

mentioned telegram advising release of the ship. A copy of this telegram appears to have been telegraphed to the collector of customs to whom the warrant of arrest had been sent, in whose custody the ship then was, who, without any communication with the solicitor for the Crown to whom the telegram had been addressed, and without any order of the Judge, or direction from the registrar of the Court, or any other warrant than the copy of the telegram mentioned above, released the ship "Tuttle" from the arrest which had been made on 4th August under the authority of the warrant of arrest which had issued from this Court.

The rules of this Admiralty Court respecting the release of ships and property so arrested are set out in Rules 53 to 59. Ships so arrested can only be released by order of the Judge or by a release issued by the registrar under the prescribed conditions as to security.

On 12th August the collector of customs at Little Current sent the following telegram to the solicitor for the Crown:

"Have cleared Str. Tuttle for Buffalo, to save further expense, on copy of McNaughton's telegram 8th. Send formal release."

The act of the collector in releasing the "Tuttle," "on copy of McNaughton's telegram 8th" (the first telegram above), appears to have been unauthorized, and in entire disregard of the rules of this Court, above cited, authorizing releases of "property arrested by warrant."

No explanation has been given by any official of the public works department of the circumstances in which a copy of the first or McNaughton's telegram was furnished to some person interested in the ship. Nor has any explanation been given by the collector of customs of the circumstances in which he released the ship without the authority which the Admiralty rules prescribe.

I cannot, on this interlocutory application for pleadings and a bond, try the questions involved in the arrest and release of the ship on the 11th August last. All the facts affecting these questions have not been proved or explained, and they must therefore be reserved for the trial.

On 12th August an appearance was entered by a solicitor for the ship "Tuttle," and the owners thereof.

Mr. Murray, solicitor for the Crown, in his affidavit states that "no release was sent to the customs officer, as requested by his telegram, but I immediately requested the public works department to have the ship arrested at Windsor by His Majesty's collector of customs there, in whose hands I had previously placed a warrant of arrest; and I am informed