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A "Value-Added" Resource The Law Practice of Abraham Lincoln: Complete Documentary Edition

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A “Value-Added” Resource

The Law Practice of Abraham Lincoln: Complete Documentary Edition

Marty L. Benner

When one hears the adjective “value-added,” thoughts normally go to manufacturing, business models, and marketing strategies. At its most basic level, however, adding value is exactly what documentary editing is all about: increasing the worth of something for the intended user. The process of organizing, indexing, and publishing documents adds value to any collection; transcribing and annotating documents adds even more value for the intended audience. And, as if collecting, analyzing, transcribing, annotating, and publishing documents were not enough, documentary editors must deal with their urges to add “everything but the kitchen sink” to an edition to increase its value to the user. We know what it takes to understand the documents from being immersed in our subject for years. So who better to impart that knowledge than the documentary editor?

When the editorial staff began designing The Law Practice of Abraham Lincoln: Complete Documentary Edition (LPAL) in 1991, we intended it to become an electronic version of a microfilm edition—images of documents accessible through an electronic finding aid.¹ As we refined our conception of what the edition should look like, and as technological capabilities exploded in the 1990s, we saw many opportunities to add value to the edition. The fact that it was electronic made many of these ideas possible and relatively inexpensive. By the time we published LPAL, we had created not only the typical introduction to the edition and a statement of editorial method, but a substantial reference section that, if printed, would be over 500 pages in length (see figure 1 on page 60). The reason that we could even consider including these value-added components is that the

Abraham Lincoln practiced law for nearly twenty-five years in the Illinois courts. Other than part-time service in the Illinois legislature and the United States Congress, law was his full-time occupation. Lincoln handled cases in almost all court levels: justice of the peace, county, circuit, appellate, and federal. He had three successive formal partnerships: junior partner to John Todd Stuart (1833-1841), junior partner to Stephen T. Logan (1841-1844), and senior partner to William H. Herndon (1844-1861). Like many of his colleagues at the bar, Lincoln was a general practice attorney and represented clients in a variety of civil and criminal actions including debt, slander, divorce, dower and portion, mortgage foreclosure, and murder.

While Lincoln lived in New Salem, Illinois, from 1831 to 1837, he had various encounters with the legal system. He wrote legal documents for Bowling Green, the local justice of the peace, appeared in several lawsuits as a witness, and was the defendant in several cases in which creditors sued him to collect debts. Lincoln considered a career in law after he lost the 1832 election for the Illinois General Assembly, but, according to his 1860 campaign autobiography, decided against a legal career because he thought he needed more education to succeed as a lawyer. In 1834, Lincoln won election as a representative for Sangamon County to the state legislature. When he attended legislative sessions in Vandalia, fellow representative John Todd Stuart encouraged him to study law.

Aspiring attorneys typically studied with established members of the bar or served as clerks in law offices to prepare for a legal career. Lincoln had no such opportunity in New Salem. Instead, he borrowed law books from Stuart's law office in Springfield, twenty miles away, and read them while the legislature was not in session. Lincoln read Blackstone's Commentaries and legal authority and practice treatises to become familiar with the forms of action and the legal system. On March 24, 1836, the Sangamon County Court certified that Lincoln was a person of good moral character. This certification was the first of several necessary steps to become a lawyer in Illinois.

Figure 1

The Table of Contents of the Reference section of the LPAI is shown in the left-hand pane. A portion of The Law Practice of Abraham Lincoln: A Narrative Overview is shown in the right-hand pane. Notice the hyperlinks in the text that lead the user to different Reference sections or present pop-up boxes with definitions of legal terms.
The results of a search with the subject of "contracts" that were appealed to the Illinois Supreme Court. The description in the upper-right hand corner is a summary of the highlighted case, Barret v. Alton & Sangamon RR. The subjects listed in the lower right-hand window and the court level details at the bottom are also for that case.

Figure 2

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electronic format made it cost-effective to publish. Our time spent in creating the content and putting it into the Reference format was the cost for these additional sections; the size of our image collection dictated that we use three DVD-ROM discs, but there was room to spare for the 38 megabytes (MB) of files that made up the Reference, Background, and Help sections.

We did not formally decide to include case summaries ("briefs," as we called them) until roughly four years before publication.2 Quite a while before then, however, we recognized the need to have a concise description of each case from start to finish. During the accessioning of the documents (and organizing them into case files), we extracted bits of information about the case and documents to put into a database that would serve as our comprehensive index.3 Many of the more complex cases, however, simply could not adequately be described by bits of fielded data. Staff editors wrote informal summaries for many cases and filed them with the documents during the accessioning process, so the next person who read the file would have an easier time understanding it. As we began to design how the data would look in the electronic edition, the need for summaries of all cases became evident: From a list of "hits" returned after a search, how could a researcher even begin to narrow down the cases he/she wanted to study without knowing the gist of the case (see figure 2 on page 61)? We were creating the edition primarily for scholars, but we knew that with the addition of some components, like the summaries, it could be used by a much larger audience. We felt that even scholars would appreciate having the cases encapsulated for quick review. The inclusion of case summaries added perhaps the most value of all of the added features in the edition.

While we were writing the summaries, we assigned main and "sub" subject headings to each case. This finding aid supplements specific fielded data about the case (case name, court, date, action) and the documents (document name, date, author, signer) and allows users to search by general and legal topics under headings such as the following: African Americans; Agriculture (Machinery, Crops, Fences; See also Animals); Almanac Trial; Attorney’s Fees (Contingent Fee Agreement, Litigation Involving); etc. These headings

2 The project formally began in 1985 and the LPAL was published in 2000.
3 We identified the case structure in general and named it according to the name used at the court of highest appeal; we identified each specific level of court, the name of the case at each level, when it began, when a decision was rendered, the action, the verdict, the participants in the case (attorneys, plaintiffs, defendants, court officials); for each document, we listed the document name, manuscript type, date of creation, date of filing with the court, location of the original document, and the author/signer/endorser.
were assigned by editors who had digested a case and thus could identify topics to which it related. An index is the most traditional value-added component of any documentary edition. And because we could (due to the electronic format), we also displayed all of the index terms given to a particular case (see figure 2 on page 61). Researchers perusing cases on one topic could use this feature to access similar cases on a related topic.

In creating LPAL, we had to prepare a number of resources for ourselves while collecting images of 96,386 documents representing 5,173 legal cases and 496 nonlitigation matters from Lincoln's twenty-five years as a lawyer. One of the first resources we created was a compilation of legal terms, actions, and document names that we encountered throughout the document collection phase. As any legal historian knows, the use of legal terms has changed over the years. We could not simply consult the latest edition of Black's Law Dictionary and be sure the meaning found there captured the nuances of a term used in a legal document from the 1850s. We consulted Bouvier's Law Dictionary, published in 1839 in Philadelphia, but even then we had to be aware of regional differences in usage. As we identified working definitions pertaining to our time period and locale, a rough glossary took shape. With the ability to use hyperlinks and pop-up boxes, we made these definitions available throughout the edition by a simple mouse click, adding value to the documents by clarifying their content.

Another key to understanding Lincoln's law practice is knowing the people mentioned in the documents. We knew of many of the key players in Lincoln's legal career before we began: the names of John T. Stuart, Stephen T. Logan, William H. Herndon, and David Davis appear almost anywhere Lincoln the lawyer is mentioned. As we got further into the project, we identified many close associations with other attorneys, some of which even appeared as informal partnerships as he rode the circuit throughout central Illinois. His path as revealed in the legal documents crossed those of many others who were his political allies or adversaries one day and his clients the next day. While some of these people had a national reputation, many did not—background information on them was frequently buried in county histories and local newspapers. We had good access to those references, but we knew others did not. We obviously could not include everyone mentioned in

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4Nonlitigation matters include such legal tasks as writing wills and deeds for a client, performing title searches, giving advice or an opinion on some matter, and collecting debts and judgments. These matters were handled outside of court, but were very much a part of a lawyer's daily activities.

the documents, but by including these key biographies—and photos where possible—the value of the edition as a comprehensive research tool increased tremendously (see figure 3 on page 65).

Our staff unanimously supported the inclusion of all of these aids to research, but one other item was not such an easy sell. Some editors felt strongly that we should include images of the Illinois statutes from the period—at least the 1839 statutes (one volume) and the 1856 statutes (two volumes). Other editors disagreed. The editorial staff spent hours debating the pros and cons of this feature. Those arguing for including the statutes pointed out that if users did not know what the laws of the time were and how they were written, how could they possibly understand the litigation relating to them? They also argued that the volumes—especially the 1839 edition—were rare enough that some researchers would have a hard time locating a copy. Those on the opposing side felt that including entire books went far beyond the scope of a documentary edition. They also questioned the usability of the books presented as TIFF images, which was how we first envisioned their presentation. To conserve space, we had scanned the book with two pages on one image. The 1839 statutes was 728 pages long, or 376 folio pages. There was no table of contents. The index at the end of the book referenced page numbers, but users would have to realize that there were two pages on each image, so they would have to divide the index page number in half and go to that image. Cumbersome, yes, the argument went, but at least the information was available.

We settled on a compromise with the statutes: rather than presenting them as TIFF images, as we did our documents, we scanned the volumes (which were in the public domain) into word-searchable PDF files. All three volumes—2,232 pages—ended up adding only 162 MB. We created our own table of contents for the 1839 statutes (the 1856 volumes had one already), and we created hyperlinks from the table of contents and the index of each volume to the referenced page. Did we go beyond what editors should be expected to provide by including the statutes in the edition? Maybe. But did they add value to the edition? Definitely.

In the Reference section, we also included a narrative overview, a chronology, and a statistical portrait to make it easy for the researcher to get a broad, general view of both Lincoln’s life and his law practice. Researchers could have done this research for themselves, of course, but we felt that the edition would be incomplete without a basic biography of Lincoln’s life. It was a small step from there to include milestones from his life in the
Norm Broadwell

Born August 1, 1825, in Morgan County, Illinois; died February 28, 1893, at Springfield, Illinois. In 1850, Broadwell studied law in the office of Lincoln and Herndon in Springfield, Illinois, and was admitted to the bar the following year. Broadwell moved to Peoria, Illinois, to practice law but returned to Springfield in 1854. He had several law partners including Shelby M. Colfax, John A. McClernand, William M. Springer, and W. L. Gross, who was his partner at the time of his death. In his first law case, he was opposed in counsel by Abraham Lincoln. Active in Democratic politics, Broadwell was elected to the state legislature in 1881. In 1882, he replaced George Power as county judge, and in 1887, he was elected mayor of Springfield.

Illinois State Register (Springfield, Illinois) March 1, 1863, 1.

Joseph Wallace, Post and Present of the City of Springfield and Sangamon County (Chicago: S.J. Clarke Publishing Co., 1904), 2:933-34.

Illustration courtesy of the Illinois State Historical Library, Springfield, IL

Figure 3

There are 206 individuals and organizations identified in the Biographies section. Railroads and businesses that were frequent litigants in Lincoln’s cases are identified here along with individual attorneys, judges, and frequent clients.

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Figure 4

The Chronology includes events from Lincoln’s personal life, his legal career, his political career, historical events, and court sessions.

As a more specific study of Lincoln’s peers, Table 12 identifies those attorneys with whom he was co-counsel and those whom he opposed by case level.

<table>
<thead>
<tr>
<th>Attorney</th>
<th>Co-counsel</th>
<th>Opposing Counsel</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Henderson, William H</td>
<td>143</td>
<td>15</td>
<td>1443</td>
</tr>
<tr>
<td>Logan, Stephen T</td>
<td>26</td>
<td>306</td>
<td>332</td>
</tr>
<tr>
<td>Smith, John T</td>
<td>87</td>
<td>306</td>
<td>393</td>
</tr>
<tr>
<td>Edwards, Benjamin S</td>
<td>58</td>
<td>306</td>
<td>364</td>
</tr>
<tr>
<td>Baker, Edward D</td>
<td>62</td>
<td>126</td>
<td>188</td>
</tr>
<tr>
<td>Davis, Oliver L</td>
<td>38</td>
<td>124</td>
<td>162</td>
</tr>
<tr>
<td>Lamon, Ward H</td>
<td>154</td>
<td>4</td>
<td>158</td>
</tr>
<tr>
<td>Robbins, Elias W</td>
<td>24</td>
<td>110</td>
<td>134</td>
</tr>
<tr>
<td>Jones, Edward</td>
<td>36</td>
<td>54</td>
<td>90</td>
</tr>
<tr>
<td>Matheny, James H</td>
<td>22</td>
<td>62</td>
<td>84</td>
</tr>
<tr>
<td>Moore, Clinton H</td>
<td>42</td>
<td>38</td>
<td>80</td>
</tr>
<tr>
<td>Harris, Thomas L</td>
<td>50</td>
<td>40</td>
<td>90</td>
</tr>
</tbody>
</table>

Table 12: Lincoln’s Co- and Opposing Counsel

Researchers should note that although Lincoln and one of the above attorneys may have been on the same side in the same case level (represented here as co-counsel), they may not have represented the same person. Co-litigants could, and frequently did, select different attorneys.

Figure 5

An excerpt from The Law Practice of Abraham Lincoln: A Statistical Portrait.
Chronology section along with key historical events (see figure 4 on page 66). This background material is invaluable for researchers and students. The Statistical Portrait section was included to give a quantitative description of Lincoln’s law practice as represented by the extant documentation. From it, we could show his practice by county, year, and court division. Even though not definitive because of the loss of records to fire, neglect, theft, and flood, the statistics included in this section give a quantitative measure of trends that we observed in reviewing Lincoln’s law career (see figure 5 on page 66).

In the same vein, the Pleading and Practice and the Court Structure sections provide a quick background for researchers not versed in nineteenth-century law. A short description went a long way in helping a researcher know how the legal process worked. For example:

To begin a common law case, the plaintiff contacted the clerk of the court in which he wished to sue at least ten days before the beginning of the term of court. The plaintiff filed two documents with the clerk. The first document was a praecipe, which briefly explained the basis for the action and requested that the clerk issue a summons to bring the defendant before the court at the next term. The second document was a declaration or narration, which set forth in detail the facts of the case and the reason that the plaintiff should obtain relief through the court.

The Pleading and Practice section presented the mechanics of the structure of a case in each division, and even included a document flow diagram (see figure 6 on page 68). Armed with this section, and with the glossary and the case summaries, even a student without legal training can use the collection to study Lincoln and nineteenth-century life.

It should be evident at this point that we were creating this edition not just for legal historians and Lincoln scholars. As editors argued for the inclusion of each Reference section, they invariably mentioned using the edition as a teaching tool in secondary schools. Maps of Illinois are included, showing the major waterways and railroads, as well as the changing court boundaries over the years. Photos of Abraham Lincoln from 1846 to 1860 are included, as are photos of the courthouses in which he practiced. All of these resources give users a better “feel” for the era in which Lincoln lived and practiced law.
The document flow in pleading a case in the Common Law division.

Figure 6

The document flow in pleading a case in the Common Law division.
Figure 7
An electronic perpetual calendar.

Figure 8
A sample from the Bibliography.
Because the court cases dealt with money and/or land, we added two sections to help users understand nineteenth-century monetary values and the legal terms used in land description. We included a commodity price index for researchers and students to compare real money values over time. The section on land measurement explains how the state is divided into townships, and how to locate properties referred to in documents with terms such as “Township 16N, Range 5W.” We provided modern equivalent measurements for archaic terms, such as “rod,” “chain,” and “link.” And to help with the time element, we added an electronic perpetual calendar to identify, for example, the actual date of the second Tuesday in March of some year or the day of the week on which September 9, 1836, fell (Friday) (see figure 7 on page 69).

Finally, we pointed researchers to the references we used in the creation of the edition. Our Bibliography section includes general works on Lincoln, works about his legal career, and works on his political career. Books on the general history of Illinois and of the antebellum era are included. Legal historians can review general works or those concentrating on the period, as well as practical pleading and practice manuals, references, form books, and treatises that were used by Lincoln and his contemporaries (see figure 8 on page 69). Along with the bibliography, we included a suggested citation style for those citing the edition, whether the reference is to an image, content from the database, or the Reference section (see figure 9 on page 71).

This Reference section and other elements used throughout the *LPAL* suggest new ways for documentary editors to add value to their collections and publications. The electronic formats broke down barriers to how these references might be added to enhance the value of our collection—publishing costs no longer prohibit the inclusion of items that are not the “meat” of the edition. Editors can provide and users can enjoy a generous helping of “potatoes” making modern electronic editions research tools. The question remains as to what the editor should include. Of course, each inclusion should be weighed on its own merits based on the following guidelines:

- How critical is the component to understanding the documents in the collection?
- Is it readily available elsewhere?
- How much will it cost in terms of time and effort?
- Can the project’s budget and timetable support it?

Having used *LPAL* to teach summer seminars on “Lincoln the Lawyer”
Below are suggested bibliographic and note citations for this publication and elements within it. The citations are based on the Chicago Manual of Style, 14th ed. Chicago: University of Chicago Press, 1993.

Bibliography


Notes

First Citation: Martha L. Benner and Cullom Davis et al., eds., The Law Practice of Abraham Lincoln: Complete Documentary Edition, DVD-ROM (Urbana: University of Illinois Press, 2000), hereafter cited as LPAL.

Later Citations: LPAL.

Case or Activity: Dorman et al. v. Lane, LPAL.

Legal Document: Decree, 11 September 1847, Dorman et al. v. Lane, LPAL.

Published Court Opinion: Dorman et al. v. Lane, 11 Ill. 143 (1844)


"Eighth Judicial Circuit, 1845-1847," Maps, LPAL.

Figure 9

The Reference section includes a suggested citation style to help researchers unfamiliar with electronic works cite different sections of the edition.
to high school students, I know how valuable the case summaries and the Reference section are in helping students (and teachers) get a glimpse of life in nineteenth-century Illinois through legal documents. I held the class in a computer lab, so each student had access not only to the LPAL, but also to the Internet. To introduce my students to Lincoln the lawyer, I had them read “A Narrative Overview” (from LPAL). Many had heard of Lincoln “riding the circuit,” but they did not know what it meant. I used maps to show what counties were included in the circuit that Lincoln rode, and we read about the makeup of the circuit courts in the Court Structure essay. We used a present-day map to calculate the distance between county seats and talked about modes of travel during the period. We talked about his political career and looked at the chronology to see how his political life and life as a lawyer intertwined. We looked at photographs of Lincoln in his lawyer days and at the courthouses in which he practiced. We then followed the topics suggested in *From Courtroom to Classroom: The Lincoln Legal Papers Curriculum.*

With each topic, we studied one or more illustrative legal cases. The students used a form to help them analyze key documents. We used the LPAL glossary for a definition of the document type, the action of the case, and any other unfamiliar words. We read the biographies of the other attorneys and key figures in the case. We referred to the pertinent section of Pleading and Practice (Common Law Pleading or Chancery Pleading) and studied the document flow diagrams to help them understand where the key documents fit into the overall case. We looked at the chronology and talked about other events that were going on in Illinois and the United States at the time.

To give the students a better idea of life in that period, we looked at personal property inventories from two different legal cases—one inventory was from the estate of a farmer and one was from the estate of a wealthy landowner living in the city. A value was put on the content of the different inventories—household furnishings, dishes, tools, clothing, livestock—and students used the commodity price index from LPAL to put present-day values on the different items. They could compare the collection of personal property from the rural family and the city family to their own family to gain an appreciation of material culture then and now.

We studied the advances in transportation—building roads and railroads—

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and conflicts over the location of transportation routes. We looked at a case
where the placement of the road made a real impact on a farmer by going
between two land parcels. We used the drawing contained within one of the
legal documents from the case, and we studied the Land Measurement sec­
tion of the LPAL to understand the size of the plots and the distance between
them.

While studying marriage and divorce, we looked closely at the statutes
and found the law of the period that governed how marriage could be dis­solved. We used the Internet to find the divorce laws of today for a compar­ison. During this study, we also visited an Illinois Regional Archives
Depository, located on the campus of the University of Illinois at Springfield,
where our class was held. Students could see the original documents and
docket books that appeared as images in the LPAL.

We reviewed a complex case where a milldam impeded a flatboat full of
corn traveling on the Sangamon River en route to New Orleans. The dam,
which was an illegal structure on the river, subsequently caused the flatboat
to sink. We tracked this case from the circuit court to the Illinois Supreme
Court, and the students saw how technical errors in legal practice in the
lower courts caused verdicts to be appealed and overturned in a higher
court. The Court Structure essay helped them see the hierarchy of courts and
differentiate between jurisdictions. Students also saw how the price of a com­modity was different depending on the market. In this case, the plaintiff sued
the defendant not only for the value of the lost corn in central Illinois but for
damages—the difference between the value of the corn in Illinois and the
value of the corn had it reached the seaport in New Orleans. The case sum­mary was invaluable in understanding this complex case. Once the students
knew the “whole story,” they could read the documents and see where the
editors who wrote the summaries got the details.

Toward the end of the session, I divided the students into small groups
and asked them to peruse our subject entries to find an interesting topic to
explore. I then asked them to determine what they did not know but wanted
to know about the topic (as it related to Lincoln’s law practice or antebellum
Illinois). They had a week to put together a Web site and prepare a class pres­
entation on their topic. One group wondered what the penalties were for
murder and assault and whether the penalties were applied fairly to people
from different social classes. Another group reviewed all the cases involving
African Americans as litigants in an effort to see what rights this group had
at the time and how those rights were supported in a court of law. Spurred
by our discussion of family law, one group of young women reviewed all the
divorce cases and did a statistical analysis by gender based on grounds for
divorce. An assignment like this would not have been possible in our time
frame without the case summaries, subject matter search capability, the
statutes, glossary, background essays, and all the other value-added compo­
nents in LPAL. The addition of these sections to the primary source docu­
ments made LPAL an extremely comprehensive teaching tool. The
Reference section offers a virtual legal library targeting the parameters of the
edition. It and the other value-added components make the daunting task of
slogging through legal documents much simpler and much more rewarding
for students and scholars alike.

The one thing we did not do that would have added additional value to
our edition was to transcribe the documents. Based upon the guidelines
offered above, we could have justified it due to the difficulty some users have
in reading the handwriting, but our budget and timetable did not support
this task. The additional value did not outweigh the cost. We had provided a
very comprehensive search tool, an “intelligent” index (beyond simple key­
word searching), and a wealth of references to help with document content.
We produced these references in much less time than we could have accu­
rately transcribed the almost 250,000 pages in the collection. We knew that
we would follow this edition with a book edition, where we would offer tran­
scriptions of selected documents from selected cases. We also knew that
many of our documents were formulaic—lawyers or clerks copied document
templates from form books and filled in the blanks. The value of most of
these legal documents—subpoenas, affidavits, and entries in the court record
and various docket books—was not the prose, but the facts contained therein.
Many of the few letters, notes, and speeches within the collection had
already been transcribed and published in other works, most notably The
Collected Works of Abraham Lincoln. For these reasons, the decision not to
transcribe the documents was not a difficult one to make.

Fortunately, the documentary editor has help in deciding which compo­
nents to add and which ones to leave out—our editorial and advisory boards
weighed in on all these issues, as did our sponsors and funders! We made the
arguments, however, with the best interests of our users in mind. After all, if
it were not to add value to document collections for those who follow, why
would we bother?

7Forthcoming from the University of Illinois Press in 2007.