

Reminiscences of the Illinois Bar: 1840
Lincoln and Douglas as Orators and
Lawyers

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Illinois State Bar Association
47:572 Illinois Bar Journal
February 1959



When forty years ago the Bar used to meet here at the capital, in the Supreme Court and United States Courts, and ride the circuit in our different sections of the State, Lincoln and Douglas did not occupy a position of such overshadowing importance as they do today. They did not beat us in our cases when law and justice were with us, and we did not realize that they were so greatly our

¹ Isaac N. Arnold has been described in Volume One of "Courts and Lawyers of Illinois" as being "one of Chicago's foremost lawyers." He was a personal friend of Abraham Lincoln and served in the House of Representatives when Lincoln was President. It is said that "the President reposed a greater confidence in no member of the House of Representatives than Isaac N. Arnold." Elected to Congress in 1860, he voted for abolition of slavery in the District of Columbia, 1861, and is given credit for the introduction on February 13, 1864 of a resolution declaring that the Constitution should be amended to abolish slavery in the United States. Previously Arnold had served three terms in the lower house of the Illinois Legislative, elected in 1842, 1844 and 1856. He is the author of two works on Lincoln, "The History of Abraham Lincoln and the Overthrow of Slavery in the United States" and the "Life of Abraham Lincoln," the latter work completed shortly before his death in 1884. This article was originally presented by the author as an address before the Fourth Annual ISBA Meeting in Springfield on January 7, 1881.

superiors. But these two men have passed into history, and justly, as our great representative men. These are the two most prominent figures, not only in the history of Illinois, but of the Mississippi Valley, and their prominence, certainly that of Mr. Lincoln, will be increased as time passes on. I will, therefore, endeavor to give such rough and imperfect outlines of them as lawyers, and advocates, and public speakers, as I can. We, who knew them personally, who tried causes with them and against them, ought, I think, to aid those who shall come after us, to understand them, and to determine what manner of men they were. In the first place, no two men could be found more unlike, physically and intellectually, in manners and in appearance, than they.

Lincoln was a very tall, spare man, six feet four inches in height, and would be instantly recognized as belonging to that type of tall, large boned men, produced in the Northern part of the Mississippi Valley, and exhibiting its peculiar characteristics in the most marked degree in Tennessee, Kentucky and Illinois.

In any court room in the United States he would have been instantly picked out as a Western man. His stature, figure, dress, manner, voice and accent, indicated that he was from the Northwest.

In manner he was always cordial and frank, and although not without dignity, he made every person feel quite at his ease. I think the first impression a stranger would get of him, whether in conversation or by hearing him speak, was, that this is a kind, frank, sincere, genuine man; of transparent truthfulness and integrity; and before Lincoln had uttered many words, he would be impressed with his clear good sense, his remarkably simple, homely, but expressive Saxon language, and next by his wonderful

wit and humor. Lincoln was more familiar with the Bible than with any other book in the language, and this was apparent, both from his style and illustrations, so often taken from that Book. He verified the maxim, that it is better to know, thoroughly, a few good books than to read many.

Douglas was little more than five feet high, with a strong, broad chest, and strongly marked features; his manners, also, were cordial, frank and hearty. The poorest and humblest found him friendly. He was, in his earlier years, hail fellow well met with the rudest and poorest man in the court room.

Those of you who practiced law with him, or tried causes before him when on the bench, will remember that it was not unusual to see him come off the bench, or leave his chair at the bar, and take a seat on the knee of a friend, and with one arm thrown familiarly around his friend's neck, have a friendly talk, or a legal or political consultation. Such familiarity would have shocked our English cousins, and disgruntled our Boston brothers, and it has, I think, disappeared. In contrast with this familiarity of Douglas, I remember an anecdote illustrating Col. Benton's ideas of his own personal dignity. A distinguished member of Congress, who was a great admirer of Benton, one day approached and slapped him familiarly and rudely on the shoulder. The Senator haughtily drew himself up, and said, "That is a familiarity, sir, I never permit my friends, much less a comparative stranger. Sir, it must not be repeated."

Lincoln and Douglas were, as we know, both self-educated, and each the builder of his own fortune. Each became, very early, the recognized leader of the political party to which he belonged. Douglas was bold, unflinching, impetuous, denunciatory and

determined. He possessed, in an eminent degree, the qualities which create personal popularity, and he was the idol of his friends. Both Lincoln and Douglas were strong jury-lawyers. Lincoln, on the whole, was the strongest jury-lawyer we ever had in Illinois. Both were distinguished for their ability in seizing, and bringing out, distinctly and clearly, the real points in a case. Both were very happy in the examination of witnesses; I think Lincoln the stronger of the two in cross-examination. He could compel a witness to tell when truth when he meant to lie. He could make a jury laugh, and generally, weep, at his pleasure. Lincoln on the right side, and especially when injustice or fraud were to be exposed, was the strongest advocate. On the wrong side, or on the defense, where the accused was really guilty, the client, with Douglas for his advocate, would be more fortunate than with Lincoln.

Lincoln studied his cases thoroughly and exhaustively. Douglas had a wonderful faculty of extracting from his associates, from experts, and others, by conversation, all they knew of a subject he was to discuss, and then making it seem so thoroughly his that all seemed to have originated with him. He so perfectly assimilated the ideas and knowledge of others, that all seemed to be his own, and all that went into his mind came out improved.

Mr. Lincoln remained in active practice at the Bar until his nomination for the Presidency in 1860. His reputation as a lawyer and advocate was rising higher and higher. He had a large practice on the circuit all over the central part of the State, and he was employed in most of the important cases in the Federal and Supreme Courts. He went on special retainers all over Illinois, and occasionally to St. Louis, Cincinnati, and Indiana. His law arguments

addressed to the Judges were always clear, vigorous and logical; seeking to convince rather by the application of principle than by the citation of authorities and cases. On the whole, I always thought him relatively stronger before a jury than with the court. He was a quick and accurate reader of character, understood, almost intuitively, the jury, witnesses, parties and judges, and how best to address, convince, and influence them. He had a power of conciliating and impressing every one in his favor. A stranger coming into court, not knowing him, or anything about his case, listening to Lincoln a few moments would find himself involuntarily on his side, and wishing him success. His manner was so candid, so direct, the spectator was impressed that he was seeking only truth and justice. He excelled all I ever heard in the statement of his case. However complicated, he would disentangle it and present the turning point in a way so simple and clear that all could understand. Indeed, his statement often rendered argument unnecessary, and often the court would stop him and say, "If this is the case, we will hear the other side." He had, in the highest possible degree, the art of persuasion and the power of conviction. His illustrations were often quaint and homely, but always clear and apt, and generally conclusive. He never misstated evidence, but stated clearly, and met fairly and squarely his opponent's case. His wit and humor, and inexhaustible stores of anecdote, always to the point, added immensely to his power as a jury advocate. Time will not permit me to linger over particular trials. I will refer to two or three.

The great patent case of *McCormick vs. Manny*, reported in 6 McLean Rep. 539, was argued at Cincinnati in 1855. He, with Edwin M. Stanton, afterwards his Secretary of War, and George Harding, of Philadelphia, were for Manny. McCormick

was represented by William H. Seward, Reverdy Johnson, Edward N. Dickinson, and Arnold and Larned, as the local solicitors. It has been often said that Mr. Stanton did not, at this trial, treat his associate with proper professional courtesy, and that Mr. Lincoln's argument was crowded out. He went to Cincinnati fully prepared, and I believe with the expectation of making an argument, but made none. Those who knew him, and especially his great natural skill in mechanics, will need no assurance that, however able the arguments of Messrs. Stanton and Harding, his would have fully equaled them. If the story is true, that Stanton somewhat rudely crowded Mr. Lincoln's argument out, their subsequent history furnishes another illustration of his magnanimity, and disregard of personal considerations when he selected Stanton as one of his cabinet.

The last case Mr. Lincoln ever tried, was that of *Jones vs. Johnson*, tried in April and May, 1860, in the United States Circuit Court, at Chicago. The case involved the title to land of very great value, the accretion on the shores of Lake Michigan. During the trial Judge Drummond and all the counsel on both sides, including Mr. Lincoln, dined together at my house. Douglas and Lincoln were at the time both candidates for the nomination for President. There were active and ardent political friends of each at the table, and when the sentiment was proposed, "May Illinois furnish the next President," it was, as you may imagine, drunk with enthusiasm of both Lincoln and Douglas.

The case of the Negro Girl Nance

One of the most interesting and important cases which Mr. Lincoln ever argued in the Supreme Court, and one, the study of which, I believe, in part prepared the way for his anti-slavery measures, was the case of *Bailey vs. Cromwell*, argued and decided at

the December term, 1841, and an imperfect report of which will be found in 3d Scammon's Rep., p. 71.

A Negro girl named Nance, alleged to have been held as an indentured servant, or slave, had been sold by Cromwell to Bailey, and promissory note given in payment. Suit was brought in Tazewell Circuit Court upon the note, and judgment recovered for the amount. The case was taken to the Supreme Court, and was presented by Mr. Lincoln on one side, and Judge Logan on the other and Mr. Lincoln made an elaborate argument in favor of reversing the judgment. He maintained, among other positions, that the girl was free by virtue of the ordinance of 1787, as well as by the constitution of the State prohibiting slavery; he insisted that as the record showed the consideration of the note to have been the sale of a human being, in a free State, the note was void; that a human being could not, in a free State, be the subject of sale. The court opinion, by Judge Breese, reversed the judgment. The argument of Mr. Lincoln, a very brief statement of which is given in the report, was most interesting. The question of slavery under the ordinance, and the constitution, as well as under the law of nations, was very carefully considered. This was probably the first time that he gave to these grave questions so full and elaborate an investigation. He was then thirty-two years of age, and it is not improbable that the study of this case deepened and developed the anti-slavery convictions of his just and generous mind.

The Lincoln and Douglas Debate

I now propose to speak for a few moments of what I regard as the greatest debate which has occurred in this country, the Lincoln and Douglas debate, of 1858.

The two most prominent men in Illinois, at that time, were Douglas and Lincoln. Each was in the full maturity of his powers, Douglas being forty-five and Lincoln forty-nine years old. Douglas had for years been trained on the stump, in the lower house of Congress, and in the Senate, to meet in debate the ablest speakers in the State and Nation. For years, he had been accustomed, on the floor of the Capitol, to encounter the leaders of the old Whig and Free-Soil parties. Among them were Seward, and Fessenden, and Crittenden, and Chase, and Trumbull, and Hale, and Sumner, and others, equally eminent, and his enthusiastic friends insisted, that never, either in single conflict, or when receiving the assault of a whole party, had he been discomfited. His style was bold, vigorous and aggressive, and at times, defiant. He was ready, fertile in resources, familiar with political history, terrible in denunciation, and handled with skill, all the weapons of debate. His iron will, restless energy, united with great personal magnetism, made him very popular; and with these qualities, he had indomitable physical and moral courage, and his almost uniform success, had given him perfect confidence in himself.

Lincoln was, also, a thoroughly trained speaker. He had contended successfully, year after year, at the Bar, and on the stump, with the ablest men of Illinois, including Lamborn, Logan, John Calhoun and others, and had often met Douglas himself--a conflict with whom he always rather courted than shunned. Indeed, these two great orators had often tested each other's power, and whenever they did meet, it was, indeed, "Greek meet Greek," and the "tug of war" came, for each put forth his utmost strength.

In a speech of Mr. Lincoln in 1856, he made the following beautiful, eloquent, and generous allusion to Douglas. He said:

"Twenty years ago, Judge Douglas and I first became acquainted; we were both young then, he, a trifle younger than I. Even then, we were both ambitious, I perhaps, quite as much as he. With me, the race of ambition has been a failure. With him, it has been a splendid success. His name fills the Nations, and it is not unknown in foreign lands. I affect no contempt for the high eminence he has reached; so reached that the oppressed of my species might have shared with me in the elevation. I would rather stand on that eminence than wear the richest crown that ever pressed a monarch's brow."

We know, and the world knows, that Lincoln did reach that high, nay far higher eminence, and that he did reach it, in such a way that "the oppressed" did share with him in the elevation.

Such were the champions who, in 1858, were to discuss before the voters of Illinois, and with the whole Nation as spectators, the political questions then pending, and especially the vital questions relating to slavery. It was not a single combat, but extended through a whole campaign, and the American people paused to watch its progress, and hung, with intense interest, upon every movement of the campaigns. Each of these great men, I doubt not, at that time, sincerely believed he was right. Douglas' ardor, while in such a conflict, would make him think for the time being, he was right, and I know that Lincoln argued for freedom against the extension of slavery, with the most profound conviction that, on success, hung the fate of his country. Lincoln had two advantages over Douglas; he had the best side of the question, and the best temper. He was always good humored, always had an apt story for illustration, while Douglas, sometimes, when hard pressed, was irritable.

Douglas carried away the most popular applause, but Lincoln made the deeper and more lasting impression. Douglas did not disdain an immediate *ad captandum*² triumph, while Lincoln aimed at permanent conviction. Sometimes, when Lincoln's friends urged him to raise a storm of applause, which he could always do, by his happy illustrations and amusing stories, he refused, saying the occasion was too serious, the issue too grave. "I do not seek applause," he said, "nor to amuse the people. I want to convince them."

It was often observed during this canvass, that, while Douglas was sometimes greeted with the loudest cheers, when Lincoln closed, the people seemed solemn and serious, and could be heard, all through the crowd, gravely and anxiously discussing the topics on which he had been speaking.

Douglas, by means of a favorable appointment, succeeded in securing a majority of the Legislature, but a majority of the vote was with Lincoln. These debates made Douglas Senator, and Lincoln President. There was something magnetic, something almost heroic, in the gallantry with which Douglas threw himself into this canvas, and dealt his blows right and left, against the Republican Party on one side, and Buchanan's administration, which sought his defeat, on the other. The Federal patronage was used, by the unscrupulous Slidell, against Douglas--but in vain; a few were seduced, by the mass of the Democratic Party, with honorable fidelity, stood by him. This canvass of Douglas, and his personal and immediate triumph, in being returned to the Senate, over the combined opposition of the Republican Party, led by Lincoln and Trumbull, and the administration, with all its patronage, is, I think, the most brilliant personal triumph in

² attempt to catch or win popular favor

American politics. If we look into English struggles on the hustings for its parallel, we shall find something with which to compare it, in the late triumph of Mr. Gladstone. If we seek its counterpart in military history, we must look into some of the earlier campaigns of Napoleon, or that in which Grant captured Vicksburg.

Douglas secured the immediate object of the struggle, but the manly bearing, the vigorous logic, the honesty and sincerity, the great intellectual powers exhibited by Mr. Lincoln, prepared the way, and two and two years later secured his nomination and election to the Presidency. It is a touching incident, illustrating the patriotism of both these statesmen, that widely as they had differed, and keen as had been their rivalry, just as soon as the life of the Republic was menaced by treason, they joined hands to shield and save the country they loved.

It would be a most attractive theme to follow Mr. Lincoln, step by step, from the time of this contest; to enumerate, one after another, his measures, until he led the loyal people of America in triumph, to complete the overthrow of slavery and the restoration of the Union. From the time when he left this city, the political horizon, black with rebellion and treason, the thundercloud just ready to burst--on--and on--through those long, dreary years of war and danger, down to his triumph and his death; that a drama! what a spectacle for the admiration of men and angels! From the argument of the case of the Negro girl Nance, to the debate with Douglas, the final overthrow of slavery, and his own tragic death, his life has all the dramatic unities, and the awful ending of the old Greek tragedies.

I know of nothing in all history more pathetic than the scene when Mr. Lincoln bade good-bye to his old friends and

neighbors here in Springfield, when he mounted the cars of yonder railway station, to be borne away to the Capitol, to struggle with what seemed unconquerable difficulties--and dangers, to struggle, -- to triumph--and--to die.

Conscious of these difficulties and dangers, with a sadness which seemed like a presentiment, but with a deep, religious trust, which in spite of what infidels have said or may say, was wholly characteristic, as he said farewell, he asked your prayers to Almighty God for himself and his country. And as he grasped the hard hand of many an old friend and client, he heard the response, "God bless and keep you, and God save you from all traitors." Well was it said, happily was it written on one of those mottoes on your State House, at his funeral:

"He left us, borne up by our prayers,
He returns embalmed in our tears."



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