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ABRAHAM LINCOLN

Lessons in Civility, Professionalism and Equality

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ABRAHAM LINCOLN

Lessons in Civility, Professionalism and Equality

By Thomas G. Wilkinson Jr.

There is a substantial body of published works focusing on President Abraham Lincoln, who many view as the most impactful and widely admired politician in the history of the United States.

In fact, new books concerning Lincoln continue to appear, including a wide array of fictionalized works that draw upon Lincoln's enduring popularity.

Abraham Lincoln came from humble beginnings and a very limited formal education to develop a thriving and well-respected law practice in Springfield, Illinois. He developed a well-deserved reputation in his home state for civility and professionalism well before he entered the national political stage, indeed well before he served in the state Legislature.

Before he was elected president in 1860, Lincoln became known fondly as "Old Abe" and "Honest Abe." Honesty in itself is, of course, an element of civility and a trait

all lawyers and their clients should value. Honesty in the course of representing clients is also made mandatory through Rule of Professional Conduct 4.1 (Truthfulness in Statements to Others).

Civility on the Circuit

Lincoln's professional reputation as an effective trial lawyer developed during the six months he traveled the "circuit" each year from court to court in Illinois, and six months in Springfield, his county's seat. Wagons would carry the lawyers, judge and occasionally clients and witnesses to each local town court vicinage. Lincoln would pick up clients and controversies while riding the circuit. During the evenings at the local boarding houses and taverns, he could be counted upon to serve up anecdotes and deliver sage wisdom couched in short stories suitable to the occasion. He was the embodiment of the maxim that good storytellers make for good trial lawyers and vice versa.

Pictured above: Vintage illustration of Abraham Lincoln's birthplace in LaRue County, Kentucky.



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From 1849 through 1860, Lincoln likely tried more cases than any other lawyer in the Eighth Circuit. He became the acknowledged leader of the local bar, and his services were constantly in demand. He handled a wide range of cases, from defamation to the defense of medical malpractice cases, as well as patent infringement and admiralty cases involving ships on the Mississippi. As railroads expanded their reach, he represented them in at least 72 cases and opposed them in at least 62.

When Lincoln wanted to convey that he had given a matter careful thought, he would often introduce his response with an “I reckon,” which suggested some deliberation, but sometimes it was instead a prelude to an amusing answer designed to lighten matters up or to make a deft point. “As a lawyer, he used jokes and stories to disarm opponents and make serious points, a technique he’d learned around the cracker-barrel, reinforced by his favorite books: Aesop’s Fables, the Bible and Shakespeare’s plays,” wrote John Avlon in *Lincoln and the Fight for Peace*.

Horace Greeley, the editor of the influential *New York Tribune* and ardent supporter of emancipation, observed that Lincoln’s hundreds of efforts in the courtroom left their mark and helped train him to become “the foremost convincer of the day.” Lincoln drew on an extensive understanding of human nature, having interacted with people at all levels of society through his modest upbringing, work as a clerk in a general store and a post office, mixing daily with the general public, and learning their “concerns,



Lincoln Home, Springfield, Illinois

struggles, and questions” during his travels on the Eighth Circuit.

Many know that Lincoln was a voracious reader, at least in the early days. He would on occasion simply read book excerpts aloud to friends, some perhaps who were never schooled, could not read or simply enjoyed being in Lincoln’s company. However, his law partner would tire of hearing Lincoln read aloud from the daily newspapers.

John Littlefield, a law student who studied in the Lincoln-Herndon office in Springfield from 1859 through 1860, remembered that Lincoln appeared at the office at odd hours, often having done a great deal of work at home. He was very industrious and had the ability to “bone down” to hard work. Lincoln’s attitude toward due diligence and preparedness was reflected in his famous adage: “Give me six hours to chop down a tree, and I will spend the first four sharpening the axe.”

When preparing for trial, he would display a keen power of concentration and sometimes take a walk on the prairie with his son Tad and return with a clear conception of the case and how he would address the

more difficult points. In the office, Lincoln would often put a book down and note that the case reminded him of a story that he would tell with great earnestness. He would do the same when encountering friends on the street, starting in with: “By the way, I am just reminded of a story,” and spin the yarn, no matter how unwelcome the weather.

While Lincoln could convey humorous anecdotes, he was serious, often described as exhibiting a “species of melancholy.” His humor helped to counteract those dark mood swings. He had a remarkable memory and could recall instantly where he had seen people and how he had made their acquaintance.

In court, Lincoln had an earnest and thoughtful manner that conveyed that of an advocate seeking a fair and equitable outcome. Where most lawyers would announce their objection to the admission of certain evidence, Lincoln would instead note that he “reckoned” it would be fair to admit the truth to be so-and-so even when his adversary could not quite prove what Lincoln knew to be the truth. When he did object, and the court ruled against him,

Lincoln would often simply acknowledge, “Well, I reckon I must be wrong.”

Those who saw Lincoln try cases admired his analytical ability and “directness of thought.” Even in the most complex cases, he “would disentangle it, and present the turning point in a way so simple and clear that all could understand. Indeed, his statement [of the case] often rendered argument unnecessary, and often the court would stop him and say, ‘If that is the case, we will hear the other side,’” wrote Isaac N. Arnold in *Reminiscences of the Illinois-Bar*.

During trial, Lincoln would often give up various nonessential points to the surprise of his opposing counsel. In *Lincoln As I Knew Him*, author Harold Holzer quotes Leonard Swett, lawyer and Lincoln political ally, “When the whole thing was unraveled, the adversary would begin to see that what he was so blandly giving away was simply what he couldn’t get and keep. By giving away six points and carrying the seventh, he traded away everything which would give him the least aid in carrying that. Any man who took Lincoln for a simple-minded man would very soon wake up with his back in a ditch.”



Notwithstanding his melancholy temperament, Lincoln found constructive ways to alleviate sadness and stress well before “wellness” entered our lexicon.

As a lawyer, Lincoln would cut all the “dead wood” out of his opening argument. This could cause the client to be alarmed, thinking that his advocate “had given away so much of the case that he would not have anything left. In making these concessions, he would so establish his position in fairness and honesty that the lawyer on the opposite side would scarcely have the heart to oppose what he contended for,” according to law student Littlefield in *Lincoln As I Knew Him*. “He would strain a point to be kind, but he never strained to breaking.”

“He was certainly a very poor hater. He never judged men by his like or dislike for them. If any given act was to be performed, he could understand that his enemy could do it just as well as anyone. If a man had maligned him, or been guilty of personal ill-treatment and abuse, and was the fittest man f[or] the place, he would put him in his Cabinet just as soon as he would his friend. I do not think he ever removed a man because he was his enemy, or because he disliked him,” wrote Swett.

Lincoln’s “gift for oratory was the key to success,” but one of the pillars of Lincoln’s success in the practice of law was the reputation he had as a thoroughly honest lawyer. Well before he became president, he was known by the sobriquet of “Honest Old Abe,” a nickname he embraced with pride. Even his enemies and adversaries considered him to be honest. As a trial lawyer, he had become such a synonym for honesty that everybody was willing to yield assent to nearly every proposition he advanced, either in or out of court.

Lancaster attorney Joe Roda deftly reviews Lincoln’s remarkable legal career and outsize skills as a persuasive orator in *Abraham Lincoln and Making a Case: The Story of a Master*. Lincoln focused on what he called “the nub of the case,” masterfully reducing complex facts and law to one or two simple themes. Roda discusses seven

fundamentals that coalesced to make Lincoln “The Great Persuader” — personality and intellect, knowledge of people, preparation, timing, credibility, facts, logic and emotion. Roda concludes with 13 key “lessons” we learn from Lincoln the litigator, who was involved in more than 5,100 cases, tried hundreds of large and small civil cases, and 27 murder cases. Despite his lack of formal education and his small-town provenance, he became the “go-to” lawyer for the big railroads and was designated the lead lawyer on trial teams despite being the most junior to the bar. Lincoln’s contemporaries uniformly considered him the best jury lawyer of his day in Illinois. There can be no question that there was a causal connection between Lincoln’s law practice and skill development from 23 intensive years of experience at the bar and his ascension to the presidency. His speeches and writings as a candidate and as president were lawyerly, based in fact and logic, masterful but simple in style and content.

Lincoln gave many memorable speeches in the courtroom and in the public realm before he was elected president. In 1857, after setting his sights on Stephen Douglas’ seat in the U.S. Senate, he gave a series of speeches skillfully dissecting Justice Roger B. Taney’s majority decision in the Dred Scott case. Lincoln reportedly gave 63 speeches in his ultimately unsuccessful campaign against Douglas, but it was their seven debates between Aug. 21 and Oct. 15 of 1858 that received the most notoriety. Lincoln’s “House Divided” speech delivered at the Illinois Republican State Convention in 1858 drew from the New Testament in expressing the conviction that “A house divided against itself cannot stand.” He stressed that the “government cannot endure, permanently half slave and half free.” Lincoln offered a vision for the country that would eventually see slavery abolished.

Lincoln returned to his law practice for a time, and even tried one last murder case



in 1859, but the next year he was drafted to stump for Republican candidates and used the platform to vehemently criticize Douglas' historical arguments in support of slavery. Lincoln impressed even those who fundamentally disagreed with him. His forceful and reasoned attack on slavery led to an important invitation to speak in Brooklyn, New York, where he impressed a large Republican party audience at the Cooper Institute. The prairie lawyer and "rail splitter" drew influential members of society and those curious whether the unprepossessing public man had legitimate national political aspirations. Lincoln's well-researched and spellbinding speech was a stunning success in making the case that Republicans must stop the expansion of slavery and also established him as a viable candidate for the nation's highest office.

Lincoln's White House secretaries found among his papers handwritten notes that appeared to have been prepared for a law lecture. The notes include various points of sage advice concerning preparation, avoiding procrastination and several recommendations that bear on civility and professionalism. His "leading rule for the lawyer" was "diligence. Leave nothing for to-morrow which can be done to-day. Never let your correspondence fall behind. Whatever piece of business you have in hand, before stopping, do all the labor pertaining to it which can then be done." Diligence is, of course, an aspect of professionalism in that prompt preparation ensures timeliness on a client's matters and is more time efficient than taking up an assignment sporadically or awaiting an impending deadline before performing the required work. Thoroughness

As victory in the war approached, Lincoln continued to pursue the politics of reconciliation rather than resentment and revenge.



By all accounts, Lincoln the lawyer demonstrated the highest level of personal and professional integrity throughout his legal and political careers.

and preparation are also elements of the fundamental duty of competence, which is now ingrained in our Rules of Professional Conduct.

“Discourage litigation. Persuade your neighbor to compromise whenever you can.”

The Lincoln notes also wisely counseled lawyers to “Discourage litigation. 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. As a peace-maker the lawyer has a superior opportunity of being a good man. There will still be business enough.” These valuable insights have been proven true with the general trend in favor of court-annexed and private mediation efforts. For various reasons, many contentious

controversies reach the courthouse steps with the parties having expended substantial energy, time and resources that, in retrospect, could have been devoted to a compromise at an earlier stage that would have yielded more favorable results for both sides.

In her remarkable book, *Team of Rivals: The Political Genius of Abraham Lincoln*, Doris Kearns Goodwin explains that after winning the presidency, Lincoln made the remarkable decision to incorporate his prime rivals into his political family, the cabinet, which demonstrated his profound self-confidence and a first indication of his “unexpected greatness.” William Seward would become secretary of state; Salmon Chase secretary of the treasury; and Edward Bates attorney general. Lincoln became the undisputed captain of this unusual cabinet, truly a team of rivals. Seward came to appreciate Lincoln’s remarkable talents and realized the futility of his plan to relegate the president to a figurehead role. Seward soon became Lincoln’s closest adviser and friend in the administration.

Kearns Goodwin explains that a key ingredient of Lincoln’s political genius included “an extraordinary array of personal qualities that enabled him to form friendships with men who had previously opposed him; to repair injured feelings that, left untended, might have escalated into permanent hostility; to assume responsibility for the failures of subordinates; to share credit with ease; and to learn from mistakes.” Notwithstanding his melancholy temperament, Lincoln found constructive ways to alleviate sadness and stress well before “wellness” entered our lexicon. When compared to colleagues, he had an even-tempered disposition and consistently dispelled his colleagues’ anxiety and sustained their spirits with his gift for storytelling and his “life-affirming sense of humor. He refused to provoke petty grievances, to submit to jealousy, or to brood over perceived slights.”

“We are not enemies, but friends.”

On the eve of the Civil War, Lincoln continued reaching for common ground, noting, “We are not enemies, but friends. ... Though passions may have strained, it must not break our bonds of affection.” And near the war’s end, in his second inaugural address following a four-year bloody conflict, he aimed for the nation to heal and restore civility. He urged a divided America, “With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to finish the work we are in, to bind up the nation’s wounds[.]”

Lincoln’s charitable and conciliatory tone was clearly designed to mend fractured relations rather than throwing more wood on the fire and making reconciliation and healing more difficult. Lawyers, mediators and judges frequently face opportunities to heal rather than deepen wounds in strained client relationships and can encourage parties to move past their differences and find common ground.

Lincoln observed a personal civility code well before state supreme courts established commissions promoting lawyer civility and the Pennsylvania Supreme Court adopted our aspirational Code of Civility in 2000. By all accounts, Lincoln the lawyer demonstrated the highest level of personal and professional integrity throughout his legal and political careers. He could deconstruct an opponent’s arguments and effectively cross-examine a difficult witness without making disparaging personal remarks or engaging in acrimonious speech that undermined the dignity or decorum of the courtroom.

In *The Grace and Power of Civility*, a paper for the Center for the Study of the Presidency, David Abshire explains that “The miracle of the Constitutional Convention and of Abraham Lincoln’s presidency is that the

leadership qualities of civility and commitment, coalition building, and inclusiveness coincided at precisely the right moments.” He explained that this critical conversion of leadership qualities did not coalesce during other tipping points in American history, such as in President Wilson’s ineffective, uncompromising foreign policy following World War I.

Some of the revered “forefathers” of our country, including Chief Justice John Marshall, have come under increased scrutiny in recent years by reason of their ownership of slaves. The proverbial father of our country, George Washington, recognized the importance of civility at an early age, and lived by the 110 maxims found in his *Rules of Civility & Decent Behaviour in Company and Conversation*. Lincoln’s legacy also has been challenged by some for not more aggressively pursuing the immediate abolition of slavery, notwithstanding his abiding hatred for the nation’s “peculiar institution” and his consistent public opposition to slavery’s expansion into the territories. He was concerned that pursuing abolition too aggressively could cause the border states to flee the Union for the Confederacy; and that legislation abolishing slavery could be struck down in the federal courts, and was deeply concerned that the Supreme Court would reinstate the property-rights argument in the Dred Scott decision if he had tried to outlaw slavery nationwide in the Emancipation Proclamation.

As Michael Gerson observed in a 2011 article for the *Washington Post*, “The Two Paths to Civility,” Martin Luther King Jr. did not oppose segregation because its supporters were too doctrinaire. He opposed segregation because it was an insult to the nature of human beings. ... He sought to convince Americans of a superior moral belief — to convert them to the ideals of their own founding,” that all men (and women) are truly created equal, and that a society becomes more just and civil as more people

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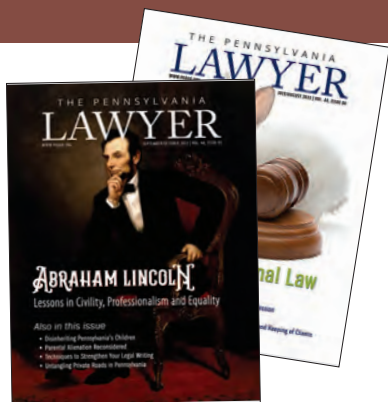
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- Former Federal Prosecutor
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are converted to this moral belief in human dignity and reflect that conviction in their lives and laws. As Yale Professor Stephen L. Carter explained: “The true genius of Martin Luther King Jr. was not his ability to articulate the pain of an oppressed people – many other preachers did so, but in his ability to inspire those very people to be loving and civil in their dissent.”

Lincoln and King lived in different fractured times, but they each recognized the critical need to pursue the goal of equality while still maintaining civility, which ultimately is an expression of respect for others. Lincoln had an abiding belief in human dignity and understood that everyone, regardless of skin color, is worthy of respect. He emphasized in the Gettysburg address that the founders of our nation “were dedicated to the proposition that all men are created equal,” drawing from the Declaration of Independence.

As victory in the war approached, Lincoln continued to pursue the politics of reconciliation rather than resentment and revenge. As author John Avlon explains in his recent book, *Lincoln and the Fight for Peace*, reconciliation “is the action of restoring harmony and friendship, resolving differences.”

Lincoln was a man of peace in a time of war, tough minded but tender hearted. While spurring his generals to be more aggressive on the battlefield, Lincoln embodied an interpersonal absence of malice. He practiced the politics of the Golden Rule – treating others as he would like to be treated. He did not demonize people he disagreed with, understanding that empathy is a pathway to persuasion. He was uncommonly honest and tried to depolarize bitter debates by using humor, logic and scripture. Balancing moral courage with moderation, Lincoln believed that decency could be the most practical form of politics. But he also understood that people were more inclined

to listen to reason when greeted from a position of strength.

Well before Lincoln became a public citizen, the 18th century poet Mary Wortley Montagu wrote that “Civility costs nothing, and buys everything.” In other words, being polite or kind does not cost a thing and may earn a great dividend. Lincoln intuitively understood this maxim and applied it even in adversarial situations. He learned from his successes and his failures and became a masterful leader, politician and orator who applied self-deprecation effectively. “Lincoln had less schooling than all but a couple other presidents, and more wisdom than every one of them.” Among the foremost lessons he learned was the importance and value of exhibiting civility in all aspects of his professional life, from small-town lawyer to president of the United States. ☞



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