

was perpetuated by their enormous acquisitions of wealth. Scarcely a town was reconquered from the Moors, without a considerable portion of its territory being appropriated to the support of some ancient, or the foundation of some new, religious establishment. These were the common reservoir, into which flowed the copious streams of private as well as royal bounty; and, when the consequences of these alienations in mortmain came to be visible in the impoverishment of the public revenue, every attempt at legislative interference was in a great measure defeated by the piety or superstition of the age. The abbess of the monastery of Huelgas, which was situated within the precincts of Burgos, and contained within its walls one hundred and fifty nuns of the noblest families in Castile, exercised jurisdiction over fourteen capital towns, and more than fifty smaller places; and she was accounted inferior to the queen only in dignity.⁷⁹ The archbishop of Toledo, by virtue of his office primate of Spain and grand chancellor of Castile, was esteemed, after the pope, the highest ecclesiastical dignitary in Christendom. His revenues, at the close of the fifteenth century, exceeded eighty thousand ducats; while the gross amount of those of the subordinate beneficiaries of his church rose to one hundred and eighty thousand. He could muster a greater number of vassals than any other subject in the kingdom, and held jurisdiction over fifteen large

⁷⁹ Lucio Marineo Siculo, *Cosas Memorables de España*, (Alcalá de Henares, 1539,) fol. 16.

INTROD. and populous towns, besides a great number of inferior places.⁸⁰

These princely funds, when intrusted to pious prelates, were munificently dispensed in useful public works, and especially in the foundation of eleemosynary institutions, with which every great city in Castile was liberally supplied.⁸¹ But, in the hands of worldly men, they were perverted from these noble uses to the gratification of personal vanity, or the disorganizing schemes of faction. The moral perceptions of the people, in the mean time, were confused by the visible demeanor of a hierarchy, so repugnant to the natural conceptions of religious duty. They learned to attach an exclusive value to external rites, to the forms rather than the spirit of Christianity; estimating the piety of men by their speculative opinions, rather than their practical conduct. — The ancient Spaniards, notwithstanding their prevalent superstition, were untinged with the fiercer religious bigotry of later times; and the uncharitable temper of their priests, occasionally disclosed in the heats of reli-

⁸⁰ Navagiero, Viaggio, fol. 9.— L. Marineo, Cosas Memorables, fol. 12.— Laborde reckons the revenues of this prelate, in his tables, at 12,000,000 reals, or 600,000 dollars. (Itinéraire, tom. vi. p. 9.) The estimate is grossly exaggerated for the present day. The rents of this see, like those of every other in the kingdom, have been grievously clipped in the late political troubles. They are stated by the intelligent author of "A Year in Spain," on the authority of the

clergy of the diocese, at one third of the above sum, only; (p. 217, Boston ed. 1829;) an estimate confirmed by Mr. Inglis, who computes them at £40,000. Spain in 1830, vol. i. ch. 11.

⁸¹ Modern travellers, who condemn without reserve the corruption of the inferior clergy, bear uniform testimony to the exemplary piety and munificent charities of the higher dignitaries of the church.

gious war, was controlled by public opinion, which accorded a high degree of respect to the intellectual, as well as political superiority of the Arabs. But the time was now coming when these ancient barriers were to be broken down; when a difference of religious sentiment was to dissolve all the ties of human brotherhood; when uniformity of faith was to be purchased by the sacrifice of any rights, even those of intellectual freedom; when, in fine, the Christian and the Mussulman, the oppressor and the oppressed, were to be alike bowed down under the strong arm of ecclesiastical tyranny. The means, by which a revolution so disastrous to Spain was effected, as well as the incipient stages of its progress, are topics that fall within the scope of the present history.

From the preceding survey of the constitutional privileges enjoyed by the different orders of the Castilian monarchy, previous to the fifteenth century, it is evident that the royal authority must have been circumscribed within very narrow limits. The numerous states, into which the great Gothic empire was broken after the Conquest, were individually too insignificant to confer on their respective sovereigns the possession of extensive power, or even to authorize their assumption of that state, by which it is supported in the eyes of the vulgar. When some more fortunate prince, by conquest or alliance, had enlarged the circle of his dominions, and thus in some measure remedied the evil, it was sure to recur upon his death, by the subdivision of his estates among his children. This mischievous

Limited extent of the royal prerogative.

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practice was even countenanced by public opinion ; for the different districts of the country, in their habitual independence of each other, acquired an exclusiveness of feeling, which made it difficult for them ever cordially to coalesce ; and traces of this early repugnance to each other are to be discerned in the mutual jealousies and local peculiarities, which still distinguish the different sections of the Peninsula, after their consolidation into one monarchy for more than three centuries.

The election to the crown, although no longer vested in the hands of the national assembly, as with the Visigoths, was yet subject to its approbation. The title of the heir apparent was formally recognised by a cortes convoked for the purpose ; and, on the demise of his parent, the new sovereign again convened the estates to receive their oath of allegiance, which they cautiously withheld, until he had first sworn to preserve inviolate the liberties of the constitution. Nor was this a merely nominal privilege, as was evinced on more than one memorable occasion.⁸²

We have seen, in our review of the popular branch of the government, how closely its authority pressed even on the executive functions of the administration. The monarch was still further controlled, in this department, by his Royal or Privy Council, consisting of the chief nobility and great officers of state, to which, in later times, a

⁸² Marina, Teoría, part. 2, cap. 2, 5, 6. — A remarkable instance of this occurred as late as the accession of Charles V.

deputation of the commons was sometimes added.⁸³ This body, together with the king, had cognizance of the most important public transactions, whether of a civil, military, or diplomatic nature. It was established by positive enactment, that the prince, without its consent, had no right to alienate the royal demesne, to confer pensions beyond a very limited amount, or to nominate to vacant benefices.⁸⁴ His legislative powers were to be exercised in concurrence with the cortes;⁸⁵ and, in the

⁸³ The earliest example of this permanent committee of the commons, residing at court, and entering into the king's council, was in the minority of Ferdinand IV., in 1295. The subject is involved in some obscurity, which Marina has not succeeded in dispelling. He considers the deputation to have formed a necessary and constituent part of the council, from the time of its first appointment. (*Teoría*, tom. ii. cap. 27, 28.) Sempere, on the other hand, discerns no warrant for this, after its introduction, till the time of the Austrian dynasty. (*Histoire des Cortès*, chap. 29.) Marina, who too often mistakes anomaly for practice, is certainly not justified, even by his own showing, in the sweeping conclusions to which he arrives. But, if his prejudices lead him to see more than has happened, on the one hand, those of Sempere, on the other, make him sometimes high gravel blind.

⁸⁴ The important functions and history of this body are investigated by Marina. (*Teoría*, part. 2, cap. 27, 28, 29.) See also Sempere, (*Histoire des Cortès*, cap. 16.) and the *Informe de Don Agustin Riol*, (apud *Semanario Erudito*, tom. iii. pp. 113 et seq.) where, however, its subsequent condition is chiefly considered.

⁸⁵ Not so exclusively, however, by any means, as Marina pretends. (*Teoría*, part. 2, cap. 17, 18.) He borrows a pertinent illustration from the famous code of Alfonso X., which was not received as law of the land till it had been formally published in cortes, in 1348, more than seventy years after its original compilation. In his zeal for popular rights, he omits to notice, however, the power, so frequently assumed by the sovereign, of granting *fueros*, or municipal charters; a right, indeed, which the great lords, spiritual and temporal, exercised in common with him, subject to his sanction. See a multitude of these seignorial codes, enumerated by Asso and Manuel. (*Instituciones*, Introd., pp. 31 et seq.) The monarch claimed, moreover, though not, by any means, so freely as in later times, the privilege of issuing *pragmáticas*, ordinances of an executive character, or for the redress of grievances submitted to him by the national legislature. Within certain limits, this was undoubtedly a constitutional prerogative. But the history of Castile, like that of most other countries in Europe, shows how easily it was abused in the hands of an arbitrary prince.

INTROD. judicial department, his authority, during the latter part of the period under review, seems to have been chiefly exercised in the selection of officers for the higher judicatures, from a list of candidates presented to him on a vacancy by their members concurrently with his privy council.⁸⁶

Poverty of
the crown.

The scantiness of the king's revenue corresponded with that of his constitutional authority. By an ancient law, indeed, of similar tenor with one familiar to the Saracens, the sovereign was entitled to a fifth of the spoils of victory.⁸⁷ This, in the course of the long wars with the Moslems, would have secured him more ample possessions than were enjoyed by any prince in Christendom. But several circumstances concurred to prevent it.

The long minorities, with which Castile was afflicted perhaps more than any country in Europe, frequently threw the government into the hands of the

Its causes.

⁸⁶ The civil and criminal business of the kingdom was committed, in the last resort, to the very ancient tribunal of *alcaldes de casa y corte*, until, in 1371, a new one, entitled the royal audience or chancery, was constituted under Henry II., with supreme and ultimate jurisdiction in civil causes. These, in the first instance, however, might be brought before the *alcaldes de la corte*, which continued, and has since continued, the high court in criminal matters.

The *audiencia*, or chancery, consisted at first of seven judges, whose number varied a good deal afterwards. They were appointed by the crown, in the manner mentioned in the text. Their salaries were such as to secure their independence, as far as possible, of any undue influence; and this was still

further done by the supervision of cortes, whose acts show the deep solicitude with which it watched over the concerns and conduct of this important tribunal. For a notice of the original organization and subsequent modifications of the Castilian courts, consult Marina, (*Teoria*, part. 2, cap. 21 - 25.) Riol, (*Informe*, apud *Semanario Erudito*, tom. iii. pp. 129 et seq.) and Sempere, (*Histoire des Cortès*, chap. 15,) whose loose and desultory remarks show perfect familiarity with the subject, and presuppose more than is likely to be found in the reader.

⁸⁷ *Siete Partidas*, part. 2, tit. 26, leyes 5, 6, 7. — Mendoza notices this custom as recently as Philip II.'s day. *Guerra de Granada*, p. 170.

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I.

principal nobility, who perverted to their own emoluments the high powers intrusted to them. They usurped the possessions of the crown, and invaded some of its most valuable privileges; so that the sovereign's subsequent life was often consumed in fruitless attempts to repair the losses of his minority. He sometimes, indeed, in the impotence of other resources, resorted to such unhappy expedients as treachery and assassination.⁸⁸ A pleasant tale is told by the Spanish historians, of the more innocent device of Henry the Third, for the recovery of the estates extorted from the crown by the rapacious nobles during his minority.

Returning home late one evening, fatigued and half famished, from a hunting expedition, he was chagrined to find no refreshment prepared for him, and still more so, to learn from his steward, that he had neither money nor credit to purchase it. The day's sport, however, fortunately furnished the means of appeasing the royal appetite; and, while this was in progress, the steward took occasion to contrast the indigent condition of the king with that of his nobles, who habitually indulged in the most expensive entertainments, and were that very evening feasting with the archbishop of Toledo. The prince, suppressing his indignation, determined like the far-famed caliph, in the "Arabian Nights," to inspect the affair in person, and, assuming a disguise, introduced himself privately into the archbishop's palace, where he witnessed

Anecdote of
Henry III.,
of Castile.

⁸⁸ Mariana, Hist. de España, lib. 15, cap. 19, 20.

INTROD. with his own eyes the prodigal magnificence of the banquet, teeming with costly wines and the most luxurious viands.

The next day he caused a rumor to be circulated through the court, that he had fallen suddenly and dangerously ill. The courtiers, at these tidings, thronged to the palace; and, when they had all assembled, the king made his appearance among them, bearing his naked sword in his hand, and, with an aspect of unusual severity, seated himself on his throne at the upper extremity of the apartment.

After an interval of silence in the astonished assembly, the monarch, addressing himself to the primate, inquired of him, "How many sovereigns he had known in Castile?" The prelate answering four, Henry put the same question to the duke of Benevente, and so on to the other courtiers in succession. None of them, however, having answered more than five, "How is this," said the prince, "that you, who are so old, should have known so few, while I, young as I am, have beheld more than twenty! Yes," continued he, raising his voice, to the astonished multitude, "you are the real sovereigns of Castile, enjoying all the rights and revenues of royalty, while I, stripped of my patrimony, have scarcely wherewithal to procure the necessaries of life." Then giving a concerted signal, his guards entered the apartment, followed by the public executioner bearing along with him the implements of death. The dismayed nobles, not relishing the turn the jest appeared

likely to take, fell on their knees before the monarch and besought his forgiveness, promising, in requital, complete restitution of the fruits of their rapacity. Henry, content with having so cheaply gained his point, allowed himself to soften at their entreaties, taking care, however, to detain their persons as security for their engagements, until such time as the rents, royal fortresses, and whatever effects had been filched from the crown, were restored. The story, although repeated by the gravest Castilian writers, wears, it must be owned, a marvellous tinge of romance. But, whether fact, or founded on it, it may serve to show the dilapidated condition of the revenues at the beginning of the fourteenth century, and its immediate causes.⁸⁹

Another circumstance, which contributed to impoverish the exchequer, was the occasional political

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⁸⁹ Garibay, Compendio, tom. ii. p. 399. — Mariana, Hist. de España, tom. ii. pp. 234, 235. — Pedro Lopez de Ayala, chancellor of Castile and chronicler of the reigns of four of its successive monarchs, terminated his labors abruptly with the sixth year of Henry III., the subsequent period of whose administration is singularly barren of au-

thentic materials for history. The editor of Ayala's Chronicle considers the adventure, quoted in the text, as fictitious, and probably suggested by a stratagem employed by Henry for the seizure of the duke of Benevente, and by his subsequent imprisonment at Burgos. See Ayala, Crónica de Castilla, p. 355, note, (ed. de la Acad., 1780.)

Notwithstanding the general diligence of the Spanish historians, they have done little towards the investigation of the constitutional antiquities of Castile, until the present century. Dr. Geddes's meagre notice of the cortes preceded probably, by a long interval, any native

work upon that subject. Robertson frequently complains of the total deficiency of authentic sources of information respecting the laws and government of Castile; a circumstance, that suggests to a candid mind an obvious explanation of several errors, into which he has

Constitutional writers on Castile.

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revolutions in Castile, in which the adhesion of a faction was to be purchased only by the most ample concessions of the crown. — Such was the violent revolution, which placed the House of Trastamara on the throne, in the middle of the fourteenth century.

But perhaps a more operative cause, than all these, of the alleged evil, was the conduct of those imbecile princes, who, with heedless prodigality, squandered the public resources on their own personal pleasures and unworthy minions. The disastrous reigns of John the Second and Henry the Fourth, extending over the greater portion of the fifteenth century, furnish pertinent examples of this. It was not unusual, indeed, for the cortes, interposing its paternal authority, by passing an act for the partial resumption of grants thus illegally made, in some degree to repair the broken condition of the finances. Nor was such a resumption unfair to the actual proprietors. The promise to maintain the integrity of the royal demesnes formed an essential part of the coronation oath of every sovereign; and the subject, on whom he afterwards con-

fallen. Capmany, in the preface to a work, compiled by order of the central junta in Seville, in 1809, on the ancient organization of the cortes in the different states of the Peninsula, remarks, that “no author has appeared, down to the present day, to instruct us in regard to the origin, constitution, and celebration of the Castilian cortes, on all which topics there remains the most profound ignorance.” The melancholy results to which such an investigation must necessarily

lead, from the contrast it suggests of existing institutions to the freer forms of antiquity, might well have deterred the modern Spaniard from these inquiries; which, moreover, it can hardly be supposed, would have received the countenance of government. The brief interval, however, in the early part of the present century, when the nation so ineffectually struggled to resume its ancient liberties, gave birth to two productions, which have gone far to supply the *desiderata* in this