

Mr. P. S. Fields says that he heard

opposed to Lincoln

A lawyer ~~was~~ trying to convince a jury that precedent was superior to law, and that custom made things legal in all cases. When Lincoln arose to answer him he told the jury he would argue his case in the same way. Said he: "Old 'Squire Bagly, from Menard, came into my office and said: "Lincoln, I want your advice as a lawyer. Has a man what's been elected Justice of the Peace a right to issue a marriage license?" I told him he had not, when the old 'Squire threw himself back in his chair very indignantly, and said: "Lincoln I thought you was a lawyer. Now Bob Thomas and me had a bet on this thing; and I bet him a 'squire could do it, and we agreed to let you decide; but if this is your opinion I don't want it, for I know a thunderin' sight better, for I have been 'squire now eight years and have done it all the time."

Mr. Lincoln's style of telling a story was peculiarly his own. A story that, when told by another, would be pointless and without soul, when told by him would be the source of the greatest merriment. He could indulge in a practice inexcusable in any but himself, and it rather added than detracted from the laugh sure to follow. Etiquette or something else has thrown around the ordinary story-teller a kind of stake and rider barrier against every indication of a laugh until his story is told, when, if there is any laugh left, good society will allow the story-teller a chance to spread his own facial muscles in the general joy. Mr. Lincoln could not be confined in any such way. He would have his share of the fun at the same time he was dishing it up to tickle the humorous palates of others.

5 &
Extracts from a
lecture "The Court"
by Capt. A. W. S. Kidd.
of Springfield.
Editor of Manning
Advertiser.

(1) When engaged in a case of importance--as defending a prisoner whom he thought innocent of the charge-- he was the picture of anxious mental labor; had a care-marked face; his expression was solemnity personified, his voice most peculiar with a face bordering on the painful to behold. He seemed to be unlike any other lawyer. He would carefully watch every feature of the witness on the stand, the expression of his eye, the curl of his lip and movement of a limb, while the witness was making a statement effecting the safety of his case. When in the cross-examination of a witness who was inclined to be, as lawyers say, a willing or swift witness, he would frame his questions with the greatest care, and frequently interrogated in such a plaintive tone as to soften the force of the most venomous witness in his answers. If inclined to think a witness was endeavoring to evade the answer to a question, which would palliate in the least degree the act alleged against his client, or would cloud the theory of his case, he would exhibit a peevishness unknown to him under any other circumstances. X

2 X In the Harrison murder case the prosecuting attorney stated that such a witness made a certain statement, when Mr. Lincoln rose and made such a plaintive appeal to the attorney to correct the statement, that the attorney actually made the amende honorable, and afterwards remarked to a brother lawyer that he could deny his own child's appeal as quick as he could that of Mr. Lincoln's. X

Mr. Lincoln was, with his honest earnestness, at times a very eloquent lawyer. His argument were characterized for plain comprehensive figures, but few fancy flights. He said he sel-

dom left the world to climb the aerial tree of his own imagination. There was one peculiarity of his style before a jury in an important case which was peculiarly his own. He would argue from an hypothesis drawn from the testimony, and would do it in that candid, honest manner of his, which would convince almost any listener that he had not even a shadow of a doubt of the correctness of his theory, and would wind up invariably by his stereotyped saying, " Now it does seem to me, gentlemen of the jury, that this is the only way you can account for this thing;" or, " It does seem to me he must have known this was so."

In the Harrison case he did what but few persons ever knew him to do before or afterward, allow himself to get angry. His honor, the judge, had ruled contrary to Mr. Lincoln's expectations on a point of great importance to the defense, and, as Mr. Lincoln argued, contrary to the decision of the Supreme Court in a similar case. X Both Mr. Lincoln and Judge Logan, who was with him in the case, rose to their feet quick as thought. I do think he was the most unearthly looking man I had ever

(3)

He roared like a lion suddenly aroused from his lair, and said and did more in ten minutes than I ever heard him say or saw him do before in an hour. X

His general style when before a jury was what you might call the careless, yet earnest style; they were talks- neighborly chats- and he would name the members of the jury, and with those he knew well would draw his conclusions seemingly from their standpoint of reasoning. He seldom if ever, as he termed it, " went among the ancients for figures," but quite frequently expressed himself by scripture quotations.

While Mr. Lincoln was a lawyer of acknowledged ability as a case lawyer, and when the importance of the case demanded the depth of thought which he was capable of bestowing on a case, he could command the attention of judge and jurors by the power of his eloquence in its argument; he could at the same time, when inclined to a humorous train of thought, cause the most rigid judge or juror of staid ways to relax his facial muscles in a laugh, with his mirth-provoking humor.

On the last day of the October term of '58, which had been set apart by his honor, the judge, for approving decrees and otherwise finishing up a very large Chancery docket, the usual quiet of the court-room was disturbed by the familiar voice of Mr. Lincoln as he walked up one of the aisles, with his hat in one hand while the other was much exercised in fumbling among the papers in his hat. He had been out on the stump with Douglas, and had just returned home, when some one informed him that the court was about to adjourn until court in course, and he desired to make a single motion of great importance to his case at that particular stage of the proceedings, which accounted for his somewhat hurried entrance into the room and anxiety to get the attention of the judge. As he came up the aisle, he said: "May it please your Honor, I am like the Irish sailor, and beg your Honor to excuse me for this hurried interruption."

"On condition," said his Honor, "that you explain your analogy to the celtic sailor."

"Well," said Mr. Lincoln, "an Irish sailor was overtaken at sea by a heavy storm, and he thought he would pray but didn't know how, so he went down on his knees and said: 'Oh, Lord, you know as well as meself that it's seldom I bodder ye, but if

ye will only hear and save me this time, bedad it will be a long time before I bodder ye again."

He could encourage the familiarity of the object of his fancy, or reject by discouragement the flatteries of a character repugnant to his tastes with less perceptible manifestation of like or dislike than any man I ever knew. He had no charity for false pretenses in politics, religion, learning or law, disliking above all others the pretender to learning, without, as I have frequently heard him express it, either the capacity or capital to transact a legitimate business. He would confess his ignorance of a subject introduced, or the answer to a question asked, and said he was the gainer in knowledge thereby.

A gentleman somewhat noted for his fondness of airing his latin accomplishments was delivering himself of a very weighty argument in court, and was pleased to draw largely on his latin. Quoting the legal maxim he turned to Mr. Lincoln, with whom he had only a slight acquaintance and said: "That is so, is it not, Mr. Lincoln?" when Mr. Lincoln startled the gentleman and brought a smile on the face of the judge by his humorous reply: "If that's latin you had better call another witness."

Mr. Lincoln made no pretensions to superiority, mental, moral nor physical, which fact coupled with his social qualities and well-known good nature, made him approachable with confidence by the playmate of his sons, Bob or Tad, the man that dug his garden, made his clothes, or sold him meat, the sheriff, the crier, his legal opponent's client, the county justice or the chief on the supreme bench. His mind was unceasingly at work. I have known him frequently to sit in a condition of seeming indifference to all around him, when revolving the points

of some complicated case he had in court. I have seen him on the street walk along jogging his nearest neighbor or best friend, going in a kind of amechanical movement toward his office or the court-room, his mind so absorbed in thought as scarcely to know where he was or what he was doing. While he was a great thinker, he could with remarkable ease adapt himself to the company or the business engaging his attention. He was in earnest in everything he engaged in. He would earnestly argue a law point in the court, and frest from the forum where he had been measuring legal swords with some distinguished professional spartan, he would descend the steps from the court, and enter into a game of ball with any person found in the arena. regardless whether he was a lawyer, doctor, editor or mechanic.

13. & 14 His stories always had a point--he used them for a purpose, and learned to use them because he could accomplish in a few minutes by one of his inimitable stories what would have exhausted hours to clear away by argumentative appliances. Judge Logan and Mr. Lincoln met in a case in opposition. Judge Logan had stated certain legal propositions to the court and jury, and argued his case based on the propositions in a masterly and unanswerable manner. Mr. Linnoln knew he would have a serious task to overthrow the effect of the Judge's argument with the jury, although convinced that the Judge had stated the propositions wrong. When he arose to reply to the Judge, Mr. Lincoln said that while the Judge's argument was incontrovertibly based on the law as stated by the Judge, he took issue with the Judge on the law and not on the argument. * Judge Logan has made the mistake in this case of selecting a law that don't govern this class of cases at all. Judge Logan is human and liable to make

mistakes with the best of us. He has arrived at an age when he should know how to put on his clothes as well as the most tidy of us, and I presume the Judge has just as firm a conviction that he put his clothes on right this morning as that he stated the law correct in this case. Have you not, Judge?" said he, turning to his opponent. "Oh, yes," said the Judge. "Well now, gentlemen of the jury, if I should accuse Judge Logan with a lack of judgement necessary to distinguish the right from the wrong side, the front from the back, or one end from the other of his coat you might think it was I and not the Judge that was in error; but if I should point to you the fact that Judge Logan has actually put his shirt on with the bosom behind, you might think he could make mistakes just like the rest of us." (The Judge had put his shirt on as stated.) He arose amid much laughter to explain how it was, but Lincoln stuck to it that the man who could make a mistake in putting on his shirt might mistake when he stated law to a jury. He had gained his point, and it paved the way for him to argue his case on the law that he thought governed it.

In his political campaigns he had a fine field to illustrate by a well-told story the position and aims of political opponents. It was in the capacity of a stumper, or while sitting with brother lawyers in the court-room, before the opening or at the close of the session, that he allowed a full swing to this propensity. He never told a story that would injure any one, and seldom allowed himself to "twit on facts," as the Hoosiers call it, to sensitive people.