



# Lincoln Legal Briefs

A Quarterly Newsletter of The Lincoln Legal Papers  
A Documentary History of the Law Practice of Abraham Lincoln, 1836-1861

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## **Manuscript Complete!** **University of Virginia Press to Publish Print Edition**

The editors of the Papers of Abraham Lincoln are proud to announce that the manuscript for the selective print edition of Lincoln's legal papers is complete. For the past several months, editors have been putting the finishing touches on the manuscript, checking for consistency and completeness.

In 1999, the Lincoln Legal Papers estimated that editorial work on the selective print edition would be complete by 2005. Over the past five and one-half years six editors, aided for one year by an NHPRC editing fellow and with the assistance of a new research associate, have completed an average of one chapter per month to meet that goal.

On August 19, the project had a picnic for current and former staff members and their families to celebrate the completion of this phase of Series I of the Papers of Abraham Lincoln.

The University of Virginia Press will publish the project's selective print edition of Lincoln's legal papers as a four-volume slip-cased set in Fall 2007. University of Virginia Press Director Penelope Kaiserlian wrote, "The Board of Directors of the Press gave unanimous approval to publication of the Legal Series by our press, considering it a publication of the caliber of the documentary editions we already publish, *The Papers of George Washington* and *The Papers of James Madison*."

Professor Melvin Patrick Ely, the Chair of the press's Board of Directors, wrote that "These volumes, which will appear in both print and digital formats, will excite scholars and Lincoln buffs alike." The press plans a subsequent digital publication of the edition through its electronic imprint, Rotunda.

Project editors submitted the entire 3,200-page manuscript to the press in September.

Staff members of the University of Virginia Press are examining the entire manuscript and will begin copy-editing and design work soon. The project will receive the copy-edited manuscript, one volume at a time, beginning in the spring of 2006. Project staff will also begin compiling the comprehensive index for the edition. When the project receives page proofs beginning in late summer 2006, staff editors will reproof the document transcriptions and complete the index by the spring of 2007.



"Abraham Lincoln, the Martyr Victorious" by J. Sartain  
Image courtesy of the Abraham Lincoln Presidential Library and Museum,  
Springfield, IL.

## Project and Staff News

The project acknowledges with deep appreciation the generous contribution of J. M. Lloyd. Individual donations to the project are still welcome and help us maintain our commitment to documenting the life and times of Abraham Lincoln.

In June, John Lupton published an article entitled “Documenting Abraham Lincoln” in the latest *Public History News*, the quarterly newsletter for the National Council on Public History.

In July, Stacy McDermott received a King V. Hostick award from the Illinois Historic Preservation Agency and the Illinois State Historical Society. She will use the nearly \$3,000 award to conduct research for her dissertation, which is an analysis of the composition of antebellum Illinois juries and the status of the jury as a democratic institution. McDermott is pursuing a doctorate in American history from the University of Illinois at Urbana-Champaign.

In August, John Lupton spoke to the Decatur History Club about Lincoln’s legal career. He also traveled to Piper City, Illinois, to make a presentation to the Ford County Historical Society. In that presentation, he talked about Lincoln’s travels along the Eighth Judicial Circuit.

At the Illinois State Fair in August, project secretary Carmen Morgan volunteered at the Abraham Lincoln Presidential Library and Museum tent exhibit. While project editors were busy completing final tasks related to the submission of the manuscript, Morgan’s willingness to volunteer provided a project representative at the fair. Although too rarely recognized, her contributions are vital to the success of the project.

On September 13, Daniel Stowell spoke at a reception at the U.S. Courthouse in Springfield. The Illinois Bar Foundation hosted the reception to raise money to place a monument on the unmarked grave of Samuel H. Treat in Oak Ridge Cemetery. Treat was the judge of the Eighth Judicial Circuit (1839-1848), a justice and chief justice of the Illinois Supreme Court (1841-1855), and judge of the U.S. District Court for the Southern District of Illinois (1855-1887).

Project staff prepared a small exhibit on Judge Treat’s life and accomplishments. John Lupton

and Kelley Boston also represented the project at the event and answered questions about Judge Treat and the exhibit.

### Project Hires Graduate Assistant

In August, Michael Kelley joined the project as a graduate assistant. He began course work this fall in the Master’s program in public history at the University of Illinois at Springfield.

A native of Lake Villa, Illinois, Kelley earned a B.A. in history from the University of Illinois at Urbana-Champaign in 2004. After graduation, he taught English/Language Arts at Abramson Senior High School in New Orleans, Louisiana. He taught school for one year before returning to Illinois to begin graduate school.

As a graduate assistant, Kelley will spend much of his time processing digital images for Series II and Series III. This process involves cropping the large, high-resolution tiff images, concatenating multi-page documents, encoding the files into a smaller, more usable digital format, and adding digitization information to the document-control database. Kelley will also assist with the maintenance of survey files and participate in various research and clerical activities.



### Macready v. City of Alton, Illinois

*This is the third installment in a series presenting interesting Lincoln cases that will not appear in the upcoming four-volume book edition.*

On March 30, 1857, seventeen-year-old Mary Macready fell into a “deep & dangerous excavation” on a sidewalk in Alton in Madison County, Illinois. Macready, an Irish immigrant, was visiting Alton from New York. During the fall, she severely injured one ankle, one leg, and her back. The extent of her injuries forced her to seek medical attention, including the services of a “cold water” physician in Peoria, Illinois, some 150 miles north

of Alton. Macready's medical expenses totaled \$500, and she was unable to work during her time of rehabilitation.

In the spring of 1858, Macready retained the legal services of two law firms, Abraham Lincoln & William H. Herndon of Springfield, Illinois, and Orville H. Browning & Nehemiah H. Bushnell of Quincy, Illinois. In June 1858, Macready's attorneys filed a trespass on the case action against the City of Alton in federal circuit court in Springfield. The declaration in the case charged the city with negligence, claiming that the municipality was responsible for maintaining sidewalks to ensure that they were "free from all dangerous holes, pits, ditches and excavations, or, in case of temporary necessity, to have all passers upon said streets and sidewalks, warned of such holes, pits, ditches, and excavations, by proper guards, lights, signals, and other means."

The federal marshal issued a summons for Alton's mayor, the city clerk, the city attorney, and two members of the city council. The city hired Alton attorneys Levi Davis and Henry W. Billings.

In the suit, Macready sought \$20,000 in personal injury damages, arguing that the severity of her injuries and the city's failure to warn pedestrians of the danger warranted such damages. The city denied any responsibility for Macready's accident.

During his legal career, Lincoln and his partners handled at least nine personal injury cases. Five of those cases involved injuries sustained on stagecoaches and railroads, two dealt with medical malpractice, and two, including Macready's case against the City of Alton, were the result of injuries sustained on poorly maintained city sidewalks. The other case began in March 1853 after Oliver W. Browning fell and broke his leg on a sidewalk in Springfield.

After his accident, Browning had retained Lincoln & Herndon and filed suit against the city in the Sangamon County Circuit Court, claiming that the municipality was negligent in keeping its streets and sidewalks in good repair. Among other arguments, the city claimed that it did not have sufficient funds for such maintenance. In November 1853, the jury in the case returned a verdict in favor of the city. Browning appealed the judgment to the Illinois Supreme Court, which reversed and

Springfield, June 22, 1858.  
O. H. Browning, Esq.  
My dear Sir  
Mrs Macready has appeared  
here again this morning, and it now occurs  
to me as strange that I did not think to  
ask you whether you can surely be a hour  
at the next term, if we continue to con-  
tinue this - how long? Answer as soon as  
possible, after receiving this. If you can possibly  
be here at the term say so, and advise what  
day, but I understand you that probably you  
can not be here again at the term -  
Yours truly,  
Abraham Lincoln

**Abraham Lincoln to Orville H. Browning  
22 June 1858**

Lincoln wrote to Browning, who was representing the City of Alton in the case, inquiring about Browning's availability for the trial in federal court in Springfield.

*Image courtesy of the Abraham Lincoln Presidential Library and Museum, Springfield, Illinois.*

remanded the case in February 1856. In the opinion, Justice Walter B. Scates argued that the city's charter made it responsible for keeping its streets and sidewalks in good repair and that its tax base provided adequate means for repairs. Scates realized that the court's opinion in the case was innovative, but it was "based upon sound sense in accordance with strict morality, and keeping pace with the progress of the improvements of the age." A jury at the remanded case in April 1857 awarded Browning \$700 in damages.

Lincoln certainly utilized his experience with the *Browning* case to obtain remedy for Mary Macready a little over one year later.

On June 29, 1858, Macready's trial against Alton began with a jury empaneled to hear the evidence. One of the jurors was Oliver W. Browning, the same man who had obtained his own personal injury judgment. U.S. Circuit Judge Samuel H. Treat presided over the proceedings. The trial continued on June 30, and the attorneys presented their evidence and arguments.

Three witnesses testified on behalf of Mary Macready: Dr. Hezekiah Williams, a twenty-eight-year-old Alton physician who had provided medical attention to Macready following her injury; Dr.

*continued on page 4...*

George C. Wood, a Peoria specialist in “cold water” remedies; and thirty-year-old Margaret Brown, a chamber maid at a hotel in Peoria where apparently Mary Macready had resided during her convalescence. Margaret Brown was also an Irish immigrant, and the two women may have forged a friendship during Macready’s rehabilitation.

Three witnesses testified on behalf of the defendant: Joseph Brown, who was perhaps an Alton drayman who worked in the city delivering goods to various merchants along the sidewalk where Macready fell; thirty-six-year-old Charles A. Murray, the proprietor of Alton House hotel; and S. B. Dolby, a forty-year-old deputy sheriff of Madison County.

On the same day, the jury of twelve men retired to consider their verdict. After lengthy deliberations, they returned a verdict, finding the City of Alton liable for damages and awarding Macready \$300. While the jury agreed that the city was responsible for Macready’s injuries, they were unwilling to meet her request of \$20,000. The jury award probably reflects Macready’s actual medical expenses. The jury also agreed that each party should cover their own legal fees.

On June 29, Mary Macready paid Dr. Wood \$14.90 as payment for his witness fees. On July 9, she paid Margaret Brown the same amount. All of the witnesses at the trial had to travel to Springfield

to testify at the trial. The fees of these two witnesses, who traveled from Peoria, included travel expenses.

On September 7, 1858, Mary Macready certified to George W. Lowry, the federal circuit clerk, that she had received \$300 from the City of Alton for damages in her case against them.

Personal injury cases were not common on antebellum Illinois dockets, but they were beginning to occur at greater frequency. Growing transportation systems and the dangers associated with them, changing attitudes about corporate liability, and a developing legal system merged to provide an environment that fueled the increase in personal injury cases. Mary Macready’s case was heard in the context of those changes, and her ability to seek some remedy for her injuries was, increasingly, an option for other nineteenth-century Americans as well.

*Stacy Pratt McDermott*  
*Assistant Editor*

Sources: Martha L. Benner and Cullom Davis et al., eds., *The Law Practice of Abraham Lincoln: Complete Documentary Edition*, DVD-ROM (Urbana: University of Illinois Press, 2000); *Browning v. City of Springfield*, 17 Ill. (1855) 142-48; U.S. Census Office, Seventh Census of the United States (1850), Madison County, IL, 142, 745 and New York County, NY, Ward 5, 120; U.S. Census Office, Eighth Census of the United States (1860), Madison County, IL, 116, 160 and Queens County, NY, 627; *Alton Weekly Courier*; *Daily Illinois State Journal*; McEvoy & Brown, comp., *Alton General City Directory and Business Mirror for 1858* (Alton, IL: Courier Steam Printing House, 1858); William J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996); Peter Karsten, *Heart versus Head: Judge-Made Law in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1997).

## The Lincoln Legal Papers

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A Project of



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#### How You Can Help:

•By advising project staff of known or reported Lincoln legal documents in your locality. We are seeking photocopies of any document, record, letter, contemporary printed account, or after-the-fact recollection that relates to Abraham Lincoln’s entire law practice, 1836-1861.

•By making a tax-deductible donation to the Abraham Lincoln Association in support of the project. Such gifts provide crucial support in furtherance of the project’s objectives.

#### Please address inquiries and gifts to:

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