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LETTERS
ON THE
SOUND-DUES-QUESTION.
I - VII
1855.

34⁵ - 42

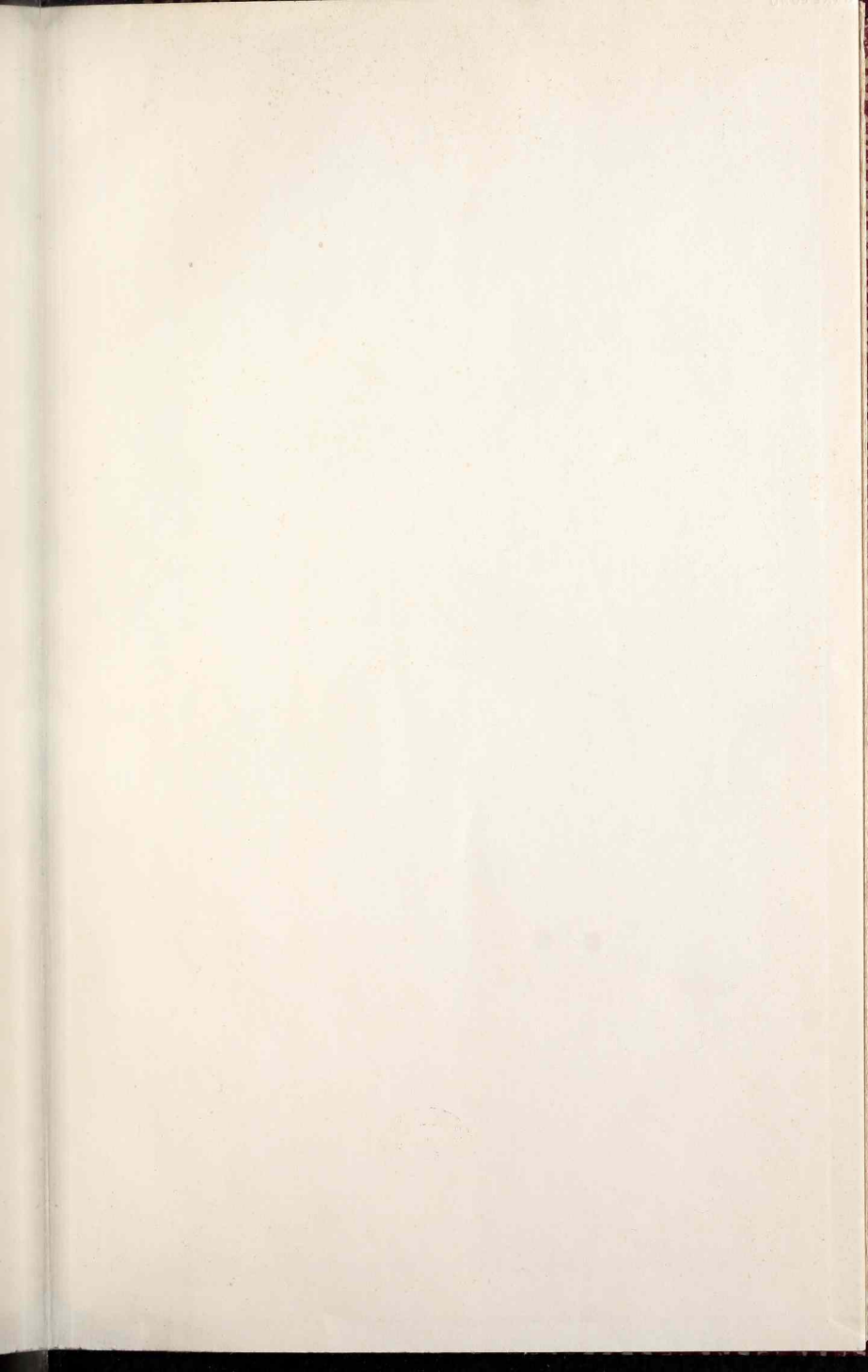
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TREX





LETTERS
ON THE
SOUND-DUES-QUESTION.

I—VII.

NEW-YORK.
G. B. TEUBNER, PRINTER, 17 ANN STREET.

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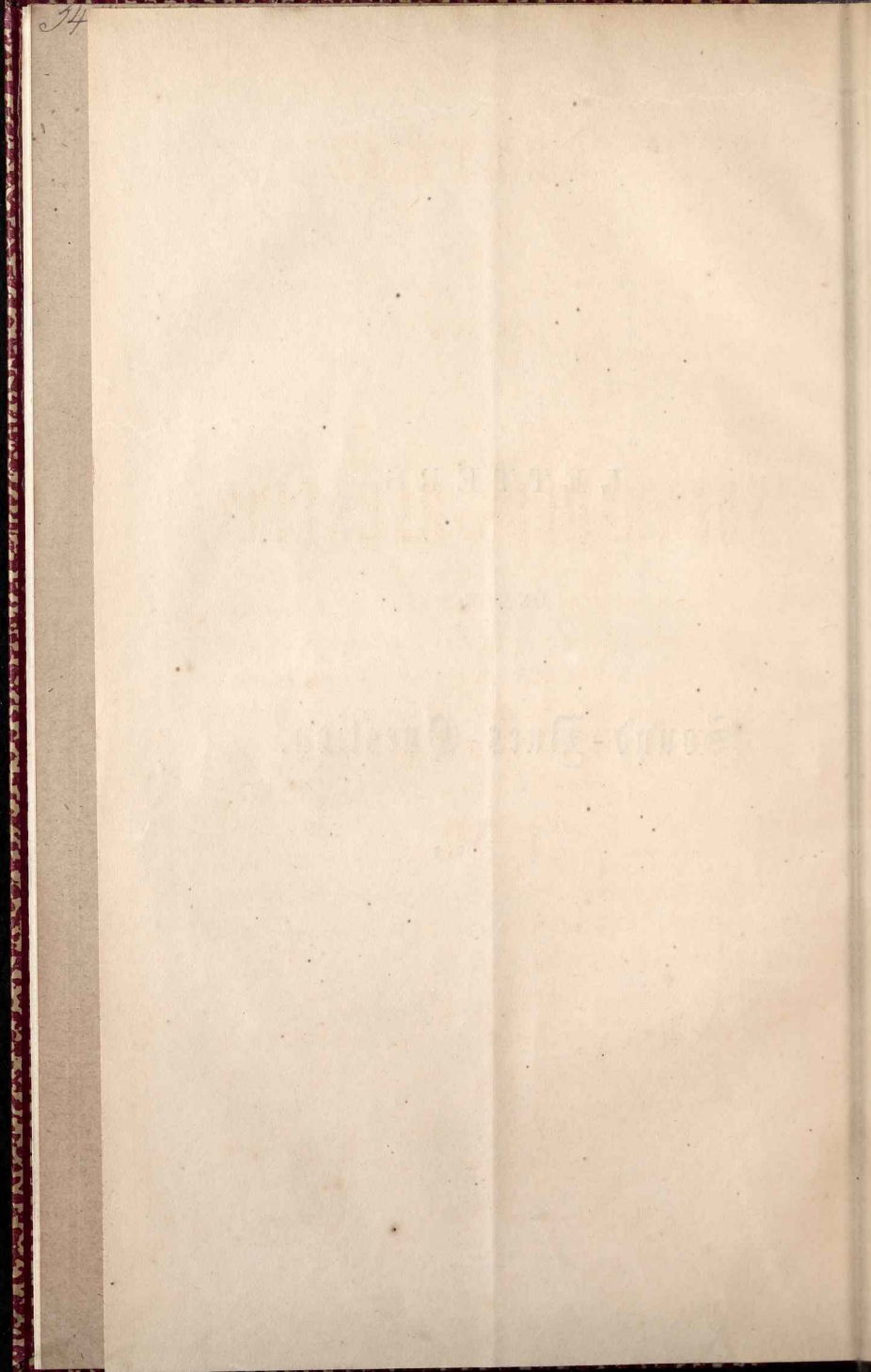


34. - 42.

LETTERS

ON THE

Sound-Does-Question.



LETTERS
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SOUND-DUES-QUESTION.

I—VII.



DET KONGELIGE BIBLIOTEK
KØBENHAVN

NEW YORK.
G. B. TEUBNER, PRINTER, 17 ANN STREET.

1855.



THE following letters upon the Sound-dues-question, as now pending between the United States and Denmark, were originally written for, and, have partly been inserted in the New York Daily Times. Other occupations, however, and the unsatisfactory state of his health, having prevented the writer from making them follow one another in as quick succession as at first intended, and their publication in the Times having consequently suffered such interruptions, as would make it almost impossible for any reader not to lose the thread of the argument, he avails himself of the pamphlet form to lay them before the public as a whole.

It may be well, however, to state expressly, that far from embracing the whole subject of the Sound dues, these letters only treat of the principal points now at issue between the United States and Denmark, and contain only such information as may be brought to bear upon those points.

Unconnected with either of the two Governments, the writer is not otherwise interested in this question, than the great mass of citizens of both countries, and has not had access to other sources of information, than such as are open to every seeker after truth. The facts relative to this matter, which are stated in the following letters, were derived exclusively from printed Congressional Documents, from the last Edition of Wheaton's "Elements of In-

ternational Law," from American newspapers and from a few German books and pamphlets, all of which publications, with the exception, however, of Wheaton, are more or less hostile to the rights of Denmark.

The ancient bonds of amity by which the United States and Denmark were held together, have been severed for the first time by the sudden abrogation of the treaty of 1826, and the two countries are now fast "drifting" into a collision, which, if it cannot be prevented in time, will stand in history as a wanton and unjustifiable aggression of the powerful upon the weak, and which for this reason alone (whatever the probable material results of the conflict may be), the high-minded people of this country will be the first to regret and to desire undone.

There can hardly be any doubt, but that matters would never have been allowed to go thus far, if it had not been for the very limited knowledge possessed by the American public generally, about the real facts connected with this question, and which is but a very natural and direct consequence of the still smaller portion (if any) of the material interests of this country actually involved in it.

Nothing would therefore appear more appropriate for effectually staying the progress of the evil and averting, if possible, such a deplorable event, as a serious conflict between the two countries as undoubtedly would be, than to put the public in possession of such facts as here collected, which the writer therefore hopes will be received as a well-meant contribution on his part to wards that desired end.

NEW YORK, NOVEMBER, 1855.

LETTER I.

Injurious Consequences of the Policy Adopted by the United States Government in Regard to Denmark.—Probable Rupture with Denmark, &c.

NEW YORK, JUNE 1, 1855.

SIR :

The Federal Government has lately, through its representative at Copenhagen, notified the Danish Government of its intention to discontinue the treaty of amity and commerce which has subsisted between the two countries since 1826. This step, though in accordance with the stipulations of the treaty itself, at least as to the letter, is nevertheless an extraordinary measure, bearing a peremptory and threatening character, which does not appear justified by circumstances.

The professed object in thus throwing up this treaty, is the determination of the Federal Government to free the American commerce and navigation from paying the Sound dues. It is customary, between civilized nations, whenever modifications of an existing treaty appear desirable, to open a negotiation for that purpose, and thus to arrive at a new treaty, or at an additional convention, as the case may be, without interrupting the operation of the existing commercial regulations; the right of terminating a treaty by notice is hardly ever resorted to, except when all means of arriving at an amicable arrangement have been found unavailing.

This, however, appears not to be the case in this instance—on the contrary, the Danish Government appears to have been at all times very accommodating in its relations with the United States, and has acceded to almost every demand made by the latter, with a view of removing all grounds of complaint in regard to the tariff and mode of collecting the Sound dues, as well as in regard to other commercial questions. We have heard of no unsuccessful negotiations of late between the two countries, and must therefore confess to a good deal of surprise at the extraordinary step just taken, which we consider rife with very serious consequences. We will not to-day examine the right of Denmark to levy the Sound dues; suffice it to say, that this right has existed from time immemorial, and has always been complied with by all nations—that it is considered as forming one of the least disputable portions of the present Law of Nations, and especially of what is frequently termed the European system—that in entering the family of nations the United States have implicitly recognized the political system of the world, and especially that of Europe, as they found it,—that they have consequently paid the Sound dues ever since they became independent, first on higher rates, as a less favored nation, and since 1826 on lower rates, as one of the most favored nations.

The treaty of 1826 was based on mutual concessions, as treaties generally are, but the concession relative to the Sound dues, which forms one of its features, was made by Denmark, who admitted the American navigation and commerce to the benefits of the lower rates stipulated for the most favored nations, and not, as has been insinuated, by the United States—who, on their part, admitted the Danish commerce to certain advantages in American ports generally conceded to the most favored nations.

The question of the Sound dues has never had any material importance for this country, and the step taken by the United States Government has therefore an entirely political character. It is a question of principle, deliberately taken up with a view of carrying out the modern theory of *mare liberum*. It is a political

experiment, of which all the sacrifices and risks will fall upon the American commerce, and of which, if successful, other nations will derive all the benefits. The following list will sufficiently show the correctness of this view:

List of the Ships of all Nations that passed the Sound in the year 1852 and 1853.

<i>Flag.</i>	1852.	1853.	<i>Average per centage for two years.</i>
1. British.....	3,902	4,665	22.90
2. Norwegian.....	3,020	3,393	16.48
3. Prussian.....	2,819	3,487	12.28
4. Swedish.....	2,100	2,107	10.50
5. Dutch.....	1,691	1,875	9.70
6. Danish.....	1,464	2,095	9.07
7. Russian.....	946	1,202	5.55
8. Mecklenburg.....	771	1,103	4.80
9. Hanoverian.....	545	763	3.80
10. French.....	283	35	1.80
{ Lubeck.....	136	139	1.16
{ Hamburg.....	46	78	
{ Bremen.....	22	36	
12. Oldenburg.....	183	230	1.06
13. All others (incl. American)	135	183	0.81
Total.....	17,573	21,586	100.00

It is, under these circumstances, not surprising, that the action taken by the United States Government is warmly applauded by German and English Chambers of Commerce and newspapers, but we doubt very much whether on this side of the Atlantic any capital will be made out of it, except politically, and even that appears to be doubtful.

The working classes in France have a peculiar expression for work from which they expect, that no advantage or benefit whatever can be derived—they call it "*Travailler pour le Roi de Prusse,*"—do work for the King of Prussia. We could never learn the origin of this peculiar expression, but we suspect the present Administration will, ere long, have an opportunity of appreciating its correctness and applicability even out of France.

The abrogation of the treaty will bring the relations of the two countries back to *status quo ante*—to what they were before the treaty was made; and there can be no doubt but that American

vessels and cargoes will next year be compelled to pay the Sound dues at the same rates as before 1826 ; besides, the commerce of both countries will lose the benefit of all other advantages and facilities, which had been secured by the treaty. This state of things will last, until a new treaty can be prepared and concluded.

We saw it lately stated by an English correspondent of the *London News*, that "the more frequent the opportunities he had of talking to intelligent Danes on the subject of the Sound dues, the more convinced he was, that if the question was brought forward in a proper manner *by the nations most interested* in the abolition of the nuisance, and proposals of a tangible nature offered to indemnify Denmark for the financial loss, the present liberal Government would not be found unwilling to treat on the subject."

We are inclined to believe that this correspondent, who certainly is not in favor of the Sound dues, does but justice to the Danish people and Government. But it will at the same time easily be understood that Denmark, notwithstanding its supposed or real liberal disposition, *cannot abolish the Sound dues for one nation without giving them up altogether*. It is, therefore, compelled to resist to the utmost the pretensions of any single government, especially if that government is *one of the least interested* : it is by the very nature of the case compelled to wait, until the powers more interested take up the question in a proper manner ; and it will doubtless then, but certainly not before then, accede to such reasonable proposals as may be made for a commutation or capitalization of the Sound dues. It does not require great powers of divination, under these circumstances, to foresee, that the question of the Sound dues will be settled at no very distant day, by the agreement of those most interested ; and that it will be settled as an essentially European question, as soon as Europe finds itself in a proper state to attend to matters of this kind ; in the meantime, and in consequence of the step already taken by the United States Government, the American and Danish commerce will have to suffer under the disadvantage of being without a treaty.

We mentioned above, that material interests of considerable magnitude forbade Denmark to accede to any demand for the immediate abolition of the Sound dues in favor of any single nation; we may add, that self-respect will also compel the Danish Government to resist such demands, especially if coming from the United States, as one of the least interested in the matter, who have hitherto, implicitly and practically at least, recognized the right of Denmark to levy the Sound dues; and whose Government have thought proper, not only to assume an unusual and threatening stand in regard to this question, but also to select for this purpose a most critical moment, when it was perfectly aware that the unsettled state of Europe would make it downright impossible for Denmark to arrive at an arrangement of a general character, embracing the nations most interested in the matter. And is it not absurd to pretend, that because the United States Government, after having virtually acknowledged the right of Denmark to levy the Sound dues during a period of nearly three-fourths of a century, now suddenly change their views, Denmark should immediately follow suit, and give up what they and the rest of the world consider to be a sacred right, without any new arguments being brought in by the United States, and without anything like a negotiation upon the question having taken place? We can hardly believe that the present Administration should intend or desire to go to war with Denmark upon this question, but we can, nevertheless, not shut our eyes for the consequences of the irritation and conflicts which may grow out of the measure it has adopted. It is true, Denmark is a very small power, but still, it is not altogether without means of resistance; and whatever may be the ultimate result of a war between the two countries, it is certain that the loss of the American commerce would, during six months of hostilities, amount to more than the Sound dues falling to the charge of American vessels during a hundred years—nay, during a thousand years, if the above-mentioned correspondent is right in putting down the sums of \$910, \$760, and \$360, respect-

ively, as the amount of Sound dues paid by American vessels in the years 1852, 1853, and 1854.

In a contest between the United States and Denmark, if left to themselves, the latter has but little to fear from the former, and we doubt very much whether any European power will be found willing to join the United States in their crusade against the Sound dues. The terms in which the resolutions were passed in the Senate, and the vigorous action taken by this Government, are calculated, if not designed, to inflict a severe criticism upon the European Governments, who, though largely interested in this question, have not as yet succeeded to free the commerce of their respective nations from this burden. Unless we will suppose the European Governments in general to be utterly wanting in zeal and ability, we must presume, that it is their sense of justice which has prevented them from profiting by any of the opportunities of which modern wars and treaties must have furnished them a great many, to wrest the Sound dues from Denmark. However this may be, they will feel the reproach contained in the proceedings of this Government, and will therefore, perhaps, not be sorry, if it does not succeed as easily as expected. Besides, it may be quite in accordance with the secret desires of some amongst them, to see the United States entangle themselves in a purely European question of principle, and thereby furnish a very available interpretation of the so-called Monroe doctrine.

We most sincerely wish that these complications which we see "looming in the distance," may be avoided, but they are both probable and near at hand, and deserving the serious consideration of the commercial interests of this great country.

Yours, &c.,

PAX.

To the Editor of the New York Daily Times.

LETTER II.

Important Answer from the Danish Government.—Former Relations with Denmark.—Treaty Negotiated by Henry Wheaton, United States Chargé at Copenhagen.—President Jackson's Message.—Mr. Webster's Report upon the Sound Dues.—Important Reductions in the Tariff Conceded by Denmark.—Letter from Mr. Webster to Mr. Bille, the Danish Chargé d'Affaires.

NEW YORK, JULY 9, 1855.

Sir :

“The following letter, addressed some short time ago to one of your contemporaries of this city, leads us to suppose, that even since we penned our first communication on the Sound dues, the question has made another important step towards the crisis prepared by the recent action of the Federal Government. The letter reads as follows :

WASHINGTON, Monday, June 11, 1855.

“The notice given by our Government to Denmark for a discontinuance of our treaty with that Power, has been replied to by the Minister for Foreign Affairs. A regret is expressed, that negotiations had not been allowed to precede the decisive step taken by the United States, and which, it is feared, may lead to difficulties that otherwise might have been prevented. The notice does not allow to Denmark time sufficient to bestow, upon so important a matter, due consideration, even were she unembarrassed in her present critical position and relations with her neighbors, who are endeavoring to force her into the war with Russia. And further, the United States is shown that a compliance with her demand is an absolute surrender on the part of Denmark of thousands of

pounds yearly to those Powers whose commerce bears equal taxation with the commerce of the United States, and which seldom exceeds two hundred dollars per annum. And this is a sacrifice that Denmark is not at present prepared, without any effort, to submit to. Denmark cannot but regard the course pursued by the United States upon her resolution to terminate a treaty of amity and commerce as one of severity, not called for by any overt act on the part of the Danish Government; but, on the contrary, instances are given where complaints have been entered and money refunded to American traders when, in truth, justice did not demand it; but a desire for the maintenance of friendship between the two nations induced the act. The Danish Government states plainly its utter inability, in the time allowed it, to come to a favorable conclusion to our demand, and even intimates a possibility that under no circumstances will the wishes of the United States meet with favor. The United States being cut off from all negotiation until Denmark invites it by recognizing a desire to treat for the abrogation of her Sound dues, the reply received by the Department of State will probably be the last upon this subject between the two Governments until after the expiration of the treaties on both sides.

Upon that event taking place, Denmark, in all probability, will demand a greater tariff upon American commerce than is now exacted, and the United States may retaliate by annoyance upon Danish commerce coming to her ports. But is it not plain to see that this state of things cannot long exist without difficulties taking place, and Denmark receiving the sympathies of Europe generally? For, in an impartial examination of our demand upon Denmark, does it not present features that, were the case changed, and the demand made by Denmark upon the United States, would be looked upon with disfavor and as interfering in matters belonging exclusively to the United States? If the enforcement of the Monroe doctrine is in this country insisted upon with an unyielding pertinacity, does it look just, that the United States should go abroad to interfere in and destroy a principle established by one Government and approved of by the remainder? Europe must be permitted to put in use the Monroe doctrine, if found necessary for her purposes, and should a war grow out of our relations with Denmark, it may be that she will find active allies in those powers by whom she is surrounded." *

* We have, since we wrote this letter, ascertained that no such reply, as here reported, had been made (at least not officially) by the Government of Denmark to that of the United States. The Danish Note of April 17, 1855, inserted in our

The course pursued by the United States Government in this instance is indeed one of "severity" totally uncalled for, rife with serious difficulties, and the more incomprehensible, when we examine the political relations which formerly, and up to the present day, subsisted between the two countries.

A most friendly feeling and understanding appear, indeed, at all times to have prevailed between the two nations, very naturally based upon common origin, common religion, uninterrupted friendly intercourse on the seas, and common interests and principles in regard to the all-important rights of neutrals, to uphold which, both countries have fought and sacrificed so much. Every consideration tends evidently to make Denmark and the United States natural allies, and it is in this light that the former appears at all times to have viewed the latter. Ever since Denmark—then by far a more powerful country than it is now—recognized the independence of the United States, the political relations of the two countries have—*both with and without a treaty*—been of a most friendly character; at no time interrupted by any serious difference, much less by war. In regard to the Sound dues—we state it as a simple historical fact—that when the United States assumed their position as a member of the family of nations, *they found the Sound dues in existence, fully established by immemorial usage, regulated by numerous treaties, respected by all nations having intercourse with the Baltic, and considered by all as one of the absolute rights belonging to the crown of Denmark.* As such it was also considered by the United States, who paid the Sound dues equally with all other nations not privileged by treaty, until, *after half a century of independence and commercial intercourse*

fifth letter, appears indeed to contain the only official answer to the communication made by Mr. BEDINGER, the U. S. Chargé at Copenhagen, of the determination of the U. S. Government to discontinue the treaty of 1826; however, as the language and views attributed to the Danish Government in this imaginary reply, are not at variance neither with the facts of the case, nor with the tenor of their official note, we may say, that if no such answer has been given, *there might fairly have been*, and for this reason we have not considered it necessary to alter the text of our letter in reprinting it.

New York, October 30, 1855.

with Denmark and the Baltic, a treaty of amity and commerce was concluded and signed at Washington, the 26th of April, 1826. In this treaty, the right claimed and exercised by the King of Denmark to levy the Sound dues, is assimilated with his other absolute sovereign rights in regard to commercial regulations, customs, etc. The fifth article of the treaty reads as follows: "Neither the vessels of the United States, nor their cargoes, shall, when they pass the Sound or the Belts, pay higher or other duties than those which are or may be paid by the most favored nation." These important advantages in regard to the Sound dues, sought for by the United States, and granted by Denmark, were, together with other commercial privileges, considered an equivalent for similar advantages and privileges conceded by the United States to the Danish commerce. *No reservation or protest whatever was then made, and no doubt expressed in regard to the right of Denmark to levy the Sound dues, and indeed, if anything of the kind had been attempted, all negotiation would at once have been at an end.* Besides, is it not evident that the United States would not have exchanged privileges and advantages, which, as a sovereign State, they had the unquestionable right to grant and bestow, against similar privileges and advantages, the right to grant which they considered to be in the least doubtful? Denmark never asked for a special recognition of its right to levy the Sound dues, no more than of its other absolute sovereign rights. It is, therefore, not correct to say, that it is only the treaty of 1826 which implies a recognition of this right on the part of the United States; on the contrary, when the United States became an independent sovereign power, and sought recognition by, and friendly intercourse with, the elder members of the family of nations, *they implicitly and explicitly recognized the political system as then existing, and as based upon treaties and usage; and by so doing, they at once, and ipso facto, obtained full participation in all advantages, and acknowledged their readiness to submit to, and take their share in all burdens and obligations recognized by the political system and law of nations, as then established, and it*

was then that they first recognized the right of Denmark to levy the Sound dues. Subsequently, the two countries continued reciprocally to recognize the sovereign rights possessed by each, by submitting to the commercial regulations, duties, &c., which each of them thought proper to impose upon the commerce of the other. A refusal on one part to submit to the regulations of the other would have been equivalent to a denial of the sovereign rights of the other, and would most likely already then have led to a war between the two countries.

The United States avoided such a conflict, and a great many others, which might, and no doubt would, have grown out of similar causes, by very wisely recognizing the rights which they found well established. It is under cover of this policy—which was then the only one possible, but which also agreed entirely with the views and conviction of WASHINGTON and the American statesmen of his time,—that the United States have grown to be what they are, and they may yet find it dangerous and difficult to abandon it, *though, of course, if the experiment is to be ventured and cannot be put off any longer, it is no doubt always more prudent that the trial should be made with a small nation, rather than with one of the five great powers of Europe.*

However, even if the growth of their country should have operated a change in the views of American statesmen in regard to the rights of other nations, these rights themselves cannot be affected by such a change, nor do we believe that public opinion in this or in any other country will be found willing to endorse a policy, originating in ambitious views, subversive of all established principles of international law, and which, if it could be carried out successfully, would at once place the smaller powers at the mercy of the stronger, and deprive the former of all and every protection, now afforded by the law of nations.

The treaty of 1826, at all events, contains a ratification of the previous (tacit) recognition of the rights of Denmark to levy the Sound dues, and is therefore a document of great importance in regard to the Sound-dues-question.

When the treaty of 1826 was published by authority in the semi-official paper of that day,—the *Washington National Journal*,—an editorial explanation was given of its leading features ; and the reduction of the Sound dues to the rates paid by *Great Britain, France*, and the other most favored nations, was evidently then considered the utmost limit of what could be fairly claimed by the United States. But this treaty was not only the first concluded with Denmark ; it is also the first one, in the history of commercial treaties, based upon the liberal principle of free and unrestricted navigation, and was as such recommended at the time by American statesmen to the approval and imitation of the commercial nations of the world. JOHN QUINCY ADAMS as President, and HENRY CLAY as Secretary of State, were at the head of this great move for relieving the commerce and navigation of the world from the effects of the then prevailing doctrine of *direct intercourse*, which had so injuriously checked its growth and expansion. A reservation, however, was expressly made the day before the treaty of 1826 was signed, and subjoined to that treaty as an “ addendum,” *but it had no reference to the question of Sound dues*. Its subject was an indemnity claimed by the United States Government for alleged unlawful seizures of American vessels and cargoes by Danish privateers, during the war between Great Britain and Denmark. When the justly celebrated Mr. HENRY WHEATON, the same year, was appointed United States *Chargé d’Affaires* to Copenhagen, it was not the Sound-dues-question, but this claim, which was made the special subject for his mission.

Many American vessels had, during the war between Denmark and Great Britain, sailed under British convoy, availed themselves of British licenses, and otherwise compromised their neutrality, and consequently been captured by Danish privateers, and condemned by the Danish Courts as good prizes. The United States Government now claimed an indemnity for those of their citizens who had sustained loss of vessel or cargo in this manner. The right of the United States to claim such indemnity was doubtful

—eminent writers, as MANNING, ORTOLAN, and HAUTEFEUILLE, have taken strong grounds against it, and the Danish Government might in good conscience have repudiated it; but such was the friendly feeling in Denmark towards the people of the United States, such the high sense of justice of its Government, and such the esteem in which its distinguished representative was held at Copenhagen, that the negotiations, after having been carried on for several years, finally resulted in a treaty (March 28, 1830,) by which the Danish Government agreed to pay the sum of \$750,000, leaving it to the American Government to apportion it by Commissioners appointed by itself.

This treaty made quite a sensation among diplomatists and writers on international affairs, and the declaration affixed to it, to the effect “that the Convention, having no other object than to terminate all the claims, *can never, hereafter, be invoked by one party or the other, as a precedent or rule for the future,*” has been justly considered as very characteristic of the extraordinary success of the American negotiator. The course pursued by Denmark in this instance, will be the more appreciated when it is remembered, that at that time Denmark was entirely exhausted in consequence of its long war with Great Britain.

Mr. WHEATON writes, himself, under date 20th of November, 1827, from Copenhagen, to the Secretary of State:

“You can hardly have an adequate notion how this country was impoverished by the war brought upon it by the unjust aggression of England, and followed by the dismemberment of the Kingdom, at the peace. When we consider, that they lost at a single blow their navigation and all their capital engaged in commerce, we cannot wonder at their reluctance to enter into new engagements. They have no means of replacing the capital thus lost,” &c. &c.

And it may, likewise, not be considered improper to mention, that Mr. WHEATON arrived at this signal success *unaided by threats or hostile measures, and that he actually obtained one-fifth more than he was instructed to insist upon.* “But what was infinitely more important, Mr. WHEATON’S treaty was the pioneer of

the Conventions with France and Naples. From those treaties, millions were obtained for our citizens, and our right to redress was established for violations of neutral commerce," &c. (Introductory Remarks to the Sixth Edition of *Wheaton's Elements of International Law*, by W. M. B. LAWRENCE.)

We have thought proper to review this interesting negotiation and its results, though it has no direct connection with the special subject of this communication, *because the manner in which this claim of the United States Government was met by that of Denmark, ought alone to have been sufficient to protect Denmark against such an act of severity and harshness as we have now to record.*

When the last instalment had been paid by Denmark under the above-mentioned treaty, President JACKSON took occasion to allude to the fact in his annual message to Congress, dated Dec. 3, 1833, by saying that "*the justice rendered to our citizens by that Government (the Danish) is thus completed, and a pledge is thereby afforded for the maintenance of that friendly intercourse becoming the relations that the two nations bear to each other.*"

Would not any one reading this allusion in an annual message of the President of the United States, known for his extreme energy and jealousy in regard to the real or presumed rights of his country, say, that there would now be peace and a good understanding without a cloud to mar its duration, unless some breach of good faith should occur, not anticipated by either party?—and indeed, the pledge alluded to, and others, which have since been added to it, have held out for some years, but appear now to be altogether forgotten.

This, however, is not the only instance in which Denmark has shown its good will toward the United States, though it may be one of the most striking.

Mr. WHEATON was not entrusted with any negotiations in regard to the Sound dues, and his exertions in this respect during his residence in Denmark, and afterwards in Berlin, were confined to careful investigations, the results of which were laid

down in his dispatches to the State Department, dated partly from Copenhagen (1830 to 1833,) partly from Berlin (1835 to 1846,) as well as in his well-known and justly esteemed work, *Elements of International Law*, of which a sixth edition has just been published.

We have not seen these dispatches, which we believe were never printed or published, but we find it stated by Mr. LAWRENCE, the editor of the last edition of Mr. WHEATON'S work, that Mr. Webster's report of May 24, 1841, one of the most important American State Papers upon the subject, was compiled from them, and may therefore be considered as expressing the views both of Mr. Webster and of Mr. Wheaton.

This report, which accompanied President TYLER'S message to Congress on the first of June following, does not bear the slightest sign of hostility against the Sound dues. Mr. WEBSTER broaches the subject by saying :

"The right of Denmark to levy the Sound dues is asserted on the ground of ancient usage, coming down from the period when that power had possession of both shores of the Belts and the Sound. However questionable the right or uncertain its origin, it has been recognized by European Governments in several treaties with Denmark, some of them entered into at as early a period as the 14th century, and inasmuch as our treaty with that power contains a clause putting us on the same footing in this respect as others, the most favored nations, it has been acquiesced in, or rather has not been denied by us ;"

and concludes his exposition of particular points of most interest to the United States in this matter, by saying :

"I have, therefore, thought proper to bring this subject before you at this time, and to go into these general statements in relation to it, which might be carried more into detail, and substantiated by documents now at the Department, to the end, that if you should think it expedient, instructions may be given to the Representative of the United States at Denmark to *enter into friendly negotiations with that Government, with a view of securing to the commerce of the United States a full participation in any reduction of these dues or the benefits resulting from any new arrangement respecting them, which may be granted to the commerce of other States.*"

This was a legitimate subject for negotiation, limited, as it was, to the demand of a full participation by the United States in any modification in the tariff of the Sound dues, and other arrangements connected therewith, which, at the time, were under consideration and discussion in London, for the benefit and accommodation of maritime nations in general having commercial intercourse with the Baltic. The demand, therefore, met with a cordial response from the Danish Government, which will appear from the communication made by the Danish Chargé d'Affaires at Washington, by order of his Government, in a note dated 20th of June, 1842, (Ex. Doc. No. 108, 33d Congress, 1st Session, p. 3 to 5,) *and the reduction and arrangements which were in this instance made by the Danish Government proved highly satisfactory to that of the United States.* The following letter from Mr. Webster to M. Bille, which we copy from the same Congressional paper above mentioned, will be read with interest as a characteristic proof of the cordial feeling then subsisting between the two Governments.

Mr. Webster to Mr. Bille.

DEPARTMENT OF STATE, WASHINGTON, June 27, 1842.

The undersigned, Secretary of State of the United States, has had the honor to receive the note addressed to him on the 20th instant by M. Steen Bille, Chargé d'Affaires of His Majesty the King of Denmark, and the two printed copies of the new tariff on Sound and Belt-dues by which it was accompanied. The observations which M. Bille has been pleased to present in this note by direction of his Government, in explanation of the practical effect of the present arrangement, are duly appreciated, and the *undersigned cannot hesitate to concur with him in the opinion, that the settlement of this whole question is well calculated to strengthen and perpetuate the bonds of amity and good will between the two countries*, an effect as ardently desired by the President as by his Danish Majesty. The Representative of the United States at Copenhagen has been fully informed of the satisfaction experienced by the President upon the completion of these commercial regulations, and he has been instructed to take an early opportunity to communicate the expression of it to the Danish Government.

The undersigned hastens to say to M. Bille, that, at his instance, instructions will be promptly transmitted to the Consul of the United States at Elsinore, requiring him, in case of need, to *cooperate with the Board of Customs of the Sound in maintaining inviolate the rules and regulations of the customs, and in preventing fraud upon the revenue.* The undersigned avails himself of this occasion to renew to M. Bille the assurances of his distinguished consideration.

DANIEL WEBSTER.

M. Steen Bille, &c., &c., Denmark.

Thus ended the third friendly negotiation between the United States and Denmark, the former having obtained what they desired, and the settlement of the whole question being considered by Mr. Webster as well calculated to perpetuate the bonds of amity and good will between the two countries.

We shall have some more reductions in the tariff of the Sound dues to record, equally favorable to American interests, but we fear that this communication has already grown much too lengthy for the patience of your readers, and we therefore prefer, with your leave, to reserve the remainder of this exposition for another letter.

Yours, &c.,

PAX.

To the Editor of the New York Daily Times.

LETTER III.

Diplomatic Relations between the United States and Denmark (Continued).—Hostile Report of Mr. Upshur, not acted upon.—Reduction of the Toll on raw Cotton.—Reports from Mr. Irwin, U. S. Chargé d'Affaires.—Mr. Flennicken's Note to the Danish Government, November 24, 1848.—Important Dispatch from Mr. Marcy to Mr. Bedinger, July 18, 1853.—Have the Diplomatic Means of Conciliation been tried and exhausted?

NEW YORK, OCTOBER 15, 1855.

DEAR SIR:

A protracted indisposition has for some time prevented us from continuing our communications upon the question of the Sound dues, now daily increasing in interest and importance. We are aware that such a long interruption (our last letter was dated July 9th) necessarily tends to diminish the little interest which our communications might perhaps otherwise have had or your readers; and we have therefore had our doubts as to whether we ought to continue addressing you upon this subject. What has however determined us to do so, is the conviction, that the real facts connected with this question being as yet known to a very few only, there is nothing to counteract the effect of the attacks upon Denmark and the Sound dues, which German and English papers have of late years been preparing, quite systematically, for the American market, and which, notwithstanding the absurdity of the statements they contain, regularly find their way into the columns of even the most influential papers on this side of the

Atlantic. And though we have the fullest confidence in the sound judgment of the American people, and though we are convinced that the effect of these productions and mis-statements of the foreign press will not be lasting, and will not prevent the truth from finally forcing its way, and an entire change from taking place in the opinion of the people, about the policy adopted and carried out in this instance by the present Administration, still, what we fear is, that when this change takes place, it will be "too late," and that public opinion will not be prepared to serve its injunction upon the acts of the Administration before their execution has already commenced, and a state of excitement has been created, which precludes all further attempts at conciliation.

We have, therefore, made up our mind to continue our communications upon this subject, with a view of placing the real facts fairly before the public; and in accomplishing this task we will be guided by that spirit of conciliation and impartiality, with which we conscientiously view the relations between the two countries, who, unless something is done to stop the progress of the evil, may all of a sudden find themselves engaged in a most absurd and disastrous war, old friends and natural allies though they be.

A little over one year only had elapsed since the United States Government had expressed themselves highly satisfied with the arrangements of 1841, comprising valuable reductions in the tariff and liberal modifications of the existing regulations relative to the Sound dues, when Mr. Upshur, then Secretary of State, in a report to President Tyler, dated Nov. 24, 1843, positively denied the right of Denmark to levy the Sound dues, and proposed decisive steps with a view of immediately relieving the American commerce from this "oppression." There is no apparent clue, in the published documents, to explain so sudden and so unexpected a change in the views of the State Department, and nothing is known to have occurred in the meantime to serve as a plea for the hostile and overbearing language of which Mr. Upshur makes use on this occasion. The report reads as follows:

“Denmark has by sufferance continued to impose up to this day a most singular tax upon goods, which pass in or out of the Sound on board of every ship that enters or leaves the Baltic by this highway of nature. Denmark cannot demand this toll upon any principle of natural or public law, nor upon any other ground than ancient usage, which finds no justification in the existing state of things. She renders no service for this exaction, and has not even the claim of power to enforce it. A great and general dissatisfaction is felt by all nations interested in the Baltic trade at this unnecessary and humiliating exaction. I respectfully suggest that the time has arrived when the United States may properly take some decisive steps to relieve our Baltic trade from this oppression. For more full information upon this subject, I refer to the report of Mr. Webster, hereinbefore alluded to. No essential change has taken place since the date of that report, and our vessels continue to lower their topsails to the Castle of Cronburg, and to pay tribute to Denmark.”

This report accompanied President Tyler's Message to Congress, but was never acted upon, and cannot therefore be considered otherwise than as the expression of Mr. Upshur's individual opinion, not approved of by the American Government or people.

Mr. Upshur shortly after met his death on board the *Princeton*, by the explosion of the “Peacemaker,” and his successor in office, Mr. John C. Calhoun, abandoned entirely the stand taken by Mr. Upshur, and confined himself in his instructions to the U. S. Chargé d'Affaires at Copenhagen to requesting only the collection and transmission of statistical information about the Sound dues.

It does not, under these circumstances, appear necessary to enter into any critical examination of Mr. Upshur's report, which is remarkable only for violence of language, and total absence of argument.

We cannot, however, leave unnoticed the statement which it contains, to the effect that “*no essential change has taken place since the date of that report, (Mr. WEBSTER'S,) and our vessels continue to lower their topsails to the Castle of Cronburg, &c.,*” because this assertion is in flagrant contradiction with facts upon record in the State Department, inasmuch as the report of Mr. Webster, to which Mr. Upshur refers in stating that no essential changes

since then had taken place, was dated May 24, 1841, while subsequently to that date, and prior to his own report, dated Nov. 24, 1843, two official communications, dated August 1, 1841, and June 20, 1842, had been received from the Danish Chargé d'Affaires, M. Steen Bille, both on the subject of important changes effected in the tariff of the Sound dues, and on other matters therewith connected, as agreed upon by a convention then recently concluded with Great Britain and equally applicable to all other nations. To these communications Mr. Webster replied in an official note, dated June 27, 1842 (given in full in our No. 2), expressing the satisfaction experienced by the President upon the completion of the above commercial regulations, as *well calculated to strengthen and perpetuate the bonds of amity and good will between the two countries*. And as to Mr. Upshur's indignant allusion to American vessels still continuing to "lower their topsails to the Castle of Cronburg," he is equally in error, inasmuch, as it was particularly mentioned in the above communication, by a reference to the twenty-fifth section of the rules and regulations for the dispatch of vessels at the Sound, "*that the lowering of topsails, complained of by Mr. Webster, had been dispensed with, and a display of the national colors of the vessel only required, as both proper and expedient.* (33d Congress, H. Doc. No. 108).

This is a small matter in itself, but Americans are very sensitive in regard to such formalities, and it is therefore not unnecessary to contradict an assertion which, although entirely at variance with facts, might derive some credit from the circumstance of its being inserted in an important State paper. It is singular enough that Mr. Marcy, probably for want of proper information, concludes his dispatch to Mr. Bedinger, dated Washington, July 18, 1853, with a similar indignant allusion to this same formality, and instructs Mr. Bedinger, in case he should still find such ordinances in force, to remonstrate against them. We sincerely hope that this little mistake has been entirely accidental, and not designed to operate upon the susceptibility of the American people,

which hardly can be said to need artificial stimulants of this kind.

But while Mr. Upshur's report was quietly allowed to fall to the ground on this side of the Atlantic, it was seized upon with eagerness by the German press, who enthusiastically greeted the energetic Secretary of State as the anxiously looked for knight-errant, who was to take the interests of poor down-trodden Prussia in his hands, and kill the abominable monster, which their own kings and knights were ever willing to feed.

It is not without interest to read Mr. Irwin's dispatches to the State Department, from this period, in which he mentions the efforts of certain organs of the German press to represent a collision between the United States and Denmark as imminent, stating, however, at the same time, and we might say as a matter of course, that "It is understood that the Prussian Minister at the Court of Denmark has made a formal disavowal to the Minister of Foreign Affairs of any countenance by his Government to the remarks of the Cologne papers."

This little intermezzo did not, however, interrupt the friendly relations between the two countries, nor did it prevent Denmark from granting *another reduction in the tariff* of the Sound dues—and one especially favorable to American interests.

Mr. Irwin, the U. S. Chargé d'Affaires, reports, under June 1, 1846—about this new reduction on raw cotton, spirits, and raw sugar—that "*the duty on our great staple—'raw cotton'—is reduced from about 36 to about 20 cents per 100 pounds, and a similar reduction is made on that article with respect to the tolls on the Schleswig-Holstein Canal.*"

And further: "*This new arrangement cannot fail to prove highly beneficial to our commerce and navigation in the North of Europe.*" * * "The late Sound toll, levied on raw cotton, amounted to between 3 and 4 per cent. ad valorem on the invoice price. *It is now reduced to between 1 and 2 per cent. ad valorem.*"

* * "In the meantime a very sensible diminution has been effected in a vexatious burden upon our commerce."

Mr. Irwin closes his dispatch with the suggestion that "certainly we should make up our minds whether, like the great powers of Europe, we shall continue to submit to this tribute, and obtain by negotiation, terms as favorable as possible, or positively refuse it our further sanction."

But we do not find that this latter suggestion was at that time taken up by Mr. Buchanan, Secretary of State, and acted upon; and it is evident, from the official State papers before us, that (the many statements to the contrary, notwithstanding, which are daily to be found in German and American newspapers) *no intimation of the intention of the United States Government to contest the right of Denmark to levy the Sound dues, has been addressed to the latter Government previous to the year 1848.* Up to that time the United States Government claimed only an equal participation, upon just principles, with other most favored nations, in any modification of the Sound dues which might take place.

It was in the course of that memorable year of Revolutions (1848,) under the Presidency of Mr. Polk, and Mr. Buchanan being Secretary of State, that the United States Government abandoned their former views, and stand, in regard to this question, at the suggestion of Mr. Flenmick, then U. S. Chargé d'Affaires at Copenhagen.

In conformity with instructions from Mr. Buchanan, dated October 14, 1848, Mr. Flenmick addressed a note dated Copenhagen, Nov. 24, 1848, to Count Moltke, the Danish Minister for Foreign Affairs, by which in the name of his Government he proposes to make a new treaty or convention to "go in place of the treaty of April 26, 1826," and to contain a stipulation providing for the abolishment of the Sound and Belt dues upon the vessels of the United States and their cargoes.

Mr. Flenmick's propositions were respectfully entertained by the Danish Government, and became the subject of several conversations between the United States *Chargé d'Affaires* and the Danish Minister for Foreign Affairs, but did not lead to any results, Denmark being then engaged in a war with Germany, and

the state of Europe being such as to preclude the possibility of an arrangement relative to the Sound dues embracing all the nations interested in the same.

Considering the fact that Mr. Flennicken's proposition was not followed up at the time, but was allowed to lie over for about five years—and that the ground taken by him in his note to the Danish Government is essentially the same which is now taken by Mr. Marcy, in his dispatch of February 18, 1853, it does not appear necessary to take up the former for discussion. *It is this latter dispatch of Mr. Marcy, which is the most important State-paper published on this question, and which, in fact, may be considered as the Government platform in regard to the Sound-dues-question.* We propose to examine this important document in one of our next letters; however, before proceeding to this part of our task, we beg leave to say a few words in refutation of a statement which has repeatedly been made in the papers, to the effect, that all diplomatic means of conciliation had been exhausted before the present peremptory measure of discontinuing the treaty, with the professed intention of refusing to pay the Sound dues thereafter, had been resorted to. Let it be borne in mind that the first intimation of the intentions of the United States Government to contest the rights of Denmark to levy the Sound dues dates only from 1848.

From 1848 to 1853 the question remained entirely untouched, *and we regret to have to state, that during these five years nothing whatever was done by the United States Government with a view of preparing or facilitating a peaceable solution of this question, and one at the same time in accordance with the wishes and interests of the United States.* It cannot seriously be pretended, that it should be incompatible with the honor and dignity of the United States to try such means of conciliation, which usage has consecrated in regard to the intercourse between nations. If, for instance, during that period of five years, when Europe enjoyed a comparative tranquillity, the United States Government had addressed a collective note to all the powers inter-

ested in the abolition of the Sound Dues, inviting their coopération towards effecting that desired end, such a step might perhaps already then have led to the establishment of a Congress for the settlement of that question, and the United States would then have gained, not only the glory of having started the question, but would also for that and other reasons have exercised a considerable influence in such a Congress, and have been able to do much towards bringing the matter to a speedy solution. It may be objected, that such Congresses' move very slowly, and that perhaps no final action could have been obtained from such a great body, representing so many divers interests—but to this we beg leave to observe, that in the first instance there cannot be said to have been *periculum in mora*, or necessity for immediate action. Neither the welfare nor the independence of the United States could be said to be dependent upon the immediate abolition of the Sound dues;—and further, that a war is not such a very desirable state of things, but that some small effort ought always to be made, and some patience shown, to avoid it, and that by trying the course above alluded to, or such other as could be suggested and adopted under the circumstances, the United States would have considerably improved their stand in regard to this question, morally speaking; and if, in their opinion, they should finally have been compelled to resort to the peremptory measures lately adopted, they might have *had some show of reason for saying, that all means of conciliation had been tried and exhausted.* As the matter now stands, we have two *ultimatums*—one from 1848, the other from 1853, (not so very unlike Menschikoff's ultimatums neither,)—both presented, (whether accidentally or not we shall not undertake to say,) at periods, when it was evidently and notoriously impossible for Denmark to prepare an arrangement embracing the other powers interested—both insisting upon the immediate and unconditional surrender of a right, considered sacred by all other nations, and from the exercise of which Denmark derives a considerable revenue, and without any negotiation or conciliatory effort intervening between these two ultimatums.

However, if the right of Denmark could be left entirely out of consideration, and the question be considered only as one of expediency, we should not blame the United States Government for having adopted a peremptory language and a threatening attitude in regard to Denmark, with a view of forcing from that country a speedy and favorable settlement of the question, *provided they knew* that such a demonstration was to be attended with an immediate and easy success. In politics as well as in every other business, success will always go very far to justify even the most extraordinary means. But the United States Government *could not, or ought not to be confident of such an easy victory*; the expected success of the demonstration is, we believe, *now entirely out of the question*—and if it does not actually lead to war, it will, at least, make a peaceable solution much more difficult than before.

It is with this eventuality before us, that we must insist upon the fact, *that means of conciliation, negotiation, and diplomacy have not been tried by the United States Government, much less exhausted*, and that the whole responsibility for a war and its consequences, or at least for considerable difficulties and complications, rests with the present Administration, who, on the other hand no doubt, would have been sure to claim the full credit for wisdom and energy, in case the points at issue should have been carried easily and successfully.

Yours, &c.,

PAX.

To the Editor of the New York Daily Times.

LETTER IV.

Diplomatic Relations between the United States and Denmark. (Continued.)—Mr. Marcy's Dispatch, July 18, 1853,—Mr. Flen- nicken and Count Knuth.—Difference between positive rights and abstract principles.—Mare Liberum.—“Natural Privileges” “Immemorial Usage” and “International Law.”—Quotations from “Wheaton's Elements of International Law.”—How, and When the Question can be settled.

NEW YORK, OCTOBER 17, 1855.

DEAR SIR :

Mr. Marcy's dispatch to Mr. Bedinger, dated Washington, July 18, 1853, (at least so far as the same has been published,) commences as follows :

“The subject of the ‘Sound Dues,’ collected at Cronburg Castle from American vessels, has been repeatedly brought to the notice of the Danish Government by your predecessors, under instructions from this department. The President intends, that this subject, affecting so injuriously important interests of the United States, shall be *pressed* to a conclusion, and you are accordingly instructed to obtain an early interview, after your official reception with the Minister of Foreign Affairs of Denmark, to communicate to him, in emphatic, but respectful terms, the intention thus entertained.”

We must here at once notice a certain looseness of language, which, we regret to say, pervades the whole dispatch. We have shown in our former letters, that the subject of the Sound dues cannot be said to have been brought to the notice of the Danish

Government more than once before, (at least not for the same purpose.) It was in 1848, when the intimation was made, for the very first time, of the intention of the United States to discontinue paying the Sound dues, and since then no step whatever had been taken in the matter. It will be evident to every impartial reader, that the language used by Mr. Marcy is calculated to make an impression not quite in accordance with these facts. We confess that, in our own opinion, such looseness of language is reprehensible in official State papers, and ought to be considered incompatible with the dignity of international relations.

The dispatch then proceeds to say :

“In 1848, the Minister of Foreign Affairs admitted to Mr. Flennicken, our then representative near the Government of that Kingdom, as reported by him to Mr. Buchanan, that ‘the principle upon which those dues are collected cannot be defended.’ This is assuredly the case. It is clear that no defence can be made in behalf of a ‘principle’ so flagrantly at variance with the established right of each of the nations of the earth to the *liberum mare*.”

We do not think it of much consequence what may be the exact expressions used by the Danish Minister of Foreign Affairs in his conversation with Mr. Flennicken—we do not believe that opinions expressed in the course of a conversation between diplomatists are of any great weight in the negotiations, unless repeated in an official note or dispatch. If the United States should be held responsible for whatever one or the other of their Secretaries of State may have said in their conversations with foreign diplomatists, they would find themselves saddled with singular obligations and difficulties. The opinion said to have been expressed by Count Knuth in conversation with Mr. Flennicken has, at all events, certainly never been acknowledged officially. We find, on the contrary, that Count Moltke, the successor in office of Count Knuth, was exceedingly surprised when Mr. Flennicken told him of it. But we do not intend to express any doubt in regard to the strict veracity of Mr. Flennicken, who, however, may have misunderstood Count Knuth, the latter most likely having used the French language, with which we believe Mr. Flennicken was

not very familiar ; and we will therefore take it for granted, that the Danish Minister has really expressed himself to the effect, that *he* could not defend the "*principle*, upon which these dues are exacted," (Mr. Flennicken's dispatch, September 9, 1848,) which is slightly different from what Mr. Marcy makes it, that "the principle, etc., *cannot be defended.*"

This admission of the Danish Minister has made the round of the papers, and has studiously been represented as being of the utmost importance and weight ; we therefore propose to examine this point.

Count Knuth, the Danish Minister for Foreign Affairs, was a young nobleman of amiable disposition and liberal principles, who had never before been in office, and very likely was apt to forget the weight which every word falling from his lips assumed, from the very moment he had become invested with the dignity of a Minister for Foreign Affairs. In a conversation with M. Flennicken he admits, "with the characteristic frankness of his nature," as Mr. Flennicken says, that *he* cannot defend the principle of the Sound dues. Well, if Mr. Flennicken had asked him whether he could defend the "*principle*" upon which certain feudal rights which he (Count Knuth) exercised upon his vast estates were based, he would, doubtless, with the same "characteristic frankness," have admitted that he could not ; but if Mr. Flennicken had from this admission drawn the conclusion, that Count Knuth, in consequence of not approving their *principle*, did not consider those feudal rights *to be rights*, and that consequently he should have proposed to the Count to submit to having them abolished, without any indemnity to the rightful possessor, he surely would have met with a very different language, *and at once have become aware of the difference between a positive, well established right, and an "abstract principle."*

It is not an easy matter to defend the *principle* of Slavery, and we very much doubt whether it is in accordance with the "Law of Nature ;" but the right to own slaves having once been well established and recognized, we consider that right as respectable, and

as much entitled to the protection of the laws as any other,—and we believe that few men, in their senses, would admit, that slaveholders could, with any shadow of justice, be compelled to give up their property simply because the *principle* upon which it was based was not any longer approved of—was contrary to the preamble and spirit of the Constitution, and to the Law of Nature and Nature's God (as M. Kossuth has it).

If ever it should be generally admitted that the institution of Slavery had become incompatible with the welfare and interests of this country, and if a law for its forced abolition should be proposed, would any sensible man think of adopting such a measure without, at the same time, and as a *sine qua non*, insisting upon a full indemnity being paid to the owners for their loss?

Did you approve of the *principle* upon which the patron exacted his "rents"? and if not—did you therefore approve of the conduct of the Anti-Renters?

Do you believe that the *principle* upon which the title of sovereignty over the new world has been assumed by the discoverers, or granted to them by the Popes, is in accordance with the law of Nature or with the "natural privileges"? (Marey.) But those titles have been recognized by the law of nations, notwithstanding the natural rights or "privileges" of the natives; and the man who would now contest their validity, would be laughed at, and sent to a lunatic asylum.

We have had a modern school of philosophers, who would demonstrate quite plausibly, (and with arguments in comparison with which anything that can be said against the Sound dues is mere milk and water,) that "*la propriété c'est le vol*;" that there is not a farmer and not a freeholder who has any real right to the farm he has inherited from his ancestors, or to the lot he has bought with his own hard-earned money. Let it not be objected that these men were mad—they were not mad, they only carried abstract principles too far, and their followers were inclined to resort to violent measures whenever, in their reformatory course, they met with obstacles and obstructions. Statesmen have at all

times been aware of the immense danger connected with the application of abstract principles to questions of property and rights (two words which in this connection are synonymous). The professed intention to abolish the Sound dues *by force, and without offering an adequate indemnity* to the holders of the property or the right, merely on the ground that the *principle* upon which this right or title is based, is at variance with "natural privileges" or modern doctrines; *is nothing but an attack upon the great principle of property*; a sort of international communism or socialism, (whatever you like best,) and springing exactly from the same source as the suggestions of the famous Ostend Conference; i. e. a sovereign contempt for the rights, and we may well add, for the pride and feelings, of other and less powerful nations.

Mare liberum itself is a modern doctrine, an abstract principle, which has certainly been gaining ground ever since Hugo Grotius advocated it, but which cannot even now be said to be recognized as an absolute and indisputable rule. The right to levy the Sound dues has, at all events, existed long before the doctrine of *mare liberum* was thought of. Now to make it retroactive is against the fundamental principles of all law and right, and has therefore also never before been proposed.

The dispatch then proceeds as follows :

"It has been alleged by Denmark, that our acquiescence until recent years, in the Elsinour exactions, was a tacit sanction of their legitimacy as 'established by usage.' It is true that, down even to the present moment, we have offered no positive resistance to the collection of the 'dues;' but our forbearance heretofore in this respect does not justify the inference, that we regarded them as rightfully imposed, and would for ever acquiesce in the continuance of this burden upon our commerce."

We cannot but object to the manner in which the relations between the two countries, in regard to the Sound-dues-question, are here alluded to.

The fact is, that the United States have never before 1848 raised any objection whatever to paying the Sound dues : that, instead of protesting against these "Dues" (a formality which we believe no

business man neglects, whenever circumstances compel him to make a payment which he does not consider rightfully due,) they have made a special treaty with Denmark, by which they gained participation in the advantages granted to the most favored nations, and that the State Department in 1842 transmitted instructions to the Consul of the United States at Elsinore, requiring him, in case of need, to cooperate with the Board of Customs of the Sound in maintaining inviolate the rules and regulations of the customs, and in preventing fraud upon the revenue. This is what Mr. Marcy wants you to understand, when he says, that "even down to the present moment the United States have offered no positive resistance to the collection of the 'Dues.'"

The next passage of the Dispatch reads as follows :

"Our mercantile marine measures at this time not less than 4,500,000 tons and in our rapidly extending trade and intercourse with the world, it is a paramount object of this Government, as it is its imperative duty, to remove every obstruction to free commerce by vessels sailing under our flag."

"We can recognize no 'immemorial usage' as obligatory, when it conflicts with natural privileges and International Law."

What would Wheaton say, if he saw *natural privileges* and *International Law* thus thrown together in a heap? and that *immemorial usage* could be made to conflict with *International Law*.—By *natural privileges* it may be supposed that Mr. Marcy means *natural rights*, (there is some slight difference between rights and privileges, but we will not stand upon trifles.) But what does Mr. Marcy mean by *International Law* as conflicting with *immemorial usage*?

We cannot imagine on what authority this singular combination is based, but a few quotations from Wheaton will show that he, at least, cannot be made responsible for it.

We quote from the recently published sixth edition of the "Elements of International Law," and merely for the purpose of showing how intimately *usage* and *international law* are connected, the former being, in fact, one of the principal sources from which the latter is derived. Page 8 : "BUYNKERSHOECK (who wrote after

PUFFENDORF, and before WOLF and Vattel) derives the law of nations from reason and *usage*;" and page 9, the same; "I have alleged whatever reason can adduce for or against the question, but we must now see what *usage has approved, for that must prevail, since the law of nations is thence derived.*"

These few quotations (to which we might have added a good many more, if we did not fear to make this communication unnecessarily long and tedious) are amply sufficient to show, *that it is simply absurd to think of a conflict between "immemorial usage" and "international law."*

We should have preferred very much, if Mr. Marcy had stated openly and frankly, "we consider the Sound dues at variance with the law of nature, as well as with our interests, and we will not pay them any longer,"—but if the "law of nations" cannot possibly be left out, then at least do not at the same time let it be admitted, that the claim of Denmark to the right to levy the Sound dues rests upon "immemorial usage," [and, we might add, is sanctioned by numerous treaties, even by a treaty with the United States,] because the "immemorial usage" will carry the "international law," and the whole turn evidence for the right of Denmark.

The dispatch then goes on as follows :

"These ancient customs have, in many instances, been found to be inconsistent with rights now generally recognized in the more liberal and reasonable practice of commercial nations, and have been made to yield to views better suited to the improved system of foreign trade. A burdensome imposition upon the trade, which has for its support nothing but antiquity, and is so directly opposed to modern policy, will not, it is hoped, be longer insisted upon by Denmark."

We quite agree with Mr. Marcy in the views expressed by him in the above passage, at least so far as to admit, that the abolition of ancient customs and rights, inconsistent with modern policy and the interest of commerce, is in itself a desirable reform; and would beg leave here to quote the following passage from our first letter upon this subject :

"We saw it lately stated by an English correspondent of the *London News*, that 'the more frequent the opportunities he had of talking to intelligent Danes on the subject of the Sound dues, the more convinced he was, that if the question was brought forward in a proper manner *by the nations most interested* in the abolition of the nuisance, and proposals of a tangible nature offered to indemnify Denmark for the financial loss, the present liberal Government would not be found unwilling to treat on the subject.'

"We are inclined to believe, that this correspondent, who certainly is not in favor of the Sound dues, does but justice to the Danish people and Government. But it will, at the same time, easily be understood, that Denmark, notwithstanding its supposed or real liberal disposition, *cannot abolish the Sound dues for one nation without giving them up altogether*. It is, therefore, compelled to resist to the utmost the pretensions of any single Government, especially if that Government is *one of the least interested*: it is by the very nature of the case compelled to wait until the powers more interested take up the question in a proper manner; and it will doubtless then, but certainly not before then, accede to such reasonable proposals as may be made, for a commutation or capitalization of the Sound dues. It does not require great powers of divination, under these circumstances, to foresee, that the question of the Sound dues will be settled at no very distant day, by the agreement of those most interested, and that it will be settled as an essentially European question, as soon as Europe finds itself in a proper state to attend to matters of this kind; in the meantime, and in consequence of the step already taken by the United States Government, the American and Danish commerce will have to suffer under the disadvantage of being without a treaty."

It is very probable that the present great crisis in Europe will lead to the establishment of a general European Congress, and there can be little doubt but that among the many other questions to be settled by that body, will also be found that of the Sound dues. The European powers, assembled in Congress, will not commit the inconsistency to treat as a wrong, what every one of them has, for centuries past, recognized and treated as a right; and this point admitted, there can be no doubt but that Denmark will be of a very accommodating disposition, and do everything in its power to facilitate an arrangement upon a just and reasonable basis.

It is to such a just and peaceable solution, that every sensible man in Denmark has been looking forward for some time past, and we only hope that it will not be retarded by the complications to which the present demonstration of the United States Government is likely to lead—we really do not see how it can be advanced by them.

To suppose that Denmark would quietly submit to having its ancient right treated as a wrong, merely because the Cabinet at Washington declares it to be such—would be an insult to that small but respectable nation.

Yours, &c.,

PAX.

To the Editor of the New York Daily Times.

LETTER V.

Diplomatic Relations between the United States and Denmark.—Mr. Marcy's Dispatch, July 18, 1853 (Continued).—History of the Sound Dues.—Congress of Vienna.—Singular Insinuations and Statements of Mr. Marcy.—Mr. Bedinger's Dispatch, Oct. 13, 1853.—Mr. Marcy to Mr. Bedinger, Nov. 3, 1853.—Note from the Danish Minister for Foreign Affairs, dated April 17, 1855.—What are the real intentions of the United States Government?

NEW YORK, OCTOBER 19, 1855.

DEAR SIR:

MR. MARCY'S dispatch of July 18, 1853, of which we propose to-day to continue our examination, then proceeds to give a very condensed history of the Sound dues, about which we shall say but very little, for the reason that we consider this to be a point of no very great importance. It is for this reason, also, that we abstain from pointing out the errors, of which this historical essay contains not a few. But though it has been drawn in a very hostile spirit, and though in that respect, as well as in regard to the language used, it bears a rather too strong resemblance to similar historical sketches, given by German pamphlet writers, it will only serve to show, *that the right of Denmark to levy the Sound dues has an excellent historical basis*, whatever else may be said against it. After having mentioned that the origin of the Sound dues goes too far back to be traced with any certainty, the dispatch relates at some length the feuds between Denmark and the then powerful Hansa, to which the claims of the former to levy the Sound dues gave rise during the fourteenth, fif-

teenth and sixteenth centuries. It does not, however, in this connection, mention a very curious fact, to which we remember to have seen an allusion made in another American State paper,—it is, that whenever the Hansa, (then including all the most important commercial cities on the Baltic, and representing almost exclusively, the commercial interests of the Northeast of Europe,) in the course of the wars, gained possession of Cronburg Castle, they immediately proceeded to levy the Sound dues themselves, thereby acknowledging not only the right itself, but also that it belonged to the possessor of that stronghold. Gradually we see the Dutch, English and Swedes take part in the question. The first treaty sanctioning the right of Denmark to levy the Sound dues, and establishing a tariff and regulations for the mode of levying it, was made between Denmark and the Netherlands, in the year 1645. This treaty has since been followed by a great many others, with almost all the powers having commercial relations with the Baltic.

“Previous to 1720 (from 1645),” the dispatch says: “Denmark fixed the toll in her treaties with other countries in conformity to the terms “*granted to the Netherlands;*” but after that time she placed them upon the footing of “the most favored nations.” “Sweden, *in consideration of the restoration of her provinces,* which had been conquered by Denmark, stipulated to pay in future, by the Treaty of Fredericksburg, of June 3, 1720, the same rate of Sound dues, that were collected upon the ships and cargoes of the most favored nations, reserving to herself the right to establish a Commissary at Elsinore, to prevent imposition upon her navigation and commerce. These conditions and obligations (although several treaties have been made between the two nations since) continue to be observed.— During the eighteenth century, Sweden having been quieted, the Sound tolls seem to have been submitted to by other Powers and States without opposition. Denmark concluded several new treaties, but none of them contained provisions prohibitory of the exaction of the dues demanded at Elsinore.”

We cannot help expressing the opinion, that it would have been more correct to say, *that each and every one of those new treaties contained provisions, implicitly sanctioning the exaction of the dues demanded at Elsinore.* The above quotations, from Mr. MARCY'S historical sketch, and taking it as it is, are at all events quite suf.

ficient to show, that the history of the Sound dues is in all points similar to that of the great majority of public rights and territorial possessions ; after having been an object of contests, disputes and wars during centuries, after having been lost for short periods, but always acquired again either by force of arms, or by the cession of important territorial possessions, or in consideration of the grant of political and commercial advantages and privileges, *Denmark found itself at the beginning of the eighteenth century in full and undisputed possession of this right or property.* That a great many rights of a similar character and equal antiquity, one after another, did disappear in the storms of the latter centuries, can only be an argument in favor of the right of Denmark.

It would, indeed, be very inconsistent not to admit, that an institution, which has weathered all the storms in which its companions perished, should have no merit of its own. And we may add, that the more conclusively it is demonstrated that the Sound dues are hated by everybody, and contrary to the interest of all, even the most powerful, the more evident it becomes, that with such a character nothing could possibly have sustained them down to this day, but an indisputable right under the law of nations.

“ This was the condition,” the dispatch then goes on to say, “ in which Denmark was found when the Congress of Vienna assembled. It was quite naturally expected, at that time, that the Danish Sound tolls would present a legitimate subject for the deliberations of that body, and that in the settlement of the affairs of Europe, they would be entirely abrogated. But FREDERICK VI. of Denmark was present at Vienna, and the object of compassion with the representatives of the Sovereigns most interested, on account of the bombardment of Copenhagen and the destruction of his fleet a few years before (sic;) and out of tenderness to him, *as it is reasonable to suppose*, this question was permitted to remain *in statu quo*. Vague intimations, it is stated, have occasionally been given at Copenhagen, that the Sound tolls were guaranteed to Denmark by the Congress of Vienna, as an indemnity for the surrender of Norway to Sweden.”

These and similar intimations and insinuations, explanatory of what the Congress of Vienna did or did not do, may be quite in-

genious, but we must confess that, with our ideas about the dignity of the United States Government, we were not a little surprised to meet again with those old acquaintances in an American State paper, which, in our humble opinion, would have done better by admitting frankly the certainly very important fact, *that the Congress of Vienna, which made the navigation of the great European rivers entirely free, did not think proper to touch this ancient right of Denmark to levy the Sound dues.* And we are really at a loss to understand, why the honorable Secretary of State has taken so much trouble in framing his historical sketch, because, having got so far as above quoted, he is evidently seized with an instinctive apprehension that history, notwithstanding his efforts to the contrary, may, after all, prove friendly to Denmark. He therefore hastens to say :

“ Admitting the truth of this, and that every European Government was irrevocably bound by such proceedings, the United States were not a party to it in any way, and no obligation is imposed upon them to respect this arrangement. Nothing has been more remote from the purpose of our Government, from the day on which it was ushered into existence, than that of surrendering to any Power the right of using the ocean as the highway of commerce. This right it claims, and will use all proper means to secure to itself the full enjoyment of it, in every quarter of the globe.”

Well, this, we presume, is the platform upon which the Secretary of State really stands in regard to this question,—but, we may well be allowed to ask, *Why then quote History ?*

We shall have occasion in one of our next letters to mention the fact, that when the United States claimed the free navigation of the St. Lawrence, they based one of their principal arguments, per analogy, upon the resolutions of that same Congress of Vienna in regard to the navigation of the European rivers. We leave to your readers to judge of the consistency of such a course.

The dispatch then proceeds to make the following statement :
 “ *The fact is notorious that the Sound dues affect us more sensibly than any European nation.*”

This assertion is too singular (to use a mild expression) to need contradiction at our hands. It will be remembered that with the exception of some merchants in Boston, New York and New Orleans, engaged in the Baltic trade, very few persons in this country knew anything whatever about the Sound dues, and millions had never heard of such a thing, until very lately it has become a standing topic in the papers. Mr. FLENNICKEN, in his dispatch of Dec. 1, 1848, states with "characteristic frankness:"

"I very much regret that I cannot avail myself of the authority, in regard to these Sound dues, to which you referred, viz: MAC-GREGOR'S *Commercial Register and Statistics*, as the work is not among the books of this legation, nor indeed does the library here furnish a single book from which I can gain any light upon the subject. I have, therefore, to draw upon my own very scanty resources, and will feel much indebted to you for any suggestion you may see proper to make."

And Mr. MARCY, in his dispatch of July 18, 1853, admits that "since then (1848) no tabular statements have been received (at the State Department) of our vessels passing Elsinore, nor the sums annually paid."

And still, this is a question which, according to Mr. MARCY'S assertion, *notoriously affects the United States "more sensibly than any European nation!"*

The dispatch goes on as follows :

"Under their operation, Great Britain has a decided advantage over us, as concerns our chief staple. Raw cotton, according to the most reliable statements before the Department, is charged with about three per cent., *ad valorem*, in its transit through the Sound; while cotton twist, of which Great Britain ships from 30,000,000 to 50,000,000 pounds to ports in the Baltic, pays only *one per cent. ad valorem!* If we quietly submit to such a tax upon the raw material of our fields, Great Britain, as a matter of profit, can well afford to consent to the comparatively moderate one upon the article manufactured from it, because she cannot fail to perceive that, were the dues abolished, we should as certainly gain markets for the raw product, as she would lose them for the manufacture of her spineries."

This is a direct and strong Prussian or Baltic argument against the Sound dues, but a very indirect and weak one from an American point of view. The state of things pointed out by Mr. MARCY is certainly favorable to British manufactories of twist, and tends to prevent the development of such manufactories in the Baltic countries, but whether the raw cotton is manufactured in England or in Prussia does not, it appears to us, directly affect the American interests. Relieve the Baltic States from the Sound dues, and they will be likely to make more twist, and consequently to buy more raw cotton ; but England, who now provides the Baltic with a great portion of the twist used there, will, in the same proportion, lose the market, and consequently buy less cotton.

The dispatch then proceeds as follows :

“For the *five* years terminating the 31st December, 1848, 264 American vessels entered the Baltic, upon the tonnage and cargoes of which the Sound tolls amounted to 570,473 Danish bank rix dollars, (about \$290,000.) Since then no tabular statements have been received of our vessels passing Elsinore, nor the sums annually paid.”

“The Sound toll levied upon our chief products, which find a market in the countries bordering upon the Baltic, and beyond them, according to the most reliable information on the subject, is as follows :

Raw Cotton, per 100 lbs.	20 cents
Rice, per 100 lbs.	11 cents
Paddy (Rice in husk) per 100 lbs.	3½ cents
Raw Tobacco, per 100 lbs.	17½ cents
Whale Oil, per barrel,	6¼ cents

Consequently a cargo of 2,000 bales of Cotton pays a tax of about	\$1,720
A cargo of 800 hhd. of Tobacco	1,400
A cargo of 1,000 tierces of Rice	700

In addition to the toll on tonnage, the cost of pilotage for a ship drawing eighteen feet of water, from Dragon to Elsinore, varies, according to the season of the year, from twenty to thirty dollars.”

It is to this short statement that Mr. MARCY confines himself in regard to the tariff and its influence upon the American trade

to the Baltic, and as it is our intention to treat this part of the question more fully in one of our next letters, we shall here only observe, that the average value of 100 pounds of raw cotton cannot be put down at much less than 10 dollars, of which 20 cents are two per cent. *ad valorem*, and not three per cent., as Mr. MARCY makes it. (It will be remembered that Mr. IRWIN, the United States *Chargé d'Affaires*, in his dispatch of June 1, 1846, stated as follows: "The late Sound toll levied on raw cotton amounted to between three and four per cent. *ad valorem* of the invoice price. It is now reduced to between one and two per cent. *ad valorem*.")

That the whole tax, pilotage, delay, and in fact every expense connected with the Sound dues, (on all imports to the Baltic,) is in reality paid by the consumers, the inhabitants of the Baltic countries, and does not constitute any direct burden upon American commerce, is so plain, that it ought not to be necessary to insist upon it. German writers insist very strongly upon this fact, and it is one of the singular phenomena in this whole affair, that the burden is claimed by all parties, exactly as if it were a bonus. It is this singular phenomenon, together with the many facts we have already laid before our readers, which makes it so very difficult for the impartial observer to believe, that the course pursued by the United States Government originates in, and has been dictated by, nothing else but the real interest of this country.

The closing passage of the dispatch reads as follows :

"In 1829, an ordinance was issued by the King of Denmark, subjecting all vessels passing through the Sound to useless, not to say ridiculous, observances, always very annoying, and sometimes injurious, by the delays resulting from the necessity of conforming to them. Should you find this ordinance still in force, you will represent the effects of it upon our vessels passing the Sound, and endeavor to procure their exemption from it. It cannot be that, at this day, a Government so enlightened as that of Denmark will insist upon the observance of ceremonies of this kind—useless to it, and hardly compatible with the self-respect of those required to perform them. That you may know to what ceremonies I allude, I herewith send you a copy of the ordinance prescribing the observance."

The State Department, possessing official information, dating from 1841, (mentioned in our former letters II. and III.) of the fact that the formalities here alluded to, were entirely done away with, we are at a loss how to explain this solemn recommendation to Mr. BEDINGER, whose answer upon this point, if he made any, does not appear in his subsequent dispatches of October 13, Nov. 8, and Sept. 3, 1853, and Feb. 25, and April 1, 1854—at least not in that portion of them which has been published.

In his dispatch to the State Department, dated Oct. 13, 1853, Mr. BEDINGER reports as follows :

“*Of course* I have not yet broached the subject, ‘Sound dues,’ but I shall seek an early opportunity to do so; and I respectfully desire to be instructed, whether I may be allowed to offer anything, either in the form of some additional commercial privilege or other matter, as an equivalent for those dues, in case the Danish Government shall consent to abandon them, as far as our vessels are concerned. If I remember correctly, in a dispatch of Mr. BUCHANAN’S to one of my predecessors, something of that sort is authorized to be done; and I respectfully request that I may be particularly instructed on this point at as early a day as possible.”

And received the following laconic answer from Mr. MARCY, dated Washington, Nov. 8, 1853 :

“Your dispatch of 13th ult. was received at the Department, and I am directed by the President to inform you, in reply to your question respecting an equivalent to Denmark for the abolition of the ‘Sound dues,’ *that he declines authorizing you to offer to that Power any compensation for the removal of that as a favor which we have demanded as a right.*”

The recent above-mentioned dispatches from Mr. BEDINGER, so far as the same have been published, contain no important information besides the facts, that he had tried to *press* the matter to a conclusion—that his propositions had been respectfully entertained by the Danish Minister of Foreign Affairs—but that, up to the latest date, he had received no final and definite answer, and that in fact there appeared to be no intention on the part of the

Danish Government to give up their right to levy the Sound dues *without compensation*.

Mr. BEDINGER, finally, in a note dated Copenhagen, April 14, 1855, (which has not yet been published, and of which we therefore only know the general tenor,) communicated to the Danish Government the intention of the President to have the treaty of 1826 abrogated one year hence, and his request that the Danish Government would abolish the Sound dues.

The reply of the Danish Government, which has been published in the papers, reads as follows :

Note from the Danish Minister for Foreign Affairs to Mr. BEDINGER, United States *Chargé d'Affaires* :

[TRANSLATION.]

COPENHAGEN, April 17, 1855.

SIR:—Conformably with the wish which you expressed to me on the 14th of April, I have now the honor to announce to you, that I received on the same day, the communication containing a notice that the President of the United States had denounced the treaty of friendship, of commerce, and of navigation, concluded the 26th of April, 1826, between Denmark and the United States, for a space of ten years, and for twelve months after denunciation. I share very sincerely, Sir, your regrets at witnessing the expiration of a treaty which has for so long a period subserved the interests of the United States as well as of the King's subjects. *But I am charged, Sir, to inform you, that my Government is unable to understand the connection which the Government of the United States seeks to establish between the suppression of the Sound toll and the treaty in question.* The treaty does, indeed, fix the rate according to which the toll is to be paid by American vessels; but the existence of the right to levy this toll, and the title upon which this right is founded, are quite independent of the treaty. As the Government of the United States has taken the initiative in denouncing the treaty, the Government of the King, my august master, would fain hope that overtures will be made to it for the conclusion of a new treaty, proper to maintain the commercial relations which have so long happily existed between the two nations, and prevent the consequences, as deplorable as inevitable, of the definitive extinction of this treaty. The result of such extinction would be that the vessels of the United States would

have to be placed, on their passing the Sound and the Belts, upon the same footing with the vessels of non-favored nations.

Receive, &c.

[Signed,]

V. SCHEEL.

This is the last State paper relative to this question, which, to our knowledge, has been published. It shows how the matter stands, and that the extinction of the treaty will simply bring the relations of the two countries back to the *statu quo ante*, that is, to what they were before the treaty was concluded in 1826.

We have in the foregoing, as well as in former letters, examined the relations which up to this day had subsisted between the two countries, with a view of finding some clue to the extraordinary, and we may say, hostile and overbearing attitude lately assumed by the United States Government in regard to that of Denmark, and we have been unable to find anything wherewith to justify or to explain the course pursued by the said Government. There has been no protracted and unsuccessful negotiation, and neither the material interests nor the dignity of the United States were involved to such a point as to call for immediate action.

We have examined Mr. MARCY'S dispatch more closely than any of the other documents, not for the pleasure of criticizing an eminent statesman, but because it is the most recent, the most important and the most characteristic document in the case.

It was but due to the Danish Government (as in similar cases it would be due to any other Government, or even to individuals) that, in requesting it to surrender an ancient right, and one from the exercise of which it derives a considerable revenue, the demand should be made by an able State paper, carefully worded, indisputable in its assertions, dignified in its tone, and both conciliatory and respectful in language. But no such regards were had—and whatever might have been the disposition of the Danish Government, it is evident that it could not, with the least degree of self-respect, surrender its rights upon such a summons as that contained in MR. MARCY'S dispatch. Upon the whole, the policy

adopted in this instance by the United States Government presents itself under two different aspects. Either the United States Government has entertained throughout the wish and intention to bring this matter to a peaceable conclusion—and in that case it could not have been more unfortunate in the selection of its means; or there has been, from the outset, an intention to bring on a rupture with Denmark, (for what specific reasons, or with what ulterior views, remains to be seen;) and in that case the proceedings lack altogether that sincerity and dignity which behove the Government of a great nation.

Yours, &c.,

PAX.

To the Editor of the New York Daily Times.

LETTER VI.

Elements of success in former negotiations.—Parallel drawn between the question about the free navigation of the St. Lawrence, and that about the Sound dues.—Difference in the course pursued.—How to be accounted for.—Anecdote of Henry Clay.—Basis for a Settlement of the Sound-Dues-Question.

NEW YORK, OCTOBER 30, 1855.

DEAR SIR :

There is perhaps no other country, which during the same short space of time has produced as many eminent statesmen—whose archives have had to record as many able State papers,—and which has been as successful in its negotiations as the United States ; their success in diplomacy has indeed been almost unparalleled, and it is both interesting and important to examine into the causes which have led to such happy results. Among these the ability of the negotiators abroad and that of the leading statesmen at home naturally occupy a prominent place, but there are other causes which ought not to be overlooked. It is a striking feature in the history of American diplomacy that negotiations have only been started and earnestly continued until crowned with final success, when the United States had *important interests of their own to contend for*—a circumstance which could not fail to give considerable weight to the claims they preferred ; and we may notice as not less important elements of success, the spirit of patience, perseverance, and moderation, the respect for the rights of other nations, and the dignified tone which in almost all the American

State papers we have had occasion to peruse, are so happily blended with strong arguments, and distinctness of purpose.

But if the combination of such powerful elements of success naturally accounts for the happy results we have mentioned, it is but logical, that their absence should lead to effects quite the reverse ; and we may here state, that, upon careful examination, we have been unable to discover any of the characteristic features of former negotiations above alluded to, in the present demonstration of the United States Government against the Sound dues, and this consideration confirms us in the belief, that the course pursued in regard to this latter question, can but lead to a failure, or at all events to a very incomplete success.

The facts connected with this demonstration, which have been laid before your readers in our previous letters, are amply sufficient to sustain this view of the matter ; but the question having been so frequently misrepresented, we will not confine ourselves to the general statement made above, but prefer to illustrate its correctness by actually comparing the course pursued by the United States Government, in a recent negotiation about the free navigation of the St. Lawrence, with that which it has adopted in regard to the Sound dues.

We select the former question, which was settled most satisfactorily by the so-called reciprocity-treaty between Great Britain and the United States, June 5, 1854, not only, because in many points it bears a great resemblance to that of the Sound dues, but also, because in the negotiations which led to the reciprocity-treaty the elements of success above alluded to, were all brought to bear and account, for the happy result obtained.

The United States claimed the free navigation of the St. Lawrence, *as a natural right*, as early as 1823 (several years before they renewed their tacit recognition of the right of Denmark to levy the Sound dues, by making their treaty of 1826 with that power,) and they rested their claim upon the grounds hereunder enumerated ; which for the purpose of facilitating the comparison, we have placed in juxtaposition with their bearing upon the Sound-dues-question.

Arguments used by the United States, in their negotiations with Great Britain about the free navigation of the St. Lawrence.

Bearing and applicability of these arguments upon the Sound-dues-question as now pending between the United States and Denmark.

1. The United States claim the free navigation of the St. Lawrence as a natural right, and contend that the right claimed and exercised by Great Britain to exclude them from that navigation cannot be sustained by the "modern principles of the law of nations."

2. The United States claim that the stipulations of the treaties, concluded at Vienna, by which the navigation of the great European rivers had been given free to all nations, are applicable, per analogy, to the navigation of the St. Lawrence.

3. The claim of the United States to the free navigation of the St. Lawrence is a very important one, which may be estimated by the fact, "that the inhabitants of at least eight States of the American Union, and the then territory of Michigan had an immediate interest in it, besides the prospective interests of other parts connected with this

1. This argument is also made use of against the right of Denmark to levy the Sound dues.

2. The congress at Vienna making the navigation of the great European rivers free, leaves the right of Denmark to levy the Sound dues entirely untouched. Besides, in his dispatch of July 18, 1853, Mr. Marcy decidedly repudiates the idea of allowing any weight to the treaties of Vienna in regard to the Sound-dues-question.

3. In point of importance, a small amount paid annually as a toll in the Sound, cannot be seriously compared with the total exclusion from the navigation of the lower St. Lawrence.

river and the inland seas, through which it communicates with the ocean."—(Wheaton.)

4. The United States revert to the 7th article of the treaty of Paris of 1763, by which the right of Great Britain to navigate the lower Mississippi was recognized when the mouth and lower shores of that river were held by France.

5. The United States claimed that the possession of the St. Lawrence had been acquired by the united exertions of the colonies and the mother country, and that this navigation was, before the war of the American Revolution, common property of all British subjects inhabiting this continent.

6. The United States claimed that whilst necessary to them, the free navigation of the St. Lawrence would not be injurious to Great Britain, or violate any of her just rights.

4. There is no modern treaty in existence abrogating the right of Denmark to levy the Sound dues, or directly applicable to this question, (per analogy.)

5. The United States have never *at any period* passed the Sound and Belts without paying the Sound dues, whether as colonies or as an independent nation—they only paid higher dues before the treaty of 1826, than they have done since that treaty was concluded.

6. The abolition of the Sound dues is not necessary to the United States, but would be greatly injurious to Denmark, depriving this latter country of a considerable portion of its revenue.

The result of this confrontation (if we may use that expression) is, that of all the arguments put forth by the United States on behalf of their claim to a free navigation of the St. Lawrence, only one can be, and has actually been, made use of in the Sound-dues-question, and that is the one based upon "natural law" or the "general and modern principles of the law of nations."

We have, in our former letters, discussed the weight to which that argument may be entitled in questions of property, and of

well established rights under the "positive law of nations" as derived from reason and *usage*, and shall therefore only once more observe that there is a difference between the "general principles of the law of nations" and the "positive law of nations," which is too frequently overlooked; and unwilling to tire your readers with long dissertations or tedious quotations from books, we will only beg leave to say that it is somewhat similar to the difference between common-law and statute law—between a preamble according to which "all men are born free and equal" and a constitution recognizing the institution of slavery; in short—as between theory and practice.

It will readily be admitted, that the claim of the United States in regard to the free navigation of the St. Lawrence was very strong, and it may even be considered rather hard that they should be thus *totally excluded* from that navigation, *which is a much more serious matter than enjoying it (as through the Sound) on the same terms as all other nations*, paying only a small toll equal with the most favored of them. The United States Government did not, however, instruct their negotiators peremptorily to notify the British Government that there was no such right as the one exercised by that latter government—that the United States summoned Great Britain to comply with their claim immediately and unconditionally, etc. etc. *The difference in the behaviour is curious and characteristic.*

The negotiations about the free navigation of the St. Lawrence were commenced, we believe, in 1823 (by Mr. Rush), and earnestly continued by Mr. Gallatin, under instructions from Mr. Clay in 1826 and 1827, but without success. The following is from a dispatch of Mr. Gallatin to the Secretary of State, reporting the results of his mission:

"The British plenipotentiaries *will not entertain any proposition respecting the navigation of the St. Lawrence, founded on the right claimed by the United States to navigate that river to the sea.* Although it may prove hereafter expedient to make a temporary agreement *without reference to the right* (which I am not authorized

to do) I am satisfied that for the present at least, and whilst the intercourse with the British West-Indies remains interdicted, it is best to leave that by land or in-land navigation with the North American British provinces to be regulated by the laws of each country respectively."—Wheaton.

What did the United States do after that peremptory refusal of the British plenipotentiaries to *entertain any proposition in regard to the right claimed by the United States*? Did they throw up their existing treaty or treaties with Great Britain, and threaten to force the passage of the lower St. Lawrence?—Far from it—they did what every sensible and just man does when he finds that the right moment to settle an important affair has not yet arrived,—they abided their time, and finally, twenty-six years later, and after protracted negotiations, they succeeded in obtaining the *privilege* of navigating the lower St. Lawrence, not however as an *absolute or natural right*, nor without paying for it, but as a *privilege and in consideration* of a so-called reciprocity of trade between the United States and the British North American Provinces, etc., the stipulations of which, however, are on all hands admitted to be peculiarly favorable to the commercial interests of the latter.

The treaty of June 5, 1854, does not only not affect the right of Great Britain to exclude the United States from the navigation of the St. Lawrence, but confirms that right both implicitly and explicitly.

Art. IV., providing for this navigation, reads as follows—

Art. IV. "It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the River St. Lawrence and the Canals in Canada, used as the means of communication between the great Lakes and the Atlantic Ocean, with their vessels, boats and crafts, as fully and freely as the subjects of her Britannic Majesty, subject only to the same *tolls* and *other assessments* as now are or *may hereafter* be exacted of her Majesty's said subjects; it being understood, however, that the British Government *retains the right of suspending this privilege* on giving due notice thereof to the Government of the United States.

"It is further agreed, that if at any time the British Government should exercise the said reserved right, the Government of the United States shall have the right of suspending, if it think fit, the ope-

ration of Art. 3, of the present treaty, in so far as the province of Canada is affected thereby, for so long as the suspension of the free navigation of the River St. Lawrence or the Canals may continue: It is further agreed that British subjects shall have the right freely to navigate Lake Michigan with their vessels, boats and crafts, so long as the *privilege* of navigating the River St. Lawrence, secured to Americans by the above clause of the present article, shall continue."

From which it will be seen, that the right of Great Britain to exclude the United States from the navigation of the St. Lawrence, is assimilated with and made to serve as an equivalent for the equally indisputable right of the United States to impose a duty upon importations from the British North American Provinces—exactly in the same manner in which—in the treaty of 1826 with Denmark—the right of that power to levy, and to fix the rate of the Sound dues, has been assimilated with, and made to serve as an equivalent for certain commercial advantages and privileges, which the United States had an equally indisputable right to grant. (Letter No. II.)

The reciprocity treaty of June 5, 1854, with Great Britain, and that of April 26, 1826, with Denmark, are therefore, in regard to the rights involved and recognized by them, nearly similar, the treaty with Denmark also being a treaty of reciprocity in regard to the commercial intercourse of the two nations.

But their similarity is not confined to this one point. The treaty of 1854 reserves for the two contracting parties not only the right of suspending the treaty at any time they think proper, but also that of *discontinuing it* after 10 years of duration, by giving 12 months' notice, exactly as stipulated by the treaty of 1826 with Denmark.

Let us suppose that some years hence the United States should decide to suspend the so-called reciprocity treaty or to discontinue it altogether in the manner stipulated—what would be the effect of that measure?—*Simply to re-establish the status quo ante*, which would involve not only the abrogation of all the treaty-stipulations in regard to the fisheries and the reciprocity of trade, but also *the*

exclusion of the Americans from the navigation of the lower St. Lawrence; exactly in the same manner in which, by the abrogation of the treaty of 1826, between the United States and Denmark, the *status quo ante* will be re-established, which will involve not only the abrogation of the commercial privileges mutually granted, but also *the re-establishment of that distinction, in accordance with which American vessels, before the treaty was made, had to pay the Sound dues as one of the unprivileged nations in the Sound.* The analogy is complete, and it will be interesting to see whether it holds out to the end. Let us suppose, as before, that such an event should actually take place, that notice should be given by the United States Government to that of Great Britain of their intention to suspend or altogether to discontinue the reciprocity treaty; does any one suppose, that in such case the United States Government would accompany their notification with a declaration running pretty much in the following strain? “We have determined to discontinue the treaty, but we have at the same time determined not to consent to the re-establishment of the *status quo ante*, and you need not trouble yourselves about the conditions upon which we will, this time, make a new treaty with you, because these we shall prefer to dictate, and do hereby dictate, as follows: “We are willing to renew the reciprocity treaty in all respects except, in so far as it relates to the right claimed and hitherto exercised by you, to exclude us from the navigation of the St. Lawrence; it is true that we have formerly submitted to your exercise of that right, and that we have also sanctioned it by the reciprocity treaty, but *our forbearance heretofore in this respect does not justify the inference* that we regarded your right as such; we are now determined not to submit any longer to the exercise thereof by you; the stipulations of the reciprocity treaty relating to that right, will therefore have to be replaced by others conceding the free navigation of the St. Lawrence, *unconditionally, as a natural right and for all time to come, and we refuse to offer you any compensation for that as a favor which we demand as a right!*”

The idea of such a declaration addressed to the Government of

Great Britain, makes you smile, and perhaps you will exclaim "what an absurd supposition;" and an absurd supposition it is indeed. Still, read *Denmark for Great Britain* and "the right to levy the Sound dues" in the place of "the right to exclude the United States from the navigation of the St. Lawrence," and *instead of a supposed, you have a real* declaration, representing precisely the stand and tone assumed by the United States Government in their demonstration against the Sound dues. And are we then to conclude from this that the same proceedings which would be called *simply absurd, in regard to Great Britain, immediately become reasonable, just and right, when used against Denmark?—and that these are the principles by which in future the United States Government will be guided in their relations with the smaller powers?*

We beg leave, however, to follow up our above supposition (notwithstanding its admitted absurdity) only a few moments longer. And we will then suppose that such a declaration had actually been addressed to the Government of Great Britain (instead of that of Denmark), would it be considered by Great Britain or by the whole civilized world otherwise than as a wanton and unjustifiable provocation?—inexplicable indeed, unless intended as a pretext for a violent interference, for which no real ground was to be found?

The New York Tribune lately took this view of the course pursued by the United States Government in regard to the Sound-dues-question, in an able article headed "*Assailing the weak,*" and from which we beg leave to quote the following characteristic anecdote:

"Thirty years ago we had heavy claims against France, Portugal, Holland and Naples, for spoliations on our commerce, and Naples especially met the demand for payment with cavalier indifference. 'Why,' asked a gentleman of Mr. Clay, then Secretary of State, 'Why not send a few ships to the Bay of Naples, and set the matter right with their guns?' 'No, Sir!' was the reply of that gallant-hearted and manly statesman, '*No Sir! When we have got our pay from the strong man, it will be time for us to think of compelling the weak one.*' Mr. Clay's style of foreign policy has passed away, but we think it will show better on the pages of history than that, which bombards Greytown, makes the sham reciprocity treaty, and watches the most favorable occasion to bully Denmark."—[New York Tribune.]

And what gives a peculiar interest to this anecdote is the fact that claims of the same nature as those above alluded to, were at the same time preferred against Denmark, and became the subject of interesting negotiations which we have had occasion to mention in our second letter,—that Denmark did not meet the demands of the United States with “cavalier indifference,” but gave them a cordial and serious consideration, and finally, prompted by the high sense of justice which has at all times distinguished the Government as well as the people of that small country, and also by the desire of showing its good will and friendship towards the United States, consented to pay \$750,000, which, considering the state of extreme exhaustion and impoverishment of the country at that time, was an enormous sacrifice, and which was even *one fifth more* than what the distinguished negotiator (Henry Wheaton) had been instructed to insist upon—and we need hardly add that this remarkable success was obtained *without any attempt at bullying Denmark*. (Letter II.)

But (to come back to the Sound dues) we need not insist any further upon the contrast between the course pursued in regard to the navigation of the St. Lawrence, and that, which has led to the present unsatisfactory state of the Sound-dues-question; *the difference is too flagrant to be denied, and it would be difficult indeed to explain it otherwise, than by a corresponding difference in the power and wealth of the two countries with whom the United States Government had to deal in these cases*. It appears indeed that Mr. Clay’s style of foreign policy has passed away, and it only remains to be seen, whether the success, with which it used to be attended, has not passed away with it.

We shall now, and before we conclude this letter, beg leave to draw a few conclusions from the facts above elucidated, and in a few words as possible to state our own view of the matter, and point out the only principles upon which it can, in our opinion, be settled justly and permanently.

We believe the right of Denmark to levy the Sound dues to be more ancient and in all respects stronger than the right still possessed by

Great Britain, and only lately again recognized by the United States, to exclude the latter from the navigation of the lower St.

Lawrence—but both of them are existing and well-established rights under the law of nations, though perhaps not quite in accordance with the “law of nature” or (as Mr. Marcy has it) the “general and modern principles of the law of nations,” which after all, is nothing, but what some people in this country call the “higher law.”—*We believe that these and similar rights are entitled to the same respect and protection, as all other rights and property held under the law, whatever may be the origin of the title or the power and wealth of the rightful possessor.*

We approve of the application of the principle of expropriation for public utility, even in cases like these, where the removal of burdens resting upon the commerce of the world is contemplated, but we claim a fair indemnity for the proprietor, and proceedings in accordance with general usage and with the respect due to an independent sovereign nation, whether small or large,—and we would consider it absurd and entirely inadmissible if one party, (moreover the least interested in the improvement) would arrogate to itself to be at once party, judge and sheriff in the same cause.

Yours, &c.,

PAX.

To the Editor of the New York Daily Times.

LETTER VII.

The Right of Denmark to levy the Sound Dues.—Who pays the Sound Dues?—And who is to be benefitted by their abolition?—Conclusion.

NEW YORK, NOVEMBER 6, 1855.

DEAR SIR :

The right of Denmark to levy the Sound dues, has, as we have already had occasion to observe, been but very slightly touched upon in the State papers relating to this matter which have been published; a quotation of a few lines from Wheaton's "Elements of International Law," and some common-place expressions, such as "*natural privileges*," "*general principles of international law*," "*mare liberum*," &c., are the only arguments which it has been considered necessary to direct against this point, and before which the ancient and well established right of Denmark was expected to vanish altogether. A right which is held in the highest respect even by the nations who are most directly interested in its abolition—by *Russia*, who would not admit a vessel in its harbors unless it proves that the Sound dues had been fully and faithfully acquitted—by *Prussia*, who has officially declared this right of Denmark to be most sacred and inviolable, with which it could never think of interfering, and who proves the sincerity of her declarations, by refunding out of her treasury to the importers in its Baltic ports, *over one-third* of the Sound dues paid by them, rather than interfere with that sacred and inviolable

right—by *Sweden*, who, by a solemn treaty, has not only recognized the right of Denmark to levy the Sound dues, but has also made over to that latter power all the rights which in that respect it might claim as the power possessing the shores on the other side of the Sound, and accepting in return considerable territorial possessions which Denmark had conquered, and of which Sweden has held possession ever since.

We forgot to mention, that for want of other and better arguments, an analogy has been established between the Sound dues and the tribute which Christian nations at a certain period were compelled to pay to the Barbary States of the north coast of Africa, and the whole very cleverly connected with the high-sounding phrase, “millions for defence, but not a cent for tribute.” We do not, however, consider it incumbent upon us to meet arguments of this kind, though nothing would be easier than to show the absurdity of both the analogy and the connection above alluded to, the idea of which can only have originated either in the grossest ignorance of historical facts or in the deliberate design of misrepresentation in order to excite passion, and thus to make the people overlook and forget the real points at issue.

The passage quoted from Wheaton, exclusive of whatever else he may have said bearing upon this subject, reads as follows :

“*Straits* are passages communicating from one sea to another. If the navigation of the two seas thus connected is free, the navigation of the channel by which they are connected *ought* also to be free, even if such strait be bounded on both sides by the territory of the same sovereign, and is at the same time so narrow as to be commanded by cannon-shot from both shores; the exclusive territorial jurisdiction of that sovereign over such strait is controlled by the right of other nations to communicate with the seas thus connected.” (M. Flenniken, U. S. Chargé d’Affaires, to Count Moltke, Nov. 24, 1848.)

This is a very sound doctrine, and one which we believe to be generally acknowledged; but though it would be very applicable *in case any power should at this present time attempt to establish*

rights of sovereignty over certain portions of the seas—it has nothing to do with existing and well established rights. The right of Denmark to levy the Sound dues existed long before that rule was laid down, and has existed ever since, undisturbed and unaffected by it. It would indeed be a pretty state of things if one or a few writers on international law could, with a stroke of their pen, utterly annihilate well established rights under the law of nations. And it may be well in this connection to observe, that the rule above quoted does not even bear directly upon the question before us, in so far as *Denmark does not claim to exclude other powers from the Baltic*; on the contrary, it hails with pleasure every increase in the navigation through the Sound, and only claims its ancient right to levy a light toll, which in reality is borne entirely by its nearest neighbors, the Baltic powers.

In regard to the theory of *mare liberum*, we must beg leave to refer to our previous letter (Let. iv.) where we have demonstrated, that it has no bearing upon this question, and we shall only here remind of a fact which has been too frequently overlooked, viz., that the Sound dues have unquestionably, and at times when a less liberal policy prevailed in regard to commerce and navigation, been the means of opening the Baltic to the free navigation of all nations, much sooner than would have been the case without them; and that it is not at all unreasonable to suppose that, had it not been for the Sound dues, and consequently for the direct and powerful interest of Denmark in keeping the Sound open, the Baltic might be a *mare clausum* this very day, a real *mare clausum* excluding everybody, except the vessels belonging to the Baltic powers.

It is a beautiful thought, and a hope to which we may well cling, that the day will come when the "*divine law*"—"the law of nature and nature's God," will rule supreme over this world of ours; but we suppose it will be admitted, that as yet we are very far from such a millennium, and that we are even approaching it rather slowly. But until that happy event actually takes place, we will, it may be presumed, have to get along as best we

can, *with* the positive law of nations as it exists and has been established by reason and *usage*, *with* such ancient and modern rights under that law of nations as have been established by "immemorial usage" and "general consent," *with* the Sound dues, for which Denmark exhibits a reasonable fondness, *with* the perhaps more ancient, and at all events slightly more barbarous right of privateering, which President Pierce will not give up on any account * —*with* the right to hold, buy and sell slaves, *with* custom-houses, *with* wars and conquests, *with* Greytown expeditions, and with a great many other rights and things, all of which, on close examination, would be found to be more or less at variance with the "*divine law*"—"the *law of nature*," and the "*natural privileges*." We have had occasion in one of our former letters (No. iv.), to which we beg to refer, to explain the absurdity of imagining, that there can be a conflict between the "law of nations" and "immemorial usage," the former being derived from reason and *usage*, and even more perhaps from the latter than from the former. We have for that purpose quoted *Wheaton*, not because he is the best authority we might resort to, but because he is the most acceptable to the American people, and because we only wish to prove what every sound writer on international law admits.

We have mentioned the excellent historical basis upon which the right of Denmark rests, the uninterrupted and undisputed possession and exercise of that right, the fact that the United States had at all times, whether with or without a treaty, recognized that right, first by submitting to it without protest, or by

* The following is the passage of the President's Message of December 4, 1854—here alluded to—"The King of Prussia entirely approves of the project of a treaty to the same effect (securing the rights of neutrals) submitted to him, but proposes an additional article providing for the renunciation of privateering. Such an article, for most obvious reasons, is much desired by nations having naval establishments, large in proportion to their foreign commerce. If it were adopted as an international rule, the commerce of a nation having comparatively a small naval force, would be very much at the mercy of its enemy, in case of war with a power of decided naval superiority. The bare statement of the condition, in which the United States would be placed, after having surrendered the right to resort to privateers, in the event of war with a belligerent of naval supremacy will show, that this Government could never listen to such a proposition."

“ tacit consent,” and subsequently by making a treaty, by which a fair exchange took place between the two countries of commercial advantages and privileges, which it would be very singular to suppose only the one party had a real right to grant. We have mentioned that *Webster*, who had Mr. *Wheaton's* dispatches upon the subject before him, and who had made himself thoroughly familiar with the whole question, *did not undertake to contest the right of Denmark* (his report to the President, quoted in Letter No. II.); but, on the contrary, shortly afterwards declared himself highly satisfied with the arrangement of 1841, by which a reduction in the tariff and some modifications in the existing regulations had been secured, and in relation to which he uses the following expressions :

“The settlement of this whole question is well calculated to strengthen and perpetuate the bonds of amity and good will between the two countries, an effect as ardently desired by the President as by his Danish Majesty.” (33. Cong. Ex. D. 108.)

Webster may not have approved of the *principle*, upon which the Sound dues are established (very few do), *but he respected the right as such*; and so did Wheaton, whose dispatches from Berlin we regret not to be able to quote, but of the tenor of which we may judge from Mr. Webster's report above alluded to. In his “Elements of International Law,” Mr. Wheaton speaks of the Sound dues exactly in the same strain as he speaks of other existing rights or rules and political institutions—neither for nor against. We quote from the sixth Edition, p. 242 to 244 :

“The supremacy asserted by the King of Denmark over the Sound and the two Belts, which form the outlet of the Baltic Sea into the ocean, is rested by the Danish public jurists upon *immemorial prescription, sanctioned by a long succession of treaties with other powers*. According to these writers the Danish claim of sovereignty has been exercised from the earliest times beneficially for the protection of commerce against pirates and other enemies by means of guardships, and against the perils of the sea by means of lights and landmarks. The Danes continued for several centuries masters of the coasts on both sides of the Sound, the province

of Scania not having been ceded to Sweden until the treaty of Roeskild in 1658, confirmed by that of 1660, in which it was stipulated, *that Sweden should never lay claim to the Sound tolls* in consequence of the cession, but should content herself with a compensation for keeping up the lighthouses on the coast of Scania. *The exclusive right of Denmark was recognized as early as 1368* by a treaty with the Hanseatic republics, and by that of 1490 with Henry VII. of England, which forbids English vessels from passing the Great Belt as well as the Sound, unless in case of unavoidable necessity, in which case they were to pay the same duties at Nyborg as if they had passed the Sound at Elsinore. The treaty concluded at Spire in 1544 with the Emperor Charles V., which has commonly been referred to as the origin, or at least the first recognition of the Danish claim to the Sound tolls, merely stipulates, in general terms, that the merchants of the Low Countries, frequenting the ports of Denmark, should pay the same duties as formerly.

“The treaty concluded at Christianople in 1645, between Denmark and the United Provinces of the Netherlands, is the earliest convention with any foreign power, by which the amount of duties to be levied on the passage of the Sound and Belts was definitely ascertained. A tariff of specific duties on certain articles therein enumerated, was annexed to this treaty, and it was stipulated, that *‘goods not mentioned in the list should pay according to mercantile usage, and what has been practised from ancient times.’*

“A treaty was concluded between the two countries at Copenhagen in 1701, by which the obscurity in that of Christianople, as to the non-specified articles, was meant to be cleared up. By the third article of the new treaty it was declared, that as to the goods not specified in the former treaty *‘the Sound duties are to be paid according to their value;’* that is, they are to be valued *according to the place from whence they come, and one per centum of their value to be paid.*

“These two treaties of 1645 and 1701 are constantly referred to in all subsequent treaties, as furnishing the standard by which the rates of these duties are to be measured as to *privileged nations*. Those *not privileged* pay according to a more ancient tariff for the specified articles, and one and a quarter per centum on unspecified articles. By the arrangement concluded at London and Elsinore in 1841, between Denmark and Great Britain, the tariff of duties levied on the passage of the Sound and Belts was revised, the duties on non-enumerated articles were made specific, *and others reduced*

in amount, whilst some of the abuses which had crept into the manner of levying the duties in general, were corrected. The benefit of this arrangement, which is to subsist for the term of ten years, has been extended to all other nations privileged by treaty.

“The Baltic Sea is considered by the maritime powers bordering on its coasts as *mare clausum* against the exercise of hostilities upon its waters by other States, whilst the Baltic powers are at peace. This principle was proclaimed in the treaties of armed neutrality in 1780 and 1800, and by the treaty of 1794, between Denmark and Sweden, guaranteeing the tranquillity of that sea, &c.”

And we beg leave also to quote what *Wheaton* says (page 218) about *Prescription*:

“The writers on natural law have questioned how far that peculiar species of presumption, arising from the lapse of time, which is called *prescription*, is justly applicable between nation and nation; but the constant and improved practice of nations shows, that, by whatever name it be called, *the uninterrupted possession* of territory or other property, for a certain length of time, by one State, excludes the claim of every other; in the same manner as by the law of nature, and the municipal code of every civilized nation, a similar possession by an individual excludes the claim of every other person to the article of property in question. This rule is founded upon the supposition, confirmed by constant experience, that every person will naturally seek to enjoy that which belongs to him; and the inference to be drawn from his silence and neglect is the original defect of his title, or his intention to relinquish it.”*

These quotations will, we trust, together with what we have had occasion to quote before, be sufficient to convince your readers that the right of Denmark *is not quite as indefensible* as it has sometimes been asserted. With these quotations we will close our argument, in regard to this part of the question.

We will now examine *who pays the Sound dues, and who will be directly benefitted by their abolition.*

* “This same principle was recognized as the rule in the suit of Rhode Island against Massachusetts, in reference to the Northern boundary of the former State, decided in 1846.—The Court said:’ — — — — *For the security of rights, whether of States or individuals, long possession under a claim of title is protected.* — — —”

The amount paid for American vessels and their cargoes in the Sound averages annually as follows :

a) TO THE BALTIC :

Tonnage dues, pilotage, &c., for 60 vessels, \$35 pr. vessel	\$ 2,100 —
Sound dues paid on goods shipped	80,000 —

b) FROM THE BALTIC :

Tonnage, &c., for 60 vessels, \$35 pr. vessel	2,100 —
Sound dues on goods shipped to American ports	14,000 —
To foreign ports	1,000 —
	<hr/>
Sum total	\$99,200 —

These are small figures, but such as they are, they *exceed considerably* what an accurate average would amount to (Dispatch of Feb. 10, 1844, from Mr. Irwin, U. S. Chargé d'Affaires, H. Doc. 108). Before we proceed, we would also have it borne in mind, that there is no flag paying less than the American, consequently the competition in regard to the carrying trade is perfectly fair. As to the tonnage dues, pilotage, loss and risk in consequence of delay, insurance, &c., they are virtually included in the freight, *and as such ultimately borne by the cargo*,—it is therefore unnecessary in the following to consider them separately.

Of the \$80,000 paid for cargoes to the Baltic, \$50,000 at least may be put down for Havana sugar, and other *non-American* produce, carried in American vessels to Russia and to the other Baltic countries,—a fact which shows pretty conclusively, that, notwithstanding the inconveniences, expenses, and delays connected with the navigation to the Baltic in consequence of the Sound dues, and which have frequently been represented as equalling a prohibition against American commerce, American vessels have still found it worth their while to go there, not only with the produce of their own, but also with those of other countries.

This leaves only about \$30,000 as paid on American produce.

However this may be, it will not be difficult to show, that of the whole amount (\$82,100) paid for *vessels and cargoes going to*

the Baltic under the American flag, the United States *do not in reality pay one single cent.*

We will take as an example a cargo of raw cotton ; the price at which a Prussian merchant buys his cotton in New York or New Orleans is regulated by the great market—England, and when the cotton arrives at Stettin, it costs just as much more there than in Liverpool, as the expenses for freight, Sound dues, insurance, import duties in Prussia, &c., &c., exceed the expenses of a shipment to that former port. But the merchant is only the agent of the consumer, who finally pays for the cotton with all the burdens that have been laid on it. An entire abolition of the Sound dues would, therefore, apparently have the effect to diminish the price at which the Prussian consumer could buy his cotton by about two per cent., and would give an impulse to the manufacturing, and consequently to the importation of that article. Prussia would take less English twist, and make more twist themselves. The direct effect would therefore be entirely in favor of the Prussian consumer. This effect is, however, subject to some modifications. The import duty on cotton and other raw material being uniform over the whole Prussian monarchy, it is evident that the eastern provinces, in consequence of the Sound dues, were less favorably situated for manufacturing in general than the western, and with a view of remedying this inequality the Prussian Government does now actually refund *out of its treasury more than one third of the amount of the Sound dues, on all merchandize imported into its Baltic ports.* It is evident, therefore, that by the abolition of the Sound dues the Prussian treasury would not only immediately save this latter reimbursement, but it would also be very likely to remodel its tariff for import-duties in the Baltic—and thus the whole benefit to be derived from the abolition of the Sound dues would accrue partly to the Prussian consumer and partly to the Prussian treasury. England would to some extent lose a market for its twist, and the increase in the shipments of cotton to the Baltic would be balanced by a decrease in the ship-

ments to England—thus leaving the export from the United States *in statu quo*.

The same would evidently be the case in regard to all other imported merchandize, and in all the other Baltic countries who have fixed their import-duties with a view of encouraging their manufactures to the degree they consider necessary or desirable.

So much for the Sound dues, etc., paid by American vessels and cargoes going to the Baltic.

The exports from the Baltic, in American vessels, to America and foreign ports, pay as mentioned above, in Sound dues, tonnage duty, etc., the trifling amount, of about \$17,100 per annum. The abolition of the Sound dues on outgoing vessels and cargoes would apparently have the effect of lowering the price on the articles thus exported, and be for the benefit of the consumer (American and others)—but this would only be the case apparently, because it must be borne in mind, that all the Baltic powers, and especially Russia, levy an export-duty, which, for fiscal reasons, has been put exactly as high as the exported merchandize could bear, without becoming unsalable. The articles exported from the Baltic mostly command a high price in the market owing to their peculiar character and superior qualities, and will be able to sustain the same high price after the Sound dues shall have been abolished, and the real and final effect of this measure will therefore be, either that the producer obtains a higher price for his produce, or that the respective Baltic Governments will be enabled to increase their export-duties correspondingly. It may be well, in this connection, and with a view of making this point more intelligible, to observe, that duties on import and export are everywhere deemed and called “an indirect taxation” upon that portion of the world (whether it be a single country or a body of countries such as the German Zollverein and others) which allows or causes them to be levied; and it cannot be said that a country or a confederacy, in exercising its absolute sovereign right to levy duties of import and export at the line of customs by which it has thought proper to separate itself from the rest of the world, lays the whole world under tribute;

though it may be readily admitted, that customs, as well as every other species of taxation laid directly on the commerce and productions of one country, may indirectly and ultimately to some extent affect the whole world—but this does not alter their character as a local taxation, nor does it give to any other power the right to interfere. The line of customs which has been established (with the consent of the Baltic countries) on the four maritime outlets of that sea—"the Sound," "the great Belt," "the little Belt" and the "Schleswig-Holstein-Canal"—is essentially an outer-line of customs, separating the Baltic countries from the rest of the world. The duties levied at this line, are a tax upon the Baltic countries, *and not a tax upon the world*. This tax is actually paid by those countries, alike with the duties of import and export levied at the *inner-line* of customs established at the respective ports of entry *in* the Baltic; and it would not make any perceptible difference, as far as regards the interests of commerce in general, if the Sound dues were collected at the respective ports of entry *in* the Baltic instead of at Elsinore and at the other places where they are now being levied. And there can be no doubt but that the Baltic powers have the same right to agree to, and maintain at their will, such an outer-line of customs, as the German States had in forming the "Zollverein;" nor does it (in point of principle) make any difference, that the duties levied at that outer-line of customs flow into the Danish treasury in consequence of the obligations to that effect, under which the other Baltic States are to Denmark.

From this point of view the Sound dues may fairly be considered (in character and operation), as constituting an integral part of the tariffs of all the Baltic States, and having been recognized and sanctioned by the said States, either by treaties or otherwise, as an obligation towards Denmark, the very existence of that obligation evidently precludes any right on the part of the United States to interfere in this matter. That the existence of such a peculiar Baltic system is no invention of ours, but is actually in operation is sufficiently evident from the fact, that a

Baltic quarantine system has been established by the common consent of all the Baltic powers and placed under the control of the Danish authorities, and that the exclusion of privateers from that sea, as long as the bordering powers are at peace, forms a part of what may be called the Baltic policy.

We regret that the character of this communication will not allow us to discuss more fully the operation of the Sound dues, upon the commercial interests of all parties concerned, but we trust that enough has been said to show, that as the United States do not in reality pay any perceptible portion of the Sound dues, whether on imports to or exports from the Baltic, but merely disburse a very small portion of them in their capacity of carriers for the Baltic consumer or producer—they will as little reap any *direct* benefit from their abolition, and that the interference of the United States Government in this purely European and peculiarly Baltic question is equally incomprehensible, whether it be considered as a question of interest or of international right. The conclusion at which we have thus arrived corresponds entirely with the views of the best German writers upon the subject, who, all of them, insist upon the fact, *that the whole burden of the Sound dues rests upon the Baltic countries.* We may in this respect refer to *Scherer*, who considers it but just and reasonable that, in case a commutation or capitalisation of the Sound dues should be agreed upon, the whole indemnity to be paid to Denmark *should be borne by the Baltic powers exclusively*, and in the following proportion :

Russia	about	.	.	.	.	.	57 per cent.
Prussia	"	.	.	.	.	.	28 do.
Sweden	"	.	.	.	.	.	7 do.
Denmark	"	.	.	.	.	.	5 do.
Mecklenburg	"	.	.	.	.	.	2 do.
Lubeck	"	.	.	.	.	.	1 do.

And it is evident that in case such an arrangement should take place, the powers interested would cover the amount to be paid by them by an increase in the import and export duties, especially the latter, they being less embarrassed in that respect by treaties with other nations.

After having considered the question—*who pays the Sound dues and who is to be directly benefitted by their abolition*—and after having shown, as we believe conclusively, that the United States are not only not directly interested in or to be benefitted by that measure, but that under the operation of those same Sound dues, they have succeeded in securing to their flag a very lucrative carrying trade, which it is not unlikely may be lost to them in consequence of that same measure now so peremptorily insisted upon—in which case the truthfulness of the well-known French proverb "*le mieux est l'ennemi du bien,*" would again be illustrated,—we will now proceed to consider the *indirect* and *probable* consequences of the abolition of the Sound dues; *and here we cheerfully admit, that they are likely to be of considerable importance to the Baltic countries*—whose commerce, industry and production may be greatly stimulated thereby, provided a liberal commercial policy is at the same time adopted by the respective governments. It has therefore also repeatedly been stated by competent writers that the Baltic countries could afford to pay to Denmark a full equivalent for the revenue which this latter power draws from the Sound dues, *and still derive a considerable benefit from their abolition*, owing to the circumstance, that only a portion of the expenses connected with and consequent upon the Sound dues, actually flows into the Danish treasury, and that a powerful impulse to the commerce and navigation of the countries bordering the Baltic may be expected from that reform. But it is at the same time to be foreseen, that the share of the United States in the growth of the Baltic trade consequent on that reform, will be extremely insignificant, partly owing to the naturally limited character of their commercial relations with that region, partly to the remarkable and indisputable fact, that for reasons entirely unconnected with the Sound dues, some of the most important articles of export from the Baltic, such as Russian hemp, iron and sail-cloth are gradually being superseded in the American market, by the productions of this and other countries, *and that on the whole the tendency*

is decidedly towards a decrease in the commercial intercourse between the United States and the countries bordering the Baltic.

We have in the foregoing endeavored to show, *that* there was nothing in the former relations between the United States and Denmark, wherewith to justify or to explain the hostile attitude lately assumed by the former in regard to the latter—*that* the United States can hardly be said to be directly interested in the Sound-dues-question—*that* the benefit which the United States can expect to derive from the abolition of the Sound dues is remote, uncertain, indirect, and altogether of small importance—*that* the right of Denmark to levy the Sound dues has an excellent historical basis, and is altogether one of the best established rights under the law of nations,—*that* the United States Government themselves have at all times treated it as such, not only by not protesting against its exercise, but also by sanctioning it by a treaty concluded in 1826 after forty years of "tacit consent." The only arguments which therefore, in our opinion can be brought to bear upon the matter as now pending between the two countries are : 1. *That the abolition of the Sound dues is a desirable reform, and therefore in itself a good cause*—and 2, *that the United States are great and powerful, and therefore cannot very well be quite in the wrong in a quarrel with such a small and comparatively weak nation as Denmark.* And though it must be admitted, that a good cause is apt to suffer from, and lose its character by being badly managed, and also that the mere superiority of power cannot in the nineteenth century be expected to make up for all that is wanting in other respects—still, as the world goes, those two arguments have their weight and must be taken into consideration, though they may not be sufficient to secure to the United States Government anything like the prompt and great success it appears to have expected.

This will, we believe, be the view which (the first excitement being over, and a mature discussion having succeeded,) will be taken of this matter not only by governments and statesmen but also by the people of the United States, and the public in general.

We do not believe that any foreign power will venture to interfere between Denmark and the United States (there appears indeed to be no legal ground whatever for such an interference) but we suppose that a friendly mediation will be offered with a view of, if possible, preventing a hostile outbreak from taking place. And such is the fear of further political complications, and such the *prestige* of the United States, that we should not at all be surprised if the mediating power, whoever it may be, and however much it might disapprove of the course pursued in this instance by the present Administration, should commence its mediation, if accepted, by suggesting to the Danish Government the propriety of making some sacrifice with a view of smoothing the way for a provisional and amicable arrangement. Whether or not the Danish Government will give a favorable answer to such a suggestion, it is impossible to foretell, but judging from the spirit of liberality which has (especially of late years) characterized the policy of that Government in regard to the Sound dues, and the desire of entertaining the most friendly relations with the United States, of which it has given the most striking proofs in its former negotiations with this country, (letters Nos. II. III. and IV.)—there can be little doubt indeed but that such a suggestion, made six months ago, would have met with a very cordial reception. The only difficulty which we would apprehend now, lies therefore in the events which have occurred since that time, especially in the peremptory manner in which the United States Government has pressed an entirely inadmissible claim. But we still hope and believe that the spirit of conciliation may prevail in the Danish cabinet, and that an arrangement, even if it should entail a pecuniary loss, and a sacrifice of national pride and sensibility, if only compatible with the rights and dignity of the crown of Denmark, will not meet with any decided refusal from that side.

The next question would then be, whether the United States Government would consent to such a compromise, or whether it would still be determined to push the matter to extremes.

In the first case it would, by securing real and important advan-

tages to the Baltic trade, obtain a certain and valuable success and might claim credit for moderation and a conciliatory policy. If, on the contrary, it refuses the honorable and advantageous compromise likely to be offered, it will convince even the most sceptical *that the Sound dues were only the pretext*, that a hostile outbreak was desired and contemplated, and in that case we may look for events of a magnitude and of an importance, which will soon place the Sound-dues-question entirely in the shade, and lead to difficulties which will become the inheritance of the next Administration.

Yours, &c.

PAX.

To the Editor of the New York Daily Times.

P. S.

Since the above was written an invitation has, it appears been addressed by the Government of Denmark to all the powers interested in the Sound dues, to meet in Convention at Copenhagen, for the purpose of devising means for the peaceable and equitable settlement of that question.

The invitation which has appeared in the papers, is couched in the most conciliatory terms, especially in regard to the United States, and we are therefore both pained and surprised to learn that the Government of this country has refused to take any part in the deliberations of the abovementioned convention, which will be attended by envoys or commissaries from all the European powers interested in the matter. The dispatch by which this refusal has been conveyed to the Danish Government will, we presume, be laid before Congress with the President's next message, and we shall then have an opportunity of ascertaining the bearing of an act, which at first appears strange and incomprehensible.

P.

