to M. Crozat in 1712,\* retroceded to the king in 1717, and at last Law's project came forth with the ostensible pretext of establishing the India Company there.

The vast territory of Louisiana was represented as the richest part of the world; "pearls," said they, "could be fished there in abundance; the streams which watered it rolled on sands of gold, and that precious metal was found on the surface of the earth without any need of profaning its bosom." What a bait for avarice! The company easily sold at excessive prices estates very rich and fertile indeed. But this was not the object of the purchasers, they wished gold and silver. Immense grants were sold to the wealthiest men in the kingdom. Louisiana was soon occupied by greedy possessors, whose main object was the discovery of mines; but although there are many in that great colony, they were either not discovered at first or did not exist on the grants assigned, or were too remote or too badly located to satisfy the cupidity of the owners. Thus disappointed avarice or miscalculation threw the fault on the territory. The grantees were obliged to abandon an ill-conducted and still more badly executed project. The employés sent into that country perished mostly on the sands of Biloxi, the rest scattered through Louisiana or returned to Europe. Louisiana soon lost the degree of importance which it had enjoyed. The company did not however abandon its plans of colonization which it had resolved to carry out in that vast country.

The settlers sent out soon felt that they must abandon the insane project of mine-seeking to apply themselves exclusively to the cultivation of the ground. The fertility of that,

\* See Letters Patent.—*Historical Collections of Louisiana*, vol. iii., p. 38. The monopoly of Crozat was terminated by its surrender. He had advanced the

watered by the Mississippi, encouraged settlements on its banks, and they now thought of transferring to them the chief settlement, which had been first at Mobile, and then at Biloxi.

M. de Bienville,\* a brother of Iberville's, founded New-Orleans in 1718, 1719 and 1720. This city, situated on the banks of the Mississippi, thirty-two leagues from the mouth, became the chief town of the colony. The company sent over many settlers at its own expense, but of what character was their choice of persons? They gathered up the poor, mendicants and prostitutes, and embarked them by force on transports. On arriving at Louisiana they were married, and had lands assigned them to cultivate; but the idle life of three-fourths of these folks rendered them unfitted for farming. Necessity vainly calls us to a laborious life, if the knowledge acquired by habit do not enlighten and sustain our efforts.

colony but little. The mines and commerce of Louisiana were now invoked to relieve the debt of France, which now exceeded two thousand millions of livres.

At this period of depression John Law proposed to the regent a credit system which should liberate the kingdom from its enormous burden. Under his auspices a new company was formed, under the name of the Western Company, but better known as the Mississippi. The exclusive commerce of Louisiana was granted to this company for twenty-five years. The stock was divided into two hundred thousand shares of five hundred livres each, to be paid in any certificates of the public debt. The stockholders flattered themselves with large profits, and the Directory soon after declared a dividend of two hundred per cent. The delusion was now complete, and the stock rose to sixty times its par value. In 1719, the Bank of Law became the Bank of France—Law was looked upon as the greatest man of his age. In 1729, the public began to lose confidence in his management; and in May, bankruptcy was avowed by a decree which reduced the value of his notes to one half. He fled to England, and afterwards to Venice, where he died on the 21st of March, 1729, in the 58th year of his age. Such was the issue of Law's celebrated system, which left to the world a lesson on the credit system which it has been slow to learn.

Although it proved disastrous to France, it cannot be doubted that it gave an impetus to the successful colonization of Louisiana.

\* See a sketch of the public life of Bienville, in the *Historical Collections of Louisiana*, vol. iii., p. 20.

Accordingly, you cannot find twenty of these vagabond families in Louisiana now; most of them died of misery or returned to France, bringing back such idea which their ill success had inspired. The most frightful accounts of the Mississippi soon began to spread among the public, at a time when German colonists were planting new and most successful establishments on its banks, within five or seven leagues of New-Orleans. This tract, still occupied by their descendants, is the best cultivated and most thickly-settled part of the colony, and I regard the Germans and Canadians as the founders of all our establishments in Louisiana.

The fertility of this country presented important objects of culture; that of tobacco alone sufficed to indemnify the French company for all its expenses in colonization, if, in consequence of the pride which had ruined it, it had not sought to extend its possessions and assume everywhere an air of sovereignty which never sits well on a company of merchants, whose attention should be exclusively directed to the means of extending commercial relations and increasing the number of articles of trade. If the company, instead of building forts at excessive prices, keeping up considerable bodies of troops, raising buildings which served only to gratify vanity and give a vain idea of its greatness and power, and furnishing its agents every means of increasing the expenditure, had confined itself to encouraging the culture of articles of which they knew the importance, we should not now see all good citizens of France sighing over the failure of the attempts to establish a colony, whose fertility is admired and importance felt.

The company then enjoyed in France a monopoly of the tobacco trade, and drew a great quantity from Louisiana.

The post founded at Natchez was as wise as well conceived; this canton would have furnished all the tobacco needed

in France, and the quantity (? quality) is superior to that which this kingdom now derives from our provinces of Maryland and Virginia. The misconduct, cupidity and injustice of the French commanders drove the Natchez to destroy completely all the establishments begun on their lands. In one day they massacred the inhabitants, pillaged the storehouses, and the whole colony would have met the same fate but for the assistance of an old woman, who found a means of hastening the day chosen by all the nations in unison, for massacring the French scattered through that vast province. By this means the Natchez alone massacred the settlers among them.

On escaping from this danger, the French had no alternative but to take quick vengeance, in order to strike other Indians with awe and hold them in check.

The Natchez who had struck the French post were destroyed, and of that nation, once the oldest and most important in all Louisiana, there remain now only some few families dispersed in other tribes.

After this heavy loss, and the outlay of immense sums uselessly spent in forts and buildings, the preservation of Louisiana became burthensome to the company.\* Its monopoly, too, was expiring; and the king, having accepted its surrender in 1732, sent out cargoes of men and women, in whose selection the same vice prevailed, and which accordingly could not but result as did those of the company. The little revenue derived, the immense sums which had without return to be poured into that rich country without any visible advantage, and

\* The monopoly which Crozat and the India Company enjoyed and enforced, checked and destroyed in some degree the incipient trade which the colony enjoyed before the peace of Utrecht. Yet it cannot be denied that at the surrender of the charter, the colony was found in a prosperous condition; the white population had increased from seven hundred to upwards of five thousand, and the black from twenty to two thousand persons.

the wars necessarily carried on with the Indians, sickened them of a colony thenceforward regarded as a burthen.

Let us say all. The Frenchman, quick to conceive and undertake, would have the execution and success keep pace with the vivacity of his character. Hence his inaptitude for founding colonies; hence his failure in the attempts made by his nation; for, if we compare their possessions to those of the Dutch and English, we must, after observing the means used by both, admit that new establishments require the same *réyime* as children; they must be furnished with the necessary food, suitable to their development, be neither hampered nor pushed on prematurely, leaving time and nature to bring the work to perfection.

I pass rapidly over the events which concern Louisiana. The notes will supply the deficiency. The various Indian wars carried on by France from 1730 to 1762, form the most interesting portion. They serve to prove that the colonists in Louisiana were animated with the same spirit of patriotism which rendered the conquest of Canada so difficult. But I intend to regard only the political side of Louisiana, and in this view I stop to consider an event stated in the different memoirs, which have within the last few years appeared on that colony.

The money current there, as in our New-England provinces, was paper having the value of silver. In Louisiana this paper was signed by the intendant, comptroller and treasurer; every year a certain quantity was withdrawn and bills of exchange on the royal treasury in France given instead. Nothing was better planned. Sales and exchanges were at once facilitated, and the connection between the colony and the mother country strengthened. The war of 1744 multiplied expenses and prevented drawing bills of exchange. The quantity of paper

spread in the place exceeded the sums destined by the government for the colony. It was in consequence called in, the holders losing two-fifths of the value—a signal fault, though represented as necessary and indispensable, but which has greatly impeded the progress of the colony.

The peace of 1748\* tended to make the evils produced by the depreciation of the paper currency less sensibly felt. A contraband trade with the Spaniards of Mexico and Havana brought much silver into the colony between 1748 and 1752. But an essential, though then unnoticed vice in this trade was, that it was not based on the productions of the colony; it was founded on the affluence of strangers, who brought their dollars and Campeachy wood. This flourishing state could last only as long as the trade lasted; yet all turned their attention to trade and neglected agriculture. Lands were abandoned, comfortable planters sold their negroes and cattle to engage in commerce; but from 1753, when M. de Kerlerec came to succeed M. Vaudreuil,† the Spaniards no longer ap-

\* After the peace of 1748, the French ministry took a deep interest in the settlement of Louisiana, and held out encouragements to all those who wished to establish themselves there. They gave lands, cattle, and instruments of tillage to all settlers.

† The Marquis de Vaudreuil was promoted to the government of Canada. He was the son of a distinguished officer who had been governor-general of Canada, and belonged to an influential family at the French court. His arrival in the colony was therefore hailed with joy, as the harbinger of better days. His administration was long remembered as a brilliant one.

Kerlerec, his successor, was a captain in the royal navy. He had been twenty years in active service, and was distinguished for his bravery. He reached the Balize on the 9th of January; and on the 9th of February, 1753, he was installed Governor of Louisiana. He began his administration by being kind to the Indians, especially to the powerful tribe of Choctaws. He reduced the army to thirteen hundred men. Although the French government had recommended the strictest economy, and had reduced the army, the expenses for the year 1754 amounted to near a million of livres. In the following year the English had attacked the French in Canada, and he expected soon to be attacked himself. In 1757, they had cut off nearly all communication between France and Louisiana,

peared in Louisiana in such numbers; this governor was accused of having kept them off, but if he did it with the view of recalling the colonists to agriculture, they can complain only of the means he took to attain it. The fact is, that when these Spanish interlopers abandoned Louisiana the colony was loaded with all the useless mouths that had subsisted by the Spanish trade. Agriculture having been neglected, no longer furnished the same resources; the city had been peopled at the expense of the country.

Avarice, which always finds real or apparent means of satisfying itself, invented a very onerous one to repair the evil caused by the departure of the Spaniards; this was to increase the royal expenses, and we may say that they had no more moderate limits than the motives to which they owed their existence and their excess. The forts which the French king had in different parts of the colony were objects of office-seekers.\* These men, led there by cupidity, carried the ex-

and he had to send to Vera Cruz for ammunition and supplies. The fate of the colony was approaching. The Choctaws and Alibamons threatened to join the English, unless they received supplies. Things continued to get gradually worse, when, on the 3d of November, 1762, the king of France ceded to the king of Spain this splendid province, which extended from the Gulf of Mexico to the shores of the Pacific. On the 29th of June, 1763, D'Abadie landed at New-Orleans, and Kerlerec soon after departed for France, where he was thrown into the Bastille to answer charges made against him. Here he was confined for some time, and after his release, it is said, he died of grief.—*Gayarré's Archives of France.*—*Martin.*

\* These posts were Point Coupée, Natchitoches, Natchez, Arkansas, Illinois, Mobile, Tombeckbé and Alibamons. They served as retreats for Indian traders. Under Kerlerec's administration the commanders of these exclusively carried on the trade, and disposed at will of the royal stores intended as presents for the Indians. After exhausting these, they sold goods to the king at exorbitant prices, and frequently the very articles which they had abstracted. I have heard on this point strange items of expense, the most entertaining are these, viz: it cost the king of France ten thousand francs to clear a prairie! and in another post twenty thousand francs in one year for milk for the hospital. The garrison of the post must have been suckled all that year!

penses to unheard-of sums, for they depended on their will, or rather on their caprice. They drew bills of exchange, which the comptroller (commissaire-ordonnateur) of New-Orleans was obliged to accept in the king's name. All this took place during the last war, and expenses are mentioned which are perfectly incredible, so barefaced and ridiculous are they.

The great quantity of paper showed the necessity of depreciating its value, and before the king had spoken, commerce had taxed it. His Christian majesty acted much more favorably than was supposed; for the paper was reduced only half, while on 'change at New-Orleans they lost three-quarters.\*

It is easy to see how such shocks injured the progress of the colony. They soon combined with other causes to produce the unhappy state into which that province fell, at the time when I was drawn there with the troops sent by the English government, to begin establishments on the ceded territory. The information which I acquired enables me to say positively, that the two main causes of the weakness of the colony at all times are, first, a neglect to encourage agriculture and thereby a medium of exchange; and secondly, the mismanagement in the expenses incurred in the king's name. All believe that Louisiana would have been able to sustain Canada and carry French conquest into the very heart of the English possessions in North America, had the French government thought more seriously of the means of increasing the power of that portion of the new world!—had it animated the different branches of cultivation, for which it is better adapted than any other part of North America—had posts been opened

\* The amount of paper at this time afloat in the colony was about seven millions of livres, which was selling at the rate of about five livres in paper for one of specie. About this time, too, a memorial was written proposing to restore confidence by adopting a plan for the withdrawing of all paper money in the colony.



for commerce, means of exchange instead of means of cupidity and revulsions been presented, and a deaf ear been turned to those who, impelled by avarice, proposed at times to shackle agriculture under the false pretext of encouraging commerce.

Such is the idea that I conceived of the main causes of the languishing state of that colony; and we shall be convinced of their accuracy, when in the second part we see Louisiana recovering her strength when the colonists turned their attention to agriculture.

This part will embrace the period between the peace and the arrival of the Spaniards; and the success of so short a period will tend to prove what I have advanced in the first part, "that the neglect of agriculture was the main cause of the state of weakness in which the colony was in 1762."\*

\* In the Archives of the Escorial, there is a document in which Spain states her impossibility to send supplies to the colonists, but recommends it as the interest of France and Spain to retain Louisiana. As early as 1762, the king of France wrote to Kerlerec, that, by the preliminaries of peace, he had ceded to the king of England a part of Louisiana, and had also resolved upon ceding the other part to his cousin, the king of Spain.

## SECOND PART.

*WHAT LOUISIANA WAS FROM THE PEACE OF 1762 TILL THE ARRIVAL  
OF THE SPANIARDS.*

THE Frenchman loves his king as the Englishman loves his country; this love, more disinterested in the former, is as worthy of high praise. These two different springs produce in each nation similar acts of patriotism. In the last war we saw the Canadian recognize welfare and happiness only under French rule, and for it sacrifice fortune, children, life; and, after the peace, half the inhabitants of Canada abandon their lands, and run the risk of dying from want in France rather than enjoy the ease which their possessions assured them under a free and peaceful government.

We see this same patriotic fire extend to Louisiana among all the colonists who were on the part ceded to the English.

We shall, in the third part of this work, show this spark the origin of a great conflagration which might have produced the most surprising revolution; but we are, at present, to consider what transpired between the peace of 1762 and the arrival of Don Antonio de Ulloa. This period embraces, if we may use the expression, the manhood of the colony—a glorious time, indeed, but too short.

The English, as I have already said, had acquired the cession of Florida and all Louisiana east of the Mississippi, whose course became common to the two nations, French and English. The former, however, preserved the isle of New-Orleans, formed by Iberville River and the lakes. The circumference of this island is about 150 leagues, but all the land is not inhabitable; in fact, only the banks of the Mississippi are. The city lies on

the island which bears its name, thirty-two leagues from the mouth of the river, and one league from a narrow channel running to Lake Ponchartrain, which connects with the gulf. As the entrance to this lake belonged to the English,\* commerce with the French was secured to them on all sides, as the principal French establishments are on New-Orleans island, and communicate with the city by the river and lakes. The gulf-shore at Pensacola and Mobile is of a white sand, unfit for cultivation, rendering it indispensable to communicate and trade with the French colony of Louisiana. The English government had felt it, and by leaving the isle of New-Orleans to the French, they assured themselves a trade which cannot possibly be prevented, and which is, moreover, necessary and very advantageous to the inhabitants.

At the moment when the treaty of peace was published, the French, whose possessions lay on the part now become English territory,† were seen abandoning their lands and proceeding with their negroes and stock to territory which they believed, as the treaty pretended them, to be still French. In some places they had only to cross the river. They showed no regret at the constant sight of the plantations which they had abandoned.

Who can refuse a tribute to such sacrifices? The promises of the English, the facilities which they afforded, retained only such colonists as could not abandon their possessions without exposing themselves to starvation.

\* See the correspondence between Col. Robertson and Gov. d'Abadie, in 1763, on the commerce of the lakes.

† Prior to this period the whole territory on both sides of the Mississippi, situated between the northern lakes and the Gulf of Mexico, and between the Mexican and Alleghany Mountains, went under the name of Louisiana. That part of it ceded to the English lost the name, but the new acquisition of Spain retained it. In 1762, the king of France sent instructions to M. d'Abadie respecting the delivery of Louisiana to England and Spain.

Monsieur d'Abadie was appointed by the French king governor of the part of Louisiana which had been left him by the treaty of peace. The city had the rank of a port of entry, and M. d'Abadie had the direction of the custom-house, thus uniting the two offices of intendant and governor of that wretched colony; the deplorable state in which he found it, left him no hope of ever seeing it attain the splendor to which he saw it could be raised. Yet, he employed wisely and understandingly the best means to attain it. He felt that a spirit of trade and exchange had seduced many. To recall some to agriculture and inspire a taste for it, and destroy all hopes of making fortunes otherwise, he diminished the excessive expenses of the government, giving a surer and more profitable direction to agriculture; he flattered the hopes of the colonist, and endeavored to open markets for articles that could employ the greatest number of inhabitants, such as tobacco and rice. Lastly, he permitted the English to trade with the colonists, and even encouraged them to supply negroes.\*

No governor had till then perceived, as M. d'Abadie did, the real means of prosperity for Louisiana; but the colony was three or four years in arrear, and this debt was first to be liquidated. The Louisiana merchants owed a great part of the invoices shipped by houses in France, and M. d'Abadie had to seek means to send back all these sums in order to restore the colony's credit, entirely lost since the war. This he could not effect without incurring the hostility of the merchants, who looked with a jealous eye on the English stores at New-Orleans. But the welfare of the colonial cultivator called for his first attention. Commerce he could always

\* English merchants for a number of years supplied Louisiana and the American colonies with negroes from Africa.

restore, and with applause, when the colonial produce, augmented by the facilities offered the cultivator, had furnished the merchants sure means of exchange and speculation.\*

A premature death unfortunately carried off this worthy man, at the very moment when he was most occupied with means of elevating the colony; which had as yet but slightly experienced the efficacy and certainty of those means. His death was not accordingly as much regretted as it should have been.†

He was, moreover, replaced by M. Aubry a man whose valor had won the highest praise in the last war, and whose

\* The merchants addressed a memorial to M. d'Abadie on the 7th of June, 1764, depicting the wretched condition of the colony produced by the depreciation of paper money. This document contains a practical refutation of the paper system, and shows its demoralizing effects.—*Archives of France*.

† M. d'Abadie was appointed by the king, director-general in 1774, in which year he arrived in Louisiana. This magistrate was profoundly distressed with the duty he was instructed to perform, and the grief which it occasioned caused his death on the 4th of February, 1765. It is stated by a writer of this period, that he died universally regretted. "A disinterested ruler, just towards all, and inflexibly firm in causing the laws to be respected, he severely repressed the excesses of masers towards their slaves, and protected the Indians from every kind of oppression. By his example, he caused religion and morality to be honored; and left a memory dear to all Louisianians."

In October, 1764, M. d'Abadie announced the cession to the colonists. This intelligence plunged the inhabitants into the deepest consternation. They indulged however the fond hope that their united exertions might avert the impending calamity. Every parish was accordingly invited to send its most notable planters to a general meeting in New-Orleans in the beginning of the following year. It was attended by almost every respectable planter from the province, and by almost every person of note in New Orleans. Lafreniere, the attorney-general, addressed the meeting in a patriotic speech, which he concluded with a proposition, "that the sovereign should be entreated to retrace his steps, and that an agent should be sent to France to supplicate his majesty." The proposition was assented to without a dissenting voice, and Jean Milhet was selected for the important mission. He went to France, and at Paris he was assisted by Bienville, the former governor of Louisiana, who bewailed the dismemberment of Louisiana. He called with Milhet on the Duc de Choiseul, but as he was the prime mover of the measure, they were denied access to the king, and the mission failed. Milhet returned to New-Orleans; reported the ill success of his mission, and ended his days as a state prisoner in the Moro Castle, Havana.

social virtues made him generally respected. It was not remarked that the qualities of a good soldier and a good citizen do not necessarily suppose those necessary for government, the administration and finances. M. Aubry, an excellent grenadier, had no quality to fit him for governing properly a colony situated as Louisiana was then. A talent far superior to this governor's was needed to carry out the important work begun by M. d'Abadie, and to fulfil worthily the difficult commission imposed upon him.

The planter who, under M. d'Abadie, had felt the necessity of devoting his time to cultivation, and whose essays had proved how advantageous it would be, did not relax under M. Aubry, from whom he expected as much protection and encouragement as he had received from his predecessor.

But sometime before his death, in 1763, M. d'Abadie had received from the French court notice of the cession of Louisiana to Spain, by an act passed at Madrid and Versailles at the time of the peace of 1764. No one knew why this cession had been so long kept secret, or why France had after that sent a governor and troops in her pay. The French king, announcing the cession, ordered M. d'Abadie to enter the letter\*

\* *Louis the Fifteenth to M. d'Abadie.*

"MONSIEUR D'ABADIE:—Having, by a special act, passed at Fontainebleau, November 3d, 1762, ceded, voluntarily, to my dear and well-beloved cousin, the king of Spain, his heirs and successors in full right, purely and simply without exception, the whole country known under the name of Louisiana, as well as New-Orleans and the island on which that city is situated; and the king of Spain having, by another act, passed at the Escorial, on the 13th of November, in the same year, accepted the cession of the said country of Louisiana, city and island of New-Orleans, according to the annexed copies of these acts; I address this letter to inform you that my intention is, that on the receipt of this letter and the copies annexed, whether it reaches you through the officers of his Spanish majesty, or directly by the French vessels charged with its delivery, you will resign into the hands of the governor therefor appointed by the king of Spain.

in the council minutes, that the different departments in the province might refer to it when necessary.

I was an eye-witness of the consternation which this overwhelming news produced at New-Orleans. A general despair would have followed, had they not fondly hoped that the cession would never actually take place. They could not conceive

the said country and colony of Louisiana and its dependencies, with the city and island of New-Orleans, in such state as they may be at the date of such cession, wishing that in future they belong to his Catholic majesty, to be governed and administered by his governors and officers as belong to him, in full right and without exception. I accordingly order, that as soon as the governor and troops of his Catholic majesty arrive in the said country and colony, you put them in possession, and withdraw all the officers, soldiers, and employes in my service in garrison there, to send them to France or my other American colonies, or such of them as are not disposed to remain under the Spanish authorities. I moreover desire, that after the entire evacuation of the said port and city of New-Orleans, you collect all papers relative to the finances and administration of the colony of Louisiana, and come to France and account for them. It is, nevertheless, my intention that you hand over to the governor or officer thereto appointed all the papers and documents which especially concern the government of the colony, either relative to the colony and its limits, or relative to the Indians and the various posts, after having drawn proper receipts for your discharge, and given said governor all the information in your power to enable him to govern said colony to the reciprocal satisfaction of both nations. It is my will that there be made an inventory, signed in duplicate by you and his Catholic majesty's commissary, of all artillery, effects, magazines, hospitals, ships, &c., belonging to me in said colony, in order, that after putting said commissary in possession of the civil edifices and buildings, an estimate be made up of the value of all the said effects remaining on the spot, the price whereof shall be paid by his Catholic majesty according to such estimate. I hope, at the same time, for the advantage and tranquillity of the inhabitants of the colony of Louisiana; and in consequence of the friendship and affection of his Catholic majesty, I trust that he will give orders to his governor or other officer employed in his service, in said colony and city of New-Orleans, to continue in their functions the ecclesiastical and religious houses in charge of the parishes and missions, as well as in the enjoyment of the rights, privileges and exemptions granted to them by their original titles; to continue the ordinary judges, as well as the superior council; to render justice according to the laws, forms and usages of the colony; to guard and maintain the inhabitants in their possessions; to confirm them in possession of their estates according to the grants made by the governors and intendants (ordonnateurs) of said colony, and that such grants be deemed and reputed confirmed by his Catholic majesty, even though not yet confirmed by me. Hoping, moreover, that his Catholic majesty will be pleased to give his subjects in Louisiana the

how France could abandon a colony so convenient for her European and West Indian trade. They saw how little benefit it could be to Spain. They still imagined, so much did they fear a change of government, that the cession of Louisiana was only a temporary political arrangement, and such as could conceive it to be real, redoubled their ardor to increase the revenue in the hope and desire of laying up a competence in Europe. Nobody accordingly thought of becoming a Spaniard, so dear is country to every virtuous heart.

Then was felt what encouragement and emulation the several objects of produce would have done. The various motives which animated the colonists all concurred to the same end; industry was carried to its highest point; machines were everywhere raised to multiply force and facilitate works.

Revenues everywhere doubled, nay tripled in some places. Louisiana indigo, till then depressed, equaled that of St. Domingo in quality and value, such was the care devoted to its manufacture. More expeditious and convenient saw-mills considerably increased the lumber trade; cotton was planted, and its quality tested by manufacture.\* All took life, and the colony of Louisiana would have become the richest, most populous and powerful establishments in the New World.

same marks of affection and good-will which they experienced under my government. the greater effects of which the evils of war alone prevented their feeling. I order you to register this, my present letter, in the superior journal at New-Orleans. in order that the different states of the colony may be informed of its contents, that they may have recourse to it in time of need. The present letter having no other object, I pray God, M. d'Abadie, to preserve you in his holy keeping.—Given at Versailles, April 21, 1764.

(Signed) "Louis.

(Countersigned) "THE DUKE DE CHOISEUL."

\* Indigo and cotton appear to have been the only staple productions of Louisiana at this time, although sugar-cane had been cultivated by the Jesuits as early as 1751.



We read in the memoirs published about this colony, that a great number of Acadians prepared to leave New-England to come and join their countrymen on the banks of the Mississippi, but the news of the cession of Louisiana to Spain, induced some to remain where they were, others to go to St. Domingo or Cayenne. Many took refuge in France, and were sent to Corsica; Canadian families were on their way to settle in Louisiana, believing it still French, but learning the change of government in time, settled at Detroit. Yet, who would have been happier than the Acadians, had they chosen to avail themselves of the offers of the English government? \* But their love of country rose above every other consideration; they aspired only to live under a French rule, and to enjoy it faced the greatest dangers. They would in preference have gone to Louisiana, the climate of which was more like that of Acadia. What an advantage for France! what a population for Louisiana, if it had not changed rulers! "Happy," says the author of one of these memoirs, "Happy, if France had only to regret these generous citizens!" But the total loss of the colony of Louisiana will necessarily follow its cession to a power so little fitted to turn it to advantage.

In fact, if we examine the Spanish colonies, what do we see? Misery and oppression spread over a few wretched settlers scattered over vast territories, rendered deserts by the cruelties of that nation; thousands of slaves a thousand times

\* This is mere flattery of England. There is scarcely an act of her government more disgraceful to common sense and common humanity than her treatment of the Acadians. Williamson, in his History of the State of Maine, has given a thrilling account of their cruel treatment and expulsion by the English from Acadia. From the 1st of January to the 15th of May about six hundred and fifty arrived at New-Orleans. Part of this number were sent to form settlements in Attakapas and Opelousas, and the remainder settled on the banks of the Mississippi, which is to this day called the Acadian Coast.

more unhappy than the most abused beasts, for they are better able to know the extent of their misery, and all employed in wringing from the bowels of the earth the contemptible metals which drew that nation to the new world. The men whom they pretend to call free in Spanish colonies are born serfs to every man sent to command in the name of His Catholic Majesty, and who all successively become gorged with the blood of those whom they harass and oppress. By abusing the power confided to them, these tyrants become arbitrary, and the wretch who dares complain or mourn soon falls a victim for his natural feelings.

Is it possible, that under a just king, engaged in Europe in elevating the well-being of his states and extending abundance and fertility, not one generous soul can be found to carry to the foot of his august throne the cries of the wretched inhabitants of his colonies? The picture that could be drawn of the horrible vexations to which they are subjected, would touch his great and magnanimous soul, but cupidity carefully keeps aloof the man bold enough to address the monarch in accents of truth. For soon would follow the destruction of the means which the rapacity of his officers finds of sating itself in the blood of the wretches whom it overwhelms with misery. There are too many interested in maintaining them.

This picture, which the sight of the Spanish colonies daily presents to the people of Louisiana in still more odious colors, was brought to New-Orleans with the announcement of the speedy arrival of the Spaniards. The general terror would necessarily call up the patriotic feelings which attach Frenchmen to their king, and in general every man sensible to a government which watches over its happiness and well-being. We shall see the effects in the third part of this work, which

will comprise the interval between the arrival of De Ulloa and that of O'Reilly. It is unhappily the period of the decadence of Louisiana. It had since the peace enjoyed some splendor only to prove itself susceptible of it. We shall see its flattering hopes vanish, like the flash of lightning followed by the storm.

## THIRD PART.

WHAT LOUISIANA WAS FROM THE ARRIVAL OF THE SPANIARDS TO THE  
YEAR 1771.

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## SECTION I.

*FROM THE ARRIVAL OF ULLOA TO HIS DEPARTURE.*

WHEN posterity shall cast a serious glance on preceding ages, and a natural feeling of justice and humanity shall fix their attention on the events which I have now to relate, they will scarcely believe that an age as polished as ours could have produced acts of such cruel severity; they will confront epochs, and be tempted to ascribe facts so incredible to those barbarous times when the human heart, abandoned to itself, was capable of the most sanguinary acts.

When posterity shall read that a judgment so iniquitous and so full of inhumanity as that pronounced against some inhabitants of Louisiana, issued from a court where some enlightenment and philosophy too are reigning, they will doubt the authenticity of the facts, or at least will draw the reflection of the wise man on the misery inseparable from the throne.

“Truth never approaches it; daily deceived by those around him, the best king commits the evil he abhors, and lets the guilty go unpunished, innocent in his belief, while desolated families mourn the death of the just man.”

With the torch of truth in my hand, I am about to mark with care the steps of those noble-hearted men whose patriotism I can never sufficiently praise; of those men, whose

virtues, firmness and magnanimity will ever be an honor to our race—of those men whom a barbarous animosity seems to have chosen, that the splendor of their merit might make it more remarkable. So, in a numerous herd, the fattest and best-looking are selected for sacrifice. So, in his garden, the cruel Roman struck down the poppy-heads that nature had raised above the others. Sad emblem of that reflective cruelty which the world calls prudence and policy, but which the wise man more justly deems barbarity.

However, let us first relate the facts which usher in that cruel event.

A year had elapsed since the receipt of the king's letter announcing the cession of Louisiana, when Don Antonio de Ulloa wrote from Havana to the superior council at New-Orleans a letter, in which he assumed the title of Governor of Louisiana, —announcing the protection of a beneficent king was preparing all hearts to gratitude, and such was the feeling which prepared the brilliant reception given to Ulloa.

A man threatened with a great danger believes that he has escaped as soon as he sees the least help, no matter how barbarous the hand that proffers it. Such was the position of the inhabitants of Louisiana.\* They justly shuddered at the cruelties and vexations with which the Spanish colonies were op-

\* *Ulloa to the Superior Council.*

"GENTLEMEN,—Having lately received orders from his Catholic majesty to repair to your city and take possession of it in his name, and in conformity therewith, I avail myself of this occasion to acquaint you with my mission, and to give you notice that I shall soon have the honor of coming among you to fulfill this commission. I flatter myself in anticipation, that it will afford me a favorable occasion to render all the service that you or the colonists can desire, of which I beg you to assure them that in this I will but discharge my duty and gratify my inclinations.

"I have the honor to be, &c.,

"ANTONIO DE ULLOA."

"HAVANA, July 10, 1765."

pressed; but an animal to be broken to the yoke must be petted for a time. No one expected that the first years of this domination would not be stamped with beneficence and equity. Hope, the faithful companion of desire, showed a retreat to Europe as an easy thing at the end of a few years, and it was supposed that, at the moment of taking possession, a term would be fixed for those who should decide to leave the country.

The entry of the Spanish governor was too flattering not to seduce three-fourths of the colonists, but sensible men easily discovered the poison under the honey. Some superstitious minds viewed as an ill omen the thunder and lightning which accompanied the Spaniards from their entrance into the river till their arrival at New-Orleans. We leave to ages of ignorance these auguries and omens; our business is with facts.

They sufficed to strike terror into the firmest minds. Politeness, courtesy, civility, nothing was spared to prove to Ulloa the desire of corresponding to the happy intentions which he manifested. The Creole, naturally good, credulous, generous and sensible, carried his attentions even to meanness. Perhaps this conduct excited the interior contempt of a man who had imbibed all the Spaniard's hatred for other nations, and especially the French. It and his character soon appeared in their true colors in this way.

Don Antonio de Ulloa,\* a man to whom knowledge and

\* Don Antonio de Ulloa was descended from a family distinguished in the maritime annals of his country. He was born in Seville, on the 12th of January, 1716, and entered the navy at a very early age. The first scientific expedition in which he served was that which was sent out by France and Spain to measure an arc of the meridian at the equator, to determine the configuration of the earth.

He returned to Spain in 1746, and in two years afterwards published his

erudition were ascribed, had not the proper talents for managing men. He had not penetration enough to know them, nor impartiality enough to avoid injustice or correct a false judgment. He had not that amenity, that mildness, that engaging way which gains all hearts, and above all a Frenchman's. He had not that happy combination of severity and clemency which can punish or pardon in reason. Obstinate, nothing was better than his own plans; violent, he confounded in his rage all those he dealt with; imperious, his will was law; minute in his projects, vexatious in their execution, arrogant when yielded to, timid and supple when resisted, inconsiderate in his plans, destitute of dignity, of generosity, shut up in his cabinet, appearing only to disoblige. Such was the man in Ulloa; a sharp, weak voice announced his disposition. His

"Historical Relation of a Voyage to South America." Shortly after, he was promoted to a captaincy in the navy, and set out on a tour through Europe by order of the king. On Charles III. ascending the throne, he was promoted to the command of a fleet to the East Indies. He returned to Spain, and was appointed to the government of Louisiana. On the 5th of March, 1766, he arrived at New-Orleans. Acting with his usual benevolence, the king instructed Ulloa not to make any changes in the laws and usages of the province, and so desirous was Ulloa to conciliate those over whose destinies he had come to preside, that on his arrival he promised to keep at a fixed rate the depreciated paper of the country, which now amounted to about seven millions of livrea. He likewise ascertained the wants and resources of the country, and agreed to discharge the most pressing demands against it.

On the 6th of May, Spain issued a decree, permitting a direct commerce between Louisiana and the French islands. The colonists, however, became dissatisfied with subsequent commercial restrictions, which produced a great excitement in the colony, and Ulloa had to flee for safety to the Balize. Here he effected an arrangement with Aubry, the nominal French governor, to deliver the province up to him, which was accordingly done. A greater part of the year passed away in comparative quiet, but a secret conspiracy had been set on foot to drive him from the province; among whom, were Lafreniere, Foucault, Marquis, Noyan, Villeré, Milhet, Petit, Carasse, Poupet and Boisblanc.

On the 28th of October, a petition was signed by about six hundred persons, demanding restoration of some ancient rights and liberties, and the expulsion of the Spaniards from the country. This was presented to the superior council,

features, though regular, had something false withal; large eyes, always bent on the ground, darted only stealthy glances, seeking to see and be unseen. A mouth, whose forced laugh announced knavery, duplicity and hypocrisy, completes the portrait of Don Antonio de Ulloa.

Let us have the French governor's to act as companion-piece. A knowledge of a man's natural disposition often enables us to judge a man's actions more certainly than we can judge character by actions often misrepresented. M. Aubry was a little, dry, lean, ugly man, without nobility, dignity or carriage. His face would seem to announce a hypocrite, but in him this vice sprang from excessive goodness, which granted all, rather than displease; always trembling for the consequences of the most indifferent actions, a natural effect of a mind without resource or light; always allowing itself to be guided,

who issued a decree that Ulloa and the Spanish troops should leave the colony in three days. On the evening of the 31st of October, Ulloa embarked with all his troops and sailed for Cadiz, where he arrived on the 4th of December, 1768. Here he wrote an account of all that had transpired to the Marquis of Grimaldi.

Aubry, the French governor, also wrote a dispatch to the same minister, stating, that "notwithstanding his great learning, Ulloa was not the proper person to govern Louisiana—for, instead of endeavoring to gain the hearts of the colonists, he did every thing to alienate them; while Foucault wrote that Ulloa committed every day some act of inhumanity or despotism. The superior council represented to the Duke de Praslin that through the misdeeds of Ulloa the colony had been thrown into a state of beggary and starvation, and by malicious and restrictive legislation they were prevented from acquiring the means to pay their debts. They concluded, by supplicating the king to retake possession of the colony and annul the treaty of cession. After Ulloa returned to Spain he was promoted to the grade of lieutenant-general of the royal navies of Spain. He died in the island of Leon, on the 3d of July, 1795, at the advanced age of eighty. He published, in 1772, a work entitled "Noticias Americanas;" and in 1773, a valuable work on the Naval Forces of Europe and Africa. Townsend, who visited him a short time before his death in Cadiz, represented him as a true philosopher, full of wit and learning, sprightly in conversation, and of elegant manners. The different points of his character have been discussed by Gayarró in his admirably written History of Louisiana, from which this sketch has been in part drawn up.



and thus often swerving from rectitude in conduct; religious through weakness rather than from principle; incapable of wishing evil, but doing it through a charitable, human weakness; destitute of magnanimity or reflection; a good soldier, but a bad leader; ambitious of honors and dignity, but possessing neither firmness nor capacity to bear the weight.

Such is the portrait of the two men who ruined Louisiana, the one through malice, the other by weakness; the Spaniard from hatred and animosity, the Frenchman by ignorance of his powers and what he owed to the position he filled.

Let us see them in action.

The first act which should have followed Ulloa's arrival in New-Orleans was the taking possession of Louisiana in the name of the Spanish king; but eighty wretched soldiers whom he had brought with him were not in his eyes a sufficiently respectable force to control a colony of which he had already conceived a most unfavorable idea, and this was the pretext which he gave when called upon to take possession. An offer was made to let the French troops remain in Spanish pay, but the soldiers demanded their discharge. The term of their engagement was already tripled, and they could not without injustice be made to serve another prince; they were accordingly left in the French pay, because Ulloa threatened, in case they persisted in pressing him to take possession, to leave and report to the king, his master, the reasons of his retirement.

Aubry, fearful of prejudicing the courts of Versailles and Madrid against him, if he pressed it, acquiesced in all that Ulloa wished, abstained from pressing the act of taking possession, and let himself be guided completely by that man's caprice.

Examine the memoirs published on the revolution which took place in that country, and we see Aubry acting as ser-

geant-major, and often as valet to Ulloa. We see him blindly follow his will, and obey him as eagerly as he would a superior. At every step we see this French governor and his authority exposed to humiliation and the contempt of an arrogant Spaniard. Meanwhile, the French troops continued to act under their national flag; the eighty Spanish soldiers were in barracks and unemployed. The council acted in the name of the French king, and it appeared natural that till possession was taken all orders should emanate from Aubry. The whole colony turned to him; when anything was asked of Ulloa he put it off till after the taking possession, and that moment was considered as that of the change of government.

The Spaniard's delay in taking this authentic and necessary step left a hope that he would sicken his country of a colony which he every day repeated was unfit for Spain, and this hope stifled some of the groans which his conduct would otherwise have elicited.

When Ulloa was sufficiently certain that his threats had alarmed the feeble mind, and his promises seduced the interested heart of Aubry, he no longer kept up appearances. If he needed a conference with the French governor, he sent a sergeant or a negro for him; if he spoke to him, it was with the arrogance of an insolent superior. Once only Aubry, moved by his impertinence, resented it. The supple Spaniard at once bent and yielded, to resume soon after, with more assurance than ever, an empire which he feared to dispute too long.

The colony witnessed with lively indignation Aubry, daily for hours together, awaiting in Ulloa's ante-chamber, until the moment when the haughty man should deign to appear. Authority was weakened, the royal dignity dishonored in the man appointed to sustain it. All the French were mortified

at this humiliation, and when it falls on hearts unused to it, it inspires rage and fury, if vengeance is not prompt enough.

Ulloa daily extended his powers, and Aubry kept only a shadow of authority;\* and this went so far that it was impossible to distinguish which was the head. Each gave orders; yet Aubry often sent men to Ulloa, and the Spaniard always affected to leave the whole authority to Aubry, always saying that he had not taken possession. He had, however, persuaded the court of the contrary in this way :

An act was passed between Aubry and Ulloa, by which the former certified that he had resigned to the latter the colony of Louisiana agreeably to the orders of the king, his master, and in virtue of the powers received by said Ulloa from his court. This act was signed by the two governors in duplicate, and was to be exchanged to the two courts.

It will, perhaps, be imagined that this treaty was made public, read, posted up, and attended with all the formalities that announce a change of government. Not at all. The inhabitants of Louisiana had not even on this occasion the necessary satisfaction given to a sold slave, that of knowing the moment when he was to obey his new master. M. Aubry communicated this iniquitous and informal act to only two persons, after pledging them to the most profound secrecy, and they divulged it only after the revolution. But it is not enough to have put this invalid and unjust act before the reader; but let us hear from Aubry's own lips the means employed by Ulloa to extort it.

“ Ulloa, intimidated by the representations of the merchants to the council, and by some threats purposely pronounced in

\* We shall hereafter see, however, Aubry avowing in open council, that Ulloa had never shown him anything but a letter of M. de Grimaldi, in Spanish, a language that Aubry did not understand, and this letter announced to Ulloa, as he explained it, his appointment as Governor of Louisiana.

his hearing, retired to the Balize, which is at the mouth of the river, thirty-two leagues from the capital. I received a letter from him, in which he informed me that he had matters of the greatest importance to communicate. I at first hesitated as to abandoning my government, but circumstances, it seemed to me, required this step on my part, and I went to the Balize. Ulloa represented to me that the two courts would, perhaps, take it amiss that possession had not yet been taken, and I knew it was impossible for him to take it; that, accordingly, to satisfy both monarchs he begged me to sign an act which he proffered, by which I certified that I transferred the colony to him by virtue of the powers I had from my court and he from his. So informal a transaction shocked me, and I insisted on an authentic taking of possession, which could be ignored by none—such, in a word, as good sense, custom and the law of nations required. Ulloa tried to convince me of its inutility; I insisted. He then promised to take possession as soon as he returned to town. I was some days irresolute. Ulloa was continually after me; at one time he entreated, at another he threatened to complain of my refusal. I was greatly embarrassed; but I at last accepted a proposal he made me, and which seemed to fulfil the object of the publicity. I signed the act in question, on condition that the act of taking should be performed publicly on his return to town, and that the act passed between us should be read publicly before the garrison of Balize, which was to be immediately relieved by a Spanish detachment."

Have you never seen a school-boy threatened, coaxed, frightened, by a severe master, to do something he required? The child resists, cries, is stubborn, but yields at last, but under conditions that seem to him a complete victory gained over his

master. Such was M. Aubry before Ulloa. But let us conclude the French Governor's account.

"The act passed between us," continues Aubry, "and it was agreed that each should send a copy to his court. I gave orders to M. de Lorme, a French officer commanding at the Balize, to have his troops under arms next day at eight o'clock. Ulloa gave the same order to the Spanish officer, who had accompanied him with a detachment; but at daybreak Ulloa entered my room to tell me that it was useless to read the act before the troops at the Balize, as he would soon go to town. I countermanded the order given to the French officer, and he did the same with the Spanish officer. The next day I returned to town, leaving Ulloa at the Balize."

Soon after, difficulties arose between the Spanish governor and the French officer commanding at the Balize. The latter had orders from Aubry to obey Ulloa as himself, in consequence of which the orders of Ulloa were obeyed. He changed the position of Balize and placed it on the left bank of the river, proceeded there and raised the Spanish flag.\* The French flag floated on the other side, where the French officer and his detachment still continued.

During his stay at the Balize, Ulloa sent twelve boats, loaded with troops and munitions, to go and take possession of the posts in the Illinois. The whole colony was amazed at this infraction of received usages. Nothing seemed more extraor-

\* Balize was the port at the entrance of the Mississippi on the west side in French times. Ulloa took it into his head to change this post, or rather to establish another on a little island, to which he gave the pompous name of Real Catolico San Carlos. This island, like all others at the mouth of the Mississippi, was not permanent, but exposed to the ravages of the sea and river. Ulloa undertook to make it solid, and spent £25,000 in his attempt, half of which was a dead loss.

dinary than to see two different governments, two flags, and two commanding officers in the same country.\* The colonists went to Aubry, who pacified them, by saying that he was to retain command till possession was taken, which Ulloa would do as soon as he came from the Balize. This moment was always deferred. "The troops," said the Spaniard, "were on the way," in fact, at Havana, as he pretended, although it is an indisputable fact he knew that at that port there were only fifteen or twenty men for Louisiana, intended to replace as many dead or deserted.

\* This condition of things is confirmed by Aubry's dispatch to the French government, dated 20th of January, 1768. "I command," says Aubry, "for the King of France, at the same time I govern the colony as if it belonged to the King of Spain. A French commander is gradually moulding Frenchmen to Spanish domination. The Spanish governor urges me to issue ordinances in relation to the police and commerce of the country, which takes the people by surprise, considering that they are not used to such novelties. The Spanish flag is now waving at the extremities of the province. It is at the Balize, at Missouri, on the banks of Iberville River, and opposite Natchez. M. Ulloa has just established these posts, which was done peaceably. It has produced no change in our posts, which still continue in existence. So that, in all those which are on the banks of the Mississippi, from the Balize to the Illinois, the French flag is kept up as before."

Again, in another dispatch, Aubry says: "The governor whom His Catholic Majesty has sent here, is a man full of merit, of learning and of talents; but as an exception to the well-known temperament of his nation, he is exceedingly hasty, and it seems to me, that he does not listen sufficiently to the representations addressed to him. It is a cause of discontent in those who have business with him. I had wished that the officer sent to take command of this government had possessed the art of managing the public mind, and of gaining the hearts of the inhabitants. Men are not to be ruled with haughtiness and pride, with threats and punishments. Marks of kindness and benevolence, with judicious promises, would have been necessary to reconcile the colonists to the exchange of dominion which has come upon them. This was the only course to be pursued, in order to win the affection of new subjects who regret their former master.

"If the Spaniards do not act with mildness, and if they attempt to govern this colony like a Mexican one, most of the people will abandon their lands, and cross over to the English, who are on the opposite side of the river. Thus, in a few years, the Spanish part of Louisiana will become a desert." He concluded with informing the French court that the measures taken by Ulloa were not calculated to give popularity to the Spanish government.—*Gayarré*.

Who does not feel indignant at such conduct? What base, mean trickery! And yet it was on this illegal act only that O'Reilly was to judge as Spaniards, men who had been ceded without being told of it. But all I have thus far related is only a slight sketch compared to what remains for me to tell, or to omit, as I may think best.

Money at last came from Havana. Ulloa knew that the non-payment of the troops had caused some murmuring; he hoped, by appeasing them, to be able to appear in town with a little more security for his life; for, according to the idea which he had formed, he was in constant fear that the colonists would make an attempt on it.\*

On returning to the city he was as polite as possible, flattered them with the fondest hopes, announced advantageous projects, which he never entertained, read letters of congratulation on the conduct of the colonists towards him, received, as he pretended, from the court. He flattered cupidity, promised to take possession soon, and somewhat restored calm in the public mind. But this calm lasted only as long as he could contain his temper, and above all his hatred and contempt for the French.

In spite of the complaints which Ulloa repeated a thousand times, he never received from the inhabitants anything but politeness, deference and respect. Complaints and murmurs were carried to Aubry, who appeased them, exhorted all to patience, assuring them that the French court was informed by all his letters of the just ground on which the colonists had based their complaints.

Meanwhile, tyranny was gradually being established and

\* This fear was pardonable in a man who, if we believe public report, had been obliged to escape by night from a town he commanded in Peru, on his hearing that the discontented inhabitants wished to burn him in his house.

despotism gained new strength. Ordinances were annulled, or made a dead letter; the subjects of the French king were ill treated and imprisoned by order of the man invested with authority by no public or recognized act.

Never was there a more cruel and critical position than that of the colonists of Louisiana. Was the colony ceded or not? If ceded, why did not Ulloa take possession? and why did Aubry continue to govern? Why did the council judge in the name of the King of France? If not ceded to Spain, what was Ulloa doing in Louisiana? Why did he command, unopposed by Aubry? Why, too, was French authority alone recognized and predominant? What was the object of this mixture of authority, the more destructive, as no one knew to whom to apply for a redress of the grievances which occurred daily?

The act of cession, if it took effect, was to bring under a new domination the happiness of a people of which they could not have as yet lost the remembrance. Such was the sacred promise of the French king to his Louisiana subjects—a promise which only confirmed the natural feeling that kings have received power only for the happiness of the people.

But, where were they to claim these sacred rights of man? To whom address their representations? Ulloa would not listen to them, protested that he had no right, and threatened those who made them with the greatest chastisement on his reception. If they applied to M. Aubry he promised the support of the French court, and evils but increased amid this frightful perplexity.

An edict† announced from Europe crowned their despair.

\* By a private arrangement entered into between Ulloa and Aubry on the 20th of January, 1767, it was agreed that the colony should be delivered up to Ulloa, and that Aubry should govern it for the time being.

† This decree was issued by Ulloa on the 6th of September, 1766. The ex-



Non-intercourse with France, duties, imposts. Was this a foretaste of the promised felicity? to lose all hope of intercourse with their country, and almost the hope of ever reaching it. What a future for Frenchmen, whose sacrifices had proved their attachment to their prince!—for Frenchmen, who breathed only for the moment when they should be permitted to renew in Europe an oath of allegiance from which nothing as yet had dispensed them.

Here, their patriotic feeling awoke with all the energy that an essay of tyrannical power could give them even before its recognition. The desire of escaping it was naturally the first movement which succeeded this outburst. But to do so without being criminal, this is the next thought of a Frenchman. The colonists certainly are not accused of having abandoned this principle.

They had many ways of escaping the growing tyranny, and enjoying the rights given them by nature, and by the royal promise to happiness and repose. They knew that under the English government they would have all the prerogatives of liberty. They beheld the victorious Britons extending them the hand; they had but to cross the river to escape vexations; but an oath of fidelity attached them to France. Nothing as yet had destroyed this dear and sacred bond. Duty, love, honor, all opposed their emigration; all prevented their listening to the favorable proposals of the English government; all, in fine, obliged them to close their ears to the flattering

citement created by this act of Spain was intense. The desire to throw off the yoke was now generally discussed, and even the scheme of independence was favorably received by the colonists, although it was afterwards abandoned as a Quixotic measure. "The Duke de Choiseul," says Bancroft, "as early as 1765, foreseeing the coming fortunes of the new world, expressed his regrets for Louisiana, because he foresaw that the American colonies must soon become independent, and predicted the result of the final struggle between England and her colonies."

promises made to such as should settle on the possessions of the English king.

They could not complain to the court of Spain of the evils threatened them by Ulloa, and with which he smote the colony. They were induced to believe that political reasons kept the courts of Madrid and Versailles in suspense as to the possession of Louisiana, inasmuch as the Spanish envoy did not carry out his powers. He might be commissioned by his court to examine the colony and render an account. It is well known that Ulloa frequently styled himself simply Inspector. In this quality, without taking possession, and not having been recognized, he had no right to command, still less to harass; for not even the act of taking possession would give this, contrary to the orders, will and desire of the king, his master. Another reason confirmed the French in the idea that particular arrangements still preserved Louisiana for France; among others, that Aubry had not executed the French king's order\* announcing the cession, and ordering the Governor of Louisiana to transfer the colony as soon as any came entitled to receive it in the name of the Spanish king—at least, they were justified in believing Ulloa not that person.

The inhabitants of Louisiana, always regarding themselves as subjects of the king of France, and being so in fact—as no taking of possession, no public act, either on their part or that of their magistrates, had attached them to any other rule—could recur to none but the French tribunals established for the relief of his subjects, to render them justice when necessary. The French king announcing the cession, seemed to foresee all the difficulties it would entail, as he ordered M. d'Abadie to have his royal letter enrolled in the superior council of Louisi-

\* Aubry had received official instructions to cede Louisiana in April, 1766.

ana, that "the people of the colony of all ranks and conditions might, in case of need, recur thereto, and to publish and post the same;" all of which D'Abadie had done.

Could the people of Louisiana follow any path but that marked out by the king's letter? They accordingly drew up a memorial, in which some of their complaints against Ulloa are set

DECREE OF THE SUPERIOR COUNCIL.

Louis, by the grace of God, King of France and of Navarre, to all who shall see these presents, greeting: We make it known that the Superior Council of the Province of Louisiana, having taken into consideration the humble representations, made this day to that court, by the planters, merchants, mechanics and others; and whereas the relief of a people, to whom the council is a father; the support of the laws, of which it is the depository and interpreter; and the improvement of agriculture and commerce, of which it is the patron, are the motives of the representations of said planters, merchants and others; said council has proceeded to adjudicate as follows on these important matters:

What momentous objects are these for the council! Can it, after having duly weighed them, give attention to any other subject, except so far as it may contribute to these favors! Let it, for a few moments, suspend its arduous labors, to attend to those subjects, which are now represented as most worthy of its attention and ministry: and thou, dear country, whose prosperity is the object of our most ardent wishes; and you who are to us what Sparta, Athens and Rome were to their zealous citizens, suffer us to pay a legitimate debt by consecrating to thee this weak tribute of our love! It will be dictated by our hearts, whose inspirations an obedient hand is ready to record,

Seven millions of royal paper constituted all the currency of this colony and the fortune of its citizens; the total withdrawing of this capital, the payment of which his majesty suspended by an edict of October, 1759, has reduced the province of Louisiana to the most deplorable situation. We shall not undertake to enter into a detail of the calamities, of the ruined fortunes, of the downfall of families, which were the fatal consequences of that catastrophe. The council, every time it assembles to take cognizance of the affairs of the unhappy victims of that event, has before its eyes a more striking picture of our misfortunes than it is possible for us to paint. Recovered from the depression into which they had been plunged, the citizens of Louisiana had begun at last to breathe; they had considered the conclusion of the war as the end of their misfortunes, and entertained hopes that the return of peace would be the moment destined for their relief. Agriculture, said the planter, that surest and most positive wealth for a nation, that prolific source from which flow all the blessings which we enjoy, will now be revived, and will repair, a hundred fold during the peace, the losses which we underwent during the war; commerce, without which the fruits of the earth have neither worth nor value, will be vivified and protected, said the mer-

foith. That against which they could most justly weigh, was his obstinacy in wishing to govern without taking possession; and they asked that this man, from whose tyranny they had all

chant. Sweet illusions and flattering projects, what is now become of you! The planter, the merchant, all ranks and classes in the colony, undergo, in the most profound peace, misfortunes and calamities which they never felt during a long and bloody war.

The first stroke by which the colony was afflicted, was the information it received of the cession made of it by his majesty to Spain. Nobody, doubtless, will be surprised at the profound grief which this news excited in all hearts. The French love their monarch above all things, and a happy prejudice makes all men naturally incline to the government under which they are born. Let us cast a veil over this event; the pen drops from the hand of a Frenchman when he attempts to analyse it. What at present seriously occupies, and should engross the whole attention of the court, is the contemplation of those facts which are the forerunners of that slavery with which a new administration threatens the colonists of Louisiana. At one time we behold an exclusive company, which, to the prejudice of the nation, is empowered to carry on all the commerce of the remaining possessions of the French in North America; we next see the appearance of an edict which confines within the narrowest bounds the liberty necessary to commerce, and forbids the French to have any connection with their own nation; it is replete with prohibitions and restraints; the merchants of Louisiana everywhere meet with obstacles to be surmounted, difficulties to be overcome, and (if it be allowable to make use of such an expression) enemies of their country to be overthrown. In Europe, a period of six months will sometimes elapse before persons that fit out vessels know whether they shall obtain passports; we have no better success at St. Domingo, when expeditions to this river (Mississippi) are in question. The Prince of Monbazon, commander-general of the island, begins to refuse them. In Louisiana, in the very centre of the colony, where a person of the meanest understanding sees, at the very first glance, how much it stands in need of encouragement and patronage, we do meet with more favor.

The government, about twelve months ago, forbade the impostation of negroes, on the pretext that the competition would have proved injurious to a merchant of the English colonies, who was to furnish them. How terrible and how destructive a course of action is this! It is depriving the colony of the materials best calculated to develop its resources; it is cutting up by the roots a branch of commerce which is of more consequence to Louisiana than all the rest put together. To promote systems of this sort is tantamount to the desire to convert into a vast forest, establishments which have cost infinite pains and trouble. The vigilance of the court will easily discover the cause of these contrarieties; the efforts of its zeal will destroy it; and its affection for the colony will save it from destruction. Constraint keeps the affairs of the province in a state of languor and weakness; liberty, on the contrary, animates all things; no one is at present

to fear, should leave the colony with the frigate and the Spaniards he had brought, and that the act of taking possession should be postponed till the French king decided their fate.

ignorant that the granting of exclusive privileges may be justly considered as a sort of vampire, which imperceptibly sucks and consumes the people, drains the currency, and crushes agriculture and commerce; it is an oppressive method, which, for the happiness of mankind, has been long since banished from the French colonies.

To what fatality is it owing that Louisiana alone sees sparks of this devouring fire again struck out! These are no panic terrors; and of this the court will be convinced, after perusing the decree, with an extract of which we have the honor of presenting them. We shall not scruple to affirm, that the carrying of the plan which it contains into execution, would ruin the colony, by giving agriculture and commerce the most dangerous wounds. The inhabitants of Louisiana already despair of the preservation of their country, if the privileges and exemptions which it has hitherto enjoyed are not continued; if the execution of the fatal decree, which has alarmed all hearts and filled them with consternation, is not prevented; if an ordinance, published in the name of His Catholic Majesty, on the 6th of September, 1766, of which a copy is here subjoined, is not annulled as illegal in all its points, and as contrary to the increase of agriculture and commerce; if, finally, the mild laws, under which the inhabitants have lived till now, were suffered to be violated. We should never forget the sublime discourse which an illustrious magistrate addresses to the legislators of the earth: "Aro you," says he, "desirous of abrogating any law, touch it but with a trembling hand. Approach it with so much solemnity, use so many precautions, that the people may naturally conclude that the laws are sacred, since so many formalities are required in the abrogation of them."

How mortifying it is for Frenchmen to suffer all the rigors to which their commerce is subjected, whilst their ambitious rival openly carries on the trade of the colony, to the prejudice of the nation to which it belongs, which contributed to its establishment, and which is at the expense of it! We do not fear that it will be objected, that the French alone are not able to supply the continent with all the commodities which it wants. A loan of seven millions, which the inhabitants of Louisiana made to the king, from the year 1758 to 1763, will be an eternal monument of the extent of the French commerce, and of the attachment of the colonists to their sovereign's service.

It is just at the time when a new mine has been discovered; when the culture of cotton, improved by experience, promises the planter the recompense of his toils, furnishes persons engaged in fitting out vessels, with cargoes to load them; when the manufacture of indigo may vie with that of St. Domingo; when the fur-trade has been carried to the highest degree of perfection which it has as yet attained; it is in these happy circumstances that certain enemies to their country, and broachers of a false system, have imposed upon persons in office, to induce them to sacrifice the inhabitants of New-Orleans. Let the court no longer

This memorial, signed by a majority of the inhabitants, was carried to the Superior Council, and the 28th of October, 1768, was appointed for the day of the general assembly.

defer the relief of a people which is dear to it; let it make known to those invested with royal authority the exhausted state to which this province would be reduced, if it were not soon to be freed from the prohibitions which would plunge it into irremediable ruin. What would be thought of a physician, who, being possessed of a panacea, or universal remedy, should wait for a plague in order to reveal it? It is by the trade to the Leeward Islands that the inhabitants of Louisiana find means, every year, to dispose of fourscore or a hundred cargoes of lumber. Should this branch of trade be taken away, the colony would be deprived of an annual income of five hundred thousand livres at least—a sum which the work of the negroes and the application of the master produce alone, without any other disbursement. According to the observation of a celebrated author, it would be better to lose a hundred thousand men in a great kingdom by an error in politics, than to be guilty of one which should stop the progress of agriculture and commerce. It is well known that those who present plans to obtain exclusive privileges, are never without plausible reasons to make them appear economic and advantageous, as well to the king as to the public; but the experience of all ages and all countries evidently demonstrates, that those who seek exclusions have their private interest solely in view; that they have less zeal than others for the prosperity of the state, and have less the spirit of patriotism.

The execution of the decree relative to the commerce of Louisiana would reduce the inhabitants to the sad alternative of either losing their harvests for want of vessels to export them, or of exchanging their commodities in a fraudulent manner with a foreign nation, exposing themselves to undergo the rigor of the law, which ordains that those who carry on a contraband trade shall lose both their lives and liberties. What a life is this! what a struggle! It is but too true, as has been already observed, that the report of the new ordinance alone has caused a considerable diminution, not only in the articles of luxury, but likewise in landed estates. A house which was heretofore worth twenty thousand livres would hardly sell for five thousand. Some will, perhaps, assert that the scarcity of money contributes also to this diminution. But how much greater will be the scarcity of specie, when the colony shall either be delivered up to an exclusive company, or the ambition of five or six individuals, who form but one body? It will then resemble a member grown to a monstrous bulk, at the expense of the substance of the rest, which would become withered and palsied. The body would thereby find itself threatened with a total destruction. It was only by openly favoring the introduction of negroes, that this colony was raised to the flourishing state which it appeared to have attained in 1759.

Perhaps it will be said, to dispel these alarms, that the gold and silver which have been made to abound in the place by a new administration, may indemnify for the losses of agriculture and commerce. But, judging of the future by the

M. d'Ulloa, alarmed at these steps of the colonists, concerted with Aubry means of stopping them. They found none more prompt and efficacious than to intimidate by threats; but men

experience of the past and of the present, that resource will be found to be very weak, as nobody can pretend not to know that, among the various treasures which the earth contains in its bosom, gold and silver are neither the chief riches nor the most desirable. These metals have reduced their natural possessors to a deplorable state, and the masters of those slaves have not thereby become more powerful. They appear, from that moment, to have lost all spirit of industry, all disposition to work, like a laborer who should find a treasure in the midst of his field, and thereupon forsake his plow forever. Besides, how many acts of severity have been committed against peaceable citizens by a stranger, who, though invested with a respectable character, has observed none of the formalities, nor performed any of the duties prescribed by the act of cession, which provides for their peace and tranquillity. We shall mention an old ship-captain who was confined by his orders, and whose vessel was detained in port during eight or ten months, for not having been able to read in the decrees of Providence that the vessel, in which he had dispatched certain packets intrusted to his care, would be cast away. A similar tyranny was exercised by the person invested with this illegal and unjust authority, against two captains belonging to Martinico, who had been guilty of no other crime than that of not having guessed that the Council of Louisiana had issued an edict forbidding the introduction of the creolized negroes of the Leeward Islands. What ill usage has an old citizen suffered, on account of a packet which had been put into the hands of the captain of one of his ships, who, having met with contrary winds, was unable to deliver it at Havana!

How shall we describe the barbarity with which the Acadians were treated! These people, the sport of fortune, had determined, under the impulse of a patriotic spirit, to forsake all that they might possess on the English territories, in order to go and live under the happy laws of their ancient master. They arrived in this colony at a great expense, and scarce had they cleared out a place sufficient for a poor thatched hut to stand upon, when, in consequence of some representations which they happened to make to Mr. Ulloa, he threatened to drive them out of the colony, and have them sold as slaves, in order to pay for the rations which the king had given them; at the same time directing the Germans to refuse them a retreat. It remains to be determined whether this conduct does not border upon barbarism; but we think we can presume to conclude, without exaggeration, that it is diametrically contrary to the political system which favors the encouragement of population, in all its branches and by every means. Those who complain (and who is there so far broke to the yoke as to bear, without murmuring, inhumanities so horrid!)—yes, we declare it, those who complain are threatened with imprisonment, banished to the Balize, and sent to the mines. Now, though Mr. Ulloa may have been invested with some authority, his prince never commanded him to exert it

impelled by right are not easily intimidated; seditious men would have been alarmed; but the colonists were very far from being such. They followed a plan dictated by their

in a tyrannical manner, nor to exercise it before having made known his titles and powers. Such oppressions are not dictated by the hearts of kings; they agree but ill with that humanity which constitutes their character, and directs their actions.

Were we to enter into a detail of all the mortifications which the French of New-Orleans have undergone, we should hardly make an end of the recital. It were to be wished, for the honor of the nation, that as many of them as have transpired might be obliterated by the precious effects of the protection of the Superior Council, which is now applied for. And it is foretold that the inhabitants of Louisiana will, in order that their tribulations be complete, be reduced, in process of time, to live barely on *tortillas*, although the most frugal sort of food would not be a matter of complaint on their part. In the mean time, the preservation of their lives, their obligations to their creditors, their sense of honor, which flows from the sacred source of patriotism and of duty; finally, the circumstance of the attack made on their property and means of subsistence by that very decree, induce them to offer their possessions and their blood, to preserve forever the dear inviolable title of French citizen. All that has hitherto been said leads them naturally to demands or requests, to which the zeal of the court for the public good, and its steadiness in supporting the laws of which his most Christian majesty has made them the depositories, assure them that it will give the most favorable reception. But before they proceed to state their requests, they must acknowledge the kindness with which they were treated by Mr. Aubry. The wishes of the public have always corresponded with the choice of the prince in assigning him the chief command over the province of Louisiana; his virtues have caused the titles of honest man and equitable governor to be adjudged him; he never made use of his power but to do good, and all unjust deeds have to him ever appeared impossible. They are not afraid of being reproached that gratitude has made them exaggerate in any particular; to neglect bestowing deserved praises is to keep back a lawful debt. And then conclude, finally, by entreating the court:

1. To obtain that the privileges and exemptions which the colony has enjoyed since the cession made by the company to his most Christian majesty, should be maintained, without any innovations being suffered to interrupt their course, and disturb the security of the citizens.

2. That passports and permissions be granted from the governors and commissioners of his most Christian majesty, to such captains of vessels as shall set sail from this colony to any ports of France or America whatever.

3. That any ship sailing from any port of France or America whatever, shall have free entrance into the river, whether it sail directly for the colony, or only put in accidentally, according to the custom which has hitherto prevailed.

4. That freedom of trade with all the nations under the government of his most



king; they addressed his tribunal; but they thereby destroyed Ulloa's work; they opposed a legal obstacle to the chains he would have imposed. Ulloa menaced hanging, the galleys, &c.

Christian majesty be granted to all the citizens, in conformity to the king's orders to the late Mr. d'Abadie, registered in the archives of this city, and likewise in conformity to the letter of his grace the Duke of Choiseul, addressed to the same Mr. d'Abadie, and dated the 9th of February, 1766.

5. That Mr. Ulloa be declared to have, in many points, infringed and usurped the authority hitherto possessed by the government and council of the colony, because all the laws, ordinances and customs direct that said authority shall not be exercised by any officer until he shall have complied with all the formalities prescribed; and this condition Mr. Ulloa has not observed. He should, therefore, be declared to have infringed and usurped the authority of the government:—1. For having caused the Spanish flag to be set up in several parts of the colony, without having caused to be registered in the archives of the Superior Council, the titles and powers which he may have had, and of which the assembled citizens may have been informed. 2. For having, of his own accord, and by his own private authority, insisted upon captains being detained with their ships in the port, without any cause, and for having ordered subjects of France to be confined on board of a Spanish frigate. 3. For having caused councils, in which decrees were issued concerning the inhabitants of Louisiana, to be held in the house of Mr. Destréhan. They request that, on account of these grievances, and many others publicly known, and likewise for the tranquillity of all the citizens who apply for the protection of the council, they be freed, for the future, from the fear of a tyrannical authority, and exempted from observing the conditions in the said decree, by means of the dismissal of Mr. Ulloa, who should be ordered to embark on board of the first vessel which shall set sail, in order to depart, whenever he thinks proper, out of the dependencies of this province.

6. That orders be given to all the Spanish officers who are in this city, or scattered throughout the posts appertaining to the colony, to quit them, in order to depart likewise, when they shall think proper, out of the dependencies of the province; and, finally, that the court be pleased to order that its decree, when rendered, be read, published, and set up in all the usual places of the town, and collated copies sent to all the posts of the said colony.

The foregoing representations being signed by five hundred and thirty-six persons—planters, merchants, tradesmen, and men of note; considering, likewise, the copy of the decree, published by orders of his Catholic majesty, neither signed nor dated, and another copy of an ordinance published in this city, by order of Mr. Ulloa, of the 6th of September, 1766; the interlocutory decree issued yesterday, upon the requisition of the king's attorney-general, ordering and directing that, before the decision of the court, the said representations be put in the hands of Messrs. Huchet de Kernion, and Riot de Launay, titular councilors, to be by them examined, and afterwards communicated to the king's council, in order that what the law directs may be enacted concerning them—all

Aubry promised to support him. The inhabitants, informed of these resolutions, proceeded to Aubry's; they represented the evils under which they groaned, and the necessity of resisting the

these particulars being taken into consideration, the king's attorney stood up and said:

"Gentlemen,—The first and most interesting point to be examined is the step taken by all the planters and merchants in concert, who, being threatened with slavery, and laboring under grievances which have been enumerated, address your tribunal, and require justice for violations of the solemn act of cession of this colony.

"Is yours a competent tribunal? Are these just complaints?"

"I shall now proceed to demonstrate the extent of the royal authority invested in the Superior Council. The parliaments and superior councils are the depositories of the laws, under the protection of which the people live happy; they are created and organized to be, from the very nature of their official tenure, the sworn patrons of virtuous citizens, and they are established for the purpose of executing the ordinances, edicts, and declarations of kings, after they are registered. Such has been the will and pleasure of Louis, the well-beloved, our liege lord and king, in whose name all your decrees, to the present day, have been issued and carried into execution. The act of cession, the only title of which his Catholic majesty's commissary can avail himself, to make his demands *auctoritate et proprietate*, was addressed to the late Mr. d'Abadie, with orders to cause it to be registered in the superior council of the colony, to the end that the different classes of the said colony may be enabled to have recourse to it upon occasion, that instrument being calculated for no other purpose.

"Mr. Ulloa's letter, dated from Havana, July 10th, 1765, which expresses his disposition to do the inhabitants all the services they can desire, was addressed to you, gentlemen, with a request to make it known to the said inhabitants that, in thus acting, he would only discharge his duty and gratify his inclination. The said letter was, by your decree, after full deliberation, published, set up and registered, as a pledge of happiness and tranquillity to the inhabitants. Another letter of the month of October last, written to Mr. Aubry, proves that justice still continues to be administered in the colony in the name of Louis the well-beloved. It results from the solemn act of cession and its accessories, that the planters, merchants and other inhabitants have the most solid basis to stand upon, when they present you with their most humble remonstrances; and that you, gentlemen, are fully authorized to pronounce thereupon. Let us now proceed to a scrupulous examination of the act of cession, and of the letter written by Ulloa to the Superior Council. I think it likewise incumbent on me to cite, word for word, an extract of the king's letter, which was published, set up and registered.

"This very solemn act of cession, which gives the title of property to his Catholic majesty, secures for the inhabitants of the colony the preservation of ancient and known privileges; and the royal word of sovereign lord, the king, promises, and gives us ground to hope for others, which the calamities of war

violence of a man who had no recognized title. They reminded him of the king's letter, which enjoined them to apply to the council for the ratification of the articles of cession. They

have prevented him from making his subjects enjoy. The ancient privileges having been suppressed by the authority of his Catholic majesty's commissioner, property becomes precarious. The act of cession, which was the mere result of good-will and friendship, was made with reserves which confirm the liberties and privileges of the inhabitants, and promises them a life of tranquillity, under the protection and shelter of their canon and civil laws. As property accruing from a cession by free gift cannot be claimed and obtained, except on the condition of complying, during the whole possession of said property, with the reserves contained in said act of cession, our sovereign lord, the king, hopes, and promises himself that, *'in consequence of the friendship and affection shown to him by his Catholic majesty, he (said C. M.) will be pleased to give such orders to his governor, and to all other officers employed in his service in said colony as may be conducive to the advantage and tranquillity of the inhabitants, and that they shall be ruled, and their fortunes and estates managed, according to the laws, forms and customs said colony.'* Can Mr. Ulloa's titles give authority to ordinances and orders which violate the respect due to the solemn act of cession? The ancient privileges, the tranquillity of the subjects of France, the laws, forms and customs of the colony, are rendered sacred by a royal promise, by a registering ordered by the Superior Council, and by a publication solemnly decreed and universally known. The sole aim of the letter of our sovereign lord, the king, was to grant to the different classes of the colony a recourse to the act of cession. Therefore, nothing can be better grounded or more legal than the right of remonstrating, which the inhabitants and citizens of the colony have acquired by royal authority.

"Let us proceed to an examination of the letter of Mr. Ulloa, written to the Superior Council of New-Orleans, dated the 10th of July, 1765. I shall here cite, word for word, the article relative to the Superior Council and the inhabitants :

*"I flatter myself, beforehand, that it will afford me favorable opportunities to render you all the services that you and the inhabitants of your town may desire, of which I beg you to give them the assurance from me, and to let them know that, in acting thus, I only discharge my duty and gratify my inclinations."*

"Mr. Ulloa proved thereby the orders which he had received from his Catholic majesty, conformably to the solemn act of cession, and manifested a sentiment which is indispensable in any governor who is desirous of rendering good services to his king in the colonies.

"Without population there can be no commerce; and without commerce, no population. In proportion to the extent of both is the solidity of thrones; both are fed by liberty and competition, which are the nursing mothers of the state, of which the spirit of monopoly is the tyrant and step-mother. Without liberty there are but few virtues. Despotism breeds pusillanimity and deepens the abyss of vices. Man is considered as sioning before God, only because he retains his free will. Where is the liberty of our planters, of our merchants, and of all our other

assured him, moreover, that Ulloa had no ground to fear his life; that they respected the title with which he pretended to be invested, but at the same time requested Aubry that the assembled council should pronounce.

inhabitants! Protection and benevolence have given way to despotism; a single authority would absorb and annihilate everything. All ranks, without distinction, can no longer, without running the risk of being taxed with guilt, do anything else but tremble, bow their necks to the yoke, and lick the dust. The Superior Council, the bulwark of the tranquillity of virtuous citizens, has supported itself only by the combined force of the probity and disinterestedness of its members, and of the confidence of the people in that tribunal. Without taking possession of the colony; without registering, as was necessary, in the Superior Council, his titles and patents, according to the laws, forms and customs of the colony, and without presentation of the act of cession, Mr. Ulloa has caused a president, three councilors, and a secretary, nominated for the purpose, to take cognizance of facts which belonged to the jurisdiction of the Superior Council, and in which French citizens were concerned. Often did discontents and disgusts seem to force you to resign your places, but you have always considered it as a duty of your station of councilors to the most Christian king, to alleviate and calm the murmurs of the oppressed citizens. The love of your country, and the sense of the justice due to every citizen who applies for it, have nourished your zeal; it has always been rendered with the same exactness, although you never thought proper to make representations on the infractions of the act of cession. You have always feared to give encouragement to a mass of discontented people, threatened with the most dreadful calamities; you have preferred public tranquillity. But now the whole body of the planters, merchants and other inhabitants of Louisiana apply to you for justice.

"Let us now proceed to an accurate and scrupulous examination of the grievances, complaints and imputations contained in the representations of the planters, merchants and other inhabitants. What sad and dismal pictures do the said representations bring before your eyes! The scourges of the last war, a suspension to this day of the payment of seven millions of the king's paper money, issued to supply the calls of the service, and received with confidence by the inhabitants of the colony, had obstructed the ease and facility of the circulation; but the activity and industry of the planter, and of the French merchant, had almost got the better of all difficulties. The most remote corners of the possessions of the savages had been discovered, the fur-trade had been carried to its highest perfection, and the new culture of cotton, joined to that of indigo and tobacco, secured cargoes to those who were engaged in fitting out ships. The commissioner of his Catholic majesty had promised ten years of free trade, that period being sufficient for every subject of France, attached to his sovereign lord and king. But the tobacco of this colony being prohibited in Spain, where those of Havana are the only ones allowed, the timber (a considerable branch of the in-

Aubry promised that the troops should be armed only to prevent disorder, and to prevent any intended violence to Ulloa. He was present at the council, when it was decided that Ulloa and all the Spaniards should leave the colony, and

come of the inhabitants) being useless to Spain, which is furnished in this article by its possessions, and the indigo being inferior to that of Guatemala, which supplies more than is requisite to the manufactures of Spain, the returns of the commodities of the inhabitants of this colony to the peninsula became a ruinous trade, and the said inhabitants were delivered up to the most dreadful misery. His Catholic majesty's commissioner had publicly declared his conviction of the impossibility of this country's trading with Spain; all patronage, favor, encouragement, were formally promised to the inhabitants; the title of protector was decreed to Mr. Ulloa; the hope and activity necessary to the success of the planter were nourished by the faith and confidence reposed in these assurances of the Spanish governor.

"But by the effect of what undermining and imperceptible fatality have we seen a house worth twenty thousand livres sold for six thousand, and plantations, all on a sudden, lose one-half or two-thirds of their intrinsic value! Fortunes waste away, and specie is more scarce than ever; confidence is lost, and discouragement becomes general; the planter's cries of distress are heard on every side; the precious name of subject of France is in an eclipse, and the fatal decree concerning the commerce of Louisiana gives to the colony the last fatal stroke, which must lead to its total annihilation. The Spanish flag is set up at the Balize, at the Illinois, and other places; no title, no letters patent were presented to the Superior Council; time flies apace; the delays fixed for the liberty of emigration will soon expire; force will tyrannize. We shall be reduced to live in slavery and loaded with chains, or precipitately to forsake establishments handed down from the grandfather to the grandson. All the planters merchants, and other inhabitants of Louisiana call upon you to restore to them their sovereign lord, the king, Louis the well-beloved; they tender to you their treasures and their blood, Frenchmen to live and Frenchmen to die.

"Let us proceed to sum up the charges, grievances and imputations:

"Mr. Ulloa has caused councilors, named by himself, to take cognizance of facts concerning French subjects, which appertained only to the jurisdiction of the Superior Council. The sentences of that new tribunal have been signified to, and put in execution against, Messrs. Cadis and Leblanc. Mr. Ulloa has supported the negroes, dissatisfied with their masters. He has presented to the Superior Council none of his titles, powers and provisions, as commissioner of his Catholic majesty; he has not exhibited his copy of the act of cession, in order to have it registered; he has, without the said indispensable formalities, set up the Spanish flag at the Balize, at the Illinois, and at other places; he has without legal authority, vexed, punished and oppressed subjects of France; he has even confined some of them in the frigate of his Catholic majesty; has, by

that the act of taking possession should not be attempted till the French king had answered the representations of the inhabitants, whose deputies were named to bear them. Ulloa in fact left the colony. This frigate did not leave till five

his authority alone, usurped the fourth part of the common of the inhabitants of the town, has appropriated it to himself, and has caused it to be fenced in, that his horses might graze there.

"Having maturely weighed all this, I require in behalf of the king :

"That the sentences pronounced by the councilors nominated for the purpose, and put in execution against Messrs. Cadis and Leblanc, subjects of France, be declared enroachments upon the authority of our sovereign lord, the king, and destructive of the respect due to his supreme justice, seated in the Superior Council, inasmuch as they violate the laws, forms and customs of the colony, confirmed and guaranteed by the solemn act of cession.

"That Mr. Ulloa be declared to have violated our laws, forms and customs, and the orders of his Catholic majesty, in relation to the act of cession, as it appears by his letter, dated from Havana, on the 10th of July, 1765.

"That he be declared usurper of illegal authority, by causing subjects of France to be punished and oppressed, without having previously complied with the laws, forms and customs, in having his powers, titles and provisions registered by the Superior Council, with the copy of the act of cession.

"That Mr. Ulloa, commissioner of his Catholic majesty, be enjoined to leave the colony in the frigate in which he came, without delay, to avoid accidents or new clamors, and to go and give an account to his Catholic majesty ; and, with regard to the different posts established by the said Mr. Ulloa, that he be desired to leave in writing such orders as he shall think necessary ; that he be declared responsible for all the events which he might have foreseen ; and that Messrs. Aubry and Foucault be requested, and even summoned, in the name of our sovereign lord, the king, to govern and administer the colony as heretofore.

"That no ship sailing from this colony shall be dispatched without passports signed by Mr. Foucault, as intendant commissary of his most Christian majesty.

"That the taking possession of the colony can neither be proposed nor attempted by any means, without new orders from his most Christian majesty.

"That Messrs. Loyola, Gayarro and Navarro be declared guaranties of their signature on the bonds which they have issued, if they do not produce the orders of his Catholic majesty, empowering them to issue said bonds and papers ; and that a sufficient time be granted to settle their accounts.

"That the planters, merchants, and other inhabitants, be empowered to elect deputies to carry their petitions and supplications to our sovereign lord, the king.

"That it be resolved and determined that the Superior Council shall make representations to our sovereign lord, the king ; that its decree, when ready to be issued, be read, set up, published and registered.

"That collated copies thereof be sent to his grace the Duke of Praslin, with a

months after; the garrisons that he had stationed in the various forts along the river all fell back on that of New-Orleans. This was all done without the slightest insult to the Spanish flag, the Spaniards who remained in the colony.

letter to the Superior Council, and likewise to all the posts of the colony, to be there read, set up, published and registered."

The report being heard of Messrs. Huchet de Kernion and Riot de Launay, councilors and commissioners appointed for this purpose, the whole being duly weighed, and the subject deliberated upon, the attorney-general having been heard and having retired:

The council, composed of thirteen members, of which six were named *ad hoc*, having each of them given his opinion in writing, pronouncing upon the said representations, has declared and declares the sentences rendered by the councilors nominated by Mr. Ulloa, and carried into execution against Messrs. Cadis and Leblanc, subjects of France, to be encroachments upon the authority of our sovereign lord, the king, and destructive of the respect due to his supreme justice, vested in his Superior Council; has declared, and declares him a usurper of illegal authority, in causing subjects of France to be punished and oppressed, without having previously complied with the laws and forms, having neither produced his powers, titles and provisions, nor caused them to be registered, and that to the prejudice of the privileges insured to them by the said act of cession; and, to prevent any violence of the populace, and avoid any dangerous tumult, the council, with its usual prudence, finds itself obliged to enjoin, as in fact it enjoins, Mr. Ulloa to quit the colony, allowing him only the space of three days, either in the frigate of his Catholic majesty in which he came, or in whatever vessel he may think proper, and go and give an account of his conduct to his Catholic majesty. It has likewise ordained, and it ordains that, with regard to the posts established by him at the upper part of the river, he shall leave such orders as he judges expedient, making him at the same time responsible for all the events which he might have foreseen. It has requested, and requests Messrs. Aubry and Foucault, and even summoned them in the name of our sovereign lord, the king, to command and govern the colony as they did heretofore. At the same time, it expressly forbids all those who fit out vessels, and all captains of ships, to dispatch any vessel with any other passport than that of Mr. Foucault, who is to do the office of intendant commissary; it has also ordered, and orders, that the taking possession for his Catholic majesty can neither be proposed nor attempted by any means, without new orders from his most Christian majesty; that, in consequence, Mr. Ulloa, shall embark in the space of three days in whatever ship he shall think proper.

With regard to what relates to Messrs. Loyola, Gayarró and Navarro,\* the council has decreed that they may stay in the colony and discharge their respective functions until they have received new orders from his Catholic majesty, and shall

\* Officers of the crown who accompanied the expedition of O'Rielly.

From their own lips, the Spanish court should have taken evidence of the moderation of the colonists in so critical a moment. The unanimous report of all strangers there makes it out to have been a most extraordinary and surprising event for the order, decency and moderation to which all spontaneously contributed. These testimonials of attachment to the king of France were the only clamors that disturbed silence and tranquillity during the three days that the inhabitants were assembled at New-Orleans. Immediately after Ulloa's departure peace and tranquillity reigned. Aubry met with the most marked obedience from the colonists, who awaited news from France, in the fond hope that there would be no change of rule.

remain sureties of their signatures for the bonds they have issued, except they produce the orders of his Catholic majesty. It has likewise authorized, and authorizes the planters and merchants to choose whatever persons they think proper, to take up their petition to our sovereign lord, the king, and has decreed that the Superior Council shall in like manner make representations to our sovereign lord, the king; it orders that the present decree shall be read, printed, set up, published and registered in all places and posts of this colony, and that a copy of it shall be sent to his grace the Duke of Praslin, Minister of the Marine Department.

We order all our bailiffs and sergeants to perform all the acts and ceremonies requisite for carrying the present decree into execution; we, at the same time, empower them to do so. We also enjoin the substitute of the king's attorney-general to superintend its execution, and to apprise the court of it in due time.

Given at the Council Chamber, on the 29th of October, 1768.

By the Council,

GARIC,

*Principal Secretary.*

I protest against the decree of the council which dismisses Don Antonio de Ulloa from this colony. Their most Christian and Catholic majesties will be offended at the treatment inflicted on a person of his character; and, notwithstanding the small force which I have at my disposal, I would, with all my might, oppose his departure, were I not apprehensive of endangering his life, as well as the lives of all the Spaniards in this country.

Deliberated at the Council Chamber, this 29th of October, 1768.

(Signed) AUBRY.



## THIRD PART.

## SECTION II.

FROM THE DEPARTURE OF DON ANTONIA ULLOA TO THE YEAR 1771.

DEPUTIES\* had been named to bear to the King of France the testimonials of the attachment of his faithful subjects in Louisiana, who asked only to live and die as Frenchmen; but these deputies could not reach Europe before the end of March. Ulloa had arrived there six weeks before, and had represented his own conduct and that of the inhabitants in such colors as he chose, and the Sovereign Hand which directs all events did not permit the truth to penetrate first to the courts of Madrid and Versailles.

The act passed between Aubry and Ulloa, of which it is needless to show the informality, had apparently enabled Ulloa to

\* The deputies, St. Lette and Lesassier, presented the following petition to the Duke de Choiseul, minister of the king, on their arrival in Paris:

PETITION OF THE COLONISTS AND MERCHANTS TO THE KING.

SIRE,—It has pleased your majesty to cede, by a particular act signed at Fontainebleau, 3d of November, 1762, all your country known by the name of Louisiana, together with New-Orleans and the island on which this city is situated, to his Catholic majesty.

A feeble motive of consolation stifled our grief—it was the hope of a protection and good-will, like that experienced under your happy sway, and such as your sacred promise, in your majesty's letter to Monsieur d'Abadie, of April 21, 1764, leads us to expect. Our affectionate obedience silenced our regret till an unknown and strange vexation has wrung from us cries too long withheld. An officer, (*Don Antonio de Ulloa*,) who, without justifying his titles, pretends to orders from his Catholic majesty, has presented us new laws, destructive of our commerce, abrogating our privileges, and attacking our liberties. Our goods, in less than the thirty months of his stay, are lost two-thirds of their value; cultivation became useless, and our efforts in every branch, hampered by multiplied

represent the inhabitants of Louisiana as criminal to the Spanish king. France, on the other hand, regarding the cession as long since consummated, would scarcely listen to the deputies; and the answer made to their representations was, that nothing could be done in the matter, as it was altogether in the hands of Spain. Yet, when it was proved to the court of Versailles that the government of Aubry had not ceased in Louisiana, and that since the peace all had been conducted in the name of the French king; when they saw the details of Ulloa's conduct and that of the French governor and inhabitants, all were indignant against the Spaniards and filled with contempt for the French governor, and they wept with joy to see in the Louisianians the patriotism which all discovered in their hearts. All admired the wise, firm, moderate and reflective conduct of the colonists, and all France looked with anxiety on the result. The French ministry felt that they could not without injustice

efforts (restrictions!), became a fruitless toil. We have had recourse to the magistrates appointed by your majesty to assemble the people under your august laws; we have exposed to them the excessive evils accrued, our zeal, our love for our natural sovereign, and his promises announced in his letter, registered, as he directed, in our *state office, to have recourse to in need*. They have enjoined the envoy of his Catholic majesty to depart in three days, and have authorized us to come to the foot of the throne, sire, to implore your clemency, claim your protection, and present our petition.

The execution of the treaty of cession has not even begun on our part. The French flag alone has hitherto appeared on our square, and at the head of our militia. The French flag alone has been hoisted on our shipping. Justice is exercised, sire, in your name alone, and our churches echo with prayers for your august person only. We are Frenchmen still, and too happy to transmit the name to our children; it is a choice title, which we deem a part of our inheritance.

Deign, sire, to have an account rendered to you of the details set forth in our memoir, which contains only facts and wishes of universal notoriety, and is addressed to the world.

Deign to take back under your beloved sway your colony of Louisiana, and dispose at your will of the blood, property and families of your faithful subjects, merchants and colonists of said province, who, by the voice of their deputies, make you sincere offers of the most ardent zeal, respectful submission and inviolate attachment.

abandon subjects whose only crime, in the eyes of the Spaniards, was their too great attachment to a king who so well deserved the title of well-beloved. They intended to write to Spain, but it was too late; the delay had been too great; the blow was struck. The council at Madrid had not unreasonably feared that France might discover the mendacity of Ulloa's report\* and demand justice. No expedition accordingly was ever got up with greater celerity in Spain. Orders were already given. O'Reilly, lieutenant-general, was already cleared for Havana, with orders to proceed to Louisiana and take possession in the name of the Spanish king.

We approach the dreadful moment that is to decide forever the fate of the colony. Before easting our eyes on the scenes of horror I have yet to trace, let us go to Louisiana and see how the inhabitants were employed after Ulloa's departure.

Along the river I admire the happy fruits of liberty and contentment; all redoubled their efforts; the plantations are in the finest state; the revenues will be greater than they were in times of torpidity caused by Ulloa's stay. Everywhere joy and peace reign undisturbed; the hope of being Frenchmen inspires all, and the government which the inhabitants enjoy gives new life to all the colony. What is that building which I behold rising in the midst of the city? It is the temple of the Lord; it is a tribute of thanksgiving offered by

\* Ulloa's report contains about 300 manuscript pages. It is very full and well drawn up. It gives an account of his expulsion, and clearly shows that Aubry was, in the whole matter, the principal informer against the patriots; that Lafrenière, Foucault, Noyan, Marquis, Villeré and others, had planned the revolution; that it was not so much for the purpose of getting rid of the Spanish governor, as to declare the province independent; that, for that purpose, Noyan and Massan were deputed to the English governor of Florida, for the purpose of securing protection of the British government; that the governor having refused his aid, the address to France was resorted to as the means of concealing their plan. This document is full of interest, and its particulars are fully corroborated by the letters of Aubry to the French minister.—*Archives of France.*

the colony to Him who directs events. They will soon chant his praises there—it will soon echo with the prayers of each citizen for his king. Further on, I see another building; curiosity leads me to it. On its portal is this beautiful inscription:

*“Asylum for the Poor and the Orphan.”*

Within I see beds for the sick, rooms for the lying-in, nurses for orphans, and paupers to be supported. All is in complete order. The rooms are so arranged that help is given to each in season, without noise or confusion. I ask to whom we owe this establishment, and the foundation of the church which I see rising. “To the patriotism of the citizens,” is the answer, “and to their respect for the Deity, to our mutual love, to the pity inspired by the unfortunate, but of which we had but a faint idea previous to Ulloa’s coming.” A unanimous impulse has founded these; the general voice proposed them; each gave according to his means, without tax or impost. One gave the wood necessary for the framework; another, building materials; one, beds; and then, furniture. All strove in emulation, and have thus provided the funds necessary for the expense incurred in this hospital.

“O virtue!” I cried, full of enthusiasm; “O divine patriotism! of what are we not capable, when inflamed by thy sacred fire! Among what men am I transported! O you, whom I see ready to condemn them as seditious rebels, judge whether such actions would take place amid the tumult of a revolt; and whether hearts, crushed under the weight of remorse which follows the intoxication of sedition, would be capable of sentiments so pure, so indicative of the tranquillity of soul and conscience! O happy monarch that reigns over the French! how worthy are such subjects of thy support! What happiness do they not deserve to enjoy! Their lot should ever be to see

ever flourishing under thy sway the sentiments of religion, humanity, charity and generosity, which I see displayed at a moment when their will has no guide but their heart, and no check but the desire of proving to the whole world their attachment to thee! These feelings are upheld by the hope of living under thy happy laws, and seeing their children enjoy this happiness with them."

But whence comes this general murmur throughout the city? They whisper, they dare not raise their voice, they come and go without knowing what they do. Pallor sits on every face, and tears soon begin to flow. Sobs stifle cries of grief. I share in the general fright. I ask the cause of this public alarm, of the frightful evil with which each seems overpowered.

"We are lost," says a citizen to me; "our king abandons us; the Spaniards are at the Balize, and are coming to take possession of the colony."

This news was the less credible, as letters which arrived on the 19th of July in that year left the colony some hope of not passing under the Spanish sway, and it was now only the 25th. The news was but too soon confirmed. A Spanish officer,\* dispatched by O'Reilly, brought Aubry a letter, by which that commander announced that he came in the name of the king,

\* This officer was Don Francisco Bouigny, a gentleman of noble birth. He was born in Alicant, Spain, on the 5th of March, 1735, and entered the army as a cadet at the age of eighteen. In 1762 he went to Havana with his regiment, where he remained until he was ordered to join the expedition to Louisiana. On the 24th of July, the fleet arrived at the mouth of the Mississippi. On the next day he was dispatched by O'Reilly to New-Orleans with a letter to M. Aubry, announcing his arrival to take possession of the province. On the 26th, he returned to the Balize, and in a few days after he was ordered to repair again to the city to prepare quarters for the Spanish troops of the expedition. After the departure of O'Reilly for Spain, Col. Bouigny remained in New-Orleans at the head of his regiment, until he was ordered to join the expedition of Galvez, which took Mobile and Pensacola in 1780-1. For his daring exploits in this campaign

his master, to take possession of the colony, to reduce it to submission in case of opposition, but to load it with benefits, if he was received as he was entitled to expect. This letter was accompanied by orders from the king of France to Aubry to surrender the colony to the Spaniards.

Aubry, who knew the intention of the colonists to refuse absolutely the Spanish rule, and to prevent their entering the river, without positive orders from the French king, immediately published those he had received. He had also precautions to take against an emigration on which the colonists seemed bent. He accordingly convoked a general assembly; read O'Reilly's letter, with its promise of favorable treatment, if they did not oppose his taking possession, but also his threats in case of refusal. These threats produced an effect contrary to what Aubry expected, so unfit were they to intimidate the people of Louisiana. Besides, all knew that two hundred resolute men could have prevented O'Reilly's reaching New-Orleans, although that Spanish general had three thousand men, regulars and militia, in twenty-five transports. To feel convinced of this, it is enough to have some idea of the country. It is easy then to judge of the effects of O'Reilly's threats. They roused the resolute to action; white cockades were worn; all were ready to march against the enemy, when M. de la Frenière,\* attorney-general, a member of the Superior

he was promoted to the rank of brigadier-general. He died in New-Orleans on the 25th of November, 1800, and was buried with military honors in the Cathedral of that city. His name is among the most honored in Louisiana.

In person, Colonel Bouigny was rather tall and slight, with a noble military bearing, easy and dignified in his manners, and warm in his friendship. So mild and conciliating were his actions, that obedience went hand and hand with his command; while his ardor and zeal for the service of his country seemed rather to seek the post of danger than to avoid it.

\* Nicholas Chauvin de la Frenière, Attorney-General of Louisiana, was born in the same year, (1736,) which gave birth to the great American orator and statesman, Patrick Henry, of Virginia; and, like him, he was a friend to a

Council, an eloquent man, in whom they had the greatest confidence, arrested this tide by an address in substance as follows:

"Fellow-citizens! When you came to present to the council your just representations, which his majesty authorized in the act of cession, you saw me approve your patriotic zeal, and

republican form of government and liberal institutions. These two champions of liberty came upon the stage of action together, about the same time, and both were highly gifted for their eloquence.

The question of taxing America had just been agitated by the British parliament, and had created a great deal of excitement in the North American colonies, when Lafrenière came into office. The stamp act was passed in January, 1765, and the spirit of resistance to this arbitrary measure flew from Maine to Georgia, and found a response in the bosoms of the patriots of Louisiana. The question with them was not, however, whether the colony of Louisiana should be taxed, but whether Frenchmen could be transmuted into Spaniards without their consent, and ruled with military despotism. In the discussion of this vital question to their happiness and political well-being, the attorney-general took sides with the people, and resisted the Spanish occupation of the country. From this moment he was looked upon by them as the great champion of liberty; and his conduct throughout the struggle for independence was firm and undaunted.

Early in the year 1765, a general meeting of inhabitants and planters was convened in the city of New-Orleans for the purpose of discussing the subject of their distracted condition, and sending to the throne of France their united appeal for royal interposition in their behalf.

Lafrenière made on this occasion an eloquent speech on the situation of the colony, and offered a resolution to supplicate the king, which was unanimously adopted; and Jean Milhet, of New-Orleans, was selected to carry the petition to the foot of the throne.

The minister (De Choiseul) was averse to the petition, and artfully prevented him from having an interview with the king. Milhet returned to Louisiana, and reported the unsuccessful result of his mission. Still the colonists continued to flatter themselves with the hope that the treaty of cession would not be carried into execution, and Milhet was sent again to France with the same result.

Many of the colonists became desperate; and began to manifest their opposition to Ulloa, who still declined a public recognition of his authority as governor.

Public meetings were held in different parts of the province, and delegates were appointed to meet in convention in New-Orleans. This convention petitioned the Superior Council to direct Ulloa to leave the province. They denounced him a disturber of the public peace, and he was ordered to depart from the colony in three days' time. The speech delivered by Lafrenière on this occasion is a masterly piece of eloquence and logical argument. "In it there is

your demands were satisfied. The common desire is, I am aware, the ratification of the articles of the act of cession, and the accomplishment of the orders of our well-beloved king; now his majesty orders the transfer of the colony to the Spaniards, and M. O'Reilly, who has come to take possession in the name of his Catholic majesty, makes you, on his behalf, the most

a passage," says Gayarré, "of which Louisiana may well be proud, and of which she can boast, as having been spoken by one of her most favored patriots."

"In proportion," said he, "to the extent both of commerce and population is the solidity of thrones; both are fed by liberty and competition, which are the nursing mothers of the state, of which the spirit of monopoly is the stepmother. *Without liberty there are but few virtues.* Despotism breeds pusillanimity, and deepens the abyss of vices. Man is considered as sinning before God only because he retains his free will."

To appreciate this bold language, it must be remembered that it was the outpourings of an attorney-general of an absolute king, and was intended to reach the ears of the despotic government of France. After the expulsion of Ulloa, the planters and merchants put forth a memorial in justification of the revolution of the 28th of October, and which, it is said, was drawn up by Lafrenière. It repeats in substance all that had been said by Lafrenière in his speech before the council; and, for reference, it is inserted in this volume, with the address to the king. With the Superior Council's address to the king, there went at the same time a letter from Foucault, the king's commissary, to the Duke de Praslin, in which he justified, in guarded language, the revolution that had taken place, in which he said of Ulloa: "Without taking possession of the colony, and even without exhibiting his credentials, he arrogated all power to himself. He was very harsh and absolute, refusing to listen to the representations of the colonists. He showed, without the least hesitation or equivocation, an implacable hatred for the French nation, and marked every day that he passed here with acts of inhumanity and despotism."

The news of the revolution in Louisiana soon reached Spain, and a cabinet council was called, to determine whether Spain should retain Louisiana or not. The council was composed of the Duke of Alba, Don Jaime Masones de Lima, Don Juan Gregoris Munian, Don Miguel de Muzqiz, the Count of Aranda, Baron de Arriaga, and the Marquis de Piedras Albas. The king requested that each should give his opinion in writing, and it is said only one of the ministers was of opinion that Louisiana should be returned to France. The king approved of the decision of the majority of the ministers, and he ordered force to be issued, if necessary, in taking possession of the province.

In the mean time the new deputies, St. Lette and Lesassier, who had been sent to France by the colonists to implore the crown, succeeded no better than their predecessors, and the revolutionary tide soon began to ebb, and leave stranded on



authenticated promises, if you receive him properly; and he threatens to use force, if opposed. I know that your courage prompts you to despise threats, and that his army would soon yield to your efforts. I see your patriotic hearts burn with a desire to display your courage in defence of your hearths; but against whom will you fight? Against the allies of your

the shore the patriots of Louisiana who had been borne onward by the excitement and momentary prospect of success.

Reduced to the last stage of despair, the patriots now proposed to expel Aubry, to proclaim New-Orleans a free port, and to form a republic; the chief to be styled "*Protector*," and to be assisted by a council of forty, elected by the people." "There is no doubt," says Gayarré, "that the colonists would have eagerly adopted this form of government if it had been possible at the time; for it must be recollected that, from the earliest existence of the colony, almost all its governors had uniformly complained of the republican spirit of the colonists."

Thus stood matters until the morning of the 24th of July, 1769, when the colonists were thrown into commotion by the arrival of the Spanish fleet at the Balize. Lafrenière called on Aubry, and informed him, that "having full confidence in the magnanimity of O'Reilly, he, Marquis, and Milhet, had resolved to go down the river and present their homages to the Spanish general, and to assure him, in the name of the people, of their submission." They were received in state on board his flag-ship. O'Reilly listened to their address with courtesy and attention, and returned a conciliatory reply. He promised that all former occurrences should be forgotten; that to all who proved themselves good citizens, and yielded a proper obedience to the Spanish authority, all former acts should be buried in oblivion, and all offences should be forgiven to those who returned to their duty. On the 18th of August the whole fleet reached the city, and in the presence of a large assemblage of citizens, and before the troops of both powers, the public ceremony of delivering up the province to the Spanish governor was performed. Although O'Reilly had promised to pardon all who submitted quietly to his authority, he had nevertheless resolved in his own mind to punish the chiefs of the revolution. Without loss of time he invited to his house, under different pretexts, nine of the leaders of the revolution, and had three others arrested in the town-hall.

After reading to them the orders of his Catholic majesty, he had them arrested in the name of the king, and put them upon their trial.

"It is impossible," says Gayarré, "to describe the terror which the arrest of these men and the death of Villeré scattered far and wide. They were so much identified with the whole population, their family connections so extensive, that the misfortune which had befallen them could not but produce a general desolation."

They pleaded against the jurisdiction of the court, and declined to be tried by

prince, and against a monarch who assures you of his good-will. And who, indeed, is there among you, who would expose his family to the sad sequel of the events of a war, when there is any other step left him to take? Desolate widows, orphans abandoned to public charity, families destroyed! Believe me, citizens! Let these evils touch and enlighten you. 'We will sink,' you cry, 'beneath the ruins of our country, nor bend to a yoke that exposes us to slavery.'

"Such are the words which animosity has a thousand times inspired. But what aroused it? The horror you had conceived at Ulloa's conduct.

the laws of Spain, which had not been extended over the province at the time of the alleged insurrection. They claimed to have been the subjects of the King of France, and their acts had been in accordance with their allegiance and duty to the King of France: they owed no allegiance to the King of Spain until Spanish authority had been proclaimed, and the Spanish flag and laws duly superseded those of France; that the acts charged could not constitute an offence against the Spanish laws, while those of France retained their empire over the province; that Ulloa had never made known his authority; that O'Reilly could not expect obedience from the people until he had made known to them his character and powers, and that no act was charged against them after this manifestation of his authority. The plea was sustained relative to several who had been officers under the French government, but was overruled in relation to Lafrenière and his compatriots. The court found them guilty, and sentenced them to be executed on the 25th of October, 1769. On the afternoon of that day they were marched into the yard fronting the barracks, and shot by a file of Spanish grenadiers.

Thus terminated the inhuman tragedy, which in one short moment consecrated the blood of the first martyrs to liberty on the continent of North America.

The martyrdom of Lafrenière was a serious blow to the cause of liberty in Louisiana. The welfare of his country was ever dear to him, and he was always ready to make any sacrifices for its happiness. He had ever manifested an attachment to a republican form of government, and had always supported those men and those measures which he believed most friendly to republican principles. His eloquence was rich and copious, lofty and dignified, and his mind was stored with the treasures of ancient and modern lore. As an orator and statesman, he was fitted for the management of the weightiest concerns; and as an advocate, he was profoundly versed in Roman, French, and Spanish law.

In his manners he was courteous and elegant, affable and warm, dignified and modest, uniting the attainments of a scholar with the deportment of a gentleman. As a patriot and legislator of tried integrity, he was the idol of his countrymen.

“But, here is a general officer, of whose reputation you are not ignorant, an Irishman by birth, who has attained the rank of lieutenant-general only by his services in the French armies; he solemnly promises you the good-will of his sovereign, if possession is given freely. Would you excite the anger of this monarch by conduct at variance with duty, reason and common sense?

“Another motive, too, should stifle all resentment. France has just beheld with emotion your patriotic efforts; all Europe, admiring your firmness, has beheld with surprise your wise, and moderate conduct; all eyes are now upon you. Will you, in a moment of excitement and impetuosity, tarnish the glory you have won? Hitherto they have beheld in you Frenchmen attached to their prince, burning with a desire to remain under his sway; even the Spaniard could not without injustice regard you otherwise. But now, when the king's orders require us to receive a new *régime*; now that the Spaniards are come to take authentic possession, and destroy, by a conduct far different from Ullon's, the prejudices which you have conceived against the Spanish government, why oppose their entrance? When criminal in the eyes of the world, regarded as rebels and seditious men, all will, unmoved, behold the most frightful evils overwhelm you; and your ashes, which you would fain mingle with the land of France, will not be bedewed by the tears of the noble-hearted Frenchmen, whose sympathy you excite.

“Do not, fellow-citizens, belie the favorable opinion conceived of your moderation. Let all France, seeing us obey the orders of our king, cry out in transports,—‘Distance does not change a Frenchman's heart; the immense space of ocean cannot weaken the attachment they have for the king, and the respect they owe his orders.’ State interest requires us to be Spaniards. To lose the honorable title of Frenchmen, to re-

nounce our native land, is a sacrifice which France now requires of us, and for which noble hearts will applaud us. We may anticipate all from a beneficent prince, of the same blood as our own king; let us listen to the promises of his representative, and endeavor to deserve their execution by a submissive and respectful conduct."

Here, Lafrenière ceased to speak. The deepest silence prevailed while he spoke, but soon a general murmur arose amid the assembly. Such as a storm brings on, opposing minds produce—a sullen noise that leaves the traveler in doubt as to the future. Thus varied opinions produced a hum in the assembly, in which it was impossible to say what advice would prevail. The majority, however, convinced by reason and the words of Lafrenière, pronounced with that fire and persuasive air which graced every syllable, leaned to moderation. Then the attorney-general resumed, and soon he alone was heard.

"My noble fellow-citizens! I see with the greatest satisfaction the effect produced on your hearts by the representations which my love for you has dictated, and my zeal for your interests inspired. The same sentiments animate and enlighten me; hear what they inspire. One single difficulty keeps some in suspense; they fear the anger of the Spanish king for the expulsion of Ulloa, and behold in O'Reilly the instrument not of his goodness, but of his vengeance.

"Away with such a fear! The general's word should dispel this; and, were it well founded, we cannot appease him by meeting him in arms. On the contrary, let us show him all the submission and respect we owe his master. Do not wait for him to come and receive the solemn oath; let us bear it to him; let us depute some one of our citizens, and let O'Reilly

judge what Ulloa would have met, had his conduct been conformable to justice, reason and duty.

"I offer to go alone and bear your homage and your oath. If Spanish vengeance has marked out any head, it is mine. I first raised my voice against an unjust and usurping man. I will go and offer the Spaniards this head, whose sacrifice will cost me little, especially if at that price I can procure the happiness and tranquillity of my fellow-citizens."

This address, where patriotism was upheld by enthusiasm, made, as we may expect, a deep impression. All hastened to show Lafrenière the public gratitude, and every one wished to meet the danger, if any, and share it with him.

His friends wished to divert him from an apparently rash step. The Spaniards, they knew, undoubtedly considered Lafrenière as the cause of Ulloa's expulsion; if their anger continued, could they pardon him? The representations of his friends, the tears of his wife, nothing could retain him. All felt the risk he ran, but in spite of that they had a kind of confidence in O'Reilly's promises.

Let us here draw Lafrenière's portrait. The part he has played in the course of these events will give more interest to what I have to say of this extraordinary man. I shall describe him from the accounts of his countrymen.

M. Lafrenière, of Canadian origin, was born in Louisiana, and son of a councilor in the Supreme Council. He had been educated in France, where he followed his father's profession. Returning to Louisiana he was employed in the council, and rose to the rank of attorney-general, at an age when most men are commencing the profession he had embraced. In this position he assumed a prominent part in colonial affairs. He possessed a lively imagination, and all the ardor and intrepidity which lead to great deeds.

Speaking with that assurance which a manly and nervous eloquence inspires, and which commands all hearts, he combined with this advantage a noble figure, a majestic port, an open countenance and an elevated stature. To paint a warrior, you might have taken the towering form, the manly bearing, the fiery eye, the dark and masculine complexion of Lafrenière for a model.

To these exterior advantages he joined a great fund of generosity and sensibility; he was charitable, liberal to prodigality, a zealous patriot, ostentatious, giving dignity to all he did, popular, affable and good. He owed all these qualities to nature, but not his faults. He would have been the wonder of his age, if the vivacity of his character and the fire of his imagination had been tempered at an age when it is so necessary to check them. He would, perhaps, have been the admiration of Europe, if his superior talents had been better directed, and an immoderate self-love not tarnished their lustre. To this defect, perhaps, so hardly pardoned, Lafrenière owed the host of enemies whom we shall see rushing on him; perhaps, too, it is part of the fatality incident to merit, to be always the object of jealousy and criticism. Yet, it is conceded that most of those who deposed against this great man, had been loaded by him with favors, and owed him life and property.

But let us return to the deputation of the colonists.\* Lafrenière, in spite of all that could be said to him, went to meet O'Reilly, accompanied by a planter and a merchant. The general received them with marks of the greatest good-will; he seemed flattered by the step, and in their presence repeated the promises made to Aubry. He prayed those gentlemen to assure the colonists of his desire to contribute to their happiness and repose. Bidding adieu to Lafrenière, as the latter

\* This deputation consisted of Lafrenière, Marquis and Milhet.

took his leave, he said: "Your conduct has been misrepresented at Madrid, but at a distance objects take a different form from what they really have. I see that you have done your duty; rest assured that nothing will happen to you. I wished to be your friend." And so saying, he grasped his hand.

The deputies scarcely knew how to reply to such warm greetings, so astonished and delighted were they. They hastened back to reassure their families, who had meanwhile been in the greatest alarm. The account of their reception by the general was the subject of public admiration, and the city soon echoed with praises of O'Reilly; and his conduct to the planters, during three weeks which he spent in the river, increased the esteem of all for him.

Some sensible men, however, saw through this deceptive exterior. They felt that his politeness to Lafrenière was only a lure to draw into his nets the men on whom Spanish anger was to fall, for no one believed that Lafrenière would fall alone. They did not believe that, merely to take possession of the province of Louisiana, Spain would have sent a lieutenant-general and 3,000 men. All this preparation denoted something less pacific than was pretended. "O'Reilly," said they, "is too politic to arrest Lafrenière before establishing his authority; that would be revealing his design. He wishes victims at any price, and then the others would have escaped; for that act of severity would have exposed him to the risk of seeing all the colonists take refuge on English soil."

These reflections struck some. In vain they tried to convince Lafrenière that O'Reilly's favorable reception was but a dangerous snare. They reminded him of all that they had suffered from Ulloa. A hundred historical incidents were cited confirming the truth of the character imputed to the

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Spaniards. They cited him examples where promises in the name of their kings had not held good against their resentment, and where on all occasions an alluring exterior had prepared the vengeance they premeditated. But they never could make the colonists believe that duplicity and knavery could be carried to that point, and the words "M. de la Frenière—my friend,"—rose to his mind whenever they tried to open his eyes; they showed him the horrors to which he exposed his family, already branded by the Spaniards for its hostility to Ulloa's unjust plans. In vain his relatives urged him to pass over to the English territory, as O'Reilly's stay in the river gave every opportunity for emigration, but nothing could shake the constant firmness of the attorney-general. He would have deemed it a dishonor to save his life by flight, especially as his conduct furnished nothing to create the danger with which they wished to alarm him. General O'Reilly's promises made the colonists feel secure. At least it stopped the emigration of many, who, though conscious of innocence, felt nevertheless that the most prudent course was to avoid the resentment of a nation which deemed itself offended and never could pardon. But, in spite of that, a certain homage rendered to the human heart by virtuous souls banished the idea of so atrocious and infamous a piece of knavery as that which we shall see tarnishing the name of O'Reilly.

On the 17th of August, 1769, O'Reilly\* appeared before New-

\* DON ALEXANDER O'REILLY, the first Spanish Governor of Louisiana, was born in Ireland, about the year 1735. He entered the Spanish army at an early age, and served with distinction in Italy, where he received a wound which lamed him for the remainder of his life.

In 1755, he obtained permission from the king to enter the Austrian army, and made two campaigns against the Prussians. In seventeen hundred and fifty-nine he volunteered in the army of France, in which he distinguished himself, and was warmly recommended by the Duke de Broglie to the King of Spain, who

Orleans with his whole fleet; his intention was to enter it as a conquered city, with drums beating, and matches lighted; but, on Aubry's representation, he consented to act more considerately. When Aubry spoke of Ulloa's expulsion, O'Reilly cut him short, saying: "The sponge has passed over that; all is forgotten; let us speak no more of it." In the first moments he constantly affected to use similar language. The next day, the 18th, possession was taken with all the usual pomp and

promoted him to the rank of lieutenant-colonel, and as such he served with distinction in the war between Spain and Portugal. He was afterwards promoted to the rank of brigadier-general, and on the conclusion of the peace of seventeen hundred and sixty-two, he was raised to the rank of major-general, in which capacity he was sent to Havana to rebuild the fortifications of that city which had been destroyed by the English.

After the expulsion of Ulloa from Louisiana, the king, apprehending much resistance from the colonists, prepared a formidable expedition against that province, and gave the command of it to O'Reilly, whom he appointed governor and captain-general of the province.

He arrived at the mouth of the Mississippi with his fleet on the 24th of July, 1769. On the same day he dispatched his aid to Aubry, the French governor, to announce his arrival, and notify him that he was duly authorized to receive formal possession of Louisiana. At the same time he expressed a desire to maintain a good understanding between the authorities of Spain and the colonists, but that he should put down all opposition and extend the jurisdiction of his sovereign over the province.

On the 27th, the citizens of New-Orleans sent delegates to O'Reilly to implore his clemency, and on the next day they returned to the city with assurances from the governor that he should be disposed to be lenient.

On the 17th of August the Spanish armament reached the city, and on the 18th Aubry surrendered the province to O'Reilly. The governor entered upon the duties of his office with every outward respect for all classes of citizens. But, although he promised pardon to all who quietly submitted, he had resolved in his mind to punish the principal agitators of the late revolution. This determination was artfully concealed until he had procured from Aubry a full report of that event, with the names of the principal actors.

"It is very essential," said O'Reilly, "that I should know who is the person who wrote and circulated the documents entitled, '*Decree of the Council*,' and a '*Memorial of the Inhabitants of Louisiana on the event of the 29th of October, 1769*,' because all the articles of said documents claim my special attention. I shall put entire faith in your revelations, and I again beg you not to omit any circumstance relative to men and things in what concerns said revolution." On receiving Aubry's communication he immediately made up his mind how to act.

ceremony, and at the same instant Aubry, by virtue of his powers from the French king, absolved the colonists from their oath of allegiance to him. During the week and the following one, O'Reilly received the free oath of all who chose to become Spaniards.

Hitherto nothing had shown the knavish plots ascribed to O'Reilly. Could he arrest and punish men whose innocence he proclaimed every time he received an oath of allegiance?

On the next day, the 21st, he communicated to Aubry the orders of his Catholic majesty to arrest and bring to trial, in accordance with the laws of Spain, the chiefs of the revolution. Under various pretexts, O'Reilly drew to his house nine of the chiefs which had been named by Aubry in his dispatch, and had three others arrested in the city-hall. After reading to them the orders of his Catholic majesty, he had them arrested in the king's name, and put them upon their trial for high treason.

On the 23d, he issued a proclamation inviting the colonists to appear before him on the 26th, to take the oath of allegiance to his Catholic majesty.

The victims of his cruelty enjoyed but a short respite between conviction and the execution of their sentence. O'Reilly remained inexorable to the earnest entreaties of the inhabitants, to suspend the sentence of death until the royal clemency could be implored.

He now proceeded to abolish the laws of France, and substitute those of Spain. On the 21st of November, he issued his proclamation for the abolition of the Superior Council, which he alleged had been deeply implicated in the former treasonable movements against Spanish authority.

In place of the Superior Council he established the Cabildo, which was a high court and a legislative council, at which the governor presided. In its judicial capacity, it exercised only appellate jurisdiction, in appeals carried up from the Alcalde courts.

He ordered a set of instructions to be prepared for the regulation and proceedings in civil and criminal cases, to be conducted in the courts agreeably to the laws and usages of Castile and the Indies. A commandant, with the rank of captain, was appointed for each parish, with authority to exercise a mixed, civil and military jurisdiction.

The Spanish language was henceforth made the tongue in which the judicial records throughout the province were kept and the proceedings conducted. *The Spanish authority and laws were now substituted for the French laws and customs.* The black code (*code noir*) which had been previously in use in the colony, was modified and re-enacted, for the protection and government of the slaves. Foreigners were prohibited from passing through the province without passports from the governor, and the colonists were prevented from trading with

These reflections increased the feeling of security in those who were warned of prisons and punishment. Yet, on the 21st of August, O'Reilly arrested, as state prisoners, de la Frenière, the attorney-general; De Mazan, a captain in the French service, a knight of St. Louis, of a very ancient provincial house; Le Marquis, also a knight of St. Louis, commanding the troops of the Swiss regiment of Alevé; Hardy de Boisblanc, a counselor; Caresse; the two Milhets, father and son; Poupet, the elder, and Petit, merchants; Braud,\* the king's printer; Doucet, a lawyer,

the American colonies. Many of the local regulations and ordinances were particularly oppressive. The colonists were at first permitted to emigrate, and many availed themselves of this privilege. O'Reilly finding, however, that the province was losing many of its valuable citizens, he annulled this privilege, and refused to issue any more passports. The province was soon, however, relieved from further anxiety of O'Reilly's vengeance, and at the end of a year he was superseded by Don Antonio Maria Bucarely, as Captain-General of Louisiana.

O'Reilly now returned to Spain. Although he excited jealousies and antipathies by the course he adopted while in Louisiana, yet within a few years documents have come to light which go to prove not only his original powers, but the approbation of the Court of Spain of all his proceedings. (See Appendix.) It appears by these the king ordered him to proceed to Louisiana, take formal possession, chastise the ringleaders, and annex the province to his dominions. He proceeds to ratify and confirm all that had been done by O'Reilly, and that as relates to the administration of justice, a special tribunal was to be created, to which all appeals were to go, and from it to the council at Seville. O'Reilly made a detailed report of his proceedings to his government, which has never been made public *in extenso*, but which was approved of by the council and chamber of the Indies, to whom it was referred.

In 1774, he was placed in command of the great expedition which was sent against Algiers. The unfortunate result of this expedition rather lowered him in the estimation of the Spanish nation, although the king remained true to him. He was afterwards appointed Governor of Cadiz, where he exhibited all the talents of a great administrator. He fell into disfavor on the death of Charles III. Subsequently he was appointed to the command of the army of the Pyrenees, and while on his way to join it, he died suddenly, at an advanced age. Some of his descendants now reside in Cuba. "O'Reilly," says Michaud, "had always been an object of malignant envy, and had many enemies, whom the flexibility of his temper, and the soft influence of his conciliating manners, could not reconcile to his advancement in a nation proverbially proud and suspicious of foreigners."

\* Braud was arrested for having printed the *memorial* of the planters, &c., on the event of the 29th of October, 1768. He pleaded in justification, that as

and Villeré, captain in the militia. The last was on the point of passing to the English side with all his property, when a letter from Aubry enjoined him to repair to the capital to confer with O'Reilly, and pledged his honor that nothing should be done to him. Villeré hesitated, but on the word of honor of a French commander, his desire of displaying his obedience to the last triumphed over his well-founded conviction of the Spanish governor's knavery. He came to the city, was instantly arrested and led on board a frigate. "Traitors," he cried, "you durst not declare your odious projects. If you have the courage you parade so vauntingly, give me my liberty, let me choose two hundred of my countrymen, turn your three thousand on us, and if a single Spaniard escapes, call us infamous cowards; but you deceive yourselves if you hope to feast your cruel and savage eyes on the spectacle of my death—Villeré was not made to die on a scaffold." With these words he tried to break through the guard, but the officer stopped him and gave him a kick in the stomach, which stretched him senseless on the ground, while a soldier gave him a bayonet thrust in the thigh. He fell, foaming with rage and fury. In this frightful state he lay three days, and died in despair at being baffled in his revenge.

None could be braver than Villeré\*. Canadian by origin, he had all, valor, fortitude and freedom of mind; violent and fiery, but frank, loyal and firm in his resolves. He was of good size, well made, his step firm, his look bold and martial, his devotion to his king rather a phrensy than a form of patriotism. Had all the colonists thought as he did; had they

king's printer, he was bound to print all that was sent to him by the king's commissary, and he showed Foucault's signature, at the bottom of the manuscript which he had published. This defence being admitted good, he was released.

\* Some of the descendants of this brave man and distinguished patriot are now living in Louisiana, holding high official position.

had his firm resolve, I doubt whether a single Spaniard would ever have reached New-Orleans. He had a genius for war, and was the chief elect of the Acadians and Germans in case of a rupture, and under his orders that brave body would have been invincible: I regret to leave a man of his mould; French patriots must strew laurels over his grave. Let us return to the other prisoners; and, to judge O'Reilly better, let us see the means he took to arrest them.

He was aware of the influence possessed over the public by the men he intended to arrest; he feared that, by acting openly, he might excite an outbreak, and therefore to secure those whom he wished to arrest, he acted thus: On the evening of the 20th of August, he summoned the colonels of the two regiments that he had brought to his residence. "Sir," said he, to the colonel of the Lisbon regiment, "your grenadiers have a name for manœuvring well. I should like to test it; those of the other regiment will also arm, and to encourage them, you need only join the first four companies of each regiment." Let the rest remain in their quarters, ready to march when ordered; rendezvous here to-morrow morning at eleven." The next morning O'Reilly sent his aids-de-camp for those he wished to arrest, and as they entered made them sit down, speaking with the greatest affability, and left them under the impression that his design was to confer on the affairs of the colony. He amused them in this way till the grenadiers and other companies, with fixed bayonets, had surrounded the government house. He then called successively the gentlemen named above, sent them into an adjoining room, where their swords were demanded, and whence a guard accompanied them to the prison prepared for them.

M. le Marquis, on surrendering his sword, said to him: "I have, during my whole life, borne it in the French king's ser-

vice. I regret that I did not use it better. If it be a crime to be too good a Frenchman, I die guilty, for I die a Frenchman."

M. de la Frenière and M. de Mazan, who both held offices in the colony, were thrust into cells under the buildings occupied by the Spanish troops.\* This apparently more distinguishing treatment was only an additional precaution of the general. The others were conveyed on board various ships, and all carefully watched.

Their property was confiscated, sentinels were placed in their houses, and their papers examined and seized. A Spanish guard was put over the Secretary, and a French one over M. Foucault's, the commissary. Aubry, at O'Reilly's request, took a false step; he did more. He went to Foucault's house and wished to interrogate him. "Have you any order from your king and mine, establishing you my judge?" said Foucault, "if not, I protest against your injustice, and will only account to the judges who shall be appointed to examine your conduct and mine. In consequence, sir, I demand a passage on the first vessel for France. One will sail to-morrow, and I shall, with your permission, embark." O'Reilly and Aubry durst not refuse. Foucault embarked the next day, and on reaching France was transferred to the Bastille, where he is still detained.†

\* In pulling down this old building, which had for some years after served for a Spanish prison, cells, (under the ground,) were discovered, in one of which were found a quantity of human bones; the remains, probably, of unfortunate prisoners who had been left there to perish.

† M. Foucault, President of the Superior Council of Louisiana, succeeded M. de Rochemore, as *commissaire ordonnateur* of the province, in June, 1761. He acted with great duplicity towards the revolutionists. He took an active part himself against Ulloa, but in his official correspondence with the French cabinet he had so equivocated, as to be able when the time came to side with the victorious party. In order to justify himself for having convened the council



The number of victims was not completed ; one more was to be arrested. This victim was dear to the colony by the greatness of his family, by his birth, and by the signal services of his ancestors, to whom was due the discovery and settlement of Louisiana. This victim was still more precious by his personal merit. M. Noyan was the son of an old royal lieutenant of Louisiana, whose name is never uttered without respect and gratitude. M. de Bienville, governor and founder of New-Orleans, was his uncle, as was Iberville, an officer eminent in the navy for his talents, and in the colony for having brought over the first colony, and declared himself its protector and support. M. de Noyan was only thirty-two.\* Nature seemed to have delighted in blending in this young man all exterior graces, as well as those qualities of mind and heart which attract esteem and love. He might have been considered a model of perfection, were not nature so chary of it. His countenance was noble, frank and becoming, his manners pleasing, his stature tall, his bearing manly, his voice sweet and captivating. He had, in a word, all the graces that a man can have. His mind was agreeable and just ; he had a general aptitude for all he undertook. His soul was a union of all the qualities that constitute an honest man ; he had also those which render a man dear and precious ; for to rectitude, which might if possible be called ultra, he joined great generosity and beneficence ; he

which expelled Ulloa, he wrote to his government, that "he had been compelled to yield only by force." "It must be admitted," says Gayarré, "that in the drama in which he was engaged he acted his part with a consistency of infamy, and a cool systematic regularity of treachery, which must obtain for him much credit with congenial minds." When he arrived in France he was thrown into prison, but afterwards released, and rewarded with an office in the East Indies.

His correspondence while in Louisiana is very voluminous, and covers a period of nine of the most eventful years in the history of that province.

\* The defence of Noyan, Doucet, and Caresse may be found in the archives of the department, "De la Marine et des Colonies," Paris.

was compassionate, mild, affable, but at the same time full of courage, firmness and nobility. A good citizen, a good patriot, a good friend, a good father; reproached only with a too extreme delicacy; and for this only, because it proved his ruin. He had served in France, and was by leave captain of cavalry in Louisiana; this reason would seem to shield him from arrest. This is perhaps the reason why O'Reilly left him at liberty two days after the detention of the gentlemen of whom I have spoken. The whole colony unanimously entreated this young man to fly from Spanish wrath. De Noyan had married de la Frenière's daughter; his intimate connection with his father-in-law was notorious, and he was known to be one of those marked out for Spanish vengeance. In vain they employed all imaginable arguments to induce him to evade by flight. Full of confidence in his own innocence, he always opposed it as a buckler to the representations made him. When they reminded him that innocence was often sacrificed to so-called policy, he reminded them of his honor, which made his fate inseparable from his father-in-law's. When they showed him that, in safety, free to act and make his representations, he would be of real service to M. de la Frenière, he seemed to yield to this powerful argument; but his pledge to his father-in-law not to forsake him, soon prevented his following the prudent advice given him. O'Reilly had just published an amnesty,\* by which he seemed to declare that the anger of his

## O'REILLY'S PROCLAMATION.

\* "In the name of the King, we, Alexander O'Reilly, commander of Benfayan, in the order of Alcantara, major and inspector-general of the armies of his Catholic majesty, captain-general and governor of the province of Louisiana, in virtue of the orders of his Catholic majesty and of the powers with which we are invested, declare to all the inhabitants of the province of Louisiana, that whatever just cause past events may have given his majesty to make them feel his indignation, yet his majesty's intention is to listen only to the inspirations of his royal clemency, because he is persuaded that the inhabitants of Louisiana

Catholic majesty would fall only on those arrested, and that this monarch would pardon the others. This amnesty probably induced the unfortunate resolution taken by De Noyan to face all, rather than debase himself by a flight which the Spaniards would have regarded as a confession of the crime laid to his charge. Death seemed to him less frightful than a breach of his word.

O'Reilly at last arrested De Noyan. His pretended regret, and the manner in which the arrest was made, prove at least the consideration to which he was entitled. He was conducted on board a Spanish frigate and treated with the greatest distinction.

Shall I paint the despair of the wretched wives of these gentlemen? Shall I dwell on the state to which Mme. de Noyan in particular was reduced? But sixteen and a half years' old, the most deep and tender affection had for the last eighteen months united her to the amiable man, whose portrait we have just drawn. Daughter of M. de la Frenière, niece of M. de Villéré, she wept at once the detention of husband, father and uncle, and shuddered every moment at the horrid forebodings that filled her soul. But the cruel O'Reilly incessantly reassured these ladies as to the lives of those they loved. He repeatedly sent to tell them to dismiss their fears, as the detention of the prisoners would not be long, and that they would soon see them free. Thus the tyrant flattered their fond hopes, to render the blow he was preparing more keen and penetrating.

would not have committed the offence of which they are guilty, if they had not been seduced by the intrigues of some ambitious, fanatic and evil-minded men, who had the temerity to make a criminal use of the ignorance and excessive credulity of their fellow-citizens. These men alone will answer for their crimes, and will be judged in accordance with the laws. So generous an act on the part of his majesty might be a pledge to him that his new subjects will endeavor every day of their lives, to deserve by their fidelity, zeal and obedience, the pardon and protection which he grants them from this moment."—*Gayarré.*

Shall I follow these gentlemen in their imprisonment? Shall I tell how M. de Mazan, seized with a terrible disorder, beheld his wife in vain implore permission to watch beside her husband? Nay, more: the son of that old soldier offered to remain in prison till his father's recovery. Nothing could move the cruel and barbarous general. Mazan spent his illness in prison.

A month or so after their arrest the examinations began.\*

\* It appears from a MS. copy of the *process verbal* of this trial before me, that O'Reilly based his prosecution of the leaders of this revolution upon a *statute of Alfonso XI*, which is the first law of the seventh title of the first partida, which denounces the punishment of death and confiscation of property against those who excite any insurrection against the king or state, take up arms under any pretence of extending their liberty or rights, and against those who give them any assistance.

The prisoners pleaded against the jurisdiction of the court, which was overruled. They denied the facts with which they were arraigned; they contended if they did take part, they did so while the French flag was still waving over the province of Louisiana, and while yet French laws were still in force; that the facts set forth did not constitute an offence against the laws of Spain; that they were not bound to bear the yoke of two sovereigns; that O'Reilly could not command the obedience, nor respect of the colonists, until he had made known to them his powers, and that the King of Spain could not count upon their allegiance until he extended to them his protection.

This trial and the proclamation of O'Reilly, fixes, beyond a doubt, the period when Spanish law was substituted for French jurisprudence in Louisiana.

The powers of O'Reilly were unlimited, and extended to a total change of the laws, the fiscal and military condition of the country, and upon which the treaty of cession remained entirely silent; although the letter from the king to M. d'Abadie held out some delusive hopes that they might not be.

After the execution of the prisoners, O'Reilly caused to be published in French, an abridgment of Spanish law, with references to the books in which they are contained, which he promulgated for the government of the province until the Spanish language should be better understood, and the colonists better able to read the Spanish laws in their original idiom.

This publication, which is printed in the appendix to this volume, was followed by an uninterrupted observance of the Spanish code in all its parts. It is in evidence that O'Reilly's ordinances were never repealed. They were approved of in 1772 by the *Council of the Indies*, and to give greater force to what O'Reilly had done, they recommended that *cedules* be issued to that effect.

"Happily," says Judge Martin, "the Spanish laws and those of France pro-

During the interval O'Reilly had received the depositions of all who wished to speak. Animosity, resentment, jealousy, cupidity, ambition, terror and weakness, excited base and vile minds to dare to calumniate the worthiest of men. And what were the feelings of those generous patriots, when they beheld themselves falsely accused by their own countrymen,\* by

ceeded from the same origin, the Roman code; and, as there is a great similarity in their rights, testaments, successions, &c., the translation was hardly perceived by the mass of the inhabitants before it became complete, and very little inconvenience resulted from it." The Supreme Court of Louisiana have, on several occasions, substantially sustained this view of the question, upon which now no doubt should rest.

\* Aubry is here particularly alluded to, for the supple and servile part he played throughout the whole of this period; notwithstanding which, he was a brave and accomplished officer, and had served with distinction in Italy, before he came to Louisiana. In 1758 he was ordered by the commandant of Fort Chartres, Illinois, to ascend the Ohio, and relieve Fort Duquesne, which was then menaced by an English force under Major Grant. On the 14th of September he arrived at the fort, and after examining the position of the English, he sallied out the next day and attacked them with great bravery. After a hard-fought battle, they retreated in great disorder, and left three hundred men dead on the field. On hearing the defeat of Major Grant, General Forbes sent forward a detachment, under the command of Col. Washington to support Grant. As he drew near the fort the French troops became disheartened, and Aubry ordered the fort to be set on fire, and by the light of it he sailed down the Ohio, and returned to Fort Chartres. Washington on the next day planted his banners on its ruins, and named it Fort Pitt.

In the following year Aubry was ordered with a strong force to Niagara, where he again attacked the English with great intrepidity, and while leading his men he fell covered with wounds. He was taken prisoner by the English. After his release he went to France for his health, and was rewarded for his bravery with the cross of St. Louis. On recovering from his wounds he returned to Louisiana, and on the 4th of February, 1765, he succeeded D'Abadie, (who had died very suddenly,) as Governor of Louisiana.

On the 5th of March, 1766, Ulloa arrived in Louisiana, but as there was no time fixed by the treaty of cession to deliver the province to Spain, he deferred from time to time to take possession until a stronger force should arrive from Spain. In the mean time the colonists became dissatisfied, and a revolution broke out, which finally led to his expulsion.

Aubry protested against the decree of the Superior Council, and immediately informed his government of all that had taken place. The merchants and planters published a memorial to justify the expulsion of Ulloa, which will be found published in this volume.

Frenchmen for the most part loaded with their favors? To crown their torture they needed but to know their accusers, and the Spaniards had the cruelty to name them.

It would be too long to dwell in detail on all the horrors called into being in those fearful moments. Why cannot I transmit to posterity the names of the wretches who had the

On the 24th of July, O'Reilly arrived at the Balize with three thousand troops, and on the same day he sent Boulligny, his aid, to announce his arrival to Aubry.

On the 18th of August, 1769, Aubry delivered up the province, and on the next day O'Reilly addressed a letter to Aubry, asking a statement of all that had transpired in the colony from the departure of Ulloa until his arrival, and the names of the chiefs of the revolution. On the 23d. he addressed Aubry another letter on the same subject, requesting him to furnish all the documents necessary to convict the chiefs.

On the 24th, Aubry addressed a letter to O'Reilly, giving him the information he required; and on the first of September he wrote the following dispatch to the French Minister:—

*Monseigneur.*—J'ai eu l'honneur de rendre compte à votre grandeur de la prise de possession de la Louisiane par M. le Général O'Reilly, et de toutes les circonstances qui ont accompagné ce mémorable événement.

Depuis ce temps M. le Général s'est occupé à prendre la connaissance la plus exacte de la cause de la révolte du vingt neuf d'Octobre, 1768, et des auteurs d'un attentat qui a mis cette colonie à deux doigts de sa perte. J'ai reçu une lettre de lui le 19, d'Aout, dont est cy joint la traduction exacte par laquelle il me marque, qu'étant gouverneur de cette province pour sa majesté très Chrétienne et présent à tout ce qui s'y est passé, il désirait que je l'instruisse des causes de la révolte et des noms de ceux qui ont séduit et excité le peuple à se présenter les armes à la main, et pour expulser par la violence M. Dn. Antonio de Ulloa, élu par sa majesté Catholique gouverneur de pays, et me prie également de lui marquer le nom des auteurs de tous les excès qu'on a après continué envers tous les officiers et la troupe Espagnols.

J'ai l'honneur de vous adresser, Monseigneur la copie exacte de la réponse en date du 20, d'Aout que j'ai cru que le devoir de mon état m'obligeait de faire à M. le Général, dans laquelle je lui, expose avec tout l'honneur et la vérité dont je suis capable toutes les connaissances que j'ai sur les causes de ce malheureux événement, et sur les principaux auteurs de tous les excès.

Le 21. à huit heures du matin, M. le Général me communiqua pour la première fois les ordres de S. Mté. pour faire arrêter et juger selon les lois les chefs de cette conspiration, ce dont je n'avis aucune connaissance auparavant, Il les fit tous assembler chez lui sous differens prétextes, et en ma présence il leur dit:

“Messieurs, la nation Espagnole est respectée et vénérée par toute la terre. La

vileness to depose against their countrymen? But the public voice points them out, and their deed brands their name with infamy. Rapidly would I pass over the fearful picture I have yet to trace. I would fain—but I have resolved to be exact—Let us conclude these sad details.

On the 24th of October, 1769, the Spanish council, on hear-

Louisiane est donc le seul pays de l'univers ou on l'ignore, et ou on manque aux égards qui lui sont dus. S. Mté. Catholique est tres offensée de tous les écrits qu'on a imprimés et qui ontragent son gouvernement et la nation Espagnole, ainsi que de la violence et de l'attentat qui à été commis envers son gouverneur, ses officiers, et ses troupes. Elle m'ordonne de faire arreter, et juger selon les lois, les auteurs de tous ces excès, et de ces violences, après leurs avoir lu les ordres de S. Mté. a ce sujet, M. le Général leur ajouta, Messieurs, vous êtes accusés d'être les chefs de cette révolte, je vous arrete au nom du Roi, je souhaite, que vous puissiez prouver votre innocence, et être a même de vous rendre bientôt les épées que je viens de vous oter. Vous produirez toutes vos défenses devant les juges équitables qui sont devant, ce seront eux qui instruiront votre procès, et qui vous jugeront, il ajouta, on à coutume en Espagne de Sequestrer les biens et les fortunes des prisonniers d'Etat, les vôtres le seront par conséquent, mais vous devez être certains que vous serez traités avec tout le soin possible dans l'endroit qui vous est destiné, et à l'égard de vos femmes et de vos enfans, soyez persuadé que je leur ferai donner tous les secours dont elles pourront avoir besoin."

Aussitôt plusieurs officiers accompagnés d'un détachement de Grenadiers les ont conduits dans les endroits qui leur est destiné, savoir, au quartier et dans les Vaisseaux de S. Mté. Catholique.

J'ai l'honneur de vous adresser, Monseigneur, le nom du petit nombre de ceux que M. le Général à été obligé indispensablement de faire arreter ce qui prouve sa générosité et sa bonté, y en ayant bien d'autres que leur conduite criminelle m'étoit dans le cas d'éprouver le même sort, et afin de tranquilliser le peuple, et les habitants qui étaient alarmés M. le Général a fait publier aussitôt au nom du Roi un pardon général pour tout ce qui s'est passé, à l'exception de ceux qui ont séduit le peuple à commettre cet attentat les quels seront jugés selon les lois; cette ordonnance affichée et publiée dans les quatre coins de la ville, eu son des tambours et de différens instrumens, accompagnés de toutes les compagnies de Grenadiers, a produit un très bon effet, et causé une satisfaction générale.

Le 23, au matin, j'ai reçu une lettre de M. le Général dont j'ai l'honneur de vous envoyer la traduction exacte, par laquelle il me marque qu'on lui a remis l'original d'un papier qui a pour titre, mémoire des habitants et negocians sur l'évènement du 29 d'October, qui s'est trouvé chez l'imprimeur Braud, avec l'ordre signé de M. Faucault, faisant fonctions d'ordonnateur, pour qu'il soit imprimé, et qu'attendu que ce libelle est offensant, au plus haut degré, à l'autorité et au respect dû à sa majesté Catholique, et est diffamatoire à toute la nation Espag-

say calumnies refuted by the accused and by three-fourths of the colony, dared to pronounce on the gentlemen arrested the most sanguinary sentence. Let us pass for a moment over the inhumanity of this sentence to regard merely its irregularity.

First, if we believe the Spaniards themselves, they had no judges but O'Reilly and the Auditor. But let us not admit facts

nole, et que le crime de M. Faucault est platement justifié par sa signature, il ne laisse aucun doute, qu'il n'ait été un des chefs et principaux moteurs du soulèvement et excès commis contre Monsieur Don Antonio de Ulloa, et le gouvernement de S. Mté. Catholique, M. le Général me pria en conséquence de faire saisir avec la plus grande sûreté et promptitude la personne de M. Faucault, afin que la justification faite de sa conduite très infidèle, et criminelle nous puissions l'un et l'autre en rendre compte à nos souverains respectifs avec la remise du même procès; J'ai l'honneur de vous adresser, Monseigneur, la réponse que j'ai cru que le devoir de mon état, m'obligeait de faire à le Général; quoi qu'avec bien de la douleur je n'ay pu me refuser à une aussi juste demande de sa part; en conséquence j'ai ordonné à M. de Grandmaison cy-devant Major d'aller avec Messrs. de la Mazetière, le plus ancien Capitaine, et Aubert, Aide-Major, arreter au nom du Roi, Faucault, dans sa maison où j'ai envoyé aussitôt, avec l'agrément de Monsieur le Général, un détachement Français et deux officiers qui sont relevés tour les jours lesquels j'a rendui responsables de sa personne. J'ai aussi ordonné à M. de Grandmaison de mettre les celles sur les papiers, assiste de Messrs. de la Mazetiere et Aubert, en présence de M. Bobé, faisant fonction de controleur de la Marine, lequel j'ai chargé du soin de la comptabilité, le rendant responsable du mal qu'il pourrait faire, quoi, que je ne l'en croye nullement capable, attendu qu'il est honnête homme, et a toujours désapprouvé la conduite de son chef.

Le 26, J'Avout tous les principaux habitans de la campagne et ceux de la ville, on prête, solennellement serment d'obéissance et de fidélité à S. Mté. Catholique entre les mains de M. le Général. Cette cérémonie s'est faite avec beaucoup d'ordre et de dignité; je lui ai présenté tous les corps chacun selon leur rang; M. le Général leur a prononcé à haute voix toutes les obligations auxquelles le serment les engageait, et les liait; il leur a dit qu'ils avaient une pleine et entière liberté pour le faire, ou pour le refuser; que ceux qui ne voulaient point s'y engager étaient les maîtres, et qu'il leur donnerait tous le tems et les facilités pour arranger leurs affaires, et se retirer dans leur Patrie. Presque tous généralement l'on prêté avec zèle, et j'ose assurer qu'ils seront dorénavant aussi fidèles sujets de S. Mté. Catholique qu'ils l'ont été du Roi très Chretien; après que tout le monde a eu prêté Serment j'ai été avec tous Messieurs les officiers au devant de M. le General, et lui si dit que nous étions très flattés et honorés de servir sous les ordres d'un général aussi recommandable que lui, que nous étions prêts à repandre notre sang pour le service du Roi d'Espagne comme pour celui du Roi de France, et qu'en agissant ainsi, nous exécutions la volonté du Roi notre maître, ce qui'était la seule chose que nous desirions; il



so incredible; let us suppose the council named to try the victims, was composed of a competent number of judges, the proceedings would still be irregular.

One man accuses another, equity demands that they be confronted, and discussion is generally the torch that guides the judge. But here they merely wished a mask to cover an

a été entièrement satisfait de cette démarche, et nous a fait la réponse la plus obligeante.

La fête de la St. Louis, celle du Dimanche, et les occupations que nous avons eues le jour qu'on a prêté serment de fidélité, ne m'ont pas permis de faire lever les celles qu'on avaient apposés sur les papiers de M. Foucault que le 28. J'ordonné ce jour à M. de Grandmaison cy-devant Major, Messrs. de la Mazetieres et Trudeau, Capitaines assistés du Sr. Garic, notaire de cette ville, de se transporter dans la Maison de M. Foucault, pour en présence de M. Bubé, controleur de la Marine, procéder à la reconnaissance et levée des cellés apposés le 23. Du present mois sur les bureaux et cabinets contenant les papiers et comptes des finances et autres comptabilités pour eusuite être remis à M. Bobé à l'exception des papiers qui pourront avoir raport à l'événement du le 29 d'October, les quels doivent in m'être remis par M. de Grandmaison.

J'ai également ordonné le meme jour à M. de Grandmaison et aux memes officiers assistés du dit notaire de faire à M. Foucault une declaration par serment de tous les biens, meubles et immeubles qu'il peut avoir dans cette colonie. Il a déclaré très peu de biens, et beaucoup de dettes en France et dans cette colonie.

J'ai l'honneur de vous adresser, Monsieur, la copie des actes qui ont été faits à ce sujet. Malgré que toutes les opérations precedentes ayent donné considerablement. D'occupation à M. le Général, il n'a pas négligé la les soins du gouvernement auxquels il l'est donné tout entier; des voitures ont été expédiées dans tous les Postes pour annoncer la nouvelle de son arrivée, et de la prise de possession.

Les commandants de la Pointe Coupée, et des Acadians ont reçu ordre d'envoyer à la ville les principaux habitans munis du pouvoir de tous les autres pour prêter le serment de fidélité; à l'égard des postes éloignés, M. le Général a chargé de ces Pouvoirs les officiers qui y commandent pour faire prêter le serment aux habitans qui y sont établis.

La saison ne permettant point d'envoyer un convoi aux Illinois, M. le Général a marqué à M. de St. Ange qui y commande et qui y est de puis cinquante ans qu'ayant confiance dans son expérience et sa probité, il n'a qu'à lui envoyer l'état de ce qu'il pense nécessaire, tant pour les sauvages que pour la protection des habitans et qu'il aura égard à ses demandes.

Son intention est de n'établir des nouveautés qu'autant qu'il le sera absolument nécessaire. Il continuera et fera executer tous les réglemens sages et utiles que la faiblesse du gouvernement n'a pas permis de faire d'observer de puis plusieurs années. Il suivra le code noir qui lui a paru rempli d'ordonnances sages et utiles

HISTORICAL MEMOIRS OF LOUISIANA.

action at which a savage would have blushed. These barbarians, deaf to all but vengeance, would at least have shuddered to shed innocent blood. They would have dreaded to have that indelible stain cast upon them. Yet we see an enlightened nation, a people who boasts itself a scrupulous observer of a religion of peace, and not of bloodshed, of a religion breathing naught but clemency and goodness—we see a council composed of men respectable in age and rank, to make reparation for an insult to their flag and king, pronounce sentence of death on men whose whole attention had been to show respect for

ant pour la discipline des nègres, que pour modérer la trop grande pureté des maîtres. Ce qui à flatté infiniment les habitans.

J'ai l'honneur de vous adresser, l'ordonnance que M. le Général a rendue à ce sujet.

Enfin a prés tant de troubles et de discordes qui ont desolé si longtemps cette colonie, il est surprenant que la présence d'une seule personne y retablisse en si peu de temps le bon ordre, la paix et la tranquillité. Si pour le bonheur de ce pays, M. le Général y fut arrivé plutôt nous n'aurions jamais été témoins de toutes les calamités dont il a été affligé. A cela près du petit nombre de familles qui sont dans la consternation pour la juste disgrâce de leurs parens qui ont été arrêtés, tout le resto de la colonie est tranquille et content.

Tous les habitans sont flattés de ce que Sa Majesté Catholique leur a envoyé un Général qui écoute avec bonté les personnes qui ont affaire à lui, craint, respecté, et aime, pour la générosité, sa bonté, et sa justice envers tout le monde. Il fera le bonheur de cette colonie.

J'ai l'honneur d'etre avec un profound respect,

De. votre Grandeur, Monseigneur,

Votre très humble et tres obeissant serviteur,

(Signed) AUBRY.

*Nlle. Orleans, 1 Septembre, 1769.*

Having transferred the province to General O'Reilly, Aubry now prepared to return to France. In the beginning of the year 1770, he embarked on board a ship bound to Bordeaux, with all his property, and the public papers belonging to the province. On the 18th of February, as the vessel entered the mouth of the Garonne, she encountered a violent storm, and was shipwrecked. All on board perished except four sailors, who succeeded in reaching the shore.

The King of France, in order to show how much he appreciated the services of Governor Aubry, immediately granted pensions to both his brother and sister for life. The official correspondence of Aubry is deposited in the archives at Paris, but his private journal, with the valuable archives of the colony, were lost with him in the shipwreck.

both—on men whose lips, as moderate as their conduct, had uttered no insult to any Spaniard, not even to the author of their evils—on men, who had acted only against a man with no recognized title or authority ;—on men, in a word, whose innocence O'Reilly himself had attested by authentically taking possession ; by absolving them from allegiance to the crown of France, and accepting an oath to the fidelity of the Spanish monarch.

Let us for a moment suppose them to have been guilty ; had not their pardon been assured them by an authentic promise, by the plighted word of honor of O'Reilly himself, to follow in his master's name only clemency and goodness, if the colony offered no opposition to his taking possession. But he made hesitation a crime on the inhabitants, and feigned to believe, as he openly declared, that the deputation sent him was only a pretext to examine his force, and see what hope there was in resistance.

If we are to believe public report, the judge, after the investigation, found nothing criminal in the accused. "Do as you like," said O'Reilly, "I must have six victims."

The process was begun again, and a new form taken to palliate at least the atrocity of the sentence, which they wished to color with a hue of justice.

Shall I here repeat this unjust and barbarous sentence?\* Shudder, generations yet to be! Shudder with horror and indignation! Six were condemned to confinement more or less

SENTENCE OF THE COURT.

\* "In the criminal trial instituted by the king, our sovereign, to discover and punish the chiefs and authors of the conspiracy which broke out in this colony on the 29th of October, 1768, against its Governor, Don Antonio de Ullos, all the grounds of the accusation having been substantially investigated, according to the due forms of the law, between the parties on one side, the licentiate, Don Felix del Rey, a practising advocate before the royal courts of St. Domingo and Mexico, here acting in his capacity of attorney-general appointed by me for the king,

protracted;\* six more to be hung, and these in consideration for their families were shot next morning!† In vain they appealed from this unjust and informal judgment to the tribunal of his Catholic majesty; in vain they demanded the rights of humanity and justice; in vain they acted the due respect of nation to nation, and sovereign to sovereign; in vain they

according to royal authority vested in me, and on the other, Nicholas Chauvin de la Frénière, ex-attorney-general for the King of France, and the senior member of the Superior Council, Jean Baptiste Noyan, his son-in-law, Pierre Carease, Pierre Marquis, Joseph Milhet, an attorney to the memory of Joseph Villeré, on account of this culprit, demised in prison, Joseph Petit, Balthasar Mazan, Jérôme Doucet, Pierre Hardi de Boisblanc, Jean Milhet, and Pierre Poupet, accused of having participated in the aforesaid crime and in the subsequent seditions which broke out against the Spanish government and nation; having compared the information, depositions and other documents inserted in the proces verbal of this case; having compared the confessions of the accused with the papers found in the possession of some of them, and by them acknowledged as theirs; the accused being heard in their defence, and the charges brought against them being accompanied with their respective proofs; having heard the conclusion of the attorney-general in his bill of indictment; all being examined and considered either in point of fact or of law, in a case replete with circumstances so grave and so extraordinary; and taking into consideration all that results from said trial to which I refer, I have to declare, and I do declare, that the aforesaid attorney-general has completely proved what he had to prove, and that the accused have not proved, and established allegations set up in their defence, that they have made out no exception which frees them from the crime imputed to them, and still less saves them from the penalties, which, according to our laws (Spanish), they have incurred for their respective shares in the excesses which have been enumerated by the attorney-general, Don Felix del Rey; so that from the present, I have to condemn the aforesaid Lafrenière, Noyan, Carease, Marquis and Milhet, as being the chiefs and principal movers of the aforesaid conspiracy, to the ordinary pain of the gallows, which they have deserved by the infamy of their conduct; and *ipso jure*, by their participation in so horrible a crime, and to be led to the place of execution, mounted on asses, and each one with a rope round his neck, to be then and there hung until death ensue, and to remain suspended to the gallows until further orders; it being hereby given to be understood, that

\* De Mazan, Hardi de Boisblanc, Petit, Milhet, senior, Poupet and Doucet, were transferred to Spanish ships, and conveyed to Havana, where they were treated with great inhumanity, and detained till the French court solicited their liberation.

† Lafrenière, Noyan, Carease, Milhet and Marquis, were shot in the yard of the barracks on the 25th of October, 1769.

proved that they had never ceased to be Frenchmen ; that never having taken any oath to the Spanish king, they could not be guilty towards him for sending off a man with no public or acknowledged authority ; in vain they claimed the rights of subjects of the king of France, employed in his service—the sentence was passed, they had to meet it.

Now their patriotic courage, inflamed by the certainty of dying innocent, and the conviction that fidelity to their king alone brought them to the scaffold, was enkindled anew. They exhorted one another to the firmness needed in that fearful

any one having the temerity of carrying away their bodies, without leave, or of contravening in whole or in part, the execution of this very same sentence, shall suffer death. And, as it results also from said trial and from the declaration of the aforesaid attorney-general, that the late Joseph Villeré stands convicted likewise of having been one of the most obstinate promoters of the aforesaid conspiracy, I condemn in the same manner his memory to be held and reputed for ever as infamous ; and doing equal justice to the other accused, after having taken into consideration the enormity of their crime, as proved by the trial, I condemn the aforesaid Petit to perpetual imprisonment, in such castle or fortress as it may please his majesty to designate ; the aforesaid Masan and Doucet to ten years imprisonment ; Pierre Hardi de Boisblanc, Jean Milhet, and Pierre Poupet to six years imprisonment, with the understanding that none of them shall ever be permitted to live in any one of the dominions of his Catholic majesty, reserving to myself the care to have every one of these sentences provisionally executed, and to cause to be gathered up together and burnt by the hand of the common hangman, all the printed copies of the document entitled, " Memorial of the Planters, Merchants, and other inhabitants of Louisiana, on the event of the 29th of October, 1768," and that all other publications relative to the conspiracy be dealt with in the same manner ; and I have further to decree, and I do decree in conformity with the same laws, that the property of every one of the accused be confiscated to the profit of the king's treasury ; and judging definitively, I pronounce this judgment, with the advice of Dr. Manuel Jose de Urritia, auditor of the war and the navy, for the harbor and city of Havana, and the special assessor named by me for this cause, under the royal authority ; and his fees, as well as those of the officers employed in this trial, shall be paid out of the confiscated property, in the manner prescribed by law.

(Signed) "ALEXANDER O'REILLY."

(Countersigned) "MANUEL JOSE DE URRITIA."

This sentence was afterwards modified to shooting, instead of hanging the prisoners.

moment; but the bloody preparations were no terror for them; they advanced with that tranquillity and firmness which a feeling of innocence gives. Placed side by side, facing their butchers, their hands raised to the God who avenges the innocent and rewards the virtuous, they absolutely refused to bandage their eyes. "Death has no terror for us," said M. le Marquis, and with the greatest sang froid asked for a pinch of snuff. "Know that, foreigner as I am, my heart is French; it has always beat for Louis, the well-beloved, to whose service I have sacrificed thirty odd years of my life, and I glory in dying for my attachment to him."

"Let this consoling idea bear us up," said De la Frenière, "and reconcile us to the cruel separation which the idea of our death might otherwise render insupportable. May our well-beloved king learn how dear he was to us, how we glory to die his faithful subjects. If he can be informed, let us not be solicitous for the fate of our wives and children—to his generous hands we resign them. To die for our king—to die Frenchmen—is there anything more glorious? This idea so exalts my mind, that if at this terrible moment, when I am ready to appear before the Eternal, the Spaniards offered me life on condition of my renouncing my French allegiance, I would as firmly as now say,—*Fire.*"

Hands trembling at the sight of this heroic courage, dared execute this savage command. M. de la Frenière fell bathed in blood; but the Eternal refused to receive a soul which he had placed on earth to be its ornament. M. de la Frenière, still palpitating, laid his hand on his heart, they thought they heard him say, "It is French." A second discharge annihilated life, after these signal proofs of his patriotism. The rest were already no more.

Let us here give free vent to our tears; they are too just a

tribute to be refused; they would flow despite the hardest heart. Let us transmit to posterity the names of the six victims whom we deplore: M. de la Frenière, Le Marquis, De Noyan and Villeré, all connected by blood and friendship, all superior to any eulogy we can give. The other two were Messrs. Caresse and Milhet. Let us, with the colony, join in regret on the death of M. de Noyan. All seemed to combine for his safety; shining merit, regard due to his birth, and the services of his family in the colony, the respect due to the French king in whose service he was employed, and who alone had a right to dispose of his life. What adds still more to our regret is, the generous manner in which this young man devoted himself to death, as we have already seen that it lay with himself to escape an arrest.

It is said that in the course of the interrogatories, O'Reilly did all he could to save him, but that M. de Noyan, in hopes of exculpating his father-in-law, always turned the accusations on himself. It is added, that O'Reilly, when about to sentence him, said: "Sir, it depends on yourself to save your life; give us a pretext for doing so; say that you were led to the steps laid to your charge; say that your father-in-law"—"I will not stain my name to save my life," replied this generous officer, "interrupting him, "I will die worthy of your esteem and your regret, nor will I tarnish my soul by an odious falsehood. No one could suggest to me the actions you make a crime; accuse my love of country, my love of the king I serve—this is the mainspring of my conduct." This magnanimity made no impression on O'Reilly.

Wretched wives, desolate families! Your cause is that of humanity; the whole universe is about to plead by my lips; let equity decide in this matter! The policy that they would set up in such cases is a barbarous atrocity. In vain did you

try, by your mournful cries, to move the hardened heart of the most cruel of men. Bloodthirsty tiger! thy savage, barbarous soul still drinks in the tears of those wretched wives, vainly imploring at the door of justice (a virtue which you never knew), clemency and pity, sentiments foreign to your heart. Were you even touched at the moving spectacle of Mme. de Noyan, humbled so as to kneel at your door? Shudder wretch! you should fall. Consider the illustrious blood to which that lady is allied, and kneel! Hear the mournful cry of that wretched mother, daughter, wife; behold her youth, her love, and extend a protecting hand—but no! close thy fierce eyes, close thy ears, open only to falsehood; dread to hear the piercing cry of children for their fathers; wives for their husbands; citizens for their virtuous countrymen. Respect neither the laws of humanity nor those of justice; sate thy rage and cupidity; do more evil in a day than a Nero or a Caligula; dare more—dare to say that the sentences from thy infamous lips had been dictated by thy king. This horrible blasphemy alone was wanting.

But do not expect to impose upon the public by this respectable veil. Thy conduct is still that of an imposter, a savage and a knave. Posterity will never believe that a beneficent king, a Bourbon (clemency and goodness are in the blood of every prince of that illustrious blood), resolved to shed innocent blood. It will scarcely be realized that he could have chosen one so false and unjust to bear to his subjects the mark of the clemency, goodness, benevolence, with which the world knows his heart is filled.\* The Eternal who judges us awaits thee in that fearful moment, when a strict

\* This is certainly carrying flattery to its highest point. The orders of a Spanish king of that day, were precise and without any liberty to the officer. The usual ending was, "So pena de muerte," which we need not translate.



account must be rendered of thy motives in acting. But before this public indignation, the contempt of a worthy nation whom thou wouldst make the accomplice of thy villany, the gnawing worm that will unceasingly attend thee, are the just feelings that thou shalt experience in this life.\*

Let us here repeat, what Capt. Pittman† writes on this frightful event: "You could cast your eyes on this bloody tragedy only with horror and execration. Such a treason, used to destroy an enemy or punish a criminal, dishonors a nation and degrades the name of justice."

But should public indignation fall on O'Reilly or on Ulloa? The former, it is said, only executed the orders of the court.

First let us lay it down as perfectly impossible that a cabinet as enlightened and equitable as that of Madrid, directed by a just and merciful king, should have pronounced a sanguinary decree against men accused indeed, but not yet heard. If on Ulloa's mere report they were judged guilty, the truth of that report was still to be examined; the accused must be heard and be confronted with their accusers. All these formalities should precede judgment. Hence it would be a breach of the respect due to the cabinet of Spain to suppose it had pronounced a definitive sentence in the matter. That O'Reilly had orders from his court to arrest them, to try them, is probable, as the Spanish king believed them his subjects, and in this point of view they would have been guilty of expelling a recognized officer. But Aubry, by absolving the colonists from the oath of allegiance to France, declared that they had not ceased to be French, and O'Reilly, by taking the oath of allegiance to the Spanish king, established authentically and

\* This prognostic was soon after realized.

† Pittman was an English officer belonging to the corps of engineers stationed at Mobile. He wrote a work on "The State of the European Settlements on the Mississippi," which was published in London, 1770.

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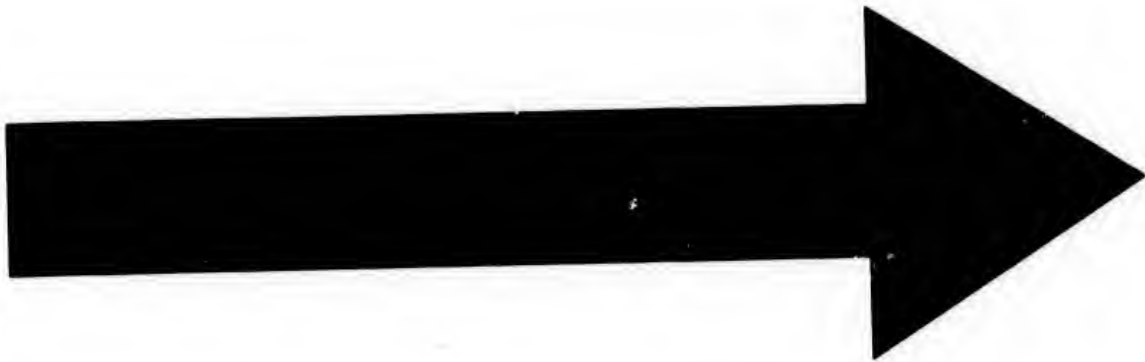
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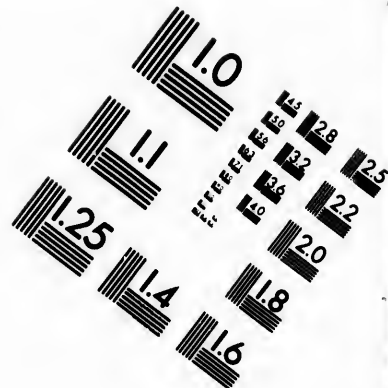
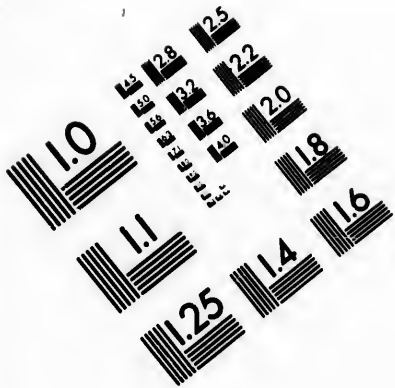
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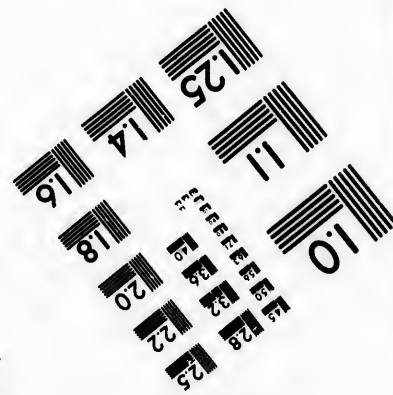
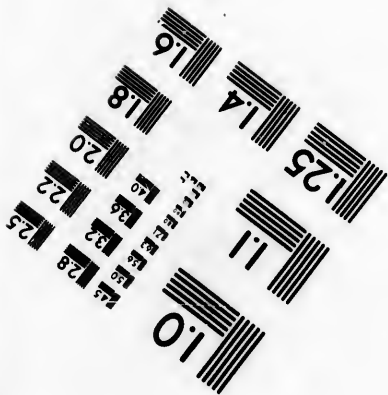
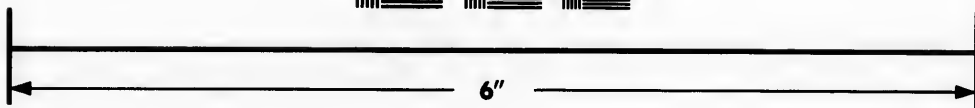
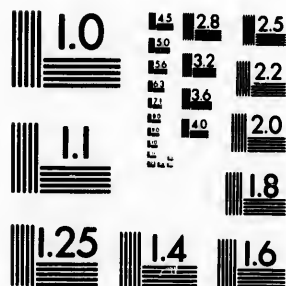
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manifestly the injustice of all the proceedings he was about to institute. And against whom? Against men who could not violate an oath they had not taken; whose actions all tended to show their attachment to the monarch whose subjects they still were. Then did it become a crime to be a faithful and patriotic subject?

The Spanish court might have been deceived by the informal act of possession passed between Aubry and Ulloa:\* an act of no force as regards the colonists, who knew nothing of it, an act irregular on its very face. Ulloa may have persuaded his court what he could, but not O'Reilly, who was on the spot. Did he believe the act valid? Did he believe the colonists subjects of his sovereign, at a time when he sees Aubry absolve them from the oath that bound them to the king of France; at a time when he receives their oath to be as faithful to the king of Spain as they had hitherto been to the king of France? Do not these formalities prove that O'Reilly believed the colonists still Frenchmen when he arrived in the colony, and that the dismissal of Ulloa was not the expulsion of a Spanish governor, but of a stranger, assuming to be invested with a title which would have given him a right to authority had he shown it. Is it not public and notorious that the dismissal, far from being seditious, was done with the greatest decency, the greatest respect for the Spanish flag, and the utmost attention to insult no native of Spain? that the colonists, to obtain justice, had recourse to the tribunal appointed by the French king, whose sole authority was recognized?

Is the judgment of the Supreme Council on Ulloa made a

\* See letter from Aubry to Choiseul, in the Archives at Paris, explaining the reasons why Ulloa hesitated taking possession of the province, and another from Choiseul to Aubry, approving his conduct of governing the colony for the king of Spain, July, 1766.

crime? Let us read its justification in the memorial on these sad events.\*

“If, on the part of the inhabitants, representation to the

[This memorial was drawn up by Lafrenière, at the request of the merchants and planters, to justify the *Revolution* of the 28th of October, 1768.]

\* MEMORIAL OF THE MERCHANTS AND PLANTERS OF LOUISIANA, ON THE EVENTS OF THE 29TH OF OCTOBER, 1768.

*To the World:*—The magistrates of the Supreme Council of Louisiana, eye-witnesses of the calamity which afflicted us, could no longer turn a deaf ear to the plaintive cries of an oppressed people. The decree of October 29th, which followed our humble remonstrance, is a proof of the imminence of the dangers which environed us, and the weight of the yoke which began to crush us. Induced by the state of affairs to believe that great evils require prompt and powerful remedies, our magistrates did not hesitate a moment to take the necessary step of sending off the self-styled governor, for his Catholic majesty to render him an account of his conduct. But their diligent care was not confined merely to calving the disgust of a groaning people; they have also empowered them to bear this petition and requests to the foot of the throne, convinced that the compassionate eye of their natural sovereign would turn to such devoted subjects, and that their respectful love for their monarch would not be rejected by his beneficent majesty, the image of the All-preserving Being for his people on earth. Zealous Frenchmen, whose property and families are on this continent—you, whose pure hearts need not your monarch's eye to arouse you—you, whose zeal for your incomparable monarch has suffered naught by crossing the vast ocean, by mingling with strangers, by the constant activity of a neighboring and rival nation, calm your disquiets as to the cession of this province. Our great king seems in his letter announcing it, to have a presentiment of the alarms. He made himself mediator of our cause with his Catholic majesty, induced us to expect from him the same marks of good-will and protection as those enjoyed under his beloved rule. These august sentiments embolden our love. May the cries of joy, may the “Vive le Roi,” so often shouted around our flag on the day of the revolution and the two following days, be renewed without fear! May our feeble organ teach the world and posterity, even that this loved rule under which we wish to live and die, to which we offer the wreck of our fortunes, our blood, our children and families, is the rule of Louis, the well-beloved.

The colony of Louisiana was ceded to his Catholic majesty by a private act passed at Fontainebleau, November 3, 1762, and accepted by another act passed at the Escorial, on the 13th of the same month. The king, by a letter written at Versailles on the 21st of April, 1764, to M. d'Abadie, then director-general and commandant for his majesty in Louisiana, announcing this cession, testifies at the same time his hopes for the advantage and tranquillity of the colonists, and his trust that from the affection and friendship of his Catholic majesty, “he will give orders to his governor, and all other officers employed in his service in

council was the only way open to themselves, was there not an obligation on the council to right them? Could it refuse to listen to the repeated protests of the colonists and principal in-

said colony, to continue in their functions the ecclesiastics and religious in charge of parishes and missions—and continue the ordinary judges as well as the Superior Council, to render justice according to the laws, forms and usages of the colony—and would guard and maintain the colonists in their possessions—hoping, moreover, that his Catholic majesty would show his new subjects in Louisiana, the same marks of good will and protection displayed in the previous government, and of which the miseries of war had alone prevented their feeling greater effects. He, moreover, orders his letter to be registered in the Superior Council at New-Orleans, that the different orders of the colony may be acquainted with its contents, and refers to it in case of need; his present letter having no other object." Happy and consoling prospect produced in our hearts by the promises of the most august and respected of monarchs! by what fatality have you vanished!

Ulloa arrived at the Balizo on the 28th of February, 1766, in a 20-gun frigate, with about eighty soldiers, some Spanish capuchins and employés. He landed at the city on the 5th of March, and, accompanied by members of the council, who, in spite of a storm of rain, went to his boat; he passed through a double line formed by the regular troops, the provincial militia, and the roar of cannon and public acclamations. He at first responded to these signal marks by the most brilliant promises, but the sequel did not prove their solidity. Without entering into minute and ridiculous details of his private life, we shall retrace his public acts. If his principal aim was to destroy by the first acts of his clandestine administration the flattering hopes we entertained, he succeeded perfectly.

To evince more clearly the first ground of complaint on our side, we must observe, that the trade with the Indian tribes is one of the principal branches of commerce; so intimately connected with the planter's interest, that one is the spring of the other. This trade is a very profitable market for the productions of several factories, and with encouragement would extend. It is a rich mine—the opening of which offers treasures more considerable than the metallic veins of Potosi, and to increase as the trader increases his commerce. From this inexhaustible source flow advantages both public and private; the merchant finds in it a market—the man without means, employed as a trader and voyageur, finds means of subsistence and lays up some money. The affection of the people is sustained by the intercourse with Frenchmen, eager to procure things which a knowledge of them has rendered necessary. And, lastly, public security, which this trade with the Indian tribes that surround us has created, is maintained by it; but this is not the only benefit which results from it, for the colony in general. Ships from Europe and the West Indies, attracted by the hope of a profitable return, bring us the provisions we need, and finding in our stores peltries, on which they hope to profit, furnish us these supplies at a fair price;



habitants, against the formation of new establishments in the country without the formal act of oppression? Did not the very orders of the king make that tribunal a guardian of the

which becomes excessive when they have to sail away in ballast. These facts—these solid advantages, have been regarded by our worthy ministers, whenever their express orders have encouraged traders, by recommending free-trade. The reality has been acknowledged and expressly declared by the Duke de Choiseul, in his letter to M. d'Abadie, under date of February 9th, 1765. All the Upper Mississippi, and the northwest on the Missouri, was then offered to our activity. Countless tribes, rich in rare furs, inhabiting these unknown parts, would soon be subjected to our factories alone. The discoveries to be made in those fine countries would be reserved to our efforts, and our eyes would for the first time explore that part of the globe still unknown to civilized man. How encouraging for us are the intentions of this wise minister! With transports of gratitude we beheld him turn his attention not only to the re-establishment of our fortunes, ruined by the evils of war, and the increase of our resources almost annihilated by the very conditions of peace, but also extend his views to geographical discoveries, and trace in the same tableau the path of fortune and glory. A magnificent project which Ulloa deranged, and would doubtless have destroyed. We do not seek to fathom his motives, and confine ourselves to the narrative of his persevering efforts against free-trade. They began on the very spot by a general prohibition. The traders and settlers in Illinois complained. They showed M. de Saint Ange, the French commander in that port, the certainty of their ruin, and the inevitable danger of their being plundered and perhaps murdered by the Indians, who, ignorant and careless of political considerations, ask only for a constant supply of goods and a market for their furs. In spite of the repugnance of Señor Rice, a Spanish captain sent by Ulloa to Illinois, as commandant, the traders went to the villages this year also, although limited to a certain number; these, however were the last efforts of their expiring privileges, and Ulloa about the same time granted to five or six individuals an exclusive trade in the country, recommended by our ministers to general emulation.

The lumber trade is another object of attention to the merchants, whose interests we have just seen are so closely connected with those of the planter. In the representations made to the Superior Council of the province, it was shown that the value of this article exceeded 100,000 livres a-year—an assertion which no one contradicts. This business, which the nature of the country presents to each with a profit in proportion to the means which he can employ, but always certain in that degree, is the first effort of the new planter, and the steady object of the old one. Deprive Louisiana of free-trade, close the market for her wood, and from that moment you condemn the merchant and planter to indolence and want. The ordinance issued September 6th, 1766, was but a warning of this misfortune. His Catholic majesty informed, we were told, of all that concerned the provisioning and utilizing of the country, deigned so far to favor the inhabitants as to permit the export of lumber in vessels from St. Domingo and Mar-

public peace, over which it was expressly enjoined and recommended to watch."

Did not all these reasons tend to convince O'Reilly of the

tinique, till means were found in Spain of carrying on that trade. But what probability is there of our lumber trade being taken up in Spain? This was plunging the dagger gradually in; the death-blow was given by the decree. In the first article it is said that the shipping shall be only at the ports of Seville, Alicant, Carthagena, Malaga, Barcelona, Corunna, &c. In the eighth, that the returns shall be made to the same ports; in the third article, vessels sent to Louisiana must be Spanish bottoms, and the captains and crews Spanish or naturalized. Finally, in the fourth and ninth articles, voluntarily putting into any American port, even in Spanish territory, is forbidden, and an involuntary one, subjected to onerous verifications and impositions. Had we then the faintest gleam of hope for our lumber trade to the French colonies of St. Domingo and Martinique, the only spots where it had any value? Ye imprudent censors, whose unfounded reflections may extend to our conduct in this revolution, try, by your mathematical combinations, to restore the broken harmony, by according it to the decree, but first think of furnishing us means of subsistence.

Besides, what apparent resource could even suspend our just forebodings! The products of our lands and commerce consist in lumber, indigo, furs, tobacco, cotton, sugar, pitch and tar. Furs have little value in Spain, as they are not in use, and those used are made up abroad. Havana and Peru supply wood and sugar far preferable to ours; Guatemala, a superior indigo, and in quantities greater than their factories consume; Peru, Havana and Campeachy, cotton; the Isle of Pines, pitch and tar; Havana and the Spanish part of St. Domingo, tobacco. Those grown by us, inferior to those produced by those vast territories, and useless and superabundant in her ports, are rejected there, or reduced to a nominal value. What return then can we expect from shipments made to the ports named in the decree? On the other hand, the small number of factories in Spain, with the little aid given there to maritime cities by home agriculture, forces Spanish subjects there to resort to foreign ports for provisions of every kind. Marseilles supplies her ports with grain, as they cannot obtain it at home without the excessive expense of a laborious land carriage in a mountain country. The whole nation too, is tributary to all the manufacturing countries, and the most signal favor that Providence has done her, was to make her mistress of Mexico and Peru to purchase her first necessaries. Rich by industry alone, can we expect Spain to furnish ours sufficiently and cheaply, when she herself is obliged to buy her own in cash and at high rates? In spite of the perhaps momentary exemption announced by the decree of all duties on shipments to Louisiana, these sad truths known to the whole world, coupled with the certain depreciation of our products in the Spanish ports, have made us justly fear, that our crops, though abundant, far from rewarding our industry as heretofore, by often giving us superfluities, will cease to supply even pure, simple necessaries.

From these observations, superficial indeed compared to the certainties from

innocence of the accused? And even if he had received from his royal master, which is out of the question, the cruel order to condemn them to death, should he not, before pronouncing

which they are deducted, can we for a moment doubt that this colony, as far as its productions are concerned, will be useless to Spain, and that the political views in the treaty of cession was confined to the sole object of making a bulwark for Mexico. But will the misery of the colonists give strength to that bulwark? What madness to undermine our rising fortunes by destroying free-trade, when even these political views do not seem to require the sacrifice! Everything induces us to believe that his Catholic majesty desired first to learn by the reports of his envoy, the causes which produced and the means which maintained our prosperity. Our king's promises assured us of the good will of our new sovereign and the mildness of his intended administration. The officers of the Spanish king, on their arrival, announced the continuance of our commerce for at least ten years; the source of our wants known in Spain, without our even indicating it, was left open to our activity; but on seeing the decree, can we doubt that Ulloa, charged with that report, as stated in the ordinance published here on the 6th of September, 1766, is the author of the calamities which threaten us, and that having projected our ruin, his untrue reports have prevented the effect of that good will, which his master undoubtedly intended to show us.

It is vain to object that the last article of the decree permits us to draw from Spanish ports the fruits and goods from Louisiana to sell them in foreign countries, if there is no market in Spain, and that without paying any export duty. What avail is all this pretended advantage to us? Let us not count the articles of the decree, but observe its spirit, and read none of the articles without following the close connection between them all. We are indeed permitted to sell in foreign countries, products unsaleable in Spain, but on what conditions? Our merchants, naturalized in Spain (decree, art. 3), must go to the ports of Seville, Malaga, &c., and pay five per cent. (art. 12); forced by the refusal of their cargo to leave these ports and go to seek a market in the neighboring countries, they must return in ballast to Spain (art. 1); to take in a cargo of fruits and goods already into Spain after paying import duties (art. 7). Does this expensive voyage dispel our sad reflections on the general want that threatens us? Add to this, the ships' expenses, estimated by our chambers of commerce at 3,000 livres a month for a vessel of 300 tons, the unloading in a Spanish port, reloading for a foreign market, double commission, insurance and storage, the increase of avaries, (duties) which foreign nations will of course charge on goods coming from Spain, and we behold the decree as a kind of alembic, devouring, rarefying our crops to their quintessence.

Our king's promises in his letter of April 21st, 1764, induced us to hope that we would always have the same laws to follow and the same judges to hearken to. Yet, what a blow was given to this article by Ulloa at the very outset of his administration? He had not yet taken possession; his commission has never been verified, enrolled, or even presented; no tie yet binds us to his authority;

sentence, prove to the king that he had been deceived, that the colony never having ceased to be governed in the name of the French monarch, the inhabitants were not guilty of any

nothing but a respectful deference for the character which he is supposed to bear, promises him our obedience; and yet severe punishments, chastisements unknown under the still subsisting French rule, are already inflicted by his orders, on the slightest faults; even if supposed to be faults at all. Now, it is not to be imagined that these false principles of administration, these sad novelties of an unknown domination, are the only motives of our fears and the alarm spread through our families. The Spanish law may have beauties and advantages unknown to us; but an antipathy to all that is humane, a natural disposition to injure, seen and proved in the individual who comes to proffer us that law, make us feel the hardest consequences, while appearing to act only by those very consequences. Spanish policy closes its ports as much as possible, in order to close it at will to foreigners, and absolutely to cut off contraband trade. In consequence of this law, the envoy of his Catholic majesty has closed all the passages of the Mississippi but one, and that the most shallow, difficult and dangerous. An almost universal law forbids establishments within a certain distance of the citadels and fortifications of the frontier towns. Señor Ulloa has thought that establishments formed in the primitive towns of the rising colony by grant from our prince and under the eyes of his governors, should be destroyed, on account of their proximity to the palisade with which the city has within a few years been surrounded. Condemnation to the mines is decreed by the Spanish law against malefactors and dangerous men. Ulloa has not hesitated to pronounce it against respectable men, whose only crime was their being the spokesmen of their fellow-colonists and bearers of respectful representations, exposing our wants and tending only to the encouragement of agriculture, the increase of commerce, the importation of necessaries, and the general good of the country. Dispatches given by persons in office require more diligence and exactness as they may interest the general welfare; but the hearers have never been held responsible for superior strength, head-winds, the risks and perils of the sea! What harsh treatment, what vexation was not exercised by Ulloa successively towards Messrs. Gaynard and Gachon, because their ships did not deliver packages at Havana in time on account of the weather. A decree of the Superior Council of this province had for wise and just motives forbidden the introduction of negroes *creolized* or domesticated, in St. Domingo and the other isles; but it was all reduced to visiting slavers on their arrival, and sending immediately back such as were within the prohibition. To this Ulloa added sequestration of property, imprisonment, and without any commendatory ordinance, which should always precede first punishments, he has exercised them on Messrs. Cadea and Leblanc, whose sole crime was their not having had a prophetic spirit, and having been ignorant of the existence of his decree. These facts, which are not notorious, and of which many individuals have been victims, interest all as much and more than can be imagined. To make this consequence more evident, we shall enter into the details of several.

crime against the king of Spain ; that it would be a violation of the law of nations, and what is more, of the respect due to the French king, to judge men in his service, and condemn and

As to the interdiction of the passes of the Mississippi, it must be known that Ulloa, in spite of all representations, and what he could have seen himself or learnt by the disasters, stubbornly insisted on their frequenting only the North-East Pass, which, in the highest tides, has only nine or ten feet of water, preventing all vessels from entering or leaving by the others which have ordinarily ten or twelve. To this restrictive and dangerous prohibition he added another still more so ; he forbid pilots to sleep on board of vessels anchored outside the pass, and kept out by head-winds or shallow water. Difficulties and accidents followed, but this did not dissuade him from his first plan. The first difficulty was the delay of vessels going out, frequent and expensive at all seasons, but almost inevitable in winter when the north and north-northwest winds prevail, as these are useless for the North-East Pass, while they not only serve to carry vessels out of the Eastern Pass, but also to drive them on their way, without any necessity of their waiting for a wind. Entering was as bad. The North-East Pass could not be entered with a south or south-southwest wind, though the eastern could. Besides this, the Spanish officer at the Balize obliged them to anchor as soon as entered opposite the houses of the Balize, to be examined there, in an exposed anchorage. Thus great risk was run, which could have been avoided by anchoring in the fork, or keeping on their way up the river, as was done under their former liberty, which was not more favorable to those to whom they wished to forbid entrance. Moreover, in all countries when a coast-pilot sets foot on board, he never leaves till the vessel is in or out, and in safety, and acting day and night as the case and weather may require. If this rule should be inviolable anywhere, it should be undoubtedly in our parts bordering on low countries and a large river, with a bed of mud in one place, and of sand in another, where winds change, and water rises or falls from hour to hour. By preventing pilots from sleeping on board in a gale and sending them off at night, an inexperienced captain, ignorant of the bars and passes, was helpless ; obliged to hoist sail to get off, often with the loss of anchor and cable, he would run on the reefs opposite, called " Les Moutons," or at least would get in the wind of the pass, without any hope of getting up easily ; and finally, if he was fortunate enough to get off, he returned after much time and trouble only to face the same danger again.

Navigation, that art so useful to states, hardly deserves that men should combine with nature to increase its difficulties and dangers. Is the fortune of ship-owners and the life of mariners so worthless, that they may be exposed to almost unavoidable danger by the caprice of a single man ! Ask the European and the India captains and crews, who have been here within the last two years and a half. All have seen the new perils invented by Ulloa ; many have been the foot-balls and victims of his malignant combinations. Without citing many examples, the accident of Capt. Sarron while leaving the river, is striking. After having lain a considerable time to get out by the North-East Pass, as the

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punish them for their attachment to him. Should he not have added that Ulloa, wishing to govern without showing his right,

wind was *n.* and *n. e.*, the wind changed at last, and his time came. But the water had fallen so that he got fast on the pass, though he had the good fortune to get off and return. He came back to the city to careen his vessel again. (And observe the city is nearly ninety miles from the mouth, and that vessels have often to get up by towing, and this has taken some fifty or sixty days, without any means of doing it otherwise.) Capt. Sarron lost his voyage and spent needlessly much money; while had the Eastern Pass been forbidden, and pilots been able to frequent it, he could have got out without delay or danger.

At the very time that we are drawing this memorial, the trumpet announces the sale by auction of the rigging and artillery saved from the ship *Carlota*, from Rochelle, half buried in the sand. Captain Lacoste would not complain of the loss of his vessel, if, when he wished to enter, he could have kept his pilot on board, as the pilot, if he could not get him in the pass, could have shown him a sandy bottom where he could lie to, as many, and among others Capt. Couriac, have done.

Some colonists here are engaged in manufacturing brick for home consumption. The three principal kilns are at the city gates; the largest, employing a considerable number, is the patrimony of four minors, and sometimes yields 150,000 livres a-year. This ground is susceptible of no other revenues, and the men cannot even make a living there. The city, moreover, is not incommoded by it, and the pits whence the clay is dug being removed from the highway, the public road is neither narrowed nor impeded. Ulloa first attacked the administrator of this brick kiln, and absolutely forbid him to continue, under pain of forfeiting his negroes, oxen, carts and tools. The parties interested, after many efforts, at last wrung from him the grounds of this prohibition. He told them that the pits corrupted the salubrity of the air. To disabuse him, they furnished certificates of physicians and surgeons. M. Lebeau, M. D., in his majesty's pay, even drew up some learned and perfectly conclusive observations. As to common reflections, they were, "that the country had always been very healthy in spite of all the clay-pits and cypress groves on the river and around the city." According to his system it would be necessary also to fill those into which the water runs and remains most of the year. Ulloa undoubtedly had not foreseen these objections, but he imagined or adopted another reason which he believed unanswerable, namely, that establishments should be kept off from the fortifications, as he called the palisade, which has nothing secret, and an approach to which is of no consequence.

The affair was however spun out, and they could neither obtain of him an order in writing to stop, nor a verbal permission to continue, and many have justly supposed that the brick business was aimed at by some two or three individuals—a plan which coincided exactly with the Spanish envoy's turn to reduce all to monopolies.

This unconquerable inclination was more clearly evinced last year in his prohibition to introduce negroes into the colony, as it would have been prejudicial

should be regarded as having violated the usages established by reason and equity. O'Reilly might say, too, that the sub-

to an English merchant in Jamaica, who had sent a vessel to Ulloa to arrange with him the contract for supplying slaves; this blow was aimed both at our commerce and our agriculture. From the merchant it took a considerable branch of trade, and cut off the planter's means of fortune, for the rivalry prejudicial to the English merchant was advantageous to the colonist, who would have preferred cheap and well-conditioned slaves. What then? Deprive the new subjects of the most natural means of profit and increase, and enrich a foreigner! Is this what the new rule promised? Has Ulloa received such orders from his master? Who dare presume so? Are we not tempted to believe that vile reasons of interest entered into these monopolies?

Our governors, commandants and magistrates have always been regarded by us as our fathers. As often as we deemed it our duty to remonstrate humbly our particular wants or the general interest, were favorably received; when we addressed our governors and commandants, instead of regarding us as rebels and mutineers, (a favorite expression of Ulloa's) they approved our steps, as proper in a true citizen. We have a proof in M. Aubry's, on the 28th of June, 1765, to the memorial of the merchants of New-Orleans. He dispels our uncertainty; the organ of the minister to us, as the minister himself is of the sovereign's will, he communicates to us orders received from him, and gives us copies of letters which he has written in consequence to the officers of the posts. In the end he excites, encouragea, and evokes in us a reciprocal zeal. When we address the council our memoirs are examined; if our demands appear just, the voice of the procurator-general seconds ours, and the court deliberates; the events of the 29th October, are a recent proof. Royal promises induced us to expect the same mildness, the same liberty, the same privileges in the new government. But far from assuring us of their continuance, Ulloa will not even allow their semblance to remain. The ordinance published on the 6th of September, 1766, exhorts merchants to make the representations which they addressed to their magistrates. Ulloa treated them as seditious, without knowing them; and although our judges by condescendence at first suspended judgment, he thought proper to try an example capable of alarming whoever would in future dare to speak of his interests or his wants. Some of our merchants, whom he doubtless believed the authors of these representations, attached to the country by their family, credit, commerce and fortune, have been menaced with imprisonment and confiscation—a judgment to emanate solely from Ulloa's tribunal, and which they with difficulty escaped.

But who, after all, is this officer of his Catholic majesty? With what commissions is he invested? With what powers clad, to exercise so tyrannical an authority even before showing his powers and titles, which we have never yet seen? A confused rumor tells us, that during his long stay at the Balize with M. Aubry, our commandant, an act of transfer was passed under their private seals. If this be true, what is his political principle in not publishing this act and declaring his rank, unless it be to cloak his tyranny under the seal of the French rule?

mission of the inhabitants to him, proves what Ulloa would have received had he fulfilled the usual and necessary formal-

The term tyranny may seem too strong; let us add that of vexation, to keep pace with the facts. With what menacing show, even at the time when he received from us only marks of blind submission, did he not present in one hand the first fruits of the new law, in the other the avenging sword! The ordinance of September 6th, 1766, (the first decree of his will published here, and wherein the august name of his Catholic majesty was abusively employed,) this ordinance was promulgated in our roads at the sound of the drum, and at the head of twenty Spanish soldiers with muskets and bayonets. Was it to insult us or prevent our murmurs? If the former, what would Ulloa have done in a city conquered and taken by assault! What pomp would he have selected to deliver his ordinances, when he acts thus to friends and allies? Did he take us for Indians of Mexico or Peru! If the latter, was the Spanish envoy ignorant that this ordinance, the fruit of his false statements, was diametrically opposed to our welfare, and at the first blush calculated to excite our murmurs? Loaded with our deserved hatred, his country may approach him with want of policy in forcing us to fear all Spanish rule.

We have with indignation beheld him sell to an Englishman the liberty of four Germans at fifteen dollars a head; and when, on the day of the revolution, Aubry, our commandant, urged by our prayers and entreaties, authoritatively demanded their restoration, we beheld these enfranchised men come down from the Spanish frigate when their new master retained them, and on the levee cast themselves at the feet of their liberators. We have seen those unfortunate victims of the scourge of war, those persevering citizens, who have sacrificed their hereditary possessions to the patriotic sentiment, unfortunate Acadians, who, hitherto gathered in our parts, and protected by our commanders and judges, began to find consolation in their disasters, and labored to retrieve them—we have seen them alarmed by the frantic rage of Ulloa at their humble representations, and trembling at his threats, believe they beheld them already carried out on the liberty of their families, and all sold at auction as slaves to repay the king's rations. Are we at Fez, or at Morocco?

What has not this singular man done in the actions of his private life? What a humiliation has not France received during his stay here, not only in the violation of the right of nations, but also in the contempt of the ecclesiastical laws? Besides, doubtless in his contempt for French Catholics, he has refrained from frequenting our churches, and has had mass said in his house for eighteen months, and by his chaplain conferred the sacrament of marriage on two persons, the woman a negress and a slave, and the man white, and this without permission of the parish priest, without any publication of banns, without any forms or solemnities required by the church, to the great scandal of the public, in contempt of the council of Trent, and against the positive tenor of our ordinances, civil and canonical.

What is there then culpable in the course which Ulloa's conduct and vexations compelled us to take? What evil have we done in throwing off a foreign yoke



ties; that there must have been some great irregularity in his conduct to induce the steps to which the inhabitants proceeded,

rendered still more crushing by the hand that imposed it! What harm have we indeed done, in demanding our laws, our country, our king, and vowing a persevering love to him! Are these praises unexampled in our history! More than one city in France, provinces even, Quercy, Rouergyno, Gascony, Cahors, Montauban, did they not again and again throw off the English yoke or obstinately refuse his chains! In vain did the treaties, cessions, even repeated orders of our kings, sometimes try to effect, what English arms could not compass; and this noble resistance to the will of their native sovereigns, instead of enkindling their anger, excited their love, obtained their aid, and effected an entire deliverance.

And besides, of what use could the colony of Louisiana be to Spain? Inferior in its productions to the rich countries which she possesses, our country can only serve as a bulwark to Mexico. Now, will this bulwark be impenetrable to the forces of England, already mistress of the east bank of the Mississippi, with a right to the navigation and owning above, posts accessible not only from the mouth of the river, but also by their immediate proximity to other countries in the north where their sway is established!

The preservation of this colony by France, is a better guarantee to the Spanish possessions on that side than a cession made to that crown; the unfavorable impressions already conceived against it by the Indian tribes, which drew on the Spanish Captain Rice, commandant of the Illinois, not only insults, but fierce threats, would range them among the enemy in case of attack. On the contrary, these tribes always march with the French soldier, without asking against what foe; this is the true bulwark.

As Spain can derive no advantage from the acquisition of this immense province, and as evidently the restrictions of commerce will reduce us to a bare living, why should the two sovereigns agree to make us unhappy, merely for the pleasure of doing so! It is a crime to think so—such sentiments do not enter the hearts of kings. The protection of our new prince, promised by ours in his letter of April 21st, 1764, shows their mutual wish for our happiness; and the respected silence, which we have hitherto preserved on our real interests, has doubtless prevented their attaining the true means to render us happy.

As to the utility of this colony to France, the slightest reflection shows it. The loss of Canada having closed that market to French manufactures, the preservation of Louisiana can in a short time redeem this loss so injurious to home industry. The efforts of the French already settled here and of those who come in daily, can easily render available that Missouri trade already so well planned, and which needs only the encouragement and help which the French rule can give. Even the Canada Indians come daily to Illinois for French goods, preferring them to those which the English carry to their villages. Let them cease fettering our activity, and England will cease selling France what furs she needs. In their cargoes, our manufactures will find a ready sale and constitute their gain, and in the return of furs, to which may be added our indigo, sugar, cotton,

as the French governors had always experienced their fidelity and submission.

they will also have the supply of the raw material on which their industry is engaged. If, then, the utility of manufactures in the kingdom is acknowledged—and they have always obtained the special protection of our kings—is it not in the political order to extend this protection to the preservation of resources, which it would employ all the forces of the state to acquire, if not possessed of them?

To these considerations add the suspended payment (since 1759) of seven millions in royal paper, which formed the currency of our exchange and the sinews of our commerce. Add the mutual engagement of French merchants to us, and us to them, whose fate depends on the disposal to be made by the king of this province; add, too, our obligation to endeavor to restore our ruined fortunes, unaided by the funds heretofore shared by all, in proportion to economy, emulation, patrimony of each, and all must see that our new efforts deserve the encouragement of our king.

Jealous observers of all the respect due to crowned heads, and the mutual regard which civilized nations owe each other, we should despair, did our conduct seem to fail in either. There is nothing offensive to the court of Madrid in the exposure of our wants and the assurance of our love, which we bear to the feet of our august sovereign. We venture to hope that these marks of our zeal will also serve to prove to the nations, the truth of the surname well-beloved, which the whole world gives him, and which no monarch has hitherto enjoyed. Perhaps even at Madrid they will say: "Happy the prince, our ally, who finds an obstacle to his treaty of cession, in the inviolable attachment of his subjects to his rule and glorious person."

We know full well that the Spanish envoy before his departure obtained, and by his emissaries is still collecting, certificates from some individuals among us, mercenary clients whom he has won by brilliant promises, and who seek proselytes here by persuading the simple and alarming the weak. But whatever these unauthentic documents may contain, they cannot belie the general voice and public notoriety. The Genevese, English and Dutch merchants who witnessed the revolution, will relate the truth in their several countries; in a still more certain way will they attest the fact that our flag was raised without any insult to the Spanish frigate; that Ulloa embarked in all possible liberty and without any unbecoming act on our part; that then and since we have redoubled our attention and respect to the other officers of his Catholic majesty; that during the three days of the revolution (a singular and remarkable fact by the avowal of the Spaniards themselves), no cry of insult to their nation was heard amid the more than twelve hundred militia, and the women, children or whole people. The only cries heard, in which even foreigners joined, were "Vive le Roi de France," "Vive Louis le bien-aimé."

To his beneficent majesty then do we, the planters, merchants and colonists of Louisiana, address our humble petition, that he will immediately resume his colony, and as resolved to live and die under his beloved rule, as determined to

Let O'Reilly then cease to palliate his cruelty and barbarity, by cloaking himself by his orders from court.\* They could

do all that the prosperity of his arms, the extension of his power, and the glory of his reign require, we beseech him to deign to preserve to us, our patriotic name, our privileges and our laws.

\* Great doubts have, until recently, hung over the precise nature of the king's instructions to O'Reilly. Even Marbois, an able writer, and a statesman of acknowledged abilities, has followed the beaten track of previous writers in censuring the conduct and acts of O'Reilly. Gayarré is the only historian who has taken the trouble to examine this subject with any degree of care: and yet, he does not seem to have been able to procure a copy of the instructions to O'Reilly. It is more than probable they were suppressed. In the absence of them, however, he refers us to a letter, written by the Marquis of Grimaldi to the Count of Fuentes, then Spanish Ambassador at the Court of Versailles, which is the only document that appears to embody the substance of these instructions: except those published in the appendix to this work. \* \* \* \* \*

"The instructions given to O'Reilly," says Grimaldi, "is, that he is to take at Havanna the battalions of infantry, the ammunition and other materials which he might deem necessary, to transport himself to Louisiana, and after having taken possession of her in the name of his majesty, to have the heads of the rebellion tried and punished according to law, and then remove out of the colony all the individuals and families, whose presence might endanger its tranquillity. He is also ordered to provide for the military and police organization of the province; to establish the necessary rules for a correct administration of justice and of the finances; to secure the dependence and the subordination of the inhabitants, and to frame a new form of government—the whole, according to the verbal instructions which had, or might be given him. But as the king, whose character is well known, is always inclined to be mild and clement, he has ordered O'Reilly to be informed that his will is, that a lenient course be pursued in the colony, and that expulsion from it be the only punishment inflicted on those who have deserved a more severe one.

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"You will give an account of the whole of this letter to the Duke of Choiseul. You will beg that minister to invite his most Christian majesty to declare, that the said inhabitants of the colony being the subjects of the king, his cousin, must throw themselves upon his mercy, and live under his laws; the act of cession of the colony, being absolute, and without any obligation whatever on the part of the king."

"It would seem," says Gayarré, "from this document, that O'Reilly should have contented himself with having expelled from the colony those who had deserved a severer punishment—for instance, the pain of death. But were the instructions shown to the court and those really given to O'Reilly, of the same nature? That is the question. If O'Reilly received the instructions which are mentioned in the dispatch of Grimaldi, would he have dared to disobey them; and

not be sanguinary, and even had knavery circumvented the court, it was his business to draw down the Spanish king's anger on the man who had perilled the dignity of his station by not giving it due authenticity.

Let us banish from a work dictated by truth, the political maxim promulgated in a philosophical and enlightened age, a savage maxim, which less civilized nations have most sedulously rejected, but which Spaniards adopt with inexcusable blindness.

"Happen what will," says a certain writer, "the chief must never be wrong, and it is dangerous to think so." I shudder to think that a sensible man could even entertain such an extraordinary idea, which is even now repudiated by despotism itself. Ah! what would become of wretched man, if he should have to submit for ever to the caprices and cruelties of a barbarous tyrant, who has not the good sense to see the injustice of his acts. A government founded on injustice is weak in its foundation, and may be easily overturned;—respect is a feeble tie against the effects of cruelty. A people live tranquil and contented, when they know they have laws to protect them and obey without a murmur, if they do not have to dread the insolence of a superior. They also bear insults calmly, if assured the law will sooner or later avenge them. We then say boldly, nothing can screen an unjust governor; from the anger of the king, who has been appointed to com-

would he, when such strong appeals were made to him to save the lives of Lafrenière and his companions, have had the unblushing effrontery, on refusing that boon, to plead the orders of the king, and thus falsely throw upon his sovereign the odium of a measure which was contrary to the expressed will of the king?"

There can then be no doubt that O'Reilly obeyed to the letter, the instructions of the king, for we have, in evidence before us, the report of the Council and Chamber of the Indies approving, in the most pompous and sonorous Castilian phraseology, the acts and conduct of O'Reilly in Louisiana.

mand his subjects. Nothing then should have preserved Ulloa from the exemplary punishment, which the irregularity of his conduct deserved, and all should have induced the Louisianians to believe that the Spanish king would regard with other eyes the motives of their conduct; all induced them to believe that the French king would give them protection at the Spanish court; that he would insist on the rights of subjects, whose fidelity to him had exposed them to the wrath of a whole nation that believed itself insulted.

The world has beheld with surprise the silence of the French ministry as to O'Reilly's conduct, its neglect to exact reparation for his inhumanity, its silence as to the violation of the law of nations in pronouncing sentence on French subjects. Still more is Europe surprised to learn that the remnants of those wretched families, stripped of everything, languish\* in silence and misery.

Is there then no beneficence, no humanity on earth? Assured of the contrary, let us say that till now the truth was unknown, the French ministry were deceived. May the faithful narrative which I now present to faithful souls, excite in them those feelings which honor humanity.

Generous and compassionate hearts! Let us mingle our tears with those of the wretched widows and orphans, whom those virtuous men commended to us, as they died for their king. Let us join our regrets to the sighs of those desolated families,

\*The property of the prisoners were, in conformity with the laws of Spain, sequestered from the time of their arrest. "I have," says O'Reilly, "given strict orders for the liquidation of said property in accordance with the laws, in order that what belongs to the widows and other creditors may be given to them, and the remainder delivered up to the king's treasury." Villersé, Mazan and Lafrenière, had three of the finest plantations in all the province. They were sold at auction for so inconsiderable a sum, that after paying costs and distributing among the widows and creditors the portions to which they were entitled, the Royal treasury had but little to receive.

and shudder over the evils to which virtue is exposed. Aid me to erect an altar to virtue; be the pillars of that I have just erected; pour into cold and inanimate hearts the fire which inflames you, and my feeble and powerful voice; and let the cry of persecuted innocence rouse the numbed arm of justice.

O, Heavenly Power! send forth the light of truth into the hearts of those raised up to protect it. Unveil iniquity to their eyes, unmask imposture. Let it tremble on the very steps of the throne, where it seeks to escape thy avenging hand, and let me in transports at the sight of thy justice exclaim: "There is then on earth an asylum for virtue, a support for that innocence, and no place where iniquity and crime can find a shelter."

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## A P P E N D I X

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### HISTORICAL DOCUMENTS AND ELUCIDATIONS.

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#### I.

*Preliminary Convention between the Kings of France and Spain, for the cession of Louisiana to the latter.*

THE most Christian king being firmly resolved to strengthen and perpetuate the bonds of tender amity which unite him to his cousin, the Catholic king, proposes in consequence to act with his Catholic majesty at all times and in all circumstances, in a perfect uniformity of principles, for the common glory of their house and the reciprocal interests of their kingdoms.

With this view, his most Christian majesty, being fully sensible of the sacrifices made by the Catholic king, in generously uniting with him for the restoration of peace, desires, on this occasion, to give him a proof of the strong interest which he takes in satisfying him and affording advantages to his crown.

The most Christian king has accordingly authorized his minister, the Duke de Choiseul, to deliver to the Marquis de Grimaldi, the ambassador of the Catholic king, in the most authentic form, an act, whereby his most Christian majesty cedes in entire possession, purely and simply, without exception, to his Catholic majesty and his successors, in perpetuity, all the country known under the name of Louisiana, as well as New-Orleans and the island in which that place stands.

But as the Marquis de Grimaldi is not informed with sufficient precision of the intentions of his Catholic majesty, he has thought proper only to accept the said cession conditionally, and *sub spe rati*, [under expectation that it will be ratified,] until he receives the orders expected by him from the king, his master, which, if conformable with the desires of his most Christian majesty, as he hopes they will be, will be followed by the authentic act of cession of the said coun-



try; stipulating also the measures and the time, to be fixed by common accord, for the evacuation of Louisiana and New-Orleans, by the subjects of his most Christian majesty, and for the possession of the same by those of his Catholic majesty.

In testimony whereof, we, the respective ministers, have signed the present preliminary convention, and have affixed to it the seals of our arms.

Done at Fontainebleau, on the third of November, one thousand seven hundred and sixty-two.

THE DUKE DE CHOISEUL.

THE MARQUIS DE GRIMALDI.

(A true copy from the original.)

THE DUKE DE CHOISEUL.

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II.

*Definite act of cession of Louisiana by the King of France to the King of Spain.*

Louis, by the grace of God, king of France and Navarre, to all to whom these presents shall come, greeting: Whereas our very dear and well-beloved cousin, the Duke de Choiseul, peer of our realm, knight of our orders and of the golden fleece, lieutenant-general of our armies, governor of Touraine, colonel-general of the Swiss and Grisons, grandmaster and superintendant-general of the posts and relays of France, our minister and secretary of state for the departments of war and marine and the correspondence with the courts of Madrid and Lisbon, did sign, in our name, with the Marquis de Grimaldi, knight of our orders, gentlemen of the chamber, in exercise of our very dear and well-beloved brother and cousin, the Catholic king, and his ambassador extraordinary near us, a preliminary convention, whereby, in order to give to our said brother and cousin a new testimonial of our tender friendship, of the strong interest which we take in satisfying him and promoting the welfare of his crown, and of our sincere desire to strengthen and render indissoluble the bonds which unite the French and Spanish nations, we ceded to him entire and perpetual possession of all the country known under the name of Louisiana, together with New-Orleans and the island in which that city stands, which convention had only been signed con-

ditionally and *sub sperati* by the Marquis de Grimaldi: and whereas our said brother and cousin, the Catholic king, animated by the same sentiments towards us which we have evinced on this occasion, has agreed to the said cession, and ratified the conditional acceptation made by his said ambassador extraordinary, which convention and ratification are here inserted word for word, as follows:

Don Carlos, by the grace of God King of Castile, of Leon, of Arragon, of the Two Sicillies, of Jerusalem, of Navarre, of Granada, of Toledo, of Valencia, of Galicia, of Majorca, of Seville, of Sardinia, of Algesiras, of Gibraltar, of the Canary Islands, of the East and West Indies and the islands and main land of the ocean, archduke of Austria, duke of Burgundy, of Brabant and Milan, count of Hapsburg, of Flanders, of Tyrol, and of Barcelona, lord of Biscay and of Molina, &c.

Whereas, on the third day of the present month, the preliminaries of a peace were signed between the crowns of Spain and France on the one part, and those of England and Portugal on the other, and the most Christian king, my very dear and well-beloved cousin, purely from the nobleness of his heart, and the love and friendship in which we live, thought proper to dispose that the Marquis de Grimaldi, my ambassador extraordinary near his royal person, and the Duke de Choiseul, his minister of state, should on the same day sign a convention by which the crown of France ceded immediately to that of Spain the country known by the name of Louisiana, together with New-Orleans and the island in which that city stands, and by which, said ambassador agrees to the cession only conditionally *sub sperati*, as he is not furnished with orders to execute it absolutely; the tenor of which convention is the following:

The most Christian king being firmly resolved to strengthen and perpetuate the bonds of tender amity which unite him to his cousin, the Catholic king, proposes in consequence to act with his Catholic majesty at all times and in all circumstances, in a perfect uniformity of principle, for the common glory of their house and the reciprocal interests of their kingdoms.

With this view, his most Christian majesty being fully sensible of the sacrifices made by the Catholic king in generously uniting with him for the restoration of peace, desires, on this occasion, to give him a proof of the strong interest which he takes in satisfying him and affording advantages to his crown.

The most Christian king has accordingly authorized his minister,

the Duke de Choiseul, to deliver up to the Marquis de Grimaldi, the ambassador of the Catholic king, in the most authentic form, an act whereby his most Christian majesty cedes in entire possession, purely and simply, without exception, to his Catholic majesty and his successors, in perpetuity, all the country known under the name of Louisiana, as well as New-Orleans and the island in which that place stands.

But, as the Marquis de Grimaldi is not informed with sufficient precision of the intentions of his Catholic majesty, he has thought proper only to accept the said cession conditionally and *sub spe rati*, until he receives the orders expected by him, from the king, his master, which, if conformable with the desires of his most Christian majesty, as he hopes they will be, will be followed by the authentic act of cession of the said country, stipulating also the measures and the time, to be fixed by common accord, for the evacuation of Louisiana and New-Orleans, by the subjects of his most Christian majesty, and for the possession of the same by those of his Catholic majesty.

In testimony whereof, we, the respective ministers, have signed the present preliminary convention, and have affixed to it the seals of our arms.

Done at Fontainebleau on the third of November, one thousand seven hundred and sixty-two.

THE DUKE DE CHOISEUL,  
THE MARQUIS DE GRIMALDI.

Therefore, in order to establish between the Spanish and French nations the same spirit of union and friendship which should subsist as they do in the hearts of their sovereigns, I, therefore, take pleasure in accepting, as I do accept, in proper form, the said act of cession, promising also to accept those which may hereafter be judged necessary for carrying it into entire and formal execution, and authorizing the said Marquis de Grimaldi to treat, conclude, and sign them.

In testimony whereof, I have ordered these presents to be drawn up, signed by my hand, sealed with my privy seal, and countersigned by my counsellor of state and chief secretary of state and war. Given at San Lorenzo el Real on the thirteenth of November, seventeen hundred and sixty-two.

I, THE KING.

(Countersigned) RICARDO WALL.

The said acceptation and ratification having been approved by us, and regarded as a strong evidence of the friendship and good-will of our very dear and well-beloved cousin, the Catholic king, we renew and confirm by these presents, the cession of Louisiana and of New-Orleans, with the island in which that city stands, promising immediately to conclude with our said brother and cousin a convention, in which the measures to be taken in concert for executing and consummating this session to our mutual satisfaction will be fixed by common accord. In faith whereof, we have caused these presents to be drawn up, which we have signed with our hands, and have affixed to them our secret seal.

Given at Versailles, on the twenty-third day of the month of November, in the year of grace one thousand seven hundred and sixty-two, and of our reign the forty-eighth.

LOUIS.

(By the King) CHOISEUL, DUKE DE PRASLIN.

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III.

*The seventh article of the definite treaty of peace and unity between the King of France, Spain, and England, signed at Paris on the 10th of February, 1763; which is word for word, the same with the sixth article of the preliminary convention between the same powers, signed at Fontainebleau on the 3d of November, 1762.*

ARTICLE 7 or 6. In order to re-establish peace on solid and durable foundations, and to remove forever all motives for dispute respecting the limits of the French and British territories on the American continent, it has been agreed that the limits between the states of his most Christian majesty and those of his Britannic majesty in that part of the world, shall hereafter be irrevocably fixed by a line drawn along the middle of the river Mississippi, from its source to the river Iberville; and thence, by another line through the middle of that river, and of the lakes Maurepas and Pontchartrain, to the sea; and for this purpose, the most Christian king cedes to his Britannic majesty, and guaranties to him, the entire possession of the river and port of Mobile, and of all that he possesses or should have possessed on the left bank of the river Mississippi, with the exception

of New-Orleans, and of the island whereon that city stands, which are to remain subject to France; it being understood that the navigation of the Mississippi River is to be equally free to the subjects of Great Britain and of France, in its whole breadth and extent, from its source to the sea, and particularly that part between the said island of New-Orleans and the right bank of the river, as well as the entrance and departure by its mouth. It is moreover stipulated, that vessels belonging to the subjects of either nation are not to be detained, searched, nor obliged to pay any duty whatsoever. The stipulations contained in the fourth article, in favor of the inhabitants of Canada, are to be of equal effect with regard to the inhabitants of the countries ceded by this article.

## IV.

*Note from the French Minister to the Spanish Ambassador.*

VERSAILLES, April 21, 1764.

TO THE CONDE DE FUENTES:—*Sir*,—The king has caused the necessary orders to be issued for the surrender of the country of Louisiana, with New-Orleans and the island on which the said city stands, into the hands of the commissioner whom his Catholic majesty may appoint to receive them. I have sent the same papers to the Marquis D'Ossun, who will have the honor to present them to his Catholic majesty. Your excellency will see that the king's orders are entirely conformable with the acts signed in 1762, and that his majesty has caused some articles to be inserted, equally conducive to the tranquillity of the country after it is in possession of his Catholic majesty, and to the happiness of its inhabitants.

I have the honor to be, with great esteem, your excellency's most humble and obedient servant,

THE DUKE DE CHOISEUL.

## V.

*Commission of Don Louis de Unzaga y Amezaga.*

DON CARLOS, BY THE GRACE OF GOD, &c.—Whereas, Don Alexandro O'Reilly, lieutenant-general of my royal armies, and inspector-general of all my infantry, under my commission in the province of

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Louisiana, by a letter of December 10th, 1769, has represented to me, that in consequence of the order which I had deigned to send him, appointing you, Colonel Don Louis Unzaga y Amezaga, political and military governor of the city and province of Louisiana; he had put you in possession of your command, and had given you proper instructions for the performance of its duties, communicating the necessary orders to the treasury of the said city to make advances to you out of the sum of six thousand dollars assigned to that office; and that, until such assignment should receive my royal approval, you would remain responsible for all that you should receive of the same; and as there was yet no example in that city of the sum for which each governor was required to be accountable, as security for his proper administration, he had considered your salary as fixed at three thousand dollars, (taking into consideration the dependences of that province,) and the amount of your security at the same; and in order that you might not be reduced to seek for an inhabitant of the city to become your security, you might leave a fifth part of your salary, each year, in the treasury, so that at the expiration of the five years of your governorship, the whole amount would be in my royal treasury; adding, that he also thought it proper you should be free from the duty of *media anata* as the office was but newly established; all which dispositions I approved by my royal order of March 24th, 1770. Moreover, having consulted my council and chamber of the Indies, on the 27th day of February of this year, I resolved to order this, my royal patent, to be issued in your favor, declaring you hereby exempt from the duty of *media anata*, as the office has been but lately established, and that the five years of your governorship are to commence on the day in which you took possession of the same, your security being arranged as determined by my said commissioner. It is, therefore, my will, that you, the said Don Louis de Unzaga y Amezaga, should be military and political governor of the city of New-Orleans, and province of Louisiana; and I command the council, justices, and magistracy of that city, with the other judges and justices of the same, and of the province, that, after you shall have taken before that assembly the oath and obligation according to the statutes and customs of Spain, in the form established by the said Don Alexandro O'Reilly, to keep the said city and province in my royal name, and never to deliver nor to surrender it while you live, to any enemy or any person, unless coming with an order to that effect, signed by my

royal hand ; you should be left in exercise of the said office, for the said space of five years from and after the day on which you enter into possession of it, or as long as it may be my royal pleasure ; the forts, soldiers, ammunition, and artillery of the said province and city, being delivered up by those who may have them in charge, to be used and commanded by you in all cases and things pertaining thereunto ; you conducting the said military and political government, as your predecessor Don Antonia de Ulloa, captain in my royal navy, should have conducted it, and as the other political and military governors of my kingdoms in the Indies should ; remaining subordinate to my governor and captain-general of the island of Cuba, and city of Havana, in political and military matters, and in all other cases and things pertaining to the said office, conformably to the terms of one of the royal *cedulas*, which you will receive, bearing date on this day ; you will, therefore, in all cases and affairs which may present themselves, regulate your conduct by the orders which the said governors and captain-general may give you ; observing in all political and judicial concerns, the laws and proceedings of the courts, causing them to be fulfilled in all points, unless you may have orders to the contrary from me ; and you are not to interfere in the affairs of my royal hacienda, or the management of my royal treasury, in the said province and city ; because, as governor, you have no farther powers in such matters, than that of interposing through the royal officers, in cases of introduction of illicit goods and confiscations, and in visiting vessels arriving there, either yourself in person, or by your agents ; it being likewise your duty to devote yourself with especial zeal, purity and disinterestedness, to the defence and security of the province, and to the maintenance of the most perfect discipline among those in garrison, to the prevention of illicit trade, and to the faithful observance of my royal orders.

I moreover command the said council, justices and magistracy of the city of New-Orleans, and all others, ministers, sojourners and inhabitants thereof, and of the province of Louisiana, as soon as required by this my royal patent, to have, receive, and hold you as such military and political governor of the said province and city, for the whole period during which, as above expressed, it is my will that you should exercise this office ; preserving and securing to you, and to such deputies that you may appoint, according to the form established in another royal *cedula*, bearing date also this day, all

honors, favors, rights, privileges and immunities without exception, corresponding with the respective stations; all such deputies and others in the said province, commandants, officers and soldiers, considering you as such military and political governor, and obeying the orders which you may give them in my royal service, either verbally or in writing; and I command the royal officers of the said province to pay you, if they have not already done so, the six thousand dollars mentioned above, as your salary, for every year of your service, out of any funds which are or may be in my royal *hacienda*, on authentic presentation of this patent, with your receipt, which sums will be passed to your account for your satisfaction; it being understood, however, that a fifth part of your said salary is to be annually retained as security for your administration. I declare, that for this favor, you are to pay no duty of *media anata*, inasmuch as the office you hold is one of recent creation. And note shall be taken of this patent, in the offices of the accountants-general of distribution of my royal *hacienda*, and council of the Indies, within two months after the date thereof, in default of which the same shall be void: note shall also be taken by the said royal officers, of the city of New-Orleans.

Given at San Ildefonso, this 17th of August, 1772.

(Signed) I, THE KING.

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 VI.

*Commission of Don Bernardo de Galvez.*

DON CARLOS, BY THE GRACE OF GOD, &c.—Whereas, in consideration of your merits, and of the especial services performed by you, Don Bernardo de Galvez, colonel of the stationary regiment of infantry of Louisiana, while acting as governor, *ad interim*, of that province, and in condescension to the desires of its inhabitants, I have thought proper, by my royal decrees of the 22d of April last, to declare you governor (*en propiedad*) of the same.

Therefore, it is my will, that you, the said Don Bernardo de Galvez should be political military governor of the city of New-Orleans, and province of Louisiana; and I command the council, justices and magistracy of that city, with the other judges and ministers thereof, and of the province, that, after you shall have taken before that assembly *the oath and obligation, conformably with the*



*statutes and customs of Spain, and according to the form established by Lieutenant-General Don Alexandro O'Reilly, to keep the said city and province in my royal name, and not to deliver or surrender them, while you live, to any enemy, nor to any person whatsoever, unless he bring you an authority to that effect, signed by my royal hand, they shall leave you in the entire exercise of the office, which you held ad interim, for the space of five years, more or less, according to my pleasure. The forts, soldiery, ammunition and artillery in the said province, being delivered up to you by those who may have been charged therewith, to be commanded and employed by you, in all cases and things pertaining to them; you exercising the said political and military government in the same manner in which your predecessor, Don Louis de Unzaga y Amezaga did and should have exercised it, and as the other political and military governors of my kingdoms in the Indies, do and should exercise it; being subordinate to my governor, captain-general of the island of Cuba, and city of Havana, in military and political affairs, and in all cases and circumstances pertaining to the said office, according to the terms of the royal cedula of August 22d, 1772. You will, therefore, conform in all business and cases which occur, to the orders received from the said governor and captain-general; observing in affairs of politics and justice, the laws, and whatever else may emanate from the courts, causing them to be fulfilled in all particulars, unless where I shall have commanded to the contrary. And whereas, by virtue of the regulation issued by the said Don Alexandro O'Reilly, and since confirmed by my royal cedula of July 21st, 1776, you have a right to (oscompeten) the faculties of intendant of the said province, you are to manage the affairs of my royal hacienda there, in conformity with the said regulation, and as your aforesaid predecessor managed them; it being likewise your duty to devote yourself with the utmost zeal, purity and disinterestedness, to the defence and security of that province, and to the preservation of the most exact discipline, among the troops garrisoning it, as also to the extinction of unlawful commerce, and the punctual observance of my royal orders. I also command the said council, justices and magistracy of the said city of New-Orleans, and all other ministers, sojourners and inhabitants thereof, and of the province of Louisiana, that as soon as required by this my royal patent, they receive you as political and military governor of the said province and city, for the whole period above expressed, during which it*

is my pleasure that you should exercise that office, giving and securing to you, as well as to the deputies (*tenientes*) whom you have appointed, or may appoint, all the honors, favors, rights, privileges and immunities without exception, which correspond to the respective stations, the said deputies, and others of the said province, commandants, officers, and soldiers, considering you as such military and political governor, and obeying all orders which you may give them, for my royal service, verbally, or in writing. And the accountant and treasurer of the said province is to give and to pay to you the sum of six thousand dollars, being the annual salary assigned to that office, from the day in which it is proved that you have entered into it, to the expiration of the said term of five years, more or less, according to my pleasure, out of any funds which are, or may enter into my royal *hacienda*, on due presentation of this patent, and of your receipt, without any other formality; which sum shall be put down to your account, for your satisfaction; it being understood, however, that as security for your administration, according to the form established by the said Don Alexandro O'Reilly, a fifth part of your said salary is to be retained in the royal treasury, in each of the said five years, the sum assigned as duty of *media anata*, for the said salary, being also secured thereon, by the commissary and accountant of said duty, according to the terms of the royal cedula, of the 24th of May, 1778, together with the 18 per cent. additional, for conveying the whole to these kingdoms, as set forth in the regulations of the tariff, and various others on the subject. And note shall be taken of this patent, in the offices of the accountants-general of distribution of my royal *hacienda*, and of my council of the Indies, within two months from the date thereof, otherwise it shall become void: note shall also be taken of the same, by the afore-mentioned accountant and treasurer of New-Orleans.

Given at Aranjuez, on the 8th of May, 1779.

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VII.

*Dispatch of the Marquis de Grimaldi to Don Louis Unzaga.*

SAINT ILDEFONSO, August 24, 1770.

LIEUTENANT-GENERAL Don Alexandro O'Reilly, in his letter No. 33, from this city, dated March 1, sent me copies of the instructions

which he had drawn up, for the lieutenant-governor established in the Illinois and at Natchitoches, and the new special (*particulares*) lieutenants of the districts (*partidos*) of that province. He informed me, that he had himself been to Point Coupeé, and, at the request of the inhabitants, had appointed a surveyor for each *partido*, at half the former salary. He also enclosed to me an instruction explaining the forms to be observed in this business, and declaring that the granting of land in that province had been confided by his Christian majesty to the governor and *comisario ordenator*; and he considered it would be better in future that the governor alone should be authorized by his majesty to make those grants; and that orders would be given for conforming entirely with the said instructions, which had been drawn up and printed, in the distribution of the royal lands.

The king having examined these dispositions and propositions of the lieutenant-general, approves them, and also that it should be you and your successors in that government only, who are to have the right to distribute (*repartir*) the royal lands, conforming in all points, as long as his majesty does not otherwise dispose, to the said instructions, the date of which is February 18th, of the present year.

I communicate this to you, in order that you may understand and carry it into effect. God preserve you many years.

Given at Saint Ildefonso, August 24, 1770.

(Signed) MARQUIS DE GRIMALDI.

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VIII.

*Royal Order to Don Pedro Garcia, Mayoral.*

THE PARDO, January 28, 1771.

By decree of May 2d, 1765, I communicated to my council that I had appointed Captain Don Antonio de Ulloa, of my royal navy, to proceed to the province of Louisiana, which had been ceded by my cousin, the most Christian king, and take possession thereof, as governor, by virtue of warrants and instructions; making, however, for the time, *no innovation* in its system of government, which is to be entirely independent of the laws and practices observed in my American dominions; but considering it is a distinct colony, having even no commerce with the said dominions, and under the control of its own administration, council and other tribunals; its direction and

the correspondence with it being reserved to the minister of state, as far as regards the situation of the country, and the laws and customs with which its inhabitants are to remain conforming. *But those inhabitants having rebelled, on the 25th, 1768, I commissioned Don Alexandro O'Reilly, lieutenant-general of the army, and inspector-general of all my infantry, to proceed thither, take formal possession, chastise the ringleaders, and (informing me of all) establish the said government, uniting this province to the rest of my dominions; all of which he did, adapting its laws, and after proposing to me that which he judged proper for the commerce of the country, and for the extinction of the council by which it is governed, establishing a cabildo in the place of said council, and taking other measures, as will be seen from the statements hereunto annexed;—all of which were approved by me, as likewise the appointment of Colonel Don Louis de Unzaga y Amezaga, as political and military governor, with a salary of six thousand dollars, free from the duty of *media anata*, and of two royal officers, to take charge of the administration of my *hacienda*, to wit: Don Antonio Jose de Aguiar, as comptroller, (*contador*,) with a salary of 1600 dollars per annum; and Don Martin Navarro, as treasurer with 1,200 dollars per annum; and of three officers at salaries of 500, 400, and 360 dollars respectively. I have resolved, that all which has been established as above, should remain and continue fixed; the said province being, as to its spiritual concerns, annexed to the bishopric of Havana, and governed according to the laws of the Indies, and the regulations provided in them, and by special orders for my American dominions, by the ministry of the Indies and the council, as being incorporated with those of my kingdom; and also that it depend upon the captain-generalcy and administration of the royal *hacienda* of Havana, just as the government of Cuba does; for which purpose I approved the formation of a tribunal composed of the captain-general as president, and the auditors of war and marine; the attorney (*fiscal*) of the royal *hacienda* acting as attorney, and the clerk (*escribano*) of the government as clerk; to which tribunal these, my vassals, can appeal, and from it to the council, without being obliged to apply to the more distant *audiencia* of Santo Domingo. This shall be understood in the council, and in the chamber for its observance; and the *cedulas* shall be issued, and measures provided for carrying into effect what has been determined; I being consulted on all doubts, and on all amendments which may offer.*

Given at the Pardo, on the 28th day of January, 1771.

## IX.

[Report to the King, on Don A. O'Reilly's Statements.]

COUNCIL AND CHAMBER OF THE INDIES, February 27th, 1772.

Your majesty communicated that you had appointed Don Antonio de Ulloa governor of Louisiana, which had been ceded by the most Christian king; and that in the instructions given to him, he was commanded to govern that province independently of the practice observed in America, and under the direction of the council of state; but that the inhabitants, ungrateful for this distinction, had risen up in rebellion—for which reason your majesty had commissioned Lieutenant-General Don Alexander O'Reilly to proceed thither, take formal possession, chastise the ringleaders, and establish such a form of government as would be most compatible with the condition of the country, its climate, and the character of its inhabitants.

Your majesty was pleased then to notify the council of the energy, promptness, and activity, with which Don Alexander O'Reilly had executed these difficult charges; and that the measures he had taken were all so just, and so well adapted to the right intentions of your majesty, that they had merited your entire approbation; and that for their being carried into effect, you had commanded the proper *cedulas* to be issued, yourself being consulted on all doubts and amendments which might present themselves.

The council, entering into the spirit of the royal decree, has examined with scrupulous attention all the dispositions of the said Don Alexander O'Reilly, with all his orders, and proceedings in Louisiana; to which effect it has referred to all the documents accompanying the said decree, viz.: the *credula*, by which his commission was given, with power to take possession of said province, and six statements, made by him; together with six draughts of royal orders, approving the same—the whole drawn out at length.

O'Reilly sets forth in his *first* statement, that the province of Louisiana cannot subsist without trade, its inhabitants requiring flour, wine, oil, arms, ammunition, and all sorts of clothing; in exchange for which, they could give indigo, cotton, skins, Indian corn, rice, and especially woods, which could be sold to great advantage in Havana, if that port were opened to free trade with Spain, with the understand-

ing, however, that the productions of the province should pay no duty on entering Havana; nor any *alcabala* or export duty be laid on goods leaving that port for Louisiana; that all vessels belonging to the colony should be admitted as Spanish into Havana, and all other ports of Spain, with the restriction, however, that no vessel be admitted into New-Orleans, or employed in transportation, unless it be Spanish, or belonging to the province; that vessels arriving from Catalonia with red wine, should take away wood and other articles to Havana, and thence carry sugar; that, for just reasons, he had expelled from Louisiana the English merchants who were established there, and who ruined and impoverished the country by their monopolies and illicit trade; for which he hoped to receive your majesty's approbation.

He merited such approbation in reality, as appears from the royal order accompanying; and the council having heard the opinions of the attorneys and comptrollers general, declares, that the measures set forth in the said statement, by General O'Reilly, are so proper and so well calculated to render that province happy, that they alone are sufficient to show the profoundness of his comprehension, the sublimity of his spirit, and the correctness of his judgment; that there is nothing which should be altered in them; and in those measures, it can see the germ of many improvements, and much that may conduce to the advantage and prosperity of the colony.

The council, however, considers, that it is not proper to exempt forever from duty goods transported from Louisiana to Havana, but only for a time, and until the motives for such an extraordinary favor shall have ceased. Your majesty is to resolve, also, whether they shall pay the duty of *amoxarifazgo*; and, upon the whole, it is the opinion of the council, that proper *cedulas* should be issued for carrying into effect the system of commerce, as proposed by the said O'Reilly.

*General O'Reilly, in his second statement, considers it necessary that the said province should be subject to the same laws as the other dominions in America; and that all the proceedings should be carried on in the Spanish language; that a new tribunal should be created, composed of judges understanding both languages, the appeals from which should not be carried to the audiencia (a higher court) of Santo Domingo, with which the province has but little intercourse, but to Havana, where a tribunal should be established for the pur-*

pose, composed of the governor, the auditors of war and marine, the attorney of the royal *hacienda*, and the clerk of the government; and from which they should come to the council. Finally, that the government of Louisiana should be dependent on the captain-generalcy and ministry of the royal *hacienda* of Havana.

Your majesty approved these dispositions of O'Reilly, and the council, considering this as an evidence of the advantages to be derived, admires the measures of the said general, which prove the vastness of his genius, and that the establishment proposed by him is so far worthy of being made, that the necessary *cedulas* should be issued to the ministers of Havana and New-Orleans, regulated in all points according to your prudent orders, but with the condition, that the intendants of the royal *hacienda* and *matine* are to have voice and votes in the new tribunal to be formed in Havana.

O'Reilly, in his *third* statement, declares that he has chosen six *regidores*, or magistrates of New-Orleans, to form a municipal council (*cabildo*), two ordinary *alcaldes*, a syndic attorney-general, and a superintendent of public property (*Mayordomo de Propios*); giving the names of these persons, and annexing two principal copies of instructions—the one for the regulation of the *cabildo*, and the instruction of its members—the other for the direction of the judges; that in the said *cabildo*, he had put Don Luis de Unzaga in possession of the government, and had abolished and suppressed the old council; that he assigned more proper salaries to the *regidores*, clerk, and assessor, and made arrangements for building a house of *ayuntamiento* (meeting of the municipal body), by a person to whom he had ceded the proprietorship of the land destined for the government garden; and that as funds for the city, he had assigned certain duties on shops, taverns, gaming houses, &c., the arrangements respecting which were received by the inhabitants with great satisfaction; that there had been long established in that capital, a duty, under the denomination of *anchorage*, destined for the preservation of the levy; and as repairs were constantly required, he had made no innovation either in the duty or in its destination. Finally, that the appointments of *regidores*, clerk, &c., as well as the assignment of funds for the city, merit your majesty's approbation to their firm establishment.

Your majesty has given this approval, and the council respects so wise a resolution; admiring in O'Reilly the energy with which he has proceeded in matters which were out of his ordinary employ-

ment and sphere; in his provisions for the civil, economical, and political government, nothing has been found requiring amendment or addition; moreover, in both undertakings, there appears a delicate knowledge, and acute discernment of the laws of both kingdoms, as well as of the practical and the forensic styles of our courts. The council, therefore, conceives that proper *cedulas* should be issued, for the formal establishment of these excellent provisions, it being also ordered that some copies of the digests (*Recopilacion*) of the laws of the Indies, and of Castile, be sent to the colony, and deposited among the archives of the *ayuntamiento*, in order that the natives of the country may instruct themselves in the form of our government, more minutely than they can from the manual drawn up, with such discretion, by the said general, inasmuch as the latter, though very clearly and methodically expressed, is only an abridgment or compendium.

O'Reilly declares in his *fourth* statement, that conformably with your majesty's resolution, he had put Don Luis de Unzaga in possession of the political and military government, with a salary of six thousand dollars, from which are to be discounted one-fifth as security, to be restored to him when his term of office expires; it appearing proper that he should be freed from the duty of *media anata*, as the office was one of recent creation.

These dispositions, also, merited your majesty's approval; and the council is of opinion that the *cedula* should be made out; conformably with what is proposed by the said general, who, in these, as well as in other provisions, has acted with the most consummate policy.

With this *fifth* statement he sent a minute regulation, in which he detailed all the expenses of your majesty in that province, and which were considered necessary, under present circumstances, taking into view the commerce, genius, character, climate, and the causes of the late difficulties among the colonists; he showed that he had reduced the number of persons employed in the comptroller's office, and in the public store, without any detriment to the prosecution of business in either office; that eighteen priests, understanding both French and Spanish, were required for the parishes of the country; and that supposing the spiritual affairs to remain under the direction of the bishop of Havana, that prelate might direct some friars of the community of Saint Francis, at that city, to learn the French language,



in order that these missions may at all times be filled ; and that if your majesty approved the enclosed regulation, 130 dollars a year would be saved of the 250 with which the colony was endowed.

*Your majesty also approved all that had been proposed and done by the said general ; and the council considers that it justly merited the royal approval, nothing appearing among the provisions which does not conduce to the interests of your majesty, and the happiness of the colony.*

It sees, by the admirable arrangement of pay and destination, which he has proposed in the military and political classes, the treasury gains 130 dollars, which advantage is due to the comprehensive and indefatigable genius of the commissioner.

The council also is of opinion that the commissioners should be sent, as proposed, and that the proper *cedulas* should be sent, for both purposes, *as also for the establishment, as your majesty ordains, of public schools, in which the first principles of the Christian doctrine may be taught in the Spanish language, in order that the use of the same may be extended.* The council hopes your majesty will have sent to him a copy of the contracts to be made with the director and masters of public schools, and the salaries to be paid to the friars, while studying, in order that they be transmitted to the comptroller-general, to be included in the accounts of Louisiana.

In the *sixth and last statement*, he informs your majesty that he had appointed a lieutenant-governor for the district of Illinois, Natchitoches, &c., and giving instructions for the purpose of putting an end to illicit commerce, preserving good order, and maintaining the provisions of the supreme government ; he also encloses copies of the said instructions, adding that the colonists had admitted the regulations with good will, and they were likely to secure their affections for the sovereign under whose mild government they lived ; that in order to complete this, he had gone himself into that distant province, visiting each village, listening to the colonists, and deciding in their disputes and complaints, without the embarrassing forms of forensic proceedings ; that he had caused the lands of the inhabitants to be surveyed, fixing the limits, and subjecting this distribution to the forms contained in a paper accompanying ; that he considered it proper that grants of lands to the colonists should, in future, be made by the governor alone ; your majesty first authorizing him to make these grants ; and that they should be regulated according to a paper which O'Reilly caused to be drawn up, in a meeting (*junta*) called for that

purpose, and composed of the persons best acquainted with the affairs of the colony.

Your majesty deigned to approve the provisions of this last statement, as well as those of all the preceding ones, except the article relating to the punishment of adulterers, which was ordered to be left in suspense. And the council considers, that in a commission so troublesome and difficult, and which, from the number of intricate matters embraced, met with numerous obstacles, and demanded a high degree of method and order, Don Alexandro O'Reilly has had the good fortune to be right in all cases, and to arrange things with so much prudence, that (provided his plans are suffered to continue) all will infallibly be conducted for the best interests of both their majesties. He has caused the new power under which the colonists are placed, to be loved and respected; he has enforced justice and the laws; has protected and extended commerce; has established harmony and concord with the neighboring Indians; has ordered and placed troops at convenient positions, disciplining them with that skill which is so remarkable even among the many extraordinary qualities of this general officer; nothing has escaped his comprehensive penetration. The particular employments of persons destined for the public service—utensils to be distributed to the troops—the formation of various companies of militia, and their duties—and in a word, all that belongs to the political and military government of that province, has been disposed by this general with so much accuracy, prudence, and wisdom, that the council finds nothing requiring the slightest amendment; but, on the contrary, many things worthy of its admiration and praise, which it justly bestows; all of which, it appears to the council proper that your majesty should approve, and that royal *cedulas* should be issued conformably with the representations, instructions, and notices of this commissioner.

The chamber represents to your majesty, that at the same time the *cedulas* are sent, the royal will be expressed to the bishop of Cuba, that he, in exercise of his new jurisdiction and pastoral ministry, promote all that may conduce to the spiritual government and good of those parishes, and that he give account of what occurs, as well as of what he considers necessary for the improvement.

Determined March 23, 1772, thus:

“Let the above be carried into effect, and the proper *cedulas* be issued by the council, for the confirmation of those establishments, in all their points.

## X.

## ORDINANCES AND INSTRUCTIONS OF DON ALEXANDER O'REILLY,

*Commander of Benfayan, of the order of Alcantara, Lieutenant-General of the armies of His Majesty, Inspector-General of Infantry, and, by commission, Governor and Captain-General of the province of Louisiana.*

THE prosecutions which have been had in consequence of the insurrection which has taken place in this colony, having fully demonstrated the part and influence which the council have taken in those proceedings, countenancing, contrary to duty, the most criminal actions, when their whole care should have been directed to maintain the people in the fidelity and subordination which are due to their sovereign; for these reasons, and with a view to prevent evils of such magnitude, it is indispensable to abolish the said council, and to establish in their stead that form of political government and administration of justice prescribed by our wise laws, and by which all the states of his majesty in America have been maintained in the most perfect tranquillity, content, and subordination. For these causes, in pursuance of the power which our lord, the king (whom God preserve), has been pleased to confide to us by his patent, issued at Aranjuez, the 16th of April, of the present year, to establish in the military police, and in the administration of justice and of his finances that form of government, dependence, and subordination, which should accord with the good of his service and the happiness of his subjects in this colony: We establish, in his royal name, a city council or cabildo, for the administration of justice and preservation of order in this city, with the number of six perpetual regidores, conformably to the second law, title 10, book 5, of the Recopilacion de las Indias; among whom shall be distributed the offices of alferes royal, alcade mayor provincial, alguazil mayor, depository general, and receiver of penas de camara, or fines for the use of the royal treasury; these shall elect, on the first day of every year, two judges, who shall be styled alcaldes ordinary, a syndic procurador general, and a manager of the rents and taxes of the city; such as the laws have established for good government and the faithful administration of justice. And as the want of advocates in this country, and the little knowledge which his new subject possess of the Spanish laws, might render a strict observance of them difficult, and as every abuse is contrary to the intentions of his majesty, we have thought it useful, and even necessary to form an abstract or regulation drawn from the said laws, which may serve for instruction and elementary formulary in the administration of justice and in the economical government of this city, until a more general knowledge of Spanish language may enable every one, by the perusal of the aforesaid laws, to extend his information to every point thereof. In consequence

whereof, and with the reserve of his majesty's good pleasure, we order and command the justices, cabildo, and their officers, to conform punctually to what is required by the following articles:

## SECTION I.

*Of the Cabildo.*

1. The cabildo, at which the governor shall preside, or, in his absence, the ordinary alcalde, who shall have the first voice, shall assemble at the city hotel on the first day of every year, and proceed to the election of ordinary alcaldes and the other officers above mentioned; it shall also assemble every Friday, for the purpose of deliberating on all that may concern the public welfare. The syndic procurator-general shall propose in these assemblies what may appear to him for the welfare of the colony. One or two regidores shall immediately after inform the governor, if he has not presided, of the resolutions that have been taken; and, except in pressing cases when the cabildo for very important reasons may assemble at the governor's dwelling, it shall not assemble in any other place than the city hotel; under the penalty, to the officers who compose it, of being deprived of their employments.

2. In urgent cases, which cannot be deferred until the usual day of meeting, the regidores may hold an extraordinary sitting; they shall be notified to that effect by one of the door-keepers of the cabildo; and if any one of the members shall not have been notified, the resolutions which may have been taken shall, if he shall challenge the same, be void; as also in case the majority should not have been notified, even if those who have not been notified shall not object thereto. No assembly shall ever be held but by order of the governor, and the assistants shall keep a profound silence in respect to the subject upon which the assembly may have deliberated.

3. The regidores shall have an active voice in the elections, as well as the alcaldes of the preceding year, who shall remain in the cabildo until the election of their successors shall be confirmed, and they shall have been received. The alcalde, however, who, in the absence of the governor, shall exercise the functions of president, shall not have an active voice; and so soon as the elections shall have been determined, the secretary of the cabildo shall give information thereof to the governor, who alone may decide on the validity of the opposition made by any member to the persons elected to the municipal offices, and confirm the alcaldes and other officers.

4. The office of alcalde should be given to capable persons who may have the information necessary to fill worthily a charge so important. They shall have a house in the city, and shall reside therein. Those who

are employed in the militia may be named to those offices; and they may also be given to the regidores, whose employments may not be incompatible with those places.

5. The alcaldes, and the other elective offices of the cabildo, cannot be continued in their employments but when all the members without exception shall have given their votes for their continuation. Without this condition, they cannot be re-elected until two years after they shall have quitted the distinguishing badge of their office.

6. Neither the officers of the finances, those who are indebted to the said finances, the sureties of either the one or the other, those who have not attained the age of twenty-six years, nor the new converts to our holy faith, can be elected to the said offices.

7. The election being confirmed by the governor, the door-keepers shall deliver tickets from the escribano to the elected, notifying them to attend at the hall of the assembly, in order to take the oath prescribed by law; the form of which will be found annexed to this regulation, and to be received and put in possession of their offices.

8. The escribano of the government will keep a book entitled "Resolutions," in which he shall record the elections and decisions of the assemblies, ordinary and extraordinary; and which shall be signed by all the judges and members who may have assisted thereat.

9. The regidores cannot give their votes for the said offices in favor of their father, son, brother, step-father, son-in-law, step-son, or step-brother, of their wives, although they may be elected by all those who shall be entitled to vote.

10. Whenever the cabildo shall deliberate upon an affair which may personally regard a regidor, or other officer of the cabildo, or even any one of his kindred, or for other particular reasons which might induce a suspicion of partiality, he shall withdraw immediately, and shall not return until the affair shall have been decided.

11. All decrees, royal provisions, and dispatches, which may be addressed to the corporation either by the governor or other authorized minister, shall be opened in the cabildo only, where they shall be recorded, and the originals preserved in the archives of the said cabildo.

12. In case of the death or absence of one of the ordinary alcaldes, the alferes royal shall exercise the duties of that office during the time that they may be wanting to complete the year of him who may be deceased or absent; and, if two alcaldes should be wanting at the same time, the other place shall fall of right to the senior regidor, provided he does not hold in the cabildo any office incompatible with that employment, as is specified in the present regulation, under the heads of those several offices.

13. Whenever the regidores may assist in a body, they shall preserve the order following, as also in the cabildo, viz: the alferes royal shall

take the first place; the alcalde mayor provincial the next; the alguazil mayor, and the other regidores according to their rank and their seniority.

14. Each regidor, according to his rank, and by turns, shall be charged with the maintenance of the municipal ordinances, and the other dispositions of government for the public good. He shall attend to the prices of provisions, exacting the fines, and putting in force the penalties incurred by the delinquents.

15. Whenever there shall be the question of augmenting the price of meat, with which this city is abundantly and constantly supplied, the cabildo, at a public bidding, shall adjudge the contract to him who shall oblige himself to furnish it on the best terms and for the greatest advantage of the public.

16. The cabildo shall have cognizance of appeals from sentences pronounced either by the governor, or by the ordinary alcaldes, where the sum does not exceed 90,000 maravedis; which must be understood as extending only to causes wholly civil, for in criminal cases the appeal must be made to the superior tribunal, which his majesty will have the goodness to appoint, in consequence of my representations to him on that subject.

17. To legalize similar appeals, the cabildo shall name two regidores who, in quality of commissioners, and after having taken the oath, shall decide on the justice or injustice of the sentence from which an appeal is made, conjointly with the judge who may have pronounced the same. The nomination shall be made so soon as the cabildo shall be required thereto by the appellant; the form of which, and of the institution of the said appeal, will be detailed in their places.

18. In the first ordinary assembly which may be held after that for the elections of each year, the cabildo shall name two regidores to receive the accounts of the mayor-domo de propios of the preceding year of the sums which he may have received for account of the city, and of the expenditures by order of the cabildo for the objects to which those sums are destined. They shall have those accounts rendered with the greatest exactitude, and shall oblige the said mayor-domo to deliver up immediately to his successor the residue of the said account; the said regidores being responsible for the total thereof when the said accounts shall be settled by one of the principal officers of finance.

19. Although the application and expenditure of the propios for the objects to which they are destined belongs to the cabildo, it cannot, even in extraordinary cases, dispose of more than 3,000 maravedis thereof; and when a greater expenditure may be necessary, the consent of the governor must be previously obtained, without which the said cabildo cannot assign either salary or allowance upon any occasion whatsoever.

20. The electors in the two jurisdictions being responsible for the injury and detriment which the public may sustain by the bad conduct and in-

capacity of the elected for the administration of justice and the management of the public interests, should have for their only objects in the election of ordinary alcaldes and the other officers the service of God, the king, and the public; and, to prevent an abuse of that great trust, their choice should be directed to those persons who shall appear most suitable for those offices, by the proofs they may possess of their affection for the king, their disinterestedness, and their zeal for the public welfare.

21. The cabildo is hereby informed that it should exact from the governors, previous to their taking possession, a good and sufficient surety, and a full assurance that they will submit to the necessary inquiries and examinations during the time they may exercise their employments; and that they will pay what may be adjudged and determined in that respect. This article merits the most serious attention of the cabildo, who is responsible for the consequences which may result from an omission or neglect of exacting those securities from the governor.

22. The offices of regidor and escribano of the cabildo may be sold; those officers shall also be allowed to assign them in the manner prescribed by the laws of this kingdom. In acknowledgment of this favor, and in consideration of the value that these offices will acquire by the facility of assigning them, by which they will be effectively transferred from one person to another, there shall be paid into the royal treasury, for the first assignment, one half the sum at which the said offices may be rated, and one-third of the same for every subsequent assignment thereof, exclusive of the royal custom of half annats, (receivable without any deduction in Spain; which custom shall also be paid by the ordinary alcaldes who may be yearly elected to those offices.

To render these assignments valid, the assignor should survive the same the term of twenty days, computing from the date thereof; and the assignee should present himself to the governor within seventy days from the date of the same, provided with an authentic act substantiating the said assignment, as likewise the above mentioned twenty days that the assignor shall have survived the same. Should neither of these precautions be taken, the assignor shall forfeit the said office, which shall be deemed vacant to the profit of the king's demesne; and neither he nor his heirs can lay claim to any portion of the price at which the same may have been sold.

25. The said assignments shall not be valid, unless made in favor of persons known to be capable, of the age of twenty-six years, and possessing the capacity and talents necessary to the common good of the republic, and worthy of the cabildo, on account of the injury which would result therefrom should those officers be deficient in these qualifications. The said assignments shall be carefully executed and preserved by a public notary of the place at which they may be made.

## SECTION II.

*Of the Ordinary Alcaldes.*

1. The ordinary alcaldes shall have cognizance of all matters in dispute, either civil or criminal, between inhabitants residing within their jurisdiction, which shall extend throughout the city and the dependencies thereof, excepting those which may come within the cognizance of the ecclesiastical, military, or other special court.

2. The ordinary alcaldes cannot interfere in affairs of government, which come exclusively within the jurisdiction and competency of the governor.

3. In all matters on which the cabildo may deliberate, the ordinary alcaldes, who may assist thereat, shall, during their year of office, have an equal vote with the regidores.

4. The alcaldes shall appear in public with decency and modesty, bearing the wand of royal justice—a badge provided by law to distinguish the judges. When administering justice they shall hear mildly those who may present themselves, and shall fix the hour and the place of the audience, which should be at 10 o'clock in the morning, at the city hotel; and for the decision of verbal causes, in the evening between 7 and 8 o'clock, at their own dwellings, and in none other.

5. One of the principal objects of justice being to prevent, effectually, those disorders which take place during the night, one of the alcaldes, assisted by his alguazils and the escribano, should go the rounds of the city; and, in case a greater force should be necessary, they may not only demand it from those persons who may be present, but also from the corps-de-garde nearest thereto.

6. It is also the duty of the ordinary alcaldes to keep a watchful eye upon fornication, and to punish the same, and all other public offences, conformably to the laws; of which a sufficient detail will be given herein.

7. The alcaldes may hear and decide verbally in civil cases, when the demand shall not exceed twenty dollars, as also in criminal causes of little importance. They may also hear and decide verbally those which may exceed that sum, in case the parties interested shall consent thereto.

8. Causes legally brought before one of the judges shall be continued and determined in his tribunal, and neither the governor nor any other shall deprive him of the cognizance thereof. The governor, however, being required thereto by the parties, may, by an order in writing, and suitable to the case, require and summon the alcalde to render speedy justice, conformably to law.

9. In cases of controversy, with respect to jurisdiction, between the governor and one of the alcaldes, or between these last, where one of them may claim the cognizance of a cause instituted with the other, either by reason of the said cause having been also instituted in his tribunal, or his



supposing the same exclusively within his jurisdiction, they shall draw up a *procès-verbal* of the said controversy, in which they shall set forth their pretensions in a grave and judiciary style. The case shall remain in suspense until the decision of the superior, whom they shall be bound to consult, and to whom they shall deliver an exact copy of the proceedings, unless one of the judges may give way to the claim of the other, and thereby put an end to the said controversy. If, however, in the interval of the decision, one of the judges should proceed in, or take the last cognizance of, the aforesaid cause, he shall forfeit his claim to the same, which shall be immediately vested in the other.

10. If one of the parties pleading shall except against the *alcalde* who may have already taken cognizance of a cause, he shall not continue the same but in conjunction with the other; and, if this last should also be excepted against, he shall associate himself with a *regidor*, who shall take an oath to do his duty impartially, and to terminate the cause according to law, and as speedily as possible. Whatever may be done by the *alcalde* alone, after he may have been excepted against, shall be void, and have no effect. The oath taken by the party to the written act of exception, that he is mistrustful of the *alcalde*, shall be sufficient to render the same valid; but, if the party shall purpose to exclude him entirely from the cause, besides the aforesaid oath, he shall make known and substantiate the ground on which he relies for the support of his pretensions. If the judge should be related, even in the fourth degree, to the adverse party, or in such habits of friendship with him as to excite a suspicion of partiality, or prepossessed against the exceptor, in all these cases he shall be excluded from the hearing of the cause in controversy, which shall be committed to the other *alcalde*.

11. Two referees appointed, one by the *alcalde*, and the other by the exceptor, after being sworn to execute their office impartially, shall determine whether the case be of the nature before mentioned; and, if of the said nature, they shall exact the entire exclusion of the *alcalde* therefrom; and, if a difference should arise between the referees, a third, named by the judge, shall decide therein; which decision shall be indispensably binding.

12. The diversity of cases not permitting a special detail of the forms of proceeding therein, the *alcaldes* shall be guided by the formulary hereunto annexed; and shall consult with the counselor, to be appointed for that purpose, upon all doubtful cases which may occur in their practice, or which may not be provided for by the said formulary; and shall approach, as nearly as possible, to the spirit of our laws for the administration of justice.

13. The ordinary *alcaldes*, accompanied by the *alguazil mayor*, and the *escribano*, shall, every Friday, make the visitation of the prison. They shall examine the prisoners, the causes of their detention, and the time

of their imprisonment. They shall release the poor who may be detained for their expenses, or for small debts; and the jailer shall not exact from them any release fee. The alcaldes may not set at liberty any of the prisoners detained by order of the governor, or of any other judge, without their express consent.

14. They cannot release those who are imprisoned for debts due to the domain; nor for fines imposed by law, unless the sum due shall be previously deposited.

15. The governor, with the alcaldes, the alguazil mayor, and the escribano, shall, yearly, on the eves of Christmas, Easter, and Pentecost, make a general visitation of the prisons, in the manner prescribed by the laws of the Indies. They shall release those who have been arrested for criminal causes of little importance, or for debts, when the debtors are known to be insolvent; and shall allow them a sufficient term for the payment of their creditors.

## SECTION III.

*Of the Alcalde Mayor Provincial.*

1. The regidor alcalde mayor provincial shall bear the rod of justice, and shall have cognizance of crimes committed in the inhabited places without the cities and villages. Thefts, robberies, carrying away of property by force, rapes, as also treason, assaults, accompanied by wounds, or followed by death, setting fire to or burning down houses or crops, and other crimes of this nature, shall be within the competency of the said alcalde mayor provincial.

2. He may also take cognizance of the aforesaid crimes, although committed in cities, when the offenders have quitted the same, and have withdrawn to the country with their plunder; as also of murders or assaults committed on officers while in the exercise of their duties, or in the interval thereof, if the same are the effect of malice. If, however, the governor, or one of the ordinary judges of the city, shall have previously taken cognizance thereof, the alcalde mayor provincial shall not interfere therein, by reason that the jurisdiction of the same is vested in the ordinary alcalde. The judge, however, who shall have apprehended the offender, shall have the preference therein, even if the others should have preceded him.

3. Whenever it shall be known that the crime does not concern the tribunal of the Saint Hermandad, the alcalde mayor provincial shall refer the cognizance of the same to one of the ordinary alcaldes, without waiting until he may be required thereto.

4. The alcalde mayor provincial shall see that travelers are furnished

with provisions at reasonable prices, as well by the proprietors of plantations as by the inhabitants of the places through which they may pass.

5. The principal object of the institution of the tribunal of the Saint Hermandad being to repress disorders, and to prevent the robberies and assassinations committed in unfrequented places by vagabonds and delinquents, who conceal themselves in the woods, and attack travelers and the adjacent inhabitants, the alcalde mayor provincial should assemble a sufficient number of the commissaries or brothers of the St. Hermandad to clear his jurisdiction of those kinds of people, by pursuing them with spirit, seizing or putting them to flight.

6. For the purpose aforesaid, and conformably to the usage of the other Indian provinces within the domain of his majesty, the alcaldes mayores provinciales, their commissaries, and the brothers of the St. Hermandad, shall have the right of arresting, either within or without the city, all runaway negroes and fugitives, and may exact a reasonable fee therefor; which right shall not be vested in any other person save the master of the fugitive slave.

The said fee is so much the more just, inasmuch as the alcalde mayor provincial, to comply with his duty, must, at his own expense, travel through the unfrequented places, for the benefit of the inhabitants.

7. The said officer shall render speedy justice in all matters within his competency, and from his judgment there shall be no appeal; otherwise it would be impossible to remedy the consequences that would result therefrom. But, on the other hand, his judgments shall be pronounced in strict conformity with the spirit of the laws, to which end he shall consult some lawyer; but, in the interim, he shall be guided by the instructions herein contained, which relate to the administration of justice and the forms of proceeding.

8. This office of the Hermandad being created with a view to prevent those disorders which may be committed in unfrequented places, the alcalde mayor should make frequent excursions from the city. This duty consequently renders his employment incompatible with that of ordinary alcalde, to which he cannot be elected, unless he shall have previously obtained permission of the king, to commit a lieutenant, appointed by himself, the duties of the St. Hermandad.

9. The said officer, and his lieutenants, should take an oath, of the form annexed to this abridgment; he shall account to the governor for the appointments he may have made, and shall notify him of the judgments he may have pronounced, to the end that the same may be put into execution. Although this formality is not prescribed by any law, yet it is necessary for the purpose of preserving harmony and subordination, and for the purpose of procuring assistance.

10. In all controversies, with respect to jurisdiction, which may occur between the tribunal of the St. Hermandad and any other tribunal of the

province, the parties shall conform punctually to the instructions which have been given in the particular article, which relates to the ordinary alcaldes. The instructions which have been given in relation to exceptions against judges, should also be strictly followed, as no altercation should take place on that subject between these officers.

## SECTION IV.

*Of the Alguazil Mayor.*

1. The alguazil mayor is an officer charged with the execution of sentences and judgments rendered, as well for payments ordered, taking possession of goods for sale, and imprisonments, as for the punishment of crimes. He cannot be elected ordinary alcalde, unless he shall have appointed a lieutenant to discharge his duties, in the manner prescribed to the alcalde mayor provincial.
2. Recovery of moneys upon writs of execution, orders for taking possession of goods, and seizures of real property, shall be carefully executed by the alguazil mayor, he taking the fees allowed by law, and fixed by the tariff included in the present regulation.
3. The alguazil mayor shall also have the superintendence of the prisons, shall commission the jailers and keepers of prisons, after having presented them to the governor, that he may judge of their capacity for those offices, under the penalty of being deprived, for one year, of the right of nominating the same; which right shall, for that term, be vested in the governor. All the jail fees which the prisoners may pay, shall be for the use of the alguazil mayor.
4. The said officer cannot appoint as lieutenants any persons but such as are known to be suitable for those employments, who are young, and do not exercise any mechanical profession; they shall be presented to the governor, and approved by him, and shall take the oath required. The alguazil mayor cannot appoint to the said office either the relations or domestics of the judges and officers, but he shall be allowed to change the said lieutenants, when he may have just reasons therefor.
5. The alguazil mayor and his lieutenants shall go the rounds, and shall visit the public places, both by night and day, to prevent noises and disputes, under the penalty of being suspended from their offices, and payment of the damages that may result from their negligence. They shall arrest, without other authority, the offenders, and shall give immediate information thereof to the alcaldes. They shall not tolerate unlawful games, nor public and scandalous offences. They are also hereby informed that, although they have the power of arresting any one without other authority, they may not release the same, under the penalty of being deprived of their offices, and being declared incapable of holding any other.

6. The alguazil mayor shall conform strictly to the articles which relate to the prisons, and to the tariff which specifies the fees which are demandable. He shall also assist with the judges ordinary at the visitations of the prisoners, which shall be made at the times prescribed by this regulation.

#### SECTION V.

##### *Of the Depository General.*

The depository general, whose duties are incompatible with those of a judge, cannot be elected ordinary alcalde, unless he may name a lieutenant, who may be charged with the care of the deposites.

2. Before entering upon the said office, the depository general shall give good and sufficient sureties, who shall answer for the safety of the deposites, and who shall be approved by the governor, the alcaldes, and the cabildo. This surety shall be recorded in the book to be kept by the escribano of the cabildo, for the recording of the deposites; in which he shall inscribe the day, month, and year, of the said surty.

3. The governor, the alcaldes, and the cabildo, shall carefully examine the books, which exhibit the sureties of the depository general, the state of his property, and that of the said sureties, which shall be certified by the escribano of the cabildo, in order that the same may be verified the succeeding year, and the necessary order taken thereon.

4. If, by the said examination, it shall be found that the situation of the depository general, or of his sureties, be such as to excite apprehension, they shall prevent him from exercising the duties of his office, until he shall have rendered his accounts, and given a better security.

5. The depository general shall deliver on the first order the sums which may have been deposited with him, in the same coin in which he received them; to which the judges, and other officers competent thereto, should pay particular attention.

6. The depository general shall record the deposites in a book similar to that of the escribano of the cabildo; he shall receive for the same, and for deposite fees, three per cent., as explained in the commission which he has received for the exercise of his office.

#### SECTION VI.

##### *Of the Receiver of Fines.*

1. The receiver of fines (whose duties are incompatible with those of ordinary alcaldes) shall have cognizance of all matters in relation thereto, as also of those imposed by the judge; of which last he shall keep and render an account, having for that purpose a book similar to that kept by

the escribano for the same object ; in which they shall be entered according to date.

2. For the safety of the balance of the account rendered by the receiver of fines, he shall give good and sufficient sureties, in the same manner as the depository general. Examination shall be yearly made into the situation of the said sureties, which shall be changed if they become less substantial.

3. To the end that the receiver may fully discharge the duties of his office, and a certain knoweldge be acquired of the funds in his possession, the escribano, in whose presence the fines shall have been paid, shall advise the escribano of the cabildo of the same, who shall enter them in a book, the leaves of which shall be marked by the governor. After which, the escribano of the calbildo shall inform the receiver thereof, who, by these means, will at once perceive the amount of the sums which he ought to receive ; and the book of the cabildo will serve to make him render an account of the sums which are entered therein.

4. The receiver of fines cannot employ the proceeds thereof without the order or permission of his majesty, by reason that the same being the property of his majesty cannot be removed without his approbation. He shall dispose of that portion of them only which have been imposed by the judges in conformity to the orders he may receive, and not otherwise.

5. The receiver shall discharge, out of the aforesaid portion of fines, the drafts which may be drawn by the governor, the alcaldes, and the other judges, who shall restrain themselves to the sums which may be necessary.

6. The said receiver shall render a yearly account of the sams he may have received and paid in the execution of his office. His account shall be settled by the officers of finance appointed thereto in this province.

7. He shall be allowed a commission of ten per cent. on all sums which may be recovered and received by himself, or by those commissioned by him, for the recovery thereof.

#### SECTION VII.

##### *Of the Procurator General.*

1. The procurator general of the republic is an officer appointed to assist the public in all their concerns, to defend them, pursue their rights and obtain justice, and to pursue all other claims which have relation to the public interest.

2. In consequence thereof, the procurator general, who is appointed solely for the public good, shall see that the municipal ordinances are strictly observed, and shall endeavor to prevent every matter or thing by which the said public might suffer.

3. For these purposes he shall apply to the tribunals competent thereto, for the recovery of debts and revenues due to the city funds, in quality of attorney for the city. He shall pursue causes with the activity and diligence necessary to discharge him from the responsibility in which he would be placed by the slightest omission.

4. He shall see that the officers of the council or cabildo discharge strictly the duties of their offices; that the depositary general, the receiver of fines, and all those who are to give sureties, shall give such as are good and sufficient; and in case of deterioration thereof, he shall demand the renewal, conformably to law.

5. He shall be present at, and shall interpose in, the direction of lands and other public matters, to the end that nothing unsuitable or injurious may occur in the distribution of the same.

#### SECTION VIII.

##### *Of the Mayor-domo de Proprios.*

1. The mayor-domo de propios shall have the management of, and shall receive all that is comprised within the denomination of city funds; he shall give receipts to debtors, and shall record all sums which he may receive, as also the expenditures he may make for account of the cabildo, in order that he may be able to render his accounts so soon as his year of office shall expire.

2. He shall discharge the drafts of the cabildo upon the rents of the city, and none other. He shall abstain from furnishing or lending any sums to any individuals whatever, under the penalty of being responsible therefor, and of being declared incapable of holding any office in the colony.

3. The construction and keeping in repair of bridges, within and without the city, shall not be defrayed out of the city funds; this expense shall be borne by those who shall enjoy the benefit thereof, amongst whom the same shall be proportioned in the manner pointed out by law.

4. Whenever any public work shall be undertaken, either by the cabildo or by individuals, care shall be taken that the same be substantial and durable. A regidor shall be named for that purpose, who, without any requital, shall inspect the said undertaking.

5. The expense of public mourning for the royal family shall be defrayed from the city funds, with all the economy which the cabildo can adapt to these circumstances.

#### SECTION IX.

##### *Of the Escribano of the Cabildo.*

1. This officer shall preserve in his archives all the papers which may concern the cabildo, or its proceedings. He shall inscribe in a book all the

securities and deposits which have relation to the depositary general; and, in another book, those which relate to the receiver of fines. He shall, also, keep a third book for guardians and their sureties, ordinary and extraordinary, in which he shall also record the patents and commissions granted by his majesty, and shall take care to preserve the originals in the archives of the cabildo.

2. The escribano of the cabildo shall never suffer any paper or act to be removed from his archives; and if the judges should be obliged to have recourse to the same, he shall furnish them a correct copy thereof, but shall never part with the original.

3. The said escribano of the cabildo, and of the government, shall note at the foot of all acts and instruments of writing, and copies of the same which he may deliver, the fees which he has received therefor, under the penalty of forfeiting the same, and of incurring the other penalties established, to prevent him from exacting more than is allowed by the tariff.

4. The escribano of the cabildo and of the government shall inscribe, in a separate book, the mortgages upon all contracts which may be made before him or any other; he shall certify, at the foot of each deed, the charge of mortgage under which the sale or the obligation may have been made, conformably to the intention of the law, in order to prevent the abuse and frauds which usually result therefrom.

5. The regidores, the escribano, and all those who may succeed to any of the venal offices established by the laws of the Indies, are hereby informed that the royal ordinances require, that within the term of five years, computing from the date of their commission, they must obtain his majesty's confirmation, and present the same to the governor of the city or province in which they reside, under the penalty of being deprived of the said offices.

#### SECTION X.

##### *Of the Jailer and the Prisons.*

1. The jailer shall be appointed by the alguazil mayor, and approved by the governor, before entering on the duties of his office. He shall also be presented to the cabildo to be received, and to take an oath to discharge faithfully the duties of the said office, to guard the prisoners, and to observe the laws and ordinances established in this respect, under the penalties therein declared.

2. The said jailer must not enter upon the duties of the said office, until he shall have given good and sufficient sureties in the sum of two hundred dollars, which sureties shall warrant that no prisoner detained for debt shall be released without an order from the judge competent thereto.

3. The jailer shall keep a book in which he shall inscribe the names of



all the prisoners, that of the judge by whose order they have been arrested, the cause for which they are detained, and the name of those who may have arrested them. He shall reside in prison, and for each considerable fault committed by him he shall pay sixty dollars, applicable one half to the royal chamber, and the other half to the informer.

4. It is the duty of the jailer to keep the prison clean and healthy, to supply it with water for the use of the prisoners, to visit them in the evening, to prevent them from gaming or disputing, to treat them well, and to avoid insulting or offending them.

5. It is likewise the duty of the jailer to take care that the female prisoners are separate from the men; that both of them are kept in their respective apartments, and that they are not worse treated than their offence deserves, or than is prescribed by the judges.

6. With respect to his fees, the said jailer shall confine himself strictly to those which are established; he shall take none from the poor under a penalty of the value of the same. He may not, without incurring the same penalty, receive any gratification either in money or goods. He shall avoid entirely either playing, eating, or forming any intimacy with the prisoners, under the penalty of sixty dollars, applicable, one-third to the royal chamber, one-third to the informer, and the remaining third to the poor prisoners.

*Form of the oath to be taken by the governors, the alcaldes, and the other judges, when taking possession of their offices:*

Don N., elected governor, or alcalde, &c., (according to the employment or office,) I swear before God, the holy cross, and the evangelists, to uphold and defend the mystery of the immaculate conception of our lady the Virgin Mary, and the royal jurisdiction to which I am attached by my employment. I also swear to obey the royal ordinances and the decrees of his majesty, faithfully to discharge the duties of my office, to decide according to law in all cases which may come before my tribunal; and for the more certain attainment thereof, I promise to consult with such as are well informed in the law, whenever opportunities may occur in this city; and, lastly, I swear that I will never exact other fees than those fixed by the tariff, and that I will never take any from the poor.

At NEW-ORLEANS, November 25, 1769.

DON ALEXANDER O'REILLY.

Printed by order of his excellency François Xavier Rodriguez, escribano of the expedition.

*Instructions as to the manner of instituting suits, civil and criminal, and of pronouncing judgments in general, in conformity to the laws of the Nueva Recopilacion de Castilla, and the Recopilacion de las Indias, for the government of the judges and parties pleading, until a more general knowledge of the Spanish language, and more extensive information upon those laws may be acquired: digested and arranged by Doct. Don Manuel Joseph de Urrutia, and the counsellor Don Felix Rey, by order of his excellency Don Alexander O'Reilly, Governor and Captain General of this province, by special commission of his majesty.*

## SECTION I.

*Of Civil Judgments in General.*

1. It must, in the first place, be observed, that in causes civil or criminal, of any nature whatsoever, persons belonging to any religious order may neither appear, nor make any demand without the permission of their superior. This permission is equally necessary to the son, whose father be living, and whose consent must be obtained; to the slave, who may not act without the consent of his master; to the minor, who must be authorized by his tutor, who may be chosen by himself at the full age of fourteen years, or appointed by the judge, when of an age less advanced; to the wife, who must obtain the permission of her husband; and, lastly, to lunatics and idiots, who must be represented by the curator appointed by law to take care of their persons and property.

2. It must also be observed, that the consent of the father is not necessary to the son, when pleading in his own name for the recovery of property or rights acquired by his services in war, which are styled *castrenses*, or by particular gratification from the prince; or lastly, of those he may have acquired by some public employment, which are styled *quasi castrenses*. But in the case where the son shall demand a maintenance or wish to be emancipated, he shall previously obtain the permission of the judge, by reason of the consideration and great respect due to a father, or other superior. The slave is also allowed the same course of proceeding towards his master, if the latter, in the exercise of his authority, shall exceed the bounds prescribed by law, in which case the slave is entitled to require either his liberty or to be sold. The wife may, also, without the consent of her husband, require her dowry, if he shall be on the point of squandering the same; or an alimony, in the case of separation or ill-treatment.

3. He who may purpose to institute an action at law for a sum exceeding one hundred livres, shall commence the same by a petition setting forth the fact, and the motives upon which he proceeds; he shall also specify whether his demand be for the proceeds of some sale, for money

lent, or other similar claim, with every circumstance necessary to the elucidation of the case, and for the information of the judge. He shall conclude by requiring either the return of the money, if lent, or the payment of his demand, and the condemnation of the adverse party to the payment of costs, if he shall unjustly maintain the contrary.

4. The said petition shall be signed by the party or by his proxy, and shall then be presented to the judge, who shall cause the same to be communicated to the party against whom the demand may be made, which proceeding shall have the validity of a citation. The defendant shall make his defence within nine days, computing from the day on which he may have been notified of the demand. He shall draw up a counter-declaration in answer thereto, which shall contain such arguments as tend to defeat the claim of the adverse party, if the same be not founded, and shall make his defence in the manner observed by the plaintiff in his introductory petition (*requete*).

5. If the defendant does not answer within the nine days, the plaintiff shall require judgment by default, by a writing setting forth that the delay has expired; and moving that, no answer having been made, the defendant be condemned by default; and that, consequently, his claim be reputed acknowledged and sufficiently established.

6. If, on the contrary, the defendant shall answer within the nine days, and shall allege that he is not bound to defend the suit as to the merits thereof, by reason that judgment in the case is not within the competency of the judge who has taken cognizance of the same, that the plaintiff cannot plead in his own name, that the term of his engagement has not yet expired, or other similar exceptions, communication thereof shall be made to the plaintiff that he may reply, within six days, thereto. Upon his replication the judge shall decide whether the cause shall be defended as to the merits thereof; in which case, without admitting an appeal, the said cause shall be tried on the merits thereof.

7. But if the defendant, without producing any similar exceptions, shall set forth pleas tending indirectly to admit the demand, as by alleging that the thing demanded has not become due, that the same has been already paid, or any other pleas, supported by vouchers, which may be admitted before the putting of the cause at issue, the effect of which pleas would discharge him from the demand, the same shall be communicated to the plaintiff, to reply thereto: a copy of which reply shall be delivered to the defendant for a rejoinder to the same; after which the judge shall require the documents, and shall proceed to give judgment.

8. If the fact contested should be admitted to proof, as being doubtful, the same shall be determined within eighty days, at furthest; during which delay the parties shall furnish their proofs, and shall summon each other reciprocally to attend to the administering of the oath to the witnesses.

9. The testimony of the witnesses shall be so secretly given that neither of the parties shall have knowledge of the depositions of his own witnesses, nor those of the adverse party. The term to which the cause may have been continued having expired, one of the parties shall move that by reason of the said expiration the testimony of the witnesses be made public. This motion shall be communicated to the other party, who shall consent thereto, or if he shall not reply to the same, he shall be condemned by default in the manner observed, when one of the parties does not reply to the plea of the other. The judge shall order the publication of the said testimony, and the deliverance thereof to the parties; observing that the same be first delivered to the plaintiff, that he may, if necessary, strengthen the same.

10. The testimony being made public, should the plaintiff find the witnesses of the defendant inadmissible, as being either his enemies, or the intimate friends or relations of the defendant, or for other causes which may weaken the faith which would otherwise be due to their testimony, he shall draw up a declaration in which his exceptions shall be specified, after taking an oath that he has no intention of offending them; which oath shall be notified to the defendant, who may in reply state his exceptions to the witnesses of the plaintiff. The said exceptions shall then be put to the proof, and forty days may be granted therefor, or one half of the term allowed for the taking of the testimony in the principal cause.

11. When the term allowed for the admission of proof of the exceptions shall have expired, the publication of the testimony, as in the principal cause, shall not be allowed, but the documents shall be delivered to the plaintiff, that he may set forth his proof; and if he shall establish that the same is more complete than that of the adverse party, a copy thereof shall be given to the defendant, upon whose reply, or in default thereof, the judge shall declare the controversy determined. He shall then order, that the parties await the final decision, which must be given within twenty days, computing from the day on which he may have required the documents in the cause. He shall attentively examine the said documents, and determine the suit by condemning the debtor to payment, or by discharging him from the demand, according to the merits of the case.

12. If judgment be given for a sum not exceeding 90,000 maravedis, an appeal to the cabildo may be taken within five days, computing from the day on which the parties may have been notified of the sentence. If the judgment given be for a greater sum, an appeal shall lie to the tribunal, that may be appointed by his majesty, in consequence of the representations which have been made to him on that subject. A brief explanation of the manner in which this recourse may be had, will be given at the conclusion of these instructions.

13. If no appeal shall be lodged within the five days allowed, the party, who may have obtained judgment in his favor, shall draw up a writing,

by which he shall move, that no appeal having been taken within the legal delay, the judgment be considered definite; and that, in pursuance thereof, execution be ordered; a copy of which shall be given to the adverse party; and on his reply, or in default thereof, the judge shall pronounce both on the validity of the judgment and the expiration of the delay; after which he shall order that the sentence take effect, and be put into execution.

## SECTION II.

### *Of Executory Proceedings.*

1. When a debt shall be fully established, and it imports a confession of judgment, as by an agreement or obligation made before a notary; by a simple note, legally acknowledged by the drawer; by confession of judgment, although without any written title from the debtor; by a definite sentence of the court, or by the cash books of the debtor acknowledged by him; in all these cases the creditor shall draw up a declaration setting forth his claim and his action, annexing thereto the document which entitles him to an order of execution, and moving that by virtue of the said document, a writ of execution be granted him for the sum due, as also the tenth and the costs which may be allowed. He shall observe that his declaration contains the oath that the sum demanded is certain, due, and ought to be paid by the debtor.

2. The judge shall examine if the document which entitles the creditor to a recovery imports a confession of judgment; and, if such be the case, he shall order immediate execution, by addressing an order in writing to the alguazil mayor, directing him to summon the debtor to pay the demand, or, in default thereof, his property shall be seized to the value of the same, with the tenth and the costs.

3. By virtue of the said order, the alguazil mayor shall summon the debtor; if he complies, the execution shall cease. If otherwise, his property shall be seized and held in custody by the depositary general; unless he shall give good and sufficient security for the payment of the sum in which he is condemned by the sentence. But if he shall not give the security aforesaid, or if he has not property sufficient, he shall be imprisoned, unless exempted therefrom by the privilege of nobility, which is also enjoyed by the military, regidors, officers of finance, women, lawyers, physicians, and other distinguished persons. The alguazil mayor shall note, at the foot of the writ, his proceedings thereon, as also the day and the hour of his executing the same.

4. The property being seized, the creditor shall, by another writing, move that the same be valued by two capable persons, on whom the parties may agree, and that public notice be given that the sale thereof will

be made after the usual delay, according to the nature of the property. The said delay shall be of nine days' duration, for personal property, with a public notice every three days; and of thirty days' duration, for real property, of which notice shall be given every nine days; but, if the debtor shall consent, the said notices need not be given.

5. The said term being expired, and public notice being given, the creditor shall require that the debtor definitively summoned to make opposition, and to prove that the sum demanded is not due or has already been paid. In pursuance thereof the debtor shall be definitively summoned, if he has not previously opposed, which he might do, during the time of the seizure, or of his detention in prison.

6. If the debtor shall not make opposition, within three days, computing from the day on which he may have been definitely summoned, he shall be attached by default; but if he shall make opposition, he shall be ordered to prove his exceptions within ten days at furthest, which shall be common to both parties to prove the justice of their pretensions in the manner which to them may seem best.

7. During the said delay, the proofs offered by the two parties shall be received, and they shall cite each other reciprocally to attend at the administering of the oath to the witnesses, in conformity to the provision of section 1, Nos. 8 and 9, for civil judgments in general; with this difference, however, that the said delay may be prolonged at the request of the creditor, in which case the debtor shall enjoy the benefit of the said prolongation.

8. The term allowed having expired, no further proof shall be allowed save the confession of the party; and the documents shall be returned to the creditor that he may set forth his right, of which a copy shall be given to the debtor. Upon his reply, or in default thereof, the judge shall require the documents, and shall proceed to give judgment.

9. He shall examine with attention if the exceptions made by the debtor are just, and more fully established than the claim of the plaintiff; and, if such be the case, he shall discharge him from the demand instituted against him. He shall order the restoration of his property, and shall condemn the plaintiff to the payment of the costs.

10. If, on the contrary, the debtor has not proved his exceptions, and the sum demanded be found legally due, the judge shall declare the seizure to be valid, and shall order the fourth and last public notice of the sale to be given, and the adjudication of the property to the highest bidder, and that from the proceeds of the same the demand of the creditor be fully discharged, as also the tenth and the costs. The creditor shall, however, be held to give security in the amount of these sums, to answer in the event the sentence should be annulled by a superior tribunal.

11. This sentence shall be carried into execution notwithstanding appeal, but shall not prevent the party who may have been aggrieved from appealing to the cabildo, provided the sum does not exceed 90,000 mara-

vedis, otherwise the appeal must be made to the superior tribunal, to be hereafter appointed by his majesty.

12. Definitive judgment being pronounced, the day for the fourth and last notice of the sale of the property seized shall be appointed. On the said day the sale shall be made in the presence of the parties, who shall be legally summoned to attend; and the amount of his demand shall be paid to the creditor, who shall give the security aforesaid; the tenth shall be paid to the alguazil mayor, and the costs and expenses to the other officers, in conformity to the regulations of the tariff.

13. It must be observed, that, if the debtor discharges his debt within seventy-two hours after the seizure is pronounced to be valid, the tenth shall not be demanded; but in default thereof, the payment of the same cannot be dispensed with; and on this account it has been heretofore declared indispensably necessary to note the day and the hour of the proceedings in the seizure.

### SECTION III.

#### *Of Judgment in Criminal Causes.*

1. When information shall have been obtained of any crime, such as homicide, robbery, &c., having been committed, if no prosecutor shall appear, the judge shall officially draw up a *proces-verbal* containing the knowledge he has acquired of the said crime, and shall order an inquiry to be made into the circumstances of the same; as, for example, in the case of homicide, he shall cause the body to be examined by one or more surgeons, who shall declare whether the wounds have been mortal or otherwise; they shall set forth in what place and in what situation the body was found, and with what instrument it appears that the crime has been committed. In the case of robbery, an examination will be made, and the escribano shall detail and certify the marks of violence on the house or the furniture, indicating that said crime has been committed. The same statement of facts shall also be made in all crimes: a formality which is the basis of judicial proceedings, and without which the criminal cannot be prosecuted. The judge shall, at the same time, order that the information be taken and the witnesses heard.

2. When the party injured shall bring forward a complaint, he shall commence by a petition, containing a correct and brief exposition of the fact, and requesting an examination into the circumstances of the crime, in the manner before mentioned, and also that a summary inquiry may be made into the truth of the facts set forth in his petition. The judge shall take order on the said petition in the following words: "Be it done as is required."

3. The judge shall make the said inquiries in person, unless unavoidably prevented; in which case he may intrust the same to the register

If, however, the crime be established, and the criminal unknown, every inquiry, search and examination necessary to obtain a knowledge of the said criminal shall be made.

4. When the inquiries have been made, verifying the crime, and the criminal is known, if two witnesses appear, or one witness of credit, joined to other circumstances, proving him to be the offender, the judge shall direct the body of the said aggressor to be taken into custody, as also an inventory of his property to be taken, and the sequestration of the same in the hands of the depositary general.

5. If the criminal has not been arrested, by reason of either absence or concealment, the judge shall direct that, as it appears by the report of the alguazil, the said criminal has not been arrested, he be cited by public proclamation, three times repeated, in the manner following.

6. The accused shall first be cited to appear and deliver himself up within nine days; of which, the judge shall direct the escribano to certify that the term has expired, if the jailer affirm that the offender has not appeared. In consequence of the said certificates, which shall be annexed to the documents in the cause, the accused shall be condemned to the penalty of contumacy; and the judge shall direct that he be again cited to appear within the aforesaid term of nine days. On the expiration of this second delay the escribano and jailer shall certify as before; after which the judge shall issue an order for his arrest, and direct the publication of the same, as also the continuance of the proclamation aforesaid. These last nine days being expired, the escribano shall again certify thereof, and the jailer shall affirm that the accused has not appeared at the prison. The judge shall then declare him fully convicted of contumacy; and if there be no prosecutor, a procurator fiscal shall be appointed to take the necessary steps in the case; but if there be a prosecutor, the cause shall be committed to him that he may proceed therein as he may think best, in order to bring the same before the tribunal, in which provisional judgments are given, and the criminal is cited as if he was present. The proceedings shall then be continued until the definitive sentence either in favor of or against the accused be pronounced.

7. If, however, previous to, or after the sentence, the accused shall present himself at the prison, the cause shall be instituted anew, and the defence of the accused shall be heard with attention; and upon what the prosecutor or the procurator fiscal may set forth in opposition thereto, the previous sentence shall be either confirmed or annulled, according to the documents reproduced on the trial.

8. If the criminal be taken after the order for his arrest has been issued, and the *proces-verbal* concluded, the judge shall direct the jailer to certify that the accused is in prison, and the said judge shall, in person, commence the examination by demanding his name, age, quality, profession, country and residence. If he be under twenty-five years of age, he shall



be enjoined to choose a guardian ; and, upon his refusal to do so, the judge shall appoint some one for him, by reason that the said examination cannot proceed without the presence and authority of the said guardian.

9. In the said examination the judge shall charge the accused with the crime, pursuant to the testimony given, and shall propound such questions as may tend to the disclosure of the circumstances of the same.

10. The examination concluded, the witnesses both for and against the accused, shall be heard within the shortest delay possible ; which, however, if necessary, may be extended to eighty days, as allowed in civil causes in general. During this delay, the accused on one side, and the prosecutor, or the procurator fiscal, (in default of a prosecutor) on the other, shall produce their proof in the manner provided in civil causes ; and although these proofs should be private, as also the re-examination of the witnesses, they may communicate to each other the documents in the cause in order to the necessary arrangement of their proceedings.

11. The witnesses being re-examined, and the delay allowed having expired, one of the parties shall require that the testimony be made public. This demand shall be communicated to the other party, by a copy thereof, upon whose answer, or in default thereof, the judge shall direct the publication of the said testimony. The documents shall then be delivered to the prosecutor, or to the procurator fiscal, that he may bring his accusation in form, and allege the sufficiency of the proof.

12. The accusation being made, conjointly with the declaration of the sufficiency of the proof, a copy thereof shall be given to the accused, that he may in defence set forth whatever he may think in favor of his cause. When the said defence shall have been made, the pleadings shall be considered as concluded, and, consequently, the cause in a state to be determined.

13. If it should happen that one or both of the parties except to the witnesses produced, they shall proceed in the manner pointed out under the head of civil causes in general, and shall conform precisely to the instructions therein given for similar cases. After the decision on the said exception has been made, the determination of the cause shall not be delayed ; but the judge shall require the documents, and cite the parties for the definitive sentence.

14. The accused being convicted of the crime, as being fully established on the trial, or by some other proof, in conjunction with his own confession, he may be condemned to the penalty provided by law for the same. The said condemnation shall also take place when two witnesses of lawful age and irreproachable character shall depose that of their certain knowledge the accused has committed the crime ; but when there shall appear against the accused but one witness, and other indications or conjectures, he shall not be condemned to the penalty provided by law ; but some other punishment shall be inflicted as directed by the judge,

with due consideration of the circumstances which may appear on the trial; this state of things requires the greatest circumspection, as it must always be remembered that it is better to let a criminal escape than to punish the innocent.

15. After all these precautions, the judge shall pronounce sentence; and although in criminal causes an appeal should not be admitted, yet if the judge shall have doubts, or from some difficulties on the trial he shall think it advisable to submit the same to the examination of a superior tribunal, execution shall be suspended, and this second instance shall be conducted as in civil causes.

#### SECTION IV.

##### *Of Appeals.*

1. When judgment has been given for a sum or an object, the value of which exceeds ninety thousand maravedis, an appeal may be taken by the party who thinks himself aggrieved, directly to the tribunal to be hereafter appointed by his majesty; and when the said appeal shall have been lodged, communication thereof shall be made to the adverse party, who may plead against the merits of the same; that is to say, whether the sentence shall be suspended or executed, notwithstanding appeal. To determine this point, the judge shall demand the documents, and after examining the same shall pronounce either for or against, as he shall think; and in urgent and particular cases, such as dowry, alimony, or others of a similar nature, in which appeals should not lightly be admitted, he shall order execution. In this class are also comprised criminal causes, unless such circumstances should occur as cited at the conclusion of the preceding paragraph; in which case execution must be suspended until the superior judge has examined the same, and confirmed the sentence pronounced.

2. If the appeal be admitted, the second trial shall be conducted in the manner following: The judge shall direct the delivery of the documents in the cause to the appellant, that he may declare in what consists the grievance of which he complains; by which is meant that he shall set forth in argument the injury he would sustain by the execution of the sentence, which, for one or more reasons, is not in conformity to the provisions of the law in similar cases, and concluding by moving that the same be annulled. A copy of this declaration shall be given to the other party to reply thereto and confute the arguments of his adversary, by setting forth those tending to prove that the sentence has been pronounced in conformity to law. The judge shall then direct that after having transcribed the documents in the cause, at the expense of the appellant, the originals be transmitted to the tribunal, in which the appeal is to be tried. He shall summon the parties to hear the transcripts compared with the

originals, as also to appear in person, or by proxy, at the tribunal to which the said appeal shall be carried, within the delay that may be allowed, according to the distance of the same from this province. The said delay shall commence from the day on which the first registered vessel shall sail from this port for the place where the superior tribunal shall be established; the judge having previously ordered the delivery on board the said vessel, of the original documents aforesaid. He shall inform the appellant, that if, within the delay allowed, he shall not prove that he appeared before the said tribunal with the original documents, he shall fully and indisputably forfeit his appeal, and that the execution of the sentence shall consequently be ordered on the first requisition of the adverse party. If, however, the appellant shall establish the loss of the vessel in which his documents were embarked, or of the one in which he had transmitted the vouchers of his having appeared at the superior tribunal within the time prescribed; or, in short, any other impediment which may discharge him from the aforesaid obligation, the appeal cannot be declared to be abandoned; but on the contrary, a further delay shall be granted; and if the originals have been lost, copies thereof shall be delivered to him, that he may prove his appearance and compliance with whatsoever has been required.

3. In the case of a judgment for a sum not exceeding 90,000 maravedis, exclusively of the costs, the appeal shall be made to the cabildo of this city, and the same shall be conducted in the manner following: Within five days computing from the day of the signification of the sentence, the appellant shall present his petition, which shall be delivered to the register to annex his certificate thereto; on sight of which the cabildo shall appoint two regidores, in quality of commissioners, to decide on the cause of appeal, conjointly with the judge who pronounced the sentence. The said commissioners shall be bound to accept the said appointment, and shall take an oath that they will impartially discharge the duties of the same.

4. The said document with the certificate shall be delivered to the escribano in the cause, who shall institute and pursue the appeal. The document shall be delivered to the appellant, that he may deduce and set forth his grievance in the manner explained in the second paragraph; which shall be done within fifteen days at furthest; and communication thereof shall be made to the other party, that he may reply thereto, within a further term of fifteen days; so that within thirty days from the appointment of commissioners the cause shall be ready for determination. It must be observed that the aforesaid term of thirty days cannot be prolonged, even with the consent of both parties.

5. The pleadings being concluded in the manner prescribed, the escribano shall, within two days, deliver the documents to the judges, who shall examine the same, and give judgment within ten days, computing

from the expiration of the thirty aforesaid, annulling or confirming, augmenting or diminishing, the previous sentence, as they may think just. After the expiration of the aforesaid ten days, judgment cannot be pronounced; or, if given, the same shall be void; and the first sentence shall take full effect, and be executed according to the tenor thereof.

6. If a majority of the three judges appointed shall accord in opinion, their sentence shall be valid and conclusive, and an appeal to any other tribunal shall not be admitted; but the judge who pronounced the first sentence shall cause the second to be executed so soon as the documents shall have been delivered to him for that purpose.

#### SECTION V.

##### *Of Punishments.*

1. He who shall revile our Saviour, or his mother, the most holy Virgin Mary, shall have his tongue cut out, and his property shall be confiscated, applicable, one half to the public treasury, and the other half to the informer.

2. He who, forgetting the respect and loyalty which every subject owes to his king, shall have the insolence to vilify his royal person or that of the queen, the hereditary prince, or of the infants, their sons, shall be punished corporally, according to the circumstances of the crime; and the half of his property shall be confiscated to the profit of the public or royal treasury, if he have legitimate children; but if he have none, he shall forfeit the whole; applicable, two-thirds to the public treasury, and the other third to the accuser.

3. The authors of any insurrection against the king or the state, or those who, under pretext of defending their liberty and rights, shall be concerned or take up arms therein, shall be punished with death, and the confiscation of their property. The same punishments shall also be inflicted on all those, who may be convicted of lèse-majesté, or treason.

4. Whosoever shall outrage another either by wounds, cuffs, or blows with a stick, shall be punished as the judge may think suitable to the case and to the rank both of the offender and the offended. But if the abuse consists only in words, and the aggressor be not noble, the judge shall exact the retraction of the same, in the presence of himself and other persons, and shall, moreover, condemn the said aggressor to a fine of 1,200 maravedis, applicable, one-half to the public treasury, and the other half to the party offended. If the aggressor be of rank, or enjoys the privileges of nobility, he shall be condemned to a fine of 2,000 maravedis, applicable, as aforesaid. The judge, however, may in lieu of the same, inflict any other punishment which he shall think suitable to the rank of the parties and the nature of the outrage. If no blood has been spilt,

nor complaint made by the offended, or if he shall desist from prosecuting the same, the judge shall not interfere therein.

5. He who shall ravish a girl, a married woman, or a widow of reputable character, shall suffer death, and his property shall be confiscated to the use of the person injured; but if the said person be not of reputable character, the judge shall inflict such punishment as he may think suitable to the case.

6. The married woman convicted of adultery, and he who has committed the same with her, shall be delivered up to the will of the husband; with the reserve, however, that he shall not put the one to death, without inflicting the same punishment on the other.

7. The man who shall consent, that his wife live in concubinage with another, or who shall have induced her to commit the crime of adultery, shall, for the first time, be exposed to public shame, and condemned to a confinement of ten years in some fortress; and for the second time shall be sentenced to one hundred lashes and confinement for life.

8. The same punishment shall also be inflicted on those who carry on the infamous trade of enticing women to prostitution, by procuring them the means of accomplishing the same.

9. He who shall be guilty of fornication with a relation in the fourth degree, shall forfeit half his property to the profit of the public treasury, and shall, moreover be punished corporally, or banished in some other manner, according to the rank of the person, and the degree of the kindred. If the said crime be committed between parents and their offspring, or with a professed nun, the same shall be punished with death.

10. He who shall commit the detestable crime against nature shall afterwards be burned, and his property shall be confiscated to the profit of the public and royal treasuries.

11. The woman who shall be publicly the concubine of an ecclesiastic, shall be sentenced, for the first time, to a fine of a mark of silver, and to banishment for one year from the city or from the place where the offence may have been committed. The second time, she shall be fined another mark of silver, and banished for two years, and in case of relapse, she shall be punished by one hundred lashes, in addition to the penalties aforesaid.

12. If fornication be committed between bachelors and girls, they shall be admonished by the judge to discontinue every kind of intercourse with each other, under the penalty of banishment of the man, and confinement of the girl, for such time as may be necessary to operate a reformation. If this menace have not the desired effect, the judge shall put the same into execution, unless the rank of the parties require a different procedure, in which case the said offence shall be submitted to the consideration of the judges, collectively, to apply the remedy, which their prudence and zeal for the repression of such disorders may suggest. They shall punish

all other offences of debauchery in proportion to their extent, and to the injury occasioned thereby.

13. He who shall break his oath, taken in conformity to law, for the validity of an agreement, shall forfeit the whole of his property for the benefit of the public and the royal treasuries.

14. False witnesses in civil causes shall be exposed to public shame, and banished for ten years; but in criminal causes, in which false testimony is more important in its consequences, the same shall be punished capitally. If, however, the accused shall not have thereby been sentenced to death, the false witness shall only be exposed to public shame, and be sentenced to perpetual banishment to some presidio. The said punishments may, however, be commuted, when from the rank of the offenders they cannot be condemned to the same.

15. He who shall steal the sacred vessels in a holy place shall suffer death.

16. Assassins and robbers on the highway shall suffer death.

17. The same punishment shall also be inflicted in cases of forcible robbery, which shall be reputed such, when the proprietor or other person shall have made resistance.

18. Robberies of other kinds, other than those comprised in the preceding articles, shall be punished corporally, according to the nature of the same, and the rank of persons.

19. He who shall kill another, shall suffer death, unless done in his own defence, or under such circumstances as are explained in the laws of the Nueva Recopilacion de Castilla.

20. He who shall commit wilful murder, or wound another with intent to deprive him of life, although the wounded person may survive, shall suffer death, and shall be dragged to execution at the tail of some animal; and the half of his property shall be confiscated to the profit of the public or royal treasury.

#### SECTION VI.

##### *Of Testaments.*

1. For the validity of a nuncupative will, it is necessary, that the same be received by a notary public, in presence of at least three witnesses, residents of the place; or if there be no notary, there must be present five witnesses, residents of the place in which the will shall be made; if, however, it be impossible to procure the last-mentioned number, three may suffice.

2. A testament shall be equally valid when made in the presence of seven witnesses, although they be not residents of the place, and although the same be not made in the presence of a notary.

3. If, after the closing of a will, the testator shall wish to add to, diminish or change any disposition contained therein, he may do the same

effectually by a codicil; observing the same formalities, and in the presence of the same number of witnesses required for the validity of the testament itself; but he cannot change the name of the heir, unless another will be made.

4. If the testator be blind, at least five witnesses shall be necessary to each of the instruments aforesaid, in order to prevent the deceptions, to which those who labor under such a misfortune are exposed.

5. For the validity of a mystic will, styled in Latin *in scriptis*, the testator, on delivering to the notary, (who shall seal it,) shall put an endorsement on the cover, stating that the within is his will; which endorsement shall be signed by himself and seven witnesses, if they can write; and if not, the others shall sign for them; so that there be eight signatures, including that of the escribano, who shall also put his signature thereto.

6. Before the opening of a will, after the decease of the testator, it is necessary that the judge who shall have knowledge thereof, shall certify thereto, and that the witnesses appear before the said judge, and declare, on oath, that they were present, when the testator declared the same to be his last will: they shall acknowledge their signatures, or shall declare (if such be the case) that by their request some one has signed for them.

7. As it often occurs that persons, either unable or unwilling to make a will themselves, empower others for that purpose, they are hereby informed, as follows:

8. That such authority must be given in presence of the same number of persons, and with the same formalities required for testaments.

9. That the person empowered to make a will for another, cannot revoke a will previously made by his constituent; unless the said will shall contain a special clause to that effect.

10. That he may neither appoint an heir, bequeath a third or a fifth to any of the children or descendants of his constituent, disinherit any of them, substitute others in their stead, nor name a guardian for them without an express clause and special authority to that effect; by reason, that the constituent should himself nominate his heir, and designate, by his will, whatsoever he may wish to be done.

11. That if the testator has not appointed an heir, nor designated one in the power given to make a will for him; the person so empowered, may only direct the payment of the debts of the deceased; after which a fifth part of the proceeds of his property shall be distributed for the repose and relief of his soul: the remainder shall be divided amongst the relations of the deceased, who, according to law, shall inherit; or, if there be none, the whole shall be applied to pious uses, for the benefit of the soul of the deceased, after previously deducting therefrom what is allowed by law to the wife, as dower, bridal presents, donations, *propter nuptias*, the half of the profits on the joint estate, and whatever may have fallen to her by succession or donation during the marriage.

12. That if the constituent shall have appointed an heir, the person empowered as aforesaid may not dispose of, in legacies pious or profane, more than the fifth part of the property of the testator, his debts being previously paid; unless by a special clause he should be authorized to dispose of a greater part.

13. That the person empowered should proceed to the completion of the will with which he is charged within four months, if he be in the place in which the power was given; or, if not, within six months; unless he be out of the kingdom; in which last case, one year shall be allowed, computing from the day of the decease of the constituent. All that may be done by the person, empowered as aforesaid, after the expiration of that term, shall be void and of no effect, even if he shall allege, that he had no knowledge whatever of his having been so empowered. But all the other stipulations by the testator, in the said power contained, shall be carried into execution, and the remainder of his property shall be delivered to his relations, who inherit *ab intestato*, and who, with the exception of the legitimate children of the descendants or progenitors of the testator, shall give the fifth part of the net proceeds of the said property, for the ease and repose of the soul of the said testator.

14. That the person empowered as aforesaid may not in any manner revoke the will he shall have made by virtue of the authority aforesaid, nor add a codicil, nor any declaration thereto, even if the same should be for pious uses, and notwithstanding he may have reserved the power of revoking, augmenting, diminishing, or changing the disposal he shall have made.

15. To the said testaments, codicils, or powers given to that effect, women, monks, people under the age of fourteen, drunkards, or other disqualified persons, shall not be admitted as witnesses.

16. A testator may bequeath a third or a fifth to any one of his children or other legitimate descendants, by specifying the part of his real or personal property which he designs for that purpose.

17. When a testator shall make a bequest to any of his children or legitimate descendants, he may impose such condition, remainder, or entailment, upon the property bequeathed as he may think proper, in order that his other legitimate descendants, or, in default thereof, his illegitimate descendants, or if there be none of either of those descriptions, his relations may enjoy the benefits resulting therefrom; to the end that the said bequest may never pass to a stranger, unless all the relations in the order aforesaid shall be deceased.

18. The father may also, while living, advance any of his children or legitimate descendants, in the same manner as at his death, or by will; but it is to be understood that he shall make the same advancement but once, and that the same being made during his life cannot be revoked, if settled by agreement and fixed by a public instrument, which should pre-



cede the delivery of the object in which consists the advancement, or if having been made with a view to marriage, or for any other similar cause; unless he shall have reserved, by the said instrument, a power to that effect; in which case he may revoke the said advancement.

19. If the father or mother shall have entered into an agreement not to advance any one of their children, the said agreement shall thereafter be binding; and if they should attempt the said advancement by any public instrument, the same shall be void and of no effect. If, on the contrary, they shall promise the advancement in consideration of marriage, or for other similar cause, the right to a third or a fifth shall be good at the decease of the parent, although no mention thereof shall have been made in the will.

20. The said advancement being made during life, or at the point of death, shall be calculated upon the real value of the property at the time of the decease, and not at the time of making the same.

21. All deeds of gift, or legacies, by the father or mother to their children or descendants, during life, or bequeathed by will, shall be reputed on account of the third or the fifth, although the same may not have been so expressed. In consequence thereof, they cannot bequeath a third or a fifth to any of the other children or descendants, which shall exceed the value of the said legacies or gifts to the former.

22. When any one shall die intestate, and without having empowered another to make a will for him, in the manner hereinbefore explained, if there be no legitimate children, or ascendants, who can inherit, the relations by blood and kindred of the fourth degree shall inherit the whole of the property; observing that the nearest relations shall inherit of right, and to the exclusion of those who may be further removed, unless the nearest relations shall be brothers of the deceased; in which case, the children of the other brothers, who shall have died previous to the decease of the person intestate, shall take a portion of the whole; that is to say, that if one brother, and three or four children of another brother, be living, the said children shall be entitled to an equal proportion, or one-half of the property; and the brother, uncle of the said children, shall inherit the other half, by reason that the nephews succeed by representation of their father, and not in their own right. This rule shall be followed in the division of estates when there may be a greater or less number of heirs; the foregoing being intended for an example.

23. If the deceased shall have neither ascendants nor descendants capable of inheriting, in the order explained, in the preceding article; the king shall be his heir, and the property shall be vested in the treasury or royal chamber.

24. Those who have not legitimate descendants may will in favor of their illegitimate children, although they may have ascendants. It must be understood that by illegitimate children are meant those born of a free

girl, to whose marriage with the father of the said children no legal impediment existed. Those children shall succeed in their own right, to their mother, and shall inherit the whole of their property, whether she may have died intestate, or otherwise, and shall have a preference over the ascendants, in case she shall have no legitimate children, who would otherwise inherit, to the exclusion of the illegitimate children.

25. Illegitimate children of every description shall incontestably succeed to their mother, if she have no legitimate children or descendants, even to the exclusion of her father or other ascendants.

26. The father and mother having legitimate children or descendants, cannot give, by way of maintenance, to their illegitimate children, more than the fifth part of their property; of which proportion they may also dispose for the benefit of their souls, or by a legacy to a stranger; excepting from the foregoing, the children of ecclesiastics, or monks, who cannot in any manner inherit from their parents or kindred, nor pretend to anything possessed by them during their lives.

27. A son or daughter, while under the authority of the father, being of competent age, that is to say, the son being fourteen, and the daughter being twelve, may will in the same manner as if they were emancipated from their parent, and may dispose of the third part of their property by succession, donation, or in another manner, unless derived from the father, who shall inherit the remaining two-thirds in the same manner as the mother or other ascendant.

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*Table of Fees, demandable by Judges, Lawyers, Escribanos, Attorneys, and the other Officers of Justice.*

**JUDGES.**—For a signature containing the baptismal and family name of the judge, four reals in silver dollars of America, as also for the other fees hereafter detailed. They shall put the aforesaid signature to judgments, decrees, warrants, titles, and despatches which they may deliver for another tribunal. They shall exact but two reals in the same money for a signature containing their family name only, and the same for their cipher.

For a sitting of two hours and a half, in cases of inventories, seizures, assessments, public sales, adjudications of real or personal property, *proces-verbaux*, declarations, examinations, and other acts of justice of whatsoever nature, two ducats, equal to twenty-two reals in milled dollars. For affixing the seals, in case of death, one ducat. If a longer time be necessary for the security of the property, the fee may be augmented in proportion to the time that shall be employed. For the opening of a will, and the examination of the seven witnesses, which should precede the opening of the will, forty-eight reals, viz: forty-four for two sittings, and the other

four for the signatures to the two instruments. They shall receive four ducats per diem while employed in the country, to continue until their return to their own houses; they shall be decently entertained, and shall be provided with a horse and other things necessary.

ASSESSORS shall have also two ducats for each sitting in the city, and four for the country, either with or without commission. They shall charge one real per leaf for revising documents, they paying due attention to the bulk of the same, to the circumstances of the case, and to what may be only a continuation of the usual business.

THE ALCALDE MAYOR PROVINCIAL, AND THE OFFICERS OF THE SAINT HERMANDAD shall receive the same fees as the other royal judges, for their signatures and their sittings.

REGIDORS.—In causes of little importance, which may be brought before the cabildo by appeal, two regidores shall be appointed as commissioners, conjointly with the judge, who shall have pronounced the previous sentence. In all such cases they shall receive the same fees as the judge for their signatures and sittings.

THE ALGUAZIL MAYOR.—In common executions against debtors, they shall require payment, and if the same be not complied with within seventy-two hours from the moment of the summons, the said debtors shall pay, besides the fees to the judge and the other officers of justice, the tenth to the alguazil mayor, which is five milled dollars for the first hundred dollars, and two and a half dollars for every other hundred dollars; so that if the execution be issued for three hundred dollars, he shall take ten dollars for the tenth. He shall not, however, exact the same until the creditor be satisfied in the sum for which the execution be given.

THE DEPOSITARY GENERAL shall take three per cent. on all sums in specie, which may come into his possession by way of deposit, and the same for plate, jewels, or other personal property which may be deposited with him.

For real estate, as houses, plantations, and other property yielding revenue, he shall take five per cent. upon the said revenue, which shall be his compensation for the management of said property, for receiving the proceeds thereof, and for rendering an account of the same to the tribunal by whom he is appointed, whenever he shall be required thereto. He shall also take five per cent. upon the proceeds of the labor of all slaves in his care, who may not be employed upon the estate.

Whenever bonds or notes shall be deposited with him, he shall take five per cent. upon the sums which he may recover on account of the same.

LAWYERS.—The fees of lawyers shall be settled by another lawyer whom the judge shall appoint; and for every sitting their compensation shall be the same as that of the judges and assessors. But when they may be employed in examining documents in order to assist at a court, they shall be paid separately.

ESCRIBANOS shall have fifteen reals for a sitting in the city, and thirty per diem when employed in the country, to be continued until their return to their own houses, and two reals for each leaf of writing, and they shall be furnished with a conveyance, and decently entertained.

For the opening of a will, the examination of the seven witnesses which should precede the same, and legacies to the church, fifty-two reals.

For a copy of a decree or a provision, one real. For an act, two reals. For a notification, citation, or participation, two reals. For a declaration in his own house, six reals; or, if elsewhere, eight reals; and two reals for each leaf of writing either in his own house or elsewhere. For a despatch, two reals per leaf, and eight for the commencement and conclusion of the same. For each leaf of an exemplification of an act, one real and three quartillas, and one real for his signature. For duplicates, or copies of documents drawn from his record, two reals per leaf.

For a bill of sale of slaves, twelve reals. For a sale of personal property, which usually contains two leaves, two dollars; and if the same shall contain more on account of the conditions which the parties may wish to be inserted, he may augment in proportion. For a simple bond, eight reals; for a bond with mortgage, twelve reals; and if there be several mortgages comprised in the said bond, he shall be paid according to the labor and trouble he may have had in drawing up the same. For a receipt, eight reals. For an agreement, according to the number of leaves the same may contain; and if an examination of documents be necessary, the same should be taken into consideration, and the charge should be at least doubled.

For a will containing three or four sheets, four dollars, and augmented in proportion to the number of sheets.

THE RECORDER OF MORTGAGES.—For a certificate relative to a house, plantation, or other real property, eight reals. For a certificate of a slave, from one to the number of eighteen, four reals; and from that number to one hundred, twelve reals for each certificate. For a certificate of a mortgage on a vessel, four reals. For recording in the book of mortgages, those given for the security of payments, either for personal property, slaves, or vessels, four reals; and if the same be of an unusual length, eight reals; but when only a short note to designate the page in which the mortgage is recorded be required, no charge shall be made.

ATTORNEYS.—For an introductory demand, five reals. For assisting in the city, at an inventory, sale, adjudication, or seizure, twelve reals; for the same in the country, if employed a whole day, three dollars. If, however, the case requires much writing, they shall be paid according to the time that the lawyer may have been employed in drawing up the said case.

THE JUDICIARY CONTADOR.—For every five hours employed in preparing an account for settlement, four ducats, making forty-four reals, observing that five hours shall be accounted a day; and out of the aforesaid sum

he shall pay four reals to the escribano for each sheet of twenty-five lines to a page.

THE ASSESSOR OF COSTS shall be paid one quartilla for each sheet of the documents contained in the cause, the costs of which he shall assess. Four quartillas make a real.

APPRAISERS OF PERSONAL PROPERTY, SLAVES, AND OTHER EFFECTS.—To the exchange broker, for the valuation of furniture, houses, slaves, merchandise, &c., eleven reals, notwithstanding the appraisement may require two hours and a half.

ALARIFS, EXPERTS OF CARPENTRY, AND ASSAYERS OF SILVER.—Alarifs, experts of carpentry, masonry and joinery, shall have a ducat for every thousand dollars of the amount of the appraisement; and if the same shall exceed four, six, or eight thousand, they shall not demand more than four ducats; but if they be employed in the country, and the appraisement shall not amount to one thousand dollars, they shall have two ducats per diem during the time they may be employed, on account of the distance. If, however, one day only shall be necessary, although the appraisement shall amount to three or four thousand dollars, they shall be paid as if the same had been made in the city; but they shall be furnished with a horse, and shall be decently entertained. The assayer of silver shall have eleven reals for each appraisement, although the articles may be valuable, by reason that little time is required for that purpose.

THE APPRAISERS OF LAND shall have two ducats per diem, and the same when they shall value buildings of little consequence in the country, woodland, and fields in grain.

SURVEYORS shall have three ducats per diem.

THE ALCUAZILS shall have four reals for a summons to appear, and for a demand of payment. They shall also receive the same sum for obtaining documents of every description. They shall have eight reals for arresting and conducting to prison. The sergeant, in this case, shall have the same.

JAIL FEES.—The alguazil mayor shall have twelve reals for every free person imprisoned, and eight reals for a slave.

AT NEW-ORLEANS, the 25th November, 1769.

DON ALEXANDER O'REILLY.

*Don Alexander O'Reilly, Commander of Benfayan, of the order of Alcántara, Inspector-General of Infantry, appointed by special commission, Governor and Captain-General of this province of Louisiana.*

DIVERS complaints and petitions which have been addressed to us by inhabitants of Opelousas, Attakapas, Natchitoches and other places of this province, joined to the knowledge we have acquired of the local concerns, culture, and means of the inhabitants, by the visit which we have lately made to the German Coast, Acadian Coast, Iberville, and Pointe Coupée, with the examination we have made of the reports of the inhabitants assembled, by our order, in each district, having convinced us that the tranquillity of the said inhabitants, and the progress of cultivation required a new regulation, which should fix the extent of the grants of lands, which shall hereafter be made, as well as the enclosures, cleared lands, road and bridges, which the inhabitants are bound to keep in repair, and to point out the damage by cattle, for which the proprietors shall be responsible. For these causes, and having nothing in view but the public good, and the happiness of every inhabitant, after having advised with persons well informed in these matters, we have regulated all those objects in the following articles :

1. There shall be granted to each newly arrived family who may wish to establish itself on the borders of the river, six or eight arpents in front, (according to the means of the cultivator,) by forty arpents in depth; in order that it may have the benefit of the cypress wood, which is as necessary as it is useful to the inhabitants.

2. The grantees established on the borders of the river shall be held bound to make, within the three first years of possession, levees sufficient for the preservation of the land, and the ditches necessary to carry off the water. They shall, besides, keep the roads in good repair, of the width of at least forty feet between the inner ditch which runs along the levee and the barrier, with bridges of twelve feet over the ditches which may cross the roads. The said grantees shall be held bound, within the said term of three years' possession, to clear the whole front of their land to the depth of two arpents; and, in default of fulfilling those conditions, their lands shall revert to the king's domain, to be granted again; and the judge of each place shall be responsible to the governor for the superintendence of this regulation.

3. The said grants can neither be sold nor alienated by the proprietors, until after three years possession, and until the above mentioned conditions shall have been entirely fulfilled. To guard against every evasion in this respect, the sales of the said lands cannot be made without a written permission from the governor-general, who will not grant it until, on strict inquiry, it shall be found that the conditions above explained have been duly executed.

4. The points formed by the lands on the Mississippi River, leaving in some places but little depth, there may be granted, in these cases, twelve arpents of front; and, on a supposition that these points should not be applied for by any inhabitant, they shall be distributed to the settlers nearest thereto, in order that the communication of the roads may not be interrupted.

5. If a tract belonging to minors should remain uncleared, and the levees and the roads should not be kept in repair, the judge of the quarter shall inquire into the cause thereof. If attributable to the guardian, he shall oblige him to conform promptly to this regulation; but if arising from want of means in the minors, the judge, after having, by a verbal process, obtained proof thereof, shall report the same to the governor-general, to the end that the said land may be sold for the benefit of the minors, (a special favor, granted to minors only;) but if no person shall, within six months, be found, the said land shall be conceded gratis.

6. Every inhabitant shall be hold bound to enclose, within three years, the whole front of his land which shall be cleared; and for the remainder of his enclosure he will agree with his neighbors, in proportion to his cleared lands and his means.

7. Cattle shall be permitted to go at large, from the eleventh of November of one year, to the fifteenth of March of the year following; and at all other times the proprietor shall be responsible for the damage that his cattle may have done to his neighbors. He who shall have suffered the damage may complain to the judge of the district, who, after having satisfied himself of the truth thereof, shall name experienced men to estimate the value of the same, and shall then order remuneration without delay.

8. No grant in Opelousas, Attakapas, and Natchitoches shall exceed one league in front by one league in depth; but when the land granted shall not have that depth, a league and a half in front by half a league in depth may be granted.

9. To obtain in the Opelousas, Attakapas and Natchitoches, a grant of forty-two arpents in front by forty-two arpents in depth, the applicant must make it appear that he is possessor of one hundred head of tame cattle, some horses and sheep, and two slaves to look after them; a proportion of which shall always be observed for the grants to be made in the said places, but none shall ever be made of greater extent than that declared in the preceding article.

10. All cattle shall be branded by the proprietors; and those who shall not have branded them at the age of eighteen months cannot thereafter claim any property therein.

11. Nothing being more injurious to the inhabitants than strayed cattle, without the destruction of which tame cattle cannot increase, and the inhabitants will continue to labor under those evils of which they have so often complained to us; and considering that the province is at present

infested with strayed cattle, we allow to the proprietors until the 1st day of July, of the next year, one thousand seven hundred and seventy-one, and no longer, to collect and kill, for their use, the said strayed cattle; after which time they shall be considered wild, and may be killed by any person whomsoever, and no one shall oppose himself thereto, or lay claim to any property therein.

11. All grants shall be made in the name of the king, by the governor-general of the province, who will, at the same time appoint a surveyor to fix the bounds thereof, both in front and depth, in presence of the ordinary judge of the district, and of two adjoining settlers, who shall be present at the survey. The above mentioned four persons shall sign the process-verbal which shall be made thereof, and the surveyor shall make three copies of the same; one of which shall be deposited in the office of the escribano of the government and cabildo, and another shall be delivered to the governor-general, and the third to the proprietor, to be annexed to the titles of his grant.

In pursuance of the powers which our lord, the king, (whom God preserve) has been pleased to confide to us, by his patent issued at Aranjuez, the 16th of April, 1869, to establish in the military, the police, and in the administration of justice, and his finances, such regulation as should be conducive to his service and the happiness of his subjects in this colony, with the reserve of his majesty's good pleasure, we order and command the governor, judges, cabildo, and all the inhabitants of this province, to conform punctually to all that is required by this regulation.

Given at NEW-ORLEANS, the 18th February, 1770.

DON ALEXANDER O'REILLY.



