

tion of interest in and the use of these. It is impossible to obtain these objects without adequate funds.

The sundry burthens, then, borne by the administrative element of the Historical Department of Iowa, ought now at the first opportunity to be removed. With our building in advance of that of nearly every other State, and our collections in some respects excelling all the rest, the other step toward success, namely, provision of modern and adequate administrative machinery must next be made. On the whole with a smaller biennial appropriation than heretofore, a work which has the approval of the general public and is deemed useful by the practical patron, can be made the indispensable instrument of benefit to all as the founder intended it to be. It should very soon result in instant and accurate response by the Historical Department to all appeals for historical and archive information concerning Iowa and the Middle West.

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#### ABRAHAM LINCOLN AND HIS CLIENTS.

The appropriate relations of attorneys-at-law to their clients, to adverse parties, and to the public, is a subject that often perplexes moralists and philosophers. The many phases of the subject are illustrated most interestingly in the career of Abraham Lincoln as a lawyer in Illinois.

Chroniclers relate that even when the technicalities of the law gave to flinty-hearted claimants or litigants a definite advantage he would now and then make tremendous appeals to the sensibilities of jurors and by sheer eloquence sweep them away from their moorings of contract and secure the equity that humanity demands for the orphan or widow or a friend caught unwittingly in the nets of adverse circumstances. His biographers tell us of his frequent refusal to accept a retainer from any one of high or low estate whose case was bottomed on fraud or smacked of trickery. Tradition deals with various instances when he summarily dropped causes in the midst of trial on discovering that he had been grossly misinformed as to essential facts or had been hoodwinked by his client respecting any questionable transaction.

There recently came to the Historical Department for examination an original letter of Mr. Lincoln's,—never before made public, we believe—that strikingly illustrated another phase of his character and conduct as a lawyer. In the forepart of "the fifties" Mr. Lincoln received from Mr. L. M. Hays, one of the pioneers of Sangamon county, Illinois, a promissory note for collection. On proceeding with the matter he found the debtor to be poor and a cripple.

Moreover, the debtor refused to pay the note on the ground that the original drawee (or a prior holder) on his death bed had ordered the note delivered to him or destroyed. Mr. Lincoln apparently did not proceed with the collection rapidly, for his client on September 30, 1852, wrote inquiring as to the progress made and the prospects for returns. Mr. Lincoln's response—a brief note which appears in facsimile on opposite page—is interesting for it displays an attitude not usually accredited to lawyers in pursuit of clients and fees.<sup>1</sup> Mr. Lincoln notified Mr. Hays that he had deliberately neglected to enforce his rights in the premises when he could have secured judgment. Pity for the debtor in distress caused him to agree to a postponement of the hearing.

The debtor's statement that a prior holder or the original creditor had waived or cancelled the obligation was almost a violent assumption when the note was in the hands of third parties and presumably innocent purchasers. Conceding the possibility that the debtor's contention was bona fide, it rested on a parol agreement, the evidence or proof of which, death had destroyed so that third parties could not thereby suffer prejudice.

The incident affords an excellent illustration of the perplexities that ever and anon confront and disturb the practicing lawyer. When an amount in controversy is not large,

<sup>1</sup>  
L. M. HAYS, ESQ.

DEAR SIR: Yours of Sept. 30th just received. At our court, just past, I could have got a judgment against Turley, if I had pressed to the utmost; but I am really sorry for him—*poor* and a *cripple* as he is—He begged time to try to find evidence to prove that the deceased on his death bed, ordered the note to be given up to him or destroyed—I do not suppose he will get any such evidence, but I allowed him until next court to try—

Springfield, Oct. 27, 1852.

Yours &c

A. LINCOLN.

Springfield, Oct 27, 1852

L. W. Hoops, Esq.

Dear Sir,

Yours of Sept 30<sup>th</sup> just received - At our court, just past, I could have got a judgment against Threlby, if I had pressed to the utmost; but I am really sorry for his ~~poor~~ <sup>poor</sup> and a cripple as he is - He begged time to try to find witnesses to prove that the deed was his death-bed, ordered the note to be given up to him or destroyed - I do not suppose he will get any such success, but I allow him till next court to try -

Yours H  
A. Lincoln.

The Historical Department of Iowa is indebted to Mrs. E. C. McMillan, of Keokuk, for the loan of the original letter, of which the above is a facsimile.

sympathy is wont to play a large part in its consideration, at least in the attitude of the public toward the matter. When large sums or vast interests are at stake, hard sense and stern logic are rigorously insisted upon, and few gainsay the justice of thus proceeding, although sympathy for the one adversely dealt with may be felt. Mr. Lincoln would appear to have been chargeable with non-feasance—with disregard and neglect of his client's interest because of tenderness of heart; whereas relief was not for him to grant, but was the prerogative or the privilege of his client. The conclusion of the case is not known.

F. I. H.

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#### NEW PUBLICATIONS.

*Thomas Cox, by Harvey Reid: pp XVI, 257. The State Historical Society of Iowa; Iowa City, Iowa, 1909.*

The career of Thomas Cox of Jackson county represents the careers of a large proportion of the pioneers of Iowa—not necessarily of the average pioneer but certainly of a considerable number of the first settlers. He was a pathfinder and pathmaker. As a lawmaker and as a surveyor he marked the lines and set the stakes of law and order. He was a big, bluff, buoyant, hale-fellow-well-met; convivial, forceful, reckless, unsystematic, non-persistent, except under the whip and spur of keen public excitement and crowding events. The records of his life are meager and the exhibits of his work not large. Nevertheless he was a factor of decisive influence in the affairs of our territory, and Mr. Reid has given us an interesting and instructive narrative of Colonel Cox's career. This volume is an expansion of Mr. Reid's article in *The Annals of Iowa* (3d series, Vol. VII: 241-269.)

The span and spaces of Cox's life comprehended three states, Kentucky, Illinois and Iowa. He was a soldier in the War of 1812 and again in the Black Hawk War. In the latter he might have achieved official elevation and distinction, but consciousness of his weaknesses made him shrink from responsibility. He served in various capacities—as Justice of the Peace, as Register of the Land Office, as Deputy United States Surveyor. He was a land speculator and town-site manipulator. He was a member of the Legislature of Illinois and also of the Territorial Legislature of Iowa, becoming Speaker of the House of Representatives (1840) and President of the Council (1844). He was one of the founders of Spring-

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