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# DANIEL WEBSTER AND THE CANADIAN REBELLIONS, 1837-1838

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Politician, Farmer, Orator, Diplomat, Statesman, Lawyer, Peace Advocate; these were some of the many hats Daniel Webster wore during his long career as spokesman for the conservative Federalist-Whig tradition in America. Webster's reputation, as one of the foremost American statesmen and diplomat-negotiators, rests primarily on his role in the well-known Webster-Ashburton talks, which led in 1843 to the Treaty of Washington.<sup>1</sup> Compromise, reconciliation, avoidance of extremes, peace, almost at any price — these were the key principles upon which Webster based his views in these negotiations.

Webster's stand, particularly for peace, should not have surprised anyone. In 1814, while a first-term congressman from New Hampshire, he declared in a speech on a Conscription Bill :

Where is it written in the Constitution, in what article or section is it contained, that you may take children from their parents, and parents from their children, and compel them to fight the battles of any war in which the folly or the wickedness of government may engage it? Under what concealment has this power lain hidden which now for the first time comes forth, with a tremendous and baleful aspect, to trample down and destroy the dearest rights of personal liberty? Who will show me any constitutional injunction which makes it the duty of the American people to surrender everything valuable in life, and even life itself, not when the safety of their country and its liberties may demand the sacrifice, but whenever the purposes of an ambitious and mischievous government may require it.<sup>2</sup>

Needless to say, the foregoing statement contains an important message for the leaders of all nations, at all times, in all places. The quest for peace, in his time, was one of the few consistent themes in Webster's career.

<sup>1</sup> For coverage of Webster's role in the Webster-Ashburton negotiations and the Treaty of Washington, see Clyde Augustus Duniway, "Daniel Webster," in Samuel Flagg Bemis, Ed., *The American Secretaries of State and Their Diplomacy* (New York, 1928), Vol. V, pp. 3-66; Richard N. Current, "Webster's Propaganda and the Ashburton Treaty," *Mississippi Valley Historical Review* (Sept. 1947), Vol. XXXIV, pp. 187-200; Claude M. Fuess, *Daniel Webster* (Boston, 1930), Vol. II, pp. 93-129; J. R. Baldwin, "Ashburton-Webster Settlement," Canadian Historical Association, *Report*, 1938, pp. 121-133; John B. Brebner, *North Atlantic Triangle* (New Haven, 1945), Chapters 7-8, and George Ticknor Curtis, *Daniel Webster* (New York, 1870), Vol. II, pp. 94-205.

<sup>2</sup> J. W. McIntyre, Ed., *The Writings and Speeches of Daniel Webster* (Boston, 1903), Vol. XIV, pp. 61-2. (Hereafter *National Edition*.)

The Canadian Rebellions of 1837-1838, in themselves, apparently made no impact on Webster. The details of this "border disturbance" are well known, and it is not necessary to re-iterate them here.<sup>3</sup> Webster sat in the United States Senate throughout the rebellions without making comments, speeches, or even mention of them in his vast private correspondence. The first time any notation is made of any border problems between the United States and Canada occurs in a letter of May 12, 1838, to Judge Joseph Story when Webster asked for assistance in preparing a speech on the subject, a speech he apparently never made.<sup>4</sup>

Several months later Webster mentioned the Canadian situation in a letter of introduction of one "Col. Cline of the British Army," to his friend Edward Curtis in Boston.

This will be handed to you by Col. Cline, of the British Army. His Reg't. is in Lower Canada, and he takes advantage of the quiet, at present existing there, to visit the U.S. Col. Cline is a gentleman of character and intelligence, and I commend him to your kind notice and regard.<sup>5</sup>

In December 1838, along certain sections of the northern border, such conduct might have been considered aiding and comforting the enemy.

Given the knowledge that Webster paid little or no attention to the Canadian Rebellions while they were occurring, the fact remains that these disturbances played a major role in his policy formulations, but all after the fact. He used the sinking of the *Caroline* and the McLeod Case to his own advantage. The major point to be made here is that Webster used the incidents of the rebellions, and what occurred as a result thereof, as a primary stepping stone on his way to a cabinet post. Once in that post he could work to insure that peace would prevail between Great Britain and the United States. And this is exactly what he accomplished. The extent to which Webster was prepared to go in achieving his goal illustrates his devotion to peace. It is true that the Boston business community, which Webster represented, was profiting from trade with England and any war for them was a threat to prosperity; thus his constituency opposed any war. However, Webster went far beyond political, economic, or legal concerns in his opposition to war.<sup>6</sup>

<sup>3</sup> For details, see Orrin Edward Tiffany, "The Relations of the United States to the Canadian Rebellion of 1837-1838," in *Publications of the Buffalo Historical Society* (Buffalo, 1905), Vol. VIII, pp. 7-147.

<sup>4</sup> *Joseph Story Papers*, Massachusetts Historical Society, M/S Letter, Daniel Webster to Joseph Story, May 12, 1838.

<sup>5</sup> Historical Manuscripts, Yale University Library, M/S Letter, Daniel Webster to Edward Curtis, December 10, 1838.

<sup>6</sup> Richard N. Current, *Daniel Webster and the Rise of National Conservatism* (Boston, 1955), pp. 120-1.

A number of writers have either played down or overemphasized the threat of war between Great Britain and the United States concerning the rebellions and other border issues.<sup>7</sup> The important point, for present purposes, is that Webster believed that war was not only a threat, but imminent. He believed that a real and present danger had come to exist between the two countries and that the situation could blow up at any moment into major hostilities. In Webster's eyes the McLeod Case, in particular, was like a lit fuse.

Webster's attention was drawn to border trouble and other Canadian issues in early 1839 when he learned that President Van Buren was contemplating a special mission to England to discuss the many problems between the two nations. He realized that party politics would probably play a major role in any decision on whom to send. In this regard Webster had made two politically motivated speeches in the Senate in February on the Maine controversy. Some of his remarks in these speeches could be taken as belligerent. On February 27th, he had said :

The time must come when, if the controversy cannot be terminated by some sort of negotiation, it must be settled otherwise . . . and although I am willing to concede much for peace and good neighborhood, I am not willing to delay a final adjustment indefinitely. When negotiation becomes mere procrastination, and serious dangers in the meantime threaten, a more decided tone ought to be assumed. Depend upon it sir, the peace of the country is more endangered by the unnecessary and unjustifiable postponements and delays, than it would be by holding a more decisive language and manifesting a more resolute spirit.<sup>8</sup>

Webster regretted these remarks, for they were interpreted by his political opponents as hawkish. His critics stressed the forceful language in his speech. Only because of his desire for peace did Webster urge a more resolute tone; he was not calling for an invasion of Canada or an all-out war. The political implications of the speech were obvious. If Van Buren had not been President, and if the administration had been active in solving the problems, Webster might have toned down his remarks.

Webster's response, in early March 1839, was an attempt to assure everyone concerned that he had not suddenly become a war-hawk. On March 9th, he drafted a long memorandum to Joel R. Poinsett, Secretary of War, in which he outlined his views on the

<sup>7</sup> See, in particular for under-play, Alastair Watt, "The Case of Alexander McLeod," *Canadian Historical Review* (June 1931), Vol. 12, pp. 156-7, and Milledge L. Bonham Jr., "Alexander McLeod: Bone of Contention," *New York History* (April 1937), Vol. 18, p. 199. and for over-play, see Jesse S. Reeves, *American Diplomacy Under Tyler and Polk* (Baltimore, 1907), p. 19, and Tiffany, "The Relations of the U.S. to the Canadian Rebellion of 1837-1838," in *Pub. of the Buffalo Hist. Soc.*, Vol. VIII, pp. 107-9.

<sup>8</sup> *National Edition*, Vol. XIV, p. 273.

problems between the United States and Great Britain.<sup>9</sup> He set out a thirteen-point program for negotiations which contained the seeds of his policies for the Webster-Ashburton discussions three years later. None of the incidents of the Canadian Rebellions was mentioned; however, item ten urged that border problems needed to be settled all along the frontier line.<sup>10</sup> The memo was an obvious attempt to convince Van Buren that, as a Whig, Webster was not a dangerous person and could be trusted with responsibility.

Webster knew that Secretary Poinsett was in favor of recommending him for the special mission. On March 10th, he wrote :

I happened to hear, near the close of the Session, that Mr. Poinsett had expressed, in the presence of the Pres't, an opinion favorable to sending me on the special mission to England. I heard it intimated, also, ab't the same time, that the President might think my notions too much inclined to a war aspect.<sup>11</sup>

He let it be known that with the memorandum he wanted only to justify Poinsett's favorable opinion.

On March 11, 1839, Webster wrote to David Bayard Ogden, well-known lawyer and influential New York state Whig, that he would be sorry if his remarks of the previous month were interpreted to imply that he favored war or even that war was inevitable. Ogden actually had so interpreted Webster's remarks, indicating that members of his own party were not always sure of his views.<sup>12</sup>

Letters in early 1839, to Webster's friend and financial colleague Samuel Jaudon, indicate that he was interested in visiting Great Britain for personal business purposes and in having an opportunity to discuss issues with friends. On March 29th, he wrote Jaudon : "I know not on whom the appointment would be most likely to fall. . . . But party considerations will doubtless have much influence, and I do not allow myself to expect that I shall see England this year in a public capacity. . . ." <sup>13</sup> As it turned out, a special mission was not sent.

Webster did visit England in 1839 but not in a public capacity. From May 18th to December 29th, he toured in the British Isles and on the Continent. On October 16th, he wrote his close friend Edward Everett :

<sup>9</sup> For the complete text of this Memorandum, see C. H. Van Tyne, Ed., *The Letters of Daniel Webster* (New York, 1902), pp. 215-8.

<sup>10</sup> *Ibid.*, p. 218. Webster's early biographer, George Ticknor Curtis, *Life of Daniel Webster*, Vol. II, p. 3, was the first to suggest that the germs of the Webster-Ashburton negotiations were contained in the memorandum.

<sup>11</sup> *National Edition*, Vol. XV, p. 119n.

<sup>12</sup> *Ibid.*, Vol. XVI, pp. 304-5.

<sup>13</sup> Fletcher Webster, Ed., *The Private Correspondence of Daniel Webster* (Boston, 1857), Vol. II, pp. 44-5.

I have a word to say quite in confidence about the troubles on the northern frontier last winter. I have heard it said, and believe it, that Lord Palmerston has told Mr. Stevenson that if the American government does not repress or punish these outrages, the British government will . . . .<sup>14</sup>

If Webster had seen a letter from Lord Palmerston to Henry Stephen Fox of December 15, 1838, his fears might have been greater. In what has been described as an incredible letter, Palmerston had written: "It is possible H.M.'s forces, after having defeated and dispersed those Bands [frontier raiders] as they would certainly do, might be obliged, with a view to their more complete destruction to pursue them for a short way across the Frontier."<sup>15</sup> In other words, he favored destroying the rebels' sanctuaries in the United States. In any case Webster continued to advocate a policy of calm and compromise throughout the remainder of 1839 and into 1840.

Relations between England and the United States continued to be strained throughout 1840. The Van Buren administration was committed to enforcing the law on the northern frontier and to a strict policy of non-interference.<sup>16</sup> In reality neither side was doing anything. On March 26, 1840, Webster wrote to Joshua Bates, financier, philanthropist, partner in Baring Bros. & Co., in England, which served as business agents for the American government, "Pray keep cool on your side. It is of most importance to keep the *Times* cool, and that I should frequently repeat the suggestion, of a settlement by compromise-giving and taking."<sup>17</sup> Three days later he wrote Samuel Jaudon: "The infirmity of the case, in my opinion, is, that neither administration feels strong enough to take decisive measures to terminate the dispute. Lord Palmerston is afraid of the *Times*; Mr. V. B. is afraid of Maine and the Whigs."<sup>18</sup>

In the presidential campaign of 1840, Webster worked hard for the Whig candidate William Henry Harrison. The Whigs won, and Webster was named Secretary of State. He resigned his seat in the Senate and assumed his new post on March 5, 1841.<sup>19</sup> The change in administration and his appointment to a cabinet position

<sup>14</sup> *Ibid.*, Vol. II, p. 71.

<sup>15</sup> R. Y. Jennings, "The Caroline and McLeod Cases," *The American Journal of International Law* (Jan. 1938), Vol. 32, p. 87n, quoted here from Public Records Office, F.O. 5, 321.

<sup>16</sup> Tiffany, "Relations of the U.S. to the Canadian Rebellion of 1837-1838," in *Pub. of the Buffalo Hist. Soc.*, Vol. VIII, pp. 74-83.

<sup>17</sup> *Baring Papers*, Public Archives of Canada, M.G. 24, D 21, M/S Letter, Daniel Webster to Joshua Bates, March 26, 1840.

<sup>18</sup> Miscellaneous Manuscripts, New York Historical Society, M/S Letter, Daniel Webster to Samuel Jaudon, March 29, 1840.

<sup>19</sup> Fuess, *Daniel Webster*, Vol. II, p. 89. Webster was offered either Secretary of State or Treasury by Harrison and selected State because he did not feel qualified to carry on the business of the Treasury Department.

brought dramatic alterations in relations between Great Britain and the United States. The fall of the Melbourne ministry in Great Britain in the autumn of 1841 meant further changes. The Conservative ministry of Sir Robert Peel replaced Lord Palmerston as Foreign Secretary with the cautious Lord Aberdeen. The transition would be helpful to Webster because he had visited several members of the new government, including Lord Aberdeen, when in England in 1839.<sup>20</sup>

On assuming his new post Webster was forced to confront directly the major contentions between the two nations, and the McLeod Case was first and perhaps the most explosive. The arrest of Alexander McLeod in November 1840, by New York state authorities for the murder of Amos Durfree, the one known death resulting from the attack on the *Caroline*, brought on the new crisis. Again, the details are well known and need not be discussed; however, "...the arrest of McLeod," according to one authority, "upon a charge of murder awakened all the dormant distrust with which England regarded the United States, and the danger of war was imminent."<sup>21</sup>

Webster had to respond tactfully as the matter involved not only the possibility of war with Great Britain but also internal division. Internally it was a question of states rights *v.* the national government, and the state of New York was insisting on its rights.<sup>22</sup> It became clear that the state of New York was going to insist that it had jurisdiction in the McLeod Case.

On March 5, 1841, Webster was notified by Lewis Cass, United States minister to France, that "If McLeod is executed, the minister is to leave the United States. It is the *casus belli*. But any sentence short of this is not to lead to this result."<sup>23</sup> Cass further indicated that he had learned the British fleet was preparing to move to Halifax and that frigates would be ready on the coast of the United States by June and that the first attack would come at New York. Cass wrote: "Of one thing I am sure, there is a bad feeling against us in England, and this feeling is daily and manifestly augmenting."<sup>24</sup> Webster received other reports that a crisis situation was developing in Great Britain.<sup>25</sup>

<sup>20</sup> Fuess, *Daniel Webster*, Vol. II, p. 104. Webster visited most of the new members of the Cabinet on his trip in 1839, including Lord Aberdeen, Lord Lyndhurst, Lord Stanley and Sir James Graham.

<sup>21</sup> Reeves, *Amer. Diplomacy Under Tyler and Polk*, p. 19.

<sup>22</sup> Fuess, *Daniel Webster*, Vol. II, p. 101.

<sup>23</sup> Curtis, *Life of Daniel Webster*, Vol. II, p. 62. Webster at this point was not aware of Cass' deep anti-British bias.

<sup>24</sup> *Ibid.*, Vol. II, pp. 62-3.

<sup>25</sup> *Ibid.*, Vol. II, pp. 62n, and 64.

The official diplomatic correspondence relating to the McLeod Case has been discussed in detail and is readily available.<sup>26</sup> The task for Webster was clear; get the McLeod Case settled and the way would be clear for negotiations between the United States and Great Britain. The task would not be easy, but Webster's legal and political acumen would stand him in good stead.

On March 12, 1841, Henry Stephen Fox, British minister to the United States, wrote to Webster and officially demanded McLeod's immediate release.<sup>27</sup> On March 15th, Webster addressed a long letter to Attorney General John J. Crittenden and instructed him to consult with the Governor of New York, William H. Seward. Webster revealed in this letter what his position on the McLeod Case would be. He would not contest the established principle of the law of nations that an individual was not responsible for acts committed on orders of his superiors while in military service. He felt this principle had no connection with the case. The real question, in Webster's mind, was whether or not the British use of force in the *Caroline* incident was justifiable. In his view the use of force was rarely if ever justifiable, and it was certainly not in the *Caroline's* case. The best approach in settling the issues, he thought, would be through legal proceedings. He indicated he would prefer that the case be moved by writ of error and heard by the United States Supreme Court.<sup>28</sup> This last point was only wishful thinking, given the stance of New York state authorities.

On March 17th, Webster wrote to Governor Seward that he had learned the Governor was prepared to direct a *nolle prosequi* [that is, to proceed no further] in the McLeod Case. Seward was not prepared to take such action and in fact adopted a staunch states rights position. He insisted that the New York courts should and would handle the case. On March 22nd, he replied directly to Webster stating he had not directed *nolle prosequi* and had no intention of doing so.<sup>29</sup> Seward's position here was a road-block which Webster had not really anticipated, Seward was a Whig, and he was visibly irritated by the Governor's conduct.

The McLeod trial was scheduled to be heard in the Lockport, New York, court in May 1841. On April 12th, the British minister,

<sup>26</sup> See William R. Manning, Ed., *Diplomatic Correspondence of the United States: Canadian Relations 1784-1860* (Washington, 1943), Vol. III, 1836-1848, and *The Works of Daniel Webster* (Boston, 1851), Vol. VI, pp. 240-70. (Hereafter *Works*.)

<sup>27</sup> *Works*, Vol. VI, pp. 247-50.

<sup>28</sup> *Ibid.*, Vol. VI, pp. 262-6.

<sup>29</sup> Van Tyne, *Letters of Daniel Webster*, p. 231. *Nolle Prosequi* means that the prosecutor or plaintiff in a legal action will proceed no further. Also see Curtis, *Life of Daniel Webster*, Vol. II, p. 66n, and Glynden G. Van Deusen, *William Henry Seward* (New York, 1967), p. 77.



Fox, again demanded McLeod's release as a matter of national right. Fox indicated that British authorities would not interfere with the conduct of McLeod's defence "... before the pretended Court of Justice which has assumed the privilege of trying him." The Minister also wanted to know what steps had been taken to assure the safety of the prisoner.<sup>30</sup>

Webster was irritated by what he considered to be a slap at the American court system. On April 24th, he answered Fox and again stated the basis for the American government's position. His reply was couched in legal terms throughout. He pointed out that the federal government of the United States had to abide by judicial procedure in seeking the release of any person accused of a crime. He assured Fox that the courts of New York state were entirely capable of trying the case and he enclosed a copy of his letter to Attorney General Crittenden.<sup>31</sup>

On May 10th, Webster wrote candidly to his son Daniel Fletcher Webster, who was serving at the time as his father's chief clerk in the State Department :

McLeod will apply by *his own counsel*, and we shall do nothing but furnish proper evidence. He is before the New York court, and that tribunal must take the responsibility. *We* have nothing to ask of N.Y. except that her courts administer the law properly, and I do not wish it to appear that anything is done on our application. . . . Let us, as far as possible, avoid the appearance of anything being done, on any particular request of ours.<sup>32</sup>

While he did not like Governor Seward's position in the case, Webster was not going to get himself involved in a states rights controversy over this issue. Through the regular legal process he would work for McLeod's release.

On May 16th, Webster again wrote his son :

McLeod's case is expected to come on tomorrow. I take no interest about it, of course, further than to see that his counsel have the evidence which the case requires. Mr. Spencer will state, at the outset, that he appears simply as counsel for McLeod, on a retainer of long standing, and not officially as attorney of the United States.<sup>33</sup>

It must be noted that Joshua A. Spencer, United States District Attorney for northern New York state, was working as counsel for McLeod along with local Lockport attorneys Alvin Bradley and Hiram Gardner. While the arrangement between Spencer and Webster was informal, it was to Webster's advantage that Spencer was involved in the case.

<sup>30</sup> Public Record Office, London, FO/97/16, M/S Letter, Henry Stephen Fox to Daniel Webster. April 12, 1841.

<sup>31</sup> *Works*, Vol. VI, pp. 250-62.

<sup>32</sup> *National Edition*, Vol. XVI, p. 342.

<sup>33</sup> Fletcher Webster, Ed., *Private Correspondence*, Vol. II, p. 104.

Webster attempted to have the case heard by the New York Supreme Court instead of the local court at Lockport in mid-May, 1841. The Attorney General of New York, on the orders of Governor Seward, opposed the petition to the higher court. The New York Supreme Court ruled against such a move; a ruling that Webster and others later bitterly attacked.<sup>34</sup> These legal maneuvers delayed the trial and McLeod then decided to ask for a jury trial. Spencer then requested and received a change of venue from Lockport to Utica, New York, on the grounds that McLeod was physically endangered at Lockport. The trial was then rescheduled for early October 1841.

In the interim, Webster continued to press for a legal settlement of the case. He was under pressure not only from the British minister but also from President Tyler. Webster continued to fear that the whole affair might blow up into a full-scale war at a moment's notice. Border troubles continued in northern New York and elsewhere. He was distressed by reports such as the one he received from John William Allen, United States District Attorney in Cleveland, Ohio, indicating another rebellion was planned including an invasion of Canada near Buffalo by "Patriot" elements.<sup>35</sup> Webster was also receiving regular reports from Andrew Stevenson, United States minister to Great Britain, concerning British reactions to the events of the McLeod Case.<sup>36</sup> Webster was visibly worried.

On July 9, 1841, President Tyler asked Webster to survey the frontier situation. Webster reported back on the activities of the so called "Hunter Lodges," the "Patriotic Societies" that were causing trouble along the border. He reported the situation was dangerous. He wrote Tyler: "Our duty, is, I think, in the first place, to have officers all along the frontier. . . . it becomes us to take all possible care that no personal violence be used on McLeod. If a mob should kill him, war would be inevitable, in ten days. Of this there is no doubt."<sup>37</sup>

On July 15th, Webster wrote to Spencer: "Officially, I have of course no advice to give on the subject of further proceedings in the McLeod's case. But my private opinion is clear, that the true course is to go to trial, the earliest possible opportunity."<sup>38</sup> Webster was getting anxious.

<sup>34</sup> Fuess, *Daniel Webster*, Vol. II, p. 103.

<sup>35</sup> Public Record Office, London, FO/97/16, M/S Letter, John William Allen to Daniel Webster, July 8, 1841.

<sup>36</sup> See Manning, Ed., *Diplomatic Correspondence*, Vol. III, pp. 621-87.

<sup>37</sup> Van Tyne, *Letters of Daniel Webster*, pp. 232-3, and Lyon S. Tyler, *Life and Times of the Tylers* (Richmond, 1884), Vol. II, p. 211.

<sup>38</sup> Van Tyne, *Letters of Daniel Webster*, p. 234.

As the trial date drew closer, Webster exerted renewed pressure not only for acquittal but also for assurances of McLeod's safety. On August 24, 1841, he wrote to Governor Seward stressing the need for the personal protection of the prisoner.<sup>39</sup> On September 3rd, Seward assured Webster that everything possible was being done to protect McLeod and that he was working to disarm the patriots in upstate New York.<sup>40</sup> On September 9th, Webster again wrote Seward on the need to protect McLeod from personal violence. He also told the Governor that all United States officials in upper New York state would be available to assist in preserving the peace.<sup>41</sup> On September 14th, Webster told Seward that the federal arsenal at Rome, New York, would be protected by federal forces to ensure that no one would be tempted by the arms stored there.<sup>42</sup> Two days later, Seward again assured Webster that McLeod would be kept safe.<sup>43</sup>

The last few days of September 1841 were a nightmare for Webster. He was concerned about the outcome of the upcoming trial, the threat of violence or personal injury to McLeod, and possible war. Any rumor was enough to set him writing for verification.<sup>44</sup> When he heard of frontier trouble at Chippawa he wrote Seward :

We hear with regret this morning that an attempt has been made to destroy the steamboats at Chippawa, by the discharge of artillery from Navy Island. If we cannot repress these lawless acts we shall ere long be involved in an inglorious border warfare, of incursion and retaliation, ending perhaps in general hostilities.<sup>45</sup>

On September 24, 1841, Spencer assured Webster that McLeod would be acquitted and that all was quiet at Utica.<sup>46</sup> The next day, Webster was shocked to learn from Governor Seward that, due to the illness of the chief justice of New York state, the trial would have to be delayed. The postponement was brief, as was the trial, and McLeod was acquitted on October 12, 1841. Seward personally wrote Webster news of the action.<sup>47</sup>

<sup>39</sup> *Seward Collection*, University of Rochester, Rush Rhees Library, M/S Letter, Daniel Webster to William H. Seward, August 24, 1841.

<sup>40</sup> *Ibid.*, William H. Seward to Daniel Webster, September 3, 1841.

<sup>41</sup> Tyler, *Life and Times of the Tylers*, Vol. II, pp. 213-4.

<sup>42</sup> *Seward Collection*, University of Rochester, Rush Rhees Library, M/S Letter, Daniel Webster to William H. Seward, September 14, 1841.

<sup>43</sup> *Ibid.*, William H. Seward to Daniel Webster, September 16, 1841.

<sup>44</sup> Public Record Office, London, FO/97/16, M/S Letter, Henry Stephen Fox to Daniel Webster, September 5, 1841, and September 15, 1841, and *Webster Papers*, Dartmouth College, M/S Letter, Daniel Webster to Joshua A. Spencer, September 21, 1841.

<sup>45</sup> *Seward Collection*, University of Rochester, Rush Rhees Library, M/S Letter, Daniel Webster to William H. Seward, September 23, 1841.

<sup>46</sup> *Webster Papers*, New Hampshire Historical Society, M/S Letter, Joshua A. Spencer to Daniel Webster, September 24, 1841.

<sup>47</sup> *Seward Collection*, University of Rochester, Rush Rhees Library, M/S Letters, William H. Seward to Daniel Webster, September 25, 1841, and Octo-

The aftermath of the trial was anti-climactic. McLeod was sent to Montreal and greeted there by a large crowd and Webster gave a long sigh of relief. The way had been cleared for him to seek negotiations with Great Britain, and peace had been preserved. Webster, at the request of John McPherson Berrien, Chairman of the Senate Judiciary Committee, did draft legislation to insure that federal courts would have jurisdiction in any such cases in the future. Debated in May 1842, the measure was passed by Congress August 29, 1842. The new law simply gave federal justices the specific power to grant writs of *habeas corpus* in all cases where aliens were confined in jail for any act committed under the orders of a foreign state.<sup>48</sup>

Commenting on McLeod's acquittal, one writer notes :

A court, and that not of the highest jurisdiction; a State governor, and he the head of only a single member of the Confederacy, — and both of them obnoxious to the charge of prejudice against the prisoner, — came within an ace of embroiling two great countries into war. . . .<sup>49</sup>

By insisting on acquittal, and getting it, Webster had saved the peace. Some credit must go to the court system and to the other attorneys involved; however, the evidence indicates that Webster most likely was the man calling the legal shots.<sup>50</sup>

The Canadian Rebellions, the *Caroline* affair, the McLeod Case were not major points of discussion in the Webster-Ashburton negotiations. But Webster did press for some sort of apology. On July 27, 1842, he wrote Ashburton: "That act [the attack on the *Caroline*] is of itself a wrong, and an offense to the sovereignty and the dignity of the United States.... a wrong for which, to this day, no atonement, or even apology, has been made by her Majesty's government."<sup>51</sup> Ashburton's response the next day was taken by Webster as an apology. "I have to repeat the assurances of regret they, Her Majesty's government, feel that the event of which I am treating should have disturbed the harmony they so anxiously wish to maintain with the American people and government."<sup>52</sup>

ber 13, 1841. The volume of correspondence here cited between Webster and Seward is important for, in 1846, in defending the Treaty of Washington, Webster stated that only one letter had been exchanged between himself and Governor Seward on the McLeod Case. [March 17, 1841.] The evidence here presented clearly indicates otherwise. See *Works*, Vol. V, pp. 134-5.

<sup>48</sup> Reeves, *Amer. Diplomacy Under Tyler and Polk*, p. 27, and Fuess, *Daniel Webster*, Vol. II, p. 104.

<sup>49</sup> Tyler, *Life and Times of the Tylers*, Vol. II, pp. 214-5.

<sup>50</sup> Albert B. Corey, "Public Opinion and the McLeod Case," Canadian Historical Association, *Annual Report*, 1936, p. 64.

<sup>51</sup> *Works*, Vol. VI, p. 292.

<sup>52</sup> *Ibid.*, Vol. VI, pp. 300-01. Webster later noted that it had taken him ten days to get Ashburton to apologize. See Reeves, *Amer. Diplomacy Under Tyler and Polk*, pp. 55-6.

There were political casualties as a result of the events of the Canadian Rebellions. The Seward-Webster rift over the McLeod Case was a major factor in causing the Whigs to lose New York state in the next presidential election. The same incident caused Seward to break with the Tyler administration. Webster himself was attacked by the Democrats, especially Thomas Hart Benton and James Buchanan. The Democrats charged Webster was not aggressive enough in his dealings with Great Britain and that Spencer had been paid \$5,000 for his services by Webster. The second charge was untrue and, while a foolish consistency may be the hob-goblin of little minds, it was Van Buren, a Democrat, who charged in 1838-1839 that Webster was warlike in his views.<sup>53</sup>

Speaking in the Senate on April 6 and 7, 1846, in defense of the Treaty of Washington, Webster defended his actions in regard to the Canadian Rebellions and the events stemming from the unrest. The long delay in settling the issues, he said, was the fault of the bungling Democrats in the Van Buren administration. "The administration slept, and slept on, and would have slept till this time, if it had not been wakened by the arrest of McLeod."<sup>54</sup>

The evidence indicates that Webster did his country a great service by the way in which he handled the preliminaries to the Webster-Ashburton talks and the Treaty of Washington. He recognized what had to be done and did it. James M. Callahan wrote some years ago: "In American history the chief importance of the Canadian rebellion was its influence in creating a better American public sentiment concerning the value of strict observance of the duties of neutrality..."<sup>55</sup> Few Americans have ever understood the concept of neutrality, and far more important was the lesson in statesmanship that Webster furnished with his commitment to compromise and peace. He was a man who could mix politics and principle and make it an appetizing mixture. Speaking in September 1847, in Springfield, Massachusetts, on his opposition to the Mexican War, Webster remarked: "We may oppose, and are often in duty bound to oppose counsels which we think lead to war, or other disastrous consequences. I hope that, for one, I have not been altogether negligent of this duty."<sup>56</sup> *He never had been.*

<sup>53</sup> Bonham, "Alexander McLeod: Bone of Contention," *New York History*, Vol. 18, pp. 200-06, and Watt, "The Case of Alexander McLeod," *C.H.R.*, Vol. 12, p. 158.

<sup>54</sup> *Works*, Vol. V, pp. 116-35.

<sup>55</sup> James Morton Callahan, *American Foreign Policy in Canadian Relations* (New York, 1937), p. 182.

<sup>56</sup> *National Edition*, Vol. XIII, p. 347.