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# Niagara County, New York Its Role in the Patriot War

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### Article abstract

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# Niagara County, New York

## Its Role in the Patriot War\*

by Bruce D. Aikin

### I. Niagara County

Niagara County occupies the most north-western corner of Western New York State.<sup>1</sup> After the American Revolution, settlers began moving west. The area of western New York got few inhabitants because of the difficulty of transporting people and goods there. When Niagara County was originally created in March of 1808, it contained all of what is now Niagara and Erie Counties. On 2 April 1821, Niagara County was given its present boundaries after Erie County was created.<sup>2</sup>

When the Erie Canal was completed

in October of 1825, it opened the area to an influx of settlers.

The Niagara River is the western and part of the southern boundaries of the county. This is the international line between the United States and Canada. William Lyon Mackenzie's rebellion had many supporters across the river. Besides being the location of the attack on the steamboat *Caroline*, Niagara County was involved in the conflict in other ways.

In this article the following will be considered:

- A short history of the *Caroline* and

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\*I would like to thank the following people for their help in the research which made writing this paper possible: Melissa Dunlap, the Executive Director, and Ann Marie Linnabery, the Assistant Executive Director of the Niagara County Historical Society; Catherine Emerson, the Niagara County Historian and Craig Bacon, the Deputy County Historian; the Niagara County Genealogical Society for use of their extensive collection of articles by Clarence O. Lewis; the staff of the Niagara History Museum in Niagara-on-the-Lake, Ontario; the staff of the William Lyon Mackenzie Printery in Niagara-on-the-Lake; the staff of the History Collection at the Metropolitan Toronto Reference Library, Toronto, Ontario; the staff of Old Fort Niagara in Youngstown, New York; Mr. John Grenville of the Kingston Historical Society, Kingston, Ontario; Andrew C. Maines, MLS, PTRC Representative & Government Document Librarian, Buffalo & Erie County Public Library, Buffalo, N.Y., and a special thanks to Dr. John Carter for putting up with the founder of the Sherlockian Procrastinators Society. If I have forgotten to thank someone, please accept my apology.

<sup>1</sup> See Niagara County, New York on Wikipedia.

<sup>2</sup> L.L. Pechuman, *Niagara County and Its Towns*, Publication No. 13 (Lockport, New York: Niagara County Historical Society, 1958) Section 9 – Niagara County 1808 and Section 14 – Niagara County 1821.

### *Abstract*

*This article addresses several topics related to Niagara County, New York: the steamboat Caroline and its destruction and how Americans responded; the secret Hunter's Lodges and, more specifically, their support for the notorious rebel, Benjamin Lett; incidents connected to Navy Island; William Lyon Mackenzie's son James; Alexander McLeod's trial; and the legacy of the Patriot War.*

**Résumé:** *Cet article aborde plusieurs sujets liés au comté de Niagara, New York : le bateau à vapeur Caroline, sa destruction et la réaction des Américains ; les loges secrètes des chasseurs et, plus particulièrement, leur soutien au célèbre rebelle Benjamin Lett ; les incidents liés à Navy Island ; James, le fils de William Lyon Mackenzie ; le procès d'Alexander McLeod ; et l'héritage de la guerre des Patriotes.*

- accounts of its destruction;
- The American response to the attack;
- The secret Hunters' Lodges which were formed to supply the rebels;
- Lockport, New York had one of the most active of the Hunters' Lodges and supported the notorious rebel, Benjamin Lett;
- Two interesting incidents connected to Navy Island;

- William Lyon Mackenzie's son James, who was an officer in the Patriot Army but became a respected judge in the State of Ohio;
- The trial of Alexander McLeod;
- And finally, a brief look at the legacy of the Patriot War.

## II. The Steamboat *Caroline*

There is a popular story that the steamboat *Caroline* was built in 1822, in New York City, for "Commodore" Cornelius Vanderbilt, the railroad and shipping tycoon who at that time was the richest man in the United States. It was actually built in Ogdensburg, New York, in 1824. The boat was seventy-one feet long, twenty feet and six inches wide and had a depth of five feet and six inches. It could carry about forty-six tons of cargo in its hold.<sup>3</sup>

The *Caroline* was run as a ferry boat between Ogdensburg, New York, and Prescott, Upper Canada, after which "she passed through the Welland Canal into Lake Erie."<sup>4</sup>

On 1 December 1837, the *Caroline* was sold by her owner, John B. Mason, to a thirty-one-year-old Buffalo businessman named William Wells for \$800. It was a risky acquisition in view of the serious recession in the country at that time.<sup>5</sup>

With the increasing number of vol-

<sup>3</sup> Document 302, *Congressional Record*, 25<sup>th</sup> Congress, Second Session, House of Representatives, Steamboat Caroline: Message from The President of the United States, April 5, 1838. 63 pages, page 52. (Hereinafter referred to as Doc. 302.) See also Stuart D. Scott, *To the Outskirts of Habitable Creation: Americans and Canadians Transported to Tasmania in the 1840s*, (Bloomington: iUniverse, Inc., 2004), Page 2.

<sup>4</sup> *History of Niagara County, N.Y.*, (New York: Sanford & Co., 1878), 116. It is available online.

<sup>5</sup> Scott, *To the Outskirts of Habitable Creation*, 2.

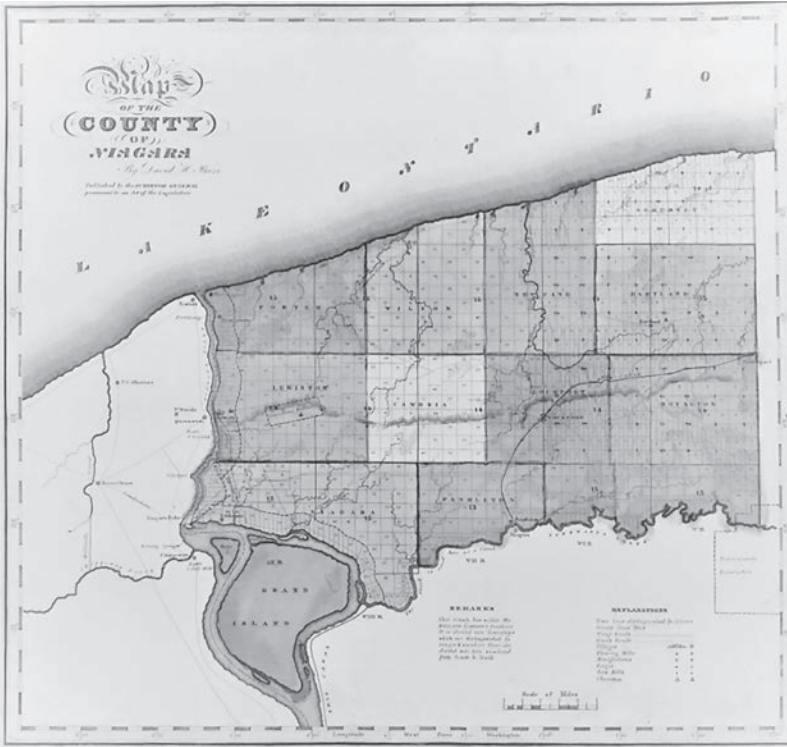


Figure 1: 1829 Map of Niagara County. Courtesy of Ann Marie Linnabery, Niagara County Historical Society.

and went twenty miles downstream to the Schlosser dock, about two miles from the American falls.

The Collector of Customs at Buffalo had cleared the boat for “a normal commercial ferrying of passengers and freight between the canal dam at Black Rock and Tonawanda,

Schlosser Landing, and Navy Island.”<sup>6</sup>

“Early in her downbound run,... someone on board had raised the American ensign, and as the *Caroline* passed by Black Rock, she received sporadic musket fire from the Canadian shore. It was an omen of which Wells should have taken serious notice.”<sup>7</sup>

### III. The Attack on the *Caroline*

There are many descriptions of the attack on the *Caroline*. There are major differences between the American and British descriptions of the attack. Several will be summarized briefly to

unteers for the Patriot “army,” as well as curious “tourists,” gathering on the island, a bigger boat was needed for transportation.

When Rensselaer van Rensselaer approached Mr. Wells about hiring his boat to ferry men and supplies to Navy Island, he only wanted to make some money from his purchase and thought little of the politics involved. So, the boat was chopped out of the winter ice and prepared for ferry service once again.

Wells hired an experienced lake captain, Gilman Appleby, to command the boat. In the early morning of 29 December, the *Caroline* left the port at Buffalo

<sup>6</sup> *Ibid.*, 3.

<sup>7</sup> *Ibid.*, 3-4.



Figure 2: Portion of an 1892 Map of Niagara Falls, New York, showing the location of Schlosser (near Conner Island). Courtesy of the Niagara County Historical Society.

show how the accounts varied.

The *Caroline* was moored at the abandoned dock of Porter, Barton and Company, which was built near Fort Schlosser about 1805. It was abandoned when the Erie Canal opened in 1825.

The *Niagara Democrat* of 12 January 1838, published an extensive account of the attack. That day's issue notes that the account was delayed from its issue of the 5<sup>th</sup> because the Special Message from New York Governor William Marcy took up all the room for news in the paper.<sup>8</sup> Under the title *The Schlosser Outrage*, it gives

both the British and American versions of the story.

Under the *British Account of the Outrage at Schlosser*, there is an account from the *Toronto Patriot* newspaper, and letters from Lt. John Elmsley, R.N. who claimed that he was fired on from Fort Schlosser when he was on a boat in the early morning of 29 December 1837; First Lt. William Lockwood; Col. A.N. McNab, and several others whose statements supported the British account. Col. McNab's letter reads:

Copy of a letter from colonel A.N. McNab,

<sup>8</sup>The 5 January 1838, issue of the *Niagara Democrat* is missing, but the full text may be found in Charles Z. Lincoln, ed., *Messages from the Governors (of the State of New York)*, Vol. III, 1823-1842 (Albany: J.B. Lyon, State Printers, 1909), 2 January 1838, William L. Marcy, special address to the Legislature about the *Caroline*, 678-80. The *Niagara Democrat* was a weekly newspaper which published on Fridays. All of the historic newspapers may be found on the website NYS Historic Newspapers, under Niagara County.



colonel commanding, to the hon. Jonas Jones, A.D.C.:

Sir – I have the honor to report for the information of his Excellency the Lieutenant Governor, that having received positive information that the pirates and rebels upon Navy Island had purchased a steam-boat called the *Caroline* to facilitate their intended invasion of this country, and being confirmed in my information yesterday by the boat (which sailed under British colors) appearing at the Island, I determined upon cutting her out: and having sent Capt. Drew, of the royal navy, he in a most gallant manner, with a crew of volunteers (whose names I shall hereafter mention) performed this dangerous service, which was handsomely effected. In consequence of the swift current it was found to be impossible to get the vessel over to this place, and it was therefore necessary to set her on fire. Her colors are in my possession. I have the honor to be sir,

Your ob't. humble servant,  
A.N. McNab, col. com'ng.

P.S. We have two or three men wounded – and the pirates as many killed. A.N. McNab.

## Under COUNTER AFFIDAVITS

State of New York, Niagara County} Horatio Parsons, of the town and county of Niagara, being duly sworn says, that he resides at the place called Fort Schlosser, about twenty rods from the site where said Fort once stood, in full view of Navy Island and many other Islands in the Niagara river; also of Field's tavern, Porter's store-house, and the village of Chippewa, on the opposite bank; that very early on the morning of the 29<sup>th</sup> of Dec. 1837, he saw a boat coming round the north side of Navy Island, which was immediately fired at from the Island: that he being then by the river's edge, watched said boat the whole time till it passed round

Navy Island, and landed at Chippewa: that while the boat was in sight there was no firing of cannon, muskets or rifles at or near the site of old Fort Schlosser, nor within hearing from any quarter except from Navy Island: that there was no heavy ordnance of any kind at or near said place that day, and though he saw many people from different points looking at the boat above named, he did not see a single man armed with a musket or rifle during the passage of said boat around the Island. Said deponent further says that he has seen a published letter, purporting to be from "J. Elmsley, Lt. R.N. to hon. Col. A.N. McNab, &c" dated 29<sup>th</sup> Dec. 1837, 8 o'clock, A.M. in which he says he saw two discharges of heavy ordnance from a point on the American shore near Fort Schlosser, and that as soon as the boat above named had passed the firing ceased; and that the said deponent the above statement of J. Elmsley to be wholly without foundation. Signed,

Horatio A. Parsons.

Sworn to before me, the 8<sup>th</sup> day of January 1838. Chas. A Parsons, J.P.

There were also affidavits from Olaf Hathaway, Asa W. Douglas, J.E. Strong, and W.A. Seaver, attesting to the truth of Mr. Parson's statement.

Among the comments printed below these affidavits is the following: "Capt. Appleby, and others with him, swear that no armed men were on the *Caroline*—that the flag of the boat was an American one—that the boat was not the property of the Navy Islanders, but of William Wells of Buffalo."

Several other short articles in the *Niagara Democrat* are of interest.

Approval of the Outrage at Schlosser by the British authorities – We have before us



Figure 3: Sir Alan McNab Source: Wikipedia.

the St. Catharines Journal which contains a communication from Col. M’Nab, stating that “the service of cutting out the *Caroline* meets the unqualified approbation of the Lieut. Governor.”

Indictment of the Murderers— The Grand Jury of this county, at their recent session, indicted for murder, in the *Caroline* affair, M’Nab, Moshier, M’Cormick, Chalmers, M’Leod, Leland, Jarvis, Warner, Ridgley and M’Donald. We are informed by District Attorney Stevens that a copy of the Indictment was forthwith despatched to the Governor.

## ANOTHER OUTRAGE

It was reported yesterday by a gentleman from Toronto, at the Falls, and generally believed there, that three American schooners had been dismantled by the British at a port

below Toronto. The vessels were owned in Oswego, and had been sent across the Lake with cargoes of salt; after the discharge of their loading, the vessels were attacked by a mob, who tore to pieces their rigging and cut away their masts. What excuse will be found and urged for this act remains to be seen. Undoubtedly Col. M’Nab regards this as another “dangerous service;” at all events, he, and all whose excessive loyalty leads them to the commission of such acts as burning and destroying our vessels and murdering our defenceless citizens upon our own shores, will find it emphatically a “dangerous service.”

The American version of the destruction of the *Caroline* is described by Samuel De Veaux, a judge and prominent businessman in Niagara Falls. In 1839, he published a book *The Falls of Niagara: Or, Tourist’s Guide To This Wonder Of Nature, Including Notices of the Whirlpool, Islands, &C. And A Complete Guide Thro’ The Canadas.*<sup>9</sup>

In the book he writes of the attack on the *Caroline*. If he sounds uncertain, he had good reason: his second wife, Sarah Woodruff McCulloch, was from Upper Canada and two of her brothers, William and Richard Woodruff had both been members of the Legislative Assembly, and were vocal critics of the “Family Compact.” The political leaders used the rebellion as an excuse to harass their opponents even though they took no part in violence.

In the spring of 1838, Samuel and Sarah De Veaux went to visit her brother, William, in St. Davids, Upper Canada. “[Samuel] was a small man, and how or

<sup>9</sup> Samuel owned the land around the American side of the Whirlpool and charged 25¢ per person to see it.

when the story originated that he was Mackenzie in disguise was never known. But so it was. A detachment from Queenston was sent to St. Davids. Mr. Woodruff's servants were first interrogated, and he was then taken from his bed to Queenston for examination. Fortunately for himself, he was able to prove that he was not harboring a rebel."<sup>10</sup>

Samuel had to be careful in relating his account to avoid giving the authorities in Upper Canada an excuse for further harassing his wife's family.

The Expedition to Navy Island, and Steam-Boat *Caroline*<sup>11</sup>

About the middle of the month of December, 1837, twenty-eight men, principally Canadians, with Rensselaer Van Rensselaer and William Lyon Mackenzie, went on Navy Island. They called to them the patriots of Canada, and all others the friends of that cause. In the space of three weeks, between three and four hundred responded to the call: some from the United States, and some from Canada.

They stayed on the island for about a month. On the Canadian shore were assembled five thousand men loyal to the British authorities. They sometimes exchanged cannon fire. On the night of 29 December, when the *Caroline* first arrived, many of the combatants went to the dock at Schlosser. The American authorities arrived, confiscated their

arms, and ordered them to disperse. An expression of one of the leaders, before leaving, was – "I fear not my enemies but my friends." The only building there was a tavern. Many of the curious men who were only there to watch the battle and were not armed could not be accommodated for the night. Seeing the boat moored there they begged to sleep on the boat. Twenty- three were allowed to stay for the night.

When the *Caroline* was attacked there were no rebels on board. No resistance to the attack was made.

One man was shot dead on the wharf, and twelve were missing, either killed, or burnt and sunk with the boat. They towed the boat out in the river, and set it on fire...[It disappeared] just below the point of Iris Island.<sup>12</sup> In justice to both sides, it should be stated, that the accounts of the different parties connected with the destruction of the *Caroline*, differ entirely from each other, as to the character of the vessel, the resistance made by the persons on board, the number killed, and in various other particulars. These the author leaves to be settled by the politicians of the two nations. The account which he has adopted, is the one first impressed upon the American public: if it is not correct, he does not hold himself responsible for it.

Former Niagara County Historian, Clarence O. Lewis,<sup>13</sup> tells of a British account of the attack on the *Caroline* in his weekly column which appeared on 12 August 1959.

<sup>10</sup> Norris Counsell Woodruff, *Twelve Generations from the Colony of Connecticut in New England and the Province of Upper Canada 1636-1959: A Woodruff Genealogy*, 40. It is available in the Niagara Falls, Ontario, Public Library.

<sup>11</sup> Excerpt from Samuel De Veaux, *The Falls of Niagara: Or, Tourist's Guide to this Wonder of Nature, Including Notices of the Whirlpool, Islands, &C. and a Complete Guide Thro' the Canadas* (Buffalo: William B. Hayden, Press of Thomas & Co., 1839), 77-79. Reproductions are available from amazon.com.

<sup>12</sup> An old name for Goat Island.



Figure 4: President Martin Van Buren. Source: Wikipedia.

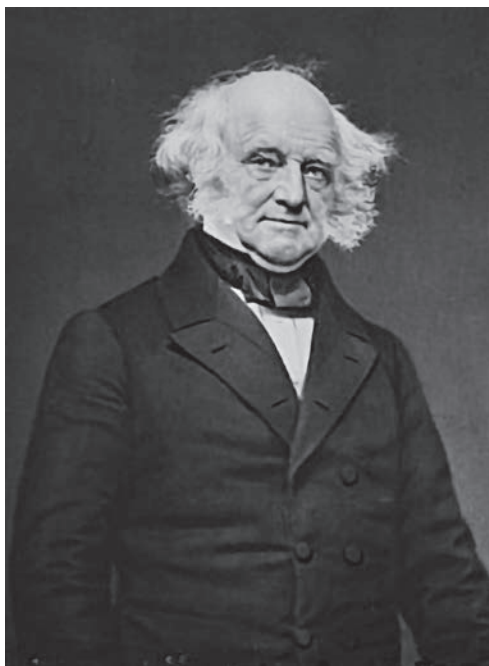
Referring to the Lockport Niagara Democrat of Jan. 12, 1839 we find details of the actual attack on the *Caroline* copied from the Toronto Patriot of Jan. 2, 1839. This article is particularly interesting not only because it is the English version of the incident and somewhat different from the American version but also because it glorifies the English volunteers who according to the American version, were cold blooded murderers.

“Nine boats with nine volunteers in each set out from Chippewa Creek at 10 p.m. on Dec. 29, 1837. Capt. Drew, of the Royal Navy, was in command. Only four of the boats made their way to the *Caroline*.”

The sentry on board fired at them, but missed. He was killed by one of the attackers.

Twelve or 15 of our brave volunteers were instantly on the deck of the steam-boat. ...the pirates lost five men killed. The number of pirates on board were about 30 well armed and a great number of them were onshore firing rifles from a distance and in the dark regardless of whether they killed friend or foe. Such is the courage of criminals.

This is the only account which claims that the *Caroline* was flying the Rebel flag which was “a tri-color with two stars.” “The piratical steamboat was towed a short distance out, set thoroughly in a blaze and in about an hour... went thundering over



the falls... This glorious achievement has not cost us a single man.... Thus perished every foe to Britain!”<sup>14</sup>

On 5 April 1838, President Martin Van Buren sent the U.S. House of Representatives a report on the Steamboat *Caroline*. Part of the report was a transcription of the first indictment of the Niagara County Grand Jury for the attack on the boat and the murders of a number of men on board. The Lockport newspaper listed ten men indicted for the murders, the indictment listed twelve.<sup>15</sup>

One of the witnesses reported that

<sup>13</sup> Clarence O. Lewis (1880-1971) was the Niagara County Historian for twenty years after he retired from farming. His weekly columns on county history appeared in the *Niagara Falls Gazette* and the *Lockport Union Sun & Journal* from 1952 to 1969. Information from the Niagara County Genealogical Society.

<sup>14</sup> Clarence O. Lewis, “Lockport newspaper of 1839 Tells of Burning of Ship,” *Niagara Falls Gazette*, 12 August 1959.

<sup>15</sup> Document 302, pages 31-37. The list given in the indictment was: McNab, Mosier, Chalmers, McLeod, Usher, Zealand, Warrens, Warrens, Rigley, McCormick, McDonald, and Jarvis.

one of the attackers said that he had bolted the hatch of the boat and that “it went over the falls with twenty-odd in it.” Other witnesses claimed the number killed was eleven. It was claimed that “Sheriff” McLeod’s name was mentioned. Amos Durfee, whose first name was incorrectly given as William, was reportedly shot. McLeod was not mentioned in connection with the shooting. Instead, he allegedly bragged that “his sword drank the blood of two men on the *Caroline*.” It was also claimed that a cabin boy, Little Billy Johnston, was shot. Curiously, this claim only appears in the first indictment and never in any contemporary newspaper or any other account. This account was not released to the public, but was seen by the governor of New York, President Van Buren’s cabinet, and Congress.

In 1864, Andrew Drew, who led the attack on the *Caroline* and was then a Rear Admiral, published his own account of the event.<sup>16</sup> It reads like an adventure novel with himself as hero. His story contradicts earlier accounts and must be treated with caution.

According to Drew, when he and his men were attacking the *Caroline*, they had to wait silently beside the boat until the bright moonlight was gone, which took until after midnight. Drew then mounted the side of the boat and found himself on deck alone, facing three men. He ordered them off the boat. He thought they were

complying when one of the men grabbed a musket and fired at him.

...how the ball missed me I do not know; but he was too close to take aim, and it passed me. I thought this an act of treachery, and that I need show him no mercy, so with the full swing of my arm I gave him a cut with my sword over the left temple, and he dropped at my feet. In another second one of the other men put a pistol close to my face and pulled the trigger; fortunately it flashed in the pan, or I should not have been here to have told the tale.

Everyone on board was forced off the vessel which was then set on fire. As the burning ship was moving down river, Drew realized he and another man had been left behind by all of the boats. He called and one of the boats heard him and returned to save them. They successfully returned to the Canadian shore, where they watched the *Caroline*.

By this time the burning vessel was fast approaching the Canadian shore, and not far distant. Of all the marvels attending this novel expedition, the course which the steamer took of her own accord was the most wonderful. When free from the wharf at Fort Schlosser, her natural course would have been to follow the stream, which would have taken her along the American shore and over the American Falls; but she acted as if she was aware she had changed owners, and navigated herself right across the river, clearing the Rapids above Goat Island, and went as fairly over the centre of the British Falls of Niagara as if she had been placed there on purpose.

<sup>16</sup> Rear-Admiral Drew, “A Narrative of the Capture and Destruction of the Steamer *Caroline* and her descent over the Falls of Niagara on the Night of the 29th of December, 1837,” For Private Circulation (London: Spottiswoode & Co., 1864) 10-12. Originally obtained from the History Collection of the Toronto Reference Library. It is now available online.

There are several things which need to be noted about all these descriptions:

1. The *Caroline* did not go over the falls:

The propaganda war, however, was also forwarded by Mackenzie, no novice in that field himself. The weight of evidence is that the captured *Caroline* did not go over the Falls in flames, or with passengers aboard, but being tied up out of service, was towed away and set afire to drift. She went aground not far down-river, burned and broke up there, where the debris could be seen for years to come. But that did not stop the myth-makers, Mackenzie in the lead.<sup>17</sup>

From Navy Island the Americans watched the spectacle of the *Caroline*'s blazing tracery against the blackness of the night as it drifted irresistibly toward the falls. Though shallow-drafted, she grounded in the rapids above the falls and continued to burn to the waterline.<sup>18</sup>

2. There was only one man killed in the attack on the *Caroline*, a black stage-coach driver named Amos Durfee. It took quite a while for all the other men on the boat to be accounted for.<sup>19</sup> Rear-Admiral Drew does not mention the killing of Durfee.

3. The flag flown by the *Caroline* is described by Col. McNab as being a British flag, by Gilman Appleby of the *Caroline* as an American flag, and by the account of 2 January 1839, "a tri-color with two stars," which was the Patriot Rebel flag. "In April, 1838, at the annual dinner of the St. George's Society in Canada the flag of the *Caroline* hung as a trophy behind the president's chair, and the officers present were applauding." The flag is not described so it is not possible to know which one it was.<sup>20</sup>

4. Accounts say that the rebel forces on Navy Island numbered from 1,500 to 2,000 men.<sup>21</sup> The account by Samuel De Veaux said three to four hundred and the letter from Captain Daniel Dobbins of the U.S. Revenue Cutter *Erie*, quoted below, said five hundred. The lower number range is probably the most accurate.

## IV. American Response to the Attack

On 8 January 1838, President Van Buren sent a report to the House of Representatives, in response to a resolution passed on 5 January. The report was

<sup>17</sup> From J.M.S. Careless, *1837 Rebellion Remembered* (Ontario Historical Society, October 1987). The Aftermath of the Rebellion, 155.

<sup>18</sup> From Stuart D. Scott, "To the Outskirts of Habitable Creation: Americans and Canadians Transported to Tasmania in the 1840s," (Bloomington: iUniverse, Inc., 2004), 6. (Dr. Scott was the founder of the Archaeology Program at Old Fort Niagara.)

<sup>19</sup> *The Avalon Project of the Yale Law School: The Caroline*, says, "It was subsequently ascertained, however, on further investigation that of the persons on board the only ones missing were Durfee and the cabin boy, Johnson, popularly known as 'Little Billy,' both of whom were shot as they were leaving the steamer." Available online. The cabin boy is only mentioned in the first indictment of 3 January, 1838.

<sup>20</sup> David Young, *Historical Facts and Thrilling Incidents of the Niagara Frontier* (Niagara Falls, N.Y.: Journal Print, 1895). The Burning of the *Caroline*, 83. It is available online at Internet Archive.

<sup>21</sup> Clarence O. Lewis, "Navy Island Battle Is Recalled," *Niagara Falls Gazette*, 19 December 1962.

Figure 5: General Winfield Scott. Source: Wikipedia.

about Mexico, Texas, and Canada. It detailed the correspondence between the Secretary of State, John Forsyth, the federal attorneys and governors of Vermont, New York, and Michigan about the violations of the neutrality laws. The frustration of these officials at being unable to stop raids into Upper Canada is obvious. The governors wanted federal troops stationed along their borders.<sup>22</sup>

The response of Van Buren to the attack on the *Caroline* has been described as “timid.”<sup>23</sup> In fact, he had little choice. The Indian Displacement Act had been passed in 1830, under Andrew Jackson. It forced all the Native American tribes in the southeastern states to move west of the Mississippi River. Van Buren continued the policy. At the time of the attack on the *Caroline*, the United States Army consisted of 7,000 men 5,000 of whom were in Florida fighting the Second Seminole War and most of the rest were moving the native tribes to the Indian Territory. So, the president had no troops available to send to the Niagara area.

Van Buren received word of the attack on 4 January 1838. General Winfield Scott was in Washington, D.C. to confer about the continuing removal of the Indians, of which he was the commanding officer. Van Buren sent him to Niagara to maintain peace. The president



ordered all available federal resources to be placed at General Scott’s disposal. He also asked New York Governor William Marcy to place any necessary militia units under his command.<sup>24</sup>

One note needs to be made about the New York militia at this time. The federal government had been unhappy with the lack of support which New York had provided during the War of 1812. A law was enacted requiring every male of legal age to join the New York state militia. There were few exemptions. Many men who never heard about the law were fined for not complying. This is the reason so many men in the state had military titles.<sup>25</sup> So the forces available to General

<sup>22</sup> Congressional Record, House Document No. 74, 25th Congress, 2d session, serial 323, January 8, 1838. Pages 25 to 54 dealt with Upper Canada.

<sup>23</sup> Email from Shaun McLaughlin, 3 April 2014.

<sup>24</sup> Young, *Historical Facts*, 79.

<sup>25</sup> Information from Melissa Dunlap, Executive Director of the Niagara County Historical Society.



Scott were significant.

The U.S. Revenue cutter *Erie*, was ordered to come to Niagara to help intercept the theft and transport of arms for the rebels. A letter from its captain, Daniel Dobbins, to his wife, Mary, is of particular interest.

On board the U. S. Revenue Cutter *Erie*

Black Rock January  
16th 1838

Dr. Wife:

We arrived at Buffalo this morning at 8 o'clock all well. At four p. m. Mr. Barker the Collector came on board and ordered us to this place, to protect the Steam Boat *Barceloni* [Barcelona], in going up the rapids from the British who had three schooners above here mounting on board each from two to three guns, we did expect we would have had a Brush with them, but nothing of that kind took place. The shores on both sides were lined with men, to see the sport, but they were disappointed, and no attempt has been made to intercept her this far.

The Patriots on Navy Island have abandoned that Island, and dispersed. Genl. vanransleer is in Buffalo who was arrested and held to Bail.

I expect I will be ordered down the river in the morning to look for the Cannon and

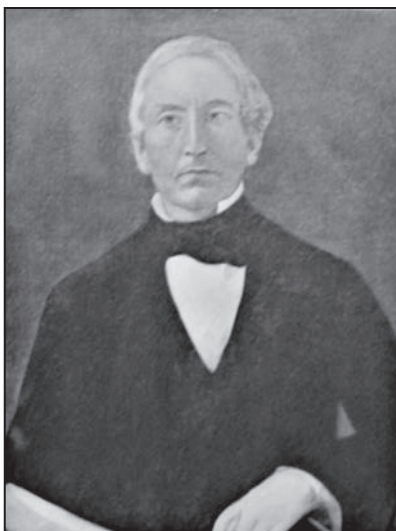


Figure 6: Judge Samuel De Veaux. Courtesy of the Niagara Falls, New York, Public Library.

other arms taken by the Patriots, from this side and not taken away by them, it is reported that they have gone up the Lake, some say to Vanburen Harbour, to cross over but that I do not believe. I shall keep you advised of the movements as they occur. They say here that there was but five hundred on Navy Island. I hope the difficulty is about over.

Your husband,  
Daniel Dobbins.<sup>26</sup>

After the destruction of the *Caroline*, the rebels tried to get another boat, the *Barcelona*, but General Scott prevented that from happening. The British forces had threatened to destroy it, but Scott assured them he had taken command of the vessel.<sup>27</sup>

The Patriot War proved to be such a problem that the size of the army was increased. On 18 July 1838, *The Niagara Democrat & Lockport Balance* reported: "Increase of the Army— The bill increasing the military establishment of the U. States, by adding 4,500, rank and file, to the present number (7,000) making in all some 12,000... passed the House of Representatives on Monday..." The troops were used to combat the rebel forces in the western part of Upper Canada.<sup>28</sup>

<sup>26</sup> Publications of the Buffalo Historical Society, Vol. VIII, 1905, *The Revenue Cutter and the Rebels* 122-128, p. 123.

<sup>27</sup> Young, *Historical Facts*, 81-82.

<sup>28</sup> See John C. Carter, *Piratical Doings on the River St. Clair, 1838* (St. Clair: Heritage St. Clair, 2020).



## V. Hunters' Lodges

There are many accounts of how the Hunters' Lodges got their name. There are many variations which say that the name came from a man named Hunter, but where he lived and the circumstances are so numerous that their credibility must be doubted. The name probably came from the Lower Canadian rebel group, *Frères-Chasseurs*, which translates into "hunter brothers," or "hunter brotherhood."<sup>29</sup>

The slogan of these Hunters' Lodges was "Remember the *Caroline*" and the avowed purpose of their organization was not only the relief of Canadian refugees but the preparation for a concerted movement to invade Canada. With this violation of International Law as an objective, they necessarily became strictly secret lodges. Some 2,000 of them came into existence.

The Hunters' lodge in Lockport was one of the most active. Dr. Alexander MacKenzie was the organizer and first master. The lodge met "in a house on Main Street." Dr. A. MacKenzie was authorized to organize lodges in many other places and particularly to "solicit members among the Canadian refugees."<sup>30</sup> On 19 March 1838, at a meeting held in Lockport,

a committee of 12 was appointed to secure information relative to the Canadian refugees in the United States. Their number, location, and condition, were among the things to be ascertained. The committee was also instructed to draw up articles of association by means of which their sufferings might be mitigated and a redress of grievances obtained and to adopt such other measures as in their discretion might best conduce to their welfare. The name given to this association was "Canadian Refugee Relief Association." Dr. Alexander MacKenzie, at one time a resident of Hamilton, Upper Canada, was made president of the association. His headquarters were to be at Lockport, where all correspondence was ordered to be directed. Agents were to be sent throughout the Union in the interests of the society and for the purpose of establishing branch unions.

Also on the list of twelve is Dr. Alexander K. McKenzie, a member of the Lockport Freemasons Lodge No. 73.<sup>31</sup> He placed a weekly advertisement in the *Lockport Democrat and Balance*, from 1837 to 1841:

A.K. McKenzie – Physician, Surgeon and Accoucheur, office in J. Hawley's building, rear of E. Newton's law office, Main Street, Lockport. Residence, Mormon's boarding house, Market Street.

Charges moderate – advice to the poor gratis. [Accoucheur is an archaic term for "one

<sup>29</sup> Shaun J. McLaughlin, *The Patriot War Along the New York-Canada Border: Raiders and Rebels* (Charleston: The History Press, 2012), 57.

<sup>30</sup> Clarence O. Lewis, "Navy Island Battle Is Recalled," *Niagara Falls Gazette*, 19 December 1962.

<sup>31</sup> Clarence O. Lewis, "Lockport Incident Brought U.S. Close to War," *Niagara Falls Gazette*, 26 December 1962. The variations in the spelling of the name McKenzie, MacKenzie, Mackenzie, are a matter of personal preference of the individual families. They all belong to the same Scottish clan. Information from the Rochester Scottish Heritage Society of Rochester, New York at the Niagara Celtic Heritage Festival in Lockport, New York.



Figure 7: Gravestone of Dr. Alexander K. McKenzie, Cold Spring Cemetery, Lockport, New York. Photo by the author.

There is not enough information available to resolve this question.

## VI. Benjamin Lett

The notorious rebel, Benjamin Lett, is only mentioned in one paragraph in the 1878 *History of Niagara County*, and that was in the article about Alexander McLeod. During the Patriot War he “made his headquarters in Lockport.”

In April, 1840, Lett blew up Brock’s monument with gunpowder. He was engaged in a number of desperate acts. With an accomplice named William De Field, he fired the steamer “Great Britain” at Oswego. He went to the house of Captain Fisher (Ussher), in Chippewa, and calling him to the door, shot him. He blew up a lock on the Welland canal and attempted to blow up the locks at Belleville, in Canada. He was finally sentenced to imprisonment and served a number of years, and was at last found dead on the beach at Mackinaw, Lake Michigan. He claimed to have been incited to such desperate deeds in consequence of his two sisters and mother having been brutally treated by two British officers.<sup>35</sup>

Benjamin Lett did not conduct a “personal war”<sup>36</sup> on the British in Upper Canada. Everything Lett did was approved and paid for by the Hunters’

that assists at a birth.”]<sup>32</sup>

The similarity of these two men’s names, a coincidence, has caused confusion. It was said of Dr. Alexander K. McKenzie that for his participation in some organizational activities his medical patients gradually deserted him and he finally left Lockport.<sup>33</sup> Actually, this could refer to Dr. Alexander MacKenzie of Hamilton? Dr. A.K. McKenzie died on 23 March 1845, in Lockport<sup>34</sup> and is buried in Cold Spring Cemetery.

<sup>32</sup> Miriam-Webster online dictionary.

<sup>33</sup> Lewis, “Lockport Incident Brought U.S. Close to War,” *Niagara Falls Gazette*, 26 December 1962.

<sup>34</sup> Find A Grave: Alexander K. McKenzie (Doctor); Birth: unknown (5 November 1794); Death: 23 Mar 1845; Burial: Cold Springs Cemetery, Lockport, Niagara County, New York, USA. Plot: Section B Lot 47; Find a Grave Memorial #: 60915021; Bio: Age 50 years, 4 months and 18 days.

<sup>35</sup> *History of Niagara County*, 172, The McLeod Excitement. It is available online.

<sup>36</sup> McLaughlin, *The Patriot War*, 102.

Lodges, with one possible exception. On 28 September 1839, a convention of Hunters' Lodges was held in Lockport to consult upon and adopt a plan to put their wishes into effect. There were a number of Hunters' Lodges along the border in Canada. Five Canadian delegates from these lodges were present at the convention.<sup>37</sup> Their "wishes" had been expressed in previous meetings: "That we are engaged in a cause calculated to create ill feeling between Great Britain and the United States, that may ultimately bring on a national war between these two powers." The delegates planned the blowing up of Brock's Monument and the Welland Canal lock as well as the destruction of the British steamer *Great Britain*, then at Oswego. Benjamin Lett started out from Lockport to accomplish these tasks with the blessing of the Hunters' Lodge.<sup>38</sup> Lett also received \$1,000 as a prepaid reward from the Hunters' Grand Lodge in Buffalo before the monument was blown up on 17 April 1840.<sup>39</sup>

There is some uncertainty as to whether the Hunters' Lodges authorized

Lett's murder of Captain Edgeworth Ussher on 16 November 1838, but as Ussher was the pilot for the seven boatloads of English soldiers who attacked the *Caroline*<sup>40</sup> it is likely they did.

## VII. Navy Island

The Rebel occupation of Navy Island led to some interesting situations. Two of them will be given brief summaries. The last section of the Erie Canal to be completed ran through Lockport. This was due to a geological formation of very hard rock.<sup>41</sup> Many Irish immigrants were put to work on the project which took so long that many of them settled there permanently and formed a large portion of the town's inhabitants.

A company of soldiers named the "Irish Greens" was recruited in Lockport by Capt. Daniel Bosserman and Isaac Mapes... Their uniform was a short green jacket, white pants with a red stripe; and high military boots completed the outfit. They joined the forces on Navy Island presumably by way of the "Strap" Railroad to Niagara Falls<sup>42</sup> and by boat from Schlosser to Navy Island.<sup>43</sup>

The men were drawn from the Irish im-

<sup>37</sup> Clarence O. Lewis, "Rise and Fall of Hunters Lodge Movement," *Niagara Falls Gazette*, 9 January 1963.

<sup>38</sup> Lewis, "Lockport Incident Brought U.S. Close to War," *Niagara Falls Gazette*, 26 December 1962.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> The formation is called Lockport Dolostone. See *dolostone* on Wikipedia. This layer of rock is the reason that Niagara Falls exists.

<sup>42</sup> A strap railroad used heavy oak boards with a strap of iron about two and one-half inches wide and half an inch thick attached on top. Raymond F. Yates, *The Old Lockport and Niagara Falls Strap Railroad*, Occasional contributions of the Niagara County Historical Society—No. 4, June 1950 (Lockport, New York: Niagara County Historical Society), 4.

<sup>43</sup> Clarence O. Lewis, "Patriot War of 1837-38 Against Canada Found Support Among County Residents," *Niagara Falls Gazette*, 3 June 1954. In 1845 a new militia company was formed in Lockport. They were officially designated as the Niagara Hibernian Volunteers, 66<sup>th</sup> Regiment, 31<sup>st</sup> Brigade and 8<sup>th</sup> Division of the New York State Militia. They were called "The Irish Greens." Their uniforms were the same

migrants and their families in Lockport.

There was also a strap railroad from Niagara Falls to Buffalo. On Thursday, 4 January 1838, William Lyon Mackenzie left Navy Island to take his wife to Buffalo for medical attention. What happened is related in *The Journal of Mary Peacock*, a seventeen-year-old girl who was attending boarding school in Buffalo, New York.

Friday, January 5<sup>th</sup>, 1838

Mr. McKenzie, the patriot, was taken yesterday so we heard today, as he and his wife were coming to this City from Navy Island in the cars. They chanced to get into the same cars with those persons who were on the watch for him. It was by mere chance that they took him. He was brought to this place and confined in a room at the American Hotel. There was a concourse of people around the American during the whole night last night, demanding for Mr. McKenzie to be liberated. It was expected that there would be a mob and they would get him away by force. This morning he was bailed out by a large number of the principal citizens for several thousand dollars, and has returned to Navy Island.<sup>44</sup>

## VIII. Patriot Newspapers and James Mackenzie

There were several newspapers started by and devoted to the cause of the

Hunters' Lodges in Niagara County. In Lewiston, Samuel P. Hart published the *Lewiston Telegraph* and Thomas Scovell, the *Frontier Sentinel*. In Lockport, the *Freeman's Advocate*, a two-page weekly and *The Daily Bulletin*, a one-page 8x10 sheet printed on one side only.<sup>45</sup> The Lockport Patriot papers were published by James Mackenzie, William Lyon Mackenzie's oldest son.

James was born in Scotland, July 14, 1814.

He learned printing in his father's office. During the Patriot War he was on Navy Island. And then as an officer he went west to Detroit and participated in the battles of Point A'Pelee and Fighting Islands. He went East, and after aiding various movements, moved to Lockport, N.Y., and began to publish the *Freeman's Advocate*. It was sustained for nearly a year, encountered Van Buren's proclamation of neutrality, had a large circulation in several States on the frontier; but when the expedition under Gen. Bierce failed at Sandwich in 1839, it was discontinued.

While in Lockport he started to study law with Lumen Nicholls. James worked for two newspapers in Rochester. He moved to Ohio, and continued his law studies under Bishop & Backus, of Cleveland. He was admitted to citizenship and to the bar in 1843. He held several political offices including the prosecuting attorney of three counties,

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as the men who joined the Patriots on Navy Island. Many of the Irish Greens were veterans of the Patriot War. Clarence O. Lewis, "Irish Greens Regiment Was Organized In 1845," *Niagara Falls Gazette*, 17 June 1964.

<sup>44</sup> *The Journal of Mary Peacock: Life, a Century ago, as seen in Buffalo and Chautauqua County by a seventeen-year-old girl in Boarding School and elsewhere*. Privately Printed, (Buffalo, New York: 1938). It is available online.

<sup>45</sup> Clarence O. Lewis, "Lockport Incident Brought U.S. Close to War," *Niagara Falls Gazette*, 26 December 1962.



a member of the Ohio State Legislature and, in the fall of 1865, an elected judge of the Court of Common Pleas of Allen County, a position he held until February 1879. At the close of his judicial career, he was praised for his excellence in the discharge of his duties.<sup>46</sup>

## IX. Alexander McLeod

Of the twelve men indicted by the Niagara County Grand Jury for the destruction of the *Caroline* and the murder of Amos Durfee, only one of them was ever tried in a court of law. The M'Leod named in the indictment was Alexander McLeod. He was originally a supporter of William Lyon Mackenzie's reforms, but changed his mind when Mackenzie turned to advocating the violent overthrow of the government. McLeod got a job as a Deputy Sheriff from Alexander Hamilton, the Sheriff for the Districts of Lincoln and Niagara.

In September of 1837, McLeod was involved in an incident which roused a great deal of anger against him. In May of that year, Solomon Moseby, a slave from Kentucky, had escaped to Upper Canada. Because he had stolen a horse to escape his owner had gotten a warrant for his arrest. About two hundred of the black residents of Newark kept a vigil outside of the jail. On 15 September, McLeod, with the assistance of four soldiers, attempted to return Moseby to the United States.

The result was Canada's first race riot. Moseby escaped and was never recaptured. A man named Green and the Rev. Herbert Holmes, both of whom were black, were killed. Newspaper editorials demanded that McLeod be charged with murder. Others defended him and said that William Lyon Mackenzie was to blame for encouraging those keeping the vigil at the jail.<sup>47</sup>

The Niagara County Grand Jury met on 3 January 1838<sup>48</sup> and handed down twelve indictments in the burning of the *Caroline* and the murder of Amos Durfee. There must have been some influential people in the court who supported "freedom for Upper Canada" and made sure that McLeod was on the list of those accused of the crimes. Was McLeod's indictment for the attack on the *Caroline* revenge for the deaths of Green and Holmes?

The Upper Canada Rebels would soon have more reasons for desiring revenge on Alexander McLeod. In October of 1838, Sheriff Alexander Hamilton wrote to him about some prisoners being transferred to Kingston. His answer is below:

I find a complaint the prisoners were not at once removed on the receipt of the order. I did not think it prudent to take them down in the *Great Britain*, which was the first boat for Kingston after the receipt of the order, which was received on the 3rd inst, nor in any other boat that called at Oswego. I wrote to Toronto to know the first boat from Toronto for Kingston on the Canada side.

<sup>46</sup> Source: James Mackenzie in *History of Allen County, Ohio*, (Chicago: Warner, Warner, Beers & Co., 1885), 709.

<sup>47</sup> Nancy Butler, "The Solomon Moseby Affair," talk to the Niagara Historical Society, 15 February 1996.

<sup>48</sup> Lloyd Graham, *Niagara Country*, edited by Erskine Caldwell. (New York: Duell, Sloan and Pearce, 1949), ch. V, "Days of the Restless Border: Wreck of the *Caroline*," 132.



On Friday I received an answer that the *St. George* was the first.

I am, etc.,

(Signed) A. McLeod<sup>49</sup>

The prisoners were likely captured rebels. Without knowing their names, it is not possible to know if they were executed, imprisoned, or transported to the British penal colony in Van Diemen's Land (now the Australian state of Tasmania).<sup>50</sup> It is not known if McLeod was involved in transporting other prisoners to Kingston, but the Hunters' Lodges would certainly have wanted revenge for his involvement.

On 22 September 1840, McLeod was arrested in Lewiston while taking affidavits for a case in Upper Canada. He was released when it was found that the indictment was made out for Angus McLeod, his brother.<sup>51</sup> On 12 November 1840, he was arrested a second time in Lewiston and held on a warrant until the grand jury of Niagara County could issue

a proper indictment.<sup>52</sup>

Two men, P.C.H. Brotherson and William Buell, were found to bail McLeod out of jail. On 27 January 1841, they appeared in court to get the required warrants. The story about two hundred armed men marching in front of the jail and having a loaded twelve-pound cannon pointed at the door is a hoax. A band playing the "Rogue's March"<sup>53</sup> was added to later versions of the story to embellish it.<sup>54</sup>

The *Lockport Democrat and Balance* of 3 February 1841 tells what really happened. A meeting was convened at the court house and General John Jackson, of the Lockport Militia, was called to chair the meeting to maintain order.

On learning the state of public feelings on this subject, the sureties, at the request of the citizens, surrendered McLeod, as they had a right to do, and the recognizance was cancelled. *The proceedings of this meeting and the conduct of our citizens through the whole affair, have been grossly misrepresented*

<sup>49</sup> *The Niagara Frontier in 1837-38. Papers from the Hamilton Correspondence in the Canadian Archives, and now printed for the first time.* No. 29 (Niagara-on-the-Lake, Ontario: Niagara Historical Society, October 1916).

<sup>50</sup> This information is from Mr. John Grenville of the Kingston Historical Society; email of 20 August 2022.

<sup>51</sup> John J. Walsh, "A Vignette of Old Utica: The *Caroline* Affair- The Trial of Alexander McLeod 1841," August 1976. Copy of the original manuscript obtained from the Oneida County Historical Society, p 7; of 33. Mr. Walsh was a retired Oneida County Judge. All of the Niagara County Grand Jury records for McLeod's case were sent to Utica. They were all lost in a flood in the early 1980s. Information from the Oneida County Clerk's Office. The first indictment is reproduced in Doc. 302; the second in the Internet Archive file of the Trial of McCleod.

<sup>52</sup> *Ibid.*, 7.

<sup>53</sup> A military tune used to dismiss unwanted men from service. It was often used satirically. See Wikipedia.

<sup>54</sup> *History of Niagara County*, 172. See also Christopher J. Carlin, Investigator, *Protecting Niagara: A History of the Niagara County Sheriff's Office*, edited by Paul G. Colangelo, (Ransomville, New York: Niagara County Sheriff's Office, 1995). "Theodore Stone," 37-43, "The Patriots War," 40-41. As noted earlier, all men were required to join the New York State Militia. Misuse of their uniforms, weapons and a cannon would have gotten them all court-martialed if the incident had actually happened.

*abroad; it has been stated in some prints, that McLeod was released from custody, and that hundreds of armed men interposed and forcibly conducted him back to jail. This is not true; he was not discharged from the jail at all. (Emphasis added.)*

There is no information about P.C.H. Brotherson. William Buell may have been willing to help McLeod because he was originally from Brockville, Upper Canada; he had moved to what is now Rochester, New York, with his family on 5 November 1818. Besides being a prominent man in Rochester, he had several business interests in Lockport.<sup>55</sup>

On 1 February 1841, the Niagara County Grand Jury returned a second indictment against McLeod. This one listed seventeen counts against him, saying that he murdered Durfee or assisted in his murder and that the offense occurred “on the thirtieth day of December, in the year of our Lord one thousand, eight hundred and thirty-seven.”<sup>56</sup> The date usually given for the attack on the *Caroline* is the twenty-ninth. All mention of the shooting of the cabin boy, the bolting of the hatches which caused the deaths of “twenty-odd men,” and the other charges from the first indictment

simply vanished from the second.<sup>57</sup>

On 17 March 1841, the Lockport newspaper announced:

In consequence of the neglect of the county clerk of this county, to give the notice required by law, of the drawing of the jury for the circuit court and oyer and terminer which should be held next Monday, no trial, civil or criminal, can be legally had at either of those courts—so that the trial of McLeod cannot take place until the 1st Monday in October...

Seven days later, the same newspaper reported:

MCLEOD’S TRIAL – As was stated last week, the court of oyer and terminer which was to be held in this village this week, has failed, owing to the omission of the county clerk to give the requisite notice of the drawing of jurors. In the case of McLeod, two commissions were issued for the examination of witnesses in Canada, on the part of the prisoner. A certiorari was granted by Judge Dayton on Monday last, on the application of McLeod’s counsel, removing the case to the Supreme Court. The certiorari is returnable in May term, at the city of New York. It will then be decided whether the trial shall be had in this county, or in some other county, or at the bar of the Supreme Court.

Some accounts say that McLeod was

<sup>55</sup> From Genealogy.com: Judge William Sherwood Buell.

<sup>56</sup> Walsh, “A Vignette of Old Utica,” 7-8.

<sup>57</sup> See “The Trial of Alexander McCleod for the Murder of Amos Durfee and the Destruction of the *Caroline*,” on Internet Archives. The second indictment is reproduced on pages 17-19. A curious side note to McCleod’s trial was two articles published in Rochester, New York, in *The Volunteer*, for the week ending 1 May 1841. This was William Lyon Mackenzie’s second newspaper in Rochester after the failure of his *Gazette*. He repeats the claim that “Alexander McLeod boasted when he returned to Chippewa that his sword had drank the blood of two men on board the *Caroline*.” Mackenzie is unaware that the second indictment dropped this claim and said that McCleod shot Durfee. Why Mackenzie did not know this fact is not known. *The Volunteer*, Vol. 1, No. 3, For the Week Ending Saturday, 1 May 1841. Printed and published by William Lyon Mackenzie, at his office, No. 15 S. Clinton street, Rochester, N.Y. Available on Google News Service.

moved to New York City in May of 1841.<sup>58</sup> This is a mistake. His case alone was referred to the Supreme Court in New York City. He continued to be held in the jail at Lockport until the court's decision was handed down.

On 21 July 1841, the *Niagara Democrat and Lockport Balance* printed the entire ruling in McLeod's case—that following orders was not a defense to a charge of murder. McLeod must stand trial but as he could not get a fair trial in Niagara County the case was transferred to the court in Utica, Oneida County, two hundred miles east of Lockport. The U.S. Attorney General was sent to Lockport and, by his advice, McLeod was removed secretly at night from the Lockport jail to the Utica jail.<sup>59</sup>

On Monday, 4 October 1841, Alexander McLeod's trial began at the courthouse in Utica. The presiding judge was Philo Gridley, an experienced and respected jurist. Attorney General Willis Hall, and District Attorney Jonathan L. Woods of Niagara County, appeared for the prosecution, assisted by District Attorney Timothy Jenkins of Oneida County. The defendant was represented by Joshua A. Spencer, of Utica, as chief counsel, and attorneys Alvin Bradley and Hiram Gardner, of Lockport, as associates.<sup>60</sup>

In his opening speech, Attorney General Hall, made an interesting remark about Fort Schlosser: "Be not deceived. There is no fort there. The old fort is covered with luxuriant cornfields."<sup>61</sup>

At the conclusion of Hall's opening speech, William Wells, the owner of the *Caroline*, was called to the stand as the first witness for the prosecution. Mr. Wells described the attack on Amos Durfee. One of the attackers pulled Durfee from his hiding place behind a boiler and forced him up the stairs. The next morning, he saw Durfee's body "between the inside track of the railroad and the warehouse..." He was shot in the head. Wells said that Durfee did not belong to the boat, but was one of the lodgers.<sup>62</sup> He could not identify Durfee's attacker. Other witnesses claimed that they thought McLeod was the assailant, alleging that he had made "boastful remarks in taverns on both sides of the border that he had been a party to the attack upon and destruction of the 'Caroline' and was actually the slayer of Amos Durfee, the one person known to have been slain in the attack..."<sup>63</sup> As the trial progressed it became obvious that the only people who heard these remarks were members of the Hunters' Lodges or their supporters. McLeod's alibi was that he went to a friend's house

<sup>58</sup> *History of Niagara County*, 172.

<sup>59</sup> Clarence O. Lewis, "Rise and Fall of Hunters Lodge Movement," *Niagara Falls Gazette*, 9 January 1963.

<sup>60</sup> Walsh, "A Vignette of Old Utica," 14.

<sup>61</sup> *Ibid.*, 16.

<sup>62</sup> *Ibid.*, 17-18.

<sup>63</sup> *Ibid.*, 7.

for dinner and stayed the night.

At the close of the trial on 14 October, Judge Gridley delivered a lengthy charge to the jury. He told them that if they believed McLeod had committed murder, they must find him guilty, regardless of the consequences—the British authorities had threatened to declare war if McLeod was convicted and executed<sup>64</sup>—but if he had proven his alibi, they must find him not guilty. “Judge Gridley having concluded his charge, the Jury retired to deliberate, and after the absence of twenty-eight minutes, returned into Court and pronounced their verdict: NOT GUILTY.”<sup>65</sup> Alexander McLeod was released and taken to the northern part of the state for his return to Upper Canada because it was too dangerous to take him through western New York.

In 1842, a bill for \$546.69 was received from Oneida County by the Niagara County Board of Supervisors, to cover the cost of trying Alexander McLeod in Utica.<sup>66</sup>



PORTRAIT OF McLEOD.

## X. Conclusion

Although there are many conflicting reports, errors, and outright fabrications about many of the incidents in the Patriot War, there are some conclusions which can be made.

The British officers involved in the attack on the *Caroline* lied about what really happened. Unwilling to admit they had attacked unarmed men, they fabricated their reports. Rear Admiral

Andrew Drew’s description of the attack is particularly inaccurate. The description of the *Caroline* going over the Horseshoe Falls would have had to defy the laws of physics.

The Rebels also lied about the attack. Only one man was killed. The boat was empty and did not go over the brink of the falls. They must have known that Alexander McLeod had nothing to do with the raid on the *Caroline*. They would have considered him a traitor for leaving the reform movement and getting a job as a deputy sheriff to oppose them. It seems plausible that McLeod’s

<sup>64</sup> Clarence O. Lewis, “Rise and Fall of Hunters Lodge Movement,” *Niagara Falls Gazette*, 9 January 1963.

<sup>65</sup> Walsh, “A Vignette of Old Utica,” 30.

<sup>66</sup> Clarence O. Lewis, “1838 Records of Board of Supervisors Show Only 6 Firms on County Tax Rolls,” *Niagara Falls Gazette*, 13 June 1956.



*Figure 8: River wall at Fort Niagara showing the work of two contractors. Photo by the author.*

indictment for the death of Durfee was revenge for the deaths of Green and Holmes on 15 September 1837 and for transporting rebel prisoners to Kingston for trial. The rebels may not have gotten their desired revenge on McLeod, but they certainly made his life miserable for almost a year.

Despite all the unfortunate incidents in the Patriot War, it did eventually lead to the reforms that the Rebels wanted. How this happened is beyond the scope of this paper and is left for others to relate.

## XI. Legacy

On 9 January 1842, Lord Ashburton, the British envoy, met Secretary of State Daniel Webster and the “Treaty of Washington” was drawn up. It was confirmed on 9 August 1842. It is also called the Webster-Ashburton Treaty.

The treaty became the basis of the “Caroline Test,” a formulation of customary international law which said that the necessity for preemptive self-defense must be “instant, overwhelming, and leaving no choice of means, and no mo-





Figure 9: Corner stone on river wall at Fort Niagara.  
Photo by the author.

ment for deliberation.” This principle was reaffirmed by the Nuremberg tribunal after the Second World War and used to prosecute Nazi Generals for their invasions of European countries.<sup>67</sup>

The British authorities had argued in the case of Alexander McLeod that someone following orders should not be held accountable for any crime which was committed.<sup>68</sup> International law rejected this argument, a stance later codified by No. 4 of the Nuremberg Principles.

As important as the legacy of the Patriot War has been in world legal history, it is surprising that it is so unknown to the general public. The site on the Nia-

gara River shore where the *Caroline* was attacked is on the property of the New York State Power Authority and is not publicly accessible. Visitors to Old Fort Niagara in Youngstown, New York, receive a Visitor’s Guide which says:

Point #8 – The River Defenses (1839-43)

The United States erected this massive river wall in response to the Canadian rebellions of 1837-38. Guns on the Hot Shot Battery face Fort Mississauga on the Canadian shore. Adjacent to the Battery is a Hot Shot Furnace completed in 1843. Here cannon balls could be heated red hot. When fired at a wooden ship or building, hot shot would quickly set it afire. The arched Postern Gate was the main entrance to the Fort after 1839.

There is a cornerstone bearing the date 1839. There is an obvious difference between the bottom portion of the wall and the top because the first contractor went out of business. Most of the visitors probably do not know the history of the Canadian rebellions. This lack of knowledge is unfortunate as this important piece of history deserves to be better known and understood.

<sup>67</sup> See the Wikipedia entries on The *Caroline* Test and The Webster-Ashburton Treaty.

<sup>68</sup> Walsh, “A Vignette of Old Utica,” 31.

### Additional Notes:

Another incident which caused problems between the United States and Upper Canada was the kidnapping of James Grogan, of Lockport. He was a Colonel in the Patriot Army. On 19 September 1841, he went to Vermont where he stayed with his sister and brother-in-law. In the early morning of the twentieth, twelve to fifteen British soldiers traveled four miles over the border and captured Grogan at bayonet point. This incident caused outrage on the American side. Meetings were held in Vermont and Lockport to protest this “invasion.”

Upon learning of the circumstances, Provincial Governor Jennison in Montreal decided “to dissipate the gathering storm” and ordered Grogan’s release. He was taken back to the Vermont border and liberated on 13 October. He went home to Lockport. The Lockport newspaper of 3 November 1841, reported that, “Col. Grogan is with his family in Lower Town and he thanks the people of Lockport for their assistance and thanks God for his deliverance.”

Source: The Late Invasion of the American Soil and Public Meeting, *The Lockport Democrat and Balance*, 6 October 1841 and Melissa Dunlap, “The Patriot War of 1837-40 and Col. James Grogan,” (unpublished article from the Niagara County Historical Society, Lockport, New York).

For further reading, the following is available online at *Internet Archive*:

Frank H. Severance, ed., *Publications Of the Buffalo Historical Society*, Volume VIII (Buffalo: The Buffalo Historical Society, 1905).

Orrin Edward Tiffany, *Relations of the United States to the Canadian Rebellion Of 1837-1838*, 1-118.

*Illustrative Documents Bearing on the Canadian Rebellion*, 119.

*The Revenue Cutter and the Rebels*, 122.

*The Woes of a Patriot Leader*, 129.

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