

# LINCOLN LORE

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## LINCOLN'S MOST HUMILIATING LAW SUIT

Just one hundred years ago this month Abraham Lincoln experienced his most humiliating law suit. It was by no means "The Merrie Month of May" for him and it was one of the few instances when he found himself a defendant in litigation. He was doubly embarrassed because he felt the action was instigated by his brother-in-law, Levi O. Todd of Lexington, the oldest brother of his wife.

Another brother-in-law of Lincoln's, Ninian W. Edwards, was also made a defendant with Lincoln in the suit brought by Edward Oldham and Thomas Hemingway, surviving partners of Oldham, Todd & Company. Oldham and Hemingway in their petition claimed that Lincoln was indebted to them "in the sum of \$472.50 Dolls. for money collected for said firm and unaccounted for . . . Plaintiffs state their claims are for money collected by said Lincoln as their attorney and not paid over . . ." (The claim against Edwards was for the sum of \$9.00). Here was a direct challenge not only to Lincoln's personal integrity but also to his professional ethics and it is needless to say it stirred him deeply.

It was from his codefendant, Edwards, that Lincoln first learned of the charges brought when he was at Danville, Illinois attending court on May 26. On the following day Lincoln wrote to George B. Kinkead of Lexington, his legal representative, "I find it difficult to suppress my indignation towards those who have got up this claim against me," he informed Kinkead, and after instructing his lawyer about procedure concludes, "I am unwilling to trust the oath of any man, who either *made or prompted* the oath to the petition."

Lincoln completely vindicated himself in his answers to the plaintiff's petition and clearly proved by witnesses that he had never received any money to which they had any legal claim. With Lincoln's final answer before them, including testimony of witnesses, the plaintiffs filed a motion to dismiss the case assuming the burden of paying the costs. The suit was consummated on February 10, 1854.

The papers in the suit against Lincoln were discovered by one of our best informed Lincoln students, William H. Townsend of Lexington, who wisely followed through on this lead and in the attic of the old home of George B. Kinkead discovered the correspondence which Abraham Lincoln had with his lawyer concerning the proceedings. Mr. Townsend subsequently prepared an attractive brochure entitled "Abraham Lincoln, Defendant" which discusses the case in detail and exhibits the documents in facsimile.

Incidents which led up to the bringing of the suit started ten years earlier when Mary's father, Robert S. Todd visited Springfield where he then had living four married daughters. Possibly more important just then from his viewpoint, at least, was a new grandson named for him, Robert Todd Lincoln. We have the story of his visit as Lincoln related it in his answer to the petition brought against him.

"In the autumn of 1843 and after Respondent had intermarried with said Robert S. Todd's daughter, said Robert S. Todd visited Springfield, Illinois, when and where, Respondent, for the first time in his life met him. During that visit, said Todd remarked to this Respondent that there were two desperate or doubtful debts due Oldham, Todd & Co., one near Beardstown, Illinois, in charge of an attorney by the name of Henry E. Drummer. . . . and that if anything could be collected

on said debts he desired Respondent to take and retain it as his own. Afterwards, and, as the Respondent remembers in 1846 said Drummer paid over to the Respondent the sum of fifty dollars, reporting that sum to be all beyond charges, that could be collected on said claim in his hands . . ."

Lincoln's father-in-law on this visit also volunteered to give his daughter Mary \$120 each year until her husband's financial status was improved. This he continued to do until the time of his death on July 16, 1849.

A few months after Robert S. Todd's death, a suit he had filed to recover the estate of his cousin, Mary Todd Russell, was again opened on behalf of the heirs of Robert S. Todd, which of course included Mr. and Mrs. Abraham Lincoln among the plaintiffs. In the interests of this suit the Lincolns went to Lexington, Kentucky, arriving there on October 28, three months after the senior Todd's death and remaining until November 6. During this visit the Lincolns were entertained in the home of Levi O. Todd. Lincoln states in one of his letters to Kinkead, "In the autumn of 1849 I was at Lexington several days, during which time I was almost constantly with L. O. Todd." Lincoln further comments in his answer to the Petitioners "that when he visited Lexington in the autumn of 1849, as he remembers, he stated this whole matter (Robert S. Todd's proposition about money Lincoln could collect on bad debts) to said Hemingway and to L. O. Todd; and that more recently in 1852, he again fully stated it, in his sworn answer to a Bill filed for the adjustment of the estate of said Robert S. Todd."

The immediate cause for the suit undoubtedly grew out of some ill feeling towards the Todd sisters and their husbands at Springfield which was generated at the time of the settlement of the estate of Robert S. Todd. Levi in 1852 joined his brother George R. C. Todd in voicing disapproval of his father's will which was attacked on a technicality. Lincoln implies in his correspondence with Kinkead that the influence exerted by Levi O. Todd was responsible for the legal action against him.

Six years after the suit was filed the wife of Levi O. Todd secured a divorce from her husband with these allegations noted: "He has a confirmed habit of drunkenness . . . cruel and inhuman manner . . . for some time past has made little or no provisions for the maintenance of his family." Not only was he divorced by his wife but he was also estranged from his step-mother.

Levi O. Todd although a supporter of John Bell in the campaign of 1860 was in sympathy with the Union. Correspondence in the Robert Lincoln Papers in the Library of Congress furnish an interesting sequel to the episode. On September 12, 1864 Levi wrote the President: "I hope to see you get the vote of Kentucky where you, Mary and myself hail from. I will do my best to effect it." He then asks Lincoln for a loan of \$150 or \$200 until Dec. 1 when he "will return it without fail" stating he was in "great need of things that are necessary for the winter."

Although the President was not a revengeful man the past actions of Levi could not have contributed much to his appeal for a loan. The President was severely criticized by members of the Todd family for his failure to come to the financial assistance of the man who back in the month of May 1853 was indirectly responsible for "Abraham Lincoln's Most Humiliating Law Suit."