

LINCOLN LORE

Bulletin of the Lincoln National Life Foundation - - - - - Dr. Louis A. Warren, Editor
Published each week by The Lincoln National Life Insurance Company, Fort Wayne, Indiana

Number 654

FORT WAYNE, INDIANA

October 20, 1941

LINCOLN'S \$5000 FEE

Recently one who could not be called a great admirer of the martyred President said to the editor of Lincoln Lore, "What about that \$50,000 fee that Lincoln collected in that railroad case?" Possibly the modern trend in finance made the original \$5000, which Lincoln was awarded, seem like a pittance, hence ten times the amount was named to make the sum formidable. The fact is that Lincoln, himself, received but \$2500 for his services in the above mentioned case, as he divided the fee with his partner, William Herndon.

There has been much discussion over the proceedings which finally resulted in Lincoln bringing suit against the Illinois Central Railroad for the \$5000 fee. Several points relative to the case are still in controversy, but possibly the most evasive problem is the motive which caused Lincoln to ask what for him, at least, was an unusual fee. It will be recalled that on more than one occasion he was chided by his fellow attorneys for impoverishing the bar because of his "picayune" charges.

Even before Lincoln had been retained by either side in the contemplated McLean County-Illinois Central Railroad suit, he wrote in a letter to T. R. Webber, clerk of the Champaign Circuit Court:

"The question in its magnitude to the Co. (Illinois Central) on the one hand and the counties in which the Co. has land on the other is the largest law question that can now be got up in the State, and therefore in justice to myself, I can not afford, if I can help it, to miss a fee altogether."

In this same letter to the county official Lincoln put the question of compensation squarely up to him in these words:

"The Co. is offering to engage me for them. As this will be the same question I have had under consideration for you, I am somewhat trammelled by what has passed between you and me, feeling that you have the first right to my services, if you choose to secure me a fee something near such as I can get from the other side."

Mr. Webber immediately conferred with Judge Thomas, of Champaign County, who advised that a retainer of \$50.00 might be offered Mr. Lincoln and a contingent fee up to \$500 be made available for him. No definite steps were taken, however, to secure the services of Lincoln and after waiting nearly three weeks for some reply, he wrote Mr. Brayman of the Illinois Central on October 3, 1853:

"Neither the county of McLean nor any one else on its behalf has yet made any engagement with me in relation to its suit with the Illinois Central Railroad, on the subject of taxation—I am now free to make any engagement for the Road; and if you think fit you may 'count me in.' Please write me on receipt of this—I shall be here at least ten days."

Lincoln immediately received from the Illinois Central Railroad a retainer of \$200 (some authorities state \$250). The case was eventually won for the railroad, and then came the time for Mr. Lincoln to present his bill. There are several versions of how he went about it.

Mr. James F. Joy, in a reminiscence prepared by him, has stated his part in the proceedings as follows:

"The case being ended I asked Mr. Lincoln for a settlement. He came to me and told me that he wanted me to get him a certain section of land. It was a pretty good piece, too. I promptly told Mr. Lincoln that it was impossible for me to get him the land; that all the property had been mortgaged in the interest of the trustees, and that if it was sold at all it must go for cash. However, if he insisted I would lay the matter, so I told him, before our officials and see what could be done about it. And I

did lay the matter before the Board. It turned out just as I had imagined. There was no possibility of Mr. Lincoln getting this land. He then put in a claim for \$5000."

Something very important happened, however preliminary to his filing a claim for \$5000, which apparently caused Lincoln to become greatly displeased with the reaction of the Illinois Central Railroad or perhaps, the attitude of Mr. Joy with respect to his services. Charles L. Capen, an attorney, familiar with the proceedings, wrote to a friend, "The simple truth is that the whole trouble was with James F. Joy . . . whom Mr. Lincoln afterwards despised."

An excerpt from the *Detroit Tribune* presumably published in 1890, but date not cited, released a story about Senator Chandler seeking a place for Joy on the Supreme Court Bench, whereupon President Lincoln is said to have taken from his files, the following letter and read it to Mr. Chandler, concluding that "the man who wrote that letter has not the requisite sense of justice that would warrant me appointing him on the Supreme Bench of the United States." The letter in question follows:

"Abraham Lincoln, Esq., Springfield, Ill.

"Dear Sir: Your bill for \$300 for legal services in the tax case received and contents noted. I think your charge is altogether too much. The work done was nothing but what a country lawyer could do, and I enclose a check for \$100, which you will please accept in full for your services in that suit.

"Yours respectfully,
"James F. Joy."

When Mr. Joy's attention was called to the statement prepared for the *Tribune* and asked to comment upon it and the correspondence, he admitted that Lincoln was a "local attorney associated with him in the tax case, but claimed the honor himself of finding the point of disagreement and elucidated it further and more plainly." With the result that the decision of the court was reversed and the case won. He stated that he had never authorized his name to be used as a candidate for the Supreme Court Bench, but he did not disavow the letter that was signed with his name.

It seems reasonable to conclude that Lincoln did submit a bill to Mr. Joy for his services. That the sum he asked for may have been \$300 plus the \$200 already received as a retainer is also a reasonable conclusion as it was equal to the amount he might have received from McLean County had they retained him.

If Mr. Joy sent the curt and ungracious letter to Mr. Lincoln as alleged complaining about the excessive charge, there is a bare possibility that Lincoln in deference to a cash settlement suggested the land compensation, although it would be strange if Lincoln did not already know that the railroad company could not pay lawyer's fees with land holdings which were mortgaged.

Lincoln undoubtedly learned during the interval his menial charge was pending that Mr. Joy, who was his junior by one year, had collected \$1200 for his fee in the case. Possibly Lincoln also learned that Joy had left the impression with the officers of the company that it was his, Joy's argument which finally won the verdict.

We imagine that with such information in the hands of Lincoln any attempt on the part of Mr. Joy to settle for \$500 would be ignored and Lincoln rightfully indignant over the proceedings would make it \$5000 instead of \$500 and hence the suit against the railroad.

In the memorandum which Abraham Lincoln wrote out to use in arguing his case are these words, "I, and not Joy, made the point and argument on which the case turned."