

Letter from Col. Caleb J. Dilworth.

(Copy.)

Harvard, Neb., May 18, 1896.

J. McCan Davis, Esq.,

Springfield, Ill.

Dear Sir:

Yours of the 15th has been forwarded to this place and just received. I recollect very well the trial of the State vs. Armstrong. The trouble originated near a camp meeting in Mason County, Illinois. Armstrong, with some others, met at a whiskey wagon near the camp ground, and after some controversy Armstrong struck Metzker (Metzker) in the eye. The parties were separated, made up, and that part of the matter ended there.

Metzker then left Armstrong and his company and started through the camp grounds. One Norris, who had had a former difficulty with Metzker, seeing Metzker coming, picked up a neck-yoke and stepped behind a tree. ~~and Metzker came up~~ As Metzker passed, Norris stepped out and struck him (Metzker) on the back of the head with the neck-yoke, he (Norris) running away, and Metzker going home. Metzker lived about three days. Upon the post-mortem examination, it was found that there was a wound in the eye, part of the skull being driven up into the brains; also, there was a wound on the back part of the head, either of which wounds would have produced death. Both Armstrong and Norris were arrested and jointly indicted. I was employed by Armstrong and we took a change of venue in his case to Cass County. Norris was tried in Mason County, convicted and sent to the penitentiary. We afterwards went to Cass County to try Armstrong. When we reached Beardstown, I found Mr. Lincoln there on other business, and during the day he came to me and said that "Mrs. Armstrong had come to him and asked him to assist in the trial of the case, and that if it would come

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off while he was there he would do so if I was willing". Of course I was glad to have him try the case. He not being acquainted with the facts, that night we met in a room with the witnesses and he examined them. The next morning the trial commenced. The prosecution attempted to magnify the assault and wound on the eye, and claimed that the wound was made by a slung-shot. When this testimony was given we ^{procured} ~~produced~~ the almanac, I think now from one of the public officers of the court. We examined it, and when the defense commenced Mr. Lincoln offered the almanac in evidence. It was submitted to the attorneys of the other side and examined by them and objected to as being immaterial. It was admitted in testimony to the jury; I do not remember now whether it was passed from one juror to the other or not. The idea that it was "fixed up", as you call it, or "tampered with", is not correct. The almanac that was offered was the almanac covering the proper ground, and with no alteration or tampering with had in the case. I cannot tell now as to the age of the jurors. I don't think there was any point made as to that part of the case. Of course we endeavored to get those that would be as favorable to our side of the case as we could. In relation to the almanac or the condition of the moon at that time, we did not put much stress on that part of the case, because it was so uncertain as to what time of night the affray occurred. There was nothing peculiar about the trial from ordinary trials for murder until ~~we came~~ it came to that part of the case which we admitted as the turning point. Of course Mr. Lincoln made a strong argument; everybody expected it and he did it; but what the case turned upon was the instructions given by the court. There was no question but what the fight with Armstrong and Metzker was an individual affair, and Norris was not present and had nothing to do with it. The assault of Norris was also a separate and distinct affair, and Armstrong was not present and had nothing to do with the

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other matter. Norris had been convicted of the killing. Lincoln asked the court ~~to~~ "to instruct the jury (as far as I can recollect now) that if they believe from the evidence that if Norris had been tried and convicted for the murder of Metzker, and said conviction had not been set aside, then the jury might acquit Armstrong, unless the act of his was a part of the same transaction for which Norris had been convicted." The court gave this instruction, and of course the ^{jury} ~~was~~ found for the defendant, as the testimony was clear and conclusive that Armstrong had nothing to do with the assault which Norris made. There was no scene or excitement when the jury came in, as everybody was satisfied, after hearing the instruction, what the verdict of the jury might be. My impression is Mrs. Armstrong was not present when the jury came in; but of this I cannot be certain.

X During the evening of the day of the trial Mr. Lincoln did deliver an address in the court house. It was not a political address, and I recollect very well he commenced by saying that "he had often attempted to write a scientific lecture and had commenced several, but had never finished one, and on this occasion he proposed to put them all together and fire them off at ~~once~~ ~~at~~ one shot". It was an address discussing the progress and improvement of the world.

I do not recollect of Henry Shaw doing anything in the case except it might have been in selecting a jury; but my recollection is that Judge Bailey of Macomb assisted Mr. Fullerton in the prosecution, and I believe also William Walker of Havana was in the defense.

The above is the principal part that I recollect of the transaction.

Yours respectfully,

(Signed) C.J. Dilworth.