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THE PORTUGUESE QUESTION,

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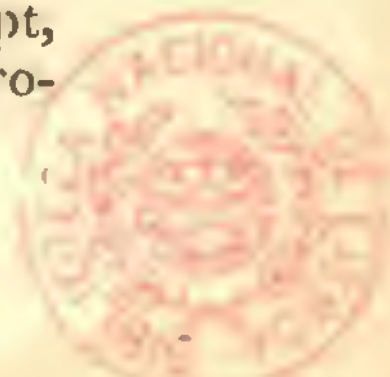
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Charte Constitutionnelle de Portugal. Paris, 1826. pp. 54. 24mo.
(Original, dated at Rio de Janeiro, 19. April 1826.)

THE affairs of Portugal have at this moment a peculiar importance. It is the only country of the Continent of Europe where the Monarch has offered liberty to the people, and where their right to accept that offer is disputed. It is not denied that the offer is made by the Monarch sincerely, freely, of his own accord. His authority to do every other act of sovereign authority has never been called in question at home or abroad. The hottest zealot of legitimacy cannot call him an usurper. He is the oldest male heir of a Royal Family which has filled the Throne of Portugal for near two hundred years. The Constitutional Monarchy which he has conferred on his country, is not formed on the model of Spain and Naples, but on those of France, the Netherlands, Sweden, Bavaria, Wurtemburgh, to say nothing of the ancient monarchy of Great Britain. It contains (as will be presently seen) security for the regal power, for the nobility, for the church, for every class of proprietors: and is in substance the ancient Constitution of Portugal, reformed according to the dictates of experience, and adapted to the circumstances of the present time. It would therefore be manifestly needless to revive, on this occasion, the questions recently in dispute between some of the great powers of Europe, and the people of Spain and Italy. These disputes have been practically determined by arms. Whatever may be the judgment of history concerning them, it cannot comprehend the case of Portugal, where the Constitution proceeds from the spontaneous act of a legitimate sovereign, grants a due share of power to every order of society, invades no legal possessions, disturbs no established dignity, and neither seizes an acre of land, nor spills a drop of blood; where, if any rapine or bloodshed should arise, it will be from the opponents of the Constitution, unprovoked by any acts or even words of its supporters. The only precedent which it can establish is, that a King and People may conjointly reform the institutions of a monarchy. Even those, therefore, who took up arms against the revolutions of Spain and Naples, may, in perfect consistency with all their avowed principles, approve the Constitution of Portugal. It is no part of the subject in dispute between the advocates of the unlimited sovereignty of the people, and the partisans of the indefeasible authority of monarchs. It is rather an attempt to negociate a peace between them. It has accordingly been joyfully received in Portugal by enlightened Royalists, as well as by considerate Liberals, as an attempt, by mutual concession, and under the Royal mediation, to pro-



tect the interests, and to satisfy the reasonable pretensions, of all classes of men. The principles common to both parties, are sufficient to resolve all the questions which can arise concerning it, and the prudent silence of both, on differences not now necessary to be considered, cannot be interpreted as a desertion of former opinions by either.

Let it be recollected too, that discussions about the government of the other unmixed monarchies of Europe, however important, can at present lead to nothing beyond right opinion. In Portugal alone there is a practical contest. Liberty is within the reach of the people, or rather it is in their hands—an attempt is threatened, and perhaps commenced, to snatch it from them, and, as usual, sophistry is employed to give some colour to violence. All that can be effected by reason, is to strip it of this colour. The rest must mainly depend on the sense and spirit of the nation, and on the prudence and moderation of great states, who have now an opportunity of manifesting, that their alliance was formed against what they thought licentiousness; and that, when they condemned reformatations not proceeding from the free grant of the sovereign, they really intended, what their words import, to oppose no cautious and moderate improvements, which issued from that regular source. It relates to a country which is still interesting from her ancient renown, from her heroes and her poets, from the illustrious part which she had in those discoveries and establishments which have spread the civilization of Europe over the earth, from a local situation, which connects her tranquillity with the continuance of a good understanding between some of the greatest powers, and to us of serious importance on account of the treaties of alliance and guarantee founded in common interest, which have for a century and a half bound, and which at this day bind, England to Portugal. Independent of these considerations, the introduction of liberty into the smallest spot subject to absolute power, is unspeakably more important to the well-being of mankind, than the greatest transfers of dominion, from one despotism to another. The question is not here, whether the free government be perfect? Its faults may be amended. Neither are we to inquire whether the measures adopted for its introduction be the wisest which could have been devised. The democratist must own it to be free, compared to absolute monarchy. The reasonable royalist will acknowledge it to be deliberate and stable, compared to uncontrouled democracy. Shall such a government, issuing from established authority, and accompanied by measures which bear the visible stamp of honest and benevolent intention, be overthrown by intrigue and mutiny, fomented by foreign Instigation, and supported by no national interest?

In speaking of transactions, which, though they affect the well-being of mankind, must, for the present, be regulated by the determination of a few, the writer who is conscious that, in such circumstances, he is able to do little good, will be very careful to do no harm. We shall on this subject, therefore, be content to be thought cold by most of our readers, rather than utter a syllable likely to excite or increase the fears or the anger, which would be the most formidable enemies of the cause which we undertake to defend. The subject is surrounded by warm and recent animosities, between individuals, parties and nations, which it is a principal object, and will be an unspeakable benefit of the Constitution of Portugal to allay; between individuals whose reconciliation is essential to the public quiet; between parties whom prolonged or renewed contest may drive into fierce extremities; between nations still bleeding from the painful, though inevitable amputation which has cut them asunder. All these differences are connected by many ties with the general peace of Europe. Far be it from us to avail ourselves of our obscurity, so far as to treat such matters with disregard. We shall be content with *proving*, that the new Institutions of Portugal are lawful, wise, and harmless; that any attack on that Kingdom, for them, would be iniquitous; and that, if it be foreborne, though we shall accept the forbearance as an act of generosity, it will be only a duty of justice.

In a discussion of such practical moment, it is better to be ineloquent and even illogical than imprudent, and to sacrifice an advantage in reasoning, than to endanger an important interest. We shall therefore pass over, or touch very gently, events of which a more ample narrative, and a bolder examination, might indeed strengthen our argument, but would tend to defeat our purpose; and it will not be our fault if those to whom we address no warning, but in the courteous form of hope, shall ever, by their own conduct, turn our language into bitter reproach.

Before the usurpation of Portugal by Philip II. King of Spain in 1580, the Portuguese nation, though brilliantly distinguished in arts and arms, and as a commercial and maritime power, in some measure filling up the interval between the decline of Venice and the rise of Holland, had not yet taken a place in the political system of Europe. From the restoration of her independence under the House of Braganza in 1640, to the peace of Utrecht, Spain was her dangerous enemy, and France the political opponent of Spain, was her natural protector. Her relation to France was reversed as soon as a Bourbon King was seated on the throne of Spain. From that moment the union of the two Bourbon monarchies gave her a neighbour far more formidable than the Austrian princes who

had slumbered for near a century at the Escorial. It became absolutely necessary for her safety that she should strengthen herself against this constantly threatening danger by an alliance, which, being founded in a common and permanent interest, might be solid and durable. England, the political antagonist of France, whose safety would be endangered by every aggrandizement of the house of Bourbon, and who had the power of rapidly succouring Portugal, without the means of oppressing her independence, was evidently the only State from whom friendship and aid at once effectual, safe and lasting, could be expected. Hence the alliance between England and Portugal, and the union, closer than can be created by written stipulations, between these two countries. The peril, however, was suspended during forty years of the dissolute and unambitious government of Louis XV. till the year 1761, when, by the treaty known under the name of the Family Compact, the Duc de Choiseul may be justly said (to borrow the language of Roman ambition) to have reduced Spain to the form of a province. * A separate and secret convention was executed on the same day, † by which it was agreed, that if England did not make peace with France by the first of May 1762, Spain should declare war against the former power. The sixth article of the same Convention fully disclosed the magnitude of the danger which, from that moment to this, has hung over the head of Portugal. His most Faithful Majesty was to be desired to accede to the Convention, 'it not being 'just,' in the judgment of these Royal Jurists, 'that he should 'remain a tranquil spectator of the disputes of the two courts 'with England, and continue to enrich the enemies of the two 'sovereigns, by keeping his ports open to them.' The King of Portugal refused to purchase a temporary exemption from attack by a surrender of independence. The French and Spanish Ministers declared, 'That the Portuguese alliance 'with England, though called *defensive*, became in reality *of-* ' *fensive*, FROM THE SITUATION OF THE PORTUGUESE DOMI- ' NIONS, and from the nature of the English power.' ‡ A war ensued—being probably the first ever waged against a country, on the avowed ground of its geographical position. It was terminated by the treaty of Paris in 1763, without any proposition on the part of France and Spain that Portugal should be cut away from the Continent, and towed into the

* 15th August 1761. Martens Recueil des Traités, I. i.

† Flassan, Hist. de la Diplom. Franc. vi. Schoell Hist. abreg. des Traités, iii. 91.

‡ Note of Don. Jos. Torrero and Mr James O'Dun, Lisb. 1. April 1762, Ann. Reg. v. 210.

neighbourhood of Madeira, where perhaps she might reenter on her right as an independent State to observe neutrality, and to provide for her security by defensive alliances. This most barefaced act of injustice might be passed over here in silence, if it did not so strongly illustrate the situation of Portugal, since Spain became a dependent ally of France; and if we could resist the temptation of the occasion for asking, whether the authors of such a war were as much less ambitious than Napoleon, as they were beneath him in valour and genius. In the American war, it does not appear that any attempt was made, on principles of geography, to compel Portugal to make war on England.* The example of the Family Compact, however, was not long barren. As soon as the French Republic had reestablished the ascendant of France at Madrid, they determined to show that they inherited the principles as well as the sceptre of their monarchs. Portugal, now overpowered, was compelled to cede Olivenza to Spain, and to shut her ports on English ships.† Thus terminated the second war made against her to oblige her to renounce the only ally capable of assisting her, and constantly interested in her preservation; but these compulsory treaties were of little practical importance, being immediately followed by the peace of Amiens. They only furnished a new proof that the insecurity of Portugal essentially arose from the dependence of Spain on France, and could not be lessened by any change in the government of the latter country.

When the war, or rather wars, against universal monarchy broke out, the Regent of Portugal declared the neutrality of his dominions.‡ For four years he was indulged in the exercise of this right of an independent prince, in spite of the geographical position of the kingdom. At the end of that period the geographical principle was enforced against him more fully and vigorously than on the former instances of its application. The Portuguese monarchy was confiscated and partitioned in a secret convention between France and Spain, executed at Fontainebleau on the 27th of October 1807, by which considerable parts of its continental territory were granted to the Prince of the Peace, and to the Spanish Princess,

* Portugal did indeed accede to the armed neutrality—but it was not till the 15th July 1782, on the eve of a general peace. MARTENS, ii. 208.

† *Traité d'Alliance entre la Republique Française et le Roi d'Espagne*, 19 Aout 1796. Martens, vi. 656.

‡ *Traités de Badajoz*, 6. Juin 1810; de Madrid, 20th September 1810. Martens Supp. ii. 340. and 539.

3. Juin 1803, Martens Supp. iii. 536.

then called Queen of Etruria; in sovereignty, but as feudatories of the crown of Spain.* A French army under Junot marched against Portugal, and the Royal Family were compelled, in November 1807, to embark for Brazil; a measure strongly suggested by the constant insecurity to which European Portugal was doomed by the Family Compact, seriously entertained by the government since the treaty of Badajoz, and which may be considered as the first step towards the independence of Catholic America.

The events which followed in the Spanish Peninsula are too memorable to be more than alluded to on this occasion. Portugal was governed by a Regency nominated by the King. The people caught the generous spirit of the Spaniards, took up arms against the conquerors, and bravely aided the English army to expel them. The army, delivered from those unworthy leaders to which the abuses of despotism had subjected them, took an ample share in that glorious march from Torres Vedras to Toulouse, which forms one of the most brilliant pages in history.

The King opened the ports of his American territories to all nations,—a measure in him of immediate necessity, but fraught with momentous consequences. He cemented his ancient relations with Great Britain (which geography no longer forbad) by new treaties; and he bestowed on Brazil a separate administration, with the title of a kingdom. The course of events in the spring of 1814 had been so rapid, that there was no minister in Europe authorized to represent the Court of Rio Janeiro at the Treaty of Paris: But so close was the ancient and modern alliance with England then deemed, that Lord Castlereagh took it upon him, on the part of Portugal, to stipulate for the restoration of French Guiana, which had been conquered by the Portuguese arms. At the Congress of Vienna in the following year, the Portuguese plenipotentiaries protested against the validity of this restoration, and required the retrocession of Olivenza, which had been wrested from them at Badajos, in a war where they were the allies of England. The good offices of the European powers to obtain this last restoration were then solemnly promised, but have hitherto been in vain.

In 1816, John VI. refused to return to Lisbon, whither a squadron under Sir John Beresford had been sent to convey him; partly because he was displeased at the disregard of his rights, shown by the Congress of Vienna; partly because the unpopularity of the Commercial Treaty had alienated him from England; but probably still more, because he was influenced

* Schoell, ix. 110.

by the visible growth of a Brazilian party which now aimed at independence. Henceforward, indeed, the separation manifestly approached. The Portuguese of Europe began to despair of seeing the seat of the monarchy at Lisbon; the Regency were without strength, all appointments were obtained from the distant Court of Rio Janeiro; men and money were drawn away for the Brazilian war on the Rio de la Plata; the army left behind was unpaid; in fine, all the materials of formidable discontent were heaped up in Portugal, when the Spanish Revolution broke out in the beginning of 1820. Six months elapsed without a spark having fallen in Portugal; Marshal Beresford went to Rio Janeiro to solicit the interference of the King; but that Prince made no effort to prevent the conflagration, and perhaps no precaution would then have been effectual. In August 1820, the garrison of Oporto declared for a revolution; and, being joined on their march to the Capital by all the troops on their line, were received with open arms by the garrison of Lisbon; and it was determined to bestow on Portugal a still more popular constitution than that of Spain. With what prudence or justice the measures of the popular leaders in the south of Europe were conceived or conducted, it is happily no part of our present business to inquire. Those who openly remonstrated against their errors when they seemed to be triumphant, are under no temptation to join the vulgar cry against the fallen. The people of Portugal, indeed, unless guided by a wise and vigorous government, were destined by the very nature of things, in any political change made at that moment, to follow the course of Spain. The Regency of Lisbon by the advice of a Portuguese minister, at once faithful to his Sovereign, and friendly to the liberty of his country, made an attempt to stem the torrent, by summoning an assembly of the Cortes for the redress of grievances, and the reform of abuses. The attempt was too late; but it pointed to the only means of saving the monarchy. The same minister, on his arrival in Brazil, at the end of 1820, advised the King to send his eldest son to Portugal as Viceroy, with a constitutional charter, in which the legislature was to be divided into two chambers, and composed as in that of 1826. He also recommended an assembly of the most respectable Brazilians at Rio Janeiro, to consider of the improvements which seemed practicable in Brazil. But while these honest, and not unpromising counsels, were the objects of longer discussions than troublous times allow, a revolution broke out in Brazil, in the spring of 1821, of which the first professed object was, not the separation of that country, but the adoption of the Portuguese Constitution; which was soon acquiesced in by the King, and espoused with the warmth of youth, by his eldest son Don Pedro. In the month of April,

the King, disquieted by the commotions which encompassed him, determined to return to Lisbon, and to leave the conduct of the American Revolution to his son. Even on the voyage he was advised to stop at the Azores, where he might negotiate with more independence: But he rejected this counsel; and on his arrival in the Tagus, on the 3d of July 1821, nothing remained but a surrender at discretion. The revolutionary Cortes were as tenacious of the authority of the mother country, as the Royal Administration; and they accordingly recalled the heir-apparent to Lisbon. But the spirit of independence arose among the Brazilians, who, encouraged by the example of the Spanish Americans, presented addresses to the Prince, beseeching him not to yield to the demands of the Portuguese assembly, who desired to make him a prisoner, as they had made his father; but, by assuming the crown of Brazil, to provide for his own safety, as well as for their liberty. In truth it is evident, that he neither could have continued in Brazil without acceding to the popular desire, nor have then left it without insuring the destruction of monarchy in that country. He acquiesced therefore in the Prayer of these flattering petitions; the independence of Brazil was proclaimed; and the Portuguese monarchy was finally dismembered.

In the summer of 1823, the advance of the French army into Spain, excited a revolt of the Portuguese Royalists. The infant Don Miguel, the King's second son, attracted notice, by appearing at the head of a battalion who declared against the Constitution; and the inconstant soldiery, equally ignorant of the object of their revolts against the King or the Cortes, were easily induced to overthrow the slight work of their own hands.

Even in the moment of victory, however, King John VI. solemnly promised a free government to the Portuguese nation. His proclamation says,

'Inhabitants of Lisbon—your *liberties* shall be guaranteed in a manner, which, while it secures the dignity of the Crown, *respects and maintains the Rights of Citizens.*'—Proclamation of the King, Villa Franca, 31. May 1823.

'Portuguese! Your King, placed in liberty on the Throne, will promote your happiness. *He is about to give you a Constitution, from which will be excluded the principles which experience has shown to be incompatible with the quiet of the State.*'—Id. 3d June 1823.

Don Miguel at the same time said,

'Do not believe that we seek to *restore despotism.*'—Proclamation of D. Miguel, 27th May 1823. *

* O Padre Amaro, vi. 243. A Portuguese Journal published in London.

A few weeks after, the King gave a more deliberate and decisive proof of what was then thought necessary to the security of the Throne, and the well-being of the people, by a Royal decree, which, after pronouncing the nullity of the Constitution of the Cortes, proceeds as follows.

‘ Conformably to my feelings, and the sincere promises of my proclamations, and considering that the ancient fundamental laws of the monarchy cannot entirely answer my paternal purposes, without being *accommodated to the present state of civilization, to the mutual relations of the different parts which compose the monarchy, and to the form of Representative Governments established in Europe*, I have appointed a Junta to prepare the plan of a Charter of the fundamental laws of the Portuguese monarchy, which shall be founded on the principles of public law, and open the way to a progressive reformation of the Administration.’—Decree, 18th June 1823. †

Count, now Marquis Palmella,—the Statesman to whose counsels we have already adverted, was appointed President of this Junta, composed of the most distinguished men in the kingdom. They completed their work in a few *months*; and presented to the King the plan of a Constitutional charter, almost exactly the same with that granted in 1826 by Don Pedro. John VI. was favourable to it. He considered it as an adaptation of the ancient fundamental laws, to present circumstances. While the Revolution was triumphant, the most reasonable Royalists regretted that no attempt had been made to avoid it by timely concession. In the first moment of escape, when the remembrance of danger was fresh, the remains of the same feelings disposed the Court to concede something. But after a short interval of quiet, the possessors of authority relapsed into the ancient and fatal error of their kind;—that of placing their security in maintaining that unbounded power, which had proved their ruin. A resistance to the reform of the Constitution which grew up in the interior of the Court, was fostered by foreign influence, and after a struggle of some months, prevented the promulgation of the charter.

In April 1824, events occurred at Lisbon, on which, for reasons already given, we shall touch as lightly as possible. They are indeed of such public notoriety, that they do not require a recital. It is well known that part of the garrison of Lisbon surrounded the King’s palace, and hindered the access of his servants to him; that some of his Ministers were imprisoned; that the diplomatic Body, including the Papal Nuncio, the French Ambassador, and the Russian as well as English Minister, were the means of restoring him to some degree of

† O Padre Amaro, vi. 269.

liberty, which was however so imperfect and insecure, that, by the advice of the French Ambassador, the King of Portugal took refuge on board of an English ship of war in the Tagus, where he was at length able to assert his dignity and reestablish his authority. Over the part in these transactions, into which evil counsellors betrayed the inexperience of Don Miguel, it is at present peculiarly proper to throw a veil, in imitation of his father, who forgave these youthful faults as ‘involuntary errors.’

This proof of the unsettled state of the general opinion and feeling respecting the government, suggested the necessity of a conciliatory measure, which might in some measure compensate for the defeat of the constitutional charter in the preceding year. The minister who, both in Europe and in America, had attempted to avert revolution by reform, was not wanting to his sovereign and this country at this crisis. But still counteracted by foreign influence, and opposed by a Portuguese Minister devoted to the adverse party, who was a personal favourite of the King, he could not again propose the charter, nor even obtain so good a substitute for it as he desired. But he had the merit of being always ready to do the best practicable. By his counsel, the King issued a proclamation on the 4th of June 1824, * for restoring the ancient constitution of the Portuguese Monarchy, with assurances that an assembly of the Cortes, or Three Estates of the Realm, should be speedily held with all their legal rights, and especially with the privilege of laying before the King, for his consideration, the heads (or chapters) of such measures as they might deem necessary for the public good, for the administration of justice, and for the redress of grievances, whether public or private. To that assembly was referred the consideration of the periodical meetings of succeeding Cortes, and ‘the means’ of progressively ameliorating the administration of the State.’ The proclamation treats this reestablishment as being substantially the same with the constitutional charter drawn up by the Junta in the preceding year; and it is accordingly followed by a decree, dissolving that junta, as having performed its office. Though these representations were not scrupulously true, yet when we come to see what the rights of the Cortes were in ancient times, the language of the proclamation will not be found to deviate more widely into falsehood than is usual in the preamble of acts of state. Had the time for the convocation of the first Cortes been fixed, it will soon appear that the restoration of the

* O Padre Amaro, viii. 216.—223.

ancient constitution of Portugal might, without much exaggeration, have been called the establishment of liberty. For this point the Marquis Palmella made a struggle. But the King thought that he had done enough, in granting such a pledge to the Constitutionals, and was willing to soothe the Absolutists, by reserving to himself the choice of a time. On the next day he created a Junta, to prepare, 'without loss of time,' the regulations necessary 'for the convocation of the Cortes, and for the election of the members.' As a new proof of the growing conviction that a free constitution was necessary, and a solemn promise that it should be established, the declaration of the 4th of June is by no means inferior in force to the acts which have been previously cited. Nay, in that light, it may be considered as deriving additional strength, from those appearances of reserve and reluctance which distinguish it from the more ingenious, and really more politic declarations of 1823. But its grand defect was of a practical nature, and consisted in the opportunity which indefinite delay affords, for evading the performance of a promise.

Immediately after the counter revolution in 1823, John VI. sent a mission to Rio Janeiro, requiring the submission of his son and his Brazilian subjects. But whatever might be the wishes of Don Pedro, he had no longer the power to transfer the allegiance of a people who had tasted independence; who were full of the pride of their new acquisition; who valued it as their only security against the old monopoly, and who may well be excused for thinking it more advantageous to name at home, the officers of their own government, than to receive rulers and magistrates from the intrigues of courtiers at Lisbon. Don Pedro could not restore to Portugal her American empire; but he might easily lose Brazil in the attempt. A negociation was opened at London, in the year 1825, under the mediation of Austria and England; a choice which already proved that England had quietly and amicably, but decisively, withdrawn from the confederacy of absolute monarchs. The differences between the two branches of the House of Braganza were, it must be admitted, peculiarly untractable. Portugal was to surrender her sovereignty, or Brazil to resign her independence. In such a controversy, there is no middle term towards which the good offices of common friends may gradually lead both parties. Union, on equal terms, was equally objected to by both. The Portuguese of America were as averse from a sovereign at Lisbon, as those of Europe from a sovereign at Rio Janeiro. It was evident that no amicable issue of such a negociation was possible, which did not involve acquiescence in the separation; and the very act of undertaking the mediation, sufficiently

evinces that this event was contemplated by the mediating powers. The Portuguese minister in London, Count Villa Real, presented projects which seemed to contain every concession short of independence. But the Brazilian deputies who, though not admitted to the conference, had an unofficial intercourse with the British Ministers, declared, as might be expected, that nothing short of independence could be listened to. It was agreed, therefore, that Sir Charles Stuart, who was about to go to Rio Janeiro to negotiate a treaty between England and Brazil, should take Lisbon on his way, and endeavour to dispose the Portuguese government to consent to a sacrifice which could no longer be avoided. He was formally permitted by his own Government to accept the office of Minister Plenipotentiary, from Portugal to Brazil, if it should be proposed to him at Lisbon. Certainly no man could be more fitted for this delicate mediation, both by his extraordinary knowledge of the ancient constitution of Portugal, and by the general confidence which he had gained while a minister of the Regency during the latter years of the war. He arrived at Lisbon about the end of March 1825, and, after a series of conferences with the Count de Porto Santo, minister for foreign affairs, which continued from the 5th of April to the 23d of May, and in the course of which two points were considered as equally understood, that John VI. should cede to Don Pedro the sovereignty of Brazil, and that Don Pedro should preserve his undisputed right as heir of Portugal, he set sail for Rio Janeiro, furnished with full powers, as well as instructions, and more especially with Royal Letters Patent* of John VI., to be delivered on the conclusion of an amicable arrangement, containing the following important and decisive clause.

‘ And as the succession of the Imperial and Royal Crowns belongs to my beloved son Don Pedro, I do, by these letters patent, cede and transfer to him the full exercise of sovereignty in the empire of Brazil, which is to be governed by him; nominating him Emperor of Brazil, and Prince Royal of Portugal and the Algarves.’

A treaty was concluded on the 29th of August 1825, by Sir Charles Stuart, recognising the independence and separation of Brazil, acknowledging the sovereignty of that country to be vested in Don Pedro; allowing the King of Portugal also to assume the Imperial title; binding the Emperor of Brazil to reject the offer of any Portuguese colony to be incorporated with his dominions; and containing some other stipulations usual in treaties of peace. This treaty was ratified at Lisbon,

* Carta Regia Patente, bearing date at the Palace of Bemposta, 13th May 1825.

on the 5th November 1825, by Letters Patent, from which, at the risk of some repetition, it is necessary to extract two clauses, of which the decisive importance will be shortly seen.

‘ * I have ceded and transferred to my beloved son Don Pedro de Alcantara, *heir and successor of these kingdoms*, all my rights over that country, recognising its independence with the title of empire. *We recognise our said son Don Pedro de Alcantara, Prince of Portugal and the Algarves*, as Emperor, and having the exercise of sovereignty in the whole empire.’

The part of this proceeding which is intended to preserve the right of succession to the Crown of Portugal for Don Pedro, is strictly conformable to diplomatic usage, and to the principles of the law of nations. Whatever relates to the cession of a claim is the proper subject of agreement between the parties, and is therefore inserted in the treaty. The King of Portugal, the former Sovereign of Brazil, cedes his rights or pretensions in *that* country to his son. He releases all his former subjects from their allegiance. He abandons those claims which alone could give him any colour or pretext for interfering in the internal affairs of that vast region. Nothing could have done this effectually, solemnly, and notoriously, but the express stipulation of a treaty. Had Don Pedro therefore been at the same time understood to renounce his right of succession to the Crown of Portugal, an explicit stipulation in the treaty to that effect would have been necessary; for *such a renunciation would have been the cession of a right*. Had it even been understood, that the recognition of his authority as an independent monarch *implied* the abdication of his rights as heir-apparent to the Portuguese Crown, it would have been consonant to the general tenor of the treaty, explicitly to recognise this abdication. The silence of the treaty is a proof that none of the parties to it considered these rights as taken away or impaired, by any previous or concomitant circumstance. Stipulations were necessary when the state of regal rights was to be altered; but they would be at least impertinent where it remained unchanged. Silence is in the latter case sufficient; since, where nothing is to be done, nothing needs be said. There is no stipulation in the treaty, by which Don Pedro acknowledges the sovereignty of his father in Portugal; because that sovereignty is left in the same condition in which it was before. For the very same reason the treaty has no article for the preservation of Don Pedro's right of succession to Portugal. Had Don Pedro required a stipulation in the treaty for the maintenance of these rights, he would have done an act which more tended to bring them into question, than to strengthen

* Gazeta de Lisbon, 15. November 1825.

them. As they were rights which John VI. could not take away, it was fit and wise to treat them also as rights which no act of his could bestow or confirm.

But though a provision for the preservation of these rights in the treaty was needless, and would have been altogether misplaced, there were occasions on which the recognition of them was fit, and, as a matter of abundant caution, expedient. These occasions are accordingly not passed over. The King of Portugal styles Don Pedro the heir of Portugal, both in the first letters patent, addressed to his Brazilian subjects, in which he recognises the independence of Brazil, and in the second, addressed to his Portuguese subjects, where he ratifies the treaty which definitively established that independence. Acknowledged to be the monarch, and for the time the lawgiver of Portugal, and necessarily in these acts, claiming the same authority in Brazil, he announces to the people of both countries that the right of his eldest son to inherit the Crown was, in November 1825, inviolate, unimpaired, unquestioned.

The ratifications are, besides, a portion of the treaty; and when they are exchanged, they become as much articles of agreement between the parties, as any part of it which bears that name. The recognition repeated in this ratification proceeded from John VI. and was accepted by Don Pedro. Nothing but express words could have taken away so important a right as that of succession to the Crown. In this case, there are express words which recognise it. Though it has been shown that silence would have been sufficient, the same conclusion would unanswerably follow, if the premises were far more scanty. The law of nations has no established form, a deviation from which is fatal to the validity of the transactions to which they are appropriated. It admits no merely technical objections to conventions formed under its authority, and is bound by no positive rules in the interpretation of them. Wherever the intention of contracting parties is plain, it is the sole interpreter of a contract, in cases of international law. Now, it is needless to say that, in the treaty of Rio Janeiro, taken with the preceding and following letters patent, the *manifest intention* of King John VI. was not to impair, but to recognise the rights of his eldest son, to the inheritance of Portugal.

On the 10th of March 1826, John VI. died at Lisbon. On his deathbed, however, he made provision for the temporary administration of the Government. By a Royal Decree, of the 6th of March, he committed the government to his daughter, the Infanta Donna Isabella Maria, assisted by a Council during his illness, or, in the event of his death, till ' *the legitimate heir and successor to the Crown should make other provision*

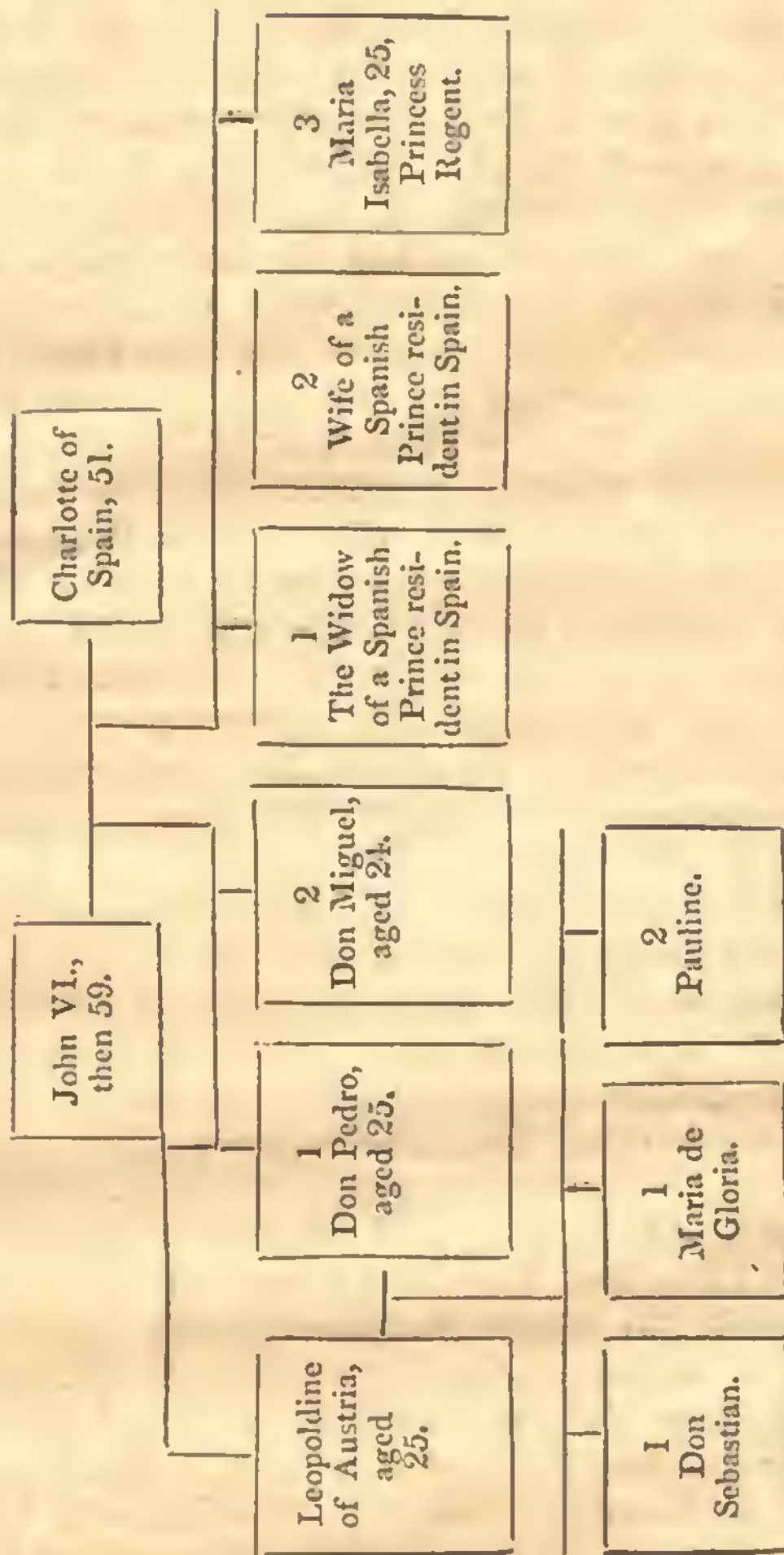
‘*in this respect.*’ * These words have no ambiguity. In every hereditary monarchy they must naturally, and almost necessarily, denote the eldest son of the King, when he leaves a son. It would, in such a case, require the strongest evidence to warrant the application of them to any other person. It is clear that the King must have had an individual in view, unless we adopt the most extravagant supposition that, as a dying bequest to his subjects, he meant to leave them a disputed succession and a civil war. Who should that individual be, but Don Pedro, his eldest son, whom, according to the ancient order of succession to the crown of Portugal, he had himself called ‘*heir and successor,*’ on the 13th of May and 5th of November preceding. What need is there of argument to prove a point so clear? or rather, by what proposition more evident than the plain sense of the words themselves, could the natural interpretation of them be rendered more certain? Such, accordingly, was the conviction, and the correspondent conduct of all whose rights or interests were concerned. The Regency was immediately installed, and universally obeyed at home, as well as acknowledged, without hesitation or delay, by all the Powers of Europe. The Princess Regent acted in the name, and on the behalf of her brother, Don Pedro. Not a voice was raised in any corner of Europe against his hereditary right. It was impossible that the succession of any Prince to a throne could be more quiet and undisputed. The universal acquiescence in his perfect and unsuspected legitimacy is the more observable, because his father had, as it were, proclaimed him as the heir of Portugal in May and in November. All parties submitted, after ample notice and abundant time for consideration. Taking the character of some of them into account, we may be assured that they would not have been silent if they had not been satisfied that Don Pedro succeeded to his father, as lawfully as any former Prince of the House of Braganza had inherited the throne of Portugal.

The Regency, without delay, notified the demise of the late King to their new Sovereign: And here the difficulties of that Prince’s situation began to show themselves. Though the treaty had not weakened his hereditary right to Portugal, yet the main object of it was to provide, not only for the independence of Brazil, but for its ‘*separation*’ from Portugal, which undoubtedly imported a separation of the Crowns. Possessing the Government of Brazil, and inheriting that of Portugal, he became bound by all the obligations of the treaty between the two States. Though he inherited the crown of Portugal by the laws of that country, yet he was disabled by

* Gazeta de Lisboa, 7. de Margo 1826.

treaty from *permanently* continuing to hold it with that of Brazil. But if, laying aside unprofitable subtleties, we consult only conscience and common sense, we shall soon discover that these rights and duties are not repugnant, but that, on the contrary, the legal right is the only means of performing the federal duty. The treaty did not expressly determine which of the two crowns Don Pedro was bound to renounce; it therefore left him to make an option between them;—For the implied obligations of a contract extend only to those acts of the parties which are necessary to the attainment of its professed object. If he chose, as he has chosen, to retain the Crown of Brazil, it cannot, by reasonable implication, require an *instantaneous* abdication of that of Portugal, because such a limitation of time is not necessary, and may be very injurious to the object. It leaves the choice of time, manner, and conditions to him, requiring only good faith, and interdicting nothing but fraudulent delay. He inherited both Crowns; but under an obligation to separate them; and he was bound so to exercise his prerogative in the choice of seasons and means, as to render the separation most conducive to the secure independence of both. Had he not (according to the principle of all hereditary monarchs) become King of Portugal at the instant of his father's demise, there would have been no person possessed of the legal and actual power in both countries necessary to carry the treaty of separation into effect. If the Portuguese had not acquiesced in his authority, they must have voluntarily chosen anarchy; for no one could have the power to discharge the duty imposed by treaty, or to provide for any of the important changes which it might occasion. The most remarkable example of this latter sort, was the order of succession. The separation of the two Crowns rendered it absolutely impossible to preserve that order in both monarchies; for both being hereditary, the legal order required that both Crowns should descend to the same person, the eldest son of Don Pedro—the very union which it was the main or sole purpose of the treaty to prevent. A breach in the order of succession became therefore inevitable, either in Portugal or Brazil. Necessity required the deviation. But the same necessity vested in Don Pedro, as a king and a father, the power of regulating, in this respect, the rights of his family; and the permanent policy of monarchies required that he should carry the deviation no farther than the necessity. The same difficulties, the same need of a discretionary power, and the same politic restraint on its exercise, existed in the establishment of a regent, if the Crown should devolve on a minor.

The state of the Royal Family in March 1826 was as follows:—



It will be seen, from the above rough sketch, that as the nearer female inherits before the more distant male, Don Miguel had no right which was immediately involved in the arrangement to be adopted; and it is acknowledged, that the two daughters of John VI., married and domiciled in Spain, had lost their rights as members of the Royal Family. Neither the Queen, nor indeed any other person, had a legal title to the regency, which in Portugal, as in France and England, was a case omitted in the constitutional laws; and, as no Cortes had been assembled for a century, could only be provided for by the King, who, of necessity, was the temporary lawgiver. The only parties who could be directly affected by the allotment of the two Crowns, were the children of Don Pedro, the eldest of whom was in her sixth year. The more every minute part of this case is considered, the more obvious and indisputable will appear to be the necessity, that Don Pedro should retain the powers of a King of Portugal, until he had employed them for the quiet and safety of both kingdoms, as far as these might be endangered by the separation. He held, and holds that Crown, as a trustee for the execution of the treaty. To hold it after the trust is performed, would be usurpation; to renounce it before that period, would be treachery to the trust.

If the situation of Portugal and Brazil at the death of John be considered, independent of treaty, it is evident that an union of the crowns could not then be attempted, and that, whether the separation was regarded as an inevitable evil, or an indispensable good, in either case it must be adhered to. Both countries had just emerged from revolutions. The temper of the people in both was unquiet and distrustful. They were remote from each other; they had jarring interests and adverse prejudices. They had very lately been enemies in civil war. That they could no longer be permanently ruled by the same monarch, was shown to be the conviction of Don Pedro, by his whole previous conduct, and proved to be the opinion of his father, by his renunciation of Brazil. The impossibility of reuniting these countries was the principle and foundation of the treaty; and must be considered as recognised substantially by the mediating powers in the negotiations of London. That Don Pedro should have chosen Brazil, must always have been foreseen, for his election was almost determined by his preceding conduct. He preferred Brazil, where he had been the founder of a State, to Portugal, where the most conspicuous measures of his life could be viewed with no more than reluctant acquiescence. The next question which arose was, whe-

ther the inevitable breach in the order of succession was to be made in Portugal or Brazil; or, in other words, of which of these two disjoined kingdoms the Infant Don Sebastian should be the heir-apparent. The father made the same choice for the eldest son as for himself. It was indeed natural that (where an option was necessary) he should reserve for the constitutional heir the dominions which he himself chose to rule, and the selection of this settlement of the Brazilian crown seemed to be the only sufficient pledge of his determination to abide by his own choice. As Don Sebastian preserved his right of succession in Brazil, *the principle of the least possible deviation from the legal order*, required that the Crown of Portugal should devolve on his sister Donna Maria, the next in succession of the Royal Family.

After this exposition of the rights and duties of Don Pedro, founded on the principles of public law, and on the obligations of treaty, and of the motives of policy which might have influenced him in the case where he was left free to follow the dictates of his own judgment, let us consider very shortly what a conscientious ruler would, in such case, deem necessary to secure to both portions of his subjects all the advantages of their new position. He would be desirous of softening the humiliation of one; of effacing the recent animosities between them, of reviving their ancient friendship, by preserving every tie which reminded them of former union and common descent. He would therefore, even if he were impartial, desire that they should continue under the same Royal Family which had for centuries ruled both. He would labour, as far as the case allowed, to strengthen the connexions of language, of traditions, of manners and religion, by the resemblance of laws and institutions. He would clearly see that his Brazilian subjects never could trust his fidelity to their limited monarchy, if he maintained an absolute government in Portugal; and that the Portuguese people would not long endure to be treated as slaves, while those whom they were not accustomed to regard as their superiors were thought worthy of the most popular constitution. However much a monarch were indifferent or adverse to liberty, these considerations would lose nothing of their political importance; for a single false step in this path might overthrow monarchy in Brazil, and either drive Portugal into a revolution, or seat a foreign army in her provinces, to prevent it. It is evident that popular institutions can alone preserve monarchy in Brazil from falling before the principles of republican America; and it will hardly be denied, that, though some have questioned the advantage of liberty, no people were ever

so mean spirited as not to be indignant at being thought unworthy of it, as a privilege. Viewing liberty with the same cold neutrality, a wise statesman would have thought it likely to give stability to a new government in Portugal, and to be received there as some consolation for loss of dominion. Portugal, like all the other countries between the Rhine and the Mediterranean, had been convulsed by conquest and revolution. Ambition and rapacity, fear and revenge, political fanaticism and religious bigotry—all the ungovernable passions which such scenes excite, still agitated the minds of those who had been actors or victims of them. Experience has proved, that no expedient can effectually allay these deep-seated disorders, but the institution of a government in which all interests and opinions are represented, which keeps up a perpetual negociation between them, which compels each in its turn to give up some part of its pretensions, and provides a safe field of contest in those cases where a treaty cannot be concluded. Of all stages in the progress of human society, the period which succeeds the troubles of civil and foreign war is that which most requires this remedy; for it is that in which the minds of most men are the most dissatisfied, the most active, and the most aspiring. The experiment has proved most eminently successful in the Netherlands, now beyond all doubt the best governed country of the Continent. It ought to be owned, that it has also in a great measure succeeded in France. Italy, and Spain!—Of these countries we shall now say nothing, but that, being occupied by foreign armies, they cannot be quoted as examples on the employment of an internal remedy, in a country which has been revolutionized. If any principle be now universally received in government, it seems to be, that the disorders of such a country must either be contained by foreign arms, or composed by a representative constitution.

But there were two circumstances which rendered the use of this remedy peculiarly advisable in Portugal. The first is, that it was so explicitly, repeatedly, and solemnly promised by John VI., not only in his liberal declarations of 1823, but, as will shortly be seen, in his declaration for the reestablishment of the ancient constitution, issued in 1824, before he had recovered from the disturbance and disquiet which were the natural effect of the scenes which passed at Lisbon in April and May of that year. It was offered in part for the express purpose of preventing a democratical revolution, and of quieting the disorder which an attempt of that nature had left behind. In Portugal it would have been a breach of faith, while in some countries it might only be an act of unwise policy to withhold it. In this light, it would have been peculiarly dan-

gerous to a *new* establishment, and must have increased the suspicions of the Brazilians of their monarch's sincerity, as well as the indignation of the Portuguese at exclusion from privileges enjoyed by their old vassals.

In the *second* place, the establishment of a free constitution in Portugal, afforded an opportunity of sealing a definitive treaty of peace between the most discordant parties, by opening (after a due period of probation) to the Prince whom the Ultra-Royalist faction have placed in their front, a prospect of being one day raised to a higher station, under the system of liberty, than he could have expected to reach if both Portugal and Brazil had continued in slavery.

It is unworthy of a statesman, or of a philosopher, to waste time in childishly regretting the faults of a Prince's personal character. The rulers of Portugal can neither create circumstances, nor form men according to their wishes. They must take men and things as they find them; and their wisdom will be shown, by turning both to the best account. The occasional occurrence of great personal faults in princes, is an inconvenience of hereditary monarchy, which a wise limitation of royal power may abate and mitigate. Elective governments are not altogether exempt from the same evils, besides being liable to others; and all comparison of the two systems is, in the present case, a mere exercise of ingenuity; for it is apparent, that liberty has at this time no chance of establishment in Portugal, in any other form than that of a limited monarchy. The situation of Don Miguel renders it possible to found the constitution on an union between him, as the representative of the Ultra Royalists, and a young Princess, whose rights will be incorporated with the establishment of liberty. Through her, the leader of one party must hold whatever authority it may one day prove safe to vest in him.

As soon as Don Pedro was informed of his father's death, he proceeded to the performance of the task which had devolved on him. He began, on the 29th of April, by granting a constitutional charter to Portugal. On the 26th, he confirmed the Regency appointed by his father, till the proclamation of the constitution. On the 2d of May he abdicated the Crown in favour of his daughter, Donna Maria; on condition, however, ' that the abdication shall not be valid, and ' the Princess shall not quit Brazil; until it be made officially ' known to him, that the constitution had been sworn to, according to his orders; and that the espousals of the Princess ' with Don Miguel shall have been made, and *the marriage* ' concluded— and this abdication and cession shall not take place,

‘ if either of these two conditions shall fail.’* On the 26th of April, letters-patent, or writs of summons, had issued, addressed to each of those who were to form the House of Peers, of which the Duke de Cadaval was named President, and the Patriarch Elect of Lisbon Vice-President. A decree was issued on the same day, commanding the Regency of Portugal to take the necessary measures for the immediate election of members of the other House, according to the tenor of the constitutional law. † When these laws and decrees were received at Lisbon, the Regency proceeded instantly to put them into execution; in consequence of which, the constitution was proclaimed, the Regency installed, the elections commenced, and the Cortes of Portugal were finally assembled at Lisbon on the 30th of October 1826.

But before we make any remarks on these institutions and arrangements, we are under the necessity of stopping for a moment to inquire, whether the Emperor of Brazil had, by the laws of Portugal, the power to regulate the affairs of that kingdom. Hitherto, as we have seen, no question had been raised on this subject. All parties within and without Portugal had treated his right of succession to his father in the throne of that kingdom as undisputed. But no sooner had he exercised that right, by the grant of a free constitution, than it was discovered by some Ultra Royalists, that he had forfeited the right itself; that his power over Portugal was an usurpation, and his constitutional law an absolute nullity! The newspapers of the Jesuitical party at Paris (the *Quotidienne* and the *Drapeau blanc*) spread these doctrines over Europe; and a person of the name of *Laurentie*, who had a year or two before vindicated the massacre of St Bartholomew, which he called ‘ a salutary rigour,’ embodied them in a pamphlet. ‡ The arguments did not, in themselves, deserve the compliment of refutation; but they had too much the appearance of being the manifesto of a party, the power of whose arms, at least, experience has taught us not to contemn. Don Miguel, whose name was perpetually in the mouth of these writers, continued at Vienna. The Spanish Government and its officers breathed menace and invective. Foreign agency manifested itself in Portugal; and some bodies of troops, both on the northern and southern frontier, were excited to a sedition for slavery. Under these circumstances, we deemed it to be our duty to prepare the only weapon in our power in defence of liberty, in the only country where she

* *Diario Fluminense*, 2 Maio 1826

† *Ibid.* 3 Maio.

‡ *Considerations sur les Constitutions Democratiques*, p. 117. Paris, 1826.

could maintain a struggle with a probability of success;—although we are well aware how little could be done by argument, where argument formed so very small a part of the force of our opponents. Though appearances have become calmer and more favourable, we do not yet consider ourselves as absolved from the duty which we had undertaken.

‘ All foreigners, ’ say the objectors, ‘ are, by the fundamental laws of Portugal, excluded from the succession to the Crown. This law was passed at the foundation of the monarchy, by the celebrated Cortes of Lamego, in 1143, under Alfonso, the first King of Portugal. It was confirmed, strengthened, and enlarged by the Cortes of 1641; and by it, on the last occasion, the King of Spain was declared an usurper, and the House of Braganza were raised to the throne. Unless this law be recognised, the Braganza Princes were usurpers, and Ferdinand VII. is legitimate King of Portugal, and has as just rights, and as effectual means of enforcing them in Brazil as in Mexico. But Don Pedro had, by the treaty which recognised him as Emperor of Brazil, become a foreign sovereign, and was therefore, at the death of his father, disqualified to inherit the Crown of Portugal.’ All that can by any indulgence be called argument, in Laurentie and his fellow-labourers, is contained in these few words.

The fundamental laws thus invoked to shield absolute monarchy from reformation, are either the most ancient monuments of liberty in the south of Europe, or the acts of a revolution, in which the people of Portugal threw off a foreign yoke. The proceedings of the Cortes of Lamego afford so curious a specimen of the rude election by which the nation bestowed a crown on a victorious leader, that we venture to subjoin the simple, dramatic, and even picturesque narrative of the Chronicler, who has related those events in a diction so barbarous, as to be a pledge of its antiquity. *.

* CORTES DE LAMEGO.—Anno do 1143.

‘ Prima congregatio Regis Alfonsi, Henrici Comitis filii, in qua agitur de regni negotijs, & multis alijs rebus magni ponderis, & momenti.

‘ In nomine Sanctæ, & individuæ Trinitatis, Patris, Filii, & Spiritus Sancti, Trinitas inseparabilis, quæ nūquam separari potest. Ego Alfonsus Comitis Henrici, & Reginae Tarasie filius, magnique Alfonsi Imperatoris Hispaniarum nepos, ac pietate divina ad Regium solium nuper sublimatus. Quoniam nos concessit deus quietari, & dedit victoriam de Mauris nostris inimicis, & propterea habemus aliquantam respirationem; ne forte nos tempus non habeamus postea, convocavimus omnes istos, Archiepiscopum Bracharens. Episcopum Portuens. Episcopum

The part of it which belongs to our present purpose may be shortly stated. A few years after the establishment of the Normans in England, Henry, a Burgundian Prince, who served under the King of Castile in his wars against the Moors, obtained from that Monarch the newly conquered territory between the rivers Douro and Minho as a fief. His son Alfonso,

Coimbriensem, Episcopum Lamecens viros etiam nostræ curiæ infra positos, & procurantes bonam partem per suas civitates, per Coimbriam, per Vimaranes, per Lamecum, per Viseum, per Barcellos, per Portum, per Francosum, per Chaves, per Castrum Regis, per Bouzellas, per Parietes vetulas, per Senam, per Civithanam, per Alonte Alagiore, per Isgueiram, per Villa Regis, & per parte domini Regis Laurentius Venegas; & multitudo ibi erat de Monachis, & de Clericis, & congregati sumus Lamecum in Ecclesia Sanctæ Alariæ Almacave, seditque Rex in solio Regio, sine insignijs Regijs, & surrexit Laurentius Venegas procurator Regis, & dixit—

‘ Congregavit vos Rex Alfonsus, quem vos fecistis in Campo Auriquio, ut videatis bonas litteras domini Papæ, et dicatis si vultis quod sit ille Rex. Dixerunt omnes: Nos volumus quòd sit Rex: Et dixit procurator: Quomodo erit Rex: ipsi, aut filij ejus, aut ipse solus Rex? Et dixerunt omnes: Ipse, in quantum vivet, & filij ejus postea quam non vixerit. Et dixit procurator: Si ita vultis, date illi insigne. Et dixerunt omnes: Demus in dei nomine. Et surrexit Archiepiscopus Bracharensis, & tulit de manibus Abbatis de Laurbano, coronam auream magnam, cum multis margaritis, quæ fuerat de Regibus Gottorum, & dederant Monasterio, & posuerunt illā Regi. Et dominus Rex cum spata nuda in manu sua, cum qua ivit in bello, dixit: Benedictus Deus qui me adjuvavit. Cum ista spata liberavi vos, & vici hostes nostros, & vos me fecistis Regem, & socium vestrum. Si quidem me fecistis, constituamus leges, per quas terra nostra sit in pace. Dixerunt omnes: volumus domine Rex, & placet nobis constituere leges, quas vobis bene visum fuerit, & nos sumus omnes cum filijs, filiabus, neptibus, & nepotibus, ad vestrum mandare. Vocavit citius dominus Rex Episcopos, viros nobiles, & procuratores, & dixerunt inter se: Faciamus in principio leges de hæreditate Regni; & fecerunt istas sequentes.

‘ Vivat dominus Rex Alfonsus, & habeat Regnum. Si habuerit filios varones, vivant, & habeant Regnum, ita ut non sit necesse facere illos de novo Reges. Ibunt de isto modo. Pater, si habuerit Regnum, cum fuerit mortuus, filius habeat, postea nepos, postea filius nepotis, & postea filios filiorum in sæcula sæculorum per semper.

‘ Si fuerit mortuus primus filius, vivente Rege patre, secundus erit Rex, si secundus, tertius, si tertius, quartus, & deinde omnes per istum modum.

‘ Si mortuus fuerit Rex sine filijs, si habeat fratrem sit Rex in vita ejus: & cum fuerit mortuus, non erit Rex filius ejus, si non fecerint eum Episcopo, & procurantes, & nobiles curiæ Regis; si fecerint Regem, erit Rex, si non fecerint non erit Rex.

‘ Dixit postea Laurentius Venegas, procurator domini Regis ad pro-

threw off the superiority of Castile, and, after defeating the Moors at the great battle of Campo Ouriquez, in 1139, was declared king by the Pope, and acknowledged in that character by an assembly of the principal persons of the community, held at Lamego, in 1143, composed of bishops, nobles of the court, and, as it should seem, of procurators of the

curantes. Dicit Rex : si vultis quod intrent filias ejus in hæreditatibus regnandi, & si vultis facere leges de illas ? Et posteaquàm altercaverunt per multas horas, dixerunt : Etiam filia domini Regis sunt de lunbis ejus, & volumus eas intrare in Regno, & quod fiant leges super istud. Et Episcopi & nobiles fecerunt leges, de isto modo.

‘ Si Rex Portugallia non habuerit masculum, & habuerit filiam, ista erit Regina, postquam Rex fuerit mortuus de isto modo : *Non accipiet virum nisi de Portugal, nobilis, & talis non vocabitur Rex, nisi postquam habuerit de Regina filium varonem, & quando fuerit in congregatione maritus Reginae, ibit in manu manca, & maritus non ponet in capite coronam Regni.*

‘ Sit ista lex in sempeternum, quod prima filia Regis accipiat maritum de Portugalle, *ut non veniat Regnum ad estraneos, & si casaverit cum Principe estraneo, non sit Regina ; quia nunquam volumus nostrum Regnum ire for de Portugalensibus, qui nos, sua fortitudine, Reges fecerunt sine adjutorio alieno per suam fortitudinem, & cum sanguine suo.*

‘ Istae sunt leges de hæreditate Regni nostri ; & legit eas Albertus Cancellarius domini Regis ad omnes, & dixerunt : Bone sunt, justae sunt, volumus eas per nos, & per semen nostrum post nos.

‘ Et dixit procurator domini Regis. Dicit dominus Rex : Vultis facere leges de nobilitate, & justitia ? & responderunt omnes : Placet nobis, sit ita in dei nomine, & fecerunt istas.

‘ Omnes de semine Regis, & de generationibus filiorum, & nepotum sint nobilissimi viri. *Qui non sunt de Mauris, & de infideli us Judæis, sed Portugalensis, qui liberaverint personam Regis, aut ejus pendonem, aut ejus filium, vel generum, in bello sint nobiles. Si aliquis comprehensus de infidelibus mortuus erit, propter quod non vult esse infidelis, sed stat per legem Christi, filij ejus sint nobiles. Qui in bello mataverit Regem inimicum, vel ejus filium, & gancaverit ejus pendonem, sit nobilis. Omnes qui sunt de nostra curia, & fuerunt de antiquo nobiles, sint per semper nobiles. Omnes illi qui fuerunt in lide magna de Campo Davriquo, sint tanquam nobiles, & nominentur mei vassali per totas suas generationes.*

‘ Nobiles si fugerint de lide, si percusserint eum spata si lancea mulierem, si non liberaverint Regem, aut filium ejus, aut pendonem pro suo posse in lide, si juraverint falsum testimonium, si non dixerint veritatem Regibus, si male falaverint de Regina, & filiabus ejus, si fuerint ad Mauros, si furtaverint de alienis, si blasphemaverint ad Jesum Christum, si voluerint matare Regem, non sint nobiles, neque illi, neque filios eorum per semper.

‘ Istae sunt leges de nobilitate ; & legit eas Cancellarius Regis Alber-

towns. The Crown, after much 'altercation' was made hereditary, first to males and then to females; but on condition that 'the female heir should always marry a man of Portugal, that the kingdom may not fall to foreigners; and if she marries a foreign Prince, she shall not be Queen, because we will that our kingdom shall go only to the Portuguese, who, by their bravery, have made us King without foreign aid.' On being asked whether the King should pay tribute to the King of Leon, they all rose up, and, with naked swords uplifted, answered, 'Our King is independent; our arms have delivered us; the King who consents to such things SHALL DIE.' The King, with his drawn sword in his hand, said, 'If any one consent to such, let him die. If he should be my son, let him not reign.'

The Cortes of 1641 renewed the laws of Lamego; determined that, according to these fundamental institutions, the Spanish Princes had been usurpers, and pronounced John, Duke of Braganza, who had already been seated on the throne by a revolt of the whole people, to be the rightful heir. This Prince, though he appears not to have had any pretensions as a male heir, yet seems to have been the representative of the eldest female who had not lost the right of succession by marriage to a foreigner, and, consequently, he was entitled to the Crown, according to the order of succession established at Lamego. On the 28th of January the Three Estates, namely, the commons or people, the nobility and the clergy, presented Chapters or Heads to the King, praying that effectual means might be taken to enforce the exclusion of foreigners from the Throne, according to the laws passed at Lamego. But as the Estates, according to the old constitution of Portugal, presented their chapters severally, and not jointly to the King, it was possible

tus, & dixerunt: Bonæ sunt, justæ sunt, volumus eas per nos, & per semen nostrum post nos.

'Et dixit procurator Regis Laurentius Venegas; vultis quod dominus Rex vadat ad Cortes Regis de Leone, vel det tributum illi, aut alieni personæ for domini Papæ, qui illum Regem creavit? & omnes surrexerunt, & spatibus nudis in altum dixerunt: Nos liberi sumus; Rex noster liber est, manus nostræ nos liberaverunt, & dominus Rex qui talia consenserit moriatur, & si Rex fuerit non regnet super nos. Et dominus Rex cum corona iterum surrexit, & similiter cum spata nuda dixit ad omnes: Vos scitis quâtas lides fecerim per vestram libertatem; testes estis, testis brachiū meū, & ista spata, si quis talia consenserit, moriatur; & si filius aut nepos meus fuerit, nō regnet; & dixerunt omnes: Bonum verbum! Moriatur; & Rex si fuerit talis, quod consentiat dominium alienum, non regnet. Et iterum Rex: Ita fiat.'

that they might differ; and they did so, in some respects, on this important occasion, not indeed as to the end, for which they were equally zealous, but as to the choice of the best means of securing its constant attainment.

The answer of the King to the Ecclesiastical estate is as follows—

‘ On this Chapter, for which I thank you, I have already answered to the Chapters of the States of the People and of the Nobles, in ordaining a law to be made in conformity to that ordained by Don John IV., with the declarations and modifications which shall be most conducive to the conservation and common good of the kingdom.’

Lawyers were accordingly appointed to draw up the law; and it is clear that the reserve of the King left him ample scope for the exercise of his own discretion, even if it had not been rendered necessary by the variation between the proposals of the three orders, respecting the means of execution. But, in order to give our opponents every advantage, as we literally adopt their version, so we shall suppose (for the sake of argument) the Royal assent to have been given to the Chapter of the Nobles without alteration, and in all its specific provisions; it being that on which the Absolutists have chosen to place their chief reliance. It stands thus in their editions—

‘ The State of the Nobility prays your Majesty to enact a law, ordaining that the succession to the kingdom may never fall to a foreign Prince, nor to his children, though they may be the next to the last in possession; and that, in case the King of Portugal should be called to the succession of another Crown, or of a greater empire, he be compelled to live always there; and if he has two or more male children, the eldest son shall assume the reins in the foreign country, and the second in Portugal, and the latter shall be the only recognised heir and legitimate successor; and, in case there should be only one child to inherit these two kingdoms, these said kingdoms shall be divided between the children of the latter, in the order and form above mentioned. In case there shall be daughters only, the eldest shall succeed in this kingdom, with the declaration that she marry here with a native of the country, chosen and named by the Three Estates assembled in Cortes. Should she marry without the concurrence of the States, she and her descendants shall be declared incapable, and be ousted of the succession; and the Three Estates shall be at liberty to choose a King from among the natives, if there be no male relation of the Royal Family to whom the succession should devolve.’

Now the question is, whether Pedro IV. as the monarch of Brazil, a country separated from Portugal by treaty, did not become a foreign Prince, in the sense intended by these ancient laws, and was not thereby disabled from inheriting the Crown of Portugal on the decease of John VI.? For if he had incurred

that disability before the death of his father, it must be owned that all his acts of sovereignty in the European dominions of his family were null.

I. This question is not to be decided by verbal chicane. The mischief provided against in these laws was twofold;—the supposed probability of mal-administration by the Succession of a foreigner, ignorant of the country and unattached to it; and the loss of domestic government, if it fell by inheritance to the sovereign of another, especially a greater country. The intention of the Lawgiver to guard against both these occurrences, affords the only sure means of ascertaining the meaning of his words. But the present case has not even the slightest tendency to expose the country to either. Pedro IV. is a native Portuguese, presumed to have as much of the knowledge and feelings belonging to that character as any of his predecessors. The danger to Portuguese independence arises from the inheritance of the Crown devolving, *in perpetuity, and without qualification*, to a foreign sovereign. Such was the evil actually experienced under Philip II. King of Spain, and his two successors; and the most cursory glance over the law of 1641, shows that the Cortes had that case in view. Had the present resembled it in the important quality of a claim to unconditional inheritance, the authority would have been strong. But, instead of being annexed to a foreign dominion, Pedro IV. takes it only for the express purpose of effectually and perpetually disannexing his other territories from it;—a purpose which he immediately proceeds to carry into execution, by establishing a different line of succession for the Crowns of both countries, and by an abdication, which is to take effect as soon as he has placed the new establishment in a state of security. The case provided against by the law is, that of permanent annexation to a foreign crown; the right exercised by Pedro IV. is, that of a guardian and administrator of the kingdom, during an operation which is necessary to secure it *against such annexation*. The whole transaction is conformable to the spirit of the two laws, and not repugnant to their letter.

II. That a *temporary administration* is perfectly consistent with these laws, is evident from a passage in that of 1641. ‘ If the King of Portugal, should be called to the succession of another Crown, and there should be only *one* child to inherit the two kingdoms, these said kingdoms shall be divided among the children of the latter’—meaning after his death, and if he should leave children. Here then is a case of *temporary administration* expressly provided for. The father is to rule *both* kingdoms, till there should be at least two children to render the division practicable. He becomes, for an uncertain,

and possibly long period, the provisional sovereign of both; merely because he is presumed to be the most proper regulator of territories, which are to be divided between his posterity. Now, the principle of such an express exception is, by the rules of fair construction, applicable to every truly and evidently parallel case. But there is precisely the same reason for the tutelary power of Pedro IV., as there would be for that of a father, in the event contemplated by the law of 1641.

III. The effect of the treaty of Rio Janeiro cannot be inconsistent with this temporary union. Even on the principle of our opponents, it must exist for a shorter or longer time. The treaty did not deprive Pedro of his option between Portugal and Brazil. He must have possessed both Crowns, when he was called upon to determine which of them he should lay down. But if it be acknowledged, that a short but actual union is necessary, in order to effect the abdication, how can it be pretended that a longer union may not be not equally justifiable, for the honest purpose of quiet and amicable separation?

IV. The treaty of Rio de Janeiro would have been *self-destructive*, if it had taken from him the power of sovereignty in Portugal immediately on the death of his father. For in that case no authority would exist capable of carrying the treaty into execution. It must have been left to civil war to determine who was to govern the kingdom; while, if we adopt the principle of Pedro's hereditary succession by law, together with his obligation by treaty to separate the kingdoms, the whole is consistent with itself, and every measure is quietly and regularly carried into effect.

V. To these considerations we must add the recognition of Pedro, 'as heir and successor' in the ratification. Either John VI. had power to decide this question; or he had not. If he had not, the treaty is null; for it is impossible to deny that the recognition is really a condition granted to Brazil, which is a security for its independence, and of which the breach would annul the whole contract. In that case, Portugal and Brazil are not legally separated: Pedro IV. cannot be called a foreign Prince, and no law forbids him to reside in the American provinces of the Portuguese dominions. In that case, exercising all the power of his immediate predecessors, his authority in Portugal becomes absolute;—he may punish the absolutists as rebels, according to their own principles; and it will be for them to show, that his rights, as supreme lawgiver, can be bounded by laws called fundamental. But, on much more sober grounds, can it be doubted, that in a country where the monarch had exercised the whole legislative power for more than a century, his

authoritative interpretation of the ancient laws, especially if it is part of a compact with another state, must be conclusive? By repeatedly declaring in the introduction to the treaty, and in the ratification of it, that Pedro IV. was 'heir and successor' of Portugal, and that he was not divested of that character by the treaty, which recognised him as Sovereign of Brazil, John VI. did most deliberately and solemnly determine, that his eldest son was *not* 'a foreign Prince' in the sense in which these words are used by the ancient laws.

Such, too, seems to have been the sense of all parties, even of those the most bitterly averse to Pedro IV., and most deeply interested in disputing his succession, till that Monarch granted a constitutional charter to the people of Portugal. What then is this constitution? Let us very briefly state its principal parts.

But, before the statement of these particulars, it is proper to observe, that John VI. by his decree for the re-establishment of the ancient constitution of Portugal, had really abolished the absolute monarchy, and in its stead established a government, which, with all its inconveniences and defects, was founded on principles of liberty. For, let it not be supposed, that the ancient constitution of Portugal had become forgotten or unknown by disuse for centuries, like those legendary systems; under cover of which any novelty may be called a restoration. It was perfectly well known; it was long practised; and never legally abrogated: And indeed the same may be affirmed with equal truth, of the ancient institutions of the other inhabitants of the Peninsula, who were among the oldest of free nations, but who have so fallen from their high estate; as to be now publicly represented as delighting in their chains and glorying in their shame. In Portugal, however, the usurpation of absolute power was not much older than a century. We have already seen, that the Cortes of Lamego, the founders of the Monarchy, proclaimed the rights of the nation in a spirit as generous, and in a Latinity not much more barbarous, than the authors of Magna Charta about seventy years later. It is not a little remarkable, that these decrees, denouncing the punishment of death against a King who subjects his country to foreigners, should, after the lapse of some centuries, be invoked by writers who have revived the divine right of Kings, and by the remains of a confederacy formed for the avowed purpose of supporting Kings against their subjects by foreign force.

This ancient Convocation of the Estates was followed by a regular succession of assemblies of the same nature. In the thirteenth century, the general Cortes were six times assembled;

in the fourteenth century, twenty-six times; in the fifteenth century, forty-five times; in the sixteenth century, before the Spanish usurpation in 1580 only seven times; during that usurpation, from 1580 to 1641 but thrice to recognise the King or his heir apparent; and nine times, from the restoration in 1641 to the end of the seventeenth century, when the Kings of Portugal ceased to consult the representatives of the various orders of their people.* Besides this enumeration of near a hundred convocations, about thirty others are mentioned of more doubtful completeness, reality, or legitimacy. By the Cortes were exercised the right of passing laws and imposing taxes. In the *Codigo Philippino*, a collection of Portuguese Spar ordinances made under the Spanish domination, the consent of the Cortes is recited in the preamble of every law in the collection, as necessary to their authority. Whatever subordinate or temporary legislation was sometimes assumed by the King, it was a received principle that the Royal *Alvara* could not supersede a law passed by the Cortes; and the Chancellor had a right to refuse to register any Royal act which was to be in force for more than a year, which was at variance with this principle. His registration † was necessary to its validity. The important power of granting supplies was, without dispute, vested in the Cortes from the earliest period of authentic history, to the suspension of the constitution during the eighteenth century. The acts of the Cortes of 1385, at the election and proclamation of John I., bear the most ample testimony to their power over the purse. These acts, which were contemporary with the reign of Richard II. in England, after declaring that the people ought to participate in the affairs which pertain to them, and especially in what touches them so nearly as the imposition of taxes, proceed to repeal all the taxes then existing, as illegally imposed by the despotic power of the late King Ferdinand; and conclude, by pledging the Cortes to defray the public expenses by voluntary aids. This declaration has always been justly considered by the Portuguese nation as their Magna Charta. At the restoration of the House of Braganza, John IV. declared all the taxes to be illegal, and left it to the States to provide for the defence of the country. They not only granted a tenth to the King for that purpose, but also provided for the appropriation of the funds to the purposes for which they were voted, in a manner considerably sterner than ours, by appointing a Junta or Committee of the Three Estates to superintend the expenditure. ‡ The law for the regulation of the tenth, in

* *Memorias de Litteratura Portuguesa*, Lisboa, 1792. II. 46—128.

† *Id.* 52—53.

‡ *Mem. &c.* 109.

the reign of John IV., on the 9th of March 1654, affords the clearest proof of the undisputed right of the Cortes to regulate the application, as well as to determine the amount of the supplies. It recites the grant of the tenth by the Cortes, and the appointment of a Junta or deputation of their number to superintend its strict and exclusive appropriation to the expenses of war. No appropriation act passed in England since the Revolution, is stronger evidence of the right, or a better example of its rigorous exercise. The deputation appears accordingly to have actually collected and disbursed the money. †

It is peculiarly deserving of remark, that the great powers vested in this deputation of the Three Estates, afforded the most plausible pretext for allowing the general assembly of the Cortes to fall into disuse; for it was said that such a deputation might always be presumed to speak the sentiments of the whole body—So that a provision the most jealously contrived for the maintenance of liberty, at length contributed to facilitate the establishment of absolute power.

In the Cortes of 1668, the State of the people granted a subsidy for three years, and another sum for the fortifications of the frontiers; acts of limitation and appropriation which necessarily imply the freest and most entire authority in taxation. In 1679, *the Cortes dispensed a Princess of Portugal about to marry the Duke of Savoy, from the operation of the laws of Lamego, reserving her right of succession, notwithstanding her marriage to a foreign Prince.* John V., whose reign lasted from 1706 to 1750, appears to have been the first who assumed the rights of legislation and taxation, without the advice and consent of the Cortes. In other words, he was the first absolute monarch of Portugal. That he was able to consummate and consolidate this usurpation, is a decisive proof that the Portuguese constitution was too feeble to maintain itself against the Crown. Experience demonstrated that it must be newly modified, in order to be secure. But a recurrence from absolute monarchy to that constitution was, no doubt, practically a great revolution. The only question then was, whether that change was to be made real and beneficial, by so adapting it to the situation of the times, as to secure the observance of its principles. The difference between the ordinance of 1824, and the constitution of 1826, is, that the latter will probably bestow that liberty which the former had proved incapable of guarding.

By the Constitution of 1826, the person of the King of Portugal is irresponsible and inviolable. Without his Royal as-

† O Padre Amaro, ii. 463.

sent, no bill passed by both Houses of the Cortes, becomes a law. To him belongs the right of making war and peace, of conducting negociations, and concluding treaties, of appointing all civil and military offices, of changing all but Judges, and of nominating to bishoprics and other ecclesiastical dignities and benefices. He has the power of naming the Peers without limitation of number; of convoking, proroguing, and dissolving the Cortes; and of pardoning the whole, or remitting any part of the punishment of criminals.

The House of Peers is at present composed of one Patriarch, four Archbishops, thirteen Bishops, two Dukes, twenty-six Marquises, and forty-two Counts or Viscounts—or eighteen spiritual, and seventy temporal Peers. The income of the temporal Peers is from 10,000*l.* to 2000*l.* per annum. The landed property of the Crown, with that of the spiritual and temporal Peers, is estimated at one half of the land of the Kingdom. The first nomination of Peers has been limited to that part of the nobility who had the honours and dignities of what was called in Portugal a Grandee; but it is intended, and indeed it will be absolutely necessary, to extend the Peerage to some of the provincial nobility, and to others who are qualified for it by property and merit. The present list contains all the illustrious and historical names of Portugal. By the Constitution this House has an equal share of legislation with the other, and is a court for the trial of certain specified offences.

The Crown, by its Minister, appears, as in France, to have the exclusive right of originating the plan of a law.

With the Chamber of Deputies must originate money bills, and the votes of an army; and they have a right to impeach public servants, beside their equal share of legislative power. This Chamber is formed by a double election—the primary or parochial assemblies, at which no man can vote who has not an income of 25*l.* per annum, choosing the members of provincial or electoral assemblies; and these last, of which every member must have an income of 50*l.* per annum, choosing the deputies, whose qualification is 100*l.* per annum. Some notion of the station indicated by these incomes may be formed, from observing, that no one can vote at the election of a deputy, whose income is not about a hundredth part of the average income of the Peers of the realm. To this consideration it must, however, be added, that the average wealth of the present Peerage of Portugal, from the circumstances of its nomination, bears a larger proportion to that of the country than can be expected in any long established peerage, where many fall from affluence, and some are ennobled without fortune. It is singular enough that the system of double election proposed by Mr Hume, who, of

all speculators since Hobbes, is the least favourable to popular governments, should have been adopted in all the new constitutions of the last forty years; and it is perhaps still more singular, as well as more observable as a proof of the uncertainty of political reasoning, that this system is embraced with equal eagerness by the two opposite parties;—one of whom delight in it as enabling them, without confusion, to bestow the right of suffrage on the many; while the other deem it the most effectual means of subjecting the exercise of that right, to those intrigues which are successfully conducted only by the few.

The provisions of this Constitution which establish Judges during good behaviour, trial by Jury, exemption from arbitrary imprisonment, and religious liberty, are still more important than those which regulate the authority of kings, and of national assemblies; which exist principally to ensure a pure administration of justice, a perfect freedom of conscience, with the inviolable security of the property, and above all, of the persons of men. To these we must add the abolition of torture and of all cruel punishments, together with the solemn engagement to prepare a civil code, which shall not be made unequal by delay and expense; and a criminal code, which will derive efficacy from its conformity to the feelings of humane men.

With those who may condemn this Constitution as being too regal and aristocratical, we have at present no controversy. They can maintain their cause by no other force than that of argument; and they cannot hope, in the present circumstances of Europe, to realize their favourite speculations. But it is really hard to believe, that any man who tolerates a limited monarchy, can desire more power for the Crown, than is bestowed on it by the Portuguese Constitution. They may be challenged to name a Royal prerogative, not in its nature despotic, which it does not confer; and every man acquainted with the practice of such a government must discover, that the seed is sown in it of as large a crop of influence as the soil will bear. The importance of the higher nobility and clergy is raised by a separate House of Peers, to which the magistrates and the more opulent country gentlemen will be gradually called. The lawyers and merchants, who will probably form a large part of the deputies, will acquire a consequence from sitting in the same house with many country gentlemen, which, in the present state of property, opinions and manners in Portugal, no other circumstance could immediately bestow on them, or on the Chamber of which they may be leading members. These country gentlemen themselves will have more personal importance than in a house where they would be overshadowed by the

Grandees. It is not so clear, as it may seem at first sight, that the clergy themselves will be losers by this Constitution. It is true that they lose their separate branch, but is by no means certain that they will not derive more defensive force from the influence of eighteen Prelates, in a powerful House of Peers, than if their interests were intrusted to the protection of a Chamber composed solely of ecclesiastics, whose privileges it would be invidious, and might become hazardous to exercise. At all events, the undistinguishing admirers of antiquity will do well to remember, that in those ages when the Clergy formed a separate house, they were the only men of knowledge in a country, and that, when the session of a legislature did not continue above a week, the attendance of a great body of them did not impose the necessity of much additional non-residence. The Portuguese Ecclesiastics will show the utmost folly if they suffer themselves to be made the tools of the enemies of a constitution, which has treated the character, the rights, the dignity and the wealth of their Church with the most scrupulous regard.

The Infant Don Miguel has now sworn to observe and maintain the constitution. In the act of his espousals, he acknowledges the sovereignty of the young Queen, and describes himself as only her first subject. The mutinies of the Portuguese soldiers have ceased; but the conduct of the Court of Madrid still continues to keep up agitation and alarm; for no change was ever effected which did not excite discontent and turbulence enough to serve the purposes of a neighbour straining every nerve to vex and disturb a country. The submission of Don Miguel to his brother and sovereign, are, we trust, sincere. He will observe his oath to maintain the constitution, and cheerfully take his place as the first subject of a limited monarchy. The station to which he is destined, and the influence which must long, and may always belong to it, form together a more attractive object of ambition, than any which he could otherwise have hoped peaceably and lawfully to attain. No man of common prudence, whatever may be his political opinions, will advise the young Prince to put such desirable prospects to hazard. He will be told by all such counsellors of every party, that he must now adapt himself to occurrences, which he may learn to consider as fortunate; that loyalty to his brother and his country would now be his clearest interest, if they were not his highest duty; that he must forget all his enmities, renounce all his prejudices, and even sacrifice some of his partialities; and that he must leave full time to a great part of the people of Portugal to recover from those prepossessions and repugnances which they may have contracted. Eagerness, impatience and precipitation, are more dangerous in

his situation than in that of almost any other personage now conspicuous in Europe. He ought, in policy, not to desire to be at the head of the administration of affairs, till he is generally believed to have sacrificed his own prejudices, and conquered those of others. Exemplary acquiescence in the policy of the Royal Founder of the Constitution, is the only road to that national belief in his sincerity, which alone can render his administration easy or secure. What length of time ought to be allowed for prejudice to subside, for good-will to be regained, and for sincerity to be tried, is a question which of right it belongs to the King and Cortes of Portugal to determine. To make that period too short for the full attainments of all these objects, may prove an irreparable error, most injurious to him whose passion is unwisely indulged. A delay in the gratification of ambition is a small evil to the person whose enjoyment is postponed, especially if it visibly conduces to establish and consolidate a legal power which he will long possess, and an influence which it will be his own fault if he should ever lose.

We wish here to be indulged in a very short digression, of which the object is, to warn the Cortes that they have now an admirable opportunity of interesting liberal and humane men in their favour, and especially of obtaining the good opinion of a powerful body in Great Britain, perhaps not otherwise very likely to be favourable to them. By the honest, entire, and immediate abolition of the Slave Trade, by showing a sincere intention to adopt measures, however gradual and cautious, for Emancipation in their remaining colonies, they will earn 'golden opinions of all sorts of people,' and their principles will be most honourably contrasted, not only with the measures of the absolute monarchy, but with the policy of the Cortes of 1820. The abolition of the Trade never can be accomplished without a reciprocal right of search; and we earnestly hope that Portugal will on this point follow the excellent example of the Netherlands, and put to shame the Government of the United States of America. On the subject of Emancipation, it is impossible that the admirable conduct of the Republics of Spanish America (which ought to have shamed both England and North America out of their supineness) should be without a powerful influence on Brazil; and unless the Portuguese Government take emancipating measures (with the slowness of which, if they be honest, we shall not quarrel) in their African colonies, it is altogether impossible to abolish the exportation of slaves from those ancient seats of the Slave Trade. This is a subject on which Portugal has a character to gain; and we are thoroughly convinced, that there is no one circumstance on which the good opinion of Europe will more depend, than on the

policy of the Cortes respecting it. Let the Portuguese recollect that when Napoleon, during the Hundred Days, was desirous of general good opinion, *his first measure* was the abolition of the Slave Trade. His sagacity has never been questioned; and he never was suspected of philanthropic visions. What he thought likely to make him popular in England and through Europe, cannot be a bad means for attaining the end.

The adversaries of the Portuguese Constitution on the Continent, have chosen to represent it as the fruit of English intrigue. The French Ultra-Royalists, indeed, on this, and on every other occasion, now write against England in a style which seems to be borrowed from that used by the National Convention thirty years ago. In this country, also, the grant of a Constitution has been ascribed to the liberal principles of the foreign Secretary of State. If we however be rightly informed, it ought not to be imputed to him, either as a merit or a fault. It was indeed (as appears from the foregoing deduction) the natural result of previous measures, exactly agreeing with those of 1823, and differing from those of 1824, only in providing better securities for the observance of the same principles. The political necessity for its adoption, evidently arose out of the internal situation both of Portugal and Brazil, as well as from the circumstances of the new government required by their separation. It is not probable that an English minister should have incurred the responsibility of suggesting such important measures of internal reform: And the very anxiety now shown to spread such rumours, is sufficient to prove, that, if they had sprung from a foreign source, their unpopularity might have rendered them insecure. If they had not been of native growth, they would have wanted the strongest presumption of being required by the circumstances, and suited to the character of the people.

At the same time, we are willing to acknowledge, that we doubt whether the advisers of Pedro IV. would so confidently have proposed the grant of a Constitution, in the administration of former Secretaries for Foreign Affairs in England. A revolution in the avowed principles of the foreign policy of the only Ally of Portugal, could not be indifferent to the government of that kingdom. To the merit which belongs to this change, we are always ready to pay our unwonted, and perhaps unwelcome, but sincere tribute of approbation. As, however, the only small importance which can be ascribed to that tribute, depends on its being considerate and conscientious, as well as disinterested, we must exclude from it those transactions concerning which we have no sufficient means of knowledge, and at the head of them the negociations to prevent the

invasion and occupation of Spain. The obstacles, both abroad and at home, which hindered the British minister from using a more decisive language on that occasion, are not yet so thoroughly known as to enable us to form a sound judgment on his policy. The discussion of these measures now, would be at once too late for practical effect, and too early for history. They are irrevocable; and we are not yet impartial, nor perhaps sufficiently informed.

In the year 1824, England was withdrawn, without the risk of war, from her tacit accession to the Holy Alliance; and by a policy equally arduous and meritorious, she retired to her natural station without a shock. The recognition of the Republics of Spanish America, was as important in openly braving the extravagant exaggerations of legitimacy, as in rescuing the New World from the members or vassals of the European Confederacy. France at length followed the example, after having first endeavoured to propitiate the pride of Spain, by recognising the Negro Republic erected on the ruins of her own authority in Hayti. Under these circumstances, the death of the Emperor Alexander virtually dissolved the Holy Alliance. Soon after followed the demise of John VI., and the Establishment of which it became the duty of Pedro IV. to be the founder.

The remaining influence of the Holy Alliance was more than sufficient to agitate Portugal, and might probably have overthrown her Government, if it had not been promptly and boldly withstood by her Ally. The situation of more than one Continental Government rendered our vigour more seasonable than it might have been before. The principal Ministers of France were men of moderate character and pacific disposition, whose main fault was that of many men of that description—the inclination to make all their concessions to their nearest opponents, to be violent at a distance in order to be quiet at home. Hence their unhappy submission to that faction of Ultra-Royalists and Ultra-Catholics, who think that no Crown can be safe without despotism, and no Church secure without persecution. But the apprehensions in other quarters had at least ceased. They no longer were compelled to cross the Ebro to prevent the crossing of the Rhine. They were at liberty to return to the ancient maxims of French policy, which, however much they may prescribe a watchful jealousy of England, are assuredly not favourable to the interference of the great military powers in the South and West of Europe. They must perceive the impossibility of long continuing the present state of Spain; the peril to which that Government would expose itself by war against Portugal; and the tremendous means of hostility which England might employ, if the danger of her Ally should drive

her to the exercise of the extreme rights of war. They might even desire to see the Government of Spain reduced to the necessity of acting with some remote approach to the most obvious dictates of common sense; of which it is now evident that nothing but necessity will ever bring it within sight. In this state of things, the interest of France and that of England coincided in many important respects. If an attempt was made to convince the French Ministers of that coincidence, it was the dictate of a policy as wise as it was generous; and we heartily wish that we had more ground for sanguine hopes of its success. But there can be no doubt that the dispositions of the French Ministers, as well as the dangers of the Spanish Government, and the apprehension of general war, rendered the spirited measures of the English Minister productive of real advantage. He who, in the midst of the national distress, and in the face of that frightfully growing discontent in Ireland, which his colleagues seemed determined to perpetuate, has dared to speak in that decisive tone which can alone secure permanent tranquillity, is deserving of great approbation.

But though the boldness and promptitude merit commendation, the measures themselves were only acts of duty: For England was bound to defend Portugal; and she could not disregard the obligation, without proclaiming that she was unable to discharge her obligations, and to hazard a contest for the existence of an Ally. Perhaps there is not, in the whole history of public law, any example of so long and uninterrupted a series of treaties of alliance and guarantee between two states, as those which bind England to Portugal. On the revolt of that kingdom against Spain, Great Britain was one of the first states which recognised her independence, by a treaty concluded in 1642, between Charles I. then struggling against popular commotions, and the first Prince of the House of Braganza, within a year after the popular revolution which seated him on the Portuguese Throne.* It was a treaty of alliance, which has remained in force for a hundred and eighty-four years: For the privileges granted by it to British merchants in Portugal, have been constantly exercised by them during all that time, and are enjoyed by them in virtue of it to this day. It was renewed, and somewhat enlarged, in a treaty with Cromwell, in July 1654; † which was itself confirmed by the treaty of 1661, between Charles II. and Alfonso VI., for the marriage of the former Prince with Catharine of Braganza. But this new treaty (Art. 15, 16, 17, and 18,) superadds a de-

* Dumont, Corps Diplomat. VI. 238.

† Id. VI. Pars 2. 182.

fensive alliance, fixes the aid to be given, and declares (Art. 16), that Great Britain will succour Portugal 'on all occasions, when the country is attacked.' By a secret Article, Charles II., in consideration of the cession of Tangier and Bombay, binds himself 'to defend the colonies and conquests of Portugal against all enemies, present or future.' On the 16th of May 1703, two treaties were concluded at Lisbon; the first, between the Emperor, Great Britain, and the States-General, on the one part, and the King of Portugal, on the other, which was offensive and temporary, being intended only for the War of the Spanish Succession; * the second, between Great Britain and the States-General, on the one side, and the King of Portugal on the other, which was defensive and permanent, being to secure Portugal against the future dangers to which she laid herself open, by the part which she then took against the House of Bourbon. † After fixing the military and naval aid to be granted to Portugal, it declares, in the 14th Article, that 'the league shall be perpetual.' The Convention of the same year, commonly called the Methven Treaty, is entirely commercial, and consists only of three Articles, by which it is stipulated, that, in consideration of the free admission of English woollens into Portugal, Portuguese wines shall be admitted into England, on payment of a duty which shall be one-third less than that levied on the wines of France. At Utrecht, Portugal made peace with France in 1713, and with Spain in 1715, and, on both occasions, under a guarantee unusually explicit and solemn from Great Britain; as if designing to mark out the ally on whom she relied for preservation, at the moment of the commencement of that new political system which brought the Bourbon empire to her frontiers. ‡ On the accession of George I., he executed a separate act of guarantee § of the Portuguese treaty with Spain, by which he bound himself to take all necessary and effectual measures to prevent an infraction of the treaty, which was a guarantee of the territory of Portugal against Spain. As the prior treaties were expressly confirmed in all those which succeeded, every part of them not self-evidently temporary, was kept alive by repeated and positive stipulations. In 1807, a convention, providing for the expected emigration of the Royal Family, was concluded, of which the greater part was, from its nature, occasional, but by which,

* Dumont, Corps Diplomat. VIII. 127.

† This second treaty is not mentioned by Dumont, and nothing but the title and date are stated by Chalmers. The contents are given in the text, from private information.

‡ Dumont, VIII. 342, &c.

§ 3d May 1715.

in the 6th Article, England guarantees Portugal to the lawful heir of the House of Braganza, and promises never to recognize any other Ruler of that kingdom. By the Treaty of Friendship and Alliance of Rio Janeiro, on February 1810, it is declared, by the first Article, ‘ That the two Powers ‘ have agreed on an alliance for defence and *reciprocal guaran- ‘ tee* against every hostile attack, conformably to the treaties ‘ already subsisting *between* them, the stipulations of which shall ‘ remain in full force, and are renewed by the present treaty in ‘ their fullest and most extensive interpretation.’ * It confirms, on the part of Great Britain, and repeats *verbatim*, the engagement of that Power in the Convention of London, on the 23d of October 1807, to acknowledge no Sovereign of Portugal but the Heir of the House of Braganza. However the more positive articles of this treaty may have been varied by subsequent stipulations, its authority is entire and inviolable, as a solemn acknowledgment by both parties of the obligations which they had contracted by a long series of treaties; all of which they declare to be still in full force. The insertion of the important and well-defined term ‘ Guarantee,’ in the treaty of Rio Janeiro, and the consequences which, on the principles of public law, follow from such insertion, cannot escape the observation of the most commonly informed reader. But this is not all. The treaty of Vienna, of the 22d January 1815, between Great Britain and Portugal, contains the following Article. †

‘ The treaty of alliance at Rio Janeiro, of the 19th February 1810, ‘ being founded on temporary circumstances, which have happily ceased ‘ to exist, ‡ the said treaty is hereby declared to be of no effect; WITH- ‘ OUT PREJUDICE, HOWEVER, TO THE ANCIENT TREATIES OF AL- ‘ LIANCE, FRIENDSHIP AND GUARANTEE, WHICH HAVE SO LONG ‘ AND SO HAPPILY SUBSISTED BETWEEN THE TWO CROWNS, AND ‘ WHICH ARE HEREBY RENEWED BY THE HIGH CONTRACTING PAR- ‘ TIES, AND ACKNOWLEDGED TO BE OF FULL FORCE AND EFFECT.’

Such is the acknowledgement made by England, very recently, in the face of Europe, and in a treaty laid before Parliament, without exciting a murmur against that acknowledgement, that she has been engaged by treaty for a period which, by one construction, amounted to a century and a half, and, according to the narrowest interpretation, to more than a century to *guarantee* Portugal against attack. To say nothing of other stipulations, the ancient friendship was matured into an al-

* Recueil de Marten's, Supp. V. 245.

† Parliamentary Papers, 1816. Marten's Supp. VI. 96, &c

‡ The exclusion of the House of Braganza from Europe.

liance in 1642; and the guarantee, which began in 1661, was more explicitly declared in 1703, repeated at the peace of Utrecht, and acknowledged to be in full force at the Congress of Vienna. What need is there of farther statements? What national obligation more inviolable can be pointed out in the relations of European States? Such indeed was the professed conviction of all British Statesmen at a recent and most critical period. Even at the moment of the invasion of Spain in 1823, Sir Charles Stuart was instructed to demand an explanation from France respecting Portugal. The French Ministers disavowed any disposition to attack her; * and Mr Canning declared † in Parliament, ‘ that there never had been a single moment in which the Ministers of France had not been aware, that any attack made by them on Portugal, would bring Great Britain into the field with all her force, to support the independence of her ancient and faithful Ally. England was bound to protect Portugal, if Portugal were attacked.’

Lord Liverpool, on the same occasion, said in the House of Lords, that his Majesty was relieved, as far as the assurances of France could relieve him, from all apprehension of being under the necessity of performing his defensive engagements with Portugal. No Member of either House of Parliament ventured on that occasion to insinuate any doubt of the obligation of England to succour Portugal. One Member of the House of Commons, at least, reasoned at length against acquiescence in the occupation of Spain by the French army, on the specific ground, that it rendered the performance of our federal duty by an effective defence of Portugal against an attack by France very difficult, if not impracticable. He even represented the acquiescence as being on that account an offence against the spirit of our treaties with Portugal. Even this interpretation of these treaties, though perhaps carried farther than he himself would in calmer moments approve, was not sufficient to provoke any doubt of their obligation and authority.

The Princess Regent of Portugal, in her speech to the Cortes, expressed her peculiar reliance on Great Britain, in the following terms.

‘ I cannot but anticipate the happiest results from the dispositions of foreign nations in regard to us. Bound by the faith of treaties, and by the most striking proofs of friendship to One of the European nations, and at peace with all, *I calculate upon the decisive support of the former, and upon the good will and fraternal reciprocity of the latter.*’

The King, in his speech to Parliament, says—

* Negotiation Papers laid before Parliament, 1823.

† 14th April 1823.

‘ I am exerting myself with unremitting anxiety, either singly or in conjunction with my Allies, as well to arrest the progress of existing hostilities, as to *prevent the interruption of peace* in different parts of the world.’

He doubtless alluded, in the former part of the last clause, to the foolish and mischievous war between Brazil and Buenos Ayres. Perhaps he might also refer to the hostilities between Russia and Persia, which may teach Continental politicians to understand the process by which an European government may be goaded into conquest, by the faithless turbulence and infatuated insolence of an Asiatic neighbour. Above all, we trust that they are intended to announce a decisive, though tardy interference, of the Great Powers to rescue the remnant of the Greeks from massacre. Perhaps the interposition would have been neither effectual for its purpose, nor safe for the peace of Europe, until all the powers of the first rank had concurred in it. Surely, however, the Pacha of Egypt might have been excluded from the contest, as an independent chief, who disguised himself in his old dress of a feudatory, in order to steal into Pelopponnesus, and acquire that country for himself, under pretence of restoring it to the Ottoman Porte.

But our hopes had fallen so low, that we shall rejoice if the Greeks be secured from the lot of the Janissaries, by the grant of a territory within which they may regulate their own affairs.

But certainly the last words must be applied in a peculiar and more emphatic sense to Portugal. We are not only bound by the general ties of justice and humanity, but by the most sacred stipulations of a system of treaties, which—even if it were convenient for us that the masters of Corunna and Cadiz should be also the masters of the Tagus; if Ferdinand VII. were another Marcus Aurelius; and if the Portuguese nation had established an African despotism on the ruins of liberty—would nevertheless bind us to defend her territory against all avowed or disguised warfare.

In the conversation on the King’s speech, Mr Canning is reported to have said, that we were bound to defend Portugal against foreign attack, not to support one Portuguese faction against another. It is a very unjust, though a very prevalent practice, to draw conclusions from Parliamentary Reports, as if a speech were previously written by the speaker, and printed carefully from his manuscript. The substance of speeches on common subjects of discussion, is in general reported with astonishing accuracy, especially where the speaker lessens the difficulties of the undertaking, by shunning subtlety, by spreading out his topics, so that each is long enough before the hearer; and by an utterance so slow, as to give time for carefully fol-

lowing him. But on subjects rarely occurring, in the case of technical language, and where the speaker is liable to the vices of overrefined argument, or of declamation too vehement not to be sometimes indistinct, the success of the reporter cannot be so great. For a case which occurs so rarely as that of unusual precision, he is least of all prepared. Questions of international law, however, of the construction of a treaty, and the extent of an alliance, require the use of very precise terms. Mr Canning has, indeed, a great power of being precise, which, like other orators, he exercises, when it is fit and politic. Whether he actually expressed himself on this subject with that elegant precision of which he is a master, we are unfortunately disabled to determine.

But whatever may have been his words, it is perfectly certain that he did not mean to narrow the construction, or to loosen the obligation of a treaty, or to use language which might foster unhallowed hopes, or damp a spirit which needs and deserves to be supported. He knows, that those who declare that they will go no farther than the letter of the law, seldom go so far. Undoubtedly, a general alliance for defence and guarantee does not impose any obligation, nor indeed give any warrant to interfere in intestine divisions. A defensive alliance is a contract between several states, by which they agree to aid each other in their defensive (or, in other words, in their just) wars against other states. Morally speaking, no other species of alliance is just, because no other species of war can be just. The simplest case of defensive war is where our ally is openly invaded with military force, by a power to whom she has given no just cause of war. If France or Spain, for instance, had marched an army into Portugal, to subvert its constitutional government, the duty of England would have been too evident, to render a statement of it necessary. But this is not the only case to which the treaty is applicable. If troops were assembled, and preparations made, with the manifest purpose of aggression against an ally; if his subjects were instigated to revolt, and his soldiers to mutiny; if insurgents on his territory were supplied with money, with provisions, with arms, and military stores; if, at the same time, his authority were treated as an usurpation, the well affected part of his subjects refused all participation in the protection granted to other foreigners, while those who proclaimed their hostility to his person were received as the most favoured strangers,—in such a combination of circumstances, it cannot be doubted that the case foreseen by defensive alliances would arise, and that he would be entitled to claim that succour, either general or specific, for which his alliances had stipulated. The wrong would be as complete, and

the danger might be as great, as if his territory were invaded by a foreign force. The mode chosen by his enemy might even be more effectual, and more certainly destructive, than open war. Whether the attack made on him be open or secret, if it be equally unjust, and exposes him to the same peril, he is equally authorized to call for aid. All contracts, under the law of nations, are interpreted as extending to every case manifestly and certainly parallel to those cases for which they provide by express words. In that law, which has no tribunal but the conscience of mankind, there is no distinction between the evasion and the violation of a contract. * It requires aid against disguised, as much as against avowed injustice; and it does not fall into so gross an absurdity as to make the obligation to succour less where the danger is greater. The only rule for the interpretation of defensive alliances seems to be, that every wrong which gives to one ally a just cause of war, entitles him to succour from the other ally. The right to aid is a secondary right, incident to that of repelling injustice by force. Wherever he may morally employ his own strength for that purpose, he may with reason demand the auxiliary strength of his ally. † Fraud neither gives nor takes away any right. Had France, in the year 1715, assembled squadrons in her harbours, and troops on her coasts; had she prompted and distributed writings against the legitimate government of King George I.; had she received with open arms battalions of deserters from his troops, and furnished the army of the Earl of Mar with pay and arms when he proclaimed James III.; Great Britain, after demand and refusal of reparation, would have had as perfect a right to declare war against France, and, consequently, as complete a title to the succour which the republic of the United Provinces was bound by treaty to afford, as if the pretended King James III, at the head of a French army, were marching on London. The war would be equally defensive on the part of England, and the obligation equally incumbent on Holland. It would show a more than ordinary defect of understanding to confound a war *defensive* in its PRINCI-

* ‘ Discrimen actuum bonæ fidei et stricti juris—ad jus gentium non pertinet.’—*Grot. de Jur. Bell. et Pacis*, Lib. ii. c. 11.

‘ Lorsque la raison unique et suffisante d’une promesse est certaine on étend celle disposition au cas on la même raison est applicable, quoique ils ne soient pas compris dans la signification des termes.’—*Vattel*, Liv. ii. chap. 17.

† Vattel’s reasoning is still more clear in a case of guarantee. ‘ Si l’alliance defensive porte un garantie le *Casus Fœderis* se déploie toutes les fois que les terres sont envahies ou *menacées d’invasion*.’—*Vattel*, Liv. iii. c. 6.

PLE, with a war *defensive* in its OPERATIONS. Where attack is the best mode of providing for the safety of a State, the war is defensive in principle, though the operations are offensive. Where the war is unnecessary to safety, its *offensive* character is not altered, because the wrong doer is reduced to defensive warfare. So a State, against whom dangerous wrong is manifestly meditated, may prevent it by striking the first blow, without thereby waging a war in its principle offensive. Accordingly, it is not every attack made on a State, that will entitle it to aid under a defensive alliance; for if that State had given just cause of war to the invader, the war would not be on its part defensive in principle. *

The *Policy* indeed of preventing by war the farther progress of insidious hostility and degrading insult, must in each case depend on the particular circumstances; and there are also cases in which a considerable uncertainty concerning the facts may occasion a correspondent perplexity in the application of principle. But in the case which we have now considered, there is no such perplexity. It is evident that the King and People of Portugal desire to establish a constitution which shall secure the well-being of that country, without disturbing any other wise government; that the national agreement in support of it, is as extensive as can ever be expected to exist; that it has been conducted with a perfect regard to the fundamental laws, (of which, however, as long as it is innocent no foreign power is entitled to judge), and that the handful of military mutineers who have cried out against it, are stirred up and guided by foreigners; and have themselves nothing Portuguese, but what enables them more effectually to destroy their country. We are thoroughly convinced that every Englishman who fully considers the sacred obligations of his country, will be satisfied, that without the liberal performance of them, England can neither preserve her honour nor enjoy real security. It is needless, and it would now be base, to inquire if our treaties with Portugal were wise. We shall not say a word on a question which, at this moment, would be too like a doubt whether we ought to hold them sacred. And we are sure that the minister, who has stationed a British squadron in the Tagus, as a characteristic and national pledge of frank, bold, and unchangeable friendship, will never suffer such a symbol to be dishonoured by restrictive expositions and niggardly interpretations of a promise of succour to

* ' Dans une alliance defensive le Casus Fœderis n'existe pas tout de suite que notre allie est attaqué. Il faut voir s'il n'a point donné à son ennemi un juste sujet de lui faire la guerre. S'il est dans le tort il faut l'engager à donner une satisfaction raisonnable. — *Vattel*, Liviii. c. 6.

an ancient, faithful, and feeble ally, endangered by an attempt to establish Liberty.

* * * The whole of the above was printed before the King's message and the discussion of it in both Houses of Parliament, on Tuesday the 12th of December 1826. It is very satisfactory to find, that nothing passed on that occasion which does not corroborate this long statement of complicated and little known transactions, in which some inaccuracies might have been excusable. It is still more agreeable to find, that we concur so entirely, in reason and feeling, with those whose judgment we most value. In the House of Lords, the claims of Portugal were maintained by Lord Lansdown and Lord Holland, on comprehensive and generous maxims of policy, independent of the obligations of treaty. In the House of Commons, those who were present, especially those who again tasted their wonted pleasures after a period of privation, will never forget the precise, succinct, luminous, graceful, and (where it was fit) magnificent exposition of Mr Canning—whose warnings are not to be thought at all unfriendly, or, in the end, unprofitable, because, like most wholesome and needful counsels, they have proved unwelcome—powerfully seconded as it was by the grave, nervous, masculine, and commanding eloquence of Mr Brougham, who never showed himself more worthy of the confidence of those whose bond of union is the love of freedom.

The energetic measures of the Administration, were justly commended by those who are accustomed to differ from them. No man so far forgot decorum towards the French Minister, as to suggest that they who had seconded the Remonstrances of Mr Lamb at Madrid, which were necessarily founded on our Treaties with Portugal, could, in any circumstances, or from submission to any influence, be made the instruments of a war against England, solely for her adherence to these very self-same treaties.

But neither did any reasonable man rest the justification of his vote, at this awful moment, on such a foundation of shifting sand, as the events of war and the issues of political intrigue. There is nothing certain in the case, but the duty of the English nation. But this sacred certainty renders all other doubts of little moment. *Hoc satis est dixisse Jovem.* Those who voted for supporting the King, in performing the duties imposed on this country, by Treaties, were neither blind to the uncertainty of success or to the general evils of war, nor to its peculiar inconvenience to this country, at this critical moment; But they believed that the observance of faith and justice, if it were no more, would always be the highest policy of nations.

They did not think it decent to support a call of the House, for the express purpose of discussing, as a debateable question, whether England ought to perform her engagements? They thought it as unwise as dishonourable to declare to Europe, either that we were unable to succour an ally, and, by consequence, to resist an enemy, or that Portugal, by the crime of attempting to establish liberty, had forfeited those claims on our aid, which, if similar treaties had existed, would have bound us as fast to Morocco. To the doubts, whether the secession of Holland from the Triple Alliance of 1703, had not annulled the whole compact, it was justly answered by Mr Canning, that such an argument might have had some force, if ‘the ancient *Treaties* of ALLIANCE and GUARANTEE had not been expressly renewed at the treaty of Vienna.’ To which it may be added, that this renewal was deliberately made by England, long after the retirement of Holland from the alliance; * that the use of the Plural ‘*Treaties*,’ both in 1810 and 1815, evidently supposes the two treaties of 1661 and 1703 to be in force; and that the words, ‘alliance and guarantee,’ in the treaty of Vienna must be referred to the two treaties which stipulate for the objects which these words denote. At any rate, they are sounds without signification, unless they refer at least to either—and either is sufficient for this argument. The transactions at Utrecht, in 1713 and 1715, show the sense of Portugal and England of their federal relations at that time, especially if it be considered that Holland did not then, like England, guarantee the peace of Portugal with France and Spain; and the unanimous language of Lords and Commons, Ministers and Opposition, in 1823, demonstrates, that the treaty of Vienna was then universally perceived and felt to bind us to defend, help, and secure our most ancient ally.

Let it not be said, that, in this federal connection, the burden only is ours, and the advantage wholly that of Portugal. Twice within half a century—once in 1762, and a second time in 1807—Portugal was brought to ruin by her fidelity to England.

We write in the midst of the most gloomy reports. We are perfectly aware that a soldiery, taught to be mutinous, may carry its treacherous sedition to the best market. English aid may perhaps be too late: But neither that nor any other event shall affect that satisfaction with which we see it granted, in a just cause, where it is required by good faith, and consecrated by the defence of Liberty.

* This must have been before 1762, when the aid of Holland was not claimed.

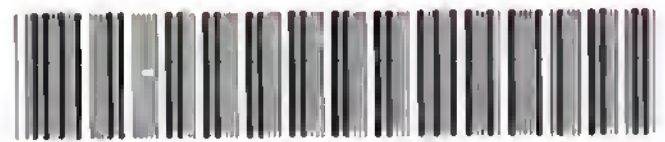
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