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**The ANGLO-PORTUGUESE TREATIES of 1642 & 1654
and why Portugal lost control
of her commerce in the XVIIth Century**

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A detailed study of the articles of any commercial treaty can reveal much concerning the economic conditions in the countries concerned. The Anglo-Portuguese commercial treaties of 1642 and 1654, which were confirmed in Article 1 of the 1661 Articles of Marriage between Charles II and Catherine, the Lady Infanta of Portugal, are no exception. Each contains an article giving a clue as to one of the chief reasons why Portugal gradually lost control of her own trade and commerce after the mid-sixteenth century.

Article 6 of the 1642 treaty and Article 5 of the 1654 treaty concerned the repayment of debts owed to Englishmen by Portuguese imprisoned by the Inquisition. In the 1642 treaty, the court of the Inquisition was given one year in which to effect payment to creditors out of confiscated estates, whilst in the 1654 treaty, it was given six months, with the proviso that if any specie was sequestered, it was to be paid over to settle the debts immediately.¹ To understand why these articles were considered necessary by the makers of those treaties, an explanation is needed.

During the sixteenth and seventeenth centuries all trade operated on a credit system because coins were relatively scarce. A foreign merchant trading in Portugal would obtain his goods abroad on credit and his debt to his suppliers would be repaid from his return consignment. The delay in repayment would be reflected in the agreed price, in order that the strict laws against usury could be circumvented. In Portugal, the foreign merchant (a wholesaler) would sell his goods to Portuguese merchants in exchange for goods to be shipped back to his own country, or he would sell them on credit to Portuguese retailers, to be paid for in cash after an agreed period of time, in order to allow the retailers to sell the goods to the man in the street. However, that period of time had to be within his own period of extended credit with his own

suppliers in his own country. This was because if that foreign merchant became involved, as so often happened, in long-drawn-out court cases whilst he was abroad, or met with other difficulties which caused him to be delayed, his funds would all be dissipated and he would lose his credit with his own suppliers and go out of business.² It was to meet this need for swift justice that King Fernando (1367-1383), on 29 October 1367, designated the judge of the customs house, or *juiz dos feitos da alfândega*, as the sole authority to take cognisance of and settle all disputes in which Englishmen were concerned.³ Other nations trading in Portugal received the same privilege. King Fernando was merely doing what he could to encourage trade. By the seventeenth century, the special magistrate of the English nation had become the judge conservator of the English nation, paid by Englishmen, and entitled on account of his seniority to take precedence over all the judges of other nations, so that all suits in which Englishmen were involved could be brought to the English judge's court.⁴ After the Inquisition was established in 1536, however, this privilege was to prove worthless where the collection of debts owed to Englishmen by Portuguese merchants imprisoned by the Inquisition were concerned. As will be shown the numbers of Portuguese merchants imprisoned by the Inquisition were far from negligible.

Portuguese society had an extremely rigid stratification, as was explained by Dr. Villiers in his article "Singers, Sailors, Watches and Wigs: Foreign influences in Portugal in the Reign of D. João V" which appeared in the Fourteenth Annual Report and Review of this journal (1987). Because of the *pecha mecânica*, Portuguese people were averse to demeaning themselves with trade, commerce or financially remunerative business unconnected with land or the church⁵. Since the early medieval period, therefore, these necessary trades had come to be in the hands of Jews. The Jews lived in *judiarias*, followed their own religion and were not subject to Roman Catholic church courts. In 1497, King Manuel I (1495-1521) forcibly baptised thousands of Jews in Portugal because that was the only way he could retain their commercial expertise and keep them in Portugal, for a condition of his marriage to the Spanish Princess Isabel was that all Jews and Muslims should be expelled. For twenty years the Jews were not allowed to leave the country without permission and during that time no enquiry was to be made into their beliefs. No one really believed that those who had been forcibly converted had really accepted Christianity, but because they were baptised Christians, they became subject to Roman Catholic

Church discipline and courts. Many of the former Jews continued to observe Jewish practices in secret, but others must have become good Catholics with the passing of time. In Europe generally Jews were disliked because they were financiers, usurers and tax-gatherers, as well as being merchants, traders and artisans, and they were blamed when there was economic scarcity. The belief that New Christians, as the baptised Jews and their descendants were called, were secretly practising their Jewish religion was anathema to Catholics, who welcomed the setting up of the Inquisition in 1536 as a means of preventing such deviation⁶. In August of that year proclamations went out inviting accusations to be made by all citizens against anyone suspected of being a heretic or morally perverted, on pain of imprisonment by the Inquisition if information was later found to have been knowingly withheld⁷. The main thrust of the Inquisition was indubitably aimed at punishing people of Jewish descent suspected of not being good Catholics, because signs of heresy were listed as including wearing white or dressing gaily on a Saturday; cleaning or sweeping the house on a Friday; testing the sharpness of a knife on the thumb and not eating pork, fish with skin or rabbit⁸. It has been reliably estimated that in round figures, 20,000 people were imprisoned for Judaism between 1536 and 1732, compared with 3,000 for other offences. In *História dos Principais Actos e Procedimentos da Inquisição em Portugal*, António Joaquim Moreira showed that between 1682-1691, 1,329 New Christians were judged (659 men and 670 women). Of these, 57% were upper middle class merchants, lawyers, officials and doctors and 30% were artisans.⁹

Fortunately for historians today, the Inquisition's records are some of the most complete in Portugal, unlike so many government records which were lost as a result of the 1755 earthquake. Although the proceedings of the Inquisition were secret whilst it remained in operation, the successive *Regimentos* are available to students who wish to study them today, as are the meticulously documented case records. Every one of the latter starts by enumerating the information (accusations) laid against the prisoner. When the Inquisition was ready to strike, the familiars were sent to effect arrests, but prisoners never knew who had accused them or of what they were accused. On arrest all prisoners' assets and property, including their dwellings, were confiscated and their families were turned out on the streets. When New Christians were taken by the Inquisition, they went in as New Christians, but if they were freed after, say, five or six years of questioning and torture, they were stigmatised as Jews and their punishments stretched down to their

children and grandchildren. Their names were put up in churches for all to revile. No-one could make a complaint about these proceedings, for that would be considered a criticism of the Inquisition and that, according to the Inquisition, was an excommunicable crime and invited arrest.¹⁰

One of the first things that a prisoner was told to do was to swear that the list which had been compiled of his property was complete.¹¹ Lists in Inquisition records show that the merchants were owed large sums by *fidalgos*, religious institutions and the state.¹² On the other hand, no note was taken of debts owed by prisoners. Prisoners were told that they were "forgiven" their debts.¹³ Because of the credit system of trading explained above, every time a merchant was imprisoned by the Inquisition, he was sure to have debts owing to Englishmen or other foreign merchants at the time of his imprisonment. These were the debts which were forgiven, and because they were forgiven, they were not even noted on the carefully prepared lists made of the prisoners' property signed by the prisoners. Merchandise confiscated, even if not yet paid for, was always registered as having been owned by the prisoners. Everything so shown to belong to the prisoners was registered and deposited with the *fisco*, an office whose judge, by the seventeenth century, owed his appointment to the Inquisitor General.¹⁴ Because debts were never registered with the *fisco* as being in existence, it was impossible for any foreign merchant to make a claim through the *fisco* to recover what was due to him. The only proofs of the debt were in his own records. Even if there had been witnesses to a business deal, they would not have dared to come forward. Thus the Inquisition never objected to Articles 6 (1642) and 5 (1654) at the time they were drawn up, because it knew that it would be impossible to prove the debt and there was, therefore, no reason for concern.

All foreign merchants trading in Portugal must have been affected by the impossibility of obtaining repayment of debts from the *fisco*. Thomas Maynard (Consul 1656-1660, Consul General 1660-01689) was the first Englishman to make an official complaint on this score, but then he was the first Protestant consul. It is unlikely that a Catholic consul would have had the courage to petition the tribunal for payment. The amounts involved were considerable and must have been of importance to the merchants concerned. The undated complaints of English merchants among the documents for 1662 in the State Papers, Portugal show that over 40,000 crowns was owing to the English merchants for

goods sold on credit to Portuguese merchants imprisoned by the Inquisition. Some claims were said to be over five years old.¹⁵ A list of grievances dated 8 June 1664 stated that in 1661 the *mesa grande* of the Inquisition had confirmed that the English merchants were not entitled to receive anything from the sequestered estates of new Christians, and that even with a letter from the king, which was read at the *mesa pequena*, the Inquisition refused to acknowledge that it knew anything about a treaty between England and Portugal. This was, of course, quite untrue. What they perhaps meant was that they did not acknowledge the existence of the 1654 treaty because in 1656 the treaty had been ratified against their wishes¹⁶.

Francis Parry (Agent and, later, Resident 1670-1680) wrote to Lord Arlington at a time when a renewal of the 1654 treaty was being discussed, suggesting that Article 5 should include:

The debts which shall appears by such prrofs as are Allowed to be sufficient in any other Court or Judicature, shall be fully paid out . . . without molestation from the Inquisition, their judges or ministers or from any officers or judges of the *fisco*.

He explained that the Inquisition was insisting on such proofs as were almost impossible to be given, and the judges of the *fisco* were just as guilty. Parry also thought that a clause should be inserted to ensure that the quittance given by the Inquisition of a prisoner's debts did not absolve the debtor from paying those debts, if or when he might be discharged by the Inquisition and continued to trade.¹⁷ This was because it paid English merchants to aid Portuguese merchants to escape from Portugal, in order that once in England, the United Provinces, France or Italy, they could be expected to start to trade again and repay their debts.

In 1671, a sacrilege was committed in a church at Odivelas,¹⁸ which unleashed a series of Inquisition decrees for the extirpation, banishment and degradation of New Christians. Maynard said that if they were extirpated, it would extirpate all the merchants in Portugal and be the ruin of commerce.¹⁹ Parry thought that even the Inquisition was really against the banishment of people of Jewish race, because without Jews their most profitable source of income would be gone. If they were to

be banished, it would cost the English nation in Portugal at that time about 200,000 crowns in unpaid debts.²⁰ He explained to Secretary Williamson that the reason for this was that the New Christians never kept more than a quarter of their capital in Portugal. This was owing to the difficulties they experienced, not from the witch-hunt then in progress, but because of the everyday attitude of the people and the Inquisition towards them. The English merchants did not want to sell goods to the New Christians at that time, though they dared not sell them to others, because that would be to distrust the New Christians, who would then refuse to pay anything for the goods they had already received on credit. Most of the New Christian merchants could only satisfy old debts by new sales.²¹ In the event, the Inquisition did give a general pardon those New Christian returning to trade, but all those who had been punished for judaism by the Inquisition were to be further degraded by being prohibited from riding in coaches, litters or on horses; they were not to use silk or objects of precious metal and they were not to be allowed to perform public office or honorary duties or to be tax gatherers.²²

It was the periodically concentrated attacks on New Christians, such as the Odivelas affair, which left sudden gaps in retail outlets. Foreign merchants were, therefore, drawn into the vacuum created in the retail trade, for no other reason than that they already had the essential supplies needed by the people in their wholesale stores.²³ Furthermore, possession of retail outlets would have been prized because they gave easier access to coinage. As far as protestant Englishmen were concerned, they had an advantage in that as long as they remained protestants they were not subject to the discipline of the catholic church and so they and their possessions were not liable to sudden seizure by the Inquisition.²⁴

The inability to reclaim monies owed to them through the *fisco* was certainly a great loss to English merchants and was probably the cause of many of them being "broken" in their trading ventures. In the long run, however, it was Portugal which suffered most, losing control of its own economy because the Inquisition was maintaining itself on the profits of trade made by Portuguese merchants, factors and artisans.

NOTES

1. G. Chalmers, *A Collection of Treaties Between Great Britain and Other Powers*, 2 vols., London, 1790. Articles of Peace and Commerce, 29 January 1642 O.S., ii, 258-267; Treaty of Peace and Alliance, 10 July 1654 O.S., ii, 267-286; Articles of Marriage, 13 June 1661 O.S., ii, 386-296.
2. Many studies have made of medieval trade. See, for instance: E.M. Carus-Wilson, *Medieval Merchant Venturers, Collected Studies*, London, 1954; *Studies in the 15th Century*, ed. E.E. Power and M.M. Postan, London, 1933, and *The Cely Papers*, ed. H.E. Melden, (Camden Society, 3rd Ser. 1), 1900.
3. British Library, *Add. Ms.* 27344, f.20 (index under Affonso V) List of Privileges collected by Consul General Abraham Castres, Lisbon, 1746. See also: H.V. Livermore, 'The Privileges of an Englishman in the Kingdoms and Dominions of Portugal', *Atlante*, ii (1954), 57-77, at p. 66, n. 1.
4. Livermore, 'Privileges of an Englishman', 66, n. 2.
5. J.F.H. Villiers, 'Singers, Sailors, Watches and Wigs: Foreign Influences in Portugal in the Reign of D. João V', *The British Historical Society of Portugal*, xiv (1987), 57-77.
6. H.V. Livermore, *A New History of Portugal*, Cambridge, 1966 (1969 edn), p. 134; J. Lúcio de Azevedo, *História dos Cristãos Novos Portugueses*, Lisbon, 1921, p. 25.
7. A.J. Saraíva, *A Inquisição Portuguesa*, Lisbon, 1956 (2nd Revised edn.), p. 39.
8. *Ibid.*
9. Azevedo, *op. cit.* pp. 337 and 492; Saraíva, *op. cit.*, p. 86.
10. *Ibid.*, p. 242; Saraíva, *op. cit.*, pp. 45-46.
11. H. Kamen, 'Confiscations in the Economy of the Spanish Inquisition', *Economic History Review*, xviii (1965), 512-525, at 512.
11. H. Kamen, 'Confiscations in the Economy of the Spanish Inquisition', *Economic History Review*, xviii (1965), 512-525, at 512.
12. A.J. Saraíva, *A Inquisição e os Cristãos Novos*, Oporto, 1969, pp. 265-266.
13. Michael Geddes, *Miscellaneous Tracts*, 3 vols., London, 1714, i, 542-543; Karem, *op. cit.*, 521-522.
14. Azevedo, *op. cit.*, p. 258; Saraíva, *Inquisição e os Cristãos Novos*, p. 253. These authorities consider it was doubtful if, by the seventeenth century, the Crown had any control over the *fisco*. Certainly revenue from confiscations was all used by the Inquisition.
15. S.P. 89/5, f.170, Undated Grievances of English Merchants in Portugal.
16. S.P. 89/6, f.242, Grievances of English Merchants in Portugal, 8 June 1664 N.S. For a detailed explanation of the role played by the Inquisition at the time of the

ratification of the 1654 treaty in 1656, see: L.M.E. Shaw, 'The English Merchants and Portugal, 1650-1690, Consul Thomas Maynard', (University of London Ph.D. thesis, 1986), pp. 93-108 and 120-140.

17. British Library, *Add. Ms.* f34332, f.28, Parry to Arlington, Lisbon, 12/22 October 1671.
18. S.P. 89/11, f.12, Parry to Williamson, Lisbon, 8/18 May 1671.
19. *Ibid.*, f.140, Maynard to Arlington, Lisbon, 1/11 June 1671.
20. *Ibid.*, f.202v, Parry to Arlington, Lisbon, 11/21 September 1671.
21. *Ibid.*, f.205, Parry to Williamson, Lisbon, 25 September/5 October 1671.
22. S.P. 89/12, f.218, Maynard to Arlington, Lisbon, 5/15 February 1671/2; Azevedo, *op. cit.*, p. 293.
23. J. Romero Magalhães, 'The English in the Algarve in the XVII and XVIII centuries', *The British Historical Society of Portugal*, xv (1988), 35-45, at 35-36.
24. *Ibid.* 41-42.