Legal critics have long noted that trials are narratives that arbitrate between conflicting stories about a controversial event and that, consequently, the legal process often takes on a larger cultural meaning through the idea of story. But acknowledgment, as such, does not imply an effective analytical understanding of the connection, and it has not led to a perception of the way in which legal stories become cultural narratives. We can only tell the stories we know how to tell, and the degree of our understanding—our appreciation—depends on issues of narrative and genre often present but usually missed in studies of the legal process.

Famous trials, trials that capture the imagination of a community, are particularly useful for observing the nature of legal-literary-cultural connections and dependencies. This essay uses one such trial, that of John Brown in 1859, to suggest that a better understanding of the way trial narratives and larger communal perceptions intersect is important to legal studies. At issue is a much closer analysis of cultural context than many legal critics are willing to undertake. For example, Ralph Waldo Emerson said of John Brown, on the second day of Brown's trial, "he is a hero of romance & seems to have made this fatal blunder only to bring out his virtues." Emerson's words are still familiar, but we no longer quite comprehend what they meant at the time. Americans of later generations have accepted Emerson's appraisal, but without an informed sense of the cultural assumptions at work in his language.

Recovering the cultural context of a major trial, particularly one generating as many narratives as the trial of John Brown, is no easy matter. There is, however, a reward for perseverance. Since trials involve the transcription of everything that is said in a courtroom they

* © Robert A. Ferguson, 1994.
1. Ralph Waldo Emerson to Sarah Swain Forbes, 26 October 1859, in The Letters of Ralph Waldo Emerson, ed. Ralph L. Rusk, 6 vols., (New York: Columbia University Press, 1939), 5:179-80.
make excellent cultural barometers. Indeed, the payoff of this trial is particularly attractive because of what the trial reveals about a still mysterious figure in American history, especially because John Brown's extraordinary reputation comes almost entirely from the events of his trial. We will see that underlying homologies between courtroom performance and the genre of the American Romance helped to turn Brown into Emerson's "hero of romance." The result was a story of mythopoeic proportions, one which transcription and reiteration imprinted on the American mind in a remarkably short period of time. Brown's trial became the first event in American history to receive intense and daily multimedia coverage and validation—from newspaper journalists, from leading essayists, from poets, and from that most magical of antebellum inventions, what contemporaries called "the voice of God," the telegraph.

The homologies between courtroom performance and Romance reveal how the trial itself generated a more permanent cultural narrative. Brown's courtroom became the setting in which previously condoned or ignored ideological inconsistencies about slavery suddenly became unavoidable. On trial for his life, John Brown achieved a special imaginative power by mixing legal artifice with religious understanding. He was able to mix them with particular effect because of the special license of the Romance as a narrative frame of reference. The largely self-educated Brown first came to grips with the possibilities of Romance in an autobiographical fragment that he wrote in 1857. This fragment is useful because it illustrates Brown's power as a storyteller as well as the specific nature of his contemporary audience in antebellum American culture.

We move next, in the middle sections of the essay, to the ways in which Brown used his powers of self-dramatization to manipulate trial procedures and decorum. These manipulations established the con-

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2. The law, as barometer, operates as both a positive and a negative gauge. In the words of legal historian Lawrence Friedman, "law reflects the agenda of controversy—the things that are in actual dispute. It also gives strong negative evidence about which issues are not in dispute, the things that nobody questions." See "Notes toward a History of American Justice," in American Law and the Constitutional Order: Historical Perspectives, ed. Lawrence Friedman and Harry N. Scheiber (Cambridge: Harvard University Press, 1978), 24-25.

3. The Oxford Companion to American Literature, 4th ed. (New York: Oxford University Press, 1965), 724, defines the nineteenth-century "romance" as the "generic name applied to prose fiction that is conceived in terms of the fanciful and idealistic, rather than in terms of observation and faithful description of fact." Central to this definition of romance is the notion of a narrative that allows the combination of different levels of reality on a single plane of observation for a heightened affect. Henry James defines romance as "experience liberated, so to speak" in the name of "the greatest intensity," where experience is like a balloon tied to earth by a cable. "The art of the romancer," writes James, "is 'for the fun of it,' insidiously to cut the cable, to cut it without our detecting him." The overall goal is "the disconnected or uncontrolled experience... which romance alone more or less successfully palms off on us" as a higher reality. Henry James, The Art of the Novel: Critical Prefaces (1907; reprint, New York: Charles Scribner's Sons, 1937), 33-34.
text for Brown's final statement before the court at sentencing. Acknowledged to be one of the great set speeches in nineteenth-century oratory, this statement is seldom analyzed for the underlying nature of its power. Throughout the trial, John Brown uncannily surpassed himself. Reactions to his performance in the courtroom were overwhelming by any measure, and this fact tells us something about the imaginative power and expansiveness of trial scenes in American culture. This power leads to a final insight into what might be called "the migratory patterns" of trial narratives in a republic of laws.

I

The failure of the raid on Harper's Ferry had everything to do with John Brown's ultimate success as a historical figure. The fatal blunder, to paraphrase Emerson, brought out his virtues; it also suppressed his vices. The raid was, in typical narratives of the event, an "ultimate triumphant failure." Brown himself quickly came to see it in these terms. "The great bulk of mankind estimate each other's actions and motives by the measure of success or otherwise that attend them through life," he wrote from prison a month after the raid. "By that rule, I have been one of the worst and one of the best of men." Two days before his execution, he added, "I have now no doubt but that our seeming disaster will ultimately result in the most glorious success."

The raid as planned could not have succeeded, but the significance of immediate failure to later cultural formations has not been appreciated. Certainly, it failed as soon as it began on October 16, 1859. John Brown and his twenty-one followers held their objective, the U.S. Arsenal at Harper's Ferry, for less than thirty-six hours before federal troops under Brevet Colonel Robert E. Lee easily overwhelmed them. Not a single local slave chose to join Brown's attempt "to free the slaves." Of the seventeen who died at Harper's Ferry,
ten belonged to Brown’s party; two were his sons. The whole project was ill-conceived and poorly executed. Harper’s Ferry, in the Blue Ridge Mountains of northern Virginia, had no large slave plantations nearby, and free whites outnumbered slaves in the surrounding six counties by a ratio of almost seven to one. None of the circumstances were propitious for a slave rebellion. The raiders neglected to bring so much as a day’s rations to sustain their enterprise, and their first shots killed a black railroad worker who was already free.7

But every failure contributed to another kind of success. The act of imagination behind the raid stimulated reactions that still need to be explained and that reveal much about the cultural sensitivities of ante-bellum Americans. In a curious reversal, the attack on Harper’s Ferry held the nineteenth-century mind in part because it could not hold physical terrain. There was, in consequence, little need for anyone except the court to dwell on the messy and often absurd details of Brown’s plot. Instead, imagined possibilities dominated all accounts, providing an intrinsic fascination unconfined by reality.

John Brown, the protagonist of every account, loomed large because of his capacity to dare. He roused visions in the American psyche of both cultural fulfillment and purification. These visions in turn competed with nightmares of armed invasion and racial warfare in simultaneous and compelled narratives that made Brown both hero and villain. None of these narratives had much to do with the facts of Harper’s Ferry. The narratives conflated political, religious, legal, and racial perceptions in formulaic patterns that, in turn, exaggerated every possibility—and especially exaggerated the character of Brown. This strategy of exaggeration transfigured Brown from lifelong bungler, bankrupt, narrow extremist, murderer, and border fugitive into a cultural icon. This essay attempts to illuminate Brown’s strategy in a new way by demonstrating how it paralleled, thematically and historically, the development and the highest expressions of the American Romance.

The homologies between John Brown’s appeal and the American Romance can be seen most vividly in the comments of Nathaniel Hawthorne.8 Hawthorne expressed a prevalent communal reaction

De Witt’s collection also appears to have had a great immediate impact on American thought at the time of its publication.

7. The information as well as the inferences about the raid in this paragraph are taken from Warch and Fanton, John Brown, 59, and Stephen B. Oates, To Purge This Land with Blood: A Biography of John Brown, 2d ed. (Amherst: The University of Massachusetts Press, 1984), 294-302. For a minority view in the scholarship, defending the feasibility of the raid, see Karen Whitman, “Re-evaluating John Brown’s Raid at Harper’s Ferry,” West Virginia History 34 (1974): 46.

8. In stressing Hawthorne’s understanding of the Romance, I inevitably enter current controversies about the very definition of the Romance and about the possibly exaggerated role assigned to Hawthorne in supplying those definitions. Regardless of those controversies, my
when he said that Brown "preposterously miscalculated the possibilities."" 9 Hawthorne knew that the preposterous described an essential form of American literary comprehension and expression in his time. As he told his publisher in 1850, "the fact is, in writing a romance, a man is always—or always ought to be—careering on the verge of a precipitous absurdity, and the skill lies in coming as close as possible, without actually tumbling over." 10

John Brown appeared on just such a verge, and his tumble, when it came, turned into an extraordinary ascension. Moreover, that transformation involved techniques that corresponded to the license, disengagement, symbolism, and performative dialectic, which Hawthorne brought to the craft of fiction. Nineteenth-century Americans exalted or vilified John Brown for some of the same reasons they read romancers like Hawthorne.

John Brown contributed to his own figuration. Historians routinely refer to Brown's "remarkable sense of words" or his ability "to create an image of himself as a man," and the best of them recognize that "this strange disguised romanticist," in "holding the mirror up to art," "had romanticized himself quite as much as others romanticized him." Missing from these accounts, however, is a precise understanding of how Brown's words worked—how they electrified his countrymen by using popular forms of expression. 11 Missing, as well, is a realization of how strategic these uses were for the times. Brown may be the first figure in American culture to have controlled the perception of a

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9. Quoted in James R. Mellow, Nathaniel Hawthorne in His Times (Boston: Houghton Mifflin, 1980), 551-52. See also Nathaniel Hawthorne to H. Woodman, 26 June 1862, The Letters, 1857-1864, vol. 18, The Centenary Edition of the Works of Nathaniel Hawthorne, ed. Thomas Woolson et al. (Columbus: Ohio State University Press, 1987), 463-64.
10. Nathaniel Hawthorne to James T. Fields, 3 November 1850, in The Letters, 1843-1853, vol. 16, Centenary Edition of the Works of Nathaniel Hawthorne (Columbus: Ohio State University Press, 1985), 371.
11. Louis Filler, The Crusade Against Slavery 1830-1860, The New American Nation Series (New York: Harper & Row, 1960), 241, and Potter, The Impending Crisis, 357-62. Of the positive reactions of Boston literati to Brown, Potter notes: "They saw him, as by nature and instinct, a man of action, utterly devoid of artistry and rhetoric, and they never sensed at all that he was, in some ways, more of an artist and a man of words than any of them."
major event entirely through self-dramatization and media control. As he put the matter while pondering his own execution, "I have been whipped as the saying is; but am sure I can recover all the lost capital occasioned by that disaster; by only hanging a few moments by the neck; & I feel quite determined to make the utmost possible out of a defeat."12

Success from failure is the very stuff of the Romance, and the quantum shift in the opinions of contemporary Americans shows how completely Brown used his trial for this effect. Students of the raid and its aftermath generally agree that the apotheosis of Brown would have been mitigated, perhaps obviated altogether, if Brown had died in the raid or if he had received a prison sentence instead of the death penalty at trial. They also agree that most antebellum Americans were not in sympathy with Brown's immediate goals. North as well as South feared a slave insurrection of the kind Brown tried to instigate at Harper's Ferry. That the slaves did not rebel was a relief everywhere in white America, one of the many levels on which failure functioned as a license for the imagination.

It was Brown's performance at trial that led so many to identify so closely with him. In the first hundred years of the Republic only the deaths of leading presidents—of George Washington in 1799, of John Adams and Thomas Jefferson prophetically together on July 4, 1826, and of Abraham Lincoln on Good Friday in 1865—matched the paroxysms of emotion unleashed by the death of John Brown. In 1859, between October 18th (the day of Brown's capture) and December 2nd (the day of his execution), the public image of the man moved from that of an outlaw on the radical fringes of abolitionist politics to what can only be called a moral touchstone in American life. But how did these shifts in sentiment achieve such range when the vast majority of Americans, Northern and Southern, remained suspicious of Brown's goals, and how did the sentiments reach such intensity over a relatively obscure figure in the course of a mere six weeks?

The answers to these questions lie in Brown's words and behavior during his six-day trial, and his ultimate conviction on counts of conspiracy, treason, and murder at Charlestown in the Circuit Court of Jefferson County, Virginia. While a long string of witnesses under the direction of special prosecutor Andrew Hunter supported all three charges with vivid accounts of the raid during the first three days of

12. John Brown to Mary Ann Day Brown, 10 November 1859, quoted in Oswald Garrison Villard, *John Brown 1800-1859: A Biography Fifty Years After* (Boston: Houghton Mifflin, 1910), 540.
the trial, Brown stubbornly resisted the advice of his own lawyers in ways that kept him at the center of attention in his own defense.\footnote{During the six-day trial, Brown was represented by six lawyers in all, none of whom were formal defense counsel for more than half of the proceedings. Charles J. Faulkner and Lawson Botts, of the Virginia Bar, were originally assigned by the Court to represent Brown, but Brown rejected each in turn at strategic moments. When Faulkner resigned at the end of the first day, the court responded by adding Thomas C. Green, another member of the Virginia Bar. Northern lawyers, George H. Hoyt of Massachusetts, Henry Griswold of Ohio, and Samuel Chilton of Washington, arrived on the third and fourth days of the trial to take up the defense. Green and Botts resigned at the end of the third day of the trial with the arrival of this “foreign counsel.” Each new lawyer asked for a delay in trial to prepare a proper defense, a request that the court consistently refused. Brown clearly followed the advice of his lawyers only when it was convenient for his own purposes. See De Witt, The Life, Trial and Execution, 55-78.}

Answers lie, as well, in the extensive reportage given to colorful eyewitness accounts and to the peculiar nature of Brown’s performance during them. In 1859, the press was just reaching the technological capacity to narrate the immediacy of daily events to a national audience. Brown’s movement from utter marginality to, in Henry Thoreau’s phrases, “the greatest and best” and “the most American of us all” came through the orchestrated theatricality of the trial as it appeared in newspaper lead after newspaper lead.\footnote{Thoreau reached his high opinion of Brown immediately after the raid on Harper’s Ferry. The quotations are from “The Last Days of John Brown,” delivered on 2 December 1859, the day of Brown’s execution, and “A Plea for Captain John Brown,” delivered on 30 October 1859, the fifth day of Brown’s six-day trial. Both speeches relied heavily on newspaper coverage to make their points. See Wendell Glick, ed., Henry D. Thoreau: Reform Papers (Princeton: Princeton University Press, 1973), 145, 125.} Reporters necessarily repeated the essential facts of the raid every day but always through the filter of the trial experience. Their reiteration literalized the story in what has been since termed “the story line,” and turned the trial itself into a synecdoche of Brown’s overall achievement.

\section*{II}

What happened in Brown’s trial grew out of nineteenth-century understandings of the purpose of a republic of laws. John Brown used his constitutional right to be heard at public trial to dramatize a central contradiction in the culture around him, that of slavery in a society where all men were declared to be equal. The contradiction was hardly new in 1859. Americans had recognized the problem in 1776, and they had accepted a presumed inconsistency between republicanism and slavery when they included the “peculiar” institution in their acts of national formation.\footnote{For crucial aspects of the uncomfortable inclusion of slavery in the U.S. Constitution in 1787, see the debates of 8 August and 25 August in the Federal Convention, in The Records of the Federal Convention of 1787, ed. Max Farrand, rev. ed. (New Haven: Yale University Press, 1966), 2:220-23, 415-19. See also Gary B. Nash, “The Failure of Abolitionism,” in Race and Revolution (Madison: Madison House Publishers, 1990), 25-55. For one of the first national defenses of slavery as a “peculiar” institution or exception to republican principles, see “The Federalist No. 54,” New York Packet, 12 February 1788 in The Federalist (1787-1788; reprint, New York: Random House, 1937), 356-57.} John Brown and other radical abolitionist
ists had long repudiated that compromise, but they were a minority in antebellum politics and had difficulty finding a forum at once congenial and official for articulating views that their contemporaries regarded as extreme.

Brown’s trial represented something of a dividing line in the debate over slavery. Before the trial, Congress and state legislatures had managed to evade radical abolitionist polemics through informal or formal “gag rules” that kept antislavery petitions unheard, and many citizens ignored or repressed their own sense of the ideological inconsistency in slavery by restricting their frustrations to the political sphere. Suddenly, in Brown’s trial, the context of exchange was neither occasional and consensual nor loosely political, but officially adversarial. Formal scrutiny was imposed here by the rigor of legal rules, and the issues of universal rights and protection of property were starkly presented. Duty to conscience challenged obedience to law in a prolonged debate.

Although Brown suffered discrimination as an abolitionist in a Virginia courtroom, he achieved certain advantages for his cause when he entered the formal protection of trial rituals. The exclusive focus in the courtroom on charges resulting from the events at Harper’s Ferry enabled Brown to erase unseemly events in his unheroic past. On trial for his life, he became what he appeared to be in the moment, the courageous leader of a doomed but exciting mission. Gone from view were earlier incidents of personal cruelty, his many vocational failures, the previous legal difficulties in which he was clearly and inexcusably culpable, his limited standing in the political circles of abolitionism, his inept role as a military commander, and even his unprovoked murder of five proslavery men just three years before in “bleeding Kansas.” In their place was the man who was willing to die for his cause.

When they did appear in the publicity surrounding the trial, Brown’s weaknesses ended up as strengths. Insensitivity appeared as fixed principle, financial failure became superiority to material concern, atrocities blurred and then reinforced the image of the veteran warrior defending freedom in Kansas. Everything combined to prepare the defendant for the final role he chose to play. Humiliated for years by constant litigation and bankruptcy proceedings over fifteen

16. The historian David Donald estimates that only one of every twenty Northern voters was an abolitionist in the 1840s and early 1850s. For this estimate and for commentary on the official “gag rules” that tabled discussion of slavery in legislative assemblies, see David Herbert Donald, *Liberty and Union* (Boston: Little, Brown & Company, 1978), 16-20 and Glyndon G. Van Deusen, *The Jacksonian Era 1828-1848*, The New American Nation Series (New York: Harper & Brothers, 1959), 108, 133-35.

17. For good summaries of these negative aspects of Brown’s life, see Filler, *The Crusade Against Slavery*, 239-43; Warch and Fanton, *John Brown*, 1-12. Villard’s assessment of Brown’s clear responsibility for what is called “the Pottawatomie Massacre” on the night of May 23-24, 1856, is now generally accepted. See ibid., 170-88.
business failures in four states, Brown knew his way around an American courtroom. In 1859, he turned those bitter lessons to account, manipulating trial rituals (the procedural sense of formal collective participation) into a confrontation between moral positions and competing discourses. Helpless in previous trials, he was master of this one. Even the normally intimidating question of guilt or innocence suited his rigid moralistic temperament better than the flexibility of political compromise ever could.

At trial, Brown translated innocence and guilt into terms of good and evil, thereby evoking powerful rhetorical themes—themes familiar and persuasive in themselves but much more powerful when woven together. By resisting the charge of guilt through an appeal to higher truth and by trying to destroy the evil of slavery in the name of good, Brown followed his own penchant for religious explanation and moral certitude. Simultaneously, he activated an affinity to the literary modes of the Romance, where good and evil battle toward inevitable conclusions in a narrative freighted with symbolism and exaggeration. The mixture of legal and religious frames of reference with the elements of the Romance proved explosive in awakening sympathy for Brown and in magnifying his cause. Thereafter, whether as diabolical invader of the peace or as first martyr of republican freedom, he was always larger than the life he led, always above the legal decision to take that life, always somewhere beyond the facts.

III

Not known as a master rhetorician before his trial, John Brown nonetheless belonged to a generation that made a singular contribution to American literature. Tracing the connection is essential to understanding a man who spoke and wrote so much better than he knew. Brown, after all, made himself a cultural symbol overnight, and language was his primary tool. Granting, for the moment, that the man on trial surpassed himself, what were the skills and cultural congruences that supported his effort? Brown's own writings and comments outside of the courtroom are especially useful because they reveal affinities with the writers of the American Renaissance and because they allow us to avoid the tautology of explaining Brown's impact through his impact. The same writings demonstrate Brown's

18. For the details on Brown's business failures and lawsuits, wherein he was the frequent loser between 1837 and 1854, see Oates, To Purge This Land with Blood, 37, 45-49, 76-77.
19. Brown's contempt for politicians and the flexibility of political response was clear from very early in his career. A measure of his disenchantment was his apparent failure to vote in any national presidential election after 1832. For a brief discussion of these issues, see Oates, To Purge This Land with Blood, 20-21.
20. When investigators explain Brown's appeal by concentrating on his seeming prescience about the evolution of sectional strife and about the eventual destruction of slavery, as most of
capacity for expression and his relationship to contemporary literary forms, and prefigure his eloquence at trial.

A deliberate, even meticulous, care with language is apparent in Brown's short autobiography, written on July 15, 1857, in the form of a letter to the thirteen-year-old son of an abolitionist financial supporter, the wealthy Massachusetts merchant George Luther Stearns.\(^\text{21}\) Simply but shrewdly crafted, the letter must be read with the historian David Potter's general warning in mind: "[H]ardly anything can be said with certainty about John Brown."\(^\text{22}\) Brown couched the autobiography as an outright fiction. "[I] have concluded to send you a short story of a certain boy of my acquaintance," Brown tells young Harry Stearns, "& for convenience & shortness of name, I will call him John." The writing, in other words, is a fabrication meant for several levels of understanding. Written so simply as to be boy-to-boy, it is also a man's cautionary tale in admonition of youth, a sophisticated narrative pitched to the influential father behind the son, and, over all, Brown's communication to the world of what he wants it to know about him.

Significantly, the idea of fabrication, inscribed in the notion of story, was not necessarily a pejorative one for Brown's several audiences. Antebellum Americans were taught to look for a higher truth in what they read, and they learned to accept and engage in distortions of mundane reality to achieve that goal. As Ralph Waldo Emerson described his own reading procedures, "[I read] for diversion & a mechanical help to the fancy & the Imagination. I read for the lustres as if one should use a fine picture in a chromatic experiment merely for its rich colours. It is not Proclus but a piece of Nature & Fate that I explore."\(^\text{23}\) The cultural thirst for drama in these words, for imaginative projection and the crystallization of effect, and particularly, for the possibility of self-dramatization were part and parcel of the American Renaissance. John Brown and his publicizers could craft a mythic persona out of the ruins of repeated failure in part because their countrymen recognized and accepted similar performative strategies in other aspects of the culture.

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\(^{21}\) John Brown to Harry Stearns, 15 July 1857, in *The Life and Letters of John Brown*, ed. Franklin B. Sanborn (Boston: Roberts Brothers, 1891), 12-17. All quotations and references to the Brown "autobiography" in the next paragraphs are from this source. Brown's supporters—and especially Ralph Waldo Emerson—gave the autobiography wide circulation during his trial.

\(^{22}\) Potter, *The Impending Crisis*, 356.

\(^{23}\) Ralph Waldo Emerson, "July 12-14, 1842," in *Emerson In His Journals*, ed. Joel Porte (Cambridge: Harvard University Press, 1982), 287. Emerson's choice of an example is relevant to his meaning here. Proclus (410-485 A.D.), one of the last major ancient Greek philosophers, was a Neoplatonic idealist who emphasized that thoughts, not things, comprise reality.
Brown's autobiography takes the problem of fabrication as a central thematic concern. The boy John's greatest fault, one to which he is "somewhat addicted," consists in "telling lies." Inasmuch as the penchant continues in the man, John finds himself "(in afterlife) obliged to struggle so long with so mean a habit." The implication is that John, "so often guilty of this fault," has managed to overcome it, and yet the storyteller frequently hides the truth for larger ends. The man of many failures brags repeatedly of "the degree of success in accomplishing his objects," of "his close attention to business; & success in its management," and of how "he rarely failed in some good degree to effect the things he undertook."24 If the need to appear successful is an understandable one in an autobiographer, the strain shows in Brown's own definition of success.

To Benjamin Franklin's formula of frugality, unceasing industry, and emulation of the virtuous, which he admires, Brown adds consistency of conduct and character in the name of "some definite plan," "plan of life," or "greatest or principal object." Elsewhere, the formulation took a more melodramatic and decidedly un-Franklinian turn: "Death for a good cause was glorious," he told one family friend, in words that revealed Brown's "capacity to become greatly excited when his mind fixed on one idea."25 Success as a consistency of high purpose lay within Brown's ken in a way that evidence of material advance did not. It fit abolitionist purposes as well as Brown's monomaniacal personality, and it set a different standard—in the words of his autobiography, "the consciousness that our plans are right in themselves." In addition, the idée fixe allowed for a dramatically represented self that did not need to conform to the realities of daily life, much less to its own unexciting past.26

In keeping with the flexibility allowed in a represented or constructed self, Brown's short autobiography juxtaposes a series of competing images. He is not only the serious, young businessman on the road to success, but also an isolated, swashbuckling Western adventurer dressed in buckskins who consorts with Indians and who takes on the persona of "a rambler in the wild new country," a direct

24. Brown's biographer documents both his tendency to lie and his general ineptitude as a businessman. See Oates, To Purge This Land with Blood, 10, 45, 56-57, 76-77, 187, 203-04.

25. Stephen B. Oates notes Brown's great familiarity with Franklin, and Brown's autobiography owes much to Franklin's. The comment by Brown to a family friend, George Delamater, and Brown's fascination with single controlling ideas, noted by a number of contemporaries, are also from Oates's definitive biography. See Oates, To Purge This Land with Blood, 20, 53.

26. For a recent discussion of the general movement in American expression from an immanent self (one beneath mere appearance and beyond manipulation) to a represented self (one that is necessarily constructed and so made identical with appearance), see Larzer Ziff, Writing in the New Nation: Prose, Print, and Politics in the Early United States (New Haven: Yale University Press, 1991), xi, 77, 114.
descendent of Revolutionary warriors, a pacifist whose “disgust . . . with military affairs” leads him to get “along like a Quaker,” a humble shepherd (“it being a calling, for which in early life he had a kind of enthusiastic longing”), an imperious leader of men (“A King against whom there is no rising up” who is “much disposed to speak in an imperious or dictating way”), and, inevitably, the abolitionist and the religious zealot (“the firm believer in the divine authenticity of the Bible”). Each of these images entered the larger myth of John Brown. The more immediate point, however, is that Brown feels rhetorically free to present any one of them, or any combination, when it suits the integrity of his “principal object.”

A more revealing theme balances the conventional topic of success. Over and over, Brown stresses the fact of loss in his life. The losses of a toy, of a pet, of another favorite animal leave the subject of this narrative in a “protracted mourning season”—all transmogrified in the unresolved trauma of his mother’s death; John at eight is “left a Motherless boy which loss was complete & permanent.” Of even the least in this series, a marble lost by the boy of six, Brown tells us “it took years to heal the wound.” Not surprisingly, this mournful figure is a loner separated by inclination and circumstance. “To be sent off through the wilderness alone to very considerable distances,” Brown writes in the autobiography, “was particularly his delight.”

Unremitting loss generates the obsessive personality of this writer, with grief and anger interacting and feeding upon each other. When the unresolved grief of the child finds a home in the undifferentiated and permanent anger of the adult (what the narrator calls “his haughty obstinate temper”), both emotions fix on abolitionism. Only one figure, in a telling parallel, appears less fortunate than young John. Forced to watch the beating of a “negro boy (who was fully if not more than his equal),” John is led “to reflect on the wretched, hopeless condition, of Fatherless & Motherless slave children.” The psychological repercussions are fierce identification and a very tenuous social equilibrium. Brown’s rhetoric is helped by the fact that loss operates as a fairly pervasive and dominant cultural theme in early America.27 Even though Brown’s compulsive rendition of “sore trials” borders on the grotesque, he achieves a social balance of sorts by channeling his sorrow and anger into protest against the evil of slavery.

These passages reveal Brown for what he was in another sense, an unsophisticated writer who depended on standard literary conventions for the appeal of his prose. Virtually every strategy in the autobiogra-

27. For a detailed analysis of the theme of loss in early American culture, see generally Fred Somkin, Unquiet Eagle: Memory and Desire in the Idea of American Freedom, 1815-1860 (Ithaca: Cornell University Press, 1967).
phy appeared prominently in the popular literature of the times. Brown's calculated appeal to separate audiences (one reading a surface narrative and the other probing beneath), his stress upon intensity or excess of feeling, his claim of spirituality in the consciousness of righteousness, his intrusive and openly manipulative narrator, his selectivity and willingness to exaggerate event through symbolism, his readiness to inflate a represented self through a bewildering range of character traits and alternative experiences, and above all, his assumption of a rhetorical license to mix and match—these were the characteristics of the American Romance.

While Brown brought no special craft to these devices, he understood them well enough to enhance his capacity for self-dramatization. Here again, his autobiography resembles the nineteenth-century Romance and its folkloric corollaries, the tall tale and ballad. The narrator triumphs in "the school of adversity," he celebrates the isolated but dedicated individual, he resists the commonplace, he summons the sorrows and the terrors of death, he tells stories about cruelty to children and the healing domesticity of the virtuous woman, he yokes the romantic adventurer to the responsible citizen, he conjures up the Revolutionary past as well as the Wild West, and he pursues the timeless battle of good against evil (in his "Eternal war with slavery"). These themes were also the preoccupations of the nineteenth-century historical and domestic Romance.\(^2^8\)

To be sure, Brown was no accomplished romancer: he gave no single theme a unique rendering, and offered no imaginative equivalents of the tortured Dimmesdale and demonic Chillingworth in *The Scarlet Letter*, nor of the multivalent Holgrave in *The House of the Seven Gables*, nor of the monomaniacal Hollingsworth and inquisitive Coverdale in *The Blithedale Romance*. Still, Brown inserted these character types in embryonic form.

Both Hawthorne and Brown realized that the pressing issues of their time demanded the language and the psychology of spiritual engagement. As Hawthorne was on the edge of what remained a Bible culture, so Brown was steeped within it, and each saw—Hawthorne with irony, Brown with conviction—that the intrusion of secularization required a rhetoric of excess where materiality and spirituality could mingle.\(^2^9\) Symbolism, in particular, took on a double

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28. See generally George Dekker, *The American Historical Romance* (Cambridge: Cambridge University Press, 1987), and Gillian Brown, *Domestic Individualism: Imagining Self in Nineteenth-Century America* (Berkeley and Los Angeles: University of California Press, 1990).

29. The essential point of how the deterioration of a sense of the sacred leads to a "literary aesthetic of excess" or melodrama is made by Peter Brooks, *The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess* (New Haven: Yale University Press, 1976), 1-23, 198-206. Brooks identifies, in melodrama, many of the elements that make up the American Romance, including pressure on a surface reality through levels of understanding, an
significance in the material and spiritual worlds. Brown, with Hawthorne, assumed that he was "allowed a license with regard to everyday Probability," that the rhetorician looked for "an available foothold between fiction and reality," that fact and invention necessarily intersected in achieving a higher truth, and that the ultimate integrity of a narrative lay not in the details but in "the authenticity of the outline."  

In keeping with these predilections, Brown reached for the "moral" of the far more cynical Hawthorne in *The House of the Seven Gables* when the failure at Harper’s Ferry required an instantaneous reconfiguration of his own understanding. That moral was predictably half-political and half-spiritual in nature. In Hawthorne’s words, “the wrong-doing of one generation lives into the successive ones, and, divesting itself of every temporary advantage, becomes a pure and uncontrollable mischief.” The threat of curse, and the implied necessity of sacrifice and expurgation are the underlying concepts that reach across levels of reality in this statement. Lying wounded on the engine-room floor of the armory at Harper’s Ferry, Brown was able to raise himself through just such “an available foothold,” addressing his captors with perfect equanimity and, hence, considerable eloquence. “You may dispose of me very easily;” he told them, “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.”

This speaker could easily have been a character in *The House of the Seven Gables*. “God will give him blood to drink,” cries Matthew Maule from the gallows, and John Brown, on the way to his own execution, sounded a similar note. “I John Brown am now quite certain that the crimes of this guilty land: will never be purged away; but with Blood.” Crime, guilt, and purgation conflated legal and religious explanations with Brown fused in the roles of judge, prophet, and sac-

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30. These quotations and paraphrases are taken from Hawthorne’s prefaces to his Romances and describe his understanding of the genre. See respectively *The Blithedale Romance*, vol. 3, *The Centenary Edition of the Works of Nathaniel Hawthorne* (Columbus: Ohio State University Press, 1964), 2; and *The Scarlet Letter*, vol. 1, *The Centenary Edition of the Works of Nathaniel Hawthorne*, (Columbus: Ohio State University Press, 1962), 33-36. Subsequent references to these works refer to these editions.

31. Hawthorne, *The House of the Seven Gables*, vol. 2, *The Centenary Edition of the Works of Nathaniel Hawthorne* (Columbus: Ohio State University Press, 1965), 2. Subsequent references to this work refer to this edition.

32. "A Conversation With Brown," in De Witt, *The Life, Trial and Execution*, 49.

33. Hawthorne, *The House of the Seven Gables*, 8. Quoted in Oates, *To Purge This Land with Blood*, 351. The biblical reference for Brown’s comment is Hebrews 9:12-25.
rificial object. The Civil War soon removed the ironies from these identifications and instructed others in their use. Five years later, the trope of sacrifice reached its ultimate expression in Abraham Lincoln's Second Inaugural Address, where again the language, neither specifically religious nor entirely political, would be a deliberate and crafted concurrence of possibilities.34

Where Brown fell short of Hawthorne was in the romancer's adroit orchestration of the variables. Hawthorne was a master in combining ingenuous and ironic ways of reading, in crossing while sustaining the boundary between the domain of the senses and the world of imagination, in exercising the dark inner drives of the Romance, in subversively exploring the inconsistency between the ideal and the real in American life, and in coming to grips with the spectral and yet human quality of all experience.35 Discrepancy was the common element in these procedures, and Hawthorne used it to stress disjuncture and the realm of the grotesque.36 The grotesque was often his calling card, his method of alerting and holding his reader.37

34. Roy P. Basler, ed., "Second Inaugural Address: March 4, 1865," in The Collected Works of Abraham Lincoln, 9 vols. (New Brunswick: Rutgers University Press, 1953-1955), 8: 333. "[If God wills that [this mighty scourge of war] continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said, 'The judgments of the Lord are true and righteous together.']"

35. In this sentence, I include the major assumptions of current leading interpreters of the Romance. For the interplay between ingenuous and ironic ways of reading, see Dekker, "Hawthorne and the Genealogy of American Romance," 78-79. For an interpretation of the crossing or transgressive mode in a performative dialectic between boundary lines, see Evan Carton, The Rhetoric of American Romance: Dialectic and Identity in Emerson, Dickinson, Poe, and Hawthorne (Baltimore: Johns Hopkins University Press, 1985). For a summary of the extensive scholarship on "all those dark, inner, asocial drives of the self which the very notion of the 'American Romance' has encouraged us to ponder," see John McWilliams, "The Rationale for The American Romance," Boundary 2 17 (Spring 1990): 72-73. For the subversive tendencies of the Romance and its tendencies in sacrificing the relation between levels of reality, see Michael Davitt Bell, The Development of American Romance: The Sacrifice of Relation (Chicago: University of Chicago Press, 1980), and Frederick Newberry, "A New Perspective on the American Romance: A Review Essay," Poe Studies 14 (December 1981): 33-39. For the pivotal connection of the spectral and the human in the Romance, see E. Miller Budick, "The World as Specter: Hawthorne's Historical Art," PMLA 101 (March 1986): 225ff.

36. For a recent emphasis on the grotesque in the American Romance, see generally Robert S. Levine, Conspiracy and Romance: Studies in Brockden Brown, Cooper, Hawthorne, and Melville (Cambridge: Cambridge University Press, 1989). For a specific explanation of how the grotesque works in literary representation, see generally Robert A. Ferguson, "The Grotesque in the Novels of F. Scott Fitzgerald," The South Atlantic Quarterly 78 (Autumn 1979): 460-77.

37. Thus, for example, Hawthorne turns literally to "the corpse of dead activity" in "The Custom-House" preface to The Scarlet Letter. The deceased surveyor Jonathan Pue, or rather his "imperfect skeleton" under "a wig of majestic frizzle," rises from the grave to enjoin Hawthorne to tell his tale. It is "as if the ancient Surveyor, in his garb of a hundred years gone by, and wearing his immortal wig,—which was buried with him, but did not perish in the grave,—had met me in the deserted chamber of the Custom-House." This "ghostly hand" and "ghostly voice" are more than matched by other corpses, which are still caught in "the convulsive throes of cholera" or which "stared me in the face with a fixed and ghastly grin of contemptuous defiance." See Hawthorne, The Scarlet Letter, 29-33, 39, 34. Ghosts, of course, appear everywhere in Hawthorne's stories, but for particularly powerful renditions of the grotesque in his Romances, see "Governor Pyncheon," where the narrator dances for an entire
Brown could lack all of Hawthorne’s talents and still achieve the effect. Character and circumstance supplied the grotesque at Harper’s Ferry, and they needed no orchestration. The discrepancy that arrested antebellum Americans depended on the vexed aura of slavery—Northern horror of it and Southern fear of insurrection within it—but the grotesque also depends on the concrete, and the events at Harper’s Ferry supplied that ingredient in abundance. Take, for example, John Brown under siege pacing the armory with two of his sons dying around him and responding to one’s cries of agony with the rebuke “if you must die, die like a man.” Or, alternatively, see the enraged local populace slicing off the ears and beating one dead raider, Dangerfield Newby, with sticks before allowing hogs to root at the body. Consider the mob seizing and slaughtering Will Thompson, another raider held captive, and then using his corpse for target practice. In eyewitness accounts, “the cries and screams [of the dying] made one’s flesh creep.” Watson Brown, for one, was shot through under a flag of truce. Later, his body was taken to the Winchester Medical College, where it was “skinned, and the skin varnished, after which a dispute arose whether it should be kept whole or stuffed, or cut up for game pouches.” There was no shortage of the grotesque at Harper’s Ferry, and over it all impended the bizarre personality of John Brown himself.

The figure of Brown occupied the boundary line between worlds: “an angel of light” to his supporters, and among “the foes of the human race” to his executioners. His skill at trial and during punishment came in his recognition and use of this liminality. A transgressor by definition, he turned the courtroom into an exploration of discrepancies where the ideal and the real changed places, and where the spiritual supplanted the merely legal. The fact of transgression forced either a re-articulation of values or an enunciation of new ones in the moment of reversal, and the relation to formal literary expression in this game of levels did not go unnoticed. Henry Thoreau’s appraisal in “The Last Days of John Brown” insisted on Brown’s literary character. Brown’s commentary from prison and while on trial formed

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38. The best overall source for these details is Oates, *To Purge This Land with Blood*, 294-99, 356; see also “The Last Hours of the John Brown Raid: The Narrative of David H. Strother,” ed. Cecil D. Eby, *Virginia Magazine of History and Biography* 73 (April 1965): 169-77. The quotation about the treatment of Watson Brown’s body is from Truman Nelson, “John Brown Revisited,” *The Nation* 135 (August 31, 1957): 86-88.

39. The first quotation in this sentence is from Henry Thoreau, “A Plea for Captain John Brown,” 190. Thoreau delivered these words on 30 October 1859, in Concord in one of the first public defenses of Brown. The second comment, from Colonel J. T. L. Preston of the Virginia Military Institute, came at the moment of Brown’s execution. In full, the comment reads: “So perish all such enemies of Virginia! All such enemies of the Union! All such foes of the human race!” Quoted in Oates, *To Purge This Land with Blood*, 352.
"an American book" like no other. "I do not know of such words, uttered under such circumstances, and so copiously withal," concluded Thoreau, "in Roman or English or any history."40

Literature operated as more than an analogy in Thoreau's explanation of Brown's importance. "[S]ee what a work this comparatively unread and unlettered man wrote within six weeks," observed Thoreau. "Where is our professor of belles-lettres, or of logic and rhetoric, who can write so well?" Brown succeeded because he understood that "the art of composition is as simple as the discharge of a bullet from a rifle" and because his own transition from lawless raider into courtroom defendant transformed "a material weapon, a Sharp's rifle" into "the sword of the spirit."41 The power and immediacy of Thoreau's images should not disguise their standard place within the literary parlance of the times. The goal of interpretation is, once again, self-dramatization (words as bullets) and the hope for transformations between the material and spiritual realms. The ascendancy of the spiritual within the material, thought Thoreau, was precisely the quality that allowed Brown to "answer more wisely than all his countrymen beside."

Brown, like Hawthorne, resolved the competition of different realities into an expression of higher truth, but where Hawthorne relied on aesthetics and artistic control, Brown emphasized the exercise of principle in action. What was it that separated Brown from others who attempted to rescue slaves and who were executed for it? Thoreau answered the question by emphasizing the "devotion to principle" in Brown's words at trial. Brown "forgot human laws, and did homage to an idea." In this expression of principle, "the North, I mean the living North was suddenly all transcendental" in a context where "transcendental" signified the courage to see past the failure of human law in a recognition of "eternal justice and glory."

For Thoreau, anyone's inability to accept Brown's words indicated a larger failure of comprehension in a reader. Again the terms of reference were ones of literary interpretation. Those who thought of John Brown "as an ordinary felon" had lost their spiritual way and their aesthetic bearings. It was no accident that Thoreau's condemnation of the merely material opponent in "The Last Days of John Brown" was a virtual paraphrase of Hawthorne's similar mockery of insensitivity in "The Custom-House" of The Scarlet Letter. "They have either much

40. The quotations here and in the next four paragraphs regarding Thoreau's critique of Brown are all from Thoreau's short address read at John Brown's official burial service in North Elba, New York on 4 July 1860, "The Last Days of John Brown," 192-98.
41. Thoreau uses the same metaphor in a slightly different way but with the same sense of Brown's higher consciousness of expression in his earlier essay on Brown, "A Plea For Captain John Brown," 182-83: "He could afford to lose his Sharp's rifles, while he retained his faculty of speech—a Sharp's rifle of infinitely surer and longer range."
flesh,” wrote Thoreau of those who did not understand Brown, “or much office, or much coarseness of some kind. They are not ethereal natures in any sense.” The true reader of Brown, like Hawthorne’s romancer, who tried “to live throughout the whole range of his faculties and sensibilities,” matched contrasting worlds in the name of the spirit. “How can a man behold the light who has no answering inward light?” Thoreau asked. 42

In transcendentalist circles, deciding for or against Brown reflected directly on a general literary capacity. “Show me a man who feels bitterly toward John Brown, and let me hear what noble verse he can repeat,” sneered Thoreau. “He’ll be as dumb as if his lips were stone.” For the same reason, mutual recognition of Brown’s achievement supplied a form of literary solidarity. Thoreau, Ralph Waldo Emerson, Bronson Alcott, Louisa May Alcott, Lydia Maria Child, Theodore Parker and others lionized Brown in part because they identified in him an intellectually and emotionally kindred enterprise. They wanted to see him in their own terms, and Brown’s unfolding trial gave them the means. 43

When Thoreau wrote that he knew “of nothing so miraculous in our history” as the “meteor-like” last six weeks of Brown’s life, he meant that communal responses had acclaimed Brown’s importance in an unprecedented fashion during his trial and punishment. “No theatrical manager,” he concluded, “could have arranged things so wisely to give effect to [Brown’s] behavior and words.” The trial, in effect, became a providential stage for testing affinities, something best appreciated in the actual juncture of theatricality and legal procedure practiced in the courtroom at Charlestown, Virginia. 44

42. Compare Thoreau’s unworthy readers with Hawthorne’s uncomprehending companions in the Custom-House: “the Collector, our gallant old General” with his “weight, solidity, firmness,” the narrow “man of business,” “men of traffic,” and the other inspectors, none of whom “share in the united effort of mankind.” Compare, as well, each writer’s search for the true reader, the “heart and mind of perfect sympathy,” in Hawthorne’s phrase. Behind both writers’ comments was Hawthorne’s recognition that “thoughts are frozen and utterance benumbed unless the speaker stand in some true relation with his audience.” Hawthorne, The Scarlet Letter, 3-4, 20-25, 38-40, 44.

43. For one reading of Thoreau’s “selective vision” of Brown, one in which Thoreau is found to identify more powerfully with Brown than with any other figure in history, see Michael Meyer, "Thoreau’s Rescue of John Brown from History," Studies in the American Renaissance, 1980: 301-16. For a more general treatment of how the writers of the American Renaissance reached for communal solidarity, see Donald Pease, Visionary Compacts: American Renaissance Writings in Cultural Context (Madison: University of Wisconsin Press, 1986).

44. Although many commentators have noted the power of Brown’s words while on trial, most ignore the formal context of those words and, curiously, give the trial itself cursory treatment. The compilation of materials on John Brown by Richard Warch and Jonathan Fanton devotes less than five of 178 pages to the trial. Stephen Oates’ definitive biography of Brown describes the trial itself in four pages. See Warch and Fanton, John Brown, 79, 81-84 and Oates, To Purge This Land with Blood, 324-27.
IV

The Circuit Court of Jefferson County, Virginia labored under an enormous strain during the trial of John Brown. A community is always on trial in the courtroom of a republic of laws, but when a community is seriously divided, as this one was, the pressure on courtroom procedures increases dramatically. The raid on Harper's Ferry by abolitionists had unleashed fears of rampant illegality in Virginia—so much that more than a thousand armed troops were guarding Brown in Charlestown from the daily rumored terrors of the lynch mob and the rescue party, with the possibility of a slave insurrection thrown in. Criticized from all sides, local leaders feared that Jefferson County was about to become "the seat of war."45 They were, in consequence, particularly anxious that legal decorum, the minimal public test of a functioning community, be preserved in Brown's trial.

At the outset, Judge Richard Parker, speaking for the Circuit Court on October 21st, articulated the crucial connection between legal decorum and communal identity in charging the Grand Jury of Jefferson County to help provide "a fair and impartial trial" for Brown and his men. "We owe it to the cause of justice as well as to our own characters," he observed, "that such a trial should be afforded them."46 In the North, the New York Times spelled out the implications of Parker's words:

We know of no better test of the civilization and soundness of a State than the tone of her judges and Bar, in dealing with a case of this kind in a time of great popular excitement.... The world will always take it for granted that a community which produces judges, who preserve their composure, their honor, in the midst of tumultuous passions, is sound at the core.47

Composure was a struggle for any Virginian on October 21, 1859, two days after Brown's raid. Judge Parker told the Grand Jury:

I will not allow 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,

45. See, in particular, Kenneth L. Smith, "Edmund Ruffin and the Raid on Harper's Ferry," Virginia Cavalcade 22 (1972): 28-37; Craig Simpson, "John Brown and Governor Wise: A New Perspective on Harper's Ferry," Biography 1 (Fall 1978): 15-38; Isaiah A. Woodward, "Document: John Brown's Raid at Harper's Ferry and Governor Henry Alexander Wise's Letter to President James Buchanan Concerning the Invasion," West Virginia History 42 (1981): 307-13; and Donald Brooks Kelley, "Harper's Ferry: Prelude to Crisis in Mississippi," Journal of Mississippi History 27 (November 1965): 351-72. By the time of Brown's execution on December 2nd, there were 4,000 additional men under arms in Virginia and thousands more in the other Southern states.

46. De Witt, The Life, Trial and Execution, 50. All further references to this account of the trial are noted parenthetically in the text.

47. "The Virginia Judiciary," New York Times, 24 October 1859.
raise the standard of insurrection amongst them, and shoot down without mercy Virginia Citizens, defending Virginia soil against their invasion (p. 50).

These words shed light on the complex relation between decorum, fairness, and communal identity in Judge Parker's courtroom, and they help explain how decorum there became the pivotal term between fairness and identity. Parker wanted to exclude from deliberation the potent emotions that Virginians possessed on the issue under investigation ("those feelings which at once spring up in every breast"). By the same token, Parker's personal denial ("I will not permit myself") readily attested to negative emotions supposedly banished from the courtroom. When the Judge talked of "the enormity of the guilt" of those "who invade by force," who "raise the standard of insurrection," and who "shoot down without mercy," his own feelings could not have been clearer. A controlling narrative was already in place before the Grand Jury heard a shred of evidence.

Decorum, in this construct of denial and assertion, signified not the absence of emotion but a hermetically sealed zone of restraint and order. Legally, it meant confining public behavior within procedurally sanctioned norms and formal conventions. Anything else, local authorities feared, might induce communal breakdown. The ritual acceptance by all participants of the constraint of an assigned role in the courtroom closed out the extraordinary circumstances in question, demonstrating fairness and re-articulating communal values.

In typical expressions of this theme, Judge Parker appeared "desirous of trying this case precisely as he would try another, without any reference at all to outside feeling" (p. 83), and the prosecution promised "to avoid anything by way of argument or explanation not immediately connected with the particular issue to be tried" (p. 67). Only in this way could the procedure of Brown's trial and conviction "vindicate the majesty of the law" (p. 93). Communal patience was essential, in the words of the prosecution, "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" (p. 93).

Virginians realized through such statements that Virginia joined Brown on trial in Charlestown, and their realization led them to act out the strictest rule of legal decorum in defense of their communal reputation. A minor incident recorded in the trial transcript underscores the point. As Brown, easily the most hated man in Virginia on November 2, 1859, formally received the sentence of death, the "perfect quiet" of the courtroom was broken by "the clapping of the hands of one man in the crowd." But if proprieties had been shattered, the celebrant, in the trial stenographer's gloss, "is not a resident of Jefferson County," and he "was promptly suppressed, and much regret is
expressed by the citizens at its occurrence” (p. 95). Elsewhere, the transcript pauses to congratulate the trial audience for hiding emotions out of respect for “the forms of the Court.”\footnote{48}

Every courtroom formally depends upon the careful observance of protocol and ritual, but the standard established in Charlestown left the Circuit Court of Jefferson vulnerable from two directions. First, the idea of excluding from the legal process the imaginative thrust of events that totally absorb a community was inherently defective. Courtrooms, as arbiters of social conduct, are extensions of the community in which they function. Virginians needed to express the very feelings they suppressed, as Judge Parker’s statements already have illustrated. Second, decorum requires the participation of everyone, and Brown, who openly sought martyrdom through the court’s ultimate capacity to punish, had few incentives to cooperate on anything but his own terms—terms that were quite distinct from those imposed upon him. Just as the Virginia court wished to protect the events in the courtroom from outside, so Brown’s personal needs led him to open those events to the largest possible communal discussion and debate.

Several consequences followed from the vulnerabilities of the court, and they all favored Brown’s capacity to make the most of his situation. When intrusions from the outside came, they reinforced extant questions about the fairness of Brown’s trial; the very concept of a sealed-off fairness invited these criticisms. Furthermore, the accents on decorum converted Brown’s occasional disruptions in the courtroom into especially effective, even sensational episodes at trial. Only Brown could be dramatic in the courtroom. The court had already assigned itself as mundane a role as possible (“without any reference at all to outside feeling”), and Brown quickly established that the price of any display by the prosecution would be either disengagement or further disruption on his part.

The result was a curious imbalance. Brown lost his formal case at each stage of the decision-making, both procedurally and substantively, but his threats of disruption led to concession after concession from the prosecution and the court, both of whom were anxious to obtain and keep his minimal cooperation as matters proceeded. Brown gradually became an independent agent in his own trial, left to pursue his own ulterior purposes. By the fourth day of the adversarial proceeding, he was freely instigating and carrying on “a general collo-

\footnote{48. Thus, at the announcement of the jury’s verdict, we find the following: “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.” De Witt, \textit{The Life, Trial and Execution}, 93.}
“No objection was made,” runs the transcript of these moments, “to Brown’s asking these questions in his own way, and interposing verbal explanations relative to his conduct” (p. 80).

Here is one key to Brown’s sudden cultural transformation. Crossing boundary lines and assuming control amidst the necessarily unimaginative rigidities and official constraints of the courtroom, Brown became the figure of romance that Ralph Waldo Emerson described. He entered that “medium the most suitable for a romance-writer” of Hawthorne’s description, “a neutral territory, somewhere between the real world and fairy-land, where the Actual and the Imaginary may meet, and each imbues itself with the nature of the other.” Neutrality, in this sense, implies converging but still fundamentally divergent possibilities that inform each other; or, in another similarity between the courtroom event and the Romance narrative, it reflects the intrinsic and necessary ambiguity of opposing interpretations.

The decorum of the courtroom was a starting point, a baseline for the imagination to rest upon while it searched other realities for answers to the fantastic and the bizarre in Brown and his raid. Disruptions of that decorum encouraged speculation beyond it. Those in favor of Brown quickly grasped the exaggerations of his effect. Those against him found plenty of scope for casting him back into the darkness from which they thought he had come.

Since the decorum of a trial embraces the extremity of competing interpretations as part of the essence of the advocacy system, it often contains other worlds of interpretation in embryonic form. When, for example, the South demonized Brown, it needed to look no farther than the trial transcript for confirmation. The conventions of Brown’s indictment for treason specified that he and his followers acted “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” (pp. 59-60). The prosecution easily advanced this discourse of evil incarnate. It wanted to punish “those who have raised the black flag on the soil of this Commonwealth” (p. 66), a crime after which “there could not be a female in this country who, whether with good cause or not, was not trembling with anxiety and apprehension” (p. 83). In the prosecu-

49. Hawthorne, The Scarlet Letter, 35-36.
50. The Southern need to demonize Brown is virtually automatic in its workings. In the typifying words of one eyewitness recollecting his first reactions to the raid, “I must confess that through my mind floated vague visions of horns and hoofs and forked tails, for be it remembered I was very young, had never been north of Mason and Dixon’s line, and from my tenderest years had been led to regard abolitionists as being nearly allied to his Satanic Majesty.” Edward White, “Eyewitness at Harper’s Ferry,” American Heritage 26 (1975): 57.
tion’s proof of malice, Brown “glories in coming here to violate [Vir-

ginia’s] laws” (p. 93) and everything those laws protect. Even a

prospective attorney for Brown from the North occupied a zone of

magnified possibilities. “We know not,” warned the prosecutor,

“whether he is to come here as counsel for the prisoner, or whether he

wants to head a band of desperadoes” (p. 65).

These statements and others like them bespoke a melodrama of fire

and brimstone against a backdrop of desperadoes and frightened

maidens. Two artifacts, in particular, controlled the demonizing nar-

rative. Brown’s provisional constitution, written out for an abolition-

ist state, proved his premeditated and overarching malignancy; there

was simply “too much method in Brown’s madness” (p. 92). Doubly

horrifying as symbols were the pikes that Brown had brought to

Harper’s Ferry to arm the slaves. They, in fact, substituted for narra-

tive.51 “When you put pikes in the hands of the slaves, and have their

masters captive,” intoned the prosecutor in his final summation, “that

is advice to slaves to rebel, and punishable with death” (p. 92). The
duty of the court was clear, though even death proved a temporary

measure in the prosecutor’s scheme. As he told the jury, “let retribu-

tive justice, if he is guilty, send him before that Maker who will settle

the question forever and ever” (p. 93).

From the other side of the case, Brown figured as God’s agent. He

set the tone himself on the first day of the trial by claiming that “God

has always been at his side” (p. 58). Procedurally, “full confidence in

the goodness of God” removed any need for a legal confession of

criminal action; Brown “knows God is with him and fears nothing” (p.

58). The statement immediately established the defendant’s spiritual

explanation of his own courage during his trial and later execution.

That courage was considerable, and not even Brown’s enemies denied

disignificance.52 When Virginia Governor Henry A. Wise, who

orchestrated Brown’s trial, employed the colloquial terminology of

the cockfight to admit that Brown is “the gamest man I ever saw,” the


51. These pikes held attention in the South like no other aspect of the Brown raid, and

regional firebrands, understanding as much, sent them for prominent display to each of the

governors of the fifteen slaveholding states. Edmund Ruffin, the Southern extremist who

travelled to Harper’s Ferry and went to great lengths to witness Brown’s execution in

Charlestown, led the way. He inscribed his gifts of these weapons with slogans like “Sample of

the favors designed for us by our Northern Brethren” and “The most precious benefit derived

from the Northern states by the Southern, if, rightly using it, ‘out of this nettle danger we plant

the flower safety.’” The pikes were to remind all Southerners of the need for “defence against

all assaults from the unscrupulous and measureless enmity of Northern Abolitionists.” Smith,

“Edmund Ruffin and the Raid,” 37.

52. Even Edmund Ruffin, who attended Brown’s execution in the hope of seeing the
doomed man falter, grudgingly admitted that “the villain whose life has thus been forfeited,
possessed but one virtue (if it should be so called) or one quality that is more highly esteemed by
the world than the most rare and perfect virtues. This is physical or animal courage, or the most
complete fearlessness of and insensibility to danger and death. In this quality he seems to me to
have had few equals.” Quoted in Smith, “Edmund Ruffin and the Raid,” 36.
earthy validation had a higher integrity. "He is a bundle of the best nerves I ever saw.... He is a man of clear head, of courage, fortitude and simple ingeniousness," noted Wise. "He is cool, collected and indomitable... and he inspired me with great trust in his integrity as a man of truth."  

With the connection between physical courage and truthful integrity acknowledged by all, the next step, from physical courage toward the superiority of the spirit in moral courage, was an automatic one for Brown's defenders and later followers. In the trial transcript, Brown's behavior in crucial moments confirmed at least the appearance of that superiority. A dramatic description of the verdict, "terrible to look upon," gave Brown "the only calm and unruffled countenance" in the courtroom: "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" (p. 93). As ritual, the penultimate moment of conviction on October 30th was a ceremonial and accurate precursor for the execution on December 2nd. Completely "calm and cheerful" on the way to the gallows, Brown would bid "an affectionate adieu" just before taking the final plunge. "I am waiting the hour of my public murder with great composure of mind and cheerfulness," he had explained in a last letter to his family, "feeling the strong assurance that in no other possible way could I be used to so much advantage to the cause of God and of humanity. . . . [O]ur seeming disaster will ultimately result in the most glorious success."

Martyrdom marks the ultimate boundary between flesh and spirit—between the grotesque reality of total bodily humiliation and the sublime imagination of eternal life. Brown's courage allowed supporters to predict his martyrdom from the moment of his capture, and their foreknowledge contributed to his own performance on the boundary line. "Let Virginia make him a martyr!" cried Henry Ward Beecher in

53. Quoted in Simpson, "John Brown and Governor Wise," 17.

54. Emerson and Thoreau both used Wise's acknowledgement of Brown's courage to paint a portrait of the latter's inherent superiority. "High courage, or a perfect will superior to all events, makes a bond of union between two enemies," wrote Emerson. "Inasmuch as Governor Wise is a superior man, he distinguished John Brown." Quoted in John J. McDonald, "Emerson and John Brown," The New England Quarterly 44 (1971): 385. See also Thoreau, "A Plea for Captain John Brown," 175-76. During the trial, Brown's attorneys made much of their client's integrity through his courage. Brown, in their words, was "actuated by the highest and noblest feelings that ever coursed through a human breast. . . . He is a man of indomitable will, of sleepless energy, and 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." The defense explicitly asked the jury to make its decision by following the same upward trajectory from physical to moral courage. De Witt, The Life, Trial and Execution, 67, 89.

55. De Witt, The Life, Trial and Execution, 100-101. This account of the execution received extensive circulation at the time.

56. John Brown to his Family, 30 November 1859, quoted in Warch and Fanton, John Brown, 100.
a sermon on October 30, 1859. "Good," wrote Brown on his own copy of a newspaper report of the suggestion. Writing letters in the weeks before his execution, Brown carefully located himself within the hagiographical tradition. He was Peter armed with the sword, Paul in prison, Samson overturning the house of slavery around him, even Christ on the cross. Lest a precise religious allusion be missed, Brown supplied parenthetical references. The letters reached for a sense of station as God's chosen servant—and something more. With a humble demeanor that would help Emerson to compare the gallows to the cross, Brown concluded: "Let them hang me; I forgive them, and may God forgive them, for they know not what they do."

The dramatic potential of such language was vast in the religious culture of antebellum America, and Brown wielded it to achieve a purification in martyrdom. At work in the borrowed words of Jesus—"for they know not what they do"—was yet another indication in levels of meaning. For if an earlier age might have found presumption in Brown's appropriation, the Americans of the 1850s had been schooled to accept a rhetoric of excess. Brown as Christ was a theatrical effect rather than a blasphemous gesture. At the same time, Brown's courage represented a natural fact in a world that still believed natural facts prefigured spiritual truths. The language of

57. Quoted in Oates, To Purge This Land with Blood, 319. From Italy, writing a week before Brown's death, Theodore Parker summarized the ingredients in the claim: Brown will die, I think, like a martyr, and also like a saint. His noble demeanor, his unflinching bravery, his gentleness, his calm, religious trust in God, and his words of truth and soberness, cannot fail to make a profound impression on the hearts of Northern men; yes, and on Southern men. Theodore Parker to Francis Jackson, 24 November 1859, in Ruchames, A John Brown Reader, 265-66. Thoreau, writing "A Plea for Captain John Brown" while Brown was still alive, observed, "I am aware that I anticipate a little . . . I have all along found myself thinking and speaking of [Brown] as physically dead." Thoreau, "A Plea for Captain John Brown," 181.

58. These biblical references are frequent and varied in Brown's prison letters. See Brown to "E.B.", 1 November 1859, in Warch and Fanton, John Brown, 90. ("You know that Christ once armed Peter. So also in my case I think he put a sword into my hand"); Brown to his family, 30 October 1859 ("I am in charge of a jailer like the one who took charge of Paul and Silas"), ibid.; Brown to Reverend James W. McFarland, 23 November 1859 ("I think I feel as happy as Paul did when he lay in prison"), ibid., 96; Brown to Reverend Dr. Heman Humphrey, 25 November 1859 ("If the cause in which I engaged in any possible degree approximated to be 'infinitely better' than the one which Saul of Tarsus undertook, I have no reason to be ashamed"), ibid., 98; Brown to his family, 8 November 1859 ("Remember, my dear wife and children all, that Jesus of Nazareth suffered a most excruciating death on the cross as a felon, under the most aggravated circumstances"), ibid., 92; Brown to Reverend H.L. Vaill, 15 November 1859 ("I, at least, am on the 'brink of Jordan.' (See Bunyan's 'Pilgrim')"), ibid., 94.

59. Brown to Reverend James W. McFarland, 23 November 1859, in Warch and Fanton, John Brown, 96. Emerson's comment that John Brown "will make the gallows glorious, like a cross" appeared in a Boston lecture entitled "Courage" on 7 November 1859, quoted in McDonald, "Emerson and John Brown," 386-87. Emerson removed the comment from the published version of the essay.

60. Peter Brooks's study of melodrama includes an analysis of the way that the idea of the sacred gives way to melodrama as "a literary aesthetic of excess." In America, still basically a revivalist culture in the 1850s, the sacred and the melodramatic interact with a peculiar intensity. Also, the forms of belief (specifically, a framework of typological reference) remain as much a part of Ralph Waldo Emerson's prose as of Jonathan Edwards's writing a century before. In
prophecy and of religious parallels fell within familiar parameters of belief that appealed to friend and foe alike. One way or the other, the display of Brown's courage at trial was going to have another meaning, and his followers used this assumption to transfigure his image fundamentally.61

V

With the complex variables of secular and religious explanation more firmly in mind, we are now in a position to understand how Brown's intrusions and disruptions during the trial process provided him with "a neutral territory" for accessing multiple frames of reference. The prospect of martyrdom freed him from the puny civic threats in the criminal action against him. Brown was in but not of the world, in but not under the constraints of legal procedure. "I am ready for my fate," Brown announced at the beginning of his first day in court, a pro forma preliminary hearing before a magistrate's court. Five times in this first short appearance he would ask "to be excused from the mockery of a trial" (p. 55). The opportunity to speak came because the court had to inquire if the prisoner had counsel, and Brown seized the occasion. "If you seek my blood," he answered, "you can have it at any moment, without this mockery of a trial" (p. 55). Brown's only other formal request was also rhetorically aimed: "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" (p. 55).

No opening strategy could have been better calculated to put the Virginia authorities on the defensive. The perception of fairness through decorum was important to Charlestown leaders as a symbol of their own civilization. Brown began by challenging their claim and the very notion of fairness in forms: "But if we are to be forced with a mere form—a trial for execution—you might spare yourselves that trouble" (p. 55). Brown, as would-be martyr, needed the ritual of the trial as much as the authorities did, but he first had to secure the event for his own purposes.

Indifferent to the actual procedures that were leading toward his execution, Brown challenged them closely in the courtroom (and with Emerson's words from "Nature," "every natural fact is a symbol of some spiritual fact." Brooks, The Melodramatic Imagination, 200-202. See also Perry Miller, "From Edwards to Emerson," in The Errand into the Wilderness (1956; reprint, New York: Harper & Row, 1964), 184-203; Ralph Waldo Emerson, "Nature" in The Complete Essays and Other Writings of Ralph Waldo Emerson, ed. Brooks Atkinson (New York: Random House, 1940), 15.

61. The purification of Brown's image is an interesting separate topic. For just two quick examples from an enormous literature, see Louisa May Alcott's "With a Rose that Bloomed on the Day of John Brown's Martyrdom" ("And the gallows only proved to him/ A stepping-stone to heaven"), and John Greenleaf Whittier's "Brown of Osawatomie" ("And round the grisly fighter's hair/ The Martyr's aureole bent!"), both in Ruchames, A John Brown Reader, 271, 295.
an impunity born of indifference) in order to put himself above them. The prosecution wanted to prove the criminality of Brown’s behavior at Harper’s Ferry. He responded with a legal non sequitur, proclaiming the selflessness of his own actions. Of no use to the defendant, the strategy was crucial to the parallel agenda of the martyr, but Brown could implement this plan only after he had extracted an extralegal right of procedural flexibility from the court. Accordingly, his earliest challenges established a position from which he could successfully resist the prosecution’s later charges of irrelevancy.6

A single sentence from the transcript best captures the essence of Brown’s overall position as well as his awareness of his adversaries’ vulnerability in Charlestown: “I wish for counsel if I am to have a trial,” he observed in the first stage of a continuous battle over the assignment of counsel, “but if I am to have nothing but the mockery of a trial, as I have said, I do not care anything about counsel” (p. 56).63 His real concern, as he eventually admitted, was that “if he has counsel he will not be allowed to speak himself,” and he cooperated only after court and assigned counsel, in the first of many concessions, promised to “give him the advantage of every privilege that the law will allow” (p. 58). Throughout, Brown also used these extended debates over the right to counsel to serve notice that any “insult” would trigger a challenge to the fairness of the proceedings and the authority of the court.

Brown disrupted proceedings once each day that he was in court—just often enough to maintain the threat. Quiet most of the time, he chose his moments carefully, and this restraint is suggestive since violations of due process and other opportunities for protest proliferated in the course of the trial. Afraid of the incendiary atmosphere in Charlestown, Governor Wise ordered the prosecution of Brown and his followers within a week of their capture, and this was done even though Brown, wounded during the raid, could not stand unassisted at his own arraignment and declared himself seriously incapacitated (pp. 58, 62).64 Possibilities for challenge were everywhere. Brown had no

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62. Most of Brown’s defense, on the fourth day of his trial, deals with his fair treatment of his hostages, his “purely defensive” use of weapons, his bravery, and the absence in him “of any malicious feeling.” The prosecution, in exasperation, conceded all of these points while dismissing the whole strategy “as merely calculated to waste time.” It was a waste of time for the defendant, but not for the martyr. In return for the court allowing these defenses, Brown tacitly withdrew from a position of procedural non-cooperation. De Witt, The Life, Trial and Execution, 79-81.

63. For Brown’s manipulation of his own legal counsel, see note 13 above.

64. The court’s explicit admissions of the need for haste, in the trial transcript, are questionable procedurally in themselves and should have supplied grounds for delay, change of venue, and later, for prejudicial error. “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.” De Witt, The Life, Trial and Execution, 58. See also ibid., 62-63, 78-79.
real chance to consult with his attorneys before trial (p. 55), defense counsel changed completely three times during the course of the six-day event without benefit of recess (pp. 55, 72, 78), and the Governor's special prosecutor, Andrew Hunter, should have disqualified himself on the grounds of a conflict of interest. Brown and his attorneys raised each of these issues except the last, but they did not stress them (pp. 55, 62, 63, 65, 66, 76). Brown, for his part, deliberately ignored other apparent chances to object. He failed, for instance, to challenge a single person during jury selection.

Obviously, Brown's motivation for disruption had nothing to do with due process. Brown wanted instead for trial rituals to dignify spiritual objectives and for them to broadcast his mission beyond the courtroom; somehow these rituals had to be extended to reach the separate narratives accessible to him. The courtroom had to serve as a catalyst, and it had to do so over the prosecution's complaints of "outdoor effect and influence" (p. 75) and over its specific objections to Brown's tactics "outside of what the laws recognize" (p. 65). It is significant, then, that the most blatant manipulation also fed the claim of martyrdom. Brown exploited the wounds he had received from the fighting at Harper's Ferry. Forced to stand trial while still suffering from painful sword cuts, he reacted by refusing to walk. The ensuing compromise allowed the defendant to be carried into the courtroom on a cot—an arrangement the prosecution quickly came to regret (pp. 63-64, 66).

Whether languishing or rising in rejoinder, Brown used his bed of pain to repropose the extraordinary circumstances that the court wanted to exclude from the legal process. The cot was an emblem of current affliction and a symbol of final suffering to come, and it turned Brown's presence at trial—"laid down on his cot at full length within the bar" (p. 64)—into a visible act and constant reminder of his courage. Inherently theatrical, this cot in the courtroom was the prop of a knowing performer. In those trial moments Brown appeared to be prostrate, exhausted, and seemingly indifferent. Such moments included his indictment (p. 66), the march of prosecution witnesses on the second day of trial (pp. 68-71), the closing arguments of counsel (pp. 84, 93), and the jury's verdict (p. 93). Brown could disregard what he pleased. Sometimes he dismissed the trial altogether—cover-

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65. Andrew Hunter, the special prosecutor of Governor Henry A. Wise, was a relative of a militiaman from Charlestown, Henry Hunter, who openly admitted on the witness stand that he murdered a defenseless captured raider, Will Thompson, at Harper's Ferry. Prosecutor Hunter was also related to one of the victims at Harper's Ferry, the mayor of the town, Fontaine Beckham. De Witt, The Life, Trial and Execution, 74-76; Oates, To Purge This Land with Blood, 296-97, 309, 325. Oates gives his own summary of violations of procedural due process.

66. Oates, To Purge This Land with Blood, 309.
ing himself completely, closing his eyes, and, after one dramatic outburst, feigning sleep (pp. 63, 93, 77).

The same cot was also a pulpit for guarding Brown's sense of mission from more explicit challenges in the courtroom. On the second day of trial, as assigned defense counsel introduced evidence of insanity, Brown apprehended a threat to his plan of ultimate sacrifice and moved quickly to refute it.67 “Brown then raised himself up in bed,” runs the court transcript, and declared, “I reject, so far as I am capable, any attempt; to interfere in my behalf on that score.” He “disdain[ed]” the plea and those who made it: “I look upon it as a miserable artifice and pretext of those who ought to take a different course in regard to me . . . and I view it with contempt more than otherwise” (pp. 64-65). References to his own helplessness were peculiarly available to the man on the cot, and they tempered an anger that was now poignant rather than offensive. Thus, when hostile witnesses boasted of shooting “those villainous Abolitionists,” Brown, weeping for his dead followers, staggered again from his mattress to do battle. Although a doomed man “ready for anything that may come up,” he was a more formidable adversary because of it, and he rose without fear or hope to confront everything by relating his physical plight to the procedural imbalances around him (pp. 75-76).

Brown also understood that his own counsel was the best target for demonstrating “that nothing like a fair trial is to be given me.” Provoked, he now exercised that option in stronger terms. “I have no counsel, as I before stated, in whom I feel that I can rely,” he exclaimed, this time in rage and exasperation. Standing feebly by his cot, he was the iconographic verification of the complaint that followed: “I am myself unable to attend to [my defense]. I have given all the attention I possibly could to it, but am unable to see or know about them [the witnesses], 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” (p. 76). This outburst overwhelmed the court. As Brown collapsed once again on his bed, his lawyers resigned, and Judge Parker necessarily declared a postponement until the following morning (pp. 77-78).68

67. The charge of insanity clearly negates all thought of altruistic service and self-sacrifice. Procedurally, if successful as a plea, insanity also thwarts the execution that brings martyrdom as long as Brown behaves properly on the gallows; hospitalization or even imprisonment were clearly ignominious alternatives for this defendant. Brown worries enough about the larger imputation to mount a public relations campaign against it in his letters from prison. See Brown to Reverend Dr. Heman Humphrey, 25 November 1859, and Brown to Judge Daniel R. Tilden, 28 November 1859, in Warch and Fanton, John Brown, 97, 99.

68. In the words of the transcript, “Brown then lay down again, drew his blanket over him, and closed his eyes and appeared to sink in tranquil slumber.” Thomas C. Green, assigned as Brown’s lawyer with Lawson Botts, announces that “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
This incident underlines the fragility of courtroom procedure in general. Adversarial in form, trials nonetheless depend on a high level of cooperation in practice, and any substantial disregard of that cooperation brings the interactive mechanism to a halt. The Circuit Court of Jefferson County asked for the trouble it received by rushing Brown to trial in prejudicial circumstances, but now, in the face of his rejection of its forms, it coped with Brown’s disruption by doing everything possible to induce him back to the level of cooperation needed for the trial to proceed.

The prosecution responded immediately. It withdrew all of its objections to the submission of irrelevant evidence by the defense, granting the latitude that Brown needed to present himself in his own spiritual terms: “we are perfectly willing to admit these facts in any form [the defense] desire[s]” (p. 77). The facts in question had to do with “the conduct of Captain Brown in the treating of his prisoners with leniency, respect, and courtesy” (p. 77), and their formal submission went a long way toward creating the impression of Brown as an efficacious moral force at Harper’s Ferry in place of the confused raider who crouched indecisively in the armory on October 17th.69

The concessions continued: On the morning after Brown’s outburst, the prosecution withdrew every document that Brown’s new team of lawyers disputed (p. 79). The state subsequently agreed not to cross-examine a single witness called by the defense (p. 81), and even offered to forego a final summation before the jury if the defense would do likewise (p. 83). Nothing in these courtroom acquiescences influenced the formal judgment of Brown, but the change in narrative outcome for the listening nation was immense.

Imbalance in the adversarial process helped yield an image of Brown that was larger than life. While the defense emphasized Brown’s restraint, his bravery, his kindly attentions to his hostages, his high moral character, and his indomitable will (pp. 79-81, 89), the prosecution magnified the scope and importance of the raid itself and Brown’s characterological singleness of purpose (p. 92). Lost from both were the petty and ridiculous sides of Brown and in their place a consensus that Brown’s actions carried momentous consequences for all Americans. A blend of these embellished trial perspectives entered the popular imagination. It would be what history bestowed on John Brown—but not before Brown himself gave it a final turn.

69. “The speed with which the countryside had mobilized had taken Brown completely by surprise; flustered, he did not know what to do.... To Osborn P. Anderson [one of the raiders] the old man seemed ‘puzzled’ as he watched the bustle of armed men in the streets and the gray sky beyond.” Oates, To Purge This Land with Blood, 293-94.
VI

The undramatic stresses of legal procedures—their arcane forms, their avoidance of surprise, their insistence on repetition, their claim upon regularity, and their complexity—are stubborn trial ingredients, but they eventually give way to moments of high tension and vital suspense, and the highest, excepting the verdict, is the moment of sentencing. Only here does the public trial allow the person or persons under scrutiny something like free reign. Here defendants receive the right to speak on their own, within but beyond the forms of the law. It is a liminal moment for all concerned. The defendant, found guilty, is passing from the community that made the negative determination to a separate state of isolation in punishment. This moment distills emotion in a way that is otherwise foreign to the rationality of the legal process. It encourages contrition, shame, sorrow, despair, realization, sometimes defiance, and, of course, revelation. In every other aspect of the trial, defendants are encouraged to protect themselves from the world, to hide even from themselves if necessary, protected by the right against self-incrimination. Asked why sentence should not be imposed upon them, they enter a different realm of presumed candor and conscience, without intermediaries, unimpeded by the intrusion of counsel.

John Brown was the perfect master of this moment. Throughout the trial, he had been striving to speak without benefit of counsel, to separate himself from others, to dwell on the meaning of his punishment, and to engage in revelation. The spiritual resonances he had struggled to create elsewhere in the legal process were now his for the asking. As much as the gallows, Brown's speech at sentencing was a necessary platform, and he made the most of both. Emerson would later place Brown's words alongside Lincoln's Gettysburg Address as "the two best specimens of eloquence we have had in this country." 70 It was much earlier, however, that he conveyed most succinctly what eloquence might mean. "The high prize of eloquence may be mine, the joy of uttering what no other can utter & what all must receive," wrote Emerson in 1834. 71 Brown seized that prize before the bench in Charlestown on November 2, 1859. He uttered what no other person could and what all then must receive, and his oration is best examined as living speech.

Brown's words are all the more remarkable in that they begin and end in falsehood. Brown presented twenty-six short, simple sentences; they fill less than a printed page, and ten contain fifteen

70. Ralph Waldo Emerson, "Eloquence," in The Complete Works of Ralph Waldo Emerson (Boston: Houghton Mifflin, 1903-04), 8:125. See generally, McDonald, "Emerson and John Brown," 393-96.
71. Journal entry for 6 October 1834, Porte, Emerson in His Journals, 128.
words or less.\textsuperscript{72} Yet no less than eight of Brown's most declarative sentences, including five of the first six, asserted that he never planned an insurrection of the slaves—a claim that contradicts the facts. His sincerity in court notwithstanding, Brown talked at length about his plans to instigate a slave uprising, and his intentions at Harper's Ferry made no sense without the hope of an insurrection.\textsuperscript{73} Why should a small but heavily armed band of raiders take an armory unless they were looking for weapons for other people? Brown, at trial, had admitted that he already possessed sufficient weaponry to arm 1,500 men, a figure that included the 950 sharpened pikes designed expressly for freed slaves to handle (p. 71).

A second puzzle in the speech may help to explain the first. With his trial nearly over, Brown abruptly disowned his former statements about it: "I feel entirely satisfied with the treatment that I have received on my trial." This admission was part of a subtle recalibration of his strategy of confrontation. With his objective in sight and the whole nation in mind, he was the guardian of freedom everywhere rather than the raider and nightmare of the South. "I never had any design against the liberty of any person," Brown informed a riveted audience. Mission and sacrifice, not insurrection and anger, were his closing messages for the scaffold.

The speaker's realization took the normal sting from his tones, replacing acrimony with elegiac power and stately acceptance. Brown took his life in his hands and told why he must die. God's law in the injustice of a slave land required it of him, and this explanation, cast in the simplest language that biblical cadence will allow, lifted the speaker and his subject well above court and country. It was from the spheres that Brown delivered his firmest rebuke:

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 cases—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

\textsuperscript{72} The analysis and quotations in the next four paragraphs use the version of Brown's last formal speech before the court as it appears in De Witt, \textit{The Life, Trial and Execution}, 94-95.

\textsuperscript{73} For a summary of the evidence that Brown meant to start an insurrection at Harper's Ferry, see Potter, \textit{The Impending Crisis}, 365-68. As Brown told Frederick Douglass, in trying to recruit Douglass for the raid, "I want you for a special purpose. When I strike, the bees will swarm, and I shall want you to help hive them." Oates, \textit{To Purge This Land with Blood}, 283.
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.74

Americans, Brown wanted his audience to realize, had been listening to the wrong stories. Their popular tales of injustice had concentrated on the rich and the powerful, the so-called great or the domestic circle, to the exclusion of both the greatest story, Christ's willing sacrifice for humanity, and the greatest injustice, slavery in America. The terms of Brown's reprimand, like his autobiography, catalogued the themes of the American Romance, but missing from the injustices that his fellow citizens have been willing to entertain in stories was a true spiritual empathy for the human soul in naked distress. This much of Brown's rebuke was aimed at all regions of the country, and his own story was meant as a counterweight. For Brown, the "interference" that produced either high reward or low punishment was the very stuff of dramatic narrative, but the moral conventions of this narrative had been debased all through the land. The ignored slave undermined every other story worth telling.

The speaker understood that even his supporters failed to respect the personhood of African Americans. Few Americans in 1859 would have disagreed with Emerson's brutal summary of his own priorities in 1851: "The absence of moral feeling in the whiteman is the very calamity I deplore. The captivity of a thousand negroes is nothing to me."75 The real calamity was deeper than Emerson could see, and Brown, knowing that, reached for all of its implications by insisting on metaphors of attachment that link him directly to black men and women. He was "bound with" those in bonds and agreed "to mingle my blood further with the blood of my children and the blood of millions in this slave country whose rights are disregarded." Both conceptions, the victim bound and mingling blood, evoked Brown's claim to the sacrificial altar. He was to become what he has suffered for. "I

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74. This passage is the heart or middle of Brown's speech, sentences eight through fifteen of the twenty-six that he offered to the court.
75. Entry from May-July 1851, Porte, Emerson in His Journals, 426.
say let it be done,” he concluded quietly, turning his own death into a logical step toward legal and spiritual emancipation.

Brown never forgot that the clash of peoples around him was also a clash of different worlds. An expression of the 1850s, his five-minute speech before the court placed those separate levels of meaning in a careful spiritual continuum where ambiguities explain each other. Once again, imagination and dramatic effect lie in different levels of reading. The Bible glorifies God’s “despised poor” when properly perceived, and Brown, by referring directly to the Sermon on the Mount, draws attention to the message in its most eloquent form.76 But unfortunately, a correct reading of that message was not possible in the Virginia courtroom or, by extension, in an America that tolerated slavery. If the court acknowledged the law of God, it did not follow it. The witnesses at trial who sealed their oath of testimony with the Bible could not possibly know its contents, which was why Brown could only guess at the nature of the “book kissed” in front of him. (“I see a book kissed, which I suppose to be the Bible.”) The qualifications illustrated Brown’s rejection of Christian authority in a slave state. “There are no ministers of Christ here,” the condemned man wrote of Charlestown, after rejecting the services of several.77

Facing judgment, Brown made each of these points with a delicacy foreign to his character and writings. There may be no better indication of how completely he had risen to the occasion. Not irony but a gentle awareness pervaded his understanding of the forces around him, an awareness in which spiritual mission and courtroom decorum finally merged. The quality of his recognition was mirrored in the acceptance that came after him. In one of those rare conjunctions of legal ritual and consummate literary expression, Brown’s final courtroom speech touched the highest aspirations in the culture.

VII

It would be a mistake, however, to leave the last word to John Brown on the matter of his significance, a common enough shortcoming in interpretations of his mythological status in American culture. Our subject all along has been the peculiar power of the conjunction

76. Matthew 7:12 reads “Therefore all things whatsoever ye would that men should do to you, do ye even so to them.” Brown’s paraphrase, “all things whatsoever I would that men should do to me, I should do even so to them” is quite close. Four of the nine formal beatitudes announced in the Sermon on the Mount (Matthew 5:3-11) refer specifically to those in low distress and the blessings that they will receive.

77. Brown to Reverend James W. McFarland, 23 November 1859, in Warch and Fanton, John Brown, 96. “These ministers who profess to be Christian, and hold slaves or advocate slavery,” wrote Brown, “I cannot abide them. My knees will not bend in prayer with them, while their hands are stained with the blood of souls.” Consistent with this understanding, Brown refused the presence of a state-sanctioned minister at his execution. See Brown to Mrs. George L. Stearns, 29 November 1859, ibid., 99.
of law and literature—the power, and also the license, in the cultural formations that the conjunction inspires. Brown’s presentencing speech may live on its own, but the circumstances of its transcription and subsequent transmission increase its power and eloquence. Recognizing the importance of the original context requires a brief return to the actual aesthetics of reading a trial transcript.

Anyone who has scanned such a record understands how the repetition, the circularity, the technicality, the occasional opacity, and the sheer minutiae in transcription inflict a special burden on the reader. Of course, some kind of burden always exists in comprehension. Contemporary critics talk frequently of “horizons of expectation” in a reader’s interaction with a text and of the “tenacious” search for “textual unity or wholeness,” but these problems of expectation and unity are compounded in the looseness and bulk of trial records. In the case before us, the transcript of Brown’s trial in general and the capstone of his final speech in particular welcome a generic appropriation that helps to give them larger meaning. Left for demonstration is the process by which these appropriations take on a life of their own.

We have seen that John Brown’s behavior and words in the Circuit Court of Jefferson County invited generic reconstruction about his place in American culture. Ralph Waldo Emerson, returning somewhat compulsively to the idea of the Romance a month after Brown’s execution, saw the likelihood of further imaginative production quite clearly. “Thus was formed a romantic character absolutely without vulgar trait,” Emerson observed of Brown’s trial, “living to ideal ends, without any mixture of self-indulgence or compromise. . . . And, as happens usually to men of romantic character, his fortunes were romantic. Walter Scott would have delighted to draw his picture and trace his adventurous career.”

Emerson understood that the character “formed” in the courtroom would be formed again and again in accordance with the imaginative requirement of “living to ideal ends.” He could intuit this much because he had already measured in himself the irresistible impulse. In the act of speaking about Brown, he and others already “delighted

78. For discussions of these concepts within the enormous subject of reader reception in contemporary criticism, see Hans-Robert Jauss, “Literary History as a Challenge to Literary Theory,” New Literary History 2 (1970): 7-19, and Susan R. Suleiman, “Introduction: Varieties of Audience-Oriented Criticism,” in The Reader in the Text: Essays on Audience and Interpretation, ed. Suleiman and Inge Crosman (Princeton: Princeton University Press, 1980), 35-40.

79. One might also explain this phenomenon as a relation between historical narrative and story in the way that historian Hayden White does. In White’s words, “historical narratives are not only models of past events and processes, but also metaphorical statements which suggest a relation of similitude between such events and processes, and the story types that we conventionally use to endow the events of our lives with culturally sanctioned meanings.” Hayden White, “The Historical Text as Literary Artifact,” Tropics of Discourse: Essays in Cultural Criticism (1978; reprint, Baltimore: The Johns Hopkins University Press, 1990), 88.

80. “John Brown,” in The Complete Works of Ralph Waldo Emerson, 11:279.
to draw his picture.” We need not rehearse again how Brown’s own
language in Charlestown summons an answering language beyond the
trial of “living to ideal ends.” It is important to see that the combina-
tion consolidates the trial itself in the popular mind—that it subsumes
and collects all other narratives about the event like a magnet sweep-
ing across a field of iron filings.

For while the trial and execution always remain the necessary back-
drop of the picture of John Brown, the finality of legal constructions
has been refashioned in the reconstruction of Brown “living to ideal
ends.” Brown in his final speech emphasizes that “the law of God”
will take account of what he has “suffered and sacrificed” and turn
punishment into reward, death back into life. Here, if anywhere, is
Emerson’s “romantic character absolutely without vulgar trait.” So
powerful is this construction as a mode of cultural understanding that
even vulgar forms are transformed to serve it. And nowhere is that
shift more apparent than in the mode of memory most frequently
summoned, that of the popular song “John Brown’s Body.”

The paradox of the most frequently voiced lyric in American history
lies in its lost origins. The song we sing reinvokes the decisive rhetori-
cal device of John Brown’s major speeches at trial. Just as the defend-
ant in the Charlestown courtroom framed physical defeat within a
claim of spiritual victory, so, in balladic terms, the phrase “John
Brown’s body lies a’mouldering in the grave,” receives an exultant
qualification with “his truth is marching on.” But this parallel must
also be understood against a startling discrepancy. The original figure
in “John Brown’s Body” is not the legendary raider of Harper’s Ferry
in 1859 but Sergeant John Brown of the Second Battalion, Boston
Light Infantry, Massachusetts Volunteer Militia in 1861. The song
begins as a jibe from the ranks at the expense of a feckless noncom-
missioned officer of the same name. Compelled by the swelling narra-
tives about the abolitionist hero, it soon migrates to its more dramatic
and now familiar placement, and, notably, this migration requires a
complete shift in meaning. Lost entirely is the low humor and comic
incongruity, hero against anti-hero, that gave birth to the jingle. Ser-
geant Brown of Boston would, in fact, die pathetically rather than in
pathos, drowning by accident while crossing the Rappahannock River
with his regiment on June 6, 1862.81

The transformation from earthy jingle into triumphant marching
song can serve as a final illustration of the urgencies that turned John
Brown into something he had not previously been. To understand
what he became requires a double act of interpretation: of the legal

81. For the story of “John Brown’s Body” and its migration from Sergeant Brown into the
legend of the abolitionist hero, see Boyd B. Stutler, “John Brown’s Body,” Civil War History 4
(September 1958): 251-60.
counts of treason, conspiracy, and murder on the one hand, and of narrative on the other. "Narrative," Roland Barthes tells us, "is first and foremost a prodigious variety of genres, themselves distributed amongst various substances." Legal studies needs to grapple a little more carefully with this assertion of "first and foremost."

Genre is the hidden presence in the transcription and interpretation of trial event. True, trial records are literal transcriptions, but people can only speak through the stories they understand, and the customarily massive record of what has actually been said always demands an answer to what Wolfgang Iser, in another context, calls "the vacancy within the referential field."

Once again, the issue is double in nature and exists on both conscious and unconscious levels: speakers will use generic forms to explain themselves in a courtroom, while trial observers will impose available generic understandings on what they hear or read in order to make sense of what is happening. Not surprisingly, the ensuing relation between cultural and legal understanding is often haphazard.

The trial of John Brown, in this sense, exemplifies a vital component in cultural and legal history. Seemingly extraneous generic considerations enter the trial process as inevitable engines of comprehension, and they remain to control perception, then and later. The John Brown who emerges from Charlestown exists almost entirely within a context of cultural Romance. At the same time, "the substance" or transcript that holds that narrative needs to be better understood by cultural critics. At stake is a balanced understanding of the ongoing courtroom events that regularly absorb the American culture. We need to retain the accuracy in trial forms without losing sight of cultural projections and their impelled variations on legal themes.

82. Roland Barthes, Image, Music, Text, trans. Stephen Heath (New York: Farrar, Straus, and Giroux, 1977), 79.
83. Wolfgang Iser, "Interaction between Text and Reader," in Suleiman and Crosman, The Reader in the Text, 113-18.
