

TO THE HONORABLE

SIR ALLAN NAPIER MACNAB, KNIGHT,

✓
SPEAKER OF THE

LEGISLATIVE ASSEMBLY OF CANADA.

SIR,

I have transmitted memorials to be presented to the Legislature of Canada now assembled, in relation to my arrest, imprisonment, and trial for Murder and Arson in the United States, on the charge that I was one of the party who by your command destroyed the Steamboat *Caroline*, on the night of the 29th December, 1837; and requesting that the Legislature, as the legitimate Guardian of my rights and the Redresser of my wrongs, may devise such means as its wisdom may direct to compensate me for the losses I have sustained, and the injuries I have suffered, without any fault of mine, in a purely national matter.

I need not detail to you the whole narrative of my arrest, imprisonment and trial. The case was notorious, and I know you took a deep interest in it and watched its progress carefully. Your name stood first, and mine second, in the indictment found by an American Grand Jury at Lockport, on the 2nd day of January, 1838; and although you are aware that I had nothing to do with the burning of the *Caroline*, yet, strange as it may appear, I am the only one distinctly sworn to as being well known and clearly recognized at the attack. The minutes of the evidence taken before the Grand Jury at Lockport on the 2nd January 1838, are before me. It is distinctly sworn to by Gillman Appleby, the Captain of the Boat, that I struck at him with a sword—that he recognized me at once, and knew me well, having seen me a few days before in the city of Buffalo; he designates me, “Sheriff McLeod.” Another witness swears that a man jumped from a small Boat on to the Quarter Deck of the *Caroline*, drew his sword, and called loudly to give no quarter to the “d—d Yankees,” and he believed that man to be Sheriff McLeod of Canada, whom he had seen before. The evidence against the others named in the same indictment is very vague and indefinite; the witnesses swear that they heard such persons were at the attack on the *Caroline*, and therefore they were indicted. I may mention the case of Rolland McDonald, Esq., M. P. P., for Cornwall. He was a Barrister in extensive practice at St. Catharines; when the Americans commenced hostilities against us on our frontier, he raised a troop of Dragoons, and thereby incurred the wrath of the soi-disant patriots, one of whom went before the Grand Jury at Lockport, and swore that he heard Rolland McDonald say in Wynn’s Tavern at Queenston, that he had been at the destruction of the *Caroline*, and had killed a d—d yankee. You need not be told that this tale was an entire fabrication; you know that Mr. McDonald was not at the burning of the *Caroline*, and you also know that it is no part of his character to assert such an untruth as was sworn to against him. Yet upon such evidence he was indicted; and had either Mr. McDonald or yourself, Sir, been caught in the United States, you might have suffered as I have done. This leads me to the refutation of the charges against myself that were current at the time I was in imprisonment.

The Hon. Daniel Webster, Secretary of State of the United States, in his letter to the British Minister at Washington, in relation to the destruction of the Caroline, says, "And when an individual comes into the United States, from Canada, and to the very place in which this drama was performed, and there chooses to make public and vain-glorious boast of the part he acted in it, it is hardly wonderful that great excitement should be created, and some degree of commotion arise."

Now if there had been one scintilla of truth in the paragraph I have quoted, I should have been an egregious fool, and deserving of the punishment I suffered. But although the paragraph was entirely untrue, and well did Mr. Webster know that it was untrue at the time he put his signature to it, for he had all the evidence in the case before him, yet it went round the world as a demonstrated fact! No one supposed that the Hon. Secretary of State of the United States would vouch such a tale to be true, and stamp it with the National Seal, unless it had been authenticated beyond a doubt. Now let me lay before you the real facts. I was indicted on the 2d day of January, 1838, on the oath of Gillman Appleby and another, that I was really at the destruction of the Caroline. Not a word was said of any boast that I had made *at the very place where the drama was performed*. Moreover, I will prove by the certificates of Messrs. Bradner and Bell, the Magistrates before whom I was brought for examination when first arrested within the United States, on the 24th September and on the 12th November, 1840, that no such allegation as that of boasting &c. was brought against me by any person at the time I was examined before them. These fabrications were of a later date. It was found that it would be necessary to ensure my conviction and execution for murder and arson, to bring a large amount of perjury and prejudice to bear against me. It was well known that hundreds of vagabonds could be procured to swear to admissions made by me, though they had never seen me in their lives, and were hundreds of miles distant from the scene when the drama was performed, in which I was accused of having been a participator. The conspiracy against me assumed so many shapes as it progressed, that it was difficult to follow it through its various evolutions. The first set of witnesses against me swore to facts that took place before them on the steamboat; the second set swore that they saw me embark among those that went to destroy the Boat; the third set swore they saw me disembark from the boats on their return, after the destruction of the Caroline; the fourth set swore to admissions made by me, that I had been with the party that destroyed the Boat—that I had killed a d—d Yankee, and that I had been frequently seen exhibiting a pistol covered with blood, and drawing and flourishing a sword with many inches of clotted blood on it, which I asserted was the blood of a d—d Yankee.

Put I beg to observe that not one of those perjured wretches alleged that such boasts had been made "at the very place where the drama was performed," or in any part of the United States. They laid the scene in Canada. It was in the very midst of my companions in iniquity that I exhibited these insignia of my guilt, and boasted of my exploits. John Clarke Davis, Innkeeper of Chippawa, was sworn four times against me; he deposed that he heard me telling to the officers in their mess-room at an early hour in the morning after my return from Schlosser, of the deeds I had done. His pot-boy, Charles Parke, of Wainfleet, swore that he had watched me embark in the boats that went to destroy the Caroline, and that a few days afterwards he heard me informing the officers in their mess-room when he was serving

them, that I had killed a Yankee. To make sure that the Jury should believe him, he named the officers that were present when I was telling the story, namely, Capt. Wm. Stennet, Capt. Wm. Cockell, Capt. Lackey and Lieut. Caldwell. These respectable gentlemen are still alive, and in the Province. I have never spoken to them on the subject of this man's evidence, but I know that all of them will deny having ever heard me assert that I had killed a Yankee. I am certainly well known in this part of the Province, and can say, without fear of contradiction, that no man ever heard me say I had any hand in the destruction of the Caroline, or saw me exhibiting a bloody sword and pistols.

Parke also swore that the reformers of Wainfleet had pressed him to attend my trial at Utica, as a witness against me. I believe this part of his testimony to be as false as the rest of it. I may here remark that among the vast crowd of witnesses that appeared against me at the trial at Utica, thirteen of them were from Canada; one of them has subsequently informed me that they were promised good pay and all expenses, and a handsome reward if I was convicted, but as I was acquitted they were cheated out of their pay, and some of them had to beg on their way back to Canada.

I shall close this "boasting" part of the case by inserting the certificates of Messrs. Bradner and Bell, two respectable magistrates, before whom I was first taken when arrested on the 24th Sept. and the 12th Nov., 1840; and I should not have written so much respecting it had it not been so currently reported and commonly believed, and disseminated far and wide, with a view to injure me by many, and by others from a belief in its truth.

Mr. Bradner's Certificate.

I hereby certify that Alexander McLeod was arrested at Manchester, Niagara County, State of New York, on the 24th day of September, 1840, on a charge of Murder and Arson, committed at the destruction of the steamboat Caroline. The examination took place before me the same day, when the accused denied the accusation. There was no allegation made before me that he had at any time or place boasted that he was one of the party that destroyed the Caroline and killed Durfee.

*Given under my hand and seal, at Manchester, }
Niagara County, this 19th day of August, 1842. }*

WILLIAM BRADNER, J. P.

Mr. Bell's Certificate.

I certify that Alexander McLeod was arrested and brought before me, a Justice of the Peace of the County of Niagara, State of New York, for examination, on the 12th day of November, 1840, accused of aiding and abetting in murder &c., as being one of the party who destroyed the steamboat Caroline on the 29th December, 1837. It was not alleged at the time the warrant was required against Mr. McLeod, that he had boasted of having been one of the beforementioned party: nor was it sworn to before me, on the examination, that he had made such boast, in a tavern or elsewhere, in the United States; and I have never heard that he has made such boast in the United States at any time. I attended the trial of Mr. McLeod at Utica, and am under the impression that no proof was introduced, at that trial, which would, in the slightest degree, authorize the report above referred to.

*Given under my hand and seal, at Lewiston, County of Niagara, }
State of New York, this 24th day of September, 1842. }*

JONA. BELL, J. P.

I was very much blamed by many for going to the United States at all ; and more particularly after I had been once arrested and discharged. They said I should not have gone there at all ; that I was a marked man among a certain class that were then prowling about among the Americans on the frontier, and were exciting them against the Canadians, or such of them as were supposed favorable to the existing Government of the Province ; that I had either taken or was alleged to have taken, an active part against the "patriot" movements in this vicinity, and that therefore I should not have gone where they were still lurking about, anxious to be at some mischief.—My motives for proceeding to the United States were not generally known, and therefore it was easy for a few malicious persons to build up a bad reputation for me on the slender basis that was apparently made to sustain their calumnies. The story ran that I had fled to avoid trial for subornation of perjury, and as that was not considered quite bitter enough, they made out an account against me due to the Government, the Banks, the Estate of the late Sheriff Hamilton, and the Merchants of Niagara, to the total amount, I believe, of about \$50,000. I was at the same time accused of a variety of crimes, that no one ever heard of till I was in prison.

These charges were of Canadian manufacture, and well do I know where they were made and polished off from time to time to suit the public taste.—These stories were just as true as was the indictment found against me at Lockport for burning the Caroline and murdering Durfee. But they require refutation. They were trumpeted abroad through the world and no doubt believed by many, and when I appeal to my country for redress of great wrongs sustained at the hands of a foreign nation, it is but just I should show that I come before them with clean hands and a good cause. I shall therefore briefly set forth my defence to these charges.

First, as to the indebtedness. When I arrived in Montreal on the 16th of October, 1841, after the trial at Utica, I was informed that I was much in debt to the Merchants and others of Montreal. I made some enquiry after my creditors ; as they did not seem to be coming to see me I wrote a note to James Jackson, Esq., who had frequently said I was indebted to him several thousand dollars. But, instead of coming to me to get what he alleged was due to him, he sent his friend, Mr. Logan Fuller, to say for him that he was wrong, that I did not owe him anything, and that he was sorry for what he had said about me. So far from being indebted to Mr. Jackson, I had gained a suit against him in the Courts of Upper Canada, and only on the 11th September, 1841, I had six hundred acres of his lands in the Talbot District sold at Sheriff's sale to pay the judgment I had obtained against him. These lands were bought in by my agent for me and are now in my possession, and excellent land it is too. I was inclined to publish Jackson's tales at the time but I was informed he had been unfortunate in business, and supposing I would never return to call him to account, had palmed the story of my indebtedness to him on his creditors. I was astonished afterwards to find that nearly all those that were indebted to me in the Province (and they were pretty numerous) had been busy passing round the calumny that I had fled to avoid my creditors. I could name many that cannot deny this assertion. However, after stopping a week in Montreal and having been treated to a public dinner by a number of respectable gentlemen, who were generous enough to see these calumnies in their proper character, I was cautioned by a gentleman, who had just arrived from Kingston, to pause before I went westward ; he said I would certainly be lodged in Gaol, as he had been at breakfast in

Bamford's Hotel in Kingston, and had heard that if ever I came to Upper Canada I would be arrested by a number of people to whom I was in debt; that Mr John Eastwood, principal director of the Farmers' Joint Stock Bank at Toronto, was at the breakfast table and stated that I was much in debt to that Bank. However I took my route westward, and when I arrived at Kingston I found my three brothers had been at the Sheriff's office to enquire if there were detainers lodged against me from Toronto, as it was alleged it was in that city I was so much indebted. Their object was to prepare bail for me—I thanked them for their good intentions towards me, but I told them the heavy list of debts in Toronto would turn out like my friend Jackson's. When I arrived at Toronto I called on Mr. John Eastwood relative to his charge against me of indebtedness to his Bank. He acknowledged he had been laboring under a mistake—that he found I was not indebted to the Farmers' Joint Stock Bank. Mr. Eastwood is a highly respectable citizen of Toronto, his reports of my indebtedness to the Bank of which he was Principal Director, gained full credence—hence the current belief that I had fled to avoid imprisonment in Canada for debt. I have to say that in November, 1840, when I went to the United States I was not indebted to a Bank in the world one cent. I was not indebted to the Canadian Government—that Government was indebted to me. I was not indebted to a merchant in Niagara one penny. The aggregate of my personal debts did not exceed eight hundred dollars, and there was five times as much legally due to me, besides I had ample property to meet all demands against me. It was alleged I was a defaulter in my office of Deputy Sheriff to a large amount. At my trial at Utica, William L. McKenzie, who was aiding the United States Counsel for the Prosecution, handed the Attorney-General a slip of paper containing questions to be put to Dr. Hamilton when examined on my defence. I have that slip of paper now before me. The questions are as follows:—“Are you a brother of the late Sheriff Hamilton whose Deputy the prisoner was? Yes. Was not the prisoner indebted to your brother at his death \$16,000? No, my brother told me on his death-bed that his accounts and the prisoner's were nearly balanced.” Soon after the death of Sheriff Hamilton, I had my accounts made up; I found there was much more due to the office than was due by it; but as I could not collect at once the monies due to me, and would be called upon at once to pay the money due from the office, which I found amounted to five hundred pounds, (I had given four sureties to the Sheriff, each liable for \$8,000, and also my own bond for \$8,000), I was anxious to save harmless all parties, the Sheriff's sureties as well as my own; I therefore called on Dr. Hamilton, who was one of his late brother's sureties to the amount of five hundred pounds, and requested him to loan me £500 to enable me to pay all debts due by the late Sheriff's office; that for the securing of said loan I would assign over to him houses, the annual rent of which was at that time £273 10s., free of all charges; and that I should repay the said loan as I recovered monies due, the whole to be paid up within a year from the date of the loan.—Dr. Hamilton was President of the Suspension Bridge Bank, and he agreed to grant the loan, provided his Counsel, James Boulton, Esq., of Niagara, approved of the security. He took away the Deeds to his said Counsel, who soon after informed me that he had made out the assignments to Dr. Hamilton and desired me to go to his office and execute the transfers. I did so, and desired Mr. Boulton (who was at the same time my Counsel and had been for four years previous) to get a bond from Dr. Hamilton reciting the cause of the assignments to him, and binding him to re-convey the property to me on

payment of the amount loaned and interest. Soon after I drew on Dr. Hamilton to the amount of about \$500. And that was all he would give me. I then called on Mr. James Boulton for the Bond I had directed him to take; he coolly informed me he had got no bond, but that Dr. Hamilton and he understood each other perfectly well; that Dr. Hamilton had employed him to make the transfers; and that as he did not consider me his client in the case, he had not taken a bond; I at once saw that my property, worth \$3,000, had passed out of my hands for a trifle, and that I had no means left of paying the debts due. I wrote a letter to Dr. Hamilton relative to the affair, and here follows *his* version of our agreement:—

Queenston, 10th December, 1839.

DEAR SIR,

My impression with regard to our agreement is, that I was to lend you £300 if the Government paid your claim, or £500 if such claim were not paid, you undertaking to convey to me the leases of property held by you in Toronto and Niagara, and a Deed in fee simple for your lot and house at the City of the Falls. And I will re convey to you the leases and title as soon as I am satisfied that my late brother's estate and his sureties are perfectly safe from any chance of loss from the Sheriff's Office, and the money advanced, or that I may have to pay for you, with interest, is repaid.

Yours truly,

JOSEPH HAMILTON.

ALEX. McLEOD, Esq., Niagara.

Of course Dr. Hamilton does not say that I agreed to these conditions.—The first I heard of such conditions was when I got his letter. It was no discharge from the liability of myself and sureties on our bonds to the late Sheriff Hamilton, or his heirs and executors, that Dr. Hamilton had got my large property to safely keep until he felt satisfied that all was safe from harm from the Sheriff's office—not at all. The executrix, without any reference to such agreement as Joseph Hamilton says he made, sued my sureties and got a verdict against them on their bond for £1,211, all that she could claim for losses by suits against herself and the sureties of her late husband. And I have to observe that far more than half of that is for costs of the prosecution and defence of the suits brought against the said sureties. So it will be clearly seen, that if I had had the rents of my property in my own hands, how easily I could have settled all claims against me. Besides, the actions brought against the Sheriff's sureties with two or three exceptions were entirely fraudulent, and judgments were obtained against them by fraud, as I can clearly and distinctly prove—but this is not the time and place to do so.

When I got safely incarcerated in a felon's cell at Lockport, Dr. Hamilton took possession of my valuable property for the trifle he had advanced, and retains it to this hour; he has ever since collected the rents. When the suits were brought against the sureties, himself one of them, I asked him for some money to get witnesses for the defence, to defeat a base conspiracy to rob, but he refused. Several actions of a fraudulent nature were brought and tried during my imprisonment, and verdicts obtained against the Sheriff's sureties. I had written from my cell to the defendant's counsel to try and delay these suits until I could get back to attend to them, but they went on, and as far as I could learn, were all but undefended, at least I never could find that a single witness was ever examined for the defence. When I returned from the United

States in November, 1841. I found verdicts had been obtained in two suits against the sureties for large amounts. I at once set about getting evidence to obtain new trials, and applied to the agents of the defendant's counsel, in Toronto, for that purpose, as the defendant's counsel was then in Kingston. I minutely described the nature of the defence I had against these fraudulent actions in the event of obtaining new trials. But the gentleman turned away from me and said he did not think the verdicts could be set aside. I was afterwards informed that he had been employed in both cases for the prosecution. I then applied to W. Hume Blake, Esq., of Toronto; he took up one of the cases, *ex gratia*, and succeeded in defeating the plaintiffs after three verdicts had been given in their favour; and I am sure the Chief Justice who tried the cause the fourth time, as well as all in Court, felt convinced there never had been any cause of action against the Sheriff's sureties. After this fourth trial the counsel for the plaintiffs (who had conducted their case with great talent) told me he was fully satisfied that the verdict given at last in favour of the defendants was a just one. But his clients were not to blame, they are highly respectable merchants of Montreal; but the cause for the suit originated in another quarter. The other verdict I tried to get set aside was confirmed, and constitutes one third of the £1,200 verdict got by the executrix of the late Sheriff Hamilton against my sureties. I have the most conclusive testimony in my possession that it was entirely fraudulent in all its bearings, and it could not have succeeded had I been in Canada to attend to it when it was tried.

I here rest my defence on the charge that I fled to the United States in 1840, to avoid my creditors, and I shall proceed to refute the allegation that I fled to avoid punishment for subornation of perjury, and in doing so I shall fully explain why I went to the United States at all, and by whose advice I went there.

When I became Deputy Sheriff to Sheriff Hamilton, in 1834, it was agreed between us that I should have the entire control of the Sheriff's office; that I should be responsible for all monies collected and all debts contracted; that I should employ counsel to prosecute or defend actions connected with the office; that although such suits could only be prosecuted or defended in the name of the High Sheriff, yet I was responsible for their consequences the same as if they had been sued or defended in my own proper name—and I was responsible for the acts of the counsel I employed to prosecute or defend such suits. I was Sheriff *de facto*. It was agreed that the Sheriff should attend the office at least three days in the week from 10 A. M. until 3 P. M.—But he never spent one hour in the Sheriff's Office during the four and a half years that I was his deputy. Being Postmaster at Queenston, his whole time was devoted to the duties of the Post Office, except being occasionally served with a rule or process by the Coroner, and receiving upwards of £400 per annum as his share of the emoluments of the office. He knew nothing of its affairs. In 1838 I got my thigh bone broken, and became in consequence lame for life, and unable to attend to the out-door affairs of the office. I intimated to the Sheriff that so soon as I could wind up the unsettled affairs of the office I would resign the situation I held as his deputy, he then wrote a letter to me, of which the following is an extract:

QUEENSTON, 19th Dec., 1838.

I regret that your leg continues so bad that you cannot attend the sales at a distance, and that you think of resigning. I know the situation you have

has been, and still is, a very troublesome one. You have fulfilled its duties with activity and energy, which has given me entire satisfaction, and I regret your exertions are impaired by such a serious misfortune ; but I hope your leg will soon get well to enable you to ride about. I doubt I would have difficulty to find a deputy so competent to perform the duties of the office as you are.

I am, dear sir,

Yours very truly,

ALEX. HAMILTON.

On the 19th February, 1839, Sheriff Hamilton died. After his death many of the magistrates and leading men of the district advised me to apply to the Executive for the vacancy. A petition to the Governor in my favor was signed by the whole of the magistrates assembled at the Quarter Sessions, at Niagara, on the 13th March, 1839, and many of the principal men of the district, of all sects and parties.

I have been accused of having been a violent politician of the despotic order ; and to show that I was obnoxious to the reformers, Charles Park, Davis' pot-boy, swore on my trial at Utica, that it was the reformers that urged him to go to Utica to try to get me hanged, and I must say that not one of the witnesses played his part better than that Canadian ; his statements were so well put together that they really appeared like truth. However, whatever my politics may have been, the three reform members of Parliament, of the Niagara District, signed the petition to the Executive, that I was a fit and proper person to fill the important office of High Sheriff of the said district.— These highly respectable gentlemen, namely, Messrs. David Thorburn, Gilbert McMicking and Richard Woodruff, are well known to be consistent and honest reformers, and are not men who would recommend for an important office under Government a man whose politics led on to despotism. I did not obtain the situation prayed for, but the petition is filed in the archives of the Government, and is clear evidence that I am not the infamous character my enemies have represented me to be. I shall here insert testimonials of a later date from several of the magistrates of the district, and I do believe that not a magistrate in the district would refuse to adhibit his name to the following document :

"We, whose names are hereunto subscribed, Magistrates of the Niagara District and Province of Canada, certify that we have known Alexander M'Leod since August, 1834, at which period he was appointed under Sheriff of this District. We are aware that with few exceptions the whole duties of the Sheriff's office were performed by him, and so convinced were the Magistrates of his meritorious conduct in that important office during a time of great pecuniary embarrassment, and of his energy and intrepidity on several trying occasions, that on the death of Sheriff Hamilton they signed a petition to the Executive to appoint him Sheriff of this District. During Mr. M'Leod's imprisonment by the authorities of the United States, on the pretence, that he was one of the destroyers of the steamboat Caroline, we heard allegations against his character, namely, that he was a defaulter to the Government—had absconded from his creditors, and had vain-gloriously boasted that he was one of the party that destroyed the Caroline. We believe that these calumnies were without foundation ; that they were engendered and assiduously spread by malicious individuals, enemies of peace and social order, that such slanders might conduce to the conviction and execution of Mr. McLeod, and con-

summate their ardent desire, a war between Great Britain and the United States.

DANIEL McDUGAL, J. P.

THOMAS BUTLER, J. P.

I. H. JOHNSON, J. P.

LEWIS CLEMENT, J. P.

JOHN L. ALMA, J. P.

EDWARD EVANS, J. P.

DUNCAN MCFARLAND, J. P.

ROBERT MELVILLE, J. P.

SAMUEL BIRDSALL, J. P.

AMOS BRADSHAW, J. P.

EDMUND RISELEY, J. P.

JOHN MEWBURN, J. P.

JOHN CLARK, J. P.

J. W. O. CLARK, J. P.

I need make no remark on this list of names ; their respectability and worth is well known in this part of Her Majesty's dominions, and that no consideration would induce them to put their signatures to such a document unless they were fully convinced of its truth and justice.

In the month of March, 1835, I engaged James Boulton, Esq., Attorney and Barrister of Niagara, as my Attorney and Counsel. I agreed to give him the business of the Sheriff's office, such as prosecuting and defending actions, attending to the defence of rules and attachments and other legal business connected with the Sheriff's office, and use my influence in the District to procure business for his office, on condition that he should do the office business for the legal fees, and give me advice gratis as Counsel on legal points arising out of the business of the office from time to time, as I might require it. Mr. Boulton consented to these conditions. At this period he was doing a third or fourth rate business in Niagara ; his practice after this arrangement increased fast. In 1837 he informed me that with one or two exceptions he had the best practice in the Province, and that it was worth \$10,000 per annum. He continued to be my counsel and attorney until the close of the year 1839. I had given him near two hundred actions to prosecute or defend. I found him zealous and indefatigable in watching my interest ; his advice was found good, and he with two exceptions succeeded in defeating the prosecutions brought against me. I placed implicit confidence in his legal knowledge, integrity and honor, and all was harmony and good fellowship between us until I had presented him with his account a few months after the death of Sheriff Hamilton, and requested a settlement of the large balance due by him. I soon afterwards perceived a considerable alteration in his manner when we met. He was always very busy, and had no time to examine and adjust our accounts, and begged I would wait until some more convenient time. When I found that he had given my property to Dr. Hamilton without getting any acknowledgment in writing of the cause for which the transfers were made, I felt the necessity of closing my business with him as early as possible. I therefore requested and received from the Executrix an authority to Mr. R. Baldwin, M. P. P. to sue him for his account—process was served upon him in February, 1840, and he immediately hurried home to Niagara, and on the 14th Feb. had Dr. Hamilton served with process on half a dozen suits for alleged defaults committed by me in the Sheriff's office, during the life time of the Sheriff. He accompanied Robert Maitland Roy, a sheriff's bailiff, to my house, about midnight on the 15th February, when the said Roy threw in the writs and subsequently swore he had made a good service. I was much surprised at these proceedings. I had never had the slightest notice that any of these actions were about to be brought. Dr. Hamilton called upon me on the Monday following ; he was as much surprised as I was ; he had never received any intimation, he said, from Mr. Boulton, that such suits were to be brought against him : so

far from that, he said that Mr. Boulton had upon one occasion informed him that the affairs of the late Sheriff's office were all right, and that he believed my personal debts were very trifling. Dr. Hamilton further said that after the service of the writs, Mr. Boulton had called on him at the office of the Suspension Bridge Bank, and told him that he had brought the actions against him because he had been sued at my instance, and that he had the charge of a cause of mine that was before the Court of Queen's Bench that term,—that he had neglected it, and that thereby I had lost £150, which he could have saved to me had I not sued him. I soon found that his assertion as to the loss of the £150 was too true. He did, sure enough, neglect my cause, and I lost the money. It is one of the items charged against my sureties, and constitutes about one-ninth of the verdict of £1200 obtained against them by the Executrix of Sheriff Hamilton. I sued Mr. Boulton for the neglect, and obtained the verdict of a jury a year ago, but I am informed there is some legal quibble stands between me and final judgment.

I shall briefly enter into a narrative of one of the suits brought at this time against Dr. Hamilton by Mr. Boulton in his own name, as it was the primary cause of all my subsequent misfortunes. My long imprisonment in the gaols of the United States—the slanders that have been so unsparingly and so ungenerously heaped upon my head—the loss of my health and property—all originated in this unfortunate suit, *James Boulton against Joseph Hamilton*.

On the 12th of February, 1838, Mr. Boulton placed in my hands an execution in his own favor against the goods and chattels of Hezekiah Davis, endorsed to levy about £200. I informed Mr. Boulton that I had levied on all Mr. Davis's goods on execution in my hands prior to his. He then said that Davis owned a schooner called the "Rose," at that time lying in the Chippawa River, in the village of Chippawa, and desired that I should make a levy on her on his execution. I soon after went to Chippawa and found the vessel described by Mr. Boulton. She was then in the service of the Government, and there were a number of sailors belonging to the Marine Brigade on board, as she lay fast in the ice. I made the usual levy. In a few weeks afterwards Mr. Boulton came to the Sheriff's office with Hezekiah Davis, and said that Davis had made arrangements with him to have his execution stayed, and that I should relinquish the levy I had made on the schooner. I told him that I would relinquish the levy made on his execution, but would still hold the schooner on other executions then in the office against Davis's goods. It was then agreed that Davis should place securities he held against third parties in Mr. Boulton's hands, as security to the Sheriff that the schooner should be forthcoming when required by me, to meet the executions in the office against her. Davis was anxious to make this arrangement, as he said he had lumber at his mills at Dunnville that he was about to send in his schooner to the United States at the opening of the navigation, which he could sell for cash to pay off his debts. At that time no cash could be realized on sheriff's sales, except at an immense sacrifice, so I entered into the arrangement and allowed Davis to remove his schooner. In June or July following, Mr. Boulton came into the Sheriff's office and desired that we should go on with his execution against Davis; he said Davis was a great rascal, he had given him a power of attorney to draw the money due to him by the Government for the use of his schooner, and that when he had called upon the Commissariat at Drummondville to draw the money, he found it had been already drawn on a power of attorney given by Davis to his cousin,

David Davis. I said to Mr. Boulton that the schooner was away on the lakes, and it would be some time before we could get her. He replied that Davis had mills and lumber, and household furniture, at Dunnville, and that I should advertise them, and let him know the day of sale, and he would attend and purchase. I sent a bailiff to Dunnville, and had Davis's property advertised. I gave notice to Mr. Boulton of the day of sale, and he attended that day at Dunnville. When the bailiff I had sent up to sell the goods returned, he reported to me that Mr. Boulton had made some new arrangement with Davis, and desired him to stay the sale; and that he had done so on all the other executions as there were no apparent buyers. When Mr. Boulton came to the office I spoke to him about the trouble we had been at in sending twice to Dunnville, a distance of fifty miles, at his request, besides the travel to make the levy at Chippawa; and as he had stayed his execution until it had run out, I would return it and charge him with the fees. He replied that Davis had given him a bond against two persons of the name of Banner to sue upon, and other suits, and that I might return the writ "*nulla bona*" and charge the fees to him, that he would take out a writ against Davis's lands. The writ was accordingly returned "*nulla bona*," and the fees charged to Mr. Boulton, and he took out an execution against Davis's lands, and placed it in my hands. In 1840 his allegations against Dr. Hamilton were, that I had sold a schooner, the property of Hezekiah Davis, on his execution against the goods of Davis, had pocketed the money, and wrongfully and fraudulently returned his execution "*nulla bona*." I made very light of the prosecution; I never for a moment supposed it could succeed. I had never seen the schooner since the day I had levied upon her at Chippawa, and I had also found out that she did not belong to Hezekiah Davis, and could not be sold to pay his debts.—She was the property of one Austin Kellog, of the State of Ohio—was an American vessel, navigating the lakes under the American flag, and was merely chartered by Davis to carry his lumber to market in the United States, and could not sail from port to port there otherwise than as an American vessel, and owned by an American citizen; and that she was at that very time, 1840, sailing on the lakes under the ownership of Austin Kellog, still chartered by Hezekiah Davis as she had been in 1838. Boulton had also divested himself of all claim to the judgment obtained in his name against Davis.—He had been the attorney for Stocking and Grier, of Niagara, to whom the debt from Davis was really due; Davis was sued in their name, but Mr. Boulton had taken a cognovit from Davis in his own name without any authority from Stocking and Grier; therefore, on the 13th day of May, 1839, long after the pretended sale of the schooner, and after I had ceased to be deputy Sheriff, the real plaintiffs and defendant met at Mr. Boulton's office and agreed to take the matter out of Mr. Boulton's hands, and settle it between themselves; consequently, Mr. Boulton drew out with his own hand a receipt in full of the judgment standing in his name, and handed it over to the original owners of the same, to be by them given to Davis when he fulfilled his agreement with them, and paid the debt. Had a schooner of Davis's been sold by me to pay this very debt many months before, he certainly would have known it, and was not likely to make arrangements with the original owners of the debt to pay it over again. The real facts were well known to him and to Mr. Boulton. They knew well that no money had ever been received by me to apply on the execution Boulton vs Davis, and that in fact Davis had no schooner to sell. I ascertained from Davis and Stocking the manner in

which the claim had been transferred from Mr. Boulton to Messrs. Stocking and Grier, and I thought it would be enough if I got Messrs. Stocking and Davis to attend in Court for the defence, to prove the before mentioned facts. The cause was tried before the Hon. Judge Macaulay, at Niagara, and to my utter astonishment Hezekiah Davis swore very distinctly that I had sold a schooner, his property, on the execution against his goods at the suit of James Boulton in November, 1838, and had made the full amount of the said execution by such sale. Mr Stocking was put in the witness box for the defence, but Mr. Boulton had him sworn on his *voire dire*, and as he swore the debt in reality belonged to himself and Grier, the Judge decided he was an interested witness and would not allow him to be examined. The jury were directed to find a verdict for the plaintiff on the evidence of Hezekiah Davis. Mr. Henry Long, in the years 1837 and 1838, was my Clerk in the Sheriff's office, and was present and heard the various conversations that had taken place between Mr. Boulton and myself relative to the execution, Boulton against Davis; he had heard Mr. Boulton assent to the writ against the goods of Davis being returned "nulla bona," and the fees charged to him. He was in the city of New York. I sent for him and he came. I took him to Toronto in June, when the Court of Queen's Bench was sitting in Term. I applied to Robert Easton Burns, Esq., Barrister, to take Mr. Long's affidavit of the facts and present it to the Court, and demand a new trial in the cause James Boulton *vs* Joseph Hamilton. He did so, and filed the affidavit. Affidavits were put in against it, sworn to by Mr. Boulton himself and others. Mr. Boulton argued his own case, and boldly asserted to the judges that he never had made any arrangements whatever with Davis or any other person—that he had never got any security from Davis for the judgment, nor had he ever divested himself of his control over it in any shape or manner—that the whole was still due to him as it always had been—that he had never stayed his execution against Davis, nor had ever assented to its being returned "nulla bona"—and that I had sold Davis's schooner to pay that very judgment and had pocketed the money, and now wanted to swear him out of it. I was present in Court when this harangue was made against me. My countenance underwent various changes, and no doubt some contortions of the face were apparent; I perceived the Hon. the Chief Justice giving furtive glances at me. I have no doubt he thought at the time that I was writhing under the inflictions of a guilty conscience. I was not so; I was engaged thinking on the mutability of all human affairs; only a short time before the very man that was now accusing me of the worst of crimes and holding me up to the scorn and contempt of the Court, had been my warmest eulogist; I was thinking, also, that soon the accuser and the accused would appear at that tribunal of dernier resort where no secrets are hid, and where no technical quibbling will stay the hand of justice from meting out punishment to the guilty, without respect to the wealthy and powerful connections that may have thrown a shield around them to protect them in this transitory world. I was in exceeding ill health about this time, and when one of my friends in Niagara mentioned that fact to Mr. Boulton, he replied that now I had lost all my suits, the best thing I could do was to go and hang myself. I never had any intention of following this piece of gratuitous advice from my quondam Counsellor.

On the 20th day of June, 1840, at half past 6, P. M., I was in the sitting room of the North American Hotel at Toronto. Rolland McDonald, Esquire, member of the Provincial Parliament for Cornwall, entered the room: he

said "McLeod, I have just come from the Court ; the case of Boulton against Hamilton has been decided against you ; judgment is given for the plaintiff, and the Chief Justice, in delivering the judgment of the Court, animadverted very severely upon the affidavit made by Long, and placed before the Court for the purpose of obtaining a new trial. He said Long's affidavit was entirely false and that he ought to be prosecuted, and he intimated that you was guilty of suborning Long. I know," continued Mr. McDonald, "that the affidavit is true that you never did sell any schooner belonging to Hezekiah Davis, but you are defeated, and Boulton will ruin you unquestionably." I find there is a little more entered in my Journal that Mr. McDonald said at that time, which Mr. McDonald no doubt remembers, but as it forms no part of my case, and is merely Mr. Boulton's private opinion of the Hon. Chief Justice and the Puisne Judges, it would be out of place here. When I publish my Journal of 14 years in Canada and 1 year in the Gaols of the United States, with remarks on men and things, it will then come in as the opinion of an eminent Counsellor on the morality of the Bench of Justice of Upper Canada.

The final Judgment of the Court had been given, accompanied with its remarks on the culpability of my witness and myself, with the intimation that we should be prosecuted for our crimes. Many Lawyers were present in the Court from every part of the Province attending to their suits ; they heard the remarks that fell from the Hon. Chief Justice, the organ of the Court ; they knew the high character of Chief Justice Robinson as an impartial Judge and an able jurist, as a gentleman of unimpeachable integrity and honour, who, it was well known, would not have impeached me or my witness from the forum of Justice unless he had seen and heard what he considered irrefragable proof of our guilt. Therefore, when my arrest in the United States was published through the land, they confirmed the report that I had fled to avoid the punishment due to my crimes by the laws that I had outraged.

I mentioned before, that I had sued Mr. Boulton for a large amount due to me as Deputy Sheriff. The cause had been left to arbitration, which was now hurried on ; I had only one day's notice given me that the arbitrators would sit at Niagara to adjudicate the suit. They met accordingly at Mr. Richard Moffatt's Hotel, at 3 o'clock, P. M., on the 26th June, 1840. I did the best I could in the short space of time to procure my witnesses ; I produced Henry Long, who had been my Clerk for two years ; he was my principal witness to prove a large amount of my account, and also to disprove many items of the set-off put in by Mr. Boulton, the defendant. The arbitrators refused to admit his evidence. Being Gentlemen of the Bar, they were in Court when the mandate went forth to prosecute Mr. Long for perjury ; and they afterwards asserted and swore in a Court of Justice, that, sitting as arbitrators in the cause Hamilton, Executrix, *vs.* James Boulton, they refused to take the testimony of Henry Long, when tendered for the plaintiff, because he had been accused by the Chief Justice of having committed perjury in the cause James Boulton *vs.* Joseph Hamilton. I therefore lost the benefit of his testimony which was of the utmost importance to me. The arbitrators passed items of Mr. Boulton's account to a large amount without giving me an opportunity of rebutting them, or allowing me to peruse the pretended vouchers laid before them to sustain such items. I have been informed by legal gentlemen that it was illegal to exclude my witness on the mere presumption that he had been guilty of perjury, and that the defendant's vouchers ought to have been laid before me to enable me to rebut them if I could. But I had no

counsel at the arbitration to advise me, and support my interest ; and what with the recent odium attached to my character and that of my witness, Mr. Long, and other circumstances, I had no chance to cope with Mr. Boulton and his two legal friends. An award was, therefore, given against me, in the face of the clearest testimony adduced by me. I lost \$5,000 by that award. I had brought Henry Long from New York to testify in my behalf ; I now prevailed upon him to send for his family and await the result of the threatened prosecution against us, and promised that I would try every means to defeat the conspiracy for that purpose. I went to Lewiston in the State of New York on Monday the 29th day of June, 1840, to Mr. Jared Stocking. He informed me of all the facts a second time as to the arrangement between him and Davis that took place in Mr. Boulton's office on the 13th May, 1839, and he said that his agent in Niagara, Peter H. Swartz, had in his possession the receipt written out by Mr. Boulton to be given to Davis when he paid the debt to him (Stocking) ; that Boulton never had any claim originally to the debt, and that when he gave the receipt to him on the 13th May, he had only done what was right in denuding himself of even a nominal claim ; and that afterwards he had no claim on Davis or on any person for the amount of the judgment ; that Davis had at first proposed to pay the judgment by giving to Stocking and Grier such an indorsed promissory note for the amount as they could pay away to their creditors, but as Davis had failed in procuring such a note, they had made another arrangement, under which Davis was to pay them the judgment in Lumber delivered at Buffalo, and that only very lately Davis had informed him that the Lumber would soon be sent to Buffalo consigned to him, and that Davis had informed him that the schooner had not been sold to pay the judgment—that he had no such title to her as the Sheriff could sell.

I returned to Niagara and sent Mr. Long to Mr. Stocking's agent to get the receipt. Mr. Swartz came to my house with it and gave it to me. I gave him a writing that it should be returned when demanded. On the 1st July I enclosed it to Mr. Burns at Toronto, and here follows his letter to me in relation to it :—

“ Toronto. 4th July, 1840.

“ SIR :—I received your letter with its inclosures, namely, Mr. Boulton's receipt and other papers ; you do not inform me from whence you obtained that receipt, or where. The reason why I ask this, is in order to be able for accounting for the non-production earlier of this paper.

“ This document will undoubtedly enable you to obtain a decree against Mr. Boulton to prevent his enforcing the judgment obtained against Dr. Hamilton. It completely refutes all that is stated in the affidavits contradicting Long, and certainly proves Long's statement to be correct. Dr. Hamilton must not be in a hurry to pay the amount, notwithstanding what Mr. Boulton may say to him respecting it.

“ Your obedient servant,

“ R. E. BURNS.”

I immediately took this letter to Dr. Hamilton, but Mr. Boulton insisted on getting the amount of his judgment, and Dr. Hamilton soon afterwards paid it. He told me, that being President of the Suspension Bridge Bank it might be injurious to him to have refused payment. Mr. Burns did, after the money was paid, file a bill in Chancery, and wrote to me to get up all the evidence

I could to sustain it. I have of course plenty of evidence, but I have heard no more of it.

The assizes were to commence at Niagara on the 25th September, 1840. The intended prosecution against Long and myself was much talked about. On the 24th September I started for Buffalo to procure evidence that the schooner sworn to have been sold by me in 1838 was still trading to Buffalo under American colors—still owned by Austin Kellog of Ohio, and chartered by Ezekiah Davis of Dunnville in Canada. It was necessary to get the proof of this, as well as the witnesses Jared Stocking and Captain Edward Powell, who had heard Davis say, a short time before, that he had no title in the schooner that could be sold, and that she was not sold to pay his debts. These two witnesses were residing in the United States—the first at Lewiston, and the latter at Niagara Falls, State of New York. I have also to observe, there is no regular Registry kept in Canada of the owners and charter parties of vessels, as in the United States. I got to Niagara Falls in the State of New York, about 1 o'clock, P. M., and was waiting for the cars to start for Buffalo, when I was arrested at the instance of a deputy marshal—an officer of the Federal Government of the United States, and accused of murder and arson. I was taken before Mr. Bradner whose certificate I have already inserted; after he had examined the witnesses for the prosecution, I was remanded until next day, when a deputy sheriff with a posse arrived and took me on the cars to Lockport and lodged me in Gaol. I employed counsel, made affidavit that my name was Alexander McLeod, not Angus McLeod, as inserted in the indictment found on the 2nd January, 1838, against certain persons for the destruction of the Caroline on the 29th December, 1837, and that I was not at the destruction of the Caroline. I was brought before a Judge on a writ of habeas corpus; an examination was had and the Judge discharged me on the ground that there was no evidence to connect me with the crimes of murder and arson alleged to have been committed by me. I remained some time in Lockport after my discharge unmolested; my counsel told me I was perfectly free to go and come as I thought proper. I returned to Niagara without going to Buffalo, but I brought my witnesses, Mr. Jared Stocking and Captain Powell.

When Mr. Long heard of my arrest at Niagara Falls, he came to me a little before I was taken off to Lockport. I directed him to go to Niagara, to the Assizes, and get our Counsel to delay the prosecution until I could be released and get there with our witnesses. When I arrived at Niagara on the 27th September, Mr. Long informed me that his counsel, John B. Lewis, Esq., had asked Mr. Boulton when he intended bringing on the trial, and that Mr. Boulton had replied that he would not prosecute at all, if Long would agree never to appear as a witness against any of his clients. Such an insolent proposition was spurned with contempt. The Hon. A. McLean, the Judge of the Assize, had sent a special order for the affidavit to be transmitted from the Crown Office to you, Sir Allan, who were then the prosecuting counsel at Niagara, that it might be used against Long and myself for perjury and subornation. We had our witnesses there at great expense, but we have never yet been prosecuted. In 1842 I applied to the same Judge in open Court at Niagara, to have the prosecution gone on with as the charge was hanging over us in terror. It was then alleged the affidavit was lost, but Mr. Boulton rose up and informed the Court that it was in his possession, and had been for two years, but he did not account for how he came by it.

As soon as Mr. Boulton had got the amount of his judgment from Dr. Hamilton another scene in the drama was commenced. The Hon. John Hamilton and Dr. Hamilton, the sureties for their late brother, were served with writs at the suit of Hezekiah Davis and David Davis, and declarations soon followed, accusing me of having sold a Grist Mill and Saw Mill, the property of Hezekiah Davis, and of having received large sums of money from him to pay an execution that had been placed in my hands against him in November 1837, at the suit of Mr. Francis Hincks, and that notwithstanding such sale and receipt of money, I had fraudulently retained the said money arising from such sale, &c., and had wrongfully returned the said execution, Francis Hincks vs. Hezekiah Davis, "nulla bona." The plaintiffs, Hezekiah Davis and David Davis, had sworn to these allegations against me. Mr. Boulton, their attorney, laid their affidavits before the Judges in August, 1840, and commenced the actions against the sureties for this alleged fraud committed by me in the execution of my office as Deputy Sheriff. I shall state the case briefly and truly. In November, 1837, an execution out of the Court of Queen's Bench, and from the office of James Hervey Price, Esq., M. P. P., at the suit of Francis Hincks against Hezekiah Davis, endorsed to levy about £300 of the goods and chattels of the said Davis, was placed in my hands.—Soon after the receipt of the execution, I sent a bailiff to Dunnville to levy on Davis's goods and chattels; when the bailiff returned he reported that he had levied on a Grist Mill and Saw Mill belonging to Davis. In a few days afterwards the disturbances broke out in the Province,—all business was at once brought to a stand in the Sheriff's office, and sales of property levied on could not be effected at any sacrifice. I represented the state of the case to Mr. Price, the plaintiff's attorney, and he consented that the execution of the writ should be delayed until a more auspicious period arrived for disposing of the property levied upon. The next move made on the writ was in the summer of 1838, when Mr. Boulton demanded his execution to be proceeded with. I advertised the mills to be sold on Mr. Hincks' execution as well as Mr. Boulton's; it of course had priority of Mr. Boulton's. The sale at that time was stayed for reasons I have already stated in a former part of this letter. In November 1838, I proceeded to wind up all the executions against Hezekiah Davis, and attempted to make effectual sales of the property he had represented as his, and had it belonged to him as he represented, there was amply sufficient of it to liquidate all the claims in the Sheriff's office against him. A short time before this he had been arrested by one of my bailiffs on a *capias ad satisfaciendum*, but had found means to escape from the bailiff and fled to the United States, where he remained until the spring of next year. But his confidential clerk, Dexter D'Everardo, called on me at the Sheriff's office and informed me that the mills and schooner that Davis had always represented as his property were not in reality his—that the mills were owned by Samuel Street, of Niagara Falls, and that the schooner was the property of Mr. Kellog, a citizen of Ohio, who had chartered her to Davis only. I went at once to Mr. Boulton's office. I found D'Everardo there settling some affairs of Davis's with Mr. Boulton. I communicated to Mr. Boulton in his presence the information he had given me relative to the mills and schooner; he replied that he had no doubt the information was correct. I called on Mr. Street, and he told me that several years before he had sold the mills to Davis for a large sum; that he had given Davis time to pay it in, and had agreed in a written article which Davis had in his possession, to give him

a title to the mills when he had paid up the purchase money and interest ; but as Davis had paid very little more than the interest he had not given him a title ; the mill property, he said, was held by him on lease from the Welland Canal Company at an annual rent, which Davis had agreed to pay to the Company as tenant in possession. I also found that the schooner alleged to be sold on at Chippawa as the property of Davis, was then in the United States under the control of her real owner. Under these circumstances I returned to Hincks's execution "nulla bona," accompanied with a letter to Mr Price stating the facts. Mr. Price then took out an execution against David Davis, one of Davis's endorsers on the note upon which Mr. Hincks had obtained his judgment. Then on the 31st July 1840, after the successful termination of the suit, Boulton against Hamilton, David Davis and Hezekiah Davis repaired to Mr. Boulton's office, in Niagara, and he drew out affidavits for them and had them sworn to and placed before the Court, to prove that I had sold the mills and schooner and had realized sufficient from the proceeds of the said sale, &c., to pay the amount of the execution issued against Davis in November, 1837, at the suit of Hincks, and Mr. Boulton demanded from the Court a *supersedeas* to the Sheriff to abandon the levy made on David Davis, on the grounds disclosed in the affidavits. I have heard that Mr. Boulton, in pleading the case before the Court, insisted that I was a great rogue, pocketing peoples money in the way I had done, and then allowing them to be harrassed with fresh levies on their goods for judgments that had been long before paid to me. The Judges apparently coincided in opinion with him, and granted the *supersedeas* to delay proceedings on the execution against David Davis ; at the intercession of Mr. Robert Baldwin, as counsel for Mr. Hincks, they granted time until the November Term for the plaintiff to file affidavits in contradiction of those filed by the defendants. On the 5th day of November, 1840, I received a letter from Mr. Price requesting me to attend in Toronto to shew cause (if I had any) against the affidavits, as the case would be argued in a few days. I waited on Mr. Price at Toronto on the 7th November, and stated to him the nature of my defence. He said the affidavits filed by the Davises were very clear, and if true, very conclusive against me, and as the Court had decided the cause, Boulton vs. Hamilton, against me upon the same sort of evidence as they had now set up, it was necessary to get the best proof to sustain my own affidavit of the facts, and advised me to go to the frontier at once to procure the necessary affidavits from Mr. Street and others, and also the fact that the schooner alleged to have been sold by me in November 1838, was still entering the port of Buffalo under the same ownership, and that he would get the cause delayed until about the end of the Term, to allow me time to procure my evidence. He said it was apparent to him there was something suspicious in the affidavits made by the Davises, as David Davis had been at his office long after the pretended sales of the mills and schooner, and had paid a large sum to apply on the judgment obtained against him and Hezekiah Davis at the suit of Mr. Hincks, and that even very lately, but a few months before they had made their affidavits, Hezekiah Davis had written two letters to him on the subject of the said judgment, and had begged him to grant a little longer time for him to pay it in, as money was so hard to be got ; and neither of them had ever mentioned a word about the sale of mills and schooner or payments of money on the execution placed in my hands in November 1837 against Hezekiah Davis. He said he would file the letters sent to him by Davis, with an affidavit of his own, stating these facts. I then went

to Mr. Burns, the counsel for the defence of the suits brought by the Davises against the sureties, and he advised me strongly to go to the United States, to procure all the evidence I could to defeat the conspiracy, as if they gained their suits against the sureties for alleged damages, and got the execution, Hincks against Davis, superseded, I would have the whole to pay.

I here insert a certificate from Mr. Burns; it seems only to allude to a conversation I had with him about the middle of July 1840, but I have no doubt he recollects the conversation I had with him relative to these suits I have mentioned on the 7th November, 1840. I know I entered in my journal the conversation I had with him on that day, and there I find it.

This may certify, that shortly before Mr. Alexander McLeod's going to the United States in the year 1840, I advised him to go there for the purpose of looking up evidence in a matter connected with a suit of Boulton vs. Hamilton. Certain matters came to my knowledge after the trial was over that induced me to think that injustice had been done to the defendant, against whom the verdict was. I advised Mr. McLeod who was the party really interested in the suit by reason of his being deputy Sheriff of the District of Niagara, and who must eventually have paid the amount awarded, to go to the United States in order to look up the evidence connected with the matter, that I might proceed and support a bill in Equity to restrain the plaintiff from obtaining an execution in the said matter.

And I hereby certify that I believe that the said Alexander McLeod did proceed to the United States for the purpose of obtaining such evidence as I had advised him to do.

ROBERT E. BURNS,

Counsel of the defendant in the above suit."

I then called on my counsel whom I had employed to get the award made in the cause Hannah Owen Hamilton vs. James Boulton, set aside. He made out an affidavit to be taken by the plaintiff who resided at Queenston, setting forth certain facts on which to ground the application to the Court, to have the award set aside; he said it would be important to show the Court that Long was a competent witness, and that his testimony had been wrongfully excluded by the arbitrators who made the award, and that the motion to set aside the award must be made and the affidavits in support of it filed during that term, or the award would be confirmed. On the morning of the 8th I started for the frontier. I left the affidavit that was to be taken by Mrs. Hamilton with Dr. Hamilton, as she would sign no papers without his advice. I requested it might be ready on my return from Buffalo. I called at Niagara Falls on Mr. Street, and he said that he would write out the facts himself, and as he was going to Niagara the following day he would leave the affidavit in the post office for me. It states very clearly his title to the mills, and that Davis never had a title that could be sold at Sheriff's sale; and also that he had been lately at Dunnville and saw Davis in actual possession of the mills, the same as he had been for seven or eight years, and that Davis told him he would be soon able to pay him some more money due him on the mills. On Saturday, the 9th November, I went to Buffalo and got the witnesses I required. On the morning of the 11th I left with the cars and had to stay all night at Manchester, where I had been formerly arrested, as Captain Powell could not come with me until the next morning. At 1 P. M., on the 12th November, I arrived in Lewiston with all my witnesses, four in number, and on my way down to the Niagara River to embark on the Transit steamboat for Toronto, I was arrested by a constable, with twenty men at his heels, on the old charge of Murder and Arson. I was taken to the Frontier House, kept at

that time by John C. Davis, a brother of Hezekiah's, and one of the endorsers on the note due to Mr. Hincks. I knew this man was one of the fraternity of "patriots," but I had favored him years before when I had executions against him. I therefore drew a little on his sympathy by telling him of the evils I was likely to suffer by being detained, as I had so much business to attend to in the Court of Queen's Bench which was then sitting. He very mildly told me that I might think nothing more about my affairs in Canada—that I would never get there again, and was likely to be provided in board and lodging as long as I lived; he gave a knowing wink at the same time, and said that he was so happy to see me in the situation I was then in, that he would not charge me anything for my board as long as I stopped in his house. I was five days with him; he was as good as his word, and charged me nothing. He told Mr. Westland, a respectable citizen of Toronto, that he hoped I would be hanged; he tried all he could to accomplish his desire—he swore four times against me—he and his brother-in-law, Charles Parke, swore well. This man Davis is now a Tavern-keeper in Chippawa. My examination was commenced that evening before Mr. Bell, whose certificate is inserted, and continued four days; between thirty and forty witnesses were examined for the prosecution, only three or four of whom appeared against me at the final trial at Utica. I brought a number of witnesses from Canada who proved an *alibi*, but it was of no use. The night before I was committed to Lockport gaol, about 10 o'clock, a gentleman muffled up in a large brown cloak, with his face covered with a fur cap, came into my room by permission of the sentinel who was stationed outside my room door; he threw off his cloak and cap, and I at once recognized him as an American gentleman, who had been at my house in July 1838, on a rather delicate mission; he shook his head at me as an intimation not to recognize him. He said he had come from Rochester to see me—that notice of my arrest reached there by express in eleven hours after it took place—that a Chapter of the Grand Eagle was immediately summoned to make arrangements about my disposal. I said, "but, my good sir, I had nothing to do with the destruction of the *Caroline*." He replied, "we all know that as well as you do; your crimes are of a deeper dye in the eyes of all true patriots; our brother Morreau was hung—twenty-four of our brothers are toiling in chains under their cruel British task-masters, fourteen thousand miles from their native land—you are blamed for all this; had you entered into our plans they would have soon got out of that crazy jail in Niagara, and the two miles of land and water that divided them from the land of the tree would have soon been passed. The death of Morreau on the scaffold, and the sentence of death passed upon twenty of his command, was a death blow to our enterprise: when we came to collect our patriots in October that year, we felt the evil that had been inflicted at Niagara. Now, sir, you are in our power, and nothing will be left undone to ensure you the felon's doom. Mark me, you are already surrounded with a cordon of patriots; Ben Lett is within one hundred yards of you, panting for your blood. Major-General Handy is here and all his staff; there are one hundred patriots from a distance in this village to-night; that sentinel at your door, with the musket and bayonet in his hand is one of us, and fought at the Short Hills under the lamented Morreau. There is only one of us your friend in Rochester that knows what I am now saying to you. Be secret as the grave, that you may live. We were much annoyed at your first discharge, but our friends sent word they had no doubt you would be over again, and strict orders were sent to have you secur-

ed. The moment you were seen on our ground on the 9th, you were watched; it was not thought prudent to arrest you in Buffalo, as there they want to get quit of this sort of business, and it is likely you would have been discharged; but you can't get off here. You would die this night were we not now sure that we have evidence sufficient to convict you of murder and arson, and hang you." I need not detail any more of this gentleman's conversation; he was a friend in disguise, and many of the people of Queenston and most of Lewiston, know all he told me was true. The "patriot" General and his staff were there that very night. I asked my sentry, *Gillet*, if he was at the Short Hills, and he told me he was, and that he had escaped by swimming over the Niagara river with a rail under his breast. I told my Rochester friend that my arrest would be so disastrous to me, that I had made a bargain with two men to bring a ladder to my window, about 4 o'clock next morning; have a horse close by for me to mount, and a boat ready at the river to step into; that for this service I was to give them my watch and \$50 in cash, and my note for \$50 when I landed in Canada. He advised me not to attempt it, or I was sure to be shot, for there was a strict watch although I didn't see it. I soon found that this also was true. I mention this anecdote, because it has been often urged that I might have made my escape from Lewiston, if I had tried it; and it was wondered at by those who were not in the secret why such a vast amount of evidence should have been got up against me by the "patriots" and their extraordinary exertions to get me convicted. That body was organized on the principle of strict subordination to their superiors.

In my next letter I will give you a full detail of the real causes that led to my being mixed up with the Caroline affair, and also some curious letters and papers in my hands, that will throw a little more light on the patriot movements of 1837 and 1838. This letter is only my apology for proceeding to the United States in 1840. I find it is much too long already, so I must bring it to a close.

On my return to Toronto, on the 5th November, 1841, I waited on Mr. Price, and he told me that the cause relative to the execution, *Hincks vs. Davis*, was still depending in the Court of Queen's Bench, awaiting my return, and that I was just in time for the Court then sitting in Term, and that I should get my witnesses. I told him I would have to go again to Buffalo for them. I went to my counsel as to the award; he said the time had passed for trying to set it aside, so I have had to put up with the loss. Mr. Boulton gained his point by excluding Long's testimony. I was informed Mr. Boulton had dropped the two suits brought by the Davises against the sureties, as he said their Bonds were exhausted. I found I was completely ruined by the loss of the suits that, in my absence, had been gained against the sureties, and the confirmation of the award. I was penniless, without a home, and in very ill health. A few years before I had been comparatively rich; I had houses, horses, servants, and considered myself pretty independent; now, I found myself reduced to beggary without any fault of my own, for, although much has been said and written against me, I defy any man to prove a dishonest or dishonorable act that I ever committed. My friends (for I still found a few generous souls that were not led away by the *fama clamosa* that had been raised against me) advised me to proceed to England and lay my case before the Government of the Empire, and ask redress for the wrongs I had suffered in a national quarrel. This advice might have been good; but I was in ill health, and had no funds for such a journey. Besides I had been covered with the mist of calumny, and what could I have done towards showing the

real merits of my cause to the British people ? and unpatronized as I was, how could I get Her Majesty or her Government to entertain my complaint against a powerful foreign nation, with whom it is expedient to be on amicable terms ? Had I been confined a year in the dungeons of any of the weak States of the southern portion of this hemisphere, on a charge arising out of obedience to the constituted authorities of my country, I might have expected redress, and probably would have obtained it. But I was right when I told my friends that I need not cross the Atlantic to seek redress ; Her Majesty's Government knew the whole case well, and if they thought proper could grant me the same protection and redress for foreign wrongs on the Banks of the St. Lawrence, as if I was humbly imploring Her Majesty for such redress at Her Royal Palace of Windsor on the Banks of the Thames. I applied to the British Government in a humble memorial sent from Toronto in May, 1842 ; I heard nothing more of it until the 30th January, 1844, when I got a letter from the Chief Secretary, and a copy of the answer to my memorial from Her Majesty's Government. It is not before me, I left it in Toronto, but I remember its purport.

Her Majesty's Government regretted they could do nothing for me. It was well known to me that when I was in prison they had demanded my discharge from the Government of the United States, but it was not granted in consequence of a difference of opinion between the Governments on questions of international law, and therefore Her Majesty's Government could not be justly called upon to do any thing for me in the matter. I had transmitted another memorial to His Excellency, to be forwarded to Her Majesty's Government, but I got an answer very recently from the Chief Secretary, that Her Majesty's Government having already given their decision in the matter, the memorial had not been forwarded.

On my return to the Province, in November, 1841, I found I was completely ruined by such a series of frauds and perjuries perpetrated against me on both sides of the St. Lawrence, as had never been resorted to against any individual on this continent since the eventful morning on which Columbus planted the royal standard of Spain on one of its islands. It was my duty to use every honest means to protect my sureties, and for that purpose I informed Mr. Price that I would proceed again to the United States for my witnesses, to defeat the affidavits made by the Davises to set aside the execution against them at the suit of Mr. Hincks. I was again much blamed for going to the United States. Being in the sitting room of the North American Hotel at Toronto, on the evening of the 5th November, 1841, a gentleman said to me, "well, McLeod, you will never venture back to the United States." I replied, "before to-morrow's sun sets I shall be there." Dr. Dunlop, M. P. P. for Huron, was present and said, "well, if you do go there, the Yankees ought to hang you." I made no reply ; but well did I know that if that generous hearted and talented son of Caledonia had known the true state of my affairs, he would have been the last to have made use of such an expression.

I did proceed on the 6th to the United States and brought my witnesses to Toronto. Evidence was laid before the Judges, who dismissed the *superse-deas* on Mr. Hincks' execution, and he has since been paid by Davis. Complaints had been preferred to the Court of Queen's Bench against Mr. Boulton for the part he had acted as Attorney in these suits. In August, 1842, the unanimous opinion of the Court was given by the Hon. Judge Macaulay. It occupied five hours in reading. It stated that the allegations

against him, as to a knowledge of the want of foundation for the actions brought by himself and the Davises against the sureties for the alleged sale of Mills and a Schooner, and the money made to pay executions against Davis, was clearly substantiated; and for that and other charges that had been proved against him, the Judges sentenced him to be struck off the Roll of Attornies of that Court. His case was subsequently brought before the convocation of Counsellors-at-law, and he was sentenced to be suspended for three months from his profession of Barrister-at-law.

For the last three years I have been employed in the Courts endeavouring to obtain some redress, but being poor I make slow progress; I have endeavored to obtain some employment, but my efforts have not succeeded. I have never earned a shilling towards the support of my family since I was dismissed from imprisonment in the United States, and this is the first time that I have written a line relative to my incarceration and its consequences intended for the public eye, although I know that next to a clear conscience is the good opinion of our fellow men. I am not a literary man, capable of inditing a letter filled with flowery sentences of eloquence; but I know that the unimpeachable veracity of this narrative will command your attention and esteem, more than all the graces of composition, and therefore I have addressed you in the plain and simple language of truth.

And I am, Sir,

Your most obedient,

Humble Servant,

ALEXANDER McLEOD.

Niagara, 4th January, 1845.

