

# LINCOLN LORE

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## LAWYER LINCOLN'S FEES

Judge Davis, who often presided in the courts where Lincoln practiced in the circuit riding days, on one occasion reprimanded him for the insignificant sums which he asked for his services. He said, "Lincoln, you are impoverishing the bar by your picayune charges." Although Lincoln was satisfied to work for a small fee, he saw the danger of an underpaid judiciary which he characterized as "a migratory supreme court" and salaries so low as to exclude all respectable talent."

A letter which Lincoln wrote to George P. Floyd of Quincy has often been used to show his attitude towards the collection of high fees:

"I have just received yours of 16th with check on Flag & Savage for twenty-five dollars. You must think I am a high-priced man. You are too liberal with your money. Fifteen dollars is enough for the job. I send you a receipt for fifteen dollars, and return to you a ten-dollar bill."

### *Notes on Law Lecture*

About the first of July, 1850, Lincoln prepared some notes for a law lecture. In one paragraph he discussed the question of lawyer's fees. His conclusions follow:

"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 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."

### *Other Lawyer's Fees*

There was some legal work of a personal nature which Lincoln hired other lawyers to do, and he always seemed anxious that the fee be generous. On January 2, 1844, he engaged an attorney to clear a title and suggested that he retain a reasonable fee. George B. Kinkead of Lexington, Kentucky, represented Lincoln in a suit in 1854; and, when he sent his bill, Lincoln wrote, "You do not seem to compensate yourself very liberally for the separate service you did for me." Lincoln always seemed fearful that he might overcharge; and, on one occasion, he wrote a colleague asking on what terms a certain case had been settled, as he explained, "I wish to regulate my claim somewhat by yours."

Referring to a case in March, 1853, Lincoln wrote, "I have been paid a little fee. Now I dislike to keep the money without doing the service and I also hate to disgorge; and I therefore request of you to defend the case for me, etc."

### *Gratuitous Service*

In one of the most famous trials in which Lincoln was engaged, he advised the defendant's mother that, because of favors shown him, he was prompted to offer his "humble services gratuitously in the defendant's behalf." Lincoln urged one of his clients to adjust the difficulty out of court. He promised, "If you settle, I will charge nothing

for what I have done and thank you to boot." To another client he wrote, "I would now very gladly surrender the charge of the case to anyone you would designate, without charging anything for the much trouble I have already had."

### *No Success—No Fee*

There is also evidence that Lincoln often took a case with the understanding that if he did not win it there would be no fee charged. This method was quite common in his early efforts when he was not so sure about the value of his services. He assured a Mr. Marshall, "I will do my best for the 'biggest kind of a fee,' as you say, if we succeed and nothing if we fail."

### *Five Dollar Fees*

In Lincoln's early practice it appears as if the usual fee asked was five dollars. To one man who requested some legal advice and enclosed five dollars, after making the investigation, Lincoln wrote, "The five dollars is a sufficient fee." Just after Lincoln was married, in 1842, he wrote a letter to Samuel D. Marshall in which he acknowledged a fee of five dollars, remarking that it had been handed to him just one hour before he "took a wife." It is needless to say that, with the added responsibility of caring for a home, the amount of a fee became a much more important consideration in the conduct of his business.

### *Left Over Fees*

Ten-dollar fees seemed to be the order in several cases during 1857. He told one man who had sent one payment of a dollar and another of ten dollars, "I paid two to the register and pocketed the other nine." About the same time he concluded a letter with the request, "Now, if you please, send me ten dollars as a fee." In still another case the amount collected was \$110, and Lincoln said that his fee would be ten dollars, which he divided equally with his partner in the case.

In settling a fee Lincoln often evened things up. He got judgment in one suit for \$116.90 and kept \$16.90 for the fee, forwarding the client \$100. In adjusting one fee he wrote to the client: "If you are agreed, let it be as follows: give me credit for two years' subscription to your paper and send me five dollars, in good money or the equivalent of it in our Illinois paper."

Lincoln sent a bill to "The Heirs of Payne" for services in the circuit court, the supreme court, and for a chancery case. The bill was divided into sums of twenty dollars, ten dollars, and ten dollars, covering 1844 to 1850.

### *Collections*

His hesitancy to ask for payment of a fee is indicated by a letter to an associate, suggesting that he remind the client that "I would like to have a little fee in the case, if convenient." In 1851 Lincoln wrote to Andrew McCallan that he was informed they had won their case and then continued, "as the dutch justice said when he married folks, 'Now vere ish my hundred tollars.'"

The case most often called to mind with reference to collections is the suit of the Illinois Central Railroad against the County of McLean. This is the case where Lincoln sued to collect the fee of \$5,000. The company insisted that it was a friendly suit. Lincoln argued "That \$5,000 is not an unreasonable fee in the case" and submitted these points to support his opinion: "The amount of labor, the doubtfulness and difficulty of the question, the degree of success in the result, and the amount of pecuniary interest involved."