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THE

LIFE, TRIAL AND CONVICTION

OF

CAPTAIN JOHN BROWN,

KNOWN AS

“OLD BROWN OF OSSAWATOMIE,”

WITH A FULL ACCOUNT OF THE ATTEMPTED

INSURRECTION AT HARPER'S FERRY.

COMPILED FROM OFFICIAL AND AUTHENTIC SOURCES.

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THE extraordinary outbreak at Harper's Ferry, in Virginia, on the night of the 16th of October, 1859, the forcible seizure of the national Arsenal, the capture, imprisonment and killing of the people, and the almost immediate suppression and extermination of the insurgents, are events of historical importance. The madness of the attempt, the boldness—amounting to heroism—of the handful of men who were concerned in the movement, and especially the romantic history and personal character of the chief actor, have awakened in the public mind an ardent desire to know more of the man and his intentions. To gratify this desire, as well as to record, in convenient form, the facts concerning the outbreak and its suppression, with the trial of the leader, John Brown, we have compiled the following pages, aiming only to state the truth in all respects, according to the best sources of information.

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CAPT. JOHN BROWN.

John Brown—variously known as “Old Brown,” “Fighting Brown,” and “Ossawatimie Brown”—made his first public appearance in Lykins County, Kansas, in the year 1855. So strange a career as his has not arrested the public attention since Joe Smith was shot in the Carthage jail. His rank among the world's notabilities will be among such fanatics as Peter the Hermit, who believed himself commissioned of God to redeem the Holy Sepulchre from the hands of the infidels—Joanna Southcote, who deemed herself big with the promised Shiloh—Ignatius Loyola, who thought that the Son of Man appeared to him, bearing his cross on his shoulders, and gave him a Latin commission of mighty import—or Don Quixote, who was

persuaded that he had a mission to rescue all the persecuted damsels in Spain. It was Brown's idea that he was divinely appointed to bring American Slavery to a sudden and violent end.

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### HIS PERSONAL APPEARANCE

John Brown would not strike one who saw him as being a very tall man. He stooped somewhat as he walked ; was rather narrow-shouldered. Went looking on the ground almost all the time, with his head bent forward apparently in study or thought. Walked rather rapidly, and very energetically. His features were very sharp, nose prominent, eyes were black or very dark grey. His hair was quite light, and he wore it rather long about the time of the skirmish at Lawrence. He wore a coarse, homespun kind of clothing, and was usually very unassuming in his appearance and dress. He seemed to be rather taciturn in his habits, and was a sort of meteoric character, appearing very unexpectedly now at one place, and then at another, so that it could never be known where he was to be found. His appearances and disappearances were always sudden, and in a decided manner. He seemed to be ever on the alert. When he spoke, it was generally in short and precise sentences, energetically expressed, and to the point. When walking, he would not look to the right or left (unless in danger), but seemed to be deeply engaged upon something in his own mind.

From another gentleman, who knew him well, we have the following personal portrait :

In stature, Mr. Brown was nearly six feet high. He was slim, wiry, dark in complexion, sharp in feature, but with remarkable firmness expressed in his face. His eye was sharp, penetrating, and steady. Few men could look him steadily in the eye more than a breath. His hair was dark, and, two years since, was deeply sprinkled with grey. His brow was prominent, the centre of the forehead flat, the upper part of the forehead retreating, which gave, in conjunction with his slightly Roman nose, an interesting and reckless appearance. At the crown of his head, he was remarkably high, in the regions of the phrenological organs of firmness, conscientiousness, and self-esteem, indicating a stern will, unswerving integrity, and remarkable self-possession. The whole family of Browns, the brothers of the man of Harper's Ferry, are of similar build and general characteristics. Whoever can get the promise of a Brown of that breed, considers himself secure.

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### JOHN BROWN'S BUSINESS ENGAGEMENTS.

There are various statements as to the place of John Brown's nativity. It has been asserted that he was born at Torrington, Litchfield County, Connecticut ; but in one of his answers to parties in Virginia, he stated that he was born in the State of New York.

Previous to 1837, he was considered one of the most enterprising business men in Northern Ohio, and built warehouses, and engaged in business on the Canal and Cuyahoga River at Franklin Mills, six miles west of Ravenna, in Portage County. The crash of 1837 made him a bankrupt. The great warehouses were standing there empty in 1850, while his son stood with our informant on the bank of the river, and gave this sad fragment of the history of his father's fortune.

In 1848, we find him in a large woollen warehouse in Springfield, Massachusetts, where he was known as a quiet, modest man, of unswerving integrity. Indeed, hundreds of wool-growers in Northern Ohio consigned their stock to him to be sold at discretion. A combination of eastern manufacturers, who wished to have no such stern and unflinching man between themselves and the wool-growers, formed in league against him, and forced him to send his wool to Europe for a market, which resulted in a second disaster, and Brown was again reduced to poverty.

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### JOHN BROWN AS A FARMER.

Immediately after this failure, he made his appearance as a farmer or cattle breeder in North Elba, one of the interior and most secluded towns of Essex County, and verging upon the vast wilderness of northern New York. The humble farm of Brown is situated on an elevated and broad plateau, embosomed in the giant arms of the Adirondaes. No district of the State is more impressive by the grandeur of its physical features, or its exquisite natural beauties. The town is separated from the outer world by a barrier of dark and lofty mountains. Although embracing a territory equal to that of some counties, its population does not exceed four hundred souls.

North Elba was the scene of Gerrit Smith's abortive attempts at negro colonization. The scheme may have been suggested by sincere philanthropy, but its issue was an utter failure, entailing upon the author disappointment, and sorrow and suffering on the recipients of his bounty. Scarcely a vestige now remains of this colony, although at one time so numerous that it seemed probable the anomalous political aspect would be exhibited of a town in New York controlled by negro suffrages, and represented in the County Board by a colored supervisors. Only two or three of the colonists remain. They have either abandoned their farms, or the lands have been sold for taxes. Nothing remains of this vaunted city of refuge. Brown made his appearance in North Elba, near the advent of this negro emigration.

At the Agricultural Fair of Essex County, for 1850, a great sensation was created by the unlooked-for appearance on the grounds of a beautiful herd of Devon cattle. They were the first that had been exhibited at the county festival, and every one was surprised and delighted by the incident. The inquiry was universal, whose are these cattle, and from whence do they come? The surprise and excitement was not diminished, when it was understood that a certain John Brown

was the owner, and that he resided in the town of North Elba. The Report of the Society for that year contains the following reference to this event: "The appearance upon the grounds of a number of very choice and beautiful Devons, from the herd of Mr. John Brown, residing in one of our most remote and secluded towns, attracted great attention, and added much to the interest of the Fair. The interest and admiration they excited have attracted public attention to the subject, and has already resulted in the introduction of several choice animals into this region. We have no doubt but that this influence upon the character of the stock of our county will be permanent and decisive."

A gentleman who soon after opened a correspondence with Brown in relation to these cattle, states that his reply is written in a strong and vigorous hand,—and by its orthography, accurate punctuation, and careful arrangement of paragraphs, evinces far more than ordinary taste and scholarship. It is remarkable, not only for the force and precision of the language, for a business letter, and for the distinctness of its statement, but equally for its sound sense and honesty of representation. An extract will interest our readers, as illustrating the former habits and pursuits of a man who has impressed an ill-omened episode upon our national history.

"Your favor of the 30th of September came on seasonably; but it was during my absence in Ohio, so that I could not reply sooner. In the first place, none of my cattle are pure Devons; but are a mixture of that, and a particular favorite stock from Connecticut, a cross of which I much prefer to any pure English cattle, after many years' experience of different breeds of imported stock. . . . . I was several months in England last season, and saw no one stock on any farm that would average better than my own, and would like to have you see them all together."

Such were the habits and tastes of the man, while engaged in the pursuits of husbandry. What a contrast is presented, by the intelligence and zeal here displayed in a worthy and useful occupation, which was leading him along the pleasant paths of peace, contentment, and prosperity, to the career of violence to which he has since been impelled, less perhaps by his own insane fanaticism, than by stimulations applied by others to his ardent and fearless temperament. The natural impulses of Brown, those who knew him will affirm, were honorable and just, and his education and abilities of a superior order; but his mind has been distorted and his passions inflamed by a mad delusion.

Brown was at North Elba during a large part of the last summer, engaged everywhere disseminating his opinions. The small remnant of his family which has escaped his fatal schemes, still remains on the farm at that place, clustering around the hearth that has become so fearfully bereaved and desolated.

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### JOHN BROWN IN KANSAS.

It was in this new territory that John Brown first appeared as a military man, although we have seen a statement that he was in the service at Plattsburgh or

Ogdensburg during the war of 1812. Brown appeared in Kansas in 1855, and settled in the Osage country. He was a decided Anti-Slavery man—a religious enthusiast, a rigid Presbyterian—correct and conscientious in all his relations and conduct, and modest and unassuming in his manners. At the same time he was a man of iron will, of untiring energy and of unbounded nerve. All who know him are impressed with the belief that he never knew fear, and that no man ever lived who excelled him in cool and daring intrepidity. In all his affrays in Kansas he embarked in the most dangerous and apparently desperate enterprises, and encountered the greatest odds with a cool self-possession and an unbounded confidence in his own success. He was made the object of the most active persecutions of the Missourians, and all the bitterness and stern determination of his nature were stirred up from their very depths in retaliation. One of his sons (Frederick) was met alone on the road by a large party of invading Missourians, and cruelly, brutally murdered without a cause. Another son (John) was, for no cause but his political opinions, loaded with chains and driven on foot before the horses of his captors from Ossawatimie to Tecumseh, under such circumstances of cruelty as to destroy his reason. His own house and the house of his son were both fired and destroyed. The women of the family were grossly insulted, and a Committee, appointed at a public meeting, notified Brown and other Free-State men on Potawatimie Creek, that if they did not leave the Territory in three days they would be hung. His friends and neighbors were murdered around him; he was forced into a war of self-defence, and finally a price was publicly set on his head. The effect of these things, in connection with all the other outrage, oppression and murder perpetrated around him, upon a man of Brown's temperament, may be conceived. He became a fighting man, and developed qualities that excited the admiration and surprise of his friends, and made him the terror of his enemies. Though remorseless and relentless as death itself, he did everything under a sense of duty and high religious excitement. The more fervent his prayers, the harder fell his blows, and the more signal and bloody his victories, the more heartily did he return thanks to the Lord after the fight was over.

A Committee of five called on him on one occasion, and informed him that he must leave the Territory in three days or die—that they would come to his house with a sufficient force at the end of that time, and if they found him still there, they would hang him. The old man thanked them for the notice, saying, very coolly, "*You will not find me here then, gentlemen.*" Before the next sun rose, the five members of that Committee were in the other world. Whether Brown killed them or not, is unknown, but it is certain, had they lived, that they would have killed him, and no man knew that better than he. On one occasion the well-known Henry Clay Pate started out from Westport, Missouri, with a party of thirty-three men, full of boastings and promises to catch "Old Brown," and take him a prisoner to Missouri, his only fear being that he would not be able to find him. Brown was very easily found, however, for with sixteen men he went out to meet Pate, and after a short fight, and a few men killed and wounded, at Black-Jack, near the Santa Fé road Pate and his party surrendered to "Old Brown," with the excep-

tion of a Wyandot Indian of the name of Long, and the notorious Coleman, who had murdered Dow. These two men, being well mounted, made their escape.

Upon another occasion, a body of some 220 men were raised and equipped in Jackson County, Missouri, and started into Kansas under the command of General Whitfield, to attack and capture "Old Brown," as every one called him. Brown, who was always vigilant and wary, and was possessed of secret means of intelligence, had made full preparation to meet the Missourians, and was encamped with 160 men at a chosen point near the Santa Fé road, which he knew his enemies would pass. He had fifty men with Sharpe's rifle's which would kill at half a mile, and which could be loaded at the breech and fired with great rapidity, whom he had concealed in a ravine, lying on the ground, and commanding the prairie for a mile before them. The residue of the party he had concealed in the timber, ready, at the proper moment, for an attack on the flank of those who might reach the ravine alive. Colonel Sumner, with a squad of dragoons, came down from Fort Leavenworth and prevented the fight, disbanding both parties, after which the Colonel was heard to remark, that his interposition was a fortunate event for the Missourians, as the arrangements and preparations made by Brown would have insured their destruction.

It will be recollected that in 1856, when Geary came into the Territory, Atchison and Reid were there with an invading army, variously estimated at from 2,000 to 2,700 men, bent on the destruction of several towns and the extermination of the Free State men, and that Geary, with great difficulty, negotiated and persuaded them to retire, and that his success was a matter of rejoicing over all the North, as there was a Free State force assembled of not over 500 to resist them, who were but poorly prepared for the fray. Not so John Brown, who was greatly vexed at the result, and who insisted that his friends had lost a happy chance of putting an end to the war, and covering themselves and their cause with glory. The odds of five to one he counted as nothing. "What are five to one," said he, "when our men would be fighting for their wives, their children, their homes, and their liberties, against a party, one-half of whom were mercenary vagabonds who enlisted for a mere frolic, lured on by the whisky and the bacon, and a large portion of the others had gone under the compulsion of public opinion and proscription, and because they feared being denounced as abolitionists if they refused?" His taste in this matter was very near being gratified. A vanguard of 300 men rode up from Franklin and made a bravado demonstration on Lawrence, in order, as they supposed, to alarm the Free State men, and ascertain how far they could go. Brown eagerly hurried out with 100 men to give them fight on the open prairie, but the enemy retired, and declined the contest, to Brown's great disappointment and disgust.

His conduct at the sack of Ossawatimie is well known. John Reid, a prominent lawyer of Jackson County, and a member of the Missouri Legislature, marched upon that town with 300 men and two pieces of artillery. The inhabitants were taken by surprise, and Brown had barely time to get into the timber, which lines the Osage River, with thirty men, and a limited supply of ammunition, when the





John Brown, from a Photograph by Martin M. Lawrence, 381 Broadway, N. Y.



Interior of the Engine-House, just before the Gate is broken down by the Storming Party—Col. Washington and his Associates as Captives.



whole force of their assailants marched upon the prairie before them. With his usual indomitable courage and unhesitating confidence in himself, he gave no thought to the odds of ten to one, or to making his escape from the danger, nor did he wait for the enemy to commence the fight, but carefully disposing his men, he opened a rapid and constant fire, which was returned, of course, but the Missourians, not knowing his numbers, and fearing an ambuscade, would not venture into the woods, and their artillery did little harm to men lying on the ground and loading their rifles at the breech. The result was, that sixty or seventy of the Missourians were killed or wounded; two of Brown's men were killed, and the others he carried off in safety through the timber, up the river and across the ford.

Shortly after the *Marais des Cygnes* massacre, Brown conceived the idea of carrying the war into Africa, and teaching the fighters on the other side of the border that a continuance of the war would imperil the safety of all the slaves in Western Missouri. While reflecting on this plan, a negro came across the line in the night, imploring assistance for his family and fellows, who were about to be separated and sold to the cotton and rice planters at the South. The first persons he met were Brown and half a dozen of his neighbors, who were discussing the enterprise thus singularly thrown in their way. Summoning a dozen or more assistants, they moved immediately to the border, and dividing into two parties, they made a night of it, with the deliberate purpose of taking all the slaves they could find who had an inclination to be free, and making prisoners of all who should interfere with their design. The result of the excursion was the liberation of thirteen negroes, the capture of several white men, and the killing of one person who was making a vigorous resistance. The homicide was not committed by the division of the party to which Brown belonged, but the responsibility of it attaches to him in a degree as the moving actor of the whole proceeding. Both parties then returned to the border with the proceeds of their foraging. The captured Missourians were then set at liberty, and told to go home and raise a rescuing force—Brown and company would give them ample time and await their return, when they would settle the questions at issue by open battle. A very loud noise was made in half a dozen counties in Missouri, but no volunteers were found for the proposed action. After waiting three weeks, Brown dismissed all but a handful of his company, and took his line of march through Kansas, Nebraska, Iowa, Illinois and Michigan to Canada. While pursuing his journey through the northern part of Kansas, he was menaced with an attack from a party of Missourians, of about three times his own number. After retreating from them a day or two, he came to a halt, took four of them prisoners, and put the rest to flight. The prisoners were lectured soundly on the evil of their ways, and then dismissed, minus their arms and horses. No other interruption was met with on the way to Canada.

Such are a few of the incidents in the life of this remarkable man, which serve to throw some light, not only on his character, but also on the mad attempt in which he was recently engaged. He has elements of character which, under circumstances favorable to their proper development and right direction, would have made him one of the great men of the world. Napoleon himself had no more blind and

trusting confidence in his own destiny and resources ; his iron will and unbending purpose were equal to that of any man living or dead ; his religious enthusiasm and sense of duty (exaggerated and false though it was) was yet earnest and sincere, and not excelled by that of Oliver Cromwell or any of his followers ; while no danger could for a moment alarm or disturb him. Though, doubtless, his whole nature was subject to, and almost constantly, for the last three or four years, pervaded by the deepest excitement, his exterior was always calm and cool. His manner, though conveying the idea of a stern and self-sustaining man, was yet gentle and courteous, and marked by frequent and decided manifestations of kindness ; and it is by his friends said of him, that, amid all his provocations, he never perpetrated an act of wanton or unnecessary cruelty. He was scrupulously honest, moral, and temperate, and never gave utterance to a boast. Upon one occasion, when one of the ex-governors of Kansas said to him that he was a marked man, and that the Missourians were determined, sooner or later, to take his scalp, the old man straightened himself up with a glance of enthusiasm and defiance in his grey eye. " *Sir,*" said he, "*the angel of the Lord will camp round about me.*" His is a fierce and relentless nature. The iron of personal wrong, in the form of persecution, oppression and murder, had been driven into his soul, and maddened him into the one idea of life-long, undying war on an institution which he believed to be accursed of God and man.

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### FACTS AND RUMORS CONCERNING JOHN BROWN.

THE career of Brown in Kansas was more exciting and romantic than the fabulous history of many a famous hero of romance. That young and growing Territory is rife with stories of his adventures, and the whole country has read with emotions of surprise of the deeds in which he has been a prominent actor. From gentlemen who were with him in his forays, and conversant with all his movements, we gather many interesting particulars, which we add here as they have been related.

### JOHN BROWN'S MORAL CHARACTER.

Wherever he lived, he soon acquired the reputation of a man of the sternest integrity of character. In Kansas he was the great living test of principle in our politicians. The more corrupt the man, the more he denounced Old Brown. It was a true compliment to be praised or to be recognized by him as a friend ; for, even in his social dealings, he would have no connection with any man of unprincipled or unworthy character. In his camp he permitted no profanity ; no man of loose morals was suffered to stay there—unless, indeed, as prisoner of war. " I would rather have the small-pox, yellow fever and cholera all together in my camp, than a man without principle." This he said to the present writer, when speaking of some ruffianly recruits whom a well known leader had recently introduced. " It's

a mistake, sir," he continued, "that our people make, when they think that bullies are the best fighters, or that they are the fit men to oppose these demagogues. Give me men of good principles—God-fearing men—men who respect themselves, and, with a dozen of them, I will oppose any hundred such men as these Buford ruffians." His whole character is portrayed in these words. He was a Puritan in the Cromwellian sense of the word. He trusted in God and kept his powder dry. Prayers were offered up, in his camp, every morning and evening; no food was eaten, unless grace was first asked on it.

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### JOHN BROWN'S POLITICS.

First, as to John Brown's political opinions. It is asserted that he was a member of the Republican party; but he despised the Republican party. He was opposed to the extension of slavery; and in favor, also, of organized political action against it. But when the Republicans cried, Halt! John Brown said, FORWARD, march! He was an abolitionist of the ultra school. He had as little sympathy with Garrison as Seward. He believed in human brotherhood and in the God of Battles; he admired Nat Turner as well as George Washington. He could not see that it was heroic to fight against a tax on tea, and endure seven years of warfare for a *political* right, and a crime to fight in favor of restoring what he considered an outraged race to every birthright with which their Maker had endowed them. The recent outbreak was premature. The coming triumph of the Republican party was the most powerful reason for the precipitate movement. The old man distrusted the Republican leaders; he said that their success would be a backward movement to the anti-slavery enterprise. His reason was, that the masses of the people had confidence in these leaders; and would believe that by their action they would ultimately and peaceably abolish slavery. That the people would be deceived, that the Republicans would become as conservative of slavery as the Democrats themselves, he sincerely believed. Apathy to the welfare of the slave would follow; hence, he argued, it was necessary to strike a blow at once.

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### AN INTRODUCTION TO JOHN BROWN.

I had heard of old Brown from time to time, but had never met him nor any of his family, until, after the sacking of Lawrence and the destruction of the Hotel and printing-offices, I made my first visit to the country south of the Wakarusa. I went down on horseback; but, being obliged to stop over night at a house near Palmyra, I found, when the morning broke, that my horse had been stolen. I walked over to Prairie City—a municipality consisting of two log huts and a well—and stayed there until the afternoon, when a company of United States troops approached, rode up in double-file to the door, and made me a prisoner of war!

I asked what my offence was.

"You were seen near our camp last night ; shortly after you left, we missed two of our best horses."

I angered the captain by laughing heartily at this joke, and explained the reason I had to sympathize with him. I went with him to his camp—where the horses were found ! They had wandered away, and were tracked by a squatter, who at once returned with them.

To be thus arrested on suspicion of being a horse thief, was too good an opportunity to be thrown away. I wrote a description of the adventure, entitled "Confessions of a Horse Thief." Now, how to send it? The mails were not safe ; the country was covered with guerrillas ; Leavenworth was in the hands of the ruffians ; and to return to Lawrence was impossible. I heard of an old preacher, who lived a few miles off, and who was preparing to go to Kansas City, in Missouri. I went to find him. His house was situated on the southern side of a creek, which is two or three miles from Prairie "City." I was told to go to the cabin of Capt. Carpenter, and there (where armed men were constantly on guard) they would lead me to "Old Moore, the minister."

When men went out to plough, at this period, they always took their rifles with them; and they always worked in companies of from five to ten; for when they attempted to perform their work separately, the bandits, who were constantly hovering about the region, were sure to make a sudden descent and carry off their horses or oxen. Every man went armed "to the teeth." Whenever two men approached each other, they came up, pistol in hand, and the first salutation invariably was: "Free State or Pro-Slave?" or its equivalent: "Whar' ye from?" It not infrequently happened that the next sound was a report of a pistol. People who wished to travel without such collisions, avoided the necessity of meeting any one, by making a circuit or running away on the first indication of pursuit.

The creeks of Kansas are all fringed with wood. I lost my way, or got off the path, that crosses the creek above alluded to, when, suddenly, thirty paces before me, I saw a wild-looking man, of magnificent proportions, with half a dozen pistols of various sizes stuck in his belt, and a large Arkansas bowie-knife prominent among them. His head was uncovered; his hair was uncombed; his face had not been shaved for many months past. We were similarly dressed—with red-topped boots, worn over the pantaloons; a coarse blue shirt—and a pistol belt. This was the usual fashion of the times.

"Hullo !" he cried, "you're in our camp !"

He had nothing in his right hand—he carried a water-pail in his left; but, before he could speak, I had drawn and cocked my eight-inch Colt.

I only answered, in emphatic tones, "Halt ! or I'll fire !"

He stopped and said that he knew me; that he had seen me in Lawrence, and that I was "true;" that he was Frederick Brown, the son of old John Brown; and that I was now within the limits of their camp. After a parley of a few minutes, I was satisfied that I was among my friends, put up my pistol, and shook hands with Frederick.

He talked wildly, as he walked before me, turning round every minute, as he

spoke of the then recent affair of Pottawatomie. His family, he said, had been accused of it; he denied it indignantly, but with the wild air of a maniac. His excitement was so great that he repeatedly recrossed the creek, until, getting anxious to reach the camp, I refused to listen to him until he took me to his father. He then quietly filled his pail with water; and, after many strange turnings, led me into camp. As we approached it, we were twice challenged by sentries, who suddenly appeared before trees and as suddenly disappeared behind them.

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### JOHN BROWN'S CAMP.

I shall not soon forget the scene that here opened to my view. Near the edge of the creek a dozen horses were tied—all ready saddled for a ride for life, or a hunt after the invaders. A dozen rifles and sabres were stacked against the trees. In an open space amid the shady and lofty woods, there was a great fire with a pot on it; a woman was picking berries from the bushes; three or four men were lying on red blankets on the grass; and two fine-looking youths were standing, leaning on their arms, on guard. One was the youngest son of Brown, and the other was the "Charley" who was subsequently killed at Ossawatimie. Old Brown himself stood near the fire, with his shirt-sleeves rolled up, and a large piece of pork in his hand. He was engaged in cooking a whole pig. He was poorly clad; his toes protruded from his boots. The old man received me with great cordiality, and the little band soon gathered about me. But it was for a moment only; for the captain ordered them to renew their work. He respectfully but firmly forbade conversation on the subject of the Pottawatomie affair; and said that, if I desired any information from the company in relation to their conduct or intentions, he—as their captain—would answer for them whatever it was proper to communicate.

I remained in their camp about an hour, and went away with a far higher respect for the struggle, and the men engaged in it, than ever I had felt before. I thought that I had met men of earnest spirit before; but this visit first made me acquainted with it. I had seen, for the first time, the spirit of the Ironsides, armed and encamped.

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### JOHN BROWN'S FIRST FIGHT.

A few days after this visit, Mr. Henry Clay Pate—a postmaster, politician, and correspondent of the "St. Louis Republican" in Missouri—made his appearance near Palmyra, at a creek called Black Jack, for the purpose, boastingly avowed, of bringing Old Brown a prisoner to Westport. He had thirty men. Brown, after a few dozen volleys, took them captive with ten men.

Brown afterward delivered up these prisoners to Col. Sumner, of the U. S. Army, cousin of the Senator from Massachusetts. A incident of this event is deserving of passing record, as an illustration of the fearless character of Old Brown. Learning

that Col. Sumner, with his company, was in the neighborhood, the Captain determined to pay him a visit, and offered to give up the prisoners, to stand trial, if the Government wished it, for the crime of sacking a store, and repeated robberies on the highway.

The Colonel told him that the United States Marshal was in his camp with a writ for Brown's arrest, and that it would be his duty to detain him as a prisoner.

Brown answered that if the United States Marshal attempted to serve the writ, he would shoot him dead on the spot.

The Colonel replied that if the Marshal produced the writ, he would serve it at every hazard.

Brown left the camp unharmed !

I never chanced to meet old Brown for many months after the capture of Clay Pate at Black Jack.

I ought, however, to mention how the letters that I sent by "Old Moore, the minister," fared. I gave him three letters—the first a little note to a southern lady ; the second, my "Confessions of a Horse Thief ;" the third, a description of the condition of the country, in which was an account of the sacking of Palmyra, by H. Clay Pate and his men.

I told "Old Moore, the minister," if he were pursued, to destroy the large letters, which were designed for publication ; but to preserve the other—the note—as there was nothing in it that could implicate him.

He had not gone many miles before he was seen, and pursued by Clay Pate's scouts. In his excitement he forgot my directions—preserved the "incendiary documents" and destroyed the harmless *billet doux*. He was captured and brought to the camp. Pate ordered the letters to be opened, as soon as he learned they were mine—for we were rival correspondents for rival journals—and appointed Coleman, whom I had denounced as a murderer, to read my productions to his men !

First, came my "Confessions of a Horse Thief." Captain Wood, the United States officer who arrested me, was spared the ridicule I had endeavored to throw on him, for Pate threw the letter into the fire.

Next, came my description of the sacking of Palmyra and the Saxon names for Pate and his company. Old Moore declared afterward that he felt uneasy for his safety when he saw the rage which my letters aroused. It was universally admitted that I ought to be hanged, and they swore they would do it, too—when the cat was belled. As Mr. Moore was a quiet, inoffensive old man, and as he knew nothing of the contents of my letters till they were read in the pro-slavery camp, they permitted him to proceed on his journey to Kansas City.

The next news of Pate was an account of his failure to capture Old Brown, although he had thirty men, and of Brown's success in capturing Pate, although the Old Captain had only ten men. Pate's description of the battle concluded in these pathetic terms : "In short, as I sometimes say to my friends, I went out to take Old Brown, but Old Brown took me."

Shortly after this affair, the eldest son of Old Brown—John junior—who still lives,

was made a prisoner at Pottawatomie on a charge of treason. A heavy ball and chain were fastened to his feet, and in this condition he was marched some sixty miles to Leecompton. The flesh was mangled at his ankles, but the correspondents err in saying that a brain fever ensued and he died. Of him we have the following recent facts :

John Brown, junior, who was imprisoned in Kansas, and confined with ropes and chains, producing insanity, is reported to have died by nearly all who have spoken on the subject. But he is still living, and has been in New York within two years, and the writer has seen the rope-marks yet on his arms. With him we are perfectly well acquainted, and he, like his father, bore the reputation of possessing honesty that could not be bought, and a firmness and courage that could not be appalled. John Brown, junior, is a good representative of his father. The son who was slain in Kansas, and the two who were massacred at Harper's Ferry, with the John just mentioned, and we believe one or two other sons, constituted this remarkable family.

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### THE BATTLE OF OSSAWATOMIE.

The next prominent adventure of John Brown was the battle of Ossawatomie, from which he got his popular sobriquet of "Ossawatomie Brown." We give his own account of this affair :

Early on the morning of the 30th of August, the enemy's scouts approached to within one mile and a half of the western boundary of the town of Ossawatomie. At this place my son Frederick K. (who was not attached to my force) had lodged with some four other young men from Lawrence, and a young man named Garrison, from Middle Creek.

The scouts, led by a pro-slavery preacher named White, shot my son dead in the road, whilst he—as I have since ascertained—supposed them to be friendly. At the same time they butchered Mr. Garrison, and badly mangled one of the young men from Lawrence, who came with my son, leaving him for dead.

This was not far from sunrise. I had stopped during the night about two and one-half miles from them, and nearly one mile from Ossawatomie. I had no organized force, but only some twelve or fifteen new recruits, who were ordered to leave their preparations for breakfast, and follow me into the town as soon as this news was brought to me.

As I had no means of learning correctly the force of the enemy, I placed twelve of the recruits in a log-house, hoping we might be able to defend the town. I then gathered some fifteen more men together, whom we armed with guns, and we started in the direction of the enemy. After going a few rods, we could see them approaching the town in line of battle, about one-half a mile off upon a hill west of the village. I then gave up all idea of doing more than to annoy, from the timber near the town, into which we all retreated, and which was filled with a thick growth of underbrush, but had no time to recall the twelve men in the log-house, and so lost their assistance in the fight.

At the point above named I met with Capt. Cline, a very active young man, who had with him some twelve or fifteen mounted men, and persuaded him to go with us into the timber, on the southern shore of the Osage or Marais-des-Cygnés, a little to the northwest from the village. Here the men, numbering not more than thirty in all, were directed to scatter and secrete themselves as well as they could, and await the approach of the enemy. This was done in full view of them (who must have seen the whole movement), and had to be done in the utmost haste. I believe Captain Cline and some of his men were not even dismounted in the fight, but cannot assert positively. When the left wing of the enemy had approached to within common rifle shot, we commenced firing; and very soon threw the northern branch of the enemy's line into disorder. This continued some fifteen or twenty minutes, which gave us an uncommon opportunity to annoy them. Captain Cline and his men soon got out of ammunition and retired across the river.

After the enemy rallied, we kept up our fire until, by the leaving of one and another, we had but six or seven left. We then retired across the river.

We had one man killed, a Mr. Powers, from Capt. Cline's company, in the fight. One of my men, a Mr. Partridge, was shot in crossing the river. Two or three of the party who took part in the fight are yet missing, and may be lost or taken prisoners. Two were wounded, viz. : Dr. Updegraff and a Mr. Collis.

I cannot speak in too high terms of them, and of many others I have not now time to mention.

One of my best men, together with myself, was struck with a partially spent ball from the enemy, in the commencement of the fight, but were only bruised. The loss I refer to, is one of my missing men. The loss of the enemy, as we learn by the different statements of our own, as well as their people, was some thirty-one or two killed, and from forty to fifty wounded. After burning the town to ashes, and killing a Mr. Williams they had taken, whom neither party claimed, they took a hasty leave, carrying their dead and wounded with them. They did not attempt to cross the river, nor to search for us, and have not since returned to look over their work.

I give this in great haste, in the midst of constant interruptions. My second son was with me in the fight, and escaped unharmed. This I mention for the benefit of his friends.

Old Preacher White, I hear, boasts of having killed my son; of course, he is a lion.

JOHN BROWN.

Thus were two hundred men, fully equipped and armed, with muskets, swords, pistols, and artillery, arrested, thrown into confusion, and lost thirty-two men, and had fifty wounded by a party of sixteen, all of them imperfectly armed.

The invaders burned down the little town of Ossawatimie, the mill of the Emigrant Aid Company, and carried off a son of Mr. O. C. Brown, whom they kept for several months a prisoner in Missouri. They supposed him to be a relative of the old man, who had so effectively annoyed them.

## THE BATTLE OF THE SPURS.

But there is one incident of his recent career in Kansas, which was laughable in its character, and which has never been narrated in the Eastern journals. He took a party of slaves from the vicinity of Atchison. The owners were indignant at him when they heard of it, and organized a formidable party to pursue him. The sheriff went with them, armed with the parchment terrors of the law. They soon overtook the fugitives. Brown, with Kagi and others, instantly drew up in line of battle to receive them; and, although less than one-fourth in numerical force, it was evident that they intended to conquer or to die in defence of the negroes. The sheriff, seeing the old man's preparations, wheeled round his horse and galloped off. Dozens of his followers imitated his example. There was one company, however, that refused to fly. Brown captured them. He caused them to dismount, and put the negroes on their horses. They swore. Old Brown ordered them to be silent, as he would permit no blasphemy in his presence. They swore again. "Kneel!" said the old man, as he drew his pistol, with stern earnestness, which left no room to doubt his intention. They knelt down, and he ordered them to pray! He detained them for five days, and compelled them to pray night and morning. They returned to Atchison; one of them indiscreetly told the story; the ridicule that overwhelmed the others compelled them, I was recently informed, to leave the town.

This was the last time that I heard of Old John Brown in Kansas.

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 JOHN BROWN'S LATER HISTORY.

Of Brown's subsequent career in Kansas, I know personally very little. He aided Montgomery; he delivered many captives; he acted, everywhere and always, according to his own convictions; whether these convictions are right or wrong depends upon the stand-point from which they are viewed.

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 JOHN BROWN'S PRACTICAL NATURE.

Old Brown was no politician. He despised the class with all the energy of his earnest and determined nature. His first appearance in the Territory of Kansas was at Ossawatimie, at a public meeting, at which politicians were carefully pruning a set of resolutions to suit every shade of Free State men. The motion that called him out was to pass a resolution in favor of excluding all negroes from Kansas. Old Brown rose, and scattered consternation among the politicians by asserting the manhood of the negro race, and expressing his earnest anti-slavery convictions with a force and vehemence little likely to please the hybrids then known as Free State Democrats. It was his first and last appearance in a public meeting. Like most men of action, he underrated discussion. He secretly despised even the ablest anti-slavery orators. He could "see no use in this talking," he said. "Talk

is a national institution ; but it does no good for the slave." He thought it an excuse very well adapted for weak men with tender consciences. Most men, who were afraid to fight, and too honest to be silent, deceived themselves that they discharged their duties to the slave by denouncing in fiery words the oppressor. His ideas of duty were far different ; the slaves, in his eyes, were prisoners of war ; their tyrants, he held, had taken up the sword, and must perish by it."

The next time he appeared among men assembled in numbers was when Lawrence was surrounded by Sheriff Jones's *posse comitatus*, during the governorship of Shannon, in the month of December, 1855. His eldest son, John, had command of a large company of men, and he himself had charge of a dozen. He was dissatisfied with the conduct of Robinson and Lane, and predicted that their celebrated treaty, with its diplomatic phraseology, would only postpone the discussion at arms, which was inevitably and rapidly approaching. Lane sent for him to a Council of War. "Tell the General," Brown said, "that when he wants me to fight, to say so ; but that is the only order I will obey." In disobedience to general orders, he even went out of camp with his dozen men to meet his invaders—to "draw a little blood," as he phrased it—but by the special messenger of Lane he was induced to forego this intention and return. He always regretted doing so, and maintained that if the conflict had been brought on at that time a great deal of bloodshed would have been spared.

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#### HOW JOHN BROWN GOT MONEY.

Some of the papers are exceedingly anxious to know how Old Brown got his money, and from whom, and why. It has long been a matter of newspaper record. The following appeal, which he issued, was extensively printed at the time in the prominent journals of the country :

"*To the Friends of Freedom:* The undersigned, whose individual means were exceedingly limited when he first engaged in the struggle for liberty in Kansas, being now still more destitute, and no less anxious than in times past to continue his efforts to sustain that cause, is induced to make this earnest appeal to the Friends of Freedom throughout the United States, in the firm belief that his call will not go unheeded.

"I ask all honest lovers of *Liberty and Human Rights, both male and female*, to hold up my hands by contributions of pecuniary aid either as counties, cities, towns, villages, societies, churches, or individuals.

"I will endeavor to make a judicious and faithful application of all such means as I may be supplied with. Contributions may be sent in drafts to W. H. D. Calder, Cashier State Bank, Hartford, Connecticut. It is my intention to visit as many places as *I can*, during my stay in the States, provided I am informed of the disposition of the inhabitants to aid me in my efforts, as well as to receive my visit. Information may be communicated to me (care of Massasoit House) at Springfield, Massachusetts. Will the editors of newspapers, friendly to the cause, kindly second

the measure, and also give this some half a dozen insertions? Will either gentlemen or ladies, or both, who love the cause, volunteer to take up the business. It is with *no little sacrifice of personal feeling* that I appear in this manner before the public.

“JOHN BROWN.”

This appeal, in which the italics are in the original, was widely responded to.

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## NOTICES OF THE OTHER INSURGENTS.

The next man to John Brown, in the Harper's Ferry affair, was John E. Cook, who escaped at the time, but was arrested a few days afterward in Pennsylvania, and sent back to Virginia. Our informant thus relates :

### MY FIRST INTRODUCTION TO COOK.

He knew me by reputation, and I entered into conversation with him. He was dressed in the rough fashion of the period, but his arms, accoutrements, and linen—and after one talked with him, his style of conversation—indicated that he was a young man of a wealthy family. A fair, slim youth of two and twenty, his boasting and incessant talking did not strike me favorably. He had a slight impediment in his speech, and the rapidity with which he talked did not improve it. He told me that he had come from Chicago, where, at the time, he had relatives living; had gone to Leavenworth, and joined (for the sake of betraying them) the Kickapoo Rangers—the most desperate gang of ruffians and murderers ever spewed out over Kansas. He told their plans and—*then returned*

What he predicted was fulfilled; his veracity was undoubted. But where was *he*? We had given him up as lost to us, when he suddenly re-appeared. Lawrence had been sacked since his previous visit.

His appearance created a renewed agitation. He went before the Stubbs, the celebrated militia company of Lawrence, told further plans of the Rangers, and, above all, a story of his escape, which removed the doubts about him. The story of Cook's escape, as he told it, was subsequently found to be true.

He had been suspected by the Border Ruffian company, and when he asked permission to visit Kansas City (with the secret intention of going to Lawrence) a man was sent after him to watch him. Cook stopped at Kansas City, and went up to Lawrence. The spy, finding that he had gone, returned to Kickapoo and reported the treason. When Cook went back to Kickapoo, a company meeting was held. A man planted himself before the door of the room, and the spy proceeded to tell his story. But Cook had already dimly feared and formidably prepared himself for this result. It was a terrible situation to be in—a hopeless prisoner, to all human appearances, among thirty enemies. Cook sprang up, with his revolver cocked, and a bowie-knife in his left hand. In an instant, he was at the door, with the muzzle of his pistol within a yard of the doorkeeper's mouth.

John E. Cook, unlike his captain, is *not* a religious man; and I am very much afraid that he uttered profane words as he ordered the doorkeeper to move aside.

Whether he did or not, however, the doorkeeper *moved*. It does not require many words to induce even a brave man to get out of the range of a pistol held in the hands of a desperate prisoner. In a few seconds he had disappeared among the brush ; and—the darkness favoring him—he soon made his way to Lawrence.

Cook had an exciting and rough time in Kansas. He found a friend in Charles Lenhart, the organizer of the Free State guerrillas, and with that party he had his first fight. On this occasion, among three or four boys who accompanied Cook, was a young gentleman named Stewart, the only son of a wealthy family in the State of New York. Charley Lenhart was chosen captain. They had not proceeded more than four miles, when they suddenly came upon three Missourians on horseback, who, as soon as they saw the Lawrence boys, drew up their rifles and fired a volley at them. Stewart fell a corpse—shot through the forehead. The rifles of the survivors were instantly raised ; but, in consequence of the bad *pellets* which Sharpe's manufacturing company at that time made, they would not go off until several of them had snapped. By that time the Missourians, favored by the nature of the ground, were almost out of range. Only one of them was wounded. He was lying along his horse at the time, and the ball glanced along his back, taking a ribbon out of his coat from the waist to the neck. The wound, therefore, was trifling only.

Charley looked after them sternly ; and then turning to his boys, he told them to kneel over the corpse.

“Hold up your hands !” he said, “and take this oath !”

I will not repeat that oath ; suffice it to say that it was a terrible one, *and kept*. Stewart was revenged.

This was Cook's first exploit with the Free State boys.

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### CHARLEY LENHART'S CAMP.

Soon after my laughable adventure as a horse-thief, I started for Charley's camp, fully armed, but this time on foot. I had enough of horses for the season.

Charley was encamped at Blue Mound—a wooded eminence south of Wakarusa, and twelve miles from Lawrence. Near the summit of the Mound, in the thickest part of the wood, I found the young guerrilla boys lying at their ease. Their horses were tethered at different places in the vicinity of the camp. The only covering they had was an old canvas (which they had taken from the enemy), and which, tied to trees, afforded a protection against the rain. Each man had a blanket, rifle, pistol, and bowie-knife. The side-arms were stuck in their belts. Their browned faces and wild and ragged appearance, I thought, were unanswerable proofs of an “irresistible conflict.”

Cook was there. He had been tried and found true. Since the days of Homer there have ever been exceptions to the rule that barking dogs never bite. Cook was a desperate fighting dog ; but he barked like a King Charles poodle. He was always boasting. Even in that little camp, there were rivalries. The State House spirit had already animated one man—who was subsequently shot dead by a Federal

office-holder—and *he* was aspiring to supersede Charley Lenhart in command. Failing to do so, he bolted.

I remained three days in camp. On the second day I had my first taste of guerrilla life. The sentinel, who stood on the bare summit of the Mound, gave three long whistles. Every one sprang to his feet. The tent was torn down, rolled up, and strapped on the nearest horse. Every man seized his blanket, and ran and tied it to his saddle.

“Now, boys!” shouted Charley, “scatter and hide; and don’t you come back again till the troops return to camp.”

I ran to the top of the Mound to reconnoitre. A little stream flowed round the base of the hill, which, after turning it, meandered to the southward. The hill, excepting at the summit, was densely wooded; as also were the banks of the stream.

On the opposite side of the stream, about three miles to the south, I saw two companies of United States dragoons, slowly coming up, and hunting us in every direction. The clearness of the atmosphere enabled us to see that they were conducted by civilians.

“We are betrayed!” said Charley; “but d—n them, they haven’t caught us yet. Let’s scatter.”

Every one chose his own course. I thought the safest route (as it would not do to take to the prairies), would be to cross the stream to the north; for I reckoned that, having seen us on the top of the Mound, the troops would cross and examine it on our side. The Mound is steep, and it was some time before I descended. I crossed the stream and got through the wood, and was entering the thick brush beyond it, when, not more than three hundred paces before me, turning the angle of the wood, appeared the leading file of the mounted troops. The rapidity with which I leaped from my horse might have taught a lesson in celerity to lightning. I had the advantage of the troops, for they could not pursue me on horseback; and, as I was running for a greater stake than they, I did not fear to be overtaken. I escaped; got to the top of the Mound; watched every movement they made; and, in an hour or two, recrossed the stream and found the horse patiently waiting for me. The troops, not knowing our strength, were afraid to cross the stream.

Next day I returned to Lawrence and delivered up the horse to the owner; who, in a similar spirit of neighborliness, delivered me a bill nearly as long as itself, and it was the tallest and longest horse in the town. A short time afterward—such was the fate of many politicians in Kansas—he was obliged to fly for the trifling peccadillo of murdering a slow-paying debtor. Yet his bill was not half so long as mine had been; and he had not waited half so long to get it paid.

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### COOK QUIET FOR A WHILE.

He kept a journal of his adventures, which may be published. He became a captain himself, and in various ways distinguished himself for his recklessness and

bravery. When peace was restored and the speculation mania began, he entered into partnership with a person named Bacon, and made a good deal of money by his quick and shrewd speculations. His real estate office was a real curiosity shop. Enter when you pleased, you would usually find him burnishing his arms—of which he had always a fine variety ; for the chief furniture of his office consisted of weapons, which were conspicuously displayed on the walls and in the corners. For himself, he was a walking arsenal, even in the days of mutual good-feeling.

Cook—to give his character in a few words—is a brave fellow, good-hearted, intelligent, reckless, egotistical and querulous.

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### COOK'S RECENT HISTORY.

I learned, after losing trace of him for many months, that he had gone to Harper's Ferry. He must have been there for upwards of two years past.

The last news I had of him was from my wife. She was travelling through Indiana on her way to Kansas to rejoin me there. A young man, with pistols in his belt and a bowie-knife conspicuously displayed, was declaiming about the Kansas wars to every one around him. Finally, having exhausted his late listeners, he came into the vicinity of my wife, who asked him about various friends in the Territory. He did not know her ; she asked about me. He was rather complimentary in his estimate of my character, but he made an emphatic and important proviso: I was, in his opinion, the rashest and most reckless man he knew. The next time that Satan reproves sin, and is chided for so doing, he may quote, by way of precedent, the distinguished example of JOHN E. COOK, of Harper's Ferry, reproving me for rashness.

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### JOHN KAGI.

Kagi settled at Topeka ; became the Kansas correspondent of the "National Era," and associate editor of the Topeka "Tribune;" and soon made himself a fair reputation as a writer of ability, a brave man, and an incorruptible politician of the Free State Party.

He first became known throughout the country by the assault of Judge Elmore on him. The store of a Free State man had been robbed at Tecumseh, a village four miles distant from Topeka. The owner applied to the Topeka boys for justice. They sent down word that an examination must be made, or they would pay a visit to the town and put it to the flames. A Committee of Investigation was appointed as soon as this gentle warning was received. It consisted, first, of a Free State man ; secondly, *the person suspected of the robbery* ; and thirdly, ex-judge Elmore, as chairman, and representative of the "Conservatives."

The evidence, full and explicit, was given in ; the Free State man deciding in favor of restitution, and the convicted opposing it. The decision, therefore, devolved on Elmore.

In the true conservative spirit, he declared his inability to decide.

Kagi, commenting on the decision, remarked that President Pierce need not have sought a pretext to dismiss Elmore, on account of his extra-judicial investments, as it was self-evident that a person who could not decide when clear evidence was before him, whether a convicted robber should restore stolen goods or retain them, was hardly qualified for a seat on the Supreme Bench of a Territory.

Elmore approached Kagi; asked his name, and then suddenly felled him. He repeated the blow several times; when, seeing Kagi groping for his pistol, he drew his revolver and fired at him, but did no serious damage. Kagi, blinded and stunned, fired a shot at random, which, taking effect in a vital organ, terminated, it is said, all further hope of continuing the house of Elmore.

I do not know of any individual exploit of Kagi; he always acted in company with the Topeka boys or Brown.

He had been nearly two years with the old man, when he fell at Harper's Ferry.

He had become a scientific military officer, and brilliant hopes were formed of his future by the friends who knew him best. He was a young man of clear and logical intellect; but, unlike old Brown, was a skeptic in moral and religious matters; and engaged in the military anti-slavery enterprise rather from a haughty sense of duty to a friendless race, than of obedience to any special command from Deity. Brown believed that God spoke to him in visions of the night; Kagi neither believed in visions nor that God was the author of the drama of human history. He would have made his mark in any society. He died fighting. He fought on the soil of his native State—in obedience to his idea of the lessons of her greatest statesman.

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#### EDWIN COPPIE.

The young man, Edwin Coppie, is a native of Salem, Ohio, where he resided until some seven years ago, when he went to Iowa. He was left an orphan at an early age, and was provided with a home in the family of a benevolent Quaker, a friend of the Coppie family, who were also Quakers. He remained at this place two or three years, exhibiting during that time such evidence of a depraved and vicious nature that his benefactor did not feel it his duty to befriend him further, and turned him loose. After a few years more spent in various places, he at last went to Iowa, where he remained until the commencement of troubles in Kansas, when he emigrated to that Territory, returning again to Iowa after peace was restored. One who knew him in Iowa after he had attained to manhood, says that he enjoyed the reputation of a reckless, dare-devil fellow, possessing much more physical courage and fortitude than principle. After the cessation of troubles in Kansas he was engaged with Brown in running off slaves from Missouri. Some few months since he passed through Salem on his way East, as he said, and spent several days here with his former acquaintances. It is probable that he was then on his way to join Brown.

## REALF.

I find the name of "Realf" in Brown's list of his men, but not in any of the telegraphic accounts of the killed insurgents. If he fell, his name was not correctly given.

I thought and still believe that Realf is in England. He is a young man of poetic genius. Lady Byron adopted him at an early age—his parents were English peasants—and he studied for some time in London as a sculptor. He published a volume of poems in England. Some of his Kansas lyrics were worthy of our most celebrated poets. He was an assistant for some time at the House of Industry with Mr. Pease, of the Five Points; whence, during the border troubles, he emigrated to Kansas. He became a resident correspondent of the Eastern press, but he did not distinguish himself in that responsible capacity. His letters were like Addison's fat citizen's pudding, of which he made the ever-memorable record: "N. B.—Too many plums and not enough suet."

He was rather a spoilt and whining child, but he had a noble heart and a fine intellect. His head was beautifully molded and his countenance handsome.

I think that I recognize another intimate friend in the list of the killed insurrectionists. It is known that he was at Harper's Ferry on the day preceding the explosion.

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 THE BROWNS OF KANSAS.

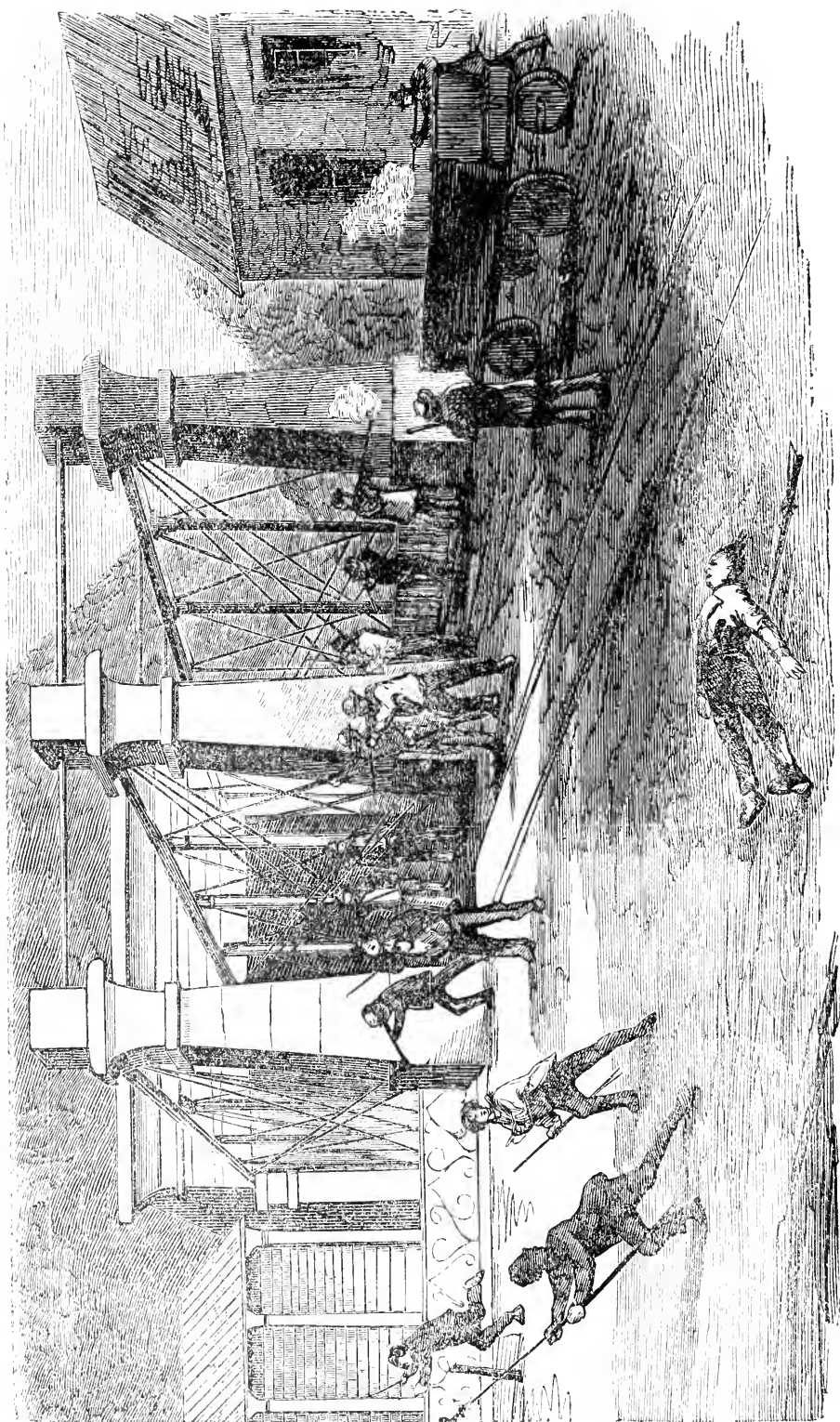
Several persons of the name of Brown have distinguished themselves in Kansas. They have frequently been confounded. One of the first settlers killed was a Brown; one prominent traitor was a Brown; and the most celebrated family of fighting men were Browns.

R. P. Brown, a free-soil pioneer, an emigrant from Kentucky, was killed by the Kickapoo Rangers. His wife is now in an insane hospital. Her husband's body was brutally hacked by the ruffians, and tobacco juice was ejected in his face as he lay writhing on the ground. They carried the body of the still gasping man to the house of his wife. As she wept piteously over it, one of the ruffians insulted her.

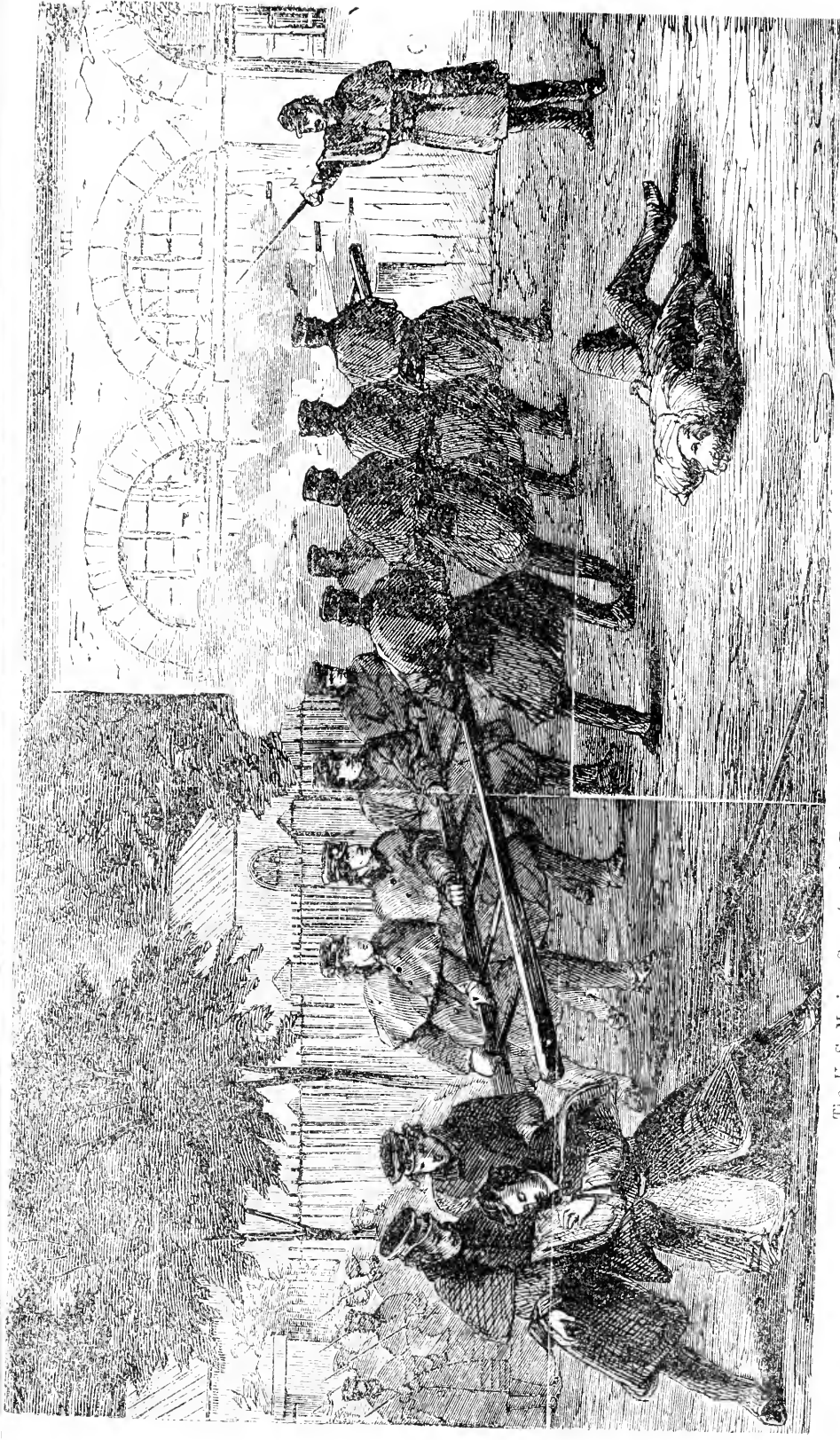
G. W. Brown had his press—the "Herald of Freedom"—destroyed by a mob from Missouri, who were acting in the capacity of *posse comitatus*. He himself was arrested and imprisoned in the camp before Lecompton, on the charge of high treason.

There is another Brown, a peaceable gentleman, who lives at Osawattie, and whose property has been repeatedly destroyed by the invaders of Kansas. He was a member of the Topeka Constitutional Convention. He took no part in the wars, but brought out some colonies of settlers from New York.





Attack on the Insurgents at the Bridge by the Railroad Men;



The U. S. Marines Storming the Engine-House. Insurgents Firing through Holes in the Doors.



## THE INSURRECTION

AT

## HARPER'S FERRY,

*SUNDAY NIGHT, OCT 16, 1859.*

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ON the night here mentioned, John Brown, with twenty one men, took possession of the United States Arsenal at Harper's Ferry, Va., and held it against the forces of Maryland and Virginia, until Tuesday morning, when it was stormed by United States marines. His object was not quite clear; it is said that he made his first appearance in Harper's Ferry more than a year ago, accompanied by his two sons—all three of them assuming the name of Smith. He inquired about land in the vicinity, and made investigations as to the probability of finding ores there, and for some time boarded at Sandy Point, a mile east of the Ferry. After an absence of some months the elder Brown reappeared in the vicinity, and rented or leased a farm on the Maryland side, about four miles from the Ferry. They bought a large number of picks and spades, and this confirmed the belief that they intended to mine for ores. They were frequently seen in and about Harper's Ferry, but no suspicion seems to have existed that "Bill Smith" was Capt. Brown, or that he intended embarking in any movement so desperate or extraordinary.

Brown's chief aid was John E. Cook, a comparatively young man, who has resided in and near the Ferry some years. He was first employed in tending locks on the canal, and afterward taught school on the Maryland side of the river; and after a brief residence in Kansas, where, it is supposed, he became acquainted with Brown, returned to the Ferry and married there. These two men, with Brown's two sons, were the only white men connected with the insurrection that had been seen about the Ferry. All the rest were brought by Brown from a distance, and nearly all had been with him in Kansas. The whole party numbered seventeen white men and five negroes. Among them were Edwin Coppie, white, and Shields Green, colored, from Iowa, who were unhurt; Aaron Stephens, from Connecticut, Stuart Taylor and J. C. Anderson, a fine looking man with a flowing white beard. Anderson was for some time supposed to be the leader of the insurrection. He made his appearance at the Ferry the first of the week, with a very heavy trunk. Watson Brown, son of old Brown, leaves a wife in Essex County, New York.

Elbert Haslett, who was killed, had in his pocket an empty pocket-book and a lock of woman's hair. Lewis Leary, a negro, said before he died that he enlisted with Capt. Brown for the insurrection at a fair held in Lorraine County, Ohio, and received the money to pay his expenses. They all came down to Chambersburg, Pa., and from there they travelled across the country to Brown's farm.

#### THE FIRST ACTIVE MOVEMENT.

The first active movement in the insurrection was made at about half past ten o'clock on Sunday night. William Williamson, the watchman at Harper's Ferry bridge, while walking across toward the Maryland side, was seized by a number of men who said he was their prisoner, and must come with them. He recognized Brown and Cook among the men, and knowing them, treated the matter as a joke; but enforcing silence, they conducted him to the Armory, which he found already in their possession. He was detained till after daylight, and then discharged. The watchman who was to relieve Williamson at midnight found the bridge lights all out, and was immediately seized. Supposing it an attempt at robbery, he broke away, and his pursuers stumbling over him, he escaped.

#### ARREST OF COLONEL WASHINGTON AND OTHERS.

The next appearance of the insurrectionists was at the house of Colonel Lewis Washington, a large farmer and slave-owner, living about four miles from the Ferry. A party, headed by Cook, proceeded there, and rousing Colonel Washington, told him he was their prisoner. They also seized all the slaves near the house, took a carriage horse, and a large wagon with two horses. When Colonel Washington saw Cook he immediately recognized him as the man who had called upon him some months previous, to whom he had exhibited some valuable arms in his possession, including an antique sword presented by Frederick the Great to George Washington, and a pair of pistols presented by Lafayette to Washington, both being heir-looms in the family. Before leaving, Cook wanted Colonel Washington to engage in a trial of skill at shooting, and exhibited considerable skill as a marksman. When he made the visit on Sunday night he alluded to his previous visit, and the courtesy with which he had been treated, and regretted the necessity which made it his duty to arrest Colonel Washington. He, however, took advantage of the knowledge he had obtained by his former visit to carry off the valuable arms, which the Colonel did not reobtain till after the final defeat of the insurrection.

From Colonel Washington's he proceeded with him as a prisoner in the carriage, and twelve of his negroes in the wagon, to the house of Mr. Allstadt, another large farmer, on the same road. Mr. Allstadt and his son, a lad of sixteen, were taken prisoners, and all their negroes within reach forced to join the movement. He then returned to the Armory at the Ferry.

#### THE STOPPAGE OF THE RAILROAD TRAIN.

At the upper end of the town the mail train arrived at the usual hour, when a colored man, who acted as assistant to the baggage-master, was shot, receiving a

mortal wound, and the conductor, Mr. Phelps, was threatened with violence if he attempted to proceed with the train. Feeling uncertain as to the condition of affairs, the conductor waited until after daylight before he ventured to proceed, thus delaying the train six hours.

Luther Simpson, baggage-master of the mail-train, gives the following particulars : I walked up the bridge ; was stopped, but was afterward permitted to go up and see the captain of the insurrectionists ; I was taken to the Armory, and saw the captain, whose name is Bill Smith ; I was kept prisoner for more than an hour, and saw from five to six hundred negroes, having arms : there were two or three hundred white men with them ; all the houses were closed. I went into a tavern kept by Mr. Chambers ; thirty of the inhabitants were collected there with arms. They said most of the inhabitants had left, but they declined, preferring to protect themselves. It was reported that five or six persons had been shot.

Mr. Simpson was escorted back over the bridge by six negroes.

#### THE STATE OF AFFAIRS AT DAYBREAK.

It was not till the town thoroughly waked up, and found the bridge guarded by armed men, and guards stationed at all the avenues, that the people saw that they were prisoners. A panic appears to have immediately ensued, and the number of insurrectionists was at once largely magnified. In the mean time a number of workmen, not knowing anything of what had occurred, entered the Armory, and were successively taken prisoners, until at one time they had not less than sixty men confined in the Armory. These were imprisoned in the engine-house, which afterward became the chief fortress of the insurgents, and were not released until after the final assault. The workmen were imprisoned in a large building further down the yard.

#### EARLY CASUALTIES.

A colored man, named Hayward, a railroad porter, was shot early in the morning, it is said for refusing to join in the movement.

The next man shot was Joseph Boerley, a citizen of Perry. He was standing in his own door. The insurrectionists by this time, finding a disposition to resist them, had nearly all withdrawn within the Armory grounds, leaving only a guard on the bridge.

About this time, also, Samuel P. Young, was shot. He was coming into town on horseback, carrying a gun, when he was fired at from the Armory, receiving a wound of which he died during the day. He was a graduate of West Point.

#### ARRIVAL OF TROOPS—FIRST FIGHTING.

At about noon, the Charlestown troops, under command of Colonel Robert W. Baylor, crossed the Susquehanna River some distance up, and marched down the Maryland side to the mouth of the bridge. Firing a volley, they made a gallant dash across the bridge, clearing it of the insurrectionists, who retreated rapidly

down toward the Armory. In this movement of the insurrectionists a man named William Thompson was taken prisoner.

An eye-witness describes the first fighting as follows :

"The first attack was made by a detachment of the Charlestown Guards, which crossed the Potomac River above Harper's Ferry, and reached a building where the insurgents were posted by the canal, on the Maryland side. Smart firing occurred, and the rioters were driven from the bridge. One man was killed here, and another was arrested. A man ran out, and tried to escape by swimming the river ; a dozen shots were fired after him ; he partially fell, but rose again, threw his gun away, and drew his pistols, but both snapped ; he drew his bowie-knife and cut his heavy accoutrements off, and plunged into the river ; one of the soldiers was about ten feet behind ; the man turned round, threw up his hands, and said, "Don't shoot !" The soldier fired, and the man fell into the water, with his face blown away. His coat-skirts were cut from his person, and in the pockets was found a captain's commission, to Capt. E. H. Leeman, from the Provisional Government. The commission was dated Oct. 15, 1859, and signed by A. W. Brown, Commander-in-Chief of the army of the Provisional Government of the United States. A party of five of the insurrectionists, armed with Minié rifles and posted in the rifle Armory, were expelled by the Charlestown Guards. They all ran for the river, and one, who was unable to swim, was drowned. The other four swam out to the rocks in the middle of the Shenandoah, and fired upon the citizens and troops upon both banks. This drew upon them the muskets of between 200 and 300 men, and not less than 400 shots were fired at them from Harper's Ferry, about 200 yards distant. One was finally shot dead ; the second, a negro, attempted to jump over the dam, but fell shot, and was not seen afterward ; the third was badly wounded, and the remaining one was taken unharmed. The white insurgent, wounded and captured, died in a few moments after, in the arms of our informant ; he was shot through the breast and stomach. He declared that there were only nineteen whites engaged in the insurrection. For nearly an hour a running and random firing was kept up by the troops against the rioters. Several were shot down, and many managed to limp away wounded. During the firing the women and children ran shrieking in every direction, but when they learned that the soldiers were their protectors they took courage, and did good service in the way of preparing refreshments and attending the wounded. Our informant, who was on the hill where the firing was going on, says all the terrible scenes of a battle passed in reality before his eyes. Soldiers could be seen pursuing, singly and in couples, and the crack of a musket or rifle was generally followed by one or more of the insurgents biting the dust. The dead lay in the streets where they fell. The wounded were cared for.

The Shepherdstown troops next arrived, marching down the Shenandoah side, and joining the Charlestown forces at the bridge. A desultory exchange of shots followed, one of which struck Mr. Fontaine Beckham, mayor of the town, and agent of the railroad company, entering his breast and passing entirely through his body. The ball was a large elongated slug, and made a dreadful wound. Mr. Beckham died almost immediately. He was without fire-arms, and was exposed for

only a moment while approaching a water-station. His assailant, one of Brown's sons, was shot almost immediately, but managed to get back to the engine-house, where his body was found next day.

The death of Mr. Beckham greatly excited the populace, who immediately raised a cry to bring out the prisoner, Thompson. He was brought out on the bridge, and there shot down. He fell into the water, and some appearance of life still remaining, he was riddled with balls.

#### RESCUE OF THE WORKMEN.

While this was going on, the Martinsburg levies arrived at the upper end of the town, and entering the Armory grounds by the rear, made an attack from that side. This force was largely composed of railroad employees, gathered from the tonnage trains at Martinsburg, and their attack was generally spoken of as showing the greatest amount of fighting pluck exhibited during the day. Dashing on, firing and cheering, and led by Captain Alburdis, they carried the building in which the Armory men were imprisoned, and released the whole of them. They were, however but poorly armed, some with pistols and others with shot-guns; and when they came within range of the engine-house, where the *élite* of the insurrectionists were gathered, and were exposed to the rapid and dexterous use of Sharpe's rifles, they were forced to fall back, suffering pretty severely. Conductor Evans Dorsey, of Baltimore, was killed instantly, and Conductor George Richardson received a wound from which he died during the day. Several others were wounded, among them a son of Dr. Hammond of Martinsburg.

#### LATER CASUALTIES.

A guerrilla warfare was maintained during the rest of the day, resulting in the killing of two of the insurrectionists and the wounding of a third. One crawled out through a culvert leading into the Potomac, and attempted to cross to the Maryland side. He was shot while crossing the river, and fell dead on the rocks. A light mulatto was shot just outside the Armory gate. The ball went through the throat, tearing away the principal arteries, and killing him instantly. His name is not known, but he is one of the free negroes who came with Brown. His body was left in the street until noon yesterday, exposed to every indignity that could be heaped upon it by the excited populace.

At this time a tall, powerful man, named Aaron Stephens, came out from the Armory, conducting some prisoners, it was said. He was twice shot—once in the side, once in the breast. He was then captured and taken to a tavern, and after the insurrection was quelled was turned over to the United States authorities in a precarious condition. During the afternoon a sharp little affair took place on the Shenandoah side of the town. The insurrectionists had also seized Hall's rifle works, and a party of their assailants found their way in through a mill-race and dislodged them.

In this encounter, it was said, three insurrectionists were killed, but only one dead body was found, that of a negro, on that side of the town. Night by this

time set in, and operations ceased. Guards were placed around the Armory, and every precaution taken to prevent escapes.

#### THE NIGHT SCENES.

At 11 o'clock the Monday night train, with Baltimore military and marines, arrived at Sandy Hook, where they waited for the arrival of Colonel Lee, deputized by the War Department to take the command. The night passed without any serious alarms, but not without excitement. The marines were marched over immediately after their arrival, when Colonel Lee stationed them within the Armory grounds, so as to completely surround the engine-house. Occasionally shots were fired by country volunteers, but what for was not ascertained. There was only one return fire from the insurgents.

#### NEGOTIATIONS NEXT MORNING.

Early next morning a door was opened in the building occupied by the insurgents, and one of the men came out with a flag of truce, and delivered what was supposed to be terms of capitulation. The continued preparations for assault showed they were not accepted. Shortly after 7 o'clock, Lieutenant E. B. Stuart, of the 1st Cavalry, who was acting as aid for Colonel Lee, advanced to parley with the besieged, Samuel Strider, Esq., old and respectable citizen, bearing a flag of truce. They were received at the door by Capt. Cook. Lieutenant Stuart demanded an unconditional surrender, only promising them protection from immediate violence and a trial by law. Captain Brown refused all terms but those previously demanded, which were substantially, "That they should be permitted to march out with their men and arms, taking their prisoners with them; that they should proceed unpursued to the second toll-gate, when they would free their prisoners; the soldiers would then be permitted to pursue them, and they would fight if they could not escape." Of course, this was refused, and Lieutenant Stuart pressed upon Brown his desperate position, and urged a surrender. The expostulation, though beyond ear-shot, was evidently very earnest. At this moment the interest of the scene was most intense. The volunteers were ranged all around the building, cutting off escape in every direction. The marines, divided in two squads, were ready for a dash at the door.

#### THE BUILDING STORMED.

Finally, Lieutenant Stuart, having failed to arrange terms with the determined Captain Brown, walked slowly from the door.

Immediately the signal for attack was given, and the marines, headed by Colonel Harris and Lieutenant Green, advanced in two lines on each side of the door. Two powerful fellows sprung between the lines, and with heavy sledge-hammers attempted to batter down the door. The door swung and swayed, but appeared to be secured with a rope, the spring of which deadened the effect of the blows. Failing thus, they took hold of a ladder, some forty feet long, and advancing at a run, brought it with tremendous effect against the door. At the second blow it

gave way, one leaf falling inward in a slanting position. The marines immediately advanced to the breach, Major Russell and Lieutenant Green leading. A marine in front fell.

The firing from the interior was rapid and sharp. They fired with deliberate aim, and for a moment the resistance was serious, and desperate enough to excite the spectators to something like a pitch of frenzy. The next moment the marines poured in, the firing ceased, and the work was done; in the assault private Ruffert of the marines received a ball in the stomach, and was believed to be fatally wounded. Another received a slight flesh wound.

#### APPEARANCE OF THE PRISONERS.

When the insurgents were brought out, some dead and others wounded, they were greeted with execrations, and only the precautions that had been taken, saved them from immediate execution. The crowd, nearly every man of which carried a gun, swayed with tumultuous excitement, and cries of "Shoot them! shoot them!" rang from every side. The appearance of the liberated prisoners, all of whom, through the steadiness of the marines, escaped injury, changed the current of feeling, and prolonged cheers took the place of howls and execrations.

The lawn in front of the engine-house, after the assault presented a dreadful sight. Lying on it were two bodies of men killed on the previous day, and found inside the house; three wounded men, one of them just at the last gasp of life, and two others groaning in pain. One of the dead was Brown's son, Oliver. The wounded father and his son Watson, were lying on the grass, the old man presenting a gory spectacle. He had a severe bayonet wound in his side, and his face and hair were clotted with blood.

#### BROWN'S CONVERSATION.

A short time after Captain Brown was brought out he revived and talked earnestly to those about him, defending his course and avowing that he had done only what was right. He replied to questions substantially as follows: "Are you Captain Brown, of Kansas?" "I am sometimes called so." "Are you Ossawatomie Brown?" "I tried to do my duty there." "What was your present object?" "To free the slaves from bondage." "Were any other persons but those with you now, connected with the movement?" "No." "Did you expect aid from the North?" "No; there was no one connected with the movement but those who came with me." "Did you expect to kill people in order to carry your point?" "I did not wish to do so, but you force us to it." Various questions of this kind were put to Captain Brown, which he answered clearly and freely, with seeming anxiety to vindicate himself.

He urged that he had the town at his mercy; that he could have burned it and murdered the inhabitants, but did not; he had treated the prisoners with courtesy, and complained that he was hunted down like a beast. He spoke of the killing of his son, which he alleged was done while bearing a flag of truce, and

seemed very anxious for the safety of his wounded son. His conversation bore the impression of the conviction that whatever he had done to free slaves was right, and that in the warfare in which he was engaged he was entitled to be treated with all the respect of a prisoner of war.

He seemed fully convinced that he was badly treated, and had a right to complain. Although at first considered dying, an examination of his wounds proved that they were not necessarily fatal. He expressed a desire to live and to be tried by his country. In his pockets nearly \$300 were found in gold. Several important papers, found in his possession, were taken charge of by Col. Lee, on behalf of the Government. To another, Brown said it was no part of his purpose to seize the public arms. He had arms and ammunition enough reshipped from Kansas. He only intended to make the first demonstration at this point, when he expected to receive a rapid increase of the allies from Abolitionists everywhere settled through Maryland and Virginia, sufficient to take possession of both States, with all of the negroes they could capture. He did not expect to encounter the Federal troops. He had only a general idea as to his course; it was to be a general southwest course through Virginia, varying as circumstances dictated or required. Mr. Washington reports that Brown was remarkably cool during the assault. He fell under two bayonet wounds—one in the groin, and one in the breast, and four sabre cuts on the head. During the fight he was supposed to be dead, or doubtless he would have been shot. He was not touched by a ball. The prisoners also state that Brown was courteous to them, and did not ill-use them, and made no abolition speech to them. Coppie, one of the prisoners, said he did not want to join the expedition, but added: "Ah, you gentlemen don't know Capt. Brown; when he calls for us we never think of refusing to come."

#### CAPTURE OF ARMS.

During Tuesday morning, one of Washington's negroes came in and reported that Captain Cook was on the mountain, only three miles off; about the same time some shots were said to have been fired from the Maryland hills, and a rapid fusillade was returned from Harper's Ferry. The Independent Grays, of Baltimore, immediately started on a scouting expedition, and in two hours returned with two wagons loaded with arms and ammunition, found at Captain Brown's house.

The arms consisted of boxes filled with Sharpe's rifles, pistols, etc., all bearing the stamp of the Massachusetts Manufacturing Company, Chicopee, Mass. There were also found a quantity of United States ammunition, a large number of spears, sharp iron bowie knives fixed upon poles, a terrible looking weapon, intended for the use of the negroes, with spades, pickaxes, shovels, and everything else that might be needed: thus proving that the expedition was well provided for, that a large party of men were expected to be armed, and that abundant means had been provided to pay all expenses.

How all these supplies were got up to this farm without attracting observation is very strange. They are supposed to have been brought through Pennsyl-

vania. The Grays pursued Cook so fast that they secured part of his arms, but with his more perfect knowledge of localities he was enabled to evade them.

#### TREATMENT OF BROWN'S PRISONERS.

The citizens imprisoned by the insurrectionists all testify to their lenient treatment. They were neither tied nor insulted, and beyond the outrage of restricting their liberty were not ill-used. Captain Brown was always courteous to them, and at all times assured them that they would not be injured. He explained his purposes to them, and while he had them (the workmen) in confinement, made no abolition speech to them. Colonel Washington speaks of him as a man of extraordinary nerve. He never blanched during the assault, though he admitted in the night that escape was impossible, and that he would have to die. When the door was broken down, one of his men exclaimed, "I surrender." The captain immediately cried out, "There's one surrenders—give him quarter;" and at the same moment fired his own rifle at the door.

During the previous night he spoke freely with Colouel Washington, and referred to his sons. He said he had lost one in Kansas and two here. He had not pressed them to join him in the expedition, but did not regret their loss—they had died in a glorious cause.

#### BROWN'S PAPERS AND STORES.

On the 18th, a detachment of marines and some volunteers made a visit to Brown's house. They found a large quantity of blankets, boots, shoes, clothes, tents, and fifteen hundred pikes, with large blades. They also discovered a carpet-bag, containing documents throwing much light on the affair, printed constitutions and by-laws of an organization, showing or indicating ramifications in various States of the Union. They also found letters from various individuals at the North—one from Fred Douglass, containing ten dollars from a lady for the cause; also a letter from Gerrit Smith, about money matters, and a check or draft by him for \$100, indorsed by the cashier of a New York bank, name not recollected. All these were taken by Governor Wise. The Governor issued a proclamation offering \$1,000 reward for Cook.

#### THE NAMES OF THE INSURGENTS.

The names of all the parties engaged on Sunday night, except three white men whom he admits he sent away on an errand, are as follows, with their proper titles under the Provisional Government :

#### WHITES.

##### OFFICERS OF THE PARTY.

General JOHN BROWN, Commander-in-Chief, wounded, but will recover.

Captain OLIVER BROWN, dead.

Captain WATSON BROWN, dead.

Captain AARON C. STEPHENS, of Connecticut, wounded badly. He has three balls, and cannot possibly recover.

Lieutenant EDWIN COPPIE, of Iowa, unhurt.  
 Lieutenant ALBERT HAZLITT, of Pennsylvania, dead.  
 Lieutenant WILLIAM LEEMAN, of Maine, dead.  
 Captain JOHN E. COOK, of Connecticut, escaped.

## PRIVATES.

STEWART TAYLOR, of Canada, dead.  
 CHARLES P. TIDD, of Maine, dead.  
 WILLIAM THOMPSON, of New York, dead.  
 ADOLPH THOMPSON, of New York, dead.  
 Captain JOHN KAGI, of Ohio, raised in Virginia, dead.  
 Lieutenant JEREMIAH ANDERSON, of Indiana, dead.  
 With three whites previously sent off, making seventeen whites.

## NEGROES.

DANGERFIELD, newly of Ohio, raised in Virginia, dead.  
 EMPEROR, of New York, raised in South Carolina, not wounded, but a prisoner. He was elected a member of the Provisional Government some time since.  
 Lewis Leary, of Ohio, raised in Virginia, dead.  
 COPLAND, of Ohio, raised in Virginia, not wounded, a prisoner at Charlestown.  
 The insurrectionists did not attempt to rob the paymaster's department at the Armory. A large amount of money was there, but it was not disturbed.  
 Perfect order having been restored, the military, with the exception of the United States marines, who remained in charge of the prisoners, left on Tuesday in various trains for home.

The prisoners were taken to Charlestown jail for safe keeping.

For two or three days the country in the vicinity of the outbreak was in constant excitement, and the wildest rumors were rife of the terrible doings of Cook and other more imaginary insurgents; but the stories all proved false, and before the dawn of the Sabbath, all was quiet.

The whole number of killed and wounded was counted up as follows:—Killed, six citizens and fifteen insurgents; wounded, three insurgents; prisoners, five.

## FACTS AND INCIDENTS.

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### STATEMENT OF COL. JOHN A. WASHINGTON.

COL. JOHN A. WASHINGTON, a distant relative of George Washington, and who was taken prisoner by Capt. Brown, makes the following interesting statement:

Between one and two o'clock on Sunday night, I was in my bed at my house, five or six miles from Harper's Ferry; I was awakened by hearing my name called in the hall; I supposed it was some friends arrived, who, being acquainted with the house, had come in through the kitchen without making any noise; I got up and opened the door into the hall, and before me stood four men, three armed with Sharpe's rifles, levelled and cocked, and the fourth—this man Stephens—with a revolver in his right hand, and in his left a lighted flambeau, made of pine whittlings. As I opened the door, one of the men said: "Is your name Washington?" Said I, "That is my name." Perhaps also Cook, who was of the crowd, also identified me, as he told me afterward he was taken there for that purpose. I was then told that I was a prisoner, and one of them said, "Don't be frightened." I replied, "Do you see anything that looks like fright about me?" "No," he said, "I only want to say, that if you surrender and come with us freely, you are safe." I told them I understood that sufficiently, and there was no necessity for further explanation; but I was struck with the number of men sent against me, and asked what need there was of so many, as there was no danger of an unarmed man in his night-shirt resisting an armed force. I was told to put on my clothes, and of course complied. "Perhaps," said I, "while I am dressing, you will be so good as to tell me what all this means?" I inquired what the weather was outside, and one of them advised me to put on an overcoat, as it was rather chilly. Another said they wanted my arms, and I opened the gun-closet for them to help themselves. They then explained their mission, which they represented to be purely philanthropic, to wit, the emancipation of all the slaves in the country. After I was dressed, Stephens said to me, "Have you got any money?" I replied, "I wish I had a great deal." "Be careful, sir," said he. I told him if I had money I knew how to take care of it, and he could not get it. Said he, "Have you a watch?" My reply was, "I have, but you cannot have it. You have set yourselves up as great moralists and liberators of slaves; now it appears that you are robbers as well." "Be careful, sir," said he again. I told them I was dressed and ready to go. They bade me to wait a short time and my carriage would be at the door. They had ordered my carriage for me, and pryed open the stable-door to get it out. They had harnessed the horses on the wrong side of each other, and I tried to induce them to correct the mistake, which they did after driving a short distance, but still, being harnessed wrong, and rather spirited animals, they would not work well.

My servant, whom they had forced along, was driving. I suspected they were only robbers, and was expecting all along that they would turn off at some point, but they drove directly to the armory. Brown came out and invited me in, saying there was a comfortable fire, and I shortly afterward met with Mr. Allstadt, whom they had arrested on the way and brought along in my buggy wagon. While coming along, the horses being restive, I got out and walked up a hill with one of the men, who took occasion to ask my views on the subject of Slavery in the abstract. I declined an argument on the subject, but he still pressed it upon me, and I was obliged to refuse the second time.

Brown told us to make ourselves comfortable, and added, "By and by I shall require each of you, gentlemen, to write to some of your friends to send a stout negro man in your place." This was by way of ransom. He told us he must see the letter before it was sent, and he thought after this was effected they could make an arrangement by which we could return home. I determined in my own mind not to make the requisition,

but he never made application for it, having other matters, before the day expired, attracting his attention.

My sword, which had been presented by Frederick the Great to General Washington, was taken from my house, with other arms. This man Cook had been at my house some time before and seen the arms, and at that time I beat him at shooting, and he told me I was the best shot he had ever met. On the way to Harper's Ferry he asked me if I had shot any since, and made an apology for being with this party after being so well treated by me. I told him it was of no consequence about the apology, but I would ask one favor of him, which was to use his influence to have returned to me the old sword and an old pistol, which, in the present improved state of arms, were only valuable in consideration of their history. He promised to attend to it, and shortly after reaching the armory I found the sword in Old Brown's hands. Said Brown, "I will take especial care of it, and I shall endeavor to return it to you after you are released." He carried the sword in his hands all day on Monday, until after the arrival of the military.

Upon the first announcement of the arrival of the militia, Brown came into the room and picked out ten of us, whom he supposed to be the most prominent men. He told us we might be assured of good treatment, because, in case he got the worst of it in the fight, the possession of us would be of service in procuring good terms; we could exercise great influence with our fellow-citizens; and as for me, he knew if I was out I should do my duty, and, in my position as aid to the Governor I should be a most dangerous foe. Then we were taken into the engine-house and closely confined. Two of our number went backward and forward repeatedly to confer with citizens during the negotiations, and finally remained out altogether, leaving the eight who were in-side when the building was assaulted and captured by the marines. During Monday various terms of capitulation were proposed and refused, and at night we requested our friends to cease firing during the night, as, if the place should be stormed in the dark, friends and foes would have to share alike. In the morning Capt. Simms, of Frederick, announced the arrival of the United States Marines. During the night he had brought in Dr. Taylor, of Frederick, to look at the wounds of old Brown's son. The surgeon looked at the man, and promised to attend him again in the morning if practicable, but about the time he was expected hostilities had commenced.

Col. Lee, who commanded the United States forces, sent up Lieut. Stuart to announce to Brown that the only terms he would offer for surrender were, that he and his men should be taken to a place of safety and kept unmolested until the will of the President could be ascertained. Brown's reply was to the effect that he could expect no leniency, and he would sell his life as dearly as possible. A few minutes later the place was assaulted and taken. In justice to Brown, I will say that he advised the prisoners to keep well under shelter during the firing, and at no time did he threaten to massacre us or place us in front in case of assault. It was evident he did not expect the attack so soon. There was no cry of "surrender" by his party except from one young man, and then Brown said, "Only one surrenders." This fellow, after he saw the marines, said he would prefer to take his chance of a trial at Washington. He had taken his position, and fired one or two shots, when he cried "surrender." There were four of Brown's party able to fight when the marines attacked, besides a negro, making five in all. This negro was very bold at first, but when the assault was made, he took off his accoutrements, and tried to mingle with the prisoners, and pass himself off as one of them. I handed him over to the marines at once, saying he was a prisoner at all events.

#### MILITARY OFFICIAL ACCOUNT.

Col. Robert W. Baylor, the officer in command of the Virginia troops engaged in the capture of Brown and his men, made the following official report to Governor Wise:

HARPER'S FERRY, Oct. 18, 1859.

HENRY A. WISE, Governor of Virginia:

SIR—Your order, per telegraph, dated Richmond, Va., the 17th instant, calling my attention to section 1st, chapter 29th, of the Code, and to the fact that the Arsenal and government property at Harper's Ferry were in possession of a band of rioters, was not received till about 11 o'clock A.M. to-day, in consequence of the telegraphic posts round about here having been cut down by an audacious band of insurgents and robbers.

On the morning of the 17th inst., I received information at Charlestown that a band of abolitionists from the North had taken possession of the Arsenal and workshops of the

government located here; that they had killed several of our citizens, taken others and held them as prisoners, and that they had in possession a large number of slaves, who, on the night of the 16th inst., were forcibly taken from their masters.

I immediately ordered out the "Jefferson Guard" and the citizens of Charlestown, which order was quickly responded to, and by ten o'clock A.M. they were armed and en route for this place. We left Charlestown with about one hundred men, and on reaching Halltown (midway between Charlestown and Harper's Ferry), we learned that the insurgents were in large numbers, and we at once dispatched orders to Col. L. F. Moore, of Frederick County, and to the "Hamtramck Guards" and "Shepherdstown Troop" to reinforce immediately. We reached Harper's Ferry about half-past eleven o'clock, A.M., and took our position on Camp Hill. We immediately dispatched the "Jefferson Guards," commanded by Capt. J. W. Rowan and Lieutenants H. B. Davenport, E. H. Campbell and W. B. Gallaher, to cross the Potomac River about a mile west of the Ferry, and march down on the Maryland side and take possession of the Potomac bridge; and a company of the citizens of Charlestown and vicinity, commanded by Capt. L. Botts and Lieut. F. Lackland, to cross the Winchester and Potomac railroad by way of Jefferson's Rock, to take possession of the Galt House, in the rear of the Arsenal, and commanding the entrance to the Armory yard. Capt. John Avis and R. B. Washington, Esq., with a handful of men, were ordered to take possession of the houses commanding the yard of the Arsenal. All these orders were promptly and successfully executed.

The bridge across the Shenandoah River and that of the Baltimore and Ohio railroad, at the west end of the trestle work, and the street leading from the rifle factory, were guarded by small detachments of men.

Between three and four o'clock P.M., the Hamtramck Guards, Shepherdstown Troop, and a company from Martinsburg, commanded by Capt. E. Alburtis, arrived on the ground. The company from Winchester, commanded by Capt. R. B. Washington, did not arrive till late in the evening.

All the insurgents, save those who were killed and wounded through the day, retired with their prisoners into the guard-house and engine-room, just inside of the gate of the armory yard, which was firmly locked. About three o'clock P.M., the enemy, with the most prominent of their prisoners, concentrated in the engine-room, leaving a large number of their prisoners fastened up in the guard-house. At this point, and after the arrival of the reinforcements from Shepherdstown and Martinsburg, Col. R. W. Baylor assumed the command, and will furnish you with the details of what followed.

The avowed and confessed object of the insurgents was to free the slaves of the South. They had at their head-quarters, near Harper's Ferry, 200 Sharpe's rifles, 200 revolvers, 1,000 pikes, a large number of picks and shovels, and a great quantity of ammunition and other things used in war. All these were taken and are in possession of the federal government.

JNO. THOS. GIBSON,  
Com'dt 55th Regiment.

CHARLESTOWN, Oct. 22, 1859.

HON. HENRY A. WISE, Governor of Virginia:

SIR—Having received intelligence from Harper's Ferry on the morning of the 17th instant that the abolitionists had invaded our State, taken possession of the town, government property and arms, I immediately proceeded to the scene of action. In passing through Charlestown, I met Colonel Gibson, with the Jefferson Guards, under arms. We proceeded to Halltown in the cars, where the citizens of that place informed me I could proceed no further with the train, as not only the Winchester but also the Baltimore and Ohio Railroad track had been taken up. At this place I learned they had taken seventy-five or one hundred of our citizens prisoners, and had carried off many of our slaves. Thereupon I issued the following order to Col. L. T. Moore, of the Thirty-first regiment of Virginia militia:

"October 17, 1859.

"COL. L. T. MOORE: Sir—You are ordered to muster all the volunteer forces under your command, fully armed and equipped, and report to me forthwith at Harper's Ferry.

"ROBERT W. BAYLOR,  
"Col. Third regiment Cavalry."

I placed the above order in charge of Capt. Bailey, the conductor on the Winchester road, and directed him to return with his train to Winchester, and deliver the order to

Col. Moore. I proceeded on, with the few troops we had under arms, on foot to Harper's Ferry, where we arrived about 12 o'clock. I found the citizens in very great excitement. By this time the insurgents occupied all the lower part of the town, had their sentinels posted on all the different streets, and had shot one of our citizens and a negro man who had charge of the depot on the Baltimore and Ohio Railroad. I here formed two companies of the citizens, and placed them under the command of Captain Lawson Botts and Captain John Avis. Their forces were variously estimated from 300 to 500 strong, armed with Sharpe's rifles and revolvers.

I detached the Jefferson Guards, under the command of Capt. Rowan, and ordered them to cross the Potomac River in boats, about two miles above Harper's Ferry, and march down on the Maryland side, and take possession of the bridge, and permit no one to pass. This order was strictly executed. The command under Capt. Botts was ordered to pass down the hill below Jefferson's Rock and take possession of the Shenandoah bridge, to leave a strong guard at that point, and to march down to the Galt House, in rear of the Arsenal building, in which we supposed their men were lodged. Captain Avis' command was ordered to take possession of the houses directly in front of the Arsenal. Both of the above commands were promptly executed. By this movement we prevented any escape. Shortly after this, a report reached me that Geo. W. Turner and Fontaine Beckham, two of our most esteemed citizens, had been shot. About four o'clock we were reinforced by the arrival of the Hantramek Guards, under the command of Captain Butler; the Shepherdstown Troop, under the command of Captain Reinhart, and some thirty citizens of Martinsburg, under the command of Captain Alburtis. I ordered Captain Alburtis to march down Potomac street through the Armory yard to the Arsenal. The Hantramek Guards and the Shepherdstown Troop (dismounted and armed with muskets), under my command, proceed down High street to the centre of the town, in front of the Arsenal. During this march, the insurgents, having secreted themselves in the engine-house in the Armory yard, opened a brisk fire on Captain Alburtis' company. The fire was quickly returned by Captain Alburtis' company, who behaved very bravely. The different companies near at hand rallied to Captain Alburtis' rescue.

The firing at this time was heavy, and the insurgents could not have retained their position many minutes, when they presented at the door a white flag. The firing thereupon ceased, and I ordered the troops to draw up in line in front of the Arsenal. During this engagement and the previous skirmishes, we had ten men wounded, two I fear mortally. The insurgents had eleven killed, one mortally wounded, and two taken prisoners, leaving only five in the engine-house, and one of them seriously wounded.

In this engagement, we rescued about thirty of our citizens, whom they held as prisoners in the guard-house; they still held in the engine-house, ten citizens and five slaves.

Immediately after the troops were withdrawn, Capt. Brown sent to me, through Isaac Russell, one of their prisoners, a verbal communication, stating if I would permit him to cross the bridge with his prisoners to some point beyond he would set them at liberty. I sent him the following reply in writing:

"CAPT. JOHN BROWN:

"HEADQUARTERS, HARPER'S FERRY.

"SIR—Upon consultation with Mr. Isaac Russell, one of your prisoners, who has come to me on terms of capitulation, I say to you, if you will set at liberty our citizens, we will leave the government to deal with you concerning their property as it may think most advisable.

"ROBERT W. BAYLOR,  
"Col. Commandant."

In reply, I received the following answer in writing:

"CAPT. JOHN BROWN, answers:

"In consideration of all my men, whether living or dead, or wounded, being soon safely in, and delivered up to me at this point, with all their arms and ammunition, we will then take our prisoners and cross the Potomac bridge, a little beyond which we will set them at liberty; after which we can negotiate about the government property as may be best. Also, we require the delivery of our horse and harness at the hotel.

"JOHN BROWN."

To the above, I returned the following answer:

"HEADQUARTERS.

"CAPT. JOHN BROWN:

"SIR—The terms you proposed I cannot accept. Under no consideration will I consent to a removal of our citizens across the river. The only negotiations upon which I will consent to treat, are those which have been previously proposed to you.

"ROBERT W. BAYLOR,

"Col. Commandant."

These terms he declined. Night by this time had set in, and the weather being very inclement, I thought it best, for the safety of our citizens whom they held as prisoners, to cease operations for the night. Should I have ordered an attack at that hour, and in total darkness, our troops would have been as likely to have murdered our own citizens as the insurgents, all being in the same apartment. Having concluded to postpone another attack until morning, guards were posted around the Armory, and every precaution taken to prevent escape. Our troops by this time required some refreshment, having been on active duty and exposed to a heavy fall of rain all day. A little after night we were reinforced by Colonel L. T. Moore, of the Thirty-first regiment, having under his command the Continental Guards, commanded by Captain Washington, and the Rifles, commanded by Captain Clarke; also, three companies from Frederick, Maryland, under the command of Colonel Shiver. About twelve o'clock, Colonel Lee arrived, having under his command eighty-five marines from Washington. The government troops took possession of the government property and formed inside of the Armory yard, in close proximity to the engine-house. In this position Colonel Lee thought it best to remain until morning. The night passed without serious alarm, but not without intense excitement. It was agreed between Colonel Lee and myself that the volunteer forces should form around on the outside of the government property, and clear the streets of all citizens and spectators, to prevent them firing random shots, to the great danger of our soldiers, and to remain in that position whilst he would attack the engine-house with his marines. As soon as day dawned, the troops were drawn up in accordance with the above arrangement. After which Colonel Lee demanded of the insurgents to surrender upon the terms I had before proposed to them, which they still declined. The marines were then ordered to force the doors. The attempt was made with heavy sledges, but proved ineffectual. They were then ordered to attack the doors with a heavy ladder which was lying a short distance off. After two powerful efforts, the door was shattered sufficiently to obtain an entrance. Immediately a heavy volley was fired in by the marines, and an entrance effected, which soon terminated the conflict. In this engagement, the marines had one killed and one slightly wounded. The insurgents had two killed and three taken prisoners. After the firing ceased, the imprisoned citizens walked out unhurt.

Ascertaining that the whole party within the town were either killed or taken prisoners, I disbanded all the troops, with the exception of the Jefferson Guard, whom I retained on duty to prevent any further disturbances should they arise.

About twelve o'clock on Tuesday, information having been received that a large number of arms were secreted in a house in the mountain, the Independent Grays, of Baltimore, were dispatched to search for them. They returned about six o'clock, having found two hundred Sharpe's rifles, two hundred revolvers, twenty-three thousand percussion caps, one hundred thousand percussion pistol caps, ten kegs of gunpowder, thirteen thousand ball cartridges for Sharpe's rifles, one major-general's sword, fifteen hundred pikes, and a large assortment of blankets and clothing of every description. On Wednesday the prisoners were placed in the custody of the sheriff of our county, and safely lodged in jail. Disturbances still occurring on the Maryland side of the river, I marched the Jefferson Guard over and made a thorough examination of their rendezvous; found it deserted and everything quiet. We returned about six o'clock to the Ferry; shortly after there was another general alarm, which caused great excitement.

The alarm was occasioned by a gentleman, residing in Pleasant Valley, riding into town in great haste, stating that he saw firing and heard the screams of the people, and that a large number of insurgents had collected and were murdering all before them. Forthwith Col. Lee, with thirty marines, proceeded to the spot, and the Jefferson Guards took possession of the bridge. In about three hours Col. Lee returned, the alarm having proved to have been false.

Nothing further having occurred during the night to disturb the quiet of the town, on the following morning I disbanded the company and returned home.

I feel it my duty, before closing this report, to state that the arms in the possession of the volunteer companies in this section of the State are almost worthless. I do not think we have 100 muskets in the county of Jefferson, a border county, and one of the most exposed of all others. With such arms as we have, it is butchery to require our troops to face an enemy much better equipped. Colonel Moore, of the Thirty-first regiment, informs me in his report, that, out of one hundred and thirty-five men on duty, he had not thirty pieces that would fire with any effect. If the State expects her volunteers to protect her, she must arm them better.

Knowing the great interest that will be felt throughout the State, and to vindicate the honor and valor of the troops under my command, I have been more than necessarily minute in this report. I am pleased to inform you, that they obeyed every order with alacrity, and with a full determination to do their duty.

The prisoners are doing well, and I do not fear any attempt will be made to rescue them, or that any further disturbances will occur.

I have the honor to be, very respectfully,

ROBERT W. BAYLOR,  
Col. Commanding the Va. Troops at Harper's Ferry.

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### A CONVERSATION WITH BROWN.

One of that ubiquitous class of persevering inquirers known as Reporters visited Harper's Ferry on the 18th and 19th of October, and was present at an interview between Senator Mason, Congressman Vallandigham, and the prisoner, Brown. The Reporter writes as follows:

HARPER'S FERRY, Oct. 19, 1859.

"Old Brown," or "Ossawatimie Brown," as he is often called, the hero of a dozen fights or so with the "border ruffians" of Missouri, in the days of "bleeding Kansas," is the head and front of this offending—the commander of the filibuster army. His wounds, which at first were supposed to be mortal, turn out to be mere flesh-wounds and scratches, not dangerous in their character. He has been removed, together with Stephens, the other wounded prisoner, from the engine-room to the office of the Armory, and they now lie on the floor, upon miserable shake-downs, covered with some old bedding.

Brown is fifty-five years of age, rather small-sized, with keen and restless grey eyes, and a grizzly beard and hair. He is a wiry, active man, and, should the slightest chance for an escape be afforded, there is no doubt that he will yet give his captors much trouble. His hair is matted and tangled, and his face, hands, and clothes, all smouched and smeared with blood. Colonel Lee stated that he would exclude all visitors from the room if the wounded men were annoyed or pained by them, but Brown said he was by no means annoyed; on the contrary, he was glad to be able to make himself and his motives clearly understood. He converses freely, fluently and cheerfully, without the slightest manifestation of fear or uneasiness, evidently weighing well his words, and possessing a good command of language. His manner is courteous and affable, and he appears to make a favorable impression upon his auditory, which, during most of the day yesterday, averaged about ten or a dozen men.

When I arrived in the Armory, shortly after two o'clock in the afternoon, Brown was answering questions put to him by Senator Mason, who had just arrived from his residence at Winchester, thirty miles distant, Col. Faulkner, member of Congress, who lives but a few miles off, Mr. Vallandigham, member of Congress of Ohio, and several other distinguished gentlemen. The following is a *verbatim* report of the conversation:

MR. MASON—Can you tell us, at least, who furnished money for your expedition?

MR. BROWN—I furnished most of it myself. I cannot implicate others. It is by my own folly that I have been taken. I could easily have saved myself from it had I exercised my own better judgment, rather than yielded to my feelings.

MR. MASON—You mean if you had escaped immediately?

MR. BROWN—No; I had the means to make myself secure without any escape, but I allowed myself to be surrounded by a force by being too tardy.

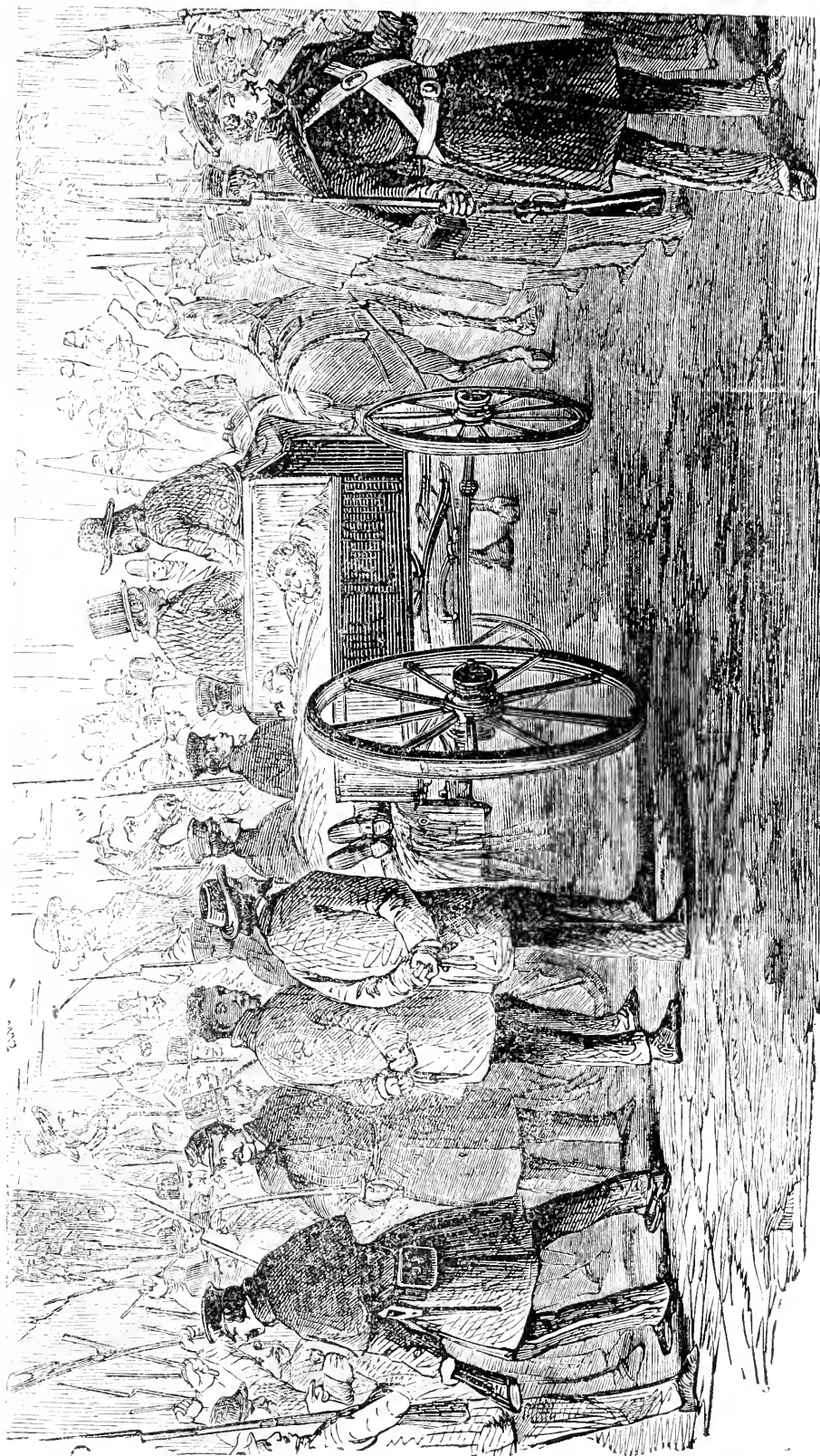
MR. MASON—Tardy in getting away?

MR. BROWN—I should have gone away, but I had thirty odd prisoners, whose wives and daughters were in tears for their safety, and I felt for them. Besides, I wanted to





Governor Wisc, of Virginia, and District-Attorney Caid examining the Wounded Prisoners in the presence of the Officers and Reporters.



Carrying the Prisoners from the Armory to the Railroad Station, en route to Charlestown, Va., for Trial.



allay the fears of those who believed we came here to burn and kill. For this reason I allowed the train to cross the bridge, and gave them full liberty to pass on. I did it only to spare the feelings of those passengers and their families, and to allay the apprehensions that you had got here in your vicinity a band of men who had no regard for life and property, nor any feeling of humanity.

Mr. MASON—But you killed some people passing along the streets quietly.

Mr. BROWN—Well, sir, if there was anything of that kind done, it was without my knowledge. Your own citizens, who were my prisoners, will tell you that every possible means were taken to prevent it. I did not allow my men to fire, nor even to return a fire, when there was danger of killing those we regarded as innocent persons, if I could help it. They will tell you that we allowed ourselves to be fired at repeatedly and did not return it.

A BYSTANDER—That is not so. You killed an unarmed man at the corner of the house over there (at the water tank) and another besides.

Mr. BROWN—See here, my friend, it is useless to dispute or contradict the report of your own neighbors who were my prisoners.

Mr. MASON—If you would tell us who sent you here—who provided the means—that would be information of some value.

Mr. BROWN.—I will answer freely and faithfully about what concerns myself—I will answer anything I can with honor, but not about others.

Mr. VALLANDIGHAM (member of Congress from Ohio, who had just entered)—Mr. Brown, who sent you here?

Mr. BROWN—No man sent me here; it was my own prompting and that of my Maker, or that of the devil, whichever you please to ascribe it to. I acknowledge no man in human form.

Mr. VALLANDIGHAM—Did you get up the expedition yourself?

Mr. BROWN—I did.

Mr. VALLANDIGHAM—Did you get up this document that is called a constitution?

Mr. BROWN—I did. They are a constitution and ordinances of my own contriving and getting up.

Mr. VALLANDIGHAM—How long have you been engaged in this business?

Mr. BROWN—From the breaking of the difficulties in Kansas. Four of my sons had gone there to settle, and they induced me to go. I did not go there to settle, but because of the difficulties.

Mr. MASON.—How many are engaged with you in this movement? I ask those questions for our own safety.

Mr. BROWN—Any questions that I can honorably answer I will, not otherwise. So far as I am myself concerned I have told everything truthfully. I value my word, sir.

Mr. MASON—What was your object in coming?

Mr. BROWN—We came to free the slaves, and only that.

A YOUNG MAN (in the uniform of a volunteer company)—How many men in all had you?

Mr. BROWN—I came to Virginia with eighteen men only, besides myself.

VOLUNTEER—What in the world did you suppose you could do here in Virginia with that amount of men?

Mr. BROWN—Young man, I don't wish to discuss that question here.

VOLUNTEER—You could not do anything.

Mr. BROWN—Well, perhaps your ideas and mine on military subjects would differ materially.

Mr. MASON—How do you justify your acts?

Mr. BROWN—I think, my friend, you are guilty of a great wrong against God and humanity—I say it without wishing to be offensive—and it would be perfectly right in any one to interfere with you so far as to free those you wilfully and wickedly hold in bondage. I do not say this insultingly.

Mr. MASON—I understand that.

Mr. BROWN—I think I did right, and that others will do right who interfere with you at any time and all times. I hold that the golden rule, "Do unto others as you would that others should do unto you," applies to all who would help others to gain their liberty.

Lieut. STUART—But you don't believe in the Bible.

Mr. BROWN—Certainly I do.

Mr. VALLANDIGHAM—Where did your men come from? Did some of them come from Ohio?

Mr. BROWN—Some of them.

Mr. VALLANDIGHAM—From the Western Reserve? None came from Southern Ohio?

Mr. BROWN—Yes, I believe one came from below Steubenville, down not far from Wheeling.

Mr. VALLANDIGHAM—Have you been in Ohio this summer?

Mr. BROWN—Yes, sir.

Mr. VALLANDIGHAM—How lately?

Mr. BROWN—I passed through to Pittsburg on my way in June.

Mr. VALLANDIGHAM—Were you at any county or State fair there?

Mr. BROWN—I was not—not since June.

Mr. MASON—Did you consider this a military organization, in this paper (the Constitution)? I have not yet read it.

Mr. BROWN—I did in some sense. I wish you would give that paper close attention.

Mr. MASON—You considered yourself the Commander-in-Chief of these "provisional" military forces.

Mr. BROWN—I was chosen agreeably to the ordinance of a certain document, commander-in-chief of that force.

Mr. MASON—What wages did you offer?

Mr. BROWN—None.

Lieut. STUART—"The wages of sin is death."

Mr. BROWN—I would not have made such a remark to you, if you had been a prisoner and wounded in my hands.

A BYSTANDER—Did you not promise a negro in Gettysburg, twenty dollars a month?

Mr. BROWN—I did not.

BYSTANDER—He says you did.

Mr. VALLANDIGHAM—Were you ever in Dayton, Ohio?

Mr. BROWN—Yes, I must have been.

Mr. VALLANDIGHAM—This summer?

Mr. BROWN—No; a year or two since.

Mr. MASON—Does this talking annoy you?

Mr. BROWN—Not the least.

Mr. VALLANDIGHAM—Have you lived long in Ohio?

Mr. BROWN—I went there in 1850; I lived in Summit County, which was then Trumbull County; my native place is in York State; my father lived there till his death, in 1805.

Mr. VALLANDIGHAM—Do you recollect a man in Ohio named Brown, a noted counterfeiter?

Mr. BROWN—I do; I knew him from a boy; his father was Henry Brown; they were of Irish or Scotch descent, and he had a brother also engaged in that business; when boys they could not read nor write; they were of a very low family.

Mr. VALLANDIGHAM—Have you been in Portage County lately?

Mr. BROWN—I was there in June last.

Mr. VALLANDIGHAM—When in Cleveland, did you attend the Fugitive Slave Law Convention there?

Mr. BROWN—No. I was there about the time of the sitting of the court to try the Oberlin rescuers. I spoke there publicly on that subject. I spoke on the Fugitive Slave law and my own rescue. Of course, so far as I had any influence at all, I was disposed to justify the Oberlin people for rescuing the slave, because I have myself forcibly taken slaves from bondage. I was concerned in taking eleven slaves from Missouri to Canada last winter. I think I spoke in Cleveland before the Convention. I do not know that I had any conversation with any of the Oberlin rescuers. I was sick part of the time I was in Ohio, with the ague. I was part of the time in Ashtabula County.

Mr. VALLANDIGHAM—Did you see anything of Joshua R. Giddings there?

Mr. BROWN—I did meet him.

Mr. VALLANDIGHAM—Did you converse with him?

Mr. BROWN—I did. I would not tell you, of course, anything that would implicate Mr. Giddings; but I certainly met with him and had conversations with him.

Mr. VALLANDIGHAM—About that rescue case?

Mr. BROWN—Yes, I did; I heard him express his opinions upon it very freely and frankly.

Mr. VALLANDIGHAM—Justifying it?

Mr. BROWN—Yes, sir; I do not compromise him certainly in saying that.

A BYSTANDER—Did you go out to Kansas under the auspices of the Emigrant Aid Society?

Mr. BROWN—No, sir; I went out under the auspices of John Brown and nobody else.

Mr. VALLANDIGHAM—Will you answer this: Did you talk with Giddings about your expedition here?

Mr. BROWN—No, I won't answer that; because a denial of it I would not make, and to make any affirmation of it I should be a great dunce.

Mr. VALLANDIGHAM—Have you had any correspondence with parties at the North on the subject of this movement?

Mr. BROWN—I have had correspondence.

A BYSTANDER—Do you consider this a religious movement?

Mr. BROWN—It is, in my opinion, the greatest service a man can render to God.

BYSTANDER—Do you consider yourself an instrument in the hands of Providence?

Mr. BROWN—I do.

BYSTANDER—Upon what principle do you justify your acts?

Mr. BROWN—Upon the golden rule. I pity the poor in bondage that have none to help them; that is why I am here; not to gratify any personal animosity, revenge or vindictive spirit. It is my sympathy with the oppressed and the wronged, that are as good as you and as precious in the sight of God.

BYSTANDER—Certainly. But why take the slaves against their will?

Mr. BROWN—I never did.

BYSTANDER—You did in one instance, at least.

Stephens, the other wounded prisoner, here said, in a firm, clear voice—"You are right. In one case, I know the negro wanted to go back."

A BYSTANDER—Where did you come from?

Mr. STEPHENS—I lived in Ashtabula county, Ohio.

Mr. VALLANDIGHAM—How recently did you leave Ashtabula county?

Mr. STEPHENS—Some months ago. I never resided there any length of time; have been through there.

Mr. VALLANDIGHAM—How far did you live from Jefferson?

Mr. BROWN—Be cautious, Stephens, about any answers that would commit any friend. I would not answer that.

Stephens turned partially over with a groan of pain, and was silent.

Mr. VALLANDIGHAM (to Mr. Brown)—Who are your advisers in this movement?

Mr. BROWN—I cannot answer that. I have numerous sympathizers throughout the entire North.

Mr. VALLANDIGHAM—In northern Ohio?

Mr. BROWN—No more there than anywhere else; in all the free States.

Mr. VALLANDIGHAM—But you are not personally acquainted in southern Ohio?

Mr. BROWN—Not very much.

Mr. VALLANDIGHAM (to Stephens)—Were you at the Convention last June?

STEPHENS—I was.

Mr. VALLANDIGHAM (to Brown)—You made a speech there?

Mr. BROWN—I did.

A BYSTANDER—Did you ever live in Washington city?

Mr. BROWN—I did not. I want you to understand, gentlemen—(and, to the reporter of the "Herald") you may report that—I want you to understand that I respect the rights of the poorest and weakest of colored people, oppressed by the slave system, just as much as I do those of the most wealthy and powerful. That is the idea that has moved me, and that alone. We expect no reward, except the satisfaction of endeavoring to do for those in distress and greatly oppressed, as we would be done by. The cry of distress of the oppressed is my reason, and the only thing that prompted me to come here.

A BYSTANDER—Why did you do it secretly?

Mr. BROWN—Because I thought that necessary to success; no other reason.

BYSTANDER—And you think that honorable? Have you read Gerritt Smith's last letter?

Mr. BROWN—What letter do you mean?

BYSTANDER—The "New York Herald" of yesterday, in speaking of this affair, mentions a letter in this way:—"Apropos of this exciting news, we recollect a very significant passage in one of Gerritt Smith's letters, published a month or two ago, in which he

speaks of the folly of attempting to strike the shackles off the slaves by the force of moral suasion or legal agitation, and predicts that the next movement made in the direction of negro emancipation would be an insurrection in the South."

Mr. BROWN—I have not seen the "New York Herald" for some days past; but I presume, from your remark about the gist of the letter, that I should concur with it. I agree with Mr. Smith that moral suasion is hopeless. I don't think the people of the slave States will ever consider the subject of slavery in its true light till some other argument is resorted to than moral suasion.

Mr. VALLANDIGHAM—Did you expect a general rising of the slaves in case of your success?

Mr. BROWN—No, sir; nor did I wish it. I expected to gather them up from time to time and set them free.

Mr. VALLANDIGHAM—Did you expect to hold possession here till then?

Mr. BROWN—Well, probably I had quite a different idea. I do not know that I ought to reveal my plans. I am here a prisoner and wounded, because I foolishly allowed myself to be so. You overrate your strength in supposing I could have been taken if I had not allowed it. I was too tardy after commencing the open attack—in delaying my movements through Monday night, and up to the time I was attacked by the government troops. It was all occasioned by my desire to spare the feelings of my prisoners and their families and the community at large. I had no knowledge of the shooting of the negro (Hayward).

Mr. VALLANDIGHAM—What time did you commence your organization in Canada?

Mr. BROWN—That occurred about two years ago, if I remember right. It was, I think, in 1858.

Mr. VALLANDIGHAM—Who was the Secretary?

Mr. BROWN—That I would not tell if I recollected, but I do not recollect. I think the officers were elected in May, 1858. I may answer incorrectly, but not intentionally. My head is a little confused by wounds, and my memory obscure on dates, etc.

Dr. BIGGS—Were you in the party at Dr. Kennedy's house?

Mr. BROWN—I was at the head of that party. I occupied the house to mature my plans. I have not been in Baltimore to purchase caps.

Dr. BIGGS—What was the number of men at Kennedy's?

Mr. BROWN—I decline to answer that.

Dr. BIGGS—Who lanced that woman's neck on the hill?

Mr. BROWN—I did. I have sometimes practised in surgery when I thought it a matter of humanity and necessity, and there was no one else to do it, but have not studied surgery.

Dr. BIGGS—It was done very well and scientifically. They have been very clever to the neighbors, I have been told, and we had no reason to suspect them except that we could not understand their movements. They were represented as eight or nine persons; on Friday there were thirteen.

Mr. BROWN—There were more than that.

Q. Where did you get arms to obtain possession of the Armory?

A. I bought them.

Q. In what State?

A. That I would not state.

Q. How many guns?

A. Two hundred Sharpe's rifles and two hundred revolvers--what is called the Massachusetts Arms Company's revolvers, a little under the navy size.

Q. Why did you not take that swivel you left in the house?

A. I had no occasion for it. It was given to me a year or two ago.

Q. In Kansas?

A. No; I had nothing given me in Kansas.

Q. By whom; and in what State?

A. I decline to answer. It is not properly a swivel; it is a very large rifle with a pivot. The ball is larger than a musket ball; it is intended for a slug.

REPORTER OF THE HERALD—I do not wish to annoy you; but if you have anything further you would like to say I will report it.

Mr. BROWN—I have nothing to say, only that I claim to be here in carrying out a measure I believe perfectly justifiable, and not to act the part of an incendiary or ruffian, but to aid those suffering great wrong. I wish to say, furthermore, that you had better—all you people at the South—prepare yourselves for a settlement of that question that must

come up for settlement sooner than you are prepared for. The sooner you are prepared the better. You may dispose of me very easily; I am nearly disposed of now; but this question is still to be settled—this negro question I mean—the end of that is not yet. These wounds were inflicted upon me—both sabre cuts on my head and bayonet stabs in different parts of my body—some minutes after I had ceased fighting and had consented to a surrender, for the benefit of others, not for my own. (This statement was vehemently denied by all around.) I believe the major (meaning Lieut. J. B. Stuart, of the United States cavalry), would not have been alive; I could have killed him just as easy as a mosquito when he came in, but I supposed he came in only to receive our surrender. There had been loud and long calls of “surrender” from us—as loud as men could yell—but in the confusion and excitement I suppose we were not heard. I do not think the major, or any one, meant to butcher us after we had surrendered.

An OFFICER here stated that the order to the marines were not to shoot anybody; but when they were fired upon by Brown's men and one of them killed, they were obliged to return the compliment.

Mr. BROWN insisted that the marines fired first.

An OFFICER—Why did not you surrender before the attack?

Mr. BROWN—I did not think it was my duty or interest to do so. We assured the prisoners that we did not wish to harm them, and they should be set at liberty. I exercised my best judgment, not believing the people would wantonly sacrifice their own fellow-citizens, when we offered to let them go on condition of being allowed to change our position about a quarter of a mile. The prisoners agreed by vote among themselves to pass across the bridge with us. We wanted them only as a sort of guaranty of our own safety; that we should not be fired into. We took them in the first place as hostages and to keep them from doing any harm. We did kill some men in defending ourselves, but I saw no one fire except directly in self-defence. Our orders were strict not to harm any one not in arms against us.

Q. Brown, suppose you had every nigger in the United States, what would you do with them?

A. Set them free.

Q. Your intention was to carry them off and free them?

A. Not at all.

A BYSTANDER—To set them free would sacrifice the life of every man in this community.

Mr. BROWN—I do not think so.

BYSTANDER—I know it. I think you are fanatical.

Mr. BROWN—And I think you are fanatical. “Whom the gods would destroy they first make mad,” and you are mad.

Q. Was it your only object to free the negroes?

A. Absolutely our only object.

Q. But you demanded and took Col. Washington's silver and watch?

A. Yes; we intended freely to appropriate the property of slaveholders to carry out our object. It was for that, and only that, and with no design to enrich ourselves with any plunder whatever.

Q. Did you know Sherrod in Kansas? I understand you killed him.

A. I killed no man except in fair fight; I fought at Black Jack Point and Ossawatimie, and if I killed anybody it was at one of those places.

#### MEETING OF THE COURT—CHARGE TO THE GRAND JURY.

CHARLESTOWN, Jefferson County, Va., }  
Oct. 21, 1859. }

The Circuit Court of Jefferson County—Hon. Richard Parker, Circuit Judge—which commenced its session yesterday, was occupied to-day with the trial of the case of State vs. Dillard, for an assault with an intent to kill. The examination trial of the insurrectionists, Brown and his associates, before eight Justices of the Peace, will take place on Tuesday, in the court rooms, the Circuit Court adjourning for that purpose. Judge Parker's charge to the Grand Jury was an appropriate effort, referring mainly to the late attempts to incite insurrection. He said:

GENTLEMEN OF THE JURY—In the state of excitement into which our whole community has been thrown by the recent occurrences in this county, I feel that the charge which I usually deliver to a Grand Jury would be entirely out of place. Those occurrences cannot but force themselves upon your attention. They must necessarily occupy a considerable portion of that time which you will devote to your public duties as a Grand Jury. However guilty the unfortunate men who are now in the hands of justice may prove to be, still they cannot be called upon to answer to the offended laws of our Commonwealth for any of the multifarious crimes with which they are charged, until the Grand Jury, after diligent inquiry, shall decide that for these offences they be put upon their trial. I will not permit myself to give expression to any of those feelings which at once spring up in every breast when reflection upon the enormity of the guilt in which those are involved who invade by force a peaceful unsuspecting portion of our common country, raise the standard of insurrection amongst them, and shoot down without mercy Virginia citizens, defending Virginia soil against their invasion. I must remember, gentlemen, that as a minister of justice, bound to execute over you and laws faithfully, and in the very spirit of Justice herself, I must, as to every one accused of crime, hold, as the law holds, that he is innocent until he shall be proved guilty by honest, independent and an impartial jury of his countrymen; and what is obligatory upon me is equally binding upon every one who may be connected with the prosecution and trials of these offenders. In these cases, as in all others, you will be controlled by that oath which each of you have taken, and in which you have solemnly sworn that you will diligently inquire into all offences which may be brought to your knowledge, and that you will present no one through ill-will, as well as that you will leave no one unindicted through fear or favor; but in all your presentments you shall present the truth, the whole truth, and nothing but the truth. Do but this, gentlemen, and you will have but fulfilled your duty. Go beyond this, and in place of that diligent inquiry and calm investigation which you have sworn to make, act upon prejudice or from excitement of passion, and you will have done a wrong to that law in whose services you are engaged. As I before said, those men are now in the hands of justice. They are to have a fair and impartial trial. We owe it to the cause of justice as well as to our own characters, that such a trial should be afforded them. If guilty, they will be sure to pay the extreme penalty of their guilt, and the example of punishment, when thus inflicted by virtue of law, will be, beyond all comparison, more efficacious for our protection than any torture to which mere passion could subject them. Whether they be in public or private position, let each one of us remember that as the law has charge of these alleged offenders, the law alone, through its recognized agents, must deal with them to the last. It can tolerate no interference by others with duties it has assumed to itself. If true to herself, and she will be, our commonwealth, through her courts of justice, will be as ready to punish the offence of such interference as she is to punish these grave and serious offences with which she is now about to deal, in case these offences be proved by legal testimony to have been perpetrated. Let us all, gentlemen, bear this in mind, and in patience await the result, confident that that result will be whatever strict and impartial justice shall determine to be necessary and proper. It would seem, gentlemen, and yet I speak from no evidence, but upon vague rumors which have reached me, that these men who have lately thrown themselves upon us, confidently expected to be joined by our slaves and free negroes, and unfurled the banner of insurrection and invited this class of our citizens to rally under it, and yet, as I am told, they were unable to obtain a single circuit.

The following is the commitment of the insurrectionists, and the warrant to the sheriff to summon eight justices to examine the facts with which they stand charged :

*State of Virginia, Jefferson County, to wit:*—To the sheriff, Court, and to the keeper of the jail of said county. These are to command you, in the name of the Commonwealth of Virginia, forthwith to convey and deliver into the custody of the keeper of said jail, and to receive and safely keep the bodies of John Brown, Aaron C. Stephens, Edwin Coppie, Shields Green and John Copland, negro, and charged before me, Roger Chew, a Justice of the Peace for said county, on the oaths of Henry A. Wise, Andrew Hunter and John W. McGinnis, and upon the free admission and confession of said parties made in my presence and hearing, that they and each of them did feloniously conspire with each other and with other parties unknown, to make an abolition insurrection and open war against the Commonwealth of Virginia, by making an armed attack upon and murdering her citizens at a certain place called Harper's Ferry, and then and there to riot on the 17th, 18th and 19th days of October, 1859, and did feloniously and of their malice kill

and murder, with firearms called Sharpe's rifles, and revolvers, and pistols, divers citizens of this commonwealth, and Fontaine Beckham, George W. Turner and Thomas Boerly, free white persons, and Luke Quinn, a soldier of the United States Government, and also Hayward Sheppard, a free negro, and did there and then, feloniously conspire with divers slaves, belonging to citizens of this Commonwealth, in the county aforesaid, to me unknown, to rebel and make insurrection against the government and laws of this Commonwealth, that they may be examined for the said offence before the proper examining court, and otherwise dealt with according to law.

Given under my hand and seal this 26th day of October, 1859. Signed,

ROGER CHEW.

*To the Sheriff of Jefferson County, Virginia:*—Whereas John Brown, Aaron C. Stephens and Edwin Coppie, white persons, and Shields Green and John Copland, men of color, have been committed by my warrant within and for certain felonies charged to have been committed as therein stated by them, and being of opinion that there is sufficient cause for charging said parties with said offences, I command you, in the name of the commonwealth, to summon at least eight of the justices of said county to meet at the Court House of said county, on the 25th day of this month, October, 1859, to hold a Court for the examination of the facts with which said parties stand charged, and for such other purposes concerning the premises as are required by law, and have then there this warrant and make return how you have effected the same.

Given under my hand and seal this 20th day of October, 1859.

ROGER CHEW.

#### JOHN BROWN'S IDEA OF GOVERNMENT.

Among the papers in possession of Brown and his party, was the draft of a basis of government, which evidently embraced the fundamental ideas which animated the leader and his men. The main features of this paper appear in the following synopsis:

##### *Provisional Constitution and Ordinances for the People of the United States.*

PREAMBLE.—Whereas, Slavery throughout its entire existence in the United States, is none other than the most barbarous, unprovoked, and unjustifiable war of one portion of its citizens against another portion, the only conditions of which are perpetual imprisonment, and hopeless servitude, or absolute extermination in utter disregard and violation of those eternal and self-evident truths set forth in our Declaration of Independence:

Therefore, We, the citizens of the United States, and the oppressed people, who, by a recent decision of the Supreme Court, are declared to have no rights which the white man is bound to respect, together with all the other people degraded by the laws thereof, do, for the time being, ordain and establish for ourselves the following Provisional Constitution and ordinances, the better to protect our people, property, lives, and liberties, and to govern our actions:

##### Article 1.

##### *Qualifications of Membership.*

All persons of mature age, whether proscribed, oppressed and enslaved citizens, or of proscribed and oppressed races of the United States, who shall agree to sustain and enforce the Provisional Constitution and ordinances of organization, together with all minor children of such persons, shall be held to be fully entitled to protection under the same.

##### Art. 2.

##### *Branches of Government.*

The Provisional Government of this organization shall consist of three branches, viz.: the Legislative, the Executive, and Judicial.

##### Art. 3.

##### *The Legislature.*

The Legislative Branch shall be a Congress or House of Representatives, composed of not less than five, nor more than ten members, who shall be elected by all the citizens of mature age and sound mind, connected with this organization, and who shall remain in

office for three years, unless sooner removed for misconduct, inability, or death. A majority of such members shall constitute a quorum.

Art. 4. *Executive.*

The Executive Branch of the organization shall consist of a President and Vice-President, who shall be chosen by the citizens, or members of this organization, and each of whom shall hold his office for three years, unless sooner removed by death, or for inability, or for misconduct.

Art. 5. *Judicial.*

The Judicial Branch consists of one Chief Justice of the Supreme Court, and four Associate Judges of the said Court, each of them constituting a Circuit Court. They shall each be chosen in the same manner as the President, and shall continue in office until their places have been filled in the same manner by an election of citizens.

Articles 13 to 25, provide for the trial of the President and other officers, and Members of Congress, the impeachment of Judges; the duties of the President and Vice-President, the punishment of crimes, Army appointments, salaries, etc., etc. These articles are not of special interest and are therefore omitted.

Art. 24. *Treaties of Peace.*

Before any treaty of peace shall take full effect it shall be signed by the President, Vice-President, Commander-in-Chief, a majority of the House of Representatives, a majority of the Supreme Court, and a majority of the general officers of the Army.

Art. 27. *Duty of the Military.*

It shall be the duty of the Commander-in-Chief, and all the officers and soldiers of the army, to afford special protection, when needed, to Congress, or any member thereof, to the Supreme Court, or any member thereof, to the President, Vice-President, Treasurer, and Secretary of War, and to afford general protection to all civil officers, or other persons having a right to the same.

Art. 28. *Property.*

All captured or confiscated property, and all the property the product of the labor of those belonging to this organization, and of their families, shall be held as the property of the whole equally, without distinction, and may be used for the common benefit, or disposed of for the same object. And any person, officer, or otherwise, who shall improperly retain, secrete, use, or needlessly destroy such property, or property found, captured, or confiscated, belonging to the enemy, or shall willfully neglect to render a full and fair statement of such property by him so taken, or held, shall be guilty of a misdemeanor, and on conviction shall be punished accordingly.

Art. 29. *Safety or Intelligence Fund.*

All money, plate, watches, or jewelry captured by honorable warfare, found, taken, or confiscated, belonging to the enemy, shall be held sacred to constitute a liberal safety or intelligence fund, and any person who shall improperly retain, dispose of, hide, use, or destroy such money or other articles above named, contrary to the provisions and spirit of this article, shall be deemed guilty of theft, and, on conviction thereof, shall be punished accordingly. The Treasurer shall furnish the Commander-in-Chief at all times with a full statement of the condition of such fund, and its nature.

Art. 30. *The Commander-in-Chief and the Treasury.*

The Commander-in-Chief shall have power to draw from the Treasury the money and other property of the fund provided for in Article 29; but his orders shall be signed also by the Secretary of War, who shall keep a strict account of the same, subject to examination by any member of Congress or General Officer.

Art. 31. *Surplus of the Safety or Intelligence Fund.*

It shall be the duty of the Commander-in-Chief to advise the President of any surplus of the Safety or Intelligence Fund, and he shall have power to draw the same, his order being also signed by the Secretary of State, to enable him to carry on the provisions of Article 17.

Art. 32. *Prisoners.*

No person, after having surrendered himself a prisoner, and who shall properly demean himself or herself as such, to any officer or private connected with this organization, shall afterward be put to death, or be subjected to any corporeal punishment, without first having had the benefit of a fair and impartial trial; nor shall any prisoner be treated with any kind of cruelty, disrespect, insult, or needless severity, but it shall be the duty of all persons, male and female, connected herewith, at all times, and under all circumstances, to treat all such prisoners with every degree of respect and kindness that the nature of the circumstances will admit of, and insist on a like course of conduct from all others as in fear of the Almighty God, to whose care and keeping we commit our cause.

Art. 33. *Volunteers.*

All persons who may come forward, and shall voluntarily deliver up slaves, and have their names registered on the books of this organization, shall, so long as they continue at peace, be entitled to the fullest protection in person and property, though not connected with this organization, and shall be treated as friends, and not merely as persons neutral.

Art. 34. *Neutrals.*

The persons and property of all non-slaveholders who shall remain absolutely neutral, shall be respected so far as circumstances can allow of it, but they shall not be entitled to any active protection.

Art. 35. *No Needless Waste.*

The needless waste or destruction of any useful property or article by fire, throwing open of fences, fields, buildings, or needless killing of animals, or injury of either, shall not be tolerated at any time or place, but shall be promptly and peremptorily punished.

Art. 36. *Property Confiscated.*

The entire personal and real property of all persons known to be acting either directly or indirectly with or for the enemy, or found in arms with them, or found willfully holding slaves, shall be confiscated and taken whenever and wherever it may be found, in either Free or Slave States.

Art. 37. *Desertion.*

Persons convicted on impartial trials of desertion to the enemy, after becoming members, acting as spies, of treacherous surrender of property, arms, ammunition, provisions or supplies of any kind, roads, bridges, persons, or fortifications, shall be put to death, and their entire property confiscated.

Art. 38. *Violation of Parole of Honor.*

Persons proved to be guilty of taking up arms after having been set at liberty on parole of honor, or after the same to have taken any active part with or for the enemy, direct or indirect, shall be put to death, and their entire property confiscated.

Articles 39, 40, and 41, require all to labor for the general good, and prohibit immoral actions.

Art. 42. *The Marriage Relation—Schools—The Sabbath.*

Marriage relations shall be at all times respected, and families shall be kept together as far as possible, and broken families encouraged to reunite, and intelligence offices shall be established for that purpose. Schools and churches shall be established as may be, for

the purpose of religious and other instruction, and the first day of the week shall be regarded as a day of rest and appropriated to moral and religious instruction and improvement to the relief of the suffering, the instruction of the young and ignorant, and the encouragement of personal cleanliness, nor shall any person be required on that day to perform ordinary manual labor, unless in extremely urgent cases.

## Art. 43.

*To Carry Arms Openly.*

All persons known to be of good character, and of sound mind, and suitable age, who are connected with this organization, whether male or female, shall be encouraged to carry arms openly.

## Art. 44.

*No Person to Carry Concealed Weapons.*

No person within the limits of conquered territory, except regularly appointed policemen, express officers of army, mail carriers, or other fully accredited messengers of Congress, the President, Vice-President, members of the Supreme Court, or commissioned officers of the Army, and those under peculiar circumstances, shall be allowed at any time to carry concealed weapons; and any person not specially authorized so to do who shall be found so doing, shall be deemed a suspicious person, and may at once be arrested by any officer, soldier, or citizen, without the formality of a complaint or warrant; and may at once be subjected to thorough search, and shall have his or her case thoroughly investigated, and be dealt with as circumstances on proof shall require.

## Article 45.

*Persons to be Seized.*

Persons living within the limits of territory holden by this organization, and not connected with this organization, having arms at all, concealed or otherwise, shall be seized at once, or be taken in charge of by some vigilant officer, and their case thoroughly investigated; and it shall be the duty of all citizens and soldiers, as well as officers, to arrest such parties as are named in this and the preceding section or article, without formality of complaint or warrant; and they shall be placed in charge of some proper officer for examination, or for safe keeping.

## Article 46.

*These Articles not for the Overthrow of Government.*

The foregoing articles shall not be construed so as in any way to encourage the overthrow of any State Government or of the General Government of the United States, and look to no dissolution of the Union, but simply to amendment and repeal, and our flag shall be the same that our fathers fought under in the Revolution.

## Article 47.

*No Plurality of Offices.*

No two offices specially provided for by this instrument shall be filled by the same person, at the same time.

## Article 48.

*Oath.*

Every officer, civil or military, connected with this organization, shall, before entering upon the duties of office, make a solemn oath or affirmation to abide by and support the Provisional Constitution and these ordinances. Also, every citizen and soldier, before being recognized as such, shall do the same.

*Schedule.*

The President of this Convention shall convene, immediately on the adoption of this instrument, a Convention of all such persons as shall have given their adherence, by signature to the Constitution, who shall proceed to fill by election all offices specially named in said Constitution—the President of this Convention presiding and issuing commissions to such officers elect. All such officers being hereafter elected in the manner provided in the body of this instrument.

## THE TRIAL.

### FIRST DAY

#### FIRST EXAMINATION OF THE PRISONERS.

CHARLESTOWN, Va., *Tuesday, Oct. 25, 1859.*

The preliminary examination of Brown and other Harper's Ferry conspirators, commenced here to-day, in the Magistrate's Court. Col. Davenport was the presiding Justice, and the following magistrates were associated with him on the bench: Dr. Alexander, John J. Lock, John F. Smith, Thos. H. Willis, George W. Eichelberger, Charles H. Lewis, and Moses W. Burr.

At 10½ o'clock the sheriff was directed to bring in the prisoners, who were conducted from the jail under a guard of 80 armed men.

A guard was also stationed around the Court. The Court-House was bristling with bayonets on all sides. Charles B. Harding, Esq., acted as Attorney for the County, assisted by Andrew Hunter, counsel for the Commonwealth. The prisoners were brought in, Brown and Edward Coppie manacled together.

Brown seemed weak and haggard, with eyes swollen from wounds on the head. Coppie is uninjured. Stephens seemed less injured than Brown, but looked haggard and depressed. Both have a number of wounds on the head.

John Copland is a bright mulatto, about 25 years of age, and Green a dark negro, aged about 30. Sheriff Campbell read the commitment of the prisoners, who were charged with treason and murder.

Mr. HARDING, the attorney for the State, asked that the Court might assign counsel for the prisoners, if they had none.

The COURT then inquired if the prisoners had counsel, when Brown addressed the Court as follows:

"I did not ask for any quarter at the time I was taken. I did not ask to have my life spared. The Governor of the State of Virginia tendered me his assurance that I should have a fair trial; and, under no circumstances whatever, will I be able to have a fair trial. If you seek my blood, you can have it at any moment, without this mockery of a trial. I have had no counsel. I have not been able to advise with any one. I know nothing about the feelings of my fellow-prisoners, and am utterly unable to attend in any way to my own defence. My memory don't serve me. My health is insufficient, although improving. There are mitigating circumstances that I would urge in our favor, if a fair trial is to be allowed us. But if we are to be forced with a mere form—a trial for execution—you might spare yourselves that trouble. I am ready for my fate. I do not ask a trial. I beg for no mockery of a trial—no insult—nothing but that which conscience gives, or cowardice would drive you to practise. I ask again to be excused from the mockery of a trial. I do not even know what the special design of this examination is. I do not know what is to be the benefit of it to the Commonwealth. I have now little further to ask, other than that I may not be foolishly insulted, only as cowardly barbarians insult those who fall into their power."

At the conclusion of Brown's remarks, the Court assigned Charles J. Faulkner and Lawson Botts as counsel for the prisoners.

Mr. FAULKNER—I was about to remark to the Court that, although I feel at any time willing to discharge any duty which the Court can legally claim, and by authority of law devolve upon me, I am not aware of any authority which this Court has, sitting as an Examining Court, to assign counsel for the defence. Besides, it is manifest from the remarks just made by one of the prisoners, that he regards the appearance of counsel under such circumstances not as a *bona fide* act, but rather as a mockery. Under these circumstances, I do not feel disposed to assume the responsibility of that position. I have

other reasons for declining the position, connected with my having been at the place of action, and hearing all the admissions of the prisoners, which render it improper and inexpedient for me to act as counsel. If the Court had authority to order it peremptorily, I should acquiesce, and obey that authority. I am not aware that there is any such power vested in this Court, but, as it is the prisoners' desire, I will see that full justice is done them.

Mr. BORTS said he did not feel it to be his duty to decline the appointment of the Court. He was prepared to do his best to defend the prisoners, and he hoped the Court would assign some experienced assistant in case Mr. Faulkner persisted in his declination.

Mr. HARDING addressed Brown, and asked him if he was willing to accept Messrs. Faulkner and Borts as his counsel.

Mr. BROWN replied: I wish to say that I have sent for counsel. I did apply, through the advice of some persons here, to some persons whose names I do not now recollect, to act as counsel for me, and I have sent for other counsel, who have had no possible opportunity to see me. I wish for counsel if I am to have a trial; but if I am to have nothing but the mockery of a trial, as I have said, I do not care anything about counsel. It is unnecessary to trouble any gentleman with that duty.

Mr. HARDING—You are to have a fair trial.

Mr. BROWN—There were certain men—I think Mr. Borts was one of them—who declined acting as counsel, but I am not positive about it. I cannot remember whether he was one, because I have heard so many names. I am a stranger here; I do not know the disposition or character of the gentlemen named. I have applied for counsel of my own, and doubtless could have them, if I am not, as I said before, to be hurried to execution before they can reach me. But if that is the disposition that is to be made of me, all this trouble and expense can be saved.

Mr. HARDING—The question is, do you desire the aid of Messrs. Faulkner and Borts as your counsel? Please to answer yes or no.

Mr. BROWN—I cannot regard this as an examination, under any circumstances. I would prefer that they should exercise their own pleasure. I feel as if it was a matter of very little account to me. If they had designed to assist me as counsel, I should have wanted an opportunity to consult them at my leisure.

Mr. HARDING—Stephens, are you willing those gentlemen should act as your counsel?

Mr. STEPHENS—I am willing that gentleman shall (pointing to Mr. Borts).

Mr. HARDING—Do you object to Mr. Faulkner?

Mr. STEPHENS—No. I am willing to take both.

Mr. HARDING addressed each of the other prisoners separately, and each stated his willingness to be defended by the counsel named.

The COURT issued a peremptory order that the press should not publish detailed testimony, as it would render the getting of a Jury before the Circuit Court impossible.

LEWIS WASHINGTON stated—At about 1 o'clock on Sunday night last he was asleep, and was awoke by a noise; heard his name called; went down, and was surrounded by six men; Stephens appeared to be in command; Cook, Coppie, and two negro prisoners were along, and another white man, whom he afterwards recognized as Kagi. Mr. Washington then proceeded to detail all the particulars of his taking as a prisoner, with his negroes, to the Armory, and the subsequent events up to the attack by the marines, and his delivery.

A. M. KITZMILLER gave the particulars of his being taken prisoner, and locked up; he subsequently had several interviews with Brown, who always treated them with a great deal of respect and courtesy; he endeavored to ascertain from Brown what object he had in view, and he repeatedly told him his only object was to free the slaves, and he was willing to fight the pro-slavery men to accomplish that object; on one occasion during the attack I said to Brown, "this is getting hot work, and if you will allow me to interfere, I can possibly accommodate matters;" he went out with Stephens with a flag of truce on Monday afternoon; he requested Stephens to remain while he went forward, when Stephens was fired on and fell; I recognize only Brown and Stephens; I counted only twenty-two men early in the morning, armed with Sharpe's rifles; when Stephens was lying wounded he remarked to me, "I have been cruelly deceived," to which I replied, "I wish I had remained at home."

Mr. WASHINGTON recalled—In a conversation with Gov. Wise, Brown was told he need not answer questions unless he chose; Brown replied he had nothing to conceal—he had no favors to ask; that he had arms enough for two thousand men, and could get enough for five thousand if they were wanted.

ARMSTEAD BALL detailed the particulars of his arrest by the insurgents. I had an interview, after his arrest, with Brown, who stated that he had come for no child's play, and was prepared to carry out his designs; that his object was not to make war against the people, and they would not be injured if they remained quiet; his object was to place the United States arms in the hands of the black men, and he proposed to free all the slaves in the vicinity; Brown repeatedly said his whole object was to release the slaves; I asked him if some plan could not be arranged for the liberation of myself and the other prisoners; he said we could only be released by furnishing able-bodied slaves in the place of each; I recognize Stephens, Green and Brown; Capt. Brown told the prisoners, when the charge of the marines was about being made, that though he did not intend to injure them himself, they should equally occupy the post of danger with himself; that if they were not dear enough to their fellow-citizens to accept the terms he had proposed to secure their safety, they must be barbarians. Coppie, on the other hand, told himself and friends to get behind the engines, that he did not wish to see any of them injured; one of the insurgents (Beckham) I heard say, "I have dropped him;" I did not see Captain Brown fire once from the engine-house; do not think he fired once; Green fired several times; the prisoners never were unreasonably exposed.

JOHN ALLSTADT, one of the slave-owners who was brought into the Armory with his slaves, detailed the particulars of the battering down of his door, and his seizure by six armed men.

At this point Stephens appeared to be fainting, and a mattress was procured for him, on which he lay during the remainder of the examination.

Mr. ALLSTADT resumed—Thinks Brown fired several times; knows he saw him with a gun levelled; saw all the prisoners, except the yellow man Copland.

ALEXANDER KELLY detailed the particulars of the collision with the insurgents, and the exchanging of several shots; could not identify any of the prisoners.

WM. JOHNSON testified to the arrest of Copland, the yellow man, who was attempting to e-cape across the river; he was armed with a spear and a rifle; in the middle of the Shenandoah; he said he had been placed in charge of Hall's rifle factory by Captain Brown.

ANDREW KENNEDY was at the jail when Copland was brought in; questioned him; he said he had come from the Western Reserve of Ohio; that Brown came there in August, and employed him at twenty dollars per month.

Mr. FAULKNER objected to the testimony, as implicating the white prisoners.

The presiding judge said his testimony could only be received as implicating himself.

Mr. KENNEDY resumed—Copland said that our object was to liberate the slaves of this country; that he knew of nineteen of the party, but there were several others he did not know.

JOSEPH A. BRUA—Was one of the prisoners in the engine-house, and was permitted to go out several times with a flag of truce; during the firing Coppie fired twice, and, at the second fire, Brown remarked "that man is down;" witness then asked permission to go out, and found that Mr. Beckham had just been shot, and has no doubt that Coppie shot him.

Mr. ALLSTADT recalled—Think that Capt. Brown shot the marine who was killed; saw him fire.

The preliminary examination being concluded, the Court remanded the prisoners for trial before the Circuit Court.

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## THE TRIAL OF JOHN BROWN.

CHARLESTOWN, *Tuesday, Oct. 25, 1859.*

The Circuit Court of Jefferson County, Judge Richard Parker on the bench, assembled at two o'clock. The Grand Jury were called, and the Magistrate's Court reported the result of the examination in the case of Capt. Brown and the other prisoners. The Grand Jury retired with the witnesses for the State. At five o'clock they returned into Court, and stated that they had not finished the examination of witnesses, and they were therefore discharged until ten o'clock to-morrow morning. It is rumored that Brown is desirous of making a full statement of his motives and intentions, through the press, but the Court has refused all further access to him by reporters, fearing that he may put forth

something calculated to influence the public mind, and to have a bad effect upon slaves. The mother of Cook's wife was in the Court House throughout the examination.

Coffee says that he had a brother in the party, and that Brown had three sons in it. Also that there were two other persons, named Taylor and Hazlitt, engaged, so that, numbering Cook, five have escaped, twelve were killed, and five captured, making twenty-two in all.

Capt. Brown's object in refusing the aid of counsel is, that if he has counsel he will not be allowed to speak himself, and Southern counsel will not be willing to express his views.

The reason given for hurrying the trial, is, that the people of the whole country are kept in a state of excitement, and a large armed force is required to prevent attempts at rescue.

The prisoners, as brought into the Court, presented a pitiable sight—Brown and Stephens being unable to stand without assistance. Brown has three sword-stabs in his body, and one sabre-cut over the heart. Stephens has three balls in his head, and had two in his breast and one in his arm. He was also cut on the forehead with a rifle bullet, which glanced off leaving a bad wound.

CHARLESTOWN, *Wednesday, Oct. 26, 1859.*

Brown has made no confession; but, on the contrary, says he has full confidence in the goodness of God, and is confident that he will rescue him from the perils that surround him. He says he has had rifles levelled at him, knives at his throat, and his life in as great peril as it now is, but that God has always been at his side. He knows God is with him, and fears nothing.

Alex. B. Boteler, member elect for Congress of this district, has collected from 50 to 100 letters from the citizens of the neighborhood of Brown's house, who searched it before the arrival of the marines. The letters are in the possession of Andrew Hunter, Esq., who has a large number of letters obtained from Brown's house by the marines and other parties. Among them is a roll of the conspirators, containing forty-seven signatures; an accurately traced map from Chambersburg to Brown's house; copies of letters from Brown, stating that as the arrival of too many men at once would excite suspicion, they should arrive singly; a letter from Merriam, stating that of the twenty thousand wanted, G. S. was good for one-fifth; also a letter from J. E. Cook, stating that the Maryland election was about to come off, the people will become excited, and we will get some of the candidates that will join our side.

The Circuit Court, Judge Parker presiding, met at 10 o'clock. The Grand Jury were called, and retired to resume the examination of witnesses. The Court took a recess, awaiting the return of the Grand Jury.

M. Johnson, United States Marshal of Cleveland, Ohio, arrived this morning. He visited the prisoners, and identified Copland as a fugitive from justice in Ohio.

The excitement is unabated, and crowds of persons from the surrounding country are here. The event is regarded as proving the faithfulness of the slaves, and no fears are entertained of them; but a military guard is kept up, fearing an attempt to rescue the prisoners.

Consternation among the slaves is caused by the fear of being seized as Colonel Washington's were, and they firmly believe the object of the prisoners was to carry them South and sell them. Not a single slave has yet been implicated as even sympathizing with the insurrectionists. Those carried off have all been captured and returned to their masters.

Cannon are stationed in front of the Court House, and an armed guard is patrolling around the jail.

Capt. Brown has consented to allow Mr. Botts and his assistant, Mr. Green, to act as his counsel, they assuring him that they will defend him faithfully, and give him the advantage of every privilege that the law will allow.

Stephens declares that he does not desire to be defended by Northern counsel, preferring Southern, and that the Court should name them. There is a decided sympathy for Stephens, not only on account of his sufferings, but that he has shown none of that vindictiveness and hardihood that characterizes Brown. His regret is regarded as caused by the consequences of his folly, and the examination yesterday indicated that the other prisoners have lost their confidence in Brown, and are not disposed to follow him in his defiant course.

At 12 o'clock the Court reassembled.

The Grand Jury reported a true bill against the prisoners, and were discharged.

Charles B. Harding, assisted by Andrew Hunter, represents the Commonwealth; and Lawson Botts and his assistant Mr. Green, are counsel for the prisoners.

A true bill was read against each prisoner :

*First*: For conspiring with negroes to produce insurrection.

*Second*: For treason in the Commonwealth; and,

*Third*: For murder.

The indictment was as follows :

*Judicial Circuit of Virginia, Jefferson County, to wit.*—The Jurors of the Commonwealth of Virginia, in and for the body of the County of Jefferson, duly impanelled, and attending upon the Circuit Court of said county, upon their oaths do present that John Brown, Aaron C. Stephens, alias Aaron D. Stephens, and Edwin Coppie, white men, and Shields Green and John Copland, free negroes, together with divers other evil-minded and traitorous persons to the Jurors unknown, not having the fear of God before their eyes, but being moved and seduced by the false and malignant counsel of other evil and traitorous persons and the instigations of the devil, did, severally, on the sixteenth, seventeenth, and eighteenth days of the month of October, in the year of our Lord eighteen hundred and fifty-nine, and on divers other days before and after that time, within the Commonwealth of Virginia, and the County of Jefferson aforesaid, and within the jurisdiction of this Court, with other confederates to the Jurors unknown, feloniously and traitorously make rebellion and levy war against the said Commonwealth of Virginia, and to effect, carry out, and fulfill their said wicked and treasonable ends and purposes did, then and there, as a band of organized soldiers, attack, seize, and hold a certain part and place within the county and State aforesaid, and within the jurisdiction aforesaid, known and called by the name of Harper's Ferry, and then and there did forcibly capture, make prisoners of, and detain divers good and loyal citizens of said Commonwealth, to wit: Lewis W. Washington, John M. Allstadt, Archibald M. Kitzmiller, Benjamin J. Mills, John E. P. Dangerfield, Aristead Ball, John Donoho, and did then and there slay and murder, by shooting with firearms, called Sharpe's rifles, divers good and loyal citizens of said Commonwealth, to wit: Thomas Boerly, George W. Turner, Fontaine Beckham, together with Luke Quinn, a soldier of the United States, and Hayward Sheppard, a free negro, and did then and there, in manner aforesaid, wound divers other good and loyal citizens of said Commonwealth, and did then and there feloniously and traitorously establish and set up, without authority of the Legislature of the Commonwealth of Virginia, a Government, separate from, and hostile to, the existing Government of said Commonwealth; and did then and there hold and exercise divers offices under said usurped Government, to wit: the said John Brown as Commander-in-Chief of the military forces, the said Aaron C. Stephens, alias Aaron D. Stephens, as Captain; the said Edwin Coppie, as Lieutenant, and the said Shields Green and John Copland as soldiers; and did then and there require and compel obedience to said officers; and then there did hold and profess allegiance and fidelity to said usurped Government; and under color of the usurped authority aforesaid, did then and there resist forcibly and with warlike arms, the execution of the laws of the Commonwealth of Virginia, and with firearms did wound and maim divers other good and loyal citizens of said Commonwealth, to the Jurors unknown, when attempting, with lawful authority, to uphold and maintain said Constitution and laws of the Commonwealth of Virginia, and for the purpose, end, and aim of overthrowing and abolishing the Constitution and laws of said Commonwealth, and establishing in the place thereof, another and different government, and constitution and laws hostile thereto, did then and there feloniously and traitorously, and in military array, join in open battle and deadly warfare with the civil officers and soldiers in the lawful service of the said Commonwealth of Virginia, and did then and there shoot and dis

charge divers guns and pistols, charged with gunpowder and leaden bullets, against and upon divers parties of the militia and volunteers embodied and acting under the command of Colonel Robert W. Baylor, and of Colonel John Thomas Gibson, and other officers of said Commonwealth, with lawful authority to quell and subdue the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, Shields Green, and John Copland, and other rebels and traitors assembled, organized, and acting with them, as aforesaid, to the evil example of all others in like case offending, and against the peace and dignity of the Commonwealth.

*Second Count.*—And the Jurors aforesaid, upon their oaths aforesaid, do further present that the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, Shields Green, and John Copland, severally, on the sixteenth, seventeenth, and eighteenth days of October, in the year of our Lord eighteen hundred and fifty-nine, in the said County of Jefferson, and Commonwealth of Virginia, and within the jurisdiction of this Court, not having the fear of God before their eyes, but moved and seduced by the false and malignant counsels of others, and the instigations of the devil, did each severally, maliciously, and feloniously conspire with each other, and with a certain John E. Cook, John Kagi, Charles Tidd, and others to the jurors unknown, to induce certain slaves, to wit:—Jim, Sam, Mason, and Catesby, . . . . . the slaves, and property of Lewis W. Washington, and Henry, Levi, Ben, Jerry, Phil, George, and Bill, the slaves and property of John H. Allstadt, and other slaves to the Jurors unknown, to rebel and make insurrection against their masters and owners, and against the Government and the Constitution and laws of the Commonwealth of Virginia: and then and there did maliciously and feloniously advise said slaves, and other slaves to the Jurors unknown, to rebel and make insurrection against their masters and owners, and against the Government, the Constitution and laws of the Commonwealth of Virginia to the evil example of all others in like cases offending and against the peace and dignity of the Commonwealth.

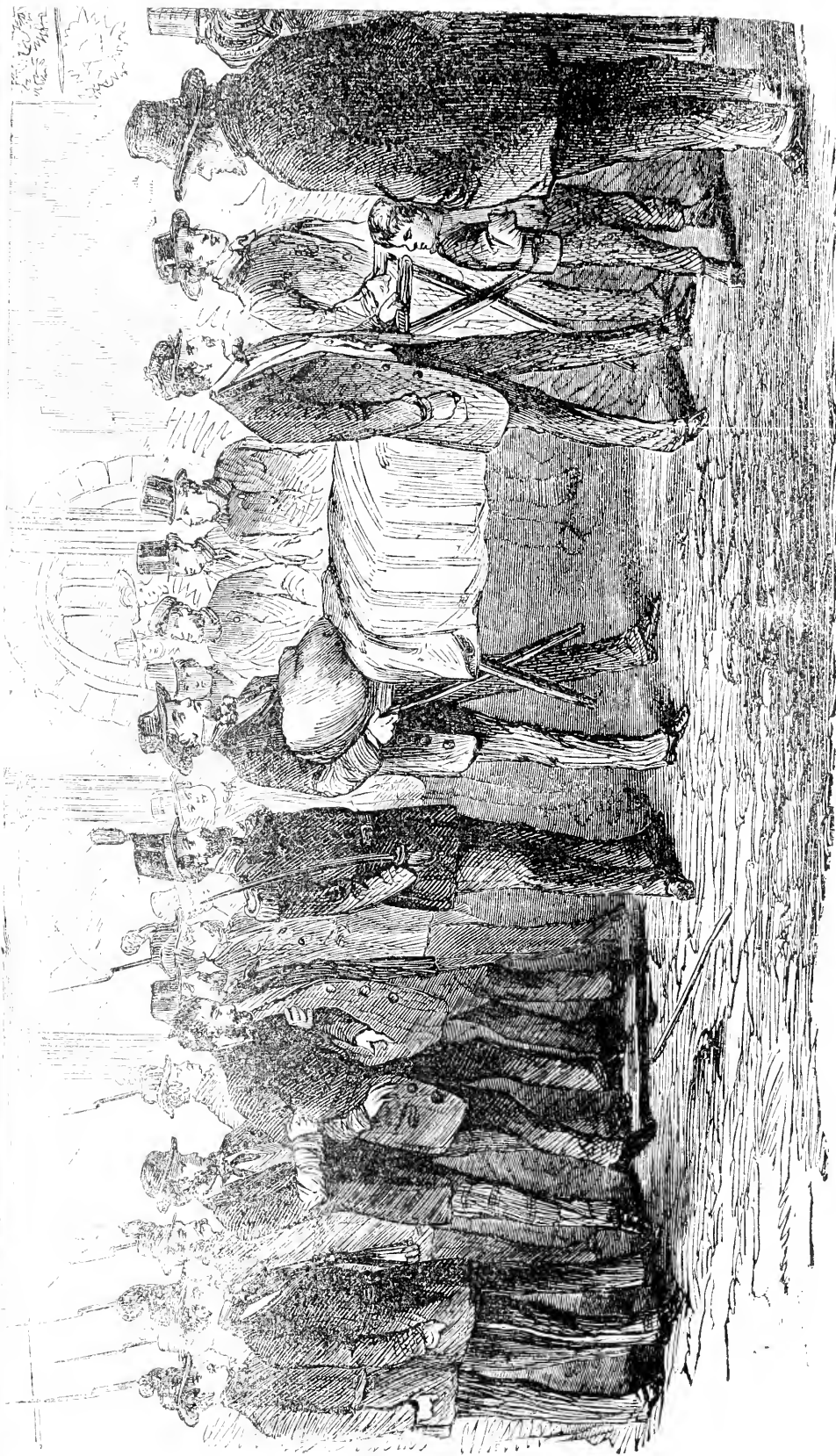
*Third Count.*—And the Jurors aforesaid, upon their oaths aforesaid, further present that the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, Shields Green, and John Copland, severally, on the sixteenth, seventeenth, and eighteenth days of October, in the year of our Lord one thousand eight hundred and fifty-nine, in the county of Jefferson and the Commonwealth of Virginia aforesaid, and within the jurisdiction aforesaid, in and upon the bodies of Thomas Boerly, George W. Turner, Fontaine Beckham, Luke Quinn, white persons, and Hayward Sheppard, a free negro, in the peace of the Commonwealth then and there being, feloniously, willfully, and of their malice aforethought, did make an assault, and with firearms called Sharpe's rifles, and other deadly weapons to the Jurors unknown, then and there, charged with gunpowder and leaden bullets, did then and there feloniously, willfully, and of their malice aforethought, shoot and discharge the same against the bodies severally and respectively of the said Thomas Boerly, George W. Turner, Fontaine Beckham, Luke Quinn, and Hayward Sheppard; and that the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, Shields Green, and John Copland, with the leaden bullets aforesaid, out of the firearms called Sharpe's rifles, aforesaid, shot and discharged as aforesaid, and with the other deadly weapons to the jurors unknown, as aforesaid, then and there feloniously, willfully, and of their malice aforethought did strike, penetrate and wound the said Thomas Boerly, George W. Turner, Fontaine Beckham, Luke Quinn, Hayward Sheppard, each severally; to wit: the said Thomas Boerly in and upon the left side; the said George W. Turner in and upon the left shoulder; the said Fontaine Beckham in and upon the right breast; the said Luke Quinn in and upon the abdomen, and the said Hayward Sheppard in and upon the back and side, giving to the said Thomas Boerly, George W. Turner, Fontaine Beckham, Luke Quinn, Hayward Sheppard, then and there with the leaden bullets, so as aforesaid shot and discharged by them, severally and respectively out of the Sharpe's rifles aforesaid, and with the other deadly weapons to the Jurors unknown, as aforesaid, each one mortal wound, of which said mortal wounds they the said Thomas Boerly, George W. Turner, Fontaine Beckham, Luke Quinn, and Hayward Sheppard each died; and so the Jurors aforesaid, upon their oaths aforesaid, do say that the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, Shields Green, and John Copland, then and there, then the said Thomas Boerly, George W. Turner, Fontaine Beckham, Luke Quinn, and Hayward Sheppard, in the manner aforesaid, and by the means aforesaid, feloniously, willfully, and of their, and each of their malice aforethought, did kill and murder, against the peace and dignity of the Commonwealth.

*Fourth Count.*—And the Jurors aforesaid, upon their oaths aforesaid, further present that the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens and Edwin Coppie and





—Bringing the Promoters out of the Engine House.



Oswald Brown on his way from the Court to his Prison, after hearing sentence of Death pronounced upon him.



Shields Green, each severally on the seventeenth day of October, in the year of our Lord eighteen hundred and fifty-nine, in the County of Jefferson and Commonwealth of Virginia aforesaid, and within the jurisdiction of this Court, in and upon the bodies of certain Thomas Boerly, George W. Turner, and Fontaine Beckham, in the peace of the Commonwealth, then and there being feloniously, willfully, and of their malice aforethought, did make an assault, and with guns called Sharpe's rifles, then and there charged with gunpowder and leaden bullets, did then and there feloniously, willfully, and of their, and each of their malice aforethought, shoot and discharge the same against the bodies of the said Thomas Boerly, George W. Turner, and Fontaine Beckham and that the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, and Shields Green, with leaden bullets aforesaid, shot out of the Sharpe's rifles aforesaid, then and there, feloniously, willfully, and of their malice aforethought, did strike, penetrate, and wound the said Thomas Boerly, George W. Turner, and Fontaine Beckham, each severally, viz.: The said Thomas Boerly in and upon the left side; the said George W. Turner, in and upon the left shoulder and breast, and the said Fontaine Beckham in and upon the right breast, giving to the said Thomas Boerly, George W. Turner, and Fontaine Beckham, then and there, with leaden bullets aforesaid, shot by them severally out of Sharpe's rifles aforesaid, each one mortal wound, of which said mortal wounds they the said Thomas Boerly, George W. Turner, and Fontaine Beckham then and there died; and that the said John Copland, then and there, feloniously, willfully, and of his malice aforethought, was present, aiding, helping, abetting, comforting and assisting the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, and Shields Green in the felony and murder aforesaid, in manner aforesaid to commit. And so the Jurors aforesaid, upon their oaths, do say that the said John Brown, Aaron C. Stephens, alias Aaron D. Stephens, Edwin Coppie, Shields Green, and John Copland, then and there them, the said Thomas Boerly, George W. Turner, and Fontaine Beckham, in the manner aforesaid and by the means aforesaid, feloniously, willfully, and of their and each of their malice aforethought, did kill, and murder against the peace and dignity of the Commonwealth of Virginia.

Lewis W. Washington, John H. Allstadt, John E. P. Dangerfield, Alexander Kelly, Emanuel Spangler, Arminstead M. Ball, Joseph A. Brua, William Johnson, Lewis P. Starry, Archibald H. Kitzmiller, were sworn in open Court this 26th day of October, 1859, to give evidence to the Grand Jury upon this bill of indictment.

Teste:

A true copy of said indictment.

Teste:

ROBERT T. BROWN, Clerk.

ROBERT T. BROWN,

Clerk of the Circuit Court of Jefferson County, in the State of Virginia.

Which bill of indictment the Grand Jury returned this 26th day of October.

A true bill.

THOMAS RUTHERFORD, Foreman.

October, 26, 1859.

The prisoners were brought into court, accompanied by a body of armed men. They passed through the streets, and entered the Court House without the slightest demonstration on the part of the people.

Brown looked something better, and his eye was not so much swollen. Stevens had to be supported, and reclined on a mattress on the floor of the court-room, evidently unable to sit. He has the appearance of a dying man, breathing with great difficulty.

Before the reading of the arraignment,

Mr. HUNTER called the attention of the Court to the necessity of appointing additional counsel for the prisoners, stating that one of the counsel (Faulkner) appointed by the County Court, considering his duty in that capacity as having ended, had left. The prisoners, therefore, had no other counsel than Mr. Botts. If the Court was about to assign them other counsel, it might be proper to do so now.

The COURT stated that it would assign them any members of the bar they might select.

After consulting Capt. Brown, Mr. BORTS said that the prisoner retained him, and desired to have Mr. Green, his assistant, to assist him. If the Court would accede to that arrangement, it would be very agreeable to him personally.

The COURT requested Mr. Green to act as counsel for the prisoner, and he consented to do so.

Capt. Brown then rose and said: I do not intend to detain the Court, but barely wish to say, as I have been promised a fair trial, that I am not now in circumstances that enable me to attend a trial, owing to the state of my health. I have a severe wound in the back, or rather in one kidney, which enfeebles me very much. But I am doing well, and I only ask for a very short delay of my trial, and I think I may get able to listen to it; and I merely ask this, that, as the saying is, "the devil may have his dues," no more. I wish to say, further, that my hearing is impaired, and rendered indistinct, in consequence of wounds I have about my head. I cannot hear distinctly at all; I could not hear what the Court has said this morning. I would be glad to hear what it said on my trial, and am now doing better than I could expect to be under the circumstances. A very short delay would be all I would ask. I do not presume to ask more than a very short delay, so that I may in some degree recover, and be able at least to listen to my trial, and hear what questions are asked of the citizens, and what their answers are. If that could be allowed me, I should be very much obliged.

Mr. HUNTER said that the request was rather premature. The arraignment should be made, and this question could then be considered.

The COURT ordered the indictment to be read, so that the prisoners could plead guilty or not guilty, and would then consider Mr. Brown's request.

The prisoners were compelled to stand during the arraignment, but it was with difficulty, Stevens being held upright by two bailiffs.

The reading of the indictment occupied about twenty minutes; each of the prisoners responded to the question, "Not Guilty," and desired to be tried separately.

Mr. HUNTER—The State elects to try John Brown first.

Mr. BORRS—I am instructed by Brown to say that he is mentally and physically unable to proceed with his trial at this time. He has heard to-day that counsel of his own choice will be here, whom he will, of course, prefer. He only asks for a delay of two or three days. It seems to me but a reasonable request, and I hope the Court will grant it.

Mr. HUNTER said he did not think it the duty of the prosecutor for the Commonwealth or for one occupying the position, to oppose anything that justice required, nor to object to anything that involved a simple consideration of humanity, where it could be properly allowed; yet, in regard to this proposition to delay the trial of John Brown two or three days, they deemed it their duty that the Court, before determining matters, should be put in possession of facts and circumstances judicially, that they were aware of in the line of their duties as prosecutors. His own opinion was, that it was not proper to delay the trial of this prisoner a single day, and that there was no necessity for it. He alluded in general terms to the condition of things that surrounded them. They were such as to render it dangerous to delay, to say nothing of their exceeding pressure upon the physical resources of the community, growing out of circumstances connected with affairs for which the prisoners were to be tried. He said our laws in making provisions for allowing, in the discretion of the Court, briefer time than usual in cases of conviction, for such offenders, between the condemnation and execution, evidently indicates, indirectly, the necessity of acting promptly and decisively, though always justly, in proceedings of this kind. In reference to Brown's physical condition, he asked the Court not to receive the unimportant statements of the prisoner as sufficient ground for delay, but that the jailer and physician be examined. As to expecting counsel from abroad, he said that no impediment had been thrown in the way of the prisoners' procuring such counsel as they desired, but, on the contrary, every facility had been afforded, able and intelligent counsel had been assigned them here, and he apprehended that there was little reason to expect the attendance of those gentlemen from the North who had been written for. There was also a public duty resting upon them to avoid, as far as possible, within the forms of law, and with reference to the great and never-to-be-lost-sight-of giving a fair and impartial trial to the prisoners, the introduction of anything likely to weaken our present position, and give strength to our enemies abroad, whether it issues from the Jury in time, or whether it comes from the mouths of the prisoners or any other source. It was their position that had been imperilled and jeopardized, as they supposed by enemies.

Mr. HARDING concurred in the objection of Mr. Hunter, on the ground of danger in delay, and also because Brown was the leader of the insurrection, and his trial ought to

be proceeded with on account of the advantage thereby accruing to the trial of the others.

Mr. GREEN remarked that he had had no opportunity of consulting with the prisoner, or preparing a defence. The letters for Northern counsel had been sent off, but not sufficient time has been afforded to receive answers. Under the circumstances, he thought a short delay desirable.

Mr. BORRIS added that at present the excitement was so great as perhaps to deter Northern counsel from coming out; but now that it had been promised that the prisoners should have a fair and impartial trial, he presumed that they would come and take part in the case.

The COURT stated that if physical inability were shown, a reasonable delay must be granted. As to the expectation of other counsel, that did not constitute a sufficient cause for delay, as there was no certainty about their coming. Under the circumstances in which the prisoners were situated, it was rational that they should seek delay. The brief period remaining before the close of the term of the Court, rendered it necessary to proceed as expeditiously as practicable, and to be cautious about granting delays. He would request the physician who had attended Brown to testify as to his condition.

Dr. MASOX thought Brown was able to go on understandingly with the trial. He did not think his wounds were such as to affect his mind or recollection. He had always conversed freely and intelligibly about this affair. He had heard him complain of debility, but not of hardness of hearing.

Mr. COCKEREL, one of the guards of the jail, said that Brown had always been ready to converse freely.

The Court refused to postpone the trial, and the whole afternoon was occupied in obtaining a jury for the trial of Brown, who was brought into court on a cot.

#### AFTERNOON SESSION, 2 o'clock.

The jailer was ordered to bring Brown into court. He found him in bed, from which he declared himself unable to rise. He was accordingly brought into court on a cot, which was set down within the bar. The prisoner laid most of the time with his eyes closed, and the counterpane drawn up close to his chin. The jury were then called and sworn. The jurors were questioned as to having formed or expressed any opinion that would prevent their deciding the case impartially on the merits of the testimony. The Court excluded those who were present at Harper's Ferry during the insurrection and saw the prisoners perpetrating the act for which they are about to be tried. They were all from distant parts of the country, mostly farmers—some of them owning a few slaves, and others none. The examination was continued until 24 were decided by the Court and counsel to be competent jurors. Out of these 24, the counsel for the prisoner had a right to strike off eight, and then twelve are drawn by ballot out of the remaining sixteen. The following were the questions put to the jurors:

Were you at Harper's Ferry on Monday or Tuesday?

How long did you remain there?

Did you witness any of the proceedings for which this party is to be tried?

Did you form or express any opinion from what you saw there with regard to the guilt of innocence of these people?

Would that opinion disqualify you from giving these men a fair trial?

Did you hear any of the evidence in this case before the Examining Court?

What was your opinion based on?

Was it a decided one, or was it one which would yield to evidence, if the evidence was different from what you supposed?

Are you sure that you can try this case impartially from the evidence alone, without reference to anything you have heard or seen of this transaction?

Have you any conscientious scruples against convicting a party of an offence to which the law assigns the punishment of death, merely because that is the penalty assigned?

The following were finally fixed upon as the twelve Jurors :

RICHARD TIMBERLAKE,	JACOB J. MILLER,
JOSEPH MYERS,	THOMAS OSBORNE,
THOMAS WATSON, JR.,	GEORGE W. BOYER.
ISAAC DEST,	JOHN C. WILTSHIRE,
JOHN C. McCLURE,	GEORGE W. TAPP,
WILLIAM RIGHTS DALE,	WILLIAM A. MARTIN,

The Jury were not sworn on the case, but the Judge charged them not to converse upon the case or to permit others to converse with them. They were dismissed at five o'clock, and the prisoner was then carried over to the jail on his cot, and the Court adjourned till morning.

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### SECOND DAY.

CHARLESTOWN, Thursday, Oct. 27, 1859.

Brown was brought in walking, and laid down on his cot at full length within the bar. He looked considerably better, the swelling having left his eyes.

Senator Mason was present.

Messrs. Harding and Hunter again appeared for the Commonwealth, and Messrs. Botts and Green for the prisoner.

Mr. Botts read the following dispatch, which was received this morning :

"AKRON, Ohio, Thursday, Oct. 26, 1859.

"TO C. J. FAULKNER, AND LAWSON BOTTS :

"John Brown, leader of the insurrection at Harper's Ferry, and several of his family have resided in this county many years. Insanity is hereditary in that family. His mother's sister died with it, and a daughter of that sister has been two years in a Lunatic Asylum. A son and daughter of his mother's brother have also been confined in the lunatic asylum, and another son of that brother is now insane and under close restraint. These facts can be conclusively proven by witnesses residing here, who will doubtless attend the trial if desired.

"A. H. LEWIS."

William C. Allen, telegraphic operator at the Akron office, adds to the above dispatch that A. H. Lewis is a resident of that place, and his statements are entitled to implicit credit.

Mr. Botts said that on receiving the above dispatch he went to the jail with his associate, Mr. Green, and read it to Brown, and is desired by the latter to say that in his father's family there has never been any insanity at all. On his mother's side there have been repeated instances of it. He adds that his first wife showed symptoms of it, which were also evident in his first and second sons by that wife. Some portions of the statements in the dispatch he knows to be correct, and of other portions he is ignorant. He does not know whether his mother's sister died in the lunatic asylum, but he does believe that a daughter of that sister has been two years in the asylum. He also believes that a son and daughter of his mother's brother have been confined in an asylum; but he is not apprised of the fact that another son of that brother is now insane and in close confinement. Brown also desires his counsel to say that he does not put in the plea of insanity, and if he has been at all insane he is totally unconscious of it, yet he adds that those who are most insane generally suppose that they have more reason and sanity than those around them. For himself he disdains to put in that plea, and seeks no immunity of the kind. This movement is made totally without his approbation or concurrence, and was unknown to him, till the receipt of the dispatch above.

Brown then raised himself up in bed, and said: "I will add, if the Court will allow

me, that I look upon it as a miserable artifice and pretext of those who ought to take a different course in regard to me, if they took any at all, and I view it with contempt more than otherwise. As I remarked to Mr. Green, insane persons, so far as my experience goes, have but little ability to judge of their own sanity; and, if I am insane, of course I should think I know more than all the rest of the world. But I do not think so. I am perfectly unconscious of insanity, and I reject, so far as I am capable, any attempt to interfere in my behalf on that score."

Mr. BORRIS stated that he was further instructed by Mr. Brown to say that, rejecting this plea entirely, and seeking no delay for that reason, he does repeat to the Court his request made yesterday, that time be given for the foreign counsel to arrive that he has now reason to expect.

Yesterday afternoon a dispatch was received from Cleveland, Ohio, signed "Dan. Tilden," dated October 26, asking Brown whether it would be of use for counsel to leave last night. To this dispatch answer was returned that the Jury would be sworn this morning, and that Brown desired the counsel to come at once.

The telegraphic operator here stated that this dispatch would be sent off at once, in advance of the dispatches sent by reporters, and he had learned this morning that it was sent before the storm of last night interrupted communication, and that counsel might reach here by 12 or 1 o'clock to-night.

The course taken by Brown this morning makes it evident that he sought no postponement for the mere purpose of delay, as he rejects the plea of insanity. Still, in his opinion he could have a fairer trial if the defence were conducted by his own counsel than if he were defended by the counsel at present here.

Mr. HUNTER observed that the prisoner's counsel having renewed the motion of yesterday for delay for a specific period, indicated and based upon information received in the form of a telegram, the question now was whether there was sufficient grounds in this additional information to change the decision announced by the Court yesterday on the same motion. If the Court did not at once deem this circumstance wholly insufficient, before the decision was made the counsel for the Commonwealth deemed it his duty to call attention to two or three matters connected with the affair. Though desirous to avoid forestalling the trial of this case, in regard to the present prisoner at the bar, they were prepared to prove that he had made open, repeated, and constant acknowledgment of everything charged against him. He had gloried in it, and we have but an exhibition of the same spirit and the same purpose in his announcement that he would permit no defence of insanity to be put in. What does he mean by wishing delay for the purpose of having a fair trial? In a proper sense, and in the only sense in which it can be regarded by the Court, it is a fair trial according to the laws of Virginia, and the safeguards against wronging the prisoner which these laws throw around him. If the prisoner's idea of a fair trial is to have it so shaped as to produce a fairness in his conception, outside of what the laws recognize, it becomes the duty of the counsel for the Commonwealth, and, as he apprehended, of the Court, to resist any attempt of that kind. Considering the surrounding circumstances, to which it was unnecessary to particularly advert, there could be no right to claim delay, except so far as the prisoner could show in a reliable form that such delay was necessary to do justice in his particular case, according to the laws and policy of the State of Virginia. In regard to the telegram read, we know not who this Mr. Lewis is. We know not whether he is to come here as counsel for the prisoner, or whether he wants to head a band of desperadoes. We have a right to believe the latter as well as the former. There had been time enough since the letter for northern counsel was mailed last Saturday, for it to reach him, and for him to arrive here ere this, if he had designed coming. It was fairly inferable that he did not intend to come, and the telegram did not say he would come. But might it not be an attempt to gain time and learn the latest day when a rescue could be attempted? While commending the earnestness and zeal of the prisoner's counsel, he must ask the Court to reject the motion, and proceed with the trial at once.

Mr. HARDING would be reluctant to withhold from a prisoner charged with a crime of the greatest enormity, as in the present case, anything calculated to afford him the amplest opportunity of justice; but he had able and intelligent counsel assigned him, who would see that he was fairly and impartially tried, and he therefore fully concurred with the

remarks of his colleague in opposing the motion. He referred also to the fact that Brown pretended yesterday afternoon that he was unable to walk, and was brought into Court on a bed, yet he walked back to jail after the close of the trial without difficulty. He thought those were mere pretences for delay, which the Court should overrule.

Mr. GREEN remarked that one day's delay would be sufficient to ascertain whether the expected counsel would come or not, and no prejudice could result to the Commonwealth from a small delay of that character. In reference to the new matter brought to the consideration of the Court, he did not believe the prisoner had made any acknowledgment upon which he could be convicted. All the acknowledgments, so far as he knew their character, referred to the treason, and those confessions, according to our law, are insufficient to convict a party who may have acknowledged the fact in the plainest manner to one hundred witnesses—for if that is all the evidence upon which the Commonwealth relies, the prisoner cannot be convicted, because our code provides that such confession shall be made in open court, and the prisoner has denied in open court, by putting in a plea of not guilty. As to sufficient time having elapsed for counsel to reach here, it was a reasonable supposition that the persons to whom Brown wrote were absent, and did not immediately receive the letter. The Commonwealth attorney does not know who Lewis is, but he is an ex-member of Congress, and said to be a man of respectability. As to what is called Brown's sham sickness of yesterday, it should be remembered that it was not then, nor is it now, made the ground of application for delay. He did not think this trial should be hurried through, for the reason that a rescue might be apprehended, for such fears were idle.

The COURT stated that he must see, in this case as any other, that a proper cause for a delay was made out before granting such an application. In the present case he could not see that the telegram gave any assurance that the additional counsel intended to come. The prisoner is now defended by counsel, who will take care that no improper evidence is adduced against him, and that all proper evidence in his behalf shall be presented. He could not see that a proper cause for delay was made out. The expected counsel might arrive before the case was closed, and could then see all the testimony which had been taken, and thus the prisoner might have the benefit of their advice although the case now proceeds. As to the matter of insanity, it was not presented in a reliable form; instead of mere statements, we should have affidavits, or something of that character. He thought, therefore, that the Jury should be sworn and the trial proceed.

The Jury having been sworn to fairly and impartially try the prisoner, the COURT directed that the prisoner might forego the form of standing while arraigned, if he desired it.

Mr. BOTTS put the inquiry to the prisoner, and he continued to lie prostrate on his cot while the long indictment, filling seven pages, was read.

*First*: Insurrection.

*Second*: Treason.

*Third*: Murder.

Mr. HARDING addressed the Jury. He presented the facts of the case, detailing the scenes of the Armory, the killing of the bridge-keeper, and the subsequent killing of the citizens named in the indictment; the seizure of Lewis Washington and Mr. Allstadt, with their slaves; the forming of a government within the limits of the Commonwealth; the holding of the citizens as prisoners of war, and the subsequent capture. He read the law on treason, levying war against the State, giving comfort to its enemies, or establishing any other government its limits, punishable with death; the law against advising with a slave, punishable with death; and the law on the murder of citizens, punishable with death. All these charges would be distinctly proven, beyond a possibility of a doubt on the minds of the Jury. He would show that the prisoners' whole object was to rob our citizens of their slaves, and carry them off by violence, and he was happy to say against the wills of the slaves, all of them having escaped, and rushed back to their masters at the first opportunity. He concluded by urging the Jury to cast aside all prejudices, and give the prisoners a fair and impartial trial; and not to allow their hatred of Abolitionists to influence them against those who have raised the black flag on the soil of this Commonwealth.

Mr. GREEN, on the part of the prisoner, after giving the law applicable to the case, said that the Jury must bear in mind that they are judges of the law and the facts, and that if they have any doubt as to law, or the fact of the guilt of this prisoner, they are to give the prisoner the benefit of that doubt. On the first charge of treason, as a specific act of treason must be proven, it must be proven that he attempted to establish a separate and

distinct government, and it must also be proven what was purposed of treasonable acts before you can convict him on those charges. If it is intended to rely on his confessions to prove treason, the law distinctly says, "No conviction can be made on confessions, unless made in open Court." There must be sufficient evidence to prove the charge, independent of any confessions out of the Court, and it requires two distinct witnesses to prove each and every act of treason.

*Second:* Conspiring with slaves to rebel and make insurrection. The Jury must be satisfied that such conspiracy was done within the State of Virginia, and within the jurisdiction of this Court. If it was done in Maryland, this Court could not punish the act. If it was done within the limits of the Armory at Harper's Ferry, it was not done within the limits of this State, the Government of the United States holding exclusive jurisdiction within the said grounds. Attorney-General Cushing had decided this point with regard to the Armory grounds at Harper's Ferry, which opinion was read to the Jury, showing that persons residing within the limits of the Armory cannot even be taxed by Virginia, and that crimes committed within the said limits are punishable by the Federal Courts. Although the Jury may doubt about the law on this subject, they must give the prisoners the benefit of that doubt upon the trial. Over murder, if committed within the limits of the Armory, this Court has no jurisdiction, and in the case of Mr. Beckham, if he was killed on the railroad bridge, it was committed within the State of Maryland, which State claims jurisdiction up to the Armory grounds. Although he may be guilty of murder, it must be proven that it was deliberate and premeditated murder to make it a capital offence; if otherwise, the killing was murder in the second degree, punishable with imprisonment. If you have any doubt on these points you must give that doubt to the prisoners. He was satisfied the Jury will not allow any outside excitement to affect them, and that they will do their duty faithfully and impartially.

Mr. BORTS impressively addressed the Jury. The case was an unusual one, and the crime charged in many respects unknown. The Jury trial called for a calm, unimpassioned deliberation, and not the seizure upon loose statements for a conviction. The Jury must be above all prejudices and influences, and deliberate calmly, and free of all resentment, bearing in mind that the mission of the law is not to wreak vengeance, and that the majesty of the law is best maintained when Judges, Counsel and Jury rise above these influences. The burden of proof is on the Commonwealth, and if she fails to substantiate her charges, you are bound to do your duty impartially, and find your verdict on the law and testimony that the Commonwealth may be able to present to you. He then proceeded to go over the same grounds taken by Mr. Green on each of the three points of the indictment—treason, insurrection and murder. It is no difference how much a Jury may be convinced in their own minds of the guilt of the prisoner, it is essential that they must have proof of positive guilt, in a case like this, involving both life and liberty.

Mr. BORTS, in reviewing the law bearing on the case, evinced a determination to avail himself of every advantage that the law allows, and to do his duty to the prisoner earnestly and faithfully. It was due to the prisoner to state that he believed himself to be actuated by the highest and noblest feelings that ever coursed through a human breast, and that his instructions were to destroy neither property nor life. They would prove by those gentlemen who were prisoners that they were treated with respect, and that they were kept in positions of safety, and that no violence was offered to them. These facts must be taken into consideration, and have their due weight with the Jury.

Mr. HUNTER followed stating his purpose to avoid anything by way of argument or explanation not immediately connected with the particular issue to be tried, and to march straight forward to the attainment, so far as may be in our power, of the ends of justice, by either convicting or acquitting the prisoner at the bar. With a single preliminary remark explanatory of his position here as assistant, a position which had been assigned to him by the Governor of the Commonwealth, as well as his honor the Judge, he passed at once to a review of what was the law in reference to the case, and what he expected to be able to prove to the satisfaction of the Jury. First, as to high treason, this was probably the first case of high treason, or treason against the State, that ever had been tried here by our State Courts, and he fervently hoped that it would be the last that would ever occur; and probably in some degree not only upon our decision, but upon our prompt decision of this case, will that result depend. He thought his friends on the other side were totally mistaken in their view that the law as it now stands on our statute books in reference to overt acts was, either in language, or substantially, that contained in the Constitution of the United States. On the contrary, the phraseology had been varied from that of the Constitution, and, as he conceived, for a plain and palpable pur-

pose. All the powers vested in the Federal Government were given with great jealousy. This was a historical fact, perfectly familiar, and consequently, while treason against the United States consisted only in levying war against them or adhering to their enemies and giving them aid and comfort, there is no provision that no person shall be convicted of treason unless upon the testimony of two witnesses of some overt act or confession in open Court. Yet the State law is more full, and includes within its definition of treason the establishing, without the authority of the Legislature, any Government within its limits, separate from the existing Government, or the holding or executing, under such Government, of any office; professing allegiance or fidelity to it, or resisting the execution of law, under the color of its authority; and it goes on to declare that such treason, if proved by the testimony of two witnesses to the same overt act, or by confession in Court, shall be punished with death. Any one of these acts constitutes treason against this Commonwealth, and he believed that the prisoner had been guilty of each and all these acts, which would be proven in the clearest manner, not by two, but by a dozen witnesses, unless limited by the lack of time. The prisoner had attempted to break down the existing Government of the Commonwealth, and establish on its ruins a new Government; he had usurped the office of Commander-in-Chief of this new government, and, together with his whole band, professed allegiance and fidelity to it; he represented not only the civil authorities of state, but our own military; he is doubly, trebly and quadruply guilty of treason. Mr. Hunter proceeded again to the question of jurisdiction over the Armory grounds, and examined the authority cited on the other side, of Attorney-General Cushing; the latter was an able man, but he came from a region of country where opinions are very different from ours in relation to the power of the Federal Government as affecting State rights. Our Courts are decidedly adverse to Mr. Cushing's views. In all time past, the jurisdiction of this County of Jefferson in criminal offences committed at Harper's Ferry, has been uninterrupted and unchallenged whether they were committed on the Government property or not. He cited an instance, twenty-nine years ago, where an atrocious murder was committed between the very shops in front of which these men fought their battles, and the criminal was tried here, convicted, and executed under our laws. There was a broad difference between the cession of jurisdiction by Virginia to the Federal Government and mere assent of the State that the Federal Government should become a land-holder within its limits. The law of Virginia, by virtue of which the grounds at Harper's Ferry were purchased by the Federal Government, ceded no jurisdiction. Brown was also guilty, on his own notorious confession, in advising conspiracy. In regard to the charge of murder, the proof will be that this man was not only actually engaged in murdering our citizens, but that he was the chief director of the whole movement. No matter whether he was present on the spot or a mile off, he is equally guilty. In conclusion, Mr. Hunter said that he hoped the case would be considered with fairness and impartiality, and without fear, favor or affection; and he only asked that the penalty might be visited on the prisoner which law denounces, which reason denounces, which our safety requires, and which the laws of God and man approve.

The afternoon session assembled at 3½ o'clock.

#### WITNESSES CALLED.

Dr. STARRY, on Sunday, night, heard a shot fired at the Ferry; heard a cry, looked out and saw two men passing from toward the Armory gate, and a tall man came from the Armory gate, and two men from the cars hallooed, "There he goes now!" the man stopped, raising his rifle; they followed him to the Armory gate, and exchanged shots with him; Conductor Phelps was one of those men; afterward found the black man Hayward dying in the railroad office; he said he was commanded to stop by the men on the bridge, and refusing, they fired upon him; saw several men patrolling during the night, and go into the bridge; did not know what to make of it, and went to inquire of the Armory watchman what is meant; met a man who levelled his rifle at him; asked him where the watchman was, and was answered that he was not there, but that there were "a few of us here;" afterward, in the morning, saw a wagon with three armed men following it; then went to Mr. Kitzmiller and Mr. Ball, and told them that an armed body of men had possession of the Armory, and not to go near it; also gave information to the other persons employed in the Armory; saw also three of them at Hall's works; did not see more than thirty; recognized them by a peculiar hat they wore; rode to Charlestown to give the alarm and get assistance; returned about 11 o'clock, and assisted in bearing orders and in guiding the armed forces to the best place of attack; did not see or recognize Brown there at all.

Cross-examined by Mr. GREEN—As I rode past the Armory, armed men were at the gate; they did not attempt to stop me; I was determined not to be stopped.

Conductor PHELPS, sworn—On Sunday night, the 15th, my train arrived at 1.25, bound east; saw no watchman at the bridge; thought it strange, as his business was to be there; was talking to the engineer, and was in the act of starting ahead, when the watchman came up to me, much excited, to state that he had been attacked in the bridge by men carrying rifles; Mr. Horsey was there with my light before starting the train; the baggage-master and a passenger accompanied him, and when they entered the bridge some one said, "stand and deliver;" had previously told the engineer to follow him slowly, but immediately saw the muzzles of four rifles resting on a railing, and pointed at us; told the engineer to "back"—something was wrong on the bridge—which he did; as I got on the tresseling, I heard the report of a gun, and Hayward, the colored man, came running to me, and said, "Captain, I am shot;" the ball had entered the back, and came out under the left nipple; carried him to the railroad office, and started for the doctor, and saw one man come out of the bridge, and go toward the Armory gate; remarked, "There he goes now," and Throgmorton, clerk at the Wager House, fired at him; the shot was returned by two men at the Armory gate; I was close behind Throgmorton, who exchanged several shots with them; this was ten minutes after Hayward was shot; heard the men loading their rifles again; the reports were very loud, and I wondered why the people were not aroused; walked back to the railroad office, and one of the party on the bridge came out; he said, "You can come over the bridge with your train;" replied, "I would rather not, after these proceedings," and asked, "What do you want?" he replied, "We want liberty, and we intend to have it;" I then asked, "What do you mean?" he replied, "You will find out in a day or two;" I then felt alarmed for the safety of myself and passengers, and concluded to wait till daylight; men were passing back and forward from the bridge to the gate of the Armory; each appeared to be in blankets; the passengers were much excited, and wanted to know what it meant; went to the back of the train, and saw from twenty to thirty men about the engine-house; at about 4 o'clock saw a wagon driven in the yard, and nearly a dozen men jumped out of it, also a carriage, but did not see any one get out of it; saw men go backward and forward, who seemed to be putting something in the wagon; they were also going up and down the street leading from the Armory, and all seemed busy at something; this continued until nearly daylight, when the wagon left the yard and passed over the bridge to the Maryland side; about 3 o'clock, before the wagon left, an old gentleman came to me and said, "The parties who have arrested me allowed me to come out on condition that I would tell you that you might cross the bridge with your train;" afterward learned that this was Mr. Koise, a citizen of the town; replied that "I would not cross the bridge until daylight, that I might see whether it was safe;" afterward saw a man coming down Shenandoah street, with a lantern, and an armed man arrested him; afterward saw a short, stout negro walking with a staff with one of these men; could not see what was in the wagon; afterward a black boy brought a note to the clerk of the Wager House, ordering breakfast for forty-seven men; determined to go out and ascertain what it meant; met a man whom he now recognized as Coppie, and asked what they meant; he replied, "We don't want to injure you or detain your train; you could have gone at 3 o'clock; all we want is to free the negroes;" then asked if his train could now start, and went to the guard of the gate, who said, "There is Capt. Smith—he can tell you what you want to know;" went to the engine-house, and the guard called Capt. Smith, that somebody wanted to see him; the prisoner at the bar came out, and I asked him if he was captain of these —; he replied he was; asked him if I could cross the bridge, and he peremptorily responded, "No, Sir;" then asked him what he meant by stopping my train; he replied, "Are you the conductor on that train?" told him I was, and he said, "Why, I sent you word at 3 o'clock that you could pass;" told him that, after being stopped by armed men on the bridge, I would not pass with my train; he replied, "My head for it, you will not be hurt;" said he was very sorry; it was not his intention that any blood should be spilled; that it was bad management on the part of the men in charge of the bridge; I then asked him what security I would have that my train would pass safely, and asked him if he would walk over the bridge ahead of my train with me; he called a large, stout man to accompany him, and one of my passengers, Mr. McByrne, asked to accompany me, but Brown ordered him to get into the train, or he would take them all prisoners in five minutes; Brown accompanied me; both had rifles; as we crossed the bridge, the three armed men were still in their places; when we got across, Brown said to me, "You doubtless wonder that a man of my age should be here with a

band of armed men, but if you knew my past history you would not wonder at it so much; my train was then through the bridge, and I bid him good morning, jumped on my train, and left him; witness returned to Harper's Ferry on Tuesday, and went in with Governor Wise and others to see Brown, who was a prisoner; heard his conversation with Wise and Hunter; Mr. Wise said he "was sorry to see a man of his age in that position;" Brown replied that he "asked no sympathy, and had no apologies to make;" he knew exactly what he was about; the Governor asked him if he did not think he was doing wrong in running off with other people's property; Brown said, "No, he didn't;" he stated that he never had but twenty-two men of his party, but expected large reinforcements from Maryland, Virginia, North and South Carolina, and, I think, some of the New England States, and New York. He said that arms were sent to them from Massachusetts; think he spoke of Sharpe's rifles, revolvers, and spears; said he could arm from 1,500 to 2,000 men; said he had Harper's Ferry in his eye as the place for his operations; that he had rented a farm four miles off, from Dr. Kennedy, and had paid the rent up to March, and that all his arms were sent to him there from Chambersburg, Pa.; said those who brought the arms there did not know what they were, as he had taken the precaution to place them in double boxes; they were addressed to J. Smith & Sons. Brown told Gov. Wise that he had books in his trunk that would explain to him his whole proceedings, and what the purpose of his business was; Col. Lee said he had one, and handed it to Gov. Wise; Brown asked him to read two of its first preambles and four of the last sections, which he did, and Brown said that was a correct copy; in reply to a question of Gov. Wise, he said he was Commander-in-Chief of the forces under the Provisional Government, and that he then held that position; he said the constitution was adopted in a place called Chatham, in Canada; Brown said there was a Secretary of War, Secretary of State, Judge of the Supreme Court, and all the officers for a General Government; he said there was a House of Representatives, and that there was an intelligent colored man elected as one of the members of the House [sensation]; Gov. Wise asked Brown if he had taken the oath of allegiance provided for in the 48th article; he replied he had; asked if all the white men of his band had taken the oath; he replied that they had; he said that there were appointed and commissioned officers; that Stephens, Leeman, and one of Brown's sons were captains, and Coppie was a lieutenant; he said something about a battle in Kansas, and having one of his sons shot; I think he said Cook held a captain's commission; Gov. Wise asked Brown if he thought he had been betrayed to the Secretary of War; said he thought he had been betrayed, but had practised the ruse to prevent suspicion; the Governor asked him what that ruse was, but he refused to answer; said he knew exactly the position he had placed himself in, and if his life was forfeited he was prepared to suffer.

Mr. GREEN, counsel for the prisoner, interrupted the witness, and said to the Court that he had just received a dispatch from Cleveland, announcing that counsel was coming, and would almost certainly be here to-night. As this was a very important witness, and as it was late in the evening, he would ask the Court to adjourn until morning, in order that counsel might have an opportunity to cross-question the witness. He did not intend to conduct the case longer than the arrival of counsel selected by the prisoner. As only scraps of a conversation of two hours with Gov. Wise had been picked out and given to the Jury, he desired that the witness should be questioned as to the other parts of the conversation.

Mr. HUNTER replied that there were several other witnesses to be called of the same character, to whom such questions could be put by new counsel to-morrow. If the cases were not pushed on, the whole balance of the term would not be sufficient to try these men. He thought there was no reason for delay, especially as it was uncertain whether the counsel could get here before to-morrow.

The COURT decided that the witness should proceed.

Cross-examination by Mr. GREEN.—In conversation, Brown said it was not his intention to harm anybody or anything; was sorry men had been killed; it was not by his orders or with his approbation, and would not occur again, provided the people were peaceable and quiet; when Brown spoke of taking them all prisoners if they did not get into the cars, he appeared to want the train to go on as soon as possible; it was advice more than in the form of a threat; did not recognize Brown till I talked with him in the Armory yard; don't think Brown was with the party on the bridge or in the wagon, for if he had been I think I would have recognized him from his peculiar beard.

By Mr. HUNTER.—When Brown was parleying with us at the bridge, the three armed

men remained on the bridge; saw what seemed to be a man dressed in woman's clothing pass, followed by a boy with a box or bundle.

Col. LEWIS W. WASHINGTON sworn—[He detailed the circumstances as previously stated.]

Cross-examined by Mr. GREEN—Cannot say whether the marines fired after they broke into the engine-house; the noise was great, and several shouted from the inside that some one had surrendered the prisoners; we were kept in the rear engine-house, and allowed to keep a safe position, so that there was no effort to endanger us; Brown's conduct was not rude or insulting toward us.

By Mr. HUNTER—Was present at the conversation with Gov. Wise on Tuesday; Gov. Wise asked Brown if he had not selected Harper's Ferry as a border place between Maryland and Virginia for the establishment of his Provisional Government, and he answered "Certainly;" he avowed that his object was to free the Southern slaves, and said that his party consisted of twenty-two men, nineteen of whom came over with him; he said he had 200 Sharpe's rifles, 200 revolvers, and witness does not remember how many spears; Brown said he had enough to arm about 1,500 men; the Governor asked if he expected that number; he said no doubt that number, and five thousand if he wanted them; he detailed the conversation respecting the Provisional Government substantially as the last witness.

By Mr. BOTTS—At the time of the attack on the engine-house, the prisoners remained in the rear at the suggestion of Brown and his party; heard Brown direct his party not to fire on any unarmed man; he gave that order more than once.

By Mr. HUNTER—Cook said Brown had been studying this subject twenty or thirty years. Had reconnoitered Harper's Ferry repeatedly.

By Mr. BOTTS—The prisoners were allowed to go out, and assure their families of their safety; some went out several times; told his men not to return from his dwelling-house; there were numerous shots toward the tank where Beckham was killed; Brown assured witness that he should be treated well, and his property should not be destroyed.

By Mr. HUNTER—While a prisoner in the engine-house, overheard a conversation between Stephens and another party, not known to witness, about slave-holding. Stephens asked the man if he was in favor of slavery? He said "Yes, although not a slaveholder." Stephens said, "You are the first man I would hang."

By Mr. HARDING—One of the three negroes taken with the witnesses was kept in the Armory yard; another escaped, and went home; saw no conversation in particular between the party and the negroes who were taken there; all the negroes were armed with spears while in the Armory yard; they walked about the Armory grounds, and one came and warned himself; no negro from this neighborhood appeared to take up arms voluntarily; saw no wounded men dragged into the engine-house.

At 7 o'clock the Court adjourned till morning.

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### THIRD DAY.

CHARLESTOWN, *Friday, Oct. 28, 1859.*

Capt. COOK arrived here at 1 o'clock this morning. He says that if Brown had taken his advice in relation to mounting, a thousand men could not have taken them. There is great rejoicing at his arrest. He says that Fred Douglass acted the coward, having promised to be there in person.

GEORGE H. HOYT, of Boston, counsel for Brown, arrived this morning. He is quite a youth.

The Court met at 11 o'clock. Brown was led from the jail, walking very feebly. He lay down upon his cot.

Senator MASON entered the Court with Mr. Hoyt, the Boston counsel of Brown; he remarked that the testimony of Col. Washington and Mr. Phelps yesterday was strictly truthful.

The Jury were called, and answered to their names.

Mr. BOTTS announced the arrival of Mr. Hoyt, who had come here to assist the counsel

for the prisoner. At present, however, he did not feel disposed to take part in the case. Whenever he should feel disposed, he would do so.

Mr. HUNTER suggested that he had better be qualified as a member of the bar by producing proof from the Boston bar.

Mr. HOYT had not brought his credentials of admission.

The COURT said that that was not required in order to be strictly legal; to that fact any citizen's evidence would answer.

Mr. GREEN said his partner had read letters from fellow-students of Mr. Hoyt, alluding to him as a member of the bar.

Mr. HOYT then took the customary oath.

#### TESTIMONY RENEWED.

By Mr. BOTTS—Conductor PHELPS recalled—The question put to him was prepared by Brown. The firing was commenced by those men on the bridge who shot Hayward; the next firing was by Throgmorton; does not know whether the firing at Hayward was intentional; there was no attack on Brown's men until after Hayward was shot; he was shot by armed men in the Winchester span of the bridge.

By Mr. BOTTS—Col. LEWIS W. WASHINGTON recalled—Negotiations were opening with Brown for the release of prisoners before the general firing commenced on Monday; does not know whether all the prisoners signed the proposition for a suspension of firing; in the opening negotiations, Brown frequently suggested that the prisoners should cross the bridge with him to the second canal, and the lock was not to be fired upon until they reached that point; none of the prisoners made any objection to the proposition; Brown said he was too old a soldier to yield the advantage he possessed in holding hostages; during the day Brown's son was wounded in the breast, the ball passing around to the side, but he took his weapon again, and fired frequently before his sufferings compelled him to retire; heard Capt. Brown frequently complain of bad faith of people on a flag of truce; heard him make no threat, nor utter any vindictiveness against the people; Mr. Brewer went out and brought in a promise that the people would not fire while negotiations were pending; cannot say that all the firing of Capt. Brown or his men was in self-defence; heard Brown give frequent orders not to fire on unarmed citizens; the first firing was against the engine-house; Brown said the people appeared to pay but little regard to the lives of the citizens, and we must take the chances with them; after the first attack on the engine-house by the marines, there was not a general cry of "surrender;" one cried surrender, but the others fought on; Brown had a rifle in his hand when he was struck down by the marines, and received a cut over the head with a sword of Lieutenant Green.

Mr. HUNTER laid before the jury the printed Constitution and ordinance of the Provisional Government, reading the two first clauses of the preamble, the 7th, 45th, and 48th articles, and briefly summing up other portions of the Constitution. Sheriff Campbell knows the handwriting of the prisoner; has copied a letter for him.

Brown said he would himself identify any of his handwriting, and save all that trouble. He was ready to face the music.

Mr. HUNTER would prefer proving them by Mr. Campbell.

Brown—Either way, as you please.

A large bundle of letters was produced. Each was identified by Campbell and handed to Brown, who, at the first glance, replied to each in a loud voice, "Yes, that is mine." The papers and letters were about fifty in number.

On receiving a list of members of the Convention, Mr. Hunter read it. It is headed, William Charles Morris, President of the Convention; and H. Kagi, Secretary of the Convention. On handing the list to Brown, he exclaimed, with a groan, "That's my signature."

In reference to another paper, he said, "I have nothing to say about that."

Mr. HUNTER read a letter from J. R. Giddings, acknowledging the receipt of a letter from Brown, and that he would be pleased to see him at his house during the summer.

Mr. HUNTER then read the letter from Gerrit Smith about the "Kansas work," which has already been published. It has June, B, 1859, indorsed on the back, in Brown's writing.

Mr. BOTTS here insisted on the right of examining the letters before their being read.

ARMSTEAD BALL, master machinist at the Armory, testified that early in the morning he was aroused by Benjamin Hobbs announcing that persons were at the Armory, carrying off government property; reached the gate, was accosted by two armed men, and seized as a prisoner; refused to make any explanation until within the Armory yard; Stephens was sentry at the gate; was conducted to Capt. Brown, who told me his object was to free the slaves, and not the making of war on the people; that my person and private property would be safe; that his war was against the accursed system of slavery; that he had power to do it and would carry it out; it was no child's play he had undertaken; he then gave me permission to return to my family, to assure them of my safety and get my breakfast; started back home, and was accompanied by two armed men, who stopped at the door; breakfast not being ready, went back, and was allowed to return home again, under escort, at a later hour; on returning again, Capt. Brown said it was his determination to seize the arms and munitions of the government, to arm the blacks to defend themselves against their masters; Brown also made a proposition to witness and other officers of the Armory to deliver into his possession the munitions of war belonging to the Government; he replied that they were already in his possession, as we were; Brown frequently told us our safety depended on the good conduct of our citizens; when the firing commenced all fell; we were in danger, and almost any proposition that was made was accepted to secure our safety; Brown said if the citizens were willing to risk their lives and those of the prisoners, to capture him, they must abide by it; Brown made but one proposition to go to the canal lock, give up their prisoners, and fight it out with the military; at daylight, on Tuesday morning, witness appealed to Brown on the ground of humanity to the prisoners, as well as to the men who appeared so bound to him, not to persist in spilling more blood; Brown replied that he was well aware of what he was about, and knew the consequences; that he was already proclaimed an outlaw, and \$3,500 was on his head; with regard to the killing of Beckham, one of Brown's party had fired in that direction several times; remonstrated with him when levelling his rifle at an old man named Guess, that he was not a combatant, and he desisted; afterward heard him fire, and heard him say, "Dropped him;" when we heard that Beckham was dead, the man who fired asked who it was; we told him he was an old and respectable citizen, and mayor of the town, and the man who fired expressed himself very sorry; this man was afterward killed at the charge of the marines; Capt. Brown made preparations for resisting the marines; he was always in arms, but I do not think I saw him fire. [The other portions of Mr. Ball's testimony were merely in corroboration of Mr. Washington's.]

By Mr. GREEN—We, as prisoners, agreed to such terms of capitulation as our citizens were willing to accept. The proposal was written by Mr. Dangerfield, and dictated by Brown. Do not know whether Brown's son and Stephens were wounded while they accompanied the citizens with a flag of truce. Did not know that any of them were Brown's sons, until I heard Brown say to Capt. Simms, "there lies one of my sons dead, and here is another dying." Brown frequently remarked that the citizens were acting indiscreetly in persisting in firing on their own citizens; he maintained a different position all the time. Brown repeatedly said he would injure no one but in self-defence; Coppie frequently urged us to seek places of safety, but Brown did not; he appeared to desire us to take care of ourselves, and at the time of the charge of the marines, told us we must equally occupy the post of danger with themselves. There were three or four slaves in the engine-house; they had spears, but all seemed badly scared; Washington Phil was ordered by Brown to cut a port-hole through the brick wall; he continued until a brisk fire commenced outside, when he said, "this is getting too hot for Phil," and he squatted. Brown then took up the tools and finished the hole.

JOHN ALLSTADT, sworn—On Monday morning, about three, was awakened from sleep; asked who was at the door; the reply was, "Get up quick, or we will burn you up;" asked what they intended to do; they said, "Free the country of Slavery;" told me they were going to take me to Harper's Ferry; dressed myself, and when I got to the door they had all my blacks, seven in number; we were all put into a wagon; the negroes were then all armed with pikes; all the men who took us up were armed; we went to the Armory-yard, where I was put in charge of one of Brown's party; afterward we were ordered into the watch-house; saw Col. Washington there; Brown came and spoke to us about our getting two negroes to take our places, and then he would release us; nothing further was said about that; Brown's rifle was cocked all the time; the negroes were placed in the watch-house with spears in their hands; the slaves showed no disposition to use them; witness was afterward transferred to the engine-house; several negroes were there; saw

Phil making port-holes by Brown's order; the other negroes were doing nothing, and had dropped their spears; some of them were asleep nearly all the time [laughter]; when the marines made the assault, Brown's party took position behind the engine and aimed at the door; Brown was in front, squatting; he fired at the marines, and my opinion is, that he killed that marine.

By Mr. GREEN—Did not see any others shoot; cannot state certainly by what shot the marine was killed; he might have been killed by shots fired before the door was broken open; was much confused and excited at the time; heard regrets expressed at Beckham's being killed.

ALEXANDER KELLY, sworn—Described the manner of Thomas Boerley's being killed on Monday. Brown's party fired at witness, and witness returned the fire. Boerley was with witness, and was armed with a gun. Saw him soon after he was shot. The shot came from the direction of Shenandoah street.

Not cross-examined.

ALBERT GIBST, sworn—Sunday night had been to meeting with my son; coming home across the Shenandoah bridge, was seized by two men with rifles; when we got to the end of the bridge, were stopped by a man with a spear; asked what was the matter; was the town under martial law; he told me I should not be hurt, and asked me whether there were many slaveholders about Harper's Ferry; I told him no: Brown came up, and observed, "You have got some prisoners;" they took us to the Armory; found some citizens there; being tired, we laid down; Brown said his object was to free the slaves; told him there were not many there; he replied, "The good book says we are all free and equal," and if we were peaceable we should not be hurt; there was some firing about that time; afterward, about three o'clock, witness was sent to tell the conductor that the train might pass unmolested; saw Mr. Beckham, and delivered the message; Brown then dismissed me; did not go home, being afraid some of Brown's men, not knowing this, might shoot me; saw Hayward brought in, wounded.

Mr. KELLY, recalled—Saw Geo. W. Turner killed on High street; he was shot while in the act of levelling his gun; the shots came from the corner of Shenandoah and High streets; the men who fired had rifles; one had a shawl on.

#### AFTERNOON SESSION, 3 o'clock.

HENRY HUNTER, sworn—Went to the Ferry with the Charlestown Guard; staid in the bridge, leaving the company; went off fighting on my own hook; saw Beckham fall when shot; heard the whistling of the ball; undertook to go to his assistance, but was withheld by a friend; soon after, another person went to remove the body, saying he "would help the Squire;" heard the whistling of another ball; think that Beckham had a pistol in his coat pocket, judging from the weight and shape of the pocket; did not see it, and don't think the people from the Armory yard saw it; the shot that killed Beckham came from the engine-house; numerous shots were fired from the engine-house at the tank.

The cross examination of this witness elicited nothing new.

Col. GIBSON, sworn—Helped a portion of the militia of Jefferson County to suppress the insurrection; the Jefferson Guards and other detachments were in the action; they were called out by authority of law; three insurgents were killed at the rifle factory, and Copland captured.

Cross-examined—There was firing by outside citizens, and the three killed were not under my command; don't think the insurgents fired a gun at the rifle factory, but endeavored to make their escape across the river.

BENJAMIN T. BELL, sworn—Went to Harper's Ferry armed; did not join the military; was stationed in the Galt House, in Capt. Botts' company; in the evening walked out on the platform; saw Beckham shot; went as near to him as was safe, but perceived no breathing; there was firing from the engine-house toward the railroad; Mr. Young, a member of the Jefferson Guards, was wounded while making a charge against the insurgents; saw others shot; there were probably thirty shots fired from the engine-house toward the tank, and in other directions.

Cross-examined—There was general firing in almost every direction; McCabe was about firing when he was shot; there were twenty or thirty men firing at the engine-house when Young and McCabe were wounded.

LEWIS SPERRY examined—He testified respecting the killing of Turner.

The prosecution rested here.

## THE DEFENCE.

The COUNSEL FOR THE DEFENCE called JOSEPH A. BREWER, who testified that he was one of the prisoners in the engine-house with Washington and others; Brown remarked that the prisoners should share their danger; they were allowed to shelter themselves as they could; Cross went out with a flag of truce; another went out and came back wounded; Stephens and Kitzmiller went out, and Stephens was shot; after that it commenced raining very hard; supposed Stephens was dead; he lay near the corner of the depot; heard groaning, and saw Stephens moving; asked Brown to send a man to the relief of Stephens; Brown refused to send any one, because he would be shot; witness was allowed to go and assist Stephens into the hotel; he returned to the engine-house according to his pledge; was sent several times by Brown to request the citizens not to shoot, as the lives of the prisoners were endangered; negotiations were going on between Brown and the prisoners before the general firing commenced; Brown proposed that he should retain possession of what he held, including the Armory and negroes, and Col. Washington and the others seemed to acquiesce in this arrangement; Cross was sent out to confer with Beckham and others on the subject; a guard went with him, who were fired upon; after that Stephens wanted to shoot, but Kitzmiller appealed to him and they went out together to stop the firing; when they did not return, Brown seemed to show temper, and there was a change in the arrangements; after that Brown said he had it in his power to destroy that place in half an hour, but would not do it, unless resisted; think a shot from the water-tank struck Coppie; he then returned the fire, and some one said, "that man's down;" the special object of witness in going out was to see the firing from the tank, which was annoying to those in the guard-house.

A. M. KITZMILLER, sworn—Made repeated efforts to accommodate matters with Brown; he said his object there was to free the slaves from bondage, and if necessary fight the pro-slavery men for that purpose; I was first surprised, then indignant, and finally disgusted with Brown; he said to me, "there is a company of riflemen on the bridge; get them to go in company with Stephens;" Mr. Hunter told them he was sorry they did not leave their guns; Stephens remarked, that would not do; I had no flag, and did not consider myself the bearer of a flag of truce; as to the rifle company on the bridge, I saw they were our own men, waved my handkerchief, and told the other man to remain; soon heard firing very close; Stephens fired in reply to a shot which struck him from the house by the Winchester railroad depot; Stephens swore and the other man returned; I think it was Brown's son; Stephens was shot before he fired back; Thompson, of Brown's men, was a prisoner on the bridge.

[Brown here cried over the circumstances connected with the death of Thompson.]

WITNESS—I was not there, and did not see the last; the last I saw of Thompson he was a prisoner with the Ferry people on the bridge; Moore, Burkhardt, Anderson, and twenty or thirty others were there; Mr. Beckham was killed at or about the time Thompson was taken; did not return to the engine-house; witness's object was to prevent unnecessary shedding of blood; went out at the request of Brown to use his influence for that purpose.

JAMES BELLER, sworn—Was at the Galt House with Chambers on Monday morning; Chambers fired, and I saw the man whom he shot lying there; did not know the man; supposed it was Stephens; did not see any one with him when shot; Stephens was shot before Capt. Botts' company reached the Galt House.

MR. GREEN stated to the Court that he desired to bring out testimony relative to the shooting of Thompson, one of the insurgents on the bridge; but the State objected to it unless Brown had a knowledge of that shooting.

MR. HUNTER said there was a deal of testimony about Brown's forbearance and not shooting citizens, that had no more to do with this case than the dead languages. If he understood the offer, it was to show that one of those men, named Thompson, a prisoner, was dispatched after Beckham's death. The circumstances of the deed might be such as he himself might not at all approve. He did not know how that might be, but he desired to avoid any investigation that might be used. Not that it was so designed by the respectable counsel employed in the case, but because he thought the object of the prisoner in getting at it was for out-door effect and influence. He therefore said if the defence could show that this prisoner was aware of these circumstances, and the manner in which that party was killed, and still exerted forbearance, he would not object. But unless the

knowledge of it could be brought home to the prisoner and his after conduct, he could not see its relevancy.

Mr. BORTS observed that they had already proved that for hours after that, communications were held between the parties.

The COURT thought these facts admissible as evidence.

Mr. HUNTER (the witness) was recalled—After Mr. Beckham, who was my grand-uncle, was shot, I was much exasperated, and started with Mr. Chambers to the room where the second Thompson was confined, with the purpose of shooting him. We found several persons in the room, and had levelled our guns at him, when Mrs. Foulke's sister threw herself before him, and begged us to leave him to the laws. We then caught hold of him, and dragged him out by the throat, he saying: "Though you may take my life, 80,000,000 will rise up to avenge me, and carry out my purpose of giving liberty to the slaves." We carried him out to the bridge, and two of us, levelling our guns in this moment of wild exasperation, fired, and before he fell, a dozen or more balls were buried in him; we then threw his body off the tressel work, and returned to the bridge to bring out the prisoner, Stephens, and serve him in the same way; we found him suffering from his wounds, and probably dying; we concluded to spare him, and start after others, and shoot all we could find; I had just seen my loved uncle and best friend I ever had, shot down by those villainous Abolitionists, and felt justified in shooting any that I could find; I felt it my duty, and I have no regrets.

WM. M. WILLIAMS, the watchman on the bridge, stated the particulars of his arrest and confinement in the watch-house; Brown told the prisoners to hide themselves, or they would be shot by the people outside; he said he would not hurt any of them; Brown told Mr. Grist to tell the people to cease firing, or he would burn the town; but if they didn't molest him, he wouldn't molest them; heard two shots on the bridge about the time the express train arrived; did not see Hayward killed.

BROWN—State what was said by myself, and not about his being shot.

WILLIAMS—I think you said that if he had taken care of himself, he would not have suffered.

REASON CROSS sworn—I prepared a proposition that Brown should retain the possession of the Armory, that he should release us, and that the firing should stop.

BROWN—Were there two written propositions drawn up while you were prisoner?

CROSS—Yes, there was another paper prepared by Kitzmiller, and some others; I went out to stop the firing; a man went with me, and they took him prisoner and tied him; this was Thompson, who was afterward taken out and shot; Brown's treatment of me was kind and respectful; heard him talk roughly to some men who were going in to where the blacks were confined.

Several witnesses for the prisoner were here called, and did not answer the subpoenas. They had not been returned.

BROWN arose from his mattress, evidently excited, and standing on his feet, addressed the Court, as follows:

MAY IT PLEASE THE COURT: I discover that, notwithstanding all the assurances I have received of a fair trial, nothing like a fair trial is to be given me, as it would seem. I gave the names as soon as I could get at them, of the persons I wished to have called as witnesses, and was assured that they would be subpoenaed. I wrote down a memorandum to that effect, saying where those parties were; but it appears that they have not been subpoenaed as far as I can learn; and now I ask if I am to have anything at all deserving the name and shadow of a fair trial, that this proceeding be deferred until to-morrow morning; for I have no counsel, as I before stated, in whom I feel that I can rely, but I am in hopes counsel may arrive who will attend to seeing that I get the witnesses who are necessary for my defence. I am myself unable to attend to it. I have given all the attention I possibly could to it, but am unable to see or know about them, and can't even find out their names; and I have nobody to do any errand, for my money was all taken when I was sacked and stabbed, and I have not a dime. I had two hundred and fifty or sixty dollars in gold and silver taken from my pocket, and now I have no possible means of getting anybody to go my errands for me, and I have not had all the witnesses subpoenaed. They are not within reach, and are not here. I ask at least until to-morrow morning to have something done, if anything is designed; if not, I am ready for anything that may come up.

Brown then lay down again, drew his blanket over him, and closed his eyes and appeared to sink in tranquil slumber.

Mr. HOYT, of Boston, who had been sitting quietly all day at the side of Mr. Botts, arose amid great sensation, and addressed the Court as follows:

MAY IT PLEASE THE COURT: I would add my voice to the appeal of Mr. Brown, although I have had no consultation with him, that the further hearing of the case may be postponed until morning. I would state the reason of this request. It was that I was informed, and had reason to believe, that Judge Tilden of Ohio was on his way to Charlestown, and would undoubtedly arrive at Harper's Ferry at 7 o'clock to-night. I have taken measures to insure that gentleman's arrival in this place to-night, if he reaches the Ferry. For myself, I have come from Boston, travelling night and day, to volunteer my services in defence of Brown. I could not undertake the responsibility of his defence, as I am now situated. The gentlemen who have defended Brown acted in an honorable and dignified manner in all respects, so far as I know, but I cannot assume the responsibility of defending him myself for many reasons. First it would be ridiculous in me to do it, because I have not read the indictment through—have not, except so far as I have listened to the case and heard counsel this morning, got any idea of the line of the defence proposed, and have no knowledge of the criminal code of Virginia, and no time to read it. I had no time to examine the questions arising in this defence, some of which are of considerable importance, especially that relative to the jurisdiction over the Armory grounds. For all these reasons, I ask the continuation of the case till to-morrow morning.

Mr. BORTS—In justice to myself I must state that, on being first assigned as counsel to Mr. Brown, I conferred with him, and at his instance took down a list of the witnesses he desired subpoenaed in his behalf. Though it was late at night, I called up the sheriff, and informed him that I wished subpoenas to be issued early in the morning. This was done, and there are here Messrs. Phelps, Williams and Grist, and they have been examined.

Sheriff CAMPBELL stated that the subpoenas were placed in the hands of an officer, with the request to serve them at once. He must have served them, as some of the witnesses are here. The process has not been returned, and may have been sent by private hands and failed to arrive.

Mr. BORTS thought they had shown, and he was confident he spoke the public sentiment of the whole community, when he said they wished Mr. Brown to have a fair trial.

Mr. HUNTER—I do not rise for the purpose of protracting the argument, or interposing the slightest impediment in any way to a fair trial. This is fair. Whether it was promised to Brown or not, it is guaranteed by our laws to every prisoner; and, so far as I am concerned, I have studiously avoided suggesting anything to the Court which would in the slightest degree interfere with it. I beg leave to say, in reference to this application, that I suppose the Court, even under these circumstances, will have to be satisfied in some way, through counsel or otherwise, that this testimony is material testimony. So far as any witness has been examined, the evidence relates to the conduct of Captain Brown in the treating his prisoners with leniency, respect and courtesy, and this additional matter, that his flags of truce—if you choose to regard them so—were not respected by the citizens, and that some of his men were shot. If the defence choose to take that course, we are perfectly willing to admit these facts in any form they desire. Unless the Court shall be satisfied that this testimony (which, I have no doubt, is every particle of it here), which could be got, is really material to the defence, I submit that the application for delay on that score should not be granted. Some of these witnesses have been here, and might have been asked to remain. A host of witnesses have been here, and have gone away without being called on to testify. I simply suggest that it is due, in justice to the Commonwealth, which has some right, as well as the prisoner, that information be given to the Court, showing that additional testimony is relevant to the issue. The simple statement of counsel I do not think would be sufficient.

Mr. GREEN arose and said, Mr. Botts and myself will now withdraw from the case, as we can no longer act in behalf of the prisoner, he having got up now and declared here that he has no confidence in the counsel who have been assigned him. Feeling confident that I have done my whole duty, so far as I have been able, after this statement of his, I should feel myself an intruder upon this case were I to act for him from this time forward. I had not a disposition to undertake the defence, but accepted the duty imposed on me, and I do not think, under these circumstances, when I feel compelled to withdraw

from the case, that the court could insist that I should remain in such an unwelcome position.

Mr. HARDING—We have been delayed from time to time by similar applications, in the expectation of the arrival of counsel, until we have now reached the point of time when we are ready to submit the case to the Jury upon the evidence and the law, when another application arises for a continuance. The very witness that they now consider material, Mr. Dangerfield, came here, summoned by ourselves, but deeming that we had testimony enough, we did not examine him.

The COURT—The idea of waiting for counsel to study our code through, could not be admitted; as to the other ground, I do not know whether the process has been executed or not, as no return has been made.

Mr. BORTS—I have endeavored to do my duty in this matter, but I cannot see how, consistently with my own feelings, I can remain any longer in this case, when the accused whom I have been laboring to defend, declares in open court that he has no confidence in his counsel. I make this suggestion, that as I now retire from this case, the more especially since there is now here a gentleman from Boston, who has come on to volunteer his services for the prisoner, that the Court allow him this night for preparation. My notes, my office, and my services shall be at his command. I will sit up with him all night to put him in possession of all the law and facts in relation to this case. I cannot do more; and in the mean time, the sheriff can be directed to have the other witnesses here to-morrow.

The COURT would not compel the gentleman to remain on the case, and accordingly granted the desired postponement, and adjourned at 6 o'clock.

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#### FOURTH DAY.

CHARLESTOWN, Va., *Saturday, Oct. 29, 1859.*

The Court met at 10 o'clock.

The Judge announced that he had received a note from the new counsel of the prisoner, requesting a delay for a few minutes, to enable them to have an interview with the prisoner. He would accordingly wait a short time.

Soon afterward, Brown was brought in, and took his usual recumbent position in bed.

SAMUEL CHILTON, of Washington City, appeared as additional counsel for the prisoner, and was qualified.

HENRY GRISWOLD, of Cleveland, Ohio, was introduced to the Court as counsel for the prisoner, and qualified.

Mr. CHILTON thought it due to himself to make an explanatory statement before the trial proceeded. Yesterday he was very unexpectedly called upon to come here, and aid in the defence of the prisoner. Knowing from the newspapers that the trial was in progress, he took time to consider and consult his friends as to the propriety of accepting the proposition. He would have had no hesitation if he had been spoken to in time, but his friends advised him to come, and he did so with the expectation of merely assisting the gentlemen already conducting the defence. Upon reaching here, he found that they had withdrawn from the case, and he then hesitated about undertaking it; but upon consultation with the prisoner and his friends here, they insisted he should do so, and he would do the best he could, not feeling at liberty, under the circumstances, to refuse. These circumstances, however, would render it impossible for him to discharge the full duty of counsel, not having had time to read the indictment or examination already given. He made no motion for delay; this was a matter entirely within the discretion of the Court, and if the judge thought proper to refuse to grant any postponement, he knew it would be done under a sense of duty. Those extraordinary circumstances would also render it impossible for his associate, Mr. Griswold, to discharge his full duty as counsel. A short delay of a few hours, if the Court thought proper to grant it, would enable them to make some preparation.

The COURT stated that the trial must go on. Counsel had been assigned to the prisoner here, of his own selection, who had labored zealously in his behalf, and had withdrawn because the prisoner had yesterday evening declared in open Court that he had no con-

fidence in them. No obstacle had at any time been thrown in the way of the prisoner's having an ample defence. If this was the only case of the kind before the Court, he would at once grant the request, but several similar cases remain to be disposed of. This term will very soon end, and it was his duty to endeavor to get through with all the cases if possible, in justice to the prisoners, and in justice to the State. The trial must, therefore, proceed.

Mr. HOYT remarked that yesterday various papers in Court, which were identified, for what purpose he knew not, but presumed he should be informed, some as being in Capt. Brown's handwriting, and some as bearing his indorsement. He had hastily examined those papers, and wished to object to some of them. The learned gentlemen associated with him in the trial had not examined them, but he supposed the Court would not regard that as material under the present ruling.

Mr. HUNTER, interrupting—There is no need of argument about the matter. Designate those you wish to object to.

Mr. HOYT—I desire to know the object of the counsel in introducing those papers.

Mr. HUNTER—The papers will speak for themselves. If you will designate which of them you object to, we will go on at once.

Mr. HOYT—I object to the autobiography of Capt. Brown, as having no bearing on this case.

Mr. HUNTER—I withdraw it.

Mr. HOYT—I object to the letter of Gerrit Smith.

Mr. HUNTER—I withdraw that, too.

Mr. HOYT—I handed to the clerk, last night, a list of names we wished summoned as witnesses—Sammel Strider, Henry Ault, Benjamin Mills, John E. P. Dangerfield, and Capt. Simms. I got a despatch just now, informing me that Capt. Simms had gone to Frederick, and would return in the first train this morning, and come on to Charlestown this afternoon. I should like to inquire whether the process had reached Capt. Simms at Harper's Ferry?

Sheriff CAMPBELL replied that the officer stated that Capt. Simms had gone to Frederick.

Mr. HUNTER—He was here yesterday. I hope we will proceed with some other witnesses.

JOHN P. DANGERFIELD was called, and testified that he was an officer of the Armory. He was a prisoner in the hands of Captain Brown, at the engine-house. Negotiations were going on for the release of all the prisoners before the firing commenced. About a dozen black men were there, armed with pieces which they carried most awkwardly and unwillingly. During the firing, they were lying about asleep, some of them having crawled under the engines. Witness was free to say, that from the treatment of Captain Brown, he had no personal fear of him or his men during his confinement. Saw one of the men shot in the engine-house. He fell back, exclaiming, "It's all up with me," and died in a few moments. This man, he learned, was one of Capt. Brown's sons. Saw another young man, who came in wounded, and commenced to vomit blood. He was also a son of Captain Brown, and was wounded while out with Mr. Kitzmiller. Prisoner frequently complained that his men were shot down while carrying a flag of truce.

Mr. HUNTER complained that they were going over again the same facts that were elicited; and all this was freely admitted by the defence.

Mr. HOYT said that he regarded it as the only feasible line of defence to prove these facts. It was the duty of counsel to show, if possible, that Capt. Brown was not guilty of treason, murder, or insurrection, according to the terms of this indictment. We hope to prove the absence of malicious intention.

Mr. HUNTER was frank to admit that he could not but regard this course as merely calculated to waste time.

Mr. HOYT would remind the Court that the course being pursued was not only in accordance with their conviction of duty, but in accordance with the express commands of their client.

The COURT remarked that the counsel was responsible to the Court to conduct the case according to the rules of practice.

Mr. HOYT thought the language of the prosecution was calculated to impugn the honor of the counsel for the prisoner.

Mr. HUNTER—Nothing of the kind was intended. It is presumed the gentlemen will conduct the case in accordance with their duty as counsel, and their responsibility to the Court.

Mr. DANGERFIELD, resumed—Heard some conversation by Captain Brown as to having it in his power to lay the town in ashes and carrying off the women and children, but that he had refrained from so doing: heard him make no threats that he would do so; the only threat I heard from him was at the commencement of the storming of the engine-house; he then said that we must all take equal shares with him, that we could no longer monopolize the places of safety; he, however, made no attempt to deprive us of the places we had taken; Brown promised safety to all descriptions of property, except slave property; at the time of the assault by the marines, one of the men cried out for quarter; he had heard the same man, in a conversation with Brown during the night, ask him if he was committing no treason against his country in resisting the marines, to which Brown replied that he was; the man then said, "I'll fight no longer"—that he thought he was merely fighting to liberate the slaves; after the attack was made on the engine-house, two of Brown's men cried for quarter, and laid down their arms, but after the marines burst open the door, they picked them up again and renewed the fight; after the first attack, Capt. Brown cried out to surrender, but he was not heard; did not see him fire afterward; saw Coppie attempt to fire twice; but the caps exploded; witness saw Brown wounded on the hip by a thrust from a sabre, and several sabre cuts on his head; when the latter wounds were given, Capt. Brown appeared to be shielding himself, with his head down, but making no resistance; the parties outside appeared to be firing as they pleased.

Mayor MILLS, master armorer, sworn—Witness was one of the hostages of Capt. Brown, confined in the engine-house; before the general firing commenced, negotiations were pending for the release of the prisoners; a paper was drawn up, embracing certain terms, and borne by Mr. Brua to the citizens outside; the terms were not agreed to; the last time Mr. Brua was out, there was severe firing, which, I suppose, prevented his return; Brown's son went out with a flag of truce, and was shot; he came back wounded; the prisoner attended him, and gave him water; heard Brown frequently complain that the citizens had acted in a barbarous manner; he did not appear to have any malicious feeling; he undoubtedly seemed to expect reinforcements; said it would soon be night, and he would have more assistance; his intentions were to shoot nobody unless they were carrying or using arms; if they do, let them have it; this was while the firing was going on.

Capt. Brown here asked the witness whether he saw any firing on his part which was not purely defensive.

WITNESS—It might be considered in that light, perhaps; the balls came into the engine-house pretty thick.

Question by COUNSEL—Did you not frequently go to the door of the engine house?

No, indeed. [laughter.]

A general colloquy ensued between the prisoner, lying on his cot, and the witness, as to the part taken by the prisoner in not unnecessarily exposing his hostages to danger. No objection was made to Brown's asking these questions in his own way, and interposing verbal explanations relative to his conduct. The witness generally corroborated his own version of the circumstances attending the attack on the engine-house, but could not testify to all the incidents that he enumerated. He did not hear him say that he surrendered. Witness's wife and daughter were permitted to visit him unmolested, and free verbal communication was allowed with those outside. We were treated kindly, but were compelled to stay where we didn't want to be. Brown appeared anxious to effect a compromise.

SAMUEL SNIDER sworn. This witness proceeded to detail the whole circumstances of the two days, with what he saw, what he thought, and what he heard. Nothing new was elicited. He confirmed the statement of the other witnesses, that Brown endeavored to protect his hostages, and constantly said that he wished to make terms more for their safety than his own.

Mr. HOYR, at half-past one o'clock, complained of indisposition from the heat of the room, and asked that the usual recess for dinner be taken.

The Court then adjourned for one hour.

At 2 o'clock the Court reassembled, and Mr. Griswold, taking his seat by the side of the prisoner, prepared to question the witnesses, and to receive from him such suggestions in the course of the examination as he had to make.

Capt. SIMMS, commander of a volunteer company of Frederick, Md., was sworn—The report came to Frederick that 750 blacks and abolitionists combined had seized Harper's Ferry; witness started for the Ferry with the volunteers under command of Col.

Shriver, and was glad to find their numbers were exaggerated after he reached there on Monday afternoon; the door of the engine-house was partially open, and witness was hailed from there; two shots had been fired from there; witness was hailed and went in; he met Mr. Dangerfield and others there; Capt. Brown said to witness that had a proposition to make, to which he listened; he wanted to be allowed to go over the bridge unmolested, and we then might take him if we could; he had fought Uncle Sam before, and was willing to do it again; Brown complained that his men had been shot down like dogs, while bearing a flag of truce. Told him they must expect to be shot down like dogs if they took up arms in that way. Brown said he knew what he had to undergo before he came there—he had weighed the responsibility and should not shrink from it; he said he had full possession of the town and could have massacred all the inhabitants had he thought proper to do so, but as he had not, he considered himself entitled to some terms; Brown said he had shot no one who had not carried arms; I told him that Mayor Beckham had been killed, and that I knew he was altogether unarmed; he seemed sorry to hear of his death, and said, "I fight only those who fight me;" witness then told the prisoner that he did not think any compromise could be effected; Brown said he kept the hostages for his own safety; they did not appear to fear any injury from him or his men, but only from attacks from the outside; every man had a gun, and four-fifths of them were under no command; the military had ceased firing, but men who were intoxicated were firing their guns in the air, and others at the engine-house; Brown or any of his men could not have ventured outside the doors of the engine-house that night without being shot; saw Stephens in the hotel after he had been wounded, and shamed some young men who were endeavoring to shoot him as he lay in his bed, apparently dying; told them that if the man could stand on his feet with a pistol in his hand, they would all jump out of the window. Capt. Simms' testimony was at great length, but little new was elicited.

On the conclusion of his testimony, Capt. Simms stated that he had returned here at the summons of the prisoner to testify in his behalf, with as great alacrity as he had come to testify against him. He had no sympathy for the acts of the prisoner; for his movement, on the contrary, he would be one of the first to bring him to punishment. But he regarded Capt. Brown as a brave man, and being informed that he wanted him here as a witness, he returned with pleasure. As a southern man, he came to state the facts about the case, so that northern men would have no opportunity of saying that southern men were unwilling to appear as witnesses in behalf of one whose principles they abhorred.

ISRAEL RUSSELL, sworn—Was the bearer of a flag of truce from Brown's party to the citizens of the Ferry. His testimony was merely in corroboration of the facts stated by previous witness.

TERENCE BURNS, sworn—Was taken prisoner by Capt. Cook and two others; was one of the ten hostages confined in the engine-house; Brown had five or six of his men there; he did not give any reason to us why we were put there, except that it was for his own safety; he said he did not think any attack would be made upon the engine-house while the hostages were there.

Here the defence closed their testimony. None of the witnesses for the defence were cross-examined by the State.

Mr. CHILTON, for the prisoner, rose and submitted a motion that the prosecution in this case be compelled to elect one count of the indictment and abandon the others. The indictment consists of four counts, and is indorsed thus: "An indictment for treason, and advising and conspiring with slaves and others to rebel;" the charge of treason is in the first, and the second count alleges a charge different from that which is indorsed on the back of the indictment, and which is upon record. The second count is under the following statute: "If a free person advise or conspire with a slave to rebel or make an insurrection, he shall be punished with death, whether such rebellion or insurrection be made or not.

But the second count of the indictment is that these parties, who are charged by the indictment, "conspired together, with other persons, to induce certain slaves, the property of Messrs. Allstadt and Washington, to make rebellion and insurrection. There is a broad distinction between advising and conspiring with slaves to rebel, and conspiring with others to induce slaves to rebel. Whether he was to avail himself of their irregularity by instruction from the Court to the Jury to disregard this second count entirely, or whether it would be proper to wait until the conclusion of the trial, and then move an arrest of judgment, he left his Honor to decide. He

proceeded to argue the motion that the prosecution be compelled to elect one count and abandon the others, quoting Archibald's criminal pleading in support of his view. He further alluded to the hardship which rests upon the prisoner to meet various and distinct charges in the same trial. From the authority he read, it would be seen that in a case of treason, different descriptions of treason could not be united in the same indictment; high-treason could not be associated with other treason. If an inferior grade of the same character could not be included in separate counts, still less can offences of higher grade. Treason in this country is high treason. Treason against the State of Virginia is treason against her sovereignty. We have no other description of treason, because treason can only be committed against sovereignty, whether that of the United States, or of a sovereign State.

Mr. HARDING could not see the force of the objection made by the learned counsel on the other side. In regard to separate offences being charged, these were but different parts of the same transaction. Treason against the Government is properly made the subject of one of the counts. But we also have a count of murder, for it can hardly be supposed that treason can exist without being followed or accompanied by murder. Murder arose out of this treason, and was the natural result of this bloody conspiracy; yet, after all the evidence has been given on all these points, the objection is made that we must confine ourselves to a single one of them. He hoped that no such motion would be granted.

Mr. HUXTER followed on the other side. He replied to the argument of Mr. Chilton, saying that the discretion of the Court compelling the prosecution to elect on one count in the indictment, is only exercised where great embarrassment would otherwise result to the prisoner. As applied to this particular case, it involved this point, that notwithstanding the transaction, as has been disclosed by the evidence, be one transaction, a continued, closely connected series of acts, which, according to our apprehension of the law of the land, involves the three great offences of treason, conspiring with and advising slaves to make insurrection, and the perpetration of murder; whether, in a case of this character, it is right and proper for the Court to put the prosecution upon their election, as to one of the three, and bar us from investigation of the two others, although they relate to facts involved in one grand fact. Notwithstanding the multiplicity of duties devolving upon the prosecutor and assistant prosecutors, yet we have found time to be guarded and careful in regard to the mode of framing the indictment. It is my work, and I propose to defend it as right and proper. He then proceeded to quote Chitty's Criminal Law and Robinson's Practice to prove that the discretion of the Court there spoken of in reference to the furthering of the great object in view was the attainment of justice.

Where the prisoner is not embarrassed in making his defence, this discretion is not to be exercised by the Court, and no case can be shown where the whole ground of the indictment referred to one and the same transaction. This very case in point would show the absurdity of the principle, if it were as broad as contended for by his learned friend. As to the other point of objection, it was too refined and subtle for his poor intellect.

Mr. CHILTON responded. In order to ascertain what a party is tried for, we must go to the finding of the Grand Jury. If the Grand Jury return an indictment charging the party with murder, finding a true bill for that, and he should be indicted for manslaughter or any other offence, the Court would not have jurisdiction to try him on that count in the indictment. And the whole question turns on the construction of the section of the statute which has been read viz.: whether or not advising or conspiring with slaves to rebel is a separate and distinct offence from conspiring with other persons to induce it.

The COURT said that the difference might perhaps be taken advantage of to move an arrest of judgment; but the Jury had been charged and had been sworn to try the prisoners on the indictment as drawn. The trial must go on, and counsel could afterward move an arrest of judgment. As to the other objection, the Court made this answer: "The very fact that the offence can be charged in different counts varying the language and circumstances, is based upon the idea that distinct offences may be charged in the same indictment. The prisoners are to be tried on the various counts as if they were various circumstances. There is no legal objection against charging various crimes in the same indictment. The practice has been to put a party upon election where the prisoner would be embarrassed in his defence; but that is not the law.

In this case, these offences charged are all part of the same transaction, and no case is made out for the Court to interfere and put the parties upon an election.

Mr. CHILTON said he would reserve the motion as a basis for a motion in arrest of judgment.

Mr. GRISWOLD remarked that the position of all the present counsel of the prisoner was one of very great embarrassment. They had no disposition to interfere with the course of practice, but it was the desire of the defendant that the case should be argued. He supposed that counsel could obtain sufficient knowledge of the evidence previously taken by reading notes of it. But it was now nearly dark. If it was to be argued at all, he supposed the argument for the Commonwealth would probably occupy the attention of the Court until the usual time for adjournment, unless it was the intention to continue with a late evening session. From what had heretofore transpired he felt a delicacy in making any request of the Court, but knowing that the case was now ended except for mere argument, he did not know that it would be asking too much for the Court to adjourn after the opening argument on behalf of the prosecution.

Mr. HUNTER would cheerfully bear testimony to the unexceptionable manner in which the counsel who had just taken his seat had conducted the examination of witnesses to-day. It would afford him very great pleasure in all ordinary cases to agree to the indulgence of such a request as the gentleman had just made, and which was entirely natural. But he was bound to remember, and respectfully remind the Court, that this state of things, which places counsel in a somewhat embarrassing position in conducting the defence, is purely and entirely the act of the prisoner. His counsel will not be responsible for it; the Court is not responsible for it, but the unfortunate prisoner is responsible for his own act in dismissing his faithful, skillful, able and zealous counsel on yesterday afternoon. He would simply say that not only were the jurors kept away from their families by their delays, but there could not be a female in this county who, whether with the good cause or not, was not trembling with anxiety and apprehension. While their courtesy to the counsel and humanity to the prisoner should have due weight, yet the commonwealth has its rights, the community has its rights, the Jury have their rights, and it was for his Honor to weigh these in opposite scales, and determine whether we should not go on and bring this case to a close to-night. We had until twelve o'clock to do it in.

Mr. CHILTON said their client desired that they should argue his case. It was impossible for him to do so now, and he could not allow himself to make an attempt an argument on a case about which he knew so little. If he were to get up at all, it would be for the unworthy purpose of wasting time. He had no such design; but having undertaken this man's cause, he very much desired to comply with his wishes. He would be the last man in the world to subject the jurors to inconvenience unnecessarily, but although the prisoner may have been to blame, may have acted foolishly, and may have had an improper purpose in so doing, still he could not see that he should therefore be forced to have his case submitted without argument. In a trial for life and death, we should not be too precipitate.

The COURT here consulted with the jurors, who expressed themselves very anxious to get home.

His HONOR said he was desirous of trying this case precisely as he would try another, without any reference at all to outside feeling.

Mr. HOYT remarked that he was physically incapable of speaking to-night, even if fully prepared. He had worked very hard last night to get the law points; until he fell unconscious from exhaustion and fatigue. For the last five days and nights he had only slept ten hours, and it seemed to him that justice to the person demanded the allowance of a little time in a case so extraordinary in all its respects as this.

The COURT suggested that we might have the opening argument for the prosecution to-night at any rate.

Mr. HARDING would not like to open the argument now, unless the case was to be finished to-night. He was willing, however, to submit the case to the Jury without a single word, believing they would do the prisoner justice. The prosecution had been met not only on the threshold, but at every step with obstructions to the progress of the case. If the case was not to be closed to-night, he would like to ask the same indulgence given to the other side, that he might collate the notes of the evidence he had taken.

The COURT inquired what length of time the defence would require for argument on Monday morning. He could then decide whether to grant the request or not.

After consultation, Mr. CHILTON stated that there would be only two speeches by himself and Mr. Griswold, not occupying more than two hours and a half in all.

Mr. MCENTER again entered an earnest protest against delay.

The Court replied, "Then you can go on yourselves."

Mr. HARDING then commenced the opening argument for the Commonwealth, and spoke only for about forty minutes. He reviewed the testimony as elicited during the examination, and dwelt for some time on the absurdity of the claim or expectation of the prisoner—that he should have been treated according to the rules of honorable warfare. He seemed to have lost sight of the fact that he was in command of a band of murderers and thieves, and had forfeited all title to protection of any kind.

The Court then adjourned at 5 o'clock, to meet again at nine o'clock Monday morning, when Mr. Griswold will deliver his opening speech for the prisoner.

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### FIFTH DAY.

CHARLESTOWN, VA., *Monday, Oct. 30, 1859.*

The Court met at nine o'clock.

The prisoner was brought in, and the trial proceeded without delay.

Brown looks better than heretofore, and his health is evidently improving. He was laid on a bed, as usual.

The Court House and its approaches were densely crowded.

Mr. GRISWOLD, on behalf of the defence, said:—May it please your Honor and Gentlemen of the Jury—Since the adjournment of the Court on Saturday evening, I have paid such attention to the case as I reasonably could, and such as will enable me to condense my remarks within the shortest possible space, in accordance with the arrangements mutually entered into. I feel as though an hour was, however, a very limited time to discuss the many questions that are intimately connected with the consideration of this important case. At the same time I feel perfectly satisfied that I can do more justice to it, with the opportunity afforded to me by the delay that was kindly granted by the Court, than I could possibly have done when I was so unprepared for it. Gentlemen, the prisoner at the bar is charged with four offences, or rather I may say there are four counts charged against him, three of which are for distinct offences, one of which is charged in two different counts. Counsel for the State did not specify particularly the grounds upon which he did this. First, however, the defendant is charged with treason, and is so charged in nearly all the forms of treason required by law. In the second count he is charged with conspiring, and is thus indicted with certain other persons for conspiring to induce slaves to rebel and make insurrection. In the same count he is charged with aiding and advising slaves to rebel and make insurrection, etc. In the third count he is charged with murder—with willful and deliberate murder. In the fourth count he stands charged, with four other persons, three of whom are charged with murder, and the fifth with aiding and abetting, and that therefore they were all guilty of the crime of murder. There is one crime preferred here against the prisoner to which I will briefly advert, in a manner personal to myself. I do not know, although I am a stranger, that it is necessary for me to say that I have no sympathy whatever with any man who could be guilty of such an offence as is charged here. I would not say this but for the fact that I am an utter stranger here; and having made that remark, perhaps it may be proper for me to make one more. Allusion was made by witnesses to the state of the public feeling prevailing in the North upon this subject. A similar allusion was made by the Commonwealth's attorney in his remarks, which he submitted to you the other day. It is therefore not out of place for me to say, that so far as I know the state of the public sentiment in the North, and I think I know something of it, for my business and calling bring me into association with all classes of people—it is, therefore, I say, not inappropriate for me to say that there is no sentiment in the North in accordance with that of the defendant, or anybody else who may be guilty of the offences charged in that indictment. There may be those, here and there, who feel that similar scenes to those which lately occurred, may from time to time be brought about; but whether the result of interference from abroad, or the spontaneous outgushing from within the southern States themselves, it is a subject of deep regret that there should be any fear or danger of such things. And while they believe that such things may happen, they believe it with regret; and it is their anxious hope that these feelings which they deem to exist, may be removed peaceably and effectually. But, gentlemen,

I stand here to defend this man as I would any other man charged with offences against this State, when called upon to do so. I ask you, gentlemen, to take the testimony in view of the law as given you by the Court, and to weigh it carefully and deliberately. I say to you, not in the language of the prosecuting attorney, to glide over it, but to investigate it clearly, and say whether the offences charged against the prisoner have been committed by him or not, and whether they are sustained by the evidence. I feel considerable embarrassment in coming before a jury to defend a prisoner against charges of this kind under circumstances which are patent to you all. I know that you have been selected for the high duty as men competent to try the issue, and as men of sufficient integrity and honesty of purpose to rise above the prejudices, the passions and the feelings of every description which surround you. But yet, you are in the midst of a community which, I am informed since I took part in this trial, is greatly excited; and even since I came into this court that fact has been brought to your mind. Counsel for the prosecution told you, the other day, that anxious faces were hanging around the courthouse invoking a verdict of condemnation upon the prisoner. His distinguished associate told you that not a lady in the county felt herself safe while things were in the condition they were now in. If this be so, then I say to you that the greater caution is required at your hands in giving this question a fair and impartial consideration. I was rejoiced to hear that the universal sentiment throughout the county is that the unfortunate man should have a fair trial. I was rejoiced to see that sentiment echoed throughout the whole State, through your Governor, that he should have a fair trial. I have no doubt that it is the firm intention of every member of the Jury to give him a fair and impartial trial. But, gentlemen, what is meant by a fair trial? It is not that the mere forms of law should be invoked, because that, it is well known, no matter what the evidence may be—because, I say, it is well known that these forms are but the pathway to the scaffold. I do not mean that the mere forms of a fair trial should be observed. Why? Because they may be used merely to conceal, for the time being, the gallows that looms behind. I do mean that he shall have not only the forms of a fair trial, but that every principle of law and justice shall be made available, and every particle of evidence introduced by himself or by the State shall get its fair weight and consideration in his behalf. A man charged with the grave offences alleged against the prisoner, must be convicted only by the clearest and the most satisfactory and conclusive evidence, such as cannot leave a reasonable doubt on the mind of any one juror. I propose, therefore, gentlemen, briefly, to consider the evidence as it applies to the law, which I hold should be applicable in this case. In doing so, I cannot go into details, but can advert only to the evidence generally, asking you, when you retire to your room, to inquire whether this, that, or the other circumstance has been proved, which is essential to convict the prisoner. My first remark has relation to all the offences charged in the indictment; and it is set forth upon the record that all those offences were committed within the jurisdiction of this Court, and within the county of Jefferson, in this State. Now, gentlemen, this is a matter to be proved. I have read the notes of the evidence, and I can find no proofs whatever upon this point. There has been proof that the offences said to have been committed took place at Harper's Ferry, or in the neighborhood of Harper's Ferry. But where is Harper's Ferry? The Court takes judicial notice of something which it says occurred in a certain place within its jurisdiction. But this must be proved, and I maintain it has not been proved. Therefore I say, that the Jury impannelled to try the matter set forth in this indictment must have every fact submitted to them proved beyond a doubt. They cannot take, and ought not to take, anything on trust. They know nothing, except that which is detailed in evidence. Not that every fact essential must be proved, but those facts must be proved from which inferences may legitimately be drawn. I say, therefore, gentlemen, you have no right, from any knowledge you may have obtained elsewhere, to say that these offences, as alleged, have been committed within the limits of the county of Jefferson: and I ask that the Court will so direct you. In my State, the form is to ask the Court to charge the Jury; here, I believe, the requisition is to instruct the Jury. We demand, on behalf of the prisoner, that the jurisdiction be proven. We maintain that it is as necessary to do so, as to prove the firing of a gun, the seizing of a slave, or the commission of any of the acts laid in the indictment. If any of the offences are committed elsewhere than within the jurisdiction of this Court, then the charges set forth have no existence, upon which this prisoner is sought to be convicted. Therefore, I say again that this assumed jurisdiction must be proven. Having stated thus much, I will proceed to other points. The first offence charged is treason. Here I again raise a point without designing to arguo it. I state it

that it may be understood that both myself and the learned counsel with whom I am associated agree entirely in our views upon that point, leaving it to be discussed at length by him. I allude to it now merely to afford the learned counsel, who will close the arguments for the State, ample time to reflect upon and consider it. The charge laid in the first count is treason. Now, my point is that no man is guilty of treason, unless he be a citizen of the State or Government against which the treason so alleged has been committed. I state the point, and I say to you, gentlemen, if the Court rules, as we claim it is bound to do, that this man is not a citizen, that consequently he cannot be guilty of treason against the State. Rebellion means the throwing off allegiance to some constituted authority. But we maintain that this prisoner was not bound by any allegiance to this State, and could not, therefore, be guilty of rebellion against it. But I will pass from this part of the subject. Now, with regard to treason, several things are said to constitute treason, one of which is levying war against the State; and that is one of the charges laid in the indictment. But, gentlemen, there is a great difference between levying war and resisting authority, and this is a matter I particularly wish you to bear in mind. A man may resist authority with ever so much violence, and bloodshed may ensue from such resistance, but that is not treason. It may happen, and it does happen, where men congregate together for the purpose of perpetrating a crime. They associate for that purpose, and they have their rules and regulations, and all the elements of an organization, and yet if assailed in the commission of crime, and they defend themselves to the utmost, and with great sacrifice to the lives of themselves and their fellow-citizens whom they resist, that is resistance, but that is not levying war. And how is it here? These men, it appears, assembled at a certain place, as the defendant himself indeed admits they did, and from that admission he does not shrink, for the purpose of running away with slaves. That is a crime, and for that crime he is amenable to the laws of your State, and for which you can punish him to the extent of that law. The facts, then, are these: For the purpose of carrying out his illegal design—the carrying away of slaves from the State—he takes temporary possession of the Arsenal and public buildings at Harper's Ferry, and while there attempts were made by the citizens, for which I do not blame them, to attack them and drive them off. It was then, and resisting these attempts on the part of the citizens, that this man and those associated with him had recourse to arms, and in the conflict which ensued, blood was shed and lives were taken. But that is not levying war against the Commonwealth of Virginia, although it was resisting with arms that which was claimed to be the lawful authority of Virginia seeking to arrest these men assembled in violation of law. But such things have happened frequently. You have heard of the jails of the country being broken open, by armed bands, and persons confined therein, under the shelter and protection of the law, dragged from them and executed in defiance of the law. There have been instances where men acquitted by a Jury of the country of the crimes alleged against them, have been thus executed, the jail broken open and the authority of the sheriff trampled under foot; but this was not a levying war. Resisting with arms the constituted authority of the State is not levying war, although murder may arise out of it, though not at first contemplated. In violent acts of this kind death may ensue in commission of the crime even when bloodshed was not necessarily contemplated by the offenders. In many States of the Union we have, as well as here, cases of kidnapping, and we have instances of resistance to the authority of the law seeking to arrest the person charged, and bloodshed has ensued; but this is not levying war—it is simply resisting the authority of the law.

Now let us inquire whether the offences charged in this indictment are a levying of war, or simply resisting with a high hand the constituted authorities of the land. It is said that there was an organized government, and that charge is sought to be sustained by evidence, particularly by a pamphlet that has been produced, and which was taken from the person of the prisoner. But, gentlemen, it would not necessarily follow that overthrowing the Commonwealth of Virginia was contemplated by anything which appears in that pamphlet. How many harmless organizations have existed in the world at various times, surrounded with all the outside forms and machinery of government! aye, even as harmless things as debating societies have been so organized, congresses created, resolutions and laws discussed, and any one reading the bulletins and reports issued from time to time from these associations would say, why here is a miniature government within the very limits of our State. No matter what name they may take, no matter under what form of organization they are bound together, no matter what offices they may create, it is not a proof of crime against the State. These men named in the indictment, have been characterized by the attorney as a marauding, thieving, murderous clan; and surely it is

not such people that could subvert a government and raise another upon its ruins. Such associations as I have alluded to, you are well aware, have their laws and regulations, and even they prescribe death for violations of their laws. But that does not contemplate the overthrow of any existing legitimate government, but only an association for governing, controlling and directing themselves in their dealings with one another, but having no purpose or idea whatever of overthrowing, usurping or destroying the legitimate government. But I will remark further, with reference to this matter, that you cannot find this man guilty of treason except you have it proved incontestably before you that he was associated with others for the purpose and with the object of overthrowing and of organizing a government, and to subvert the Commonwealth of Virginia. Now, I say with reference to that book so much relied upon by the prosecution, that if it proves anything it proves that the attempt, if any such was designed, was to establish a government in opposition to the Government of the United States, and not to subvert the Commonwealth of Virginia. All the terms used, all the officers to be appointed, have reference to a government like the United States. The pamphlet does not say what territory this association, or government, is to exercise jurisdiction over. Its proposed empire is not defined. It has fixed no territorial limits, and, therefore, if it means anything at all, it alludes to the government of the whole United States in general, and not to this State or any other in particular. But as this book or code of laws has been put in evidence, I tell you, gentlemen, that you must not select any particular part of it—you must take it all as evidence, every part of it must be taken, one part as much as another, except the prosecution produce evidence satisfactorily contradicting any portion of it. From the contents of that book it is clear that these men did not contemplate the overthrow of the State government, but simply an amendment or repeal of obnoxious laws, or what they deemed to be such. I speak of this matter because you are compelled to find that the prisoner was guilty of all those matters contained in the several counts. But they have failed in establishing any one of these charges. The prosecution say that he is guilty of giving aid and comfort to the enemies of the Commonwealth, and that is the only specific charge they have made on fact. And how do they attempt to support it? Did not the prisoner, they say, actually send to the tavern and procure provisions and feed the enemies of the Commonwealth? Did he not feed the slaves, and are they not enemies of the State? Was not that act, therefore, furnishing aid and comfort to the enemy? I was surprised to hear this part of the subject commented upon. I was surprised that in that connection, by an association of ideas no doubt very ingenious and felicitous if they could be traced out, he burst forth into that sublime apostrophe to freedom which the prosecuting attorney delivered the other evening in tones and action and language of such surpassing eloquence that none who heard him might be told that he had received his inspiration in the State which urns the ashes of Patrick Henry. And when I remember the cause we are here trying, and the circumstances which surround it, I remember also the appeal that that gentleman made to you, presenting a daguerreotype to your view of the anxious faces which hung around the court, invoking a verdict on the prisoner. But that style of appeal was not confined to the prosecuting attorney alone. His distinguished associate, gentlemen, presented to you a touching picture of dishevelled tresses of frightened beauty, enough to excite the feelings and shatter the nerves of any one. I can but rejoice, gentlemen, that his stirring tones were not echoed from hill top to hill top, from mountain to mountain, to excite and spread alarm from one end of the State to the other, but that, on the contrary, they died away within these walls. Gentlemen of the Jury, the prisoner is charged with having given aid and comfort to the enemies of the State, and, in despair, they are driven to rely upon this charge, for it is the only one specifically made. But I will leave this part of the case, and proceed. The prisoner is charge with conspiring with slaves to rebel and make insurrection. Here, again, we are bound to make the same distinction in regard to treason. There is a manifest distinction between the effort made to run away with slaves, or inducing them to run away, and an attempt to excite them to rebellion and insurrection. Now, what is meant by insurrection and rebellion? It means a rising up of slaves against the authority of their masters—not a running away, although freedom may be the ultimate object. But it means a rising up against the masters, against the whites, against the State. Insurrection contemplates riot, robbery, murder, arson, and all the crimes which follow an insurrection, more especially a servile insurrection. Now, what are the facts of the case? I cannot discuss them; but I will ask you, as men disposed to do justice to the State, to sit down and inquire among yourselves if any one witness has testified of aught showing that Brown or his associates said or did anything to

any one slave to induce him to rise in rebellion? What was it that was really done in this matter? Slaves were taken possession of, and for a temporary purpose placed in the Arsenal or some of the public buildings at Harper's Ferry. But what was the evidence of Colonel Washington himself, who testified more on this subject than any other person? He says that not a slave seemed to have a heart in the matter. The slaves themselves did nothing. They were taken there, and there they quietly remained. The only slave that lifted his hand was old Phil, Mr. Allstadt's servant, who, according to my recollection, and at the suggestion of Brown, the prisoner, drilled some port-holes in the wall. And let me here remark, that the law as regards rebellion is the same as regards treason. A man may be engaged in an illegal act; any body of men, any body of slaves may be so engaged, and they may resist the lawful authorities sent against them, even to the shedding of blood, and yet it is not rebellion nor treason. Let us suppose that a body of slaves are seeking to escape; they are aided in that attempt by a body of white men; their escape may be effected by white men—they are pursued by the authority of the State, their capture is attempted—they resist, and defend themselves even to the loss of life, yet that does not constitute rebellion—they are amenable to punishment, but not to the penalty of rebellion. This is all I need to say upon this subject. The next crime charged against the prisoner is murder. Now, there are nine specifications of murder in the first degree. Five of these come under the head of murder in the first degree as premeditated murder, which is punishable with death; four others, where death happens without it being the original intention of the party to commit murder, but which, however, come under the head of first degree, if the party was at the time in the commission of some other offence—such as rape, arson, robbery or burglary. If a party is engaged in the commission of any of these crimes, and death, though not designed, ensues, then the offender is liable to the penalty of death. Now, as regards the death of the citizens at Harper's Ferry, when they took place the prisoner and his men were not engaged in the commission of any of these offences—such as arson, rape, robbery or burglary. If they were there in resistance to the authority of the laws of Virginia—if, while resisting that authority these deaths ensued, was there that premeditated malice forethought which the law requires to make a man guilty of murder? There was one death ensued in the early part of the first night at Harper's Ferry, but how it happened no one knows—whether it was accidental or not. Nor can it be known, whether he was accidentally shot by one of Brown's party or by one of the citizens themselves. The night was dark, and his death might have been accidental or otherwise; but now none can tell. I can only say as my client says to me on this subject: "Why should we shoot a negro?—that was not our object." And so I say. Gentlemen, you cannot believe for one moment—you do not believe; the evidence will not allow you to believe; the law will not allow you to believe—that there was any malice or deliberate intention to shoot that negro, if he was shot by Brown's party at all; and, therefore, gentlemen, I shall pass that charge by without further comment. Should I be asked why this man should not be brought within the jurisdiction of the Commonwealth of Virginia so as to punish him—was he to go unquitted by justice for his offences?—my answer would at once be: No, gentlemen, not for one moment. All I ask of you is that he be charged and convicted according to your own laws. This Commonwealth of Virginia has made laws to protect her citizens—has made laws which hedge them round and protect them on every side. She has within the borders of her population made such laws as she deems all-sufficient for the protection of that species of property which some, perhaps, would wish to deprive her citizens of. But whatever may be done hereafter; whatever may be considered necessary for the protection of life and property in time to come, it is the boast of our institutions that no man can be punished beyond what the law allows. If the punishment is not severe enough; if it is not ample enough, broad enough, will the law rest until it is properly remedied? The law can be made and altered from time to time, so as to meet every emergency of the State. If, then, your rights, your interests, your property, your lives are not sufficiently protected, there is a power in this grand old Commonwealth sufficient to protect them at all times. We, however, have no *post facto* law. We punish no man but by virtue of the law as it exists at the time the alleged offence was committed. The prisoner at the bar is amenable to your laws. None can deny that. Frame your indictment against him to-day, charging him with enticing away your slaves, with interfering with that species of property, and his confessions are as thick as the leaves upon your forest trees that he was among you for that purpose. Frame your indictment, and the moment it is read he will plead guilty to it and submit to the penalty of his crime without a murmur. But contemplating nothing more, dreaming of nothing

more, he asks that the ægis of your laws may be thrown around him; not that he flinches from his fate, whatever that may be, but that he may not be stigmatized with guilt of crimes which he never contemplated, and which he believes in his heart he never committed. Of course as the law has been violated it must be vindicated—that I understand, and so does he. It is not true that public feeling and sentiment demand his immolation. It is not true that the public safety requires that he should be punished contrary to law. I speak thus in vindication of your own laws. I desire to preserve them unsullied and unstained, and that they be not perverted or distorted to suit this case, and to do a wrong instead of being applied to the punishment of what is wrong. I cannot shut my eyes to the fact that the statute and the law will not justify this man's conviction on the charges laid down in the indictment. And why should this wrong be attempted? It is not true that there is any danger from the popular feeling. It is not true that there is danger to the State, either from within or without. Think of it, gentlemen, calmly and dispassionately. Here stands a man of whom you know something. He is a man of indomitable will, of sleepless energy of purpose, possessed of a spirit of perseverance that turns back from no difficulty, and endowed with a constitution that will endure and overcome everything. He, with all these qualities fitting him for such an enterprise, was engaged for months and months prosecuting it, and how did he succeed? Despite of all his efforts, despite these energies of mind and body which he threw into the work, and that unbending will of his which never faltered nor slept, he was able throughout the length and breadth of the United States to gather round his standard some twenty-one men both black and white. Can it be supposed, gentlemen, for a moment, that there is fear to be apprehended from such a man, who, in the zenith of his power, when he had a name in history, and when something might be hoped for the cause in which he was engaged, could only, throughout the whole country, raise twenty-one men? Is it to be supposed for a moment, I ask, now, when he is struck down to the earth, his few followers scattered or destroyed—now, when the fact is known that the South is alarmed and armed in every direction ready to repel any enterprise of this kind, is anything to be feared? No, gentlemen, there is not the remotest danger of your ever again witnessing in your State anything akin to that which lately occurred. I do not know whether it is necessary for me to make these remarks. I know it is the duty of the Jury to be blind to everything that bears not upon the case. Justice is represented as blind, seeing nothing, but dealing only with the facts which relate to the case. I believe you will take this case and deal with it fairly, and dispose of it under the ruling of the Court. We heard, during the progress of this investigation, reference made to the conduct of some parties who took an active part in the late events at Harper's Ferry. But, gentlemen, the courage spoken of was physical courage, that courage which would induce men, whenever necessary, to face danger, no matter from what quarter it might come or in whatever form it might present itself. This courage commends itself to your highest regard. This is physical courage. But there is another sort of courage which soars far above that which is mere physical. It is moral courage. It is a courage which will enable the true man, who is blessed with it, to raise himself above the influence of prejudice, self-interest, or popular excitement. It is a courage that withstands all temptations, and fearlessly rises above the petty considerations which influence more ignoble minds. It stands unflinchingly to meet the seething waves of popular excitement of commotion, and will not be turned aside from that which is humane and truthful. Now, gentlemen, if there be anything of this kind in your hearts—if you suppose there is anything more required than simple justice to be meted out to this unfortunate man—you have this day an opportunity of exhibiting that true moral courage of which I have spoken; and through the longest day you have to live you will value nothing more precious than the remembrance of the fact that you acted rightly, and justly, and mercifully in the day of danger. You, gentlemen, have this day a great opportunity of evincing true moral courage by dealing with this case as I have feebly pointed out, if you can do so justly and preserving your oaths intact. Whatever you do, preserve your honor untarnished, preserve also the integrity and reputation of the Commonwealth, so long renowned for her justice, for truth and for chivalry unstained. I feel, gentlemen, that I have not done justice to the case; but I have said what I desired to say, situated as I am, closing simply with these remarks, which I make on behalf of my client, and at his request, that he has not a particle of exception to take to the testimony of the witnesses examined during the trial. He deems it only a wonder amid the excitement of these scenes, that the truth, as he declares it to be, should be so fully developed. He believed that the desire of one and all of the witnesses was to do him ample justice; that whenever they could speak in commendation of his (Brown's)

humanity, in the means he had taken to spare the effusion of blood, and to preserve from harm his prisoners, they came cheerfully forward to do it. He desires, also, as the least he can do, to express his grateful thanks to Captain Simms, who voluntarily came forward from another State, because, as he said, he wished to see justice done to a brave old man. Gentlemen, with these remarks I submit the case, as far as I am concerned, into your hands.

Mr. CHILTON spoke of the embarrassment with which he undertook the case. He intended to do his duty faithfully, and had come to deal with the prisoner not as Captain Brown, leader of this foray, but simply as a prisoner under the charge of violating the law. If that law did not warrant a conviction, he should endeavor to make that appear to the Jury. Still he would say that he had no sympathy with the prisoner. His birth and residence, until within a few years, had been in Virginia, in connection with the institution of slavery. Although now a resident of the District of Columbia, he had returned to his native State to spend the remainder of his days, and mingle his dust with her soil. No other motive operated on him than a disinterested one to do his duty faithfully. He regretted the excitement respecting the case, but was glad to hear the Judge say on Saturday that he desired to try this case precisely like others. He desired, and the whole State, and the whole South desired, that the trial should be fair, and it had been fair. Circumstances had interrupted its progress. Counsel were here without proper preparation, but indulgence had been granted, and they made no complaint. They should do the best they could under the circumstances, and could not complain of the excitement. It was natural. He hoped it would not interfere with the course of justice, or cast a stain upon the bar of the State. The Jury had sworn they were unbiased, and he presumed they would firmly discharge their oaths in bringing in a verdict. He could not understand, from the opening of the prosecution, on what grounds these charges against the prisoner were attempted to be sustained. The Commonwealth Attorney indulged in a strain of abuse of the prisoner, and pronounced sentence on him without waiting the verdict of the Jury, thus usurping the place of the Judge. There were three distinct charges. The first was of treason. This was an offence at common law. The word is derived from a French word, signifying betrayal. Treason means betrayal of trust or confidence, the violation of fidelity or allegiance to the Commonwealth. He maintained that treason could not be committed against a Commonwealth except by a citizen thereof. In the present case the whole proof shows that this prisoner is not a citizen of Virginia, and he therefore cannot be found guilty of treason. The indictment charges the prisoners with committing every act composing treason. They are charged with levying war against the State, and exciting slaves to insurrection; but there was no proof that they committed these acts charged—no proof that they resisted any process issued against them as violators of authority of the Commonwealth. They were rather guilty of resisting Colonel Lee, which was resistance to the Federal Government, and not to the Commonwealth. He had read carefully the prepared Provisional Constitution, and regarded it as ridiculous nonsense—a wild, chimerical production. It could only be produced by men of unsound minds. It defines no territory over which it is intended to operate, and says that we, that is the signers of the document, not all citizens of the United States, do establishment the following Provisional Government. What is it? It is an association or copartnership; they are to own property in common and regulate its tenures; it did not contemplate a Government, but merely a voluntary association to abolish Slavery; did not even undertake to levy taxes, which is essential to any Government. It does not appear that this association was to be established in Virginia, or where it was to go into effect. This was not treason. Is it the adoption of a Constitution or establishment of a Government? By no means. Those parties had a mere imaginary Government to govern themselves, and nobody else, just like governing a military company or debating society. Even if they intended to set up a government over the other, they did not do it. There was a principle that every piece of evidence was to be construed most favorably to the accused, who should have the benefit of every doubt. In considering the evidence they must consider the whole of it—they must take the declarations of the prisoner in his own favor as well as against himself. Now look at the 46th Article of this Provisional Constitution, which expressly declares that the foregoing articles shall not be construed to encourage the overthrow of any State Government or General Government, and lead to a dissolution of the Union, but simply as amendment and repeal. This was on evidence before the Jury, being submitted by the prosecution. Again, the prisoner is charged with conspiring with slaves to make an insurrection. No proofs show that the slaves entered into a conspiracy, and unless that was the case there was no con-

spiracy. One party cannot conspire alone. Each charge is to be considered alone by the Jury. If they believe the evidence, it does not warrant the conviction of treason, and they must consider the charge of conspiracy just as if no charge of treason had been made. One count in the indictment was not to be brought in to aid another. He considered the prisoner had a right to be tried on one charge at a time, and entirely disconnected with any other. The Court had, however, overruled the motion on Saturday, and hence the importance of making this point clear to the Jury, so that they might not confuse the various offences, and the evidence relating to each. Next, as to murder. It was a very singular way of doing an indictment. Five prisoners are charged with the murder of four men. That they might have jointly done it he could understand, but that they could severally have done it, he declared it was almost impossible for the prisoner to make a defence against such a charge. It was too loose and vague. By the laws of Virginia there was but one specific murder punishable as capital, and that was deliberate, premeditated murder. The prosecution charged the prisoner with murder in the first degree, but he argued that evidence in this case did not sustain the charge. The prisoner's conduct in the engine-house showed no malice, according to the testimony of Col. Washington and Mr. Allstadt. However ridiculous his project, which it would seem could never have entered the mind of a sane man, he might still have believed he could carry out that project without bloodshed. At any rate, no sane man could suppose he expected, with a mere handful of men, to accomplish his object by force, and it is but fair to take his declarations, especially when compared with his acts, that he intended to shed no blood, except in self-defence, unless you should believe, beyond the slightest doubt, that those declarations were untrue, and that the prisoner was actuated by malice in taking the lives of those who never did him harm, and against whom no cause for malice existed. As to Hayward, there was no proof as to how he met his death, or who killed him, or for what cause, and, as his colleague had remarked, the prisoner had no motive to kill negroes. The subsequent contest resulted in loss of life, but the prisoner endeavored to avoid that conflict for the purpose of saving life, and therefore could not have been actuated by malice, which is necessary to constitute murder in the first degree. Even if the prisoner were guilty of murder in the second degree, or manslaughter, yet neither was a capital crime, and not the crime charged in the indictment. He did not know but that Brown was justified in returning the fire when fired upon under the circumstances. It was a sort of self-defence, and very probably, had a little more time been allowed, those men could have been taken into custody without loss of life. He charged the jury to look on this case, as far as the law would allow, with an eye favorable to the prisoner, and when their verdict should be returned, he trusted that every man in the community would acquiesce in it. Unless the majesty of the law were supported, dissolution of the Union must soon ensue, with all the evils which must necessarily follow in its train.

Mr. HUNTER closed the argument for the prosecution. He said he proposed to argue this case precisely like any other. He had hoped the counsel for the defence would have omitted to interpolate any outside matters, and, to a great extent, he had been gratified. One remark he would allude to in the opening speech of the defence this morning, where he had been represented as having drawn the picture of the dishevelled locks of an alarmed beauty. His friend had done him some injustice, in attributing to him a design of exciting alarm, or disturbing the minds of the people unnecessarily. He had endeavored to march straight forward, with the sole purpose of discharging his duty, in procuring the attainment of justice in respect to the prisoners. He would commend to Mr. Griswold the testimony he had borne at the opening of the Court, that not only have the forms of a fair trial been extended to the prisoner, but the substance also; that, in the midst of all temptations to the contrary, in the midst of all the solid reasons that have been urged why a different course—I do not mean an irregular course—a different legal and constitutional course by the Governor of Virginia, might have been pursued of declaring martial law and administering drum-head justice. That the Chief Magistrate has taken high conservative ground, we, as Virginians, are justly proud of, and that we did not force this thing beyond what prudence requires of us, and that in regard to the power and patriotism of the Commonwealth of Virginia we are sufficient for it, come when it may, and in whatever form. He proceeded to remove the objections founded on the idea that might have been made as to the power of this Court to try a case where the offence was committed. It was hardly necessary to show that it was within the county of Jefferson, and within the jurisdiction of this Court. There was a law in Virginia making the Potomac River the boundary between Maryland and Virginia, and giving either State power, by a solemn compact, to execute a criminal process to the further bank. These matters.

which are contained in the Code of Virginia, it was unnecessary to prove by witnesses. The Jury could read the Code for themselves. Another law defined the limits of Jefferson County, showing that it embraced the locality where these events occurred, and giving jurisdiction to this Court. It was hinted in a preliminary stage of the proceedings, and an attempt was made to argue, that the United States held an exclusive jurisdiction over the Armory grounds, but no stress was now laid on that point, because not one murder out of the four lives taken was committed on the Armory grounds. Mr. Hunter then took up the argument of treason, which he understood to be that none but an *attaché* of the Commonwealth can commit treason against it. It is limited to no parties—it does not require that the offender should be a citizen according to our system of government, and the complicated machinery of Federal and State governments, under which we live. In some respects, we are unfortunately bound to recognize as citizens of Virginia those who have proven themselves within our borders, as in this case, and without them, as in others, our deadliest enemies. The Constitution of the United States provides that citizens of each State shall be entitled to all the immunities of citizens of the several States. Brown came here with the immunities given by the Constitution. He did not come divested of the responsibilities belonging to those immunities. Let the word treason mean breach of trust, and did he not betray that trust with which, as a citizen, he is invested when within our borders? By the Federal Constitution, he was a citizen when he was here, and did that bond of Union—which may ultimately prove a bad bond to us in the South—allow him to come into the bosom of the Commonwealth, with the deadly purpose of applying the torch to our buildings and shedding the blood of our citizens. Again, our Code defines who are citizens of Virginia, as all those white persons born in any other State of this Union who may become residents here. The evidence in this case shows, without a shadow of a question, that when this man came to Virginia and planted his feet on Harper's Ferry, he came there to reside and hold the place permanently. It is true that he occupied a farm four or five miles off, in Maryland, a short time since, but not for the legitimate purpose of establishing his domicile there. It was for the nefarious purpose of rallying forces into this Commonwealth, and establishing himself at Harper's Ferry as a starting point for a new Government. Whatever it was, whether tragical, or farcical and ridiculous, as his counsel has presented it, his conduct showed, if his declarations were insufficient, that it was not alone for the purpose of carrying off slaves that he came there. His Provisional Government was a real thing, and no debating society, as his counsel would have us believe, and in holding office under it, and exercising its functions, he was clearly guilty of treason. The 46th section has been referred to, as showing it was not treasonable, but he supposed that that meant that the new government was to be a union of separate States like the present, with the difference that all were to be free States. The whole document must be taken together. The property of slaveholders was to be confiscated all over the South, and any man found in arms was to be shot down. Their conduct at Harper's Ferry looked like insanity, but there was too much method in Brown's madness. His purposes were too well matured, and he and his party declared there were thousands in the North ready to join them. While the Jury are to take the whole declaration, the law books expressly declare they may reject, if they see good cause to do so, that which would extenuate the guilt of the prisoner. They are bound to consider it; that is all. As to conspiracy with the slaves to rebel, the law says the prisoners are equally guilty, whether insurrection is made or not. Advice may be given by actions as well as words. When you put pikes in the hands of the slaves, and have their masters captive, that is advice to slaves to rebel, and punishable with death. The law does not require positive evidence, but only enough to remove every reasonable doubt as to the guilt of the party. Sometimes circumstantial evidence is the strongest kind, for witnesses may perjure themselves or be mistaken. The defence say we don't know who killed the negro Hayward; that Brown did not do it because there was no object, but that it was dark, and the supposition is that Hayward was killed by mistake. They say Brown shot no unarmed men, but Beckham was killed when unarmed, and, therefore, he thought the whole case had been proved by the mass of argument. With regard to malice, the law was, that if the party perpetrating a felony, undesignedly takes life, it is a conclusive proof of malice. If Brown was only intending to steal negroes, and in doing so took life, it was murder with malice prepense. So the law expressly lays down, that killing committed in resisting officers attempting to quell a riot, or arrest the perpetrator of a criminal offence, is murder in the first degree. Then what need all this delay—the proof that Brown treated all his prisoners with lenity, and did not want to shed blood? Brown was not a madman.

to shed blood when he knew the penalty for so doing was his own life. In the opening he had sense enough to know better than that, but wanted the citizens of Virginia calmly to hold arms and let him usurp the government, manumit our slaves, confiscate the property of slaveholders, and without drawing a trigger or shedding blood, permit him to take possession of the Commonwealth and make it another Hayti. Such an idea is too abhorrent to pursue. So, too, the idea that Brown shed blood only in self-defence was too absurd to require argument. He glories in coming here to violate our laws, and says, he had counted the cost, knew what he was about, and was ready to abide the consequences. That proves malice. Thus, admitting everything charged, he knew his life was forfeited if he failed. Then, is not the case made out beyond all reasonable doubt, even beyond any unreasonable doubt indulged in by the wildest fanatic? We therefore, ask his conviction to vindicate the majesty of the law. While we have patiently borne delays, as well here as outside in the community, in preservation of the character of Virginia, that plumes itself on its moral character, as well as physical, and on its loyalty, and its devotion to truth and right, we ask you to discard everything else, and render your verdict as you are sworn to do. As the administrators of civil jurisdiction, we ask no more than it is your duty to do—no less. Justice is the centre upon which the Deity sits. There is another column which represents its mercy. You have nothing to do with that. It stands firmly on the column of justice. Administer it according to your law—acquit the prisoner if you can—but if justice requires you by your verdict to take his life, stand by that column uprightly, but strongly, and let retributive justice, if he is guilty, send him before that Maker who will settle the question forever and ever.

Mr. Hunter closed at 1½ o'clock.

During most of the arguments to-day, Brown lay on his back, with his eyes closed.

Mr. CHILTON asked the Court to instruct the Jury, if they believed the prisoner was not a citizen of Virginia, but of another State, they cannot convict on a count of treason.

The Court declined, saying the Constitution did not give rights and immunities alone, but also imposed responsibilities.

Mr. CHILTON asked another instruction, to the effect that the Jury must be satisfied that the place where the offence was committed was within the boundaries of Jefferson County, which the Court granted.

When Mr. Hunter closed his peroration to the Jury, without further remark, at an intimation from the judge, they immediately withdrew to consider their verdict. After an absence of three-quarters of an hour (during which the Court took a recess) they returned into court with a verdict. At this moment the crowd filled all the space from the coach inside the bar, around the prisoner, beyond the railing in the body of the court, out through the wide hall and beyond the doors. There stood the anxious but perfectly silent and attentive populace, stretching head and neck to witness the closing scene of Old Brown's trial. It was terrible to look upon such a crowd of human faces, moved and agitated with but one dreadful expectancy—to let the eyes rest for a moment upon the only calm and unruffled countenance there, and to think that he alone of all present was the doomed one, above whose head hung the sword of fate. But there he stood, a man of indomitable will and iron nerve, all collected and unmoved, even while the verdict that consigned him to an ignominious doom was pronounced upon him. After recapitulating his offences set forth in the indictment, the Clerk of the Court said:

Gentlemen of the Jury, what say you, is the prisoner at the bar, John Brown, guilty or not guilty?

FOREMAN—Guilty.

CLERK—Guilty of treason, and conspiring and advising with slaves and others to rebel, and murder in the first degree?

FOREMAN—Yes.

Not the the slightest sound was heard in the vast crowd as this verdict was thus returned and read. Not the slightest expression of elation or triumph was uttered from the hundreds present, who, a moment before, outside the court, joined in heaping threats and imprecations on his head; nor was this strange silence interrupted during the whole of the time occupied by the forms of the Court. Old Brown himself said not even a word, but, as on any previous day, turned to adjust his pallet, and then composedly stretched himself upon it.

Mr. CHILTON, moved an arrest of judgment, both on account of errors in the indictment and errors in the verdict. The objection in regard to the indictment has already been stated. The prisoner has been tried for an offence not appearing on the record of

the Grand Jury—the verdict was not on each count separately, but was a general verdict on the whole indictment.

Counsel on both sides being too much exhausted to go on, the motion was ordered to stand over till to-morrow, and Brown was again removed unsentenced to prison.

A Jury to try Coppie, who was now brought into court, was subsequently sworn.

The Court in consideration of Stephens' wounds, allowed his case to stand over, but nothing further was done, and the court adjourned.

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### SIXTH DAY.

CHARLESTOWN, *Wednesday, Nov. 2, 1859.*

Messrs. Russell and Sennott, from Boston, reached here to-day.

Cook was brought before the magistrate's Court, and waived an examination.

Coppie's trial was resumed. No witnesses were called for the defence.

Mr. HARDING opened for the Commonwealth, Messrs. HOYT and GRISWOLD followed for the defendant, and Mr. HUNTER closed for the prosecution. The speeches were of marked ability.

Mr. GRISWOLD asked for several instructions to the Jury, which were all granted by the Court, and the Jury retired.

Brown was then brought in and the Court House was immediately thronged.

### SPEECH AND SENTENCE OF BROWN.

The COURT gave his decision on the motion for an arrest of judgment, overruling the objections made. In the objection that treason cannot be committed against a State, he ruled that wherever allegiance is due, treason may be committed. Most of the States have passed laws against treason. The objections as to the form of the verdict rendered, the Court also regarded as insufficient.

The CLERK then asked Mr. Brown whether he had anything to say why sentence should not be pronounced upon him.

Mr. BROWN immediately rose, and in a clear, distinct voice, said :

"I have, may it please the Court, a few words to say. In the first place, I deny everything but what I have all along admitted, of a design on my part to free slaves. I intended certainly to have made a clean thing of that matter, as I did last winter when I went into Missouri and there took slaves without the snapping of a gun on either side, moving them through the country, and finally leaving them in Canada. I designed to have done the same thing again on a larger scale. That was all I intended to do. I never did intend murder or treason, or the destruction of property, or to excite or incite the slaves to rebellion, or to make insurrection. I have another objection, and that is that it is unjust that I should suffer such a penalty. Had I interfered in the manner which I admit, and which I admit has been fairly proved—for I admire the truthfulness and candor of the greater portion of the witnesses who have testified in this case—had I so interfered in behalf of the rich, the powerful, the intelligent, the so-called great, or in behalf of any of their friends, either father, mother, brother, sister, wife, or children, or any of that class, and suffered and sacrificed what I have in this interference, it would have been all right, and every man in this Court would have deemed it an act worthy of reward rather than punishment. This Court acknowledges, too, as I suppose, the validity of the law of God. I see a book kissed, which I suppose to be the Bible, or at least the New Testament, which teaches me that all things whatsoever I would that men should do to me, I should do even so to them. It teaches me further to remember them that are in bonds as bound with them. I endeavored to act up to that instruction. I say I am yet too young to understand that God is any respecter of persons. I believe that to have interfered as

I have done, as I have always freely admitted I have done in behalf of His despised poor, is no wrong, but right. Now, if it is deemed necessary that I should forfeit my life for the furtherance of the ends of justice, and mingle my blood further with the blood of my children and with the blood of millions in this slave country whose rights are disregarded by wicked, cruel, and unjust enactments, I say let it be done. Let me say one word further. I feel entirely satisfied with the treatment I have received on my trial. Considering all the circumstances, it has been more generous than I expected. But I feel no consciousness of guilt. I have stated from the first what was my intention, and what was not. I never had any design against the liberty of any person, nor any disposition to commit treason or excite slaves to rebel or make any general insurrection. I never encouraged any man to do so, but always discouraged any idea of that kind. Let me say also in regard to the statements made by some of those who were connected with me, I fear it has been stated by some of them that I have induced them to join me, but the contrary is true. I do not say this to injure them, but as regretting their weakness. Not one but joined me of his own accord, and the greater part at their own expense. A number of them I never saw, and never had a word of conversation with till the day they came to me, and that was for the purpose I have stated. Now, I am done."

While Mr. Brown was speaking, perfect quiet prevailed, and when he had finished the Judge proceeded to pronounce sentence upon him. After a few primary remarks, he said, that no reasonable doubt could exist of the guilt of the prisoner, and sentenced him to be hung in public, on Friday, the 2d of December next.

Mr. Brown received his sentence with composure.

The only demonstration made was by the clapping of the hands of one man in the crowd, who is not a resident of Jefferson County. This was promptly suppressed, and much regret is expressed by the citizens at its occurrence.

After being out an hour the Jury came in with a verdict that Coppie was guilty on all the counts in the indictment. His counsel gave notice of a motion for arrest of judgment, as in Mr. Brown's case.

The Court then adjourned.

## NOTICES OF NEGRO INSURRECTIONS.

THE insurrection at Harper's Ferry has differed from all previous servile insurrections in this country in this important point: that whereas in all former movements of the kind the discontented blacks were the prime movers, and almost always the sole actors therein, this one has been not only got up, but carried through by white men. It does not appear in any positive manner that any of the colored people of Virginia or Maryland participated in the movement of their own accord. Some few free negroes from Iowa may have done so, but few or none from the slave States. Those who appeared to act with the insurgents were pressed into service. This shows that the movement was not got up in the interest or with the connivance of the slaves, but was purely a political one. Contrast it with the negro insurrections of 1831 and 1856.

### THE NEGRO INSURRECTION IN 1831.

It is now some twenty-eight years since the people of the southern tier of counties in Virginia were thrown into terrible consternation and alarm by a negro insurrection, or outbreak, which was inaugurated there under the most bloody auspices. The negroes seem to select Sunday evening as the best time for commencing active measures. It was on a Sunday evening that the abolitionists and negroes of Harper's Ferry exposed their plans, by seizing upon the Armory and taking possession of the town, and it was also on a Sunday evening that the negroes of Southampton County commenced their work.

Southampton County is on the frontier, between Virginia and North Carolina, and is distant eighty miles from Richmond. The first intelligence that reached the capital of Virginia in regard to the outbreak of 1831, represented the existence of a most frightful condition of things in Southampton County. One of the editors of the "Norfolk Herald," writing on the 24th of August, thus tells the story:

NORFOLK, 24th August, 1831.

"I have a horrible and heart-rending tale to relate, and lest even its worst feature should be distorted by rumor and exaggeration, I have thought it proper to give you all and the worst information that has as yet reached us through the best sources of intelligence which the nature of the case will admit.

"A gentleman arrived here yesterday, express from Suffolk, with intelligence from the upper part of Southampton County, stating that a band of insurgent slaves (some of them believed to be runaways, from the neighboring swamps) had turned out on Sunday night last, and murdered several whole families, amounting to forty or fifty individuals. Some of the families were named, and among them was that of Mrs. Catharine Whitehead, sister of our worthy townsman, Dr. N. O. Whitehead, who, with her son and five daughters, fell a sacrifice to the savage ferocity of these demons in human shape.

"The insurrection was represented as one of a most alarming character, though it is believed to have originated only in a design to plunder, and not with a view to a more important object—as Mrs. Whitehead, being a wealthy lady, was supposed to have had a large sum of money in her house. Unfortunately, a large number of the effective male population was absent at a camp-meeting in Gates County, some miles off, a circumstance

which gave a temporary security to the brigands in the perpetration of their butcheries; and the panic which they struck at the moment prevented the assembling of a force sufficient to check their career.

"As soon as this intelligence was received, our authorities met, and decided on making an immediate application to Colonel House, commanding at Fortress Monroe, who, at six o'clock this morning, embarked on board the steamboat Hampton, with three companies and a piece of artillery, for Suffolk. These troops were reinforced in the Roads by detachments from the United States ships Warren and Natchez, the whole amounting to nearly 300 men.

"To-day another express arrived from Suffolk, confirming the disastrous news of the preceding one, and adding still more to the number of the slain. The insurgents are believed to have from 100 to 150 mounted men, and about the same number on foot. They are armed with fowling-pieces, clubs, etc., and have had an encounter with a small number of the militia, who killed six and took eight of them prisoners. They are said to be on their way to South Quay, probably making their way to the Dismal Swamp, in which they will be able to remain for a short time in security. For my part, I have no fears of their doing much further mischief. There is very little disaffection in the slaves generally, and they cannot muster a force sufficient to effect any object of importance. The few who have thus rushed headlong into the arena, will be shot down like crows or captured and made examples of. The militia are collecting in all the neighboring counties, and the utmost vigilance prevails. I subjoin a list of the victims of their savage vengeance

Mrs. Waters and family .....	14
Mrs. Whitehead .....	7
Mrs. Vaughan .....	5
Jacob Williams .....	5
Mr. Travis .....	5
William Reese .....	4
Mr. Williams .....	3
Mr. Baines .....	2
Mrs. Turner .....	3
Unknown.....	10
	—
Total.....	58

"Besides these, a private letter adds the families of Mr. Barrow and Mr. Henry Bryant—numbers not mentioned.

"Muskets, pistols, swords, and ammunition have been forwarded to Suffolk to-day, by Com. Warrington, at the request of our civil authorities, and a number of our citizens have accoutred and formed themselves as a troop of cavalry, and set off to assist their fellow-citizens in Southampton. I trust the next news you will hear will be that all is quiet again."

Further statements confirmed the general truth of the foregoing narrative, and represented that three hundred negroes, well mounted and armed, and headed by one or two white men, constituted the whole of the insurgent force. Other accounts exaggerated their numbers to six or eight hundred, and represented the militia force of three hundred men as retreating before the blacks, who were armed with shot guns, muskets, scythes, and axes.

Prompt and efficient measures were immediately taken by the the Governor of the State to suppress the insurrection. Infantry, cavalry, and artillery were dispatched in all haste from Richmond and Norfolk. The authorities of North Carolina also supplied troops, and the federal troops stationed at Norfolk, Fortress Monroe, and other points, were placed at the service of the State. The result of these prompt and decisive mea-

tures was, that all the negroes engaged in the movement were, with a few exceptions, killed or captured within a few days. It was thought that some of them had made their retreat into the Dismal Swamp, and soon afterward a rumor prevailed that that locality was the rendezvous for several hundred runaway slaves. Fortunately these rumors proved unfounded. The movement was completely suppressed, though not until from fifty to sixty whites, principally women and children, had been barbarously slaughtered, and until full vengeance had been taken on their hellish murderers. From the published accounts of the affair, we extract the following, from which it would appear that the numbers of the blacks were greatly exaggerated, but that their atrocities were not:

“On the night of the 23d ult., the Southampton militia had three skirmishes with a gang of from forty to fifty negroes, the latter retreating each time. In one account it is stated, that one of the militia, of the name of Pope, was killed; in another, that the whites sustained no loss whatever. The negroes made three attempts to cross the bridge at Belfield, but were repulsed, each time by a party of militia who were stationed on the opposite side with a piece of artillery. A party of four militiamen, who had been sent to reconnoitre the blacks, came up with a party of about twenty of them, and, after a sharp engagement, succeeded in killing three or four, and taking several prisoners, when the remainder fled. The great object of the negroes, after the rallying of the militia, appeared to be to reach the Dismal Swamp, but such was the vigilance of the former, that nearly every one was either shot down or captured. Many of the blacks were well mounted, and armed with bird and other guns, and axes. The roads were strewed with the carcasses of the negroes killed, and up to the 25th ult., neither these nor the corpses of the unfortunate whites had been buried; arrangements were, however, making for their interment.

“The different accounts are conflicting as to the number of negroes killed, and, indeed, under the circumstances in which they have been written, it is not to be wondered that they should be so.

“We gather from letters published in the Richmond ‘Whig,’ of the 29th ult., the following statements: A letter from the senior editor of that paper, who is on the spot, states that the number of the insurrectionary negroes had been greatly exaggerated, but that it was hardly within the power of rumor itself to exaggerate their atrocities; whole families, father, mother, daughter, sons, sucking babes, and school children, were butchered by them, thrown into heaps, and left to be devoured by hogs and dogs, or to putrefy on the spot. At Mr. Levi Waller’s, his wife and ten school children were murdered—he himself was absent, but approaching while the dreadful scene was acting, was pursued, and escaped with difficulty into a marsh. How, or with whom the insurrection originated, is not certainly known. The prevalent belief is, that on Sunday, the 14 h ult., at Barnes’ church, near the Cross Keys, the negroes who were observed to be disorderly, took offence at something, and that the plan was conceived and matured in the course of the week. At Mr. Waller’s, one child escaped from the ruthless fangs of these monsters by concealing herself in the fire-place, and another was found alive who was badly wounded and left for dead by them. He has accompanied his letter with a list of the killed, amounting to sixty-two, but it is not yet ascertained to be correct. He thinks that the insurgents never exceeded sixty, and that twelve well-armed and resolute men were competent to have quelled them at any time.

“General Eppes, who is in command of the troops, reports, under date of the 28th ult., that all the insurgents, except Nat Turner, the leader, had either been taken or killed. On the 29th, General Broadnax reports to the Governor that all was quiet and free from visible marauders; he thinks all have been killed or taken except four or five. He states that Nat, the ringleader, who calls himself general, and pretends to be a Baptist preacher, declares to his comrades that he is commissioned by Jesus Christ, and proceeds under his inspired directions—that the late singular appearance of the sun was the sign for him—he is not taken, and the account of his being killed at the affair of the bridge is not correct.

The General thinks 'that there has existed no general concert among the slaves—circumstances, impossible to have been feigned, demonstrate the entire ignorance on the subject of all the slaves in the counties around Southampton, among whom he has never known more perfect order and quiet to prevail.' He believes 'that at any time, twenty resolute men could have put them down.'

"He compliments, in terms of strong approbation, the admirable conduct and spirit of the militia, who have everywhere turned out with the utmost promptitude, and given the most unquestionable evidence of their ability, instantly and effectually to put down every such attempt. The families who had sought safety by flight had generally returned to their homes."

It was believed in North Carolina that the insurrection commenced with and was arranged by four negro preachers, who had been permitted to hold their meetings by day and by night, and who used these opportunities to poison the minds of the slaves. Of these preachers, the principal was Nat Turner, who claimed to be commissioned by Jesus Christ. Turner escaped the general slaughter made by the troops, and eluded their vigilance for a couple of months; but he was finally caught in a cave in the vicinity of the place where he and his followers had perpetrated their barbarities, and was, without much ceremony, tried, convicted and hanged. His arrest took place on the 30th of October, 1831, and his execution a few days afterward. Thus ended the negro insurrection of 1831.

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#### THE NEGRO INSURRECTION OF 1856.

There are few readers who will not have a recollection of the excitement that prevailed in the southern States in the summer of 1856, growing out of the defiant and hostile attitude of the negro population in Louisiana, Arkansas, Tennessee, and other Southern States. Disclosures of plots, having for design a rising upon and murdering the white population, were made, and terrible apprehensions caused thereby. Negroes, free as well as slave, were seized and put to the torture, and in some instances confessions were wrung from them implicating others. In the village of Murfreesboro, in Tennessee, the white inhabitants assembled and drove out the free negroes, on the ground that their depredations on property had become insufferable.

In Union county, Arkansas, the citizens seized upon an abolitionist, named Hancock, on suspicion of tampering with the slaves. After making some confessions, he managed to escape, but he was recaptured, carried to the town of El Dorado, and there tried. He was not found guilty, however; but as he boasted that he knew all about the matter and would not tell, the citizens took him out to the woods and shot him—a rather summary proceeding, truly.

Another person named Martin, who was supposed to be engaged in the same plot, was also seized by the same parties, brought to El Dorado, tried, adjudged guilty, and was hung. The idea was that there was to be a general concentration of negroes on the 14th of October, at a given point, who were to be led by Hancock and others, and that they intended to attack the town, murder all the white inhabitants, possess themselves of whatever provisions and valuables they could lay their hands on, and then start off for Kansas. The execution of Hancock and Martin prevented the working out of the plot, if indeed it ever existed.

About the same time there was an intense excitement in the region around Nashville, Tenn., where there was an attempted insurrection of the blacks. Six of the ringleaders were seized and executed at Dover for being implicated in the conspiracy. Three of these were preachers; and it was said that all the negro preachers and active members of the church were found to be most efficient and zealous in the insurrection.

The lash was freely applied to extort confessions.

A newspaper correspondent who was present at the execution, saw a list of the negroes that had been whipped, and was told what they all had stated; and then he witnessed the examination of the rest, some taking five or six hundred lashes before they would tell the tale. One of the negroes died from the whipping. The substance of their confession was, that they were to "rise on the night of Christmas eve, murder the manager of the furnace works and his family, reserving his wife for one of the negroes, named Ishmael. Then they were to murder several other white people, and make an attack on Dover, where they expected to help themselves with arms, ammunition and everything else they wanted. After that they were to scatter themselves over the country." Several masters had hung their own slaves, and it was believed that the conspiracy was a general one over all the southern States.

In South Carolina, muskets and ammunition had been found in the hands of slaves, and no less than thirty-five negroes were hung there. Escapes of slaves were very numerous, and the white population was in the most intense alarm.

The scourging and the hanging and the shooting proved efficacious preventives, and after all it turned out that the white population of the southern States were more frightened than hurt by the servile insurrection of 1856.

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