

*Mr. Bramston to Sir J. Pauncefote.—(Received December 15.)*

Sir,

*Downing Street, December 15, 1886.*

I AM directed by Mr. Secretary Stanhope to acknowledge the receipt of your letter of the 11th instant, inclosing a copy of a note from the United States' Minister at this Court asking that the solicitors for the defence in the case of the "David J. Adams" may be supplied with a full Report of the charges made against that vessel.

Before making any representation to the Canadian Government upon this subject, the Secretary of State would point out that Mr. Phelps' request is that the necessary directions may be given for supplying to the solicitors for the owners of the "David J. Adams" copies of certain official Reports made in May last by the Canadian officers to their official superiors, and would be glad to learn whether the question has presented itself to Lord Iddesleigh from the point of view from which it strikes Mr. Stanhope, viz., that the United States' Government are inviting Her Majesty's Government to intervene in the conduct of this litigation, and by the pressure of its Executive to endeavour to induce the Canadian Government to furnish the other litigant with documents which, seemingly under the advice of counsel, it has already refused to give.

Assuming that the facts respecting the charge of violating the Customs Law are as alleged by Mr. Phelps, they can probably be elicited at the trial by ordinary methods of examination; while, if elicited, they would not, as it appears to Mr. Stanhope, necessarily save the vessel from the sentence of the Court, whatever grounds they might furnish for the Government not enforcing a forfeiture if pronounced.

I am also to point out that Mr. Phelps does not identify, and apparently has not been supplied with a copy of, the Canadian Act of 1868, upon which he mainly founds his present request. It is, in point of fact, the Statute cap. 61 of that year, providing for the issue of licences to foreign fishing-vessels and for the forfeiture of vessels fishing without a licence, a Statute which, so far as relates to the issue of licences, has, as Lord Iddesleigh is aware, been inoperative since 1870. The section (No. 10) which appears to Mr. Phelps to be in violation of the principles of natural justice is habitually found in laws against smuggling, and in the present case appears to be based upon the common sense rule of law that a man who pleads that he holds a licence, or other similar document, shall be put to the proof of his plea, and required to produce the document. The suggestion that the section quoted by Mr. Phelps will be applied to seizures not "under the Act" needs no answer, and may be left to the Court to deal with should occasion arise.

Unless the counsel for the vessel have not been furnished with the Report of the Minister of Marine and Fishery approved by the Canadian Privy Council on the 14th June, 1886,\* and transmitted to the Foreign Office from this Department on the 29th June, they will have learned that from a date immediately after the seizure "there was not the slightest difficulty in the United States' Consul-General and those interested in the vessel obtaining the fullest information," and that "apart from the general knowledge of the offences which it was claimed the master had committed, and which was furnished at the time of the seizure, the most technical and precise details were readily obtainable at the Registry of the Court and from the Solicitors for the Crown."

On reference to the Marquis of Lansdowne's despatch of the 11th May, 1886,† transmitted to the Foreign Office on the 4th June, it would be seen that before the 11th May the United States' Government must have learnt the nature of the charges brought against the "David J. Adams," and that they included "violation of the Customs Act, 1883." The same information is contained in the Report of the Minister of Marine and Fisheries above cited.

With these passages before him, Mr. Stanhope finds a difficulty in believing that the counsel for the vessel are not fully aware of the charges which they will have to meet, although they have not obtained the particular Report to which Mr. Phelps alludes.

Under these circumstances, Mr. Stanhope is doubtful whether there would be advantage in telegraphing the proposed inquiry to the Canadian Government; but if Lord Iddesleigh, after considering this letter, still thinks it important that the request should be preferred, he would ask to be supplied with the text of the message which Lord Iddesleigh desires should be sent.

I am, &c.  
(Signed) JOHN BRAMSTON.

\* See "United States No. 1 (1887,)" p. 76.

† Ibid., p. 56.