

Abraham Lincoln: American Lawyer-President

Brian Dirck

Abraham Lincoln was the most experienced trial lawyer Americans have ever placed in the White House. While more than half of our nation's presidents have been attorneys, none possessed Lincoln's extensive courtroom experience: approximately 3,800 known cases, litigated during a quarter century at the Illinois bar.¹



The Coles County Court House in Charleston, Illinois, in which Lincoln often practiced law and before which he made a short speech following his fourth joint debate with Douglas, Sept. 18, 1858 (Courtesy the Library of Congress, Prints and Photographs Division, LC-DIG-ppmsca-19197)

However, the law's influence on Lincoln extended far beyond the mere number of cases he litigated. It was his only steady source of income; it gave him important political contacts within the state's bench and bar; and it was the means by which he met an extraordinary number of his constituents. As a lawyer, Lincoln also learned how to

communicate with the common people he confronted in jury boxes and courtroom galleries, how to resolve disputes among family members and neighbors, and how to preserve law and order and maintain community harmony—all lessons that would serve him well as president

The law was not a natural choice for Lincoln. He noted in his writings that

he was “raised to farm work.” When he struck out on his own in 1831, at the age of 22, arriving in the Illinois village of New Salem (like a piece of “floating driftwood,” as he put it), he tried all sorts of occupations—everything from postmaster to land surveyor—in an attempt to earn a living. He later wrote that he “thought of trying to study law,” but “rather thought he could not succeed at that without a better education.”²

Eventually, however, Lincoln decided that the law was his best hope for earning decent money, achieving respectability, and feeding his growing political ambitions. He never attended a law school; few lawyers back then did. Rather, he borrowed the necessary books from a friend, attorney John Todd Stuart of Springfield, studied the books carefully, and then took an oral exam. Upon passing, he was entered into the Sangamon County, Illinois, docket book as a man of “good moral character” on March 24, 1836.³

Stuart became Lincoln's first law partner. Theirs was a profitable—if somewhat difficult—partnership, made so by Stuart's frequent absences, including his election to Congress in 1838, which left neophyte Lincoln alone to manage their sprawling practice. Lincoln was still raw around the edges, unsure of himself, and given to sloppiness in handling paperwork and the minutiae of everyday life as an attorney. He also sometimes entered courtrooms improperly attired. One client exclaimed that Lincoln looked like “a country rustic on his visit to the circus,” and fired him on the spot.⁴

Stuart and Lincoln parted ways in 1841. Lincoln then partnered with Stephen Logan, an irascible but brilliant local judge (Lincoln tried his first case in Logan's courtroom) who had decided to re-enter private practice. In many ways, Logan helped professionalize Lincoln, teaching him the fundamentals of paperwork, administration, and proper courtroom behavior. Logan later stated that Lincoln's "knowledge of the law was very small when I took him in." But Logan admired his partner's work ethic and his tenacity. "He would get a case and try to know all there was connected with it." And in this way, according to Logan, Lincoln "got to be quite a formidable lawyer."⁵

In 1844, Logan decided to create a new firm with his son, and Lincoln again found himself without a partner. By this point, Lincoln was an experienced attorney who had litigated more than 1,000 cases; he was now a senior partner, looking for a junior partner to complement his skills and expertise. He found such a man in William (Billy) H. Herndon—Lincoln's third and final law partner.

Herndon was, in many respects, quite different from Lincoln; nine years younger, he came from a comfortable middle-class household, and enjoyed a brief stint in college before entering the bar. Where Lincoln was at his best delivering jury speeches, Herndon's strong suit was research. And while their politics were similar (both were anti slavery), Herndon was very much the dreamer and philosopher, contrasting with Lincoln's eminently pragmatic approach to life. Herndon was also an alcoholic; Lincoln bailed him out of jail on at least one occasion after a drinking spree. "In his treatment of me Mr. Lincoln was the most generous, forbearing, and charitable man I ever knew," Herndon recalled.⁶

The firm of Lincoln and Herndon had several law offices at various times, all located in or near Springfield's bustling town square. By all accounts, their housekeeping skills were appalling. The

office—with dusty, dirty, and unkempt desk and table surfaces covered with papers and books (including an envelope Lincoln labeled "When you can't find it anyplace else, look in this")—was at the same time the two men's workplace, refuge, and think tank. "Lincoln's favorite position when unraveling some knotty law point was to stretch both of his legs at full length upon a chair in front of him," Herndon recalled, and "in this position, with books on the table near by and in his lap, he worked up his case."⁷

Lincoln did not actually spend an inordinate amount of time in the office; in fact, much of his practice focused on "riding the circuit," in his case the Eighth Judicial Circuit that encompassed much of central Illinois. At least twice a year, Lincoln would pack a few law books, grab his blue cloak and faded green umbrella with a broken handle, and accompany a judge and half a dozen or so fellow lawyers to try cases in courthouses throughout the circuit. The roads were bad (the Eighth was nicknamed the "mud circuit"), the food and accommodations were worse—and Lincoln loved every minute of it. "If every other fellow grumbled at the bill-of-fare which greeted us at many of the dingy taverns," remembered a fellow attorney, "Lincoln said nothing."⁸

Litigating cases from his Springfield office and throughout central Illinois, Lincoln encountered a wide variety of clients and cases—bankruptcy, contract law, probate, real estate transactions, partnership dissolutions, slander, negligence, divorce, larceny, assault, and murder. He once represented a family accused of stealing fruit trees. On another occasion, he represented a group of temperance-minded citizens who had broken into and destroyed a Tazewell County "grocery" (the preferred term at the time for a saloon). On yet another occasion, he became involved in a complex patent lawsuit concerning a self-rocking baby cradle. Lincoln had a scale model of the contraption in his office, which he showed to visitors and joked that it was "like some of the glib talkers you and I know ... when it gets going it don't know

when to stop."⁹

Few lawyers in his day specialized; there was not enough litigation in any one area of the law for most lawyers to earn a steady living by doing so. But if Lincoln did not specialize, he did display a marked tendency towards one type of case: debt collection. Of the 3,800 extant cases of his practice, more than half involved some form of debt litigation.¹⁰ In any given year, debt collection dominated his professional life. During the year of 1850, for example, Lincoln appeared as an attorney of record in 73 cases—42 of those cases involved some form of debt litigation.¹¹

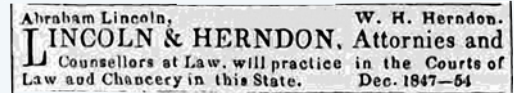
Most of Lincoln's debt work was fairly straightforward. During that same year, Lincoln and Herndon successfully represented the firm of B.C. Webster and company, which sued a local man named Henry Dresser over an unpaid promissory note and was awarded \$180. In another case that year, Lincoln represented his friend Edward Baker in a lawsuit to recover payment on three promissory notes given to him by a man named John D. Moffett. And in a third case, Lincoln and Herndon represented a Menard County man named Abraham Bale, who sued Virgil Hickox and Asa Wright concerning the proceeds from a sale of wheat; that matter was settled out of court.¹²

This was not very glamorous work; nor was it likely very interesting. But it was important. Illinois's economy was cash-poor, operating largely on the credit represented by all those promissory notes and other debt agreements. Creditors needed to have confidence that they could turn to a lawyer like Lincoln to collect their money; otherwise, they would have been less likely to make loans in the first place, to the detriment of the area's economic development. At the same time, debtors had to know they could turn to lawyers like Lincoln for protection from their creditors during bad times; otherwise, they might have been less likely to take the sort of entrepreneurial risks necessary to develop their businesses. Either way, Lincoln was

TEACHING ACTIVITY

Making Connections: Abraham Lincoln, Lawyer-President

Tiffany Willey



Overview

Abraham Lincoln is America's quintessential lawyer-president. This lesson allows students to draw tangible connections between the duties and dispositions of lawyers and presidents. Students will see how the same characteristics that made Lincoln a strong lawyer made him a strong president, and ultimately laid the foundation for the legacy that we celebrate today.

Estimated Time: 30-45 minutes

1. Ask students general questions about Abraham Lincoln. These will vary depending on their age.
 - Who was Abraham Lincoln?
 - When was he president?
 - Where was he from?
 - What important events did he have to manage while he was president?
 - Why is Lincoln's birthday special this year? How are we celebrating his birthday this year?
 2. Lead into a discussion about Lincoln's career before he was elected president. What were Lincoln's jobs? Students may invariably know that he was a lawyer. Explain to them that there were many similarities between Lincoln's job as a lawyer and his job as president.
 3. Ask students what being a lawyer means to them, and what kind of person Abraham Lincoln needed to have been to be successful in the legal profession. They should brainstorm characteristics that made him a successful lawyer or traits that they think are important for successful attorneys today. (Possible answers might be: persuasive, diplomatic, respectful of the law, and an effective communicator.) List the students' responses on chart paper or the board at the front of the room.
 4. Once the class has compiled a sizeable list, review out loud the characteristics of what students' agreed makes a successful lawyer. Then start a new list, parallel to the other, asking students what being president of the United States means to them. What do presidents do? What kind of characteristics do we want in a president? Ask students to brainstorm a similar list of characteristics and responsibilities. List them. If students are not already suggesting similar ideas for president as they did for lawyer, ask questions to help make the connections.
 5. Ask students if they notice similarities between the two lists. Begin drawing lines from the lawyer list to matching ideas on the president list so students see the connections.
 6. Step back from the lists and suggest to students that there are many similarities between what lawyers and presidents do and the skills they require. Discuss questions with students:
 - Why is it important that presidents have the characteristics that we listed here?
 - Can you think of any other famous lawyer-presidents besides Abraham Lincoln?
 - How about other leaders with legal careers?
 - Are there lawyers in your community who act as leaders?
 - Why is it important for presidents to respect the law and help people the same way that lawyers do?
 7. Have students read the final paragraph of Dirck's article: And as he left for Washington, D.C., to assume the mantle of the presidency in 1861, he made it clear that, once his political career was concluded, he fully intended to return to the law. According to Herndon, Lincoln pointed to the shingle suspended over their office and told him to "Let it hang there undisturbed.... Give our clients to understand that the election of a president makes no change in the firm Lincoln and Herndon. If I live I'm coming back some time, and then we'll go right on practising [*sic*] the law as if nothing had ever happened."
- Discuss with students the following questions, or make an essay assignment:
- Why was it so important to Lincoln that his law practice be undisturbed by his presidency?
 - How does Lincoln's insistence on returning to law practice after his presidency reflect the characteristics we brainstormed earlier?
 - Do you think his determination to return to the law was admirable? Why or why not?
8. Ask students to read Dirck's entire article. Then, ask students the following questions:
 - Was Lincoln a great lawyer? Why or why not?
 - Was Lincoln a great president? Why or why not?
 - Why is this important for Americans celebrating Lincoln's bicentennial today?

a quiet but vitally necessary cog in the economy's machinery.

In later years, he represented increasingly well-heeled clients, for larger sums of money. The Illinois Central Railroad was a preferred client. In 1857, Lincoln defended the railroad's interests in a high profile case involving a steamboat accident, during which a vessel called the *Effie Afton* accidentally rammed a railroad bridge spanning the Mississippi River and sank. Lincoln argued that the vessel's crew, rather than the engineers who designed the bridge, were responsible for the accident; the case resulted in a hung jury. On another occasion, Lincoln represented the Illinois Central in a case involving an attempt by McLean County officials to tax the railroad. Lincoln won the case, and received a princely \$5,000 fee (albeit he was compelled to sue the railroad to get paid). "Lincoln gave me my half," Herndon recalled, "and much as we deprecated the avarice of great corporations, we both thanked the Lord for letting the Illinois Central Railroad to fall into our hands."¹³

Through it all, Lincoln remained a workmanlike lawyer. His practice was overwhelmingly centered on the local courts around Springfield and the Eighth Judicial Circuit, with occasional appear-

ances in the Illinois appellate courts, and even rarer forays into the federal system. He was steady but not spectacular, earning a comfortable living for himself and his family, and providing his clients with solid, reliable legal services. Lincoln was not a legal superstar or genius. But he was good at his job, with a knack for persuading juries and pitching complex arguments in such a way that ordinary people could follow his reasoning. "Billy, don't shoot too high," Lincoln once advised his partner, "shoot low down, and the common people will understand you. They are the ones you wish to reach; at least, they are the ones whom you ought to reach. The educated ones will understand you anyhow."¹⁴ It was an insight honed before jury boxes filled with those "common people" during 25 years worth of courtroom experiences.

He was also an ethical attorney who represented his clients to the best of his ability, within the accepted professional boundaries of law. No one ever accused Lincoln of being a "shyster" or "ambulance chaser," or other nineteenth-century equivalent. "There is a vague popular belief that lawyers are necessarily dishonest," Lincoln once wrote, but "let no young man choosing the law for a calling for a moment yield to the popular

belief—resolve to be honest at all events; and if in your own judgment you cannot 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."¹⁵

His political career was an on-again, off-again affair; but there was always his law practice. And as he left for Washington, D.C., to assume the mantle of the presidency in 1861, he made it clear that, once his political career was concluded, he fully intended to return to the law. According to Herndon, Lincoln pointed to the shingle suspended over their office and told him to "Let it hang there undisturbed.... Give our clients to understand that the election of a president makes no change in the firm Lincoln and Herndon. If I live I'm coming back some time, and then we'll go right on practising [*sic*] the law as if nothing had ever happened."¹⁶

Notes

1. Numbers based on search string, "Abraham Lincoln" in cases where his name appears as an attorney of record, Lincoln Legal Papers DVD-ROM database (Urbana: University of Illinois Press, 2000; herein-after cited as LLP).

Additional Resources for Understanding Lincoln the Lawyer:

Dialogue on Lincoln's Legacy of Liberty

The ABA Division for Public Education publishes the annual Dialogue Series to facilitate classroom and community discussions of current legal issues. The 2009 Dialogue offers historical background and discussion starters for the following areas of Lincoln's legacy: secession, civil liberties in wartime, slavery, westward expansion, citizenship, and popular representations. The Dialogue is free for download from the ABA website: www.abanet.org/publiced/features/dialogues.html

Lincoln the Lawyer, University of Illinois Press, 2007

Historian Brian Dirck explores how Lincoln's experience as a lawyer influenced his personality and performance as president. Dirck's book should be available at your local bookstore or library.

Lincoln Bicentennial Commission

The Abraham Lincoln Bicentennial Commission website is the official headquarters for Lincolniana. There are podcasts of Americans describing what Lincoln means to them, opportunities to share new comments about Lincoln, lessons for teachers, ideas for students, and calendars of events and programming guides for communities wishing to celebrate Lincoln's legacy locally. www.licolnbicentennial.gov

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2. Lincoln to Jesse W. Fell, enclosing autobiography, December 20, 1859, in Roy P. Basler, ed., *The Collected Works of Abraham Lincoln*, 9 vols. (New Brunswick, N.J.: Rutgers University Press, 1953; hereinafter cited as CW), 3: 511; *Lincoln*, autobiography to John L. Scripps, c. June 1860, *ibid.*, 4: 65.
3. Order admitting Lincoln to the Illinois bar, March 24, 1836, LLP.
4. Henry C. Whitney, *Life on the Circuit with Lincoln* (Boston: Estes and Lauriat, 1892), 56-57.
5. "Stephen Logan Talks about Abraham Lincoln," *Bulletin of the Abraham Lincoln Centennial Association* 12 (September 1928), 3.
6. Jesse W. Weik, *The Real Lincoln: A Portrait* (Lincoln, Neb.: University of Nebraska Press, 2002), 301.
7. William H. Herndon, *Lincoln's Herndon*, edited by Douglas L. Wilson and Rodney O. Davis (Urbana, Ill.: University of Illinois Press, 2006; originally published in 1889), 199.
8. Whitney, *Life on the Circuit*, 100.
9. *People v. Lane*, May 1847, LLP; *People v. Sickler, et al.*, May 1854, *ibid.*; *Hildreth et al. v. Edmunds*, September 1854, *ibid.*; "glib" quote in John J. Duff, *A. Lincoln, Prairie Lawyer* (New York: Rinehart, 1960), 260-261.
10. Numbers based on search "Abraham Lincoln" as an attorney of record in cases under the heading "Debtor and Creditor," LLP; search yielded 2290 extant cases.
11. Numbers based on search string, "Abraham Lincoln" appearing as an attorney of record during the year 1850, subdivided by category "Debtor and Creditor," *ibid.*
12. *B.C. Webster and Co. v. Dresser*, March 1850, *ibid.*; *Baker v. Moffett*, March 1850, *ibid.*; *Baker v. Wright and Hickox*, April 1850, *ibid.*
13. *Hurd et al. v. Rock Island Bridge Co.*, September 1857, *ibid.*; Herndon, *Herndon's Lincoln*, 218.
14. Quote from Herndon, in Donald E. Fehrenbacher and Virginia Fehrenbacher, eds., *Recollected Words of Abraham Lincoln* (Stanford, Calif.: Stanford University Press, 1996), 252.
15. Lincoln, *Notes for a Law Lecture*, c. July 1850, CW 2: 82.
16. Herndon, *Herndon's Lincoln*, 290.

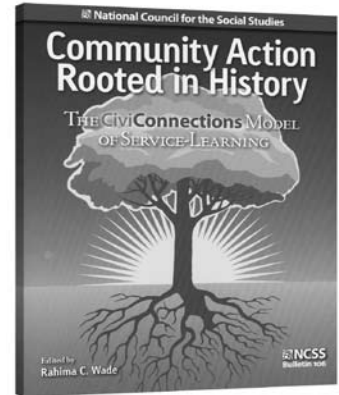
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Edited by Rahima C. Wade
NCSS Bulletin No.106, 78 pp. 2007



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