

From Courtroom to Classroom: The Lincoln Legal Papers Curriculum

Dennis E. Suttles
and
Daniel W. Stowell, Editors

January, 2002

Made possible by grants from the

Illinois Bar Foundation
and the
Abraham Lincoln Association

A Publication of the Papers of Abraham Lincoln
© 2002 by Illinois Historic Preservation Agency



Illinois Historic
Preservation Agency

George Ryan, Governor
Susan Mogerman, Director



ILLINOIS BAR
FOUNDATION



Abraham Lincoln

From Courtroom to Classroom: The Lincoln Legal Papers Curriculum

A Publication of the Papers of Abraham Lincoln

Made possible by grants from the

ILLINOIS BAR FOUNDATION

ABRAHAM LINCOLN ASSOCIATION

Curriculum Specialists

SHARI HILLS CONDITT, Bartlett High School, Bartlett, Illinois

CARMEN GANSER, Illinois State University, Normal, Illinois

JESSICA PILSON, Mt. Vernon High School, Mt. Vernon, Illinois

LINDSAY SHAW, Harlem High School, Loves Park, Illinois

Lincoln Legal Papers Staff

DANIEL W. STOWELL, Director/Editor

JOHN A. LUPTON, Assistant Director/Assistant Editor

SUSAN KRAUSE, Assistant Editor

STACY PRATT McDERMOTT, Assistant Editor

CHRISTOPHER A. SCHNELL, Assistant Editor

DENNIS E. SUTTLES, Assistant Editor

Publication Design and Composition

MICHAEL REGOLI

The Lincoln Legal Papers has also received generous funding from

CENTER FOR LEGAL STUDIES, UNIVERSITY OF ILLINOIS AT SPRINGFIELD

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

NATIONAL ENDOWMENT FOR THE HUMANITIES

SHELBY CULLOM DAVIS FOUNDATION

Copyright © 2002 by Illinois Historic Preservation Agency

<<http://www.state.il.us/HPA>>

Additional copies may be purchased for \$5 per copy from:

The Papers of Abraham Lincoln

1 Old State Capitol Plaza

Springfield IL 62701-1507

<<http://www.papersofabrahamlincoln.org/>>

Back cover photographs courtesy of the Papers of Abraham Lincoln.

Table of Contents

Introduction	4
<i>Dennis E. Suttles and Daniel W. Stowell</i>	
Abraham Lincoln, Attorney at Law	5
<i>John A. Lupton</i>	
Lincoln and the Rule of Law in a Well-Regulated Society	9
<i>Stewart Winger</i>	
Abraham Lincoln and the Rule of Law Lesson Plan	12
<i>Lawrence W. McBride and Frederick D. Drake</i>	
Worksheet A: Analyzing a Lincoln Legal Document: Private Correspondence	19
Rivers, Roads, and Settlers: Migration and Settlement in the Prairie State	21
<i>Nicole Etcheson</i>	
Moving People Through the Prairie State, 1820-1860 Lesson Plan	24
<i>Lawrence W. McBride and Frederick D. Drake</i>	
Worksheet B: Analyzing a Lincoln Legal Document	31
Agriculture in Antebellum Illinois	33
<i>R. Douglas Hurt</i>	
Illinois Agriculture and the Marketplace, 1830-1860 Lesson Plan	36
<i>Lawrence W. McBride and Frederick D. Drake</i>	
Worksheet C: Synthesis: Illinois History and the Rule of Law	42
A World of Goods: Appreciating Material Culture on the Prairie	43
<i>David Blanke</i>	
Material Culture on the Prairie Lesson Plan	46
<i>Lawrence W. McBride and Frederick D. Drake</i>	
Worksheet D: Analyzing a Lincoln Legal Document: An Estate Inventory	53
Worksheet E: Synthesis: Material Culture and Illinois History	55
Warring Spouses: Teaching the History of Family Law	56
<i>Michael Grossberg</i>	
Social Role and Status: Marriage on the Illinois Prairie Lesson Plan	59
<i>Lawrence W. McBride and Frederick D. Drake</i>	
Worksheet F: Back in the Old Days: An Interviewing Guide	67
The Transportation Revolution in Illinois	68
<i>John E. Clark Jr.</i>	
Canals and Railroads Open Illinois Lesson Plan	73
<i>Lawrence W. McBride and Frederick D. Drake</i>	
Worksheet G: A Better Transportation Network for Illinois, 1820-1850	75
Three Illinois Courthouses: Echoes of Lawyer Lincoln	80
<i>Susan Krause and Daniel W. Stowell</i>	
Glossary	95

Introduction

Dennis E. Suttles and Daniel W. Stowell

For years, researchers from the Lincoln Legal Papers searched county courthouses, private collections, state archives, museums, libraries, and federal repositories for the documentary record of the law practice of Abraham Lincoln. After fifteen years of collecting, processing, and arranging documents, this research culminated in the publication by the University of Illinois Press of *The Law Practice of Abraham Lincoln: Complete Documentary Edition*, a three-disc DVD-ROM edition containing 5,669 cases and legal matters, 96,386 documents totaling 206,294 pages, and an extensive reference section. For the first time, the full documentation of Lincoln's legal activities became available to scholars and students alike.

The Lincoln Legal Papers staff has long recognized the importance of this information, not just to Lincoln scholars, but to genealogists, social historians, public historians, and students of American history. It became increasingly clear that the documents relating to Lincoln's law practice would be useful to the teachers of middle and senior high school students as primary resources for the study of Illinois and United States history.

Shortly after the publication of the *Complete Documentary Edition*, a generous grant from the Abraham Lincoln Association allowed the Lincoln Legal Papers to commission Professors Lawrence McBride and Frederick Drake of the History Education Program at Illinois State University to create six lesson plans using documents from Lincoln's law practice. The lessons would use these primary source documents to teach students about Abraham Lincoln the lawyer, the rule of law, material culture, settlement patterns, environment, economic life, and the role and status of men, women, and children in antebellum Illinois. Four curriculum specialists – Shari Hills Conditt of Bartlett High School, Carmen Marie Ganser of Illinois State University, Jessica Pilson of Mt. Vernon High School, and Lindsay Shaw of Harlem High School – aided Professors McBride and Drake in preparing them. The Lincoln Legal Papers made these lesson plans available online at <http://www.papersofabrahamlincoln.org/>.

Building on the success of these lesson plans, the staff of the Lincoln Legal Papers sought a grant from the Illinois Bar Foundation to make them available in a magazine format. *From Courtroom to Classroom* offers an introduction to Abraham Lincoln as a lawyer, abbreviated versions of the six online lesson plans, each paired with a substantial essay written by a leading historian, a lesson about Illinois courthouses following the guidelines established by Teaching with Historic Places, and a glossary. In order to facilitate the use of original documents in the classroom, each lesson plan contains the transcriptions of legal documents from Lincoln partnership cases.

Each lesson plan identifies the History's Habits of Mind, History's Vital Themes and Narratives, and Illinois Learning Standards for the Social Studies associated with that plan. Identifying these benchmarks established by the National Council for History Education and the State of Illinois will allow teachers to integrate these materials more effectively into their teaching plans.

Each lesson plan suggests a number of learning activities geared to help educators integrate the use of original legal documents into their classes. Although the lessons were created for teachers of grades 6 - 12, teachers can scale the lesson plans to meet the needs of students in other grades as well. Teachers of math, history, and English composition will find a variety of activities they may wish to incorporate into their classroom instruction. For example, the lesson plan *Illinois Agriculture and the Market Place, 1830-1860*, provides a chance for students to use their math skills in computing the market price of corn. "Write to Learn" activities provide students with excellent opportunities to express their understanding of the lesson's content, and to exercise their reasoning and critical thinking skills, while demonstrating their communication skills through narrative, expository, or persuasive essays.

The professional editors of the Lincoln Legal Papers also trust that students will develop a new appreciation for and excitement about the past by studying primary documents. From these sometimes dry legal documents emerge fascinating stories about the lives of ordinary citizens in antebellum America. Historical documents can inform, enlighten, and challenge students when researchers and teachers team together to bring them from the courtroom to the classroom. □

Dennis E. Suttles is assistant editor with the Papers of Abraham Lincoln. He is the author of "For the Well-Being of the Child": The Law and Childhood" in In Tender Consideration: Women, Families, and the Law in Abraham Lincoln's Illinois (University of Illinois Press, 2002) and "Schism on the Prairie: The Case of the Free Portuguese Church of Jacksonville, Illinois," in the Journal of Presbyterian History (Winter 1997).

Daniel W. Stowell is director and editor of the Papers of Abraham Lincoln. He is the author or editor of four books including Rebuilding Zion: The Religious Reconstruction of the South, 1863-1877 (1998) and In Tender Consideration: Women, Families, and the Law in Abraham Lincoln's Illinois (University of Illinois Press, 2002) and several articles in southern history and American religious history.

Abraham Lincoln, Attorney at Law

John A. Lupton

Abraham Lincoln practiced law for nearly twenty-five years in the Illinois courts. Other than part-time service in the Illinois legislature and the United States Congress, law was his full-time occupation. Lincoln handled cases in almost all court levels: justice of the peace, county, circuit, appellate, and federal. He had three successive formal partnerships: junior partner to John Todd Stuart (1837-1841), junior partner to Stephen T. Logan (1841-1844), and senior partner to William H. Herndon (1844-1861). Like many of his colleagues at the bar, Lincoln was a general practice attorney and represented clients in a variety of civil and criminal actions including debt, slander, divorce, dower and partition, mortgage foreclosure, and murder.

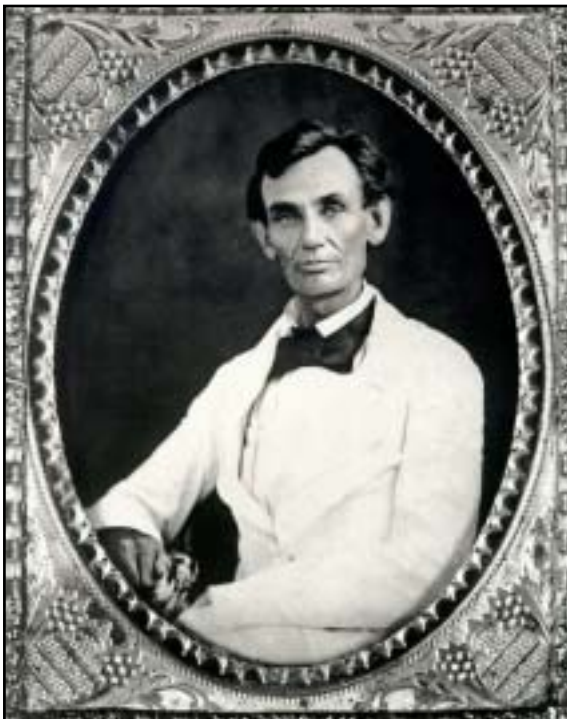
While Lincoln lived in New Salem, Illinois, from 1831 to 1837, he had various encounters with the legal system. He wrote legal documents for Bowling Green, the local justice of the peace, appeared in several lawsuits as a witness, and was the defendant in several cases in which creditors sued him to collect debts. Lincoln considered a career in law after he lost the 1832 election for the Illinois General Assembly, but, according to his 1860 campaign autobiography, decided against a legal career because he thought he needed more education to succeed as a lawyer. In 1834, Lincoln won election as a representative for Sangamon County to the state legislature. When he attended legislative sessions in Vandalia, fellow representative John Todd Stuart encouraged him to study law.

Aspiring attorneys typically studied with established members of the bar or served as clerks in law offices to prepare for a legal career. Lincoln had no such opportunity in New Salem. Instead, he borrowed law books from Stuart's law office in Springfield, twenty miles away, and read them while the legislature was not in session. Lincoln read Blackstone's Commentaries and legal pleading and practice treatises to become familiar with the forms of action and the legal system. On March 24, 1836, the Sangamon County Circuit Court in Springfield certified that Lincoln was a person of good moral character. This certification was the first of several necessary steps to become a lawyer in Illinois.

On September 9, 1836, the Illinois Supreme Court examined Lincoln and issued him a license to practice law in all of the courts in the state, which was the final step to become an attorney. By the spring of 1837, Lincoln had moved to Springfield and accepted Stuart's offer to become his junior law partner. Stuart was mainly interested in politics and gave Lincoln little legal instruction. Consequently, Lincoln had to learn the practice of law by trying cases in court. In November 1838, Stuart won election to the United States House of

Representatives and left Lincoln to handle the legal partnership business alone. Stuart remained in Congress until March 1843.

Stuart and Lincoln's practice consisted primarily of debt-related matters in the various courts in which they practiced. They also handled a variety of legal actions in the criminal, common law,



Abraham Lincoln in Beardstown, Illinois, May 7, 1858, on the day he successfully defended Duff Armstrong in *People v. Armstrong*. Illustration courtesy of the Illinois State Historical Library.

and chancery divisions of law. Stuart and Lincoln both traveled the First Judicial Circuit. When Sangamon County became part of the newly formed Eighth Judicial Circuit in 1839, Lincoln began to ride that circuit. Stuart and Lincoln concentrated their legal practice in Sangamon, Tazewell, Logan, and McLean counties, but they handled cases elsewhere as well.

The Stuart and Lincoln law office was in an upstairs room along Hoffman's Row, a group of buildings on Fifth Street in Springfield, one block north of the public square. After the state legislature voted to move the state capital from Vandalia to Springfield in February 1837, the city donated the public square for the new statehouse. As part of their office work, Stuart and Lincoln kept an office fee book as a record of their legal fees from handling cases and nonlitigation activities. According to entries in their fee book, Stuart and Lincoln generally received \$5 to \$10 for legal fees, but in *People v. Truett*, an 1838 murder case, they received \$500. Stuart and Lincoln generally divided fees equally.

On April 14, 1841, Stuart and Lincoln formally dissolved their legal partnership. Stuart had won election to a second term in Congress, and Lincoln was unable to maintain the partnership by himself. Earlier in

the spring of 1841, Lincoln and Stephen T. Logan had begun practicing law together. Logan introduced Lincoln to new areas of law. After Springfield officially became the Illinois state capital in 1839, the federal court and the Illinois Supreme Court, both of which had met in Vandalia, moved to Springfield. In response to the Panic of 1837, the United States Congress passed the Bankruptcy Act in 1841 granting relief to debtors, the first such federal legislation in nearly forty years. Logan and Lincoln handled many bankruptcy cases before the federal court during the brief time that the act was in effect. During his partnership with Logan, Lincoln increased his caseload before the Illinois Supreme Court and handled appeals from all areas of the state.

Logan stopped circuit traveling when Lincoln became his partner. Logan remained in Springfield, while Lincoln traveled the Eighth Judicial Circuit. Lincoln expanded his legal practice outside of the Eighth Circuit as well, routinely traveling to Coles County, where his father lived, to try cases. He also ventured as far as Clark County, on the Indiana border, and Madison County, on the Missouri border. Most of his circuit traveling took place in the spring and fall terms in each of the counties on the Eighth Circuit.

Logan and Lincoln first had a law office on the opposite side of Fifth Street from Hoffman's Row. In August 1843, they moved to the Tinsley building, which was located on the southeast corner of the public square across Adams Street from the statehouse. The Tinsley building also housed the local post office and the federal courtroom. Logan heightened Lincoln's awareness of legal fees, and they sued several delinquent clients.

Lincoln's legal career did not consist solely of litigation. He maintained an office practice that included writing deeds, registering land, paying taxes, receiving money, and giving legal advice.

Logan and Lincoln dissolved their partnership in December 1844. Logan wanted to practice law with his son David, and Lincoln wanted to begin his own law firm. He asked William H. Herndon, a young law clerk in the Logan and Lincoln law office, to be his junior partner. Initially, Lincoln and Herndon remained in Logan and Lincoln's old office in the Tinsley building. After Lincoln left for Washington in October 1847 to serve a term in the United States House of Representatives, Herndon moved to a smaller office in the same building. Upon Lincoln's return to Springfield in 1849, they continued to practice law in the smaller office. In 1852, they moved to the northwest side of the state capitol square on Fifth Street and remained there until Lincoln left Springfield in February 1861 to become president. Herndon mainly traveled to neighboring counties around Sangamon County. He maintained a large and steady practice in Menard County, which was northwest of Sangamon, even though it was not on the Eighth Circuit throughout most of the 1840s and 1850s.

Lincoln intensified his interest in law after returning from Congress in 1849. He continued to handle cases before the Illinois

Supreme Court during the winter and before the federal court and the Sangamon County Circuit Court during the summer. Lincoln occasionally traveled to Chicago when the federal court held terms there in the 1850s. He interspersed regular court appear-

ances with justice of the peace cases and nonlitigation activities. Lincoln was away from Springfield for nearly six months of the year, three months each spring and each fall riding the circuit.

He had traveled the Eighth Judicial Circuit in the past but began to spend even more time on the circuit after his return from Congress. By 1849, the circuit had fourteen counties in central Illinois, and Lincoln was the only attorney, besides the state's attorney and the judge, who traveled the entire circuit. After one county circuit court concluded its business, the circuit judge and the state's attorney left to hold court at the next county seat. Circuits usually consisted of four to ten counties, and a court term lasted from a few days to a few weeks. At its peak from 1841 to 1847, the Eighth Judicial Circuit consisted of fifteen counties. Roads were difficult to travel during rainy weather. Itinerant court members traveled on horseback or by horse and buggy. While in a county seat, they stayed at local taverns, ate at common tables, and shared beds. When travel was particularly hazardous or lengthy, the group stayed at rural farmhouses along the way. By the end of the 1850s, railroads had become a popular mode of transportation, and Lincoln was able to travel to each of the county seats by rail. Many county seats along rail lines had grown in population and had hotels in which traveling lawyers and judges stayed.

Lincoln did not have any formal partnerships on the circuit. When he reached a county seat, local attorneys asked Lincoln to assist them with a case, or litigants themselves sought his services. Lincoln handled the business as it came to him. Generally, he chose neither clients nor co-counsels along partisan lines. In Macon County, Lincoln and Democrat Joel Seth Post argued fifteen cases together and opposed each other in fifteen cases. In Vermilion County, Lincoln and Ward Hill Lamon had a de facto partnership and advertised it in local newspapers. However, this arrangement did not prevent Lincoln from opposing Lamon in a few cases.

Attorneys living in counties far away from Springfield often referred their Illinois Supreme Court cases to Lincoln. His residence in the state capital helped him build a strong appellate practice. Lincoln continued to handle a large number of cases before the Illinois Supreme Court during the first few years of his partnership with Herndon. After 1849, the Illinois Supreme Court held court at three different locations—Ottawa, Springfield, and Mt. Vernon. Lincoln maintained his appellate practice in Springfield and occasionally traveled to Ottawa for a supreme court session.

Lincoln did not practice exclusively in state courts and maintained a substantial practice in the federal courts in Illinois. The federal courts in Illinois generally ruled on disputes between citizens of different states. Out-of-state residents or businesses attempting to collect debts from Illinois residents often sued them in the federal courts if the amount in controversy exceeded \$500. In such cases, Lincoln represented out-of-state residents as often as Illinois residents. Clients from major commercial centers such as New York, Boston, St. Louis, and Philadelphia retained Lincoln to represent them in Illinois courts. Lincoln argued one case before the United States Supreme Court when he was in Congress in 1849, and served as the attorney of record in four more throughout the 1850s. Lincoln probably had a substantial practice before the federal courts, but the Chicago Fire of 1871 destroyed almost all of the Illinois federal records prior to 1855, so it is difficult to estimate the full extent of this aspect of his practice.

Lincoln handled many different categories of litigation during his career. Debt-related issues filled the court system during the antebellum period, and the majority of Lincoln's legal cases consisted of debt collection. In this type of litigation, he represented both creditors and debtors. As plaintiff attorney for creditors, he won the majority of cases because many defendants failed to appear and defaulted. As defendant attorney for debtors, he lost the majority of cases because the legal system favored creditors over debtors. He also handled cases relating to land titles, inheritance, patents, and railroads.

In the 1850s, the Illinois legislature chartered railroads, and many of them began construction. These events increased litigation over issues of right of way, stock subscriptions, fencing, and damages to real property. Lincoln generally supported the development of railroads all over the state, but that did not prevent him from opposing the railroad companies in the courtroom. He became involved in railroad litigation and represented individuals nearly as often as railroad corporations. The Illinois Central Railroad secured his legal services more often than any other railroad, and Lincoln opposed them in only a few cases.

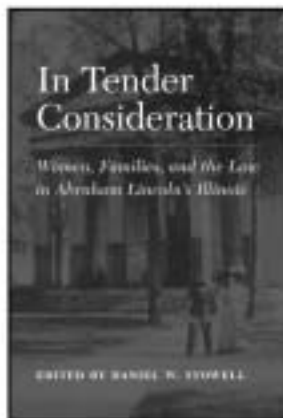
Lincoln's legal career did not consist solely of litigation. He maintained an office practice that included writing deeds, registering land, paying taxes, receiving money, and giving legal advice. Herndon had served in various capacities during his partnership with Lincoln as a deputy clerk for the Illinois Supreme Court and also as city attorney for Springfield. Lincoln and Herndon also maintained a law library in their office, and in one Illinois Supreme Court case, Lincoln loaned one of the law books from his office to the court for use in its opinion.

Lincoln personally did not aspire to any judicial or legal offices. He often wrote letters of endorsement for friends who sought judgeships. When Judge David Davis of the Eighth Judicial Circuit had to leave court during a session, he appointed an attorney to sit as judge for a few cases or even for a few days. Davis asked Lincoln to act as judge several times in the 1850s. However, Lincoln was not the only person whom Davis appointed. Clifton Moore of De Witt County and Oliver L. Davis of Vermilion County substituted for Davis several times as well. Judge Charles Emerson of the neighboring Seventeenth Judicial Circuit often filled in for Davis. Lincoln never sought the position of state's attorney either, though he did assist David Campbell and Ward Hill Lamon, when these men served as state's attorneys on the Eighth Circuit. Lincoln wrote indictments, served as co-counsel to the state's attorney, or acted as state's attorney pro tem in several criminal cases.

On average, Lincoln and Herndon charged a typical client \$5 to \$20. However, there were several occasions when Lincoln either charged his clients nothing or charged them a substantial amount. There are only a few years in which Lincoln and his partners documented legal fees. Lincoln was sometimes careless in obtaining payment, but in a few instances, Lincoln sued clients who had failed to pay him or sued estates of clients to recover legal fees. Lincoln's federal practice probably supplied him with much of his income. A case could not be heard in the U. S. Circuit Court unless it involved a dispute exceeding \$500. As a result, Lincoln charged his federal clients higher fees. He probably charged clients less while practicing in the state circuit courts because disputes involved lesser amounts.

During various times in his legal career, Lincoln suspended the practice of law in favor of his political career. During election years in the 1840s, Lincoln stumped for the Whig Party in various regions of the state. However, in a few instances, Lincoln combined his political and legal careers. For example, while campaigning for the Whigs in southern Illinois in 1840, he gave a political speech in Jefferson County and while court was in session argued a case in the Jefferson County Circuit Court. During his term in Congress, Lincoln did not handle any cases in Illinois but argued one case and became involved in two others before the United States Supreme Court. After losing the 1854 Senate election, Lincoln wrote to some clients in March 1855, that he had dabbled in politics and neglected business, and that since he had lost, he had to go back to work. During his 1858 Senatorial campaign against Stephen A. Douglas, Lincoln did not practice law for much of the summer and fall. After his loss, he returned to law but maintained active political correspondence, which eventually helped him garner support for the

COMING IN MAY



In Tender Consideration

*Women, Families, and the Law
in Abraham Lincoln's Illinois*

EDITED BY DANIEL W. STOWELL

"[These essays] contribute to a considerably more precise understanding of how private citizens managed their relationships with the state and the social order in the first half of the nineteenth century."

— Linda K. Kerber, author of *No Constitutional Right to Be Ladies*

Drawing on the rich resources of *The Law Practice of Abraham Lincoln: Complete*

Documentary Edition, a DVD version of Lincoln's complete legal papers, *In Tender Consideration* scans the full range of family woes that antebellum Americans took to the law. Deserted wives, destitute widows, jilted brides with illegitimate children, and slandered women brought their cases before the courts, often receiving a surprising degree of sympathy and support.

www.press.uillinois.edu/s02/stowell.html

Hardcover, \$34.95

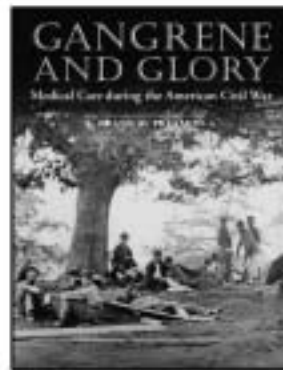
Behind the Scenes

Thirty Years a Slave, and Four Years in the White House

ELIZABETH KECKLEY. Edited by FRANCES SMITH FOSTER

Born into slavery, Elizabeth Hobbs Keckley (ca. 1824-1907) rose to a position of respect as a talented dressmaker and designer to the political elite of Washington, D.C., and a confidante of First Lady Mary Todd Lincoln. Her memoir offers a rare, behind-the-scenes view of the formal and informal networks that African Americans established among themselves, as well as an insider's perspective of the men who made Civil War politics and the women who influenced them.

Paperback, \$19.95



Gangrene and Glory

*Medical Care during the
American Civil War*

FRANK R. FREEMAN

"[Gangrene and Glory] should provide a greater awareness of this national tragedy. . . . In Dr. Freeman's vivid account, one almost sees the pus, putrefaction, blood, and maggots and can imagine the unbearable pain and suffering." — *Journal of the American Medical Association*

Paperback, \$24.95



UNIVERSITY OF

ILLINOIS

PRESS

800-545-4703

www.press.uillinois.edu

presidential election in 1860.

The Republican National Convention nominated Lincoln for president in May 1860. He continued to handle several cases during the summer term of the federal court in Springfield. It is unlikely that he represented any more clients after the summer. In November 1860, Lincoln won the election for the presidency over his political rival Stephen A. Douglas and two other candidates. During the winter, Lincoln wrapped up his legal business with Herndon, and left for Washington in February 1861. According to Herndon's biography of his famous law partner, Lincoln wanted the partnership sign to hang undisturbed and "give our clients to understand that the election of a President makes no change in the firm of Lincoln and Herndon." He told Herndon that if he

returned he wanted to resume their practice of law "as if nothing had ever happened." □

John A. Lupton is the assistant director and an assistant editor with the Papers of Abraham Lincoln. He is the author of "Inheriting the Earth: The Law of Succession" in In Tender Consideration: Women, Families, and the Law in Abraham Lincoln's Illinois (University of Illinois Press, 2002) and "Basement Barrister: Abraham Lincoln's Practice Before the United States Supreme Court," in The Lincoln Herald (Summer 1999), as well as other articles. Mr. Lupton received his M.A. in History from the University of Illinois at Springfield.

Lincoln and the Rule of Law in a Well-Regulated Society

Stewart Winger

When Americans think of the frontier of Kentucky, Indiana, or Illinois in the 1820s or 30s, perhaps one of the last things to come to mind would be the arcane and complex rules of the common law. Words from the nineteenth century rule of law like “assumpsit,” “mandamus,” or “chancery” do not call up images of flatboats on the Ohio the way the legends of Daniel Boone or the stories of Mark Twain do. In terms of the growing economy of what was then the West, Americans probably think of a relatively wide-open place where a man could do what he wanted with his property and government regulation was at most the silly notion of an eastern city slicker. But a

If Americans now typically have a false picture of life on the frontier, they also have some misconceptions about Lincoln. Americans have been more accustomed to seeing Lincoln as a “railsplitter” and a man of the people, rather than as a sophisticated lawyer who learned the use of legal technicalities and mastered the art of argument.

look at the legal career of Abraham Lincoln reveals a very different picture of the American past. Virtually every aspect of life in nineteenth-century America was subject to the rule of law, and like today, the sheriff and other officials often served subordinate roles to the courts (See document 3-A). The frontier was not a lawless place, but rather a “well-regulated society,” and the frontier lawyer had a hand in every part of rural

and small town life, from land and title disputes to marital difficulties. One such lawyer was Abraham Lincoln.

A look at some of the cases Lincoln handled in his extensive legal practice offers a glimpse into the way nineteenth century Americans really lived. The field of legal history has exploded in the past thirty years in part because it forms a bridge between more traditional intellectual or political history—which tells us what important people said—and newer histories that concentrate on what ordinary women and men did. In this lesson, students have a chance to become legal historians and to examine for themselves the way the rule of law both reflected and shaped peoples lives. It also gives them a chance to look over the shoulder of Abraham Lincoln in his legal practice, and to discover how this particularly brilliant lawyer thought about the rule of law.

If Americans now typically have a false picture of life on the frontier, they also have some misconceptions about Lincoln. Americans have been more accustomed to seeing Lincoln as a “railsplitter” and a man of the people, rather than as a sophisticated lawyer who learned the use of legal

technicalities and mastered the art of argument. Although Lincoln's legal practice consumed the greater part of his adult life (some twenty-four years), and though Lincoln was probably shaped as much by his professional career as by any other single force, Lincoln's biographers devoted relatively little space to his legal career, and it plays a relatively small role in the way we typically picture Lincoln. But by 1859, he was poised to enter the most elite class of the nation's lawyers, and in 1860 Erastus Corning offered him the job as general counsel of the New York Central at an annual salary of \$10,000. Contrary to what Lincoln himself said (in Document 1-B), he was in fact a very "accomplished lawyer."

Manyscholars have seen the economy in this period as a wide-open free market untrammelled by government intervention. Indeed federal intervention in the economy was negligible, often limited to land grants to states for the purposes of public works projects. In part because they concentrated on the role played by the federal government as opposed to state and local governments, this led historians to draw the conclusion that the frontier was wide open. But according to legal historian William Novak, the common law held sway at the state and local levels. Common law rules of proceeding were very old, and they may seem mysterious to modern students. Under the common law, precedents stretching back to laws enacted by the Parliament in England and the decisions of English judges formed the basis of law in most of the states, even on the frontier. Some of the documents in this curriculum represent common law pleas, and they can be as difficult to read now as they were for non-lawyers in Lincoln's day. According to Novak, *caveat emptor*, or "let the buyer beware," and *laissez faire*, or leave the economy alone, were *not*, as previously thought, the ruling ideas in nineteenth century American common law. Rather in this "well-regulated society," two now forgotten and perhaps now mysterious-seeming principles governed lawmaking at the state and local level.

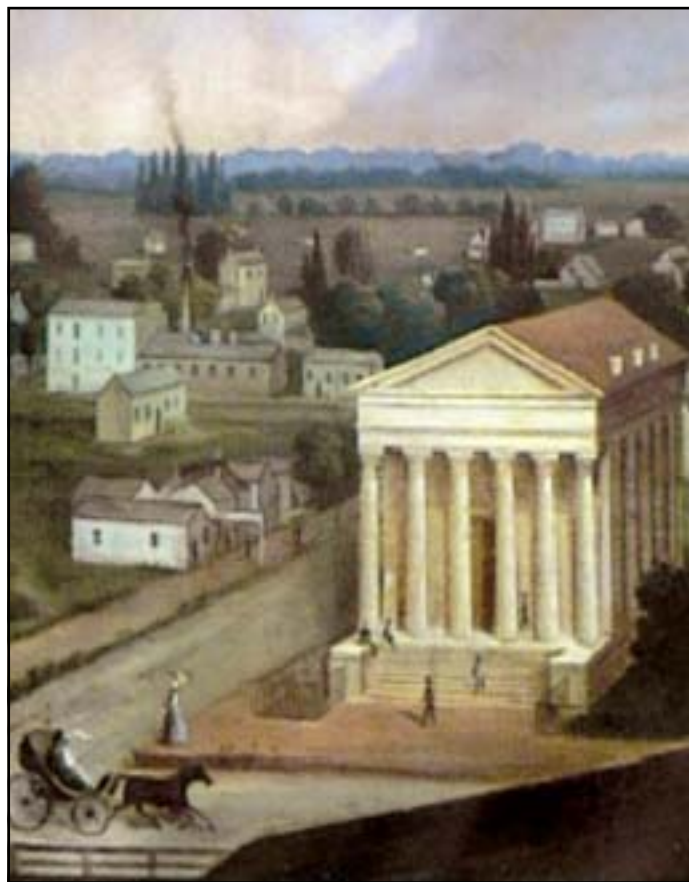
The first legal principle justified sweeping state and local-level regulations: *Salus populi suprema lex est*, or "the good/health of the people is the highest law." This meant that state and local governments had a duty to pursue the public good and that they were therefore justified in undertaking almost anything if it served the good of the people. So for instance, states routinely granted

railroad or ferryboat monopolies in an effort to improve their economies. In fact, Lincoln's first brush with the law may have been when as a boy in Indiana he was paid to row two men out into the Ohio River between Indiana and Kentucky where the two men wanted to catch a passing steamboat. Even this relatively simple act was subject to government regulation. Lincoln was

brought before a local justice of the peace in Kentucky for violating the Ferry's monopoly right to carry passengers across the river. Lincoln argued that he had not brought the men *across* the river, and won his case. This may or may not have been the origin of his desire to become a lawyer, but from his youth to the time he served as railroad commissioner (Document 6-B), Lincoln was surrounded by the "well-regulated society." Since he was ambitious to take a leading role in this society, becoming a lawyer was the natural choice.

The second principle was *sic utere tuo ut alienum non laedas*, which meant, "So use your right so as not to injure the rights of others." With this maxim, state and local governments justified regulations on the use of liberty and property to prevent one individual from harming another. So for instance, where exactly one decided to store gunpowder or to slaughter pigs was subject to intense regulation. A man's home was not his castle, and if he were found maintaining a "disorderly house," he might find his property condemned as a nuisance to the community and seized by the court without compensation. Both the economy and morality were heavily regulated in nineteenth century America.

Nowadays we are less comfortable with a world where such intrusive government can do almost anything. But it must be remembered that this was a world of real self-government. People felt comfortable with government because friends and neighbors exercised power. It is in part because of the way local laws were abusive to blacks in America that we later came to regard sweeping local government power as a threat to liberty. Thus ironically, the antislavery movement and the Civil War in which Lincoln played so prominent a role, helped bring about the demise of the well-regulated society that had nurtured his legal thought. But the sweeping rule of law of Lincoln's world must be seen in the context of an almost strictly state and local government. When Lincoln went to Chicago in 1847 for the Rivers and Harbors Convention there, he found himself in the biggest city he had ever seen, a city



Sangamon County Courthouse (1846-1876), Old State Capitol Building in Springfield, Illinois. Illustration courtesy of the Illinois State Historical Library.

of some 16,000 people. In the rural and small town world where Lincoln came from, people really could know each other. Thus the fear of a distant but abusive government had yet to develop. Lincoln took for granted that local laws regulated some of the most intimate relations between people. Government “for the people,” was assured by the fact that government really was “of the people,” and “by the people.”

On the level of everyday governmental policy and dispute resolution, Lincoln was typical of a school of jurisprudence that saw in the law, not the protection of individual rights existing prior to a supposed social contract, but the embodiment of prevailing public morality. This is very important. Law in Lincoln’s day was not intended to be morally neutral, and “legislating morality” was among the foremost duties of both judges and legislatures. Legislatures and courts prohibited crimes against morality such as gambling, alcohol, and illicit sexual relations throughout this period. After the Civil War, and especially after the Fourteenth Amendment to the U.S. Constitution, American law shifted away from the notion of law as the embodiment of public morality, toward a notion of the law as the will of the people expressed through legislation, and limited by certain rights enumerated in the Bill of Rights. Prior to the Fourteenth Amendment on the other hand, the Bill of Rights played a surprisingly small role in the way Americans thought about and practiced the law. (Though today any federal court would immediately find a violation of the First Amendment, Massachusetts had an established church until 1833.) Whether made by state legislatures responding to immediate felt needs, or by state judges interpreting the historical traditions of the community through a slowly evolving common law, the law was infused with what Lincoln in Document 1-B referred to as a “moral tone.” And increasingly through Lincoln’s lifetime, religious and specifically Protestant and Christian ideas of morality informed the making and application of the law.

This did not mean Lincoln believed he had a right to make or break law according to his personal moral beliefs, however. That indeed would run counter to the “rule of law,” which this curriculum defines as “the principle that the actions of both government and citizens are subject to the law.” For example, historians are still unsure about just why Lincoln argued on behalf of a slave owner for the return of his slaves. Lincoln repeatedly said that he thought slavery was wrong and could not remember a time when he did not think so. How then can the law be seen to be enforcing morality in this case? The important thing to remember is that Lincoln never believed that his *personal* feelings with regard to slavery empowered him to change or indeed to violate the law. The law embodied *community* values and norms, not necessarily those of all individuals, and not necessarily those of Lincoln himself. In his reaction to the famous Dred Scott case, Lincoln pointed out at length that behind all law stood public opinion, and that therefore he who shaped public opinion went much deeper than he who merely made or enforced the laws. And Lincoln characterized Southern secession as the lawless refusal of Southerners to accept the outcome of a legally constituted election. Finally, the Emancipation Proclamation itself was once

criticized as having all the moral grandeur of a bill of lading. But Lincoln was careful to work within the law, and he believed that to emancipate the slaves in areas under Union control could not be justified as a military necessity. Merely declaring new law because he thought it was right would have violated the rule of law, and Lincoln therefore wrote a relatively narrow and legalistic proclamation. But he did not stop there. He also sought to shape public morality on the slavery issue and eventually asked for an expression of antislavery commitment in the legally airtight form of a constitutional amendment (the future Thirteenth Amendment).

According to Mark Steiner and “contrary to what earlier scholars have said, Lincoln was neither a saint, nor a consistent advocate for corporate interests, economic development, or even railroad interests. Lincoln instead possessed a service mentality; he was ready to represent any client. But Whig lawyers like Lincoln were more than mere legal technicians; they also stressed the importance of lawyers serving as guardians of community values . . . Lincoln reluctantly represented corporate clients. He resented the quickened pace and the impersonal style of lawyering that his corporate clients demanded, and he disliked the loss of autonomy that came with the increased supervision by his corporate clients.”¹ The documents in this section reveal Lincoln’s attitudes toward his chosen profession, the law. □

Endnotes

1. Mark E. Steiner, “Abraham Lincoln and the Antebellum Legal Profession.” Houston: FirstSearch Dissertation Abstracts Online, 1993.

Bibliography

- Beard, William D. “I have labored hard to find the law’: Abraham Lincoln and the Alton and Sangamon Railroad.” *Illinois Historical Journal* 85 (Winter 1992): 209-20.
- Frank, John P. *Lincoln as a Lawyer*. Urbana: University of Illinois Press, 1961; reprint, Chicago: Americana House, 1991.
- Karsten, Peter. *Heart versus Head: Judge-Made Law in Nineteenth-Century America*. Chapel Hill: University of North Carolina Press, 1997.
- Novak, William J. *The People’s Welfare: Law & Regulation in Nineteenth-Century America*. Chapel Hill: University of North Carolina Press, 1996.
- Steiner, Mark E. “The Lawyer as Peacemaker: Law and Community in Abraham Lincoln’s Slander Cases.” *Journal of the Abraham Lincoln Association* 16 (Summer 1995): 1-22.

Stewart Winger received his B.A. in Fundamentals: Issues & Texts from the University of Chicago in 1985, and his M.A. and Ph.D. in History of Culture from the University of Chicago in 1993 and 1998 respectively. He also studied Political Science at the Free University of Berlin. He taught at Purdue University Calumet and is now Assistant Professor in the History Department at the American University in Cairo, Egypt. Winger’s publications include “Lincoln’s Economics and the American Dream: A Reappraisal,” in The Journal of the Abraham Lincoln Association (Winter 2000), and Lincoln’s Religious Rhetoric and the American Romantic (University of Northern Illinois Press, forthcoming).

Abraham Lincoln and the Rule of Law

Lawrence W. McBride and Frederick D. Drake

Theme: Values, Beliefs, Political Ideas, and Institutions

Habits of Mind: Recognize the importance of individuals who have made a difference in history

Focus: According to the rule of law, which is a fundamental part of the Anglo-American concept of constitutional government, both the government and the governed are subject to the law. Under the principle of the rule of law, no government official, no single private citizen, no single group of people can claim privilege above the law. Rather, rules are set forth in advance, are widely known, and are applied impartially to rulers and ruled alike. The rule of law is essential to limited government, for in a limited government everyone, including all people in positions of authority, must obey the laws. The rule of law, however, means more than having laws or passing legislation; neither is it merely the use of laws to rule a civil society. The “rule of law” opposes arbitrary and capricious “rule of men.” Thus, the rule of law is essential to ordered liberty and prevents individuals from deciding for themselves what the law is and how and when the law is to be enforced. This fundamental value and belief in the rule of law organizes the content of this lesson.

As a practicing attorney, Abraham Lincoln believed in the rule of law. The government and all people, he believed, were obligated to make decisions and take actions based on established law rather than personal whim and desires. This lesson helps students understand the rule of law as an important principle of constitutional government (also called limited government), and it helps students appreciate how the rule of law guided Lincoln’s legal career and his advice as counsel.

When students read the documents from the Lincoln Legal Papers in this lesson, they should think of how an individual can influence the beliefs and actions of others. Throughout Abraham Lincoln’s legal career, new and experienced attorneys alike sought his advice regarding the principles and beliefs that should guide a lawyer’s practice. Lincoln’s belief in the “rule of law” sustained the advice he offered attorneys.

Objectives: Students will be able to:

1. Explain the difference between the rule of law and the rule of men.
2. Explain why the rule of law means more than simply having laws.
3. Explain the relationship between the rule of law and Abraham Lincoln’s advice to lawyers.

Illinois Learning Standards

14.F.3a Analyze historical influences on the development of political ideas and practices as enumerated in the Declaration of Independence, the United States Constitution, the Bill of Rights and the Illinois Constitution.

16.B.2d (US) Identify major political events and leaders within the United States since the adoption of the Constitution, including Abraham Lincoln.

1. Opening Arguments. Ask students to read John Locke’s statement and explain how the rule of law protects individual rights.

“*Wherever Law ends, Tyranny begins.*” — John Locke (1690)

2. Rebuttal. Ask students to compare John Locke’s statement to Alexander Hamilton’s statement:

“*If individuals enter into a state of society the laws of that society must be the supreme regulator of their conduct.*” — Alexander Hamilton (1788)

3. Any Further Questions, Mr. Lincoln? Ask students these follow-up questions:

- a. What is meant by “rule of law”?
- b. What are the consequences if there is an absence of a rule of law?
- c. What are the alternatives to the rule of law?
- d. What different varieties of law exist?
- e. How does the rule of law limit both those who govern and the governed?
- f. How does the rule of law protect individual rights? the common good?

4. Abraham Lincoln’s Advice to Law Students. (Document 1-B: Notes for a Law Lecture).

a. New and experienced attorneys often consulted Abraham Lincoln for advice on practicing the law. Lincoln’s gift was oral argument rather than legal research.

b. Lawyers often argued the law and let the judge decide. Lincoln used the law and argued the facts of a case.

c. He contributed to the law by revolutionizing jury participation in case decision-making. Lincoln emphasized jury nullification, based on how a jury perceived evidence. He believed that circumstance rather than the letter of the law should dictate the judgment of a case.

d. He suggested to attorneys no less than four sources to prepare for the bar and practice. He recommended Blackstone’s *Commentaries* and knowledge of “black letter” law, that is, a basic

recitation of the law prior to being applied to a fact situation. Lincoln also suggested Chitty's *Pleadings*, which assisted lawyers to know the proper approach in addressing the court, and Greenleaf's *Evidence*, which advised the proper method to present evidence to the court. Finally, Story's *Equity* had importance to Lincoln because of its emphasis on fairness.

e. Ask students what they think is meant by the phrase "black letter" law? Why is etiquette important in a court of law? Why is proper procedure essential in a court of law? Why would Lincoln think fairness is an important principle in law and an important characteristic of a successful lawyer?

5. Discovering Abraham Lincoln through Legal Documents. Three documents provide insight into Lincoln's legal practice and the rule of law. Have students read each document related to his law practice and complete the guide to primary source analysis, *Analyzing a Lincoln Legal Document: Private Correspondence* (Worksheet A). As students read each document ask them to infer how Lincoln's recommendations to lawyers emphasized the principle of the rule of law.

a. Read Document 1-A: Letter, Abraham Lincoln to J. M. Brockman, 25 September 1860. Then discuss these questions:

- i. Summarize the main idea of this document.
- ii. What does this document tell us about the way Lincoln prepared to practice law?
- iii. How did Lincoln's suggested readings contribute to the practice of law?
- iv. How does this document illustrate that Lincoln believed in the rule of law?

b. Read Document 1-B: Abraham Lincoln, Notes for a Law Lecture (undated, 1850s). Then discuss these questions:

- i. Summarize the main idea of this document.
- ii. What does this document tell us about the best practices of a lawyer?
- iii. How does this document illustrate that Lincoln believed in the rule of law?

6. You be the Judge: Instructions to the Jury. Lincoln had an extensive legal practice that made him a noteworthy attorney not only in Illinois, but also around the country. While many of his cases were typical of an attorney's daily practice in the 1840s and 1850s, he did make contributions to the practice of the law through *jury nullification*. Most attorneys argued the letter of the law and judges instructed juries in the letter of the law. Jury nullification, however, occurs when an attorney pleads with a jury to consider the extenuating circumstances that may have affected the behavior of a plaintiff or defendant in a particular case. Discuss the merits of both of these positions: strict following of the letter of the law or admitting the extenuating circumstances as a defense.

7. Conclusion and Assessment: Write to Learn. Think of a situation in which you broke a very important school rule. Imagine Abraham Lincoln was acting as your "attorney" to present your defense at a trial before your peers. Write an expository paragraph describing how Lincoln's defense strategy in the courtroom would help to clear charges made against you? What would he argue so that a jury of your peers would suspend the strict following of the rules? Or, select a passage from one of Lincoln's letters to aspiring attorneys. Summarize in your own words the key points of Lincoln's advice.

Additional Activities

Illinois History Day Project. Students may develop an historical re-enactment, wherein some students will portray several new lawyers discussing the legal profession in Illinois with Abraham Lincoln, who will be depicted by another student. The student-actors can draw upon the information presented in the introduction to this curriculum, to outside readings about Lincoln's life, but especially to the primary source documents included in this lesson.

A Handbill for Lawyer's Best Practices. Create a handbill to inform nineteenth-century attorneys of Abraham Lincoln's recommendations for a lawyer's best practices. The handbill should describe how Lincoln's advice adhered to the rule of law. The assessment of student work on the handbill and their description of Lincoln's advice will be based on their knowledge and reasoning of the primary source documents, and their ability to communicate clearly. □

Lawrence W. McBride is a Professor of History at Illinois State University, where he directs his department's History and Social Sciences Education Program. His work in curriculum development has been recognized with awards from the American Historical Association, the Illinois State Historical Society, and local historical agencies and community institutions. He is the author of three books and several articles in the field of modern Irish history.

Frederick D. Drake is an Associate Professor of History at Illinois State University and a James Madison Fellow. An award-winning teacher, Dr. Drake's principal responsibility has been leading the department's network of Professional Partnership Schools that collaborate to prepare history teachers for successful careers. Dr. Drake has also been engaged in outreach programs in the Baltic States, where he collaborates with local educators on issues related to history and civic education. Dr. Drake is also the author of a book on states' rights and federalism.

Document 1-A

Letter, Abraham Lincoln to J. M. Brockman, 25 September 1860. Henry Horner Lincoln Collection, Illinois State Historical Library, Springfield, Illinois.

Springfield, Ills. Sep. 25. 1860
J. M. Brockman, Esq
Dear Sir
Yours of the 24th asking
"the best mode of obtaining a thorough
knowledge of the law" is received. The mode is very
simple, though laborious, and tedious. It is only to get the books, and
read, and study them carefully. Begin with Blackstone's Commentaries,
and after reading it carefully through, say twice, take up Chitty's
Pleadings, Greenleaf's Evidence, & Story's Equity &c. in
succession. Work, work, work, is the main thing.
Yours very truly
A. Lincoln

■ Document 1-A (transcription)

Springfield, Ills. Sep. 25. 1860

J. M. Brockman, Esq
Dear Sir

Yours of the 24th asking "the best mode of obtaining a thorough knowledge of the law" is received. The mode is very simple, though laborious, and tedious. It is only to get the books, and read, and study them carefully. Begin with Blackstone's Commentaries, and after reading it carefully through, say twice, take up Chitty's Pleadings, Greenleaf's Evidence, & Story's Equity &c. in succession. Work, work, work, is the main thing.

Yours very truly
A. Lincoln

I am not an accomplished lawyer. I find quite as much matter
all for a lecture, in those points where I have failed, as those
where I have been moderately successful.

The leading rule for the lawyer, as for the man of any other calling,
is diligence. There is nothing for him to do, which can be done to any
New let your confidences fall behind. Whatever pieces of business
you have in hand, before stopping, use all the labor possible
to it, which can then be done. When you bring a case
more law suit, if you have the facts for doing so, write the case
clearly at once. If a law point be involved, examine the books,
and note the authorities you rely on, upon the conclusions
drawn, when you are sure to find it when wanted. The point
of disputes and pleas. In business not likely to be litiga-
tion - ordinary collection cases, foreclosing, partition, and the
like, make all explanation of titles, and even draft every
own decrees in accounts. The course has a trifling and
perhaps, it avoids omissions and neglect, saves you labor when
you are done, performs the labor out of court when you have
business, rather than in court, when you have not.

Examination speaking should be practical and instructive.
It is the lawyer's avenue to the public. However able
and faithful he may be in other respects, people are
slow to bring him business, if he cannot make a speech.
And yet there is not a more fatal error
to young lawyers, than relying too much on speaking
long. If any one, upon the rare power of speaking, shall draw an
exception from the drudgery of the law, his case is a fair one
in account.

• ~~Some~~ ^{the} ~~business~~ ^{litigation}. Business you ought to con-
sider whenever you can. Point out to them how the man
at work is often a real loss, in fair expenses, and
waste of time. As a penman, make the lawyer has a de-
pendent feature of being a good one. There will still
be business enough.

455


Never accept up integrity. A worse man can scarcely
 be ~~found~~ than one who does this. Who can be more
 mean, a finer than he who habitually overbids the pur-
 suits of duty, in search of defects in titles, who can
 stir up strife and put money in his pocket? A moral tone
 ought to be infused into the profession, which should
 drive such men out of it.

The matter of fees is important far beyond the mere
 question of mean and better influence. Propriety and
 equity to fields justice is done to both lawyer and
 client. An exorbitant fee should never be claimed.
 As a general rule, never take your whole fee in advance,
 nor any more than a small retainer. When fully paid
 before hand, you are now then a common mortal of
 you can face the same return in the case, or if
 something was still in prospect for you, as well as
 for your client. And when you lack interest in

the case, the job will very likely fail, shall and
 originate in the performance. Settle the amount
 of fee, and take a note in advance. Then
 you will feel that you are working for something
 they and you, and to do your work faithfully
 and well. Never take a fee note at least until
 for the construction case is performed. It leads to negli-
 gence and dishonesty, negligence, by long delay in the
 case, and dishonesty in refusing to perform, when you
 have accepted the construction to face.

There is a vague popular belief that lawyers are necessarily
 dishonest. I say vague, because when we compare to what
 entire confidence, and honors and reputation, and a case is
 favored upon lawyers by the people, it appears improbable
 that their reputation of dishonesty, is very distinct and true.
 Let the expression, or commendation untrue. Let
 no one ever charge the law for a calling, for a name.

yield to the popular belief. Resolve to be honest at
all points, and if, in your own judgment, you can not do
an honest lawyer, resolve to be honest without being a
lawyer. Choose some other occupation, rather than one in
the closing of which you do, in advance, consent to bid
a fraud.



456

Document 1-B, Notes for a Law Lecture (transcription)

I am not an accomplished lawyer. I find quite as much material for a lecture, in those points wherein I have failed, as in those wherein I have been moderately successful.

The leading rule for the lawyer, as for the man of every other calling, is diligence. Leave nothing for to-morrow, which can be done to-day. Never let your correspondence fall behind. Whatever piece of business you have in hand, before stopping, do all the labor pertaining to it, which can then be done. When you bring a common-law suit, if you have the facts for doing so, write the declaration at once. If a law point be involved, examine the books, and note the authority you rely on, upon the declaration itself, where you are sure to find it when wanted. The same of defences and pleas. In business not likely to be litigated—ordinary collection cases, foreclosures, partitions, and the like,—make all examinations of titles ^{and note them,} and even draft orders and decrees in advance. This course has a tripple advantage; it avoids omissions and neglect, saves you labor when once done; performs the labor out of court when you have leisure, rather than in court, when you have not.

Extemporaneous speaking should be practiced and cultivated. It is the lawyer's avenue to the public. However able and faithful he may be in other respects, people are slow to bring him business, if he can not make a speech. And yet there is not a more fatal error to young lawyers, than relying too much on speech-making. If any one, upon his rare powers of speaking, shall claim an exemption from the drudgery of the law, his case is a failure in advance

~~Never encourage~~ ^{Discourage} litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser, in fees, expenses, and waste of time. As a peace-maker, the lawyer has a superior opportunity of being a good man. There will still be business enough.

Never seek stir up litigation. A worse man can scarcely be ^{found} ~~conceived of~~ than one who does this. Who can be more nearly a fiend than he who habitually overhauls the Register of deeds, in search of defects in titles, whereon to stir up strife, and put money in his pocket? A moral tone ought to be infused into the profession, which should drive such men out of it.

The matter of fees is important far beyond the mere question of bread and butter involved. Properly attended to fuller justice is done to both lawyer and client. An exorbitant fee should never be claimed. As a general rule, never take your whole fee in advance, nor any more than a small retainer. When fully paid before hand, you are more than a common mortal if you can feel the same interest in the case, as if something was still in prospect for you, as well as for your client. And when you lack interest in the case, the job will very likely lack skill and diligence in the performance. Settle the

amount of fee, and take a note in advance. Then you will feel that you are working for something, and you ^{are} sure to do your work faithfully, and well. Never sell a fee-note, at least, not before the consideration service is performed. It leads to negligence and dishonesty—negligence, by losing interest in the case, and dishonesty in refusing to refund, when you have allowed the consideration to fail.

There is a vague popular belief that lawyers are necessarily dishonest. I say vague, because when we consider to what extent confidence, and honors are reposed in, and conferred upon lawyers by the people, it appears improbable that their impression of dishonesty, is very distinct and vivid. Yet the expression, is common, almost universal. Let no young man, choosing the law for a calling, for a moment yield to this popular belief. Resolve to be honest at all events; and if, in your own judgment, you can not be an honest-lawyer, resolve to be honest without being a lawyer. Choose some other occupation, rather than one in the choosing of which you do, in advance, consent to be a knave.

Key to Transcription Symbols

Symbol	Description
. . .	text left out in excerpting
[. . .]	unrecoverable passages in source text
^{roman}	additions to original source text (interlineations)
strikeout	passages deleted by the author of the document
[. . .]	unrecoverable passages deleted by the author of the document
<u>underline</u>	passages underlined by the author of the document
[<i>italic</i>]	editorial supply; not based on words in original text
[roman]	editorial supply of mutilated passages; expansion of abbreviations, when necessary for clarity

Worksheet A

Analyzing a Lincoln Legal Document: Private Correspondence

A. Identify the Document

Author(s) _____

Title _____

Date _____

Type of Document _____

B. Put the Document in Historical Context

What important events were occurring at this time? _____

Illinois _____

United States _____

World _____

To whom was the document written? _____

What was the purpose of this document? _____

C. Analyze the Document

What are the main ideas or themes of this document? _____

What was the author's motive for writing this document? _____

Write one question you would like to ask the author. _____

What insight into the period did you gain from this document? _____

D. Identify Vital Themes and Narratives

Which Vital Theme and Narrative do you think is best represented?

- 1) Civilization, cultural diffusion, and innovation
- 2) Human interaction with the environment
- 3) Values, beliefs, political ideas, and institutions
- 4) Conflict and cooperation
- 5) Comparative history of major developments
- 6) Patterns of social and political interaction

What evidence in the document can you cite that will support your choice? _____

E. Habits of Mind

Which Habit of Mind helps you reflect upon Lincoln’s career and the ideas that shaped him as a lawyer, politician, and statesman?

- understand the significance of the past to your life
- distinguish between important and inconsequential
- perceive past events and issues as experienced by people at the time
- acquire a comprehension of diverse cultures and shared humanity
- understand how things happen and change
- comprehend the interplay of change and continuity
- prepare to live with uncertainties
- grasp the complexity of historical causation
- appreciate the often tentative nature of judgments about the past
- recognize the importance of individuals who have made a difference
- appreciate the force of the nonrational, irrational, and accidental in human affairs
- understand the relationship between geography and history
- recognize the difference between fact and conjecture

How does this Habit help us understand the past?

F. Talk to Mr. Lincoln. Use these lines to answer any question you or your teacher may have about this document and Lincoln’s law practice.

G. For Further Discussion. Use this space to answer any question you or your teacher may have about this document and Lincoln’s law practice.

Rivers, Roads, and Settlers: Migration and Settlement in the Prairie State

Nicole Etcheson

Over half-thawed ground and rivers still choked with ice, the pioneer family rode and walked from southern Indiana to the Sangamon River country of Illinois. Like other migrants, this was not their first move. Driven out of Kentucky by uncertain land titles, the Lincolns had fared better in Indiana, where they acquired a substantial farm. They hoped to do still better in Illinois. To get there, they piled the family's goods into a wagon that oxen struggled to draw over muddy roads and across unbridged, often swollen, streams. The Lincolns, like many travelers and immigrants to the Prairie State, found that bad transportation often hindered settlement.

The river system of the Ohio, Illinois, and Mississippi brought the first white settlers to the timbered regions of Illinois. The early flatboats were often called “Kentucky” boats because they

headed southward. The river traffic thus strengthened Illinois's southern orientation, connecting the trade of the midwest to southern ports such as New Orleans. To head upriver, boatmen used poles or towed the boats with ropes. The boatmen's work was hazardous and rough because of unseen obstacles and swift currents.

Illinois became a state just as the steamboat emerged. Steamboats shortened the return time on western rivers, but were more expensive, so steamboats and flatboats co-existed for many years. Steamboats were also dangerous due to overheated boilers and fire hazards from flying sparks. Still immigrants crowded aboard.

Rivers brought the original settlers into Illinois, but roads soon became necessary to link settlements. The early roads were “blind traces,” or mere tracks. Early road construction was often not much more than dirt paths, dusty in

summer and muddy in rain. Sometimes logs were added to “corduroy” the road.

Much road building was haphazard. William Oliver passed a house whose occupants appeared to have dug a hole in the state road from which to get clay to daub their chimney. The casual obstruction of the roads was common, Oliver noted. Although it was unusual for a state road such as this one to be so treated, “but with the other roads of the country, every one interferes when it suits his convenience, and there is nothing uncommon in coming up to a fence which has been thrown across the road, thereby causing the traveller to make a detour in order to regain the tracks.



Steamboat Nominee docked on the Galena River in Galena, Illinois, circa 1850s.
Illustration courtesy of the Illinois State Historical Library.



Over the National Road. The forerunner of the stagecoach and railway train. *William Henry Milburn, The Lance, the Cross and Canoe: The Flatboat, Rifle, and Plough in the Valley of the Mississippi (New York: N. D. Thompson Publishing Company, 1892), 625. Illustration courtesy of the Illinois State Historical Library.*

In some places, where the country is getting peopled up, the roads are flung about from one farm to another, in a manner perfectly vexatious and perplexing. This evil, which might very easily be remedied now, will soon become a source of trouble and expence.”¹

Such irregularities in the roads caused considerable inconvenience. An English visitor to the Illinois statehouse saw a man inquiring “about an old county road of which no record could be found in his county, but which he ‘reckoned’ would be posted up at the capital in the books of the State.”² The concern, and confusion, about local roads was evident.

In 1849, the legislature passed a law encouraging the building of plank roads. These cheap roads were called “farmer’s” or “poor man’s” roads and an estimated 600 miles were built or laid out within two years. But they proved to be unsatisfactory; water collected and rotted the planks which then warped. The planks decayed and the road companies did not have adequate funds for maintenance so travelers returned to the tracks on the open prairie which were safer than the decaying wooden roads.

The National Road, the major national internal improvements project of the antebellum era, brought settlers to the midstate region. But although the National Road reached Vandalia by 1839, Congress ceased funding the internal improvements project the next year. In fact, the road was never as well built in Illinois as it had been in the west. While the road had been “macadamized” or paved with a mix of crushed rock, clay, and water, in the east, it was not in Illinois. But it did divert traffic from the river routes.

The expansion of the road network showed the northward spread of Illinois’s population. The old French settlement of Kaskaskia was the road terminus of the pre-statehood period. In 1820, Alton was the northern limit of road construction. By 1830,

roads had reached Peoria with a branch to Chicago. By 1839, a network of roads linked Chicago to Galena, Rock Island, Ottawa, and Joliet while the southern network of roads had grown denser with increased population. By 1850, the road networks of northern Illinois had become as dense as those in the southern part of the state.

Settlement stimulated a drive for internal improvements which culminated in a legislative package in 1837 to construct a canal and a railroad system. Politicians and the public underestimated the cost of these works and overestimated the profits to be gained. The Panic of 1837 and the resulting depression quickly killed the ability to finance and build the proposed system. The state incurred massive debts, was unable to finish the projects, and defaulted on debt payments in 1841. Immigrants “avoided Illinois as they would pestilence and famine” as it seemed likely Illinois would either repudiate its debt or impose onerous taxes to pay it.³ In addition, railroads began making canals obsolete. The trains only ran 30 mph, but they carried freight and passengers faster than boats or wagons. New modes of travel did not entirely displace the old. From the railroad train, travelers could see immigrant wagons. But the railroads doomed the expensive canal system. To restore the state’s good credit, Governor Thomas Ford proposed a successful plan to complete some projects, forego repudiation, and liquidate part of the state debt.

Settlement began to turn northward where local tribes had been expelled after the Black Hawk War. Settlers came along the Erie Canal and Great Lakes rather than the Ohio River system that had settled the southern part of the state. Some migrants walked or rode wagons around the south shore of Lake Erie and Lake Michigan, leading to a land boom in Chicago in the 1830s.

Land sales indicated the northward shift in population. In 1820, 6,699 acres were sold at land offices at Shawneetown,

Kaskaskia, and Edwardsville. In 1839, of the 1,132,872 acres sold less than 100,000 were sold at Shawneetown, while 160,154 were sold at Chicago and 229,471 at Galena.

The original French settlers, concentrated at Cahokia, Kaskaskia, and Prairie du Rocher, had been slaveowners. There were still over 900 slaves and indentured servants in Illinois at the time of statehood. By 1850, Illinois had 5,436 black residents although the constitutional convention had prohibited free black immigration. Illinois had prohibitions on blacks voting, serving in the militia, and participating in court proceedings. In southern Illinois, free blacks feared kidnappers who might sell them into slavery.

The first non-French white migrants to Illinois were southerners, who moved up the Ohio River in the years after the American Revolution. They came from the interior border region of the Old South which includes Virginia, Maryland, North Carolina, Kentucky, and Tennessee. These five states provided the bulk of the early immigrants to Illinois. The census of 1850, reveals that 16.8 percent of Illinois's population had been born in the South. Although the census listed residents born in such deep South states as Georgia, Louisiana, or Florida, the upland southern states accounted for the vast majority of midwesterners of southern nativity: 88.8 percent in Illinois. Furthermore, 51.5 percent of Illinois residents in 1850 had been born in Illinois, Ohio, or Indiana. These midwesterners were often the children and grandchildren of southern immigrants, the earliest settlers in the region. Midwesterners followed the National Road, the river system, and the canals into the middle of the state, dispersing north and south from that base. Upland southerners populated the southern two-thirds of Illinois, penetrating considerably to the north of the National Road.

New Englanders moved westward through New York State and Ohio's Western Reserve to concentrate in northern Illinois but with considerable dispersion to the south. When the first New Englanders arrived, the two groups regarded each other with considerable suspicion. The upland southern settlers considered "a genuine Yankee was a close, miserly, dishonest, selfish getter of money, void of generosity, hospitality, or any of the kindlier feelings of human nature. . . . The northern man believed the southerner to be a long, lank, lean, lazy and ignorant animal, but little in advance of the savage state; one who was content to squat in a log-cabin with a large family of ill-fed and ill-clothed, idle, ignorant children."⁴

Immigration from overseas did not become important until the 1830s. Many Germans came for the cheap, rich land when opportunities to acquire land dwindled in Germany. In the 1830s and 1840s, some Germans fled failed attempts to overthrow the monarchy. Because southern Illinois was already densely settled and the good land taken, over half of the immigrants settled in Northern Illinois, almost 18 percent in Cook County. In 1860, when the foreign-born population was 324,643, Germans constituted 130,804 and the Irish 87,573 of those immigrants. Many Irish came to Illinois to work on the canals and ended up farming along the lines of abandoned canals when the works went unfinished.

In 1860, Illinois's population placed that state fourth in the Union in size, up from eleventh a decade earlier. Chicago was now

the nation's ninth largest city (up from twentieth in 1850) with 112,172 residents, most of them immigrants from Europe.

Rivers, roads, canals, and trains had brought this mix of settlers to Illinois. In the 1840s, Governor Thomas Ford lamented that migrants to Illinois, while honoring the states of their birth, lacked pride in Illinois. "Illinois could be insulted anywhere with impunity," while settlers would fiercely resent insults against their native states, whether in New England or the South.⁵ If Ford had been able to look ahead another generation, he might have taken pride that the leading contenders for the northern vote in 1860, Stephen Douglas and Abraham Lincoln, were both immigrants to Illinois. The prominence of Illinois politicians testified to the state's growth and consequent political importance. The new transportation networks tied the state's growing population more securely to the rest of the nation. When Lincoln bid an "affectionate farewell" to his fellow townsmen in Springfield, he traveled to Washington, D.C. by railroad, the latest transportation innovation. The trip was almost two thousand miles, made in less than two weeks, including numerous stops for speeches. Four years later, this migrant to Illinois returned, again by railroad, to be buried in his adopted state. □

Endnotes

1. William Oliver, *Eight Months in Illinois* (Ann Arbor: University Microfilms, 1966), 104.
2. Paul M. Angle, comp. and ed., *Prairie State: Impressions of Illinois, 1673-1967, by Travelers and Other Observers* (Chicago: University of Chicago Press, 1968), 324.
3. Thomas Ford, *A History of Illinois From Its Commencement as a State in 1818 to 1847* (Urbana: University of Illinois Press, 1996), 152.
4. Ford, *History of Illinois*, 195.
5. Ford, *History of Illinois*, 158-59.

Bibliography

- Cole, Arthur Charles. *The Era of the Civil War, 1848-1870*. Springfield: Illinois Centennial Commission, 1919.
- Etcheson, Nicole. *The Emerging Midwest: Upland Southerners and the Political Culture of the Old Northwest*. Bloomington: Indiana University Press, 1996.
- Howard, Robert P. *Illinois: A History of the Prairie State*. Grand Rapids, Michigan: William B. Eerdmans Publishing, 1972.
- Jensen, Richard J. *Illinois: A Bicentennial History*. New York: Norton, 1978.
- Meyer, Douglas K. *Making the Heartland Quilt: A Geographical History of Settlement and Migration in Early-Nineteenth-Century Illinois*. Carbondale: Southern Illinois University Press, 2000.
- Pease, Theodore Calvin. *The Frontier State, 1818-1848*. Chicago: A.C. McClurg & Co., 1922.

Nicole Etcheson is an Associate Professor of History at the University of Texas at El Paso and the author of *The Emerging Midwest: Upland Southerners and the Political Culture of the Old Northwest, 1787-1861* (Indiana University Press, 1996). She is currently working on a book about the Kansas Civil War.

Moving People through the Prairie State, 1820-1860

Lawrence W. McBride and Frederick D. Drake

Theme: Conflict and Cooperation

Habits of Mind: Understand the relationship between geography and history as a matrix of time and place; perceive past events and issues as experienced by people at the time; and develop historical empathy as opposed to present-mindedness.

Focus: Advances in transportation systems enabled hundreds of thousands of people to migrate west during the period 1820-1860. The Erie Canal, completed in 1825, and the National Road, which reached Vandalia in 1833, brought commerce and settlers to the Old Northwest region of Wisconsin, Michigan, Ohio, Indiana, and Illinois. Most of the settlers were farmers who hoped to realize the full potential of the rich prairie land. Soon, small villages and towns dotted the countryside. However, the increase in the number of settlers often led to conflicts over land rights. The security of one's right to property was symbolized by the fence, which soon became a point of disagreement between those who wanted to raise cattle, those wanting to grow corn, and those just wanting to keep neighbors and strangers off their property.

Often, land disputes arose that involved private citizens, government agencies, and officials at the local, county, and state levels. In this lesson students encounter a dispute over the existing route of a road near Mt. Pulaski, and a landowner's attempt to change the existing road, which crossed his property. The landowner built a fence across the road where it crossed his property to force the local authorities to change the route. The fence was certain to affect his neighbors and travelers who used the road to get to Springfield, and the case went to court.

Objectives: Students will be able to:

1. Describe examples of conflict and cooperation that accompanied Westward Expansion.
2. Analyze a map.
3. Analyze primary source documents.

Illinois Learning Standards:

16.E 2a Identify environmental factors that drew settlers to the state and region.

16.E 3b Describe how the largely rural population of the United States adapted, used, and changed the environment after 1818.

17.A 2b Use maps and other geographic representations and instruments to gather information about people, places, and environments.

17.C 3a Explain how human activity is affected by geographic factors.

Procedures

1. Discovery

A. Four Maps and a Chart Tell the Story of Westward Expansion in Illinois. In the following activities, teachers should make sure that students identify the key places in this legal action: Mt. Pulaski Road, Mt. Pulaski, Springfield and Logan County, and the region around Logan County.

Map 2.1: Illinois in 1830: Settlement along the river areas resulted from people traveling westward along the Ohio River, north and south along the Wabash, and north along the Mississippi and Illinois Rivers. Note: The northern most river is the Rock, which empties into the Mississippi River, that forms the western boundary of the state of Illinois. The Des Plaines River and the Kankakee River meet to the east of Ottawa and form the Illinois River. The mouth of the Kaskaskia River is located at the Mississippi River near the city of Kaskaskia. The Wabash River forms the southeastern border of Illinois. The Ohio River joins the Wabash River near Shawneetown.

Teaching Opportunity: Find each of these rivers on a current Illinois map.

Map 2.2: Illinois Highways in 1832: Roads allowed migrants to settle most of the southern Illinois region and to migrate towards the central and northern regions of the state. Note: The author of this map has overstated its title. In 1832 the state was served largely by dirt roads that were often impassable for several months of the year.

Teaching Opportunity: Use a current highway map to identify points and key intersections along Illinois "highways."

Map 2.3: Proposed State Railroad System, c. 1850: This proposal would allow new settlers to establish communities throughout the state, and would speed agricultural produce and manufactured goods to markets throughout Illinois and to regions beyond the state. **Teaching Opportunity:** Locate an historical atlas that shows early railroad lines in Illinois. Were any of these proposed state railroads ever constructed?

Map 2.4: Illinois Railroads in 1855: The railroads were becoming a vital means of transportation, facilitating commerce, trade, and travel. Within a few years the city of Chicago became the nation's railway hub.

Teaching Opportunity: Compare the data in Map 2.4 to the data in Maps 2.2 and 2.3.

Chart 2.1: The Population of Illinois, 1810-1860. The population of the state increased at an astonishing rate, from a mere

12,200 in 1810 to 1,712,000 in 1860.

Teaching Opportunity: Convert the data in this chart into a bar graph format.

B. Additional Teaching Opportunities: Using Contemporary Maps to Identify Old Routes.

1) Ask students to use a current map of Illinois to identify important towns and cities along the course of its large rivers and to identify on the maps of the roads and railroads from the 1830s and 1850s the important towns and cities along those routes.

2) Ask students to identify on either a map from 1855 or on a current map the transportation points where roads and railroads intersected in 1855.

3) Ask students to compare and contrast the road network and railway network as depicted on the maps of the 1830s and 1850s with the current routes of the interstate highways and key U.S. highways that cross Illinois. Students might also locate a current map of Amtrak routes in Illinois or other major railway routes.

2. Going to Court

A. Lincoln Legal Documents Describe Conflict on the Prairie. Legal battles unfold over the control of land and roads. Document 2-A: Bill for Injunction, *Beam & Skinner v. Buckles* (1857)

1) Who is in court?

a) John Buckles (1822-1909) was born in White County, Illinois, and while he was still an infant, his parents became some of the earliest settlers of Logan County. In 1843, Buckles purchased land southeast of Mt. Pulaski, and he married Esther J. Scroggin in 1847. He owned the largest farm in the region, shipping cattle and hogs to various markets, and became one of the largest cattle dealers in central Illinois.

b) Samuel C. Beam (1824-1880) was born in New Jersey, and moved to Mt. Pulaski, Illinois, in 1845. Beam built the largest residence in Logan County, Illinois. He was the Supervisor of the Road District, a miller, and a grain dealer.

c) Permelia Skinner (b. 1815) was the widow of Thomas R. Skinner (1801-1857), a county surveyor and county judge. Skinner owned property adjacent to a county road that traversed Buckles's property.¹

2) What was at issue between the litigants? Read Document 2-A: Bill for Injunction from *Beam & Skinner v. Buckles* (1857). (See Glossary at the end of the magazine for unfamiliar terms.) Note the following population statistics to set the context:

a) Mt. Pulaski had only a handful of people when the town was laid out in 1836.

Year	Population
1850	360
1860	634

b) Springfield was growing rapidly.

Year	Population
1835	1,419
1840	2,579
1845	4,533
1855	7,250
1860	9,320

Chart 2.1: The Population of Illinois, 1810-1860

Year	Population
1810	12,262
1820	55,211
1830	157,445
1840	476,183
1850	851,470
1860	1,711,951

Source: *Illinois Blue Book, 1997-1998* (Springfield: State of Illinois, 1998).

3) Students complete and then review the guide, *Analyzing a Lincoln Legal Document* (Worksheet B).

B. Asking Informed Questions about *Beam & Skinner v. Buckles*. Refer to the Plat Map in the Bill for Injunction, as well as the population figures, maps and charts in Procedure 1-A, above.

1) How does the map of the land around Mt. Pulaski help orient you to the conflict between Samuel Beam, Supervisor of the Road District, and Mr. Buckles?

2) Which came first: Mr. Buckles's ownership of the farm or the road to Springfield? In your opinion, did Mr. Buckles have the right to build a fence across the road that went through his property?

3) What would motivate Mr. Buckles to build a fence on his property? Why might he wish to change the route of the road?

4) How do the other maps and the population figures help to explain why access to roads was becoming more important to people in the area?

5) Why might so many people be uninformed about Mr. Buckles's petition? Note: The document refers to both voters and others who have not signed the petition. Why was it important for the court documents to identify some of the individuals who had signed petitions as "voters?" Did voters have special legal status or property rights that were denied to the others who did not have the right to vote?

6) Why did Mr. Skinner come forward with the Supervisor of the Road District to request an injunction against Mr. Buckles? How do Mr. Buckles's plans affect the value of her property?

3. You be the Judge

A. How could this dispute have been settled out of court?

B. As the judge in this case, which of the court documents is the most persuasive to you? Why?

C. Which witnesses are the most believable? Why?

D. What instructions would you give to the members of the jury?

E. How would you rule in this case?

4. Conclusion and Assessment. Write to Learn. Students should write one to three narrative paragraphs describing a family's experiences as they migrated from an eastern state into Illinois. As the students write their essays, they need to demonstrate that transportation and farming developments, combined with the overwhelming desire for land, led thousands of migrants to settle new homes beyond the Appalachian Mountains. Their essays should also note that during westward expansion disputes over



Map 2.1: Illinois in 1830

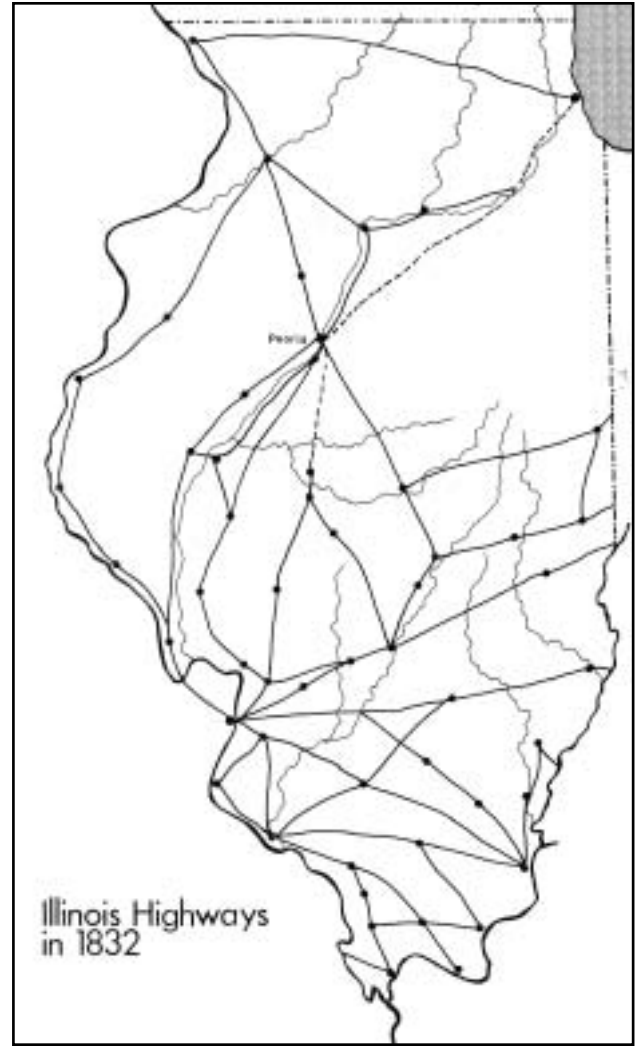
Settlement along the river areas resulted from the migration westward of people along the Ohio River, north and south along the Wabash River, and north along the Mississippi and Illinois Rivers. (Robert P. Howard, *Illinois: A History of the Prairie State* [Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972], 156.)

land arose, creating situations that sometimes were settled peacefully in courts through the application of the rule of law. At other times, individuals employed physical force to try to achieve their aims.

Additional Activities

Illinois History Day Project. Students can trace the history of the major road that connects their community to the state capital in Springfield. Students should research the history of the route, including printed documents and images. Issues addressed in the research may include construction, overcoming physical features like rivers or wetlands, competition from other means of travel, and sites travelers would see as they made their journey. Students should also determine how road improvements changed the time it took to travel from their town to Springfield.

Property Rights and the Common Good. Students are to imagine that they own a parcel of land with a home on it. The county has told them that they are going to take half of their yard



Map 2.2: Illinois Highways in 1832

Roads allowed migrants to settle most of southern Illinois and to migrate toward the central and northern regions of the state. (Robert P. Howard, *Illinois: A History of the Prairie State* [Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972], 161.)

to make way for a new road. The students will write a persuasive letter to their state representative to present their argument. They will choose to either argue that the road will damage their land, and that the seizure will violate their property rights, or they will agree to support the growth of the state highway system, perhaps with due compensation. Students might develop this scenario into an historical reenactment by writing a script using the key legal arguments and language in the Lincoln legal documents as a model to follow.

Endnotes

1. *History of Logan County, Illinois* (Chicago: Chicago Interstate Publishing, 1886), 218-19; Lawrence B. Stringer, *History of Logan County, Illinois*, 2 vols. (Chicago: Pioneer Publishing, 1911), 2:21-25.

Document 2-A (transcription)

Beam & Skinner v. Buckles



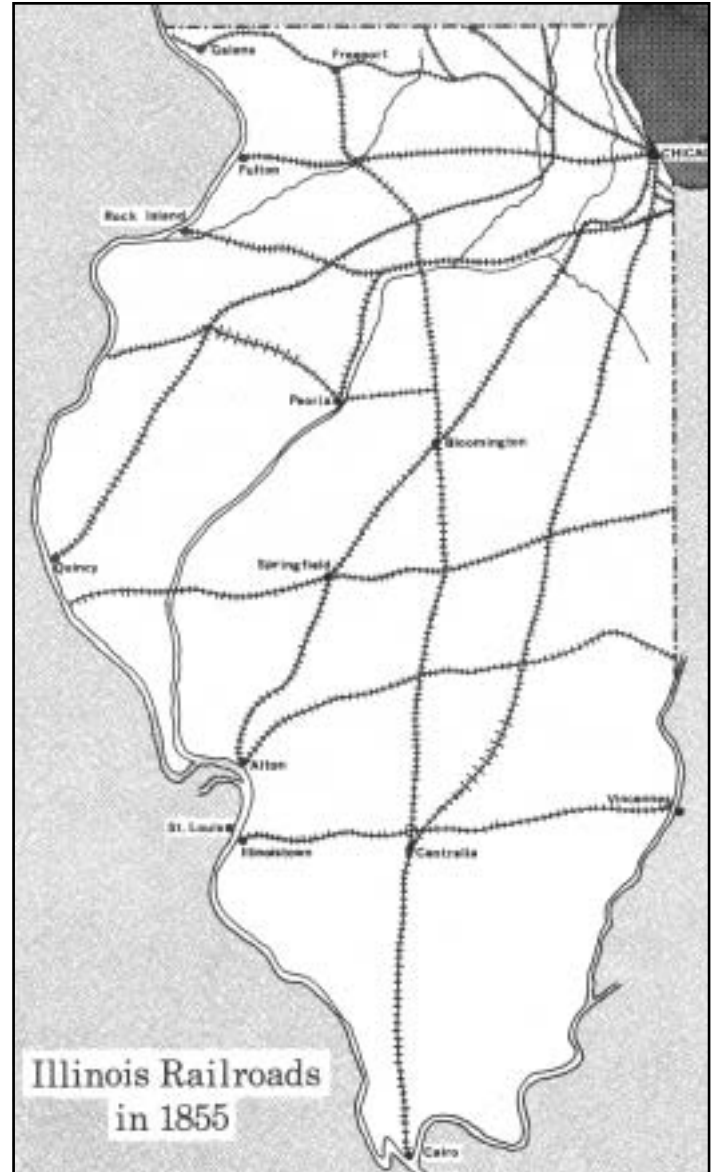
Please visit http://www.papersofabrahamlincoln.org/from_courtroom_to_classroom.htm for an image of this document.

Case Summary: In 1854 or 1855, Logan County officials built a county road from Mt. Pulaski, Illinois, in the direction of Springfield, Illinois, but Barton Robinson refused to give the county a right of way through his property. Robinson sold the land to John Buckles, who also objected to the road. Buckles won a judgment to remove the road or to change the route, and he built a fence across the road. Samuel C. Beam, the district road supervisor, and Permelia Skinner, who owned adjoining land, retained Samuel C. Parks and Wilford D. Wyatt to represent them. Beam and Skinner petitioned for an injunction in the chancery division of court to stop Buckles from obstructing the road. Buckles retained Abraham Lincoln, William H. Herndon, and Lionel P. Lacey. Judge David Davis granted the injunction, but the parties apparently reached a settlement, and Beam and Skinner dismissed the case in the March 1858 term.

Bill for Injunction

State of Illinois
Of the September Term of the County Court A.D.
Logan County 1857

Humbly complaining sheweth unto your Honor your Orators Sam^l C. Beam & Permelia Skinner[^] that he [^]the said[^] Beam is a citizen & legal voter of Mount Pulaski in Logan County Illinois; that about two or three years since [^]or more[^] a County Road from the said Town of Mount Pulaski in said County to the Logan County line in the direction of Springfield was regularly & legally petitioned for viewed located & opened [^]after great labor trouble & expense[^]; that said Road has been worked & used as a public legal County Road for near two years or more that he is the Supervisor of the Road District in which lies the town of Mount Pulaski & in which the first three miles of said Road [...] after it leaves Mount Pulaski lies; that said Road as originally located & opened ran diagonally accross [^]part of [^]the North half of Sections 21 & 22 Town 18 N Range 2W ~~that~~ in said County; that Barton Robinson was the owner of said Land when said Road was located through the said that ~~the~~ [...] he refused to give the right of way for the same through said land that the damages & compensation therefor were regularly assessed & fixed for him by Commissioners regularly appointed by the Circuit Court of Logan County; that after this & with a full knowledge of all these facts John Buckles of Logan County Ills bought said tract of Land from the said Robinson & you[r] Orator is informed and believes that the said Robinson made a deduction of a large sum of money from the price of said land on account of said Road running diagonally through it to wit about \$500,00 & that ~~rather~~ compensation for damages aforesaid were offered to said Robinson by Order of the County Court of Logan County but that he refused to accept [. . .] That at the June term of the Logan County Court the above named John Buckles presented to the County Court of Logan County what purported to be a "Petition" "praying for the removal of the presented Road leading from Mt. Pulaski to Springfield to change said Route from where it strikes the South line of Section (15) in Town (18) Range (2) [to run] thence due West on said Section line to the half section line of Section 21 same Town & Range thence South on said half Section line to intersect the present line of said Road." That although a large majority of the inhabitants of Logan County living within five miles of said Road were opposed to any change therein ~~the great~~ [^]& a majority of the[^] qualified voters living immediately [^]of each Road district[^] through whi[ch] said Road passed did not sign said petition nor did a majority of the voters living immediately in the vicinity of such Road the great [...] of them knew nothing of said Petition till after it had been presented to the Court & the viewers appointed which was done at the June Term of said Court A.D. 1857 That John Bigger Theodore Lorence & John Shoup were said viewers; that at the September Term of said County Court they presented a Report in favor of the change prayed for & you[r] Orator & others [^]by their atty S C Parks[^] presented a Remonstrance signed by nearly or quite double the number of legal voters who had signed the petition of the said Buckles & moved the Court to reject said Report & dismiss the case because the Petition & Report & all the proceedings therein were irregular informal insufficient & not according to law & because said change or alteration in said Road is against the remonstrances wishes & interests of a large majority of the Citizens of Logan County whose interests are mosts affected by it; but that said Court refused [^]to consider said Remonstrance & said objections to said change[^] & not withstanding or due & that their report be received & approved that before said Court adjourned you[r] Orator appeared before the same & claimed an appeal to the Circuit Court of Logan County that the ~~day of the~~ [^]same day[^] the said Buckles was notified thereof & the day after that he proceeded" to fence up said Road that your orator has perfected his appeal but is informed & believe[s] that the said Buckles will not respect the same but, intends to proceed to fence up said Road as if no such appeal had been taken [^]& has so stated[^]; that the fencing up of the same will be a serious injury to your Orator both as supervisor of said Road & as one of the Citizens of Mt Pulaski & the County of Logan & a great inconvenience to very many of the citizens of said County; that the road is longer & not so good as the former route &c; that the ~~for~~ right of way was a part of said road was given upon condition that the road should run straight through said lands & that there is danger if the said change is made that said road may be closed up at other points; that all the proceedings of the said Buckles & of the County Court above described furnish



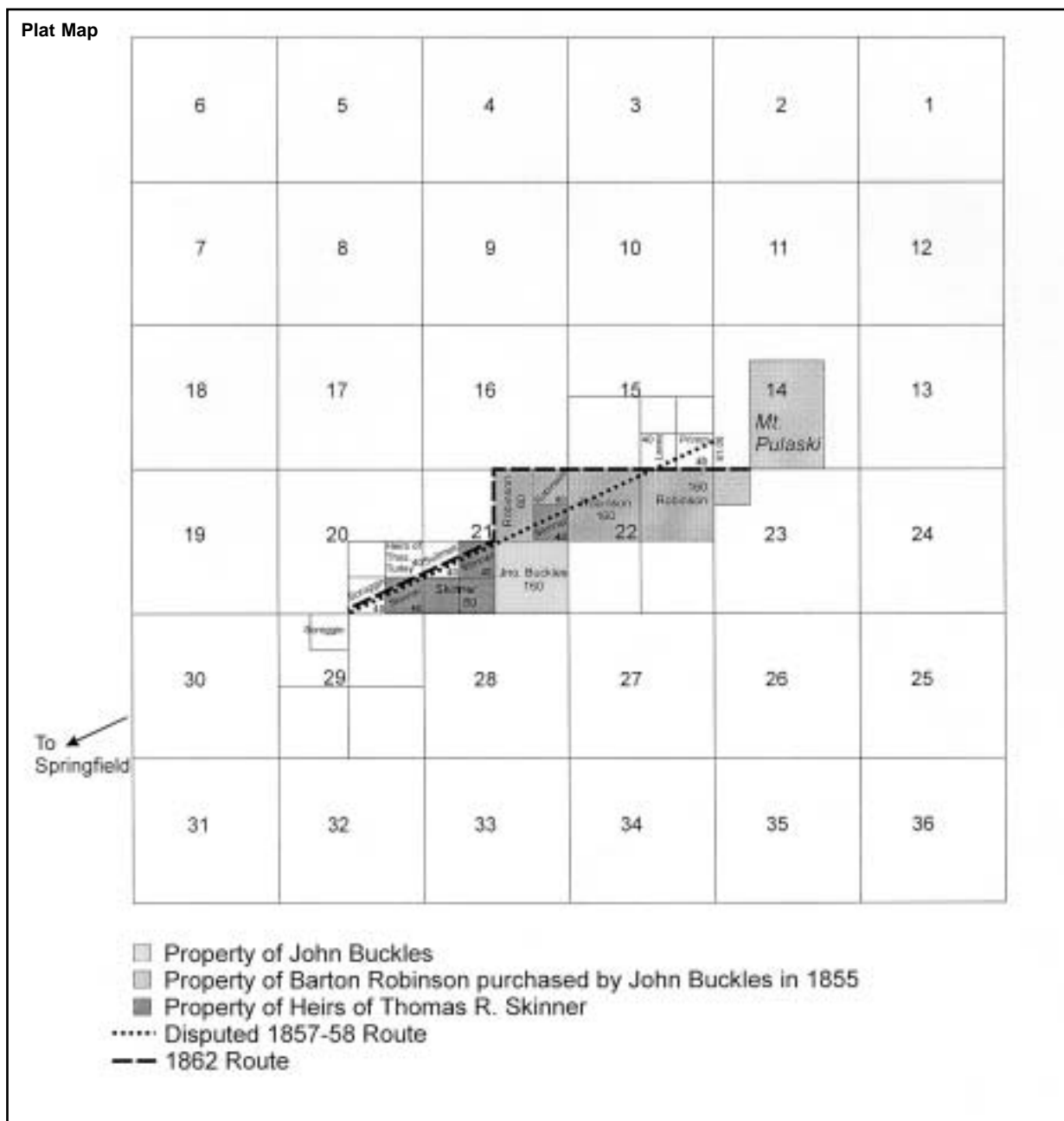
Map 2.3: Proposed State Railroad System, c. 1850
 These proposed routes would allow new settlers to establish communities throughout the state, and would speed agricultural produce and manufactured goods to markets throughout Illinois and to regions beyond the state. (Robert P. Howard, *Illinois: A History of the Prairie State* [Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972], 201.)

Map 2.4: Illinois Railroads in 1855
 The railroads were becoming a vital means of transportation, trade, and travel. (Robert P. Howard, *Illinois: A History of the Prairie State* [Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972], 268.)

no authority to said Buckles to fence up said road that said proceedings are all irregular insufficient & illegal; that the petition does not describe correctly the road said Buckles is fencing up & is in other respects vague uncertain & insufficient that the Report is [---] objectional for the same reasons & that the Court erred in not considering & heading said remonstrance & that the order of said Court does not direct the opening of said road as ^petitioned to be^ changed or direct the old route to be closed up He hereby makes said Petition Remonstrance Order & Record of said Court Report of Viewers &c parts of this Bill

And your Oratrix Permelia Skinner in addition to the facts set forth above by Your Orator Samuel C Beam in all which she concerns & all which she avers to be true & which also she charges as part of her complaint alledges that she is the widow & one of the heirs of Thomas R Skinner late of Logan County deceased the said Skinner departed this life ^that^ in the winter of the year 1856 & 1857 & at the time of his death was the ow[n]er in fee simple of the South East quarter of the North East quarter of Section Twenty One (21) in Township Eighteen (18) North Range Two (2) West that there is no incumbrance of any sort upon said tract of Land; that the said Skinner left at his death no children & no will that your Oratrix as widow & one of the heirs of the said Thomas R Skinner is part owner of the said tract of Land that the said

Road as originally located ran diagonally through said tract that the said Skinner gave the right of way through the said tract to the County of Logan upon condition that said Road should run straight through all the Lands between Mount Pulaski & then north of John Scroggin's land as set forth in the foregoing part of this Bill that by the removing & fencing up of the said Road [---] by the said Buckles as above set forth said tract of Land is materially diminished ~~tha~~ that by the said change & fencing up of the said Road said tract of land is entirely fenced up by the said Buckles and you Oratrix & the other owner of said Land towitt the brothers & sisters of the said Thomas R. Skinner have now no access to the same except over the fences and Lands of the said Buckles & that if the said Road is allowed to be permanently changed & said fence to permanently remain said tract of Land will be almost if not entirely worthless to your Oratrix & the other heirs of the said Thomas R Skinner & that neither the said Thomas R Skinner in his lifetime nor your Oratrix nor any of the heirs of the said Skinner since his death have ever consented to the change of the said Road by Buckles or his fencing up the same [at] said tract of Land but that they all have been uniformly opposed to it Your Oraters further aver that there has been a Road substantially the same or running over about the same ground as the one fenced up by Buckles for more than twenty years by which all the different owne[r]s of the above described 40 acres have had ^uninterrupted^ access to it but that since said fencing up they have no access at all Your Oraters file herewith a plat of said Road & the lands over which it ran before the change by Buckles & the sale to him by Robinson



And your Oratrix ~~Permelia Skinner~~ in addition to the facts set forth above by ~~Samuel C Beam~~

In tender consideration of all which your Orators asks that You[r] Honor will take cognizance of this matter that the said John Buckles may be made party defendant to this Bill that process may issue for him directed & commanding & returnable & that he may be required to answer all the allegations of this Bill fully & particularly & especially that a writ of Injunction may issue for the said John Buckles ordering & restraining him his servants agents & employees from fencing up stopping up ^said tract of land belonging to the heirs of Thomas R. Skinner & from^ obstructing plowing up or in any way damaging injuring or changing said road from Mount Pulaski to the County line in the direction of Springfield as said road was originally located opened and worked & used by & under the authority of the County & Circuit Courts of Logan County as aforesaid ~~and as [. . .]~~ ^& that said writ may be made perpetual^ & grant such other relief as the case demands and as in duty bound & Said Beam further saith that he is informed & believes that ~~Subscribed & sworn to~~ the Circuit Judge of Logan County is nowhere in said County & he therefore asks that the Master in Chancery issue the writ or order the issuing of [. . .] writ prayed for above

[Endorsements]

Samuel C Beam being first duly sworn says that the above statement is true to the best of his knowledge information & belief

Samuel C Beam

Sworn to & subscribed before me this 14th day of September A.D. 1857

Sam^l Emmitt M. C.

State of Illinois

Logan County

The Clerk of the Circuit Court will please issue the Writ prayed for above ~~setting the penalty of the Bond at \$500,00~~

Sam^l Emmitt

Master in Chancery in & for Logan County

Key to Transcription Symbols

Symbol	Description
. . .	text left out in excerpting
[. . .]	unrecoverable passages in source text
^roman^	additions to original source text (interlineations)
strikeout	passages deleted by the author of the document
[. . .]	unrecoverable passages deleted by the author of the document
<u>underline</u>	passages underlined by the author of the document
[<i>italic</i>]	editorial supply; not based on words in original text
[roman]	editorial supply of mutilated passages; expansion of abbreviations, when necessary for clarity

Worksheet B

Analyzing a Lincoln Legal Document

Case Brief

Complete Case Name _____

Date of Document: _____

Court(s):

- Justice of the Peace Court
- County Circuit Court
- U.S. District Court
- U.S. Circuit Court
- U.S. Supreme Court
- Illinois Supreme Court

Term of Court: _____

Division (check one):

- Chancery
- Common Law
- Criminal
- Probate
- Appellate

Action (check one):

- Debt
- Divorce
- Ejectment
- Injunction
- Trespass
- Trespass on the Case
- Other _____

Open the File: Interrogate the Document

Parties to the case. Who is going to court?

Plaintiff(s): _____

Defendant(s): _____

Legal Counsel:

Attorney(s) for the plaintiff(s): _____

Attorney(s) for the defendant(s): _____

Who else was in court or is mentioned in the document?

Synopsis: Summarize the Contents of the Document

Type of document: _____

What is the plaintiff's allegation? _____

What is the defendant's position? _____

What, if any, other information is provided in this legal document? _____

Why is this issue in the hands of attorneys and other officers of the law? _____

Lincoln and the Rule of Law.

Why would Lincoln agree to serve as an attorney in this case? _____

What does this case reveal about Lincoln's law practice? _____

If you could ask Lincoln or his partner a question about this case, what would it be? _____

How might you determine the outcome of this case? _____

Agriculture in Antebellum Illinois

R. Douglas Hurt

The rich, black soil of Illinois lured men and women who sought security and independence with the ownership of land during the antebellum years. Although French settlers had established farms along the Mississippi River during the eighteenth century, Illinois did not attract Anglo-American settlers from the eastern seaboard, Upper South, and Europe until the mid-1830s. Pioneer farmers first settled east-central Illinois and occupied the interior prairies of north-central and northeastern Illinois last, primarily because these areas lacked access to water transportation while the soggy prairie sod required drainage and new plow technology before it would support settlement and agriculture. Still, between 1830 and 1860, westward moving settlers acquired land, plowed fields, and raised crops and livestock for subsistence and sale in order to earn a profit and improve their standard of living.

Pioneer men and women from Kentucky, Tennessee, and Virginia primarily settled in southern Illinois, while those from Ohio and Pennsylvania located in the central region. Settlers from New York and New England tended to farm in northern Illinois. By 1850, European immigrants arrived in great numbers. Most came from Ireland, Great Britain, and Germany. When the Civil War

began, Scandinavians had become an important ethnic group. European immigrants primarily settled in central and northern Illinois. No matter whether these new settlers arrived from other areas in the United States or Europe, they often wrote letters home to relatives and friends and encouraged them to immigrate to Illinois, a process that historians call “chain migration.”



Reproduction of Cyrus Hall McCormick's 1831 Reaper. *International Harvester Company, Centennial of the Reaper Invented by Cyrus Hall McCormick in 1831 (Chicago: International Harvester Company, 1931), 10. Illustration courtesy of the Illinois State Historical Library.*

Land Acquisition

The men and women who settled antebellum Illinois purchased land from the federal and state governments, railroad companies, or speculators. These lands were surveyed according to the Land Ordinance of 1785, which provided for the division of the public domain into townships six miles square, with thirty-six sections composed of 640 acres each, which could be further divided for sale. Under the Land Act of

1820 settlers could purchase 160 acres of federal land for a minimum price of \$1.25 per acre. Many settlers could not afford this price and squatted, that is, trespassed on government land, hoping to save enough money to purchase it in time. The Preemption Act of 1841 gave these settlers the first right to purchase federal lands once it had been surveyed for sale. This law provided that a head of a household or anyone twenty-one years of age and an American citizen, or who had declared their intent to become a citizen, could claim 160 acres of surveyed public land and purchase it prior to the federal government offering it for sale. In time, the state government, railroads, and large-scale land speculators, that is, those who bought great tracts of land from the federal and state government for



Farmers using scythes to harvest grain. *International Harvester Company, Centennial of the Reaper Invented by Cyrus Hall McCormick in 1831 (Chicago: International Harvester Company, 1931), 10. Illustration courtesy of the Illinois State Historical Library.*

subdivision and sale, sold lands in smaller divisions for a higher price to settlers. Many settlers often could afford to pay more money for less land than the minimum purchase required for the acquisition of federal lands. Moreover, during the antebellum period most farmers cultivated less than 100 acres because they lacked the technology and labor to till, plant, and harvest more acres. Many settlers who could not afford to buy land became tenants, that is, they rented land until they could afford to purchase their own farms. The survey of Illinois lands under the provisions of the Land Ordinance of 1785 created a checkerboard pattern of land use as fields, fences, and roads gave system and order to the countryside.

Breaking the Land

In Illinois, pioneer farmers first settled along the streams because they preferred to use the nearby timber for fence rails, fuel, and houses, while the large rivers provided mill sites and access to markets via flatboats. The early settlers also found the tough, sticky prairie sod difficult to plow, because the soil clung to the shares of their cast- and wrought-iron implements. As a result, farmers began using a prairie breaking plow. These heavy plows, pulled by five or six yokes of oxen, cut only a few inches deep and turned the grass roots to the air and sun. Then, after the grass had died, they used an iron plow to breakup the sod still further and prepare a relatively level seed bed. Breaking prairie for cropland not only proved difficult but also expensive work if a farmer hired breaking teams to turn the sod. Depending on the width and depth of the furrow, prairie breaking plows could turn from one to three acres per day, and the hired workers who guided the plow and oxen customarily charged about two dollars per acre.

Prairie breaking became easier after John Deere, a blacksmith in Grand Detour, Illinois, developed a plow that easily cut through the tough prairie sod. In 1837, Deere made a plow with a highly polished wrought-iron moldboard to which he welded a

steel share. Deere's plow cut through the prairie sod and allowed the soil to peel away without dulling the share or clogging the moldboard. This plow was lighter than the heavy prairie breakers and required less draft power than other plows. During the mid-1850s, Deere began making moldboards from steel. Deere's steel moldboard plow earned the nickname "singing plow," because it made a whine as it cut through the soil.

Crops and Livestock

Illinois farmers planted as much wheat as possible for the market place during the antebellum period. Consumers preferred bread made from wheat, and it, at first, brought the best price of any grain. Moreover, because wheat could not be easily milled at home, farmers necessarily sold it to dealers and millers for conversion into flour. Illinois farmers planted winter wheat in the autumn, sowing it by hand or planting it in rows with a mechanical seed drill by the late 1840s. They harvested their wheat during the late spring or early summer. After bad harvests during the 1840s and 1850s due to weather, disease, and insects, they began planting spring wheat after the ground thawed for harvest during the late summer or early autumn.

Although wheat served as the principal cash crop, pioneer farmers also planted corn because it gave the greatest return for the amount of seed planted and because it proved an ideal feed for cattle and hogs. The conversion of corn into pork and beef brought farmers the greatest profit after the wheat crop began to decline during the 1840s. The twenty to thirty bushels of corn generally required to fatten a hog brought more income to the farmer when marketed as pork than when sold as a grain, the only exception being when farmers chose to convert some of this crop to the distillation of whiskey. Corn also required less labor for harvest. It did not require picking until late autumn, if at all, because some farmers preferred to turn their hogs into their corn fields to harvest the crop by eating it. Moreover, corn did not suffer the problems of disease comparable to wheat.

After fattening their livestock on corn, farmers either sold their hogs and cattle to local dealers or hired drovers to trail their livestock overland to market. Although Illinois farmers first pastured their cattle along the river bottoms and adjacent prairies, during the 1840s, some farmers began purchasing two-year-old steers, called "stockers," from other nearby cattle raisers. They fattened these "feeders" on corn in lots. These feedlots became increasingly important markets for corn, and, by 1860, Chicago had become an important market for livestock.

During the 1840s, Illinois farmers began improving their cattle for beef and milk by using Shorthorns for breeding. Shorthorns soon became recognized by Illinois farmers as the best dual purpose cattle, that is, for the production of both beef and milk. In 1856, some farmers organized the Illinois Stock Improving Company for the purpose of buying purebred cattle in Europe to help improve their herds at home.

Illinois farmers also raised rye, barley, and oats, primarily using the latter to feed draft horses until Chicago provided a market. They also cut hay from the prairie. Pioneer farmers raised a few cows for milk, butter, and beef as well as chickens for meat and eggs to meet family food needs.

Technology

Between 1840 and 1860, new and improved implements, such as plows, grain drills, reapers, and threshing machines, enabled farmers to plow, plant, and harvest more land with less labor. Farmers harvested their wheat and other small grains, such as oats and rye, with a cradle scythe until mechanical reapers became generally available during the late 1840s. Mechanical reapers enabled farmers to plant more grain for market because it could be harvested relatively quickly before it shattered from the heads. Reapers could cut approximately twelve acres per day in contrast to the three or four acres by using a scythe. Horse-powered threshing machines also gained popularity during the 1840s.

During the antebellum years, corn planting and harvesting remained tasks primarily completed with a shovel plow, horse-drawn planter, cultivator, and knife. The corn harvest depended less on the weather than small grains, and farmers usually picked the ears or cut the stalks and placed them in shocks during the autumn. They used hand- and horse-powered shellers to remove the kernels from the cobs and grinders to prepare the corn for livestock feed.

Markets

At first farm men and women practiced safety-first agriculture, that is, subsistence farming to provide the essential food needs of their families. These pioneer or frontier farmers, however, were never self-sufficient agriculturists because they could not meet all of their needs. Consequently, they had to acquire goods for daily living, such as shoes, tableware, and tools, by trading and selling agricultural produce. Once the basic food needs of the family had been met, however, pioneer farmers, who had access to markets via rivers and roads, attempted to produce surplus commodities for sale, usually in the form of wheat and hogs. Most farmers sold their grain within a forty-mile radius or one or two days travel. Beyond that distance or time, wagon travel proved too difficult and time consuming for the sale of grain. Cattle and hogs, however, could be driven to slaughterhouses that provided a market.

In river and later railroad towns, merchants enabled farmers to exchange agricultural commodities for goods that they could not produce on the farm. By so doing, these merchants created a market and farmers attempted to produce commodities beyond



The first steel-faced plow was invented by John Deere in 1837 at his blacksmith shop in Grand Detour, Illinois. This self-scouring steel plow did a better job cutting through the tough prairie sod than wooden or cast iron plows. *Illustration courtesy of the Illinois State Historical Library.*

household needs for exchange and sale. The major rivers and railroads sped the development of an agricultural market economy and moved Illinois farmers beyond subsistence agriculture more quickly than by depending on land transportation to reach eastern and southern markets.

Farm women contributed to the household income by raising chickens and selling eggs to local merchants and consumers. They also made butter for local sale. Nearby merchants exchanged either goods or paid cash for these farm products that they, in turn, shipped to market via the rivers or railroads. The poultry, dairy, and food processing work of Illinois farm women became important sources of agricultural income, particularly when towns developed along the railroads and rivers and provided markets.

During the 1850s, railroads enabled farmers to haul their grain to local warehouses or elevators from which it would be shipped to market in greater quantity and more quickly than in sacks loaded on wagons or flatboats. Moreover, railroads hauled grain to Chicago and other cities, far beyond the customary forty miles from the farmer's gate, thereby breaking their bonds with down-stream markets and giving farmers greater access to eastern consumers. On the eve of the Civil War, Illinois farmers produced large corn crops that they used to fatten livestock. The sale of corn and livestock now contributed the primary source of income to Illinois farm families, and they worked to produce both as efficiently and in the greatest quantity and number as possible to increase their sales and family income. By the Civil War, railroads made Chicago the most important market for farmers in Illinois. Thereafter, the increasing population of the towns and cities and improved transportation further expanded agricultural markets and improved access to them. The slow but steady adoption of new technology also helped farmers produce surplus products for market and to improve their standard of living. By 1860, the Corn Belt had become a clearly recognizable agricultural region, and Lincoln's Illinois served as its center and the heart of midwestern agriculture. □

Bibliography

- Bogue, Allan G. *From Prairie to Corn Belt: Farming on the Illinois and Iowa Prairies in the Nineteenth Century*. Chicago: University of Chicago Press, 1963; reprint, Ames: Iowa State University Press, 1994.
- Bogue, Margaret Beattie. *Patterns from the Sod: Land Use and Tenure in the Grand Prairie, 1850-1900*. Springfield: Illinois State Historical Library, 1959.
- Cronon, William. *Nature's Metropolis: Chicago and the Great West*. New York: Norton, 1991.
- Danhoff, Clarence H. *Change in Agriculture: The Northern United States, 1820-1870*. Cambridge: Harvard University Press, 1969.
- Faragher, John Mack. *Sugar Creek: Life on the Illinois Prairie*. New Haven: Yale University Press, 1986.
- Hudson, John C. *Making the Corn Belt: A Geographical History of Middle-Western Agriculture*. Bloomington: Indiana University Press, 1994.
- Hurt, R. Douglas. *American Agriculture: A Brief History*. Ames: Iowa State University Press, 1994.

R. Douglas Hurt is professor and director of the Graduate Program in Agricultural History and Rural Studies at Iowa State University. He also serves as the editor of Agricultural History, and he is the author of American Agriculture: A Brief History (Iowa State University Press, 1994).

Illinois Agriculture and the Marketplace, 1830-1860

Lawrence W. McBride and Frederick D. Drake

Theme: Comparative History of Major Development

Habits of Mind: Grasp the complexity of historical causation, respect particularity, and avoid excessively abstract generalizations.

Focus: After statehood in 1818, Illinois quickly fulfilled its promise as a major producer of agricultural products. Farmers migrating from the eastern states found that Illinois's rich soil and continental climate (long, hot summers and long, cold winters) were ideal for growing corn, other grains, and for raising livestock. The market for agricultural commodities expanded with the development of the state's transportation network. Improvements in roads, the development of waterways, and the construction of railroads provided the means for getting agricultural commodities to larger markets.

This lesson employs data on the agricultural history of Illinois to help students understand information found in legal documents. The charts that accompany this lesson help students compare the history of major developments in agricultural production, transportation, and population across time. This lesson has excellent potential for integration with the mathematics curriculum, from calculating sums and differences for middle school students to organizing appropriate charts and graphs around statistical data for middle and high school students.

This lesson focuses on a case, *Philip Clark v. Bayless Lake* (1835), regarding the price of corn in markets in Illinois and New Orleans. Students think about the complexity of historical causation, in this instance, the effect of prices on the economic choices available to both producers and consumers.

Objectives: Students will be able to:

1. Identify non-price determinants for demand and supply.
2. Interpret a graph.
3. Use historical concepts to analyze a historical legal document.

Illinois Learning Standards

15.C.5b: Explain how changes in non-price determinants of supply affect producer decisions.

15.D.5a: Explain how transaction costs affect decisions to produce or consume.

15.D.5c: Explain how technology has affected trade in the areas of transportation, communication, finance, and manufacturing.

Procedures

1. Discovery

A. Illinois Agricultural History, 1830 to 1860.

- 1) From 1830 to 1860, the population in Illinois grew from

just 25,000 pioneer families to 300,000 families.

2) Illinois promised fertile soil and a new beginning for a person who wanted to pursue an agricultural livelihood. Lincoln once said that in order to get ahead in society one needed, "an open field and a fair chance for your industry, enterprise, and intelligence." Illinois harbored those qualities, thus making it an attractive location for settlement and farming.

3) By 1830, much of Illinois's population was concentrated along the Mississippi, Wabash, and Ohio Rivers (see Map 2.1). As settlement continued, newcomers drilled wells to locate water found under the prairie, and settlers migrated into the central part of the state.

4) Advances in transportation (including the completion of the Illinois & Michigan Canal in 1848 and the construction of the Illinois Central Railroad and other railroads in the 1850s), further facilitated the opening of the interior of the state as a producer for agricultural markets and as a consumer of manufactured products.

5) Farmers found the soil, full of nutrients and minerals, ideal for production of crops and for raising livestock. Farmers utilized modern plows and reapers to increase production. Fencing allowed farmers to manage increased herds of animals and other types of livestock, and kept the animals out of the crops.

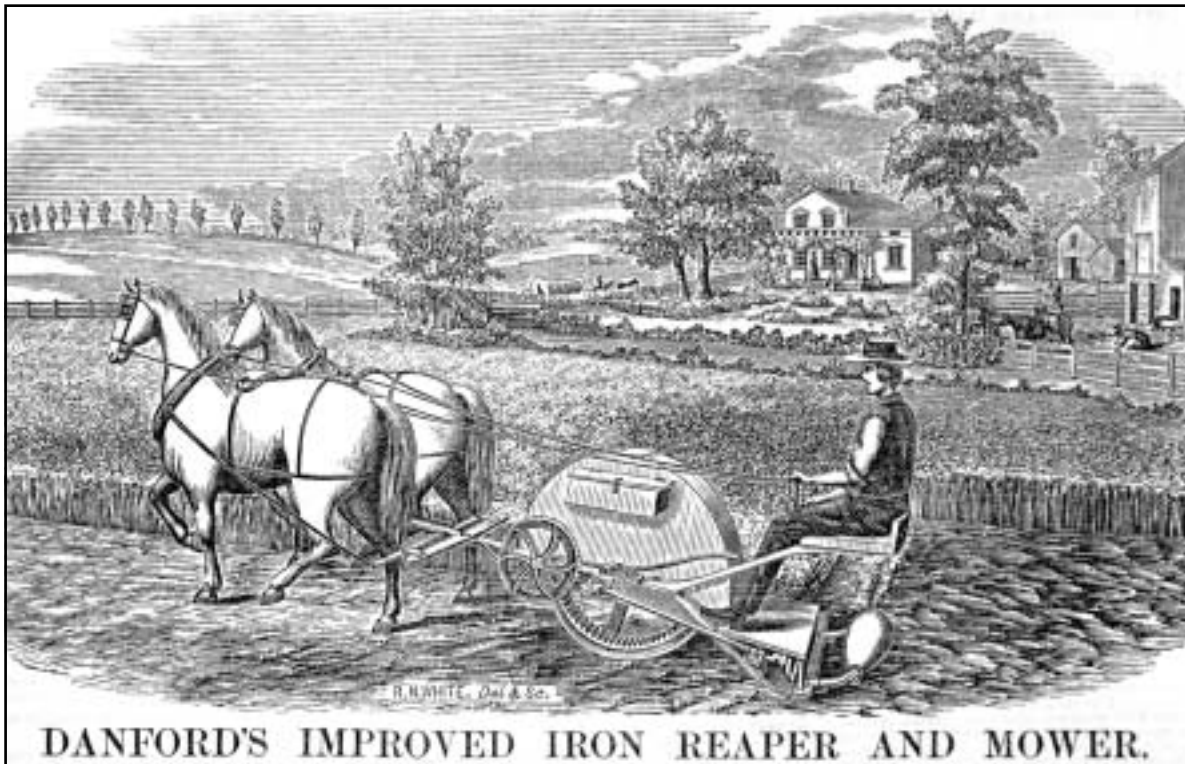
B. Agricultural Statistics. Review the table *Illinois Agricultural Data from the U.S. Census: 1840, 1850, 1860* that accompanies this lesson plan. This data sheds light on the agricultural boom in Illinois from 1840 and 1850 through 1860. Note: Students should observe the increase in acreage under production, the increase in agricultural produce, including increased crop production, and the introduction of new crops and types of livestock.

2. Going to Court: Linking Economic Concepts to Illinois History through Lincoln Legal Documents.

1) Distribute and analyze sections from the Circuit Court Transcript *Phillip Clark v. Bayless Lake* (December 2, 1835). Students will also read from the August 27, 1834, *Declaration and Ruling in the Case*.

2) Divide students into groups. Distribute as appropriate the various documents attached to this lesson from *Phillip Clark v. Bayless Lake*, 1835.

Teaching Opportunity: To facilitate the distribution of documents found within the Circuit Court Transcript, the documents could be numbered and identified with "plaintiff" or "defendant" notation so that students may be able to study the adversarial sides



Implement dealer R. N. White placed this advertisement for “Danford’s Improved Iron Reaper and Mower” in an 1859 issue of *The Prairie Farmer* soon after the machine was introduced. E. Danford and Company of Geneva, Illinois, advertised the selling price of its reaper and mower at \$140.00. *Illustration courtesy of the Illinois State Historical Library.*

of a court case. With the documents distributed in this manner, students may also be divided into “plaintiff” and “defendant” study groups to argue their respective positions.

3) Students complete *Analyzing a Lincoln Legal Document* (Worksheet B) for the document(s) distributed to their group.

4) Solving an economic problem: Students will analyze the economic choices made by Clark and Lake. The documents provide information about bushel prices for corn (12 ½ cents in Illinois and 75 cents in the lower Mississippi). Discuss reasons why prices may vary in different places in the Mississippi River Valley.

a) Why would the price of corn be different in Illinois than in Natchez or New Orleans?

b) Who sets the prices for corn?

c) How are the prices affected if the market is saturated with the product or in a shortage?

d) How are the producers and consumers affected by the supply and demand of grain?

e) What action did consumers take to keep the lower price grain in Illinois? What action did the producers take to affect the price of grain in Illinois? How did the court decide to resolve the dispute between producers and consumers?

3. Conclusion and Assessment. Write to Learn. Write three expository paragraphs that describe and assess the changes in population, technology, and agricultural production in Illinois, 1830-1860. The paragraphs must include data from the Agricultural Censuses and information about steel plows, mechanical reapers, and transportation.

Additional Activities

Illinois History Day Research Project. Students can integrate economics and geography into a History Day project by developing a market simulation where students are assigned as trade negotiators from a specific region of the country during a period in Illinois history. Students will locate the marketable resources and commodities from the region they are researching and negotiate with other regions for necessary goods. Students will need to determine which goods were needed in their region and how people negotiated for the goods. They will need to include the monetary system that was in play, including, perhaps, the barter system. Other economic concepts to include in the finished project might include double coincidence of wants, information costs, and opportunity costs.

Researching Prices: Yesterday and Today. Develop a chart comparing the producer’s price for a commodity to the retail price of the commodity. Students can use both historical prices (found through the United States Department of Agriculture) or current day prices. Students can bring this topic into focus by discussing the place of either corn or oil in the market. For example, students can make comparisons between historical supply and demand for corn over time, or investigate recent news concerning oil prices. In completing the latter, students should research why the price of oil today may vary from one region of the nation to another; from one region in Illinois to another; among nearby towns, and indeed, from gas station to gas station in a city, town, or neighborhood. Students should draw an informed conclusion regarding why these differences exist. □

Table 1: Illinois Agricultural Data from the U.S. Census: 1840, 1850, 1860

	1840	1850	1860
acres improved farm land		5,039,545	13,096,374
acres unimproved farm land		6,997,867	7,815,615
horses		267,653	
horses and mules	199,235		563,736
asses and mules		10,573	38,539
milk cows		294,671	522,634
working oxen		76,156	90,380
cattle	626,274	541,209	970,799
sheep	395,672	894,043	769,135
swine	1,495,254	1,915,907	2,502,308
poultry	\$309,204		
bushels of wheat	3,335,393	9,414,575	23,837,023
bushels of barley	82,251	110,795	1,036,338
bushels of oats	4,988,008	10,087,241	15,220,029
bushels rye	88,197	83,364	951,281
bushels buckwheat	57,884	184,504	324,117
bushels of Indian corn	22,634,211	57,646,984	115,174,777
bushels of peas and beans		82,814	108,028
pounds of wool	650,007	2,150,113	1,989,567
pounds hops	17,742		7,254
pounds beeswax and honey		869,444	
pounds honey			1,346,803
pounds wax	29,173		56,730
bushels of Irish potatoes		2,514,861	5,540,390
bushels of sweet potatoes		157,433	306,154
bushels Irish and sweet potatoes	2,025,520		
tons hay	164,932	601,952	1,774,554
bushels of clover seed			18,831
tons of hemp			1,502
tons hemp and flax	1,976		
pounds flax		160,063	48,235
bushels of flaxseed		10,787	8,670
pounds tobacco	564,326	841,394	6,885,262
pounds of maple sugar		248,904	134,195
gallons molasses		8,354	20,048
gallons of sorghum			806,589
pounds rice	460		
pounds cotton	200,947		592,482
pounds silk cocoons	1,150	47	1,545
pounds sugar	399,813		
cords of wood	134,549		
dairy products	\$428,175		
pounds butter		12,526,543	28,052,551
pounds cheese		1,278,225	1,848,557
orchard products	126,756		\$1,126,323
gallons wine	474	2,997	50,690
value of family goods	\$993,567		
nursery products	\$22,990		

was stopped delayed hindered and detain[ed] from proceeding on down the said navigable stream by the mill dam, mill house mill wheel and abutments of the plaintiff aforesaid in and upon and across the navigable stream aforesaid and whereby also the plaintiff lost the advantage of proceeding to market with his said boat loaded with corn towit on the said 15th day of April ^1834^ at the state, county and circuit aforesaid and whereby also the plaintiff^s^ said boat loaded with corn as aforesaid has been hind[e]red delayed and detained from thence up to the present time and by reason whereof the said boat of the plaintiff loaded with corn as aforesaid afterward towit on the 20th day of April 1834 at the state county and circuit aforesaid sunk and was destroyed in the said Sangamon River and the said boat and all the corn of the plaintiff aforesaid loaded thereon was wholly lost and destroyed towit by reason of said hinderance delay and detention aforesaid. By means of all which the plaintiff hath been injured & sustained damages to \$2000 and therefore he sues &c
D. Stone. & S. T. Logan.

[First Order]

Philip Clark

vs

Trespass on the case.

Bayless Lake

By consent of the parties this cause is continued until the next term of this court.

[Second Order]

Philip Clark

vs

T. O. C

Bayless Lake

Continued.

[Third Order]

Philip Clark

vs

In Case.

Bayless Lake

On motion of the plaintiff by his attorney a rule is awarded him against the defendant to file his plea herein by tomorrow morning eight O'clock.

[Plea]

Clark

vs

Of the Special July Term of the

Lake

Circuit Court for Sangamon County

And the said defendant comes & defends the wrong & injury when &c. and says he is not guilty in manner & form as the plaintiff hath above thereof in his said declaration complained against him & this he prays may be enquired of by the country &c.

Stuart & Dummer P.D

[Similiter]

And plaintiff likewise

Walker p.q.

[Fourth Order]

Philip Clark

vs

Trespass on the case.

Bayless Lake

This day came the parties by their attorneys, and it is commanded that a jury come to try the issue joined between the parties and thereupon came a Jury towit: James Taylor, Elijah Duncan, William Ramsey, Alexander Garrett, Alexander Ritchey, Joseph Bondurant, Jonas Whitey, Hugh M Armstrong, Charles Morgan, James W Keys, Robert Sattley & George Stout, who being impaneled tried and sworn, well & truly to try the issue joined as aforesaid, and having heard the evidence adduced by the parties and part of the argument of counsel and it being too late to progress farther with the trial, were adjourned over until tomorrow morning eight O'clock.

[Fifth Order]

Philip Clark

vs

Trespass on the case.

Bayless Lake

This day again came the parties by their attorneys, and thereupon came the jury sworn in this cause on yesterday to wit: James Taylor, Elijah Duncan, William Ramsey, Alexander Garrett, Alexander Ritchey, Joseph Bondurant, Jonas Whitney, Charles Morgan, James W Keys, Robert Sattley, and George Stout, who having heard the argument of counsel retired, and afterwards returned into court the following verdict to wit: "We of the jury find for the defendant." It is therefore considered by the court that the defendant recover of the plaintiff his costs by him about his defence in this behalf expended.

[Sixth Order]

Philip Clark

vs

In case.

Bayless Lake

This day came the parties aforesaid by their attorneys and the plaintiff produced his bill of exceptions which was signed and sealed by the Court, and ordered to be made part of the record

[Bill of Exceptions]

Clark

vs

In Case

Lake

Be it remembered that on the trial of this case the plaintiff gave evidence conducing to prove that he built a flat bottomed boat and loaded her with 2500 bushels of corn and with a sufficient tide to descend the river (had it not been obstructed by artificial obsticals) that said plaintiff descended the Sangamon River (intending to go to the lower market Natches or Orleans) till within 3 quarters of a mile of the defendants mill dam on said River where he stoped upon hearing the sound of the mill and went to explore the obstruction: that the Defendant had previous to this time & after the passage of the law [ref]ered to in [the] plaintiff's declaration (which plaintiff also read to the Jury) and ^which Law^ is as follows (to wit) "Be it enacted by the people of the State of Illinois represented in the general assembly That the Sangamon River from its mouth (following the main channel) to the third principal meridian be and the same is hereby declared a navigable stream; that [no] dam of any description or other obstruction shall be placed in the river so as to impede the navigation thereof or drive the water from its natural channel so as to overflow the bottoms or produce stagnant waters in any place" hav[ing] erected said dam and mill and was the owner thereof which impeded the navigation of said River and was between the 3rd meridian refered to in the said law and the mouth of the river that owing to said dam impeding the navigation of said river plaintiff w^ould not descend with said boat and load & was stoped so that the water fell & the plaintiffs boat in consequence was sunk & corn lost by being drowned; that said corn was worth when it was lost 12 ½ cents per bushel and at the lower markets aforesaid about 75 cts per Bushel.

After the foregoing evidence had been given the Defendant ^asked^ a witness whether there was not another mill dam across said river below the defendant's mill dam erected in violation of said law which was higher than the defendant's mill dam and whether said lower dam would not have prevented plaintiff from proceeding to the lower markets [in] Natchez or^ New^ Orleans as it was late in the season and no other tide might take place in the river during that season, even if the plaintiff could have gone over the Defendant's mill dam, to which the plaintiff[s] counsel objected, but the court overruled the objection and permitted the question to be asked & the defendant to prove that fact to the Jury by said witness, to which opinion & Judgement of the court the plaintiff by his counsel exopts & prays that this his bill of exceptions may be [-:-] sigh[ned] sealed [and] enrolled & which is done accordingly

Richard M Young

Presiding as Judge of the Sangamon Circuit by exchange &c.

Worksheet C

Synthesis: Illinois History and the Rule of Law

1. What evidence in the document helps you understand more about the major historical trends that shaped the history of Illinois?

2. What evidence in the document helps you understand the relationship between *where* something happened and *what* happened?

3. Does this document include any “quotable-quotes,” or examples of a regional speech or period expressions?

4. What evidence in the document helps you understand the values, beliefs, and ideals of people who lived in Illinois when this document was written?

5. What evidence in the document helps you understand how conflict among individuals and/or businesses would be resolved through the rule of law?

6. What evidence in the document helps you understand the patterns of daily life and the concerns of the common people in Illinois?

A World of Goods: Appreciating Material Culture on the Prairie

David Blanke

Americans love their “stuff.” Whether at home, in the office, at school, or in public, we find ourselves surrounded by manufactured things. In contemporary life, thoroughly steeped as we are in modern consumer culture, these items often go unnoticed; just as the natural beauty of the prairie was regularly overlooked by midwestern settlers of the antebellum era. Yet in stopping to examine these everyday goods — ranging from large capital investments such as homes, automobiles, or computers to the more “trivial” items that accumulate around us — we are really appraising our sense of self: our values, biases, hopes, and weaknesses. The historical study of “material culture,” or those physical artifacts, produced by human work, that are designed to satisfy wants or to express ideas, takes advantage of this relationship between object and owner in an effort to deepen our understanding and appreciation for a culture that may be only partially represented through more traditional legal, economic, or political (that is, *written*) sources. In short, we can tell as much about people by what they *do* and *own* as by what they say.

Yet in stopping to examine these everyday goods — ranging from large capital investments such as homes, automobiles, or computers to the more “trivial” items that accumulate around us — we are really appraising our sense of self: our values, biases, hopes, and weaknesses.

While it is undeniable that today we possess substantially more goods than people did during the antebellum era, it would not be correct to assume that earlier Americans invested less *meaning* in their material culture nor that this culture was less *complex* than our own. While contemporary items, such as baseball caps or the color of one’s clothing, can convey meaningful information about one’s values or social status (think of gang colors or designer-label clothing), early midwesterners were no less

creative in their manipulation of the visible items that surrounded them. At the many county and state fairs, each an excellent source of information about the region’s material culture, visitors and vendors alike debated the significance of the goods that they used. In one telling example, at the second Iowa State Fair, held in October 1855, a *silver-plated* plow was put on display. While some laughed at the “injudicious ornamentation” of the implement — like bronzing a set of work boots — others were quick to point out that such a flashy implement showed the proper respect that farmers should have for their tools. One official of the fair, noting that the device had been purchased by a local planter, surmised that the man most certainly had “a farm of which one might be proud, for the farmer who buys such articles generally expects to take care of them, and he who takes care of his plows, . . . is, almost invariably, the possessor of a nice clean, tidy farm, on which grain grows ranker than weeds, and where the fence corners are as clean as the meadows.” Clearly, then, the public display of goods was as invested in meaning as those of our world today.¹



Daguerreotype of a farm family posed with their treasured possessions. *Illustration courtesy of the Illinois State Historical Library.*

The variety of goods was plentiful and, in many ways, even more diverse for each individual item than we see today. While traditional wares for the home, kitchen, field, and office were widely available to those even remotely connected to regional trade centers, the assortment of commercial suppliers and home-made goods made it rare for any one type of good to dominate. Each family usually had their own eclectic supply of furniture, dishes, cookware, clothing, and other forms of moveable personal property (also called *chattel* property). Typically, these commodities were unique in how they were made, where they were acquired, and even in how they were used. Lists of goods on display at local fairs, advertised in newspapers and periodicals, mentioned in letters, and logged as inventory on wills, tax rolls, account books, or other legal documents indicated that the diversity of merchandise was spectacular. In addition to “traditional” rural goods (an adjective that holds less meaning the more we know about the material culture of the era), the 1861 Illinois State Fair, for example, offered watches, jewelry, furs, musical instruments, sporting goods, wigs, and perfumes for sale. Newspaper advertisements pitched dozens of products to individual consumers which ranged from patent medicines, tobacco products, and clothing to advice books, carpets, artwork, and alcoholic beverages. Only with the growth of large-scale commercial farming and the emer-

gence of leading manufacturers in agricultural implements, such as McCormick harvesters and Deere plows, did the material culture of the prairie begin to assume an established and more uniform character. By the 1870s it was much more common for one to find a typical “brand” of sewing machine or pump-organ than had been only a generation earlier.

Goods intended for home or individual use were owned by nearly all midwesterners. While shoes and clothing were appraised by how well they functioned for a specific task (such as field work) rather than for their fashion, most people claimed at least three full outfits. Children, the majority population of the prairie, generally relied on hand-me-downs for their day-to-day needs but also had a set of “fine” clothes for church and one for school. Most youths, by the time they were seven or eight years old, were expected to contribute to the family’s economic fortunes by working at home or on surrounding farms. As a result, their work clothes were usually the newest, best-fitting, and most comfortable. Few toys were purchased—most stores didn’t stock them and, if at all, only around Christmas—but children certainly played with hand-made dolls, blocks, simple vehicles, and other products of their own imagination. Most homes had a collection of hand-made furniture, which included rough tables and chairs, bed frames, and an odd assortment of settees, rockers, infant cribs,

and other places to rest. Still, as early as 1840, most towns offered specialized manufactured furniture for the increasingly compartmentalized homes. Specifically, upholstered parlor furniture, curio cabinets, and, with growing popularity, sewing cabinets found their way into midwestern homes. Lamps, bedding materials, pictures, and collectibles were more common in houses located within easy reach of the marketplace and in families that persisted (i.e., did not relocate) within the region.

The kitchen was certainly a vital center of the home. Treating its material components as mere “personal effects” would be a mistake. The preparation of food was a, or even *the* critical task for most prairie families. In addition to the typical bowls, cups, knives, and spoons, most kitchens contained at least one iron skillet, a large and small kettle, and an iron stove of varying shapes, styles, and complexities. Significantly, the ability to efficiently feed a large number of workers (both seasonal and everyday) became a limiting factor in the economic success of a family farm. As a result, the kitchen became the focus of those interested in increasing productivity. One popular rural magazine, the *Chase Western Rural Handbook*, argued that the “latest and best” farm kitchens provided “new-fangled contrivances for doing the baking, broiling, roasting, steaming and boiling” in addition to “special facilities . . . for washing, drying and ironing the clothes.” The kitchen, in short, was as important to the business of the farm as were the fields. By mechanizing the kitchen, however, it is doubtful that many women’s burdens were eased. As historian Ruth Schwartz Cowan has shown, the arrival of these technologies often *increased* the demands made on the housewife. They also isolated her from traditional assistants, experience, and the companionship of neighbors, children, and extended family.

While there were few similarities between the material culture of the kitchen and other areas of the home, one striking parallel was in the number of distinct goods. Account books, wills, personal letters, and tax rolls are clear in showing that, for most of the antebellum era, midwesterners relied on only *one* item per category. As a result, a home might contain a wide variety of goods but only a few numbers of each. The multiple responsibilities of farm women — which included water carrying, cooking, churning, sausage making, berry picking, vegetable drying, sugar and soap boiling, hominy hulling, medicine brewing, washing, nursing, weaving, sewing straw plaiting, wool picking, spinning, quilting, knitting, and gardening — leaves many to wonder just how so many tasks could be accomplished using so few unique tools.

Likewise, the capital goods used to pursue commercial farming should also be considered separate from the personal effects of the home. As in the kitchen, field work was rapidly mechanized from 1820 to 1860. Technical innovations such as the “chilled,” or polished iron-bladed plow (conceived separately by both John Deere and William Oliver to prevent clogging in the wet soil), seed drills, threshers, grain separators, and, most importantly, Cyrus McCormick’s mechanical reaper (field tested in 1831) greatly increased the amount of land that could be profitably worked by a typical family farmer. Here, material culture is powerful evidence in showing why and how midwestern culture changed so quickly during these pivotal years. The capital intensive nature of midwestern farming was largely born with the arrival

of these devices. By the 1840s, it was estimated that a typical homesteader in the region could be expected to spend at least \$1,200 in start-up costs for an average, 40-acre farm. This price included land, but was comprised largely of costs for housing, fencing, domestic articles (which often accounted for nearly a quarter of the total), and finally the kitchen and field machinery. Larger settlements of 80 and 160 acres required even greater outlays of cash, approximately \$2,000 and \$3,000 respectively. These charges gave plenty of incentive to the rural population to maximize their profits, mechanize their homes, and begin to perfect ways whereby they could access and benefit by the marketplace. Modern consumer culture, requires one to be willing to purchase a desired good rather than make it. Mechanized commercial farming gave midwesterners the economic motivation needed to take this leap.

While historians continue to debate the meaning of these changes to the material culture of the prairie, it is clear that change was occurring and that it had a dramatic effect on the regional population. Notions of class, gender, and citizenship were all invested in the seemingly trivial lists of goods that we read today. No doubt, most midwesterners were themselves at odds over the meaning of this change. While silver-plated plows were proudly purchased, few farmers of the era measured their “wealth” by an inventory of such goods. Personal independence, community, faith, family, and many other values were of equal or greater importance. Still, it is clear that the move towards a more modern material culture, one fully enmeshed with the tenets of capitalism, was both actively and consciously pursued by midwesterners. □

Endnotes

1. Charles B. Fulton, *History of Jefferson County Iowa: A Record of Settlement, Organization, Progress and Achievement*. (Chicago: S. J. Clarke Publishing Co., 1914), 265.

Bibliography

- Blanke, David. *Sowing the American Dream: How Consumer Culture Took Root in the Rural Midwest*. Athens: Ohio University Press, 2000.
- Bushman, Richard. *The Refinement of America: Persons, Houses, Cities*. New York: Vintage Books, 1993.
- Bogue, Allan G. *From Prairie to Corn Belt: Farming on the Illinois and Iowa Prairies in the Nineteenth Century*. Chicago: University of Chicago Press, 1963.
- Cowan, Ruth Schwartz. *More Work For Mother: The Ironies of Household Technology From the Open Hearth to the Microwave*. New York: Basic Books, 1983.
- Fragher, John Mack. *Sugar Creek: Life on the Illinois Prairie*. New Haven: Yale University Press, 1986.
- Kulikoff, Allan. *The Agrarian Origins of American Capitalism*. Charlottesville: University Press of Virginia, 1992.

David Blanke is an Assistant Professor of History at Texas A&M University-Corpus Christi. His research examines the connections between consumer and popular culture. He has written Sowing the American Dream: How Consumer Culture Took Root in the Rural Midwest (Ohio University Press, 2000) and a forthcoming volume, The 1910s, American Pop Culture Through History (Greenwood Press).

Material Culture on the Prairie

Lawrence W. McBride and Frederick D. Drake

Theme: Human Interaction with the Environment

Habits of Mind: Understand the significance of the past to their own lives, both private and public, and to their society

Perceive past events and issues as they were experienced by people at the time, to develop historical empathy as opposed to present-mindedness

Focus: The study of material culture provides insight into the overlooked elements of the lives of past peoples. Briefly, the term, “material culture,” refers to any object—scholars refer to objects as artifacts—made by people. (See below for a complete definition of material culture.) An artifact may be smaller than a pinhead or larger than a skyscraper. Regardless of size, all artifacts have a story to tell, if you know the proper questions to ask of them. For example, an oil lamp used by a housewife on a farm during the mid-nineteenth century gives us a glimpse into the resources that were available to the people who used them, and helps us understand how people coped with their environment. That same artifact also sheds light on technology, manufacturing, and commerce and opens up for discussion issues related to the quality of life before rural electrification, as well as the role and status of the people who owned or used these objects. In this lesson, students encounter the inventories of two personal estates, one from a rural home and one from an urban household, both of which were located in Sangamon County, Illinois. These rich documents help us to understand how people lived on the prairie and in small cities during the early nineteenth century.

Objectives: Students will be able to:

1. Analyze primary source documents that list items found in both rural and urban households in Illinois.
2. Interpret the documentary evidence of how material culture affected life in early nineteenth-century Illinois.

Illinois Learning Standards

16.D.3a Describe characteristics of different kinds of communities in various sections of America during the colonial/frontier periods and the nineteenth century.

16.D.3b Describe characteristics of different kinds of families in America during the colonial and frontier periods.

Procedures

1. Discovery

A. Defining material culture. Material culture is the study of all physical artifacts, which have been designed by people to satisfy needs or wants, or to express an idea. The premise of this investigation is that these objects provide insight into the values, beliefs, and ideas of the people who made and used them. Material culture focuses on the day-to-day lives of average people.

1) Students bring to class one artifact from home that reflects their interests.

2) Each student tells the class about their artifact and explains how it reflects their social role and status; the role of technology in making the artifact; and how the artifact might reflect their views on economic choices or political decisions they have made.

2. Going to Court: Documenting Material Culture on the Illinois Prairie.

A. Background information for a rural case, *Bevans v. Brown* (1838), and an urban case, *McGraw v. Adams et al.* (1843).

1) John Bevans was born in Maryland. He migrated to Woodford County, Kentucky, and then to Island Grove in Sangamon County, Illinois. After arriving in 1828, Bevans farmed his Sangamon County land until his death in March 1837.

2) James Adams was born in Hartford, Connecticut. He migrated to Oswego, New York, in 1809, and then to Springfield, Illinois, in 1821. He was an attorney and served as Probate Justice of the Peace. He died in Springfield on August 11, 1843.¹

B. Read the two Lincoln legal documents. Define estate inventory. An estate inventory and a bill of appraisement list all of the objects in a personal estate of an individual who has died. The purpose of the inventory is to assess the value of these objects for the probate court. Refer to the Glossary to define unfamiliar terms.

Teaching Opportunity: There are some terms in the glossary that are not used today. No doubt these items are colloquial terms that were well known to court officials and local people of the day. What does the loss of these words from everyday usage tell us about these particular objects and the changes that occur in the material culture of succeeding generations?

C. Students complete and review the guide, *Analyzing a Lincoln Legal Document: An Estate Inventory* (Worksheet D).

3. You be the Judge: Finding Evidence of Life on the Prairie and in Springfield.

A. How do the objects listed in the two inventories represent the quality of life on the prairie and in Springfield? Which particular objects attract your attention?

B. Which household appears to have accumulated more wealth?

Teaching Opportunity: Ask students to locate on the world-wide web a price equivalency guide for the period. A price equivalency guide allows students to determine what an object from an earlier period would cost if it were purchased at today's prices. A good website for the nineteenth century is Robert Sahr's “Inflation Conversion Factors for Dollars, 1800 to Estimated

Continues on 51 ►

A full and perfect Inventory of the goods, chattels and personal estate of John Bevans late of the County of Sangamon as presented to the undersigned James Smith James Barret and William H. White Appraisers appointed by the Probate Court of said County by James N. Brown Administrator of said Estate, this the 27th day of March 1838.

One Table	5 00
One Trunk and Chest	3 00
One Bedstead	6 00
One Bed and Furniture	20 00
Four Chairs	2 00
Cupboard Ware	2 50
One Bedstead, Bed and Bedding	15 00
One Lot of Lin Ware	1 25
One Table, Pan, and five	6 25
One Coffee Mill, Oven and Lid	2 25
One Flat Iron, Two pair of Hooks and Tea Kettle	2 00
One pair of Sad Irons, Tongs and Potrack	2 50
One Piece of Domestic Cotton Ten Yards	1 00
One Plough	4 00
One Plough	50
One Splitting Wedge, Ring, Wedge and Peck	1 00
One Lot of Bacon Five hundred and sixty nine lbs	28 45
One Axe	1 25
Six Mill Bags	2 00
Seven Bushels and one half of Wheat	7 00
Twenty Six Bushels of Corn put at Home	7 20
Sixty Bushels of Corn	12 00
One Wagon	30 00
One Steer three years old	10 00
One Bay Mare	60 00
One Faced Cow	12 00
One Red Cow and Calf	12 00
One Lot of Oats in the Shief	2 50
One Stack and a half of Hay	6 00

Bevans v. Brown et al.

Case Summary: John Bevans died leaving an estate with two hundred acres of land and some personal property. In his will, John Bevans stipulated that his wife Margaret Bevans should receive only a bed and bedding and some food supplies. Margaret Bevans renounced her bequest and asked James N. Brown, the executor of John Bevans's estate, to assign her dower. Brown refused, and Margaret Bevans retained Stephen A. Douglas and John D. Urquhart to represent her. She sued Brown and the heirs of John Bevans for her dower. John D. Bevans, one of the heirs, retained John Todd Stuart and Abraham Lincoln and argued that Margaret Bevans's renunciation was insufficient and that his father gave his mother two slaves, which she accepted in lieu of dower. The parties reached an agreement, and Judge Samuel H. Treat dismissed the case.

Estate Inventory

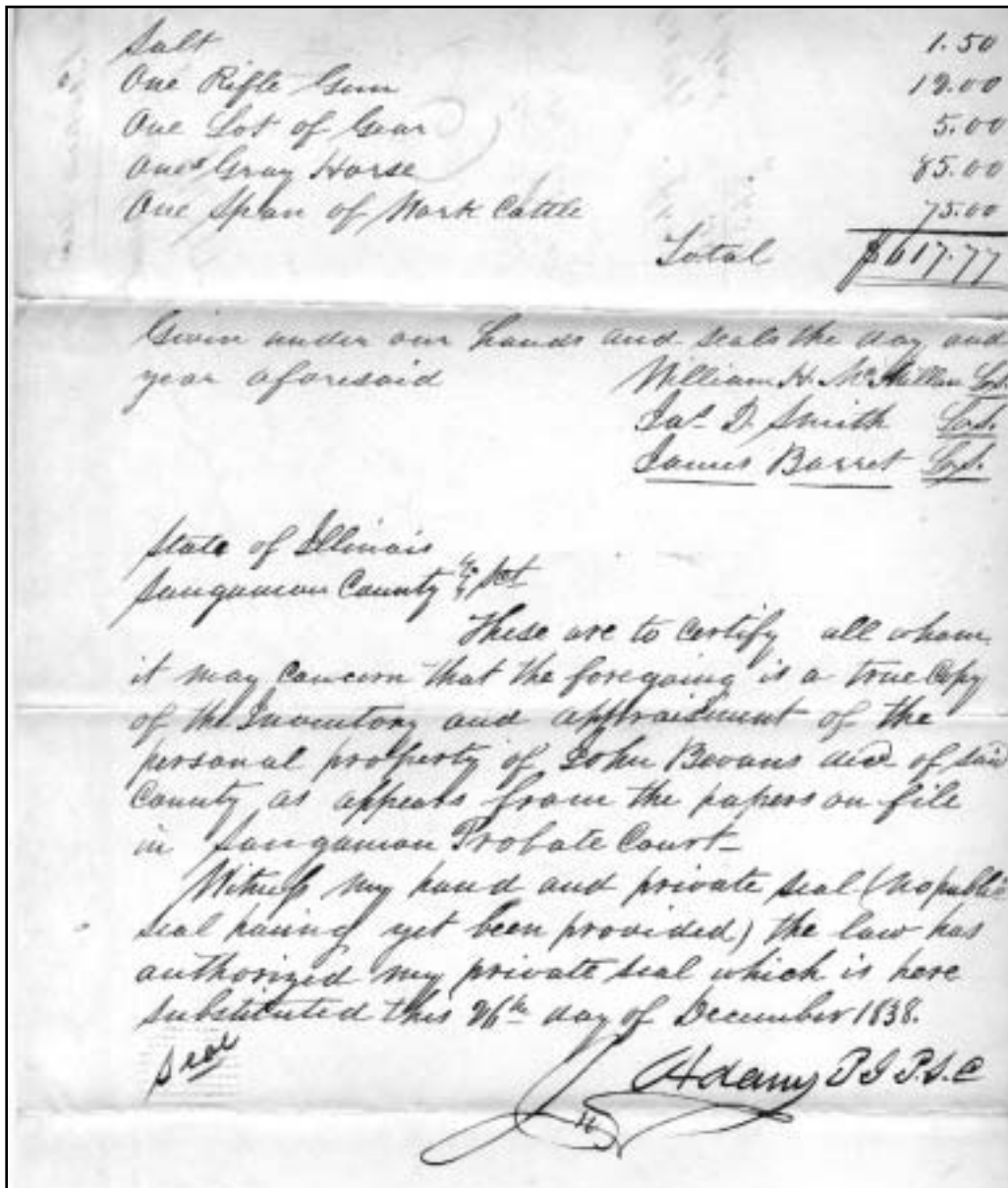
A full and perfect Inventory of the goods chattels and personal estate of John Bevans late of the County of Sangamon as presented to the undersigned James Smith James Barret and William H. McMillan appraisers appointed by the Probate Court of said County by James H. Brown administrator of said Estate, this the 27th day of March 1838.

	\$	cts
One Table	5	00
One Trunk and Chest	3	00
One Bedsted	6	00
One Bed and Furniture	20	00
Four Chains	2	00
Cupboard Ware	2	50
One Bedsted, Bed and Bedding	15	00
One Lot of Tin Ware	1	25
One Table Pan, and Sif[e]ve	62	½
One Coffee Mill, oven and Lid	2	25
One Flat Iron, Two pair of Hooks and Tea Kettle	2	00
One pair of And Irons, Tongs and Potrack	2	50
One Piece of Domestic Cotton Ten Yards	1	00
One Plough	4	00
One Plough		50
One Splitting Wedge, Ring, Wedge and Neb	1	00
One Lot of Bacon Five hundred and Sixty nine lb ^s	28	45
One Axe	1	25
Six Mill Bags	1	00
Seven Bushels and one half of Wheat	7	00
Twenty Six Bushels of Corn pot at home	7	20
Sixty Bushels of Corn	12	00
One Waggon	30	00
One Steer three years old	10	00
One Bay Mare	60	00
One Pided [<i>Pied</i>] Cow	12	00

One Red Cow and Calf	12	00
One Lot of Oats in the Shief	2	50
One Stack and a half of Hay	6	00
One Pot and Kettle	4	00
One Spade		37½
Three Slids [<i>Sleds</i>]		50
Five Barrels and one Cag [<i>Keg</i>]	1	00
One Waggon Sheet	1	50
One Frow		50
One Black Mare	50	00
One Steer three years old	10	00
One Red Heifer	8	00
One Speckled Cow	8	00
One Red Heifer one year old	4	00
One Red Yearling Heifer	1	00
Twenty Seven Hogs in one Lot	32	75
Six Sheep	14	25
One Kettle	3	00
One Dry Hide	1	00
One Hogshead and Four Barrels	1	50
Timothy Seed	1	25
Two Weeding Hoes and Grubing Hoe	1	50
One Doubletree Singletree and Clivis [<i>Clevis</i>]	3	00
One Shovel Plow	1	50
One Saddle and two Bridles	19	00
One Blind Bridle	1	50
One Lot of Old Irons		50
One Pair of Hames		37½
One Cutting Box and Knife	3	00
One Wieving Sleigh		75
One pair of Sheep Shears and Shoe Hammer	1	00
One Pair of Steelyards and Axe		75
One Lot of Tools	2	25
One Log Chain	1	00
One Galon Jug		25
One Can of Tar		50
Two Chairs and one Bell	1	00
One half Bushel		75
Salt	1	50
One Rifle Gun	12	00
One Lot of Gear	5	00
One Gray Horse	85	00
One Span of Work Cattle	75	00
Total	\$ 617	77

Transcription continues on 50 ▶

One Pot and Kettle	4 00
One Spade	37 1/2
Three Shovels	50
Five Barrels and one Cag	1 00
One Waggon Sheet	1 50
One Sallow	50
One Black Mare	50 00
One Steer three years old	10 00
One Red Heifer	8 00
One Spectacled Cow	8 00
One Red Heifer one year old	4 00
One Red Yearling Heifer	1 00
Twenty Seven Hogs in one Lot	32 75
Six Sheep	14 25
One Kettle	3 00
One Dry Hide	1 00
One Hogshead and Four Barrels	1 50
Timothy Seed	1 25
Two Mending Hoes and Grubbing Hoe	1 50
One Doubletree Singletree and Clinis	3 00
One Shovel Plow	1 50
One Saddle and two Bridles	19 00
One Blind Bridle	1 50
One Lot of Old Irons	50
One Pair of Hammers	37 1/2
One Cutting Box and Knife	3 00
One Mowing Sleigh	75
One pair of Sheep Shears and Shoe Hammer	1 00
One Pair of Stalyards and Axe	75
One Lot of Tools	2 25
One Log Chain	1 00
One Gallon Jug	25
One Can of Tar	50
Two Chairs and one Bell	1 00
One Half Bushel	75



Given under our hands and seals the day and year aforesaid

William H. McMillan L.S.
 Jas^s D. Smith L.S.
 James Barret L.S.

State of Illinois
 Sangamon County Sc[ilice]t

These are to certify all whom it may concern that the foregoing is a true copy of the Inventory and appraisment of the personal property of John Bevans dec^d of said County as appears from the papers on file in Sangamon Probate Court.

Witness my hand and private seal (no public seal having yet been provided) the law has authorized my private seal which is here substituted this 26th day of December 1838.

Seal

J. Adams P[ro]b[ate] J[ustice of the] P[ea]ce. S[angamon]. C[ounty]

2010" (http://www.orst.edu/Dept/pol_sci/fac/sahr/sahr.htm). Students can also visit the *Columbia Journalism Review* (<http://www.cjr.org/resources/inflater.asp>) for a "dollar conversion calculator" that converts historical amounts into today's values. For example, \$2.00 in 1848 is equivalent to \$44.00 in 2001. Students can also use a calculator to add up the value of the objects in the respective inventories.

C. What inferences can you make about the education levels of the two families based on the materials they owned?

D. What do these items tell us about roles of the various people in the two households? Which items might have been used by men? By women? By children?

E. What kinds of objects were found in both households? Why might a rural and an urban household have the same sorts of objects?

F. Review the two case summaries. If these cases came to your court, what decisions would you make in each of the cases to ensure that all of the parties received equitable settlements?

4. Conclusion and Assessment: Write to Learn. Students should review the Lincoln legal documents in this lesson and write a narrative essay that describes a typical day in either a rural or urban household. The essay should have an introduction, make a key point about material culture in each paragraph, and draw a reasonable conclusion. Or, teachers may want to organize a shopping day in which "families" must outfit their new home/farm during the age of Lincoln. Using information in the plan, give students a budget and ask them to explain, as a frontier family, what problems they faced and what items they needed not only to survive but to enjoy life.

Endnotes

1. John Carroll Power, *History of the Early Settlers of Sangamon County, Illinois* (Springfield: A. Wilson and Co., 1876).

Additional Activities

Illinois History Day Project. Students will select an artifact from the past and describe its form and function. They will also describe how technological innovations may have rendered the artifact obsolete by replacing it with others that perform the same functions. Students might also discuss the value of maintaining older objects in the face of changing technologies.

An Inventory of My Room. Students choose one room from their home and write an inventory list of the materials found there with their monetary value. They will then describe in writing the form and function of selected objects.

Local Material Culture. Invite a member of a local historical society or museum to bring historical artifacts from their collection to show to the class and to discuss their use. Students should discuss whether particular artifacts would be found in a rural or an urban household or both.

Historical Site Inventory. Visit a local house or farm museum and identify household items or farm implements used in the nineteenth century. Have students look for items listed on the inventories in this lesson plan. Where does the museum display these artifacts (i.e. what room, out building, or area outside)?

Document 4-B (transcription)

McGraw v. Adams

Case Summary: In his will, James Adams left his property to his two daughters and one son and appointed his son, Lucian Adams, as the executor of his estate. After both of James Adams's daughters died, James McGraw, the son of one of the daughters, claimed that his uncle Lucian Adams had failed to perform his duties as executor. McGraw wanted an account of Lucian Adams's executorship so that McGraw could receive his inheritance. James McGraw, by his father and guardian Charles McGraw, retained Abraham Lincoln and William H. Herndon and sued Lucian Adams in a chancery action for an accounting of his financial transactions. Lucian Adams retained Stephen T. Logan, John Todd Stuart, and Benjamin S. Edwards to represent him. Adams claimed that the settlement of the estate was more complicated than he had anticipated and was therefore taking more time. Lucian Adams had sold hundreds of acres of land and hundreds of town lots to Thomas Lewis. James McGraw added Lewis as a defendant and requested the court to void the sale. Lewis claimed that Lucian Adams was within his right to sell land as executor and filed a cross-bill against Lucian Adams and James McGraw to validate the sale. Judge Edward Y. Rice dismissed the original suit and cross-bill after Master in Chancery Antrim Campbell made an account of Lucian Adams's executorship and found it accurate.

Inventory

Inventory & Appraisal of the goods chattels & personal estate of James Adams dec^d of Sangamon County state of Illinois appraised by A. Y. Ellis Philo Beers & Jacob Divelbiss on this 4th day of September 1843.

Description of Property	Valuation
1. Wooden clock	\$ 7.00
1. Sett chairs	5.00
1. " "	5.00
1. Writing chair	3.00
1. Work stand	4.00
1. Cherry Bureau	15.00
1. Cherry framed Mirror	1.50
1. Walnut Dining table	6.00
1. Doz common chairs	3.00
2. Office tables	1.50
1. Small writing desk	1.00
2. Cherry tables	3.00
1. Settee	5.00
1. Kitchen table	3.00
1. Safe	5.00
1. Silver watch	5.00
1. Work stand	2.00
1. Bed & Bedding	20.00
3. do " at 15 each	45.00
1. Sett Harness	25.00

1. Side Saddle	10.00
1. Box carpenter's tools	2.50
2. Common Bedsteads	2.00
1. Wash stand	1.00
3. Fancy post Bedsteads	15.00
15. Yds rag carpet at 25[¢]	3.75
25. Yds ingrain carpet at 40	10.00
1. sett silver table spoons	12.00
1. " " Tea "	5 50
1. Lot cupboard ware including Bottles & 2 lamps	20.00
1 Lot Kitchen furniture washing tubs, buckets &c	20.00
1 Lot Barrels jars &c in Seller	7.00
	<u>273.75</u>

1. Large chair	1.00
2. Stones	3.00
2. Venetian window blinds	2.00
2. " " "	1.00
1. Saddle	5.00
2. Pitch forks	1.00
1. [D]ouble waggon	60.00
1. Bay Horse	60.00
1. Buggy waggon	50.00
1. Single Harness & Fly trap	12.00
1. String Bells	1.00
1. Cutting Box	2.00
1. Dung Fork	.50
1. Half bushel	.25
1. Berkshir[e] Boar	4.00
1. Sow & 6 shoats	10.00
2. Cows & 1 calf	14.00
5 Qrs ruled paper	1.75
5 " blank "	1.00
1. Lot of Law & other books	40.00

towit

9 vols American state papers
2 " Sellons practice 1 vol Chitty on bills
4 " Cranches Reports
3 " Espinarses Reports
4 " Dallas reports
1 " Gilberts Equity
1 " Land Laws
6 " Jacobs Law dictionary
5 " Laws of the U. States
1 " Remmington on Ejectment
1 " Gilbert on Wills
1 " Laws on pleading
1 " Pleadars assistant
1 " Gilbert on Evidence
1. " Sheridans Dictionary
1. " Adisons reports
1 " Montague on set off
4 " Burns Justice
1 " Roberts on Frauds
1 " Bullers Nissiprius
2 " Douglass reports
1 " Crowns circuit companion
2 " Maddocks chancery

1. " Breezes Reports
1. " Clarks assistant
1. " Johnsons Digest
2 " Hales pleas of the crown
1. " Harrison's Chancery
1. " Webster's Dictionary
1. " Christian Baptist
1. " Bible
15 " Journals of Senate, House Reps of Ill. & unbound miscellaneous books
1. Map of Ills
7. " Dicks works

We certify the foregoing to be a true Inventory & appraisalment of the personal property of James Adams deceased of Sangamon County as appraised by us on this 4th day of September 1843

Given under our hands & seals the day & year aforesaid

A. Y. Ellis
Jacob Divelbiss
Philo Beers

[Endorsement]

State of Illinois
Sangamon County

I Noah W Matheny Clerk of the County Court for said county do Certify that the within is a true copy of the Bill of appraisalment of the personal property of James Adams decd as the same appears of on file in my office

Given under my hand and seal of office at Springfield this 26th day of Nov 1853

N W Matheny cr



Please visit <http://www.papersofabrahamlincoln.org/from_courtroom_to_classroom.htm> for an image of this document.

Worksheet D

Analyzing a Lincoln Legal Document: An Estate Inventory

Case Brief

Complete Case Name: _____

Date of Document: _____

Whose names and titles are recorded on the document? _____

Where is the estate inventory taking place? _____

Synopsis: Summarize the Document

1. Based on the document's contents, what seems to be its purpose? _____

2. Organize the items listed in the document according to their uses around the home. For example, which items would be found in the living room? In the kitchen? Which items would be kept in a building or place outside the house?

Room: _____ Items: _____

Room: _____ Items: _____

Room: _____ Items: _____

Room: _____ Items: _____

Outside: _____ Items: _____

Thinking about Material Culture

1. Imagine that the household includes both parents and several children. List the objects that each family member would use most often for work or leisure.

father: _____

mother: _____

older boys: _____

older girls: _____

smaller children: _____

2. Identify objects that were used in farming or with animals.

3. Identify objects in the home that may have been made by hand.

4. Identify objects that were probably purchased in a nearby town or city.

5. List some of the objects that are still in use today in your home.

6. List some objects that are now obsolete, or no longer in use.

7. What objects are used today in the place of those objects?

8. Which objects had the highest monetary value? Which had the least value?

9. Which objects were designed to save labor or make life easier around the home?

10. Select one of the rooms or buildings outside the home (a shed or barn, for example) and describe what the local officials saw there when they conducted the estate inventory.

Worksheet E

Synthesis: Material Culture and Illinois History

What evidence in the document helps you better understand issues of role and status regarding men, women, and children during the age of Lincoln?

What evidence in the document helps you understand the patterns of daily life and the concerns of common people in both rural and urban Illinois households during the age of Lincoln?

What evidence in the document helps you understand more about the major historical trends that shaped the history of Illinois?

What evidence in the document helps you understand the values, beliefs, and ideals of people who lived in Illinois when this document was written?

Warring Spouses: Teaching the History of Family Law

Michael Grossberg

As we all know, families fight. They do now; they did in the past. Disputes erupt over everything from household finances to rules for dating. When conflicts become so serious that they cannot be solved without outside intervention, many wives and husbands or parents and children turn to the law. As a result, the American past is strewn with the remains of family legal conflicts. And there is now a substantial and accessible body of scholarship and materials that teachers can use to forge those buried household legal disputes into teaching tools to probe fundamental questions about the changing nature of American society.

Most household legal conflicts fell under the rubric of family law problems. Family law is the body of rules, practices, and beliefs that govern the home. Its policies deal with all aspects of family life from courtship and child rearing to spousal violence and inheritance. And since family law is both a subject of its own and a means of studying other topics it can illuminate a wide array of issues from changing notions of the scope of legitimate state authority over families to clashing views of child rearing and family size. The recently published Lincoln Legal Papers provide a unique opportunity for students to study this critical subject in a particular time and place: antebellum Illinois. Like other lawyers of his day, Abraham Lincoln had a wide and varied practice that included numerous cases brought to him by warring family members. Those cases illustrate the kinds of household conflicts that became legal disputes in the middle part of the nineteenth century and reveal how they were resolved.

Transforming the Law

Though Anglo-American law has long governed households, family law as a distinct legal category is a relatively recent creation. In colonial America, rules governing marriage, child rearing, illegitimacy, and other family relations were strewn across the legal landscape. And though provincial codes were notable for their deviations from English household governance practices such as partible inheritance, divorce, and greater toleration for informal marriages, none of the colonies considered family governance a distinct legal activity or its laws a separate body of rules. But that changed after the Revolution. A dual transformation occurred: families and the law underwent fundamental and reciprocal changes. The American family became more than ever before a haven for marital fulfillment and children nurture. At the same time, lawyers, litigants, judges, and legislators crafted a specialized body of legal rules to govern the home. It institutionalized the basic division of the law—husband and wife, parent and child—and established some of the law’s fundamental ideological commitments such as the primacy of individual choice in marriage and parental control of child rearing. Change also led to the creation of new policies such as adoption, abortion before the first fetal movements, and new rights for illegitimate children. The implications of the transformation of family law for lawyers like Lincoln and for his clients can be understood more fully by looking at the creation of new rules to govern marriage and divorce.

Most Americans then and now wed. Marriage has long been considered the most important relationship in American society. What was new in the years after the Revolution was the way people thought and acted about marrying. Though marriage for life remained the social ideal, a new sense of the importance of individual happiness and fulfillment and of marriage as a partnership led to an expansive new idea of marital freedom. These developments arose out of a broad national debate about matrimony sparked by the new ideas about marriage as well as by utopian marital experiments by Mormons, Shakers, and other sexual radicals.

Like the fundamental importance of marriage, the basic regulatory issue posed by matrimony also remained the same: balancing the individual right to wed against the state interest in marriage. That balancing act found legal expression in the definition of marriage as a civil contract. However, change occurred in the years after the Revolution as the legal balance tilted from the first word to the second. It did so because countless men and women challenged colonial controls on marriage that lingered on the statute books and restricted their marital rights. As a result of their challenges, the power of states to control marriage declined. Requirements for parental consent, formal celebrations, public notices of impending marriages, restrictions on age, and countless other controls were loosened or eliminated in favor of greater contractual freedom. The creation and widespread adoption of common law marriage—a legally binding union based on evidence of whether or not a couple lived together as man and wife not whether they had held a formal marriage ceremony—epitomized the marital freedoms of the era. So too did the shift from what one historian has called a parental-run marriage system to a participant-run marital system, which gave courting couples more and more power over their wedding plans. As a result of these changes, the new American law of marriage tilted toward individual choice, contractualism, and limited family and public control.

Equally dramatic and related changes occurred in American divorce law. English law had made divorce very rare. A marriage could only be dissolved by Parliament and on very few grounds. Americans rejected this policy in favor of greater contractual freedom to end a failed union. New England colonists first made divorce more accessible and then in the early nineteenth century the law was transformed in most states by making marital dissolution a judicial responsibility instead of a legislative one. At the same time, judges and legislators expanded the grounds for a divorce to include not only the traditional ones of adultery and desertion but also drunkenness, cruelty, and in some states even joining the Shakers. These changes made divorce more accessible and much cheaper. They also revealed the growing faith of Americans in judicial solutions to their family woes and the

growing power of judges over the construction and application of American family law.

The transformed divorce rules, like those in marriage, were the result of new ideas about marriage as a contractual institution and the era’s deep commitment to marital happiness and individual marital responsibility. They also represented attempts to address the realities of an expanding, mobile society in which women and, more commonly men, responded to marital conflict and family problems by deserting their spouses and children as the *Bancom v. Bancom* and *McCrea v. McCrea* cases [Documents 5-A, 5-B] illustrate. Indeed, during the years Lincoln practiced, Indiana became the nation’s first divorce colony: a place where a disgruntled spouse could go to seek a quick and legal divorce. Most importantly for understanding the law, divorce rested on a

fault standard: a marriage would be dissolved only if one spouse proved that his or her mate had broken their contract by committing a marital crime. Divorce trials thus became adversarial contests that pitted one spouse against the other and focused on evidence of adultery, desertion, or other marital misdeeds that warranted a divorce. Even so, despite the new access and attitudes, divorce retained a strong stigma that made it a very hazardous step for any woman

or man to take. Yet the possibility of starting over and formally getting rid of a spouse proved alluring for many antebellum wives and husbands.

Lincoln’s divorce cases also reveal that a transformation in the law of child custody accompanied the growing resort to divorce. Judges remade the law in response to the growing number of parental contests over children that erupted in the wake of failed marriages. They did so as the result of new ideas of childhood as a distinct phase of life that made nurture and maternal care more and more important as well as the belief that children had their own rights and duties and direct relationship with the state. In custody fights, judges jettisoned the traditional property right of fathers to their children that had been based on the notion of a reciprocal exchange between paternal support and child service. In its place, judges created a new legal guide: “the best interest of the child” doctrine. Under that legal doctrine,



Lithograph “The Seven Stages of Matrimony” by Nathaniel Currier. New York, c. 1845. Courtesy of the American Antiquarian Society.

which continues to govern child custody cases, they demanded that the needs of children not the rights of parents govern the law. In applying the rule, judges translated their era's fervent faith in maternalism into a legal preference for mothers that rested on the twin assumptions that children were more in need of maternal nurture than paternal support and that children had their own legal right to be reared well. The creation of the "best interest of the child" rule meant that most mothers involved in divorces and other family law contests received custody of their children. Like the married women's property acts passed in most northern states during this period, the new custody law rules gave women greater legal rights and powers and made them less legally dependent on husbands and fathers. However, awarding custody became a discretionary power of the courts and a particular woman might lose her children if her estranged husband successfully convinced a judge that she had committed immoral acts or failed in her maternal duties. Lincoln's cases illustrate these critical legal developments by showing how custody cases became battles over stories of good and bad mothers, fathers, and guardians.

Pedagogical Possibilities

Using Lincoln's legal cases to analyze changes in the law of marriage and divorce can be enhanced by raising some of the persistent issues in the history of American family law. A couple of these suggests how the legal history of the family can be placed in a larger context and linked to ongoing issues in American history.

First, one of the fundamental ways of bringing family law into the classroom is to recognize that its past can be divided into distinct periods like other subjects in American history. Indeed, family law's basic periodization accords reasonably well with our conventional understanding of the periods of the American past. The law's transformative era corresponds with the traditionally demarcated antebellum era, for example. Focusing on issues of periodization can raise basic questions about how the changing scope and range of family law relates to other developments of the period. For example, the power of contractualism in marriage and divorce can be compared to changes in market relations in the era as well as to the complete denial of contractual rights of a slave to work or wed.

Second, looking at specific family law cases also illuminates the role of individuals in legal history. As clients have always learned, a lawyer like Lincoln could explain general rules but could not guarantee how they will be applied to their particular case. Going to law thus always involves risk and Lincoln's clients had to decide if they were worth it or not. Under the new rules of child custody, for instance, a mother would learn that she would likely keep her child if she sought a divorce but that she would have to endure attacks on her character and her skills as a mother. Rebecca Waddell learned this lesson the hard way as document 5-C demonstrates. Thinking about why clients sought the help of lawyers like Lincoln thus forces a consideration of the appeal that legal solutions to family problems had for individual men and women.

Conclusion

Looking at the critical developments and pedagogical possibilities of American family law indicates the profound impact that the law has had on the way Americans have understood and experienced family life. And it suggests why the legal history of the family should be brought into the classroom as a new way to examine particular times, places, and subjects in the American past. □

Bibliography

- Basch, Norma. *Framing American Divorce, From the Revolutionary Generation to the Victorians*. Berkeley: University of California Press, 1999.
- Grossberg, Michael. *A Judgment for Solomon, the d'Hauteville Case and Legal Experience in Antebellum America*. New York: Cambridge University Press, 1996.
- Grossberg, Michael. *Governing the Hearth, Law and the Family in Nineteenth-Century America*. Chapel Hill: University of North Carolina Press, 1985.
- Hartog, Hendrik. *Man & Wife, A History*. Cambridge: Harvard University Press, 2000.
- Mintz, Steven and Susan Kellogg. *Domestic Revolutions, A Social History of American Family Life*. New York: Free Press, 1988.
- Mintz, Steven. "Children, Families, and the State: American Family Law in Historical Perspective," *Denver University Law Review* 69 (1992): 635-61.
- Stowell, Daniel W., ed. *In Tender Consideration, Women, Families, and the Law in Abraham Lincoln's Illinois*. Urbana: University of Illinois Press, 2002.

Michael Grossberg is Professor of History and Law at Indiana University and Editor of the *American Historical Review*. His research and teaching focus on the relationship between law and social change, particularly the intersection of law and the family. He has written a number of books and articles on legal and social history including *Governing the Hearth, Law and the Family in Nineteenth Century America* (University of North Carolina Press, 1985), which won the American Historical Association's Littleton-Griswold Prize in the *History of American Law and Society*, and *A Judgment for Solomon: The d'Hauteville Case and Legal Change in Antebellum America* (Cambridge University Press, 1996). He is currently working on a study of child protection in the United States and co-editing *The Cambridge History of Law in the United States*.

Social Role and Status: Marriage on the Illinois Prairie

Lawrence W. McBride and Frederick D. Drake

Theme: Patterns of Social and Political Interaction

Habits of Mind: Understand how things happen and how things change, how human intentions matter, but also how their consequences are shaped by the means of carrying them out in a tangle of purpose and process

Appreciating the force of the non-rational, the irrational, and the accidental, in history and in human affairs

Focus: The Land Act of 1820 encouraged thousands of small farmers from New England and the upland southern states, as well as immigrant farmers from Europe, to settle the fertile prairie lands of the Old Northwest Territory. The construction of roads, canals, and railroads facilitated their continued migration to Illinois and allowed them to market their harvests and to purchase manufactured goods and services from beyond their communities. Nevertheless, work was strenuous, and strong families were required to keep a small farm at an optimum level of productivity. A husband, wife, and their children working together helped to assure that a family farm would have a fighting chance against the environmental and economic challenges that confronted people on the prairie.

The emotional stress stemming from the intense labor and the loneliness of farm life in isolated communities could, however, easily drive family members apart. Some men succumbed to alcohol as a relief from the pressures of survival. Other men simply abandoned their families and disappeared. Still others believed they could solve their problems by finding financial security elsewhere, particularly in California during and after the famous gold rush of 1849. Members of the family who were left behind when their husbands and fathers departed had either to continue with the farm or seek help from others in the community. Many women sought relief in the courts, claiming desertion status in the hope of obtaining a divorce, thereby enabling them to remarry and keep the family stable and the farm economically viable. In this lesson, students learn that seeking out and securing a divorce was difficult. If a husband was out of state, it was difficult for officers appointed by the court to track him down to serve the divorce papers. But the burden of keeping a family whole was not entirely on the wife. Some men, having sought out their fortunes, returned to Illinois only to find their wives living in adulterous relationships with other men.

This lesson can be integrated easily with writing lessons on narrative, expository, and persuasive topics as conducted by

colleagues in the school's English department. For example, taking a side and demonstrating support for a position are major goals of the writing curriculum in most middle schools and high schools.

Note: Document 5-C contains some sexual language used in court proceedings that may be inappropriate for use in some middle school and high school classrooms.

Objectives: Students will be able to:

1. Describe the social role and status of men, women, and children living on the Illinois prairie between 1840 and 1860.
2. Analyze family life in rural Illinois between 1840 and 1860.
3. Compare and contrast the responsibilities of children in families of the past with the responsibilities of today's children.
4. Analyze historical documents.

Illinois Learning Standards

16.D.3b Describe characteristics of different kinds of families in America during the colonial/frontier periods and the nineteenth century.

18.A.5 Compare ways in which social systems are affected by political, environmental, economic, and technological changes.

18.B.1a Compare the roles of individuals in group situations.

18.B.5 Use methods of social science inquiry to study the development and functions of social systems and report conclusions to a larger audience.

Procedures

1. Discovery

A. Adults Remember Their Childhood.

1) Prior to this lesson, students will survey members of an older generation to learn about the responsibilities these adults had when they were children. A guide, *Back in the Old Days* (Worksheet F), may be used to record data from the interview. Students will share their findings either in small groups or with the class. Note: Teachers should make certain that the individuals who are interviewed by the students understand that their responses to the questions on Worksheet F may be kept on file for other students to draw upon for study and research.

2) Drawing on Worksheet F, students can develop a chart showing the kinds of work required of children years ago and the time spent meeting these responsibilities.

3) Identify the current roles and responsibilities of the head of the household and other family members, including brothers and sisters.

B. The Ideal Marriage.

1) Start with a quote. An American writer advised middle class male readers who lived in cities, “If you are in business, get married, for the married man has his mind fixed on his business and his family, and is more likely of success.”

2) Discussion notes on Middle Class Family Life in the Nineteenth Century City.

a) Typically, the husband held what is now called a “white-collar position” or a profession. His role was to work hard to provide the income and thus secure the material goods that would have been necessary to maintain a certain social status in the community.

b) The wife also played an important role. She stayed at home and was responsible for nurturing the family, both in the development of the children’s social behavior and their religious training.

c) Social historians call these social roles the *Victorian spheres of influence* and refer specifically to the woman’s role as the *Cult of Womanhood*.

d) Working together, a husband and wife strove for perfection in their roles, maintaining a fine home filled with well-mannered children and being good neighbors.

3) Rural Family Life: Members of rural families had different roles.

a) Family members were required to work together to make the land productive. Men, women, and children labored together to pull the agricultural produce from the land.

b) If one member of the family could not contribute, for example due to an illness or a forced absence, that person’s workload would have to be shouldered by another family member.

c) If a family had extra financial resources, a laborer could be hired for wages or perhaps in an exchange for parcels of land or profits from the sale of the farm’s produce. Like their urban, middle class counterparts, however, rural women of all social classes were also largely responsible for looking after the upbringing of the children.

4) Remembering that rural and urban life at that time was much different for married couples, ask students: Would the writer’s advice that opened this lesson nevertheless apply to men who were farmers? Have students discuss reasons why being married and having a family were attractive options for a farmer in Illinois.

2. Going to Court: Lincoln Legal Documents Describe Another Side of Marriage.

A. Preview each of the legal documents before class. Divide students into groups, giving each group a document. Prepare the groups by explaining that some of the testimony in the documents is of a sexual nature, but that this information was necessary for the parties to assert the legal claims and for the court to reach a decision. Each group will then read one of the documents, identify the main points and discuss the outcome. To complete this assignment, groups will complete and review the student guide, *Analyzing a Lincoln Legal Document* (Worksheet B).

1) Document 5-A. Bill for Divorce, 13 September 1842, *Bancom v. Bancom*

2) Document 5-B. Bill for Divorce and Affidavit, 9 January 1855, *McCrea v. McCrea*

3) Document 5-C. Bill for Divorce, November 1853, *Waddell v. Waddell*

B. Further questions to ask:

1) What specific passages from the documents illustrate the roles of women in the family, both during a happy marriage and after their spouses deserted them?

2) What specific passages from the documents illustrate some of the emotional and social problems confronting various family members?

3) How were children affected by these problems?

4) What appear to be some of the grounds for seeking a divorce in Illinois?

5) Teaching Opportunity: Ailsey Bancom could not sign her name. What does that fact tell us about issues of social status?

3. You be the Judge: There are Always Two Sides to Every Story.

Ask each group of students to provide a plausible rebuttal to the various charges in the case they analyzed. Citing specific parts of the documents, students can then debate the two sides of each bill for divorce, explaining their opinion on why the divorce should or should not be granted.

1) Whose court documents were the most persuasive?

2) How would your court rule in these divorce cases?

4. **Conclusion and Assessment.** Write to Learn. Students should imagine they have migrated from the east to rural Illinois around 1840. They should write either a narrative journal entry or letter to a friend or relative “back home” about their family life on the prairie. Students can take on a specific persona, such as a husband, wife, child, laborer, or guest on the farm, but they must include in their assignment information about the roles and status of all the family members.

Additional Activities

Illinois History Day Activity. Students can conduct research into the changing status of women before the law, investigating such issues as voting rights, ownership of property, the right to bring a lawsuit into court, or taking up the practice of law as a profession.

Young People and the Law Today. Neither young people nor women had equal rights with men in many legal matters during this period in history. To gain some perspective on the idea of continuity and change in history, students should discuss their own legal status before the law. For example, what activities that intersect with the law still require the written permission of their parents or other adults?

A Classroom Database for the History of Childhood in Illinois. Using the interviews of members of older generations, students can collate and then bind their interviews into a book format that will serve as a primary source document for future classes. (See Procedure in 1A above.)

Bancom v. Bancom



Please visit <http://www.papersofabrahamlincoln.org/from_courtroom_to_classroom.htm> for an image of this document.

Case Summary: In the fall term of 1842, Ailsey Bancom retained Stephen T. Logan and Abraham Lincoln and sued John Bancom for divorce on the grounds of desertion, extreme cruelty, and habitual drunkenness. Ailsey Bancom also sought custody of their seven children. John Bancom failed to appear, and the court granted the divorce and gave Ailsey Bancom custody of the children.

Bill for Divorce

To the Honorable the Judge of the Sangamon Circuit Court in Chancery Sitting.

Humbly Complaining, Sheweth unto your Honor, your Oratrix, Ailsey Bancom, that on the _____ day Feb A.D. about twenty four years ago next February, she was lawfully married to one John Bancom, whom she prays may be made a party to this bill as defendant, & that afterwards to wit, on the _____ day of _____ A. D. 1830 she and her said husband removed to & took up their residence in the County of Wayne where ~~she has ever since~~ ^they^ resided, ^for two years & removed from [thence] to Alton, Madison County, where they resided six or seven years, & removed from there to Pike County Illinois, where they resided until they your oratrix & her husband separated as hereinafter described^ until her said ~~deserted her as here after described & that on the _____ day of _____ A.D. 18 _____ the [...]~~ wilfully deserted and absented himself from your Oratrix without any reasonable cause, & has ever since remained from her; & she further states, that from the time of her said marriage until the desertion of her said husband as aforesaid, she continued to live with her husband, all the time performing all the duties of an affectionate and obedient wife. She also states that while she & her said husband live together she had ^she had seven^ children by him; to wit, & that from the ^& that three of said children live with her, towit, Thomas Shelton, Priscilla Jane, & William Crowder

She has supported & maintained said Children ever since she had them in possession by her own labor, & that her said Husband never contributed in any way to their support; and your Oratrix also states, that her said Husband, has treated her with extreme & repeated cruelty, for two years next preceding the ~~[last] said separation as is herein after mentioned~~ ^the month of April A D. 1841^ & also that her said husband was ~~gen~~ addicted to habitual drunkness for the period of two years ~~bef~~ next preceding the time last aforesaid; ^& from that time to the present^ & your oratrix also states, that since the period last aforesaid, towit on the _____ day of ~~Sept~~ August A. D. 1841 She has removed to the County of Sangamon and State of Illinois, and your Oratrix also states, that during the month of April, A. D 1841, she separated from her husband, who had repeatedly thr[e]atened to take her life, because she was afraid from his extreme & repeated cruelty of her, & from his violent threats, that he would take [her], & he has also repeatedly threatened to take her life since said separation & she is afraid if she were to live with him then

In tender Consideration whereof, your Oratrix prays that the People's writ of Subpoena issue &c. and that the said defendant to be required to answer on his corporel oath, all & singular the allegations of this bill; & that on a final hearing of this cause, your Honor will decree that the bands of matrimony heretofore and now existing between said defendant, & your Oratrix be forever dissolved; & that your oratrix be decreed to have the care & custody of her said Children; & that your honor will grant such other & further relief, as equity may require, & as in duty bo[u]nd &

~~Logan & Lincoln for complainant
Baker & Bledsoe sol[icitors] for~~
Complainant.

her
Ailsey X Bancom
mark

Subscribed & Sworn to before me this 13th day of September AD. 1842
J Calhoun clerk

To The Honorable David Davis Judge of the
Sangamon County Circuit Court in Chancery
Selling

Humbly Complaining your Petitioner
McCrea would show unto your Honor that she
was intermarried with Charles McCrea on
a about the day of April Eighteen hundred
and forty six in the said County of Sangamon
and State of Illinois, that your Petitioner
and her said husband lived together
as husband and wife in said County
for about the period of three years in
a reasonably happy matrimonial
state, and before the desertion of her
said husband as hereinafter stated,
your Petitioner bore to him two children
now living who have been supported
by your Petitioner since the absence and
desertion of her said husband, your
Petitioner further states that her said
husband on a about the day of
April Eighteen hundred and forty nine
willfully and without reason or
just cause wholly abandoned your
Petitioner and deserted her, and during
the whole time of his said desertion
your Petitioner has supported herself
with aid or assistance from her
said husband,

In tender consideration being
your Petitioner prays that a subpoena
in Chancery may issue for said defend-
ant, that said Charles McCrea be

party defendant to this bill of Complaint
that he be required to answer the
allegations hereof, fully and particularly
as though specially interrogated therein
and that you honor would render a
decree dissolving the bands of matrimony
between her and her said husband
and that such other and further relief
be granted your praying as her case
may require,

W. H. Herndon
Att. for Compl.

Nancy McCrea }
vs } In Charge for Divorce
Charles McCrea }

Nancy McCrea the
Complainant in the above entitled
cause being first duly sworn deposes
and says that the defendant
therein named is not a resident
of the State of Illinois, but of California
so that process cannot be served on
him, Nancy McCrea.

Subscribed and sworn to before
me this 9th day of Jan'y 1881
J. M. [Signature] Clerk

McCrea v. McCrea

Case Summary: Nancy McCrea retained Abraham Lincoln and William H. Herndon and sued Charles McCrea for divorce on the grounds of desertion. Charles McCrea had gone to California in April 1849, apparently to mine for gold. In the spring term of 1856, McCrea defaulted, and the court granted Nancy McCrea a divorce and custody of the two children. The court postponed the alimony hearing.

Bill for Divorce, Affidavit

To The Honorable David Davis Judge of the Sangamon County circuit court in chancery setting

Humbly complaining your oratrix Nancy McCrea would show unto your Honor that she was intermarried with Charles McCrea on or about the day of April Eighteen hundred and forty six in the said County of Sangamon and State of Illinois, That your oratrix and her said husband lived together as husband and wife in said County for about the period of three years in a reasonably happy matrimonial state, and before the desertion of her said husband as hereinafter stated, your oratrix bore to him two children now liveing who have been supported by your oratrix since the absence and desertion of her said husband your oratrix further states that her said husband on or about the day of April Eighteen hundred and forty nine willfully and without reasonable or just cause wholly abandoned your oratrix and deserted her, and during the whole time of his said desertion your oratrix has supported herself with[ou]t aid or assistance from her said husband.

In tender consideration whereof your oratrix prays that a subpoena in chancery may issue for said defendant, That said Charles McCrea be party defendant to this bill of complaint that he be required to answer the allegations herof, fully and particularly as though specially interogated thereto and that your honor would render a decree dissolving the bands of matrimony between her and her said husband and that such other and further relief be granted your oratrix as her case may require.

W. H. Herndon
Sol[icitor]. for Comp[lainan].

[Affidavit]

Nancy McCrea
vs In chancery for Divorce
Charles McCrea

Nancy McCrea the complainant in the above entitled cause being first duly sworn doth depose and say that the defendant therein named is not a resident of the State of Illinois, but of California so that process cannot be served on him.

Nancy McCrea
Subscribed and sworn to before me this 9. Jany 1855
Jas Matheny Clerk

Of the November Term of the Circuit Court
of Sangamon County A.D. 1853.
In Chancery.

Your orator James Waddell would most respectfully
show unto your Honor that on or about
the first of June A.D. 1847 he was intermarried
to one Rebecca Johnson, now Rebecca Waddell
and which said marriage was in Sangamon County
and State of Illinois. Your orator would further
show that he went a trip or tour to California
in 1851 and returned about the first of Sept. 1852
and that said wife was with the Consent of said
Rebecca - that your orator left said Rebecca single
to support well herself and the children. Your
orator would show that since he has returned home
he has been informed that said Rebecca has committed
adultery with William Miller and others and being
believed the same to be true - that he your orator
has never had communication with said Rebecca
since his return from California - that the same
charge of adultery or fornication has been taken your
orator by various persons of unaccountable trust and veracity
at
Your orator would show that he has had of said
Rebecca Waddell ~~two~~ children one Jane Waddell
about six years of age and Francis Waddell
aged about four years.

Therefore your orator prays a
clarification and dissolution of the marriage contract with
said Rebecca and for a decree allowing your orator
the said children

Prays for the said Rebecca Waddell
to be made defendant - that the Public mind of Sangamon
be soothed and that said Rebecca be compelled to answer
this bill and for such other relief as may or shall be
sent or put in the premises and as in duty bound
your orator will ever pray &c.

James Waddell by
Sincant Henson Atty

Waddell v. Waddell

Case Summary: Squire Waddell retained Abraham Lincoln and William H. Herndon and sued Rebecca Waddell for divorce on the grounds of adultery. Squire Waddell claimed that he left for California for two years and, after his return, discovered that his wife had committed adultery. Rebecca Waddell failed to appear, and the court ruled for Squire Waddell and gave him custody of the two children.

Bill for Divorce

Of the November Term of the Circuit Court of Sangamon County A D 1853.

In Chancery.

Your orator Squire Waddell would most respectfully shew [show] unto your Honor that on or about the first of April A D 1847 he was intermarried to one Rebecca Johnson, now Rebecca Waddell and which said marriage was in Sangamon County and State of Illinois Your orator would further shew that he went a trip or Tour to California in 1851 and returned about the first of Sept 1853 and that said trip was with the consent of said Rebecca; that your orator left said Rebecca enough to support well herself and two children. Your orator would shew that since he has returned home he has been informed and so charges that said Rebecca has commit[ted] adultery [^]or fornication[^] with William Welles and others and verily believes the same to be true; that he your orator has never had communication with said Rebecca since his return from California; that the same charge of adultery or fornication has been told your orator by various person of undoubted truth and veracity.

Your orator would shew that he has had by said Rebecca Waddell two children one Jane Waddell about six years of age, and Francis Waddell aged about four years.

Wherefore your orator prays a divorce and dissolution of the marriage contract with said Rebecca and for a decree allowing your orator the said children

Prays for the said Rebecca Waddell be made defendant; that the People's writ of subpoena to issue and that said Rebecca be compelled to answer this bill and for such other relief as may or shall be meet or just in the premises and as in duty bound your orator will ever pray &c.

Squire Waddell by
Lincoln & Herndon Sols.

Key to Transcription Symbols

Symbol	Description
. . .	text left out in excerpting
[. . .]	unrecoverable passages in source text
^{^roman^}	additions to original source text (interlineations)
strikeout	passages deleted by the author of the document
[...]	unrecoverable passages deleted by the author of the document
<u>underline</u>	passages underlined by the author of the document
[<i>italic</i>]	editorial supply; not based on words in original text
[roman]	editorial supply of mutilated passages; expansion of abbreviations, when necessary for clarity

Worksheet F

Back in the Old Days: An Interviewing Guide

Date of Interview _____ Interviewer _____

Place of Interview _____

Personal Data

1. What is your full name? _____
2. What is your date of birth? _____
3. Where did you live during most of your childhood? _____
4. How often did you move when you were a child? _____

Roles and Status in the Family

1. What household chores were you largely responsible for when you were young?

2. How long did it take you to complete these chores?

3. How did your responsibilities and the time commitment to them change as you grew older?

4. What responsibilities, if any, did your brothers or sisters have?

5. Do you remember what jobs your mother and/or father had when you were younger?

6. If they both worked outside the home, who took care of the housework?

7. What is your fondest memory of working side-by-side with the other members of your family?

8. When did you get your first job outside the home that paid a wage? How much did you earn? How many hours did you work each week at this job? _____

I hereby authorize my interview to be _____
used for educational purposes

Signature

Date

The Transportation Revolution in Illinois

John E. Clark Jr.

Newly elected U.S. Congressman Abraham Lincoln and his wife Mary had to make a long hard trip to take his seat in Washington in November 1847. They took a stagecoach over bone-jarring roads from Springfield to St. Louis. A steamboat then carried them up the winding Ohio River to ride to Wheeling, then part of Virginia. They changed in Wheeling to another stagecoach. It took them over the National Road to Cumberland, Maryland, where the Baltimore & Ohio Railroad whisked them on the final leg to Washington. The Lincolns traveled an arduous twelve days to complete the 1500-mile journey. In 1861, but for his political stops, newly elected President Abraham Lincoln could have completed the 966 railroad miles from Springfield to Washington in two days.



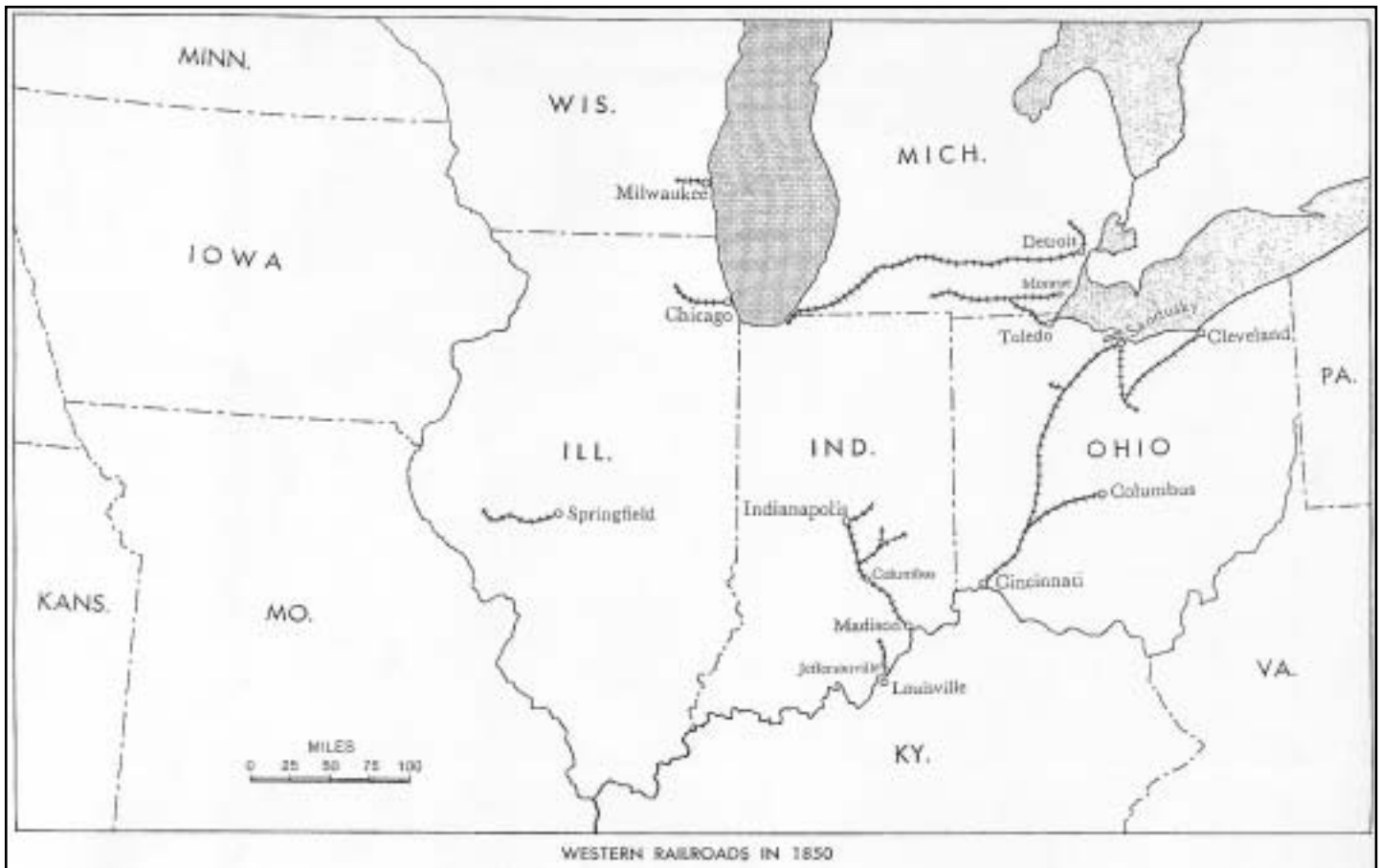
The Illinois and Michigan Canal Lock at Channahon, Illinois. *Illustration courtesy of the Illinois State Historical Library.*

Lincoln's travels show how improved transportation, such as railroads and canals, played vital roles in helping Illinois to rise to prominence among American states in the 1850s. The population leaped from 851,470 to 1,711,951 during the decade, raising Illinois from eleventh to fourth rank behind New York, Pennsylvania, and Ohio. Agricultural output exploded during this period, making Illinois America's leader in both corn and wheat production. Two million bushels of grain passed through Chicago in 1850, 50 million bushels in 1860, and established the city as the nation's grain depot.

Chicago also became the nation's railroad crossroads. A single railroad served the village in 1850. Ten years later fifteen railroads, four with direct routes to the east coast sent one hundred trains daily through Carl Sandburg's big-shouldered city. These factors gave Illinois and the other Old Northwest states "decisive political weight," says historian Maury Klein. Not by accident did the young Republican Party meet in Chicago in 1860 to nominate an Illinois man for President of the United States.

Studying the growth of America's transportation system helps us to better understand the economic development of Illinois and the United States. Most early Americans lived in rural subsistence economies. As John Mack Farragher describes in *Sugar Creek*, farmers grew or raised and made most of the things they needed to live. They bartered goods and services for those items they could not provide for themselves, or they simply did without them. Successful farm families ate well and were adequately, if simply, clothed and housed. Living in a cashless society, however, explains why two-thirds of all Americans wore homespun clothes in 1810. They had no money to purchase the textile industry's increasingly inexpensive cloth.

High transportation costs prevented most Americans from participating in a cash, or market, economy. It cost nine dollars to ship the goods just thirty miles inland on primitive roads. For this reason farmers grew only enough food for their families' needs, plus an emergency reserve. They did not grow crops for market unless they lived near a town, or a navigable river. It made no sense to grow



Western Railroads in 1850. *John F. Stover, Iron Road to the West: American Railroads in the 1850s (New York: Columbia University Press, 1978), 118.*

more wheat or corn than one needed for family use because transportation costs were three to six times the crops' market value.

The Erie Canal opened in 1825 and began American's transformation from a subsistence economy to a market economy. A wagon drawn by six horses could pull a two-ton load on flat roads. The first canal boats with a single boatman and his "mule named Sal, fifteen miles on the Erie Canal," could haul thirty tons; Sal would soon pull a redesigned seventy-five-ton boat. The canal reduced transportation costs by ninety five percent by 1850.

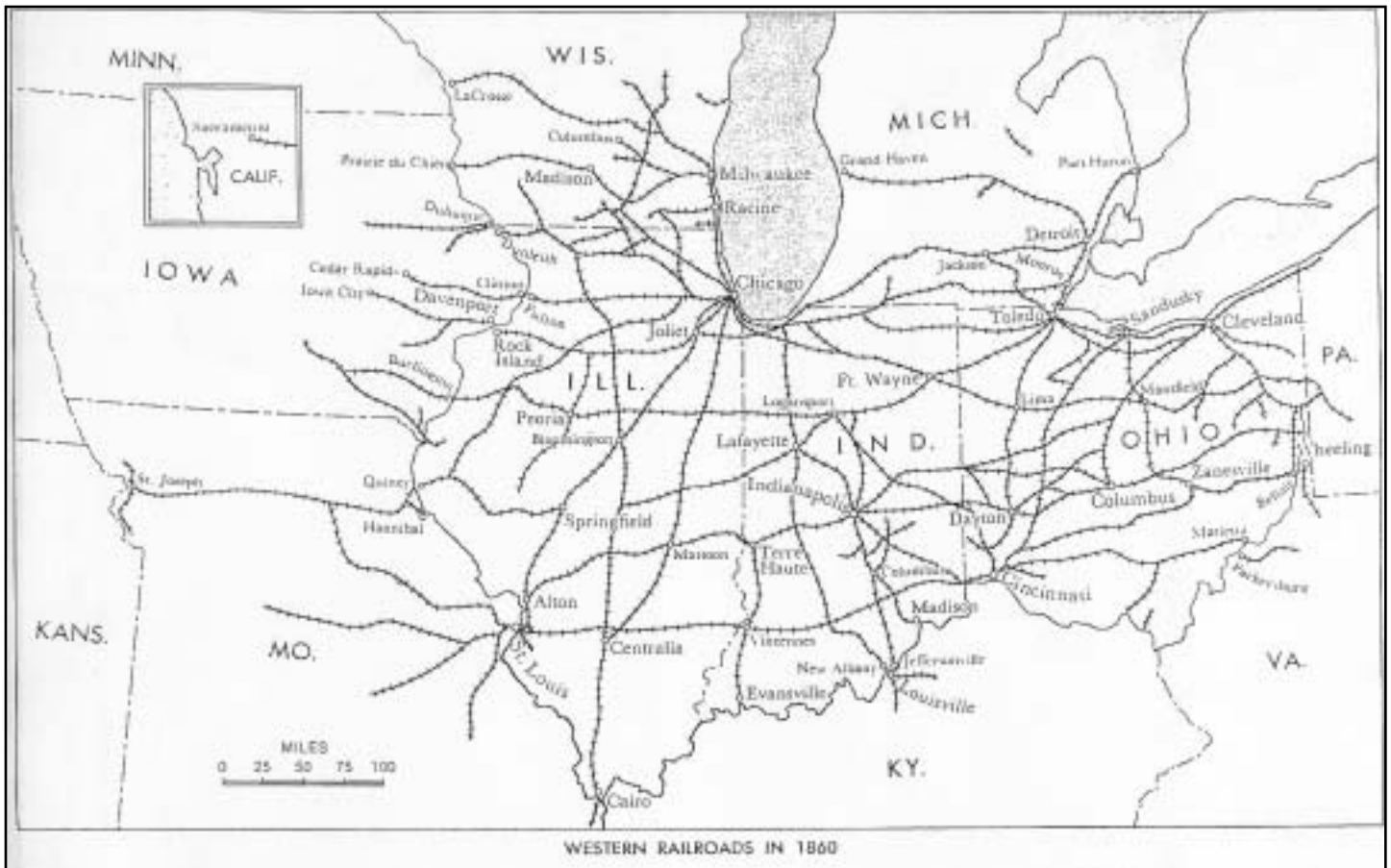
Towns sprang up along the transportation routes. Merchants and tradesmen settled in them to take advantage of new business opportunities. Low cost transportation meant that farmers could now grow and sell all the crops they could. Cash allowed farmers, the largest occupational class in America, and their families to participate in the economy as consumers. They could now buy goods that they formerly made themselves, such as cloth, as well as goods and services previously unavailable to them. They purchased goods produced by an expanding manufacturing sector as growing numbers of factory employees and those working in the developing non-agricultural economy increased the demand for food products.

The Erie Canal opened trade with the western states through the Great Lakes, and provoked a mania for canal building. Canals, however, would enjoy a short technological shelf life. The avail-

ability of water controlled canals' locations, not necessarily the most desirable or direct route. Floods, drought, and freezing often closed them. The Erie Canal, for example, only operated seven months of the year due to poor weather conditions.

Illinois came very late to canal building. Proposals to build the Illinois and Michigan (I&M) Canal appeared as early as 1816. Southeastern counties, however, opposed the canal because it offered no benefits to them. Actual digging did not begin until 1836. The panic of 1837 ultimately stopped construction, which resumed in 1842. The \$6.17 million, fifteen-lock waterway opened between Chicago and Peru in 1848. The ninety-six-mile canal connected Lake Michigan with the Mississippi River by way of the Illinois River. Chicago became America's largest inland port in the canal's first year of operation.

Baltimore, America's third largest city in 1825, found its terrain unsuitable for a canal. The city fathers bet Baltimore's future on the new railroad technology rather than risk becoming an economic backwater. They chartered the Baltimore & Ohio Railroad, America's first long-distance railroad, in 1827. The B&O reached the Ohio River and began through service in January 1853. The Pennsylvania Central Railroad and the combination of roads called the New York Central reached Pittsburgh and Buffalo by 1854. The eastern railroads stimulated the development of railroads in the western states of Ohio, Indiana, and



Western Railroads in 1860. *John F. Stover, Iron Road to the West: American Railroads in the 1850s (New York: Columbia University Press, 1978), 138.*

Illinois, although no bridges would span the Ohio River until after the Civil War.

Railroads seem to have been invented with America's great distances in mind. Railroads followed direct routes, and they operated all day and every day regardless of weather. Track-miles grew from 3,000 in 1840 (approximately the same as canal miles) to 8,879 by 1850, and then tripled to 30,626 by 1860. The United States, with 5 percent of the world's population had built almost 50 percent of the world's track miles. Half of the 22,000 new miles built in the 1850s were in the Old Northwest states. Track mileage in Illinois increased from 110 to 2,790, second in the nation only to Ohio's 2,946.

The sustained speeds of railroads multiplied travel ranges to two-hundred miles per day compared with fifteen or twenty miles by wagon or canal boat. This accelerated the pace of business, and made national markets possible. Business expansion encouraged economies of scale, product specialization, and diffusion of technology that promoted further economic growth. Price difference began to narrow between different regions, and then disappear, as transportation speeds increased and costs declined. Canals cost less than railroads per ton-mile, an advantage that the railroads would steadily close. The railroads, however, offered speed and reliability that canals could not match. Railroads immediately cornered passenger traffic and more valuable freight, and then

made inroads into the canals' bread and butter, the low value-high volume freight such as grain and coal. Railroads even changed the way Americans thought about time. They devised a uniform measurement in 1883 that Americans would call "railroad time," and we now call "standard" time.

Railroads became America's second largest industry (after agriculture) before the Civil War. The nation's first "big business," railroads presented completely new dimensions to management in terms of space and time. This led to the development of modern management practices, including cost accounting. Railroads' demands for wood, then coal and iron products created new business opportunities that further contributed to the growth of the American economy.

Reduced transportation costs freed capital for other uses. Americans reinvested these savings in new manufacturing and farm equipment, and improved transportation structures, leading to further cost reductions. These synergies combined to reduce America's cost of living by thirty percent, and fueled America's economic "take-off," as Walt W. Rostow calls it. In 1860, America produced less than Britain and France or Germany. It produced more goods than all three combined by 1894.

Canals and then railroads gradually shifted the Old Northwest's trade from the South to East. More than half the Mississippi River region's trade passed through New Orleans in the 1830s. By the

start of the Civil War, New Orleans managed less than a quarter of the traffic, albeit of much larger volume. The change in economic, and with trade the Old Northwest's political, orientation would become a matter of profound importance for the political integrity of the United States of America.

Illinois Senator Stephen Douglas sponsored the 705-mile, \$26 million Illinois Central. The first land grant railroad sprang up between 1851-1856. A prominent north-south railroad, the IC ran from Cairo to Centralia where it split. The "Chicago Branch" ran to that city. A western branch ran to Dunleith, on the Mississippi River, in the northwest corner of the state. Several east-west lines crossed the Illinois Central and gave the state an integrated rail net by 1860. The Illinois Central would form a partnership with two southern railroads after the Civil War, one of the earliest steps toward a national rail system. It changed its partners' five-foot rail gauge to the IC's four-foot eight and one-half inches "standard" gauge, and opened the route from Chicago to New Orleans.

Railroads made commercial agriculture profitable for Illinois farmers. Railroads made land valuable that was once considered too remote for commercial use. Farms between Chicago and Cairo grew from an average of 56.7 working acres in 1850 to 87 acres in 1860. Farm values increased from an average of \$1,105 per farm to \$2,842, largely due to access to inexpensive transportation and increased demand for farm products. Corn production doubled to 115 million bushels in 1860, the most of any American state. Illinois also ranked first in wheat production.

Farmers in northwest Illinois Mississippi River towns could ship a bushel of corn by rail to Chicago for twelve cents; steamboat rates to St. Louis cost thirty cents. The railroads' advantages raised a question: why did Illinois build the Illinois & Michigan Canal, rather than a railroad, between 1842 and 1848? Railroading had already proven itself the transportation technology of the future. In addition, one must compare the 96-mile, \$6.17 million canal cost with the \$10 million (including equipment) cost of the 220-mile Chicago, Alton & St. Louis Railroad which competed with the I&M for the same trade by 1855. The railroad could make the trip from Chicago to St. Louis in a day. It took six days to negotiate the entire canal, in part because boats often had to wait in line at the locks. They then had to transfer the freight to a river steamer for the leg to St. Louis.

The railroad had a dramatic impact on agriculture in Champaign County. The Illinois Central's "Chicago Branch" reached Champaign County in 1854. The county's population grew more than five times to 14,581 during the decade from 1850 to 1860. Farms quadrupled and operated almost five times more acreage in 1860 as in 1850. Wheat production, a sure indicator of commercial farming, jumped to 165,924 bushels, twenty-three times 1850's output. 2,071,690 bushels of corn represents almost a fivefold increase. Other counties along the Branch showed dramatic increases in grain production.

John Deere's steel plow had made it possible to cut through the tough prairie sod and prepare Illinois's rich soil for farming. Railroads and canals made it possible for farmers to take

maximum advantage of the land. They could concentrate on growing one or two cash crops to achieve economies of scale. Developments in farming equipment and machinery allowed farmers to exploit that advantage. A mowing machine allowed one man to perform the work of six. Cyrus McCormick's reaper allowed three men to do the work of ten. Labor-saving devices allowed farmers to spend the time and labor saved to further improve their farms. The general introduction of farm machinery would make it possible for half of Illinois farms to contribute at least one soldier to the Union cause in the Civil War. Farm mechanization supported manufacturers of farm machinery who employed sixty thousand workers, even during the "total" Civil War. Farm-equipment patent applications increased to ten thousand a year during that time.

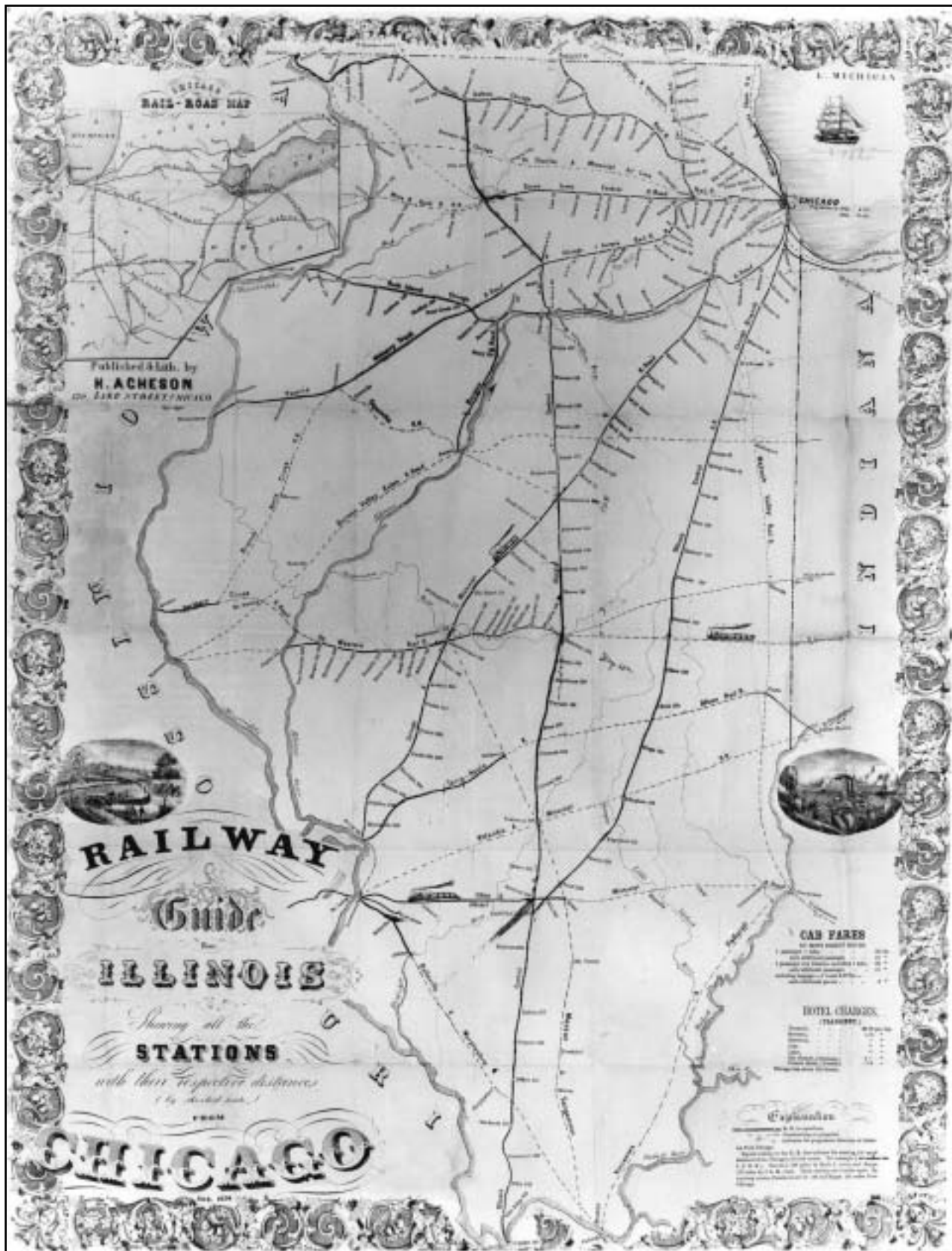
Manufacturing also grew in the counties served by the Chicago Branch, led by milling and lumbering as well as other agriculture-related businesses, such as blacksmithing. Cook County's manufacturing employment more than doubled between 1850 and 1860, but its product value increased 5.8 times with a diverse range of business activity. Cook County's wheat output grew only 25 percent in the decade, evidence that Chicago was forsaking agriculture for industry.

Railroads provided the key to economic development in Illinois. The reduction in transportation costs made possible the growth of commercial agriculture. It in turn provided the food necessary to feed a growing industrial labor force. Finally, railroads turned Chicago into America's second largest city and a major industrial center. It remains America's railroad, and airline, hub. □

Bibliography

- Dilts, James D. *The Great Road: The Building of the Baltimore and Ohio, the Nation's First Railroad, 1828-1852*. Stanford: Stanford University Press, 1993.
- Fishlow, Albert. *American Railroads and the Transformation of the American Economy*. Cambridge: Harvard University Press, 1965.
- Martin, Albro. *Railroads Triumphant: The Growth, Rejection and Rebirth of a Vital American Force*. New York: Oxford University Press, 1992.
- Taylor, George Rogers. *The Transportation Revolution, 1815-1860*. Vol. 4, *The Economic History of the United States*. New York: Rinehart, 1951.
- Stover, John F. *History of the Illinois Central Railroad*. New York: Macmillan Publishing Co., 1975.

John Clark teaches American History at the Garrett Morgan Transportation Academy, Paterson NJ Public Schools. Garrett Morgan's new building will open in 2002 in the rehabilitated Rogers, Ketchum & Grosvenor Locomotive Works. The Rogers Works built the Illinois Central Railroad's first locomotives. He is the author of Railroads in the Civil War: The Impact of Management in Victory and Defeat (Louisiana State University Press, 2001).



August 1854 Railway Guide for Illinois. *Illustration courtesy of the Illinois State Historical Library.*

Canals and Railroads Open Illinois

Lawrence W. McBride and Frederick D. Drake

Theme: Human Interaction with the Environment

Habit of Mind: Understand the relationship between geography and history as a matrix of time and place, and as context for events.

Focus: Illinois, with its rolling prairies and rich soil, had the potential to become an agricultural leader. The early French explorers recognized the need for a canal that would connect the Great Lakes to the Illinois and Mississippi Rivers, but it was not until early in the nineteenth century, after Illinois had become a state, that entrepreneurs actively promoted a transportation system for Illinois. The state government responded in 1837 with the Internal Improvement Act, which appropriated \$10,000,000 for a network of roads, canals, and railroads. The Illinois and Michigan Canal was the first important link in the state's inland waterway system, connecting the Chicago region to LaSalle and the Illinois River by the late 1840s. The I&M Canal soon faced intense competition from railroads, which were more expensive for shipping freight, but much faster. By 1850, about 110 miles of railroad track were in place in Illinois, largely in the northern region of the state. The boom in railroad construction began in earnest when the state government granted public lands to the Illinois Central Railroad to use or to sell to raise capital for the construction of a railroad from Galena to Cairo with a branch extending to Chicago. The construction was completed in five years. By the time of the Civil War, 2,867 miles of track crisscrossed the state.

As the canals and railroads expanded, however, residents filed lawsuits stemming from allegations of damage to the environment and broken promises regarding safety. The railroads retained several lawyers, including Abraham Lincoln, to represent their interests. The prairie lawyer was also engaged in legal issues surrounding the Illinois and Michigan Canal Company. In this lesson students will analyze documents to evaluate the impact of new modes of transportation in Illinois, which simultaneously increased prosperity and caused environmental problems affecting the lives of individual citizens.

Note: The legal document, "Report of the Commissioners," includes geographic terms related to specific places and to relative locations that may challenge less experienced students. Teachers may wish to edit this document to help students successfully complete the activities in section 3, "You be the Judge."

Objectives: The students will be able to:

1. Analyze a historical legal document.
2. Compare and contrast the impact of two forms of transportation on the environment.

Illinois Learning Standards

16.E.5a Analyze positive and negative aspects of human effects on the environment in the United States including damming rivers, fencing prairies, and building cities.

15.A.5b Analyze the impact of economic growth.

17.D. Understand the historical significance of geography.

Procedures

1. Discovery

A. Illinois Requires A Better Transportation Network. Create a classroom chart, "A Better Transportation Network for Illinois, 1820-1850." The chart will identify the *need* for a network of canals and railroads, *problems to overcome* in finance and construction, and predict the *environmental impact* of a canal and railroad system in Illinois during this period. (See Worksheet G.)

1) The chart might include in its "Need" section the movement of goods and people within the state and spread of information between places.

2) The "Problems to Overcome" section might include capital formation, management and labor issues, and property rights issues.

3) The "Predictions" section might include the potential for increased pollution and damage to the physical features of the land and waterways.

4) Teaching Opportunity: Refer to the series of maps and charts contained in the following lessons in the *Lincoln Legal Papers Curriculum: Moving People through the Prairie State, 1820-1860* and *Illinois Agriculture and the Marketplace, 1830-1860*. These maps and charts should stimulate student thinking as they complete the chart. In addition, call attention to the population figures below that might affect the court's decisions in litigation over expanded transportation in Illinois:

a) Peru, Illinois, in 1842 was nearly wiped out by a cholera epidemic that left fewer than 200 people alive. In 1850, however, the population stood at approximately 3,000 people.

b) LaSalle County had 9,340 people in 1840; 17,815 in 1850; and 48,332 in 1860.

c) Meanwhile, Chicago's population exploded. In 1820, there were about 200 people in the area. In 1840, the figure stood at 4,479. In 1845, there were 12,088 people and in 1850, there were 29,968 people in Chicago. In 1855, the population stood at 80,023; and in 1860, some 109,263 people lived in the burgeoning "Metropolis of the Mid-Continent."

B. Ask students to look at the map of the route of the Illinois and Michigan Canal. Which towns and cities are located along the route of the canal? Note: The I&M Canal route has been

designated as a National Historic Corridor by the United States Department of the Interior. Ask students why this designation is significant.

2. Going to Court. Lincoln Legal Documents Describe the Conflict between Modernization and the Local Environment.

A. Review case summary. Distribute copies of Document 6-A: Declaration from *Allen v. Illinois Central Railroad* and the student guide, *Analyzing a Lincoln Legal Document* (Worksheet B). In *Allen v. Illinois Central Railroad* (1855), the railroad retained Abraham Lincoln. As the railroad's attorney he argued that the railroad had an agreement with Allen for a right of way through his land. Yet after completing two months of work, Allen refused to allow the Illinois Central to proceed further on the construction of the road. The railroad disregarded his requests and continued with their work. The jury found the railroad guilty and awarded Allen \$762.50 in damages.

B. Distribute excerpts from Document 6-B: Report of Commissioners (1853). The Commissioners were appointed to take evidence for the state government relative to certain claims laid against the Illinois and Michigan Canal. Several individuals alleged that the canal company's modification to Fox River, which was a feeder waterway for the canal, caused environmental damage and created financial hardships for local landowners. Abraham Lincoln served as one of the Commissioners.

3. You be the Judge. Use *Analyzing a Lincoln Legal Document* to review the information provided in Document 6-A: Declaration. Review the testimony in Document 6-B: Report of Commissioners.

A. Questions the judge might ask: Mr. Allen filed several cases against the railroad during the 1850s. Does this fact make his claims of broken promises and broken oral contracts less meaningful?

1) Why did the railroad think it had the right to take soil from Mr. Allen's property without his permission? How might Mr. Lincoln have answered this question?

2) Allen claims that the damage to his property caused him to lose the benefit and enjoyment of the land, and that the actions of the railroad caused a great deal of damage as well. Why was the enjoyment of his property so important to him?

3) The railroad obviously had a need to take a great volume of soil from Allen's property, probably to construct the roadbed or for some other construction or engineering purpose. What would have happened to the railroad's plans to build its network of tracks in Illinois if Mr. Allen, and other citizens like him, completely refused to cooperate with the railroad?

4) Ordinary individuals are not different from powerful corporations when it comes to enforcing the rule of law. Mr. Allen asked for \$5,000 but was awarded \$762.50. Nevertheless, how does this case bear out that fundamental concept, which lies at the heart of the spirit of the law in the United States?

B. Questions the judge might ask. Read the testimony that the citizens of LaSalle presented to the commissioners in support of their neighbor, Mr. R. D. Lyman.

1) Why do references to maps seem to play such an important part in the testimony?

2) Lyman and his witnesses testified about the value of his

property: it has in fact increased, but he claimed it could be worth more if only he were able to exploit the coal resources under the waters of the feeder waterway. Do you think the canal company should pay Lyman some money for his alleged loss of potential revenue? No one knew the full extent of the coal resources in this area until the feeder was constructed. In other words, why should the canal company have to pay damages for what Lyman did not know he had until his land was disturbed?

3) Should the company pay him money for damages to his flooded property, which he claimed was now worthless?

4) Were Lyman's claims about the high value of the coal be a way for him to demand a higher amount in damages to his farmland on account of the flooding?

5) How would your court rule? Was Lyman simply a victim of progress with no redress for his grievance? The canal company pointed out that the town of Ottawa had profited from the canal, and that all the property in its hinterland had also increased in value, including Lyman's. At what point does the economic benefit of the larger community take precedence over the loss of gain of one individual?

4. Conclusion and Assessment. Write to Learn. Return to the chart created at the beginning of the lesson. Ask students to make a judgment in a persuasive essay whether the long-term benefits of the canals and railroads outweighed the environmental and quality of life problems associated with the building of the railroads and waterways.

Additional Activities

Illinois History Day Project. Using a railroad map, topographical maps of Illinois, printed documents and images, students should conduct research into the number and types of natural areas (for example, wetlands, rivers, farmland, hills, and forests) which were disturbed during the building of the canals and railroads in their region of the state.

Conduct a Classroom Debate. The resolution to be debated might be: "The need for increased industrial development in the local community is more important than the preservation of the natural environment and the property rights of individual citizens who are dislocated by expansion."

Worksheet G: A Better Transportation Network for Illinois, 1820-1850

	CANALS	RAILROADS
<u>Need</u>		
<u>Problems to Overcome</u>		
Finance		
Construction		
<u>Predictions</u>		

Allen v. Illinois Central Railroad



Please visit http://www.papersofabrahamlincoln.org/from_courtroom_to_classroom.htm for an image of this document.

Case Summary: Wilson Allen claimed that the Illinois Central Railroad excavated fifty thousand cubic feet of earth and soil from his property for their own use in building the railroad and left unfilled mines and pits. Allen sued the railroad in a common law action and requested \$5,000 in damages. The railroad retained Abraham Lincoln and Clifton H. Moore and pleaded not guilty. The jury found the railroad guilty and awarded \$762.50 in damages. Lincoln received \$150 for his legal services in this case and fourteen other cases for the Illinois Central Railroad.

Declaration

State of Illinois Of the May term A.D. 1854 of the DeWitt County Circuit

County of DeWitt Court

The Illinois Central Rail Road Company (a corporation created under and by virtue of the laws of the state of Illinois) William L. Perce Samuel Keith Silas Clark & Willard P Naramore Defefendants in this suit [were] attached to answer Wilson Allen the Plaintiff in this suit of a plea of trespass and thereupon the said Plaintiff by J. B. McKinly his attorney complains

For that the said Defendant on the first day of May in the year of our Lord one thousand eight hundred and fifty three and on divers ^{^other^} days & times between that day and the day of the commencement of this suit with force and arms broke and entered the Plaintiffs close towit at the County of DeWitt and State of Illinois and bounded being the South West quarter of the North west quarter of section N^o fourteen in Township N^o Nineteen North of Range two east of the 3^d Principal Meridian and there and then with Shovels Pickaxes plows scrapers and other iron instruments dug up turned and subverted the earth & soil towit twenty acres of earth and soil of the said close of the said plaintiff and then and there dug made and sunk divers mines pits shafts and holes of great depth and breadth towit of the depth of twelve feet and the breadth of fifty rods and of the length of one hundred rods in the said close of the said Plaintiff there and from and out of the said holes and pits so dug as aforesaid got out and took divers large quantities of earth & soil of great value towit of [~~---~~] ^{^five^} thousand dollars and the same so [raised] dug and got from and out of the said pits & holes they the said defendants then & there seized took and carried away and converted to their use towit of the county of state aforesaid

And for that the said defendants on the day and year first aforesaid and on divers [other] days and times between that day and the ^{^day^} of the commencement of this suit with force and arms broke and entered ~~the~~ ^{^two} certain closes of the said plaintiff towit at the County of DeWitt aforesaid and bounded towit the one abutting on the east on a certain close in the possession of the Illinois Central Railroad Company - on the west on a certain close called the Illinois Central Railroad - on the north on a certain close in the Possession of John S. Barger - on the South [on] a certain close in the Possession of Wilson Allen the other said close abutting on the East on a certain close called the Illinois Central Railroad - on the west on a certain close in the Possession of Wilson Allen on the north on a certain close in the Possession of John S. Barger on the south on a certain close in the Possession of Wilson Allen and then and there with shovels pick-axes plows scrapers & other iron instruments dug up turned and subverted the earth & soil towit ~~twenty~~ ^{^ten^} acres ^{^on} the one certain c[lose] aforesaid & ten acres on the other close aforesaid[^] of earth and soil of of the said close ~~of~~ of the said Plaintiff and others and there made and sunk divers ~~towit~~ mines pits shafts & holes towit four mines four pits four shafts and ten holes in and upon each of said closes of great depth breadth length ~~width~~ towit each of the depth of twelve feet and of the breadth of fifty rods and of the length of fifty rods in each of the said closes of the said plaintiff [then] ^{^and^} ^{^from^} and out of the said mines pits shafts & holes so dug made and sunk as aforesaid ^{^raised^} got & took divers large quantities of earth & soil of great value towit of the value of \$5000^{00/100} and the same so raised dug got from and out of the said mines pits shafts and holes they the said defendants then & there seized took and carried away and converted to their the defendants own use towit on the said several days & times aforesaid at the state & county aforesaid &c

And also for that the said defendants on the same day and year first aforesaid with force and arms &c towit at the county & state aforesaid seized took & carried away certain goods chattels & effects towit fifty thousand cubic yards of earth and said ~~there & then found and being~~ of great value towit of the value of \$ of lawful money of the united states there then found and and being and converted and disposed of the same to their own use and other wrongs to the said Plaintiff then and there did to the great damage of the said Plaintiff and against the peace & dignity of the People of the State of Illinois ~~wherefore the said Plaintiff with that he is injured and hath sustained damages to the amount of \$5000~~^{00/100} — and therefore he brings suit &c

Swett & McKinly
Pliff's atty

And for that the said defendant on the day and year first aforesaid and on divers other days and times between that day and the day of the commencement of this suit with force arms broke and entered the close of the said plaintiff towit at the County DeWitt aforesaid and bounded towit The South West quarter of the North west quarter of section numbered fourteen and ~~fifteen acres off of the east side of the south east quarter of the north east quarter of section number fifteen~~ and three acres off of the north end of the north west quarter of the south west quarter of section fourteen all in township number nineteen north in Range number two east and known as the Wilson Allen lower mill property and in the aforesaid county and state and then and there with shovels pick axes plows scrapers and other iron instruments dug up turned and subverted the [ea]rth and soil towit ten acres of earth and soil of the said close of the said Plaintiff and then & there made and sunk divers mines pits shafts & holes to wit four mines four pits four shafts and ten holes in and upon the said close of great depth breadth length towit each of the debth of ten feet of the breadth of forty rods and of the length of fifty rods in and upon said close of the said Plaintiff there and from and out of the said mines pits shafts & holes so dug made & sunk as aforesaid raised got & took [divers] large quantities of earth and soil of great value towi[t] of the value of 5000\$ and the same so raised dug got from and out of the said mines pits shafts & holes they the said defendants then & there seized took & carried away and converted to their the defendants own use to wit at the County of Dewitt aforesaid and [. . .] the days & dates aforesaid and other wrongs to the said plaintiffs then & there did to the great Damage of the plaintiff and against the peace & dignity of the people of the state &c whereof the said Plaintiff saith he is damaged to the amount of 5000\$ & therefore brings suit &c

[Leonard] Swett & [James B.] M^cKinl[e]y
attys for Plff

■ Document 6-B (Excerpt Transcription)

Summary: On June 22, 1852, the Illinois General Assembly appointed Hugh T. Dickey of Chicago, Abraham Lincoln of Springfield, and Noah Johnston of Jefferson County as commissioners to take evidence in relation to claims against the state for damages for right of way and injury to property resulting from the construction of the Illinois and Michigan Canal. When Dickey declined to take action, Lincoln and Johnston, after placing notices in the Chicago, Joliet, and Ottawa papers of their investigation, met in Ottawa, Illinois, to take evidence and testimony from witnesses to the complaints. Roswell D. Lyman presented his claim before the legislature and later appeared before the two commissioners. His evidence and the cross-examination by state’s counsel, appeared in a report from the commissioners submitted to Governor Augustus C. French for his report to the 18th General Assembly in 1853.

Report of Commissioners



Please visit <http://www.papersofabrahamlincoln.org/from_courtroom_to_classroom.htm> for an image of this document.

CANAL CLAIMS.

COMMUNICATION FROM THE GOVERNOR,

Transmitting the Report of the Commissioners appointed to investigate Canal Claims; also, the Attorneys’ reports on same.

Joseph H. Wagner, being duly sworn, says he is acquainted with sec. 6, T. 33 N., R. 4 E., that the plat marked “R. D. Lyman, No. 1,” fairly represents said section, that witness is county surveyor, and made the plat from actual survey and the original field notes of the United States survey. Notes at the bottom of the plat are correct, there are coal beds between the river and the feeder on the north eastern subdivision of the section; extent of these beds from S.W. to N.E. about forty rods, and from the river to and under the feeder; so much of the coal as lies under the feeder, and also so much as lies near adjacent to the feeder, cannot be worked without injury to the feeder, and the breakage of the feeder is some detriment to the working of the remainder; the strata of coal is about two feet thick; all the subdivisions of said section which are marked “Lyman” are inclosed and the greater part cultivated as farm land; Lyman’s residence is on said land at the point where the word “house” is written on the plat. To travel from Lyman’s residence to the coal bed he must go a mile and a half further than he would if the feeder were not there, unless he should ford the feeder, which is impracticable, and the same distance to reach that part of his farm lying south of the feeder; the residence of Lyman a mile and a quarter from Ottawa, and the coal land one and three quarters. From 8 to 12, south of where the east and west line passing through the middle of said section crosses said feeder, there is a waste weir or place for surplus water to escape. The water runs a distance of about twelve rods over another coal bed into the river. This last mentioned coal bed has a stratum of about two feet, it is opened about four rods one way and thirty or forty feet the other, doubtless extends further, but how far is not known. So far, witness thinks, the waste water aforesaid has facilitated the raising of coal from the bed, but thinks it will ultimately be an injury to it. Thinks Lyman’s farm is, at this time, worth from twenty to twenty-five dollars per acre.

Cross-Examination.—In the winter of 1842-3 thinks the land was worth eight dollars per acre. The town of Ottawa was laid out on state canal land, part on a donation by the state to the county, and part as a state's addition to the town; the proximity of Lyman's land to Ottawa has something to do with its enhanced value. The construction of the canal has enhanced the value of all lands on the line, and Lyman's with the rest, and witness thinks if Lyman's land had been his, would have preferred having the canal, without compensation, to not having it at all.

Re-examined.—Lyman's land derives no particular advantage from the canal, but only the common advantage with other lands on the line. The feeder, witness considers a decided disadvantage to Lyman's farm, on the whole, though it gives a small advantage of bringing stock water more convenient to him. Witness thinks the lands lying along the Illinois -

George H. Norris, by Mr. Edwards, for the state, says he has and is prosecuting a claim against the state, for damage done by the canal on one track and by a feeder on another.

By Lyman's counsel.—Lyman's land is not cut by the main canal, it is a half mile distant, and Fox river is between at the nearest point. Witness thinks Lyman's farm is now worth twenty-five dollars per acre; Lyman has occupied and possessed said farm for near fifteen years. Witness knew Downey Buchanan, who testified for Lyman on his original application, and knows that he is now dead, and with good opportunities for knowing, he does not believe he had any interest in this or any similar claim. Witness thinks that Lyman's coal beds, taken separately from the other land, is worth four or five hundred dollars per acre. Feeder is not navigable with canal boats freighted; tried it several times and failed.

State of Illinois

La Salle county, ss.

Henry J. Reed, being first duly sworn, says that he is well acquainted with the farm of R. D. Lyman on the west fraction of the north-east quarter of sec. six (6,) town. 33, range 4, east of the third principal meridian; that he has been acquainted with said land about eighteen years; that Roswell D. Lyman has been in possession of the same since about 1839, claiming title; that said land is an improved and cultivated farm; that there is on said tract of land a valuable coal bed on the north-east corner of the fraction. Said feeder runs across said coal bed for forty rods or more; said coal bed is of a good quality and the strata of coal about two feet thick. I think the coal on that land is worth two cents a bushel. The coal bed cannot be worked nearer than almost twelve feet of the base of the feeder bank. To get to this coal bed or to that part of his land which is across the feeder from his house, Lyman has to travel at least one mile and a half further than he would have to do if the feeder was not there. On that piece of land which is marked "Cashman and Lyman," on the plat, there is a bank on each side of the feeder 75 feet wide, making 150 feet in width, exclusive of the bed of the feeder, which is rendered utterly useless by reason of the deposit of earth and sand excavated from the feeder. On the same land, on the north side of the feeder, about three acres are overflowed by water setting back from the feeder. On the south side of the feeder about six acres of land is rendered useless, by reason of the drainage from the feeder. On the same land is a coal bed of a good quality, about two feet thick, over which the feeder runs. I believe there is coal under the bed of the feeder in its whole length on section six aforesaid. . . .

Joseph H. Wagner, being duly sworn, deposes and says, that he is acquainted with the situation of the W. fraction of S. W. ¼ sec. 32, T. 34, R. 4 E. That the feeder of the Illinois and Michigan canal runs through said tract from the north to the south end, rendering it almost valueless for farming purposes; that there is a bed of coal to the extent of several acres on said land, part of which is covered by said feeder and its banks, that the coal land is materially injured in value by the leakage from the feeder rendering it more difficult and expensive excavating the coal; the only way to haul coal from that portion of the land lying east of the feeder is by hauling it either on the bank of the feeder, or across Fox river, which in the winter season is difficult and sometimes dangerous; there is no bridge by which a team can cross from one portion of the land to the other, without traveling at least two and a half miles. Aside from the damage done the land for farming purposes, in my opinion the value of the land lessens by the construction of the feeder, one thousand dollars.

Cross-Examination.—This land was worth in 1842, from eight to ten dollars; was not in the country before 1842. The lands up the feeder its whole length, four miles, excepting sections one and two, which are now worth from twenty-five to thirty dollars per acre in 1842 suppose they were worth from six to ten dollars per acre, though was not so well acquainted then; sections one and two are now valuable; section one is canal land and section two is not. Witness is county surveyor.

Re-examination.—If the feeder was not there the coal bed would be worth a cent and a half per square foot as it is; that which is accessible is not worth more than half as much, to say nothing of that which is covered by the feeder and banks. That part of the land west of the feeder is, for farming purposes, worth twenty-five dollars per acre; that between the feeder and river is, for farming purposes, worthless; the land between the feeder and river is some wetter in consequence of the feeder, but would still be good meadow land if it were accessible; as it is not, without a bridge, and it would not be so convenient even with a bridge, the land between the feeder and river, including the coal bed, is worth ten dollars per acre. The cost of a bridge to reach the land between the feeder and river, would be more than the value of the land. The feeder is not navigable for ordinary canal boats, but witness has seen it navigated by small flat boats drawing ten

inches water, in transporting flour and bran from the Dayton mills. . . .

R. E. Goodell states on oath, that he has resided in the town of Ottawa eighteen years last past, during which time the Fox river feeder of the Illinois and Michigan canal was constructed; that since the construction of said feeder he has been well acquainted with the value of real estate in the state's addition to Ottawa and the adjoining lands; that in his opinion the state's addition to said town has increased as much in value, since the construction of said feeder, as any part of section number two, adjoining the same. The town of Ottawa is situated on section eleven, and most of the part I refer to, to wit, the state's addition to Ottawa, is nearer the court house than any part of section two. The increased value of section eleven has been caused, in my opinion, by the nearer location it has to the business part of the town, and the completion of the canal. I think that the valuation of section two in a body has been increased by the completion of the canal. At the time the canal was completed, I think I would rather have the land in section two with the canal than without it. The land which is used on the W. $\frac{1}{2}$ S.E. $\frac{1}{4}$ for the feeder, I consider worth at least six hundred dollars per acre. The land overflowed by the feeder and the canal I think in a body valueless. The injury done by the overflowing the eighty acres with the feeder I consider not less than eight thousand dollars. By the construction of the canal without the feeder, unless the state built a culvert so as to let the water pass off, there would have been nearly the same amount of land overflowed; this would have been in consequence of the construction of the canal. The plat herewith filed, marked "Plat of lands near Ottawa," is a correct map. . . .

Three Illinois Courthouses: Echoes of Lawyer Lincoln

Susan Krause and Daniel W. Stowell

I. Introduction to the Lesson

Abraham Lincoln is without a doubt the most famous circuit-riding lawyer in American history. Other than part-time service in the Illinois legislature and the United States Congress, the practice of law in Illinois courts was his full-time occupation for nearly twenty-five years, before his election to the presidency. For nearly four months of the year, two months each spring and again each fall, Lincoln traveled the Eighth Judicial Circuit, and by 1849, Lincoln was the only attorney, besides the state's attorney and the judge, who traveled the entire circuit of fourteen counties. After one county circuit court concluded its business, the circuit judge and the state's attorney left to hold court at the next county seat. A court term lasted from a few days to a few weeks. Itinerant court members traveled on horseback or by horse and buggy. Roads were difficult to travel during rainy weather, and when travel was particularly hazardous or lengthy, they stayed at rural farmhouses along the way. While in a county seat, they stayed at local taverns, where they ate at common tables and shared beds. By the end of the 1850s, railroads had become a popular mode of transportation, and Lincoln was able to travel to each of the county seats by rail, often combining his political and legal careers.

Circuit court week was always an important semi-annual event in the county seat, "almost as exciting as a country fair." The town overflowed with lawyers, clients, witnesses, jurors, and many others who could spare the time to "brush up their coats, and brush down their horses" to go to court as spectators. Social events were planned for that week, and peddlers, show men, gamblers and curiosity seekers mingled during the "general holiday." Beyond the activity of the periodic circuit court, the county seat was the year-round focus of county government administration.

Few of the many Illinois county courthouses in which Abraham Lincoln practiced as a lawyer remain today, yet they represented a significant architectural, social, and civic focus for local communities. The connection to Abraham Lincoln accounts for the continued existence of some of the remaining early courthouses, and serves to illuminate further their historical significance. Two of these remaining structures are the Logan County Courthouse in Mt. Pulaski, Illinois, and the Woodford County Courthouse in Metamora, Illinois. A careful reconstruction of the Logan County Courthouse sits on the original site in Postville, now a part of Lincoln, Illinois. These courthouses have much in common, besides Lincoln. Local craftsman built the courthouses using local construction materials based on plans that reflect the importance of democratic government within the community. Each of the courthouses incorporates a common floor plan for the administrative offices and the courtroom. Each of the counties abandoned the courthouses, when the county seats moved to other towns. Each structure is now a state historic site.

II. Objectives for the Students

- To examine how the architecture of historic courthouses, and the location of the courthouse in the city, reflected a community's image of the importance of law and local government in their lives.

- To explain why the location of county government and court facilities was important to early county residents and to individual communities.

- To consider how the layout of historic courtrooms, and the dynamics of a trial, might reflect the impact of the legal process and the importance of the legal profession in administering the law.

- To examine the significance of historic sites and their value in understanding many aspects of history, and evaluate the justification for their expense.

- To identify the seat of government in their county and examine the historical impact of county seat relocation on their local communities.

- To investigate their county's seat of government and to compare the modern and historical settings for the administration of law and county government, and to describe how they differ.

III. Teaching Activities

A. Setting the Stage

Explain to the students that in antebellum Illinois, statutes required that a majority of county voters petition the legislature to sub-divide a new county or relocate a county seat. In cases of county division, county seats could not be within ten miles of the dividing line. Primitive transportation and communication systems in the early 1800s made proximity to the county seat paramount, and county seats were supposed to be centrally located within the county to facilitate travel for all residents. In Logan County, Postville was the county seat from 1840 to 1847, when a majority of the voters chose to move the county seat to Mt. Pulaski. That community served as the county seat for Logan County from 1848 to 1854, when the county seat changed again. In Woodford County, Metamora served as the county seat from 1845 to 1894, when county voters selected the town of Eureka as the new seat of county government.

B. Locating the Site

Provide students with Figures 1-4. Have them locate Logan and Woodford Counties on Figure 1. Then, ask them to locate the towns of Metamora and Eureka on Figure 2, and the towns of Postville, Mt. Pulaski, and Lincoln on Figure 3. Ask them to make observations about the number and size of cities and towns in the two counties. Notice the relative distance between the old and new county seats in each county. Also notice whether the county seats are centrally located within the county. What difference did it make to antebellum county inhabitants who had to travel to the county seat, where it was located?

C. Determining the Facts

Explain to the students that the county seat usually prospered as the center of trade, transportation, and government, and the competition between towns was intense. Communities, and individuals used numerous incentives to attract the county seat, including the donation of land for the location of the courthouse building, as well as the donation of adjoining lots to be sold by the county to raise construction funds. Other communities raised funds by subscription to fund courthouse construction. Unsuccessful rival communities, and displaced county seats often suffered stifled growth, and many failed to survive.

Exercise 1: Antebellum Court Document, *Adams et al. v. The County of Logan*.

Have students read Document 7-A, Antebellum Court Document, *Adams et al. v. The County of Logan*. Explain that this document is from a Lincoln legal case brought by some residents of Postville, Illinois, against Logan County, Illinois. In 1848 the county residents voted to move the county seat from Postville to Mt. Pulaski, Illinois. This transcription is an agreement between the parties in the 1849 circuit court case, which provides a summary of the evidence and the issue before the court. In the agreement, the parties asked the Supreme Court of Illinois to review the lower court's decision in favor of Logan County. Logan County retained Abraham Lincoln to argue their case before the Illinois Supreme Court.

After the students have read the document, have them answer the following questions. Then, explain that the Supreme Court affirmed the judgment of the circuit court. They ruled that the state legislature was empowered to move the county seat locations for the public benefit and that such removal did not give property donors the right to sue for damages.

1. Why did Mr. Adams, Mr. Knapp and Mr. Tinsley sue Logan County?
2. To what town did the county seat move?
3. What did they want the Supreme Court to decide?
4. What was the Supreme Court ruling?

Exercise 2: Early Illinois Courthouse Architecture.

Have students complete Reading 1, Early Illinois Courthouse Architecture. Provide them with copies of Figures 4, 5a, 5b, 6, and 7. Ask the students to examine the visual evidence and answer the following questions.

1. Focus on the courthouses as architectural structures. What does architecture tell us about conceptions of law and justice in antebellum America?
2. What message did a community send to the people of the county and visitors through the courthouse's architecture and building materials?
3. Focus on Figure 4. Where were courthouses located within towns? Why?
4. What messages did a community send to the people of the county and visitors through the courthouse's location?

Exercise 3: Courthouse and Courtroom Floor Plans

Explain to the students that most early Illinois courthouses varied little in their plans for the buildings' interior arrangements. With a few exceptions, county administrative and clerks' offices occupied the ground floor. The courtroom and jury rooms dominated the upper floor, accessed by interior or exterior stairs. The judge's bench at one end of the courtroom, overlooked an adjacent arrangement of chairs or benches for the jury, and the tables for the attorneys, separated from a spectators' area by a wooden railing. Fireplaces or coal stoves provided heat. Skilled craftsmen built the courthouses and most of the furnishings from local raw materials.

Have the students read Document 7-B, Contemporary Description of Courtroom and Trial. Next, have the students review Figures 8 through 12.

Have the students answer the following questions:

1. How does the layout of each courtroom support the process of a trial?
2. What specific features suggest a respect for law and order?
3. What is the significance of the “bar” in the courtroom?
4. Why do you think the courtroom was usually on the second floor of the courthouse?

IV. Putting It All Together

Explain that the State of Illinois has restored the Metamora Courthouse and the Mt. Pulaski Courthouse and has reconstructed the Postville Courthouse to reflect their original purpose when Lincoln practiced law in them. These sites are staffed, interpreted, and maintained by the State of Illinois and open to visitors, year around.

Have students use Readings 2, 3, and 4, and Figures 13 and 14, to review the courthouses’ stories.

Activity 1: What is History Worth?

Explain that the State of Illinois uses tax dollars to maintain and staff these three historic courthouse sites. These are not the Illinois historical sites most commonly associated with Abraham Lincoln, and they are out of the way for many tourists. However, only three other courthouses from the Lincoln period remain, and only one is on its original site. That one, in Beardstown, Illinois, is used as a municipal office. The other two courthouses from the Lincoln period, are owned by historical societies.

Ask the class to divide into groups and debate the value to Illinois of the Metamora, Postville and Mt. Pulaski historic courthouse sites, based on their architectural and historical significance, their connection to Abraham Lincoln, and the importance of preservation.

Activity 2: Local History

Have the class research the history of the seat of government in their county. When was your county established? Did the county boundaries ever change? What is the county seat, and has it ever changed? What historical sites remain in the county?

Activity 3: County Courthouse Visit

Visit your county courthouse, individually or as a group. Look at the names of the different county offices on the directory, or look in the phone book under county offices. What county services are located in the modern courthouse building that would not have been necessary in the courthouses of Lincoln’s time? Are the courtroom layouts different from the ones described in these historic courthouses? Why or why not?

Activity 4: Interview and Report

Have the students interview someone who has been to a courthouse to conduct business (pay taxes, pay a fine, or obtain a license), served on a jury, or attended a trial. Ask them questions about the physical setting, inside and outside the building. Were they in public areas, or in a courtroom, or jury room? Describe the activities they observed.



Figure 1. Counties of Illinois since 1859, with county seats as of 1968. *The Illinois Fact Book and Historical Almanac 1673-1968.*

Agreement¹

[c. October 1849]

Lucien B. Adams et al.

vs



Please visit http://www.papersofabrahamlincoln.org/from_courtroom_to_classroom.htm for an image of this document.

Assumpsit²

The County of Logan

In this case it is agreed that in consequence of the act of the General Assembly of the State of Illinois entitled “an act to establish the Counties of Menard, Logan and Dane” approved February 15. 1839. Seth M. Tinsley made a proposal to the said County of Logan, in the words and figures following, to wit:

“Whereas a temporary seat of Justice is by law to be located in and for the County of Logan, Illinois. Now I S. M. Tinsley do agree and hereby obligate myself to the said county in the event of said location being at the town of Postville, that I will erect and enclose a framed building on the Public ground enclosed by Blocks No 2—10—19—80—90—&91. such building to be 25 by 35 feet, one story high, the ground floor to be laid with good plank. the walls and ceiling lathed and plastered with sufficient windows and doors for admission of light &c. the whole to be completed on or before the first day of November 1839 which building I will donate to the said county for a court house and other county purposes.

S. M. Tinsley

In like manner also, Moses L. Knapp made a proposal to said County in the words following to wit,

To the above propositions of S. M. Tinsley I add a donation of two Blocks lying South of what I suppose will then be the public Square, being the two North western Blocks lying North and South of each other on my entry, or in the event of the new Square being selected, I hold myself bound to donate to the county two Blocks lying directly North of the Public Square, one fronting on the Square, and the other next upon the North except a lot or two which may have been sold out of said Blocks

M. L. Knapp

That the commissioners named in said act did make said temporary location at said town of Postville; that said Tinsley built the house as proposed, and said Knapp made the donation, by conveyance, as proposed.

That afterwards the General Assembly passed the act entitled “an act to locate permanently the seat of Justice of Logan County approved February 17th 1841. that afterwards the proprietors of Tinsley, Bird & Knapp’s addition to the town of Postville, made to the county commissioners’ court of said County, a proposal in the words and figures following, to wit:

Proposition offered the commissioners court of the County of Logan in open court, May 7, 1841.

The proprietors of Postville in view of the provisions of the late act requiring a donation of \$3000 on the permanent location of the seat of Justice at Postville.

Propose 1st That they be allowed the amount already paid for building court house as per Bill rendered \$1176.83.

2 nd All former donations of lots consisting of three entire Blocks in the heart of town	\$1200.00
3 rd Blocks 89—90 & 74.	400.00
N1/2 of Block 66, & N 1/2 of Block 67	200.00
Lot 3 in Block 80	25.17
	\$ 3000.00

M. L. Knapp

E. D. Taylor

J. Adams

In addition to the above the proprietors donate Lot 1 in Block 50 also Lot 3 in Block 51 and lot 3 in Block 52, and in lieu of Block 68, the proprietors executing their promissory notes for six hundred Dollars, payable in six, twelve and eighteen months, in equal installments, the commissioners making their title Bond to the proprietors, for the same and the said County Commissioners then accepted said proposal, by an order made in the words and figures following, to wit;

And it is further ordered by the Court that the proposition above set forth, made by the proprietors aforesaid, be accepted by the Court in full payment of \$3000, required by a late act of the Legislature on the permanent location of the seat of Justice at Postville in said County of Logan.

That on the same day the Public Square in said town, with said House thereon, was conveyed to said County by Deed executed by Seth M. Tinsley, Henry Bird, James Adams, Moses L. Knapp and their wives, and generally, that said

1. Agreement, from Circuit Court Transcript, *Adams et al. vs. Logan County, Illinois*, Herndon-Weik Collection, Library of Congress.

2. Assumpsit is a legal action for the breach of a simple contract. Attorneys used it in a wide variety of situations: to collect promissory notes, to recover money obtained through fraud or misrepresentation, to recover damages for failure to deliver merchandise, among others.

proposal was complied with by said proprietors, and that the deeds of conveyance contain no conditions or reservations, differing from ordinary Deeds in fee simple.

That afterwards the general assembly passed an act entitled an act _____ and in pursuance of said act the seat of Justice was, by a vote of the People of said County, removed from said town of Postville to the town of Mt. Pulaski. that afterwards said County sold and conveyed said Public Square, with the said House thereon for three Hundred Dollars, and have received the money therefor. It is also agreed, that the said James Adams has since died, and that the Plaintiffs, Lucien B. Adams, and James Adams McGraw, are his only heirs and devisees, and that said Lucien B. Adams is executor of the last will and testament of said James Adams.

It is also agreed, that since the conveyances to said County aforesaid and before the removal of said seat of Justice, the said proprietors sold and conveyed to individuals a large portion of their reserved real estate in and about Postville, and are still the owners of a considerable portion.

It is further agreed, that all the Statutes herein referred to are to be in evidence in the case, that the evidence herein stated, with the said Statutes, be the whole evidence in the case; that the case be submitted to the court without the intervention of Jury, that the question for the court be, whether said evidence, or any part of it, be admissible on the issue made in the case, and whether so much as may be admissible, sustains the Plaintiffs action, and for what amount; and that the circuit court decide said cause pro confesso³ for the Defendant.

If the Supreme Court shall be of opinion that the plaintiffs in this case, or any of them, in any character which they or any of them have, are entitled to recover on the pleading and proof herein, a Judgement is to be rendered according to the rights of the parties, it being the intention, that the case do not go off on a collateral question as to parties.

Stewart & Logan
Atty for Plaintiffs

Lacey, Gridley & Lincoln
for Defendants

3. *Pro Confesso* is a decree to which the defendant makes no answer.

Figure 2. Woodford County, Illinois.

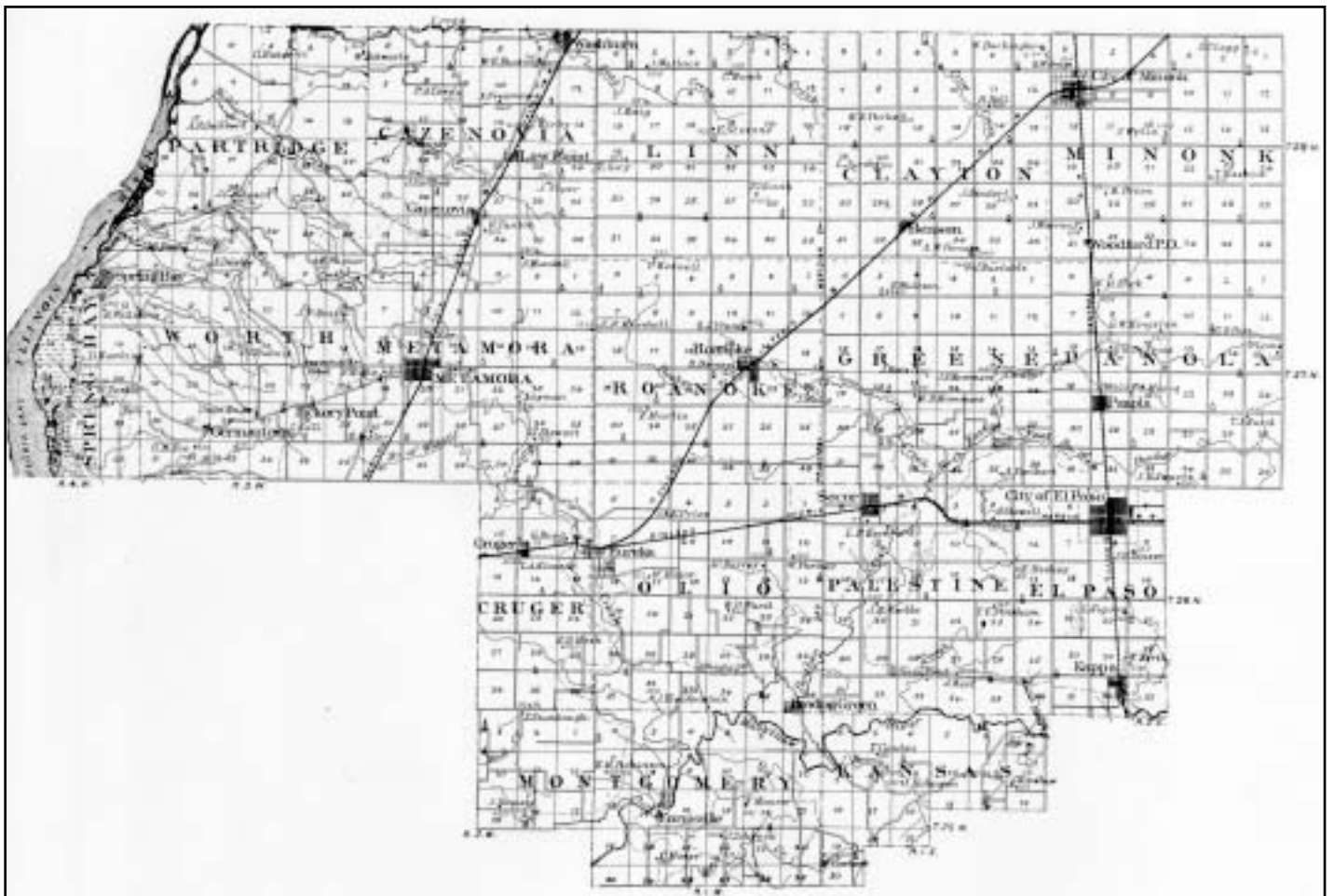


Figure 3. Logan County, Illinois.

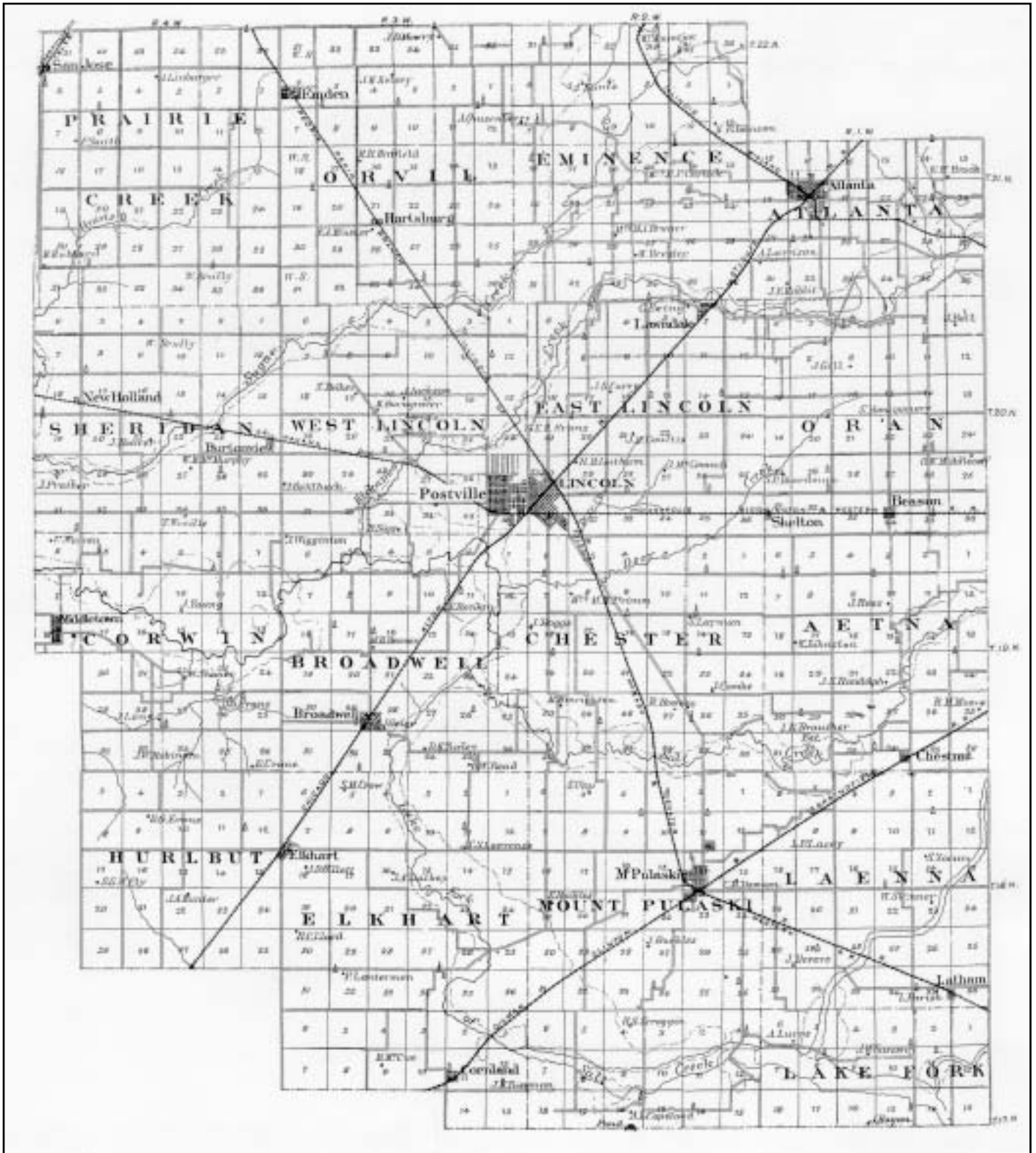
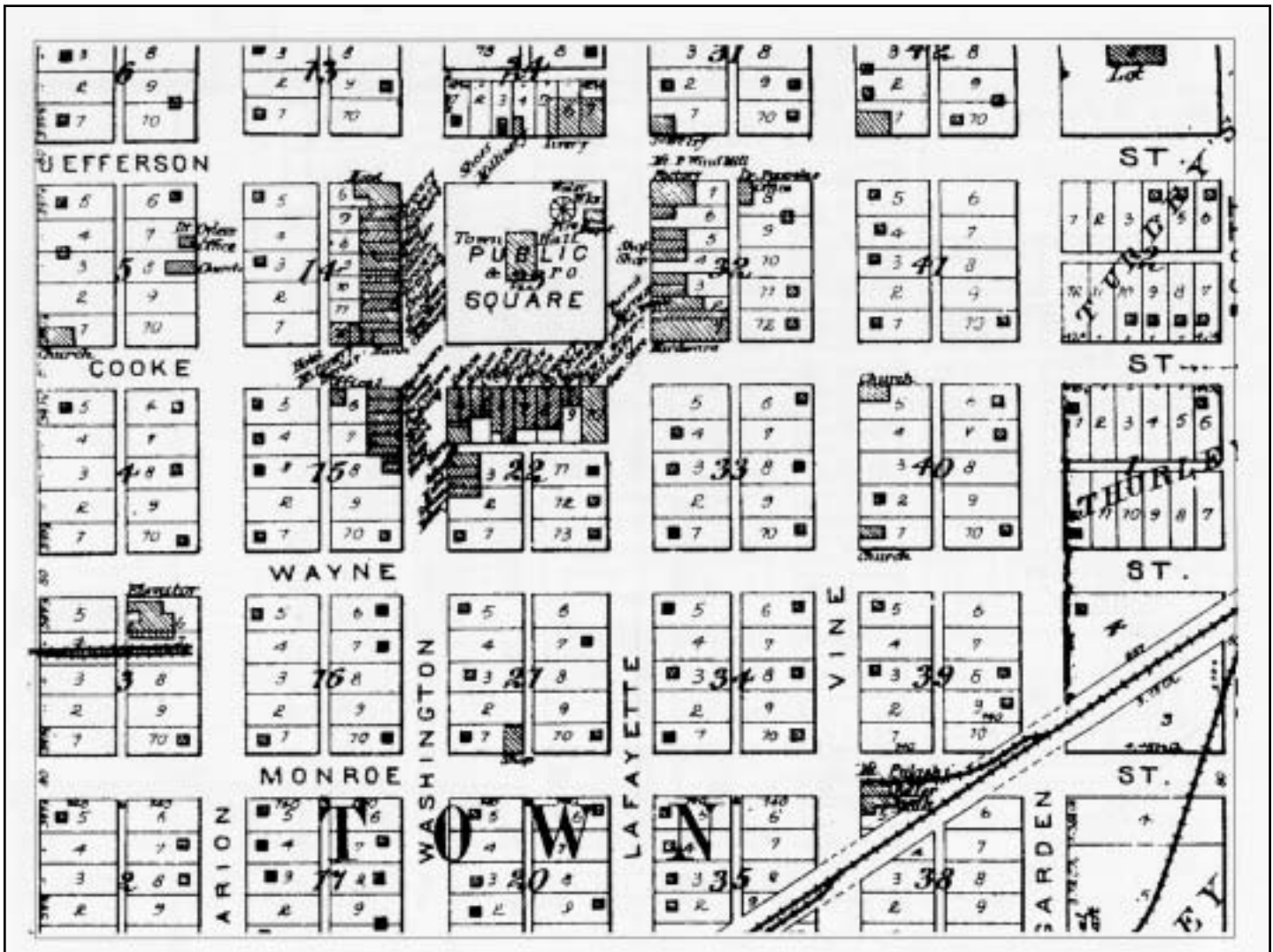


Figure 4. The city plan from the 1893 Standard Atlas of Logan County reflects the change in the Logan County Courthouse, Mt. Pulaski, when used as a school, then town hall and post office. Mt. Pulaski Courthouse State Historic Site Archives.



Reading 1: Early Illinois Courthouse Architecture

The earliest seats of justice in Illinois after statehood in 1818, were plain and primitive log buildings, many erected for other purposes. Judicial proceedings were likely to be conducted out-of-doors, or in the dwelling house of a family who temporarily moved out to live in a camp. The local family gave up their house for court proceedings, and for lodging the circuit-riding judge and lawyers. The residents of the earliest county seats erected hewn-log or small, frame courthouses, similar to their own dwellings. At this same time a new type of frame construction developed that relied on metal nails instead of mortised, tenoned and pinned framing. This practice too, soon spread over the prairies and became the typical construction scheme for light-timber buildings. As southerners from Virginia and the Carolinas migrated through Kentucky and Tennessee to southern and central Illinois, they brought with them unmistakably southern influences of classical revival architecture that are manifested in the courthouses built by the burgeoning Illinois communities.

Until the 1870s, Illinois counties constructed courthouses of

two general types: a square, two-story, brick building of Federal origin, with hip roof, crowned by a cupola; and the Greek Revival temple, with or without a cupola. Many of these were first-generation courthouses; others replaced earlier more temporary log or frame structures. The choice of courthouse architecture by the building’s planners was a tribute to the origins of democratic government in classical Greece and republican Rome. A reflection of the politics and aspirations of newly formed governmental systems, the architectural mood was one of perfection and idealism. Skilled craftsmen and local workers carried out these uncomplicated plans of rectangular shapes, simple columns, plain pilasters and pedimented gables, requiring little additional ornamentation. The communities placed the courthouses, crowned with towers, belfries, or cupolas prominently in the public squares, just as New Englanders had positioned their meeting houses on the village common.

Susan Krause, *From Log Cabins to Temples of Justice: Courthouses in Lincoln’s Illinois* (Springfield, IL, Illinois Historic Preservation Agency, 2000), 5-6.

Figures 5a and 5b. Woodford County Courthouse, Metamora, Illinois, 1845-1894. *Photos courtesy of the Illinois State Historical Library and The Papers of Abraham Lincoln.*



Figure 6. Logan County Courthouse Reconstruction, Postville, 1840-1847. *Photo courtesy of The Papers of Abraham Lincoln.*





Figure 7. Logan County Courthouse, Mt. Pulaski, Illinois, 1848-1854. Photo courtesy of *The Papers of Abraham Lincoln*.

Document 7-B: Contemporary Description of Courtroom and Trial

Lawrence B. Stringer, author of *History of Logan County, Illinois*, remembered well his first entry into the hallowed precincts of justice, which occupied the second floor of the old court house in Lincoln, in 1884.

The west end of the court room was occupied by a raised dais, upon which was located the Judge's easy chair, a table and a bar rail in front. To the left of the Judge was another raised platform, seated with twelve hard wooden chairs, where sat the "gentlemen of the jury." At his right, before a small desk, sat the Circuit Clerk. In front of the Judge was a black walnut table, eleven feet long and six feet wide, and all was enclosed with a wooden spindle railing, with two gates, one opening from each side. Two soft coal stoves occupied prominent places on opposite sides of the room and spectators alternately froze or broiled, as the judgment of the Sheriff dictated. A bucket of water, with a tin dipper, was located near the jury seats, perched on a pine starch box, to which jury, lawyers, witnesses and spectators frequently repaired to quench their thirst, the replenishment of which bucket, when exhausted, being one of the sacred duties of the Sheriff. Only the Judge, in his unermind majesty, was allowed the privilege of a pitcher and glass all by himself. The spectators sat on benches, the backs of which were built at an angle, as far from that conformable to the human form as ingenuity could invent. The ventilation was execrable and when the room was crowded, real, live, genuine oxygen was at a premium.

Inside the bar sat the attorneys trying the cases, as well as "the members of the bar" who were not at that time otherwise engaged, but who interestedly watched the progress of the suit, and among themselves, either criticized or approved the manner of trial and the rulings of the court. Only "members of the bar" were allowed behind the rail and that term was a generic one, which included all who had been admitted to the bar, and incidentally included lawyers. The lawyers then, as they do now, fought every inch of legal ground and contested every technicality. Arguments before the jury were as long as the court would permit and as loud as the *vox humani* would allow. It seemed to be a notion then, that the more noise a lawyer made, the more effective the plea, an idea not yet entirely dissipated. In those days, arguments were plainly heard by passers-by upon the four streets which encompassed the courthouse. Established residents



Figure 8. Courtroom at Logan County Courthouse, Postville, Illinois. *Photo courtesy of The Papers of Abraham Lincoln.*

knew what it all meant, and took no notice, but strangers oftimes stopped and inquired whether a fire, a riot or a murder was in progress. An investigation would disclose an attorney, within arm's length of jury, using his vocal energies to the utmost, at the same time indulging in physical gymnastics with long extended fingers, tremendous sweeps of the arms and other calisthenical demonstrations which endangered the optics of those who had been sworn to "well and truly decide the issues between the plaintiff and defendant."

Yet despite these elocutionary and gymnastic concomitants—relics, perhaps, of pioneer forensics—legal battles were here fought, which for sagacity, generalship, acumen and ability, in their conduct and management, have never been equalled in any court room of the land, and the old court house, primitive and crude, now but a memory, rang with the eloquence of a Lincoln, a Stuart and a Trumbull, intellectual giants of other days, and when the old building had to give way, in the onward march of improvement, a landmark was removed, every inch of which was sacred with sublime reminiscences and hallowed associations.

Lawrence B. Stringer, *History of Logan County, Illinois*, 2 vols. (Chicago: Pioneer Publishing, 1911), 1:345-46.



Figure 9. Courtroom at Woodford County Courthouse, Metamora, Illinois. *Photo courtesy of The Papers of Abraham Lincoln.*



Figure 10. Courtroom at Logan County Courthouse, Mt. Pulaski, Illinois. *Photo courtesy of The Papers of Abraham Lincoln.*

Reading 2: Logan County Courthouse, Postville, Illinois (1840-1847). (From Krause, *From Log Cabins to Temples of Justice*, 28.)

Logan County was created in 1839 from part of Sangamon County. Commissioners established the first county seat in Postville. Village craftsmen built the courthouse structure and laid the masonry foundation from rock brought from nearby Rocky Ford. It was a two-story wooden clapboard structure, when two-story buildings were a rarity in Illinois, with joists and sills of local walnut. Costing about \$200, its lower floor was two rooms wide and one room deep, based on a common house plan favored for modest dwellings in the midwestern states. The lower story of the building housed various county offices, and the upper story served as the courtroom, with small rooms in the rear for the judge and the jury. City planners situated the courthouse in the center of the town square. In addition to the business of the county and the biannual circuit court, the courthouse building served as a church, assembly room and lecture hall for early settlers. With the relocation of the county seat to Mt. Pulaski in 1848, the county sold the Postville courthouse, which private owners used as a store, post office, and later, a home. The town of Postville has since been surrounded by the city of Lincoln, the current county seat of Logan County.

In 1929, automobile magnate Henry Ford purchased the old Postville courthouse, dismantled the structure, and moved it to Greenfield Village in Dearborn, Michigan, as a memorial to Abraham Lincoln. In 1953, the State of Illinois began construction of a replica of the building which today houses a courtroom and office, furnished and arranged as they might have been in the 1840s. The Postville Courthouse reconstruction is currently a state historic site.

Reading 3: Logan County Courthouse, Mt. Pulaski, Illinois (1848-1854). (From Krause, *From Log Cabins to Temples of Justice*, 30-31.)

A prosperous village of three-hundred people, Mt. Pulaski successfully wrested the county seat designation from Postville and erected the second courthouse in Logan County in 1848. Based primarily on unfounded speculation about the formation of a new county, the citizens of Mt. Pulaski not only raised \$2,700 by subscription for the construction of the brick and frame courthouse, but also donated their labor and materials. Developers placed the twenty-five by thirty-foot, one and one-half story temple-style Greek Revival building on the highest point of the public square. Its location high atop the surrounding city and countryside, emphasized the high ideals of the government contained within its walls. The building's facade is dominated by a white pediment and cornice. Three plain chimneys rise on each side of the rise, and pilasters grace each corner. The first floor consisted of a central hall with front and rear entrances and six offices for county officials. The second floor was comprised of the courtroom, the jury room, and the judge's chamber.

The Logan county seat moved again in 1853 to the new town of Lincoln, where a station had been located near Postville on the right-of-way for the Alton & Sangamon Railroad. In 1857, the county donated the Mt. Pulaski courthouse to the city for a school.

The old courthouse subsequently served as a city hall and jail, a post office, and headquarters for various local officials. In 1936, the State of Illinois purchased the building and began restoration. It serves as a state historic site.

Reading 4: Woodford County Courthouse, Metamora, Illinois (1845-1895) (From Krause, *From Log Cabins to Temples of Justice*, 78-79.)

Woodford County was created in 1841 from parts of Tazewell and McLean counties. Metamora (then Hanover) was designated the second county seat in 1843. Constructed in 1845, at a cost of \$4,400, the courthouse remains an excellent example of classic revival, Greek temple architecture. This brick, forty-by-forty foot, two-story structure, faces south onto the grassy public square. The gabled, shake-shingle roof extends forward creating a front portico the length of the facade, supported by four wooden Ionic columns. The symmetrical facade contains three bays, separated by brick pilasters. Although the building has four chimneys, there were no fireplaces because wood-burning stoves provided heat. A large wooden cupola tops the roof near the front. Inside, three rooms originally used for county offices, are separated by a central hall. At the rear, a stairway rises from left and right of the central hall to a second story landing. The upper floor contains two small rooms that served as the judge's chamber and the lawyers' preparation room. The remaining area of this floor is a large open courtroom with the judge's platform at the south end. The designer and craftsmen used brick from a local kiln for both the foundation and walls, and wooden joists, oak plank flooring and shake shingles from surrounding timber.

In 1896, when Woodford County residents voted to make Eureka the county seat, the county deeded the old courthouse to the village of Metamora. Since then it has served as the location of official and informal village functions. In 1921, the State of Illinois assumed ownership of the old courthouse and restored it to the period of Abraham Lincoln's law practice. □

Susan Krause is an assistant editor with the Papers of Abraham Lincoln. She is the author of "‘Infamous Outrage and Prompt Retribution’: The Case of People v. Delny" in In Tender Consideration: Women, Families, and the Law in Abraham Lincoln's Illinois (University of Illinois Press, 2002) and "Lincoln & Speed—Attorney & Client," in the Illinois Historical Journal (Spring 1996).

This lesson plan was inspired by the Teaching with Historic Places program of the National Park Service's National Register of Historic Places and the National Trust for Historic Preservation.

Figure 11. Floor plan of the second floor of the Woodford County Courthouse, Metamora, Illinois. Drawing courtesy of The Papers of Abraham Lincoln.

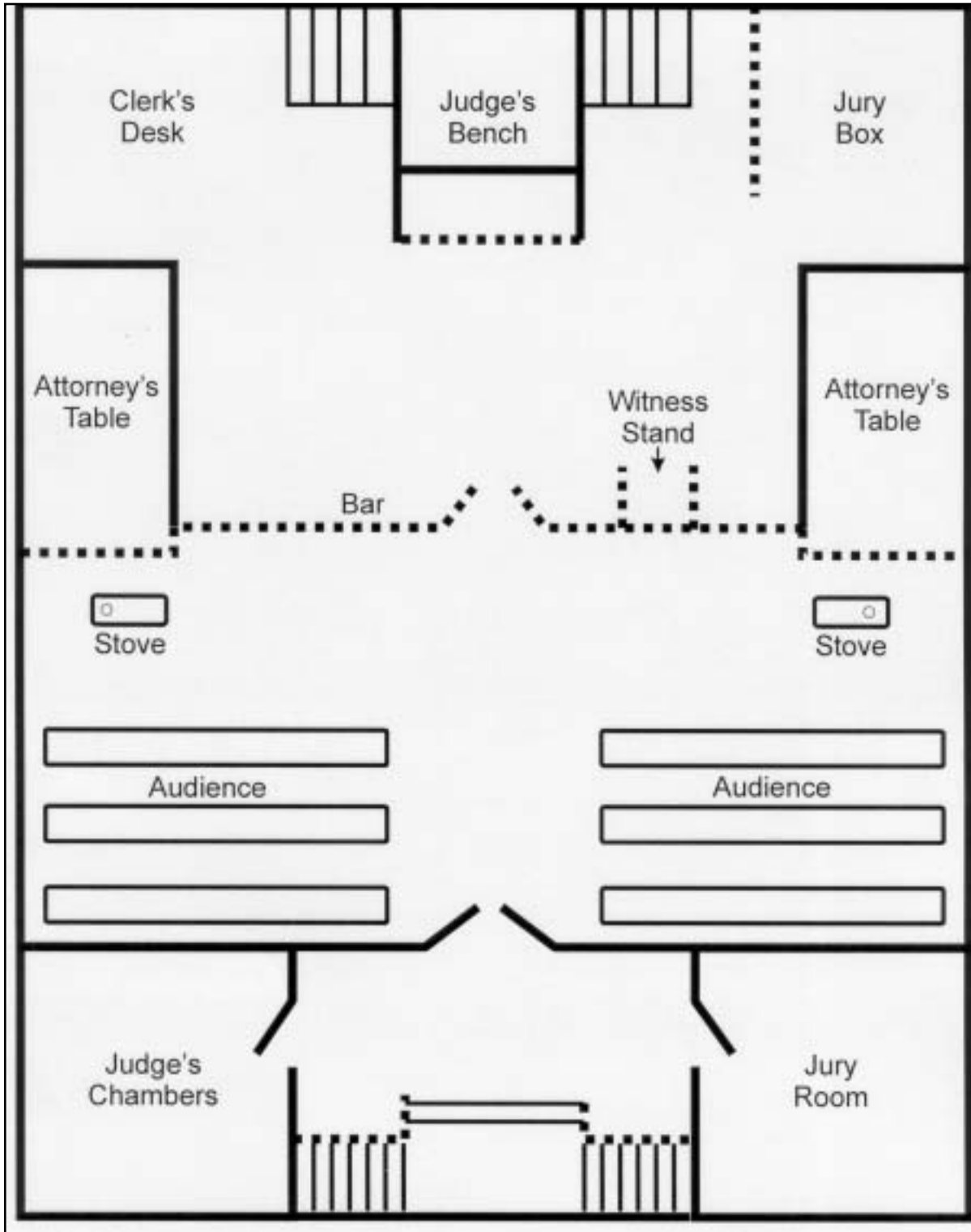


Figure 12. Floor plans of the first floor (top) and second floor of the Logan County Courthouse, Mt. Pulaski, Illinois. Drawing courtesy of The Papers of Abraham Lincoln.

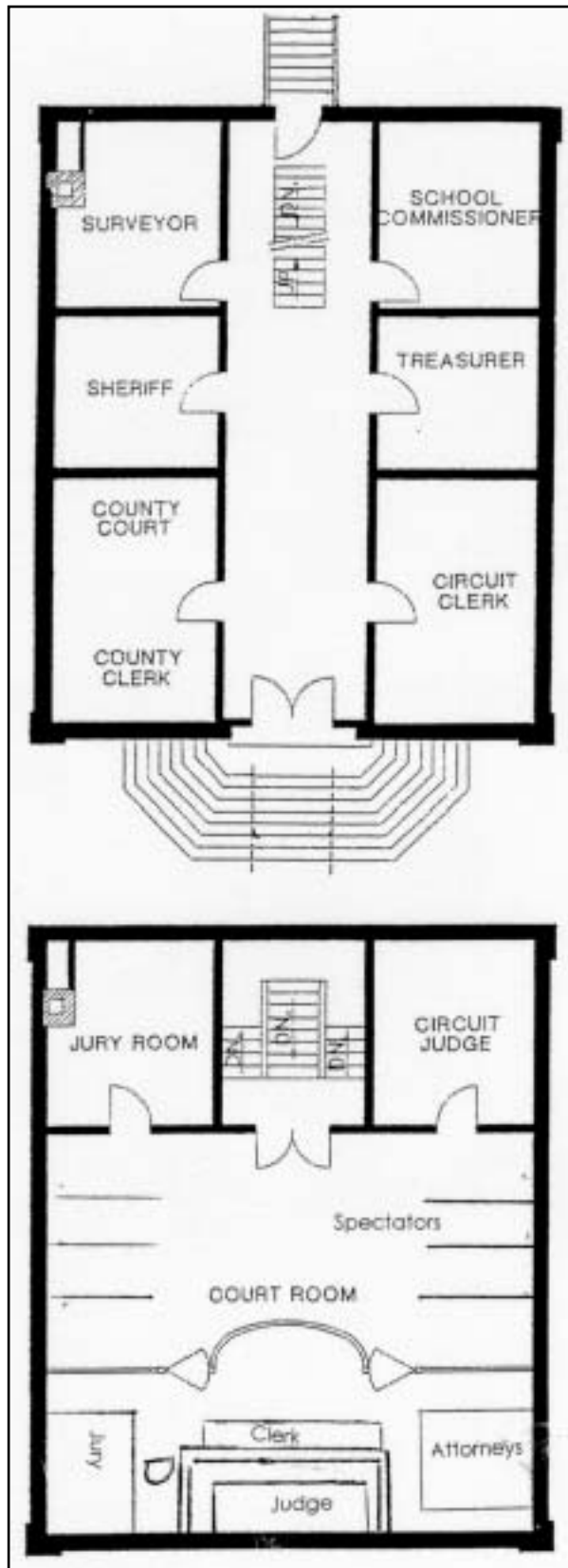




Figure 13. Logan County Courthouse, Mt. Pulaski, Illinois, showing the changes to the building when it was used as a school, beginning in 1857. *The Atlas of Logan County and State of Illinois* (Chicago: Warner, Higgins & Beers, 1873), 21.

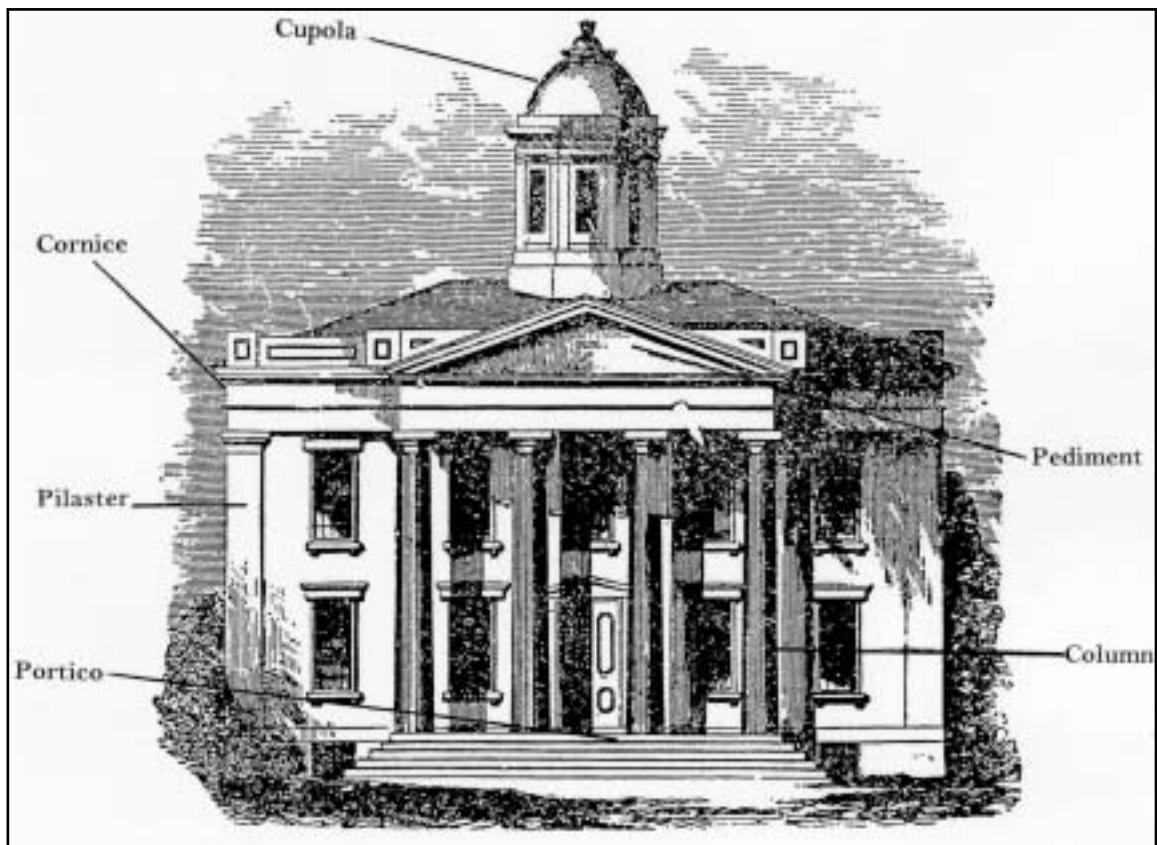


Figure 14. Greek Revival Style Architecture.

Glossary of Terms

abutment: a structure that supports the end of an arch or a bridge.

abutting: to touch on one end or side; border.

acre: unit of land measure equal to 43,560 square feet or 4,047 square meters.

adultery: voluntary sexual intercourse between a married person and another person who is not their spouse.

artifact: an object produced by human work, especially that remaining from a particular historical period.

Berkshire: an English breed of hogs, which are black with white markings on feet, face, and tail.

bill of complaint: a written statement by a plaintiff in a chancery action that sets forth the facts and the legal basis for his or her case.

bill of exceptions: a list of written objections to a trial judge's rulings or instructions.

bond: an amount of money held by the court, which is forfeited if a person fails to comply with a court order.

chancery: a division of the law devoted to settling issues for which there was no remedy in the common law; also called equity.

chattel: an item of movable property.

circuit court: a court whose jurisdiction covers several counties in a judicial district served by a circuit judge who travels from county to county to hold court.

civil society: voluntary associations, economic groups, religious organizations, and other social relationships that in a free society are not under government control.

clevis: a U-shaped piece of iron with holes in the end through which to run a pin to attach one thing to another.

close: a portion of land enclosed by a fence, by walls, or by ownership of adjoining properties. In law, an interest in land entitling the owner to compensation for damages.

cognizance: knowledge or notice.

common law: a division of the law that includes cases involving private injuries; the common law had specific methods for resolving disputes.

constitutional government: a form of limited government whose exercise of political power is restrained according to law.

counsel: a lawyer appointed or hired to represent a client in legal matters.

cross-bill: an action filed by a defendant in an ongoing suit against the plaintiff and/or the other defendants in that suit.

cross examination: the questioning of a witness who has already testified in order to check or discredit the witness's testimony, knowledge, or credibility.

declaration: a written statement by a plaintiff in a common law action that sets forth the facts and the legal basis for his or her case.

default: the failure by a defendant to plead his or her case, leading to a judgment for the plaintiff.

defendant: the person against whom someone brings a legal action. In criminal cases, the defendant is the person accused of a crime. In civil cases, the defendant is the person being sued. In some civil cases, the defendant is called the respondent.

demand: the amount of a good or service people can and will purchase at a certain price.

depose: the act of swearing as to the accuracy of a statement in written testimony.

divers: various, several.

doubletree: a wooden crossbar on a wagon, carriage, or plow, to each end of which the singletrees are attached when two horses are harnessed side-by-side.

dower: a form of estate that provided for a widow's needs out of her husband's real and personal property.

effects: movable property; goods or personal belongings.

estate inventory: a written list of property with assigned values compiled for taxation or inheritance purposes, usually upon the death of the owner of the property.

execute: to complete a task.

feeder: a waterway that supplies, replenishes, or connects one body of water with another.

foreclosure: a legal action to recover land or buildings held under a mortgage.

fornication: voluntary sexual intercourse between two persons not married to each other.

frow: a cutting tool with a blade at a right angle to the handle.

hames: two curved pieces on the collar of an animal's harness, to which straps are attached.

hogshead: large cask or barrel, usually holding from 63 to 140 gallons.

impanel: to choose individuals to serve on a jury.

incumbrance: a prior or more important claim or interest in property, lessening its value to the owner or tenant.

ingrain carpet: a reversible carpet made of wool, which has been dyed before being spun into yarn.

injunction: see writ of injunction.

inventory: a list of items of property owned by an individual or a business.

jury nullification: the acquittal of a defendant by a jury in disregard of the judge's instructions and/or contrary to the jury's findings of fact.

keg: a small cask or barrel, usually holding from 5 to 10 gallons.

limited government: a government whose exercise of political power is restrained by law or other institutions.

litigation: the process of carrying on a lawsuit; a case or lawsuit.

lot: a set of objects or a number of things.

market: a region in which goods and services are exchanged; a desire to buy, demand.

market price: the price that a good or service brings when sold.

material culture: the study of all artifacts designed by people to satisfy needs or wants, or to express an idea.

minor: a person below the age of legal responsibility; in antebellum Illinois, the age of legal responsibility for males was twenty-one years old; for females, it was eighteen years old.

neb: a projecting end or point.

nullification: to reduce to nothing.

oral argument: a statement made by a lawyer before a court to advocate a client's position or to answer the judge's questions.

orator: a person who presents his point of view to the court, usually in writing.

oratrix: a female person who presents her point of view to the court, usually in writing.

partition: a legal action in which the plaintiff asks the court to divide specific real property among the co-owners.

p.d.: *pro defendente*; representing the defendant.

petition: a formal written request made to an official person or body; a document including a formal written request.

pieb: an animal covered with patches of two or more colors.

pirogue: any canoe-shaped boat.

plaintiff: the person who initiates a lawsuit. In some civil cases, the plaintiff is called the petitioner.

plat: a plan, map, or chart of a piece of land with present or proposed features.

plea: a defendant's answer to a plaintiff's claim in a lawsuit.

p.q.: *pro querente*; representing the plaintiff.

praecipe: a document from an attorney or a plaintiff instructing the clerk of the court to issue a specified writ.

process: a means (such as a summons) used to require a defendant to appear in court.

qrs.: quartos; paper folded twice to form four leaves or eight pages.

remand: to send a case back to the original court, usually with instructions on how to proceed.

remonstrance: a formal protest against a court ruling.

retail price: the price at which goods or services are sold directly to the general public.

rod: a unit of linear measurement equal to 16.5 feet or 5.03 meters.

rule of law: the principle that the actions of both government and citizens are subject to the law.

scilicet: "to wit"; that is to say.

section: a unit of land equal to one square mile in area; one of the thirty six subdivisions of a township.

section line: a dividing line on a map, separating adjoining sections of land or parts of a township.

settee: a small sofa with a back and arms.

similiter: a statement written on a document declaring that the parties have agreed to disagree and to let the court decide the case between them.

singletree: a wooden bar swung at the center from a hitch on a wagon, carriage, or plow and hooked at either end to the horse's harness.

skiff: any of various small boats, especially a flat-bottomed rowboat.

span: a team of two animals used together.

steelyards: a portable weighing device, consisting of a horizontal bar with a hook for holding an object to be weighed on one end and a sliding counterweight on the other end.

strata/stratum: a bed or layer of rock whose make-up is similar throughout.

subpoena: a written order to a person requiring him or her to appear in court to provide evidence in a particular case.

subscribe: to sign a document to acknowledge an obligation; to pledge a gift or contribution by writing one's name with the amount.

summons: a document notifying a person that an action has been brought against him or her and requiring him or her to appear in court.

transcript: a certified copy of court proceedings (including all documents), prepared by a court official.

trespass: a legal action to obtain compensation for a wrong committed with force by the defendant against the plaintiff; to enter wrongfully or without consent upon the property of another.

trespass on the case: a legal action to obtain compensation for a wrong committed by the defendant against the plaintiff, when the situation did not fit the technical requirements for an action of trespass. Trespass on the case applied where the injury to the plaintiff was indirect rather than direct or where it was accidental with no force.

valuation: appraisal of property; an item's estimated or determined market value.

verdict: the decision of a jury or a judge on matters submitted to them in a trial. In criminal cases, the verdict is usually expressed as "guilty" or "not guilty." In civil cases, the verdict is a finding for the plaintiff or for the defendant.

writ: a written order from a court forbidding or requiring some action.

writ of injunction: a written order from a court forbidding a person to do something.

An Extraordinary Offer for
Secondary Schools, from the
Papers of Abraham Lincoln and
the University of Illinois Press

The Law Practice of Abraham Lincoln

Complete Documentary Edition



The culmination of more than fifteen years of research, this edition is a comprehensive DVD-ROM compilation of all surviving documentation on Lincoln the lawyer and a revolutionary new model in documentary editing. It allows researchers to study Lincoln's development as a lawyer, trace the formation of the court system in the Midwest, research legal history and the development of law, and discover antebellum social history through court records.

Accessible through a user-friendly interface and powered by a massive database of over 2 million facts, this enhanced facsimile edition includes images of 96,386 documents (nearly 250,000 pages) from over 5,600 cases and legal matters. Under the direction of co-editors Martha Benner and Cullom Davis, the staff of the Lincoln Legal Papers has carefully arranged, described, and analyzed each document, extracting a variety of important information. Users may access the materials through over a dozen indexes, including subjects, names of participants, dates, courts, and legal actions.

For more details, please visit the website:
www.lincolnlegalpapers.org

"Marvelous. . . . The collection is important not only for the subject matter of Lincoln but for showing what the life of the law, indeed of the society, was in nineteenth-century America. Once the details of DVD searching have been absorbed, students of Lincoln and his nation have received a wonderful gift. This is documentary editing at the highest level." — Phillip Shaw Paludan, *Journal of American History*

The Law Practice of Abraham Lincoln is extraordinary in every sense of that much overused word. . . . No publication—past, present, or future—will rival this one in terms of its breadth and depth of detail. . . . This documentary edition is a prototype for the future of both documentary editing and scholarly research." — Timothy Walch, *Journal of Illinois History*

3 DVDs with User's Manual

Minimum System Requirements:

IBM-compatible PC with Intel® Pentium®-class processor
Windows® 95 or Windows NT® 4.0
32 MB RAM, 130 MB hard disk space
8-bit color display (256 colors), 640 x 480 pixel resolution
DVD-ROM drive

SPECIAL OFFER FOR HIGH SCHOOL HISTORY TEACHERS: \$500 (List price: \$2,000)

Yes, I would like to order _____ copy (ies) of **The Law Practice of Abraham Lincoln: Complete Documentary Edition** at \$500 per copy (price includes shipping and handling). ISBN 0-252-02556-0

Please note: This special price is available only by fax or mail. The discount is not available for website orders.

Fax orders: 217-244-8082

Mail orders (individuals must enclose payment):

University of Illinois Press
1325 South Oak Street
Champaign, IL 61820
USA

www.press.uillinois.edu

Check enclosed (payable to the University of Illinois Press)

Visa MasterCard Discover American Express

ACCOUNT # _____ EXPIRATION DATE _____

SIGNATURE _____ DAY PHONE _____

Ship to (please print):

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____ CODE: LLH