

confined in the jail with them. They were captured again, unfortunately, near Little Rock, which was then occupied by the Federal troops, and from thence taken back to Tyler.

While confined in the prison camp at Shreveport, H. W. Anderson made his third escape, the last of February; and although the country was covered with water from the spring rains, reached Natchez, Miss., in safety, and rejoined his regiment.

The prisoners who remained at the prison camp below Shreveport, from whence our seven escaped, were finally returned to Tyler, and in the first week of July, 1864, the main body of the Tyler prisoners were ordered exchanged. They marched bare-headed, bare-footed and nearly naked, under the July sun, to Shreveport, where, taking boats, they steamed down the Red River. On the 22d of July, 1864, they floated out on the broad Mississippi and beheld the Stars and Stripes, feeling such a thrill of joy as only returning prisoners can feel.

TRIAL OF JOHN BROWN.¹

HON. GEORGE E. CASKIE.

The trial of John Brown did not establish any great legal principles, nor is it pre-eminent as a great legal battle, but the conditions out of which it grew were as momentous as those connected with any of the great contests which had preceded or which have followed it, and place it well up in the list of important trials.

In order to appreciate the position of the prisoner and the environment under which the trial was held, it will be well to review for a moment a few leading facts as to Brown himself.

John Brown's ancestors were among the Puritans who landed at Plymouth; in his veins mingled the blood of three sturdy races, the Scotch, the Dutch and the Welsh. For at least three generations the Brown family had been abolitionists, and John Brown, reared amongst such environments and

¹Paper read before Virginia State Bar Association, August, 1909.

possessed of an intense nature, became an *intense* abolitionist. He himself attributed much of his zeal to the ill treatment of a young negro slave which had come under his observation when he was very young, and which, he said, caused him to dedicate his life to the abolition of slavery. Right well did he keep his vow.

The first idea he seems to have had on the subject, as shown by a letter to his brother Frederick, written in 1834, was to educate the slaves, being of the opinion that if he could accomplish this the slave-owners would be forced to begin the work of emancipation without delay. It was about this time that, gathering his older sons in his humble home, he and they engaged in earnest prayer for the cause of abolition, and whilst on their knees, with hands and voices raised to Heaven, each solemnly pledged himself to devote his life to an effort to abolish slavery.

In the year 1840 he was engaged as a surveyor in the neighborhood of Harper's Ferry, and thus acquired some information as to the country, and perhaps heard the remark which had been attributed to George Washington, to the effect that the mountains around Harper's Ferry would serve as a stronghold for the Continental Army in the event it were repulsed by the English. Subsequently Brown expressed the opinion that these same mountains were designed by the Almighty as a refuge for the fugitive slaves.

In 1846, Garrett Smith, a large landowner of New York, donated 10,000 acres of wild land in northern New York to such colored families as would settle upon, clear and cultivate it. Brown approved that plan, and in order to aid it, obtained himself a small part of this land upon which he moved with his family, and which he ever afterwards regarded as his home.

Shortly after locating in New York, Brown seems to have become very hostile to all slave-owners, and we find him in Springfield in 1847 denouncing slavery in look and language fierce and bitter, and declaring that slave-holders had forfeited their right to live, and that the slaves had the right to

resort to any means to rid themselves of their masters and gain their liberty.

In 1854 the Kansas excitement was at its height; five of Brown's sons moved to Kansas, attracted by the double inducement of finding desirable homes and of lending their aid to the effort to make Kansas a free State. In October, 1855, John Brown himself went to Kansas and played no small part in the stirring scenes which occurred in that State during the terrible struggle through which it had to pass.

During all this time Brown's views had evidently been undergoing a change, for while his zeal never abated in the least, and his determination never wavered, his idea as to the best method by which to accomplish his object materially changed. As early as 1847 he is said to have consulted with Fred Douglass and secured his approval of a scheme for transporting fugitive slaves into a free country, and protecting them until such transportation could be accomplished.

Afterwards, in discussing the Harper's Ferry incident, Brown declared that his only object was to establish on slave soil a defensible station, within reach of the Pennsylvania border, where the fugitive slaves could defend themselves until transferred, as occasion offered, through the free states to Canada.

By the year 1857 Brown had evidently reached the conclusion that his end could only be accomplished by resort to arms, for in that year he established at Tabor, Iowa, a school for military drill, and later a similar school at Springdale, Iowa. During the same year he obtained possession of 200 rifles which had been contributed by George L. Stevens of Massachusetts, for the use of the Free State people of Kansas, and began negotiating with friends for money, ammunition, etc., and in 1858 he made a trip north to raise money to be used in carrying out his scheme.

On the 3d of June, 1858, he left Boston with permission to retain the rifles, also with \$500 in gold; later he made other collections of money and contracted with a Connecticut firm for the manufacture of 1,000 pikes.

Brown does not seem to have realized the difficulty of collecting an army to be composed of fugitive slaves, nor to have realized that the placing of a pike in the hand of such men would not convert them into soldiers.

Harper's Ferry seemed well suited for his purposes. Accordingly, in June, 1859, Brown and two of his sons appeared in that neighborhood for the avowed purpose of buying a home, or renting a farm for a term of years. They gave the name of Smith, John Brown himself being known as Isaac Smith. They succeeded in renting a place known as "The Kennedy Farm," where they resided unsuspected by the neighbors until the attack on Harper's Ferry, when Brown was recognized, after his capture, by Lieutenant J. E. B. Stuart, of the United States troops, who had known him in Kansas and who addressed him by his true name when he was captured. Brown's daughter, Ann, and his daughter-in-law, Mrs. Owen Brown, kept house for them. Here they gradually received the rifles from Ohio and the pikes from Connecticut, and gathered together their men.

In August he met Fred Douglass by appointment. They met in an abandoned and long-neglected rock quarry near Chambersburg. Douglass brought with him the negro, Shields Green, while Brown was accompanied by his trusted friend, Kagi. The meeting was kept strictly secret. They remained in consultation most of Saturday and Sunday. With rocks serving as chairs, they discussed the matter in all of its details, Brown announcing his purpose to take Harper's Ferry. Douglass urged that they should adhere to the former plan of running off slaves, pointing out that Brown's plan would necessarily be fatal to all those engaged; that it would likely be regarded as an attack upon the Federal government, and would arouse the whole country. Brown thought that the whole country should be aroused. He believed that the attack upon Harper's Ferry would be as a great bugle blast at which all of the slaves and their friends would rally, and, armed with rifles and pikes, would be practically invincible. He urged Douglass to join him, but he was as immovable as Brown. When about to leave, Douglass asked Green what he

had decided to do, to which Green replied, "I believe I will go wid de ole man," and he did to the bitter end.

By the middle of October, Brown had collected at the Kennedy Farm twenty-two men, six of them negroes; these spent the days in hiding, only going out at night.

On Sunday evening, October 16, 1859, it was dark, cold and raining. Brown decided that the time for action had come. After delivering a short address to his men, he started to the Ferry with eighteen men, two being left to take care of the supplies at the farm, whilst two were sent to cut the telegraph wires, and then to protect some arms and ammunition left at a schoolhouse, about a mile from the Ferry. By half-past ten they had reached the United States Arsenal, which they broke open with sledge-hammers, and, overpowering the guard, appropriated such of its contents as they desired, and established headquarters. By midnight his men were in possession of the town and quietly patrolling the streets. Six of his men were sent out to arrest some of the more prominent of the slave-owners in the adjoining country, who were to be, and afterwards were, held as hostages.

Shortly after midnight the east-bound express train was due; four men were sent to stop it, and in this effort the negro porter was shot and killed, being the first life to be sacrificed in this enterprise. The train was detained for several hours, but finally, in a moment of weakness, Brown released it and it was allowed to go on, spreading the news of the raid and hastening the doom of the raiders.

When the citizens of the town awoke on Monday, October 17th, from twelve to fifteen prisoners had been brought into the Armory, and several bodies of slaves had been liberated. Among the prisoners was Colonel Washington, the possessor of the historic sword presented to George Washington by Frederick the Great, which Brown had especially directed should be impressed for his own use. In the early hours of the morning, as the citizens of the town appeared on the streets, they were arrested, till some forty or fifty were prisoners in the Armory; but when the town became fully awake, the citizens began to arm themselves and exchanged shots with

Brown and his men. The news spread, and as speedily as possible the State militia was called out. The Jefferson Guards, of Charlestown, under the command of Captain Rowan, arrived some time during the day. This company, together with the citizens, had so depleted Brown's forces that but six remained, and these, together with the more prominent of their prisoners, had been forced to abandon the Armory and take refuge in the engine-house, in the sides of which Brown made holes through which they could shoot. Brown had lost the major part of his men, while on the other side several of the citizens had been killed.

By three o'clock the Winchester Rifles, commanded by Captain Clarke, had arrived, and a little later the Continental Marion Guards, of Winchester, under the command of Captain Lewis Barley, were also on the grounds. These three companies of State militia, commanded by Colonel L. S. Moore, of Winchester, held Brown and his men in the engine-house until the United States Marines, eighty in number, under the command of Colonel R. E. Lee, reached the scene of action, about three o'clock on the morning of October 18th. About seven o'clock Captain J. E. B. Stuart, of the United States forces, offered Brown opportunity to surrender and release his prisoners, promising protection to him and his men and a fair trial by law. Brown declined, being willing to surrender only on condition that he and his men should be allowed to cross the river unmolested.

Fearing that some of the citizens held by Brown as prisoners might be shot, Colonel Lee ordered his soldiers to draw their loads and fix their bayonets on their guns. The door of the engine-house was battered down and Brown and his men taken prisoners, two of the marines being wounded and one killed in the effort. Brown was not to be captured, however, without resistance, and in order to effect his capture Lieutenant Green struck him over the head with a sabre and some of the soldiers wounded him with their bayonets, inflicting the wounds from which he suffered during his trial. Ten of Brown's men were killed, five escaped and the remaining seven were captured.

Excitement was of course very high, and if Brown and his companions had been put in the hands of the civil authorities, or even the State militia, to be conveyed to the jail at Charlestown, it is doubtful whether there would have been any need for a trial. They were, however, escorted to the jail by the United States Marines, whose connection with the matter then ceased, the State militia performing all the necessary guard duty from that time until after the execution.

When Brown reached Harper's Ferry his first act was to take possession of the United States property, and to overpower and remove the United States guards found there. When finally captured it was by the United States troops upon United States property, after a fight in which one of the United States Marines was killed. Were these occurrences to take place today, it will hardly be doubted that jurisdiction of the whole matter would be taken by the United States courts.

As Brown was anxious for time, and doubtless would have preferred that his trial should be held as remote from the scene of his crime as possible, it seems strange that he and his friends did not make an effort to invoke the Federal jurisdiction. It only goes to show how the rights of the States were then regarded as paramount to even that of the general government.

That no effort was made to take these men out of the hands of the law, is most creditable to Virginia. To some extent it may have been due to the conviction, which seems to have been universally prevalent, that they would be tried and convicted within the space of a very few days by the Circuit Court, then just about to hold its fall session.

The general public in and around Harper's Ferry was in no condition to give quarter to Brown or any of his men; still they were satisfied to let the law take its course, now that the prisoners were safely in the Charlestown jail, in the charge of Captain John Avis, the jailer in whose ability to hold them, especially when aided by State militia, the public had absolute confidence; then, too, the public believed that

only a day or two would be needed for the law to vindicate itself and punish the criminals.

The Virginia statute, however, provided that the prisoners should have five days' notice of the preliminary examination, and this must precede the court trial, thus a little delay was occasioned. It was during this period that Governor Wise saw and interviewed Brown. No record of this interview seems to have been preserved, but at its close Governor Wise said: "They are themselves mistaken who take him to be a mad man. He is a bundle of the best nerves I ever saw, cut and thrust and bleeding, and in bonds. He is a man of clear head and courage, fortitude and simple ingenuousness. He is cool, collected and indomitable, and it is but just to him to say that he was humane to his prisoners and he inspired me with great trust in his integrity as a man of truth. He is a fanatic, vain and garrulous, but firm, truthful and intelligent."

The public were not idle, however, whilst they waited for the trial. Rumors of all sorts were rife. There were those who believed that Brown would never have undertaken so perilous and impossible a task, unless there was some arrangement by which he was to be reinforced, either by the slaves who were already organized to take up the fight or by some of the abolitionists of the North, who might appear on the scene at almost any moment; the belief that a rescue would be attempted was well-nigh universal. Brown himself expected to be rescued. A gentleman who acted as one of his guards and spent one or more nights with him in his cell, told me that he expressed the opinion that he would never be executed, but that his friends in the North would make an effort to rescue him, and would succeed. This opinion, my informant says, he retained until the morning of his execution.

These conditions caused the citizens to arm themselves and the Governor to keep the State troops constantly on guard, so that from the time Brown and his men were put in jail until after his execution, Charlestown had much the appearance of a military camp.

The preliminary examination was held on October 25, 1859. The early morning found Charlestown in the possession of the

militia. Cannon were posted before the court-house and every approach was guarded by armed sentries. The tower was crowded with people, not only from the immediate vicinity, but from remote sections, each and all anxious to get a view of the prisoners, and to witness the proceedings. For the most part the crowd was orderly and behaved with great circumspection. There were, however, individuals who indulged in denunciation of the prisoners and their crime. The crowd pressed against the court-house door eager to gain admission, and when finally it was opened the room filled rapidly until there was not standing room. Eight justices of the peace, Col. Davenport presiding, formed the examining board. They ascended the bench, and almost immediately the court-house bell announced that the proceedings were about to begin, and a double file of soldiers marched from within the jail and took their positions on each side of the path leading from the jail to the court room. Along this path and between these soldiers Brown and his associates were escorted in charge of Sheriff Campbell, John Avis, the jailer, and an armed guard. The Commonwealth was represented by Charles Harding, the Commonwealth's attorney of Jefferson county, and Andrew Hunter, who was appointed special prosecutor.

The Attorney of the Commonwealth made inquiry as to whether the prisoners had or desired to have counsel. Brown rose from his chair, disregarding the court, and fixing his eyes on the crowd, as if by his manner to charge that the crowd and not the justices were his judges, he said:

“Virginians, I did not ask for 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, but under no circumstances will I be able to attend to my trial. I have 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 in any way to attend to my own defense.

“My memory don't serve me. My health is insufficient, though improving. If a fair trial is to be allowed us there are mitigating circumstances that I would urge in our favor,

but if we are to be tried by a mere form, a trial for execution, you might spare yourselves the 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 practice. I ask again to be excused from the mockery of a trial. I do not 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, as only cowardly barbarians insult those who fall into their power."

The court assigned C. J. Faulkner and L. Botts to defend the prisoners. The preliminary examination was, of course, uneventful; a few witnesses were examined and the prisoners sent on to the grand jury, but not until Brown had again objected to the proceedings, and asked for further delay.

Despite the independent and defiant way in which Brown had addressed the examining court, he was not as indifferent to the result as it would seem; almost immediately upon his incarceration he had written to Judge Tilden of Massachusetts, asking his aid in procuring counsel from without the State of Virginia.

As soon as the preliminary examination was over, the Circuit Court of Jefferson county opened its fall session, Judge Richard Parker presiding; a grand jury was impanelled, charged by the court and sent to their room.

On the next day, October 26th, the grand jury returned a true bill against the five prisoners, Brown, Stevens, Coppoe, Copeland and Shields Green (the last two negroes) for treason, advising and conspiring with slaves and others to rebel and for murder, each offense punishable with death. Thomas Rutherford was foreman of this grand jury. (Cook and Hazlett were subsequently arrested, indicted and tried.) The prisoners were brought into court; Faulkner had declined to act as counsel for the defense, and Thomas C. Green, the mayor of Charlestown, had been appointed in his stead. The prisoners elected to be tried separately, and the Commonwealth elected to try Brown first. Upon his arraignment, and

before the indictment was read, Brown again asked for a postponement; his address much more respectful than that delivered the day previous to the examining justices, and his request was based upon his physical condition, making no mention of any desire to obtain other counsel. This request was presented by his attorneys. The court called the jail physician, who testified that Brown's condition was not such as to preclude his giving proper attention to the details of his trial. The court overruled the motion, and the trial was begun. Whilst the indictment was being read, Brown was supported by two of the court officers, and when it was ended he lay down upon a cot which had been placed in the court room for his use. Many of those who attended the trial have supposed that Brown need not have used this cot as continuously as he did; as a matter of fact, he spent a large part of his time there, and appeared to be but little interested in what was transpiring. He made no suggestions and gave no assistance to his counsel, but he kept sufficiently abreast of the proceedings to interpose whenever it suited him to do so.

Twenty-four veniremen had been summoned for the trial; four of these were rejected and others summoned from the bystanders. Fourteen of the bystanders were summoned before the four vacancies were filled. The panel being complete, the prisoner struck off eight, and from the remaining sixteen twelve were selected by lot, who constituted the jury. The prisoner was remanded to jail and the court adjourned until the next day. Thus ended the first day of John Brown's trial.

It does not appear just how searching the examination of these jurors was; it was remarkable, however, that in the then condition of the public mind and the universality of the feeling, that twenty-four jurors, free from exception, should have been obtained out of the first thirty-eight persons called.

When the court assembled the next morning the crowd had not diminished, nor was the military display any less imposing.

As soon as the court assembled, Mr. Botts again moved for a delay, stating that he had information to the effect that

there was insanity in Brown's family, and he desired a short time to investigate and obtain the evidence. In the midst of Botts' plea the expected took place. Brown rose from his cot, and addressing the court, he denied that there was any insanity in his father's family, denied that he was mentally defective, and took issue with the position of his attorney. Botts was taken by surprise, and did not further press the matter; but Mr. Green, his associate, after explaining his embarrassment at the situation, insisted that they were entitled to make an investigation. Mr. Hunter made a short reply. The court ruled that the request could not be considered, there being no sworn statement in support of the defense of insanity.

The opening statements were made by the attorneys for the Commonwealth and the defense, and the examination of the witnesses begun. The Commonwealth introduced a number of witnesses who testified to the facts as to the raid, practically agreeing in all the important details, and varying only to the extent men will differ in stating facts of any given transaction. It was shown that Fountaine Beckham, the mayor of Harper's Ferry, and several of its citizens, were killed by Brown and his men.

Some correspondence between Brown and Joseph R. Giddens, the leading abolitionist in Ohio, Garrett Smith, and perhaps others, together with certain documentary evidence, which included a copy of the constitution and ordinances which had been framed by Brown for the government of his followers, and which were found at the Kentucky Farm, were introduced in evidence.

The preamble to this constitution was in the following words:

“A. 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 Inde-

pendence; 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 right 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.’’

One of the articles (No. 46) provided: “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 we 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.’’

The court adjourned for the day, before the Commonwealth had completed its testimony.

The constitution and ordinances referred to were adopted by a convention called by Brown, and denominated by him a “Provisional Constitutional Convention,” which met at Chatham, Canada, on Saturday, May 8, 1858, and which was composed in the main of the men who had followed him from Kansas and such sympathizers as he had been able to gather in the neighborhood of Chatham. It was presided over by a negro preacher named Moore, and Kagi was its secretary; Brown himself being its ruling spirit.

This constitution provides the qualifications for citizenship, for a Congress composed of only one house, a President, a Secretary of State, a Secretary of War, a Treasurer, a Secretary of the Treasury, and a Commander-in-Chief of the Army, prescribing the duties of each, and provides generally, though in a crude sort of fashion, for the conduct of the government, and the organization of the army.

Attached to this paper is a schedule which provides that the president of the convention should call another convention to fill all the offices provided for, and issue commissions to those elected. Much discussion seems to have taken place over the adoption of Article 46, but it was finally adopted with only one dissenting voice.

Immediately after the adjournment of this convention, the convention for the election of officers met in the same building; not being able to complete its labors that evening, it adjourned till Monday, May 10th, when it concluded its business and the final adjournment was had.

This convention elected the following officers:

Commander-in-Chief of the Army—John Brown.

Secretary of War—J. H. Kagi.

Secretary of State—Richard Realf.

Treasurer—Owen Brown.

Secretary of Treasury—Jas. B. Gills.

Members of Congress—Alfred M. Ellsworth and Osborne Anderson, and appointed a committee of which John Brown was chairman, with full power to fill by election, all offices provided for by the provisional constitution which might be vacant after the meeting adjourned.

This convention elected Thos. M. Kinnard to the position of President, but Kinnard was present and declined the honor; it then elected J. W. Loguen; he was not present, but great doubt was expressed as to his acceptance, and the matter was left in the hands of the committee above referred to.

None of these persons seem ever to have attempted to perform any of the duties devolving upon them except John Brown, who, as Commander-in-Chief, organized his forces, and some seventeen months later, began war at Harper's Ferry.

When, on the third day of the trial (October 28th) the court had convened and the trial was about to proceed, a young man, apparently but little more than twenty-one years of age, arose in the bar and announced that his name was George Henry Hoyt, of Boston, a member of the bar, who had come all the way from Massachusetts to defend the prisoner. Of his coming neither Brown or any one else knew. The prisoner's counsel were not disposed to permit this interference, but when Brown insisted that he should be allowed to appear, they withdrew their objection. Mr. Hunter, however, did oppose his appearing. He suggested that Hoyt was a mere boy; that he had produced no evidence of the fact that

he was a practicing attorney, and in view of his self-appointment, the court should require satisfactory evidence of his right to appear. Mr. Hunter has been much criticized by Brown's biographers and the Northern press, for this action, which they denominated as unprofessional conduct. If Hoyt's real position had been known, the populace would have relieved the situation and ended all discussion.

Judge Parker, unwilling to deprive the prisoner of any aid which he might be able to obtain, decided to dispense with formal proof in the matter and Hoyt was duly sworn in as counsel for the defense. This matter being settled, the Commonwealth proceeded with its testimony, pursuing the same lines followed the day before, and then rested its case.

The time had arrived for the defense to introduce its testimony; there had been no direct evidence to show that Brown, personally, had inflicted a single wound or injury upon any one during the conflict. There were some technical objections to be made to the indictment, or rather to the relevancy of the testimony introduced under it. It was the purpose of the attorneys for the defense to make the most of these matters, but Brown had his own ideas; he had determined the lines along which the defense was to proceed, and he was unwilling that any other course should be pursued. He had caused certain witnesses to be summoned, and he demanded that his counsel should follow the path that he had marked out. In vain Botts and Green protested; Brown was immovable, and they were finally forced to submit to his dictation.

The witnesses introduced for the defense were for the most part the gentlemen whom he had held as hostages, and the object of their testimony was to show that he was humane and considerate in the treatment of his prisoners, and did not desire unnecessarily to shed blood. This, together with the testimony showing what he alleged to be the improper treatment received by the men sent by him to negotiate terms of surrender, and especially as to the killing of Thompson, one of his men, was about all he had to offer.

The attorneys for the Commonwealth opposed the admission of this class of testimony, but the attorneys for the defense

persisted, and in one way and another succeeded in getting all the testimony before the jury, as irrelevant as it appears to have been.

Several of the witnesses for the defense failed to answer when called, but all the facts were before the jury. These witnesses would only have been cumulative.

When it appeared that the defense had about exhausted its testimony, and the trial was nearing its conclusion, Brown rose and proceeded to deliver a speech of denunciation and appeal. The trial, he declared, was a farce. His witnesses had not been compelled to appear; his counsel were not to be relied on, and he demanded that the case be adjourned and he be given further time.

No sooner was he seated than Messrs. Botts and Green retired from the case, after expressing their surprise and disgust at the reflection which had been made upon their conduct.

Thus young Hoyt was left alone in the case; and never did a young man face a more trying ordeal; he had just come to the bar, and was without experience, he was unacquainted with the law and the practice of the Virginia courts. Then, too, Hoyt must have been affected by a fact which no one in all the audience suspected, but which subsequently appears to have been established as a fact, viz.: that he had never expected or intended to defend the prisoner, but was the advance agent of a party who contemplated a rescue, if the conditions were favorable, and had assumed the role of counsel solely in order that he might have access to the jail and the prisoners so as to advise whether or not a rescue were possible, and if so, to give the rescue party needed information.

But Hoyt explained his lack of experience and knowledge of the Virginia practice, and begged for further time. Messrs. Green and Botts, although their connection with the case was ended, seconded the efforts of Hoyt, and agreed to give him such aid and assistance as they could to enable him to prepare the case. The court granted the request and adjourned until the next day; and so ended the third day of the trial.

On October 29th, the fourth day of the trial, when the court assembled, Mr. Samuel Chilton, of Washington, and Mr. Hiram Griswold, of Cleveland, Ohio, both lawyers of ability and standing, who had been secured by Brown's friends, appeared in court and were admitted as counsel for defendant. Some time was consumed by these gentlemen in the effort to advise themselves as to the situation; a little testimony to the same effect as that given the day before was submitted.

The instructions to the jury were obtained without much delay. Mr. Harding made the opening argument for the Commonwealth, and the fourth day of the trial passed into history.

The next day being Sunday, the court adjourned until Monday, October 31st.

The crowd in attendance suffered little or no diminution by the intervention of the Sabbath; Monday morning found the populace as much interested as formerly.

This, the fifth day of the trial, was consumed in the arguments of counsel, which were concluded in the early afternoon. No statement of these speeches seems to have been preserved. The known ability of the participants is a guarantee that they were forceful and able. After a short absence the jury returned into court, having found a verdict in the following words: "We, the jury, find the defendant, John Brown, the prisoner at the bar, guilty of treason, advising and conspiring with slaves and others to rebel, and for murder in the first degree." Signed by J. C. Wiltshire, foreman.

When the jury filed into the court room a solemn hush fell upon the audience. During an intense silence, the clerk read the verdict, and the jurors gave their assent thereto. The verdict met with the approval of all in that vast gathering; yet there was no applause, no expression of approval; silently the crowd passed from the court room, and soon after dispersed.

Brown himself received the verdict with perfect composure; he merely turned upon his cot, as if seeking a more comfortable position. He did not believe the sentence would ever be

executed; but if he had believed otherwise, he was possessed of too much nerve to weaken in the presence of his enemies.

On November 2d, Brown was brought into court for sentence. When asked by the court if he had or knew anything to say why the court should not pass judgment upon him, he 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, the 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, moved them through the country, and finally left them in Canada. I designed to have done the same thing on a larger scale. That was all I intended. I never did intend murder or treason, or the destruction of property, or to excite or incite slaves to rebellion, or to make insurrection.

“I have another objection; and that is, it is unjust that I should suffer a penalty. Had I interfered in the matter 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, father, mother, brother, sister or 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 acknowledged, as I suppose, the validity of the Law of God. I see a book kissed here which I suppose to be the Bible, or at least, the New Testament. That 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 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 always freely ad-

mitted I have done, in behalf of His despised poor was not 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 submit; so 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 life of any person, nor any disposition to commit treason, or excite the 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 also say a word in regard to the statements made by some of those connected with me. I hear 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. There is not one of them but joined me of their own accord, and the greater part of them 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 have done.”

Again a solemn hush fell upon the crowd; for a moment there was a pause; then Judge Parker calmly sentenced the prisoner to be hanged on the 2d day of December, 1859, by the sheriff of Jefferson county; not in the jail yard, but at such other place in the county convenient thereto as the said sheriff might select.

The defendant tendered, and the court signed, three bills of exceptions taken to certain rulings of the court made during the trial.

Brown was borne back to the jail, the crowd in the courtroom not being permitted to move till he was safely in its walls.

So far as I can find there is no copy now extant of the bills of exceptions taken during the trial, and I have been unable to ascertain upon what ground they were based.

A petition for a writ of error was prepared and presented to the Court of Appeals by no less a lawyer than Mr. William Green, in which it is said that the whole field of legal learning, so far as applicable to the questions at issue, was exhausted. The writ was refused.

The State militia was kept on guard in Charlestown from the date of the trial until the day of the execution.

December 2, 1859, was an almost perfect day; when the hour for the execution arrived Brown, unaided, walked from his cell, into the wagon which awaited him at the jail door, and took his seat upon his coffin. As he ascended the hill on which the gallows stood, casting his eyes around over the landscape, he quietly remarked to those about him, that it was a beautiful day, and that a most beautiful country.

He ascended the gallows firmly and without a tremor. Spying a lone colored woman on the edge of the crowd, he waved his hand towards her and said, "Remember, I die a martyr for your race." When the time came to place the cap upon his head, he took off the old hat he wore and tossed it from him, as if to say, "I have no further use for you."

He had no statement to make. He declined to accept the services of any clergyman, though they were offered. With as little delay as possible the rope which held the trap-door on which he stood was cut, and John Brown's earthly career was ended.

That John Brown was conscientiously opposed to slavery will hardly admit of doubt. For the conscientious convictions of any man on any subject, all right-thinking men must have respect.

Brown's efforts in behalf of the cause which he had espoused, so long as they exhibited themselves in proper ways and along proper lines, are not to be harshly criticised. His indomitable will and great personal courage were most desirable qualities.

But when he announced as his creed that all slave-holders had forfeited the right to live, he ceased to be the advocate of a principle, and demonstrated that he had become an outlaw, with an utter disregard for both law and order.

When he adopted a constitution and set of ordinances so as to provide that his followers should disregard the laws of the State and the United States, and render allegiance to the government set up by him, and organized an army, however small and inefficient, to enforce his mandates, he was guilty of treason.

When, in spite of his own constitution, he declined to seek the remedy for the ills of which he complained by "Amendment or repeal of existing laws," and forcibly released slaves and arrested their owners, he became subject to the penalties prescribed by the statute in such case made and provided. When he gathered together a body of men, armed them with guns and pikes with which to kill and slaughter, and put that intention into effect, he became a murderer.

He met with no mob violence. An able and impartial judge presided at his trial, able lawyers looked to his defense. Every fact was proved in evidence. His guilt was absolutely established, and whatever divergent views may have existed upon the question of slavery, all fair and impartial minds must concede that the judgment was just and the penalty properly inflicted.

Hamilton County—The editor of the Freeman of Webster City offers a premium of \$10 to the boy under 18 years of age, who shall raise in Hamilton county the best acre of corn in the year 1858. Well done, Mr. Freeman. Your efforts to advance the interests of agriculture, and to stimulate the young to an increased attention to farming pursuits, are certainly commendable. In due process of time, give us the name of the successful boy, and we will take pleasure in publishing him.—*The Iowa Citizen*, (Des Moines), Jan. 12, 1858.

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