

Gloucester, in county and State aforesaid, personally appeared Alex. McEachern, master of the schooner called "Mascot," of this port, who deposes and says:—

"That on the 10th day of June, 1886, A.D., I went into Port Amherst, Magdalene Islands, for the purpose of buying bait, but as soon as I went ashore I was met by the Custom House officials, who forbid me from so doing, stating that they would seize my vessel, and I had no right to enjoy any privileges here except to get wood and water. I informed him that I wanted to take a pilot, as I could find a spot where I was informed that the fishing was good. He also said if I shipped such pilot or laid in port over twenty-four hours he would seize my vessel.

(Signed) "ALEX. MCEACHERN

"Gloucester, July 27th, 1886."

Before me,

(Signed) AARON PARSONS,
Justice of the Peace.

Enclosure 2 in No. 185.

Minute by Sir J. Pauncefote on Mr. Phelps' Letter of September 11th, 1886.

This is a reply to Lord Iddesleigh's note to Mr. Phelps of the 1st September (Print, Part II, p. 59), and also to Lord Rosebery's note of the 23rd July, containing a copy of the very able and conclusive Report of the Canadian Minister of Marine, which was communicated to the United States' Government in July last (Print, Part II, p. 20), but of which the latter have as yet taken no notice.

Mr. Phelps' note is not as conciliatory as might have been expected in view of the friendly overtures to which it is an answer.

He first complains that Lord Rosebery declined to discuss the case of the "David J. Adams," on the ground that it was still *sub judice*; and, further, that Lord Iddesleigh, in his note of the 1st September [he gives by mistake the date of the private note of the 23rd August, and this should be rectified], states that, according to practice and precedent, diplomatic action in relation to that case should be suspended pending the completion of the judicial inquiry.

To this proposition, he says, the United States' Government is unable to accede. But he has forgotten, or was not aware, that this very proposition was not only acceded to by his Government in 1870, but distinctly asserted by them under precisely similar circumstances, that is to say, in relation to the seizure of American fishing vessels in Canadian waters for alleged violation of the Treaty of 1818.

This may be seen from Mr. Fish's despatch No. 126 of the 29th October, 1870, to Mr. W. A. Dart, United States Consul-General at Montreal, which is printed at p. 431 of the volume for that year of the "Foreign Relations of the United States," and which formed part of the Correspondence of 1870, referred to by Mr. Bayard in his note of the 20th May (Print, Part I, p. 141).

On the termination of the Treaty of Reciprocity of 1854 by the United States' Government in 1866, the Treaty of 1818 had revived, and with it all the old disputes connected with it. These disputes were suspended by the Treaty of Washington in 1871; and the Correspondence of 1870 is most instructive and important as showing what was the *status quo* at that period, as well as the mode in which these questions were treated.

As regards Mr. Phelps' complaint that his letter of the 2nd June, on the seizure of the "David J. Adams" (Print, Part I, p. 165), has not been specifically answered on the ground that the case is still *sub judice*, it is to be observed that there are three points to investigate in that case:—

1. What were the acts committed which led to the seizure of the vessel?
2. Was her seizure for such acts warranted by any existing Laws?
3. If so, are those Laws in derogation of the Treaty rights of the United States?

It is evident that the first two questions must be the subject of a judicial inquiry before the third can be profitably discussed.

It is manifest that those points can only be satisfactorily ascertained by a judicial inquiry, and far from claiming that the United States' Government would be bound by the construction which British Tribunals might place on the Treaty, we expressly stated the very contrary.