



REVISED

**2009 Illinois State Bar Association
High School Mock Trial Invitational**

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**University of Illinois at Springfield
Public Affairs Center**

*People v. William "Duff" Armstrong
(1858)¹*

*Appreciation and Thanks to Special Consultant: Daniel Stowell, Director
The Papers of Abraham Lincoln*



**ILLINOIS STATE
BAR ASSOCIATION**

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¹ This case is based on *People v. Armstrong*, in which A. Lincoln defended William "Duff" Armstrong against a charge of murder using, among other defenses, an Almanac which indicated that a witness had lied about the light of the moon enabling him to recognize Armstrong as the alleged murderer.

Case Synopsis

On May 7, 1858 Abraham Lincoln represented a man accused of murder. A witness for the prosecution swore he had witnessed the argument as the moon had been full and bright between 10:00 and 11:00 p.m., providing full visibility. Lincoln used a Farmer's Almanac to discredit the witness, showing that at the time of the argument, the moon had already set. The man accused of murder was acquitted. This trial, known as the Almanac Trial, has become one of the best known of Lincoln's many trials.

This year, the Illinois State Bar Association High School Mock Trial case will be based on the Almanac Trial. Adding to the challenges normally faced in preparing for a mock trial, the students this year will need to use all of the facts available to Lincoln at the time (but limited to the materials provided by ISBA), and they will be asked to prove the guilt or innocence of the Defendant on those facts, without the use of the Almanac.²

In 1857 there were no formal, or pattern, jury instructions. At times, counsel could add to the jury instructions provided by the judge. Lincoln did so in this case and his written jury instructions included no mention of the Almanac. Lincoln obviously felt he had proved his client's innocence before discrediting the one witness who helped to make this trial famous.

The events leading to the Almanac Trial began on the evening of August 28, 1857, during a Camp Meeting in Mason County. Camp Meetings were similar to religious revival meetings. There was no alcohol allowed at Camp Meetings and those who attended included families with children. Illinois law at the time provided that any sellers of whiskey or spirits had to be located at least one mile from a camp meeting site.

William "Duff" Armstrong, James Norris, and James Preston "Pres" Metzker³ were known to have been drinking on the outskirts of the Camp Meeting when an argument started and someone allegedly struck Metzker with a slung shot (similar to a blackjack – a small metal ball wrapped in a piece of leather). The incident took place at a location called Walker's Grove, amidst a stand of trees, some distance from the actual Camp Meeting. Metzker survived the fight but died three days later after riding home on his horse. During the ride home Metzker fell from his horse at least twice, according to testimony.

The state's attorney indicted Duff Armstrong and James Norris in the Mason County Circuit Court for murder. Within one month, the court tried and convicted Norris for manslaughter for his part in the murder. He was sentenced

² Teams are limited to the materials ISBA provides in these case materials. No additional outside research is allowed.

³ Sometimes spelled Metzger.

to serve eight years in the State penitentiary. Norris was unlucky in that he had been, according to some, indicted for the murder of a man named Thornsby, but had been cleared on the plea of self defense. The Norris jury was made aware of this and Norris's reputation, in part, helped lead to his conviction for the murder of Metzker.

The court granted Armstrong a change of venue to the Cass County Circuit Court where Abraham Lincoln defended Armstrong as a favor to Hannah Armstrong, William Armstrong's mother and an old friend of Lincoln's from New Salem, Illinois.

Lincoln's defense witnesses included Nelson Watkins, who testified that the alleged murder weapon was his/hers and that he/she threw it away near the murder site on the day after the fight. The second witness, Dr. Parker, testified that the fatal injury could have occurred when Metzker fell off of his horse after the fight. The third (fictional) witness is a whiskey wagon owner who testifies as to the state of all the participants.

Charles Allen, the prosecution's main witness, testified that, from a distance of about 60 feet, under a bright moon, he saw Armstrong strike Metzker with the slung shot.

Other prosecution witnesses provided additional testimony about the character of Armstrong and the fight they say they witnessed. In total, the prosecution called fifteen witnesses and the defense used twenty-two. The jury ultimately found Armstrong not guilty.

The trial took place in Beardstown, Illinois in the second floor courtroom of the old courthouse. The courthouse is still there and is still in use as the building is the current Beardstown City Hall.

<http://showcase.netins.net/web/creative/lincoln/sites/beards.htm>

INFORMATION

**IN THE CIRCUIT COURT OF
SANGAMON COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)	
PROSECUTION)	
)	
v.)	No. 424-1857-2009
)	
WILLIAM "DUFF" ARMSTRONG,)	
DEFENDANT)	

FIRST DEGREE MURDER

STATE'S ATTORNEYS HUGH FULLERTON AND J. HENRY SHAW, REPRESENTING THE PEOPLE OF THE STATE OF ILLINOIS, COMPLAINANT, NOW APPEAR BEFORE THE CIRCUIT COURT OF CASS COUNTY AND STATE THAT WILLIAM "DUFF" ARMSTRONG, DEFENDANT, HAS, ON OR ABOUT AUGUST 28, 1857, AT THE SALT CREEK CAMP MEETING, IN MASON COUNTY, STATE OF ILLINOIS, COMMITTED THE OFFENSE OF FIRST DEGREE MURDER IN THAT HE, WITHOUT LEGAL JUSTIFICATION, KNOWINGLY INFLICTED A WOUND THAT RESULTED IN THE DEATH OF JAMES PRESTON "PRESS" METZKER ON SEPTEMBER 1, 1857, BY STRIKING METZKER IN THE FRONT OF THE HEAD WITH SLUNG SHOT. AND WHEN THE DEFENDANT DID SO, HE INTENDED TO KILL OR DO GREAT BODILY HARM TO METZKER; OR HE KNEW THAT SUCH AN ACT WOULD CAUSE DEATH TO METZKER; OR HE KNEW THAT SUCH ACTS CREATED A STRONG PROBABILITY OF DEATH OR GREAT BODILY HARM TO METZKER.

INVOLUNTARY MANSLAUGHTER

SHOULD TRIER OF FACT FIND INCONCLUSIVE ON THE CHARGES OF FIRST DEGREE MURDER, STATE'S ATTORNEYS HUGH FULLERTON AND J. HENRY SHAW, REPRESENTING THE PEOPLE OF THE STATE OF ILLINOIS, COMPLAINANT, WOULD ASK THAT WILLIAM "DUFF" ARMSTRONG, DEFENDANT, BE FOUND GUILTY OF INVOLUNTARY MANSLAUGHTER, AS ON OR ABOUT AUGUST 28, 1857, AT MASON COUNTY, ILLINOIS, WILLIAM "DUFF" ARMSTRONG DID PERFORM THE ACT WHICH CAUSED THE DEATH OF JAMES PRESTON "PRESS" METZKER, AND THE DEFENDANT PERFORMED THOSE ACTS RECKLESSLY.

SIGNATURE: _____
HUGH FULLERTON, STATE'S ATTORNEY, CASS COUNTY

I HAVE EXAMINED THE ABOVE COMPLAINT AND THE PERSON PRESENTING SAME AND HAVE HEARD EVIDENCE THEREON, AND AM SATISFIED THAT THERE IS PROBABLE CAUSE FOR FILING SAME. LEAVE IS GIVEN TO FILE SAID COMPLAINT.

SUMMONS ISSUED BY JAMES HARRIOT, PRESIDING JUDGE, CASS COUNTY, CHANGE OF VENUE HAVING BEEN GRANTED.

Illinois Compiled Statutes

First Degree Murder

720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

Sec. 9-1. First degree Murder - Death penalties - Exceptions

(a) A person who kills an individual without lawful justification commits first degree murder if, in performing the acts which cause the death:

(1) he either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another; or

(2) he knows that such acts create a strong probability of death or great bodily harm to that individual or another; or

(3) he is attempting or committing a forcible felony other than second degree murder.

* * *

(c) Consideration of factors in Aggravation and Mitigation.

The court shall consider, or shall instruct the jury to consider any aggravating and any mitigating factors which are relevant to the imposition of the death penalty. Aggravating factors may include but need not be limited to those factors set forth in subsection (b). Mitigating factors may include but need not be limited to the following:

(1) the defendant has no significant history of prior criminal activity;

(2) the murder was committed while the defendant was under the influence of extreme mental or emotional disturbance, although not such as to constitute a defense to prosecution;

(3) the murdered individual was a participant in the defendant's homicidal conduct or consented to the homicidal act;

(4) the defendant acted under the compulsion of threat or menace of the imminent infliction of death or great bodily harm;

(5) the defendant was not personally present during commission of the act or acts causing death;

(6) the defendant's background includes a history of extreme emotional or physical abuse;

(7) the defendant suffers from a reduced mental capacity.

(d) Separate sentencing hearing.

Where requested by the State, the court shall conduct a separate sentencing proceeding to determine the existence of

factors set forth in subsection (b) and to consider any aggravating or mitigating factors as indicated in subsection (c). The proceeding shall be conducted:

- (1) before the jury that determined the defendant's guilt; or
- (2) before a jury impanelled for the purpose of the proceeding if:
 - A. the defendant was convicted upon a plea of guilty; or
 - B. the defendant was convicted after a trial before the court sitting without a jury; or
 - C. the court for good cause shown discharges the jury that determined the defendant's guilt; or
- (3) before the court alone if the defendant waives a jury for the separate proceeding.

Involuntary Manslaughter

(720 ILCS 5/9-3) (from Ch. 38, par. 9-3)

Sec. 9-3. Involuntary Manslaughter and Reckless Homicide.

(a) A person who unintentionally kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly....

(1) Involuntary manslaughter is a Class 3 felony.

Jury Instructions

As written by the Judge: (synopsized)

The court instructs the jury that if they believe from the evidence that Armstrong struck the blow, and that he did so knowing that such an act created a strong probability of death or great bodily harm, and believe that the same blow caused Metzker's death, they are to find the defendant guilty of first-degree murder. To reach that verdict they must also believe from the evidence that Armstrong had acted without any considerable provocation, lack of sufficient cause being enough to imply malice in Armstrong's motive.

The jury may acquit the defendant Armstrong on the charge of murder and find him guilty of manslaughter, and, if so, may fix the time of his confinement in the Penitentiary at any [length of] time not exceeding eight years.

Added by Lincoln:

The court instructs the jury that if they have any reasonable doubt as to whether Metzker came to his death by the blow on the eye, or the blow on the back of the head, they are to find the defendant not guilty, unless they further believe from the evidence, beyond all reasonable doubt, that Armstrong and Norris acted in concert against Metzker, and that Norris struck the blow on the back of the head.

That if they believe from the evidence that Norris killed Metzker, they are to acquit Armstrong unless they also believe from the evidence, beyond a reasonable doubt, that Armstrong acted in concert with Norris in the killing or purpose to kill or hurt Metzker.

Prosecution Witnesses – two may be called

- **Charlie Allen** – eye witness
- **Dr. Lane** – Coronor
- **Lee Colt**, whiskey seller at the camp meeting

Defense Witnesses – two may be called

- **Duff Armstrong** – defendant
- **Dr. Parker** – physician
- **Nel Watkins** – owner of the alleged murder weapon

<h3><i>People v. Armstrong - Stipulations</i></h3>

1. While historic records of this trial offer conflicting distances between the alleged struggle between Armstrong and Metzker, ranging from 30 feet to 60 yards, for purposes of this trial, we will use a distance of 60 feet, which is the approximate distance from home plate to the pitcher's mound on a professional baseball playing field.
2. Norris was convicted of manslaughter for his part in the ~~murder~~ death of Metzker. As always, witnesses are bound by what appears in their affidavits and may not speculate as to what they may have testified to during the Norris trial.

**Defense Witness Affidavit
Duff Armstrong - Defendant**

1. My name is Duff Armstrong and I've been sitting in a jail cell for seven months waiting for this trial. I've been waiting for Mr. Lincoln to help me out of this mess. I've been in jail so long I've learned how to read. Learned how from an old school teacher who shared my cell. The good teacher was in on a charge of larceny but I think that's about as unfair as me being held that long for something I didn't do.

2. I'm 24 years old and I'm single. I'm considered slight of build. Folks say I'm stronger than I look but I think that's because I'm not afraid of those who may be bigger than I am. I admit to having a fight with Metzker, but I never hit him with anything other than my own bare hand. And, that fight was self defense. Metzker was dragging me off a table and I had to get away.

3. Jamie Norris and I went to that Camp Meeting mostly to race horses and have a good time. The meetings offer an opportunity for folks to gather, swap stories, trade goods and just have a sense of community. And do some drinking with friends.

4. I feel sorry for Norris. I think of him/her sitting in prison quite often. I don't think the conviction was fair. They kept saying that Jamie Norris had already killed one person, why not another? That's not true. Norris was accused of killing a person named Thornsbury, but was cleared. I'm lucky. Mr. Lincoln is a friend of my family. We go way back. I think Mr. Lincoln would do anything for my mother, Hannah. She fed him, washed and mended his clothes and treated him like a member of our family when we were all at New Salem. Lincoln's got a good reputation as a lawyer. I know he'll do better than that lawyer Jamie Norris had.

5. Mr. Lincoln said that all I need to do is tell the truth about any questions that are asked of me during the trial. He met with me and asked me what happened so I told him. Mr. Lincoln said that if I am convicted of murder, I'll most likely hang. I didn't kill anyone. I don't want to hang.

6. "It was on a Saturday ~~night~~ afternoon, and camp meeting was over for the day. In the edge of the grove were three bars where liquor was sold. Here gathered all the men and boys who went to camp meeting to drink whisky and have a good time—and a great many went for no other purpose. I had been at the meeting for two or three days, and had been drinking much, but I was then becoming sober. Up to this time, "Pres" Metzker and I had been good friends; but "Pres" had been drinking and was in an ugly mood. He had a loaded

whip⁴in his hand and was determined to have a fight with me. I hit him a terrible blow, knocking the skin from one of my knuckles. We clinched, and “Pres” rather got the best of me. I was strong for one of my size, and was able to catch him and throw him back over me. He got up first and came at me again. Then we fought like tigers. At last he got me under him. More than a hundred people stood by watching the fight, and when the boys saw “Pres” was getting the best of me, they pulled him off. We walked up to the bar, and, each taking a drink of whiskey, we bumped glasses and were friends again. I saw nothing more of him until the next morning, when he walked to the bar with a stolen quilt around him. His right eye was swollen shut. He bathed it with a glass of whisky, drank another glass, and then mounted his horse and rode away. Several days after that he died. Then the officers came and arrested me and put me in jail.”⁵

7. That’s the long and short of it. Those drinking spots or bars spring up around Camp Meetings. It’s a natural gathering of folks and brings all kinds in from the countryside. Some attend for the church going and preaching, others for the fun of it. Sometimes things get out of hand. It just happens.

8. I know that Charlie Allen is saying that I hit Metzker with a slung shot during a fight to get even for the incident in the afternoon...but I didn’t. I only hit Metzker during that afternoon fight and I used my bare hands and when the fight was over, Metzker was fine. Drunk and bruised, but I was bruised worse. Metzker was bigger than me by quite a bit, and older by a few years. I took the worst of that fight, that’s a sure thing. I never saw Metzker again after that fight until the next day. He was drinking again...and riding that horse of his away from the Camp wearing a blanket he’d stolen somewhere.

9. Allen is suggesting that Norris and I found Metzker after that first fight and had at him with the slung shot and a wagon piece. I never saw Metzker that night, I fell asleep soon after dark under a tree some distance from what happened that night. I never heard anything, I sure never saw anything. Besides that, I don’t own a slung shot and have never used one. Slung shots weigh about 3 pounds and can really hurt someone. The ball itself fits in your palm, but the rope makes it easier to hold and swing. I don’t have a weapon of that kind. I’m basically a farmer who likes to race horses. The only so called weapons I own are the ones everyone owns, I have a shotgun but it’s at home and used for hunting and I have a knife I carry with me at all times.

10. How could Allen have seen anything clearly in the middle of the night? He says the fight we were supposed to have had happened in the middle of a

⁴ **A loaded whip is one that has a handle loaded with several pounds of weight so it can be used as a weapon.**

⁵ *The New York Times*, June 28, 1896 “Lincoln’s Plea for Armstrong: How he secured the acquittal of the son of an old friend.” Originally printed in the *Chicago Tribune*.

bunch of trees and he was about 60 feet away. It was after 11:00 p.m. at night and full dark. Can Allen see through wood? See in the dark? Identify people from yards and yards away with absolute certainty? Allen says there were fires lighting the area, but those fires also make a lot of smoke. Allen is making this up. Blaming Norris and me for something we didn't do. Maybe Allen is trying to protect someone else by lying about this, or maybe Allen fought with Metzker. I don't know. All I know is I didn't see Metzker after that first fight in the middle of the afternoon where he bested me. There were dozens of people who witnessed that fight and can tell you that I did no harm to Metzker.

11. I didn't see Allen after that fight in the afternoon. If the moon was as bright as he said it was, and if I'd been there with Norris, I think I would have been careful about being seen. Who would want witnesses to see something like that?

12. If someone is trying to identify me by my clothing, I can tell you right now that I own three different shirts. One's for special occasions and stays at home pretty much all of the time. That one's still there and hasn't been worn for over a year. It's dark grey and it's for weddings and funerals. My other two shirts are made of denim and are dark blue. I was wearing one of those two shirts through the entire time I spent at the camp meeting. Last time I saw Norris, he was wearing denim as well. That's pretty much what we wear. We don't have fancy white shirts.

Defense Witness Affidavit
Dr. C.E. Parker

1. My name is C.E. Parker, I'm a physician and have been for over 25 years. I trained to be a doctor in the East and go back there every other year or so to update my training. I'm a country doctor used to treating everything from snake bites to broken bones. I've treated folks in this community for all the years I've been a doctor and I've brought half of my patients into the world and will see many of them out. I'm good at what I do. I'm careful and don't make mistakes. It's pretty rare for me to lose a patient unless it's some kind of killing disease. Then there's no hope from anyone. I know all my patients well, having tended them through the years, and I know all the individuals involved in this case personally.

2. I had the opportunity to examine Mr. Metzker the day after the alleged fight took place. I was called to see him at his home as he didn't want to get out of bed. It was his wife who called me to come. She was concerned that he didn't seem normal.

3. Mrs. Metzker said her husband had been complaining of terrible headaches and said he'd been in a fight, and please I would like everyone to understand that both Mr. and Mrs. Metzker were talking about a singular fight, not numerous fights, or even two. Mr. Metzker had been quite drunk, and he had also admitted to falling off of his horse on his way home, at least twice. He admitted this to his wife and when I asked him about it, he admitted it to me as well.

4. I would not have classified Metzker's wounds as killing, though they seemed to be paining him considerably. One was bad enough to cause some discomfort, this one was over his right eye and had caused the eye to swell shut and blacken...and the other one, the one to the back of the head, was worse. I asked if he had lost consciousness and he said not at the time of the fight, but he had some black outs since that time.

5. I examined as fully as he would allow, and he was frightfully stubborn about me looking at the wounds. The wound on the back of the head was, in my opinion, the more serious of the two wounds.

6. I found Mr. Metzker to be reasonably responsive to questions, though quite fractious and somewhat restrained due to his discomfort. I felt that another day or two would render him some peace from the discomfort. I washed the wounds and saw nothing else of note. There were no additional wounds that he asked me to see to, though there may have been some on his arms, legs or torso. He was clothed and did not ask for a further examination.

7. I attributed much of Mr. Metzker's discomfort to the drink he had admittedly consumed as much as to the wounds. At the time of the examination, I do believe Mr. Metzker was still a bit drunk.

8. The wound to the front of the skull seemed to me to be superficial and would heal with little trouble. It was consistent with wounds I see on a regular basis, all of which result from fist fights or falls from some small height, or from running into something. The wound to the front of the head, in my opinion, could not have been made with a weapon, or it would have been far, far worse, especially if the wound had been made by a slung shot as is alleged. Slung shots do considerable damage. The frontal wound was not made, in my opinion, by a weapon, but by a fist.

9. At the time I was first called to visit Mr. Metzker he told me, and his wife agreed, that he was able to get out of bed and walk a line, was experiencing some dizziness, and was as articulate in responding to my questions as anyone in his relatively drunk condition would be. I advised both Metzker and his wife that he should remain in bed, take little food and only broth or water to drink. No alcohol was to be given to him.

10. He had readily admitted to being in a fist fight, and he also admitted to being drunk and having fallen from his horse at least twice while on his way home. He told me he'd been conscious the whole time, or he thought he had been, and he'd had no trouble getting on his horse or finding his way home, all good signs.

11. His wife indicated that he had named Norris and Armstrong as two individuals he'd fought with, but that was a fist fight with numerous witnesses and could not possibly have caused the damage I witnessed to the back of Metzker's head.

12. I think he believed that the falls from the horse had caused his problems and not the fight. Had he assumed the blows from the fight were the cause of his problems, I believe he would have accused his attackers to me and tried to obtain some justice from them.

13. I was called back to the house the next day and Mr. Metzker had fallen into a stupor. The day after that, never waking again, he died. I must say that I was surprised by his death.

14. There are certainly numerous reasons that a person could die suddenly three days after a fight or from falling off a horse. I would have enjoyed the opportunity to fully autopsy the body and see if the head wound to the back of the head had, indeed, been the cause of death.

15. After further consideration, it is my professional opinion that if the trauma to the back of the head had been caused by a blow with a hard object, such as the wagon piece they are alleging that Norris used, then the wound may have been more serious than I first believed.

16. There have been instances where a severe blow to one part of the skull will rupture another part internally, which is not evident until death occurs. This is, in my opinion, what happened to Metzker.

17. I believe that if the wound to the back of the head was inflicted by a weapon, or was caused by a terrible fall from a horse, the kind of fall that would happen if the rider was drunk and made no attempt to avoid hitting his or her head, then that blow could have shaken the brain and skull so badly as to cause a frontal, internal wound near where Armstrong had punched Metzker earlier in the day.

18. Using a picture of a skull to show you, I would point to the back of the head and show how the impact would sort of echo around the inside of the head. There are instances where a blow to the back of the head can cause a frontal contusion on the inside that does not reveal itself on the outside and is only discernable after death. This can happen when the impact to the back of the head is delivered with some incredible violence or force. This could have happened to Metzker when he fell from the horse, completely freeing both Armstrong and Norris from any guilt in the matter. But, as Norris has already been found guilty of inflicting a wound to the back of the head, probably using the wagon yoke, this would be the wound that would have caused the death.

19. Again, there is a significant probability that Metzker has only himself to blame for his death. If in his drunken stupor he fell from his horse and did great bodily harm to himself, then the wound was as good as self-inflicted and is to be blamed for his demise. Remember, he did admit to falling from his horse at least twice on the way back to his home after the camp meeting.

Defense Witness Affidavit
Nel Watkins

1. My name is Nel Watkins and I attended the Camp Meeting in question and saw Duff Armstrong strike Metzker with his/her bare hand during a fight in the afternoon and I never saw Metzker and Armstrong together again after that afternoon fight. Duff hit Metzker in the face, connecting around Metzker's right eye. Metzker didn't even seem to flinch. He probably got a black eye later, but that would have been all. What I'm here to tell about is that the weapon they say was used by Armstrong to kill Metzker was mine and it was in my possession all that night.

2. I know Armstrong and Norris by reputation and by sight, though I wouldn't consider them to be friends or even close acquaintances. They like to have fun, drinking and racing horses, and neither is afraid of a fight, but they don't go looking for fights, neither one of them. They are well liked by virtually everyone in the community. They are fun to be around. Not bent on mischief unless there's good reason for it.

3. The reason I'm being called as a witness is because the prosecution is saying that the murder weapon was a slung shot, and the one they say did the deed is mine. I had that slung shot with me all that evening in question. During the day, August 28, I had left the slung shot in the wagon and it was where I had put when I went to sleep that night. I remember taking it under the wagon with me to sleep.

4. I came to the Camp Meeting by wagon and, as it had been warm and rainy off and on, I slept on the ground under the wagon on the night in question. I had the slung shot with me at the Camp Meeting for protection. If I was attacked by anyone, I'd have a chance to defend myself with it.

5. When I went to sleep, I had the slung shot with me and when I woke up, I put it on the wagon seat where I'd be sitting when I left camp. It was under some blankets I'd folded up there. That was the last time I saw it until the sheriff started showing it to folks and saying it was the murder weapon.

6. My slung shot couldn't be the murder weapon. I didn't lose sight of it until well after the fight that caused Metzker's death. The fight where Armstrong was supposed to have used my slung shot.

7. I witnessed the afternoon fight along with dozens of other people. Duff didn't have a weapon. Duff used his/her hands during that fight and landed one particularly good blow to Metzker's face, above the right eye. It made Duff's hand bleed, but Metzker didn't even seem to notice and kept coming at Duff. If Duff had anything like a slung shot then, for sure it would have come in

handy, but he/she didn't use anything but bare hands in that fight. I know Armstrong. It would have been a point of pride to use only fists in a fight.

8. That fight lasted until it looked like Metzker was going to kill Duff and then folks stepped forward and pulled them apart. They went off happily enough for drinks. They were smiling at each other then.

9. My slung shot is pretty distinctive. I made it myself. I took some lead and melted it down and poured it carefully into an egg shell. It was the perfect mold for forming the insides for the slung shot. I cut up an old pair of boots and used that leather as the sack, and I sewed it all up with squirrel skin. I also put my initials on the metal so I knew for sure when they cut it open that it was mine. I tried to tell the Sheriff that my slung shot couldn't have been used in the fight, but he didn't want to hear me.

10. I identified it over and over again, and told everyone who would listen that it was mine and that I had it with me that night, but they still think Duff used it to kill Metzker. I know I put it on the wagon seat the morning after the fight, but it must have fallen off. The sheriff said that he found it right where my wagon was parked the morning after the incident they are saying lead to Metzker's death. I'm absolutely positive that the weapon they say killed Metzker was my slung shot and it can't have been used in the fight that killed Metzker.

11. If it means anything to anyone, I know Metzker was a heavy drinker and rode out early in the morning after that alleged fight drunk as a skunk. He was wrapped in a blanket. Hadn't even dressed or washed. He was sliding all over the saddle and it sure looked like he'd be falling all the way home. He never stopped to complain to anyone, never accused Armstrong or Norris that I heard about. You'd think someone like Metzker would have stayed around to try to make trouble by complaining about those two if he thought they'd bested him in a fight the night before. He was the type, I'd guess.

Prosecution Witness Affidavit
Dr. Lane

1. I am the coronor who witnessed the autopsy of Metzker's body. I was present when two doctors probed the two head traumas, both of which could have proved fatal, both of which were most likely made by weapons like that found near the site of the fight at Walker's Grove. One was a large piece of wood, probably a piece of a wagon, and the other was a slung shot, probably owned by Nel Watkins, but used by Duff Armstrong.

2. As coronor, I am an elected official and I do not hold a medical degree. When called upon to investigate a suspicious death, I routinely call in local doctors to review the deceased and tell me the cause of death. Once I have the cause of death clearly in hand, I can submit a formal report to the sheriff, if need be, or to the family of the deceased to let them know the cause of death. I've got years of experience, plus I'm a butcher by trade so I can sometimes out guess the doctors when I see the body.

3. Based on the reports from the doctors I retained to autopsy Metzker, I do not believe that either of the wounds would have been caused by a fall from a horse or from being struck by a fist. They were wounds made by lethal weapons. This is a clear case of murder and I told that to the Sheriff.

4. In my role as coronor, I also interviewed Metzker's wife who said that her husband had arrived home from the camp meeting disoriented and clutching at his head. He admitted to her that he had been in a fight and had suffered terribly at the hands of two individuals, and he named them. They were Armstrong and Norris.

5. Mrs. Metzker said that her husband had fallen off his horse on the way home, probably due to a combination of drink and the head wounds causing such pain. She said that they had called the doctor, Dr. Parker, to their home to ease Mr. Metzker's pain, and that Dr. Parker had assured them both that the discomfort was primarily from the drink. He encouraged Mrs. Metzker to keep her husband quiet and feed him only broth and water. She did this, but Mr. Metzker fell into a stupor and two days after Dr. Parker had treated him, he died.

6. These people trusted Dr. Parker and assumed that his treatment would help and heal. It didn't. I'm not faulting Dr. Parker. There are some things that can't be fixed and these head wounds were those kinds of trauma. There was nothing Dr. Parker could have done but make Metzker comfortable and wait. What Dr. Parker failed to do was ask questions. If he had done so, there would be absolutely no question about the guilt of Armstrong and Norris.

7. I've seen enough in the way of autopsies to know a killing wound when I see one. There were two. One to the front of the head had swollen so badly that Metzker's eye was forced closed. That identifies the frontal wound as having caused soft tissue damage and may have been more serious than it originally appeared to Dr. Parker. The wound to the back of the head was also considerably swollen, and we found that it had been bleeding both internally and externally, with far more bleeding to the internal brain cavity than the external bleeding indicated. This would not have been apparent to Dr. Parker.

8. I was talking with Mrs. Metzker after the autopsy. Poor woman is totally lost. She said that before her husband fell into his final stupor, he whispered to her, "they killed me. They came at me from two sides and they killed me. Wish I'd thrashed them better that afternoon, but they came back and killed me." She was sure he was talking about Norris and Armstrong. She told the sheriff what her husband had said. That helped lead to their arrest for this murder.

Prosecution Witness Affidavit
Charlie Allen

1. My name is Charlie Allen and I saw Duff Armstrong and Norris strike the blows that killed Metzker. I know it was them. I'm absolutely positive. I'd swear on my mother's grave that it was Duff Armstrong and Norris that did this awful thing to Metzker, leaving his wife a widow.

2. I was sober as a judge most of that that day. I hadn't had hardly a drop of liquor to drink. My head was clear and so were my eyes, and I have good eyes. Maybe I had one or two drinks, but that certainly isn't enough to change my abilities to see and know what it was I was seeing.

3. There were camp fires burning all around the area where the fight that night happened, even on the edges of the grove of trees where the fight took place. I saw Armstrong and Norris walk into that grove, Armstrong was swinging a slung shot in his hand, not trying to hide it at all, and Norris had a long piece of wood in his hand. It looked to me right then that they were up to some mischief.

4. I also saw the fight between Armstrong and Metzker earlier in the day, the one that about 100 people witnessed. Metzker had grabbed Armstrong's leg while Armstrong was asleep on a table and yanked pretty hard, pulling Armstrong off the table. Armstrong came up fighting. For a little thing, Armstrong can be pretty fierce in a fight. People could hear slapping, smacking and punching noises, even if they couldn't see who was fighting. I could see it though, I was right up front. And, when it looked like Metzker was going to pretty much kill Armstrong, a bunch of folks surged forward and separated the two. They went off and drank together so folks must have thought all was well.

5. I think Armstrong and Norris decided to get even and took to the woods looking for Metzker to do him over good.

6. Armstrong was wearing a white shirt, different from the shirt worn during the day. That white shirt really stood out in the dark. Norris was wearing light colors as well. They were both very easy to spot and watch. Like I said, there were fires burning that cast some light, and my eyes are good. Besides that, there was a moon out that night and it made things easy to see, even through the trees.

7. Armstrong's just the kind of young ruffian that would do this kind of thing and get away with it. The kid has a reputation throughout the county, almost throughout the whole central state area, for liking to fight. Armstrong takes that race horse to fairs and gatherings, then places bets, drinks too much, and starts fights and bets on them.

8. I know I was about 20 yards away from the fight, but there was plenty of light that night from the fires and from the moon. They're going to say that at that distance how could I see that the person doing the beating had a weapon in his hand...well he did. He must have. Armstrong is shorter than Metzker. In order to strike that blow to the front of Metzker's head, there was a weapon involved.

9. And, yes, there were trees in that grove, but there were plenty of spaces between those trees so I could see plain as can be. There were no clouds. It had rained a day or so before that night, but that day had been clear and that night was clear too. My eyes are good. Plus, they weren't all that far away from the whiskey wagons and those were lit up pretty good so folks could find them. They were parked amongst the trees. It's cooler there for the customers and for the horses. Also keeps the drink cooler.

10. I know Duff and Norris couldn't see me. Or, if they did, they didn't pay any attention to me standing there and watching.

11. Metzker was only 28 years old. He was a father of three young kids and a lovely wife. Now she's all alone, just because some young kid decided to get even with a drunk who probably didn't even know what he was doing.

Prosecution Witness

Lee Colt - Whiskey Seller at the Camp Meeting

1. My name is Lee Colt and I'm one of the folks who attends camp meetings for profit. I sell whiskey off the back of my wagon. Customers visit me all day and into the night. Camp meetings are meant to provide people a means to celebrate their religion in a large community. They are also a social opportunity.

2. The camp meetings seem to draw other sorts of folks, including some heavy drinkers who have no intention to get religion. They don't allow gambling or drinking of alcohol in the camp area and as a seller, I have to have my wagon one mile away from the camp, but tents are set up around the edges, where they don't have any authority or jurisdiction, and some of the folks go there and imbibe.

3. The camp meetings need open space so they always look for a nice open field, where there's fresh water available for folks and their horses. They had that at this camp meeting. There's a clear stream running around the side of the camp area and there's a nice little stand of trees for folks to go to if it gets hot. That stand of trees was perfect for me. I could park my wagon in the shade at the edge of the woods, and set up business. I had a heavy stream of customers all through the day and into the night of that murder. I was just far enough into the trees to be in the shade all day long, but close enough to the meadow that folks could find me easily.

4. I was aware of both Norris and Armstrong. They had been at the meeting from the start, racing horses and taking advantage of the numerous whiskey wagons that were set up around the camp. Neither showed any interest in the religious undertakings, but they ate our food and mingled with us during the day in a peaceful enough manner, drinking. They were good customers. So was Metzker. And I even served a couple drinks to Charlie Allen.

5. I do know that they were all drinking, some more than others. Some considerably more than others. I walked right past Duff Armstrong and saw that he/she was taking a nap under a tree on a table. I also saw Metzker walk up to Armstrong and grab him/her by the feet and drag him/her off that table. I think Metzker had been drinking, I could smell it on him.

6. I know that Armstrong had run-ins with Metzker during the afternoon before the big fight later at night. That afternoon scrap wasn't too serious as they all came to my wagon, slapping each other on the back and buying each other drinks. They were smiling and laughing and seemed amicable enough at that time. Things can change though, and they evidently did.

7. Some time after Armstrong appeared at my wagon with Metzker for a make-up drink, the same thing happened between Metzker and Norris. Another fight had broken out and was stifled quickly, with them buying each other drinks at my wagon.

8. I thought these folks were adults and had shaken off their nastiness. They sure seemed happy enough with each other as they walked away in the afternoon, and there was shoulder slapping going on, all good natured fun. When they left my wagon later in the afternoon, I thought that I probably hadn't heard or seen the last of those three.

9. And I hadn't. I was serving whiskey to some late night customers after most folks had gone to bed for the evening. I was relying on the light from a number of fires that were burning around the camp grounds and around my whiskey wagon. There was plenty of light for me to see and to attract customers. They know when my fires go out, I have either closed for the night or I've run out of whiskey.

10. It was around 10:30 p.m. when I noticed Charlie Allen standing and staring into the grove of trees. He said, "I'm guessing those two are out to cause some trouble and I mean to catch them at it." I asked him who he was talking about and he said, "Norris and Armstrong, who do you think? I saw two men walking deep into the woods a few minutes ago. It has to be them looking for Metzker to get even for the thrashings they took this afternoon."

11. I offered Allen a drink and he/she accepted. I asked Allen if he planned on following them into the woods and he/she said, "No, I can see fine from here. I'll wait until they come out." I looked into the woods where he/she pointed and I was able to see through the woods for a bit because of the light from the fires by my wagon.

12. Then Allen walked away, a bit further into the woods. I did sort of watch that grove of trees and I did see some movement coming from where Allen had pointed, someone was in there wearing light colored clothing. They didn't seem to be trying to make a secret of being out there though. Then I heard what sounded like a fight. There was all manner of shouting and thrashing going on. Allen didn't move. Just stood there sort of concentrating on watching and listening.

13. I would guess that the commotion started at around 11:00 p.m. and didn't last all that long. I did see both Armstrong and Norris after that. They were my last customers. They had both had plenty to drink and seemed content with themselves, in good moods. At that time, neither one had a weapon that I could see.

14. I did notice that neither one of them looked like they'd been in a fight, they were laughing like they didn't have a care in the world. If they used the weapons they are accused of using, they wouldn't have been all mussed up, would they? And if they'd successfully thrashed the person who had bested them earlier in the day, they'd be pretty self-satisfied, wouldn't they?

15. I didn't see them hit Metzker, but they were in the area that evening and when I saw them around midnight, they were happy as can be, but unlike what Charlie said, they were both wearing denim when I saw them.

2009 ISBA High School Mock Trial

EXHIBITS

Exhibit A – Dr. Parker’s Skull diagram

Exhibit B – Drawing showing what a neck yoke looks like, with approximate measurements and weight

Exhibit C – Drawing showing what a slung shot looks like
Exhibit D – Map of camp meeting, with added information on where the whisky wagons would have been located

Other Information, not to be used as exhibits

Rendering of a camp meeting – Library of Congress

Discussion Guide

- Abraham Lincoln's defense of Duff Armstrong was skillful, not only in the direct and cross examination of witnesses, but in the selection of the jury. Lincoln wanted, and got, a jury of young men. The oldest juror was 38 and the average of the jury was 28. *Why do you think Lincoln wanted young, male jury members?*
- The judge in the Armstrong case recalled some years later that the Almanac that Lincoln used to discredit a witness made a bit of a difference, but the real testimony that brought in the not guilty verdict was the testimony of Dr. Parker. *What piece of evidence, or portion of witness testimony convinced you of Armstrong's guilt or innocence? Why? Do you think Armstrong was innocent of all charges, or should he have been convicted of a lesser charge of manslaughter for unintentionally causing Metzker's death?*
- Lincoln's closing argument included a synopsis of his long friendship with the Armstrong family, including his love and respect for Armstrong's mother who had cared for Lincoln during his years at New Salem. Lincoln charged no fee for his defense of Armstrong. *Was it appropriate for Lincoln to try to sway the jury with sentiment?*
- Lincoln's closing also included a statement that he had taken the case for no fee. *Would this have swayed you if you were on the jury?*
- We now have what are called Pattern Jury Instructions that are used in trials, but in Lincoln's time, the judge provided jury instructions and often lawyers could contribute suggested language to the judge. In the Armstrong case, Lincoln asked that the following jury instructions be included:
"THAT IF THEY HAVE ANY REASONABLE DOUBT AS TO WHETHER METZKER CAME TO HIS DEATH BY THE BLOW TO THE EYE, OR BY THE BLOW TO THE BACK OF THE HEAD, THEY ARE TO FIND THE DEFENDANT "NOT GUILTY" UNLESS THEY ALSO BELIEVE FROM THE EVIDENCE, BEYOND A REASONABLE DOUBT, THAT ARMSTRONG AND NORRIS ACTED IN CONCERT, AGAINST METZKER, AND THAT NORRIS STRUCK THE BLOW TO THE BACK OF THE HEAD. THAT IF THEY BELIEVE FROM THE EVIDENCE THAT NORRIS KILLED METZKER, THEY ARE TO ACQUIT ARMSTRONG, UNLESS THEY ALSO BELIEVE BEYOND A REASONABLE DOUBT THAT ARMSTRONG ACTED IN CONCERT WITH NORRIS IN THE KILLING, OR PURPOSE TO KILL OR HURT METZKER."
Why did Lincoln insert this particular language?
- Lincoln requested a change of venue for Duff Armstrong. *Do you feel this was important to Armstrong's defense? Why or why not?*

- When the Civil War broke out, Duff Armstrong served until near the end of the war, when his mother, Hannah Armstrong, wanted him home. She wrote to President Lincoln, who had defended her son years before, and asked him to discharge Duff. A telegram response came from the President telling her that her son had been honorably discharged. *If Lincoln thought that Armstrong might have been guilty of the murder of Metzker, do you think he would have honorably discharged him from the military?*
- In the real trial, Lincoln didn't put Duff Armstrong on the stand to defend himself or tell his side of the story, but relied on Duff's friends to establish his reputation and character. *If you were Armstrong's defense counsel, would you have put Duff on the stand? Why or why not?*
- If Norris hadn't already been convicted for his part in Metzker's death, would Armstrong's chances for acquittal have changed? *Why or why not?*
- The weapons allegedly used in the fight between Norris, Armstrong and Metzker were a slung shot and a neck yoke or piece from a wagon. *Given the weight and/or heft of these two objects, do you believe either/both of these could have been used to strike Metzker and **not** have caused death?*

2009 ISBA High School Mock Trial

EXHIBITS

Exhibit A – Dr. Parker’s Skull diagram

Exhibit B – Drawing showing what a neck yoke looks like, with approximate measurements and weight

Exhibit C – Drawing showing what a slung shot looks like, with approximate measurements and weight

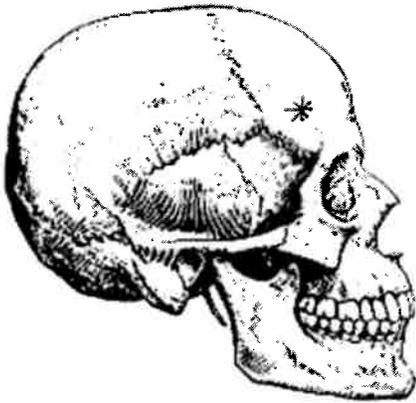
Exhibit D – Map of camp meeting, with added information on where the whisky wagons would have been located

Other Information, not to be used as exhibits

Rendering of a camp meeting – Library of Congress

CASE NO. _____ NAME _____

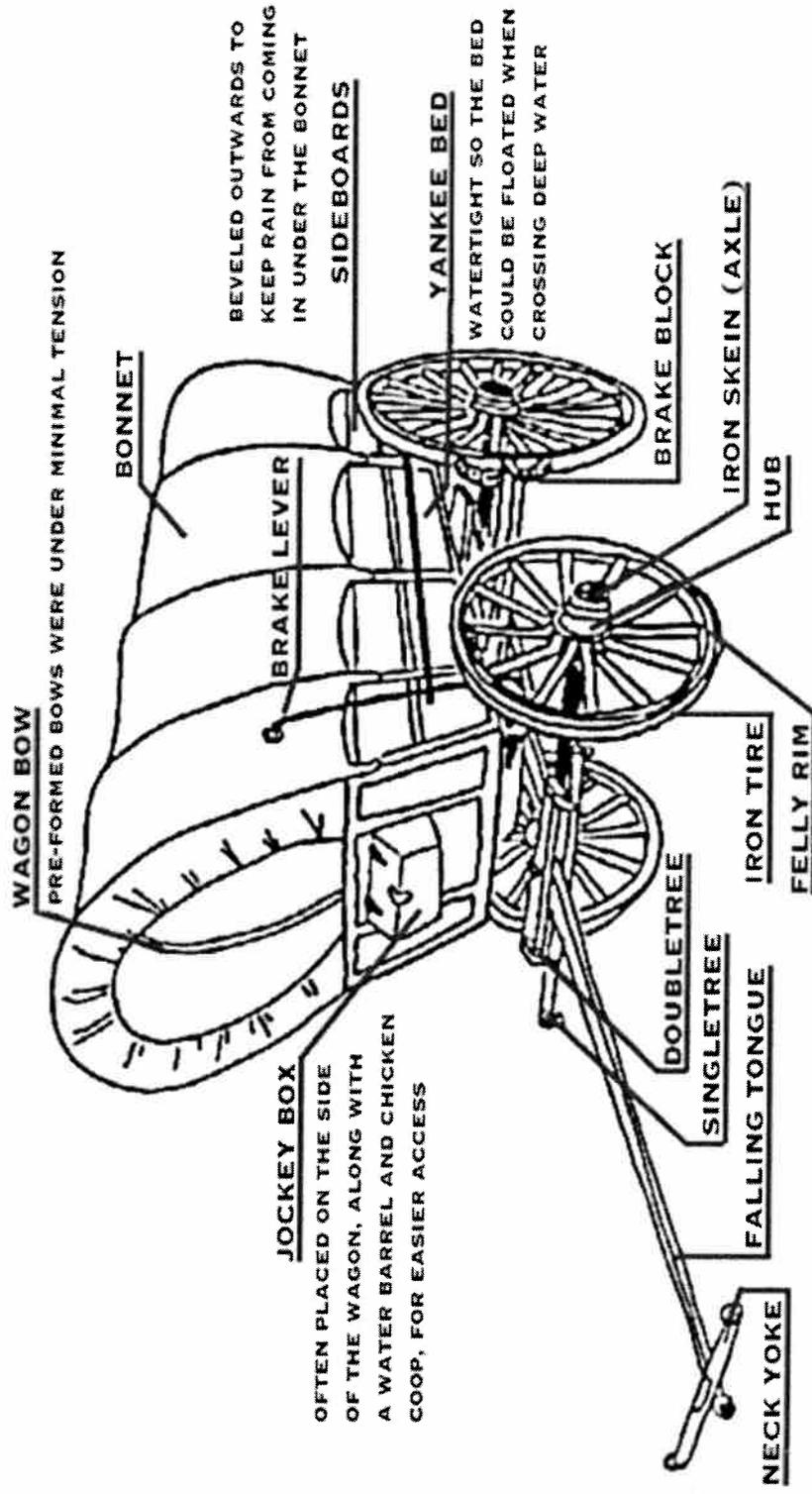
REAR WOUND LEFT SIDE
BY NORRIS



FRONT WOUND
DIAGRAM G
RIGHT SIDE

Figure 25 (23)

Made of hard wood, like oak or elm, the neck yoke was fitted with iron brackets and rings.
 Usually about 2 or 2.5 feet long, the yoke could weigh as much as 10 pounds.

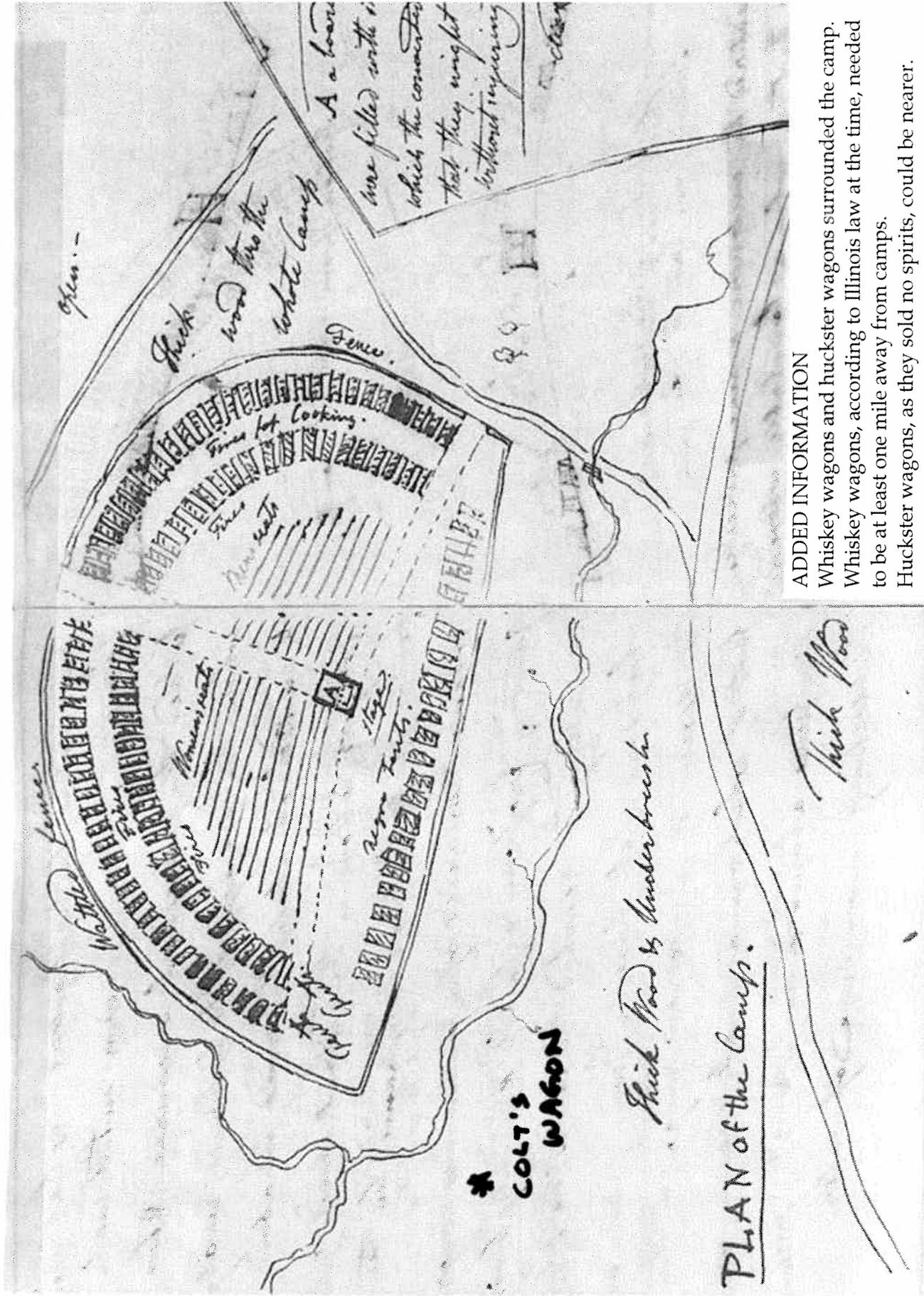


WAGON DESIGN COURTESY OF THE UNIVERSITY OF OREGON



SLUNG SHOT

This is a period diagram of a typical camp meeting plan. While not authentic to the Lincoln/Armstrong case, we will utilize this map as an Exhibit depicting the Camp Meeting in Southern Mason County where the incident took place.



ADDED INFORMATION

Whiskey wagons and huckster wagons surrounded the camp. Whiskey wagons, according to Illinois law at the time, needed to be at least one mile away from camps. Huckster wagons, as they sold no spirits, could be nearer.

This Is NOT An Exhibit For Mock Trial Use In This Year's Case.

This is an illustration of what a camp meeting looked like.

Library of Congress image.

