The Armstrong Trial.

x

In the investigation of the Armstrong trial every known source of reliable information has been consulted. The inquiry has been attended with many difficulties. Most of those actively connected with the case are dead. Of the twelve men who sat on the jury , only two are known to be living- Milton Logan, the foreman, now a resident of Boone, Iowa, and John T. Brady, for many years a leading citizen of Pomona, California, where he is President of the National Bank of Pomona. Of the vast array of witnesses- there were nearly forty- perhaps less than a dozen are left and they are widely scattered. Judge James Harriott, who presided at the trial; Major Hugh Fullerton, the prosecuting attorney, and his assistant, J. Henry Shaw, James Taylor, clerk of the court, all these men are dead. The two lawyers associated with Lincoln in the defense are among the living~~xxxxxx~~few. They are Judge William Walker, of Lexington, Mo., and Col. Caleb J. Dilworth, ex-Attorney General of Nebraska, now a resident of Harward, that State. The recollections of these two men, and of Sheriff James A. Dick and ~~hi~~ his deputy, John Husted, and of others conversant with the circumstances of the trial, have been secured. The most scrupulous attention has been bestowed upon that branch of the inquiry relating to the almanac used by Lincoln with such dramatic effect.

In August, 1857, a camp-meeting was held in Mason County, Ill., in a grove near the mouth of Salt Creek. This meeting was made memorable by the killing of James Preston Metzker. These old fashioned religious gatherings were not attended exclusively by saints. Many of the ungodly were there, and whisky-sellers found it profitable to follow the camp-meetings and abide without their gates. Around the whisky-gates at this camp-meeting- located perhaps , half a mile outside of the grounds proper, - the wild rowdies of the Sangamon bottom found a congenial habitation during the two or three sweltering weeks in which the meeting was in progress.

Digital Image, 2011. The Ida M. Tarbell Collection, 1890-1944, Allegheny College Pelletier Library

Not infrequently there were quarrels and fights and blackened eyes.

On Saturday night, the 29th of August, William Armstrong, (his companions all called him "Duff") a young man twenty-three years old, and a son of "Jack" and Hnnah Armstrong, engaged in an encounter with "Pres" Metzker. For the purpose of this account of the trial, it is of little importance what actually occured in connection with the fight. Armstrong is still living, and his story of the difficulty with Metzker is corroborated by most of the surviving witnesses. Metzker, it seems, was the agressor at first He pulled Armstrong off of the dry-goods box on which he had made his bed for the night; he pulled him from the box three times and then stamped upon his hat. This angered Armstrong, but the fight did not occur until after Armstrong, followed by Metzker, had gone to the whiskey canteen, not far away, to get a drink. Just as young Armstrong lifted a glass of whiskey to his lips, Metzker, with drunken humor, seized him by the throat. "He spilt my whiskey," says Armstrong; whereupon Armstrong, with clenched fist, struck Metzker in the face. Several blows were exchanged, and the two men clinched. Metzker was the larger of the two, and soon had Armstrong upon the ground. Then by-standers rushed in and parted the fighters.

How seriously Metzker was injured was not then known. George Dowell and myself parted them ," says Wm. A. Douglas, a survuving witness. "We could not tell how badly Metzker was hit His eye was fearfully blackened and we washed him. I said "George, his skull is cracked." But skull cracked or not, Metzker was not throug with his troubles, for soon after this "he started through the camp grounds," as Col. C. J. Dilworth remembers, "One Norris who had had a former difficulty with Metzker, seeing Metzker leaving, picked up a neck-yoke and stepped behina tree s Metzker passed, Norris stepped out and struck him on the back of the head." Metzker was picked up by his friends and carried to a [illegible] away. There he languished, in an uncon-

Digital Image, 2011. The Ida M. Tarbell Collection, 1890-1944, Allegheny College Pelletier Library

The death of Metzker was followed immeidtaely by the arr of Armstrong and James Henry Norris as the accused murderers. first it was said that Armstrong used only his naked fists on Metzker; but now somebody came forward with the story that a sling-shot had been used! Out of a mass of conflicting evidence, the theory was formulated that Armstrong and Norris had conspired t kill Metzker; that the former struck him with a sling-shot over the eye, while Norris, with a neck-yoke, inflicted a blow on the back part of the head; and on this theory the two were jointly indicted. Metzker, it seems, excepting an occasional spree, had been a peacable youngman, and there was much feeling against his supposed slayers. Something of the popular excitement may be imagined when it is stated, as appears from the records, that, at the trial of Norris which followed, a jury was obtained only after the regular panel and three special panels of twenty-four men each had been exhausted. Armstrong's attorneys, Walker and Dilworth, secured a separate trial for him, and then, on the ground of local prejudice, were granted a change of venue to the adjoining county of Cass. Norris was tried at Havana. Eight years was the term of imprisonment which the jury gave him. To his dying day- he lived until 1894- Norris protested his innocence; and near Armstrong himself declares that Norris had nothing to do with the killing of"Pres" Metzker. But about a year prior to this time, Norris- in self-defence it is said now- had killed a man a Havana. He escaped punishment entirely; and to the popular indignation over this alleged miscarriage of justice, and to the bad reputation which he had very justly earned, is ascribed his conviction for a crime of which many now believe he was wholly innocent. However that may be, the conviction of Norris, though an unhappy event from his point of view, proved a most favorabl circumstance for Armstrong when the latter came to be tried, and was used most effectively by Lincoln in the preparation of the court's instruction to the jury.

Young "Duff" Armstrong languished in jail until the following May. "Jack Armstrong- Lincoln's cherished friend in the days of poverty and struggle at New Salem- had lived just long enough to see his son thrust into a prison cell; and on his death-bed he had implored his sobbing wife, good old "Aunt Hannah" to sell all she had and clear "Duff." All of Aunt Hannah's earthly possessions were scarcely enough to defray the expenses of a costly criminal trial. But she had secured the services of two good lawyers of Havana to defend her boy. They were William Walker and Caleb J. Dilworth. When they reached Beardstown in 1858, they found Lincoln there attending court and it was at this juncture that Lincoln, remembering the thousand kindnesses she had shown him in the long ago, volunteered to help Aunt Hannah out of her trouble.

"When we reached Beardstown," writes Col. Dilworth, "I found Mr. Lincoln there on other business. 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 came 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 trial occured on the 7th of May, 1858. No judicial proceeding at Beardstown had ever excited such intense and widespread interest. The court room was crowded throughout the trial. About forty witnesses were there and nearly all had traveled from sixty to one hundred miles. Among the medical experts in the case was Dr. B. F. Stephenson, then a resident of Petersburg, who afterwards became the fiunder of the Grand Army of the Republic So importnt was his testimony deemed that upon his failure to appear, the Sheriff was sent after him with an attachment. "Aunt Hannah Armstrong and many friends of the Armstrong family were

Digital Image, 2011. The Ida M. Tarbell Collection, 1890-1944, Allegheny College Pelletier Library

there, anxiously awaiting the fate of "Duff."
Mr. Lincoln came into my office and requested the privilege of making the challenges for the defense," writes Judge William Walker; and so the work of selecting a jury was entrusted to Lincoln. He performed the task well. His personal acquaintance in the community was of course slight; but, trusting solely to his extensive knowledge of human nature, he secured the kind of a jury he thought most favorable to the prisoner. There was a noticeable number of young men on the jury- one surviving witness declares that the average age would not exceed twenty-three years. This was a fine stroke; for Lincoln rightly figured that a jury of old men would be farther removed from the defendant in point of sympathy and not so susceptible to the pathetic appeal which it was his purpose to make.

The jury empaneled, the examination of witnesses seems to have been conducted, on behalf of the defense, chiefly by Lincoln. Many of the witnesses bore familiar names; some were sons of "Clary's Grove boys" and Lincoln had known their fathers. The witnesses were kept out of the court-room until called to testify," says Wm. A. Douglas. "I happened to be the first witness called and so heard the whole trial. When Wm. Killian was called to the stand, Lincoln asked his name.

"William Killian," was the reply.

"Bill Killian?" Lincoln repated, in a familiar way, "Tell me, are you a son of old Jake Killian?"

"Yes sir," answered the witness.

"Well," said Lincoln, somewhat aside, "You are a smart boy if you take after your dad."

The testimony was of a most conflicting character. Apparently no two persons had observed precisely the same incidents of the fight. Most of Armstrong's witnesses (he had twenty-five in all) were sure he had no weapon in his hand when he struck Metzker; some acknowledged the night too dark to see the affray with distinctness. Witnesses varied widely as to the precise hour of the encounter. Some said it was as early as nine o'clock; others, as late as eleven; while most of them fixed it between ten and eleven o'clock. So much uncertainty was favorable to the defense. Yet there were circumstances pointing strongly to Armstrong's guilt. A sling-shot found on the grounds near the scene of the fight was produced; it was picked to pieces by the man who made it and fully identified by him. Yet it was not traced to Armstrong's hands by any positive evidence. But now came a witness who seemed not to have participated in the general spree of the hateful night, and who was able to recall with great distinctness and particularity all that happened. His name was Charles Allen, and he was the most formidable witness produced by the prosecution. He had, according to this story, stood by and watched the fight; he had seen Armstrong strike Metzker with the terrible sling-shot, "because" he declared," the moon was shining brightly Allen was cross-examined by Lincoln, and when pressed for particulars as to the moon, he declared that "it was a full moon, or nearly so, and was about where the sun would be at ten o'clock in the morning. Allen was corroborated to some extent by other witnesses, who swore that it was a bright, moonlight night, though none were was so positive as Allen, nor so circumstantial in his description of the fight.

"Lincoln was very good to Allen" writes John T. Brady, on of the two surviving jurors, "encouraging him by suppkying words when he hesitated for them and telling him not to get excited, but keep quiet and tell everything just about as he saw it." Of nothing was Allen more positive than that the moon was full and high in the heavens. Under Lincoln's questioning he repeated the statement until it was impossible that the jury should forget it. With Allen's testimony unimpeached, conviction seemed certain.

Digital Image, 2011. The Ida M. Tarbell Collection, 1890-1944, Allegheny College Pelletier Library

Lincoln's address to the jury is described by those who heard it as a most pathetic one and as persuasive beyond resistance. At the outset he assured the jury that he was not there as the hired advocate of the accused man, but to discharge the d duty of a friend. He drew a picture of his early struggles at New Salem, . "Uncle Abe," says Duff Armstrong himself, "did his best talking when he told the jury what true friends my father a and mother had been to him in the early days. * * * He told how he used to go out to "Jack Armstrong"s and stay for days; how kind mother was to him, and how, many a time, he had rocked me to sleep in the old cradle." Lincoln had the jury with him- he had their sympathy- right from the start," says Wm. A. Douglas,"Some times, while he pleaded, the jury would be in tears."

But the dramatic feature of the trial- the incident which has so touched the popular imagination as to make the "Armstrong case" the best-remembered trial ever participated in by Lincoln- was the production of the almanac which completely overturned an annihilated the testimony of the State's chief witness, Allen. It is a noteworthy fact that the lawyers in the case were very little impressed by the almanac incident; they regarded the verdict of acquittal as due more to other causes- more to Lincoln's skill in the examination of witnesses, more to his wonderful appeal, more to the adroitly written instructions to the jury. But to the less learned who witnessed the proceedings, the introduction of the almanac was the most impressive part of the whole trial, and from that day to this the belief has been general that the almanac saved Armstrong from the gallows. Of the manner in which the almanac was introduced there are conflicting accounts. Properly it should have been offered with the other evidence, before the arguments of counsel were commenced; but it seems that Lincoln, with a fine dramatic sense quite unusual with him, carefully kept the almanac back until it came his turn to address the jury. "After 'Uncle Abe' had talked to the jury a little while," says Armstrong, "he said, 'Now, I will show you that this man Allen's testimony is a pack of lies; that he never saw Armstrong strike Metzker with a sling-shot; that he didn't witness the fight by the light of the full moon, for the moon was not in the heavens that night.' And then 'Uncle Abe' pulled out the almanac and showed the jury the truth about the moon. * * It upset Allen's testimony completely. Lincoln passed the almanac to the jurors and they inspected it."

"When Lincoln introduced the almanac," writes John T. Brady, a juror, " the prosecuting attorney very strongly objected, and Judge Harriott asked to see it. * * The Judge examined it, and then passed it to the prosecuting attorney, and after he examine it Mr. Lincoln passed it to the foreman of the jury, and the jurors looked it over."

What did Lincoln prove by the almanac? The popular tradition upon this point has taken several forms. Some say that Lincoln showed that the moon was dark; others, that it had not yet risen; many, that it had already set; while a few say that he showed what was really the fact, that the moon, instead of being "a full moon and where the sun would be at ten o'clock in the morning," was a new moon and at the hour of the tragedy was within two hours of setting. Whether Lincoln used an almanac of some years prior to that of the murder, either innocently or by design has been a mooted question ever since the trial. That it was quite unnecessary to resort to any such deception, to say nothing of the fact that such a trick was wholly out of keeping with Lincoln's well known integrity and candor, would make it appear improbable that the jury was imposed on by a bogus almanac. That the surviving jurors disbelieve the story, and that the two lawyers associated with Lincoln in the defense of Armstrong knew nothing about the alleged "trick" should be evidence of a convinci character. The story that a "doctored " almanac was used is sti current around Beardstown, and quite generally believed, but it

Digital Image, 2011. The Ida M. Tarbell Collection, 1890-1944, Allegheny College Pelletier Library

is qualified with the explanation that the almanac was "fixed up" by others and that Lincoln was wholly innocent of any intentional deception.

But whatever may be the truth as to the particular almanac made use of, certain it is that its effect was to discredit Allen's testimony completely. "It led the jury to the idea" writes Juror Brady, "that if Allen could be so mistaken about the moon, he might have been mistaken about seeing Armstrong hit Metzker with a sling-shot." This was the effect of the almanac put rather mildly. The jury, after seeing the almanac, simply would not believe Allen.

Lincoln concluded his address by saying to "Aunt Hannah," "Your son will be free before sun-down."

The jury retired shortly before supper-time. The judge, the lawyers, and many of the spectators went out to eat. The prisoner reamined in the court-room with the sheriff, anxiously awaiting some token of his doom. He did not have long to wait. "It was not over five minutes after they went out," he says, "when I heard them talking and laughing, and my heart beat a little faster." Soon the deputy sheriff sent for the judge, and when he came the jury was brought in. "They had to pass me," says Armstrong again," and I eyed them closely for some hopeful sign. One of them looked at me and winked. Then I knew it was all right."

The verdict of "not guilty" was received with general approval. The judge, the jurors, the prisoner and the prisoner's lawyers were congratulated. "Mr. Lincoln and myself" writes Judge Walker," were not in the court room when the verdict was returned but on returning to the court room we met the jury on the street and they clustered around Mr. Lincoln, shaking his hand, as friend friends would after a long separation."

Digital Image, 2011. The Ida M. Tarbell Collection, 1890-1944, Allegheny College Pelletier Library