

ABRAHAM LINCOLN'S ADVICE TO LAWYERS

Abraham Lincoln, who famously served as America's sixteenth President during the Civil War, was for most of his life prior to the presidency a lawyer. He was moderately successful, but certainly would not have been one of the "celebrity" lawyers of today. His average fee was between \$5 and \$20. The highest fee he ever charged was \$5,000, which, though substantial for the time, was not common for him.

But his success was notable enough to induce various people to ask him for his advice on not only becoming a lawyer, but the practice of law. His answers epitomize the typically homespun, and common sense way in which Lincoln famously expressed himself, even as President. Baked into his answers was a healthy dose of life wisdom which anyone intent on a successful career could benefit from.

For example, in response to a young man requesting his advice on how best to become a lawyer, the experienced Lincoln wrote to him as follows:

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* anybody or not. I did not read with anyone. Get the books, and read and study them till you understand them in their principal features; and that is the main thing...The *books*, and your *capacity* for understanding them, are just the same in all places...Always bear in mind that your own resolution to succeed, is more important than any other one thing.¹

Lincoln is constantly admonishing the advice-seekers to *read, read, read*. It was very rare for a lawyer to attend law school at the time, and Lincoln was no different—hence his emphasis on the self-educated approach:

If you wish to be a lawyer, attach no consequence to the *place* you are in, or the *person* you are with; but get books, sit down anywhere, and go to reading for yourself. That will make a lawyer of you quicker than any other way.²

He even provided a list of recommended books. Despite the fact that their relevance to modern litigation is diminished, they nonetheless remain classics for their articulate summaries of fundamental legal principles:

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

¹Abraham Lincoln to Isham Reavis (November 5, 1855); Abraham Lincoln, Don E. Fehrenbacher, ed., *Speeches and Writings, 1832-1858* (New York: Library of America, 1989), 364.

²Abraham Lincoln to William H. Grigsby (August 3, 1858); *Ibid.* 485.

only to get the books, and read, and study them carefully. Begin with Blackstone's *Commentaries*,³ and after reading it carefully through, say twice, take up Chitty's *Pleading*, Greenleaf's *Evidence*,⁴ and Story's *Equity*⁵ etc. in succession. Work, work, work, is the main thing.⁶

But Lincoln also gave advice to practicing lawyers. For the litigator, Lincoln advised never engaging in superfluous pleading:

In law it is good policy to never *plead* what you *need* not, lest you oblige yourself to *prove* what you *can* not. Reflect on this well before you proceed.⁷

To this day, the issue of fees remains contentious, and clients frequently wonder if they are really getting as much value from their lawyer as the amount of money they are paying entitles them to. Lincoln understood the concerns from both the lawyer's and the client's perspective. As for lawyers, the issue is often whether they will be paid at all:

As to fees, it is impossible to establish a rule that will apply in all, or even a great many cases. We believe we are never accused of being very unreasonable in this particular, and we would always be easily satisfied, provided we could see the money—but whatever fees we earn at a distance, if not paid *before*, we have noticed we never hear of after the work is done. We therefore, are growing a little sensitive on that point.⁸

As to clients, Lincoln's advice in relation to fees, as well as a host of other matters related to the practice of law, are brilliantly summarized in his *Notes on the Practice of Law*. Apparently prepared in anticipation of delivering a lecture on the law, Lincoln's summary of the "best practices" to which lawyers should adhere ought to be required reading for lawyers to this day, not only for their down-to-earth wisdom on both lawyering and life, but for their realistic appraisal of human nature, and the art of virtue. They are reproduced in full here:

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.

The leading rule for the lawyer, as for the man, of every calling, is *diligence*. Leave nothing for to-morrow, which can be done to-day. Never let your correspondence

³[William Blackstone, *Commentaries on the Laws of England* \(1765-69\).](#)

⁴[Simon Greenleaf, *A Treatise on the Law of Evidence*, 16th ed. \(1899\).](#)

⁵[Joseph Story, *Commentaries on Equity Jurisprudence as Administered in England and America* \(1835-36\).](#)

⁶Abraham Lincoln to John M. Brockman (September 25, 1860); Abraham Lincoln, Don E. Fehrenbacher, ed., *Speeches and Writings, 1859-1865* (New York: Library of America, 1989), 180.

⁷Abraham Lincoln to Usher F. Linder (February 20, 1848); Lincoln, *Speeches and Writings, 1832-1858*, 177.

⁸Abraham Lincoln to James S. Irwin (November 2, 1842); *Ibid.* 105.

fall behind. Whatever piece of business you have in hand, before stopping, do all the labor pertaining to it which can *then* be done. When you bring a common-law suit, if you have the facts for doing so, write the declaration at once. If a law point be involved, examine the books, and note the authority you rely on, upon the declaration itself, where you are sure to find it when wanted. The same of defenses and pleas. In business not likely to be litigated—ordinary collection cases, foreclosures, partitions, and the like—make all examinations of titles, and note them, and even draft orders and decrees in advance. This course has a triple advantage; it avoids omissions and neglect, *save* your labor, when once done; performs the labor out of court when you *have* leisure, rather than in court, when you have not. Extemporaneous speaking should be practiced 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. And yet there is not a more fatal error to young lawyers, than relying too much on speech-making. If anyone, upon his rare powers of speaking, shall claim exemption from the drudgery of the law, his case is a failure in advance.

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, and 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.

Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the Register of deeds, in search of defects in titles, whereon to stir up strife, and put money in his pocket? A moral tone ought to be infused into the profession, which should drive such men out of it.

The matter of fees is important far beyond the mere question of bread and butter involved. Properly attended to fuller justice is done to both lawyer and client. An exorbitant fee should never be claimed. As a general rule, never take your whole fee in advance, nor any more than a small retainer. When fully paid beforehand, you are more than a common mortal if you can feel the same interest in the case, as if something was still in prospect for you, as well as for your client. And when you lack interest in the case, the job will very likely lack skill and diligence in the performance. Settle the *amount* of fee, and take a note in advance. Then you will feel that you are working for something, and you are sure to do your work faithfully and well. Never sell a fee-note—at least, not before the consideration service is to be performed. It leads to negligence and dishonesty—negligence, by losing interest in the case, and dishonesty in refusing to refund, when you have allowed the consideration to fail.

There is a vague popular belief that lawyers are necessarily dishonest. I say *vague*, because when we consider to what extent *confidence*, and *honors* are reposed in, and conferred upon lawyers by the people, it appears improbable that their *impression* of dishonesty is very distinct and vivid. Yet the impression, is common—almost universal. Let no young man, choosing the law for a calling, for a moment yield to this 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.⁹

⁹Abraham Lincoln, *Notes on the Practice of Law* (c. 1850); *Ibid.* 245-46.