

LINCOLN LORE

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JUDGE ABRAHAM LINCOLN

There have been so many sobriquets applied to Abraham Lincoln that one more, though seldom used, would not surprise the reader. While it is known that Lincoln was never officially raised to the distinguished office of Judge, there were instances in which he did preside at court sessions and was undoubtedly addressed on these occasions as Judge Lincoln.

It is doubtful if Lincoln ever gave serious consideration to the seeking of a judgeship although the *Register* at Springfield, Ill., opposition paper, stated on February 6, 1850, that there was a scramble among the Whigs for the office of Federal District Judge. The paper then went on to list some of the alleged aspirants as follows: "Among the most prominent names . . . are Messrs. Browning, Bushnell, Butterfield, Logan, Lincoln and Williams."

One of the reasons why an Illinois judgeship would not appeal to Lincoln was the criticism which he had made against the political revamping of the Judiciary in Illinois in 1840. Stephen A. Douglas presented a bill in a predominately Democratic legislature by which the incumbent Circuit Judges were turned out of office and five additional members of the Supreme Court were authorized. Lincoln drew up a protest containing seven arguments against such a procedure. The first objection was that "It violates the principles of free government by subjecting the Judiciary to the Legislature." Douglas the sponsor of the bill, was one of the five new judges added to the Supreme Court. It can be well understood how Lincoln's reference to Judge Douglas would carry with it an intonation of derision, indicating the method by which Douglas obtained the title.

One might anticipate that there would be many irregularities in legal procedure during the pioneer days in the West. It is not difficult to understand that the inconveniences associated with court attendance, due largely to slow and inadequate transportation facilities, would cause the lawyers and parties involved to agree on certain practices for the convenience of all concerned. Some of the innovations did not square with duly authorized legal routine.

Henry C. Whitney in his book on *Lincoln the Citizen* states that "Judge Davis often delegated his judicial function to others" and would request "Lincoln to hold an entire term; and frequently sit for short times." Lincoln was informed that such arrangements were not sanctioned by the

statutes, and he would only preside with the approval of all parties interested. Even at that, two cases Lincoln tried are said to have been reversed by the Supreme Court because of the irregular assignment.

Beveridge states that Lincoln once held court at Urbana for ten days but any support of this assumption seems to be lacking in the records. There is evidence that Lincoln did preside at a three-day session held in the Champaign Circuit Court Room at Urbana on April 22, 23 and 24, 1856, as revealed by the docket. Henry C. Whitney, who then lived at Urbana and traveled the circuit with Lincoln, is responsible for an interesting episode

PENDING ERECTION OF A NEW COURTHOUSE FOR LOGAN COUNTY TO REPLACE ONE DESTROYED BY FIRE IN 1857. THE ORIGINAL CHRISTIAN CHURCH BUILT ON THIS SITE THAT YEAR WAS USED AS BOTH CHURCH AND CIRCUIT COURTROOM AND HERE ABRAHAM LINCOLN PRACTISED LAW AND BY COMMON CONSENT ACTED AS TEMPORARY JUDGE AND THE MATERIAL IN THE ORIGINAL CHURCH WAS PRESERVED AND USED IN THE PRESENT CHURCH IN 1904.

associated with the proceedings and it is supported with a document which Lincoln signs as "judge pro tem."

These three days at Urbana came on Thursday, Friday and Saturday at the close of the session. Local parties at Urbana were anxious to see the case Chadden vs. Beasely carried over to the next term of court and the local lawyers began to work on the Judge pro tem. They were successful in prolonging action until the close of the afternoon assembly on Saturday but Lincoln called for a candlelight session after supper when he wrote out and read to the members of the bar the following decision:

L. D. CHADDEN
vs.
J. D. BEASELY, ET AL. }
CHAMPAIGN COUNTY COURT
April term, 1858
ASSUMPSIT

Ordered by the Court:
Plea in abatement, by B. Z. Green,
a defendant not served, filed Saturday

at eleven o'clock A.M. April 24th 1856, stricken from the files by order of court. Demurrer to declaration, if there ever was one, overruled. Defendants who are served now, at 8 o'clock P.M., of the last day of the term, ask to plead to the merits, which is denied by the court on the ground that the offer comes too late, and therefore, as by *nil dicet*, judgment is rendered for Piff. Clerk assess damages.

A. Lincoln, Judge pro tem.

The young lawyers who had pestered Lincoln, after hearing Lincoln's order asked him, "How can we get this up to the Supreme Court." Lincoln replied, "You have all been so smart about this case that you can find out for yourselves how to carry it up."

Possibly one of the earliest appearances of Abraham Lincoln as a Judge pro tem occurred in his home city, Springfield, on December 1, 1856. It would soon be noised about that Judge Lincoln was on the bench, and we can surmise that he drew an audience of considerable size. Twenty-two cases came before him but he was mostly occupied by entering decrees and orders.

A Logan County instance of Abraham Lincoln serving as a Judge pro tem occurred, according to tradition, during the September term in 1857, which began on September 21 and continued to October 2. While he was supposed to be in Chicago

and Springfield most of this period there is a possibility he was in Logan County for two or three days. Dr. J. H. Beidler recalls, "The Logan County Court House had been destroyed by fire and court was held at that time in the Christian Church. As I entered the court room I discovered that Judge Davis was not occupying the bench but that another man and one I had never seen was dispensing justice. . . . I inquired who he was and was informed that he was Abe Lincoln of Springfield."

Possibly the only memorial ever dedicated to Abraham Lincoln as a Judge is a bronze tablet placed on the exterior wall of the Christian Church at Lincoln which occupies the site of the old church where the incident remembered by Mr. Beidler took place. A verbatim copy of the tablet appears in this bulletin.