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Lincoln as a Lawyer, by Alan T. Frank

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LINCOLN AS A LAWYER. By John P. Frank. Urbana: University of Illinois Press. 1961. Pp. xiv, 144. \$1.45. (paper cover).

In the vast body of Lincoln literature, A. Lincoln the lawyer has not been neglected. In addition to a number of reminiscences, articles and pamphlets, three major works have been concerned with his professional career. In 1906, Frederick Trevor Hill wrote *Lincoln The Lawyer*, a study of Lincoln's period at the bar and the legal aspects of his later career. In 1936, on the eve of the centennial of Lincoln's admission to the bar, Albert A. Woldman published a second full scale analysis.¹ In 1961, John J. Duff, a New York practicing lawyer, issued a new book.² Lawyer Lincoln has also been described in the major biographies by Beveridge, Sandburg, Thomas and others.

With the exception of the Duff book published in 1961, most of the writing about lawyer Lincoln has been of limited worth. It has been marked by a number of unhistoric characteristics, including implicit apologies for the fact that he was a lawyer at all. (Popular mythology would have preferred that he had been a soldier, an Indian scout, or, God forbid, a physician.) The imperfections of the prior art justified Duff's excellent book. John P. Frank's book is also justified by the imperfections of the previous works. In addition, Frank approaches the subject from a wholly new standpoint. The previous books have been principally expositions of the *facts* of Lincoln's career as an attorney. Having examined all of the materials available, Frank writes about what kind of a lawyer Lincoln was with reference to the traditional criteria by which lawyers evaluate one another professionally. Lincoln practiced law for twenty-five of the thirty-five years of his adult life. As stated by Frank,

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1. WOLDMAN, *LAWYER LINCOLN* (1936).

2. DUFF, *A. LINCOLN, PRAIRIE LAWYER* (1961).

practicing law "in terms of time and energy and preoccupation . . . was in bulk the largest single factor of his life."³ Accordingly, a close analysis of Lincoln as a lawyer is a means of learning a great deal about Lincoln as a human being. Frank's unique vehicle is therefore a good one for seeking out new insights into the character and personality of the man.

Frank's book begins with an excellent short description of what the practice of law was like in Illinois during the period of Lincoln's career. He describes the physical circumstances of the lawyer's life—the types of cases presented, the clerical and financial characteristics of the practice, the circuit riding and all the rest. Since Lincoln was principally a trial and appellate lawyer, these aspects of the practice are highlighted. Lawyers today will be amused—and perhaps reassured—by the fact that the circuit riding practice often afforded almost no opportunity for preparation for trial. Also comforting is the knowledge that Lincoln's practice always included a number of small and unremunerative cases, even after he had become an outstanding and prosperous member of the bar in Illinois.

Having briefly set the scene in the old Eighth Judicial Circuit of Illinois, Frank uses the Lincoln legal materials to explore "The Mind Behind The Practice." This mind, he convinces us, was orderly, despite the oft-told tales of Lincoln's disordered office procedures. The mind was also sensitive, both to the technicalities and the equities of the legal conflicts to which it was applied. It was combative—Lincoln had "an unbridled enthusiasm for combat"⁴—but it was also realistic, so that Lincoln saw the imperfections of his own cases and fairly anticipated the contentions of his adversaries. Finally, the mind had the capacity for diligence. Lincoln was an extremely hard working practitioner and when the occasion presented itself he was capable of careful and thoughtful workmanship over a sustained period of time. All of these intellectual attributes lay behind the better known Lincoln qualities—his uncommon facility as a writer and speaker, his ability to marshal facts and his exceptional skill in making the right decision when confronted with alternatives and required to decide between them. Running through the analysis of Lincoln's mind one sees a capacity for maturing. Growth in all of the qualities essential to his profession was a marked characteristic of the man.

From the practice of law, Frank follows Lincoln into public life. Here he searches for those professional characteristics which were trans-

3. P. 5.

4. P. 76.

ferred to the Presidency. Lincoln's administration was unusually beset with desperate and fundamental issues which were also essentially legal issues: the nature of the Union, Emancipation, the power of the Executive, and the status of civil liberties in the midst of massive rebellion. Frank shows us that Lincoln approached these and all of the problems of his administration in terms of legal concepts and as a lawyer works. More specifically, from the practice of law Lincoln carried with him his incredible industriousness; his ability to absorb, retain, organize and use facts; his capacity for effective expression; and his aptitude at making correct decisions on the basis of the facts.

It should be said that Frank avoids any extravagant contention that the legal profession can claim to have created Lincoln. He does note that the lawyer's life at the time and in the place afforded a training ground for those attributes which were to mark Lincoln as a great political President, but he credits the profession with having done "more to polish than to create his native skills."⁵ In this regard, Frank strikes an interesting contradiction. Lincoln was a complicated man personally, but as a lawyer, and as a lawyer who was President, his actions were direct and uncomplicated. Thus, Frank points to Lincoln's ultimate gifts. He could find the heart of the issues and could pursue the heart of the issues with single-mindedness. As President, this meant that he was able to find his own common denominator to the numerous questions which surrounded him. This common denominator was the defeat of the rebellion. And having found the single goal, he pursued it indefatigably, throwing off the distractions which would have pulled him from it. From the beginning, all issues and all men were measured by Lincoln by the single standard: would they help or hurt in the defeat of the rebellion? This was the cornerstone of Lincoln's conduct of his office and he clung to it as surely no one else could have.

John Frank has accomplished what one might have thought to be impossible. He has provided an original contribution to the study of Abraham Lincoln, well written, scholarly and in all things exceptional.

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