

and, through them, the Crown: there are the Courts, which interpret the written laws, and which also interpret the customs, usages, and traditions having the force of law; and for public opinion, why, there are the London newspapers.

Now, the Ministers, as holding powers from the Crown and Parliament, declare war, acknowledge foreign belligerency, conclude Treaties, recognize new States, in a word supervise and direct the foreign relations of the kingdom.

Is that *arbitrary power*? I deny it. It is the *law*, which has been established by tradition, just as the existence of Parliament, the right of primogeniture, the privileges of the peerage, have been established.

But the act of a declaration of war by the Crown, or the conclusion of any Treaty, profoundly affects private interests. Among the least of its effects would be that of imposing obstacles to the departure of merchant-vessels from the ports of the kingdom. Nevertheless, in this controversy, we are asked to believe that it would be *arbitrary* to detain provisionally a merchant-vessel for the object of a simple inquiry caused by suspicions as to the legality of its equipment and destination.

Look at the power of Parliament—there you have arbitrary power. A Parliament held to be omnipotent, which can banish and even try a King, introduce a new dynasty, abolish hereditary succession and all its legislative and judicial privileges, change the State religion, confiscate the goods of the Church, take from the Crown the administration of the international relations of the country—is not this the reign of despotism?

But, up to the present time, Parliament has not taken from the Crown, that is say from the Ministers, the direction of foreign affairs. It may arrogate to itself a part of that direction, as it has done in other constitutional countries; but as to assuming it entirely, that would be difficult in the present state of Europe.

I honour England. The substance, and even the forms, of the institutions of the United States are borrowed from the mother-country. We are what we are, first of all, because we are of British race, language, religion, genius, education, and character. I have studied England at home, in her colonies, in her establishments beyond the seas, and, above all, in her magnificent Indian Empire. She is rich, great, and powerful, as a State; not, in my opinion, because of the subjection of her Ministers to the scrupulous and daily criticism of the House of Commons, but in spite of it, as I remember to have heard said by the late Lord Palmerston. It is not the strong, but rather the weak side of her Government, as one sees, moreover, in the present controversy. It is not worth while, therefore, to deny to the Crown executive powers necessary for the peace of the kingdom; nor, in the present case, to raise cries of arbitrary power in the face of the admitted omnipotence, that is to say, of the absolute despotic power, of Parliament, whose real power tends every day to concentrate itself more and more in the House of Commons alone.

Such a Constitution, so undefined, continues to work, thanks above all to the practical good sense of the English people, to their wholesome respect for traditions, to their special talent for government, to their praiseworthy national pride, and to the elasticity of their political forms, which allows of everything being received and placed in the *governing class*, which, no matter where within the limits of the empire, is distinguished by its eminent qualities.

Thus liberty and order are reconciled. But liberty and order equally require that the public peace should not be disturbed by the intrigues and mercenary interests of individuals for want of a little repressive power placed in the hands of the Crown.

Parliament in its omnipotence might easily have remedied the defects of the municipal law, if it had chosen. It has since done so. But it did not do it in time, and this it is which constitutes a failure in the due diligence of the Treaty.

America, on the contrary, has several times done this at the right moment, in the interests of her friendly relations with Great Britain.

The Russian Ships.

The British Counsel quotes and approves the opinion of the English Judges given in Fortescue's Reports. They were of opinion "that the Crown had no power, by law, to prohibit the building of ships of war, or of great force, for foreigners, in any of His Majesty's dominions." (p. 18.)

Two Judges had given this opinion in 1713; other Judges (it is not said how many) gave the same opinion in 1721. The vessels were built for Russia, and contrary to the remonstrances of Sweden.

In 1713 there was open war between Russia and Sweden. It was four years after the battle of Pultowa. Charles XII had taken refuge in Turkey, and the Sultan in vain endeavoured to persuade him that he ought to return to his own States.