

Lincoln As A Bar Examiner
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Among the some five thousand volumes delving into every conceivable aspect of the life of Abraham Lincoln may be found a few scattered references to his work as a bar examiner, but these instances do not appear to be collected in any work. In view of the limited number of lawyers in Illinois at the time and particularly the number intending to practice in the general vicinity of Springfield, Lincoln's activities as an examiner seem to be substantial.

In 1897, the Supreme Court of Illinois instituted a permanent, central Board of Law Examiners financed out of applicants' fees and at the same time introduced the requirement of a written bar examination. Prior to that time, from statehood in 1818 until approximately 1850, oral bar examinations were conducted by one or more judges of the Supreme Court. In the interim period of 1850 to 1897, oral examinations were conducted in a variety of ways, including by committees appointed by circuit court judges during 1850-1858 and by examining boards appointed by the Supreme Court during 1858-1865. The circuit court judges appointed special committees consisting of two or three practicing attorneys as the need arose, while the Supreme Court appointed regular boards with three members each to examine all applicants appearing within a particular division of the state.¹

Lincoln's activity as an examiner took place both as a circuit court appointee and as a Supreme Court appointee. The examiners would customarily hold a brief interview with the applicant and then hand him a written certificate recommending that a license be issued. The applicant would take the certificate to the Supreme Court which would issue the license, whereupon the clerk would enter the attorney's name on the roll.

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¹ Sprecher, "Admission to Practice Law in Illinois," 46 Illinois Law Review 811, 1952, at pp. 819-822; 22 Bar Examiner 78, 1953, at pp. 82-83.

On Saturday, May 27, 1854, while Lincoln was at Danville, Vermilion County, in the Eighth Circuit which he regularly traveled, he and Leonard Swett, then a prominent attorney at Bloomington in McLean County, examined two young men² and wrote:³

"We have examined Hiram W. Beckwith and George W. Lawrence touching their qualifications to practice law; and find them sufficiently qualified to commence the practice, and therefore recommend that licenses be allowed them.

Danville May 27, 1854

A. Lincoln

L. Swett."

In addition to his office and partnership in Springfield, Lincoln had formed a partnership on November 10, 1852, with Ward Hill Lamon of Danville, which continued until Lamon's election as a States Attorney in 1858.⁴ Hiram Beckwith studied law in Lincoln and Lamon's Danville office and after his admission he continued as an associate until the firm dissolved, whereupon he succeeded to the practice. According to some authorities, Lawrence later became a billiard partner of Lincoln.⁵

Lincoln's permanent law partnerships at Springfield (as opposed to the scores of special "partnerships" he entered into for the trial of particular cases in towns in the Eighth Circuit) were Stuart and Lincoln during 1837-1841, and Lincoln and Herndon from 1844 to Lincoln's death.

² Paul M. Angle, *Lincoln, 1854-1861*, 1933, p. 21. Also described in Albert A. Woldman, *Lawyer Lincoln*, 1936, pp. 154-5.

³ Paul M. Angle, *New Letters and Papers of Lincoln*, 1930, p. 129, where the original certificate is copied as found in the papers of David Davis of Bloomington. Judge Davis was an Eighth Circuit Judge from 1848-1862 and Lincoln tried most of his cases before him. Trying cases on the circuit was an arduous, full-day task and when the 300-pound Davis would leave the bench to exercise his legs, he would frequently ask Lincoln to sit as judge. When Lincoln had the opportunity as President, he appointed Davis as a Justice of the Supreme Court of the United States. For biographical details of Davis, see Henry C. Whitney, *Life on the Circuit with Lincoln*, 1892.

⁴ Paul M. Angle, "Abraham Lincoln: Circuit Lawyer," *Lincoln Centennial Papers*, 1928, pp. 31-2.

⁵ Albert J. Beveridge, *Abraham Lincoln, 1809-1858*, 1928, Volume II, p. 527, fn. 4. Roy P. Basler, *The Collected Works of Abraham Lincoln*, 1953, Volume II, p. 218: "...a George W. Lawrence, age 28, Macoupin County, Illinois, is listed in the U.S. Census of 1850."

Christopher Columbus Brown, who later married the daughter of John T. Stuart, Lincoln's first law partner, and became of the law firm of Stuart, Edwards and Brown of Springfield, wrote:⁶

"The Supreme Court appointed Abraham Lincoln and W.H. Herndon a committee to examine me and on their recommendation the Clerk of the Supreme Court issued to me a license in 1857. I well remember that after said examination, Lincoln, Herndon and myself went to Charles Chatterton's who kept a restaurant under the store now occupied by Myers Brothers on the west side of the square and partook of oysters and fried pickled pigs feet at my expense."

The custom of the applicant treating the bar examiners seems to have been widespread. Lincoln's own admission to the bar has been described by most of his biographers. On March 24, 1836, the Circuit Court of Sangamon County entered an order "that it be certified that Abraham Lincoln is a person of good moral character."⁷ Biographer Thomas then relates that, "At last Lincoln mustered the courage for his bar examination. It proved easier than he expected. After answering some more or less perfunctory questions, he followed the practice of treating his examiners to dinner. On September 9, 1836, he received his license."⁸ On March 1, 1837, the Clerk of the Supreme Court enrolled him as an attorney.⁹

Biographer Hill tells a similar story:¹⁰

"Certainly ten or fifteen years later [after his own admission in 1837], Lincoln himself was appointed by the court to examine applicants; but the requirements, even at that date, were not very severe, and about the most important question which a novice had to answer was what he proposed to do for the bar in the way of an initiatory 'treat,' and this took every form, from a dinner to drinks all around."

"Judge R. J. Benjamin of Bloomington, Illinois, is probably the only lawyer now living [in 1906] whom Lincoln examined for admission to the bar. In an interview with the writer the judge described the proceedings as being extremely informal, but stated that Mr. Lincoln did not suggest to him any 'initiation.'"

Robert M. Benjamin was graduated from the Harvard law school and came to Bloomington in 1856 to practice. In 1873 he was elected a county judge and in 1874 he

⁶ Paul M> Angle, *One Hundred Years of Law: An Account of the Law Office of John T. Stuart Founded in Springfield, Illinois, a Century Ago*, 1928, pp. 37-8. See also, Angle, *Lincoln, 1854-1861*, 1933, where the day-by-day activities of Lincoln the following appears under October 20, 1859: "Lincoln returns from Urbana to Springfield to attend the wedding of C.C. Brown, a young lawyer whose examination for the bar he and Herndon had conducted, and Bettie Stuart, a daughter of his first partner." (p. 303.)

⁷ Jesse W. Weik, *The Real Lincoln: A Portrait*, 1922k, pp. 131-2.

⁸ Benjamin P. Thomas, *Abraham Lincoln*, 1953, p. 54

⁹ John T. Richards, *Abraham Lincoln, The Lawyer-Statesman*, 1916, pp. 6-9.

¹⁰ Frederick T. Hill, *Lincoln the Lawyer*, 1906, pp. 59-60.

founded and became the first dean of the law school of Illinois Wesleyan University. He resigned as dean in 1892 and died in 1917.¹¹ At the time of his death, the *Argus*, the Illinois Wesleyan newspaper, noted that he had become well acquainted with Lincoln during 1856-1860 through Lincoln's periodic appearances in Bloomington. "Lincoln was one of the three lawyers to examine this young candidate for the Illinois bar. The certificate to the effect that Mr. Benjamin had passed the examination was written by Lincoln himself."¹²

George E. Walker of Rushville, found the following document among the papers of his father, Judge Pinkney H. Walker, who was elected to the Supreme Court in 1858:¹³

[Undated]

"We take pleasure in certifying that Hon. Elias T. Turney is a gentleman of good moral character.

A. Lincoln

Ward H. Lamon."

It is probable that the date of this document is some time in 1858, the last year of the Lincoln and Lamon partnership (and the first year of Judge Walker's tenure on the Supreme Court.)

Certainly the best known narrative regarding Lincoln the Bar Examiner is that of Jonathan Birch, who later settled in Greencastle, Indiana, and became a successful lawyer, city attorney and mayor. After his death in 1906, Jesse W. Weik published a paper written by Birch which included the following account:¹⁴

"A number of young men--Adlai Stevenson, late Vice-President of the United States, and I among them--had for some time been studying in the various law offices of Bloomington, Illinois, and were anxious for a license, that we might begin practice. No person could practice law in Illinois at that time without a license from the Supreme Court of the State. For the purpose of granting licenses the State was divided into three districts, Bloomington being in the district with headquarters at Chicago, to which place we had to go for examination. About a half-dozen of us went together. On our arrival we found that a rule had been made providing that no person should be examined who had not studied at least two years in some practicing lawyer's office. As most of us--including Stevenson and myself--had not fulfilled this requirement, we were compelled, much to our

¹¹ Elmo Scott Watson, *The Illinois Wesleyan Story, 1850-1950*, 1950, pp. 109, 225 and 231.

¹² *Argus*, October 3, 1917; related in Watson, *ibid.*, at p. 238. In Basler, *The Collected Works of Abraham Lincoln*, 1953, Volume VIII, p. 589, the certificate for admission to practice of Judge Benjamin is described as "not extant."

¹³ Walker showed the documents to Howard F. >Dyson. Dyson, "Lincoln in Rushville," *Transactions of the Illinois State Historical Society*, Publication No. 8, 1903 (Springfield, 1904). p. 225.

¹⁴ "A Law Student's Recollection of Abraham Lincoln." *The Outlook*, February 11, 1911, Volume 97, pp. 311-314. The original version of Birch's story is contained in Albert J. Beveridge, *Abraham Lincoln, 1809-1858, 1928*, Volume II, p. 528, and is reprinted in Rufus Rockwell Wilson, *Intimate Memories of Lincoln*, 1945, p. 104 ff.

disappointment and chagrin, to return without the required license. When Mr. Lincoln heard of it, he sent word to me to come to see him. I did so, and he told me that they had no such rule in the Springfield district. He thereupon directed me to go to Springfield, get a certificate of good moral character from that place and write from there to the Supreme Court, asking that a special committee be appointed to make the examination. I did as directed, and in a few days received a letter appointing Mr. Lincoln a member of the committee. I took the letter to him, and he requested me to come to his room at the hotel in Bloomington early the next morning. I went, and he proceeded promptly with the examination. I remember his first question was, "What books have you read?" When I told him, he said, "Well, that is more than I had read before I was admitted to practice." Then he paused long enough to tell a story of something that befell him in a county in southern Illinois where he once tried a case in which he was pitted against a college-bred lawyer who apparently had studied all the books and was very proud of the accomplishment. The court and all the lawyers were profoundly impressed by the man's wonderful store of learning, but it was all lost on the jury, 'And they,' said Lincoln, laughingly, 'were the fellows I was aiming at.'

"Then he resumed his examination, but some of the things he asked, though calculated to test one's memory, it appeared to me bore but a faint relation to the practice of law. He fired his questions at me somewhat rapidly, scarcely giving me time to answer properly, and never indicated by look, word, or gesture whether I was right or wrong. Presently, and even before I was prepared for the announcement, he stopped somewhat abruptly, saying, 'Well, I reckon I've asked you enough,' wheeled about in his chair, and proceeded to write out a certificate recommending me for license, meanwhile giving me some kind advice as to my future course of study, which latter, it occurred to me, was about the first thing that had been said to indicate that the entire proceeding was, after all, an examination to test the applicant's ability to practice law. With the certificate he gave me in my pocket, I repaired to Springfield, and there, without further difficulty, received my license."

Some ten years later, Weik wrote his biography of Lincoln and after establishing that Birch had been a life-long friend, personal attorney, and Greencastle neighbor of his, then proceeded to write a considerably expanded and somewhat more colorful version of the Birch story which included the following additions:¹⁵

"How long have you been studying?" he asked. 'Almost two years,' was my response. 'By this time, it seems to me,' he said laughingly, 'you ought to be able to determine whether you have in you the kind of stuff out of which a good

¹⁵ Jesse W. Weik, *The Real Lincoln: A Portrait*, 1922, pp. 133-134. The expanded version of Birch's story appears in Carl Sandburg, *Abraham Lincoln: The Prairie Years*, 1926, Volume II, p. 72, and in Albert A. Woldman, *Lawyer Lincoln*, 1936, pp. 152-155. In Roy P. Basler, *The Collected Works of Abraham Lincoln*, 1953, Volume VIII, p. 589, the communication to Stephen T. Logan is characterized as "purported."

lawyer can be made.' Then he asked me in a desultory way the definition of a contract, and two or three other fundamental questions, all of which I answered readily, and I thought, correctly. Beyond these meager inquiries, as I now recall the incident, he asked nothing more. Meanwhile, sitting on the edge of the bed he began to entertain me with recollections--many of them characteristically vivid and racy--of his own practice and the various incidents and adventures that attended his start in the profession. The whole proceeding was interesting yet so unusual, if not grotesque, that I was at a loss to determine whether I was really being examined or not. In due time we went downstairs and over to the clerk's office in the courthouse, where he wrote a few lines on a sheet of paper which he enclosed in an envelope and directed me to report with it to Judge Stephen T. Logan, the other member of the examining committee at Springfield. The next day I went to Springfield where I delivered the note as directed. On reading it, Judge Logan smiled, and much to my surprise, gave me the required certificate or license without asking a question beyond my age, residence and the correct way of spelling my name. The note from Lincoln read: My dear Judge: -- The bearer of this is a young man who thinks he can be a lawyer. Examine him if you want to. I have done so and am satisfied. He's a good deal smarter than he looks to be. Yours, Lincoln."

The date of the Birch incident is probably 1858 or 1859. Weik sets the time as "late in the fifties"¹⁶ and the rule mentioned by Birch regarding two years' law office study was adopted at the November, 1858, term of the Illinois Supreme Court.¹⁷ Stephen T. Logan was Lincoln's second partner at Springfield and had earlier been a Circuit Court judge.

Since Bloomington is in McLean county, which under the Constitution of 1848, was part of the Third Grand Division and would have required bar applicants to travel to Chicago for examination, it may be supposed that Judge Benjamin was examined by Lincoln in the Second Grand Division (with Springfield the seat) after 1858 under an arrangement similar to that made by Birch.

The following certificate was found among the papers of Judge Pinckney H. Walker of the Illinois Supreme Court:¹⁸

"Springfield, Ill., Jan. 31, 1859.

The undersigned, having in pursuance of the within appointment, examined the said applicant, Henry I. Atkins, touching his qualifications to practice law, respectfully

¹⁶ Weik, "A Law Student's Recollection of Abraham Lincoln." *The Outlook*, February 11, 1911, Volume 97, p. 311.

¹⁷ 19 Ill.xx (1858).

¹⁸ Dayson, "Lincoln in Rushville," *Transactions of the Illinois State Historical Society*, Publication No. 8, 1903 (Springfield, 1904), pp. 224-25. See also Basler, *The Collected Works of Abraham Lincoln*, 1953, Volume III, p. 352.

report that having performed the said duty, they find the applicant qualified to practice law, and recommend that he be licensed.

M. Hay
A. Lincoln
B.S. Edwards."

Benjamin S. Edwards became the law partner of John T. Stuart in 1843, shortly after Stuart and Lincoln dissolved their partnership, and remained a partner in the same firm at Springfield until his death in 1886. Milton H. Hay had been a student in the office of Stuart and Lincoln and in 1858 became a law partner at Springfield of Judge Logan whose daughter he married.

Another document found in the papers of Judge Walker was the following recommendation:¹⁹

"Springfield, Ill., Jan. 28, 1860.

We, the undersigned, report that we have examined Mr. Henry S. Greene and find him well qualified to practice as an attorney and counselor at law. We therefore recommend that he be licensed as such.

A. Lincoln
L.W. Ross
O.H. Browning."

Orville H. Browning practiced law at Quincy before becoming the United States Senator from Illinois, succeeding Stephen A. Douglas.

Woldman quotes another Lincoln certification but no further reference to it can be found:²⁰

"He was very lenient with applicants for the bar. On one occasion, he wrote to the presiding judge of a circuit; 'Your honor, I think this young man knows as much about law as I did when I began to practice, and I recommend his admission to the bar.'"

Lincoln appeared before twenty-one Illinois Supreme Court justices and a careful examination of the papers left by these men would undoubtedly disclose additional activity by Lincoln as a bar examiner.²¹ Nonetheless, it is already clear that Lincoln,

¹⁹ Dayson, "Lincoln in Rushville," Transactions of the Illinois State Historical Society, Publication No. 8, 1903 (Springfield, 1904), p. 225; Basler, The Collected Works of Abraham Lincoln, 1953, Volume III, p. 515; Angle, Lincoln, 1854-1861, 1933, p. 317; Emanuel Hertz, Abraham Lincoln: A New Portrait, 1931, Volume II, pp. 768-9; Woldman, Lawyer Lincoln, 1936, p. 152.

²⁰ Woldman, Lawyer Lincoln, 1936, p. 152.

²¹ Henry E. Pratt, "Our Growing Knowledge of Lincoln," Illinois Bar Journal, July, 1951, Volume 39, pp. 627-9.

together with his extensive practice, engaged in a considerable amount of the public service which lawyers customarily render.

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