

The Honest Lawyer



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An unexpected side benefit of serving as State Bar president this year has been spending many, many hours in the car. As I've logged miles around the state, I've had a chance to catch up on some recorded lectures and books on tape I had been meaning to listen to.

One of these has been a lecture series on the speeches and writings of Abraham Lincoln.¹ I have enjoyed the series as an opportunity to learn more about a revered president and speechmaker (invariably I was in the car driving to make a speech to a local bar association, hoping in vain Lincoln's oratory prowess would rub off on me). The best part about the series was being reminded about a part of Lincoln's past people often overlook: Lincoln was a practicing lawyer. In his nearly 25-year career in the law, Lincoln practiced in three law partnerships and represented an estimated 5,000 clients.²

Not surprisingly, Lincoln amassed plenty of practical experience in the day-to-day realities of managing a law practice. In his *Notes for a Law Lecture*, Lincoln jotted down some observations about being a law-

yer in the 1850s that are fascinating in their lasting relevance for today's practitioners. Here is Lincoln on case management: "The leading rule for the lawyer, as for the man of every other calling, is diligence. Leave nothing for tomorrow which can be done today. Never let your correspondence fall behind."³ Here he is on charging and collecting fees: "The matter of fees is important, far beyond the mere question of bread and butter involved.... As a general rule never take your whole fee in advance, nor any more than a small retainer.... Settle the amount of fee and take a note in advance. Then you will feel that you are working for something, and you are sure to do your work faithfully and well."⁴ Lincoln even has tips on alternative dispute resolution: "Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."⁵

This final collection of tips contains the take-away message from Lincoln's lecture:

a call for the highest ethics and professionalism. He viewed the job of being a lawyer as an opportunity to be a good influence on one's community—a job that should not be done by a person who lacks a good moral compass. There is no doubt in *Notes for a Law Lecture* that Lincoln recognized the practice of law as a business (see more of his tips on fees), which was all the more reason to demand honesty in the profession.

I am proud to say that most lawyers I know are living Lincoln's vision of what the legal profession should be. For most of us, good ethics is more than a moral and legal obligation; it's good for business, too.⁶ Clients know they can trust their lawyer and refer others, and adversaries know they can rely on that lawyer to play fair. For the minority of lawyers who don't subscribe to the belief that good ethics make good practice, it's time for them to get out of the law. Or as Lincoln more eloquently put it, "[R]esolve to be honest at all events; and if in your own judgment you cannot be an honest lawyer, resolve to be honest without being a lawyer." ■

FOOTNOTES

1. *Abraham Lincoln: In His Own Words*. Lecture, Professor David Zarefsky, Northwestern University (Chantilly, VA: Teaching Co, 1999).
2. Gross, ed, *America's Lawyer-Presidents: From Law Office to Oval Office* (Northwestern Univ Press, 2004), p 128.
3. *Id.*, pp 146–147.
4. *Id.*
5. *Id.*
6. Henry G. Miller made some excellent observations about the intersection of ethics and the business of law in his 1991 speech to the graduating class of St. John's School of Law, reprinted in *Catholic Lawyer*. 34 *Catholic Lawyer* No. 3, 313.