

This demand, with the grounds upon which it is made, has been duly considered by the President, with a sincere desire to give to it such a reply as will not only manifest a proper regard for the character and rights of the United States, but, at the same time tend to preserve the amicable relations which, so advantageously for both, subsist between this country and England. Of the reality of this disposition, and of the uniformity with which it has been evinced in the many delicate and difficult questions which have arisen between the two countries in the last few years, no one can be more convinced than yourself. It is then with unfeigned regret that the President finds himself unable to recognize the validity of a demand, a compliance with which you deem so material to the preservation of the good understanding which has been hitherto manifested between the two countries.

The jurisdiction of the several States which constitute the Union is, within its appropriate sphere, perfectly independent of the Federal Government. The offence with which Mr. M'Leod is charged, was committed within the territory, and against the laws and citizens of the State of New York, and is one that comes clearly within the competency of her tribunals. It does not, therefore, present an occasion where, under the constitution and laws of the Union, the interposition called for would be proper, or for which a warrant can be found in the powers with which the Federal Executive is invested. Nor would the circumstances to which you have referred, or the reasons you have urged, justify the exertion of such a power, if it existed. The transaction out of which the question arises, presents the case of a most unjustifiable invasion, in time of peace, of a portion of the territory of the United States, by a band of armed men from the adjacent territory of Canada, the forcible capture by them within our own waters, and the subsequent destruction of a steamboat, the property of a citizen of the United States, and the murder of one or more American citizens.—If arrested at the time, the offenders might unquestionably have been brought to justice by the judicial authorities of the State within whose acknowledged territory these crimes were committed; and their subsequent voluntary entrance within that territory places them in the same situation. The President is not aware of any principle of international law, or, indeed, of reason or justice, which entitles such offenders to impunity before the legal tribunals, when coming voluntarily within their independent and undoubted jurisdiction, because they acted in obedience to their superior authorities, or because their acts have become the subject of diplomatic discussion between the two Governments. These methods of redress, the legal prosecution of the offenders, and the application of their Government for satisfaction, are independent of each other, and may be sepa-

ately and simultaneously pursued. The avowal or justification of the outrage by the British authorities might be a ground of complaint with the Government of the United States distinct from the violation of the territory and laws of the State of New York. The application of the Government of the Union to that of Great Britain, for the redress of an authorised outrage of the peace, dignity, and rights of the United States, cannot deprive the State of New York of her undoubted right of vindicating, through the exercise of her judicial power, the property and lives of her citizens. You have very properly regarded the alleged absence of Mr. M'Leod from the scene of the offence at the time it was committed, as not material to the decision of the present question. That is a matter to be decided by legal evidence; and the sincere desire of the President is, that it may be satisfactorily established. If the destruction of the *Caroline* was a public act of persons in Her Majesty's service, obeying the orders of the superior authorities, this fact has not been before communicated to the Government of the United States by a person authorized to make the admission; and it will be for the Court which has taken cognizance of the offence with which Mr. M'Leod is charged, to decide upon its validity when legally established before it.

The President deems this to be a proper occasion to remind the Government of Her Britannic Majesty that the case of the "*Caroline*," has been long since brought to the attention of Her Majesty's principal Secretary of State for Foreign Affairs, who up to this day, has not communicated its decision thereupon. It is hoped that the Government of Her Majesty will perceive the importance of no longer leaving the Government of the United States uninformed of its views and intentions upon a subject which has naturally produced much exasperation, and which has led to such grave consequences.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

JOHN FORSYTH.

H. S. Fox, Esq.,
&c. &c. &c.

Mr. Fox to Mr. Forsyth.

WASHINGTON,
December 29, 1840.

SIR,—I have the honor to acknowledge the receipt of your letter of the 26th inst. in which, in a reply to a letter which I had addressed to you on the 13th, you acquaint me that the President is not prepared to comply with my demand for the liberation of Mr. Alexander M'Leod, of Upper Canada, now imprisoned at Lockport in the State of New York, on a pretended charge of murder and arson, as having been engaged in the destruction of the piratical