

Chapter 4

“The Democratization of [the] Indiana Territory” Prof. John E. Barnhart, 1895-1967

When a deed is done for Freedom,
through the broad earths aching breast
Runs a thrill of joy prophetic,
trembling on from east to west,
And the slave, where'er he cowers,
feels the soul within him climb
To the awful verge of manhood,
as the energy sublime
Of the century bursts full-blossomed
on the thorny stem of Time.

James Russell Lowell 1819-1891

What was the most important issue in
the democratization of the Indiana Territory?

Importance of Slavery in Defining Democracy in the Indiana Territory

In 1947 John E. Barnhart wrote an article which appeared in the March, 1947 issue of the *Indiana Magazine of History*, Volume XLIII, No. 1 entitled “The Democratization of Indiana Territory.” This article advocates that while there were other important issues in the Indiana Territory during its early years, the fight over slavery was the most important. This article discussed in depth Indiana’s transition from an autocratic government to a democratic state as demonstrated best by the defeat of the proposals and actions of the proslavery proponents. The Indiana Territory was created by the U. S. Congress out of part of the Northwest Territory in 1800 and after several deletions reducing its size to today’s boundaries, it qualified for statehood and became the 19th state in the Union in 1816.

New France and the Vincennes Tract

In 1750 New France occupied a region that included the areas drained by the Mississippi and Ohio Rivers, the Great Lakes, and Northeastern Canada. In 1763 at the conclusion of the Seven Years War this region was ceded to Great Britain. There were four Jesuit churches in the Illinois country at that time, which were abandoned and their property confiscated for the benefit of the English king. The Catholic Church would not return to this area until Father Gibault moved to Vincennes in 1785. Because of the conquest of the Northwest Territory in 1779 by Gen. George Rogers Clark and his small army, it eventually became a part of the United States. Prior to 1779 the Indiana Territory consisted primarily of French villages on lakes, rivers, and streams mostly situated in the Illinois country and occupied by men who came from various parts of New France and old France. Many of these men had married Indian women. The villages were frequently clustered around Catholic churches, army forts, and/or trading posts. Farms with rich soil that produced more corn and tobacco than the settlers needed fanned out from the rivers. Fur trade with the Indians was vigorous. Corn, tobacco, and furs were sold and the settlers in turn bought the necessities which they needed to improve the quality of their meager lives. The French settlers acquired from the Indians a region around Vincennes which was called the Vincennes Tract. Interestingly enough, land was not the basis of the economic system at that time as it was in much of the United States, but that would soon change. The official acquisition by the United States of Poste Vincennes did not occur until the time of the Greenville, Ohio Treaty on August 3rd, 1795. The boundaries of the Vincennes Tract were specifically defined by the Miami Indians in the Treaty at Fort Wayne, Indiana on June 7, 1803. The area south and southeast of the Vincennes tract was acquired by the United States in the Treaty at Vincennes on August 18th and 27th, 1804. This tract was bounded on the west by the Freeman Line of the eastern boundary of the Vincennes Tract, on the south by the Ohio River, and stretched to the Parker Improvements on the west line of Clark's Grant and about one and one-half miles from the Ohio River.

American Immigration into the Northwest Territory

Soon after the conquest of the Northwest Territory in 1779 a trickle of men and women from the southern states began to settle in this area. It was this year that John Floyd brought his brothers and sisters and their families to Jefferson County, Kentucky. When the Indiana Territory was created in 1800 Davis Floyd and his family moved across the Ohio River to Clarksville and then Jeffersonville. Many French settlers were not enamored with the invasion of Americans into their lands with the result that they left the villages of Vincennes, Kaskaskia, and Cahokia, all places where Gen. Clark and his army had visited and captured, and took up residence in St. Louis and the Spanish Territory west of the Mississippi River.

Indiana Territory

The French settlers did something that the American settlers did not do well and that was they got along with the Indians, probably because many of them were half-breeds. They were more docile than the newcomers from America and seemed to respect authority more, possibly an influence of the Catholic Church. When the Indiana Territory was created, its capitol was located at Vincennes, a central location in the Territory. Gov. William Henry Harrison was appointed the first governor of the Territory. He and two judges ran the Territory in an autocratic fashion which was allowed by the Northwest Ordinance during the first stage of government which lasted in the Territory from 1800 until 1805. Some of the French population in the Vincennes Tract and elsewhere in the Illinois country were slave owners and since the Northwest Ordinance of 1787 disallowed slavery and involuntary servitude, they faced a dilemma--they could move, they could fight to repeal or suspend the antislavery provisions of the Ordinance, or they could ignore the proscription. Eventually, they would have a friend in Gov. Harrison who seemed like a Federalist to them, rather than a

populist. The French liked authority and they fell into the ranks behind the Governor, or the Governor fell in with them.

Limitations on Autocratic Government in the Indiana Territory

While Gov. Harrison and the two judges ruled in an autocratic fashion, there were some limitations on their political powers. First, they were appointed by the President of the United States, in this case Thomas Jefferson, who could remove them or not reappoint them to office. Second, there were certain provisions in the Northwest Ordinance that restricted their powers, for instance, slavery and involuntary servitude were banned in the Northwest Territory. Third, the courts could act to hold unconstitutional or unlawful the laws they enacted. Fourth, there was the possibility, sometimes the probability, of pressure in the form of petitions, resolutions, memorials, etc. to Congress from the populace. Fifth, the governor could call a convention to let the people informally decide issues. Gov. Harrison did this in 1802 to allow certain electorates from the counties to vote on the slavery issue. As will be seen, even at this democratic meeting not all the votes were counted. As will be further seen, subterfuge played a major role in getting laws favoring slavery passed and petitions also favoring slavery approved by the Indiana General Assembly during the second stage of government, which lasted from 1805 until 1816, when Indiana gained statehood (the third stage of government in the Territory). Beginning in 1807-08, the anti-slavery forces in the Indiana Territory began to exert sufficient democratic influence to defeat the dictatorial methods used by Governor Harrison; Congressional Delegate, Benjamin Parke; Clark County representative to the Legislative Council (appointed upper house of the General Assembly), Samuel Gwathmey; and their friends in their attempt to impose slavery in the Territory.

Clark's Grant

This tract of land consisting of 150,000 acres was given by Virginia to Gen. George Rogers Clark and his veterans in 1781. Two years earlier it had been ceded to Gen. Clark by the Piankeshaw Indians and ratified by the Greenville Treaty of 1795. Prof. Barnhart says the following regarding the emerging settlement at the Falls of the Ohio opposite the town of Louisville:

On the northern bank of the Ohio River opposite the Falls, was the little village of Clarksville, surrounded by the 150,000 acres of Clark's Grant, which Virginia gave to the soldiers and officers of Clark's campaign. Settlement of the area began in 1784 and by the turn of the century it contained 929 persons, many of whom were Clark's soldiers. Across the Ohio was Louisville, an important town for travelers and settlers, located at the Falls and at the end of an extension of [Daniel] Boone's Wilderness Road. Quite generally, also, boats coming down the Ohio stopped at Louisville and unloaded at least portion of their passengers and cargo before running the Falls. Down the Ohio and over the roads through Kentucky came the settlers of Clark's Grant and many who traveled to the northward and westward. The essentially democratic character of the poorer immigrants from the Southern States was to be revealed when this area became one of the anti-Harrison and antislavery strongholds in the struggles of the territorial period.

Barnhart, John D., "The Democratization of Indiana Territory," *Indiana Magazine of History*, Vol. XLIII, No. 1, March, 1947, pp. 4-5.

The "Gore" and the Whitewater River Valley

Apart from the Vincennes Tract and Clark's Grant, a third area in the Indiana Territory was being populated during this time. That area was known as the "Gore" and laid between what would become the Ohio boundary and the west line established by the Treaty of Greenville in 1795. Ownership of this area was disputed between the Ohio and Indiana Territories until Ohio became a state in 1803 at which time the Gore fell under the jurisdiction of the Indiana Territory. Later this area would be extended north into the Whitewater River Valley. Most of the settlers in these areas came from Kentucky and merely "squatted" in desirable locations. Later on, Quakers from North Carolina began migrating into

the Whitewater River Valley bringing with them democratic beliefs and an aversion to slavery.

Buffalo Trace

Clark's Grant and Vincennes were connected by an abandoned buffalo trail or trace which was used almost exclusively for travel between the two areas. It has been reported that the last buffalo on the trace was sighted near White River in 1799. The trace was surveyed in 1805 by William Rector and consequently it is a matter of exact record. Davis Floyd would have used the Buffalo Trace traveling from Jeffersonville, which was organized in 1801, and Vincennes to attend the General Assembly in 1805-07. Jeffersonville had become the home for Floyd and his young family. His younger brother, Charles Floyd, whom Capt. William Clark selected as one of the sergeants on the famous Lewis and Clark Expedition, carried the U. S. mail between Louisville and Vincennes on this route before his departure on the Expedition from Clarksville on October 26th, 1803. According to Prof. Barnhart, the Buffalo Trace was also known as "the Old Indian Trail, the Governor's Road, and the Kentucky Road." There was not much settlement north of this road during the early days of the Territory. After Indiana became a state the trace was paved and called the State Road. This road was the first of many such roads in Indiana which led to the state's motto: "The Crossroads of America."

Influences in the Shaping of the Populations

During the population of the southern part of the Indiana Territory during this period, two factors played important roles. First, not many Southern planters and their slaves moved into the Territory. No doubt the influence of the anti-slavery provision of the Northwest Ordinance and the unsuitability of plantation crops in the North played roles in this factor. Second, "poorer immigrants from the Southern states" with "essentially democratic character" moved into the Territory en masse. They were diminutive landowners and squatters. Prof.

Barnhart described it this way: "...the point is that the Indiana frontier was a poor man's home and its development in the formative period was shaped by frontier influences."

Five Phases in the Indiana Territory's Existence

Prof. Barnhart divides the first sixteen years of the Territory's existence into five phases. The first phase which lasted from 1800 to 1805 constituted the period of "unrepresentative government"; this was the first grade of government under the Northwest Ordinance. Gov. Harrison and two judges ran everything. The second phase which lasted from 1805 until 1809 when the Illinois country was separated from the Indiana Territory was denominated "semi-representative government"; this was the first part of the second grade of government. The third phase which lasted from 1809 to 1811 may be called the "period of transition" because democracy in the Territory became real. The fourth phase was from 1811 to 1813 and this was a period of warfare with the Indians resulting from the Battle of Tippecanoe on November 7, 1811, in which battle Davis Floyd was an adjutant in a dragoon unit. The fifth phase was from 1813, which was the conclusion of Gen. Harrison's campaign against the Indians and his viability as a political and military leader in the Indiana Territory, and 1816 when Indiana gained its statehood. The last three phases were the second part of "semi-representative government" and are distinguished from the first part by the absence of any serious agitation for the repeal of the antislavery article of the Northwest Ordinance of 1787. The clash over slavery had been won by the anti-slavery forces by 1809 and when some of these same men would gather in Corydon in 1816 to put together the first constitution for the state, there would be no agitation to impose slavery in Indiana. Chapters 8, 9, 10, and 11 of this book will look at the machinations and subterfuges that were employed to make Indiana a slave holding territory.

Agitation to Separate the Illinois Country from the Illinois Country

There had been many efforts by the inhabitants of the Illinois country to separate that region from the Indiana Territory beginning in 1803. In that year petitioners asked the U. S. Congress to remove them and attach them to Upper Louisiana. Subsequent petitions were filed in 1805, 1806, 1807, and 1808, the petition in the latter year attacking Gov. Harrison "as guilty of a conduct unworthy of his Office and disgraceful to the Nation." In 1808 the Territorial House of Representatives voted three votes to two votes to recommend to the U. S. Congress that the two areas be separated. The votes against the separation were from the Knox County representatives who feared that the loss of the central location of Vincennes and their county in the Territory would disfavor them. And eventually it would when the capitol was moved to Corydon in 1813. On December 31, 1808 the Congressional committee to whom the issue of division had been referred reported favorably on the division. On February 3, 1809 the division was approved by both houses of Congress and the Illinois country became a separate territory.

Results of Division

While the slavery issue was the dominant issue during the sixteen year life of the Indiana Territory, something else was going on and that was, as expressed by Prof. Barnhart, "the gradual assertion and execution of the wishes of the people in a territorial government that was only partially representative." Prof. Barnhart goes on to say:

Representatives of the people took over the government even in the face of the absolute veto of the governor. Petitions were forwarded to the proper authorities about a variety of subjects: the appointment of new territorial judges, popular election of members of the [legislative] council, popular election of the delegate to Congress, election of militia officers, extension of the suffrage, forgiveness of interest and extension of time for making payments on land, pre-emption, land grants, restrictions on speculators, abolition of [voluntary] indentured

servitude, reappointment and non-reappointment of Governor Harrison, and the division of the territory [from the Illinois country]. Persons attending a meeting in Clark County asked that Congress should not admit slavery but should wait until the territory became a state and let the people decide.

The territorial legislature soon reflected the sentiment of the people.... Jesse B. Thomas was chosen to be the delegate to Congress after he pledged himself to work for the division of the territory.... [T]he election of Thomas was due to a union of the antislavery forces east of the Wabash with the proslavery forces west of the Wabash in opposition to the Harrison party, without recognizing clearly that this union indicated that slavery was not the leading issue. It was Harrison's first serious defeat and from it stemmed the events which gave the popular party control of the legislature after the division of the territory [in 1809].

Barnhart, John D., "The Democratization of Indiana Territory," *Indiana Magazine of History*, Vol. XLIII, No. 1, March, 1947, pp. 15-16.

Thomas would not remain the Congressional delegate for long because the Illinois country officially became a Territory on March 1, 1809. This necessitated a new round of elections in the compacted Indiana Territory and new members of the Legislature and the delegate to Congress needed to be elected. Thomas would remove to the Illinois Territory where he was appointed one of the judges of the territorial court. Later on he would serve as a U. S. Senator from Illinois. While in the U. S. Senate, Thomas proposed a second amendment to the Missouri Compromise which allowed the Louisiana Purchase area north of the southern boundary of Missouri to be slave-free but the state of Missouri to be a slave state. The amended Compromise was approved by Congress and ratified by the President in 1820. When statehood was sought the next year the Missouri constitution included a provision that required the exclusion of "free negroes and mulattoes" from the State. Missouri was admitted as a state on the condition that the exclusionary clause of the Missouri Constitution would never be construed to sanction the passage of any law impairing "the privileges and immunities" of any U. S. citizen. Thomas then moved to Ohio where he served five years as a justice of the Supreme Court of Ohio.

The members of the Legislative Council were elected by eligible voters for the first time in 1809. Jonathan Jennings was elected by them as the new delegate to the U. S. Congress replacing Thomas. Jennings was anti-Harrison and anti-slavery. He would later challenge the constitutionality of the indenture law which was repealed in 1810. Jennings would continue to serve as the Congressional delegate for the Territory until 1816, when he would become Indiana's first state governor. In 1813 the state capitol was moved from Vincennes to Corydon. Davis Floyd moved his family and law practice to Corydon by 1813.

Prof. Barnhart said at the end of his article on "The Democratization of Indiana Territory:

The advance to the second territorial stage of semi-representative government, the division of the territory, the election of delegates to Congress who were representatives of the opposition, the winning of control of the territorial legislature, the repeal of the acts which encouraged the violation of the prohibition of slavery, the extension of the franchise, the democratization of the territorial government and the subduing of Harrison and his more aggressive supporters constituted a democratic victory of significant proportions. In a very real sense the democratic forces won their victory in the territorial period in contrast to the earlier territories in the Ohio Valley where the popular advance came when state constitutions were adopted. Only the election of the executive, the escape from Congressional supervision of local affairs, and full participation in national affairs, all of which could be secured only when the territory became a state, remained to be won. In Indiana Territory the popular victory was complete except for these. The people had gone as far as they could in creating a democratic government; the final step would complete the victory. That step was statehood.

Barnhart, John D., "The Democratization of Indiana Territory, *Indiana Magazine of History*, Vol. XLIII1947, pp. 21-22., No. 1, March,

Democracy advanced faster in the Indiana Territory than it did in the other territories in the Northwest Territory. Independent men such as Floyd led Indiana forward in important moral and ethical issues.

In the introduction to the *Journals of the General Assembly of Indiana Territory 1805--1815*, Prof. Barnhart said:

But it should not be overlooked that the [Indiana] territorial period had witnessed a development of democracy far beyond what was provided for in the Northwest Ordinance [of 1787]. The Territory passed quickly from the unrepresentative to the semi-representative type of government, the people from the beginning took a definite interest in political affairs, and the territorial legislature after proving its competence began to assert its right to be heard. In a short time something very much like political parties appeared, one of which was representative of the executive [Gov. Harrison] and the other of his critics. The House of Representatives became identified with the latter and as it vigorously asserted the popular will, the executive began to fall in line and to occupy a less significant position in governmental affairs. Much of this developed by means of the legislature and the press through unofficial methods. Petitions, protests, and resolutions to Congress resulted in laws which were amendments of the Northwest Ordinance and which made the government more democratic. The delegate to Congress ceased to be an intermediary between the Governor and the national administration and became the leader of the opposition. The [Legislative Council] passed to popular control when it became subject to popular election. These changes in turn gave the legislature more confidence, and after Thomas Posey succeeded Harrison, there was little doubt that the legislative branch of the government was dominant. Democratization of the Northwest Ordinance was the achievement of Indiana Territory, an achievement which was to be enjoyed in some degree in later territories.

The legislative development and the victory of the popular party had another phase. The Governor and his friends tended to oppose the change and to try to attract settlers from the planter class of Kentucky and other southern states who would also be less democratic. To do this they sought to circumvent Article VI of the Northwest Ordinance and to legalized slave or semi-slave labor. This program the popular party in the legislature and through the press opposed and defeated. Planters were not encouraged to come to Indiana unless they freed themselves from slavery. The victory of the

popular party meant that Indiana would not follow in Kentucky's footsteps but would maintain her stand against slavery, preserve her frontier institutions, and strive to preserve the democratic way of life.

Thornbrough, Gayle, *Journals of the General Assembly of Indiana Territory 1805-1815*, Indiana Historical Bureau, Indianapolis, Indiana, 1950, pp. 16-17.

The following chapters describe in detail the effective implementation of democracy in the young Territory.

Books and referenced relied upon other than those cited in this chapter:

- (1) Buley, R. Carlyle, *The Old Northwest--Pioneer Period, 1815-1840*, Vol. 1, Indiana University Press, Bloomington, Indiana, 1950.
- (2) Wilson, George R., *Early Indian Trails and Surveys*, Indiana Historical Society, Indianapolis, Indiana, 1919.
- (3) "Historic Buffalo Trace 'First Road West from New Albany,'" Undated Pamphlet Issued by The Floyd County Historical Society, New Albany, Indiana.

Images:

- (1) Map of the Indiana Territory-1800.
- (2) Map of Ohio Admitted as a State-1803.
- (3) Map of the Michigan Territory-1805.
- (4) A Map of the Rapids of the Ohio River, and the Counties on Each Side Thereof, So Far as to Include the Routes Contemplated for Canal Navigation-1806.
- (5) Map of the Illinois Territory-1809.
- (6) Map of Indiana Admitted as a State-1816.
- (7) Map of Illinois Admitted as a State-1818.