

## SPEECH

OF

HON. SAMUEL S. BOWNE,

OF NEW YORK,

*On the correspondence of Mr. Webster with the British Minister, in relation to the surrender of Alexander McLeod: delivered in the House of Representatives July 13, 1841.*

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The following resolution being under consideration :

*Resolved*, That the President of the United States be requested to inform this House, if not incompatible with the public service, whether any officer of the army, or the Attorney General of the United States, has, since the 4th of March last, been directed to visit the State of New York for any purpose connected with the imprisonment or trial of Alexander McLeod; and whether, by any executive measures or correspondence, the British Government has been given to understand that Mr. McLeod will be released or surrendered; and, if so, to communicate to this House copies of the instruction to, and report of, such officer.

Mr. BOWNE rose and said—Mr. Speaker : I propose, in the remarks which I shall address to this House, to confine myself to the subject under debate, which is a resolution of inquiry. I shall endeavor to discuss its merits, and the merits of the general question of the McLeod affair, so far as they are involved in that resolution. It would have given me pleasure, had the time to which I am limited allowed of it—I say, sir, it would have given me pleasure to discuss many important points, some of them of a constitutional character, which have grown out of this affair—questions of international law, the right understanding of which, and the right action of Government thereon, are of overwhelming interest to the people of this country. Notwithstanding my residence, sir, in a State most vitally interested in this matter—a State looking to every movement of the Executive with breathless interest; looking to every decision as solving a portion of the great problem of our Government, and yet with a firm and inflexible determination at every hazard to maintain, unimpaired, her rights—I say, notwithstanding all this, I should have been contented to remain silent, discharging my duty by giving my vote in favor of the resolution, but for the strange, the extraordinary course pursued by two of my colleagues on this floor.

I would have contented myself, sir, with the full and searching investigation given to this subject in another branch of the Capitol; and I would have held up those able expositions of constitutional law, those triumphant vindications of the rights of New York, and that entire refutation of the doctrines advanced by the present Secretary of State, as my shield—as a complete answer to all that has been urged, or all that can be urged in their favor on this floor. Sir, after the extraordinary course pursued by those gentlemen—after the sentiments put forth on this floor—I feel that it would be dereliction of duty for me to remain silent. I should be guilty of treason, and recreant to the trust reposed in me by my fellow-citizens, if my voice

was unheard within these walls, repelling, with the indignation of conscious truth, the calumny on my people and the calumny on my State. Sir, you have heard, and I have heard, on this floor, our fellow-citizens denounced as "lawless banditti." Not, sir, in a tavern, or a cross road; but here, sir. Here, on the floor of an American Congress, we hear the men who are our own countrymen, bound to us by every tie of common interest, denounced as "lawless banditti." We have heard them accused of seeking a controversy with England—with unnecessarily thrusting themselves into a quarrel—seeking their reward in conquest, and the possession of a portion of her territory. We have heard the doctrines laid down by Mr. Webster—doctrines dishonorable to the State of New York, doctrines which cannot be borne out by the constitution, violative of every known principle of international law;—we have heard those doctrines seriously, openly, unblushingly defended in this hall; and, in addition, we have been told that the citizens of the Empire State were satisfied—that they acquiesced in the decision. Sir, it is this of which I complain; it is this slander of the State which I partially represent. Sir, I deny the charge. In the name of my own State, I deny the charge. I repel it with indignation; it is to traduce the character of the State, the character of our citizens, to invade her sovereignty, to trample her rights under foot, to say that she acquiesces in those doctrines. Sir, I say, once for all—I say it emphatically—the State of New York never has, the State of New York never will, give her liberties into the keeping of the Secretary of State, humble herself at the feet of British power at his command, or cringe in abject submission before his dishonorable fiat:—never, sir, I repeat, whatever may be the issue, will she abandon her rights. The man McLeod is in her custody; he is in the custody of her laws; if found guilty, he will undergo the punishment due to his crimes; but never will the Empire State surrender into the hands of Mr. Webster any custody or control over that individual, his trial, or his punishment. Having said thus much, sir, I propose to enter briefly into the circumstances of the case before us. And what are the facts which have originated this controversy?

We found Canada—a colonial government, a dependency on England—in a condition far worse than was this country when the colonies threw off the yoke of British power. Repeated suffering had made them ripe for revolt. Repeated acts of injury had alienated and estranged them from the parent country. The same spirit that warmed our fathers—the same spark that burned in their bosoms—the same dauntless bravery had communicated itself across the Niagara. Rebellion raised her banner, but it was rebellion against wrong. The object of that people, sir, was a noble one; they fought for freedom, and for the establishment of a republic like our own. It was no false fire—it was no false feeling; the yoke of bondage and corruption pressed heavily upon them, and they rose in their might to free themselves. What, under such circumstances, was to be expected from American citizens? Sir, we had many recollections that bound us to that struggle. We, like them, had trod the fiery pathway; we, like them, had endured until resistance became a virtue. There is much in our history in common; and we should not have been American citizens, we should have been unworthy of the freedom we had purchased with our blood, if we could have gazed upon that struggle without an emotion, without a sympathy, or without fervent aspirations for the success of that cause. Sir, it was no feeling to be indulged by "lawless banditti,"—

it was no piracy,—it was the spirit of '76, that, animating our forefathers, had led them to declare the then colonies to be free and independent. It was the fire of liberty, sir; it was an emanation from Deity itself; it was the answer to the voice of suffering and oppressed humanity; it was the unalterable, ineradicable love of liberty, deeply implanted in every American heart. But, sir, I will come to the more immediate correspondence, information as to which is sought for by the resolution before the House. What, sir, was the course of the Caroline? For what purpose was she intended? And how was she used? I read now, sir, from document No. 183, of the 25th Congress 2d session:

“ On the morning of the 29th day of December last, (1837,) a steamboat called the ‘Caroline,’ of Buffalo, in the State of New York, left that port for Schlosser, another port of that State, upon the east side of the Niagara river.

“ That this vessel was the property of William Wells, of the said city of Buffalo, and was commanded by Captain Gilman Appleby, both of whom are citizens of the United States.

“ That she was cleared with the view of running between the said ports of Buffalo and Schlosser, and for the purpose of carrying passengers and freight.

“ That, on her moving down the Niagara river, she came to at Black Rock dam; and, whilst in port, the captain caused the American ensign to be run up.

“ That, soon after leaving Black Rock harbor, several musket shots were discharged at the said boat, from the Canada shore, but without doing any injury.

“ That her course down the river was continued without further molestation; and she touched at Navy Island, where a number of passengers disembarked, and sundry articles of freight were landed.

“ That from this place she was run over to Schlosser, where she arrived at three o'clock, P. M. She was made fast to the dock at that place, with a chain cable, about six o'clock in the evening.

“ That the officers and crew of the Caroline were ten in number; that, during the evening, twenty-three other individuals, citizens of the United States, came on board, and requested permission to remain there during the night, as they were unable to procure lodgings at the only tavern at Schlosser. This request was granted, and they retired to rest, as did the officers and crew of the boat.

“ That, about midnight, an alarm was given, in consequence of the approach from the river of four or five boats; and, a moment after, the Caroline was boarded by a number of armed men from said boats, who immediately commenced an indiscriminate attack, with pistols, swords, and cutlasses, upon the unarmed crew and inmates of said vessel, under the cry of ‘give no quarters,’ several of whom were slaughtered.

“ That the steamboat was yielded without resistance, and was immediately set on fire in several places, cut loose from the dock, towed into the current of the river, abandoned, and ultimately went over the Niagara falls.

“ That one man, Amos Durfee, (a citizen of Buffalo,) was killed and left dead on the dock at Schlosser; and others who escaped with life were most severely wounded and disabled; and amongst them was the captain.

“ That several individuals who were on board the boat are still missing, and there is strong reason for believing that they were either murdered, or found a watery grave in the cataract of the river.”

And yet, sir, in the face of this evidence—evidence with which my colleague must have been more or less familiar—in the face of this evidence, sir, we have heard him call this a piratical vessel. What part of her actions, what movement, is clouded in suspicion? Does she wait for the mantle of night to fall on the sleeping world before she enters on a nefarious enterprise? Does she seek to hide herself from the view? No, sir, no! There is nothing about her movements calculated to give color to the suspicion; her trips were made in broad daylight; they were open, and their object was avowed. The pretence is idle; there is no substantiality in the charge; it is contradicted by all the circumstances of the case.

But, sir, my colleague says she was sailing under false colors, and upon that assertion he grounds his statement. What authority has he brought here, sir—what evidence of that fact? He has read to you a portion of a letter—not by an admitted authority, not by an American citizen, but from Sir Allen McNab himself. Yes, sir, the very man admitted on all hands

as the one who is the author of this murder, the first cause of all the attack and bloodshed, and the serious consequences which may perhaps follow; the man who received the Iscariot's price and a knighthood for his acts of cruelty and his breach of national law; the man who, more than all others, is interested in giving wings to the charge, however false, that it might, if possible, color his acts to his Government, and the acts of his Government to this country; he who, from his very interest in this matter, is an incompetent witness,—to say nothing of the tendencies of his feelings and prejudices to warp the truth: this man is chosen by my colleague as a witness; his testimony is brought here—here, into the hall of the Representatives of the American people—and offered to them as evidence.

Mr. FILLMORE. To whom does my colleague refer?

Mr. BOWNE. Sir, I cannot be interrupted; at the expiration of sixty minutes I must cease to address the House on this important subject; I shall then be gagged. The colleague to whom I refer is Mr. Hunt.

Mr. FILLMORE. He is not in his seat.

Mr. BOWNE. Sir, I will make no misstatements. I will make no false charges. I will make no misrepresentations. I understand my position, and I am fully aware of what I am saying. I say that my colleague read from the letter of Sir Allen McNab, and that was the testimony he offered to prove that the *Caroline* was sailing under false colors, and engaged in carrying troops to Navy Island. Sir, as to what that vessel really was engaged in, I have read to the House some extracts from the evidence taken upon the subject. I have produced here, sir, the evidence of American citizens—such evidence as I doubt not, sir, would be rejected by the counsel for the Crown, but such as I trust is worthy of all credit on the floor of an American Congress. The evidence from which I have read, sir, was collected by the authority of the Government, and by the order of the last administration. It is evidence given under oath, and by men calculated to give a just and true statement of facts. We will begin on the 29th of December, and recapitulate the prominent facts.

She was running in American waters, from one American port to another, bearing aloft the American ensign; she lay to on American ground for the night, and this at a time when we were at peace with Great Britain, and whilst our Government was taking active and efficient measures to prevent a violation of our neutrality laws, and thereby perpetuate peace and its attendant blessings.

Sir, to what other conclusion can you come upon this subject than that it was a wanton, a brutal, and an unprovoked outrage? At midnight, thirty-three of our citizens had sought their rest—citizens engaged in the peaceful pursuit of their lawful employment;—their vessel moored in American waters, and they slumbering in fancied security beneath the protection of their country's flag. Not dreaming, sir, of an attack beneath the sable cloud of night, they had retired to sleep—the sleep of death. From the Canada side of the river the British troops approached slowly and stealthily into American waters. No cry of warning, sir, rang on the midnight air. No intimation was given to those unconscious sleepers that a dreadful destruction was near. At that hour of midnight the fated vessel was attacked; the feet of England's myrmidons polluted our soil; the noise of discharging rifles and pistols, and the suppressed murmurs of those who were busy in the work of destruction, sounded through the stillness of night. One of our citizens was murdered, sir, in cold blood, on our

own shores. The boat was towed out into the current ; it was set on fire, if not with the knowledge, at least with the presumption that human life was there to be sacrificed. Along the rapid waters it was driven—a flaming wreck ; and while the heavens were crimsoned with the reflection of the flames, and the soil of our country stained with the blood of our fellow-citizens, the Caroline was sent down the thundering torrent of the Niagara, and rushed to destruction in its winding-sheet of fire. The cry of the victims, and the shrieks of the terrified spectators, were lost in the roar of its torrent. But here, sir, this conduct is sought, if not to be justified, at least to be palliated. Yes, sir, there is one voice that can be heard here to pronounce our countrymen “lawless banditti”—one voice that can find a redeeming trait in this deed of bloodshed—and that voice is from New York. That voice is from the Schenectady and Saratoga district ; and, sir, if my voice could reach his constituents, I would call upon them to watch the course of their representative. I would call, sir, upon the men of Schenectady—that city which has so recently risen like a phoenix from the ashes of its former fire—whose soil every inch of which is endeared to them by the memory of the past, and sacred, forever sacred, to the spirit of liberty—a city baptized with the blood of freemen ;—I would call upon them, while they look back on the long line of a noble ancestry who have fought the battles of freedom ; I would bid them listen and hear the voice of their representative, speaking on this floor by their authority, denouncing their fellow-citizens as pirates and “lawless banditti.” And Saratoga, too, sir,—I would call on the gallant sons of that district, whose eyes morning and night look to the great battle-ground of freedom—who behold, at every step, some object to call up reminiscences of the struggles and sacrifices of their countrymen in the defence of freedom—who behold, on their own soil, the scenes of their country’s triumph,—I would bid them to hearken to the voice of their representative.

Sir, another of my colleagues (Mr. HUNT) would have indulged a friendly disposition towards this inquiry—he would acquiesce in its justice and propriety—he would have given it his powerful support *sub silentio*, had not Mr. Webster been attacked. There was the power that had turned the current and made it flow backwards—there was the cause of the revolution in the gentleman’s feelings. The supporters of this resolution have thought proper to deny the positions of the present Secretary of State—and there’s the rub. The gentleman can no longer yield his support ; it is withdrawn from the resolution ; not that he loved his country less, but that he loved Daniel Webster more. And my colleague further tells us we must not agitate this question while negotiation is pending ; that, by so doing, we force this Government into a war with England.

Sir, I am myself opposed to war. I was educated after the strictest manner of the sect called Quakers. I have learned the lessons of peace from the lips of a venerated parent, in his public and private teachings. And, sir, after-reflection has confirmed and strengthened the effects of education ; those principles taught me in childhood have a fresh, a living, and abiding influence now. Let me not be accused of seeking to kindle the flame of war. I am for peace, sir, where peace may honorably be maintained. But, sir, my country’s honor is dear to me ; I am not willing to see it degraded in abject servility at the foot of British power ; and least of all, sir, am I willing to see it brought into that condition by an American Secretary of State. Rather than that, come war if it must be so ; let its dangers and its horrors

come, rather than I will surrender my country's honor or sacrifice my country's dignity.

Sir, we have heard much during this debate of the course of the last administration ; we have heard it censured as the origin of the difficulties in which this question is now involved. Sir, what is the truth of this matter ? When Mr. Forsyth received the letter of Mr. Fox, announcing that the British Government acknowledged the burning of the *Caroline* to be an act of public force, done by the authority of the Government, what position did he assume ? I refer you, sir, to his letter dated on the 26th of December, where he says, "it will be for the court which has taken cognizance of the offence with which Mr. McLeod is charged, to decide upon its validity when legally established before it." So much was said, sir, in relation to McLeod ; and the next paragraph goes on to call for some action on the part of the British Government in reference to the burning of the *Caroline*. Mr. Forsyth reminds the British minister of the delays which had already taken place. He held both McLeod and the Government responsible. McLeod was responsible to the State of New York for the murder, and the British Government for the act which they had thus plainly avowed. Sir, the course of the last administration in this matter was ready and just ; it did not compromise the honor of one State ; it did not truckle to the power of England—a power which takes advantage of every inch of ground that is yielded through folly or through fear. But what has the present Secretary of State done ? What has been the course pursued by him ? I will refer the House to the instructions given by him to the Attorney General. He says : " It is the wish of this Government that, in case his defence be overruled by the court in which he shall be tried, proper steps be taken immediately for removing the cause, by writ of error, to the Supreme Court of the United States." Sir, we are not left in doubt as to what would be the result ; for, with a view to influence, if possible, the decision of the Executive of New York, Mr. Webster says : " I am directed to say that the President, upon the receipt of Mr. Fox's last communication, would have immediately directed a *nolle prosequi* to be entered." Sir, it is this of which I complain—this interference in the arrangements of the State of New York. Mr. Webster well understood that McLeod was rightfully under the guardianship of New York, and that in due course he would be tried. Sir, I trust he will be tried still, and, if found guilty, executed. Yes, I would have the State of New York—without crouching to any power, either a power at home or the power abroad—I would have her pursue her jurisdiction to the execution of that man, if he should be found guilty. Yes, sir, on the very spot—in sight of the opposite shores—on the scene of his exploit—on the ground which he had crimsoned with the life-blood of his victim—there I would have him, if guilty, to expiate his crime.

But why, sir, was the Attorney General sent at all ? Not only do I ask why such instructions were given, but I ask why he was sent at all ? Why this mission, accompanied with one the bravest of the brave, whose hair is whitened in the field of glory ? Whence this new-born interest for a British felon ? Sir, was he sent to New York to give assistance and advice to the State ? Was he to proffer his assistance to maintain the inviolability of justice ? No, sir. His object was to consult with the accused—to offer his counsel and advice to him—to direct the mode of his defence in such a manner that he should easiest escape the threatened punishment. Not be-

tween the Government of the State of New York and the Executive was this correspondence, but between the Executive and the accused.

Now, sir, let us inquire for a moment what was the object of this executive interference. Was it not obviously to influence and control the action of the Executive of New York? Sir, I am happy to bear the tribute to the present Executive of that State, and say that he took a high and noble stand in reference to this matter. Belonging to another party, sir, and opposed to his doctrines on other subjects, I approve, most cheerfully approve this. It is the only public act of his life which meets my approbation, and it gives me pleasure to single this out. Yet, sir, after all, there was a strange air of mystery hanging around this mission. There was something lurking beneath, which baffled common vision; and there seemed some cloud hanging around the non-interference of the Executive of New York. Why, sir, he should have indignantly sent the Attorney General back again to those who sent him; he should have repelled any attempt at interference with the rights of a sovereign State, and that sovereign State in the discharge of its duties in the impartial administration of justice.

Sir, what other object could have been had in view than the influencing of the decisions of the courts of New York? I claim to be no profound lawyer, nor do I pretend to be deeply versed in the intricacies of constitutional law; but I know enough of it, sir, to know that nowhere can the Secretary of State find a justification in the constitution for this interference. Sir, where is his authority, under any circumstances, to remove this case out of the jurisdiction of the courts of New York into the Supreme Court of the United States? The authority cannot be found; it will be looked for in vain.

But, sir, in what attitude has the Secretary of State placed us by his course? Mr. Fox demands the immediate release of McLeod, and adds:

*"And her Majesty's Government entreat the President of the United States to take into his most deliberate consideration the serious consequences which must ensue from a rejection of this demand."*

Now, sir, hear the answer given by the American Secretary to this insolent demand, couched in insolent terms, and accompanied with a studied and pompous threat:

*"The Government of the United States entertains no doubt, after this avowal of the transaction as a public transaction, authorized and undertaken by the British authorities, that the individuals concerned in it ought not, by the principles of public law and the general usage of civilized States, to be holden responsible in the ordinary tribunals of law for their participation in it."*

Has he not surrendered this point—tameily surrendered the right over McLeod, at the bidding of British power? Has he not, passing by the insolent threat of the British minister, given up the rights of New York? In what a condition does this place us before the world? A sovereign State maintaining its right, and the Executive of the States, through Mr. Webster, yielding up every principle for which we are contending. Sir, this servile cringing to British power has brought shame and dishonor on our country. It is not the language of freemen—it is not the language of conscious truth. Sir, I would never—never make the concession; and least of all would I do it while a threat was hanging above my head.

But, sir, in what condition has it placed us before the world? Has it not placed the United States in a position where she must be disgraced in the eyes of the civilized world, or be driven to the necessity of declaring war against England? In the aspect of affairs as they before stood, the first blow must have been struck by the British power; and, sir, I tell you

that England would have allowed fifty McLeods to be executed before she would have declared war against the American republic. She knows her own interests too well ; and, above all, she knows the bravery, the indomitable courage, the unbounded love of freedom which fills every American breast, to plunge in battle for an executed felon. Sir, her course of conquest is now among puny Chinamen, or poor and helpless Hindoos ; wherever her power can strike terror, is felt her merciless course. But, sir, the time admonishes me to hasten to a close. I ask for the opportunity to wipe out this foul stain upon our common country. Sir, throughout the length and breadth of this land, in every valley, and on every hill, wherever the banner of our Union waves, we shall hear a different language than that which has been spoken by our Secretary. I ask the representatives of this country—I implore them to take measures to wipe out this foul blot. Let us not dwell a day under the imputation of crouching—basely crouching and cringing at the feet of British power ; and, least of all, let not our humiliation be the work of a kindred hand.

And for my own State, sir—for New York, and for her gallant sons, for the Empire State I say—she never has, she never can, she never will, submit to such doctrines as those which have emanated from the Secretary of State, and have found supporters on this floor. No, sir, no ! I end as I began ; she never can, and she never will, yield her honor, compromise her dignity, or give up her rights.

Sir, this is the language not only of New York, but of the Union—the language of every freeman ; and if it were not so, I should cease to feel proud of my country. Before these doctrines can find a responsive echo in the bosoms of the American people, her glory must have departed, her spirit must be broken and decayed, her hopes prostrate and disappointed. That mighty bird must have ceased its flight, the stars of glory must be blotted from our banner, ere we shall submit to such indignity.



