

## **An Interview with Frank W. Lincoln Illinois Supreme Court Historic Preservation Commission**

Frank W. Lincoln was in private practice from 1964 to 1984. He was elected Douglas County State's Attorney in 1968 and served until 1972. In 1973 he was appointed Tuscola City Attorney and served until 1979. He was elected as a Tuscola City Alderman in 1980 and served until 1984. He was elected as Circuit Judge for Douglas County, Illinois, Sixth Judicial Circuit in 1984. He served as Presiding Judge of Douglas County until his retirement in 2006.

**Interview Dates:**

May 12<sup>th</sup>, 2016; March 25<sup>th</sup>, 2019

**Interview Location:**

Judge Lincoln's home, Tuscola, Illinois

**Interview Format:**

Video

**Interviewer:**

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## **Abstract**

### **Frank W. Lincoln**

#### **Biographical:**

Frank W. Lincoln was born in Tuscola, Illinois on November 17<sup>th</sup>, 1938, and spent part of his early life working in his grandfather, Frank A. Warren, auto dealership. He grew up on the south end of Tuscola during the World War II era. In 1947 his family moved to the north end of town where he remained throughout his youth. Lincoln attended DePauw University and the U of I Law School and lived in Urbana, Illinois. During graduate school he worked the summers and vacations at Tuscola National Bank. He passed the bar in 1964 and clerked for Harrison J. “Budge” McCown who was State’s Attorney of Douglas County. He served as assistant for four years to McCown. Lincoln met his wife Marlene in August of 1966 and they married in 1968. They went on to have four children. Lincoln worked in private practice while also conducting the State’s Attorney’s office. He worked with George E. Nichols for ten years, and with Harrison J. McCown for twenty years. He was a partner in the Tuscola law firm of Nichols, Jones, McCown & Lincoln. More of his time as a lawyer will be discussed in the second interview.

#### **Topics Covered:**

Parents and family background; growing up in Tuscola, Illinois; memories of WWII; family interest in politics; extracurricular activities as a child; influential teachers; memories of the Cold War and McCarthy hearings; national and state politics; his time in Greencastle and DePauw; the Kennedy/Nixon debates; political and social outlook as a young adult; memory of Kennedy’s assassination; memories of the Vietnam War era; interest in law and attending the U of I Law School and living in Urbana; jobs during college years; U of I Law School’s approach to teaching law; memories of professors, staff and dean of U of I Law School; clerking for Douglas County State’s Attorney Harrison J. “Budge” McCown; meeting his wife Marlene and family life; working with George E. Nichols and Harrison J. McCown and private practice.

#### **Note:**

Readers of this oral history should note that this is a transcript of the spoken word, and that it has been edited for clarity and elaboration. The interviewer, interviewee, and editors attempted to preserve the informal, conversational style that is inherent in such historical sources while also editing for clarity and elaboration. The Illinois Supreme Court Historic Preservation Commission is not responsible for the factual accuracy of the oral history, nor for the views expressed therein.

### **Judge Frank W. Lincoln: An Oral History**

LAW: This is an oral history interview with Judge Frank Lincoln. Today's date is May the 12th, 2016. We are in his home here in Tuscola, Illinois. This is our first interview, and today we are going to talk about his background. Judge Lincoln, I thought I would start with the basic vital statistic of when and where were you born?

LINCOLN: Well, I was born here in Tuscola at Jarman Hospital at 6:00 P.M. on November the 17th of 1938.

LAW: Tell me a little bit about your parents.

LINCOLN: Well, my father was Harold T. Lincoln. His nickname was Abe. And my mother was Alliece Warren Lincoln. They met while they were in high school. My dad was born northeast of Tuscola in what's called the West Ridge area. It is a farming area. My mother was born in Arthur. Her father was a harness maker. They then moved to Sullivan, Illinois where my grandfather had a grain elevator at Chips Station. When my mother was in the sixth grade, they came to Tuscola where my grandfather bought another grain elevator.

LAW: Now, your mother's father?

LINCOLN: Was Frank Arthur Warren for whom I was named.

LAW: Did you know him?

LINCOLN: Oh, yes, very well. He died in 1965, and I settled his estate. He and I used to take rides in the evening down around his farm north of Arcola, and he tried to strike a deal with two different lawyers here in town about how much they would charge to settle his estate. And I was in law school at that time, and finally I just got tired of him talking about it, and I said, "Damn it, be quiet, I will settle it for nothing when I get

out of law school,” and that's exactly what he wanted. He lived a year after I got admitted to the practice, and I settled his estate for him like I told him I would do.

LAW: Now, did your grandfather Warren did he ever share with you any stories about the family history or -

LINCOLN: Well, I knew that his father was one of thirteen children, all of whom were born in the Arthur area. My great-grandfather John David Warren had twelve brothers and sisters. His parents were Michael Hoblican Warren and Eleanor Warren. They platted the west side of Arthur in Warren's Edition. They had a farm east of Arthur and my great-grandfather John D. Warren had that same farm. He had a harness shop in Arthur that my grandfather started working in when he was about in the sixth grade. He left school in the sixth grade, I don't know whether voluntarily or involuntarily. But that was the extent of his education was a sixth grade education. Then my grandfather did a lot of different things. I mentioned that he was in the grain business at Sullivan, and then twice here in Tuscola. He also had a Texaco bulk plant here in Tuscola, and then it was either January 1 of 1923 or 1924 he became the General Motors dealer for Tuscola, and during his career, which he sold out on May 13th of 1957, he had handled all of General Motors cars: Cadillac, Buick, Chevrolet, Pontiac, and Oldsmobile. And when he retired, he had Buick and Chevrolet. He had given up the others. Now, my dad went to work for my grandfather in the automobile business about 1929 when he married my mother, and continued in that until they sold it out like I mentioned in May of 1957. But my grandfather had served as mayor here in Tuscola. He was elected as a write-in candidate, and he said well, he served as long as he could until some woman wanted him to come and bury her dog in the heat of the summer, and he had enough of being

mayor, when they wanted him to do that. But he was quite a character.

LAW: Okay. I wanted to cover also the other side of the family.

LINCOLN: The Lincoln side?

LAW: Yeah.

LINCOLN: Well, depending on how far you want to go back. We can go back to New York state if you'd like to.

LAW: Well, start with your grandparents.

LINCOLN: My grandparents were Walter Edward Lincoln and Mary Alta Lincoln Hackett, no, Mary Alta Hackett Lincoln--let's get the correct order there. I am not sure of the date they were married. It was sometime in 1903, but I don't know the exact date of it. My grandfather Lincoln was always a farmer. He was born into a farming family, and that was his career his entire life. My grandmother Lincoln was a housewife, a farm wife. She had four children: my dad, Harold T. was the oldest, and then his brother E. Leland, and then his sister Dorothy who married Lester Fry, and another sister Wanda, who married Ralph Allen. All of them went to Tuscola schools after country school. My dad said he walked into Tuscola from West Ridge along the railroad tracks to go to high school because in those days there was no school busses, of course.

LAW: Now, was your grandfather still farming when you were -

LINCOLN: He farmed up until the time of his death in 1947.

LAW: So, I take it you probably spent some time out there on the farm?

LINCOLN: Yes, both before and after he died. We always went out there every Sunday evening when my grandmother fixed dinner. My dad would take me out and leave me there, and I

would cut their bushes, and then he would come back in the afternoon late and get me.

Well, as I got older then I would ride a bicycle out there. It is about three miles out of town.

LAW: Now, your grandmother how long did she live after your grandfather died?

LINCOLN: Well, she died in July of 1965.

LAW: Okay.

LINCOLN: Then my grandfather Warren died in October of the same year. It was rather anomalous because my grandparents, my grandfather and my grandmother on opposite sides each died in 1947.<sup>1</sup>

LAW: Yes.

LINCOLN: So, each set of grandparents I lost one of them in each year.

LAW: Did those two families know each other?

LINCOLN: Oh, yeah, yeah. We had Thanksgiving. They all came.

LAW: Now, did your grandfather or grandmother share any family stories or family history of the Lincoln side?

LINCOLN: Well, that's what I mentioned you could go back to New York state if you wanted to. Seth Lincoln came from the Rhode Island area. We believe he helped build the Erie Canal, bought farmland in the Madison County, New York area, and his son took over that farm ground. And that son was George. I call him George I because there were three Georges in the Lincoln family.

LINCOLN: He married Nancy Hooker. That was his first wife. They had three children, two boys and a girl. After Nancy died George I and the two sons came west, we think in a

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<sup>1</sup> Leota Warren died in 1947.

covered wagon to Michigan, the Detroit, Michigan area, crossed the lake in a boat, and ended up near Monroe, Michigan. They were there for a few years, and that's where he married his second wife, and they migrated down into the Fort Wayne, Indiana area, then the Logansport area, and then finally the Camargo area here in Douglas County. By his second wife he had one daughter and two sons. George I died up in Urbana, and is buried at the Hammett Cemetery at Camargo. After his death the second wife with her two sons and daughter went back to the Logansport, Indiana area. The daughter came back to Illinois to live with my great-grandfather George II. The second wife and the two boys stayed in Indiana. One of those boys stepped off of the railroad platform and was struck and killed by a train in the Logansport, Indiana area. The half sister, her name was Catherine, lived with my great-grandfather until she died. I don't know how much you want, Justin. We have her dresser here in our house that she had after she moved back here to Illinois with her half brother. Then George II had my grandfather Walter, Jim, Estella, and Flo. So, they each had four children.<sup>2</sup>

LAW: Okay. So, let's start with you. What do you remember about growing up in Tuscola in the 40s? What comes to mind?

LINCOLN: Well, we lived down here in the south end of town at that time in a two bedroom house, and my sister and I had to share a bedroom. I remember that. We had a neighborhood full of kids. We played in one yard or the other. Those were the days of oiled streets when they didn't have gravel. So, if we wanted to get across the streets after they had oiled it, we would put down newspapers and walked on the newspapers to get from one side of the street to the other to play in each other's yards. It was typical kids

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<sup>2</sup> Judge Lincoln's great-grandfather Lincoln, and grandfather Lincoln, had four children.

growing up. We would have carnivals, lemonade stands, just stuff like that. There were not a lot of organized activities in those days because we didn't have little league or any of that sort of activities. So, we made our own activities.

Of course, this was during World War II, and I remember my dad was an air raid warden for our blocks. And they would have dark-outs when everybody had to turn out their lights at night, like anybody, like the Japanese or the Germans were going to invade Tuscola, which was ludicrous. But he wore my metal helmet and would go around and checking to make sure everybody had their lights out. And of course, we had ration cards in those days, and different items were rationed. And when your gasoline was rationed, my grandfather who had a farm had a better ration card, so sometimes he would give us coupons so we could get gasoline. But my dad didn't have much to do in those years because there were no new cars. The last new cars came off the assembly line in about 1941. Daddy always would say, "Well, you sold the car that we were driving," my grandfather said, "Well, you can take another one off of the next transport." Well, there was never a next transport until after World War II ended. There were no new cars. So, we drove an Old Chevrolet that had four doors that opened like refrigerator doors. And also in those days the girls would have grease drives. I remember my sister was in the Girl Scouts, and they would go around town collecting grease for the war effort, and you would pick, what was it, milkweed pods out in the farm fields that they used in conjunction with parachutes in some fashion. Down along the south side of 36 they had victory gardens, and everybody had to have a victory garden. And I always said, "I will never do another garden in my life because every night when I was a kid we had to go out there and work in that darn garden." But it was a different life because of the war. We



always listened to the news at 6 o'clock. I remember Gabriel Heatter used to scare me to death with his voice because my mother had two cousins who were in the South Pacific, and she was worried about them. Daddy was on the draft list, but he never got drafted because he was too old, but I know my parents were worried for quite awhile that he might get drafted.

And I remember the end of World War II. I don't know how far you want to go into that, but on the night that the peace was declared with Japan they had a big bonfire in the middle of downtown Tuscola where Sale and Main intersect, and the kids would go around there, and there was kids on a flatbed truck, I remember, and they threw something off into this bonfire, and it would explode. Well, I later learned it was cherry bombs, and firecrackers, and stuff of that nature. Well, that parade went on until late into the night, and we got up early the next day and washed the car and decorated with a bunting because there was going to be a big parade in town. I remember daddy had m -- everybody else got in the car, and he had me stay outside the car and tie the bunting, and then had me climb in through the rear window. When they wanted to get out, I had to climb out the rear window and untie the bunting. But the parade went all over town and ended at the west side of the courthouse, which was filled with people all three sides of it. They had quite a celebration there commemorating the end of the war. I remember Reverend Freche from the Lutheran Church spoke at that time, and he was of German descent. There were two big decorative lights on the west side

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of the courthouse, and they had an effigy of Tojo hung from one of those. It was just a big celebration for a couple of days because the rationing was over, the war was over, the

men would be coming home, and we were back to peace.

Of course, in that time frame there too I remember the death of President Roosevelt in April of '45. My sister and I were in our grandparents' front yard up on North Main Street where my sister lives now, and there were several of her friends standing around, and were talking about the death of Roosevelt. Of course, that's when Harry Truman became President.

After my Grandmother Warren died in 1947 we moved from the south end of town up to the north end of the town to live with my grandfather because my aunt who had been staying with him for awhile and her son had to go back to Chicago where they lived. So, we moved in with my grandfather, and I changed schools at that point from the South Ward to the North Ward. North Ward School was just four grades, one through four. South Ward was all eight. I was really glad to move because I had a third grade teacher, and she didn't appreciate me talking all of the time. So, I didn't get recess too often, and sometimes I would have to stay after school as punishment for talking during class. So, when we moved up to the north end of town, I got a new third grade teacher, who was just great, and she didn't mind my talking. So, I finished the first four grades at that school, and then went back to South Ward in the fifth grade. We lived with my grandfather for about a year and a half, all of '48 and about half of '49. My aunt divorced, and when she left Chicago and came back here, and she moved in with my grandfather, and we moved into another house about a block south of him, and that's where I lived all of the rest of the grade school and high school years.

LAW: Okay. Just want to hit on school one more time. Any important teachers or important early classes?

LINCOLN: Oh, in '52 I became interested in politics, the '52 presidential election.

LAW: Why?

LINCOLN: I don't know. I guess--well, two friends of mine and I were somehow--after school was out in the afternoon and like I said there wasn't much organized activities then. One friend his dad was County Superintendent of Schools and had an office in the courthouse. So, we got to go up to the courthouse after school, and visiting different offices. And one of my friend's father was a photographer. So, my friend had cameras, and flash bulbs, and all that sort of thing, and we got to go into court after school at the courthouse. They let us go in the courtrooms and watch court. This was sixth, seventh, and eighth grade. That just all lead into an interest in politics and history. I remember in the seventh grade we got a new encyclopedia. I don't remember, what was the publisher; but this one friend of mine and I found an error in the history part of it about the presidents. And our teacher pointed that out to the encyclopedia company, and they corrected it. But we just had an interest in government, history, politics, that sort of stuff. Of course, the '52 campaign was really the last good presidential campaign because both conventions, I listened to them on the radio, they both were in Chicago. And the Republican was first, where Eisenhower was nominated. I really preferred Taft. Don't ask me why, but I just liked Taft. Then the Democrat one followed, and of course, Governor Adlai Stevenson was nominated for presidency there. But you had several candidates in each party running for the position. So, you had several ballots before each of them got a candidate, and it was just fun. There were a lot of local political activities going on. Each of the parties had a campaign headquarters. You could go in and get all sorts of campaign literature and buttons. I have got, still have a political

button collection upstairs.

LAW: Was your family at all involved in politics?

LINCOLN: Well, I said my grandfather served a term as mayor. My dad was on the school board, and that was about the extent of their political involvement because they didn't think they should be too partisan one way or the other because they were in business.

LAW: Okay.

LINCOLN: So, they usually kept a low profile on anything that was connected with either party. They always voted. I don't know how they voted, but they always voted. My dad served a term or two during World War II as Clerk of the County Board of Review, which was a summertime job because during the war there was not that much going on in the automobile business except selling parts to keep the old cars going.

LAW: Any other extracurricular activities we should take note of?

LINCOLN: In high school?

LAW: As a youngster.

LINCOLN: Oh, as a youngster. I said there wasn't much organized. There was Cub Scouts, of course, and I was in Cub Scouts. I went through that into Boy Scouts. Summertime we would take swimming lessons. I remember one winter we went up to one of the Champaign schools and took swimming lessons up there on Saturday mornings inside. Mostly you did your, you created your own activities. Of course, you started, I started music down in the grade school, I think in the fifth grade. That continued through graduating from college.

LAW: Were you playing an instrument?

LINCOLN: Uh-huh.

LAW: What were you playing?

LINCOLN: My sister played saxophone, and my folks didn't think that they needed to buy another instrument, so I inherited her saxophone.

LAW: Okay.

LINCOLN: Which she got back from my family about a year or two ago, and she gave to a friend's grandson up to Champaign who couldn't afford an instrument, but my daughters played that one. That's where I started on that saxophone, and then about the eighth grade I think it was I had saved money from my paper route because in those days you delivered papers door to door -

LAW: Uh-huh.

LINCOLN: --to buy a new saxophone. I think it cost \$150 that I had saved to do that. One of my grandsons has now taken up saxophone and uses it, and it cost more to have it replated than it did when it was brand-new by a great deal. But I played saxophone all through college.

LAW: So, what kind of music then were you listening to then?

LINCOLN: Listening to?

LAW: Yes, jazz or rock and roll?

LINCOLN: Rock and roll really didn't come in--see, we got Elvis Presley about my last two years of high school. One of my classmates did a real good imitation of Elvis Presley. There was a lot of band music. There were the big bands like Tommy Dorsey and Jimmy Dorsey, those types of bands. We used to have every four years what they called a homecoming here, which was like a city fair. And they always had these big dance bands come in, a different one every night for four nights. There was a county fair down

in Arthur. They did the same thing down there. So, you get a date, and go to those dances. There were always high school dances. It was mainly big band music like after, during and after World War II. The rock and roll came in the latter years of my high school career.

LAW: So, rock and roll did make its way to Tuscola?

LINCOLN: Oh, yes, very definitely. We knew of Elvis Presley. We weren't totally hicks out here in the country.

LAW: Did you go see the movie *Blackboard Jungle*?<sup>3</sup>

LINCOLN: That's not familiar, no.

LAW: Okay, okay, or Bill Haley -

LINCOLN: We had--I saw Bill Haley and the Comets at the Chicago Theater. My dad, and myself, and my cousin were up there. I think we had gone up to a Chicago Bears game, and we also went to the Chicago Theater and saw Bill Haley and the Comets, and I can't remember what the movie was, but Bill Haley and the Comets were in combination with the movie at the Chicago Theater.

LAW: Well, this is a good time then, I guess, to talk about how your life changed when you became a teenager. So, when you think back on being a teenager, what comes to mind?

LINCOLN: Oh, gee, a lot of things we can't talk about because even in small towns you did things you weren't supposed to do, and you didn't let your parents know about. I remember that very well after our oldest son graduated from high school and his friends in the next year put in the newspaper some of their remembrances. We didn't know what was going on at night on our front porch after we went to bed, and that was that way

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<sup>3</sup> M.G.M., 1955.

with my parents too. We became mobile about our junior year in high school with cars.

LAW: Okay.

LINCOLN: Up until then you had to bum a ride with some older friend, or you had to walk, or ride a bicycle, and of course, when you got in high school it was sort of demeaning to be riding a bicycle. And the way high school was situated here at that time most people walked to school. Some of the country kids had cars that they drove to school in, or they rode the busses, but the town kids, the majority of us, walked to high school because it was right in the center of the town in those days.

LAW: So, with your dad being an automobile salesman did that, did you end up getting a decent car?

LINCOLN: Oh, yes, I had cars.

LAW: How did that work out?

LINCOLN: Well, I started driving before I had a license.

LAW: Okay.

LINCOLN: We had a wrecker, and I think it was a '38 Chevrolet, and my dad taught me how to drive that. It was four on the floor, and I learned to drive that so I could go out to my uncle's farm and work on the farm in the summertime because he had a Chevrolet truck like that, and so I would know how to drive the tractors and those sorts of things. Well, my grandfather and my dad had the dealership here, but they also had a dealership in Arcola, which is seven miles south. Well, we would shuffle cars back and forth between those two dealerships, ones that they owned or new ones and also customers' cars because the auto body part was at the dealership in Arcola with repairs and just repairs in Tuscola. I remember the first time I ever shuffled a car from Arcola back to Tuscola I was down

there with my grandfather, and he always had Buick Roadmasters, which is a big car. He told me to get in this customer's car and drive it back to Tuscola--I didn't have a driver's license--because if I wrecked it, it was not as valuable as his car. So, from that point on my cousin and myself would shuffle cars back and forth between the two dealerships on the country road. Fortunately we never got caught. But we began, I began working in the car dealership when I was in the sixth grade.

LAW: Okay.

LINCOLN: Every Saturday you washed the windows inside and out. You dusted off all of the cars. You swept out the dealership. You cleaned it up, and then later on graduated into washing cars. I think I even--when I was in high school later years, I think I even sold a car or two.

LAW: Okay.

LINCOLN: And then my senior year my dad was badly hurt in an automobile accident, and was laid up for months unconscious, and during that time I did all of the notary work in the garage. In those days people would come in to renew their auto license on their cars. So, we did that. I did all of that paperwork because my dad was laid up either in the hospital or at home.

LAW: You also mentioned earlier that you delivered newspapers. Was that a local paper?

LINCOLN: No. We had three dailies delivered here. We had the *Champaign News Gazette*, the *Urbana Courier*, the *Decatur Herald*, the *Decatur Review*. There was four plus there was the *Chicago Daily News*.

LAW: Okay.

LINCOLN: I started out delivering the *Urbana Courier*. Then after that I delivered the *News*



*Gazette*, and you would deliver those seven days a week on a bicycle. They were both evening papers, which you could do after school, and then on Saturday you went around and you collected from everybody. Then you had to go to the bank, and get a bank money order, and send that into either like Decatur, or Urbana, or Champaign to the newspapers to pay for your newspapers for that week, and what excess you had you got to keep.

LAW: Okay. Influential teachers, memorable classes while in high school?

LINCOLN: In high school, well there were several. I suppose you would say the memorable teachers I had were in history,

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civics which was government, and foreign language, bookkeeping, and English. The lady who taught history was a graduate of Ohio Wesleyan at Delaware, Ohio; and the lady who taught civics was a graduate of DePauw University in Greencastle, Indiana. They each wanted me to go to their schools. Well, in the summer of '56 we visited Ohio Wesleyan. Well, then in November my dad had the car accident I mentioned, and so we didn't get to visit any other schools. And it was getting up into March, and I hadn't even applied anywhere. So, I contacted DePauw and applied there, and told them I hadn't taken the ACT or any test like that, and they said well just let us see what your grades are, and then we will decide whether you need to take one of them or not. Well, they were satisfied with my grades so I got admitted to DePauw, and had never been there before that, and went over there during the summer one time when there was no school in session, and that's where I ended up that fall.

In my day there were no guidance counselors. So, you relied on the teacher to give you some indications of what schools you might like to go to. I had two really

great English teachers my junior and senior years. I don't know whether the senior teacher is still living or not. She left here a few years after I graduated. The lady I had for my junior year is still in California, and when I was still on the bench she made arrangements one day, she was back here visiting her family in Arcola, with my court reporter to come to visit at the office. And I didn't know she was coming, and here she showed up, and I hadn't seen her in years.

Then I had a very good bookkeeping teacher, who we coffee'd with about every morning. She is about the only one who is still alive that I know of, she and the lady in California.

We had a great band instructor, who was a big influence too. Well, I can't think --most of the teachers we had were good. I can think of one or two English teachers who were somewhat weak. One of them had a way of crying, and of course, when the students found out they could make her cry, it was not very nice for her the rest of the time.

We had a great principal our last two years in high school, and he was a fine guy. I remember one time my friend and another guy got kicked out of physics class, and the teacher took us over to the principal, who was teaching the math class, and he sent us to the band office, and he came in and he said now, you boys get off that guy's back, meaning the teacher that kicked us out, we know we have got a problem with him. We are going to take care of it, and we don't need your help. That ended our discipline. But really we did not have any bad teachers or coaches.

LAW: Extracurricular activities in high school?

LINCOLN: Oh, of course, music all of the time, band. Senior year I ended up as a student

director, but we always participated in solo and ensemble contests. I had no athletic ability and not the physical stamina; so it was music, drama, debate.

LAW: What were you debating?

LINCOLN: Oh, we debated amongst ourselves. We had a debate club, and it was quite social too because we would sell candy at noon and make a lot of money, and then we would treat ourselves by taking all of the debate club members and the teacher to a very nice restaurants in Champaign at the end of the year. And I don't remember the topics we debated, but they were interesting. We had a good time. It was fun.

Just typical things you do in high school, and I didn't really think about academics all that much, and we had National Honor Society, but you never heard anything about it until your last day of school your senior year. The way they did it in those days they had honors day, which was in the morning, you graduated that evening. They announced who the National Honor Society members were. Well, there were four of us guys, and I don't know how many girls, and that's how we got into the National Honor Society. The Daughters of the American Revolution and Sons of American Revolution gave a Good Citizens Award to seniors, and I received the SAR award my senior year. That's by faculty and classmate votes.

LAW: These are also the early years of the Cold War.

LINCOLN: Yes.

LAW: Did the Cold War impact your life at all?

LINCOLN: I just remember in high school we had a big television set that one of the merchants had given the school, and that was during the McCarthy hearings.

LAW: Okay.

LINCOLN: And in history class we watched a lot of the McCarthy hearings with McCarthy, and I have to think of that lawyer's name he had, and then Joseph Welch, who was the Army lawyer -

LAW: Right.

LINCOLN: --and all that going on with McCarthy.<sup>4</sup> Of course, our history teacher was an ultra Republican, and she liked boys. She had one son whose name was Bill. If your name was Bill and you were a Republican, you had it made. And she really toted towards the boys in class and with grades. It was quite apparent at times. I never got anything as a final grade but an A from her because my aunt had gone with this teacher's son when they were in high school. She had my aunt had had my parents as students, and she had my sister as a student. My sister had been in the debate club. So, it was like almost a hereditary society.

In those days also--this is getting away from the Cold War--we had DeMolay for boys and Rainbow for girls, which were Masonic and Eastern Star sponsored youth groups. That provided a lot of social and athletic activities for the boys or girls who participated in each of those groups. We always had annually, the DeMolay would put on a big sweetheart ball, one of the girls would be crowned as DeMolay sweetheart. The guys wore tuxes, and it was quite an elaborate affair.

But the Cold War, the most I remember about that was atomic testing. I hadn't thought of this for quite awhile. Also got into writing letters on atomic testing to like the United States Senators and the United States Representatives. See, that would have been Paul Douglas and Everett McKinley Dirksen were the Senators, and William Springer

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<sup>4</sup> Roy Cohn.

whose chair I now sit in was our United States Representative. I get letters back from them answering--I don't know if they knew I was in grade school and high school or not. But I would get letters back from them in response to what I had written them.

Eisenhower had his first heart attack when I was in high school. I remember I could drive, and they had a centennial up in Bement, Illinois. And Dirksen was the speaker up there, and a friend of mine and I went up there to hear him talk, and they asked for public questions. Here I was a high school kid getting up and asking a United States Senator what he thought would be the impact of Eisenhower's heart attack on the political future of the United States. Well, I got written up in the *News Gazette* about doing that. You know, it was, the Cold War was there. You knew it was there. I remember being on a hayride after I graduated from high school back here one weekend, and I looked up and there was Sputnik. That was our first experience with satellites. Of course, then we caught up with that.

LAW: I just wanted to follow-up and ask what did you think of the McCarthy hearings?

LINCOLN: I was fascinated by them because I guess from the time I was in grade school I was interested in the law and really began to think about becoming a lawyer. So, I enjoyed watching those because of the give and take between the senators, and the witnesses, and the lawyers who were involved. Most kids they probably wouldn't have liked it. I found it to be exciting.

LAW: What were your thoughts at the time about the Soviet Union and communism?

LINCOLN: Well, really we didn't know too much about it except what we would hear on the radio, and after that television because I remember when we saw our first television was I think when Eisenhower was inaugurated the first time we were in the eighth grade,

and one of the kid's parents had a TV set, and the grade school teacher took us all to their house to watch part of the inauguration of Eisenhower. So, until we got television we didn't really have too much involvement with that, but TV changed all of that. You sat in the dark and watched TV.

LAW: I am curious, did Eisenhower bring you over eventually from Taft?

LINCOLN: Oh, I don't know if it ever fully occurred because George Nichols, who I went into law practice with later on, had a personally autographed picture of Taft hanging in his office because Mr. Nichols had been a Taft delegate to the 1952 convention and would recount how Everett Dirksen, who was United States Senator, stood up in the Illinois delegation and shook his finger at Tom Dewey and said, "You've led us down the road to defeat twice, do not lead us again." So, you know, I suppose I always liked Taft. But Eisenhower turned out okay.

LAW: Okay.

LINCOLN: But I didn't like the fact that he beat Governor Stevenson twice because Stevenson was from Illinois, and we hadn't had a President from Illinois since Ulysses Grant.

LAW: Okay. So, you talked a little bit about DePauw University. Let's talk about it a little bit more. So, I guess I should just say why DePauw University?

LINCOLN: Well, I didn't want to stay local at either University of Illinois or Eastern, and of course, in those days Eastern was primarily a teachers college. I really didn't know how good DePauw was when I applied there and I went there. I didn't learn that until after I was already there for awhile. But it has always had a very good academic standing. It has always had good history and political science departments, and I majored in history. And

why, well it was eighty-five miles away for one thing, and I didn't want to be with people that I had been with in high school all of the time. This one teacher in high school was my civics teacher, that's where she graduated, and that gave me an interest to it. So, that's where I went. I found out after I was there it was a Methodist college, and we were Methodists. Well, I didn't realize when I went there they had a strict prohibition on alcohol possession or consumption. You couldn't have cars except for two weeks at the beginning of the year and two weeks at the end of the year to move in and move out. If you were caught drinking or possessing alcohol, in those days you were expelled. So, and you had to walk everywhere. If you wanted to go to Indianapolis or Terre Haute, you had to take the bus. So, everything was gauged to be on campus.

LAW: So, I take it then were you living in a dorm or renting a room?

LINCOLN: No, I was in a dorm for four years.

LAW: Okay. How did Greencastle compare to Tuscola?

LINCOLN: About the same size, it was the county seat, county seat of Putnam County. The towns were similar in size, although I think Greencastle probably was a little bit larger, two or three thousand larger, both rural, had a farming influence in both of them. You felt totally safe of walking anywhere in Greencastle at any time of the day or night. Of course, in those days all of the drug problem that we have today was totally unheard of. You knew there was some alcohol being drunk, but it was not a big problem. It was just a very nice community to go to college in.

LAW: Were you working?

LINCOLN: No. I worked in the summer when I was back here on summer break. One year I went to summer school. I couldn't find a job. I think that was between the freshman

and sophomore years, and the junior year up through law school on vacations or holidays I worked at the Tuscola National Bank

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in bookkeeping and also as a bank teller. I about abandoned the law to go into banking, but I am glad I didn't.

LAW: Now, while you were in college there would have been the first presidential election that you would have been able to vote in.

LINCOLN: 1960, Kennedy and Nixon.

LAW: Any memories of that presidential election?

LINCOLN: Oh, yes, I remember that well. One of the girls in my class was from the east, and her family had a cottage at Hyannis Port near the Kennedys. She was well acquainted with the Kennedys. Her father was some high up corporate official, I think maybe general counsel or something like that. I remember her name, but that doesn't matter. But anyway she told about Kennedy's philandering in those days. It was well-known in the east. He was married to Jackie at that time. That was the first presidential election that I voted in--I think it was the first election I voted in. At that time my dad was working as a Deputy County Treasurer, and he made arrangements with the County Clerk for me to register to vote and to vote on a Sunday when I was home before the election. The first time I voted was in the living room of the County Clerk on a Sunday morning a couple blocks north of here.

LAW: I am curious, did you listen to or watch the debates?

LINCOLN: Yes, we watched them.

LAW: You watched them?



LINCOLN: We had one television in the dormitory, and that was in the like living room because the individual students, of course, didn't have televisions. We were lucky if we had a portable radio. I don't mean to make this sound that we were tough, but it just wasn't done like it is today. But we would watch the debates between Nixon and Kennedy. Who did I vote for, Nixon.

LAW: Influential or important classes in college?

LINCOLN: Well, history classes, that was my major. I had one history teacher, his name was Andrew Crandall. He taught American history. I primarily majored in him, in history. I can still--he was a great teacher. He would take three nights and without any notes he would fight the Battle of Gettysburg, and draw all of it up on the chalkboard in a lecture hall, all of the troop movements. It was fantastic what he could do and what he remembered. I just finished reading a book recently on the 1896 presidential election of William McKinley, and they were talking about the tariff all of the time in that. I always remember Professor Crandall always had all these jingles. One of them was, "If you monkey with a tariff you caused hard times." Well, I thought of that in reading that book about McKinley because McKinley did a lot of work with the tariff. Professor Crandall was just a great person and a great teacher.

In political science had some really good teachers there also. One of them was Dr. Early, Stephen J. Early, Jr., Stephen T. Early, Jr., and his father had been press secretary for President Roosevelt all of Roosevelt's four terms as President. So, in Professor Early's office he had all of these pictures of his dad and President Roosevelt. Well, he had been in the center in his youth of things in Washington, D.C. because of his father. Well, you know, you just don't get that type of person at every college. There were a lot of teachers

like that at DePauw. They didn't broadcast it, but you just learned to know it. Of course, we had pre-law there also, which was in the political science department. I stayed away from math and science as far as I could because I was never good in either one of them.

LAW: Any extracurricular activities in college we need to take note of?

LINCOLN: I was in band all four years, marching and concert. My freshman year for graduation and every year thereafter the concert band always played for graduation. Well, my first year was quite special because the graduation speaker was Harold Macmillan, who at that time was Prime Minister of Great Britain. So, we had to learn to play "God Save The Queen," which we have an American song very similar except the beat to "God Save The Queen" is entirely different than the way we play it in America. So, we had to learn to play it the English way for Prime Minister Macmillan. Then two years later John Diefenbaker, who at that time was the Prime Minister of Canada, was the graduation speaker. So, you get exposure to really high class people in college. I remember John Gielgud was there, and he stayed in our dorm the night he put on a program, and came out and just sat around in the living area talking with the guys. So, Vincent Price was there. There is a lot of really, people of quite well renown came there to put on programs. I remember that very well. Of course, we took tours on the band, and my freshman year we were on a tour, and we happened to come back to Tuscola to play a concert. Well, that had been arranged a year before I went there, but my mother didn't tell me in case I didn't make band at DePauw. We played in Indianapolis at the Butler Bowl for that football game. There is all sorts of activities. We started a Civil War Club because that was the hundredth anniversary of the Civil War, and I was General of the Civil War Club.

Then we had freshman orientation. The Director of Admissions selected certain upper classmen to be mentors for the incoming freshman. And you had a freshman group, and you were paired with a girl, upper class girl too, and you monitored those kids through rush and also for the first few weeks of college. And then the second year there were about six of us who had been selected from the prior staff to train the new staff. There were a lot of activities like that that you could participate in.

LAW: I am curious, you may not remember, but I am curious, what was the view of the Civil War at that time? Why it had occurred?

LINCOLN: Well, Professor Crandall was our advisor, and of course, American history was his specialty. Why it occurred, well of course, it was all over slavery. Then, of course, it became to preserve the Union, and one of you fellows commented on this picture back here of Lincoln's first reading of the Emancipation Proclamation, and that all tied in together. At semester break our senior year Professor Crandall was going to take us to Atlanta to tour the Civil War battle sites of Atlanta, and to meet with Wilbur Kurtz, who was the historical editor for the *Atlanta Constitution* and who had been the historical advisor for *Gone with the Wind*. Well, years later I came to learn that Wilbur Kurtz was originally from Douglas County, which is where we are now, and was a great uncle of the guy who ended up being my investigator when I was State's Attorney and was my courthouse security officer when I was judge. So, you got exposure to a lot of really good things in college.

LAW: How would you describe your political and social outlook at this time?

LINCOLN: You mean today?

LAW: As a young person.

LINCOLN: As a young person, conservative Republican. There was, at times there was some Democrat leanings because of Adlai Stevenson having him as a Presidential candidate and he was Governor of Illinois, but those passed after 1956.

LAW: Were you from a Republican or a Democratic family?

LINCOLN: My family?

LAW: Yes.

LINCOLN: I was never sure. Because like I say, they did not participate or talk politics. Now, I had an aunt and uncle who were very Republican, active. I had an uncle, this was on my dad's side, who was a Democrat, and when I ran for State's Attorney he didn't know if he could come in the Republican primary to vote for me, but since I didn't have any opposition it was all right he just didn't vote. My other aunt on my dad's side was, of course, Republican; and I always kind of thought my grandfather Lincoln and I knew my grandfather Warren were really Democrats because of their backgrounds. I mean it might seem an anomaly to say that a Lincoln was a Democrat, but I am pretty sure that my grandfather Lincoln was.

LAW: As a young person at this time did you have a conception of being part of a particular generation?

LINCOLN: Not really, no. We were just there generally having a good time.

LAW: But how was your generation similar or different to your parents?

LINCOLN: Oh, we had a lot more freedom and a lot more opportunity to do more things than our parents did. We had automobiles, and our parents didn't. I remember my dad saying that when he and my mother went on their honeymoon, they borrowed my grandfather Lincoln's car. I am not sure if they had a car of their own and just drove used cars from

the dealership. Whereas we had cars available to us. We had more money than they did to spend. We were much more mobile than they were. In high school we would go to Champaign, go to the movie, just to go out and walk around. Of course, in those days there was no malls. So, you couldn't go to the mall, but there were several movies, and you would go to the movies up there.

LAW: Now, I know this is while you were in law school, but I wanted to cover these, any memories of, first the Cuban missile crisis?

LINCOLN: I remember that well on television was Sunday night when Kennedy delivered that address. I came home for Sunday dinner from law school, and stayed to watch that on Sunday evening, then went back to law school because it was just twenty miles away.

LAW: What about President Kennedy's assassination?

LINCOLN: I was a senior in law school when that occurred, and I had an interview, it was a Friday, had an interview with the First National Bank of Chicago for a job, and he was shot before I went into the interview, and by the time I came out he was dead. Of course, everything shut down on campus. Illinois was to play Michigan State football that Saturday. I can't remember whether that was in Champaign or up to East Lansing, but that game was postponed. That weekend I spent typing a term paper for estate planning, and all of the time had the radio on listening to the news about Kennedy's death, and the funeral plans, and those proceedings because it took all weekend to type that paper that was due the next week.

LAW: Do you remember any kind of community gatherings?

LINCOLN: No, because I was in law school, and I was tied in with that paper that week so, or that weekend rather. So, I really don't know about community gatherings. I am sure there

were, but I didn't participate in those.

LAW: Now, I know you said that you were a Republican, but what were your thoughts about President Kennedy?

LINCOLN: Well, he was new. He was young. He was fresh. He had given America a new breath of freedom. Jackie had redone the White House, had brought a lot of class and life to the White House. I didn't know about the pros and cons of his policies because those really didn't interest me that much at that time. But everything was new up until --with Eisenhower that was old. That was a different generation. When Kennedy came in, everything was new and fresh. It was all a new group of people who had new ideas like the Peace Corps and those things.

LAW: How do you think his death impacted the country?

LINCOLN: Oh, well, I think it woke the country up that we were not isolated. We were subject to the rest of the world, and we were not off to ourselves, and could not depend on our security for being away from Europe and Asia.

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LAW: What are your earliest memories of the Vietnam War?

LINCOLN: I just remember all through college and law school I had a student deferment until I got out of law school. I think I was twenty-six plus when I got out of law school, and had to go with all these teenage guys for pre-induction physical, but they decided I was too old. Of course, it started out on such a small scale and kept expanding up until the Ford administration when it finally was ended. It seemed frankly like a terrible waste at the time, and the ways the guys were treated when they came home from that war was terrible.

LAW: You just mentioned briefly the draft. What were your thoughts upon the draft, and how did it function in your area?

LINCOLN: Well, of course, when you were eighteen, you had to register for the draft. Our registration at that time was at the courthouse, and the office was the jury room that I later used as my jury room when I was a judge. And when you were eighteen, you went up there to register, and you got a classification, and then when you got out of high school you had to apply for a student deferment, and you went in every year to do that, and sometimes you went in more than once a year to check your status as to where you were on the list in case your classification would change. That lasted all through law school. Then when I got out, I lost my student deferment, and that's when I got called for a pre-induction physical. And the lady who was the Clerk in the Board Review happened to be a distant cousin, and so she put me in charge of these teenage guys getting them on the train to go to Chicago, getting them fed while we were in Chicago, getting them to the induction center, pre-induction center, and then getting them back to Tuscola. They were all like eighteen, nineteen year old kids. I was late twenties, and I think there was one guy we stopped the train at Pesotum, and picked him up. He was a male nurse, and he and I were the old guys on that group. But after I took the induction physical I never heard from them further.

LAW: So, why did you decide to study law?

LINCOLN: The interest in politics and history.

LAW: Okay. You saw those as being connected?

LINCOLN: Yes, and I liked what appeared to be the life of a lawyer as I observed it in those days. That's what I thought I wanted to do. From having gone to court and watched it in

grade school and high school that interested me. I don't think you are really a lawyer if you don't do court work.

LAW: Why the U of I?

LINCOLN: Well, I was accepted to three different law schools, and DePauw was a private school, and their law school they closed years before that. I got in-state tuition at the University of Illinois. I was accepted at Indiana University and also Valparaiso University. Indiana would have been out-of-state tuition. Valparaiso would have been private. So, it was a matter of economics. It was less expensive, and my folks had paid for four years at a private college. My dad had gotten hurt. So, he didn't work much after that.

LAW: What was their response to your decision?

LINCOLN: Anything was fine. They didn't say no. My dad had wanted to go to college. He wanted to be an architect, and of course, this was in the 20s. He got to go one semester, I think. He waited tables for his meals, and he lived with a distant cousin and shoveled her snow and stoked her furnace, and his folks couldn't give him any financial help, and he just couldn't make it so he had to quit. So, he would have paid for me to have gone to college as long as I wanted to go or wherever it was because he wanted to go, he couldn't. My mother went to a teacher's college in Indianapolis for two years. It was called Madam Blaker's School For Fine Young Ladies. Later it was absorbed by Butler University. That's where my mother got her teaching certification. But Illinois was cheaper than DePauw even in those days going to professional school.

LAW: Okay, I kind of want to get a sense of the U of I Law School. I guess the first question is what was the make-up of your class in terms of race, ethnicity, gender, and age?



LINCOLN: Gender was very easy. There were three girls in my law school class. That was it.

There might have been--including those three there may have been four or five in the law school. I remember going back since then--in my days the ladies rest-room was in the basement. The men's was on the first floor. Now the ladies are up on the first floor. I never really felt that the ladies were all that welcome in law school in those days.

Although some of them were very good students. Most of the guys were somewhat similar. There were three of us in my class who were from DePauw. Gee, I am trying to think about the race. I don't think we had a black person in my class. There may be one or two black fellows in the law school, but primarily it was all Caucasian, males.

LAW: Younger people?

LINCOLN: Yes, we were all about the same age. There were a very, very few who were older. I think of one couple, a Jim and Pat, they were married, both attended law school. He was somewhat older than the rest of us, but on the whole we were primarily early twenties, white males. There were no female teachers. There were no black teachers. I don't know how else to describe what the composition of the class was. At times the class membership felt like dead flies because people who had been very good students in undergraduate came and after being there a few weeks or a few months decided they didn't like it, and so they left. It was always rumored that they intended to get rid of so many people out of each class.

LAW: How big was it in terms of numbers?

LINCOLN: It is hard to remember, maybe 150, 100 to 150, not all that many actually. It shrunk drastically at the end, by the end of the first year.

LAW: If I asked you: what was the nature of your law school education, what would you say?

LINCOLN: I felt it was pure hell.

LAW: But how did they teach you the law?

LINCOLN: Socratic, you had a textbook. You studied cases, of different types. You discussed those cases and the rulings. They really were not so much after a right answer as they wanted to see your ability to formulate an answer and how, what your reasoning was, especially in the early class. Now, later on when you got to your third year, especially like in tax courses, there were right answers, and there were wrong answers. But you only had one exam a semester. That's what your whole grade was based on. It would last three to four hours. If you blew that, you were just out of luck because there was no classroom participation that counted into a grade. I remember in con. law one time the professor was also the dean called on a friend of mine and asked him, "Mr. So and So, what about segregation on golf courses?" And my friend who was a real wiseacre he said, "Well, what about it?" Well, my friend didn't come back the second year because he didn't work hard enough at it. He had the ability, but not the desire or the drive.

LAW: Now, would the dean at that time, would that have been [John] Cribbet or [Russell] Sullivan?

LINCOLN: Sullivan, Russell Sullivan.<sup>5</sup>

LAW: Do you have any memories of him?

LINCOLN: Oh, yes, very definitely. He taught con. law. That's constitutional law.

LAW: Okay.

LINCOLN: The student body for a number of years had had a nickname for him, which you didn't use.

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<sup>5</sup> Russell N. Sullivan was Dean of the Law School from 1957-1967.

LAW: Okay.

LINCOLN: His secretary, Marian Martin, had been a girlhood friend of my mother. So, I knew her pretty well, not real personal, but she and my mother both had grown up in Arthur. It was always said that Miss Martin really ran the law school, not the Dean, and I think Miss Martin did run the law school. Because when she retired and they had a big banquet for her, and all these former law students turned out for her.

LAW: We have heard that name several times.

LINCOLN: Yes, she was really something. She was a maiden lady, and she had a maiden sister Mildred, who was an English professor at Bucknell University at Lewisburg, Pennsylvania. They both were very, very smart ladies. I knew of Marian, of course, because of three years of law school. Anybody from my era of Illinois Law School would know very much about Miss Martin.

LAW: Important, influential, professors or classes?

LINCOLN: Estate and tax. I never dreamed of getting into criminal law. I took criminal law because you had to your freshman year. But I had J. Nelson Young, who taught about all of the tax classes in those years.<sup>6</sup> I majored in him. We had a couple or three estate, estate planning teachers. After the first year unless you--you really didn't get into any specialization in contracts, or criminal law, or general property law. Then of course, your senior year if you wanted to, you could take practice court, and I took practice court. And we had to--we were given like a three sentence problem by the teacher, and we had to make that into a case, and go out in the community and get witnesses, and prep them on their testimony, and ours was on banking. So, we got about two or three bankers up in

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<sup>6</sup> For more on Professor J. Nelson Young, see, *University of Illinois Law Review*, Vol. 1981, No. 3, pgs. 555-566.

Champaign to come to testify at law school. It took a whole Saturday. And they brought in real judges to sit on those practice court cases, and the judge on our case was Judge Rodney Scott from Decatur, who ended up being the presiding judge of the Sixth Circuit where we are in now, and he was my presiding judge when I was judge.<sup>7</sup> He often called me to Decatur to handle cases over there where they had a conflict or needed extra help. So, it was so anomalous because I had had him in practice court as the judge, and then ended up being a judge with him.

LAW: So, Professor Young, estate and tax?

LINCOLN: That was J. Nelson Young was the tax. The estate was Eugene Scoles.<sup>8</sup> I can't remember who taught just wills. Scoles had our senior seminar, but all of the professors were good.

LAW: Did you think there was a particular legal philosophy associated with the school?

LINCOLN: You mean liberal, conservative, or -

LAW: Just however you would define legal philosophy. It could be political philosophy, or it could just be an understanding of how they understood the law.

LINCOLN: Well, of course, everything was taught on the case method, which is Socratic, not textbook, and your exams were all cases. They would give you a problem, and you would have to write on that particular problem. I suppose the philosophy I would say in those days, and I don't know how it is now, but probably tend to be on the conservative side. They were not

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<sup>7</sup> Judge Rodney Scott was elected the County Judge of Moultrie County in 1946, and served in that position until his election as Circuit Judge in 1957. Judge Scott served in that position until his retirement in 1994. From 1975-94, he was the Chief Circuit Judge of the 6<sup>th</sup> Judicial Circuit.

<sup>8</sup> For more on Professor Eugene F. Scoles, see, *University of Illinois Law Review*, Vol. 1989, No. 4, pgs. 829-844.

[01:15]

out to make law, but to teach law and to interpret it. In those days the courts left the making of the law to the legislatures.

LAW: Did the wider world ever impact?

LINCOLN: What one?

LAW: Did the wider world ever impact?

LINCOLN: Oh, the wider world, oh, gee, I don't know. We were in Champaign-Urbana. I can't answer that really. I don't know. There was no feeling about it. The Sputnik era, and the Cold War, and all that I don't think it influenced the law any, that I ever perceived.

LAW: Were you following current events?

LINCOLN: Oh, not very much. There was never much extra time in law school except law school. It was quite a grind really when you get down to it. Because you had to keep up every day because if you didn't keep up every day, you could never get caught up. One friend of mine in law school was not used to keeping up every day, and he could not get caught up to be ready for that one exam during the semester. If you didn't keep up, it was a disaster. So, you would be in class. You would be told how many cases you were going to have to be ready for for the next class session. So, I always typed up all my class notes, and then outlined the cases we were to have for the next class session. So, you spent about every evening in the library until it closed, and then a group might get together on the way home and go to the Thunderbird or somewhere, and everybody would chip in some money and get a pizza and a pitcher of beer, and then you started that all over the next day. You did that about six days a week. I can remember in law school going to, I think, one or two football games, no basketball games. The legal fraternities

would have a dance every once in awhile. Junior bar association would have a beer party every once in awhile, but outside of that there was not all that much socialization. Some of the guys were married. I can't remember any of them having children while they were in law school.

LAW: Did you live in Champaign or Urbana?

LINCOLN: I lived in--all three years I lived in Urbana, 1010 West Green Street, which was a graduate dorm.

LAW: Okay.

LINCOLN: Which was different. I remember Thanksgiving time our freshman year being home on break, and on the news they had found a baby which had been dumped down the garbage chute at that dorm. It was a co-ed dorm. Some girl had had a baby, and disposed of it in the trash chute down to the incinerator. And I think it was that same year a guy went chasing his girlfriend through the lounge, and he was a justice of the peace up there in Champaign-Urbana, and in front of the mailboxes shot her, and killed her, and then killed himself. So, some strange things happened in that place over three years' time.

LAW: Did you have any internships or externships?

LINCOLN: No. As I mentioned on vacations like Thanksgiving, or Christmas, or between semesters in the summer I worked at the Tuscola National Bank. When I interviewed for a job with the First National of Chicago, they were quite surprised that a bank would give a college kid a job, but I got a job offer from the First National.

LAW: Earlier you mentioned your constitutional law class. What were the big constitutional

issues at the time?

LINCOLN: Well, I don't know that you would really say they were issues. Of course, segregation was the biggest one probably because that was the beginning during the Kennedy's administration of desegregation. So, that probably was the biggest constitutional issue. The draft to a certain extent was also. But as for impacting the class they taught you constitutional law, not the issues that were going on in the world at that time.

LAW: Okay.

LINCOLN: Except that one example of segregation of public golf courses.

LAW: If you had to distill it down, what were the principles and legal skills that you were learning?

LINCOLN: To think and to analyze were the big ones. You were not, in those days, you were not taught much that was practical. We had an optional legal writing class and a very nice guy, a practicing lawyer in Champaign who taught it. You got just the rudimentary principles of drawing a contract and writing a will. Practice court was taught by one of the professors, but that was an optional course also. And he gave you like a three or four sentence problem that you had to develop into a case. There were usually three guys on each side of the case, and you made up your facts, and the testimony, and you got your witnesses. Our freshman year, of course you do not get credit on, was moot court, and you had to write a brief on a problem and argue in moot court. Now, in later years when I was a judge I went back and helped at the law school in what they call trial advocacy today, which is taught by Steve Beckett, and is a wonderful course. What we had was nothing compared to what they get today. And the same way with the various moot court

competitions they put on is so much better now than what we got. So, we got next to no practical experience in law school. You were expected to go out and either associate with a law firm, or learn it on your own as a sole practitioner. They didn't teach you. Some people didn't even know where the courthouse was, and never been in one.

LAW: I just wanted to make sure, I wanted to ask one more thing. Were your law classes in Altgeld Hall?

LINCOLN: No, no, we moved to the "new law school." I don't know when that move was made, but all of our classes were out there in the law school by Memorial Stadium.

LAW: Okay.

LINCOLN: I don't know what they had in Altgeld Hall in those days. I was there from '61 to '64.

LAW: Okay. Did you have to take a bar review course or anything?

LINCOLN: Yes. You didn't have to take it. It wasn't mandatory, but you were much better off on practicing the bar if you did. We met at a fraternity house there in Champaign the summer after we graduated. I think we may have started sometime in July or August, and may have lasted about six weeks, and we had it on recordings from one of the bar review courses in Chicago together with their manuals.

LAW: So, after you passed the bar in 1964 what was your first professional position?

LINCOLN: Well, I clerked for Harrison J. ["Budge"] McCown until I passed the bar and got admitted. He was State's Attorney. He was -

LAW: Here in Douglas County?

LINCOLN: Here in Douglas County. He was near the end of his third term, which means he would have been State's Attorney for twelve years. He was wanting to branch out and



develop a private practice. So, we got together one night in the bar of the Inman Hotel up to Champaign. He called me, and we met there, and that's where I decided to go in with him.

LAW: Did you know him before?

LINCOLN: I had met him once or twice when I was in grade school. He was defending the case of *Harrison vs. Gillespie*. In which a young boy, a young Harrison boy had been struck by a car one Sunday evening on the street beside our house. And I had gone out, I don't know what grade I was in, and measured all of the distances of the skid marks and had drawn up diagrams. Well, he found out about it and contacted my dad, and came up and talked to me a couple times before the trial, but I didn't get called as a witness.

LAW: So, would he have been one of the attorneys that you would have seen practicing down at the courthouse?

LINCOLN: Yes, because he was the prosecutor. He was elected the first time in 1952, and was elected for four terms. He always said in '64 if he had an opposition, he would have lost because that was the Goldwater Johnson year, and everybody voted straight tickets for Johnson, and so that took all of the other Democrats with them, but "Budge" didn't have any competition. So, he got elected to that fourth term.

LAW: So, after college, after law school, did your political and social views change in any way? Did your world view change in any way?

LINCOLN: Social and political didn't change. I remember that night "Budge" and I met at the Inman Hotel. There was a big billboard across the street for William J. Scott who was running for Illinois Governor at that time, I think, or Attorney General.<sup>9</sup> He was a

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<sup>9</sup> William J. Scott was defeated in the Republican primary for Governor in 1964 by Charles Percy.

conservative Republican, and we both agreed that's who we thought should be elected.

So, they never really changed over time. At times I've been accused of being almost reactionary.

LAW: When did you meet your wife, Marlene?

LINCOLN: That was August of 1966. Did you want to know where or what circumstance?

LAW: Tell me about meeting her and starting a family.

LINCOLN: Well we didn't start a family right away because we didn't get married right away.

We met at a mutual friend's wedding at Rensselaer, Indiana. My best friend, we started first grade together, married one of Marlene's sorority sisters from Indiana University, and that's where we met was at their wedding. And we, a year or so after that we began dating. I guess we had a few dates that year, and then it was about a year after that then we decided to get married. So, we were married in 1968. She didn't come back from Baltimore, Maryland. After graduating from Indiana she went out there as a librarian at the Pratt Library, and then she worked for the developer of Columbia, Maryland, which was the planned community out there. Then she came back to work at the Decatur Public Library, and she was working there when we were dating and got married.

LAW: You went on to have four children?

LINCOLN: Uh-huh.

LAW: One question I always ask everybody is how did becoming a husband and father affect your work life?

LINCOLN: Well, my family didn't have it all that great. There for a period of time, for eight years really, I had a private practice, and was also conducting the State's Attorney's office, because in those days you could be State's Attorney and also have a private

practice, but you couldn't take any private cases that conflicted with your State's Attorney's duties. So, to do that you worked until 5:00 or 5:30. You would go home for dinner in the evening, and then maybe go back to the office at 8:00 or 8:30 and stay until midnight. That was about five to six days a week. Because if you were in court all day or if you were seeing people all day, you didn't have time to get your paperwork done. So, you did that at night and put it on tape, or rough drafted it, and left it for the secretaries to do the next day when you were in court or seeing people. So, that really went on for about twenty years until I became a judge.

LAW: Then I guess my final question for today will be: so the reason you came back to Tuscola was because of that meeting with "Budge"?

LINCOLN: That's what precipitated it. I had gone different places in the state and interviewed, and had different job offers. I frankly don't think I really intended in college or law school to come back here, but it just happened. It was a good opportunity. He was a very good trial and office lawyer, and I learned about everything I knew from him and Mr. [George E.] Nichols. "Budge" and I were together twenty years,

[01:30]

and I was with George for ten years, the first ten of those twenty. There were three of us together. Whenever you want to, I can go into when we formed the firms and that sort of thing.

LAW: Well, let's stop here, and then we will pick up.

LINCOLN: Okay. Is this what you want, Justin?

LAW: Yes, exactly.

[Total Running Time: 01:30:25]

**END OF INTERVIEW ONE**

## PART TWO

LUPTON: We are doing an oral history, part two, of the oral history with Judge Frank Lincoln.

Today is Monday March 25<sup>th</sup>, 2019. Thank you for meeting with us again.

LINCOLN: You're welcome John.

LUPTON: Okay, so the purpose of the second part is just basically shed light some light on your legal career. The first oral history interview we did with you talked about your life story, your family history. So, now we want to get into a little bit more of your life history as it relates to your legal career and your judicial career. There were a couple of points that I did want to bring up that we saw in your last interview. You had decided to study law because of your interest in politics and in history. What was it, particularly, about politics and history that led you to an interest in the law?

LINCOLN: Well I suppose you could say it all started in 1952 with that presidential campaign between Governor Stevenson of Illinois and General Eisenhower. A friend of mine and I collected all the campaign literature we could possibly find, signs. Just developed an interest in politics, government, the political process, party politics, and that all led into history. And we used to go to the courthouse, three or four of us, after class in grade school and just listen to court and wander around the courthouse and go into the various county offices. In fact, probably we got to be somewhat of a pest. But we'd go up and sit up in the courtroom and watch the lawyers and observe what was going on for an hour or so after school in the afternoon.

LUPTON: Okay. So, how did, you know another thing that was brought up from your earlier interview was practice court in school. How did that, that law school practice court differ from the court you had observed before attending law school, that you were talking about? What were some of these key things from practice court that you learned?

LINCOLN: Well I learned, especially in later years, I hate to say what a poor education we received in practice court, but it really was nothing in comparison to what goes on in practice court now at law school. I think they call it trial advocacy today. And for a long time Steve Beckett, a lawyer in Champaign-Urbana, taught that and really prepared those young people to do real courtroom work and the times I was up there judging I thought they were as good as many lawyers I had in court as a sitting judge. Our practice court we were given a slip of paper with a paragraph about four or five sentences and we had to take that and develop it into a case and go out and get witnesses. Ours was on banking. I remember we go two or three bankers from Champaign to come out to the law school one Saturday and testify on that case. You learn how to put a case together, to try and to develop your factual and do your background investigation and know what to present. Now, how it differed from what I saw in court, we didn't see many actual trials in court when we would go and watch it. It was more routine things of drainage districts, probate, contracts, that sort of cases. There were very few cases that actually went to a jury trial. Most of them that went to jury trial were the criminal type opposed to civil type, 'cause most civil cases settled before they ever get to trial. But there was a certain correlation between the two. But real life was much better, and you learned a lot more than what you got in practice court. At least we did learn how to stand up and across the court and not be afraid of the judge.

LUPTON: Yeah, I'm sure that experience sort of helped you later on. It's a great learning experience, great educational experience.

LINCOLN: Well we were put into two teams of three students each and one of the students, I think on the other team who was a friend of mine, he just didn't want to have anything to do with that type of work whether we got into practice work and he quit the course. So, one team only had two students on it and the other one had three. But you know, a lot of lawyers just don't want to go in the courtroom. I had one young man when I was a sitting judge that he came into the office real early on a probate matter and he said it made him nervous just to drive by the courthouse. You know, to me, a lawyer is to go to court. If you can't go to court, the other lawyers know it, and you can't negotiate or settle. But, some lawyers have an absolute fear of the courtroom.

LUPTON: I find it interesting that you mention that in this practice court the cases didn't really match up quite well with what you were seeing in the real court. Who was assigning or how did the topics come up in practice court?

LINCOLN: The professor who was teaching the course, I think it was Professor Cleary at that time, developed the questions or the issues and then handed that to us and from that point on we got very little guidance. We had to develop it ourselves. So, it was all professor oriented as to where the questions came from.

LUPTON: What year of law school was this?

LINCOLN: Well that would have been in the spring of '64, before I graduated.

LUPTON: This was your third year?

LINCOLN: Yes.

LUPTON: Okay. Alright.

LINCOLN: In the first year, in the first semester we had moot court which is like appellate competition. And seeing what the students got after I was out of law school, there again what they received was much better than what we got.

LUPTON: So then how did your time as – when you practiced law, how did that differ from what your pre-law idea of what a lawyer's role in society was?

LINCOLN: Well, I didn't realize how many hours you put in practicing law. When they say that the law is a "jealous mistress" that's very true. One of my partners and I, usually were back in the office about every night. Usually late Sunday afternoon and Sunday evening. Because, you know, if you're in court you don't have time to get office work done and vice versa. So, you had to do it when there were no distractions, which was in the evening or maybe on the weekends. And when I first started the office was even open on Saturday morning. We did close all day on Sunday, except might go back late Sunday afternoon or Sunday evening to work. I never realized when I decided this is what I wanted to do, that the time requirement was so great.

LUPTON: So, how many hours a week do you think on average you were putting in?

LINCOLN: Well a normal workday is about eight hours. You would probably be twelve, fifteen hours a day. Sunday afternoon from about four o'clock to maybe ten, ten-thirty at night. So, you have to add it up from that. Usually Friday night you took off. But

outside of that it was the office and fortunately I had a good wife who raised four children. And she did it pretty much on her own, I'll have to admit.

LUPTON: So, then you, you obviously practiced in Tuscola.

LINCOLN: Yes. For twenty years.

LUPTON: Were there any differences, like practicing in a small town, small county seat, like you did versus someone practicing in Decatur or Champaign or the larger communities? Was it the same sort of time commitment?

LINCOLN: I don't know for sure because I never practiced in those other communities. But from what I've heard when you first start, yes, it would be a commitment of a similar nature. Except, like in our firm we didn't have associates where we could hand work off to and say get this ready for me by a certain date. We did for a while, until that young man left. But still you had to do a certain amount of supervision so that you were aware what you were going to ask and how you were going to ask it.

LUPTON: Okay. Excellent. So, then you were in private practice from '64...

LINCOLN: To '84.

LUPTON: To '84, okay. Actually, we talked about this in our pre-interview here, but you were in the same law school class as Chief Justice Karmeier?<sup>10</sup>

LINCOLN: That's correct.

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<sup>10</sup> Lloyd A. Karmeier has been on the Illinois Supreme Court since 2004 and is the current Chief Justice.



LUPTON: Have any recollections of him?

LINCOLN: Lloyd was always a very nice guy. Because we got alphabetized in classes, we sat next to each other in some classes. We were both elected to state's attorney at the same time in '68, and went to that convention that fall. But my experience with Lloyd is, I don't know about his legal ability, but, as a person you couldn't ask for a nicer guy to be associated with.

LUPTON: I would agree. So, you mentioned about becoming a state's attorney. Why did you decide to be an assistant state's attorney and what kind of cases did you try?

LINCOLN: Well, part of my understanding was starting an office with Harrison McCown, who's also known as Budge, was that I would become his assistant. He was state's attorney. And he always said that he was elected for sixteen years and served thirteen because the last three I did it all for him. If something came up where he felt he needed to participate in, he did. It was just part of developing a practice of law because in those days while I was assistant and also state's attorney you could have a private practice as well as being the public official as long as your private practice did not conflict in some manner with your state's attorney duties. So, we stayed totally away from any type of marital matters, because many times those would involve some type of a commission of a criminal act by one spouse against the other. But otherwise it was all the simple practice of a wide variety of things. And you also prosecuted at the same time. So, by being prosecuting, you were in court, at least some, about every other day of the week. And in a small county where you didn't have other assistants to hand things off to, you did it all yourself. And we had a part-time secretary for the state's attorney's office who also

worked for us privately. But until my last two years as state's attorney I didn't have an investigator. So, I got that in the last two years. And he took a lot of the preliminary stuff off of me. He was also a deputy sheriff, so he had complete police powers and served process.

LUPTON: So, being from a small town then, just your general law practice, then you were probably also doing things like wills, trusts, things like that; a consummate general practice attorney?

LINCOLN: We represented several financial institutions. And in those days, we did all the title examinations of abstracts. One of our financial institutions did a lot of mortgage loan business in Decatur. And those were the roll-up type of abstracts, where our local ones were nice, neat little books, you could flip the page and they stayed in place. I remember the first probate matter I started on was the husband of a woman that I'd sang in the Methodist church choir when I was in high school. And I'd worked in a bank here, part-time in the summer and on holidays, and I learned customers there that then became clients. So, being in a small county, my family had always been here for a long, long time. So, there were a lot of connections from when they were in business. So, these were people I'd grown up with. I delivered their newspapers. I remember when I was running for judge my wife and I were going door to door and my wife asked this lady to vote for us, "Oh yeah, he was a good paperboy, I will." So, you know, it just carried over like that from one activity, developed into another. And we did a lot of probate work, a lot of banking, a lot of real estate work, some defense. It was a very wide, catholic type of practice.

LUPTON: So then, how and when did you form your law firm with Budge McCown and George Nichols?

LINCOLN: Well, Budge and I started out, I was admitted in November of '64, and we then formed McCown & Lincoln, which lasted until March of '65 when we went together with the firm of Nichols & Jones. Budge had formerly been in the Nichols and Jones firm when he was first out of law school. Mr. Nichols was Budge's uncle. Mr. Jones, for several years had had a serious heart trouble and his health was not good, and Mr. Nichols couldn't handle all the business alone so that's when the three of us went together. Well, Budge and I had offices in a second floor of a bank building here. He stayed there and on March 1<sup>st</sup> I went over to the Nichols & Jones building. And then Mr. Jones passed away in September of that year. As soon as we could do some remodeling, Budge came over and we closed the bank office. So, McCown and Lincoln lasted from November to March 1<sup>st</sup> of '65, and then the new firm started March 1<sup>st</sup> of '65 and lasted until I left in December 1<sup>st</sup> of '85.

LUPTON: How many lawyers were there in Tuscola when you began practicing law?

LINCOLN: Well, it was more like the county. There was twelve to fifteen, I believe, at that time. There was our firm. There was the firm of Lemna & Lee, where there were two lawyers. There were two solo other practitioners in Tuscola. There was a practitioner in Arthur. There were two in Arcola. There was one in Villa Grove. So, it was pretty well, in those days, spread throughout the county. But there were many more lawyers then, than there are today.

LUPTON: What made you want to go into private practice?

LINCOLN: Well, I'd interviewed and had a job offer from a large bank in Chicago in their trust department. I had an offer from a firm in East St. Louis. And then some solo, maybe two practitioners in some small communities.

[15:00]

To me, practicing law was to be in a law office. And where you confer the clients, you went to court a lot, and that's what I liked. I guess there was a ham enough in me that I liked the courtroom work. I always did.

LUPTON: Do you remember your very first case?

LINCOLN: Oh, I sure do. First jury trial? First jury trial I was involved in was a driving recklessly, which is broken down from a DUI. And I remember hunting up the witnesses. There was a state policeman who was involved in it; going to interview him and develop his testimony. And during the course of the trial I brought out that the defendant had been drinking. Of course, with a DUI you would. Well we took a recess and his lawyer then wanted to come up with a plea. So, he plead his client to reckless driving, which didn't carry an automatic revocation of his driver's license. This was a young man. And I remember picking that first jury. Budge McCown sat with me for my first couple of three trials, then he set me lose. I remember the first trial I did entirely alone. It was a great experience, I enjoyed it thoroughly. And Budge had a lot of transcripts of cases which had gone up on appeal, so I went through those transcripts to see how he'd developed questioning. And that was a big help before I developed it all on my own.

LUPTON: Are there some things you wish you had known ahead of time before this first year of practicing law, that might have helped you a little more? Do you feel like your education prepared you well for a law practice?

LINCOLN: Well, I don't know how it is today but in my day in law school they really didn't prepare you much to practice. You learned how to find the law, how to analyze it and apply it. But as for practice, I remember that first semester, that first year, we had moot court, which is like appellate type practice. And some teaching assistant teach those. Then our senior year we had a class in legal writing. You wrote a will and a contract, I think. In retrospect they were not very well done. And then we had practice court. The legal writing and practice court were both electives, so not everyone had to take them. So, outside of that you did not get much practical experience in those days as to how to practice law. You associate with somebody who's gonna teach you how to do that. And those people who went out then on their own, I don't know how they survived because I felt very ill prepared to practice when I started.

LUPTON: Your first partner, Budge McCown, just kind of supervised you with a couple of trials?

LINCOLN: Yeah.

LUPTON: And then when he felt you were comfortable enough to continue on your own then he...

LINCOLN: He turned me lose. And we had a very good secretary. We had one secretary for the two of us. She lives down the street from me. And I tell her, "You taught me how to

dictate.” Because I remember dictating contracts with her, or wills. And she was experienced enough, not only doing her job but doing a lawyer’s job, that should give you some pointers on how to do things. When I was judge she became the clerk of the jury commission. She was a tremendous asset to me.

LUPTON: Any other cases that stand out when you were first practicing as a trial lawyer?

LINCOLN: I remember some probate matters where we had some knock-down, drag-out fights. The lawyers in those days were not afraid to litigate. And we had a good bar here in Douglas County at that time with several lawyers who were very good litigators. And that’s what you did to resolve cases sometimes, you litigated them, you went to court. The guys who were litigators, I don’t mean to throw the women out but we had no women lawyers in the county at that time, we’d go to court and we’d duke it out. And what was hard for some people to understand was we’d get terribly mad and say things about each other in court and walk out in the hall and shake hands and you go on down the road ‘cause there’s gonna be another day. But we weren’t afraid to litigate. I think today, many lawyers are afraid to litigate. They just don’t like the courtroom very well.

LUPTON: Any particular memories you’d like to share from your time as state’s attorney?

LINCOLN: Well I was awfully glad I got out when I did because right after I retired there was a homicide in the county and my successor, who was a nice guy, had never tried a criminal case. He’d been on the defense side of things. And so he asked for some pointers, and I suggested a good lawyer who had been a state’s attorney who had done homicide cases that he might want to hire him as an assistant. I remember we had a peeping Tom case that was very interesting. Had a lot of ramifications to it because it

involved some prominent type people. And we had a jury trial over that and one of the jurors kept going to sleep all the time. And Budge and I both were trying the case and I nudged Budge that this guy, who I won't name, he's asleep again over there. Then the defendant was acquitted, partially I think because of his position. But, sometimes you can introduce evidence of prior bad acts in a criminal case. But we had some prior bad acts, but we couldn't get them in. There was nothing of a great magnitude. I remember the first case I tried entirely alone. The guy's at the county jail, which was across the street when the jury returned their verdict, we had a little party over there that night. You know, trying your own case by yourself the first time, it was about a three-day jury trial, it makes you quite nervous. I was glad when it was over. But after that it becomes very routine. We had a case that involved the outgoing sheriff's son-in-law, where he'd held this knife up to the sheriff's daughter's neck. And it all happened across the street in an apartment house from the courthouse. I remember that case very well because it went up, there were two aspects to it, it went up to the appellate court. The night before the new sheriff was to go into office, the son-in-law broke jail, or maybe the new sheriff had come in, and he hid out in the window wells at the courthouse. He wanted to embarrass his father-in-law. Well, he got shipped off, needless to say. But I always remember that case, because I was arguing one aspect of it in the appellate court about a month before I went out of office. And the Justices found out there was another case involving that same defendant, Justice Craven called that case up from the clerk's office and accelerated the briefs, so I had to do the brief and abstract on it before I went out of office, my last thirty days.<sup>11</sup> Well, that's quite time consuming. Well, my successor hired me to do the

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<sup>11</sup> Justice James C. Craven sat on the Fourth District Appellate Court from 1964 to 1981.

argument in the appellate court. We didn't have any magnitude cases. I was lucky we had no homicides when I was in office. Drugs were not yet a problem then. There was a lot of husband and wife beatings. I had one, the woman would beat him up, he'd beat her up. One time she came to my house on the weekend and she wanted charges filed against him. I said no I won't. She said I'll go see Judge Pate. I said well his house is right up the street here, so many, but if he lets you file a complaint, I'm gonna ask it to be dismissed and if it's not dismissed, I'm not gonna prosecute it. Because they just fought like cats and dogs. It was that type of cases we were contending with. A lot of juvenile cases, both of neglect and delinquency, in those days.

LUPTON: How big was your staff?

LINCOLN: Me.

LUPTON: You didn't have a staff.

LINCOLN: No. I didn't have a staff. When I was assistant, I had no staff. When I was state's attorney, we had this part-time secretary who later became my clerk on my jury commission when I was judge. And the last two years I was state's attorney I had an investigator who also carried the deputy sheriff's commission. So, he had arrest powers and he could serve process. But otherwise, you were it. I did the arraignments, the appellate, the trial work, all the appellate work. Because in those days they didn't have the appellate defender project to take over the state's attorney's cases. So, you had to write the abstract, you had to do the research, you had to write the brief, you had to go over to Springfield and argue it. So, when you were in a small county in those days you did everything. And on top of that the county also was then operating a hospital, so I did



all the collection work for the hospital. In addition, you advised the county board on all their problems. And there was usually a problem from one time to another with the administrators in the hospital. You were the legal advisor to all the county officers. So, fortunately, having had that experience of eight years at state's attorney office I learned a lot of things that helped me later on when I was in private practice and developed quite a large practice in governmental bodies. When I quite in '84 I represented eight of the townships and eight of the highway commissioners out of nine in the county. So, I really learned that from state's attorney work because in those days like the railroads, and the pipelines and some of the corporations would annually file tax objections. So, you either had to litigate those or work them out with the objector's lawyers. So, that way you learned a lot of township, county law. And so that all worked together, later on. But for a staff, there was none.

LUPTON: How did that compare, then, to today? What are state's attorney's like today, that you're aware of?

LINCOLN: Well, until our present state's attorney, the gentleman who followed me as state's attorney did not have an assistant. The guy who came in after him had an assistant and sometimes two assistants in the office. Mrs. Watson, who's the present state's attorney, cut it down to one assistant. Because all the predecessors before she went in had two assistants. And really, they didn't need two. And the way it's developed in recent years with the state police backing off on traffic offenses on the interstates that go through here there's not as much traffic work to have to do. So, the present state's attorney is doing all this county civil work, plus she's doing criminal work and she has an assistant who handles the traffic work. And, of course, she's the legal advisor to all the county officers

on the county board. But they don't have to do any appellate work today, which I think is too bad because if you ever get out of public work and go into private work you're going to have to do appellate work. And the state's attorney's office is a good place to learn appellate work.

LUPTON: So, you were really busy. You had a private practice. You had, obviously, state's attorney. And then you were appointed as the Tuscola city attorney?

LINCOLN: Well that was one of many. Now I didn't have the city attorney when I was state's attorney, or in the state's attorney's office, because there would be a conflict there.

LUPTON: Okay.

LINCOLN: The municipalities, cemeteries, agencies like that came after I was out of office.

LUPTON: Since we were talking about some of the differences here with the state's attorney's and getting assistants. What advice might you give a future state's attorney on what the position is like?

LINCOLN: Well it's a very good stepping-stone for learning the law, learning courtroom work. If you have any aspirations to be in private practice or judicial, it prepares you very well for all of those, if you take advantage of it. I've seen some state's attorneys hire assistants. The state's attorneys then don't darken the courtroom door. They don't consult with many people who have been injured with criminal acts. They're there in the office or they hide out at county board meetings. It's a wonderful stepping-stone to learn the law, to how to apply the law and how to handle yourself in court.

LUPTON: Very good. So, when you became Tuscola city attorney in '73 and you served in that position for six years, so, what memories about this position do you have? That you care to share with us.

LINCOLN: Probably the least pleasant aspect of it was having to go to city council meetings twice a month. Some of those meetings were very boring. Some of them very contentious between the aldermen. Luckily, I served under two, what I considered, good mayors. They did not always have an easy time of things. But both of them really had the community at heart, they wanted to improve the community. My second mayor, Chris Hill, was the youngest mayor in the state of Illinois at that time. He was in his early twenties. And he really put a lot of effort into being a good mayor. But, he developed his business, and the business requires a certain amount of time that conflicted with the time that was required for being mayor. So, he gave up being mayor.

LUPTON: So, did you have cases then, as city attorney? Or were you just a counsel for the city?

LINCOLN: Well, a lot of it primarily was counsel. There were some cases, usually they were the nature of falling down abandoned properties.

[30:00]

People putting their, what we call, junk on the city right-of-way. We had quite a contentious case involving the city dump because there was a junkyard man next to it and he couldn't keep his junk off of our junk. And we were wanting to get him cleaned up. So, my predecessor started that case and had gotten an injunction against him. He

violated the injunction, so we tried that. He was found to be in contempt of court, and he got put in the county jail for a period of time. Well, there was an appeal that came out of that. And so many of these things you were doing on the trial level would develop into an appeal and go on up, and although they were not great law on the trial level, they might make law on the appellate level. So, when you started a case, you didn't know where it was gonna end up. Or, how much work was gonna be involved in it.

LUPTON: So, you mentioned your love of city council meeting. You became an alderman right after that. Explain that.

LINCOLN: Yeah. Well, it was a write-in. A friend of mine whose wife worked for the circuit clerk's office was running for mayor for this district. There was a guy on the ballot. I couldn't say there wasn't anybody. So, I was going through the circuit clerk's office a couple or three days before the election and something was said and I said, "Well, I'll run as a write-in candidate." Well, they took me seriously. And so, I ended up being a write-in candidate and beat the guy who was on the ballot. And one of my friends was an election judge and she'd written off how you did a write-in candidate. So, probably she'd get into trouble if she did that today. But, that's how I ended up on city council. And my cousin's husband, who lives in another ward. Same time he was elected as a write-in candidate. Then, two years later I ran as a candidate on the ballot. I served two years of that term and resigned, and I became judge.

LUPTON: How did your legal career then influence or help you in your brief career as a city alderman?

LINCOLN: Well, I had a good idea of what we should be doing and how to do it. We had a good young man who was city attorney, and I tried not to get into his areas or let them ask me questions of a legal nature because that was his job and I didn't want to conflict with his job. And he, later on, became city attorney in a larger community. And I was happy as judge to write a letter of recommendation for him, because he had done, in my opinion, a very good job. During my time as alderman we annexed two subdivisions. And to save the city money, the city attorney and the city treasurer and I did all the work to issue the bonds, so we didn't have to pay a bonding company the fee for doing the bond work. And we talked with the local financial institutions and they bought all the bonds. So, we brought in two subdivisions who were in need of improvement for their benefit at a very low cost.

LUPTON: Okay, so now we're coming up to when you became a circuit judge. So, what made you decide to run for election as judge?

LINCOLN: Well, frankly, at that particular point in time, the private practice that we engaged in primarily in our office was changing. The probate work was changing. It was getting lesser because of the greater federal state tax exemptions, changing from Illinois inheritance tax to Illinois estate tax. And I could see that there was not going to be in the future as much business as we had in the past. And, also, there was the opportunity to get in the courtroom and run the courtroom. And I suppose those two were the main factors. Also, my children were getting older and I wanted to have more time for them.

LUPTON: Okay. So, you ran. So, tell me about the election.

LINCOLN: Well, it was a contested republican primary. Raymond Lee was the other candidate. He was about ten or eleven years older than myself. We fought for years as lawyers. We fought that campaign. It was not dirty at all. It turned out to be quite enjoyable. My wife and I walked every community in the county, knocked on about every door in the county, had coffees all over the county, inviting people. I had a crew of people that circulated my nominating petitions. From those petitions we took the peoples' names who signed them and then sent them a personal invitation to the coffees, sent them a lot of letters and then we had a huge mass mailing right before the election. The election was on a Tuesday, and the preceding Wednesday we sent out this mass mailing. My neighbor had a postage meter, so he ran all the envelopes through a postage meter. I wanted personally addressed, personally stamped. I didn't want something that came out of a printing company. So, we did all of that. And my secretary in the law firm, I hired her to work at night to do all the political stuff. So, we used the office for that purpose, but the law office didn't pay.

LUPTON: This was the primary?

LINCOLN: This was the primary. I won three to one.

LUPTON: I was gonna ask you what your margin of victory was. So, then you had to run in the general?

LINCOLN: There was not a contest in general.

LUPTON: Okay.

LINCOLN: Douglas County has traditionally been a republican county. And if you got the republican nomination, that was pretty much it. Once in a while a democrat would run in a general election, but there were very few who were successful. People in those days voted pretty much straight party line, because you could vote a straight party in those days. So, I had to finish up. The primary was March 20<sup>th</sup> of '84. Had to finish up my law office work and then go to the courthouse. The lady who did my secretary in the law office, I was hiring to be at the courthouse with me also. But she stayed the month of December at the law firm and finished up my stuff before she came to the courthouse.

LUPTON: Yeah, that was the question I was going to get into. So, how did you transition then from your law practice? You had a partner at the time, I assume?

LINCOLN: Correct. And what I was not able to get done he assumed, and did.

LUPTON: Okay. So, you become a judge, you are sworn in. Tell me about your first day on the job.

LINCOLN: Well, I remember the first lawyer who came in was a young lawyer from Champaign. I think he waited until I got there, because he wanted a court order to make a 2032A election on an estate. A 2032 then was a special valuation election that you made for Internal Revenue Service purposes on your Federal Estate Tax return to reduce the value of the farmland so you're not paying on the fair market value. But you had to be able to prove material participation by the decedent. We did a lot of those when I was in law office, so I knew exactly what he wanted. So, I had no trouble signing off, we didn't need to hear anything. And it just developed on from then. I had Mrs. Gilpin and I learned a lot from her about how to make docket entries; what to say and how to say it.

And it just developed from that point. That was December and early January we started jury trials.

LUPTON: So, do you remember your first jury trial?

LINCOLN: No, I don't. Things were not as well organized as they were later on. You just had dumped on you all these cases. They had not been pre-trialed, there were no prior pleas. So, it was frankly a mess, that first one. And then after that we got things better organized.

LUPTON: Okay. So, you become the judge and then you're working with these cases that had already been on the docket, I assume.

LINCOLN: Yes.

LUPTON: So, how did the transition go from your predecessor to you? Did he give you any information, did he prepare you? Or did you just kind of walk in and learn it cold?

LINCOLN: Well, I just kind of walked in and learned it cold. And I did that primarily to my successor also. You can have pointed out to you what's pending and a little bit what they are about, but you've got to learn the facts of the case and the law of the case yourself. Because a lot of that as a judge you do but you don't write it down.

LUPTON: How did you feel, prepared, putting on the robe then? You've got, obviously, a pretty long practice, different various positions; so, you felt well prepared when you became a judge?



LINCOLN: Well, I don't mean to sound conceited, but yes. Because I was not afraid of the courtroom. I'd been in the courtroom a lot in those prior twenty years. So, I could have gone on the bench with or without a robe. And really, until my predecessor Jim Sherrick went on the bench, that was '68, the judges here did not wear robes. Judge Pate, who preceded Judge Sherrick, had a robe for when he went out of the county, but he didn't wear it here. But, by the time I went in the judge wore a robe all the time in the courtroom.

LUPTON: I'll back up just a second. Do you have recollections of some of the judges you practiced before, when you were state's attorney and in private practice? Let's hear some of those.

LINCOLN: Oh yes. Well, my primary judge when I first started was Judge Pate who had been a county judge. And then on March 1<sup>st</sup> of '65 he became an associate circuit judge when the new judicial article went into effect. I had him primarily in this county. Then he, I guess you would say, was disciplined by the circuit judges. There were four circuit judges who ran the circuit and then each county had at least an associate circuit judge, and then the bottom layer is what they called magistrates which are today associate circuit judges. When I first went in all the magistrates in this county were not lawyers. And one of them did something he shouldn't have done, not intentionally, they were all good people, but he sent somebody to jail that he did not have the authority to send to jail. Well, the defendant's lawyer, who was in Mattoon, called up raising hell with my supervisor Mr. McCown and he said when those guys are down there holding court you go down there and sit there and make sure they don't do some damn fool act and put somebody away. So, I got put in the courtroom every time a magistrate was there. Later

on then, Carl Glasgow, who was a very experienced fellow from Monticello, was appointed magistrate and he knew what to do and we started having real court at that time when Carl went on. So, there was Carl, Judge Munch from Sullivan followed Carl as magistrate. I learned a lot from him because he'd been a state's attorney, I think twenty-eight years or something like that in Moultrie County. And he was a very good teacher. There was of course, Judge Webber became presiding judge. That was A.G. Webber III. His son A.G. Webber IV is now a judge in Decatur. A.G. III, I learned a lot from him, how he conducted a court, how he made a docket call, how he did jury trials. He was a real scholar of the law. He later on became an appellate judge for the Fourth District. I appeared some before Judge Morgan in Champaign. Of course, before Judge Scott in Decatur. There were a lot of judges who had a probate, mortgage foreclosure work. That's a sort of thing I appeared before. I learned a lot from all of them. And they all had different attributes and different qualities. If you observe, you learn. I feel sorry for people who don't observe because they don't learn, they don't grow. But I remember going to other counties outside the circuit and picking up stuff there that I'd seen their judges do that I later on did when I was a judge.

LUPTON: As you're talking it's raising questions in my mind. So, obviously you practiced within the circuit significantly and then you just mentioned that you had cases outside of the circuit. So, how far was your territory, so to speak?

LINCOLN: Well, it was primarily here in the Sixth Circuit, six counties. I'd get over to Edgar, one of the first cases I tried was a bench trial over in Edgar on a landlord tenant dispute. I was up in Joliet on a marital case several times. My client lived here in the county, his wife moved up there and so the divorce was up there. She got to pick where

she wanted to file it. I had matters when I was practicing a case in Kankakee County. It was just wherever something would come up involving someone from here, is how I got there. I remember going to Pekin. So, you just go where the business is. And your client may be here, you take care of them. I never got involved in jury trials outside the circuit, because there's too many local ways of doing things that you don't know about.

LUPTON: Okay. You had mentioned Nellie Gilpin before, and we have an article we had found about her working for you as a court reporter for twenty-two years.

LINCOLN: She had been with Judge Sherrick for eighteen before that.

LUPTON: So, she had been a court reporter for forty years.

LINCOLN: Well, and she just last November completed her fiftieth year, and is still a court reporter, is the only short-hand reporter in the State of Illinois. And last Monday was honored by the Douglas County Bar Association, the Douglas County Republican Central Committee at a dinner she did not know about until she got there, for her fifty years of service to the county and the state. And I got to do the introduction in that.

[45:00]

So, she got a lot of judges off on the right foot. And did it in a nice way, just offered to help.

LUPTON: In this article we're talking about she mentioned a few cases. A case where a child was murdered?

LINCOLN: That was the Kirkpatrick case.

LUPTON: Kirkpatrick. Was that your case?

LINCOLN: I did the order of protection, I did the divorce, and I did the custody on it. The child was very unusual, he was very bright. The whole thing was a tragedy. Ultimately, I gave – well, the mother started it by filing an order of protection against the father, who was minister at that time of the Free Methodist Church in Arcola. I don't know how much detail you want on that case.

LUPTON: Yeah. Feel free. Give us as much detail as you want.

LINCOLN: Ultimately, I issued a preliminary order of protection then denied it for the second one. Then we went into the divorce. Her lawyer, that lawyer left her. The divorce was very contentious. Of course, the primary issue there was not money it was the custody of the child and the visitation of the child. The father came back in, I know on at least one occasion, maybe more than that, to get his visitation rights that he was being denied by the mother. I remember one time the father went down to Lawrenceville, Illinois, to a parent-teacher conference open house was being held. He went there when it started and the mother did not bring the child until about the last five minutes. So, he'd made the trip clear down to Lawrenceville and only got to see the little about five minutes, which was all. Ultimately, I gave the father custody because the mother did absolutely nothing to foster visitation by the father or to rely on the father to participate in the father's life. There was absolutely nothing wrong with the father. So, I gave him custody and as I understand it when the child was visiting with the mother on one weekend near Lawrenceville, in Lawrence County, he was killed. So, right now I'm on a panel for a degree for the Scottish Rite in Danville, and it's three judges. Two of them are real

judges, I'm retired. One of those judges is the judge from Lawrence County, who tried the first murder trial in that case. It was reversed by the Fifth District Appellate Court on a technicality of law, not on the facts. The judge in Lawrence County said the evidence was abundant to justify the jury's verdict. The guy, I guess, who tried the case as the prosecuting attorney didn't have authority to try it and that's how it got reversed. The second trial was moved to another county. Both trials were outside Lawrence County. And the woman was acquitted. It was a real tragedy. But that was *Kirkpatrick v. Kirkpatrick*.

LUPTON: There was also a case that was mentioned in that article about the malfunctioning shotgun case.

LINCOLN: *Loitz vs. Remington Arms*.<sup>12</sup>

LUPTON: Can you tell me kind of the history of that and what happened in the case?

LINCOLN: Well, this trapshooter was trapshooting at the McCown Gun Club, east of Newman, and he was using a, I believe it was a Remington Arms 1100 shotgun. And the shotgun blew up on him, seriously injuring his one hand. I can't remember the nature and extent of the other injuries. But luckily there was a doctor there trapshooting with him who immediately gave him medical attention 'til they could get him to a hospital. Well, his lawyer, I don't remember where Mr. Loitz was from, I think it's up in the Chicago area, his lawyer was Jon Robinson from Decatur who filed the case originally in Macon County. The defense objected to it being in Macon County because that was not

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<sup>12</sup> See, *Loitz v. Remington Arms*, 532 N.E.2d 1091 (Ill. App. Ct. 1988).

the proper county of venue, so they moved it to Douglas County because Newman is in Douglas County. Well, I had the case for a while and at one of the preliminary hearings it dawned on me that when they described where this gun club was, it's not in Douglas County. I said to the lawyers, I said this case should be in Edgar County. Well, for some reason which they did not explain to me they did not want to go to Edgar County, neither side did. So, we kept it here in Douglas. It was a great learning experience for me. One of the issues, there were two main issues, one of them was did Remington Arms have prior notice of the propensity of these shotguns to explode. And, secondly, did Remington Arms have prior notice of that. Well, no, the first issue was the notice. The second issue was the malfunctions in the metal in the gun. There was evidence from several prior incidences of the gun blowing up. And the Remington Arms contended that these people were loading their own shotgun shells and they were not properly using the correct recipe to put them together, because you had to be very particular on how much gun powder went in there, how many BBs went in there, then you had to properly crimp it. And they used what's called a Ponsness-Warren reloading machine to do all that. Well, on cross-examination the expert for Remington Arms was asked to make one of the shells that Remington Arms said would explode. Well, he did, and he had a Ponsness-Warren reloading machine there in the courtroom and he put the gun powder in, and they started putting the BBs in. With their recipe you could not get all the BBs in. And here the BBs were rolling out the machine, rather than going into the shotgun shell, all over the counsel table and down on the floor. Well, it just blew Remington Arms' theory totally out of the water because you could not make a shotgun shell like they said were required to blowup. We had at least two, maybe three, banquet tables in the courtroom to

hold all the exhibits of all these shotguns that had blown up previously, shotgun shells, everything imaginable. And the jury came back with a verdict, it was a ten-day trial, in favor of the plaintiff for compensatory damages of seventy-five thousand and on punitive damages of one million and six. Well, of course it went up. And Mrs. Gilpin, not too long ago I asked her and told me the transcript was over four thousand pages of the trial. And she sat there night after night, weekend after weekend, typing that up because being a short-hand reporter she couldn't go on a disc and then you slip the disc and the printer it prints out. So, she typed every word of that up on a typewriter.

LUPTON: What year was this?

LINCOLN: I'm not quite sure. I went in in '80's. I would say it was the early '90s, perhaps. Maybe late '80s, even. It went up to the Fourth District Appellate Court. In a lengthy opinion written by Justice Spitz, concurred then by Justice Lund. I can't think who the third Justice was on that.<sup>13</sup> Affirmed, both verdicts. In fact, I was quite pleased with their comment in one place because they said considering how much, many of the objections were sustained and how much testimony was stricken they didn't see how defendant could have had a fairer trial. So, I was pleased that they recognized that. Well, then it went to the Illinois Supreme Court. Justice Ben Miller wrote the majority opinion in that. I know there was at least a three, and it might have been a four-judge dissent from his opinion. The compensatory damages were affirmed. The punitive were reversed. There was no question that Remington Arms knew or should have known of the propensity of this gun, given people warnings, done recalls. Which they did not do.

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<sup>13</sup> The third Justice was James A. Knecht.

So, it was reversed on the punitive damages, on a public policy issues, I'd say. Rather than on the law of punitive damages. So, years and years went by. Well, during the course of that trial my oldest daughter enrolled at DePauw University in Indiana and we were there for a luncheon and Justice Lund was two tables over. He'd been on the appellate panel. He yelled across, "Frank, did those lawyers from Chicago always demand stuff from you all the time like they did of us when they were in the Appellate Court?" Well, they did. Then years and years later, one of the lawyers from Jon Robinson's firm, who was the plaintiffs lawyer, was in court and he came in the office afterwards and he said, "Jon wanted me to tell you that there was another decision involving Remington Arms and that shotgun and Remington Arms was ordered to make available and subject to inspection all of their records on that shotgun. And Jon Robinson went out to, I think it was South Dakota, to a warehouse where Remington Arms had all this stuff stored and found more than ample proof that Remington Arms knew and did nothing. So, as a result of that Jon Robinson's law partner said, "Jon was paid the punitive damage award, that the jury here awarded, plus interest on all those years." And, so, justice did prevail in the final analysis. But that was a great case because the lawyers on both sides were excellent trial lawyers. There were two out of Chicago and they hired a Decatur lawyer to be their local lawyer, who was an excellent lawyer also. And it was just a real joy to try. It was long and we were tired and worn out afterwards.

LUPTON: Was that one of the bigger cases that you had as a judge?

LINCOLN: Yeah. One of the bigger civil cases.

LUPTON: So, you probably dealt with criminal matters too, as a judge?



LINCOLN: A lot of civil cases that went up on appeal. I had several go.

LUPTON: Tell me about a couple more if you want.

LINCOLN: Well, one of the first ones ended up at the Illinois Supreme Court was *Page v.*

*Illinois Department of Public Safety*.<sup>14</sup> And that was on the issue of a state policeman

who was injured on the job, getting worker's compensation. I granted it and it was

affirmed in the Supreme Court. I had a marital case go up to the Supreme Court. It was

so highly charged that we had to always have a policeman in the courtroom for the

protection of the wife's lawyer, because he'd had threats made against him. And it went

on the issue of valuation of marital property and what was marital property. It was

affirmed. I had a real interesting banking case from Monticello. That was *Quinn v.*

*National Bank of Monticello*, this probably sounds silly, on the endorsement of a check.<sup>15</sup>

The plaintiff was a doctor, Carle Clinic, and he had given a check, several thousand

dollars, maybe fifty/sixty thousand to buy an interest in Limetree Developers down in the

islands in the Caribbean. Well, the check did not get deposited to the company it was

made out to. It got deposited by a bank in Bloomington, contrary to the payee of the

check. And it went into this guy's personal account, which he of course spent. So, it got

kicked back to the National Bank of Monticello and they had honored it to the

Bloomington bank over the payee and the check, and not required the proper

endorsement. So, this was very little fact involved and it was primarily matters of law. I

got reversed in the Appellate Court and one banking lawyer said, "I don't know in those

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<sup>14</sup> See, *Page v. Illinois Department of Public Safety*, 119 Ill. 2d 41 (Supreme Court of Illinois, 1987).

<sup>15</sup> See, *National Bank v. Quinn*, 126 Ill. 2d 129 (Supreme Court of Illinois, 1988).

facts how that Justice wrote that opinion because he was just way off base.” Well, because of the novelty of the issue, it got appealed to the Supreme Court. And the Supreme Court reversed the Appellate Court and affirmed me. And I sent that opinion to a banker that I used to represent when I was in practice and he said, “We couldn’t possibly examine every check and every endorsement that comes through the bank.” I said, “Well, when I worked in your bank, we did.” But times have changed. But those were some of the ones that I was proud of the result that went up to the Appellate or the Supreme Court. It makes you feel good when you get affirmed. I didn’t realize until I got on the bench, other judges had told me, “When you receive an opinion, you look at the last page first. Because that tells you whether you got affirmed or reversed.” So, that’s where you always start. I had another one on fertilizer, on crop damage. And Justice Steigmann wrote the decision in the Appellate Court.<sup>16</sup> And before that the Appellate Court had come out with a ruling that the opinions can only be so long, the published Opinion. So, Justice Steigmann wrote a long Rule 23 in the middle of that opinion. So, you had to read it all to get it, but only the front and back of it got published. And it was appealed. I had never done it before. But I granted a judgment for the defendant, not withstanding the verdict. Which had been in favor of the plaintiff, because there was no causal connection between what the defendant did on crop spraying in his field and the damage the plaintiff sustained, if there was damage. And, so, that

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<sup>16</sup> Justice Robert J. Steigmann was assigned to the Fourth District Appellate Court in 1989 and elected to it in 1994. As of 2019 he remains there.

made some new law also. Another one I always liked was a medical malpractice case. It was called *Trower v. Jones*.<sup>17</sup> It was a pelvic inflammatory disease, PID was how they

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discussed it in court. And what came up during the course of the trial, the defendant doctor's lawyers wanted to engage in certain cross examination of the plaintiff's expert witness, who was a doctor, who I would say was a doctor for hire. He was a professional testifier. Well, there were three old Illinois Supreme Court cases from the 1800s, at the end of the 1800s, limiting the scope of cross examination of an expert witness. Well, I overruled the Illinois Supreme Court and allowed this cross examination. Well, the case went up to the Appellate Court and then up in the Supreme Court. Supreme Court affirmed me, and set new law in the scope of cross examination of expert witnesses in medical malpractice cases. With the changes in the law by the legislature, that did not become in later years that much important. But at the time it came out, it was. So, you run into a lot of those issues. In a little county, what are you going to be doing, traffic cases? You can get some very high-powered cases before you.

LUPTON: Well, it's gotta be a really educational experience, because you're learning about completely different topics of not just the law but of society.

LINCOLN: Yes. Well, that case of *Loitz v. Remington Arms* was so great because there was the issue of punitive damages, what the company knew and when they knew it, how much a jury can award in punitive damages, when is it excessive and the court should

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<sup>17</sup> See, *Trower v. Jones*, 121 Ill. 2d 211 (Supreme Court of Illinois, 1988).

step in and grant a remittitur or a new trial; just a multitude. You had to work every night because you didn't know what was going to come up the next day. And sometimes you reserve a ruling on an issue so you could research it. I remember doing a criminal case, I spent my noon hour researching an issue that when we resumed after the lunch hour I then granted the motion and told the jury to disregard the testimony that this county deputy had said because she was just way off base. And so that really directed a verdict in favor of the defendant. But I didn't direct it. I thought that if the jury does come back wrong, I'll grant a new trial or a judgment NOV. So, there's a lot of things that you've got to be continually working on. You don't just walk in the courtroom, fly by the seat of your pants. You go in the office early and go over your cases.

LUPTON: Like I mentioned earlier, you obviously had some criminal cases too, I would assume as judge. Any drug cases, or anything like that? What would your typical criminal caseload be?

LINCOLN: Here in this county it was primarily minor type things. There were felonies, of course. But the felonies generally involved some type of sexual conduct. Some felony drug cases. A lot of property type of cases. Some of those went up. Most of them were affirmed. Well over fifty percent were affirmed. There were a few reversals. Nothing that made any great significant law. I did some criminal trials, jury trials, in Champaign County, I did them in Clinton, I did them in Sullivan in Moultrie County. When Judge Scott was Chief Judge of the Circuit, I did Decatur a lot. He'd call early in the morning, "Can you come over today?", and we'd get done what we had to do and go over there and might be there, three or four days doing some type of a jury trial. And there were some high-powered cases over there that I tried; murders on down. It was a great learning

experience. We had a very long case. It involved a lady running a child daycare center. She'd have to run an errand. She'd have to leave her husband with the children. He sexually abused the children, boys and girls. We had all these little kids. They'd been examined by various experts in Chicago. He ultimately pled guilty. But we had all this stuff come out at the sentencing hearing. And each child was a separate offense, so you had to impose a separate sentence for each child, and you had to decide whether to make them concurrent or consecutive. Well, I made them consecutive. And he's still in prison. But cases like that you learn a lot. I did a trial up in Monticello. It involved alleged sex, a father against his daughter. And at that time a new statute had come out on using hearsay evidence in a case like that, from a child to, like, a doctor. Dr. Buetto, at that time, was a pediatrician and Carle was a witness. That went up to both the Appellate and Supreme. I got affirmed there and they affirmed what you could allow as hearsay testimony, as testimony in chief, when it came from a child like that. So, those things were all interesting. I had a couple of great trials up to Clinton. One of them we got out of at midnight one night when the jury hung. And before that I had called the lawyers into the office and I said, "Now if this thing hangs," and I pointed to the defense lawyer, "You're gonna file a motion for a change of venue. States attorney, you're not going to object to it. And I'm gonna move this case to Douglas and we're gonna get it over with." Well, that's what happened. Another case up there was a bench trial on an armed robbery at a Savings and Loan. This woman dressed up in camouflage suit and hat and all that sort of stuff. She had her three kids in the car, about two blocks away, while she went into this Savings and Loan and tried to rob it. We had expert testimony there that the reason she went into that Savings and Loan to try to rob it was because that's where her

mother banked, and she and her mother didn't get along and by doing this she was getting back at her dead mother. Well, I didn't allow that in because it was so ludicrous. But her gun wasn't loaded. So, instead of finding her guilty of armed robbery, which would have prevented me from giving her probation, I found her guilty of attempted robbery and could put her on probation with a lot of counseling, I never heard of her again. She successfully served her probation. But, you know, a lot of those things they are interesting cases. If you were a judge and didn't like being in a courtroom and didn't like doing trials, I think you would be very unhappy.

LUPTON: You were obviously mentioning some very heavy topics earlier. Are there cases that you kind of struggled with, even today?

LINCOLN: Oh yeah. I have one case that I still think about. When I did it I was thoroughly convinced I imposed the right sentence. The law has changed since then. Today, if I were to hear that same case, I would not impose that sentence. The defendant in that case did not do anything further, did not get in any further trouble after that. But I would not have imposed the sentence I did in that case, today, like I did then. So, you know, I still think, I still dream, about some of these things. It's probably silly to a layman. But I'll still dream sometimes that I have a law school final exam to take, and I haven't been to class all semester. My wife has that same problem. You become so involved in something that you just never get it out of your system.

LUPTON: Did you have any capital cases while you were here?

LINCOLN: No. I did not. There was one, a triple homicide. I got substituted out on that case and I was just as glad, because at that particular moment I could not have handled

that very comfortably because one of my cousins with whom I was very close, right while that was going on, committed suicide. And I just don't think, mentally, I would be very good in that case. So, I was glad I got taken out of it. And it went to Decatur, where it should have been. But I did homicides in Decatur.

LUPTON: Okay. You did have homicide? But not capital?

LINCOLN: Not capital, no. Thank goodness.

LUPTON: Well, during the time you were judge, I think it was, Governor Ryan issued a moratorium on the death penalty. What are your – do you have any thoughts or opinions on that subject matter?

LINCOLN: Well, we still have the death penalty on the Federal level, so it must not be entirely wrong. Illinois was cleaning itself up by having a capital bar, where the lawyers had to be better schooled, better qualified, in order to defend those type of cases. Which, in my opinion, was a very good step because there were innocent people who had been convicted and some of them had been sentenced to death and some had been put to death. We did not have a good, clean legal system at that time for that type of an offense. Should it still be on the books today? In my opinion, yes, for what deterrence it might have. But it would have to be handled like it's handled on the Federal level, where you have a very qualified defense bar court, a very well qualified prosecution bar, and also it's reviewed on the Federal level by the Attorney General before it can ever go forward. There should be some type of review that's the proper way to handle the case and not for some prosecutor trying to make a name for himself.

LUPTON: Okay. Well, getting away from the heavier topics here. What kind of administrative responsibilities did you have as a judge?

LINCOLN: Well, being a one-horse county, I had all the administrative duties. I was very lucky to have three excellent circuit clerks. We did not always totally agree. But if we didn't agree we went on down the line and took care of the next problem. They were great ladies to work with. They were, all three of them, very well experienced. They'd been in the office for a number of years before they were elected, and that made the administration with the cases much easier because we could communicate. I was usually in the office, the clerk's office, every day because I would come up through that office to get to my office. There was a spiral stairway that went up to the office and the library. So, I would cut through there. In fact, when I went back in '14 for six months the Circuit Clerk said, "Well, we've seen more of you this week than we have seen of the prior judge in a long time." When I started practicing, Budge McCown told me, "Those deputy clerks can do more to help you than anybody else, so be nice with them." I saw lawyers who were not nice to those ladies. They did not have law degrees, but they knew a heck of a lot about the law and how to practice it. And they would be most happy to help you, but you don't go in lording something over them and demanding things from them. So, from the administrative side, I had no problem with the case files. Not too long after I went in, we got established a jury commission to pre-screen jurors who might be too ill to serve. We don't want to bring those people in, disrupt their lives or upset them. So, we pre-screened them. The lady who'd been in my law office and also in my state's attorney's office, she ended up being the jury commission secretary. She would handle all of that. We had jury profiles available for the lawyers in the courtrooms. So, that



made jury selection go a lot easier and kept a lot of questions from being asked because I'd tell the lawyers, "If the information's in that profile, you don't need to ask it. So, let's move on down the road." So, the administrative part, we had certain funds that the court controlled. And we used those funds to redecorate both courtrooms, to totally remodel courtroom two. When it was moved from the second floor to the third floor it was a mess over there. To get the spectators to get into the audience section they had to go through the judge's secretary's office, and if you went through the door you just walked into the well of the court where the lawyers were. Well, we remodeled that and turned that all around. We then created a jury room for that courtroom. It had no jury room. And a conference room for the lawyers. We moved probation off the third floor to first floor. And we did not spend any county money because Judge Sherrick, before me, had set up this court improvement fund on each case that was filed. There was so much to set aside in this fund. So, we had money to do that in security, so it didn't cost the county anything. And the people who were using the system were the ones who were paying the bill for it. And we took the jury box in courtroom one, split it and moved it, so we'd have all fourteen jurors, the twelve jurors and the two alternates in the same box. So, that was administration. I like that, frankly. The courtroom had not been redecorated for a long time and so we took care of a lot of those things like that.

LUPTON: And how old is your courthouse.

LINCOLN: Well, it was dedicated in June of 1913. Construction started in 1911. So, it's well over one hundred years old. But we've had very good County Boards all that time. They've kept it up. They haven't allowed it to fall into disrepair. Most of the furniture that's there today was there when the courthouse opened. There's one room that's set

aside for the Grand Army of the Republic, out of the Civil, which our local Civil War group uses, the Daughters of the American Revolution. It has all the original furniture in there, except some chair pads that I had made for the courtroom that when we got new jury chairs,

[01:15:00]

we took down there. The building is in wonderful shape, it really is. Lawyers would come in from outside the county and marvel at the condition of the building. We have two great big, huge oil murals there. They were by a – he later became quite a famous member of the Taos school of nine<sup>18</sup>, southwestern artists. And there would have to be a million dollars value on each of them. So, it's a great courthouse, really.

LUPTON: And still meets the needs of the county?

LINCOLN: Yeah.

LUPTON: Because you hear about some of these other counties where they're tearing down some of these old courthouses and building new annexes, and things like that.

LINCOLN: Well, our county board, after I was out of office did put up an annex across the street. I think they have the county coroner there, who's also the emergency management director, and some conference room and some storage room. They built a new jail that was open while I was judge. And we put an arraignment courtroom out there. I don't know how much it was used after I was retired. But we could hold arraignments out

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<sup>18</sup> Group of famous artists in the twentieth century.

there, so they didn't have to transport people who were incarcerated up to the courthouse; just kept them right there for the whole arraignment.

LUPTON: Do you have any thoughts or opinions about cameras in the courtroom? It's kind of becoming a new, I don't want to say fad, but it's coming into vogue now.

LINCOLN: Yes. When my daughter was at DePauw University, I was on a panel over there for their television station, with a Federal District Judge from Indianapolis and a local county prosecutor, about cameras in the courtroom. What I've seen from cameras in the courtroom, and I wasn't in favor of it then, I don't see a necessity, frankly, of it now. My experience now is limited to what I see on television. It's not for the education of the public. They don't get any information how a trial's conducted, what the role of the lawyer is or what the role of the judge is or the witnesses. They see a defendant standing there entering a plea of guilty or being sentenced, and that's about it. If it broadcasts the whole trial, and I assume there are some stations that would do that, maybe of an educational type station. That would be of benefit to the public because the public then would be educated as to what goes on in a courtroom. What goes on in most courtrooms is not that interesting, it's routine type of things. So, I don't see that it has that much advantage for the public to see John Doe standing there getting sentenced, or Joe Blow enter a plea of guilty. I probably shouldn't say it, but it's an advertisement for some lawyers.

LUPTON: Actually, that kind of relates to the next question. Did you have a lot of interactions with the media? Obviously, cameras weren't allowed in courtrooms, but did you have any exposure to the media? Was it your responsibility to talk to the media about cases?

LINCOLN: Well, you couldn't.

LUPTON: Okay.

LINCOLN: At least I didn't think you could. They were always welcome in the courtroom.

The judge I first started practicing under would let one local newspaper editor sit right behind the lawyers. And I looked at the carpet in the courtroom one day and here was all this black on the carpet. Well, he would sit there and rub his feet, and because he did the printing of the newspaper there was printer's ink on the bottom of his shoes; so, he got it on the courtroom carpet. The news media was always welcome to sit anywhere they wanted to out in the audience section. I never had any problem with one except one young lady. She came to court, my bailiff thought she was in shorts. And we had a no short rule in those days. I don't know what it is today. He thought they were shorts and he told her she would have to go get something else on. Well, her editor took it up and lambasted me over it. As it turns out, they were skorts, which I guess is different form of clothing from shorts. I didn't know that at that time. I'm sure my bailiff didn't either, because he was an older fella. Great guy, good policeman. So, the editor wrote me up on that, and had some digs over that. But, otherwise, there was no problem with the news media. And I couldn't discuss cases with them. One time I had sentenced a lawyer in Decatur on a drug case and the television station over there wanted to talk to me afterwards, and my court reporter said, "He cannot talk to you about a case." So, there really was no problem. They might call, I might be on the telephone or answer it, "Well, when is such and such going to happen," they were just looking for times or an idea when to be there. But, as for actually discussing cases, they didn't.

LUPTON: That kind of leads into my next question about now there's this whole bunch of television shows that feature judges. Do you have any thoughts about how being a television judge, how that relates to the actual real life?

LINCOLN: Well, they make really good money I understand. When I was practicing and prosecuting, in those days we had *Perry Mason*, was about the only one. And, of course, he always won. We would use in juror questionnaire. You realize, we're not Hamilton Burger, who was the prosecutor in those, or *Perry Mason*, we do once in a while win in these criminal cases. And you just ask jurors to set that stuff aside and not let that influence them or consider it in any fashion, when arriving at a verdict. For some people they're good entertainment. If I were to sit and watch it for very long, I'd be terribly bored, because those actors don't act like judges can act. You have a code of conduct as a judge and you'd get in trouble before the Judicial Inquiry Board, if you acted that way in a courtroom with people.

LUPTON: So, do you think the public is being misled by the popular-culture version of judges and lawyers?

LINCOLN: Well, that's not real court. That's not real judges, it's not real lawyers. The only thing of value that I can see to it is entertainment.

LUPTON: How do you think then the general public could learn about what the role of law is in society, or how a courtroom operates?

LINCOLN: Well, there's a multitude of books on this subject, of reading that you can do. It depends on what your real interest is, how far. There's a lot of good novels. John

Grisham has a lot of good novels. Scott Turow does. Some of James Patterson's are very factually accurate. You can read – if you really are interested. I used to have three older gentlemen who came to court a lot. And they sat there through some of the most mundane stuff that you could imagine. I guess it was for their entertainment. But if you want to know you should get in your car, drive to the courthouse. Unless it's a juvenile case or some mental health case, the courtroom's open, you can go in and sit down and stay as long as you want and watch.

[Tape is changed]

LUPTON: We we're talking about civic education (off tape). The general public has kind of limited knowledge about what the judicial branch does. Part of our role is just to inform people that there is a judiciary, what it does, what it's role in society is. So, you were kind of responding to my comment.

LINCOLN: Well, I know several of my colleagues would go around engaging in speaking engagements at schools, or like at the women's club, some churches, civic clubs. I remember when I was running, the Lion's Club in Arcola had the two candidates, myself and Mr. Lee, down one evening at their dinner and after their dinner we each made a presentation. That's one way to get out to the public. Of course, one thing we did here for a number of years, before I was judge and also when I was judge, we had a Law Day in May and invited all the high school students in the county. And most every school participated, to some extent. We would put on a mock trial. And real lawyers sometimes would play the role of the lawyers. Sometimes a student did it. We had students as jurors, and they went back with the bailiff and he locked them up in the jury room and we

made it as actual as possibly could to educate those students. Well, as time went on it got fewer and fewer schools were participating. There was the transportation expense, they were trying to reduce. And the schools just no longer thought it was of value to the students. And we had six high schools in the county at that time. The Bar Association couldn't go around to all six of them and put on a program for each one of them. So, that program which ran for many years very well. I remember when I acted as prosecutor one time, when I was arguing to a jury and I had one of my nephews was a senior in high school at that time and they were at the program, and I was arguing vehemently to the jury about how guilty the defendant was and one of my nephew's friends stood up in the back of the courtroom and said, "I did it!". I could have wrung David Brown's neck. But they were sort of tweaking me because I sort of knew them all, because of my nephew. But it was a good program. And you'd go to a woman's club and talk and explain things. They may be more interested in probate, things of that nature. But, it's the duty of the judiciary and also the bar to make education available to the public, because most of the public will not take the time to come to court. As I mentioned, when we were off camera, I had three older gentlemen who would come and sit in the same place about every day and come and watch court until we recessed it. They never caused any type of disturbance or anything. They were just there to be entertained, I guess you'd have to say. And it was nice to have them, really.

LUPTON: One of our projects that we've done, we've taken historical cases and we've done retrials of them. And one of them that we did which was called *The Insanity Retrial of Mary Todd Lincoln*.

LINCOLN: I read about that.

LUPTON: Judge Spears and now, she was judge at the time, Justice Lisa Holder White were the attorneys for Mary Lincoln. And I remember Judge Spears saying that, “Every judge in the state of Illinois should do one of these retrials, because it helps return to what it’s like being a lawyer.” Because he had been a judge for years and years. He’s retired now. I don’t know if you know Ron Spears.

LINCOLN: Yeah. From Taylorville.

LUPTON: Yes. From Taylorville. So, he kind of enjoyed that. But he really saw the role of civic education in all of that too.

LINCOLN: I’ve read books on that trial of Mary Lincoln.

LUPTON: You mentioned about the Bar. Are you a member of any bar association?

LINCOLN: Well, I guess I’m still a member of the local bar. Though I haven’t been to any of their meetings. When your term is over, at least, I did not want to have my successors feel that I was interfering. I would be glad to help them if they asked for help, but I did not want to offer anything. That was my attitude when I left the state’s attorney’s office; it’s somebody else’s job now, that should be able to do it as they want to do it. So, outside of contributing to the local bar for the scholarship program, I quit the State Bar when I left the judgeship. So, outside of the local bar, no.

LUPTON: What do you see as the relationship between bar associations and the judiciary?

LINCOLN: Well, we always had a good relationship here. I never felt that the Bar was adversarial, either when I was a non-judge or when I was judge. I don’t know how it is in



some other counties. I understand they don't get along quite as well. But our Bar was always very cooperative and if we needed some help, financial or a project, I remember when the courtroom two was first remodeled I think the Bar at that time, I was secretary or treasurer, bought the Illinois and United States flags for both courtrooms. Just as an acknowledgement of what the county does to give them a place to operate. So, the Bar was not a problem for me.

LUPTON: Getting more philosophical here. What do you see as the role of the judiciary in society, in the larger society?

LINCOLN: Well, to offer stability, is a big thing. And resolution of conflicts, of course. The three co-equal branches of government, it's very true. The legislature passes the laws, the executive enforces them, and the court interprets them. There's got to be somewhere in there a final tribunal to say this is right or this is wrong. If you just had the legislative and the executive there would not be that third balance. The men who wrote our Constitution were brilliant. All these years later, what they did is still applicable. They just were brilliant any way you look at it.

LUPTON: Did you have constitutional issues come before you as a judge? Or did you declare any laws unconstitutional?

LINCOLN: That's one thing I did not do. The closest one would have been involving free speech by a law professor at the University of Illinois, that got assigned to. And that went up, and it got reversed. I allowed his lawsuit to stand.

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I thought there were issues raised that needed to be litigated. The Appellate Court did not agree with me on that. But he had been denied some salary increases that possibly resulted from the fact that he had been very vocal in exercising some free speech rights. That was the only thing we came to close to a Constitutional issue, thank goodness.

LUPTON: Actually, the Supreme Court just heard a case from Douglas County about motorized bicycles, recently. And I think the local judge here declared the law unconstitutional.

LINCOLN: Judge Broch did that.

LUPTON: Yes, exactly.

LINCOLN: Have they come out with an opinion yet?

LUPTON: Yes. Actually, it was – what did they decide on that? I think the Supreme Court overturned the circuit judge in that the law was written in a clear enough manner that – you know there are all sorts of weird, you can't drive more than twenty miles an hour on a motorized bicycle. I remember it being a complicated issue. But, actually, that was one of the cases, one of the things the court has been doing is taking – they call it riding the circuit. So, they'll do oral arguments in other locations other than Springfield. Last year they did it in Champaign.

LINCOLN: They've done that several times at the law school.

LUPTON: Yes, right. And so that was one of the cases that they heard there.

LINCOLN: I had a case that they heard at the law school. And I wanted to go to the argument and sit in the back of the courtroom, and my chief judge said, “No, you shouldn’t go while they’re arguing your case.” So, I didn’t go.

LUPTON: Kind of getting back to when you were a lawyer. Did you do or were you involved in pro bono work?

LINCOLN: Really, that was not as big of an issue in those days as it has become. There was some pro bono work. Especially, some of the public thought as state’s attorney they could get free legal advice from you. We did that. That would be in the nature of pro bono. The lawyers who were practicing then, I remember we had one in one community that was very good at that. He’d take a car from somebody or an old truck as his fee, and not charge them anything more. Or maybe a number of chickens, or something of that type. The bar was really quite good in helping people in that did not get paid or paid much, or maybe got some compensation in kind. But it was not organized pro bono like it is today.

LUPTON: You mentioned earlier that you give a lot of credit to your wife for raising the kids while you were working four hundred hours a week. Do you care to share any stories about your wife or your children?

LINCOLN: They’re all good kids. They’re all college graduates. They’ve all got jobs. Like I said, the number of hours in private practice, and also being state’s attorney, that I worked I did not have the opportunity to be at home as much as I would like to have or that I should have been home. That changed when I became judge because I did not have to put in the long hours like I did before. I still went back some at night, I still went back

some on Sundays, because of having peace and quiet to research and think about things. Many times I would review the evidence of a case. If I had a question about what someone said and my notes weren't complete or they weren't clear, so I'd listen to the tape to make sure I heard it correctly. When I was judge I had the extra time – I know I started before that even, before I was judge, to coach little league and be a little league officer and travel. Three years I was one of the co-coaches for the All-Star team, and we would play in other communities in tournaments. I really enjoyed that and made friends that otherwise I would have never been able to make, because you just didn't associate. And we would work on diamonds on the weekends, and at night have ballgames. We did a lot of things to improve the ball diamonds. Just a good time that you didn't have. And I could go to the kids' activities more, in school. I could help Marlene more with them. It just resulted in a better situation. Although, Marlene never complained about me being gone at work.

LUPTON: Back to another philosophical question. What do you think the future of the legal profession is? What does it hold for young lawyers? What advice would you give to someone becoming a lawyer today?

LINCOLN: Well, I would consider it long and hard, for the fact that there is not as much good business today, I think, as there used to be. We may be getting to the point where we're overpopulated with lawyers, especially in the larger communities/larger counties, that all of them can not make an adequate living in practicing law. And there are just so many governmental jobs that are available. I would look long and hard at what is the prospect of being a lawyer because of the economics of it. There's always going to be

work to be done, because people are going to get in trouble or we're going to have problems. But whether we need all the lawyers that we're generating, I question.

LUPTON: So, if someone came to you, like a high school student said they wanted to be a lawyer, would you encourage them or discourage them? Obviously, it depends on the person, but.

LINCOLN: Well, being a counselor in college, one of the things we were taught you don't ever tell someone to do or not to do something. You use indirect counseling and point out the good aspects and the bad aspects. But they've got to make their final decision for themselves. I suppose I can tell you this. I remember, in undergraduate, I scored the best grade in the pre-law exam, and I did not do well on the law school admissions test. I never did on those types of tests. And the law advisor said, "Well, if you get into law school," and he didn't think I would, "You'll never graduate." So, after I graduated from law school I happened to be back on campus for an alumni day, so I hunted him up and told him I had graduated. Of course, he didn't remember what he'd told me. He had a lot of other students after me, that he didn't remember it. But you know, I've always looked at that and thought you shouldn't tell somebody you can't do something. They've got to decide that. I had a divorce case and there was contention over the boy's education after high school. And the school administrator testified that he was not college material, that the most he could do was some type of trade school, maybe even junior college but that was questionable. Well, a year or two later I was at DePauw while my daughter was there, we were at a football game and I was looking at the program. And the other school I think was Kentucky Wesleyan that was playing. And I was looking down at their roster and here was this boy. He was in his sophomore year at a four-year college, a division

three, but it was a reputable college. He later on transferred to Eastern Illinois, graduated there, and became a teacher. So, it just proves you can't tell somebody you can or you can't do something, because you don't know how they're going to develop or what the extent of their desire is.

LUPTON: So, if you had everything to do over again, what might you do differently?

LINCOLN: Oh jeez. Personally, or professionally?

LUPTON: Professionally. Personally, or professionally, however you want to answer that.

LINCOLN: Probably personally, when I was in private practice I would spend less time in the law office that I did. I'd cut down the volume of work I took on, so I had more time for personal pursuits. As a judge I know I did things that lawyers didn't care for and they did things I did not care for. I know I was not real patient with people who came to court who were not prepared to be there, who had not studied their case, who had not studied the law. They were flying by the seat of their pants. I think of one lawyer, I think it was a marital case and he was trying to explain this hearsay exception to me. Well, he didn't know what he was talking about anymore than.. He was my age. We'd been in high school at the same time. He practiced law the same amount of time. He had no more idea of what he was talking about on this evidence point than the man in the moon. Later that week I went to Chicago, because I was going to be on assignment the following week, and was a judge at the national high school trial court competition, where they brought teams in from all over the country and had them at the Daley Center and we real judges judged the trial. This same issue came up with a high school student. He knew exactly the law on that issue. Here was a high school student who knew more than the

lawyer knew, who'd been practicing for a number of years. I had no tolerance for that, I will admit it. Because I had been taught you go to court prepared, you know your facts and you know your law. Don't try to bullshit, excuse my language, the judge, because it's not gonna fly at all with most judges.

LUPTON: That actually raises a good question, because a lot of what's going on in court now are pro se.

LINCOLN: Yes.

LUPTON: So, how are judges, kind of, responding to that, dealing with people who may not know the law or probably don't know the law as well as the professional lawyers?

LINCOLN: Well, if you have a lawyer on one side and you have a pro se litigant on the other, for me it was very difficult to keep an even keel and not tend to favor the individual person to the detriment of the lawyer. And it's very hard for the lawyer, I realized also, not to be raising issues and taking advantage of a pro se, although the lawyer would be exactly correct. It's a no-win situation. Now, if you have two pro se people it's a little bit better. I just finally developed the attitude, let 'em say and do whatever they wanted to as long as is didn't get out of line and then sort it out from that point. Because, we had one lady who did a lot of collection work and she had houses that she rented and she usually got renters that didn't pay, she knew what to do in court. She could handle a small claims case very adequately. She was very nice with the defendants, although they had not been nice to her. She always tried to work out something with them after she got a judgment. But, some pro se's are totally unreasonable. They expect the judge to try their case for them. And it's difficult also on these orders of protection because they

would many times come in with some advocate, who thought they knew more than they knew, and who did not proceed according to the law. Well, you might have a husband show up with a lawyer and you have the pro se woman. It's a very difficult situation for the lawyer and also for the judge. And if you rule against the woman seeking the order of protection, they think it's because he had a lawyer. So, I feel sorry for the judges today, because I know they have a lot more of pro se litigants than we had in our day.

LUPTON: Okay, so, kind of the last question here. So, what do you want to be remembered for? What is your legacy as an attorney and as a judge?

LINCOLN: Well, after receiving a copy of your questions I thought about that. I wanted to be fair. I wanted to be educated about what was before me. Sometimes it's difficult. I know I had one lawyer who asked my staff, he wanted an all-day hearing. Well, they gave him an all-day hearing. They got there and I said, "It's time to go in the courtroom." Oh, no, he didn't want to go to court, he just wanted to talk to the other lawyer and the other party. Well, I sort of came unglued. I said, "Don't ever do that again. We gave you a day that we could have used for other people who needed court time. You could have gotten together outside of court to do your negotiating. Don't ever do this in my court again." Well, he was never very happy with me after that. I frankly didn't care. I wanted to be known to the people who came as jurors that we were considerate of them. When I campaigned for office I had many people who had been on jury duty who felt their time was wasted, the lawyers weren't ready to go ahead, the court wasn't ready to go ahead, the court didn't explain to them what was expected of them, what kinds of demands were going to be made on their time, what the procedure was. So, I wanted the jurors to be educated before we started trial. And if we said we were going to start at



nine o'clock I wanted those lawyers there in the courtroom with their parties so that we could bring those jurors in at nine o'clock 'cause that's what we told them. I saw jurors abused many times when I was practicing, and I did not want that in a courtroom.

Fairness is a big problem. You try to be fair. I know I had a divorce one time with the same lawyer that didn't know the hearsay rule. His client had taken the child outside the State of Illinois without the court's permission. He said, "Well, it's just a little outside the State of Illinois, judge. It's just over the line in Poseyville, Indiana." I could hardly keep a straight face because I said, "Well, that's like speeding or being pregnant. Either you are, or you're not. Your client took him out of Illinois. Bring the child back so the father can have his visitation. Ask the court to modify the order and let her take the child out. Just don't do it because you say it's just a little bit out of the state." Another thing, which was too bad, that I saw was very good lawyers having to continue to practice beyond their time, and I saw that with some judges too. I think, especially in one case of a lawyer who'd been a very well-known trial lawyer in Illinois, who was out of the county, who appeared before me, and he should not have been in a courtroom. I had another lawyer who I knew very well. His client was charged with a Class C misdemeanor, which was a fine only. They were up before the bench, he said, "Well, judge, we'll waive preliminary hearing. Well, you know, you only have a preliminary hearing in a felony case. And I said, "Well, Mr. So-and-so, I don't think that's necessary in this case. We can go ahead." But you feel bad when you've known people who were very good in their day who try to continue on, after their day. I always think when I was on the board of directors of a savings and loan we had one board member that was still a very brilliant man. He'd been superintendent of schools, principal, teacher, everything,

and we really wanted him to stay on the board. Well, it came up when we had the annual reelection of the directors he said, "I'm going to quit." We said, "We don't want you to quit." He said, "Well, you boys won't come up and tap me on the shoulder and tell me, 'Hey, L.H., it's time to leave.'"

And that's a very wise person who knows when it's time to leave. I wanted to leave when I was still in a good place. Today, I couldn't run a courtroom, I can't hear well enough. But I've seen people who try to practice beyond their time, who try to be a judge beyond their time. I wanted an efficient courtroom. There were some lawyers who did not subscribe to that attitude. One of my former law partners used to say, we have two big counties in this circuit, he'd say, "In one, judges run the courtrooms. In the other, the lawyers run the courtrooms." And I was brought up in the courtrooms that the judges ran. So, I suppose that had a great deal of influence on my thinking of how a courtroom should be conducted. The jurors were a big concern for me. The hallways were not air conditioned, so I wanted them brought into the courtroom while they were assembling, to be in air conditioning. I'd take the defendants and the lawyer's downstairs to the county boardroom and we'd have court there so that the jurors were comfortable while they were waiting for us to get the cases started. So, it's just little things that add up to a lot. And I know a lot of litigants and a lot of lawyers don't understand why you do something. But with most of us judges there was a reason you did it because of some experience you had had in your practice.

LUPTON: Okay. I think this has been an excellent interview. And I appreciate all of your wonderful memories and I really see this as a wonderful record of your history and of the history of the judicial branch, at least for a good number of years.

LINCOLN: Twenty-two and a half.

LUPTON: Twenty-two and a half. So, thank you very much.

**END OF INTERVIEW**