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ABSTRACT

This curriculum considers the social history of Illinois during the years of 1836-1861 by studying Abraham Lincoln's legal papers from his time as a lawyer. Nearly 100,000 documents have been discovered in the archives of local, county, state, federal courts, libraries, and other repositories. The documents include detailed information about the daily life of ordinary people in Illinois during the years of Lincoln's legal practice. The curriculum states that using these primary source documents in the study of Illinois history can help teachers and students accomplish three goals: (1) foster the development of history's "habits of mind," which helps students think more critically about the past; (2) learn about the stories of ordinary people operating within the larger contexts of state and national history to illuminate "vital themes and narratives"; and (3) help teachers and students meet the State of Illinois Learning Standards for the Social Sciences. The curriculum is divided into the following sections: "Abraham Lincoln, Attorney at Law"; "The Lincoln Legal Papers Curriculum"; "Key to Transcription Symbols"; "A History Rubric for Performance Assessment"; "Comprehensive Glossary of Terms"; and "Lesson Plans" ("Abraham Lincoln and the Rule of Law"; "Moving People through the Prairie State, 1820-1860"; "Illinois Agriculture and the Marketplace, 1830-1860"; "Material Culture on the Prairie"; "Social Role and Status: Marriage on the Illinois Frontier"; "Canals and Railroads Open Illinois"). (BT)

The Lincoln Legal Papers Curriculum:

Understanding Illinois Social History through Documents from The Law Practice of Abraham Lincoln, 1836-1861

On-line Edition
February 12, 2001

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Abraham Lincoln Association

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Abraham Lincoln, Attorney-at-Law

When Abraham Lincoln lived in New Salem, Illinois, from 1831-1837, he began to consider a career in law. Aspiring attorneys typically studied with established members of the bar or served as clerks in law offices to prepare for a legal career. But Lincoln had no such opportunity in New Salem and worried that he did not have a sufficient education to be an effective lawyer. Lincoln was also interested in the political questions of the day. In 1834, he was elected to a seat in the state legislature in Vandalia, where he served as a representative for Sangamon County. When the legislature was not in session, Lincoln read books he borrowed from a law office in Springfield. He gained further experience by writing legal documents for the local justice of the peace and appearing in courts both as a witness and as a defendant. On March 24, 1836, the Sangamon County Circuit Court in Springfield certified that Lincoln was a person of good moral character, the first of several necessary steps in becoming a lawyer in Illinois. On September 9, the Illinois Supreme Court examined Lincoln's knowledge of the law and issued him a license to practice in all of the courts in the state.

Lincoln became a junior law partner to John Todd Stuart in Springfield and learned the practice of law by trying cases in court. Like many of his colleagues, Lincoln was a general practice attorney; that is, he represented clients in a variety of civil actions including debt, slander, divorce, mortgage foreclosure, and in criminal offenses, including murder. Early in his career he represented clients before local justices of the peace and in county, circuit, and state appellate courts. According to entries in the office's fee book, Lincoln and his partner generally divided legal fees of \$5 to \$10, but in *People v. Truett*, an 1838 murder case, they received \$500. When Sangamon County became part of the newly formed Eighth Judicial Circuit in 1839, Lincoln began to ride that nine county circuit which included Sangamon, Tazewell, Logan, and McLean counties. After Springfield became the state capital in 1839, the federal court and the Illinois Supreme Court, which had met in Vandalia, moved to Springfield. Lincoln, who had joined the law office of Stephen T. Logan, extended their practice beyond the Eighth Judicial Circuit to include these courts.

In time, Lincoln wanted to begin his own law firm. In 1844, William H. Herndon, a young law clerk in the Logan and Lincoln office, became his junior partner. The new firm prospered, but Lincoln was also lured by politics and he served a term in the United States House of Representatives from 1847 to 1849. After Lincoln returned to Springfield the two partners eventually moved their office to a site on the west side of the square on Fifth Street.

Lincoln was away from Springfield for nearly six months of the year, three months each spring and each fall riding the Eighth Judicial Circuit, which eventually included fourteen counties in central Illinois. Lincoln was one of a few attorneys, besides the state's attorney and the judge, who traveled the entire circuit. Most attorneys only practiced in their home county and a few neighboring counties. It was an interesting time in Lincoln's life. Dirt roads were difficult to travel by horse and buggy during rainy weather. While in a county seat, the court officials and lawyers stayed at local taverns, ate at common tables, and often slept in the same bed. 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 new hotels accommodated the lawyers and judges. When he reached a county seat, Lincoln handled whatever legal business came to him. Local attorneys asked him for assistance; sometimes litigants themselves sought his services. He might cooperate with an attorney in one case, and oppose him in the next. When he was back home in Springfield, Lincoln interspersed regular court appearances with cases before the local justices of the peace. He also took on the legal tasks of writing deeds, registering land, paying taxes, receiving money, and giving advice. Lincoln and Herndon charged a typical client \$5 to \$20, although they sometimes took a case without charge. Debt-related issues constituted the majority of Lincoln's legal cases.

In addition to their own cases, attorneys living in counties far away from Springfield often referred their Illinois Supreme Court cases to Lincoln and Herndon's firm. Lincoln's residence in the state capital, where the Supreme Court heard appeal cases, helped him build a strong appellate practice. Lincoln's federal practice in Springfield and the burgeoning city of Chicago probably supplied him with much of his income. 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, which was the minimum amount for a case to be heard in the U.S. Circuit Court. As a result, Lincoln could charge his clients in federal court much higher fees than those he represented in the state or lower courts. Clients from major commercial centers such as New York, Boston, St. Louis, and Philadelphia retained Lincoln to represent them in Illinois courts. Because the Chicago Fire of 1871 destroyed almost all of the Illinois federal records prior to 1855, it is difficult to estimate the full extent of his practice. One aspect of his practice, however, became increasingly important. In the 1850s the Illinois legislature provided charters for railroad companies, and many of them began construction, which triggered much litigation over issues of right of way, stock subscriptions, fencing, and damages to 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. The Illinois Central Railroad secured his legal services more often than any other railroad.

Lincoln did not aspire to any judicial or state legal offices. He often wrote reference letters for friends who sought judgeships. It was not uncommon that if a judge on the circuit had to leave court during session, he would appoint one of the attorneys to sit for a few days as judge. Sometimes Lincoln was selected to act as the judge. Lincoln never sought the position of state's attorney either, though he occasionally assisted the state's attorneys on the Eighth Circuit by writing indictments, serving as co-counsel, and acting as state's attorney *pro tem* in criminal cases. But, according to some historians, Lincoln did make a contribution to the way lawyers argued their cases in an area known as "jury nullification." In this procedure, a lawyer asked the jury to suspend "the letter of the law" and instead use their common sense to determine the course of justice in a particular case.

In the mid-1850s, Lincoln turned again to politics. A former member of the Whig Party, Lincoln became a member of the fledgling Republican Party in 1856. During the famous 1858

Senatorial campaign against Stephen A. Douglas, Lincoln did not practice law for much of the summer and fall. His series of debates with the 'Little Giant' in 1858, however, transformed Lincoln into a national political figure. After his loss to Douglas in that election, Lincoln returned to his law practice, but he maintained his political contacts which eventually helped him garner support for a bid for the presidency. The Republican National Convention nominated Lincoln as its candidate for president in May, 1860. He continued to take cases during the summer term of the federal court in Springfield, but his legal career was about to come to an end. 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 outside their Springfield office to "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 his practice of law "as if nothing had ever happened."

John A. Lupton
The Lincoln Legal Papers

The Lincoln Legal Papers Curriculum

Over the past decade, researchers and editors of the Lincoln Legal Papers have compiled a documentary history of the law practice of Abraham Lincoln. Based in the Old State Capitol in Springfield, Illinois, these public historians have traveled the state and the nation collecting and cataloging documents related to Lincoln's law practice. Nearly 100,000 documents have been discovered in the archives of local, county, state, and federal courts as well as in libraries and other repositories.

In the course of collecting the materials related to Lincoln's legal career, it became clear to the historians that comprise the Lincoln Legal Papers' staff that many of the documents would be useful to middle school and high school teachers as primary sources for the study of United States history. The documents they have uncovered include a wealth of detailed information about the daily life of ordinary people in Illinois during the years of Lincoln's legal practice. Moreover, the information found in the documentation of a typical court case often intersects with the story of the transforming processes that were at work in moving Illinois from a frontier society after statehood in 1818 to a modern one on the eve of Lincoln's presidency in 1861. The Lincoln Legal Papers have provided the documentation that historians and teachers need to describe the increase in the state's agricultural production, the expansion of its transportation network, and the growth of its towns and cities. In scores of documents found in the case files in which Abraham Lincoln participated as an attorney, the aspirations--and the frustrations--of the first generation of settlers in the Prairie State are brought to light once again.

The use of primary source documents in the study of Illinois history helps teachers and students accomplish three other important goals. First, the study of the primary sources will foster the development of History's Habits of Mind, which help students think more critically about the past, both in accepting it on its own terms and considering how it has affected the present. These Habits of Mind have been suggested by the National Council for History Education and include:

- understanding the significance of the past to their own lives, both private and public, and to their society.
- distinguishing between the important and the inconsequential, and to develop the "discriminating memory" needed for a discerning judgment in public and personal life.
- perceiving past events and issues as they were experienced by people at the time, and to develop historical empathy as opposed to present-mindedness.
- acquiring at one and the same time a comprehension of diverse cultures and of shared humanity.
- understanding 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.
- comprehending the interplay of change and continuity, and avoiding assuming that either is somehow more natural, or more to be expected, than the other.
- preparing to live with uncertainties and exasperating, even perilous, unfinished business, realizing that not all problems have solutions.

- grasping the complexity of historical causation, respecting particularity, and avoiding excessively abstract generalizations.
- appreciating the often tentative nature of judgments about the past, and thereby avoiding the temptation to seize upon particular “lessons” of history as cures for present ills.
- recognizing the importance of individuals who have made a difference in history, and the significance of personal character for both good and ill.
- appreciating the force of the non-rational, the irrational, the accidental, in history and human affairs.
- understanding the relationship between geography and history as a matrix of time and place, and as the context for events.
- reading widely and critically in order to recognize the difference between fact and conjecture, between evidence and assertion, and thereby to frame useful questions.

Second, the use of primary source documents to learn about the stories of ordinary people operating within the larger contexts of state and national history will illuminate for students History’s Vital Themes and Narratives. These Vital Themes and Narratives, also suggested by the National Council for History Education, organize the broader patterns of historical understanding, and include:

- Civilization, cultural diffusion, and innovation
- Human interaction with the environment
- Values, beliefs, political ideas, and institutions
- Conflict and cooperation
- Comparative history of major developments
- Patterns of social and political interaction

Third, the use of primary source documents will help teachers and students meet the State of Illinois Learning Standards for the Social Sciences. These standards help student master basic knowledge and understanding of:

- Political Systems
- Economics
- United States and World History
- Geography
- Social Systems

The *Lincoln Legal Papers Curriculum* includes this introduction, six lesson plans, primary source documents, ancillary materials, and guides to help students analyze traditional sources and legal documents found in the Lincoln Legal Papers. The plans are sequenced generally according to the dates of the primary sources, with the exception of the first plan which discusses Abraham Lincoln the lawyer. Each lesson is keyed to particular Habits of Mind and Vital Themes and Narratives. All of the plans are firmly grounded in the Illinois Learning Standards for History (Standard 16), particularly that standard’s emphasis on the analysis of documents as well as on state and national history in the early nineteenth century. Each of the other Social Science disciplines (represented in Standards 14, 15, 17, and 18) provides a focal point for one of the six plans in the

curriculum, although several of the benchmarks within the various Illinois Learning Standards can be met through a particular lesson. For example, Lesson Plan One, *Abraham Lincoln and the Rule of Law*, addresses Standard 14, Political Systems. Lesson Plan Two, *Moving People through the Prairie State, 1820-1860*, addresses Standard 17, Geography. Lesson Plan Three, *Illinois Agriculture and the Marketplace, 1830-1860*, addresses Standard 15, Economics. Lesson Plan Four, *Material Culture on the Prairie*, combines aspects of Standards 15 and 18, Social Systems. Lesson Plan Five, *Social Role and Status: Marriage on the Illinois Prairie*, addresses Standard 18. Lesson Plan Six, *Canals and Railroads Open Illinois* addresses issues related to Standard 17.

The *Lincoln Legal Papers Curriculum* provides both opportunities and challenges for teachers. The principal opportunity is to engage students with primary source documents that will enhance their knowledge and understanding of mid-nineteenth century United States history and the history of Illinois. Primary sources are the best way to let the student of history “take a walk in the shoes” of a person who took part in an historical event, to see first-hand what it was like to experience an event in the past.

Legal documents, however, present a number of challenges. Legal documents are filled with technical terms that are familiar to lawyers and judges, but not to other citizens. They follow certain procedural formats that are unfamiliar to the average reader. Legal documents, like all other primary sources, only speak to those who can ask the proper questions of them. To help students formulate good questions, the curriculum includes a Key to Transcription Symbols, developed by the editors of the Lincoln Legal Papers, that follows this introduction. This key explains the markings that editors used when they transcribed the documents that students will analyze in class. In addition, each of the six lesson plans includes a Glossary of Terms to help clarify unfamiliar technical and legal terms found in the documents. The primary source documents are presented in both facsimile and transcribed versions that give students the opportunity to see the actual document as it appears in the archival collections, while at the same time facilitating their reading of the contents. Preceding each transcription of a case document is a Case Summary, a contextual synopsis of the entire case developed by the editors of the Lincoln Legal Papers from the principal legal documents. Each lesson includes a guide to assist students as they analyze the individual Lincoln legal documents, which are at the heart of the lesson. Two of the guides are specifically tailored to the documents in two of the lessons: *Abraham Lincoln and the Rule of Law* and *Material Culture on the Prairie*. Each of the lessons' guides orients the student to the court with jurisdiction, establishing time and place as well as other salient introductory information. The guides then help students master the content of the document through a guided questioning strategy. The questions help them understand the adversarial nature of legal proceedings, which most students find quite interesting. The guides also include a section that asks the students to employ History's Habits of Mind and to identify in the document History's Vital Themes and Narratives, that is to make the connection between local people and events and the larger themes of state, national, and even world history.

Each lesson plan in the *Lincoln Legal Papers Curriculum* follows a similar format, beginning with the identification of the lesson's Vital Theme and Habits of Mind and appropriate Illinois Learning Standards. A Focus statement follows that sets the context for the content of the

lesson and its primary source documents. Specific content and skill objectives are stated to help teachers and their students understand what they are expected to know and do during a given lesson. The lesson plans include a detailed series of Procedures that offer guidance for instructional methodology, including background information for brief lectures, and questions that help students explore concepts and master content. These procedures are usually organized into engaging sections titled, "Discovery," "Going to Court," and "You Be the Judge."

The successful Write on Illinois initiative inspired us to include in each plan a "Write to Learn" assignment suggesting topics for either narrative, expository, or persuasive essays that will help students demonstrate their knowledge of the lesson's content, their reasoning or critical thinking skills, and their communication skills. Various charts and graphs, as well as student guides for analyzing documents related to Lincoln's law practice, complement the lesson plans. The plans also suggest additional activities that might be pursued in subsequent lessons, including an activity that will encourage students to participate in Illinois History Day research projects. Finally, each lesson makes a series of thoughtful suggestions about activities that will extend the students' exploration of the given theme of a lesson.

A History Rubric for Performance Assessment is included in this Introduction. The rubric helps teachers assess their students' knowledge, reasoning, and communication skills in history and social science activities and assignments. The rubric is keyed to History's Vital Themes and Narratives and to History's Habits of Mind. Teachers can employ this rubric to assess all of the suggested writing assignments. Illinois teachers of the social sciences use this rubric to assess student performances that are tied to the new Illinois Learning Standards.

Teachers at all levels, grades 6 – 12, will find useful materials in each of the plans, but individual teachers are in the best position to use their professional judgment to determine which lessons, or parts of lessons, best suit their particular needs. Middle school and high school teachers alike will find appropriate instructional materials and primary source documents in each of the lessons. For example, materials in *Abraham Lincoln and the Rule of Law* and *Material Culture on the Prairie* are easily adaptable to the grade 6-12 history and social sciences curriculum. Each of the other four lessons includes materials of various levels of complexity. Therefore, one key to the successful use of the *Lincoln Legal Papers Curriculum* is that teachers should preview carefully the plan, the materials, and the documents to gauge the level of difficulty of the lesson and their appropriateness. While some of the documents in *Social Role and Status: Marriage on the Illinois Prairie* will suit the needs of the middle school teacher, other documents included in that lesson may not be appropriate. Similarly, some of the materials and documents included in *Canals and Railroads Open Illinois* or the other lessons may suit middle and high school students, while some may even challenge the more experienced students. The plans include full texts of the documents, thereby allowing individual teachers to edit back or perhaps omit the more difficult documents. Another key to the successful use of the curriculum is that students must be patient when they use the Habits of Mind to analyze a Lincoln Legal document. Perhaps most important, teachers must both discuss the documents with their students and help them connect the document's content to the wider Vital Themes and Narratives of Illinois and United States history.

Students in Illinois, and across the nation, are not bound together by a common ethnicity or religion; indeed the state and nation are becoming more diverse as each year passes. But these students do share in common one fundamental ideal, which has bound all citizens together since the foundation of the Republic: the democratic vision of liberty, equality, and justice. One important way for students to appreciate the durability of that vision across time, and to preserve it for the future, is to know and understand how our democratic values were shaped in the past. The materials presented for classroom use in the *Lincoln Legal Papers Curriculum* are drawn from instances when ordinary people went to court to resolve conflicts over questions arising from bewildering technological, cultural, and economic changes. At the heart of each of these court cases, however, we find on display the pursuit of individual liberty, equality, and justice as perceived by people at the time. As such the *Lincoln Legal Papers Curriculum* aims to help students understand how individual citizens, local events, and larger historical forces affected the development of Illinois and its political beliefs and ideals during the Age of Lincoln.

Lawrence W. McBride

Frederick D. Drake

Editors, *Lincoln Legal Papers Curriculum*

February 12, 2001

Key to Transcription Symbols

...	text left out in excerpting
[...]	unrecoverable passages in source text
^{roman}	additions to original source text (interlineations)
strikeout	passages deleted by the author of document
[---]	unrecoverable passages deleted by the author of document
<u>underline</u>	passages underlined by the author of 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

A History Rubric For Performance Assessment

	KNOWLEDGE <i>Knowledge of evidence from history: facts/supporting details, themes/issues, and concepts/ideas</i>	REASONING <i>Analysis, evaluation, and synthesis of evidence.</i>	COMMUNICATION <i>Demonstrates knowledge and reasoning through oral, written, visual, dramatic, or mixed media presentation.</i>
6	<ul style="list-style-type: none"> Key concepts/Vital Themes and Narratives/ issues/ideas are thoroughly identified, defined, and described Significant facts/supporting details are included and accurately described Has no factual inaccuracies 	<ul style="list-style-type: none"> Identifies and logically organizes all relevant evidence Uses appropriate and comprehensive critical thinking skills and Habits of Mind to analyze, evaluate, and synthesize evidence Reaches informed conclusions based on the evidence. 	<ul style="list-style-type: none"> All ideas in the presentation are expressed in a way that provides evidence of the student's knowledge and reasoning processes The presentation is well focused with a well-defined thesis Presentation shows substantial evidence of organization Presentation shows attention to the details of specific performance conventions
5	<ul style="list-style-type: none"> Key concepts/Vital Themes and Narratives/ issues/ideas are considerably identified, defined, and described Facts/supporting details are included Has only minor factual inaccuracies. 	<ul style="list-style-type: none"> Identifies and logically organizes most of the relevant evidence Uses appropriate and critical thinking skills and Habits of Mind to analyze, evaluate, and synthesize evidence Reaches informed conclusions based on the evidence 	<ul style="list-style-type: none"> Most ideas in the presentation are expressed in a way that provides evidence of the student's knowledge and reasoning processes The presentation demonstrates a focus and thesis with minimal narrative gaps Presentation shows sufficient evidence of organization Presentation has minor mistakes in attention to the details of specific performance conventions.
4	<ul style="list-style-type: none"> Key concepts/Vital Themes and Narratives/issues are partially identified, defined, and described Some facts/supporting details are included May have a major factual inaccuracy, but most information is correct 	<ul style="list-style-type: none"> Identifies and organizes some of the relevant evidence Uses partial critical thinking skills and Habits of Mind to analyze, evaluate, and synthesize evidence Reaches informed conclusions based on the evidence 	<ul style="list-style-type: none"> Presentation shows sufficient evidence of organization Presentation has minor mistakes in attention to the details of specific performance conventions
3	<ul style="list-style-type: none"> Some key concepts/Vital Themes and Narratives/ issues/ideas are identified, defined and described Few facts/supporting details are included Has some correct and some incorrect information 	<ul style="list-style-type: none"> Identifies some of the relevant evidence but omits other evidence Uses incomplete critical thinking skills and Habits of Mind to analyze, evaluate, and synthesize evidence Reaches incomplete conclusions based on the evidence 	<ul style="list-style-type: none"> Some ideas in the presentation are expressed in a way that provides evidence of the student's knowledge and reasoning processes The presentation demonstrates a focus and thesis with several narrative gaps Presentation demonstrates adequate evidence of organization Presentation has mistakes in attention to the details of specific performance conventions
2	<ul style="list-style-type: none"> Few Key concepts/Vital Themes and Narratives/ issues/ideas are identified, defined, and described Facts/supporting details are not included Information is largely inaccurate or irrelevant 	<ul style="list-style-type: none"> Identifies little relevant evidence and omits most of the evidence Uses unclear or inappropriate critical thinking skills and Habits of Mind to analyze, evaluate, and synthesize evidence Reaches inaccurate conclusions based on the evidence 	<ul style="list-style-type: none"> Few ideas in the presentation are expressed in a way that provides evidence of the student's knowledge and reasoning processes The presentation demonstrates an inadequate focus and thesis Presentation demonstrates inadequate evidence of organization Presentation has insufficient attention to the details of specific performance conventions
1	<ul style="list-style-type: none"> Key concepts/Vital Themes and Narratives/ issues/ideas are not identified, defined, and described Facts/supporting details are not included Information is inaccurate or absent 	<ul style="list-style-type: none"> Important evidence relevant to the problem is not identified Critical thinking skills and Habits of Mind are absent Conclusions are lacking or unclear 	<ul style="list-style-type: none"> Most ideas in the presentation are not clearly expressed The presentation demonstrates insufficient focus and a poorly defined thesis Presentation demonstrates insufficient evidence of organization Presentation has multiple mistakes in attention to the details of specific performance conventions

From: Frederick D. Drake and Lawrence W. McBride, "Reinvigorating the Teaching of History through Alternative Assessment," *The History Teacher* 30 (February 1997): 145-73.



Comprehensive Glossary of Terms

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

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

adjourn: to bring a session of court to an official close, putting off further proceedings either indefinitely or until a later stated time.

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

allegation: a statement not yet proven; a statement by a party to a lawsuit that the party will attempt to prove.

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

attorney: a person, especially a lawyer, appointed to act on behalf of another person. The attorney legally represents a plaintiff or defendant in court.

barter: exchange of goods or services without the use of money.

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.

Boanerges: a powerful and blunt orator or speaker.

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

breach of contract: the failure to do what one has promised to do in a formal agreement.

bushel: a unit of dry measure equal to 32 quarts or 30.28 liters.

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

channel: the bed where a natural stream of water flows; the deeper part of a river.

chattel: an item of movable property.

circuit court: a court that sits in more than one place in a judicial district.

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.

commencement: the start of an action.

commodity: anything bought or sold, an article of commerce; any basic item or product of agriculture or mining.

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

compromise: a settlement of differences between two or more persons in which each side gives up some of its claims and agrees to some of the demands of the other side.

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

corporation: a group of persons authorized by law to act as a single person and legally endowed with various rights and duties.

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

county: the largest territorial division for local government within a state of the United States.

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

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

culvert: a drain crossing under a road or embankment.

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, which led 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.

detriment: damage, harm.

divers: various, several.

docile: easily led or managed.

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.

endorsement: a writing, usually on a document, confirming or acknowledging the action set forth in the document.

err: to make a mistake.

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.

handbill: a small printed sheet to be distributed by hand for advertising.

heir: a person who inherits property from a deceased person, usually a family member.

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

impanel: to choose individuals to serve on a jury.

impede: to obstruct or slow down.

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

inflation: a continuing rise in the prices of goods and services.

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 contrary to the jury's findings of fact. Jury nullification is most likely to occur when a jury is sympathetic toward a defendant or regards the law under which the defendant is charged with disfavor.

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

license: a right or permission granted by a government or business to engage in some activity or to do some act.

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

litigant: parties to a lawsuit (plaintiffs and defendants).

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.

master in chancery: an officer of a court whose duty is to make investigations and report to the court.

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

meridian: a line from which degrees of longitude are measured on a map or globe.

migrate: to move from one country, place, or locality to another.

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.

navigable: deep enough and wide enough to allow boats or ships to pass.

neb: a projecting end or point.

nominal: in name only; small or insignificant.

nullification: to reduce to nothing.

omnipotent: all powerful.

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.

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

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

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

perpetual: lasting forever; holding an office or other position for life or for an unlimited time.

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

pie: 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.

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

prairie: level or rolling grassland, especially that found in central North America.

presiding: to occupy the place of authority.

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

proximity: very near; closeness.

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

relief: a form of assistance, monetary or otherwise, provided by law to someone who has suffered a wrong.

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.

right of way: the right of a person to pass over land owned by another; a portion of land acquired by a government or a company to create a transportation route.

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.

rural: characteristic of the country, of country people, or of farming.

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

section: a unit of land equal to one square mile in area; one of the 36 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.

shoat: a young, weaned pig.

shortage: a lack in the quantity or amount needed or expected.

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.

supply: the amount of a good or service that a producer will offer at a given price.

timothy: a type of grass grown for hay.

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.

urban: characteristic of the city or of city people.

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.

waste weir: a dam in a stream or river to raise the water level or to divert its flow.

with force and arms: with violence, against the property or person of another.

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.

yearling: a one-year-old animal.

Abraham Lincoln and the Rule of Law

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.

Procedures

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.** (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* (attached). 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:
- 1) Summarize the main idea of this document.
 - 2) What does this document tell us about the way Lincoln prepared to practice law?
 - 3) How did Lincoln’s suggested readings contribute to the practice of law?
 - 4) 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:
- 1) Summarize the main idea of this document.
 - 2) What does this document tell us about the best practices of a lawyer?
 - 3) How does this document illustrate that Lincoln believed in the rule of law?
- C. Read Document 1-C: Letter, Abraham Lincoln to C. Hoyt, 16 January 1856. Then discuss these questions:
- 1) Summarize the main idea of this document.
 - 2) What does this document tell us about the way Lincoln prepared to practice law?
 - 3) 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.

Note to Teacher: A rubric for assessing students' performance in knowledge, reasoning, and communication is included in the Introduction to this *Lincoln Legal Papers Curriculum*. For a description of performance assessment with History's Vital Themes and Narratives and its Habits of Mind at the center of students' knowledge, reasoning, and communication, see Frederick D. Drake and Lawrence W. McBride, "Reinvigorating the Teaching of History through Alternative Assessment," *The History Teacher* 30 (February 1997): 145-73.

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.

Sources and Materials

Analyzing a Lincoln Legal Document: Private Correspondence

Document 1-A: Letter, Abraham Lincoln to J. M. Brockman, 25 September 1860

Document 1-B: Abraham Lincoln, Notes for a Law Lecture (Undated)

Document 1-C: Letter, Abraham Lincoln to C. Hoyt, 16 January 1856

Glossary of Terms

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.

Document 1-A

Springfield, Ill. Sep. 25. 1860
J. M. Brockman, Esq
Dear Sir
Yours of the 24th asking
"the best mode of obtaining a thor-
ough knowledge of the law" is re-
ceived. 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 comments
and, after reading it care-
fully, though, say twice, take
up Chitney's Pleasings, Greenleaf's
Evidence, & Story's Equity, &c. in
succession. Work, work, work,
is the main thing.
Yours very truly
A. Lincoln

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

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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

Document 1-B (page 1 of 3)

I am not an accomplished lawyer. I find quite as much matter
in 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 any other calling,
is deliberation. Means nothing for testimony, which can be done to any
man but your competence falls behind. Whatever piece of the
case you have in hand, before stepping, as all the best lawyers
do, to it, which can then be done. When you bring a case
before the court, if you have the facts for doing so, you do not
deliberate at once. If a lawyer is to be successful, examine the facts
and not the case itself, you rely on your own observations
itself, when you are sure to find it, when wanted. The point
of defence and piece. Do lawyers not wish to be taken
into ordinary collection cases, provisional, provisional, and the
other, make all communication of letters, even even draft orders,
and orders, in advance. The answer has a trifling
weight, it is not, however, more weight, save you know when
you need, perform the labor out of court when you have
learned, rather than in court, when you have it.

Examine some speaking should be practiced and cultivated.
It is the lawyer's business to take practice. However it
may be to get, he may be in other respects, people and
alone to long have business, if he can not do it as a
speaker. And yet there is not a man for a case
to young lawyers, then relying too much on speaking
long. If any one, upon his reputation of speaking, should be
accepted from the demands of the law, he can be a great
in advance.

Discussions
Discussions, however, your neighbors to compare
some whenever you can. Point out to them how the man
it comes in after a great time, in fact, expenses, in
words of time. As a practical man, the lawyer has a
good opportunity of being a good man. They will often
be business enough.

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Autograph Document, Abraham Lincoln, Notes for a Law Lecture, c. 1850s, Abraham Lincoln Papers,
Series I: General Correspondence, 1833-1916, Library of Congress, Washington, D.C.

Document 1-B (page 2 of 3)

2

Never discuss the propriety of a woman man can scarcely
be ~~the same~~ ^{the same} as who does this. Who can he show
means a friend than he who habitually overloads the
gesture of duty, in search of defects in title, whereas to
step up shade, some put money in his pocket? A man's love
ought to be infused into the profession, which it can
drive such men out of it.

The matter of fees is important for beyond the mere
question of money and limited problems. It is a
source of business for the lawyer to do his duty to his
client. The excessive fee should never be allowed.
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 vendor of
you can face 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 just and very likely result should and
ought to be, in the performance - settle the amount
of fee in advance to your satisfaction. There
you will find that you are working for some
thing, and you are in all your work for
small work. There will be a few more at least in the
law the consideration, since in performance it tends to neglect
your own duties - neglected by long interest in the
case, and disinterested in referring to refer, when you
have allowed the consideration to pass.

There is a vulgar popular belief that lawyers are excessive
demanders. I do not regard, because when we compare to what
other professions, and honest and reformers, and some
famous men to go, by the proof, it appears impossible
that the profession of the lawyer, is very distinct and well
yet the profession, is common almost universal. Let
me go on now, closing the law for a while, for a moment.

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Document 1-B (page 3 of 3)

yield to the popular belief. Resolve to be honest at
all times, and if you give one judgment you can not do
an honest lawyer, resolve to be honest whether being a
lawyer behind some other occupation, rather than in
the choice of what you do, in advance, consent to
a known -

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Document 1-B (transcription)

Notes for a Law Lecture

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 opertunity 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.

Document 1-C (page 1 of 3)

Springfield, Jan^y 16. 1856
C. Hoyt, Esq
My dear Sir:
Our case is decided against us - The decision was announced this morning - Very sorry; but there is no help - The history of the case, since it came here, is this - On Friday morning last, Mr. Joy filed his papers, and entered his motion for a mandamus, and urged me to take up the motion as soon as possible - I already had the points and authorities sent me by you, and by Mr. Goodrich, but had not studied them - I began preparing as fast as possible - The evening of the same day I was again urged to take up the case.

Autograph Letter Signed, Abraham Lincoln to C. Hoyt, 16 January 1856, Henry Horner Lincoln Collection, Illinois State Historical Library, Springfield, Illinois.

Document 1-C (Page 2 of 3)

I refused, on the ground
that I was not ready; and
on which plea I also got
off over Saturday. But on
Monday (the 14th) I had to
go into it. We occupied
the whole day, I using the
larger part. I made every
point, and used every author-
ity sent me by yourself &
by Mr. Goodrich; and in
addition, all the points I
could think of, and all the
authorities I could find my-
self. I had B. Baw. 70. and
made all out of it that I
could. When I closed the
argument on my part, a large
packet was handed me,
which proved to be the Plea
you sent me. The Court re-
ceived it of me, but it was

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Document 1-C (Page 3 of 3)

not different from the Plat
already in the record—
I do not think I could ever
have argued the case better
than I did— I did nothing
else, but prepare to argue,
and argue, this case, from
Friday (morning till Monday
evening—
Very sorry for the result,
but I do not think it
could have been prevented.
Your friend as ever
A. Lincoln.

Document 1-C (Transcription)

Springfield, Jany 16. 1856

C. Hoyt, Esq

My dear Sir:

Our case is decided against us. The decision was announced this morning. Very sorry; but there is no help. The history of the case, since it came here, is this. On friday morning last, M^r Joy filed his papers, and entered his motion for a mandamus, and urged me to take up the motion as soon as possible. I already had the points and authorities sent me by you, and by M^r Goodrich, but had not studied them. I began preparing as fast as possible. The evening of the same day I was again urged to take up the case. I refused, on the ground that I was not ready; and on which plea I also got off over saturday. But on monday (the 14th) I had to go into it. We occupied the whole day, I using the larger part. I made every point, and used every authority sent me by yourself & by M^r Goodrich; and, in addition, all the points I could think of, and all the authorities I could find myself. I had 6. Barr. 70. and made all out of it that I could. When I closed the argument on my part, a large package was handed me, which proved to be the Plat you sent me. The court received it of me; but it was not different from the Plat already in the record.

I do not think I could ever have argued the case better than I did. I did nothing else, but prepare to argue, and argue this case, from friday morning till monday evening.

Very sorry for the result; but I do not think it could have been prevented.

Your friend as ever

A. Lincoln

Glossary Of Terms

attorney: a person, especially a lawyer, appointed to act on behalf of another person. The attorney legally represents a plaintiff or defendant in court.

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

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

compromise: a settlement of differences between two or more persons in which each side gives up some of its claims and agrees to some of the demands of the other side.

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

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.

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.

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

handbill: a small printed sheet to be distributed by hand for advertising.

jury nullification: the acquittal of a defendant by a jury in disregard of the judge's instructions and contrary to the jury's findings of fact. Jury nullification is most likely to occur when a jury is sympathetic toward a defendant or regards the law under which the defendant is charged with disfavor.

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.

nominal: in name only; small or insignificant.

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.

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

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

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

Moving People through the Prairie State, 1820-1860

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 to 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.

Problems concerning land rights still occur, not only between citizens but also between individual local people and between groups of people. Students might connect what they learn in this lesson to a recent example from Illinois involving litigation brought forward by Native American tribes seeking to reclaim land that they contend was unjustly taken away from them during the period of Westward Expansion.

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. Westward Expansion Brought People to Illinois.

- 1) Erie Canal opened westward migration from the east *via* the Great Lakes.
- 2) Roads pressed westward across the mountains from the eastern seaboard states.
- 3) Indian removal was completed in Illinois in 1837, although some claims to land formerly belonging to Native Americans in Illinois remained contested.
- 4) Extension of railroads across the country offered faster and less expensive transportation.
- 5) Advances in farming technology promised economic growth through land development.
- 6) Coal deposits led to the development of early industrial production, especially in the southern and central regions of Illinois.
- 7) Rural communities emerged in central and northern Illinois.

B. Five Maps and a Chart Tell the Story of Westward Expansion in Illinois. (See attachments.) 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: Coal Fields in Illinois: The bountiful coal fields of Illinois helped to spur industrialization in the southern and central regions of the state.

Teaching Opportunity: Use map 4 in conjunction with maps 2, 3, and 5 to explain why Illinois' rich bituminous coal fields and mines spurred industrial growth in Illinois.

Map 2.5: 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 5 to the data in maps 2 and 3.

Chart: 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.

C. 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 lesson plan 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.

1850	360 people
1860	634
 - b) Springfield was growing rapidly.

1835	1,419
1840	2,579
1845	4,533
1855	7,250
1860	9,320
- 3) Students complete and then review the guide, *Analyzing a Lincoln Legal Document*.

- 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 Procedures 1-A and 1-B, 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' 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' 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 Mrs. Skinner come forward with the Supervisor of the Road District to request an Injunction against Mr. Buckles? How do Mr. Buckles' plans affect the value of her property?

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

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 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. See the rubric for assessing students' performance in knowledge, reasoning, and communication skills in the Introduction to this *Lincoln Legal Papers Curriculum*.

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 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.

Sources and Materials

Maps

- 2.1: Illinois in 1830.
- 2.2: Illinois Highways in 1832.
- 2.3: Proposed State Railroad System, c. 1850.
- 2.4: Coal Fields in Illinois.
- 2.5: Illinois Railroads in 1855

Chart: The Population of Illinois, 1810-1860.

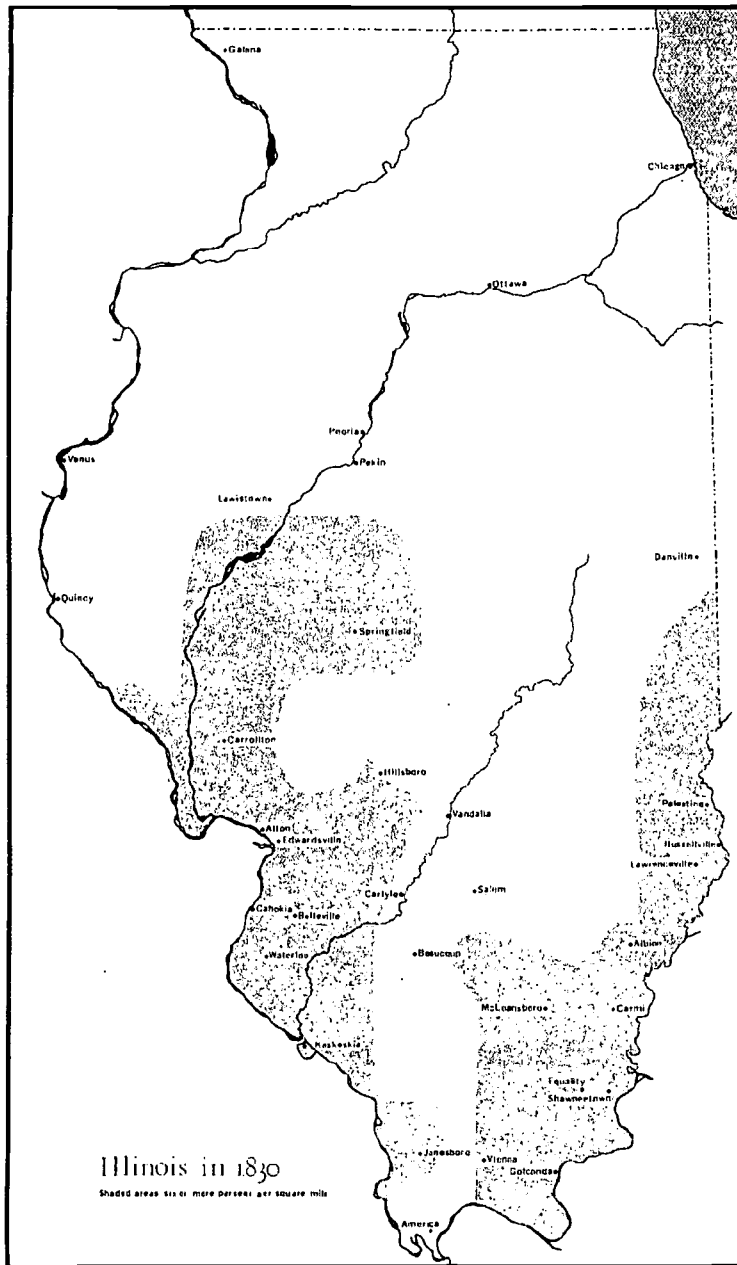
Analyzing a Lincoln Legal Document

Document 2-A: Bill for Injunction, *Beam & Skinner v. Buckles*, 1857.

Glossary of Terms

Map 2.1: Illinois in 1830

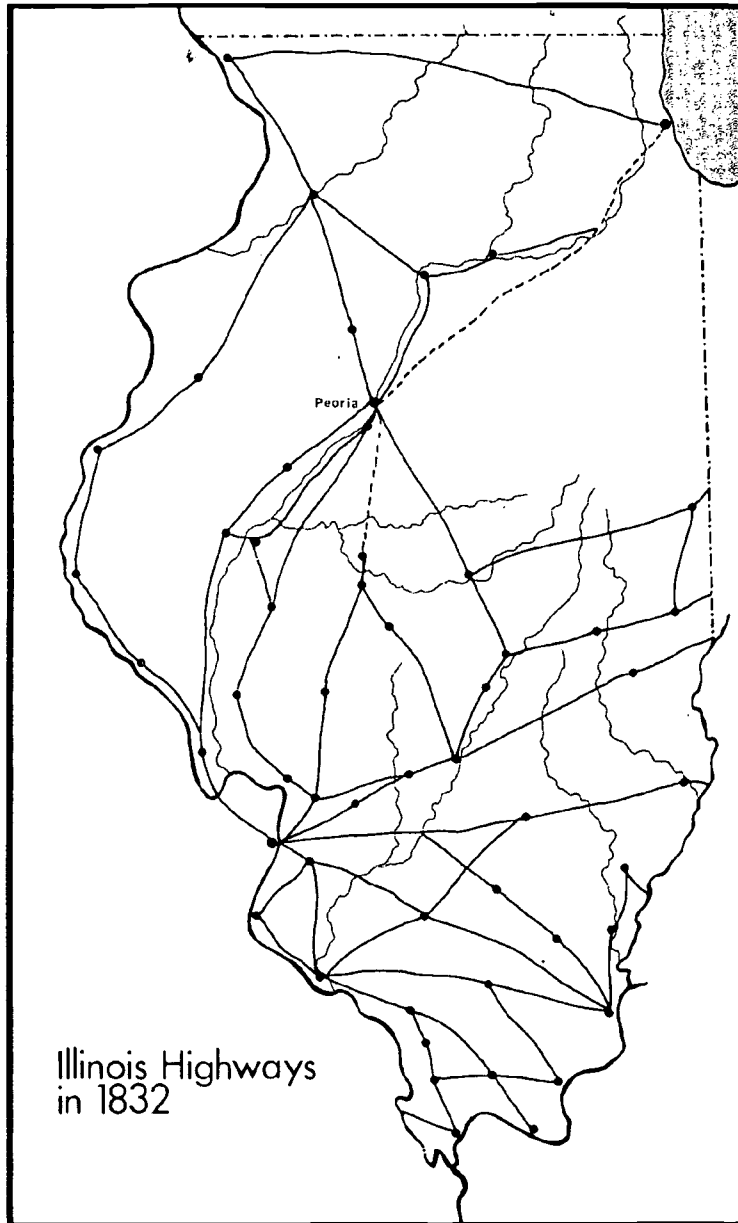
Settlement along the river areas resulted from the migration westward of people along the Ohio River, north and south along the Wabash River, and north along the Mississippi and Illinois Rivers.



Robert P. Howard, *Illinois: A History of the Prairie State* (Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972), 156.

Map 2.2: Illinois Highways in 1832

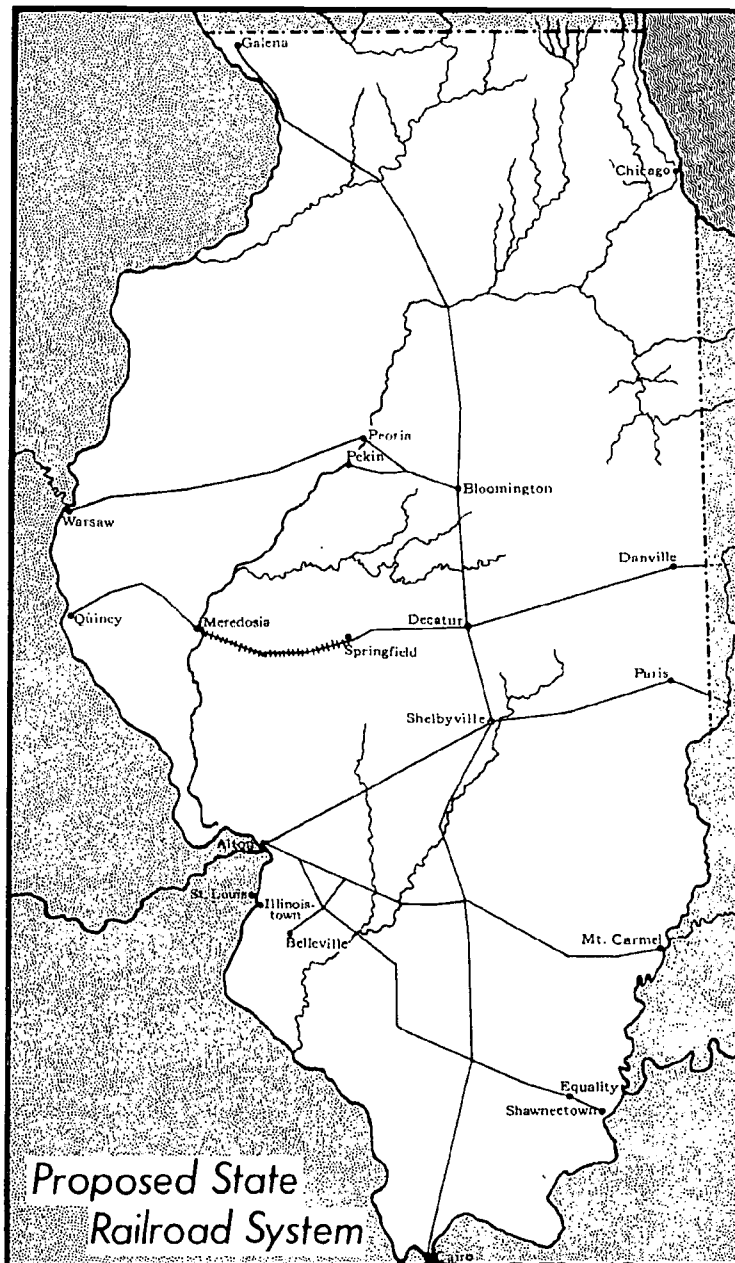
Roads allowed migrants to settle most of southern Illinois and to migrate toward the central and northern regions of the state.



Robert P. Howard, *Illinois: A History of the Prairie State* (Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972), 161.

Map 2.3: Proposed State Railroad System, c. 1850

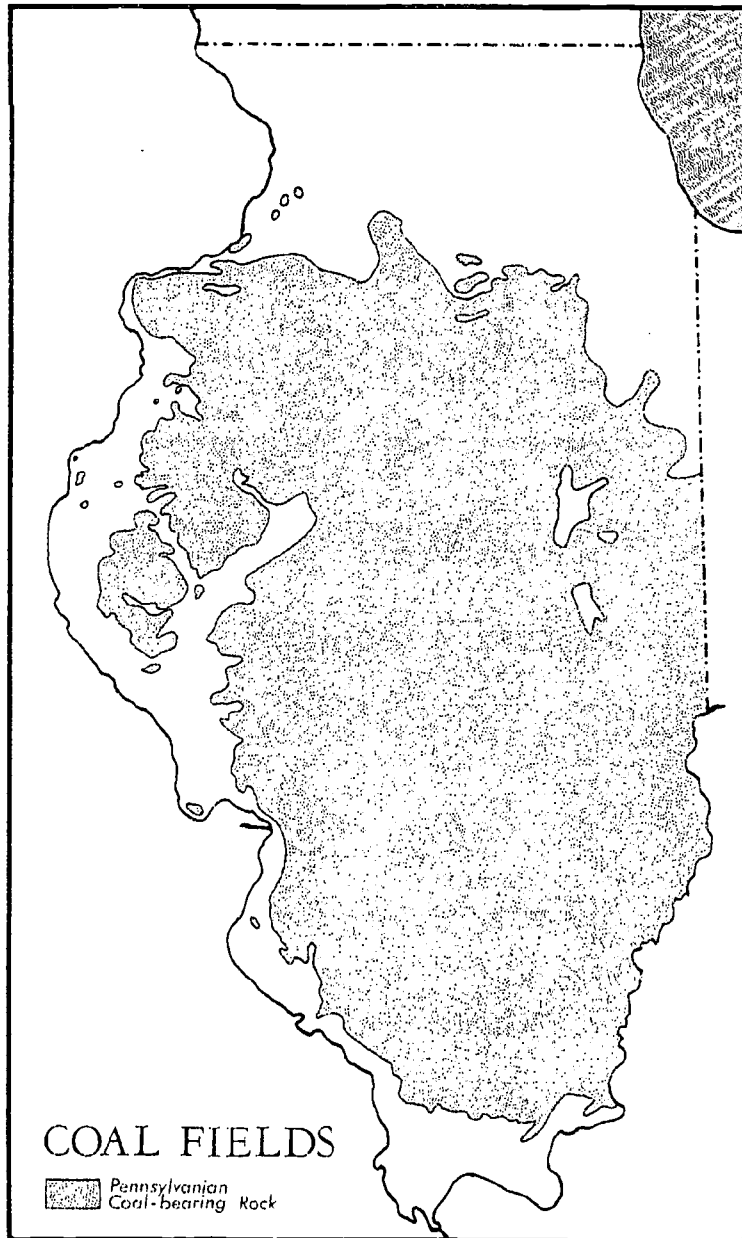
These proposed routes would allow new settlers to establish communities throughout the state, and would speed agricultural produce and manufactured goods to markets throughout Illinois and to regions beyond the state.



Robert P. Howard, *Illinois: A History of the Prairie State* (Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972), 201.

Map 2.4: Coal Fields in Illinois

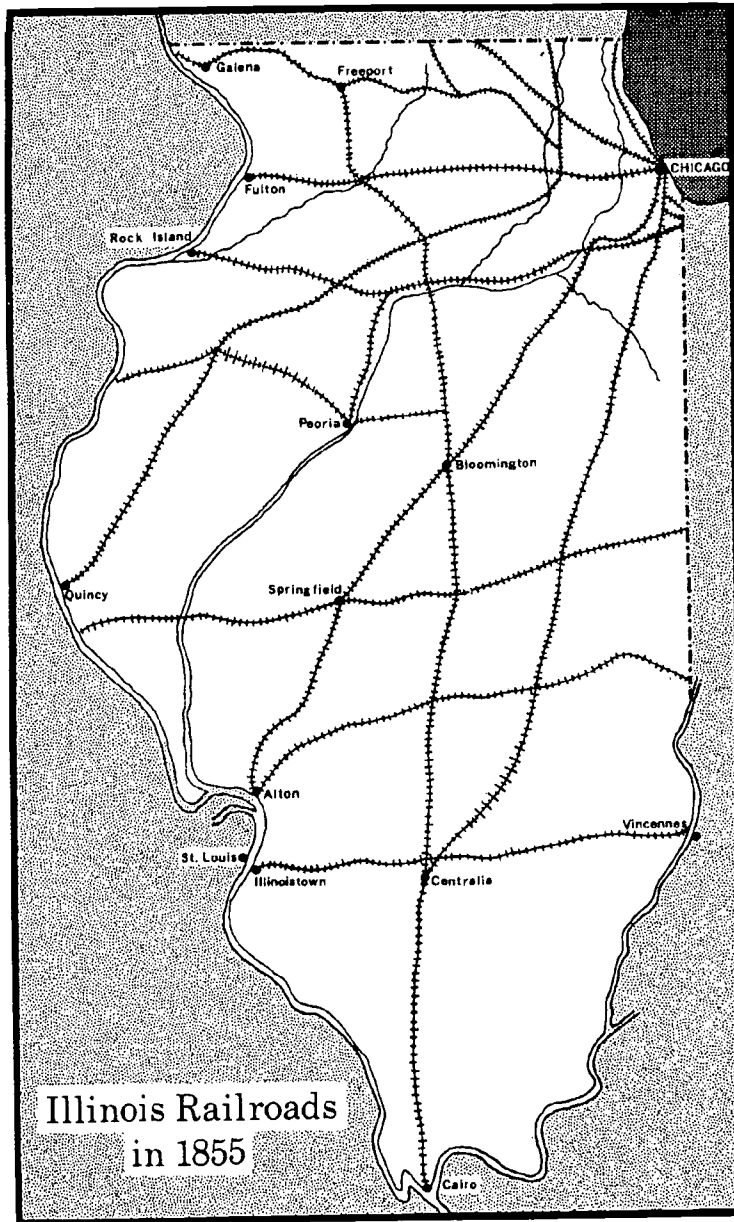
The coal fields of Illinois helped to spur industrialization in the southern and central regions of the state.



Robert P. Howard, *Illinois: A History of the Prairie State* (Grand Rapids, Mich.: William B. Eerdmans Publishing, 1972), 250.

Map 2.5: 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.

Chart: The Population of Illinois, 1810-1860

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

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

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?

Synthesis: Illinois History and the Rule of Law

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 relationship between *where* something happened and *what* happened?

Does this document include any "quotable-quotes," or examples of a regional speech or period expressions?

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

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

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

Document 2-A (page 1 of 9)

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

Humly complaining sheweth unto your
Honor your obedient servant ~~to Beames that~~
Beames a citizen legal voter of Mount Pulaski
in Logan County Illinois - that about two
years since a County Road from the same town
of Mount Pulaski in said County to the
Logan County line in the direction of
Springfield was regularly & legally instituted
by record located & opened - that said Road
has been worked & used as 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 across the North
half of Section 18 & 19 on 18th Range 2nd
that in said County - that Beames Robinson
was the owner of said Land when said
Road was located through the same
that he can be refused to give it the
right of way for the same through
said land that the damages & compensa-
tion therefor were regularly assessed &
paid for him by Commissioners regularly
appointed by the Circuit Court

Document Signed, Samuel C. Parks, Bill for Injunction, 14 September 1857, *Beam & Skinner v. Buckles*, Logan County Circuit Court case files, Illinois State Archives, Springfield, Illinois.

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Document 2-A (page 2 of 9)

I began by that of the fact that
a full knowledge of all these facts John
Buckles of Logan County, Ill. bought
said tract of land from the said
Robinson in 1820. It is ~~stated~~ ^{stated} and
believed that the said Robinson made
a deduction of a large sum of money
from the fund of said land, on account
of said road running diagonally through
it to wit about \$5000. that ~~the~~
compensation for damages for ~~the~~ ^{the} present
offered to said Robinson by Court of the
County Court of Logan County but
that he refused to accept them
that at the present term of the Logan County
Court the above named John Buckles
presented it to the County Court of Logan
County, which Court to be a "Petition"
asking for the removal of the present
road leading from Mt. Pleasant to Spring
field to ~~the~~ ^{the} said road from where it
strikes the South line of Section (75) in Town
(18) Range (3) to run ~~the~~ ^{the} same line ~~to~~
on said section line to the half section
line of Section 31 same Town & Range
then a 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~~ ^{therein} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~road~~ ^{road}
equal in ~~the~~ ^{the} ~~road~~ ^{road} ~~district~~ ^{district} ~~it~~ ^{it}

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Document 2-A (page 3 of 9)

said Road appeal did not sign said petition nor
did a majority of the voters living immediately
in the vicinity of said Road the great mass
mass of them knew nothing of said petition
till after it had been presented to the Court
& the views appointed which was done
at the June Term of said Court in 1857
Henry Spiller by Geo. H. B. & Co. & Co. & Co.
Spiller was said views - that at the
September Term of said County Court they
presented a Report in favor of the
change made for & you on the petition
presented a Report in favor of the
petition & signed by
nearly a 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 proceed-
ings therein were irregular informal insuffi-
cient & not according to Law & because
said change or alteration in said Road
is against the same interests in fact
of a large majority of the legal voters of
Logan County whose interests are much
affected by it but that said Court who
to consider said petition & said Report & change
& not understand & value that the
report be received & approved that
before said Court & you on the
appeal before the same & claim an appeal
to the Circuit Court of Logan County that
the same day the said Buckles was notified
that the day after that he proceeded
to fence up said Road that you on the
had neglected his appeal but is informed
believe that the said Buckles will not

Document 2-A (page 4 of 9)

respect the same but instead to proceed to
said road as if no such appeal
had been taken that the fencing up
of the same will be a serious injury to
the public both as supervisor of said
road & as one of the citizens of said
County of Logan & a great in con-
venience to many of the citizens
of said County that the road is to be
not as good as the former route
& that the right of way in 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 pro-
ceedings of the said Buckles & of the County
Court above described furnish no authority
to said Buckles to fence up said road
that said proceedings are all irregular in
fact & illegal - that the Petition does
not describe correctly the road said
Buckles is fencing up & is in other respects
very uncertain & insufficient that the
Report is so objectional for the reasons
that the Court erred in not considering
& hearing said Remonstrance that the
order of said Court does not direct
the opening of said road or changed
or direct the old route to be closed up
The Petitioner Remonstrance and Record
of said Court Report of Drivers &c parts of the



Document 2-A (page 5 of 9)

And you Creating Pamela Skinner in addition
to the facts set forth above by your brother
Samuel Le Beau in all which she concerns
& all which she owes to be true & which
also she charges as part of her complaint
alleges that she is the widow & one of the heirs
of Thomas R. Skinner late of Logan County
deceased the said Skinner having departed
his life in the winter of the year 1856 &
1857 & at the time of his death was the
owner 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)
Next that there is no in remembrance of any sort
in said tract of Land - that the said
Skinner left at his death as children
& now Mill that you Creating as widow &
one of the heirs of the said Thomas R. Skinner
is joint owner of the said tract of Land
that the said Road as originally located ran
obliquely 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 Parkish & the mouth of John
Crawkins lane as set forth in the foregoing
part of this Bill that by the removing &
opening up of the said Road ~~and~~ by the
said Bushlis as above set forth said
tract of Land is materially diminished

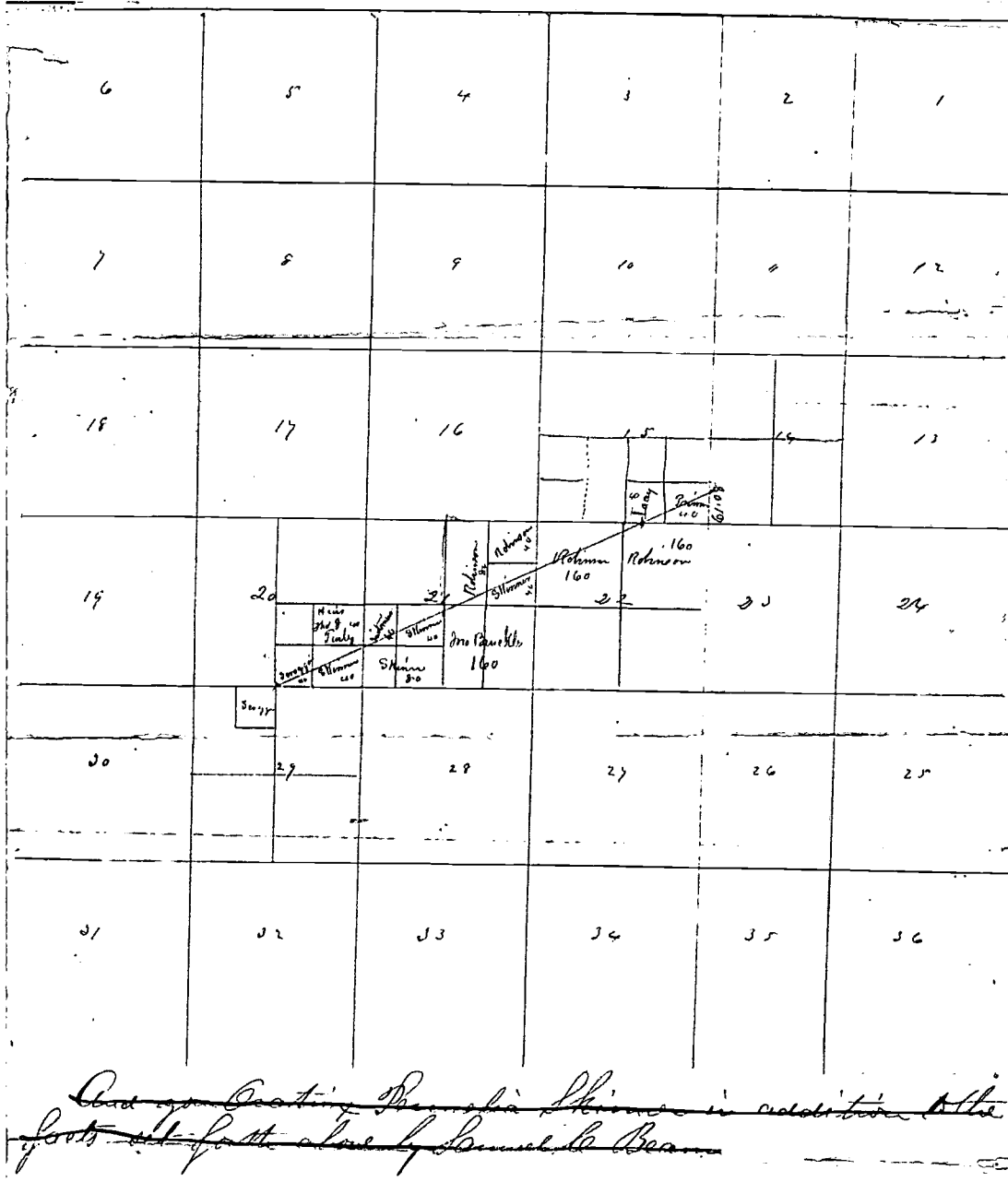
BEST COPY AVAILABLE

Document 2-A (page 6 of 9)

^{1st}
~~Docu~~
that by the said change & laying up of the
said Road said tract of land is entirely
laid up by the said Buckles and
John O'Leary & the other owners of said
~~land~~ ^{the brothers & sisters of the said}
Thomas R. Skinner have now and accept
to the same except over the fences and
lands of the said Buckles & those of 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 you & others
& the other heirs of the said Thomas R. Skinner
& that neither the said Thomas R. Skinner in his
lifetime nor any one claiming under him
has ever consented to the change of said Road
Buckles or his laying up the same or said
said tract of land but that they all
have been uniformly opposed to it
John O'Leary further over that there has been a
Road substantially the same or running over
about the same ground as the one laid
up by Buckles for said Road & that you
by which all the different owners of the above described
lands have had access to it but that since
said laying up they have no access at all
John O'Leary of the lands of the tract of said Road &
the lands over which it can be seen the change
by Buckles & the sale to him by Robinson



Document 2-A (page 7 of 9)



Document 2-A (page 8 of 9)

In tender consideration of all which your
Orators asked that your Honor will take
compassion of this matter that the said
John Buckles may be made party de
fendant to this Bill that justice
may issue in this case and that he
understand he is returnable & that he
may be required to answer all the
allegations of this Bill fully & punctually
& especially that a writ of injunction
may issue for the said John Buckles
restraining him his servants agents
& employees from going up & returning
to the said place & from taking up or in any way dam
aging interfering or changing said road
in the direction of Springfield as said
road was originally located opened and
worked under by and under the authority of
this County & here in County of Jasper
County as of record & as of record & grant
such other relief as the case shall
demand as in duty bound he well
knoweth that he is informed & believes that
the said John Buckles the Circuit Judge of
Jasper County at not more in said County
he therefore asked that the Master in Chancery
issue the writ or writs the issuing of
the writ prayed for above
Samuel C. Beam being of just duty
sworn that the above statement
is true to the best of his knowledge inform & Daniel C. Beam
attorney & be left in said Court before me
this 14th day of September A.D. 1857 Samuel C. Beam M.C.

Document 2-A (page 9 of 9)

State of Illinois
Sequoia County }
The Clerk of the Circuit Court
will please issue the writ prayed for
above for the sum of ~~the sum of~~
\$5000.
Saml. C. [Signature]
Master in Chancery
in & for Sequoia County

Document 2-A (transcription)

Beam & Skinner v. Buckles

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
Logan County

Of the September Term of the County Court A.D.
1857

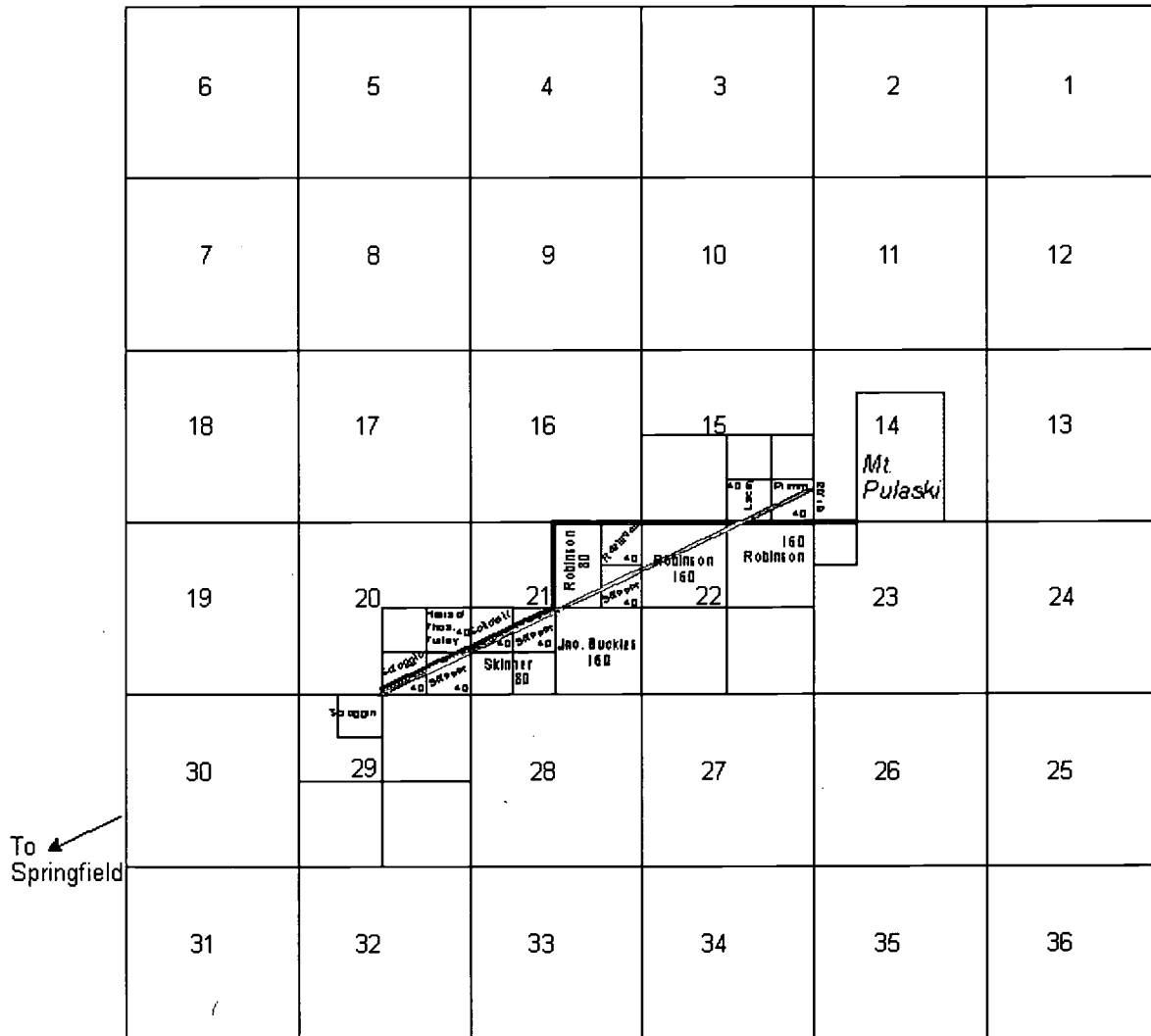
Humbly complaining sheweth unto your Honor your Orators Sam^l C. Beam ^ & Permelia Skinner^ that he ^the said^ Beam is a citizen & legal voter of Mount Pulaski in Logan County Illinois; that about two or three years since ^or more^ a County Road from the said Town of Mount Pulaski in said County to the 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 across ^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 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

Enhanced Transcription of Plat Map



- Property of John Buckles
- Property of Barton Robinson purchased by John Buckles in 1855
- Property of Heirs of Thomas R. Skinner
- Disputed 1857-58 Route
- 1862 Route

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 &c commanding &c returnable &c & 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 &c 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

Glossary Of Terms

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.

circuit court: a court that sits in more than one place in a judicial district.

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.

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

county: the largest territorial division for local government within a state of the United States.

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.

heir: a person who inherits property from a deceased person, usually a family member.

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

injunction: see writ of injunction.

migrate: to move from one country, place, or locality to another.

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.

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

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

prairie: level or rolling grassland, especially that found in central North America.

remonstrance: a formal protest against a court ruling.

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

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.

Illinois Agriculture and the Marketplace, 1830-1860

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' 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. A second case, *B. R. & J. Whitcomb v. Madden* (1854), involves a breach of contract stemming from a sudden increase in the market price for hogs.

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, Illinois' population 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' population was concentrated along the Mississippi, Wabash, and Ohio Rivers (see Map 1: Illinois in 1830 in the "Moving People through the Prairie State" lesson plan). 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 data from the 6th, 7th, and 8th United States Censuses (attached), which shed 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

- A. 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 the Ruling In Case*.
 - 2) Divide students into groups. Distribute as appropriate the various documents attached to this lesson from *Philip 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 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* 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?

B. Breach of Contract and the Price of Hogs: *B. R. & J. Whitcomb v. Madden* (1854). Teacher should use the chalkboard, a transparency, or PowerPoint to present the following case summary.

B. R. & J. Whitcomb v. Madden

Case Summary: In February 1852, the firm of B. R. and J. Whitcomb agreed to purchase from Wright Madden two hundred hogs weighing 180 pounds each for \$3.50 per one hundred pounds net. Madden was to deliver the hogs on or before December 25, 1852, and Benjamin R. and John Whitcomb would pay upon delivery. After Madden failed to deliver the hogs, Whitcomb and Whitcomb retained Abraham Lincoln and Ward Hill Lamon to represent them. Whitcomb and Whitcomb sued Madden in May 1853 for breach of contract and requested \$1,200 in damages. Madden retained Oliver L. Davis and John N. Drake to represent him. Whitcomb and Whitcomb claimed that the market price for the hogs had increased to \$6.50 per one hundred pounds net and that Madden’s failure to deliver the hogs thus cost them substantial profits. The parties reached an agreement, and in May 1854, Judge David Davis ruled for B. R. and J. Whitcomb and awarded \$8.33.

3. **You be the Judge.** Questions to ask:
- A. What would cause the price of hogs to increase so rapidly within ten months' time?
 - B. Is it possible that Madden broke his contract with the Whitcombs when he realized the price of hogs was increasing and that he could make a substantial profit by selling his hogs to someone else?
 - C. Offer a defense for Madden. Was he merely late delivering the hogs? Why should he not be held liable for a market price that was out of his control?
 - D. If Madden broke the contract by failing to deliver the hogs on time, why did the court award such low damages to the plaintiffs?
 - E. If the Whitcombs' case was based upon their speculations about the price of hogs, which may have been accurate, should Madden, in your opinion, have paid higher damages?
 - F. If you were hearing this case as an appellate judge, would you have concurred with or overturned the courts' rulings in *Philip Clark v. Bayless Lake* and *B. R. & J. Whitcomb v. Madden*?
4. **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. Consult the rubric to assess students' knowledge, reasoning, and communication skills.

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.

Sources and Materials

Transparencies of Illinois Agricultural Census Data: 1840, 1850, 1860

How to Analyze a Lincoln Legal Document

Document 3-A: Circuit Court Transcript, *Clark vs. Lake*, 1835

Glossary of Terms

Illinois Agricultural Census Data: 1840, 1850, 1860

1. 1840 – 6th Census of the United States

199,235 horses and mules
626,274 cattle
395,672 sheep
1,495,254 swine
\$309,204 poultry

3,335,393 bushels wheat
82,251 bushels barley
4,988,008 bushels oats
88,197 bushels rye
57,884 bushels buckwheat
22,634,211 bushels Indian corn
650,007 pounds wool
17,742 pounds hops
29,173 pounds wax
2,025,520 bushels Irish and sweet potatoes
164,932 tons hay
1,976 tons hemp and flax
564,326 pounds tobacco
460 pounds rice
200,947 pounds cotton
1,150 pounds silk cocoons
399,813 pounds sugar
134,549 cords of wood
\$428,175 dairy products
\$126,756 orchard products
474 gallons wine
\$993,567 value of family goods
\$22,990 nursery products

2. 1850 - 7th Census of the United States

5,039,545 acres improved farm land
6,997,867 acres unimproved farm land

267,653 horses
10,573 asses and mules
294,671 milk cows
76,156 working oxen
541,209 other cattle
894,043 sheep
1,915,907 swine

9,414,575 bushels wheat
83,364 bushels rye
57,646,984 bushels Indian corn
10,087,241 bushels oats
841,394 pounds tobacco
82,814 bushels peas and beans
157,433 bushels sweet potatoes
184,504 bushels buckwheat
10,787 bushels flaxseed
248,904 pounds maple sugar
869,444 pounds beeswax and honey
2,997 gallons wine
12,526,543 pounds butter
1,278,225 pounds cheese
601,952 tons hay
2,150,113 pounds wool
2,514,861 bushels Irish potatoes
110,795 bushels barley
160,063 pounds flax
47 pounds silk cocoons
8,354 gal. Molasses

3. 1860 – 8th Census of the United States

13,096,374 acres improved farm land
7,815,615 acres unimproved farm land

563,736 horses
38,539 asses and mules
522,634 milk cows
90,380 working oxen
970,799 other cattle
769,135 sheep
2,502,308 swine

23,837,023 bushels wheat
951,281 bushels rye
115,174,777 bushels Indian corn
15,220,029 bushels oats
6,885,262 pounds tobacco
1,482 bales of cotton (400 pounds each)
1,989,567 pounds wool
108,028 bushels peas and beans
5,540,390 bushels Irish potatoes
306,154 bushels sweet potatoes
1,036,338 bushels barley
324,117 bushels buckwheat
\$1,126,323 orchard products
50,690 gallons wine
28,052,551 pounds butter
1,848,557 pounds cheese
1,774,554 tons hay
18,831 bushels clover seed
7,254 pounds hops
1,502 tons hemp
48,235 pounds flax
8,670 bushels flaxseed
1,545 pounds silk cocoons
134,195 pounds maple sugar
20,048 gallons maple molasses
806,589 gallons sorghum
56,730 pounds beeswax
1,346,803 pounds honey

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?

Synthesis: Illinois History and the Rule of Law

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 relationship between *where* something happened and *what* happened?

Does this document include any "quotable-quotes," or examples of a regional speech or period expressions?

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

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

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

Document 3-A (page 1 of 8)

State of Illinois
Jangamon County
Filed before the Circuit Court in and for
said County & State.

As it remembered that on the
23^d day of August 1834, the following process was filed
in the Clerk's Office of said Court to wit
Jangamon County Circuit Court
Philip Clark vs
Bayle Lake
Intrap on the case for destroying plaintiff's boat
& cargo. Damages \$2,000 -
C. R. Matheny Clk. C. Court.

Specie summons as above
returnable to the next term.

Aug. 23^d 1834. Logan & others plaintiffs Attys.
And afterwards to wit on the 23^d day of August 1834, the following
summons was issued to wit:

"The People of the State of Illinois,
to the Sheriff of Jangamon County, Greeting:
You are commanded to summon Bayle Lake to be
appear before the Circuit Court in Jangamon County
on the first day of the next term, to be holden at Springfield
on the second Monday in the month of September next,
to answer Philip Clark in a plea of trespass on the
Case for destroying plaintiff's boat & cargo, damages \$2,000 -
And have you then there this writ. Witness the Honorable
Samuel B. Lockwood, Judge of our said Court at
Springfield, this 23^d day of August 1834 -
C. R. Matheny Clk. C."

On which summons is the following endorsement to wit:
"Executed August 26th 1834 ac. to law - done as directed by the Attorney General
G. Elkin Clk. C."

And afterwards to wit on the 23^d day of August 1834, the following
declaration was filed in the Clerk's Office
of said Court to wit:

413-13

Autograph Document Signed, David Prickett, Circuit Court Transcript, 2 December 1835, Illinois
Supreme Court case files, Illinois State Archives, Springfield, Illinois.

Document 3-A (page 2 of 8)

"State of Illinois
Sangamon County Circuit Court
Philip Clark Complainant of Bayliff Lake in
County vs. of a plea of Infring on the Case, For that whereas
by an act of the people of the State of Illinois represented in
the General Assembly entitled "An act declaring the Sangamon
River a navigable stream" Approved December 26 -
1828, its is enacted as follows: "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 meander be and the same is hereby declar-
ed a navigable stream that no dam of any descrip-
tion or other obstruction shall be placed in the River
so as to impede the navigation thereof or drive the
the water from its natural channels so as to
overflow the bottoms or produce stagnant waters
in any place" and whereas after the making
of the act and by virtue thereof up to and
after the time of committing the several grievances
herein after mentioned the said Sangamon River
from its mouth following the main channel to
the third principal meander was and of right
ought to have been a navigable stream and was
and of right ought to have been a public highway
and was and of right ought to have been free and
open for all the good Citizens of the State of Illinois
and others to navigate the same to the territory
from any obstructions with their Canoes, Skiffs, pro-
pellers, flat Boats barges and other Boats and
wharves neither the said Defendant nor any
other person had any right to obstruct or impede
the navigation of the said Sangamon River from its mouth
following the main channel to the third principal

BEST COPY AVAILABLE

Document 3-A (page 3 of 8)

Murdered by the erection or Maintenance of any Mill
Mill dam, Mill house, abutment, butrap Mill wheel
or any other thing. And whereas before and at the time
of committing the several Grievances hereinafter mentioned
the said Plaintiff had a flat bottomed boat of Great
burthen laden with a large quantity of Corn, bound to go down
the said navigable stream towards the Sangamon River
the said Plaintiff being bound to go down the said
said the third principal provisions following the main
Channel thereof on the 15th day of April 1834 at the
State, County, and Circuit aforesaid - but the said
defendant well knowing the provisions but contrary
ing and wrongfully and unjustly intending to injure
and prejudice the said Plaintiff in this respect
did to his private use and benefit of
the said navigable stream and to delay hinder
and detain the Plaintiff in navigating the said
Sangamon River with his said flat bottomed
boat laden as aforesaid and to private detain
and destroy the said flat bottomed boat and the
Corn laden therein on the said 15th day of April
1834 and at the State, County, and Circuit aforesaid
did erect and make in upon and across the
main Channel of the said Sangamon River
between the mouth thereof and the third prin-
cipal provision one Mill dam, one Mill
house, one well wheel with long arms there to
two abutments whereby the navigation of the said
navigable stream toward was partly impeded &
totally obstructed and the same so made and
erected did keep and continue from that day
to the commencement of this suit By reason
whereof whilst the said flat bottomed boat of the Plaintiff
with the large quantity of Corn aforesaid was descend-
ing the navigable stream aforesaid toward the Sangamon

612-17



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river between its mouth and the third principal
residence the said plaintiff with his flat bottom
boat aforesaid loaded with the large quantity of corn
aforesaid was stopped delayed hindered and detained
from proceeding on down the said navigable
stream by the mill dam, mill horse, mill wheel and
abutments of the plaintiff aforesaid in and upon
and across the navigable stream aforesaid and
wholly also the plaintiff lost the advantage of
proceeding to market with his said boat loaded
with corn to wit on the said 15th day of April
1834 at the state county and circuit aforesaid and
wholly also the plaintiff's said boat loaded
with corn as aforesaid has been hindered
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
said afternoon to wit on the 20th day of April
1834 at the state county and circuit aforesaid
sunk and was destroyed in the said range
- river and the said boat and all the
corn of the plaintiff aforesaid loaded thereon
was wholly lost and destroyed to wit by reason
of said hindrance delay and detentions
aforesaid. By means of all which the plain-
tiff hath been injured & sustained damages
to \$2000 and therefore he prays the

D. Attest H. S. Johnson

And afterwards to wit on the 31st day of November 1834
the following order was entered, to wit:

Philip Clark }
or } Trustee on this case.
Bayley Baker }

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Document 3-A (page 5 of 8)

By Consent of the parties, this cause
& is continued until the next term of this Court."
And afterwards, to-wit, on the 11th day of March 1835,
the following proceeding was had, viz:

"Philip Clark }
vs } T. D. C.
Rayles Lake } Continued."

And afterwards, to-wit, on the 8th day of July 1835 the
following order was entered, to-wit:

"Philip Clark }
vs } In Case.
Rayles 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.

And afterwards, to-wit, on the 9th day of July 1835, the fol-
lowing & similar was filed in the clerk's office of said Court:

"Clark }
vs } Of the special July Term of the Circuit
Lake } Court for Sangamon County

And the said defendant comes & defends
the wrong & injury, when he says he is not guilty
in manner of form as the plaintiff hath above thereof
in his said declaration, complained against him, & that
he pray may be enquired of by the Country if
the plaintiff likewise. Sheriff & Deacons A. D. S.

Walter J. J.

And afterwards, to-wit, on the 10th day of July 1835, the
following proceeding was had, to-wit:

"Philip Clark }
vs } Disposed on this case.

Rayles Lake } This day came the parties, by their
attorneys, and it is commanded that
a jury come to try the issues joined between the parties

(117-9)

Document 3-A (page 6 of 8)

and thereupon came a jury to wit: James Saylor, Elijah Duncan, William Ramsey, Alexander Garrett, Alexander Ritchey, Joseph Bondurant, Joseph Whitney, Hugh M. Armstrong, Charles Morgan, James W. Keys, Robert Sattley, & George Stout, who being impeached tried and sworn, well truly to try the issue joined in aforesaid, and having heard the evidence adduced by the parties and part of the argument of Counsel and it being too late to proceed further with the trial, were adjourned over until tomorrow morning eight o'clock.

And afterwards to wit, on the 11th day of July 1835 the following proceeding was had, to wit:

"Philip Clark
vs
Wayles Lake } Disposal on the case.
This day again came the parties by their attorneys, and thereupon came the jury sworn in this cause on yesterday to wit: James Saylor, Elijah Duncan, William Ramsey, Alexander Garrett, Alexander Ritchey, Joseph Bondurant, Joseph 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."

And afterwards to wit, on the 17th day of July, 1835, the following proceeding was had, to wit:

"Philip Clark
vs
Wayles Lake } In Case.
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

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Document 3-A (page 7 of 8)

ordered to be made part of the record; which bill
of exceptions is as follows to-wit:
3 Grants }
as } In Case
Lake } 3

But it remembered that on the trial of
this case the plaintiff gave evidence tending to
prove that he built a flat hollowed 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 obstructions) that said plaintiff descended
the Sangamon River (intending to go to the lower
markedatches or Orleans) till within 3 quarters of
a mile of the defendants mill dam on said River when
he stopped upon knowing the pound of the mill and went
to examine the obstruction: that the defendant had previously to
his time & after the passage of the law, read to and
plaintiffs declaration (which plaintiff also read to the jury)
and 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 meander 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 bottom or produce stagnant waters in any place; that
enacted said dam and mill and was the owner thereof which
impeded the navigation of said River and was between the
3rd meander referred to in the said law and the mouth of
the river that owing to said dam impeding the navigation
of said river plaintiff could not descend with said boat
and load & was obliged so that the water fell & the plaintiffs
boat in consequence was sunk & Corn lost by being
driven out: that said Corn was worth when it was lost
[118-5]

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Document 3-A (page 8 of 8)

12 1/2 cents per bushel and at the lower market of
said about 75 Cts per Bushel -
After the foregoing evidence had been given the Defendant
wrote a writup whether there was not another mill dam
across said river below the defendants mill dam and
in relation of said lowe which was higher than the
defendants mill dam and whether said lowe dam
would not have prevented plaintiff from proceeding
to the lower market, & whether and when as it was to
in the season and no other time might take
place in the river during that season, some of
the plaintiff could have gone over the Defen-
dants mill dam, to which the plaintiff com-
plained, but the Court overruled the objection
and permitted the questions to be asked & the
defendant to prove that fact to the Jury by said
writup to which opinion & judgement of the Court the
plaintiff by his counsel excepts & prays that this his bill
of exceptions may be ~~granted~~ ~~granted~~ ~~granted~~
granted & which is done accordingly

Richard M Young *Richard M Young*
Residing at St. Louis of the Sangamon Circuit
by exchange &c - "

State of Illinois
Sanjamon County
I David Pickens Clerk
of the Circuit Court in
and for said County & State do hereby
Certify the foregoing to be a true &
perfect transcript of the case of
Philip Clark against Bayless dated
as appears of Record in my Office.

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Document 3-A (transcription)

Clark v. Lake

Case Summary: In 1822, the legislature passed an act declaring the Sangamon River navigable between its mouth and the third principal meridian and prohibiting dams or other obstructions that would impede navigation. On April 15, 1834, Bayless Lake's mill dam impeded Philip Clark's flatboat, which was loaded with 2,500 bushels of corn, en route to Natchez or New Orleans. Five days later, the flatboat sank, destroying the corn. Clark retained Cyrus Walker, Daniel Stone, and Stephen T. Logan to represent him. In September 1834, Clark sued Lake in a common law suit and requested \$2,000 in damages, claiming that the corn was worth \$0.12 per bushel in Illinois and \$0.75 per bushel in the "lower markets." Lake retained John Todd Stuart and Henry Dummer and pleaded not guilty. Lake presented a witness who testified that a second dam, downstream from Lake's, likewise would have impeded the boat. The jury found Lake not guilty in July 1835, and Clark appealed to the Illinois Supreme Court on the grounds that the court should have sustained his objection to Lake's witness. In December 1835, the supreme court agreed and reversed and remanded the case. Justice Samuel D. Lockwood reasoned that the circuit court should only admit such testimony in mitigation of damages, but Clark had not sought to recover damages for an amount greater than the boat and the corn's value. Lockwood wrote that the testimony led the jury to believe "that if the plaintiff could have passed the defendant's dam he would not have been benefitted by it, as he inevitably would have been stopped by the lower dam down the river." However, the law was "well settled" that every person obstructing a public highway was "liable for all the injuries that result from it." The lower court should have rejected the testimony because it failed to prove the issue and was "calculated to lead the jury astray." The parties later reached an agreement at the remanded trial, and in March 1839, the court dismissed the case at Lake's cost. Abraham Lincoln assisted Stuart at the remanded trial.

Circuit Court Transcript (excerpts)

2 December 1835

[*Praeipie*]

Sangamon County Circuit Court

Philip Clark

vs

Bayless Lake

To C. R. Matheny Cl[er]k. C[ircuit]. Court

Issue Summons as above returnable to the next term.

Aug. 23^d 1834.

Trespass on the case for destroying pl[ain]t[iff]'s
boat and Cargo. Damages \$2000.

Logan & Stone pl[ain]t[iff]s att[orne]ys.

[Summons]

The People of the State of Illinois

To the Sheriff of Sangamon County, Greeting:

You are commanded to summon Bayless Lake to be & appear before the Circuit Court of Sangamon County on the first day of the next term, to be holden at Springfield, on the second monday in the month of September next, to answer Philip Clark in a plea of trespass on the case for destroying plttfs boat & cargo, damages \$2,000.

And have you then there this writ. Witness the Honorable Samuel D Lockwood, Judge of our said Court at Springfield, this 23^d day of August 1834.

C. R. Matheny clk.

[Sheriff's Return]

Executed August 26th 1834 ac[cor]^d[ing] to law. Service 50. travel 12 M[iles]. 75. returning 12 ½

G. Elkin Sh[eriff] S[angamon]. C[ounty].

[Declaration]

State of Illinois

Of September Term 1834.

Sangamon County & Circuit Sc[ilice]t

Philip Clark complains of Bayless Lake in custody &c of a plea of Trespass on the Case. For that whereas by an act of the people of the State of Illinois represented in the General Assembly entitled "An act declaring the Sangamon River a navigable stream" "Approved December 26, 1822" it is enacted as follows towit, "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 maridian 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 the water from its natural channel so as to overflow the bottoms or produce stagnant waters in any place" and whereas after the making [and the pa]ssing of the act and by virtue thereof up to and after the time of committing the several grievances hereinafter mentioned the said Sangamon river from its mouth following the main channel to the third principal meridian was and of right ought to have been a navigable stream and was and of right ought to have been a public highway and was and of right ought to have been free and open for all the good citizens of the State of Illinois and others to navigate the same at all [times] from any obstruction, with their Canoes, skiffs, pirogues, flat Boats barges and steam Boats. And whereas neither the said Defendant nor any other person had any right to obstruct or impede the navigation of the said Sangamon river from its mouth following the main channel to the third principal meridian by the erection or maintenance of any mill mill dam, mill house, abutment, but^tress mill wheel or any other thing. and whereas before and at the time of committing the several grievances hereinafter mention[ed] the said plaintiff had a flat Bottomed boat of Great [^][va]lue towit of the value of \$150 loaded with a large quantity of corn, towit 2500 bushels of corn the prop[erty] [. . .] plaintiff of [great][^] [. . .] of the value of \$500 proceeding in and up the said navigable stream between the mouth thereof and the third principal meridian following the main channel thereof towit on the 15th day of April 1834 at the state, county, and circuit aforesaid. Yet the said defendant well knowing the previous but contriving and wrongfully and unjustly intending to injure and prejudice the said plaintiff in this respect and to deprive him of the use and benefit of the said navigable stream and to delay hinder [a]nd detain the plaintiff in navigating the said Sangamon River with his said flat

bottomed boat loaded as aforesaid and to sink detain and destroy the said flat bottomed boat and the corn loaded therein towit on the said 15th day of April 1834 and at the state, county, and circuit aforesaid did erect and make in upon and across the main channel of the said Sangamon River between the mouth thereof and the third principal meridian one mill dam, one mill house, one mill wheel with long arms thereto & two abutments whereby the navigation of the said navigable stream towit was greatly impeaded & totally obstructed and the same so made and erected did keep and continue from that day to the commencement of this suit. By reason whereof whilst the said flat bottomed boat of the plaintiff ^loaded^ with the large quantity of corn aforesaid was decending the navigable stream aforesaid towit the Sangamon river between its mouth and the third principal meridian the said plaintiff with his flat bottomed boat aforesaid loaded with the large quantity of corn aforesaid 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

Lake

Of the Special July Term of the
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

Bayless Lake

Trespass on the case.

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

Bayless Lake

Trespass on the case.

This day again came the parties by their attorneys, and thereupon came the jury sworn in this cause on yesterday towit: 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 towit: "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

Bayless Lake

In case.

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 obstructions) 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 stopped 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 [referred 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" having erected said dam and mill and was the owner thereof which impeded the navigation of said River and was between the 3rd meridian referred to in the said law and the mouth of the river that owing to said dam impeding the navigation of said river plaintiff would not descend with said boat and load & was stopt 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 excepts & prays that this his bill of exceptions may be [signed] sealed [and] enrolled & which is done accordingly

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

Glossary Of Terms

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

barter: exchange of goods or services without the use of money.

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

breach of contract: the failure to do what one has promised to do in a formal agreement.

bushel: a unit of dry measure equal to 32 quarts or 35.24 liters.

channel: the bed where a natural stream of water flows; the deeper part of a river.

commodity: anything bought or sold, an article of commerce; any basic item or product of agriculture or mining.

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

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.

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.

execute: to complete a task.

impanel: to choose individuals to serve on a jury.

impede: to obstruct or slow down.

inflation: a continuing rise in the prices of goods and services.

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.

meridian: a line from which degrees of longitude are measured on a map or globe.

navigable: deep enough and wide enough to allow boats or ships to pass.

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

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

piroque: any canoe-shaped boat.

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

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

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

presiding: to occupy the place of authority.

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

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

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

shortage: a lack in the quantity or amount needed or expected.

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.

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

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.

supply: the amount of a good or service that a producer will offer at a given price.

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.

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.

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.

Material Culture on the Prairie

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. See the Glossary attached at the end of the lesson 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/Bill of Appraisement*.

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

3. **You be the Judge:** Finding Evidence of Life on the Prairie and in Springfield.
- 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?
 - Which household appears to have accumulated more wealth?
Teaching Opportunity: Ask students to locate on the worldwide 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 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 1998 values. For example, \$2.00 in 1848 is equivalent to \$30.00 in 1998. Students can also use a calculator to add up the value of the objects in the respective inventories.
 - What inferences can you make about the education levels of the two families based on the materials they owned?
 - 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?
 - What kinds of objects were found in both households? Why might a rural and an urban household have the same sorts of objects?
 - 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. For both assignments, consult the rubric to assess students' knowledge, reasoning, and communication skills.

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)?

Sources and Materials

Analyzing a Lincoln Legal Document: An Estate Inventory/Bill of Appraisement

Document 4-A: Estate Inventory, *Bevans v. Brown*, 1838.

Document 4-B: Bill of Appraisement, *McGraw v. Adams et al.*, 1843.

Glossary of Terms

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.

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?

Document 4-A (page 1 of 3)

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. McKim Appraisers appointed by the Probate Court of said County by James A. Brown Administrator of said Estate, this the 27th day of March 1838.

One Table	3 00
One Trunk and Chest	3 00
One Bedsted	6 00
One Bed and Furniture	20 00
Four Chairs	2 00
Cupboard Ware	2 50
One Bedsted Bed and Bedding	15 00
One Lot of Lin Ware	1 25
One Table Can, 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 Contracts	2 50
One Piece of Domestic Cotton Lin Yards	1 00
One Plough	4 00
One Plough	50
One Splitting Wedge, Ring, Wedge and Nib	1 00
One Lot of Bacon Five hundred and fifty nine lbs	28 45
One Axe	1 25
Six Mill Bags	6 00
Seven Bushels and one half of Wheat	7 00
Twenty Six Bushels of Corn put at Home	7 20
Twenty Bushels of Corn	19 00
One Wagon	30 00
One steer three years old	10 00
One Bay Mare	60 00
One Black 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

Autograph Document Signed, James Adams, Estate Inventory, 27 March 1838, Illinois Regional Archives Depository, University of Illinois at Springfield, Springfield, Illinois.

Document 4-A (page 2 of 3)

One Pot and Kettle	4 00
One Spade	3 75
Three plows	50
Five Barrels and one Cag	1 00
One Magon sheet	1 50
One Sallow	50
One Black Mare	50 00
One Steer three years old	10 00
One Red Heifer	8 00
One Spectated Cow	8 00
One Red Heifer one year old	4 00
One Red Yearling Heifer	2 00
Twenty seven Hogs in one Lot	32 75
Six Sheep	14 25
One Kettle	3 00
One Dry Hide	1 00
One Hoghead and Saw Barrels	1 50
Timothy Seed	1 25
Two Mending Hoes and Grinding Hoe	1 50
One Doubletree Singletree and Clinis	3 00
One Shovel Plow	1 50
One saddle and two Bridles	19 00
One Bludge Bridle	1 50
One Lot of Old Irons	50
One Pair of Harness	3 75
One Cutting Box and Knife	3 00
One Mowing Sleigh	75
One pair of Sheep shears and Shoe Hammer	1 00
One Pair of steyards 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

Salt	1.50
One Rifle Gun	19.00
One Lot of Lead	5.00
One Gray Horse	85.00
One Span of Work Cattle	75.00
Total	<u>\$177.77</u>

Given under our hands and seals the day and year aforesaid

William H. Smith Esq.
 Jas. D. Smith Esq.
 James Barrett Esq.

State of Illinois
 Sangamon County 4th Dec

These are to certify all whom it may concern that the foregoing is a true copy of the Inventory and appraisement of the personal property of John Bevan 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.

see
 Adam D. P. E.

Document 4-A (transcription)

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 Si[e]ve		62½
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 Speckeled 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
		<u>75 00</u>
		<u>\$617 77</u>
	Total	

Given under our hands and seals the day and year aforesaid

William H. M ^c Millan	<u>L.S.</u>
Ja ^s D. Smith	<u>L.S.</u>
<u>James Barret</u>	<u>L.S.</u>

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 appraisalment 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[robate] J[ustice of the] P[ease].
S[angamon]. C[ounty]

Document 4-B (page 1 of 4)

Inventory & Appraisement of the goods chattels
 & personal estate of James Adams dec'd of
 Sangamon County state of Illinois app-
 raised by A. G. Ellis Thilo Beers & Jacob
 Wivelbiss on this 4th day of September 1843.

Description of Property	Valuation
1. Wooden clock	\$7.00
1. Cloth 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. Stool	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. Satt Harness	25.00
1. Side Saddle	10.00
1. Doz Carpenter tools	2.50
2. Common Bedsteads	2.00
1. Wash stand	1.00
3. Fancy post Bedsteads	15.00
15. Yds rag Carpet at 2.00	3.00
25. Yds ingrain carpet at 40	10.00
1. Satt silver table Spoon	12.00
1. " " Tea "	5.50

Autograph Document Signed, Noah W. Matheny, Inventory, 4 September 1843, Illinois Regional Archives Depository, University of Illinois at Springfield, Springfield, Illinois.

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Document 4-B (page 2 of 4)

1. Lot - Cupboards wren including bottles & lamps	\$20.00
1 Lot - Kitchen furniture washing tubs, buckets	20.00
1 Lot - Barrels jars &c in Sells	7.00
	<u>273.75</u>
1. Large Chair	1.00
2. Stools	3.00
3. Venetian window blinds	2.00
3. " " "	1.00
1. Saddle	3.00
2. Pitch forks	1.00
1. Double Wagon	60.00
1. Bay Horse	60.00
1. Buggy Wagon	30.00
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. Berkshire Boar	4.00
1. Cow or Shoats	10.00
3. Cows & 1 calf	14.00
5- 8rs ruled paper	1.75
5- " blank "	1.00
1. Lot of Law & other books	40.00
twist 9 vols American State papers	
2 " Yellow practice 1 vol Chittys on bills	
4 " Branches Reports	
3 " Copinassus Reports	
4 " Dallas reports	
1 " Gilberts Equity	
1 " Sand Laws	
6 " Jacobs Law dictionary	
5- " Laws of - A. U. States	

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Document 4-B (page 3 of 4)

1 .. Runcington on Ejectment
1 .. Gilbert on Wills
1 .. Laws on pleading
1 .. Pleadings assistant
1 .. Gilbert on Evidence
1 .. Shendons Dictionary
1 .. Adisons reports
1 .. Montagu on set off
4 .. Burns Justice
1 .. Roberts on Grounds
1 .. Bullers Mississippi
2 .. Douglas reports
1 .. Browns circuit-companion
2 .. Maddocks Chancery
1 .. Brezys Reports
1 .. Clarks assistant
1 .. Johnsons Digest
2 .. Hales pleas of the Crown
1 .. Harrison Chancery
1 .. Neasons Dictionary
1 .. Christian Baptists
1 .. Bible
15 .. Journals of Elwell, Home Reports &
unbound miscellaneous books
1 .. Maps of Ills
7 .. Vicks work

We certify the foregoing to be a true inventory &
appraisement of the personal property of James
Adams deceased of Sangamon County as ap-
praised by us on the 4th day of September 1843
Given under our hands & seals the day
& year aforesaid
A. Y. Ellis
Jacob W. D. [Signature]
Philo Beers [Signature]

BEST COPY AVAILABLE

Document 4-B (page 4 of 4)

State of Illinois of I have examined each of the
Laysman to only 3 County Court for same county do
certify that the within is a true copy of the Will
of appraiser of the personal property of James
Adams dead as the same appears by an file
in my office
Given under my hand
and seal of office at Springfield
this 21st day of Nov 1853
Wm Maitland cr

James Adams
Appraiser - Will
Copy

Filed Nov 26, 1853
J. H. Mathey clk.

See file

BEST COPY AVAILABLE

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 & Appraisalment 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	<u>7.00</u>
	273.75
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

Glossary Of Terms

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.

chattel: an item of movable property.

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

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

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.

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.

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.

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

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

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

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

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

neb: a projecting end or point.

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

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

rural: characteristic of the country, of country people, or of farming.

scilicet: “to wit”; that is to say.

settee: a small sofa with a back and arms.

shoat: a young, weaned pig.

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.

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.

timothy: a type of grass grown for hay.

urban: characteristic of the city or of city people.

yearling: a one-year-old animal.

Social Role and Status: Marriage on the Illinois Prairie

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, 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*, is attached at the end of this lesson plan 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 the Interviewing Guide may be kept on file for other students to draw upon for study and research.
- 2) Drawing on the Interviewing Guide, 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*.

- 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 the 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.

A. 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?

B. When Young People Fell in Love: Authorizing a Marriage. Create a transparency of Document 5-D, Express Authority (1837). In this legal document, attested to by Abraham Lincoln, Crawford Dalby authorizes the marriage of his daughter. Note: This document addresses what lawyers called a “non-adversarial matter.” That is, there are no plaintiffs or defendants involved in this legal issue. Nevertheless, non-adversarial matters were an important part of most lawyers’ daily work. It was the responsibility of a lawyer to advise a client what to do even in non-adversarial matters. Working in groups:

- 1) Ask fellow students to explain why a legal authorization may have been necessary. (In fact, the daughter, Hester, was a minor).
- 2) Ask fellow students why Hester was considering marriage at an age that was young enough to warrant her father’s approval. (Perhaps marriage at a young age was not uncommon in the 1840s; perhaps the marriage was necessary for the survival of a family farm; perhaps she was simply in love with Edward Tyler.)
- 3) Acting as a judge or lawyer, what advice would you give to a person who was seeking a legal authorization for one of his younger children to marry?

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. See the rubric provided with the *Lincoln Legal Papers Curriculum* for the assessment of students’ knowledge, reasoning, and communication skills.

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 Data Base 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 Discovery 1A above.)

Materials

Back in the Old Days: An Interviewing Guide

Analyzing a Lincoln Legal Document

Document 5-A: Bill for divorce, *Bancom v. Bancom*, 1842

Document 5-B: Bill for divorce and affidavit, *McCrea v. McCrea*, 1855

Document 5-C: Bill for divorce, *Waddell v. Waddell*, 1853

Document 5-D: Express Authority, 1837

Glossary of Terms

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

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?

Synthesis: Illinois History and the Rule of Law

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 relationship between *where* something happened and *what* happened?

Does this document include any "quotable-quotes," or examples of a regional speech or period expressions?

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

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

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

Document 5-A (page 1 of 2)

To the Honorable the Judges of the Sangamon Circuit Court in Chancery City.

Humly Complaining, I sheweth unto your Honor, your Orator, Betty Plamson, that on the day Feb. 12, about twenty four years ago next February, she was lawfully married to one John Plamson, whom she prays may be made a party to this bill as defendant, & that after 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 ~~the happy~~ ^{they} resided for ~~two~~ ^{two} years & upwards from ~~the time~~ ^{the time} they resided here or there ~~in the County of Wayne~~ ^{in the County of Wayne} when they resided here or there ~~years, & removed from thence to the County of Madison~~ ^{years, & removed from thence to the County of Madison} when they resided ~~in the County of Madison~~ ^{in the County of Madison} until the year 1838, ~~when they~~ ^{when they} ~~separated~~ ^{separated} and ~~she~~ ^{she} ~~has~~ ^{has} ~~since~~ ^{since} ~~been~~ ^{been} ~~separated~~ ^{separated} from her said husband without any reasonable cause, & has ever since ~~been~~ ^{been} ~~separated~~ ^{separated} from him; & she further sheweth that from the time of her ~~said~~ ^{said} ~~marriage~~ ^{marriage} until the ~~death~~ ^{death} ~~of~~ ^{of} her said husband ~~in~~ ⁱⁿ ~~1838~~ ¹⁸³⁸, she continued to live with her husband, all the time performing all the duties of an affectionate and obedient wife - She also sheweth that while she & her said husband lived together ~~she~~ ^{she} ~~had~~ ^{had} ~~children~~ ^{children} by him; ~~the~~ ^{the} ~~names~~ ^{names} ~~of~~ ^{of} ~~said~~ ^{said} ~~children~~ ^{children} ~~are~~ ^{are} ~~as~~ ^{as} ~~follows~~ ^{follows}, ~~to~~ ^{to} ~~wit~~ ^{wit}, ~~John~~ ^{John} ~~Shelton~~ ^{Shelton}, ~~Pericia~~ ^{Pericia} ~~James~~ ^{James}, & ~~William~~ ^{William} ~~Brown~~ ^{Brown}.

She has supported & maintained said children as well as she had them ~~possessed~~ ^{possessed} by her own labor, & that her said husband never contributed in any way to their support; and your Orator also sheweth that her said husband, has treated her with violence & impudently cruelty, for two years next preceding the ~~month~~ ^{month} ~~of~~ ^{of} ~~September~~ ^{September} ~~1841~~ ¹⁸⁴¹ ~~and~~ ^{and} ~~also~~ ^{also} ~~that~~ ^{that} ~~her~~ ^{her} ~~said~~ ^{said} ~~husband~~ ^{husband} ~~was~~ ^{was} ~~addicted~~ ^{addicted} ~~to~~ ^{to} ~~habitual~~ ^{habitual} ~~drunkenness~~ ^{drunkenness} ~~for~~ ^{for} ~~the~~ ^{the} ~~space~~ ^{space} ~~of~~ ^{of} ~~two~~ ^{two} ~~years~~ ^{years} ~~next~~ ^{next} ~~preceding~~ ^{preceding} ~~the~~ ^{the} ~~time~~ ^{time} ~~last~~ ^{last} ~~before~~ ^{before} ~~and~~ ^{and}; & your Orator also sheweth that since the ~~time~~ ^{time} ~~last~~ ^{last} ~~before~~ ^{before} ~~and~~ ^{and}, ~~on~~ ^{on} ~~the~~ ^{the} ~~day~~ ^{day} ~~of~~ ^{of} ~~September~~ ^{September} ~~12~~ ¹², ~~1841~~ ¹⁸⁴¹ she

Document Signed with a Mark, Bill for Divorce, 13 September 1842, John Hay Library, Brown University, Providence, Rhode Island.

BEST COPY AVAILABLE



Document 5-A (page 2 of 2)

Am descended to the County of De Witt and State of
 Illinois, and your Oration the date, that during the month of
 August, 1841, she separated from her husband, who had refused to
 take her back, when she was confined for his children at the Court House, & from
 his wife that he would take her to the Court House, & that she
 was then confined in the Court House, & she is afraid of the
 Court Council to take her back, & she is afraid of the Court Council
 to take her back, & she is afraid of the Court Council to take her back.

I pray that the People's Court of De Witt County, Ill. and
 that the said defendant be required to answer on
 his corporate oath, all & singular the allegations
 of this bill; & that on a final hearing
 of this cause, your Honor will decree that
 the bonds of matrimony, heretofore and now existing
 between said defendant, & your Oration be
 forever dissolved; & that your Oration be
 deemed 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 bound.

her
 Attorney General
 Charles
 Plaintiff

Signed & sealed
 at De Witt
 this 18th day of
 September A.D. 1841
 Nathaniel Clark

BEST COPY AVAILABLE



Document 5-A (transcription)

Bancom v. Bancom

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

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137

Document 5-B (page 1 of 2)

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

Humbly Complaining your Petitioner
McBrea would show unto your Honor that she
was in a manner with the Deceased McBrea 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 has to have 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 reasonable or
just cause wholly abandoned your
Petitioner and deserted her, and during
the whole time of his Said desertion
your Petitioner has supported a household
with and a assistance from her
Said husband,

In Under Consideration of
your Petitioner prays that a subpoena
in Chancery may issue for David DeFuni
dant, that Said Charles McBrea be

Document Signed, Elliott B. Herndon, Bill for Divorce and Affidavit, 9 January 1855, Illinois Regional
Archives Depository, University of Illinois at Springfield, Springfield, Illinois.

Document 5-B (page 2 of 2)

party defendant to this bill of Complaint
that he be required to answer the
allegations herofore fully and particularly
as though specially interrogated thereto
and that your Honor would render a
decree dissolving the bonds of matrimony
between her and her said husband
and that such other and further relief
be granted your Honoring as her case
may require.

W. H. Herndon
Att. for Compl.

Stacey McCrea
Charles McCrea
} by Charles McCrea
Stacey 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.
Stacey McCrea

Subscribed and sworn to before
me this 9. July 1881
Jas. M. McKim Clerk

Document 5-C

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

Your orator Squire Macdowell would most respectfully shew unto your Honor that on or about the first of June A.D. 1847 he was intimated 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 on foot or horse to California in 1851 and returned about the first of Sept. 1853 and that said wife was with the consent of said Rebecca - that your orator left said Rebecca single to support well herself and her children. Your orator would shew that since he has returned home he has been informed that said Rebecca has committed adultery with William Miller and others and would believe 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 true your orator by various periods of concealment truth and veracity.

Your orator would shew 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 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 to be made defendant - that the People's writ of habeas corpus be issued and that said Rebecca be compelled to answer this bill and for such other relief as may or shall be met or just in the premises and as in duty bound your orator will ever pray &c.

Squire Macdowell by
Amos Waddell. Atty.

Autograph Document Signed, William H. Herndon, Bill for Divorce, November 1853, Waddell v. Waddell, Illinois State Historical Library, Springfield, Illinois.

Document 5-C (transcription)

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 Sepr 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.

Document 5-D

I hereby authorize the clerk of the County Commissioner's Court of Sangamon County to issue a license authorizing any legally qualified person to marry Edward W. Taylor to my daughter Hester Ann Dally.

Oct 30. 1837

Abraham
Lincoln.

Crawford B Dally

Document Signed, Abraham Lincoln, Express Authority, 30 October 1837, Privately Held, Copy in Henry Horner Lincoln Collection, Illinois State Historical Library, Springfield, Illinois.

Document 5-D (transcription)

Express Authority

I hereby authorize the clerk of the County Commissioner's Court of Sangamon County to issue a license authorizing any legally qualified person to marry Edward H. Tyler to my daughter Hester Ann Dalby.

Oct. 30 1837

Crawford B Dalby

Attest

A. Lincoln

Glossary Of Terms

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

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.

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

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, which led 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.

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

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.

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.

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

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

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.

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

Canals and Railroads Open Illinois

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 (I&M) 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 part 2 of section C, "You be the Judge."

Objectives: The students will be able to:

1. Analyze a poem.
2. Analyze a historical legal document.
3. 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. A Prominent Poet Praises Progress: "I like to see it lap the miles," by Emily Dickinson (1830-1886). Students read the poem and analyze each stanza. The comparison of the train to a horse can be used to frame the discussion of technological progress.
- B. 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 attached model).
- 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 less 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."
- C. 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*. 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. See the rubric for assessing students' performance in knowledge, reasoning, and communication.

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."

The Poet, Mr. Allen, and the Illinois Central Railroad. Ask students to write an expository essay responding to these questions. How would Mr. Allen and the officials of the Illinois Central Railroad react to the poem by Emily Dickinson? What do you think they would have said to the poet?

Sources and Materials

Emily Dickinson, *I like to see it lap the miles* (1891)

A Better Transportation Network for Illinois, 1820-1850

Analyzing a Lincoln Legal Document

Document 6-A: Declaration, *Allen v. Illinois Central Railroad* (1855)

Document 6-B: *Report of Commissioners*, excerpt from *Canal Claims* (1853)

Maps

6.1: Location & Course of the Illinois & Michigan Canal

6.2: Fall River and southern part of Rutland townships (1870)

6.3: Ottawa township (1876)

Glossary of Terms

I like to see it lap the miles

(1891)

Emily Dickinson

**I like to see it lap the miles,
And lick the valleys up,
And stop to feed itself at tanks;
And then, prodigious, step**

**Around a pile of mountains,
And, supercilious, peer
In shanties by the side of roads;
And then a quarry pare**

**To fit its sides, and crawl between,
Complaining all the while
In horrid, hooting stanza;
Then chase itself down hill**

**And neigh like Boanerges;
Then, punctual as a star,
Stop - docile and omnipotent -
At its own stable door.**

Emily Dickinson, *Poems*, 2d series, compiled by Mabel Loomis Todd and T. W. Higginson, (Boston: Roberts Brothers, 1891), 39.

A Better Transportation Network for Illinois, 1820-1850

Canals

Railroads

Need

Problems to Overcome

Finance

Construction

Predictions

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?

Synthesis: Illinois History and the Rule of Law

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 relationship between *where* something happened and *what* happened?

Does this document include any "quotable-quotes," or examples of a regional speech or period expressions?

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

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

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

Document 6-A (page 1 of 6)

State of Illinois } Of the May Term 1854
County of De Witt } of the De Witt County Circuit Court

The Illinois Central Railroad Company (a corporation created under and by virtue of the laws of the State of Illinois) William L. Percy Samuel Keith Silas Clark & Willard P. Morison Defendants in this suit versus attached to answer Wilson Allen the Plaintiff in this suit of a plea of trespass and thereupon the said Plaintiff by J. B. McKinley his attorney complains
For that the said Defendants 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 town at the County of De Witt and State of Illinois and bounded being the south west quarter of the north west quarter of section no fourteen in Township 12th north of Range two east of the 3rd Principal Meridian and there and there with shovels pickaxes plows scrapers and other iron instruments

Autograph Document Signed, James B. McKinley, Declaration, 5 May 1854, Allen v. Illinois Central Railroad, Macon County case files, Illinois State Archives, Springfield, Illinois.

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Document 6-A (page 2 of 6)

dig up, turned and subverted the earth
& soil to wit 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 to wit
of the depth of twelve feet and the
breadth of fifty rods and of the len-
gth 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 to wit of ~~one~~^{four}
thousand bushels and the same so
~~assess~~ 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 to wit 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 com-
mencement of this suit with force and
arms broke and entered ^{the} ~~the~~ closes of the
said plaintiff to wit of the County of

Document 6-A (page 3 of 6)

Let it be aforesaid and bounded to wit the
are 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. Dargen - on the South upon 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. Dargen
on the South on a certain Close in the
possession of Wilson Allen and then and
then with shovels pick axes plows scra-
pers & other iron instruments dug up
turned and subverted the earth & soil
to wit ^{then} ~~using~~ ^{on the any calculation of said close} ~~any~~ ^{of the other close of said} ~~of~~ ^{of} earth and soil of
of the said ~~Close~~ ^{of the said Plaintiff} and others and then made and sunk
divers ~~to wit~~ mines pits shafts & holes
to wit four mines four pits four shafts
and ten holes in and upon each of said
Closes of great depth breadth & length
~~width~~ to wit each of the depth of twelve

Document 6-A (page 4 of 6)

feet and of the breadth of fifty rods
and of the length of fifty rods in
each of the said acres of the said plain.
Off them 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 to wit
of the value of \$1000⁰⁰ 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 own use to wit
on the said several days & times aforesaid
at the State & County aforesaid &c

And also for that the said defen-
dants on the same day and year first
aforesaid with force and arms &c to wit
at the County & State aforesaid seized
took & carried away certain good chattels
& effects to wit fifty thousand cubic
yards of earth and soil ~~the same~~
~~of great value to wit~~
of the value of \$ of lawful
money of the United States then then
found and being and converted and
disposed of to their own use

Document 6-A (page 5 of 6)

and other wrongs to the said Plaintiff
then and there did to the great
damage of the said Plaintiff and of
the peace & dignity of the People of
the State of Illinois wherefore the
said Plaintiff ~~with~~ that he is injured
and hath sustained damage to the amount
of \$5000⁰⁰ and therefore he brings suit
in law

~~Plff'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 Com-
mencement of this suit with force
arms broke and entered the Close of
the said Plaintiff to wit at the County
Detroit aforesaid and bounded to wit
the ~~South~~ West quarter of the North west
quarter of section Number fourteen and
~~three 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

Document 6-A (page 6 of 6)

and then and there with shovels pick axes
plows sanpers and other iron instruments
dry up turned and subverted the earth
and soil to wit 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
depth length to wit each of the depth 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. Then and from
and out of the said mines pits shafts & holes

So dry made & caused to be made & caused to be made
large quantities of earth and soil of great value
of the value of \$5000 and the same in and out of the said
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 de Witt aforesaid and thereby
the day & date aforesaid and other wrongs to the said
plaintiff then & there did to the great damage of
the plaintiff and against the peace & dignity of the
people of the state whereof the said Plaintiff
saith he is damaged to the amount of \$5000
& therefore brings suit &c

Swett & McKinley
attys for Plff

Document 6-A (Transcription)

Allen v. Illinois Central Railroad

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
County of DeWitt

Of the May term A.D. 1854 of the DeWitt County Circuit
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. M^cKinly 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 \$5000⁰⁰/₁₀₀ 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 \$5000⁰⁰/₁₀₀ and therefore he brings suit &c~~

Swett & McKinly
Pliffs 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 towit 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^Kinl[e]y
attys for Pliff

Document 6-B (page 1 of 12)

ILLINOIS] HOUSE. [18TH ASSEMBLY

CANAL CLAIMS.

COMMUNICATION

FROM

THE GOVERNOR,

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

EXECUTIVE DEPARTMENT,
Springfield, Jan. 8, 1853.

To the House of Representatives:

I herewith transmit to the house of representatives the report of the commissioners, appointed by act of the general assembly, 1852, to investigate and report upon canal claims; also the attorneys' reports on the same.

AUG. C. FRENCH.

Printed Document, Abraham Lincoln and Noah Johnston, Report of Commissioners, 7 January 1853, Illinois House of Representatives.

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[4]

4

REPORT OF COMMISSIONERS.

To His Excellency,
the Governor of the State of Illinois:

We, the undersigned, two of the commissioners appointed by the act of the general assembly of the state of Illinois, entitled "An act to constitute a commission to take evidence in relation to certain claims," approved June 22, 1852, report that the Hon. Hugh T. Dickey, the other commissioner named in said act, having declined to act, we caused a notice to be published in more than one newspaper in Chicago, in one at Joliet, and in one at Ottawa, more than thirty days before the 3d day of December, 1852, that on said third day of December, we would meet at Ottawa, for the purpose of taking evidence according to said act, an exact copy of which publication is as follows, to wit:

"Notice to claimants against the state, on account of the Illinois and Michigan canal.—All claimants within the provisions of an act of the general assembly of the state of Illinois, entitled "An act to constitute a commission to take evidence in relation to certain claims," approved June 22, 1852, are hereby notified that the undersigned, two of the commissioners named in said act, will meet on the third day of December next at Ottawa, on the line of said canal, for the purpose of taking evidence according to said act.

"November 2, 1852."
"NOAH JOHNSTON,
"A. LINCOLN.

That, accordingly, we did, on said third day of December, 1852, at Ottawa, take the oath prescribed in said act, which was administered to us by the Hon. Edwin S. Leland, judge of the ninth judicial circuit of the state of Illinois, and did proceed at once to the taking of said evidence.

On motion of counsel for claimants, and against the objection of Mr. Edwards, counsel for the state, it was ordered by the board that the original papers filed at the seat of government, and then in the control of the board, should be subject to the inspection of the counsel for the claimants as well as the counsel for the state, but that said papers was not to be taken from the room where the board might be sitting, nor to be inspected by witnesses.

Mr. Edwards, counsel for the state, gave notice to claimants for damages to real estate, that title papers must be produced.

Roswell D. Lyman, whose claim has been presented to the legislature, offered evidence, which, together with the cross-examination by counsel for the state, is as follows:

[See Plat A.]

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[5]

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 S 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 river are as much benefitted by the canal as those immediately on the line. The feeder, witness thinks, indispensably necessary to the canal, but that it might have been constructed at less expense, just as beneficial for the canal and less injurious to Lyman's land.

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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 "Cushman 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. Affiant knows that when the feeder was dug, coal was found in various places for the whole distance, and coal was raised from the feeder very near the waste weir hereafter mentioned, at a time when there was a break in the feeder. There is a waste weir of that land where the water runs from the feeder, and that water will render it difficult to get the coal. Lyman has been obliged to dig a drain to carry the water around that part of the coal bed where coal is now being raised. I believe the coal land to be worth four hundred dollars an acre for the coal that is

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[7]

upon it. And that the farm of Lyman, and the land of Cushman and Lyman, is worth less by one-fourth than it would be if the feeder did not cross it at all.

Cross-Examination.—The feeder mentioned was constructed in 1833, 1839 and 1840. Does not know whether Lyman made any objection to the construction of feeder. Witness knows there was coal on Lyman's land before feeder was located; thinks some coal was dug there in the fall of 1834. Boats can pass on the feeder now and take coal from the bank. Thinks Lyman's whole farm now worth from twenty to twenty-five dollars per acre. Knows of contiguous canal lands being appraised at one hundred dollars per acre; thinks this canal land mentioned, worth more than Lyman's by ten dollars per acre. Has no interest in this or any similar question.

Re-examination.—Witness thinks the appraisement of the canal lands as above stated was very much above the true value; thinks thirty dollars per acre about the true value. Witness thinks the said canal lands more valuable than Lyman's, because it is not cut by the feeder, the quality of the land is very similar, the canal lands are also nearer the town of Ottawa. Before the construction of the feeder Lyman's land was all dry and fit for cultivation; about nine acres of that part of the land marked on the plat as "Lyman and Cushman," is flooded by the feeder, this being the same mentioned in the direct examination. On reflection, witness does not remember to have ever seen a common canal boat on said feeder, and is not sure the feeder is navigable for such boats.

Re-Cross-Examination.—Witness thinks the lands marked "Lyman," on the plat, is not as much damaged by the feeder as that marked "Lyman and Cushman." Thinks this land was worth about twenty dollars per acre as early as 1839.

Re-examination.—Thinks that while the feeder injures Lyman's land, as before stated, it does not benefit it in any particular. Thinks the canal is of benefit to the state generally, and also supposes it may be of some greater benefit to the lands now contiguous to it.

Abstract W. fr. S. E. 4 Sec. 6, 33, 4.

Allen H. Howland and Henry Green, W. fr. S. E. 4 6, 33, 4. Filed October 21, 1835,	A. 500
Henry Green, etrx. Henry L. Brush, deed, und. 4 same. March 3, 1836, -	C. 118
United States patent, Henry Green, W. fr. S. E. 4 sec. 6, 33, 4. March 24, 1840, -	5,159
Henry Green, etrx. deed, W. H. W. Cushman, und. 4 W. fr. S. E. 4 6, 33, 4. March 17, 1841, -	7,176
Henry L. Brush, etrx. deed, R. D. Lyman, und. 4 W. fr. as above. May 15, 1841, -	7,300
Henry Green, etrx. deed, W. H. W. Cushman, und. 4 W. fr. as above. March 29, 1842, -	8,93
Joseph O. Glover, etrx. deed, W. H. W. Cushman, und. 4 same. March 23, 1842, -	9,07

NOTE.—Mr. Edwards objected to all the proof in the case of R. D. Lyman, in relation to coal and coal banks, as being an increase of a claim.

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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.

The deed for the land to Norris is dated December 4, 1847, consideration \$675, quantity 73.17-100 acres.

George H. Norris, on another claim which had been presented to the legislature, offered evidence which, together with the cross-examination by counsel for the state, is as follows, to wit:

Norris' deed for this land is dated August, 1833, consideration \$10 per acre.

Joseph H. Wagner, produced by the claimant and examined by the attorney for the state, says that cattle cross the canal and feeder. Does not know that there is coal on sec. 10, 33, 3, but sec. 2, where the feeder crosses, there is coal, which is from seven to eleven feet under ground, and is worth from one and a half to two cents per bushel in the bed.

Cross-Examination.—That the canal trustees claim to control on each side of the canal ninety feet in width; that the ground occupied by the spoils banks is worthless, rendered so by the occupation of this earth, and that the spoils banks occupy the ninety feet, or nearly so, and that the trustees of the canal have forbidden the adjoining proprietors from removing said earth.

Henry Green, being first duly sworn, saith that he is acquainted with sec. 12, town 33 north, range 3 east, and has known it for nineteen years. The W. 1/2 of N. E. 1/4, and und. 1/2 of E. 1/4 of same quarter, is claimed by W. H. W. Cashman. The Illinois and Michigan canal runs through the whole quarter section from the east line to the west line of the quarter section; that through the west half of the said north-east quarter, said canal is one hundred feet wide, except about twelve rods on the west side, which is sixty feet, exclusive of the spoil banks; there is a coal bed on said quarter, which is worked upon the W. 1/2 of said quarter at different points, and coal exhibits itself nearly the whole width of the quarter and on both sides of the canal, and I have no doubt that the bed of coal underlies the whole bed of the canal on that quarter, except about ten or twelve rods next to Fox river; the strata of coal on that land is from eighteen to twenty inches thick, so far as opened, and is worth at least one cent per bushel in the bed; between three and four acres on the west half of said quarter had been stripped to the depth of from three to four feet, so as to render the same entirely valueless for farming purposes, and said last named tract is mostly in such a situation in reference to the

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canal that the coal cannot be removed from it, so that it is for the most part entirely valueless*.

Reddick and Bush, each making a separate claim for damage to the E. 1/4 of S. E. 1/4 of sec. 2, T. 33 N., R. 3 east, presented their title papers, to which Mr. Edwards, counsel for the state, raised no objection. The consideration in one of the deeds shows this land to have been worth \$60 per acre in September, 1848.

Henry L. Brush, on a claim for damages to S. 1/2 of W. 1/2 of N. E. 1/4 of sec. 10, T. 33 N., R. 3 east, also for E. 1/4 of N. E. 1/4 of same section, presented title papers, to which counsel for the state raised no objections. The deed to Brush, in this case, dated July 14, 1837, consideration \$2 50 per acre; also proved by Joseph H. Wagner that he considers Brush's land on sec. 10, worth seventy-five dollars per acre.

On the claim of Henry L. Brush for the undivided half of E. 1/2 of S. E. 1/4 of sec. 2, and for the whole of the S. 1/2 of W. 1/2 of N. E. 1/4 of sec. 10, and E. 1/4 of N. E. 10, all in T. 33 N., R. 3 E., counsel for the state offers the parol testimony of Joseph H. Wagner, which is as follows, to wit:

Joseph H. Wagner sworn, says he considers the E. 1/2 of S. E. 1/4 of sec. 2, 33 N., R. 3 east, worth five hundred dollars per acre, and thinks the coal on it increases the valuation one half; considers Bush's land on sec. 10 worth seventy-five dollars per acre.†

On the claim of J. C. Chaplin and others, for damages to the W. 1/2 of S. E. 1/4 of sec. 2, T. 33 N., R. 3 E., counsel for the state offered the parol testimony which follows, to wit:

Joseph H. Wagner sworn, says that he considers the W. 1/2 S. E. 1/4 sec. 2, 33, 3, worth now, the south forty acres, one thousand dollars per acre, the north forty acres, two hundred and fifty dollars per acre. Witness thinks that there is ten acres out of the south forty acres worth only fifty dollars per acre; said ten acres lies in the south-west corner of said forty. Witness has been a civil engineer since 1835, and employed on the Utica and Schenectady Railroad, firstly as rod-man and leveler, and on the Canajoharie and Catskill Railroad, as assistant engineer, and is acquainted with the land, and has been for several years. Does not know that the feeder could have been constructed so as to have injured that land much less than it is. Witness thinks that material for construction of the feeder banks might have been obtained at other points, so as to have not injured that land as much, but to have done this it would have been more expensive to the canal. Witness thinks that the material for these embankments might have been taken from one acre of ground, but to have done so would have been more expensive, but such additional expense would not equal the additional damage done the land by extending over the surface.

*None.—Mr. Edwards, counsel for the state, objects to so much of the above statement as relates to coal, because it is an increase of claim, which objection the board sustains, but allowed the statement to be placed on file for the inspection of the legislature, on the ground that the evidence in relation to coal is rejected. Mr. Edwards declines to cross-examine the witness, or to introduce proof upon the point. Mr. Edwards admits the sufficiency of the title to all the tracts in this claim.

†None.—This evidence, as to the first tract, applies equally to the claim of Mr. Reddick.

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Springfield, December, 1852.

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. & S. E. 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 lam's near Ottawa," is a correct map.

The following plat, proved to be correct, was introduced by counsel for the state, and filed for reference in all cases to which it applies:

[See Plat B.]

The trustees of the United States Bank, whose claim had been presented to the legislature, offered the exhibit herewith, marked "U. S. Bank, No. 1," which, together with explanatory parol testimony, was received, as follows, on the condition stated: Samuel Stuts Taylor, produced by the attorney of the United States Bank, and sworn. The witness holding in hand the account herewith filed, marked "U. S. Bank, No. 1," offered to give some explanatory evidence, when Mr. Edwards objected to the filing of the paper; first, because it was proved *ex parte*, without opportunity of cross-examination, and, secondly, because it lays the basis of a new claim; whereupon the claimant consents that it be filed, to be used only in explanation of the claim as originally filed, and in no wise as an increase of the same—upon which condition the commission have allowed it to be filed.

Witness knows John Rumsey, who made the affidavit filed with the account; was one of the book-keepers in the United States Bank, employed as such during all the time the transactions stated in said account occurred, and that he is now and has always been one of the book-keepers of said bank. Knows his hand-writing, and the signature to the affidavit is his. The difference in the amount between this account and the one originally filed arises from the fact that in this ac-

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count there is a charge made for coupons that is not in the first account, the bank having been made to pay them, on a garnishee process issued against the bank by one of the creditors of the state of Illinois.*

The undersigned further report, that all the other claims, upon which any evidence was offered, falling in classes, so that any evidence, applicable at all, was applicable to a whole class, we found it convenient, and even absolutely necessary, for the saving of time, to take a larger portion of the testimony under the head of "general evidence." Intermingled with this are occasional explanatory notes. The general evidence is as follows, to wit:

General evidence taken at Ottawa, Chicago and Springfield before Hon. N. Johnston and Hon. A. Lincoln, December, 1852.

William M. True, on behalf of the state, sworn, says—During the time the contractors were to work on the canal, he received canal scrip at par, as a merchant at Ottawa. Witness does not know that the hands received scrip of contractors at par; thinks merchants generally received it at par.

Cross-Examination.—Witness thinks he did not receive and pay out scrip as low as twenty-five cents on the dollar—thinks it was at one time received as low as twenty cents; there was a time when it rated at fifteen and twenty cents on the dollar, and business men generally refuse to deal in it at that time. Do not recollect whether the work on the canal was in progress or not. Cannot recollect that at any time after July, 1852, scrip was received by merchants at par. There was a time, while the canal was in progress, that scrip was received by the merchants as low as seventy-five cents on the dollar—no positive recollection of taking it lower than that.

Re-examination.—Cannot state that at any time from 1842 to 1845, it was received at par.

Continuation of general evidence taken at Chicago.

Alexander Brand, on behalf of claimants, sworn, says—That he has been engaged in the exchange business since 1839, in the city of Chicago. Has dealt in canal indebtedness. The first was the old 1840 interest scrip. Second class was certificates given for large balances due the contractors. Third class was what is now called indebtedness, and printed on the back of an engraved plate.

March 6, 1840. Exchange between here and New York on State Bank of Illinois, was 12 and 12½ per cent.

April 3, 1840. Some merchants in this city took scrip at par; George Smith, dealer in exchange and banker, bought it at 62½ and 68 cents.

April 16, 1840. Scrip was taken by many merchants at par, for most goods. The merchants contrived generally to increase the price of their goods. Some goods they would not sell for scrip, at par. Some had attempted to scale down scrip to 75 and 80 cents, selling goods at their cash prices; but that was not liked by purchasers. It

*NOTE.—The testimony of this witness, so far as it may tend to lay the basis of a new claim, or to increase the original claim, is excluded, and is only received so far as it may tend to explain the original claim.

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was bought at 68 and 75 cents on the dollar, in Illinois money. When bought or sold for specie the price was different.

May 9, 1840. Scrip was getting more languid, at 70 cents. Many merchants were selling goods for it at par, adding something, I presume, to the prices. Exchange on New York 10 per cent.

May 13, 1840. Scrip, at this date, was from 65 to 75 cents.

May 26, 1840. Witness sold five hundred dollars of scrip at 71 cents.

June 1, 1840. On this date, witness bought eleven hundred dollars at 73½ cents.

June 13, 1840. Scrip, at this date, from 70 to 72 cents.

June 28, 1840. Offered for a quantity of scrip 68 cents, but the nominal price was 65 cents.

July 9, 1840. Sold \$1,052 for 70 cents, but purchasing at 65 cents. The above sale was on account of a St. Louis broker.

August 21, 1840. Sixty-five cents was as much as was given at this date. It had fallen suddenly, and was suspected that workmen would not take it any longer at par from the contractors. Exchange at this date on New York, 8 per cent.

August 27, 1840. Witness bought at 65 cents; other brokers refused to give more than 62½ cents.

Sept. 3, 1840. Canal scrip is quoted at 62½ cents.

Sept. 26, 1840. Canal scrip is quoted at 63 cents, and exchange on New York 7 per cent.

Nov. 6, 1840. Exchange on New York 7 per cent., scrip 72 to 75 cents.

Nov. 18, 1840. Exchange on New York 3 per cent. This reduction of exchange was in consequence of the bank having bought part of the "contractors' loan."

December 1, 1840. Scrip was not selling for less than 70 cents upon and after the receipt of the governor's message.

Dec. 11, 1840. The "Branch Bank" at Chicago resumed specie payment on its own notes. Exchange on New York 3 per cent.

Dec. 17, 1840. Exchange on New York 3 per cent. Scrip, nominally, at 70 cents. The reduction of exchange spoken of was an important measure for the bank to facilitate the resumption of specie payments, in the opinion of the witness.

January 9, 1841. Scrip quoted at 63 to 68, dull, for State Bank bills. Exchange on New York 3 per cent premium.

Jan. 13, 1841. Scrip 62 to 68. Exchange on New York 3 per cent. premium.

Jan. 15, 1841. Scrip dull—no fixed quotations—say 62 to 68.

February 15, 1841. Bank here ceased to draw to-day.

February 18, 1841. Exchange on New York from 8 to 10½ in State Bank paper. Specie was worth from 9 to 11 discount on State Bank paper. The value of specie here changed, owing to the greater or less demand for land sales. At this time, witness' impression is that the bank had again suspended specie payment.

Nov. 13, 1841. Exchange on New York 10½ per cent. About this date scrip sold for 45½ cents.

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Nov. 20, 1841. Exchange on New York 11 per cent.
Dec. 2, 1841. Exchange on New York 12 to 13 per cent.
Dec. 4, 1841. Witness offered to sell scrip for 42½ cents—does not think he sold at that.

Dec. 17, 1841. Exchange on New York 15 per cent.

Dec. 23, 1841. Exchange on New York from 15 to 17 per cent.

Dec. 29, 1841. Sold over \$2,000 of scrip at 40 cents.

January 19, 1842. Exchange on New York from 14 to 16 per cent.

Jan. 29, 1842. Witness offered twenty-five cents for five hundred dollars canal scrip, on the face, not counting interest.

Jan. 29, 1842. The price of canal certificates ranged from 20 to 25 and 30 cents.

In February the exchange on State Bank paper ran up from 15 to 22 per cent. The bank soon after failed.

February 16, 1842. Canal office made a new issue on the back of the blank checks on State Bank, afterwards known as canal indebtedness not bearing interest. Worth at this time about 25 cents. Canal scrip worth from 28 to 33 cents, in currency.

March 5, 1842. Exchange for currency, (Indiana and Wisconsin money,) was 14 per cent. premium. Indebtedness selling at 20 and 25 cents, for currency.

May 26, 1842. Illinois State canal scrip, bearing interest, worth 30 to 25 cents, and indebtedness from 18 to 23 cents. Interest not included in this scrip, but bought at the face. Next day, exchange on New York 8 per cent.

June 11, 1842. Canal scrip sold on the face for 23 cents; indebtedness, with no interest, from 18 to 22 cents.

Aug. 6, 1842. Canal scrip and indebtedness might be bought for 15 cents, and sold at 20 cents.

Aug. 11, 1842. Scrip worth from 15 to 22 cents. Same price on the 26th; and Sept. 5th same price.

Sept. 24, 1842. Scrip from 18 to 22 cents. This range of figures includes canal scrip and indebtedness.

October 8 and 25, 1842. Quotations the same—18 to 22 cents.

Nov. 23, 1842. Scrip from 20 to 22 cents. Exchange on New York, for Indiana and Ohio currency, 3 per cent.

Dec. 3, 1842. Price rising, temporarily, and worth from 18 to 25 cents.

Dec. 29, 1842. Scrip and indebtedness dull at from 17 to 22 cents.

Jan. 14, 1843. Scrip from 16 to 20 cents, and dull.

July 5, 1843. Scrip about 25 cents. July 17—worth 29 and 30 cents; and up to the 20th November did not range higher than 26 cents, but at the canal sale it was nominally as high as 30 cents.

All the above information was extracted from letters, and quotations of rates, written by witness to correspondents, and he believes the same to be as correct as he could write them at the time. As a general thing, witness did not deal in scrip and indebtedness for canal contractors. One of the canal contractors deposited with witness

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canal indebtedness as security for borrowed money, and he afterwards had to sell it to reimburse himself. The amount of indebtedness was twenty-five hundred dollars. It was sold in June, July, and August, 1842, for about 20 cents on the dollar. The indebtedness belonged to Mr. Bracken. Witness bought of E. W. Herrick, one of the contractors, in the months of November and December, 1845, nearly \$1,500 of scrip and indebtedness, at from 32 to 33 cents on the dollar. May have bought from other contractors, but does not recollect the particulars of any purchase.

June 20, 1844. Witness bought in New York city \$800 of scrip on the face, for \$320; and bought, in Chicago, in the same month, indebtedness, for 32 cents. During July, August and September, that was about the rate it sold for here.

Oct. 3, 1844. Witness bought \$130, on the face, for \$44, being a little over 33 cents on the dollar.

Nov. 23, 1844. Bought \$200 of indebtedness at 26 cents. In December bought again at the same rate.

May 22, 1845. Bought indebtedness at 30 cents. In July bought \$1,000 at same rate.

Oct. 1845. Bought indebtedness at from 30 to 32 cents, and scrip, computing interest, about the same.

Feb. 20, 1846. Bought Scrip at 30 cents, computing interest. In the summer bought scrip at 28 and 30, and in September bought at 35 cents, on the face.

January, 1847. Bought, from January to March, for 26 and 28 cents.

In September, 1847, it run up to 35 cents. Governor's scrip was sold, during 1846 and 1847, generally at about the same rates.

Cross-Examination.—The legislature afterwards allowed interest to contractors on the indebtedness, from the time it was issued, but the contractors having parted with their indebtedness, in many instances, derived only a partial benefit from this provision.

For all canal lots and lands sold previous to and including the year 1843, scrip and indebtedness was taken at par; but persons buying paid much higher for the lots and lands, knowing that they could pay in scrip and indebtedness. My recollection is, that lots and lands brought three times as much as the appraisal.

Witness paid for S. 1 of lot 9 in block 5, fr. section 15, (sold in 1843,) \$1,020—is now worth \$3,000, cash—and paid for lot 6, block 12, same section, \$620, in scrip. It has just been sold for \$5,000. Lot 3, block 21, was sold for \$225 in scrip, is now worth about \$1,500. E. 1/4 lot 4, block 42, and lot 7, same block—one was sold for \$3,580, and the other for \$1,350—are now worth \$4,000 each. Lot 7, block 1, and the other for \$2,170, is now worth \$6,500.

(Counsel from claimants objects to the testimony in regard to the value of the property.)

Re-examination.—He cannot say that he remembers of any lots or land having been bought by contractors.

He does not know of any of the contractors having sold bonds for wheat, and lost the whole.

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Edward J. Tinkham, on behalf of claimants, sworn, says. Has been in the banking and broker business in the city of Chicago since 1839. His impression that the per centage on State Bank of Illinois between Chicago and New York, in 1840, was from 6 to 7 per cent. Cannot say what the per centage between New York and London was at that time.

Thinks that the exchange for State Bank of Illinois, in the fall of 1840 and spring of 1841, was gradually rising; that in the spring of 1841 it was 10 per cent.

He bought from 1840, and for a year or two afterwards, considerable scrip.

When the interest scrip was first issued, in March, 1840, the price varied in the market of Chicago, from 60 to 70 cents.

The canal indebtedness, when first issued, was worth, in this market, from 30 to 35 cents, but subsequently sold, and the house in which witness was engaged bought it, as low as 28 cents, and knows of sales at that rate; that the canal bonds were quoted at about the same rate; that at the time state indebtedness scrip had depreciated, and was worth about the same, including interest, to wit, 30 to 35 cents on the dollar. When witness speaks of scrip, he alludes to the scrip issued in 1840 bearing interest; and when he speaks of indebtedness, he alludes to an issue, made in '41 or '42, which did not bear interest. When witness speaks of the value of scrip and indebtedness being equal, he means the indebtedness on its face, and the scrip with the interest added in.

Cross-Examined.—From 1840 to 1845, the custom was, in sales of scrip at Chicago, that if he bought one hundred dollars of scrip with one year's interest upon it, at fifty cents on the dollar, he gave fifty-three dollars for it. When scrip was first issued I knew of instances where merchants received it at par for debts due them, depending on the character of the debt and the solvency of the debtor, and whether they could have got any thing else. Does know of indebtedness or canal bonds being taken in that way. Witness does not know as he ever sold at any rate.

Henry Smith, on behalf of the claimants, sworn. Says he has resided in Chicago since 1838. Prior to 1841 was engaged in carrying out a contract on the canal. Has no interest in any claim against the state. After 1841 was engaged in the mercantile business, and as a dealer in real estate. In 1842 William B. Ogden received some \$18,000 or \$20,000 in canal bonds from an association of contractors, to dispose of at New York city. Ogden exchanged some bonds for goods. Witness made the settlement between Ogden and the contractors. He knows of the goods having been received. These bonds were disposed of so as to net about twenty per cent. of their face; and witness believes that was the best disposition that could have been made of them, and was a higher rate than they could have been sold for cash. Witness knows that the same goods were paid out to hands at the Chicago market price in payment for their labor. Witness has heard the testimony of Alexander Brand. At the time referred to by him, I had more or less scrip and indebtedness passing through his

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bonds. Concurs in his general statement in regard to their value at the times mentioned. Witness knows where scrip or indebtedness was taken by merchants for goods, or by laborers for labor, or for materials, or provisions for the canal, at par. A corresponding increase in the price was made to cover the depreciation so as to approximate to the cash value. Whenever payment was made to laborers par funds only were used in payment; and the price per day or month was always fixed on the intended payment of current par funds. No scrip or indebtedness was paid to laborers, except when at par, or discounted to par funds at the time. The same, also, in payment for materials or goods. There was but one price for labor by the day or month, and that was always understood to be for cash. From the first of May, 1838, to the stopping of the work on sections five and six, the witness speaks of all the cases which fell within his observation or knowledge. He was acquainted with many of the contractors, and their connection with the public works was generally disastrous, and in most cases ruinous to them.

George Steel, on behalf of claimants, sworn. Says witness was a contractor and one of the claimants. Has known of contractors buying cattle and provisions by paying half cash and half scrip; usually paid more than they could have bought the same for in cash. Scrip traded off in this way brought more than when sold to brokers. This was in the years of 1840 and 1841. Has known of cases where laborers were to receive part pay in scrip and part goods; but the men generally took their pay in goods, preferring to take goods to taking scrip at par, and they received very little scrip. Some of them were in debt for goods, and received no scrip. These are cases that fell under witness' observation. There may have been cases where the contractors had smaller stocks of goods and paid their men more scrip. I paid my men all cash, and Mr. Barnett paid his men in cash and goods at cash prices, and done a large amount of work after the indebtedness was issued. Witness knows of Mr. Barnett's borrowing fifteen thousand dollars, and kept his scrip. Thinks he now has from sixty to eighty thousand dollars. He, Mr. Barnett, told me about a year ago that he had from sixty to eighty thousand dollars. Witness knows from his own case and from information in regard to others that all the contractors, for some months, paid more or less cash. This was in the year 1841. The effect of Mr. Barnett and others paying cash to their hands was to render it difficult for other contractors to get hands without paying cash or a higher price in scrip. He does not know that other contractors paid a higher price in scrip. Heard them complain of the prejudicial effect of these cash payments. Witness knows of a dozen or more contractors who finished their contract in the years of 1841 and 1842. Mr. Matteson, Mr. Blanchard & Co., Steel & Aymer, among the number. Could name several other heavy contracts that were finished.

Cross-Examined.—In the winter of 1838 and 1839 provisions fell fifty per cent. from what it was in 1837, and labor from twenty to twenty-five per cent. Most of the contracts in 1838 and 1839, taken at lower rates, to correspond with the lower price of labor and provi-

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sions. The prices of provisions and labor was about the same in 1841 and 1842 as in 1839. Labor had fallen, and was very low in the winters of 1837 and 1838. He knew of contractors—Mr. Negus, Mr. Armstrong, Mr. Harvey, as well as himself—who bought a few lots at the sale of 1843. They had not the scrip to buy with, having hypothecated with the broker their scrip to raise funds to finish their contracts, and very few of the contractors bought.

D. L. Roberts, on behalf of the claimants, sworn. Says he was a contractor, and one of the claimants. Witness has heard the testimony of George Steel, and believes it to be, in the main, correct, and does not know it to be incorrect in any particular.

Cross-Examined.—Witness had a sub-contract as well as an original contract. As such sub-contractor he was to receive one-third cash, as the work progressed, and the balance when the state paid the contractor. The contractor failed, and witness made a compromise with him and received state indebtedness—a considerable larger amount than would have been due if taken at par. The contractor had received some of his pay from the state in indebtedness. Witness considers he is not yet paid according to his contract, but he took what he received by way of compromise, the contractor being insolvent. Mr. Bracken, the contractor referred to, paid the hands in his employ cash.

Re-examined.—Witness does not know of any other sub-contractor. Witness thinks the cause of Mr. Bracken's failure was the state not paying him in cash, according to contract. Does not know of any contractor, except Mr. Barnett, who yet holds state indebtedness. Witness knew many of the contractors and their circumstances at the time, and in his opinion most of them were broken down by losses on their contracts; and most of them parted with their indebtedness while it sold at a low figure.

James E. Bishop, on behalf of the state, sworn. Says, knows of but very few sub-contracts, and as far as his knowledge extends the sub-contractors were paid in cash. That was his practice with his sub-contractors.

Cross-Examined.—Witness, as a general thing, at first kept his indebtedness, hoping that the state would make it good. Witness sold a portion of his scrip at fifty cents on the dollar, for groceries and supplies for the men, about the year 1841, and paid the same out to other men at fair cash prices. The men received nearly all of their pay in goods, taking little, if any, scrip. What scrip I paid they took at par. After the bonds and scrip had fallen lower I sold two bonds in this city at eighteen cents on the dollar, which was the highest price in the market. Some contractors, before scrip had fallen so much, made an arrangement with their hands to take it at par. The hands, however, consented to take it after a short time. While the arrangement existed the young men generally left the work, and the work was done by men of families, who received their pay principally in goods at the cash market rates.

Joel Manning, on behalf of claimants, sworn. Says, witness commenced as secretary of the canal board in 1830, and continued as such until the canal passed into the hands of the present trustees.

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Witness, as such secretary, some time since, gave certificates to various contractors upon the canal, to be used in presenting their claims to the legislature, which certificates are true in all matters of which they certify. These certificates are on file with the papers of the respective claims, and are now here in the hands and control of N. W. Edwards, counsel for the state. A list of the names of the claimants to whose claims these certificates apply, is on a sheet herewith filed, marked "General Evidence—A." Witness has examined the contract filed in the case of Stephens, Douglass and Norton, and all the other contracts were given in the same form, except the contracts made under the Morris letting. Witness has examined the originals of the documents reported on pages 17, 18, 19, 20, 21 and 23 of the Reports of the session of 1840 and 1841. To the best of his knowledge they are true copies of the originals.

Cross-Examined.—The papers, Nos. 2 and 3, pages 18 and 19, of the Reports of session of 1840 and 1841, were signed by all the contractors who received money under the Thornton loan. The other documents referred to were signed by the parties whose names are attached to the documents in said Reports. The contracts referred to in Mr. Steele's testimony were surrendered in 1837 and 1838. The following is a true copy of the instrument signed by the persons who availed themselves of the law named in the instrument:

"To Gholson Kercheval, James Mitchell and William M. Jackson, assessors of damages on the Illinois and Michigan canal:

"We, George Armour, Adam Lamb, and Richard McFadden, assignee of Thomas Williams, by Jool Manning, attorney in fact for said McFadden and Thomas Williams, contractors on the Illinois and Michigan canal, for the purpose of availing themselves of the privileges and benefits conferred upon them by an act entitled "An act to provide for the completion of the Illinois and Michigan canal, and for the payment of the canal debt," approved February 21, 1843, do hereby apply for an appraisal, according to the provisions of said act, of the actual damages which they will sustain in being deprived of their contracts on sections number twenty-five and twenty-six, on the summit division of the Illinois and Michigan canal; and we do hereby consent and agree that such appraisal and assessment of damages shall be made without allowing them any prospective damages, or any profits which they might have made had they finished said jobs or contracts. Dated at Lockport, Illinois, this twenty-sixth day of September, A. D. 1843.

"ADAM LAMB,
 "GEO. ARMOUR,
 By Geo. Steele, his attorney.
 "THOMAS WILLIAMS,
 "RICHARD McFADDEN,
 By J. Manning, his attorney."

The following is a list of sections and other work upon the Illinois and Michigan canal, let by the canal board from and after and including the lettings on the 20th and 23d days of September, 1841, during

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the presidency of Mr. Morris, containing dates, jobs of work, and names of contractors:

Date of letting.	Job of work.	Names of contractors.
1841, Sept. 22	Secs. 109, 112, 126, 181, 153, and stone culvert over Nettle creek,	John Lefferty, Thomas McDown, J. G. Patterson,
"	Secs. 110, 111, 181, and 132.	Walter D. McDonald, Michael Williams, and Michael McDonald.
"	Secs. 113, 121, 122, -	M. Benjamin.
"	117 - - -	Titus H. Abbott.
"	118, - - -	M. Mott and F. L. Owens.
"	119, 120, - -	Jacob Francis.
"	123, 136, 137, -	Thos. Galleher & Co.
"	124, - - -	James Millany.
"	125, - - -	John Darlin, Lot Whitcomb.
"	127, - - -	James Cronan & Co.
"	128, 129, - -	Thomas Beale, Norton Twitchell.
"	130, 133, 134, 138, -	H. L. Galleher & Co.
"	135, 142, - -	Wm. Heddick, Thomas O'Sullivan.
"	139, - - -	Patrick Kenney & Co.
"	140, - - -	Patrick and John Kelley.
"	141, - - -	Thos. W. Hennessy, and J. Brennon & Co.
"	143, 144, 145, 146, -	Timothy Kelly, and Jer. Crotty & Co.
"	Secs. 147, 149, 184, and stone culverts on sections 112, 149, 184, -	Michael Kennedy, Patrick M. Kilduff, and B. Duffy & Co.
"	Secs. 148, 150, - -	George Arctour and Adam Lamb.
"	Locks Nos. 9 and 10, -	M. Kennedy, P. M. Kilduff, and B. Duffy and Co.
"	Sec. 152, - - -	Dennis Kelley and Timothy Kelley.
"	Wood culverts: On secs. 119 and 121, -	Thos. Campbell and John McGier.
"	134, 141, 136, -	Lefferty & Larkin.
"	142, - - -	H. Johnson.
"	Stone culverts on secs. 145 and 148, - -	Michael Killele.
"	Au Sabla aqueduct, lock No. 8, - - -	James Kinsley.
"	Secs. 114, 115, 116, -	Buck Van Aelstine.
"	161, - - -	Houley & Healy.
1842, Jan. 28	130, - - -	Walter McDonald & Michael Williams.
"	123, - - -	James Burk.
Feb. 18	142, 144, 145, 146, 109, 112, 126, 151, 153, and Nettle creek aqueduct,	Jeremiah Crotty.
"	125, - - -	Declared abandoned.
"	125, - - -	William E. Armstrong.
"	23 Culverts on secs. 124, 136 and 141, - -	A. D. Butterfield, and C. L. Lukens.
Apr. 21	Sec. 118, - - -	Andrew Kinsley.
June 7	141, - - -	Richd. Cody, Tho. Hennessy, Chas. Benson.
"	125, - - -	William E. Armstrong, Jas. Hart.
"	153, - - -	Timothy Kelley.
Oct. 28	109, 112, 114, 116, 117, 123, 126, 133, 134, 136, 137, 138, 139, 140, 151, 163, - -	Declared abandoned.
"	Sec. 150, - - -	Declared abandoned.
"	134, - - -	Thos. Larkin.
"	138, - - -	Meher & Castello.

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At the "Morris lettings" the following order was made and posted up in a public place, and was so understood, in the opinion of the witness, by the contractors under that letting:

"Ordered, That the following be the conditions of letting the forty-six sections advertised for contract this day:

"1st. If no more acceptable arrangement can be made, the governor has promised to place in the hands of the commissioners state bonds, to be paid out to contractors at par, from time to time, as they are earned."—Made Sep. 20, 1841.

From the spring of 1841 to the winter following, we received orders from the contractors in favor of laborers and others, registered the orders, and, when requested, gave the bearer written acceptances; and during the winter of 1841 and 1842 we received what is called canal indebtedness, with which the orders and acceptances were redeemed when called for. Most of them were called for.

Re-examined.—Does not know what amount of these orders was presented by the laborers. Thinks considerable proportion were so presented. Does not know at what rate these orders were received from the contractors. They were drawn for so many dollars and cents. Knows that some contracts were completed after the work was generally abandoned in 1841. Among them were Steele and Aymer, Blanchard & Co., Roberts & Co., and others.

Mr. Edwards, attorney for the state, offered the journals of the legislature, messages of the governor, reports of the commissioners, engineers, and other officers under the canal laws, the report of Gen. Thornton on the "Thornton loan," printed correspondence between the governor and Gen. Thornton, and between Gen. Thornton and the contractors and others, relating to the disposition of bonds; also, the correspondence and agreement between Gen. Thornton and the contractors, as evidence. The documents are referred to and considered as evidence, to save copying, and extracts of which are in the report of the counsel for the state.

The counsel for claimants objected to the reception, as evidence, of reports of "engineers and other officers" under the canal laws, not acting on behalf of the contractors.

Springfield.—Isaac N. Morris, on behalf of the state, sworn. Says, was canal commissioner in 1841 and 1842, about two years. When I assumed the control in part of the canal, I found the treasury exhausted of money, or there was but a small amount of funds in it, and no provision had been made by the legislature to supply it. The question was raised whether the board should suspend operations upon the work altogether, or proceed with it, and pay scrip and bonds, if the bonds could be obtained from Gov. Cralin. Many of the contractors and others urged a new letting, and we informed them of the kind of payments we could make, and that if they became bidders they would have to receive it at par. They expressed a willingness to do this, and the board accordingly instructed Mr. Gooding, the chief engineer, to survey and make out a cash estimate of certain portions of the canal, which he did, and which was afterwards let out upon bids, the contractors, as I have stated, understanding they were to receive

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payment, as I have expressed it, in scrip and bonds at par. The board did not believe they were authorized to pay scrip and bonds in any other way. I cannot now remember the names of the particular contractors, but I am satisfied that those engaged upon the work, as well as those who proposed to take contracts, knew there were no funds in the canal office, and that they must receive scrip and bonds in payment, at par, if they went on with the work or took new contracts. I never heard any of the contractors object to receiving scrip or bonds, in compliance with the foregoing understanding. By the word *scrip* I do not mean regular six per cent. canal scrip, for that the board, as they understood the law, were not authorized to issue; but I refer to certificates or canal indebtedness such as the board had stricken off and issued.

In the case of the claim of Haven & Haven, the claimants and the counsel for the state agreed that no further evidence should be introduced on either side in that case.

The *old* evidence, filed with the several claims, was admitted in evidence, and the right of cross-examination waived by the counsel for the state.

The undersigned further report, that during their sitting at Ottawa, C. L. Starbuck presented a claim for and on behalf of Andrew Kinsey, which claim the board refused to receive evidence upon, because of no sufficient evidence that it had been ever before presented.

That George Armour, Andrew Lunn and Thomas Williams, for the use of John and George Armour, presented a claim, founded on a decree of the Cook county circuit court, rendered June 5, 1852, and offered to prove the same, which was rejected by the board as a new claim.

That Alonzo Walbridge and Mary, his wife, William Johnson and Sarah, his wife, and Elias Keyes, for the use of Alonzo Walbridge, presented a claim for damages, arising out of the construction of the canal across sec. 14, township 33, range 4 east, part of the estate of Edward Keyes, deceased, and offered proof of the same, which was rejected by the board as a new claim.

The undersigned further report, that all the witnesses who testified before us were duly sworn, and gave their testimony under their oaths respectively.

All which is respectfully submitted.

A. LINCOLN,
NOAH JOHNSON.

January 7, 1853.

By way of supplement, we, the undersigned, submit, that while at Ottawa we engaged the use of the sheriff's office, with the expression of our belief that the state would make reasonable compensation for the same; that we so occupied said office three days; and that the sheriff's name is ——— Thorn.

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We also state that on the 6th day of December, 1852, at Ottawa, we engaged Mr. R. E. Goodell, as clerk of our board; that he accompanied us to Chicago and thence to Springfield, and has been with us constantly up to the time of making this report.

We also state, that when we advertised the notice of our meeting, as mentioned in our report, we sent the same to the Ottawa Free Trader, Joliet Signal, and the Chicago Journal, with a note to the latter to request the other Chicago papers to copy; we mentioned that we supposed the state would foot the bills. None of the proprietors of the papers to whom we directly sent said notice, have presented a bill to us, but Alfred Dutch, proprietor of the Commercial Advertiser, who published under the request to copy, has presented us a bill of \$3 00, which we suppose ought to be paid.

At the instance of the counsel for the state, Isaac N. Morris traveled from Quincy to Springfield, and appeared before us one day as a witness, for which we suppose he should be compensated.

As to ourselves, we state, that from the time we left our respective homes till we returned to Springfield, we were constantly engaged in this business; that we went to Chicago because we were satisfied we could save time by so doing. The bills below are correct in point of fact, and, as we suppose, are in accordance with the law :

State of Illinois to Noah Johnston, Dr.

To travel from Mount Vernon, by way of St. Louis, to Chicago, and back to Mount Vernon, by way of Naples, Springfield and St. Louis, 1,026 miles,	-	-	\$102 50
To 44 days service,	-	-	176 00
			<u>\$278 50</u>

State of Illinois to A. Lincoln, Dr.

To travel from Springfield, by way of Naples to Chicago, and back the same way, 650 miles,	-	-	\$65 00
To 21 days service,	-	-	84 00
			<u>\$149 00</u>

NOTE.—The difference in the number days charged by one and the other of us, arises from the fact, that a large part of the time Mr. Lincoln was at home attending to his own business, while Mr. Johnston was necessarily away from his home, and was also engaged a good deal of the time in this business.

State of Illinois to R. E. Goodell, Dr.

To travel from Ottawa to Chicago, thence to Springfield and back to Ottawa, 650 miles,	-	-	\$65 00
To 32 days service,	-	-	96 00
			<u>\$161 00</u>

Respectfully submitted, this 7th of January, 1753.

A. LINCOLN,
N. JOHNSTON.

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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

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 river are as much benefited by the canal as those immediately on the line. The feeder, witness thinks, indispensably necessary to the canal, but that it might have been constructed at less expense, just as beneficial for the canal and less injurious to Lyman's land.

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. . . .

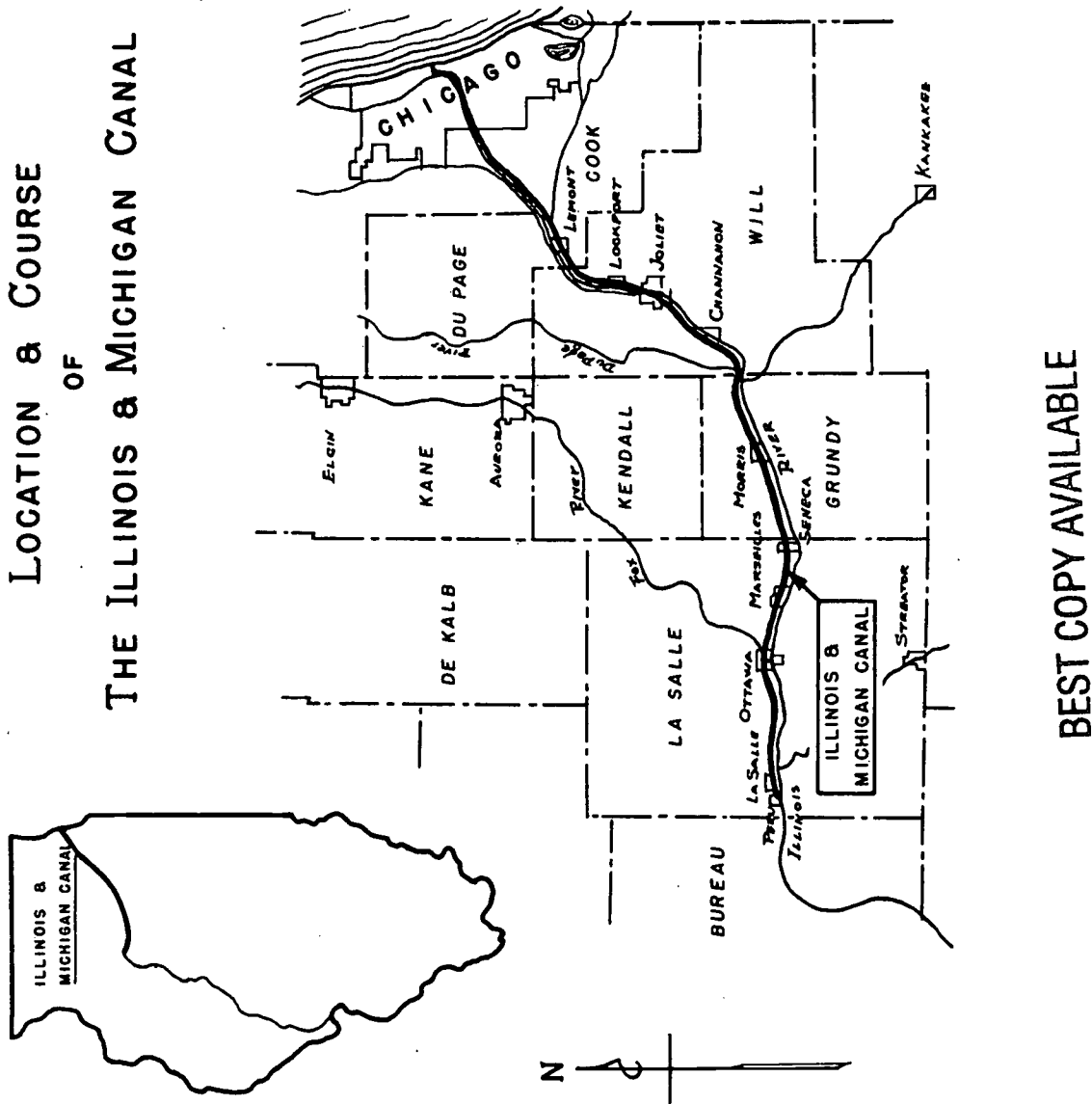
Joseph H. Wagner, being duly sworn, deposes and says, that he is acquainted with the situation of the W. fraction of S. W. $\frac{1}{4}$ sec. 32, T. 34, R. 4 E. That the feeder of the Illinois and Michigan canal runs through said tract from the north to the south end, rendering it almost valueless for 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. . . .

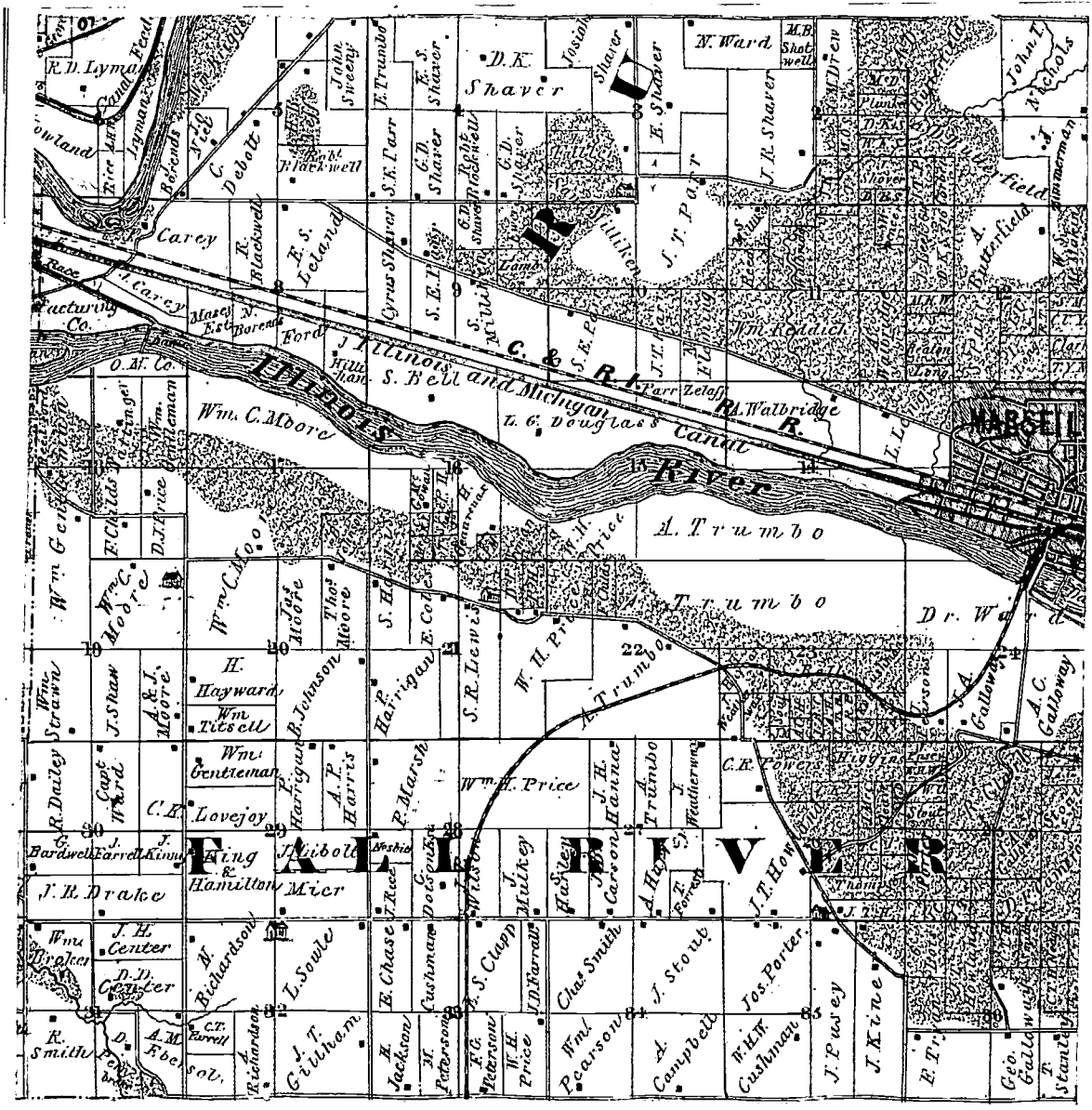
R. E. Goodell states on oath, that he has resided in the town of Ottawa eighteen years last past, during which time the Fox river feeder of the Illinois and Michigan canal was constructed; that since the construction of said feeder he has been well acquainted with the value of real estate in the state's 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. . . .

Map 6.1: Location & Course of the Illinois & Michigan Canal



Courtesy of the Illinois State Archives. From *The Illinois and Michigan Canal, 1827-1911: A Selection of Documents from the Illinois State Archives* (Springfield: Illinois State Archives, 1998).

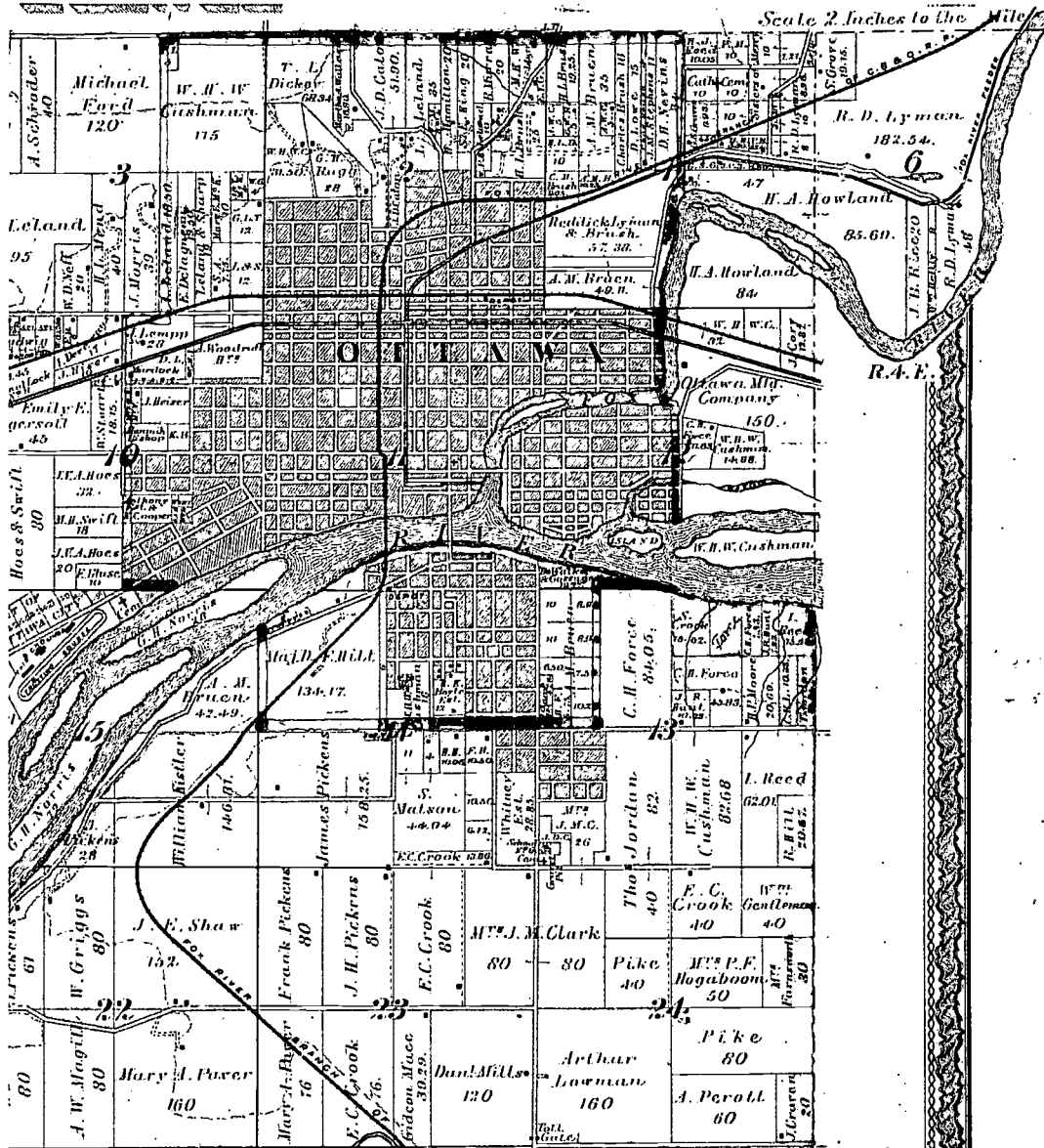
Map 6.2: Fall River and Southern Part of Rutland Townships (1870)
Township 33, Range 4 East



Map of LaSalle County (1870), 16.

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Map 6.3: Ottawa Township (1876)



Atlas of La Salle County, Illinois (Chicago: Warner & Beers, 1876), 77.

Glossary Of Terms

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

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

Boanerges: a powerful and blunt orator or speaker.

bushel: a unit of dry measure equal to 32 quarts or 30.28 liters.

chattel: an item of movable property.

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.

commencement: the start of an action.

corporation: a group of persons authorized by law to act as a single person and legally endowed with various rights and duties.

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

culvert: a drain crossing under a road or embankment.

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.

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.

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

detriment: damage, harm.

divers: various, several.

docile: easily led or managed.

effects: movable property; goods or personal belongings.

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

license: a right or permission granted by a government or business to engage in some activity or to do some act.

meridian: a line from which degrees of longitude are measured on a map or globe.

omnipotent: all powerful.

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.

prodigious: extraordinary.

proximity: very near, closeness.

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

section: a unit of land equal to one square mile in area; one of the 36 subdivisions of a township.

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

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.

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

waste weir: a dam in a stream or river to raise the water level or to divert its flow.

with force and arms: with violence, against the property or person of another.



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