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PLASTERING, BRICK AND CONCRETE WORK

1809—The Lincoln Centenary—1909
Lincoln as a LawyerGreat Before a Jury and
Successful Before Judges.
His Unwillingness to Take
an Unjust Case.

By James A. Edgerton

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ONE of the first books read by Mr. Lincoln was the "Statutes of Indiana," and his biographers aver that he devoured it with as much eagerness as most boys read "Robinson Crusoe." I must be excused if I express my doubts on this subject. It may be that young Lincoln read the statutes in question with interest because of the lack of anything else to read, but I know the genius boy too well to believe that any member of it would desert the "Arabian Nights" for the legal enactments of the state of Indiana. The literary rank of Indiana is deservedly high, and some of her budding authors may have been writing her laws at this time, but even so there are certain limitations due to the phraseology and subject matter which would prevent them from having the charm of a Dickens or the descriptive powers of a Hugo. It is hard to grow eloquent with every third word an "foreword." The regular Indiana novelist would find handicaps in going his literary path while trying to prevent—or to create—loopholes for the race of lawyers. Therefore that tale of Lincoln and the Indiana statutes must be classed with Washington and the cherry tree. They are fine stories, but they do violence to the well known character of the American boy.

There is not the slightest question, however, that Abe did read the statutes of Indiana at an age which in most cases would have proved fatal

yielding on a point he considered vital. None could be more conciliatory and pliable on mere matters of every day. One other notable trait in Lincoln the lawyer was his neglect to charge large fees. His bills were always moderate, so much so that he could murmur among his brother attorneys. The desire for gain in a money way seemed totally lacking in his makeup. Often with poor clients he would accept nothing at all. At other times his charges were nominal. In the vast majority of cases they seemed pitifully small, even for his own day. Lincoln was a first class lawyer, universally so recognized, one of the best at the Illinois bar. He was retained in some of the biggest cases and by some of the largest interests in the state. His moderate fees, therefore, were unnecessary. They grew out of the very temperament and nature of the man.

By far the most notable trait in Lincoln as a lawyer, however, was his unwillingness to take an unjust case. In numerous instances he refused outright to enter into such suits. At other times, if he found he was on the wrong side, the spirit seemed to go out of him, and he would practically let the case go by default or would deliberately handle it in such a way that it was sure to be decided against him.

I know the sophistry that will be advanced in some quarters against such a course. With Lincoln it was not a matter of argument. It was a question of conscience. The more the lawyer should become a type to his own profession. The more lawyers study his career, his spirit, his methods and his ethical standards, the more they will see the rightness and greatness of the man. From my viewpoint practically his every attitude is one needed by the profession now and for all time. His refusal to take an unjust case, his efforts as a peace-maker, his frowning down on all attempts to "cook up" suits, his lack of commercialism, his dependence on right and original reasoning rather than on precedent, his driving straight to the root of a case and brushing aside the nonessentials, his courteous, sympathetic but effective treatment of witnesses and, above all, his high ideal of his calling—all these things, it seems to me, should be held aloft as models to every lawyer in the land. That he should be so made a standard and example in a thing that interests not only lawyers, but all citizens. So long as the corporation attorney, the lawyer lobbyist and the legal protector and sometimes abettor of criminals is in our midst, so long will these burning questions be before every community. The lawyer is licensed by society and owes his first duty to the power that made him. It is time that we looked at this matter as it is and settled it according to God's truth and not according to man made fictions.

At one time Mr. Lincoln went to Cincinnati to try a noted case, where he met Edwin M. Stanton and other legal luminaries from the east. His own will was as strong as a compass, but he carried from the Ohio city at least one great resolve. He saw that the college bred lawyers were traveling west, and he determined to be ready and worthy to meet them. "I am going home to study law," said this seasoned attorney, who was already the senior lawyer in his judicial circuit.

This was no weakling, content with mediocre success, one who would measure with the best. Lincoln the lawyer showed the same hatred of injustice and the same opposition to those who live in the sweat of other men's faces that were in evidence throughout his career. He was never so happy as when righting some wrong, defending the weak against the powerful or defeating some grasping scoundrel who was trying to grind the faces of the poor. He never sunk the man in the lawyer. His hardships made him a friend of those who toil. This made the people trust him. These same qualities that drew to him the love of the masses in the beginning held him practically to the end of his life. There was nothing in him to appeal to the selfish classes or the predatory interests. The liberator has never aroused any very genuine love from this source. These people are not in favor of freeing slaves, either bond slaves or wage slaves. It interferes with their business. So whatever adulation of Lincoln there comes from these high and mighty quarters is mostly lip service, given because his praise is in fashion. Not but what he has qualities which would melt even the hard hearts of the dollar worshippers. Yet if they knew just what he thought of them and of their kind, either they would have a poorer opinion of him or of themselves.

he could bring the contending parties together and have them adjust their quarrel, even though he lost a case and a fee, he seemed entirely happy in the result. The mercenary and unprofessional practice of cooking up litigation and of trying to get people into lawsuits that would not have been brought except at the instance of some shyster lawyer he would have looked on with horror and contempt. One more potent reason why he and his kind of practitioners are needed now! Practically all of Abraham Lincoln's adult life other than that spent in politics and in public office was devoted to the law. He never seemed so happy as when riding the circuit. Here he was in his element, working by day and telling stories far into the night. It must be imagined, however, that the two pursuits interfered. When there was serious business on hand no one could be in more deadly earnest than Lincoln. He was a close reasoner on every logical point. He indulged in a story at all in his argument it was only to illustrate a point or drive home a principle. Lincoln told stories as other men take up pastimes and distractions. They were his cards, his drink, likewise his escape from labor and worry. He was a social soul, and they bound him to his kind. He in a way was something of a preacher, and they helped give his lessons and sugar coat his sermons. Such sermons as he did preach were for the most part concealed and were hence all the more effective. The moral that is thrust forward too prominently by the antagonist is instead of winning unconscious assent, Lincoln knew how to win people to truth rather than drive them to it. His moral nature was conspicuous, but not harsh. He taught by parable and moral example to the very end of his stick. His spirit belonged to the school of the Nazarene rather than to that of Caesar.

He was a most successful cross-questioner, but resorted to none of the contemptible habits of badgering and browbeating witnesses. Rather he won the confidence of the one he was questioning until the truth would come out in spite of prearranged plans to conceal it. No man was more pitiless to sham and deceit, but the merely timid or confused had nothing to fear from him. He was gentle with the weak and used his great strength only on a deliberate rogue or on an antagonist of his own size. He was seldom angry, but at such times was said to be terrifying and almost unreasonably in his wrath, a veritable lion of men.

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RED CLOUD'S
VICTORY
AND
DEFEAT
BY BUFFALO BILL
FROM TRUE TALES OF THE PLAINS

WHILE Roman Nose, Black Kettle, Tall Bull, Yellow Hand and numbers of great Indian chiefs recently left Fort Phil Kearny practically as a whole for a year and with predatory hands—sent here and there over the plains, he carried devastation and destruction to the most unexpected quarters, passing as he did an organization that conditions permitted. He made his force as effective as it has ever been. However, the inventive genius and commercial spirit of the white man in ship and factory was a direct enemy in producing firearms so improved that like the needle gun in the Franco-Prussian war of 1870-1871, they created in his simple mind an astonishment that he could not believe or dream of. He suffered from a fearful demonstration of the fact. Myself and others, of course, kept up our personal "pull" by adopting every improvement from the old muzzle loader to the breech-loading Springfield and the repeaters—Henry, Remington and Winchester—which gave us often the necessary protective advantage. This improvement in arms was destined a little over a year after the Fetterman massacre to give Red Cloud and "Winjah" the surprise of their lives and something to think of as "bad medicine."



The two colonels were found lying side by side.

which he engineered what is known as the Fort Phil Kearny massacre. Red Cloud was then a young, ambitious and a most powerful rising chief of the Ogallala Sioux and ignored the actions of the older Indian chiefs. In 1865 at the Harney-Sanborn treaty he boldly denounced the white man's invasion, sprang up from the council, called on the disconcerted to follow him in war, for rapine, murder, plunder or horse stealing, for abundance in crops and grasses or in conquests in love, he was strikingly imbued with the necessity of the Great Spirit's friendly assistance and "Bad Medicine." Failure in all these pursuits he attributed to the preponderating influence of the "Evil Spirit," or "Bad Medicine." So, after several campaigns of continued success, the ready-made surprise, not to say consternation and depression, that resulted from his audacious attempt to at last annihilate the garrison at Fort Phil Kearny. He assembled nearly 5,000 warriors for this purpose, all well equipped with carbines and muzzle loaders, but was unaware that the fort had been supplied with the new Allen modification of the Springfield breech-loading rifle. Besides the rifles, carbines, etc., the Indians were mightily well equipped for close-in fighting with the bow and arrow. With the latter in time of war and in a close fight with the whites an expert archer could keep up a stream of these death dealing missiles with a rapidity equaling the best Winchester of today and limited only to the number of arrows, a hundred or more, that his quiver could hold. The scheme of battle that Red Cloud had designed on this occasion he had intended to overwhelm, even at great loss, the ability of a muzzle loading enemy to withstand his attack, backed with the arrow experts, whose wares were far superior to that of the revolver. This had been done in minor engagements successfully, but had never been tried on as complete a scale as "Red" intended it on this occasion, though the idea just simply happened with a little too late. Suddenly investing the fort, he found the wood train, as he thought, in exactly the same condition as it had been under Fetterman, but experience had taught the troops, who were not so much surprised as they were, to use the wood and timber being carried upon the running gears, and the wagon beds were used to form an oblong corral, with openings at each end, so that in emergency they could be closed by wagons which had the best of them. The wagon beds were used to store all the camp equipment, clothing, commissaries, etc., while reinforced with sandbags and anything that would stop a bullet, and if I remember correctly, they were lined with boiler iron, with rifle loopholes. As preliminary to the attack on the fort, Red Cloud thought to repeat the Fetterman result and sent about 500 picked men to surround the little corral, to which Powell and the woodmen had retreated, numbering thirty-two in all. Wagon sheets were thrown over the tops of the wagon beds to screen the defenders from observation and save them perhaps from the ill effects of the arrow fire at close quarters. There was plenty of ammunition and plenty of rifles. Every man had at least three and some no fewer than five. Some men were not even considered deadly shots were told off to keep cleaning up for the others. There was a quartet of old frontiersmen, led by one renowned as a dead shot, Joe Merrill, and others whose names at the present time I sincerely regret the I cannot remember, who averaged eight or ten weapons apiece. Powell himself took one end of the corral and Jenness the other, and everything was prepared to give the haughty Sioux a

lesson in the range, power and wonderful rapidity of fire which the new rifle permitted. At the same time, the Indians had really surprised them and appeared in such numbers that the little garrison, from commander down, on hasty consultation decided that it was a forlorn hope to think of escape, though all were determined to fight to the last breath.

The Indians spread out and gallantly charged, while the main body of Indians between them and the fort looked on exultantly, fully prepared to take advantage of any opening. Powell commanded not a shot to be fired until his orders, and, inspiring his men with his own coolness, it was reserved until the yelling came within 150, then 100, then 50 yards from them, when "Fire, boys, fire!" was shouted, and a perfect sheet of flame burst forth. Horses and riders tumbled, and a driving sleet of bullets struck the charging mass. To the Indians' astonishment the fire did not stop at one volley, as usual, but continued to belch forth unintermittedly. Then the foe circled around at a mad gallop; but, like the blazing sparks from a fireworks pin wheel, the corral responded with death dealing effect, which at last the survivors hurriedly escaped from. The result to the defenders was encouraging as a mass of horses, with dead and wounded Indians, lay in all directions, as a forest of trees falls by the striking of a tornado. The corral lost the gallant Lieutenant Jenness with a bullet through his head, one soldier was killed, and two were severely wounded, leaving twenty-eight at the post. To the Indians the whole affair was a terrible puzzle, and they actually believed that the corral held ten times the number of men, for they now adopted a new method by preparing to surround the corral with skirmishers, the bow and arrow men creeping forward ahead of those with rifles, taking advantage of every depression in the ground until within range, then to overcome the besieged with gun and arrow fire when the main attack would be made by the entire body of warriors. This was wonderfully skillful in execution, but the defense was almost impregnable, and the defenders were silent under the fusillade that tore into the wagons and the arrows that pierced through the sheets. So terrific was the fire that it sounded like crackling thunder, and the strategic silence that ensued caused the Indians to think that it had been effective, although actually not a defender was hurt in this second attack.

Under a heavy fire from the skirmishers a thousand Indians broke into a charge, encouraged by the silence, when again ranged out the merciless fire, led by Powell's own rifle. On they pressed until almost to the wagon beds, suffering from a slaughter almost unheard of, when back they again rode. A few feet more and it would have been all over in a hand to hand conflict. But so close had they come that some of the men threw missiles in their faces.

This was repeated for six times, the sixth being the final charge and repulse, which, if it had been followed

by another, would have been successful, as many of the rifles had become overheated, others useless, and the ammunition was nearly exhausted. Then, to add to the general joy, the distant sound of a howitzer was heard, and Major Smith, from the fort, with 100 men, was seen in the distance, and a shell burst in the midst of the Indians as another puzzle in the use of arms. The principal effort the Indians made then was to carry off their wounded, which they eventually succeeded in doing after making a stand for awhile against Smith's command, when, disheartened and dismayed, they slowly retreated. Captain Powell in his report says that another attack would have been successful, owing to the exhausted condition of arms, ammunition and men. The Indians had a splendid opportunity in the open to charge Smith's command, but, believing in the Great Spirit's anger and that there was "Bad Medicine" in the neighborhood, they thought it best to retire from the influence of the "Evil Spirit." The Indians lost 1,137 men.



A driving sleet of bullets struck the Indians.

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