The Ascent of Lawyer Lincoln: How the Practice of Law Created America's Greatest President

by
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Before becoming the sixteenth American President, Abraham Lincoln practiced law in central Illinois for twenty-four years.[1] His practice anchored him throughout his turbulent personal and political life. As historian Brian Dirck observed, "Lincoln's up-and-down political career offered a contrast to his rock-solid law practice."[2] The practice not only provided respectability and income for his growing family, but also gave him extraordinary insights into human relations. According to Lincoln scholar (and Central Illinois lawyer) Guy Fraker, "his lengthy travels on the circuit and time with its residents from all walks of life enhanced his understanding of human nature, and he developed an extraordinary ability to listen and understand, without rancor, opposing viewpoints."[3] His circuit riding also helped him develop a fraternal relationship with a group of his fellow eighth judicial circuit practitioners, who helped him secure his nomination for president at the 1859 Republican convention.[4] And as this article will develop, President Lincoln largely applied the skills he nurtured as Lawyer Lincoln.

Lincoln had little training to assume the responsibilities of a wartime commander in chief, struggling with massive constitutional and political challenges that would vex King Solomon.[5] But in a vastly smaller way, those problems resembled the problems he confronted as a workaday lawyer in central Illinois. All the little

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1 Brian R. Dirck, Lincoln the Lawyer 21 (2007).

2 *Id*. at 2.

3 Guy C. Fraker, Lincoln's Ladder to the Presidency: The Eighth Judicial Circuit 3 (2012).

4 *See* Edward Achorn, The Lincoln Miracle: Inside the Republican Convention that Changed History (2023).

5 *See, e.g.,* Albert A. Woldman, Lawyer Lincoln 3-5 (1936).

problems he solved for his clients prepared him for the immense ones awaiting him when he led the nation. His training for the White House literally took place in the courthouses throughout Illinois. Surprisingly, considering the era, Lincoln's practice included a substantial amount of divorce and family law work. And within that realm, Lincoln received a profound education on family conflict. It is thought-provoking to speculate how the prairie "civil wars" that he managed prepared him for the national civil war.

In part I, the article will discuss Lincoln's law practice, including his education, professional relationships and Lincoln's divorce practice. Part II will explore his personal attributes as a lawyer including how he was assessed by his contemporaries. The article will conclude in part III by exploring how his experience as a lawyer informed his leadership of the country during his presidency.

I. Lincoln's Law Practice

A. *The Evolution of Lawyer Lincoln*

As a young man, Lincoln chose the law after sampling a variety of odd jobs in New Salem, Illinois.[6] Despite his humble roots, Lincoln's ambition was inexhaustible, and he saw the practice of law as a springboard to social acceptance and political opportunity.[7] Historian, Michael Burlingame suggests that his ambition compensated for low self-esteem, which would not be surprising considering his hardscrabble and insecure childhood. Whatever the reason, Lincoln's drive for achievement and success remained unwavering.[8]

Unlike the custom and practice of studying under a lawyer, Lincoln was proudly self-taught in law.[9] In a campaign biography (which Lincoln approved), William Dean Howells described Lincoln's "peculiar" method of studying:

> His favorite place of study was a wooded knoll near New Salem, where he threw himself under a wide-spreading oak and expansively made a reading desk of the hillside. Here he would pore over Blackstone day

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6 Michael Burlingame, Abraham Lincoln: A Life 32-35 (Jonathan W. White ed. 2023) (2008).

7 *See* Mark E. Steiner, An Honest Calling: The Law Practice of Abraham Lincoln 27 (2006).

8 Burlingame, *supra* note 6, at 91.

9 Steiner, *supra* note 7, at 31.

> after day shifting his position as the sun rose and sank, so as to keep in the shade, and utterly unconscious of everything but the principles of common law.[10]

Lincoln read well-known treatises in addition to the Illinois statutes.[11] He laboriously studied these sources for four years.[12] As it turns out, the practice of law was a good fit for Lincoln, an empathetic man with a huge intellect who was a natural communicator.

The law did not come easily for Lincoln.[13] Four years was longer than most law students took to learn the basic texts, and Lincoln acknowledged himself as a slow learner: "I am slow to learn and slow to forget that which I have learned. My mind is like a piece of steel, very hard to scratch anything on it and almost impossible after you get it there to rub it out."[14] As historian and biographer David Herbert Donald observed, "he did not come to conclusions quickly, and he was temperamentally averse to making bold moves."[15] Lincoln was slow to absorb information and decide, but once he did, his resolve was unshakeable. One can see this deliberativeness during Lincoln's wartime leadership.[16]

In 1836, Lincoln applied for membership in the Illinois bar.[17] At that time, Illinois did not require any formal test on substantive law or procedure.[18] The only requirements for admission were a license from two Supreme Court Justices, a rudimentary examination (probably oral), and certification by a county clerk that the applicant embodied "moral character."[19] On March 24, 1836, the Sangamon County clerk certified Mr. Lincoln as "a man of good moral character," thus paving the way for him to practice.[20]

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10 *Id*. at 33, citing Howells Life of Abraham Lincoln at 31. William Dean Howells, Life of Abraham Lincoln: The Story of His Administration 31 (Follet, Foster & Co. 1860).

11 *See, e.g.*, Dirck, *supra* note 1, at 16-19.

12 *Id*. at 19.

13 *Id*. at 20.

14 William H. Herndon & Jesse W. Weik, Herndon's Lincoln 312 (Douglas L. Wilson & Rodney O. Davis eds. 2006) (1889).

15 David Herbert Donald, Lincoln 285-86 (1995).

16 John P. Frank, Lincoln as a Lawyer 144-48 (1961) (Lincoln wrestling with the legal justification of the Emancipation Proclamation).

17 Dirck, *supra* note 1, at 21.

18 *Id*.

19 Steiner, *supra* note 7, at 37.

20 Dirck, *supra* note 1, at 21.

Like most lawyers, it was in the trenches of the practice where Mr. Lincoln *really* learned the law.[21]

Getting licensed was only the first step in his upward mobility. To develop his career, Lincoln needed to affiliate. His first law partner was John Stuart, an acquaintance from the Blackhawk War, where they both served.[22] While studying, Lincoln rode twenty-one miles from New Salem to Springfield to borrow Stuart's law books.[23] Stuart eventually sponsored him for the bar as well.[24] Stuart proved to be an ideal partner for the newly licensed lawyer.[25] When Lincoln joined him, Stuart had an established book of business and common political connections with Lincoln in the Whig political party.[26] Lincoln worked with Stuart for three years but, according to attorney Guy Fraker, Stuart taught him little about the practice of law.[27] Stuart was away in Washington as a U.S. Representative during most of their partnership and had little time to train Lincoln.[28] After three years, Lincoln and Stuart parted ways amicably and continued to associate during the balance of Lincoln's career.[29]

Lincoln was not untethered for long; Stephen Logan, a former judge before whom Lincoln tried his first case, offered him a position.[30] Scholar and lawyer Arthur Woldman described Logan as "perhaps the most constructive influence on Lincoln's life.[31] Logan was well regarded for his research and reasoning skills, but he was not an accomplished orator or jury lawyer.[32] He chose Lincoln largely to complement this deficiency.[33] Dirck describes Lincoln at the time he joined Logan as "competent but not spectacular."[34] Under Logan's tutelage, Lincoln gained better working knowledge

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21 Frank, *supra* note 16 at 10.
22 Dirck, *supra* note 1, at 24.
23 Steiner, *supra* note 8, at 31.
24 *Id*. at 39-40.
25 Dirck, *supra* note 1, at 25.
26 *Id*.
27 Fraker, *supra* note 3, at 24.
28 *Id*.
29 *Id.*
30 Woldman, *supr*a note 5, at 39.
31 *Id.* at 40.
32 Dirck, *supra* note 1, at 28.
33 *Id*.
34 *Id*. at 27.

of substantive and procedural law, which he lacked due to his self-administered training.[35] Under Logan's mentorship, Lincoln became formidable.[36] "Logan taught Lincoln that the law required hard work and careful preparation. He made Lincoln more methodical and more dedicated in his preparation."[37] Lincoln learned from Logan how to marshal the facts, apply reason and precedent, and frame arguments.[38] Logan also helped cure Lincoln of some of the careless habits he developed while working with Stuart.[39] This partnership was the beginning of Lincoln's evolution from "natural" communicator to skilled legal advocate.[40] Lincoln stayed with Logan for four years, but they separated because Logan wanted to form a new partnership with his son.[41] According to Woldman, the real reasons for the breakup were more organic, "Logan and Lincoln had but little in common. Two such conflicting, ambitious, and independent personalities could not exist together indefinitely in one small office, and the partnership came to an end."[42]

Despite any conflicts, Lincoln owed Logan a debt of gratitude, "The years spent as Logan's associate were indeed constructive years. They were years of education, training, and discipline. The benefits were to last Lincoln all his days."[43] It was here that Lincoln became a "dangerous adversary," plying his trade with acumen and skill.[44]

Lincoln's next and last law partner was William Herndon, who clerked at Lincoln and Logan's office before becoming licensed to practice.[45] Again, Lincoln found a complement for his courtroom prowess. "Billy," as Lincoln called him, was a skilled legal

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35 Fraker, *supra* note 3, at 26.

36 Dirck, *supra* note 1, at 28.

37 *Id*.

38 Woldman, *supra* note 5, at 41.

39 *Id.* at 40-41.

40 *Id*.

41 *Id.* at 45.

42 *Id.*

43 Woldman, *supra* note 5, at 46-47. Lincoln continued to professionally associate with Logan until the end of his career. The two were co-counsel in Lincoln's last trial involving the successful defense of murder charges against Peachy Quinn Harrison in 1859. Abraham Lincoln 4 The Papers of Abraham Lincoln: Legal Documents and Cases 137 (Daniel W. Sowell ed., 2008).

44 Woldman, *supra* note 5, at 46-47.

45 Fraker, *supra* note 3, at 27.

researcher, and Lincoln relied on him for that purpose, as well as to handle the practice's business.[46] Herndon described Lincoln as not being an assiduous reader of the law. Instead, Herndon claims that Lincoln trusted Herndon to secure for him the authorities to support his arguments.[47] Regardless of the truth of this claim, the practice thrived with the partners litigating cases in more than a dozen counties in Illinois, the Illinois Supreme Court, and the state's federal courts.[48] They were also involved in four cases that ultimately reached the U.S. Supreme Court.[49] Although they were temperamentally dissimilar, this successful partnership thrived for about sixteen years until Lincoln left for the White House in 1861. Herndon's insights into Lincoln have provided Lincoln scholars (including the author) with an intimate view of lawyer Lincoln.[50]

Lincoln was first and foremost a trial and appellate lawyer.[51] According to Illinois Supreme Court records, a significant portion of his cases involved real and personal property disputes, debt-or-creditor issues, and a significant number of divorce cases.[52] As his experience and reputation developed, he was retained on more complex cases involving corporate and railroad litigation in the federal courts.[53] But because of his clientele in Sangamon County and the adjacent rural communities, he continued to work on small cases throughout his career.[54]

B. *Circuit Rider*

Lincoln, along with his fellow lawyers, rode the eighth judicial circuit throughout central Illinois. Dirck refers to this "as the 'mud circuit' because of its awful roads and rural conditions."[55] Typically,

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46 *Id*.

47 Steiner, *supra* note 7, at 41.

48 Brian Dirck, *A. Lincoln: Respectable "Prairie Lawyer," in* Abraham Lincoln, Esq.: The Legal Career of America's Greatest President 67-68 (Roger Billings & Frank J. Williams eds., 2010).

49 *Id.*

50 *See* Herndon & Weik, *supra*, note 14, at xxxv.

51 Frank, *supra* note 16, at 6.

52 *Id.* at 6.

53 *Id.* at 7-8.

54 *Id*. at 9.

55 Dirck, *supra* note 1, at 45.

Lincoln was "on the road" for many months each year.[56] Lincoln's friend Judge David Davis argued Lincoln's perpetual wandering was an attempt to escape Mary.[57] But it is equally likely that the companionship of his fellow travelers nourished him. Fraker describes the circuit riding experience as having "the ambiance of men at a later time on a long fishing trip."[58] It is also likely that Lincoln recognized that the bonds he was forging would pay political dividends, which they ultimately did.[59] While Lincoln enjoyed the camaraderie of his coterie, he would find quiet time for contemplation or study after the others went to sleep.[60]

Lincoln was happiest when on the circuit. A Chicago firm offered him a lucrative partnership in 1852. He turned it down, declaring "that the confinement in the office. . . would soon kill him."[61] Herndon later added, "He preferred going around the circuit, and even though he earned smaller fees he felt much happier."[62] Each spring and fall, various members of the traveling bar, along with one judge for the entire circuit, went from county to county for consecutive sessions of the circuit courts of the eighth judicial circuit.[63] Between 1848 and 1860, David Davis from Bloomington accompanied Lincoln as the itinerant judge.[64] Their friendship resulted in Davis becoming Lincoln's campaign manager for president.[65] Ultimately, President Lincoln appointed Judge Davis to the U.S. Supreme Court.[66]

When they arrived at a county seat, the circuit riders would meet with clients and prepare their cases for trial. Local lawyers would frequently refer cases, and the riders would confer with them. Fraker describes the challenges facing these legal wayfarers:

> The work itself was intense, difficult, and demanding because of the rushed nature of the proceedings and the limited opportunity to

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56 *Id*. at 47.
57 *Id*.
58 Fraker, *supra* note 3, at 43.
59 Frank, *supra* note 16, at 22.
60 Herndon & Weik, *supra* note 14, at 193-94.
61 Dirck, *supra* note 1, at 53.
62 *Id.*
63 *See, e.g.,* Fraker, *supra* note 3, at 37.
64 *Id*.
65 Burlingame, *supra* note 6, at 253-56.
66 *Id*. at 331.

> prepare. Each day brought new cases involving a wide range of subject matter and people. The hurried drafting of pleadings, interviewing of witnesses, and development of trial strategy were challenges. The work required flexibility under fire, sharp wits, and innovative quick thinking. There was no pretrial discovery as there is today, so generally the lawyers had little advance knowledge of the opponent's case. The hearing, with its spontaneous presentation of evidence and cross-examination, demanded focus and concentration. Competition for business and the desire and need to have a satisfied client and referring attorney put a premium on success and substantial pressure on the attorneys.[67]

These lawyers necessarily practiced the fine art of improvisation and depended on their ingenuity to ply their trade.[68] Despite all the challenges and discomfort of this nomadic lifestyle, Lincoln thrived here. And the opportunities to challenge himself ultimately provided great training for his later career as a wartime leader.

C. *Lincoln: Divorce Lawyer*

Like virtually all lawyers of the time, Lincoln had a general law practice.[69] In his 24-years at the bar, records show that he appeared of record in approximately 5,100 cases.[70] The bulk of Lincoln's practice involved mundane debtor-creditor matters, along with land and livestock disputes.[71] Defamation cases were also ever-present, as nineteenth-century rural citizens were particularly protective of their reputations.[72] While Lincoln handled criminal cases (his Almanac trial was legendary),[73] criminal cases were few and far between for Lincoln.[74] As he developed his reputation and skills, Lincoln's practice involved railroad litigation and other large commercial disputes.[75]

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67 Fraker, *supra* note 3, at 42.

68 Dirck, *supra* note 1, at 45.

69 Dirck, *supra* note 48, at 68.

70 *Historical Introduction*, *in* The Papers of Abraham Lincoln: Legal Documents and Cases xxix (Daniel W. Stowell, ed., University of Virginia Press 2008).

71 *Id.* at xxxv-xxvi.

72 *See, e.g.,* Mark E. Steiner, *Does Lawyer Lincoln Matter?, in* Abraham Lincoln, Esq., *supra* note 48, at 52.

73 *See, e.g.,* Lincoln, *supra* note 43, at 1-48.

74 Dirck, *supra* note 48, at 73.

75 *See, e.g.,* Steiner, *supra* note 7, at 137-59.

According to Stacy Pratt McDermott, the Assistant Director and Associate Editor of the Papers of Abraham Lincoln in Springfield, Illinois,[76] divorce cases were commonplace in Sangamon County at the time of Lincoln's practice. During this period, Illinois liberalized divorce. By 1860, Illinois led the nation in divorces.[77]

The researchers and editors of the Lincoln Legal Papers,[78] offer insights into Lincoln's family law practice. During Lincoln's career (between 1837 and 1860), 220 divorce petitions were filed in Sangamon, Lincoln's home county. Of these, Lincoln's firms appeared in 40% of them, 63% were filed by women and 37% by men, and 76% of those petitions were granted.[79] During this time, Lincoln and his successive partners appeared on 145 divorce cases throughout central Illinois.[80] According to McDermott, Lincoln, "as a respected man in the community and a capable lawyer, was a popular choice as counsel in legal issues regarding families, including divorce cases."[81] McDermott further observes:

> That Lincoln and his partners handled such a high percentage of the divorce cases appearing on the Sangamon County Circuit Court docket may suggest the eagerness with which Lincoln's law firms sought to gain business. It may also reflect Lincoln's reputation as a compassionate person when dealing with clients' personal and family problems. It could mean that fewer lawyers in Sangamon County were engaged in divorce practice or family related litigation. Whatever the reason, Lincoln took many divorce cases, and his contemporaries may have considered him a divorce lawyer.[82]

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76 Stacy Pratt McDermott was also the co-editor of "The Papers of Abraham Lincoln: Legal Documents and Cases and The Law Practice of Abraham Lincoln," Papers of AbrahamLincoln.org (last visited Mar. 18, 2025).

77 Stacy Pratt McDermott, *Dissolving the Bonds of Matrimony: Women and Divorce in Sangamon County, Illinois 1837-60, in* In Tender Consideration: Women, Families, and the Law in Abraham Lincoln's Illinois 71 (Daniel Stowell ed., 2002).

78 Starting in 1988, the Lincoln Legal Project compiled all extant papers related to his practice and collated and transcribed them. *See The Law Practice of Abraham Lincoln,* https://lawpracticeofabrahamlincoln.org (last visited Nov. 19, 2024).

79 McDermott, *supra* note 77, at 71.

80 *Id.* at 94.

81 *Id.* at 95.

82 *Id*. at 94.

Lincoln was on the losing side of one of the first Illinois cases addressing the question of the best interest of children standard in determining child custody disputes. In the 1846 case of *Cowls v. Cowls*,[83] the Illinois Supreme Court relied on the best interest standard to resolve a child custody case, and according to Dennis Suttles, one of the assistant editors of the Lincoln Papers, this case "served as a precedent in future Illinois cases involving the welfare of children."[84] Prior to this, custody disputes were settled by the English common law doctrine of parens patriae, which favored fathers as child custodians.[85]

In *Cowls*, Ann and Thomas Cowls divorced without allocating custody of their children, who remained with their father. Later, Thomas took up with and allegedly cohabitated with another woman. Ann filed suit, alleging he was living "in a state of fornication" with an unchaste woman, and she sought child custody and support. Thomas married his paramour, apparently seeking to defeat Ann's case. Undeterred, Ann made various allegations at trial about the woman's notoriety and Thomas' intemperance and bad character. Ultimately, the trial court ruled in her favor and awarded Ann the children.[86]

Thomas hired Mr. Lincoln to appeal to the Illinois Supreme Court. Lincoln relied on a precedent that granted custody to a mother who similarly cohabited with another unmarried person. The high court distinguished this authority, holding that it was the "tender years" doctrine underlying that custody award. While not clear, it appears Lincoln also argued deference to the father should be the rule under the *parens patrie* doctrine. The Illinois high court again rejected the argument, finding that Thomas is character rendered him unworthy of maintaining custody of the children. Writing for the court, Chief Justice Caton reflected that, "Grouped together into one disgusting and revolting picture, those features of a father's character who has become unworthy of the charge of his own offspring."[87]

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83 8 Ill. 435, 439 (1846).

84 Dennis. E. Suttles, *"For the Well-Being of the Child:" The Law and Childhood, in* In Tender Consideration: Women, Families, and the Law, *supra* note 77, at 54.

85 *Id*.

86 *Id*. at 54-55.

87 *Id.*

This case confirms that Lincoln, despite his saintly reputation, was a working lawyer who took cases for money, and not always based upon principles with which he agreed. Unquestionably, Lincoln was a kind and compassionate person. Lincoln's empathy, intellect, and patience made him a natural family lawyer. But, according to Herndon, Lincoln hated the divorce practice.[88] Considering the number of cases Lincoln handled, it would suggest more ambivalence than outright hatred of family law.

McDermott cites the case of Samuel and Polly Rogers as an illustration of Lincoln's ambivalence. In 1838, Samuel hired Lincoln and Stuart's firm to represent him in his divorce suit against Polly. Samuel complained that Polly deserted him and was an adulteress. Since grounds existed based upon desertion, Lincoln talked him out of pursuing the adultery grounds to save her the embarrassment, "through tender consideration to the said defendant's character."[89] His kindness backfired, however, when the court granted the divorce, and levied a large amount of alimony against Samuel. Lincoln and his then partner Stuart scrambled to do damage control by filing an amended bill for divorce, which included a count for adultery, supported by an affidavit from Lincoln attesting that the client had previously disclosed the adultery, and his lawyers instructed him not to proceed with the allegation. Following a jury trial that found the defendant wife guilty of adultery, the court significantly reduced the award.[90] While the incident could reflect the poor judgment of a young lawyer (he had only been in practice a couple of years at the time), it also reveals his kindness and respect for women. According to McDermott:

> [E]xamination of the case documentation of Lincoln's divorce practice over time reveals Lincoln's gentle nature regarding women. Lincoln's personal relationship with Mary Lincoln, particularly Lincoln's gentle acceptance of his wife's temper tantrums and other childlike behavior, reflected his deep paternal streak. Lincoln showed concern about the economic and social dangers that divorce women faced, and his respect for the women who entered into his personal and professional life reflected that tenderness.[91]

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88 McDermott, *supra* note 77, at 95.

89 *Id*.

90 *Id* at 96.

91 *Id.*

Virtually all family lawyers have mixed feelings about the practice. One can certainly imagine how Lincoln would struggle dealing with unreasonable or avaricious divorce clients, given his temperament. Lincoln was also a clear thinker who considered the world analytically.[92] However, as any divorce lawyer can attest, logic is rarely the driving force of divorce litigation. According to McDermott, "on the one hand, Lincoln appreciated that divorce was necessary for some couples; yet he felt sadness about the dissolution of the marriages of his clients."[93]

Even though divorce procedures in the nineteenth century were very different from those in the modern era, family law practice has remained largely unchanged because human nature has not changed. Greed, avarice, kindness, and cruelty remain intrinsic to human beings, and those traits abundantly manifest in family court. Now as then, exposure to those aspects of human nature undoubtedly provides enhanced insights into human affairs. Professor Brian Dirck elegantly describes how Lincoln's law practice helped him understand the world:

> [Lincoln] "got up" every morning, went to work and learned—in ways quiet yet profound—about how people interact with one another in a community, about the realities of their conflicts and abrasions, and about what he should and should not expect from the bumptious sea of humanity that crossed his path. By themselves, the cases mean little in terms of Lincoln's overall development; as a whole, they add up to a quarter century's worth of lessons at the Illinois bar; lessons about the limits and feelings of human behavior, the impossibility of truly plumbing the depths of other peoples' souls, and the need to find ways for communities to function without the perceived necessity of such knowledge.[94]

Regular exposure to these abrasions helped Lincoln cultivate a form of wisdom unavailable in textbooks.

II. Lincoln's Attributes as a Lawyer

As a lawyer, Lincoln successfully balanced passion with logic, aggression with courtesy, kindness with opportunism, and ruthlessness with affability.[95] Lincoln excelled before a jury.[96]

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92 Herndon & Weik, *supra* note 14, at 354.
93 McDermott, *supra* note 77, at 95.
94 Dirck, *supra* note 1, at 7.
95 *Id.* at 43.
96 Steiner, *supra* note 72, at 48-49.

His extraordinary emotional intelligence helped him persuade juries with his intuitive understanding of human nature. According to Lincoln contemporary, Isaac Arnold, in a paper presented to the Illinois State Bar Association in 1881, he recounted his personal observations of Lincoln's skill, "On the whole, I always thought him relatively stronger before a jury than with the Court. He was a quick and accurate reader of character and understood, almost intuitively, the jury, witnesses, parties, and judges and how best to address, convince, and influence them."[97]

Lincoln cultivated the art of communicating in a way that common people could relate to. According to Lincoln scholar and retired Illinois trial judge Ronald Speers, Lincoln also possessed skills universal to all great trial lawyers: the intelligence to understand difficult subjects and the ability to communicate those difficult subjects clearly.[98] According to lawyer and professor John Frank, simplicity was Lincoln's superpower.[99] Deconstructing adversaries' arguments and refuting them simply and clearly was the key to Lincoln's success, both in the law and in politics.[100] In his article "Lincoln, Explainer of Things," Speers cites Lincoln's remarks to Herndon about simplifying arguments.

> [D]on't shoot too high, aim lower and the common people will understand you. They are the ones you want to reach. The educated and refined people will understand you anyway. If you aim too high, your idea will go over the head of the masses and hit only those who need no hitting.[101]

One can see this trait in the simple eloquence of many of his speeches and public pronouncements.[102]

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97 Isaac. N. Arnold, in a paper read to the Illinois State Bar Association at Springfield, Illinois, *Reminiscences of the Illinois Bar, Forty Years Ago: Lincoln and Douglas as Orators and Lawyers* (Jan. 7, 1881) (transcript available from the Illinois State Bar Association and on file with author).

98 Ron Speers, *Lincoln, Explainer of Things*, Ill. B.J. 44 (Aug. 2020).

99 Frank, *supra* note 16, at 24.

100 Herndon & Weik, *supra* note 14, at 321.

101 Speers, *supra* note 98.

102 *See, e.g.*, 1. Gettysburg Address (1863), https://en.wikipedia.org/wiki/Gettysburg_Address: "Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal." 2. House Divided Speech (1858), https://www.nps.gov/liho/learn/historyculture/housedivided.htm: "A house divided against itself cannot stand. 3. Second Inaugural Address (1865), https://www.nps.

According to Speers, Lincoln did not seek to impress people with his considerable intellect, but rather he sought to humbly explain things in a way they could understand. Lincoln relied on common language to do this, along with anecdotes, stories, and humor.[103] His wit and humor and inexhaustible store of anecdotes, always to the point, added immensely to his powers as a jury advocate."[104]

While more comfortable in the land of logic, Lincoln also knew how to manipulate emotions to achieve his goals.[105] He recognized that jurors decide cases with their hearts *as well as* their heads, and he knew how to play to those jurors' emotions. He used his frumpy appearance to create a connection with his farmer jurors.[106] At other times, when the situation called for it, Lincoln dressed like a gentleman.[107] He firmly kept his eyes on the goal he sought to achieve and how to best execute it for the specific case.

According to Professor Dirck, "Lincoln had a reputation as a tenacious litigator, one who knew how to employ a technicality or pitch an argument to get what he needed. People underestimated him at their peril."[108] As Lincoln's contemporary, Leonard Swett observed: He was white as a serpent in the trial of a cause. "I've got too many scars from his blows to certify that he was harmless as a dove. . . Any man who took Lincoln for a simple minded man would very soon wake [up] with his back in a ditch."[109] But Lincoln tempered his competitive drive with a genial demeanor and professional courtesy.[110] He fought hard but fought fair. As another

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gov/linc/learn/historyculture/lincoln-second-inaugural.htm: "With malice toward none, with charity for all. . ." 4. First Inaugural Address (1861), https://housedivided.dickinson.edu/sites/teagle/texts/lincolns-first-inaugural-1861: "We are not enemies, but friends. We must not be enemies." 5. Cooper Union Address (1860), https://www.abrahamlincolnonline.org/lincoln/speeches/cooper.htm: "Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it."

103 Speers, *supra* note 98.

104 *Id*.

105 Dirck, *supra* note 1, at 102-03.

106 *Id.* at 102-05.

107 *Id.* at 118.

108 *Id.* at 43.

109 *Id.*

110 *Id.*

colleague observed, "He never misstated evidence, but stated clearly and fairly, and squarely his opponent's case.[111]

While clearly gifted as an advocate, Lincoln was not recognized as a legal innovator.[112] He worked within the law's confines, using it as effectively as possible. While creative, his creativity extended to the clever use of existing resources rather than revolutionary jurisprudence, "The great demand on the top lawyers of the mid-nineteenth century was the development of new legal structures for expanding capitalism. Lincoln was uninvolved in this movement, but instead he focused on refining established methods in the fields of litigation and procedure."[113] Lincoln, ever the traditionalist, worked within the confines of existing law rather than carving uncharted paths.

A. *Lincoln's Notes on the Practice of Law*

Lincoln himself gave clues as to what the practice taught him. Lincoln's personal papers included a fragment of notes containing his thoughts on the practice of law, which his secretaries John Hay and John Nicolay found in the deceased president's belongings.[114] Historian Ronald C. White believes these notes were written sometime in the 1850s, after he returned from his one term in the U.S. Congress.[115] The notes reveal Lincoln's thoughts on the practice of law after many years working in the profession.

White speculates that Lincoln's growing reputation in the 1850s drew many young lawyers seeking to train with him.[116] Because of his long absences practicing on the circuit, he was unable to accommodate their requests. White also speculates that Lincoln was writing these notes for a lecture at some undetermined time, to indirectly mentor some of these young lawyers in the habits and skills contributing to his success. White suggests that these notes provide a more accurate portrayal of Lincoln's legal

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111 *Id.*

112 Frank, *supra* note 16, at 96

113 *Id.*

114 Ronald C. White, Lincoln in Private: What His Most Personal Reflections Tell Us About Our Greatest President 5 (2021).

115 *Id*. at 34.

116 *Id*.

thinking than any public documents related to his extensive legal career.[117]

It is interesting—and perhaps telling of his future plans—that he kept these fragmentary notes written ten years earlier, through his move to Washington and throughout all of the turmoil of his presidency. It also confirms the importance he placed on the practice of law and perhaps anticipates his plan to return to it after his presidency. After Lincoln's death, Herndon told a poignant story of the last time the two men met.

On February 10, 1861, before leaving for Washington, Lincoln paid one final visit to Herndon at their law office. They reminisced about past clients and exchanged a few war stories. They also discussed some unfinished legal work. Before leaving, Lincoln requested that Herndon keep the sign of Lincoln and Herndon up. "Let it hang there undisturbed. Give our clients to understand that the election of a president makes no change in the firm of Lincoln and Herndon. If I live I'm coming back some time, and then we'll go right on practicing law as if nothing had ever happened."[118] Sadly, he never had that opportunity.

Lincoln's notes encapsulated the principles and skills he embraced during his quarter century at the bar. Those principles included the following:

1. Humility
2. Diligence
3. Excellence in communication
4. Be a problem solver rather than a problem creator
5. Fair billing practices (for both the lawyer and the client)
6. Honesty[119]

They also reveal what he learned from the practice of law, and how they manifested in the traits he employed as president. Taken as a whole, these notes teach an abundance about Lincoln's values and his notions about the practice of law.

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117 *Id.* at 5.

118 Herndon & Weik, *supra* note 14, at 289-90.

119 *Notes for a Law Lecture*, Abraham Lincoln Online, https://www.abrahamlincolnonline.org/lincoln/speeches/lawlect.htm (Last visited Feb. 26, 2025).

1. *Humility*

"I am not an accomplished lawyer. I find quite as much material for a lecture in those points wherein I have failed, as in those wherein I have been moderately successful."[120]

Here, Lincoln (by example) emphasizes the importance of humility as a lawyer. Lincoln was always ambitious, both as a lawyer and a politician.[121] White observed, however, that as he matured in the practice, Lincoln learned to temper his ambition with humility, "Lincoln never shied away from his ambition. Through the years he learned to balance it with humility."[122] Burlingame, citing a judge before whom Lincoln practiced, observed how Lincoln's lack of egotism endeared him to juries, "No lawyer on the circuit was more unassuming than was Mr. Lincoln. He arrogated to himself no superiority over any one—not even the most obscure member of the bar. He treated every one with the simplicity and kindness that friendly neighbors manifest in the relation to others."[123] Lincoln the lawyer, perhaps humbled by a childhood of poverty and deprivation, treated everyone with respect.

Herndon sums up Mr. Lincoln's modesty,

> He was a very sensitive man—modest to the point of diffidence—and often hid himself in the masses to prevent the discovery of his identity. . . He had no disgusting egotism and no pompous pride, no aristocracy, no haughtiness, no vanity. Merging together the qualities of his nature he was a meek, quiet, unobtrusive gentleman.[124]

Mr. Lincoln's modest character and likeability were one of the foundations of his success.

The second part of this note, reveals the source of that humility, "*I find quite as much material for a lecture in those points wherein I have failed, as in those wherein I have been moderately successful.*"[125] Throughout his life, Lincoln regularly encountered failure and loss: the early death of his mother, early economic deprivation, the loss of the love of his life Anne Rutledge, the death of his children, lost elections, and the less compelling, but regular, losses that all lawyers face in the courtroom. While all this

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120 *Id*.

121 White, *supra* note 114, at 35.

122 *Id.*

123 Michael Burlingame, *Foreward*, *in* Fraker, *supra* note 3, at xiv.

124 Herndon & Weik, *supra* note 14, at 357.

125 *Notes for a Law Lecture, supra* note 119.

loss and failure was daunting, it forged his character. The result was a humble man who recognized his imperfection as well as the imperfections of human nature.[126]

2. *Diligence*

"*The leading rule for the lawyer, as for the man of every other calling, is diligence. Leave nothing for to-morrow which can be done to-day.*"[127]

In large part due to Herndon's depiction of his late partner, Lincoln was considered somewhat careless in his approach to case management. But White questions this. He points to Lincoln's admiration for Benjamin Franklin, who turned time management into an art and science during his life.[128] Also, according to Dirck,

> Lincoln believed the work habits a lawyer displayed when he walked into his office every morning were at least as important as the more exalted matters of ethics and the national perception of the profession. For him there was a subtle ethical content in the ordinary nuts-and-bolts features of a law practice. A good lawyer forthrightly faces drudgery without frill or complaint.[129]

Mr. Lincoln's hard work sustained him throughout his life, from his early days in New Salem through his days riding the circuit, and ultimately through his tumultuous presidency. According to Donald, "Lincoln worked harder than almost any American president."[130]

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126 Out of the crucible of midlife introspection can emerge an awareness of one's own identity and uniqueness that breeds self-confidence and inspires confidence in others. Hallmark of such psychological progress is an ability to overcome egotism, to avoid taking things personally, to accept one's shortcomings and those of others with equanimity, to let go of things appropriate for youth and accept gladly the advantages and disadvantages of age. People able to meet these challenges successfully radiate a kind of psychological wholeness and rootedness. Lincoln was such a person…

Burlingame, *supra* note 6, at 166.

127 *Notes for a Law Lecture, supra* note 119.

128 White, *supra* note 114, at 35-36. *See also* Benjamin Franklin, The Autobiography of Benjamin Franklin (Yale Univ. Press 1964).

129 Dirck, *supra* note 1, at 5.

130 Donald, *supra* note 15, at 310.

Lincoln's own writing confirms his beliefs about the importance of diligence in the practice of law. In a letter to a young lawyer seeking to study with him, dated November 5, 1855, Lincoln wrote:

> My dear Sir:
>
> I have just reached home, and found your letter of the 23rd. ult. I am [away] from home too much of my time, for a young man to read law with me advantageously. If you are resolutely determined to make a lawyer of yourself, the thing is more than half done already. It is but a small matter whether you read *with* any body or not. I did not read with any one. Get the books, and read and study them till, you understand them in their principal features; and that is the main thing. It is of no consequence to be in a large town while you are reading. I read at New-Salem, which never had three hundred people living in it. The *books*, and your *capacity* for understanding them, are just the same in all places. Mr. Dummer is a very clever man and an excellent lawyer (much better than I, in law-learning[131]); and I have no doubt he will cheerfully tell you what books to read, and also loan you the books.
>
> Always bear in mind that your own resolution to succeed, is more important than any other one thing. Very truly Your friend,
>
> A. Lincoln[132]

In a similar letter to John M. Brockman dated September 25, 1860, Lincoln even suggests a reading list for the novice lawyer:

> Dear Sir: Yours of the 24th. asking "the best mode of obtaining a thorough knowledge of the law" is received. The mode is very simple, though laborious, and tedious. It is only to get the books, and read, and study them carefully. Begin with Blackstone's Commentaries, and after reading it carefully through, say twice, take up Chitty's Pleadings, Greenleaf's Evidence, & Story's Equity &c. in succession. Work, work, work, is the main thing. Yours very truly,
>
> A. Lincoln[133]

The fact that Lincoln took the time to respond to these legal aspirants is further proof of his humility and dedication to hard work. The results were evident as young lawyers appealed to him for his insights into practicing excellence. There are no shortcuts in the practice of law, and this was even true a century and a half ago. "Work, work, work, is the main thing," then as it is now.

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131 Again note the humility.

132 *See Lincoln's Advice to Lawyers*, Abraham Lincoln Online, https://www.abrahamlincolnonline.org/lincoln/speeches/law.htm (last visited Nov. 20, 2024).

133 *Id.*

3. *Excellence in Communication*

"*Extemporaneous speaking should be practised and cultivated. It is the lawyer's avenue to the public. However able and faithful he may be in other respects, people are slow to bring him business if he cannot make a speech.*"[134]

But as Lincoln continues in his notes, circling back to his earlier comments about diligence, speechmaking alone, without the drudgery of preparation and the grind of hard work, will result in failure for the advocate. And the hard work that Lincoln continued to emphasize in these notes, included the hard work of learning oral and written communication skills.

Lincoln, while naturally gifted as a communicator, worked at self-improvement. He studied rhetoric assiduously.[135] As a child, he studied William Scott's "Lessons in Elocution" and memorized speeches of Henry Clay, giving them as stump speeches to entertain his playmates.[136] As a young man, he was a regular at the Springfield young men's lyceum, an organization that helped men on the rise improve their speaking and debating skills.[137]

Lincoln also read voraciously, not only rhetorical texts but poetry and other literature, to internalize the beauty of the English language (which he employed in some of the most magnificent writing and speeches in this nation's history). He loved Shakespeare and would find comfort reading the bard during difficult personal and professional times.[138] As his secretary and later biographer John Nicolay observed about Lincoln the writer:

> The remarkable thing . . . was that while nature and opportunity gave him talent and great success at story-telling and extemporaneous talking, he learned to write–learned to appreciate the value of the pen as an instrument to formulate and record his thought, and the more clearly, forcibly, and elegantly to express it.[139]

Like all other aspects of his education, Lincoln identified what he needed to achieve success, rolled up his sleeves, and with hard work and focus, accomplished it.

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134 *Notes for a Law Lecture*, *supra* note 119.

135 *See, e.g.,* Douglas L. Wilson, Lincoln's Sword: The Presidency and the Power of Words (2006).

136 Fred Kaplan, The Biography of a Writer 24 (2008).

137 Donald, *supra* note 15, at 80-81.

138 Kaplan, *supra* note 136, at 346-49.

139 Wilson, *supra* note 135, at 4.

4. *Problem Solving*

"Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser–in fees, expenses, and waste of time."[140]

Lincoln learned from his second partner and mentor, Stephen Logan, to prefer compromises to litigation.[141] And that is consistent with his personality, which looked for solutions to problems rather than fixating on their causes. Lincoln's intelligence allowed him to look at the entire chessboard rather than just the next move. He recognized that most people benefit from resolving matters (amicably, if possible) rather than scorched earth litigation. He understood that the litigants would remain neighbors, and reducing animosity would benefit the community.[142]

The practice of law fosters this type of practicality. Solutions to legal problems are rarely clear, and the ability to proceed through thickets of competing facts and law inculcates a practical way of seeing the world. Effective lawyering requires the discernment and evaluation of options, some imperfect, to advance the client's interests. Lincoln repeatedly called on those skills throughout his presidency, when his de facto client was the Union.

5. *Honesty*

"[R]esolve 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."[143]

Lincoln concludes his notes on the importance of honesty in the practice, and more broadly, in life at large. And honesty was hardwired into him. The moniker "Honest Abe" was not the creation of a campaign manager—he wore it like his dusty suits. Stories abound about how, as a young merchant, Mr. Lincoln scrupulously adhered to a code of honor with his customers.[144] His contemporaries, with whom he practiced law (and lived on the circuit),

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140 *Notes for a Law Lecture*, *supra* note 119.

141 White, *supra* note 114, at 38.

142 Dirck, *supra* note 1, at 161.

143 *Notes for a Law Lecture*, *supra* note 119.

144 Burlingame, *supra* note 6, at 34. When he discovered he overcharged a customer 6 ¼ cents, he later that day promptly returned the money.

universally described his fairness and honesty in practice. As biographer David Herbert Donald observed:

> In handling hundreds of cases in the circuit courts, Lincoln firmly reestablished his reputation as a lawyer. It was a reputation that rested, first, on the universal belief in his absolute honesty. He became known as "Honest Abe" – or, often, "Honest Old Abe–the lawyer who was never known to lie. He held himself to the highest standards of truthfulness."[145]

As one of his contemporaries, Isaac Arnold specifically observed, Lincoln "never misstated evidence but stated clearly and fairly and squarely his opponent's case."[146]

As further evidence of his personal honesty, Lincoln was temperamentally uncomfortable advocating for guilty litigants.[147] As Samuel Parks, a contemporary of Lincoln's, wrote in a letter to William Herndon a year after Lincoln's death, "at the bar when he thought he was wrong he was the weakest lawyer I ever saw."[148] Parks goes on to describe several instances where Lincoln refused to act on behalf of clients that he considered wrong or immoral.[149] Herndon echoed that observation, "He never made a sophistical argument in his life, and never could make one. I think he was less real aid in trying a thoroughly bad case than any man I was ever associated with. If he could not grasp the whole case and believe in it, he was never inclined to touch it."[150] But the reality is that he did accept cases he did not believe in as evidenced by his representation of a slave owner in the case known as the Matson slave case.[151] But as Woldman observed about his performance: "Lincoln was pitiably weak. His arguments in behalf of a cause his conscience detested were spiritless, half-hearted, and devoid of his usual wit, logic, and invective. He lost the case."[152]

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145 Donald, *supra* note 15, at 149.

146 Arnold, *supra* note 97.

147 Although he represented a slave owner seeking an order to remove his slave from the State of Illinois. Lincoln as a lawyer sometimes represented those with whom he did not necessarily agree. *See, e.g.* Woldman, *supra* note 5, at 60-81.

148 Samuel C. Parks Letter to Herndon (1866), *reprinted in* Herndon's Informants: Letters, Interviews, and Statements About Abraham Lincoln 238 (Douglas L. Wilson & Rodney O. Davis, eds., 1998).

149 *Id*.

150 Herndon & Weik, *supra* note 14, at 321.

151 Woldman, *supra* note 5, at 65-69.

152 *Id*. at 68.

But the word "honesty" transcends one's dealings with others; it includes honesty with oneself. He recognized his own weaknesses and even mocked them. He was often self-deprecatory about his appearance.[153] His strength was in his genuineness.[154] It was his genuineness—warts and all—that endeared him to the fellow bar practitioners, the majority of Americans during his presidency, and history thereafter.

III. The Ascent of Lawyer Lincoln

According to the great man of history theory, individuals with exceptional qualities or characteristics drive historical events through their actions, decisions, and influence; it is the "great men" who create historical events, and their personal attributes—such as charisma, intelligence, wisdom, or courage—enable them to shape the course of history in significant ways.[155] If this theory holds true, Lincoln was a man of destiny, ordained to lead the country during unprecedented times. This particular "great man" was the product of his character and life experiences. The courtrooms around central Illinois largely shaped those experiences. There was perhaps no better preparation for the responsibilities that awaited him. And his law practice assisted him in fulfilling that destiny.

Throughout his legal career, Lincoln was beholden to the rule of law. But as he became more proficient, he learned that the law was more than its words and that the real law resided underneath the text. As Herndon observed, "his mind, apparently with an automatic movement, ran behind facts, principles and all things to their origin and first cause."[156] Using that power of analysis, Lincoln excavated the first principles of our national purpose from the Declaration of Independence, which provided that "*All* men are created equal." Only someone immersed in the law understands jurisprudence from this perspective. Working within the legal system for more than two decades taught him that the law was a tool to help create a better world for its residents rather than an end in

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153 David S. Reynolds, Abe: Abraham Lincoln in His Times 480 (2020).

154 *See* Herndon & Weik, *supra* note 14, at 313 ("Unlike all other men, there was entire harmony between his public and private life.").

155 *See*, *e.g.*, Will Durant & Ariel Durant, The Lessons of History 34-36 (1968).

156 Herndon & Weik, *supra* note 14, at 354.

and of itself. He pragmatically applied this principle when arguing for emancipation, despite the law's legal endorsement of slavery.

Beyond abstract wisdom, the practice of law also provided a vehicle for him to manage the tempest he encountered as president. The skills he developed as Lawyer Lincoln—which included reacting to challenging situations and challenging personalities—groomed President Lincoln to manage all the trials of the presidency. As Lincoln historian Harold Holzer observed, "Lincoln's life as a lawyer informed nearly every aspect of his future, a future that became inseparable from the nation's future."[157] His practice was a fertile training ground that molded a wily prairie lawyer into a wise wartime president a few years later.

While there have been many lawyer presidents, few, if any, had the high volume and fast pace of the circuit rider for such an extended period.[158] Facing daily challenges with little time to prepare cultivated a nimble mind, capable of extemporaneous thought and the development of creative and practical solutions. He frequently called upon these skills to manage the competing (and continuing) challenges he faced in the White House.[159] Fraker summarizes the experience of riding the circuit:

> Dealing with the variety of people and problems of the circuit taught him to listen and schooled him as a quick study, able to assimilate a wide range of information, opinions, and advice from a variety of sources and to respond quickly and correctly. Facing new issues with minimal time to digest and resolve them shaped him into a persuader and cajoler of people in different and somewhat unfamiliar venues and improved his ability to improvise and create. The bar of the Eighth Judicial Circuit included some of the best lawyers in the state. Constantly matching wits with these capable lawyers likewise prepared him for the challenging relationships of the White House.[160]

For decades, Lincoln engaged in daily clashes with these ambitious improvisers. That is also what he did when fighting an internal rebellion as commander in chief. Fort Sumter occurred within a month of his inauguration, and the war ended within days of

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157 Harold Holzer, *Reassessing Lincoln's Legal Career*, *in* Abraham Lincoln, Esq., *supra* note 48, at 8.

158 There have been 27 lawyer presidents. *The Long History of America's Lawyer Presidents*, Lawline (Mar. 2, 2023), https://blog.lawline.com/the-long-history-of-americas-lawyer-presidents.

159 *See, e.g.*, Doris Kearns Goodwin, Team of Rivals (2005).

160 Fraker, *supra* note 3, at 64.

his assassination. Conflict was ever-present during his presidency. Every day, he faced unprecedented challenges, politically, legally, and militarily. His decisions to suspend habeas corpus and emancipate slaves in the rebel states were certainly without precedent.[161] He was forced to improvise and adapt to the circumstances as they arose. And he undertook these tasks with no historical yardsticks or playbook to reference. Decades of improvisations in the courthouses of Illinois were his only tutor. And arguably, there was no better teacher.

In his notes on the practice, Lincoln urged lawyers to settle disputes, pointing out that the nominal winner is often the loser due to the costs of pursuing the conflict. A pragmatic approach to problem solving underlies that observation. Despite this pragmatism, Lincoln understood that there are exceptions.[162] Lincoln undoubtedly learned from his practice that compromise is not always appropriate or possible. His mind was bent towards achieving a *just* result, which sometimes was not the most expedient one.[163] As a working trial lawyer, one understands that there are some wars that *need* to be fought. And while one should strive to resolve disputes amicably, some principles and circumstances warrant a more combative approach. Lincoln himself observed the necessity to fight the impending war to preserve the union, "Both parties deprecated war, but one of them would make war rather than let the nation survive, and the other would accept war rather than let it perish."[164]

While sometimes handling large corporate interests, Lincoln primarily represented average people collecting and defending debts, arguing over livestock and real estate, and defending their reputations using defamation lawsuits.[165] He saw the good, the bad, and the ugly of humanity daily. The practice taught him to see the world in shades of gray rather than the black and white of a zealot. Representing debtors on Monday and creditors on Tuesday taught him to view issues from different perspectives and

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161 Burlingame, *supra*, note 6 at 362-64; 439-42.

162 Donald, *supra* note 15, at 557.

163 Dirck, *supra* note 1, at 168 ("The same man whom some saw moved to tears by the sight of a soldiers suffering could with grim enthusiasm countenance the harsh measures advocated by William Tecumseh Sherman and the dogged, bloody persistence of Ulysses S. Grant.").

164 Burlingame, citing Lincoln, *supra* note 6, at 353.

165 *See, e.g.,* Dirck, *supra* note 1.

helped give him a 360-degree view of legal problems. In Lincoln's world, there were sometimes villains, but ordinarily just two good litigants who disagreed. The objectivity required to analyze challenges from multiple perspectives was also a crucial factor in his success as president. He slowly and deliberately analyzed all issues before acting.[166] He did not act rashly. Nor did he fixate on problems. He looked for practical ways to overcome them. As Herndon observed, "As a politician and as President, he arrived at all his conclusions from his own reflections, and when his opinion was once formed, he never doubted but what it was right."[167]

As a practicing lawyer, Lincoln learned the necessity of hard work to achieve success.[168] His presidency reflected that work ethic:

> Despite his outwardly laid-back and friendly manner, he gave his all during his tenure in office. While never well organized or systematic, he was in fact an energetic, hands on, detail oriented administrator. If any president's performance in office deserved the overused epithet "indefatigable," it was his.[169]

As wartime leader, he was a micromanager, overseeing all the war's details.[170] Despite being absorbed in fighting a war, he nevertheless took time to regularly meet with citizens and those seeking patronage positions.[171] The expression "open door policy" defined his presidency. Hard work was ingrained in him at the bar.

The law practice also schooled Lincoln in the art and science of persuasion. And with years of experience, he understood how to craft the message for the people he was trying to persuade. As Herndon recalled about his late partner's oratorical skills, "The great secret of his power as an orator, in my judgment, lay in the clearness and perspicuity of his statements. When Mr. Lincoln had stated a case it was always more than half argued and the point more than half won."[172] Herndon also described how Lincoln used logic to craft his own arguments, "The force of his logic was in

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166 Herndon & Weik, *supra* note 14, at 352-54.

167 *Id.* at 322 (citing contemporary Leonard Swett).

168 Donald, *supra* note 15, at 149.

169 Wilson, *supra* note 135, at 5.

170 *See, e.g.,* Jeffrey D. Wert, The Sword of Lincoln: The Army of the Potomac 312-15 (2005).

171 Kearns Goodwin, *supra* note 159, at 333-34.

172 Herndon & Weik, *supra* note 14, at 321.

conveying to the minds of others the same clear and thorough analysis he had in his own . . . mind."[173]

As president, trained largely by the practice of law, Lincoln developed a rhetorical trope to convey the immensity of his mission. While practicing law, Lincoln drafted countless pleadings. He learned not to allege facts that one need not prove and how to state his cause of action with precision.[174] His public papers during his presidency consisted of the same lawyerly attention to detail and clarity. Again, his wrestling with the necessity of suspending habeas corpus, for example, is a lawyerly balancing test of his constitutional powers. As he observed, "Are all the laws, but one, to go unexecuted, and the government itself go to pieces lest that one be violated?"[175]

Apart from Generals Sherman and Grant, one could plausibly claim that Lincoln's pen, which again, he honed as a trial lawyer, was the most important factor in winning the war. One only needs to look at the emotionally compelling Gettysburg address and the Second Inaugural address to understand the power of his words. These two speeches, written by Lincoln himself (rather than speechwriters),[176] have become part of the canon of American wisdom literature. Speaking with common people during his regular travels on the circuit helped him find simple words to communicate complex thoughts. He later used that talent to provide a vision of his country's soul.

As a family law attorney, his concern for women and children later manifested toward an entire people. Lincoln must have gained wisdom while working with dissolving families. And his patience must also have been tested working with unreasonable and often irrational people driven by emotion. But his kindness had a forum here as well. As Herndon observed about his late partner, "he had a great kindness of heart. His mind was full of tender sensibilities, and he was extremely humane."[177] One can see this attitude at play when healing the country at the end of the

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173 *Id*.

174 As he advised his lawyer friend Usher Linder in a letter, "It is good policy to never plead what you need not, lest you oblige yourself to prove what you can not." Lincoln, *supra* note 43, at 1-48.

175 Burlingame, *supra* note 6, at 362-64.

176 Wilson, *supra* note 135, at 4.

177 Herndon & Weik, *supra* note 14, at 320.

war. Lincoln urged his commanders to treat the traitorous rebels respectfully and without malice, understanding that these citizens would be reintegrated into the country. As Lincoln's Secretary of War recounted, "Lincoln expressed hope that 'there would be no persecution, no bloodywork, after the war was over. None need expect he would take any part in hanging or killing those men, even the worst of them.'"[178] Likewise, regarding his own military deserters, Lincoln's mercy and clemency was legendary.[179]

What he learned from divorcing couples likely gave him insight into the dynamics of the fight before him as president. Though it is counter-factual, it is possible that he retained the lessons he learned from the bitter enmity resulting from family breakups: when love turns into hate. Perhaps witnessing those who could not forgive gave him a greater understanding of the importance of doing so. And like the dissolution of a marriage, the attempted dissolution of a country carried many of the same attributes: bitter passion, anger, and recalcitrance. His experience as a divorce lawyer, as much as any other personal or professional experience, prepared Lincoln for the war ahead. Managing that bitterness for a quarter century on the Illinois prairie taught him unique lessons on division and healing that were unavailable to most people.

Lincoln was improbably elected president of the United States in 1860.[180] His only prior experience as an elected officer of government was one term in the United States Congress[181] and judge pro tem in Judge Davis's absence on the circuit.[182] Prior to becoming president, his only experience with war was his brief term as a captain in the Blackhawk War.[183] While his political and war experience was limited, his life experience groomed him for the trials ahead. Once elected, he faced a political storm unlike any other president in history. Undoubtedly, Lincoln's character and intelligence contributed to his success as a wartime leader. But his experiences managing community conflicts for over two decades

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178 Burlingame, *supra* note 6, at 617.

179 Frank J. Williams, *Lincoln's Lessons for Lawyers*, *in* Abraham Lincoln Esq., *supra* note 48, at 34.

180 *See supra* discussion in text at note 4.

181 Burlingame, *supra* note 6, at 128-46.

182 Dirck, *supra* note 1, at 51.

183 Burlingame, *supra* note 6, at 37-40.

were just as critical to his success. As British statesman Edmund Burke observed:

> The study of law renders men acute, inquisitive, dextrous, prompt in attack, ready in defense, full of resources. No other profession is more closely connected with actual life than law. It concerns the highest of all temporal interests of man—property, reputation, the peace of all families, the arbitrations and pace of nations, liberty, life even, and the very foundations of society.[184]

It is perhaps comforting to know that, despite the frequent indignities and difficulties inherent in the practice of law, Abraham Lincoln's professional life provides meaning today. After all, he experienced many of the same difficulties and challenges that modern lawyers face. And he learned from them; despite the difficulties of practicing law, he applied those lessons to achieve great things. Michael Burlingame beautifully sums up why Lincoln matters:

> Few people will achieve his world historical importance, but many can profit from his personal example, encouraged by the knowledge that despite a childhood of emotional malnutrition and grinding poverty, despite a lack of formal education, despite a series of career failures, despite a miserable marriage, despite a tendency to depression, despite a painful midlife crisis, despite the early death of his mother and his siblings as well of his sweetheart and two of his four children, he became a model of psychological maturity, moral clarity, and unimpeachable integrity. His presence and his leadership inspired his contemporaries; his life story can do the same for generations to come.[185]

One could describe his life and ascent as fateful if not miraculous. As he trudged up and down the dusty trails for over two decades, little did he know that he would exchange his horse's reins for the fate of a people. The Lincoln miracle was activated in the courthouses along the Illinois prairie.

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184 Woldman, *supra* note 5, at 3.

185 Michael Burlingame, Abraham Lincoln Traveled This Way: The America Lincoln Knew 259 (2011).