Manuscript: In the Footsteps of the Lincolns (newspaper series), Chapter XXIII, Lincoln Returns to Law

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IN THE FOOTSTEPS OF ABRAHAM LINCOLN

CHAPTER XXXIII

Lincoln Returns to the Law

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Lincoln had gone to the ball with a party of friends, and they had stayed on until three or four o'clock in the morning. How like him! Interested in human beings and their ways - never tired of watching them - the last man to leave any gathering unless, indeed, he was overtaken by one of his chronic fits of despondency. I cannot see the least reason for describing Mr. Lincoln at this inaugural ball as this interpreter does, as a "worthy provincial, the last word for awkwardness," (the best answer to that is the portrait here published) "socially as strange to such a scene as a little child, spending the whole night gazing intently at everything he could see, at th..."
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barbaric display of wealth, the sumptuous gowns, the brilliant uniforms, the distinguished foreigners, and the leaders of America, men like Webster and Clay, with their air of assured power - the men he had failed to impress." As a matter of fact, in his two years he had done an extremely difficult thing for a new comer in Congress, he had impressed men of "assured power."

Can it be supposed that men as clever as the leaders of the Whig party of that day would have considered sending the man of the above picture into Massachusetts - at that moment the most difficult point in the Union for the Whigs? But Mr. Lincoln had been sent - had been sent as the chief speaker at a pivotal point. He had been asked to speak on the same platform with Governor Seward in Tremont Temple in Boston. The impression that he had made had been so strong that there was a continuous demand for his services politically for some time after he left the State. That is not being a political failure at least.

And socially he had been popular - so popular that ten years later when as a disputant in one of the greatest debates, if not the greatest, which this country can boast, they began to hear his name, listen to his arguments, they said, "Why, yes, Lincoln, do you remember?" And they all remembered. No. Lincoln's term in Congress was not a failure, even socially.

The impression of failure is based on two things: First, that the appointment to the General Land Office for which he had applied, went to a man whom all Illinois Whigs disliked; and, second, on the
long period of silence that followed his return. Look over a collection of his letters for 1850, '51 and '52 - you will find almost nothing. Until Gilbert Tracy published his little book in 1917, there had never been a letter of Lincoln's printed in any collection for the year 1850 or for that of 1852. Tracy found four of the first date, three of 1851. He spoke little more than he wrote, and when he spoke there was a strong note of sadness. This is unmistakable in a speech only recently come to light - one of the findings of the indefatigable Rev. William E. Barton, who published it last year with notes. Lincoln was attended the United States District Court at Chicago in July of 1850 when the news of President Taylor's death came. He was chosen to deliver the address at the memorial services. It is not much of a speech, to be honest. One significant thing there is in it, however, his characterization of Taylor's military talent as a combination of negatives - "absence of excitement and absence of fear." One can easily believe that it was upon these traits in Taylor that Lincoln had depended in advocating him. "I fear," he said at Chicago, "that the one great question of the day" (meaning slavery, of course) "is not so likely to be patiently acquiesced in as it would have been could General Taylor have been spared us." That is, at that moment, 1850, he felt that the safest temper for wise handling of the "one great question of the day" was "absence of excitement and absence of fear."

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for the first time, so far as I know, he quotes publicly his favorite verses beginning "O why should the spirit of mortal be proud?" - seven of the fourteen stanzas - an ending which must have left upon his audience an effect of a profoundly depressed man.

From a careful reading of the reminiscences of this period one carries away a similar impression of brooding, melancholy. You even get something of it in his relations with his father and the group of relatives back in Coles County. They had never prospered. Lincoln had again and again given them small sums to help them out of tight places, and to his step-brother, John D. Johnston, he was at this time giving advice which, accepted, was equal to a fortune.

Early in 1851 letters from Coles Co. told him of his father's serious illness. He did not even answer the first ones - a neglect unlike him and only to be explained by the hopelessness he felt over the situation there.

"I have not answered them," he finally wrote, "not because I have forgotten them, or been uninterested about them, but because it appeared to me that I could write nothing which would do any good. You already know I desire that neither father nor mother shall be in want of any comfort, either in health or sickness, while they live; and I feel sure you have not failed to use my name, if necessary, to procure a doctor, or anything else for father in his present sickness. My business is such that I could hardly leave home now, if it was not as it is, that my own wife is sick-a-bed. (It is a case of baby-sickness, and I suppose is not dangerous.)"

What was back of this long silent depression?

So far as politics had anything to do with his state of mind, it was not his own failure to get the General Land Office, which was troubling him. At any time he could have had that office,
so the President himself said, if he had only spoken. The cabinet had actually postponed the appointment three weeks for his benefit; but one of his old and dear Illinois friends, Cyrus Edwards, was an applicant. So long as Lincoln thought there was any chance at all for Edwards he refused to apply. When he finally saw that in no case would the administration give the office to Edwards, he put in his application; but it was too late. What overwhelmed him now was that Edwards accused him of treachery, that in trying to serve him, both of them had lost the office and it had gone to a man most unsatisfactory to the Whigs of his district.

It was these two things - his friend's feelings towards him, and the resentment of his constituency at the appointment, which had finally been made, that troubled him. "These two things away and I should have no regrets - at least I think I would not."

This unpleasant mix-up and other unsatisfactory appointments in Washington brought a criticism upon President Taylor for whom he had been fighting so hard, that troubled him, too. The President was getting the reputation in Illinois of being a man of straw, unwilling to take the responsibility of appointments. "This must be arrested," Lincoln wrote to the Secretary of State, John Clayton. (This is one of Mr. Tracy's "Uncollected Letters," that is, one of those that first appeared in 1917) "or it will damn us all inevitably. It is said Gen. Taylor and his officers held a council of war, at Palo Alto (I believe); and that he then fought the battle against unanimous opinion of those officers. This fact (no matter whether rightfully or wrongfully) gives him more popularity than ten thousand submissions, however really wise
and magnanimous those submissions may be.

"The appointments need be no better than they have been, but the public must be brought to understand, that they are the President's appointments. He must occasionally say, or seem to say, 'by the Eternal,' 'I take the responsibility.' These phrases were the 'Samson's locks' of Gen. Jackson, and we dare not disregard the lessons of experience."

The whole political situation was profoundly distasteful to Lincoln. He was one of those men that are only thoroughly happy where there is frankness, honesty of feeling, friendly cooperation. He was sensitive to concealed suspicions, to unspoken hostility, to critical silences. His own mind was so free, so candid, so without vanity of opinion, that the feeling that he now sensed in political circles disconcerted and saddened him.

But this political episode does not account for his continued sadness, I am convinced. A chief cause was in his life another of those blows which had so staggered him in the past. Only a few months after his return from Washington, in February of 1860, his second child, now about three and a half years old, "Ed" as he always spoke of him in his letters, died.

For a man of his profound tenderness, with his passion for childhood, such a loss was overwhelming. The death of his mother had saddened his own childhood, the death of Ann Rutledge had shaken the very moral foundations beneath him, and here was his little son dead! There is no doubt that he went through a period of terrible distress, and there is no doubt, too, that it was at this time that he first seriously sought to find if, in the
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But this political episode would not account for his continued sadness, I am convinced, for there had not come in his life another of those blows which had so staggered him in the past. Only a few months after his return from Washington, in February of 1850, his second child, now about three and a half years old, "Ed" as he always spoke of him in his letters, died.

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Christian religion, there is a support for man in periods of grief and distress. There is ample evidence of this. Possibly the most important is that of a Scotch clergyman, Dr. James Smith, the pastor of the Presbyterian church in Springfield, a church of which Mr. and Mrs. Lincoln became attendants and Mrs. Lincoln a member soon after the death of their little son. With Dr. Smith Lincoln held many conversations on Christian evidences. The doctor was an able theologian, the author of a book called the "Christian Defense," which unquestionably Mr. Lincoln studied seriously, and which the doctor believed changed to faith his doubts on the fundamentals of the Christian religion.

Mr. Lincoln's friend, Jesse Fell, always believed that it was the putting of a certain sermon of William Ellery Channing's into Lincoln's hands at this period that wrought a great change in his thinking and that he came out with a profound belief in the goodness of God, and certainly in the efficacy of prayer. A brother of Jesse Fell's, Mr. V. Fell of Nashville, Tenn., wrote me several years ago that he had often heard his brother say that Mr. Lincoln told him that he had never read anything that tallied more perfectly with his own views than Channing's works.

It is hardly believable that Mr. Lincoln would have sent such a message of conventional pious comfort to his father then in his last illness as we find in a letter written early in January of 1861 if he was the "atheist" and "scoffer" that Herndon and Lamon have made him out.
"I sincerely hope father may recover his health, but at all events, tell him to remember to call upon and confide in our great and good and merciful Maker, who will not turn away from him in any extremity. He notes the fall of a sparrow, and numbers the hairs of our heads, and he will not forget the dying man who puts his trust in Him. Say to him that if we could meet now it is doubtful whether it would not be more painful than pleasant, but that if it be his lot to go now, he will soon have a joyous meeting with many loved ones gone before, and when the rest of us, through the help of God, hope are long to join them."

It seems to me quite clear that a careful examination and weighing of the controversial literature on this subject - practically William H. Barton has assembled everything in his "Soul of Abraham Lincoln" - proves that while Mr. Lincoln could never bring himself to join any church, he believed profoundly in the essence of the Christian system; and that the impression he made on his friends at this time of a dissatisfied and unsettled man, was due, partially at least, to the spiritual struggle through which he was going. It seems to me clear, too, that it was at this period that he laid the foundations for a profound belief in the righteousness of the judgments of God and for that deep and genuine humility which made him willing to accept and submit himself to those judgments, of which there is so continued and clear an expression through the period of the War.

But, as I have had occasion to reflect more than once, in these reports of my recent pilgrimage, you never find Lincoln's professional activities held up by his inner sufferings. He carried on, whatever his agony of spirit. He was carrying on now in the law with a clearer determination than ever to make a first-class lawyer
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But, as I have had occasion to reflect more than once, in these reports of my recent pilgrimage, you never find Lincoln's professional activities held up by his inner sufferings. He carried on, whatever his agony of spirit. He was carrying on now in the law with a clearer determination than ever to make a first class lawyer
of himself. He studied as he never had before, and he also attempted to work out his notion of the ethics of the profession. His well known notes for a lecture on the law show this. The chief point in these notes is his Lincoln-esque remarks:

"As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."

He laid it down as a rule that a lawyer should persuade his neighbors to compromise whenever it was possible, pointing out how a nominal winner is often a real loser — "in fees, expenses and waste of time." There could not be a worse man, he said, than one who stirred up litigation.

One can fairly ask how far he lived up to his preaching. Fortunately we have good evidence on the point, from members who traveled the Old Eighth Circuit with him and who have left such an abundant crop of recollections. He practiced his preaching to a degree that some of them regarded as bad for business as his habit of scaling down his fees. A fac-simile in Lincoln’s hand of a settlement of a case referred to Logan and Lincoln, is printed with this article. Incidentally it shows that Lincoln was still working professionally as well as politically with Logan. Indeed there are several letters in the recent Tracy collection which prove that the partnership between the two men was never fully dissolved.

A rather amusing account of a settlement out of court which
does not, so far as I know, appear in any of the excellent discussions of Mr. Lincoln as a lawyer, is told in a lecture on "Early Reminiscences of Alton," delivered in 1896 by Joseph Brown, a former mayor of both Alton and St. Louis. Incidentally, it was delivered for the benefit of the Lovejoy Memorial Association. It was put into my hands by Alton's chief historian, Mr. W. T. Horton. The incident happened, Mr. Brown says in his lecture, when he was mayor:

"A lady (by the name of Mrs. McReedy) came to Alton on one of the Keokuk packets to give Shakespearean lectures, arriving at 2 o'clock in the morning, and, as luck would have it, she stepped on an old cellar door in front of 'Johnny Roe's' grocery and one leg went part way through the door so that it sprained her ankle and laid her up at the Franklin House for some time. The result was, she put in a claim against the city for damages, but the city refused to allow anything, and the result was, as she was permanently lamed she sued for $5,000. in the United States Court at Springfield, Ill., and engaged Mr. Lincoln as her attorney; so when the time came for the case to be tried I went up to attend it, and on the day set I went to the United States Court and found Mr. Lincoln and his client inside the bar waiting for the Court to open. I took my seat with my attorney inside the bar, when Mr. Lincoln came over and said: 'Mr. Brown, I don't like to take this suit against your town; can't we compromise it in some way?' I said: 'I don't see how we can, as we don't think the city is liable for an injury done to the lady by a man having bad cellar doors.' 'Ah,' he said, 'but the city is liable for its sidewalks, and I feel sure we shall get judgment.' 'Well,' I said, 'if you do she can come and help herself to the market house (which at that time was an old dilapidated concern).' 'Well,' he said, 'I think it is best to compromise if we can. How much will you give the lady? She is lamed for life with a stiff ankle.' I said: 'I can't make any offer; we have no money.' 'Well,' he said, 'will you give her $3,000?' 'No,' I said, 'there isn't that much money in the town.' Finally he got down to $1,500., and I felt that it was best to compromise at that, so I said: 'If we give the $1,500., are we to have the damaged limb?' Lincoln said: 'I will go over and ask,' and he did, and after talking with her a little while he came back and said:
"If you are an unmarried man, and as you are pretty good looking, you can have the entire woman!" So we compromised, but I did not accept the lady's marriage offer."

This is good and amusing but not nearly so important as a letter - so far as I know, unpublished - that is to be found in the museum at New Salem:

"I understand," Mr. Lincoln writes to his client, that Mr. Hickson will go or send to Petersburg tomorrow for the purpose of meeting you to settle the difficulty about the wheat. I sincerely hope you will settle it. I think you can if you will for I have found Mr. Hickson a fair man in his dealings. If you settle I will charge nothing for what I have done and thank you to boot. By settling you will most likely get your money sooner and with much less trouble and expense."

He had his code of ethics, and, so far as I know, no student - even though unfriendly - of his legal career has been able to detect a practice in violation of that code.

He was a strong advocate of study - independent study - self-education in the law. To what we have already had on that point, his counsel of "work, work, work" to an inquiring student, has been added recently a letter to a young man who wanted to read law with him. It is a masterpiece of sensible counsel:

"I am 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 anybody 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. Dunbar is a very clever man and an excellent lawyer (much better than I, in law-learning); 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."

He worked, but his methods were original. Mr. Herndon remarks somewhere that he did not prepare many legal papers, but Mr. Charles W. Herroes of Indianapolis, who has made most careful research in the various court houses of the Circuit on which Lincoln traveled says that he has found so many papers that it is hard to see how Lincoln could have done anything else but write. Some of these papers that Mr. Herroes has turned up are most interesting exhibits of his unconventional but altogether effective method of preparation for a suit. The fac-simile here published of notes made in preparing to defend a suit for slander in the Edger County court in 1850, is an illustration. Here are two of the "points" and the rest can be read in the fac-simile:

"1st 'Albin stole Blady's horse out of my pasture last night. He is a horse thief and that is what he came here for.'"

"9th 'He is a damned little horse thief and his business is horse stealing, and he came here for that business and that is not the first horse he has stolen. He is a horse thief and I will send him to the penitentiary.'"

One thing that Lincoln's term in Congress did for him
was to increase his prestige and so his law practice. There was a wider demand for him undoubtedly because of his Washington experience. He had a large Circuit as the map here printed shows, and, as the documents in the various court houses prove, he made all of the points. It must have been long and tedious work. Mr. W. F. Hardy, the editor of the Decatur Herald, said at the time of the unveiling of the Lincoln circuit marker in his town that if the old circuit riders made ten miles an hour they did well, and

in fall and spring when the roads were quagmires, progress was considerably slower. Fifty miles a day was enough travel for man and beast under the best conditions. A start from Decatur in the morning with Springfield as a destination probably meant that no court could be held that day. Members of the Macon County bar having legal business in Springfield, and leaving Decatur at 8:15 A.M. are now in the capitol by 10, and home again at 5 P.M. after business day.

"Slowly indeed the miles must have been covered by the circuit riders and wearisome enough must have been the landscape, most of it virgin prairie, for between 1847 and 1857, when Lincoln was a circuit rider, a vast number of sections were still unclaimed and uncultivated. Summer's heat was quite as intense and black soil dust quite as disfiguring as now. Insect pests were worse. The horses were terrible sufferers from the flies that bred in the tall prairie grass. Mosquitoes from the still undrained ponds that dotted the prairie added to the discomfort.

"As compensation for these magnificent spaces so tediously traversed, the lawyers fortunately had plenty of leisure. As they traveled with the court there was no danger of missing an appointment with a client or being late at a pleading. Time was the thing that most of the younger lawyers were rich in.

"Undoubtedly stories must have whiled away the time between county seats. But before that immense circuit had
been covered the stories must have grown stale and the travelers must have tended to become weary and morose, as travelers do now when they are a little tired of each other's company.

"It is not at all certain that men were better conversationalists in a day when there was more time to talk, or that they became better thinkers in a period when one had to be alone with himself. Much of the talk and thinking alike doubtless was trivial. The present age certainly does not read the "Canterbury Tales" of Chaucer's pilgrims for their moral stimulation but rather for their humor, much of it unsound judged by present day standards."

"The Lincoln markers in the several county seats, of which Decatur is one, memorialize not the exploits of pioneers who effected great discoveries and faced great dangers, but the travels of men who accepted boredom, and physical discomfort all as a part of the day's work in a now all but forgotten period of Illinois history."

But even at this time Lincoln's practice was not confined to the Eighth Circuit. The reference to his funeral address in honor of President Taylor in Chicago in the summer of 1850 shows he was called on to give that address because he was in attendance at the Circuit Court. Among the new letters which Mr. Tracy published in 1917 is one showing that late in December 1849 he was in Cincinnati on law business. That is, the demand for him was sufficient to encourage him to carry out his determination to "work, work, work" just as he counseled the young men that came to him.

That he would have gone on from this period steadily with the law and eventually have become one of the leading lawyers of the country, I am quite convinced, if he had not been forced to
hear on every side "the one great question of the day." The extraordinary debate to which he had listened in the Thirtieth Congress was not stilled in the Thirty-first. The hope he had had that Gen. Taylor's "absence of excitement and absence of fear" would bring the country back to an acquiescence in the settlements and compromises which had been effected in earlier years and which he himself regarded as something sacred, unbreakable provisions which ultimately would bring about the extinction of the evil — this hope was threatened. Hardly had he come to a point where he saw that his profession was on sure grounds and that he might reasonably hope for both distinction and prosperity through it, than the question thundered so loudly in his mind and conscience that he found himself forced to try to still it by answering it. What was to be done about the extension of slavery? Had the time come when those who believed as he did must take a hand or it would overflow its boundaries? It is with the first efforts of Lincoln to find a practicable answer to that question that the next article will be given.