

Frontier Justice
in the Novels
of James Fenimore Cooper
and Cormac McCarthy

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By

Daniel Davis Wood

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INTRODUCTION

On July 4, 1776, when they sought to “dissolve the political bands which have connected [us] with another,” the signatories to the Declaration of Independence attributed the dissolution to the misconduct of King George III. They accused the King of afflicting them with “repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States,” and they listed twenty-four specific grievances with which to justify their accusation. Two of those grievances are especially notable for being apparently antithetical even though they were framed as complementary components of the British attempt to quash the nascent American Revolution. The King, it was said, had “obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers,” and had “endeavoured to bring on the inhabitants of [the colonial] frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.”

On the face of it, there is little similarity between the Indians who fought for the King in the forests of the frontier and the colonial judges who enforced the King’s orders from the comfort of their chambers.¹ For the Revolutionaries, however, these two distinct antagonists were comparable insofar as they dually acted against the denizens of the colonies *en bloc* with no discernible effort to respect the particularities of individual actions and lives. While the Indians had been incited to engage in the “undistinguished” slaughter of frontier colonists, the judges had “eliminated trial by jury” (Wood 41-42) and spent eighteen months enforcing the so-called Coercive Acts which indiscriminately compelled

¹ I use the term ‘Indians’ rather than ‘Native Americans’ throughout this book, and I have two reasons for doing so. Firstly, I only ever refer to the indigenous peoples of the mainland United States, but, as currently used by the federal government, the term ‘Native American’ encompasses *all* indigenous peoples on American sovereign territory, including Hawaiians and Native Alaskans. Secondly, according to a survey conducted by the United States Census Bureau in 1995, ‘Indian’ is the term preferred by a significant plurality of indigenous Americans. Offering the most recent available data on the terminological preferences of indigenous Americans and the largest sample size of any similar survey, 49.76% of respondents were found to prefer the term ‘Indian’ over ‘Native American’ while 37.35% preferred the latter (see Tucker, Kojetin, and Harrison, Table 4).

all colonists to submit to the King. Although far less violent than the Indians, the judges pardoned the violence of British military forces and were deaf to the colonists' complaints and appeals for redress. In effect, they systematised a jurisprudential ethic as prejudicial, inflexible, and irreproachable — as hostile to nuance and petition — as that of the warriors on the frontier. Twelve years later, when the victorious Revolutionaries set about replacing monarchical rule with a form of republican government, they attempted to invest the Constitution of the United States with a systemic bias against this sort of ethic. To “establish Justice [and] insure domestic Tranquility” (Preamble), they created a system in which the administration of justice fell to an independent, consultative, collaborative, and deliberative judiciary (see Articles III and VI).

Where the frontier has served as a narrative setting in works of American fiction, one of its distinguishing features has been its representation as a locale that exists beyond the reach of the justice system and thus in tension with the jurisprudential principles on which the system was founded. In early frontier novels, like Robert Montgomery Bird's *Nick of the Woods* (1837) and Emerson Bennett's *The Forest Rose* (1850), frontier settlers are able to administer justice in whatever sense they may conceive of it because they dwell in the absence of the institutional authorities who would operate in accordance with the principles and processes of the system.² In later novels like Owen Wister's *The Virginian* (1902) and Zane Grey's *Riders of the Purple Sage* (1912), frontier settlers in the presence of such authorities nevertheless administer justice when the very lawlessness of the frontier overwhelms the ability of authorities to establish a system through which to administer justice.³ In comparatively recent novels like E.L. Doctorow's *Welcome to Hard Times* (1960) and Charles Portis' *True Grit* (1968), frontier settlers who administer justice end up *becoming* institutional authorities when their actions bring them into conflict with others who would prefer the anarchy of a settlement area

² Bird's novel follows a frontiersman through the Kentucky forests as he seeks to avenge his murdered family by slaughtering scores of Indians with impunity. In Bennett's novel, blood is shed for similar reasons by a *posse* of frontiersmen in Ohio who likewise slaughter their enemies with impunity.

³ Wister's novel follows a gunslinger who befriends a judge on the Wyoming frontier but dispenses extrajudicial justice to make up for the judge's inability to administer justice throughout his jurisdiction. In Grey's novel, an anti-Mormon gunslinger finds himself pursued by a *posse* whose structure is anchored in the Mormon Church, and he persecutes his enemies by exploiting minor divisions in the alliances through which they administer justice.

without a justice system.⁴ Typically, then, as frontier fiction represents a locale beyond the reach of the justice system, it thereby portrays the administration of ‘frontier justice’ as an expedient alternative to justice administered systematically. And insofar as an individual work of frontier fiction portrays either the success or the failure of the system and places a positive or a negative gloss on that portrayal, it issues an implicit verdict on the acceptability of frontier justice. Frontier justice is either superior or inferior to systematic justice as a matter of principle, or it is superior in certain circumstances, or it is too complex to be definitively categorised either way.

What is less typical is for a work of frontier fiction to issue an initial verdict and then elaborate on it, qualify it, revise or reverse it, or complicate and even contradict it. It is less typical, in other words, for such a work to treat the justice system *as* a system and to register its scale and import — to recognise it as a vast, nationwide institution arising from a particular historical context, founded on particular principles, structured to achieve particular ends, and so multifaceted and all-encompassing that any serious challenge to its principles or its structure promises logical ramifications for the system as a whole and thus for everyone under its jurisdiction. Perhaps this is less typical because individual works of fiction are structurally too self-contained to treat the system in this way. With a structural capacity for elaboration, however, a *series* of works, each volume of which impinges on the others, is more capable of beginning with a localised representation of the administration of frontier justice and incrementally expanding it into a panorama of greater scope, detail, intricacy, and multivalency. Although rare, these sorts of series are not unheard of. Among the most highly regarded are Larry McMurtry’s *Lonesome Dove* quartet, set on the Texas frontier in the late nineteenth century, and Peter Matthiessen’s *Watson* trilogy, set on the Florida frontier at the turn of the twentieth century.⁵ Among the more complex, given how they have respectively influenced and subverted the conventions of

⁴ Doctorow’s novel follows one survivor of a brutal attack on a frontier settlement as he gradually but hesitantly becomes the mayor of a fledgling community. In Portis’ novel, a ragged, drunken frontiersman becomes a federal marshal who agrees to pursue a fugitive through the frontier forests of the Indian Territory.

⁵ McMurtry’s quartet consists of *Lonesome Dove* (1985), *Streets of Laredo* (1993), *Dead Man’s Walk* (1995), and *Comanche Moon* (1997). The first volume won the Pulitzer Prize in 1985. Matthiessen’s trilogy consists of *Killing Mr. Watson* (1990), *Lost Man’s River* (1997), and *Bone by Bone* (1999). After he completed it, Matthiessen spent a decade distilling it into a single novel, *Shadow Country* (2008), which won the National Book Award in 2008.

frontier fiction, are James Fenimore Cooper's *Leatherstocking Tales* (1823-1841) and Cormac McCarthy's series of Southwestern novels (1985-2005).

Admittedly, aside from both consisting of five novels set on the frontier and written over roughly twenty years, these last two series do not at first appear to lend themselves to further comparison. Cooper's series is set in the forests and on the plains of the frontier of the late eighteenth and early nineteenth centuries. McCarthy's series opens on the Texas frontier of the mid-nineteenth century, crosses and recrosses the Mexican border, and ends in the urban centres of the twenty-first century West. Cooper's series focuses on a single frontiersman at several stages in his long life. McCarthy's series focuses first on a band of frontiersmen and then on successive generations of characters who traverse the old frontier territories. Cooper's series is so achronological that it concludes at a point several decades before its opening events occur. McCarthy's series is achronological at intervals but is predominantly linear and concludes one hundred and fifty years after it opens. Cooper's series is quite stylistically consistent, maintaining throughout its several volumes the voice of the third-person omniscient narrator usually found in early nineteenth century fiction. McCarthy's series is stylistically varied, shifting from the baroque syntax of High Modernism to a neo-Romantic lyricism to the clipped and laconic prose of the hardboiled crime genre. And whereas Cooper finished writing his series twenty years before the peak period of the actual settlement of the frontier, McCarthy began writing his series almost a century after the frontier had been declared closed.

Recently, however, some critics have begun to sense a closer affinity between these two series. I say 'sense' rather than 'articulate' because the affinity invariably receives passing acknowledgement without much further attention. Robert Jarrett and John Cant have conducted the two closest analyses, albeit each no longer than a page. Jarrett notes that the first book in McCarthy's series recurrently adopts the dominant imagery of the third book in Cooper's series, the image of a Western landscape drenched in the red light of the setting sun (67). Cant identifies McCarthy's adoption of more specific imagery, the representation of a bloodthirsty frontiersman in terms that recall Cooper's frontiersman and that thereby suggest a kinship between the two (*Myth* 167). Other critics have likewise read McCarthy's frontiersman as a figure akin to Cooper's frontiersman (Spurgeon, 'Sacred Hunter' 83), or they have hailed Cooper as the father of McCarthy's sort of frontier fiction (see Tatum 86; Busby 233; Owens 66) and noted similarities between Cooper's frontiersman and characters in McCarthy's other novels (see Guillemín, *Pastoral Vision* 39;

Luce, *Reading the World* 47; Ragan 23). As Thomas Pughe puts it, the sense is that “[t]here exists a superficial generic link between Cooper’s and McCarthy’s novels... the former being [McCarthy’s] ancestors, the latter [being Cooper’s] prodigal descendant[s]” (372). At present, then, the prevailing view amongst critics is that McCarthy writes in response to the contemporary continuation of something set in motion by Cooper.

That ‘something,’ more often than not, is the mythologisation of the frontier: the use of rhetoric to celebrate what the American Revolutionaries saw as a region of terror and to refashion it into a beautiful, venerable, and potentially ennobling space of settlement. This mythologisation reached critical mass when the then-unknown historian Frederick Jackson Turner presented his landmark Frontier Thesis at the Chicago World’s Fair in 1893 (‘Significance’ 1-38). Three years earlier, the U.S. Census Bureau had reported that the territories of the American West had accrued a population density sufficient to have eroded the frontier (Porter, Gannett, and Hunt xxxiv). In response, Turner contended that the survival of the “American character” was now at risk because for generations the frontier had been the force that defined it:

The frontier is the most rapid and effective line of Americanization. The wilderness masters the colonist. It finds him a European in dress, industries, tools, modes of travel, and thought. ... In short, at the frontier the environment is at first too strong for the man. He must accept the conditions which it furnishes, or perish. Little by little he transforms the wilderness, but the outcome is not the old Europe. ... [H]ere is a new product that is American. (4)

As a result, according to Turner, frontier settlers developed characteristics which were then somehow bequeathed to the broader body politic.⁶ These characteristics included:

That coarseness and strength combined with acuteness and inquisitiveness; that practical, inventive turn of mind, quick to find expedients; that masterful grasp of material things, lacking in the artistic but powerful to

⁶ This aspect of Turner’s argument is vague, but the suggestion seems to be that frontier settlement entailed the reciprocal transformation of settlers and the areas they settled. As the frontier resisted settlement efforts, settlers were compelled to develop personal qualities they would not have developed had they sought to reside elsewhere; and as those qualities enabled them to overcome the frontier, they inscribed the qualities into their habitations to be imbibed by people of future generations who would later inhabit their settled areas (see ‘Significance’ 4).

effect great ends; that restless, nervous energy; that dominant individualism, working for good and for evil; and withal that buoyancy and exuberance which comes with freedom. (37)

As later historians have since pointed out, Turner's argument is riddled with problems. It denies the diversity of frontier settlers who arrived from different places and possessed different cultural backgrounds and developed different characteristics as they strove to maintain their customary lifestyles (Pearce 105-112). It does not acknowledge that settlers belonging to ethnic minority groups generally endured more severe geographic isolation than those of Anglo-European descent (Lamar 5-25). It says nothing about female settlers (Armitage 381-395) or about settlers whose misfortunes forced them to abandon their settlements (Anderson and Hill, *Not So Wild* 170-172). It disregards governmental and corporate expansions as sources of influence on the land available for settlement (Wright Jr. 349-365). It "overlook[s] or ignore[s]" the possibility that frontier settlers might have developed "other and less desirable traits," and, crucially, it fails to explain how exactly settlers "imposed th[eir new] traits upon the national character" (Putnam 393). Yet as Turner's fame ascended in the following years, he reiterated and expanded the scope of his argument without addressing its problems. Those efforts culminated in *The Frontier in American History* (1920), an anthology of thirteen previously published essays that celebrated the frontier as not only an ennobling force on frontier settlers but also the birthplace of liberty, democracy, individualism, and other high ideals of American rhetoric. With each of those essays, Turner rhetorically associated the frontier with the development of various unrelated or tangentially related political values and personal virtues, and thus subjected the frontier to sustained mythologisation. Thirty years after he lamented its closure, he effectively hastened its disappearance by draining it of its historical particularities and shrouding it in libertarian abstractions. Although he gestured towards substantiating his claims with empirical evidence by citing a range of reportage, legislation, and demographic data, his vocabulary was, as William Cronon writes, "more that of a poet than a logician" (158). Nevertheless, Cronon continues, Turner's academic authority allowed his Frontier Thesis to overcome its argumentative defects and accumulate such extraordinary cultural credibility that contemporary historians "have not yet figured out a way to escape Turner. ... However much we

understand his analytical shortcomings, we still turn to him for our rhetorical structure” (170).⁷

What are the origins of that rhetorical structure? In 1893, as Henry Nash Smith has shown, the originality of Turner’s Frontier Thesis consisted less in the claims it made than in its use of the form of historical scholarship to “echo... ideas and attitudes already current” (4). Smith made that contention in *Virgin Land* (1950), his cultural history of the conceptualisation of the American West as a New Eden, a vast and unspoiled wilderness in which settlers could cast off their existing identities and reinvent themselves as they saw fit. Turner was, for Smith, among the first to deliberately advance this conceptualisation and to thereby mythologise the frontier (250-260), but he built on the work of others whose conceptual contributions had been made as components of some broader political or artistic effort. Among Turner’s predecessors, Smith named Benjamin Franklin, St. Jean de Crèvecoeur, and “a hundred others” (4),⁸ including Thomas Jefferson, Daniel Boone, and, in particular, James Fenimore Cooper. Conceding that Cooper himself “display[ed] a genuine ambivalence” towards the values and virtues of frontier mythology (62), Smith suggested that Cooper’s romanticisation of an aggressively self-reliant frontiersman provided the emerging frontier mythology with a vivid prototype of the sort of settlers that Turner would later valorise (59-70).

Throughout the 1950s and 1960s, Smith’s argument elicited fitful responses from critics who approached the mythologisation of the frontier with increasing antipathy. In *The American Adam* (1955), R.W.B. Lewis extended Smith’s argument to contend that the entire American literary canon was underpinned by the concept of the West as a site for the

⁷ The Thesis began accumulating cultural credibility in 1896, when *The Atlantic Monthly* asked Turner to rearticulate it in a nationwide cover story (see Popper, *et al.* 96-98). Turner’s academic authority, beginning with his appointment as Professor of History at the University of Wisconsin in 1884, culminated in his relocation to Harvard University in 1910 and his election as President of the American Historical Association that same year.

⁸ Crèvecoeur offered the first detailed conceptualisation of the frontier as a proving ground for the self-made American man (*Letters* 39-86), and his work found favour with Thomas Jefferson, his occasional correspondent, who echoed Crèvecoeur’s ideas in his own writings (see *Memoirs, Vol. 1* 291-293; *Memoirs, Vol. 2* 82-83, 353-354; *Notes* 175-177). Additionally, as William Cronon observes, Turner’s early ideas about the frontier are deeply indebted to Ralph Waldo Emerson’s ‘American Scholar,’ while Richard Slotkin notes that Turner’s histories of frontier conquest are largely identical to those published years earlier by Theodore Roosevelt (*Gunfighter* 29-36).

reinvention of the self, and that even the most lauded writers of that time accepted and reinforced elements of frontier mythology.⁹ In *The Return of the Vanishing American* (1968), Leslie Fiedler criticised the diminished presence of American Indians in the mythologisation of the frontier and in turn attempted to diminish the celebratory tone of Turner's Frontier Thesis with a reminder of that presence. Then, in *Regeneration Through Violence* (1973), Richard Slotkin opened a detailed, exhaustive analysis of frontier mythology from the colonial era through to the republican era and onward to its articulation by Turner and its subsequent popularisation in American literature and cinema. By the time he concluded his analysis, it spanned thousands of pages and two further volumes: *The Fatal Environment* (1985) and *Gunfighter Nation* (1992).

At present, Slotkin argues, the entire cultural mythology of the United States is founded on the myth of the frontier, "the conception of [the nation] as a wide-open land of unlimited opportunity for the strong, ambitious, self-reliant individual to thrust his way to the top" (*Regeneration* 5). But far from seeing this myth as an inspirational or otherwise productive force, Slotkin sees it as one too readily invoked by members of a political and economic elite who seek to dampen opposition to their interests by inculcating its radically individualistic value system amongst an unsuspecting populace. Insofar as that elite successfully appeals to the myth in order to rationalise the political and economic marginalisation of great swathes of the American body politic, the myth leaves the members of the body politic "blinded... to the consequences of the industrial and urban revolutions and to the need for social reform and a new concept of individual and communal welfare" (5). Slotkin therefore opposes the myth, and he examines "how [it] evolved and gained credence" in order to delegitimise it (5). "If we can understand where and how in history the rules of the game originated, what real human concerns and social relationships the rules conceal or distort, and what the historical consequences of playing the game have been," he writes, "we may be able to respond more intelligently the next time an infantry captain or a senator or a president invokes it" (*Fatal* 20).

For Slotkin, as for Smith, Cooper's *Leatherstocking Tales* contributed to the early mythologisation of the frontier before Turner intellectualised it. As the *Tales* became the bestsellers of their time, Slotkin argues, Cooper's "vision of the [frontiersman] became a figure in the popular imagination, to which all subsequent versions... had perforce to refer" (*Regeneration* 468). Given Slotkin's understanding of the relationship

⁹ Among those named by Lewis as proponents of frontier mythology were F. Scott Fitzgerald, William Faulkner, Ralph Ellison, Saul Bellow, and J.D. Salinger.

between writers and readers, this view of the *Tales* is not a favourable one. He suggests that those who offer an artistic contribution to a particular culture possess a moral obligation to make the people of that culture aware of the myths that overshadow their daily lives. In any culture, he argues, the most important artistic works are those that most comprehensively deconstruct these myths, while the ongoing cultural presence of such myths testifies to “[t]he failure of writers and critics to recognize and deal with the real mythological heritage of their time” (4).¹⁰ From this perspective, Cooper amounts to a moral failure, despite the popularity of his *Leatherstocking Tales*, because he failed to oppose or halt the mythologisation of the frontier and because his contributions to it strongly influenced his successors. Extending the earlier mythological contributions of predecessors like John Filson and Charles Brockden Brown,¹¹ Cooper took the frontier myth to a readership so large that subsequent writers in pursuit of readers were drawn to follow his lead and thus to sustain the myth in American literature.

Via narratological and rhetorical analyses of hundreds of works of frontier fiction and non-fiction, Slotkin has assembled what now amounts to a vast history of the creation and perpetuation of the frontier myth. His method involves examining representations of the frontier which first depict frontier settlers as either the victors or victims of a conflict and which then offer rhetorical approval to their triumph or tragedy in order to endow them with mythic stature. By approaching so many of those representations and using each one to draw conclusions about the nature of the larger frontier myth, Slotkin has established an analytical framework whose totalising reach lays claim to the very word ‘frontier’ and thus makes claims that apply to even those representations which he does not specifically mention. And by construing the word ‘frontier’ as a rhetorical construct that now primarily signifies the frontier myth, Slotkin occupies the territory of critics who intend to discuss representations of the frontier and prospectively invests them with the obligation to explain how the

¹⁰ With three historical novels to his name, Slotkin has developed a parallel career as a novelist that allows him to practice what he prescribes for others in his critical work. For more on Slotkin’s views on the moral obligations of novelists, and particularly historical novelists, see his essay ‘Fiction for the Purposes of History.’

¹¹ Filson contributed to the myth with his *Discovery, Settlement, and Present State of Kentucke* (1784), the appendix to which stands as the first text that makes a literary hero of the frontiersman Daniel Boone. Brown contributed to the myth with his novel *Edgar Huntly* (1799), which simultaneously eulogises the American Indians and rationalises their slaughter through the voice of a young Philadelphian who feels himself compelled to destroy an entire local tribe.

representations they analyse either contribute to and reinforce the myth or challenge and subvert it.

As a result, since the mid-1970s, there has hardly been a critical analysis of frontier fiction that does not position its focal text in relation to both the myth and Slotkin's demythological project. Even with the concurrent ascent of feminist theory, postcolonial theory, and other essentially political writings which offer discursive centrality to those who speak from the margins of cultural discourse, critics who apply theoretical lenses to frontier fiction are inevitably caught up in Slotkin's net. Because the "strong, ambitious, self-reliant individual [who] thrust[s] his way to the top" (5) is explicitly male and implicitly white and dedicates himself to maintaining the marginalisation of others, he stands as a ready opponent of critics whose theoretical interests entail a politics of resistance to such marginalisation. By targeting that figure and his associated values and virtues, those critics play into Slotkin's demythological project even if their primary objective is not to demythologise the frontier.¹² In the decades since *Regeneration Through Violence*, what has emerged from the totality of analyses of representations of the frontier is a piecemeal expansion of Slotkin's history and delegitimisation of the frontier myth. In criticism of frontier fiction, then, there is an overwhelming gravitation towards what R.W.B. Lewis calls the "representative imagery and

¹² Two notable examples of the work of such critics are Louise Barnett's *The Ignoble Savage* (1975) and Jane Tompkins' *West of Everything* (1993). Neither Barnett nor Tompkins explicitly seek to contribute to Slotkin's project, and Barnett's *Ignoble Savage* appeared only two years after Slotkin's *Regeneration Through Violence*, but each of them works to remedy one of the scenarios through which the frontier myth developed. For Barnett, this scenario is the legitimisation of the conquest of Indians by superior Anglo-American settlers — a scenario she seeks to reverse by deconstructing both the representation of "the Indian as Other and as Inferior" (9) in the frontier literature of scores of non-Indian writers and the stereotype of the unremittingly aggressive Indian 'savage.' For Tompkins, this scenario is the glorification of strong frontiersmen and valiant gunslingers in frontier fiction and in the Western genre that descended from it — a glorification made possible only by the sidelining of women and girls or their representation as passive, timorous, and gracious dependents of the superior but selfless men who pacify the frontier for their benefit. It is worth noting, too, that Slotkin's own analysis of the frontier myth is guided in part by his own theoretical interests: Marxism is the cornerstone of his contention that a powerful American plutocracy perpetuates and invokes the frontier myth in order to exploit labour via the mirage of upward mobility, while psychoanalysis, with a particular emphasis on Jungian archetypes, strongly informs his account of the genesis of the frontier myth (see *Regeneration* 6-24).

anecdote” (1) of the frontier: images and anecdotes of frontier life which encapsulate the frontier myth and its values, emphasising the self-reliance, strength, bravery, quick-wittedness, material handiwork, humility, and radical individualism of frontier settlers.

Because Cooper’s *Leatherstocking Tales* and McCarthy’s Southwestern series are both replete with such imagery and anecdote, they invite a critical analysis conducted on the terms of the myth. So, for instance, while Smith and Slotkin argue that Cooper contributed to the frontier myth via the romanticisation of one particular frontiersman, Barclay Owens (21-34) and Neil Campbell (219) contend that McCarthy answers Slotkin’s call for a “productive revision of myth” (*Gunfighter* 654) both by deromanticising his frontiersmen as they indulge in mindless bloodshed and by romanticising them and pitting them against a harsh and unromantic world. But to approach these two series with an eye towards their use of frontier imagery and anecdote, and to categorise them on that basis as either advancing or revising the frontier myth, is to close off access to certain aspects of each one that feed into its affinity with the other. It is, firstly, to overlook the ways in which each series conceives of the more abstract aspects of frontier life that are not so easily encapsulated in imagery and anecdote. It is also to emphasise the plot elements of their narratives, the emergence of victors and victims and the promotion or criticism of their values and virtues, while glancing over the formal elements of each series, especially the narrative restructuring that occurs as one instalment follows another. Consequently, critics who sense an affinity between the *Tales* and the Southwestern series have yet to attend to its manifestation at a textual level beneath that of the narrative surface and through formal mechanics that do not directly engage with the frontier myth. In what ways does this affinity consist of more than just mutual association via responses to the myth?

While both Cooper’s *Tales* and McCarthy’s Southwestern series depict winners and losers amongst those who subscribe to frontier mythology, both also do much more than that. Both take seriously the concept of the frontier settlement as a space beyond the reach of the American justice system. Both use a representation of the behaviour of people beyond the system in order to construct a notion of frontier justice characterised by a more expedient, impulsive jurisprudence than that institutionalised in the formal justice system. Both explore the ways in which such frontier justice poses a serious challenge to the principles and structure of the justice system. Both refuse to confine their scope to localised problems of frontier justice, isolated clashes of politics and personalities, since both exploit the formal mechanics of their serial structures to consider the systemic repercussions of frontier justice over a long period of time and amongst a

number of participants in the justice system. Importantly, though, rather than offering parallel, comparable, or complementary views of frontier justice, the two series seem to work in symbiosis. Both depict frontier justice in a locale so remote and so thinly populated that broadly consultative, collaborative, and deliberative judgments cannot be formulated. Cooper assesses its implications by articulating the jurisprudential ethic that underpins it and by then evaluating that ethic against the jurisprudential principles of the Constitution and the justice system founded upon them. Alluding to Cooper's *Tales* and building on his position, McCarthy points towards the very same ethic and traces its survival in American cultural consciousness from the nineteenth century through to the twenty-first, and he then assesses the moral health of a culture that would allow the ethic to survive and to thereby contaminate a more principled justice system.

To begin fleshing out this symbiosis between Cooper's *Tales* and McCarthy's Southwestern novels, some clarification is needed for the terms I use to denote the alternative means of administering justice that appears in both series. By 'justice,' I do not mean any state of affairs that necessarily entails a measure of social, economic, or political equality among the people involved in it. By 'justice,' I mean strictly a state of affairs wherein the absence of immediate, palpable interpersonal conflict allows for the social manifestation of what the Constitution refers to as "domestic Tranquility" (Preamble). By 'the administration of justice,' then, I mean both the measures to be taken to establish such a state of affairs, or to restore it where an interpersonal conflict has destabilised it, and the strategies subsequently employed to deter the future outbreak of similar conflict. Ordaining its own authority as the "supreme law of the land" (Article VI), the Constitution names "domestic Tranquility" among its primary objectives and legislates a schema for its systematic realisation. It formalises the systematic administration of justice via the institutions of the Supreme Court, the Constitutional courts, and "such inferior Courts as the Congress may from time to time ordain and establish" (Article III, Section 1), and via the implementation of trial by jury (Article III, Section 2). In turn, this judicial system implicitly institutionalises a broader justice system comprised of subordinate authorities who serve as first responders to a destabilisation of justice — police officers, county sheriffs, federal marshals, and so on — since a defendant cannot enter the system unless such an authority first issues them with allegations of legislative transgression. By necessity, however, such a system can be established only in a settled society with a population density sufficient to provide it

with a base of both administrators and beneficiaries. On the frontier — as pointed out by the historians below and as represented by Cooper and McCarthy — a low population density and the settlers' distance from settled society jointly undercut the establishment and administration of systematic justice and allowed for the administration of frontier justice according to different norms and sensibilities.

In *Frontier Justice* (1949), Wayne Gard offers dozens of case studies of frontier justice in practice throughout the nineteenth century. It primarily involved scalping (3-21) and hanging (189-213), both of which entail highly visible demonstrations of the exertion of force. More recently, in *Popular Justice* (2011), Manfred Berg has added lynching to the mix (45-68), as has Ken Gonzales-Day (23-60). As the legal historian Bill Neal puts it, frontier justice is essentially the “self-help redressal of wrongs (usually called ‘Winchester law’)” (xvi) by which the evident force of the redressal creates a sort of spectacle that flagrantly displays the redressor's ability to administer justice alone. It is ‘domestic Tranquility’ achieved via a species of dramaturgical action (Goffman 30-35, 48, 75). It is violence, at once an accrual and an expenditure of symbolic capital, intended to facilitate some manifestation of public peace. Its defining characteristic is less its brutality than the visibility of its brutality. It is a purposefully punitive demonstration of the treatment that awaits those who destabilise a state of justice, and as such it involves an exertion of *deterrent* force intended ultimately to prevent a perceived pre-existing state of justice from being destabilised at all. However, the actual administration of frontier justice is of less importance here, because of less evident interest to Cooper and McCarthy, than the behaviour that precedes and rationalises its administration. The brutality that some people inflicted on others strikes me as less remarkable than how they first *judged* that others were deserving of it and how they determined that they themselves ought to inflict it. Frontier justice, according to Neal, began with the adoption of a jurisprudential ethic wholly unhindered by Blackstone's principle (7, 260) — “better that ten guilty persons escape, than that one innocent suffer” (Blackstone 289) — because it arose in a space too anarchic to admit jurisprudential ambivalence and too sparsely populated to apply collaborative scrutiny to circumstantial ambiguities. Questions of the guilt or innocence of a person accused of a destabilisation of justice were rarely tested because they were rarely in doubt. Guilt was almost invariably a foregone conclusion from the moment of accusation, and what seems to me to have caught the interest of both Cooper and McCarthy is the extent to which this situation resulted from the settlement of the frontier itself: that is, the cultural conceptualisation of the space of the

individual settlement and the forces that motivated mass migration to a frontier comprised of contiguous settlements.

The differences between systematic justice and frontier justice come into distinction when the possibility of interpersonal conflict emerges and so foregrounds the means available for the administration of justice. Consider, for instance, an encounter between strangers who meet for the first time on common ground. At the moment of meeting, the space between them comes alive with all the customary terms of interpersonal interaction on which they will negotiate their encounter, the social facts that would coerce them into conformity with a pre-existing, external ideal of interpersonal interaction (Durkheim 2-3). Because those social facts equally coerce all members of a given social unit, each of these strangers would know that he or she is expected to conform to this ideal and would expect others to conform in turn. But because they remain strangers to one another, none can know for certain that another will act in accordance with expectations, and this uncertainty accentuates the possibility that one will simply dismiss the terms of interaction with violent or confrontational behaviour. Absent that scenario, as Agnes Heller writes, “expectation and action... are symmetrical [so that] I do in relation to you exactly what I expect you to do in relation to me” and what emerges is a state of justice in its simplest form (2). An asymmetry between expectation and action destabilises that state of justice, and that destabilisation raises the secondary expectation that an aggrieved party can either petition an external authority to regulate the emergent conflict or otherwise invoke and attempt to exercise regulatory authority of their own.

Such an invocation of authority raises questions about the regulation of interpersonal interaction. Who has the right to exert authority over whom in order to restore a state of justice after its destabilisation? On what grounds do they claim that right and to whom can they appeal for support in an attempt to exercise it? What consequences do their actions hold for others not yet involved in this scenario, and to what extent does the legitimacy of their claim to authority depend on the consent of those others? When a disregard for the customary terms of interpersonal interaction sparks a conflict, such questions abruptly supplant the social facts that usually inhabit the interpersonal space. When social facts are so cast aside in settled society, one can reasonably hope to call for help, or run towards it, or somehow attract the attention of others whose intervention might reinstate the social facts, and one can thereafter hope that the administration of systematic justice will redress the casting aside of social facts in a way that eventually strengthens them. On the frontier, far from settled society, such hopes could not be reasonably held. The

casting aside of social facts, rather than offering an impetus for their reinstatement, offered an absence in which new terms of interpersonal interaction might be imposed. Far from being taken by surprise by an asymmetry between expectation and action, asymmetry was exactly what those on the frontier should have expected to find there.

Turning to Cooper's *Tales* and McCarthy's Southwestern series, beneath the imagery and anecdote through which they engage with the frontier myth, I look for each author's apparent views on the acceptability of interpersonal conflict resolution that deviates from the sort prescribed by law. Although I do examine their representations of those who pursue the values and virtues of the frontier myth, and of those who benefit and suffer from the pursuit, my focus is more on the ways in which each series has been structured so as to do precisely what frontier fiction typically does not. I examine how each series issues an initial verdict on the notion of frontier justice and then elaborates on it, qualifies it, and revises or reverses it in order to lay bare the complexities and contradictions that it conceals beneath a front of self-assurance and simplicity. I examine how both series attempt to register the scale of the justice system, thus framing the radical individualism of those who subscribe to the frontier myth as something that affects the broad community of all those caught within the system.¹³

¹³ Before attending to the jurisprudential politics of each series, however, my own investment in the topic should be made clear insofar as it informs the standard from which I examine the work of Cooper and McCarthy. As mentioned above, and as the next chapter will show, the justice system of the United States, established by the Constitution, is predicated on the understanding that the accuracy of interpersonal jurisprudence — the formulation of judgments intended to determine the guilt or innocence of a person accused of a legislative transgression — is in each case constrained by the human limitations of the judge. These limitations include personal loyalties, political biases, and, not least, the inevitable incompleteness and thus inadequacy of a judge's knowledge of the circumstantial particularities of the accused. The Constitutional understanding of interpersonal jurisprudence is one I share. As a result, I believe that any hope of approaching jurisprudential accuracy must acknowledge and operate within the above limitations and must work to ameliorate them, as far as possible, via a collaboration enabling many voices, including voices of disagreement and dissent, to facilitate the contention and substantiation of charges laid in the jurisprudential process. The systematisation of such collaboration is precisely the aim of the Constitution and its jurisprudential principles; but, because the establishment and administration of the system requires the participation of multiple people, multiple judges, that collaboration is also the aspect of jurisprudence most curtailed on the

As already mentioned, my intention is not to directly engage with the frontier myth as such, although, inevitably, any analysis of frontier fiction in some way speaks to the terms of that myth. My intention, rather, is to point to the continuities that exist between Cooper's *Tales* and McCarthy's Southwestern series and, as only an ancillary aim, to determine how the work of both novelists can be said to relate to Slotkin's project of demythologisation. In *Gunfighter Nation*, Slotkin suggests that the archetypal hero of the frontier myth, underpinning all the variations among particular heroes who tend in either direction towards the temperamental extremities of civility and brutality, is a figure he calls the "man who knows Indians" (16). The essence of this man is not that he actually *knows* anything about Indians but, on the contrary, that he determines that Indians are his opponents while declining to acquire further knowledge about them and indeed about anyone else he may perceive as an opponent. He acts against his opponents on the self-assured assumption that his own experiences already tell him everything he needs to know about the actions

remote and underpopulated frontier. In addition, then, I hold that wherever jurisprudential collaboration is complicated by environmental remoteness or underpopulation, the next best hope for approaching jurisprudential accuracy is for participants in the process to temper the formulation of their judgments with self-reflexivity and self-doubt — to proceed cautiously with an awareness of both the limitations of their jurisprudential capabilities and the consequent fallibility of whatever judgments they may deliver.

Approaching frontier fiction with these views of jurisprudence, I take it as given that such fiction typically depicts white men engaged in violence against marginalised or minoritised individuals. While I do take issue with the politics of those depictions, I am not concerned in the first instance with what consequences this violence may hold for the identity politics of the individuals it embroils. My concern lies with the justice system that provides an advance means of resolving such violence, and with the consequences that the enactment and popular acceptability of such violence may hold for the jurisprudential principles of the Constitution on which the system is founded. The system specifies a nationwide mode of interpersonal interaction geared towards interpersonal conflict resolution. To administer justice outside the system, and particularly in contravention of its principles, is not only an attack on the individuals who incur the administration but is tantamount to an attack on the very mode of administration that the system represents. As such, any one instance of justice administered outside the system is by logical extension a strike against everyone within the jurisdiction of the system. The nationwide scale and import of that logical extension are what interest me — the ways in which the ostensibly totalising reach of the system inflates localised instances of alternative justice into challenges to its founding principles — because, as will become clear, they are what seem to have interested Cooper and McCarthy as well.

and intentions of others and about his right to act against them. This man “knows Indians” in the same way that he knows anything: *he just knows*. This is to say that, lacking both self-reflexivity and an awareness of how his sense of justice has been shaped by his self-interest, he develops an inadequate understanding of Indians which he acts on as if it were a detailed knowledge of them. To the extent that my analysis of the jurisprudence of various frontiersmen focuses on their interpersonal knowledge acquisition and its limitations, this book finds itself caught in Slotkin’s net by explicating the unspoken logic that determines the behaviour of the man who knows Indians and by reading the novelistic series of Cooper and McCarthy as responses to that logic. To that end, to explicate that logic and advance that reading, I have divided this study into two parts.

Part one, comprising four chapters, focuses on Cooper’s response to the ethic of frontier justice and the cultural legacy of that response. Building on an anecdote in the *Leatherstocking Tales* which articulates the ethic of frontier justice, chapter one provides a more detailed conceptual definition of the ethic via a brief history of its development throughout the peak period of frontier settlement in the mid-nineteenth century. Turning to the dime-novels which were strongly influenced by Cooper’s *Tales* and which enjoyed overwhelming popularity during the peak period of settlement, chapter two suggests that the figure of the dime-novel frontiersman adopted the ethic of frontier justice and that his popularity amongst readers points to the cultural popularisation of the ethic. Chapters three and four build on this definition and illustration of the ethic by returning to the *Leatherstocking Tales*, written during the initial expansions of settlement opportunities, in order to examine the series as a response to its early popularisation — a response far more complex, ambivalent, and provisional than that of the later dime-novels. Chapter three examines the response on display in the first three *Tales*, written between 1820 and 1826, while chapter four examines the ways in which Cooper’s response was altered by the final two *Tales*, written between 1839 and 1841. Altogether, the first part of this book identifies the literary portrayal and the broader popular cultural presence of the ethic of frontier justice as they developed throughout the nineteenth century. When the expansion of settlement opportunities in the West presented itself as a solution to recurrent economic crises in the East, the cultural concept of the frontier settlement acquired a logic which effectively demanded of its occupants the development of the ethic. Cooper wrote his *Tales* when that conceptual logic emerged at the dawn of the settlement enterprise, but, as the logic became quotidian over the following decades, the ethic of

frontier justice survived through the popular literature that adopted the narrative and characteristic conventions of the *Tales* while radically simplifying Cooper's vexed attitudes towards the ethic itself.

Part two, comprising three chapters, focuses on McCarthy's response not only to the ethic of frontier justice but also to its presence in Cooper's *Tales* and in the literature influenced by them. Following an overview of McCarthy's familiarity with popular literary developments in the late nineteenth and early twentieth centuries, chapter five shows how the popular genres that flourished at this time reconceptualised the frontier settlement in ways that allowed the ethic of frontier justice to survive in the absence of the frontier proper. Chapters six and seven jointly examine McCarthy's Southwestern series as a response to that survival. Noting that existing analyses of McCarthy's five novels do not usually read them as a cohesive series, chapter six demonstrates that the novels do in fact exhibit a serial structure and that, as a series, they parallel and allude to Cooper's *Tales*. Chapter seven suggests that McCarthy uses this serial structure to illustrate the survival of the ethic of frontier justice as outlined in chapter five, and to construe it as a force that compromises the jurisprudential integrity of both the administrators and the beneficiaries of the contemporary justice system.

As I see it here, then, the affinity between these two series consists in Cooper's *Tales* anticipating the very ethic that survives in McCarthy's Southwest. Writing his *Tales* amidst the actual political scenario of frontier settlement, Cooper contributed to the cultural emergence of the ethic in his own time. The ethic survived via the dime-novels that descended from the *Tales*, and then via the literary genres whose descent from the dime-novels has helped to shape contemporary popular culture. McCarthy, I argue, takes its contemporary cultural presence as his starting point and extrapolates from this to depict a justice system contaminated by this ethic, chronicling its cultural survival after the closure of the frontier and identifying its origins in the *Leatherstocking Tales*. As well as historicising the personal, political, and popular cultural contexts in which each novelist wrote his series, I undertake a largely formalist and structuralist analysis of each series to identify the aesthetic means by which their respective authors articulate a jurisprudential politics in response to the presence of the ethic in their own particular historical context. A brief comparative assessment of the two series concludes this book by considering which series best maintains its structure, its aesthetic cohesion, in order to advance a response to the ethic of frontier justice, and the extent to which the two responses correlate.

PART I

JAMES FENIMORE COOPER

On September 14, 1851, one day shy of his sixty-second birthday, James Fenimore Cooper died after a struggle with oedema at his family home in upstate New York. Eleven days later, his friend and fellow author Washington Irving joined Secretary of State Daniel Webster to headline the first of three “Public Honours to Cooper’s Memory” (G. Putnam 7). Some of the most prominent figures in American letters either attended the event or made sure they were represented. The poet William Cullen Bryant used the occasion to deliver his “Discourse on [Cooper’s] Life, Character, and Genius” (38-75), and Ralph Waldo Emerson, Herman Melville, Nathaniel Hawthorne, and Henry Wadsworth Longfellow each contributed a written appreciation of Cooper’s work to be read aloud to attendees (G. Putnam, 30-34). The historians Francis Parkman and William Gilmore Simms also expressed admiration for Cooper, as did various Congressmen who, together with Webster, placed an official stamp of approval on Cooper’s extensive *oeuvre*. In a career spanning less than thirty years, Cooper published thirty-two novels, three short stories, a novella, a play, four political treatises, six travelogues, three historical inquiries, two biographies, and a memoir. He also wrote numerous letters to the periodicals of his time, along with new prefaces and introductions to the reissued editions of his early publications. Although he remains best known today for his novels, especially his adventure tales set either in the forests of the frontier or on the high seas at various moments between the colonial and early republican eras, the ailing Cooper expressed his belief that a long posterity did not await much of his work. He made only one concession. “If anything from the pen of [this] writer... is at all to outlive himself,” he wrote, “it is, unquestionably, the series of ‘The Leather-Stocking Tales’” (‘Preface’ 490).

The five novels that comprise the *Leatherstocking Tales* were written in two distinct creative periods separated by more than a decade. With *The Pioneers* (1823), *The Last of the Mohicans* (1825), and *The Prairie* (1826), Cooper completed an initial trilogy of *Tales* which he later expanded into a quintet with *The Pathfinder* (1840) and *The Deerslayer* (1841). The series

chronicles the exploits of the frontiersman Nathaniel ‘Natty’ Bumppo along the frontier of the eighteenth and early nineteenth centuries. Cooper’s frontiersman met with success from the first, as the newspaper publication of excerpts from *The Pioneers* led its initial print run to sell out on the morning of first release (Schachterle, ‘Textual Editing’). Since then, the frontiersman’s various adventures have become fixtures of the American cultural landscape, repeatedly adapted for television and film, and abridged for young readers and rewritten as comic-books.¹ But the ongoing cultural prominence of the series does not stem entirely from its constitutive novels and their adaptations. It stems, too, from the myriad texts that have descended from the series by co-opting or evoking the frontiersman at its heart.

Granted the alias ‘Leatherstocking’ in view of his buckskin outfit, the frontiersman is, as Richard Slotkin writes, “a man frozen in stasis between the opposed worlds of savagery and civilization” (*Fatal* 105). While he prefers to lead an almost solitary hunter-gatherer lifestyle, he faces demands of social conformity as his solitude is eroded by the expansion of settlements along the frontier. With each of the five novels concentrating on a different stage in his long life, the series observes the ways in which he changes over time as he negotiates changes in the world around him. He comes of age as a frontier scout for the British Army during the French and Indian War of the mid-eighteenth century. He dies as an octogenarian on the Midwestern prairies at the dawn of federally-directed Westward expansion. As he experiences the transformation of the frontier from a zone of international warfare into a site of settlement and socio-political development, he watches the emergence of the American justice system eclipse the frontier justice to which he is accustomed. Because he struggles to reconcile his avowed independence with the norms and expectations of the communities that impose upon him, shades of Leatherstocking have been noted in subsequent literary figures as varied as “Ahab and the Virginian” (Slotkin, *Fatal* 82), “the Thoreau of Henry David Thoreau’s *Walden*, the Walt of Walt Whitman’s *Song of Myself*, and Huckleberry Finn” (Cawelti 153), and even “[Ernest Hemingway’s] Robert Jordan and [William Faulkner’s] Ike McCaslin” (Slotkin, *Fatal* 82), “Saul Bellow’s Henderson and Augie March, and Thomas Pynchon’s Tyrone Slothrop”

¹ For examples of television and film adaptations, see various texts listed under *The Deerslayer*, *Hawkeye*, *The Iroquois Trail*, *The Last of the Mohicans*, *The Leatherstocking Tales*, *The Pathfinder*, *The Pioneers*, and *The Prairie* in this book’s bibliography. For abridgements, see Cooper, *The Leatherstocking Saga*. For comic-book adaptations, see William Jones, Jr., ‘James Fenimore Cooper in *Classics Illustrated*, Part 1.’

(Cawelti 159). Just as importantly, Cooper's frontiersman was appropriated by the dime-novelists whose similar adventure tales sold millions upon millions of copies in the second half of the nineteenth century. At Beadle & Adams, one of the most successful dime-novel publishing houses, commissioning editor Orville J. Victor revealed that the dime-novels he valued most highly were those that most shamelessly pillaged the *Tales* (Pearson 99; Dinan 10). Simplifying the socio-political complexities of the *Tales* while amplifying the sheer sensationalism of their frontier violence, the dime-novels routinely presented caricatured derivatives of Cooper's frontiersman to a readership far larger than any that Cooper himself ever reached.

Here, in the first part of this book, I argue that Leatherstocking's evolution into the dime-novel frontiersman parallels the increasing cultural presence of what I call the ethic of frontier justice. Frontier justice, which I define more thoroughly in the following chapter, is a mode of interpersonal conflict resolution not bound to observe the circumspective and deliberative principles of the justice system that governs settled society. The ethic of frontier justice is the willingness, but not necessarily the eagerness, to administer it. The space of the frontier settlement, as a cultural concept that emerged from a confluence of nineteenth century legislation and public discourse, possessed particular characteristics that entailed removing its occupants from settled society, recusing them from the justice system, and issuing them with a logical demand to develop the ethic of frontier justice. Since that demand was a constitutive feature of the cultural concept of the frontier settlement, the cultural presence of the ethic increased in parallel to the expansion of opportunities to participate in the settlement enterprise. As more people were able to actually occupy frontier settlements, more were drawn to consider the cultural concept of the frontier settlement. The more they were drawn to consider that concept, the more they confronted the conceptual logic which issued the demand to develop the ethic of frontier justice and the more the ethic increased its cultural presence.

Cooper wrote the *Leatherstocking Tales* concurrent with the first two large-scale expansions of Western settlement opportunities. As a political conservative with great esteem for the jurisprudential principles of the United States Constitution, he inscribed his series with an ambivalence towards the increasing cultural presence of the ethic of frontier justice. The dime-novels descended from the *Tales* concurrent with the third and largest expansion of Western settlement opportunities. As texts commissioned by corporations that sought market share by appealing to populist rather than conservative sentiments, they adopted the ethic of

frontier justice from the *Tales* but approached it in a more simplistic and celebratory way. To define and illustrate the ethic, then, I want to turn first to the dime-novels and their overwhelming popularity during the peak period of settlement in the mid- to late-nineteenth century. Whereas Cooper's response to the ethic is vexed, and subtly etched into the structure of his series more than into its surfaces, the dime-novels depict it clearly, nakedly, unashamedly, to offer the starkest available manifestation of what Cooper complicated. With that said, one particular scene from the *Tales* warrants consideration here for the ways in which its subtext speaks to the conceptual logic of the frontier settlement which demanded the development of the ethic. In this scene, Cooper's frontiersman senses that demand and so prepares to act on the ethic. This scene should therefore be borne in mind throughout the next two chapters insofar as it forecasts, albeit equivocally, the ethic defined in detail in the following chapter and illustrated by the dime-novel frontiersmen in the chapter after that.

At the end of *The Pioneers*, disturbed by the population influx that has eroded his solitude in the forests of upstate New York, the aged Leatherstocking removes himself to the grasslands west of the Mississippi River. That is where he appears a decade later, at the start of *The Prairie*, having now been settled there so long that it is "unusual" for him "to see [a] human form amid the solitude in which he dwelt" (914). But in the opening chapter of *The Prairie*, a human form is exactly what he sees. The frontier settlement is so distantiated from settled society as to lie beyond the reach of the justice system. The settlement itself thus compels Leatherstocking to interpret the approaching stranger as a threat which cannot be dispelled by the system that administers justice in more densely populated spaces. As Cooper writes later, "instances were not rare" in which an encounter between two strangers on the prairie had

terminate[d] in scenes of the most violent and ruthless treachery. The meeting of two hunters on the American desert, as we find it convenient sometimes to call this region, was consequently somewhat in the suspicious and wary manner in which two vessels draw together in a sea that is known to be infested with pirates. While neither party is willing to betray its weakness... neither is disposed to commit itself by any acts of confidence, from which it may be difficult to recede. (998)

Now, with "another human figure... approaching him," the frontiersman demonstrates the truth of those remarks. He "manifested some surprise," writes Cooper,