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**ARTICLE 25 OF THE ANGLO-PORTUGUESE TREATY OF 1654  
AND  
THE HALF CUSTOM**

**by L. M. E. Shaw**

Article 25 of the 1654 Anglo-Portuguese Treaty concerned the arrangements made to set up a joint Anglo-Portuguese Board in London to consider claims made by English merchants, ship owners and seamen with regard to losses suffered by them as a result of their imprisonment and the confiscation of their property by order of John IV on June 2/12, 1650. That action on the part of the Portuguese had led to a blockade of Lisbon and other Portuguese ports. Hostilities with England, as well as war with Spain and renewed Dutch attacks on Portuguese shipping, could not be supported by Portugal at that time. While Blake's fleet patrolled the coast of Portugal, food supplies in Lisbon dwindled and prices soared.<sup>1</sup> John therefore sent an envoy to England in 1651 and an ambassador in 1652 and it was finally agreed, vide Article 25, that half the custom paid by English merchants should be put aside to cover the losses of Englishmen as a result of the 1650 confiscations.

Until some 30 years ago, it had been fashionable among historians to minimise the losses suffered by Englishmen, but Bentley T. Duncan's research<sup>2</sup> and the availability to researchers of copies of the previously unavailable private papers of the Condes da Ponte, have shown how very serious those losses were.<sup>3</sup> Secret orders had been issued to the governors of Madeira, Azores, Aveiro, Viana and Oporto to detain all English ships found in their areas, to keep an eye on the English merchants and to make inventories of all English property.<sup>4</sup> At the time there were some sixty merchantmen in metropolitan ports alone, and nine or more ships were with the Brazil fleet in Bahia. Englishmen had property on Portuguese vessels as well as ashore.<sup>5</sup> In Lisbon, all but seven merchants who had shown themselves to be violently Royalist in sympathy, were arrested.<sup>6</sup> Treatment meted out to imprisoned merchants and seamen was unacceptably hard, even by 17th century standards.<sup>7</sup>

This article is about how Article 25 was observed in practice.

In the Torre do Tômbo there is a group of papers from the Madeira archives. Among them, for the relevant period, are a customs entry book, a register of treasury accounts and a letter book. They are not a set and do not run concurrently so they do no more than haphazardly cover a period from 1640-1665. From the letter book (that of Francisco de Andrada), it is possible to confirm that the half custom due to the English under the terms of Article 25 of the 1654 treaty, was withheld from them in Madeira until December 17, 1660. On that date Andrada wrote to the queen saying that he had received her instructions to the effect that half the custom on entries into the customs on goods brought from England should be given to the consul. Between October 8, 1657 and the end of 1659, the amount due was 1536\$513 rs. This sum Andrada had noted in a book. The *almoxarife* (receiver of the customs) had told him not to pay it until he had received a specific order from the queen to do so, because it might be that the order was only valid under the Protector, and not under the king. Why it had not been paid over during the Protectorate, when it was valid, is not explained. Andrada thought it best, however, to advise the queen of this.<sup>8</sup> Unfortunately, no record of the queen's reply, if any, has been found.

Owing to factors embedded in the Portuguese fiscal system during the 17th century, it could reasonably have been expected that the Portuguese customs officers would withhold the half custom for three months, six months or a year.<sup>9</sup> It has to be borne in mind that at that time money, as opposed to credit, was an extremely scarce commodity. Men who had the management or collection of money in their hands, expected to make a good profit on it before handing it over to the designated recipients. Customers were usually responsible financiers. They paid rent for their farms for a given period. That rent was usually paid partly in advance and partly in equal portions at definite periods by arrangement. They also had to administer the customs according to the law of the land and bear the cost of that administration during their terms of office. The staff, such as tidesmen, collectors, waiters, etc., bought their positions. In times of necessity, customers were expected to act as moneylenders to the crown.<sup>10</sup> In the 17th century, the same system of farming the customs was general throughout Europe. For the prince of a state, it had advantages, in that it gave him a regular specified income over a given number of years. However, having leased or farmed the customs, his control of the customs was minimal, because the farmers were in overall charge. When John IV de-

creed that half the custom of the English was to be set aside as compensation for the confiscations by the Portuguese of all English property in Portugal and its dominions in June 1650, he was, in fact, reallocating customs duties. He would thereby have obtained a forced loan from customers if they had been expected to pay over the half custom immediately. It is no wonder they delayed payment. Only by paying the English the money at the time when, in accordance with the terms of their farm they were due to pay tax gathered to the crown, could they effect payment without loss to themselves.

Francisco de Melo (later Conde da Ponte and Marquês de Sande) was sent to England as ambassador in 1657 and to take over from Francisco Ferreira Rebello the matter of the settlement of the claims of the merchants and seamen. Consul Maynard had complained that more than £30,000 was due to the English nation for goods taken and that the customs in Aveiro and Viana were withholding the half custom entirely, because all customs in those ports were normally paid to particular persons and institutions, such as friars and nuns. Other ports, too, had failed to hand over sums due to the appointed treasurers.<sup>11</sup> No money had been made available for the merchants and William Bird (perhaps the treasurer of the factory at that time) advised Maynard that 50,000 *cruzados* were now owing in Lisbon.<sup>12</sup> Thurloe (who was Secretary to the Council of State and afterwards to the two Protectors Oliver and Richard Cromwell) complained to Melo about this and he suggested that it would be better if the treasurers of the Portuguese customs were to give receipts for customs paid. He emphasised in his letter to the queen the importance of not giving the English cause to complain.<sup>13</sup> This had little effect in Portugal. Melo was in a difficult position for he had been sent to England to negotiate a desperately needed treaty, empty-handed except for commercial privileges which had been granted previously.<sup>14</sup> As negotiations for that treaty were nearing their end, his pleas to the queen to ensure that the terms of the treaty of 1654 were kept became ever more urgent: 'Prostrate at your feet, I beg your majesty to order that the treaty be kept exactly'.<sup>15</sup>

Queen Luisa was forced to retire as Regent in June 1662, and, after that, it is clear that there was a complete cessation of payments required under the terms of Article 25. An order in Council of March 27, 1668 instructed Sir Robert Southwell, who was sent to Portugal as Envoy in 1666, to press for satisfaction for the goods taken in 1650. £200,000 principal was still outstanding, plus interest at 3% per annum, which, by then, made the sum owed more than had been received of the half custom be-

fore 'by reason that the king of Portugal hath restrained thereof ever since ye year 1662'.<sup>16</sup> Southwell was asked to press the Portuguese for satisfaction. In November 1668, the Portugal merchants in London also wrote to Southwell asking him to press their claims for the £200,000 plus interest.<sup>17</sup> Southwell had the greatest difficulty in persuading the Portuguese even to discuss the matter. When he requested talks on the subject with the *Procurador da Fazenda* Mendosa de Elvas, and Francisco Fereira Rebelo, who had originally represented the Portuguese interests at the London enquiry, both maintained that the merchants had been satisfied and overpaid. Southwell went to the extent of offering security for the overpayment, if they would only come and discuss the matter with him. Rebelo repeated that at the time he had protested about the short amount of time allowed for the examination of the cases before a notary in the presence of Colonel Jones, the adjudicator of the committee established to settle the claims. According to Southwell, the Portuguese were in a passion against the whole affair, maintaining that nothing so unreasonable had ever been insisted on before. Portugal had gone to war for being hospitable to a prince of the blood. Umpire Jones had been hanged for misdemeanours against the crown, so why should that crown now press for payment on behalf of the merchants.<sup>18</sup>

Obviously, the Portuguese had no sympathy for the losses sustained by merchants and seamen who had happened to be alive and operating during the Interregnum. Portugal had been at war with the Commonwealth, so they deserved to be treated as enemies. It was at this juncture that Southwell suddenly managed to come to an agreement about the payment of Queen Catherine's dower. In the absence of any new instructions to him on the subject, and faced with a refusal on the part of the Portuguese to honour Article 25, he managed to negotiate an assignation of the half custom on future imports of English goods into all Portuguese ports for this purpose. In addition, he obtained an assignation on the annual donative raised in Brazil to cover the cost of the marriage of Catherine to Charles II.<sup>19</sup> Southwell realised that the merchants would be most displeased. Doubtless that is why he explained to them in detail the reactions of Mendosa de Elvas and Fereira Rebelo. He suggested to the merchants that Charles might later obtain the extension of the assignation of the half custom to the Islands, so that sugars from Brazil and goods from other countries, sent on account of English merchants, could also be included. He told them that it was possible that they might get half the consulado (a 3 per cent tax) put towards their claims, but Portugal had pressing wants and was all shifts and excuses. He advised the merchants

to let Charles have the half custom first. 'The trouble of attending so long is put in balance with the danger of getting nothing'. They were reminded that the interest of 3 per cent ran whilst the debt was unpaid.<sup>20</sup>

In his instructions to Sir Richard Fanshaw, dated August 23, 1661 O.S., Charles II had said that the principal advantages for England of the 1661 treaty were the advancement of its trade and enlargement of its own territories and dominions.<sup>21</sup> However, he was consistently lethargic in aiding the merchants who did the trading and consistently put his personal financial interests, as embodied in the dowry, before the interests of the merchants. Like the Portuguese, he had little sympathy for the losses sustained by merchants.

Thus, following the receipt of Southwell's letter on August 24, 1669, a petition from the merchants was read in the Council, saying that the agreement made by him could inevitably mean that Portugal's debt to them would never be paid, leading to their utter ruin. Charles was begged to reject the agreement.<sup>22</sup> He did not, of course, do so. A further petition was presented to Charles in 1672. Francis Parry, who was then England's representative in Portugal, petitioned the Prince Regent on their behalf, but as he was also petitioning at the same time for payment, from the same source, of the Queen's portion, his petition for the widows, merchants and seamen had little weight.<sup>23</sup>

Part of the donative from Brazil had also been allocated to the Dutch. They, too, had difficulty in getting Portugal to honour agreements unless they took a hard line. Charles would not do this. He was petitioned again by the merchants, mariners, widows and orphans in February 1679 and referred the matter to the Commissioners of Trade and Plantations.<sup>24</sup> After a further petition had also been sent to them, the Commissioners advised the king in July 1679, that they considered the petitioners' claims to be justified and that they should be strongly supported by the king.<sup>25</sup> As far as is known, Charles took no further action whatsoever. Agreement was not reached about the final settlement of the dower until 1684, 23 years after the 1661 treaty and 31 years after the 1654 treaty. By that time, few who had suffered under the sequestrations would have still been living, given that the average life expectancy at the time was 35 years. Portugal always pleaded poverty as an excuse for not fulfilling agreements. In the words of Charles Fanshaw, who was responsible for negotiating the final payments of the dower, 'every farthing comes from them like drops of blood'.<sup>26</sup>

## NOTES

1. John IV, *Cartas de El Rei D. João IV para Diversas Autoridades do Reino*, ed. P. M. Laranjo Coelho, Lisbon, 1940, pp. 382-3, 433-4, 436, 439 and 445. John IV to various authorities between June 24, 1650 and March 28, 1651.
2. Bentley T. Duncan, 'Uneasy Allies, Anglo Portuguese Commercial, Diplomatic and Maritime Relations, 1642-1662' (Chicago University Ph.D. thesis, 1967).
3. The original of these private papers were sold at Sotheby's but prior to their sale copies were taken.
4. John IV *Cartas* pp. 372-3, John IV to governors named, Lisbon 8 June 1650 N.S.
5. C. R. Boxer, 'Blake and the Brazil Fleet in 1650', *Mariners' Mirror* (1950), 220.
6. SP89/4 ff. 83-96 and 100. Court of Admiralty Enquiry, 8 October 1651 and R. Blake, *The Letters of Robert Blake*, ed. J. R. Powell, London 1927, p. 13.
7. See, for instance, Decree of June 27, 1650 in *Collecção Chronologica da Legislação Portuguesa, 1648-1656*, ed. Justino de Andrade e Silva, 1856, and *The Deposition Books of Bristol (1650-1654)* eds. H. E. Nott and E. Ralph, II, p. 97.
8. Torre do Tômbo, *Archivos de Funchal* 396, f.71', Andrada to Luisa, Funchal, December 17, 1660 N.S.
9. B.L. *Add. Ms.* 35101, ff. 222'-233, Parry to Lord Treasurer, Lisbon, May 22/June 1, 1679 gives an example of this.
10. For a detailed description of the operation of the farm of the customs in England, see: A. P. Newton, 'The Establishment of the Great Farm of the English Customs', *Translation of the Royal Historical Society*, 4th Series, i (1918), 129-155.
11. J. Thurloe, *A Collection of the State Papers of John Thurloe, Esq., Secretary, First, to the Council of State, and Afterwards to the Two Protectors, Oliver and Richard Cromwell*, ed. T. Birch, 7 vols., London, 1742, VI, pp. 152-4, Maynard to Thurloe, Lisbon, April 9, 1657 N.S.
12. *Ibid.* pp. 476-7, Maynard to Thurloe, Lisbon, August 21/31, 1657.
13. *Archivos da Ponte I* f. 19' (62-63), Melo to Luisa, London, December 24, 1657.
14. The treaty became known as the Treaty of Westminster.
15. *Archivos da Ponte I* f. 358 (957), Melo to Luisa, London, August 30, 1660.
16. B.L. *Add. Ms.* 34337, f. 179, Order in Council, Whitehall, March 27, 1668.
17. SP 89/10, f. 71, English merchants whose goods were sequestered in Portugal to Southwell, London, November 20, 1668 O.S.
18. SP 89/10, ff. 69-70, Southwell to merchants in London, Lisbon, April 26/May 4, 1669.
19. *Ibid.* f.61', Southwell to Arlington, Lisbon, April 19/29, 1669; *Add. Ms.* 34337, f. 198, copy of *Alvará* of May 25, 1669. The donative from Brazil was collected specifically for the dowry, but had been used in general revenue by Portugal. As a result of this agreement, Charles was only to receive half of the donative. The other half was allocated by Portugal to pay the Dutch.
20. SP 89/10, ff. 69-70, Southwell to Portugal merchants in London, Lisbon, April 26/May 4, 1669.
21. H.M.C., 50 *Heathcote*, p. 18, Charles II to Fanshaw, Whitehall, August 23, 1661 O.S.
22. SP 89/10, f. 123, Petition from merchants and mariners to Charles II, August 1669 and endorsed 'Read in Council August 24, 1669'.
23. SP 89/12, f.4, Petition of merchants, mariners and widows, London, January 1672; f. 5, Parry's petition on the foregoing to Prince Regent, Lisbon. January 1672 N.S. and f. 11, Parry to Prince Regent, Lisbon, February 6, 1672 N.S.
24. SP 89/14, ff. 55 and 57, petition of merchants, mariners, widows and orphans to Charles II, London, February 1679, with annexed explanation. Both read in the Council on February 18 and June 17, 1679, according to endorsement on f. 57.
25. *Ibid.* ff. 69 and 71. The same petitioners to the Commissioners of Trade and Plantations, London, July 1679 and the latter's recommendations to Charles II, July 5, 1679 O.S.
26. SP 89/16, f. 43', Fanshaw to Jenkins, Lisbon, February 28, 1684 N.S.