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PUBLIC OPINION AND THE McLEOD CASE

By Albert B. Corey

During the night of December 29, 1837, the American owned steamboat *Caroline,* suspected of aiding a filibustering expedition, was attacked while tied to the dock at Schlosser, New York, and destroyed by an armed force from Upper Canada under the command of a royal naval officer, Commander Andrew Drew. One man, Amos Durfee of Buffalo, was killed; a number of other United States citizens were wounded. Out of this incident developed the most troublesome issue of the Canadian rebellion period which, so far as Canadian-American and British-American relations were concerned, lasted from 1837 to 1842.

This is not the place in which to review the storm of protest and the border excitement in the United States nor the jubilation in Upper Canada which the destruction of the *Caroline* unloosed. Suffice it to say that within three months John Forsyth, the secretary of state, instructed Andrew Stevenson, the United States minister in London, to demand redress of the British government.[1] This demand Stevenson presented in a voluminous letter of exceptional vigor on May 22, 1838.[2] Palmerston acknowledged the letter, but not until March 21, 1841, three years later, did Henry S. Fox, the British minister in Washington, formally accept on behalf of his government responsibility for the destruction of the *Caroline.*[3] To be sure, as early as March 6, 1838, Stevenson reported that in several informal conversations it seemed clear that Palmerston would justify the act and assume responsibility for it.[4] There was no hint that redress would be forthcoming. On November 6, 1838, Palmerston ordered Fox to avow the destruction of the *Caroline* as a public act,[5] an order

[1]A considerable portion of this paper is based upon correspondence in the Archives of the State Department in Washington, D.C. The various series referred to, together with abbreviations for convenience of citation, follow:

(1) Instructions to United States Ministers in London from the Secretary of State, cited as *G. B. Instructions.*

(2) Despatches to the Secretary of State from United States Ministers in London, cited as *G. B. Despatches.*

(3) Notes to the British Minister in Washington from the Secretary of State, cited as *Br. Legation, Notes to.*

(4) Notes from the British Minister in Washington to the Secretary of State, cited as *Br. Legation, Notes from.*

(5) Letters from territorial United States to the Department of State, cited as *D. S. Misc. Letters.*

(6) Letters from the Department of State in answer to the above, cited as *D. S. Domestic Letters.*

For Forsyth's instructions to Stevenson, see *G. B. Instructions,* XIV, 266-271, Forsyth to Stevenson, March 12, 1838.

[2]*G. B. Despatches,* Vol. 45, Stevenson to Forsyth, May 24, 1838.

[3]*Br. Legation, Notes from,* Vol. 20, Fox to Webster.

[4]*G. B. Despatches,* Vol. 45, Stevenson to Forsyth. Practically all of Stevenson's correspondence with Forsyth and Webster and with Palmerston is to be found also in the thirteen volumes of the *Andrew Stevenson Letter Books* and the twenty-six volumes of *The Papers of Andrew and John White Stevenson* in the Library of Congress, Washington, D.C.

[5]Canadian Archives, *Series Q,* Vol. 251, p. 227, Palmerston to Glenelg, November 8, 1838.

which for some unexplained reason he did not obey. Had Fox obeyed instructions or had Palmerston formally acknowledged acceptance of responsibility to Stevenson, it is possible that the case of Alexander McLeod would never have arisen to perplex British, American, and Canadian governments and to produce an excitement on both sides of the Atlantic which made war seem a real possibility.

During these three years of diplomatic fencing, the St. Lawrence border between Canada and the United States was kept in a continuous state of turmoil by the exceptional amount of filibustering which took place from the American side of the line and by occasional expeditions from the Canadian side. In New York state both officials and private citizens were constantly on the watch to arrest Canadians who had taken part in the *Caroline* expedition. A number of persons suspected of participation were actually arrested during 1838, but all were discharged for lack of evidence. Eventually Alexander McLeod, deputy sheriff of Niagara, U.C., who had already been arrested and discharged, was again taken into custody at Lockport, New York, on November 12, 1840, and charged with arson and the murder of Amos Durfee. This was the beginning of what is known as the McLeod case.[6]

The original difficulty arose because the British government had failed publicly to avow responsibility for the *Caroline*. On December 13, 1840, Fox attempted to make good this lacuna. In a letter to Forsyth[7] he insisted (although he admitted that his statement would have to be confirmed by the British government) that the destruction of the *Caroline* was "the publick act of persons obeying the constituted authorities of Her Majesty's Province . . ." He hoped that the United States would see the necessity of releasing McLeod at once especially since "the case [was] naturally occasioning a great degree of excitement and indignation within the British frontier." He continued, "I earnestly hope that it may be in your power to give me an early and satisfactory answer . . ." Forsyth's reply on December 26 expressed a desire to prevent ill-feeling and a determination not to interfere with the jurisdiction of the New York courts. Neither he nor the president were "aware of any principle of international law, or indeed of reason or justice" which entitled offenders to immunity before legal tribunals even though they "acted in obedience to their superior authorities, or because their acts have become the subject of diplomatic discussion between the two Governments."[8] Fox was surprised and chagrined and in reply remarked upon the "very grave and serious consequences" which would result from adhering rigidly to Forsyth's position.[9] Forsyth retorted with asperity that no further discussion would be "useful or proper" since Great Britain had made no reply to the demand for redress of May 22, 1838.[10]

Meanwhile congress became interested in the issue. A few weeks

[6]For an excellent account of the McLeod case which disposes of the questions relating to acceptance of responsibility by Great Britain for the destruction of the *Caroline*, the efforts of the United States government to obtain McLeod's release from judicial process in New York, and the innocence of McLeod, see Alastair Watt, "The Case of Alexander McLeod" (*Canadian Historical Review*, XII), 145-167.

[7]*Br. Legation, Notes from*, Vol. 20.

[8]*Br. Legation, Notes to*, VI, 186-189.

[9]*Br. Legation, Notes from*, Vol. 20, December 29, 1840.

[10]*Br. Legation, Notes to*, VI, 190, December 31, 1840.

after the arrest of McLeod, it took action. On December 21, 1840, Millard Fillmore of New York submitted a resolution in the house of representatives calling upon the president to transmit to that body all the correspondence with Great Britain concerning the *Caroline* and McLeod.[11] On December 31 another resolution requiring the printing of the correspondence precipitated a long and acrimonious debate in which both parties aired all the political dirty linen they could gather. States rights, war and peace, the status of treaties with Great Britain all received attention. A few days later, in a more moderate debate, it was proposed to refer the whole subject to the committee on foreign relations.[12] Congressmen seemed to desire a continuance of peace with Great Britain, although many were still indignant over the hauteur of Fox's letters to Forsyth.

The political battle royal came in the following February, (1841) when Francis W. Pickens of South Carolina, chairman of the committee, introduced the report which he had written himself, and the battle continued until the end of the special session of the new congress in September, 1841. The report gave the facts of the case, stated the principles involved, and then proceeded to a violent attack on Great Britain, whose objects and ambitions knew "no bounds". It ended with the hope for a peaceful and honorable adjustment of the *Caroline* and McLeod cases.[13] A fierce debate took place immediately. Fillmore and John Quincy Adams attacked the report on the ground that it was too bellicose. Pickens replied that it was a plain and fearless statement of fact, that it was not intended to ruffle feelings, that its real object was to prepare the people of the United States for the problems they must face, the chief of which was that of national defence. Fillmore and others took the opposite view—that it was unwise to stir up feeling against Great Britain until the United States had sufficient defences on its frontiers to withstand attack. In the country at large the New York *Observer* expressed current opinion when it said on February 20 that the report was meant for home consumption only, in order to accustom people to speak above their breath when speaking of the British. In the senate, except for a few innocuous speeches on March 1, there was no excitement.[14]

At this point, i.e., on March 4, 1841, Daniel Webster became secretary of state. In an exchange of letters with Fox he completely reversed the position taken by Forsyth; he acknowledged that there was no justification in international law for punishing as criminals those who acted under military orders, but he averred that the federal government was helpless to interfere with the jurisdiction of the courts of New York. He held out hope that the case might eventually be transferred to the supreme court of the United States.[15]

In order to understand the ebb and flow of opinion on both sides of the Atlantic it is well here to give a brief summary of the progress of McLeod's trial. While congress was debating *Caroline* matters in January, 1841, Canadian authorities sought to bail McLeod out of the jail at Lock-

[11]*Congressional Globe,* IX, 44.
[12]*Ibid.,* IX, 90, January 4, 1841.
[13]*Ibid.,* IX, 170-171, February 13, 1841.
[14]*Ibid.,* IX, 218.
[15]For a complete statement of the United States official position, see *Br. Legation, Notes to,* VI, 196-210, Webster to Fox, April 24, 1841; also *British and Foreign State Papers, 1840-1841,* XXIX, 1129-1139.

port, New York, but this was prevented by the opposition of the local mob. In February, Governor William H. Seward asked the chief justice of the supreme court of New York to preside at the forthcoming trial at Lockport and requested the attorney general of the state to defend McLeod in order to ensure a fair trial.[16] On March 15 Webster ordered the United States attorney general, Crittenden, to Lockport to protect McLeod's interests.[17] Owing to a technicality, the trial was postponed until June, but by that time it was decided to refer it to the supreme court of the state. That court upheld the jurisdiction of the state courts to try McLeod for murder and remanded the case for trial by the lower court. McLeod now had a choice of carrying his suit directly to the supreme court of the United States or of standing trial before a local jury. He chose the latter in order to avoid spending another winter in jail and because a verdict of not guilty in a local court would satisfy the border population of his innocence. The venue of the trial was now changed to Utica, and there McLeod was tried and acquitted on October 12, 1841.

Meanwhile, on June 10 and for three days thereafter, there took place in the United States senate a vigorous debate, during the course of which party politics were confused with the principles of international law.[18] The main questions debated were whether Webster in his letter of April 24 to Fox had abjectly accepted the demand for the release of McLeod and whether he had gone beyond his rightful powers in ordering Crittenden to defend McLeod's interests. Associated with attacks on Webster there were an outburst of glorification of American nationalism and an almost fanatical opposition to all things British. Said Thomas H. Benton of Missouri in a ringing attack, "To strike—to crush—to plunder —to terrify—and to make peace—this is their policy . . ." In advocating the maintenance of American national interests he declared that it would be "better far to throw away the books, and go by the heart. Then, at least, they [Americans] would always have the consolation of being on their country's side." As for Webster, his letter of April 24 to Fox, "besides its fatal concessions", had been "deficient in manly tone—in force —in resentment to injurious imputations—and in enforcement of our just claims. . . . The letter demands nothing—literally nothing; and in that respect degrades us as much as the surrender upon a threat had degraded us." Webster's political friends, especially Rufus Choate of Massachusetts, defended him by asserting with substantial truth that Benton and others were attempting "to excite just [in the sense of 'mere'] sensibilities" and were not trying to enlighten the country on the facts or the merits of the case.

In the house, where the debates began on June 24 and lasted until September, an attempt was made to embarrass the administration by assertions that Webster's capitulation could bring one result only—war. As the debates continued the tempers of the members rose. Redress for the *Caroline* was insisted upon. In florid language Aaron V. Brown of Tennessee proclaimed:

> "Sir—the waves of Niagara have extinguished the fires of that vessel—they have silenced forever the agonizing shrieks of her remain-

[16] *D. S. Misc. Letters,* Seward to Forsyth, February 27, 1841.
[17] *D. S. Domestic Letters,* XXXI, 360-363.
[18] For the debates, see *Congressional Globe,* X, and Appendix.

ing crew—but the cry for vengeance still comes up from her deep and agitated bosom, in tones louder than the thunder of her own mighty cataract."

The debates are particularly interesting because of the intensity of party spirit and because each side insisted that the other's policy would lead to war. Fittingly did the reporter remark at the end of the debate on July 13: "When the hour expired, [that is, the time set apart for debate on McLeod and the *Caroline*] the subject was dropped, and the bill, making temporary provision for lunatics in the District of Columbia, was taken up and passed."[19]

In Albany too there were stiff debates in which party spirit was evident. But the tone of debates there was set by Governor Seward, who insisted upon the preservation of the rights of the state in his message to the Assembly in May.[20] He would continue to do all in his power to secure a fair trial for McLeod, but he would allow nothing to be done which would compromise "in the least degree, the rights, dignity, or honor of this state." In his correspondence with Governor Sydenham in Canada[21] he was equally definite, and at no time did he relinquish his position in the slightest degree.

What was fair bait for legislators was, of course, fair bait for people in the country at large. In the press one finds six separate issues attacked and defended. The first was whether Great Britain, by its avowal of the *Caroline,* had the right to demand McLeod's release; the second, whether Great Britain ought not first to grant redress to the United States; the third, whether the balance in weighing trans-border offences was not heavily weighted against the United States; the fourth, whether the state of New York had jurisdiction in the McLeod case; the fifth, whether Webster had sold out the American birthright to the British; and the sixth, whether war was likely to result with Great Britain if McLeod were condemned and executed. The leading papers took sides and attacked each other with unusual vigor and heat. When Thurlow Weed's Albany *Evening Journal* praised the decision of the state supreme court for having upheld "the honor and dignity of the State", the New York *Journal of Commerce* remarked: "And this, in the estimation of the *Journal,* appears to have been the essential point at issue". Whether the United States and Great Britain should become involved in war, with all its attendant evils was a matter of little importance in comparison with the vindication of Seward's position.[22] It and other papers pointed out that the leading members of the New York bar refused to accept the decision as valid.[23]

As the summer wore on and the time for the trial at Utica approached, a general apprehension appears to have arisen that McLeod would not receive a fair trial and that war with Great Britain would result. But as the day came nearer it was evident that excitement was dying down, largely

[19]Quoted in the New York *Observer,* July 17, 1841.

[20]Charles Z. Lincoln, ed., *Messages from the Governors, etc.,* III (1823-1842), (Albany, 1909), 932-933.

[21]New York *Journal of Commerce,* May 27, 1841, Seward to Sydenham.

[22]*Ibid.,* July 15, 1841. *The National Intelligencer* (Washington) and the *Daily Advertiser* agreed with the *Journal.* The *Globe* (Washington), on the other hand, stood staunchly by the official position.

[23]New York *Journal of Commerce,* July 19; *National Intelligencer,* July 22; *Poughkeepsie* (N.Y.) *Eagle,* quoted in the *National Intelligencer,* July 22.

because many who had formerly thought that McLeod ought to be punished now believed that American dignity and honor had been sufficiently sustained, and "that having carried the point, the punishment of McLeod could answer no end or object", that therefore the government of New York "would not be justified in putting him to death."[24] So little interest was exhibited in the trial itself that the court room was but one-third filled.

English opinion went through a number of phases in 1841. The first news of McLeod's arrest excited moderate attention, although in certain quarters notable apprehension was felt. Lord John Russell in a personal note to Stevenson expressed the fear that "the Senate & public in the United States are acting in ignorance of the very strong feeling which will be excited here if MacLeod is condemned."[25] When news of the January debate in congress and of the Lockport grand jury's true bill reached England, the daily press printed it at length, and excitement went to fever heat. In anticipation of probable war, funds depreciated and the bank suspended specie payments. Melbourne's guarded but incisive and threatening language and O'Connell's insistence upon protection of British subjects abroad[26] did nothing to allay the public frenzy. Palmerston became so disturbed that he urged Stevenson to write privately to Van Buren urging him to do all in his power to release McLeod, whereupon Stevenson reported to the president: "The excitement is indeed violent among all Parties & the case is treated as one of the most monstrous character. Some of the . . . talk of seizing and retaliating upon Americans here. One thing is certain, if McLeod is executed, there will be *immediate war*! Of this you may rest assured."[27] Speed was essential if trouble were to be averted.

During the following three weeks excitement subsided when it became known that McLeod would probably be bailed and discharged.[28] Besides, the soft words of ministers in the debate over the naval and military estimates had a soothing effect upon public opinion. But just at this point, March 7, news of McLeod's further detention and of Pickens's report reached England. London and the country were immediately thrown into an uproar. Stevenson reported that many thought war inevitable, although he himself did not expect it immediately, and he even hoped to avoid it. Nevertheless he went so far as to advise Commodore Hull, who was with an American flotilla at Marseilles, "to get nearer home and within reach of orders from the [Navy] Department."[29] Even Joseph Hume found feelings running so high against the United States that he refrained from questioning ministers in the house as he had previously intended.[30]

[24]New York *Observer*, October 9, 1841, quoted also from the New York *Journal of Commerce*.

[25]*Stevenson Papers*, XXIV, 30599-600, February 2, 1841.

[26]*Morning Chronicle* (London), February 9, 1841.

[27]*Van Buren Papers*, XLII, 9904-9907, February 9, 1841. The omitted word cannot be deciphered.

[28]*G. B. Despatches*, Vol. 48. Stevenson to Secretary of State, March 3, 1841. Stevenson still thought that McLeod's condemnation and execution "would inevitably have led to a rupture between the two countries".

[29]*Stevenson Letterbook, July 10, 1836-Sept. 27, 1841*, Stevenson to Hull, March 8, 1841.

[30]*Stevenson Papers*, XXV, 30756-57, Hume to Stevenson, March 10, 1841. E. V. Harcourt wrote Webster a friendly letter on March 12 in which he assured Webster

Most of the papers, according to Stevenson, were "filled with articles of the most revolting extravagance & violence, & well calculated to agitate and influence the public mind, already too much predisposed for violent & rash measures".[31] The *Times* headed its account, "Menacing and Insulting Report of the Committee of Foreign Relations of the House of Representatives". The *Morning Chronicle,* a government sheet, spoke of "Threatening War with England". The London correspondent of the New York *Journal of Commerce* reported that such declarations brought about

> "One universal feeling of anger and indignation upon every lip and feature . . . and I do assure you that I have never beheld, or read of, anything at all equal to the manner in which the whole community from the highest to the lowest, in the lobbies to the Senate, or in the thoroughfares of the streets, at the clubs of the aristocrats, or the parlors of a pot-house, were so completely convulsed. From several conversations which I have had this morning, with persons of various grades of life, from every enquiry that I can make, and from all the close observation of which I am capable, I do find that the excitement was, and is, most excessive; that England has felt herself insulted, outraged, and menaced, and that, in the language of the *Times,* 'without the especial interference of the ALMIGHTY, any human means of averting war' does not seem to be entertained for a moment."[32]

British honor had been outraged. Said the *Morning Herald*: "The release of Mr. McLeod is as indispensable to British honor as it would be creditable to American justice."[33] Matters still appeared critical by the middle of March, but thereafter excitement tended to subside. The Tories, generally referred to as the war party, were unwilling to project a war upon their own responsibility, although both the Tories and the Tory press remained adamant concerning the ultimate necessity of settling difficulties with the United States by force of arms. Melbourne's tottering government was not disposed to take measures which might lead to immediate collision with the United States, unless measures looking toward military preparedness could be so interpreted.[34] In fact, Hume, who would have introduced the subject in parliament, was induced to keep silent by ministers themselves. Moreover, arrival of the news that Webster had been appointed secretary of state and was giving the McLeod case his closest attention aroused an expectation among press and people alike that the United States would accede to the British demand for the

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that "there is in this country but *one* feeling on the subject among all parties and ranks, that if he [McLeod] should be condemned, it would be such an outrage on *international* justice that we must throw away the Scabbard at once." He hoped for peace. Cf. *Daniel Webster Papers,* V, 16476-77.

[31]*G. B. Despatches,* Vol. 48, Stevenson to Secretary of State, March 9, 1841.

[32]This is part of a long letter from J.W.G., the London Correspondent, March 9, in the New York *Journal of Commerce,* April 7, 1841.

[33]*Morning Herald* (London), March 17, quoted in New York *Journal of Commerce,* April 9, 1841.

[34]*G. B. Despatches,* Vol. 48, Stevenson to Secretary of State, March 18, 1841.

release of McLeod. Consols went up half a point.[35] For the next three months little comment appeared in the London press.[36]

The essential issues between the two governments and the two peoples are now quite clear. In the first place the matter of primary interest to the British was the release of McLeod while to Americans McLeod's release was merely associated with the far more important question of securing redress for the *Caroline*.[37] But McLeod's predicament involved another issue which Englishmen were either unable or unwilling to understand. They could not accept the explanation that under a federal form of government separate powers and responsibilities exist. They made it a point of honor to demand McLeod's release, whereas the United States government was unable to secure it by any fiat of its own. The complicating factor was, of course, that both the government and the states-rights citizens of New York made it a point of honor to insist that justice take its course, regardless of the international consequences of such a procedure.

It is not difficult thus to see that the intensity of English feeling and expectation of war in March was matched again in August when it became known that the New York supreme court had refused to discharge McLeod. In both London and the provinces the press of all shades of opinion carried statements of the government's preparations for war or advocated such measures. In a particularly outspoken article on August 11, the *Times* asked if it were consonant with the dignity of Great Britain to wait until McLeod should be out of reach of help. Since his chance of fair trial was minute, preparations for war should be expedited at once. According to the correspondent of the New York *Journal of Commerce,* this article" created quite an effect, and received eulogies of men high in authority with both Whigs and Tories". On the 18th the *Times* again trumpeted warnings of danger: "The time for diplomatic expostulation and legal argument, is . . . already past". It ill became the United States, so weak in naval armaments, to assume its present attitude toward McLeod and Great Britain.[38]

At this juncture the new parliament met for the first time on August 24. To quiet the country no mention was made in the speech from the throne of McLeod or of relations with the United States. Friendly assurances, it said, continued to be received from foreign powers. Palmerston's studied defence of his policies and his proof that good relations with the United States did exist was so successful that several Whig papers congratulated the country on its escape from war. The Tories were by no means satisfied, for at a meeting at the Colonial Club on August 30, presided over by Lord Mountcashel, a number of bellicose resolutions

[35]*Ibid.,* Vol. 48, Stevenson to Secretary of State, April 7, 1841. Also correspondence of J.W.G. in New York *Journal of Commerce,* April 22, 1841; and reports in the *Journal* from the *Times* (London), April 2; *Sun* (London), April 1; *Spectator* (London).

[36]Even the Russian government became quite concerned and undertook to express through its ministers in London and Washington the hope that there would be no war. Cf., *G. B. Despatches,* Vol. 48, Stevenson to Webster, April 19, 1841.

[37]*Ibid.,* Vol. 48, Stevenson to Secretary of State, April 7, 1841; also Same to Same, May 18, in which Stevenson reported that excitement had "for the present ended".

[38]This paragraph is based on many quotations from the English press in the New York *Journal of Commerce* from August 24 to September 7, 1841, and on J.W.G.'s correspondence.

were passed, and these, together with speeches delivered by several influential peers, were printed in the *Morning Herald* the following day.[39]

Although the subject was still considered by Peel and Russell to be "one of deep importance", Aberdeen's "friendly and conciliatory" attitude[40] towards the United States and the government's abstention from committing itself to a definite policy prior to the trial in Utica had a calming effect upon public opinion. The press became less active in denunciation of the United States.

But just as hostility toward the United States seemed to have calmed down, news arrived in England of an incident which occurred on the border between Vermont and Canada East on September 19. On that day a band of volunteer dragoons crossed over into Vermont and abducted one Grogan, who, for the past two years, had gained notoriety for burning houses and barns in Canada.[41] The border peoples became extremely excited and the press on both sides of the frontier took up the issue. Fortunately Grogan was released by Sir Richard Jackson on October 4. While the incident showed that the greatest caution had to be pursued in handling the case of McLeod in order to avoid retribution from Canadians, and perhaps consequences of a more serious nature as well, the incident soon passed into the limbo of the ordinary in both Canada and the United States.

Not so in England. So much was it felt in London that Grogan's abduction would aggravate relations with the United States that upon arrival of the news "the funds went down, speculators became paralysed, 'Change was crowded', the newspapers were sought for with extraordinary avidity, and rumors the most absurd, ridiculous, and terrific, were to be heard in all societies". Sunday papers added fuel to the excitement by announcing that "reprisals had commenced and war was inevitable". It was also reported that the British government was busy preparing the navy and army for emergencies. The *Times* aroused anxieties still more by printing a long letter in which the strategy for waging war with the United States was fully outlined.[42] English resentment and expectation of war had been awakened again. In this state of mind Englishmen awaited news of McLeod's trial. When the news of his acquittal arrived, they admitted that the proceedings were creditable to American justice, but they refused to grant that the question of McLeod's "triability" had been settled.[43]

Canadian exasperation with the United States exhibited a more even but nevertheless very high temperature. In view of the intermittent but continuous trouble along the border, the British government was especially anxious to prevent retaliation against the United States. To this end Sydenham was ordered to restrain the Canadians. At the same time he was ordered to assure them of the Queen's "determination to protect them

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[39]Quoted in *ibid.*, September 17, 1841.

[40]*Stevenson Letterbook, Mar. 21, 1839-Oct. 22, 1841,* Stevenson to Webster, September 18, 1841.

[41]The *Globe,* September 29, 1841.

[42]Correspondence of J.W.G., October 20, in the New York *Journal of Commerce,* November 10, 1841.

[43]*Morning Chronicle* (London), quoted in *ibid.*, November 22, 1841.

with all the weight of Her power".[44] In Canada West, Sir George Arthur was a tower of strength, ever on the watch to prevent border outrages. That there were no incidents of importance until September, 1841, speaks well for the good sense of Canadians and Americans alike.

A perusal of Canadian newspapers shows a great divergence of opinion and of editorial practice. Some Tory papers began shortly after McLeod's arrest "to speak with much warmth" and waxed hotter and hotter as the months went by.[45] A number of Reform papers advocated caution and refused to admit the likelihood of armed hostilities.[46] In general, it may be said that all disliked the thought of war with the United States, but while the Reform papers remained moderate, the Tory papers often assumed a bellicose tone. When the trial was over, all were relieved, but the Tories felt indignant still. Some day, they felt, there must be a final reckoning of all outstanding disputes.

It is evident that, coming as it did in the midst of a long drawn out dispute over the Maine boundary and of tension which resulted from filibustering along the St. Lawrence frontier, the immense amount of bad feeling stirred up in 1841 by the trial of McLeod gave the several governments concerned a great deal of uneasiness. Since 1838 the British government, spurred on by Sir John Colborne, had been considering the advisability of establishing more effective defences against Patriot expeditions from the United States. In 1840, however, a change of policy was to be noted. In November of that year, Sir Richard Jackson, commander of the forces in Canada, drew up at the request of the war office a long memorandum[47] in which he urged either the erection of permanent works or the maintenance of a large standing army for the defence of Canada, not for the purpose of aggression against the United States. To this memorandum Sydenham gave unqualified support on December 24, 1840.[48] He pointed out the immediate necessity for acting upon Jackson's recommendations in view of the fact that recent events, among them McLeod's arrest, had made Canadian relations with the United States "much more critical". The British government shortly approved the plan in principle[49] and by the middle of 1841 decided to build permanent works and to maintain a large regular force in Canada, to establish which it was decided to spend £100,000 a year in addition to the regular military estimates.[50] It was, as Russell remarked, quite in keeping with the policy of maintaining British supremacy in Canada.[51]

Even before McLeod was arrested attention was frequently called in the United States to the dilapidated condition of that country's defences. In the year following McLeod's arrest, apprehension of war induced both

[44]Canadian Archives, *Series G,* Vol. 108, pp. 170-172, Russell to Sydenham, March 8, 1841.

[45]For example, the Montreal *Herald,* Montreal *Gazette,* Quebec *Gazette,* Toronto *Patriot.*

[46]For example, the *Canada Times* (Montreal), Kingston *Chronicle,* Hamilton *Journal,* Toronto *Times.*

[47]Canadian Archives, *Series Q,* Vol. 274, pp. 213-268, "Memorandum upon the Canadian Frontier".

[48]*Series Q,* Vol. 274, pp. 202-204, Sydenham to Russell.

[49]*Series Q,* Vol. 274, pp. 204-208, Russell to Lord Hill, February 22, 1841.

[50]New York *Journal of Commerce,* July 27, 1841.

[51]Cf., Russell's speech concerning British supremacy in Canada, *Niles' Weekly Register* (Baltimore), Vol. 60, p. 369, August 14, 1841.

pointed comment and action. Referring to McLeod, Governor Seward called attention in February, 1841, to the almost undefended Atlantic and northern frontiers.[52] Reports of the secretary of war and debates in congress referred especially to the lack of defences along the Atlantic, so that it was commonly held that coastal defences would have to be considered the first line of defence in case of war. Consequently a fortifications bill, introduced in July, 1841, and passed in September, provided the sum of $2,226,000, of which $160,000 was set apart for permanent works for the northern frontier and $100,000 for additional ships on the great lakes.[53] The United States was not to be caught unprepared.

In another respect the McLeod case gave the United States government much uneasiness. Ever since 1839 the Hunters and other secret organizations, whose purpose it had been to invade and liberate Canada and to foment a war between the United States and Great Britain, had been active. All through 1841 reports were current that they were organizing for another expedition, that one of their objects was to capture McLeod, to kill him, and thus to precipitate war. There were rumours also of an expedition from Canada to rescue him. Under these circumstances we find Webster writing a personal note on March 11 to Spencer, the United States district attorney for the northern district of New York and counsel for McLeod, in which he said that "the President is exceedingly anxious for McLeod's personal safety and security. . . . The utmost care, we think, ought to be used to prevent any attempt either to rescue him by persons from Canada, or to use violence towards him, by persons on our side. . . . The main object of this is, to press the high importance of guarding McLeod from all possible danger—consequences of the most serious nature might follow, if he should become the subject of popular violence, either by his friends or his foes."[54] Webster also assured Fox of the government's intention to protect McLeod by a military force under the command of Major General Winfield Scott.[55] From March until October reports were constantly sent to the war department and to the state department concerning Patriot activities, and efforts, not always successful, were made to prevent the American border population from committing acts of violence against Canada.

In these various safeguarding efforts Governor Seward took a leading hand. He would not interfere with the jurisdiction of the courts, but he would protect McLeod from violence. By the first of September, 1841, he had visited Utica, the scene of the final trial; he had ordered an extra guard placed around the jail at Whitesboro; he had ordered the militia officers of Oneida county to be ready for duty and a special volunteer artillery force of one hundred men to be formed and armed at once; and he had employed secret agents to "traverse the line of canals" to get information of any designs on foot.[56] During September information was received of the deposit at Utica of a large quantity of gunpowder belonging to the Patriots. Seward redoubled his efforts. In a long letter to David Moulton, sheriff of Oneida county, he gave the most minute instructions

[52] *D. S. Misc. Letters,* Seward to Webster, February 27, 1841.
[53] *Congressional Globe,* X, *passim.*
[54] *D. S. Domestic Letters,* XXXI, 357-358.
[55] *Series G,* Vol. 227, pp. 311-318, Fox to Palmerston, April 28, 1841.
[56] *D. S. Misc. Letters,* Seward to Webster, September 3, 1841.

for insuring McLeod's safety, both before and after the trial. Said Seward: "There is much reason to apprehend that the country would be involved in war if any injury should befal [sic] Alexander McLeod while he remains in the custody of the law . . . the honor of New York and of the United States is more deeply concerned in protecting him against danger until [his] vindication be accomplished."[57] In fact, Winfield Scott even believed that Seward would give McLeod a safe passage out of the country whether he were acquitted or convicted.[58]

Nor did Seward act alone. Webster's anxiety caused him to order both the district attorney and the district marshal of the northern district of New York to aid or to act concurrently with the state authorities, and he had a special company of artillery sent to Rome, a few miles distant from Utica. President Tyler issued a forceful proclamation on September 25 against filibustering. In the course of a long conversation with Fox on September 30, he informed the British minister that he hoped to avert trouble with Great Britain should McLeod be executed. To this end he would refuse Fox a passport and, if necessary, force him to remain in Washington, or at least in the country, until Great Britain had had time to reflect more fully on the various aspects of the case. This Tyler said in "a friendly manner, but firmly and resolutely."[59]

It would be interesting to speculate upon what might have happened had McLeod been executed. The British government had formulated no definite policy in advance, other than to make certain minor naval and military preparations, while the United States government was clearly anxious to avoid war at all costs. Public opinion on both sides of the Atlantic may well have forced both nations into a senseless and useless war. At any rate, when McLeod was acquitted there was a general sigh of relief from impending danger.

[57]*Ibid.*, Seward to Moulton, September 24, 1841.

[58]*Ibid.*, Scott to Secretary of War, September 21, 1841.

[59]*Series G*, Vol. 227, pp. 613-625, Fox to Aberdeen, Confidential, October 12, 1841; also Fox to Sir Richard Jackson, Secret and Confidential, October 2, 1841.